## SECURITIES AND EXCHANGE BOARD OF INDIA

## ORDER

**AGAINST SHRI SOURABH H BORA UNDER REGULATION 11 OF THE SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 READ WITH SECTION 11 AND 11B OF THE SEBI ACT, 1992**

1. The shares of M/s. Snowcem India Ltd. (hereinafter referred to as 'SIL') are listed for trading on the Stock Exchange, Mumbai, the Madras Stock Exchange, the Delhi Stock Exchange and the Ahmedabad Stock Exchange (for brevity's sake referred to as the 'BSE', 'MSE', 'DSE' and 'ASE' respectively) apart from trading under the permitted category at the National Stock Exchange (hereinafter referred to as the 'NSE'). A substantial spurt in the price of the shares of 'SIL' was noticed at both the BSE & NSE during the period from June 1999 to August 1999. During the aforesaid period, a spurt in the volumes was also noted, as compared to the period prior to June 1999 when it was observed that the scrip of 'SIL' was not very liquid. The price of the scrip of 'SIL' at NSE, during the period June 3, 1999 to August 10, 1999 ranged between Rs.55/- to Rs.127/-. Further, the trading in the scrip was found to be very infrequent during the period abovementioned as evidenced from the trading statistics shown below:

| Period | Avg. trades per day | Avg. Quantity Per day |
|---|---:|---:|
| March to May 99 | 3 | 12,521 |
| June to August 99 | 173 | 68,370 |

2 From an average daily volume of 12,521 shares during the period from March to May 1999, the volumes started rising and were in the range of 60,000 - 65,000 shares per day till August 1999.

3 NSE conducted an internal investigation in the scrip of 'SIL' for the period June 3, 1999 to August 10, 1999 and submitted its report to the Securities and Exchange Board of India (hereinafter referred to as 'SEBI').

4. Upon a further analysis of the trading details, it was further observed that (Kosha Investments Limited, hereinafter referred to as KIL ) one of the promoter group companies of 'SIL' being the Indian Promoters, was the predominant trader in the scrip during the period of investigation and was appearing as the major buyer in the scrip during the period by enrolling as a client to various brokers/sub brokers at the same point of time and that it was the trading of these entities which was responsible for the abnormal price movement. From the trading details submitted by the exchanges, it further appeared that these entities had together employed manipulative tactics, either to maintain the scrip price and/or to increase the price drastically, and also create artificial volumes by continuously funding the same.

5. On the basis of the findings of the investigations of NSE and the data collected by SEBI in the meantime from 'SIL', brokers of BSE etc, SEBI, vide order dated June 18, 2001, ordered an investigation into the alleged price manipulation in the scrip of 'SIL'. Summons were issued under section 11(3) of the SEBI Act, 1992 (hereinafter referred to as the 'Act') to the clients and brokers and the personnel of 'SIL' to appear before the investigating authority. Upon a perusal and analysis of the records submitted by them, it

was observed that KIL, was the predominant trader in the scrip during the period of investigations, and that a common set of clients were trading in the scrip through BSE and NSE members during the relevant period of time. These clients, who had formed a cartel and traded through the members of both BSE and NSE during the investigation period, had executed several transactions for KIL. It was further noted that some of these entities, who were also brokers of BSE/NSE, had traded substantially in the scrip either through their own card and/or through some other brokers of BSE/ NSE (by enrolling as clients to them). Their trading in the scrip accounted for approximately 40% of the combined trading volume of NSE and BSE and this, in the main, contributed to the price rise in the scrip. Based on these reports, it was deduced that there was a possibility that these trades were fictitious and meant to create artificial volumes and increase the price of the scrip of 'SIL'. Amongst these clients, Sourabh H. Bora (for brevity's sake, hereinafter referred to as 'SB') was amongst the top five ultimate clients, through whom KIL had traded substantially in the scrip during the period under investigation. Major fund transfers from the account of 'SIL' to the account of KIL and from the books of KIL to the accounts of the brokers/sub brokers took place by a process whereby KIL received the funds from 'SIL', which were then utilised by it to meet its settlement obligations with various brokers/sub brokers (towards the shares of 'SIL' that were purchased by it).

6. In view of the findings of the investigation, a notice dated July 31, 2002 was issued by SEBI to SB asking him to show cause as to why suitable directions should not be issued prohibiting him from dealings in the securities market for a suitable period, under section 11B of the Act read with Regulation 11 and 12 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to

the Securities Market) Regulations, 1995, (for brevity's sake hereinafter referred to as the 'Regulations'). SB was directed to reply to the said notice within 21 days of the receipt thereof and it was also indicated to him that if he failed to reply with in the stipulated time, it would be presumed that he had nothing to say in the matter and SEBI would be free to take such action as deemed fit. Along with the notice, the extracts of the investigation report, relevant to SB and the other materials relied upon in the show cause notice were annexed. Subsequently, SEBI, vide letter dated August 26, 2002, forwarded to SB, copies of the relevant bank statements of accounts maintained by SB and the copy of the sauda sheet of the brokers with whom he had dealt in the scrip.

