BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No. Order/MC/RM/2022-23/21615-21618]

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

In respect of –

1. **Mr. Dharmendra Verma (PAN: AAIFB9042M)** having address at RZ-618/313, Geetanzali Park, Sagar Pur, West New Delhi -110046
2. **Excellent Financial Advisory Pvt Ltd (PAN: AACCE1038P)** having address at 2B, Grant Lane, 8th Floor Room No-806, Kolkata, West Bengal -700012
3. **Greatscope Distributors Pvt Ltd (PAN: AAFCG2466G)** having address at 71, Canning Street, 4th Floor, Kolkata, West Bengal- 700001
4. **Happyshop Distributors Pvt Ltd (PAN: AADCH2062B)** having address at 7, Grant Lane 3rd Floor Kolkata West Bengal India 700012
5. **Mr. Nityanand Thakur (PAN: AAMFK2127J)** having address at Khorddabahera, Adarshanagar, Kanaipur, Uttarpara, Hooghly, West Bengal- 712246

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 **Mr. Dharmendra Verma ("Noticee-1"), Excellent Financial Advisory Pvt Ltd ("Noticee-2"), Greatscope Distributors Pvt Ltd ("Noticee-3"), Happyshop Distributors Pvt Ltd ("Noticee-4"), and Mr. Nityanand Thakur ("Noticee-5")** for the alleged violations of Section 11C(2) and 11C(3) of SEBI Act, 1992.

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 15A(a) of the SEBI 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/2021/11409 dated June 02, 2021 (hereinafter referred to as '**SCN**') was issued to the Noticees in terms of Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('SEBI Adjudication Rules') to show cause as to why an inquiry should not be held and penalty not be imposed against Noticees in terms of Section 15A(a) of the SEBI Act for the aforesaid alleged violations.

4. The allegations levelled against the Noticees 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. The Noticees engaged in some off-market transactions in the scrip of DLFL during the year 2013 which were required to be settled as spot delivery contract.

6. A "spot delivery contract" is defined in SCRA to mean a contract which provides for actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the dispatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality.

7. Summons were issued to the Noticee seeking information on date of receipt / payment of consideration for the transactions carried out. Noticees had allegedly

failed to respond to summons issued in any manner. Details of non-compliance of summon by Noticees (as target/source Client) are as under:

Non-Compliance of summons by Noticees who were the Source Clients

Sr no.	Name of Noticee	Status of delivery	Date of Delivery	Proof of Delivery	Particulars of Reminders sent
1.	Dharmendra verma	Delivered through email to 'balajisteeltraders14@gmail.com'	29.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
2.	Greatscope distributors private limited	Delivered through email to 'greatscopedistributors@yahoo.in'	24.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
3.	Happyshop distributors private limited	Delivered through email to 'happyshopdistributors@yahoo.in'	24.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
4.	Nityanand thakur	Delivered through email to nathkur690@gmail.com	29.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020

Non-compliance of summons by Noticees who were the Target clients

Sr no.	Name of Noticee	Status of delivery	Date of Delivery	Proof of Delivery	Particulars of Reminders sent
1.	Excellent Financial Advisory Private Limited	physical copy delivered on 25.11.2019 & Delivered through email to vishnu.9830@gmail.com on 19.11.2019	19.11.2019	Email delivery receipt and acknowledgement	Reminder mail sent on 11.12.2019 & 02.01.2020

8. The delivery of summons sent to Noticees through email were confirmed through IT Department- SEBI, vide their email dated 18.12.2019. The email summons were in addition to sending of summons by speed post with acknowledgement due. The scanned copy of the summons were also sent to the e-mail ID of the Noticees registered by them with the Depositories through KYC. No reply was

received even after issuance of reminders to the summons as stated above. The reply of the Noticees to the summons was important to ascertain the date of settlement of transactions which is crucial to determine whether the transaction carried out was as per the time frame stipulated in Section 2(i)(a) of SCRA.

9. In view of the above, Noticees were alleged to have violated alleged to have violated Section 11C(2) and 11C(3) of the SEBI Act. The relevant clauses of SC(R)A and SEBI Act are reproduced as under:

<u>*SC(R)A:-*</u>

2 (i) *In this Act, unless the context otherwise requires,— spot delivery contract" means a contract which provides for,-*

(a) *actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;*

<u>*SEBI Act:-*</u>

Investigation.

11C - *where the Board has reasonable ground to believe that-*

(2) *Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorized by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.*

(3) *The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to,* *or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.*

10. The aforesaid alleged violations, if established, make the Noticees liable for monetary penalty under Section 15A(a) of the SEBI Act.

11. In response to SCN, Noticees neither filed any reply nor attended personal hearing before undersigned. The details of the delivery of SCN and Hearing Notice(HN) to the Noticees is as follows:

Noticee Name	**SCN/Hearing Notice delivered by**
Dharmendra Verma (Noticee 1)	SCN served by email (on email address balajisteeltraders14@gmail.com) on 02.06.2021 and HNs served by email on 05.07.2022, 11.07.2022, and 17.11.2022 respectively
Excellent Financial Advisory Private Limited (Noticee 2)	SCN was served by SPAD. HN sent through SPAD and email (on email address vishnu.9830@gmail.com) were undelivered
Greatscope distributors private limited (Noticee 3)	SCN and HN sent through SPAD and email (on email address greatscopedistributors@yahoo.in) were undelivered
Happyshop distributors private limited (Noticee 4)	SCN and HN sent through SPAD and email (on email address happyshopdistributors@yahoo.in) were undelivered
Nityanand thakur (Noticee 5)	SCN was served by SPAD. HN sent through SPAD and email (on email address nathkur690@gmail.com) were undelivered

12. From the details of delivery of SCN and HN as given in the table above, I note that SCN and HN was served on Noticee 1. SCN was served to Noticee 2 and 5. SCN and HN could not be served to Noticee 3 and 4.

13. Further, it is noted that Noticees 1, 2 and 5 to whom SCN was served, did not submit reply to the SCN despite being provided with sufficient opportunity for filing the reply to the SCN. Further, Noticee 1 to whom HN was served, did not appear for personal hearing.

14. In these facts and circumstances, with respect to Noticees 1, 2, 3 and 5, the matter can be proceeded ex-parte on the basis of material available on record in terms of Rule 4(7) of the Adjudication Rules which reads as under: -

"4(7) If any person fails, neglects or refuses to appear as required by sub-rule (3) before the Board or the adjudicating officer, the Board or the adjudicating officer may proceed with the inquiry in the absence of such person after recording the reasons for doing so."

CONSIDERATION OF ISSUES AND FINDINGS

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

Issue No. I Whether the Noticees violated Section 11C(2) and 11C(3) of SEBI Act?

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15A(a) of the SEBI Act?

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I Whether the Noticees violated Section 11C(2) and 11C(3) of SEBI Act?

16. The allegation against the Noticees is that they did not respond to the summons issued and delivered to them as illustrated in the tables above.

17. I have perused the IT Department- SEBI's email dated 18.12.2019, wherein the delivery report of email through which the summons were sent to Noticees has been provided. From the delivery report, I note that the email sent to Noticee 1 on email address 'balajisteeltraders14@gmail.com' was delivered, whereas in the case of Noticee 2, 3 and 4 the email was shown as bounced back. Further, in case of Notice 5, there is no record regarding delivery status of email sent on email address 'nathkur690@gmail.com'. Further, while it is stated in the SCN that

the email summons were in addition to sending of summons by speed post with acknowledgement due, however the proof of delivery of summons to Noticees by SPAD is not available on records. In respect of Noticee 1, I note that copy of summons issued to Noticee 1 is not available on records. Further, the emails forwarding summons and reminder emails thereto are also not available on records.

18. From the aforesaid, I note that in respect of Noticees 1 to 5, it cannot be ascertained from material on record that the summons were appropriately served upon the Noticees. Hence, considering that it is not established that the summons were served upon the Noticees, the question of non-compliance with summons by the Noticees does not arise. **Therefore, I find that material on record is not sufficient to establish that the Noticee 1, 2, 3, 4 and 5 violated Section 11C(2) and 11C(3) of SEBI Act.**

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

ORDER

20. In view of the findings noted in the preceding paragraphs, the adjudication proceedings initiated against the Noticees vide SCN dated June 02, 2021 are disposed of.

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

DATE: November 29, 2022
PLACE: MUMBAI

MANINDER CHEEMA
ADJUDICATING OFFICER