BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No.: Order/GR/PU/2022-23/15951]

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) RULES, 1995, IN RESPECT OF:

Name of the Noticee	Registration Number	PAN
Chetan Yashwant Shukla (PAN: ABBPS2467H)	**INH000001402**	**ABBPS2467H**

In the matter of "Inspection of Chetan Yashwant Shukla")

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1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI')** initiated adjudication proceedings under Sections 15 A(a), 15C and 15 EB of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act**") against Chetan Yashwant Shukla, (hereinafter referred to as "**the Noticee**") for violation of the provisions of Regulations 13 (ii), 29 and 32 of SEBI (Research Analyst) Regulations, 2014 (hereinafter referred to as '**the RA Regulations, 2014'**).

2. The Noticee is a SEBI registered Research Analyst (**"RA"**) under the RA Regulations, 2014 having SEBI Registration No INH000001402, from August 14, 2015. The Noticee has its registered address at "*A- 601, Bhoumik*

Apartment, Ram Lane, Kandivali (West), Mumbai – 400067". The Noticee is also having a website with the address *ways2star.in*.

APPOINTMENT OF ADJUDICATING OFFICER

3. In this regard, the undersigned has been appointed as the Adjudicating Officer **("AO")** by SEBI, vide order dated February 08, 2021, under Sub-section 1 of Section 15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure of Holding Inquire and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to inquire into and adjudge under Sections 15 A(a), 15C and 15 EB of the SEBI Act for the aforesaid alleged violations against Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Show Cause Notice No. SEBI/HO/EAD/EAD-4/P/OW/2021/34428/1 dated November 29, 2021 (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 held and penalty be not imposed under Sections 15 A(a), 15C and 15 EB of the SEBI Act for the alleged violations of Regulations 13 (ii), 29 and 32 of the RA Regulations, 2014.

5. The SCN was issued at the last known address of the Noticee, i.e. "*A-601, Bhoumik Apartment, Ram Lane, Kandivali (West), Mumbai – 400067*", through

Speed Post Acknowledgement Due (SPAD) on November 29, 2021, which was returned undelivered by the Postal Department with remark 'left'. Accordingly, the said SCN was issued to the Noticee on mail ids ways2star@gmail.com and chetanshukla_05@yahoo.co.in on March 10, 2022 and was duly delivered.

6. It was alleged in the SCN that SEBI had received several complaints against the Noticee. Further, as per the data available on SCORES web portal (SEBI Complaints Redress System) as on November 28, 201, there were a total of 14 complaints pending against the Noticee, of which 9 investor complaints were pending for redressal for over 6 months. The details of such complaints are as under:

Sr. No.	**Complainant Name**	**Status**	**Date of Receipt**	**Date of Forwarding to the Noticee**	**Last communication received from the Noticee**	**Last Reminder Sent to the Noticee**
1	Hariharan	Pending	17-02-2018	13-04-2018	27-04-2019	17-09-2019
2	Hrushikesh Mahanta	Pending	30-06-2018	06-07-2018	31-08-2019	17-09-2019
3	Rajwinder Singh	Pending	18-11-2018	27-11-2018	26-03-2019	24-08-2019
4	Anil Kumar	Pending	30-11-2018	10-12-2018	21-08-2019	28-11-2019
5	Miteshkumar Bharatbhai Patel	Pending	26-12-2018	31-12-2018	21-08-2019	26-06-2019
6	Vikash Gupta	Pending	14-02-2019	25-02-2019	21-08-2019	26-06-2019
7	Prakhar Rajput	Pending	05-05-2019	12-06-2019	None	26-06-2019
8	Jayesh Joshi	Pending	17-05-2019	12-06-2019	21-08-2019	26-06-2019
9	Sanjaykumar Bhagvanbhai Sudani	Pending	09-07-2019	24-09-2019	None	24-09-2019
10	Vishal Sanjay Salunkhe	Pending	13-08-2019	13-09-2019	None	24-09-2019
11	Prakash Bhanushali	Pending	27-08-2019	13-09-2019	None	24-09-2019
12	Manish Kumar	Pending	09-09-2019	13-09-2019	None	24-09-2019

13	Ankur Gupta	Pending	20-10-2019	28-11-2019	None	None
14	Praveen Kumar	Pending	24-10-2019	28-11-2019	None	None

7. In view of the number of pending investor complaints against the Noticee, an inspection notice dated February 15, 2019, was sent by SEBI on the registered address and email id of the Noticee, advising the Noticee to submit certain documents/information for the inspection. With regard to the same, pursuant to several reminders, the Noticee had responded seeking additional time to submit all the documents, which ultimately the Noticee failed to submit.

