

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S. K. MOHANTY, WHOLE TIME MEMBER

ORDER

UNDER SECTION 12 (3) OF SEBI ACT, 1992 READ WITH REGULATION 27 OF SEBI (INTERMEDIARIES) REGULATIONS, 2008 IN THE MATTER OF SPA CAPITAL ADVISERS LIMITED

S. No.	Name of the Noticee	SEBI Registration No.
1	SPA Capital Advisers Limited	INM000010825

Background

1. **SPA Capital Advisers Limited** (hereinafter referred to as “*SPA / Noticee*”) is registered with Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) as a merchant banker under the SEBI (Merchant Bankers) Regulations, 1992 (hereinafter referred to as “*Merchant Bankers Regulations, 1992*”). The registered office of the *Noticee* is at 25, C Block, Community Centre, Janakpuri, New Delhi – 110058.

2. SEBI received a compliant wherein it was, *inter alia*, stated that the *Noticee* had defaulted on a INR 100 crore loan availed from the erstwhile Lakshmi Villas Bank Limited (now taken over by DBS Bank India Limited) (for convenience hereinafter interchangeably referred to as “*LVB / DBS / the Bank*”). It was also mentioned in the complaint that the loan was classified as Non-Performing Asset (hereinafter referred to as ‘NPA’) by *the bank* and steps have also been taken by *the Bank* for declaring the promoters of the *Noticee* - Mr. Sandeep Parwal and Mr. R.D. Parwal – as wilful defaulters.

3. Based on the facts stated in the complaint, a preliminary examination was undertaken by SEBI to ascertain the veracity of the statement made in the complaint and it was observed that as per the data available on the TransUnion CIBIL database (hereinafter referred to as “**CIBIL database**”), which was accessed on July 24, 2020, the *Noticee* was shown as a ‘wilful defaulter’ in respect of the loan availed from *LVB*. The amount shown to be outstanding as recorded in the CIBIL database was INR 24.44 crores as on 30.06.2020.

4. In terms of Regulation 6 (gg) and 6A of the *Merchant Banker Regulations, 1992*, SEBI registered Merchant Bankers have to comply with the fit and proper criteria specified under Schedule II of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as “*Intermediaries Regulations, 2008*”), not just at the time of their registration, but also throughout the duration, during which they remain registered with SEBI as Intermediaries. Further, Clause (d) of Schedule II of the *Intermediaries Regulations, 2008*, as it stood then, specified ‘absence of categorisation as a wilful defaulter’ as one of criteria for determining the fit and proper status of an Intermediary. In view of the same, SEBI initiated enquiry proceedings against the *Noticee* under Chapter V of the *Intermediaries Regulations, 2008* and appointed a Designated Authority (for short “*DA*”) November 19, 2020 to enquire into whether the *Noticee* continues to satisfy the fit and proper criteria as specified in Schedule II of the *Intermediaries Regulations, 2008* so as to remain a registered intermediary within the *Intermediaries Regulations, 2008*.

5. The *DA* issued a show cause notice dated January 29, 2021 to the *Noticee* asking it to show cause as to why appropriate recommendation should not be made against it under regulation 27 of the *Intermediaries Regulations, 2008* read with Section 12(3) of the *SEBI Act, 1992*. In response to the same, the *Noticee* vide letter dated February 15, 2021, submitted its reply. I note that the *DA* has also provided an opportunity of personal hearing on March 17, 2021, which was availed by the *Noticee* through video

conferencing and the *Noticee* has further made post hearing submissions to him on March 24, 2021.

6. On completion of the proceedings, the *DA* submitted the report (for short "*Enquiry Report*") on March 25, 2021, recommending that the *Noticee's* certificate of registration as a merchant banker be suspended will such time the *Noticee* continues to be categorised as a wilful defaulter and its dues to *the Bank* remains outstanding.

Show Cause Notice, Hearing and Submissions

7. Pursuant to this, a post enquiry Show Cause Notice (hereinafter referred to as "*SCN*") dated May 12, 2021, was issued to the *Noticee*, under regulation 27 (1) of *Intermediaries Regulations, 2008* to show cause as to why action, as recommended by the *DA* or any other action as may be considered appropriate by the Designated Member, should not be taken against the *Noticee*. A copy of the *Enquiry Report* was also forwarded to the *Noticee* along with advice to file a reply, if any, within 21 days from the date of receipt of the notice. On receipt of the *SCN*, the *Noticee* has filed its reply to the *SCN* which was received by SEBI on June 19, 2021.

