

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 ARTHBODH SHARES & INVESTMENTS PVT. LTD., MEMBER, PUNE STOCK EXCHANGE, SEBI REGISTRATION NO. INB110969232.

1.0 BACKGROUND

1.1 M/s. Arthbodh Shares & Investments Pvt. Ltd. (hereinafter referred to as "the broker") is a member of Pune Stock Exchange, ("PSE") registered with SEBI as a stock broker under section 12 of SEBI Act, 1992 with SEBI Registration No. INB110969232.

1.2 Inspection of the books of accounts, documents and other records of the broker was carried out by SEBI for the period April 2000 to November 2002 and certain irregularities found to have been committed by the broker were observed.

2.0 ENQUIRY PROCEEDINGS

2.1 In view of the above, an Enquiry Officer (EO) was appointed vide SEBI Order dated December 11, 2003 under Regulation 5(1) of SEBI (Procedure for Holding Enquiry) Regulations, 2002 (hereinafter referred to as the "said Regulations") to inquire into the irregularities observed during the inspection of books of accounts of the broker. The EO after conducting the enquiry in terms of the said regulations submitted his report on 26.10.04 recommending for imposition of a minor penalty of warning on the broker.

2.2 A copy of the Enquiry Report was sent to the broker on 03.11.04, in terms of Regulation 13(2) of the said Regulations, advising it to show cause as to why appropriate penalty including the penalty as recommended by the Enquiry Officer should not be imposed. However, the broker did not reply to the show cause notice.

3.0 CONSIDERATION OF ISSUES

3.1 I have carefully considered the findings of inspection, Enquiry and the submissions made by the broker. The inspection report listed a total of 15 violations and the EO recommended for a lenient view on 11 of them as they are minor lapses. In respect of the remaining four alleged violations his findings are as under :

a) **Misutilisation/excess utilization of clients funds in 2000-01**

It was alleged that the broker was involved in misutilisation/excess utilization of clients funds in 2000-01 without taking written consent of the client, the amount unpaid to clients was utilized in violation of SEBI Circular No. SMD/SED/Cir/93/23321 dated November 18, 1993. The broker submitted that because of T+2 settlement and delayed payments by the clients, the broker used personal money to settle pay-in and pay-out. Further, a loan of Rs.10 lakh was raised on personal guarantee and used these funds to make a deposit of Rs.10 lakh. Overdraft facility was availed against this deposit to facilitate timely pay in and pay out. The EO observed that the inspection report itself states that the written consent of the clients for the above was available on record and there has been no investor complaint.

b) **Failure to settle clients accounts regularly**

It has been alleged that the broker was irregular in settling the clients' accounts regularly and funds belonging to one client were used to meet out the obligations of other clients. It has also been alleged that the recovery from clients of their outstanding balances was poor. The broker admitted that recovery from client debit balances in the aftermath of 2000-01 market crash has been slow. However, it stated that efforts were being made to recover the dues and it has been successful in reducing the outstanding balances from Rs.18 lakhs to Rs.9 lakhs as on 31.3.2003. Out of the accounts to be settled for outstanding balances, two accounts were allowed to sell shares to be adjusted against their debit only.

The EO observed that the inspection report does not mention any instance of investor complaint against the broker on account of this deficiency. Since the broker had undertaken efforts to rectify the deficiency, the EO recommended a lenient view in the matter.

c) **Failure to maintain required net worth due to large un-recovered amounts**

The broker submitted that the outstanding balances of Rs.25.6 lakhs have since been brought down to Rs.9 lakhs as on March 31, 2003. Further, an amount of Rs.28.18 lakhs was raised by promoters and put in the company so that there was no cash crunch even after providing for doubtful debts. As there were no fresh bad debts, effective net worth of the company was as per the norms of PSE. Further, the broker had not received any letter or notice from the exchange or its broking subsidiary for deficit in case of maintenance of net worth.

d) **Failure to collect margin money from clients/collection of insufficient margin compared to trading volumes**

The broker submitted that the margins were collected regularly from the clients and that it has never failed in margin money norms anytime with the PSE, BSE or NSE. The EO found that the inspection report had not produced any evidence to support the violation.

The EO considered the following facts and recommended that a warning may be issued to the broker.

- i) The deficiencies indicated in the inspection report were generally procedural in nature and the broker had rectified the same.
- ii) There was no mention of any losses to investors due the procedural lapses of the broker
- iii) There was no investor complaint or pending arbitration cases against the broker
- iv) There were no instances of reported failure to pay margins by the broker.

4.0 In view of the above, I have no substantive reason to differ with the findings and recommendations of the Enquiry Officer.

5.0 ORDER

5.1 Now, therefore, in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act, 1992 read with Regulation 13(4) of the said Regulations, I hereby warn M/s. Arthbodh Shares & Investments Pvt. Ltd., member, PSE bearing SEBI Registration No. INB110969232 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 the part of the broker in complying with the said provisions would invite stringent action.

5.2 This order shall come into force with immediate effect.

PLACE: MUMBAI

DATE : 13.1.06

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA