

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

IN THE MATTER OF APPLICATION FOR CERTIFICATE OF REGISTRATION OF WEALTH MANAGEMENT ADVISORY SERVICES LIMITED AS A PORTFOLIO MANAGER.

WTM/TMN/IMD/ 217 /2004

Securities and Exchange Board of India (hereinafter referred to as SEBI) vide order dated June 18, 2004 rejected the application submitted by Wealth Management Advisory Services Ltd. Kolkata (hereinafter referred to as applicant) for certificate of registration as a Portfolio Manager.

The applicant vide letter dated July 05, 2004 requested SEBI to reconsider its decision and to recall and grant registration to the applicant as a Portfolio Manager. In the aforesaid letter, it was stated by the applicant that the Hon'ble Securities Appellate Tribunal on June 18, 2004 stayed the operation of the order dated April 15, 2004 passed in the adjudications proceedings against SMIFS Capital Markets Ltd. and SMIFS Capital Services Ltd. in the matter relating to BSL Ltd. It is further stated that in view of the aforesaid order passed by the Hon'ble Securities Appellate Tribunal, the order passed by the adjudicating officer cannot be relied upon in refusing grant of certificate of registration to the applicant.

The applicant has also stated that the adjudication proceedings and / or adjudication against any associate companies of the applicant cannot be a ground for invoking regulation 6(2) (k) of the SEBI (Portfolio Managers) Regulations, 1993 (hereinafter referred to as the 'said Regulations'). The applicant has also stated that the matters pertaining to its associates including enquiries and adjudications made by SEBI are totally irrelevant for determining as to whether the applicant should be granted a certificate of registration as a Portfolio Manager. Further applicant has stated that regulation 6(2) (a) to (d), (g) to (k) of the said Regulation concerned only with the applicant and not with the associates. The applicant had also taken a contention that regulation 6(2)(e) and (f) of the said Regulations are concerned only with the associates. Since the notice issued by SEBI was under regulation 6(2)(k) of the said Regulation, it is contended by the applicant that the same would not be applicable to it.

The submissions made by the applicant are considered and it is found that the applicant could not establish any fresh material on record so as to reconsider the decision taken by SEBI vide its order dated June 18, 2004. The main contention of the applicant is that, since the Hon'ble Securities Appellate Tribunal stayed the operation of the order of the adjudicating officer. It is also observed that in the order dated June 18, 2004, SEBI had considered pendency of the appeal preferred by the applicant against the orders of the adjudicating officer and had given a finding that a mere pendency of appeal against adjudication order would not mitigate the inhibiting factor. It is also observed from the aforesaid order that the Hon'ble Securities Appellate Tribunal had only passed an interim order as prayed by the appellants therein subject to deposit of Rs. 5lacs with SEBI. SEBI gathered sufficient evidence to prove that the applicant company is connected with certain entities against whom SEBI had already initiated enforcement action. Allowing entities like the applicant company would put the interest of the investors in securities market at high risk and as a capital market regulator, SEBI cannot ignore the connections the applicant company has with the persons who indulged in manipulations in the market. In view of this, I am of the opinion that the applicant company is not a fit and proper person to enter the securities market as an intermediary.

I am not convinced with the contentions made by the applicant that regulations 6(2)(k) of the said Regulation, is not applicable in the present matter. On a perusal of regulations 6(2)(k) of the said Regulation, it is noted that the same is very wide and applicable in general. SEBI is at liberty to reject the application for certificate of grant of registration under regulation 6(2)(k) of the said Regulation in the interest of investors.

In view of the above facts and circumstances, as the applicant failed to establish any new material facts or otherwise, which on reconsideration warrant any interference with my earlier order dated June 18, 2004, I therefore pursuant to the powers conferred upon me under regulation 10 (4) of SEBI (Portfolio Managers) Regulations, 1993, read with section 19 of Securities and Exchange Board of India Act, 1992, I hereby reject the request made by the Wealth Management Advisory Services Ltd. vide its letter dated July 05, 2004.

T. M. NAGARAJAN

MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai

Date: 09.09. 2004