BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/BM/GN/2022-23/19920-19921]

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; AND UNDER SECTION 23-I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005.

In respect of

Noticee No.	Name of the Noticee	PAN
1	Beeline Broking Limited	AAGCB0134P
2	Beeline Commodities Private Limited	AAGCB0097D

In the matter of

Beeline Broking Limited and Beeline Commodities Private Limited.

<u>Background</u>

1) Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted a comprehensive inspection of M/s. Beeline Broking Limited (hereinafter referred to as **Noticee 1**) and Beeline Commodities Private Limited (MCX membership merged with Beeline Broking Limited on October 12, 2020) (hereinafter referred to as **Noticee 2**) (hereinafter collectively referred to as **Noticees**) from August 23, 2021 to August 27, 2021. The period covered in the inspection was from April 01, 2020 till July 31, 2021 (hereinafter referred to as **'Inspection Period'**).

2) The Noticee 1 is SEBI-registered Stock Broker and Depository Participant (hereinafter referred to as **DP**), having SEBI registration number as INZ000000638 as Stock Broker and IN-DP-162-2015 as a DP. Noticee 2 in its reply dated August 12, 2022 has stated that with effect from October 12, 2020, its MCX membership has been transferred to Noticee 1. Before October 12, 2020, Noticee 2 (SEBI registration number INZ000084238) was

operating in Commodity Derivatives Segment as the separate entity and Noticee 1 was operating in equity/F&O segment.

3) The inspection findings were communicated to the Noticees vide SEBI letter dated October 21, 2021 enclosing copy of the Inspection report (hereinafter referred to as **IR**). After examining the reply submitted by the Noticees vide letter dated November 18, 2021 and email dated November 15, 2021, it has been alleged that the Noticees contravened various provisions of the securities law in respect of the activities carried out by the Noticee 1 as stock broker and by Noticee 2 as Commodity derivative broker. The extracts of the violation alleged to have been committed by the Noticees and corresponding provision of the securities law are given in the tabulation below:-

S. No.	Alleged violations	Regulatory provisions
	Noticee 1	
1	Misutilization of clients' funds	Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
2.	Non Segregation of clients funds and securities	Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
3	Client funding beyond stipulated time	Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017
4	Non- Issuance of Contract Notes	Clause B(2) in Schedule II of Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.
	Noticee 2	
S. No.	**Alleged violations**	**Regulatory provisions**
1	Misutilization of clients' funds	Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November

		18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
2	Non Segregation of clients funds and securities	Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

APPOINTMENT OF ADJUDICATING OFFICER

4) SEBI, vide communiqué dated May 04, 2022, appointed the undersigned as the Adjudicating Officer under section 19 of the Securities and Exchange Board India Act, 1992 (hereinafter referred to as **SEBI Act**) read with sub-section (1) of Section 15I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**SEBI Adjudication Rules'**) and under section 23 I (1) of the Securities Contract Regulation Act, 1956 (hereinafter referred to as **SCR Act**) read with rule 3 of the Securities Contract (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as **SC(R) Rules**) to inquire into and adjudge under the provisions of Section 15HB of the SEBI Act and Section 23D of SCR Act for the violations alleged to have been committed by the Noticee 1 and under section 23D of the SCR Act for the alleged violation to have been committed by Noticee 2.

SHOW CAUSE NOTICE, REPLY AND HEARING

5) Show Cause Notice (hereinafter being referred to as the **"SCN"**) dated July 06, 2022 was issued to Noticees in terms Rule 4(1) of Adjudication Rules to show cause as to why an inquiry should not be initiated against Noticees and why penalty, if any, should not be imposed upon Noticees under Section 23D of SCR Act and Section 15HB of SEBI Act for the aforesaid violations alleged to have been committed by Noticees.

6) The SCN was sent to Noticees through Speed Post AD and via digitally signed Email on July 07, 2022 and was duly served upon Noticees. Vide email dated July 20, 2022,

Noticees sought an extension of 30 days for submitting its reply. Vide email dated July 26, 2022 the request of Noticees was acceded to and Noticees was requested to submit its reply on or before August 12, 2022. Vide email dated August 12, 2022, Noticees submitted reply dated August 12, 2022.

7) The Noticee's reply is produced below:

Reply of Noticee 1

Misuse of the Clients' fund:

I. *As per the point number 7 as mentioned in SCN, we are not agreed with terms misutilization of fund, as being stock broker aware about exchange guideline of which fund can be used for own purpose or not, in G negative case of September 2020, was phase of First Lockdown, where every industry trying to mitigate their financial commitment in best possible way. In this period looking at requirement of business, we have already applied for LAP (Loan against property) in NBFC which was got delayed due to pandemic period and by October 2020 we have already bring around Rs 1 crore into system. The credit balance mention in sheet does not include margin obligation after deducting the value of securities with CC/CM after appropriate haircut for the purpose of margin Requirement, if margin requirement is considered, there would be considerable reduce figure on credit side where such margin requirement is fulfilled by BBL, so that client does not get any difficulty in fulfilling their trading and we have regularly met up all our obligation with client as well with exchanges.*

II. *Secondly, such margin requirement in computation then our G would be under positive note also considering the fund infused by promoter.*

III. *If we consider margin requirement in computation then our G would be under positive note also considering the fund infused by promoter.*

IV. *In case J (misutilization of client funds towards margin obligation of debit balance client & proprietary margin obligations), as mentioned 8 instances out 44 instances are having a shortfall value ranges from 42.47 Lakhs to 2.08 Crores, 7 instances belong to the period before September 2020. As mentioned earlier, we have already bought capital in system.*

V. *Further, as per the 1993 circular requires a stock broker to withdraw money from clients accounts only when money is required for payment to or on behalf of clients or towards payment of debt due to the broker from the clients or money drawn on clients authority, or money in respect of which there is a liability of clients to the member, provided that the money so drawn shall not in any case exceed the total of the money so held for the time being for such each client. The 1993 circular further mandates the broker to have separate and distinct accounts for funds and securities of the clients. It is respectfully submitted that BBL has complied with all these requirements. We had never withdrawn any funds from the client balances and have always kept separate client accounts for funds from it's our own account. The two accounts were never mixed nor were there any transactions between the two accounts. So, please take a note of the same.*

VI. *Also note that after infusing fresh working capital in the system, out "G" is in a positive note.*

VII. *Further, we hereby submit that national stock exchange of India had also conducted limited purpose of an inspection in August, 2020 across segments from July 01, 2020 to July 31, 2020 and we were penalized for the same observations vide order number NSE/INSP/MCSGFC-33/ACT/CMFOCDS/LPI/20-21/90039 dated 13th April, 2021.*

Segregation of client's funds and securities

VIII. *With respect to the observation mentioned above, we hereby submit that we are maintaining the daily reconciliation of Client fund and securities, due to unavailability of time at the time of inspection we cannot produce the same, however in our reply via E-mail dated 15th November, 2021 we had already submitted the same for your references.*

IX. *And as per your observation that during the period of inspection, Rs 42.35 crore moved from own account to client account and Rs. 43.58 crore moved from client account to own account. So, as per the working we have transferred Rs. 1.23 crore from clients account to own account. Then in that we hereby submit that in clients account, we are receiving the brokerage, delay payment charges, BEN to market charge as our income only, we have to transfer to our own account. Other than that GST charged to clients, we have to paid from our own account. So, the amount is Rs. 3.75 crore. So, furthermore, funds movement between clients to own is legitimate purpose only, as we have transferred Rs.*

1.23 crore from clients account to own account, but against that we have to take Rs. 3.75 crore.

X. *The funds movement between clients to own is legitimate purpose only, details bifurcations of funds are mentioned in below tables:*

Particulars	*Amount*
Client to own	*435801998.97*
Own to client	*423559300.00*
Settlement to own	*133602079.20*
Own to settlement	*123082736.95*
Brokerage	*24335409.70*
GST on brokerage	*4380373.75*
Contract minimum charges	*608031.88*
GST on contract minimum charges	*109445.74*
Clearing charges	*490825.68*
GST on clearing charges	*88348.62*
Transaction charges	*2903297.57*
GST on Transaction charges	*522593.56*
Stamp Duty	*1178929.77*
Monthly Ben to market charges	*37147.00*
GST on monthly ben to market charges	*6686.46*
Monthly Ben to client charges	*116358.00*
GST on Monthly ben to client charges	*20944.44*
Delay payment charges	*2284292.57*
GST on delay payment	*438803.56*
Net excess fund transferred from own to client / settlement	*37521488.30*

Client related issues:

Client Funding:

XI. *As per the observation mentioned above, we submit that we have system in place to block the trading if the existing debit of the client is not cleared within T+2+5. However, in the given instances due to some system bug trading of the client is not blocked. We have raised the same bug to vendor and the same has been resolved. Further we have put a manual verification process in RMS to check no such further exposure has been granted to any client which debit has not cleared. Out of 16 month of inspection period, from 75 instances, only 9 cases you have identified, and all case are having a different date of violation, clearly indicate that there was case of software error as we are doing brokerage* *for so many client and daily many client get into T+2+5 cases, but only such cases came. If, we wish to give benefit then we would have given to other client also and it was not of giving benefit, but it was mistake on software error which many broker and exchange also faced many time. Further, we submit that as against approximately 4134 of our active clients, the instances of grant of further exposure identified are only 9 clients i.e. 0.22%, which are minuscule in nature. As per above alleged instances, all clients are low risk categorized as per our PMLA and risk based supervision policy. Further, all these clients having high net-worth. Hence, no risk involved for this instance and thereby, it was deemed to be fully secured as such.*

Issuance of Contract Notes:

XII. *As per the Observation mentioned above we hereby submit that it is wrong allegation on us. As we have charged all the statutory, regulatory dues and other charges as applicable in the contract notes. Kindly check as all the charges are on Last page of Contract notes of Respective Clients*

XIII. *We hereby submit that we have generated the log from the wrong option at the time of Inspection due to unavailability of the concern person, note that there is option for log status in the ECN log generated from the system. We have system in place to daily generate the bounce log and rectify the mail if there is any error in mail ID. In our earlier reply dated 15th November, 2021 we had already submitted the same for your reference.*

XIV. *We also submit here that we had given online back office view rights to all our clients, where in they can download his/her ledger & contract notes etc. using their login credentials. Further, please note that some of our clients also come to our office and collect contract note in physical form. And also note that we had never received complaint from any clients with regards to non-receipt of contract note. Based on the above submission, we state here that we have not violated the any provisions.*

Our further submissions:

XV. *It is submitted that the lapses pointed out in the Inspection Report are merely technical, venial and procedural in nature (form vs substance). As a result of the alleged violations,we have not made any gains or derived any unfair advantage. We are* *committed to complying with the law and request that the procedural lapses be seen in the context of our overall scale of operations handled and the various compliance measures adopted by us. Further, on becoming aware of the stray instances pointed out during the course of inspection, we have immediately taken steps to rectify the same and avoid their recurrence in future.*

It is submitted that, in the past for the similar procedural/technical violations, regulators and exchanges had merely issued warning to the brokers. In this context we invite your attention to the following Orders passed by SEBI, wherein similar procedural/technical violations were condoned by SEBI and it had issued simple warning to the brokers, as stated in Order passed by Hon'ble Secunties Appellate Tribunal in the matter of Chona Financial Services Pvt Ltd vs. SEBI (Appeal No 95 of 2003).

