BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/PM/GD/2022-23/17239-17249

UNDER SECTION 23-I OF THE SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF THE SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of:

Noticee No.	**Name of the Noticee**
1	Religare Technova Limited (*now known as "Dion Global Solutions limited"*)
2	Acme Chem Limited
3	Shubh Labh India Marketing & Consultant Pvt ltd
4	Arch Finance Ltd
5	Decent Financial Pvt Ltd.
6	Decent surveyors Pvt ltd
7	Hasting Marketing Pvt Ltd
8	Hi-worth Securities Pvt Ltd.
9	Ospro Financial & Investment Pvt Ltd
10	Breakthrough Millennium Trading and Marketing private Limited
11	Shyam stock & financiers Pvt Ltd

In the matter of Interconnected Stock Exchange of India Ltd.

*(Noticee 1 to 11 are individually known by their respective name or Noticee no. and collectively referred to as the "**Noticees**")*

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) had examined certain irregularities during the regular inspection of Interconnected Stock Exchange of India Ltd (hereinafter referred to as “ICSE”) and into the possible violation of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as ‘SEBI Act’), Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as ‘SCRA’) and various Rules and Regulations made thereunder by Religare Technova Ltd. (now known as Dion Global Solutions Ltd.), Acme Chern Ltd., Shubh Labh India Marketing & Consultants Pvt. Ltd., Arch Finance Ltd., Decent Financial Services Pvt. Ltd., Decent Surveyors Pvt. Ltd., Hastings Marketing Pvt. Ltd., Hi-worth Securities Pvt. Ltd., Ospro Financial & Investment Pvt. Ltd., Breakthrough Millenium Trading & Marketing Pvt. Ltd. and Shyam Stock & Financiers Pvt. Ltd. (hereinafter individually referred by their respective names and collectively referred to as the Noticees). It was observed that ICSE was incorporated on January 22, 1998 under Section 25 of the Companies Act, 1956 as a Company limited by Guarantee vide registration no. 11-113147 issued by the Registrar of Companies, Maharashtra. ICSE was granted recognition as a stock exchange by SEBI on November 18, 1998 under Section 4 of SCRA. Later, it was observed that ICSE became a profit company limited by shares and the Board of ICSE was re-constituted in line with the Corporatization and Demutualization Scheme (hereinafter referred to as ‘C&D Scheme’) of SEBI. The Recognition to ICSE was granted initially for a period of three years from November 18, 1998 to November 17, 2001. The said recognition was further renewed by SEBI time to time and last renewal of recognition was granted for a period of one year ending on November 16, 2011.

2. An inspection of books of accounts and other records of ICSE for the period January 01, 2008 to August 31, 2010 was carried out by SEBI during October 06-08, 2010 under the provisions of Section 11(2)(1) of the SEBI Act. The said inspection was conducted in order to ascertain whether the business activities and affairs of the Exchange were being carried out in accordance with the provisions

of SCRA, Securities Contracts (Regulation) Rules, 1957 (hereinafter referred to as 'SCRA Rules'), SEBI Act, Circulars of SEBI and other Rules, Memorandum and Articles of Association and Bye-laws of ICSE. The major focus of inspection was on the overall management, administrative monitoring and control, monitoring of the working of the subsidiaries by ICSE and to a limited extent about the financial status of the stock exchange. It was also observed that SEBI had received a proposal from ICSE for re-commencement of trading. Therefore, the inspection was also focused on the manner of granting contracts for development of trading solutions.

3. During the course of inspection, minutes of Extraordinary General Meeting (in short 'EGM') dated November 20, 2009 were examined. During the course of examination, it was observed that the Noticees were represented in the said EGM by the employees of Noticee no. 1 (Religare Technova Ltd.). In view of this, it is alleged that the Noticees were acting in concert in violation of provisions of Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public shareholding in Recognized Stock Exchanges) Regulations, 2006 (hereinafter referred to as 'MIMPS Regulations'). In view of the same, SEBI initiated Adjudication Proceedings against the Noticees under the provisions of Section 23H of SCRA.

APPOINTMENT OF ADJUDICATING OFFICER

4. *Vide* appointment order dated November 09, 2017 SEBI appointed Shri D Sura Reddy as Adjudicating Officer under section 23-I of SCRA read with Rule 3 of the Securities Contracts (Regulation) (Procedure of Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as 'SCRA Adjudication Rules') to inquire into and adjudge under the provisions of Section 23H of SCRA, the alleged violation of the provisions of Regulations 8 and 9 of the MIMPS Regulations. Subsequent to the transfer of Shri D Sura Reddy, the undersigned has been appointed as Adjudicating Officer in the present matter.

SHOW CAUSE NOTICE, HEARING AND REPLY

5. A show cause notice dated December 07, 2017 (hereinafter referred to as "SCN") was issued to and served upon the Noticees under Rule 4(1) of the SCRA Adjudication Rules to show cause as to why an inquiry should not be held and penalty not be imposed against them under Section 23H of the SCRA for the alleged violation of provisions of Regulation 8 and 9 of the MIMPS Regulations.

6. The details regarding the allegation levelled against the Noticee in the SCN are provided below as follows:
   - *During the course of inspection, it was observed that in disregard of the provisions of Regulations 8 & 9 of MIMPS Regulations, one of the shareholders of ICSE i.e. Religare Technova Limited was holding more than 21% of the equity holdings of the ICSE, directly and through persons acting in concert (PAC).*

   b. *During the inspection, it was observed that SEBI, vide letter dated September 21, 2005 had advised ICSE that the Public Interest Directors (PIDs) would be selected by the Board of Directors of ICSE from the SEBI constituted panel of PIDs and that the same shall be suitably incorporated in the Articles, Rules of ICSE. Further, based on a clarification sought by ICSE, SEBI, vide its letter dated November 06, 2008, had advised ICSE to suitably amend clause 1.3.5 wherein the word 'elected' had to be replaced with the word 'selected'. In this regard, in the EGM held on November 20, 2009, it was decided to call for polling by representatives of Religare Group and the Chairman of the Board had accepted the same. On perusal of the minutes of the EGM of ICSE held on November 20, 2009, it was observed that four individuals viz. Shri Kiran Vaidya, Shri Ravi Batra, Shri Kapil Sanghvi and Ms Shruti Gupta, who were employees of Religare Group companies, had represented several corporate shareholders of ICSE and had voted in the said meeting. Each of these individuals (except Ms. Shruti Gupta and Shri Kapil Sanghvi) had represented two or more of such shareholders simultaneously in the said meeting. The* *details of their representation which suggests that the shareholders were PACs, controlled by Religare Group are as under:*

Sr.No.	*Name of the Shareholder*	*Name of the Representative*	*Shareholding (%)in ICSE*
1.	*Religare Technova Limited*	*Rahul Ranjan*	*4.440*
2.	*Acme Chern Limited,*	*Kiran Vaidya*	*4.458*
3.	*Shubh Labh India Marketing & Consultants P. Ltd,*	*Kiran Vaidya*	*1.763*
4.	*Arch Finance Limited,*	*Ravi Batra*	*2.675*
5.	*Decent Financial Services P. Ltd,*	*Ravi Batra*	*0.964*
6.	*Decent Surveyors P. Ltd,*	*Ravi Batra*	*0.857*
7.	*Hastings Marketing P. Ltd,*	*Ravi Batra*	*0.929*
8.	*Hi-worth Securities P. Ltd,*	*Ravi Batra*	*0.821*
9.	*Ospro Financial & Investment P. Ltd,*	*Ravi Batra*	*0.871*
10.	*Breakthrough Millenium Trading & Marketing P. Ltd*	*Shruti Gupta*	*0.914*
11.	*Shyam Stock & Financiers P. Ltd*	*Kapil Sanghvi*	*2".450*
	TOTAL		*21.140*

c. *It was observed that the abovementioned representatives were the employees of Religare Group. The details of their employment with Religare Group is as under:*

Sr. No.	*Name of the Shareholder*	*Name of Representative*	*Employee*
1.	*Religare Technova Limited*	*Rahul Ranjan*	*Asst VP & Company Secretary of Religare Technova. www.rellgaretechglobal.com*
2.	*Acme Chern Limited,*	*Kiran Vaidya*	*Managing Director -Investment Banking Religare Capital Markets Limited www.religare.in*

3.	*Shubh Labh India Marketing & Consultants P. Ltd.*	*Kiran Vaidya*	*-do-*
4.	*Arch Finance Limited*	*Ravi Batra*	*Company Secretary & Compliance Officer, Religare www.religare.in*
5.	*Decent Financial Services P. Ltd.*	*Ravi Batra*	*-do-*
6.	*Decent Surveyors P. Ltd.*	*Ravi Batra*	*-do-*
7.	*Hastings Marketing P. Ltd.*	*Ravi Batra*	*-do-*
8.	*Hi-worth Securities P. Ltd.*	*Ravi Batra*	*-do-*
9.	*Ospro Financial & Investment P. Ltd.*	*Ravi Batra*	*-do-*
10.	*Breakthrough Millenium Trading & Marketing Pvt. Ltd.*	*Shruti Gupta*	*Sr. Manager, Investment Banking at Religare Capital Markets Limited*
11.	*Shyam Stock & Financiers P. Ltd*	*Kapil Sanghvi*	*Manager at Religare Capital Markets Limited www.religarecapitalmarkets.com*

d. *It was observed from the details of representation by Shri Kiran Vaidya, Shri Ravi Batra, Shri Kapil Sanghvi and Ms Shruti Gupta that the shareholders were PACs, controlled by Religare Group. It was further observed that Religare Technova Ltd held 62,164 shares constituting 4.44% in the total equity holdings of ICSE which was within the prescribed limit in terms of the MIMPS Regulations. However, from the minutes of the EGM, wherein it was observed that certain employees of Religare Group had represented multiple shareholders who were all PACs, it is alleged that Religare Technova Ltd actually controls/holds a substantial shareholding of 21.142% equity in ICSE.*

e. *It is further alleged that in an attempt to cover up its design to acquire shares covertly beyond the prescribed limits, the said Religare Group had used* *various corporate entities to acquire shares of ICSE and hold the same on its behalf. It was observed that more than sixty thousand shares were acquired by the entities mentioned in the table below which were represented by the employees of Religare Group in just two days from one Shri Raju Mahtaney (constituting another 4.44% shareholding of ICSE) as detailed under:*

Sr. No.	*Name of the shareholders of ICSE*	*To whom shares transferred*	*Date of transaction*	*No. of*
1.	*Raju M Mahtaney*	*Decent Surveyors P. Ltd,·*		*12,000*
2.	*Raju M Mahtaney*	*Hastings Marketing P. ltd,*	*12.11.2009*	*13,000* *11,500*
3.	*Raju M Mahtaney*	*Hi-worth Securities P. Ltd*		
4.	*Raju M Mahtaney*	*Shubh Labh India Marketing & Consultants P. Ltd,*		*12,288*
5.	*Raju M Mahtaney*	*Decent Financial Services P. Ltd,*	*13.11.2009*	*13,500*
	TOTAL			*62,288*

f. *From the above, it is alleged that the transferees were entities who were represented in the EGM by the employees of Religare Group, thereby, clearly showing that these shares were bought by the entities on behalf of Religare.*

g. *In addition to the above, close and direct link between these entities and Religare is further established from the following:*

- *A print out of the relevant pages from the website of Religare i.e. www.religare.in shows Religare Capital Markets under the head "Our Other Websites" and Religare Technova Ltd under the head "Other Group Companies", which shows that the Noticees are related to each other and holding 21.142% of ICSE shareholding.*

- *Further, from the website of Ministry of Corporate Affairs (MCA) it is observed that the following entities have the same email ids i.e. oswalsunil.co@gmail.com registered with them –*
    - *Decent Financial Services P.Ltd*
    - *Decent Surveyors P.Ltd*
    - *Hasting Marketing P.Ltd*
    - *Hi-worth Securities P.Ltd*
    - *Subh Labh India Marketing & Consultancy P. Ltd*
    - *Breakthrough Millenium Trading & Marketing P. Ltd*
    - *Ospro Financial & Investment P. Ltd*

- *From the details obtained from the website of MCA, the residential addresses of Arch Financial Ltd, Shri Raychand Goushal (one of the directors of Breakthrough Millenium Trading & Marketing P. Ltd and Ospro Financial& Investment P.Ltd) and Shri Devendra Kumar Gaushal {Director of Hi-worth Securities P. Ltd) are the same i.e. House No. 47, Sector 7/A, Faridabad-121006, Haryana, India. Further,from the letter heads of Hasting Marketing P. Ltd and Decent Surveyors P. Ltd it is observed that they have the same office address i.e. 81, Daryaganj, Second Floor, New Delhi.*

h. *In order to ascertain further details with respect to the PACs, Shri P.J. Mathew, Managing Director of ICSE, was called upon for a statement recording and summons were issued to the following 10 Noticees.*

.Sr. No	*Name of the Shareholder*
1.	*Acme Chern Limited*
2.	*Subh Labh India Marketing & Consultancy P. Ltd*
3.	*Arch Finance Limited*
4.	*Decent Financial Services P. Ltd*

5.	*Decent Surveyors P. Ltd*
6.	*Hastin Marketing P. Ltd*
7.	*Hi-worth Securities P. Ltd*
8.	*Ospro Financial& Investment P. Ltd*
9.	*Breakthrough Millenium Trading & Marketing P. Ltd*
10.	*Shyam Stock & Financiers P. Ltd*

i. Further, it was observed that reminders were also issued to the abovementioned Noticees twice. Out of the ten Noticees above, summons and reminders issued to Hi-worth Securities P. Ltd were returned undelivered. However, all the other Noticees had replied to the summons.

j. From the statements given by Shri P. J. Mathew, it was observed that a particular instance of the meeting dated November 20, 2009 was one of its kind happening, wherein, set of people associated with Religare Technova Limited (i.e. 10 out of 41 shareholders) had tried to influence the decision making of ICSE's General Body Meeting. He has also submitted that "group of shareholders had issued requisition dated July 14, 2009". Further, he had submitted that "new shareholders for whom Mr. Ravi is soliciting support are all acting in concert with Religare". He also mentioned that "shareholders who were part of the group companies of the Software Vendor and other shareholders who were acting in concert".

k. With respect to the summons sent to the 11 Noticees, the following information was sought from them in the said summons:

- *Reason on when and how the particular shareholder was associated with employee of Religare Group so as to give him I her an authorization letter to attend the meetings of ICSE.*
- *Reason for giving an authorization for proxy instead of being present for the purpose of voting in the aforesaid meeting of November 20, 2009, having known the agenda of the meeting.*
- *Explain regarding relationship/ association of the shareholders with relevant employee of Religare Group in period before and after the said*

meeting and whether the shareholder had given clear indication about views in favour of or against the agenda in the aforementioned meeting.

