

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s.ASL CAPITAL HOLDINGS PVT LTD, MEMBER – NATIONAL STOCK EXCHANGE, SEBI REGISTRATION NO. INB230921538 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 ASL Capital Holdings Pvt Ltd (hereinafter referred to as the 'broker') is a member of 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 INB230921538.
- 1.2 An Inspection of the Books of Accounts, Documents and other records maintained by the broker for the period April 1, 2000 to August 23, 2002, was carried out by M/s. S Viswanathan & Co, Chartered Accountants appointed by SEBI vide letter no.SMD/DBA-I/Pre-Insp/AK/14878/2002 dated August 6, 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 December 1, 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 May 19, 2004 was issued to the broker under Regulation 6 (1) of the said regulations. The broker submitted its reply vide letter dated June 4, 2004 and appeared for a personal hearing on July 16, 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 June 1, 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 June 8, 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) Non allotment of Unique Client Codes to 50 clients

With regard to the above allegation, the broker submitted that the requirement as per SEBI circular dated July 18, 2001 was mandatory only in respect of clients who placed an order in excess of Rs.1 lac, which had been complied with, since these 50 clients had not traded above Rs.1 lac. The Enquiry Officer found that in the absence of any material to suggest that the broker had not allotted the UCC to every client who executed a trade for over Rs.1 lac, the reply of the broker acceptable.

b) Keeping clients securities in the beneficiary account for long periods

With regard to the said allegation, the broker submitted that the shares were lying in the beneficiary account with the permission of the clients. In the absence of any customer complaints and also since the broker produced copies of written letters from the said clients stating that the shares purchased were entrusted to it by them as margin for future purchases, the Enquiry Officer found the explanation of the broker acceptable.

c) Failure to collect margins from clients

With regard to the said allegation, the broker submitted that it had collected margin from 33 clients where the margin was required to be collected in terms of SEBI circular dated 27.7.2000 which stipulates that margin to be collected from those clients whose margin payable exceeds Rs.50,000/-. The broker further submitted that its trading system did not accept an order which required compulsory payment of margin. The Enquiry Officer did not find the broker guilty of violating any rules in this regard.

d) **Failure in maintaining broker database**

With regard to the aforesaid charge, the broker admitted that the information regarding broker database could not be made available to the inspecting authority. The Enquiry Officer on taking note of the brokers further submission that the historical profile of the brokering business in terms of SEBI circular dated 16.2.98 was submitted to NSE and that NSE had not pointed out any irregularity in this regard, did not find the broker guilty.

- 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. However, in the facts and circumstances of the case, a direction to the broker to be cautious in future would suffice.

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 direct M/s. ASL Capital Holdings Pvt Ltd, (INB230921538), Member, National Stock Exchange to be cautious in future.

- 5.2 This order shall come into force with immediate effect.

Place: Mumbai

Date: 2.2.06

Madhukar

Whole Time Member

Securities and Exchange Board of India