**BEFORE THE ADJUDICATING OFFICER**
**SECURITIES AND EXCHANGE BOARD OF INDIA**
**[ADJUDICATION ORDER NO. Order/AN/AK/2023-24/30166]**

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

In respect of:
**Heet Manish Bapna *alias* Heet Manish Bafna**
**(Proprietor of Standard Chartists)**
PAN: ACYPG9384P

In the matter of
**Examination of complaint against Heet Manish Bapna *alias* Heet Manish Bafna**
**(Proprietor of Standard Chartists)**

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## A. BRIEF BACKGROUND

1. Securities and Exchange Board of India ('**SEBI**') had received a complaint inter alia alleging that **Heet Manish Bapna alias Heet Manish Bafna (Proprietor of Standard Chartists)** (hereinafter also refered as '**Noticee' / 'Heet'**), was posing itself as a SEBI registered Advisor and charging people money to manage their portfolio. In this regard, an examination was conducted by SEBI to ascertain if the Noticee had inter alia violated provisions of SEBI (Investment Advisers) Regulations, 2013 (hereinafter also referred to as the "**IA Regulations**"), SEBI Act, 1992 (hereinafter also referred to as the '**SEBI Act**') and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

2. Pursuant to its examination, SEBI inter alia observed and alleged non-compliance of summon issued under Section 11(2) (ia) read with 11 (3) (ii) of the SEBI Act, 1992 in respect of Noticee and accordingly Adjudication Proceedings under Section 15 I of the SEBI Act, read with Rule 3 of the SEBI (Procedure for Holding Inquire and Imposing Penalties) Rules, 1995 (hereinafter referred to as " SEBI Adjudication Rules,1995") had inter alia been initiated to

inquire into and adjudge under Section 15A (a) of the SEBI Act for the alleged violations of Section 11(2) (ia) read with 11 (3) (ii) of the SEBI Act.

## B. APPOINTMENT OF ADJUDICATING OFFICER

3. Whereas, the Competent Authority of SEBI, was prima facie of the view that there were grounds to adjudicate upon the alleged violations by the Noticee, the Competent Authority of SEBI, therefore, in exercise of the powers conferred under Section 15 I of the SEBI Act, 1992 and Rule 3 of Adjudication Rules 1995 read with Section 19 of the SEBI Act, 1992 appointed Shri G. Ramar (Chief General Manager), as the Adjudicating Officer vide Communique dated March 28, 2023 to inquire into and adjudge under Section 15(I) read with Section 15A (a) of the SEBI Act, 1992, the aforesaid alleged violations by the Noticee. Pursuant to inter alia transfer of erstwhile Adjudicating officer, the undersigned had been appointed as AO vide Communique dated February 27, 2024.

## C. SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice bearing reference no. EAD-4/ADJ/GR/PU/OW/14473/1/2023 dated April 11, 2023 (hereinafter also referred to as "*SCN*") was issued to the Noticee by the erstwhile Adjudicating Officer, calling upon to show cause as to why an inquiry should not be held against the Noticee in terms of Rule 4 of the SEBI Adjudication Rules 1995 read with Section 15-I of the SEBI Act; and penalty be not imposed under Section 15A(a) of the SEBI Act, 1992 for the alleged violations as stated therein. The SCN was issued to the Noticee by way of Speed Post Acknowledgement Due ('*SPAD*' in short) at the postal addresses available on record i.e., "C-408, Green Avenue, Near Union park, Ghod Dod Road, Surat City, Surat, SVR College, Gujarat – 395007". The SCN sent by SPAD was returned undelivered with the comment *'No such person In the Add'.* Thereafter, the SCN was served by way of affixture on May 05, 2023, in terms of Rule 7 of Securities and Exchange Board of India

(Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, at the abovementioned address, viz., the address at which the Noticee resided /known to have last resided.

5. The following was *inter alia* observed and / or alleged in the SCN in respect of the Noticee:

*"…..*

*4. During the examination SEBI had observed as under;*

*a) The Noticee was giving stock trading tips on a WhatApp group called Power of Markets through mobile No. (XXXXXX7808) and took consideration from the public for the advisory services provided.*

*b) Therefore, the Noticee was acting as an unregistered investment advisor without having the requisite registration as mandated under SEBI (IA) Regulations, 2013 and has also mentioned a false SEBI registration no.INA100219167 for the said unregistered investment advisory activities.*

*5. In this regard SEBI had collected the details of payments, in the forms of screen shots, whatsapp chats etc., and reconciled the details of payment credited in the linked bank account of the Noticee provided by the complainant with the bank statement. From the same, it was observed that Axis Bank account No. XXXXXXXXXXX7094 was opened on September 07, 2019 and the complainant had first transferred fees to the said account of the Noticee on November 27, 2020. The earliest transaction which can be attributed to investment advisory activities is appearing in Axis Bank, as observed from the said bank statement is on December 10, 2019. Hence, on preponderance of probability basis December 10, 2019 can be considered as the date on which the IA activity was launched.*

*6. Therefore, the Noticee was issued summon dated May 23, 2022 vide SPAD which was duly delivered on May 27, 2022, (acknowledgement copy is place at - Annexure B), requesting him to appear before the Competent Authority for recording statement under oath. The said summon was delivered to the Noticee via email on May 24, 2022. However, the Noticee failed to comply with the said summons even though it was duly delivered. Thereafter, in the interest of natural justice a last and final opportunity was granted to the Noticee vide summons dated June 13, 2022, to appear before the competent authority on June 21, 2022. The second summon issued to the Noticee returned undelivered on June 20, 2022 with the comment "no such person in the address". Additionally, the summon dated June 13, 2022 was duly delivered via e-mail (e-mail acknowledgement copies for summonses dated May 23, 2022 and June 13, 2022 are place at Annexure C). However, the Noticee once again failed to comply with the summon by not making himself present.*

