

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: DR. K.M. ABRAHAM, WHOLE TIME MEMBER**

ORDER

DIRECTIONS UNDER SECTIONS 11 AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATIONS 11 AND 13 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 IN RESPECT OF SKOKIE TRADERS PRIVATE LIMITED (FORMERLY KNOWN AS SMRUTHI AGRO FARMS PRIVATE LIMITED), KYVALYA TRADERS PRIVATE LIMITED (FORMERLY KNOWN AS KYVALYA AGRO FARMS PRIVATE LIMITED), VYSHNAVI REAL ESTATE & PROPERTY LIMITED, SUDHEER REAL ESTATES PRIVATE LIMITED AND RAMYA TRADERS PRIVATE LIMITED

1. This Order disposes off the show cause notices dated July 23, 2007 issued by the Securities and Exchange Board of India (hereinafter referred to as SEBI) to Skokie Traders Private Limited (formerly known as Smruthi Agro Farms Private Limited), Kyvalya Traders Private Limited (formerly known as Kyvalya Agro Farms Private Limited), Ramya Traders Private Limited, Sudheer Real Estates Private Limited and Vyshnavi Real Estate & Property Limited (hereinafter collectively referred to as the entities and individually by their respective names), in the matter of Balaji Industrial Corporation Limited (hereinafter referred to as the Company). It was alleged in the notices that the aforesaid entities had artificially raised the share price of the Company and also created volume during the period February 28, 2000 to August 28, 2000 and March 26, 2001 to September 21, 2001 and thereby violated Regulation 4(a)

and (b) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as the PFUTP Regulations). Brief facts of the case as mentioned in the notices are as follows: SEBI conducted investigation into the dealings in the shares of the Company for the period February 28, 2000 to August 28, 2000 and March 26, 2001 to September 21, 2001, in view of the unusual price movements. The investigation conducted by SEBI observed that on the Bombay Stock Exchange Limited (hereinafter referred to as BSE), the share price of the Company had increased from ₹27.90 on February 28, 2000 to ₹90 on April 3, 2000. Thereafter, the share price started falling from ₹88.95 on April 10, 2000 to ₹57.05 on May 5, 2000 and again went up to ₹152.25 on May 30, 2000 and came down to ₹103.30 on June 8, 2000. The share price closed at ₹119.35 on the same day. Subsequently, it was fluctuating between ₹115.40 and ₹130.35 and closed at ₹123 on August 28, 2000. At BSE, during the period-February 28, 2000 to August 28, 2000, a total of 2,70,400 shares were traded in 120 days. It was observed that at BSE, the stock broker, Macy Securities Private Limited, on behalf of its clients, had placed 64 buy orders at a higher price, ranging from ₹0.50p to ₹18.10, [compared to the last traded price (LTP)] on 77 days for 36,900 shares which resulted in 222 trades. It was alleged that, out of those trades, 181 trades were placed for the Company related entities such as, Smruthi Agro Farms Private Limited and Kyvalya Agro Farms Private Limited for 31,100 shares. During the period-February 28, 2000 to August 28, 2000, the share price of the Company went up from ₹28.50/- to ₹119/-. Similar price fluctuations were also noticed at the National Stock Exchange of India Limited (hereinafter referred to as NSE) for the aforesaid period. The gross traded quantity (in the shares of the Company) at NSE during the above period was 6,75,800 shares traded in 141 days. The stock broker, Ensource Shares & Securities Private Limited (now known as Macy Shares and Stock Brokers Private Limited), on behalf of its clients, had placed 120 buy orders at prices

higher than the last traded price, the difference ranging from ₹0.03 to ₹15.38. Those orders were placed on 46 trading days out of the total 141 trading days resulting in trades involving 41,200 shares. The said trades were placed between February to May 2000 and the share price during the said period went up from ₹27.50 to ₹151.25. It was alleged that the major clients of the said stock broker were Kyvalya Traders Private Limited and Skokie Traders Private Limited. It was further alleged that at NSE, the entity, Sudheer Real Estate Private Limited had sold 2,05,000 shares (constituting 30% of the total trading) between June 14 to June 23, 2000, where the counter party buyer was Unit Trust of India (UTI). It was further alleged that at the Madras Stock Exchange Limited (MSE), during the period-June to July 2000, the Company related entities namely, Ramya Traders Private Limited and Sudheer Real Estates Private Limited had sold 9,00,000 shares in the price range- ₹125 to ₹128 through the stock broker Patterson & Co. for which the counter party client was UTI. It was alleged in brief that the entities against whom the notices dated July 23, 2007 were issued were associated/related to the Company and that their transactions in the shares of the Company had influenced the share price and volume.

