BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/GG/VP-AS/2021-22/15774

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

In respect of:

Housing Development & Finance
Corporation Limited (In-House RTA)
Registrar to an Issue and Share Transfer Agent

SEBI Registration No-INR000003159

In the matter of HDFC Limited (In-house RTA)

A. BACKGROUND OF THE CASE

1. Housing Development & Finance Corporation Limited (hereinafter referred to as **"Noticee"**) is registered with Securities and Exchange Board of India as Category II Registrar to an Issue and Share Transfer Agent (hereinafter referred to as **"RTA"**) having SEBI registration number INR000003159. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") carried out an inspection of the Noticee at its office at Churchgate, Mumbai on September 30 to October 09, 2019 for the period April 01, 2018 to July 30, 2019 (hereinafter referred to as the "**Inspection period**").

2. The physical transfer requests of Noticee was examined in two parts:
   (i) 8 share transfer requests resulting into transfer of 12,000 shares to Kumarpal Keshavlal Shah HUF, (Part I) and
   (ii) all physical transfer cases handled by HDFC during the period of November 01, 2018 till January 29, 2019 (Part II).

Based on the observations made by the Inspection Team (hereinafter referred to as **"Inspection"**), it was alleged that Noticee violated certain provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as "**LODR Regulations**") and/or certain provisions of SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 (hereinafter referred to as "**RTI/STA Regulations**") and certain related circulars made thereunder.

B. APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned, as the Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the "**SEBI Act**") read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**SEBI Adjudication Rules**"), conveyed vide communication dated December 01, 2021 to inquire into and adjudge under section 15HB of the SEBI Act, with respect to the allegations against the Noticee.

C. SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A Show Cause Notice dated December 29, 2021 (hereinafter referred to as "**SCN**") was served on the Noticee vide SPAD on January 03, 2022. The SCN was issued under Rule 4(1) of the SEBI Adjudication Rules to show cause as to why an inquiry should not be initiated against the Noticee and penalty should not be imposed under Section 15HB of the SEBI Act for the discrepancies/ breaches committed while functioning as a RTA/ STA. The primary allegations in the SCN were that the Noticee failed to take note of certain discrepancies while processing share transfer requests, such as - not following the procedures stipulated for issue of Objection Memos (hereinafter referred to as **"OM"**); discrepancy in validating PAN details; not following procedures in case of signature mismatches; effecting transfers without insisting on all documents; not obtaining adequate proof in case of transmission of shares; irregularities in issue of Duplicate share certificates; and not adopting the procedure prescribed for electronic transfer of dividends. The allegations have been elaborated in seriatim

and considered along with the reply of the Noticee, in the latter part of this order; after narration of the preliminary dates and events.

5. Vide email dated January 12, 2022, the Noticee *interalia* sought additional time of 8 weeks for submitting reply to the SCN, and further, conveyed its interest to pursue settlement under SEBI (Settlement Proceedings) Regulations, 2018. Vide Hearing Notice dated January 24, 2022, the Noticee was informed that in terms of Regulation 8 of the SEBI (Settlement Proceedings) Regulations, 2018, the filing of an application for settlement shall not affect the continuance of instant proceedings except the passing of final order, and further, was granted an opportunity of personal hearing on February 22, 2022. The Noticee was also advised to consider sending a reply on merits to the SCN.

6. Vide email and letter dated February 17, 2022, the Noticee submitted reply to the SCN along with vakalatnama, Compilation of Documents and Compilation of Case Laws. Vide email dated February 21, 2022, the Noticee confirmed attendance for the hearing as scheduled. Personal Hearing in the matter was conducted on February 22, 2022. During the hearing, the submissions on behalf of the Noticee were made by Shri Fredun Devitre, Senior Counsel, who was present along with Shri Shahezad Kazi, Advocate and Shri Gladwin Isaac, Advocate of S&R Associates. Further, Shri Ajay Agarwal, Compliance Officer of the Noticee was also present along with officials Ms Latha Nayak and Ms Vaishali Vyas. It was submitted that the alleged violations were mostly made without any basis despite substantial compliance and were procedural, venial and technical, and do not warrant any monetary penalty. The Noticee was granted time till March 04, 2022 to make post hearing submissions, if any. Vide letter dated March 03, 2022, post hearing submissions were made.

7. In replies dated February 17, 2022 and March 03, 2022, the Noticee *interalia* relied on judgement of the Hon'ble Supreme Court in the matter of Hindustan Steel Limited vs State of Orissa, AIR 1970 SC 253, judgement of the Hon'ble Bombay High Court in the matter of Cabot International Cooperation vs SEBI,

(2004) 51 SCL 307 (Bom), Order of the Whole Time Member of SEBI in the matter of Link Intime India Pvt Ltd and Adjudication Order of SEBI in the matter of American Century Investments, and contended that since the Noticee is in substantial compliance with the relevant provisions, the violations, if any, are procedural, venial, technical and not deliberate, so that they do not warrant imposition of monetary penalty. Further, the Noticee has made further contentions on merits with respect to each of the allegations levelled in the SCN.

D. CONSIDERATION OF ISSUES

8. The allegations against the Noticee following the inspection have been discussed in the SCN in two parts viz. firstly, 8 share transfer requests resulting into transfer of 12,000 shares to Kumarpal Keshavlal Shah HUF (hereinafter referred to as **"Kumarpal"**) and secondly, all physical transfer cases handled by the Noticee during the period of November 01, 2018 till January 29, 2019. I now proceed to consider the issues on merit. The consideration of Issues 1 to 4 below pertain to the first part comprising of the transfer of shares to Kumarpal as mentioned above.

Part-I (Allegation numbers 1 to 4)

Allegation no: 1- Discrepancy in updating names

9. I note that in November 2018, the Noticee received 8 transfer requests for transfer of shares to Kumarpal as per the details given below:

Table no: 1

S. No.	Name of the Transferor as per Transfer Deed	No. of HDFC Limited's shares transferred	Name of Transferee as per Transfer Deed
1	Stella R Shah	1000	Kumarpal Keshavlal Shah (HUF)
2	Khanbhai N Shah	1000	
3	Babu R Shah	1000	
4	Munni R Shah	1000	
5	Nimisha V Shah	2000	
6	Susil B Shah	2000	
7	Kamal M Shah	2000	
8	Vinod M Shah	2000	
	Total	**12000**	

The above transfer deeds (TDs) were processed by the Noticee on December 01, 2018. Further, out of the above 8 TDs, 2 TDs pertaining to Susil B Shah and Nimisha V Shah were lodged earlier in August 2017, and had been rejected by the Noticee with OMs dated August 22, 2017 wherein discrepancy in signature and in father's name between the Noticee's records and in copy of PAN card was intimated to transferors and transferee.

10. It was alleged that there was a major difference in Father's name of the transferors in 8 cases of transfer of shares to Kumarpal, processed by the Noticee on December 01, 2018, which is detailed as under**:**

Table no: 2

Sr. No.	**Name of transferor**	**Father's name**		
		As registered with HDFC	**As per PAN card of transferor**	**As per Voter's Card of transferor**
	1	**2**	**3**	**4**
1	Susil B Shah	Mr. Babulal	Babubhai Shah	Shah Babubhai
2	Nimisha V Shah	Mr. Vasudev	Vinodbhai Shah	Shah Vinodbhai
3	Babu R Shah	Mr. Ramsing	Ramnikbhai Shah	Shah Ramnikbhai
4	Kamal M Shah	Mr. Mohanlal	Mulchand Shah	Shah Mulchand
5	Munni R Shah	Mr. Ramsing	Rameshbhai Shah	Shah Rameshbhai
6	Stella R Shah	Mr. Rajubhai	Rameshbhai Shah	Shah Rameshbhai
7	Vinod M Shah	Mr. Mafatalal	Mansukhbhai Shah	Shah Mansukhbhai
8	Khanbhai N Shah	Mr. Nathabhai	Nanjibhai Shah	Shah Nanjibhai

The above 8 cases were lodged to the Noticee for transfer in November 2018, and were successfully processed by the Noticee, with the confirmation letter being issued on December 01, 2018. The allegation against the Noticee is that in terms of Regulation 40 of LODR Regulations read with Clause A(4) of Schedule VII of LODR Regulations and Regulation 13 of RTI/STA Regulations read with Clause 3 and 16 of Schedule III of RTI/STA Regulations, the Noticee was required to collect sufficient documentary evidences in support of the identity of the transferee or transferors for verifying the veracity of the claim of such transferee or transferors in case of mismatch in PAN card details as well as difference in maiden name and current name or in case of married women, of the holders of securities. However, the Noticee is alleged to have processed all the aforesaid 8 cases without taking any supplementary documents for resolving this difference in father's name of transferors, resulting in violation of Clause A (4) of Schedule VII read with Regulation 40 of LODR Regulations and Clause 3 and 16 of Schedule III read with Regulation 13 of RTI/STA Regulations.

11. Regulation 40 of the LODR Regulations deals with the requirements to be complied with by the listed entity for effecting transfer of securities. Schedule VII elaborates the requirement of PAN, procedure to be followed in case of differences in signatures and additional documents required in case of transmission of securities. Clause A(4) of Schedule VII specifically provides that in case of mismatch in PAN card details, the listed entity may collect PAN card submitted by transferor or transferee, after verifying the veracity of such claim by collecting sufficient documentary evidence in support of their identity. Regulation 13 of the RTI/STA Regulations mandates that a RTA has to abide by the Code of Conduct as specified in Schedule III of RTI/ STA Regulations. Clause 3 of Schedule III of RTI/ STA Regulations provides that a RTA shall at all times exercise due diligence, ensure proper care and exercise independent professional judgement. The provisions of Clause 6 of Schedule III of RTI/ STA Regulations relevant to instant allegations provide that a RTA shall maintain the required level of knowledge and competency, and abide by the provisions of the Act, rules, regulations etc.

12. In this regard, the Noticee has contended that it had undertaken requisite due diligence to verify the identity of the transferors prior to executing the transfers viz. checking the PAN details on NSDL website, noting that all dividend warrants were encashed except for FY 2015-16 and that the annual reports or sub divided share certificates sent to the registered address of the transferors did not return undelivered. Further that, Clause A(4), Schedule VII of LODR Regulations mandates that in case of mismatch in PAN details, the Noticee can collect the PAN as long as it is able to verify the identity of transferor by "collecting sufficient documentary evidence", without exhaustively listing down the additional documents that need to be collected. The Noticee has contended that as it had undertaken due diligence as stated above, it was in compliance with the

provisions of law alleged to have been violated. The Noticee has also contended that a mismatch in Father's name of PAN holder does not amount to mismatch in PAN details of the shareholder, and that extant provisions do not require verification of Father's name of PAN holder with other documents.

13. The basic liability cast on the RTA in a case of mismatch in PAN card details is to obtain the PAN card from the transferor subject to verification of the identity of transferor, by collecting sufficient documentary evidence. Therefore, the question that arises in instant matter is whether the Noticee has verified the identity of transferors before effecting the transfers to transferees, since there are mismatches in PAN details as shown in Table no. 2 above. I also note that the applicable provisions mandate the listed entity/ RTA to undertake due diligence to verify identity of the transferor/ transferee, without specifying the additional documents to be verified in case of mismatch in PAN details, as contended by the Noticee.

14. I note that all the transferors were transferring to the same transferee viz. Kumarpal. It is also borne out of the records that the 8 transferors had common address. The very fact that in the case of two TDs, OMs were issued shows that adequate level of due-diligence was exercised by the Noticee. It is relevant to acknowledge that the Noticee had inferred that the address of 8 transferors is correct based on the fact that dividend warrant had been encashed except for FY 2015-16, and that neither annual reports nor sub divided share certificates had returned undelivered. I further note that the Noticee has submitted that he had verified the PAN details on NSDL website. Based on the above verification, the Noticee had processed all the 8 TDs. I find Noticee's conduct to be in substantial compliance with the extant provisions, and therefore, the instant allegations against the Noticee are not established.

Allegation no: 2- Procedural lapses in respect of Objection Memos

15. As mentioned above, the Noticee had rejected 2 TDs pertaining to Susil B Shah and Nimisha V Shah in August 2017, and sent OMs dated August 22, 2017, citing discrepancy in signature and in father's name between Noticee's records and in copies of PAN cards of the transferors. The details of the TDs along with the sequence of events are reproduced from the SCN below:

Table no: 3

Details of TD Number (Transferor Folio)	**Sequence of Events w.r.t OMs**
TD Number-TD7 (S0070652) Date of TD- August 16, 2017 Transferor Name- Susil B Shah	TD executed on Aug 16, 2017 was submitted along with self-attested copies of PAN of Transferor & Transferee. This was returned with OM (Dt Aug 22, 2017) because of mismatch in signature and father's name of the Transferor. Transferor and Transferee both were sent the same OMs. However, OM didn't include mention of mandatory documents required to be furnished for processing the request and proof of delivery of this OM was not kept (proof of dispatch was kept). Second TD executed on Nov 22, 2017 was submitted along with old TD, self-attested copy of Transferee and Transferor PAN, letter from HDFC dated Aug 23, 2010 (subject: sub-division of equity shares of nominal face value from Rs 10 to Rs 2 each), Bankers attestation for signature from Nutan Sahkari Bank, original cheque, Affidavit for signature change, electricity bill, telephone bill, election id card, which was also returned with OM (dt Nov 30, 2017) asking Transferor to visit Ahmedabad branch of HDFC limited (with all original documents whose photocopy submitted) for verification of identity etc.
TD Number- TD5 (N0049199) Date of TD- August 16, 2017 Name of Transferor- Nimisha V Shah	TD executed on Aug 16, 2017 was submitted along with self-attested copies of PAN of Transferor & Transferee and letter from HDFC dated Aug 23, 2010 (subject: sub-division of equity shares of nominal face value from Rs 10 to Rs 2 each). This was returned with OM (Dt Aug 22, 2017) because of mismatch in signature and father's name of the Transferor. Transferor and Transferee both were sent OMs. However, OM didn't include mention of mandatory documents required to be furnished for processing the request and proof of delivery of this OM was not kept (proof of dispatch was kept).

16. In terms of Regulation 40 of LODR Regulations read with Clause B(2) of Schedule VII of LODR Regulations, the Noticee was required to send an OM via Speed Post along with the documents in original marking the reason as "material signature difference/ non-availability of signature" and an advice to the transferee

(s) to ensure submission of requested documents of the transferor(s) and the Noticee was mandatorily required to maintain proof of delivery of the Objection Memos in their records. However, it was alleged that in respect of the OMs pertaining to the above 2 TDs, the Noticee did not maintain the proofs of delivery in their records in respect of both transferor and transferee, and did not mention the mandatory documents required to be furnished for processing the request, and further, did not use the phrase “material signature difference” on the face of OMs, resulting in violation of provisions of Clause B (2) of Schedule VII read with Regulation 40 of LODR Regulations and Clause 3 and 16 of Schedule III read with Regulation 13 of RTI/STA Regulations.

17. In this regard, the Noticee has contended that it had informed the transferors vide an earlier OM dated March 22, 2017 about material variations in signature when the transferors had approached the Noticee to claim its unclaimed dividend for the FY 2015-16, and further, the Noticee had also mentioned the documents which were required to be submitted to get the signature updated therein. The Noticee has further placed reliance on “Procedure to be followed by Cos/STAs under the General Norms for processing of documents” issued by SEBI pursuant to RTI Circular No 1 dated May 09, 2001, and contended that as additional objections could not be raised over a rectification already done by transferor/ transferee based on an objection, the OMs did not include list of additional documents needed to be submitted.

18. The Noticee has further contended that the transferors had visited Noticee’s Ahmedabad office after receiving the OM dated August 22, 2017 and had not raised any complaint. Further, after the TDs were processed, the Noticee had issued confirmation letter to transferors dated December 01, 2018, and the transferors/ transferee had not raised any objection/ complaint. The Noticee has also contended that even though OMs did not mention the phrase “material signature difference”, the contents clearly specified that signature of transferors did not match with specimen signature with the Noticee. Further that, maintenance of proofs of delivery was immaterial as the TDs were lodged on

August 22, 2017 which was beyond the scope of Inspection Period, covered in the instant SCN.

19. I note that as per provisions of Clause B(2) of Schedule VII of LODR Regulations, in case of major differences in signature, OM must be issued to the transferor and transferee mentioning the reason as “material signature difference/ non-availability of signature” and the said OM must also mention the additional documents needed to be submitted for effecting the transfer viz. an Affidavit to update transferor’s signature in its records, an original unsigned cancelled cheque and banker’s attestation of the transferor’s signature and address, and contact details of the transferor. I note that the Noticee had certainly issued OMs dated August 22, 2017 to transferors, wherein mismatch in signature was conveyed as the reason for rejecting the transfer request. In this regard, Clause B(2) of Schedule VII of LODR Regulations mandates that in OMs issued, “material signature difference”, must be mentioned as the reason in case of major differences in signature. In this regard, I note, for instance, the following from the OM dated August 22, 2017 issued to transferee viz. Kumarpal, marked as copy to Susil B Shah:

“Obj-Cd. & Reasons for Objection:

2 THE SIGNATURE(S) OF THE 1ST TRANSFEROR(S) ON THE SHARE TRANSFER FORM DOES/DO NOT MATCH WITH THE SPECIMEN SIGNATURE(S) REGISTERED WITH US.”

I note from the above that even though the exact phrase viz. “*material signature difference*” had not been used by the Noticee in the said OM, the OM conveyed explicitly, that the reason for rejection of TD was difference in signature. Therefore, I note that the Noticee cannot be held liable for alleged violation on this count, as there is substantial compliance.

20. I further note that the Noticee was mandated to maintain proof of delivery of the OMs sent to the transferor/ transferee. I note that the two transferors viz. Susil B

Shah and Nimisha V Shah were in regular correspondence with the Noticee, and had replied or appeared in office of the Noticee to rectify the issues raised in processing transfer deeds. I also note that the transfer deeds have been successfully processed, as conveyed vide letter dated December 01, 2018, against which no grievance has been raised. The Noticee has also contended that as the transfer deeds were lodged on August 22, 2017, they are beyond the scope of Inspection Period 1 covered in the SCN. The said contention that the requirement of proof of delivery of OMs falls outside the period of inspection seems acceptable.

21. Further, I note from the record that the Noticee's OM dated March 22, 2017, i.e. before the period of inspection, mentioned the documents needed to be provided for carrying out rectification pursuant to Clause B(2) of Schedule VII of LODR regulations. I note that the Noticee had also asked the transferor to visit its Ahmedabad Office for in person verification vide letter dated April 17, 2017. Further, the transferor viz. Susil B Shah had also visited the Noticee's Ahmedabad office on September 06, 2017 and made himself available for necessary verification. In light of above facts, I note that the Noticee cannot be faulted for failure to ensure mechanical adherence to extant provisions. I am convinced that the Noticee had ensured substantial compliance of the provisions, on an earlier occasion involving the same transferor.

22. Therefore, the violation of the provisions of Clause B (2) of Schedule VII read with Regulation 40 of LODR Regulations and Clause 3 and 16 of Schedule III read with Regulation 13 of RTI/STA Regulations does not stand established against the Noticee.

Allegation no: 3- Discrepancy in validating PAN details

23. The details of discrepancies with regard to validity of PAN of transferor in the above mentioned 8 cases, with transferee being Kumarpal have been summarized below:

Table no: 4

Sr. No.	Transferor name	Transferor PAN	Transferor's PAN status	Transferee Name	Transferee PAN	Transferee PAN status
1	Babu R Shah	HNEPS4434N	"PAN is active but details are not matching with PAN database"*	Kumarpal Keshavlal Shah (HUF)	AAHHK5035J	"PAN is active and details are matching with PAN database" *
2	Khanbhahi N Shah	HNEPS4478C	"PAN is active but details are not matching with PAN database"*			
3	Kamal M Shah	HNEPS4547G	"PAN is active but details are not matching with PAN database"*			
4	Munni R Shah	HNEPS4730M	"PAN is active but details are not matching with PAN database"*			
5	Nimisha V Shah	HNEPS4516P	"PAN is active but details are not matching with PAN database"*			
6	Stella R Shah	HNEPS4105L	"PAN is active but details are not matching with PAN database"*			
7	Susil B Shah	HNEPS4511L	"PAN is active but details are not matching with PAN database"*			
8	Vinod M Shah	HNEPS4527L	"PAN is active but details are not matching with PAN database"*			

24. In terms of Clause A(1) of Schedule VII of LODR Regulations read with Regulation 40 of LODR Regulations read with SEBI Circular Ref. No. MRD/DoP/Cir- 05/2007 dated April 27, 2007, the Noticee was required to collect copy of PAN cards issued to the existing as well as new clients by the Income Tax Department and cross-check the details collected from their clients with the details on the website of the Income Tax Department viz. http://incometaxindiaefiling.gov.in/ challan/enterpanforchallan.jsp. It was alleged in this regard that the Noticee processed the transfer requests despite the income

tax website showing the status of Transferor's PAN as "PAN is active but details are not matching with PAN database", and that the Noticee did not take any step to resolve the said discrepancies, resulting in alleged violation of Clause A (1) of Schedule VII of LODR Regulations read with Regulation 40 of LODR Regulations read with SEBI Circular Ref. No. MRD/DoP/Cir- 05/2007 dated April 27, 2007.

25. In this regard, the Noticee has contended that it checked the PAN details on NSDL e-gov website. Further that, the verification on website of Income Tax Department is not accessible to all, and that as per Clause A(4) of Schedule VII of LODR Regulations, collection of "sufficient documentary evidence" is mandated to verify the identity of the transferor.

26. Object of the said SEBI Circular dated April 27, 2007 was to mandate PAN to be the sole identification number for all participants in the securities market, pursuant to announcement in Budget 2007-08. Accordingly, for the purpose of linking individual databases of client and client transactions to PAN of the client, the intermediaries were advised to collect copies of PAN cards of existing and new clients issued by the Income Tax Department. It was further mandated that the PAN details collected from the clients may be cross checked with the details on the website of Income Tax Department.

27. The allegation made by Inspection is that the PAN details of 8 transferors were verified from the NSDL website instead of Income Tax Department's website. I note that the Noticee has consistently submitted that it had duly collected and checked the PAN details from NSDL e-gov website. I note from the website of NSDL e-Gov (now protean) viz. "*https://www.tin-nsdl.com/services/online-pan-verification/pan-verification-overview.html"* that Income Tax Department has authorized NSDL e-Gov to launch an online PAN verification service for verification of PANs by authorized entities, *interalia* including RTA agents approved by SEBI. I also note that the verification facility on website on Income Tax Department requires OTP verification on mobile number of the PAN holder. Moreover, in the case of the 8 transferors, the address and other identity related

verification was duly done by the Noticee, as observed at para no. 14 above. In such circumstances, I note that the deviation, if any, from the stipulated requirement in SEBI Circular date April 27, 2007, is too insignificant for any adverse finding against the Noticee. I do not find fault with the Noticee for cross verification from NSDL's website as in any case the PAN linkage requirement can be satisfied only by informing the depository too about the client's PAN.

Allegation no: 4- Discrepancy in signatures

28. With respect to the transfer of 12,000 shares to Kumarpal, it was observed that all the transferors' signatures were available with HDFC in its RTA Software Dolphin ISP 1.0, and that in case of all the transfer requests except in case of Khanbhai N Shah, there were changes in signatures vis-à-vis signatures available with HDFC. Therefore, there was major mismatch in signatures in 7 transfer requests. The details of said 7 transfers are given below:

Table no: 5

S. No.	Name of the Transferor as per Transfer Deed	No. of HDFC Limited's shares transferred	Name of Transferee as per Transfer Deed
1	Nimisha V Shah	2000	Kumarpal Keshavlal Shah (HUF)
2	Susil B Shah	2000	
3	Stella R Shah	1000	
4	Babu R Shah	1000	
5	Munni R Shah	1000	
6	Kamal M Shah	2000	
7	Vinod M Shah	2000	

29. As per Clause (B)(2) of Schedule VII of LODR Regulations, in case of non-availability/ major mismatch in transferor's signature, the RTA is mandated to promptly send to the transferee and the transferor, via Speed Post, an OM along with the documents in original marking the reason as "material signature difference/ non-availability of signature" and an advice to ensure submission of requested documents of the transferor. Further, said OM should also state the requirement of additional documents of transferor(s) as follows for effecting the transfer:

i. an Affidavit to update transferor(s) signature in its records;
ii. an original unsigned cancelled cheque and banker's attestation of the transferor(s) signature and address);
iii. contact details of the transferor.

Further, if the above procedure is followed, the transfer of securities is to be effected, and proof of delivery of OM is to be retained.

30. Further, in terms of Clause 2(c) of SEBI Circular Ref. No. SEBI/HO/MIRSD/DOS3/CIR/P/2018/139 dated November 6, 2018, the procedure to be followed for registration of transfer of securities in case of 'major signature mismatch / non-availability of signature', as laid down in Clause B(2) of Schedule VII of LODR Regulations was elaborated. Specifically, Clause 2(c)(ii) of the said Circular dated November 06, 2018 prescribed efforts to be made for contacting the transferor, and Clause 2(c)(iii) stated that the Noticee was required to carry out the following enhanced procedure in case of **non-delivery of OM**:
    i. Additional documents such as indemnity bond, undertaking from the transferee not to transfer/demat the physical shares until expiry of lock-in period were required to be collected from the transferee;
    ii. Publication of Advertisement in newspapers giving notice of the proposed transfer and seeking objection, if any, to the same within 30 days from the date of advertisement.
    iii. Names of the transferor, transferee and no. of securities transferred under this procedure were required to be disclosed on the company's website for a period of 6 months from the date of transfer.

31. I note that the post inspection comments of SEBI showed that the 7 transfer requests were already accompanied with the following:
    (a) Bank attestation for signature and address of Transferor
    (b) Original cancelled cheque from the same account
    (c) Duly notarized affidavit for change of signature
    (d) Self-attested copy of PAN card of transferor and transferee

(e) Self-attested copy of Voter ID

32. It was alleged that, despite major mismatch in signatures in 7 transfer requests, the Noticee did not carry out the necessary procedure as stated above, and registered the transfers in the name of the Transferee. Therefore, it was alleged that the Noticee did not carry out due diligence as mandated, resulting in violation of provisions of Clause 2(c) of the SEBI Circular dated November 06, 2018 read with Clause B (2) of Schedule VII of LODR Regulations.

33. In this regard, the Noticee has contended that Clause 2(c)(iii) of SEBI Circular ref. No. SEBI/HO/MIRSD/DOS3/CIR/P/2018/139 dated November 6, 2018 does not apply in the instant case, as the said provision applies in case of non-delivery of OM to transferor or non-cooperation/inability of transferor to provide requisite details to transferee. However, in the subject transfer requests, transferor was fully cooperating by providing the required documents. The Noticee has further contended in respect of TDs at Serial Numbers 1 and 2 in Table no. 5 above, that the OMs did not mention the additional documents required as they had already been intimated vide earlier OM dated March 22, 2017. In respect of TDs at S No 3 to 7, the Noticee has contended that additional documents were not listed in OM as they were already available with the Noticee. Further the Noticee stated that it had already intimated the additional documents required to transferors at Serial Numbers 3 to 7 of Table no. 5 above, vide letter dated March 22, 2017, in response to dividend revalidation requests. Therefore, requesting for same documents again would not have served any purpose.

34. The Noticee has further contended that transfer requests by entities were already accompanied by the requisite documents that were to be collected pursuant to issuance of the OM, as noted in *para 19* of the SCN, so that mentioning the same in subsequent OM was not needed. Finally, after the transfer requests were processed, the Noticee had issued confirmation letters dated December 01, 2018 to the transferors and transferee, and they did not raise any objection with respect to processing of said transfers.

35. At the outset, I note that contact details of transferors were available with the Noticee. Further, I note that the requirements in Clause 2(c)(iii) of SEBI Circular dated November 06, 2018 do not apply to the transfers in question as the OMs were delivered to the transferors and there was no question of non-cooperation of the transferors. Hence, I am inclined to accept the contentions of the Noticee as regards the non-applicability of the provisions of Clause 2(c)(iii) of SEBI Circular dated November 06, 2018 for the instant allegations, pertaining to procedure to be followed in case of non-delivery of OMs. However, the provisions of Clause 2(c)(i) and (ii) of the SEBI Circular dated November 06, 2018 read with Clause B (2) of Schedule VII of LODR Regulations remain applicable and are relevant as regards instant allegations.

36. I note that in respect of aforesaid 7 transfer requests, the Noticee had mentioned the additional documents to be submitted in OMs/ letters issued on March 22, 2017. Thereafter, the Noticee had intimated two of the transferors viz. Susil B Shah and Nimisha V Shah, about the signature mismatch vide letter dated April 17, 2017, and had requested them to visit it's Ahmedabad office along with copies of PAN and Aadhaar/ Passport for document verification. Further, the transfer requests were accompanied by the requisite documents as well, and also, transferors/ transferee had not raised any objection to the confirmation letters dated December 01, 2018 issued pursuant to processing of transfers.

37. I note that in substance, the Noticee had verified the identity of the transferors in TDs 1 to 7. Address verification had also been done by the Noticee by delivering several documents to their addresses including annual reports, sub-divided share certificates etc. It has also come out on record that one of the transferors viz. Susil B Shah had visited Noticee's Ahmedabad Office. In terms of requirement under Clause 2(c) of SEBI Circular dated November 06, 2018, the bank attestation for signatures and addresses of transferors were available with the Noticee along with cancelled cheques. Also, the procedure laid down in para B(2) of Schedule VII of LODR Regulations with respect to major difference in

signature was substantially complied with as found with regard to Allegation no. 2 above.

38. The purpose of the extant provisions of law is to lay down detailed procedures in place so as to ensure that seamless transfers take place by ruling out possibility of any fraud, by identification of the transferors. I note from the chronology of events, that the Noticee had ensured genuineness of the transferors, without demonstrating mechanical adherence to the provisions. Therefore, I am not in a position to find fault with the processes adopted by the Noticee. I hasten to observe that non-compliance or failure to strictly adhere to the processes, if any, is not grave enough to give any adverse finding.

Part-II (Allegation numbers 5 to 9)

Allegation no: 5- Transfer based on insufficient documents

39. Certain discrepancies had emerged while processing six transfer requests by the Noticee, details of which are given hereunder:

Table no: 6

Inw No	Transfer Date	Seller Folio	Seller Name	Buyer Folio	Buyer Name	Total Shares in Deed	Value	Remark
107020	20/08/2018	D0041987	Dinaz Barjor Deboo	211674	Dinaz Sorab Engineer	2,000	38,40,100	Banker attestation of signatures, Affidavit for change in signature, Cancelled cheque & Address proof of the transferor not available
107344	29/11/2018	S0054651	Sangit A Somma Iya	211796	Rajesh Kumar Kothari	2,000	39,12,600	Address proof of the transferee is not available. Minor mismatch in name of transferor in RTA record and documents submitted. Affidavit not available on record.

107345	29/11/2018	U0042298	Umesh T Somaiy A	211796	Rajesh Kumar Kothari	2,000	39,12,600	Address proof of the transferee is not available
107346	29/11/2018	00042835	Umesh Somaiy A	211796	Rajesh Kumar Kothari	2,000	39,12,600	Address proof of the transferee is not available
107365	01/12/2018	A0041861	Ajit Singh Bhand Ar1huf	211806	Ajit Singh Bhan Dari	2,000	39,78,000	Signature not available in RTA records, however, transfer request processed without banker attestation of signature & cancelled cheque
107759	15/04/2019	M0041275	Malati Karan Dikar	211942	Malati Hari Karandika R	2,000	40,28,500	Signature verified on the basis of only bank attestation without cancelled cheque of the third share holder

In terms of Clause B(2)(c) of Schedule VII read with Regulation 40(7) of LODR Regulations and Clause 3 of Schedule III read with Regulation 13 of RTI/STA Regulations, the Noticee was required to take necessary documents from the transferor while processing the transfer request. For instance, in respect of Transferor Folio No. D0041987, the Noticee was required to take affidavit to update the transferor(s) signature, original unsigned cancelled cheque and banker's attestation of the transferor(s) signature and address, contact details of the transferor(s). However, it is alleged that the Noticee did not take such documents at the time of processing of transfer requests in respect of six entities in the Table no. 6 above, resulting in violation of provisions of Clause B(2)(c) of Schedule VII read with Regulation 40(7) of LODR Regulations and Clause 3 of Schedule III read with Regulation 13 of RTI/STA Regulations.

40. The Noticee's contentions as regards the above transfer requests have been summarized below:

Table no: 7

<table>
<tr><th>Transfer Date</th><th>Seller Folio</th><th>Seller Name</th><th>Buyer Folio</th><th>Buyer Name</th><th>Noticee’s contentions</th></tr>
<tr><td>20/08/2018</td><td>D0041987</td><td>Dinaz Barjor Deboo</td><td>211674</td><td>Dinaz Sorab Engineer</td><td>- Clause B(2)(c), Schedule VII of LODR Regulations was not applicable as this was not a case of “material signature difference” or “non-availability of signature”.
- Above provision does not require Noticee to collect address proof of the transferor.
- Specimen signature of transferor was matching with signature on transfer request form.
- Transferor had submitted banker’s attestation form to Noticee on her own.</td></tr>
<tr><td>29/11/2018</td><td>S0054651</td><td>Sangit A Somma Iya</td><td>211796</td><td>Rajesh Kumar Kothari</td><td>- Clause B(2)(c), Schedule VII of LODR Regulations was not applicable as this was not a case of “material signature difference” or “non-availability of signature”.
- Above provision does not require Noticee to collect address proof of the transferor.
- The Name mismatch with PAN was minor.
- Specimen signature of transferor was matching with signature on transfer request form.
- As per Norm for processing of transfers in terms of RTI Circular No 1 dated May 09, 2001, the request for transfer must not be rejected if signature tallies.</td></tr>
<tr><td>29/11/2018</td><td>U0042298</td><td>Umesh T Somaiy A</td><td>211796</td><td>Rajesh Kumar Kothari</td><td rowspan="2">- Clause B(2)(c), Schedule VII of LODR Regulations was not applicable as this was not a case of “material signature difference” or “non-availability of signature”.
- Above provision does not require Noticee to collect address proof of the transferor.
- Noticee was only required to collect PAN of transferor and transferee.</td></tr>
<tr><td>29/11/2018</td><td>00042835</td><td>Umesh Somaiy A</td><td>211796</td><td>Rajesh Kumar Kothari</td></tr>
<tr><td>01/12/2018</td><td>A0041861</td><td>Ajit Singh Bhandari huf</td><td>211806</td><td>Ajit Singh Bhan Dari</td><td>- It was not a case of “non-availability of signature” and Clause B(2)(c), Schedule VII of LODR Regulations are not applicable.
- Notice had already submitted requisite documents for updating his signature, so that there was no need to request those documents again</td></tr>
<tr><td>15/04/2019</td><td>M0041275</td><td>Malati Karan Dikar</td><td>211942</td><td>Malati Hari Karandika R</td><td>- All required documents were obtained, except the cancelled cheque of the third shareholder.
- On receipt of SEBI’s March 09, 2020 Examination Report, Noticee obtained the cancelled cheque of third shareholder.</td></tr>
</table>

41. I note that in terms of Clause B(2)(c), Schedule VII of LODR Regulations, in case of differences in signature or non-availability of signature of the transferors, RTA is mandated to issue an OM stating **the additional documents required for effecting the transfer**, as stated in para no. 29 above. In the instant matter, I note that the Noticee had not sought certain documents, as detailed in Table no. 6 in column titled **"Remarks"**, alleged to be mandated under the extant provisions, for ensuring verification of signature as part of exercising due diligence in effecting the transfers.

42. I find that in case of seller Folio no D0041987, the allegation is that the banker's attestation of signatures, affidavit for change in signature, cancelled cheque and address proof of the transferor were not available. Noticee has said that Clause B(2)(c) of LODR Regulations does not apply as this was not a case of material signature difference or non-availability of signature. Hence, there was no requirement to collect address proof of the transferor. Moreover, specimen signature of transferor matched with signature on transfer request. Further, the transferor had submitted banker's attestation form on her own accord.

43. In case of seller Folio no S0054561, I find that the difference in the names was minor (i.e. *Sangita Sommaiya vs Sangeeta Somaiya*), and it appears that the Noticee processed transfer request despite minor mismatch in names, because signature on Transfer request form matched with specific signature on record of the Noticee. In case of seller Folio no U0042298 and 00042835, observation of Inspection is that address of transferee is not available. The Noticee has contended in this regard that since their Folios are not in category of "material signature difference/ non-availability of signatures", Clause B(2)(c) of Schedule VII of LODR Regulations does not apply. I am in agreement with Noticee's submissions, and also note that the Noticee has collected PAN of both transferor and transferee.

44. In case of Seller Folio no A0041861, it was observed by Inspection that the signature of transferor was not available in RTA records but the transfer request

was processed in the absence of banker attestation of signature and cancelled cheque. Here again, the Noticee has submitted that required documents for updating seller's signature was already submitted, and was available with the Noticee.

45. In case of seller Folio no M0041275, the Inspection noted that the signature of the seller was verified on the basis of only the bank attestation and there was no cancelled cheque of 3rd shareholder on file. In response, the Noticee has contended that all the required documents had been obtained earlier except cancelled cheque of 3rd shareholder. Further, upon receipt of SEBI Inspection Report dated March 09, 2020, the Noticee has obtained cancelled cheque of 3rd shareholder too.

46. In my view, the observations of the Inspection with respect to the Noticee not insisting on certain documents being forwarded by transferor before effecting transfer are all minor in nature. In case of the 6 seller Folios except M0041275, the allegation levelled by the Inspection does not technically arise as those were not the cases of material signature difference or non-availability of signature. I do not find that allegation of insufficiency of documents to validate the transfers is established.

Allegation no: 6- Inadequate proof in case of transmission of shares

47. As regards processing of transmission of shares of Bharat Manubhai Vasa and Parag Mehta, certain discrepancies emerged which have been detailed hereunder:

Table no: 8

Old Folio	Old Share holder	New Folio	New Share holder	No of shares	Value of Folio	Notarized Death Certificate
B0025743	Bharat Vasa	211624	Bharat Manubhai Vasa	2,900	54,46,200	Notarized Death Certificate, not sought
N0025459	Nirmala Mehta	211602	Parag Mehta	3,000	55,18,350	Notarized Death Certificate not sought
N0025458	Natwarlal Mehta	211602	Parag Mehta	3,000	55,18,350	Notarized Death Certificate not sought

48. In terms of Clause C(2)(a)(ii) of Schedule VII read with Regulation 40(7) of LODR Regulations, in case of transmission of securities held in physical mode, the Noticee was required to take a copy or original of notarized death certificate while processing transmission requests. It is alleged that the Noticee did not take Notarized Death Certificate while processing transmission request of Folio Nos. B0025743, N0025459 and N0025458, resulting in violation of provisions of Clause C(2)(a)(ii) of Schedule VII read with Regulation 40(7) of LODR Regulations.

49. In this regard, the Noticee has contended that the above mentioned cases pertained to death of one of the shareholders, and were not cases involving transmission of shares, so that alleged provisions were not applicable to the above transfers. Further, the Noticee is in compliance with provisions of SEBI Circular on Transmission of Securities to Joint Holder(s) dated October 18, 2021. Further, the Noticee had followed the alleged provisions in substance, as a notary or gazette officer had checked and verified the original death certificate.

50. On a perusal of Clause C(2)(a) of Schedule VII of LODR Regulations, I note that it deals with securities held in a single name with the nominee and provides that transmission of securities shall be done on basis of original or copy of death certificate attested by notary public or a gazette officer. However, as the Noticees have contended that the instances of transmission shown in Table no. 8 above were arising in case of joint holding and not in the case of securities held by a

single holder, I am inclined to accept the Noticee's contention. I also take note of the fact that despite this, the Noticee had the practice of verifying the original death certificate through a notary/ gazette officer as part of due diligence in processing transfer requests.

Allegation no: 7- Irregularities in Issue of Duplicate Share Certificates

51. While processing Issue of Duplicate Share Certificates of Sundar S Nakhate and Mona Mehta, certain discrepancies emerged which have been detailed below:

Table no: 9

Doc No.	Doc Date	Folio No.	Name	No. of Shares	Value	Observations
5643	23/10/2018	211745	Sundar S Nakhate	2,400	40,48,200	FIR/Police Complaint not obtained before issuing duplicates (HDFC submitted that the Stakeholder Relationship Committee (SRC) has authorized the compliance officer to waive off certain documentary requirements.)
5638	10/10/2018	211736	Mona Mehta	2,000	34,73,900	FIR/Police Complaint not taken before issuing duplicates (HDFC submitted that the investor claimed that the Police refused to file an FIR)

52. In terms of Clause (1) 20 (Note) of SEBI Circular - RT1 Circular No. 1 (2000-2001) dated May 09, 2001, the Noticee was required to take *interalia* Copy of FIR/ police complaint/ Court injunction order/ Copy of plaint where the Suit filed has been accepted by the Court and Suit no. has been given, having details of date of loss, DNRs, certificate nos, while processing request for issuance of Duplicate Share Certificates. However, it was observed, as stated in the Table no. 9 above, that the Noticee did not take FIR/Police Complaint before issuing duplicate Share Certificates in respect of Folio No. 211745 and Folio No. 211736. Hence, it was alleged that the Noticee has failed to comply with Clause (1) 20 (Note) of SEBI Circular - RT1 Circular No. 1 (2000-2001) dated May 09, 2001.

53. In this regard, the Noticee has contended that the alleged provisions are not applicable as these were not cases involving loss of share certificates along with

executed TD. Further that, the Noticee followed the requisite Standard Operating Procedure (SOP) formulated for issuance of Duplicate share certificate, as per which Noticee's Compliance Officer could grant waivers with respect to requirement of FIR. The Noticee's actions were also compliant with Article 22 of Articles of Association (AoA) of the Noticee.

54. I note that Clause (1) 20 (Note) of SEBI Circular - RT1 Circular No. 1 (2000-2001) dated May 09, 2001 mandates a valid police complaint/FIR from the person reporting loss of securities. The Noticee has relied on its SOP (Activity Schedule E5), which was submitted as Annexure R1 in the Compilation of Documents (hereinafter referred to as **"CoD"**), prescribes that:

"*The Company Secretary of the Corporation is authorized to grant certain waivers with respect to the requirement of submission of the following documents in case of issuance of duplicate share certificates on a case to case basis:*

……….
First Information Report (FIR) to be filed with the Police Station regarding loss of share certificate
………."

Further, as per AoA of the Noticee (submitted as Annexure R2 to CoD, Article No 22, "*………..and if any certificate is lost or destroyed, then, upon proof thereof to the satisfaction of the Company and on such reasonable terms, such as furnishing supporting evidence and indemnity as the Company may deem adequate, a new certificate in lieu thereof shall be given……* ".

55. Accordingly, the Noticee has chosen to provide the duplicate share certificates, without getting copy of FIR/ Police Complaint, as the same were waived by its Compliance Officer. I note that there has been a deviation from the mandate in note of Clause (1) 20.

Allegation no: 8- Irregularities in Dematerialization of shares

56. The following discrepancies appeared during the examination of the Noticee while processing 19 requests of Dematerialization of shares detailed as under:

Table no: 10

Sr. No.	Inw. No	Folio No	Shares Accepted	Value	Comments
1	119099	211552-	7,200	1,30,86,000	1.Client Master not available. 2.PAN not available.
2	119136	Y0040919	15,600	2,88,52,200	Client Master not available.
3	119559	M0067744	10,400	1,95,88,920	1.Client Master not available. 2.PAN not available. 3.Signature mismatch, however, request processed without objection
4	119614	208733	22,400	4,10,06,560	Client Master not available.
5	119658	K0057201	6,900	1,21,06,050	1.Client Master not available. 2.PAN not available
6	119665	211703	8,800	1,46,75,760	1.Client Master not available. 2.PAN not available.
7	119710	S0064123	10,600	1,83,68,740	1.Client Master not available. 2.PAN not available. 3.Signature mismatch of first holder, however, request processed without objection. 3.Banker verification and cancelled cheque not available.
8	120083	205833	10,600	2,07,36,780	Client Master not available.
9	120233	104515	14,400	2,74,19,040	1.Client Master not available. 2.PAN not available.
10	120445	D0000483	10,500	2,07,15,450	PAN not available.
11	120669	211874	8,400	1,59,65,880	1.Client Master not available. 2.PAN not available.
12	120817	G0025252	9,200	1,77,56,000	1.PAN not available. 2.Signature mismatch of second holder, however, request processed without objection. 3.Banker verification and cancelled cheque not available.
13	121160	M0053138	2,400	51,53,880	1.Client Master not available. 2.PAN not available. 3. Signature mis-match, however, request processed without objection. 3.Banker verification and cancelled cheque not available.
14	121160	M0053019	31,800	6,82,88,910	Objection for signature mismatch raised, however, the cancelled cheque submitted with bank attestation does not contain the name of account holder
15	119123	211558	8,400	1,56,12,660	1.Client Master not available. 2.PAN not available.
16	119559	M0067744	10,400	1,95,88,920	1.Client Master not available. 2.PAN not available.
17	119942	R0000530	8,450	1,56,62,920	1.Client Master not available. 2.PAN not available.

18	119230	D0007097	6,800	1,27,09,200	1.Client Master not available. 2.PAN not available.
19	119792	50027418	6,800	1,15,74,280	Client Master not available.

As per Clause 1 (c) of Schedule I of SEBI Circular on Instruction to Registrars to an issue / Share Transfer Agents dated October 11, 1994 and Clause 3 and 16 of Schedule III read with Regulation 13 of RTI/STA Regulations, the Noticee was required to take objection in respect of mismatch of signatures, change of address/ others request complaints and generate checklist and verify the same and undertake the necessary corrections, if any, while processing request for Dematerialization of Shares. However, it was alleged that the Noticee had not taken objections while processing the above 19 requests for Dematerialization of Shares for verification and necessary corrections. Further in respect of Folio-M0067744 and S0064123, the Noticee did not take objection in respect of signature mismatches and processed the request without the objection. Further, the Noticee did not take documents such as Banker verification and cancelled cheque while processing the 19 requests for Dematerialization of Shares. Therefore, it was alleged that, the Noticee failed to comply with Clause 1 (c) of Schedule I of SEBI Circular on Instruction to Registrars to an issue / Share Transfer Agents dated October 11, 1994 and Clause 3 and 16 of Schedule III read with Regulation 13 of RTI/STA Regulations.

57. The Noticee has *interalia* contended that the extant provisions do not mandate obtaining client master report or PAN for processing dematerialization requests. Only a general duty is prescribed to provide investor services by verifying the documents. Further, no third party has benefitted and only the concerned shareholder has benefitted from such dematerialization. In respect of relevant Folio numbers, the Noticee has contended that the obligation to furnish copy of PAN is only there in limited cases as per SEBI circular dated January 07, 2010, and that, PAN of said shareholders was already available with the Noticee. In respect of Folio no M0067744, the Noticee has submitted that signature of shareholder was already available with the Noticee under a separate Folio no

M0068633. Dematerialization Request form for the said client, which mentions both the said Folio nos has been submitted as Annexure T in the CoD. In respect of Folio no S0064123, the Noticee has contended that the signature had matched with the Noticee's specimen signature available with the Noticee pertaining to its new Folio no 00205833. In respect of Folio no G0025252, PAN and Bank attestation were registered with Noticee vide letter received by the Noticee on February 14, 2019, submitted as Annexure U in the CoD. In respect of Folio no M0053138, there was no mismatch of signature, as updated signature of shareholder had been received by the Noticee already. In respect of Folio no M0053019, the Noticee has submitted that there was no mismatch in signature and that the demat request was never sent under objection as mentioned in the SCN. Further, the screenshots of updated signatures for the client pertaining to the said Folio nos M0053138 and 53019 have been submitted as Annexures U1 and U2 in the CoD, respectively.

58. Clause 1(c) of Schedule I of SEBI Circular dated October 11, 1994 reads as follows:

……….

c. Transfer Agents shall process all transfer/transmission/transposition/change of address/other requests/complaints and generate checklist, verify the same and correction of such data

……….

I note that these are general instructions issued to RTAs/ STAs in the case of transfer of securities and does not deal specifically with the requirements for dematerialisation of shares.

59. Further, I note that Clauses 3 and 16 of Schedule III read with Regulation 13 of RTI/STA Regulations provide for the requirement on the side of RTAs/ STAs to exercise due diligence/ care and independent judgement while carrying out its functions. It is also mandated that RTAs/ STAs shall maintain required level of knowledge and competence and abide by provisions of act, rule and regulations.

I note that with respect to the dematerialisation of shares there is no detailed procedure with check boxes provided in any circular. As contended by the Noticee, I note that processing of request for dematerialisation has only let the concerned shareholder to benefit from dematerialisation and no third party has benefitted from such processing of dematerialisation requests. I also note that there are no complaints against the Noticee on this account as per the record. Enabling dematerialization of shares without posing any hurdle is the general expectation from a RTA/ STA. However, the observation of the Inspection that the Client Master and PAN not being available for dematerialization of shares, amounts to lack of due diligence is too far stretched. More so, when no such procedure has been specifically laid down.

Allegation no: 9- Transfer of Dividends-Deviation from prescribed procedures

60. It was observed that there were 913 instances during the period of inspection, in which payment of unpaid dividends had been done, as per Noticee's submissions dated August 16, 2019. The payments in all of the 913 instances had been done through DD. Out of the said 913 cases, a sample of 17 cases were selected. It was found that in 16 such cases, DDs were issued with Bank account details of the beneficiaries. It was alleged that as the Noticee had the Bank account number and other details of the investor, it should have facilitated online transfer of the reclaimed dividend, and by not doing so, the Noticee has violated the provisions of Regulation 12 of LODR Regulations and SEBI circular No. SEBI/HO/MIRSD/DOP1/CIR/P/2018/73 dated April 20, 2018. Further, out of the sample of 17 cases, in 1 case (Folio 00115095), DD was issued without Bank details. It was alleged that the Noticee violated provisions of SEBI circular No. SEBI/HO/MIRSD/DOP1/CIR/P/2018/73 dated April 20, 2018 on this count.

61. Regulation 12 of LODR Regulations lays down the provisions for payment of dividend or interest or redemption or repayment. It states that the listed entity should use any electronic mode of payment approved by the Reserve Bank of

India for the payment of dividends. It also states that where it is not possible to use electronic mode of payment, ‘payable-at-par’ warrants or cheques could be issued. As per SEBI Circular dated April 20, 2018, the unpaid dividend must be paid via electronic bank transfer. In cases where either the bank details such as MICR, IFSC etc. are not available or the electronic payment instructions have failed or have been rejected by the bank, the RTA might ask the banker to make payment though physical instrument such as banker’s cheque or demand draft to such securities holder incorporating his/ her bank account details.

62. In this regard, the Noticee has relied upon the proviso to Regulation 12 of LODR Regulations, and contended that in cases where electronic transfers are not feasible, physical DDs with bank account details of beneficiaries may be adopted. Further, as regards Folio no 00115095, the Noticee has contended that said Folio was in the name of “Official Liquidator”, who had not updated bank account details. Further, as the relevant request was received from an officer of the court, the Noticee did not reject the request and issued DD in lieu of the warrant, which was hand delivered to the office of Official Liquidator.

63. I note that as per Annexure I to the SEBI Circular ref no SEBI/HO/MIRSD/DOP1/CIR/P/2018/73 dated April 20, 2018, Provisions with regard to Payment of Dividend/Interest/Redemption mandate that,

“………. The unpaid dividend shall be paid via electronic bank transfer. In cases where either the bank details such as MICR (Magnetic Ink Character Recognition), IFSC (Indian Financial System Code), etc. that are required for making electronic payment are not available or the electronic payment instructions have failed or have been rejected by the bank, the issuer companies or their RTA may ask the banker to make payment though physical instrument such as banker’s cheque or demand draft to such securities holder incorporating his bank account details.”

I note as regards Folio no 00115095, that as the entity was under liquidation, the DD with bank details was delivered to the official liquidator. The Noticee did not have sufficient details for effecting online payment in the instant case and hence, opted to pay by DD, which cannot be faulted with.

64. Albeit, I note that the explanation given by the Noticee with respect to the payment of dividends through physical instruments instead of online electronic transfers fails to convince me.

Conclusion

65. Out of all the allegations made in the SCN, I find that the Noticee is in violation of two allegations viz. (i) pertaining to issuance of Duplicate shares and (ii) deviation from prescribed procedures in case of transfer of dividends.

66. In the case of procedures to be followed in issuance of Duplicate shares, the Noticee had taken a considered call not to insist on the same and vested the discretion on its Compliance Officer to waive the requirement of FIR. Thus, this is not a case of deliberate or casual non-compliance, but a facilitation done to the shareholders at the behest of the Stakeholder Relationship Committee. This would ensure that the duplicate share certificates are not issued to the wrong persons. It is not out of place to observe that there are instances where the investors have faced difficulties in lodging an FIR. Therefore, in my view, deviation from the strict letter of law can be looked upon as a venial or technical or procedural violation.

67. In the case of deviation from following the procedures laid down with respect to online transfer of dividends, I note that the RTA has systematically disbursed the dividends through the physical mode as noted by the Inspection in 913 cases. I further note that there are no complaints from investors on this count. I also note that the Noticee was functioning as an In-house RTA. In view of this, I would

like to take a lenient view and not consider this as a serious lapse on the side of the Noticee.

68. At this juncture, I would like to take note of the mitigating circumstances brought out by the Noticee. The Noticee has submitted that it had taken corrective measures pursuant to the deficiencies being pointed out by SEBI, *interalia* including updation of SOP and appointment of an External Auditor for examining cases outside of the sample analyzed by SEBI. Further, the Noticee has already surrendered its Category II Share Transfer Agent Registration to 'Link Intime India Pvt Ltd'. Thus, on an overall evaluation of the allegations and other circumstances, I find that the aforesaid non-compliances are not serious enough to warrant imposition of monetary penalty.

69. In this connection, I have been guided through decisions of the Hon'ble Supreme Court in the matter of Hindustan Steel Limited vs State of Orissa, AIR 1970 SC 253, wherein it was held that, "*Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute*."

70. Considering the facts and circumstances of the case as stated above, I am of the view that no monetary penalty is warranted in respect of the allegations levelled in the instant matter. The Show Cause Notice ref no EAD-6/GG/VP/39815/1/2021 dated December 29, 2021 issued against the Noticee is accordingly disposed of.

71. In terms of Rule 6 of the SEBI Adjudication Rules, copies of this order are being sent to the Noticee and also to SEBI.

Date: March 30, 2022 **GEETHA G**

Place: Mumbai **ADJUDICATING OFFICER**