National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/54999	Date: December 26, 2022
Circular Ref. No: 215/2022	

To All NSE Members,

Sub: **SAT Order in the matter of Ms. Newever Trade Wings Limited**

This is with reference to NSE circular no . NSE/INVG/53672 dated September 13, 2022, referring to SEBI Order WTM/AB/IVD/ID19/19360/2022-23 September 13 2022.

Hon’ble SAT now has directed that the debarment for the below mentioned entities is modified to the extent of the period underwent and the orders of imposition of penalty and debarment against these entities are set aside.

Sr. no.	Name of Entity	PAN
1.	Newever Trade Wings Limited	AADCN9668B
2.	Mr. Akash Kumar	AVVPK1025F
3.	Mr. Vikrant Kayan	AFJPK8437M
4.	Mr. Bhaskar Paul	AXTPP1047Q
5.	Mr. Vikash Dubey	APCPD7488N
6.	Ms. Girija Banerjee	AJWPB1941Q

The detailed order is available on SEBI website (http://www.sat.gov.in).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page under “Home-Regulation-Members-Action against Members-Regulatory Actions”.

Members are advised to take note of the above and ensure compliance.

National Stock Exchange of India

In case of any further queries, members are requested to contact the following officials:

Mr. Ankkit Vijayvergia (Extension: 22481), Mr. Anand Jangir (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of
National Stock Exchange of India Limited

Anand Jangir
Manager

ANNEXURE: SAT Order in the matter of Ms. Newever Trade Wings Limited

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 19.12.2022

Misc. Application No.1517 of 2022
And
Misc. Application No.1518 of 2022
And
Appeal No.988 of 2022

M/s. Newever Trade Wings Ltd.
238 B, AJC Bose Road,
Unit 4B, 4th Floor,
Kolkata-700 020. ...Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, C4/A, 'G' Block,
Bandra Kurla Complex,
Bandra (East), Mumbai – 400 021. …Respondent

Ms. Rinku Valanju, Advocate with Mr. Amit Kumar, Advocate i/b. R. V. Legal for the Appellant.

Mr. Vyom Shah, Advocate with Ms. Karishma Motla and Mr. Aditya Sarangarajan, Advocates i/b. Mansukhlal Hiralal & Co. for the Respondent.

With
Misc. Application No.1659 of 2022
And
Misc. Application No.1660 of 2022
And
Misc. Application No.1661 of 2022

And
Appeal No.998 of 2022

1. Mr. Akash Kumar
   C/o. Ajay Kumar, 06, Abdul
   Latif By Lane, Opp. Gupta
   Associates, Ghaty Goli, Asansol
   Barddhaman 713301, West Bengal.

2. Mr. Vikrant Kayan
   Flat No.1D, 9 Sunny Park,
   Ballygunge, Kolkata-700019,
   West Bengal. ...Appellants

Versus

Securities and Exchange Board of India
SEBI Bhavan, C4/A, 'G' Block,
Bandra Kurla Complex,
Bandra (East), Mumbai – 400 021. …Respondent

Ms. Rinku Valanju, Advocate with Mr. Amit Kumar, Advocate i/b. R. V. Legal for the Appellant.

Mr. Vyom Shah, Advocate with Ms. Karishma Motla and Mr. Aditya Sarangarajan, Advocates i/b. Mansukhlal Hiralal & Co. for the Respondent.

With
Misc. Application No.1690 of 2022
And
Misc. Application No.1691 of 2022
And
Misc. Application No.1692 of 2022
And
Appeal No.1017 of 2022

1. Mr. Bhaskar Paul
   5B, Rishi Bankim Chandra
   Road, Behala Kolkata – 700034
   West Bengal.

2. Mr. Vikas Dubey
   1, Unique Park Behala Circus,
   Kolkata-700034,
   West Bengal.

3. Ms. Girija Banerjee
   1, Unique Park Behala Circus,
   Kolkata-700034,
   West Bengal.

4. Mr. Debjit Bnerjee
   1, Unique Park Behala Circus,
   Kolkata-700034,
   West Bengal. ...Appellants

Versus

Securities and Exchange Board of India
SEBI Bhavan, C4/A, 'G' Block,
Bandra Kurla Complex,
Bandra (East), Mumbai – 400 021. …Respondent

Ms. Rinku Valanju, Advocate with Mr. Amit Kumar, Advocate i/b. R. V. Legal for the Appellant.

Mr. Vyom Shah, Advocate with Ms. Karishma Motla and Mr. Aditya Sarangarajan, Advocates i/b. Mansukhlal Hiralal & Co. for the Respondent.

CORAM: Justice Tarun Agarwala, Presiding Officer
Ms. Meera Swarup, Technical Member

Per: Justice Tarun Agarwala, Presiding Officer (Oral)

1. For the reasons stated in the application, the delay in the filing of the appeal is condoned. The applications are allowed. The exemption applications are also allowed.

2. Three appeals have been filed against the order dated 13th September, 2022 passed by the Whole Time Member ("WTM" for short) restraining the appellants from accessing the securities market and further prohibiting them from buying, selling or otherwise dealing in securities directly or indirectly or being associated with the securities market, in any manner, whatsoever for specified periods. In addition to the above, the WTM also imposed penalties of different amounts totaling Rs.46 lakhs.

3. The facts leading to the filing of the present appeal is, that on 9th June, 2017 the Ministry of Corporate Affairs issued a letter annexing a list of 331 shell companies and requesting SEBI to take appropriate action under the Securities and Exchange Board of India Act, 1992

(hereinafter referred to as the “SEBI Act”) and its regulations.

4. Based on the said letter, SEBI issued an order dated 7th August, 2017 placing trading restrictions on the appellant Company, its Directors and promoters. The Company made a representation on 9th August, 2017 as well as filed appeal no.206 of 2017 which was disposed of by this Tribunal by an order of 24th August, 2017 directing SEBI to decide the representation.

5. Subsequently, based on further investigation SEBI passed an ex-parte ad-interim order dated 21st September, 2017 which included a direction for appointment of a forensic auditor to verify misrepresentations including financial and misuse of funds in books of accounts of the Company. Thereafter, a confirmatory order was passed.

6. Based on the forensic audit report and further investigation made by SEBI a show cause notice dated 11th November, 2020 was issued. The broad charges in the show cause notice are as follows:-

A. Violations of provisions of LODR Regulations due to misrepresentation including of financials and misuse of funds / books of accounts;

B. Other violation of provisions of LODR Regulations;

7. The WTM after considering the replies of the appellant and the material evidence on record concluded that the appellant misrepresented its financials and violated the accounting standards. The WTM found that various provisions of LODR Regulations was not complied with during the three financial years and there were lapses on the part of the Company in not making the disclosures within the stipulated period. The WTM further found that there was no violation of Section 12A of the SEBI Act and Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations") as there was no misappropriation of the funds nor the Company nor its Directors had played a fraud upon the investors nor was

there any disproportionate gain or unfair advantage nor any specific loss was incurred by any investor. The WTM accordingly for the above violations debarred the appellant from accessing the securities market for specified periods and imposed different amounts of penalties on the appellants.

8. We have heard Ms. Rinku Valanju, Advocate assisted by Mr. Amit Kumar, Advocate for the appellant and Mr. Vyom Shah, Advocate assisted by Ms. Karishma Motla and Mr. Aditya Sarangarajan, Advocates for the respondent.

9. Having heard the learned counsel for the parties we are of the opinion that the controversy involved in the present appeals are squarely covered by various decisions of this Tribunal, namely, ***Appeal no. 750 of 2021, V.B. Industries Limited & Ors vs SEBI, decided on July 29, 2022, Appeal no. 471 of 2022, Dalmia Industrial Development Limited vs SEBI and other connected appeals decided on September 1, 2022, Appeal no. 801 of 2021, SVAM***

Software Ltd & Ors vs SEBI decided on October 13, 2022 and Tatia Global Vennture Ltd. & Ors. vs SEBI decided on August 24, 2022 wherein similar controversies the debarment passed by the WTM was set aside and the penalties was reduced appropriately.

10. We, thus, find that the Company had made certain lapses and failed to comply with the LODR Regulations. However, these lapses are not intentional but such lapses occurred on account of procedural and technical issues.

11. We also find that the entire enquiry was initiated with regard to the allegation that the Company was a shell Company which fact was found to be false. Further, the WTM has given a clear finding that there was no violation of the PFUTP Regulations and there was no diversion of funds nor there was any manipulation in the price of the scrip and, consequently, no fraud or unfair advantage was caused to any shareholder or investor. In the absence of any specific loss being caused to anyone it was contended that the penalty imposed in the given circumstances was

totally disproportionate to the alleged violation apart from being harsh and excessive.

12. Admittedly, a clear finding has been given by WTM that there is no misappropriation of funds of the Company nor there is any manipulation in the price of the scrip.

13. In the absence of any finding of any fraudulent activities or misappropriation of funds or diversion of funds, we are of the opinion that direction of debarment and the penalty given for violation of the LODR Regulations appears to be harsh and excessive.

14. In the instant case, we find that the violation of the LODR Regulations gave no disproportionate gain to anyone nor created any unfair advantage to the appellant nor any specific loss was caused to any investors and, therefore, in our opinion the direction of debarment and penalty imposed for violation of the LODR Regulations appears to be harsh and excessive.

15. For the reasons stated aforesaid, appeal no.988 of 2022 M/s. Newer Trade Wings Ltd. is partly allowed. The

penalty of Rs.20 lakhs is reduced to Rs.10 lakhs. The debarment is modified to the extent of the period underwent. Insofar as appeal no.998 of 2022 is concerned, the appeal is partly allowed. The penalty is reduced to Rs.5 lakhs each. Insofar as appeal no.1017 of 2022 is concerned the appeal is allowed. The orders of imposition of penalty and debarment against these appellants are set aside. All the misc. applications are also disposed of accordingly.

16. This order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Certified copy of this order is also available from the Registry on payment of usual charges.

Justice Tarun Agarwala
Presiding Officer

Ms. Meera Swarup
Technical Member

19.12.2022
RHN