BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/AS/VC/2022-23/23912-23919)

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

In respect of

1. **Mr. Sajjan Kumar Nanwal (PAN:ABJPN3315R)** having address at D-176, Padmavati Society, Nikol Road Naroda, Ahmedabad - 382330 Gujarat, India
2. **Aryan Shares and Stock Brokers Limited (PAN:AADCA1233H)** having addresses at:
    a. Shriji Metropolis, 2nd Floor, No.7, 7th Cross Street, Shenoy Nagar, Chennai- 600030
    b. No.1 2nd Floor Vishwamanava Double Road, II Stage T.K. Layout, Saraswathipuram, Mysore – 570009
    c. No.114, B-wing, Prince Manor, 9th Floor, P. H. Road, Kellys, Chennai - 600 010
    d. A- 4, 6th Street, Anna Nagar East, Chennai 60010
3. **Orbis Securities Private Limited (PAN:AAACO0870B)** now known as Dhani Stocks Limited having addresses at :
    a. M-62 & 63, First Floor, Connaught Place, New Delhi - 110001
    b. F-60, 2nd Floor, Malhotra Building, Connaught Place, New Delhi, 110001
    c. T-7, Anupam Plaza, Behind Hauz Khas Bus Terminal, New Delhi, 110016
    d. Indiabulls House, 448-451, Udyog Vihar, Phase – V, Gurugram, Haryana - 122016

4. **Sanchay Finvest Limited (PAN:AAHCS7494J)** having addresses at
    a. 806 Dev Plaza, 68 S. V. Road, Andheri (West) Mumbai – 400058
    b. 14/A, Bhagwan Bhuvan 31, Israil Mohallam, Masjid Bunder Road, Mumbai- 400009
5. **Sunidhi Consultancy Services Limited (PAN:AADCS1657D)** now known as Sunidhi Securities & Finance Ltd having address at Kalpataru Inspire, Unit 1, Kalpataru Inspire, 8th Floor, Opp. Grand Hyatt Hotel, Santacruz (East), Mumbai – 400055
6. **Ashwin M. Shah (PAN:AALPS7840P)** having address at 101, Moti Sagar, Gamesh Gawade Road, Mulund (West), Mumbai – 400080
7. **Ajmera & Shah Associates (PAN: AACFA7085M)** having addresses at
    a. 501, Chinubhai Centre, Ashram Road, Near Nehru Bridge Corner, Ahmedabad – 380009
    b. Corp. Office Ajmera House 4th Floor, Pathakwadi, Mumbai-400002
    c. 236/238, Samuel Street, Masjid Buder (W), Mumbai - 400003

8. **Lagan Fincap Lease Limited (PAN:AAACL1715E)** having address at 118 Mangal Murti Complex, Ashram Road, Ahmedabad - 380001

In the matter of Sai Televisions Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **‘SEBI’**) conducted an investigation to ascertain whether there was any violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as "PFUTP Regulations") in the scrip of Sai Televisions Limited (hereinafter referred to as ‘STL’) during May 29, 2001 to September 07, 2001 (54 trading days) referred to as period 1 and February 25, 2002 to May 9, 2002 (41 trading days) referred

to as period 2 (hereinafter collectively referred to as "Investigation Period"). Pursuant to the said investigation, SEBI initiated adjudication proceedings in the matter of Sai Televisions Limited:

a. Under Section 15A(a) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **'SEBI Act, 1992'**) against Mr. Sajjan Kumar Nanwal (hereinafter referred to as '**Noticee 1'**) for the alleged violations of Sections 11C (2), 11C (3) and 11C (5) of SEBI Act, 1992
b. Under Section 15HB of SEBI Act, 1992 against Aryan Shares and Stock Brokers Limited (hereinafter referred to as '**Noticee 2**'), Orbis Securities Private Limited (hereinafter referred to as '**Noticee 3**'), Sanchay Finvest Limited (hereinafter referred to as '**Noticee 4**'), Sunidhi Consultancy Services Limited (hereinafter referred to as '**Noticee 5**'), Ashwin M. Shah (hereinafter referred to as '**Noticee 6**'), and Ajmera & Shah Associates (hereinafter referred to as '**Noticee 7**') for the alleged violations of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 7 of the SEBI (Stock Brokers & Sub-Brokers) Regulations, 1992 (hereinafter referred to as '**SEBI Stock Broker Regulations'**)
c. Under Section 15HB of SEBI Act, 1992 against Lagan Fincap Lease Limited (hereinafter referred to as '**Noticee 8**') for the alleged violations of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 15 of the SEBI Stock Brokers Regulations

APPOINTMENT OF ADJUDICATING OFFICER

2. Shri Prasanta Mahapatra was appointed as the Adjudicating Officer *vide* order dated May 16, 2017, under Section 15-I of SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **'Adjudication Rules'**) read with section 19 of the SEBI Act, 1992, to inquire into and adjudge under Section 15A (a) and 15 HB

of SEBI Act, 1992 for the aforesaid alleged violations by the Noticees. Pursuant to the transfer of erstwhile Adjudicating officer Shri Prasanta Mahapatra, the instant matter *vide* order dated June 06, 2022, was transferred to the undersigned.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notices, as detailed below were served upon the Noticees under Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('Adjudication Rules') to show cause as to why an inquiry should not be held and penalty not be imposed against Noticees under Sections 15A(a) (for Noticee 1) and 15HB (for Noticees 2 to 8) of SEBI Act for the aforesaid alleged violations:

SCN No.	Date of SCN	Issued to Noticee	hereinafter referred to as
EAD/AO-PM/NK/27773/2017	November 10, 2017	Noticee 1	SCN 1
EAD/AO-PM/NK/27782/2017	November 10, 2017	Noticee 2	SCN 2
EAD/AO-PM/NK/27786/2017	November 10, 2017	Noticee 3	
EAD/AO-PM/NK/27787/2017	November 10, 2017	Noticee 4	SCN 3
EAD/AO-PM/NK/27793/2017	November 10, 2017	Noticee 5	
EAD/AO-PM/NK/27794/2017	November 10, 2017	Noticee 6	
EAD/AO-PM/NK/27779/2017	November 10, 2017	Noticee 7	SCN 4
EAD/AO-PM/NK/27776/2017	November 10, 2017	Noticee 8	SCN 5

4. The allegations levelled against the Noticees in their respective SCNs are summarized as below:

SCN 1

5. SEBI conducted an investigation to ascertain whether there was any violation of PFUTP Regulations by the major shareholders of the STL, including the Noticee, in the scrip of STL.