8. Subsequently, as the Noticee did not submit any documents requested by SEBI, a site visit was conducted at the Noticee registered address "*A- 601, Bhoumik Apartment, Ram Lane, Kandivali (West), Mumbai – 400067*" as well as the correspondence address i.e., "**126, Xth Central Mall, Mahavir Nagar, Kandivali (West), Mumbai**". From the said site visit, it was gathered that the Noticee had shifted from the said premises more than two years ago and did not have any operations based at the above mentioned addresses.

9. In view of the above, a site visit was also conducted at the below mentioned two addresses of the Noticee, in Indore;

   1) As given on his website ways2star.in i.e. *Plot No. 17, PU-4, Near Indo Thai, Vijay Nagar, Indore – 452010*".

2) As per the Noticee's earlier request for a change in address and principal place of business to Indore, viz., "*Plot No.56, PU-4, Near Hotel Clif, Vijay Nagar*".

However, upon visiting the above mentioned two addresses, it was observed that a restaurant named 'Loca Mocha Lounge' was operating on the first address and construction of a new building was taking place in the second address.

10. Besides above, it was also alleged that, though the Noticee is registered as a Research Analyst in individual capacity, in the website i.e. ways2star.in of the Noticee it was stating differently as under, without taking any approval for the same:

"*Ways2star Financial Services is regulated by SEBI, Research Analyst Reg No. INH000001402 and its proprietor is Mr. Chetan Shukla*"

11. In view of the above, the Noticee was alleged to have violated Regulations 13 (ii), 29 and 32 of the RA Regulations, 2014.

12. From the material available on record, it is observed that the Noticee has not submitted his reply to the SCN in the matter till date.

13. In the interest of natural justice and in order to conduct an inquiry in terms of Rule 4 (3) of the Adjudication Rules, the Noticee was granted an opportunity of personal hearing on April 11, 2022, through video

conferencing on the Webex platform, vide e-mail dated April 05, 2022, which was duly delivered. However, the Noticee neither attend the said hearing nor submitted his reply to the SCN, despite the SCN being served upon the Noticee through his email.

14. Considering the above, I am of the view that the principles of natural justice have been adhered to, as the SCN and the Hearing Notice were duly served upon the Noticee and sufficient opportunity was granted to it to reply to the SCN and appear for the personal hearing.

15. In this regard, it is pertinent to note that the Hon'ble SAT in the matter of **Classic Credit Ltd. vs. SEBI** (Appeal No. 68 of 2003 decided on December 08, 2006) has, inter alia, observed that, "......*the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them*".

16. Further, the Hon'ble SAT in the matter of **Sanjay Kumar Tayal & Others vs SEBI** (Appeal No. 68 of 2013 decided on February 11, 2014), has also, inter alia, observed that: "........... *appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices...*"

17. Additionally, the same position has been reiterated by the Hon'ble SAT in the matter of ***Dave Harihar Kirtibhai vs SEBI*** (Appeal No. 181 of 214 dated December 19, 2014), wherein the Hon'ble SAT observed as under: *"...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non- receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal...".*

18. In view of the observations made by the Hon'ble SAT, I find no reason to take a different view and accordingly, I deem it appropriate to proceed against the Noticee ex parte, based on the material available on record.

19. While deciding the case, I cannot lose sight of settled position of law that the charge should be established with valid reasons and in accordance with law. I, therefore, deem it necessary to examine the charge based on the trades executed by the Noticee and the supporting material as provided in the SCN.

CONSIDERATION OF ISSUES AND FINDINGS

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

(a) *Whether Noticee is in violation of Regulations 13 (ii), 29 and 32 of the RA Regulations, 2014?*

(b) *If yes, does the violation, on the part of the Noticees would attract monetary penalty under Sections 15 A(a), 15C and 15EB of the SEBI Act?*

(c) *If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?*

21. Before proceeding further, I would like to refer to the relevant provisions of law:

Conditions of certificate.

