

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 M/s. Avdhut Securities Ltd., sub-broker (Registration No: INS230934239), affiliated to M/s HSE Securities Ltd., Member of National Stock Exchange.

1.0 BACKGROUND

- 1.1 M/s. Avdhut Securities Ltd. is a sub broker having SEBI Registration No. INS230934239 (hereinafter referred to as the sub-broker), affiliated to M/s HSE Securities Ltd. (hereinafter referred to as HSESL), member of National Stock Exchange (hereinafter referred to as NSE).
- 1.2 Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted an inspection of the books of accounts and other documents of sub-broker and observed certain irregularities allegedly committed by sub-broker.

2.0 ENQUIRY PROCEEDINGS

- 2.1 In view of the above, SEBI vide order dated November 21, 2003 appointed an Enquiry Officer under Regulation 5 of SEBI (Procedure for holding Enquiry by Enquiry Officer and Imposing penalty) Regulations, 2002 (hereinafter referred to as Enquiry Regulations) to enquire into the irregularities observed during the inspection of books of accounts of the sub broker and the Enquiry Officer after conducting the Enquiry in terms of the Enquiry Regulations submitted his Enquiry Report dated May 04, 2005 and recommended a minor penalty of censure against the sub-broker.
- 2.2 A copy of the said Enquiry Report was forwarded to the sub-broker along with a Show Cause Notice dated May 18, 2005 advising it to show cause as to why appropriate penalty including the penalty as recommended by the Enquiry Officer should not be imposed on it.
- 2.3 The sub-broker however did not reply to the show cause notice despite the delivery of the same and therefore I am proceeding in the matter on the basis of materials and records available.

3.0 CONSIDERATION OF ISSUES AND FINDINGS

- 3.1 I have carefully considered the findings of inspection, Enquiry report and the submissions made by the sub-broker before the Enquiry Officer. Though the inspection report lists a number of violations alleged to have been committed by the sub-broker, the Enquiry Officer has found the sub-broker guilty of following violations:

- (a) I note that it was alleged that the sub-broker failed to report off the floor transactions.

The sub-broker before the Enquiry Officer submitted that it was registered as sub-broker of HSESL on NSE besides being member of Hyderabad Stock Exchange and was of the wrong impression that it could do business as sub-broker to The Stock Exchange, Bombay (hereinafter referred to as BSE) also. However, on getting the clarity, it had taken necessary action for registration as sub-broker of BSE. It was further submitted that soon after it was registered as sub-broker with HSESL, it stopped trading with the said members.

I note that the Enquiry Officer found that the sub-broker was well aware that it was sub-broker of HSE and did not accept its submission that it was having wrong impression to be a member of BSE. I note that the Enquiry Officer concluded that though the sub-broker has stopped on the floor transactions with BSE, such lapse can not be ignored and therefore rightly held the sub-broker guilty of the provisions of Regulation 15 of the Broker Regulation and Circular SMD /Policy/Circular-11/97 dated May 21, 1997 for transacting off the floor transactions on BSE.

- (b) I further note during the inspection, the sub-broker was alleged to have dealt with an entity, M/s. Saraf Securities which was refrained from trading.

The sub-broker submitted before the Enquiry Officer that it was not aware that M/s. Saraf Securities was refrained from trading and it had done business with the said entity as its client only and not as a sub-broker and that the volume traded was very meager.

I note that the Enquiry Officer after having examined the reply of the sub-broker did not accept the plea taken by the sub-broker that it was not aware regarding the status of M/s. Saraf Securities. The Enquiry Officer further correctly observed that a sub-broker has to act diligently and ignorance of law is no excuse.

- 3.2 With regard to the other charges like acting as unregistered sub-broker and non-segregation of client funds from its own funds, I note that the Enquiry Officer did not find the sub-broker guilty of violation of any Circular or Regulation.

- 3.3 On a careful perusal of the charges, findings of inspection and enquiry and the submissions made by the sub-broker, I have no substantial reason to defer with the findings of the Enquiry Officer. Regulations, Rules and Circulars are primarily to ensure integrity of the capital market, which calls for full understanding and commitment of all concerned towards total compliance of Regulations. Sub-brokers being the important intermediary, are expected to do so flawlessly.

4.0 ORDER

- 4.1 Now, therefore, in exercise of the powers conferred upon me under section 19 of SEBI Act, 1992 read with Regulation 13(4) of SEBI (Procedure for Holding Enquiry by the Enquiry Officer and Imposing Penalty) Regulations, 2002, I censure Avdhut Securities Ltd., sub-broker (Registration No: INS230934239), affiliated to M/s HSE Securities Ltd. and direct it to be more cautious in future in its dealings with securities and adhere to the provisions of SEBI Act, 1992, Rules and Regulations made thereunder. Any future lapse on the part of the sub-broker in complying with the said provisions would invite stringent action.

DATE: 24/01/2006

PLACE: MUMBAI

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA