BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/PM/NK/2019-20/5152]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995

In respect of

LSC Securities Limited (formerly known as L.S.E. Securities Limited)

(SEBI Registration No.: INZ000081836; PAN: AAACL6361J)

In the matter of

Inspection of Books of M/S LSC Securities Limited (formerly known as L.S.E. Securities Limited)

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted an inspection of books of LSC Securities Limited (formerly known as L.S.E. Securities Limited) (hereinafter referred to as LSC/ Noticee/Stock Broker) a Stock Broker registered with SEBI as a trading member of the National Stock Exchange of India Limited (NSE), BSE Limited (BSE) and Metropolitan Stock Exchange of India Limited (MSEI) having SEBI Registration No. as INZ000081836. The inspection was carried out to examine among other things, the compliance with the provisions regarding Anti Money Laundering

(AML) as per the the provisions of SEBI Master Circular No. CIR/ISD/AML/3/2010 dated December 31, 2010, SEBI Circular No. MIRSD/CIR2/2013 dated January 24, 2013 and SEBI Circular No. CIR/MIRSD/1/2014 dated March 12, 2014 including scrutiny of STRs (Suspected Transaction Report) and cash transactions framework put in place by the stock broker and also with the provisions of running account settlement as per the provisions of SEBI Circular - MIRSD/SE/Cir-19/2009 dated December 3, 2009 read with SEBI Circular SEBI/MIRSD/Cir/01/2011 dated May 13, 2011 and SEBI Circular MIRSD/SE/Cir-5/2010 dated March 31, 2010. The period of inspection was April 01, 2013 to the date of inspection i.e. June 05, 2015 (hereinafter referred to as '**Inspection period**').

2. From the inspection, it was alleged that the stock broker has failed to produce requisite information/documents for the Financial Year 2013-14 to the inspection team during inspection and after inspection also thereby violating the provisions of Regulation 21 (2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992. Further, the stock broker failed to settle the accounts of the clients during the Financial Year 2014-15, thereby violating the provisions of Clause 12 of SEBI Circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 (hereinafter referred to as the SEBI Circular) and Code of conduct for Stock Brokers under Schedule II (hereinafter referred to as the Code of Conduct) of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992.

3. In view of the aforesaid, Adjudication Proceedings were initiated against of the Noticee for the alleged violations of provisions of Regulation 21(2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 and Code of conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992, as mentioned in the above Paragraphs.

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as the Adjudicating Officer under Section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act")

read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the 'Adjudication Rules') to inquire into and adjudge under Section 15A(a) for the alleged violations of provisions of Regulation 21(2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and under Section 15HB of the SEBI Act, 1992 provisions of Clause 12 of SEBI Circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 and Code of Conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

5. A Show Cause Notice no. A&E/EAD/PM/NK/LSL/30284/2018 dated October 31, 2018 (hereinafter referred to as "SCN") was issued to the Noticee under Rule 4 of the Adjudication Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed under Section 15A(a) and Section 15HB of the SEBI Act, 1992 for the alleged violations specified in the SCN.

6. It was alleged in the SCN that the Noticee did not provide information with respect to the settlement of accounts of the clients for the year 2013- 14 to the inspection team. The Noticee vide email dated June 1, 2015 allegedly informed that as the settlement were done through manual process and therefore it was not in a position to provide the data for actual settlement during the year 2013-14. The aforesaid were not in adherence with the provisions of Regulation 21 (2) of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992.

7. It was also alleged that LSE had submitted that only clients having credit balance of funds and securities were considered for analysis and clients having debit balances were sent a quarterly statement of funds and securities within 30 days from the end of the relevant quarter. Further, during inspection it was observed that during FY 2014-15, LSE had not settled the accounts of about 67% to 74% of the total clients required to be settled and about 40% - 50% of its total clients in all the quarters out of all the accounts that were required to be settled. The details are presented in a tabular format as below:

Overall settlement of funds and securities

Quarterly settlement Financial Year 2014-15	Total number of active clients during inspection period	No of clients required to be settled	Client to be settled as %age of Total Clients	No. of clients settled	Settled clients as %age of Total Clients	No. of clients unsettled	Unsettled clients as %age of Total Clients	No. of unsettled Clients with Settlement amount less than Rs.10,000	Unsettled client < Rs. 10000 as %age of Total Clients	No. of unsettled Clients with Settlement amount more than Rs.10,000	Unsettled client with more than Rs. 10000/- as %age of Clients required to be settled
Quarter 1	11801	7252	61.45	2361	20.01	4891	41.45	4055	34.36	836	11.53
Quarter 2	12141	7667	63.15	2100	17.30	5567	45.85	4399	36.23	1168	15.23
Quarter 3	12511	7959	63.62	1796	14.36	6163	49.26	4966	39.69	1197	15.04
Quarter 4	12843	8114	63.18	2182	16.99	5932	46.19	4873	37.94	1059	13.05

8. It is noted from the SCN that the unsettled clients with amounts less than Rs.10,000/- comprised of approximately 80% of the total number of unsettled clients and approximately 55% to 60% of the total number of clients whose account were required to be settled. Details are as per the table below:

Quarterly settlement Financial Year 2014-15	Total active Clients / No of clients required to be settled	No. of clients settled	Settled clients as %age of Clients require to be settled	No. of clients unsettled	Unsettled clients as %age Clients require to be settled	No. of unsettled Clients with Settlement amount less than Rs.10,000	Unsettled client < Rs. 10000 as %age of unsettled clients	No. of unsettled Clients with Settlement amount more than Rs.10,000	Unsettled client with more than Rs. 10000/- as %age of unsettled clients
Quarter 1	11801 / 7252	2361	32.56	4891	67.44	4055	82.91	836	17.09
Quarter 2	12141 / 7667	2100	27.39	5567	72.61	4399	79.02	1168	20.98
Quarter 3	12511 / 7959	1796	22.57	6163	77.43	4966	80.58	1197	19.42
Quarter 4	12843 / 8114	2182	26.89	5932	73.11	4873	82.15	1059	17.85

9. It was also alleged in the SCN that the Noticee could not provide details of top 10 clients having credit fund balance and securities balance during quarter 1 & quarter 3 of Financial Year 2014-15 and instead, provided data for only top 5 clients (having credit fund balance) during quarter 1 of Financial Year 2014-15 and of top 4 clients (having credit fund balance) during quarter 3 of Financial Year 2014-15.