7. On receipt of the same, SB, vide letter dated September 18, 2002 denied all the allegations contained in the said notice and inter alia submitted that the securities market is governed by a process of demand and supply and consequently any increase in the price is usually associated with a rise in demand and /or a fall in supply. It was stated that prices of the scrip, rise on the premise that one or both of the above mentioned events occur simultaneously and such rises were also dependent on the fact that there are two sides to a transaction, and as he was only one side of the transaction, he could not, on his own, engineer an artificial price rise in the market. SB submitted that as the majority of trading undertaken by him, had been sales, he could not be held responsible for the artificial price rise, in as much as the abundance of supply, evidenced by sales could not possibly lead to a price rise. SB denied the fact that he had carried out transactions, off the market and said that negligible transactions had been undertaken by him during the investigation period and

hence, the said transactions could not have even remotely effected the price of the shares in the market.

8. Referring to the provisions of the Regulation 4(a),(b) and (d) of the Regulations, SB contended that none of the ingredients contained therein had been made out in his case and no person had been induced directly or indirectly to carry out any transactions in the scrip and no such case had been made out against him and no malafides had been attributed to him. In the absence of these ingredients, SB contended that he could not have indulged in activities that would violate Regulation 4(d) of the Regulations. SB reiterated that in all the transactions, actual delivery and transfer had taken place and hence there had been a change in the beneficial ownership. Referring to the provisions of the Depository Act, 1996 which provided for the transfer of shares in the demat account through the depository mechanism, SB stated that the show cause notice did not allege non-delivery of the shares sold. Hence, the intention to transfer the beneficial ownership of the shares could not be questioned and any allegation in this regard was baseless, unsubstantiated, arbitrary and incorrect in law.

9. With regard to the allegation of circular trading, SB stated that the show cause notice had failed to mention the entities, i.e the selected party of brokers of BSE & NSE involved in circular trading in the scrip, and that in any case there was no reason for him to act along with any party in any manner. SB stated that he had only indulged in selling his lawfully held shares in the market through brokers, which could not be called in question and since he did not have his broking card, he could not obviously act or sell in his own name on either the BSE or NSE. SB stated that if he had the intention of participating in any manner in the market, he

would have had to use these broking entities as intermediaries. SB submitted that he was indifferent to whom he used as a intermediary to sell his holdings in the market and hence, to interpret collusion in such dealings was questionable and required motives to be established by fact, which were not, in his case. SB contended that he could not have acted in concert with other parties as he was acting solely for himself in this regard and no circular trading had been carried out by him since he had no access to a trading terminal and as such, he could not ascertain the identities of the other parties participating in the markets. SB further contended that since he had not entered into any transactions or indulged in any act, which was calculated to create a false or misleading appearance of trading in securities in the market, there was no basis for the allegations as regard violation of Regulation 4(b) of the Regulations.

10. SB contended that the inference by SEBI as regards two activities i.e. the allotment of shares by the company and the sale of shares by him in the market, was not appropriate since the events, when taken separately or together did not lead to any adverse conclusion or any violation of the provisions of the Regulations. It was contended that it was logical for any person to sell shares when the price was high and hence the facts and circumstances relied upon by SEBI when viewed together lead to one logical conclusion i.e. his innocence. SB contended that his failure to comply with the summons issued by SEBI, was due to certain serious security threats to his life due to which he was under Police protection and consequently, he was unable to attend his regular business activities.

11. Hence, SB requested that the proceedings initiated against him be dropped and a personal hearing be granted to him. Accordingly SB was advised to appear before me for a personal hearing held on September 2, 2003, which on his request, was adjourned and rescheduled for hearing on September 17, 2003. However, on the said date, SB failed to appear before me and instead sent a letter dated September 22, 2003 which was stated to have been made in response to the allegations contained in the show cause notice dated July 31, 2003. In the said letter which reiterating the submission made earlier, SB inter alia contended that he had been engaged in the business of finance and investments for a number of years and his transactions in the shares of 'SIL' were legitimate transactions carried out solely for investment purposes. It was submitted that merely because he was a large buyer / seller in the scrip, the same did not make him a person who had an adverse effect on the price of the scrip and that it was obvious that as a large buyer / seller of the scrip, his trades would make some impact on the price of the scrip. SB also questioned the specific period selected for investigation on the ground that the transactions carried out by him at other periods would also reveal that there was nothing abnormal in the nature of the transactions carried out by him in the scrip.

12. SB stated that he had genuine reasons for having failed to co-operate with the investigating team which had been clearly set out in the correspondence entered into by him with SEBI during the said period. Referring to the allotment of 4,38,000 forfeited shares of 'SIL' to him, SB stated that acting in his individual capacity, the shares were purchased by him at a price of Rs.75/- each, primarily because he saw great potential in the scrip and also because he was a person who had carried out financial transactions for 'SIL'.

Hence, the reissue of the forfeited shares in his favour was not irregular and there was no infusion of funds as alleged and hence such a legitimate transaction could not be construed as a fraudulent transaction. With regard to the allegation of the shares being allotted to him by means of a fictitious book entry, SB submitted that his account was maintained legitimately and all the transactions mentioned therein had actually taken place along with the transfer of funds and hence such transactions could not be termed as fictitious book entries. SB contended that the show cause notices did not contain any fact to substantiate the statement that the transactions were fictitious book entries. Stating ignorance of any fiction created in the books of 'SIL' or KIL, SB held that he was not a party to any conspiracy or fraud and had nothing to do with the alleged records of transfer of shares of 'SIL' to him by KIL. While referring to a few instances of matched trades, between him and KIL, in the show cause notice, SB submitted that as all the trades were placed by him in the market through his brokers, he could not have in any way matched these transactions, in as much as the said trades were placed in the market through a screen based order matching mechanism whereby orders were matched and executed and there was no possibility of any party knowing the party who traded on the other side. SB submitted that there were many clients who had traded in the scrip of 'SIL' in large quantities apart from him and denied any knowledge of the fact that 'SIL' had deployed its own funds to purchase its own shares. SB stated that he had no knowledge till recently, that KIL was related to 'SIL' as a promoter.

13. SB reiterated that the intention behind all his transactions like any other investor, was to record gains in the market and having made all his trades at the prevailing market price, he could not have

artificially raised the prices, which were dictated by the view of particular scrips held not just by him but by other players in the market. He further denied that he had induced anybody to sell or purchase the shares in the company and / or willfully acted in any manner that would make other investors carry out trades based on his actions and since the findings against him are not corroborative of the said fact, he had not contravened the provisions of Regulation 4(a) of the Regulations. As regards the alleged violation of Regulation 4(b) and Regulation 4(d) of the Regulations, SB reiterated the submissions made earlier and further submitted that any trade however small was likely to have some effect, on the price of the security, which was a natural consequence that occurred in any trade.

14. Subsequently, vide his letter dated October 5, 2003, which was further to his letter dated September 22, 03, while reiterating the facts submitted earlier, SB stated that the allegation of his not having cooperated with the investigating authority was incorrect and further submitted that one of the major reasons for not being able to attend the summons was his impending marriage as well as the threats made to his life and the extortion attempts against him for which he had received Police protection. SB submitted that he had filed a complaint with the anti-extortion cell, Crime Branch, Crawford Market, which fact was brought to the knowledge of the investigating officer. With regard to the alleged nexus between him, 'SIL' and KIL, SB submitted that he had no illegal connection with either of the two and that all his transactions were carried out in an independent manner within the law and in adherence to the SEBI Regulations. SB questioned the fact of "his being a finance broker" and stated that he had merely purchased some shares of 'SIL' from KIL and that he had some other financial transactions

with KIL which were of no relevance with the transactions of 'SIL'. SB submitted that his past relations with 'SIL' and KIL, could not mean that the relationship was of a continuing nature such that he acted along with them in any and all the transactions. With reference to the payments and odd transactions between KIL and 'SIL', SB further stated that merely because he had received money from KIL on the same day that consideration for the forfeited shares was made to 'SIL', he could not be accused as a party guilty of wrong doing or a party to the triangular transactions as alleged in the show cause notice. SB submitted that the consideration for 4,38,600 shares @ Rs.75/- each worked out to Rs.3,28,95,000/- whereas the payments made by him to 'SIL' on the said date was Rs.3,75,00,000/-, and thus as these two figures differed substantially, he could not be guilty of taking part in any circular trading as alleged.

15. With regard to the allegation of the purchase of the forfeited shares involving a fictitious book entry, SB submitted that his demat statement revealed that the shares had been purchased by him and the consideration for the purchase of these shares had been made without any irregularity. SB denied aiding and abetting management of 'SIL' or involving in any illegal activity or carrying out any fraudulent transaction. Referring to the allegation of a sum of Rs.6.8 crores owed by him to KIL, SB submitted that the same was incorrect and irrelevant to the issue under consideration. With reference to the instances of matching trades, found between SB and KIL on a consistent basis, SB denied any knowledge regarding the identity of the party / parties involved in buying the shares through trades that he had placed on the exchange for being sold through his brokers. SB submitted that the only part of the matching trades of which he was aware was

when he had placed sell orders with the brokers, and the reasons for KIL purchasing the shares of SIL could not be commented by him. SB stated that the cash deposits made into his account between April and December 1999, were made for his legal investment and stock market activities and were totally unrelated or unconnected with KIL or 'SIL'. On the basis of the facts noted above, SB contended that he could not have been involved in any price manipulation of the scrip of 'SIL' especially considering the fact that he was not the only person transacting in the scrip of 'SIL' and there were a number of large entities and institutions such as LIC, Bank of America, Tata, TD Water House, Bank of Julius Bear, New India Assurance Co. Ltd, United India Assurance Co. Ltd, National Assurance Co. Ltd, who had also transacted in the scrip of 'SIL'. Hence, to assume that SB, among all the persons transacting in the scrip was involved in price rigging, is highly erroneous. While contending that the profits of 'SIL' rose from Rs.8.5 crores during the financial year 1998-99 to Rs.18 crores during the financial year 2000-2001, SB contended that the same coupled with the fundamentals in the scrip and the persistent news that Asian Paints was interested in and might be acquiring 'SIL' was one of the many reasons for his investing in the scrip of 'SIL'.

16. I have taken into consideration the facts and circumstances of the case and the material available on record which includes the facts leading to the investigation, submissions made on behalf of SB, the findings of the investigation as communicated in the show cause notice and the replies of SB to the same.

17. I have noted that although SB is said to have annexed various documents to the letter dated October 5, 2003, in support of the

contentions made therein, such as his marriage invitation, copy of the complaint filed with the Anti-Extortion Cell, Crime Branch, Crawford Market , copy of the details of repayment of Rs.3.75 crores to KIL and the copy of the Annual Report of 'SIL' from 1998-2001, the same were not annexed alongwith the said letter. Moreover, although SB, referred in his letter to the omission in the show cause notice, of the names of the brokers with whom he was said to have transacted, I have noted that the details therein were provided to him in terms of the letter of SEBI dated August 26, 2003 under the cover of which the "Sauda sheet" of the brokers with whom SB had dealt with was sent to him.