- *Rationale for giving proxy to employee of Religare Group, especially given the fact that Religare Technova Limited, a Religare Group Company held 4.44% of ICSE shareholding at the time of the aforementioned meeting.*

l. *Out the 10 Noticees to whom the summons were delivered, it was observed that 9 Noticees had replied. The substance in all the replies remained approximately the same. Details of the replies submitted are as under:*

- *The shareholders were original allottees and had bought the shares in ICSE assuming that the investment would generate significant value over a period of time.*
- *Arch Finance Limited in its letter dated October 15, 2009 had drawn attention of other shareholders to the state of affairs of ICSE raising the following issue:*
    - *Some queries relating to accounts and financials*
    - *ICSE is making operational losses*
    - *Advertising and publicity costs are incurred while ICSE makes losses*
    - *Managerial remuneration had increased from FY 2008 to FY 2009 in the time of economic slowdown.*
    - *Investments made at huge losses*
    - *Advances given to subsidiary companies*
    - *Delay in paying service tax dues.*
- *Religare Technova Limited had written a letter dated December 03, 2009 to all the shareholders intimating that the management of ICSE was working with malafide intentions and had no vision to develop the exchange and agreed to lead the process for all the shareholders. In addition to some issues related to financials, it also raised other issues including:*
    - *No effort has been made by existing management to develop a robust business model*
    - *Matters related to interference of ICSE, especially Mr. P. J. Mathew in the day to day affairs such as HR. utilizing client funds, changing of client*

code, etc. of the subsidiary company of ICSE i.e. ICSE Securities Limited.

- *Registering of ICSE as an SME Exchange in light of the competition faced by ICSE.*
- *The shareholders believed that initiatives of Religare Technova Ltd will benefit the minority shareholders and therefore they supported it.*
- *The shareholders had given their clear view on the agenda items to be discussed on November 20, 2009.*

m. *Further, in view of the identical nature of replies submitted by the Noticees, it is alleged that all the 11 Noticees were closely and directly linked with each other.*

n. *In view of the above, it is alleged that the Noticees, by holding more than the prescribed limits, have violated the provisions of Regulation 8 and 9 of the MIMPS Regulations.*

7. I note that the SCN was sent to the Noticees *vide* speed post at the registered address of the Noticees. As per the records, the SCNs sent was delivered at the registered address of the Noticees, except Noticee nos. 1, 3, 8 & 11. *Vide* hearing notice dated January 08, 2020, an opportunity of personal hearing was given to the Noticees on February 02, February 03 and February 05 2020, however none of the Noticees appeared for the said hearing. *Vide* separate hearing notices dated October 27, 2020, hearing was scheduled with respect to the Noticees on November 25, 2020 and November 27, 2020. *Vide* the said hearing notice, the documents relevant to the proceedings including the annexures to the SCN were also served to the Noticees. Further, SCN was also served to the Noticees whom the said SCN had returned undelivered from their registered address. The said hearing notice was delivered to all the Noticees by digitally signed emails at the email IDs available in their records with MCA. On the Scheduled Date, Noticee Nos. 3,4,5,6,7,8,9 and 10 appeared through though their Authorized representatives and were heard. I also note that *vide* email dated May 13, 2022 Noticees were provided another opportunity to make their additional

submissions, if any. In this regard, Noticee nos. 4,6 ,9 have reiterated their replies submitted earlier. Noticee no. 10 has filed its reply *vide* letter dated May 20, 2022.

8. I Note that adequate opportunities of personal hearing have been provided to all the Noticees. However Noticee Nos. 1, 2 & 11 have not availed the opportunities of personal hearing granted to them. I am of the opinion that principles of natural justice have been complied with in the present case. It would be appropriate to proceed in the matter, based on materials available on record. In this regard, it is pertinent to mention that the Hon'ble Securities Appellate Tribunal ('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".* It is also pertinent to mention that 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..."*. In ***Dave Harihar Kirtibhai vs. SEBI*** (Appeal No. 93, 104, 180 and 181 of 2014) dated December 19, 2014, the Hon'ble SAT has held the following: *"...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....".*

9. The Key submissions of Noticee No. 1 *vide* letter dated November 09, 2020 to the SCN are produced hereunder:

   a. *This is for your kind information that the Corporate Insolvency Resolution Process has been initiated against the Corporate Debtor M/s Dion Global Solution Ltd vide the order of Hon'ble National Company Law Tribunal (NCLT) New Delhi Bench dated 18.08.2020 (a copy of order is enclosed herewith) and undersigned has been appointed as Interim Resolution Professional (IRP) in the captioned matter. The undersigned has been also confirmed as the resolution Professional vide the order of Hon'ble National Company Law Tribunal (NCLT) New Delhi Bench dated 17.10.2020 (a copy of order is enclosed herewith).*
   b. *In terms of provisions of Section 14 of Insolvency and Bankruptcy Code, 2016, the said proceedings can't be continued in the captioned matter.*

10. The Key submissions of Noticee No.2 *vide* letter dated November 12, 2020 to the SCN are produced hereunder:

   a. *We are denying the allegations and contents of the Notice.*
   b. *Acme Chem has not acquired more than 5 percent of paid up equity share capital of interconnected stick exchange limited as alleged by you. As on the date of the Notice the company held 62,413 equity shares of Re. 1 each constituting about 4.4458 Percent of total paid up equity capital of ISE.*
   c. *Thus, your allegation that company has holding more than 5 percent of paid up equity capital of ISE is denied. We further wish to state that the Company while acquiring those shares has not acted in concert with any other person as alleged by you. We have no connection with any of the firm or entities listed above either directly or indirectly.*
   d. *We would also like to respond to the matter raised by the Adjudicating authority regarding the ECM of Inter-Connected Stock Exchange of India Ltd. (hereinafter referred to as C ISE' or 'Exchange') which was held on November 20, 2009*

wherein several corporate entities, who were shareholders of the Exchange attended the meeting through their representatives and polled on the matter of appointment of PIDs. Our company being a shareholder of the Exchange holding 4.458% of the equity also attended the EGM and was represented by Mr. Kiran Vaidya. The decision to authorise him to attend the EGM was solely taken on the basis that our company has its Registered Office in Kolkata and to avoid cost and travel time involved in attending the ECM. Therefore, an authority was given to Mr. Kiran Vaidya to attend the EGM on our behalf and participate in the proceedings of the EGM.

e. *Further, we also would like to state the investigation report suggesting that our company along with other corporate entities being shareholders of the Exchange who were represented by other employees belonging to Religare group was acting in concert and is being controlled by Religare group has no material basis. The representation that M/S Religare Technova Ltd, one of the shareholders of the Exchange is holding more than 21% of the equity holding of the Exchange, directly and through the various corporate entities, Acme Chem Ltd being stated therein as a Person Acting in Concert with Religare Technova Ltd, thereby violating the regulation 8 of Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognised Stock Exchanges) Regulations, 2006, does not hold true since there is no material evidence proving the same as we have never had any relation with Religare Technova Ltd. or any of its officers/promoters.*

f. *We would also like to apprise you that there is no connection of the Company with any of the shareholders of the Interconnected Stock Exchange of India Ltd. Also that none of the Directors of the Company are directly or indirectly related to the any of the Directors of the Noticees. Therefore, question of acting in concert does not arise.*

g. *Regarding the allegations made by Mr. P J Mathew, MD of ISE his words have to be taken with a pinch of salt. It should be backed by proper evidence, not just* *merely by the statement. A shareholder has every right to participate in the proceedings of an EGM and it does not mean that they are acting in concert and tried to influence the decision making.*

h. *We would like to submit that the Company has not made any violation. Therefore, we request you to kindly relieve us from the above matter from any further proceedings mentioned under the Section 1 1 and 11B of the Securities and Exchange Board of India Act, 1992 and Regulation 13 of Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognised Stock Exchanges) Regulations, 2006.*

11. The Key submissions of Noticee No.4 *vide* email dated December 04, 2020 to the SCN are produced hereunder:
    a. *At the very outset, AFL repeats and reiterates the contents and defence taken by it in its letter dated 19th December, 2017 in reply to SCN.*
    b. *AFL is not related to Religare in any manner whatsoever. The investment in ICSE was purely for the purpose of value creation and there was no mala-fide intent to such investment. Our company had invested in ICSE for value creation. On being aware of certain issues in the management of ICSE, we had drawn attention of other shareholders vide our letter dated 15th October 2009, which is also recorded in WTM order.*
    c. *We also came to know there were other shareholders, who had issues with the way the ICSE being managed. In order to protect our investment, we joined the other shareholders to raise voice against the mismanagement of ICSE.*
    d. *AFL was informed about certain financial irregularities and lapses in the management of ICSE. Hence, AFL vide its letter dated 15th October, 2009 addressed to ICSE called upon for justifications on such irregularities from the Board of Directors and Management of ICSE. However, no reply was received from ICSE providing any sort of justification or even refuting the claims made in the letter.*

e. *Further, AFL vide its letter dated 10th November, 2009 highlighted the issues to all shareholders and requested for justification from the Board of Directors of ICSE once again. Being aware of other shareholders also holding similar concerns, who wanted transparency in the functioning of the ICSE, AFL decided to pursue this matter along with other shareholders regarding functioning of ICSE.*
f. *The appointment of Mr. Ravi Batra as proxy was made as per the provisions of Section 176 of the Companies Act, 1956 relating to proxies. The Companies Act, 1956 does not provide for any bar on the employment status or position of such a person, being appointed as a proxy. Thus, the appointment of Mr. Ravi Batra as proxy of AFL is in complete consonance with the provisions of the Companies Act, 1956, irrespective of his alleged employment status.*
g. *In light of the above, it is submitted that, there is no violation of any provisions of MIMPS regulations by AFL and hence, no harsh action be taken against AFL and we, on behalf of AFL humbly request your Honour not to impose penalty on AFL.*

12. The Key submissions of Noticee No.5 vide email dated December 04, 2020 to the SCN are produced hereunder:
    a. *That the Decent Financial Services Pvt. Ltd. (hereinafter referred as DFS) acquired shares of interconnected Stock Exchange of India Ltd. (hereinafter referred as ISE) pursuant to demutualization scheme of the said company and upon the presentation given. That the DFS invested their money in ISE only with the purpose of long term wealth creation.*
    b. *That DFS had received letter dated 03.122009 from Rellgare Technova Ltd. one of the shareholder of ISE That through the said letter, Religare informed DFS that the management of the ISE is working with the ulterior motives to defeat the interest of minority stakeholders. Infact some other sharehoïder of ISE also informed the said facts to the board of ISE. That as a shareholder DFS also observed mismanagement in the affairs of the ISE.*

c. *That Religare Technova Ltd. decided to lead the said Issue of mismanagement and we believed that the said shall benefit the minority shareholder including DFS decided to join issue with them.*
d. *That vide board resolution dated 13.112009 DFS appointed Mr. Ravi Batra as proxy to attend EGM of ISE. That Mr. Ravl Batra was appointed as per standard practice. There is nothing wrong in appointing any person to remain present on béhalf of company.*
e. *Hence, whatever we did by appointing proxy was in good faith and without any malafide intention or ulterior motive- Hence, it is prayed that adjudication proceedings against DFS be dismissed.*

13. The Key submissions of Noticee No.8 vide email dated December 05, 2020 to the SCN are produced hereunder:
    a. *The Noticee submits that, the Noticee is not related to Religare Technova Limited in any manner whatsoever. The investment in ICSE was purely for the purpose of value creation and there was no malafide intent to such investment. The Noticee's representative was informed about certain financial irregularities and lapses in the management of ICSE by Religare Technova. Being aware of other shareholders also holding similar concerns, who wanted transparency in the functioning ofthe ICSE, the Noticee decided to join hands with Religare and other investors in questioning the Board of Directors and management of ICSE.*

    b. *The Noticee further states that, the allegation made in the said Show Cause Notice is merely made on the basis that the Noticee had appointed Mr. Ra i Batra as a proxy, who is an employee of Religare Enterprises Limited. However, as seen above this mere instance is not enough to conclude that the Noticee is a PAC with Religare Technova Limited. The Noticee further submits that, the appointment of Mr. Ravi Batra as proxy was made as per the provisions of Section 176 of the Companies Act, 1956 relating to proxies. s. As per Section 176 of the Companies Act, 1956, "Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another* *person (whether a member or not) as his proxy to attend and vote instead of himself; but a proxy so appointed shall not have any right to speak at the meeting." The Companies Act, 1956 does not provide for any bar on the employment status or position of such a person, being appointed as proxy. Therefore, the appointment of Mr. Ravi Batra as proxy of the Noticee is in complete consonance with the provisions of the Companies Act, 1956, irrespective of his alleged employment status.*

c. *In view of the aforesaid submissions, the Noticee submits that there is no violation of the provisions of MIMPS Regulations and merely on the basis that the Noticee had appointed Mr. Ravi Batra as a proxy, who is an employee of Religare Enterprises Limited, prays that no penalty is be imposed on the Noticee.*

14. The Key submissions of Noticee No.10 vide email dated December 05, 2020 & letter dated May 20, 2022 to the SCN are produced hereunder:

a. *There is inordinate delay in issue of SCN and further in passing order in present proceedings.*
b. *At the outset my client i.e Breakthrough Millennium Trading & Marketing Private Limited denies each and every allegation made against my client in the (SCN) dated December 07, 2017 in respect of the present subject matter.*
c. *I further repeat and reiterate the contents of their reply letter dated 19th December, 2017 addressed to Adjudicating officer SEBI and refer and rely upon the same before your good selves and annexing herein as well.*
d. *It is alleged in the SCN issued by SEBI that my client in consert with Religare Technova Limited (RTL) have breached the provisions laid down under Regulation 8 and 9 of the Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognised Stock Exchanges) Regulations, 2006 (hereinafter referred to as the MIMPS Regulations) by collectively holding 21% of the equity holdings of*

Interconnected Stock Exchange of India Ltd (ICSE), directly and through persons acting in concert(“PAC”).

e. *That we deny that there is any breach of any provisions under regulation of Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognised Stock Exchanges) Regulations, 2006 (“Regulations”) Whereas on various occasions, as a shareholder my client had observed that the management of Interconnected Stock Exchange of India Ltd.(ICSE) was working with malafide intentions considering that the purpose of the investment was been defeated by the ICSE since the investment in ICSE was purely for the purpose of value creation and there was no mala-fide intent to such investment by us.*

f. *It was also observed that one Arch Finance Limited one of the shareholders of ICSE vide its letter dated 15th October, 2009 had raised several grave issues regarding the actions and conduct of management and functioning of the ICSE. That Arch Finance Limited vide its letter dated 10th November, 2009 brought into notice all the issues to all shareholders in writing whereby it sought clarifications from the Board of Directors of ICSE.*

g. *To such initiative we also supported and the board of Directors of the Company in their meeting held on 3rd November, 2009, authorised Ms.Shruti Gupta to attend and vote at the EGM scheduled for 20th November, 2009 and with clear views to her about the meeting. Ms.Shruti Gupta who was based in Mumbai and has no connection with RTL that this was also clearly mentioned in the letter dated 2nd February, 2012 addressed to the SEBI by us.*

h. *That the appointment of Ms.Shruti Gupta was made without prejudiced as per the provisions of Section 176 of the Companies Act, 1956 relating to proxies. The Companies Act, 1956 does not provide for any bar on the employment status or position of such a person, being appointed as a proxy. Thus, the appointment of Ms. Shruti Gupta as proxy of the company is in complete consonance with the provisions of the Companies Act, 1956, irrespective of his alleged employment status of Ms.Shruti Gupta.*

i. *That it view of the above circumstances it submits that the allegations made* *therein the SCN do not apply to my client and there is no violation or breach of any of the provisions of Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognised Stock Exchanges) Regulations, 2006 (hereinafter referred to as the MIMPS*

j. *Regulations) by us and therefore I, on behalf of my client state that in view of the aforesaid circumstances it is hereby humbly pray before your Honour to not to impose penalty upon Breakthrough Millennium Trading & Marketing Private Limited. Being aware of other shareholders also holding similar concerns who wanted transparency in the functioning of the ICSE however they are nowhere connected with Religare Technova Limited (RTL) and the investments in Interconnected Stock Exchange of India Ltd (ICSE) made by us were merely for the purpose of value creation and there was no malafide intent behind it.*

15. Noticee No. 6, vide its letter dated December 18, 2017 and email dated December 05, 2020 submitted exactly the same submissions as those of Noticee no. 4. Similarly, the submissions of Noticee nos. 3, 7, 9 are identical to those of Noticee no. 4 which have been already reproduced above. Therefore, I find no need to reproduce the same here.

16. Along with other submissions advanced which were identical to those of Noticee no. 4, Noticee No. 10, vide letter dated December 19, 2017 and email dated December 05, 2020, denied that Ms. Shruti Gupta had any connection with Noticee no. 1 and stated that she was based in Mumbai at that time.

CONSIDERATION OF ISSUES AND FINDINGS

17. I have carefully perused the allegations levelled in the SCN, the material available on record for evidence and the submissions made by the Noticee in denial of all the said allegations.

18. I note that the allegation levelled against the Noticees in the SCN is for the violation provisions of Regulation 8 and 9 of the MIMPS Regulations. In view of the above, the issues that arise for consideration before me are:

Issue No. I: Whether the Noticees has violated Regulation 8 and 9 of the MIMPS Regulations?

Issue No. II: If the answer to Issue No. (I) is in affirmative, whether the violation on the part of the Noticee would attract monetary penalty under section 23H of the SCRA?

Issue No. III: If the answer to Issue No. (II) is in affirmative, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in section 23J of the SCR Act read with rule 5 (2) of the SEBI Adjudication Rules?

19. Before moving forward, I find it relevant to reproduce the provision of the MIMPS Regulations, which are allegedly violated by the Noticees in the present matter. The provisions of Regulations 8 & 9 read as following:

8. Shareholding and transferability restrictions.-

(1) No person resident in India shall at any time, directly or indirectly, either individually or together with persons acting in concert, hold more than five per cent of the equity share capital in a recognized stock exchange:

Provided that a stock exchange, a depository, a clearing corporation, a banking company, an insurance company and a public financial institution - defined under section 4A of the Companies Act, 1956 may hold, either directly or indirectly, either individually or together with persons acting in concert, up to fifteen per cent of the paid up equity share capital of the recognized stock exchange:

Provided further that person holding equity shares in a recognized stock exchange in excess of the limits specified in this regulation at the commencement of these regulations shall reduce his holding to ensure compliance with this regulation within the time specified in sub-section (8) of section 4B of the Act or the time extended under the proviso thereto.

<u>Explanation</u>: For the purposes of this sub-regulation:-

(I) "banking company" shall have the meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(II) "insurance company" shall have the meaning assigned to it in sub-section (8) of section 2 of the Insurance Act, 1938 (4 of 1938);

(III) “person resident in India" shall have the meaning assigned to it in clause (v) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(IV) Persons acting in concert shall have the meaning derived from clause (e) of sub- regulation (1) of regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

(3) No shareholder having trading rights in a recognized stock exchange shall, prior to issuance of the confirmation under regulation 7, transfer his shares in such recognized stock exchange to any person otherwise than in accordance with Chapter II.

9. Eligibility criteria for persons acquiring or holding more than five per cent equity shares in a recognized stock exchange.-

(1) No person shall, directly or indirectly, either individually or together with persons acting in concert with him, acquire and/ or hold more than five per cent. Of the paid up equity capital of a recognized stock exchange after commencement of these regulations, unless he is a fit and proper person and has taken prior approval of the Board for doing so.

(2) For the purpose of sub-regulation (1), a person shall be deemed to be a fit and proper person if-

(i) such person has a general reputation and record of fairness and integrity, including but not limited to-

(a) financial integrity;

(b) good reputation and character; and

(c) honesty.

(ii) such person has not incurred any of the following disqualifications –

(a) the person or any of its whole time directors or managing partners has been convicted by a Court for any offence involving moral turpitude or any economic offence, or any offence against the securities laws;

(b) an order for winding up has been passed against the person;

(c) the person or any of its whole time directors or managing partners has been declared insolvent and has not been discharged;

(d) an order, restraining, prohibiting or debarring the person, or any of its whole time directors or managing partners from dealing in securities in the capital market or from accessing the capital market has been passed by the Board or any other regulatory authority and a period of three years from the date of the expiry of the period specified in the order has not elapsed;

(e) any other order against the person or any of its whole time directors or managing partners which has a bearing on the capital market, has been passed by the Board or any other regulatory authority and a period of three years from the date of the order has not elapsed;

(f) the person has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force; and

(g) the person is financially not sound.

(3) If any question arises as to whether a person is a fit and proper person, the Board's decision on such question shall be final.

Issue No. I: Whether the Noticee has violated Regulation 8 and 9 of the MIMPS Regulations?

20. I note that some Noticees have raised the preliminary issue with regard to delay in issue of show cause notice.In this regard I note that the investigation was initiated against a large number of entities which apparently took time and ultimately notices were issued to 11 entities in the present matter. Here I find it pertinent to note that during the investigation, information was requisitioned from various entities including but not limited to the stock exchanges, the Company, the directors of the

Company. Thereafter, the investigation *inter alia* entailed examination of Secretarial records viz. minutes of Annual general meetings and Extra ordinary general meeting, notices of board meeting, know your information (KYC) details, Annual reports etc. The investigation also required coordination with various regional offices of SEBI in order to send summons. *Vide* order dated November 09, 2017, erstwhile AO Shri D Sura Reddy was appointed as Adjudicating officer in the present case. The SCN dated December, 07, 2017 was issued by the erstwhile Adjudicating officer, informing the Noticees, the charges levelled against them, pursuant to transfer of Shri D Sura Reddy, the case was transferred to the undersigned. Notices were sent at the registered address of Noticees, however some of Notices were returned undelivered. Subsequently notices were serviced through alternative mode of service *viz.* Affixture and email. Thereafter Inspection of Documents were also sought by some entities. Thus, as can be seen from the above, the entire process is quite exhaustive and detailed which involves various steps at different points of time depending on the status and requests of Noticees.

21. I find it relevant to rely on Hon'ble SAT order passed in ***Hemant Sheth and Ors. vs. SEBI***, Appeal No. 521 of 2021, decided on January 07, 2022, it was argued by the appellants that the adjudicating officer was appointed on July 04, 2013 but the show cause notice was issued in 2016 and therefore there was an inordinate delay of 30 months for which no plausible explanation was given. The Hon'ble SAT while dismissing the aforesaid contention of the appellants held that:

"9. Insofar as the delay is concerned we find that after the observation made by the WTM in its order of May 10, 2013 SEBI took action and appointed the AO dated July 4, 2013. No doubt the show cause notice was issued in January 2016 but the delay in the issuance of the show cause notice in the instant case will not vitiate the proceedings initiated against the appellants in the peculiar facts and circumstances of the case. Consequently, we are not inclined to quash the proceedings only on the ground of inordinate delay as asserted by the learned counsel for the appellant."

22. In **Rajendra Aggarwal vs. SEBI** (Misc. Application No. 426 of 2020 and Appeal No. 552 of 2019), dated September 17, 2021, an appeal was filed against an order of the adjudicating officer imposing penalties against the appellants for violation of regulation 3 and 4 of the PFUTP Regulations. The appellants contended that due to the inordinate delay, the aforesaid order should be quashed since the trades took place in the year 2009, the notice was issued in 2013, the hearing took place in 2018, and 18 months after the hearing, an adjudication order was passed. In this regard, the Hon'ble SAT held:

"13. On issue of delay, we find that the show cause notice was issued in the year 2013 and the trades were executed in 2009. The investigation was against a large number of entities which apparently took time and ultimately notices were issued to 35 entities. Consequently, we do not find any inordinate delay in the issuance of the show cause notice nor do we find any merit in the contention that there was an inordinate delay in the delivery of the impugned order after the last date of hearing by the AO. We are of the opinion that after the conclusion of the arguments the data of 35 entities was required to be analysed and collated which took time and, therefore, we do not see any reason to vitiate the judgment only on the ground of delay in delivering the order. In any case, such delay in the delivery of the judgment does not cause any prejudice to the appellants."

23. Before moving forward, it will be appropriate to refer to contentions of the Noticee No.1 regarding initiation and continuing of instant proceedings, given that pursuant to the Hon'ble NCLT (New Delhi bench) vide order dated August 18, 2020 initiated Corporate insolvency resolution proceedings against the Noticee No.1 and also appointed Interim Resolution Professional (IRP).The IRP has also been confirmed as Resolution Professional vide Hon'ble NCLT order dated 07.10.2020. Further In terms of provisions of Section 14(1)(a) of Insolvency and Bankruptcy Code, 2016, which provides for declaration of moratorium, the said proceedings can't be continued.

24. I have noted the said contentions of Noticee no.1 regarding these proceedings. note that the Hon'ble Securities Appellate Tribunal (SAT) in ***Dewan Housing Finance Corporation Ltd. vs. SEBI*** *(Appeal No.206 of 2020)* dated October 09, 2020, has held that an adjudicating officer cannot institute proceedings after the moratorium has come into effect against a corporate debtor. SEBI has challenged the aforesaid order passed by the Hon'ble SAT before the Hon'ble Supreme Court and the same is pending. The limited purpose of these proceedings is to determine if Noticee no. 1 has violated the provisions of SEBI (MIMPS) regulations, and if so, to assess and determine the penalty in order to enable SEBI to crystallize its claim. The penalty imposed, if any, after the completion of these proceedings will be given effect depending upon the outcome of the aforesaid appeal before the Hon'ble Supreme Court.

25. Before moving ahead, I find it relevant to discuss the purpose behind the provisions of Regulations 8 & 9 of MIMPS Regulations. A stock exchange is the most important part of securities market and also plays a major role in the economy of the Country. Therefore, anything connected to it becomes sensitive in nature and requires a deft handling.

26. Keeping this in light, with a view to ensure, amongst others, a greater transparency in dealings, accountability, market discipline, removal of conflicts of interest, to have a balanced approach, to take into account the interests of other players, to equip an exchange to face and withstand completion, etc., which would not otherwise be available in a mutualized stock exchange i.e. stock exchange where the members of the stock exchange are majority shareholders of the said stock exchange, SEBI, vide its Circular No. SMD/Policy/Cir-3/03 dated January 30, 2003, had introduced the C&D scheme pursuant to the directions of the Government of India. In the said circular, a time frame was given for all the registered stock exchanges to switch over from mutualized stock exchange to the said scheme. Further, in order to ensure that the stock exchanges demutualize themselves in true spirit and purpose, SEBI had also prescribed the manner in which minimum public shareholdings should be increased/maintained in the stock exchanges.

Thus, MIMPS Regulations read with Regulation 52 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 were formulated by SEBI to provide for the manner in which stock exchanges would have to restructure their capital following the C&D scheme.

27. At the same time, SEBI found it necessary to examine the shareholding of stock exchanges as it is necessary to have control over the stock exchanges in the hands of persons/entities which are fit and proper to hold such position and to deal with the rights attributed to shareholders in a responsible manner while keeping the larger interest of investor community and economy of the nation in the mind.

28. Keeping all this in mind, the provisions have been made in the MIMPS Regulations, wherein SEBI has to examine If any shareholder, acquiring shareholding of stock exchange in excess of 5% so as to fulfill the objective behind these regulations. Using their law making discretion, SEBI found that any shareholding below 5% was not significant enough to impact the decision making of an stock exchange for SEBI to examine 'fit and proper' status of such an entity as the same would unnecessarily increase the burden of SEBI. A strict scrutiny of fitness in light of provisions of Regulation 9(2)(i) and 9(2)(ii) was regarded necessary for any shareholder to hold significant stake in an stock exchange. As the importance of stock exchange for the purpose of investors, securities market and economy of a country as a whole was deemed very important and the matter being highly sensitive in nature, the significant stake was deemed to mean any shareholding above 5% with an exception of few important institutions allowed to hold upto 15% due to stricter scrutiny already faced by those institutions elsewhere. A list of such institutions was mentioned in proviso to Regulation 8 (1) of MIMPS Regulations. It is not the case of any of the Noticee that they fall within that list of institution. Therefore, the same doesn't require detailed analysis for the purpose of present order.

29. The allegations in the present matter that the Noticees were acting as PACs in respect to their holdings in the ICSE. In this regard, I find that the shareholding of various Noticees in ICSE were as following:

Table 1: Shareholding of Noticees in ICSE

S. No.	Name of the Shareholder	Shareholding
1	Religare Technova Ltd.	4.44%
2	Acme Chem Ltd.	4.458%
3	Shubh Labh India Marketing & Consultants Pvt. Ltd.	1.763%
4	Arch Finance Limited	2.675%
5	Decent Financial Services Pvt. Ltd.	0..964%
6	Decent Surveyors Pvt. Ltd.	0.857%
7	Hastings Marketing Pvt. Ltd.	0.929%
8	Hi-Worth Securities Pvt. Ltd.	0.821%
9	Ospro Financial & Investment Pvt. Ltd.	0.871%
10	Breakthrough Millenium Trading & Marketing Pvt. Ltd.	0.914%
11	Shyam Stock & Financiers Pvt. Ltd.	2.450%

Thus, from above table I notice that none of the Noticees were individually holding more than 5% of total shareholding of ICSE. Therefore, prima-facie there seems to be no case for them to comply with the provisions of Regulation 9 of MIMPS Regulations.

30. Before moving ahead, I find it necessary to reproduce the definition of 'persons acting in concert' as given in Regulation 2 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, which has been accepted by Regulation 8 of MIMPS Regulations. The said definition reads as below:

2(1)(e) "person acting in concert" comprises, -

(1) persons who, for a common objective or purpose of substantial acquisition of shares or voting rights or gaining control over the target company, pursuant to an agreement or understanding (formal or informal),directly or indirectly co-operate by acquiring or agreeing to

acquire shares or voting rights in the target company or control over the target company.

31. While some of the Noticees have made reference to Regulation 2(1)(e)(2) of the aforesaid Regulations, the same is a deeming fiction and is applicable in very specific circumstance mentioned therein. It is not the case of SEBI that these Noticees fall within any of the clauses mention therein. Therefore, the same require no further discussion in respect to the present proceedings.

32. As mentioned above, on a prima-facie level, shareholding of none of the Noticees cross 5% barrier setup under Regulation 9 of MIMPS Regulations, requiring in-depth scrutiny of these Noticees regarding their fitness of holding shares in an stock exchange. However, an in-depth analysis of their voting in the EGM dated November 20, 2009 shows that all these Noticees had voted on the same lines and they were represented by 5 persons as following:
    32.1. Shri Kiran Vaidya who represented Noticees at S. No. 2 and 3 in the above table;
    32.2. Shri Rahul Ranjan who represented Noticee at S. No. 1 in the above table;
    32.3. Shri Ravi Batra who represented Noticees at S. No. 4, 5, 6, 7, 8 and 9 in the above table
    32.4. Ms. Shruti Gupta who represented Noticee at S. No. 10 in the above table
    32.5. Mr. Kapil Sanghvi who represented Noticee at S. No. 11 in the above table.

    It is alleged in the SCN that all the persons who represented Noticees mentioned at S. No. 2 to 11 in the above table were the employees of Noticee no. 1 i.e. Religare Technova Ltd.

33. In this regard, I find from the Annexure 8 to the hearing notice dated October 27, 2020 which provides evidence in the form of various documentary evidence in favour of the positions held by the persons who represented the Noticees in the EGM dated November 20, 2009 as follows:
    33.1. Mr. Rahul Ranjan, who represented Noticee no. 1 in the said EGM, was shown as the Assistant Vice President and Company Secretary of Noticee no. 1 on its website.

33.2. Mr. Kiran Vaidya, who represented Noticee no. 2 & 3 in the said EGM was shown as Managing Director of Investment Banking Division of Religare Capital Markets Limited on the website of Noticee no. 1.

33.3. Mr. Ravi Batra, who represented Noticees No. 4, 5, 6, 7, 8 and 9 in the said EGM is shown as Company Secretary on the website of Noticee no. 1

33.4. Ms. Shruti Gupta and Mr. Kapil Sanghvi, who represented Noticees no. 10 and 11 respectively in the said EGM, had mentioned on their respective LinkedIn pages that Ms. Shruti Gupta was working as Senior Manager in Investment Banking division of Religare Capital Markets Ltd., another company of Religare group and Mr. Kapil Singhvi was working as Manager at Religare Capital Markets Limited.

34. In this regard, all the Noticees except Noticee no. 1 have submitted that they had acted together in order to stop the malafide management of affairs of ICSE by the persons managing the affairs of the stock exchange which was in detriment to the interest of shareholders including the Noticees. The same was intimated by Noticee no. 1 to them vide letter dated December 03, 2009. As the initiative was taken by Noticee no. 1, rest of the Noticees believed that its initiatives would benefit minority shareholders and therefore they supported it. Noticee no. 1 has made no submission in this regard stating that it was under Corporate Insolvency Resolution Proceedings in terms of Insolvency and Bankruptcy Code, 2016.

35. However, I find that the aforesaid letter was written by Noticee no. 1 on December 03, 2009 i.e. 15 days after the date of EGM. This shows that the letter was not the reason behind the concert among the Noticees as the concert was already there during the EGM dated November 20, 2009. Further, this submission of Noticees no. 2 to 11 once again gets refuted in light of minutes of AGM dated September 29, 2009 wherein I find that the Noticees were represented by the following persons: -

Table 2:- Representatives of Noticees in AGM dated September 29, 2009

Noticee no.	Name of the Noticee	Representative
1	Religare Technova Ltd.	Mr. Tarun Rastogi

2	Acme Chem Ltd.	-
3	Shubh Labh India Marketing & Consultants Pvt. Ltd.	Mr. Kiran Vaidya
4	Arch Finance Limited	Mr. Ravi Batra
5	Decent Financial Services Pvt. Ltd.	Mr. Ravi Batra
6	Decent Surveyors Pvt. Ltd.	Mr. Ravi Batra
7	Hastings Marketing Pvt. Ltd.	Mr. Ravi Batra
8	Hi-Worth Securities Pvt. Ltd.	Mr. Ravi Batra
9	Ospro Financial & Investment Pvt. Ltd.	Mr. Ravi Batra
10	Breakthrough Millenium Trading & Marketing Pvt. Ltd.	Ms. Shruti Gupta
11	Shyam Stock & Financiers Pvt. Ltd.	Ms. Neetu Ranka

While I find no mention of Ms. Neetu Ranka in the material available on record, but all other representatives were employees of Noticee no. 1 or its group companies. At the same time, LinkedIn profile of Ms. Neetu Ranka shows that she was working as Senior Manager at Religare Securities Limited, another company of Religare Group.

