

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 RRB SECURITIES LIMITED, HARSAI INVESTMENTS PRIVATE LIMITED, IVORY SECURITIES LIMITED, ALAKNANDA CAPITAL SERVICES PRIVATE LIMITED, CHINAR FINANCIAL SERVICES LIMITED, NARMADA CAPITAL SERVICES LIMITED AND GAGAN FINANCIAL RESOURCES PRIVATE LIMITED IN THE MATTER OF ALPS INDUSTRIES LIMITED

1. The Securities and Exchange Board of India (hereinafter referred to as SEBI) issued a common show cause notice dated April 16, 2004 to RRB Securities Limited, Ivory Securities Limited, Alaknanda Capital Services Private Limited, Chinara Financial Services Limited, Harsai Investment Limited, Narmada Capital Services Limited and Gagan Financial Resources Private Limited (hereinafter collectively referred to as the entities and individually by their respective names) in respect of their dealings in the shares of Alps Industries Limited (hereinafter referred to as the Company) during the period between December 6, 2000 and March 13, 2001 (hereinafter referred to as the investigation period). Brief facts of the case as mentioned in the show cause notice are as follows. It was observed that the entities which were allegedly connected to each other had entered into cross/structured deals in association

with the stock brokers namely, HB Securities Limited, Fincap Portfolio Limited and RRB Master Securities Delhi Limited and were instrumental in creating artificial volumes in the said scrip. With respect to the trades at National Stock Exchange of India Limited (NSE), it was alleged that the stock brokers namely, HB Securities Limited and Fincap Portfolio Limited had executed various structured trades involving large number of shares, on behalf of the entities. It was also alleged that HB Securities Limited had executed 16 cross deals mostly on behalf of the entities. As regards the trades in the shares of the Company at Delhi Stock Exchange Limited (DSE), it was alleged that the stock brokers namely, HB Securities Limited and RRB Master Securities Delhi Limited had executed matched trades on behalf of the said entities. In view of the above, it was alleged that the buy and sell orders (at the same time or almost the same time) were placed with a view to create false or misleading appearance of trading in the scrip and therefore, the same contravened Regulation 4(a), (b), (c) and (d) 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). Hence the show cause notice.

2. Thereafter, the entities appeared before me on various dates, as stated below:

- a. RRB Securities Limited was represented by its director Mr. Anil Goyal on March 6, 2009
- b. Harsai Investment Limited was represented by Mr. H. S. Chandoke Advocate on March 6, 2009
- c. Alaknanda Capital Services Private Limited was represented by Mr. Atul Agarwal on June 24, 2009
- d. Narmada Capital Services Limited appeared was represented by Mr. Sanjay Kumar Rastogi on June 24, 2009
- e. Gagan Financial Resources Private Limited and Chinar Financial Services Limited were represented by Ms Suchita Koley and Ms Babita Tiwari on July 9, 2009.

There was no representation on behalf of Ivory Securities Limited. The entities have also filed their respective replies to the show cause notice.

3. I have considered the show cause notice (hereinafter referred to as the notice) issued to the entities, their respective replies, oral submissions made on behalf of the entities as mentioned above and other material available on record. Considering all the above, the issue to be decided is whether the entities contravened Regulation 4(a), (b), (c) and (d) of the PFUTP Regulations, as alleged in the notice. The allegation is that the entities had placed orders in the shares of the Company at the same time and price (at NSE and DSE) with a view to create false or misleading appearance of trading in the said scrip. In my view, the available material (either mentioned in the notice or in the annexures attached therein) in respect of the trades of the entities at DSE are not sufficient to establish that they had placed the orders at the same time and price. In this regard, I note that the allegations against the entities in respect of its trades at DSE are given below, at the cost of repetition:

i HB Securities Limited had executed trades mainly on behalf of the same set of related/connected clients and for the said trades either its name was appearing as both buying as well as selling member or the counter party stock broker was RRB Master Securities Delhi Limited, who are related/connected to HB Securities Limited. As per the notice, the said trades involved 4,92,000 shares which had accounted for 27% of the gross volume of the shares traded on DSE.

ii. HB Securities Limited executed atleast 36 structured deals mainly for the entities involving 5,90,000 shares with RRB Master Securities Delhi Limited.

iii. RRB Master Securities Delhi Limited had also traded at DSE for the entities wherein it was appearing as both buying and selling member or the counter party stock broker was HB Securities Limited. Such trades involved 10,83,800 shares which accounted for approximately 59% of the gross volume traded at DSE.

