BEFORE THE SECURITIES APPELLATE TRIBUNAL MUMBAI

Appeal No. 55 of 2012

Date of decision: 08.10.2012

Mr. V. K. Kaul
Flat No. 8202 & 8204,
Sector B-XI,
Vasant Kunj,
New Delhi – 110070. ……Appellant

Versus

The Adjudicating Officer,
Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051. …… Respondent

Mr. Janak Dwarkadas, Senior Advocate with Mr. Chirag Kamdar, Ms. Ipsita Dutta and Mr. Rohan Banerjee, Advocates for the Appellant.

Mr. D. J. Khambatta, Advocate General with Dr. Poornima Advani, Mr. Ajay Khaire and Ms. Rachita Romani, Advocates for the Respondent.

CORAM : P. K. Malhotra, Member & Presiding Officer (*Offg.*)
S. S. N. Moorthy, Member

Per : P. K. Malhotra

This order will dispose of two Appeals no. 55 and 56 of 2012 which arise out of orders dated January 4, 2012 passed by the adjudicating officer of the Securities and Exchange Board of India (for short the Board) holding the appellants, in these two appeals, guilty of violating Section 12A(d) and (e) of the Securities and Exchange Board of India Act, 1992 (the Act) and imposing a penalty of ₹ 50 lacs and ₹ 10 lacs respectively under Section 15G(i) of the Act.

2. Mr. V. K. Kaul, appellant in Appeal no. 55 of 2012, was a non-executive independent director of Ranbaxy Laboratories Limited (Ranbaxy) for the period from

January 1, 2007 to December 18, 2008. Ranbaxy is the parent company of Solrex Pharmaceuticals Limited (Solrex). Ranbaxy is also the holding company of Rexcel Pharmaceutical Limited (Rexcel) and Solus Pharmaceutical Limited (Solus) which are 100 per cent subsidiaries of Ranbaxy. Solrex is the partnership firm between Rexcel and Solus. Therefore, Solrex is a company directly under the control of Ranbaxy.

3. Certain alerts were generated at the National Stock Exchange Limited and the Bombay Stock Exchange Limited during the period from March 17, 2008 to April 9, 2008 on the basis of which the Board took up joint investigation in the dealings of the scrip of Orchid Chemicals and Pharmaceuticals Ltd. (the target company). Solrex made large investments in the scrip of the target company from March 31, 2008 onward. It was noted that Mrs. Bala Kaul, appellant in Appeal no. 56 of 2012, wife of Mr. V. K. Kaul, appellant in Appeal no. 55 of 2012 had traded in the scrip of the target company ahead of large investments made by Solrex in the scrip of the target company. The funds for the said trading were provided by Mr. V. K. Kaul and trading was done through Religare Securities Limited, who is also the stockbroker of Solrex. Mrs. Bala Kaul bought a total of 35,000 shares at an average price of ₹ 131.71 on 27th and 28th March 2008 and sold them on April 10, 2008 at an average price of ₹ 219.94. This trading was allegedly done on the basis of Unpublished Price Sensitive Information (UPSI) available with Mr. V. K. Kaul to the effect that Solrex is going to invest large amounts in the scrip of the target company. The basis of this conclusion appears to be that the Board of Directors of Rexcel and Solus had passed a resolution on March 20, 2008 to open a joint demat account in the name of both companies on behalf of Solrex. Solrex bought shares of the target company from March 31, 2008 onward. No other trading was done in this demat account. Therefore, the Board came to the conclusion that the demat account was opened for the purpose of purchase of shares of the target company and decision to this effect was available on March 20, 2008 when the Board of Directors of Solus and Rexcel passed resolution for opening demat account. It was further observed by the

Board that neither Solrex nor its partner firms Solus and Rexcel had financial strength to make investments of large funds in the scrip of the target company. The funds were provided by Ranbaxy to the extent of 151 crores. This funding was authorized by the Board of Directors of Ranbaxy on March 28, 2008 to Mr. Malvinder Mohan Singh, the then CEO and Managing Director of Ranbaxy, vide power of attorney authorizing him transactions up to ₹ 800 crores. The Board came to the conclusion that the decision to purchase shares of the target company would have been taken by Ranbaxy on March 20, 2008 and on that basis the demat account was opened and subsequently Mr. Malvinder Singh was authorized for funding to the subsidiaries of Ranbaxy. Therefore, the UPSI came into existence on March 20, 2008. The decision of Solrex to purchase shares of the target company in large quantity was price sensitive information known only to the insiders. Mr. V. K. Kaul was in constant touch with Mr. Malvinder Singh and Mr. Umesh Sethi, Vice President and Head Global Finance of Ranbaxy and also on the Board of Rexcel and Solus. Mr. V. K. Kaul, being an insider, purchased 35000 shares of the target company on behalf of his wife Mrs. Bala Kaul, on 27th and 28th March 2008, ahead of trading in the scrip of the target company by Solrex. It was, therefore, alleged that the appellant, being a connected person of Ranbaxy under Regulation 2(c)(i) of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 (for short the regulations), was an insider and traded on behalf of his wife in the scrip of the target company based on UPSI in his possession and, thus, violated Section 12A(d) and (e) of the Act.

