

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s A.A.DOSHI SHARE AND STOCK BROKERS LIMITED., MEMBER MUMBAI STOCK EXCHANGE, SEBI REGISTRATION NO. INB010639634 UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002.

1.0 BACK GROUND

- 1.1 M/s A A Doshi Share and Stock Brokers Ltd (hereinafter referred to as the 'broker') is a member of the Mumbai Stock Exchange (hereinafter referred to as 'BSE') and is registered with the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') as a Stock broker under Section 12 of SEBI Act, 1992 with Registration Number INB010639634 .
- 1.2 The broker is having its Registered Office at PG-5, Rotunda Building Ground Floor, Fort, Mumbai-400 023. SEBI conducted inspection of books of accounts, documents and other records of the said broker vide Order dated 24.03.2003 under section 19(1) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 for the period 01.04.2001 to 31.03.2003.
- 1.3 During the Inspection, irregularities such as default in maintaining the Order Book and Margin Deposit Book, anomalies in the form and issue of Contract Notes, delay in delivery, absence of date of acknowledgment of contract notes, and manning of the broker's terminal by client, dealing with sub-brokers before registration etc were observed.

2.0 APPOINTEMENT OF ENQUIRY OFFICER

- 2.1 Inspection Report was forwarded to the broker on completion of inspection. After considering his reply dated 21.10.2003 an Enquiry officer was appointed vide order dated 22.03.2004 under Regulation 5(1) of SEBI (Procedure for Holding enquiry by enquiry officer and imposing penalty) Regulations, 2002 (hereinafter referred as the 'said regulations') to enquire into the alleged irregularities committed by the broker which were observed during the inspection.
- 2.2 A Notice dated 28.04.2004 was issued to the broker under Regulation 6 (1) of the said Regulations by the Enquiry Officer. The broker submitted its reply dated 28.05.2004 and appeared for personal hearing on 28.10.2004. The enquiry officer conducted the enquiry in terms of the said Regulations and the broker was given a fair and reasonable opportunity to make his submissions.
- 2.3 After considering the reply and the submissions made at the time of Personal hearing the Enquiry officer submitted his report dated 29.10.2004 finding that the said broker has committed violations of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 which are as under:
 1. Irregularities in maintaining Contract notes
 2. Failure in maintaining the Order book
 3. Dealing with sub-brokers before registration

The Enquiry Officer has recommended for issuance of a minor penalty of warning to the said broker.

3.0 CONSIDERATION OF THE ENQUIRY REPORT

- 3.1 Based upon the Enquiry report and recommendation of the Enquiry Officer, a Show Cause notice dated 28.01.2005 under regulation 13(2) of the said Regulations was issued to the broker with a copy of the Enquiry Report. The said broker submitted his reply vide letter dated 17.02.2005.
- 3.2 I have carefully considered the findings of the Inspection, Enquiry and the submissions made by the broker.
- 3.3 The Enquiry Officer has accepted the explanation given by the broker with regard to the manning of the broker's terminal by the clients and it was also found by the Enquiry Officer that the irregularities relating to contract notes were rectified.
- 3.4 As regards the finding that the said broker failed to maintain Order book, the Enquiry Officer has accepted the reply given by the broker that system software of the Bombay Stock Exchange is recording and generating the order numbers and log file, hence physical record was not maintained for the same as sufficient justification. Similarly in the case of margin requirement explanation given by the broker was held satisfactory. I have no substantive reasons to differ with the findings of the Enquiry Officer.

3.5 The Enquiry Officer has found that the broker had dealt with unregistered sub brokers. BSE had imposed a penalty of Rs.25,000/- on the broker for the aforesaid violation and the broker has already paid the same. The broker vide his reply to Show Cause Notice dated 17.02.2005 submitted in respect of his dealing with sub-brokers that;

- a) There are no complaints pending against the broker
- b) The Enquiry Officer has noted that those unregistered sub-brokers have got registration subsequently.
- c) The alleged deficiency pertains to the year 2001 which was immediately rectified by the broker.

The broker has further stated that the above mentioned violation is purely procedural in nature and as a result of the same no loss has caused either to the interest of the investors or securities market. However, the above contentions of the broker cannot be accepted since SEBI as well as the Exchange had made the aforesaid violations punishable.

3.6 I have noted that the SAT in the case of Kinglet Finlease & Securities Ltd., vs. SEBI (Appeal No.88/2002) vide its judgment dated January, 2003 has held that any action by the exchange against its members will not precluded SEBI from taking action against a stock broker which may also be violative of its rules/regulations. However, in the light of the above, SEBI is empowered to take action notwithstanding the action taken by the BSE. I have also noted that the unregistered sub brokers were registered with SEBI subsequently. Therefore, I am inclined to take a lenient view on this charge.

3.7 The following are considered as mitigating factors;

- 1) There is no previous instance of imposition of punishment on broker.
- 2) There are no investor complaints against the broker as well as pending cases.
- 3) The broker stated that all the irregularities pointed out in the Inspection report are rectified.

3.8 In view of the above, I am of the view that it would meet the ends of justice if a warning is given to the broker.

4.0 **ORDER**

4.1 Having regard to the gravity of the charges established, the mitigating factors as explained, I, in exercise of powers conferred upon me in terms of Section 19 of SEBI Act, 1992 read with Regulation 13(4) of the said Regulations, warn M/s A.A.Doshi Shares & Stock Brokers Ltd (INB010639634), member Mumbai Stock Exchange and direct him to be more cautious in future in its dealings with securities and to adhere to the provisions of SEBI Act, 1992 and the Rules and

Regulations made thereunder. Any future lapse on its part in complying with the said provisions would invite stringent action.

4.2 This order shall come into force with immediate effect.

Place: Mumbai

Date: 28.12.2005

Madhukar

Whole Time Member

Securities and Exchange Board of India