

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under regulation 28(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 -

In respect of Show Cause Notice dated December 21, 2018 in Maheshwari Datamatics Pvt. Ltd., Registrar to an Issue and Share Transfer Agent [SEBI REGISTRATION NO. INR000000353] [PAN: AACM6570H]

1. Maheshwari Datamatics Pvt. Ltd. ("**MDPL**" / "**Noticee**") is a Registrar to an Issue and Share Transfer Agent (RTA) registered with SEBI vide SEBI Registration No. INR000000353. Pursuant to inspection/audit of MDPL's books of accounts, SEBI initiated enquiry proceedings, under Section 12(3) of the SEBI Act read with Chapter V of the SEBI (Intermediaries) Regulations, 2008, against MDPL in respect of the alleged contravention of the provisions of RTI Circular No.1 (2000-2001) dated May 09, 2001 (hereinafter referred to as "**RTI Circular of 2001**") and the Code of Conduct under the SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 (hereinafter referred to as "**RTA Regulations**"). The Designated Authority ("**DA**"), upon consideration of the facts before him and after granting an opportunity of hearing, found the noticee to be liable for having violated the aforesaid provisions of the RTA Regulations and RTI Circular, and recommended that MDPL may be barred from accepting any new assignments or contract for a period of 3 months. A show cause notice (SCN) dated October 17, 2018, under regulation 28(1) of the SEBI (Intermediaries) Regulations, 2008, was issued calling upon the Noticee to show cause as to why action as recommended in the DA Report or as otherwise deemed fit should not be taken against it, by the Designated Member.
2. Brief facts of the case are as follows. An inspection/audit of the books of accounts of MDPL was conducted by SEBI through G. S Mathur & Co. for the period April 01, 2013 to March 31, 2016. The following two observations from the said inspection/audit resulted in initiation of enquiry proceedings under the SEBI (Intermediaries) Regulations, 2008:
 - (i) In 581 cases of transfer of physical shares, Noticee effected transfer of shares without signature verification and despite non-receipt of

confirmation from transferor. Thereby, Noticee allegedly violated Clause 3 of "Norms for Objection" of RTI Circular No. 1(2000-2001) dated May 9, 2001 and Clause 2 & 3 of Code of Conduct prescribed under Regulation 13 of the SEBI (Registrar to an Issue and Share Transfer Agent) Regulations, 1993.

(ii) Duplicate share certificates were issued without following due process in the following cases-

- (a) With respect to the scrips of **Dhunseri Petrochem Ltd** (concerned shareholder claimed to be - Pankaj Deviprasad Tripathi) and **Eveready Ltd.** (concerned shareholder claimed to be - Ila Mukherjee), Noticee allegedly failed to raise objection for lack of FIR / obtain the same before processing the request at its end. Thereby, Noticee allegedly violated Clause 5 of "Norms for Objection" of RTI Circular No. 1(2000-2001) dated May 9, 2001.
- (b) With respect to the scrip of **Eveready Ltd.** (concerned shareholders claimed to be - Basana Chowdhury and HinaVora), Noticee allegedly failed to fulfill the criteria of newspaper advertisement and obtain affidavit for discrepancy in names, respectively, before processing the requests for issuance of duplicate share certificate. Thereby Noticee allegedly violated provisions of clause 23 of "*General norms for processing of documents*" of RTI Circular No.1 (2000-2001) dated May 9, 2001.

3. After granting an opportunity of hearing, the DA Report was issued on September 25, 2018. Significant findings made in the DA Report are as follows:

(i) With respect to allegation of transfer of shares without signature verification and despite non-receipt of confirmation from transferor:

- (a) *"It is noted that neither of the circular under question viz., circular dated May 9, 2001 and September 27, 2001 mention any provision which provide waiver from doing signature verification, and they inter-alia provides ways for issuing objection for difference in signature and registering fresh specimen signature. It is pertinent to note that present case involve grave scenario where no specimen signature was available on record to verify the signature present in the transfer request."*

(b) *"When the specimen signature was not available on record, it was appropriate on part of the Noticee to obtain the same to complete the process of signature verification. Admittedly, the specimen signature was not provided by the concerned company. As regards to other ways to obtain the specimen signature, clause 3 of "norms of objection" under RTI Circular No. 1(2000-2001) dated May 9, 2001 provides an RTA & STA to not only issue objection memo, but also empower it to demand registration of fresh signature in the prescribed affidavit format provided in Annexure 7 of the said circular."*