10. It was also alleged in the SCN that LSE had retained the entire unencumbered balance in client ledger and margin account and value of securities thus leaving nil balance as amount of funds / securities to be transferred to client bank / DP account of the sample clients. Further, though the broker was sending account statement / retention statement but the practice was not consistently followed as it could not provide the system log of emails forwarding the statement of funds and securities to the clients.

11. It was also alleged that LSE could not provide settlement data for 10 dormant clients each for the period during quarter 1 and quarter 3 of Financial Year 2014-15, instead it could provide settlement data of only 3 clients for the quarter 1 and for only 2 clients for quarter 3 of Financial Year 2014-15..

12. It was also alleged that during inspection non-compliance were observed from the retention report, fund and securities ledgers of 11 clients (6 active clients and 5 dormant clients), selected randomly. The details are as under:

Active Clients		
Client Name	**Client Code**	**Observation**
Paramjit	SHLP1	As per the log of emails, the ledger was sent to client on 06/05/2014. Retention report was sent to client on 01/04/2014.
Hans Sakhuja and Co.	HRSV1	It was noticed that during Q-1 FY 2014-15, after retaining funds and securities, there was funds/ securities credit balance of Rs.2,43,151/- in the client account which was not settled by the broker. Further, the broker also could not provide evidence of having sent the statement of accounts to the client.
K.K. International	SNJK008	Amount (value of funds + securities) retained is lesser than what should have been retained, as the retention statement retained 175% of T Day Margin obligation of derivative segment instead of prescribed 225%. As per the log of emails, the ledger was sent to client on 06/05/2014. Retention report was sent to client on 09/04/2014.
Shallu Bansal	SNPS023	Amount (value of funds + securities) retained is lesser than what should have been retained as the retention statement retained 175% of T Day Margin obligation of derivative segment instead

		of prescribed 225%. As per the log of emails, the ledger was sent to client on 06/05/2014. Retention report was sent to client on 26/05/2014
Deeps Special Steels Ltd	KEWDEEPS	Amount (value of funds + securities) retained is lesser than what should have been retained as the retention statement retained 175% of T Day Margin obligation of derivative segment instead of prescribed 225%. As per the log of emails, the ledger was sent to client on 06/05/2014. Retention reports were sent to client on 12/09/2014, 01/10/2014 and 02/1/2015.
D.P. Gandhi & Co. Prop. Dharampal Gandhi	DPGI	Amount (value of funds + securities) retained is lesser than what should have been retained as the retention statement retained 175% of T Day Margin obligation of derivative segment instead of prescribed 225%. As per the log of emails, the ledger was sent to client on 03/05/2014. Retention report was sent to client on 26/11/2014.
Dormant Clients		
Vijay Kumar Bhatia	ESR141	The account was settled on 07/ 04/2014.
Gulshan Kumar	MSBGULH	The account was not settled for the period April 01, 2014 to July 31, 2014
Manoj Gupta HUF	AKBSSM006	The account was not settled for the period April 01, 2014 to December 31, 2014
Subhash Chander Kundra	SCSKS6	The account was not settled for the period April 01, 2014 to July 31, 2014. The account was settled on 18/10/2014 and 27/10/2014.
Narinder Nath Kapoor HUF	ACMNNK	The client had traded on 15/04/20.14 and account was settled

13. The Noticee replied to the SCN vide letter dated December 6, 2018, relevant portion of which is re-produced as below:

We have a thorough Surveillance over the activities of our Sub-brokers who have been engaged in the business of securities trading. The Company has been offering services of Stock-Broking and Depository Participant since 2000 and have been servicing over 40000 Clients. During the Company's 18 (eighteen) years of operations, there has not been a single complaint against the Company regarding delay/ defaults in payment of funds/ transfer of securities to the Clients.

There have been numerous regular Inspections by NSE/BSE/SEBI from time to time and there has never been any instance of mis-utilization of funds/securities of clients by our Company and all the funds and securities of the Clients are kept in a separate Client Account.

On 01.01.2015, we received notice of Inspection from SEBI under reference no. NRO/MIRSD/AP/VKV/AC/OW/1949/2014 dated 26.12.2014 and the Inspection was to be conducted with Special Reference to:

- *The books of accounts, records and other documents are being maintained in the manner required under the SEBI (Stock Brokers and Sub-brokers) Regulations 1992.*
- *The provisions of the Securities laws such as Securities Contract (Regulation) Act 1956, SEBI Act, 1992, and the directions or circulars , bye-laws, rules or regulations made there under are being complied with;*
- *The provisions of SEBI Master Circular No. CIR/ISD/AML/3/2010 dated December 31, 2010, SEBI Circular No. MIRSD/Cir-2/2013 dated January 24, 2013 and SEBI Circular No. CIR/MIRSD/1/2014 dated March 12, 2014 have been complied with.*

Since the information sought along with the letter of inspection was mainly with respect to Anti Money Laundering (AML), we rendered all the assistance to the inspection team when the Inspection Team visited us on 04.06.2015 and 05.06.2015 for conducting the inspection which was mainly with respect to various applicable provisions of Anti Money Laundering (AML) and provided all the information/documents as required by the inspection team during the course of inspection. It is important to mention here that there has not been any major adverse remarks by the Inspection Team with respect to inspection of AML. The same is also evident from the notice of your good self.

Subsequently, after completion of inspection with respect to AML, the inspection was extended to other areas of Operations i.e. settlement of Funds and Securities. Since the decision with regard to inspection regarding Settlement of Funds and Securities by the Inspection Team was communicated to us during Inspection only and since all the data was in physical form and voluminous, you will kindly appreciate that it takes time to collate/ compile the records.

Despite this, some of the data was provided to the Inspection Team during the course of Inspection and since records being voluminous and in physical form, there was no sufficient time to provide full details/documents within such a short period, more particularly when the concerned office staff was busy in assisting the Inspection Team at that time for providing the data/information relating to AML matters. We received communication of findings with respect to the said inspection on 15.02.2016 which was replied to by us on 22.02.2016.

***Now, we are providing your good self our point-wise submissions with respect to the observations made by your good self in your notice as under**:*

1. *The contents of the Para are matter of record.*
2. *We are providing your good self the Retention Statements of 430 Clients for the year 2013-14 duly acknowledged by the Clients.*

3. *It is submitted that although the process of Settlement of Funds and Securities of Clients was manual but the same were settled in accordance with the procedure laid down by the Exchanges for Settlement / Retention of Funds and Securities. We are enclosing herewith some of the Retention Statements where the Clients having debit balances in their ledger have been settled.*
4. *As regards unsettled clients having credit balance of up to Rs.10000/-, it is submitted that the same has been retained in order to avoid administrative/operational difficulties after obtaining the written consents from the clients. We are sending your good self the copies of some of the sample consents received from clients.*
5. *As regards other unsettled clients, it is submitted that there were some cases where there were issues relating to non updation of Bank/Demat Account details by the Clients and in such cases, the Clients were advised on regular basis by way of calling/ sending letters to submit their updated Bank/ Demat Account details so that their funds/ securities can be transferred to their respective Bank / Demat Accounts. We are sending your goodself some of the copies of such letters sent to the Clients.*

   There were also some cases where the Clients expressed practical difficulties regarding transfer and re-transfer of funds/ securities and increasing cost.

   From the letters sent to the Clients for providing their updated Bank and Demat Account details, it is very clear that we are never having any intention to retain the Funds and Securities of the Clients with us. Rather, we are really interested in transfer of Funds and Securities of the Clients into their Bank and Demat Accounts.

   We are providing your good self the Retention Statements of 460 Clients for the year 2014-15 duly acknowledged by the Clients.

   We are also enclosing confirmation Letter from 206 Clients with respect to Settlement of Funds & Securities.
6. *We are providing your good self the detail of top 10 clients having credit fund balance and securities balance during the quarter 1 and quarter 3 of Financial Year 2014-2015 along with Retention Statements and system log of e-mails (wherever applicable).*
7. *As stated above, although the process of Settlement of Funds and Securities of Clients was manual but the same were settled in accordance with the procedure laid down by the Exchanges for settlement / retention of funds and securities which is evident from the Retention Statements duly acknowledged by the Clients provided to your good self for the Financial Year 2013-2014 and 2014-2015 as stated under point 2 and point 5 above.*
8. *We are providing your good self the detail of 10 dormant clients each for the period during quarter 1 and quarter 3 of Financial Year 2014-2015 along with Retention Statements and system log of e-mails (wherever applicable).*

ACTIVE CLIENTS			
CLIENT NAME	***CLIENT CODE***	***OBSERVATION***	***SUBMISSIONS***
Paramjit	*SHLP1*	*As per the log of emails, the ledger was sent to client on 06.05.2014. Retention report was sent to client on 01.04.2014.*	*The Client was settled on 01.04.2014 and Retention Statement was sent to the Client on 01.04.2014 itself.*
Hans Sakhuja & Co	*HRSV1*	*It was noticed that during Q-1 FY 2014-15, after retaining funds and securities, there was funds/ securities credit balance of Rs.2,43,151/- in the client account which was not settled by the broker. Further, the broker also could not provide evidence of having sent the statement of accounts to the client.*	*M/s Hans Sakhuja and Co is a registered Sub-Broker of the Company and as such, the amount was retained as a Security Deposit against the debit balance of the clients introduced by the Sub-Broker*
K.K. International	*SNJK008*	*Amount (value of funds +securities) retained is lesser than what should have been retained, as the retention statement retained 175% of T Day Margin obligation of derivative segment instead of prescribed 225%. As per the log of emails, the ledger was sent to client on 06.05.2014. Retention report was sent to client on 09.04.2014.*	*It is submitted that as stated in our earlier reply, we had computed the amount to be retained @ 225% of the Margin Obligation of the Derivatives Segment of the Client and we also retained 225% of the Margin Obligation of the Derivatives Segment of the Client instead of 175%* ***but due to printing error, the percentage of Margin Retained was mentioned as 175% in the Retention Report****. The same may be verified from the Retention Statement submitted to the Inspection Team*
Shallu Bansal	*SNPS023*	*Amount (value of funds +securities) retained is lesser than what should have been retained, as the retention statement retained 175% of T Day Margin obligation of derivative segment instead of prescribed 225%. As per the log of emails, the ledger was sent to client on 06.05.2014. Retention report was sent to client on 26.05.2014.*	*It is submitted that as stated in our earlier reply, we had computed the amount to be retained @ 225% of the Margin Obligation of the Derivatives Segment of the Client and we also retained 225% of the Margin Obligation of the Derivatives Segment of the Client instead of 175%* ***but due to printing error, the percentage of Margin Retained was mentioned as 175% in the Retention Report****. The same*

			may be verified from the Retention Statement submitted to the Inspection Team
Deeps Special Steels Ltd.	*KEWDEE PS*	*Amount (value of funds +securities) retained is lesser than what should have been retained, as the retention statement retained 175% of T Day Margin obligation of derivative segment instead of prescribed 225%. As per the log of emails, the ledger was sent to client on 06.05.2014. Retention reports were sent to client on 12.09.2014, 01.10.2014 and 02.01.2015.*	*It is submitted that as stated in our earlier reply, we had computed the amount to be retained @ 225% of the Margin Obligation of the Derivatives Segment of the Client and we also retained 225% of the Margin Obligation of the Derivatives Segment of the Client instead of 175%* ***but due to printing error, the percentage of Margin Retained was mentioned as 175% in the Retention Report****. The same may be verified from the Retention Statement submitted to the Inspection Team*
D.P. GANDHI & CO. PROP. DHARAMPAL GANDHI	*DPG1*	*Amount (value of funds +securities) retained is lesser than what should have been retained, as the retention statement retained 175% of T Day Margin obligation of derivative segment instead of prescribed 225%. As per the log of emails, the ledger was sent to client on 03.05.2014. Retention reports was sent to client on 26.11.2014.*	*It is submitted that as stated in our earlier reply, we had computed the amount to be retained @ 225% of the Margin Obligation of the Derivatives Segment of the Client and we also retained 225% of the Margin Obligation of the Derivatives Segment of the Client instead of 175%* ***but due to printing error, the percentage of Margin Retained was mentioned as 175% in the Retention Report****. The same may be verified from the Retention Statement submitted to the Inspection Team*
DORMANT CLIENTS			
Vijay Kumar Bhatia	*ESR141*	*The account was settled on 07.04.2014*	*The account was settled on 07.04.2014*
Gulshan Kumar	***MSBGULH***	*The account was not settled for the period April 01, 2014 to July 31, 2014.*	*The account was settled on 02.09.2014.* ***Copy of Retention Statement is attached****.*

Manoj Gupta HUF	***AKB55M 006***	*The account was not settled for the period April 01, 2014 to December 31, 2014.*	*The account was settled on 16.03.2015.* ***Copy of Retention Statement is attached***
Subhash Chander Kundra	*SCSKS6*	*The account was not settled for the period April 01,2014 to July 31, 2014. The account was settled on 18.10.2014 and 27.10.2014.*	*The account was settled on 18.10.2014 and 27.10.2014.*
Narinder Nath Kapoor HUF	*ACMNNK*	*The client had traded on 15.04.2014 and account was settled.*	*The account was settled*

We are enclosing the Retention Statements of 5 Clients confirming our submissions with respect to retaining of 225% of Margin Obligations of the Clients alongwith the Retention Statements of ***MSBGULH AND AKB55M006*** *as stated above. Further, the printing error of 175% as mentioned above has been rectified.*

Sir, It is pertinent to mention here that we have never used the Funds and Securities of any Client for our own purpose as we have not been undertaking any dealing in securities in our OWN ACCOUNT since commencement of operations by the Company in the Year 2000. Further, we have also never used the funds / securities of any client for other clients. The same is evident from the fact that there has not been a single instance of Delay/Default/Misutilisation of Funds and Securities during the 18 years of operations of our Company towards any Exchange/Client as no such instance has been observed by NSE and BSE during the course of their Inspection during the last 18 years of operations of the Company.

Sir, it is also pertinent to mention here that subsequently we have settled all the unsettled Clients which is evident from the Inspection Reports of NSE and BSE for the year 2017 wherein no adverse observation relating to Settlement of Funds and Securities of Clients has been given in the Inspection Report.

Further, as directed by NSE in the Inspection Report, we have kept the non settled securities of Dormant/Inactive Accounts in a separate DP Account and we have also created FDR for non settled funds of such accounts.

Here, we would like to inform your goodself that IGC/IGRP/Arbitration panel of any Exchange has never given any award against our Company during all these 18 years of operations of the Company.

Sir, as stated above, we, as a Stock Broker have not been undertaking any dealing in securities in our own account and as such, we have been functioning like a Virtual Stock Exchange only from inception of our Company and we are supposed to be responsible, Self regulatory

Institution which inspires trust and confidence of Investors in these Stock Trading Operations carried out through the Sub-Brokers of our Company.

In our case whatever shortcomings have been pointed out, these have been primarily due to our records being in physical form and voluminous. Sir, although we have made our best efforts to provide all the data as mentioned in your notice, we humbly submit that whatever data/information is left, if any, we request your goodself to allow us to file additional submissions subsequently also.

14. Subsequently, an opportunity of personal hearing was granted to the Noticee on July 17, 2019 vide letter dated June 27, 2019. On the Scheduled date of hearing the Noticee was represented by its Authorised Representatives (ARs). The ARs reiterated the submissions vide letter dated December 6, 2018 and requested for 10 days' time to submit additional reply in the matter which was acceded to. The Noticee submitted the additional reply vide letter dated July 25, 2019 relevant portion of which is as below:

With regard to the allegation that we had failed to produce requisite information/documents for the Financial Year 2013-14 to the inspection team during inspection and after inspection (Ref. Para 11a of SCN), we respectfully submit as under:

(a) Initially the information sought alongwith the letter of inspection was mainly with respect to Anti Money Laundering (AML). Therefore we rendered all the assistance to the inspection team when the Inspection Team visited us on 04.06.2015 and 05.06.2015 for conducting the inspection which was mainly with respect to various applicable provisions of Anti Money Laundering (AML) and provided all the information /documents as required by the inspection team during the course of inspection.

(b) It is important to mention that there have not been any major adverse remarks by the Inspection Team with respect to inspection of AML. The same is also evident from the present SCN issued to us.

(c) It is pertinent to mention that after completion of inspection with respect to AML, in our view during the course of inspection process the inspection was extended to other areas of Operations. Accordingly data /information regarding Settlement of Funds and Securities was asked from us only in the course of Inspection conducted by the Inspection team, SEBI.

(d) At the relevant time the information and data called for by Inspection team SEBI were required to be collated manually since the same were not reading retrievable from Back office software maintained by us and some records were maintained in physical form and voluminous. Therefore your goodselves will kindly appreciate that it took time to collate/compile the records.

(e) Despite this, some of the data was provided to the Inspection Team during the course of Inspection and since records being voluminous there was no sufficient time to provide full details/documents within such a short period, more particularly when the concerned office staff was busy in assisting the Inspection Team at that time for providing the data/information relating to AML matters.

(f) It is pertinent to mention that we had received communication of findings with respect to the said inspection on 15.02.2016 which was immediately replied by us on 22.02.2016, wherein we have provided all the information as was asked by inspection team during inspection of our Books accounts and other records in June 2015.

(g) Be the case as it may, with regard to information / documents for the financial year 2013-14, we state that by our reply dated 06.12.2018, we had provided retention statement of 430 clients for the year 2013-14 duly acknowledged by the clients. For your kind ready references, we once again submit retention statement of 430 clients for the year 2013-14 duly acknowledged by the clients which is hereto annexed and marked as **Annexure – "1"**

Additional Submissions/Mitigating factors:

(i) During Company's 18 years of operations, there has not been a single complaint against the Company regarding delay / defaults in payment of funds/transfer of securities to any client.

(ii) There have been numerous regular inspections by NSE/ BSE/SEBI from time to time and there have never been findings of any instance of mis-utilization of funds /securities of clients by our Company and all the funds and securities of the clients are kept in a separate client account.

(iii) We have never used the funds and securities of any client for our own purpose as we have not been undertaking any dealing in securities in our own account since commencement of operations by Company in the year 2000. Further, we have also never used the funds/securities of any client for other clients.

(iv) Post inspection, we have settled all the unsettled clients which are evident from the inspection reports of NSE and BSE for the year 2017 wherein no adverse observation relating to settlement of funds and securities of clients has been given in the inspection report.

(v) Further, as directed by NSE in inspection report, we have kept the non-settled securities of Dormant/Inactive Accounts in a separate DP account and we have created FDR for non-settled funds of such accounts.

(vi) Till date IGC/IGRP/Arbitration panel of any exchange has never given any award against our Company during all these 18 years of operation of the Company.

(vii) As stated above, we as a stock broker have not been undertaking any dealing in securities in our own account and as such, we have been functioning like a virtual stock exchange only from inception of our Company and we are suppose to be responsible, self-regulatory institution which inspires trust and confidence of investors in these stock trading operations carried out through the sub-broker of our Company.

Denials of alleged violation of law:

We deny alleged violation of the provision of law as stated in SCN dated 31.10.2018 and state as under:

(i) Regulation 21 (2) of SEBI (Stock Brokers) Regulation, 1992 in this regard we respectfully submit that we have always allowed the inspecting authority to have full access to our premises and also extend facility for examining any books, records, documents and computer data in our possession and also provided copy of documents and other materials which, were asked by inspecting authority from us. (Ref Regulation 21(2) of Brokers Regulations)

(ii) Clause 12 of SEBI circular no. MIRSD/SE/Cir-19/2009 dated December 3, 2009 and Code of conduct for Stock Brokers under Schedule II of Regulation 9 of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 in this regard we respectfully submit that we state that we have always followed Clause 12 of SEBI circular dated 03.12.2009 bearing reference no. MIRSD/SE/Cir-19/2009 w.r.t. Running Account Authorization.

(iii) Denials of alleged violation of Code of Conduct for Brokers

(a) Clause A(1) of Code of Conduct for Stock Brokers

We submit that we have maintained highest standard of integrity, promptitude and fairness in the conduct of our business as a stock broker. The Lexicon dictionary defines '*integrity*' as *'soundness, moral principles and character as shown by one person dealing with another in making and performing of contracts'*.

In this regard, we state that, we have conducted our business with utmost integrity and adhered to soundness, moral principles and character as expected to be shown by one person dealing with another in making and performing of such contracts

(b) Clause A(2) of Code of Conduct for Stock Brokers

As per Black's Law Dictionary (Eighth Edition), "diligence" means a continual effort to accomplish something, care; caution; the attention and care required from a person in a given situation. "Due diligence" means the diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation.

Clause A (2) of the Code of Conduct mandates that a stock broker shall act with due skill, care and diligence in the conduct of all its business. Such due skill, care and diligence can only mean that broker shall act in such a way that a person of ordinary prudence would act in the normal circumstances in carrying out activities and functions relating to its business and will remain careful and diligent. We have exercised all due skill, care and diligence as a man of ordinary prudence is expected to do in carrying out our business activities.

We submit that we have exercised due skill, care and diligence in conduct of our business.

(c) Clause A(3) of Code of Conduct for Stock Brokers

We have not indulged in manipulative, fraudulent or deceptive transactions or schemes or spread rumors with a view to distorting market equilibrium or making personal gains.

(d) Clause A(4) of Code of Conduct for Stock Brokers

We have not created false market either singly or in concert with others or indulged in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. We have not involve our self in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.

(e) Clause A(5) of Code of Conduct for Stock Brokers

We submit that we scrupulously followed all the provisions of the SEBI Act and the rules, regulations made thereunder and thus we deny alleged violation of Clause A(5) of Code Conduct for Stock Brokers.

In view of the aforesaid, we vehemently submit that we have not violated /contravened clause A(1) to A(5) of Code Conduct for Stock Brokers

Our Submissions on Section 15J of SEBI Act, 1992:

Factors to be taken into account by the Ld. adjudicating officer:

While adjudging the quantum of penalty u/s 15-I, the Ld. adjudicating officer shall have due regard to the following factors, namely:-

"(a) the amount of disproportionate gain or unfair advantage, whether quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default."

Our Submissions:

With regard to Clause (a), it is pertinent to mention that we have not made any profit from the alleged findings of facts as mentioned in the SCN/Inspection Report. Therefore it is respectfully submitted that no amount of disproportionate gain or unfair advantage has accrued to us as a result of alleged default, if any.

With regard to Clause (b), it is pertinent to mention that there is no investor complaint filed against us of any nature whatsoever. Therefore it is respectfully submitted that no loss is caused to any investor from the alleged findings of facts as mentioned in the SCN/Inspection Report.

With regard to Clause (c), it is pertinent to mention that there is no allegation of any repetitive nature of default is alleged against us in the findings of facts as mentioned in the SCN/Inspection Report. Be that as it may, it is respectfully submitted that we have taken all remedial and corrective steps so as to ensure that lapses, if any, found during inspection do not recur.

Legal Submissions:

Reliance is placed on judgments/orders passed by Hon'ble Court/Hon'ble Tribunal as under:

(i) On the aspect of penalty and factors for levying any penalty

(a) Hon'ble Supreme Court's decision in the case of Hindustan Steel vs. State of Orissa (AIR 1970 SC 253) where it was held as follows:

"7. …An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi criminal proceeding, and penalty will not be ordinarily imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute."

(b) Hon'ble Apex Court in the case of Ex-Naik Sardar Singh vs. Union of India (1991) 3 SCC 212) inter alia held that:

"the penalty imposed must be commensurate with the gravity of the misconduct and that any penalty disproportionate to the gravity of the misconduct would he violative of Article 14 of the Constitution."

(c) In the matter of Ranjit Thakur vs. Union of India (AIR 1987 SC 2386) it was held that:

"10. …the Sentence has to suit the offence and the offender. It should not he vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review would ensure that even on an aspect which is, otherwise, within the exclusive province of Court Martial, if the decision of the Court even as to sentence is an outrageous defiance of logic then the sentence would not be immune from correction. Irrationality and perversity are recognized ground of judicial review.

.......The point to note and emphasis is that all powers have legal limits."

In the instant case since no primary violation against us have been made out and as we have also explained the genuineness of the case, the question of imposition of any penalty does not arise.

(ii) <u>In the matter of Inspection of Books of accounts and records of the Stock Brokers:</u>

(a) In Order dated 16.06.2011 passed by Hon'ble Securities Appellate Tribunal in the matter of Religare Securities Limited Vs. SEBI (Appeal No. 23 of 2011) it was held that:

"5. It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy / irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant…"

(b) In Order dated 25.07.2011, passed by Hon'ble Securities Appellate Tribunal in the matter of UPSE Securities Limited Vs. SEBI (Appeal No. 109 of 2011) it was held that held that:

"5. ……. the object of carrying out inspection of the books of accounts and records of any intermediary including a stock exchange or its subsidiaries is to ensure compliance with the provisions of the Act, Rules, Regulations, By-laws and circulars issued from time to time which are meant to regulate the securities market. Every little irregularity / deficiency noticed during the course of the inspection is not culpable and does not call for initiation of penalty Proceedings. The purpose of inspection in quite a few cases could be better achieved if the inspecting team at the time of the inspection were to advise the erring entity……."

(c) Ld. Whole Time Member passed an Order dated 13.05.2013 bearing reference no. WTM/SR/ MIRSD1/03/2013/05 in the matter of India Infoline Ltd wherein it was held that:

"9. I note that the non-compliances by the Noticee with the Broker Regulations pertain to the period prior to April 2008. Some violations have been observed to

be have been committed by the Noticee. All the alleged violations are stated to have been rectified by the Noticee. There is evidence to indicate that the Noticee has taken steps to resolve most of the non-compliances. In this regard it would be pertinent to refer to the ruling of the Hon'ble Securities Appellate Tribunal in several instances including in the case of <u>*Religare Securities Ltd. v. SEBI*</u> *(SAT Appeal No. 23 of 2011 decided on 16.06.2011) that "the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to maintenance of records."…..”*

(d) Ld. Adjudicating Officer, SEBI passed an Order dated 28.02.2018 bearing number EAD-5/BS/ AO/115/2017-18 in the matter of Edelweiss Broking Limited and it was held that:

“37. Further, Hon’ble SAT, in Appeal No. 153 of 2012 in DSE Financial Services Ltd. v SEBI in its order dated September 11, 2012 held that “...every minor discrepancy/ irregularity found during the course of inspection is not culpable and object of the inspection could well be achieved by pointing out the irregularities/ deficiencies to the intermediary at the time of inspection and making it complaint.

38. Considering the facts circumstances of the case I am of the view that no monetary penalty is warranted in respect of the lapses and violation as observed in the inspection of books conducted by SEBI….”

(e) Ld. Adjudicating Officer passed an Order dated 26.04.2019 bearing no. EAD-7/BJD/NJMR/ 2019-20/2998 in the matter of Sunidhi Securities and Finance Limited and held that:

“21. I note that reasons stated by the Noticee for non-settlement of aforesaid 9 client accounts is plausible and therefore I do not find any infirmity in not carrying out settlement of these accounts. Further, I also note that circular provides for retention of credit balances in certain situations depending on facts and circumstances of the case. Considering the spirit and intention of circular and also taking note that number of such accounts and amounts involved being miniscule, I am inclined to consider the submission of Noticee, as the grounds for retention are fair and reasonable. Therefore, I cannot conclude that such accounts were not settled as per the provision of circular dated December 3, 2009.

22. In view of the above findings, I find merit in the submissions of Noticee and accordingly, conclude that the charge levelled against the Noticee that it had failed to settled the accounts of inactive clients does not established."

Summarisation:

We would like to submit that we are law abiding citizen and we have always complied with rules/regulations governing securities market. In case of any penalty is imposed by a reputed and credible organization like SEBI, it shall cause loss of goodwill, credibility, market standing and reputation. The same shall have a cascading effect on our entire business and all connected stakeholders without any fault of ours. Thus, we humbly request that we may be discharged from present proceedings at the earliest.

15. In view of the above, I am convinced that the Noticee was given sufficient opportunity to present her case before me and that the principle of natural justice have been complied with respect to the Noticee's matter.

CONSIDERATION OF ISSUES AND FINDINGS

16. I have carefully perused the charges levelled against the Noticee in the SCN, reply of the Noticee and the material/documents available on record. The issues that arise for consideration in the present case are:

1) Whether the Noticee has violated provisions of Regulation 21(2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 and Code of conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992?

2) Do the violations, if any, on the part of the Noticee attract monetary penalty under Section 15A(a) and 15HB of the Securities and Exchange Board of India Act, 1992?

3) If yes, the monetary penalty that can be imposed upon the Noticee, taking into consideration the factors mentioned in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules.

17. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 and Code of conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 which reads as under:-

SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992

Obligations of stock - broker on inspection by the Board.

21. (2) The stock-broker shall allow the inspecting authority to have reasonable access to the premises occupied by such stock-broker or by any other person on his behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the stock-broker or any other person and also provide copies of documents or other materials which, in the opinion of the inspecting authority are relevant..

SEBI Circular No. MIRSD/ SE /Cir-19/2009 December 3, 2009:

Running Account Authorization

12. Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the pay-out. However, a client may specifically authorize the stock broker to maintain a running account subject to the following conditions:

a. The authorization shall be renewed at least once a year and shall be dated.

b. The authorization shall be signed by the client only and not by any authorised person on his behalf or any holder of the Power of Attorney.

c. The authorization shall contain a clause that the Client may revoke the authorization at any time.

d. For the clients having outstanding obligations on the settlement date, the stock broker may retain the requisite securities/funds towards such obligations and may also retain the funds expected to be required to meet margin obligations for next 5 trading days, calculated in the manner specified by the exchanges.

e. The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.

f. The client shall bring any dispute arising from the statement of account or settlement so made to the notice of the broker preferably within 7 working days from the date of receipt of funds/securities or statement, as the case may be.

g. Such periodic settlement of running account may not be necessary:

i. for clients availing margin trading facility as per SEBI circular

ii. for funds received from the clients towards collaterals/margin in the form of bank guarantee (BG) /Fixed Deposit receipts (FDR).

h. The stock broker shall transfer the funds / securities lying in the credit of the client within one working day of the request if the same are lying with him and within three working days from the request if the same are lying with the Clearing Member/Clearing Corporation.

i. There shall be no inter-client adjustments for the purpose of settlement of the 'running account'.

j. These conditions shall not apply to institutional clients settling trades through custodians. The existing practice may continue for them.

SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992

Conditions of registration*.*

9. *Any* registration *granted by the Board under regulation 6 shall be subject to the following conditions, namely,*

-

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II;

SCHEDULE II

Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992

CODE OF CONDUCT FOR STOCK BROKERS

[Regulation 9]

A. General.

(1) Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.

(2) Exercise of due skill and care: A stock- broker shall act with due skill, care and diligence in the conduct of all his business.

(3) Manipulation: A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.

(4) Malpractices: A stock - broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors' interest or which leads to interference with the fair and smooth functioning of the market. A stockbroker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.

