

BEFORE THE ADJUDICATING OFFICER SECURITIES AND EXCHANGE BOARD OF INDIA [ADJUDICATION ORDER: EAD-9/VKV/GSS/2020-21/10083-10085]

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) RULES, 1995.

In respect of:

Smita D Gandhi (PAN Not available)
Yogesh Shah (PAN: ASYPP9350)
Yogesh Bhai Shah HUF (PAN Not available)

In the matter of Global Securities Limited

BACKGROUND OF THE CASE

1. SEBI conducted an investigation in the scrip of Global Securities Limited, a company listed at BSE Limited ("BSE"), to examine the matters relating to preferential allotment process and utilization of preferential issue proceeds, disclosure requirements in terms of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as "PIT Regulations") and SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as "SAST Regulations, 2011") and Listing Agreement by the company during the period from May 1, 2010 to April 30, 2014 (hereinafter referred to as 'Investigation Period' or 'IP').
2. Pursuant to the investigation, following was observed:
 - a. Promoters of the company namely; Smita D Gandhi (Noticee no. 1), Yogesh Shah (Noticee no. 2) and Yogeshbhai Shah HUF (Noticee no. 3), sold more than 25000 shares and failed to make requisite disclosures in terms of regulation 13(4A) of SEBI (PIT) Regulations, 1992 r/w 13(5) of SEBI (PIT) Regulations, 1992 r/w Regulation 12 of the SEBI (PIT) Regulations, 2015. Thus, Adjudication proceedings u/s 15A(b) of SEBI Act, 1992 were initiated against these Noticees.

APPOINTMENT OF ADJUDICATING OFFICER

3. Vide communication order dated July 23, 2020, the undersigned has been appointed as Adjudicating Officer in the matter under Section 15 I (1) of Securities and Exchange Board of India Act, 1992 ("SEBI Act") to inquire and adjudge the alleged violations by Smita D Gandhi (Noticee no. 1), Yogesh Shah (Noticee no. 2) and Yogesh Bhai Shah HUF (Noticee no. 3) (herein after collectively referred to as 'Noticees') and if satisfied that the Noticees are liable for imposition of penalty, may impose such penalty in terms of rule 5 of SEBI

(Procedure for Holding Inquiry and imposing penalties) Rules, 1995 (hereinafter referred as 'AO Rules') under the provisions of section 15A(b) of the SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Since no address was available on record for any of the Noticees, a show Cause Notice (SCN) was issued to the Noticees on November 06, 2020, under Rule 7(d) of the Adjudication Rules. The same was published on November 22, 2020, in the Times of India (English), Gujarat Vaibhav (Hindi) and regional newspaper(s) at of Ahmedabad Edition, through which the Noticees were advised to collect the copy of the SCN within 07 days of publication of the aforesaid notice and to submit their reply, if any, within 14 days. The SCN was also uploaded at SEBI website under the head of "Enforcement - Unserved Summons/Notices".
5. Vide aforesaid public notice, the Noticees were also granted opportunity of hearing on November 25, 2020, wherein it was clearly mentioned that in case Noticees fail to submit their reply to the SCN or avail opportunity of personal hearing in the matter, the matter shall be proceeded further on the basis of material available on record. However, the Noticees neither replied to the SCN nor attended the personal hearing on the scheduled date, till the passing of this order.
6. At this juncture, it relevant to refer to the observation of the Hon'ble SAT in the matter of *Dave Harihar Kiritbhai v. Securities and Exchange Board of India (Appeal No. 181 of 2014 dated December 19, 2014)*, wherein, it was observed that, "...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim nonreceipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal..."

Keeping the aforesaid in mind, the adjudication proceedings against the Noticee are undertaken ex-parte on the basis of material available on record.

ISSUES FOR CONSIDERATION

7. After perusal of the material available on record, the following issues arise for consideration;
 - I. Whether Noticees have violated regulation 13(4A) of SEBI (PIT) Regulations, 1992 r/w 13(5) of SEBI (PIT) Regulations, 1992 r/w Regulation 12 of the SEBI (PIT) Regulations, 2015?

- II. Does the violation, if any, on the part of the Noticees attract monetary penalty under section 15A(b)
- III. If so, what quantum of monetary penalty should be imposed on the Noticees considering the factors stated in section 15J of SEBI Act, 1992?

FINDINGS

8. The texts of the said provisions are reproduced as under :-

SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 1992

Disclosure of interest or holding by directors and officers and substantial shareholders in a listed companies - Initial Disclosure.

Continual disclosure

13.(4A) Any person who is a promoter or part of promoter group of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person from the last disclosure made under Listing Agreement or under sub-regulation (2A) or under this sub-regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

(5) The disclosure mentioned in sub-regulations [(3), (4) and (4A)] shall be made within [two] working days of :

(a) the receipts of intimation of allotment of shares, or

(b) the acquisition or sale of shares or voting rights, as the case may be.

SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015

Repeal and Savings.

12. (1) The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.

(2) Notwithstanding such repeal, —

(a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and

(b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(3) After the repeal of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.

Issue No. I: Whether Noticees have violated regulation 13(4A) of SEBI (PIT) Regulations,1992 r/w 13(5) of SEBI (PIT) Regulations,1992 r/w Regulation 12 of the SEBI (PIT) Regulations, 2015?

9. During the period of investigation, it was observed that Global Securities Limited (GSL) was incorporated in February 9, 1994 and operated in finance sector with key revenue coming from sale of shares and securities. The scrip is listed only on BSE and is suspended for trading with effect from January 07, 2015 due to non-payment of Annual Listing Fees.

10. Management of the company during the Investigation Period was as under;

| Sr. No. | Name of Director | Designation | Date of Appointment | Date of secession | DIN/PAN |
|---------|------------------------------|-------------------------------------|---------------------|-------------------|----------------------|
| 1 | Rameshchandra Bhaurao Chavan | Non-Executive-Independence Director | 16-Mar-2011 | Till date | 3076660 |
| 2 | Dinkar Bhanuprasad Shrimali | Non-Executive-Independence Director | 21-Mar-2011 | Till date | 421839 |
| 3 | Ruchi Jayantilal Pandya | Director | 23-Sep-2014 | Till date | 6684457 |
| 4 | Amit Pradipkumar Shah | Additional Director | 13-Aug-2013 | 23-Sep-2014 | 3066639 |
| 5 | Umesh Kashinath Gawan | Additional Director | 22-Jul-2013 | 10-Sep-2013 | 175078 |
| 6 | Arvind Goyal Babulal | Additional Director | 22-Jul-2013 | 10-Sep-2013 | 3146099 / ACIPG0193J |
| 7 | Satish R Mandowara | Additional Director | 22-Jul-2013 | 10-Sep-2013 | 3154510 |
| 8 | Kamlesh Kanahiyalal Joshi | Managing Director | 1-Oct-2012 | 13-Aug-2013 | 5141194 |
| 9 | Alpesh Maheshbhai Gupta | Non-Executive-Independence Director | 21-Sep-2009 | 21-Mar-2011 | 02227485 |
| 10 | Nimesh Prakashkumar Shah | Non-Executive-Independence Director | 07-Sep-2009 | 30-Mar-2011 | 02334503 |
| 11 | Jayesh Savailal Shah | Executive-Managing Director | 16-Jun-2009 | 30-Mar-2011 | 01458906 |
| 12 | Jagdish Goverdhan Ajwani | Executive Director | 16-Mar-2011 | 01-Oct-2012 | 01865419 |

11. The quarterly shareholding pattern (SHP) during the IP was as follows:

| Particular | September 2010 | | | December 2010 | | | March 2011 | | |
|----------------------|---------------------|---------------|--------|---------------------|---------------|--------|---------------------|---------------|--------|
| | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % |
| Promoter Holding | 9 | 875300 | 29.14 | 8 | 1711300 | 11.44 | 8 | 1711300 | 11.44 |
| Non Promoter Holding | 633 | 2128300 | 70.86 | 643 | 13242300 | 88.56 | 679 | 13242300 | 88.56 |
| Total share capital | 642 | 3003600 | 100.00 | 651 | 14953600 | 100.00 | 687 | 14953600 | 100.00 |

| Particular | June 2011 | | | September 2011 | | | December 2011 | | |
|----------------------|---------------------|---------------|--------|---------------------|---------------|--------|---------------------|---------------|--------|
| | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % |
| Promoter Holding | 8 | 1569900 | 10.5 | 8 | 1569900 | 10.5 | 8 | 1569900 | 10.5 |
| Non Promoter Holding | 712 | 13383700 | 89.5 | 712 | 13383700 | 89.5 | 712 | 13383700 | 89.5 |
| Total share capital | 720 | 14953600 | 100.00 | 720 | 14953600 | 100.00 | 720 | 14953600 | 100.00 |

| Particular | March 2012 | | | June 2012 | | | September 2012 | | |
|----------------------|---------------------|---------------|--------|---------------------|---------------|--------|---------------------|---------------|--------|
| | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % |
| Promoter Holding | 8 | 1569900 | 10.50 | 8 | 1569900 | 10.50 | 4 | 1366300 | 9.14 |
| Non Promoter Holding | 705 | 13383700 | 89.50 | 647 | 13383700 | 89.50 | 641 | 13587300 | 90.86 |
| Total share capital | 713 | 14953600 | 100.00 | 655 | 14953600 | 100.00 | 645 | 14953600 | 100.00 |

| Particular | December 2012 | | | March 2013 | | | June 2013 | | |
|------------|---------------------|---------------|---|---------------------|---------------|---|---------------------|---------------|---|
| | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % |

| | | | | | | | |
|----------------------|-----|----------|--------|-----|----------|--------|---|
| Promoter Holding | 4 | 1366300 | 9.14 | 4 | 1366300 | 9.14 | No data filed by Co. with BSE during this quarter |
| Non Promoter Holding | 767 | 13587300 | 90.86 | 809 | 13587300 | 90.86 | |
| Total share capital | 771 | 14953600 | 100.00 | 813 | 14953600 | 100.00 | |

| Particular | September 2013 | | | December 2013 | | | March 2014 | | |
|----------------------|---|---------------|---|---------------------|---------------|--------|---------------------|---------------|--------|
| | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % | No. of shareholders | No. of shares | % |
| Promoter Holding | No data filed by Co. with BSE during this quarter | | | 4 | 1366300 | 9.14 | 4 | 1366300 | 9.14 |
| Non Promoter Holding | | | | 997 | 13587300 | 90.86 | 1074 | 13585800 | 90.86 |
| Total share capital | | | | 1001 | 14953600 | 100.00 | 1079 | 14953600 | 100.00 |

| Particular | June 2014 | | |
|----------------------|---------------------|---------------|--------|
| | No. of shareholders | No. of shares | % |
| Promoter Holding | 4 | 1366300 | 9.14 |
| Non Promoter Holding | 1094 | 13585800 | 90.86 |
| Total share capital | 1098 | 14953600 | 100.00 |

12. Further, from the financial results of GSL for the FY ended 2013, 2014 and 2015 following observations were made;

| Description | Year ended (Rs. in million) | | | |
|-------------|-----------------------------|---------------|---------------------------------------|---------------|
| | 31-March-2011 | 31-March-2012 | 31-March-2013 | 31-March-2014 |
| Revenue | 38.26 | 1.20 | Details not available on BSE website. | |
| Expenditure | -36.28 | -1.14 | | |
| Net Profit | 1.97 | 0.02 | | |

13. On perusal of the shareholding pattern of the promoters available on the BSE website during the IP, following observations are made;

- The names of the Promoters of Global Securities Ltd i.e. Smita D Gandhi, Yogesh Shah and Yogeshbhai Shah HUF did not appear in the shareholding pattern from September 2012 quarter onwards. Further, it was observed that there was a reduction in the shareholding of 3 promoters namely; Smita D Gandhi (Noticee no.1), Yogesh Shah (Noticee no. 2) and Yogeshbhai Shah HUF (Noticee no.3) by more than 25000 shares during this quarter.
- Subsequently, vide email dated December 20, 2019, BSE confirmed that the exchange was not in receipt of any disclosures under SEBI (SAST) Regulations and SEBI (PIT) Regulations from aforesaid entities in September 2012 quarter. Therefore, it is concluded that these entities did not make the required disclosures for the aforesaid changes in their shareholding. The same was in violation of regulation 13(4A) of SEBI (PIT) Regulations, 1992 r/w 13(5) of SEBI (PIT) Regulations, 1992 r/w Regulation 12 of the SEBI (PIT) Regulations, 2015.

14. Therefore, in view of the foregoing, it is observed that the Noticee has failed to file quarterly shareholding pattern for June 2013 and September 2013 quarters as required under Clause 35 of the Listing Agreement r/w Regulation 103 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and section 21 of the SCRA, 1956.

