

WTM/AB/IVD/ID4/14106/2021-22

**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**MISCELLANEOUS ORDER**

**On the representations from Ms. Nitya Raj Patel (PAN: ABWPS0034M), Ms. Anuja Somany (PAN: BGKPS6778N) and Ms. Prasann Arindkumar Somany (PAN: AINPS9863Q) – In respect of final order dated February 08, 2021 passed in the matter of Soma Textiles and Industries Limited.**

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1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) passed a Final Order dated February 08, 2021 (hereinafter referred to as “Final Order”) in the matter of Soma Textiles and Industries Limited (hereinafter referred to as “STIL”) against the following entities, namely:-

Noticee no.	Noticee Name
1	Soma Textiles & Industries Limited
2	Whiteview Trading Corporation
3	Mr. S. K. Somany
4	Mr. A. K. Somany
5	Mr. Prafull Anubhai
6	Mr. P. Bandopadhyay
7	Mr. Sunil Patel

2. In the final order, *inter alia*, the following directions were issued against the aforesaid entities:

**Quote**

- a) *Soma Textiles & Industries Limited (Noticee no. 1) is hereby restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities including units of mutual funds, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 3 years from the date of this order.*
- b) *Mr. S. K. Somany (Noticee No. 3), Mr. A. K. Somany (Noticee No. 4) and Mr. P. Bandopadhyay (Noticee No. 6) are hereby restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities including units*

*of mutual funds, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 2 years from the date of this order.*

- c) Mr. Prafull Anubhai (Noticee No. 5) is hereby restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities including units of mutual funds, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 1 year from the date of this order.*
- d) Whiteview Trading Corporation (Noticee No. 2) and Mr. Sunil Patel (Noticee no. 7), are hereby restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities including units of mutual funds, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 2 years from the date of this order.*

### Unquote

3. After passing of the final order, Ms. Nitya Raj Patel, Ms. Anuja Somany and Ms. Prasann Arindkumar Somany (hereinafter collectively referred to as “**Representors**”) who are the family members of Shri A.K. Somany (Noticee no. 4 in the Final Order), have made separate representations, dated September 08, 2021 received by SEBI on September 16, 2021, in respect of the aforesaid Final Order passed by SEBI. Brief of the representations made by the Representors is as follows:

- a. Ms. Nitya Raj Patel and Ms. Anuja Somany are the daughters and Ms. Prasann Arindkumar Somany is the wife, of Shri A.K. Somany i.e. Noticee no. 4 to the Final Order.
- b. Representors have submitted that their respective demat accounts are jointly held by them as the primary holder, with Shri A.K. Somany, as the second unit holder. Name of Shri A. K. Somany was included as 2<sup>nd</sup> Unit Holder in the accounts only for the purpose of operational convenience. Due to the prohibition imposed vide the Final Order dated February 08, 2021, their demat accounts have also been frozen.
- c. They have submitted that the money used in making the investments and purchasing the shares in their accounts is of their own. That the transactions in their demat accounts have been done from the funds

solely earned by them. Representors have attached their income tax returns along with computation of income to establish that the shares and mutual funds have been acquired from their source of income which is independent of Shri A. K. Somany. They have not received any fund by way of gift or any other way from Shri. A.K. Somany.

- d. Ms. Nitya Raj Patel, daughter of Shri A. K. Somany and one of the Representor, has submitted that she has been married for the last 12 years with Mr. Raj Shyamsunder Patel and have an independent source of income and she takes her own investment decisions and her decisions are never influenced by her father. Ms. Anuja Somany, another daughter of Shri A. K. Somany and one of the Representor, has submitted that she is married with Mr. Shyantanu Sudarshan Chokhani for the last 3 years and has an independent source of income and take her own investment decisions and her decisions are never influenced by her father. Ms. Prasann Arindkumar Somany, wife of Shri A. K. Somany, has submitted that she has been married for the last 40 years with Mr. A.K. Somany and has an independent source of income and takes her own investment decisions and her decisions are never influenced by her husband.
- e. Representors have submitted that they use their own funds for doing any investments in the securities market. All the Representors have submitted a certificate provided by a Chartered Accountant certifying that the investments in securities market have been carried out by the respective Representors out of their own funds.
- f. Representors don't have any connection with Soma Textiles and Industries Limited apart from being related as the daughter/wife of one of the promoters of the Company, i.e. Shri A.K. Somany. Further, that Representors are not in receipt of any funds from Soma Textiles and Industries Limited.

