BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER No. Order/SM/RG/2022-23/24205

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

In respect of:

Tridhaatu Renovators Pvt. Ltd.

(PAN: AAGCT6918H)

B-wing, 5th Floor, Srikant Chambers

Sion Trombay Road

Mumbai, Maharashtra - 400071

In the matter of Non-submission of bank details by issuers to Debenture Trustees

---

A. FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") issued a Circular SEBI/HO/DDHS/CIR/P/103/2020 dated June 23, 2020 on the operational framework for transactions in defaulted debt securities post maturity date. As per para 3.2 of Annexure A of aforementioned circular, at the time of executing Debenture Trust Deed, issuers are mandated to provide their bank details (from - which it proposes to pay the redemption amount) and pre-authorize Debenture Trustee(s) to seek debt redemption payment related information from the Issuer's bank. It was mentioned in the SCN that for existing debt securities, the issuer should provide pre-authorization to Debenture Trustee(s), within 60 days from the date of this Circular. Further para 4 of the circular casts responsibility on the issuers/ listed entities to comply with the obligations/ provisions laid down in this circular, which came into effect from July 01, 2020. Subsequently, SEBI observed that **Tridhaatu Renovators Pvt. Ltd. (**hereinafter referred to as the "**Noticee")** has failed to comply with the provisions of the aforementioned Circular

even after repeated reminders from the Bombay Stock Exchange Ltd. (hereinafter referred to as “**BSE**”) and the Advisory Letter issued by SEBI on June 03, 2022. The SEBI Circular SEBI/HO/DDHS/CIR/P/103/2020 dated June 23, 2020 was superseded by SEBI Circular SEBI/HO/DDHS/P/CIR/2021/613 dated August 10, 2021.

B. APPOINTMENT OF ADJUDICATING OFFICER

2. In view of the above, SEBI had appointed the undersigned as the Adjudicating Officer under Section 15I of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) and Rule 3 of SEBI (Procedure for Holding Enquiry and Imposing Penalties, 1995 (hereinafter referred as “SEBI Adjudication Rules”), vide communique dated December 13, 2022 to enquire into and adjudge under Section 15HB of SEBI Act by the Noticee.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

3. The show cause notice (hereinafter referred to as “**SCN”)** bearing no. SEBI/EAD-1/SM/RG/63415/8/2022, dated December 22, 2022, was served upon the Noticee under Rule 4(1) of the SEBI Adjudication Rules to show cause as to why an inquiry should not be held and penalty not be imposed against the Noticee under Section 15HB of the SEBI Act for the aforesaid alleged violation. The said SCN was served upon the Noticee through Speed Post Acknowledgement Due and e-mail.

Date	**Remark**
December 22, 2022	SCN sent through e-mail and duly delivered.
December 27, 2022	Physical delivery of SCN.
January 10, 2023	Hearing Notice sent through e-mail and hearing scheduled for January 20, 2023.
January 16, 2023	Physical delivery of the Hearing Notice.
January 18, 2023	The Noticee appointed its Authorised Representative (hereinafter referred to as “**AR**”) to present before SEBI and sought extension to the date of hearing.

January 19, 2023	SEBI, vide an email, acceded to the request of the Noticee and the hearing was rescheduled to February 03, 2023.
February 03, 2023	The AR of the Noticee submitted the reply to the SCN. The AR of the Noticee appeared for hearing.

4. **The allegations levelled against the Noticee in the SCN:**

As per Clause 3.2 of SEBI Circular SEBI/HO/DDHS/CIR/P/103/2020 dated June 23, 2020 read with Clause 4.1 of Chapter XI of SEBI Circular SEBI/HO/DDHS/P/CIR/2021/613 dated August 10, 2021, issuers are mandated to provide their bank details (from - which it proposes to pay the redemption amount) and pre-authorize Debenture Trustee(s) to seek debt redemption payment related information from the Issuer's bank. However, in the instant case it was observed that the Noticee had not complied with the aforesaid Clauses of aforementioned Circulars. In this regards, information was sought from the Debenture Trustee of the issuer ("Vistra ITCL Ltd." in this case), wherein the Debenture Trustee, vide its email dated 08 August, 2022 confirmed that the issuer had provided the bank account details but had failed to pre authorize Debenture trustees to seek debt redemption payment related information from the Issuer's bank. Hence, a delay of 820 days (22 August 2020 to 20 November 2022) has been observed. Also, BSE vide its emails dated 20.01.2021, 23.09.2021 and 21.01.2022 had sought the information on compliance of the aforesaid provisions by the Noticee, but did not elicit any response from the Noticee. Later, SEBI also issued the Advisory Letter on June 03, 2022 to the Noticee asking it to submit the required information to the Debenture Trustee within 30 days of the receipt of the aforesaid Advisory Letter, but the Noticee failed to act promptly even after receiving the aforesaid Advisory Letter from SEBI. Hence, the Noticee is found to be in contravention of Clause 3.2 of SEBI Circular SEBI/HO/DDHS/CIR/P/103/2020 dated June 23, 2020 read with Clause 4.1 of Chapter XI of SEBI Circular SEBI/HO/DDHS/P/CIR/2021/613 dated August 10, 2021 read with Regulation 8 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as "**LODR Regulations**").

5. The Noticee in response to the SCN has submitted the following:

i. *The Debenture Trustee had the required pre-authorisation to seek the payment related information from the bank as per relevant clauses of the Debenture Trust Deed dated 4 February, 2019 between Tridhaatu Renovators Pvt. Ltd., Vistra ITCL Ltd. and ASK Real Estate Special Situations Fund-1.*

ii. *The Noticee was not required to further authorise the Debenture Trustee as per aforesaid circular, as the Debenture Trustee had the required authorisation already.*

<u>Hearing</u>

6. At the time of hearing, the AR of the Noticee reiterated its submissions made vide its email dated February 03, 2023. Further, the Noticee was instructed to provide confirmation from the Debenture Trustee that it has received authorization letter from the Noticee to seek debt redemption payment from the issuer’s bank, by February 10, 2023.

7. The Noticee vide e-mail dated February 09, 2023 informed SEBI that it had issued letters to the Debenture Trustee and HDFC Bank on February 07, 2023.

D. CONSIDERATION OF ISSUES AND EVIDENCE

8. I have considered the allegations levelled in the SCN, the relevant material brought on record, and replies/ submissions of the Noticee made during the instant proceedings before the undersigned. In the light of the aforesaid factual position, I proceed to adjudicate the matter, and find that essentially, the following issues arise for determination in the instant matter:

    i. *Issue 1: Whether the Noticee has failed to comply with Clause 3.2 of Annexure A of SEBI Circular no. SEBI/HO/DDHS/CIR/P/103/2020 dated June 23, 2020?*

    ii. *Issue 2: If answer to the aforesaid question is in affirmative, whether the violations would attract monetary penalty on the Noticee under the provisions of Section 15HB of the SEBI Act?*

iii. *Issue 3: If answer to the aforesaid question is in affirmative, what should be the quantum of the monetary penalty?*

9. Before proceeding further, I would like to refer to the relevant regulations:

Clause 3.2 of SEBI Circular SEBI/HO/DDHS/CIR/P/103/2020 dated June 23, 2020

"*At the time of executing Debenture Trust Deed, Issuer shall provide its bank details (from which it proposes to pay the redemption amount) and preauthorise Debenture Trustee(s) to seek debt redemption payment related information from the Issuer's bank. Issuer shall also inform the Debenture Trustee(s) of any change in bank details within 1 working day of such change. For existing debt securities, Issuer shall provide such pre-authorisation to Debenture Trustee(s), within 60 days from the date of this circular*."

