BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/JS/N./2022-23/18084]

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

In respect of
Niche Technologies Pvt. Ltd.
PAN: AAACO2823L
(SEBI Registration No. INR000003290)
In the matter of Niche Technologies Pvt. Ltd.

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted inspection of books of accounts, documents and other records maintained by Niche Technologies Pvt. Ltd. (hereinafter referred to as "Noticee"), a Registrar to an Issue and Share Transfer Agent (hereinafter referred to as "STA") registered with SEBI bearing Registration No. INR000003290 in respect of activities carried out by the Noticee for the period April 01, 2018 to December 6, 2019.

2. The findings of the inspection were communicated to the Noticee vide letter dated July 4, 2019 enclosing a copy of the Inspection Report (hereinafter referred to as "IR"). The Noticee was, *inter alia*, alleged to have failed to comply with common agency requirements and it did not exercise due skill, care, diligence and professionalism in carrying out day-to-day business as a SEBI registered intermediary with respect to the transfer of STA activities from other STAs.

3. As on date of inspection, Noticee had 234 client companies as under:

Stock Exchange	No. of Companies
BSE & NSE	14
BSE	80
NSE	1
MSEI	13
CSE	126
Total Listed Companies	**234**

4. There were 31 companies for which signature index, i.e. specimen signature of at least a single shareholder, was not available with Noticee. Further, there were 60 companies where signatures were incomplete. Noticee did not maintain 100% signatures with respect to these 60 client companies as under:

Particulars	**No of client companies**
Signatures available for more than 50%<100% of the physical folios	2
Signatures available for more than 30%<50% of the folios	4
Signatures available for more than 10%<30% of the folios	12
Signatures available for less than 10% of the physical folios	42

5. Further, during the period covered under inspection, Noticee received three STA related activities from other STAs. The details are as under:

Sr. No	**Name of the issuer/company**	**Name of the earlier STA**	**Date of transfer/new agreement between issuer company, Old STA and New STA**	**Number of Securities in Physical form**
1	JDS Finance Company Ltd.	RCMC Share Registry Pvt. Ltd.	25/01/2019	6,27,650
2	Progressive Finlease Ltd.	RCMC Share Registry Pvt. Ltd.	02/02/2019	15,24,100
3	RDB Rasayans Ltd.	Link Intime India Pvt. Ltd.	08/03/2019	16,40,160

6. It was also observed that in case of Progressive Finlease Ltd, RCMC Share Registry Pvt. Ltd. (then STA) vide its letter dated February 26, 2019 had handed over data and other related documents to the Noticee. As per the said letter, list of shareholders and signature card of shareholders were also transferred to Noticee. Though, there were 1524100 securities in the physical form, only signature index of the issuer company was handed over and there were no physical signature card available with Noticee. Most of the signatures available in the signature index appeared to be similar and the signature index

was not in original rather it was a photocopy. Further, there was no physical signature card available with respect to JDS Finance Company Ltd.

7. After examining the reply dated July 30, 2019 submitted by the Noticee to the aforesaid IR, it was *prima facie* found that the Noticee had contravened certain provisions of SEBI (Depositories and Participants) Regulations, 1996, SEBI (Depositories and Participants) Regulations, 2018, SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 and circular(s) issued thereunder.

APPOINTMENT OF ADJUDICATING OFFICER

8. SEBI initiated adjudication proceedings against the Noticee in terms of section 15HB of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act, 1992") for the alleged violations of regulation 71 of SEBI (Depositories and Participants) Regulations, 2018, clause 2(vii) of the RRTI Circular No. 1 (94-95) dated October 11, 1994 and clauses 1, 2 and 3 of the Code of Conduct as specified under regulation 13 of SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993. The undersigned was appointed as the Adjudicating Officer in this matter vide communique dated August 26, 2021 to enquire into and adjudge the alleged violations as per rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as 'Rules') and section 15-I of SEBI Act, 1992.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

9. A show cause notice No. RRD/AO-JS/AY-N/30710/2021 dated October 29, 2021 (hereinafter referred to as '**SCN**'), was issued to the Noticee under rule 4(1) of the Rules to show-cause as to why an inquiry should not be initiated against it and why penalty should not be imposed under section 15HB of the SEBI Act, 1992 for the alleged violations. In the said SCN, it was alleged that:

(i) by failing to comply with common agency requirements, the Noticee violated provisions of single point registry including manner of handling share registry work as mentioned in regulation 53A of SEBI (Depositories and Participants) Regulations, 1996 read with regulation 71 of SEBI (Depositories and Participants) Regulations, 2018 and clause 2(vii) with respect to the records and documents to be maintained by STA mandated under RRTI Circular No. 1 (94-95) dated October 11, 1994;

(ii) with respect to the transfer of STA activities from other STAs to Noticee, it did not exercise due skill, care, diligence and professionalism in carrying out day to day business as a SEBI registered market intermediary. Therefore, Noticee was alleged to have failed to comply with clause 2(vii) under RRTI Circular No.1 (94-95) dated October 11, 1994 with respect to the records and documents to be maintained by STA and clauses 1, 2 and 3 of the Code of Conduct as specified under regulation 13 of SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993.

10. The Noticee filed its reply to the SCN vide letter dated November 25, 2021, *inter alia*, submitting as follows:

(a) Noticee has suitable policies and it made several efforts to capture missing specimen signature of the shareholders wherever the concerned client Companies had failed to provide complete specimen signature records of their shareholders;

(b) Updated status of list of 91 companies mentioned in the SCN with remarks as to:

(i) companies that lodged police complaint for loss/misplacement of shareholders signature index;

(ii) companies where the shareholders signature index was retrieved later and provided to Noticee.

(c) Noticee has always complied and exercised due care and diligence while verifying the genuineness of transfer requests and share related activities with those initial shareholders whose specimen signature are not available. Specimen signatures in the custody of concerned company are in a dilapidated manner and they are unable to part with it. The company is also unable to recognize the specimen signature. Noticee was able to prevent fraudulent transfers by adopting the procedure of sending objection memo to the transferee informing the non-availability of the specimen signature of the transferors and advising them to approach the transferors for registering their Bank attested signature and also by intimating the registered shareholders in respect of receipt of transfer request;

(d) Noticee has taken the following steps to restore the missing specimen signature of the shareholders of concerned client companies:

(i) Noticee was capturing the attested signature of the shareholders (by bank manager) and the shareholders were requested to update their specimen signature;

(ii) Although the client company shall provide the complete specimen signature record of their shareholders to STA, Noticee took up the matter with concerned companies from time to time for procuring specimen signatures through company's AGM notices;

(e) In the matter of Progressive Finlease Limited (transfer of STA), the specimen signature index of shareholders were provided to the SEBI Inspection team for their perusal. The existence of similarity of the signature pattern for certain shareholders in the register was brought to the notice of the company. The company clarified that the similarity of the certain initial shareholders specimen signature may have occurred for those public shareholders where their addresses, as registered with the company, appears to be similar;

(f) The complete specimen signature records of the shareholders of Progressive Finlease Limited and JDS Finance Company Limited were retrieved from the respective client company;

(g) The complete specimen signature records of the shareholders are retrieved from some of the client companies namely, Jardine Henderson Ltd. Rydak Syndicate Ltd., Dhelakhat Tea Company Ltd, Shradha Projects Ltd, Armchair Investments Ltd. Kinetic Investments Ltd. Kamakhya (india) Ltd., Sulabh Vanijya Ltd;

(h) Noticee in essence abided and complied with common agency requirements of single point registry including manner of handling share registry work as mentioned in Regulation 53A of SEBI (Depositories and Participants) Regulations, 1996 read with Regulation 71 of SEBI (Depositories and Participants) Regulations 2018 and clause 2(vii) with respect to the records and documents to be maintained by STA mentioned under RRTI Circular No. 1 (94-95) dated October 11, 1994 and it never voluntarily or deliberately failed to follow the Rules and Regulations;

(i) However the deviation as observed by the inspection team was due to non-receipts of the complete specimen signature records of the shareholders from the concerned companies. Noticee regularly reminded the concerned companies to obtain the missing specimen signatures of their shareholders by way of sending them request for registering their bank attested signature. However, it could not insist for procurement of missing specimen signatures when the concerned company was not willing to take action on regular basis due to their internal policy of cost control with regard to dispatch of such notices intermittently to shareholders apart from sending AGM notice;

(j) In respect of transfer of STA activities from other STAs to the Noticee, the concerned companies namely Progressive Finlease

Limited, JDS Finance Company Limited and RDB Rasayans Limited provided the complete specimen signature;

(k) By adopting the procedure of sending objection memo to the transferee in respect of share transfer request received and also by intimating the receipt of such transfer request to the registered shareholder whose specimen signature is unavailable in the records, Noticee was able to protect the shareholders interest. There are no investor complaints or any grievances raised by any investor or any litigation pending for share related activities in this regard.

11. An opportunity of hearing was granted to the Noticee on June 2, 2022 through Webex. On behalf of the noticee, its Sr. Manager – Systems & Compliance Officer, Mr. S. Abbas appeared for the said hearing and reiterated the submissions made by it vide letter dated November 25, 2021.

CONSIDERATION OF ISSUES AND FINDINGS

12. I have perused the allegations levelled against the Noticee, its reply and the material available on record. The issues that arise for consideration in this regard are as follows:

(a) *Issue No. I Whether the Noticee has violated the provisions of following Regulations and circulars:*

   i. *On common agency requirements - regulation 53A of SEBI (Depositories and Participants) Regulations, 1996 read with regulation 71 of SEBI (Depositories and Participants) Regulations, 2018 and clause 2(vii) of the RRTI Circular No. 1 (94-95) dated October 11, 1994;*

   ii. *On transfer of STA activities - clause 2(vii) of RRTI Circular No.1 (94-95) dated October 11, 1994 and clauses 1, 2 and 3 of the Code of Conduct as specified under regulation 13 of SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993.*

(b) *Issue No. II: Does the violation, if any, attract monetary penalty under section 15HB of the SEBI Act, 1992?*

(c) *Issue No. III: If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?*

13. In this regard, the relevant statutory provisions alleged to have been violated by the Noticee read as under:

(a) Regulation 53A of SEBI (Depositories and Participants) Regulations, 1996:

"Manner of handling share registry work.

53A. All matters relating to transfer of securities, maintenance of records of holders of securities, handling of physical securities and establishing connectivity with the depositories shall be handled and maintained at a single point i.e. either in-house by the issuer or by a Share Transfer Agent registered with the Board."

(b) Regulation 71 of SEBI (Depositories and Participants) Regulations, 2018:

"Manner of handling share registry work
71*. All matters relating to transfer of securities, maintenance of records of holders of securities, handling of physical securities and establishing connectivity with the depositories shall be handled and maintained at a single point i.e. either in-house by the issuer or by a Share Transfer Agent registered with the Board."*

(c) Clause 2 (vii) with respect to the records and documents to be maintained by STA prescribed under RRTI Circular No.1 (94-95) dated October 11, 1994.

"Records to be maintained by registrar to an issue / share transfer agent.
In pursuance of the powers conferred upon SEBI by regulation 14(2)(h) and regulation 14(3)(C) of the Regulations, it is hereby stipulated that in addition to the books, records and documents stipulated in regulation 14(1), 14(2) and 14(3) the following records and documents shall also be maintained by the RTI/STA in hard copy / magnetic media.
……………….
……………….
Records and Documents to be maintained by STA
……………….
……………….

(vii) Specimen signature cards and transfer deeds."

(d) Clauses 1, 2 and 3 of the code of conduct prescribed under Regulation 13 of SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993

"1. A Registrar to an Issue and Share Transfer Agent shall maintain high standards of integrity in the conduct of its business.

2. A Registrar to an Issue and Share Transfer Agent shall fulfill its obligations in a prompt, ethical and professional manner.

3. A Registrar to an Issue and Share Transfer Agent shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment."

14. With respect to the issue of violation of the provisions of Regulations and circulars as mentioned above on common agency requirements, it was alleged that the Noticee was not in possession of specimen signatures of the shareholders with respect to 91 companies. In 30 client companies out of the said 91 companies, the Noticee had no specimen signature. In the remaining 60 companies, specimen signatures of all investors were not available as mentioned in the Table at para 3 above wherein, *inter alia*, signatures were available for less than 10 per cent of the physical folios with respect to 42 companies. Thus, it is apparent that the Noticee was processing shareholder requests with respect to transfer, demat, remat, duplicate shares, etc. all these years without signature cards.

15. In this regard, Noticee submitted the list of companies along with the action taken to address the aforesaid deficiencies. Out of the said 91 companies in the said list, full signature index/card is available in 8 companies and in 3 companies, all the shares are dematerialized. In the remaining 80 companies, signatures are not available in 23 companies. Partial signatures/card is available in the remaining 57 companies. Further, as per the list of such companies given by the Noticee, it is noted that signatures are available in minuscule number of folios in majority of such companies. For example, some companies listed in BSE are referred below to show the number of folios where signatures are available:

Sr. No.	Sr. No. as per Noticee's List	Company Name	Folio Numbers where Signature Index is available	Total Number of Physical Folios	% of Folio Numbers where Signature Index is available
1	6	Associated Ceramics Ltd.	52	567	9.17
2	20	Easun Capital Markets Ltd.	87	188	46.28
3	31	J. J. Finance Corporation Ltd.	84	1575	5.33
4	32	J.Taparia Projects Ltd.	3	155	1.94
5	47	Lyons Corpor`ate Market Ltd.	4	1679	0.24
6	56	Minolta Finance Ltd.	1	35	2.86
7	57	Nirman Cements Ltd.	18	557	3.23
8	64	Quest Financial Services Ltd.	33	760	4.34

9	66	Rajasthan Gases Limited	776	4875	15.92
10	67	RNB Industries Limited	6	1119	0.54
11	75	Shyama Infosys Ltd.	5	992	0.50
12	76	Sinclairs Hotels Ltd.	120	805	14.91
13	78	Suchitra Finance & Trading Co. Ltd.	1	328	0.30
14	86	TTI Enterprise Ltd.	9	68	13.24

16. Further, in 52 companies, the Noticee submitted scanned copies of the police complaints made by the concerned companies wherein the companies have claimed to have lost the signature cards/index during transit, during office shifting, misplaced, misplaced during renovation, failed to locate the register, slipped out of bag during transportation, etc. While due regard is given to the Noticee's submission with respect to its process of sending a letter to the shareholder upon receipt of a transfer request for objections in matters where the signature index is not available to prevent fraudulent transfers and its efforts to obtain the signatures with the help of the client companies, the fact remains that the Noticee is still not in compliance with the mandate of clause 2 (vii) of RRTI Circular No.1 (94-95) dated October 11, 1994 which states that Specimen signature cards shall also be maintained by the RTI/STA in hard copy / magnetic media. Noticee has admitted that it is not in possession of the specimen signature in case of all client companies as explained in the aforesaid paragraphs.

17. It is further noted that signature index is not available for 23 companies and the Noticee has submitted that signature cards are available with issuer companies and they are unable to part with it. As per regulation 71 of SEBI (Depositories and Participants) Regulations, 2018, matters relating to transfer of securities, maintenance of records of holders of securities, handling of physical securities and establishing connectivity with the depositories shall be handled and maintained at a single point. However, it is noted that the signature cards were not being maintained by the Noticee at a single point.

18. In light of the aforesaid, I am of the view that the Noticee is in violation of regulation 71 of SEBI (Depositories and Participants) Regulations, 2018 read with clause 2 (vii) of RRTI Circular No.1 (94-95) dated October 11, 1994.

19. Further, with respect to transfer of STA activities from other STA, it was alleged that only signature index of the issuer company was handed over and there were no physical signature card available with Noticee, that most of the signatures available in the signature index appeared to be similar and the

signature index was not original rather it was a photocopy. In response to this allegation, the Noticee submitted that the concerned companies namely Progressive Finlease Limited, JDS Finance Company Limited and RDB Rasayans Limited had provided the complete specimen signature records of their shareholders. However, the Noticee has failed to substantiate this argument as it has not provided any evidence in this regard other than bare statement of receipt of the signature cards whereas in case of other allegations, Noticee has enclosed specific Annexures to prove its claim. Therefore, the Noticee has failed to comply with the mandate of clause 2 (vii) of RRTI Circular No.1 (94-95) dated October 11, 1994 which states that specimen signature cards shall also be maintained by the RTI/STA in hard copy/magnetic media. It has also failed to maintain high standards of integrity in the conduct of its business, fulfill its obligations in a prompt, ethical and professional manner, exercise due diligence, ensure proper care and exercise independent professional judgment, in violation of clauses 1, 2 and 3 of the Code of Conduct as specified under regulation 13 of SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993.

20. With respect to the issue whether the violations as above attract monetary penalty under section 15HB of the SEBI Act, 1992, it is found that in view of the facts and circumstances of the case, the material available on record and the submissions made by the Noticee, the Noticee has violated:

(a) regulation 71 of SEBI (Depositories and Participants) Regulations, 2018 and clause 2(vii) of the RRTI Circular No. 1 (94-95) dated October 11, 1994;

(b) clause 2(vii) of RRTI Circular No.1 (94-95) dated October 11, 1994 and clauses 1, 2 and 3 of the Code of Conduct as specified under regulation 13 of SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993.

21. In view of the aforesaid, it is a fit case for imposition of monetary penalty on the Noticee under the provisions of section 15HB of the SEBI Act, 1992 and in terms of the judgment of Hon'ble Supreme Court in the matter of Chairman, SEBI vs. Shriram Mutual Fund & Anr. reported in (2006) 5 SCC 361 holding as follows:

"*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...*"

22. The violations of the aforesaid provisions attract penalty as per section 15HB of the SEBI Act, 1992 which reads as under:

"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."

23. Further, with respect to the quantum of monetary penalty that can be imposed on the Noticee, it is important to consider the factors as stipulated in section 15J of the SEBI Act, 1992 which reads as under:

"Factors to be taken into account by the adjudicating officer.

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

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

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

(c) the repetitive nature of the default.

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

24. In the instant case, it is difficult to quantify any disproportionate gain or unfair advantage which accrued to the Noticee as a result of the above violations or the extent of loss suffered by the investors. However, the fact remains that the Noticee has violated the aforesaid circular and Regulations and such non-compliance deserves and attracts penalty and the minimum penalty provided for such violation is Rupees one lakh.

ORDER

25. In exercise of the powers conferred upon me under section 15-I of the SEBI Act, 1992, and rule 5 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, I impose a penalty of Rs. 1,00,000/- (Rupees One Lakh Only) on the Noticee in terms of the provisions of section 15HB of SEBI Act, 1992. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the violations committed by Noticee.

26. The Noticee shall remit/pay the said amount of penalty within 45 days of receipt of this order either by way of demand draft in favour of 'SEBI - Penalties Remittable to Government of India', payable at Mumbai, OR through

online payment facility available on the 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

27. The Noticee shall forward the said demand draft or the details/confirmation of penalty so paid to 'The Division Chief (Enforcement Department 1, DRA-3), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C–4 A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai–400051'. The Noticee shall also provide the following details while forwarding the demand draft/payment information:

- Name and PAN of the Noticee;
- Name of the case/matter;
- Purpose of Payment – Payment of penalty under AO proceedings;
- Bank Name and Account Number;
- Transaction Number.

28. 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.

29. In terms of rule 6 of the Rules, a copy of this order is being sent to the Noticee viz. Niche Technologies Pvt. Ltd. and also to the Securities and Exchange Board of India.

Date: July 28, 2022
Place: Mumbai

JAI SEBASTIAN
ADJUDICATING OFFICER