BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/HG/2022-23/22975]

UNDER SECTION 15-I OF THE 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:

Hanif Kasambhai Shekh

(PAN: CBEPS9710A)

In the matter of V B Industries Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') received complaints relating to several SMS which were circulated on May 07, 2018 with the recommendation of buying of shares of V B Industries Limited (hereinafter referred to as "**VBIL/ Company/ by name**"). Thereafter, SEBI conducted an investigation in the scrip of VBIL for the period April 09, 2018 to May 16, 2018 (hereinafter referred to as '**Investigation period/ IP'**). The focus of the investigation was to ascertain whether there were any violations of any of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations'**) or the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') relating to the trading in the scrip of VBIL during the aforesaid investigation period. The scrip of the company is listed on BSE Ltd (hereinafter referred to as '**BSE'**) and Calcutta Stock Exchange (hereinafter referred to as '**CSE'**). The scrip of the company is currently suspended for trading on BSE.

2. During the course of investigation, it was observed that the said bulk SMS were sent from the header HP-ACURAT. It was also observed that some of the SMS /tips/ recommendations were also sent from website www.accurateinv.com which is not active now. During the investigation, the Investigating Authority (hereinafter referred to as '**IA**') appointed by SEBI in the matter, called upon Hanif Kasambhai Shekh (hereinafter referred to as "**Noticee**") to provide certain information/details through summonses. However, it was observed that Noticee had not co-operated during investigation and failed to provide the documents/ information requisitioned by the IA and thereby hampered the process of investigation. In view of the same, it was alleged that Noticee has violated Section 11C (3) of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

3. Vide order dated June 23, 2021 and communique dated December 02, 2021, SEBI appointed the undersigned as the Adjudicating Officer ('**AO**') under Section 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) read with Section 19 of SEBI Act to inquire into and adjudge under the provisions of Section 15A(a) of SEBI Act, the aforesaid alleged violation by Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A show-cause notice dated July 13, 2022 (hereinafter referred to as '**SCN**') was issued to Noticee under the provisions of Rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against Noticee and penalty, if any, not be imposed upon him under the provisions of Section 15A(a) of SEBI Act for the aforesaid violation alleged to have been committed by Noticee.

5. The allegations levelled against Noticee in the SCN are as under:

    a) Summons dated January 09, 2020 and February 12, 2020 and subsequent reminders were issued to Noticee on the available addresses. The details are placed below:

Sr. No.	Summon No.	Summon Date	Address	Delivery Status
1.	IVD/ID11/OW/P/2020/ 1350/1	09/01/2020	Mr Hanifbhai Sheikh Bloodbank Pasec, Sardar Nagar, Bhavnagar, Gujarat - 364001	Returned undelivered with remarks "insufficient address"
2.	IVD/ID11/OW/P/2020/ 1352/1		Mr Hanifbhai Sheikh Plot no. 587/B, Rehmant Royal, Flat no. 102, Bhilwada Circle, Bhavnagar, Gujarat - 364001	Returned undelivered with remarks "addressee left without instructions"
3.	IVD/ID11/OW/P/2020/ 5780/1 **(Annexure-2)**	12/02/2020	Mr Hanifbhai Sheikh Near Gurjat Travels, Sarpathni Road, Bhavnagar, GJ - 364001	Returned undelivered with remarks "insufficient address"
4.	IVD/ID11/OW/P/2020/ 6529/1 **(Annexure-3)** (Reminder to Summon dated 12/02/2020)	18/02/2020	Mr Hanifbhai Sheikh Near Gurjat Travels, Sarpathni Road, Bhavnagar, GJ - 364001	Delivered on 24/02/2020 (India Post POD and web-delivery receipt EM949347135IN) **(Annexure-4)**
5.	IVD/ID11/OW/P/2020/ 7617/1 (Reminder to Summon dated 12/02/2020)	27/02/2020	Mr Hanifbhai Sheikh Near Gurjat Travels, Sarpathni Road, Bhavnagar, GJ - 364001	Returned undelivered with remarks "addressee left without instructions"

b) It was observed that, the reminder letter dated February 18, 2020 forwarding the Summons dated February 12, 2020 was delivered to the addressee viz. Noticee. However, no reply was received from him.

c) Summons dated October 09, 2020 and reminder Summons dated November 05, 2020 and November 20, 2020 were issued to Noticee on the available address. The details of the Summons are placed below:

Sr. No.	Summon No.	Summon Date	Address	Delivery Status
1.	IVD/ID11/OW/P/2020/ 16852/1	09/10/2020	Mr. Hanif Kasambhai Shekh Managing Director, Robert Resources Limited, 3 Rd Floor, Plot No 1067, Opp. Bindu Nivas, Kaliyabid Road, Bhavnagar, Gujarat – 364001 Email: robertresourceslimited@gmail.com	Returned undelivered with remark ""office shifted".
2.	IVD/ID11/OW/P/2020/ 16852/2		Mr. Hanif Kasambhai Shekh Partner, Sai Metaltech LLP Pl. No. 1280, Sh. No. G/F 9, Eva Surbhi Waghwadi Road, Bhavnagar, Gujarat – 364002 Email: hanif@bansalonline.com	Delivered on 16/10/2020 (India Post web-delivery receipt - EM123350285IN) **(Annexure- 10)**
3.	IVD/ID11/OW/P/2020/ 18682/1 (1st Reminder Summon)	05/11/2020	Mr. Hanif Kasambhai Shekh Partner, Sai Metaltech LLP Pl. No. 1280, Sh. No. G/F 9, Eva Surbhi Waghwadi Road, Bhavnagar, Gujarat – 364002 Email: hanif@bansalonline.com	Delivered on 11/11/2020 (India Post web-delivery receipt and physical POD - EM123363258IN) **(Annexure – 11)**
4.	IVD/ID11/OW/P/2020/ 19748/1 (2st Reminder Summon)	20/11/2020	Mr. Hanif Kasambhai Shekh Partner, Sai Metaltech LLP Pl. No. 1280, Sh. No. G/F 9, Eva Surbhi Waghwadi Road, Bhavnagar, Gujarat – 364002 Email: hanif@bansalonline.com	Delivered on 26/11/2020 (India Post web-delivery receipt - EM123374318IN) **(Annexure – 12)**

d) It was observed that the Summons dated October 09, 2020 and reminder Summons dated November 05, 2020 and November 20, 2020 were delivered Noticee, however, no reply was received from him.

e) It is observed that the information sought from the Noticee vide the above-mentioned Summons was crucial for further investigation into the creation and operating the website viz. www.accurateinv.com and his association/connection with the abovementioned exit providers and other entities involved in manipulation of the scrip of VBIL. Thus, the non-submission of the information/documents by the Noticee has hampered the investigation.

f) In view of the above, it is alleged that the Noticee has failed to furnish the documents/ information as sought under Summons/reminder summons issued u/s 11C (3) of the SEBI Act and thus not complied with the said Summons. Accordingly, the Noticee is alleged to have violated the provisions of Section 11C (3) of SEBI Act.

6. The SCN was sent to Noticee through Speed Post Acknowledgement Due (herein after referred to as '**SPAD**') as well as digitally signed email dated July 13, 2022 and was duly served on Noticee. Noticee was granted fifteen days (15) time to submit his reply to the SCN. Vide email dated July 23, 2022, Noticee made his submission in respect of the charges in the SCN.

7. Thereafter, in the interest of natural justice, vide hearing notice dated October 31, 2022, Noticee was granted an opportunity of personal hearing before the undersigned on November 11, 2022. The hearing notice was sent to the Noticee through SPAD as well as digitally signed email dated November 02, 2022 and was duly served on Noticee. However, due to official exigencies, hearing could not be conducted on the scheduled date. Therefore, vide email dated November 14, 2022, Noticee was granted another opportunity of personal hearing before the undersigned on November 14, 2022. Noticee appeared for hearing on the scheduled date and reiterated the submissions by him vide his earlier email dated July 23, 2022. During the hearing, Noticee requested for additional time till November 15, 2022 for submitting additional reply to SCN. The request of Noticee

was acceded to and Noticee was granted time till November 15, 2022 to file additional reply. However, no additional reply has been received from Noticee till the date of this order. Due to difficulties in view of the Covid-19 pandemic, hearing was conducted through video conferencing.

8. The submissions by Noticee are summarized hereunder:

a) *Noticee begged sorry for not responding to the summons he had received in the past, due to some personal issues. He stated that he will be available henceforth and ready to cooperate whenever requires*

b) *He was the first one who reported the scam to BSE from his other email id, helpingyouindia@yahoo.com. However, the investigation was going against him because the same SMS provider gave false information to save the real culprits and frame him. They all are providing false information in order to divert the investigation away from the true perpetrators and frame innocent people like him, who is the actual complainant of such scams.*

c) *Mr. Nilesh Jagetiya, Mr. Ashlesh Shah, Mr. Hitesh Rupareliya and Mr. Rahul Bhaushali are the kingpins of all the stock market sms scams in India. The general price of the bulk sms is Rs. 0.10 per sms, but these guys pay Rs. 0.15 or Rs. 0.20 per sms. Therefore, these SMS providers do not ask for any documents or papers from them. They do all the payments in cash via Angadiya/Hawala. Therefore, when SEBI or any other authority ask for the details, they give his name as they obey the orders of these kingpins because they are getting good earnings from them and also they want to continue doing business with them in future. They know his name and number, so they can put it or give it anywhere as it is their own software and system and they can change or modify it, but they will not have any proper evidence.*

d) *Like those SMS providers, Mr. Rakesh is also bound to give his name as instructed by these kingpins, but they will not be able to provide any proper documents which can prove that he is part of the scam. When they are earning millions of rupees from helping these scamsters, they will obviously not give* *their real name. They will give only his name because he is sending complaints for all their scams.*

e) *It was also mentioned in SCN that there are some shareholders in his company who traded in this script. His clarification is that he has no control over their investments in any manner and he does not know them personally. He has no idea about it and he never instructed any of them to buy or sell any stock. Only they can give an answer to it.*

f) *He had never created the website nor given any buy recommendation on VB Industries ever.*

CONSIDERATION OF ISSUES AND FINDINGS

9. I have carefully perused the charges levelled against Noticee, the material available on record and replies/submissions filed by Noticee. I now proceed to deal with the case on merits. The issues that arise for consideration in the present case are:

    I. Whether the Noticee has violated the provision of Section 11C (3) of SEBI Act?

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

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

Issue No.9(I) - Whether the Noticee has violated the provision of Section 11C (3) of SEBI Act?

