BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER Ref. No. ORDER/NH/RJ/2024-25/31016]

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

Master Capital Services Limited
Registration Number INZ000210539
PAN AABCM1406A

In the matter of Master Capital Services Limited

A. BACKGROUND

1. Master Capital Services Limited (hereinafter referred to as '**Noticee'**) is registered with Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) as a Stock Broker having registration number INZ000210539.

2. SEBI had conducted an inspection of the Noticee for the period from April 01, 2022 to August 31, 2023 (hereinafter referred to as **'inspection period'**). The findings of the said inspection were communicated to the Noticee vide letter dated March 15, 2024. In response to the findings in the inspection report, Noticee submitted a reply vide letter dated March 20, 2024.

3. Based on the findings of the inspection of the Noticee and considering the reply of the Noticee, SEBI initiated adjudication proceedings against the Noticee for alleged violation of the following provisions:

3.1. Regulation 9 and Regulation 26(xix) of SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to '**Broker Regulations**'),

3.2. Clauses A(1), A(2) and A(5) of Schedule II for Code of Conduct read with Regulation 9 of Broker Regulations, 3.3. NSE Circular No. NSE/MEM/3574 dated August 29, 2002 (hereinafter referred to ‘**NSE Circular dated August 29, 2002’**) and

3.4. NSE Circular No. NSE/COMP/56947 dated June 02, 2023 (hereinafter referred to ‘**NSE Circular dated June 02, 2023’**).

B. APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as the Adjudicating Officer (hereinafter referred to as ‘**AO’**) vide communique dated June 19, 2024 under Section 19 read with Section 15-I of Securities and Exchange Board of India, 1992 (hereinafter referred to as ‘**SEBI Act’**) and under Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as ‘**Adjudication Rules’**) to inquire into and adjudge under Section 15HB of the SEBI Act for the alleged violations committed by Noticee as mentioned above.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice (hereinafter referred to as ‘**SCN**') bearing No. SEBI/HO/EAD2/NH/RJ/2024/20695 dated June 24, 2024, was issued to the Noticee under Rule 4 of Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against the Noticee under Section 15HB of SEBI Act for the aforesaid alleged violations.

6. The SCN dated June 24, 2024, *inter alia*, alleged the following:

“…

6.1. ***Trading terminals Verification***

Authorized Person Name- Mr. Manaswini Swain and Location-1 Mumbai,

6.1.1. In the inspection, it was observed that none of the 13 trading terminals of the Authorized Person (hereinafter referred to as ***‘AP’****), Mr. Manaswini Swain were available at the location registered with NSE i.e. Tower. ####.*[1]*On verification of Exchange’s Trade Data dated October 27, 2023,*

[1] Address excised for confidentiality.

it was observed that trades were executed through 10 terminals out of the said 13 terminals of the AP, Mr. Manaswini Swain. Hence, it was observed that the trading terminals were being operated from unauthorized location which were not reported to Exchange.

6.1.2. In response, Noticee had stated that the said terminals were being operated on test basis and the same was intimated to NSE on January 10, 2024.

6.1.3. It is alleged in the PIA that the date of intimation to NSE was after the date of inspection. It is mentioned that though the Noticee has taken corrective action, it had, allegedly, failed to report the location of the said terminals to NSE which resulted in terminals being operated from unauthorized location. Accordingly, Noticee is alleged to have violated the following provisions during the inspection period:

6.1.3.1. Regulation 9 and Regulation 26(xix) of Broker Regulations,

6.1.3.2. Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulation and

6.1.3.3. NSE Circular Nos. NSE/MEMB/3574 dated August 29, 2002 and NSE/COMP/56947 dated June 02, 2023.

AP Name-Tridhya Enterprises LLP and Location-2 Ahmedabad

6.1.4. During the inspection, it was observed that none of the 23 trading terminals of the AP, Tridhya Enterprises LLP were available at the location registered with the NSE which was Office No. ####[2]. On verification of Exchange's trade data dated December 08, 2023, it was observed that trades were executed through 22 terminals out of the said 23 terminals. Hence, it was observed that the said 23 terminals were being operated from unauthorized locations as these locations were not reported to Exchange.

6.1.5. In response, Noticee has stated that AP had submitted documents for change of address with Noticee on November 06, 2023. Due to some discrepancies pertaining to sublease clause, the said documents pertaining to change of address were not uploaded on the Exchange's

[2] Address excised for confidentiality.

portal and AP was informed to rectify the same. However, AP had already shifted his location as it had to vacate its old office within stipulated date.

6.1.6. It is stated in the PIA that as per Clause 5 to Annexure 1 of SEBI Circular MIRSD/DR-1/CIR-16/09 dated November 06, 2009, all acts of omission and commission of the AP shall be deemed to be those of the stock broker.

6.1.7. In this context, it is alleged that the AP had started its operation from new address without updating the same with the Exchange. Accordingly, the Noticee is alleged to have violated the following provisions during the inspection period:

6.1.7.1. Regulation 9 and Regulation 26(xix) of Broker Regulations,

6.1.7.2. Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulations and

6.1.7.3. NSE Circular Nos. NSE/MEMB/3574 dated August 29, 2002 and NSE/COMP/56947 dated June 02, 2023.

6.2. ***Approved user not operating* terminals**

6.2.1. During the inspection, it was observed that one user, Mr. Ramesh Arjanbhai Marand was *not available at the location of the terminal. It was observed that the terminal of Mr. Ramesh Arjanbhai Marand was being used by one Mr. Darshan Dineshbhai Pithava at the time of inspection and trades were executed in the F&O Segment. In this regard, Noticee had confirmed that Mr. Darshan Dineshbhai Pithava was handling the Computer to Computer Link (hereinafter referred to as 'CTCL') Id allotted to Mr. Ramesh Arjanbhai Marand.*

6.2.2. Further, it was, also, observed during inspection that a total of 11 terminals were being operated by other users.

6.2.3. In response, Noticee has stated that such other users were approved users but they were not sitting on their designated user Id. Additionally, Noticee stated that two users, Mr. Mayank Chauhan and Mr. Jayendra Solanki were sitting as trainees during the inspection and were not operating the terminals.

6.2.4. It is alleged in the PIA that Noticee has accepted that the terminals were being operated by people other than approved users. In regards to the *reply of the Noticee that Mr. Mayank Chauhan and Mr. Jayendra Solanki were sitting as a trainee during the inspection and were not operating the terminals, it is stated that from the details provided by NSE, trades were executed from the terminals allegedly operated by Mr. Mayank Chauhan and Mr. Jayendra Solanki.*

6.2.5. Accordingly, the Noticee was alleged to be non-compliant during the inspection period and has allegedly violated the following:

6.2.5.1. Regulation 9 and Regulation 26(xix) of Broker Regulations,

6.2.5.2. Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulations and

6.2.5.3. NSE Circular Nos. NSE/MEMB/3574 dated August 29, 2002 and NSE/COMP/56947 dated June 02, 2023.

…"

7. Noticee, vide letter dated July 10, 2024, requested for inspection of documents in the instant case. In the interest of natural justice, an opportunity of inspection of documents was granted to the Noticee on July 18, 2024. The authorized representatives (hereinafter referred to as '**ARs**') of the Noticee conducted an inspection of the documents on July 18, 2024. Pursuant to the completion of the inspection, Noticee was granted an opportunity to submit its reply by July 25, 2024.

8. In this regard, the Noticee submitted its reply on July 25, 2024 wherein it has, *inter alia,* stated as under:

"….

Submissions on the allegation of Authorized Person Viz. Manaswini Swain (Location Mumbai) operated their terminal from unauthorized location.

8.1. *It is alleged that terminals were not available at the approved location of our AP viz. Manaswini Swain but trades were executed from the said terminals. In this regard, we submit as under:*

8.1.1. Some dealers of Manaswini were dealing from other office which was opened at that time only on test basis and details of the same were to be shared with us by Manaswini after satisfactory establishment.

8.1.2. It is pertinent to note that only on the date of inspection that the said terminals were being operated, temporarily, from that office.

8.1.3. Further, only two clients, which belong only to Manaswini or its family members were active and trading through the said AP using Algo strategies for the last two years from the date of inspection.

8.1.4. Without prejudice to what is stated aforesaid, we submit that pursuant to the said inspection, we have completed all the formalities and the new address was properly updated with NSE. Even in the SCN it is mentioned that we have taken corrective action.

8.1.5. Additionally, vide email dated 10.01.2024, we had intimated NSE that the said terminals of Manaswini was being operated on test basis from the said offices on the date of inspection. The said email to NSE shows that there was never any intention of our Company to conceal any information and there is no malafide intention on our part.

8.1.6. It is further submitted that all user IDs of NSE pertaining to Manaswini are presently de-activated.

8.1.7. Therefore, no adverse inference be drawn against us in this regard.

Submissions on the allegation of Authorized Person Viz. Tridhya Enterprises LLP (Location 2 -Ahmedabad) operated their terminal from unauthorized location:

8.2. *It is alleged that AP terminal of our AP i.e. Tridhya was operated from unauthorized location. In this regard, we submit as under:*

8.2.1. On 06. 11.2023, AP viz. Tridhya had submitted documents for change of address. However, due to some discrepancies in the document pertaining to sublease clause, the same could not be uploaded on NSE's portal. The AP viz. Tridhya was informed to rectify the same.

8.2.2. Before the rectified documents could be uploaded on NSE's portal, the inspection team visited the office of AP viz. Tridhya. However, the AP viz. Tridhya had already shifted their location as they had to vacate their old office within the stipulated date.

8.2.3. It is pertinent to note that immediately after the date of inspection i.e. 08.12.2023, we received rectified documents from the AP i.e. Tridhya on 11.12.2023 and the same were uploaded immediately and approved by

NSE on 19.12.2023 after which the new address was updated on the trading terminals of AP viz. Tridhya.

8.2.4. The aforesaid shows that there was no malafide intention on our part. Therefore, no adverse inference be dawn against us in this regard.

Submission on the allegation of terminals were being operated by people other than approved users:

8.3. *On the allegation that one user, Mr. Ramesh Arjanbhai Marand **("Ramesh")** was not available at the location of the terminal and the said terminal was being used by one Mr. Darshan Dineshbhai Pithava and trades were executed in the F&O Segment from the said terminal. In this regard, we submit as under:*

8.3.1. The user i.e. Mr. Ramesh of Computer To Computer Link ("CTCL") ID - 380059559067 for executing trades in Futures & Options Segment had to leave office due to some urgency and therefore he was not available at the time of inspection.

8.3.2. As Mr. Ramesh had to leave office due to some urgency, his CTCL ID for F&O Segment was handled by Mr. Darshan Dineshbhai Pithava ("Darshan") who also had NISM Certificate Series - VIII for equity derivatives which is required to operate derivative terminal.

8.3.3. We submit that the said user i.e. Mr. Darshan was verified by the inspection team during inspection.

8.3.4. Therefore, we submit that the CTCL of Mr. Ramesh was operated by Mr. Darshan, who also had appropriate certificate to operate the said CTCL for F&O segment.

8.3.5. Therefore, no adverse inferences be drawn against us in this regard.

8.4. *On the allegation that a total of 11 terminals were being operated by other users. In this regard, we submit as under:*

8.4.1. There were total 22 user IDs allotted to 13 users in F&O Segment at the office of the AP viz. Tridhya. Some users had been allotted multiple IDs in their name as per the NSE Regulations regarding multiple IDs to same user.

8.4.2. We further submit that all the users were available during the inspection except Mr. Ramesh, who had to leave due to certain urgency.

8.4.3. *We submit that out of total 22 terminals, trades were executed on 21 terminals. It is pertinent to mention that the trading on these terminals was done using the Algo strategy which was duly approved by the Exchange and trades were done only in the proprietary account of the AP viz. Tridhya or in the account of its partners.*

8.4.4. *Being Algo terminals, multiple terminals have been allotted to the dealers and all of them have used the same Algo strategy for trading in the proprietary account of the AP viz. Tridhya. All these users were certified users and were holding NISM Certificate Series - VIII for equity derivatives as required for operating a derivative terminal.*

8.4.5. *It is pertinent to note that the confusion of using different terminals appears to be due to the fact that the name of the approved user does not reflect on the CTCL ids. Therefore, the dealers of 11 terminals, in question, out of total 22 terminals, were not on the designated user id during the inspection. There was never any malafide intention in this regard.*

8.4.6. *We further submit that the two users, Mr. Mayank Chauhan and Mr. Jayendra Solanki, were sitting as a trainee during the inspection and were not operating the terminals. The terminals in their own name were allotted only on 12.12.2023 i.e. after 4 days of the inspection and after completion of their training in the normal course of business.*

8.4.7. *Therefore, no adverse inference be drawn against us in this regard.*

8.5. *Additionally, we would like to submit that in both the aforesaid cases the trades were executed only in proprietary/ related account based on ALGO system and no client trades were being executed from the said terminals. Therefore, there was no malafide intention for the alleged violations.*

…"

9. Thereafter, the Noticee, vide letter dated August 26, 2024 informed the undersigned about the filing of a settlement application in the present matter.

10. In consonance with the Adjudication Rules, opportunities of hearing on August 06, 2024, August 26, 2024 and September 19, 2024 were granted to the Noticee.

However, the Noticee sought adjournment on each occasion and therefore hearing could not be held on any of the dates.

11. In the interest of natural justice, vide email dated September 17, 2024, Noticee was granted another opportunity of hearing on October 08, 2024.

12. The hearing was held on October 08, 2024. ARs of the Noticee attended the hearing and reiterated the submissions made by the Noticee in its reply dated July 25, 2024. Further, as requested by the Noticee, additional time was given to the Noticee to make further submissions.

13. In this regard, the Noticee submitted its additional reply on October 17, 2024 wherein it has, *inter alia,* stated as under:

"….

Submissions on the findings against Authorized Person ("AP") viz. Manaswini Swain ("Manaswini")

13.1. *It is alleged that terminals were not available at the approved location of our AP viz. Manaswini Swain but trades were executed from the said terminals. In this regard, we submit as under:*

13.1.1. Only some dealers of Manaswini were operating from other office which was opened at that time only on test basis. Only on temporary basis on the date of inspection that the said terminals were operated from that office.

