BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/PM/AN/2021-22/11798-11801

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:

Sl.No.	Names of the Noticee	PAN
1	Mr. Govinda Pilai Reghukumaran	ANAPR9836Q
2	Mr. Gilbert James Dhason	ASJPG9315R
3	Ms. Kumaresan Vasantha kumari	AGVPV7290A
4	Ms. Jeyashoba Thankappan Rajam	AVFPR0171D

In the matter of Wisdom Agro Tech India Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as ***"SEBI"***) received a complaint vide email dated August 25, 2013, wherein it was alleged, inter-alia, that a few companies in Tamil Nadu are collecting monies from public through various schemes and Wisdom Agro Tech India Ltd. (hereinafter referred to as ***"WISDOM/ Company"***) was one of the companies mentioned in the said complaint. In order to conduct preliminary inquiry into whether or not WISDOM was carrying on activities of Collective Investment Scheme (hereinafter referred to as ***"CIS"***) in terms of Section 11 AA of the SEBI Act, 1992 (hereinafter referred to as ***"SEBI Act"***), SEBI sought certain/ additional information about the schemes operated by the WISDOM. In the course of preliminary inquiry, SEBI also obtained information available with the Registrar of Companies (RoC), Chennai from MCA- 21 portal. Upon preliminary examination of the matter on the basis of the material available on record including information received from the WISDOM, SEBI vide its interim Order dated December 10, 2014 under Sections 11(1), 11B and 11(4) of the SEBI Act read with Regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as ***"CIS Regulations"***), issued

directions, inter-alia, restraining the Company and its Directors namely Mr. Anantharaman Nallaperumal, Govinda Pilai Reghukumaran, Gilbert James Dhason, Kumaresan Vasantha kumari, Jeyashoba Thankappan Rajam and Prabhu Kannan, from collecting any fresh money from investors under its existing schemes.

2. Further, vide Order dated October 20, 2015, SEBI under section Sections 11(1), 11B and 11(4) of the SEBI Act and Regulation 65 of the CIS Regulations, confirmed the Directions issued vide the SEBI interim order dated December 10, 2014 against the company and its aforesaid directors subject to the modification that the directions in the interim order shall not cause any hindrance to the Company in respect of execution and registration of sale deeds in respect of its existing customers. It is observed that the company had admittedly mobilized ₹84.10 lakh from April 2013-till January 16, 2015 *(i.e., after the date of passing of the interim order dated December 10, 2014)*, from its existing customers, despite being restrained from mobilizing money from its existing customers.

3. Subsequent to the investigation carried out by SEBI into the business activity of WISDOM for the period 2010-11 to 2015-16, SEBI vide its finalorder dated August 14, 2019, inter-alia, restrained WISDOM and its aforesaid directors except Mr. Anantharaman Nallaperumal *(since Mr. Anantharaman Nallaperumal had passed away on January 28, 2019)* from launching any new collective investment schemes without seeking registration from SEBI in accordance with the provisions of SEBI Act and CIS Regulations and restrained them from accessing the securities market and also prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of four years or till the completion of proceedings under TNPID Act, whichever is later.

APPOINTMENT OF ADJUDICATING OFFICER

4. Based on the findings of investigation, that the WISDOM has mobilized funds from the public despite being restrained from collecting any fresh money from investors

under its existing schemes, Adjudication Proceedings were initiated against the Directors of WISDOM namely Mr. Anantharaman Nallaperumal, Mr. Govinda Pilai Reghukumaran (hereinafter referred to as ***"Noticee 1"***), Mr. Gilbert James Dhason (hereinafter referred to as ***"Noticee 2"***), Ms. Kumaresan Vasanthakumari (hereinafter referred to as ***"Noticee 3"***) and Ms. Jeyashoba Thankappan Rajam (hereinafter referred to as ***"Noticee 4"***) (hereinafter aforesaid four Noticees collectively referred to as ***"Noticees"***) and the undersigned was appointed as Adjudicating Officer (hereinafter referred to as ***"AO"***) vide order dated September 04, 2017 to inquire into and adjudge under Section 15HB of the SEBI Act for the alleged violations by the Noticees, of Section 12(1B) of SEBI Act read with Regulation 3 of CIS Regulations for not complying with SEBI's directions issued vide SEBI interim order dated December 10, 2014. The appointment of the AO was communicated vide communique dated July18, 2018.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Common Show Cause Notice(hereinafter referred to as ***"SCN"***) having reference Nos. SEBI/EAD-6/PM/RR/19405/1/2019 dated July 31, 2019;SEBI/EAD-6/PM/RR/19406/1/2019 dated July 31, 2019; SEBI/EAD-6/PM/RR/19407/1/2019 dated July 31, 2019; SEBI/EAD-6/PM/RR/19408/1/2019 dated July 31, 2019 and SEBI/EAD-6/PM/RR/19410/1/2019 dated July 31, 2019 was issued to Anantharaman Nallaperumal and the Noticees 1 to 4 respectively, in terms of Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995#(hereinafter referred to as ***"Adjudication Rules"***) read with Section 15-I of the SEBI Act, 1992.

[# With effect from March 8, 2019, SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 was amended to SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995]

6. It is noted from the records that the SCN in respect Anantharaman Nallaperumal and Noticees 1 to 4 were sent by SPAD and were duly served on the Noticees2 and 4. The SCN sent to Noticees 1 and 3 returned undelivered. It is noted that the no

replies were received from the Noticees 2 & 4, despite receipt of SCN by them. In the meantime, it came to notice that Anantharaman Nallaperumal had passed away on January 28, 2019and in view of the same, Abatement Order dated November 06, 2020, was passed in respect of Anantharam Nallaperumal disposing off the Adjudication Proceedings initiated against him.

7. Further, in compliance with the principles of natural justice, an opportunity of personal hearing was granted to Noticees 1& 2 vide emails dated 05 January, 2021 (based on the availability of their respective email-ids), on January 25, 2021. In view of the prevailing circumstances owing to Covid-19, the hearing was scheduled through Video Conference on the platform of Webex. It was also noted that SCN dated July 31, 2019 along with its Annexures was also sent to the said Noticees along with the Hearing Notices. However, I note that the emails sent to Noticee 1 & 2 were bounced. Further, in respect of the Noticees 2 & 4, an opportunity of hearing was provided on January 25, 2021, which was communicated vide Notice dated January 05, 2021, thereby sending a copy of SCN once again. I further note that the said Hearing Notices to Noticee 2 & 4 were delivered. Since, the SCN and the notice of hearing in respect of Noticees 1 & 3 could not be served by way of Speed Post, Email, in terms of the provisions of Rule 7(d) of Adjudication Rules, a notice was published in the newspapers of Times of India and Dinakaranin its Madurai edition on February 23, 2021 and January 5, 2021 respectively. Vide the aforementioned newspaper publication, the Noticees were provided with one more opportunity to furnish their reply within 14 days from the date of publication of the notice, besides providing them with an opportunity of hearing on March 12, 2021& January 22, 2021 respectively. I note that the Noticees have neither filed their replies nor have appeared for hearing.

8. In this context, I would like to rely upon the observations of The Hon'ble Securities Appellate Tribunal (SAT) in the matter of Classic Credit Ltd., vs. SEBI (Appeal 68 of 2003 decided on December 08, 2006) wherein the Hon'ble SAT, 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".

9. The Hon'ble SAT has again in the matter of Sanjay Kumar Tayal & Others vs SEBI (Appeal 68 of 2013 decided on February 11, 2014), interalia, observed that – *"………………As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, 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 levelled against them in the show cause notices……………..".*

10. In view of the above observations of the Hon'ble SAT and considering that no request has been received from any of the Noticees seeking more time for filing written reply or for personal hearing, I find no useful purpose would be achieved by granting any more opportunity of personal hearing to the Noticees, hence, I proceed to deal with matter *ex-parte*, based on materials available on record.

CONSIDERATION OF ISSUES AND FINDINGS

11. I have perused the SCN dated July31, 2019 and the material available on record. I note that the SCN had charged the Noticees of having violated the provisions of Section 12(1B) of SEBI Act read with Regulation 3 of CIS Regulations. It is a matter of record that the Noticees were in fact violated the aforesaid provisions, which has been appropriately dealt in the Interim Order dated December 10, 2014 and accordingly directions were issued to the Noticees. I note that vide the aforesaid Order, the Company and the Noticees were restrained from collecting any fresh money from investors under its existing schemes. The instant Adjudication proceedings were initiated against the Noticees since the Noticees mobilized money from investors under its existing schemes despite being restrained vide Order dated December 10, 2014. In view of the fact that the current proceedings are limited to the alleged violation of non-compliance of the directions issued by SEBI vide interim Order dated December 10, 2014, I am confining myself to find out

whether the Noticees have raised money despite being restrained by the aforesaid Order and accordingly, I have the following issues for consideration.

***Issue – I**: Whether the Noticees have complied with the directions issued vide Interim Order dated* December 10, 2014*?*

***Issue – II**: If violations are established then whether the failure, on the part of the Noticees would attract monetary penalty under Section 15HB of the SEBI Act, 1992?*

***Issue – III**: If yes, 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, 1992?*

ISSUE 1- Whether the Noticees have complied with the directions issued vide Interim Order dated December 10, 2014?

12. I note that SEBI, vide an ex-parte interim Order dated December 10, 2014 observed that Wisdom Agro Tech India Limited was engaged in fund mobilizing activities from the public, which was in the nature of a Collective Investment Scheme in terms of Section 11AA of the Securities and Exchange Board of India Act, 1992 without obtaining a certificate of registration from SEBI as required under Section 12(1B) of the SEBI Act and Regulation 3 of the SEBI (Collective Investment Schemes) Regulations, 1999. The interim order was issued in order to protect the interest of investors, to ensure that the Company and its Directors do not collect further funds under its schemes/ plans and to safeguard the assets/ acquired by Wisdom and its directors from the funds of the investing public. This Order directed Wisdom and its Directors, namely, Mr. Anantharaman Nallaperumal, Mr. Govinda Pillai Reghukumaran, Mr. Gilbert James Dhason, Ms. Kumaresan Vasanthakumari, Ms. Jeyashoba Thankappan Rajam and Mr. Prabhu Kannan:

"(i). not to collect any fresh money from investors including under its existing schemes;

(ii). not to launch any new schemes or plans or float any new companies to raise fresh moneys;

(iii). to immediately submit the latest inventory of the assets including land obtained through money raised by Wisdom

(iv). not to dispose of or alienate any of the properties/ assets obtained directly or indirectly through money raised by Wisdom.

(v). not to divert any funds raised from public at large which are kept in bank account(s) and/or in the custody of the company.

13. I note that the interim order has discussed the factors by which the fund mobilization activity of the Company satisfies the four conditions as specified in Section 11AA(2) of the SEBI Act. I further note from records that subsequent to issue of the aforesaid directions, WISDOM had submitted its reply vide its letter dated January 16, 2015 and May 30, 2015. As per the submissions made, WISDOM had collected ₹3.88 crore from its customers as under:

    i. ₹2.55 crore from 5,365 investors under its 'instalment payment plan' during September 2010 to March 2013
    ii. ₹1.33 crore from 485 investors under its 'cash down payment plan' during September 2010 to March 2013
    iii. ₹84.10 lakhs (from existing customers) from April 2013 till January 16, 2015.

14. It can be seen from the replies submitted by the Company, that the Company had admittedly mobilized ₹84.10 lakh from April 2013 - till January 16, 2015 (i.e., after the date of passing of the interim order dated December 10, 2014), from its existing customers. In this regard, it is noted that the interim order had restrained the Company and its Directors from collecting funds from the investors. The conduct of the Company in mobilizing public funds under its schemes post passing of the interim order is therefore a breach of the interim order. I note that the Noticees were

Directors of WISDOM and were responsible for the conduct of the business of WISDOM during the period of mobilization of funds from the public during the period, when the Noticees were restrained from mobilizing funds. I note that, in case any person raises fund through unregistered CIS, SEBI normally directs such entity not to access the securities market and not to deal in securities in any manner, for a particular period. In the instant matter, despite being restrained from mobilizing money from public under its existing schemes, I note that the Noticees have mobilized money from the public and thus acted against the regulatory directions. Therefore, I find that the Noticees by mobilizing money from the public under its existing schemes, which are found to be collective investment schemes in nature, despite being restrained, had not complied with the Directions issued by SEBI vide Order dated December 10, 2014.

ISSUE II: If violations are established then whether the failure, on the part of the Noticees would attract monetary penalty under Section 15HB of the SEBI Act, 1992?

15. It is clearly established from the above findings that Noticees 1 to 4 by way of their acts have not complied with the directions issued by SEBI vide Interim Order dated December 10, 2014.Therefore, as the alleged violations against the Noticee 1 to 4 stand established, the Noticees are liable for monetary penalty under Section 15HB of SEBI Act, the provisions of which are reproduced hereunder:

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 shall not be less than one lakh rupees but which may extend to one crore rupees.

16. In this connection, I deem it appropriate to refer to the observations of the Hon'ble SAT in the matter of Deepak kumar Shantilal Jain Vs SEBI *(Appeal No. 490 of 2018),* wherein the Hon'ble SAT vide Order dated September 24, 2019 observed

that "*Admittedly, there has been a failure on the part of the appellant in not complying with the order of WTM as well as failure on the part of the appellant in not complying with the order of the Hon'ble Supreme Court of India. Thus, no relief can be granted to the appellant".*

17. In view of the foregoing, I find that the act of the Noticees in not complying the directions issued under Section 11B of SEBI Act, is a serious violation, which cannot be viewed leniently.

ISSUE III: If yes, 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?

18. While determining the quantum of monetary penalty under Section 15HB of SEBI Act, I have considered the factors stipulated in Section 15J of SEBI Act, which read as under:

    Factors to be taken into account by the adjudicating officer
    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.

ORDER

19. Therefore, in view of the findings mentioned in the preceding paragraphs and in exercise of the powers conferred upon me under Section 15 –I of the SEBI Act, 1992 read with Rule 5 of Adjudication Rules, 1995, I hereby impose a penalty of ₹5 lakh (Rupees Five lakhs only) each on the Noticees1 to 4.

20. The said penalty imposed on the Noticees, as mentioned above, is commensurate with the violation committed and acts as a deterrent factor for the Noticees and others in protecting the interest of investors.

21. The Noticees 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 SEBI website www.sebi.gov.in on the following path, by clicking on the payment link: **ENFORCEMENT→Orders→Orders of AO→PAY NOW**

22. The Noticee shall forward the said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – 1, Division of Regulatory Action-3, of SEBI. The Noticees shall provide the following details while forwarding DD/ payment information:

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for	Penalty

23. In terms of the provisions of Rule 6 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, a copy of this order is being sent to Noticees and also to the Securities and Exchange Board of India, Mumbai.

Date: May 19, 2021 **PRASANTA MAHAPATRA**

Place: Mumbai **ADJUDICATING OFFICER**