BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/NH/KL/2023-24/29845]

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
SRU Steels Limited
(PAN AAGCS1193M)
A-48, 1st Floor, Wazipur Industrial Area,
Delhi 110 052

FACTS OF THE CASE

1. SEBI received a letter dated December 14, 2016 from Bombay Stock Exchange Ltd ('**BSE**'), for guidance on an application submitted to it by M/s. SRU Steels Limited (hereinafter referred to as '**Noticee**') as regards seeking listing under Direct Listing Route. In this context, the concerned department of SEBI conducted an examination in respect of the application of Noticee and references made in the aforementioned BSE letter.

2. Pursuant to the examination, it was observed in the examination report that the Noticee filed a scheme of amalgamation (between the Noticee and seven other companies) before the Hon'ble High Court of Delhi on January 17, 2014. It was further observed that at the time of the proposed scheme of amalgamation, the Noticee was listed on Ahmedabad Stock Exchange, Delhi Stock Exchange and Ludhiana Stock Exchange.

3. In this context, it is alleged in the examination report that the Noticee failed to designate a stock exchange having nationwide terminals for the purpose of coordinating with SEBI for comments on the aforementioned draft amalgamation scheme filed with the Hon'ble High Court of Delhi. Therefore, it is alleged that the Noticee violated the provisions of Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013 (hereinafter referred to as '**SEBI Circular dated February 04, 2013**').

4. In view of the above, SEBI initiated adjudication proceedings against the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

5. The undersigned was appointed as the Adjudicating Officer ('AO') in the matter vide communique dated September 14, 2023 under Section 19 of the SEBI Act read with Section 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**), to inquire into and adjudge the aforementioned alleged violations of the provisions of law by the Noticee, under the provisions of Section 15HB of the SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

6. Show Cause Notice ref no. SEBI/HO/EAD2/NH/KL/2023/40576 dated September 27, 2023 (hereinafter referred to as **'SCN'**) was issued to the Noticee in terms of Rule 4(1) of the Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticee and why penalty be not imposed on it in terms of the provisions of Section 15HB of the SEBI Act for the violations alleged to have been committed by the Noticee.

7. The allegations mentioned in the SCN in respect of the Noticee, *inter-alia,* are as under: -

   i. *It is observed that the Noticee filed a scheme of amalgamation (between the Noticee and seven other companies) with the Hon'ble High Court of Delhi on January 17, 2014. The said scheme was granted approval by Hon'ble High Court of Delhi on September 26, 2014. It is further observed that at the time of proposed scheme of amalgamation, the Noticee was listed on Ahmedabad Stock Exchange, Delhi Stock Exchange and Ludhiana Stock Exchange.*

   ii. *It is noted that the provisions of Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013, obligates a listed company to choose 'one of the stock exchanges having nationwide trading terminals as the designated stock exchange for the purpose of coordinating with SEBI', as one of the requirements before the scheme is submitted for sanction by the Hon'ble High Court.*

   iii. *The compliance of the aforesaid provisions by the Noticee was examined and the Noticee during the course of examination, stated and inter-alia submitted the following vide its letter dated April 22, 2022:*

      a. *The Noticee submitted that at the time of scheme of amalgamation, it was listed on Ahmedabad Stock Exchange, Delhi Stock Exchange and Ludhiana Stock Exchange.*

      b. *Further, the Noticee submitted that it filed the documents with stock exchange viz. Delhi Stock Exchange ('DSE') on August 27, 2013, for the purpose of obtaining observation letter or No objection certificate (NOC) from the exchange and SEBI's letter of observation on the proposed scheme of* *amalgamation, in terms of the provisions of Clause 24 (f) of the listing agreement read with SEBI Circular dated February 04, 2013.*

c. *The Noticee stated that it had chosen DSE as its designated stock exchange.*

d. *The Noticee further submitted that upon non-receipt of any response from DSE, Noticee filed the scheme of amalgamation with the Hon'ble High Court of Delhi on January 17, 2014 which was subsequently approved by Hon'ble High Court of Delhi on September 26, 2014.*

iv. *In this context, it is alleged that, while the provisions of Clause 5.3 of SEBI Circular dated February 04, 2013 mandates a listed company to choose 'one of the stock exchanges having nationwide trading terminals as the designated stock exchange', the Noticee, however, chose and filed the documents pertaining to the scheme with DSE, an exchange which was not having nationwide terminals. In view thereof, it is alleged that the Noticee violated the provisions of Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013.*

8. The Noticee, vide email dated October 12, 2023, *inter-alia,* submitted the following in reply to the SCN, reproduced in *verbatim*: -

i. *In compliance with the provisions of erstwhile listing agreement, the company designated, Delhi Stock Exchange (DSE) and Ahmedabad Stock Exchange (ASEL), being its Regional stock exchange, as its designated stock exchange and accordingly filed all the relevant documents required, acknowledgement of the same already shared with your good office.*

ii. *DSE, had, however been de-recognized by the SEBI vide SEBI Order No. WTM/PS/45/MRD/DSA/NOV/2014d dated 19 November, 2014. In addition to the* *above, the company was also listed on Ahmedabad Stock Exchange. While being listed on above mentioned Ahmedabad Stock Exchange, company was also in the process of listing its securities on BSE Limited.*

iii. *We would like to inform you that our Company SRU Steels Limited has got In principal approval from BSE Limited w.e.f. 1 October, 2017 and further the company has also got listing approval on 01 February, 2018. Further to this would like to bring your kind notice that the High Court as well in its Order Dated 26 September, 2014 duly approved the scheme.*

iv. *Your kind attention is also drawn to Para 17 of the said order, under which he said scheme was duly approved by the Hon'ble Delhi High Court. The text of the said Para is reiterated below.*

> *"In view of the approval accorded by the shareholders and creditors of the petitioner Companies, representations//reports filed by the Regional Director/Northern Region and the Official Liquidator, attached with this court to the proposed scheme of Amalgamation, there appears to be no impediment to the grant of sanction of scheme of amalgamation."*

v. *We hope that the above submission will resolve all your doubts pertaining to the approvals obtained of the above mentioned scheme of arrangement. We request your esteemed organization to take the above into consideration.*

9. In the interest of natural justice, the Noticee was provided with an opportunity of hearing in the matter on October 20, 2023 through online Zoom platform.

9.1. Mr. Anish Shah (CA), appeared as the Authorized Representative ('AR') on behalf of the Noticee on the stipulated date of hearing i.e. on October 20, 2023.

9.2. During the course of hearing, the AR reiterated the submissions made by the Noticee vide its email dated October 12, 2023.

9.3. The AR of the Noticee also requested for additional time to make further submissions in the matter and for one more opportunity of hearing in the matter.

9.4. In view of the said request and in the interest of natural justice, the Noticee was granted additional time until November 06, 2023 to make submissions in the matter and was also granted an opportunity of hearing on November 08, 2023.

10. Subsequently, the Noticee vide email dated November 04, 2023, *inter-alia,* submitted the following in reply to the SCN, reproduced in *verbatim*: -

i. Company filed petition for approval of merger in Hon'ble High court at Delhi in January, 2014 which got approved in September, 2014.

ii. The Company filed application for obtaining No objection certificate NOC to Delhi Stock exchange (hereinafter referred to as "DSE") being designated stock exchange appointed for the said purpose pursuant to clause 24(f) of the then Listing agreement (i.e. well before the time of filing petition with the Hon'ble high court at Delhi and in accordance with the provisions of law.

iii. After considerable lapse of time and on no reply or any word from DSE, we treated it as deemed approval pursuant to regulations and we approached Delhi High court with the second motion petition in January 2014 for approval of merger with the contention that of deemed approval from DSE.

iv. With due respect, when the company has filed to DSE in order to receive NOC assuming it to be its Designated Stock Exchange, DSE should in turn would have intimated to the Company that it is not a nationwide trading terminal and it has absolutely no jurisdiction whatsoever on the said matter and that the company should approach NSE or BSE for the said purpose.

v. The Hon'ble High court at Delhi also treated our submission as valid submission and granted approval for said merger in sept, 2014 for the said merger.

vi. We recognize that despite the possibility that the Company has erred in certain aspects, the company never intended to break the law. It can be treated only as a procedural lapse.

vii. Company is listed and traded on BSE since 2019 and the Company has been following good corporate governance practices till date and no default has been made by the company

viii. As regards settlement proceedings vide SEBI letter ref NO: SEBI/HO/CFD/SEC-3/0W/P/2023.14381/1 DT: 10/04/2023, thereby offering settlement without admitting or denying the alleged violation by the company, we have paid an amount of Rs 625000/- as settlement terms, however the said amount was paid by the company with a little delay due to some issues within the management of the company. Even SEBI could have done away with NIL settlement amount when it has permitted listing of post-merger equity on BSE, which were held in abeyance.

ix. We request your good authority to consider our above clarification/justification in its kind consideration. We would also like to inform the following:

(I) It may be treated as only a procedural lapse

(II) No investor has been affected adversely by such lapse

(Ill) SEBI has also allowed listing and trading of post- merger equity shares on BSE in 2022 after through enquiry into affairs of the company

(IV) Company is trying to gain ground in extremely fierce competitive steel market

(V) There was no unlawful intention on the part of the company.

11. The AR of the Noticee i.e. Mr. Anish Shah attended the hearing scheduled in the matter on November 09, 2023 through online Zoom platform and reiterated the earlier submissions made by the Noticee. The hearing proceedings were concluded in the matter.

12. It is noted that the SCN along with the annexures and the Hearing Notice were duly served on the Noticee. The Noticee was granted sufficient opportunities to make submissions in reply to the SCN and of personal hearing. Thus, the principles of natural justice were adhered to.

<u>CONSIDERATION OF ISSUES AND FINDINGS</u>

13. I have carefully perused the allegations leveled against the Noticee in the SCN, the reply of the Noticee and also the documents/evidence available on record. The issues that arise for consideration in the present case are:

    I. Whether the Noticee failed to designate a stock exchange having nationwide terminals for the purpose of coordinating with SEBI and thereby violated the provisions of Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013?

II. If yes, whether the violations would attract monetary penalty on the Noticee under the provisions of the Section 15HB of the SEBI Act?

III. If yes, what should be the quantum of monetary penalty?

14. Before proceeding further, it is pertinent to refer to the relevant provisions of the Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013, which are given below:

SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013

Scheme of Arrangement under the Companies Act, 1956 – Revised requirements for the Stock Exchanges and Listed Companies

Requirements before the Scheme is submitted for sanction by the Hon'ble High Court

A. Obligations of Listed Companies

The obligations of a listed company, inter alia, include:

..

5.3*. Listed companies shall choose one of the stock exchanges having nation-wide trading terminals as the designated stock exchange for the purpose of coordinating with SEBI.*

Issue I. - Whether the Noticee failed to designate a stock exchange having nationwide terminals for the purpose of coordinating with SEBI and thereby violated the provisions of Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013?

15. On perusal of the material available on record, it is observed that the Noticee filed a scheme of amalgamation (between the Noticee and seven other companies) before the Hon'ble High Court of Delhi on January 17, 2014. The said scheme was granted approval by Hon'ble High Court of Delhi on September 26, 2014. It is further observed that at the time of proposed scheme of amalgamation, the Noticee was listed on Ahmedabad Stock Exchange, Delhi Stock Exchange and Ludhiana Stock Exchange. In this context, I note that the Noticee being a listed company was obligated to choose *'one of the stock exchanges having nationwide trading terminals as the designated stock exchange for the purpose of coordinating with SEBI'*, as one of the requirements before submitting the scheme for sanction by the Hon'ble High Court under the provisions of Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013.

16. However, admittedly the Noticee failed to choose one of the stock exchanges having nationwide trading terminals as the designated stock exchange for the purpose of coordinating with SEBI. The Noticee also submitted that the said lapse may be treated as a procedural lapse. Noticee further stated that it submitted documents pertaining to draft amalgamation scheme to Delhi Stock Exchange (DSE). However, on not receiving reply from DSE, Noticee stated that it filed the amalgamation scheme, for sanction before the Hon'ble High Court of Delhi. Noticee in this regard submitted to take a lenient view.

17. It is pertinent to mention that SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013 was issued in exercise of the powers conferred under Section 11 and Section 11A of the SEBI Act read with Rule 19(7) of Securities Contracts (Regulation) Rules, 1957 ('SCRR'). The circular also provided '*obligations of listed companies'* as regards

‘*Requirements before the Scheme is submitted for sanction by the Hon’ble High Court’.* Further, the provisions of Clause 5.3 of the aforesaid circular clearly mandate a listed company to file documents with a stock exchange having nationwide trading terminals. However, it is noted that the Noticee filed the documents pertaining to the scheme with DSE, an exchange which was not having nationwide terminals. Therefore, the submissions of the Noticee cannot be accepted in this regard.

18. I note that as the Noticee failed to choose a stock exchange having nationwide trading terminals as the designated stock exchange for the purpose of coordinating with SEBI, the Noticee failed to abide by the mandate of Circular dated February 04, 2013. Further, SEBI could not offer its comments on the draft scheme. In this context, it is pertinent to refer to the following orders:

18.1. The Hon’ble Securities Appellate Tribunal in the matter of *M/s Vidarbha Industries Limited vs. Securities and Exchange Board of India decided on December 01, 2014*, *inter-alia*, held as under:

*“…since the appellant being a listed company**, failure on part of the appellant to comply with the SEBI circular dated April 17, 2013 constitutes violation of SEBI circular** for which penalty imposable under Section 15HB of SEBI Act is Rs. 1 lac per day or Rs. 1 crore whichever is less. Thus, in the present case, as against penalty of Rs. 1 crore imposable against the appellant, the AO of SEBI has imposed penalty of Rs. 2 lac which cannot be said to be arbitrary, excessive or unreasonable.”*

(emphasis supplied)

18.2. Further, the Hon'ble Securities Appellate Tribunal in the matter *of Premchand Shah and Others V. SEBI decided on February 21, 2011*, *inter-alia*, held as under:

"…….When a law prescribes a manner in which a thing is to be done, it must be done only in that manner…….”

