

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. PKK/AO/82/2011]

**UNDER SECTION 15-I OF SECURITIES AND EXCHANGE
BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI
(PROCEDURE FOR HOLDING INQUIRY AND IMPOSING
PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.**

Against

**M/s. Charmi Investments
(Proprietor Shri Atul Harilal Shah)
PAN: Not Available**

**In the matter of
Classic Diamond (India) Ltd.**

Background

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted an investigation into the dealings in the scrip of Classic Diamond (India) Limited (hereinafter referred to as **'CDIL'**) for the period from July 03, 2006 to September 29, 2006 hereinafter referred to as **'Investigation Period'**. During the investigation period, the price of the scrip of CDIL increased from ₹ 214 on July 03, 2006 to ₹ 497.55 on September 11, 2006 witnessing a sharp increase of 140% in just 64 trading days. The scrip was traded with erratic volume during the investigation period.
2. During the investigation it was revealed that the scrip of CDIL was heavily traded by a group of inter-related clients. It is alleged that M/s. Charmi Investments (hereinafter referred to as the **'Noticee'**)

along with the connected entities indulged in manipulative and fraudulent trading in the scrip of CDIL with the money received from Patel Investments. The Noticee allegedly created artificial volume and spurt in price by engaging in synchronized/reversal trades.

3. SEBI has therefore, initiated adjudication proceedings under the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**Act**”) against the Noticee to inquire and adjudge the alleged violations of the provisions of Regulations 3 (a), (b), (c), (d), 4(1), 4(2) (a), (b) & (g) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as ‘**PFUTP Regulations**’).

Appointment of Adjudicating Officer

4. SEBI vide order dated February 02, 2011, appointed the undersigned as Adjudicating Officer (**AO**) under Section 15 I read with Section 15 HA of the SEBI Act read with Rule 3 of SEBI (Procedure for holding Inquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the ‘**Adjudicating Rules**’) to inquire and adjudge into the alleged violations of the abovementioned provisions of the SEBI Act.

Show Cause Notice, Reply and Personal Hearing

5. The AO issued a notice dated August 27, 2008 (hereinafter referred to as ‘**SCN**’) under Rule 4 of the **Adjudicating Rules** to the Noticee to show cause as to why an inquiry should not be held against it and penalty be not imposed under Sections 15 HA of the SEBI Act, for its alleged violation of the provisions of Regulations 3 (a), (b), (c), (d) 4(1), 4(2) (a), (b), & (g) of the PFUTP Regulations.

6. It is alleged that a group of entities received loan from M/s. Patel Investments indulged in manipulative and fraudulent trading created artificial volume and spurt in price by engaging in synchronized/reversal trades in the scrip of CDIL. Some of the entities who had been allotted three lakh convertible warrants by CDIL were connected to the Noticee and therefore, Noticee aided and abetted the connected entities to trade in the aforesaid manner. Therefore, the Noticee allegedly violated Regulations 3 (a), 3 (b), 3 (c), 3 (d), 4 (1), 4 (2)(a), 4(2)(b) and 4(2)(g) of PFUTP Regulations.
7. The SCN was sent to the Noticee through “Registered Post with A/d”. The Noticee denied all allegations as per the SCN. It is not connected to any of the entities referred to in the SCN. The AO considered the matter on the basis of the reply submitted by the Noticee and the material available on record. The AO accordingly decided to conduct an inquiry. I granted an opportunity of personal hearing to the Noticee on April 27, 2011.
8. Mr. Biren Lalitbhai Dave, authorised representative of the Noticee appeared before me on April 27, 2011 for the personal hearing and submitted the following:

They have submitted a detailed reply to the SCN and deny all the allegations made against them. They are not connected with any of the entities. They have not traded in the scrip during the investigation period nor taken any loan from M/s. Patel Investments. They have co-operated with SEBI all the time.

Consideration of Issues, Evidence and Findings

9. I have carefully perused the charges made against the Noticee as mentioned in the SCN, the submissions made at the personal hearing

and the documents available on record. In the instant matter the following issues arise for consideration and determination:

- a. Whether the Noticee had violated the provisions of Regulations 3 (a), (b), (c), (d) 4(1), 4(2) (a), (b), & (g) of PFUTP Regulations, 2003 ?
- b. Whether the Noticee is liable for monetary penalty prescribed under Section 15HA of the SEBI Act for the aforesaid violation?
- c. If, yes what should be the quantum of monetary penalty?

10. Before proceeding, I would like to refer to the relevant provisions of the SEBI Act which reads as under:

SEBI Act

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

- (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made thereunder;***
- (c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;***
- (d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the***

provisions of the Act or the rules and the regulations made thereunder.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely :—

(a) indulging in an act which creates false or misleading appearance of trading in the securities market;

(b) dealing in a security not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the price of such security for wrongful gain or avoidance of loss;

.....

(g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security

11. I find from the investigation report, CDIL made a series of positive corporate announcements during the period of investigation such as (a) recommendation of dividend ` 2 per equity share on July 03, 2006, (b) allotment of 2 lakhs convertible warrants at a price of ` 280 each to Ms. K. B. Shah, Ms. G. A. Shah, Ms. S. A. Shah and Ms. A. J. Shah (50,000 warrants each) on August 03, 2006, (c) launch of its retail store in Delhi and plans to open its chain of retail stores in other metros in India, (d) entered into agreement with Diamond Direct LLC, USA to establish retail operations in the USA and Canada on

September 13, 2006 and (e) setting up of manufacturing facility up to 2 , 25,000 sft. at Surat with a capacity to produce over 2.5 million stones a month, etc.

12. CDIL allotted on July 31, 2006, two lakhs convertible warrants on preferential basis at a price of ` 280 each to Ms. K. B. Shah, Ms. G. A. Shah, Ms. S. A. Shah and Ms. A. J. Shah (50,000 warrants each). These entities are related to the proprietor of the Noticee. These warrants were convertible within a period of 18 months from the date of allotment. The allotment was made on July 31, 2006 and the share holders exercised their option to convert the warrants into equity shares in January 2008. The shares converted were not sold till March 2008. There are no corroborative evidences to prove that the issuance of warrants or their conversion have any co-relation with the trading of the said group of clients particularly in view of the fact that the price of the warrants were determined on the basis of the average price prior to the investigation period and that the shares on conversion of the warrants were not sold until March 2008.
13. Based on the analysis of the KYC documents received from the brokers various clients traded in the scrip of CDIL are inter-connected. The observations are - Mahesh N. Patel is the proprietor of the Noticee. Hamir Ahir is common introducer for Rajkumar Goswami, Kamlesh Chavda, Vikram Chavda, Mahendra D Ayer, Hiren J Khatri and M/s. Chauhan Finstock. M/s. V B Investments shares common address with Narendra B Gohil and had given its contact no. in its KYC which is common with Hamir Ahir. Shankar Goswami and his proprietorship firm S P Enterprise have common address with Rajkumar Goswami. V K Trading Co. is proprietary firm of Vikram Chavda. Ayer Consultancy is proprietary firm of Mahendra Ayer. Vikram Chavda, Mahendra Ayer and V K Trading co. have given common address in their KYCs. More over Patel

Associates (Prop. Sunil B Patel) has given same contact no. as that of Hamir Ahir and Vikram Gohil. Further it was observed that Sanket J Shah and D K Consultancy (prop. Dineshbhai Kanjibhai Patel) has given common contact no. in their KYC. Giraben Shah, wife of Atul Shah (proprietor of Charmi investments) has signed as introducer in the KYC of Sanket J Shah. The e-mail id of the Noticee is ayerconsultancy@yahoo.co.in and Ayer consultancy is the proprietary firm of Mahendra D. Ayer. I noted that Smt Girahben Atul Shah, wife of the proprietor of the Noticee introduced Shri Sanket J Shah to his broker but the former is not included in the group of connected entities. It was not alleged that the Noticee has taken loan from Patel investments during the investigation period and indulged in synchronized/reversal/self trades in the scrip of CDIL.

14. From the foregoing I find that there are insufficient corroborative evidences to prove that the Noticee is connected to the group of entities indulged in fraudulent and manipulative trading. The Noticee was not alleged to have received any loan from Patel Investments and created artificial volume in the scrip of CDIL. There was no allegation as regards to their involvement in the execution of synchronized/reversal/self trades in the scrip of CDIL. Therefore I am inclined to give benefit of doubt to the Noticee and conclude that the alleged violation of the regulations as per the SCN does not stand established against the Noticee.

Order

15. In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me U/S 15-I (2) of the SEBI Act, 1992, I hereby conclude that the allegations made against the Noticee do not stand established and accordingly the matter is disposed off.

16. In terms of the provisions of Rule 6 of the Adjudicating Rules the copies of this order are sent to M/s. Charmi Investments and also to Securities and Exchange Board of India.

Date: April 29, 2011

Place: Mumbai

P. K. KURIACHEN

ADJUDICATING OFFICER