

**IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992 AT BOMBAY**

**CUSTODIAN'S REPORT NO. 8 OF 2020
(REPORT IN LD-VC-SPMA-3 OF 20200**

The Custodian .. Applicant
v/s.
Reliance Industries Ltd. & Ors. .. Respondents

Mr. Gandhar Raikar i/b. Leena Adhvaryu & Associates for the Custodian.
Mr. Jayesh R. Vyas i/b. Vipul Shukla for respondent no.2.
Mr. Ashish Mehta i/b. Ethos Legal Alliance for Canara Bank.
Mr. Yogesh Patel –representative of Fairgrowth Financial Services Ltd.
(FFSL).

**CORAM : A. K. MENON,
JUDGE, SPECIAL COURT
DATED : 26TH FEBRUARY, 2021**

P.C. :

1. By this report, the Custodian seeks directions to the Canara Bank (formerly Syndicate Bank) to compensate the notified party Fairgrowth Financial Services Ltd. to the extent of 7062 rights shares of Reliance Industries Limited (RIL) and secondly a direction to the Stock Holding Corporation of India Ltd. (SHCIL) to transfer 2073 shares from Client ID 15539093 to Client ID

16662940.

2. RIL had announced a right issue and as a result of which notified party became entitled to subscribe 29046 rights shares. Of this only 21984 shares were allotted by the company. There is a shortfall of 7062 shares. It transpires that the shortfall on account of an error at the hands of Canara Bank in not having entered the correct number of shares to be subscribed. As a result, the subscription amount of Rs.22,19,233.50 were paid over to the Canara Bank towards the subscription amount the bank has since repaid to the respondent. According to the Custodian, the bank should be held responsible for the error and are now requested to credit the account of the notified party with 7062 shares or compensate the notified party in some manner.
3. On behalf of the bank, an affidavit in reply of one Ms. Bharati Bhave, Chief Manager, dated 2nd December, 2020 is on record. The affidavit sets out the factual aspects of the application. Mr. Mehta on behalf of the bank has submitted that shortfall in the number of shares applied for was caused due to a human error when the transaction took place on 3rd June, 2020. During that time the bank was operating under extremely difficult

conditions in the midst of pandemic driven lock-down. Owing to the large number of Covid 19 cases in the State of Maharashtra, minimum services were being offered by the bank such as withdrawal of cash and clearing of cheques. On 2nd June, 2020, the bank while functioning with minimal staff it received two applications for subscription at their New Marine Lines Branch. There were connectivity issues that the branch was faced with there was a cyclone warning on that day. They were unable to process the applications on 2nd June, 2020 itself. It was only possible to process the application on the following day.

4. Paragraph 7 of the affidavit/reply sets out that 3rd June, 2020 was the last day for submission of application for the right issue. The applications were provided to the bank only one day earlier i.e. on 2nd June, 2020. The affidavit further sets out that the Chief Manager with the help of staff member sought to complete the transaction in a bonafide manner. It is only later when the bank received a mail from the Custodian's office, it came to realize that the application for issue of rights shares fell short by 7062 shares. Mr. Mehta submits that it is a public sector bank and had no intention to cause any loss to any party. The error occurred under severe constraints.

5. In these circumstances, Mr. Mehta submits that the monies that were payable for the 7062 shares have since been refunded. He submits that his clients are a nationalized bank and if the Court may consider that while the notified party may have been applied for subscribing to the additional shares have the bank is asked to compensate it will result in utilization of public funds. He therefore submits that no relief be granted.

6. On behalf of the company, Dr. Sathe, the learned Senior Counsel, fairly stated that it is not possible for the company to issue rights issue since the rights issue had closed. Dr. Sathe points out that the rights issue was announced on 30th April, 2020 whereby one share was to be offered for every 15 at a price of Rs.1257/- per share payable in 3 installments. The issue was open for 15 days from 20th May, 2020 to 3rd June, 2020. On receipt of the application for the right shares the designated banks uploads the detail of the same on the Stock Exchanges and after the closing of the rights issue the Stock Exchanges have conveyed the details of all uploaded applications to the Registrar of the issue. The banks also share the particulars of the amounts to be blocked for payment of these shares. The procedure he submitted is in

accordance with the SEBI Regulations. The rights issue was over subscribed and all shares have been fully allotted to successful applicants on 11th June, 2020. As far as the 7062 shares, Dr. Sathe states that it will not be possible to issue shares today. The entire process has been completed the notified party had applied for 29046 shares against entitlement of 19911 shares.

7. In paragraph 6.8 of the affidavit, it is stated that under Client ID no.15539093 an application was made for 29046 shares against entitlement of 19911 shares. These 19911 shares were allotted along with additional 2073 shares. The additional shares were available in accordance with the Regulation and were allotted on equitable basis. According to the company, therefore, it is not possible today to allot any additional rights shares since none are kept in abeyance.

8. The notified party is represented by its Director Mr. Patel who is present in Court today. He submits to the order of the Court.

9. Mr. Raikar on behalf of the Custodian, submits that the bank's contention that 3rd June, 2020 was the last date for application and that the Custodian's application was submitted only on 2nd June, 2020 is correct. Mr. Raikar submits that LD-VC-SPMA-3-

2020 was filed by the Custodian and on behalf of notified party herein in view of the fact that certain other notified parties had brought the fact to the attention of the Custodian that such rights issue had been announced. The other notified parties were accordingly allowed to apply realizing that the notified party also had the right to apply of these shares in the above SPMA and an order was passed on 2nd June, 2020. Accordingly on the very same day applications were submitted to the bank.

10. In fact the order at paragraph (iii) records that in view of the pandemic driven lock-down a signed copy of the order may not be available and all parties were to act on a copy of this order signed digitally by the Private Secretary of this Court. Thus, Mr. Raikar states that it is a case where the circumstances would not have permitted prior application especially since the offer letter was never sent to the Custodian. It is not understood as to why the letter of offer was not sent to the Custodian since RIL and its agents are by now well aware that there are several notified parties who claim benefits of accruals and on whose behalf Custodian holds shares.

11. In any event, having considered the facts, there is no

justification today in asking the bank to compensate the notified party. The facts of the case do not justify a direction to the bank to now purchase the shares from the open market and provide it to the Custodian to the credit of the notified party. That is the only option available to the bank today since the company has made it clear that the offer closed and the allotment was finalized and communicated to all concerned as of 11th June, 2020.

12. In these circumstances and considering the fact that the price of Rs.22,19,233.50 was promptly refunded to the Custodian, in my view there is no justification in seeking prayer clause (a).

13. As far as prayer clause (b) is concerned, the notified party who is represented today has no objection to the transfer of 2073 shares from Client ID no.15539093 to Client ID no.16662940. Mr. Raikar does not press for reliefs in terms of prayer clause (c) since the amount of Rs.22,19,233.50 already been invested.

14. In view thereof, I pass the following order;

(i) Report is allowed in terms of prayer clause (b).

(ii) The Company is directed to ensure that in future all notices of rights issues and bonus issues are promptly conveyed to the Custodian in respect of all accounts of notified parties. Custodian

and the Company's Advocate shall intimate the company of the direction to ensure compliance.

(iii) No costs.

(A. K. MENON, J.)