

In Re: Coverage and Consultants

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

Decided On : Feb-20-2008

Judge : V Chopra

Appellant : In Re: Coverage and Consultants

Judgement :

1. Towards the middle and last week of June 2002, SEBI observed several advertisements in newspapers in respect of certain companies. Quite a few of such advertisements glossed over the company's past activities, projected an exceptionally buoyant picture of the company's future and then proceeded to announce that the board of the company was about to consider a corporate action as for instance - Buyback of shares, preferential allotment, Bonus issue etc. It was also noticed that such advertisements were not mandated by any provision of law and the companies were voluntarily publishing them. Significantly, it was further observed that there was unusual price volume movement in the shares of those companies around the time of the issuance of such advertisements.

2. One such company which had issued such advertisements was Top Media Entertainment Ltd. (hereinafter referred to as TMEL). TMEL had issued an advertisement in newspapers in the first week of July 2002 to the effect that a meeting of its Board of Directors (hereinafter referred to as 'BoD') was to be held shortly to inter-alia, consider buy-back of shares by the company. It was observed that such advertisements were not legally required to be issued much less at the proposal stage itself. It was further observed that there was a sharp increase in the volumes traded prior to the issuance of advertisements and sharp increase in traded volumes subsequent to issuance of the advertisements. The share price/volume history indicated that the shares of TMEL were very thinly traded prior to the occurrence of the aforesaid events. In view of the aforesaid, it prima facie appeared that the purpose of such advertisements was to attract investor interest in illiquid scrip and induce them to trade in such scrips.

3. In view of the advertisements that had appeared in the newspapers on July 02, 2002 and the trading pattern in the scrip of TMEL prior to and after the issuance of the advertisements, SEBI conducted investigation into the trading in the said scrip for the period from May 01, 2002 to July 31, 2002 to ascertain the violation, if any, of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 1995 (hereinafter referred to as 'PFUTP Regulations'), SEBI (Prohibition of Insider Trading) Regulations, 1992 and SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as 'Takeover Regulation').

4. Investigation revealed that TMEL had come out with a public issue of 5,159,400 equity shares of Rs 10/- each during 1996. The Authorised Capital of the company was increased from Rs. Six crores to Rs. Ten crores in EGM of the company held on January 17, 2000. Thereafter, the paid up capital of the company increased to Rs.91.6 Lakh as on 31st March, 2000 since the company did preferential allotment of 40,00,000 shares of Rs.10/- each fully paid-up (issued at Par). The paid up capital of TMEL then increased to Rs. 12.66 crore as the company had issued 35 lacs shares to the group Company Top cassettes Ltd under the SWAP arrangement. The trading in the shares was transferred to compulsory demat mode since October 10, 2000. It was further

revealed that TMEL had split its equity shares from every one existing equity shares of Rs.10/- each into ten equity shares of Rs.1/- effective from May 28, 2001. Thereafter, TMEL had informed BSE that the EGM of the company will be held on March 09, 2002 to consider the consolidation of equity shares of Rs.1/- each into one equity shares of Rs.10/- each.

There was no further development reported to the Exchanges and value of equity share was of Rs.1/- when the scrip was suspended from BSE. Particulars Listing status on BSE Before Public Issue Listed in BSE Public issue in 1996 51,59,400 (51.6 lakh) Rs.10/- Preferential allotment on January 17, 2000 40 lakh Shares Issued on Acquisition in January 2001 35 lakh not listed Splitting of Shares May 2001 12.66 crore 5. Investigation also revealed that TMEL was one of those low cap stocks for which there was an advertisement on proposed corporate action viz. Buy Back of shares. The company had sent the information about the proposal for the buy back of shares to BSE and ASE on June 26, 2002 and also published advertisements about this in various news papers on July 02, 2002. However, subsequently on July 18, 2002, the company informed BSE that its Board had decided not to buyback thirty million shares at the price of Rs 3 for the share of Re 1 paid up and its Board had also decided not to consider buyback at this stage and the matter would be reconsidered after one year. The company published this information in various news papers on July 21-22, 2002 in small column in notice form.

6. Investigation brought out that trading in the shares of TMEL was concentrated in the hands of few brokers during this period. Summary of transactions of the major brokers of BSE is as under: S. No.Park Light Investment Pvt Ltd. 7463467 (40.36%) Coverage and Consultant Ltd. 2 Scattered Client Base 3 Ever Growth Financial Ltd Further examination of the clients of these brokers brought out that M/s. Coverage & Consultants (CCL), the major client of Parklight Investment Pvt. Ltd. (hereinafter referred to as PIPL), had major net sell positions of more than one crore shares during the investigation period. Thus, Investigation Report concluded that TMEL acting through its directors and other associate entities offloaded its shares in the market through its intermediary company CCL after the happening of aforesaid events.

7. Accordingly, Show Cause Notices dated March 01, 2005 were issued to TMEL and CCL to show cause as to why suitable directions under Section 11(4) read with Section 11B of SEBI Act 1992 including direction of debarring them from the capital market/dealing in securities for a suitable period of time, should not be passed against them. Similarly, Show Cause notices dated March 14, 2005 were also issued to the directors of TMEL namely Shri Deep Trivedi, Mrs. Jyoti Trivedi and Shri Inderjit Singh Vaghela to show cause as to why suitable directions under Section 11(4) read with Section 11B of SEBI Act 1992 including direction of debarring them from the capital market/dealing in securities for a suitable period of time, should not be passed against them. The Noticees except TMEL however did not reply to the show cause notices. The status of the SCNs and reminders issued to them is as under: Top Media Entertainment Ltd. SCN served through Juris Matrix, replied vide letter dated 18.06.07 Shri Inderjit Singh Vaghela SCN dated 14.03.05 acknowledged by group company Top Cassettes Ltd. on behalf of the director Shri Vaghela. Reminder dated 21.02.06 returned undelivered whereas reminder dated 20.10.06 was pasted by ASE.M/s Coverage Consultants Ltd. SCN dated 01.03.05 returned undelivered, SCN served through broker PIPL on 19.04.06. Reminders dated 30.06.06 & 20.10.06 returned undelivered.

8. Personal hearing was also granted to all the aforesaid entities before me on July 19, 2007. The notice for hearing was served to TMEL and its three directors through Jurix Matrix, Advocates as they had inspected the documents on behalf of TMEL and its directors. The notice for hearing to CCL was posted on the official website of SEBI. However, no one appeared on July 19, 2007.

9. I have considered the investigation report, show cause notice, reply thereof and other materials available on record.

10. I note that TMEL and its directors namely Shri I. G. Vaghela, Shri Deep Trivedi and Mrs. Jyoti Trivedi have filed consent applications in terms of SEBI Circular No- EFD/Cir-1/2007 dated April 20, 2007. In view of the

same, I am not passing any direction against TMEL and its directors namely Shri I. G. Vaghela, Shri Deep Trivedi and Mrs. Jyoti Trivedi at this stage. However, it would remain open to SEBI to pass appropriate direction/order against them in accordance with law as and when necessary/appropriate. With regard to CCL, I note that it has neither replied to the SCN nor appeared for personal hearing.

Therefore, I am constrained to proceed ex-parte in the matter against CCL on the basis of available records.

11. I note from the price -volume data, obtained from BSE, that the scrip of the TMEL was traded thinly in exchange. The total volume traded in the exchange was around three crore of shares during June-July 2002. The average volume traded till the period of the advertisements was in the range of 6.5 lakh shares per day. During June 2002, volume of shares in market was increasing till the advertisement published by the company but prices were decreasing, indicating that there was supply pressure in the market for the scrip. On the day of advertisement i.e. July 02, 2002, volume crossed 24 lakh of shares.

After the advertisement, there was rising trend in the price of scrip.

As the shares of scrip were already oversupplied in the market and the advertisement had created interest in public as the company had announced to buy back the shares at price of Rs.3/- whereas the prevailing price of shares was only Rs.0.40, for investors and public, it was a good opportunity to buy shares at the prevailing price and sell it to the company at higher price. This created demand of the scrip in market and push the price in upward direction, however it could not sustain for a longer time as shares of TMEL in market were oversupplied. The details are as follows: Date 12. I note that CCL, the client of Parklight, had major net sell positions. The client CCL had sold more than one crore shares during the investigation period. The net position i.e. net sell on the day of advertisement and Board of Directors (in short BoD) meeting day crossed 10 lakh shares. In between the day of advertisement and the BoD meeting, the client maintained its position in selling and sold more than 90 lakh of shares. The details of transactions done by CCL are as under: Quantity delivered/received Coverage & Consultant Ltd. (CCL) 11.06.2002 4,54,878 13. Trading on the day of advertisement (July 02, 2002) Brokers Name Parklight Investment Pvt. Ltd 1747000 (72.22%) It is noted from the aforesaid that the broker PIPL had net sell position of approx 80% of the net sale of the exchange on the day of advertisement and all of these shares were sold by the client CCL. In fact, major transactions were carried out by CCL only after the issuance of the advertisements.

14. Examination of demat statement of the top 50 shareholders as on the end of May, June and July 2002 revealed following changes in shareholding of major shareholders.

Shareholder (Location) Client ID Top Cassettes Ltd (Mumbai) 30178215 Jyoti Trivedi (Ahemdabad) 10027989 Bhanuprasad Trivedi (Ahemdabad) 10027997 Reliable Plastics Limited (Indore) 30186506 Coverage And Consultants Ltd (Indore) 10029747 10007307 10045034 30157663 Coverage And Consultants Ltd 4604955 (3.6 app.) 16063806 (12.68app.) 10336434 (8.16app.) Infoquest Software Exports Limited (Indore) 30186514 Pinnalce Finstock P Ltd.(Ahemedabad) 10000677 Park Light Investment Private Limited 10000230 Evergrowth Financial Consultants P ltd (Indore) 16106364 Equisearch Broking Pvt Ltd (Mumbai) 17192813 17327150 15. Top Cassettes Ltd, now known as Top Tele Media Ltd, is a group company of TMEL. Top cassettes had transferred 3.5 crore shares to the associated entities including CCL during the investigation period which were then off loaded in the market. It is noted here that these shares were issued to the company in January 2001 under the SWAP. The shares have still not been listed in BSE.16. Further I note from the Investigation Report that large quantities of shares had flowed from the major promoter associated entities to the Indore based entities. The major promoter associated entities who had transferred shares to CCL are as under 1. Jyoti Trivedi (Director) - DP ID: IN301485, Client ID: 10027989 had transferred 5,000,000 shares to Coverage and Consultants Ltd Client ID: 10007307 on July 25, 2002.

2. Bhanu Prasad Trivedi (Related to Jyoti Trivedi) - DP ID: IN301485, Client ID: 10027997 had transferred 5,000,000 shares to Coverage and Consultants Ltd Client ID: 10007307 on July 24, 2002.

Addresses and contact No. given to the depository by Bhanu Prasad Trivedi is same as the address and phone no given by the Director of TMEL, Mrs. Jyoti Trivedi.

3. Top Cassette Ltd. DP ID: IN (Client ID: 30178215) had transferred 20,000,000 shares to Coverage and Consultants Ltd Client ID: 10029747 on June 07, 2002 (before the advertisement) and 15,000,000 shares on July 05, 2002 (after the advertisement was published by the company).

17. The analysis of the demat statements and Off-market transactions of entities are summarised below: 1. Securities flow from account of Top Cassette Ltd. (Client ID : 30178215) Top Cassette Ltd. had shareholding of 35,000,000 (28.18%) shares at the end of May 2002. Its shareholding decreased to 15,000,000 (12.07%) at the end of month of June. By the end of July 2002, Top Cassettes had no shareholdings in the TMEL. These shares were transferred to the account of Coverage And Consultants Ltd during the investigation period.

Shareholder Name /Members Client ID Coverage And Consultants Ltd 10029747 Coverage And Consultants Ltd 10029747 TOTAL 35,000,000 In the demat statement of Top cassettes, off market transactions were also observed. From the aforesaid table, it is evident that Top cassettes had transferred two crore of shares to CCL before the advertisement was published and 1.5 crore of shares after the advertisement. It is noted that these shares were not listed in BSE. 2. Securities flow from account of Pinnacle Finstock Pvt. Ltd. (Client ID 10000677) Pinnacle Finstock Pvt. Ltd. had shareholdings of 940,265 shares at the end of May and June 2002. Its shareholding increased to 2,08,52,342 at the end of July 2002. Pinnacle Fin stock Pvt. Ltd was major body corporate shareholder of the company. On July 05, 2002 CCL had transferred 20,000,000 shares to the account of Pinnacle Finstock Pvt. Ltd. Details of transaction done during July 2002 are given below: Client ID (Set. No.) Description Opening Balance 886665 By Khandwala Int.Fin.S.Pv.L 0 By KHANDWALA INT.FIN.S.PV.L 0 By CM ACTIVE FINSTOCK PVT LTD 0 To KARVY CONSULTANTS LTD 4000 To CM ACTIVE FINSTOCK PVT LTD 12504 To CM ACTIVE FINSTOCK PVT LTD 60183 By CM ACTIVE FINSTOCK PVT LTD 0 By CM ACTIVE FINSTOCK PVT LTD 0 To CM ACTIVE FINSTOCK PVT LTD 50000 To CM ACTIVE FINSTOCK PVT LTD 32723 To CM ACTIVE FINSTOCK PVT LTD 5200 Closing Balance I note that during the investigation when queries were raised to Pinnacle fin stock Pvt. Ltd. regarding the shareholdings in TMEL, Pinnacle replied that the shares were transferred to its account by CCL as security deposit. CCL was a regular client of Pinnacle Finstock and CCL had deposited shares of TMEL as security towards their outstanding balance with the Pinnacle Finstock.

3. Securities flow from account of Coverage And Consultants Ltd. (Client ID: 10029747, 10007307 and 30157663) CCL had shareholdings of 46,04,955(3.6%) shares at the end of May 2002. Its shareholding increased to 1,60,63,806 (12.68%) at the end of June 2002 and then its shareholding decreased to 1,03,36,434 (8.16%) shares at the end of July 2002. It is noted that 3.5 crore shares were transferred to the account of CCL by the group company Top Cassettes Ltd. during the investigation period as demonstrated (supra). CCL also received 52 lakh shares from Info Quest Software Exports Limited on July 19, 2002 just after the BoD meeting was held. It appears that Info Quest and the promoter of TMEL are related entities as the phone no given by them to the depository is same. During the investigation period, many off- market transactions were observed in the demat statement of CCL. Details are given below: Shareholder Name Evergrowth Financial Consultants P. Ltd 16106364 Evergrowth Financial Consultants P. Ltd 16106364 Evergrowth Financial Consultants P. Ltd. 16106364 Evergrowth Financial Consultants P. Ltd. 16106364 Pinnacle Fin stock Pvt. Ltd. 10000677 Pinnacle Fin stock Pvt. Ltd. 10000677 Parklight Investment Pvt. Ltd. 10000230 Coverage And Consultants Ltd. 10007307 TOTAL 4,47,28,800 4. Securities flow from account of Ever Growth Financial Ltd. (Client ID: 16106364) It is noted that CCL has also traded through Ever Growth Financial Ltd. The details of transaction are given below: Date Opening Balance 0 By CM MPSE, RML/0203022 6050 To CM MPSE, RML/0203025 2400 By Coverage and Consultant Ltd. (10029747) 300000 To CM MPSE, RML/0203029 23849 By CM MPSE, RML/0203030 3000 By CM MPSE, RML/0203032 18500 By CM MPSE, RML/0203038 100 To CM MPSE, RML/0203043 3300 To CM MPSE, RML/0203044 32850 To CM MPSE, RML/0203045 69600 To CM MPSE, RML/0203046 133351 By Coverage and Consultant Ltd. (10029747) 1000000 To CDS/1202620000000364 193710 To CM MPSE, RML/0203048 223501 To CM MPSE, RML/0203049 132355 To

CM MPSE, RML/0203051 123,31 To CM MPSE, RML/0203052 57101 To CM MPSE, RML/0203053 122500 By Coverage and Consultant Ltd. (10029747) 2000000 To CM MPSE, RML/0203054 200000 To CM MPSE, RML/0203054 182600 To CM MPSE, RML/0203057 36500 By CM MPSE, RML/0203055 100 By CM MPSE, RML/0203056 3100 To CM MPSE, RML/0203060 224500 By CM MPSE, RML/0203058 14500 By CM MPSE, RML/0203059 25600 By CM MPSE, RML/0203061 1 By CM MPSE, RML/0203062 5101 By CM MPSE, RML/0203063 123000 By CM MPSE, RML/0203064 6800 By CM MPSE, RML/0203065 60831 To CM MPSE, RML/0203069 6000 To CM MPSE, RML/0203070 367100 By CM MPSE, RML/0203066 21200 To CM MPSE, RML/0203072 843658 By Coverage and Consultant Ltd. (10029747) 2500000 To CM MPSE, RML/0203073 933303 To CM MPSE, RML/0203074 314000 By CM MPSE, AUCTION ROLLING 0203067 5000 To CM MPSE, RML/0203075 375682 By CM MPSE, RML/0203076 81200 Total share sold in Rolling Settlement 42,34,070 18/07/2002 To CM MPSE, T 2 T/0203081 3000 By CM MPSE, RML/0203078 25000 By Inter Depository transfer CDS 1202620000000379 1000 By CM MPSE, T 2 T/0203079 8100 By CM MPSE, T 2 T/0203080 1500 By CM MPSE, T 2 T/0203081 5100 By CM MPSE, T 2 T/0203083 1000 By CM MPSE, T 2 T/0203082 1000 By CM MPSE, T 2 T/0203083 9000 1,621,613 VIOLATION OF TAKEOVER REGULATIONS 18. The shareholding of CCL in TMEL crossed the 15 % limit as Top Cassettes had transferred 3.5 crore shares to CCL as demonstrated (supra) which triggered Regulation 10 of Takeovers Regulations.

Regulation 10 of Takeover Regulations states that No acquirer shall acquire shares or voting rights which (taken together with shares or voting rights, if any, held by him or by persons acting in concert with him), entitle such acquirer to exercise fifteen percent or more of the voting rights in a company, unless such acquirer makes a public announcement to acquire shares of such company in accordance with the Regulations.

I note that CCL acquired these shares without making public announcement and therefore it violated Regulation 10 of Takeover Regulations.

VIOLATION OF FRAUDULENT AND UNFAIR TRADE PRACTICES REGULATIONS: 19. TMEL made corporate announcements of buy back of shares and later on withdrew the same after offloading large chunk of shares through its intermediary company CCL which resulted into violation of Regulations 3, 5(1) and 6(a) of the PFUTP Regulations. In this regard, it is pertinent to analyse the provisions of these regulations. Regulations 3, 5(1) (a) & (b) and 6(a) states as under: 3. Prohibition of certain dealings in securities.- No person shall buy, sell or otherwise deal in securities in a fraudulent manner.

5. Prohibition of misleading statements to induce sale or purchase of securities.- (1) No person shall make any statement, or disseminate any information which - (a) is misleading in a material particular; and (b) is likely to induce the sale or purchase of securities by any other person or is likely to have the effect of increasing or depressing the market price of securities, if when he makes the statement or disseminates the information- (i) he does not care whether the statement or information is true or false; (ii) he knows, or ought reasonably to have known that the statement or information is misleading in any material particular. Nothing in this sub-regulation shall apply to any general comments made in good faith in regard to - (a) the economic policy of the Government, (b) the economic situation in the country, (C) trends in the securities markets, or (d) any other matter of a similar nature, whether such comments be made in public or in private.

6. Prohibition on unfair trade practice relating to securities.- No person shall -(a) in the course of his business, knowingly engage in any act, or practice which would operate as a fraud upon any person in connection with the purchase or sale of, or any other dealing in, any securities; ...

20. It is noted that the shares transferred by Top Cassettes were not listed in BSE. Details submitted by PIPL shows that the CCL had sold (net) 1.35 crores of shares directly in the market through PIPL. The client details submitted by PIPL states that trading was done by Mr.

Deep Trivedi and Mr. Inderjit Bhai on behalf of CCL. Further it is also noted that shares were transferred to Ever Growth Financial and these shares were sold in the market through MPSE Securities Ltd. during the

period of Investigation.

21. The modus operandi of coming up with the attractive corporate activity of buy back of shares by TMEL and later on withdrawal of the same proposal and then transferring shares in large quantity by the entities related to the company including CCL in the market, clearly reflects that TMEL, its promoters/directors and CCL had malafide intention. They disseminated misleading information about proposal of corporate activity and created demand for the scrip of the company and then they sold shares in the market. The promoters/directors/related entities cleverly transferred its shareholding to the intermediary company CCL before the advertisement in order to not to be suspected.

When the company had published the advertisement, this intermediary company i.e. CCL had offloaded shares in the market through PIPL.

22. I note that the promoters and the related entities had channeled their shares in market through CCL. So CCL aided and abetted these entities in offloading the shares in the market. On paper TMEL and CCL seems to be two different entities, however, I find that these two companies are apparently related to each other as contact number (079-26438207) given by promoter Shri Deep Trivedi and CCL to the depository is same. The company had given same contact number to BSE. It was also found that in the BSNL directory the name of the person belonging to phone no 2519459 (Indore) is Shri Deep Kumar Trivedi and address is similar to the address given by CCL to the Depository (Client ID:10029747).

23. From the foregoing, I am of the view that in the present case, CCL, an entity related to TMEL, by acquiring more than 15 % of shares of TMEL without making public announcement in terms of Takeover Regulations violated the provisions of Regulation 10 of Takeover Regulations. Additionally, the entire sequence of events in respect of transfer of shares by TMEL related entities before the publication of the advertisement, unwarranted advertisement in newspaper, the consideration for the proposal of Buy back of shares, withdrawal of the said proposal, rise in price - volume in the scrip, indicate plan of the promoters to create artificial demand in the market for the scrip and then offload the shares through the intermediary company CCL. Thus, the violation of the provisions of Regulations 3, 5(1) (a) & (b) and 6(a) of the PFUTP Regulations, 1995 has clearly been established against CCL.

24. 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, should be suitably penalized for the said acts of omissions and commissions. I also note that CCL and PIPL have been found to be involved in similar violations in past.

25. Therefore, taking into consideration the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Sections 11 and 11B of Securities and Exchange Board of India Act, 1992 read with Section 19 of the SEBI Act and Regulation 11 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 1995 restrain hereby M/s. Coverage & Consultants Ltd. (PAN No. 18-12-CN-9209) from accessing the securities market and also prohibit them from buying, selling or otherwise dealing or associating with the securities market in any manner whatsoever for a period of two years. As M/s. Coverage & Consultants Ltd. was already restrained from accessing the securities market and also prohibited from buying, selling or dealing in securities either directly or indirectly for a period of seven years w.e.f. SEBI order dated October 22, 2007, this order restraining and prohibiting M/s. Coverage & Consultants Ltd. From accessing the securities market for a period of two years will run concurrently.

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