BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. PJ/VP/26/2017

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRYANDIMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995

In respect of:

M/s. Cifco Finance Limited

(PAN – Not Available)

In the Matter of M/s. Cifco Finance Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as **"SEBI")** issued Circulars viz., Circular No. CIR/OIAE/2/2011 dated June 3, 2011, Sebi Circular No. CIR/OIAE/1/2012 dated August 13, 2012 and Sebi Circular No. CIR/OIAE/1/2013 dated April 17, 2013 (hereinafter referred to as **"SEBI Circulars")** dealing with the processing of investor complaints against listed companies through SEBI Complaints Redress System (hereinafter referred to as "**SCORES")**. In terms of said SEBI Circulars, all listed companies were inter alia required to view the complaints pending against them, redress them and submit Action Taken Reports (hereinafter referred to as **"ATRs")** electronically in SCORES. It was observed that M/s. Cifco Finance Limited (hereinafter referred to as **"Noticee")** had failed to redress the investor grievance within the prescribed time that is within 30 days.

2. In term of the SEBI Circulars, the Noticee was supposed to take appropriate necessary steps within 7 days of receipt of complaint through SCORES, and resolve the complaint within 30 days of receipt of complaint and file the ATR in SCORES within 30 days of receipt of the said complaint/ investor grievance, failing which appropriate legal action including initiation of adjudication proceedings against the Noticee and its directors may be initiated by SEBI.

3. As observed from the contents of the SEBI Circulars, SCORES introduced electronic dealing of the complaints of the investors, by the respective companies. Thus, once a complaint against a company was uploaded in the SCORES marked against the company, it amounted to calling upon by SEBI to such company to redress the investor grievance. Accordingly, it was incumbent upon such company to redress the investor complaint. It was observed that one investor complaint was pending against the Noticee and it was alleged that the Noticee failed to redress pending investor grievance in spite of being called upon by SEBI to do so thereby violated the provisions of Section 15 A(a) and Section 15C of the SEBI Act, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as Adjudicating Officer vide order dated 03.03.2016 under section 19 under section 15 I of SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Rules'**) to inquire into and adjudge under Section 15 A(a) and 15C of the SEBI Act, the alleged violations of the provisions of Circular No. CIR/OIAE/2/2011

dated June 3, 2011, Circular No. CIR/OIAE/1/2012 dated August 13, 2012 and Circular No. CIR/OIAE/1/2013 dated April 17, 2013 issued by SEBI.

SHOW CAUSE NOTICE, HEARING & REPLY

5. Show Cause Notice No. EAD/PJ/VRP/12535/2016 **(SCN)** in terms of the provisions of Rule 4(1) of the Rules was issued to the Noticee on 29.04.2016, calling upon the Noticee to show cause why an inquiry should not be held against it under Rule 4(3) of the Rules read with Section 15 I of the SEBI Act, 1992 for the alleged violations. The said SCN was sent through email in term of Rule 7(b) of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 2015 Rules. (hereinafter referred to as '**Rules'**). The said SCN was duly delivered at the Email ID- nandi@cifco.in. However, the Noticee failed to submit it reply to the SCN.

6. In the interest of natural justice and in terms of rule 4(3) of the Rules, the Noticee was granted an opportunity of personal hearing on 08.11.2016, vide notice dated 18.10.2016 at Head Office, Mumbai. The said hearing notice was sent through email in term of Rule 7(b) of the Rules and the same was duly delivered at the Email ID- nandi@cifco.in. Another opportunity of personal hearing was granted on 21.11.2016 vide hearing notice dated 09.11.2016, the said hearing notice was sent through Email and Hand Delivery/ Affixture. The hearing notice sent through Email was duly delivered. The notice sent through hand delivery was also duly delivered. However, the Noticee has failed to reply to the SCN till date and further failed to appear before the undersigned for the opportunities of hearing granted on 08.11.2016 and 21.11.2016. In the said SCN and in the hearing

notices it was specifically stated that, if the Noticee fails to submit their reply to the SCN or fails to attend the hearing proceeding on the stipulated date and time, it will be presumed that Noticee has no submissions to offer in its defense and the matter would be further proceeded with on the basis of the material available on record. I note that the Noticee failed to submit the reply to the SCN and also failed to appear for hearings to substantiate their case towards the allegations stated in the SCN. For the reasons mentioned above, I observe that the Noticee was provided with enough opportunities to submit their reply/ to be heard and hence, I am constrained to proceed ex-parte with the matter on the basis of the material available on record.

ISSUES FOR CONSIDERATION

7. I have carefully perused the documents available on record. It is observed that the allegation against the Noticee is that they have failed to resolve the investor complaint with in the specified time and failed to file the ATR in respect of the said investor complaint in the scores.

8. The issues that arise for consideration in the present case are:
   8.1. *Whether the Noticee has violated the provisions of the SEBI Circular viz., Sebi Circular No. CIR/OIAE/2/2011 dated June 3, 2011 read with Sebi Circular No. CIR/OIAE/1/2012 dated August 13, 2012 read with Sebi Circular No. CIR/OIAE/1/2013 dated April 17, 2013 by failing to resolve the investor complaint with in the specified time and failed to file the ATR in respect of the said investor complaint in the scores.*
   8.2. *Does the violation, if any, attract monetary penalty under Section 15 A(a) and 15C of SEBI Act?*

8.3. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

9. Before moving forward, it is pertinent to refer to the provisions of Circular, which reads as under:

CIRCULAR

CIR/OIAE/2/2011 June 3, 2011

All Companies whose securities are listed on Stock Exchanges

(through Stock Exchanges)

All recognized Stock Exchanges

Dear Sir/Madam,

Sub: Processing of investor complaints against listed companies in SEBI Complaints Redress System (SCORES)

1. SEBI has commenced processing of investor complaints in a centralized web based complaints redress system 'SCORES'. The salient features of this system are:

- *Centralised database of all complaints,*
- *Online movement of complaints to the concerned listed companies,*
- *Online upload of Action Taken Reports (ATRs) by the concerned companies, and*
- *Online viewing by investors of actions taken on the complaint and its current status.*

2. All complaints pertaining to companies will be electronically sent through SCORES at http://scores.gov.in/Admin. The companies are required to view the complaints pending against them and submit ATRs alongwith supporting documents electronically in SCORES. Failure on the part of the company to update the ATR in SCORES will be treated as non redressal of investor complaints by the company. Submission of physical ATR will not be accepted for complaints lodged in SCORES. For complaints forwarded to companies on or before 20/05/2011, physical ATRs should be submitted.

3. The user id and password for logging into SCORES at http://scores.gov.in/Admin are being communicated separately to companies against whom complaints are lodged in SCORES.

4. In case the complaints are processed by the Registrar to Issue and Share Transfer Agent (RTI/STA) on behalf of the company, the company should indicate in the enclosed Annexure whether they require the facility to forward complaints to the RTI/STA, so that the ATRs can be uploaded by them. In such cases, the name of the RTI/STA, the name of the Compliance Officer and email id should be furnished, so that the user id and password can be provided accordingly. Further, failure on the part of the RTI/STA to update the ATR in SCORES will be treated as non redressal of investor complaints by the company.

5. This Circular supercedes the Circular No.OIAE/Cir-1/2009 dated November 25, 2009 so far as it relates to Annexure-C to the said Circular wherein the companies had to submit physical ATRs on the complaints forwarded by SEBI to them.

6. All companies whose securities are listed on Stock Exchanges are advised to comply with the aforesaid Circular.

7. The Stock Exchanges are accordingly advised to bring the provisions of this Circular to the notice of all the companies whose securities are listed in the exchange and also to disseminate the same on the website.

8. This Circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

9. This Circular is available on SEBI website at www.sebi.gov.in.

Yours faithfully,

G.P.Garg

Chief General Manager

Office of Investor Assistance and Education

Tel No.022-26449400

Email id - gpg@sebi.gov.in

CIRCULAR

CIR/OIAE/1/2012 August 13, 2012

All Companies whose securities are listed on Stock Exchanges

(through Stock Exchanges)

All recognized Stock Exchanges

Dear Sir/Madam,

Subject : Redressal of investor grievances against listed companies in SEBI

Complaints Redress System (SCORES).

SEBI had issued Circular No.CIR/OIAE/2/2011 dated June 3, 2011 regarding commencement of SEBI Complaints Redress System ***(SCORES)*** *and advising all companies whose securities are listed on various stock exchanges to comply with the provisions of the said circular.*

1. In this regard, all companies whose securities are listed on stock exchanges, are hereby advised to obtain SCORES authentication by September 14, 2012 in terms of the aforesaid circular.

2. All companies against whom complaints are pending on SCORES, shall take appropriate necessary steps within 7 days of receipt of complaint by the concerned company through SCORES, so as to resolve the complaint within 30 days of receipt of complaint and also keep the complainant duly informed of the action taken thereon.

3. In case of failure to comply with the above, SEBI would be constrained to initiate enforcement actions as per the law as may be deemed appropriate.

4. The Stock Exchanges are accordingly advised to bring the provisions of this Circular to the notice of all the companies whose securities are listed in the exchange and also to disseminate the same on the website.