(c) *"Reading of the above clause 3 make it clear that under this clause, transferors were required to inter-alia advise the transferor to register fresh specimen signature. As regards to contention of the Noticee about applicability of circular dated September 27, 2001, it is noted that it addresses only the aspect of issuing objection memos, and do not specify or repeal the earlier provision under clause 3 of "norms of objection" in May 9, 2001 circular requiring for registering fresh specimen signature in case of material difference in signature. It is pertinent to note that despite being aware about the grave scenario where it didn't have the specimen signature on record, Noticee chose to ignore the fact and interpreted the September 27, 2001 circular in abrogation of the May 9, 2001 circular which is not correct. Further, admittedly, in upto 10% of said 581 cases, Noticee effected transfer of shares in its record before end of 15 days period for filing objection to meet the dates given by the client company."*

(d) *"It is noted that Noticee has failed to follow proper due diligence and exercise appropriate professional judgment before effecting transfer of shares in 581 cases of share transfers."*

(ii) With respect to allegation of issue of duplicate share certificates not in accordance with due process:

(a) As regards the issue of share certificates in Dhunseri Petrochem Ltd. and Eveready Lt. to Pankaj Deviprasad Tripathi and Ila Mukherjee, the Noticee had contended that *"value of the shares were less than Rs. 6000 and*

therefore in the interest of small investors, the duplicate share certificates were issued without insisting for copy of FIR/general diary so that the investors do not feel harassed." However DA concluded as follows: "*... it is pertinent to note that shares are important document, and registration of police complaint / FIR is a basic criteria for seeking duplicate shares. The same is also to ensure that loss of shares have been duly reported to check abuse of the same. It is found that despite clear requirement, Noticee failed to obtain the copy of FIR / general diary before issuing duplicate shares in aforesaid two cases."*

(b) As regards the issue of share certificates in Eveready Ltd. to Hina Vora, the Noticee's contention was that though the death certificate did not mention the surname, since her father's name present in the certificate shows family name as 'Vora', an affidavit explaining the difference in names was not insisted upon. The DA found this contention as being tenable. As regards the issue of share certificates in Eveready Ltd. to Basana Chowdhury, the Noticee did not submit any defence to the allegation, that though shares claimed to have been lost was valued at more than Rs 10,000/- , no newspaper publication was insisted for before issuing the duplicate share certificates. The absence of a defence was taken by the DA to be an admission of the default.

4. In view of the above findings, the DA recommended that the Noticee be prohibited from taking up any new assignment or contract for a period of 3 months.

SHOW CAUSE NOTICE AND REPLY

5. A Show cause notice ("**SCN**") was issued on October 17, 2018 enclosing a copy of the DA Report and directing the Noticee to show cause why action as recommended by the DA or any other higher penalty, as deemed fit by the competent authority, should not be imposed in terms of regulations 28(1) and (2) of the SEBI (Intermediaries) Regulations, 2008. The Noticee filed two replies to the same, dated November 28, 2018 and May 07, 2019. The Noticee submitted that adequate corrective steps have been initiated to rectify the deficiencies pointed out, that the deficiencies pointed out are of technical in nature and not intentional and that there was no loss to investors

due to the said unintentional deficiencies. The written submissions, in brief, are as follows:

(i) Submissions with respect to absence of specimen signature cards:

- (a) Client companies did not submit complete specimen signature cards of the shareholders in these cases.
- (b) Since the specimen signatures were not provided by the client company to us and in order to effect the transfers, we had taken recourse to SEBI Circular No. SMDRP/POLICY/CI R-46/2001 dated 27th September, 2001 and as required therein we had sent registered letters within 10 days to all the transferors and since no objection was received from the transferor within 15 days, we had given effect to the transfers and dispatched the share certificates to the transferees.
- (c) Till date no complaints have been received from any of the transferors in the case of the 581 transfers. Approximately 78% of the above cases are of the value of less than Rs 5000/.
- (d) Subsequent to the Audit Report we had pursued the matter with the client companies and have issued letters to all these shareholders whose signatures were not available requesting them to submit their fresh attested signatures for our records. By this process we have obtained specimen signatures of substantial number of shareholders which have been updated in our system. For the remaining few we are following up with them to obtain the signatures thereby completing the exercise to update our system with all the signatures.

(ii) Submissions with respect to duplicate share certificates:

- (a) Out of 67 cases of duplicate share certificates issued which were verified by the Auditors, only in two cases they have mentioned that proof of filing of Police FIR/General Diary was not available and only in one case, they have pointed out discrepancy in non-publication of newspaper advertisement of loss of share certificate.
- (b) Immediately after the Audit Report strict instructions had been given to our staff not to issue duplicate share certificate unless full compliance is done regarding obtaining certified copy of FIR/General Diary and copy of advertisement. Hence, we have already taken steps to comply with the SEBI Guidelines.

