BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/MC/RM/2022-23/17548]

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 AND UNDER SECTION 19-H (2) OF DEPOSITORIES ACT 1996 READ WITH RULE 5 OF DEPOSITORIES (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of –

CSE Capital Markets Pvt. Ltd. having addresses at 7 Lyons Range, Kolkata West Bengal – 700001

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 CSE Capital Markets Pvt. Ltd. (**Noticee)** for the alleged violations of clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of SEBI (Depositories and Participants) Regulations, 1996 (hereinafter referred to as **"D&P Regulations, 1996"**) read with Regulation 20AA *ibid* read with Regulation 98 of SEBI (Depositories and Participants) Regulations, 2018 (hereinafter referred to as **"D&P Regulations, 2018)** and clause 1.8(vii) & 1.8(viii) of SEBI Master Circular, CIR/MRD/DP/13/2013 dated April 15, 2013.

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 15HB of the SEBI Act, read with Section 19G of the Depositories 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/2021/15254 dated July 14, 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') and 4(1) of the Depositories (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 ('Depositories 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 15HB of the SEBI Act, read with Section 19 G of the Depositories 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. Address details of DLFL are as under:

Registered Office Address	55, F.I.E, Patparganj Industrial Area, New Delhi– 110092
Corporate Office Address	104, Mukund House, Azadpur, New Delhi-110033

6. An investigation was conducted into the trading activities in the scrip of DLFL from January 1, 2013 to December 31, 2014. Examination of off market data obtained from the Depositories revealed that promoter entities transferred substantial quantity of shares to several entities during the investigation period.

7. The off market transactions executed during the investigation period were carried out electronically in dematerialized form by transfer from the account of a

Beneficial Owner (Transferor or Source Client) to the account of another beneficial owner (Transferee or the Target Client) through Delivery Instruction Slips (DIS).

8. On scrutiny of the DIS of some of the Source clients, it was observed that consideration amount for the off market transfer of shares was not stated in the DIS. In certain other cases, the consideration amount was indicated to have been received in cash and in some other cases, though the consideration amount was mentioned but the mode and manner of the amount received were not stated. Copy of DIS slips were provided as **Annexure-2** with SCN**.** The Source clients and the Target clients did not substantiate their claim of consideration received / paid with any documentary evidences in response to the summons issued seeking the aforementioned information.

9. In this connection, the role of the Depository Participants (DP) in the off market transactions through DIS was examined to ascertain as to whether the DPs exercised their due diligence and complied with the Rules and Regulations before executing such off market transfers.

10. Code of Conduct is prescribed for a DP in Regulation 20AA under Schedule III, governing its day-to-day activities as a DP and requires that DPs act in a prompt, effective and efficient manner and maintain high standards of integrity in all its dealings.

11. Further, in terms of para 1.8(vii) of SEBI Master Circular bearing Ref. No. CIR/MRD/DP/13/2013 dated April 15, 2013, *"the DPs shall cross check with the BOs under exceptional circumstances before acting upon the DIS".* And para 1.8(viii) of the said Master Circular states that *"the authorized official of the DP verifying such transactions with the BO, shall record the details of the process, date, time, etc., of the verification on the Instruction Slip under his signature".*

12. It was observed that the Noticee executed off market transactions which are considered as transactions under exceptional circumstances whereby the DPs are required to enquire with the beneficial owners about the transactions before its execution and record the same. The table below gives summary of such transactions:

Name of DP	Cash			Gift			Loan/Return of loan shares			Bad Deliver/Delivery return			Consideration not mentioned		
	No. of source client	No. of transactions	Qty of shares	No. of source clients	No. of transactions	Qty of shares	No. of source clients	No. of transactions	Qty of shares	No. of source clients	No. of transactions	Qty of shares	No. of source clients	No. of transactions	Qty of shares
CSE Capital Markets Pvt. Ltd.	0	0	0	0	0	0	2	2	23,500	0	0	0	0	0	0

13. Details of the transactions executed were given as **Annexure-3** with SCN. On specific query to Noticee vide letters and summons pertaining to the extent of suo-moto due diligence exercised by them, the Noticee replied that it had exercised considerable due diligence while executing the transactions and had also obtained confirmation from the Source clients during verification of the DIS. However, the Noticee did not provide any documentary evidence of any record showing the name of the BO with whom verified, the manner of verification either phone or in person, date of such verification, the phone number to which calls made etc. substantiating their contention. The following Table gives details of summon issued and summary of the reply of the Noticee.

S No.	Name of the DP	Date of Letter/Summons issued	Date of Reply	Remarks
1	CSE Capital Markets Pvt. Ltd.	14.06.2019	27.06.2019	Confirmed exercise of due diligence but not substantiated with documentary evidence such as cross verification with the source client and recording of the same

14. In view of the above, Noticee was alleged to have violated clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of D&P Regulations, 1996 read with Regulation 20AA read with Regulation 98 of D&P Regulations, 2018; and clause 1.8(vii) & 1.8 (viii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013.

15. The relevant clauses of D&P Regulations, 1996 & 2018, SEBI Master Circulars dated December 31, 2010 and April 15, 2013 are reproduced as under:

D&P Regulations, 1996:-

THIRD SCHEDULE

CODE OF CONDUCT FOR PARTICIPANTS

***1**. A participant shall make all efforts to protect the interests of investors.*

***2**. A participant shall always endeavor to—*

(b) ensure that all professional dealings are effected in a prompt, effective and efficient manner;

***3.** A participant shall maintain high standards of integrity in all its dealings with its clients and other intermediaries, in the conduct of its business.*

***4**. A participant shall be prompt and diligent in opening of a beneficial owner account, dispatch of the dematerialization request form, rematerialisation request form and execution of debit instruction slip and in all the other activities undertaken by him on behalf of the beneficial owners.*

***11**. A participant shall maintain the required level of knowledge and competency and abide by the provisions of the Act, Rules, Regulations and circulars and directions issued by the Board. The participant shall also comply with the award of the Ombudsman passed under the Securities and Exchange Board of India (Ombudsman) Regulations, 2003.*

Participants to abide by code of conduct.

20AA. *The participant holding a certificate of initial or permanent registration shall, at all times, abide by the Code of Conduct as specified in Third Schedule.*

D&P Regulations, 2018:-

Repeal and savings.

98*.(1) On and from the commencement of these regulations, the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, shall stand repealed.*

(2)Notwithstanding such repeal, anything done or any action taken or purported to have been taken or contemplated under the repealed regulations before the commencement of these regulations shall be deemed to have been done or taken or commenced or contemplated under the corresponding provisions of these regulations.

(3)After the repeal of the regulations referred to in sub-regulation (1), any reference thereto in any regulation, guideline, circular or direction issued by the Board shall be deemed to be a reference to the relevant provisions of these regulations.

SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013:-

1.8 Safeguards to address the concerns of the investors on transfer of securities in dematerialized mode.

vii. The DPs shall cross check with the BOs under exceptional circumstances before acting upon the DIS.

viii. "….The authorized official of the DP verifying such transactions with the BO, shall record the details of the process, date, time, etc., of the verification on the instruction slip under his signature".

16. The aforesaid alleged violations, if established, make the Noticee liable for monetary penalty under Section 15HB of the SEBI Act, read with Section 19G of Depositories Act.

17. In response to the SCN, Noticee filed the reply to the SCN vide letter dated August 13, 2021. Opportunity of hearing was provided to the Noticee through video conferencing on June 20, 2022. Mr. Dhiraj Chakraborty, Chief General Manager, CSE, Authorised Representative (AR) of the Noticee attended the hearing and reiterated the submissions made in reply. Vide letter dated June 24, 2022 Noticee submitted post hearing submissions to the SCN.

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

19. Noticee submitted that as per SEBI circular, if a source client provide the reason of the off-market transaction in respect of Delta Leasing & Finance Ltd as 'Loan', in that event there is no need to mention consideration amount with regard to that specific off-market transaction. It is pertinent to mention that the client Shivsathi Mercantile Pvt Ltd (Client Id 10012281) and M/S Goodpoint Inpex Private Limited (Client Id 10012290) have mentioned the reason for the off-market transaction as "Loan" and as such there is no necessity to mention the consideration amount on the Delivery Instruction Slip ("in short DIS").

20. Noticee has done proper due diligence in respect Of the off-market transactions done by M/s. Shivsathi Mercantile Pvt. Ltd and M/s. Goodpoint Inpex Private Limited. Noticee state that it did not find any deficiency in course of verification of the documents submitted by the aforesaid two entities.

21. The Stages of due diligence made by Noticee are as under:-
    a) Authorized signatory of the Shivsathi Mercantile Pvt Ltd and M/s. Goodpoint Inpex Private Limited, have personally submitted the DIS slip, who is one of Noticee's active client, his signature was verified by Noticee and also Noticee checked with the SEBI's debarred list of the clients and find that the names of M/s. Shivsathi Mercantile Pvt Ltd and M/s. Goodpoint Inpex Private Limited does not appear therein.

b) At the time of submission of the DIS slip, the KYC status and details of the said two companies were verified thoroughly. Noticee checked the same in the KRA website. In these two cases, KYC was registered properly and no adverse remarks appeared in the KRA website. If the KYC was not in order in that event status will not display as "KYC Registered" rather a remarks will appear in the screen.

c) The reconfirmation of the reason of the off-market-transaction as mentioned in DIS Slip as Loan was further made by obtaining declaration from the clients relating to off-market transactions while doing due diligence and before acting on 'DIS'.

d) Noticee verified the genuineness of the concerned clients as appeared in the DIS Slip through phone calls registered with it. In ease of high value off-market transactions (Above Rs.5 Lac). Noticee adopts the practice of third level verifications i.e., apart from maker checker verification, thereafter a senior official of Noticee endorsed on the DIS slip by proper stamping.

22. Noticee properly checked the DIS Slip in respect of the above two clients and thereafter stamp affixed on the DIS slip, mentioning the receiving date, time of the DI Slip and put receiving signature on DI Slip.

23. Clause 1.8 (vii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013 states that "The DPs shall cross cheek with the BOs under exceptional circumstances before acting upon the DIS". However, the term "exceptional circumstances" has not been defined, and as no provision in the aforesaid circular, giving any indication or direction as to which transaction is to be classified as exceptional. The differentiation of the off market transactions into categories such as "Gift", "Loan/Return of Loan shares", "Bad Return and "Consideration not mentioned category", and treating these categories as exceptional circumstances, is not provided in this circular which was applicable at the time of the aforesaid off market transaction. Moreover these categories

were specified much later of the off market transaction in respect of Delta Leasing & Finance Ltd in July 2019.

24. In this regard Noticee will also like to submit that the Source client M/s. Shivsathi Mercantile Pvt- Ltd (Client Id 10012281) and M/s. Goodpoint Inpex Private Limited (Client Id 10012290), was continuously transacting with them at regular interval at the time of the off market transaction occurred in respect of Delta Leasing & Finance Ltd and both the demat account in respect of source clients were operative at the time of the alleged off market transaction. The last credit transactions in respect of M/s. Shivsathi Mercantile Pvt. Ltd (Client Id 10012281) and M/s Goodpoint Inpex Private Limited (Client Id 10012290) was made on 23rd June, 2014 and 6th August, 2014 respectively before the alleged off market transaction, hence the source clients in respect of the alleged transaction was in active status in the record of DP at the time of the aforementioned off market transaction. The M/S Shivsathi Mercantile Pvt. Ltd (Client Id 10012281) and M/s. Goodpoint Inpex Private Limited (Client Id 10012290) had 17 and 10 ISIN balances respectively. M/s. Shivsathi Mercantile Pvt. Ltd (Client Id 10012281) and M/s. Goodpoint Inpex Private Limited (Client Id 10012290) did not transfer all ISINs at the time of the alleged off market transactions and there was balance of multiple stocks even after above transfers. It is also pertinent to mention here that the targeted Client Sunil Singh (bearing client id 10113199, DP ID IN301766) is not registered with Noticee. In 2014 in the absence of specific definition of exceptional circumstances, Noticee with extreme caution observed due diligence in respect of the alleged transactions.

25. In respect of the alleged transaction, Noticee exercised all the due diligence while executing the transaction the authorized signatory of both M/s. Shivsathi Mercantile Pvt. Ltd (Client Id 10012281 and M/S Goodpoint Inpex Private Limited (Client Id 10012290) has submitted the DIS, the reason of the off market transaction was "Loan". The DP official has received the DIS instruction, verified the signature, KYC status checked the slip as it was properly filed or not, details of the source client, reason for off-market transaction, status for high value or

dormant and made the entry and put signature & stamped with the date & time on the DIS. Further the 3rd level of verification also been done in respect of M/S Shivsathi Mercantile Pvt. Ltd (Client Id 10012281) and M/s. Goodpoint Inpex private Limited (Client Id 10012290) by checking the signature, details of the source client by checking details such as reason for off-market transaction, frequency of off-market and after satisfactory communication and verification received from the client, Noticee's official put his signature on the DIS Slip and process the same for final execution. Copies of the letter received from the clients i.e. M/s. Shivsathi Mercantile Pvt. Ltd (Client Id 10012281) and M/s. Goodpoint Inpex Private Limited (Client Id 10012290) are placed on records.

26. Noticee also submitted that STR and CTR were not filed to FIU-INDIA since there was no cash transactions mentioned in DIS for the off-market transactions and the same was confirmed by the clients when Noticee contacted through mobile phone before execution of DIS for the aforementioned transactions.

27. Noticee was satisfied on the genuineness of the transactions at the time of DIS execution of the aforesaid active clients based on the documents available with it, so that post-execution of DIS, alerts which were shared by the depository did not contain any reasons or details basis which they were categories as alert, were not considered as suspicious in nature.

28. In light of the above, Noticee submitted that it has done proper due diligences as required to be complied with as per clause l, 2(b), 3, 4, I l of part A of Schedule Ill of Code Of Conduct of D&P Regulations, 1996 read with Regulation 20AA read with Regulation 98 of D&P Regulations, 2018, and clause 1.8(vii) & 1.8 (viii) of SEBI Mister Circular CIR/MRD/DP/13/2013 dated April 15, 2013.

29. 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

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

Issue No. I Whether the Noticee violated clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of SEBI (Depositories and Participants) Regulations, 1996 (hereinafter referred to as **"D&P Regulations, 1996"**) read with Regulation 20AA ibid read with Regulation 98 of SEBI (Depositories and Participants) Regulations, 2018 (hereinafter referred to as **"D&P Regulations, 2018)** and clause 1.8(vii) & 1.8(viii) of SEBI Master Circular, CIR/MRD/DP/13/2013 dated April 15, 2013?

Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act, read with Section 19G of the Depositories 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; and Section 19I of the Depositories Act read with Rule 5(2) of the Depositories Adjudication Rules?

Issue No. I Whether the Noticee violated clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of SEBI (Depositories and Participants) Regulations, 1996 (hereinafter referred to as "D&P Regulations, 1996") read with Regulation 20AA ibid read with Regulation 98 of SEBI (Depositories and Participants) Regulations, 2018 (hereinafter referred to as "D&P Regulations, 2018) and clause 1.8(vii) & 1.8(viii) of SEBI Master Circular, CIR/MRD/DP/13/2013 dated April 15, 2013?

31. The allegations against the Noticee are based upon certain off market transactions in respect of which Noticee was required to carry out certain due diligence. The transactions are alleged to be under exceptional circumstances

whereby DPs were required to cross check with the Beneficial Owners (BOs) about the transactions before its execution.

