BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER No. Order/AN/AK/2024-25/31138

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

In respect of:

Shri Venkatesh Stock Broker Services India Private Limited

(PAN: AAPCS0953C / SEBI Registration Number: INZ000231135)

In the matter of Shri Venkatesh Stock Broker Services India Private Limited

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A. BRIEF BACKGROUND

1. Securities and Exchange Board of India (hereinafter also referred to as **'SEBI'**) conducted a thematic inspection of Shri Venkatesh Stock Broker Services India Private Limited having SEBI Registration No. **INZ000231135** (hereinafter also referred as **'Noticee'/ 'entity'/ 'Broker'/ 'SVSB'/ 'Member'/ 'TM'/ 'Trading Member'/ 'SB'**) jointly with BSE, during August 24-25, 2023 for the inspection period April 01, 2022 to July 31, 2023. The scope of the Inspection was to inter alia look into the Noticee's compliance with respect to misutilisation and segregation of clients and own funds and securities, and settlement of running account etc.

2. Pursuant to the inspection the findings were communicated to the Noticee by SEBI vide letter dated October 10, 2023 inter alia seeking comments /

explanations of the Noticee were sought on the same. Noticee vide its letter dated October 11, 2023, inter alia submitted its reply to the findings and observations of SEBI.

3. Based on the analysis of reply received and examination in the matter by SEBI, briefly stated, it was inter alia observed by SEBI that Noticee had allegedly violated various provisions of Securities Contracts (Regulation) Rules, 1957 ("SCR Rules" / "SCR Rules, 1957"), Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 ("SEBI Stock Broker Regulations" / "SEBI Stock Broker Regulations, 1992"), and circulars as stated,

3.1. Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR /2023/71 dated May 17, 2023 read with Clause 3 of Annexure of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

3.2. Clause 15.4.4, 24, 25 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with

- Clause 2.4 of Annexure of SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2/ CIR/P/2016/95 dated September 26, 2016.
- SEBI Circular No. MRD/DOP/SE/Cir –11/2008 dated April 17, 2008.
- Rule 8(3) (f) of the Securities Contracts (Regulation) Rules 1957.

3.3. Clause 47.4 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with SEBI Circular No. SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021.

3.4. Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/ 71 dated May 17, 2023 read with Clause 3 of Annexure of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

3.5. Clause 2 of Schedule II 'Code of Conduct' read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992. BSE notice no 20230412-51 dated 12-Apr-2023.

Accordingly, SEBI initiated adjudication proceedings against the Noticee under Section 15-I of SEBI Act, 1992 (hereinafter also referred as "SEBI Act") and under Section 23-I of the Securities Contracts (Regulation) Act, 1956 ("SCR Act/ SCR Act, 1956") for the alleged violations of the provisions, as stated.

B. APPOINTMENT OF ADJUDICATING OFFICER

4. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violations by the Noticee, as stated and therefore, in exercise of the powers conferred under Section 19 read with Section 15I (1) of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter also referred as 'Adjudication Rules'), and under Section 23 I of the SCR Act, 1956 read with Rule 3 of the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred as the 'SCR Rules, 2005'), the Competent Authority appointed the undersigned as Adjudicating Officer vide order dated January 03, 2024 to inquire into and adjudge under Section 15HB of the SEBI Act and Section 23H of the SCR Act, for the aforesaid alleged violations by the Noticee, as stated.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice No. SEBI/HO/EAD/EAD5/P/OW/2024/15124/1 dated April 25, 2024 along with Annexures ("SCN"), was served upon the Noticee through Digitally Signed Email and Speed Post with Acknowledgment Due ("SPAD") under Rule 4 of the Adjudication Rules and under Rule 4 of the SCR Rules, 2005, to inter alia show cause as to why an inquiry should not be held and penalty not be imposed against the Noticee under Section 15HB of the SEBI Act, 1992 and

Section 23H of SCR Act, 1956, for the violations alleged to have been committed by the Noticee.

6. The allegations in respect of the Noticee inter alia brought out in the SCN are as under:

"…

4. Findings and Observations by SEBI and alleged violations thereto in respect of the Noticee are as under:

Based on the inspection in the matter, briefly summarized findings/allegations by SEBI are interalia given below:

4.1. Misuse of clients funds:
Principle G was negative in 22 out of 40 sample dates (more than 50% sample), amounting to Rs. 8.12 Crores, which is indicating that SB has mis-utilized client's fund.

4.1.1. As per Clause 3 of Annexure to SEBI Circular SEBI/HO/MIRSD/ MIRSD2 /CIR/P/2016/95 dated September 26, 2016, Stock Exchanges shall put in place a mechanism for monitoring clients' funds lying with the stock broker to generate alerts on any misuse of clients' funds by stock brokers, as per the guidelines stipulated in para 3.2 & 3.3. It was observed that principle G was negative in 22 out of 40 sample dates, amounting to Rs. 8.12 Crores, indicating that stock broker has mis-utilised client's fund. Details at Annexure 1 to the IR.

4.1.2. The Noticee in its reply to the findings of Inspection report submitted that, In few instance principal G was negative as fund of credit balance clients were utilized for exchange obligation of payin of debit balance clients, as debit balance client did not give payment on same day for securities they purchased. Exchange has already initiated action for the shortfall or G negative. As of now, there is no G negative.

We assure that we will adhere to the rules laid by your good office. The credit balance will be maintained as per the rules laid by you.

4.1.3. However, SEBI in this regard observed that, with respect to inspection observation of mis-utilisation of client's funds by the stock broker wherein principal G negative was found in 22 instances out of 40 instance, amounting to Rs. 8.12 Crores, the broker has accepted that principal G was negative as fund of credit balance clients were utilized for exchange obligation of payin of debit balance clients as debit balance client did not give payment on same day for securities they purchased. Thus, broker has accepted the violation.

In view of the above, it is alleged that the Noticee had violated the following provisions:
Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSDPoD1/P/CIR/2023/71 dated May 17, 2023 read with Clause 3 of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

4.2. Segregation of bank accounts

It was observed during verification of bank books, trial balance and financial ledgers that stock broker has been extending loans or giving deposits / advances amounting to Rs. 3,13,83,012.24 which is not in connection with or incidental to or consequential upon the securities/ commodity derivatives business.

It was observed during verification of bank books and bank statement that Stock broker has failed to maintain/provide daily reconciliation statement for transaction between client account and own account, to the tune of 229 non-segregation transactions out of 6223 bank book transaction.

4.2.1. As per SEBI Circular No. MRD/DOP/SE/Cir –11/2008 dated April 17, 2008, brokers should have adequate systems and procedures in place to ensure that client collateral is not used for any purposes other than meeting the respective client's margin requirements / pay-ins. Brokers should also maintain records to ensure proper audit trail of use of client collateral.

4.2.2. As per Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016:

> *"….*
> *Transfer of funds between "Name of Stock Broker -Client Account" and "Name of Stock Broker -Settlement Account" and client's own bank accounts is permitted. Transfer of funds from "Name of Stock Broker -Client Account" to "Name of Stock Broker -Proprietary Account" is permitted only for legitimate purposes, such as, recovery of brokerage, statutory dues, funds shortfall of debit balance clients which has been met by the stock broker, etc. For such transfer of funds, stock broker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred*
> *….."*

4.2.3. As per Rule 8 (3) (f) of the Securities Contracts (Regulation) Rules, 1957 ("SCRR"):

> *"No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if he engages either as principal or employee in any business other than that of securities [or commodity derivatives] except as a broker or agent not involving any personal financial liability"*

4.2.4. During verification of bank books, trial balance and financial ledgers, it has been observed that stock broker has been extending loans or giving deposits / advances which is not in connection with or incidental to or consequential upon the securities/ commodity derivatives business. (Details at Annexure 2 to the IR).

4.2.5. During verification of bank books and bank statement, it has been observed that Stock broker has failed to maintain/provide daily reconciliation statement for transaction between client account and own account, to the tune of 229 non-segregation transactions out of 6223 bank book transaction (3.67%). Details at Annexure 3 to the IR.

4.2.6. The Noticee in its reply to the findings of Inspection report submitted that,

4.2.6.1. We have received all the loans/advances as on date, the necessary ledger attached herewith. As per Annexure-2.

4.2.6.2. We are Thankful to SEBI, in inspection they have guided us as to segregate client account and own account, which we have started doing on daily basis. Earlier we were transferred fund from Client bank account to own account for making payment of Expenses, Taxes and refund of loan amount as per. We do reconciliation on daily basis and maintained proper bank book and reconciliation statement. Annexure-3.

4.2.7. SEBI in this regard observed that, TM has been extending loans or giving deposits / advances which is not in connection with or incidental to or consequential upon the securities/ commodity derivatives business. In response, TM has submitted that all the loans/advances have been recovered by them as on date. Therefore, it can be inferred that the violation persisted during the period of inspection. Further, it was also observed that the broker has failed to maintain/provide daily reconciliation statement for transaction between client account and own account, to the tune of 229 non-segregation transactions out *of 6223 bank book transaction (3.67%). In response, TM has admitted the violation and submitted that they have started doing the reconciliation of the same on daily basis.*

In view of the above, it is alleged that the Noticee had violated the following provisions:
Clause 15.4.4, 24, 25 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with:

- *Clause 2.4 of Annexure of SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2/CIR/P/2016/95 dated September 26, 2016.*
- *SEBI Circular No. MRD/DOP/SE/Cir –11/2008 dated April 17, 2008.*
- *Rule 8(3) (f) of the Securities Contracts (Regulation) Rules 1957.*

4.3. Monthly / Quarterly settlement of funds and securities

It was observed that the stockbroker has not done settlement of inactive clients on 10 instances amounting to Rs. 54,70,851.28/- verified for clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction.

4.3.1. As per Clause 12 of SEBI circular dated December 03, 2009, actual settlement of funds and securities is to be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client.

4.3.2. Also, as per Clause 5.1 of SEBI circular dated June 16, 2021, The settlement of running account of funds of the client shall be done by the TM after considering the End of the day (EOD) obligation of funds as on the date of settlement across all the Exchanges, at least once within a gap of 30 / 90 days between two settlements of running account as per the preference of the client.

4.3.3. As per Clause 8.1 of Annexure of SEBI Circular SEBI/HO/ MIRSD/MIRSD2 /CIR/P/2016/95 dated September 26, 2016, the actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client.

4.3.4. As per SEBI Circular No. SEBI/HO/MIRSD/ DoP/P /CIR/2022 /101 dated July 27, 2022, the settlement of running account of funds of the client shall be done by the TM after considering the End of the day (EOD) obligation of funds as on the date of settlement across all the Exchanges on first Friday of the Quarter.

4.3.5. As per SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021, for the clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction, the credit balance shall be returned to the client by TM, within next three working days irrespective of the date when the running account was previously settled.

4.3.6. It is observed that the stock broker has not done settlement of inactive clients on 10 instances out of total 1023 instances verified for clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction. Details placed at Annexure 4 to the IR.

4.3.7. The Noticee in its reply to the findings of Inspection report submitted that,
In few cases fund has not settled for inactive clients on monthly basis as we have given client's fund to CC for further trades in BSE Commodity segment. Also we have hold fund of clients for their DP charges. As per Annexure 4.

4.3.8. SEBI in this regard observed that, in 10 instances of inactive clients who has not done any transaction in the 30 days calendar days, settlement was not done by TM. TM has submitted that they have hold the funds of the clients for their DP charges and in few cases, has given the client's fund to CC for further trades in BSE commodity segment.

4.3.9. With respect to settlement of running account of Client's funds lying with TM, it may be noted that as per clause 5.2 of SEBI Circular dated August 02, 2011, TM may retain funds only for pay-in obligation *of funds at end of the day of settlement of running account or for margin liability, in all segments and additional margins (225% of the margin). Further, as per clause 5.2 of the aforesaid circular, the credit balance shall be returned to the client who have not done any transaction in the 30 calendar days since the last transaction, within next three working days irrespective of the date when the running account was previously settled.*

4.3.10. In light of above circular, broker's argument that they have hold funds of 10 inactive clients amounting to Rs. 54,70,851.28 for purpose of DP's charges, for penalty, for placing the funds with CCs etc. cannot be accepted.

In view of the above, Noticee was found to be non-compliant during inspection period and it is alleged that the Noticee had violated the following provisions:

Clause 47.4 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 5.4 of SEBI Circular No. SEBI/HO/MIRSD/ DOP/P/CIR/2021/577 dated June 16, 2021.

4.4. Analysis of Enhanced supervision data:

Member has wrongly reported data w.r.t. enhanced supervision on the following points :-
- *Aggregate value of Margin utilized for positions of Credit Balance Clients*
- *Aggregate value of bank Balances of all clients*
- *Aggregate value of collateral deposited with clearing corporations and/or clearing member*

4.4.1. As per Clause 3 of Annexure to SEBI Circular SEBI/HO/MIRSD/ MIRSD2 /CIR/P/2016/95 dated September 26, 2016, Stock Exchanges shall put in place a mechanism for monitoring clients' funds lying with the stock broker to generate alerts on any misuse of clients' funds by stock brokers, as per the guidelines stipulated in para 3.2 & 3.3. Member has wrongly reported data w.r.t. enhanced supervision on the following points :-

4.4.1.1. Aggregate value of Margin utilized for positions of Credit Balance Clients
4.4.1.2. Aggregate value of bank Balances of all clients
4.4.1.3. Aggregate value of collateral deposited with clearing corporations and/or clearing member

Details placed at Annexure 5 to the IR.

4.4.2. The Noticee in its reply to the findings of Inspection report submitted that, we have reported clear credit and clear debit balances, deposit with ICCL and CC, margin utilization of credit clients reported including VaR Margin+ Extreme Loss Margin (ELM)+MTM Margin+Additional Margin. As per Annexure-5.

4.4.3. However, SEBI in this regard observed that, Inspection team observed that TM has reported wrong data in relation to weekly-enhanced supervision reporting on sample dates 06/01/2023, 12/05/2023, 13/05/2023, 16/09/2022, 18/11/2022, 24/03/2023 and 29/07/2022. It was observed that the following data was wrongly reported:

4.4.3.1. margin utilized by credit balance clients (MC) on aforementioned 7 reporting days
4.4.3.2. Total Bank Balance (A) on 1 reporting days (16/09/2022)
4.4.3.3. Total Credit Balance (C) on 1 reporting days (29/07/2022)
4.4.3.4. Free/unblocked Collateral deposited with clearing corporation (MF1) on 2 reporting days (06/01/2023 & 12/05/2023).

4.4.4. SEBI in this regard observed that, vide email dated November 22, 2023, BSE was advised to provide the comments in relation to the reply of broker. BSE has provided the comments vide email dated November 29, 2023. On perusal of submission of broker and BSE's comments, the reply of broker may be accepted in relation to reporting of total bank balance (A) on 16/09/2022, total credit balance (C) on

29/07/2022 and margin utilized by credit balance clients (MC) on 13/05/2023, 16/09/2022, 18/11/2022, 24/03/2023 and 29/07/2022.

4.4.5. However, the reply of the broker with respect to, Free/unblocked Collateral deposited with clearing corporation (MF1) and margin utilized by credit balance clients (MC) on 2 reporting days (06/01/2023 & 12/05/2023), may not be accepted as incorrect balance has been calculated by TM.

In view of the above, TM was found to be non-compliant during inspection period and it is alleged that the Noticee had violated the following provisions:

Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 3 of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

4.5. Net worth verification:

It was observed during the verification of networth as on 31-03-2023 that stock broker has failed to deduct correct amount under Doubtful Debts and advances.

As per net worth: 88576/- As per verification: 18261401.7/-

4.5.1. During verification of networth as on 31-03-2023, it has been observed that stock broker has failed to deduct correct amount under Doubtful Debts and advances :-

As per net worth: 88576/-
As per verification: 18261401.7/-

Trading account debtors	*2791953.70*
Gurmeet Singh	*5000000.00*
Sheik Irfan	*320000.00*
R R Iron And Steel Pvt Ltd	*2000000.00*
Harekishan Steel Pipes Pvt Ltd	*3000000.00*
Vedara India Ventures Pvt Ltd	*3500000.00*
Mosaic Infraventures Pvt Ltd	*1266595.00*
Think People Solutions Pvt Ltd	*382853.00*
Total	*18261401.7*

The above is not in accordance with BSE notice. Details at Annexure 6 to the IR.

4.5.2. The Noticee in its reply to the findings of Inspection report submitted that, as of now we have fully recovered loan and advances which are more than 90 days. Annexure-6.

4.5.3. However, SEBI in this regard observed that, TM has failed to deduct correct amount of doubtful debts and advances, which has been admitted by the broker and it was submitted that they have fully recovered loan and advances. However, it can be inferred that the violation persisted during the period of inspection. Hence, the reply of the broker cannot be accepted.

In view of the above, TM was found to be non-compliant during inspection period and it is alleged that the Noticee had violated the following provisions:

Clause 2 of Schedule II 'Code of Conduct' read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992. BSE notice no 20230412-51 dated 12-Apr-2023.

…"

7. No reply to the SCN was received from the Noticee within the stipulated time. Vide email dated May 10, 2024, the Noticee sought extension to submit the reply to the SCN.

8. Vide letter dated May 24, 2024, the Noticee submitted its reply to the SCN as below:

"…

Misuse of clients funds:-

At the outset, we hereby most respectfully submitted under reply that there were few instances wherein we were inadvertently became non-compliant with Principal-G calculation. In this regard, we wish to submit following facts to your good office for kind consideration:
There is no principal-G violation since May 01' 2023

BSE vide letter dated May 30' 2023, has already levied the penalty as final enforcement action of Rs. 1,00,000/- for said non-compliance. Any further regulatory action from SEBI may result into "double jeopardy", which by no stretch of imagination can be said to be under the principles of natural justice and fair play. Any further enforcement may impact our financial health significantly.

We do not carry out proprietary trading. Hence, there have been no instance where we have used creditors money for own trading. The only reason for said non-compliance was non recovery of debit balance from debit balance clients which got recovered in next 2-3 working days post every instance.

We appreciate the recent regulatory changes initiated by SEBI and stock exchanges w.r.t client wise margining system. This has given small broker level playing field with other brokers. This has been a great initiative done by SEBI

It is important to note that not only have we shown our intent to comply with the letter and spirit of the enhanced supervision norms, but we have also complied with the enhanced supervision norms by initiating and taking necessary preventive and corrective action.

In view of the above, we humbly submit that we have complied with SEBI circular SEBI/HO/MRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
It is therefore requested to drop said observation as in no case the asset of any client is misused or no client has ever raised grievance against us.

(Enclosed exchange letter and ANNEXURE-1)

Segregation of bank accounts:-

We wish to clarify that we have adequate internal systems/processes in place to monitor non-segregation. We are using sophisticated back office system to carry out all required due diligence w.r.t non-segregation of bank transaction.

In this regard, We wish to submit following facts to your good office for kind consideration:

In absence of standardized format of daily reconciliation statement in SEBI circular SEBI/HO/MIRSD/MIRSD2lClRrPl20l6195 dated September 26, 2016, we maintain manual summary of legitimate reasons for bank transfers between client account and own bank.

BSE vide letter dated May 30' 2023, has already levied the penalty as final enforcement action of Rs. 75,000/- for said non-compliance. Any further regulatory action from SEBI may result into "double jeopardy", which by no stretch of imagination can be said to be under the principles of natural justice and fair play. Any further enforcement may impact our financial health significantly.

We do not carry out proprietary trading. Hence, there have been no instance where we have used creditors money for own trading. There were only 229 instances out of total 6223 were identified however as per internal cross verification in back office system, there were 91 entries pertaining to withdraw of Brokerage and statutory dues. 48 entries pertaining to introduces of funds to meet out pay in obligation .72 entries pertaining to fund withdrawal after the debtors sold of their position.
All the above entries are legitimate as per the clause 2.4.2 of circular number SEBI/HO/MRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
Reconciliation statement is being attached here.

In view of the above, it is therefore most respectfully prayed to kindly drop the said observation under reply and oblige. We also request you to understand our contention that we never use clients funds for own trading or other business purpose.

(Enclosed ANNEXURE-2, ANNEXURE-3 & LEDGER)

<u>Monthly / Quarterly settlement of funds and securities:-</u>

It is earnestly submitted that we have always settled fund of all clients in a timely manner. As per inspection observation, there were only 10 instances pertained to only 7 clients having balance of Rs 54,74,851.28 whose accounts were not settled within 30 days.

We wish to submit following client wise facts to your good office for kind consideration:

UCC - RPI010 (Amount Rs. 3174795.17/-) has requested us to not to transfer the amount and intended to make fresh trading during the day, which he did on 4th May 2022. As per SEBI circular, funds of client is required to be settled in next three days from the date of settlement, however in this case client has traded within 3 working days from the end of 30 days. Client traded on 4th May 2022 which is 3rd working day, accordingly we did not transfer the amount.
UCC - RPM138 belongs to BSE commodity segment. As per process for commodity segment, the fund of the commodity client is required to be placed with clearing member in our case it was with Globe Commodities Ltd. The client had requested us not to transfer and was placing regular orders for steel ingot but due to poor or nil volume the trades never got executed. Inadvertently, we have missed to release funds from CM and settle the clients account.

It may be noted that, in rest 8 instances pertained to 5 clients the amount that were retained is only 15121/- only, this fund have been withhold for recovering DP charges. Post passing of such charges were recovered from 3 accounts final payment was made to the remaining clients on 06/01/2024 in routine basis.

Settling of 7 inactive clients with little delay showed our commitment to ensure compliance in this area for complete set of clients.

It is therefore requested to drop said observation as in no case the asset of any client is misused or no client has ever raised grievance against us

(Enclosed ANNEXURE-4)

Analysis of Enhanced supervision data:-

We wish to humbly request your good office to analyse our intention on each wrong submission. In this regard, we wish to submit following facts to your good office for kind consideration:

While making weekly submission of enhanced supervision as on 06/01/2023, margin was not imported in the system, due to this Margin utilized by credit balances clients was reported as 0. It may be noted that, figure of MC was considered for principal J as J=(C-A)-(MC+MF). It is clearly evident that, showing MC as zero can never be a poor intention of broker as it may make principal J as positive which indicate misuse of credit clients funds and negative J indicate compliance.

In other instances, we have considered VaR, ELM, MTM and Additional Margin while calculating margin utilization of credit balance client's. Margin utilization calculation has done by software itself which is reported in enhance supervision file. The difference of Rs 1422.37 shown in margin calculation is due to securities re-pledged with clearing corporation. There is no intention to report wrong data as all data is already placed with ICCL and exchanges for verification.

We have reported unblock collateral deposited with clearing member and clearing corporation as on dated 12/05/2023 of Rs. 22464458/- in form of Cash, FDR and securities re-pledge (after deducting applicable variances and haircut) with CC, while calculating securities re-pledge value, inadvertently we have taken 30% value of re-pledge securities this was clerical mistake, we regret for our mistake this will not happen in future. However we have reported less unblock collateral deposited with clearing member and clearing corporation while the actual amount was 24303687/- shown as unblock collateral deposited with clearing member and clearing corporation.

Keeping in view all the present facts and circumstances state above and other existing market practice, we request a logical view and constructive approach. Whereas if your good office is still having any adverse view, kindly grant us an opportunity of being heard.

(Enclosed ANNEXURE-5)

Net worth verification: -

At the outset, we hereby most respectfully deny the severity of non-compliance under reply. we wish to submit following facts to your good office for kind consideration:

We admit the fact that to we have inadvertently missed to deduct correct amount under Doubtful Debts and advances from provisional submitted networth computation as on 31-03-2023 however we have ensured correct deduction in subsequent audited Networth certificate submitted to exchange as on 31/03/2023

In observation annexure, trading account debtors of Rs 2791953.70/- was mentioned, wherein it may be mentioned that debit amount 2170050.01/- pertained to mother of Director. Post guidance from inspection team, we had immediately clear the debit balances.

We have taken immediate corrective measures and made recovery of loans for Rs. 1.58 crore and clear long pending debit of 22 Lak in one family code. We have also provided revised networth as on 20-09-2023, which is as per Exchange requirement.

The above matter has been discussed in detail with inspection team during their visit, above suggested measures were ensured in timely manner to make networth as per Exchange rules.

(Enclosed ANNEXURE-6 & NETWORTH CERTIFICATE AS 31/03/23, 14/09/23, 30/09/23 & 16/02/24)

…"

9. In the interest of principles of natural justice, vide Hearing Notice dated May 27, 2024, the Noticee was provided an opportunity of hearing on June 03, 2024. Vide email dated May 29, 2024, the Noticee sought extension to the date of hearing and the hearing was rescheduled to June 10, 2024. On the rescheduled date of hearing i.e. on June 10, 2024, the Noticee availed the hearing opportunity through its Authorized Representatives (AR) viz., Mr. Sanjiv Kumar Rathi, wherein the AR interalia relied upon and reiterated the submissions made by the Noticee vide letter dated May 24, 2024. Further, the AR also submitted that there were no additional/further submissions to be made and the submissions made vide letter dated May 24, 2024 be taken as final and complete submissions in the matter.

D. CONSIDERATION OF ISSUES AND FINDINGS

10. I find that the following issues require consideration in the instant proceedings:

Issue No. I: Whether the Noticee had violated the provisions of SCR Rules, 1957, SEBI Stock Broker Regulations, 1992 and circulars, as alleged?

Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act, 1992 and Section 23H of SCR Act, 1956?

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

Issue No. I: Whether the Noticee had violated the provisions of SCR Rules, 1957, SEBI Stock Broker Regulations, 1992 and circulars, as alleged?

11. The following was inter alia observed and /or alleged in respect of the Noticee:

11.1. Finding A: Misuse of clients' funds

11.1.1. In this regard, it was inter alia been observed and alleged that Principle G was negative in 22 out of 40 sample dates (more than 50% sample), amounting to Rs. 8.12 Crores, which indicates that SB had mis-utilized client's fund.

Accordingly, it was alleged that the Noticee had violated 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR /2023/71 dated May 17, 2023 read with Clause 3 of Annexure of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

11.1.2. In this regard, I note that Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR /2023/71 dated May 17, 2023 reads as under"

"…

15.5 Monitoring of Clients' Funds lying with the Stock Broker by the Stock Exchanges

15.5.1Stock Exchanges shall put in place a mechanism for monitoring clients' funds lying with the stock broker to generate alerts on any misuse of clients' funds by stock brokers, as per the guidelines stipulated in para 15.5.2 & 15.5.3 below.

15.5.2The uploading of the following data by the stock broker to the Stock Exchanges shall be on weekly basis i.e. stock brokers shall submit the data as on last trading day of every week on or before the next three trading days. Further, the Stock Broker shall not be required to upload data with respect to custodian settled clients.

A-Aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account, maintained by the stock broker across Stock Exchanges.

B-Aggregate value of collateral deposited with Clearing Corporation and/or clearing member (in cases where the trades are settled through clearing member) in form of Cash and Cash Equivalents (Fixed deposit (FD), Bank guarantee (BG), etc.) (across Stock Exchanges). Only funded portion of the BG, i. e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered as part of B.

C-Aggregate value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligations).

D-Aggregate value of Debit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients, uncleared cheques issued to clients and the margin obligations).

E-Aggregate value of proprietary non-cash collaterals i.e. securities which have been deposited with the Clearing Corporation and/or clearing member (across Stock Exchanges).

F-Aggregate value of Non-funded part of the BG across Stock Exchanges.

P-Aggregate value of Proprietary Margin Obligation across Stock Exchanges.

MC-Aggregate value of Margin utilized for positions of Credit Balance Clients across Stock Exchanges.

MF-Aggregate value of Unutilized collateral lying with the Clearing Corporation and/or clearing member across Stock Exchanges.

15.5.3 Based on the aforesaid information submitted by the stock broker, Stock Exchanges shall put in place a mechanism for monitoring of clients' funds lying with the stock brokers on the principles enumerated below:

15.5.3.1Funds of credit balance clients used for settlement obligation of debit clients or for own purpose:

Principle:

The total available funds i.e. cash and cash equivalents with the stock broker and with the Clearing Corporation/clearing member (A + B) should always be equal to or greater than Clients' funds as per ledger balance (C).

Stock Exchanges shall calculate the difference i.e. G as follows –

G = (A+B) –C

If difference G is negative, then the total available fund is less than the ledger credit balance of clients. The value of G may indicate utilization of clients' funds for other purposes i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the stock brokers' own purposes. The negative value of G acts as an alert to the Stock Exchanges.

…"

11.1.3. In this regard, I note that from the material available on record that the violation of Principle G was observed on the following 22 dates:

Date	G-value (in Rs.)
09/05/2022	-3795368.48
10/05/2022	-6030275.14

11/05/2022	-11462586.4
12/05/2022	-5180433.42
13/05/2022	-2754658.2
12/09/2022	-4645055.44
14/09/2022	-8149049.43
15/09/2022	-2511514.38
16/09/2022	-2924785.83
14/11/2022	-6034422.13
15/11/2022	-4233482.73
16/11/2022	-3290583.46
17/11/2022	-3791000.86
18/11/2022	-2510684.11
02/01/2023	-2922903.04
03/01/2023	-3415486.55
04/01/2023	-3863923.06
05/01/2023	-339358.39
20/03/2023	-298821.7
22/03/2023	-763063.21
23/03/2023	-2315931.28
24/03/2023	-25321.22

11.1.4. In this regard, the Noticee has submitted that, "…*BSE vide letter dated May 30' 2023, has already levied the penalty as final enforcement action of Rs. 1,00,000/- for said non-compliance….".*

In this regard, , as confirmed by BSE, I note that penalty was imposed on the Noticee for Principle G violation for the following instances:

Date	G-value (in Rs.)
02/12/2022	-3795368.48
09/12/2022	-6030275.14
16/12/2022	-11462586.4
23/12/2022	-5180433.42
30/12/2022	-2754658.2

In this regard, I note that the instances of Principle G violation as alleged are distinct from the ones for which the penalty was imposed by BSE on the Noticee, vide letter dated May 30, 2023. Therefore, the Noticee's submissions are devoid of merit and hence not acceptable.

11.1.5. In this regard, I further note that the Noticee's submissions are in nature of admission in so far as the Noticee as reply to the SCN has submitted, "…*The only reason for said non-compliance was non recovery of debit balance from debit balance clients which got recovered in next 2-3 working days post every instance*…" and "…*There is no principal-G violation since May 01' 2023*…".

In this regard, I also note that the Noticee's reply to the SEBI earlier to the findings of inspection was in nature of admission in so far as the Noticee had submitted that, "...*In few instance principal G was negative as fund of credit balance clients were utilized for exchange obligation of payin of debit balance clients as debit balance client did not give payment on same day for securities they purchased…".*

11.1.6. In view thereof, I find that the allegation that Principle G was negative in 22 out of 40 sample dates (more than 50% sample), amounting to Rs. 8.12 Crores, which indicates that SB had mis-utilized client's fund, stands established. Accordingly, I hold that that the Noticee had violated 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR /2023/71 dated May 17, 2023 read with Clause 3 of Annexure of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

11.2. Finding B: Segregation of bank accounts

11.2.1. In this regard, it was inter alia observed and alleged that:

- During verification of bank books, trial balance and financial ledgers, it was observed that stock broker had been extending loans or giving deposits / advances amounting to Rs. 3,13,83,012.24 which was not in connection with or incidental to or consequential upon the securities/ commodity derivatives business.
- During verification of bank books and bank statement, it was observed that Stock broker had failed to maintain/provide daily reconciliation statement for transaction between client account and own account, to the tune of 229 non-segregation transactions out of 6223 bank book transaction.

Accordingly, it was alleged that the Noticee had violated Clause 15.4.4, 24, 25 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with

- Clause 2.4 of Annexure of SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2/ CIR/P/2016/95 dated September 26, 2016.
- SEBI Circular No. MRD/DOP/SE/Cir –11/2008 dated April 17, 2008.
- Rule 8(3) (f) of the Securities Contracts (Regulation) Rules 1957.

11.2.2. In this regard, I note that Clause 15.4.4, 24, 25 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 reads as under:

"…

15.4 Reporting of Bank and Demat accounts maintained by Stock Broker:

15.4.4 In line with the prevalent regulatory requirement, it is reiterated that;

…

15.4.4.2. Transfer of funds between "Name of Stock Broker -Client Account" and "Name of Stock Broker -Settlement Account" and client's own bank accounts is permitted. Transfer of funds from "Name of Stock Broker -Client Account" to "Name of Stock Broker -Proprietary Account" is permitted only for legitimate purposes, such as, recovery of brokerage, statutory dues, funds shortfall of debit balance clients which has been met by the stock broker, etc. For such transfer of funds, stock broker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred.

…

24. Collateral deposited by Clients with Brokers[32]

24.1. For brokers to maintain proper records of client collateral and to prevent misuse of client collateral, it is advised that:

24.1.1. Brokers should have adequate systems and procedures in place to ensure that client collateral is not used for any purposes other than meeting the respective client's margin requirements / pay-ins. Brokers should also maintain records to ensure proper audit trail of use of client collateral.

…

25. Severance of connections with other businesses[33]

25.1Rule 8(1)(f) and Rule 8(3)(f) of the SCRR 1957, requires that members of a Stock Exchange, whether individual, partnership or corporate, shall not engage in any business other than that of *securities. Stock Exchanges should be ensured that the applicants do not attract the above stated rule.*

…"

I further note that Rule 8(3) (f) of the Securities Contracts (Regulation) Rules, 1957 reads as under:

"…

Qualifications for membership of a recognised stock exchange.

8. *The rules relating to admission of members of a stock exchange seeking recognition shall inter alia provide that:*

….

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

…..

(f) he engages either as principal or employee in any business other than that of securities [15][or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

[16][(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items [(a) to (n) of sub-rule (8)][17]

…"

11.2.3. In this regard, I note that as regards the allegation that stock broker had been extending loans or giving deposits / advances amounting to Rs. 3,13,83,012.24 which was not in connection with or incidental to or consequential upon the securities/ commodity derivatives business, the Noticee has not submitted any response. In the absence of any response to the allegation, I am of the view that the Noticee has admitted to the allegation levelled against it.

11.2.4. I further note that as regards the allegation that Stock broker had failed to maintain/provide daily reconciliation statement for transaction between client account and own account, to the tune of 229 non-segregation transactions out of 6223 bank book transaction, the Noticee's submissions are in nature of admission in so far as the Noticee has submitted that, "…*as per internal cross verification in back office system, there were 91 entries pertaining to withdraw of Brokerage and statutory dues. 48 entries pertaining to introduces of funds to meet out pay in obligation .72 entries pertaining to fund withdrawal after the debtors sold of their position*…". In this regard, I note that the Noticee has failed to demonstrate with relevant details and documents that the daily reconciliation statement for transaction between client account and own account was being maintained by the Noticee and instead the Noticee has provided the broad reasons relating to the transactions for which the daily reconciliation statement was required to be maintained.

11.2.5. In this regard, I note that the Noticee has inter alia also contended that, "…*BSE vide letter dated May 30' 2023, has already levied the penalty as final enforcement action of Rs. 75,000/- for said non-compliance*…".

In this regard, I note that the Noticee has neither provided any document with regard to the proof of having paid the penalty nor has it demonstrated that the period and the instances were common. In this regard, I note, as confirmed by BSE, that the period of inspection under reference to the said BSE letter dated May 30' 2023 was April 2020 to March 2021 which is different from the inspection period in the instant case viz., April 01, 2022 to July 31, 2023. Accordingly, the submissions of the Noticee in this regard are devoid of merit and hence not acceptable.

11.2.6. In view thereof, I find that the allegation that the Noticee had been extending loans or giving deposits / advances amounting to Rs.

3,13,83,012.24 which was not in connection with or incidental to or consequential upon the securities/ commodity derivatives business and that the Noticee had failed to maintain/provide daily reconciliation statement for transaction between client account and own account, to the tune of 229 non-segregation transactions out of 6223 bank book transaction, stands established. Accordingly, I hold that the Noticee had violated Clause 15.4.4, 24, 25 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 2.4 of Annexure of SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2/ CIR/P/2016/95 dated September 26, 2016; SEBI Circular No. MRD/DOP/SE/Cir –11/2008 dated April 17, 2008; Rule 8(3) (f) of the Securities Contracts (Regulation) Rules 1957.

11.3. Finding C: Monthly / Quarterly settlement of funds and securities

11.3.1. In this regard, it was inter alia observed and alleged that the stockbroker had not done settlement of inactive clients on 10 instances amounting to Rs. 54,70,851.28/- verified for clients having credit balance, who had not done any transaction in the 30 calendar days since the last transaction.

Accordingly, it was alleged that the Noticee had violated Clause 47.4 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 5.4 of SEBI Circular No. SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021.

11.3.2. In this regard, I note that Clause 47 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 and SEBI Circular No. SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021 inter alia reads as under:

"…

47. Settlement of Running Account of Client's Funds lying with Trading Member

…

47.4 For the clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction, the credit balance shall be returned to the client by TM, within next three working days irrespective of the date when the running account was previously settled.