13.1.2. Only two clients which belonged to Manaswini or its family members were active and were trading using Algo strategies for past 2 years from the date of inspection.

13.1.3. Pursuant to the said inspection of Manaswini, we had completed all the formalities and the new address of Manaswini was properly updated with NSE. Even in the SCN, it is mentioned that we have taken corrective action, Hence, we submit that there was never any malafide intention on our part w.r.t. the said allegation.

13.1.4. It is further submitted that presently both the clients of AP viz. Manaswini have taken Direct Market Access (DMA) facility for trading in NSE. Only *trading terminals pertaining to MCX are still active as DMA facility is under process. Further, as on date all user id's of Manaswini are deactivated.*

13.1.5. Therefore, we request that no adverse inference be drawn against us in this regard.

Submissions on the findings against AP viz. Tridhya Enterprises LLP ("Tridhya")

13.2. *It is alleged that AP terminal of our AP i,e. Tridhya was operated from unauthorized location. In this regard, we submit as under:*

13.2.1. Just prior to the inspection, on 06.11.2023, Tridhya submitted documents for change of address. However, due to some discrepancies in the sub-lease clause, the same was not uploaded on NSE's website and Tridhya was informed to rectify the same.

13.2.2. Before the documents could be rectified and uploaded, inspection team visited the office of Tridhya. However, Tridhya had already shifted their location as they had to vacate their old office within stipulated time period.

13.2.3. It is pertinent to note that, immediately after inspection i.e. on 11.12.2023, rectified documents were received and the same were uploaded immediately. NSE approved the same vide email dated 19.12.2023 and thereafter all terminals of Tridhya were operated from the address that were updated with NSE.

Submission on the allegation of terminals were being operated by people other than approved users w.r.t. Tridhya

13.3. *The user i.e. Mr. Ramesh Arjanbhai Marand ("Ramesh") of Computer To Computer Link ("CTCL") ID - 380059559067 for executing trades in Futures & Options Segment had to leave office due to some urgency and therefore he was not available at the time of inspection. In absence of Mr. Ramesh, his CTCL was handled by Darshan Dineshbhai Pithava ("Darshan") who also had NISM Certificate Series - VIll for equity derivatives which is required to operate derivative terminal, Mr. Darshan was present at the time of inspection and inspection team verified his credentials.*

13.4. *On the allegation that a total of 11 terminals were being operated by other users. In this regard, we submit as under:*

13.4.1. There were total 22 user IDs allotted to 13 users in F&O segment at the office of Tridhya, Tridhya had total of 22 terminals and the present allegation is only w.r.t 11 terminals.

13.4.2. All users were available at the time of inspection except Mr. Ramesh who had to leave due to some urgency.

13.4.3. Trades on the said terminals of Tridhya were done only in the proprietary account of Tridhya or its partners.

13.4.4. As 21 out of 22 terminals were used for trading using Algo strategy, multiple terminals had been allotted to the dealers and all of them used the same Algo strategy, It is pertinent to note that all the users were certified users and holding NISM Certificate Series — VIll.

13.4.5. We submit that the confusion of using different terminals appears to be due to the fact that the name of the approved users does not reflect on the CTCL ids. Therefore, we submit that no adverse inference be drawn against us in this regard.

13.4.6. Presently, all user ids are deactivated except single user id for cash market segment of NSE.

13.5. *Without prejudice to what is stated aforesaid, we submit that a joint inspection was conducted by SEBI, NSE and BSE in the office of our AP viz, Tridhya on 07.08.2024 and 08.08.2024, However, no observations or findings w,r.t. violations as alleged in the SCN were observed. This shows that remedial steps have been taken and the violation as alleged in the SCIN was no longer in existence. Further, SEBI vide letter dated 11.09.2024 bearing reference no. SEBI/NRO/MIRSD/OW/ P/2024/29206/1 has only advised us to ensure at all times, strict compliance of the provisions of the SEBI Act, Rules, Regulations, Circulars and Guidelines issued by SEBI from time to time as well as the applicable requirements of Stock Brokers.*

13.6. *In addition to what is stated aforesaid, on the allegations as alleged against us in the SCN, we would like to submit as under.*

13.6.1. The violations as alleged in the SCN are only technical in nature and no material benefit has occurred to the Company or to the AP's.

