

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/AK/GN/2024-25/31254]**

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) RULES, 1995;

In respect of:

Sharepro Services (I) Pvt. Ltd.

(PAN: AAICS5500L)

(CIN:U67120MH2004PTC148994)

In the matter of

Sharepro Services (I) Private Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”), pursuant to an anonymous complaint dated October 20, 2015, conducted an investigation to examine in detail the records of the company **Sharepro Services (I) Pvt. Ltd** (hereinafter referred to as **Noticee**). Meanwhile, Whole Time Member, SEBI passed an interim order dated March 22, 2016 against the Noticee and 15 other entities. Subsequently, SEBI vide confirmatory order dated November 03, 2017, confirmed the directions issued vide abovementioned interim order, against all but one entity.
2. Investigation revealed the fraudulent siphoning of dividends by backward working from the bank accounts of the entities. Similarly, it was observed that the records of fraudulent transfer of shares at the office of Noticee were massively falsified. It was observed that the system/ database of the Noticee shows that dividends were paid to the original shareholders but the verification of the bank accounts revealed that the dividends were paid to persons who were not the rightful shareholders or were not at all the shareholders of the companies. Thus it was alleged that not only the dividend due to genuine investors was fraudulently siphoned off but the records were falsified so as not to reflect the correct position.

3. In view of the above observations SEBI initiated adjudication proceedings in the matter of Sharepro Services (I) Pvt. Ltd against the Noticee under Section 15A(a) & (c), 15C, 15HA and 15HB of Securities and Exchange Board India Act, 1992 (“**SEBI Act**”) for the alleged violation of Section 12 A (a) (b) (c) of SEBI Act, Regulation 2 (1) (c), 3 (b) (c) (d), 4 (1) & (2) (p) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (“**PFUTP Regulations 2003**”); Clauses (1),(2), (3), (5), (6), (16), (17), (18), (20), (25), (28), (30) of Code of Conduct specified in Regulation 13 of SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 (“**RTA Regulations**”), Regulation 9 (A) (e) & (f), Regulation 6 (g) and Regulation 14 (3) (b) & (c) of RTA Regulations, SEBI Circular No RTI Circular No. 1 (2000-2001) Dated May 09, 2001; Section 11C(2) and 11C (3) of SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

4. Mr. K Saravanan was appointed as an Adjudicating Officer (AO) vide communique dated July 12, 2019 under Section 15-I of the SEBI Act, read with Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') to inquire into and adjudge under 15A(a) & (c), 15C, 15HA and 15HB of SEBI Act, 1992 for the aforesaid alleged violations by the Noticee. Subsequently the matter was transferred to Shri Prasanta Mahapatra, vide communique dated July 14, 2021, and then to Ms. Asha Shetty, vide communique dated June 07, 2022. Subsequently, the matter was transferred to Ms. Barnali Mukherjee, vide communique dated June 06, 2025. Upon superannuation of Ms. Barnali Mukherjee, undersigned was appointed as an AO in the matter, vide communique dated December 18, 2024.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice no. SEBI/EAD-08/PM/NS/10582/1-18/2022 dated March 14, 2022 (hereinafter referred to as “**SCN**”) was sent to the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and

penalty not be imposed against Noticee under Sections 15A(a) & (c), 15C, 15HA and 15HB of SEBI Act, 1992 for the following alleged violations;

- 5.1 that Noticee and its top management in connivance with various other entities facilitated diversion of assets (securities and dividend) belonging to genuine and rightful shareholders to entities related to management of Noticee. It was further alleged that, records at Noticee were not maintained properly and there was deliberate falsification of records to blur the audit trail. Internal checks and balances were compromised to a high degree in Noticee. Various entities actively conspired with the top management of Noticee and had also substantially benefitted from the scheme of fraud.
- 5.2 that not only the dividends due to genuine investors were fraudulently siphoned off by Noticee but the records were also falsified so as not to reflect the correct position. The system/database of Noticee showed that dividends were paid to the original shareholders, but the verification of the bank accounts revealed that the dividends were paid to persons who were not the rightful shareholders or were not at all the shareholders of the companies.
- 5.3 that Noticee deliberately did not maintain proper records in its system so that demand drafts issued to persons belonging to or connected with the management of Sharepro instead of the genuine shareholders are not immediately visible to anyone. All such payments were recorded as payment being made to the registered shareholder i.e. the names of wrongful beneficiaries to whom it actually paid are not recorded in database of Noticee. It was alleged that, this amounts to deliberate falsification of records by Noticee.
- 5.4 that Noticee's management committed various non-compliances and illegalities in respect of transfer, transmission, buyback/ redemption of securities, printing of share certificates and maintenance of records.
- 5.5 that there was massive falsification of records at Noticee in violation of Noticee's policy as well as secretarial standards. The internal checks and balances and control system of Noticee (across various departments) was compromised to illegally siphon of shares belonging to genuine shareholders.
- 5.6 that there is clear lack in maintenance of proper documents and carrying out due diligence on part of Noticee while processing these transactions.
- 5.7 that Noticee was expected to resolve grievances of investors within one month. It was also observed that Noticee did not take prompt steps to redress the grievances

of investors as the aggrieved investors obtained their shares only after long and repeated correspondences with Noticee.

