

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: DR. K.M. ABRAHAM, WHOLE TIME MEMBER

ORDER

UNDER REGULATION 28(2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008 IN RESPECT OF MACY SHARES AND STOCK BROKERS PRIVATE LIMITED (FORMERLY KNOWN AS ENSOURCE SHARE AND STOCK BROKERS LIMITED IN THE MATTER OF BALAJI INDUSTRIAL CORPORATION LIMITED

1. The Securities and Exchange Board of India (hereinafter referred to as SEBI) initiated enquiry proceedings, vide orders dated April 4, 2007, November 23, 2007 and August 17, 2010 against Macy Shares and Stock Brokers Private Limited [formerly known as Ensource Share and Stock Brokers Limited, Member, National Stock Exchange of India Limited (NSE)] in respect of its transaction in the shares of Balaji Industrial Corporation Limited (hereinafter referred to as the Company) for the period from February 28, 2000 to August 28, 2000 and from the period from March 26, 2001 to September 21, 2001. It was alleged that the share price of the Company had substantially increased during the relevant period. The investigation conducted by SEBI revealed that Macy Shares and Stock Brokers Private Limited (hereinafter referred to as the stock broker) had bought 2,72,000 shares and sold 16,000 shares of the Company which accounted for 40.16% and 2.36% of the total traded quantity of the shares of the company at NSE. The major clients of the stock broker were Smruthi Agro Farms Private Limited (now known as Skokie Traders Private Limited) and Kyvalya Agro Farms Private Limited (now known as Kyvalya Traders Private Limited). It was alleged that the stock broker had placed 120

buy orders for 41,200 shares at prices higher than the last traded price ranging from ₹0.03 to ₹15.38 in 46 trading days. In view of its transactions, it was alleged that the stock broker had violated Regulation 4(a) and 4(b) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 1995 (hereinafter referred to as the PFUTP Regulations) and Clauses A(1) to A(5) of the Code of Conduct for the stock broker specified in Schedule II of the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992 (hereinafter referred to as the Stock Brokers Regulations). The Designated Authority in his Report (hereinafter referred to as the Enquiry Report) dated February 9, 2011 found that the violation of Regulation 4(a) and (b) of the PFUTP Regulations and Clauses A(1), (3), (4) and (5) of the Code of Conduct for stock brokers specified in the Stock Brokers Regulations were not established. The Designated Authority while finding that the stock broker had violated Clause A(2) of the Code of Conduct for stock brokers specified in the Stock Brokers Regulations, recommended that a warning be issued to the stock broker.

2. Thereafter, SEBI, vide notice dated February 22, 2011 enclosing therewith a copy of the Enquiry Report, called upon the stock broker to show cause as to why action should not be taken against it as recommended by the Designated Authority or as deemed fit by SEBI should not be taken against it. Thereafter, the stock broker, vide letter dated March 12, 2011 filed detailed submissions. It is the contention of the stock broker that the enquiry report does not provide the trade details to indicate that the orders placed by its clients were incrementally at higher prices. The stock broker further stated that it had transacted in the shares of the Company in the ordinary course of business based on the instructions of its clients. With regard to the allegation of the contravention of Clause A(2), it is stated by the stock broker that it had exercised due skill, care and diligence in the conduct of its business and that it

had obtained proper Know Your Client (KYC) form from the clients, as stipulated. It further stated that it had executed requisite agreements with its clients and that for the trades executed for the aforesaid clients, it had taken proper margin too. The stock broker further stated that all its transactions on behalf of the said clients were executed in good faith and in consonance with the rules and regulations of SEBI and the Stock Exchange. Further, actual delivery of shares was also carried out. According to the stock broker, no penalty can be levied against it for the alleged violations. Thereafter, an opportunity of hearing was granted to the stock broker on April 7, 2011, wherein Mr. Mahesh Chain Khubchandani, Whole Time Director of the stock broker appeared before me and reiterated the submissions made by the stock broker in its letter dated March 12, 2000.

3. I have considered the Enquiry report, the written as well as oral submissions made on behalf of stock broker and other material available on record. The charge levied against the stock broker is that it had traded for two of its clients viz. Smruthi Agro Farms Private Limited and Kyvalya Agro Farms Private Limited in the shares of the Company during the relevant period in contravention of the provisions of PFUTP Regulations and the Stock Brokers Regulations. The Designated Authority found the stock broker guilty of violating Clause A(2) of the Code of Conduct specified for stock brokers under the Stock Brokers Regulations. In this regard, I would like to observe that SEBI had also initiated appropriate proceedings against Smruthi Agro Farms Private Limited and Kyvalya Agro Farms Private Limited in respect of the alleged violations committed by them while dealing in the shares of the Company. The said proceedings were disposed off, vide Order dated June 2, 2011 and the said clients were given a benefit of doubt for the reasons stated therein. The Designated Authority also concluded that no violation of the PFUTP Regulations and other provisions of the Code of Conduct could be established. It was also observed by the Designated Authority that there was no sufficient

proof on record to conclusively establish the collusion between the stock broker and its clients for manipulating the scrip. It is submission of the stock broker that it had complied with all the rules and regulations of SEBI and the stock exchange, obtained KYC Form, executed proper agreements, collected proper margin and delivered the shares. Further, the transactions executed by the aforesaid clients (for which the stock broker is now charged with) were given a benefit of doubt. In view of the foregoing, in the interest of justice it would not be appropriate to find the stock broker guilty of contravening Clause A(2) of the Code of Conduct specified for stock brokers under the Stock Brokers Regulations. Considering the case in its totality, I dispose of the present enquiry proceedings as ordered herein below.

4. In view of the above, I, in exercise of the powers conferred upon me under Regulation 28(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 dispose of the present enquiry proceedings initiated against Macy Shares and Stock Brokers Private Limited (member National Stock Exchange of India Limited), in the matter of Balaji Industrial Corporation Limited, without any penalty.

**DR.K.M. ABRAHAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**

**PLACE: MUMBAI
DATE: JUNE 2, 2011**