*7. Since, the Noticee failed to comply with the aforementioned summonses, it resulted in hampering the examination as crucial information could not be collected from him. Therefore, it is alleged that the Noticee has violated the provisions of Section 11(2) (ia) read with 11 (3) (ii) of the SEBI Act.*

*8. Accordingly, adjudication proceedings have been initiated against the Noticee for the violations of Section 11(2) (ia) read with 11 (3) (ii) of the SEBI Act.*

*.…."*

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6. It was observed that an Order No. QJA/AA/WRO/WRO/30066/2023-24 had been passed, by the concerned Quasi-Judicial Authority (QJA) u/s 11(1) 11(4) 11(B) and 11(D) of SEBI Act, in respect of the Noticee on February 29, 2024. From the said Order dated February 29, 2024, available on SEBI website, it was noted that the Noticee has appeared in the proceedings before QJA, wherein vide letter dated February 13, 2024, the Noticee, had *interalia* provided his latest correspondence details, the same were procured from the Office of QJA and taken on record. The Address provided by Noticee during the said proceedings being: F-911, Dream Heritage, VIP Road, Surat, Gujarat – 395007 and Email id being: heetbapna0@gmail.com.

7. As, no reply to the SCN was received from the Noticee within the timeline provided in the SCN, having regard to principles of natural justice, opportunity of hearing was afforded to the Noticee on March 07, 2024 vide Hearing Notice dated March 04, 2024 inter alia enclosing therewith, a copy of the SCN. The Hearing Notice dated March 04, 2024 was served to the Noticee by both SPAD at the correspondence address of the Noticee and also by digitally signed email on the email ids on record i.e., heetbapna30@gmail.com; manishbapna2050@gmail.com; and heetbapna0@gmail.com, whereby the Noticee was inter alia advised to submit his reply to the SCN. In response, the Noticee vide email dated March 04, 2024 acknowledged and confirmed his appearance on the specified date and time. However, one day prior to the scheduled date of hearing viz., March 07, 2024, the Noticee vide email dated March 06, 2024 requested to reschedule the date of personal hearing to any day after March 11, 2024, citing medical reasons. Considering the request for adjournment, the hearing was rescheduled to March 12, 2024 and the Noticee was informed about the same vide email dated March 06, 2024. The Noticee acknowledged the same vide his email dated March 06, 2024.

8. On the scheduled date of hearing on March 12, 2024, the Noticee appeared in person along with Ankit Surana (distant maternal /cousin uncle of Noticee) as his Authorized Representative (AR). During the hearing Noticee confirmed

stating that no reply to the SCN had been submitted by him so far, however he had brought in a response which was being submitted to SEBI that day itself viz., on March 12, 2024. Noticee inter alia contended regarding his failure to comply with the summons citing change of residential address, mobile phone and email id and requested three days' further time for making additional submission as complete and final submissions in the matter. The request for grant of three days' additional time was acceded to and time till March 15, 2024 was allowed, for making complete and final submissions, if any, in the matter. Noticee inter alia provided copies of certain screenshots and emails pertaining to email id heetbapna30@gmail.com, which were taken on record.

As regards the alias name, the Noticee stated that his name as per his birth certificate and passport was 'Heet Manish Bafna' and that his name as per his PAN Card and Aadhaar Card was 'Heet Manish Bapna'. Noticee inter alia also stated that, he had sworn an affidavit regarding his *alias* name. In this regard, Noticee was advised to submit copy of his Passport, Birth Certificate and the affidavit with respect to his *alias* name along with the additional submissions.

9. The key submissions of the Noticee dated March 12, 2024 as regards alleged violations are reproduced below:

*"….*

*Pursuant to the order, would like to make some presentation in front of you.*

*Major Timelines:*

- *Completed Higher Secondary school in year 2019 from Surat*
- *Took admission in Jai Hind College Mumbai during May, 2019.*
- *Got inclined and interested in stock markets and started following the market updates.*
- *Started trading on my own with Borrowed funds from family.*
- *During general discussion among friends' group, used to update them about the transaction / trade carry out for information purpose.*
- *During this period, when I used to update the group regarding the trades and profit earned, during general discussion with friends, it was suggested that I should also suggest them some tips. This is normal conversation which we had and my answer to those was always that it looks good from outside, however you can incur losses also. However, after some time, seeing bit of success, just for information purpose and suggestion from friend that I should also help them and give suggestion, I started giving recommendations.*
- *During the same period, people suggested me and I did the following suggestions:*
  - *NISM research analyst (October, 2021)*
  - *NISM mutual fund distributor (March, 2021)*
  - *NISM equity derivatives trader (March, 2021)*
- *During the same period, I created WhatsApp group. In fact, I am not denying that I started giving recommendation. But as matter of fact, I was complete unaware of SEBI norms and guidelines.*

- *In fact basis the limited information, I did the above certification for enhancing my knowledge and I was not aware that such registration or approval is required from SEBI.*
- *Till the time I got information about the said notice, I was not aware that for giving buy/sell recommendation one need to have NISM investment advisor certificate and have a SEBI registered investment advisor license.*
- *I was suggesting friends till that time and some people were added by my friends. In fact, no suggestion or recommendations were given in the wats app group for buy and sell.*
- *Post recommendation and seeing the potential where my suggestion is going in right directions. My friends even suggested me why do not you start dedicated service and without giving thought I started broadcast services and updated the criteria to receive that information by way of premium packages.*
- *Everything was fine till everyone was making profits, my recommendation was right. It was during the COVID times also when the market from its low, was regaining again.*
  *Reason for Complaint: One of the clients from which I had charged premium initially earned profits however later she incurred losses. She even messaged on WhatsApp and asked for certifications. To which I have shared my NISM research analyst (October, 2021) certificate. This only shows that I have absolutely no idea of all approvals and license to be taken.*

  *Since she had incurred losses, I offered her complete refund and initially, she was not accepting the same however later on her own she contacted us and she was paid Rs 49,703 (Rs 33,000 for the losses+ Rs 3014 and Rs 10200 (Refund of investment advisory fees and balance is expenses for her). The matter was closed than.*

