BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. EAD/AO/BJD/VS/2019-20/4171

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

In respect of:

M/s J G Finance Limited
PAN: AAACJ6400C
307, Ajitsen Bhawan, 13
Crooked Lane, Esplanade,
Kolkata – 700 069

In the matter of failure to obtain SCORES Authentication

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI"), issued a Circular No. CIR/OIAE/1/2013 dated April 17, 2013, dealing with the redressal of investor complaints against listed companies through SEBI Complaints Redressal System (hereinafter referred to as "SCORES"). The said circular mandated listed companies to obtain SCORES user ID and password for processing investor complaints received by SEBI. The said SEBI Circular further *inter alia* stated that failure by any listed company to obtain SCORES authentication would not only be deemed as non-redressal of investor grievances, but also indicate wilful avoidance of the same.

2. SEBI observed that M/s J G Finance Limited (hereinafter referred to as the "Noticee"/ "Company") had failed to obtain authentication on SCORES for processing investor complaints received by SEBI. In view of the same, it was alleged that the Noticee violated Circular No. CIR/OIAE/1/2013 dated April 17, 2013 thus making the Noticee liable for imposition of penalty under Section 15HB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act, 1992").

APPOINTMENT OF ADJUDICATING OFFICER

3. Shri Amar Navlani was appointed as the Adjudicating Officer (hereinafter referred to as 'AO') *vide* order dated April 10, 2014 under Section 15-I of the SEBI Act, 1992 and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the "AO Rules") to inquire and adjudge under the provisions of Section 15HB of the SEBI Act, 1992, the alleged violations of the Noticee. Subsequently, the undersigned was appointed as AO *vide* Order dated January 8, 2019. The order appointing the undersigned was communicated *vide* communiqué dated June 07, 2019.

SHOW CAUSE NOTICE, REPLY & HEARING

4. A Show Cause Notice (hereinafter referred to as 'SCN') in terms of the provisions of Rule 4(1) of AO Rules was issued to the Noticee on February 26, 2016, calling upon the Noticee to show cause as to why an inquiry should not be held against it under Rule 4 of the AO Rules read with Section 15I of the SEBI Act, 1992 and penalty be not imposed under Section 15HB of the SEBI Act, 1992 for the alleged violations of the provisions of the SEBI Circular No. CIR/OIAE/1/2013 dated April 17, 2013 by not obtaining SCORES user ID and password within 30 days of issuance of the said circular. Considering that no reply was submitted by the Noticee, the Noticee was further reminded to submit its reply vide Notices dated October 26, 2016 and November 22, 2016. In response, the Noticee vide its email dated December 22, 2016 made submissions, which were later requested to be withdrawn and not to be considered in the extant proceedings by the Noticee during the hearing on January 23,2018 before the erstwhile AO. Considering the submission of the Noticee that they were unlisted vide their email dated December 22, 2016, the Noticee was advised to provide specific details regarding listing and subsequent delisting viz. names of all stock exchanges where the company was listed along with the documentary evidence vide Notice dated

December 23, 2016. In response, the Noticee vide its letter dated January 14, 2017 *inter alia* submitted as under:

"….

We wish to submit that our Company was listed at the Delhi, Jaipur and Calcutta Stock Exchanges. Delhi and Jaipur Stock exchanges are already de-recognized/ exit as recognized stock exchange. The Calcutta stock exchange is also under the process of de-recognition. The Corporate Identification Number of the company issued buy the Ministry of Corporate Affairs is U65921WB1987PLC041950, which suggested the status of company as unlisted but technically the company is still listed at the Calcutta Stock Exchange.

We have duly obtained ***SEBI SCORES*** *authentication (supporting document is enclosed herewith)*

We further confirm that there is no investor's complaint at SCORES system or otherwise against our Company. Further, we confirm that there was not a single investor's complaint against our Company in the last more than ten years.

…"

5. In view of the reply of the Noticee and considering the facts and circumstances of the case, the erstwhile AO opined that an inquiry should be held in the matter and for that purpose provided the Noticee with an opportunity of hearing on December 15, 2017 vide Notice of hearing dated December 5, 2017. In response, the Noticee vide its letter dated December 11, 2017 sought an extension of hearing and accordingly, the hearing was adjourned to January 23, 2018. Further, the Noticee vide its email dated January 18, 2018 confirmed the attendance of its Authorized Representatives Mr. Anand K Jain CEO and Mr. Harsh M. Jain, Director (hereinafter collectively referred to as "ARs") for the hearing.

6. On the date of the hearing, the ARs appeared on behalf of the Noticee. During the hearing, the ARs reiterated the submission made vide the reply dated January 14, 2017 and also requested that the submission made by the Noticee vide email dated December 22, 2016 be treated as withdrawn and that it should not be considered for the purpose of the extant proceedings. Further, the ARs submitted

documentary evidence in respect of the Noticee having obtained the SCORES authentication on January 4, 2017 and submitted that they have no further submissions to make. Accordingly the hearing proceedings were concluded.

7. Pursuant to the transfer of the extant adjudication proceedings to the undersigned, the Noticee was provided with another opportunity to submit additional reply, if any, vide Notice dated July 4, 2019 along with an opportunity of hearing on July 17, 2019. The Notice was duly delivered as per the signed acknowledgment card received. However the Noticee failed to submit any reply and also failed to appear before the AO on the date of hearing.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

8. After perusal of the material available on record, I have following issues for consideration, viz.,

   I. Whether the Noticee violated the Circular No. CIR/OIAE/1/2013 dated April 17, 2013 by failing to obtain SCORES Authentication within 30 days from the date of issuance of the said Circular?

   II. Whether the Noticee is liable for monetary penalty under Section 15HB of the SEBI Act, 1992?

   III. If the answer to issue at II is in affirmative, then what quantum of monetary penalty should be imposed on the Noticee?

FINDINGS

9. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder.

ISSUE I: Whether the Noticee violated the Circular No. CIR/OIAE/1/2013 dated April 17, 2013 by failing to obtain SCORES Authentication within 30 days from the date of issuance of the said Circular?

10. SEBI had introduced an online electronic system for resolution of investors' grievances i.e., SCORES in the year 2011. For the purpose of accessing the complaints of the investors against the companies as uploaded in the SCORES, listed companies were required to log in to SCORES system electronically through a company specific user id and password to be provided by SEBI. I note that the aforesaid SEBI circulars are addressed to all companies whose securities are listed on the stock exchanges. Further, in the facts and circumstances of the instant case, I also deem it pertinent to deal with all the relevant circulars issued by SEBI pertaining to SCORES. In this regard, I note that SEBI, vide Circular No. CIR/OIAE/2/2011 dated June 03, 2011, *inter alia*, directed all listed companies to obtain SCORES authentication for processing investor complaints received by SEBI and advised all companies whose shares were listed on various stock exchanges to comply with the provisions of the said Circular. Further, SEBI issued another Circular No. CIR/OIAE/1/2012 dated August 13, 2012 advising all listed companies to obtain SCORES authentication by September 14, 2012. Subsequently, SEBI, vide Circular No. CIR/OIAE/1/2013 dated April 17, 2013 directed the listed companies to obtain SCORES user ID and password, those which had not obtained till then. The said Circular further stated that the failure to obtain the SCORES user ID and password within 30 days of issuance of the circular would be deemed to be wilful avoidance of the same. Further, SEBI Circular No. CIR/OIAE/1/2014 dated December 18, 2014 consolidated the aforesaid three circulars and rescinded the said circulars. However, it was clarified at para 15 of the Circular CIR/OIAE/1/2014 dated December 18, 2014 that notwithstanding such rescission, anything done or any action taken or any failure to take action under those circulars before the date of issuance of the Circular dated December 18, 2014 shall be deemed to have been done or taken or commenced under the provisions of this Circular.

11. Therefore, the primary issue with respect to the allegation against the Noticee is whether Noticee was listed on any recognized stock exchange, at the time of alleged violations. As seen from available record, Noticee vide its reply dated January 14, 2017 has admitted that it is listed with the Calcutta Stock Exchange Limited (hereinafter referred to as "CSE"). With regard to CSE, I noted from the website of SEBI (https://www.sebi.gov.in/stock-exchanges.html) that the CSE has permanent recognition from SEBI. Further, from the website of CSE (https://www.cse-india.com/listi/database/910), I note that the status of the Noticee is suspended. With regard to such suspension of Noticee from CSE, I note that it does not prevent the Noticee from taking SCORES authentication. Therefore, I find that the Noticee was obligated to comply with the directions of SEBI in respect of obtaining SCORES authentication when it was very much listed. It was obligatory on the part of the Noticee to obtain SCORES authentication within the time frame stipulated by SEBI.

12. In this regard, the Noticee has further produced the document with respect to obtaining of the SCORES authentication. I note from the same that the Noticee had applied for the SCORES authentication to SEBI vide its email dated January 4, 2017 and the same was provided to it by SEBI vide email dated January 4, 2017. Therefore, I note that the Noticee has admittedly obtained the SCORES authentication after the initiation of the instant adjudication proceedings. Further, the Noticee also contended that there was no investor complaints from the shareholders. In this regard, I note that the need for effective and expeditious redressal of the investor's grievances was very pronouncing in the growing securities market for which such system of SCORES was brought in along with the mandatory provisions by way of circulars for the effective implementation of the same. SEBI vide its circulars and communications has also made repeated endeavors to convey the significance of SCORES in redressal of investor grievances. In this regard, it is also pertinent to note the Order of Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'SAT') in the matter of M/s Golden Proteins Ltd. Vs. SEBI decided on September 11, 2015 wherein it was observed as follows:

"…

This Tribunal has consistently held that timely redressal of the investors' grievances by the companies is of utmost importance. Keeping this importance in mind, SEBI by circular dated August 2, 2011, SEBI introduced a system of processing investors' complaints in a centralized web based complaints redress system, which is commonly known as 'SCORES'. Under this system, a centralized database of all the complaints and their online movement to the concerned intermediaries is monitored. Similarly, online upload of action taken reports (ATR) by the concerned entities and its viewing by investors of the action on the complaints and their current status etc. all are displayed. Violation of such an important regulatory measure cannot be taken lightly in the facts and circumstances of the present case.

…"

13. In this background, I am of the opinion that the failure to adhere to the timeline for obtaining SCORES Authentication and further a significant delay in complying the same (which came to be complied only after the initiation of the instant adjudication proceedings) on the part of Noticee cannot be viewed leniently.

14. Further, it is also contended by the Noticee that no complaint was filed by any investors of the Noticee Company. In this regard, while noting the significance of implementation of SCORES in the effective and expeditious redressal of investor complaints as observed in the pre-paras above, I am of the opinion that the said submission does not merit any consideration in favour of the Noticee.

15. Thus, in light of all the above, I conclude that the Noticee violated the Circular No. CIR/OIAE/1/2013 dated April 17, 2013 by failing to obtain SCORES Authentication within 30 days from the date of issuance of the said Circular.

ISSUE II: Whether the Noticee is liable for monetary penalty under Section 15HB of the SEBI Act, 1992?

16. In this connection, I note that the Hon'ble Securities Appellate Tribunal in the matter of Port Shipping Company Ltd. vs. SEBI (decided on April 29, 2015) has observed as under:

"...where a listed company fails to obtain SCORES authentication within the time stipulated by SEBI, then it amounts to violating the directions of SEBI and in such a case penalty is imposable under Section 15HB of SEBI Act...".

17. Further I also refer to the observation made by Hon'ble SAT in the matter of M/s Vidarbha Industries Limited vs. Securities and Exchange Board of India decided on December 01, 2014 which is as follows:

"...since the appellant being a listed company, failure on part of the appellant to comply with the SEBI circular dated April 17, 2013 constitutes violation of SEBI circular for which penalty imposable under Section 15HB of SEBI Act..."

18. Therefore, I conclude that the Noticee is liable for monetary penalty under Section 15HB of the SEBI Act, 1992 which reads as under:

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be *[liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]*

**Substituted for the words "liable to a penalty which may extend to one crore rupees" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.*

ISSUE III: If the answer to issue at II is in affirmative, then what quantum of monetary penalty should be imposed on the Noticee??

19. The provisions of Section 15J of the SEBI Act envisages 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.

20. I note that the material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, suffered by the investor as a result of the Noticee's failure. From the documents available on record, it is noted that the default is not repetitive in nature.

21. In view of the abovementioned conclusion and after considering the factors under Section 15J of the SEBI Act, I hereby impose a penalty of ₹ 1,00,000/- (Rupees One Lakh only) on the Noticee under Section 15HB of the SEBI Act, 1992 for the aforesaid violation, which is appropriate in the facts and circumstances of the case.

ORDER

22. In exercise of the powers conferred under Section 15 I of the Securities and Exchange Board of India Act, 1992, and Rule 5 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, I hereby impose a penalty ₹ 1,00,000 /- (Rupees One Lakh only) on M/s J G Finance Limited in terms of the provisions of Sections 15HB of the Securities and Exchange Board of India Act, 1992 for the aforesaid violation. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the default committed by M/s J G Finance Limited.

23. M/s JG Finance Limited shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.inon the following path, by clicking on the payment link.

ENFORCEMENT → Orders → Orders of AO → PAY NOW

24. M/s JG Finance Limited shall forward said Demand Draft or the details / confirmation of penalty so paid to the "The Division Chief, Division of Regulatory Action-2, Enforcement Department (EFD1 – DRA II), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051". The Noticee shall provide the following details while forwarding DD/ payment information:

    a) Name and PAN of the entity (Noticee)
    b) Name of the case / matter
    c) Purpose of Payment – Payment of penalty under AO proceedings
    d) Bank Name and Account Number
    e) Transaction Number

25. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

26. In terms of the provisions of Rule 6 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules 1995, a copy of this order is being sent to M/s J G Finance Limited at its address on record and also to the Securities and Exchange Board of India, Mumbai.

August 29, 2019
Mumbai

B J Dilip
Adjudicating Officer