

IN THE SPECIAL COURT AT BOMBAY

Constituted under the Special Court [Trial of Offences Relating to Transactions in Securities] Act, 1992

EXECUTION APPLICATION NO.10 OF 2018

IN

MISCELLANEOUS APPLICATION NO.53 OF 2012

IN

MISCELLANEOUS APPLICATION NO.76 OF 1996

The CustodianApplicant

V/s.

Oasis Nutraceuticals Ltd. and Ors.Respondents

Mr. Gandhar Raikar, i/by Ms. Shilpa Bhate, for the Applicant.

Mr. Devendra Rajapurkar for Respondent No.1.

Mr. Devanshu Desai for Respondent Nos.3, 5 and 6.

**CORAM : A.K. MENON, J.
JUDGE, SPECIAL COURT**

DATE : 1ST JULY 2022.

P.C. :

1. On 8th April 2022, this court issued certain directions after having perused affidavits on behalf of the Garnishee – Kavit Industries Ltd., now known as Evexia Lifecare Ltd, (*hereinafter referred to as “Evexia”*), which disclosed ledger accounts from which it was apparent that a sum of Rs.1,98,10,000/- had been paid by Evexia to Oasis Nutraceuticals Ltd. – the 1st respondent. Particulars of these were sought. It is evident from the said order that non-disclosure of

these payments effectively amounted to suppression of information from the court and would have to be investigated further. One Mr. Vijay Vasant Wadekar, who had signed the affidavit, was asked to remain present. Notice was issued not only to Mr. Vijay Wadekar but also to Ms. Daksha Piyush Kakadiya and one Abhishek D. Ashar, Directors of Oasis Nutraceuticals Ltd. (*Oasis*), to remain present in court. Separately, notices were issued to Mr. Jayesh Raichandbhai Thakkar, Mr. Bhavesh Jayantibhai Desai, Mr. Nareshbhai Arvindbai Patel, Mr. Hasmukhbhai Dhanjibhai Thakkar, Mr. Chandresh Kumar Vishnubhai Kahar, Mr. Salil Shashikant Patel, Mr. Kartik Kumar Bakulchandra Mistry and Mr. Payal Gajjar, Directors of Evexia to remain present in the court.

2. Mr. Raikar submits that on 22nd April 2022, only Rajkishore Maniyar, Director of Perfect Vitamins (I) Ltd., Mr. Abhishek Ashar and Mr. Vijay Wadekar, Directors of Oasis, were present. Time was sought to obtain instructions whether Advocate would also enter appearance for Daksha Kakadiya. It was stated that Mr. Rajpurkar, learned Advocate appearing for Oasis on that date had instructions to appear only for Mr. Vijay Wadekar, but submitted that Mr. Vijay Wadekar has resigned but Advocate would continue to represent him. That statement was accepted. Today, Mr. Rajpurkar states that he had instructions to appear for Daksha Kakadiya as well. He undertakes to file vakalatnama within one week from today.

3. Be that as it may, Mr. Raikar submits that after having perused these affidavits and disclosures and one affidavit of Mr. Abhishek Ashar, Director of Oasis, dated 28th April 2022, numerous facts have come to the light. If they are true, it appears that extent of suppression is far greater than that first feeling. The deponent – Abhishek Ashar is a current Director of Oasis having been appointed on 25th February 2020. He is presently said to be aware of the facts of the case, having perused the records and having derived information. Mr. Rajkishore Maniyar, who appeared in person as Director of Perfect Vitamins (I) Ltd. was also a Director of Oasis, but he is since believed to have resigned.

4. All in all, several allegations are made against persons named in the affidavit including one Nitin Eknath Velhal, who is said to have instructed Mr. Vijay Wadekar to file an affidavit. Then Mr. Vijay Wadekar was asked to remain present. He has only acted on the instructions of Mr. Velhal and that Wadekar seems to have resigned on 25th April 2020. In these circumstances, Mr. Raikar submits that further enquiries will have to be made. It appears that there is an attempt to suppress the true state of affairs even today. Mr. Raikar has therefore, on instructions of the Custodian, sought amendment to the execution application, which was allowed on the last occasion.

