

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

**UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY REGULATIONS), 2002.**

**AGAINST M/S GEETA SHARE ENTERPRISES, MEMBER OF UTTAR PRADESH STOCK EXCHANGE, HAVING SEBI REGISTRATION NUMBER INB 100525611.**

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1. M/s.Geeta Share Enterprises (hereinafter called as "the broker") is a member of Uttar Pradesh Stock Exchange (hereinafter called as "UPSE") and is registered with the Securities and Exchange Board of India (hereinafter referred to as "SEBI") under certificate of registration number INB100525611, having office at cabin No: 244, A.C. building, U.P.Stock Exchange, 14/113, Civil Lines, Kanpur-200 001(U.P).
  2. SEBI conducted an inspection of the broker, as per the order of Chairman dated 21.12.2000. During the course of the inspection conducted in the month of March, 2001, for the period 1.4.1999-28.2.2001, several irregularities were noticed.
  3. An enquiry officer was therefore appointed vide order dated 28.01.03, under SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty), to enquire into the possible violations of the following provisions of law :
    - a) Section 12 of SEBI Act,1992
    - b) Rules 3, 4(b) and (e) of SEBI(Stock Brokers and Sub-Brokers)Rules,1992;
    - c) Clause A(5) of the code of conduct as specified in schedule II read with regulation 7 of SEBI (Stock brokers and sub-brokers) regulation, 1992;
    - d) The directives issued by SEBI vide circular nos.SMD/MDP/CIR/O43/96 dated 05/08/96, SMD/POLICY/IECG/1-97 dated 11/02/97, SMD/POLICY/CIR/5-97 DATED 11/04/97, SMD/SED/CIR/93/23321 dated 18/11/93, SMD/POLICY/CIR-3-98 dated 16/01/98, SMD/SED/3703/95 dated 16/10/95, SMD/POLICY/CIR-26/97 dated 21/10/97, SMD/RCG/CIR(BKG)/293/95 dated 14/3/95 and SMDRP/POLICY/CIR-32/99 dated14/09/99;
    - e) Bye laws, Rules and Regulations and directives of Uttar Pradesh Stock Exchange (UPSE) as amended from time to time.
  4. The Enquiry Officer, having completed the Enquiry In accordance with the provisions of the Securities and Exchange Board of India (Procedure for holding Enquiry by Enquiry Officer and imposing penalty) Regulations, 2002 (hereinafter referred to as "the Regulations"), submitted the Enquiry Report on 25.07.2003, with the recommendation that the certificate of registration of the broker be suspended for a period of 6 months.
  5. On receipt of the Enquiry report, a show cause notice dated 22.08.03 was sent to the broker, enclosing a copy of the enquiry report and advising them to show cause as to why appropriate penalty should not be levied on them. The broker was also advised to request for a personal hearing, if desired.
  6. The broker sent a reply to the show cause notice, vide its letter dated 06.09.2003. The broker had faxed its reply to SEBI, wherein only the first page of its reply was received. In its reply, it was stated that she was unable to present herself before the enquiry officer as she was suffering from high blood pressure and heart problems. A letter was sent to the broker,

through the stock exchange, stating that only the first page of the letter was received and that it may re-send the entire reply.

7. The broker had re-faxed the said reply, where again only the first page of the reply was received. Subsequently another letter dated 7.10.2003 was sent to the broker stating that the letter sent did not have any reply to any charges contained in the enquiry report. The broker was given a last opportunity to present her replies to the show cause notice and to avail of a personal hearing. However till date no reply has been received from the broker.
8. I hereby note that the broker has neither sent a point wise reply to the enquiry officer's findings nor has sought a personal hearing, despite reminders. Hence, I find that adequate opportunity of hearing was given to the broker in adherence to the principles of natural justice.
9. I have gone through the inspection report, enquiry report, the show cause notice, the reply of the broker and the material available on record and following are the findings on each of the allegations:

#### **I. Irregularities on issuance of Contract Notes**

##### **a) Serial number / pre-printed serial number were not indicated on the contract notes.**

The inspection report alleged that the broker had not been putting any serial numbers on the contract notes, leave alone pre-printed numbers. Enquiry officer found that serial numbers were not pre-printed on the contract notes. The broker in their reply before Enquiry Officer stated that they were using particular Software and had presumed that there were pre-printed serial numbers on the contract notes. The Enquiry Officer had observed from the copies of the contract notes submitted by the broker that there were no pre-printed serial numbers on the contract notes. I find that the broker had violated directives of SEBI Circular No.SMD/MDP/CIR/043/96 dated August 5, 1996 and Exchange Circular No.UPSE/96-97 dated August 5, 1996 as well as provisions of Clause A(5) of the Code of Conduct as specified in Schedule II read with Regulation 7 of the SEBI (Stock Brokers & Sub Brokers) Regulations, 1992.

##### **b) "Form A" Contract note issued for principal to principal transactions.**

The broker, in their reply before Enquiry Officer, had admitted that prior to the inspection they were issuing contract notes in Form A even for principal to principal transactions. Thus, the broker had admittedly violated provisions of Bye Law 221 read with Regulation 14.2 of the exchange and also violated provisions of Clause A (5) of the Code of Conduct as specified in Schedule II read with Regulation 7 of the SEBI (Stock Brokers & Sub Brokers) Regulations, 1992 and Rule 4(b) of SEBI (Stock Brokers and Sub Brokers) Rules, 1992.

##### **c) Brokers note stamps were not affixed on the contract notes**

The broker admitted to the fact that they had not affixed brokers note stamps on the contract notes being issued by them, as the stamps were not available in the market. The broker has therefore violated the provisions of Article 5(b) of Schedule 1(B) (UP) of Indian Stamps Act, 1899. I agree with the finding of the Enquiry Officer that non-availability of stamps can not be a ground for non payment of stamp duty.

##### **d) Order Number, Order Time, Trade Number and Trade Time were not mentioned**

The broker has since started capturing the above details in the contract notes, as found by the Enquiry Officer. However, as noted by the Enquiry Officer, rectification of the lapses does not absolve the broker of the violations already committed by it. Hence, I find the broker guilty of having violated the provisions of SEBI Circular No.SMD/POLICY/IECG/1-97 dated 11.2.97 and Exchange circular no.UPSE/97-98 dated December 1, 1997 in this regard is established.

**e) Non issuance of contract notes and also non – maintenance of duplicate of the contract notes issued.**

During the inspection, it was noted that the broker had not issued contract notes in some cases, apparently in case of those transactions that were not delivery based, where only difference bills were issued. The broker had stated that they had started issuing contract notes to all clients and were also maintaining copies of contract notes. The broker has not denied non issuance of contract notes and non-maintenance of duplicate of the contract notes issued. Hence, I agree with the finding that by not issuing contract notes during that period of inspection the broker has violated the provisions of SEBI Circular No.SMD/POLICY/IECG/1-97 dated February 11, 1997.

**II. Dealing as unregistered sub broker of brokers of other exchanges.**

The inspection report pointed out that the broker had extensive dealings with 3 entities namely M/s DSM Stock Broker, member, NSE, Meghna securities Ltd, sub-broker, BSE and SPFL Securities Ltd., member, NSE, without being registered as their sub-brokers. Enquiry Officer found that the broker was dealing with brokers of other stock exchanges without being registered as their sub broker and had not refuted the same. The broker had merely stated that they are registered sub-brokers of UPSE Securities Ltd and had furnished certificate of registration dated 24.10.2000, evidencing the same. I agree with the Enquiry Officer that the broker has violated SEBI Circular No.SMD/Policy/CIR-3/98dt. January 16, 1998, UPSE Circular No.UPSE 123 dated February 24, 2000 and provisions of Section 12 of SEBI Act and Rule 3 of SEBI Rules.

**III. Entering into illegal Carry Forward Transactions.**

Inspection report noted several transactions wherein the broker had entered into transactions with other brokers on the last day of the settlement and reversed the transaction on the first day of the next settlement, indicating carry forward transactions. The broker has merely denied entering into Carry Forward transactions, but has failed to explain the 10 specific instances of Carry Forward trading, quoted in the inspection report. The broker has neither refuted the transactions nor submitted any document in support of its denial. This being the case, I agree with the Enquiry Officer's finding that the broker has violated Bye Law 20 of UPSE Bye-laws, sub-section (1) & (2) of section 16 of SC(R)A, 1956, Govt. Notification dated Feb.2, 1983 and SEBI Directives dated December 13, 1993 and Circular No.SMD/SED/3703/95 dated Oct. 16, 1995.

**IV. Non-reporting of off-the-floor transactions**

It was observed that the broker had not reported its transactions with the entities mentioned at para (II) above, to the UPSE. The broker had submitted in a statement dated 14.3.2001 that they were not aware of the requirement of reporting of these transactions to Stock exchange and had started reporting the same since 5.3.2001. The broker, by not reporting such transactions to UPSE, has violated the directions of Regulation 4.2 of UPSE Regulations, SEBI Circular No.SMD/RCG/CIR (BKG)/293/95 dated March 14, 1995 and UPSE Circular No.UPSE/96-97/A&I dated August 20, 1996.

**V. Non-maintenance of Client database (Know your client)**

The inspection report stated that the broker had the know your client forms for only 2 of top 20 clients for the year 1999-2000 and none for the top twenty clients of 2000-2001. The broker did not make any submissions with respect to this allegation. Thus, it is assumed that they had violated the provisions of SEBI Circular No.SMD/POLICY/IECG/1-97 dated February 11, 1997, SEBI Circular No.SMD/POLICY/CIR/5-97 dated April 11, 1997, and UPSE Circular No.UPSE/97-98 dated 22.4.1997.

**VI. Non segregation of own funds vis-a-vis clients funds.**

The inspection report had pointed out several instances of clients' funds being deposited in the broker's own account, in response to which the broker had chosen to remain silent. Earlier the broker had stated that they were not aware of such a requirement. It is obvious that the broker had not maintained the required segregation and has hence violated the provisions of Bye-law 225A of U.P. Stock Exchange and the directives issued by SEBI vide circular No.SMD/SED/CIR/93/23321 dated 18.11.93.

**VII. Delay in payment of money**

The inspection report had pointed out instances of delay beyond 48 hours in making payments to the client. The broker has not submitted any reply to this allegation. In the absence of any submissions it is assumed that the broker does not have any explanations in this regard and it is held that the broker had violated the provisions of SEBI circular no.SMD/POLICY/IECG/1-97 dated February 1, 1997 and those of Bye law No.225A(2) of UPSE. The member has also contravened Rule 4(b) of SEBI Rules and provisions of clause A(5) of the code of conduct as specified in schedule II read with regulation 7 of the SEBI (Stock Brokers & Sub Brokers) Regulation, 1992. The broker has also tacitly admitted the allegation.

**VIII. Investor Complaints**

The member had not resolved investor complaints within the stipulated time of one month from the date of receipt of the complaint. The enquiry officer noted that the member had taken more than one month to settle investor complaints, and has violated rule 4(e) of SEBI Rules and provisions of clause A (5) of the Code of Conduct as specified in Schedule II read with Regulation 7 of the SEBI (Stock Brokers & Sub Brokers) Regulation, 1992 as also bye law No. 225A (2) of the Exchange. The broker has not offered any comments on the allegation. I agree with the finding of the Enquiry Officer.

10. Upon considering all the facts of the case, I agree with the findings of the Enquiry Officer that the broker indulged in violation of various provisions of the SEBI Act, 1992, SEBI (Stock Brokers and Sub Brokers) Rules and regulations, 1992 and several SEBI directives rules and regulations and bye-laws of stock exchange. This is also in violation of Rule 4(b) of SEBI (Stock Brokers and Sub-Brokers) Rules and Clause A (5) of the code of conduct as specified in schedule II read with regulation 7 of the Broker Regulation.
11. Considering the nature of the violations, I do not find any reason to disagree with the recommendation of the Enquiry officer.

**ORDER**

12. Therefore, in exercise of the powers conferred upon me by Section 19 of SEBI Act, 1992 read with Regulation 13(4) of the Enquiry Regulations, I hereby impose a penalty of suspension of the certificate of registration bearing No.100525611, granted to M/s Geeta Share Enterprises, for a period of six months. Certificate of registration No.INS 010788813/01-11168, granted to M/s Geeta Share Enterprises, as sub-broker of UPSE Securities Ltd, which

the broker has been granted, by virtue of its primary membership in the UPSE, is also to be suspended for the corresponding period.

13. This order shall come into effect on expiry of 21 days from the date of this order.

**Place: Mumbai**  
**Date: October 19, 2004**

**A K Batra**  
**Whole Time Member**  
**Securities and Exchange Board of India**