…"

11.3.3. In this regard, I note from the material available on record that the stockbroker had not done settlement of inactive clients on the following 10 instances:

Period/Month	**Inactive UCC**	**Funds not settled (Amount in Rs.)**
2022-04-01 TO 2022-04-30	Rxx137	590
2022-04-01 TO 2022-04-30	Rxx084	2385.96
2022-04-01 TO 2022-04-30	Rxx010	3174795.17
2022-05-01 TO 2022-05-31	Rxx137	590
2022-05-01 TO 2022-05-31	Rxx138	2280934.24
2022-10-01 TO 2022-10-31	Rxx176	2162.32
2022-11-01 TO 2022-11-30	Rxx176	2162.32
2022-12-01 TO 2022-12-31	Rxx176	2162.32
2022-12-01 TO 2022-12-31	Rxx049	3935.2
2023-05-01 TO 2023-05-31	Rxx073	1133.75

11.3.4. In this regard, I note that as regards UCC Rxx010, the Noticee has submitted that, "…*Rxx010 (Amount Rs. 3174795.17/-) has requested us to not to transfer the amount and intended to make fresh trading during the day, which he did on 4th May 2022. As per SEBI circular, funds of client is required to be settled in next three days from the date of settlement, however in this case client has traded within 3 working days from the end of 30 days. Client traded on 4th May 2022 which is 3rd working day, accordingly we did not transfer the amount*…".

In this regard, I note that I note that the Noticee's submission is in nature of mere statements, without any supporting details and documents. Therefore, the Noticee's submissions are devoid of merit and hence not acceptable.

11.3.5. I further note that as regards UCC Rxx138, the Noticee's submissions are in nature of admission, in so far as the Noticee has submitted that, "…*Inadvertently, we have missed to release funds from CM and settle the clients account*….".

11.3.6. As regards the remaining 8 instances, the Noticee has submitted that, "…*in rest 8 instances pertained to 5 clients the amount that were retained is only 15121/- only, this fund have been withhold for recovering DP charges. Post passing of such charges were recovered from 3 accounts final payment was made to the remaining clients on 06/01/2024 in routine basis*…".

In this regard, I note from the material available on record that as per clause 5.2 of SEBI Circular SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021, TM may retain funds only for pay-in obligation of funds at end of the day of settlement of running account or for margin liability, in all segments and additional margins (225% of the margin). Further, as per clause 5.2 of the aforesaid circular, the credit balance shall be returned to the client who have not done any transaction in the 30 calendar days since the last transaction, within next three working days irrespective of the date when the running account was previously settled. Therefore, the Noticee's submissions are devoid of merit and hence not acceptable.

11.3.7. In view thereof, I find that the allegation that Noticee had not done settlement of inactive clients on 10 instances amounting to Rs. 54,70,851.28/- verified for clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction, stands established. Accordingly, I hold that the Noticee had violated Clause 47.4 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with Clause 5.4 of SEBI Circular No. SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021.

11.4. Finding D: Analysis of Enhanced supervision data:

11.4.1. In this regard, it was inter alia observed and alleged that the Stock Broker had wrongly reported data w.r.t. enhanced supervision on the following points on sample dates 06/01/2023, 12/05/2023.

- Aggregate value of Margin utilized for positions of Credit Balance Clients.
- Aggregate value of collateral deposited with clearing corporations and/or clearing member.

Accordingly, it was inter alia alleged that the Noticee had violated Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/ 71 dated May 17, 2023 read with Clause 3 of Annexure of SEBI circular No.SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

11.4.2. In this regard, I note that Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR /2023/71 dated May 17, 2023 reads as under"

"…

15.5 Monitoring of Clients' Funds lying with the Stock Broker by the Stock Exchanges

15.5.1Stock Exchanges shall put in place a mechanism for monitoring clients' funds lying with the stock broker to generate alerts on any misuse of clients' funds by stock brokers, as per the guidelines stipulated in para 15.5.2 & 15.5.3 below.

15.5.2The uploading of the following data by the stock broker to the Stock Exchanges shall be on weekly basis i.e. stock brokers shall submit the data as on last trading day of every week on or before the next three trading days. Further, the Stock Broker shall not be required to upload data with respect to custodian settled clients.

A-Aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account, maintained by the stock broker across Stock Exchanges.

B-Aggregate value of collateral deposited with Clearing Corporation and/or clearing member (in cases where the trades are settled through clearing member) in form of Cash and Cash Equivalents (Fixed deposit (FD), Bank guarantee (BG), etc.) (across Stock Exchanges). Only funded portion of the BG, i. e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered as part of B.

C-Aggregate value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligations).

D-Aggregate value of Debit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients, uncleared cheques issued to clients and the margin obligations).

E-Aggregate value of proprietary non-cash collaterals i.e. securities which have been deposited with the Clearing Corporation and/or clearing member (across Stock Exchanges).

F-Aggregate value of Non-funded part of the BG across Stock Exchanges.

P-Aggregate value of Proprietary Margin Obligation across Stock Exchanges.

MC-Aggregate value of Margin utilized for positions of Credit Balance Clients across Stock Exchanges.

MF-Aggregate value of Unutilized collateral lying with the Clearing Corporation and/or clearing member across Stock Exchanges.

…"

11.4.3. In this regard, I note from the material available on record that Stock Broker had wrongly reported data w.r.t. enhanced supervision on the following points on sample dates 06/01/2023, 12/05/2023 as follows:

	06/01/2023		
	Reported (in Rs.)	*Calculated (in Rs.)*	*Difference (in Rs.)*
Margin utilized (MC) by credit balance client	0	453342.61	-453342.61

	12/05/2023		
	Reported (in Rs.)	*Calculated (in Rs.)*	*Difference (in Rs.)*
Free/unblocked Collateral deposited with Clearing corporation (MF1)	22464458	24303687	-1839229

11.4.4. In this regard, I note that as regards the wrong reporting of data on 06/01/2023, the Noticee's submissions are in nature of admission in so far as the Noticee has submitted, "…*While making weekly submission of enhanced supervision as on 06/01/2023, margin was not imported in the system, due to this Margin utilized by credit balances clients was reported as 0…*".

11.4.5. I further note that as regards the wrong reporting of data on 12/05/2023, the Noticee's submissions are in nature of admission in so far as the Noticee has submitted, "…*while calculating securities re-pledge value, inadvertently we have taken 30% value of re-pledge securities this was clerical mistake*…".

11.4.6. In view thereof, I find that the allegation that the Noticee had wrongly reported data w.r.t. enhanced supervision on sample dates 06/01/2023, 12/05/2023, stands established. Therefore, I hold that the Noticee had violated Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/ 71 dated May 17, 2023 read with Clause 3 of Annexure of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

11.5. Finding E: Net worth verification:

11.5.1. In this regard, it was inter alia observed and alleged during the verification of networth as on 31-03-2023 that stock broker had failed to deduct correct amount under Doubtful Debts and advances.

As per net worth certificate: 88576/-

As per verification: 18261401.7/-

Accordingly, it was alleged that the Noticee had violated Clause 2 of Schedule II 'Code of Conduct' read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992; BSE notice no 20230412-51 dated 12-Apr-2023.

11.5.2. In this regard, I note that Clause 2 of Schedule II 'Code of Conduct' read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992 reads as under:

"…

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 specifies in Schedule II;

…

SCHEDULE II

CODE OF CONDUCT FOR STOCK BROKERS

A. General

..

(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

…"

I further note that BSE notice no 20230412-51 dated 12-Apr-2023 reads as under:

"…

Trading Members of the Exchange are hereby requested to submit Networth Certificate & Computation of Networth as on March 31, 2023, as per formats prescribed (as applicable) latest by May 31, 2023

…"

11.5.3. In this regard, I note from the material available on record that the amount of Doubtful Debts and advances as per net worth certificate was 88576/-, however as per verification that the amount of Doubtful Debts and advances was 18261401.7/- as per below:

Trading account debtors	2791953.70
Gxxxxxx Sxxxx	5000000.00
Sxxxx Ixxxx	320000.00
R R Ixxx Axx Sxxxx Pxx Lxx	2000000.00
Hxxxxxxxxx Sxxxx Pxxxx Pxx Lxx	3000000.00
Vxxxxx Ixxxx Vxxxxxxx Pxx Lxx	3500000.00
Mxxxxx Ixxxxxxxxxxxx Pxx Lxx	1266595.00
Txxxx Pxxxxx Sxxxxxxxx Pxx Lxx	382853.00
Total	18261401.7

Note: Values in the Table are in Rupees

11.5.4. In this regard, I note that the Noticee's submissions are in nature of admission in so far as the Noticee has submitted, "…*We admit the fact that to we have inadvertently missed to deduct correct amount under Doubtful Debts and advances from provisional submitted networth computation as on 31-03-2023…*".

11.5.5. In view thereof, I find that the allegation that the Noticee had failed to deduct correct amount under Doubtful Debts and advances from the networth as on 31-03-2023, stands established. Therefore, I hold that the Noticee had violated Clause 2 of Schedule II 'Code of Conduct' read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992; BSE notice no 20230412-51 dated 12-Apr-2023.

Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act, 1992 and Section 23H of SCR Act, 1956?

12. As it has been established in the foregoing paragraphs that Noticee had violated the provisions of law as alleged in the SCN and as reproduced below, the Noticee is liable for payment of a monetary penalty in terms of Section 15HB of the SEBI Act, 1992 and Section 23H of SCR Act, 1956.

12.1. Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR /2023/71 dated May 17, 2023 read with Clause 3 of Annexure of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

12.2. Clause 15.4.4, 24, 25 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with

- Clause 2.4 of Annexure of SEBI Circular No. SEBI/HO/MIRSD/ MIRSD2/ CIR/P/2016/95 dated September 26, 2016.
- SEBI Circular No. MRD/DOP/SE/Cir –11/2008 dated April 17, 2008.
- Rule 8(3) (f) of the Securities Contracts (Regulation) Rules 1957.

12.3. Clause 47.4 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD /MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with SEBI Circular No. SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021.

12.4. Clause 15.5 of SEBI Master Circular for Stock Broker No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/ 71 dated May 17, 2023 read with Clause 3 of Annexure of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

12.5. Clause 2 of Schedule II 'Code of Conduct' read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992. BSE notice no 20230412-51 dated 12-Apr-2023.

13. In this regard, it is noted that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) inter alia held that:

> *" ... 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 .... "*

14. Therefore, for the above violations, as dealt with and brought out in the foregoing paragraphs, I find that the Noticee is liable for monetary penalty under Section 15HB of the SEBI Act, 1992 and Section 23H of SCR Act, 1956 which reads as under:

"…

SEBI Act, 1992

15HB: Penalty for contravention where no separate penalty has been provided

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 [104][liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]

…"

SCR Act, 1956

Penalty for contravention where no separate penalty has been provided.

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be [liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]

…"

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

15. While determining the quantum of penalty under Section 23H of SCR Act, 1956, Section 15HB of the SEBI Act, 1992, it is important to consider the factors as stipulated in Section 23J of the SCR Act, 1956 and Section 15J of SEBI Act, 1992 respectively, which reads as under: -

SCR Act, 1956

"………..

Factors to be taken into account while adjudging quantum of penalty.

23J. While adjudging the quantum of penalty under [138][section 12A or section 23-I], the [139][the Securities and Exchange Board of India or 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 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section

…………..."

SEBI Act, 1992

"………..

Factors to be taken into account while adjudging quantum of penalty.

15J. While adjudging quantum of penalty under 15- or section 11 or section 11B, the Board or 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 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.

…"

16. In the instant matter, I note that the material on record does not indicate the amount of disproportionate gain or unfair advantage made by the Noticee, and the amount of loss caused to an investor or group of investors as a result of the

aforesaid violation, nor does it specifically indicate that the violations committed by the Noticee were repetitive in nature. However, I note that the Noticee being a SEBI registered Stock Broker was required to comply with the applicable provisions of securities laws, which it had failed to comply with, as dealt with and brought out in the foregoing and which SEBI is duty bound to enforce compliance of. Such non-compliance accordingly needs to be dealt with suitable penalty.

E. ORDER

17. After taking into consideration the facts and circumstances of the case, material available on record, submissions made by the Noticee and also the factors mentioned in the preceding paragraphs, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 r/w Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and section 23-I of the SCR Act, 1956 r/w Rule 5 of the Securities Contracts (Regulations) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005, I hereby impose a penalty, as per details in table below, upon the Noticee, for the aforementioned violations, as discussed in this order. In my view, the said penalty will be commensurate with the violations committed by the Noticee in this case:

Name of the Noticee	Penalty under Section	Penalty (in Rs.)
Shri Venkatesh Stock Broker Services India Private Limited	Section 15HB of SEBI Act, 1992	4,00,000/- (Rupees Four Lakhs Only)
	Section 23H of SCRA Act, 1956	1,00,000/- (Rupees One Lakh Only)

18. The Noticee 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

19. 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 and Section 23JB of the SCR Act, 1956 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

20. In terms of the provisions of Rule 6 of the Adjudication Rules and Rule 6 of the SCR Rules, 2005, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

DATE: January 28, 2025	**AMAR NAVLANI**
PLACE: MUMBAI	**ADJUDICATING OFFICER**