



Ref. No. IRDA/INT/ORD/MISC/032/01/2020

**Order under Section 42D(8) read with section 105 D of the Insurance Act, 1938 in
the matter of M/s ATS Share Brokers Pvt. Ltd.**

1. M/s Leadwell Insurance Brokers Pvt. Ltd. (herein referred as "the applicant") having its registered office at Thottappilly House, X/272A, Vidhya Nagar, 1st Street, Kau, PO East Vellanikkara, Thrissur – 680 656 had submitted its application dated November 30, 2015 to the Insurance Regulatory and Development Authority of India (hereinafter referred as "the Authority", seeking licence to act as insurance broker, in terms of Regulation 5 of the IRDA (Insurance Brokers) Regulations, 2013 (herein after referred to as "the Regulations"). Upon perusal of the application and the documents submitted therewith, it was observed that M/s ATS Share Brokers Pvt. Ltd. (herein referred as "the share broker") having its registered office at Door No.52/2836, IInd Floor, Anchala Tower SA Road, Near Vytilla Junction, Kochi, Ernakulam – 682 017 is an associate company of the applicant.
2. While processing the application, it was observed that the applicant had a wide network of office of its associate company viz., the share broker. Accordingly, the Authority had browsed the share broker's website www.adityatrading.in and noticed that the website carried the letters "ATS" on the top left of the page. It was also noticed that the said page in the website was offering many services like Mutual Funds, Online Trading, Advisory Services, Demat Account, Insurance, etc. Upon clicking the icon "Insurance" on the site, a remark was displayed viz "ATS has applied for insurance broking licence in IRDAI". However, the applicant had submitted the application for the broking licence and not the share broker. The share broker is an associate company of the applicant. It is therefore evident that the declaration of the share broker in its website that they had applied for insurance broker licence was untrue.
3. The Authority had then sought clarification from the applicant, as to why the share broker had stated in their website that they had applied for insurance broker license. Consequent to this, the share broker removed the remark "ATS has applied for Insurance broking Licence in IRDAI" from their website but did not remove the word "Insurance". To examine the matter further, the Authority made a



Page 1 of 6

telephone call at (+91)7676173344 (which was displayed on the web site of the share broker) and sought to know about a motor insurance policy. The attendant of the call had responded and furnished the details of motor insurance. It was therefore evident that the share broker, without obtaining any registration / license, was undertaking insurance related activities.

4. Further to this, the Authority had invited the applicant to make a presentation to the Authority, in terms of Reg 7(3) of the regulations. The applicant made the presentation on June 5, 2017 and during the presentation, the Authority had informed the applicant about the activities of its associate, viz., the share broker, which is violative of the extent provisions. The applicant had accepted that the share broker was involved in insurance related activity. The Authority then advised the applicant to submit a detailed reply, on the issues discussed during presentation, more specifically on the insurance related activities that are being undertaken by the share broker without having necessary permission to do so and to furnish corrective actions taken in this regard. The applicant responded vide their email dated June 06, 2017. Upon perusal of the reply of the applicant, it was noticed that they did not furnish the details /clarifications, which were sought during presentation on the activities of the share broker.
5. Due to the non-cooperative attitude of the applicant in not furnishing the reply, the Authority issued a notice on July 10, 2017 and asked them to appear for a personal hearing. The applicant attended the personal hearing on July 12, 2017. During the personal hearing, the applicant was categorically questioned as to whether the share broker had stopped the insurance activity or not. In response, the applicant stated that the share broker had stopped the insurance related activities from June 5, 2017 onwards. To check the veracity of their submission, the department again made a call, in the applicant's presence, to the number given in the website of the share broker, viz., (+91)7676173344. The receiver of the call at the other end responded that they would furnish the caller with whatever insurance requirements the caller wanted. It is thus confirmed that the submission of the applicant that the share broker had stopped the insurance related activities proved to be untrue. Subsequent to this, the applicant had confirmed, vide their letter dated July 12,

SCB

2017 that they had conveyed to the share broker's call centre team not to undertake any activity related to insurance.

6. Further, to again check the veracity of their said submission of having discontinued insurance selling activity, the Authority once again made a decoy phone call on July 28, 2017 on the same no. (+91)7676173344. Again, the receiver of the call stated that they are selling the insurance policies. The conversation made with the share broker's phone number was voice-recorded and the person who had answered the decoy phone call of the department was invited to approach the caller in Hyderabad. Accordingly, the employee of the share broker arrived in the Authority's office at 9th Floor, United India Building, Basheerbagh, Hyderabad on July 07, 2017. with an intent to solicit insurance. While the person was sitting in the Authority's office, the Principal Officer of the applicant was also asked to come to the office of the Authority for a live confirmation. The Principal Officer had then arrived at the above office of the Authority and confirmed that the person who was present at the Authority's office, was an employee of the share broker, i.e. ATS Share Brokers Pvt. Ltd.
7. In view of the above, the Authority passed an order rejecting the applicant's application for licence for furnishing false statements repeatedly. The applicant was not found to be fit and proper, for granting licence to act as insurance broker. Accordingly, the application was rejected vide order no. IRDA/BRK/MISC/ORD/217/09/2017 dated September 19, 2017 as the associate company of the applicant viz., the share broker has been involved in the insurance related activities without any permission to do so.
8. Subsequently, the applicant approached Hon'ble Securities Appellate Tribunal (SAT), praying for quashing the Authority's order, rejecting their application. However, the Appeal before Hon'ble SAT was withdrawn by the applicant vide order dated July 13, 2018.
9. Since the share broker has been doing insurance intermediation activities without having a registration from the Authority which is in violation of section 42D(8) and (9) of the Insurance Act, 1938 (herein after referred to as "the Act"), accordingly, as prescribed in section 105C of the Act read with Insurance (Procedure for



Holding Inquiry by Adjudicating Officer) Rules, 2016 (herein after referred to “the Adjudication rules”), the matter was referred to Adjudicating Officer of the Authority, for holding an inquiry against the share broker.

10. Subsequently, the Adjudicating Officer initiated the proceedings under sub-section (8) and sub-section (9) of section 42D of the Act, and issued a show cause notice (herein referred as “SCN”) vide ref no. IRDAI/ADJ/ATS/OTW/1395/2018-19 dated July 24, 2018, issued separately to both the directors and business head of the share broker and advised them to submit point wise reply within 14 days from receipt of SCN. In addition, the Adjudicating Officer had also advised the share broker to confirm their presence, in terms of Sec 105C (3) of the Act, on a mutually agreed date.
11. In response to the said SCN, the share broker, vide their e-mail dated August 21, 2018, submitted point wise reply and requested the Adjudicating Officer to provide a convenient date for personal hearing. As per the request of the share broker, the Adjudicating officer, in terms of Rule 4(3) of the Adjudication rules, provided an opportunity of personal hearing and advised the share broker vide the Authority’s letter reference no. IRDAI/ADJ/ATS/OTW/1459/2018-19/02 dated October 3, 2018 to appear before him on October 15, 2018 at 14:30 hrs, in the office of the Authority at Sy No. 115/1, Nanakramguda, Financial District, Hyderabad – 500 032. The matter was conveyed to the share broker vide the Authority’s letter reference no. IRDAI/ADJ/ATS/OTW/1459/2018-19/02 dated October 3, 2018.
12. Accordingly, Mr. Vikas Jain Director of the share broker and Mr. Abhishek Srivastava, authorised representative had appeared before the Adjudicating Officer on October 15, 2018. During the personal hearing, the Adjudicating Officer had asked certain pertinent questions with regard to the matter and the share broker had submitted the replies which were recorded in writing as minutes of meeting and the minutes were duly signed by the representatives of the share broker and Adjudicating Officer.
13. After due examination of records available with the Authority, reply of the share broker to the SCN and submissions made during personal hearing, the Adjudicating Officer found that the share broker had failed to comply with provision



of section 42D(8) of the Act. Having considered all the facts and circumstances of the case, the Adjudicating Officer submitted his report under sub-section (3) of section 105C of the Act to the Chairman of the Authority. In the said report, the adjudicating officer has also taken consideration of factors mentioned in section 105D of the Act and recommended to the Authority to impose a penalty of Rs.10,00,000/- (Rupees Ten Lakhs) under sub-section (8) of section 42D of the Act.

