BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No. Order/MC/RM/2022-23/18231]

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of –

Mr. Sudesh Kapoor (PAN: AANPK1455A) having address at D 13/12, Model town, 2 Dr. Muhkerjee nagar, Model town north West Delhi-110009

In the matter of Delta Leasing & Finance Ltd.

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') initiated adjudication proceedings against Mr. Sudesh Kapoor (**Noticee)** for the alleged violations of Section 11C(2) and 11C(3) of SEBI Act, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

2. The undersigned was appointed as Adjudicating Officer (hereinafter referred to as '**AO**') *vide* order dated December 21, 2020 to inquire into and adjudge under Section 15A(a) of the SEBI Act, the aforesaid alleged violations against the Noticee. The appointment of the AO was communicated *vide* order dated January 13, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. EAD5/MC/ST/2021/11409 dated June 02, 2021 (hereinafter referred to as '**SCN**') was issued to the Noticee in terms of Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('SEBI Adjudication Rules') to show cause as to why an inquiry should not be

held and penalty not be imposed against Noticee in terms of Section 15A(a) of the SEBI Act for the aforesaid alleged violations.

4. The allegations levelled against the Noticee in the SCN are summarized as below:

5. Delta Leasing & Finance Ltd. (DLFL) was incorporated in November 1983 and was listed on DSE on June 27, 1984 and at BSE on April 18, 2013. As per the website of DLFL, the company is engaged in investments and providing loan & advances and other related activities. The Noticee engaged in some off-market transactions in the scrip of DLFL during the year 2013 which were required to be settled as spot delivery contract.

6. A “spot delivery contract” is defined in SCRA to mean a contract which provides for actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the dispatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality.

7. Summons were issued to the Noticee seeking information on date of receipt / payment of consideration for the transactions carried out. Noticee had allegedly failed to respond to summons issued in any manner. Details of non-compliance of summon by Noticee (as target Client) are as under:

Sr no.	**Name of Entity**	**Status of delivery**	**Date of Delivery**	**Proof of Delivery**	**Particulars of Reminders sent**
1.	Sudesh Kapoor	physical copy delivered on 08.11.2019 & Delivered through email to kapursudesh123@gmail.com & kapurgagan@gmail.com on 01.11.2019	08.11.2019	Email delivery receipt and acknowledgement	Reminder mail sent on 11.12.2019 & 02.01.2020

8. The delivery of summons sent to entities through email were confirmed through IT Department- SEBI, vide their email dated 18.12.2019 which confirmed the delivery of the summons through email. The email summons are in addition to sending of summons by speed post with acknowledgement due. The scanned copy of the summons were also sent to the e-mail ID of the Noticee registered by them with the Depositories through KYC. No reply has been received even after issuance of reminders to the summons as stated above. The reply of the Noticee to the summons was important to ascertain the date of settlement of transactions which is crucial to determine whether the transaction carried out was as per the time frame stipulated in Section 2(i)(a) of SCRA.

9. In view of the above, Noticee was alleged to have violated alleged to have violated Section 11C(2) and 11C(3) of the SEBI Act.

The relevant clauses of SC(R)A and SEBI Act are reproduced as under:

SC(R)A:-

2 (i) *In this Act, unless the context otherwise requires,— spot delivery contract" means a contract which provides for,-*

(a) *actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;*

SEBI Act:-

Investigation.

11C - *where the Board has reasonable ground to believe that-*

(2) *Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorized by it in this* *behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.*

(3) *The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.*

10. The aforesaid alleged violations, if established, make the Noticee liable for monetary penalty under Section 15A(a) of the SEBI Act.

11. In response to the SCN, Noticee filed the reply to the SCN vide letter dated August 02, 2021. Opportunity of hearing was provided to the Noticee through video conferencing on July 12, 2022. Mr. Ravi Prakash, Advocate and Ms. Nikita Vijay, Advocate the Authorised Representatives (AR) of the Noticee attended the hearing and reiterated the submissions made in reply.

12. The key submissions of the Noticee are summarized as below:

13. Noticee is a home maker, and is not very well versed with technicalities of the securities market. The shares bought were for long term investment and is one isolated incident.

14. Noticee received the Summon dated November 01, 2019 seeking certain information, which was duly replied vide letter dated November 08, 2019, clarifying that the Noticee has no nexus or connection with the promoters of Delta.

15. The Noticee hardly accessed her email and was only aware of the physical copy of the summons delivered to her on November 08, 2019, to which Noticee has duly responded. Since the documents/details sought in summons were submitted in timely without delay, the Noticee has not violated Section 11C(2) and 11C(3) of SEBI Act, 1992.

16. As the inquiry in the matter is complete, I now proceed to decide the matter on the basis of SCN issued, reply received and material placed on record.

CONSIDERATION OF ISSUES AND FINDINGS

17. The issues that arise for consideration in the instant matter are:

Issue No. I Whether the Noticee violated Section 11C(2) and 11C(3) of SEBI Act?

Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15A(a) of the SEBI Act?

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I Whether the Noticee violated Section 11C(2) and 11C(3) of SEBI Act?

18. The allegation against the Noticee is that she has not responded to the summons issued and delivered to her in November, 2019. Noticee has contended that she duly responded to the summons and provided the requisite information to SEBI vide letter dated November 08, 2019.

19. I have perused the copy of Noticee’s letter dated November 08, 2019 wherein the Noticee submitted details to SEBI as sought in the summons along with the bank account statement, demat account statement, Client Master from her Stock

Broker. The Noticee has also attached Speed Post receipt establishing that the Noticee sent the aforesaid letter to SEBI through speed post.

20. In view of the above, I find that it is not established that Noticee failed to provide information to SEBI upon receipt of information, and violated Section 11C(2) and 11C(3) of SEBI Act.

21. As the violations alleged against the Noticee are not established, issues II and III do not merit consideration.

ORDER

22. In view of the findings noted in the preceding paragraphs, the adjudication proceedings initiated against the Noticee vide SCN dated June 02, 2021 are disposed of.

23. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

DATE: July 29, 2022 **MANINDER CHEEMA**
PLACE: MUMBAI **ADJUDICATING OFFICER**