

Securities and Exchange Board of India, Mumbai

Order Against

Sykes & Ray Equities (Mumbai) Pvt. Ltd., Member, The Stock Exchange, Mumbai, SEBI Registration No. INB010979830

under Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002.

1. Whereas, an inspection was initiated by Securities and Exchange Board of India (hereinafter referred to as 'SEBI'), for the period from April 2000 to September 2002 which was carried out by Choudhary & Pansari Chartered Accountants (as per letter SMD/DBA-I/Pre-Insp./AK/14877/2002 dated August 06, 2002) on behalf of SEBI vide order dated 13.8.03 against Sykes & Rays Equities (Mumbai) Pvt. Ltd. (hereinafter referred to as "the broker"), Member, The Stock Exchange, Mumbai ("BSE") registered with SEBI as a stock broker under section 12 of SEBI Act, 1992 with SEBI Registration No. INB010979830.
2. whereas, a copy of the inspection report was sent to the broker vide SEBI letter dated March 7, 2003 and its comments thereto were received vide reply dated March 19, 2003.
3. whereas, an enquiry officer was appointed vide SEBI Order dated January 07, 2004 under Regulation 5 of SEBI (Procedure for holding enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'said regulations') to enquire into the alleged contraventions observed during the inspection of books of accounts of the broker. The Enquiry Officer after conducting the enquiry in terms of the said regulations submitted his report on 28.10.04 and recommended minor penalty of warning against the broker, and,
4. whereas, a copy of the said Enquiry Report was sent to the broker along with a show cause notice dated 03.11.04. The broker replied vide letter dated 22.11.04 and submitted that its case be sympathetically considered and not to levy any penalty as there was no gain or unfair advantage obtained by it since the irregularities were mostly procedural in nature.
5. whereas, the Enquiry Officer in his report has found as under, with regard to the following alleged contraventions:
 - i. **Contract notes do not bear pre-printed serial numbers:** The contract notes do not bear pre-printed serial numbers but are directly generated through the brokers' computer systems and the numbering of such contract notes is on daily basis instead of being on annual basis. The Enquiry Officer, after considering the submission of the broker that this was due to back office software which generated serial numbers on daily basis and that necessary changes have since been made in the software, was of the view that the lapses in this account are procedural in nature which has since been rectified.
 - ii. **Delay in the delivery of contract notes:** The Enquiry Officer, after considering the reply of the broker that it conducts its business through a network of sub brokers and taking into account that there were no client complaints against the broker, was of the view that the lapses are of technical nature.
 - iii. **Non availability of letter from bank certifying the bank account number:** The Enquiry Officer, after considering the submission of the broker that it has obtained the bank account details of all its clients and ensured that payments are made by the clients only through the designated bank accounts and in the absence of any default by the broker in the payment of margin money, was of the view that the violation is a minor procedural lapse.
 - iv. **Delivery of fake/forged shares in 29 instances:** The Enquiry Officer was of the view that the broker being not the introducing broker of the alleged fake shares violated neither the provisions of Circular dated 22.2.96 nor that of Circular dated 16.7.96.
 - v. **Non segregation of own funds from that of sub-brokers:** The issue relates to making certain payments from the broker's account of the amounts received from sub-brokers. The Enquiry Officer, after considering the reply of the broker as well as the views of the department that the payments in question relate to V-SAT charges which it received from sub-broker and in turn paid to the Exchange, recommended that a lenient view be taken.
 - vi. **Dealing with unregistered sub brokers:** In three cases where payment of brokerage was observed to persons other than the sub brokers, the Enquiry Officer, taking note that the brokerage paid is relatively small and in the absence of other associated evidence of dealing with unregistered sub broker, was of the view that the broker may be warned. In two other instances of same nature, where there was delay in getting the intermediaries registered, it was submitted that NSE had already imposed a fine of Rs.40,000 on 26.11.2002 and that both the sub brokers have subsequently been registered. Therefore, the Enquiry Officer was of the view that no punishment be imposed as the remedial action has been taken.
 - vii. I agree with the findings of the Enquiry Officer. In this connection, it is useful to refer to the order of the Hon'ble SAT in Appeal no.410/2004 dated 10th March, 05 in Victory Portfolio Ltd vs. SEBI wherein the SAT has observed that although there is no bar in SEBI proceeding against the Appellant independently, due regard has to be given to the fact that for the same violation NSE has imposed a penalty of Rs.1 lakh. Hence, the same is taken into account as a mitigating factor.
6. I have carefully examined the facts and circumstances of the case. The following are considered as mitigating factors:

- i) It was the first SEBI Inspection of the broker and there are no investor complaints.
- ii) There is no failure to pay the margin to the exchange.
- iii) There are no pending arbitration cases or allegations of market manipulation against the broker.

7. I, having considered the nature and gravity of the charges established, the facts and circumstances of the case, the recommendations of the Enquiry Officer, the submissions made by the broker thereto, and the mitigating factors as explained above, in exercise of powers conferred vide Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulation 2002 hereby warn Sykes & Ray Equities (Mumbai) Ltd. (INB010979830), Member, The Stock Exchange Mumbai, to be more cautious in future in its dealings with securities and adhering to the provisions of SEBI Act, 1992 and the Rules and Regulations made thereunder.

PLACE : MUMBAI
DATE : 23.9.2005

MADHUKAR
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA