

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

CONSENT ORDER

ON THE APPLICATION SUBMITTED BY
MUKESH R. AGARWALIN THE MATTER OF
IRREGULARITIES RELATING TO NISSAN COPPER LTD.

(CONSENT APPLICATION NO. 1061/2008)

1. Upon noticing abnormal price rise in the share of Nissan Copper Limited (NCL), Securities and Exchange Board of India ("SEBI") had conducted an investigation into dealings in the shares of NCL on the day of listing. Simultaneously, SEBI passed an ad interim *ex parte* order under section 11(4) and 11B of SEBI Act, 1992 on January 17, 2007, *inter alia*, directing NSE and BSE to withhold the profits made by Mr. Mukesh R. Agarwal (hereinafter referred to as 'the applicant') in a separate escrow account. Accordingly, BSE withheld an amount of Rs.34,59,820/- (Rupees thirty four lakh fifty nine thousand eight hundred and twenty only) on account of the applicant.
2. The investigations, *prima facie*, revealed that the applicant was related to a group which misused the trading mechanism of the stock exchange for providing assured exit to a FII. The applicant applied in the IPO with the funds given by the said group and received allotment of shares which he sold at a high price. Accordingly, SEBI issued a show cause notice dated November 02, 2007 to the applicant under Sections 11(4) and 11B of the SEBI Act, 1992 for the alleged violation of the provisions of SEBI Act, 1992 and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003. The applicant filed a reply dated December 1, 2007 and also appeared for a personal hearing on October 4, 2008 before the Whole Time Member of SEBI.
3. While further proceedings were in progress, the applicant, vide letter dated November 13, 2008, proposed settlement of the said proceedings through a consent order in terms of SEBI circular No. EFD/ED/Cir-1/2007 dated April 20, 2007. He proposed revised consent terms vide letter dated December 22, 2008. The High Powered Advisory Committee constituted by SEBI considered the consent terms proposed by the applicant and, after deliberations, recommended the case for settlement. As per the terms of settlement, the amount withheld by BSE on account of the applicant pursuant to SEBI Order dated January 17, 2007, i.e. Rs.34,59,820/- (Rupees thirty four lakh fifty nine thousand eight hundred and twenty only) plus interest accrued thereon shall be transferred to SEBI as settlement charges. SEBI accepted the said recommendations and communicated the same to the applicant vide letter dated February 24, 2009.



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4. The applicant, vide letter dated February 27, 2009, without admission or denial of guilt, agreed to transfer of the amount withheld i.e., Rs.34,59,820/- (Rupees thirty four lakh fifty nine thousand eight hundred and twenty only) by BSE along with interest accrued thereon, as mentioned above, to SEBI towards settlement charges.
5. In view of the above, it is hereby ordered that this consent order disposes of the proceedings initiated against the applicant vide show cause notice dated November 7, 2007 issued under Sections 11(4) and 11B of the SEBI Act, 1992.
6. A copy of this Order shall be served on BSE which shall transfer Rs.34,59,820/-(Rupees thirty four lakh fifty nine thousand eight hundred and twenty only) plus interest accrued thereon held by it to SEBI before March 31, 2009.
7. This order is without prejudice to the right of SEBI to initiate enforcement actions, including commencing or reopening of the proceedings pending against the applicant, if:
 - a. any representation made by the applicant in this consent proceeding is subsequently discovered to be untrue; or
 - b. the applicant breaches any of the consent terms or undertakings filed in this consent proceedings.
8. This consent order is passed on this day, the 26th day of March 2009 and shall come into force with immediate effect.



M. S. Sahoo
M. S. Sahoo
Whole Time Member

K. M. Abraham
Whole Time Member