BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/PM/NK/2019-20/7312]

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

In respect of Wasankar Investment (Proprietor- Mr. Prashant Jaidev Wasankar; PAN: AAIPW1864A)

In the matter of investigation into the activities of Wasankar Wealth Management Limited and Wasankar Investment

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FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') conducted investigation into the activities of Wasankar Wealth Management Limited (hereinafter referred to as WWML) and Wasankar Investment a proprietorship firm (proprietor: Mr. Prashant Jaidev Wasankar) (hereinafter referred to as Noticee/WI) in the aftermath of the ex-parte interim order dated August 27, 2014 and subsequent confirmatory order dated October 10, 2014. Wasankar Investments, a proprietorship firm (proprietor: Mr. Prashant Wasankar) was a sub–broker of NSE (National Stock Exchange of India Limited) affiliated to stock broker, ISE Securities & Services Limited, having SEBI Registration Number as INS2367775719. SEBI investigation alleged that during the investigation/inspection, Wasankar Investments furnished in-correct information to SEBI regarding its bank accounts. SEBI, therefore, initiated Adjudication proceedings against the Noticees for violating the provisions of Regulation 21 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, and Clauses A(1), A(2), A(3) and A(5) of the Code of Conduct for

Stock Brokers read with Regulation 9 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and Clauses A(1), A(2) and D(4) of the Code of Conduct for Sub-Brokers read with Regulation 15 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992

Appointment of Adjudicating Officer

2. Ms. Anita Kenkare was appointed as the Adjudicating Officer under section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **"SEBI Act"**) read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the **'Adjudication Rules'**) to inquire into and adjudge under section 15 A(b) and 15HB of the SEBI Act, 1992, the alleged violation of provisions of Regulation 21 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, and Clauses A(1), A(2), A(3) and A(5) of the Code of Conduct for Stock Brokers read with Regulation 9 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and Clauses A(1), A(2) and D(4) of the Code of Conduct for Sub-Brokers read with Regulation 15 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 by the Noticee. Subsequently, I was appointed as the Adjudicating Officer in place of Ms. Anita Kenkare in the present matter.

Show Cause Notice, Reply and Personal Hearing

3. Show Cause Notice no. EAD-6/AO-PM/NK/WI/17025/2019 dated July 5, 2019 (hereinafter referred to as 'SCN') were issued to the Noticee under Rule 4(1) of the said Rules as to why an inquiry should not be held and penalty not be imposed under Section 15 A(b)and 15 HB of the SEBI Act- 1992, for the alleged violation of the provisions of law.

4. The SCN, EAD-6/AO-PM/NK/WI/17025/2019 dated July 5, 2019 was sent through Speed Post Acknowledgement Due (SPAD) to the Noticee at its address available on record with SEBI. It is noted that the above mentioned SCN returned to SEBI with comment "Refused" inscribed on the envelope containing the SCN. Thereafter, an opportunity of personal hearing was granted to the Noticee on February 18, 2020 vide letter dated January 27,

2020. It is noted that the abovementioned hearing notice returned to SEBI with comment "Refused" inscribed on the envelope containing the hearing notice.

5. For the reasons mentioned above, I am of the opinion that the Noticee was provided with adequate opportunities to present its case before me. However, the Noticee by choosing not accept the SCN and the hearing notice in the matter has declined the opportunities made available to it. In view of the above, I note that the principle of natural justice have been complied with respect to the Noticee's matter.

CONSIDERATION OF ISSUES AND FINDINGS

6. I have perused the documents available on record. The issues that arise for consideration in the present case are:

   I. *Whether the Noticee has violated the provisions of Regulation 21 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, and Clauses A(1), A(2), A(3) and A(5) of the Code of Conduct specified for Stock Brokers specified in schedule II read with Regulation 9 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and Clauses A(1), A(2) and D(4) of the Code of Conduct for Sub-Brokers read with Regulation 15 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992?*

   II. *Does the violation, if any, on the part of the Noticees attract monetary penalty under section 15A(b) and section 15HB of SEBI Act, 1992?*

   III. *If so, what would be the monetary penalty, duly considering the factors mentioned in Section 15J of SEBI Act read with Rule 5(2) of the AO Rules?*

Issue I – *Whether the Noticee has violated the provisions of Regulation 21 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, and Clauses A(1), A(2), A(3) and A(5) of the Code of Conduct specified for Stock Brokers specified in schedule II read with Regulation 9 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and Clauses A(1), A(2) and D(4) of the Code of Conduct for Sub-Brokers read with Regulation 15 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992?*

7. The first issue for consideration is whether the Noticee has violated the provisions of Regulation 21 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, and Clauses A(1), A(2), A(3) and A(5) of the Code of Conduct specified for Stock Brokers specified in schedule II read with Regulation 9 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and Clauses A(1), A(2) and D(4) of the Code of Conduct for Sub-Brokers read with Regulation 15 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992.

8. Before I proceed with the matter, it is pertinent to look at the relevant provisions alleged to have been violated by the Noticee, which are reproduced below:

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

Regulation 21 of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992:

Obligations of stock - broker on inspection by the Board.

21. (1) It shall be the duty of every director, proprietor, partner, officer and employee of the stock-broker, who is being inspected, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with the statements and information relating to the transactions in securities market within such time as the said officer may require.

(2) The stock-broker shall allow the inspecting authority to have reasonable access to the premises occupied by such stock-broker or by any other person on his behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the stock-broker or any other person and also provide copies of documents or other materials which, in the opinion of the inspecting authority are relevant.

(3)The inspecting authority, in the course of inspection, shall be entitled to examine or record statements of any member, director, partner, proprietor and employee of the stock-broker.

(4) It shall be the duty of every director, proprietor, partner, officer and employee of the stock broker to give to the inspecting authority all assistance in connection with the inspection, which the stock broker may reasonably be expected to give.

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

…

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II

SCHEDULE II

Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992

CODE OF CONDUCT FOR STOCK BROKERS

[Regulation 9]

A. General.

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

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

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

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

CODE OF CONDUCT FOR SUB-BROKERS

[Regulation 15]

A. General.

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

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

D. Sub-Brokers vis-a-vis Regulatory Authorities

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

9. I note that the Noticee did not accept the SCN and the hearing notice sent to it through SPAD in the matter. As the Noticee has not accepted the SCN and the hearing notice, it can be deemed that it was aware of the present proceedings but chose not participate in the same. As the Noticee has wilfully rejected the SCN and the hearing notice, it can be considered to be duly delivered to the Noticee. In view of the above, and in absence of any replies/response from the Noticee, I am constrained to proceed with the matter based on the material available on record.

10. I note that SEBI received complaints stating *inter alia* that Wasankar Wealth Management Limited (WWML) and Wasankar Investment (WI) are collecting money from public in the area of Nagpur (Maharashtra) promising a return of 300% on an investment for 48 months, return of 250% on an investment for 30 months and a return of 125% on an investment for 12 months. SEBI, after examination in the matter, vide *Ex-parte* Order dated August 27, 2014, directed Mr. Prashant Wasankar, Wasankar Wealth Management Limited (WWML), Wasankar Investments - (Proprietor - Mr. Prashant Wasankar (WI), Mr. Vinay Wasankar, Ms. Mithila Wasankar, Mr. Abhijeet Chaudhari and Ms. Bhagyashree Wasankar;

"to cease and desist from undertaking the portfolio management activities or any unregistered activity in the securities market, directly or indirectly, in any manner whatsoever; and also prohibited from mobilizing or pooling funds from its clients, other general investors or public and from offering any portfolio management activities or any other unregistered activity, in whatever form;

to immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, etc. in relation to the portfolio management activities or any unregistered activity in the securities market;

to refund the monies so collected from their clients and other investors in its various schemes along with income, profits or returns promised to them under such schemes or interest at the rate of 10% per annum, whichever is higher, from the date of investment till the date of refund, within a period of seven days from the date of this order (i.e., by September 03, 2014) and submit a repayment report to SEBI".

11. I note that the entities mentioned in the aforesaid SEBI Interim Order, including the Noticee did not comply with the aforesaid SEBI direction. Therefore, SEBI WTM (Whole Time Member) vide order dated December 10, 2014 observed "*I find that the noticees have not been able to show sufficient and plausible cause to draw any inference other than those drawn in the interim order with regard to their activities in the securities market. Further, the continuance of the noticees in the stock market will adversely affect the interest of the investors and will have long term impact on the integrity of the securities market. In the light of above facts and circumstances, I, therefore, am of the considered view that no intervention is called for, at this stage, in either vacating the interim directions or modifying it*".

    I further note that while confirming the directions issued vide ad-interim ex-parte order dated August 27, 2014 the WTM, also stated "*This order is without prejudice to any enforcement action that SEBI may deem necessary against the aforesaid noticees on completion of the investigation in the matter. This Order shall continue to be in force till further directions*".

12. I note that SEBI in view of the aforesaid conducted investigation into the activities of Wasankar Wealth Management Limited and Wasankar Investment in the aftermath of the ex-parte interim order dated August 27, 2014 and subsequent confirmatory order dated October 10, 2014. Wasankar Investments, a proprietorship firm (proprietor: Mr. Prashant Wasankar) was a sub–broker of NSE (National Stock Exchange of India Limited) affiliated to stock broker, ISE Securities & Services Limited, having SEBI Registration Number as INS2367775719.

13. I note that the Noticee was a sub-broker of NSE as mentioned above. I find from the material available on record that SEBI investigation into the activities of the Noticee revealed that the Noticee had indulged into large scale mobilisation of funds from its clients and public promising them unusually high returns. I find that the modus operandi observed by SEBI investigation was as

- Mr. Prashant Wasankar and his connected/related entities solicited and mobilised funds/deposits from their clients and other investors in the form of cash or cheque for making investments.
- The clients/investors gave the cheques in the names of Mr. Prashant Wasankar and his connected/related entities.
- In addition to these funds, the investors also paid the membership fees to WWML, WI or Mr. Prashant Wasankar.
- In respect of such investments, Mr. Prashant Wasankar would issue a promissory note on the letter head of WI along with a certificate of investment in the name of WI acknowledging such investment by the investor.
- Mr. Prashant Wasankar would also issue post-dated refund cheque(s) on the day of investment.
- The promissory note would contain details like the terms and conditions of the schemes.
- It would be signed by Mr. Prashant Wasankar and bear the stamp of WI.
- The details of the various schemes for which funds were collected by Mr. Prashant Wasankar and his connected/related entities are as under :-

RATE OF INTEREST			
PLANS	MEMBERS	NON MEMBERS	MINIMUM INVESTEMENT
Double	33 Months	48 Months	50K
Triple	48 Months	Na	5LK
Yearly Pay Out 25%, 27.5%, 30%, 32.5%	48 Months	Na	5LK
40%	18 Months	24 Months	50K

Yearly	25%	18%	50K
90 Days	5.25%	3.75%	1LK
Quarterly For 2 Years	5.25%	3.75%	1LK
Monthly	1.60%	NA	5LK
TERMS & CONDITIONS			
Loan Facility will be available to Members Only			
Pre-Mature withdrawal: For Non Members 4.00% For Members 2.5%. No spot charges with one month notice.			
If the document is misplaced, FIR and Indemnity process has to be completed and the final payment or renewed documents will only be made / issued after Six months of maturity.			
The above rates are subject to change without any prior notification			
OFFICE TIMINGS: MONDAY TO FRIDAY (10.30 AM TO 6 PM) SATURDAY (10.30 AM TO 4 PM) SUNDAY (10.30 AM TO 1 PM)			
K= Thousand ; LK = Lakh			

14. I also find from the material available on record that the Noticee did not disclose/provide the information with respect to all the bank accounts held by it. I find from material documents available on record that the Noticee deliberately concealed information relating to some of its bank accounts.

15. I note that the Noticee refused to accept the SCN and the hearing notice issued to it. Therefore, I am of the considered view that the Noticee had knowledge of the existence of the notice and probable charges against it. I note that despite the above, the Noticee did not make any effort to reach out or contact SEBI to seek clarification or submit a reply. Therefore, I am of the considered view that the Noticee had deliberately ignored the above and has shown complete disregard to the process of law in the present matter. I find here relevant to refer to the order of Hon'ble Securities Appellate Tribunal ("**SAT**") in the matter of *Classic Credit Ltd. vs. SEBI*, (Appeal No. 68/2003, order dated December 08, 2006),

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

16. Similarly, the Hon'ble SAT in the matter of *Sanjay Kumar Tayal & Others vs. SEBI* (Appeal No. 68 of 2013, order dated February 11, 2014), has also inter alia, observed that: "...*As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices..."*

17. In the light of the above facts, and drawing support from the various judicial pronouncements mentioned above, it is established that the Noticee has provided incorrect information relating to its bank accounts to SEBI in violation of provisions of Regulation 21 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, and Clauses A(1), A(2), A(3) and A(5) of the Code of Conduct specified for Stock Brokers specified in schedule II read with Regulation 9 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and Clauses A(1), A(2) and D(4) of the Code of Conduct for Sub-Brokers read with Regulation 15 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992.

ISSUE II: *Does the violations, if any, on the part of the Noticees attract monetary penalty under section 15A(b) and section 15HB of SEBI Act?*

18. The aforesaid violations on the part of Noticee makes the Noticee liable for penalty under Sections 15A(b) and 15HB of the SEBI Act 1992 which reads as follows:

15A. Penalty for failure to furnish information, return, etc.- If any person, who is required under this Act or any rules or regulations made thereunder,-

(b) *to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations65[or who furnishes* *or files false, incorrect or incomplete information, return, report, books or other documents], he shall be liable to [a penalty [which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];*

Penalty for contravention where no separate penalty has been provided.

***15HB**. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.*

19. As regards the Noticee it is clear that they are liable for imposition of penalty as is drawn from the Hon'ble Supreme Court of India Order in the matter of **SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC)** has also held "*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…".*

ISSUE III*: If so, how much penalty should be imposed on the Noticees taking into consideration the factors mentioned in section 15J of the SEBI Act?*

20. Factors to be taken into account by the adjudicating officer:

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.

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

21. I find that the material available on record, does not quantify any disproportionate gains or unfair advantage, if any, accrued/made by the Noticee and the losses, if any, caused/suffered by the investors due to such manipulative trades of the Noticee. From the documents available on record, it is noted that the failure is not repetitive. However, it would be appropriate to refer to the observations made by the Hon'ble SAT in the matter **of Akriti Global Traders Ltd. Vs. SEBI (Appeal No. 78 of 2014) decided on September 30, 2014** :-

"…penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay.

ORDER

22. For the aforesaid reasons and after taking into consideration the nature and gravity of charges established, the facts and circumstances of the case and the mitigating factors as enumerated above, I, in exercise of the powers conferred upon me under Section 15I (2) of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, hereby impose a monetary penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) under section 15A(b) of SEBI Act, 1992 for the violation of the provisions of Regulation 21 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, and Rs. 2,00,000 (Rupees Two Lakh Only) under section 15HB of SEBI Act, 1992 for the violation of the provisions of Clauses A(1), A(2), A(3) and A(5) of the Code of Conduct specified for Stock Brokers specified in schedule II read with Regulation 9 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and Clauses A(1), A(2) and D(4) of the Code of Conduct for Sub-Brokers read with Regulation 15 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 on the Noticee i.e. Wasankar Investment (Proprietor: Mr. Prashant

Jaidev Wasankar) which will be commensurate with the violations committed by the Noticee.

23. The Noticee shall remit / pay the said total amount of penalty within 45 days of receipt of this order in either of the following way:

    a. By using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html; OR

    b. By way of Demand Draft in favour of *"SEBI - Penalties Remittable to Government of India",* payable at Mumbai; OR

24. The Noticee shall forward the said Demand Draft in the format as given in table below shall be sent to "The Division Chief, Enforcement Department -DRA-II, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051." and also to e-mail id :- tad@sebi.gov.in

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for (like penalties/ disgorgement/ recovery/Settlement amount and legal charges along with order details)	
Penalty	

25. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

26. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: March 20, 2020 **Prasanta Mahapatra**

Place: Mumbai **Adjudicating Officer**