

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. AO/SKS/NR/AO-1/2018]

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 BY ADJUDICATING OFFICER) RULES, 1995.

In the Matter of:
Rhine and Raavi Credits & Holdings Limited

In Respect of:

S. No.	Noticee Name
1.	Rhine And Raavi Credits & Holdings Limited (PAN No.- AAACN4793N)
2.	Rakesh Gupta (PAN No.- ASVPG8313M)
3.	Birender Kaji (PAN No.- BSIPK9909F)
4.	Surender Kumar (PAN No.- CBFPK9464A)

BACKGROUND

1. Pursuant to a preliminary enquiry on the basis of complaints received from RBI into non-compliances with the public issue norms stipulated under the provisions of the Companies Act, 1956 including Sections 56, 60 and 73 thereof by the company, Rhine and Raavi Credits and Holdings Limited (hereinafter referred to as '**the Company**') in respect of its issue of the Secured Non-convertible Debentures (hereinafter referred to as '**NCDs**'), SEBI had issued an ex-parte interim order dated October 01, 2013 (hereinafter referred to as '**the**

interim order') against the Company and its promoters and directors including Mr. Gurpreetesh Singh Maini, Mr. Tridivesh Singh Maini, Ms. Jyoti Maini, Mr. Jivtesh Singh Maini, Mr. Rakesh Gupta, Mr. Birendra Kaji and Mr. Surendra Kumar, directing them not to collect any money from the investors.

OBSERVATIONS AND FINDINGS

2. SEBI conducted an analysis of the allegations against the Company on the basis of Complaints received from RBI. A perusal of the complaints and the documents enclosed revealed that the Company had issued NCDs of 2,264 each to investors, to be redeemed with cumulative interest of 12.43% per annum on the maturity date. The Company is registered with Reserve Bank of India as a non-deposit taking Non-Banking Financial Company ('NBFC').
3. A final order dated March 27, 2015 was passed by WTM, SEBI under section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11 and 11B thereof, *inter alia*, directing the Noticees to refund the money collected by the Company through the issuance of NCDs to the investors, restraining the Company and its Directors Mr. Rakesh Gupta, Mr. Birendra Kaji and Mr. Surendra Kumar from accessing the capital market in any manner.
4. It was further stated in the order that in case of failure of the company, Rhine and Raavi Credits and Holdings Limited and its directors including Mr. Rakesh Gupta, Mr. Birendra Kaji and Mr. Surendra Kumar to comply with the aforesaid directions, SEBI may, *inter alia*, initiate appropriate action against the Company, its promoters/ directors and the persons/ officers who are in default, including adjudication proceedings against them, in accordance with law.

APPOINTMENT OF ADJUDICATING OFFICER

5. Since the company and its directors failed to refund the investors' money and comply with the directions issued in the final order dated March 27, 2015, SEBI initiated Adjudication proceedings against them.

6. The undersigned was appointed as Adjudicating Officer on October 16, 2015, which was communicated vide order of the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') dated June 13, 2016, in terms of section 15-I of the SEBI, 1992 (hereinafter referred as "**the Act**") read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred as "**the Rules**") to inquire into and adjudge under section 15HB of SEBI Act, the alleged violations committed by **M/s Rhine and Raavi Credits & Holdings Limited, Mr. Rakesh Gupta, Mr. Birendra Kaji and Mr. Surendra Kumar** (hereinafter collectively referred to as the "**Noticees**").

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

7. A show cause notice dated September 22, 2016 (hereinafter referred to as **SCN**) was issued to the Noticees under Rule 4 (3) of the Rules, to show cause as to why an inquiry should not be held against them and why penalty under section 15HB of SEBI Act be not imposed on them for the violations alleged and specified in the said SCN. The SCNs were sent through speed post acknowledgment due at the last known addresses of the entities. The same were returned undelivered, except SCN issued to Noticee no. 2 (Rakesh Gupta), which was not returned undelivered. Subsequently, delivery of the SCN to Noticee no. 3 (Birender Kaji) was completed through hand delivery.

8. Thereafter, the SCN was served by affixture on the last known address on 03/11/2016 to Noticees no. 1 and 2 and on 28/01/2018 to Noticee no. 4. However, no response was received from any of the Noticees. Thereafter, public announcement was also made in one English daily and one Hindi daily in Patna and Delhi on February 2, 2018 advising the Noticees to collect the copy of the SCN from SEBI-Northern Regional Office within 7 days of publication of the notice and submit their replies within 14 days thereafter. However, even after considerable lapse of time, the Noticees failed to reply to the SCN.
9. The SCN has been duly served upon the Noticees in terms of the Rules, however, the Noticees have failed to submit any reply towards the SCN till date despite lapse of sufficient time. Therefore, I assume that the Noticees have nothing to submit and the matter can be proceeded further on the basis of evidences available on records. It is relevant to point out that the consequence of non-filing of reply has been clearly indicated at para 9 of the SCN which states that *'Your reply, if any, substantiated with documents/records which you may choose to rely in support of your submissions, should reach the undersigned, at the address given below, as well as through e-mail at sharads@sebi.gov.in (in MS Word format) within 15 days from the date of receipt of this notice, if failing which it shall be constructed that the Noticee has no reply to submit and the matter shall be proceeded with ex-parte, based on material available on record'*.
10. It is also relevant to mention that inquiry / hearing in term of rule 4 (3) of the Rules may be held only upon receipt of reply of the Noticee(s) and cause shown therein. In case no reply is received or no cause is shown, then, further course of inquiry or hearing is not necessitated under the Rules.
11. I am of the view that the principles of natural justice have been conformed to, since sufficient opportunities have been provided to the Noticees to submit reply, which the

Noticees have failed to avail of. Therefore, the present proceedings against the Noticees are undertaken *ex-parte* on the basis of available documents and information.

12. Considering the facts and circumstances of the case, I am of the opinion that no prejudice would be caused to the Noticees in the given matter if opportunity of hearing is not provided to them and I deem it appropriate to decide the matter on the basis of facts/material available on record.

ISSUES FOR CONSIDERATION

13. After perusal of the material available on record, I have the following issues for consideration, viz.,
 - I. *Whether the Noticees have violated the provisions of Section 15HB of the SEBI Act?*
 - II. *Whether the Noticees are liable for monetary penalty under Section 15HB of the SEBI Act?*
 - III. *If the answer to issue at II is in affirmative, then what quantum of monetary penalty should be imposed on the Noticees?*

FINDINGS

14. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder.

ISSUE I: Whether the Noticees have violated the provisions of Section 15HB of the SEBI Act?

15. I note that the allegation against the Noticees is that they had failed to refund the investors' money and comply with the directions issued in the final order dated March 27, 2015,

thereby rendering the Noticees liable for imposition of penalty under Section 15 HB of the SEBI Act.

16. It is ascertained from the available records that the Noticees have failed to refund the investors' money and accordingly failed to comply with the directions issued vide SEBI order dated March 27, 2015.

ISSUE II. Whether the Noticees are liable for monetary penalty under Section 15HB of the SEBI Act?

17. The particulars of entire allegations are not in dispute as no reply is received from the Noticees towards the SCN. The fact cannot be ignored that, the Noticees were under bounden obligation to respond to SCN issued by SEBI and to appear for hearing in the instant proceedings. In absence of any reply/evidence from the Noticees refuting the allegations and/or any other evidence to the contrary, it is concluded that the Noticees have nothing to submit in their defense.
18. In view of the above, I am of the opinion that the Noticees have failed to abide by the directives issued by SEBI through its order dated March 27, 2015. Therefore, the alleged non-compliance with the directions contained in the Order by the Noticees as specified in the SCN stands established.

ISSUE III. If the answer to issue at II is in affirmative, then what quantum of monetary penalty should be imposed on the Noticees?

19. In view of the aforesaid observation and established violations against the Noticees, it is a fit case for imposing monetary penalty upon the Noticees under Section 15HB of the SEBI Act which reads as follows:

“Section 15HB Penalty for contravention where no separate penalty has been provided

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.”

20. While determining the quantum of penalty under section 15HB, it is important to consider the factors stipulated in section 15J of 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.”

21. In the present case, the SEBI Order dated March 27, 2015 which has not been complied with is the one wherein the SEBI had directed the Noticees to refund the moneys collected by them with 15% interest to the investors. Evidently, the said refunds have not been made by the Noticees. Therefore, all the investors’ money is in the possession of the Noticees and used by them only. Accordingly, Noticees have made disproportionate gains by not complying with SEBI Order. Further, investors were to get their moneys, amounting to Rs. 36.30 crores, back alongwith interest from the Noticees as directed in the SEBI Order dated March 27, 2015. The said amounts have not been refunded to the investors, therefore, the whole amount is the loss caused to the investors.

ORDER

22. After taking into consideration all the facts and circumstances of the case, the material made available on record and the factors stipulated in Section 15 J of the SEBI Act, 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 monetary penalty of Rs. 1,00,00,000/- (Rupees One Crore only) in terms of Section 15 HB of SEBI Act, 1992, which according to me is commensurate with the defaults committed by the Noticees. The liability to pay the penalty imposed herein above shall be joint and several, against all the Noticees namely:

1. **M/s Rhine and Raavi Credits & Holdings Limited ;**
2. **Mr. Rakesh Gupta ;**
3. **Mr. Birendra Kaji ; and**
4. **Mr. Surendra Kumar**

23. The amount of penalty shall be paid within 45 days of receipt of this order either by way of

(i) demand draft in favor of "SEBI -Penalties Remittable to Government of India", payable at Mumbai

(or)

(ii) by e-payment in the account of

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

24. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Deputy General Manager, Investment Management Division, Securities and Exchange Board of India, Northern Regional Office, 5th Floor, Bank

of Baroda Building, 16, Sansad Marg, New Delhi-110001 and also to e-mail ID – tad@sebi.gov.in.

Date	
Department of SEBI	
Name of Intermediary/ Other Entities	
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	

25. In terms of the provisions of Rule 6 of the Rules, copy of this order is being sent to the Noticees viz. M/s Rhine and Raavi Credits & Holdings Limited, Mr. Rakesh Gupta, Mr. Birendra Kaji and Mr. Surendra Kumar and also to SEBI.

Sd-

PLACE: NEW DELHI

SHARAD K. SHARMA

DATE: MARCH 23, 2018

ADJUDICATING OFFICER