BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO.-VKV/AS/AO-27/2018

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

In respect of:

M/S TINNA FINEX LTD.
(PAN-Not Available)

NO. 6, SULTANPUR (MANDI ROAD) MEHRAULI,
NEW DELHI - 110030

In the matter of Non-redressal of investor grievance(s)

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI**) came out with a Circular vide ref. no. CIR/OIAE/1/2014 dated December 18, 2014 (hereinafter referred to as 'Circular'), consolidating the earlier Circulars issued by SEBI vide ref. nos. (a) CIR/OIAE/2/2011 dated June 3, 2011 (b) CIR/OIAE/1/2012 dated August 13, 2012 and (c) CIR/OIAE/1/2013 dated April 17, 2013 with regard to redressal of investor grievances through SEBI Complaints Redress System (SCORES) platform. In terms of the Circular dated December 18, 2014, all listed companies are required to take immediate efforts on receipt of a complaint, for its resolution within thirty days, and update the Action Taken Report (hereinafter referred to as **'ATR'**) electronically in SCORES.

2. In order to further remind the Noticee about the compliance with the requirements as laid down in the SEBI Circular dated June 03, 2011, letters dated November 14, 2011 and January 18, 2012 were sent to the Noticee informing about the commencement of processing of investor complaints in a centralized web based complaints redress system "SCORES" in terms of the Circular and advising the Noticee to send the information (i.e. details for authentication) as required in the Circular, at the earliest.

3. As observed from the contents of the Circular, SCORES introduced electronic dealing of the complaints of the investors, by the respective companies. Thus, once a complaint against a company was uploaded by SEBI in the SCORES, 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 **03 (Three)** investor complaints was pending against **M/s Tinna Finex Ltd.** (hereinafter referred to as '**Noticee/the Company**') on the date of SCN. It was also alleged that the Noticee failed to redress pending investor grievances and also failed to obtain SCORES authentication in spite of being called upon by SEBI to do so thereby violating the provisions of Section 15C and 15HB of the SEBI Act, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as Adjudicating Officer, vide order dated February 13, 2015, under section 15-I of SEBI Act and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as **"Adjudication Rules"**) to enquire into and adjudge under section 15C and 15HB of Securities and Exchange Board of India, Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") for the alleged violations committed by the Noticee.

SHOW CAUSE NOTICE AND REPLY

5. A Show Cause Notice (hereinafter referred to as "SCN") was issued to the Noticee under Rule 4 of Adjudication Rules to show cause as to why an inquiry be not held against it in terms of Rule 4 of the Adjudication Rules read with section 15I of SEBI Act, 1992 and penalty be not imposed under section 15C and 15HB of SEBI Act, 1992 for the violation alleged to have been committed by the Noticee.

6. The said SCN bearing No. **SEBI-NRO/AO/VKV/DL/SCN/1194/2017** dated July 27, 2017 was sent at the last known address(s) at **"NO. 6, SULTANPUR (MANDI ROAD) MEHRAULI, NEW DELHI 110030"** of the Noticee through Postal Department. However, the same could not be delivered.

7. A Notice under Rule 4 (1) of the Adjudication Rules was published on December 30, 2017 in the national daily and regional newspaper(s) at the registered office place of the Noticee, whereby the Noticee was advised to collect the copy of the SCN issued within 07 days of publication of the aforesaid notice and to submit its reply if any, within 14 days thereafter. The Noticee, however did not collect the copy of SCN within the prescribed time.

8. As the hearing notice could not be served upon the Noticee despite the best efforts made in this regard, the present proceedings against the Noticee are undertaken based on the material available on record.

Consideration of Issues and Findings:

9. I have carefully perused the charges levelled against the Noticee, his reply and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-

   a) Whether the Noticee has failed to resolve investor grievances?

b) Whether the Noticee is liable for monetary penalty under Section 15C and 15HB of the SEBI Act, 1992?

c) What quantum of monetary penalty should be imposed on the Noticee taking into consideration the factors mentioned in Section 15J of the SEBI Act, 1992?

10. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder.

ISSUE 1: Whether the Noticee has failed to resolve investor grievances?

11. As already observed, SEBI introduced an online electronic system for resolution of investor grievances, i.e., SCORES in 2011. For the purposes of accessing the complaints of the investors against them, as uploaded in the SCORES, listed companies were required to login to SCORES system electronically through a company specific user id and password, to be provided by SEBI. By not submitting the details for authentication as required by the Circular, the Noticee did not obtain the user id and password which was essential for accessing the complaints pertaining to the Noticee, as uploaded on the SCORES for redressing the investors grievances and subsequent redressal thereof. Vide letters dated November 14, 2011 and January 18, 2012 the Noticee was once again advised to obtain the SCORES authentication. However, the Noticee failed to obtain the SCORES authentication. From the SCN I also note that the Noticee did not resolve **03 (Three)** investor grievances pending against it as on the date of SCN. Subsequently, SEBI has also confirmed that the Noticee had not obtained SCORES authentication till date and had not resolved the pending investor grievances (as mentioned in the SCN).

12. I note that despite service of the SCN and Notice of Hearing, the Noticee failed to submit any reply to the SCN and has not refuted the charges. The Hon'ble Securities Appellate Tribunal (SAT) in Sanjay Kumar Tayal & Others v SEBI, Appeal No. 68 of 2013 (decided on February 11, 2014) has, inter-alia, 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 levelled against them in the show cause notices…………….".* The Order passed by Hon'ble SAT is relied upon in this case for guidance. Therefore, I presume that the Noticee has admitted the charges alleged in the SCN.

13. Hon'ble SAT in S. S. Forgings & Engineering Limited & Others v SEBI, Appeal No. 176 of 2014 (decided on August 28, 2014) has, inter-alia, observed that – *"………………Undoubtedly, an obligation is cast upon every listed company to redress investors' grievances in a time bound manner as may be prescribed by SEBI from time to time………. This Tribunal has consistently held that redressal of investors' grievances is extremely important for the Regulator to regulate the capital market. If the grievances are not redressed within a time bound framework, it leads to frustration among the investors' who may not be motivated to further invest in the capital market. Hence the importance of complaints redressal system initiated by SEBI in June, 2011 cannot be undermined and*

its sanctity has to be maintained by all the listed companies…….” Therefore, I hold that the Noticee has failed in its duty by not taking SCORES authentication and not resolving the investor grievances pending against it as alleged in the SCN.

ISSUE 2: Whether the Noticee is liable for monetary penalty under Section 15C and 15HB of the SEBI Act, 1992?

14. In view of the above, I am of the opinion that the Noticee had failed to abide by the directives issued by SEBI vide Circulars No. CIR/OIAE/1/2013 dated April 17, 2013. Therefore, the alleged violation of the provisions of the aforesaid SEBI Circulars by the Noticee as specified in the SCN stand established. Accordingly, the Noticee is liable for monetary penalty under Sections 15C and 15HB of the SEBI Act which read as follows:

> ***“15C Penalty for failure to redress investors' grievances***: *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 of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.”*
>
> ***“15HB Penalty for contravention where no separate penalty has been provided***
>
> *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 be1 [liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.”*

15. In the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216 (SC), the Hon’ble Supreme Court of India has 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 regulation is established and hence the intention of the parties committing such violation becomes wholly irrelevant”.*

16. A listed company is expected to comply with the extant regulatory and statutory requirements. As already observed, the Noticee failed in resolving the investor grievances pending against it, despite being called upon to do so by SEBI. Therefore, the Noticee is also liable for monetary penalty under Section 15C and 15HB of the SEBI Act, 1992.

ISSUE 3: What quantum of monetary penalty should be imposed on the Noticee taking into consideration the factors mentioned in Section 15J of the SEBI Act, 1992?

17. While imposing monetary penalty it is important to consider the factors stipulated in Section 15J of the 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."

18. In the absence of material on record, the amount of disproportionate gain or unfair advantage made as a result of the default and the amount of loss caused to the investors due to the said default cannot be quantified. However, the fact remains that the Noticee, being a listed company, failed to fulfil its duty of complying with SEBI Circulars. It is the duty of SEBI to ensure speedy resolution of investor grievances and to further the cause SEBI has come out with SCORES which is a centralized web based complaints redress system that enable investors to lodge and follow up their complaints and track the status of redressal of such complaints from anywhere. However, listed companies like the Noticee which do not obtain SCORES authentication and do not resolve investor grievances despite SEBI Circulars frustrate the entire process. It is of utmost importance that every listed company assigns high priority to investor grievances and takes all necessary steps to redress the grievances of investors at the earliest, which the Noticee has failed to do. Hence, the omission on part of the Noticee is detrimental to the interest of investors in securities market.

19. In view of the aforesaid paragraphs, it is now established that the Noticee failed to resolve investor grievance and therefore I find that imposing a penalty of **Rs. 2,00,000/- (Rupees Two Lakh only)** on the Noticee would be commensurate with the violation committed.

ORDER

20. Considering the facts and circumstances of the case, in terms of the provisions of SEBI Act, 1992 and Rule 5(1) of the Adjudication Rules, I hereby impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakh only)** under Section 15C and 15HB of the SEBI Act, 1992, on **M/s Tinna Finex Ltd.**

21. The amount of penalty shall be paid either by way of demand draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or by e-payment in the account of "SEBI - Penalties Remittable to Government of India", A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order. The said demand draft should be forwarded to the Deputy General Manager, Officer of Investor Assistance and Education, SEBI, Northern Regional Office, 5th Floor, Bank of Baroda Building, 16, Sansad Marg, New Delhi – 110001.

22. In case of e-payment, the details/confirmations of e-payments made (in the format as given in table below) should be intimated at email id – tad@sebi.gov.in under intimation to the undersigned at vijayantkv@sebi.gov.in :

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 and legal charges along with order details)

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

DATE: FEBRUARY 19, 2018
PLACE: NEW DELHI

VIJAYANT KUMAR VERMA
ADJUDICATING OFFICER