

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11 AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND IN CONTINUATION OF ORDERS DATED JUNE 01, 2016, AND AUGUST 24, 2016.

IN THE MATTER OF DHYANA FINSTOCK LIMITED.

In re: SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003

In respect of:

S.No.	Noticees	PAN
1.	Baldevbhai Shankerlal Patel	ACIPP5953F
2.	Ramilaben Baladevbhai Patel	AUHPP8735C
3.	Jayshreeben Shah	BQMPS6009Q
4.	Kiritbhai Shah	AWRPS2401E
5.	Naranbhai Panchal	AMQPP0054P
6.	Chandrikaben Panchal	BXQPP2080R
7.	Rinkeshkumar Panchal	BYCPP1543E

Background

1. SEBI, vide an ad interim ex-parte order dated June 01, 2016 (hereinafter referred to as "*interim order*") in the matter of Dhyana Finstock Limited (hereinafter referred to as "*Dhyana*" or "the company"), restrained 76 entities, including the aforesaid 7 entities (hereinafter referred to as "Noticees"), from accessing the securities market and further prohibited them from buying, selling or dealing in securities in any manner whatsoever, till further directions. Further, it was also directed that BSE shall withhold the pay-out of funds for the trades in *Dhyana* executed on July 27, 2015 and keep the same in an interest bearing escrow account and shall release the securities to the buyers for the trades executed on July 27, 2015. All the 76 entities including the 7 noticees mentioned

above, against whom the *interim order* was passed were advised to file their objections, if any, within twenty one days from the date of the order and, if they so desire, to avail themselves of an opportunity of personal hearing before SEBI.

2. The interim order was passed taking into account facts and circumstances which are summarized, *inter-alia*, as under:

- a) The scrip of Dhyana got listed on BSE on June 13, 2014 under Direct Listing mode from Ahmedabad Stock Exchange (“**ASE**”) at a price of Rs. 251. Prior to listing on BSE, the company had made preferential allotment of 64,25,000 equity shares of Rs.10/- each to 49 entities on November 30, 2013 which were under lock-in till November 30, 2014.
- b) After the release of compulsory lock-in period, the Preferential Allottees and the Promoter related entities / entities connected or related to Dhyana were provided exit at a high price by the entities allegedly related/connected amongst themselves and with Dhyana (“Exit Providers”);
- c) Since July 2015 several SMS were circulated among investing public to the effect of inducing them to buy the shares of Dhyana specially highlighting to make “Jackpot” profit on July 27, 2015. Under the influence of SMS tips investors placed buy orders on July 27, 2015 at price ranging from Rs. 396 – Rs. 406 resulting in purchase of 3,18,971 shares from the net sellers (persons who sells more number of shares than they buy). The 29 Net Sellers who were part of preferential allottees/exit provider/ entities related to the Dhyana have sold 2,62,682 shares

on July 27, 2014 representing 82.35% of total shares bought by the investors under the influence of SMSs. Thereby, ultimately shares acquired through preferential allotment and/or purchased to give exit to preferential allottees were sold to innocent investors by inducing them to buy shares by sending fraudulent/fake SMS.

- d) By virtue of the same, it was alleged that the company and persons in charge of its affairs created preferential allotment of shares as a mode to provide fictitious long term capital gains (“**LTCG**”) to its Preferential Allottees and Promoter related entities so as to convert their unaccounted income into accounted one; its Promoters/ Directors / Exit Providers / Preferential Allottees / Promoter related entities artificially increased the volume and price of the scrip and misused securities market system for making illegal gains and to convert ill-gotten gains into market gains to avail LTCG.
3. The modus operandi as described in the said interim order was that Dhyana, its directors/promoters, preferential allottees, and Dhyana Group employed a device wherein the company in nexus with the preferential allottees made a facade of preferential allotment. After the expiry of the lock-in period, the Dhyana Group purchased shares from preferential allottees at artificially increased prices. In the whole process, entities of the Dhyana Group provided a hugely profitable exit to the preferential allottees. As the aforesaid activities of Dhyana and its Promoter / Directors / Promoter related entities / Preferential Allottees / Exit Providers were in violation of SEBI Act, 1992 (“SEBI Act”) and SEBI (Prohibition of Fraudulent and Unfair Trade

Practices relating to Securities Market) Regulations, 2003 (“PFUTP Regulations”) SEBI passed the aforesaid interim order against 76 entities including the 7 noticees who were considered part of Dhyana group. The allegations against Noticees as mentioned in the *interim order* were that, the acts and omissions of Noticees are ‘*fraudulent*’ as defined under Regulation 2(1)(c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (‘PFUTP Regulations’) and are in contravention of the provisions of Regulations 3(a), (b), (c) and (d) and 4(1), 4(2)(a), (b), (e) (g) and (r) thereof and section 12A(a), (b) and (c) of the Securities and Exchange Board of India Act, 1992.

4. Copies of the ex-parte ad-interim order were sent to all the noticees, however the aforesaid 7 noticees neither submitted any reply to the ex-parte ad-interim order nor availed the opportunity of personal hearing offered to them. In view of the same, the matter was proceeded on the basis of the material available on record and ex-parte confirmatory order dated August 24, 2016 was passed against them confirming the directions of interim order dated June 01, 2016.
5. Aggrieved by the said ex-parte confirmatory order dated August 24, 2016, the said 7 noticees filed an appeal before the Hon’ble Securities Appellate Tribunal (hereinafter referred to as “SAT”). The Hon’ble SAT vide order dated December 15, 2017 directed the following:-

“...2. Admittedly, the appellants in all these appeals have failed to file their objections to the ex-parte order and failed to avail the opportunity of hearing offered to them. In these circumstances, no fault can be found with the confirmatory order passed by the WTM of SEBI.

3. Counsel for the appellants state that since the investigation initiated by SEBI against the appellants are yet to be completed, the appellants are desirous of moving SEBI by way of a representation for vacating the ex parte/confirmatory order.
4. Since the ex-parte order is in operation for more than one and half years, in the facts of these cases, we permit the appellants to move SEBI by way of representation within six weeks from today.
5. If appellants submit representation within a period of six weeks from today then SEBI shall consider the same and pass appropriate order thereon as expeditiously as possible.”
6. Smt. Ramilaben Baldevbhai Patel and Shri Baldevbhai Patel vide separate letters dated 17th January, 2018 made similar submissions wherein they inter alia refuted the allegations made in the interim order and submitted that they had genuinely invested in the company for long term investment and still continue to hold certain shares. They further prayed for release of their respective withheld payout of about Rs. 14 lac (Baldevbhai) and Rs. 7 lac (Ramilaben), release of their demat account and allowing them to freely access the securities market. They further prayed to SEBI to complete investigation and issue Show Cause Notice on or before 31st March, 2018 and pass final order within two months i.e. on or before 30th May, 2018, discharge them against all the allegations after providing them with the opportunity of personal hearing.
7. Shri Kiritbhai Shah, Shri Rinkesh Kumar Panchal, Shri Naranbhai Panchal, Smt. Jayshreeben Shah and Smt. Chandrikaben Panchal, vide their separate letter dated 29th January, 2018 made similar submissions wherein they inter-alia submitted that

that they had genuinely invested in the company and denied that they have violated any provisions of PFUTP Regulations, 2003 and the provisions of the SEBI Act, 1992.

8. The noticees were granted personal hearing on February 22, 2018 which was rescheduled to April 05, 2018. On the scheduled date of hearing on April 05, 2018 Ms. Darshi Shah, Company Secretary and Mr. Bhavin Narsana appeared for Smt. Ramilaben Baldevbhai Patel and Shri Baldevbhai Patel and inter alia submitted that the payout of one set of transactions of the noticees were stuck due to a combination of an error and a technicality as the scrip was in trade to trade basis and the payout of Rs. 14 lakhs of Shri Baldevbhai Patel and Rs. 7 lakhs of Smt. Ramilaben Baldevbhai Patel be released. They also submitted that the demat account of the noticees frozen vide ex-parte confirmatory order on August 24, 2016 be de-frozen and they should be allowed to freely access the securities market. They submitted that the interim and confirmatory order be vacated against them and the investigation in the matter be completed expeditiously.
9. Ms. Poonam Gadkari and Mr. Ritesh Sawant, Advocate, Juris Matrix Partners LLP appeared for Shri Kiritbhai Shah, Shri Rinkesh Kumar Panchal, Shri Naranbhai Panchal, Smt. Jayshreeben Shah and Smt. Chandrikaben Panchal and inter alia submitted that they traded on the market rumor that the price of the scrip is rising and were victim of the fraud. They were not involved in any kind of manipulation. They submitted that the interim and confirmatory order be vacated against them and the investigation in the matter be completed expeditiously.
10. Vide written submissions dated April 03, 2018, Shri Kiritbhai Shah, Shri Rinkesh Kumar Panchal, Shri Naranbhai Panchal, Smt. Jayshreeben Shah and Smt. Chandrikaben

Panchal reiterated their earlier submissions. Vide written submissions dated April 16, 2018 the noticees, Shri Baldevbhai Patel and Smt. Ramilaben Baldevbhai also reiterated their earlier submissions and also submitted that they rely upon the SAT order dated 10th April, 2018 passed in similar cases of Dhyana whereby SEBI committed to conclude the matter or if required, to issue show cause notice by 30th April, 2018 and they assume their matter to even get concluded by 30th April, 2018.

Consideration

11. I note that in the instant case, the directions were issued against the Noticees on the basis of *prima facie* findings and SEBI had issued directions vide the interim order in the matter in order to protect the interests of investors in the securities market. I note that in compliance with the SAT Order dated April 10, 2018, investigation in the matter is completed and SCN is issued in the matter before April 30, 2018 i.e. on April 20, 2018. Upon completion of investigation, since the trades of all the 7 noticees are alleged/found to be manipulative, SCN is issued to the said noticees on the basis of the same and quasi-judicial proceedings are ongoing against them. In view of the same, with regard to their role in the alleged fraudulent and manipulative activities, I wish to keep all questions related to the role of all the 7 Noticees in the alleged fraudulent and manipulative activities open so that the quasi-judicial proceedings pending in the matter may not be prejudiced in any manner by this order. I am of the opinion that the noticees may file their detailed reply to the SCN issued against them

to the quasi-judicial authority and appropriate decision , in accordance with law, would be taken after completion of quasi-judicial proceedings.

12. The complete relaxations sought, if granted, to the noticees at this stage i.e. pending quasi-judicial proceedings, would undermine the relevance of such restraint orders passed in exercise of statutory powers and would discriminate against other similarly placed entities covered in the orders. I, therefore, in exercise of the powers under sections 11(1), 11(4) and 11B of the SEBI Act, hereby, reject the prayers of the 7 Noticees for setting aside the interim orders or for complete removal of restraints imposed by it.

13. I note that after considering the facts and circumstances brought out by other entities involved in the matter who had earlier responded to the *interim orders*, to avoid erosion of value of securities due to volatility, maintain some investment avenues in the capital market such as mutual fund and to address the need of funds for meeting the business/ any other exigencies, all such who had either appeared for hearing or had filed their submissions pursuant to the passing of *interim orders*, were granted the common *interim reliefs*. I find no reason not to extend such relief to the present noticees. Thus, to ensure consistency with the earlier orders passed qua other entities in this matter, appropriate directions in this regard are issued.

Relief/Directions

14. Considering the above, I, in exercise of the powers conferred upon me under section 19 of the SEBI Act, read with sections 11(1), 11(4) and 11B thereof, hereby do not interfere with the directions issued vide *ad interim ex parte* order dated June 01, 2016

against the Noticees but grant the following reliefs which are given to other entities, as detailed hereunder with immediate effect namely, permission to:

- a) Carry on delivery based transactions in cash segment in the securities covered in NSE Nifty 500 Index scrips and/ or S&P BSE 500 scrips;
- b) Subscribe to units of the mutual funds including through SIP and redeem the units of the mutual funds so subscribed;
- c) Deal in Debt/Government Securities;
- d) Invest in ETFs
- e) Avail the benefits of corporate actions like rights issue, bonus issue, stock split, dividend, etc.;
- f) Tender / sell the shares lying in their demat accounts or in any open offer/delisting offer under the relevant regulations of SEBI, as on the date of the interim order, with the condition that the sale proceeds should be deposited in an interest bearing Escrow account with a nationalized bank.
- g) Deal with or utilize the sale proceeds lying in the aforesaid escrow account under the supervision of the concerned stock exchange as provided under:-
 - i. the sale proceeds may be utilised for investments permitted in para 14 (a) to (e) above;
 - ii. upto 25% of the value of the portfolio as on the date of the *interim order* or the amount* in excess of the profit made /loss incurred or value of shares purchased to give exit, whichever is higher, may be utilized for business purposes and/or for meeting any other exigencies or to address liquidity problems.

** The amount will include the value of portfolio in the demat account*

Explanation: For the purposes of determining the portfolio value of the entities, the value of portfolio of securities lying in the demat account/s (individual and joint both) on the date of the interim order after excluding the value of shares that have been suspended from trading as on the date of the communication shall be considered.

h) The aforesaid reliefs shall be subject to the supervision of exchanges and depositories.

i) The stock exchanges may use the existing mechanism available for implementing the similar interim relief earlier granted to some of the entities.

15. A copy of this order shall be served on all recognized stock exchanges and depositories to ensure compliance with above directions.

DATE: MAY 25, 2018

PLACE: MUMBAI

**MADHABI PURI BUCH
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**