"13. *The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions:-*
(i) …..
(ii) the research analyst shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted;"

Obligation of research analyst on inspection.

"29. *(1) It shall be the duty of every research analyst or research entity in respect of whom an inspection has been ordered under the regulation 27 and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such research analyst or research entity including their representative, if any, to produce to the inspecting authority such books, accounts and other documents in his custody or* *control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.*

(2) It shall be the duty of research analyst or research entity and any other associate person who is in possession of relevant information pertaining to conduct and affairs of the research analyst to give to the inspecting authority all such assistance and shall extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the inspecting authority in connection with the inspection.

(3) The inspecting authority shall, for the purposes of inspection, have power to examine on oath and record the statement of any employee, director, partner or person responsible for or connected with the activities of research analyst or research entity or any other associate person having relevant information pertaining to such research analyst or research entity.

(4) The inspecting authority shall, for the purposes of inspection, have power to obtain authenticated copies of documents, books, accounts of research analyst or research entity, from any person having control or custody of such documents, books or accounts."

Liability for action in case of default.

"32. *Research analyst or research entity who:*
(i) contravenes any of the provisions of the Act or any regulations or circulars issued thereunder;
(ii) fails to furnish any information relating to its activity as a research analyst as required by the Board;
(iii) furnishes to the Board information which is false or misleading in any material particular;
(iv) does not submit periodic returns or reports as required by the Board;
(v) does not co-operate in any enquiry, inspection or investigation conducted by the Board;
(vi) fails to resolve the complaints or fails to give a satisfactory reply to the Board in this behalf, shall be dealt with in the manner provided under the Act or the Securities and Exchange Board of India (Intermediaries) Regulations, 2008."

(a) Whether the Noticee is in violation of Regulations 13 (ii), 29 and 32 of the RA Regulations, 2014?

22. I note that in respect of the allegation that the Noticee was not at the addresses available with SEBI while making the site visit by SEBI, it is observed that the Noticee had shifted from the said premises more than two years ago and not had any operations based at the addresses in Mumbai. Further as regards to the address indicated in the Noticee's website ways2star.in as well as in the address as per the Noticee's earlier request for a change in address and principal place of business to Indore, it is observed that in the first address the premise was occupied and functioning as a lounge while in the second address the place was under construction. I therefore note that although the Noticee had indicated his address in the aforesaid website as " *Plot No. 17, PU-4, Near Indo Thai, Vijay Nagar, Indore – 452010*" instead of the Mumbai address given to SEBI as "*601, Bhoumik Apartment, Ram Lane, Kandivali (West), Mumbai – 400067*", the changes has not been intimated as required under RA Regulation. Thereby the Noticee has violated the Regulation 13 of RA Regulations, 2014.

23. I also note from the available record that the Noticee's website i.e. ways2star.in, it is stated as "*Ways2star Financial Services is regulated by SEBI, Research Analyst Reg No. INH000001402 and its proprietor is Mr. Chetan Shukla"(* the Noticee was granted Registration as a Research Ananlyst in his individual Name) implying that the Noticee got the registration as if in the name of "**Ways2star Financial Services"** as against the Noticee individual name.

With regard to the same, I note that as per Regulation 13 (ii) of the RA Regulations, 2014, the research analyst shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted, which in this case the as per the available record that the Noticee has failed to do. Therefore, the Noticee has violated Regulation 13 (ii) of the RA Regulations, 2014.

24. Further with respect to the allegation of not producing the documents sought for inspection and not being available in any of the addresses, it is observed from Regulation 29 of the RA Regulations, 2014, that RA's have certain obligation at the time of inspection, such as producing to the inspecting authority books, accounts, any documents/ statements/ information as may be required for the purposes of inspection, to co-operate with regard to the inspection, etc., With regard to the same, I note that the Noticee despite responding and asking for time to file information/documents has not provided any of the documents sought with regard to the inspection in this matter and also was not available at any of the addresses as provided to SEBI or available on the Noticee website as observed from the site visits. Therefore, I find that, the Noticee has violated Regulation 29 of the RA Regulations, 2014.