  *Post this incident, I deleted all the group and stop suggesting anything to anyone. I am still admitting that I stopped doing that since I incurred losses and not ok with the complaint and thought that if any other person incurred losses, they will again claim the same. It was done around December, 2021. Till that time also, I was not aware of SEBI Guidelines.*

  ***Reason for non-response and delay during the case in providing information and documents:***

  *Purchase of new phone: During November, 2022, I purchase new iPhone in place of my Samsung Android phone due to accidental damage. SAMSUNG Phone was dual sim phone and there were two numbers in it, one Airtel and one JIO. Airtel number was very old and was in name of my mother.*

  *When I bought the new Iphone, since it has single sim functionality, I transferred the JIO number in it. Airtel number is still with us and in name of my mother till date. However, little did I was aware that transferring from two sim two one sim could have such potential issue in future.*

  *Also at same time, new mail ID was created for I clod syncing purpose, I never used the old email ID.*

  *Further during April, 2018, we shifted from our old address where we were residing for since 2009 to our new address (we were staying on rent). As matter of fact, I never changed the address in the bank account and aadhar card.*

  *Although these incidents look like reason but unfortunately these are sole reason I missed on the various notices.*

  *It was during January, 2024, when randomly my father checking his email ID saw one mail from SEBI and asked to look into it. It was than we came to know about all this. In rush, I immediately come down to SEBI Bhavan on February 13, 2024 to put forth my story.*

  *I have explained in detailed and I can very well understand you questioning of such enormous delays in responding.*

  *With the limited information and understanding, we have shared the explanation as best of our knowledge. We have shared the information to the extent of knowledge however we are not aware as how to represent the same properly. Further individually, I was not aware of systematic and detailed reply needed. Hence the reply shared was found inappropriate.*

  *Post the order, we did detail analysis of banks account and pull-out details of each and every transaction and rationale behind the same.*

  *Majority of transactions are related to below:*

  - *Demat a/c credit and debit entries: This leads to multiple counting of same amount since credit is assumed and not debit.*
  - *Mutual fund withdrawals: Credit of the mutuals funds which happened in the account over period*
  - *Payments received from family member: Over a period have received amount from the family members which was either paid back over period.*
  - *Payment received from father's textile business*
  - *Payment received from school/college friends while we were in college, these were the usual transaction of travelling, food, rents and etc*
  - *Some amount received from gaming apps.*
  - *Payment received from the office where I was employed for some time.*
  - *Salary received from office*

*Money from subscription: As per the calculation we had done, we have not taken more from Rs 3.00 lakh over period of time in name of subscription amount.*

*Hence we look forward for your guidance in the said matter.*

*....”*

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10. I note that the reply dated March 12, 2024 submitted by Noticee apparently is in reference to the SEBI Order No. QJA/AA/WRO/WRO/30066/2023-24 dated February 29, 2024, in so far as the letter itself started bearing reference to the said order dated February 29, 2024 viz., *‘ … Pursuant to the order, would like to make some presentation in front of you …. ’* and in the subsequent part inter alia also read, *‘ … Post the order, we did detail analysis of banks account and pull-out details of each and every transaction and rationale behind the same … .”*. In this regard, during the hearing, Noticee was inter alia advised to take note of the subject matter of instant proceedings, being distinct, and make submissions specific to the alleged violations in the SCN dated April 11, 2023 issued in the instant proceedings.

11. The Noticee submitted his additional reply to the SCN vide email dated March 15, 2024, as complete and final submissions in the matter. The Noticee *inter alia* made following key submissions in the reply dated March 15, 2024:

“….

*This is in reference to the above-mentioned SCN and Minutes of Hearing, wherein I have been allowed to make further submissions as complete and final submissions in relation to the subject matter. I say that after graduating in the year 2019, I shifted to Mumbai for my further education, when I was intrigued with the workings of the stock market. Accordingly, I started learning and educating myself regarding trading in the stock market. During the same time, basis the guidance received from my well-wishers, I completed certification as (i) NISM research analyst (October, 2021) (ii) NISM mutual fund distributor (March, 2021) (iii) NISM equity derivatives trader (March, 2021) and after that I started providing stock recommendations services. It is clarified that while providing such stock recommendations I was completely unaware of the SEBI Norms and Guidelines dealing with providing advisory services.*

*However, the issues arose when one of my clients suffered certain losses when she made a complaint to SEBI against me for providing such services without being duly registered with SEBI. At the cost of repetition, I state that I was unaware that I had to be registered with SEBI to provide such advisory services. However it must be noted that the client wo incurred losses along with the fees charged and the case was settled further the said activity of recommendation was stopped completely and immediately.*

*However it seems that the complain was still alive of which I was completely unaware. Since the client who incurred losses complained to SEBI, various notices were issued to me at my previous address i.e. C-408, Green Avenue, Near Union Park, Ghod Dod Road, Surat City, Surat, SVR College, Gujarat – 395007. It is pertinent to bring to your kind attention that I along with my family shifted from this rented address and have been residing at Dream Heritage, Vip road, Vesu, Surat, since the year 2018. A copy of the sale deed dated 16/12/2016 is enclosed hereto, as Annexure-1, for your ready reference, also the proof of the property bill , dated 28/8/2018 is enclosed hereto, as Annexure-2.*

*In view of the address change, I was unaware of the various notices issued upon me by SEBI, and it was only on 22/10/2023 when I came to know that a complaint against me was filed with SEBI and infact there were various show cause notices issued by SEBI. In fact I am attaching the screen shot when I tried to change my address in Aadhar which got failed (Annexure 3)*

*Further, the said notices were also sent to me on my email address as mentioned in the SCN. I submit that even though the said notices were issued to me on my email address being heetbapna30@gmail.com, being the old email address. However, I was not in the habit of actually opening the emails received by me on the said email address and almost all the mails in my mailbox are unread in nature. Further, in October 2021, when I purchased a new mobile phone being an iPhone 13, I created a new email address being heetbapna0@gmail.com, which then became my main email address and accordingly, I completely stopped using my old email address, save and except few emails I had sent to Ms. Shruti, being the complainant when the dispute between her and me was resolved/settled and I had refunded the money paid by her as investment advisory fees and for the losses incurred by her. A copy of the invoice dated 30th October 2021 evidencing the purchase of Iphone13 is enclosed hereto, as Annexure-4, for your ready reference. Further reason for new mail iD being created is operating system of phones i.e Android and IOS.*

*Since the record of SEBI reflects that said notices were duly served upon me, it is pertinent for me to clarify that it was for the reasons as stated above, I was unaware about the said notices being delivered on my old residential address and old email address and consequently I remained absent on the respective dates of hearing. This resulted in the issuance of present SCN for violation of Section 11(2) (ia) r/w section 11 (3) (ii) of the SEBI Act.*

*Further would like to bring that fact that till November, 2021, I was using both the numbers i.e xxxxxx7808 and xxxxxx6312 since the phone was dual sim phone. However, post purchase of IPHONE, since the same is single sim, I started using the only one number i.e xxxxxx6312. Although the other number is active, I do not use the same and I started using recently post these issues to not miss any further communication. In fact, during the meeting at your office on 12th March 2024, the aforesaid facts were brought to your attention and even the screenshot of the inbox of my email account was taken and submitted to your good office which clearly shows that I had not opened the said notices which was received on my old email address. The said screenshot with my signature has been submitted to your good office on 12th March 2024. Further it must be noted that the entire procedure for recovery of the password of said email, i.e. heetbapna30@gmail.com was done on 12th March 2024.*

*Apart from that I have attached all the annexures and all the required documents as specified in minutes of hearing.*

*Further, it is pertinent to point out that the issue related to providing advisory services was dealt with and/or adjudicated by SEBI vide an order dated 29th February 2024.*

*In view of the above facts and circumstances, I was unable to duly comply with the requirements of various notices issued by SEBI upon me and for which I request your* *good office to take a lenient view in relation to the same. Inconvenience, if any, is regretted.*

....”

12. The Noticee along with the reply vide email dated March 15, 2023 also submitted a copy of his Birth Certificate dated November 29, 2002 and affidavit dated June 03, 2019 with respect to his *alias* name. The Noticee submitted copy of his Passport vide email dated March 18, 2024.

## D. CONSIDERATION OF ISSUES AND FINDINGS

13. The following issues arise for consideration in the instant matter:

**Issue No. I:** Whether the Noticee had violated provisions of Section 11(2)(ia) read with 11(3)(ii) of the SEBI Act, 1992, as alleged?

**Issue No. II:** If yes, whether the failure on the part of the Noticee would attract monetary penalty under Section 15A(a) of SEBI Act, 1992?

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

14. In this regard, it would be pertinent to refer to the provisions of Section 11(2)(ia) and Section 11(3)(ii) of the SEBI Act., which *inter alia* reads as:

**SEBI Act, 1992**

“

…..

*POWERS AND FUNCTIONS OF THE BOARD*

*Functions of Board.*

*…..*

*11 (2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—*

*……*

*[(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in*

*the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;]*
*……*
*[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under 27 [clause (I) or clause (ia) of sub-section (2) or sub- section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—*
*……*
*(ii) Summoning and enforcing the attendance of persons and examining them on oath;*
*….*
*"*
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15. I note that Noticee as part of his submissions had inter alia raised technical contention that he was *unaware of the requirements of SEBI*.

    In this regard, I note that, it is a cardinal principle of law that, *'Ignorantia juris non excusat'*. In other words, ignorance of the law cannot be an excuse. Therefore, the Noticee's contention in this regard is devoid of merit and not acceptable.

16. I now proceed to deal with the matter on merits as regards alleged violations in respect of the Noticee, as per the SCN.

**Issue No. I:** Whether the Noticee had violated provisions of Section 11(2)(ia) read with 11(3)(ii) of the SEBI Act, 1992, as alleged?

17. It was observed from material available on record that it was *inter alia* alleged that the Noticee had failed to comply with the Summons dated May 23, 2022 and June 13, 2022, and that it resulted in hampering the examination as crucial information could not be collected from him. Therefore, it was alleged that the Noticee has violated the provisions of Section 11(2)(ia) read with 11(3)(ii) of the SEBI Act, 1992.

18. In this regard, I note from material available on record that it was inter-alia observed and alleged in the SCN that, the Noticee was issued summons dated May 23, 2022, by SPAD and also by email with that through SPAD having been sent at the postal address of the Noticee, which was the address as mentioned on the copy of Aadhar Card and Passport of the Noticee, as available on record, viz., C-408, Green Avenue, Near Union Park, Ghod Dod Road, Surat City, Surat, SVR College, Gujarat – 395007. The summons dated May 23, 2022 was delivered at the said postal address of the Noticee as per the tracking details per website of Department of Post, Government of India viz., www.indiapost.gov.in and as per the acknowledgement card (AD Card), as available on record. Vide the said Summons dated May 23, 2022, Noticee was inter alia required to appear before the summons issuing authority (competent authority); produce the documents /information, as sought. The said summon was also delivered to the Noticee via email at heetbapna30@gmail.com on May 24, 2022. Though the summons dated May 23, 2022 sent to the Noticee by SPAD and by email were delivered, however as per SEBI, the Noticee failed to comply with the Summons dated May 23, 2022.

19. As Noticee had failed to comply with the summons dated May 23, 2022, vide another Summon dated June 13, 2022 (second Summon), the Noticee was granted another opportunity as last opportunity to inter alia appear before the competent authority on June 21, 2022 and also to produce the documents /information sought. The second Summon was sent to the Noticee by SPAD at address: C-408, Green Avenue, Near Union Park, Ghod Dod Road, Surat City, Surat, SVR College, Gujarat - 395007 and by email dated June 13, 2022 at heetbapna30@gmail.com. The second summon sent at the postal address of the Noticee as available on record was returned undelivered with the remarks, *"No Such Person In the Address" / "Item Returned No such person in the address".* However, as per the material available on record, the summons dated June 13, 2022 sent by email did not bounce back and was accordingly delivered. However, as per SEBI the Noticee once again failed to comply with the Summons dated June 13, 2022.

20. I also note from material available on record that as per SEBI, since the Noticee failed to comply with the summonses, it resulted in hampering the examination, as crucial information could not be collected from him. I note that, as part of the summons dated May 23, 2022 and June 13, 2022, following documents /information were sought from the Noticee, besides requiring him to appear in person on the stated dates:

"…

Annexure

1. Kindly bring a copy of your photo identify proof, address proof and PAN card along with the original.
2. Details of all your bank accounts and Demat accounts since 2010.
3. Copy of your and your company's ITR (not limited to acknowledgement form) for FY 2019-20, 2020-21 and 2021-22.
4. Details of NiSM certification (if any), along with copy of the certificates.
5. The details of persons who were part of WhatsApp Group ("Power of Markets" on mobile no. 9998297808) who had obtained investment advisory services for a fee, along with their details (in format below):

| S.No. | Name | Email ID | Mobile No. |
|---|---|---|---|
| | | | |
| | | | |

6. The details of other persons (other than the WhatsApp Group) to whom investment advisory services were offered for a fee, along with their details (in format below):

| S.No. | Name | Email ID | Mobile No. |
|---|---|---|---|
| | | | |
| | | | |

7. The details of any payments made by above persons/entities in table at s.no. 5 & 6 above, as consideration, in lieu of investment advisory services (in format below):

| S.No. | Client Name | Amount Collected as Fees (in Rs.) | Bank A/c (s) name in which amount(s) is/was collected | Bank A/c number (s) in which amount is/was collected | Date on which amount(s) collected (DD-MMM-YYYY) |
|---|---|---|---|---|---|
| | | | | | |

8. Details of all the persons (associated with you) involved in providing investment advisory without obtaining registration from SEBI (in format below):

| S.No. | Name | PAN | Email ID | Mobile No. | Earliest date of start f investment | Qualifications | Details of NiSM certifications, if any. |
|---|---|---|---|---|---|---|---|

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | advisory activities (DD-MMM-YYYY) | | |
| | | | | | | | |

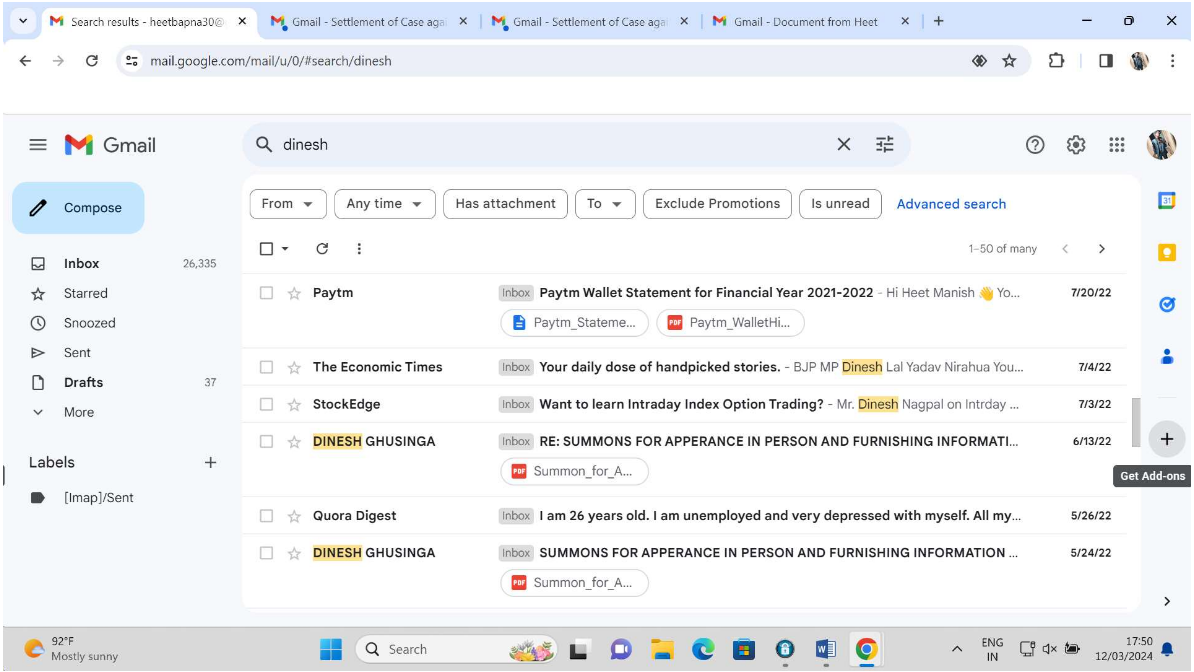
9. Details of all immovable properties and movable properties, assets, investments held in the name of M/s Standard Chartists, Heet Bapna and your dependents (either jointly or severely).

…

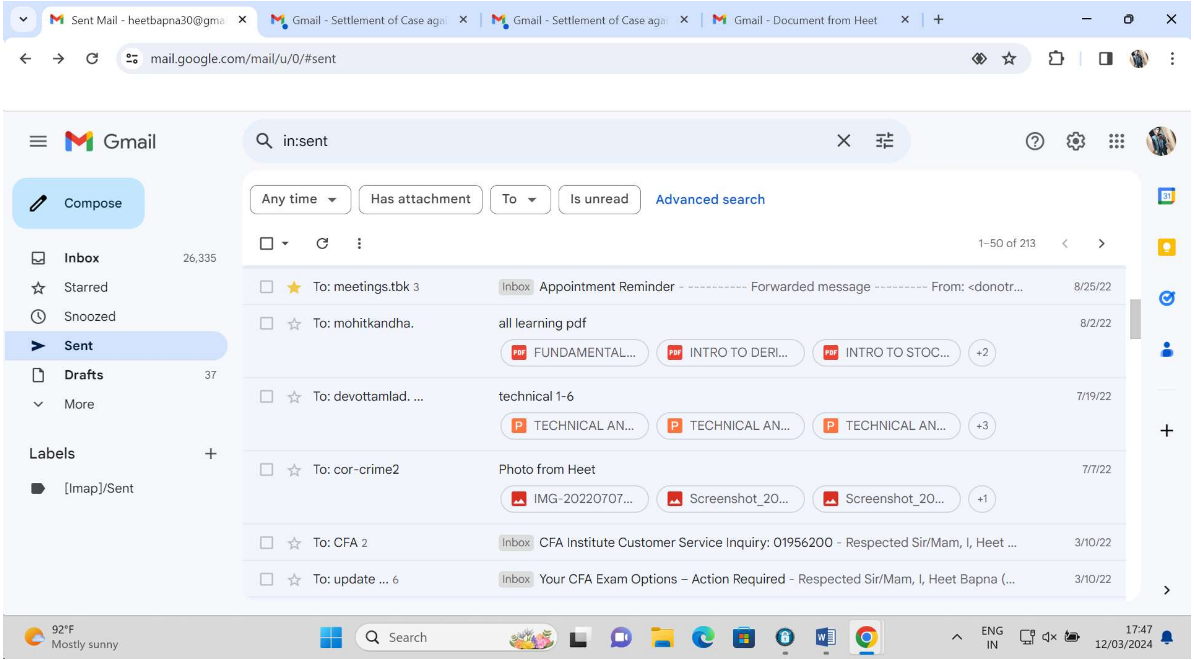
".

21. I note that following screenshots from email id i.e, heetbapna30@gmail.com had inter alia been submitted by the Noticee during the instant proceedings:

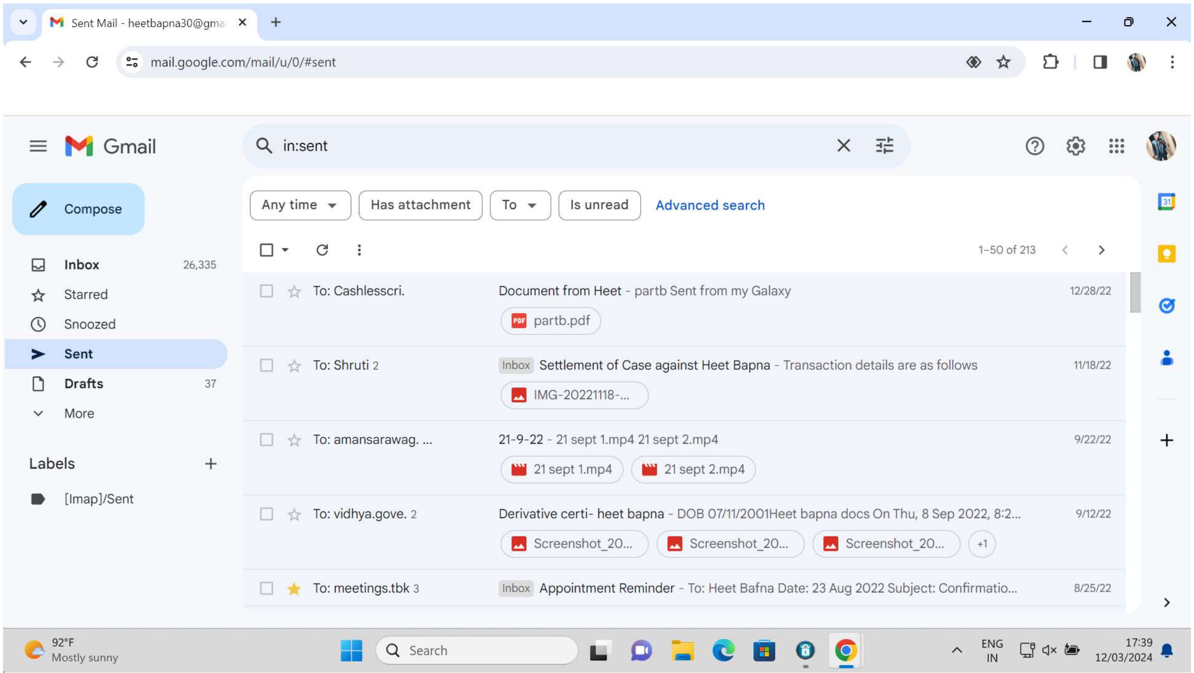
**Screenshot 1**



## Screenshot 2




## Screenshot 3



## Screenshot 4

**Gmail** **Heet Bapna <heetbapna30@gmail.com>**

### Settlement of Case against Heet Bapna

2 messages

**Shruti** <shrutir @gmail.com> Wed, Nov 16, 2022 at 6:10 PM

To: "heetbapna30@gmail.com" <heetbapna30@gmail.com>, "manishbapna2050@gmail.com" <manishbapna2050@gmail.com>

Cc: "Jugal Purohit(GoG-Home Dept)" <cor-crime2@gujarat.gov.in>

Hi Heet/manish Bapna,

## Screenshot 5

**Heet Bapna** <heetbapna30@gmail.com> Fri, Nov 18, 2022 at 4:28 PM

To: Shruti <shrutir @gmail.com>

Transaction details are as follows

[Quoted text hidden]


**IMG-20221118-WA0002.jpg**

72K

## Screenshot 6

3/12/24, 5:40 PM Gmail - Document from Heet

**Gmail** **Heet Bapna <heetbapna30@gmail.com>**

### Document from Heet

1 message

**heetbapna30** <heetbapna30@gmail.com> Wed, Dec 28, 2022 at 4:24 PM

To: Cashlesscriticarejuhu@gmail.com

partb

Sent from my Galaxy

**partb.pdf**

418K

22. In this regard, following is inter alia noted from the Screenshots 1 to 6 above:

22.1. Screenshot 1, is the inbox of the Noticee's email, wherein inter alia two emails dated May 24, 2022 and June 13, 2022 titled 'Summons for Appearance in Person and Furnishing Information.." are reflected, these emails contain the Summons in question in the present proceedings.

22.2. Screenshot 2 and Screenshot 3, are the sent folder of the Noticee's email, wherein emails sent by the Noticee on March 10, 2022 (two emails), July 7, 2022, July 19, 2022, August 02, 2022, August 25, 2022, September 12, 2022, September 22, 2022, November 18, 2022 and December 28, 2022 are reflected.

22.3. Screenshot 4 is the email received by Noticee from the Complainant titled 'Settlement of Case against Heet bapna' dated November 16, 2022.

22.4. Screenshot 5 is the email sent by the Noticee to the Complainant, dated November 18, 2022 containing the transaction details.

22.5. Screenshot 6 is the email sent by the Noticee, dated December 28, 2022 containing some attachment 'parthb.pdf' reflecting that Noticee was communicating /using said email id as late as during December 2022. In this regard, I note that the Noticee as part of his submissions had inter alia contented that, ' … I purchase new iPhone in place of my Samsung Android phone due to accidental damage. …', however as can be seen from the contents of screenshot 3 and screenshot 6, the email sent on December 28, 2022 had signatures appended containing words, 'Sent from my Galaxy', reflecting said email was sent using a Samsung Galaxy Phone.

23. In this regard, firstly I note that the submissions of the Noticee are in nature of admission in so far as Noticee as part of the submissions vide letter dated March 15, 2024 as reply to the SCN has inter alia also submitted, *"… I was unable to duly comply with the requirements of various notices issued by SEBI upon me and for which I request your good office to take a lenient view in relation to the same … ".*

24. I note that Noticee has inter alia contended that "*the screenshot of the inbox of my email account was taken and submitted to your good office which clearly shows that I had not opened the said notices which was received on my old email address.".*

25. In this regard I note that it is not unusual to mark any read mail as unread. This submission by itself, in my view, may not as such be convincing enough firstly because marking any email as unread from read is nothing complex or unusual and instead is a general feature available with any email service and secondly considering that there were emails sent from the said email id of the Noticee post the dates of receipt of Summons by email, as also dealt with in detail under relevant paragraphs dealing with the said aspect.

26. I note that Noticee as part of his submissions vide letter dated March 15, 2024 has also contented that:

> *"*
>
> *….*
>
> *the said notices were also sent to me on my email address as mentioned in the SCN. I submit that even though the said notices were issued to me on my email address being heetbapna30@gmail.com, being the old email address. However, I was not in the habit of actually opening the emails received by me on the said email address and almost all the mails in my mailbox are unread in nature. Further, in October 2021, when I purchased a new mobile phone being an iPhone 13, I created a new email address being heetbapna0@gmail.com, which then became my main email address and accordingly, I completely stopped using my old email address, save and except few emails I had sent to Ms. Shruti, being the complainant when the dispute between her and me was resolved/settled and I had refunded the money paid by her as investment advisory fees and for the losses incurred by her. A copy of the invoice dated 30th October 2021 evidencing the purchase of Iphone13 is enclosed hereto, as Annexure-4, for your ready reference. Further reason for new mail iD being created is operating system of phones i.e Android and IOS.*
>
> *Since the record of SEBI reflects that said notices were duly served upon me, it is pertinent for me to clarify that it was for the reasons as stated above, I was unaware about the said*

*notices being delivered on my old residential address and old email address and consequently I remained absent on the respective dates of hearing. This resulted in the issuance of present SCN for violation of Section 11(2) (ia) r/w section 11 (3) (ii) of the SEBI Act.*

*….*

*"*

.

27. In this regard, I note that Noticee has inter alia contended that he was not in the habit of actually opening the emails received by him is left belied in so far as there were emails sent by the Noticee as late as during December 2022 which was about six /seven months post issuance of Summons dated May 23, 2022 and June 13, 2022. In any case, otherwise too, in my opinion, such a contention cannot be considered a valid defense.

28. Further in this regard, as regards the contentions of the Noticee that he had stopped using his email heetbapna30@gmail.com, the email id at which summons had been sent and that the entire procedure for recovery of the password of said email, i.e. heetbapna30@gmail.com was done on 12th March 2024, I note from the copies of the screenshot of the sent folder pertaining to email id heetbapna30@gmail.com that Noticee was using the said email id at least as late as during December 2022 (email to complainant sent on November 18, 2022), which is six /seven months post the date of issue of Summons dated May 23, 2022 and Summons dated June 13, 2022.

29. I also note that Noticee while contending that, *' … in October 2021, … I purchased a new mobile phone … , I created a new email address … which then became my main email address and accordingly, I completely stopped using my old email address, …'*, has inter alia also contended /qualified his submissions by adding that, *' … save and except few emails I had sent to … the complainant …* ". That along with its contention of having completely stopped using old email id and also simultaneously qualifying the same that few

emails had been sent evidently is reflects that the submissions of the Noticee in this regard are duplicitous in nature.

30. I note that Noticee has inter alia also contended that new email id was created owing to different operating systems of phones in so far as Noticee as part of his submissions has inter alia stated that, ‘ … reason for new mail iD being created is operating system of phones i.e Android and IOS … ’. In my opinion the contention of Noticee in this regard is misplaced in so far generally speaking email id’s are independent of operating systems and there is no such precondition about requirement of creating a new email id for a phone having different OS.

31. Further in this regard, as regards Summons sent by SPAD, I note that the Noticee as part of his submissions has inter alia contended that:

> *“… various notices were issued to me at my previous address i.e. C-408, Green Avenue, Near Union Park, Ghod Dod Road, Surat City, Surat, SVR College, Gujarat – 395007. It is pertinent to bring to your kind attention that I along with my family shifted from this rented address and have been residing at Dream Heritage, Vip road, Vesu, Surat, since the year 2018. A copy of the sale deed dated 16/12/2016 is enclosed hereto, as Annexure-1, for your ready reference, also the proof of the property bill , dated 28/8/2018 is enclosed hereto, as Annexure-2.*
>
> *In view of the address change, I was unaware of the various notices issued upon me by SEBI, and it was only on 22/10/2023 when I came to know that a complaint against me was filed with SEBI and infact there were various show cause notices issued by SEBI. In fact I am attaching the screen shot when I tried to change my address in Aadhar which got failed (Annexure 3)*
>
> *…”.*

32. In this regard, firstly I note from the material available on record that the Summons dated May 23, 2022 and the Summons dated June 13, 2022 were sent to the Noticee not only by SPAD at his postal address as available on record but also by emails. Further in this regard, I note from material available on record that the Summons dated May 23, 2022 sent to the Noticee by SPAD, was delivered at the postal address of the Noticee which was the address as mentioned in the copy of Aadhar Card and Passport of the Noticee, as available on record. This has already been brought out in detail in the foregoing.

33. I also note that Noticee's claim that he had not received the said summons due to change of address is only supported by document provided by him of his father occupying a new premises. In this regard, I am of the view, that Noticee's submission of the said evidence pertaining to occupation of new premises by his father is not a sufficient proof to establish that the Noticee had vacated from his last known address in so far as occupation of new premises by his father and shifting from an address could be two distinct aspects and shifting from existing address need not be a precondition for occupying new premises.

34. Further in this regard, I note that the Noticee has not provided relevant and complete details regarding his shifting, like credentials of the landlord, copy of rent agreement inter alia reflecting tenure of rental period etc., intimation /notice of termination / other important related aspects like documents relating to shifting of telephone numbers / shifting of gas connection / shifting of electricity connection etc. Generally speaking, when someone shifts from a rented premises, there would be notice and /or intimation given to the landlord regarding vacation of rented premises, there would be change of addresses in respect of telephone / gas connection / electricity etc., / copy of bank statements as there would be debits in the bank account with regard to rental payments which post shifting /vacating would have stopped / there could be record in terms of income tax deductions with regard to rent payments in income tax returns relevant to the period of rental and no entry in respect of such deductions with regard to rent payment in income tax returns relating to period subsequent to having shifted. In short, Noticee has not satisfactorily demonstrated about not living and /or not having access to the communications received at the said address during the period when the Summons dated May 23, 2022 and Summons dated June 13, 2022, being subject matter of alleged violations in the instant proceedings, were served. In view thereof, the contention of the Noticee in this regard being lacking is devoid of merit and hence cannot be accepted.

35. In view thereof, the allegation that the Noticee failed to comply with the Summons dated May 23, 2022 and June 13, 2022 issued, resulting in hampering the examination, stands established. Accordingly, I hold that the Noticee has violated the provisions of Section 11(2)(ia) read with 11(3)(ii) of the SEBI Act, 1992.

**Issue No. II: If yes, whether the failure on the part of the Noticee would attract monetary penalty under Section 15A (a) of SEBI Act, 1992?**

36. It has been established in the foregoing that the Noticee failed to comply with the Summons dated May 23, 2022 and June 13, 2022, accordingly the Noticee had violated provisions of Section 11(2) (ia) read with 11 (3) (ii) of the SEBI Act.

37. In this regard, reliance is placed upon the order of the Hon'ble Supreme Court of India in the matter of Chairman, SEBI vs Shri Ram Mutual Fund [2006] 68 SCL 216(SC), wherein the Hon'ble Supreme Court had *inter alia* 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 ….."*
> *.*

38. In view thereof, I conclude that Noticee is liable for monetary penalty under Section 15A(a) of the SEBI Act 1992, which reads as under:

> ***SEBI Act, 1992***
>
> *"….*
>
> ***Penalty for failure to furnish information, return, etc.***
> ***15A.*** *If any person, who is required under this Act or any rules or regulations made thereunder,— (a) to furnish any document, return or report to the Board, fails to furnish the same or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents], he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;*
> *….".*

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

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

> **SEBI Act**
>
> *"…*
>
> ***Factors to be taken into account while adjudging quantum of penalty.***
>
> ***15J.*** *While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely:—*
>
> *a. the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
>
> *b. the amount of loss caused to an investor or group of investors as a result of the default;*
>
> *c. the repetitive nature of the default.*
>
> *Explanation.—For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.*
>
> *…"*

40. In the instant case, I note that the material available on record does not quantify any disproportionate gain or unfair advantage or consequent loss caused to investors or profit made by the Noticee as a result of the violations committed by the Noticee. Further, there is nothing on record to show that the violations committed by the Noticee are repetitive in nature. However, I note that directions inter alia under Sections 11(1), 11(4), 11(4A), 11B(1), 11B(2) and 11D have been passed in respect of the Noticee vide Order No. QJA/AA/WRO/WRO/30066/2023-24 dated February 29, 2024. Also, I cannot ignore that the Noticee's failure to comply with the summons had resulted in hampering the examination by SEBI.

## E. ORDER

41. After taking into consideration the facts and circumstances of the case, material available on record, submissions made by the Noticee and also the factors mentioned in the preceding paragraphs, in exercise of the powers conferred upon me under section 15-I of the SEBI Act, 1992 read with Rule 5 of the SEBI Adjudication Rules, I hereby impose penalty as per details in table below for the

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

| Name of Noticee | Penalty Under Provisions | Penalty Amount (Rs.) |
|---|---|---|
| Heet Manish Bapna alias Heet Manish Bafna (Proprietor of Standard Chartists) | Section 15A(a) of SEBI Act,1992 | 5,00,000/- (Five Lakhs Only) |

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

ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW

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

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

**DATE: March 26, 2024**
**PLACE: MUMBAI**

**AMAR NAVLANI**
**ADJUDICATING OFFICER**