BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. ORDER/VG/RG/2021-22/14984

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

In respect of: -

Ms. Shilpa Garg, Proprietor, Highlight Investment Research, [Permanent Account Number: AZNPG3349J],
D/o Bharat Bhushan Garg, 42 Ganiyari, Gulwara, Murwara Katni-483501, Madhya Pradesh

In the matter of non-redressal of complaints

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as SEBI) initiated adjudication proceedings against Highlight Investment Research, an Investment Adviser having proprietor, Ms. Shilpa Garg (hereinafter referred to as the Noticee) registered with SEBI under section 15C of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the SEBI Act) for the alleged violation of the SEBI Circular CIR/OIAE/2014 dated December 18, 2014 (hereinafter referred to as the Circular) read with regulation 21(1) of the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to as the IA Regulations).

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI appointed the undersigned as the Adjudicating Officer (hereinafter referred to as the AO) vide order dated July 22, 2021 to inquire into and adjudge the aforesaid alleged violations against the Noticee under section 15C of the SEBI Act. The appointment of the AO was communicated vide order dated July 26, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. The undersigned issued a show cause notice no. SEBI/HO/LAD1/LAD1_DOP1/P/OW/2021/23734/1 dated September 13, 2021 (hereinafter referred to as the SCN) to the Noticee under rule 4(1) of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the Penalty Rules), to show cause as to why an inquiry should not be held and penalty should not be imposed under section 15C of the SEBI Act for the alleged violation of the Circular read with regulation 21(1) of the IA Regulations. The SCN was issued at the addresses available on record including the one mentioned above. The SCN was delivered at the above address on September 24, 2021.

4. It was alleged in the SCN that the two investor grievances levelled against the Noticee were pending for redressal for more than thirty days in violation of the provisions of the IA Regulations and the Circular. The details of such investor grievances are given below:

Sr. No.	SCORES Registration no.	Name of the Complainant	Date of receipt of complaint	Date of forwarding complaint by SEBI	Date of Reminders from investor and SEBI	Date of Final Action Taken Report (ATR)	Status
1.	SEBIE/MP20/ 0001449/1	Shri Ashok Kumar Patra	13.08.2020	20.08.2020	14.09.2020 16.10.2020	Not Filed	Pending

					23.11.2020 15.01.2021		
2.	SEBIE/MP20/ 0002026/1	Shri. Gori Shankar Jangid	05.10.2020	11.11.2020	15.01.2021	Not Filed	Pending

5. It was observed that the grievance of Shri. Ashok Kumar Patra was forwarded to the Noticee by SEBI on August 20, 2020 to resolve it. Further, reminders were also sent to the Noticee on September 14, 2020, October 16, 2020 and November 23, 2020. Similarly, the complaint of Shri Gori Shankar Jangid was forwarded to the Noticee by SEBI on November 11, 2020 to resolve it. However, the Noticee failed to redress both the grievances. The Noticee also did not submit the Action Taken Report as specified in the Circular.

6. The pending investor grievances were forwarded to the Noticee by SEBI vide letter(s) dated January 15, 2021 advising the Noticee to resolve the same within a period of seven days from the date of the receipt of the said letter. The Noticee was further informed that incase of any further delay in the resolution of the aforesaid investor grievances, appropriate enforcement proceedings would be initiated in terms of the provisions of the SEBI Act. The letter(s) were sent to the Noticee at the two known addresses available on record. The letter was delivered on January 21, 2021 on one of those known addresses. The aforesaid letter was also sent to the Noticee through e-mail on January 15, 2021. However, the Noticee failed to comply with the mandate specified in the letter of SEBI dated January 15, 2021. The Noticee was, therefore, alleged to have violated the Circular read with regulation 21(1) of the IA Regulations.

7. Thereafter, the Noticee, vide e-mail dated October 12, 2021, in response to the SCN, *inter alia* requested for an opportunity of hearing in the matter. In the said e mail, the Noticee has also attached an unsigned copy of the reply to the SCN.

