BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. PKK/AO/190/2011]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995

Against

M/s. Parsoli Corporation Ltd.
[PAN: AABCP9030F]

Background:

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') had identified M/s Parsoli Corporation Ltd. (hereinafter referred to as the 'Noticee') as one of the companies against which large number of investor grievances were pending for more than six months as on June 30, 2010.

2. SEBI vide letter dated July 16, 2010 had called upon the Noticee to redress the investor grievances and submit the Action Taken Report / status report (ATR) within a stipulated period. The Noticee failed to do so. In view of the above, SEBI has initiated adjudication proceedings under Section 15I of the Securities Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act") against the Noticee for the alleged violation of Section 15C of SEBI Act.

Notice, Reply and Personal Hearing:

3. A Show Cause Notice dated March 18, 2011 (hereinafter referred to as 'SCN') was issued to the Noticee in terms of the provisions of Rule 4 of SEBI (Procedure for holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the Adjudicating Rules) requiring the Noticee to show cause as to why an inquiry should not be held for the violations alleged to have been committed by it.

4. It was alleged in the SCN that SEBI vide letter dated July 16, 2010 directed the Noticee to redress 25 investor grievances pending against it within 30 days of the receipt of the said letter. The Noticee was also directed to submit the ATR within the said period. The list of the pending investor grievances was provided to the Noticee as an enclosure to the said letter. The Noticee failed to redress the said complaints or grievances and failed to submit the ATR to SEBI even after several reminders. The Noticee thereby contravened Section 15C of SEBI Act.

5. The Noticee vide letter dated March 24, 2011 replied to the SCN. The submissions of the Noticee are summarised below:
    a. The said complaints are not complaints but the investors whose demat requests were rejected by the Noticee. SEBI suo moto treated those as complaints.
    b. The Noticee had already filed a total of 50 odd complaints against the alleged investors. None of the so called investors have responded to the notices issued by the court and even not bothered to appear before the court.
    c. Two complaints were such that when the Noticee sent legal notices asking them to submit proof of purchase of shares to ascertain the veracity of their claims, both of them withdrew the complaints.

6. The Adjudicating Officer (AO) considered the facts of the case, reply of the Noticee and other materials available on record and decided to conduct an inquiry in the matter. The AO granted an opportunity of personal hearing to the Noticee and accordingly it was advised to attend the hearing on May 09, 2011. The authorized representative of the Noticee appeared before me on the said date and inter-alia submitted that it wished to go for consent and would file consent application latest by June 10, 2011 and it requested for an adjournment of the hearing. The Noticee thereafter was advised to appear on June 14, 2011 which was further adjourned to October 20. 2011.

7. Mr. Zafar Sareshwala the Managing Director and CEO of the Noticee appeared before me on the said date and inter-alia submitted that it did not want to go for consent and the matter be decided on merits. It had no investor grievances pending against it as alleged in the SCN. Some of the complaints were rejected as they were bogus and some of the investors withdrew the complaints when it confronted with them. The Noticee had filed complaints against some of them. The Noticee submitted that it would submit the evidence in support of its submissions latest by October 28, 2011. The Noticee vide letter dated October 28, 2011 inter-alia submitted that some of the complaints are duplicated and the actual list consists of only 20 complaints. Out of the said 20 complaints, five complaints were settled. The rest of the complaints were either against whom the Noticee filed criminal complaints and would get the complaint docket numbers registered with the Metropolitan Court after November 03, 2011, or the Noticee rejected the requests of the complainants on account of bogus and fudged documents.

8. In view of the above, I am proceeding with the matter based on the written and oral submissions made by the Noticee and the material available on record.

Consideration of Issues, Evidences and Findings:

9. I have carefully perused the charges made against the Noticee mentioned in the SCN, the replies and submissions made by the Noticee and the documents available on record. The issues that arise for consideration in the present case are:-

a) Whether the Noticee has violated S.15C of SEBI Act?

b) Does the violation, if any, on the part of the Noticee attract any monetary penalty under sections 15C of SEBI Act?

c) If so, what should be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act, 1992?

10. Before moving forward, I refer to S.15C of SEBI Act which inter alia read as under:-

Penalty for failure to redress investors' grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary 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.

11. I find from the records that SEBI from time to time called upon the Noticee to redress the investor grievances and submit the ATR within stipulated time. I have also examined the submissions made by the Noticee to the letters sent by SEBI. The questions that need to be answered are whether there was

delay / non redressal of complaints by the Noticee and whether the Noticee submitted the ATR within the time prescribed by SEBI.

