BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. ORDER/SRP/MS/2018-19/1278]

UNDER SECTION 15-I OF THE 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 THE ADJUDICATION PROCEEDINGS INITIATED AGAINST SHRI KISHORE BALUBHAI CHAUHAN [PAN: AFPPC9703G] IN THE MATTER OF M/S. POLYTEX INDIA LIMITED.

BACKGROUND

1. The Securities and Exchange Board of India (*hereinafter referred to as **"SEBI"***), initiated Adjudication Proceedings against Shri Kishore Balubhai Chauhan *(hereinafter referred to as **"Noticee"**)* for the alleged violations of the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 *(hereinafter referred to as **"PFUTP Regulations"**)* read with Section 12A(a), (b) and (c) of the SEBI Act, 1992 and the directions issued by SEBI vide Order dated February 02, 2011 in the matter of M/s. Polytex India Limited *(hereinafter referred to as **"Company/PIL"**)*.

2. SEBI conducted investigations into the dealings of PIL shares during the period from October 12, 2010 to February 23, 2011 *(hereinafter referred to as **"Investigation Period"**)*. The investigations, *prima facie,* revealed that the Noticee has transferred an amount of Rs.27,00,000/- to Shri Jigar Praful Ghoghari, who in turn transferred this amount to various stock brokers to meet

their pay-in obligations in respect of the transactions in the scrip of PIL, despite the fact that the Noticee was restrained from accessing the securities market and prohibited from buying/selling or dealing in securities in any manner whatsoever vide SEBI's Order dated February 02, 2011. Hence, it was alleged that the Noticee indirectly traded in the scrip of PIL, thereby, violated the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of the SEBI Act, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

3. Initially, Shri Biju. S. was appointed as the Adjudicating Officer **("AO")** in the said matter. Subsequently, the undersigned has been appointed as AO vide a communication of SEBI dated July 06, 2018, to inquire into and adjudge under Section 15HA and 15HB of the SEBI Act, 1992, for the aforesaid violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A Show Cause Notice dated January 20, 2016 *(hereinafter referred to as **"SCN"**)* was issued to the Noticee in terms of Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 *(hereinafter referred to as **"Adjudication Rules"**)* read with Section 15-I of the SEBI Act, 1992 to show-cause as to why an inquiry should not be initiated and penalty should not be imposed under Section 15HA and/or 15HB of the SEBI Act, 1992 on the Noticee for the alleged violations of Section 12A(a), (b) and (c) of the SEBI Act, 1992 read with the Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(d) of the PFUTP Regulations, 2003.

5. The SCN was delivered at the last known address of the Noticee. However, one Smt. Rupal Chauhan informed vide letter dated March 03, 2018 that her

husband Shri Kishore Balubhai Chauhan (Noticee) had passed away on May 29, 2013. In this regard, a copy of relevant death certificate was sent by her.

6. In view of the Hon'ble Supreme Court's Order in the case of *Girija Nandini vs. Bijendra Narain Choudhury (AIR 1967 SC 2110),* wherein it has been stated that in case of personal actions, i.e. the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives and in such cases the maxim "*actio personalis moritur cum persona"* (personal action dies with the death of the person) would apply, which was subsequently followed by SEBI in the case of M/s. Sakthi Finance Limited, Adjudication Proceedings against Late Shri N. Mahalingam were abated. I note from the copy of death certificate dated May 29, 2013, issued by the Department of Health and Family Welfare, Government of Gujarat that the Noticee had expired on May 29, 2013. I observe that the Noticee had expired even before the initiation of the present Adjudication Proceedings against him.

7. Therefore, by relying on the aforementioned Order of Hon'ble Supreme Court, I am of the view that the Adjudication Proceedings initiated against the Noticee will not survive and is liable to be abated without going into the merits of the case. Consequently, no penalty is imposed on the Noticee, who has since deceased and the Adjudication Proceedings shall stand abated.

8. Accordingly, the aforesaid Adjudication Proceedings initiated against the Noticee viz. Late Kishore Balubhai Chauhan vide the SCN No. EAD-5/ADJ/SVKM/DS/OW/1200/6/2016, dated January 20, 2016 are disposed of without further going into the merits of the case.

9. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this Order is being sent to Smt. Rupal Chauhan, wife of Late Kishore Balubhai Chauhan and also to SEBI.

Date : September 06, 2018 **Satya Ranjan Prasad**
Place : Mumbai **Adjudicating Officer**