



“CS is an 'insider' being connected with company and having access to UPSI”, SEBI orders impounding of gains from Jagran Prakashan's Compliance Officer for violating insider trading regulations:

Case Details:

1. In the matter of Jagran Prakashan Limited and in respect of Mr. Amit Jaiswal and Ms. Mansi Jaiswal.
2. Order passed by Mr. Prashant Saran, Wholetime Member, SEBI.
3. Order dated November 20, 2015.

Facts:

1. Jagran Prakashan Ltd. ('Jagran'), a publishing company, is listed on BSE/NSE. SEBI conducted investigation into the matter of trading activities of certain entities in the scrip of Jagran for the period August 1, 2009 to October 31, 2009 for ascertaining whether there were any violation of provisions of SEBI Act, 1992 and Rules and Regulations made thereunder. The investigation alleged that Mr. Amit Jaiswal ('AJ') and his wife, Ms. Mansi, had traded in the shares of Jagran during the investigation period, while in possession of price sensitive information and made unlawful gains in the process;
2. Following is the chronology of events for declaration of interim dividend by Jagran [there is similar chronology of events for quarter-ending financial results and decision of Kanchan (Jagran's associate co.) to sell shares of Jagran through stock exchanges to raise approximately Rs. 40-42 crores]:
 - (i) Oct 14, 2009 - Date when agenda proposing interim dividend of Rs. 2/- for FY 2009-10 was prepared;
 - (ii) Oct 15, 2009 - Date when agenda proposing interim dividend of Rs. 2/- for FY 2009-10 was

circulated to the Board of Jagran;

- (iii) Oct 27, 2009 – Date of the Board meeting when proposal of interim dividend was discussed and approved;
 - (iv) Oct 27, 2009 – BSE/NSE were informed about declaration of interim dividend;
 - (v) The trading window was closed during October 20-28, 2009
3. AJ was involved in the preparation and circulation of the agenda regarding the proposal of interim dividend, and was privy to the said Unpublished Price Sensitive Information (“UPSI”) between October 14 and October 27, 2009;
 4. During investigation period, SEBI observed that when the price sensitive information remained undisclosed: (i) AJ bought 28,324 shares and sold 23,324 shares; and (ii) AJ's wife bought 3,72,857 shares and sold 3,66,357 shares.

Final Decision and its basis:

1. SEBI held that CS is an 'insider' being connected with company and having access to UPSI in respect of declaration of interim dividend, quarterly financial results and proposed stake-sale of Jagran by its Associate Company. SEBI considers AJ's wife as “person deemed to be a connected person”;
2. SEBI observed that CS was in possession of UPSI as he was involved in preparation of agenda proposing interim dividend, board approval and audit committee approval process;
3. SEBI stated that by trading in 'trading window', failing to obtain pre-clearance for share-trade and also entering into an opposite transactions within 3-months, AJ and his wife have also violated Model Code of Conduct for Prevention of Insider Trading;



4. Accordingly, SEBI issued ad-interim ex-parte order for impounding of unlawful gains of Rs. 10.41 lacs, jointly and severally, from AJ and his wife for violation of Insider Trading Regulations.

Disclosure of outstanding amount under the head 'deposit' in Balance Sheet does not supersede mandatory provisions of Companies (Acceptance of Deposit) Rules, 1975. CLB dismisses petition, filed u/s 58(9), for repayment of deposit.

Case Details:

1. In the matter of M/s Punjab Paint Colour and Varnish Works Private Limited
2. Order passed by Shri. Dhan Raj, CLB Member
3. Order dated September 15, 2015

Facts:

1. The Respondent Company is a private limited company, which had accepted deposits from relatives of the directors of Respondent Company. However, the company was not able to pay the deposits on time;
2. The relatives of the directors of Respondent Company ('petitioners') filed Company Petition under Section 58A(9) of the Companies Act, 1956, claiming repayment of deposits, along with interest, from the Respondent Company;
3. Prior to March 31, 1993, the respondent company was a partnership firm which was subsequently converted into Private Limited Co. and the assets were brought into the co. Petitioners had provided an amount to the firm and they were allotted shares since they were the only partners in the firm;
4. Prior to the date of incorporation of Respondent Co., Petitioners provided an amount to the respondent company even after its incorporation. Thereafter, the

respondent co. issued shares to few petitioners, and the sum admitted as 'deposit' in Balance Sheet for 1995-1996, but in the Balance Sheet for 1996-1997, the amount was reduced without refunding the money;

5. Petitioner's contended that Respondent Co. has accepted the amount received from its relatives of directors, and the same are represented as 'deposit' in Balance Sheet and for the purpose of Income Tax, even the same amount has been treated as 'deposit';
6. Respondents' contended that in accordance with Section 58A of Companies Act, 1956 and Companies (Acceptance of Deposit) Rules, 1975, there is a special procedure for recovery of public deposits put in by the depositors and the same cannot be used for pressing commercial claims or inter-promoter disputes.

Final Decision and its basis:

1. CLB held that moneys given to the partnership firm prior to its conversion into private company was not in nature of 'deposit', as provisions of Section 58A of Companies Act, 1956 and the Companies (Acceptance of Deposit) Rules, 1975 are not applicable to firms;
2. CLB holds that even if money given by petitioners to respondent company as 'loan' is treated as 'deposit', the same falls with the exemption under Rule 2(b) of Companies (Acceptance of Deposit) Rules, 1975 and hence the amount is not treated as 'deposit' for the amount given by the Petitioners;
3. CLB further held that disclosure of outstanding amount under the head 'deposit' in the balance sheet does not supersede mandatory provisions of Companies (Acceptance of Deposit) Rules, 1975. Accordingly, CLB dismisses the petition filed for directing the Respondent Company to make repayment



under Section 58(9) of the Companies Act, 1956.

Note:

1. The Article is compilation of noteworthy and impactful orders or judgments in Corporate Laws passed by Courts /Tribunals in recent past;
2. Authors feels that these Orders / judgment have very significant impact in day to day working of CS and urges every Student /

Member (either in Employment or Practice) to go through the same;

3. Members / Students, who are interested in obtaining a copy of order / judgment can contact the author at acsgauravpingle@gmail.com / gp@csgauravpingle.com
4. Views expressed / Analysis prepared in the Article are personal and are not binding on Pune Chapter of ICSI. But, the same should not be construed as legal / professional advice / opinion.