5.8 that the noticee was served summons, to which Noticee either did not respond/or responded with incomplete information.

Based on the above, it was alleged that Noticee Committed Fraud, Falsification of records, Facilitating fraudulent and unauthorized transfers, Settling/ attempting to settle claim of investors through misappropriation, Failure to do due diligence, Non-maintenance of proper records, Destruction of records, Not following due procedures, Non redressal of investor grievance promptly, Attempt to Mislead, Non-cooperation with SEBI Investigation, Non-compliance with summons, False and misleading statements to IA and thereby violated Section 12 A (a) (b) (c) of SEBI Act, 1992, Regulation 2 (1) (c), 3 (b) (c) (d), 4 (1) & (2) (p) of PFUTP Regulations 2003, Clauses (1),(2), (3), (5), (6), (16), (17), (18), (20), (25), (28), (30) of Code of Conduct specified in Regulation 13 of RTA Regulations, 1993 Regulation 9 (A) (e) & (f), Regulation 6 (g) and Regulation 14 (3) (b) & (c) of RTA Regulations, SEBI Circular No RTI Circular No. 1 (2000-2001) Dated May 09, 2001 and Section 11C(2) and 11C (3) of SEBI Act, 1992.

6. The aforesaid SCN dated March 14, 2022 was issued to 18 entities (including the Noticee). I note from the available records that SEBI has already passed order against 17 entities for the aforesaid violations and imposed varying amount of penalties on said 17 entities.
7. The SCN was issued at the last known address of Noticee through SPAD, however, the same returned undelivered. The scanned copy of the SCN was also sent via email dated April 20, 2022. I note from the records that in Company Petition No.763 of 2015 filed in the matter of M/s Sharepro Services (India) Pvt. Ltd. (in Liqn.) Bombay High Court, vide Order dated January 04, 2018 assigned the matter to the Office of Official Liquidator for carrying out liquidation proceedings. In this regard, a letter dated April 20, 2023 was sent to the Office of the Official Liquidator, High Court Bombay informing him about the instant proceedings and seeking his comments on the same. The Official liquidator, vide letter dated May 02, 2023 informed that, the proceedings against the Noticee is subject to Section 446(1) of

the Companies act, 1956 and SEBI is required to take leave of the Hon'ble High Court, Bombay in absence of which the proceedings shall be void ab initio.

8. Letter dated November 04, 2024 (along with SCN) was sent to the Assistant Official Liquidator, High Court Bombay, informing him that said adjudication and enquiry proceedings are conducted for the purpose of adjudicating and assessing whether provisions of the securities laws have been contravened by Sharepro and to assess consequent penalty, if any, for the same and the comments were sought from him, if any, with respect to the said SCNs dated March 14, 2022. The letter dated November 04, 2024 was delivered and the delivery of the same is on record. However, no comments were received from the Liquidator.
9. In the interest of natural justice, vide Hearing Notice dated January 21, 2025 opportunity of hearing was provided to the Noticee on January 28, 2025 through official Liquidator. The hearing notice was delivered to the official liquidator and the delivery of the same is on record. However, neither any response to the SCN was received nor anyone appeared for personal hearing fixed on the stipulated date despite the service of the SCN and Hearing Notice.
10. I note that there was no response to SCN and the Notice of Hearing even though they were duly served in terms of provisions of Rule 7 of the Adjudication Rules. In view of the aforesaid steps taken, as per rule 4(7) of the Adjudication Rules, if any person fails, neglects or refuses to appear as required by sub-rule (3) before the Adjudicating Officer, he may proceed with the inquiry in the absence of such person after recording the reasons therefor.

ISSUES FOR CONSIDERATION

11. Before proceeding further in the matter on its merit, it would be in the fitness of the thing to first decide the preliminary issue as to whether in view of the order of liquidation passed against the Noticee by the Hon'ble High Court of Bombay, the adjudication proceedings initiated against the Noticee would continue.