Clause 4.1 of Chapter XI of SEBI Circular SEBI/HO/DDHS/P/CIR/2021/613 dated August 10, 2021

"*At the time of executing debenture trust deed, issuer shall provide its bank details (from which it proposes to pay the redemption amount) and pre-authorise debenture trustee(s) to seek debt redemption payment related information from the issuer's bank. Issuer shall also inform the debenture trustee(s) of any change in bank details within one working day of such change.*"

LODR Regulations

8. Co-operation with intermediaries registered with the Board

"The listed entity, wherever applicable, shall co-operate with and submit correct and adequate information to the intermediaries registered with the Board such as credit rating agencies, registrar to an issue and share transfer agents, debenture trustees etc, within timelines and procedures specified under the Act, regulations and circulars issued there under:

Provided that requirements of this regulation shall not be applicable to the units issued by mutual funds listed on a recognised stock exchange(s) for which the *provisions of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 shall be applicable."*

10. The first issue to be addressed is as follows:

Whether the noticee has failed to comply with Clause 3.2 of Annexure A of SEBI Circular no. SEBI/HO/DDHS/CIR/P/103/2020 dated June 23, 2020?

10.1 The Noticee mentioned in its reply to the SCN that the Debenture Trustee has the required authorisation to seek debt redemption payment related information from the Issuer's bank as per the relevant clauses of the Debenture Trust Deed. In this regard, information was sought from the Debenture Trustee vide SEBI's email dated 17 February, 2023. The Debenture Trustee in response to SEBI's email, shared HDFC Bank's email dated January 5, 2023 to the Noticee, where the bank had informed the Noticee about its inability to authorise the Debenture Trustee to seek payment related information in response to the Noticee's latter dated 26 December 2022. Therefore, I find no merit in the submission of the Noticee.

10.2 Further, it is pertinent to mention here that Noticee had written to HDFC Bank only on 26 December, 20222 i.e. only after receiving the SCN from SEBI and the Noticee did not respond to the repeated reminder emails from BSE and the advisory letter from SEBI.

10.3 I am of the view that the Noticee took no steps to ensure compliance of SEBI Circular within stipulated time, in true spirit. Further, in this regard, I would like to refer to the judgement of Hon'ble SAT in the matter of Premchand Shah and others vs. SEBI (Appeal No.192 of 2010 order dated February 21, 2011), where Hon'ble SAT observed that "*When law prescribes a manner in which a thing is to be done, it must be done only in that manner*."

11. The second issue to be addressed is as follows:

If answer to the aforesaid question in first issue is in affirmative, whether the violations would attract monetary penalty on the Noticee under the provisions of Section 15HB of the SEBI Act?

From the discussion in the first issue, it is noted that the violations were established as described above and accordingly, the Noticee is liable for imposition of penalty in terms of Section 15HB of SEBI Act.

Section 15HB of the SEBI Act is reproduced as under:

SEBI ACT

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. The third issue to be addressed is as follows:

If answer to the aforesaid question in second issue is in affirmative, what should be the quantum of the monetary penalty?

In this regard, while determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the SEBI which is reproduced as under:

SEBI Act

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

While adjudging quantum of penalty under section 15-I, 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."

13. In view of the aforesaid facts and circumstances of the case and the charges being established, the quantum of penalty would depend on the factors referred to under Section 15J of the SEBI Act stated as above. No quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. Also, there was no investor complaint against the Noticee. Further, I note that no action has been taken by SEBI against the Noticee, in the past.

E. ORDER

14. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by the Noticee and also the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15HB, I hereby impose monetary penalty of **Rs. 1,00,000/-** on the Noticee.

    I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

15. 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

16. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief, EFD1 – DRA - 4, Securities and Exchange Board of India, SEBI Bhavan, Plot no.C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai-400051". 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

17. 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.

18. In terms of the provisions of Rule 6 of the SEBI Adjudication Rules, a copy of this order is being sent to Noticee viz. Tridhaatu Renovators Pvt. Ltd. and also to SEBI.

Date: February 28, 2023
Place: Mumbai

SAHIL MALIK
ADJUDICATING OFFICER