8. Thereafter, the *Noticee* was granted an opportunity of personal hearing via videoconferencing on February 09, 2022 (for short "**1st personal hearing**"), during which Mr. Sandeep Parwal, Director, appeared on behalf of the *Noticee*. During the course of this 1st personal hearing, without making submission on merit, it was argued on behalf of the *Noticee* that *the Bank* has agreed for settlement of the defaulted dues and accordingly *the Bank* was no longer pursuing its application to classify the *Company* as a wilful defaulter. In this respect, it was informed to the *Noticee* that its name alongwith the name of its Directors are still appearing as wilful defaulters in the CIBIL database. The *Noticee* was asked to submit a letter from *the Bank* containing the latest position of the outstanding loan including an expression of intent by *the Bank* that it is no more continuing to pursue to classify the *Company* as a wilful defaulter. Since, no such information / letter came from the *Noticee*, hence, considering the

peculiar facts of the matter, another opportunity of personal hearing was granted to the *Noticee* on May 30, 2022, (for short “**2nd personal hearing**”) which was attended by Mr. Sandeep Parwal, Director of the *Noticee* via videoconferencing. During the course of hearing, *Noticee* reiterated its earlier submissions. The *Noticee* was asked to produce a latest letter / certificate from *the Bank* apprising the present position of the outstanding amount and also explaining the reason as to why the names of the *Company* and its promoters still figure in the list of Wilful Defaulters if they are claiming that *the bank* has agreed to settle the dues with the *Noticee*. In this regard, vide email dated June 01, 2022, *Noticee* was again reminded / requested to furnish the aforesaid details in the following format:

Total Loan Outstanding including interest	Settlement Amount agreed under OTS	Payment made subsequent to agreement of OTS	Payment Outstanding as on 31.05.2022

9. However, despite the afore-mentioned follow ups and reminder, *Noticee* has not produced any document to support its claim as sought during the personal hearings. During the course of the both the personal hearings, the *Noticee* was specifically advised to submit a certificate or any other document from *the Bank* certifying that the outstanding dues have been settled and that the name of the *Noticee* no longer features in the CIBIL list of wilful defaulters. It is seen that even after granting sufficient opportunity to the *Noticee* to produce the relevant evidence in support of its submission, the *Noticee* has failed to produce the same which implies *the Bank* is not willing to give such a certified to the *Noticee*. Under the circumstances, before moving further in the matter, it is felt necessary to summarise the oral and written submissions made by the *Noticee* before me as follows: -

- (i) It was stated in the reply that *the Bank* has agreed to the request for settlement of dues and copy of the letter from *DBS* confirming the

acceptance of the One Time Settlement ('OTS') offer made by the *Noticee* was enclosed with the reply.

- (ii) It was also stated that in view of the amicable settlement, *the Bank* was no longer pursuing its application to classify the company as a wilful defaulter. A letter from DBS to this effect was also enclosed with the reply.
- (iii) It was further stated that the credit facility was availed from *the Bank* against the security of bonds issued by IL&FS Transport Networks Limited (for short "*ITNL*"). It was the default on the aforementioned bonds which lead to the delay in servicing the loan and it was, therefore, beyond the control of the *Noticee*.
- (iv) *Noticee* further submitted that in the period of last 17 years of its association with SEBI as a registered intermediary, there has been no allegation of any malpractice or irregularity, and SEBI has not initiated any enforcement action against the *Noticee*.

Consideration

10. I have considered the *Enquiry Report* submitted by the *DA*, the Post-Enquiry SCN issued to the *Noticee*, oral and written submissions of the *Noticee* along with the documents and other material available on record. I note that the scope of the present proceedings is restricted to the enquiry initiated against the *Noticee* under Chapter V of the *Intermediaries Regulations, 2008* to determine whether the *Noticee* continue to satisfy the fit and proper criteria specified under Schedule II of the *Intermediaries Regulations, 2008*.

11. Before getting into the merits of the issue, it will be appropriate to refer to the relevant provisions of the securities laws: -

"Regulation 6 of the Merchant Bankers Regulations, 1992

Consideration of Application

The Board shall take into account for considering the grant of a certificate, all matters which are relevant to the activities relating to merchant banker and in particular the applicant complies with the following requirements, namely: –

... (gg) the applicant is a fit and proper person.

Regulation 6A of the Merchant Bankers Regulations, 1992

Criteria for fit and proper person.

For the purpose of determining whether an applicant or the merchant banker is a fit and proper person the Board may take into account the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

Clause (n) of sub-regulation (1) of Regulation 2 of the Intermediaries Regulations, 2008

(n) "wilful defaulter" means any person who is categorized as a wilful defaulter by any bank or financial institution or consortium thereof, in accordance with the guidelines on wilful defaulters issued by the Reserve Bank of India and includes any person whose director, promoter or principal officer is categorized as such

Schedule II of the Intermediaries Regulations, 2008

Criteria for determining a 'fit and proper person'

For the purpose of determining as to whether an applicant or the intermediary is a 'fit and proper person' the Board may take account of any consideration as it deems fit, including but not limited to the following criteria in relation to the applicant or the intermediary, the principal officer and the key management persons by whatever name called –