12. SEBI vide letter dated July 16, 2010 asked the Noticee to redress 25 complaints and directed it to submit a status report within 30 days of receipt of the letter. The Noticee did not deny the receipt of the said letter and it had also not submitted any ATR to SEBI within the time stipulated in the said letter. It is therefore, established beyond doubt that the Noticee violated Section 15C of the SEBI Act.

13. I also find that SEBI once again vide letter dated October 11, 2010 directed the Noticee to redress the said complaints and submit the ATR within seven days of the receipt of the said letter. The Noticee vide letter dated October 19, 2010 submitted that it had already sent legal notices to initiate legal proceedings against the names mentioned in SEBI's letter. Criminal complaints were also filed under Section 190 of Criminal Procedure Code, 1973 in the Court of Add. Chief Metropolitan Magistrate Court against some of the complainants including Mr. Javed Sonalkar. Criminal complaints are being filed against the remaining. It requested SEBI to grant 15 days time to submit the ATR and submit the copies of legal notices and the details of criminal cases filed against the complainants. However, I find that the Noticee failed to file before SEBI the ATR including copies of legal notices and details of criminal cases filed by it against the complainants.

14. I accede to the submissions of the Noticee that five of the 25 complaints are repetitive and therefore, the actual complaints are only 20. Further, the Noticee submitted that 5 out of the 20 complaints were redressed by transfer of shares to their demat accounts. The transfers were made during the period from July 07, 2006 to March 13, 2008. The Noticee submitted that the rest are the ones against whom it had filed criminal complaints and in some cases it

had rejected the requests of the investors on account of bogus and fudged documents. However, the Noticee has not submitted any evidence of transfer of shares to the demat accounts of the five complainants. The Noticee appears to be uncertain about the complainants against whom criminal complaints were filed and also those complaints which were rejected. The Noticee had sought 15 days time vide its letter dated October 19, 2010 to submit copies of the legal notices and the details of criminal cases filed. The Noticee did not submit as promised. Even after the lapse of more than a year the Noticee is still seeking time to submit the details of criminal cases filed. In my view, these are delaying tactics and demonstrate the indifferent conduct of the Noticee in redressal of the investor grievances.

15. From the foregoing, it is established beyond doubt that the Noticee delayed / failed to redress the investor grievances and failed to file the ATR within the time prescribed by SEBI. The Noticee therefore violated S.15C of SEBI Act which warrants imposition of monetary penalty under the same section of SEBI Act.

16. The Hon'ble Supreme Court of India in the matter of SEBI .. v/s…Shri Ram Mutual Fund (2006) 68SCL 216 (SC) held - **"*once the violation of statutory regulations is established, imposition of penalty becomes sine qua non of violation and the intention of parties committing such violation becomes totally irrelevant. Once the contravention is established, then the penalty is to follow*"**.

17. Thus, the aforesaid violations by the Noticee make it liable for penalty u/s. 15C of SEBI Act, 1992 which reads as follows:

Penalty for failure to redress investors' grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary 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.

18. While determining the quantum of penalty u/s. 15C, it is important to consider the factors stipulated in S.15J of SEBI Act, which reads as under:-

Factors to be taken into account by the adjudicating officer.

15J. *While adjudging quantum of penalty under section 15-I, 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.

19. It is difficult in case of such nature, to quantify exactly the disproportionate gains or unfair advantage by the Noticee and the consequent losses suffered by the investors as a result of the default. However, there is nothing on record to show that the default committed by the Noticee is repetitive in nature.

Order

20. In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under Section 15-I(2) of the SEBI Act, 1992, I find that the Noticee delayed / failed to redress the complaints and submit a status report within the time stipulated by SEBI and

therefore, violated Section 15C of the SEBI Act. I hereby impose a penalty of ₹ 1, 00,000/- (Rupees One Lakh only) on the Noticee. The said penalty is commensurate with the violations committed by the Noticee.

21. The above penalty amount shall be paid through a duly crossed demand draft drawn in favour of "SEBI-Penalties Remittable to Government of India" and payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to Division Chief, OIAE Securities & Exchange Board of India, SEBI Bhavan, Plot no. C4-A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai-400 051

22. In terms of the Rule 6 of the Adjudicating Rules, copy of this order is sent to the Noticee and also to Securities & Exchange Board of India.

Date: October 31, 2011 **P.K. KURIACHEN**

Place: Mumbai **ADJUDICATING OFFICER**