- g. Representors have submitted that their demat account was in operation before the proceedings in the matter of Soma Textiles and Industries Ltd. was initiated and therefore, there is no motive of circumventing of prohibitory directions and defeating the objective of SEBI. That it is clear from their respective ITR filings that they are the owner of the shares lying in the said demat accounts and all the shares held in the said demat accounts are duly listed out in the ITR along with the balance sheets filed by them. That the shares held by them are different and are purchased through their own sources of income and their transactions have been disclosed on a year to year basis in the ITR filings from the past 26 years (Ms. Nitya Raj Patel), 20 years (Ms. Anuja Somany) and 40 years (Ms. Prasann Arindkumar Somany).
- h. They have submitted that the said act of SEBI is also in violation of their “right to life” as envisaged under Article 21 of the Constitution of India, since it has been stipulated that any action against any citizen of India has to be taken by due process of law. That their demat account has been frozen although they are innocent and they are facing reputational loss, undue harassment from friends, organization and in-laws.
- i. Following are the details of the demat accounts and mutual fund accounts of the Representors which are jointly held by them with Shri A.K. Somany and which stand frozen due to the Final Order against Shri A.K. Somany:

<b>Name of Representor</b>	<b>Account Details</b>
<b>Ms. Nitya Raj Patel</b>	Client ID: 28530313, DP ID: IN301151 with HDFC Bank
	Folio No.: 1014692386, Aditya Birla SI Mutual Fund
	Folio No.: 14754395, Franklin Templeton Mutual Fund
	Folio No.: 2034059/93, HDFC Mutual Fund
	Folio No.: 2353277/23, ICICI Prudential Mutual Fund
	Folio No.: 90822804854, Axis Mutual Fund
	Folio No.: 3579671/51, Kotak Mutual Fund
	Folio No.: 938194/67, L&T Mutual Fund

	Folio No.: 70820630936, Mirae Asset Mutual Fund
<b>Ms. Anuja Somany</b>	Folio No.: 1014692387, Aditya Birla SL Mutual Fund
	Folio No.: 17314238, Franklin India Templeton Mutual Fund
	Folio No.: 70818055973, Mirae Asset Mutual Fund
<b>Ms. Prasann Arindkumar Somany</b>	Client ID: 40459744, DP ID: IN300476 with HDFC Bank
	Folio No.: 601925/74, L&T Mutual Fund
	Folio No.: 4075785/77, Kotak Mutual Fund
	Folio No.: 1920765/87, IDFC Mutual Fund
	Folio No.: 7088393955, Mirae Asset Mutual Fund
	Folio No.: 9087268224, Motilal Oswal Mutual Fund
	Folio No.: 408178906466, Nipon India Mutual Fund
	Folio No.: 11400231, SBI Mutual Fund
	Folio No.: 1015269846, Aditya Birla Sun Life Mutual Fund
	Folio No.: 1579064/94, DSP Mutual Fund
	Folio No.: 3733994/63 HDFC Mutual Fund
	Folio No.: 6219353/85, ICICI Prudential Mutual Fund
	Folio No.: 17219056, Franklin India Templeton Mutual Fund