5. This Circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

6. This Circular is available on SEBI website at www.sebi.gov.in.

Yours faithfully,

Gyan Bhushan

Chief General Manager

022-26449710

gyanbhushan@sebi.gov.in

CIRCULAR

CIR/OIAE/1/2013 April 17, 2013

All Companies whose securities are listed on Stock Exchanges

(through Stock Exchanges)

All recognized Stock Exchanges

Dear Sir/Madam,

Subject : *Redress of investor grievances through SEBI Complaints Redress System (SCORES)*

1. Pursuant to the provisions of Section 15C SEBI Act, 1992, all listed companies are hereby called upon to redress the grievances of investors and inform them within 30 days of the receipt of the complaints. The details of investor grievances relating to the respective companies are available at the webpage http://scores.gov.in/admin accessed through the respective SCORES user ID and password of each company. The companies which are yet to obtain

SCORES user ID and password are required to send their details as per the Form-A to SEBI (hard copy) and by email to scores@sebi.gov.in in order to obtain the SCORES user ID and password. Failure to obtain the SCORES user ID and password within 30 days of issue of this circular it would not only be deemed as non redressal of investor grievances but also indicate willful avoidance of the same.

2. Failure by companies to file Action Taken Reports under SCORES within 30 days of date of receipt of the grievance may also attract the provisions of Sec 15A(a) of the SEBI Act, 1992.

3. The Stock Exchanges are accordingly advised to bring the provisions of this Circular to the notice of all the companies whose securities are listed in the exchanges and to disseminate the same through their websites. Further the Stock Exchange should also arrange for adequate publicity of this circular through newspaper advertisements or other means, on urgent basis.

4. This Circular is issued in exercise of powers conferred under Section 11(1) of the SEBI Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

5. This Circular is available on SEBI website at www.sebi.gov.in

10. The issue for consideration is whether the Noticee has failed to resolve 1(one) the investor complaint with in the specified time and failed to file the ATR in respect of the said investor complaint in the scores. I find from the website www.scores.gov.in that the Noticee is listed on BSE, DSE and PSE. The Noticee was required to comply with the said SEBI Circulars within the stipulated time period as prescribed by SEBI as it is a listed company. However, the Noticee failed to resolve 1(one) the investor complaint with

in the specified time and failed to file the ATR in respect of the said investor complaint in the scores.

11. The Hon'ble SAT has recently in the matter of *Sanjay Kumar Tayal & Others v SEBI (Appeal No. 68 of 2013 decided on February 11, 2014), interalia, observed that – "……………… As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices…………….".*

12. In the light of the above facts and relying on the cited case law, I am of the firm belief that it is established without doubt that the Noticee has violated the provisions of the SEBI Circulars by failing to resolve 1(one) investor complaint with in the specified time and failed to file the ATR in respect of the said investor complaint in the scores.

13. Further, I note that the Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) has also held that "In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…"*

14. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty under Section 15A(a) and Section 15C of the SEBI Act, which read as under:

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, he shall be liable to [1][a penalty [2][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]];

(b) …..

(c) …..

Penalty for failure to redress investors' grievances.

15C. *If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty [3][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].*

15. While determining the quantum of monetary penalty under Section 15A(a) and Section 15C of SEBI Act, I have considered the factors stipulated in Section 15-J of SEBI Act, which reads as under:

"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."

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[1] *Substituted for ―a penalty not exceeding one lakh and fifty thousand rupees for each such failure‖ by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.*

[2] *Substituted for the words ―of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less‖ by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.*

[3] *Substituted for the words ―of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less‖ by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.*

16. With regard to the above factors to be considered while determining the quantum of penalty, it is noted that the disproportionate gain or unfair advantage made by the Noticee or loss caused to the investors as a result of the failure to resolve one investor complaint with in the specified time and failed to file the ATR in respect of the said investor complaint in the scores are not available on record. Further, it may also be added that it is not possible to quantify the unfair advantage made by the Noticee or the loss caused to the investors in a default of this nature. However, lack of due diligence demonstrated by the Noticee is a risk to the securities market and thus loss to the investors to that extent.

ORDER

17. After taking into consideration all the facts and circumstances of the case, I impose a penalty of Rs1,00,000/- (Rupees One lac only) under Section 15C and a penalty of Rs 1,00,000/- (Rupees One lac only) under Section 15A(a) of the SEBI Act (Total :-Rupees Two lacs only) on the Noticee i.e. M/s. Cifco Finance Limited which in my opinion, will be commensurate with the violations committed by the Noticee.

18. The Noticee shall pay the said amount of penalty by way of demand draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to Shri N Hariharan, Chief General Manager, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai-400051.

19. In terms of rule 6 of the Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India.

Date: 18.01.2017 Prasad Jagadale

Place: Mumbai Adjudicating Officer