BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/AK/VV/2022-23/21446)

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

HANIF KASAMBHAI SHEKH
(PAN - CBEPS9710A)

IN THE MATTER OF LEADING LEASING FINANCE & INVESTMENT COMPANY LIMITED

BACKGROUND OF THE CASE

1. Leading Leasing Finance & Investment Company Limited (hereinafter also referred to as **"LLFCL"** or '**the company**') provides financing and leasing services. The Company offers hire-purchase, leasing, purchase and sale of machinery and maintenance of goods, articles, and commodities. LLFCL serves industrial enterprises in India. The shares of the company were listed under direct listing in BSE platform on March 17, 2017.

2. Several stock recommendation messages were circulated in the scrip of LLFCL during the period starting July 14, 2020 till July 28, 2020 giving buy recommendation in the scrip of LLFCL. BSE in its examination report to SEBI mentioned that it has received multiple references from investors informing about circulation of SMSs recommending buying of securities of LLFCL. As per the BSE Examination report, the source of the message sender who had sent favorable recommendation messages in the scrip of LLFCL was using the SMS header BP- ALRTBX. BSE observed that certain investors have complained

about a specific header namely Money Master giving favorable buy recommendation in the scrip of LLFCL.

3. Based on the documents and data available on record, SEBI initiated investigation in the matter wherein the scope of investigation was to ascertain whether there was any violation of provisions of Securities and Exchange Board of India Act, 1992 2003 (hereinafter referred to as **"SEBI Act"**) and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Related to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**") in the trading activities of certain entities in the scrip of LLFCL during the period June 12, 2020 to August 10, 2020 (hereinafter referred to as '**Investigation period or IP**').

4. During the course of investigation, as the name of Mr. Hanif Kasambhai Sheikh (hereinafter referred to as '**Noticee'**) appeared as the person / entity who availed bulk SMS services in the scrip of LLFCL, the Investigating Authority (hereinafter referred to as '**IA'**) appointed by SEBI in the matter, issued summons dated January 03, 2022 and January 11, 2022 to the Noticee to furnish certain documents/information. Vide the aforementioned summons, it was mentioned to the Noticee that in case he fails without reasonable cause or refuse to furnish information as sought through the summons, SEBI may initiate prosecution/ adjudication proceedings against him under the provisions of the SEBI Act.

5. It was observed that the Noticee failed to provide the information/ documents sought by IA. In view of non-compliance to the summons, the Noticee was alleged to have violated the provisions of Section 11C (3) of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

6. Upon being satisfied that there were sufficient grounds to inquire and adjudicate upon the violation of provisions of the SEBI Act by the Noticee, SEBI, in

exercise of powers u/s 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the “**Adjudication Rules**”), r/w section 19 of the SEBI Act appointed Ms. Geetha G., as the Adjudicating Officer **(**hereinafter referred to as the “**AO”),** vide order dated March 11, 2022, to inquire into and adjudge u/s 15-I r/w section 15 A(a) of SEBI Act, the alleged violation of section 11 (C) (3) of the SEBI Act by the Noticee. Pursuant to transfer of Ms. Geetha G., SEBI appointed undersigned as AO, vide order dated August 29, 2022.

SHOW CAUSE NOTICE, REPLY AND HEARING

7. Show Cause Notice ref. no. EAD-6/GG/VV/25606/1/2022 dated July 01, 2022 (hereafter referred to as **SCN**) was served on Noticee in terms of the provisions of rule 4(1) of the Adjudication Rules r/w Section 15-I of SEBI Act, requiring the Noticee to show cause as to why an inquiry should not be held against him and why penalty, if any, should not be imposed on him under the provision of Section 15A(a) of the SEBI Act for the alleged violations. I note that SCN’s issued to the Noticee was duly served by Speed Post Acknowledgement Due and by e-mail.

8. Vide Hearing Notice dated August 01, 2022, Noticee was granted an opportunity of hearing on August 23, 2022, which was later rescheduled to September 07, 2022, vide email dated August 26, 2022. I note that the hearing notice issued to the Noticee was duly served with digital signature by e-mail, which constitutes valid service as per Rule 7(1)(b) of the Adjudication Rules. However, the Noticee neither requested for adjournment nor availed the opportunity of hearing.