18. I have noted that as per the distribution schedule of 'SIL' dated September 28, 1999, the name of SB appears in the list of the top 50 shareholders. There is no dispute as regards SB being one of the top 5 clients who had traded in the scrip of 'SIL' during the relevant period of time and the fact that SB had financed several deals for 'SIL' and KIL during the said period. The trading details as collected from the various brokers of NSE and BSE through whom SB traded in the scrip of 'SIL' during the relevant period of time are as follows:

| Name of the Broker | Exc. | St. # | Purchases | Sales | Gross | Net |
|---|---|---|---|---|---|---|
| Joindre Capital Services Ltd. | BSE | 19 | - | 42,500 | 42,500 | -42,500 |
| Total | | | - | 42,500 | 42,500 | -42,500 |
| | | | | | | |
| NVS Brokerage Pvt. Ltd. | BSE | 20 | - | 25,000 | 25,000 | -25,000 |
| | | 22 | 22,900 | 2,100 | 25,000 | 20,800 |
| Total | | | 22,900 | 27,100 | 50,000 | -4,200 |
| | | | | | | |
| Kaynet Capital Ltd. | BSE | 16 | | 23,500 | 23,600 | - 23,400 |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | 100 | | | |
| | | 19 | - | 16,500 | 16,500 | - 16,500 |
| Total | | | 100 | 40,000 | 40,100 | 39,900 |
| | | | | | | |
| M J Patel Share & Stock Brokers Ltd. | BSE | 18 | - | 1,00,000 | 1,00,000 | -1,00,000 |
| Total | | | - | 1,00,000 | 1,00,000 | -1,00,000 |
| | | | | | | |
| Kasat Securities Ltd. | NSE | 28 | - | 32,800 | 32,800 | -32,800 |
| | | 29 | - | 60,000 | 60,000 | -60,000 |
| | | 30 | - | 11,500 | 11,500 | -11,500 |
| Total | | | | 1,04,300 | 1,04,300 | -1,04,300 |
| | | | | | | |
| Master Capital Services Ltd. | NSE | 26 | 6,000 | 6,000 | 12,000 | - |
| | | 27 | 2,600 | 2,600 | 5,200 | - |
| | | 28 | 5,000 | 5,000 | 10,000 | - |
| | | 29 | 5,000 | 5,000 | 10,000 | - |
| | | 30 | 6,200 | 1,06,200 | 1,12,400 | -100,000 |
| | | 31 | 10,000 | 55,000 | 65,000 | - 45,000 |
| | | 32 | 10,000 | 10,000 | 20,000 | - |
| Total | | | 44,800 | 1,89,800 | 2,34,600 | -1,45,000 |
| | | | | | | |
| Grand Total | | | 67,800 | 5,03,700 | 5,71,500 | -3,56,100 |

In addition, SB also sold 30,000 shares to Shri Rajesh Kasat on spot basis, which was reported to the Pune Stock Exchange.

19. On the basis of these facts, for ascertaining the possibility of SB acting in concert with others as brought out in the show cause notice, I have examined the details of the transactions, the bank accounts of these persons and the flow of funds between them. I have noted that SB, KIL and 'SIL' maintained bank accounts with

the same banks/ branches viz, Oman International Bank, Nariman Point Branch, (CA91 – 122598 – 01), Global Trust Bank, Nariman Point Branch, (2000101699) and the United Western Bank Ltd., Fort Branch, (CA 0002 – 0000 – 004879) From an examination of the following bank accounts viz, Oman International Bank, Fort Branch, 91 – 303339 – 20, Global Trust Bank, Fort Branch, 1900101797, ABN Amro, Nariman Point Branch and Bank of America, Nariman Point Branch, it is clear that during the period under investigation, SB had entered into a lot of transactions with both KIL and 'SIL' on a continuous basis on a large scale. This apart, a large number of loan transactions were executed between SB and KIL. In fact, admittedly SB, who acted as a financial intermediary for KIL, had a running account with the latter and used to arrange finance/ securities for it.

20. From the bank account of KIL maintained with Oman International Bank, Nariman Point, Branch, I have noted the following details :-

| Particulars | Date | Chq No. | Debit | Credit |
|---|---|---|---|---|
| Payments received from Snowcem India Ltd. | 1-Oct-99 | 602710 | - | 3,233,000 |
| Payments received from Snowcem India Ltd. | 1-Oct-99 | 602708 | - | 7,335,000 |
| Payments received from Snowcem India Ltd. | 1-Oct-99 | 602709 | - | 7,432,500 |
| Payments received from Snowcem India Ltd. | 1-Oct-99 | 602711 | - | 7,500,000 |
| Payments received from Snowcem India Ltd. | 1-Oct-99 | 602712 | - | 7,500,000 |
| Payments received from Snowcem India Ltd. | 1-Oct-99 | 602715 | - | 4,500,000 |
| Payments made to Sourabh H Bora | 1-Oct-99 | 607403 | 3,232,500 | - |
| Payments made to Sourabh H Bora | 1-Oct-99 | 607408 | 4,500,000 | - |
| Payments made to Sourabh H Bora | 1-Oct-99 | 607401 | 7,335,000 | - |

| | | | | |
|---|---|---|---|---|
| Payments made to Sourabh H Bora | 1-Oct-99 | 607402 | 7,432,500 | - |
| Payments made to Sourabh H Bora | 1-Oct-99 | 607405 | 7,500,000 | - |
| Payments made to Sourabh H Bora | 1-Oct-99 | 607406 | 7,500,000 | - |

The extract of SB's bank account maintained with Oman International Bank, Nariman Point Branch, coincidentally showed a receipt of funds from KIL and payment to 'SIL' on the same day such that on October 1, 1999, 'SIL' had transferred approximately Rs.3.75 Cr. to KIL, which in turn transferred the same to SB.

| Particulars | Date | Cheque No. | Debit | Credit |
|---|---|---|---|---|
| Recd from Kosha | 1-Oct-99 | 607403 | | 3,232,500 |
| Recd from Kosha | 1-Oct-99 | 672408 | | 4,500,000 |
| Recd from Kosha | 1-Oct-99 | 607401 | | 7,335,000 |
| Recd from Kosha | 1-Oct-99 | 607402 | | 7,432,500 |
| Recd from Kosha | 1-Oct-99 | 607405 | | 7,500,000 |
| Recd from Kosha | 1-Oct-99 | 607406 | | 7,500,000 |
| Paid to Snowcem | 1-Oct-99 | 128087 | 262,500 | |
| Paid to Snowcem | 1-Oct-99 | 128092 | 2,970,000 | |
| Paid to Snowcem | 1-Oct-99 | 128091 | 7,432,500 | |
| Paid to Snowcem | 1-Oct-99 | 128088 | 7,500,000 | |
| Paid to Snowcem | 1-Oct-99 | 128089 | 7,500,000 | |
| Paid to Snowcem | 1-Oct-99 | 128090 | 7,500,000 | |
| Paid to Snowcem | 1-Oct-99 | 118295 | 4,500,000 | |

21. Admittedly, SB was allotted, or in his terminology "purchased' 4,38,000 forfeited shares of 'SIL' at a price of Rs.75/- per share, in the month of September 1999. However, I have noted that 'SIL' transferred certain funds to the account of KIL, its promoter group company, and on the very same day, two other transactions have taken place i.e. one wherein KIL transferred the funds to SB, and the second transaction being SB making payments to the company. While from the flow of funds transfers, it could be concluded that the first transaction was to enable SB to make payments towards the allotment of forfeited shares and the second transaction of SB paying money to 'SIL' was in respect of the forfeited shares allotted to him, the fact remains that 'SIL' was not unaware that it had allegedly lent the money for the purpose of making payments towards forfeited shares. I have also noted that although SB had given cheques during the first week of September 1999, these cheques were presented to the bank for realisation only in the last week of September 1999 and the actual realisation of the cheques took place on October 1, 1999 (after the bank account of SB was adequately capitalized by way of transfer of funds from 'SIL'). Thus from the details given above, it is clear that the allotment of forfeited shares was not accompanied by any infusion of funds and the shares had been allotted by means of a fictitious book entry.

22. In addition to the above, numerous fund transfers took place between KIL and SB during the Financial Year 1999-2000. The records indicate that SB still owed more than Rs. 6 crores to KIL, which in turn owed more than Rs. 15 crores to 'SIL'. It is clear that SB did not make the payments to 'SIL' towards the forfeited shares allotted to him and the whole matter was just a book entry wherein 'SIL' had managed to create shares without actual infusion of

funds. Thus SB entered into purchases and sales without intending to effect transfer of ownership, thereby creating a false and artificial market.

23. From the perusal of the bank statement of accounts of SB, I have noted that there were numerous instances of cash deposits amounting to Rs.71.65 Lacs. The same are detailed below:

| Particulars | Bank | Date | Credit |
|---|---|---|---|
| Cash Deposit | Bank of America | 7-Apr-99 | 5,00,000 |
| Cash Deposit | ABN Amro | 7-Apr-99 | 50,000 |
| Cash Deposit | Bank of America | 13-Apr-99 | 23,000 |
| Cash Deposit | ABN Amro | 13-Apr-99 | 23,000 |
| Cash Deposit | Bank of America | 29-Apr-99 | 15,000 |
| Cash Deposit | - do - | 30-Apr-99 | 33,000 |
| Cash Deposit | ABN Amro | 30-Apr-99 | 33,000 |
| Cash Deposit | Bank of America | 3-May-99 | 50,000 |
| Cash Deposit | ABN Amro | 3-May-99 | 50,000 |
| Cash Deposit | Bank of America | 26-May-99 | 30,000 |
| Cash Deposit | ABN Amro | 29-May-99 | 5,00,000 |
| Cash Deposit | Bank of America | 8-Jun-99 | 15,000 |
| Cash Deposit | - do - | 12-Jun-99 | 47,500 |
| Cash Deposit | ABN Amro | 12-Jun-99 | 3,00,000 |
| Cash Deposit | Bank of America | 30-Jun-99 | 1,13,000 |
| Cash Deposit | ABN Amro | 2-Jul-99 | 7,00,000 |
| Cash Deposit | - do - | 3-Jul-99 | 6,50,000 |
| Cash Deposit | Bank of America | 7-Jul-99 | 10,000 |
| Cash Deposit | ABN Amro | 7-Jul-99 | 1,40,000 |
| Cash Deposit | Bank of America | 20-Jul-99 | 4,98,000 |
| Cash Deposit | - do - | 24-Jul-99 | 50,000 |
| Cash Deposit | ABN Amro | 27-Jul-99 | 2,45,000 |
| Cash Deposit | Bank of America | 29-Jul-99 | 35,000 |

| | | | |
|---|---|---|---|
| Cash Deposit | ABN Amro | 29-Jul-99 | 2,30,000 |
| Cash Deposit | - do - | 4-Aug-99 | 1,00,000 |
| Cash Deposit | Bank of America | 10-Aug-99 | 2,00,000 |
| Cash Deposit | ABN Amro | 1-Sep-99 | 1,45,000 |
| Cash Deposit | - do - | 3-Sep-99 | 1,99,900 |
| Cash Deposit | Bank of America | 18-Sep-99 | 1,00,000 |
| Cash Deposit | - do - | 22-Sep-99 | 40,000 |
| Cash Deposit | - do - | 4-Oct-99 | 25,000 |
| Cash Deposit | ABN Amro | 9-Dec-99 | 9,25,000 |
| Cash Deposit | - do - | 17-Dec-99 | 1,00,000 |
| Cash Deposit | - do - | 21-Dec-99 | 2,00,000 |
| Cash Deposit | - do - | 22-Dec-99 | 3,00,000 |
| Cash Deposit | - do - | 27-Dec-99 | 4,90,000 |
| Total | | | 71,65,400 |

24. I have noted that the books of KIL, on examination during the investigations, revealed that SB had purchased a large number of shares from KIL. The records further revealed that approx 13,77,000 shares of 'SIL' were sold by KIL to SB on various dates between July 1999 to October 1999. Following are some of such instances wherein either SB made payments to KIL or vice-versa:

| Date '99 | Chq. No. | Amount | Particulars |
|---|---|---|---|
| Apr 13 | - | 25,00,000 | Received from Shri Rajesh Kasat (GTB, NP) |
| Apr 15 | 229751 | 25,00,000 | Paid to Kosha |
| | | | |
| Jun 21 | | 5,00,000 | Received from Kosha (GTB, Fort) |
| Jun 21 | | 5,00,000 | Paid to Master Capital Services Ltd. |
| | | | |
| Jul 12 | | 16,69,000 | Received from Shri Rajesh Kasat (GTB, Fort) |
| Jul 13 | 229754 | 17,50,000 | Paid to Kosha |
| | | | |
| Aug 17 | | 25,00,000 | Received from SIL (GTB, Fort) |
| Aug 18 | 229771 | 22,50,000 | Paid to Kasat Securities Pvt. Ltd. |

| | | | |
|---|---|---|---|
| | | | |
| Sep 23 | | 8,82,000 | Received from Kosha (GTB, Fort) |
| Sep 23 | 175578 | 15,00,000 | Paid to Kosha |
| | | | |
| Sep 24 | | 10,00,000 | Received from Kosha (Oman, NP) |
| Sep 27 | 175583 | 7,50,000 | Paid to SIL (GTB, Fort) |
| | | | |
| Sep 27 | | 15,00,000 | Received from Kosha (Oman, NP) |
| Sep 27 | 118293 | 7,50,000 | Paid to SIL (Oman, NP) |
| | | | |
| Oct 1 | | 3,76,65,000 | Paid to SIL (Oman, NP) |
| Oct 1 | | 3,75,00,000 | Received from KIL |

25. From the analysis of the trading details and the co-relation of the banking transactions of the entities during the period under investigation with the nature of their activities, it can be inferred that SB received Rs.3.75 Crores on October 1, 1999, from KIL, who in turn received the said funds from 'SIL'. These funds were utilized by SB to make payments towards the allotment of forfeited shares to him by 'SIL'. Thus the whole transaction was a book entry, such that 'SIL' deployed their funds to purchase their shares. The records revealed that SB had also deposited large amounts of cash in his bank accounts on various occasions apart from the large payments made by KIL to SB which were used to pay to the brokers through whom, he traded in the scrip of the company. With regard to SB's submission that the consideration for 4,38,600 shares @ Rs.75/- each worked out to Rs.3,28,95,000/- whereas the payments made by him to the company on the said date was Rs.3,75,00,000/-, and that as these two figures differed substantially, he could not be guilty of taking part in any circular trading. I have noted that there is a difference in the figures as mentioned by SB. However, on the perusal of the records, I have seen that while SB made the payment of Rs.3.75 crores to 'SIL' for allotment of shares, an amount of Rs.3.28 crores

was earmarked for allotment of shares in his name while the remainder of the money was paid by SB on behalf of other parties to whom allotment was made for the forfeited shares.

With reference to SB's submission that from his demat statements, it is clear that the shares have been purchased by him and the consideration for the same had been made without any irregularity, it may be noted that the issue under consideration is not the matter relating to the transfer of shares into the demat account of SB but the source of funds for the same. As brought out earlier and substantiated in the investigation report, it is clear that funds for the purchase of the said shares were provided by 'SIL' to KIL and from KIL to SB, which funds, were then transferred back to 'SIL'. As such, the entire process was just a book entry crafted by 'SIL' to purchase back its own shares.