5. Today, Mr. Raikar seeks ad-interim relief in terms of prayer clauses c-(i) to c-(iii) and d-(i) to d-(iii) as against respondent nos.5 and 6. The application is

opposed on behalf of the said respondents by Mr. Desai, who relies upon affidavit dated 8th June 2022 of one Sanjib K. Nandi, Director of respondent no.5. The deponent states that he is aware of the facts of the case and he has filed true affidavit. After advertng to certain facts, he submits that respondent no.5 owned the property, which is now sought to be attached by the Custodian. There are no immovable or other movable assets. Cash balances are said to be minimum, but it is claimed that Oasis Nutraceuticals Ltd. and Mount Estate Pvt. Ltd. are debtors of respondent no.5. No particulars of these are furnished. In the course of submissions, Mr. Desai seeks to file further affidavit.

6. Likewise, in the case of respondent no.6, affidavit dated 8th June 2022 of one Bhupendra C. Dalal, Director of respondent no.6, is on record, in which he has contended that all assets have been disclosed. The respondent no.6-company does not hold any immovable properties in its name. Minimal bank balances are disclosed, but an amount of Rs.15,28,444/- has been advanced to M/s. S. Ramdas, which is incidentally respondent no.7 in this execution application.

7. Mr. Desai today has no instructions as to when the amount was advanced, in what capacity it is held by M/s. S. Ramdas or whether the amount was accruing interest, but he states that it is now repayable. According to Mr. Desai, the effect of paragraph 6 of the affidavit dated 8th June filed by Mr. Bhupendra Dalal is that the amount of Rs.15,28,444/- is recoverable as on date.

He seeks time to provide further particulars that have not been included in this affidavit. In my view, time can be granted but the manner in which these disclosures have been literally had to be extracted in a matter of speaking requires the Custodian's version to be accepted and ad-interim relief must be granted.

8. At this stage, Mr. Desai states that there is an attachment already levied by the Securities and Exchange Board of India effective from 18th May 2022. This attachment will continue in addition to the attachment levied by SEBI and shall be brought to the attention of the SEBI by the Custodian.

9. At this stage, Mr. Raikar states that he has instructions to seek amendment to the execution application in relation to additional reliefs against garnishee – Evexia Lifecare Ltd.

10. Accordingly, I pass the following order :-

- (i) Leave to amend, to add additional reliefs against garnishee – Evexia Lifecare Ltd., is granted in terms of the draft handed in and marked "X" for identification. Amendment to be carried out within one week from today. Re-verification is dispensed with.

- (ii) Respondent nos.5 and 6 to file additional affidavit on or before 15th July 2022 and copies thereof shall be served upon the Custodian's office forthwith thereafter.
- (iii) In the meantime, there will be an ad-interim order in terms of prayer clauses c-(i) to c-(iii) of the Execution Application.
- (iv) Likewise, in the case of respondent no.6 also, there will be an ad-interim order in terms of prayer clauses d-(i) to d-(iii) of the Execution Application.
- (v) M/s. S. Ramdas shall not pay over any funds forming part of the sum of Rs.15,28,444/- to respondent no.6 or to any third party till the deposit is made in this court. Deposit shall be made within three weeks from today.
- (vi) Affidavits shall also be filed by Daksha Kakadiya, Rajkishore Maniyar, Nitin Dalal and Mr. Yogesh Gupta as to when they joined in their capacities as directors, their interests in the company and the reasons for their abrupt resignations of 25th February 2020. These particulars shall be provided on oath by these persons within three weeks from today.

- (vii) Accordingly, office to issue notices to Daksha Kakadiya, Rajkishore Maniyar, Nitin Dalal and Mr. Yogesh Gupta to file their affidavits, as aforesaid, on or before 22nd July 2022.
- (viii) In the meantime, Mr. Raikar shall deal with the contents of the affidavit dated 28th April 2022, as filed by Mr. Abhishekh Deepakbhai Ashar, Director of respondent no.1-Oasis, as well as affidavits dated 8th June 2022 filed by Sanjib K. Nandi, Director of respondent no.5-Cifco Ltd. and by Bhupendra C. Dalal, Director of respondent no.6-Oceanic Investments Ltd. Affidavit-in-rejoinders, if any, to be filed on or before 29th July 2022.
- (ix) List the Execution Application on 5th August 2022.

[A.K. MENON, J.]