4. Show cause notice dated April 8, 2011 was issued to the appellants asking them to furnish their reply to the charges. The appellants denied the charges whereafter a personal hearing was also granted. After considering the material available on record and the personal hearing, the adjudicating officer of the Board held the appellants guilty of the charges and imposed penalty as stated above. Hence this appeal.

5. We have heard Mr. Janak Dwarkadas, senior advocate on behalf of the appellant and Mr. Darius Khambatta, Advocate General on behalf of the Board. It was argued by Mr. Janak Dwarkadas that the adjudicating officer of the Board has erred in holding that the decision of Solrex to purchase shares of the target company is UPSI. Referring to the definition of 'price sensitive information' under Regulation 2(ha) of the regulations, he submitted that only such information, which, if published, is likely to materially affect the price of the securities of the company can be treated as price sensitive information. Further, in terms of Regulation 2(k), the actual publication of UPSI can be undertaken only by the company to which the UPSI pertain. A combined reading of Regulations 2(ha) and 2(k) of the regulations indicate that UPSI must be an information which can affect the price of the securities of a company and which may be published by that company alone. According to learned senior counsel, in the instant case, the information purported to be UPSI pertains to the securities of the target company and the target company would never have been in a position to publish such information as it was not privy to the purported UPSI. Therefore, according to him, information relating to a third party investor seeking to buy shares of a listed company from the market cannot be treated as UPSI regarding the target company. The target company would not have any knowledge of this information prior to the transactions. It was further argued by him that attributing any other meaning to the concept of UPSI would be inconsistent with the scheme and purpose of the regulations and in particular regulation 3A because it would result in a situation where any company proposing to invest in another listed company would be in violation of regulation 3A simply by being in possession or knowledge of its own investment. It was also argued by him that show cause notice and the impugned order are based on the report of the investigating officer but the report has not been made available to the appellants. Thus, the whole inquiry is vitiated for violation of principles of natural justice. Learned senior counsel for the appellants further submitted that the adjudicating officer has erred in arriving at the conclusions on the basis of circumstantial evidence giving a go by to the direct evidence available on record. The statements made by Mr. Malvinder Singh, Mr. Umesh Sethi, Mr.

Sandeep Mohendroo, Mr. Amitabh Gupta and Mr. Sunil Kumar, associated with the decision taking process of these companies have clearly stated that Mr. V. K. Kaul was not associated with the decision about purchase of shares of the target company and that he was not informed about such decision. In support, he relied on decisions reported in **Bariam Chemicals Ltd. vs. Company Law Board [AIR (1967) SC 295]; S. Harcharan Singh vs. S. Sajjan Singh [AIR (1985) SC 236]; In Re Jaypee Cement Ltd. (2004) 122 Comp. Case 854, Sterlite Industries Ltd. vs. SEBI (2001) 34 SCL 485 (SAT); Dilip Pendse vs. SEBI (Order dated 19/11/2009).** It was further submitted that in any case, there was no UPSI and the decision to buy the shares of the target company was taken on the basis of information already in public domain. Mrs. Bala Kaul is a regular trader. The price of the scrip of the target company was falling due to large quantities of shares being sold by foreign entity and also by pledgee of the shares. However, the fundamentals of the company were strong and, therefore, Mrs. Bala Kaul took advantage of the falling price and bought the shares. It was, therefore, argued that order passed by the adjudicating officer in both the appeals needs to be set aside.

6. Mr. Darius Khambata, learned Advocate General, appearing on behalf of the respondent Board argued that the term 'price sensitive information' as defined in the regulations is wide enough to include any information relating directly or indirectly to a company. The regulations do not require that the UPSI must be in the possession of or in the knowledge of the company in whose securities the insider deals. If an insider deals in the securities of a company listed on any stock exchange when in possession of UPSI relating to that company, regulation 3(i) of the regulations will get attracted. Regulation 2(ha) of the regulations defines 'price sensitive information' to mean any information which relates directly or indirectly to 'a company' which, if published, is likely to materially affect the price of securities of company. The explanation to the said sub-regulation makes a deeming provision with regard to certain information to be price sensitive. Regulation 2(k) defines 'unpublished' to mean information which is not published by company or its agents and is not specific

in nature. The explanation further provides that speculative reports in print or electronic media shall not be considered as published information. A bare reading of the aforesaid provisions make it clear that the information must relate to 'a company' and not necessarily 'the company' which is dealing into the shares. He supported the findings arrived at by the adjudicating officer with the judgments/orders referred to by him in the impugned order including decisions in the case of **United States of America vs. Raj Rajaratnam [(2009) Cr. 1184 (RJH)], of United States District Court, Southern District of New York; E. Sudhir Reddy vs. SEBI (Appeal no. 138 of 2011 decided on 16/12/2011); Rajiv B. Gandhi vs. SEBI (Appeal no. 50 of 2007 decided on 9/5/2008).** Learned Advocate General also relied on the order of this Tribunal in the case of **Dr. Anjali Beke vs. SEBI (Appeal no. 148 of 2005 decided on 26/10/2006)** to say that when a person receives UPSI or who has had access to such information, he becomes an insider. Learned Advocate General also referred to the judgment of the Supreme Court in the case of **K. V. Muthu vs. Angamuthu Ammal (1997) 2 SCC 53** to contend that while interpreting a definition, it has to be borne in mind that the interpretation placed on it should not be repugnant to the context, it should also be such as would aid the achievement of the purpose which is sought to be served by the Act. A construction which would defeat or is likely to defeat the purpose of the Act has to be ignored. He drew our attention to Section 106 of the Evidence Act to say that the information with regard to UPSI was specially in the knowledge of the appellant and burden of proof was on them. Since the appellants had failed to discharge their duties, the Board was fully justified in arriving at its own conclusion based on evidence available on record. The very fact that Mr. V. K. Kaul purchased shares of the target company on 27th and 28th March, 2008 i.e. immediately after decision of Solrex to buy shares of the target company and then disposing them of within a short span itself is a strong evidence that the trading was based on insider information. Therefore, no fault can be found with the conclusions arrived at by the adjudicating officer.

7. With a view to appreciate the rival contentions, it is necessary to refer to the relevant provisions of the regulations which have a bearing on the allegation against the appellant and these provisions are reproduced hereunder for facility of reference:-

"2(c) "connected person" means any person who—

(i) is a director, as defined in clause (13) of section 2 of the Companies Act, 1956 (1 of 1956), of a company, or is deemed to be a director of that company by virtue of sub-clause (10) of section 307 of that Act; or

(ii) occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company whether temporary or permanent and who may reasonably be expected to have an access to unpublished price sensitive information in relation to that company.

Explanation :—For the purpose of clause (c), the words "connected person" shall mean any person who is a connected person six months prior to an act of insider trading;

(e) "insider" means any person who,

(i) is or was connected with the company or is deemed to have been connected with the company and is reasonably expected to have access to unpublished price sensitive information in respect of securities of company, or

(ii) has received or has had access to such unpublished price sensitive information ;

(h) "person is deemed to be a connected person", if such person—

(i) is a company under the same management or group, or any subsidiary company thereof within the meaning of sub-section (1B) of section 370, or sub-section (11) of section 372, of the Companies Act, 1956 (1 of 1956), or sub-clause (g) of section 2 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) as the case may be;

(ii) is an intermediary as specified in section 12 of the Act, Investment company, Trustee Company, Asset Management Company or an employee or director thereof or an official of a stock exchange or of clearing house or corporation;

(iii) is a merchant banker, share transfer agent, registrar to an issue, debenture trustee, broker, portfolio

manager, Investment Advisor, sub-broker, Investment Company or an employee thereof, or, is member of the Board of Trustees of a mutual fund or a member of the Board of Directors of the Asset Management Company of a mutual fund or is an employee thereof who has a fiduciary relationship with the company;

(iv) is a Member of the Board of Directors, or an employee, of a public financial institution as defined in section 4A of the Companies Act, 1956;

(v) is an official or an employee of a Self-regulatory Organisation recognised or authorised by the Board of a regulatory body;

(vi) is a relative of any of the aforementioned persons;

(vii) is a banker of the company.

(viii) relatives of the connected person; or

(ix) is a concern, firm, trust, Hindu undivided family, company or association of persons wherein any of the connected persons mentioned in sub-clause (i) of clause (c), of this regulation or any of the persons mentioned in sub-clause (vi), (vii) or (viii) of this clause have more than 10 per cent of the holding or interest;

(ha) "price sensitive information" means any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of company.

Explanation.—The following shall be deemed to be price sensitive information :—

(i) periodical financial results of the company;

(ii) intended declaration of dividends (both interim and final);

(iii) issue of securities or buy-back of securities;

(iv) any major expansion plans or execution of new projects.

(v) amalgamation, mergers or takeovers;

(vi) disposal of the whole or substantial part of the undertaking; and

(vii) significant changes in policies, plans or operations of the company;

(k) "unpublished" means information which is not published by the company or its agents and is not specific in nature.

Explanation.—Speculative reports in print or electronic media shall not be considered as published information.

3. No insider shall—

(i) either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information; or

(ii) communicate or counsel or procure directly or indirectly any unpublished price sensitive information to any person who while in possession of such unpublished price sensitive information shall not deal in securities :

Provided that nothing contained above shall be applicable to any communication required in the ordinary course of business or profession or employment or under any law.

3A. No company shall deal in the securities of another company or associate of that other company while in possession of any unpublished price sensitive information.

4. Any insider who deals in securities in contravention of the provisions of regulation 3 or 3A shall be guilty of insider trading."

8. It will be seen that regulation 3, among others, prohibits an insider, either on his own behalf or on behalf of any other person, from dealing in securities of a company listed on any stock exchange when he is in possession of any unpublished price sensitive information and any person who deals in securities in contravention of regulation 3 is said to be guilty of insider trading.

9. While we agree with learned senior counsel for the appellant that the decision of Solrex to purchase shares of the target company may not be a UPSI for the target company but it is definitely UPSI for Solrex because the decision of the Solrex to purchase shares of the target company, if published, is likely to materially affect the price of the securities of the target company. The decision taken by Solrex to purchase shares of the target company is not a decision in public domain and known only to insiders of Solrex. Hence it is a price sensitive information for Solrex. Regulation 2(e) defines 'insider' to mean any person who, (i) is or was connected with the company or is deemed to have been connected with the company and who is

reasonably expected to have access to unpublished price sensitive information in respect of securities of a company or; (ii) has received or has had access to such unpublished price sensitive information. It needs to be appreciated that the clause makes a distinction between 'the company' and 'a company'. When it refers to 'the company, the references is to the company whose Board of Directors is taking a decision and when it refers to 'a company', the reference is to a company to which the decision pertains. This has been explained even by the adjudicating officer by way of an illustration in para 30 of his order dated January 4, 2012, in the case of Mr. V. K. Kaul as under:-

> "30. To illustrate, if noticee's submission is accepted then a situation will arise wherein a Director of the company X cannot be held guilty of insider trading if he trades in the scrip of company Y based on the UPSI, that company X is going to make a strategic investment / placing a huge purchase order for plant and machineries in company Y. Such a scenario will defeat the purpose of PIT Regulations."

We are, therefore, of the view that the term price sensitive information used in regulation 2(ha) is wide enough to include information relating directly or indirectly to 'a company'. The Solrex had decided to purchase shares of the target company. Here, Solrex is 'the company' and target company is 'a company'. The decision of Solrex to purchase shares of the target company is likely to materially affect the price of securities of the target company. Only the insiders of Solrex are aware about this decision of the company. If the insiders of Solrex are allowed to trade in the shares of the target company ahead of purchase of shares by Solrex, surely the trading will be on the basis of insider information. The decision of Solrex to purchase shares of the target company is, therefore, UPSI for the insiders of Solrex and they are prohibited from dealing in the shares of the target company till such information becomes public. It is not obligatory under the regulations that the UPSI must be in the possession or knowledge of 'a company' in whose securities an insider of 'the company' deals. As long as, an insider of 'the company' deals in the securities of 'a company' listed on any stock exchange while in possession of UPSI relating to that company, the provisions of Regulation 3(i) of the regulations will get attracted.