26. I have analyzed the trading pattern of SB by examining the Order Log and Trade Log of BSE and NSE and have noted some of the instances to illustrate the matched trades as cited below:

1. The Order Log of BSE on July 23, 1999, showed that SB placed a single sell order of 1,00,000 shares at 10.50.43 a.m. at Rs.68.00 through M/s M J Patel Share & Stock Brokers Ltd., whereas the scrip had a total volume of just 9,800 shares on previous day, i.e., July 22, 1999.
2. The Trade Log of BSE on August 6, 1999, showed that the sale order of SB of 15,000 and 10,000 shares were executed at 3.16.22 p.m. and 3.16.42 p.m. at Rs.116/- through M/s NVS Brokerage Pvt. Ltd., wherein these shares were picked up by M/s Bajaj Auto Ltd. through the same member. Thus, it appears from the above that he had some mutual understanding with M/s Bajaj Auto Ltd.

3. The Order Log of BSE showed that on August 9, 1999, SB had placed a sale order of 30,000 shares at 10.25.56 a.m. at Rs.124/- through M/s Kaynet Capital Ltd., which was executed immediately at 10.25.57 a.m.

From the Trade Log and Order Log of both the NSE and BSE, instances of matching trades between SB and KIL were also noticed on a consistent basis.

| Sett. No. | Buying Broker | Client | Quantity | Selling Broker | Client |
|---|---|---|---|---|---|
| BSE 16 | M J Patel | KIL | 23,500 | Kaynet Capital | Sourabh H Bora |
| BSE 18 | Bishwanath | KIL | 1,00,000 | M J Patel | Sourabh H Bora |
| NSE 28 | Triveni Mgt | KIL | 32,800 | Kasat Securities | Sourabh H Bora |
| NSE 29 | Triveni Mgt | KIL | 50,000 | Kasat Securities | Sourabh H Bora |

27. There are no two opinions as regards the fact that the scrip of 'SIL', was not particularly liquid. Yet the fact remains that was constantly traded by SB along with other entities and the shares purchased or sold, got easily absorbed by these entities. I have noted the activity of matching of the orders by these entities, which was done by placing the buy and sell orders at the same price almost at the same time, thereby creating volumes. One may accept it as a coincidence in case of a solitary incident or two. However the same happened regularly. The phenomenal regularity with which the trades got matched on the BSE and NSE, leads one to conclude, that these transactions were structured and synchronized. The structured and synchronized nature of trades is evidenced by the proximity of timing of putting-in buy and sell orders, exact matching of price and quantity of shares, resulting in matching of trades almost on every occasion between brokers dealing for specific entities, even when there are more than a few

thousand brokers spread over more than 300 cities in the country. In the instances of trade executed by SB, the matching of trades cannot be said to be a mere coincidence as there have been numerous instances of such transactions and these uncanny matches were not isolated transactions.

28. It is to be noted that SEBI had directed the Stock Exchanges to put in place screen based computerized trading which would enable investors to transact in a fair and transparent manner. This mechanism was also meant to ensure matching of the orders through the impersonal screen, on the basis of "best offer price" wherein the sellers would realize the true price of their securities within the circuit filters prescribed by SEBI. It is to be further noted that in order to reinforce confidence in the bourses, the exchanges under the initiative of SEBI, guaranteed settlement of the trades and also put in place the concept of the Trade Guarantee Fund, to back up this assurance. However, upon an analysis of the trades of SB along with other entities, I have noted that the very purpose of impersonal trading has been defeated through inputting of trades in a structured manner by the said entities due to the nexus between them. The fact that the nexus was established for the purpose of market manipulation in the scrip of 'SIL', gains further strength from the fact that these persons acting in concert, executed trades in the scrip of 'SIL' such that a big quantity of shares purchased by one of these colluding entities got absorbed through another, almost immediately even though the scrip of 'SIL' was not liquid The same not only resulted in the projection of the price of the shares of 'SIL' in a way that was not the market determined price, possibly inducing other people to buy, but was also a misuse of the punching system of the exchange.

29. Although SB has contended that since all these trades were executed on the screen of the exchange and hence there could be no element of manipulation as the counter party was not known in such trades, it is clear that all these trades of SB were arranged deals meant to defeat the principle of ensuring the best price, more so when there was a synchronized trade / trades with a prior understanding. These entities who effected these trades were solely responsible for creating the artificial market and price rise in the scrip and SB along with these entities including 'SIL' and KIL, played a major role.

30. Although SB has contended that since he has been consistently a major seller of the scrip, during the period of investigation, the price rise in the scrip could not be attributed to him, upon examining the trading details submitted by various brokers, I find that contrary to his contention of being a major seller, SB also bought a large number of shares of 'SIL' from KIL. These shares were later offloaded by him in the market at higher prices. I have noted that during the said period, SB had in fact purchased 13,77,000 shares of 'SIL' from KIL. Although the fact of the selling of the shares when the prices are high, may by itself, not seem wrong but just a practice normally employed by any investor, the fact remains that the scrip price which was otherwise illiquid, started moving upwards during the investigation period, particularly since SB was selling. Moreover when the investigation has revealed the manner in which certain entities indulged in trading strategies and earned profits at the expense of the regular investors, such practices need to be condemned. SB was found to be trading in the scrip through 6 brokers of BSE and NSE during the same point of time. These facts suggest the intention of SB to

enter into certain transactions, meant to manipulate the market. Thus the contention of SB that he had entered into financial transactions in the ordinary course of business and never intended to create artificial volumes is not acceptable.