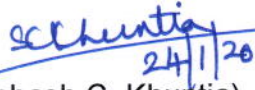
14. The Authority, vide letter reference no. IRDAI/BRK/ATS/01/2019-20 dated March 15, 2019 shared the Adjudicating Officer's report with the share broker, seeking their comments. The said letter returned undelivered to the Authority's office on March 25, 2019. The aforesaid letter along with Adjudicating Officer's report was once again sent to the share broker.
15. In response to the said letter of the Authority, the share broker, vide their letter dated April 10, 2019, submitted their comments. In the said reply, the share broker has submitted that they had not derived monetary gain by selling insurance products. The share broker has also submitted that they started working to build ground for their future business, which unfortunately caught Authority's attention. They further stated that they had lost huge amount of capital in the entire process and had been denied the Insurance Broking licence. They requested the Authority not to penalise them.
16. As per section 105C(2) of the Act, before taking a final decision in the matter, the Authority vide letter reference no. IRDAI/BRK/ATS/02/2019-20 dated August 28, 2019 had given an opportunity of personal hearing to the share broker and had advised them to appear before the Authority on September 3, 2019 at 3:30 p.m. at the Authority's office at Sy No. 115/1, Nanakramguda, Financial District, Hyderabad – 500 032. The share broker did not submit any response to the said letter of the Authority. Thereafter, the Authority, vide letter reference No. IRDAI/BRK/ATS/03/2019-20 dated September 30, 2019, sent one more letter, informing that the Authority has not received any response to the offer of personal hearing and also that if they require any opportunity of personal hearing in the



matter, they may inform the Authority within 7 days from receipt of the Authority's letter.

17. The share broker, vide their letter dated October 3, 2019, submitted a reply that they have already offered all their submission on several occasions in the past and that they have nothing further to submit to the Authority on the matter.
18. In view of the above and after taking into consideration all the facts, circumstances and material available on record of the case, the Adjudication Officer's finding that the share broker has violated section 42D(8) of the Act is established. The share broker by engaging in insurance intermediation without being registered with the Authority is in violation section 42D(8) of the Act for acting as intermediary for transacting insurance related business without being licensed by the Authority. Further, despite multiple communications from the Authority to M/s Leadwell Insurance Broker Pvt. Ltd. to stop unauthorised insurance related activities by M/s ATS Share Brokers Pvt. Ltd. the associate company, the share broker continued to indulge in unauthorised insurance activities showing scant regard for regulatory directions. As the violation is regulative in nature and falls under section 105(D)(c) of the Act, therefore, the share broker deserves maximum penalty prescribed in the Act. Accordingly, in terms of powers vested with the Authority under the section 42D(8) read with sub section (2) of section 105C and section 105D of the Act, a penalty of Rs.10,00,000/- (Rupees Ten Lakhs) is hereby imposed on the share broker, M/s ATS Share Brokers Pvt. Ltd.
19. The penalty shall be remitted by the share broker through NEFT / RTGS (details of which will be communicated separately) within a period of 30 days from the date of receipt of this order. An intimation of remittance by the share broker may be sent to Shri. Randip Singh Jagpal, Chief General Manager (Intermediaries), IRDAI, Sy. No. 115/1, Financial District, Nanakramguda, Hyderabad, 500032.
20. If the share broker feels aggrieved by the above decision of the Authority, an appeal may be preferred to the Securities Appellate Tribunal as per Section 110 of the act.

Date: January 24, 2020
Place: Hyderabad


(Dr. Subhash C. Khuntia)
Chairman