8. The submissions made by the Noticee in the said letter in brief are as under:

a) The earlier complaints of Shri Ashok Kumar Patra and Shri Gori Shankar Jangid on SEBI scores portal (complaint no SEBIE/MP20/0000343/1, and SEBIE/MP19/0002132/1) have been resolved by the Noticee in the best interest of complainants.

b) The complaint of Shri Gori Shanker Jangid was resolved by the Noticee and an agreement was executed on mutually agreed terms and conditions. According to the Noticee, as per the terms of the agreement, a total amount of ₹ 50,000/- refund was payable to the complainant and that out of the total amount, ₹ 25,000/- was paid to the complainant and the remaining amount is due to be paid. The lockdown restrictions imposed by the Government pursuant to COVID 19 Pandemic has impacted businesses not only in India but all over the world. Lockdown and disruption were unforeseen and beyond the control of the Noticee. The Noticee will fulfil the agreement immediately within fifteen days and send the report.

c) The complaint of Shri Ashok Kumar Patra was resolved by the Noticee. As per the mutually agreed resolution of the complaint, extra services were offered and delivered to the complainant. However, a fresh complaint was filed by the complainant asking for the refund of advisory service charges. The Noticee has stated that if the refund of advisory service charge is treated as a resolution and redressal of grievance, the Noticee is agreeable to mark refund of advisory service charges paid by complainant after deducting Tax. The Noticee will fulfil the agreement immediately within fifteen days and send the report.

d) Office premises of the Noticee were locked during the lockdown. Some of the responsibilities/duties as a SEBI registered intermediary were not fulfilled, unintentionally.

9. Though, the Noticee has stated that the Action Taken Report would be provided to SEBI within fifteen days, no such report has been received till date. In the interest of natural justice, an opportunity of personal hearing was granted to the Noticee on November 17, 2021, vide hearing notice dated October 28, 2021. The Noticee was also advised to ensure the filing of the duly signed reply to the SCN. As per the postal records, the hearing notice was delivered to the Noticee. Since, the Noticee did not respond to the said hearing notice, another opportunity of hearing was granted to the Noticee on December 3, 2021, vide notice dated November 16, 2021, which was delivered to the Noticee on November 25, 2021. Additionally, a scanned copy of the said notice was also sent to the Noticee through e mail on November 16, 2021. However, the Noticee has neither responded to the hearing notice nor attended the hearing.

CONSIDERATION OF ISSUES AND FINDINGS: -

10. I have carefully examined the allegations levelled in the SCN, the unsigned reply of the Noticee and the material available on record and accordingly, the following issues are framed for consideration:

Issue No. I Whether the Noticee is in violation of the Circular read with regulation 21(1) of the IA Regulations and if so, whether the failure on the part of the Noticee would attract monetary penalty under section 15C of the SEBI Act?

Issue No. II If yes, what would be the appropriate monetary penalty to be imposed upon the Noticee taking into account the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Penalty Rules?

11. Before I proceed with the matter, it is pertinent to mention the relevant legal provisions which are alleged to have been violated by the Noticee and the same are reproduced below:

<u>Circular:</u>

Redressal of investor grievances through SEBI Complaints Redress System (SCORES) platform-

9. All listed companies and SEBI registered intermediaries shall review their investors grievances redressal mechanism so as to further strengthen it and correct the existing shortcomings, if any. The listed companies and SEBI registered intermediaries to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, within thirty days. The listed companies and SEBI registered intermediaries shall keep the complainant duly informed of the action taken thereon.

<u>IA Regulations:</u>

Redressal of Client Grievances-

21(1) An investment adviser shall redress client grievances promptly.

Issue No. I Whether the Noticee is in violation of the Circular read with regulation 21(1) of the IA Regulations and if so, whether the failure, on the part of the Noticee would attract monetary penalty under section 15C of the SEBI Act?

12. I note that the allegations against the Noticee are based on the non-redressal of two investor grievances. The complaint details and the action history of the complaints show that the same were pending for redressal as on the date of issuance of the SCN. I note from the material available on record, that the grievance of Shri. Ashok Kumar Patra was forwarded to the Noticee by SEBI on August 20, 2020 to resolve it. Further, reminders were also on September 14, 2020, October 16, 2020 and

November 23, 2020. Similarly, the complaint of Shri Gori Shankar Jangid was forwarded to the Noticee by SEBI on November 11, 2020 to resolve it. However, the Noticee has failed to redress both the grievances. Further, the Noticee has also not submitted the Action Taken Report as specified in the Circular.

