BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO: EAD-12/AO/SM/196 /2018

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

In respect of:
M/s SPL Technochem Ltd
(CIN No. U99999MH1984PLC031843)
(PAN Not available)

In the matter of Non-obtaining of SCORES Authentication

Facts of the Case:

1. Securities and Exchange Board of India (hereinafter referred to as SEBI) vide Circular No. CIR/OIAE/2/2011 dated June 03, 2011, inter-alia, directed all listed companies to obtain SEBI Complaints Redressal System (hereinafter to SCORES) authentication and also redress any pending investor grievances in the SCORES only. This was followed by various circulars/directions/public notice from time to time inter-alia requiring listed companies, including M/s SPL Technochem Ltd (hereinafter referred to as the "Noticee/"Company") to obtain authentication on SCORES for processing investor complaints received by SEBI. SEBI vide Circular No. CIR/OIAE/1/2014 dated December 18, 2014 (hereinafter referred to as "SEBI Consolidated Circular"), consolidating the earlier Circulars/directions viz. CIR/OIAE/2/2011 dated June 3, 2011, CIR/OIAE/1/2012 dated August 13, 2012, CIR/OIAE/1/2013 dated April 17, 2013, inter-alia directing all the companies whose securities were listed on stock exchanges to obtain SCORES authentication and also redress the pending investor grievances within the stipulated time period. The said SEBI consolidated 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of investor grievances, but, also indicate wilful avoidance of the same and that failure to take action under the rescinded circulars before the date of issuance of SEBI Consolidated Circular, shall be deemed to have been done or taken or commenced under the provisions

of SEBI Consolidated Circular. SEBI Observed that the Noticee had failed to comply with the said directions of the SEBI Consolidated Circular.

2. It was therefore, alleged that the Noticee had failed to obtain SCORES authentication and thereby violated SEBI Circulars No. CIR/OIAE/2/2011 dated June 03, 2011, CIR/OIAE/1/2012 dated August 13, 2012, CIR/OIAE/1/2013 dated April 17, 2013 and CIR/OIAE/1/2014 dated December 18, 2014, thus, making the Noticee liable for imposition of penalty under Section 15HB of SEBI Act, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI had appointed Ms. Anita Kenkare as the Adjudicating Officer, to inquire and adjudge under Section 15-I of SEBI Act and Rule 3 of SEBI (Procedure of Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the 'Rules') to inquire into and adjudge under Section 15HB of SEBI Act for the alleged violations of the provisions of SEBI Circulars No. CIR/OIAE/2/2011 dated June 03, 2011, CIR/OIAE/1/2012 dated August 13, 2012, CIR/OIAE/1/2013 dated April 17, 2013 and CIR/OIAE/1/2014 dated December 18, 2014 by the Noticee. Subsequent to the transfer of case, the undersigned was appointed as Adjudicating Officer vide Order dated October 04, 2017.

SHOW CAUSE NOTICE, REPLY AND HEARING:

4. A Show Cause Notice No. EAD-6/AK/VG/14288/2017 dated June 20, 2017 (hereinafter referred to as "SCN") was issued to the Noticee under Rule 4 of the Rules to show cause as to why an inquiry should not be held against it in terms of Rule 4 of the Rules read with Section 15-I of SEBI Act and penalty be not imposed under Section 15HB of the SEBI Act for the alleged violation of provisions of the SEBI Consolidated Circular for not obtaining SCORES authentication. The Noticee was advised to file its reply within 14 days of receipt of the SCN.

5. The SCN was sent to the last known address of the Noticee and the SCN which was duly delivered.

Personal Hearing:

6. In the interest of natural justice, a hearing notice no. EAD-6/AK/VG/17445/2017 dated July 25, 2017 granting an opportunity of personal hearing was sent to the address of the Noticee to appear for personal hearing on August 22, 2017, which was duly delivered to the Noticee.

7. Submission by the Noticee:

7.1. Pursuant to the SCN and Personal Hearing Notice, the Noticee vide letter dated August 19, 2017 informed that *"it is in the process of compilation of required information and to grant time till September 30, 2017 to submit reply and to grant opportunity of personal hearing thereafter".*

8. Another opportunity of Personal hearing was granted to the Noticee on December 11, 2017 and thereafter final opportunity of hearing was granted on January 16, 2018. However, the Noticee neither submitted any reply nor availed the opportunity of hearing on the scheduled date. Therefore, I am of the view that despite being called upon vide SCN and aforesaid hearing notice (duly served), the Noticee has failed to make any submission towards the allegation and also failed to appear for hearing in the matter.

Consideration of Issues and Findings:

9. I have carefully pursued the documents available on record. It is observed that the allegation against the Noticee is that it has failed to obtain SCORES authentication. The issues, therefore, that arise for consideration in the present matter are:

Issue No. I: Whether the Noticee by failing to obtain SCORES authentication has violated the provisions of SEBI Circulars No. CIR/OIAE/2/2011 dated June 03, 2011, CIR/OIAE/1/2012 dated August 13, 2012, CIR/OIAE/1/2013 dated April 17, 2013 and CIR/OIAE/1/2014 dated December 18, 2014?

Issue No. II: Does the violation, if any, attract monetary penalty under Section 15 HB of the SEBI Act, 1992?

Issue No. III: If yes, what should be the quantum of penalty?

FINDINGS:

Issue I: Whether the Noticee by failing to obtain SCORES authentication has violated the provisions of SEBI Circulars No. CIR/OIAE/2/2011 dated June 03, 2011, CIR/OIAE/1/2012 dated August 13, 2012, CIR/OIAE/1/2013 dated April 17, 2013 and CIR/OIAE/1/2014 dated December 18, 2014?

10. I note that the aforesaid SEBI circulars are addressed to all companies whose securities are listed on the Stock Exchanges. As per the SCORES website, the Noticee was listed on Bombay Stock Exchange (hereinafter referred to as "BSE") The Noticee was "Compulsorily Delisted" from BSE with effect from August 23, 2017

11. I note from records made available to me that adjudication proceedings against the Noticee were approved by the Competent Authority on February 05, 2015 which was before "Compulsory Delisting" by BSE on August 23, 2017. Thus, I note that the Noticee was listed when SEBI had issued the above mentioned circulars in respect of SCORES and also when the adjudication action was approved by the Competent Authority of SEBI. 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.

12. I find it was obligatory on the part of the Noticee to obtain SCORES authentication within the time frame stipulated by SEBI. However, from the facts available on record, it was observed that the Noticee failed to comply with the same. Therefore, the Noticee violated the provisions of SEBI circulars dated June 3, 2011, August 13, 2012, April 17, 2013 and December 18, 2014 for not taking SCORES authentication.

13. I note that the Hon'ble Securities Appellate Tribunal in the matter of Port Shipping Company Ltd. vs. SEBI (decided on April 29, 2015) observed that: "...*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...*".

Issue No. II: Does the violation, if any, attract monetary penalty under Section 15 HB of the SEBI Act, 1992?

14. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty on the Noticee under section 15HB of the SEBI Act, which read 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.

Issue No. III: If yes, what should be the quantum of penalty?

15. While determining the quantum of monetary penalty under Section 15HB of SEBI Act, I have considered the factors stipulated in Section 15-J 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.

Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

16. It is not possible in cases of such nature to quantify exactly the disproportionate gains or unfair advantage enjoyed by the Noticee. Also, it may not be possible to ascertain the exact monetary loss to the investors as a result of the default. It is also noted that no quantifiable figures are available on record to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. The Noticee by failing to comply with the direction of obtaining SCORES authentication, has repeatedly violated the directions given by SEBI through SEBI Circulars viz. dated June 03, 2011, August 13, 2012, April 17, 2013, and which were eventually consolidated by issue of SEBI Consolidated Circular dated

December 18, 2014. The Noticee also failed to pay heed to the Public Notice dated January 13, 2013 issued by SEBI. Thus, to this extent, the default of the Noticee is found to be repetitive in nature. Further, obtaining SCORES authentication inter alia by listed companies was one of the regulatory measures of SEBI to help in enhancing the confidence of the investors and thereby the integrity of the securities markets. Hence, by wilful non-compliance of the same, the Noticee has conducted in a manner which is detrimental to the interest of the investors in the securities market.

ORDER

17. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by the Noticee and also the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) on the Noticee viz. M/s SPL Technochem Ltd under the provisions of Section 15HB of the SEBI Act. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

18. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favor of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through e-payment facility into Bank Account the details of which are given below:

Account No. for remittance of penalties levied by Adjudication Officer

Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No	31465271959

19. The Noticees shall forward said Demand Draft or the details/confirmation of penalty so paid through e-payment to the Deputy General Manager (Enforcement Department - DRA- II) of SEBI. The format for forwarding details/confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular No. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID- tad@sebi.gov.in:

Date	Department of SEBI	Name of Intermediary/other Entity	Type of Intermediary	SEBI Registration Number (if any)	PAN	Amount (in Rs.	Purpose of payment (including the period for which payment was made e.g Quarterly, annually)	Bank Name and Account Number from which payment is remitted	UTR No

20. In terms of Rule 6 of the Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India.

Date: February 28, 2018
Place: Mumbai

SAHIL MALIK
ADJUDICATING OFFICER