

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

CONSENT ORDER

On the Application submitted by

MR. ARUN JAIN

In the matter of Polaris Software Labs Ltd.

CO/IVD/1054/AO/VSS/13/2008

1. Securities and Exchange Board of India (SEBI) conducted an investigation, covering the period from August 28, 2000 to October 03, 2000, into alleged insider trading done by Mr. Arun Jain (hereinafter referred to as the 'Noticee') in the shares of Ms. Polaris Software Labs Ltd. (hereinafter referred to as 'the Company'). The investigation revealed that the Noticee, being the Chairman and Managing Director of the Company, had dealt in the shares of the Company on the basis of unpublished price sensitive information. Therefore, adjudication proceedings were initiated against the Noticee to inquire and adjudge under section 15G read with section 15I of Securities and Exchange Board of India Act, 1992 for the alleged violation of regulation 3 of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992. Consequently, a Show Cause Notice No. EAD/PG/50892/2005 dated September 30, 2005 was issued under rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, by Mr. Piyooosh Gupta, (then) A.O. Consequent upon the transfer of Mr. Piyooosh Gupta, the undersigned has been appointed as A.O. vide order dated November 19, 2007.
2. The Noticee filed Writ Petition No. 40158 of 2005 before The Hon'ble High Court of Judicature at Madras praying for issuance of writ of certiorari to quash the aforesaid SCN. The Hon'ble High Court passed an interim order on December 16, 2005 restraining SEBI from proceeding further pursuant to the show cause notice. The Noticee filed another Writ Petition No.40261 of 2005 challenging the proceedings appointing Mr. Piyooosh Gupta as an Adjudicating Officer in the matter.
3. In the meantime, the Noticee made an application dated August 01, 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 before SEBI. Subsequently, the Noticee vide letter dated February 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.7,00,000/- (Rupees seven lakhs only) towards settlement charges and legal 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 February 19, 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.7,00,000/- (Rupees seven lakhs only). The recommendations of the committee were placed before the two whole time members of the Board who have agreed to the terms of consent as recommended by the committee.

4. In pursuance of the aforesaid consent terms, the Noticee has remitted a sum of Rs.7,00,000/- (Rupees seven lakhs only), vide Demand Draft No.201691 dated March 24, 2008 drawn on ICICI Bank Ltd., Mumbai, towards the terms of consent in the matter.
5. In the light of the aforesaid and taking cognizance of the consent terms, the Hon'ble High Court vide order dated June 11, 2008 dismissed the writ petitions, stating, inter alia, as under:-

“5. When the matter is taken up for orders, the learned counsel on either side submitted that during the pendency of the writ petition, the writ petitioner moved the first respondent by an application dated 1.8.2007 for consent order along with an undertaking and waiver against the show cause notice dated 30.09.2005. In that application the first respondent has passed an order on 17.03.2008 to the effect that the High Powered Advisory Committee, (hereinafter referred to as “HPAC”) has recommended that the case might be settled on payment of Rs.7,00,000/- towards settlement and legal expenses in the matter. In view of the recommendation of the HPAC, SEBI has in principle agreed to accept the terms of the revised consent terms proposed by the writ petitioner, subject to certain change in the undertaking and waiver. The said amount also paid by the petitioner on 24.03.2008. Therefore, there remains nothing to be adjudicated either in the writ appeal or in the writ petition as the matter has already reached finality. Learned counsel for the writ petitioner has also produced before this court a Photostat copy of the order dated 17.03.2008 made by the Securities and Exchange Board of India.

6. Recording the above submission, the writ appeal and the writ petitions are dismissed as nothing remains to be adjudicated. No costs. Consequently, connected miscellaneous petitions are dismissed.”

6. 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 Polaris Software Lab Ltd., and
- 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, if SEBI finds 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.

7. This consent order is passed on the 21st July, 2008 and shall come into force with immediate effect.

V S Sundaresan
Adjudicating Officer