

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/BD/BM/2019-20/ 7021]

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 BY ADJUDICATING OFFICER) RULES, 1995

In respect of:

Shri Vinayak Trimbak Sarkhot (Since Deceased)

In the matter of M/s Finalysis Credit & Guarantee Company Limited

BACKGROUND

1. The Securities and Exchange Board of India (*hereinafter referred to as "SEBI"*), initiated adjudication proceedings against Shri Vinayak Trimbak Sarkhot (*hereinafter referred to as "Noticee"*) for the alleged violations of the provisions of section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and Regulation 4(1) and 4(2)(h) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (*hereinafter referred to as 'PFUTP Regulations'*), section 11 C (2), (3) & (5) of the SEBI Act, 1992, Section 12 A(f) of SEBI Act read with Regulation 3(1), 29(1), 29(2) and 29(3)(a) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (*hereinafter referred to as 'SAST Regulations'*), Regulations 13(1), 13(3), 13(4) and 13(5)(b) of SEBI (Prohibition of Insider Trading)

Regulations, 1992 (hereinafter referred to as '**PIT Regulations**') in the matter of Finalysis Credit & Guarantee Company Ltd. (**Finalysis**) (*hereinafter referred to as "Company/Finalysis"*).

2. During the investigation for the period from August 29, 2012 to May 08, 2013 (Investigation Period), it was revealed that the Noticee along with others had aided and abetted other suspected entities / Noticee(s) while dealing in the shares of Finalysis in a fraudulent manner and had allegedly violated the provisions of Section 11 C (2), (3) & (5), Section 12 A(f), section 12 A(a), (b) and (c) of SEBI Act, 1992 read with regulation 3(a),3(b), 3(c) & 3(d) and regulation 4(1) & 4(2)(h) of PFUTP Regulations.
3. Further, for non-disclosure on acquisition/disposed of shares, the Noticee had allegedly violated Regulations 13(4) and 13(5)(b) of PIT Regulations and Regulations 29(1), 29(2) and 29(3)(a) of SAST Regulations.
4. Therefore, it was alleged that the Noticee has violated the provisions of Section 11 C (2), (3) & (5), section 12 A(f), Section 12 A(a), (b) and (c) of SEBI Act, 1992 read with regulation 3(a),3(b), 3(c) & 3(d) and regulation 4(1) & 4(2)(h) of PFUTP Regulations, Regulation 3(1), 29(1), 29(2) and 29(3)(a) of SAST Regulations and Regulations 13(1), 13(3), 13(4) and 13(5)(b) of PIT Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

5. Initially, vide order dated January 07, 2016 Ms. Rachna Anand was appointed as the Adjudicating Officer (AO) in the matter. Subsequently, the undersigned has been appointed as the Adjudicating Officer vide Order dated December 24, 2019,

issued by SEBI to inquire into and adjudge under Section 15A(a), 15A(b), 15(H(ii) and 15HA of the SEBI Act, 1992, the aforesaid violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. A Show Cause Notice dated November 30, 2016 (*hereinafter referred to as "SCN"*) was issued to the Noticee in terms of Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (*hereinafter referred to as "Adjudication Rules"*) read with Section 15-I of the SEBI Act, 1992, to show cause as to why an inquiry should not be initiated and penalty should not be imposed under Section 15A(a), 15A(b), 15(H(ii) and 15HA of the SEBI Act, 1992, on the Noticee for the alleged violation of the provisions of Section 11 C (2), (3) & (5), section 12 A(f), Section 12 A(a), (b) and (c) of SEBI Act, 1992 read with regulation 3(a),3(b), 3(c) & 3(d) and regulation 4(1) & 4(2)(h) of PFUTP Regulations, Regulation 3(1), 29(1), 29(2) and 29(3)(a) of SAST Regulations and Regulations 13(1), 13(3), 13(4) and 13(5)(b) of PIT Regulations.
7. The SCN returned undelivered. Vide e-mail dated February 26, 2020 it is informed that the Noticee, Shri Vinayak Trimbak Sarkhot has passed away on August 08, 2017. In this regard a copy of death certificate of the Noticee, received from his legal heirs has been filed along with the said e-mail dated February 26, 2020.
7. In this regard, the reliance can be made in the Order of the Hon'ble Supreme Court of India in the matter of *Girijanandini vs. Bijendra Narain* (AIR 1967 SC 2110)

which was subsequently followed by SEBI in the matter of Late Mr. N Mahalingam and Late Ms. Aruna Kumar.

8. I note that as per the death certificate dated August 08, 2018 issued by the Municipal Corporation, Kalyan-Dombivli Division 2, the Noticee had expired on August 08, 2017. Accordingly, the present adjudication proceedings against Late Vinayak Trimbak Sarkhot stands abated in view of the observations of Hon'ble Supreme Court, in the matter of *Girijanandini vs. Bijendra Narain* (AIR 1967 SC 2110), wherein the Hon'ble Supreme Court observed that in case of personal actions, i.e. the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives and in such cases the maxim *actio personalis moritur cum persona* (personal action dies with the death of the person) would apply.
9. Relying on the aforementioned Order of Hon'ble Supreme Court, I am of the view that the adjudication proceedings initiated against the Noticee will not survive and is liable to be abated without going into the merits of the case. Consequently, no penalty is imposed on the Noticee, who is since deceased, and the Adjudication Proceedings against the Noticee stand abated.
10. Accordingly, the present Adjudication proceedings initiated against the Noticee viz. Late Shri Vinayak Trimbak Sarkhot, vide the SCN no. EAO/RA/JP/32480/2016 dated November 30, 2016 is disposed of without going into the merits of the case.

11. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is sent to his legal heirs and also to the Securities and Exchange Board of India.

Date: February 28, 2020

Place: Mumbai

B J Dilip
Adjudicating Officer