- a. Integrity, reputation and character;*
- b. Absence of convictions and restraint orders;*
- c. Competence including financial solvency and network.*

d. Absence of categorization as a wilful defaulter

12. I note from the material available on record, that it has been alleged that the *Noticee* had defaulted in the repayment of the loan availed by it from *the Bank (LVB)*. It is also noted that subsequent to the default in servicing the loan, the *Noticee* has been classified as a wilful defaulter in the CIBIL database. It is noted that SEBI had introduced the 'absence of categorisation as a wilful defaulter' as one of the conditions for determining the fit and proper eligibility of an Intermediary and this criteria was adopted by SEBI in consultation with the Reserve Bank of India (for short "**RBI**") to strengthen the disciplinary mechanism against wilful defaulters across the banking sector and capital markets. RBI has issued a Master Circular dated July 01, 2015, (hereinafter referred to as "**RBI Master Circular**") defining the term 'wilful defaulter' and laying down the obligations of financial institution in this regard. The master circular defines 'wilful defaulter' as under: -

"Wilful Default: A 'wilful default' would be deemed to have occurred if any of the following events is noted:

- a. The unit has defaulted in meeting its payment / repayment obligations to the lender even when it has the capacity to honour the said obligations.*
- b. The unit has defaulted in meeting its payment / repayment obligations to the lender and has not utilised the finance from the lender for the specific purposes for which finance was availed of but has diverted the funds for other purposes.*
- c. The unit has defaulted in meeting its payment / repayment obligations to the lender and has siphoned off the funds so that the funds have not been utilised for the specific purpose for which finance was availed of, nor are the funds available with the unit in the form of other assets.*
- d. The unit has defaulted in meeting its payment / repayment obligations to the lender and has also disposed off or removed the movable fixed assets or*

immovable property given for the purpose of securing a term loan without the knowledge of the bank / lender."

13. It is also noticed that the mechanism for identification of Wilful Defaulters is also provided in the RBI Master Circular under paragraph 3, which reads as under: -

"3. Mechanism for identification of Wilful Defaulters

The mechanism referred to in paragraph 2.5 above should generally include the following:

(a) The evidence of wilful default on the part of the borrowing company and its promoter / whole-time director at the relevant time should be examined by a Committee headed by an Executive Director or equivalent and consisting of two other senior officers of the rank of GM / DGM.

(b) If the Committee concludes that an event of wilful default has occurred, it shall issue a Show Cause Notice to the concerned borrower and the promoter / whole-time director and call for their submissions and after considering their submissions issue an order recording the fact of wilful default and the reasons for the same. An opportunity should be given to the borrower and the promoter / whole-time director for a personal hearing if the Committee feels such an opportunity is necessary.

(c) The Order of the Committee should be reviewed by another Committee headed by the Chairman / Chairman & Managing Director or the Managing Director & Chief Executive Officer / CEOs and consisting, in addition, to two independent directors / non-executive directors of the bank and the Order shall become final only after it is confirmed by the said Review Committee."

14. It can, therefore, be noted that the identification of the wilful defaulter is purely an internal exercise carried out by the financial institution following the procedure laid down in the RBI Master Circular. The procedure prescribed under the Master Circular provides for an opportunity for the defaulter to present its views before the determination is made. There are, however, no external stakeholders like regulators

who are involved in this process and the safeguards are provided by the involvement of independent or non-executive directors in the final committee that has been vested with the power to confirm the determination made by the financial institution thereby treating a defaulter is a wilful defaulter.

15. The RBI Master Circular also lays down the reporting structure to be followed by the financial entities once a person or an entity is declared as a wilful defaulter, which reads as under: -

“2.9 Reporting to Credit Information Companies

(a) Reserve Bank of India has, in exercise of the powers conferred by Section 5 of the Credit Information Companies (Regulations) Act, 2005 and the Rules and Regulations framed thereunder, granted Certificate of Registration to (i) Experian Credit Information Company of India Private Limited, (ii) Equifax Credit Information Services Private Limited, (iii) CRIF High Mark Credit Information Services Private Limited and (iv) Credit Information Bureau (India) Limited (CIBIL) to commence/carry on the business of credit information.

(b) Banks / FIs should submit the list of suit-filed accounts and non suit filed accounts of wilful defaulters of Rs.25 lakh and above on a monthly or more frequent basis to all the four Credit Information Companies. This would enable such information to be available to the banks / FIs on a near real time basis.

Explanation

In this connection, it is clarified that banks need not report cases where

(i) outstanding amount falls below Rs.25 lakh and

(ii) in respect of cases where banks have agreed for a compromise settlement and the borrower has fully paid the compromised amount.

(c) Credit Information Companies (CICs) have also been advised to disseminate the information pertaining to suit filed accounts of wilful defaulters on their respective websites.”

16. It can be noted from the aforesaid reporting mechanism as laid down in the RBI Master Circular that the financial institutions shall directly submit the list of accounts declared as wilful defaulters to Credit Information Companies registered with RBI under Credit Information Companies (Regulation) Act, 2005.

17. I further note that SEBI vide its Press Release No. 56/2016 dated March 12, 2016 has laid down the policy with respect to “willful defaulters”, which is reproduced herein below:

Imposing restrictions on wilful defaulters

The Master Circular on "Wilful Defaulters" issued by the Reserve Bank of India from time to time lays down safeguards to be exercised by banks to contain the financial activities of a wilful defaulter.

With the objective of restricting access to capital markets for raising funds from public, by such wilful defaulters, following proposals have been approved by the Board:

1. No issuer shall make a public issue of equity securities / debt securities / non-convertible redeemable preference shares, if the issuer company or its promoter or its director is in the list of the wilful defaulters.

2. Any company or its promoter or its director categorized as wilful defaulter may not be allowed to take control over other listed entity. However, if a listed company or its promoter or its director is categorized as wilful defaulter, and there is a take-over offer in respect of the listed company, they may be allowed to make competing offer for the said listed company in accordance with SEBI (SAST) Regulations, 2011.

2. The criteria for determining a ‘fit and proper person’ in SEBI Regulations will be amended to include that no fresh registration shall be granted to any entity if the entity or its promoters or its directors or key managerial personnel, as defined under SEBI (ICDR) Regulations, 2009, are included in the list of wilful defaulters. [emphasis supplied]

18. As noted from the above, if a company's name is included in the list of "willful defaulters", no fresh registration shall be granted to it to act as market intermediary. In the light of this aforesaid policy decision, the relevant provisions pertaining to an intermediary being declared as a '*wilful defaulter*' is reproduced herein below:

Regulation 9 of the Securities and Exchange Board of India (Intermediaries) Regulations 2008-

Conditions of Certificate

9 (1) Any certificate granted by the Board to an intermediary shall be subject to the following conditions, namely: –

(e) it shall meet the eligibility criteria and other requirements specified in these regulations and the relevant regulations.

19. It is pertinent to note that one of the eligibility criteria under the *Merchant Bankers Regulations, 1992* is satisfying the *fit and proper* criteria as specified in Schedule II of the *Intermediaries Regulations, 2008*. Relevant regulations have already been reproduced earlier in this Order.

20. In this regard, from the perusal of the relevant provisions of law, it is noticed that regulation 6 of the *Merchant Bankers Regulations, 1992* provides that for granting a registration, the board i.e. SEBI is required to consider all the matters relevant to the activities to a merchant banker which, *inter alia*, include the entity being fit and proper to be granted registration. Further, in this respect, regulation 6A states that for determining as to whether or not, an entity/applicant fulfils the eligibility criteria to be held as fit and proper, SEBI may take into account the criteria as specified in Schedule II of the *Intermediaries Regulations, 2008*, which, *inter alia*, includes the 'absence of categorization as a wilful defaulter' as an essential condition to be complied with, while clause (n) of sub regulation (1) of regulation 2 of the *Intermediaries Regulations, 2008* defines 'wilful defaulter' to mean categorization as a wilful defaulter by any bank or financial institution or consortium thereof, in

accordance with the guidelines on wilful defaulters issued by the Reserve Bank of India and includes any person whose director, promoter or principal officer is categorized as such.

21. It is also noticed that the criterion of absence of categorization as a wilful defaulter has been added in *Schedule II of the Intermediaries Regulations, 2008, in the year 2016 and the said measure in the form of an essential condition to grant registration* was introduced in consultation with RBI to strengthen the disciplinary mechanism against wilful defaulters. As a result of such measures, restrictions have also been imposed on companies declared as wilful defaulters from raising funds either from the primary market or through follow on issues. Such entities are also restricted from taking over any listed company.

22. From the conjoint reading of the above, it is evident that absence of categorisation as wilful defaulter is an essential criterion not only for determining the fit and proper status of an entity at the time of granting of registration, but the above criteria is required to be fulfilled by a registered Intermediary at all times so as to remain fit and proper as a registered intermediary on a continues basis. It is noted from the aforementioned legal provisions that the very categorization as a 'wilful defaulter' is sufficient to disqualify an intermediary or an applicant from being treated as a "fit and proper person" as defined under the *Intermediaries Regulations, 2008*. It is further noted that the power to determine as to whether an entity/individual has become a 'wilful defaulter' has been granted by the RBI to the banks and financial institutions *qua* their borrowers under clause 3 of the *RBI Master Circular*. Once a name of an entity figures in the list of wilful defaulters maintained by any of the Credit Information Companies registered with RBI, it automatically falls within the definition of 'wilful defaulter' under regulations 2(1)(n) the *Intermediaries Regulations, 2008* and consequently attracts the disqualification in terms of clause (d) of Schedule II of the *Intermediaries Regulations, 2008*.

23. There is no dispute regarding the fact that *Noticee* has defaulted in servicing the loan which it has availed from *the Bank*. Infact, the *Noticee* has admitted in its submissions that it had availed the loan from *the Bank* against the security of bonds issued by *ITNL*, whose payment default resulted into the failure of the *Noticee* its servicing the loan availed by it from *the Bank*. The main contention of the *Noticee* before me is that it has entered into an OTS with *the Bank* and *the Bank* has agreed to not pursue further to classify the *Noticee* as a wilful defaulter. In this regard, *Noticee* has shared letters dated April 04, 2021 and June 15, 2021 from *the Bank*. It has further stated that the credit facility was availed from *the Bank* against the security of bonds issued by IL&FS Transport Networks Limited and the default on the aforementioned bonds led to the delay in servicing the loan which was, beyond the control of the *Noticee*.

24. I have perused the submissions of the *Noticee* alongwith the letters of *the Bank* submitted by the *Noticee* to SEBI to further strengthen its contentions. I note from the *Enquiry Report* of DA and from the CIBIL database that the *Noticee* was declared as a wilful defaulter by *the Bank* Lakshmi Vilas Bank for an amount of default of INR 24.19 crore. From the letter of *the Bank* dated April 04, 2021, I note that *the Bank* and the *Noticee* (including its Directors) have agreed to settle the outstanding amount for 12.84 crores by entering into an One Time Compromise Settlement. A snapshot of the payment terms and conditions of the said letter dated April 04, 2021 issued by *the Bank* is placed below:

Settlement Amount:				
INR 12,84,30,000.00 (INR Twelve Crore Eighty-Four Lacs Thirty Thousands Only)				
Terms of Payment of Settlement:				
S. No.	Date	Particulars	Amount	Post Dated Cheque
1	20/03/2021	Appropriated	10,00,000/-	NA

2	31/03/2021	Appropriated	27,00,000/-	NA
3	31/03/2021	Axis Bank Cheque 741703 dated 31/03/2021	46,30,000/-	Yes
4	30/04/2021	Axis Bank Cheque 741701 dated 30/04/2021	50,00,000/-	Yes
5	30/05/2021	Axis Bank Cheque 741705 dated 30/05/2021 *Bonds Pledged will be released & money paid to Bank & any shortfall if any also to be arranged in 3 working days.	3,00,00,000/-	Yes
6	30/09/2021	Axis Bank Cheque 741705 dated 30/05/2021 *On conversion of ITNL Securities in InVIT of IL&FS & Release of InVIT on date of sale. Sale proceeds will directly be credited to DBS on sale of units & Balance shortfall, if any also will be paid within 3 working days. The PDC will be returned. It is highlighted that the realization may be early or late as it is dependent on resolution plan/ issue of InVIT and in case of delay, the PDC will be duly replaced before it becomes stale.	6,25,00,000/-	Yes
7	31/12/2021	Axis Bank Cheque 741704 dated 31/12/2021	2,26,00,000/-	Yes
		Total	12,84,30,000/-	
Please note that as the account is being settled through OTS, even after settlement, the customer/Account will be reflected in Centralized repository of Credit Information Companies.				

25. It can be observed from the aforesaid table that the *Noticee* has paid INR 37 lacs to the *Bank* till 31.03.2021 and the rest of the amount arrived in the settlement was supposed to be paid by the *Noticee* to the *Bank* till 31.12.2021. It is pertinent to note that the *Noticee* has been repeatedly asked to produce evidence or letter from the *Bank* with status of payment made by it as per OTS from serial number 3 to 7 in the afore-stated table. However, no corroborative evidence or certificate has been produced by the *Noticee* which implies that the remaining amount is still outstanding in the books of the *Bank*. I also note from the validity clause of the aforesaid letter dated April 04, 2021

of the Bank that “This settlement will be valid only if the terms of payment mentioned above are adhered to.” In this respect, it become very pertinent to record that though the Noticee has time and again submitted that there exist an OTS between it and lender (the Bank) and the Bank has also agreed not to pursue its categorisation as wilful defaulter, however, despite having granted sufficient opportunity to produce an evidence including a letter from the Bank to the effect, no such evidence has been brought on record to lay credence to its submission. I further note that despite having agreed and sought time to produce a letter or to take necessary steps to remove its name from the list of wilful defaulters, Noticee has failed to provide evidence either through its bank statements highlighting the payment of outstanding dues to the Bank, or by producing a letter / certificate from the Bank stating therein that the outstanding dues have been paid by the Noticee to the Bank. It appears that though the Noticee has arrived to OTS with the Bank for the outstanding dues, however, it is yet to clear the dues as per the OTS. It is also not clear if the Noticee is acting at all in compliance with the terms and condition of the OTS, if any arrived at with the Bank or has further defaulted in its compliance with the agreed terms thereby rendering the OTS redundant. Therefore, in the absence of any cogent evidence in support of the contention of the Noticee, I am constrained to observe that the submissions of the Noticee are nothing but an empty claim to take a shelter under the OTS to evade the outcome of this proceeding.

26. As discussed in the preceding paragraphs, the Noticee has not disputed its default in servicing the credit facility availed by it from the Bank. It has only contented that it has entered into an OTS and the Bank has taken steps not to pursue further to classify the Noticee as a wilful defaulter. Further, during the course of personal hearing, the Noticee has undertaken to submit a certificate or any other document from the Bank certifying that the outstanding dues have been settled and that the Noticee's name no longer features in the list of wilful defaulters. I, however, note that despite reminders from SEBI seeking such a document, no such letter or certificate has been

submitted by the *Noticee* till date. Rather, it is noted that the *Noticee's* name still continues to figure in the list of wilful defaulters, as per the CIBIL database¹, which was last accessed as on August 24, 2022 and an amount of 18.98 crores appears as total outstanding amount due to be paid by the *Noticee* as on quarter ending July 31, 2022. A snapshot of the CIBIL database is presented below: -

SUIT FILED CASES


BACK
DOWNLOAD
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Suit Filed Accounts - Defaulters Rs 1 crore and above as on 31-Jul-2022 Search Details
Date of extraction 24-Aug-2022
Borrower Containing - SPA CAPITAL

Bank ^	Branch	QuarterI	Borrower Name	Registered Address	Director Name-DIN no. Detail	OutStanding Amount (Rs. in Laacs)
THE LAKSHMI VILAS BANK LIMITED	CBB DELHI	31-12-21	SPA CAPITAL ADVISORS LIMITED	NO 25, C BLOCK, COMMUNITY CENTRE, JANAKPURI, NEW DELHI, PIN CODE:110058	SANDEEP PARWAL--NA, RAMESHWAR DASS PARWAL--NA, KAMAL KISHORE SOMANI--NA, ANKIT SOMANI--NA	1,933.19
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	30-08-20	SPA CAPITAL ADVISORS LIMITED	NO 25, C BLOCK, COMMUNITY CENTRE, JANAKPURI, NEW DELHI, PIN CODE:110058	SANDEEP PARWAL--NA, RAMESHWAR DASS PARWAL--NA, KAMAL KISHORE SOMANI--NA, ANKIT SOMANI--NA	2,419.18
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	31-03-20	SPA CAPITAL ADVISORS LIMITED	NO 25, C BLOCK, COMMUNITY CENTRE, JANAKPURI, NEW DELHI, PIN CODE:110058	SANDEEP PARWAL--NA, RAMESHWAR DASS PARWAL--NA, KAMAL KISHORE SOMANI--NA, ANKIT SOMANI--NA	2,419.18
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	31-03-21	SPA CAPITAL ADVISORS LIMITED	NO 25, C BLOCK, COMMUNITY CENTRE, JANAKPURI, NEW DELHI, PIN CODE:110058	SANDEEP PARWAL--NA, RAMESHWAR DASS PARWAL--NA, KAMAL KISHORE SOMANI--NA, ANKIT SOMANI--NA	2,419.18
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	31-12-19	SPA CAPITAL ADVISORS LIMITED	NO 25, C BLOCK, COMMUNITY CENTRE, JANAKPURI, NEW DELHI, PIN CODE:110058	SANDEEP PARWAL--NA, RAMESHWAR DASS PARWAL--NA, KAMAL KISHORE SOMANI--NA, ANKIT SOMANI--NA	2,419.18
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	31-12-20	SPA CAPITAL ADVISORS LIMITED	NO 25, C BLOCK, COMMUNITY CENTRE, JANAKPURI, NEW DELHI, PIN CODE:110058	SANDEEP PARWAL--NA, RAMESHWAR DASS PARWAL--NA, KAMAL KISHORE SOMANI--NA, ANKIT SOMANI--NA	2,419.18
THE LAKSHMI VILAS BANK LIMITED	CBB DELHI	31-03-22	SPA CAPITAL ADVISORS LIMITED	NO 25, C BLOCK, COMMUNITY CENTRE, JANAKPURI, NEW DELHI, PIN CODE:110058	SANDEEP PARWAL--NA, RAMESHWAR DASS PARWAL--NA, KAMAL KISHORE SOMANI--NA, ANKIT SOMANI--NA	1,998.19
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	30-08-20	SPA CAPITAL ADVISORS LIMITED	NO 25, C BLOCK, COMMUNITY CENTRE, JANAKPURI, NEW DELHI, PIN CODE:110058	SANDEEP PARWAL--NA, RAMESHWAR DASS PARWAL--NA, KAMAL KISHORE SOMANI--NA, ANKIT SOMANI--NA	2,419.18

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27. A tabular chart downloaded from the CIBIL website as on August 24, 2022 on is also presented below:

¹ Data fetched from CIBIL website on August 24, 2022 at 03:00 PM

Suit Filed Accounts - Defaulters INR 1 crore and above as on 31-Jul-2022 Search Details Date of extraction 24-Aug-2022 Borrower Containing - SPA CAPITAL ADVISORS LIMITED						
Bank	Branch	Quarter	Borrower Name	Registered Address	Director Name-- DIN no. Detail	Outstanding Amount (INR in Lacs)
THE LAKSHMI VILAS BANK LIMITED	CBB DELHI	31-03-22	SPA Capital Advisors Limited	No.25, C Block, Community Centre, Janakpuri, New Delhi, Pin Code:110058	Sandeep Parwal--NA, Rameshwar Dass Parwal--NA, Kamal Kishore Somani--NA, Ankit Somani--NA	1898.19
THE LAKSHMI VILAS BANK LIMITED	CBB DELHI	31-12-21	SPA Capital Advisors Limited	No.25, C Block, Community Centre, Janakpuri, New Delhi, Pin Code:110058	Sandeep Parwal--NA, Rameshwar Dass Parwal--NA, Kamal Kishore Somani--NA, Ankit Somani--NA	1933.19
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	31-03-21	SPA CAPITAL ADVISORS LIMITED	No.25, C Block, Community Centre, Janakpuri, New Delhi, Pin Code:110058	Sandeep Parwal--NA, Rameshwar Dass Parwal--NA, Kamal Kishore Somani--NA, Ankit Somani--NA	2419.18
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	31-12-20	SPA CAPITAL ADVISORS LIMITED	No.25, C Block, Community Centre, Janakpuri, New Delhi, Pin Code:110058	Sandeep Parwal--NA, Rameshwar Dass Parwal--NA, Kamal Kishore Somani--NA, Ankit Somani--NA	2419.18
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	30-09-20	SPA CAPITAL ADVISORS LIMITED	No.25, C Block, Community Centre, Janakpuri, New Delhi, Pin Code:110058	Sandeep Parwal--NA, Rameshwar Dass Parwal--NA, Kamal Kishore Somani--NA, Ankit Somani--NA	2419.18
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	30-06-20	SPA CAPITAL ADVISORS LIMITED	No.25, C Block, Community Centre, Janakpuri, New Delhi, Pin Code:110058	Sandeep Parwal--NA, Rameshwar Dass Parwal--NA, Kamal Kishore Somani--NA, Ankit Somani--NA	2419.18
THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	31-03-20	SPA CAPITAL ADVISORS LIMITED	No.25, C Block, Community Centre, Janakpuri, New Delhi, Pin Code:110058	Sandeep Parwal--NA, Rameshwar Dass Parwal--NA, Kamal Kishore Somani--NA, Ankit Somani--NA	2419.18

THE LAKSHMI VILAS BANK LIMITED	COMMERCIAL BANKING BRANCH, DELHI	31-12-19	SPA CAPITAL ADVISOR S LIMITED	No.25, C Block, Community Centre, Janakpuri, New Delhi, Pin Code:110058	Sandeep Parwal-- NA, Rameshwar Dass Parwal--NA, Kamal Kishore Somani--NA, Ankit Somani--NA	2419.18
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28. In view of the aforesaid factual status as available in CIBIL database, the argument made by the Noticee that the Bank is not pursuing any more to classify it as wilful defaulter is not found to be substantiated with any evidence as its name is still appearing in the wilful defaulter category in the CIBIL database.

29. In this regard, the expression integrity, reputation and character has been examined by the Hon'ble Securities Appellate Tribunal (for short "SAT") in the case of *Jermyn Capital LLC vs. SEBI decided on 6th September, 2006* wherein this Tribunal held:

29 "A reading of the aforesaid provisions of the Regulations makes it abundantly clear that the concept of a fit and proper person has a very wide amplitude as the name fit and proper person itself suggests. The Board can take into account any consideration as it deems fit for the purpose of determining whether an applicant or an intermediary seeking registration is a fit and proper person or not. The framers of the Regulations have consciously given such wide powers because of their concern to keep the market clean and free from undesirable elements. It can take into account the financial integrity of the applicant and its competence. Absence of convictions or civil liabilities would be another relevant consideration which could weigh with the Board. Good reputation and character of the applicant is a very material consideration which must necessarily weigh in the mind of the Board in this regard. Reputation is what others perceive of you. In other words, it is the subjective opinion or impression of others about a person and that, according to the Regulations, has to be good. This impression or opinion is generally formed on the basis of the association he has with others and/or on the basis of his past conduct. A person is known by the company he keeps. In the very nature of things, there cannot be

any direct evidence in regard to the reputation of a person whether he be an individual or a body corporate. In the case of a body corporate or a firm, the reputation of its whole time director(s) or managing partner(s) would come into focus. The Board as a regulator has been assigned a statutory duty to protect the integrity of the securities market and also interest of investors in securities apart from promoting the development of and regulating the market by such measures as it may think fit. It is in the discharge of this statutory obligation that the Board has framed the Regulations with a view to keep the market place safe for the investors to invest by keeping the undesirable elements out. The Regulations apply across to all sets of regulations and all intermediaries of the securities market including those who associate themselves with the market and they all have to satisfy the criteria of fit and proper person before they could be registered under any of the relevant regulations and this criteria they must continue to satisfy throughout the period of validity of their registration and throughout the period they associate with the market. The purpose of the Regulations is to achieve the aforesaid objects and make the securities market a safe place to invest. One bad element cannot only pollute the market but can play havoc with it which could be detrimental to the interests of the innocent investors. In this background, the Board may, in a given case, be justified in keeping a doubtful character or an undesirable element out from the market rather than running the risk of allowing the market to be polluted. We may hasten to add here that when the Board decides to debar an entity from accessing the capital market on the ground that he/it is not a fit and proper person it must have some reasonable basis for saying so. The Board cannot give the entity a bad name and debar it. When such an action of the Board is brought to challenge, it (the Board) will have to show the material on the basis of which it concluded that the entity concerned was not a fit and proper person or that it did not enjoy a good reputation in the securities market. The basis of the action will have to be judged from the point of view of a reasonable and prudent man. In other

words, the test would be what a prudent man concerned with the securities market thinks of the entity."