25. Thereafter, regarding the allegation against the Noticee that he did not resolve the investor grievances as per the prescribed time lines, it is observed from Regulation 32 of the RA Regulations, 2014, that RA's have certain liabilities under the said regulation to adhere to the provisions of the regulations by resolving the complaints and giving satisfactory reply to SEBI amongst other things. As, the Noticee had not resolved the investor grievances since November 28, 2019, as observed from SCORES portal, I find that the Noticee has violated Regulation 32 of RA Regulations, 2014.

26. Considering the above facts and in the absence of any reply submitted in the matter, in his defense, I hold that the Noticee has violated the provisions of Regulations 13 (ii), 29 and 32 of the RA Regulations, 2014.

(b) If yes, does the violation, on the part of the Noticees would attract monetary penalty under Sections 15A (a), 15 C and 15 EB of the SEBI Act?

27. As it has been established that the Noticee has violated the provisions of Regulations 13 (ii), 29 and 32 of the RA Regulations, 2014, I am of the view that he is liable for imposition of monetary penalty under Sections 15A (a), 15 C and 15 EB of the SEBI Act, which are reproduced hereunder:

<u>SEBI Act, 1992:</u>

Penalty for failure to furnish information, return, etc.

"**15A.** *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 or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents], he 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;"

Penalty for contravention where no separate penalty has been provided.

"**15C**. *If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, 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 of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less."*

Penalty for default in case of investment adviser and research analyst.

"**15EB**. *Where an investment adviser or a research analyst fails to comply with the regulations made by the Board or directions issued by the Board, such investment adviser or research analyst shall be liable to 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."*

(C): If so, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act?

28. While determining the quantum of penalty under Sections 15A (a), 15 C and 15 EB of the SEBI Act, 1992, it is important to consider the factors stipulated in Section 15J of the SEBI Act, 1992 which reads as under:

SEBI Act, 1992

15J

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.

29. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on the part of the said Noticee. From the document available on record, it is not assessable whether the acts of the Noticee are repetitive in nature. However,

it is pertinent to note that the role of research analyst is crucial as he is primarily responsible for preparation/ publication of research report or making buy/sell hold recommendations or giving price target or offering an opinion concerning public offer, with respect to securities that are listed or to be listed on the stock exchange. I find it pertinent to mention here that registration is with the objective of protecting the interests of the investors, as it casts accountability and responsibility upon the registered Research Analyst to comply with all regulatory requirements applicable to the conduct of its business activity, so as to promote the best interests of clients and the integrity of the market. I consider that the act of the Noticee of not resolving investor grievances, not providing the relevant information to SEBI, and acting beyond his capacity as a Research Analyst, without making an application for registration, etc., is in reckless disregard to the regulatory requirement of a Research Analyst. The misconduct of the Noticee as brought out in the preceding paragraphs clearly shows that he has failed in his fiduciary duties owed to his clients.

ORDER

30. Accordingly, taking into account the aforesaid observations and in exercise of power conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, 1995, I hereby impose following penalty under Sections 15 A(a), 15C and 15 EB of the SEBI Act, 1992 on Noticee for

violation of the provisions of Regulations 29, 32 and 13 (ii) of SEBI (Research Analyst) Regulations, 2014.

Name of Noticee	Penal provisions	Penalty
Chetan Yashwant Shukla **(PAN: ABBPS2467H**)	**Section 15 A(a) of the SEBI Act, 1992**	**Rs 1,00,000/- (Rupees One Lakh only)**
	Section 15 C of the SEBI Act, 1992	**Rs 1,00,000/- (Rupees One Lakh only)**
	Section 15 EB of the SEBI Act, 1992	**Rs 1,00,000/- (Rupees One Lakh only)**

31. The Noticee shall remit / pay the said amount of penalty within 45 days of 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 online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: **ENFORCEMENT → Orders → Orders of AO → PAY NOW**

32. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to "The Division Chief, Enforcement Department (EFD1 – DRA IV), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.

1. Case Name:	
2. Name of the Noticee:	
3. PAN No. of the Noticee	
3. Date of payment:	
4. Amount paid:	

5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	

33. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings 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.

34. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Date: April 12, 2022 **G RAMAR**

Place: Mumbai **ADJUDICATING OFFICER**