(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the

Government, the Board and the Stock Exchange from time to time as may be applicable to him

Issue 1) - *Whether the Noticee has violated the provisions of Regulation 21(2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 and Code of conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992?*

18. I note that one of the charges levelled in the SCN against the Noticee is that the Noticee did not provide information in respect of the quarterly settlement of the clients documents pertaining to the Year 2013-14 to the inspection team and that the same was not in adherence to the provisions of Regulation 21(2) of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, which stipulates "*the stock-broker shall allow the inspecting authority to have reasonable access to the premises occupied by such stock-broker or by any other person on his behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the stock-broker or any other person and also provide copies of documents or other materials which, in the opinion of the inspecting authority are relevant".* I note from the reply of the Noticee that the inspection of books of the Noticee was primarily with respect to compliance of the provisions of SEBI Anti Money Laundering (AML) circular which was later extended to include the provisions of the SEBI circular MIRSD/SE/Cir-19/2009 dated December 3, 2009. I note from the material available on record that the Noticee admittedly informed that the settlement of funds and securities of the clients during the year 2013 -14 were done manually and therefore it was not in a position to provide the requisite information for the said period. The Noticee claimed that even though the process of settlement of clients' account was manual, it was in accordance with the laid down procedure. I note that the Noticee in the course of present adjudication proceedings has submitted Retention statements of 430 clients pertaining to the year 2013-14 reportedly in

compliance to the inspection observation pertaining to non-furnishing of information as mentioned above. I note that there is no clarity in respect of the number of clients' account that were required to be settled and how many were settled during the year 2013-14. I also note that the Noticee has not provided the number of active clients during the year and whether all the clients' account were settled. I note that a systematic documentation of activities performed (automated or manual) is a necessity for any organisation, absence of which may lead to mis-management, fraud etc. and ultimately failure of the business. I find that even though the Noticee claimed that it had settled the accounts of its clients during the year 2013-14, it did not produce any records/documents with respect to the same. The above culminates into, either the Noticee not maintaining proper records of the quarterly settlement data/information or not settling the accounts of its clients during the year 2013-14 as stipulated by SEBI Circular MIRSD/SE/Cir-19/2009 dated December 3, 2009 and both of the above circumstances are not in adherence to the SEBI Regulations/Circulars.

19. I note that Paragraph 7 and 8 above give details of the active clients and the position of settlements of their accounts (funds and securities) in accordance with the SEBI Circular during the year 2014-15 and in absence of information either from the Noticee or the Inspection pertaining to the year 2013-14, I am of opinion that a similar number of active clients and position of settlement of their accounts (funds and securities) would have prevailed in that year. I also note that since the data pertaining to the year 2013-14 (which was only 1 year old, since the date of inspection is June 5, 2015) were not made available, the inspection team was constrained from any observations on the same. I take note of the submission of the Noticee regarding seeking of information by the inspection team and that it required to be compiled and collated which required time. However, the Noticee did not submit the information with respect to the same even afterwards to the inspection team and it was submitted only during the present proceedings. Further, as mentioned above, in absence of any observation pertaining to the number of active clients and number of clients required to be settled, number of clients settled and number of clients not settled, I find the data in respect of the above mentioned 430 clients to be irrelevant

in the light of the aforesaid observation of the inspection team. In view of the aforesaid discussions I am of the considered view that the Noticee failed to provide information in respect of the quarterly settlement of funds and securities of the clients pertaining to the year 2013-14 to the inspection team and the same was not in adherence to the provisions of Regulation 21(2) of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992.

20. The next issue for consideration is whether Noticee failed to settle the accounts (funds and securities) of its clients in accordance with the provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009. As mentioned in Paragraph 7 and 8 above, the number of unsettled clients for the quarters 1, 2, 3 and 4 of Financial Year 2014-15 were 4891, 5567, 6163 and 5932 respectively. The number of unsettled clients having more than Rs. 10000/- were 836, 1168, 1197 and 1059 for the quarters 1, 2, 3 and 4 of year 2014-15 respectively. I note that the Noticee had enclosed a list of 460 clients to whom retention statements were issued during the financial year 2014-15. Considering that these accounts were duly settled in accordance with the applicable provisions, still there were 376, 708, 737 and 599 clients during quarters 1, 2, 3 and 4 respectively of Financial Year 2014-15 which were not settled. I have also perused the acknowledged copy of the retention statements issued the clients and find that the acknowledgements are signed but not dated.

21. I note that the Noticee has submitted that clients having balance of less than Rs. 10000/- were not settled to avoid administrative /operational difficulties and the clients had given written consent for retaining such amounts. Upon perusal of some of the aforesaid written consent obtained by the Noticee I find that the letters were written in 2016 and 2017 which is after the dates of inspection and therefore not relevant to the findings of the inspection team.

22. I note that the Noticee has submitted that the clients had not updated their bank and demat accounts with the Noticee which was one of the reasons for not settling the accounts. I have perused some of the letters written to the clients and find that the aforesaid letters were written in the year 2017 which is almost 2 years after the date of

inspection. I note that the aforesaid letters have no bearing on the findings of inspection. I have also perused copies of confirmation from some of the clients which were made available by the Noticee and find that even though the confirmations are signed by the clients but are not dated.

23. I note that one of the observation of inspection team was that the Noticee during inspection could not provide information in respect of top 10 dormant clients during the year 2014-15. I find that the Noticee has provided the aforesaid information vide its reply. Another observation of the inspection team was that the Noticee during quarter -1 of FY 2014-15, in respect of client Hans Sakhuja and Co. did not settle Rs. 243151/- after retaining funds and securities. I note that the Noticee has submitted that the aforesaid client was a registered sub-broker of the Noticee and that the aforesaid amount was retained as security against the debit balance of the clients introduced by Hans Sakhuja and Co. Having considered the aforesaid reply of the Noticee I do not find any adverse observation on this count.

24. I note that the Noticee has replied to the inspection team's observation on the sample 11 clients (6 active and 5 dormant) during the inspection. I find that the Noticee has submitted that owing to typographical error, the amount to be retained was mentioned as 175% instead of 225%. The same was rectified and communicated to the respective clients. Further, I find that the Noticee has settled the accounts of all the 5 dormant clients after the inspection team's observation. In view of the above discussions, I am of the considered view that the Noticee has failed to settle the accounts of its clients as stipulated by Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009.