(A) M/s Bakliwala Investement

(B) M/s Bama Securities

(C) M/s Ratanbali Capital Market Ltd.

(D) M/s Twenty First Century Shares & Securities Ltd.

(E) M/s Sanjay C. Bakshi

(F) M/s Mahesh Kothari Share & Stock Brokers Pvt Ltd.

(G) M/s Mukesh Sawhany

XVI. We also invite your attention to the following observations of Hon'ble Securities Appellate Tribunal in its Order dated 16.6.2011 in the matter of Religare Securities Ltd vs SEBI:

"It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant ...."'

Order dated July 25. 2011 in the matter of UPSE Securities Ltd. v/s SEBI

"The object of carrying out inspection of the books of accounts and records of any intermediary including a stock exchange or its subsidiaries is to ensure compliance with the provisions of the Act, Rules, Regulations, By-laws and circulars issued from time to time which are meant to regulate the securities market. Every little irregularity/deficency noticed during the course of the inspection is not culpable and does not call for litigation of penalty proceedings. The purpose of inspection in quite a few cases could be better achieved if the Inspecting team at the time of the inspection were to advise the erring entity..."

SEBI Order dated 16.06.2017 in the matter of Inspection of lndiabulls Mutual Fund passed by the Adjudicating Officer, SEBI

"Though there has been a procedural lapse on port of lndiabulls of not taking approval of trustee and not publishing addendum for declaring the dividend on 4 instances, I do not find from the inspection report that it is a repetitive irregularity on part of the noticees. Further the observations made in inspection report are procedural m nature and corrective measures are taken by Noticees on being pointed out by the inspection team. No observations are made in inspection report as to whether investors' interests have adversely affected on account of procedural lapse on the part of Noticees.

XVII. We may also point out that any action for the alleged violations would result in enormous misery not only to us but also to all our clients who are availing our services. We owe a duty to our clients and we say that we have acted as honest stock broker in the ordinary course of our dealings with all our clients. We repeat and reiterate that the alleged lapses observed, in the Inspection Report, are at most isolated instances of human error and not forming any pattern which leads to doubt/suspicion or for personal benefit or with the intent to defraud the clients. Further on becoming aware of the stray lapses as pointed out In the Inspection Report, we have Immediately taken steps to rectify the same and to avoid their recurrence in future. We reiterate that as a responsible and compliance conscious registered market intermediary, it has been our continuous effort to ensure that all the relevant rules, regulations and the guidelines issued by SEBI are properly complied *with. We assure you that it will be our persistent endeavour that the stray incidents as stated in the report don't occur in future.*

XVIII. *It is further submitted that while considering our submissions, we humbly request you to take into account the following factors:*

a) *Since incorporation till date there is no client complaint against our company.*

b) *Unblemished and impeccable track record.*

c) *Neither we nor our clients have ever defaulted in meeting their payment/ delivery obligations.*

d) *The alleged discrepancies are at the highest a technical, procedural and venial breach.*

e) *The alleged technical lapses were not deliberate and intentional and in contumacious disregard of provisions of law.*

f) *We have not indulged in any manipulative, fraudulent or unfair trade practices. Admittedly, there is no finding/observation in the Inspection Report of us indulging in any kind of fraudulent, manipulative or unfair trade practices in the market.*

g) *We have not made any gains or derived any unfair advantage as a result of alleged technical and minor lapses*

h) *The alleged deficiencies as pointed out in the report have already been cured.*

i) *The alleged discrepancies have not caused any loss to any of our clients. Further, it may be noted that there are no client/investor complaints in this regard.*

j) *That as result of alleged discrepancies, we have not made any gain or gained any unfair advantage. The same has not been even observed in the Report.*

k) *It is assured that we will continue to scrupulously abide by the provisions of the SEBI/ Exchanges Circulars and Regulations.*

Reply of Noticee 2

Misuse of the clients' funds

i. *As per the point number 10 to 14 as mentioned in SCN, we are not agreed with terms misutilization of fund, as being stock broker aware about exchange guideline of which fund can be used for own purpose or not, in G negative case of September 2020, was phase of First Lockdown, where every industry trying to mitigate their financial commitment in best possible way. In this period looking at requirement of business, we have already applied for LAP (Loan against property) in NBFC which was got delayed due to pandemic period and by October 2020 we have already bring around Rs 1 crore into system. The credit balance mention in sheet does not include margin obligation after deducting the value of securities with CC/CM after appropriate haircut for the purpose of margin Requirement, if margin requirement is considered, there would be considerable reduce figure on credit side where such margin requirement is fulfilled by BBL, so that client does not get any difficulty in fulfilling their trading and we have regularly met up all our obligation with client as well with exchanges.*

ii. *In case J as mentioned 18 instances out 22 instances are having a shortfall value ranges from 0.64 Lakhs to 54.61 Lakhs, 7 instances belong to the period before September 2020. As mentioned earlier, we have already brought capital in system.*

iii. *Also note that our MCX Membership is transferred from Beeline Commodities Private Limited to Beeline Broking Limited on dated 12th October, 2020. Also note that after infusing fresh working capital in the system, our "G" is in a positive Note. Here we have attached random 30 days working of our Enhanced, in which G is not negative.*

iv. *Further, as per the 1993 circular requires a stock broker to withdraw money from clients accounts only when money is required for payment to or on behalf of clients or towards payment of debt due to the broker from the clients or money drawn on clients authority, or money in respect of which there is a liability of clients to the member, provided that the money so drawn shall not in any case exceed the total of the money so held for the time being for such each client. The 1993 circular further mandates the broker to have separate and distinct accounts for funds and securities of the clients. It is respectfully submitted that BBL has complied with all these requirements. We had never withdrawn* *any funds from the client balances and have always kept separate client accounts for funds from it's our own account. The two accounts were never mixed nor were there any transactions between the two accounts. So, please take a note of the same.*

Segregation of clients funds and securities

v. *With respect to the observation mentioned above, we hereby submit that we are maintaining the daily reconciliation of Client fund and securities, due to unavailability of time at the time of inspection we cannot produce the same, however in our reply via E-mail dated 15th November, 2021 we had already submitted the same for your references.*

vi. *And as per your observation that during the period of inspection, Rs 80.97 Lakh moved from own account to client account and Rs. 1.35 crore moved from client account to own account. So, as per the working we have transferred Rs. 61.72 Lakh from clients account to own account. Then in that we hereby submit that in clients account, we are receiving the brokerage, delay payment charges, as our income only, we have to transfer to our Own Account. Other than that GST charged to clients, we have to paid from our own account. So, the amount is Rs. 61.72 Lakh. So, furthermore, funds movement between clients to own is legitimate purpose only.*

Details bifurcations of funds are mentioned in below tables.

Particulars	***Amount***
Client to own	*13556546.74*
Own to client	*8097000.00*
Settlement to own	*0.00*
Own to settlement	*0.00*
Brokerage	*4177952.64*
GST on brokerage	*752031.48*
Delay Payment Charges	*134050.60*
GST on Delay payment charges	*24129.11*
Clearing charges	*122288.99*
GST on clearing charges	*22012.02*
Stamp Duty	*232928.61*
Transaction charges	*599121.42*
GST on Transaction Charges	*107841.86*
Net Excess fund transferred from own to client/settlement	*5573235.30*

Our further submissions:

vii. *It is submitted that the lapses pointed out in the Inspection Report are merely technical, venial and procedural in nature (form vs substance). As a result of the alleged violations, we have not made any gains or derived any unfair advantage. We are committed to complying with the law and request that the procedural lapses be seen in the context of our overall scale of operations handled and the various compliance measures adopted by us. Further, on becoming aware of the stray instances pointed out during the course of inspection, we have immediately taken steps to rectify the same and avoid their recurrence in future.*

viii. *It is submitted that, in the past for the similar procedural/technical violations, regulators and exchanges had merely issued warning to the brokers. In this context we invite your attention to the following Orders passed by SEBI, wherein similar procedural/technical violations were condoned by SEBI and it had issued simple warning to the brokers, as stated in Order passed by Hon'ble Secunties Appellate Tribunal in the matter of Chona Financial Services Pvt Ltd vs. SEBI (Appeal No 95 of 2003).*

(A) M/s Bakliwala Investement

(B) M/s Bama Securities

(C) M/s Ratanbali Capital Market Ltd.

(D) M/s Twenty First Century Shares & Securities Ltd.

(E) M/s Sanjay C. Bakshi

(F) M/s Mahesh Kothari Share & Stock Brokers Pvt Ltd.

(G) M/s Mukesh Sawhany

ix. *We also invite your attention to the following observations of Hon'ble Securities Appellate Tribunal in its Order dated 16.6.2011 in the matter of Religare Securities Ltd vs SEBI:*

"It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant ...."'

Order dated July 25. 2011 in the matter of UPSE Securities Ltd. v/s SEBI

"The object of carrying out inspection of the books of accounts and records of any intermediary including a stock exchange or its subsidiaries is to ensure compliance with the provisions of the Act, Rules, Regulations, By-laws and circulars issued from time to time which are meant to regulate the securities market. Every little irregularity/deficency noticed during the course of the inspection is not culpable and does not call for litigation of penalty proceedings. The purpose of inspection in quite a few cases could be better achieved if the Inspecting team at the time of the inspection were to advise the erring entity..."

SEBI Order dated 16.06.2017 in the matter of Inspection of lndiabulls Mutual Fund passed by the Adjudicating Officer, SEBI

"Though there has been a procedural lapse on port of lndiabulls of not taking approval of trustee and not publishing addendum for declaring the dividend on 4 instances, I do not find from the inspection report that it is a repetitive irregularity on part of the noticees. Further the observations made in inspection report are procedural m nature and corrective measures are taken by Noticees on being pointed out by the inspection team. No observations are made in inspection report as to whether investors' interests have adversely affected on account of procedural lapse on the part of Noticees.

x. We may also point out that any action for the alleged violations would result in enormous misery not only to us but also to all our clients who are availing our services. We owe a duty to our clients and we say that we have acted as honest stock broker in the ordinary course of our dealings with all our clients. We repeat and reiterate that the alleged lapses observed, in the Inspection Report, are at most isolated instances of *human error and not forming any pattern which leads to doubt/suspicion or for personal benefit or with the intent to defraud the clients. Further on becoming aware of the stray lapses as pointed out In the Inspection Report, we have Immediately taken steps to rectify the same and to avoid their recurrence in future. We reiterate that as a responsible and compliance conscious registered market intermediary, it has been our continuous effort to ensure that all the relevant rules, regulations and the guidelines issued by SEBI are properly complied with. We assure you that it will be our persistent endeavour that the stray incidents as stated in the report don't occur in future.*

xi. It is further submitted that while considering our submissions, we humbly request you to take into account the following factors:

a) Since incorporation till date there is no client complaint against our company.

b) Unblemished and impeccable track record.

c) Neither we nor our clients have ever defaulted in meeting their payment/ delivery obligations.

d) The alleged discrepancies are at the highest a technical, procedural and venial breach.

e) The alleged technical lapses were not deliberate and intentional and in contumacious disregard of provisions of law.

f) We have not indulged in any manipulative, fraudulent or unfair trade practices. Admittedly, there is no finding/observation in the Inspection Report of us indulging in any kind of fraudulent, manipulative or unfair trade practices in the market.

g) We have not made any gains or derived any unfair advantage as a result of alleged technical and minor lapses

h) The alleged deficiencies as pointed out in the report have already been cured.

i) The alleged discrepancies have not caused any loss to any of our clients. Further,it may be noted that there are no client/investor complaints in this regard.

j) That as result of alleged discrepancies, we have not made any gain or gained any unfair advantage The same has not been even observed in the Report.

k) It is assured that we will continue to scrupulously abide by the provisions of the SEBI/ Exchanges Circulars and Regulations.