6. As per the details available on record, Noticee 1 had traded through the brokers Ajmera & Shah Associates, H Nyalchand Financial Services Limited and Kinglet

Finlease & Securities Limited (hereinafter referred to as Stock Broker/s), bought 657718 shares, and sold 1412442. The trade details of the Noticee 1 is as per the table below:

Sr. No.	Broker	Bought	Sold	%age of gross traded quantity to the total volume traded during the period II
1	Ajmera & Shah Associates	657176	717442	6.78
2	H Nyalchand Financial Services Limited	0	190000	0.93
3	Kinglet Finlease & Securities Limited	542	505000	2.50
	Total	657718	1412442	10.21

7. Investigation observed that the Noticee 1 had allegedly executed structured deals / trades in the scrip and therefore was instrumental in creating artificial volume. Noticee 1 entered into large number of off market transfer of shares with various entities related to the promoters/directors of STL.

8. In view of the above, summons dated May 26, 2004 was issued to Noticee 1 by the Investigating Authority under Section 11C (3), 11C(5) and 11C(6) of the SEBI Act, 1992 seeking submission of information/documents sought from him (proof of service of the summonses dated May 26, 2004 was provided as Annexure 1 to SCN 1).

9. The summon also stated that *"if you omit to attend and give evidence or to produce the books of accounts and/or documents as required, SEBI will initiate adjudication proceedings against you under which you could be levied penalty of one lakh rupees for each day during which failure continues, or one crore rupees, whichever is less, as provided under Section 15A of the SEBI Act, 1992. Further, criminal prosecution may also be launched against you under Section 11C (6) which provides for a punishment with imprisonment for a term which*

may extend to one year or with fine which may extend to Rupees one crore, or with both, and also with a further fine which may extend to five lakh rupees for each day after the first, during which the failure or refusal continues". The summon mainly sought the following information/documents:

Sr. No.	Date of Summon	Information sought
1.	May 26, 2004	1. The details of shares Noticee 1 had received from Shri P V Nageshwar Rao and Mr. S Sundarmurti along with demat account statement of Shri P V Nageshwar Rao and Mr. Mr. S Sundarmurti and Noticee 1 showing the transfer of shares. 2. Full Particulars of Shri P V Nageshwar Rao and Mr. S Sundermurti viz. their full address, bank account details (Name of Bank and Branch) 3. Details of Payments made by Noticee 1 to them for the shares Notice 1 received from them viz. details of cheque no., Name of Bank and branch and the amounts paid to them.

10. The SCN alleged that the Noticee 1, during investigation failed to furnish the information/documents sought by the summon referred above, and thereby Noticee 1 by non-furnishing of the information/documents allegedly violated Sections 11C (2), 11C (3) and 11C (5) of the SEBI Act, 1992. The Sections 11C (2), 11C (3) and 11C (5) of the SEBI Act, 1992 are quoted hereunder.

SEBI Act, 1992

11C (2)

Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating *to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power*

11C (3) *The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before it or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation*

11C (5) *Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.*

SCN 2

11. Investigation observed that Noticee 2 and Noticee 3 executed structured deals for 25,700 shares for their clients CRS Stocks and Securities and Ritu Devi respectively during period-1 of the investigation period. Investigation also observed that the proprietor of CRS Stocks and Securities was Ms. Ritu Devi (wife of Sri Raj Kumar, Director of the company Sai Televisions Limited).

12. Investigation observed that Noticee 3 was the trading member for the trades of Ms. Ritu Devi and the trading member for the trades of CRS Stocks and Securities was Noticee 2. Ritu Devi placed orders in her individual account through the broker Noticee 3 and placed the trade orders in respect of CRS Stocks and Securities through Noticee 2. In the above manner, investigation observed upon analysis of the trade and order log that both of these entities

placed orders with two different brokers and appeared as counter parties to the trades of each other and executed 51 structured deals involving 25,700 shares on 14 days during period 1.

13. Investigation observed that in the above 51 structured deals executed by the two brokers on behalf of their respective clients as discussed above on 14 days of period 1 during July 03, 2001 to September 03, 2001, the time difference between the buy and sell orders ranged between 3 to 48 seconds. The details of structured deals executed by the two brokers was provided as Annexure 1 to SCN 2.

14. In view of the above, it was alleged that the Noticee 2 and 3 violated the provisions of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 7 of the SEBI (Stock Brokers & Sub-Brokers) Regulations, 1992. The relevant portions of the above regulations are as below:

SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992:
7. *Stock Brokers to abide by the code of conduct.- The Stock Broker holding a certificate shall at all times abide by the Code of Conduct as specified in Schedule II*

Schedule II

Code of conduct for Stock-Brokers

A. General.

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

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

(3) ***Manipulation :*** *A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.*

(4) ***Malpractices:*** *A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors' interest or which leads to interference with the fair and smooth functioning of the market. A stockbroker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.*

(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.*

SCN 3

15. Noticee 4 and Noticee 5 traded on behalf of a common client Kuber Finstock Limited and have together executed 20 structured deals on 8 days involving 1,71,141 shares which was 0.42% of the volume traded during March 13 to May 02, 2002 of period – 2. Investigation further observed that the time difference between the buy and sell orders ranged between 4 to 48 seconds. The details of structured deals executed by these entities were provided as Annexure – 1 of SCN 3.

16. Noticee 4 trading on behalf of Kuber Finstock Limited and Noticee 6 trading on behalf of Airtel Maintenance and Marketing Consultant Private Limited executed 172 structured deals involving 11,59,060 shares on 37 days during period 2 on behalf of these clients. It was also observed that the structured deals executed, has created a volume of 2.86% of the gross market quantity. Further, the time difference between buy and sell orders were ranging between 0 to 57 seconds. Investigation also observed that two of the directors namely Mr. Chandresh Lotia and Mr. Jignesh R Seth were common directors in both companies (Kuber Finstock Limited and Airtel Maintenance and Marketing Consultant Private Limited) which were the clients of Noticee 4 and Noticee 6 respectively. The details of structured deals executed by aforesaid Noticee brokers were provided as Annexure – 2 of SCN 3.

17. Noticee 6 traded for its client Airtel Maintenance and Marketing Consultant Private Limited and Noticee 5 has traded for its client Kuber Finstock Limited. Investigation alleged that the Noticees together executed 28 structured deals on 9 days involving 88,153 which was 0.22% of the gross quantity traded in the market. It was observed that the time difference between the buy and sell orders ranged between 0 to 34 seconds. These structured deals were executed during March 14, 2002 to April 30, 2002. The details of structured deals executed by the Noticees were provided as Annexure – 3 of the SCN.

18. Noticee 6 traded for 5239939 (12.94% of Market Volume) shares on behalf of Airtel Maintenance and Marketing Consultants Private Limited during period 2.

19. Noticee 1 had delivered 3,54,803 shares for the sale transactions done by Kuber Finstock Private Limited through Noticee 4. The details of structured deals executed by the two clients were provided as Annexure – 4 of SCN 3.The table below shows the structured deals executed by the above two clients (Kuber Finstock Private Limited and Airtel Maintenance and Marketing Consultants Private Limited) through different stock brokers :

<table>
<tr><th>Client</th><th>Brokers</th><th>No of structured deals</th><th>No of shares traded</th><th>%age of shares traded to Mkt gross quantity</th><th>No of days for corresponding trading</th><th>Brokers</th><th>Client</th></tr>
<tr><td rowspan="3">Kuber Finstock Pvt Ltd</td><td rowspan="2">Sanchay Finvest Ltd</td><td>20</td><td>171141</td><td>0.42</td><td>8</td><td>Sunidhi Consultancy Services Ltd.</td><td>Kuber Finstock Pvt Ltd.</td></tr>
<tr><td>172</td><td>1159060</td><td>2.86</td><td>37</td><td rowspan="2">M/s. Ashvin M Shah</td><td rowspan="2">Airtel Maint & Con Pvt Ltd.</td></tr>
<tr><td>Sunidhi Consultancy Services Ltd.</td><td>28</td><td>88153</td><td>0.22</td><td>9</td></tr>
</table>

20. In view of the above it was alleged that Noticees 4, 5 and 6 violated the provisions of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 7 of the SEBI Stock Brokers Regulations.

SCN 4

21. Noticee 7 was one of the three stock broker through which Noticee 1 had traded. Noticee 1 was instrumental in creating artificial Volume by executing structured deals in the scrip of STL.

22. Investigation observed that the Noticee 7 bought 657176 shares and sold 717442 shares on behalf of its client Noticee 1. Further investigation observed that the Noticee had provided CTCL trading platform to its clients Kanji Share Consultancy Services Limited and Siddhi Investments which in turn had traded for the ultimate clients Noticee 1 and Mr. Rameshbhai Patel respectively.

23. Investigation observed that the Noticee 7 traded for its client Siddhi Investments, who was provided with CCTL (Computer to Computer Link) and was trading for the ultimate client Ramesh Bhai Patel. The counter party to these trades was the stock broker Bonanza Portfolio Limited of which the sub-broker (Noticee 8) traded for its client Sudhirbhai Shah. Investigation further, observed that both the clients have entered into trade for 2,98,426 shares on 10 days and executed 296 structured deals constituting 0.74% to the market gross quantity for the period 2. It was observed that the time difference between the buy and sell orders ranged between 3 to 48 seconds. These structured deals executed during March 18, 2002 to May 07, 2002. The details of structured deals executed by the two brokers were provided as Annexure – 1 of SCN 4.

24. Noticee 7 had provided its clients with CCTL (Computer to Computer Link) to two of its clients Kanji Share Consultancy Services Limited and Siddhi

Investments and these two have executed structured deals in the market which happened to be cross deals executed by the broker. These structured deals were executed during April 11, 2002 to May 07, 2002.

25. Investigation also observed that Noticee 1 traded through the CCTL (Computer to Computer Link), which the Noticee had provided its client Kanji Share Consultancy Services Limited. It was also observed that Noticee 7 had also provided CCTL to its client M/s. Siddhi Investments and Sri RameshBhai Patel was trading through M/s. Siddhi Investments. It was further observed that these two clients executed 313 structured deals in the market which happened to be cross deals executed by the broker and these trades have contributed 3.12% (12,63,512 shares) of the gross quantity traded in the market during period 2. It was observed that time difference between all the counter party orders for the above trades was ranging between 0 seconds to 60 seconds, indicating that the trades were synchronized. In the settlements (Rolling) most of these trades were reversed between the two clients. These trades were executed on 10 days from April 11, 2002 to May 07, 2002. The details of structured deals executed by these entities were provided as Annexure – 2 of SCN 4.

26. Investigation further observed that both the clients (i.e. M/s. Siddhi Investments and Kanji Share Consultancy Services Limited) traded through the Noticee. Further, these two clients have traded for 19,93,778 shares for their sub-clients Rameshbhai Patel and Noticee 1 respectively.

27. In view of the above, it was alleged that Noticee 7 violated the provisions of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 7 of the SEBI Stock Brokers Regulations.

SCN 5

28. Noticee 8 was a sub-broker of Bonanza Portfolio Limited and was counter party to the trades of Siddhi Investments. Siddhi Investments was provided with

CCTL (Computer to Computer Link) trading platform by the Stock Broker, Noticee 7. Noticee 8 traded for its client Sudhirbhai Shah.

29. Investigation further observed that both the above clients entered into structured trades for 2,98,426 shares on 10 days and executed 296 structured deals constituting 0.74% to the market gross quantity during period 2 of the investigation period. The time difference between the buy and sell orders ranged between 3 to 48 seconds. These structured deals executed during March 18, 2002 to May 07, 2002. The details of structured deals executed by the two brokers was provided as Annexure – 1 of SCN 5.

30. In view of the above, it was alleged that the Noticee 8 violated the provisions of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 15 of the SEBI (Stock Brokers & Sub-Brokers) Regulations, 1992. The relevant portions of the above regulations are as below:

SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992:

General obligations and Inspection

15. *(1) The Sub-Broker shall -*

(b) abide by the Code of Conduct as specified in Schedule II

31. The alleged violation of the said provisions, if proved, makes the Noticee 1 liable for penalty under Section 15 A(a) of SEBI Act, 1992 and Noticee 2 to 8 liable for penalty under Section 15HB of the SEBI Act 1992.

32. In response to respective SCN 1, 2 3, 4 and 5 Noticees filed their reply, inspected documents and attended personal hearing before undersigned as follows:

Noticee No.	Filed reply vide letter/Email dated	Inspection Date	Personal Hearing Date	Remarks/ Represented by
1	27.11.2015, 12.08.2022 13.10.2022, 29.11.2022	15.09.2022	28.09.2022	Mr.Amit Shah and Ms. Palak jain
2	22.11.2017, 29.06.2018, 30.09.2021, 15.11.2021, 20.12.2021, 13.09.2022, 19.10.2022	NA	09.12.2021	Mrs. Rinku Valanju, Mr. Sumit Yadav, Mr. Manoj Shah
3	04.10.2021, 12.10.2021, 31.08.2022	NA	10.11.2017	Mr. Ravichandra Hegde and Ms. Parinaz Bharucha
4	01.12.2017, 15.01.2018	NA	22.08.2022	Mr. Ramesh Chandra Mishra, Mr. Avinash Tiwari
5	28.11.2017 11.12.2017, 05.10.2021, 14.10.2021, 28.07.2022	NA	19.08.2022	Mr. Anil Shah
6	24.11.2017, 23.09.2021, 17.08.2022	NA	23.09.2021, 19.08.2022	Mr. Ashvin M Shah
7	29.11.2017, 16.08..2022	NA	19.08.2022	Mr. Ashish Ajmera
8	No Reply	NA	12.09.2022	Not availed

33. SCN and Hearing Notice were served to Noticee 8 through publication in newspapers dated October 05, 2021 and August 12, 2022 respectively in terms of Rule 7(3) of Adjudication Rules.

34. The submissions of the Noticees are summarized as below:

Noticee 1

35. SCN is in respect of transaction in the scrip of STL for the period, May 29, 2001 to September 7, 2001 as also for the period, February 25, 2002 to May 9,2002.

Noticee’s transactions are for the period, February 25, 2002 to May 9, 2002 in relation to off market transactions during which the share price of STL declined from Rs.31/- to Rs.7.55/-.

36. The impugned transactions are more than 16 years before. Noticee does not have any record for the impugned transactions. To the best of Noticee’s knowledge Noticee submit that in the past, inquiry in relation to transaction in STL was initiated by SEBI and Noticee has replied thereto and also attended personally to explain the nature of transaction.

37. SEBI is proceeding in the matter after 21 years of IP, 18 years after the summons was issued and issued SCN 13 years after the alleged violation of summons. Under the Income Tax Act as well as under the Security Contract Regulation Act a person is required to maintain his accounts etc. for a period of six years only. Noticee had never filed any writ before a High Court and therefore there was no stay on the investigation as well as action against Noticee by any Court. Noticee in past has attended personally and explained the nature of transaction to SEBI and since no action was initiated by SEBI against Noticee. Noticee had all the reason to believe that the matter is *res judicata,* and now no action remains pending against Noticee and therefore Noticee did not preserve the records and now do not possess any record in relation to the impugned transactions. Noticee also refers to judgments like, Hon'ble SAT judgments in the matter of Mr. Rakesh Kathotia & Ors. vs. SEBI (Appeal No. 7 of 2016 decided on May 27, 2019) and Sanjay Jethalal Soni and Ors. vs. SEBI (Appeal No. 102 of 2019 decided on November 14, 2019); in the Ashlesh Shah case (decided on 31st January, 2020); in the matter of Shriram Insight Share Brokers Ltd., Mookambika Complex, vs. Securities and Exchange Board of India & Ors. dated January 04, 2022 regarding inordinate delay in exercise of powers in initiation of proceedings, beyond reasonable time.

38. Since, Noticee is not in possession of such old records, Noticee has replied based on assumptions and presumptions since human memory is restrictive and short.

39. Noticee understand that SCN is based on Investigation Report (IR). However, in selective portion of IR provided to Noticee there is no description regarding Noticee's alleged non-compliance of summons, however, it is concluded in action matrix directly. Hence, SCN is not in conformity with IR.

40. In respect of summons/POD (Proof of Delivery), Noticee submit that POD is not signed by Noticee or by any of the Noticee's family member on his behalf. Further, the original POD was not available for inspection to the Noticee inspite of request by Noticee. Even, if it is assumed that the Summons was delivered, it was delivered on 1st June, 2004, asking to furnish information by 7th June, 2004. Between 1st June, 2004 and 7th June, 2004, there were 2 weekend holidays. Hence, SEBI provided a time of 4 to 5 clear days to furnish the information. The information sought included certain information, which are required to be gathered from third party such as bank statement and Demat statement of third parties.

41. SEBI itself has taken 21 years to conclude prosecution in the matter, whereas it expected a layman to furnish such information within 4 days. In view of the same, it cannot be termed as non-compliance of summons, since the short time period of 4 days provided by SEBI is unreasonable; it is in violation of natural justice.

42. During inspection, original POD was not provided by SEBI inspite of request, and photocopy of POD cannot be used as reliable evidence against Noticee. In the Hon'ble Supreme Court order in the matter of "Kanwar Natwar Singh vs Directorate of Enforcement & Anr" held that nothing should be used against a person which has not been brought to his notice. The Supreme Court of India

in J. Yashoda Vs. K. Shobha Rani, AIR 2007 SC 172: has held that secondary evidence is admissible only in the absence of primary evidence when proper explanation of its absence is given. Section 63 of the Indian Evidence Act also says that evidence is secondary if they are certified true copies.

43. It is a followed practice in SEBI to issue 2 to 3 summons before alleging someone for non-compliance of summons. However, in Noticee's case, only one summons was issued to Noticee which was not received by Noticee. This is gross violation of natural justice and equality. Noticee rely on AO order dated, 17th March, 2011, against Kajal Shah in the matter of Mega Corporation Limited, wherein AO has issued three summonses to Kajal Shah before penalizing her for non-compliance of summons.

44. Vide e-mail dated 19th July, 2022, SEBI asked "Sajjan Kumar Limited" to attend personal hearing instead of Noticee. Only on Noticee's instance, SEBI corrected itself and ask Noticee to read "Sajjan Kumar Limited" as "Sajjan Kumar Nanwal". This is one of the many blunders done by SEBI in this case. Similarly on the envelope in which summons was delivered, SEBI may have mistakenly addressed to "Sajjan Kumar Limited" instead of "Sajjan Kumar Nanwal" and which may have been delivered to somewhere else and may not have come to Noticee knowledge.

Noticee 2

45. There is an inordinate delay of 17 years in issuing the SCN dated 10.11.2017 while the impugned trades/transactions were executed between 29.05.2001 to 07.09.2001. SEBI initiated investigation w.r.t. to the present cause of action back in 2003 when several documents were sought from the Noticee, which were duly provided by the Noticee. However, since December, 2003 till November, 2017, there was absolute silence and later on 10.11.2017, SEBI issued the SCN. In this regard, the Noticee has referred judgments like, Hon'ble

SAT in Rajeev Bhanot & Anr. versus SEBI (Order dated 09th July, 2021 in Appeal No. 396 of 2018); in the matter of Ashok Shivlal Rupani vs. SEBI appeal no.417 of 2018 decided on August 22, 2019; in the matter of Mr. Rakesh Kathotia & Ors. vs. SEBl (Appeal No. 07 of 2016 decided on 27.05.2019) etc.

46. During the course of the personal hearing scheduled on 09.12.2021, it was informed to Noticees that a stay order of the High Court was operative in the matter of Sai Televisions due to which the investigation in the matter of Sai Televisions were kept at a halt and there was delay in issuing the SCN. Noticee requested for the aforesaid High Court order vide email dated 16.12.2021 and 18.12.2021, however, the said High Court order was not provided.

47. No role, involvement or participation of the Noticee is shown in the trading between Mrs. Ritu Devi and CRS Stocks and Securities Pvt. Ltd. for carrying out such 51 structured deals for 25,700 shares of Sai Televisions Ltd. The SCN is silent w.r.t. what specific acts on the part of the Noticee have been treated as objectionable. No particulars of co-operation or collaboration have been furnished or how meeting of minds took place is stated. CRS Stock & Securities Pvt. Ltd was a SEBI registered Sub-Broker and the client of the Noticee and all the orders in the scrip of Sai Televisions for itself and its clients were placed by the Sub-Broker (CRS Stock & Securities Pvt. Ltd.) from its CTCL Terminal in the code name (C23) and were not placed by the Noticee.

48. There was no collusion between the Noticee and CRS Stocks and Securities for the purpose of structured deals between Mrs. Ritu Devi and CRS Stocks and Securities. Also, there is no connection between the Noticee and Orbis Securities Pvt. Ltd. (Trading member for the trades of Ritu Devi).

49. While punching trades on behalf of client viz. CRS Stock and Securities there has been no malafide on Noticee’s part. All the impugned transactions in the scrip of STL were executed through the normal screen based trading system of

stock exchange. The Noticee had no means or possibility to know as to who was the counter-party to the transactions of CRS Stocks and Securities as in a screen-based trading, it is not possible for anyone to have access over the details of the identity of counter-party with whom the trade has matched on a real-time basis.

50. The present SCN does not spell out any charge of PFUTP Violation (neither price manipulation nor volume manipulation) against the Noticee and the only charge levied against the Noticee are Code of Conduct Violations for non--compliance of due diligence. Therefore, in the absence of any charge of PFUTP violation, the question of Code of Conduct violation by the Noticee does not arises. Noticee stand guided by the Hon'ble SAT's order dated 07th September, 2010 in the matter of Adolf Pinto vs SEBI(Appeal No. 102 of 2010).

51. The objectionable trades in the SCN pertains to the years 2001 when there were no transaction alerts given to the trading members by the Stock Exchanges. Further, at the relevant time, self-trades were not defined and were not found objectionable within the framework of SEBI laws.

52. After the year 2013, surveillance system on the stock exchange and at Noticee end have improved significantly and presently transaction alerts are downloaded on daily basis so that such transactions as impugned in the SCN gets alerted on the same day itself. However, this was not the case in the past (i.e. before 16 years) wherein neither the regulator/stock exchanges nor the market participants had technology or infrastructure in place to get instantaneous alerts.

53. SEBI Policy dated 16.05.2017 on self- trades categorically states that intention is a sine qua non for establishing manipulation in case of self-trades and accidental self- trades are not covered under Regulations 4(2)(a), 4(2)(b) and 4(2)(g) of PFUTP Regulations, 2003. As per the aforesaid policy, self-trades

per se do not create market volume and manipulate the price of the scrip, but instead those self-trades which are instrumental in creating market volume and manipulate the price of the scrip can be treated as manipulative. Volume is an essential factor in determining whether self-trades are manipulative or not.

54. Hon'ble SAT observed that self-trades are not per se illegal and unless there is some additional evidence which proves that the said self-trades are executed with a manipulative intention. Hon'ble SAT stressed emphasis on the point that to prove that self-trades were executed with the intention to defraud, the volume transacted through such self-trades should be compared vis- a-vis the market volume.

55. Throughout the investigation period, entire volume of 10,74,443 shares of Sai Televisions Ltd. was executed through the terminal of the Noticee. Out of the said 10,74,443 shares of Sai Televisions Ltd., only 25,700 shares executed by CRS Stock and Securities is considered objectionable which is only 2.39 % of the entire volume of Sai Televisions Ltd traded with Noticee. If we take the overall volume of shares of Sai Televisions Ltd. executed on NSE, then compared to that the objectionable volume of 25,700 shares of CRS Stock and Securities is negligible.

56. Further, Noticee submit that the Noticee made application before NSE and SEBI for cancellation of its membership. However, the Noticee's request for cancellation of its membership cannot be acceded to during the pendency of the present proceeding

57. Noticee exercised due skill, care and diligence while dealing on behalf of our client (CRS Stock and Securities) in scrip of STL during relevant period. Noticee while dealing in scrip of STL we acted as any reasonable and prudent business-entity would act in ordinary course of its business.

Noticee 3

58. <u>Non-applicability of the penal provision:</u> Paragraph 7 of the SCN states that, "*The alleged violation of the said provisions, if proved, makes the Noticees liable for penalty under Section15HB of the SEBI Act-1992*". Section 15HB was introduced to the SEBI Act vide the SEBI (Amendment) Act, 2002 (Act No. 59 of 2002 published on December 17, 2002) ("Amendment Act 2002"). The short title to the Amendment Act 2002 states that the amendments shall be deemed to have come into force on October 29, 2002. The Impugned Period in the SCN is from July 3, 2011 - September 03, 2001, which was before the insertion of Section 15HB into the SEBI Act. It is therefore clear that under these circumstances, no penalty can be applied in the present matter under Section 15HB, as a penal provision cannot be applied retrospectively.

59. <u>SEBI mindfully chose to initiate the present proceedings after an inordinate delay of 16 years</u>: SEBI initiated proceedings in the matter of the Impugned Trades against Ms. Ritu Devi, CRS and certain others back in 2004. It is noted from public records (certain writs filed by Ms. Ritu Devi and others, against SEBI, before the Hon'ble Madras High Court being Writ Petition No. 28703 of 2004 and Writ Appeal No. 2303 of 2012). Therefore, SEBI was well aware of the Impugned Trades, and had already initiated action against the persons who undertook the trade's back in 2004. However, in case of the Noticee, SEBI took a mindful decision not to initiate any investigation or proceedings against the Noticee, being the broker of Ms. Ritu Devi. Later, for reasons best known to SEBI, SEBI issued the present SCN after 16 years. Now, the Noticee is devoid of any defense or explanation on the facts of the case, as the Noticee has no records of Ms. Ritu Devi or the Impugned Trades, which took place over 20 years ago. Even in the SCN SEBI has not provided any details as to the trades, the volume of the Impugned Trades as compared

60. SCN has been issued much beyond the period of preserving the documents under the relevant regulations, wherein the Noticee was only required to maintain records up to five years, and therefore the Noticee does not have access to critical information and records, that is required for the facts of the matter. There is nothing in the SCN or otherwise to justify such inordinate delay in issuance of the SCN and initiating of the proceedings.

61. Noticee did not act in concert or in collusion with either its client, or the counterparty or the counterparty broker, and nor was the Noticee part of any group or connected with anyone for the purpose of undertaking the Impugned Trades. Further, there is no allegation of influencing the price or any manipulative activity as alleged or otherwise of any connection between the Noticee and counter parties in any manner whatsoever. Further, no observation has been made on any market wide impact or loss to any shareholders. The Noticee submits that there was no meeting of minds or connection with the client (other than broker client relationship), counter party or the counter party broker. The trades were undertaken as per the instructions of the client, Ms. Ritu Devi, and the Noticee had no decision-making role in the Impugned Trades. SEBI has found any connections, evidence of collusion, meeting of minds, any instance of personal gain by the Noticee nor any evidence, which would indicate any inducement.

62. Noticee has not made any disproportionate gain or gained any unfair advantage, whether quantifiable or otherwise. Further, no loss has been caused to any investor or group of investors because of the alleged default. In fact, the present cause of action is the first time that a regulator has questioned the Noticee.

63. SCN has failed to show how the Noticee violated any of the provisions of SEBI Stock Brokers Regulations. The Noticee has always acted with integrity, has exercised due skill and care, has not engaged in manipulation, malpractices,

and has complied with all statutory requirements. Apart from providing the trade details in a tabular column, there is no mention of any details or particulars and the Noticee cannot be expected to comment or deal with the same. In fact, the Noticee would have been in violation of SEBI rules and regulations had it refused to comply with the instructions of its client, Ms. Devi.

64. No allegation has been made in the SCN that the Noticee has conducted the alleged trades of its own accord or without the instructions of Ms. Devi. As a stock broker, it is the utmost and fundamental duty of the Noticee to comply with the trading instructions of its clients. Further, there is no allegation that the Noticee has derived any benefit from the execution of the alleged trades nor any iota of evidence that there was any design or intent to execute the trades, whether manipulative or otherwise.

Noticee 4

65. Noticee submits many of the entities allegedly carrying out synchronized trades as per the investigation report, have been found to involved in numerous such matters pursuant to separate investigations and even punished in different matters by SEBI. Such entities used the brokers to carry out their trades, and the brokers could not, while taking the utmost of care, detected their intentions. In one of such cases, with identical facts and issues of law, SEBI Adjudication order no. AP/A0-21/2005-06 was passed, where one Mr. Chirag Pujara has been fined for allegedly carrying out synchronized trades in Kwality Dairy (India) Limited, whereas the proceedings against the broker was dropped. Similarly, the Noticee carried out transactions of its clients as stock broker, and could not be used to allude awareness or involvement in the synchronized transactions. It was not humanly possible then, to detect such synchronized trades at the end of broker.

66. The transactions have not been carried out by Noticee as principals. Except acting as brokers for such transactions, which, amounted to a very small

miniscule portion of Noticee total turnover, Noticee had no concern, direct or indirect, with the transactions or the parties involved. Clients of Noticee carried out the transactions in their personal capacity with their personal funds and risk/benefit. Noticee had no concern in any manner with the transactions and were not concerned with the profit or loss they may have made.

67. The SCN has failed to explain how the alleged provisions of SEBI Stock Brokers Regulations were violated by the Noticee. Noticee submit that, it has not violated any of the said provisions, and it has undertaken its activities with high standards of integrity, exercised due skill and care, has not undertaken any manipulative activity or engaged in malpractices, while complying with all statutory requirements.

68. Noticee is not connected to counter party brokers. Neither Noticee’s Promoters, nor shareholders nor Directors have any connection with the said brokers.

Noticee 5

69. Inordinate delay in initiation of proceedings, with a delay of 19 years and 4 months without explanation and justification. In this regard, judgments in the matter of HB Stockholding Limited and in the matter of Khandwala Securities Limited vide order dated 07.09.2012 in Appeal No. 19/2012 ; Rajeev Bhanot, the Hon'ble Securities Appellate Tribunal in order dated 09.07.2021 in Appeal No. 396/2018; Ashok Rupani, the Hon'ble Securities Appellate Tribunal in order dated 22.08.2019 in Appeal No. 417/2018; Rakesh Kathotia, the Hon'ble Securities Appellate Tribunal in order dated 27.05.2019 in Appeal No. 07/2016 has been referred.

70. Since statutory requirement is for preservation of records for 5 years, Noticee is not in possession of records that pertain to the year of investigation. Therefore, Noticee is disabled from placing submissions effectively and has

been deprived of an effective representation causing grave injustice of inability to contest.

71. Noticee deny that Noticee could ever be aware about the orders placed by Airtel since Airtel was not Noticee client. Noticee deny that Noticee entered into structured deals with anyone as wrongly alleged or otherwise. In any event the SCN has not even alleged that Noticee were aware of or otherwise had the means to verify the orders placed by Airtel. Further so, there is no allegation of collusion or connivance at all to enter in to structured deals, which is a sine qua non for the charges to stick against Noticee.

72. Noticee has executed trades in accordance with the instructions of client Kuber Finstock Limited as was ought to and obliged to have executed under agreement as Stock Broker.

73. Noticee transactions were at arm’s length and without knowledge as to the identity of the counter parties. Noticee merely placed Noticee orders on screen and the same matched by the trading system of the Stock Exchanges. Noticee did not execute any structured deals as alleged.

74. Noticee submitted, “due diligence" means doing everything reasonable and not everything possible, without any evidence to attribute any reason for the appellant to suspect clients credentials, the Noticee has exercised due diligence and reasonable care while executing trades on behalf of the client. in the absence of any knowledge of alleged manipulative designs of the client and/or any counter party, if any, no default of the client and no negligence can be attributed to Noticee as knowledge is an essential ingredient thereof.

75. Noticee maintained high standards of integrity exercised due skill and diligence. Noticee neither indulged in any malpractice nor in any manipulation, and met with all statutory requirements.

76. The allegation made against Noticee vide SCN are based on mere assumptions and presumptions and that there is no material on record to establish the allegations.

Noticee 6

77. Noticee are never involved in any unfair trade practice right from inception till date. Noticee records are proof of the same.

78. In the case under reference Noticee didn't derive any additional monetary gain for except Noticee routine normal brokerage.

79. All funds/security pay-in as well as payout obligations are strictly followed by Noticee as well as by Noticee Client.

80. Noticee never received any alert from the Exchange in this regard, it may be noted that in today's' scenario if such Trades take place Noticee would have received the Alert on the same day evening itself, giving Noticee opportunity to take timely corrective measures. Those days no tools were available as they are in today's scenario to track such trades.

81. The day Noticee came to know the fact and nature of trade Noticee flagged the Client, and later on no trade was executed for and on behalf of Noticee said Client. In fact now Noticee are not aware of where about of the said client at present.

82. Noticee never spoke, knew or met the counter parties to trade, referred in SCN. Noticee has no contact or relation with any of them.

83. The response to SCN is limited on account of being handicapped by non-availability of records dating back to 20 years at our end.

84. Noticee never indulged in any proprietary trading activities. Noticee neither bought nor sold a single share of Sai Tele Services Ltd. Noticee executed all orders with in the price range set by Exchange/prevailing market rates as per instructions of the said client.

Noticee 7

85. Impugned transaction were executed in FY 2001-02, 2002-03, which are approximately 20 years old as off now, and now Noticee do not have any data pertaining to the same. Impugned transaction was executed by Noticee clients/sub- broker (which were allowed in those times from their end).

86. Noticee has surrendered membership in 2007.

87. Notice was issued after more than 20 years from the date of transactions and therefore much duress has been caused to the Noticee on the receipt of the same as it had acted in its bona fide capacity while executing the trades at the relevant time and had settled all its settlement obligations qua its transactions.

88. It is beyond comprehension or remembrance of a man under normal course of business or circumstances to remember the reason and diligence carried out for trades executed more than 20 years earlier. Therefore, the Noticee has lost opportunity to submit its complete defense. It is submitted that the authority is required to exercise its powers within a reasonable period

Noticee 8

89. Noticee 8 neither submitted reply to the SCN, nor appeared for hearing. As adequate opportunity was provided to the Noticee to submit reply and appear for hearing, which it failed to avail, the proceedings against Noticee 8 are being undertaken ex-parte

90. As the inquiry in the matter has been completed, I now proceed to decide the case on the basis of SCNs issued, replies made by the Noticees and material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

91. The issues that arise for consideration in the present case are as follows:

I. Whether the Noticees have violated the following provisions:
   a. Whether Noticee 1 is in violation of Sections 11C (2), 11C (3) and 11C (5) of SEBI Act, 1992
   b. Whether Noticees 2 to 7 are in violation of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 7 of SEBI Stock Broker Regulations.
   c. Whether Noticee 8 is in violation of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 15 of SEBI Stock Broker Regulations.

II. Does the violations, if any, attract monetary penalty under section 15A(a) and 15 HB of SEBI Act, 1992?

III. If so, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15-J of SEBI Act, 1992 read with Rule 5(2) of the Adjudication Rules?

Issue I. Whether the Noticees have violated the following provisions:

a. Whether Noticee 1 is in violation of Sections 11C (2), 11C (3) and 11C (5) of SEBI Act, 1992

b. Whether Noticees 2 to 7 are in violation of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 7 of SEBI Stock Broker Regulations.

c. **Whether Noticee 8 is in violation of Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 15 of SEBI Stock Broker Regulations.**

92. Before proceeding with the matter on merits, I would first deal with the preliminary contentions raised by the Noticees with regard to delay in issuance of SCN. In support of their contention the Noticees have relied upon the judgement of Hon'ble Securities Appellate Tribunal (hereinafter referred to as **'SAT'**) in the matter of Rakesh Kathodia vs SEBI and Ashok Shivlal Rupani vs. SEBI etc. where the adjudication proceedings were squashed by the court/tribunal on account of inordinate delay. In this regard, I observe from the records that investigation in the said matter was initiated in 2004, and pertained to the periods May 2001 to September 2001, and February 2002 to May 2002. It is also noted that during investigation, 6 entities involved in the matter approached Hon'ble Madras High Court in 2004 by filing writ petitions, and the Hon'ble Court dismissed the writ petitions in 2012, against which the entity appealed before the higher bench of the Madras High Court.

93. The higher bench of Madras High Court vide order dated January 17, 2013 directed that "*The authority concerned is further directed not to pass any further orders without the direction of this court notice.*" I also note that the investigation and approval of action was completed in 2014, because of ongoing litigation in the matter.

94. Subsequently, vide order dated May 16, 2017 Shri. Prasanta Mahapatra was appointed as the Adjudicating Officer and SCNs dated November 10, 2017 were issued to the Noticees. Pursuant to transfer of Shri Prasanta Mahapatra, the instant matter was transferred to the undersigned *vide* order dated June 06, 2022. Now, the higher bench of Madras High Court vide order dated June 28, 2022 dismissed the writ appeals filed before it.

95. I take note that considerable time has passed since Investigation Period and initiation of adjudication proceedings (as detailed above), however, I do not find that there is an inordinate delay in issuance of the SCN, since it is observed that though the investigation started in 2004, the adjudication proceedings could be initiated only in year 2017, because of the litigation filed by entities in Madras High Court and the directions issued by the Hon'ble Court.

96. I find that in the SAT judgement relied upon the Noticees in the matter of **Rakesh Kathotia vs SEBI**, Hon'ble SAT has held that "*held that in the absence of any period of limitation, the authority is required to exercise its powers within a reasonable period. What would be the reasonable period would depend on the facts of each case and that no hard and fast rule can be laid down in this regard as the determination of this question would depend on the facts of each case."*

    In this context, I would also like to refer to observations of the Hon'ble SAT in **Bipin R Vora vs SEBI**, *"As regards the plea of delay and latches and submission that the show cause notice is barred by limitation, I do not find any merit in these contentions as the time and efforts involved in an investigation though may vary from case to case, generally investigations per-se is a time consuming process which invariably involve collection, scrutiny and careful examination of voluminous records/ order-trade details of all the concerned including the exchanges/recording of statements etc. and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market".*

97. In view of the aforesaid judgments, I conclude that there is no merit in the objections raised by the Noticees regarding the delay in issuance of SCN and the SCN has been issued within reasonable period.

98. In respect of Noticee 1, essentially the allegation is that said Noticee failed to furnish the information sought vide Summon dated May 26, 2004. In the regard, Noticee 1 has contended that there is no definite evidence available on records of delivery of said summon to the Noticee by SEBI, since only a copy of POD is made available, which is not signed by Noticee or any of his family members, hence cannot be relied upon on. Further, Noticee has contended that he is unable to respond properly, since the matter is 21 years old, and he is not in possession of such old records.

99. In this regard, I note that the Acknowledgment copy of delivery of registered letter provided by Department of Posts, India (POD) has been relied upon to establish that the Summon dated May 26, 2004 was delivered to Noticee. However, the original POD is not available on records. Further, from the photocopy of the POD available on records, it is observed that the POD, has been signed by one named Sunita S Nanwal, which Noticee has claimed is not the family member of Noticee. In view of the above, I find that there is insufficient material on records to conclude that summon dated May 26, 2004 was delivered to the Noticee. Further, I also take note of contention of the Noticee that the alleged violation by Noticee pertains to 21 years back, on account of which availability of records with Noticee to properly reply to SCN is seriously hampered.

100. Since, delivery of summon to Noticee is not conclusively proved, the issue of non-compliance of the summon by Noticee 1 cannot be evaluated. In view of the same, I find that allegation of failure by Noticee 1 to furnish information in response to summon is not established, hence Noticee 1 is not in violation of Sections 11C (2), 11C (3) and 11C (5) of SEBI Act, 1992.

101. Another preliminary contention raised by Noticee 3 is about non-applicability of the penal provision Section 15HB of the SEBI Act, since it come into force on October 29, 2002, whereas the impugned period in the SCN is from May 29,

2001 to May 09, 2002. Hence, the Section 15HB cannot be applied retrospectively. In this regard, I note that the Investigation Period 1 starts from May 29, 2001 and Period 2 ends on May 09, 2002, which is before the insertion of Section 15HB of SEBI Act by SEBI (Amendment) Act, 2002 (Act No. 59 of 2002 published on December 17, 2002). Further, SEBI (Amendment) Act, 2002 has not been given a retrospective operation, and the aforesaid Amendment Act was specifically brought into force w.e.f. October 29, 2002. In view of the above, the contention of the Noticee is accepted. Accordingly, adjudication proceedings against Noticees 2 to 8 for imposition of penalty under Section 15HB for impugned transactions carried prior to Amendment Act is ultra vires.

102. Further, I also note that the clients of the Noticees 2 to 8 allegedly carried out synchronised trades/structured deals, in view of which the Noticees 2 to 8 are alleged to be in violation of clauses of code of conduct specified under schedule II read with Regulation 7 or 15 of SEBI Stock Broker Regulations. However, the SCN fails to demonstrate how Noticees 2 to 8 have violated the alleged provisions, on account of the impugned trades being carried out by their clients, and which Noticees 2 to 8 carried out on account of them being stock brokers/sub broker. There are no details on record to show if Noticees 2 to 8 were connected with the clients carrying out alleged synchronized/structured trades, or Noticees 2 to 8 carried out these trades in individual capacity, or the Noticees were aware if these impugned trades are synchronized or structured.

103. Thus, there is insufficient material on records to establish that Noticees 2 to 8 violated Clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct specified under schedule II read with Regulation 7 or 15 of SEBI Stock Broker Regulations.

104. As the violations alleged against the Noticees are not established, issues II and III do not merit consideration.

ORDER

105. In view of the findings noted in the preceding paragraphs, the adjudication proceedings initiated against the Noticees vide SCN 1, 2, 3, 4 and 5 dated November 10, 2017 are disposed of.

106. Copy of this Adjudication Order is being sent to the Noticees and also to SEBI in terms of Rule 6 of the Adjudication Rules

ASHA SHETTY Digitally signed by ASHA SHETTY Date: 2023.02.20 15:20:12 +05'30'

Place: Mumbai **ASHA SHETTY**

Date: February 20, 2023 **ADJUDICATING OFFICER**