13.6.2. Additionally, we would like to submit that post inspection, we have reviewed all our operations including the process and procedures followed *by us and wherever required we have taken all remedial steps and corrective measures so as ensure that lapses, if any, as alleged in the SCN do not reoccur.*

13.6.3. The alleged lapses, if any, have occurred unintentionally and there was no malafide intention on our part.

13.7. *We deny that we have violated Regulation 9 and Regulation 26(xix) of SEBI (Stock Brokers) Regulations, 1992 ("Brokers Regulations") and Clauses A(l), A(2) and A(5) of Schedule Il of Brokers Regulations. Further, we also deny that we have violated NSE Circular dated 29.08.2002 bearing reference no. NSE/MEMB/3574 and NSE Circular dated 02.06.2023 bearing reference no. NSE/ COMP/ 56947…."*

14. I note from the material on record that the Noticee withdrew his settlement application on October 23, 2024. Pursuant to the withdrawal of the settlement application, Noticee, vide letter dated October 23, 2024, requested another opportunity of hearing in the instant matter. In the interest of natural justice, the request of the Noticee was considered and the Noticee was granted another opportunity of hearing on November 14, 2024.

15. The hearing was held on November 14, 2024. ARs of the Noticee attended the hearing and reiterated the submissions made by the Noticee in its letters dated July 25, 2024 and October 17, 2024.

16. It is noted that the SCN along with the annexures and the Hearing Notice were duly served on the Noticee. The Noticee was granted sufficient opportunities, as mentioned in previous paragraphs, to make submissions in reply to the SCN and of personal hearing.

D. CONSIDERATION OF ISSUES AND FINDINGS

17. After careful perusal of the material on record, I note that the issues that arise for consideration in the present case are as follows:

I. Whether Noticee allowed two Authorized Persons (hereinafter referred to as '**APs'**) to operate their trading terminals from unauthorized location and allowed non-approved users to operate the terminals in 11 instances and thereby, violated Regulation 9 and Regulation 26(xix) of Broker Regulations, Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulation, NSE Circular dated August 29, 2002 and NSE Circular dated June 02, 2023?

II. Does the violation, if any, on the part of Noticee attract a monetary penalty under Section 15HB of the SEBI Act?

III. If so, what would be the monetary penalty that can be imposed upon Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

18. The relevant extracts of the provisions of law[3], allegedly violated by Noticee, are mentioned under:

Brokers Regulations

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

(a) the stock broker holds the membership of any stock exchange;

(b) he shall abide by the rules, regulations and bye-laws of the stock exchange which are applicable to him;

(c) where the stock broker proposes change in control, he shall obtain prior approval of the Board for continuing to act as such after the change;

(d) he shall pay fees charged by the Board in the manner provided in these regulations;

(e) he shall take adequate steps for redressal of grievances, of the investors within twenty-one calendar days of the date of receipt of the complaint and inform the Board as and when required by the Board;

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

(g) he shall at all times maintain the minimum networth as specified in Schedule VI.

(h) Every stock broker who act as an underwriter shall enter into a valid agreement

[3]NSE Circular dated August 29, 2002 and dated June 02, 2023 are available online and are not reproduced here for the sake of brevity.

with the body corporate on whose behalf it is acting as underwriter and shall abide by the regulations made under the Act in respect of the activities carried on by it as underwriter.

(i) Every Stock Broker shall be entitled to act as an underwriter only out of its own net worth/funds as may be prescribed from time to time.

26. A stock broker shall be liable for monetary penalty in respect of the following violations, namely—

…

(xix) Extending use of trading terminal to any unauthorized person or place.

…

SCHEDULE II

A. General.

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

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

…

(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.

…"

E. <u>CONSIDERATION</u>

I. Whether Noticee allowed two APs to operate their trading terminals from unauthorized location and allowed non-approved users to operate the terminals in 11 instances and thereby, violated Regulation 9 and Regulation 26(xix) of Broker Regulations, Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulation, NSE Circular dated August 29, 2002 and NSE Circular dated June 02, 2023?

19. In the SCN, it was alleged that two APs i.e. Mr. Manaswini Swain and Tridhya Enterprises LLP had operated their trading terminals from unauthorized locations.

Further, it was alleged that approved users were not operating the respective terminals.

Authorized Person Name- Mr. Manaswini Swain and Location-1 Mumbai

20. It was alleged that none of the 13 trading terminals of the AP, Mr. Manaswini Swain were available at the location registered with NSE i.e. Tower ####1[4] On verification of Exchange's Trade Data dated October 27, 2023, it was observed that trades were executed through 10 terminals out of the said 13 terminals of the AP, Mr. Manaswini Swain. Hence, it was alleged that the trading terminals were being operated from unauthorized locations that were not reported to the Exchange.

21. In this regard, I note that the Noticee has not disputed the fact that the trading terminals of the AP, Mr. Manaswini Swain, were not available at its registered address.

