

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s.MSE FINANCIAL SERVICES LTD, MEMBER – THE STOCK EXCHANGE, MUMBAI, SEBI REGISTRATION NO. INB011116931 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 MSE Financial Services Ltd (hereinafter referred to as the 'broker') is a member of The Stock Exchange, Mumbai (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 INB011116931.
- 1.2 An Inspection of the Books of Accounts, Documents and other records maintained by the broker for the period September 2000 to February 2002, was carried out by M/s. Brahmayya & Co, Chartered Accountants appointed by SEBI vide letter no.SMD/ID/2836A/2002 dated February 19, 2002. During the inspection, certain irregularities found to have been committed by the broker were observed.

2.0 ENQUIRY PROCEEDINGS

- 2.1 The Inspection Report was forwarded to the broker on completion of inspection. An Enquiry Officer was appointed vide Order dated August 22, 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 November 28, 2003 was issued to the broker under Regulation 6 (1) of the said regulations. The broker submitted its reply vide letter dated December 31, 2003 and appeared for a personal hearing on May 10, 2004 before the Enquiry Officer. The enquiry officer conducted the enquiry in terms of the said Regulations and the broker was given a fair and reasonable opportunity to make its submissions. After considering the reply and the submissions made at the time of personal hearing, the Enquiry officer submitted its report dated April 29, 2005 and recommended a minor penalty of 'censure' on the broker.

3.0 SHOW CAUSE NOTICE AND THE BROKER'S SUBMISSIONS

- 3.1 A copy of the Enquiry Report was sent to the broker along with a show cause notice dated May 18, 2005, in terms of Regulation 13(2) of the said Regulations calling upon it to show cause as to why appropriate penalty including the penalty as recommended by the Enquiry Officer should not be imposed on it.

4.0 CONSIDERATION OF ISSUES

- 4.1 I have carefully considered the findings of the Inspection, Enquiry and the submissions made by the broker and note significant points, as under :

4.2 a) Permitting sub brokers to trade before obtaining SEBI registration

With regard to the above allegation, the broker submitted that sub brokers were allowed to trade before receipt of registration from SEBI and that it had submitted its application to BSE. It also submitted that after a lapse of six months it had allowed BMR Shares and Oriental Stocks to trade from December 15, 2000 after obtaining a deposit of Rs.2 lakhs. Further, the broker submitted that the entities had not exceeded the trading limits during December 15, 2000 till the date of SEBI registration. A valid registration is an essential pre-requisite for trading in the securities market. The Enquiry Officer found the broker guilty of violating the Code of Conduct for brokers as well as SEBI circulars dated 26.11.99 and 15.1.2001 by permitting these sub brokers to operate with SEBI registration.

b) Failure to obtain audit certificates

As regards the allegation that audit certificates were not obtained from the sub-brokers for the quarter ended December 31, 2001, the broker submitted that necessary circulars were issued to its sub-brokers advising them to comply with the requirement and it had started collecting self certification from all the active sub-brokers regarding collection of 10% margin commencing from the quarter ended December 31, 2002. I am inclined to accept the views of the Enquiry Officer that mere issuance of circulars to sub-brokers by the broker does not absolve the broker of his obligation and hence held the broker guilty of violating SEBI circular dated February 1, 2001.

c) Delay in making delivery to sub brokers

With regard to the aforesaid charge, the broker submitted that the delay was due to non-furnishing of client ID by the sub-brokers in NSDL, excess shares delivered, etc., and subsequently these shares were transferred to the concerned sub-brokers after reconciliation. The broker also submitted that it adhered to the schedule of pay-out of securities to the sub-brokers. The Enquiry Officer found that these lapses were technical in nature and hence accepted the explanation of the broker.

d) As regards the other allegations like proprietary trading in securities, short collection of margins from sub-brokers, allowing sub-brokers to exceed intra day trading limit and net trading volume limit, deposit towards BMC adjusted against margin payable, penalty towards late pay-out, etc., the Enquiry Officer found the explanation of the broker convincing as these lapses were either procedural or technical in nature and more so the broker had taken necessary steps to rectify the deficiencies pointed out in the inspection.

4.3 On a careful consideration of the above and the submissions made by the broker, I am inclined to agree with the findings and the recommendation of the Enquiry Officer.

5.0 ORDER

5.1 Now, therefore, 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, I hereby censure M/s. MSE Financial Services Ltd, (INB011116931), Member, The Stock Exchange, Mumbai.

5.2 This order shall come into force with immediate effect.

Place: Mumbai

Date: 24.1.06

Madhukar

Whole Time Member

Securities and Exchange Board of India