

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/PM/VC/2020-21/9173)

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

In respect of:

Vishvjyoti Trading Limited
(PAN-AAACV4012A)

FACTS OF THE CASE

1. Pursuant to a reference received from Department of Income Tax, Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') initiated investigation into the alleged manipulation in the scrip of Vishvjyoti Trading Limited (hereinafter referred to as '**Noticee**'/'**Company**') for the period March 01, 2012 to January 06, 2015 (hereinafter referred to as '**Investigation Period**') and prima facie observed that certain entities had played a role in price rise patch by selling shares in minuscule quantity repeatedly at a higher circuit limit price.
2. It was observed during the course of investigation that one Mr. Shailesh Ghansham Parab was director in certain companies wherein certain directors of the Noticee were also directors. In view of this and in order to examine further connections between alleged manipulators and the

Noticee, and to draw precise conclusions in the matter regarding the role of the Noticee, the Investigating Authority (**IA**) of SEBI had issued summons dated February 22, 2017 to the Noticee at its address located at 7A, Sai Shakti CHS, L T Road, Near Railway Station, Dahisar-west, Mumbai-400068 seeking certain details/information/records. The Noticee did not submit any reply to the summons. Upon non-receipt of any reply, vide summons dated March 03, 2017, the Noticee was again advised to submit the information/details/documents sought vide the earlier summons dated February 22, 2017. The said summons dated March 03, 2017 was also served on the Noticee and the same is evident from the postal confirmation which is on record. However, I observe that the Noticee has failed to furnish the information in spite of several reasonable opportunities provided to the Noticee. In view of the aforesaid, it was alleged that the Noticee has failed to comply with the summonses dated February 22, 2017 and March 03, 2017 and, therefore, adjudication proceedings were initiated against the Noticee under section 15A(a) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') for the violation of the provisions of Section 11C(3) of the SEBI Act by the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as the Adjudicating Officer, vide Order dated July 24, 2017 under Section 19 read with Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereafter referred to as '**Adjudication Rules**') to

inquire into and adjudge under the provisions of section 15A(a) of the SEBI Act for the alleged failure on the part of the Noticee to furnish the documents/information/details as required to be produced by it in terms of the summons dated February 22, 2017 and March 03, 2017, which were issued to the Noticee by the IA during the course of investigations and thereby, violating the provisions of Section 11C(3) of the SEBI Act.

SHOW CAUSE NOTICE, HEARING AND REPLY

4. A Show Cause Notice ref. EAD/ADJ/PM/AA/OW/27802/2017 dated November 10, 2017 (hereafter referred to as '**SCN**') was issued to the Noticee in terms of the provisions of Rule 4 of the Adjudication Rules requiring the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed on it under the provisions of Section 15A(a) of the SEBI Act.
5. It was alleged in the SCN that the Noticee had failed to submit details sought by SEBI vide summons dated February 22, 2017 and March 03, 2014. By its failure, the Noticee has allegedly violated the provisions of Section 11C(3) of SEBI Act.
6. The Noticee, vide its letter dated December 04, 2017, requested for legible copies of all the material/documents collected by SEBI during the course of investigation in the scrip of the Company. Vide Email dated August 31, 2020, the Noticee was informed that all the relied upon documents have already been provided to it along with the Noticee. Vide the same Email, the Noticee was also provided with an opportunity of personal hearing on

September 07, 2020. I note that the said Email was delivered at the Email ID of the Noticee viz. vishvjyotitrading@gmail.com, as available on the letterhead of the Noticee as well as website of Bombay Stock Exchange (BSE). However, the Noticee failed to appear for personal hearing on the scheduled date.

7. Thereafter, in the interest of natural justice, another opportunity of personal hearing was provided to the Noticee on September 22, 2020 vide letter dated September 11, 2020. I note that the said letter has returned undelivered from the registered address of the Noticee, as obtained from the letterhead of the Noticee as well as from BSE website. However, the said letter was delivered by way of Email at the abovementioned Email ID of the Noticee. I note that the Noticee has failed to furnish its reply to the SCN and also failed to appear for the hearing on the stipulated date i.e. September 22, 2020. In this context, I would like to place reliance on the Order dated February 11, 2014 passed by the Hon'ble Securities Appellate Tribunal (SAT) in the matter of Sanjay Kumar Tayal and Ors. vs SEBI (Appeal No 68 of 2013), wherein SAT had observed that ".....
As rightly contended by Mr. Rustomjee, the learned senior counsel for respondents, appellants have neither filed any reply to the show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted the charges leveled against them in the show cause notices"

In view of the above reasons, I am compelled to proceed further in the matter on the basis of material/facts available on record.

CONSIDERATION OF ISSUES AND FINDINGS:

8. I have taken into consideration the facts and circumstances of the case and the material available on record. The allegation against the Noticee is that, it has failed to comply with the summons dated February 22, 2017 and March 03, 2017, which were issued to it by the IA during the course of investigations and in view of the same, the Noticee is liable to the penalty prescribed under Section 15A(a) of the SEBI Act. I now proceed to discuss the issue of alleged non-compliance of the two summons by the Noticee, which has resulted in the violation of the provisions of Section 11C(3) of the SEBI Act by the Noticee.
9. Before moving forward, the relevant provisions of the SEBI Act allegedly violated by the Noticee and as mentioned in the SCN are reproduced as under:-

SEBI Act

Investigation.

11C.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

10. In this regard, it is pertinent to note that section 11C(3) empowers the Investigating Authority of SEBI to require any intermediary or any person associated with the securities market in any manner to furnish such information to, or produce such books or registers or other documents or record before him or any person authorized by him in this behalf as it may consider necessary if the furnishing of such records/information/documents are necessary. In this regard, I note that the Noticee, being a listed entity on BSE, clearly falls under the ambit of the said provision and, by virtue of this, it is obligatory on the Noticee to provide any information sought by the IA, if he deems such information relevant or necessary for purpose of investigation.

11. The details of the two summons dated February 22, 2017 and March 03, 2017 issued to the Noticee by the IA and the status of the same are mentioned in the table below:

S. No.	Date of Summons	Mode of Delivery	Status of Acknowledgement	Status of Reply
1.	February 22, 2017	Hand Delivery	Acknowledgement available on copy of summon	No reply from the Noticee.
2.	March 03, 2017	RPAD	Acknowledgement received	No reply from Noticee.

12. I find that the summons issued to the Noticee clearly stated that if the Noticee fails to comply with the summons, adjudication proceedings may be initiated against the Noticee under which a penalty of one lakh rupees for each day during which such failure continues, or one crore rupees, whichever is less, as provided under Section 15A of SEBI Act. Further,

criminal prosecution may be launched against the Noticee under section 11C(6) of the SEBI Act which provides for a punishment with imprisonment for a term which may extend to one year or with fine which may extend to one crore rupees, or with both and also with a further fine which may extend to 5 lakh rupees for each day after the first, during which the failure or refusal continues.

13. I note that the IA through Summons dated February 22, 2017 and March 03, 2017 also enclosed Annexure requiring the Noticee to submit the following details/records/documents:

- i. the details sought by SEBI vide email dated February 09, 2017, including:*
 - *With regards to your earlier letter dated January 28, 2015 to SEBI regarding bank statement of Vishvjyoti. Provide details of date wise funds transfer to and from Mittal share brokers, Anil Kumar Mittal during 2012-14.*
 - *Details such as date of transfer, amount, and purpose of transfer should be mentioned in tabular format.*
 - *Provide relationship of Vishvjyoti/and/or its directors from 2012-2015 with Mittal Share Brokers and Anil Kumar Mittal.*
 - *Provide details of shares of Vishvjyoti Trading Ltd being held in physical format from 2012-2015. Tabular details including such as name, pan, address, no. of shares held, date of acquisition to be provided.*
 - *Provide details of physical share transfers during 2012 2015 in tabular format. Details such as from name, to name, from pan, to pan, date of transfer, no. of shares transferred should be provided.*
- ii. Please confirm and provide details if Vishvjyoti Trading Ltd and/or its directors have any relation with any of the following person.*

- *Shaji Rajappan*
- *Anil Kumar*
- *Rajesh Patel*
- *Vishnu Daji Hode*
- *Gopal Agarwal*
- *Manish Arora*
- *Milind Madhani Securities Pvt Ltd*
- *Swapnil Vishnu Hode*
- *Meena Kothari*
- *Bhagwatilal Gokhru*
- *Yashpal Pichholiya*
- *Rajat Share Broking Pvt Ltd*
- *Shyam Kanheyalal Vyas*
- *Bharat Bagri (HUF)*
- *Prem Lata Nahar*
- *Mahendra Kachhara HUF*

14. I note that SEBI had conducted investigation in respect of dealing of the abovementioned entities and allegation in respect of violation of PFUTP Regulations have also been made against some of the entities mentioned in the summons. In light of this, it was very important and relevant to examine the connections, if any, of the Noticee and/or its directors and role, if any, of the Noticee and/or its directors in the alleged manipulation in the scrip of the Noticee. Therefore, the above details/information sought by the IA from the Noticee through the summons dated February 22, 2017 and March 03, 2017 was very crucial and relevant, which would have enabled the IA to draw precise conclusions w.r.t. the role of the Noticee and/or its directors, in the said matter. It is on record that the Noticee, despite

receiving both the summons, failed to submit the details/information/documents sought by the IA even after extension of time was granted to it by the IA. I further note that during the course of the present proceedings, the Noticee failed to respond to the SCN and also failed to appear for the personal hearing on two separate occasions on September 07 and 22, 2020. This clearly demonstrates a definitive stance on the part of the Noticee which signifies deliberate non-cooperative intent. I am of the view that such casual attitude displayed by the Noticee should be sternly addressed.

15. Further, I also note that the information which was sought from the Noticee through the two summons dated February 22, 2017 and March 03, 2017 was very crucial and vital in respect of the investigation process and more importantly, in the context of the seriousness of the irregularities observed in the trading in the scrip of the company. I do not find any reason for the Noticee to hide this information unless some deceitful practices are being carried out by it in connivance with other entities associated with the irregularities observed in the dealings in the scrip of the company. The failure of the Noticee to comply with the two summons issued by the IA has clearly hampered the investigation process.

16. In this context, I note that Hon'ble Securities Appellate Tribunal (hereinafter referred to as '**SAT**'), in matter of Asian Films Production and Distribution Ltd. vs SEBI (Appeal No. 203 of 2010 decided on 19th January, 2011), has held that:

“Non-compliance with summons is, indeed, a serious matter and cannot be viewed lightly. The respondent Board is the market regulator and has to regulate the securities market and the law provides that every person associated with the market in any manner should cooperate in the matter of carrying out investigations. In the year 2002, the provisions of the Act were amended and penalty for non-compliance with summons was enhanced considerably to make it more deterrent. Market players who do not cooperate with the regulator in the matter of investigations commit a serious wrong which can have serious repercussions in the market. We do not know what would have come to light if the company had furnished the information sought from it.”

17. I also note that Hon'ble SAT, in its order dated October 22, 2013 in the matter of Rich Capital & Financial Services Limited & Ans vs SEBI, observed that:

“10. We may pertinently note that the SEBI is basically constituted to promote orderly and healthy growth of securities market apart from protecting investors' interest. For discharging this onerous job, and with a view to achieve the underlined object, SEBI as a regulator is required to conduct investigation and enquiries in the affairs of various parties from time to time. For this purpose, first and the foremost thing is co-operation from the concerned officers of the companies not only to produce the relevant records as and when required by an investigating officer or enquiring authority or by any person authorised by the SEBI in this behalf but to appear in person as and when called upon. Section 11C (2) mandates every manager, managing director, officer or other employees of the company to preserve and produce such documents which are in their custody or power. Similar is the tone and texture of section 11C (3).

11. In case of failure on the part of the concerned person to furnish such records/information, heavy monetary penalty is prescribed in section

15A (a) of the SEBI Act, 1992. In fact such an act on the part of a company or its concerned officers is not only contemptuous but also a hindrance in the way of conducting smooth investigation and enquiry by the regulator to arrive at a just and fair conclusion as per the provisions of SEBI Act, 1992. Such an increasing tendency on the part of the companies needs to be curbed at the threshold.”

18. From the foregoing paragraphs, it is conclusively established that the Noticee has failed to comply with the summons dated February 22, 2017 and March 03, 2017 issued to it by the IA and therefore, I hold that the Noticee has violated the provisions of section 11C(3) of the SEBI Act.

19. In this regard, reliance is placed upon the order of the Hon'ble Supreme Court of India in the matter of Chairman, SEBI Vs Shriram Mutual Fund { [2006]5 SCC 361 } – wherein the Hon'ble Supreme Court of India held that *“In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant.....”*

20. In view of the above, I conclude that the Noticee is liable for monetary penalty under the provisions of section 15A(a) of the SEBI Act, which reads as under :

Penalty for failure to furnish information, return, etc.

15A. *If any person, who is required under this Act or any rules or regulations made there under-*

(a) to furnish any document, return or report to the Board, fails to furnish the same, he 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.

21. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Adjudication Rules require 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.

22. With regard to the above factors, I note that the material made available on record has not quantified the profit/loss for the violations committed by the Noticee. In view of the fact that Noticee has failed to comply with the summons issued to it by the IA, the Noticee has failed to comply with the mandatory statutory obligation. I also observe that Noticee has failed to comply with the summons on two occasions and therefore, the violation is repetitive in nature.

23. I further note that the Noticee is a company listed on BSE. I am of the view that a listed company is expected to show higher diligence and should cooperate at all possible levels in any information sought by SEBI. However, in the present matter, as already mentioned in pre-paragraphs, the Noticee has failed to provide information which has hampered the investigation. As observed by Hon'ble SAT in its order dated October 22, 2013 in the matter of Rich Capital & Financial Services Limited vs. SEBI,

such an increasing tendency on the part of the companies needs to be curbed at the threshold.

ORDER

24. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs 10,00,000/- (Rupees Ten lakh only) on the Noticee viz. Vishvjyoti Trading Limited under the provisions of Section 15A(a) of the SEBI Act for its failure to submit the desired details/information/ records/documents sought by the IA vide summons dated February 22, 2017 and March 03, 2017 which resulted in violation of the provisions of section 11C(3) of the SEBI Act. I am of the view that the said penalty is commensurate with the default committed by the Noticee.

25. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through Demand Draft in favour of "SEBI -Penalties Remittable to Government of India", payable at Mumbai, or the online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

26. The Noticee shall forward said Demand Draft or the details/confirmation of penalty so paid to the Enforcement Department of SEBI. 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

27. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz. Vishvjyoti Trading Limited and also to the Securities and Exchange Board of India.

Place: Mumbai
Date: September 25, 2020

PRASANTA MAHAPATRA
ADJUDICATING OFFICER