BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUICATION ORDER NO. MS/CM/2018-19/1532]

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 UNIVERSAL MULTIMEDIA LTD

(PAN No: Not Available; CIN: L72900WB1994PLC066819**)**
In the matter of SCORES Authentication

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter, **SEBI**) vide Circular No. CIR/OIAE/2/2011 dated June 03, 2011, directed all listed companies to obtain SEBI Complaints Redress System (hereinafter, **SCORES**) authentication and also to redress any pending investor grievances in that platform only. Subsequently, SEBI also issued Circulars No CIR/OIAE/1/2012 dated August 13, 2012, No. CIR/OIAE/1/2013 dated April 17, 2013 and No. CIR/OIAE/1/2014 dated December 18, 2014, (hereinafter, SEBI circular) in the matter.

2. SEBI, vide letter dated December 02, 2013 to Universal Multimedia Ltd. (hereinafter, **the noticee /the company**), drew its attention to circular dated April 17, 2013 and advised it to obtain SCORES authentication by December 18, 2013. It is alleged that the noticee did not comply with the aforesaid.

APPOINTMENT OF ADJUDICATION OFFICER

3. Smt. Soma Majumder was appointed as the Adjudicating Officer (hereinafter, **AO**) vide order dated April 10, 2014, under section 15-I of Securities and Exchange Board of India Act, 1992, (hereinafter, **SEBI Act**) and under Rule 3 of SEBI (Procedure for Holding

Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter, **Rules**) to enquire into and adjudge under section 15HB of SEBI Act the alleged violation of cited circulars by the noticee. Pursuant to her transfer, Shri P. Mahapatra was appointed as AO. Subsequent to his transfer, the undersigned was appointed as AO vide Order dated January 27, 2016.

SHOW CAUSE NOTICE,REPLY AND PERSONAL HEARING

4. A Show Cause Notice (hereinafter, **SCN**) dated May 27, 2014, was issued to the noticee under Rule 4 of the Rules, calling it 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 on it under Section 15HB of SEBI Act for its alleged non-compliance to circular dated April 17, 2013 and the reminder of December 02, 2013. The SCN was despatched to the address of the noticee as available on records, which is also matching with its registered office address displayed in the portal of the Ministry of Corporate Affairs (hereinafter, **MCA**), and were delivered by Speed Post with Acknowledgement Due (hereinafter, **SPAD**) and by hand delivery, on May 31, 2014 and May 30, 2014, respectively.

5. The noticee, vide its reply dated June 10, 2014, *inter-alia,* submitted that *"M/s. Universal Multimedia Ltd was amalgamated with M/s Divya Ferro (P) Limited with effect from 01.04.2008".* Enclosing copy of order of amalgamation passed by Hon'ble High Court of Calcutta, the noticee sought dropping of the proceedings against it.

6. Thereafter, the noticee was granted an opportunity of personal hearing on August 28, 2014, vide letter dated June 25, 2014 which was delivered by SPAD on July 24, 2014 . There was no response from the noticee. Accordingly, another opportunity of personal hearing was granted on January 29, 2015 vide letter dated January 09, 2015. This notice, dispatched through **SPAD** to the aforesaid address of the noticee, delivered on January 19, 2015 and was also hand delivered on January 17, 2015. However, there was no response from the noticee.

CONSIDERATION OF ISSUES AND FINDINGS

7. I have carefully perused the documents available on record and the issues that arise for consideration in the present case are:

   a. Whether the noticee has failed to obtain SCORES authentication, thereby failed to comply with the cited SEBI circulars?
   b. Does the violation, if any, on the part of the noticee attract monetary penalty under Section 15 HB of the SEBI Act?
   c. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15 J of the SEBI Act?

8. However, before dealing with the aforesaid, I address the preliminary issue, as to whether the proceedings against the noticee can sustain viz. the cited order of the Hon'ble High Court at Calcutta.

9. I find from the copy of the Order dated December 17, 2008, in the Company Petition No. 291 of 2008 and Company Application No. 420 of 2008 by petitioner M/s Divya Ferro Private Limited (hereinafter, **Applicant / Transferee Company**), that the Hon'ble High Court of Calcutta, inter-alia, sanctioned the proposed 'Scheme of Amalgamation' of M/s. Universal Multimedia Ltd and four other transferor companies with the said transferee company with effect from April 01, 2008. I also note at paragraph 6 of the 'Scheme of Amalgamation', the transferee undertook to offer exit option for the shareholder of the noticee as the latter is a listed company and that the transferor companies, including the noticee shall be dissolved without winding up. Accordingly, the noticee ceased to exist pursuant to its merger with the transferee company, in terms of the aforesaid order and the status of noticee is appearing as "Amalgamated" in the portal of the Ministry of Corporate Affairs (hereinafter, **MCA**) in the 'master data'.

10. In this regard it is pertinent to note that the Hon'ble Supreme Court in the matter of *Saraswati Industrial Syndicate Ltd. Vs. C.I.T., Haryana, Himachal Pradesh, Delhi* has held as below:-

"The High Court was in error in holding that even after amalgamation of two companies, the transferor company did not become non-existent instead it continued its entity in a blended form with the appellant company. The High Court's view that on amalgamation 'there is no complete destruction of corporate personality of the transferor company instead there is a blending of the corporate personality of one with another corporate body and it continues as such with the other is not sustainable in law. The true effect and character of the amalgamation largely depends on the terms of the scheme of merger. But there cannot be any doubt that when two companies amalgamate and merge into one the transferor company loses its entity as it ceases to have its business. However, their respective rights of liabilities are determined under scheme of amalgamation ***but the corporate entity of the transferor company ceases to exist with effect from the date the amalgamation is made effective****" (emphasis supplied).*

11. In view of the foregoing, I hold that the SEBI circular No. CIR/OIAE/1/2012 dated August 13, 2012, requiring all listed companies to obtain SCORES authentication by September 14, 2012, is not applicable to the noticee. As the finding on the preliminary issue is held as aforesaid, there is no scope to proceed further on the issues raised in paragraph 7 above.

ORDER

12. After taking into consideration all the facts and circumstances of the case as aforesaid, I dispose off the SCN dated May 27, 2014, issued to M/s. Universal Multimedia Ltd.

13. In terms of Rule 6 of the Adjudication Rules, copy of this order is being sent to the noticee and also to Securities and Exchange Board of India.

Date: November 15, 2018 **S. MANJESH ROY**
Place: Kolkata **ADJUDICATING OFFICER**