<u>Test Basis</u>

22. Noticee has contended that "*only some dealers of Mr. Manaswini Swain were dealing from other office which was opened at that time only on a test basis and details of the same were to be shared with us by Mr. Manaswini Swain after satisfactory establishment"*. Further, Noticee has submitted that only on the date of inspection were the said terminals being operated, temporarily, from that office. In this regard, I note that Regulation 9 and Regulation 26(xix) of Broker Regulations, Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulation and NSE Circulars dated August 29, 2002 and dated June 02, 2023 do not crave out any exception for operation of trading terminals from unauthorized location on a 'test basis'. Therefore, the submission of the Noticee that the trading terminals of the AP, Mr. Manaswini Swain, were being operated on a test basis does not merit any consideration.

[4] Address excised for confidentiality.

23. Accordingly, by failing to ensure that the trading terminals of the AP, Mr. Manaswini Swain were available at its registered address, the Noticee has violated the following:

23.1. Regulations 9(b) and (f) and Regulation 26(xix) of Broker Regulations,

23.2. Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulations and

23.3. NSE Circulars dated August 29, 2002 and dated June 02, 2023.

Authorized Person, Tridhya Enterprises LLP and Location 2 –Ahmedabad

24. It was alleged in the SCN that the 23 trading terminals of the AP, Tridhya Enterprises LLP were being operated from unauthorized locations which were not reported to the Exchange.

25. In this regard, I note that the Noticee has not disputed the operation of the said 23 trading terminals of the AP, Tridhya Enterprises LLP from unauthorized locations.

<u>Document could not have been uploaded due to some discrepancies</u>

26. The Noticee has submitted as under:

"…(i) On 06. 11.2023, AP viz. Tridhya had submitted documents for change of address. However, due to some discrepancies in the document pertaining to sublease clause, the same could not be uploaded on NSE's portal. The AP viz. Tridhya was informed to rectify the same.

(ii) Before the rectified documents could be uploaded on NSE's portal, the inspection team visited the office of AP viz. Tridhya. However, the AP viz. Tridhya had already shifted their location as they had to vacate their old office within the stipulated date.

(iii) It is pertinent to note that immediately after the date of inspection i.e. 08.12.2023, we received rectified documents from the AP i.e. Tridhya on 11.12.2023 and the same were uploaded immediately and approved by NSE on 19.12.2023 after which the new address was updated on the trading terminals of AP viz. Tridhya. …"

27. From the perusal of the said submission of the Noticee, I note that the fact that the 23 trading terminals of the AP, Tridhya Enterprises LLP were being operated from unauthorized locations at the time of inspection has not been disputed. Further, Noticee has submitted that the NSE approved the new address of the trading terminals only subsequently. In this regard, I note that Regulation 26(xix) of the Broker Regulation, *inter alia*, provides that:

> *"26. A stock broker shall be liable for monetary penalty in respect of the following violations, namely—*
>
> *…*
>
> *(xix)* ***Extending use of trading terminal to any unauthorized*** *person or* ***place."*** (Emphasis supplied)

28. Further, I note that in terms of Clause 9(vi) of the NSE Circular dated June 02, 2023, it was incumbent on the Trading Member i.e. Noticee to ensure that all AP terminals were operating as per the information reported to the Exchange.

29. Therefore, the submission of the Noticee cannot be accepted.

No violation in the subsequent inspection

30. Further, I note that Noticee has, *inter alia,* stated that *"joint inspection was conducted by SEBI, NSE and BSE in the office of our AP viz, Tridhya on 07.08.2024 and 08.08.2024, However, no observations or findings w.r.t. violations as alleged in the SCN were observed".* In this regard, Noticee has adduced SEBI letter dated September 11, 2024 bearing reference no. SEBI/NRO/MIRSD/OW/P/2024/29206/1. It is noted from the copy of the SEBI letter dated September 11, 2024 submitted by the Noticee that SEBI had, *inter alia,* advised Noticee to ensure at all times, strict compliance of the provisions of the SEBI Act, Rules, Regulations, Circulars and Guidelines issued by SEBI from time to time as well as the applicable requirements of Stock Brokers. It is also noted that the said inspection was post the inspection period mentioned in the SCN. However, it is not discernible whether there were any observations/findings with regard to the similar violations in the said joint inspection. Accordingly, this contention of the Noticee cannot be accepted.

31. Based on the discussion in the previous paragraphs, I find that 23 trading terminals of the AP, Tridhya Enterprises LLP were being operated from unauthorized locations. Accordingly, the Noticee has violated the following:

31.1. Regulations 9(b) and (f) and Regulation 26(xix) of Broker Regulations,

31.2. Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulations and

31.3. NSE Circulars dated August 29, 2002 and dated June 02, 2023.

<u>Trading Terminal operated by other users</u>

32. It was alleged in the SCN that a total of 11 terminals were being operated by other users. In this regard, it was alleged that one user, Mr. Ramesh Arjanbhai Marand (hereinafter referred to as '**Mr. Ramesh'**) was not available at the location of the terminal. It was alleged that the terminal of Mr. Ramesh was being used by one Mr. Darshan Dineshbhai Pithava (hereinafter referred to as '**Mr. Darshan'**) at the time of inspection and trades were executed in the F&O segment.

33. In this regard, I note that the Noticee has admitted the fact that the aforesaid 11 trading terminals were being operated by persons other than the approved user. Further, I note that the Noticee had admitted the fact that Mr. Darshan was handling the Computer to Computer Link (hereinafter referred to as '**CTCL'**) Id allotted to Mr. Ramesh.

<u>Algo Trades</u>

34. In its submission, Noticee has, *inter alia,* stated as follows:

"… the trading on these terminals was done using the Algo strategy which was duly approved by the Exchange and trades were done only in the proprietary account of the AP viz. Tridhya or in the account of its partners. Being Algo terminals, multiple terminals have been allotted to the dealers and all of them have used the same Algo strategy for trading in the proprietary account of the AP viz. Tridhya. All these users were certified users and were holding NISM

Certificate Series - VIII for equity derivatives as required for operating a derivative terminal. …"

35. Here, I note that the issue in the present matter pertains to the use of 11 terminals by non-approved persons. In this regard, I note that the Noticee cannot abdicate its legal responsibility by merely stating that the trades executed on these terminals were done using the Algo strategy and that the users who operated the terminals were certified and were holding NISM Certificate Series – VIII. Even if this contention of the Noticee was accepted, the underlying fact that the 11 terminals were operated by non-approved persons remains unrefuted.

36. Therefore, this contention of the Noticee cannot be accepted.

Urgency

37. I note that the Noticee has submitted that as Mr. Ramesh had to leave office due to some urgency, his CTCL Id for F&O segment was handled by Mr. Darshan. It is stated by the Noticee that Mr. Darshan was holding NISM Certificate Series - VIII for equity derivatives which is required to operate a derivative terminal and was verified by the inspection team during the inspection. In this context, the Noticee has submitted that Mr. Darshan, had the appropriate certificate to operate the said CTCL of Mr. Ramesh for F&O segment.

38. At the foremost, I note that Noticee had vaguely contended that there was 'some urgency' due to which Mr. Ramesh had to leave without elaborating on the nature of urgency or providing any supporting document in this regard. Further, it is to be noted that Clause 2 of NSE Circular dated August 29, 2002 provides as under:

"***The persons who handle each CTCL terminal of the Trading Member are known as Approved Persons*** *(refer to para (c) of the CTCL agreement). Necessary prior approval of the Exchange is required to be obtained before any CTCL terminal is entrusted to an Approved Person (refer point 1 of the CTCL agreement) failing which it shall be treated as a violation."* (Emphasis supplied)

39. In this background, assuming, *arguendo*, that Mr. Darshan was holding NISM Certificate Series - VIII for equity derivatives, the fact that Mr. Darshan was not the approved person for the CTCL Id allocated to Mr. Ramesh remains undisputed. In view of the above facts, I do not find any merit in the factual submission of the Noticee.

Operated by Trainee

40. Noticee stated that two users, Mr. Mayank Chauhan and Mr. Jayendra Solanki were sitting as trainees during the inspection and were not operating the terminals. In this regard, from the details provided by NSE, it is noted that trades were executed from the terminals operated by Mr. Mayank Chauhan and Mr. Jayendra Solanki at the time of inspection. I note that the said data of NSE has not been disputed by the Noticee.

41. Therefore, I find that there is no merit in this contention of the Noticee.

Trading only in Proprietary Account

42. With regard to the submission of the Noticee that only proprietary/ related accounts based on Algo system were executed and no client trades were being executed from the said terminals, I note that Noticee has not adduced any material in support of its submission that only proprietary or related account based trades were executed. In the absence of any cogent evidence, the submission of the Noticee cannot be accepted.

43. Accordingly, it is established that the 11 terminals were not being operated by the approved users during the inspection period. Therefore, the Noticee has violated the following:

43.1. Regulations 9(b) and (f) and Regulation 26(xix) of Broker Regulations,

43.2. Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulations and

43.3. NSE Circulars dated August 29, 2002 and dated June 02, 2023.

II. Does the violation, if any, on the part of Noticee attract a monetary penalty under Section 15HB of the SEBI Act?

III. If so, what would be the monetary penalty that can be imposed upon Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

44. From the previous paragraphs, it has been established that Noticee has violated Regulations 9(b) and (f) and Regulation 26(xix) of Broker Regulations, Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulations and NSE Circulars dated August 29, 2002 and dated June 02, 2023. Further, I find that the violation of the remaining clauses of Regulation 9 of the Broker Regulations i.e. Regulation 9(a), 9(c) to (e) and 9(g) to (i) has not been established.

45. I note that the Noticee has contended that there was no malafide intention on its part and hence, no adverse inference be drawn against it. Further, the Noticee has placed reliance on the orders of Hon'ble Securities Appellate Tribunal (hereinafter referred to as '**SAT**') in the matter of Religare Securities Limited v. SEBI (Appeal No. 23 of 2011), UPSE Securities Limited v. SEBI (Appeal No. 109 of 2011) and M/ s DSE Financial Services Limited v. SEBI (Appeal No. 153 of 2012) and Hon'ble Supreme Court in the matter of Badrudin Badrudin Jiwani v. Collector of Customs, Bombay (AIR 1990 SC 1579).

46. All the submissions of the Noticee in this regard, including case laws, have been considered. In this regard, I note that the Hon'ble Supreme Court in the matter of **The Chairman, SEBI v. Shriram Mutual Fund & Anr.**[5] wherein it was, *inter alia*, held: *"In our view,* ***the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial."*** (Emphasis supplied)

[5] 2006 (5) SCC 361.

47. In this regard, it is noted that the judgment and orders relied on by the Noticee emanate from different factual matrix and hence, it cannot be applied to facts of the present matter. Therefore, I find that the Noticee is liable for payment of a monetary penalty in terms of Section 15HB of the SEBI Act.

48. The text of the abovesaid Section 15HB of the SEBI Act is reproduced below:

SEBI Act

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

49. While determining the quantum of penalty under Section 15HB of the SEBI Act, the following factors stipulated in Section 15J of the SEBI Act have to be given due regard:

SEBI Act

"15J. Factors to be taken into account by the adjudicating officer

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

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

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

(c) the repetitive nature of the default."

Factors Considered While Imposing Penalty

50. The available records neither specify disproportionate gains/unfair advantage made by Noticee nor the loss, if any, suffered by the investors due to such violations.

51. However, I take note of the fact that SEBI has imposed monetary penalties on Noticee earlier for violations of securities laws which included violations of similar provisions as invoked in the present case. The relevant details in this regard is provided below:

51.1. Penalty of Rs. 3,00,000/- under Section 15HB of the SEBI Act was imposed on the Noticee for violations of Stockbroker Regulations for the alleged violation of Point 2(a) of Chapter V of NSE bye-laws read with Clause A(5) of the Code of Conduct specified under Schedule II read with Regulation 9(f) of the Stock Broker Regulations, Clause A(2) of the Code of Conduct specified under Schedule II read with Regulation 9(f) of the Broker Regulations on September 29, 2021,

51.2. Penalty of Rs. 2,00,000/- under Section 15HB of the SEBI Act was imposed on the Noticee for violations of Clause A (2) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 (Regulation 9 – post amendment) of Broker Regulations on March 28, 2018 and

51.3. Penalty of Rs. 5,00,000/- under Section 15HB of the SEBI Act was imposed on the Noticee for violations of Clause A(2) of Code of Conduct for Stock Brokers as specified under Regulation 7 of the Brokers Regulations on February 02, 2018.

52. Noticee, being a registered intermediary, was under a statutory obligation to comply with the mandate of the Broker Regulations and the relevant Circulars in letter and spirit. In this regard, I note that Hon'ble SAT in the matter of **Premchand Shah and Others v. SEBI**[6], *inter alia*, held as under: *"...When a law prescribes a manner in which a thing is to be done, it must be done only in that manner...".*

53. In this context, I note that the actions of the Noticee as discussed in previous paragraphs were not as per the regulatory requirements and have the potential to undermine the integrity of the securities market.

[6] Appeal No. 192 of 2010 dated February 21, 2011.

54. I note that the Noticee has submitted that all user Ids of NSE pertaining to Mr. Manaswini Swain have been deactivated. Further, the Noticee has submitted that the new address has been updated on the trading terminals of AP viz. Tridhya post approval by NSE on December 19, 2023. In this regard, I find that no supporting materials / documents have been adduced by the Noticee in support of its submission. Accordingly, no inference can be made in favor of the Noticee in light of these submissions.

55. The aforementioned factors have been taken into consideration while adjudging the penalty.

F. ORDER

56. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in the exercise of powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I, hereby, impose the following penalty on Noticee:

Table 1

Noticee Name	Violations	Penalty Provision	Penalty
Master Capital Services Limited	Regulations 9 (b) and (f) and Regulation 26(xix) of Broker Regulations, Clauses A(1), A(2) and A(5) of Schedule II of Broker Regulations and NSE Circular dated August 29, 2002 and NSE Circular dated June 02, 2023.	Section 15HB of the SEBI Act	Rs. 7,00,000/- (Seven Lakhs only)

57. I am of the view that the said penalty is commensurate with the lapses/omissions on the part of Noticee.

58. Noticee shall remit/pay the said amount of penalty within 45 days of receipt of this order through the 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.

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

Date: November 29, 2024 **N HARIHARAN**

Place: Mumbai **ADJUDICATING OFFICER**