12. On perusal of the material available on record, I note that the Hon'ble High Court of Bombay, vide its order dated January 04, 2018 appointed the official liquidator as liquidator of the Noticee to take charge of the assets, books of account and properties of the Noticee with all powers under the provisions of the Companies Act, 1956.
13. I note that the official liquidator, vide letter dated May 02, 2023 informed that, the proceedings against the Noticee is subject to Section 446(1) of the Companies act, 1956 and SEBI is required to take leave of the Hon'ble High Court, Bombay in absence of which the proceedings shall be void ab initio.
14. Further, I note from the MCA website and the zaubacorp that the status of the Noticee is shown as under liquidation.
15. In light of the above and in order to examine the maintainability of the present adjudication proceedings against the Noticee, it will be appropriate to refer Section 446 of the Companies Act, 1956-

"Section 446 of the Companies Act, 1956

(1) When a winding up order has been made or the official liquidator has been appointed as provisional liquidator, no suit or other legal proceeding shall be commenced, or if pending at the date of the winding up order, shall be proceeded with, against the company except by leave of the Tribunal and subject to such terms as the Tribunal may impose.

(2) Tribunal shall, notwithstanding anything, contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of-

- a) Any suit or proceeding by or against the company;*
- b) Any claim made by or against the company (including claims by or against any of its branches in India);*
- c) Any application made under Section 391 by or in respect of the company;*
- d) Any question of priorities or any other question whatsoever, whether of law or fact, which may relate to rise in course of the winding up of the company.*

whether such suit or proceeding has been instituted or is instituted or such claim or question has arisen or arises or such application has been made or is made before or after the order for the winding up of the company, or before or after the commencement of the Companies (Amendment) Act, 1960 (65 of 1960)

(3) (Omitted)

(4) Nothing in sub-section (1) or sub-section (3) shall apply to any proceeding pending in appeal before the Supreme Court or a High Court.”

16. According to Black’s Law dictionary, 6th edition the term “*legal proceedings*” includes *all proceedings authorized or sanctioned by law, and brought or instituted in a court or legal tribunal; for the acquiring of a right or the enforcement of remedy.”* Further, the term ‘*Proceedings*’ means, “*any action, hearing, investigation, inquest or inquiry (whether conducted by a court, administrative agency, hearing officer, arbitrator, legislative body, or any other person authorized by law) in which, pursuant to law, testimony can be compelled to be given.*” (*ibid*).

17. In the matter of S.R. Muthuswami Gounder and Ors. vs. Official Liquidator [Company Petition No. 23 of 1958 decided on 23.09.1969: MANU/TN/0252/1969], High Court of Madras has held, “*Section 446 is wide in its terms and is not restricted to any category of suits or any class of Plaintiffs. It is wide enough to cover all suits and other legal proceedings whoever may be the plaintiff.*”

18. In this regard, it is also relevant to refer to the judgement of Hon’ble High Court of Bombay, in the case of Deutsche Bank v. S.P. Kala {(1990) 67 Com. Cases 474 (Bom)} wherein it held “*Section 446 of the Companies Act provides that, when a winding up order is made or the official liquidator is appointed as provisional liquidator, no suit or legal proceedings should be commenced or if pending on the date of the winding-up order, shall be proceeded with, against the company, except with the leave of the court and subject to such terms as may be imposed. Subsection (2) further lays down that the court which is winding-up the company shall, notwithstanding anything contained in any other law in force, have jurisdiction to entertain or dispose of, inter alia, any suit or proceeding by or*

against the company, whether such suit or proceeding has been instituted or is instituted. A careful examination of these provisions of law makes it clear that once a winding-up order is made or the official liquidator is appointed as provisional liquidator, no proceedings can continue or be instituted against the company without the permission of the court. It is further clear that jurisdiction to entertain or dispose of any suit or proceeding by or against the company is vested in the company court without any kind of restriction..... The expression "any suit or proceeding by or against the company" is wide enough to bring within its sweep any kind of suits."

19. In the light of the above, I am of the view that the present adjudication proceedings against the Noticee are covered under the provisions of Section 446 of the Companies Act, 1956. Further, I note that there is no material available on record to suggest that leave of the Tribunal has been taken. Once the High Court has passed an order that the company be wound up and the official liquidator is appointed, it is not right to continue proceeding against the company in absence of leave of the Tribunal. Further, I note that there is no material on record to suggest that leave of the high court has been taken.

20. In view of the foregoing, I am of the view that the adjudication proceedings initiated against the Noticee, vide Show Cause Notice dated March 14, 2022 cannot be proceeded with. The matter is, accordingly, disposed of.

21. In terms of the provisions of rule 6 of the Adjudication Rules, 1995, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Place: Mumbai

Date: March 07, 2025

AMIT KAPOOR

ADJUDICATING OFFICER