4. It was contended on behalf of RRB Securities Limited that there is no clarity as to whether the trades alleged to have executed at DSE were actually executed at DSE or not. It was also submitted that its name was not appearing in the relevant annexures (as given below) attached to the notice:

- i. Details of Structured Deals between RRB Master Securities Delhi Limited and HB Securities Limited (involving 4,77,500 shares) at pages 14 to 16 of the show cause notice. This annexure is without the time of placement of orders.
- ii. Details of Structured Deals between RRB Master Securities Delhi Limited and HB Securities Limited with time of placement of orders (involving 5,90,000 shares) at page 17 of the show cause notice.

5. It was its contention that despite the requests for trade and order log, the same had not been furnished. Similar submissions were made on behalf of Har Sai Investments Limited. According to the learned counsel for Har Sai Investments Limited, the material particulars given in the notice are ambiguous. It was also submitted that the share price of the Company was much higher during the period prior to the investigation period and that Har Sai Investments Limited had suffered a loss in respect of its trades. I note that, in order to substantiate the allegations (trades of the entities at DSE), in addition to the above mentioned annexures, an annexure detailing the 'Trades on DSE' (at pages 11 to 13) was also attached to the notice. The said annexure lists out the

names of the stock brokers namely, HB Securities Limited, RRB Master Securities Delhi Limited and B K Khuller & Co. and clients, namely, RRB Securities Limited, Ivory Securities Limited, Alaknanda Capital Services Private Limited, Chinara Financial Services Limited, Harsai Investment Limited, Narmada Capital Services Limited and Gagan Financial Resources Private Limited, Ellisbridge Estates Private Limited and Antique Investment Company Limited. The said annexure does not provide the time of placement of orders and the trade time. The allegation is that the entities had placed orders at the same time with same price and created misleading appearance of trading in the shares of the Company. In such a case, how can a finding against the entities be arrived when the annexures do not contain the vital information about the order time. Further, the entities were not the only ones who had traded in the shares of the Company. As per the annexure ('Trades on DSE'), Antique Investment Company Limited had traded for 21,900 shares each on two occasions and Ellisbridge Estates Private Limited had traded for 1,91,200 shares. However, they are not covered under the present proceedings. Thus, from the above mentioned annexure, it is clear that the entities mentioned in the present proceedings were not the only traders in the shares of the Company during the investigation period. According to the entities, SEBI is not justified in taking action against them leaving out the two entities mentioned above, especially as the alleged charge is the creation of misleading appearance of trading. As stated above in this Order, there were other parties contributed to the volume against whom no action has been initiated.

6. Further, the other two annexures, i.e. details of structured deals between RRB Master Securities Delhi Limited and HB Securities Limited with and without time are not found to be consistent with each other. The annexure without time contained various trades involving 4,77,500 shares and one with time involved 5,90,000 shares. As per the annexure without time, the aforesaid

stock brokers had executed the trades on December 22, 2000, December 23, 2000, December 24, 2000, December 29, 2000, January 5, 2001, January 12, 2001, January 19, 2001, February 16, 2001 and March 9, 2001. However, as per the annexure with time, the trade dates are on January 5, 2001, January 12, 2001, January 19, 2001, February 16, 2001, February 23, 2001 and March 2, 2001. A perusal of the notice indicates that some of the trades appearing therein are common. However, there are no time wise details with respect to the trades executed on December 22, 2000, December 23, 2000, December 24, 2000, December 29, 2000 and March 9, 2001. It is also not clear from the notice whether the clients were involved in both sets of transactions i.e. one involving 4,77,500 shares and the other involving 5,90,000 shares, as the clients' details are not given in the said annexures. As per the notice, at DSE, the aforesaid stock brokers had executed structured trades on behalf of the same set of related/connected clients and the same involved 4,92,000 shares. However, the annexure, the details of which are discussed above, refers to 4,77,500 shares. Though, it is also alleged in the notice that HB Securities Limited had executed atleast 36 structured deals during the period January 2001 to March 2001 for the connected/related clients involving 5,90,000 shares, details of clients are not given therein. It is pertinent to note that, there were other entities (other than those covered under the notice) which had traded for nearly 2,00,000 shares of the Company, as mentioned above. Needless to say, both the annexures do not contain the name of the entities on whose behalf such orders were placed by the said stock brokers. This is crucial information in proceedings against the clients involved in a matched trade. This absence is to be viewed in the context of the case where the allegation is that the entities had placed orders at the same time to create a false and misleading appearance of trading in the market. The annexures only contained the name of the stock brokers with or without the time of placement of the orders. Further, there is an allegation in the notice that RRB Master Securities Delhi Limited had also

traded at DSE for the entities wherein it was appearing as both buying and selling member or the counter party stock broker was HB Securities Limited. It was also stated that such trades involved 10,83,800 shares which accounted for approximately 59% of the gross volume traded at DSE. Apart from making such an allegation in the notice, no supporting material were given *inter alia* with respect to the trade details, the names of the client, the order quantity placed by such clients etc. In the absence of such details, it would be difficult to establish that a particular client was involved in a particular trade or not. In a case where the allegation against the entities is that of matched trade and thereby created false and misleading appearance of trading, it has to fulfill certain necessary requirements, as stated above. The annexures attached to the notice is silent on various aspects as mentioned above. Further, the notice is also silent as to how the entities are connected to each other. Therefore, I am in agreement with the contention of the entities that the annexures attached to the notice in respect of their alleged trades in the shares of the Company at DSE are ambiguous. The allegation is that the entities had placed both buy and sell orders through the stock brokers mentioned which had resulted in the matching of the trades. It is not even alleged in the notice that the impugned trades of the entities had affected the share price of the Company at DSE during the investigation period. Further, there is no allegation in the notice as to whether the entities were placing the orders at a higher price or that they were involved in trade reversals. It is the case of the entities that their trades were delivery based and that they were not connected. In view of the above, I am of the considered view that the details given in the notice in respect of the alleged trades of the entities at DSE are not sufficient to find them guilty of contravening Regulation 4(a), (b), (c) and (d) of the PFUTP Regulations, in respect of their trades in the shares of the Company at DSE during the period of investigation. Accordingly, they are entitled for a benefit of doubt.

7. In respect of the trades of the entities at NSE, the allegations in the notice are the following:

- a. HB Securities Limited and Fincap Portfolio had executed about 150 structured deals involving 11,02,200 shares which had accounted for 17.21% of the gross quantity traded in the scrip.
- b. On December 26, 2000, 52 structured deals were executed between HB Securities Limited and Fincap Portfolio involving 1,47,600 shares 'done mostly on behalf of referred clients', which accounted for more than 55% of the volume in the said scrip on the said date.
- c. HB Securities Limited had executed 16 cross deals mostly on behalf of the above mentioned clients, involving 3,95,000 shares of the Company.

8. In respect of the allegation at c above, I note from the annexure attached to the notice that it contained 16 cross deals executed by HB Securities Limited on different dates between December 2000 and March 2001. As per the said annexure, clients of the said stock broker were Unit Trust of India, RGS Investments, Apex Enterprises, Antique Investment Company Limited. I note that, in 15 out of 16 cross deals, the aforesaid parties were mentioned as the counter party clients for the respective trades. It was the submission that SEBI cannot allege violation only against one party and maintain otherwise in respect of the others involved in the very same transaction. The said argument of the parties deserves to be considered in the facts and circumstances of the case. In view of the above, according to me, it is not proper to consider the said trades of the entities, as alleged in the notice.

9. The other allegation is that HB Securities Limited and Fincap Portfolio had executed about 150 structured deals involving 11,02,200 shares which had accounted for 17.21% of the gross quantity traded in the scrip. The said structured deals as per the annexure attached to the notice executed on

December 19, 2000, December 26, 2000, January 1, 2001, January 2, 2001, January 5, 2001, January 16, 2001, January 23, 2001, January 30, 2001 and February 5, 2001. A perusal of the annexure indicates that 32 structured deals allegedly executed by the said stock brokers on December 26, 2000 were also part of the said 150 transactions. Since the trades executed on December 26, 2000 were part of the total 150 transactions executed during the investigation period, both are discussed together in the succeeding paragraphs. In respect of the said allegation, RRB Securities Limited stated that, even as per the notice, it had traded only on six days during the investigation period. As regards the trade on December 26, 2000, RRB Securities Limited stated that there is variation between its purchase order quantity (25,000) and the sell order quantity (55,000 shares) of the counter party and therefore, contended that the said trades were not matched. It also contended that its sale order quantity of 10,000 shares on January 9, 2001 was 10,200 shares while the buy order quantity of was 20,000 shares. Further, RRB Securities Limited claimed that its buy order quantity for the trade for 10,300 shares on February 5, 2001 was 17,000 shares whereas the sell order quantity was 15,700 shares. Thus, according to RRB Securities Limited, the said differences in order quantity clearly establish that its trades are genuine and not structured/manipulative as alleged. According to RRB Securities Limited, the above mentioned trades involve gross purchase of 68,900 shares and gross sale of 1,35,000 shares and thus net sale of 66,100 share and that it accounted only 1.92%, 3.76% and 1.84% respectively to the total volume in the shares of the Company during the period of investigation. Further, it was contended that all its trades have been executed at the prevailing market price. It also stated that on a perusal of trades on December 26, 2000 mentioned in the aforesaid annexure, its trades are only for the purchase of 25,000 shares through Fincap Portfolio Limited (constituting 0.69% of the volume in the period of investigation). It also denied the allegation of having any game plan or having colluded with any person or entities at any

point of time. According to it, there is absolutely no material on record to substantiate the allegations that RRB Securities Limited is related to other entities. It was further submitted that there is no allegation in the entire notice as to whether RRB Securities Limited or for that matter even other entities or the stock brokers, have in any way influenced or manipulated the prices of scrip under reference. It was also submitted that all its trades were genuine and were at the prevalent market prices and that none of its trades were done either at the upper end or the lower band of the circuit filters.

10. It is contended on behalf of Har Sai Investments Limited that its trades on December 26, 2000 involved only 800 shares and that it was acting independently. Mr. H.S. Chandoke, the learned advocate, during the course of hearing, denied the allegation that the entities are connected to each other. According to him, no reference as to how such entities are connected to each other is given in the notice. He further contended that in the absence of material in the notice in respect of the alleged connection, it would be difficult to meet such contentions. According to him, as per the information available in the notice, in 10 transactions on different dates, Har Sai Investments Limited had purchased 2,23,200 shares and sold 42,800 shares of the Company resulting in a net buy position of 1,80,400 shares. It was contended that, compared to the market volume over the period of investigation, the said transaction was miniscule and no allegation of influencing the market can therefore be established based on the same. According to Har Sai Investments Limited, the notice would show that in a majority of the trades, the counterparties as well as the counterparty trading members were entities with whom it does not have any connection. It was also submitted that its transactions were not continuous during the investigation period.

11. As per the notice, most of the trades on December 26, 2000 were executed between Ivory Securities Limited and Gagan Financial Resources Private Limited. In respect of the same, Ivory Securities Limited, in its reply stated that it cannot be accused of entering into any cross/structured deals with any of the entities mentioned therein. It was also submitted that Ivory Securities Limited is neither linked nor connected nor even remotely related in any manner whatsoever with any of the other entities or with any of trading members except with Fincap Portfolio Limited wherein it is holding 9.36% equity as a shareholder. According to Ivory Securities Limited, approximately 70% of its entire purchase on that day was made @₹144/- per share which was less by ₹1/- per share from the Last Traded Price (LTP), which by no degree of imagination, can be termed as manipulative or could have affected the traded volumes in the market, or be termed as fraudulent and unfair trade practice which resulted in disturbance of the market equilibrium. It was also stated that on March 7, 2001, it had sold its entire holding of 46,200 shares ₹89.76. According to it, all the trades executed by it were genuine as there were no disputes in payments and delivery was taken as per the rules and regulations. It also stated that it had incurred a huge loss of ₹58.17 lacs, and that there was no benefit derived whatsoever from the transactions carried out. Gagan Financial Resources Private Limited submitted that there is no allegation of it having manipulated, influenced, inflated or depressed the share price of the Company in any manner by it in the show cause notice. According to it, all its transactions were genuine trade transactions in which there was transfer of beneficial ownership, and the trades were backed by delivery/payment. It was further stated that no material showing a correlation between the nature of the transactions and no pattern has been drawn to show that the transactions were designed to influence the market and there is nothing on record to show that any person was induced into trading in the shares of the Company.

12. Chinar Financial Services Limited, in its reply stated that all its transactions were genuine with transfer of beneficial ownership and that the same were backed by delivery/payment. According to it, there is no finding that there was any influence on the price of the scrip as a result of the transaction as even before the period of investigation and even thereafter the price of the scrip kept falling without any of its trades. It was further submitted that no material showing a correlation between the nature of the transactions and no pattern has been drawn to show that the transactions were designed to influence the market and there is nothing on record to show that any person was induced into trading in the shares of the Company. It also contended that nothing has been brought on record in the notice as to how the market equilibrium got distorted. While making similar submissions, Alaknanda Capital Services Private Limited stated that it had made purchases in the shares of the Company aggregating to 3,67,600 shares before the period of investigation and that during the period of investigation, it had further purchased 5,51,500 shares and again sold the same. According to it, all the transactions have been made on the stock exchanges for which delivery was tendered in the capital market. Narmada Capital Services Private Limited also made similar submissions.

13. The charges leveled against the entities are that they had violated Regulation 4(a) to (d) of the PFUTP Regulations. As vehemently contended on behalf of the entities, it is not the case in the notice that the trades of the entities created artificial price increase. It was the allegation that “ *Thus you have placed such buy and sell orders through the aforesaid broker(s) that had matched with the orders of the other group entities which were placed at the same price and at the same time or almost the same time with a view to create false or misleading appearance of trading in the scrip*”. As discussed above in this order, the culpability of the entities in respect of their trades at DSE in the shares of the Company cannot be faulted for want of certain necessary details

in the notice/annexures attached thereto. During the course of hearing, it was submitted before me that even in the period prior to the investigation period, the shares of the Company were traded in huge volumes and that it was not the case of SEBI that the entities covered in the present proceedings were involved in such trades. Mr. H.S. Chandoke, the learned counsel for Har Sai Investments Limited had also brought my attention to the price-volume data of the Company for the pre and post investigation periods. I note from the said chart that the volume in the shares of the Company had started increasing from the third week of September 2000, which was much prior to the investigation period. During such time, the share price was also high as compared to the period of investigation. As pointed out by the learned counsel, the notice does not allege that the entities were trading in the shares of the Company prior to the investigation period. The learned counsel further submitted that the total volume traded in the shares of the Company at NSE, though very pertinent for ascertaining the violation of Regulation 4(b) of the PFUTP Regulations, was absent in the notice. According to the learned counsel, there were so many days in the investigation period, the volume traded was very high at NSE even without the participation of the entities mentioned in the present proceedings. Some of such days and the volume, as per the price volume analysis chart are December 18, 2000 (1,96,000 shares), December 22, 2000 (1,42,700 shares), December 27, 2000 (1,62,800 shares), January 3, 2001 (1,48,400 shares), January 12, 2001 (61,100 shares), January 18, 2001 (50,000 shares), January 24, 2001 (83,500 shares), January 31, 2001 (79,900 shares), February 7, 2001 (92,900 shares), February 19, 2001 (50,000 shares), February 21, 2001 (85,000 shares), February 28, 2001 (50,100 shares) and March 1, 2001 (1,00,000 shares). All such trades were executed during the period of investigation. These trades were not held against the entities covered herein. It is the case of the entities that the notice could not establish that their trades were fraudulent in nature. It was claimed by the entities that their trades

resulted in delivery and payment. In short, according to them, their trades did not influence the securities market in any way. It is not the allegation in the notice that they were involved in trade reversals. They were also not involved in circular trades. The only incriminating factor in the notice is that the structured deals of the entities for the entire investigation period accounted for 17.21% of the gross quantity traded in the shares of the Company. Some of the traded days during the investigation period had witnessed huge volume in the shares of the Company. As per the notice, the entities were not involved in such trades. As stated above, the notice does not allege that the share price was artificially affected because of the trades of the entities. The learned counsel vehemently contended that Regulation 4 (a), (b), (c) and (d) of the PFUTP Regulations would not be applicable in the facts of the case. Further, in respect of the trades of the entities at DSE, benefit of doubt has been afforded to them in view of certain deficiencies in the notice. It was contended that no action has been taken against certain entities which had substantially traded in the shares of the Company and contributed to the market volume. Further, certain entities involved in the alleged matched trades with the entities are also not proceeded against. The charge against the entities is that they created misleading appearance of trading. As stated above, there were so many days in the investigation period, when the volumes traded were very high at NSE even without the participation of the entities. The said details are also mentioned above in this Order. The volume contributed by other parties, during the investigation period was around 13,00,000 shares. No adverse finding was recorded against those parties. Further, it was the contention of the entities that the notice does not accuse them as to how their trades were executed with manipulative intent and how the same affected the trading in the scrip during the investigation period. As stated above, there is no allegation in the notice that the trades of the entities affected the market price of the scrip. The notice is totally silent as to the price movement of the shares of the Company during the

investigation period. In view of the above and also considering the case in its totality, it would be difficult to find the entities guilty of contravening Regulation 4 (a), (b), (c) and (d) of the PFUTP Regulations, on the basis of the notice. Accordingly, the entities are entitled for benefit of doubt in respect of the alleged violations and the show cause notice dated April 16, 2004 issued to the entities is disposed of, as ordered hereinbelow.

14. In view of the foregoing, I, in exercise of powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Sections 11 and 11B thereof and 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, hereby dispose of the show cause notice dated April 16, 2004 issued to RRB Securities Limited, Ivory Securities Limited, Alaknanda Capital Services Private Limited, Chinara Financial Services Limited, Harsai Investment Limited, Narmada Capital Services Limited and Gagan Financial Resources Private Limited in respect of their dealings in the shares of Alps Industries Limited, without any directions.

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

PLACE: MUMBAI

DATE: SEPTEMBER 28, 2010