32. The Noticee has contended that the transfers were executed only pursuant to verification of details on the DIS Slips with the BOs (M/s. Shivsathi Mercantile Pvt. Ltd-Client Id 10012281 and M/s. Goodpoint Impex Private Limited-Client Id 10012290), wherein the clients confirmed that the reason for the transfer of shares was "loan" as stated in the DIS Slips. In support of the due diligence exercised by Noticee, it has submitted (i) letters from the BOs confirming that the impugned transfers were for transfer of shares as Loan to the respective Target clients, and (ii) the DIS Slips for the impugned transactions.

33. In this regard, I note that clause 1.8 (vii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013 states that "The DPs shall cross check with the BOs under exceptional circumstances before acting upon the DIS" However, the term "exceptional circumstances" has not been defined, and there is no provision in the aforesaid circular, giving any indication or direction as to which transaction is to be classified as exceptional. The differentiation of the off market transactions into categories such as "Cash", "Gift", "Loan/ Return of Loan shares", "Bad Delivery/Delivery Return" and "Consideration not mentioned category", and treating these categories as exceptional circumstances, is not provided in this circular which was applicable during the relevant period. These categories were specified much later in July 2019.

34. I also take note of the Noticee's contention that it did verify the details of the Beneficial Owners and the transactions. I have perused the DIS slips and the letters from the BOs of the impugned transactions, confirming that impugned transfers were for the loan purposes. I note that in DIS slips, three fields for 'entered by', 'checked by' and 'verified by' are signed by three different persons, indicating that the DIS slip details were entered in Noticee's system by one official, checked by another and the details of the DIS Slips were verified by third official of the Noticee with the BOs, indicating the time and date of such

verification. However, there is no details of phone numbers on which the BOs were contacted by the verifying official of the Noticee.

35. I note that this requirement of cross-checking with the BO was put in place to safeguard the concerns of investors, and that material on record does not bring out any concerns raised by respective BOs.

36. I have perused the DIS slips based on which the allegations referring to exceptional circumstances as well as suspicious transactions are made. I note that in both the DIS slips ‘Loan’ is mentioned as reason of transfer. Further, there is nothing in the DIS slips indicating that the off market transactions were cash transactions. Hence, I note that reason for not mentioning consideration is recorded.

37. In view of the above, I find that, there is insufficient material on record to conclude that the impugned off market transactions were cash transactions or were under exceptional circumstances. Hence violation of clause 1.8 (vii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013 by Noticee is not established.

38. I also note that as per clause 1.8 (viii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013, verification with BO is applicable in cases wherein either all the ISIN balances in an account are transferred at a time and there was no debit transaction in the account for past 6 months, OR if the concerned BO Account has 5 or more ISINs, and all such ISINs are transferred at one time. Noticee has submitted that source clients in respect of the alleged transaction was in active status in the record of Noticee at the time of the impugned off market transactions, the M/s. Shivsathi Mercantile Pvt. Ltd (Client Id 10012281) and M/s. Goodpoint Impex Private Limited (Client Id 10012290) had 17 and 10 ISIN balances respectively; and both the BOs did not transfer all ISINs at the time of the alleged off market transactions and there was balance of multiple stocks even after above transfers.

39. I find that there is no material on record to substantiate that the criteria for verification as stipulated in aforesaid clause was met for the accounts involved in the off market transactions executed by the Noticee. I also note that even in the absence of specific definition of exceptional circumstances, the Noticee observed reasonable due diligence in respect of the impugned transactions.

40. In view of the above, in the absence of any records to contradict the Noticee claims, I find that Noticee has not violated clause 1.8 (viii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013.

41. In view of the above, I find that material on record does not establish that Noticee failed to exercise reasonable due diligence and violated clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of SEBI (Depositories and Participants) Regulations, 1996 (hereinafter referred to as **"D&P Regulations, 1996"**) read with Regulation 20AA ibid read with Regulation 98 of SEBI (Depositories and Participants) Regulations, 2018 (hereinafter referred to as **"D&P Regulations, 2018).**

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

ORDER

43. In view of the findings noted in the preceding paragraphs, the adjudication proceedings initiated against the Noticee vide SCN dated July 14, 2021 are disposed of.

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

DATE: June 30, 2022 **MANINDER CHEEMA**
PLACE: MUMBAI **ADJUDICATING OFFICER**