

**In Re: Preferential Allotment of**

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**SooperKanoon Citation :** [sooperkanoon.com/57582](http://sooperkanoon.com/57582)

**Court :** SEBI Securities and Exchange Board of India or Securities Appellate Tribunal SAT

**Decided On :** Jan-15-2004

**Judge :** T Nagarajan

**Appellant :** In Re: Preferential Allotment of

**Judgement :**

1. SEBI had ordered an investigation into the affairs relating to the buying, selling and dealing in securities of CMM Broadcasting Network Ltd. (formerly known as Trimline Investment Company Ltd).

Investigations conducted, so far, revealed that CMM Broadcasting Network Ltd (hereinafter referred to as the company) allotted 93,00,000 shares at Rs. 10/-each on preferential allotment basis on 14/8/2000. A total of 51,00,000 shares were allotted to the CMM group and remaining 42,00,000 shares to other Calcutta based entities. Shares were allotted/dematted as under: 2. These shares have been dematted without receipt of listing permission from the exchange. Investigation has also brought out that a large number of the aforesaid shares were allotted without any consideration being effectively received by the company. The investigation has revealed that that funds received from one preferential allottee had been used to fund the preferential allotment consideration of another allottee. There was recirculation and rerouting of same funds through the company and other entities. A part of preferential allotment funds were invested in unquoted companies, based on CMM Broadcasting's "comfort level" with the promoters of

such unlisted companies. It was also observed that while certain portion of the funds was stated to have been given by the company in the year 2000-2001 as advance for purchase of software rights the software had not been purchased at all by it. Detailed investigation in the matter is in progress.

3. It was also found that prior to the preferential allotment in August 2000, the paid up capital of the company was Rs. 70 lakh comprising 7 lakh shares of Rs. 10 each. These shares were listed on the Stock Exchange, Mumbai. The shares were given ISIN No. INE199B01010. The additional 93 lakh shares allotted by the company in August 2000 were also given the same ISIN. Thus shares have become fungible. It was also observed that out of 93,00,000 shares allotted on a preferential allotment basis, the shareholding of the preferential allottees as on 10/10/2003 was stated to be only 74,11,727 shares. A portion of the shares (around 17,68,900 shares) were stated to have been transferred to known persons /their companies. Thus 1,19,373 (93,00,000 less 74,11,727 less 17,68,900) shares appear to have been delivered in the market. It is observed that the Listing Committee of the BSE recently decided to grant in principle approval for permission for listing of the 93,00,000 equity shares issued on preferential basis by the company. It is apprehended that some shares have already been offloaded in the market. It has also been found that majority of shareholding are lying in the hands of the following entities / persons : \* Bratiti Finlease Pvt. Ltd. \* Prarekha Exim \* Bhairav Tradelink Pvt. Ltd. \* Divya Dealers Pvt. Ltd \* Deepmala Dealers Pvt Ltd. \* Gurupath Merchandise Pvt. Ltd. \* Jeet Vanijya Pvt. Ltd. \* Navltex Marketing Pvt. Ltd. \* Saltlake Merchants Pvt. Ltd. \* Savera Traders Pvt. Ltd. \* Bicharsil Traders Pvt. Ltd. \* Ajit Satyaprakash Gupta \* Martanda Finlease P Ltd. \* Meera Jain

4. I note that investigation so far has brought out that while the preferential allotment shares (total 93,00,000) were allotted on 14/8/2000, the payment of consideration in respect of the shares was stated to have been received in stages from the date of allotment till March 31, 2001. Investigation revealed that in many cases, the funds given by one preferential allottee were routed back by the company to the same / another preferential allottee and then again in turn used to fund the preferential allotment. To this extent, the company was financing its own preferential allotment and money was channelled through layers of interconnected entities for this purpose. It was observed, based on the

bank statements of the entities that funds received from one set of entities were in turn used for financing preferential allotment by other entities or in some cases even for the subsequent tranches of the consideration to be paid. In effect, a major portion i.e. around 70% of the funds which were stated to have been received by the company as preferential allotment consideration does not appear to have been effectively received at all by CMM Broadcasting. Funds, against which preferential allotment shares were allotted by the company, did not actually come into the company.

5. I find that the company has, prima facie, violated the preferential allotment guidelines contained in SEBI (Disclosure and Investor Protection) Guidelines, 2000 (hereinafter referred to as the said guidelines) relating to pricing. As per Clause 13.1.1.1 of the said guidelines, the issue of shares on a preferential basis can be made at a price not less than the higher of the following:- No No. of shares allotted/ dematted Client IDNo. Bratiti Finlease Pvt. Ltd. 200000 Total (CMM group) Bhairav Tradelink Pvt. Ltd. 466000 Gurupath Merchandise Pvt Ltd. 466000 Navltex Marketing Pvt. Ltd. 466000 Saltlake Merchants Pvt. Ltd. 466000 Bicharsil Traders Pvt. Ltd. 472000 Total " (i) The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date; or (ii) The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the two weeks preceding the relevant date.

Explanation : (a) "relevant date" for the purpose of this clause means the date thirty days prior to the date on which the meeting of the general body of shareholders is held, in terms of section 81(1A) of the Companies Act, 1956, to consider, the proposed issue.

(b) "stock exchange" for the purpose of this clause means any of the recognised stock exchanges in which the shares are listed and in which the highest trading volume in respect of the shares of the company has been recorded during the preceding six months prior to the relevant date." Further, clause 13.5A of the said guidelines provides as follows :- "The details of all monies utilised out of the preferential issue proceeds shall be disclosed under an appropriate head in the

balance sheet of the company indicating the purpose for which the monies have been utilised. The details of un-utilised monies shall also be disclosed under a separate head in the balance sheet of the company indicating the form in which such un-utilised monies have been invested".

6. In the instant case, the total amount expected out of the preferential allotment of 93,00,000 shares @ Rs. 10 /- aggregates to Rs. 9.3 cr. While the company has stated having received all monies from the preferential allotment, it appears from investigation so far that a total amount of Rs. 6.47 cr was recirculated using layers of related entities. In effect, only Rs. 2.83 cr appears to have been received by the company. Thus, on a per share basis, effectively the issue price works out to Rs. 3.04 per share and not Rs. 10/- per share, thereby indicating possible violation of the preferential allotment guidelines relating to issue pricing. There also appears to be violation of clause 13.5 of these guidelines which requires the company to disclose the use of preferential allotment funds in the balance sheet since perusal of the balance sheet of the company reveals that such information has not been disclosed in the manner specified. In addition, possible violation of the provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 1995 read with SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003 and section 77 and 79 of Companies Act, by the company are being investigated.

There is preponderance of evidence to indicate that the preferential allotment as indicated above was irregular and not in accordance with law. Further, as mentioned earlier, the Listing Committee of the BSE has decided to grant in principle approval for permission for listing of the 93,00,000 shares allotted on preferential basis by the company.

It is apprehended that some shares have already been offloaded in the market. There is thus grave emergency to ensure that the remaining shares do not find their way out into the hands of innocent investors and the market at large.

7. In view of the above, I am satisfied that pending investigation, it is necessary to issue an order, under Section 11(4)(b) read with Section 11(1) and 11B of SEBI Act in order to protect the interest of investors and also the integrity of the

securities market.

ORDER 8. Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Section 11(4)(b) and Section 11(1) and 11B of SEBI Act, it is hereby directed, pending investigations, that the following entities / persons be prohibited from buying, selling or dealing in the securities of the company - CMM Broadcasting Network Ltd. till further orders. It is further directed that the shares of CMM Broadcasting Network Ltd. held by the following entities /persons and lying in their demat accounts mentioned in the table and /or in any other demat accounts of such persons / entities shall be frozen till further orders.

Flat No 102 Mangal Mahesh 14th Road, Khar West Mumbai - 400 052 14843214  
106, Elphinston House, 17, Mutzban Road, V. T. Mumbai - 400 001 14599283  
106, Elphinston House, 17, Murzban Road, V. T. Mumbai -400 001 14599267 106,  
Elphinston House, 17, Murzban Road, V. T. Mumbai -400 001 14599275 106,  
Elphinston House, 17, Murzban Road, V. T. Mumbai - 400 001 14599259 Bhairav  
Tradelink Pvt Ltd. 10, Princep Street, 2nd Floor, Kolkatta-700072 10032559  
10248023 Dalmia Sec East India Sec Ltd. 2nd Floor, 28, Strand Road, Kolkatta-  
700 001 10401829 2nd Floor, 28, Strand Road, Kolkatta- 700 001 10114584  
Gurupath Merchandise Pvt.Ltd. 10, Princep Street, 2nd Floor, Kolkatta - 700 072  
10106641 10, Princep Street, 2nd Floor, Kolkatta - 700 072 10030612 10248357  
Dalmia Sec East India Sec Ltd. Navltex Marketing Pvt. Ltd. 1/B, Black Burn Lane  
4th Floor, Kolkatta -700 012 10408834 SaltlakeMerchants Pvt. Ltd. 2nd Floor, 28,  
Strand Road, Kolkatta- 700 001 10012318 P -33, Mission Row Extension 2nd  
Floor, Calcutta 700 013 10205854 Bicharsil Traders Pvt. Ltd. 2nd Floor, 28, Strand  
Road, Kolkatta- 700 001 10114605 Flat No 202, Sheil Tower Yari Road, Andheri  
(W) 14948273 Mumbai-400061 16 10, Princep Street IInd Floor, Kolkatta-700072  
60017034 413, Cotton Exchange Bldg. Kalbadevi Road, Mumbai 400 002  
10415617 68, Pramathesh Barua Sarani Flat 5E, 4th Floor, Kolkata -700019  
60046637 10, Princep Street IInd Floor, Kolkatta-700072 10084924 Flat No 102  
Mangal Mahesh 14th Road, Khar West. Mumbai-400052 14890240 10, Princep  
Street, 2nd Floor, Kolkatta-700072 60029215 Flat No 102 Mangal Mahesh 14th  
Road, Khar West, Mumbai-400052 14890233 10, Princep Street, 2nd  
Floor, Kolkatta-700072 10207309 Botsa Pada Road, Poisac, Kandivli (W), Mumbai

- 400 067 25 501/A Govardhan Nagar Borsa Pada Road, Poisar, Kandivli (W), Mumbai - 400 067 10, Princep Street, 2nd Floor, Kolkatta- 700 072 60015326 2nd Floor, 28, Strand Road, Kolkatta- 700 001 10164700 413 Cotton Exchange Bldg. Kalbadevi Road, Mumbai - 400 002 10424597 Flat no 51, A-1 Apartments, 270 Walkeshwar Road, Mumbai -400 006 14576969 Flat no 51/52, A-I Apartments, 270 Walkeshwar Road, Mumbai -400 006 14612525 9. Further, the entities / persons mentioned in the table may file their objections, if any to this order within 15 days from the date of this order and, if they so desire, avail themselves of an opportunity of personal hearing at the Securities and Exchange Board of India, Head Office, First Floor, Mittal Court, B Wing, Nariman Point, Mumbai 400 021 on a date and at a time to be fixed on a specific request, to be received in this behalf from the entities within 15 days from the date of this order.

This order shall come into force with immediate effect.

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