

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s GCM SECURITIES LTD., MEMBER NATIONAL STOCK EXCHANGE, SEBI REGISTRATION NO. INB230793439 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 GCM Securities Ltd (hereinafter referred to as the 'broker') is a member of the National Stock Exchange (hereinafter referred to as 'NSE') 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 INB230793439.
- 1.2 SEBI conducted inspection of books of accounts, documents and other records of the said broker under section 19(1) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992. During the Inspection, certain irregularities found to have been committed by the broker 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, an Enquiry Officer was appointed vide order dated 18.12.2003 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 13.2.2004 was issued to the broker under Regulation 6 (1) of the said regulations by the Enquiry Officer. The broker replied to the notice vide its letter dated 19.4.04 and sought a personal hearing. The broker was granted hearing before the enquiry officer on 7.5.04. 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 submissions of the broker, the Enquiry officer submitted his report dated 29.11.2004 recommending a penalty of 'censure' on 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 20.1.2005 under regulation 13(2) of the said Regulations was issued to the broker enclosing therewith a copy of the Enquiry Report. The broker submitted its reply vide letter dated 23.2.2005.
- 3.2 I have carefully considered the findings of the Inspection, Enquiry and the submissions made by the broker, and note significant points, as under :
 - a) It has been alleged that the broker has dealt with un-registered sub-brokers and given unauthorized terminals to them. The broker submitted that the unauthorized terminal given to Shri Sunil Kumar Kayan was given on trial basis and the documents to that effect were produced to the enquiry officer. The broker has submitted that upon noticing the improper activities being carried out by Sunil Kumar Kayan, the broker immediately stopped the trading on the terminal. Hence, the broker has prayed that the said observation be reviewed by the enquiry officer. The enquiry officer found the submissions of the broker to the effect that it was ignorant about the activities of Shri Sunil Kumar Kayan not acceptable. Shri Sunil Kumar Kayan's back office records show that the same sauda had been distributed among different client's entities. The enquiry officer is of the view that the broker, even if it is assumed that, the terminal was installed on trial basis, it should have exercised proper control to ensure that the terminals were not misused. The enquiry officer found the version of the broker that it was ignorant of the activities of Shri Sunil Kumar Kayan is difficult to believe and hence finds the broker guilty of violating Circular No. SMD/Policy/Circular/3-97 dated 31.3.97.
 - b) With regard to other charges like not filling up client member agreements and client registration forms, delay in delivery of scrips to its client's and acceptance of cash from client's on several occasions, the enquiry officer found the explanation of the broker satisfactory.
- 3.3 I find from the above that the violations committed by the brokers are minor procedural lapses, except that the broker gave unauthorized terminal to Shri Sunil Kumar Kayan, who is unregistered sub-broker. In view of the above, I have no substantive reason to differ with the findings of the enquiry officer.

4.0 ORDER

- 4.1 Now, therefore, in exercise of powers conferred under upon me in terms of Section 19 of SEBI Act, 1992 read with Regulation 13(4) of the said Regulations, I hereby impose a minor penalty of censure on M/s GCM Securities Ltd. (INB230793439), member National Stock Exchange.
- 4.2 This order shall come into force with immediate effect.

Place: Mumbai

Madhukar

Date: 12.1.06

Whole Time Member

Securities and Exchange Board of India