4. I have considered the representations made and the Final Order passed in the matter of Soma Textiles and Industries Limited. I note that in the present matter Shri A. K. Somany has been debarred for a period of two years by the Final Order and that debarment is still in force. Representors herein have been holding demat accounts and mutual fund folios which are jointly held by them with Shri A. K. Somany. As a consequence, these demat accounts/folios which are jointly held by respective Representor with Shri A. K. Somany, also stand frozen. Representors have submitted that it is clear from their respective ITR filings that they are the owners of the securities lying in the said demat accounts/mutual fund folios and all the shares held in the said demat accounts and also the mutual fund units held in the folios are duly listed out in the ITR along with the balance sheets filed by them. Further, that the shares held by them are different and are purchased through their own sources of income. In view of this, Representors have requested for de-freezing of these accounts/folios, as mentioned in para 3 i., above. In this regard, I note that in Misc. Application no. 175 of 2020 and Appeal no. 204 of 2020 in the

matter of Harsh Shah & Anr. vs. SEBI, the Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**Hon'ble SAT**") while dealing with freezing of accounts/folios in similar situation, vide its order dated December 18, 2020, held as under:

"10.....We of the opinion, that a joint holder of a demat account does not mean that the joint holders are automatically joint owners of the securities in their demat account.

11. Co-ownership is a relationship which springs from consensus and contract. Legislation has only imprinted, on the concept of co-ownership, certain rights which have a supervening effect which are declaratory of the rights inter se as between co-owners. The legal relationship in a co-ownership is always knitted in a framework of jointness and no one interested therein can predicate, with certainty, as to what portion of the property held in common is his, and an element of inseparability is inherent in the doctrine of co-ownership. If the source of purchase price of the consideration emanates from a common fund than the shares of each of the co-owners would be the same as their interests in the common fund. In the light of this principle, there is no finding that the securities were purchased from a common fund nor there is any finding that there is a contract between the joint holders that the value of the securities would be divided equally. On the other hand, there is a categorically assertion by the appellants that the securities were purchased from the own funds of the appellants and that their mother Mrs. Bhavana Rajesh Shah had nothing to do with these securities. .....

.....  
13. In the instant case, the appellants are the first holders of the demat account and their mother is the second holder which fact is admitted by the respondent. In this regard, Section 226(3)(ii) of the Income Tax Act which is applicable in recovery proceedings initiated under Section 28A of the SEBI Act, is relevant and is extracted hereunder:-

"226(3)(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person and for the purposes of sub-section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal."

The aforesaid provision indicates that in a case of a joint holder, notice is required to be issued to the joint holders and it is deemed that the shares of the joint

*holders would be treated as equal until the contrary is proved. We find that without issuing notice to the appellants their accounts could not be frozen. Notice was required to be issued before freezing the accounts of the appellants which in the instant case was not done. Further, the evidence filed by the appellants clearly proves that the appellants are the owners of the securities lying in the joint demat accounts. The “contrary” has been proved clearly by the appellants which fact has not been disputed by the WTM in its order. Consequently, the impugned order cannot be sustained.....”*

5. On examining the facts of the present case in the light of the aforesaid order of Hon’ble SAT, I find that the Representors have submitted that they have purchased the securities lying in the said demat accounts/mutual fund folios with their own funds and they are the owners of the securities. In support of their claim, the Representors with their respective representations, have submitted the following documents:
  - a. The latest statement of the demat accounts.
  - b. Income Tax Returns acknowledgement alongwith computation of income and balance sheets for the last 5 years.
  - c. Certificate provided by Chartered Accountant (Shri Padamchand Jain from Padam Chand Jain & Associates, Chartered Accountants) in respect of each of the Representor certifying that the investments in securities market have been carried out by them out of their own funds.
  
6. In view of the above, the requests made by the Representors vide their respective representations dated September 08, 2021, are allowed with following directions:
  - (i) Depositories are directed to de-freeze the demat accounts mentioned in para 3. i., above; and
  - (ii) Mutual Funds and/or RTAs are directed to de-freeze the folios mentioned in para 3. i., above.
  
7. This order comes into force with immediate effect.

8. A copy of this order shall be forwarded to all the Representors, Recognised Stock Exchanges, Mutual Funds, RTAs and the Depositories to ensure that the directions given above are strictly complied with.
  
9. Accordingly, representations dated September 08, 2021 made by the Representors stand disposed of.

Sd/-

**ANANTA BARUA**

**WHOLE TIME MEMBER**

**Date: November 02, 2021**

**Place: Mumbai**

**SECURITIES AND EXCHANGE BOARD OF INDIA**