15. It is also pertinent to draw attention towards the matter of Coimbatore Flavors & Fragrances Ltd. vs SEBI (Appeal No. 209 of 2014 order dated August 11, 2014), wherein Hon'ble SAT observed that *"Undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same."*

Issue No. II: Does the violation, if any, on the part of the Noticees attract monetary penalty under Section 15A(b) of the SEBI Act?

16. Referring to the judgment in the matter of SEBI vs. Shriram Ram Mutual Fund 2006 SCL 216(SC), wherein Hon'ble Supreme Court held that; *"In our opinion, mens rea is not an essential ingredient for contravention of the provisions of a civil act. In our view, the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial. In other words, the breach of a civil obligation which attracts penalty under the provisions of an Act would immediately attract the levy of penalty irrespective of the fact whether the contravention was made by the defaulter with any guilty intention or not. We also further held that unless the language of the statute indicates the need to establish the presence of mens rea, it is wholly unnecessary to ascertain whether such a violation was intentional or not"*

17. In view of the foregoing, it is concluded that the Noticee has violated the provisions of regulation 13(4A) of SEBI (PIT) Regulations, 1992 r/w 13(5) of SEBI (PIT) Regulations, 1992 r/w Regulation 12 of the SEBI (PIT) Regulations, 2015. Therefore, it is a fit case to impose monetary penalty under the provisions of section 15A(b) 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 thereunder, —

(a)

(b) *to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;*

Issue No. III: If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act?

18. In this regard, while determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the SEBI Act, which reads as under:

“15J - Factors to be taken into account by the adjudicating officer

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.”

19. In the instant matter it is not possible to quantify the gains made by the Noticees or the loss caused to investors as a result of the non-disclosures by the Noticees. The Noticees, by their failure to make disclosures, have severely impaired the integrity of the disclosure system put in place by the regulator and has deprived the investors of the significant information at the relevant time. Hence their actions warrant the imposition of penalty. I also find that names of the Promoters i.e. Noticees of Global Securities Ltd i.e. Smita D Gandhi, Yogesh Shah and Yogeshbhai Shah HUF did not appear in the shareholding pattern from September 2012 quarter onwards and thus, the default on the part of the Noticees is repetitive in nature.

ORDER

20. After taking into consideration the facts and circumstances of the case and factors enumerated in section 15J of the SEBI Act, an appropriate penalty for the non-disclosure by the Noticees for alleged violation (as enumerated in preceding paras above), in exercise of powers conferred under section 15I of the SEBI Act, 1992 read with Rule 5 of the SEBI Adjudication Rules, is imposed on the Noticees, under section 15A(b) of the SEBI Act, for the alleged violations of non-disclosure. The Noticees will be liable to pay the penalty amount as mentioned in the table below;

| Name of the Noticee | Penalty Amount (in Rs.) |
|--|--------------------------------|
| Smita D Gandhi (PAN Not available) | 2,00,000/- (Two Lakhs Only) |
| Yogesh Shah (PAN: ASYPP9350) | 2,00,000/- (Two Lakhs Only) |
| Yogesh Bhai Shah HUF (PAN Not available) | 2,00,000/- (Two Lakhs Only) |

21. Noticee shall remit / pay the said amount of penalty within 45 (forty five) days of receipt of this order either by way of Demand Draft (DD) in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai and 1) the said DD should be forwarded to the Division Chief, Enforcement Department 1(EFD), Division of Regulatory Action – IV [EFD 1-DRA-4] SEBI Bhavan, Plot No.C4-A, ' G' Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai – 400 051 and also send an email to tad@sebi.gov.in with the following details:

| | | |
|----|--|--|
| 1. | Case Name | |
| 2. | Name of the Payee | |
| 3. | Date of payment | |
| 4. | Amount Paid | |
| 5. | Transaction No. | |
| 6. | Bank Details in which payment is made | |
| 7. | Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details) | |

22. Payment can also be made online by following the below path at SEBI website www.sebi.gov.in ENFORCEMENT
→ Orders → Orders of AO → Click on PAY NOW or at
<https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html>

23. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

24. In terms of Rule 6 of the Rules, copy of this order is sent to the Noticees and also to the Securities and Exchange Board of India.

DATE: January 8, 2021

PLACE: MUMBAI

VIJAYANT KUMAR VERMA

ADJUDICATING OFFICER