BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/SV/VC/2024-25/30826)

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
VSE Stock Services Limited
(PAN: AABCV4258K)
(SEBI Registration No.: INZ000193839)

In the matter of VSE Stock Services Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted inspection in respect of VSE Stock Services Limited (hereinafter referred to as the **'Noticee'** or **'VSSL'**). Noticee is registered with SEBI as a Stock Broker (Registration No.**:** INZ000193839) having its registered address at '3rd Floor, Fortune Tower, Sayajigunj, Vadodara - 390005'. A joint inspection of the Noticee was conducted by SEBI along with the stock exchanges from November 21, 2023 to November 23, 2023, for the period of April 01, 2022 to October 31, 2023 (hereinafter referred to as **'Inspection Period'**).

2. The findings / observations made during the course of inspection were recorded as Inspection Report and the inspection findings / observations were communicated to the Noticee vide SEBI letter dated January 12, 2024. Noticee had submitted its comments / explanations on the aforesaid findings / observations of the inspection *vide* its letter dated February 01, 2024 and e-mails dated February 22 and 29, 2024.

3. Based on the findings of inspection, SEBI initiated adjudication proceedings against the Noticee for alleged violations of the provisions of the following SEBI Regulations and Circulars:

Table No. 1

Sr. No.	Alleged violations	Regulatory provisions violated
A	Client order placement evidence	(a) Clause 34 of SEBI Master circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with SEBI circular SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018. (b) Clause A (2) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.
B	Terminal verification & certifications	Regulation 26(xix) and Clause A(1) & A(2) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.
C	Other observations	(a) Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992 read with Clause 8 & 9 of Annexure A to NSE circulars NSE/INSP/42448 dated October 18, 2019. (b) SEBI circular CIR/MIRSD/3/2014 dated August 28, 2014. (c) Clause A (1) & (2) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

4. SEBI appointed the undersigned as the Adjudicating Officer, vide order dated April 04, 2024, under Section 19 of the SEBI Act, 1992 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 referred to as **'SEBI Adjudication Rules'**), to inquire into and adjudge under the provisions of the Section 15HB of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice bearing reference no.- SEBI/HO/EAD-8/SKV/VC/16479/2024 dated May 10, 2024 (hereinafter referred to as **'SCN'**) was issued to the Noticee in terms of the provisions of Rule 4(1) of the SEBI Adjudication Rules read with Section 15-I of the SEBI Act, 1992, requiring the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed upon the Noticee under Section 15HB of the SEBI Act, 1992 for the alleged violations. I note that the SCN issued to Noticee was duly served upon the Noticee and it was acknowledged by the Noticee.

6. Vide e-mail dated May 24, 2024, Noticee requested for granting additional 15 days to submit its reply to the SCN, which was granted to the Noticee. Thereafter, vide e-mail/letter dated June 07, 2024, Noticee submitted its reply to the SCN. In the interest of natural justice, an opportunity of hearing on June 11, 2024 was granted to the Noticee vide Hearing Notice dated May 28, 2024. Authorized Representatives viz. Mr. Narendra Brahmbhatt - Compliance Officer, VSE Stock Services Limited and Mr. Ravi Ramaiya (hereinafter referred to as **"ARs"**) attended the hearing in person at SEBI on June 11, 2024 and reiterated the submissions made by the Noticee vide letter dated June 07, 2024. Further, ARs stated to make the additional submissions in the matter, which were made by the Noticee vide letter dated June 13, 2024.

CONSIDERATION OF ISSUES AND FINDINGS

7. I have carefully perused the charges levelled against the Noticee in the SCN, submissions made by the Noticee and material available on record. The issues that arise for consideration in the present case are as follows:

   I. Whether the Noticee has violated the provisions of the SEBI Regulations and Circulars as indicated in table no. 1?

   II. Does the violation, if any, attract monetary penalty under Section 15HB of the SEBI Act, 1992?

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

8. Before proceeding further, it is pertinent to refer to the relevant provisions of SEBI Regulations and Circulars which are alleged to have been violated. The said provisions are reproduced hereunder:

Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023:

34. Prevention of Unauthorised Trading by Stock Brokers

34.1 SEBI in the past has taken several steps to tackle the menace of "Unauthorized Trades" viz Periodic Running Account Settlement, Post transactions SMS/email by Stock Exchanges/Depositories, Ticker on broker/DP websites etc. It was observed that in spite of measures taken, a considerable proportion of investor complaints is of the nature of "Unauthorized Trades".

34.2 To further strengthen regulatory provisions against un-authorized trades and also to harmonise the requirements across markets, it has now been decided that all brokers shall execute trades of clients only after keeping evidence of the client placing such order, it could be, inter alia, in the form of:

a. Physical record written & signed by client,
b. Telephone recording,
c. Email from authorized email id,

d. Log for internet transactions,

e. Record of SMS messages,

f. Any other legally verifiable record.

34.3 When a dispute arises, the broker shall produce the above mentioned records for the disputed trades. However, for exceptional cases such as technical failure etc. where broker fails to produce order placing evidences, the broker shall justify with reasons for the same and depending upon merit of the same, other appropriate evidences like post trade confirmation by client, receipt/payment of funds/ securities by client in respect of disputed trade, etc. shall also be considered.

34.4 Further, wherever the order instructions are received from clients through the telephone, the stock broker shall mandatorily use telephone recording system to record the instructions and maintain telephone recordings as part of its records.

34.5 The Brokers are required to maintain the records specified at para 34.2above for a minimum period for which the arbitration accepts investors' complaints as notified from time to time currently three years. However, in cases where dispute has been raised, such records shall be kept till final resolution of the dispute.

34.6 If SEBI desires that specific records be preserved, then such records shall be kept till further intimation by SEBI.

SEBI Circular no. SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018:

Prevention of Unauthorised Trading by Stock Brokers

***II.** SEBI in the past has taken several steps to tackle the issue of "Unauthorized Trades" viz Periodic Running Account Settlement, Post transactions SMS/email by exchanges/Depositories, Ticker on broker/DP websites etc. It was observed that in spite of measures taken, a considerable proportion of investor complaints is of the nature of "Unauthorized Trades".*

***III.** To further strengthen regulatory provisions against un-authorized trades and also to harmonise the requirements across markets, it has now been decided that all brokers shall execute trades of clients only after keeping evidence of the client placing such order, which could be, inter alia, in the form of:*

a. Physical record written & signed by client,

b. Telephone recording,

c. Email from authorized email id,

d. Log for internet transactions,

e. Record of messages through mobile phones,

f. Any other legally verifiable record.

When a dispute arises, the broker shall produce the above mentioned records for the disputed trades. However for exceptional cases such as technical failure etc. where broker fails to produce order placing evidences, the broker shall justify with reasons for the same and depending upon merit of the same, other appropriate evidences like post trade confirmation by client, receipt/payment of funds/securities by client in respect of disputed trade, etc. shall also be considered.

***IV.** Further, wherever the order instructions are received from clients through the telephone, the stock broker shall mandatorily use telephone recording system to record the instructions and maintain telephone recordings as part of its records.*

***V.** The Brokers are required to maintain the records specified at Para III above for a minimum period for which the arbitration accepts investors' complaints as notified from time to time currently three years. However in cases where dispute has been raised, such records shall be kept till final resolution of the dispute.*

***VI.** If SEBI desires that specific records be preserved then such records shall be kept till further intimation by SEBI.*

<u>SEBI (Stock Brokers) Regulations, 1992</u>:

Conditions of registration.

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

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

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

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

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

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

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II; and
(g) he shall at all times maintain the minimum networth as specified in Schedule VI.
(h) Every stock broker who act as an underwriter shall enter into a valid agreement with the body corporate on whose behalf it is acting as underwriter and shall abide by the regulations made under the Act in respect of the activities carried on by it as underwriter.
(i) Every Stock Broker shall be entitled to act as an underwriter only out of its own net worth/funds as may be prescribed from time to time.
Approval for operation in other stock exchange(s) or segment(s) of stock exchange.

Liability for monetary penalty.

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

SCHEDULE II
Code of Conduct for Stock Brokers
[Regulation 9]

A. General.

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

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

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

NSE circulars no. NSE/INSP/42448 dated October 18, 2019:

Annexure A

INDICATIVE SCOPE OF BRANCH /AP INSPECTION BY MEMBERS

Members while undertaking the inspection of Branches and AP offices shall examine that all applicable regulatory requirements have been complied with including following indicative parameters:

8. Notice board of the Trading Member containing the all details/information prescribed from time to time, is displayed at the inspection location.

9. SEBI registration certificate of the Trading Member and registration letter issued by the Exchange is displayed at the inspection location.

SEBI circular CIR/MIRSD/3/2014 dated August 28, 2014:

Information regarding Grievance Redressal Mechanism

2. As an additional measure and for information of all investors who deal/ invest/ transact in the market, it has now been decided that offices of all Stock Brokers (its registered Sub-Broker(s) and Authorized Person(s)) and Depository Participants shall prominently display basic information, as provided in Annexure-A, about the grievance redressal mechanism available to investors. For other intermediaries, the information as provided in Annexure-B shall be prominently displayed in their offices.

9. Based on perusal of the material available on record, submissions of the Noticee and giving regard to the facts and circumstances of the case, I record my findings hereunder:

Issue I. Whether the Noticee has violated the provisions of the SEBI Regulations and Circulars as indicated in table no. 1?

10. I find that there are 3 alleged violations to be established for attracting the provisions stated in issue- I, in the instant matter:

    A. Client order placement evidence,
    B. Terminal verification & certifications, and
    C. Other observations.

A. Client order placement evidence:

11. With respect to the evidences of client order placements made with the Associated Persons (hereinafter referred to as **'AP'**) of the Noticee, the following was alleged in the SCN:

(a) Urvashiben Sanjaybhai Bengali (AP): It was observed that AP has not kept the evidence in respect of the order placed by clients who walked-in AP's office and voice recordings where orders were received on mobile number of Mr. Tohid Surti.

(b) Mukesh Dahyabhai Joshi (AP): Out of total 20 samples taken for voice call recording verification, it was observed that in 1 instance the order was placed by a relative of the client on behalf of the client (i.e. B623P290 - Pravin Chandulal Pathak).

(c) Vilasben Vinubhai Patel (AP): It was observed that AP had executed trades of clients without keeping evidences of the clients placing such orders. AP had maintained call recordings for only 4 months. Further, AP had not provided proper call recording data available with it for verification to the inspecting team.

Reply of Noticee

12. In response to the above allegations, Noticee *inter alia* submitted the AP wise reply as following:

(a) Urvashiben Sanjaybhai Bengali (AP):

(i) AP had at the relevant time maintained order placement register and it is one of the approved modes of accepting orders as per Circular No. SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018 i.e. "a. Physical record written & signed by client".

(ii) Noticee submitted a copy of the order slip maintained by the AP.

(iii) The AP has clients who come to office and place orders and in such a case the clients have to write their instructions in the register and the same are then entered in the trading system.

(iv) Noticee furnished a copy of the order slip dated November 21, 2023.

(v) All the orders that are not on recorded lines are a part of the order slip and hence full compliance is ensured.

(vi) With respect to order placement proof for orders, which were received on mobile number of Mr. Tohid Surti, Noticee submitted that all the trades on CTCL ID 390005001271 were executed for walk-in clients for which it has submitted order slip.

(b) Mukesh Dahyabhai Joshi (AP):

(i) Mr. Nishith Pravindchandra Pathak is son of Mr. Pravin Chandulal Pathak.
(ii) At the time of opening the account Mr. Pravin Chandulal Pathak authorised his son to carry out certain activities on his behalf including order placement. The authority letter to that effect is furnished by the Noticee.
(iii) The authority letter was received at the time of opening of the account, but the client has inadvertently missed out on mentioning the date.
(iv) However now the client has given an affidavit that the authority letter was given at the time of opening the account. A copy of the Affidavit is furnished by the Noticee.

(c) Vilasben Vinubhai Patel (AP):

(i) The requirement of maintaining evidence of order placement was put in place to prevent "Unauthorised Trading" in the accounts of the clients.
(ii) Mrs. Vilasben Vinubhai Patel has been its AP / Sub-broker since 2003 and over last 21 years there has never been a complaint from any of the clients of the AP for unauthorised trading.
(iii) The AP maintained the voice recordings in the mobile phone.
(iv) The recordings for last 4 months were made available during inspection. However, the old recordings could not be made available as the same got deleted from the phone inadvertently.
(v) In any case the recent recordings are critical as the clients would generally deny recent trades and not the old trades.
(vi) Further as a process improvement, VSSL has now allowed a facility to the APs where they can back up the voice recordings on the server of VSSL. This will strengthen the process further.

Findings

13. I note that as per SEBI Master Circular no. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 and SEBI Circular no. SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018 the brokers shall execute trades of clients only after keeping evidence of the client placing such order, which could be, *inter alia*, in the form of physical record written & signed by client, telephone recording, email from authorized email id, log for internet transactions, record of messages through mobile phones and any other legally verifiable record. Further, wherever the order instructions are received from clients through the telephone, the stock broker shall mandatorily use telephone recording system to record the instructions and maintain telephone recordings as part of its records.

14. With respect to allegations of non-maintenance of client order placement evidences by Urvashiben Sanjaybhai Bengali (AP), Noticee submitted that at the relevant time AP maintained order placement register and order slip. I find that during on-site visit it was observed and noted in the inspection sheet that pre-order placement confirmation for the orders received for walk-in clients was not maintained by the AP. In this regard, considering the submissions of the Noticee that the AP has clients who come to office and place orders and in such a case the clients have to write their instructions in the register and the same are then entered in the trading system and a copy of the order slip dated November 21, 2023 furnished by the Noticee, I note that clients who placed the orders did the entry in order slip and thereby they acknowledged their order placements. Thus, I am inclined to accept the submissions of Noticee in this regard.

15. Further, with respect to order placement proof of orders which were received on mobile number of Mr. Tohid Surti, Noticee submitted that all the trades on CTCL ID 390005001271 were executed for walk-in clients for which it has submitted order slip. I find from inspection sheet prepared during the inspection that call recording was maintained for call received on landline, however, call recording for call

received on mobile was not maintained, which was cross-signed by the AP during the on-site visit. Therefore, the above submissions of the Noticee cannot be accepted.

16. With respect to allegations of order placed on behalf of a client by his relative at 1 instance in respect of Mukesh Dahyabhai Joshi (AP), Noticee submitted that at the time of opening the account Mr. Pravin Chandulal Pathak authorised his son to carry out certain activities on his behalf including order placement. The authority letter was received at the time of opening of the account, but the client had inadvertently missed to mention the date. However now the client has given an affidavit that the authority letter was given at the time of opening the account. In view of the submissions made by the Noticee and authority letter and affidavit furnished by it and since it is father and son, I am inclined to accept the submissions of the Noticee. Thus, I hold that alleged violation does not stand established in respect of Mukesh Dahyabhai Joshi (AP).

17. With respect to allegations of non-maintenance of call recording proofs prior to 4 months by Vilasben Vinubhai Patel (AP), I note that Noticee has accepted the allegation and admittedly submitted that the recordings for last 4 months were made available during inspection and the old recordings could not be made available as the same got deleted from the phone inadvertently. Thus, I hold that the Noticee did not maintain the client order placement evidences during inspection period. However, I note that the submission of the Noticee that the AP has never had any complaint from any client about the unauthorised trades over the last 21 years.

18. In view of the para 15 and 17 above, I hold that the Noticee has violated the following provisions:

    (c) Clause 34 of SEBI Master circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023 read with SEBI circular SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018.

(d) Clause A (2) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

B. ***Terminal verification & certifications:***

19. With respect to the terminal verification & certifications of APs of the Noticee, the following was alleged in the SCN:

(a) M C Investments (AP): Noticee had reported 03 CTCL IDs mapped to AP as active at the location to the exchange. In this regard, it was observed on the date of visit that 1 terminal was reported to exchange at different location but found at the visited location and hence there was a wrong reporting of terminal location to exchange.

Terminal Location Reported:	**Actual Terminal location as per verification:**
721, Fortune Tower, Sayajigunj, Vadodara – 390005	323/324, Trivia Complex, Opp. Natubhai Centre, Gotri Road, Vadodara - 390007

(b) Urvashiben Sanjaybhai Bengali (AP): Noticee had reported 15 CTCL IDs to the exchange that were mapped to AP as active at the location. In this regard, it was observed on the date of visit that 3 CTCL IDs were not found at the given location and trades were executed in 2 terminals. Further, 8 CTCL IDs were reported to the exchange with incorrect approved user details and trades were executed in 6 terminals.

(c) Mukesh Dahyabhai Joshi (AP): It was observed that terminal was operated by person other than the approved user.

(d) Vilasben Vinubhai Patel (AP): It was observed that terminal was operated by person other than the approved user.

Reply of Noticee

20. In response to the above allegations, Noticee *inter alia* submitted the AP wise reply as following:

(a) M C Investments (AP):

(i) The AP had 2 different premises from where he was operating the business. The CM segment of the AP was allotted at 721, Fortune Tower, Sayajigunj, Vadodara - 390005 and the F&O terminal was allotted at 323/324, Trivia Complex, Opp. Natubhai Centre, Gotri Road, Vadodara - 390007.

(ii) For renovation the office of 721, Fortune Tower, Sayajigunj, Vadodara - 390005 was closed and the terminal of CM segment was shifted to 323/324, Trivia Complex, Opp. Natubhai Centre, Goti Road, Vadodara - 390007, which was also a registered office of AP where the F&O terminal was registered.

(iii) The requirement of reporting of terminals has been put in place to allow the Exchange, Regulators and clients know the location from where the AP operates and in this case it was always known to all that the AP operates from both offices.

(iv) However immediately on realising the issue that the AP ought to have informed Noticee about the change of location, the same was intimated to Noticee and it promptly changed the address in the Exchange records.

(b) Urvashiben Sanjaybhai Bengali (AP):

(i) Regarding allegation that 3 terminals were not found at the location, Noticee submitted as under:

- User Id 390005001277 (Login Id - 413) was allotted to one of the dealers Mr. Jignesh Thakor. He was absent and therefore the terminal was never logged in. There were no trades from his terminal.
- User ID 390005001014 (Login Id - 4125) was allotted to Mr. Pritesh Panchal. He was attending the officials of SEBI for inspection. Another

employee of the AP Mr. Ripen Shore was absent that day, however since Mr. Pritesh Panchal was busy with the SEBI officials, Mr. Pritesh Panchal asked him to operate the terminal for serving the clients. It may be noted that Mr. Ripen Shore is also an approved user.

- User ID 390005001260 (Login Id - 4122) was allotted to Mr. Prashant Thakkar. Mr. Prashant Thakkar had stepped out of office for some work and then went to his residence for some personal reason. However, he did not discontinue client servicing as the clients have positions and run a risk if dealer is not available. Therefore, he continued to operate the terminal from location other than the office.

(ii) With regards to allegation that 8 CTCL IDs were reported to the exchange with incorrect approved user details and trades were executed in 6 terminals, Noticee submitted as under:

- Of the 8 IDs admittedly 2 of the users (390005001369 and 390005001446) were on leave and no trades were executed from their IDs. Hence no fault can be found with them.
- Further admittedly there is issue in case of 5 IDs of the balance 6 so there is no issue in case of 1 ID.
- With regards to 2 IDs, viz. 390018018001 allotted to Mr. Ripin Shore and 390005001014 allotted to Mr. Pritesh Panchal Noticee submitted that Mr. Pritesh Panchal was attending SEBI officials and therefore his terminal was being operated by Ripin Shore so that the clients get continuous service. Further Mr. Pritish Panchal is senior and keeps a watch on the market and since his ID was being used by Ripin, he logged into Ripin's ID to check the market situation. In any case both are authorised dealers.
- For ID 390005001010 allotted to Mr. Niraj Thakorbhai Thakkar Noticee submitted that a client mapped to this terminal had to transact. Mr. Niraj Thakorbhai Thakkar was not available at the relevant time and therefore

for the limited purpose Mr. Pritesh Panchal operated the terminal, who is a registered dealer.

- User Id 390005001309 (F&O) & 390005001296 (CM) (Login id - 4119) was allotted to Urvashiben Bengali and most of the clients are mapped to her email id. She was out of town due to some medical emergency. As a result she asked her another Authorised User Mr. Prashant Thakkar to login and transact through her terminal. Mr. Prashant Thakkar is also an approved user. Mr. Prashant Thakkar had stepped out of office for some work and then went to his residence for some personal reason. However, he did not discontinue client servicing as the clients have positions and run a risk if dealer is not available. Therefore, he continued to operate the terminal.
- User ID 392030031001 was allotted to Mr. Mehul Ankleshwaria but was being operated by Mr. Tohid Surti as Mr. Mehul was on leave and clients need to be serviced even if the dealer is on leave. Mr. Tohid Surti is also an authorised dealer.
- User ID 390005001271 was allotted to Mr. Tohid Surti but he was operating the terminal of Mr. Mehul Ankleshwaria for the reasons aforesaid and therefore the husband of AP Mr. Sanjay Bengali operated his terminal for a short time.

(c) Mukesh Dahyabhai Joshi (AP):

(i) Mr. Mukesh Dayabhai Joshi is the approved user for his terminal. He has only 1 terminal and therefore does not have other approved users in his office.

(ii) During the inspection, he was attending the inspecting officials. Some of the clients had to transact while the inspection was in progress and in such a situation, he could neither have asked the clients to not transact, nor he could have asked the SEBI officials to not do their duty for which he was required to attend them.

(iii) Admittedly the user Mr. Mukesh Dayabhai Joshi was there in office and the transactions were being carried out under his supervision. Therefore, this may not be treated as a violation.

(d) Vilasben Vinubhai Patel (AP):

(i) The Terminal was allotted to Mr. Pragnesh Pandya who is employee of AP (Vilasben Patel).

(ii) On the day of visit by SEBI, Mr. Pragnesh Pandya was absent. However, the terminal was being operated by Mr. Vinubhai R. Patel, who is also an approved user & husband of the AP.

Findings

21. I note that as per SEBI (Stock Brokers) Regulations, 1992 a stock broker shall be liable for monetary penalty in respect of the violations, *inter-alia* namely, extending use of trading terminal to any unauthorized person or place.

22. With respect to allegations of wrong reporting of location of 1 terminal to Exchange in respect of M C Investments (AP), Noticee submitted that AP had 2 different premises from where he was operating the business and for renovation the office at 721, Fortune Tower, Sayajigunj, Vadodara - 390005 was closed and the terminal of CM segment was shifted to 323/324, Trivia Complex, Opp. Natubhai Centre, Goti Road, Vadodara - 390007, which was also a registered office of AP where the F&O terminal was registered. I note that the Noticee's submission cannot be accepted as the Noticee was required to inform the stock exchange while/on shifting the terminal to his another office premises. On the date of visit, the said terminal found at the visited location however it was reported to exchange at different location and hence there was a wrong reporting of terminal location to the exchange. Since the location of the terminal was also Noticee's another registered office premises, however he should have informed the stock exchange about the shifting of the terminal to his another office premises.

23. With respect to allegations of 3 CTCL IDs not found at the given location and trades executed in 2 terminals (AP- Urvashiben Sanjaybhai Bengali), Noticee submitted that User Id 390005001277 (Login Id - 413) was allotted to one of the dealers Mr. Jignesh Thakor. He was absent and therefore the terminal was never logged in and there were no trades from his terminal. User ID 390005001014 (Login Id - 4125) was allotted to Mr. Pritesh Panchal and he was busy in attending the officials of SEBI for inspection, hence he asked Mr. Ripen Shore (who was absent that day) to operate the terminal for serving the clients. User ID 390005001260 (Login Id - 4122) was allotted to Mr. Prashant Thakkar and he had stepped out of office for some work and then went to his residence for some personal reason. However, he did not discontinue client servicing as the clients have positions and run a risk if dealer is not available, therefore, he continued to operate the terminal from location other than the office. I note that Noticee has accepted that 2 terminals were not at the given location and trades were executed in 1 terminal out of the said 2 terminals. Further, w.r.t. remaining 1 terminal, Noticee's submission that Mr. Pritesh Panchal was busy in attending the officials of SEBI for inspection, hence he asked other person to operate the terminal for serving the clients cannot be accepted as firstly, only approved person whose name reported to exchange should have access to the terminals, and secondly, observation in the instant case was that the terminal was not available at the given location during onsite inspection.

24. With respect to allegation of terminals of Mukesh Dahyabhai Joshi (AP) operated by person other than the approved users, Noticee submitted that during the inspection, he was attending the inspecting officials and some of the clients had to transact while the inspection was in progress and in such a situation, he could neither have asked the clients to not transact, nor he could have asked the SEBI officials to not do their duty for which he was required to attend them. I note that another person can only operate the terminal when he is well conversant and thorough with the system and process of the terminal, which indicates that the other person operated the terminal has access to the terminal and also operate the

terminal. Thus, I hold that the terminal was being operated by other user than approved user.

25. With respect to allegation of terminals of Vilasben Vinubhai Patel (AP) operated by person other than the approved users, Noticee submitted that the terminal was allotted to Mr. Pragnesh Pandya who is employee of AP (Vilasben Patel). On the day of visit by SEBI, Mr. Pragnesh Pandya was absent and the terminal was being operated by Mr. Vinubhai R. Patel, who is also an approved user and husband of the AP. I note that Noticee has accepted the violation that the terminal was being operated by other user than approved user. I note that as per SEBI (Stock Brokers) Regulations, 1992 extending use of trading terminal to any unauthorized person is not permitted. Any person other than the approved user operating the terminal is unauthorized, hence, contention of Noticee cannot be accepted.

26. In view of the above, I hold that the allegation that Noticee violated the provisions of Regulation 26(xix) and Clause A(1) & A(2) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992, stand established.

C. <u>Other observations</u>:

27. With respect to other observations were made during inspection, the following was alleged in the SCN:

    (a) <u>Mukesh Dahyabhai Joshi (AP)</u>: It was observed that the inspection of AP was conducted by AP itself and thereafter inspection report was provided to the Noticee by AP.

    (b) <u>Vilasben Vinubhai Patel (AP)</u>: It was observed that the following were not displayed by the AP:

        i) Do’s and Don’ts, as per the prescribed format,
        ii) SEBI registration certificate of the Noticee, and
        iii) Information regarding Grievance Redressal Mechanism.

Reply of Noticee

28. With respect to above allegations, Noticee *inter alia* submitted the observation wise reply as following:

(a) Mukesh Dahyabhai Joshi (AP):

(i) Noticee denied that the inspection of APs is conducted by themselves and the draft report is submitted to it.

(ii) In case of this AP also Noticee has conducted the inspection and a copy thereof was submitted to the SEBI officials at the time of inspection.

(iii) Basis the SCN and the signed onsite observation report of SEBI, Noticee had questioned Mr. Mukesh Dayabhai Joshi as to why did he inform the SEBI officials that he was doing the inspection himself.

(iv) In this regard, he submitted that he was nervous during the inspection and did not understand what was being discussed and in confusion he signed the observation report of SEBI.

(v) Noticee furnished an affidavit of the AP stating that officials of VSSL carry out the inspection.

(vi) Upon similar question being posed by SEBI officials to other APs, none of the APs except this AP has stated that the inspection is conducted by APs and therefore the statement may be treated as an error.

(b) Vilasben Vinubhai Patel (AP):

(i) Noticee submitted that the information was displayed in the office but the same was removed for renovation at the relevant time.

(ii) The information has been displayed thereafter and Noticee furnished the current photographs of the displays.

Findings

29. With respect to allegation of inspection of Mukesh Dahyabhai Joshi (AP) conducted by the AP itself, Noticee submitted that Noticee has conducted the inspection of AP and a copy thereof was submitted to the SEBI officials at the time of inspection. Noticee further submitted that AP was nervous during the inspection and did not

understand what was being discussed and in confusion he signed the observation report of SEBI and furnished an affidavit given by the AP stating that officials of VSSL carry out the inspection. I note that the submissions of the Noticee but the same is not being accepted as no name/ signature /stamp of the inspecting officials of the Noticee is mentioned in the inspection reports of 2019, 2022 and 2023 as available on the record.

30. I note that NSE circulars NSE/INSP/42448 dated October 18, 2019 provides that Notice board of the Trading Member containing the all details/information prescribed from time to time, is displayed at the inspection location. It also stipulates that SEBI registration certificate of the Trading Member and registration letter issued by the Exchange is displayed at the inspection location. SEBI circular CIR/MIRSD/3/2014 dated August 28, 2014 provides that as an additional measure and for information of all investors who deal/ invest/ transact in the market, it has now been decided that offices of all Stock Brokers (its registered Sub-Broker(s) and Authorized Person(s)) and Depository Participants shall prominently display basic information, as provided in Annexure-A of the circular, about the grievance redressal mechanism available to investors.

31. With respect to allegation of non-display of Do's and Don'ts as per prescribed format, SEBI registration certificate of Noticee & information regarding Grievance Redressal Mechanism by Vilasben Vinubhai Patel (AP), Noticee submitted that the information was displayed in the office but the same was removed for renovation at the relevant time and the information has been displayed thereafter. I find that Noticee has accepted the violation that the aforesaid required displays were not there at the time of on-site visit by inspection team. Further, such justifications provided by the Noticee for not displaying the above information cannot be accepted as the Noticee being a registered Stock Broker is expected to with care and due diligence ensure that APs who are his agents conduct of all their businesses as per the prescribed norms.

32. In view of the above, I hold that the Noticee has violated the following regulatory provisions:
    (a) Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992 read with Clause 8 & 9 of Annexure A to NSE circulars NSE/INSP/42448 dated October 18, 2019.
    (b) SEBI circular CIR/MIRSD/3/2014 dated August 28, 2014.
    (c) Clause A (1) & (2) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

Issue II. Does the violation, if any, attract monetary penalty under Section 15HB of the SEBI Act, 1992?

33. In the light of findings and observations made against the APs of the Noticee as brought out in the foregoing paragraphs, it is seen that there has been violation of the regulatory provisions of SEBI Regulations and Circulars on account of non-maintenance of client order placement evidences, violations related to terminal verification & certifications and other violations related to inspection of APs and non-display of mandatory displays by APs.

34. I note that the object of inspection is to monitor the compliances and identify non-compliances, if any, with respect to process, procedure and systems prescribed through various provisions of the SEBI Act, 1992 and Regulations made thereunder and Circulars issued from time to time and thereafter, take necessary corrective steps for orderly, fair and transparent conduct of market participants. I further note that SEBI Circular No. MIRSD/DR-1/Cir- 16/09 dated November 06, 2009 provides that *"the stock broker shall be responsible for all acts of omission and commission of his authorised person(s) and/or their employees, including liabilities arising there from",* hence, Noticee is responsible for the above non-compliances of APs. In the present case, I find that the Noticee has failed to comply with the provisions of SEBI Regulations and Circulars as mentioned in table no. 1 at page no. 2 of this order, which makes the Noticee liable for monetary penalty under the provisions of Section 15HB of the SEBI Act, 1992.

35. In this regard, reliance is placed upon the judgment of Hon'ble Supreme Court of India in the matter of **SEBI Vs. Shri Ram Mutual Fund** [2006] 68 SCL 216(SC) wherein it was *inter-alia* observed 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 and hence the intention of the parties committing such violation becomes wholly irrelevant...".*

36. Therefore, the aforesaid violations make the Noticee liable for penalty under Section 15HB of the SEBI Act, 1992. The contents of the said provision of law is reproduced herein below:

SEBI Act, 1992:

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

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

37. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15-J of the 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-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.

[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.]

38. In this case, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of non-compliance to the provisions of the SEBI Regulations and Circulars is not available. With respect to the repetitive nature of the default, I find that earlier Administrative Warning was issued to the Noticee in the matter of Sterling Biotech Ltd. In the instant case, the inspection findings bring out a number of instances where the Noticee has not been complying with the requirements of the SEBI Regulations and Circulars as mentioned hereinabove. Noticee was under a statutory obligation to abide by the provisions of the SEBI Regulations and Circulars, which it failed to do during the inspection period. The conduct of the Noticee in not complying with the provisions of SEBI Regulations and Circulars make him liable for monetary penalty. However, factors such as the violations by Noticee are mainly technical and procedural in nature, the instances of violation is less in some of the violations established, further corrective action has also been taken by the Noticee post inspection and also no complaints against Noticee has been brought on record etc. are being considered as mitigating factors while deciding the quantum of penalty.

ORDER

39. Considering all the facts and circumstances of the case including the submissions of the Noticee and findings elaborated hereinabove, the factors mentioned in 15-J

of the SEBI Act, 1992 and exercising the powers conferred upon me under Section 15-I of SEBI Act, 1992 read with Rule 5 of the SEBI Adjudication Rules, I hereby impose a monetary penalty of ₹2,00,000/- (INR Two Lakh Only) under Section 15HB of the SEBI Act, 1992, on the Noticee. In my view, the said penalty is commensurate with the violations committed by the Noticee in this case.

40. 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

41. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated 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.

42. In terms of Rule 6 of the SEBI Adjudication Rules, copy of this order is sent to the Noticee and also to the SEBI.

Place: Mumbai	**SHASHI KUMAR VALSAKUMAR**
Date: September 30, 2024	**ADJUDICATING OFFICER**