<u>BEFORE THE ADJUDICATING OFFICER</u>
<u>SECURITIES AND EXCHANGE BOARD OF INDIA</u>
[ADJUDICATION ORDER NO. Order/BM/DS/2023-24/30012]

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

IN THE MATTER OF

Shree Bahubali Stock Broking Limited
PAN No.: AAECS4019E
SEBI Regn No.: INZ000103838

<u>FACTS OF THE CASE</u>

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted inspection of M/s Shree Bahubali Stock Broking Limited (hereinafter referred to as "**Noticee/ Shree Bahubali / the Company**") to check compliance with provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") on August 25, 2023. The period covered in inspection was from April 01, 2022 till May 31, 2023 (hereinafter referred to as "**inspection period**" / "**IP**"). Noticee is registered as stock broker with SEBI registration no. INZ000103838.

2. The findings/ observations made during the course of inspection were communicated to the Noticee by SEBI vide letter dated October 03, 2023. After examining the replies submitted by the Noticee vide letters dated October 30, 2023 and November 02, 2023, it has been alleged that the Noticee violated provisions of SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as "**Stock Brokers Regulations, 1992**") and applicable SEBI Circulars.

3. SEBI initiated adjudication proceedings against the Noticee under section 15HB of SEBI Act, 1992 for the alleged violations of the provisions of Stock Brokers Regulations, 1992 and applicable SEBI Circular.

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as the Adjudicating Officer **(AO)** vide Order dated December 19, 2023 under Section 15-I of the SEBI Act, 1992 and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**SEBI Adjudication Rules**"), to inquire into and adjudge under section 15HB of SEBI Act, 1992, the violations of aforesaid provisions alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY OF THE NOTICEE AND HEARING

5. Show Cause Notice No. SEBI/EAD/BM/DS/52309/1/2023 dated December 27, 2023 (hereinafter referred to as **"SCN"**) was issued to the Noticee in terms of Section 15-I of the SEBI Act, 1992 and rule 4 of SEBI Adjudication Rules, to show cause as to why an inquiry should not be held against it and why penalty, if any, under section 15HB of SEBI Act, 1992 be not imposed on the Noticee.

6. The SCN issued to the Noticee alleged as follows:
    - 6.1. It was observed that in four instances (client code: 1653, 233, 6061 and 6094), the stamps of receipt of declaration forms by the Noticee (stock broker) were of dates prior to the dates of submission mentioned by the clients on the declaration forms.
    - 6.2. It was also observed that in case of the client Ayush Jain, with Unique Client Code (UCC) 6094, the mobile number/ email id mentioned in the declaration form provided by Ayush Jain belonged to his father. However, it was declared on the form that the aforesaid details belonged to the client's children.

6.3. With regard to Client with UCC 2156, it was observed that the declared email id, i.e. gunmaladevisaraogi@gmail.com belonged to the client, whereas it was declared on the form that the email id belonged to dependent parents.

6.4. It was also observed that in respect of UCC 6861, 6862, 6863 and 6864, the name, place and date, details regarding whom the email id and mobile number were pertaining to, were not provided in the declaration form. It was alleged that the Noticee was collecting blank declaration forms with the signature of clients. Later, the Noticee submitted the scanned copies of the declaration forms pertaining to these clients, vide email dated August 25, 2023, in which, it was observed that the missing details had been subsequently filled in the forms by the Noticee itself, just before submitting the forms. Upon enquiring, the Noticee replied that the aforesaid missing details were filled-in by the Noticee in the declaration form for submission to SEBI.

6.5. With respect to non-individual clients with UCCs 1653, BJ827, 4427, 6969, 6061 and 5955, email-id/ mobile numbers of common director/ Karta were declared in the declaration forms. However, these clients were not individuals, and hence family declaration forms for common mobile numbers / email IDs was not applicable and thus, it was alleged that the Noticee has violated the provisions of SEBI Circular No. CIR/MIRSD/15/2011 dated August 02, 2011.

6.6. In view of the aforesaid, it was alleged that the Noticee has not maintained integrity and has not exercised due skill, care and diligence in the conduct of all its business and has thus, violated the provisions of Clauses A(1) and A(2) of the Code of Conduct in Schedule II read with Regulation 9 of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992

7. The SCN was duly served on the Noticee through SPAD and digitally signed e-mail. Vide letter dated January 15, 2024, the Noticee submitted its response to the SCN, which has been summarized below.

7.1. With respect to the observations observed against Client Codes 1653, 233, 6061 & 6094, the respective clients had submitted their declarations in advance with an instruction of processing the same at subsequent dates. Accordingly, the declarations in all these instances were processed as per clients' requisition dates. Therefore, no violation has been made by the Noticee.

7.2. With respect to Client Code 6094, the client Ayush Jain filled the declaration form with an understanding that he along with his father was using the same contact details. He interpreted the fact that the relationship in the declaration form was being submitted from his perspective and not from his parent's perspective. Similarly, with respect to Client Code 2156, the client Ms. Gunmala Devi Saraogi filled the declaration form with an understanding that she along with her son was using the same contact details. She interpreted the fact that the relationship in the declaration form was being submitted from her perspective and not from her son's perspective. Accordingly the Noticee does not concur with the observation, as the concerned form was filled by the clients themselves and there are no benefits that the Noticee could have derived on the basis of clients' individual interpretation.

7.3. With regards to the observations against Client Codes 6861, 6862, 6863 and 6864, these codes were pertaining to Corporate Clients for whom the concerned declaration was not applicable. As the declaration formed part of voluntary documents of our KYC Form, the clients voluntarily filled in their details including their names, mobile numbers and email ids. Noticee, however on the other hand did not fill the Client ID and Trading Code on the said declaration owing to its non-applicability. However, before submission of documents to the inspection team, the Noticee filled in the same for identification and tracking purposes.

7.4. *With respect to non-individual clients with UCCs 1653, BJ827, 4427, 6969, 6061 and 5955, the Noticee submitted that the common mobile numbers / email IDs were pertaining to the directors of the company or the Karta of the HUFs. Therefore, the Noticee has not violated any provisions of SEBI Circular No. CIR/MIRSD/15/2011 dated August 02, 2011.*

8. Vide hearing notice dated January 17, 2024, the Noticee was provided an opportunity of personal hearing in the interest of natural justice. The Noticee was advised to appear before the undersigned on January 23, 2024. The Noticee appeared for the scheduled hearing through an authorised representative (AR). The AR reiterated the submissions already made vide letter dated January 15, 2024. The AR sought time till January 25, 2024 for making additional submissions made during the hearing, along with documents, which was granted by the undersigned. Vide letter dated January 25, 2024, Noticee made additional submissions, which are summarized below.

8.1. *With respect to the observations observed against Client Codes 1653, 233, 6061 & 6094, it was submitted that the advance collection of the declaration was solely for client's convenience so that they were not bothered to revisit Noticee's office on the respective date on which they were willing to process the declaration. Further, the observed instances were very limited in numbers as the inspecting officials had verified more than 100 KYC forms and this shows that the Noticee was not following the practice of obtaining post-dated declarations from its clients. Noticee has submitted the KYC form pertaining to client code 1653.*

8.2. *With respect to the client code 2156, it was submitted that as the client, Ms. Gunmala Devi Saraogi was a senior citizen client, Noticee decided not to bother her owing to the fact that there was no difference in the mobile number and email id submitted by the client.*

8.3. *With respect to the client codes 2156 and 6094, Noticee has submitted that as per the advice of the onsite inspecting officials, Noticee has updated the respective format in its KYC Forms. Copy of fresh declarations collected from the clients has also been submitted by the Noticee.*

CONSIDERATION OF ISSUES AND FINDINGS

9. Considering the findings of Investigation, the allegations made out in the SCN and the submissions made by the Noticee, I find that following issues require consideration in the present case:

   ISSUE I - Whether the Noticee is in violation of the provisions of Clauses A(1) and A(2) of the Code of Conduct in Schedule II read with Regulation 9(f) of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 and SEBI Circular No. CIR/MIRSD/15/2011 dated August 02, 2011?

   ISSUE II - Do the violations, if any, attract penalty under section 15HB of the SEBI Act, 1992?

   ISSUE III - If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act, 1992?

ISSUE I - Whether the Noticee is in violation of the provisions of Clauses A(1) and A(2) of the Code of Conduct in Schedule II read with Regulation 9(f) of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 and SEBI Circular No. CIR/MIRSD/15/2011 dated August 02, 2011?

10. The said provisions under which violations have been alleged against the Noticee are reproduced below –

    Securities and Exchange Board of India (Stock Brokers) Regulations, 1992

    Conditions of registration.

    9.Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-

(f)he shall at all times abide by the Code of Conduct as specified in Schedule II;

Schedule II – Code of Conduct for Stock Brokers

A. General.

(1) Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.

(2) Exercise of due skill and care : A stock-broker shall act with due skill, care and diligence in the conduct of all his business.

SEBI Circular No. CIR/MIRSD/15/2011 dated August 02, 2011

SMS and E-mail alerts to investors by stock exchanges

2. As an additional measure, it has now been decided in consultation with the major stock exchanges and market participants that the stock exchanges shall send details of the transactions to the investors, by the end of trading day, through SMS and E-mail alerts. This would be subject to the following guidelines:

B. Uploading of mobile number and E-mail address by stock brokers

i. Stock exchanges shall provide a platform to stock brokers to upload the details of their clients, preferably, in sync with the UCC updation module.

ii. Stock brokers shall upload the details of clients, such as, name, mobile number, address for correspondence and E-mail address.

iii. Stock brokers shall ensure that the mobile numbers/E-mail addresses of their employees/sub-brokers/remisiers/authorized persons are not uploaded on behalf of clients.

iv. Stock Brokers shall ensure that separate mobile number/E-mail address is uploaded for each client. However, under exceptional circumstances, the stock broker may, at the specific written request of a client, upload the same mobile number/E-mail address for more than one client provided such clients belong to *one family. 'Family' for this purpose would mean self, spouse, dependent children and dependent parents.*

11. I will now proceed with my findings in each of the alleged violations against the Noticee in the SCN dated December 27, 2023. It has been alleged that the Noticee has violated the provisions of Clauses A(1) and A(2) of the Code of Conduct in Schedule II of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 with respect to the following observations.
    11.1. Declaration forms received prior to date of submission of the forms.
    11.2. Discrepancy in declaration of family member on the Common Mobile / Email ID Declaration forms.

<u>Declaration forms received prior to date of submission of the forms</u>

12. It was observed that in four instances (client code: 1653, 233, 6061 and 6094), the stamps of receipt of declaration forms by the Noticee (stock broker) were of dates prior to the dates of submission mentioned by the clients on the declaration forms. Their details are provided in the table below.

Sr. No.	Client Code	Date mentioned by the client on the declaration form	Date mentioned by the Noticee on the declaration form
1	1653	12/02/2023	10/02/2023
2	233	23/05/2021	22/05/2021
3	6061	23/05/2021	22/05/2021
4	6094	18/02/2022	16/02/2023

13. In this regard, the Noticee submitted that these clients had submitted the declaration forms in advance and had instructed the Noticee to process the forms

at a subsequent date. Noticee submitted that the advance collection of the declaration was solely for client's convenience so that they were not bothered to revisit Noticee's office on the respective date on which they were willing to process the declaration. Further, the observed instances were very limited in numbers as the inspecting officials had verified more than 100 KYC forms and this shows that the Noticee was not following the practice of obtaining post-dated declarations from its clients.

14. I note that out of a sample of 56 UCCs selected, declaration forms for the aforementioned four UCCs were found to have date of receipt stamp of the Noticee prior to the submission date mentioned by the clients. I note that the difference between the date of submission of forms and date of receipt is one to two days. I also note that three out of these four UCCs, i.e. 233, 6061 and 6094 have same email IDs and mobile number, which implies that the accounts pertain to members of the same family.

15. While it can be argued the instances are less, however the practice of having a pre-stamped declaration form defeats the very purpose of stamping it as a sign of acceptance. This does not meet with the regulatory intent and the excuse given by the Noticee does not justify his act. Therefore, Noticee's submission is not acceptable.

16. In view of the above, the allegation that the Noticee has violated provisions of Clauses A(1) and A(2) of the Code of Conduct in Schedule II read with Regulation 9(f) of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 is established.

Discrepancy in declaration of family member on the Common Mobile / Email ID Declaration forms

17. With regard to UCCs 6094 and 256, it was observed that incorrect detail was provided in the common mobile / email ID declaration forms with respect to the field 'the common mobile number / email ID pertains to'. The following table provides the details which were provided and the actual relation with respect to the client.

Client Code	Client Name	Relation with the client of the person to whom the mobile number / email ID belongs	Relation mentioned by the client in the declaration form
6094	Ayush Jain	Father (both mobile no. and email ID)	Children
256	Gunmala Devi Saraogi	Child (Mobile No.)	Dependent Parents

18. With respect to client Ayush Jain, Noticee submitted that he interpreted the fact that the relationship in the declaration form was being submitted from his perspective and not from his parent's perspective. Similarly, with respect to Client Code 2156, the client Ms. Gunmala Devi Saraogi filled the declaration form with an understanding that she along with her son was using the same contact details. Noticee further submitted that the clients had filled these forms and as the mistakes were not significant, it did not take efforts to collect rectified forms / declaration from the clients. However as per the advice of SEBI Noticee has updated the respective format in its KYC. I note that Noticee has taken corrective actions in the matter.

19. It has been also alleged that Noticee has violated SEBI Circular No. CIR/MIRSD/15/2011 dated August 02, 2011, provisions of Clauses A(1) and A(2) of the Code of Conduct in Schedule II read with Regulation 9(f) of Securities and

Exchange Board of India (Stock Brokers) Regulations, 1992 with respect to the following observations:

19.1. Collection of blank declaration forms with signature of the clients.

19.2. Common Mobile Numbers / email IDs in case of non-individual clients.

<u>Collection of blank declaration forms with signature of the clients</u>

20. It was observed that there were 4 instances, pertaining to UCCs 6861, 6862, 6863 and 6864, in which the declaration forms in the records of the Noticee were blank and signed by the clients. Upon enquiring, Noticee submitted that these were corporate clients, and thus, were not required to submit family declaration forms for common mobile number / email IDs. The submission made by the Noticee is accepted.

21. It was further observed that the blank declaration forms were subsequently filled by the Noticee while submitting the copies of those forms to the inspecting officials. Noticee in its reply admitted to the filling of the form subsequently. I note that subsequent filling of the form details by the Noticee, being the stock broker, cannot be accepted, as the forms are the declarations which are supposed to be received by the stock brokers from their clients. This practise is highly deplorable and hence the submission of the Noticee is not tenable.

22. Thus, the allegation of violation of provisions of Clauses A(1) and A(2) of the Code of Conduct in Schedule II read with Regulation 9(f) of Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 by the Noticee stands established.

Common Mobile Numbers / email IDs in case of non-individual clients

23. It was observed that in 6 instances, pertaining to UCCs 1653, BJ827, 4427, 6969, 6061 and 5955, email ID/ mobile numbers of common directors / Karta of the HUF were declared in the declaration forms. In this regard, the Noticee submitted that the email IDs / mobile numbers were common due to the same person being director / Karta in multiple companies / HUFs, which are the clients of the Noticee.

24. While it is understood that if the same person is executing the transactions in his individual capacity as well as on behalf of a Company and / or in the capacity of Karta of the HUF, then the mobile number and email ID will obviously remain the same. It is not the scheme of the circular that for the individual's role as director, he should have one set of phone number and email id, and for his status as Karta and individual, he should have separate sets. If this was intended, then the same has not been articulated in the circular. Given the above, the stand of the Noticee is accepted.

25. To summarise, Noticee has been found to have violated the provisions of Clauses A(1) and A(2) of the Code of Conduct in Schedule II read with Regulation 9(f) of Securities and Exchange Board of India (Stock Brokers) Regulations, with respect to declaration forms received prior to date of submission of the forms and subsequent filling up the blank declaration forms with signature of the clients.

ISSUE II - Do the violations, if any, attract penalty under Section 15HB of the SEBI Act, 1992?

26. I note that the above violations make the Noticee liable for monetary penalty under Section 15HB of the SEBI Act, 1992, the text of which is reproduced hereunder:

SEBI Act, 1992

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

27. In context of the above, I refer to the observations of Hon'ble Supreme Court in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein the Hon'ble Court had observed: "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant A breach ofcivil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.''*

ISSUE III - If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act, 1992?

28. While determining the quantum of penalty under Section 15HB of the SEBI Act, 1992, it is important to consider the factors stipulated in Section 15J of the SEBI Act, 1992 respectively, which read as under:

SEBI Act, 1992

15J While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely

(a)the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.

29. In the present matter, it is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of the defaults by Noticee. Further, from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors /clients on account of default by Noticee. Further, as per the available records, it is observed that Noticee has been penalised earlier under section 15HB of SEBI Act, 1992 and section 23D of SC(R) Act, 1956. However, I cannot ignore the fact that as a SEBI registered intermediary, Noticee was under statutory obligation to abide by the provisions of SEBI Act, 1992 which it failed to do, and thus, calls for an appropriate penalty.

ORDER

30. Accordingly, taking into account the aforesaid observations and in exercise of power conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, 1995, I hereby impose following penalty upon Noticee.

Sr. No.	**Name of Noticee**	**Violation provisions**	**Penal Provisions**	**Penalty**
1	SHREE BAHUBALI STOCK BROKING LIMITED	Clauses A(1) and A(2) of the Code of Conduct in Schedule II read with Regulation 9(f) of Stock Brokers Regulations, 1992	Section 15HB of SEBI Act, 1992	₹ 1,00,000/- (Rupees One Lakh Only)

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

32. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under Section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

33. In terms of Rule 6 of the SEBI Adjudication Rules, 1995 and Rule 6 of SCRA Adjudication Rules, 2005, copy of this order is sent to the Noticee and also to the Securities and Exchange Board of India.

DATE: JANUARY 31, 2024	**BARNALI MUKHERJEE**
PLACE: MUMBAI	**ADJUDICATING OFFICER**