



QJA/SS/MIRSD/MIRSD-SEC-2/31505/2025-26
SECURITIES AND EXCHANGE BOARD OF INDIA
ORDER

UNDER SECTION 12(3) OF THE SEBI ACT, 1992 READ WITH REGULATION 27 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008

In respect of:

Anand Rathi Share and Stock Brokers Limited (Stock Broker)

SEBI Registration Number: INZ000170832

PAN: AAACN3405F

Background

1. Anand Rathi Share and Stock Brokers Limited (hereinafter referred to as 'the Noticee') is a member of BSE Limited ('BSE'), National Stock Exchange of India Limited ('NSE'), Multi Commodity Exchange of India ('MCX') and National Commodity & Derivatives Exchange Limited ('NCDEX'), and is registered with Securities and Exchange Board of India ('SEBI') as a Stock Broker bearing registration number INZ000170832. The Noticee is also a member of Central Depository Services (India) Limited ('CDSL') and National Securities Depository Limited ('NSDL') and registered with SEBI as a depository participant.
2. Pursuant to an inspection for the period April 01, 2020 to October 31, 2021, SEBI initiated two proceedings against the Noticee. One, the Adjudication Proceedings under section 15I of the Securities and Exchange Board of India Act, 1992 ('the SEBI Act') and the other, the proceedings under section 12(3) of the SEBI Act read with SEBI (Intermediaries) Regulations, 2008 ('the Intermediaries Regulations'). The same officer [Adjudicating Officer (AO)] appointed by SEBI for adjudication under section 15I of the SEBI Act and for conducting proceedings [as Designated Authority (DA)] in accordance with the Intermediaries Regulations passed an Order dated January 30, 2025 levying a total penalty of Rupees Five (5) lakhs on the Noticee based on conclusive findings and on the same date submitted a Report ('the Report') in terms of the Intermediaries Regulations recommending regulatory censure to the Noticee based on *prima facie* findings on the same allegations.



3. In the said order and the Report, the AO/DA has exonerated the Noticee on few allegations and has found the Noticee to have committed violations in respect of the following:-

- (a) *Misuse of clients' funds*
- (b) *Non-Maintenance of Daily reconciliation statement*
- (c) *Incorrect reporting and short collection of margin*
- (d) *Ledger balance mismatch in daily margin statement*
- (e) *Unauthorized trading*
- (f) *Improper client order recording*
- (g) *Incorrect reporting of financial data under Risk based Supervision*

SCN, Reply and Hearing

4. The instant proceedings have commenced pursuant to the above Report and the consequent Show Cause Notice ('SCN') dated February 21, 2025 as required under the Intermediaries Regulations. Vide its letter dated February 28, 2025, the Noticee informed that it has deposited the penalty amount of Rs 5,00,000 as imposed by the AO under protest and the payment shall not be deemed as admission of findings in the order.
5. The Noticee submitted its reply vide letter dated March 17, 2025 and also availed the opportunity of personal hearing on April 22, 2025 when its Authorised Representative (AR) Mr. K. C. Jacob appeared on its behalf and made oral submissions in line with its reply. The Noticee filed additional written submissions vide its letter dated May 14, 2025. The Noticee has *inter alia* made the following submissions;
- a. That Hon'ble SAT in a number of Orders has held that the object of carrying out inspection of any intermediary is to ensure compliance with the applicable laws and every little irregularity/deficiency does not warrant imposition of penalty. Noticee has relied upon the following Orders in this respect:
 - (i) Order dated June 16, 2011 in the matter of Religare Securities Limited.
 - (ii) Order dated July 25, 2011 in the matter of UPSE Securities Limited.
 - b. In the past, SEBI has disposed of Enquiry proceedings without any adverse action for similar alleged lapses that were largely technical, minor or venial in nature and



when the registered intermediaries have taken corrective steps to rectify the alleged defaults. In this regard, the Noticee has relied on SEBI Order dated October 04, 2024 in the matter of ***Philip Capital (India) Private Limited*** and Order dated July 31, 2024 in the matter of ***Eureka Stock & Share Broking Services Limited***.

- c. That the period of inspection (April 01, 2020 to October 31, 2021) coincided with the lockdowns imposed due to Covid-19 and the fact that there was a change in Clearing Member during the inspection period which hindered effective coordination.
- d. It was further informed that the Adjudication Order dated January 30, 2025 in the matter has been challenged by the Noticee before the Hon'ble SAT and penalty of Rs. 5 lakh has been deposited under protest.
- e. It was requested that a lenient view may be taken with respect to the said allegations. The Ld. AR pleaded that the violations do not warrant regulatory censure as the proviso to Regulation 26(1) of the SEBI (Intermediaries) Regulations, 2008, *inter alia*, states that not more than 5 regulatory censures may be recommended for the same certificate of registration.
- f. The Noticee has requested that mitigating factors, such as the violations being venial, unintentional and non-repetitive, corrective measures having been already taken, no loss to investors, no investor complaints against the Noticee and no unfair advantage having incurred to the Noticee due to the alleged violations, may be taken into consideration while arriving at a decision. Copy of latest Audit report dated January 30, 2025 has been provided by the Noticee in support of its contention that corrective steps have been taken by it and the alleged violations are no longer reflected in the current findings.
- g. That the recommendation of DA if confirmed in the present proceedings would lead to loss to reputation built over years and hence, the Noticee requests to be discharged from the present proceedings.



h. With respect to the allegation of misuse of clients' funds, the Noticee has submitted that:

- (i) All the 6 instances of negative G were in September 2020. During September 2020, the Noticee had an additional free Fixed Deposit (FD) of Rs. 50 Crore with ICICI Bank Limited (Account Number: 00xxxxxx5851), which was not submitted to the Clearing Corporation ('CC'). Copy of this FD has been shared by the Noticee in support of this submission.
- (ii) Inadvertently, the Noticee failed to submit the details of the said FD to the CC as it became a self-clearing member only during March 2020 and most of the employees were working from different places due to lock down imposed on account of COVID-19 which hindered effective coordination. Had there been no change in clearing member, there would have been no shortfall during the six instances.
- (iii) Had this FD been considered, there would have been no shortfall in the 6 instances, and there would have been surplus of funds available with them. Anyway, the funds of credit balance clients were not mis-utilized for meeting the obligations of debit balance clients or for its own purpose.
- (iv) Instances of a negative G were observed on only six instances during the entire inspection period (from April 1, 2020, to October 31, 2021), which spans nearly 19 months. Since then, no similar observations have been made, nor has it been penalized for any such issue till date.
- (v) The DA has accepted that the FD details were not placed before the CC but while arriving at findings, the DA has concluded that "*submission of the Noticee are in nature of admission*". The funds of credit balance clients were not mis-utilized for meeting the obligations of debit balance clients or for our own purpose.
- (vi) The DA has not disputed the calculation given and has not provided any finding on whether, even with the inclusion of the FD, the value of G would remain negative.



- (vii) While the DA has accepted that the FD details were not placed before CC, while arriving at the findings, the DA has failed to appreciate Noticee's submissions that there was no misutilization of client funds. Further, the position was corrected from November 30, 2020 onwards and it is requested that a lenient view may be taken with respect to the said allegation.
- (viii) Hence, no adverse inference may be drawn against the Noticee for the said allegation.
- (i) With respect to the allegation of non-maintenance of daily reconciliation statement, the Noticee has submitted that:
 - (a) It has been diligently maintaining daily reconciliation statements for transactions between the client/settlement accounts and its own account. Copy of a latest daily reconciliation statement has been provided.
 - (b) There was no observation or finding that they had transferred excess funds from the client/settlement accounts to its own account and this explanation has not been appreciated by the DA.
 - (c) There was no format prescribed by any regulatory authority and that there was no misutilization of funds. The Noticee has submitted reconciliation statement pertaining to year 2024.
 - (d) Hence, no adverse inference may be drawn against the Noticee for the said allegation.
- (j) With respect to the allegation of incorrect reporting and short collection of margin, Noticee has submitted as follows:
 - a. The alleged 4 instances of wrong reporting of margins were purely unintentional and occurred, *inter alia*, due to factors such as using data from Stockholding Corporation of India Limited instead of the AMFI database, technical issues, and typographical errors. CC has already levied a penalty for the alleged short collection of margins.



- b. The amount involved and the number of instances of the alleged wrong reporting are very miniscule compared to their overall operations.
- c. Post the inspection, it has taken all necessary measures to prevent such instances from recurring in the future.
- d. Hence, no adverse inference may be drawn against the Noticee for the said allegation.

(k) With respect to the allegation on ledger balance mismatch in daily margin statement, the Noticee has submitted that:

- a. Prior to August 2020 for MCX Segment, it was sending Daily Activity Statement ('DAS') to the clients. This DAS for the client code H***21 included MTM of Futures of Rs. 1,78,800 under cash summary along with opening and closing balance. Even prior to the inspection, i.e., from August 2020, it took necessary steps to adhere to the Regulatory guidelines and started sending Daily Margin Statement ('DMS') as per format prescribed by SEBI. To substantiate the same, it has enclosed copy of the DMS sent to H***21 post August 2020.
- b. With regard to the instance where it had considered MCX Bill of Rs. 1,78,800 in ledger balance of the client even though it was an unsettled bill, the Noticee has submitted that the said bill was settled subsequently and the same would be evident from the ledger statement for the relevant period.
- c. With regard to the instance of total margin mismatch in daily margin statement, the Noticee has stated that mismatch happened due to some issue in individual segment margin statement for NSE Commodity, where the exposure margin was calculated twice. This issue has since been rectified in the subsequent Combined Margin Statement Generation. There have been no investor complaints regarding this matter.
- d. Hence, no adverse inference may be drawn against the Noticee with respect to the said allegation.



(l) With respect to the allegation on unauthorized trading, the Noticee has submitted as follows:

- a. It has executed trades without the consent of the client for 3 instances as against the alleged 28 instances. The DA has ignored and overlooked its submissions that there was no unauthorized trading by it and the alleged three instances (miniscule as they were out of a total of 1,057 sample instances) occurred due to punching errors by the dealers. The Noticee has resolved/rectified the said punching errors with the clients by regular correspondences by its team. There are no losses incurred by the clients in any of the three instances and there are no pending investor complaints by the clients.
- b. The allegation of not providing order placement confirmation by the clients in 10 instances cannot sustain as the Noticee has sent trade confirmations on the registered mobile number of the clients in all ten instances appropriately. Copy of the SMS sent to all ten clients has been provided.
- c. With respect to the Noticee not providing details of the 15 complaints and supporting documents to the inspection team despite multiple reminders for the said complaints, it has submitted that the details of the complaints and supporting documents were provided to DA during enquiry proceedings and all the 15 complaints for various clients have been resolved. There is no unauthorized trading in any of the said cases.
- d. Hence, no adverse inference may be drawn with respect to the said allegations.

(m) With respect to the allegation of improper client order recording, the Noticee has submitted that:

- a. Adverse inference has been drawn against it as it had failed to maintain call recordings of orders/instructions received from the clients with respect to trade date October 28, 2021.



- b. DA has discarded its submissions that during the relevant time there was relaxation owing to COVID-19 for maintaining call recordings of orders/instructions received from the clients on the basis that the relaxation for maintaining call recordings of orders/ instructions received from the clients were only available till September 30, 2021, as per SEBI Circular dated July 30, 2021. However, even in October 2021, most of its employees were working remotely, and it was not operating in the same manner as it did pre-COVID-19 due to the numerous restrictions and limitations in place at that time. This was the reason why it was unable to maintain call recordings/instructions received from clients. Also, there have been no investor complaints regarding this.
 - c. Hence, no adverse inference may be drawn against the Noticee in this regard.
- (n) With respect to the allegation on incorrect reporting of financial data under Risk based Supervision, the Noticee has submitted that:
- a. A system issue resulted in the exclusion of BSE Mutual Fund Service System ('MFSS') segment clients, leading to a discrepancy of Rs. 10,21,357. It has implemented the necessary checks in the data generation process and introduced a maker-checker mechanism to ensure error-free submissions to prevent future errors.
 - b. DA has not disputed that if the details of the BSE MFSS segment clients were included, there would be no difference in the debit balance.
 - c. Hence, no adverse inference may be drawn against the Noticee with respect to the said allegation.

Consideration of Issues

6. I have carefully considered the Report of the DA, replies and submissions of the Noticee and material available on record. One of the contentions of the Noticee is that the SCN emanates from inspection observations and has relied on the decision of Hon'ble Securities Appellate Tribunal ('SAT') in **UPSE Securities Limited v. SEBI** (Appeal No. 109 of 2011 decision dated



July 25, 2011) and **Religare Securities Limited v. SEBI** (Appeal no. 23 of 2011 decision dated June 16, 2011) to contend that the purpose of carrying out inspection is not punitive.

7. In this regard, I note that the Hon'ble SAT in *UPSE Securities Limited (supra)* observed that for serious lapses, it would always be open to SEBI to take penal action in accordance with law. Further, in *Religare Securities Limited (supra)*, the Hon'ble SAT observed: "*This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent.*"
8. In view of the above observations of Hon'ble SAT, I find that the SCN issued to Noticee cannot be held to be bad in law.
9. It is also noted that the AO/DA has exonerated the Noticee in the aforesaid order as well as in the Report with regard to the following allegations: -
 - a. *Lack of due diligence in following up with untraceable clients for settlement of funds*
 - b. *Discrepancies in Margin Trading Funding*
 - c. *Incorrect reporting of tagging and status of demat accounts to exchange*
 - d. *Non-cooperation with the inspection team.*
10. It is also admitted position that vide order dated January 30, 2025, the AO has found that the Noticee violated same set of regulatory requirements on same facts and circumstances as are the subject matter in the instant proceedings for determination of penalty under section 12(3) of the SEBI Act read with Regulation 27 of the Intermediaries Regulations. SEBI has also not chosen to examine above decision of the AO under section 15I (3) of the SEBI Act. If, I were to take different view than what has been taken in the order dated January 30, 2025 passed by the AO it may lead to chaos and controversy of inconsistent views of SEBI and may be hit by principle of *issue estoppel*. I, therefore, do not deem it appropriate to go into merits of the findings of the DA in the Report where he has exonerated the Noticee. The Noticee has paid, under protest, the amount of Rs. 5 lakh imposed by the Adjudicating Officer and has challenged the said order in appeal before Hon'ble SAT. Thus, the findings in the said Order dated January 30, 2025 are *sub judice*.



11. Thus, I am faced with an obfuscated situation. In the Report, the same officer acting as DA has made *prima facie* findings which are conclusive and final findings in his above order dated January 30, 2025. In a technical sense, both proceedings are independent of each other and Authority in the instant proceedings is not bound by *prima facie* findings of the DA in the Report. I am also bound to follow the procedure specified in the Intermediaries Regulations. If, on consideration of facts and circumstances and following the procedures specified in the Intermediaries Regulations, I were to defer with any *prima facie* findings which are final and conclusive findings on same facts in the AO order, it may militate against principles of consistency on decisions of the Board. And, if I mechanically accept the *prima facie* findings in the Report, it may amount to non-compliance of specified procedures and violation of principles of natural justice. A visible conflict between principle of public policy and rule of law, thus, emerges in such situations.
12. Public policy normally has three mutually exclusive facets viz; (a) the fundamental policy of Indian law, or (b) the interest of India, or (c) justice or morality. The scope and ambit of public policy can be assertively ascertained by applying the rule of law. At the same time the normal operation of rule of law is subject to public policy limitation. Natural Justice also demands fairness to the Noticee as matter of public policy as well as rule of law based on legal principles for ensuring fairness as envisaged in the Intermediaries Regulations. In such a delicate situation, I deem it fit to strike a balance so that no prejudice is caused to the Noticee. Since the Noticee has contested the *prima facie* findings of DA and pleaded for taking lenient view on the recommendation in the Report, I proceed to examine them for the limited purpose of deciding the fairness in findings and proportionality of the recommendation.

Misuse of clients' funds

13. As per Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2 /CIR/P/2016/95 dated September 26, 2016, the total available funds, i.e., cash and cash equivalents with the stock broker and with the Clearing Corporation/Clearing Member (A + B) should always be equal to or greater than Clients' funds as per ledger balance (C). Further, Exchanges shall calculate the difference, i.e., "G" as $G = (A+B)-C$.



14. As per the Report, in this case, the value of 'G' was negative in 6 out of 43 sample instances as follows:

Date	G Value (in Rs.)
September 01, 2020	-1,13,85,015
September 15, 2020	-22,07,365
September 16, 2020	-3,09,18,957
September 17, 2020	-15,11,09,320
September 18, 2020	-16,36,17,125
September 21, 2020	-71,77,253

15. The above circular creates a rebuttable presumption that in case of value of 'G' is negative, the total available fund with the stock broker is less than the ledger credit balance of clients and may indicate utilisation of the funds for other purposes such as for settlement obligations of debit balance clients or for the stock brokers' own purposes. The Report has gone into only with presumption. The request of the Noticee to consider the free fixed deposit of Rs. 50 crore available with it which could not be placed before the Clearing Corporation ('CC') in the calculation due to prevailing COVID situation has been blatantly turned down and it has been treaded as admission of default. Thus, the benefit has been denied. Be that as it may, admittedly the Noticee did have free fixed deposit of Rs. 50 crore and there is no instance of utilisation of the funds for other purposes such as for settlement obligations of debit balance clients or for the stock brokers' own purposes. This fact mitigates the default.

Non-Maintenance of Daily reconciliation statement

16. I note that as per Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD /MIRSD2/CIR/P/2016/95 dated September 26, 2016, for transfer of funds between client account and proprietary account, stock broker is required to maintain daily reconciliation statement clearly indicating the amount of funds transferred. It is admitted position that during the inspection period, the Noticee was not maintaining the daily reconciliation and the reconciliation statement submitted by it in the instant proceedings pertains to February 2024 and not to the inspection period. Hence, I agree with the findings of the DA.



Incorrect reporting and short collection of margin

17. Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/ CIR/P/2016/95 dated September 26, 2016 requires stock exchanges/depositories to monitor cases of stock brokers sharing incomplete/wrong data or failure to submit data on time. In this regard, I note that there were three instances of wrong reporting and the comments of the Noticee in this regard for each instance were as follows:

S. No.	Segment	Client Code	Wrong Reporting (in Rs.)	Reason provided by Noticee
1	FO	G*****98	6,475	Noticee took rate/bhav from Stockholding Corporation of India Limited and not AMFI database
2	CO	S*****21	19,664	Incorrectly reported as collected due to a technical issue at the time of final reporting
3	CO	H****38	276,446	There was a typographical error in updating number 9 instead of 6

18. The Noticee has submitted that the instances of wrong reporting of margins were unintentional and the amount involved and the number of instances of the alleged wrong reporting are miniscule compared to its overall operations. Further, post the inspection, the broker has taken all necessary measures to prevent such instances from recurring in the future, which is corroborated by the audit report dated November 29, 2024 submitted by the Noticee. Hence, I agree with the findings of the DA in this regard also.

Ledger balance mismatch in daily margin statement

19. Clause 2.4 of SEBI Circular MRD/DoP/SE/Cir- 11/2008 dated April 17, 2008 requires brokers to issue a daily statement of collateral utilization to clients which shall include, inter-alia, details of collateral deposited, collateral utilised and collateral status (available balance/due from client) with break up in terms of cash, Fixed Deposit Receipts (FDRs), Bank Guarantee and securities.



20. I note that there were 4 instances of ledger balance mismatch in daily margin statement and 1 instance of total margin mismatch in daily margin statement as follows:

Instances of ledger balance mismatch in Daily Margin Statement					
Sl. No.	Date	Client Code	Ledger Balance as per Back Office	Ledger balance as per daily margin statement	Difference
1	03/09/2021	A****00	4,30,13,603.81	95,13,603.81	3,35,00,000
2	28/10/2021	H****43	1,79,71,644.65	1,45,49,644.65	34,22,000
3	29/10/2021	H****38	19,54,306.02	13,83,306.02	5,71,000
4	28/07/2020	H****21	75,99,375.92	77,78,175.92	-1,78,000
Instances of Total Margin mismatch in Daily Margin Statement					
Sl. No.	Date	Client Code	Total Margin as per MG13	Total Margin as per Daily Margin Statement	Difference
1	28/07/2020	H****21	1,14,17,288.18	1,15,20,978.18	-1,03,690

21. The Noticee has claimed that the MCX bill of Rs. 1,78,800 was settled subsequently and the inadvertent exposure margin calculated twice was also corrected subsequently. With respect to the issue of uncleared cheques, I agree with the DA that benefit of doubt may be extended to the Noticee as it is only displaying clear ledger balances in Daily Margin Statement. With respect to the consideration of unsettled MCX bill and inadvertent margin calculation twice, I note that clearing of bills and correction in margin calculations only happened later. Hence, I agree with the DA that there was ledger balance mismatch in daily margin statement and total margin mismatch in violation of Clause 2.4 of SEBI Circular MRD/DoP/SE/Cir- 11/2008 dated April 17, 2008.



Unauthorized trading

22. Clause 3 of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017 requires all brokers to execute trades of clients only after keeping evidence of the client placing such order in the form of physical record written and signed by client, telephone recording and email from authorized email id, log for internet transactions, record of SMS messages or any other legally verifiable record.
23. In this regard, SEBI had alleged that in 3 instances, there was unauthorized trading, in 10 instances, the broker did not provide supporting order placement confirmation by clients and for 15 complaints, the Noticee failed to provide details of the complaint and supporting documents to the inspection team despite multiple reminders.
24. The Noticee has claimed that there was no unauthorized trading by it and the alleged three instances (miniscule as they were out of a total of 1,057 sample instances) occurred due to punching errors by the dealers and there are no losses incurred by the clients. Further, there are no pending investor complaints by the clients. With respect to the allegation of not providing order placement confirmation by the clients in 10 instances, the Noticee has stated that it has sent trade confirmations on the registered mobile number of the clients in all ten instances. Copy of the SMS sent to all ten clients has been provided. With respect to the Noticee not providing details of 15 complaints and supporting documents to the inspection team despite multiple reminders, it has submitted that the details of the complaint and supporting documents were provided to DA during enquiry proceedings and all the 15 complaints for various clients have been resolved.
25. I note that the Noticee has acknowledged that unauthorized trades in accounts of 3 clients occurred on account of punching errors by dealers. Further, with respect to the Noticee not providing order placement confirmation by clients for 10 instances and documents pertaining to 15 complaints, I note that the Noticee provided supporting documents to the DA and not to the inspection team. Be that as it may, the Noticee has been able to explain its bona fide though at later stage and benefit of doubt could be given to it.



Improper client order recording

26. Clause 3 of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017 requires all brokers to execute trades of clients only after keeping evidence of the client placing such order in the form of physical record written and signed by client, telephone recording and email from authorized email id, log for internet transactions, record of SMS messages or any other legally verifiable record. It is alleged that the Noticee had not kept appropriate evidences in respect of the orders placed by their clients in 6 out of the 21 sample instances and the DA has observed that the Noticee has not provided any supporting order placement recordings with respect to trade date October 28, 2021.
27. The Noticee has submitted that the DA has discarded its submissions that during the relevant time there was relaxation owing to COVID-19 for maintaining call recordings of orders/instructions received from the clients. Further, the Noticee has stated that even in October 2021, most of its employees were working remotely, and it was not operating in the same manner as it did pre-COVID-19 due to the numerous restrictions and limitations in place at that time and that there were no investor complaints regarding this. However, I note that the DA has considered the submissions of the Noticee with respect to COVID-19 restrictions and based on the text of the SEBI circulars SEBI/HO/MIRSD/DOP/CIR/P/2020/61, dated April 16, 2020 and SEBI/HO/MIRSD/DOP/P/CIR/2021/607 dated July 30, 2021 has observed that the relaxations were in place only till September 30, 2021, whereas the instant allegations are with respect to trade date October 28, 2021.

Incorrect reporting of financial data under Risk based Supervision

28. Clause 6.1.1.e of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016 /95 dated September 26, 2016 requires all brokers to submit data for the half yearly risk based supervision within the time specified by Stock Exchange. In this regard, it is alleged that the Noticee had not correctly reported the details of financial data (total debit balance of all clients) under Risk Based Supervision ('RBS') to the tune of Rs. 10 lakh and that it has implemented necessary checks in the data generation process and introduced a maker-checker mechanism to ensure error-free submissions in future. I agree with the DA that the discrepancy occurred on



account of a system issue resulting in the exclusion of BSE Mutual Fund Service System ('MFSS').

29. I have perused the SEBI orders in the matter ***Eureka Stocks & Share Broking Services Limited*** (order dated July 31, 2024) and ***Phillip Capital (India) Private Limited*** (order dated October 04, 2024). It is noted that in *Eureka Stocks case*, SEBI dropped the charge under Intermediaries Regulations for the following reasons: -

- (a) The violation was observed only in one month whereas inspection period was of more than a year.
- (b) For the same violation, the stock broker had been penalized vide Adjudication Order
- (c) SEBI circular dated September 26, 2016 provides only possibility of misutilisation of clients' funds and casts duty upon the respective stock exchange to take necessary action post receiving the alert, which includes, *inter alia*, seeking clarification and carrying out inspection.
- (d) The stock broker had surplus amount in its proprietary account. In 8 instances out of 11, the surplus amount in proprietary account of the stock broker was more than the total margin of debit balance clients.

30. In the case of ***Phillip Capital (India) Private Limited***, SEBI dropped the charge under Intermediaries Regulations for the following reasons: -

- (a) The stock broker submitted that it had taken corrective steps to ensure compliance with the applicable SEBI and NSE Circulars.
- (b) There was no allegation against the stock broker of mis-utilisation of the clients' funds.
- (c) For the same set of allegations, adjudication proceedings were also initiated by SEBI which were concluded with passing of order dated June 25, 2024 whereby the Adjudicating Officer imposed a penalty of Rs. 2,00,000 upon the stock broker, which had been paid by it.
- (d) The balance in client accounts and stock broker's settlement account and collaterals maintained with the exchanges were always greater than the funds provided by the clients.
- (e) The intention of Enhanced Supervision reporting was to find out mis-utilisation of client funds and, it is evident that there was no mis-utilisation by the stock broker, as it had excess funds with it at all points of time.



31. The present case is placed on similar footings in as much as:-

- (a) there is no allegation or any instance of any mis- utilisation of clients funds by the Noticee;
- (b) Adjudicating Officer has already imposed monetary penalty for the same set of violations.
The Noticee has paid the penalty under protest and challenged the order of the AO.
- (c) The value of 'G' was negative in 6 out of 43 sample instances only during one month (September 2020) out of total inspection period ranging from April 01, 2020 to October 31, 2021.
- (d) The stock broker submitted that it had taken corrective steps to ensure compliance with the applicable SEBI Circular.
- (e) The intention of Enhanced Supervision reporting was to find out mis-utilisation of client funds and, in this case there was no mis-utilisation by the Noticee, as it had excess funds with it at all points of time.

32. Apart from above, admittedly, the Noticee had free fixed deposit of Rs. 50 Crore with ICICI Bank Limited (Account Number: 00xxxxxx5851), which was not submitted to the Clearing Corporation due to change in clearing member and COVID situation at the relevant times. I find merit in the submission that had this FD been considered, there would have been no shortfall in the 6 instances, and there would have been surplus of funds available with them.

33. The finding of the DA in this regard is based merely on presumption and totally discarding the fact that the presumption against G negative can be rebutted by providing additional facts as shown in this case. Hence, I find that funds of credit balance clients were not mis-utilized by the Noticee for meeting the obligations of debit balance clients or for its own purpose.

34. It is pertinent to note that SEBI generally does not proceed for multiple penalties pursuant to inspection unless serious defaults are observed. In this regard, following observation in SEBI order No. WTM/AN/MIRSD/MIRSD-SEC-6/31402/2025-26 dated May 14, 2025 is worth referring:

"I note that the Adjudicating Officer has already imposed monetary penalty for the same violations which are a part of the instant proceedings and the Noticee has paid the penalty. I acknowledge that these are independent proceedings. However, any punitive/



remedial directions already ordered in the context of the violations need to be considered while passing directions to ensure proportionality in punishment. I note that these proceedings were initiated pursuant to thematic inspection of the Noticee. One of the object of such inspections is to correct defaults.”

35. In the above matter, the Noticee was a registered Research Analyst and had submitted that he had corrected all defaults pointed out by inspection and there was no material available on record evidencing investor complaints against the Noticee in the context of the allegations.

36. I note that the instant proceedings were initiated pursuant to inspection of the Noticee. One of the object of such inspections is to correct defaults. The Noticee has taken all corrective steps for all the defaults as found by the DA. There is no material available on record evidencing investor complaints against the Noticee in the context of the allegations.

37. I find that scale of default is also not large to warrant multiple actions and data with respect to each of the default is either absent and if available it is miniscule. In this case also, there is no material available on record evidencing investor complaints against the Noticee in the context of the allegations. Monetary penalty already imposed for the same violations need to be taken into account while ensuring proportionality of actions.

38. I also acknowledge the fact that these are two independent proceedings, yet considering the issues and concern of consistency as discussed above additional punitive actions need not be invoked in peculiar facts and circumstances of this case. In the facts and circumstances of this case where most of the defaults as found in the enquiry are in the nature of non-compliance of procedural requirements without impinging upon integrity of markets or investors' interests, I am reminded of the following observations of Hon'ble Justice Krishna Iyer in ***The State of Punjab and Anr Vs Shamlal Murari and Anr. AIR 1976 SC 1177:***

“We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice. Where the non-compliance, tho' procedural, will thwart fair hearing or prejudice doing of justice to parties, the rule is mandatory. But, grammar



apart, if the breach can be corrected without injury to a just disposal of the case, we should not enthrone a regulatory requirement into a dominant desideratum. After, all Courts are to do justice, not to wreck this end product on technicalities.”

(Emphasis Added)

39. Considering all the facts and circumstances of the case and taking into account the mitigating factors as above, in the interest of consistency and proportionality, I am of the view that the monetary penalty imposed vide order dated January 30, 2025 is commensurate with the violations as found by the DA and no further action or direction is necessary pursuant to the instant SCN.

Order

40. In view of the aforesaid observations and findings, I, in exercise of the powers conferred upon me under Section 12(3) read with Section 19 of the SEBI Act and Regulation 27 of the Intermediaries Regulations, hereby dispose of the SCN dated February 21, 2025 without any further action/ direction.

41. This Order shall come into force with immediate effect.

42. A copy of this Order shall be served upon the Noticee.

Date: June 30, 2025

Place: Mumbai

SANTOSH K
UMAR
SHUKLA
Digitally signed by
SANTOSHKUMAR
SHUKLA
Date: 2025.06.30
17:37:28 +05'30'

Santosh Shukla

Quasi-Judicial Authority

Securities and Exchange Board of India