

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11B(2) and 11(4A) read with Section 15HB of Securities and Exchange Board of India Act, 1992 and Rule 5 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995

In respect of:

Name of the Noticee	SEBI Registration No.	PAN
Thar Share Brokers Pvt Ltd	INZ000275132	AACCT0147Q

In the matter of trading activities of certain entities suspected to be front running the trades of Parshvanath Finvest Pvt Ltd, Thar Share Brokers Pvt Ltd and Gangwal Commodities Pvt Ltd.

Background

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) while conducting the investigation in respect of the suspected front running of trades of Parshvanath Finvest Pvt Ltd, Gangwal Commodities Pvt Ltd and Thar Share Brokers Pvt Ltd (hereinafter all are collectively referred to as “**the Big Clients**”), based on the tips of one of the employees of the Thar Share Brokers Pvt Ltd. (hereinafter referred to as “**Thar**” or “**Noticee**”), the broker of the Big Clients, wherein the role of the Noticee was also examined to ascertain as to whether the Noticee failed to exercise due skill, care and diligence while carrying the activities of broking in dealing with the client business particularly maintaining the confidentiality of the trading details of the clients in violation of the provisions of Clause A(2) of the Code of Conduct for Stock Brokers - Schedule II read with Regulation 9 of Stock Brokers Regulations, 1992.
2. The three Big Clients were found to be connected/related to each other through common directors namely Ajay Gangwal and Rakhi Gangwal. Ajay Gangwal and Rakhi Gangwal were found to be related to each other as husband and wife. The Noticee is a SEBI registered broker and member of NSE stock exchange.

Order against Thar Share Brokers Pvt. Ltd. in the matter of trading activities of certain entities suspected to be front running the trades of Parshvanath Finvest Pvt Ltd, Thar Share Brokers Pvt Ltd and Gangwal Commodities Pvt Ltd.

3. In this regard, the investigation observed and alleged as under:
- 3.1. That the employee of the Noticee, Shri Ashish Sarda, who was punching orders on behalf of the aforesaid Big Clients, acted as a tipper of non-public information about the impending orders of the said Big Clients accessible by him on account of his official dealings, to his relatives.
 - 3.2. The Noticee had no fixed system of maintaining entry and exit log for its employee in the office.
 - 3.3. The Noticee had allowed Ashish Sarda to punch orders using the login ID of another registered dealer when Ashish Sarda was not even Noticee's registered dealer.
 - 3.4. That although Ashish Sarda was punching orders for all the three Big Clients on the instructions of Mr. Ajay Gangwal but the Noticee has not been able to produce any formal appointment letter in his name.
 - 3.5. That the Noticee does not have any written down policy/code of conduct to be followed by the dealers.
 - 3.6. That Ajay Gangwal, had admitted in his statement that the dealers were allowed to use phones since he used to give orders to them on phones.
4. In view of the foregoing observations, it was alleged that the Noticee was not adhering to the applicable compliance standards and has not been acting with due skill, care and diligence in the conduct of its business and has thus violated the provisions of Clause A(2) of the Code of Conduct for Stock Brokers - Schedule II read with Regulation 9 of Stock Brokers Regulations, 1992.

Show Cause Noticee, Reply and Personal Hearing

5. Subsequently, a show cause notice dated July 30, 2024 (hereinafter referred to as "**SCN**") was issued to the Noticee, calling upon to show cause as to why penalty under Sections 11(4A) and 11B(2) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") read with Sections 15HB of SEBI Act for the aforesaid violations be not imposed.

6. The SCN was duly served on the Noticee through SPAD and digitally signed email dated July 01, 2024. In response, vide email dated July 22, 2024, the Noticee sought additional time to submit the reply. Accordingly, the Noticee was granted time till August 19, 2024 to submit the reply. Thereafter, on August 21, 2024 the Noticee submitted its response to the SCN.
7. Subsequently, in the interest of principle of natural justice, vide Hearing Notice ('HN') dated August 29, 2024 the Noticee was provided an opportunity of personal hearing. The HN was served through SPAD on August 31, 2024. Vide the said HN, the Noticee was advised to appear for the personal hearing on September 17, 2024. The Noticee appeared for the scheduled hearing through an authorised representative (AR). During the hearing, the AR reiterated the submissions already made vide letter dated July 01, 2024. Further, AR requested additional time to submit supplementary reply to the SCN. The same was accordingly granted. Thereafter, AR also made additional submissions which were submitted in writing.
8. The submissions made by the Noticee vide letter dated August 21, 2024 as well as the supplementary submissions dated September 26, 2024 are summarised below:
 - a. *Though the Noticee did not have any clear written policy/code of conduct to be followed by the dealers during the period when the incident occurred, it is in the process to prepare an adequate Code of Conduct as provided in SEBI (Stock Brokers) Regulations, 1992.*
 - b. *Ashish Sarda played mischief without the knowledge of the Noticee and the Noticee never aided and abetted Ashish Sarda in transmitting the information to his relatives.*
 - c. *The Noticee also submitted, while quoting orders of SEBI and Hon'ble Securities and Appellate Tribunal ('SAT'), that minimum penalty has been imposed for the code of conduct violation upon the brokers. For this the Noticee quoted orders of:*

1. *SEBI in the matter of Saint-Gobain Sekurit India Ltd decided on July 31, 2019.*
 2. *Hon'ble SAT in the matter of Stock Brokers Pvt. Ltd. vs. SEBI decided on September 15, 2009.*
- d. *Further it was stated that the violation is only technical and venial in nature and also unintentional.*
 - e. *During the course of hearing, the Noticee was advised to provide the Code of Conduct adopted by the Noticee accordingly, the same was submitted.*
 - f. *In the post hearing reply, it was also submitted by the Noticee that the alleged violation of not exercising due skill, care and diligence in the conduct of business by stock brokers, appears to be very vague and no specific violation of following any specific provisions of the code of conduct has been alleged. There is neither any clarity on the Code of Conduct nor in the SCN regarding the specific provision to be followed by the Noticee as Stock Broker to adhere with in order to avoid future violations of similar nature.*
9. In view of the above, I note that both SCN and HN were duly served upon the Noticee and also sufficient opportunity was provided to the Noticee to respond to the charges. Thereafter, an opportunity of personal hearing was given to the Noticee, which was duly availed. Hence, the principles of natural justice were complied with respect to the Noticee and I shall now proceed to deal with the key issue involved in the instant matter.

CONSIDERATION OF ISSUES AND FINDINGS:

10. Considering the findings of Investigation, the allegations made out in the SCN and the submissions made by the Noticee, I find that following issues require consideration in the present case:

- ***Whether the acts of the Noticee, as imputed in the SCN, have resulted in the violation of the provisions of Clause A(2) of Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992?***

11. Before proceeding further in the matter, it is pertinent to refer to the relevant provisions of the SEBI (Stock Brokers) Regulations, 1992 and SEBI Act, alleged to have been violated by the Noticee, as per the SCN. The relevant provisions are reproduced herein below:

SEBI (Stock Brokers) Regulations, 1992

Conditions of registration.

"9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-

(a)

.....

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II;

SCHEDULE II

CODE OF CONDUCT FOR STOCK BROKERS

A. General.

(1)

(2) Exercise of due skill and care : A stock-broker shall act with due skill, care and diligence in the conduct of all his business."

SEBI Act, 1992

15HB. Penalty for contravention where no separate penalty has been provided. *15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees."*

12. I will now proceed with my findings of the alleged violations against the Noticee in the SCN.

13. The Noticee in the instant matter is a SEBI registered Stock Broker. As a registered intermediary, the Noticee is required to comply with, inter alia, the SEBI (Stock Brokers) Regulations, 1992 at all the times while conducting its business. More particularly, considering the role played by a stock broker in the securities market,

the Noticee has to adhere to high degree of due diligence and care. In furtherance of this, SEBI has also issued various regulations and circulars, which helps in safeguarding the interest of investors in securities markets and also promotes its development by keeping the activities of stock brokers in check. Among the plethora of such measures is the Regulation 9 of SEBI (Stock Brokers) Regulations, 1992 which prescribes various conditions of registration for a stock broker and the stock broker has to comply with the same while they are registered with SEBI. The conditions mentioned therein are:

“Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-

(a) the stockbroker holds the membership of any stock exchange;

(b) he shall abide by the rules, regulations and bye-laws of the stock exchange which are applicable to him;

(c) where the stock broker proposes change in control, he shall obtain prior approval of the Board for continuing to act as such after the change;

(d) he shall pay fees charged by the Board in the manner provided in these regulations;

(e) he shall take adequate steps for redressal of grievances, of the investors within twenty-one calendar days of the date of receipt of the complaint and inform the Board as and when required by the Board;

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II; and

(g) he shall at all times maintain the minimum networth as specified in Schedule VI.”

14. For the purpose of present proceedings, reference is made to the Schedule II - Code of Conduct of SEBI (Stock Brokers) Regulations, 1992, which states that, “A stock broker shall act with due skill, care and diligence in the conduct of all his business.” It is therefore in the present matter the Noticee is alleged to have failed to act accordingly.

15. The Supreme Court in the matter of **Chander Kanta Bansal vs. Rajinder Singh Anand** [(2008) 5 SCC 117] explained *due diligence* in the following words:

“The words ‘due diligence’ have not been defined in the Code of Civil Procedure, 1908. According to Oxford Dictionary (Edn. 2006), the word “diligence” means careful and persistent application or effort. “Diligent” means careful and steady in application to one’s work and duties, showing care and effort.”

...

“due diligence in law, means doing everything reasonable not everything possible. Due diligence means reasonable diligence it means such diligence as a prudent man would exercise in conduct of his own affairs.”

16. The above brings out clearly that in exercise of due diligence, a reasonable person will take all measures or activities that are properly to be expected and ordinarily exercised by a reasonable and prudent man, under particular circumstances, not measured by any absolute standards, but depending on relative facts of the special case.

17. For the allegations against the Noticee, I note from SCN that the statement of the director of the Noticee, Mr. Ajay Gangwal, was recorded wherein he admitted to the following:

- a. That the Noticee had no fixed system of maintaining entry and exit log from the office.
- b. That the Noticee had allowed Ashish Sarda to punch orders using the login ID of another registered dealer when Ashish Sarda was not even Noticee’s registered dealer.
- c. That although Ashish Sarda was punching orders for all the three big clients on the instructions of Ajay Gangwal but the Noticee has not been able to produce any formal appointment letter in his name.
- d. That the Noticee does not have any written down policy/code of conduct to be followed by the dealers.

- e. The dealers were allowed to use phones since he used to give orders to them on phones.

18. Further, I also note that the Noticee in reply to the allegations admitted that it did not have any clear written down policy/code of conduct to be followed by the dealers. It was also stated that the Noticee was in the process of preparing an adequate code of conduct as provided by SEBI (Stock Brokers) Regulations, 1992 to be followed by stock brokers.

19. In respect of the above, in the post hearing written reply, the Noticee also submitted a copy of the Code of Conduct policy which was approved on May 31, 2024 and stated that currently the Noticee is conducting the business keeping in mind the same. Following are some of the measures taken by the Noticee as observed in the aforesaid internal code of conduct policy of the Noticee:

- a. Dealers/Employees shall not be allowed in office to use personal mobile phones, whatsapp, facebook any other social media, internet, personal mail. They have to deposit their personal mobile phones in the morning before entering the office.
- b. Employees may not pre-arrange any transaction between their personal accounts and an account of a client.
- c. Dealers/Employees shall not be allowed to use pen drive etc.

20. In this regard, it is to be noted that the aforesaid measures are vital in keeping the activities of the dealers/employees of the Noticee in check and will enable in detecting the future probable violations. However, the same was not done by the Noticee during the investigation and consequently put the entire system at risk.

21. With regard to the critical role played by a Stock Broker in the securities markets, I shall refer to the definition of 'stock broker' as per SEBI (Stock Brokers) Regulations, 1992. Regulation 2(gb) of the said regulations states:

“stock broker means a person having trading rights in any recognised stock exchange and includes a trading member.”

Accordingly, I note that a stockbroker is a member of a stock exchange having trading rights. An investor/trader can only buy/sell securities in the market through a stockbroker with whom they place the order who in turn places the same with the respective stock exchange through a dedicated trading terminal provided to the stockbrokers by the stock exchanges. Hence, a stockbroker acts a vital link between investor/trader and the securities markets wherein they obtain buy and sale orders from their clients and execute the same.

22. In the instant matter, I note that the Noticee in its reply has stated that 75.23% of its total turnover is coming from proprietary trades. In terms of value, it was submitted that in FY 2023-24 the total turnover from CM and F&O segment is Rs. 30,043.14 Crores. Hence, I note that in the FY 2023-24 the Noticee carried out proprietary trades worth Rs.22,601.45 crores. Considering the huge values involved in the dealings of the Noticee, it makes even more incumbent upon the Noticee to frame appropriate guidelines/code of conduct and observe due diligence so that the information regarding such high value proprietary trades is not misused and leaked out in public unchecked prior to its execution. Since, the Noticee failed to take necessary measures to ensure the security of such high value trades, one of its dealer was found to have communicating the details of the trades of the Noticee for illegal purpose and alert was generated for the same.

23. The Noticee by its own admission has not framed any code of conduct or any guidelines to be followed by the dealers while trading in the market. Consequently, it was observed that Ashish Sarda, despite not being a registered dealer of the Noticee, was punching the orders for the Noticee using the login ID of another registered dealer. Further, Noticee allowed Mr. Ashish Sarda to use mobile phone while placing the order, as Mr. Ajay Gangwal used to give orders to Mr. Ashish Sarda over mobile phone. The aforesaid actions of the Noticee is putting the entire

system at risk. In this regard, it was found that Mr, Ashish Sarda by passing on the information regarding the impending order details of the Big Clients to his relatives enabled them to front run the trades of Big Clients.

24. The capital market regulator, SEBI has a significant role to play in safeguarding the interest of investors and to ensure strict compliance of all the relevant SEBI rules and regulations more particularly targeting at safeguarding the interest of small investors. In order to protect the interests of the investors and the integrity of the markets, as a regulator, SEBI has to make the market place efficient and clean, wherein all the participants play their role diligently and professionally within the four corners of the system, without there being any scope for market abuse. Where certain irregularity is observed, it becomes imperative on the part of SEBI to intervene, to curb such mischief, and to take necessary action to maintain public confidence in the integrity of the securities market.

25. In ***N. Narayanan v. Adjudicating Officer, Securities and Exchange Board of India*** (2013) 12 SCC 152, Supreme Court expressed a 'word of caution' that SEBI- the regulator is to ensure stringent enforcement, and efficacy of cleanliness of the market place; otherwise SEBI will be failing in their duty to promote orderly and healthy growth of the securities market. SEBI has the duty and obligation to protect ordinary genuine investors and SEBI is empowered to do so under the SEBI Act, 1992 to make security market a secure and safe place to carry on the business in securities.

26. In view of the above findings, I observe that the Noticee being a stockbroker is one of the key intermediaries in the securities market and is liable to observe highest degree of caution/diligence while carrying out its business as a stock broker. However, in the present case, the Noticee through its casual approach, as observed above, has put the entire system at risk. By not employing the basic safeguards in the conduct of its business, the Noticee has failed to exercise due skill, care and diligence, which is desired as per the SEBI (Stock Brokers) Regulation, 1992. Hence, the Noticee has violated Clause A(2) of the Code of

Conduct for Stock Brokers - Schedule II read with Regulation 9 of Stock Brokers Regulations, 1992.

27. Before proceeding with the directions, I shall quote Regulation 26(xvi) of SEBI (Stock Brokers) Regulations, 1992, which says:

“26.Liability for monetary penalty.

A stock broker shall be liable for monetary penalty in respect of the following violations, namely—

....

(xvi) Failure to exercise due skill, care and diligence.”

DIRECTION:

28. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(4A), 11B (2) read with Section 19 of SEBI Act and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, do hereby issue the following directions:

- a. The Noticee is hereby imposed with penalty of **Rs.25,00,000/-** (Rupees Twenty Five Lakhs Only) under Section 15HB of the SEBI Act.
- b. The Noticee shall remit / pay the said amount of penalty, within a period of forty-five (45) days from the date of receipt of this order, 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 EDs/CGMs → PAY NOW. In case of any difficulties in online payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.
- c. The Noticee shall forward details of the online payment made in compliance with the directions contained in this Order to the Division Chief, IVD-ID-04, SEBI, SEBI Bhavan II, Plot no. C -7, “G” Block, Bandra Kurla Complex, Bandra(E), Mumbai-400 051” and also to e -mail id: tad@sebi.gov.in in the format as given in table:

Case Name	
Name of the Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Bank details in which payment is made	
Payment is made for: Penalty or Disgorgement	

29. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this Order is sent to the Noticee and also to the Securities and Exchange Board of India.

Date: November 28, 2024
Place: Mumbai

G RAMAR
QUASI-JUDICIAL AUTHORITY
SECURITIES AND EXCHANGE BOARD OF INDIA