31. I also find that despite being summoned on various occasions, SB did not choose to appear before the investigating authority. Several reminders/summons, were sent, yet SB did not submit the desired details/information sought from him. He also did not respond to the summons requesting his personal appearance before the investigating team. This apparently delayed the completion of the investigations considerably. Due to this non cooperative attitude, his trading details and other information was collated from various brokers. I have taken note of the various letters sent to him by SEBI seeking details on various occasions. In answer to all of these letters, SB consistently sought for extension of time citing one reason or the other. From the table given below, I have noted that on some occasions, SB did not even choose to reply to SEBI's letters :

| Letter sent | Details sought | Reply recd. | Remarks |
|---|---|---|---|
| 25-Jan-00 | Trading/ Payment/ Income Details | - | -No reply |
| 4-Apr-01 | Trading/ Payment/ Income Details | 12-Apr-01 | Extension of time till May 30 (Marriage) |
| 8-May-01 | Reminder to above | 24-May-01 | Extension of time till May 25 (Not in town) |
| 26-Jun-01 | Reminder to above with Summons | 4-Jul-01 | Extension of time till August 2 (Jaundice) |
| 11-Jul-01 | Reminder to above with Summons | - | -No reply |

I have also noted that since the details sought by SEBI were not submitted by SB in spite of issuing him 5 letters, summons were issued to him for his personal appearance. Even then at times, SB sought for extension and during the other occasions, did not even bother to reply to the summons sent by SEBI. The details of summons sent to SB requesting his personal appearance are tabulated below:

| Letter sent | Details sought | Reply recd. | Remarks |
|---|---|---|---|
| 9-Aug-01 | Personal appearance | | No reply |
| 26-Nov-01 | Personal appearance | 4-Dec-01 | Extension of time till January 3 (Not in town) |
| 7-Dec-01 | Final opportunity for personal appearance | - | - |
| 4-Jan-02 | Final opportunity for personal appearance | 17-Jan-02 | Extension of time till February 16 (No reason) |

SB has attributed serious security threats to his life for which he was apparently granted Police protection, to his failure to attend the summons. However, I have noted that the said ground has been raised by him only in his reply dated September 18, 2002, and not on any occasion earlier, when infact summons were issued on five occasions for submission of information. While the pleas of security threat to life can be placed with reference to summons for personal appearance, the non compliance of summons for production of documents and information was not explained or satisfactorily addressed by SB. Thus it is clear that in spite of being provided so many opportunities, SB failed to submit to either furnish details or appear before the investigating team in person. Notwithstanding these opportunities, I have noted the fact that despite seeking for a personal hearing before me, SB failed to appear before me as well and instead sent a letter, wherein while reiterating the submissions made earlier, he has cited the same reasons for his failure to cooperate with the investigating authorities. This consistent non cooperative stance of SB is indicative of the nonchalant manner with which he views any regulatory proceeding.

32. It is relevant to note the provisions of Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, which reads as under :

"No person shall–

a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of securities and thereby inducing the sale or purchase of securities by any person;
b) Indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market;
c) … … … … ;
d) enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress, or cause fluctuations in the market price of securities;

33. Though SB has time and again contended that, there was no intention on his part to manipulate the market, and there is no violation of the provisions of the Regulations quoted above, from a cumulative reading of the facts abovementioned and the circumstantial evidence based on the material on record, read with the provisions of the regulation quoted above, it can be inferred that SB, acting in concert with KIL and the other brokers who were found trading in the scrip of 'SIL' during the relevant period of

time, was responsible for creating an artificial/ false market during the said period and carried out substantial transactions in the scrip of 'SIL', thereby aiding and abetting KIL and 'SIL' in the price manipulation of the scrip. These acts violated the provisions of Regulations 4(a), (b) and (d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.

34. It is to be noted that persons who operate in the market, are required to maintain high standards of integrity, promptitude and fairness in the conduct of the business dealings. People, who indulge in manipulative, fraudulent and deceptive transactions, or abet the carrying out of such transactions which are fraudulent and deceptive, disturb the market equilibrium and harm the interest of the investors and are thus not fit or proper persons to operate in the market.

35. Accordingly, in view of the facts and circumstances of the case and the blatant violations by SB of the provisions formulated by SEBI for the protection of the investors, I find that a direction restraining him from dealings in the securities market for a period of eighteen months would be adequate. The passing of such an order would be necessary for the regulation of the persons operating in the capital market and the development thereof as well as for the protection of investors.

36. In view of the above, in exercise of the powers conferred on me under Section 19, read with Sections 11 and 11B of the SEBI Act, 1992 and Regulation 11 of the SEBI (Prohibition of fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, I hereby restrain Sourabh H. Bora from buying, selling or

dealing in securities in any manner, directly or indirectly for a period of eighteen months.

37. This order shall come into force with immediate effect.

**DATE: NOVEMBER 21, 2003** **A.K.BATRA**
**PLACE: MUMBAI** **WHOLE TIME MEMBER**
**SECURITIES AND EXCHANGE BOARD OF INDIA**