(c) Apart from share transfer and issue of duplicate share certificate as referred above, the enquiry report does not allege any delay in handling of investor grievances, dematerialisation of shares etc.

6. An opportunity of personal hearing was granted to the noticee on May 08, 2019 which was attended by R.S. Jhawar, Director of MDPL wherein he, on behalf of the noticee company, reiterated the written submissions filed earlier.

FINDINGS

7. I have considered the findings of the DA Report along with the written and oral submissions.

7.1. In relation to the **first allegation i.e. absence of specimen signature cards**, my observations and findings are as follows:

7.1.1 As noted in the DA Report, the inspection/audit of MDPL had revealed that from the total of 1403 records of transfer of shares checked during the inspection, in 581 records 'N/F' or 'Signature Not Found' was written on Transfer Deeds, to which the noticee had submitted that specimen signatures in those cases had not been provided by the client company to the Noticee. This is admittedly a violation of Clause 3 of "Norms for Objection" of RTI Circular No. 1(2000-200 1) dated May 9, 2001 and Clause 2 & 3 of Code of Conduct prescribed under Regulation 13 of the RTA Regulations 1993. The relevant provisions of the said RTI Circular are reproduced hereunder for ease in reference:

Norms for Objection

3. Reason for Objection: Material difference in signature/s of transferor/s on Transfer Deed/s vis-a-vis specimen signatures recorded with the Company/ STA

Procedure to be followed by Cos. / STAs:

To send:

1. Objection memo along with documents as per General guideline 18, in the prescribed format in original marking the reason as "material signature difference" to the transferee.

2. Simultaneously, a copy of the objection memo to the transferor/s with an advice to lodge documents as detailed hereunder to facilitate the Company/ STA to take on record fresh specimen signature:

3.2.1 an affidavit with the Company / STA as per Annexure-07

OR

3.2.2 Where the signature difference is due to old age / sickness, to lodge an affidavit as per Annexure-07 supported with a medical certificate obtained from a registered medical practitioner.

The Noticee however both in its submissions before the DA as well as before me contended that since SEBI had, subsequent to the RTI Circular of May 09, 2001, issued a modified and detailed circular dated September 27, 2001, the noticee followed the latter circular and as per industry practice had sent registered letters to the transferors and since no objection was received from the transferor within 15 days, the noticee gave effect to the transfers. Extracts of the circular of September 2001 claimed to be relevant to this case are reproduced below:

"i. In case the transfer deed and the share certificates are with the company awaiting transfer beyond 30 days and in cases where the same are returned by the company to the investor with a company objection including due to signature difference (other than court cases where injunction has been ordered), companies shall effect the transfer of shares on obtaining from the transferee the proof of purchases duly acknowledged by the stock exchange/broker. If so desired, a company may also obtain indemnity bond from the transferee. Before effecting transfer, the company shall within 10 days of the date of such direction, send letters under registered post AD/Speed Post AD to the transferor(s) asking for their confirmations/ no-objection, so as reach the company within 15 days from the date of receipt of the letter by the transferor. If the confirmation is received /no objection is not received within 15 days from the transferor(s), the transfer would be effected immediately thereafter. The valid objection, if any should be accompanied by correspondingly old prohibitory order from a competent authority. "

7.1.2 SEBI Circulars lay down detailed procedure in relation to transfer of shares so as to identify and prevent potential mischief attendant with physical share certificates. To take the procedure lightly would not be fair to the investors who place trust in the legal framework designed to protect their interests. In the instant case as rightly pointed out by the DA Report, the issue is more grave than the factum of non-verification of signature and non-receipt of confirmation from the transferor. In the instant case, the noticee admittedly was not even maintaining specimen signatures. Therefore there is no question of the noticee having been able to verify the signature. Consequently the question of adherence to the Circular of September 27, 2001, is irrelevant in this case. Infact, though

the DA has not specifically pointed out the specific relevant circular, it is pertinent to note that SEBI Circular of October 11, 1994 clearly mandates that RTAs must maintain specimen signature cards. The relevant extracts of the said circular is reproduced below:

RRTI Circular No. 1 (94-95) dated October 11, 1994

"Records to be maintained by registrar to an issue / share transfer agent

2. *In pursuance of the powers conferred upon SEBI by regulation 14(2)(h) and regulation 14(3)(c) of the Regulations, it is hereby stipulated that in addition to the books, records and documents stipulated in regulation 14(1), 14(2) and 14(3) the following records and documents shall also be maintained by the RTI/STA in hard copy / magnetic media.*

.....