9. In view of principles of natural justice, the Noticee was granted another opportunity of hearing on September 16, 2022, vide email dated September 16, 2022. The Noticee appeared before me for hearing on September 16, 2022 and gave his submissions. He also stated that he will give additional submissions

and no further hearing was required by him. Accordingly, he sent some additional submissions, vide emails dated September 23, 2022 and October 01, 2022.

10. The allegations levelled against Noticee in the SCN are summarised as under:

a) The details of summons issued to Noticee are given below in the table:

Summon No.	Summons Date	Address	Delivery Status
SEBI/HO/IVD/ID10/P/OW/2022/2118/1	3/01/2022	Mr. Hanif Khan 587/b, Bhavnagar Rahemant Royal Flat 102 Gariadhar Bhavnagar, Gujarat – 364001	Delivered on 22/01/2022 (India Post web-delivery receipt- EM852750576IN)
SEBI/HO/IVD/ID10/P/OW/2022/2119/1	03/01/2022	Mr. Hanif Khan Partner, Sai Metaltech LLP Pl. No. 1280, Sh. No. G/F 9, Eva Surbhi Waghwadi Road, Bhavnagar, Gujarat – 364002	Delivered on 22/01/2022 (India Post web-delivery receipt- EM852750562IN)
SEBI/HO/IVD/ID10/P/OW/2022/21638/1	11/01/2022	Mr. Hanif Kasambhai Shekh 587/b, Bhavnagar Rahemant Royal Flat 102 Gariadhar Bhavnagar, Gujarat – 364001	Delivered on 17/01/2022 (India Post web-delivery receipt- EM852763464IN)
SEBI/HO/IVD/ID10/P/OW/2022/1637/1	11/01/2022	Mr. Hanif Kasambhai Shekh Partner, Sai Metaltech LLP Pl. No. 1280, Sh. No. G/F 9, Eva Surbhi Waghwadi Road, Bhavnagar, Gujarat – 364002	Delivered on 28/01/2022 (India Post web-delivery receipt- EM895234478IN)

(The summons dated January 03, 2022 and another summons dated January 11, 2022 were delivered (on aforesaid 2 addresses) to the Noticee. Copy of the summons addressed to Noticee along with delivery proofs were enclosed with SCN)

b) It was observed by SEBI that the name of Noticee also appeared in certain other investigation cases handled by SEBI in which similar allegations were made against him regarding his role in sending misleading messages to public using bulk SMS and creating fake websites.

c) Therefore, the information sought from the Noticee was crucial for further investigation, to determine his/other entities' role/s with regard to the issue of circulation of misleading messages in the scrip of LLFCL and if there were any connection with other entities.

d) It was alleged that Noticee did not co-operate with the Investigation and has repeatedly failed to provide the documents/ information requisitioned by the IA. The non-submission of the information/documents by the Noticee had hampered the investigation. Therefore, SEBI recommended to initiate Adjudication Proceedings u/s 15A(a) of the SEBI Act, 1992 against Hanif Kasambhai Shekh for violation of Section 11C (3) of the SEBI Act.

e) The aforesaid alleged violation of section 11C(3) of SEBI Act, if established, makes the Noticee liable for monetary penalty u/s 15A(a) of the SEBI Act.

11. The Noticee during the hearing on September 16, 2022 and vide emails dated September 23, 2022 and October 01, 2022, *inter alia,* submitted that:

a) At the time when the summons was issued to him, he had personal problems, that his father had expired, his mother also had to undergo two surgeries and they travelled to Mumbai and Ahmedabad multiple times for the same. He had shifted from his given residential address and that he was in Dubai for 6 months.

b) He had around 1,63,000 (approx.) e-mails in his given email inbox and that certain summons sent by emails could have been missed.

c) Due to the given reasons, he received certain summons and had not received certain summons issued by SEBI in the matter.

d) He moved to a new home and his address was not updated in SEBI records, so all summons were also going to the wrong address.

e) He missed compliance of summons because of the abovementioned reasons and apologized for the same and stated that it was not at all intentional.

f) He was sorry for non-compliance of summons.

CONSIDERATION OF ISSUES AND FINDINGS

12. I have taken into consideration the facts and material available on record. The issues that arise for consideration in the present case are as follows:

    I. Whether the Noticee has violated Section 11C(3) of the SEBI Act?

    II. Does the violations, if any, attract monetary penalty u/s 15A(a) of the SEBI Act?

    III. If so, 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 r/w Rule 5(2) of the Adjudication Rules?

Issue I. Whether the Noticee has violated Section 11C(3) of the SEBI Act?

13. Before moving forward, it is pertinent to refer to the relevant provision which is alleged to have been violated. The said provision is provided hereunder:

    SEBI Act

    Investigation.

    11C(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.*

14. I observed that during the process of investigation, Awadh Info Solutions, SMS reseller, while enclosing a copy of the undertaking in connection with its agreement with Multibagger Securities Research & Advisory Pvt Ltd, indicated the name of Hanif Khan as the person / entity who has availed bulk SMS

services in the scrip of LLFCL. On perusal of the contact number on Telegram Application viz. ‘9067584982’ and based on further telephonic discussions with the afore-said number, it was observed that the said number belongs to Hanif Shekh. Details of its client along with mobile number & e-mail id given by service provider Awadh Info Solutions while availing bulk SMS services, UCC data provided by exchanges and E-mail received from Hanif Shekh are compiled as under:

Particulars	**As per UCC data**	**As provided by Awadh Info solutions**	**E-mail dated From Hanif Shekh**
Name	Hanif Kasambhai Shekh	Hanif Khan	Hanif Shekh
Mobile No.	9067584982	**9537570268**, 9157787756, **9067584982**, 8511591152	**9067584982**
E-mail id	*hanifshekh1990@yahoo.in, hkshekh@yahoo.co.in*	*hkshekh@yahoo.co.in*	*hkshekh@yahoo.co.in*

15. SEBI investigation further revealed that e-mail was received on January 27, 2022 from e-mail id - *hkshekh@yahoo.co.in* in relation to another case. In the said e-mail, the sender mentioned his name as ‘Hanif Shekh’ and his mobile number as ‘9067584982’. It was observed that the said e-mail id & mobile number was used to avail bulk SMS services from Awadh Info Solutions. The name of client was stated as ‘Hanif Khan’ instead of ‘Hanif Shekh’. Further, from UCC data of BSE & NSE, it was gathered that mobile number ‘9067584982’ & e-mail id ‘*hkshekh@yahoo.co.in*’ belongs to Hanif Kasambhai Shekh (PAN - CBEPS9710A). In light of the above, it prima-facie appeared that Mr.Hanif Kasambhai Shekh had masked his identity for availing services of bulk SMS through which recommendations were made to buy the scrip of LLFCL.

16. I observe from the available records that summons were issued to the Noticee by SEBI during the process of investigation and the said summons were duly delivered to the Noticee. IA had sought information from the Noticee which was required to conduct the investigation in the said matter to ascertain any possible

violation of the provisions of the SEBI Act and / or PFUTP Regulations. In this regard, the proof of service of the said summons was also annexed to the SCN.

17. The information sought from Noticee was crucial for further investigation to determine his/other entities' role with regard to the issue of circulation of messages in the scrip of LLFCL and connection, if any, with other entities. Thus, I hold that Noticee did not co-operate with the IA in the investigation and by not producing / furnishing the documents/ information sought by IA, hampered the process of investigation.

18. In this regard, it is pertinent to note that Section 11C(3) of SEBI Act empowers the Investigating Authority of SEBI to require any intermediary or any person associated with the 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 authorized by him in this behalf as it may consider necessary if the furnishing of such records/information/documents are necessary. In this regard, I note that it was obligatory on the Noticee to provide any information sought by the IA, if the IA deemed such information relevant or necessary for purpose of investigation.

19. In this context, I note that Hon'ble SAT, in its order dated October 22, 2013 in the matter of **Rich Capital & Financial Services Limited & Ans vs SEBI**, observed that:

> *"10. We may pertinently note that the SEBI is basically constituted to promote orderly and healthy growth of securities market apart from protecting investors' interest. For discharging this onerous job, and with a view to achieve the underlined object, SEBI as a regulator is required to conduct investigation and enquiries in the affairs of various parties from time to time. For this purpose, first and the foremost thing is co-operation from the concerned officers of the companies not only to produce the relevant records as and when required by an investigating officer or enquiring authority or by any person authorised by the*

SEBI in this behalf but to appear in person as and when called upon. Section 11C (2) mandates every manager, managing director, officer or other employees of the company to preserve and produce such documents which are in their custody or power. Similar is the tone and texture of Section 11C (3).

11. In case of failure on the part of the concerned person to furnish such records/information, heavy monetary penalty is prescribed in Section 15A(a) of the SEBI Act, 1992. In fact such an act on the part of a company or its concerned officers is not only contemptuous but also a hindrance in the way of conducting smooth investigation and enquiry by the regulator to arrive at a just and fair conclusion as per the provisions of SEBI Act, 1992. Such an increasing tendency on the part of the companies needs to be curbed at the threshold."

20. From the foregoing paragraphs, it is conclusively established that Noticee had failed to comply with the summons dated January 03, 2022 and January 11, 2022 issued to him by the IA. Therefore, I hold that the Noticee has violated the provisions of Section 11C (3) SEBI Act.

Issue II. Does the violations, if any, attract monetary penalty u/s 15A(a) of the SEBI Act?

21. In the light of findings and observations made against the Noticee brought out in the foregoing paragraphs, it is evident that the Noticee had violated the provisions of Section 11C(3) of SEBI Act. The above violations, are serious in nature and make the Noticee liable for monetary penalty under the provisions of Section 15A(a) of the SEBI Act.

22. As regards the imposition of monetary penalty for noncompliance of summons, I note that the Hon'ble SAT had the occasion to deal with this issue in the matter of **DKG Buildcon Pvt. Ltd.(supra)**, wherein it observed:

"The power to require a person to furnish any information or record or documents includes the power to require such person to make a statement and give clarifications with regard to the information and documents produced by him. In the absence of such a power the purpose of the legislature in introducing section 11C would be frustrated and the Board will not be able to investigate properly the market irregularities and offences. In order to advance the object of Parliament the language used in sub-section (3) of section 11C has to be given a wider meaning. We are, therefore, of the considered opinion that section 11C (3) gives the power to the investigating authority to call upon any person to make a statement while furnishing any information, document or record."

23. Thus, it is clear that if a person fails to comply with the summons of IA, he is liable for penalty u/s 15A(a) of SEBI Act. As the violation of provisions of section 11C (3) of the SEBI Act by the Noticee has been established, I find that Noticee is liable for monetary penalty u/s 15A(a) of SEBI Act. The contents of the said provisions of law is reproduced herein below:

Penalties and Adjudication

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

Issue III. If so, 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 r/w Rule 5(2) of the Adjudication Rules?

24. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the SEBI Act which reads as under:-

15J – Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under [15-I or section 11 or section 11B, the Board or the adjudicating officer] shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

[Explanation.—For the removal of doubts, it is clarified that the power [...] to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]

25. In this case, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of the non-compliance of the summons is not available. Further from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors on account of violations by the Noticee. The conduct of the Noticee in not paying heed to the summons issued by SEBI and resultant non-cooperation with the process of investigation cannot be taken lightly. I note that penalty has been imposed against the Noticee in the past for similar violation in another matter also.

ORDER

26. Considering all the facts and circumstances of the case, factors mentioned in section 15J of the SEBI Act and exercising the powers conferred upon me u/s 15-I of the SEBI Act r/w rule 5 of the Adjudication Rules, I hereby impose the following penalty on the Noticee u/s 15A(a) of the SEBI Act, for not complying with the summons issued on January 03, 2022 and January 11, 2022:

Name of the Noticee	Provisions Violated	Penalty
Hanif Kasambhai Shekh (PAN - CBEPS9710A)	Section 11C (3) of the SEBI Act	Rs. 6,00,000/- (Rupees Six Lakhs only)

I find that the said penalty is commensurate with the violation committed by the Noticee in this case.

27. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

28. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department-1 DRA-4), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051." The Noticee shall also provide the following details while forwarding DD / payment information:

Case Name :	
Name of Payee :	
Date of Payment:	
Amount Paid :	
Transaction No. :	
Bank Details in which payment is made :	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	Penalty

29. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

30. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee and also to the Securities and Exchange Board of India.

Place: Mumbai	**AMIT KAPOOR**
Date: November 25, 2022	**ADJUDICATING OFFICER**