

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: G. ANANTHARAMAN, WHOLE TIME MEMBER

ORDER UNDER REGULATION 16(5) OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002

- 1.1 National Stock Exchange of India Ltd. (hereinafter referred to as NSE) informed Securities and Exchange Board of India (hereinafter referred to as SEBI) that it had declared Alba Capital Markets Pvt. Ltd. (Broker) as a defaulter with effect from December 16, 2004. The Broker had also failed to pay registration fees to SEBI.
- 2.1 In the facts and circumstances, SEBI vide order dated July 22, 2005 appointed an Officer to conduct proceedings in terms of Chapter III of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (for short the Enquiry Regulations) against the Broker to enquire into the alleged contravention of Regulation 10 & 27 of Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations). The Officer, thus appointed by SEBI, issued a notice dated August 9, 2005 to the Broker for its written submissions. As no written submissions was received from the Broker, the officer thus appointed, vide report dated September 15, 2005 recommended for the suspension of the certificate of registration of the Broker for a period of six months. As the penalty recommended by the officer was not appropriate considering the nature of the violations committed by the Broker, a notice dated November 27, 2006 was issued to the Broker in terms of the provisions of the Enquiry Regulations asking it to show cause as to why the certificate of registration should not be cancelled. Though the said show cause notice was acknowledged by the Broker no reply has been received by SEBI, so far.
- 3.1 I have considered the aforesaid report and other materials available on record. NSE had already informed SEBI that, it had already declared the Broker as a defaulter. The Broker was not readmitted to NSE. Besides, the Broker had also failed to pay the fees to SEBI. In the facts and circumstances of the present case, the issue for consideration is whether the certificate of registration of the Broker is liable to be cancelled as it failed to comply with the primary conditions for the grant of registration.
- 3.2 In terms of rule 4(a) of Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Rules, 1992 (rescinded with effect from September 07, 2006), it is a condition precedent that a stock broker shall be a member of a recognized stock exchange before he is granted a certificate of registration. Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Rules, 1992 is hereinafter referred to as the Rules for the sake of brevity. The provisions of the Rules have been simultaneously incorporated in the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992. The said condition is a continuing obligation. NSE had already informed SEBI that the Broker was declared defaulter with effect from December 16, 2004. As the Broker was not readmitted to NSE, he ceased to be a member of NSE. The Broker also failed to pay outstanding registration fees to SEBI as required under rule 4(d) of the Rules. Thus, the Broker violated the primary conditions of registration as specified under rule 4 of the Rules. In the facts and circumstances, I consider this as a fit case for imposing a major penalty as ordered hereinunder.
- 4.1 In view of the foregoing, I, in exercise of powers conferred under section 19 of the Securities and Exchange Board of India Act 1992 and Regulation 16(5) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, hereby, cancel the certificate of registration of Alba Capital Markets Pvt. Ltd. Member, National Stock Exchange of India Ltd., (Registration No. INB230645133) with immediate effect.
- 4.2 This order will not prejudicially affect the SEBI's right to recover the outstanding dues from the aforesaid stock broker.

**G. ANANTHARAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**

Place: Mumbai

Date: February 21, 2008.