2. Ramya Traders Private Limited (vide letter dated October 24, 2008), Skokie Traders Private Limited (vide letter dated October 21, 2008), Sudheer Real Estates Private Limited (vide letter dated October 25, 2008) and Kyvalya Traders Private Limited (vide letter dated October 28, 2008) filed their replies to the show cause notices. Subsequently, the entities had filed application for passing of consent order under SEBI circular dated April 20, 2007 and the present proceedings were therefore kept in abeyance. The proceedings were then resumed pursuant to the rejection of the said consent applications and the entities were afforded an opportunity of hearing before me on March 17, 2011, when Mr. P.N. Modi, Advocate (on behalf of Skokie Traders Private Limited), Mr. Joby Mathew, Advocate (on behalf of Kyvalya Traders Private Limited and

Vyshnavi Real Estate & Property Limited) and Mr. Deepak Dhane, Advocate (on behalf of Ramya Traders Private Limited and Sudheer Real Estates Private Limited) appeared and made submissions. SEBI also received written submissions from the entities.

3. I have considered the notices issued to the entities, their respective submissions and other material available on record. The charges against the entities as per the show cause notices are the following:

- a. that the entities which were associated/related to the Company or/its promoters had dealt in the shares of the Company and manipulated the share price/volume during the relevant period and
- b. that they had made undue profits.

Therefore, the primary issue to be decided is to find whether the entities, by virtue of their purchase/sale in the shares of the Company, had manipulated the share price/volume during the relevant period, as alleged. If the answer to the same is in the positive, any gains made by them out of such transactions would become undue profits. On the other hand, if the answer to the first charge is in the negative, the second allegation against the entities of making undue profits would not sustain.

4. It was the common submission of the entities that the Company had not included them as group/associate companies in any of the documents submitted by it to SEBI or to any other regulatory authority. The counsel for Skokie Traders Private Limited (hereinafter referred to as STPL) drew my attention to paragraph 6 of the show cause notice, wherein at two places, certain adverse inferences in respect of the transactions executed by STPL in the shares of the Company at BSE were mentioned. Firstly, under the head '*Analysis of the trade and order log- incremental trades*' in respect of trades at

BSE, it was mentioned “.....Out of these trades 181 trades were placed for the company related entities Smruti Agro and Kyvalya Agro for 31100 shares. During this period i.e. 28/2/2000 to 28/8/2000 the price of the scrip went up from Rs.28.50 to Rs.119.” Secondly, under the head ‘NSE’, the following was mentioned “On 120 occasions, broker Ensource Shares & Securities Pvt. Ltd placed buy orders at prices higher than the last traded price ranging from Re.0.03 to Rs15.38 (difference between buy order price and LTP). These orders were placed on 46 trading days out of total 141 trading days and such trades were made for 41200 shares. As observed from **Annexure 5** (list of buy orders as mentioned above), the major clients of this broker were Kyvalya Agro and Smruthi Agro who are found associated/related to the company. These trades were placed between February to May 2000 and the price during this period went up from Rs.27.50 to Rs.151.25.”

It was submitted by the learned counsel that, the show cause notice nowhere deals with the individual trades of STPL other than what was stated above. According to him, the details given either in the notice or in the annexures attached thereto are not sufficient enough to find his client guilty of any manipulation in the shares of the Company, as alleged. He submitted that the notice was vague and inconsistent to make out a violation. He further submitted that, his client had executed trades in the shares of the Company during the relevant period only at NSE and BSE and that too through registered stock brokers. It was submitted by him that, the notice alleges that out of 293 trades placed by the stock broker, Macy Securities Private Limited [at BSE which were placed at higher than the LTP], 183 trades for 31,000 shares were placed for STPL and Kyvalya Agro Farms Private Limited (hereinafter referred to as KAFPL). However, the counsel pointed out that, the Annexure 4 (‘Details of buy orders at BSE’) attached to the notice only mentions 5 trades for 600 shares which were alleged to have been executed by STPL and that all of them had been executed on June 1, 2000. The counsel pointed out that the annexure