Records and documents to be maintained by STA

.....

(vii) Specimen signature cards and transfer deeds."

7.1.3 The September 21, 2001 circular merely addresses the question of transfer being delayed due to lack of confirmation by the transferor. This circular does not supersede or abrogate the previous circulars of 1994 and May 2001 already discussed above. For the said reasons, I do not find merit in the noticee's submissions. I also do not find it relevant as to whether the impugned transfer deeds were of a smaller value or not. The procedure to ensure authenticity of transfer deeds is built in to ensure integrity in the process. The sanctity of this process cannot be diluted by the individual whim of the RTA. The system of allowing transfer of shares without reference to specimen signature or when the signature on the transfer deed is materially different from the recorded specimen signatures is an open invitation to potential frauds which could undermine the credibility of the capital market mechanism and erode the investor faith in the system. In view of the above, I find the noticee liable for having violated Clause 3 of the "Norms for Objection" of RTI Circular No. 1(2000-2001) dated May 09, 2001 and Clause 2 &3 of Code of Conduct prescribed under Regulation 13 of the RTA Regulations.

7.2. In relation to the **second allegation i.e. the issue of duplicate share certificates**, my observations and findings are as follows:

7.2.1 I note the allegation made in the DA Report that the due process for cases where duplicate share certificates were issued on account of loss of the original ones had not been followed in strict adherence to the letter of the law. Specifically with respect to the scrips of Dhunseri Petrochem Ltd. And Eveready Ltd., it was alleged that FIR had not been filed by the purported shareholder – Pankaj Deviprasad Tripathi and Ila Mukherjee and the RTA noticee had not ensured the same before having issued the duplicate share certificates. The defence to this allegation is that the value involved was small—that is, Rs 6000/- and Rs 1600/- respectively and therefore the shares were transferred to avoid any harassment for the small investors. Though the RTA has technically violated the process of the SEBI Circular, in the aforesaid cases I do not find the violation by itself significant enough to warrant enforcement action.

7.2.2 With respect to the scrip of Eveready Ltd. it was also contended that one Ms. Hina Vora's certificate was transferred on the strength of a Death Certificate which did not mention her surname. However, in this regard, I am in agreement with the DA Report which has found that since the Death Certificate mentions Hina's family name as 'Vora', the alleged deficiency does not warrant any adverse conclusion.

7.2.3 With respect to the scrips of Eveready Ltd. in the case of shares purportedly held by Basana Chowdhury, the allegation was that no newspaper advertisement was made though the procedure mandated that loss of share certificates must be published through newspaper if the value of shares were above Rs 10,000/-. The noticee has not put forth any defence to this allegation and hence can be said to have admitted this violation. In view of the same, Noticee is found to be in violation of Clause 23 of the "General norms for processing of documents" of RTI Circular No.1 (2000-2001) dated May 9, 2001 which required publication of newspaper advertisement for loss of share certificate. Relevant extract of Clause 23 of the aforesaid circular is as follows:

"23.

...

Company/ STA to:

i. inform all the Stock Exchanges where the shares are traded regarding the loss of shares in lieu of which duplicate shares are being issued, if not already informed

ii. issue an advertisement in a widely circulated newspaper if the value of the shares is greater than Rs 10,000.

In case the Company/ STA issues duplicate share certificate based on any other documents, then the Company/ STA shall be solely responsible for the issue of such duplicate share certificates."

8. While I am therefore in agreement with the findings made by the DA, considering that there is no record of any specific investor complaint in relation to the said deficiencies or any record of any specific gain to the noticee or loss to the investor, and in light of the violations not being very substantial, I deem it appropriate, while issuing directions, to take a slightly lenient view from what the DA had recommended.
9. Therefore in exercise of the powers conferred on me under section 12(3) of the SEBI Act read with regulation 28(2) read with regulation 27 of the SEBI (Intermediaries) Regulations, 2008 upon consideration of the facts and circumstances listed in this Order, applicable legal provisions and submissions of the Noticee, I hereby direct that the Noticee i.e. Maheshwari Datamatics Pvt. Ltd. shall be prohibited from accepting any fresh clients for a period of one month from the date of this Order. Maheshwari Datamatics Pvt. Ltd. shall disclose the contents of these directions on its website(s) immediately. The above direction shall come into force with immediate effect.
10. A copy of the order shall be served on the Noticee immediately. A copy of the order shall also be served on the recognised stock exchanges and depositories for necessary information.

Place: Mumbai

Date: December 09, 2019

G. MAHALINGAM

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA