BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/NH/YK/2024-25/31099]

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

In respect of:

Noticee	PAN
Mr. Rohit Singh	GKHPS2932C

In the matter of trading activities of certain entities in the scrip of Premier Synthetics Limited

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A. BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an investigation in respect of trading activities in the scrip of 'Premier Synthetics Limited' (hereinafter referred to as the "**PSL**"). The investigation was conducted based on complaints, *inter alia,* alleging the circulation of *'Short Message Service'* (SMSs) recommending to 'buy' shares of PSL. The investigation in the matter was undertaken for the period from November 14, 2017 to October 31, 2018 (hereinafter referred to as "**Investigation Period/IP**"). It was alleged that one Mr. Rohit Singh (Proprietor: M/s. Rohit Solutions) (hereinafter referred to as "**Noticee**") failed to furnish the information sought and also failed to comply with the summon and reminder summons issued under Sections 11C(3) and 11C(5) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") by SEBI. Therefore, it was alleged that the Noticee has violated the provisions of Sections 11C(3) and 11C(5) of the SEBI Act.

B. APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI had appointed the undersigned as the Adjudicating Officer (hereinafter referred to as ''**AO**'') in the matter vide communique dated January 08, 2024 under Section 15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"Adjudication Rules"**), to inquire into and adjudge under the provisions of Section 15A(a) of the SEBI Act for the aforementioned violations of the provisions of law alleged to have been committed by the Noticee.

C. SHOW CAUSE NOTICE, REPLY, AND HEARING

3. Show Cause Notice ref no. SEBI/HO/EAD2/NH/YK/2024/5774 dated February 09, 2024 (hereinafter referred to as "**SCN/Notice**") was served upon the Noticee in terms of Rule 4 of the Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticee and why penalty, if any, not be imposed on it in terms of the provisions of Section 15A(a) of the SEBI Act for the violations alleged to have been committed by the Noticee.

4. The SCN dated February 09, 2024, *inter alia*, alleged the following:

"

4.1. SEBI received complaints pertaining to SMSs being received from SMS headers viz. BH-DGFINS, BZ-DGFINS, MD-DGFINS and through website – www.dgfins.com giving 'buy' recommendation in the scrip of PSL during the period from August 06, 2018 to September 03, 2018. Thereafter, the aforementioned complaints were sent to BSE for further examination. Subsequently, BSE vide letter dated October 10, 2018 submitted an examination report (covering the period from June 26, 2018 to September 03, 2018) and SEBI conducted further investigation in the matter.

Regarding SMS sender ID –MD-DGFINS

4.2. *The name of Telecom Service Provider of sender ID MD-DGFINS was identified as Mahanagar Telephone Nigam Limited (MTNL). Vide e-mail dated January 02, 2019, MTNL was requested to provide details of the telemarketer(s) and their registration details, copy of agreement with such telemarketer(s), Customer Application Forms (CAF)/ Know Your Customer (KYC) form, client agreement for end customer and SMSs records/ data of the sender ID – MD-DGFINS. In response, MTNL vide e-mail dated November 20, 2019 replied that SMSs were sent by M/s. Pinnacle Teleservices for M/s. Smart Technology (ST) (SMS aggregator).*

4.3. *Accordingly, information was sought vide e-mail dated November 26, 2019 from ST to provide the details of CAF, KYC or identity details for the senders who used said ID i.e. MD-DGFINS and details of payment made by the said sender entity/entities to ST for sending SMS during the said period i.e. August 06, 2018 to September 03, 2018. In response, ST submitted that the client viz. Noticee has sent the SMSs relating to PSL and also provided the PAN of Noticee, Telecom Regulatory Authority of India (TRAI) Registration of Noticee and agreement of Noticee with ST.*

4.4. *On further investigation, it was observed that Noticee was registered as telemarketer with TRAI since August 03, 2016 having registration no. R22139554. Further, information pertaining to circulation of bulk SMSs recommending to 'buy' shares of PSL, was sought from Noticee through summon and reminder summons. The details of summon and reminder summons issued to the Noticee as mentioned in the Investigation Report are given below:*

Table 1: Details of summon and reminder summons issued to Noticee				
Sl. No.	**Summon No.**	**Date of issuance of Summon**	**Address/ e-mail id[1]**	**Delivery Status**
1.	SEBI/HO/IVD/ID10/P/OW/2023/22647/1	02/06/2023	H No. 4…………………UP – 273 016	Returned undelivered with remark "Insufficient Address".
2.	SEBI/HO/IVD/ID10/P/OW/2023/30475/1	28/07/2023	on e-mail ids – ro...................@outlook.com; du...................@gmail.com; Mu..............@gmail.com and ka.................@gmail.com	Through digitally signed e-mail on 28/07/2023
3.	SEBI/HO/IVD/ID10/P/OW/2023/33349/1	18/08/2023	on e-mail ids - ro...................@outlook.com; du...................@gmail.com; Mu..............@gmail.com and ka.................@gmail.com	Through digitally signed e-mail on 21/08/2023

4.5. It is alleged in the investigation report that no reply was received from the Noticee in response to the said summons. It is further alleged that the Noticee failed to furnish the information sought and also failed to comply with the summon and reminder summons issued under Sections 11C (3) and 11C (5) of the SEBI Act.

4.6. In this context, it was stated in the investigation report that the information sought from the Noticee was crucial information for further investigation to determine his/other entities' role with regard to the issue of circulation of SMSs in the scrip of PSL through sender ID – MD-DGFINS and connection, if any, with other entities.

4.7. Therefore, it is alleged that the Noticee has failed to comply with the summons of SEBI and thereby violated the provisions of Sections 11C (3) and 11C (5) of the SEBI Act."

5. The SCN, along with the annexures, was issued to the communication addresses and e-mail IDs of the Noticee available on record, which include the e-mail IDs and

[1] *E-mail ID and address excised for the sake of confidentiality.*

communication addresses of the Noticee mentioned in the service tax registration certificate and TRAI registration certificate. Efforts were also undertaken to obtain the communication details, i.e., addresses, e-mails IDs, and mobile numbers of the Noticee (PAN - GKHPS2932C) from the exchanges and depositories. However, the PAN of the Noticee was not registered in the records of the exchanges and depositories. Hence, communication details of the Noticee could not be obtained from their records. The SCN, along with the annexures, was issued in the following manner, as mentioned below:

Table 2

Sr. No.	**Mode of Delivery**	**Addresses/ E-mail IDs[2]**	**Remarks**
1.	Through E-mail	ro............@outlook.com;	Duly delivered on February 09, 2024.
		du.............@gmail.com;	
		du.............@yahoo.co.in;	Undelivered.
2.	Through Speed Post with Acknowledgment Due	*H No. 4………Gorakhpur – 273 016*	Delivered on February 17, 2024, as per the consignment tracking on India Post.
		A-73……………………Noida – 201 301	The SCN returned undelivered with the remark, "Addressee left without instruction"
		Unit No. 111…………………….Delhi – 110 085	

[2] *E-mail ID and address excised for the sake of confidentiality.*

6. The reply of the Noticee against the SCN, if any, was to be submitted within 15 days from the date of receipt of the SCN. However, it is noted that until March 04, 2024, no reply was received from the Noticee. Therefore, in the interest of natural justice, an opportunity of hearing was granted to the Noticee on March 18, 2024, vide hearing notice dated March 04, 2024, and the Noticee was also advised to file his reply, if any, latest by March 15, 2024. The delivery of the hearing notice dated March 04, 2024, was attempted in the following manner, as tabulated below:

Table 3

Sr. No.	**Mode of Delivery**	**Addresses/ E-mail IDs[3]**	**Remarks**
1.	Through Digitally signed E-mail	ro............@outlook.com**;**	Duly delivered on March 04, 2024.
		du.............@gmail.com;	
		du.............@yahoo.co.in;	Undelivered.
2.	Through Speed Post with Acknowledgment Due	*H No. 4………Gorakhpur – 273 016*	The SCN returned undelivered with the remark “Insufficient Address”.
		A-73……………………Noida – 201 301	The SCN returned undelivered with the remark “Item Returned Unclaimed”.
		Unit No. 111…………………….Delhi – 110 085	The SCN returned undelivered with the remark “Addressee

[3] E-mail ID and address excised for the sake of confidentiality.

Sr. No.	Mode of Delivery	Addresses/ E-mail IDs[3]	Remarks
			left without instruction".
3.	Through Courier	*H No. 4………Gorakhpur – 273 016*	The SCN returned undelivered with the remark "Consignee's address unlocatable".
		A-73……………………Noida – 201 301	The SCN returned undelivered with the remark "Consignee's address incomplete/incorrect".
		Unit No. 111…………………….Delhi – 110 085	The SCN returned undelivered with the remark "C'Nee shifted from the given address".

7. However, the Noticee neither submitted his reply until March 15, 2024, nor appeared for the hearing scheduled on March 18, 2024. In the interest of natural justice, the Noticee was granted another opportunity of hearing on April 16, 2024, vide hearing notice dated March 18, 2024, and the Noticee was also advised to file his reply, if any, latest by April 15, 2024. The delivery of hearing notice dated March 18, 2024, was attempted in the following manner, as tabulated below:

Table 4

Sr. No.	Mode of Delivery	Addresses/ E-mail IDs[4]	Remarks
1.	Through Digitally signed E-mail	ro............@outlook.com**;**	Digitally Signed SCN duly delivered on March 19, 2024.
		du.............@gmail.com;	
		du.............@yahoo.co.in;	Undelivered.
2.	Through Speed Post with Acknowledgment Due	*H No. 4………Gorakhpur – 273 016*	The SCN returned undelivered with the remark "Insufficient Address".
		A-73……………………Noida – 201 301	The SCN returned undelivered with the remark "Item Returned Unclaimed".
		Unit No. 111……………………..Delhi – 110 085	The SCN returned undelivered with the remark "Not Delivered – Door Locked".
3.	Through Hand Delivery/Affixture	*H No. 4………Gorakhpur – 273 016*	The undersigned was informed that the affixture and hand delivery could not be
		A-73……………………Noida – 201 301	

[4] *E-mail ID and address excised for the sake of confidentiality.*

Sr. No.	Mode of Delivery	Addresses/ E-mail IDs[4]	Remarks
		Unit No. 111……………………..Delhi – 110 085	completed as the Noticee was not available in these addresses.

8. However, the Noticee neither submitted his reply until April 15, 2024, nor appeared for the hearing scheduled on April 16, 2024. In the interest of natural justice, the Noticee was granted another opportunity of hearing on May 14, 2024, vide hearing notice dated April 19, 2024, and the Noticee was also advised to file his reply, if any, latest by May 13, 2024. The delivery of hearing notice dated April 19, 2024, was attempted in the following manner, as tabulated below:

Table 5

Sr. No.	Mode of Delivery	Addresses/ E-mail IDs[5]	Remarks
1.	Through Digitally signed E-mail	ro............@outlook.com;	Duly delivered on April 19, 2024.
		du.............@gmail.com;	
		du.............@yahoo.co.in;	Undelivered.
2.	Through Speed Post with Acknowledgment Due	*H No. 4………Gorakhpur – 273 016*	The SCN returned undelivered with the remark "Insufficient Address".
		A-73……………………Noida – 201 301	The SCN returned undelivered with the remark "Item

[5] *E-mail ID and address excised for the sake of confidentiality.*

Sr. No.	Mode of Delivery	Addresses/ E-mail IDs[5]	Remarks
			Returned Unclaimed”.
		Unit No. 111…………………….Delhi – 110 085	The SCN returned undelivered with the remark “Addressee left without instructions”.

9. However, the Noticee neither submitted his reply until May 13, 2024, nor appeared for the hearing scheduled on May 14, 2024. In the interest of natural justice, the Noticee was granted yet another opportunity of hearing on June 28, 2024, vide hearing notice dated June 05, 2024, and the Noticee was also advised to file his reply, if any, latest by June 27, 2024. The delivery of hearing notice dated June 05, 2024, was attempted in the following manner, as tabulated below:

Table 6

Sr. No.	Mode of Delivery	Addresses/ E-mail IDs[6]	Remarks
1.	Through Digitally signed E-mail	ro............@outlook.com**;**	Digitally Signed SCN duly delivered on March 19, 2024.
		du.............@gmail.com;	
		du.............@yahoo.co.in;	Undelivered.
2.	Through Speed Post with Acknowledgment Due	*H No. 4………Gorakhpur – 273 016*	The SCN returned undelivered with the remark “Insufficient Address”.

[6] *E-mail ID and address excised for the sake of confidentiality.*

Sr. No.	Mode of Delivery	Addresses/ E-mail IDs[6]	Remarks
		A-73……………………Noida – 201 301	The SCN returned undelivered with the remark "Item Returned Unclaimed".
		Unit No. 111……………………..Delhi – 110 085	The SCN returned undelivered with the remark "Addressee left without instructions".

10. In view thereof and in the interest of natural justice, the service of the SCN dated February 09, 2024, and the hearing notice dated June 05, 2024, were also undertaken on the Noticee through newspaper publication in terms of the provisions of Rule 7(3) of the Adjudication Rules. The notice regarding the issuance of the SCN and hearing notice in the instant matter was published in 'The Times of India' (English newspaper) in Delhi and Lucknow editions, 'Dainik Jagran' (Hindi newspaper) in Lucknow edition, and 'Navodaya Times' (Hindi newspaper) in Delhi edition on June 20, 2024. In this regard, the following may be noted:

10.1. Vide the said publication, the Noticee was informed about the issuance of the SCN dated February 09, 2024, and was advised to download the soft copies of the said SCN along with the annexures from the SEBI website.

10.2. The Noticee was also informed through the publication that, in the interest of natural justice, an opportunity for a personal hearing was granted to him on June 28, 2024, at 03:00 P.M.

10.3. It was also mentioned in the said publication that in case the Noticee failed to submit his reply to the aforesaid SCN and/or failed to avail the opportunity of a personal hearing within the granted time, the Adjudicating Officer would proceed further on the basis of material available on record.

11. In this context, I would like to refer to the following judgments of Hon'ble SAT:

11.1. In the matter of ***Viju Babulal Jain v. SEBI***[7], Hon'ble SAT has, inter alia, held as under:

"5. There is no assertion in the memorandum of appeal alleging non-receipt of the show cause notice through email. ***In view of Rule 7(b) of the Rules, service of the show cause notice was duly served through email. We are consequently of the opinion that the procedure adopted by the AO for serving the show cause notice was in accordance with the Rule 7(b) of the Rules.****"* (Emphasis supplied)

11.2. In the matter of ***Menika & Ors. v. SEBI***[8]***,*** Hon'ble SAT has, *inter alia,* held as under:

"6. On the issue of service, we find that the show cause notice was sent to Menika vide speed post acknowledgment due on July 16, 2020 on her residential address which is the same as indicated in the memo of appeal. Since the acknowledgement card was returned with a remark "No Status", the respondent served the show cause notice vide email on the email I.D. "menika124@gmail.com" and also at "deepakkgrade@gmail.com". ***The show cause notice was delivered on the aforesaid email address, which, in our opinion, is sufficient service as per the proviso to Rule 7(b) of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'Rules of 1995').*** *In addition to the aforesaid, the show cause notice was also published on March 2, 2021 in various newspapers, namely, Times of India (Chandigarh and Varanasi edition), The Hindustan Times*

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[7] *Appeal No. 828 of 2022 decided on November 14, 2022*
[8] *Appeal No. 468 of 2022 decided on January 05, 2023*

(Delhi edition), Navbharat Times (Delhi edition), Dainik Jagran (Ghaziabad and Varanasi edition) and Dainik Bhaskar (Chandigarh edition). …

…

9. The aforesaid facts have not been disputed by the appellants. We are of the opinion, ***that in view of the glaring evidence that has been filed by the respondent, service of the show cause notice, etc. was properly done by the respondent under the Rules of 1995. We are satisfied that the appellants were duly served with the show cause notice and as well as the notice for hearing. In spite of service, the appellants chose not to appear."*** (Emphasis supplied)

12. In view of the aforesaid discussions, it is noted that sufficient opportunities were given to the Noticee to make submissions in reply to the SCN and for a personal hearing. It is further noted that the SCN, along with the documents relevant to and relied upon in the SCN and the hearing notice, were duly served on the Noticee as per Rule 7 of the Adjudication Rules.

D. CONSIDERATION OF ISSUES AND FINDINGS

13. I have carefully perused the charges levelled against the Noticee in the SCN, its replies, and the material/documents available on record. In the instant matter, the following issues arise for consideration and determination:

I. Whether the Noticee has failed to furnish the information as sought and failed to comply with the summon and reminder summons issued under Sections 11C(3) and 11C(5) of the SEBI Act and therefore, violated the provisions of Sections 11C(3) and 11C(5) of the SEBI Act?

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

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

14. Before proceeding further, it is pertinent to refer the relevant provisions of law, allegedly violated by the Noticee. The same are reproduced hereunder:

"SEBI Act

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 him 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.

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*(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.***"**

Issue I. Whether the Noticee has failed to furnish the information as sought and failed to comply with the summon and reminder summons issued under Sections 11C(3) and 11C(5) of the SEBI Act and therefore, violated the provisions of Sections 11C(3) and 11C(5) of the SEBI Act?

15. It was alleged in the SCN that the Noticee has failed to furnish the information sought and also failed to comply with the summon dated June 02, 2023, and reminder summons dated July 28, 2023, and August 18, 2023, issued under Sections 11C(3)

and 11C(5) of the SEBI Act. The information/documents sought by the Investigating Authority (IA) in the aforesaid summons, *inter alia,* include details pertaining to the circulation of SMSs from the SMS headers, viz., BH-DGFINS, BZ-DGFINS, and MD-DGFINS.

<u>Service of summon and reminder summons during the course of Investigation by the IA</u>

16. Before proceeding into the alleged violations, it is important to see whether the summon and reminder summons issued by the SEBI during investigation process were served on the Noticee or not. As per material available on record, I note that the summon dated June 02, 2023 was sent to the Noticee at the address "*H No. 4………Gorakhpur – 273 016*[9]*"* to appear before the IA on June 09, 2023, and to provide the information/documents mentioned above. However, the summon dated June 02, 2023, returned undelivered with the remark "*Insufficient Address".* Therefore, I note that the summon dated June 02, 2023, was not served on the Noticee. Thereafter, the IA sent reminder summons dated July 28, 2023, and August 18, 2023, to the Noticee to appear before the IA on August 04, 2023, and August 25, 2023, and to provide the information/documents mentioned above. The reminder summons was served upon the Noticee through digitally signed e-mail at the e-mail IDs of the Noticee available on record, which also include the e-mail IDs of the Noticee mentioned in the service tax registration certificate and TRAI registration certificate of the Noticee. The reminder summons was served upon the Noticee in the manner tabulated in the subsequent page. Since the e-mail has been delivered, it can be concluded that the Noticee was served with the summons.

[9] *Excised for the sake of confidentiality*

Table 7

Sl. No.	Date of issuance of Reminder Summons	E-mail IDs[9]	Delivery Status
1.	July 28, 2023	Ro............@outlook.com; du.............@gmail.com; Mu............@gmail.com; ka.............@gmail.com	Through digitally signed e-mail on July 28, 2023
2.	August 18, 2023		Through digitally signed e-mail on August 21, 2023

<u>Service of SCN and HN during the course of Adjudication proceedings by AO</u>

17. As noted in the preceding paragraphs, I note that various efforts have been undertaken for the service of SCN and hearing notice to the Noticee. The service of the SCN and hearing notice were attempted through e-mail, SPAD, courier, affixture, and publication. It is further noted that the SCN and the hearing notice, were duly served on the Noticee as per Rule 7 of the Adjudication Rules.

18. However, it is noted that the Noticee had neither submitted any response to the SCN or hearing notice nor attended the hearing.

19. In this context, I would like to refer to the following orders of the Hon'ble SAT:

19.1. In the case of ***Sanjay Kumar Tayal & Others v. SEBI***[10], the Hon'ble SAT, *inter alia*, has held as under:

"...appellants have neither filed reply to show cause notices issued to them nor have availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices..."

19.2. In the case of ***Classic Credit Ltd. v. SEBI***[11], the Hon'ble SAT, *inter alia*, has held as under:

[10] *Appeal No. 68 of 2013 decided on February 11, 2014*
[11] *Appeal No. 68 of 2003 decided on January 08, 2007*

"the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them."

20. In view of the above, I am constrained to proceed with the materials available on record.

Findings on Issue I

21. From the material on record, it is noted that the Noticee was given sufficient opportunities by the IA to comply with the summons. It is further noted that the Noticee was further informed of consequential proceedings of Adjudication and Prosecution under the SEBI Act, which may follow as a result of non-compliance with the said summonses. However, the Noticee neither appeared before the IA nor provided the information/documents sought vide summons.

22. I further note from the Investigation Report that the information/documents sought from the Noticee vide the aforesaid summons were crucial for further investigation to determine his/other entities role with regard to the issue of the circulation of misleading messages in the scrip of PSL through the sender ID – MD-DGFINS and connection, if any, with other entities.

23. I note that an obligation has been cast upon the Noticee under Sections 11C (3) and 11C (5) of the SEBI Act to comply with and to co-operate with the investigation process and to provide the information/documents as may be required by the IA.

24. In this context, I would like to refer to the order of the Hon'ble SAT in the matter of ***Mr. Jalaj Batra vs. SEBI***[12] wherein it was observed *"......We have observed time and again that it is of utmost importance that market players like the appellant should fully cooperate with the investigations that are carried out by the Board, the watchdog of*

[12] *Appeal No. 184 of 2010 decided on December 06, 2010*

the securities market. If market players and intermediaries avoid appearing before the investigating officer or furnish the necessary information sought from them, the Board as a market regulator will not be able to carry out its statutory functions and duties of protecting the integrity of the securities market and the investigations would be grossly hampered. Non-cooperation with the market regulator has to be viewed seriously. We do not know what else would have come to light if the appellant had appeared before the investigating officer or if he had furnished the requisite information that was sought from him."

25. In view of the above, I conclude that the Noticee has violated the provisions of Sections 11C(3) and 11C(5) of the SEBI Act.

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

26. As it has been established that the Noticee has violated the provisions of law as alleged in the SCN, the Noticee is liable for payment of a monetary penalty in terms of Section 15A(a) of the SEBI Act.

27. The text of the above said Section 15A(a) of the SEBI Act is reproduced below:

    "Penalty for failure to furnish information, return, etc.

    15A. *If any person, who is required under this Act or any rules or regulations made thereunder, —*

    *(a) to furnish any document, return or report to the Board, fails to furnish the same or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;**"***

Issue III. If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in Section 15J of the SEBI Act?

28. While determining the quantum of penalty under section 15A(a), it is important to consider the factors stipulated in section 15J of SEBI Act, which reads as under:

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

15J. While adjudging quantum of penalty under 15-I 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."

Factors Considered While Imposing Penalty

29. The material available on record has neither quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee nor the amount of loss, if any, caused to an investor/clients as a result of the default of the Noticee. As regard to the repetitive nature of the default, there is nothing on record to show that the nature of the default by the Noticee is repetitive.

30. However, I note from the Investigation Report that in the absence of information/documents sought from the Noticee, the investigation had to be concluded based on the material available on record. The Noticee's failure to furnish required information/documents to the IA reflects the Noticee's disregard for the investigation process of SEBI. Therefore, the default on part of the Noticee cannot be condoned.

31. In this context, I would like to rely on the Judgment of Hon'ble SAT in the matter of ***M/s Asian Films Production and Distribution Ltd. Vs SEBI***[13] wherein Hon'ble SAT has, *inter alia*, stated that:

"*Non-compliance with the summons is, indeed, a serious matter and cannot be viewed lightly. The respondent Board is the market regulator and has to regulate the securities market and the law provides that every person associated with the market in any manner should cooperate in the matter of carrying out investigations. In the year 2002, the provisions of the Act were amended and penalty for non-compliance with summons was enhanced considerably to make it more deterrent. Market players who do not cooperate with the regulator in the matter of investigations commit a serious wrong which can have serious repercussions in the market. We do not know what would have come to light if the company had furnished the information sought from it. In this background, we do not think that the amount of penalty levied by the adjudicating officer is excessive."*

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

E. <u>ORDER</u>

33. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in the 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 a monetary penalty on the Noticee as given in the table below**:**

Table 8

Penal Provision	Penalty Amount
Section 15A(a) of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh only)

[13] *Appeal No. 203/2010 decided on January 19, 2011*

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

35. 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.

36. 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 SEBI.

Date: December 31, 2024 **N HARIHARAN**

Place: Mumbai **CHIEF GENERAL MANAGER**

AND ADJUDICATING OFFICER