10. Let us now look at the status of Mr. V. K. Kaul as to whether, in the facts and circumstances of this case, he falls within the definition of 'insider' as given in regulation 2(e) of the Regulations. We are of the view that answer has to be in the affirmative. He was the whole time director of Ranbaxy till December 31, 2003. In 2008, he was an independent director of Ranbaxy. He was also a member of the audit committee and compensation committee of Ranbaxy. He has attended all the meetings of these two committees which took place in the year 2008. The Board has placed sufficient material on record in the form of record of telephone calls to show that he was in constant touch with Mr. Malvinder Mohan Singh and Mr. Umesh Sethi from March 24, 2008 to March 26, 2008 and was frequently talking to them on telephone. A reasonable presumption can, therefore, be drawn that Mr. V. K. Kaul, being connected person to the company, was aware about the decision taken on March 20, 2008 and March 28, 2008 with regard to the opening of demat account, authorization to Mr. Malvinder Mohan Singh to sanction loan and decision of Solrex to invest in the scrip of the target company.

11. It was vehemently argued by learned senior counsel for the appellant that Mr. Malvinder Singh and Mr. Umesh Sethi have categorically said that they did not provide information regarding purchase of shares of the target company by Solrex. As direct evidence in the form of statements of connected persons is available on record, the Board cannot draw any conclusion against the appellant on the basis of the circumstantial evidence. Learned senior counsel for the appellant then argued that the Board had chosen to arrive at its findings on surmises and conjectures in the face of contrary direct evidence supporting the innocence of the appellant that the calls between Mr. Malvinder Singh, Mr. Umesh Sethi and Mr. V. K. Kaul would necessarily have been for the purpose of sharing UPSI. Learned senior counsel relied on few judgments including judgment in the case of Padola Veera Reddy vs. State of Andhra Pradesh [AIR (1990) SC 79] and Sterlite Industries vs. SEBI [(2001) 34 SCL 485 (SAT)] to contend that to sustain a conviction based on circumstantial evidence,

the evidence must be complete and incapable of leading to any other explanation. He reiterated that evidence merely probablising and endeavouring to prove the fact on the basis of preponderance of probability is not sufficient to establish serious charges like insider trading and market manipulation etc.

12. We have perused the statements of Mr. Malvinder Singh and Mr. Umesh Sethi and other connected persons. Statements of Mr. Malvinder Singh and Mr. Umesh Sethi have caveat that it is not possible to recount the minute details and it is also not possible to recollect whether Mr. V. K. Kaul was contacted during the relevant period. There is no reference to personal contact with Mr. V. K. Kaul in other statements. Mr. Malvinder Singh has stated that it may not be possible for him to recollect the minute details and, thus, it would be appropriate for the Board to refer to documents of relevant entities which may throw some light and may provide some information as regards the questions raised by the Board. Similarly, in other statements, it is stated that the matter is three years old and statements are being made as per "recollection". Such statements cannot be said to be 'direct evidence' and, therefore, we cannot find fault with the adjudicating officer in arriving at the conclusion on the basis of circumstantial evidence available with the Board.

13. We are also unable to accept the arguments of learned senior counsel for the appellants that either the principles of natural justice were not followed or that any prejudice has been caused to the appellants by not making available complete report of the investigating officer. Regulation 9 of the regulations specifically provide that after consideration of the investigation report, the Board will communicate the findings to the person suspected to be involved in the insider trading or violating provisions of the regulations. There is no denying of the fact that findings of the investigation report were made available to the appellants. When the requirements in the rules were complied with, the question of violation of principles of natural justice does not arise.

14. It has been observed by this Tribunal earlier also in the case of Dilip S. Pendse (supra) that charge of insider trading is one of the most serious charge in relation to the securities market and having regard to the gravity of this wrong doing, higher must be the preponderance of probabilities in establishing the same. In support, reliance was also placed on the observations made by the Apex Court in the case of **Mousam Singha Roy v. State of West Bengal (2003) 12 SCC 377** in the context of administration of criminal justice and observing that these principles apply to civil cases as well where the charge is to be established not beyond reasonable doubt but on the preponderance of the probabilities. The measure of proof in civil or criminal cases is not an absolute standard and within each standard, there are degrees and probabilities and in this context reference was also made to what **Denning, L.J. observed in Bater v. Bater (1950) 2 All E.R. 458** and we reproduced the same for ease of reference :-

> "It is true that by our law there is a higher standard of proof in criminal cases than in civil cases, but this is subject to the qualification that there is no absolute standard in either case. In criminal cases the charge must be proved beyond reasonable doubt, but there may be degrees of proof within that standard. Many great judges have said that, in proportion as the crime is enormous, so ought the proof to be clear. So also in civil cases. The case may be proved by a preponderance of probability, but there may be degrees of probability within that standard. The degree depends on the subject-matter. A civil court, when considering a charge of fraud, will naturally require a higher degree of probability than that which it would require if considering whether negligence were established. It does not adopt so high a degree as a criminal court, even when it is considering a charge of a criminal nature, but still it does require a degree of probability which is commensurate with the occasion."

We are also of the view that the adjudicating officer has rightly relied on the observations of U. S.Court in Rajaratnam case (supra) on the relevance of circumstantial evidence in para 38 of the impugned order which reads as under :-

> "38. Regarding the issue of relevance of circumstantial evidence, the Hon'ble District Court Southern District of New York in the matter of United States of America V Raj Rajaratnam 09 Cr. 1184 (RJH) deided on 11.08.2011 has observed as follows:

> "…Moreover, several other Courts of Appeals have sustained insider trading convictions based on circumstantial evidence in considering such factors as "(1) access to information; (2) relationship between the tipper and the tippee; (3) timing of contact between the tipper and the tippee; (4) timing of the trades; (5) pattern of the trades; and (6) attempts to conceal either the trades or the relationship between the tipper and the tippee." United States v. Larrabee, 240 F.3d 18, 21-22 (1st Cir. 2001)…"

The above principles are not in conflict with the regulatory framework prescribed by the Board and can be looked into while deciding case of insider trading under the Indian regulatory framework.

15. The sequence of events, i.e. meeting of Board of Directors of Rexcel and Solus on March 20, 2008, meeting of March 28, 2008 of the Board of Directors of Ranbaxy authorizing Malvinder Singh for transactions up to ₹ 800 crores, telephonic contacts on 24th, 25th and 26th March 2008 between Mr. V. K. Kaul, Mr. Malvinder Singh and Mr. Umesh Sethi and placing of orders by Mr. V. K. Kaul on behalf of his wife with the broker for purchasing 35,000 shares of the target company on 27th and 28th March 2008 i.e. just before purchase of shares of the target company by Solrex on March 31, 2012 leads to an irresistible conclusion that the trading done by Mr. V. K. Kaul on behalf of his wife, Mrs. Bala Kaul was based on the UPSI in his possession with regard to purchase of shares of the target company by Solrex. It is interesting to note that Religare Securities Limited is not only the broker of Mrs. Bala Kaul but also the broker of Rexcel, Solus and Solrex for purchase of shares of the target company. It is also interesting to note that the same quantity of shares was sold on April 10, 2008. It is, therefore, reasonably expected that Mr. V. K. Kaul had access to the UPSI by virtue of his directorship in Ranbaxy, his attendance in the meetings of the audit committee as well as compensation committee of Ranbaxy and frequent telephone calls to Mr. Malvinder Singh and Mr. Umesh Sethi during the relevant period. It is also interesting to note that in his letter dated February 25, 2011 addressed to the Board during the course of investigation, Mr. V. K. Kaul has stated

that he had no contact with these persons in the month of February, March and April, 2008. However, the details of telephonic calls make it clear that this statement is not correct. It is, therefore, reasonable to infer that Mr. V. K. Kaul has suppressed the material fact.

16. It is highly improbable to believe the statement of Mrs. Bala Kaul that she bought shares of the target company because of its intrinsic value and strong fundamentals. If that was so, it is not clear, what made her sell these shares on April 10, 2008, when Solrex was still in the process of investing more money into the scrip of the target company. It is also interesting to note that the funds for investment for purchasing the scrip of the target company were made available by Mr. V. K. Kaul and the sale proceeds of the scrip were also transferred back to him. Mrs. Bala Kaul, in her reply dated January 1, 2011, has further stated that instructions to the stockbroker for the transaction were also given telephonically by Mr. V. K. Kaul. We, therefore, cannot find any fault with the findings arrived at by the adjudicating officer that Mr. V. K. Kaul had traded in the scrip of the target company in the name of his wife when he was in possession of UPSI that Solrex was to purchase large number of shares of the target company for which funds were being arranged by Ranbaxy. Therefore, we have no hesitation in upholding the impugned order.

In the result, the appeals are dismissed with no order as to costs.

Sd/-
P. K. Malhotra
Member &
Presiding Officer (*Offg.*)

Sd/-
S. S. N. Moorthy
Member

08.10.2012
Prepared & Compared by
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