8) In the interest of natural justice, an opportunity of personal hearing was granted to Noticees on September 06, 2022 vide hearing notice dated August 23, 2022. The said hearing notice was sent to Noticee through SPAD and through digitally signed email dated August 24, 2022 and was duly served upon Noticees. The Authorised Representative (ARs), appointed vide Noticees email dated September 03, 2022 appeared for the hearing scheduled on September 06, 2022, through WebEx platform and made submissions on the lines of written reply submitted by Noticees and sought time till September 12, 2022 for the submission of additional reply.

9) Vide email dated September 12, 2022, Noticees has made the additional submissions. Vide email dated September 14, 2022, certain additional documents were sought from the Noticees. Noticees vide email dated September 15, 2022 made the submission of additional documents. Vide email dated September 16, 2022 some additional documents were sought from the noticees and they vide email dated September 19, 2022 submitted the documents, which are on record.

10) I note that Inspection findings are based on analysis of samples and test checking of various books and other records maintained by the Noticee, as well as written/oral submissions of the Noticee & its officials to the inspection team. Consequently, the instances of irregularities/observations pointed out in inspection report are illustrative in nature and are not all-inclusive. The allegations levelled against Noticees, their submissions and findings in respect of the same are dealt with in the subsequent paragraphs of this order.

CONSIDERATION FOR ISSUES, EVIDENCE AND FINDINGS

11) I have taken into consideration the facts and circumstances of the case and the material available on record. The issues that arise for consideration in the present case are:

ISSUE I: (a)-Whether Noticee 1 has violated provisions of securities law by:-

- **i. Misutilization of clients' funds**
- **ii. Non Segregation of clients funds and securities**
- **iii. Client funding beyond stipulated time**
- **iv. Non- Issuance of Contract Notes**

(b)- Whether Noticee 2 has violated provisions of securities law by:-

- **i. Misutilization of clients' funds**
- **ii. Non Segregation of clients funds and securities**

ISSUE II- Does the violation, if any, attract monetary penalty under Section 15HB of the SEBI Act, 1992 and Section 23D of the SC(R) Act, 1956 for Noticee 1 and under Section 23D of the SC(R) Act, 1956 for Noticee 2?

ISSUE III- If so, how much penalty should be imposed taking into consideration the factors mentioned in Section 15J of the SEBI Act and 23J of SC(R) Act for Noticee 1 and under section 23J of SC(R) Act for Noticee 2?

12) Before proceeding further, it will be appropriate to refer the provisions of Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017 and Clause B(2) in Schedule II of Regulation 9 of SEBI (Stock Brokers) Regulations, 1992 alleged to have been violated by the Noticees. The texts of the alleged provisions are as under-

Section 23 D of SCRA:

If any person, who is registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be [liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]

SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993

Regulation of transactions between clients and brokers

Annexure

Clause 1. It shall be compulsory for all Member brokers to keep the money of the clients in a separate account and their own money in a separate account. No payment for transactions in which the Member broker is taking a position as a principal will be allowed to be made from the client's account. The above principles and the circumstances under which transfer from client's account to Member broker's account would be allowed are enumerated below.

A] Member Broker to keep Accounts: Every member broker shall keep such books of accounts, as will be necessary, to show and distinguish in connection with his business as a member –

i. Moneys received from or on account of each of his clients and,

ii. the moneys received and the moneys paid on Member's own account.

B] Obligation to pay money into "clients accounts". Every member broker who holds or receives money on account of a client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the member in the title of which the word "clients" shall appear (hereinafter referred to as "clients account"). Member broker may keep one consolidated clients account for all the clients or accounts in the name of each client, as he thinks fit: Provided that when a Member broker receives a cheque or draft representing in part money belonging to the client and in part money due to the Member, he shall pay the *whole of such cheque or draft into the clients account and effect subsequent transfer as laid down below in para D (ii).*

C] What moneys to be paid into "clients account". No money shall be paid into clients account other than -

i. money held or received on account of clients;

ii. such money belonging to the Member as may be necessary for the purpose of opening or maintaining the account;

iii. money for replacement of any sum which may by mistake or accident have been drawn from the account in contravention of para D given below;

iv. a cheque or draft received by the Member representing in part money belonging to the client and in part money due to the Member.

D] What moneys to be withdrawn from "clients account". No money shall be drawn from clients account other than –

i. money properly required for payment to or on behalf of clients or for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client;

ii. such money belonging to the Member as may have been paid into the client account under para 1 C [ii] or 1 C [iv] given above;

iii. money which may by mistake or accident have been paid into such account in contravention of para C above.

E] Right to lien, set-off etc., not affected. Nothing in this para 1 shall deprive a Member broker of any recourse or right, whether by way of lien, set-off, counter-claim charge or otherwise against moneys standing to the credit of clients account.

Clause 2. It shall be compulsory for all Member brokers to keep separate accounts for client's securities and to keep such books of accounts, as may be necessary, to distinguish such securities from his/their own securities. Such accounts for client's securities shall, inter-alia provide for the following:-

a. Securities received for sale or kept pending delivery in the market;

b. Securities fully paid for, pending delivery to clients;

c. Securities received for transfer or sent for transfer by the Member, in the name of client or his nominee(s);

d. Securities that are fully paid for and are held in custody by the Member as security/margin etc. Proper authorization from client for the same shall be obtained by Member;

e. Fully paid for client's securities registered in the name of Member, if any, towards margin requirements etc.;

f. Securities given on Vyaj-badla. Member shall obtain authorization from clients for the same.

Clause 3. Member Brokers shall make payment to their clients or deliver the securities purchased within two working days of pay-out unless the client has requested otherwise. Stock Exchange shall issue a Press Release immediately after the pay-out.

Clause 4. Member Brokers shall buy securities on behalf of client only on receipt of margin of minimum 20 percent on the price of the securities proposed to be purchased, unless the client already has an equivalent credit with the broker. Member may not, if they so desire, collect such a margin from Financial Institutions, Mutual Funds and FII's.

Clause 5. Member brokers shall sell securities on behalf of client only on receipt of a minimum margin of 20 percent on the price of securities proposed to be sold, unless the member has received the securities to be sold with valid transfer documents to his satisfaction prior to such sale. Member may not, if they so desire, collect such a margin from Financial Institutions, Mutual Funds and FII's.

Clause 6. Member brokers shall issue the contract note for purchase/sale of securities to a client within 24 hours of the execution of the contract.

Clause 7. In case of purchases on behalf of clients, Member brokers shall be a liberty to close out the transactions by selling the securities, in case the client fails to make the full payment to the Member Broker for the execution of the contract within two days of contract note having been delivered for cash shares and seven days for specified shares or before pay-in day (as fixed by Stock Exchange for the concerned settlement period), whichever is earlier; unless the client already has an equivalent credit with the Member. The loss incurred in this regard, if any, will be met from the margin money of that client.

Clause 8. In case of sales on behalf of clients, Member broker shall be at liberty to close out the contract by effecting purchases if the client fails to deliver the securities sold with valid transfer documents within 48 hours of the contract note having been delivered or before delivery day (as fixed by Stock Exchange authorities for the concerned settlement period), whichever is earlier. Loss on the transaction, if any, will be deductible from the margin money of that client.

SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

Annexure

Clause 2.4. In line with the prevalent regulatory requirement, it is reiterated that;

Clause 2.4.2- Transfer of funds between "Name of Stock Broker -Client Account" and "Name of Stock Broker -Settlement Account" and client's own bank accounts is permitted. Transfer of funds from "Name of Stock Broker -Client Account" to "Name of Stock Broker -Proprietary Account" is permitted only for legitimate purposes, such as, recovery of brokerage, statutory dues, funds shortfall of debit balance clients which has been met by the stock broker, etc. For such transfer of funds, stock broker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred.

Clause 2.6.- Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in.

Clause 3 - Monitoring of Clients' Funds lying with the Stock Broker by the Stock Exchanges

3.1. Stock Exchanges shall put in place a mechanism for monitoring clients' funds lying with the stock broker to generate alerts on any misuse of clients' funds by stock brokers, as per the guidelines stipulated in para 3.2 & 3.3 below.

3.2. Stock brokers shall submit the following data as on last trading day of every week to the Stock Exchanges on or before the next trading day:

A-Aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account, maintained bythe stock broker across stock exchanges

B-Aggregate value of collateral deposited with clearing corporations and/or clearing member (in cases where the trades are settled through clearing member) in form of Cash and Cash Equivalents (Fixed deposit (FD), Bank guarantee (BG), etc.)(across Stock Exchanges). Only funded portion of the BG, i. e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered as part of B.

C-Aggregate value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligations)

D-Aggregate value of Debit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients, uncleared cheques issued to clients and the margin obligations)

E-Aggregate value of proprietary non-cash collaterals i.e. securities which have been deposited with the clearing corporations and/or clearing member (across Stock Exchanges)

F-Aggregate value of Non-funded part of the BG across Stock Exchanges

P-Aggregate value of Proprietary Margin Obligation across Stock Exchanges

MC-Aggregate value of Margin utilized for positions of Credit Balance Clients across Stock Exchanges

MF-Aggregate value of Unutilized collateral lying with the clearing corporations and/or clearing member across Stock Exchanges

3.3.Based on the aforesaid information submitted by the stock broker, Stock Exchanges shall put in place a mechanism for monitoring of clients' funds lying with the stock brokers on the principles enumerated below:

3.3.1.Funds of credit balance clients used for settlement obligation of debitclients or for own purpose:

Principle:

The total available funds i.e. cash and cash equivalents with the stock broker and with the clearing corporation/clearing member (A + B) should always be equal to or greater than Clients' funds as per ledger balance (C)

Stock Exchanges shall calculate the difference i.e. G as follows –

G = (A+B)-C

If difference G is negative, then the total available fund is less than the ledger credit balance of clients. The value of G may indicate utilization of clients' funds for other purposes i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the stock brokers' own purposes. The negative value of G acts as an alert to the Stock Exchanges.

Thereafter, the absolute value of G shall be compared with debit balance of all clients as per client ledger D as follows:

If the absolute value of (G) is lesser than |D|, then the stock broker has possibly utilised funds of credit balance clients towards settlement obligations of debit balance clients to the extent of value of G.If the absolute value of (G) is greater than |D|, then the stock broker has possibly utilised a part of funds of credit balance clients towards settlement obligations of debit balance clients and remaining part for his own purposes. In such cases the amount of client funds used for own purpose is calculated as follows:

$H = |G| - |D|$

3.3.2.Funds of clients used for Margin obligation of proprietary trading:

Stock Exchanges shall thereafter, verify whether the proprietary margin obligations (across Stock Exchanges) is less than the own funds and securities lying with the Stock Exchanges as collateral deposit, as follows:

Principle:

The sum of Proprietary funds and securities i.e. (G + E + F) lying with the clearing corporation/clearing member should be greater than or equal to Proprietary margin obligations (P)

If value of G is positive (i.e. A+B > C), then proprietary funds are lying with the clearing corporation/clearing member and/or client bank accounts along with the clients funds to the extent of positive value of G.

The sum of the proprietary funds (positive value of G), the value of proprietary securities (E) and the non-funded portion of bank guarantee (F) available in the Stock Exchanges is compared with the Proprietary margin obligations (P).

If P > (G+E+F), then Stock Exchange shall calculate the difference I, which is the amount of proprietary margin obligation funded from clients assets.

$I = P - (G+E+F)$

If G is negative, then, value of G is considered as 0, as there is no proprietary funds lying with the stock exchange.

The value of I indicates the extent of funds and securities of clients which is possibly utilised towards proprietary margin obligations. This value of I acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' assets towards proprietary margin obligations.

3.3.3. Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading:

Stock Exchanges shall thereafter, verify whether the clients funds lying with the clearing corporation/clearing member are utilised towards margin obligations of debit balance clients and proprietary margin obligations.

Principle:

The clients' funds lying with the clearing corporation/clearing member should be less than or equal to sum of credit clients' margin obligations (MC) and free collateral deposits available with the clearing corporation/clearing member (MF)

If value of G is negative (i.e. A+B < C), then fund lying with the clearing corporation/ clearing member (B) is entirely clients' fund. In such cases, B is compared with Margin obligations of credit balance clients and the free deposits available with the clearing corporation/ clearing member. The value of J is calculated as under:

J = B -(MC + MF)

If value of G is positive (i.e. A+B > C), then fund lying with the clearing corporation/clearing member (B) may contain proprietary and clients' fund. Hence, the value of clients funds lying with the clearing corporation/ clearing member i.e. (C-A) shall be considered in the place of B.

In such cases, (C-A) is compared with Margin obligations of credit balance clients and the free deposits available with the clearing corporation/clearing member. The value of J, which is clients' funds utilised towards margin obligations of debit balance clients and proprietary margin obligations, is calculated as under:

J = (C -A) -(MC + MF)

The value of J, if positive, indicates the extent of clients' funds utilised towards margin obligations of debit balance clients and proprietary margin obligations. This value of J acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations.

3.4.Based on the alerts generated, Stock Exchange shall, inter-alia, seek clarifications, carry out inspections and initiate appropriate actions to protect the clients' funds from being misused. Stock Exchanges shall also maintain records of such clarifications sought and details of such inspections. The aforesaid calculations are illustrated in tabular format in Table 1, 2 & 3 given at the end of the annexure.

3.5.Stock Exchanges shall put in place the aforesaid monitoring mechanism within three months from the date of this circular and carry out the monitoring of clients' funds for all stock brokers, except for those who are carrying out only proprietary trading and/or only trading for institutional clients.

3.6.Stock Brokers shall ensure due compliance in submitting the information to the Exchanges within the stipulated time.

SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017

Clause 2- SEBI has received further representations from the market participants regarding certain provisions of the aforesaid circular. Based on the discussions with different stakeholders, following clarifications are made:

(d) Clause2.6 stands modified as,"Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in,except,in accordance with the margin trading facility provided vide SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017 or as may be issued from time to time."This clause would be effective from August 1, 2017.

SEBI (Stock Brokers) Regulations, 1992

Clause B (2) in Schedule II of Regulation 9

(2) Issue of Contract Note: A stock-broker shall issue without delay to his client [or client of the sub-broker, as the case may be] a contract note for all transactions in the form specified by the stock exchange.

FINDINGS

13) On perusal of the material available on record and giving regard to the facts and submission of the noticees and circumstances of the case I record my findings hereunder:

ISSUE I: (a)-Whether Noticee 1 has violated provisions of securities law by:-

Handling of clients funds and securities

(i) Misuse of the clients' funds

14) During inspection it was observed that funds of credit balance clients were being utilized for settlement obligation of debit balance clients. It was observed that 31 instances out of total 44 instances checked the amount of alleged misutilization, i.e., Negative G, ranged from Rs.88313.19 to Rs. 2.48 Crores.

G Value

No of Instances : 31 / 44 (sample instances)

Range : Rs. 0.88 Lakh to Rs. 2.48 Crore

Average : Rs. 1.11 Crore

15) Noticee 1 submitted that as per the point number 7 as mentioned in SCN, they do not agree with the allegation of misutilization of fund and being stock broker they were aware about exchange guideline regarding which fund can be used for own purpose. Noticee further submitted that in case of G negative of September 2020, it was phase of First Lockdown, where every industry was trying to mitigate their financial commitment in best possible way. In this period looking at requirement of business, they already applied for LAP (Loan against property) in NBFC which got delayed due to pandemic period and by October 2020 they already brought around Rs 1 crore into system. Noticee 1 also submitted that the credit balance mentioned in sheet does not include margin obligation after deducting the value of securities with CC/CM after appropriate haircut for the purpose of margin requirement. If margin requirement is considered, there would be considerable reduce in the figure on credit side and their G would be under positive note also considering the fund

infused by promoters. Noticee 1 further submitted that after infusing fresh working capital in the system, their “G” is in a positive note. They have attached working of random 30 days in support of their claim that G is positive.

16) Noticee 1 submitted that margin requirements is fulfilled by them, so that client does not have any difficulty in fulfilling their trading and they have regularly met up all their obligation with client as well with exchanges.

17) Further, Noticee 1 submitted that the 1993 circular requires a stock broker to withdraw money from clients accounts only when money is required for payment to or on behalf of clients or towards payment of debt due to the broker from the clients or money drawn on clients authority, or money in respect of which there is a liability of clients to the member, provided that the money so drawn shall not in any case exceed the total of the money so held for the time being for such each client. The 1993 circular further mandates the broker to have separate and distinct accounts for funds and securities of the clients. Noticee has submitted that they have complied with all these requirements. They never withdraw any funds from the client balances and have always kept separate client accounts for funds from their own account. The two accounts were never mixed nor were there any transactions between the two accounts.

18) I note that as per SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 clause 2.5.5 of annexure Stock Brokers shall send a statement reflecting the pledge and funding to the clients as and when their securities are pledged/unpledged as given below:

<table>
<tr><td>A</td><td>B</td><td>C</td><td colspan="5">D</td><td>E</td><td>F</td><td>G</td><td>H</td></tr>
<tr><td rowspan="2">Date</td><td rowspan="2">Client Code</td><td rowspan="2">Ledger debit at the end of trade day</td><td colspan="5">Collateral of client available with Broker</td><td rowspan="2">Pledged Quantity</td><td rowspan="2">Pledged Value</td><td rowspan="2">Borrowing</td><td rowspan="2">Details of Pledgee</td></tr>
<tr><td>ISIN/ Security Name</td><td>Previous day’s closing price</td><td>Total quantity</td><td>Total Value(Total Quantity * Previous day closing price)</td><td>Total value (Adjusted for applicable haircut)</td></tr>
<tr><td></td><td></td><td></td><td colspan="5"></td><td></td><td></td><td></td><td></td></tr>
</table>

19) As per clause 3.3.1 of annexure of SEBI Circular SEBI /HO /MIRSD/ MIRSD2/ CIR/P/2016 /95 dated September 26, 2016 the total available funds i.e. cash and cash equivalents with the stock broker and with the clearing corporation/clearing member (A + B) should always be equal to or greater than Clients' funds as per ledger balance (C). Stock Exchanges shall calculate the difference i.e. G as follows –

$$G = (A+B)-C$$

20) If difference G is negative, then the total available fund is less than the ledger credit balance of clients. The value of G may indicate utilization of clients' funds for other purposes i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the stock brokers' own purposes. The negative value of G acts as an alert to the Stock Exchanges.

21) I note that during inspection, sample was taken by SEBI for the month of September 2020 and March 2021 and it was observed that funds of credit balance clients were being utilized for settlement obligation of debit balance clients (31 instances out of total 44 instances checked and amount of misutilization i.e. Negative G ranges from Rs. 88313.19 to Rs. 2.48 crores). Some instances of G negative as observed in the Inspection report are as follows-

Date	Total fund balance available in all client bank accounts, including the settlement account, maintained by the stock broker across stock exchanges-A	Collateral deposited with clearing corporation/clearing member in form of cash and cash equivalents (fixed deposit (FD), bank guarantee (BG), etc. across all stock exchnages. Onlyfunded portion of the BG, i.e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered-B	Total credit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposited by clients and	Total debit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposited by clients and	Value of proprietary non-cash collaterals i.e. securities which have been deposited with the clearing corporation and/or clearing member across all stock exchanges -E	Non funded portion of the Bank guarantee across all stock exchanges-F	Proprietary margin obligation across exchanges-P	Margin utilized for positions of credit balance client across all stock exchanges-MC	Unutilized collateral lying with the clearing corporation/clearing member -MF	G

			unbcleared cheques issued to clients and the margin obligation)- C	unbcleared cheques issued to clients and the margin obligation)- D						
03.09.2020	9620076.48	54072981	78282712.14	9684815.94	152204	11512500	1142807.88	30196629.06	19628990.17	-14589654.66
07.09.2020	5925684.67	55372981	76314950.77	8945061.36	142400	11512500	1180864.40	26686662.16	19497241.99	-15016285.1
08.09.2020	10021859.62	48672981	73583153.82	7973740.84	135700	11512500	889083.25	28135377.98	20866876.24	-14888313.2
09.09.2020	10507779.35	45522981.51	74125499.57	8252724.28	132200	11512500	1118831.55	27579661.75	20293198.84	-18094738.71
10.09.2020	11995901.52	45522981.51	76638442.28	7345645.2	131450	11512500	394447.55	25748047.24	22951597.71	-19119559.25
01.03.2021	9418644.75	104403079.5	115580085.5	9382933.32	0	4762500	298258.8	59659478.79	70549498.08	-1758361.22
02.03.2021	10682276.59	106755326.7	119172049.8	12288948.97	0	4762500	414509.5	59435653.5	74367454.04	-1734446.56
08.03.2021	13980747.49	112280425.9	132227911.7	12219153.99	0	4762500	275979.75	65927224.45	72931601.89	-5966738.26
09.03.2021	9939077.08	106324811	121013809.3	13433499.99	0	4762500	524594.25	63040488.13	65130564.63	-4749921.2
10.03.2021	12686805.63	105324704.5	124647280	13705277.31	0	4762500	546434.1	64644031.41	69809461.15	-6635769.9
11.03 .2022	10036214.62	105324704.5	121967103.5	13628443.83	0	4762500	0	44027338.36	70666446.62	-6606184.42
15.03.2022	8728218.43	111325896	121195560.8	14106872.63	0	4762500	224296.5	61848407.07	76667520.7	-1141446.34
16.03.2022	12265836.09	111322079.5	125744361.4	15527701.76	0	4762500	232652.75	62236683.47	73745834.39	-2156445.79
25.03.2022	14150362.69	110673882	125921008.7	12429638.28	0	4762500	3557552.3	67535302.85	71096113.07	-1096763.97
26.03.2022	8694361.1	104341379.8	113124054.1	13668011.03	0	4762500	6941401.6	66515308.42	60153038.36	-88313
30.03.2022	10842696.28	64781406.23	78779807.17	15893926.19	0	4762500	7419861.6	28819374.32	20636441.82	-3155704.66

22) Noticee 1 submitted that they brought around Rs 1 crore in the system in the month of October 2020 and after infusion of fund in their system G was in a Positive Note. They

have also attached working of random 30 days to show G was not negative However, I observe that even after infusing Rs 1 crore in the system in October 2020, the value of G was still negative for the month of March 2021 as can be seen from the table above and the value ranged from Rs. 66.35 Lakh to Rs. 0.88 Lakhs in 11 instances. I observe that the working which the Noticee 1 has submitted for random 30 days is for the period August 2021 to July 2022. While the G for this period, which is outside the inspection period, shows positive however no document has been submitted by the Noticee 1 for the period April 2021 to July 2021 which would show G is positive. In absence of any document it can be presumed that G continued to be negative even after March 2021 till July 2021. Hence, the submission of the Noticee is not acceptable.