25. I note from the SCN also alleged that the Noticee violated the provisions of code of conduct of stock brokers as mentioned in Schedule II read with Regulation 9 (f) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992. I have perused the material/documents available on record and based on my examination/analysis, I am of the view that the inspection team has not brought out any observation to suggest that

Noticee lacked integrity in the conduct of its business. I note that there has been certain instances of no-compliance but it does not translate into lack of integrity of the part of the Noticee in the conduct of its business. Similarly, I am also of the view that in absence of any specific observation of manipulation and malpractices, the Noticee cannot be alleged to have indulged into one. I note that as discussed in the earlier paragraphs that the Noticee's alleged non-compliance with the provisions of Regulation 21 (2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 has been established. In view of the above, I am of the considered view that while the Noticee did not adhere to Clause A(2) and A(5), I do not find enough material/documents on record to establish non-adherence to Clause A(1), A(3) and A(4) of the code of conduct of the code of conduct of stock brokers as mentioned in Schedule II read with Regulation 9 (f) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992.

26. In view of the aforesaid discussions, I am of the considered view that the Noticee has not complied with the provisions of Regulation 21(2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 read with clause A(2) and A(5) of the Code of conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992.

Issue 2) - *Do the violations, if any, on the part of the Noticee attract monetary penalty under Section 15A(a) and 15HB of the Securities and Exchange Board of India Act, 1992*?

27. As discussed in the earlier paragraphs, the Noticee has not complied with the provisions of Regulation 21(2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 read with clause A(2) and A(5) of the Code of conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992. I also note that the Noticee has referred to the orders of Hon'ble Supreme Court,

Hon'ble SAT and Hon'ble WTM (Whole Time Member), SEBI which have been considered and taken note of. I note that the Noticee has particularly relied upon the Hon'ble Supreme Court in the matter of Hindustan Steel Ltd. Vs. State of Orissa, AIR 1970 SC 253, wherein the Hon'ble Court had observed.

"7. …An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi criminal proceeding, and penalty will not be ordinarily imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute."

28. In this context, it is pertinent to take note of the observations of Hon'ble Supreme Court in the matter of **Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361**} wherein the Hon'ble Court had observed:

"The Tribunal has erroneously relied on the judgment in the case of Hindustan Steel Ltd. Vs. State of Orissa, AIR 1970 SC 253 which pertained to criminal/quasi-criminal proceeding. That Section 25 of the Orissa Sales Tax Act which was in question in the said case imposed a punishment of imprisonment up to six months and fine for the offences under the Act. The said case has no application in the present case which relates to imposition of civil liabilities under the SEBI Act and Regulations and is not a criminal/quasi-criminal proceeding".

29. The Hon'ble Supreme Court in the above matter further observed *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as*

contemplated by the Act and the Regulation is established and hence the intention of the parties committing such violation becomes wholly irrelevant. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not."

30. As the violation of the provisions of Regulation 21(2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 read with clause A(2) and A(5) of the Code of conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 is established, the Noticee is liable for monetary penalty under Section 15A(a) and 15 HB of the SEBI Act, 1992 which, at the time of violation, read as under:

15A. Penalty for failure to furnish information, return, etc.- If any person, who is required under this Act or any rules or regulations made thereunder,-

(a) *to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;*

15HB**. **Penalty** **for contravention where no separate penalty has been provided.

Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Issue 3) - *The monetary penalty that can be imposed upon the Noticee, taking into consideration the factors mentioned in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?*

31. While determining the quantum of penalty under Section 15A(a) and 15HB of the SEBI Act, it is important to consider the factors stipulated in Section 15J of SEBI Act, which reads as under:-

"15J - Factors to be taken into account by the adjudicating officer while adjudging quantum of penalty under Section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default."

32. The amount of disproportionate gain or unfair advantage to the Noticee or loss caused to the investors/clients as a result of the default is not quantified in the documents/material available on record. Considering that there has been no settlement of accounts (funds and Securities) as stipulated under the SEBI Circular dated December 3, 2009 by the Noticee on multiple occasions spread over the inspection period as brought out in the above paragraphs, the same are treated as repetitive in nature. I have considered the mitigating factors mentioned by the Noticee in its reply to the SCN and additional submission made post personal hearing. I also note the various observations of the Hon'ble Supreme Court and Hon'ble SAT in respect of the penalty being in consonance with the gravity of the violations.

33. In view of all of the above, I am of considered view that the Noticee has violated the provisions of Regulation 21(2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and provisions of Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 read with clause A(2) and A(5) of the Code of conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and that it is a fit case for imposition of penalty for violation of the aforesaid Regulations and SEBI Circulars.

ORDER

34. After taking into consideration the nature and gravity of charges established, the facts and circumstances of the case as enumerated above, I, in exercise of the powers

conferred upon me under Section 15I (2) of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, hereby impose a impose a monetary penalty of Rs. 6,00,000/- (Rupees Six Lakh only) on the Noticee i.e. LSC Securities Limited (formerly known as L.S.E. Securities Limited) as enumerated below:

Name of the Noticee	**Provisions of law violated**	**Penalty levied under Section**	**Quantum of penalty**
LSC Securities Limited (formerly known as L.S.E. Securities Limited)	**Regulation 21(2) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992**	**Section 15A(a) of the SEBI Act, 1992**	**Rs. 1,00,000/- (Rupees One Lakh Only)**
	Clause 12 of SEBI circular no MIRSD/SE/Cir-19/2009 dated December 3, 2009 read with clause A(2) and A(5) of the Code of conduct for Stock Brokers under Schedule II of Regulation 9 (f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992	**Section 15HB of the SEBI Act, 1992**	**Rs. 5,00,000/- (Rupees Five Lakh Only)**

I am of the considered view that in the facts and circumstances of the case, the said penalty is commensurate with the default/violations committed by the Noticee.

35. The Noticee shall remit / pay the said total amount of penalty within 45 days of receipt of this order in either of the following way:

   a. By using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html; OR
   b. By way of Demand Draft in favour of *"SEBI - Penalties Remittable to Government of India",* payable at Mumbai; OR

36. The Noticee shall forward the said Demand Draft in the format as given in table below shall be sent to "The Division Chief, Enforcement Department -DRA-IV, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051." and also to e-mail id :- tad@sebi.gov.in

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for (like penalties/ disgorgement/ recovery/Settlement amount and legal charges along with order details)	
Penalty	

37. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

38. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: October 24, 2019
Place: Mumbai

Prasanta Mahapatra
Adjudicating Officer