

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: AO/SG-SKS/EAD/85/2017)

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

In respect of:

Core Education and Technologies Ltd.

(PAN AAACA6016F)

Block No. 1 to 4, Building No. 4, Sector III,
Millennium Business Park, Mahape,
Navi Mumbai – 400710

BACKGROUND

1. A department of SEBI (hereinafter referred to as 'OAIE') observed that two complaints against Core Education and Technologies Ltd. (hereinafter referred to as 'Noticee') in SEBI Complaints Redress System (hereinafter referred to as 'SCORES') bearing SCORES complaint registration nos. SEBIP/MH15/0000548/1 and SEBIP/MH15/0000548/2 for non-receipt of interest on securities and non-receipt of redemption amount on debt securities exceeding over Rs. 9 Crores were pending against the Noticee. It was alleged that the Noticee was called upon to resolve these complaints and the same were not resolved within the specified time in terms of SEBI Circular No. CIR/OIAE/2/2011 dated June 03, 2011 read with SEBI Circular No. CIR/OIAE/1/2012 dated August 13, 2012 read with SEBI Circular No. CIR/OIAE/1/2013 dated April 17, 2013 rendering it liable for imposition of penalty under Section 15C of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act').

APPOINTMENT OF ADJUDICATING OFFICER

2. Shri. Prasad Jagadale was appointed as Adjudicating Officer, vide Order dated March 03, 2016 under Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'Adjudication Rules') to inquire into and adjudge under the provisions of Section 15C of the SEBI Act for the alleged violations committed by the Noticee. Pursuant to the transfer of Shri. Prasad Jagadale, the undersigned has been appointed as the Adjudicating Officer *vide* Order dated December 14, 2016 and the proceedings were received on February 09, 2017.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. A Show Cause Notice dated April 29, 2016 (hereinafter referred to as 'SCN') was issued to the Noticee by the previous Adjudicating Officer Shri. Prasad Jagadale in accordance with the provisions of Rule 4 of the Adjudication Rules, to show cause as to why an inquiry should not be held against the Noticee under Rule 4 of the Adjudication Rules for failure to resolve the two complaints within the time specified in terms of aforesaid Circulars rendering the Noticee liable for imposition of penalty under Section 15C of the SEBI Act. The said SCN dated April 29, 2016 was sent through e-mail in terms of Rule 7 (b) of the Adjudication Rules on e-mail id: compliance@core-edutech.com and the same was delivered.
4. It is noted that the Noticee had not submitted any reply to the SCN. As the Noticee had not submitted any reply to the SCN, a reminder to submit reply to the aforesaid SCN was issued vide letter dated April 26, 2017. In response to the same, the Noticee *vide* its letter dated May 11, 2017 submitted its reply to the SCN wherein it had, *inter-alia*, made the following submissions:

".....

2. As regards the complaints (Ref. No. SEBIP/ MH15/0000548/1 dated 21 January 2015 and SEBIP/ MH15/0000548/2 dated 21 January 2015) regarding (a) non-payment of interest for the scheme 13% Core Edu and Tech Limited and

11.75% Core Projects & Technol 2016 and (b) non-payment of redemption amount of debt securities is concerned we wish to state as under:

3.

6. It can be observed from the Audited figures reported that the Company's financial health is in extremely critical condition. The Company had proposed a Corporate Debt Restructuring (CDR) proposal which was approved by the CDR EG. The approved proposal had envisaged an investment of Rs. 100 Crore from a prospective joint venture partner. However, despite best efforts such a joint venture did not happen as a result of which, the Company was left with no option but to withdraw the CDR proposal.

7. Consequent to the withdrawal, the Company's management continues to its efforts to revive the operations by pursuing all alternatives available to it. Disposal of non-core assets, divestment of the Company's overseas subsidiaries and continued sustained search for an appropriate joint venture partner are part of these efforts.

8.....

9. It may further be noted that the complainant — Bank of Maharashtra was a member in the CDR Scheme and was fully aware of the challenges faced by the Company. We further wish to inform you that a Meeting with all the Debenture Holders & the Trustee was also held on 17th December 2015 at which the representative of Bank of Maharashtra was present. The Debenture Trustee Company has already circulated the Minutes of the said Meeting to all the Debenture-holders.

10. In such circumstances and continued financial stress, the Company has not been able to honour its commitments regarding payment of interest and redemption. The Company confirms that once the financial condition of the Company improves it will be able to make the payment of the outstanding amounts.

11. In view of the foregoing submissions, the Company requests that a lenient view be taken and the proceedings be dropped without imposition of any penalty. Penalty, if imposed, will add further burden on the Company's financial health.

.....”

5. In order to conduct an inquiry in terms of Rule 4 (3) of the Adjudication Rules, the Noticee was granted an opportunity of personal hearing on November 27, 2017 at SEBI Bhavan, Mumbai vide hearing notice dated November 07, 2017. The said hearing notice was sent via Speed Post Acknowledgement Due. The

proof of delivery obtained from India Post web-site is on record. However, there was no response from the Noticee.

6. In the interest of natural justice, the Noticee was granted a final opportunity of personal hearing on December 21, 2017 at SEBI Bhavan, Mumbai *vide* hearing notice dated December 06, 2017. The said hearing notice was sent via Speed Post Acknowledgement Due. The proof of delivery obtained from India Post web-site is on record.
7. On the hearing date i.e. on December 21, 2017, Mr. Austin Fernandes, Manager - Finance, Authorized Representative (AR), appeared on behalf of the Noticee. The undersigned explained the purpose of the hearing and the charges/offences alleged against the Noticee. During the course of the hearing, the AR reiterate the submissions made by the Noticee vide its reply letter dated May 11, 2017. In addition to the same, the AR submitted additional written submissions on behalf of the Noticee bearing letter dated December 20, 2017 along with a copy of the Order passed by the Hon'ble High Court of Judicature at Bombay on October 30, 2017. The AR further requested that a short adjournment of the hearing may be granted. The undersigned acceded to the request of AR and adjourned the hearing.
8. Vide the aforesaid letter dated December 20, 2017, the Noticee, *inter-alia*, made the following submissions:

"1. The Hon'ble High Court of Judicature at Bombay has passed an Order dated 30 October 2017 pursuant to which it has appointed an official liquidator ("OL") attached to the said High Court and the OL is now vested with the powers and authority to conduct liquidation proceedings. A copy of the High Court is attached as Annexure 1.

2. In View of the appointment of the Official Liquidator, the Company is not in a position to seek guidance of its Board of Directors. The Official Liquidator is yet to take charge.

3. It has seriously become very difficult to take any action, especially on legal matters. However, the Company has approached some legal advisors to represent it. While the Company has not yet been able to appoint any

representative as yet, it is hopeful that it should be able to appoint a representative shortly.

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6. The Company hereby requests your office to not to proceed in the matter without giving one more opportunity in this matter. It is reiterated that the Company will provide all its support and co-operation in this matter. Huge and irreparable loss will be caused if any action is taken against the Company.”

9. Considering the facts and circumstances of the case and reply of the Noticee, I am of the opinion that no prejudice would be caused to the Noticee in the given matter if another opportunity of hearing as requested by the Noticee during hearing is not provided to it and I deem it appropriate to decide the matter on the basis of facts/material available on record.

ISSUES FOR CONSIDERATION

10. After perusal of the material available on record, I have the following issues for consideration, viz.,
- I. Whether the Noticee has violated the provisions of section 15C of the SEBI Act?
 - II. Whether the Noticee is liable for monetary penalty under Section 15C of the SEBI Act?
 - III. What quantum of monetary penalty should be imposed on the Noticee?

FINDINGS

11. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder.
12. In the instant matter, I note that the SCN dated April 29, 2016, alleged that two complaints were filed against the Noticee in SCORES bearing complaint registration nos. SEBIP/MH15/0000548/1 and SEBIP/MH15/0000548/2. It was alleged that the Noticee failed to resolve the two complaints within the time specified in terms of SEBI Circular No. CIR/OIAE/2/2011 dated June 03, 2011

read with SEBI Circular No. CIR/OIAE/1/2012 dated August 13, 2012 read with SEBI Circular No. CIR/OIAE/1/2013 dated April 17, 2013, thereby failed to comply with Section 15C of the SEBI Act. The provisions of Section 15C of the SEBI Act, 1992, 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.

13. In light of the submissions of the Noticee vide its letter dated December 20, 2017, I note that the Hon'ble High Court of Judicature at Bombay has passed a winding up Order dated October 30, 2017 and appointed an Official Liquidator who is now vested with all the powers and authority to conduct liquidation proceedings of the Noticee. I am, therefore, of the view that before proceeding with the matter on its merit, it would be appropriate to first decide the preliminary issue as to whether the instant adjudication proceedings initiated by SEBI against the Noticee can be proceeded with.

14. In this regard, I refer to Section 279 of Companies Act, 2013, (corresponding to Section 446 of the erstwhile Companies Act, 1956) which came into force from December 15, 2016 vide Notification No. S.O. 3677 (E) dated December 07, 2016 issued by the Ministry of Corporate Affairs. The said provision reads as under:-

"279. Stay of suits, etc., on winding up order.—

(1) When a winding up order has been passed or a provisional liquidator has been appointed, no suit or other legal proceeding shall be commenced, or if pending at the date of the winding up order, shall be proceeded with, by or against the company, except with the leave of the Tribunal and subject to such terms as the Tribunal may impose:

Provided that any application to the Tribunal seeking leave under this section shall be disposed of by the Tribunal within sixty days.

(2)

15. I note that there is no material available on record to suggest that leave of the Tribunal has been obtained to proceed with these adjudication proceedings. Therefore, I am of the considered view that the present adjudication proceedings against the Noticee which is under liquidation cannot be proceeded with.

ORDER

16. In view of my findings noted in the preceding paragraphs, I hereby dispose of the Adjudication Proceedings initiated against Core Education and Technologies Ltd. *vide* SCN dated April 29, 2016.
17. 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 each of this order is being sent to Core Education and Technologies Ltd., having address at Block No. 1 to 4, Building No. 4, Sector III, Millennium Business Park, Mahape, Navi Mumbai – 400710 and also to the Securities and Exchange Board of India, Mumbai.

Date: December 28, 2017
Place: Mumbai

Suresh Gupta
Adjudicating Officer