36. As all the Noticees were surreptitiously represented by the employees of Religare Group again and again, without the knowledge of other shareholders of ICSE or SEBI, this shows an agreement among the Noticees. As the agreement amongst the Noticees may be unwritten, it is difficult to prove by primary evidences. However, the same is very easy to infer from the actions of Noticees in the present matter which have shown repetition of such behavior giving rise to strong preponderance of probability of existence of such an agreement. This shows that these entities were acting in concert much before the EGM dated November 20, 2009 without any intimation to either ICSE or SEBI.

37. The entities acquired shares of ICSE, subsequent to AGM dated September 29, 2009, as detailed beow.In this regard, I find from the SCN that more than sixty thousand shares were acquired by some of the Noticees mentioned in the table

below which were represented by the employees of Religare Group in just two days from one Shri Raju Mahtaney (constituting another 4.44% shareholding of ICSE) as detailed under:

Table 3:- Transfer of Shares to Noticees

Sr. No.	Name of original shareholders of ICSE	To whom shares transferred	Date of transaction	No. of shares
1.	Raju M Mahtaney	Decent Surveyors P. Ltd,	12.11.2009	12,000
2.		Hastings Marketing P. Ltd,		13,000
3		Hi-Worth Securities Pvt. Ltd.		11,500
4		Shubh Labh India Marketing & Consultants Pvt. Ltd.		12,288
5		Decent Financial Services Pvt. Ltd.	13.11.2009	13,500
	Total			**62,288**

38. Further, from the website of Ministry of Corporate Affairs (MCA), it is observed that the following entities have the same email ids i.e. oswalsunil.co@gmail.com registered with them -

38.1. Decent Financial Services P. Ltd.

38.2. Decent Surveyors P. Ltd.

38.3. Hasting Marketing P. Ltd.

38.4. Hi-worth Securities P. Ltd.

38.5. Subh Labh India Marketing & Consultancy P. Ltd.

38.6. Breakthrough Millenium Trading & Marketing P. Ltd

38.7. Ospro Financial & Investment P. Ltd

39. I also note from the SCN that the website of MCA shows the addresses of Arch Financial Ltd which is same as the address given by Shri Raychand Gaushal (one of the directors of Breakthrough Millenium Trading & Marketing P. Ltd and Ospro Financial & Investment P. Ltd) and Shri Devendra Kumar Gaushal (Director of Hi-worth Securities P. Ltd) as their respective residential address viz. House No. 47, Sector 7/A, Faridabad-121006, Haryana, India. Further, the letter heads of Hasting Marketing P. Ltd and Decent Surveyors P. Ltd show that they have the same office address which is 81, Daryaganj, Second Floor, New Delhi. The said allegations of connections amongst the Noticees in light of commonality in their details available in MCA records has not been refuted by any of the Noticees.

40. In light of all the above evidences, I am of the view that all the aforesaid Noticees were acting in concert with Noticee no. 1. In fact, it would not be exaggeration to say that by allowing employees of Noticee no. 1 in various AGMs and EGMs, the other Noticees were allowing Noticee no. 1 to use their voting rights as per its whims. By doing so, Noticee no. 1 was effectively exercising combined voting rights of 11 Noticees which comes to 21.140% and which is well above the threshold of 5% allowed to a person or persons acting in concert to hold without going through in-depth regulatory scrutiny of SEBI.

41. Thus, I find from the exercise of voting rights as well as overnight purchase of shares by some of the Noticees on November 12 & 13, 2009, as detailed earlier in Table 3 in this order, which was done just few days before the EGM dated November 20, 2009 are evidences sufficient to establish that Noticee no. 1, in order to bypass the strict scrutiny of 'fit and proper', as contemplated by Regulation 9 of MIMPS Regulations, used all other Noticees to acquire shares over and above the limit of 5% of total shareholding of ICSE in complete violation of the provisions of Regulations 8 & 9 of MIMPS Regulations.

Issue No. II: If the answer to Issue No. (I) is in affirmative, whether the violation on the part of the Noticee would attract monetary penalty under section 23H of the SCRA?

42. In view of the above, I find that the violations of Regulations 8 & 9 of MIMPS Regulations have been established against the Noticees. In this regard, I find it necessary to draw attention to the observations of The Hon'ble Supreme Court of India in the matter of Chairman, **SEBI vs. Shriram Mutual Fund** {[2006] 5 SCC 361}, wherein the Hon'ble Apex Court held the following - "*In our view, the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial. Hence, we are of the view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary*".

43. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticees under the provisions of Section 23H of the SCRA, which reads as under:

Penalty for contravention where no separate penalty has been provided.

23H. *Whoever fails to comply with any provision of this Act, the rules or articles or bye- laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.*

44. While determining the quantum of penalty under Section 23J of the SCRA, it is important to consider the factors relevantly as stipulated in Section 23J of SCRA which reads as under:-

Factors to be taken into account by adjudicating officer.:

23J. *While adjudging the quantum of penalty under section 23-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.

45. The present matter is not related to trading in the stock market. Therefore, the question of the amount of disproportionate gain or unfair advantage made by the Noticees and the loss suffered by the investors as a result of violation of the Noticees is moot. However, I note that the Noticees had acted in concert on more than one occasions showing that the violation by the Noticees was repetitive in nature.

ORDER

46. After taking into consideration the facts and circumstances of the case, material/facts on record and also the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 23-I of the SCRA read with Rule 5 of SCRA Adjudication Rules, hereby impose the following penalty on the Noticees under Section 23H of the SCRA for the violation of the relevant provisions of law by them: I am of the view that the said penalties is commensurate with the lapse/omission on the part of the Noticees

Name of the Noticee	**Penalty**
Religare Technova Ltd. (now known as "Dion Global Solutions Limited")	*10,00,000
Acme Chem Ltd.	2,00,000
Shubh Labh India Marketing & Consultants Pvt. Ltd.	2,00,000
Arch Finance Limited	2,00,000
Decent Financial Services Pvt. Ltd.	2,00,000
Decent Surveyors Pvt. Ltd.	2,00,000
Hastings Marketing Pvt. Ltd.	2,00,000
Hi-Worth Securities Pvt. Ltd.	2,00,000
Ospro Financial & Investment Pvt. Ltd.	2,00,000

Breakthrough Millenium Trading & Marketing Pvt. Ltd.	2,00,000
Shyam Stock & Financiers Pvt. Ltd.	2,00,000

*The penalty with respect to Noticee No.1 shall stand payable by the as per the observation mentioned at para 24 of the instant order.

47. The Noticees shall remit/pay the said amount of penalties within 45 days from the date of receipt of this order. The Noticees shall remit/pay the said amount of penalties through 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 Chairman/ Members -> PAY NOW. In case of any difficulties in online payment of penalties, the said Noticees may contact the support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to "The Division Chief, EFD-1, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051" and also to e-mail id:-tad@sebi.gov.in in the format as given in table below:

Case Name	
Name of Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount/ legal charges along with order details)	

48. In terms of the provisions of rule 6 of the SCRA Adjudication Rules, a copy of this order is being sent to the Noticees and SEBI.

Place: Mumbai
Date: June 23, 2022

PRASANTA MAHAPATRA
ADJUDICATING OFFICER