23) Further, Noticee submitted that the credit balance mentioned in sheet does not include margin obligation after deducting the value of securities with CC/CM after appropriate haircut for the purpose of margin Requirement. Noticee further submitted that if margin requirement is considered, there would be considerable reduce figure on credit side and G will be in positive. Noticee has further provided the exhibit in support of their argument, the extracts from the exhibit is as follows:-

Dates	Total of day end balance in all Client Bank Accounts (In Rs.)	Collateral deposited with exchanges in form of Cash and Cash Equivalents (In Rs.)	Collateral deposited with clearing member in form of Cash and Cash Equivalents (In Rs.)	Total Credit Balance of all clients (In Rs.)	Total debit balance of all clients (In Rs.)	DIFFERENCE (G)
09.09.2020	10507779.4	11762500	33760481.5	58379085	8252724.28	-23,48,324.14
10.09.2020	11995901.5	11762500	33760481.5	61519617	7345645.2	-40,00,733.97
14.09.2020	10680278	11762500	28760481.5	58383968	8736058.99	-71,80,708.51
15.09.2020	11422568.1	11762500	31760481.5	59654814	8611932.57	-47,09,264.35
16.09.2020	10089735	11762500	31760481.5	60238104	8757052.43	-66,25,387.53
17.09.2020	9819616.97	11762500	26760481.5	54084346	8420787.08	-57,41,747.52
21.09.2020	29594768.1	11762500	7000000	54326965	8708778.28	-59,69,696.95
23.09.2020	16323191.7	11762500	28806252.5	57888355	9261154.11	-9,96,410.80
28.09.2020	12510423.9	11762500	29259170.8	58418078	8867537.74	-48,85,983.29
29.09.2020	11055797.5	11075000	31740415	58211950	9225589.79	-43,40,737.49

24) I observe from the above that even after consideration of margin requirement as claimed by the Noticee, G was still negative at 11 instances out of the 34 instances. Further I note from the documents available before me that during inspection value of G was calculated on the basis of formula provided under clause 3 of SEBI circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 which takes into consideration the aggregate value of collateral deposited with clearing corporations and/or clearing member. Hence, in view of the same, I note that aforementioned contention of the noticee 1 is not tenable.

25) It is alleged that misutilization of client funds towards margin obligation of debit balance client & proprietary margin obligations has been found in 8 instances out of total 44 instances checked and amount of alleged misutilization i.e, value of J ranges from Rs.42.47 Lacs to 2.08 Crores) as given below:

J Value

No of Instances : 8 / 44 (sample instances)

Range : Rs. 42.47 Lakh to Rs. 2.08 Crore

Average : Rs. 99 Lakh

Date	Total fund balance available in all client bank accounts, including the settlement account, maintained by the stock broker across stock exchanges-A	Collateral deposited with clearing corporation/clearing member in form of cash and cash equivalents (fixed deposit (FD), bank guarantee (BG), etc. across all stock exchnages. Onlyfunded portion of the BG, i.e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered-B	Total credit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposit	Total debit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposit	Value of proprietary non-cash collaterals i.e. securities which have been deposited with the clearing corporation and/or clearing member across all stock	Non funded portion of the Bank guarantee across all stock exchanges-F	Proprietary margin obligation across exchanges-P	Margin utilized for positions of credit balance client across all stock exchanges-MC	Unutilized collateral lying with the clearing corporation/clearing member-MF	J

			ed by clients and unbcleared cheques issued to clients and the margin obligation)- C	ed by clients and unbcleared cheques issued to clients and the margin obligation)- D	exchanges -E					
02.09.2020	5586521.2	58572981	78529188.76	9689265.32	145424	11512500	991704.98	29496551.95	23019319.06	6057109.99
03.09.2020	9620076.48	54072981	78282712.14	9684815.94	152204	11512500	1142807.88	30196629.06	19628990.17	4247361.77
04.09.2020	21901928.14	53072981	73175364.49	9844675.42	147554	11512500	1663809.25	27968491.82	18864451.55	4440492.98
07.09.2020	5925684.67	55372981	76314950.77	8945061.36	142400	11512500	1180864.40	26686662.16	19497241.99	9189076.85
15.09.2020	11422568.14	43522981.51	73523001.27	8611932.57	138150	7762500	737676.30	23741513.67	12638763.9	7142703.94
16.09.2020	10089734.96	43522981.51	72525046.85	8757052.43	0	4262500	927705.55	22257451.99	445918.19	20819611.33
17.09.2020	9819616.97	38522981.51	66297173.5	8420787.08	0	4262500	437456.00	18373851.32	8164447.88	11984682.31
30.03.2021	10842696.28	64781406.23	78779807.17	15893926.19	0	4762500	7419861.6	28819374.32	20636441.82	15325590.09

26) I note that as per SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 clause 3.3.3 of annexure the value of J, if positive, indicates the extent of clients' funds utilised towards margin obligations of debit balance clients and proprietary margin obligations. This value of J acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations

27) Noticee 1 submitted that in case of J (misutilization of client funds towards margin obligation of debit balance client & proprietary margin obligations), out of 8 instances 7 instances belongs to the period before September 2020 and they have already brought capital in system.

28) I note that during inspection sample was taken for the month of September 2020 and March 2021 and 7 instances of misutilization was observed in the month of September. Therefore, the contention of the Noticee that 7 instances of misutilization belong to the period before September 2020 is not tenable. I note that Noticee 1 has not denied the allegation made

with respect to J positive. I further observe that one instance is of March 2021, hence, even after bringing capital in the system J was still positive in the month of March 2021. Therefore, I observe from the documents available before me that there were misutilization of clients' funds towards margin obligation of debit balance client & proprietary margin obligations.

29) It has also been alleged that there was misutilisation of clients' funds towards settlement obligation of own purposes (Positive H) in 18 instances out of total 44 instances checked (Value of H ranges from Rs.46.8 lacs to 1.61 Crores) and misutilisation of clients' funds towards proprietary margin obligation (Positive I) in 4 instances out of total 44 instances checked (Value of I ranges from Rs.5.32 lacs to 26.57 Lacs).

I Value

No of Instances : 4 / 44 (sample instances)

Range : Rs. 5.32 Lakh to Rs. 26.57 Lakh

Average : Rs. 16.16 Lakh

30) I note that as per SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 clause 3.3.2 of annexure the value of I indicates the extent of funds and securities of clients which is possibly utilised towards proprietary margin obligations. This value of I acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' assets towards proprietary margin obligations.

31) I further note that as per SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 clause 3.3.1 of annexure if the absolute value of (G) is greater than |D|, then the stock broker has possibly utilised a part of funds of credit balance clients towards settlement obligations of debit balance clients and remaining part for their own purposes. In such cases the amount of client funds used for own purpose is calculated as follows:

$$H = |G| - |D|$$

32) I note that Noticee 1 has not made any submission with regard to the alleged misutilization of clients funds towards settlement obligation of own purpose (Positive H) which was observed at 18 instances out of total 44 instances checked (Value of H ranges from Rs. 46.8 Lacs to 1.61 crores) and alleged misutilization of clients funds towards proprietary margin obligation (Positive I) which was observed at 4 instances out of total 44 instances checked (Value of I ranges from Rs. 5.32 Lacs to 26.57 Lacs). Since, no submission has been made by noticee 1 with regard to the Positive H and Positive I, it can reasonably presumed that the allegations have been admitted by Noticee 1.

33) Therefore, in view of the above, I observe that the Noticee 1 has violated Section 23D of SC(R) Act, 1956 read with Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Noticee 1

(ii) Segregation of clients funds and securities

34) It was observed that, Rs. 42.35 Crore moved from own account to client account and Rs. 43.58 Crore moved from client account to own account. Further, it was observed that Noticee 1 has not given explanation about receiving extra funds from client account of Rs. 1.23 Crore. Furthermore, funds movement between own to client account is not allowed except only for legitimate purposes as specified in SEBI circulars and during inspection Noticee 1 has not given any proof of documents to establish those transactions are in legitimate purpose as specified in SEBI circulars.

35) As per Enhanced supervision, stockbroker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred between client/settlement bank and Own account. SEBI analysed the Client ledger, Client account, Settlement account, Own Bank Books & Bank Statements for the inspection period and it is alleged that daily reconciliation of client and own funds was not done by the Noticee 1. As per Enhanced supervision, stockbroker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred between client/settlement bank and Own account.

36) In view of the above, it was alleged that Noticee 1 has violated Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

37) Noticee submitted that they were maintaining the daily reconciliation of Client fund and securities. Due to unavailability of time at the time of inspection they could not produce the same, however in their reply via E-mail dated 15th November, 2021 they had already submitted the same.

38) Noticee 1 further submitted that as per SEBI observation during the period of inspection, Rs 42.35 crore moved from own account to client account and Rs. 43.58 crore moved from client account to own account. As per the working they transferred Rs. 1.23 crore from clients account to own account. Noticee 1 submitted that in clients account they were receiving the brokerage, delay payment charges, BEN to market charge as their only income, which they had to transfer to their own account. Further, the GST which was charged to clients, was paid by Noticee 1 from their own account, so the amount which they had to transfer to their own account was Rs. 3.75 crore. Noticee submitted that the funds movement between clients account to own account was for legitimate purpose only, as they had transferred Rs. 1.23 crore from clients account to own account, as against Rs. 3.75 crore as stated above. The details giving bifurcation is given below:-

Particulars	**Amount**
Client to own	435801998.97
Own to client	423559300.00
Settlement to own	133602079.20
Own to settlement	123082736.95
Brokerage	24335409.70
GST on brokerage	4380373.75
Contract minimum charges	608031.88
GST on contract minimum charges	109445.74
Clearing charges	490825.68
GST on clearing charges	88348.62
Transaction charges	2903297.57
GST on Transaction charges	522593.56
Stamp Duty	1178929.77
Monthly Ben to market charges	37147.00
GST on monthly ben to market charges	6686.46
Monthly Ben to client charges	116358.00

GST on Monthly ben to client charges	20944.44
Delay payment charges	2284292.57
GST on delay payment	438803.56
Net excess fund to be transferred from own to client / settlement	37521488.30

39) From the above submission, I note that Noticee 1 had not recovered various charges and GST on those charges from its clients, which it had billed to them previously. The sum of all these charges is Rs 3.75 crore, the description of which is provided in the table above. Out of Rs 3.75 crore Noticee 1 transferred 1.23 crores from client account to own account. I note that as per provision of clause 2.4.2 of SEBI circular dated September 26, 2016, transfer of amount for recovery of brokerage, statutory dues etc. constitutes legitimate purpose. Thus, transfer of amount for recovery of charges as given in table above will constitute 'legitimate purpose'. Noticee had also provided the transaction wise break-up of all the charges. Hence, Noticee 1's submission is acceptable.

40) To determine the correctness of the above submissions, certain documents were sought from the Noticee 1 at the time of hearing. Noticee 1 vide email dated September 12, 2022 submitted the following documents:-

a) SEBI Circular which provides that for what legitimate purpose funds can be moved from clients account to Own Accounts, and the Remarks that for which Legitimate Purpose they had transferred the Funds.

b) Delivery Log Report with Proof that they have generated the Log from the Option from where they can download only Excel Format.

c) Mail Communication regarding Application of LAP (Loan against Property) with NBFC. They had also attached Sanction Letter and Ledger.

41) In furtherance to the abovementioned submissions of the Noticee 1 vide email dated September 12, 2022, following additional documents/information were sought from the Noticee 1, vide email dated September 14, 2022:-

a) Bank statement for the period of 01/07/2020 to 18/07/2020 in support of the amount mentioned in Bank book as provided by the Noticee in the trailing mail along with contract notes or any other supporting documents for the aforementioned period.

b) Brokerage ledger along with day-wise break up of Brokerage, along with supporting documents e.g.- contract notes, bank statements etc. in support of the brokerage amount mentioned by Noticee 1 vide reply dated 12/08/2022 for Noticee 1.

42) Noticee 1 vide email dated September 15, 2022 provided the link for accessing the documents which were sought. However, upon perusal, it was not clear from documents submitted by the Noticee 1 that on behalf of which clients Noticee 1 had made the payment and what was the paying obligation date of this amount alongwith the corresponding Contract Notes. In view of the insufficient documents submitted by the Noticee 1, following specific documents were sought from Noticee 1 vide email dated September 16, 2022,:-

a) As per the bank book and bank statement provided by Noticees in the trailing mail, Noticee 1 had received the payment of certain amount on 01/07/2020, 06/07/2020, 15/07/2020, and 22/07/2020 in account number 0006******0102 for reversal of funds shortfall of debit balance of clients, in reference to the aforementioned dates, Noticee 1 was requested to provide the following information-

   i. On behalf of which clients Noticee 1 had made the payment and what was the paying obligation date of this amount.

   ii. The contract notes of clients for the abovementioned dates and the amount.

b) Noticee 1 was also asked to provide the exact reconciliation of Rs. 1.23 crore extra funds transferred from client account to own account as alleged in the SCN.

43) In furtherance to above, Noticee 1 vide email dated September 19, 2022, submitted the paying obligation date and client list with date of the amount along with Contract notes for the specified dates of the inspection period. I note from the submissions made by Noticee 1 that it had transferred Rs. 42.35 Crore from own account to client account and Rs. 43.58 Crore from client account to own account, and Noticee 1 transferred excess amount of Rs. 1.23 from client account to own account for the recovery of brokerage, statutory dues etc. I find that Noticee 1 has provided sufficient proof of document to establish that the excess

fund transfer of Rs. 1.23 crore from client account to own account was for legitimate purpose as specified under SEBI circulars.

44) Hence, the allegation that Noticee 1 has violated Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 does not stand established.

Noticee 1

(iii) Clients related issues:

Client Funding:

45) With regard to funding of clients by Noticee 1 Client ledgers of the 75 clients for the inspection period April 2020 to July 2021 was selected based on highest delay payment charges levied to the clients, top debit balance clients, top net buy position clients. The debit balance above 1,00,000 of particular client on particular date was selected and it was verified whether the recovery of the amount has been done with T+2+5. For the aforementioned instances, it was verified whether further exposure was given to client after 5 days (from the 6th working day) from pay in date of securities i.e T+2+5, in spite of non-recovery of debit balances.

46) It was observed that in 9 instances out of total 75 instances Noticee 1 funded clients beyond T+2+5 (Funded amount is Rs.39.13 lacs). Following are the details:

UCC	Date of debit	T+2+5 days	Amount of debit	Amount recovered	Amount not recovered	Further exposure date	Amount of exposure	Amount funded
GJ02H020	05/03/2021	16/03/2021	190253.78	146485.48	43768.3	25/03/2021	133138.17	176906.47
GJ02N006	10/03/2021	19/03/2021	218483.79	181483.4	37000.39	26/03/2021	174370.06	211370.45
BG350030	13/07/2021	22/07/2021	921519.98	579861	341658.98	27/07/2021	234547.86	576206.84
BG350031	04/05/2021	13/05/2021	1440331.98	872705.31	567626.67	18/05/2021	458950.47	1026577.14
BG350049	03/05/2021	12/05/2021	554132.59	484062.82	70069.77	14/05/2021	186286.3	256356.07
BG350055	04/05/2021	13/05/2021	133685.48	76116.29	57569.19	14/05/2021	8569.98	66139.17

BG350168	10/05/2021	19/05/2021	1549247.32	640948.16	908299.16	21/05/2021	44100.03	952399.19
GJ02H020	22/04/2021	03/05/2021	95478.17	73743.95	21734.22	06/05/2021	232827.74	254561.96
GJ02P001	11/06/2021	22/06/2021	710499.53	376478.01	334021.52	24/06/2021	58979.35	393000.87

47) Noticee 1 submitted vide email dated November 15, 2021 that due to system bug, trading of clients' were not blocked. In view of the same, it was alleged that Noticee 1 has violated Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017.

48) Vide reply dated August 12, 2022 noticee 1 submitted that they have system in place to block the trading if the existing debit of the client is not cleared within T+2+5. However, in the given instances due to some system bug trading of the client was not blocked. They raised the same bug to vendor and the same has been resolved. Further they have put a manual verification process in RMS to check no such further exposure has been granted to any client whose debit has not been cleared. Out of 16 month of inspection period, from 75 instances, only 9 instances were identified, and all case were having a different date of violation, which clearly indicate that there was case of software error as they were doing brokerage for so many client and daily many client get into T+2+5 cases, but only such cases were detected. Noticee submitted that if, they wished to give benefit then they would have given to other client also however it was not about giving benefit, but it was mistake on software error which many broker and exchange also faced many time. Further, they submitted that as against approximately 4134 of their active clients, the instances of grant of further exposure identified were only 9 instances i.e. 0.22%, which were minuscule in nature.

49) I note that as per clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in. Further clause 2.6 of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017 provides that Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's

failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in, except, in accordance with the margin trading facility provided vide SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017.

50) I find that the Noticee 1 in its reply has admitted that the due to some system bug trading of the client was not blocked. While the Noticee has now resolved the issue, I observe that Noticee did not have robust system in place. It was the responsibility of the Noticee 1 to put the robust system in place to curb any non-compliance of the regulations. Further from the table above, I note that the exposure to the clients continued for four months.

51) In view of the above, I find that the allegation, that Noticee 1 has violated Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017 stands established.

Noticee 1

(iv) Issuance of Contract Notes:

52) For the verification of contract notes, sample of 16 highest turnover dates of each month for the period from April 2020 to July 2021 were taken. Copy of format of contract note sent to the clients was verified with the prescribed format to find deviations, if any. It was also verified that member has not levied any charges other than brokerage, applicable statutory, regulatory dues and transaction charges in the contract note.

Sample Trade Dates			
21-Apr-20	05-Aug-20	23-Dec-20	20-Apr-21
29-May-20	28-Sep-20	04-Jan-21	26-May-21
11-Jun-20	30-Oct-20	02-Feb-21	24-Jun-21
29-Jul-20	25-Nov-20	25-Mar-21	07-Jul-21

53) For the sample dates, contract note sent log was also verified to check whether the contract note was delivered to the clients within the stipulated time period.

54) During inspection Noticee 1 provided copy of contract note and also the log for contract note sent to the client. It was observed that in 12 sample trade dates log did not contain the ‘log status’ whether contract note delivered to the client or not. Since noticee 1 did not

provide the proof of delivery of contract notes to the clients, therefore it is alleged that the contract notes have not been delivered to the clients.

55) The Noticee in its reply to the inspection report added another column in excel sheet stating “Deliver”, however no supporting documents were given. Therefore, it is alleged that Noticee 1 violated Clause B(2) in Schedule II of Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

56) Noticee 1 submitted that they had generated the log from the wrong option at the time of Inspection due to unavailability of the concern person. They have system in place to daily generate the bounce log and rectify the mail if there is any error in mail ID. Noticee 1 also submitted that their earlier reply dated 15th November, 2021 they had already submitted the same for reference.

57) Noticee 1 also submitted that they had given online back office view rights to all their clients, where in they can download his/her ledger & contract notes etc. using their login credentials. Further, some of their clients also come to their office and collect contract note in physical form. Further, they had never received complaint from any clients with regards to non-receipt of contract note.

58) Clause B(2) in Schedule II of Regulation 9 of SEBI (Stock Brokers) Regulations, 1992 provides that the stock-broker shall issue without delay to his client [or client of the sub-broker, as the case may be] a contract note for all transactions in the form specified by the stock exchange.

59) I note that Noticee 1 in its reply dated August 12, 2022 admitted that during the time of inspection the log status for 12 sample trade logs did not contain whether the contract note delivered to the client or not. Further, I observe that Noticee 1 vide reply dated November 15th, 2021 had provided the ECN log status for the sample date, in which the Noticee 1 added another column in excel sheet stating “Deliver”. However, no supporting documents were submitted by Noticee 1. Noticee 1 contended that they had given online back office view rights to all their clients, where in they can download his/her ledger & contract notes etc. using their login credentials. Further, no complaints received by Noticee 1 from any of it clients with regards to non-receipt of contract note. However, I observe that there is no document in place to show the delivery status. Even if there were no complaints, Noticee

1 should have put the system in place where delivery status would show automatically without human intervention. Therefore, I observe that the aforementioned contention of the Noticee 1 is not tenable.

60) In view of the above, I observe that the allegation, that Noticee 1 has violation Clause B(2) in Schedule II of Regulation 9 of SEBI (Stock Brokers) Regulations, 1992 stands established.

61) From the foregoing, I am of the view that Noticee 1 is in violation of:-

a) Section 23D of SC(R) Act, 1956 read with clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

b) Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017 and

c) Clause B(2) in Schedule II of Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

ISSUE-I (b)- Whether Noticee 2 has violated provisions of securities law by:-

Handling of clients funds and securities

(i) Misuse of the clients' funds

62) For the purpose of inspection thereof, to check utilization of clients funds sample of all trading dates for the month of September 2020 i.e. 22 trading dates were taken.

63) Further, client trial balance were obtained from the Noticee 2 along with obligation reports and bank statement of all client and settlement banks. Further it was checked if the funds available in client bank, settlement banks and clearing member were sufficient enough to clear the payables.

Pursuant to inspection, following was observed-

a. In 13 instances value of G is negative i.e. Funds of Credit balance client used for debit balance client (‘G’ Value)

G value

No of Instances : 13 / 22 (sample instances)

Range : Rs. 0.23 Lakh to Rs. 25.25 Lakh

Average : Rs. 6.47 Lakh

64) Noticee 2 in its reply to the inspection vide letter dated November 18, 2021 submitted that, they do not have a system which gives them alert when there is a fund shortage. Further, the Noticee 2 submitted that later on they infused working capital in the system. However, during inspection value of alleged misutilization couldn’t be reduced to zero.

65) Noticee 2 vide reply dated August 12, 2022 to the SCN submitted that as per the point number 10 to 14 as mentioned in SCN, they do not agree with terms misutilization of fund and as being stock broker they were aware about exchange guideline regarding which fund can be used for own purpose. Noticee 2 further submitted that in case of G negative of September 2020, it was phase of First Lockdown, where every industry was trying to mitigate their financial commitment in best possible way. In this period looking at requirement of business, they already applied for LAP (Loan against property) in NBFC which got delayed due to pandemic period and by October 2020 they already brought around Rs 1 crore into system. After infusing fresh working capital in the system, their “G” is in a positive Note. They had attached random 30 days working of their enhanced, in which their G is not negative.

66) Noticee 2 also submitted that the credit balance mentioned in sheet does not include margin obligation after deducting the value of securities with CC/CM after appropriate haircut for the purpose of margin requirement. If margin requirement is considered, there would be considerable reduce figure on credit side. Noticee 2 submitted that margin requirements is fulfilled by them, so that client does not get any difficulty in fulfilling their trading and they have regularly met up all their obligation with client as well with exchanges.

67) Noticee 2 further submitted that their MCX Membership is transferred from Beeline Commodities Private Limited to Beeline Broking Limited on dated 12th October, 2020.

68) Further, noticee 2 submitted that the 1993 circular requires a stock broker to withdraw money from clients accounts only when money is required for payment to or on behalf of clients or towards payment of debt due to the broker from the clients or money drawn on clients authority, or money in respect of which there is a liability of clients to the member, provided that the money so drawn shall not in any case exceed the total of the money so held for the time being for such each client. The 1993 circular further mandates the broker to have separate and distinct accounts for funds and securities of the clients. Noticee 2 has submitted that it has complied with all these requirements. They never withdrawn any funds from the client balances and have always kept separate client accounts for funds from their own account. The two accounts were never mixed nor were there any transactions between the two accounts.

69) I note that as per SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 clause 2.5.5 of annexure Stock Brokers shall send a statement reflecting the pledge and funding to the clients as and when their securities are pledged/unpledged as given below:

<table>
<tr><td>A</td><td>B</td><td>C</td><td colspan="5">D</td><td>E</td><td>F</td><td>G</td><td>H</td></tr>
<tr><td rowspan="2">Date</td><td rowspan="2">Client Code</td><td rowspan="2">Ledger debit at the end of trade day</td><td colspan="5">Collateral of client available with Broker</td><td rowspan="2">Pledged Quantity</td><td rowspan="2">Pledged Value</td><td rowspan="2">Borrowing</td><td rowspan="2">Details of Pledgee</td></tr>
<tr><td>ISIN/ Security Name</td><td>Previous day’s closing price</td><td>Total quantity</td><td>Total Value(Total Quantity * Previous day closing price)</td><td>Total value (Adjusted for applicable haircut)</td></tr>
<tr><td></td><td></td><td></td><td colspan="5"></td><td></td><td></td><td></td><td></td></tr>
</table>

70) As per clause 3.3.1 of annexure of SEBI Circular SEBI /HO /MIRSD/ MIRSD2/ CIR/P/2016 /95 dated September 26, 2016 The total available funds i.e. cash and cash equivalents with the stock broker and with the clearing corporation/clearing member (A + B) should always be equal

to or greater than Clients' funds as per ledger balance (C). Stock Exchanges shall calculate the difference i.e. G as follows –

$$G = (A+B)-C$$

71) If difference G is negative, then the total available fund is less than the ledger credit balance of clients. The value of G may indicate utilization of clients' funds for other purposes i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the stock brokers' own purposes. The negative value of G acts as an alert to the Stock Exchanges.

72) I note that, client trial balance were obtained from the Noticee 2 along with obligation reports and bank statement of all client and settlement banks. Further it was checked if the funds available in client bank, settlement banks and clearing member were sufficient enough to clear the payables. Pursuant to inspection, it was observed that in 13 instances value of G is negative i.e. Funds of Credit balance client used for debit balance client ('G' Value) and in 18 instances it was observed that Funds of Credit balance client used for margin obligation of debit balance clients and pro trading. ('J' Value). Some instances are as follows:-

Date	Total fund balance available in all client bank accounts, including the settlement account, maintained by the stock broker across stock exchanges-A	Collateral deposited with clearing corporation/ clearing member in form of cash and cash equivalents (fixed deposit (FD), bank guarantee (BG), etc. across all stock exchnages. Onlyfunded portion of the BG, i.e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered-B	Total credit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposited by clients and	Total debit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposited by clients and	Value of proprietary non-cash collaterals i.e. securities which have been deposited with the clearing corporation and/or clearing member across all stock excha	Non funded portion of the Bank guarantee across all stock exchanges-F	Proprietary margin obligation across exchanges-P	Margin utilized for positions of credit balance client across all stock exchanges-MC	Unutilized collateral lying with the clearing corporation/clearing member-MF	G	J{(C-A)-(MC+MF)}

		(Cash)	unbcleared cheques issued to clients and the margin obligation)- C	unbcleared cheques issued to clients and the margin obligation)- D	nges - E						
07.09.2020	1307712.16	48313415.84	52146710.83	1228807.31	-	-		41146766.60	6873298	(25255830	293351
10.09.2020	884979.61	48131186.00	51438635.34	1236747.56	-	-		33134890.48	14622090	(24224700	374206
14.09.2020	872061.04	51631186	52536433.11	1228807.31	-	-		33168742.17	18101252	(33186)	361192
15.09.2020	365839.36	52131186	52558874.32	1228807.31	-	-		34486082.55	18099459	(61849)	(454356)
16.09.2020	795408.19	52131186	52956091.07	1228807.31	-	-		33766262.68	18225065	(29497)	139858
17.09.2020	970162.08	52117386	53110838.67	1228807.31	-	-		33876642.76	17631549	(23291)	609194
21.09.2020	52391479.73	500000	53468372.28	1218807.31	-	-		36234911.41	(40122660.23)	(576893)	4387749
22.09.2020	2769545.86	50499996	53986220.90	1210307.31	-	-		40818338.13	8799313.61	(716679)	882344
23.09.2020	2929545.86	51701817.29	553103756.08	1210307.31	-	-		43524150.67	2715691.53	(679012)	5461975
24.09.2020	1804660.20	52999996	55432918.44	1210307.31	-	-		45403343.48	3847794.71	(628262)	3748858
28.09.2020	245926.81	55000334	55566196.03	1210307.31	-	-		45207471.45	9110136.86	(319935)	682726
29.09.2020	665324.70	53199555.22	54082767.50	1210307.31	-	-		47630661.97	4998589.99	(217888)	570303
30.09.2020	949420.09	53195092.83	54329903.56	1210307.31	-	-		45310796.48	7801978.73	(185391)	82318

73) Noticee 2 submitted that their MCX membership was transferred to Noticee 1 on October 12, 2022. They further submitted that after infusion of capital in October 2020 value of G was in positive. In support they submitted working of random 30 days. I observe from the document showing G positive submitted by Noticee that it is the same document which was submitted by Noticee1 and the period is same i.e. August 2021 to July 2022 when Noticee 2 was merged with Noticee 1 and the observation to which I have already made at para 22 above. Further I observe that Notice 2 had the value of G negative in September 2020, which was not in compliance with the SEBI circulars. Therefore, I observe that the abovementioned contention of the Noticee is not tenable.

74) Further Noticee 2 submitted that if margin requirement is considered, there would be considerable reduce figure on credit side. Noticee 2 has now given calculation which is showing G positive. I note from the documents available before me that during inspection value of G was calculated on the basis of formula provided under clause 3 of SEBI circular SEBI /HO /MIRSD /MIRSD2/CIR/P/2016/95 dated September 26, 2016, which takes into consideration aggregate value of collateral deposited with clearing corporations and/or clearing member. The calculation made during inspection was on the basis of the value of credit balance provided by the Noticee 2 and hence figure of G was arrived at accordingly. I observe Noticee 2 has given another figure of G however no supporting documents have been given by Noticee 2 to show how they have arrived at the new figure of G. Hence, in view of the same, I note that aforementioned submission of Noticee 2 is not acceptable

75) Further it was alleged that at 18 instances Funds of Credit balance client was used for margin obligation of debit balance clients and pro trading ('J' Value) by Noticee 2.

J value

No of Instances : 18 / 22 (sample instances)

Range : Rs. 0.64 Lakh to Rs. 54.61 Lakh

Average : Rs. 13.88 Lakh

76) Noticee 2 submitted that in case of J as mentioned 18 instances out 22 instances are having a shortfall value ranging from 0.64 Lakhs to 54.61 Lakhs, out of 7 instances belong to the period before September 2020. I note that during inspection sample was taken for the month of September 2020 and 18 instances of misutilization was observed in the month of September. Therefore, the contention of the Noticee that 7 instances of misutilization belong to the period before September 2020 is not tenable.

77) Therefore, in view of the above, I note that the Noticee 2 has violated Section 23D of SC(R) Act, 1956 read with Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

Noticee 2

(ii) Segregation of clients funds and securities

78) Inspection was carried out for the Pay in and Pay out of funds, third party receipts and payments with regard to funds & securities. For this purpose, the sample of Client ledger, Client account, Settlement account, Own Bank Books & Bank Statements for the inspection period was taken.

79) Bank Books obtained from the Noticee for the sample was verified with the Bank Statements and active client list –

a. for pay-in and pay-out of funds

b. whether client & own funds maintained in a separate bank account

c. whether client's funds are routed through the client bank account

d. whether funds are received/paid from/to respective clients' account

e. Whether there are any instances of third party funds receipts and payments.

80) It was observed during inspection that reconciliation of funds between client to own and vice versa are maintained on monthly basis instead of daily basis. Thus the Noticee 2 was alleged to have not maintained the daily reconciliation on a daily basis.

81) It was observed that during period of inspection, Rs. 80.97 Lakh moved from own account to client account and Rs. 1.35 Crore moved from client account to own account. Further, the Noticee 2 have not given explanation about receiving extra funds from client account of Rs. 54.59 Lakh. Furthermore, funds movement between own to client account is not allowed except only for legitimate purposes as specified in SEBI circulars and the Noticee 2 have not given any proof of documents to establish those transactions are for the purpose as specified in SEBI circulars.

82) In view of the above, it was alleged that the Noticee 2 has violated Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated

November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

83) Noticee 2 submitted that they were maintaining the daily reconciliation of Client fund and securities, due to unavailability of time at the time of inspection they could not produce the same, however in their reply via E-mail dated 15th November, 2021 they had already submitted the same.

84) Noticee 2 submitted that during the period of inspection, Rs 80.97 Lakh moved from own account to client account and Rs. 1.35 crore moved from client account to own account and excess fund of Rs. 61.72 lakh was transferred from clients account to own account. Noticee 2 submitted that in clients account, they were receiving the brokerage, delay payment charges, as their only income, which they had to transfer to their Own Account. Further, the GST which is charged to clients, the Noticee 2 is paying from their own account. So, the amount which they have to transfer from client account to their own account is Rs. 61.72 Lakh. Noticee 2 submitted that funds movement between clients to own account is for legitimate purpose only. Noticee gave the detailed bifurcations of funds as mentioned in below table:

Particulars	**Amount**
Client to own	13556546.74
Own to client	8097000.00
Settlement to own	0.00
Own to settlement	0.00
Brokerage	4177952.64
GST on brokerage	752031.48
Delay Payment Charges	134050.60
GST on Delay payment charges	24129.11
Clearing charges	122288.99
GST on clearing charges	22012.02
Stamp Duty	232928.61
Transaction charges	599121.42
GST on Transaction Charges	107841.86
Net Excess fund transferred from own to client/settlement	6172356.72

85) From the above submission, I note that noticee 2 had not recovered various charges and GST on those charges from its clients, which it had billed to them previously. The sum of all these charges is Rs 61.72 Lakh, and Noticee 2 had transferred excess fund of Rs. 61.72 Lakh from client account to own account, the description of which is provided in the table

above. I note that as per provision of clause 2.4.2 of SEBI circular dated September 26, 2016, transfer of amount for recovery of brokerage, statutory dues etc. constitutes the legitimate purpose. Thus, transfer of amount for recovery of charges as given in table above will constitute 'legitimate purpose'. Noticee 2 had also provided the transaction wise break-up of all the charges. Hence, Noticee 2's submission is acceptable.

86) To determine the correctness of the above submissions, certain documents were sought from the Noticee 2 at the time of hearing. Noticee 2 vide email dated September 12, 2022 submitted the following documents:-

   a) SEBI Circular which provides that for what legitimate purpose funds can be moved from clients account to Own Accounts, and the Remarks that for which Legitimate Purpose they had transferred the Funds.

   b) Delivery Log Report with Proof that they have generated the Log from the Option from where they can download only Excel Format.

   c) Mail Communication regarding Application of LAP (Loan against Property) with NBFC. They had also attached Sanction Letter and Ledger.

87) In furtherance to the abovementioned submissions of the Noticee 2 vide email dated September 12, 2022, following additional documents/information were sought from the Noticee 2, vide email dated September 14, 2022:-

a) Bank statement for the period of 01/07/2020 to 18/07/2020 in support of the amount mentioned in Bank book as provided by Noticee 2 in the trailing mail along with contract notes or any other supporting documents for the aforementioned period.

b) Brokerage ledger along with day-wise break up of Brokerage, along with supporting documents e.g.- contract notes, bank statements etc. in support of the brokerage amount mentioned by reply dated 12/08/2022.

88) Noticee 2 vide email dated September 15, 2022 provided the requisite documents which were sought. However, upon perusal, it was not clear from documents submitted by the Noticee 2 that on behalf of which clients Noticee 2 had made the payment and what was

the paying obligation date of this amount alongwith the corresponding Contract Notes. In view of the insufficient documents submitted by the Noticee 2, following specific documents were sought from Noticee 2 vide email dated September 16, 2022:-

a) As per the bank book and bank statement provided by Noticee 2 in the trailing mail, Noticee 2 had received the payment of certain amount on 01/06/2022, 10/06/2022, 01/07/2020 and 04/07/2020. for reversal of funds shortfall of debit balance of clients, in reference to the aforementioned dates, Noticee 2 was requested to provide the following information-
   i. On behalf of which clients Noticee 2 had made the payment and what was the paying obligation date of this amount.
   ii. The contract notes of clients for the abovementioned dates and the amount.

b) Noticee 2 was also asked to provide the exact reconciliation of 54.59 Lakh extra funds transferred from client account to own account as alleged in the SCN for Noticee 2.

89) In furtherance to the above, Noticee 2 vide email dated September 19, 2022, added the remarks to the transfer of fund for the specified dates of the inspection period. I note from the submissions made by Noticee 2 that it had transferred Rs. 80.97 Lakh from own account to client account and Rs. 1.35 Crore from client account to own account and excess of Rs. 61.72 Lakhs from Client account to Own account was transferred for legitimate purpose i.e. for recovery of brokerage, statutory dues etc. I find that Noticee 2 has provided sufficient proof of document to establish that the fund movement between client account to own account was for legitimate purpose as specified under SEBI circulars.

90) Hence the allegation that Noticee 2 has violated Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 does not stand established.

91) From the foregoing, I am of the view that Noticee 2 is in violation of Section 23D of SC(R) Act, 1956 read with Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

ISSUE II- Does the violation, if any, attract monetary penalty under Section 15HB of the SEBI Act, 1992 and Section 23D of the SC(R) Act, 1956 for Noticee 1 and under Section 23D of the SC(R) Act, 1956 for Noticee 2?

92) As has been established above that Noticee 1 is in violation of Section 23D of SC(R) Act, 1956 read with clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017 and Clause B(2) in Schedule II of Regulation 9 of SEBI (Stock Brokers) Regulations, 1992 and Noticee 2 is in violation of Section 23D of SC(R) Act, 1956 read with clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

93) In context of the above, I refer to the observations of Hon'ble Supreme Court in the matter of *Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361}* wherein the Hon'ble Court had observed: "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. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.''

94) Therefore, the aforesaid violations committed attract monetary penalty under Section 23D of SCR Act and Section 15HB of the SEBI Act for Noticee 1 and under section 23D of SCR Act for Noticee 2. The text of provision is reproduced hereunder:

Section 23 D of SCRA-

Penalty for failure to segregate securities or moneys of client or clients: If any person, who is registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other *client, he shall be [liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

Section 15HB of SEBI Act: -

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

ISSUE III- If so, how much penalty should be imposed on the Noticee 1 taking into consideration the factors mentioned in Section 15J of the SEBI Act and 23J of the SC(R) Act and under Section 23J of the SC(R) Act for Noticee 2?

95) While determining the quantum of penalty under SEBI Act and SCR Act, it is important to consider the factors stipulated in Section 15J of the SEBI Act, and 23 J of SCR Act, 1956 respectively reads as under:

Factors to be taken into account by the adjudicating officer under SEBI Act
15J. While adjudging quantum of penalty under Section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default

Factors to be taken into account by the adjudicating officer under SCR Act.
23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely:—
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.

96) The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, and suffered by the investors as a result of the Noticee's failure. I also observe that there are no investor complaints on record, arising out of failure on the part of Noticee. As regard to the repetitive nature of the default, I find that the earlier regulatory action has also been taken by the SEBI in the past against Noticee 1 for misutilization of client's funds.

97) The evidence/observations on record against Noticee 1& Noticee2 , ostensibly suggest the misuse of the accounts of its clients' funds, client funding beyond stipulated time, issuance of contract notes in my assessment cannot be taken leniently and such violations deserve to be adequately penalized. In my view, the failure on the part of the Noticee,1 & 2 as discussed in the pre-paragraphs, would compromise the regulatory framework and would defeat the purpose of measures provided in the various aforementioned SEBI Circulars/Regulations / Act on protection of clients' funds and other process(violations mentioned in Para 3 above). I cannot ignore the fact that the Noticees was under a statutory obligation to abide by the provisions of the SCRA, SEBI Act, Rules and Regulations and Circulars / directions issued thereunder, which they failed to do during the inspection period. In this regard, it is pertinent to mention the following judgement of Hon'ble Securities and Appellate Tribunal (Hon'ble 'SAT'):

98) "*In Bezel Stock Brokers Pvt.Ltd. vs National Stock Exchange of India (Appeal No. 294 of 2018 decided on January 30, 2019) the Hon'ble SAT held as under: The appellant had failed to act in a diligent manner and had failed to protect the interest of his clients. It was found that the appellant had failed to ensure availability of clients' assets and misappropriated clients' funds to meet the proprietary obligation and, therefore, the appellant failed to perform its fiduciary duty. Using clients' funds is a misuse of clients' funds and securities and thus, the appellant was liable for imposition of penalty. We are further of the opinion, that considering the admission of the appellant that they had misused the client funds and securities the imposition of penalty of ` 15 lakhs over and above the amount indicated in Annexure 1 was justified in the given circumstances."*

99) Although the Noticees have stated that it had taken various corrective steps, I cannot lose sight of the fact that serious irregularities were committed by the Noticee1 &2 during the aforementioned inspection period. The Noticee 1&2 being a registered intermediary is

expected to adhere to fair practices and maintain a high degree of professionalism in the conduct of their business, however, it is crystal clear from the preceding paragraph 61 and 91 that Noticee1 &2 has acted in deliberate disregard of its obligations towards its clients and has put the interests of lakhs of investors in jeopardy. The violations as established above certainly deserve imposition of penalty on the Noticee1 &2

ORDER

100) Having considered the facts and circumstances of the case, the material available on record, the factors mentioned in 15J of SEBI Act and Section 23J of the SCR Act, the purpose of SEBI Act and SCR Act, 1956 taking note of Section 15HB of the SEBI Act and 23D of SCR Act, and also taking into account judgment of the Hon’ble Supreme Court in SEBI vs. Bhavesh Pabari (2019) 5 SCC 90 and in exercise of power conferred upon me under section 15I of the SEBI Act read with Rule 5 of the SEBI Rules, 1995 and Section 23 I of the SCR Act, 1956 read with rule 5 of the SC(R) Rules, I hereby impose following penalty under section 15HB of the SEBI Act and 23D of the SCR Act, 1956 on the Noticees:

<table>
<tr><th>Name of the Entity</th><th>Penalty Provisions</th><th>Penalty (Rs.)</th></tr>
<tr><td>Beeline Broking Limited (Noticee 1)</td><td>Section 23D of SCR Act, 1956</td><td rowspan="2">30,00,000/- (Rupees Thirty Lakhs only)
(To be paid jointly and severally)</td></tr>
<tr><td>Beeline Commodities Private Limited(MCX membership transferred to Beeline Broking Limited on October 12, 2020) (Noticee 2)</td><td>Section 23D of SCR Act, 1956</td></tr>
<tr><td>Beeline Broking Limited (Noticee 1)</td><td>Section 15HB of SEBI Act, 1992</td><td>3,00,000/- (Rupees Three Lakh only)</td></tr>
</table>

I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticees.

101) The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR 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. In case of any difficulties in payment of penalties, Noticees may contact the support at portalhelp@sebi.gov.in.

102) The aforesaid Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to “The Division Chief (Enforcement Department 1 DRA-3), Securities and Exchange Board of India, SEBI Bhavan II, Plot No. C/7, “G” Block BKC, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.” The Noticee shall also provide the following details while forwarding DD / payment information:

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

103) In terms of the provisions of rule 6 of the SC(R) Rules, a copy of this order is being sent to the Noticees and also to the Securities and Exchange Board of India.

Place: Mumbai
Date: September 30, 2022

BARNALI MUKHERJEE
ADJUDICATING OFFICER