

**ORDER UNDER SECTION 15I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5(1) OF THE SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995 IN THE MATTER OF ADJUDICATION PROCEEDINGS AGAINST SHRI SACHIN PATIL.**

1. Pursuant to the investigation conducted by the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') into the dealings in the scrip of Robinson Worldwide Trade Limited (hereinafter referred to as 'RWTL') , I was appointed as the Adjudicating Officer to inquire into and adjudge under Section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the 'SEBI Act'), the violation alleged to have been committed by Shri Sachin Patil (hereinafter referred to as the 'noticee') on account of his failure to furnish to SEBI, information regarding his dealings in the scrip of RWTL.
2. It is alleged that the investigating authority of SEBI issued summons / letters dated December 27, 2004, February 25, 2005, November 10, 2005 and January 18, 2006 to the noticee requiring the noticee to furnish the details regarding his dealings in the shares of RWTL. It is alleged that the noticee failed to comply with the said summons/letters and failed to submit the information to the investigating authority.

**NOTICE AND REPLY**

3. A show cause notice in terms of the provisions of Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 was issued to the noticee on September 19, 2006 seeking reply of the noticee as to why an inquiry should not be held against him in respect of the violations alleged to have been committed by him.
4. It is noted that the said notice sent by registered post was received by the noticee. The noticee did not reply to the show cause notice. However, considering the facts of the case, it was decided to conduct an inquiry in the matter and the noticee was advised to attend the inquiry on November 24, 2006. It is noted that the noticee refused to accept the said notice.

5. In the interest of justice, the noticee was granted another opportunity of hearing on March 28, 2007, however, the noticee again failed to attend the hearing Scheduled on March 28, 2007.
6. As the noticee failed to reply to the show cause notice despite being given sufficient time and opportunities, the inquiry is proceeded with taking into account the facts and material available on record.

### **CONSIDERATION OF EVIDENCE AND FINDINGS**

7. The allegation against the noticee is that he failed to comply with the summons / letters dated December 27, 2004, February 25, 2005, November 10, 2005 and January 18, 2006 issued by investigating authority and in view of the same, he is liable to the penalty prescribed under Section 15 A (a) of the SEBI Act, 1992. In this regard it is pertinent to note that Section 11 C (3) of the SEBI Act empowers the investigating authority of SEBI to require any person associated with the securities market to furnish such information or to produce such records as may be required by the investigating authority. Further, Section 11 C (5) empowers the investigating authority to examine such persons. Timely submission of information is very important for concluding investigation proceedings and non co-operation by an entity can be detrimental to the interests of investors and securities market on account of any delay in the investigation.
8. In this regard, the provisions of Section 15A(a) of SEBI Act provides the following:

*“Penalty for failure to furnish information, return, etc.: If any person, who is required under this Act or any rules or regulations made thereunder, to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.”*
9. During the course of the investigation, prima facie it appeared to the investigating authority that the noticee had executed substantial trades in the scrip of RWTC. In view of the same, the investigating authority vide letter dated December 27, 2004 sought the following information:
  - a. Name of the brokers through whom you traded
  - b. The client codes used by different brokers while trading for you.

- c. The reasons for buying the shares of a company which has continuously shown a dismal performance over a period of time, at a high price which ranged from Rs.85 to Rs.94.
- d. The overall gains or loss incurred in these transactions.
- e. Whether you are still holding the shares of this company? If yes, details thereof.
- f. Details of entering into any off market transactions in the scrip. When, with whom and for how many shares?
- g. The demat account statement for the period from 1<sup>st</sup> January 2004 to 30<sup>th</sup> September, 2004.

10. The noticee was required to furnish the said details by January 3, 2005. It is noted from the records that the said letter was duly received and acknowledged.

11. It is noted from the facts available on record that investigating authority issued another letter dated February 25, 2005 to the noticee informing that the information sought vide its earlier letter dated December 27, 2004 has not been received. The noticee was advised to submit the required details latest by March 4, 2005. The noticee was also advised to send copy of bank account statements highlighting the payment / receipt of money for market / off market transactions in the scrip of RWTL during the period March 30, 2004 to July 30, 2004. The noticee was further advised to give the break up in case of consolidated payment. This letter was also received by the noticee.

12. Subsequently, the investigating authority of SEBI issued summons dated November 10, 2005 to the noticee. The noticee was advised to furnish the information as stated in the preceding paragraphs by November 17, 2005. The noticee was also informed that his personal appearance was not required at that stage of inquiry and providing information would be considered as compliance of summons. It is noted from the facts available on record that the said summons was received by the noticee.

13. As no information has been received from the noticee the investigating authority of SEBI issued another summons dated January 18, 2006 to the noticee advising him to submit the required details by January 27, 2006. The noticee was also informed that his personal appearance was not

required at that stage of inquiry and providing information would be considered as compliance of summons. It is noted from the facts available on record that the said summons was received by the noticee. However no reply is seen to have been received from the noticee.

14. It is noted from the above facts available on record that summons / letters dated December 27, 2004, February 25, 2005, November 10, 2005 and January 18, 2006 were served on the noticee. As no reply submitted by noticee is seen on record it is concluded that the noticee failed to comply with the above stated summons / letters. It is noted from the details stated in the preceding paragraphs that the Investigating authority was only seeking basic information/details of the trading in the scrip of RWTL by the noticee like names of his brokers, his client codes, details of off market transactions, demat account statement etc. Such details are readily available with the person who had traded in the shares. In this regard, it is pertinent to note that the noticee was also informed that his personal appearance was not required at that stage of inquiry and providing information would be considered as compliance of summons. In spite of the above facts, the noticee failed to provide even such basic / preliminary details to the investigating authority. It is also pertinent to note that the noticee also failed to reply to the show cause notice and attend the inquiry in the present adjudication proceedings. The said actions of the noticee are clearly indicative of his non co-operative attitude and also the fact that the noticee is deliberately evading any inquiry in the said matter.

15. The said actions of the noticee become more serious in view of the fact that he is stated to have purchased 42700 shares during the period March 2004 and July 2004. Thus, it can be presumed that he had executed substantial trades in this scrip. It is further stated that the noticee bought such a large number of shares of a company which has continuously shown a dismal performance over a period of time. In view of the above circumstances, the investigating authority of SEBI sought certain details of the trades by the noticee and the noticee failed to provide these details. Considering the number of opportunities given by the investigating authority to the noticee to provide information, the failure on the part of the noticee is seen to be a deliberate attempt to avoid any query in respect of the matter. In view of the same, the failure on the part of the noticee to comply with the summons/letters attract penalty under Section 15A (a) of the SEBI Act.

16. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Rules require that while adjudging the quantum of penalty, the adjudicating officer shall have due regard to the following factors namely;
- a. the amount of disproportionate gain or unfair advantage wherever quantifiable, made as a result of the default
  - b. the amount of loss caused to an investor or group of investors as a result of the default
  - c. the repetitive nature of the default

17. It is noted from the details available on record that the noticee had executed substantial trades in the scrip. Further, he is stated to have bought a large number of shares of a company which has continuously shown a dismal performance over a period of time. The said actions of the noticee are indicative of his complicity in the manipulative practices. On the basis of the facts available on record, it is not possible to quantify the gains made by the noticee or the loss caused to investors. The Honourable Securities Appellate Tribunal had occasion to consider a similar factual situation in Appeal No: 114 of 2005 Nokia Finance International Pvt. Ltd. Vs SEBI. In the said appeal, the Honourable Securities Appellate Tribunal had occasion to scrutinize the failure on the part of the appellant who dealt in the excess dematerialized shares, to provide necessary information to the investigating authority of SEBI. In the said matter, while upholding the penalty imposed by the adjudicating officer, the Honourable Tribunal observed that in a serious case of excess dematerialized shares than the authorized capital being traded in the market, the appellant could have availed the opportunity to submit the required information, however he failed to do so and the penalty has been imposed in terms of the provisions of law. The order passed by the Securities Appellate Tribunal is relied upon in this case for guidance. Viewed in the context of the observations of the Tribunal, the failure on the part of the noticee in furnishing necessary information to SEBI has to be viewed seriously considering the factors which indicate his complicity in the manipulation.

18. It is seen from the facts available on records, the noticee failed to comply with the summons / letters dated December 27, 2004, February 25, 2005, November 10, 2005 and January 18, 2006. In view of the same, the failure on the part of the noticee can be termed as repetitive in nature. Facts of the case indicate that noticee is deliberately avoiding any inquiry in the matter. Hence the violation committed by the noticee has to be viewed

seriously and attract penalty prescribed under Section 15A(a) of the SEBI Act.

**ORDER**

19. Considering the facts and circumstances of the case it is established that Shri Sachin Patil failed to provide necessary information to the Investigating Authority of SEBI in response to the summons issued by it. Considering the facts and circumstances of the case and the violation committed by the noticee, I impose a penalty of Rupees Two Lakhs (Rs. 2,00,000) on Shri Sachin Patil in terms of the provisions of Section 15 A (a) of the SEBI Act, 1992 for failure to provide necessary information to SEBI. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the violation committed by Shri Sachin Patil.
20. The penalty shall be paid by way of demand draft drawn in favour of "SEBI – Penalties Remittable to Government of India" payable at Mumbai within 45 days of receipt of this order. The said demand draft shall be forwarded to Chief General Manager, Investigation Department (ID1), Securities and Exchange Board of India, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.
21. In terms of the provisions of Rule 6 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules 1995, copies of this order are sent to Shri Sachin Patil and also to Securities and Exchange Board of India.

**PLACE: Mumbai**

**Biju. S**

**DATE: March 30, 2007**

**Adjudicating Officer**