contained certain transactions other than what was allegedly placed by STPL. The counsel submitted before me that even according to SEBI, 293 trades had taken place at a price which was higher by ₹0.5/- or more than the previous traded price and that trades of Macy Securities Private Limited accounted for 222 trades. According to the notice, out of the 222 trades executed by the said stock broker, 181 trades were placed for KAFPL and STPL. The learned counsel submitted that, the show cause notice mentioned 181 trades for STPL and KAFPL and submitted that it would be appropriate to see the number of orders placed than noticing the number of trades which were executed. Further, according to the counsel, though the annexure 4 mentions that buy orders were placed first, it is important to refer to the order logs to find whether pending sell orders were present at lower prices in the system at the given point of time. According to him, such details were not available in the show cause notice or in the annexures enclosed therewith which were crucial in determining whether the buy orders were really placed for manipulation. The counsel further submitted that the allegation in the notice is that during the period-February 28, 2000 to August 28, 2000, the share price had increased from ₹28.50/- to ₹119/-. According to the counsel, the notice does not specifically allege that the share price was impacted only by the trades of KAFPL and STPL, during such period. He reiterated that as per the notice, there were 293 trades wherein the trade price was ₹0.5/- or more than the previous traded price. The fact that there were various other trades (other than those alleged against STPL), according to him, would indicate that there were other traders who had executed trades in the shares of the Company during the relevant period. The counsel further submitted that, STPL and KAFPL were separate entities and that their individual trade quantities were not specifically given. It was the submission that, though, KAFPL was alleged to have placed buy orders at higher prices than the LTP, no such details were mentioned in the annexure to the notice. It was the contention that the transactions executed by STPL were in the normal stock exchange

mechanism without any impact to the price rise and volume in the shares of the Company. The counsel further submitted that there is no case, even according to the notice that the entities which were allegedly connected to each other executed transactions among themselves. He pointed out that, though, it was stated in the notice that the major counter party buyer to the entities was UTI, there was no allegation that the entities colluded with UTI for the purpose of manipulation.

5. The counsel appearing for KAFPL has contended that, though, the show cause notice mentioned that Macy Securities Private Limited had placed orders on its behalf, the annexure attached to it (Annexure 4) does not contain the details in respect of its alleged transactions and therefore, they are not in a position to reply to the said charge. It was contended that any allegation without material details cannot sustain in the eyes of law. I note that Annexure 4 did not specify the details of buy orders placed by KAFPL. On the other hand, it mentioned transactions of Ramya Traders Private Limited (hereinafter referred to as RTPL). In respect of the transactions which were allegedly executed by RTPL, it was submitted before me that the show cause notice does not find any illegality in the said transactions as no adverse inference was drawn in the notice in respect of the same. Without prejudice to the same, it was submitted by the counsel on behalf of RTPL that, Annexure 4 to the notice indicate only 10 orders for 1,700 shares executed by “*Ramya*”. The counsel also pointed out that the said orders were placed only on 5 days. I have perused Annexure 4 (Details of buy order at BSE) attached to the notice. The said annexure mentioned details from February 28, 2000 to August 25, 2000. The said annexure does not specify the orders of KAFPL in the way it had mentioned the orders of “*Ramya*” and “*Smruti*”. It is the submission that the stock broker might have traded for other clients too and that the above mentioned entities cannot be made responsible for the increase in the share price, if any, on the basis of the

inconsistent figures mentioned in the notice. It was also submitted before me that it cannot be ascertained from Annexure 4 that the trades of STPL and RTPL had created the share price. It was stated on behalf of STPL and RTPL that if the share price was created on the basis of a previous order on that particular day by some other entities, it would be unjustifiable to penalise the above mentioned entities on the basis of transactions executed by them. It was the contention that the trades of the said entities were in the normal course of their business activities and that the same were executed in the normal stock exchange mechanism. It was the submission that the details mentioned either in the notice or in the annexure thereof would not by itself make STPL and RTPL liable for the price increase, as according to them, various other entities had also traded in the scrip during the relevant period and that it cannot be ascertained as to whether which of the transactions led to setting up the share price. It was the submission that SEBI had not provided the trade log details and the complete order log details and that only on the basis of the buy order details of the entities, they cannot be held responsible for the increase in the share price. It was vehemently contended before me by the counsel for STPL that there was no material on record to establish that sell orders were pending in the system at prices lower than the prices at which the said entity had placed the impugned buy orders. The crux of his argument was that if any sell order was available at a lower price, then placing a buy order at a price higher than the available sell order price could have been objectionable. I find some merit in these submissions. It also was contended that though KAFPL was alleged to have impacted the prices, no supporting material was given in the said annexure to allege that it had placed orders higher than the LTP. It has also been contended that RTPL was not alleged to have placed orders at higher than LTP prices, in the notice. On considering the charges in the light of the material given in the show cause notices and the submissions made by the parties, it is concluded that the material in the show cause notices and the

annexure does not aid in proving the charge against the entities, STPL, RTPL and KAFPL. In view of the same, the said entities are entitled for a benefit of doubt in respect of the transactions at BSE, as alleged in the show cause notices issued to them.

6. Further, as per the notice, at NSE, STPL and KAFPL had traded through the stock broker, Ensource Shares & Securities Private Limited (now known as Macy Shares and Stock Brokers Private Limited). It was also stated that the said stock broker had placed 120 buy orders at prices higher than the LTP ranging from ₹0.03 to ₹15.38 (difference between buy order price and LTP) and the same were placed on 46 trading days out of total 141 trading days and such trades were made for 41,200 shares. The counsel appearing for STPL has contended that the notice did not attach with it, the specific order details and the trade details, which are the primary source to ascertain as to whether such trades were genuine or not. Without prejudice, he further submitted that, as in the case of alleged transactions at BSE, the notice failed to give material particulars such as the pending sell orders, time difference between the orders, in respect of the impugned transactions at NSE. It was further submitted that in the absence of such material details, they were unable to reply to the charges effectively. According to him, the details mentioned in Annexure 5 (details of buy order at NSE) do not identify the trades of his client and that any action on the basis of such vague show cause notice are not maintainable. The counsel also submitted that Annexure 5 mentions certain details in respect of trades involving approximately 85,000 shares and contended that the same includes the orders alleged to have been placed by the concerned stock broker for KAFPL and STPL for 41,200 shares. According to him, the above figures would indicate that there were other orders which could have impacted the price/volume. It was therefore, submitted that, it cannot be alleged that only the trades of KAFPL and STPL had impacted the share price of the Company at

NSE, as there were other trades which were executed at a price higher than the LTP. I have perused Annexure 5 attached to the notice. It was the submission that the said annexure does not contain the order time, trade time etc. According to the entities, from the said annexure, it would not be possible to conclude that a particular transaction had been executed by a particular client. In short, it was the submission that the entities could not be identified from the said annexure and to arrive at a conclusion as to whose trades had impacted the price/volume. Similar submissions were put forward by the counsel appearing for KAFPL. I have given a thoughtful consideration to the said submissions. The said annexure did not mention the complete order and trade details of a particular client and material to show whether there were pending sell orders at lower prices than the impugned buy orders. Therefore, in the absence of material particulars, it would be difficult to ascertain whether STPL and KAFPL had manipulated the shares of the Company at NSE and accordingly, they are entitled for a benefit of doubt in respect of the transactions alleged against them.

7. In respect of the trades at MSE, the allegation in the notice is that the investigation revealed that during June to July 2000, the Company related entities, RTPL and Sudheer Real Estates Private Limited (hereinafter referred to as SREPL) have sold 9,00,000 shares at the price range- ₹125 to ₹128 through the stock broker, Patterson & Co. and the counter party client was UTI. It is the submission of the said entities that, apart from making such bald allegation, SEBI has not provided any details to support the same. It was submitted that there was no allegation in the notice that the said entities were in collusion with UTI for manipulating the share price of the Company. RTPL and SREPL have submitted that no details were furnished in the show cause notice in support of the allegations levelled in respect of their alleged transactions at MSE and in the absence of such particulars they are unable to reply to the said

allegations. From the notices issued to RTPL and SREPL, I find that no details of their trades at MSE were given in the show cause notices issued to them or in the annexures thereto. Therefore, it would be difficult to attribute any malafide in respect of the transactions said to have been executed by the concerned entities. Accordingly, the said entities would be entitled for a benefit of doubt.

8. I also note that investigation was conducted in respect of the price fluctuations for the period-March 26, 2001 to September 21, 2001 also. The learned counsel representing the parties submitted that there is no material in the show cause notices or in the annexures attached thereto, to allege any manipulative or unfair trading by the entities during the aforesaid period and that all the analysis were only in respect of the trading in BSE, NSE and MSE during the period February 28,2000 to August 28, 2000, which according to them did not establish a case. In respect of the notice issued to Vyshnavi Real Estates Private Limited (hereinafter referred to as VREPL), it was contended that no details whatsoever had been mentioned therein to make the said entity liable for any violations. It was submitted that none of the annexures refers to any of the transactions of the said entity. As the show cause notice does not contain any specific details of transactions to implicate VREPL, the said entity is also entitled for benefit of doubt.

9. Based on the consideration of the show cause notices, the material found therein and the submissions made by the entities, I find that the said entities are entitled for a benefit of doubt in respect of the allegations levelled against them, for the reasons stated above. As the allegations of manipulation against the entities could not be established, it would not be necessary to deal with the other allegation as to whether the said entities made undue profit. Accordingly, I dispose of the present proceedings as ordered hereinbelow.

10. In view of the foregoing, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 and

11 and 11B of the Securities and Exchange Board of India Act, 1992 read with Regulations 11 and 13 of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 hereby dispose of the show cause notices dated July 23, 2007 issued by the Securities and Exchange Board of India in the matter of Balaji Industrial Corporation Limited to Smruthi Agro Farms Private Limited (now known as Skokie Traders Private Limited), Kyvalya Agro Farms Private Limited (now known as Kyvalya Traders Private Limited), Ramya Traders Private Limited, Sudheer Real Estates Private Limited and Vyshnavi Real Estate & Property Limited, without any directions.

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

PLACE: MUMBAI
DATE: JUNE 2, 2011