13. The issue before me is to determine whether the Noticee has failed to redress the complaints/grievances within the time specified by SEBI. I note that the pending grievances were forwarded to the Noticee by SEBI vide letter(s) dated January 15, 2021 advising the Noticee to resolve the investor grievances within a period of seven days from the date of the receipt of the said letter. The Noticee was also informed that incase of any further delay in the resolution of investor grievances, appropriate enforcement proceedings would be initiated against the Noticee in terms of the provisions of the SEBI Act. I note that the letter(s) were sent to the Noticee at the two known addresses available on record. The letter was delivered on January 21, 2021 on one of those known addresses. The letter was also sent to the Noticee through e-mail on January 15, 2021. However, the Noticee has failed to comply with the mandate specified in the letter of SEBI dated January 15, 2021.

14. As per the unsigned reply dated October 12, 2021, the Noticee has mutually agreed to resolve the complaints/grievances with the complainants/investors and that an action taken report would be send to SEBI within fifteen days. However, no such report has been received till date.

15. In terms of the provisions of the SEBI Act, there is a duty cast upon an intermediary registered with SEBI to redress the grievances of the investors in a time bound manner and that such redressal is important for the proper regulation of the securities market. In view of the same, I hold that by not redressing the grievances of the investors within the time stipulated by SEBI as aforesaid, the Noticee has failed to comply with its statutory obligations envisaged in the IA Regulations and the Circular. Thus, the Noticee would attract monetary penalty under section 15C of the SEBI Act.

Issue No. II If yes, what would be the appropriate monetary penalty to be imposed upon the Noticee taking into account the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Penalty Rules?

16. As it has been established that the Noticee violated the Circular read with regulation 21(1) of IA Regulations, Noticee is liable for the imposition of monetary penalty under section 15C of the SEBI Act, which is reproduced below:

SEBI Act:

"Penalty for failure to redress investors' grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing including by any means of electronic communication, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees."

17. While determining the quantum of penalty under section 15C of the SEBI Act, the following factors specified in section 15J of the SEBI Act have to be given due regard:

"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."

18. I observe that the Noticee has failed to redress the complaints. Though, the Noticee in the unsigned reply, stated that the complaints have been resolved as per the mutually agreed terms, no satisfactory proof was received. Further, the issue before me is whether the Noticee has failed to redress the complaints/grievances within the time specified by SEBI and the same has been established as stated above.

19. After taking into consideration all the facts and circumstances of the case including the submissions made by the Noticee in the e mail dated October 12, 2021 and the factors mentioned in Section 15J of the Securities and Exchange Board of India Act, 1992 read with Rule 5 of the Penalty Rules, I hereby impose the penalty of ₹ 1,00,000 (Rupees One lakh only) upon the Noticee, Ms. Shilpa Garg, Proprietor - M/s. Highlight Investment Research, Investment Adviser under Section 15C read with Section 15–I of the Securities and Exchange Board of India Act, 1992 for the violation of the SEBI Circular CIR/OIAE/2014 dated December 18, 2014 read with regulation 21(1) of Securities and Exchange Board of India (Investment Advisers) Regulations, 2013.

20. The Noticee shall remit/ pay the said amount of penalty within forty five days of the receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai OR through the online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link:-

ENFORCEMENT → Orders → Orders of AO → PAY NOW

21. The Noticee shall forward the Demand Draft or the details/confirmation of penalty so paid to the Division Chief, Enforcement Department, Department of Regulatory Action IV, Securities and Exchange Board of India, SEBI Bhavan II, Plot No. C7, G-Block, Bandra Kurla Complex, Bandra (East), Mumbai - 400051. The Noticee shall provide the following details while forwarding Demand Draft / payment information:

a) Name and the Permanent Account Number (PAN)

b) Name of the case / matter

c) Purpose of Payment – Payment of penalty under the Adjudication Proceedings

d) Name of the Bank and the account number

e) Transaction reference number

22. Copy of this Adjudication Order is being sent to the Noticee and also to the Securities and Exchange Board of India in terms of Rule 6 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995.

DATE: FEBRUARY 15, 2022
PLACE: MUMBAI

VIJAYAKRISHNAN G
ADJUDICATING OFFICER