30. Before summarizing my observations and discussions in the foregoing paragraphs, I must note here that an entity which is granted a registration by SEBI to operate as an Intermediary in the Indian securities market has to act in a manner and comply with all applicable regulatory requirements which are in the best interests of the investors in the market and also has to uphold the integrity of the securities market. In the backdrop of the present case, I note that the *Noticee* being a Merchant Banker registered with SEBI, is supposed to follow the rules and regulations laid down by SEBI. One of the important requirements for a registered Merchant Banker to be declared as not fit and proper person is when it is declared as a wilful defaulter. In this context, it is also important for me to record that whatever be the reasons for the default in repayment of the loan taken by the *Noticee* from *the Bank*, it is definitely an issue that challenges the integrity, financial soundness and financial credibility of an intermediary operating in the securities market. The present financial state of the *Noticee* therefore does not inspire confidence and its continuance to operate as a merchant banker may pose risk to its claims and may be detrimental to the integrity of the securities market. I can't resist to record that the *Noticee* has at no stage of the proceeding ever made any submission to state that it does not fall within the definition of willful defaulter as defined in terms of the policy of RBI. Nor any argument has been advanced that its categorization as willful defaulter is under challenge before any competent authority. Hence, in the absence of above, I see no reason to hold that the *Noticee* still satisfies the condition of remaining fit and proper so as to make out a case for exoneration from the outcome of instant proceeding. I have already observed that the rules governing the eligibility for determination and remaining fit and proper cast a mandatory obligation on the *Noticee* to prove that it qualifies to be declared as a fit and proper person, whereas, the *Noticee*, in spite of having obtained sufficient time has failed to bring on record any evidence in support of its submission that *the Bank*

has stopped pursuing its effort to clarify the *Noticee* as a willful defaulter. Under the circumstances, the continuation of the *Noticee* as a registered intermediary is not only undesirable but also mandatorily warrants an action in order to protect the integrity and development of securities market. Continuation of the *Noticee* as a registered entity in the capacity of a merchant banker would be detrimental to the interest of securities market. The purity and integrity of the securities market has to be maintained at all times. It cannot be allowed to be tarnished by entities having doubtful character and reputation. There is no place for such entities and they need to be kept outside the securities market. In the instant case, there is sufficient material to come to a conclusion that the appellant is not a fit and proper person as per the extant regulations. The concept of integrity, reputation and character is very wide and cannot be given a restrictive meaning. Considering the facts and submissions made by the *Noticee*, I find no reason to disagree with the recommendation of the DA.

31. In view of the above, given the peculiar and specific facts and circumstances of the instant proceedings, I am constrained to hold that the *Noticee* has failed to satisfy the criteria of 'fit and proper person' and I am inclined to agree with the recommendation of the DA that the certificate of registration of *Noticee* be suspended as long as the *Noticee* is continued to be classified as a wilful defaulter. Accordingly, I, in exercise of powers conferred under Section 12 (3) and 19 of the *SEBI Act, 1992* read with Regulation 27 of the SEBI (Intermediaries) Regulations, 2008, hereby issue following directions:

- (i) the certificate of registration granted to the *Noticee*/ SPA Capital Advisers Limited (SEBI Registration No. INM000010825) is suspended;
- (ii) the *Noticee* shall not take up any new assignment relating to merchant banking activities in the securities market, till it obtains a certificate from Lakshmi Villas Bank (now known as DBS Bank) stating that the outstanding dues have been cleared and the *Noticee's* account is no longer included in the list of wilful defaulter, and submit the same to

“The Division Chief, Enforcement Department, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051.” Upon satisfaction, SEBI shall communicate the revocation of suspension of certificate of registration of the *Noticee*;

- (iii) the *Noticee* shall, in cases of pending assignments where it is already engaged as a merchant banker prior to issuance of this Order, disclose the direction specified at sub-paragraph 31(i) above, in the offer documents pertaining to the issues concerning such assignments. The *Noticee* shall further provide to SEBI details of all such assignments, within 7 days of receipt of this Order.

32. This Order shall come into force with immediate effect.

33. A copy of this Order shall be served on the *Noticee* and upon all recognized Stock Exchanges and Depositories.

-Sd-

DATE: AUGUST 24 , 2022

PLACE: MUMBAI

S. K. MOHANTY

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA