BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER No. Order/AN/RG/2024-25/30960

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

In respect of:

R K Global Shares and Securities Limited

(PAN: AAACR5786P)
(SEBI Registration No.- INZ000187132)

In the matter of R K Global Shares and Securities Limited

A. BRIEF BACKGROUND

1. Securities and Exchange Board of India (hereinafter also referred to as '**SEBI**') carried out thematic joint inspection of R K Global Shares and Securities Limited (hereinafter also referred to as "**Noticee/ Member/ TM/ Broker/ Stock Broker/ Entity"**), with Exchanges on June 27, 2023, July 13 & 21, 2023 for the Inspection period April 01, 2022 to May 31, 2023.

2. Pursuant to the inspection, the findings were communicated to the Noticee by SEBI vide letter dated August 31, 2023 and comments of the Noticee were sought on the same. Noticee vide its letter dated October 03, 2023, provided its reply to the findings of SEBI.

3. Based on the findings arising out of its inspection, analysis of reply received and examination in the matter by SEBI, briefly stated, it was inter alia observed by SEBI that Noticee had allegedly violated various provisions of Circulars issued by SEBI viz., Clause 12 (e) of Annexure SEBI circular Ref no MIRSD / SE/Cir-

19/2009 dated December 03, 2009, Clause 8.1.1 & 8.1.4 of Annexure SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, Clause 5.1 & 5.4 of SEBI /HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021 and Clause 4.1 of SEBI/HO/MIRSD/DOP/P/CIR/2022/101 dated July 27, 2022.

Accordingly, SEBI initiated adjudication proceedings against the Noticee under Section 15-I of SEBI Act, 1992 (hereinafter also referred as "SEBI Act") for the alleged violations of the provisions, as stated.

B. APPOINTMENT OF ADJUDICATING OFFICER

4. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violations by the Noticee, as stated and therefore, in exercise of the powers conferred under Section 19 read with Section 15-I (1) of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter also referred as 'Adjudication Rules'), the Competent Authority appointed Shri Biju S, Chief General Manager as Adjudicating Officer ("erstwhile AO") vide communique dated May 03, 2024 to inquire into and adjudicate under Section 15HB of the SEBI Act, 1992, the alleged violations by the Noticee. Subsequently, upon transfer of the erstwhile AO, the undersigned was appointed as Adjudicating Officer ("AO") vide Communique dated July 29, 2024.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice No. SEBI/EAD-1/BS/17327/1/2024 dated May 21, 2024 along with Annexures ("SCN"), was issued by the erstwhile AO and served upon the Noticee under Rule 4 of the Adjudication, to inter alia show cause as to why an inquiry should not be held and penalty not be imposed upon the Noticee under Section 15HB of the SEBI Act, 1992, for the violations alleged to have been committed by the Noticee.

6. The following was inter alia observed and alleged in the SCN in respect of the Noticee:

"…

Settlement of Client Funds and Securities:

a) For settlement on first Friday of quarters Oct 2022 to April 2023, It is alleged that, the Noticee has not done settlement of active clients on 31 instances out of total 3750 instances amounting to Rs 8.275 Lakhs. This is stated at table no. 4.2 and Annexure B5 of the inspection report and in the response submitted by the Noticee through letter dated October 3, 2023 to the findings of inspection.

b) For settlement related to Q1 of FY 2022-23 pertained to active clients, it is alleged that, the Noticee has not settled of funds on 1 instance out of total 100 instances verified for Rs. 76.37 Lakhs. This is stated at table no. 4.2 and Annexure B6 of the inspection report and in the response submitted by the Noticee through letter dated October 3, 2023 to the findings of inspection.

c) The Noticee has not done settlement of inactive clients on 337 instances out of total 19623 instances verified for clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction. The total non-settlement for these 337 instances is Rs. 99.33 Lakhs. This is stated at table no 4.2 and annexure B7 of the inspection report and in the response submitted by the Noticee through letter dated October 3, 2023 to the findings of inspection.

6. As mentioned above at point no 5 a, b, and c, it is alleged that the Noticee have violated the provisions of Clause 12 (e) of Annexure SEBI circular Ref no MIRSD / SE/Cir-19/2009 dated December 03, 2009, Clause 8.1.1 & 8.1.4 of Annexure SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, Clause 5.1 & 5.4 of SEBI /HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021 and Clause 4.1 of SEBI/HO/MIRSD/DOP/P/CIR/2022/101 dated July 27, 2022.

…"

7. Vide Hearing Notice dated August 13, 2024, the Noticee was provided an opportunity of hearing on August 20, 2024 and was inter alia advised to submit the reply to the SCN atleast 2 working days prior to the scheduled date of hearing.

8. Vide letter dated August 16, 2024, the Noticee submitted its reply to the SCN inter alia as follows:

"…

With respect to alleged violation of Non settlement of Client in few cases, we would like to submit that we are a fully complied Broking house who is running its business since 1995. We are adhering to all SEBI rules and regulation at all times. Due to back-office error and changing of IFSC codes and bank data, we were not able to settle only 129 clients out of total clients ("which arc running in thousands) on time. When it came to our knowledge, we expedite the matter and settle all the clients on priority basis. Please find attached our detailed reply along with all supporting as annexure A.

We would further like to submit that there is no single complaint from any client regarding not payments of funds to them. We have strengthened our in internal control system so that this type of mistakes will not recur in future.

"…

9. On the scheduled date of hearing i.e. on August 20, 2024, the Noticee availed the hearing opportunity through its Authorized Representatives (ARs) viz Mr. Sushil Kumar Dhancholia and Mr. Khamesh Kumar, wherein the ARs inter alia relied upon and reiterated the submissions made by the Noticee vide letter dated August 16, 2024. Further, the ARs inter alia submitted that there were no additional submissions to be made and the submissions made vide letter dated August 16, 2024 be taken as final and complete submissions in the matter.

D. CONSIDERATION OF ISSUES AND FINDINGS

10. The issues that arise for consideration in the instant case are:

Issue No. I:	Whether the Noticee has violated the provisions of SEBI Circulars, as alleged?
Issue No. II:	If yes, whether the violations on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act, 1992?
Issue No. III:	If yes, what should be the monetary penalty that can be imposed upon the Noticee?

Issue No. I: Whether the Noticee has violated the provisions of SEBI Circulars, as alleged?

11. I note from the material available on record that the following was inter alia observed and alleged in respect of the Noticee:

Settlement of Client Funds and Securities

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

- For settlement on First Friday of quarters Oct 2022 to April 2023, it was observed that the stock broker had not done settlement of active clients on 31 instances out of total 3750 instances for Rs.8.275 Lakhs.
- For settlement related to Q1 of FY 2022-23 pertained to active clients, it was observed that the stock broker had not settled funds of 1 instance out of total 100 instances for Rs.76.37 Lakhs.
- For inactive clients, it was observed that the stock broker has not done settlement of inactive clients on 337 instances out of total 19623 instances verified for clients having credit balance, who had not done any transaction in the 30 calendar days since the last transaction for Rs.99.33 Lakhs.

Accordingly, it was alleged that the Noticee had violated Clause 12(e) of Annexure SEBI circular Ref nos. MIRSD/SE/Cir-19/2009 dated December 03, 2009, Clause 8.1.1 & 8.1.4 of Annexure SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, Clause 5.1 & 5.4 of SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021 and Clause 4.1 of SEBI/HO/MIRSD/DOP/P/CIR/2022/101 dated July 27, 2022.

12. In this regard, I note that Clause 12(e) of Annexure SEBI circular Ref no. MIRSD/SE/Cir-19/2009 dated December 03, 2009 reads as under:

"...

Running Account Authorisation

12. Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the payout. However, a client may specifically authorize the stock broker to maintain a running account subject to the following conditions:

*e. The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a '***statement** *of* **accounts***' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.*

…"

13. Further in this regard, I note that Clause 8.1.1 and 8.1.4 of Annexure SEBI /HO /MIRSD /MIRSD2 /CIR /P /2016 /95 dated September 26, 2016 reads as under:

"…

8. Running Account Statement

8.1.In partial modification of circular on running account settlement, the stock broker shall ensure that;

8.1.1.There must be a gap of maximum 90/30 days (as per the choice of client viz. Quarterly/Monthly) between two running account settlements.

…

8.1.4.Statement of accounts containing an extract from client ledger for funds & securities along with a statement explaining the retention of funds/securities shall be sent within five days from the date when the account is considered to be settled.

…"

14. Further in this regard, I note that Clause 5.1 & 5.4 of SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021 reads as under:

"…

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

…

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

…"

15. Further in this regard, I note that Clause 4.1 of SEBI/HO/MIRSD/DOP/P/CIR/2022/101 dated July 27, 2022 reads as under:

"...

The settlement of running account of funds of the client shall be done by the TM after considering the End of the day (EOD) obligation of funds as on the date of settlement across all the Exchanges on first Friday of the Quarter (i.e., Apr-Jun, Jul-Sep, Oct-Dec, Jan–Mar) for all the clients i.e., the running account of funds shall be settled on first Friday of October 2022, January 2023, April 2023, July 2023 and so on for all the clients. If first Friday is a trading holiday, then such settlement shall happen on the previous trading day.

..."

16. In this regard, firstly I note that the alleged violation has not been denied or disputed by the Noticee, and instead the Noticee's submissions are in nature of admission in so far as the Noticee as part of its reply to the SCN has inter alia submitted that, "…*we were not able to settle only 129 clients out of total clients ('which are running in thousands) on time. When it came to our knowledge, we expedite the matter and settle all the clients on priority basis…*" and that "…*We have strengthened our in internal control system so that this type of mistakes will not recur in future …"*

16.1. As regards the allegation that for settlement on First Friday of quarters Oct 2022 to April 2023, the Noticee had not done settlement of active clients on 31 instances out of total 3750 instances for Rs.8.275 Lakhs, the Noticee has submitted the response as below:

Date	UCC	Not settled	Noticee's response
07/10/2022	51XXXX15	1,00,000.00	Client transferred the amount from bank account not mapped with us and same was verified only on 07/10/2022 and after verification the amount was returned back to client on 08.10-2022 Ledger Attached as Annexure 1
07/10/2022	15XXXX15	1,00,000.00	Client transferred the amount from bank account not mapped with us and same was verified only on 07/10/2022 and after verification the amount was returned back to client on 11.11-2022 Ledger Attached as Annexure 2
07/10/2022	15XXXX14	1,00,000.00	Client transferred the amount from bank account not mapped with us and same was verified only on 07/10/2022 and after verification the amount was returned back to client on 11.11-2022 Ledger Attached as Annexure 3
07/10/2022	I6XXX7	10,205.78	New Client active on 28/09/2022 so not settled in the current quarter.
07/10/2022	KXXX5	2,848.50	We have transferred the fund to client on settlement date was rejected due to incorrect IFSC code. Later on amount settled on 24/11/2022 after correction of IFSC Code
07/10/2022	KXXX0	5,000.00	Client transferred the amount from bank account not mapped with us and same was verified only on 12/09/2022 and settled on 10/02/2023. Ledger Attached as Annexure 4
07/10/2022	14XXXX04	2,560.12	Client settled and settlement letter attached as Annexure 5.
07/10/2022	I4XX33	2,160.18	There is DP division debit of Client for the same amount
07/10/2022	I2XX6	1,000.00	There is DP division debit of Client for the same amount
06/01/2023	I8XX63	27,569.40	Client settled and settlement letter attached as Annexure 6

06/01/2023	I4XX2	4,794.22	Client settled and settlement letter attached as Annexure 7
06/01/2023	I5XX32	18,332.09	Client settled and settlement letter attached as Annexure 8
06/01/2023	I8XX0	3,497.38	Client settled and settlement letter attached as Annexure 9
06/01/2023	I2XX04	70.58	Client settled and settlement letter attached as Annexure 10
06/01/2023	I2XX25	94.00	Client settled and settlement letter attached as Annexure 11
06/01/2023	KRXX4	8,011.04	Client settled and settlement letter attached as Annexure 12
06/01/2023	BXX06	36,788.90	Client settled and settlement letter attached as Annexure 13
06/01/2023	12XX60	26,215.05	Client settled and settlement letter attached as Annexure 14
06/01/2023	MXX29	24,928.00	Client settled and settlement letter attached as Annexure 15
06/01/2023	KAXX0	718.59	Client settled and settlement letter attached as Annexure 16
06/01/2023	KTXX8	13,406.51	Client settled and settlement letter attached as Annexure 17
06/01/2023	I5XX8	6,127.00	Client settled and settlement letter attached as Annexure 18
06/01/2023	KBXX0	5,000.00	We have transferred the fund to client on settlement date was rejected due to incorrect IFSC code. Later on amount settled on 10/02/2023 after correction of IFSC Code
06/01/2023	I8XX75	4,994.00	Client settled and settlement letter attached as Annexure 19
06/01/2023	KNXX9	368.13	Client settled and settlement letter attached as Annexure 20
06/01/2023	28XXXX03	1,304.00	Client transferred the amount from bank account not mapped with us and same was verified and after verification the amount was returned back to client on 24-01-2023 Ledger Attached as Annexure 21
06/01/2023	KUXX9	962.00	Client transferred the amount from bank account not mapped with us and same was verified and after verification the amount was returned back to client on 24-01-2023 Ledger Attached as Annexure 22
06/04/2023	15XXXX01	2,85,849.49	Client settled and settlement letter attached as Annexure 23
06/04/2023	15XXXX22	31,864.90	Client settled and settlement letter attached as Annexure 24
06/04/2023	24XXXX13	468.98	Client settled and settlement letter attached as Annexure 25
06/04/2023	I2XX4	2,410.00	New Client active on 29/03/2023 so not settled in the current quarter

16.1.1. In this regard, I note that in 6 instances, the Noticee has submitted that, "*Client transferred the amount from bank account not mapped with us… after verification the amount was returned back to client…"* In this regard, the Noticee has submitted the copy of ledger in support of its contention. I further note that in 19 instances, the Noticee has submitted that, "*Client settled and settlement letter attached…"* In other 2 instances, the Noticee has submitted that, "*We have transferred the fund to client on settlement date was rejected due to incorrect IFSC code. Later on amount settled… after correction of IFSC Code…"*

In this regard, I note that for the above 27 instances, the Noticee has submitted a copy of ledger/ retention statement in support of its submissions. I note that a ledger/ retention statement being an internal record by itself may not construe to be a conclusive evidence to appreciate the submissions made. I also note that the Noticee has not submitted any documentary evidence such as bank account statements etc. in support of the ledger/ retention statement to demonstrate the transfer of funds to respective clients. Therefore, the Noticee's submissions are devoid of merit and are not acceptable.

16.1.2. Further in this regard, I note that for 2 instances, the Noticee has submitted that, "*There is DP division debit of Client for the same amount".* In this regard, I note that the Noticee's submissions are in nature of mere statement without any supporting details and documents. Accordingly, I note that the submissions of the Noticee are lacking and /or incomplete in so far as Noticee has not provided complete and relevant details along with documents in support of its contentions. I further note that in any case as per the material available on record, the fact remains that there was credit balance reflecting in the client account, which renders the submissions devoid of merit. In view thereof, I note that the said client accounts were not settled by the Noticee on due date.

16.1.3. As regards the remaining 2 instances, the Noticee has submitted that, "*New Client…so not settled in the current quarter".* In this regard, I note that the Noticee has not demonstrated with relevant details and documents that the said clients were new clients. Therefore, the Noticee's submissions are not acceptable.

16.1.4. In view thereof, I find that the allegation that on First Friday of quarters Oct 2022 to April 2023, the Noticee had not settled active clients on 31 instances, stands established.

16.2. As regards the allegation that for settlement related to Q1 of FY 2022-23 the stock broker had not settled funds of 1 instance for Rs.76.37 Lakhs, the Noticee has submitted that, "*The client was settled in next quarter*".

16.2.1. In this regard, I note that the Noticee's submissions are in nature of mere statements and the Noticee has not provided any relevant details and documents in support of its contention. Therefore, the Noticee's submissions are devoid of merit and not acceptable. In any case, I note that the Noticee's submissions are in nature of admission in so far the Noticee has submitted that, "*The client was settled in next quarter*".

16.2.2. In view thereof, I find that the allegation that for settlement related to Q1 of FY 2022-23 the stock broker had not settled funds of 1 instance for Rs.76.37 Lakhs, stands established.

16.3. It was also observed and alleged that the stock broker had not done settlement of inactive clients on 337 instances out of total 19623 instances verified for clients having credit balance, who had not done any transaction in the 30 calendar days since the last transaction for Rs.99.33 Lakhs. The submissions of the Noticee in this regard are being dealt with as hereunder:

16.3.1. I note that for 226 instances, the Noticee has submitted that, "*Settlement is purerly through system driven process but this code did not come in settlement sheet due to back office error…*". In this regard, I note that the Noticee's submissions are in nature of admission in so far the Noticee has submitted that "*Settlement is purerly through system driven process but this code did not come in settlement sheet due to back office error…*"

16.3.2. As regards 38 instances, the Noticee has submitted, "…*Fund Transferred was rejected due to Change/Close/mismatch in Bank details. We called the client many times and transferred the fund after updation of his/her bank details*…". In this regard, I note that the Noticee's submissions are vague in so far as the Noticee has submitted, "…*Change/Close/mismatch in Bank details…"* I further note that the Noticee has neither provided any relevant documents to substantiate that the client' bank account was closed, nor has the Noticee provided any details that with respect to which parameters there was a change/ mismatch in bank account details. Therefore, the submissions of the Noticee are mere assertions.

Further in this regard, I note that in any case, the Noticee has submitted only a copy of ledger/ retention statement in support of its submissions. I note that a ledger/ retention statement being an internal record by itself may not construe to be a conclusive evidence to appreciate the submissions made. I also note that the Noticee has not submitted any documentary evidence such as bank account statements etc. in support of the ledger/ retention statement to demonstrate the transfer of funds to respective clients. Therefore, the Noticee's submissions are devoid of merit and are not acceptable.

16.3.3. As regards 62 instances, the Noticee has submitted that, "*We are continuously following the client to update correct bank details. So that fund transferred can be done against settlement of Client*…" In this regard, I note that the Noticee has not provided any documentary evidence to substantiate that the Noticee has made communication with clients to update bank details etc. Therefore, the Noticeee's submissions are mere assertions and hence devoid of merit. Therefore, the Noticee's submissions are not acceptable.

16.3.4. As regards the remaining 11 instances, the Noticee has submitted the response as below:

<table>
<tr><th>Period</th><th>UCC</th><th>Balance as on end of period</th><th>Noticee's response</th></tr>
<tr><td>2022-11-01 TO 2022-11-30</td><td>13XXXX12</td><td>880.41</td><td>Client is having debit balance till 06/01/2023 and settled in next quarter as required by policy. Settlement letter is attached as Annexure 39</td></tr>
<tr><td>2022-12-01 TO 2022-12-31</td><td>13XXXX12</td><td>3,924.15</td><td>Client is having debit balance till 06/01/2023 and settled in next quarter as required by policy. Settlement letter is attached as Annexure 39</td></tr>
<tr><td>2022-10-01 TO 2022-10-31</td><td>15XXXX14</td><td>1,00,000.00</td><td rowspan="2">Client transferred fund from bank account not mapped with us and same credited to client only after verification of bank account in next quarter. Settlement was done on 07/10/2022 as per policy. Settlement letter attached as Annexure 41</td></tr>
<tr><td>2022-11-01 TO 2022-11-30</td><td>15XXXX14</td><td>1,00,000.00</td></tr>
<tr><td>2022-10-01 TO 2022-10-31</td><td>15XXXX15</td><td>1,00,000.00</td><td>Client transferred fund from bank account not mapped with us and same credited to client only after verification of bank account in next quarter. Settlement was done on 07/10/2022 as per policy. Settlement letter attached as Annexure 42</td></tr>
<tr><td>2022-11-01 TO 2022-11-30</td><td>15XXXX15</td><td>1,00,000.00</td><td>Client transferred fund from bank account not mapped with us and same credited to client only after verification of bank account in next quarter. Settlement was done on 07/10/2022 as per policy. Settlement letter attached as Annexure 42</td></tr>
</table>

2022-10-01 TO 2022-10-31	NXXX08	1,10,209.96	It is a NRI Client settlement always done with specific instruction of Bank.
2022-11-01 TO 2022-11-30	NXXX08	1,10,209.96	It is a NRI Client settlement always done with specific instruction of Bank.
2022-12-01 TO 2022-12-31	NXXX08	1,10,209.96	It is a NRI Client settlement always done with specific instruction of Bank.
2023-01-01 TO 2023-01-31	NXXX08	1,10,209.96	It is a NRI Client settlement always done with specific instruction of Bank.
2023-02-01 TO 2023-02-28	NXXX08	1,10,209.96	It is a NRI Client settlement always done with specific instruction of Bank.

16.3.5. In this regard, I note that:

- For 4 instances, the Noticee has submitted that, "*Client transferred fund from bank account not mapped with us and same credited to client only after verification of bank account in next quarter*…"

  In this regard, I note that the Noticee's submissions are in nature of mere statement and the Noticee has not provided any relevant details and documents in support of its contention.

  In this regard, the Noticee has submitted a copy of retention statement in support of its submissions. I note that a retention statement being an internal record by itself may not construe to be a conclusive evidence to appreciate the submissions made. I also note that the Noticee has not submitted any documentary evidence such as bank account statements etc. in support of the ledger/ retention statement to demonstrate the transfer of funds to respective clients. Therefore, the Noticee's submissions are devoid of merit and are not acceptable.

- As regards 2 instances, the Noticee has submitted, "*Client is having debit balance till 06/01/2023 and settled in next quarter as required by policy*…" In this regard, I note that the Noticee has submitted a copy of retention statement in support of its submissions. As dealt with and brought out in the foregoing, I note that a retention statement being an internal record by itself may not construe to be a conclusive evidence to appreciate the submissions made. In any case, in this regard I note that as per the provisions of Clause 5.1 & 5.4 of SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021, it is inter alia mandated that, "…*For the clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction, the credit balance shall be returned to the client by TM, within next three working days irrespective of the date when the running account was previously settled."* However, I note that as per the submissions of the Noticee, settlement was done in the next quarter. Therefore, the Noticee's submissions are devoid of merit and are not acceptable.

- For 5 instances, the Noticee has submitted that, "*It is a NRI Client settlement always done with specific instruction of Bank*."

  In this regard, I note that Annexure A to the BSE Notice No. 20210831-40 dated August 31, 2021 reads as, "*The periodic settlement as per the above-mentioned rules (Point no.1) is not required to be done in the following cases:... a) Clients settling trades through custodians*." I note from the submissions of the Noticee that the Noticee has not demonstrated with relevant details and documents that the said NRI client was settling trades through a custodian. Therefore, the Noticee's submissions are devoid of merit and are not acceptable.

16.3.6. In view thereof, I find that the stock broker had not done settlement of inactive clients on 337 instances out of total 19623 instances verified for clients having credit balance, who have not done any transaction in the 30 calendar days since the last transaction.

16.3.7. In view of the above, I find that the Noticee had violated Clause 12(e) of Annexure SEBI circular Ref nos. MIRSD/SE/Cir-19/2009 dated December 03, 2009, Clause 8.1.1 & 8.1.4 of Annexure SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, Clause 5.1 & 5.4 of SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021 and Clause 4.1 of SEBI/HO/MIRSD/DOP/P/CIR/2022/101 dated July 27, 2022.

Issue No. II: If yes, whether the Noticee is liable for imposition of monetary penalty under Section 15HB of the SEBI Act, 1992?

17. It has been established in the foregoing paragraphs that Noticee had violated stated provisions of SEBI Circulars, as brought out and dealt with in the foregoing.

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

> *" ... In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established .... "*

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

> "…
> **SEBI Act, 1992**
>
> ***15HB: Penalty for contravention where no separate penalty has been provided***
> *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be [104][liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]*
> *…"*

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

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

SEBI Act, 1992

"………..

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

15J. While adjudging quantum of penalty under 15- or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely:—

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

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

c. the repetitive nature of the default.

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

…………..."

21. In the instant case, I note that the material available on record does not quantify any disproportionate gain or unfair advantage or consequent loss caused to an investor or group of investors as a result of the violations committed by the Noticee. As regards the repetitive nature of default, I note from the SEBI website that penalty has been imposed against the Noticee under Section 15HB of SEBI Act, 1992, vide order dated December 28, 2017. I further note that the Noticee being a SEBI registered Stock Broker was required to comply with the extant applicable provisions of stated SEBI Circulars and securities laws, which it failed to, as dealt with and brought out in the foregoing and which SEBI is duty bound to enforce compliance of. Such non-compliance accordingly needs to be dealt with suitable penalty.

E. ORDER

22. After taking into consideration the facts and circumstances of the case, material available on record, submissions made by the Noticee and also the factors mentioned in the preceding paragraphs, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 r/w Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, I hereby impose a penalty of Rs. 3,00,000/- (Rupees Three Lakhs Only) under Section 15HB of SEBI Act, 1992, on the Noticee, for the aforementioned violations, as

discussed in this order. In my view, the said penalty will be commensurate with the violations committed by the Noticee in this case.

23. The Noticee shall remit /pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

24. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under Section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

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

DATE: November 08, 2024	**AMAR NAVLANI**
PLACE: MUMBAI	**ADJUDICATING OFFICER**