

Consent Order against Mr. Sandeep Sharma in the matter of Danta Vyapar Kendra Ltd

Aug 07, 2008 | Orders : Settlement Order

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

CONSENT ORDER

On the Application submitted by

MR. SANDEEP SHARMA

In the matter of Danta Vyapar Kendra Ltd.

CO/CFD/1330/AO/VSS/23/2008

1. Mr. Sandeep Sharma (hereinafter referred to as the 'Noticee') is one of the promoters of M/s. Danta Vyapar Kendra Ltd. (hereinafter referred to as 'DVKL'). On examination of a report dated April 17, 2006 filed with the Securities and Exchange Board of India (hereinafter referred to as 'SEBI'), it was observed that on March 25, 2003 the Noticee, on behalf of M/s. Bhagwati Enterprises, had acquired 69.48% shares/voting rights of DVKL from M/s. Bimax Mercantiles Ltd. It was also observed that the transaction was per-se eligible for exemption under regulation 3(1)(e)(iii)(b) of SEBI (Substantial acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as 'SAST Regulations'). However, the Noticee had not submitted the information in respect of this acquisition to the stock exchange/s at least four working days in advance as required under regulation 3(3) of the SAST Regulations and also failed to file a report, along with requisite fee, to SEBI within 21 days of the date of acquisition/allotment in terms of regulation 3(4) read with regulation 3(5) of the SAST Regulations. The report was filed after a delay of 1101 days. Therefore, adjudication proceedings were initiated against the Noticee to inquire and adjudge under sections 15A(a) and 15A(b) read with section 15I of Securities and Exchange Board of India Act, 1992 for the alleged violation of the provisions of regulations 3(3) and 3(4) of SAST Regulations. Consequently, a Show Cause Notice No. EAD/EAD-5/PG/100110/2007 dated July 31, 2007 was issued under rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, by Mr. Piyoosh Gupta, (then) A.O. Consequent upon the transfer of Mr. Piyoosh Gupta, the undersigned has been appointed as A.O. vide Order dated November 19, 2007.

2. Meanwhile, the Noticee made an application dated October 07, 2007 and an affidavit of "undertakings and waivers" in terms of SEBI Circular No. EFD/ Cir.-1/2007 dated 20th April, 2007 for Consent Order in respect of the aforesaid SCN. Subsequently, the Noticee vide letter dated May 15, 2008 proposed revised consent terms, without admitting or denying the guilt and subject to clauses of the undertakings and waivers, submitting that he was willing to pay a sum of Rs.75,000/- (Rupees seventy five thousand only), i.e. Rs.50,000/- (Rupees fifty thousand only) towards settlement charges and Rs.25,000/- (Rupees twenty five thousand only) towards administrative expenses in the matter. The terms as proposed by the Noticee was placed before the High Powered Advisory Committee (hereinafter referred to as 'HPAC') on June 24, 2008. The HPAC considered the facts and circumstances of the case, consent terms offered by the Noticee and the material brought before the committee by SEBI and recommended that the case may be settled on payment of Rs.75,000/- (Rupees seventy five thousand only). The recommendations of the committee were placed before the Chairman and one Whole Time Member of the Board who have agreed to the terms of consent as recommended by HPAC.

3. In pursuance of the aforesaid consent terms, the Noticee has remitted a sum of Rs.75,000/- (Rupees seventy five thousand only), vide Demand Draft No.953233 dated July 14, 2008 drawn on ABN AMRO Bank, Camac Street Branch, Kolkata, towards the terms of consent in the matter.

4. In view of above, it is hereby ordered that,

i) This consent order disposes of the said proceedings pending against the Noticee under Securities and Exchange Board of India Act, 1992 in the matter of Danta Vyapar Kendra Ltd.

ii) Passing of this order is without prejudice to the right of SEBI to take enforcement actions including commencing / reopening of the pending proceedings against the Noticee that

a. any representation made by the Noticee in the consent proceedings is subsequently discovered to be untrue.

b. the Noticee has breached any of the clauses / conditions of undertakings / waivers filed during the current consent proceedings.

This consent order is passed on the 7th August, 2008 and shall come into force with immediate effect. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

V S SUNDARESAN

ADJUDICATING OFFICER

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