19. In view of the above and based on the material available on record and on admission by the Noticee, I note that the Noticee failed to designate a stock exchange having nationwide terminals for the purpose of coordinating with SEBI and thereby violated the provisions of Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013.

ISSUE II. If yes, whether the violation would attract monetary penalty on the Noticee under the provisions of the Section 15HB of the SEBI Act?

20. In view of violation of the provisions of Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013 by the Noticee, as established above, I find that the Noticee is liable for monetary penalty under the provisions of Section 15HB of the SEBI Act. The text of Section 15HB of the SEBI Act is reproduced below (at the time of the violation committed by the Noticee):

SEBI Act
PENALTIES AND ADJUDICATION

Penalty for contravention where no separate penalty has been provided.

15HB. *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.*

<u>ISSUE III: If yes, what should be the quantum of monetary penalty?</u>

21. For the purpose of determining the quantum of the penalty under Section 15HB in the instant matter, it is relevant to mention the factors specified in section 15J of the SEBI Act, which reads as under:-

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 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.

Explanation. —For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

22. The available records neither specify disproportionate gains/unfair advantage made by the Noticee nor the loss, if any, suffered by the investors due to such violations. Further, the material available on record do not suggest repetitive nature of violation by the Noticee. The nature of violations in the instant matter majorly pertains to non-adherence

to compliance of securities laws by the Noticee, despite being a listed company. In this context I hold that a listed company is required to adhere to directives/provisions of law.

23. Further, based on submissions of the Noticee and on the material available on record, I note that the following factors to be considered in the instant case:

23.1. Noticee, even though failed to choose and submit documents to a stock exchange having national wide terminals, however, submitted documents of draft scheme to DSE.

23.2. Noticee stated that no response was received from DSE.

23.3. However, Noticee filed scheme in Hon'ble High Court of Delhi which was *inter-alia* approved vide Order dated September 26, 2014. The order, *inter-alia,* stated the following:

"11. The Learned Regional Director in its Affidavit has raised a concern that the permission from concerned Stock Exchange has not been taken with respect of said Scheme... It is contended that since the draft scheme along with the required documents have not been filed with SEBI along with the other circulars, SEBI has no comments to offer. It is prayed that the transferee company be directed to seek comments of SEBI.

12. The learned Counsel for the Petitioner companies .. further submits that in case there is any breach or violation of the provisions of law, the concerned stock exchange can initiate and take action against the defaulting company.

14. In view of the aforesaid clarification given by the Petitioners, ***that the concerns raised by the Learned Regional Director have been duly addressed.***

15. ***It is directed that in case it is found that the Transferee Company has violated any statutory provision or there is any violation of law, then the Directors of the Petitioner Companies shall continue to be liable irrespective of the sanction of the Scheme****.*

(emphasis supplied)

24. During the course of the examination, the following is also noted based on the material on record and from the submissions of the Noticee:

    24.1. SEBI issued a notice for summary settlement vide letter dated April 10, 2023 to the Noticee.

    24.2. The aforesaid letter, *inter-alia*, included details of settlement amount and also the Noticee was informed to make the payment within 30 calendar days.

    24.3. The aforesaid letter is served through both modes i.e. India Post and through email.

    24.4. Settlement notice was received by the Noticee on April 15, 2023.

    24.5. Noticee made payment of settlement amount including settlement application fee and GST through SEBI online settlement portal on June 26, 2023.

    24.6. Thereafter, on July 06, 2023, online filing of application was done by the Noticee.

    24.7. On July 19, 2023, it was informed to the concerned department of SEBI that as the Noticee failed to make payment within the stipulated time of 30 days, the settlement application was rejected.

24.8. Subsequently, SEBI ordered for refund of the settlement amount payed by the Noticee excluding settlement application fees and tax amount earlier paid by the Noticee.

24.9. SEBI initiated adjudication proceedings in the matter and communique of appointment of AO was issued on September 14, 2023.

25. It can be inferred from the submissions of the Noticee and material available on record that the Noticee had a genuine intention to settle the matter in terms of the provisions of SEBI (Settlement Proceedings) Regulations 2018, though it did not materialise.

26. The aforementioned factors are taken into consideration while adjudging the penalty.

<u>ORDER</u>

27. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in exercise of the powers conferred upon me under section 15 I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby impose a monetary penalty on the Noticee as given in the table below:

Noticee	**Violations established**	**Penal Provisions**	**Penalty**
SRU Steels Limited	Clause 5.3 of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 04, 2013	Section 15HB of the SEBI Act	Rs. 1,00,000 (Rupees One lakh only)

28. I am of the view that the said penalty is commensurate with the violations committed by the Noticee in this case.

29. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order 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

30. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

Date: November 30, 2023	**N HARIHARAN**
Place: Mumbai	**ADJUDICATING OFFICER**