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

SEBI Act, 1992

Investigation.

11C (3) *The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.*

11. It has been alleged in the SCN that Noticee has violated Section 11C (3) of SEBI Act. I note from the available record that during the investigation, IA had sought details from Noticee under Section 11(2), (3) and Section 11C (3) of SEBI Act vide summons dated January 09, 2020 and the last date to submit the reply was January 16, 2020. The information/document sought by IA in the aforesaid summons are reproduced hereunder:

a) *Provide your full name, occupation, residential address, email-ID, contact number and PAN.*

b) *Are you related to the company, V.B Industries Ltd., its promoters/directors/employees in any way? If yes, provide the details of the same.*

c) *How do you know Mr. Bhavinkumar Pandya? If yes, please explain.*

d) *Why have you created the website www.accurateinv.com on the godaddy.com platform? How much money did you receive from the company, V.B Industries Ltd in this regard?*

e) *Why did you instruct Mr. Bhavinkumar Pandya to make payment to godaady.com on February 13, 2018 for Rs. 801.14/-? Did you compensate him? If yes, provide the payment details alongwith documentary evidence.*

f) *What was the basis of giving buy recommendation in the scrip of V.B Industries Ltd on www.accurateinv.com during the period April 25, 2018 to May 15, 2018? Explain in detail.*

g) *Did you deal in the shares of V.B Industries Ltd during the period January 1, 2018 to May 15, 2018? If yes, provide your trading details including number of shares purchased, purchase price, number of shares sold, sale price, date of transaction, name of the broker etc.*

h) *Provide the mode of placing the order for such advisory/recommendations to www.accurateinv.com.*

i) *Do you know Mr. Vishal Gujrar, Mr Rathod Mangalbhai Valabhai, Mr Ashish Ravibhai Bhua, Mr Kunal Shah, Rakesh Bhatt and Mamta Rani? If yes, provide the nature of relationship.*

j) *Provide all you bank account number along with bank name and branch address.*

k) *Any other information would like to provide in the matter*.

12. I note that the aforesaid summons was sent to two available addresses of Noticee and the same were returned undelivered with the remarks "*insufficient address*" and "*addressee left without instructions*". The details w.r.t the delivery status of aforesaid summons is summarized below:

Sr. No.	Summon No.	Summon Date	Address	Delivery Status
1.	IVD/ID11/OW/P/2020/1350/1	09/01/2020	Mr Hanifbhai Sheikh Bloodbank Pasec, Sardar Nagar, Bhavnagar, Gujarat - 364001	Returned undelivered with remarks "insufficient address"
2.	IVD/ID11/OW/P/2020/1352/1		Mr Hanifbhai Sheikh Plot no. 587/B, Rehmant Royal, Flat no. 102, Bhilwada Circle, Bhavnagar, Gujarat - 364001	Returned undelivered with remarks "addressee left without instructions"

Therefore, I find that the said summons was not served on Noticee.

13. From the investigation report, I note that IA had issued another summons dated February 12, 2020 to Noticee under Section 11(2), (3) and Section 11C (3) of SEBI Act at his alternate address i.e. Near Gujrat Travels, Sarpatni Road, Bhavnagar – 364001, Gujarat. Noticee was granted time till February 17, 2020 for submitting the reply to summons. The information/document sought vide the said summons is given below:

a) *Provide your full name, occupation, residential address, email-ID, contact number and PAN.*

b) *Are you related to the company, V.B Industries Ltd., its promoters/directors/employees in any way? If yes, provide the details of the same.*

c) *How do you know/related/associated with Mr. Vishal Shah and Rakesh Natwarlal Bhatt? Please provide the detailed reply.*

d) *How much amount did you pay them for payment/creation/booking of website on godaddy.com? Why have you created the website www.accurateinv.com on the godaddy.com platform? How much money did you receive from the company, V B Industries Ltd. or its agents or other persons in this regard?*

e) *Who was the end-user/ultimate client who approached you for the creation/booking of the website? Please provide his/her/it name, address, email, PAN etc.*

f) *What was the exact recommendation/tips related to V B Industries Ltd. given on www.accurateinv.com during the period April 9, 2018 to May 16, 2018?*

g) *Why did Vishal Shah/Rakesh Natwarlal Bhatt made payment to godaddy.com on April 22, 2018 for Rs. 580.14/-? How much amount did you pay to them for the said service? If yes, provide the payment made to him with documentary evidence in the scrip of V B Industries Ltd.*

h) *Have you made any other payment to godaddy.com or any other service provider for creation of website or SMS circulation in the scrip of V B Industries Ltd during the period April 25, 2018? If yes, provide the payment details along with documentary evidence.*

i) *What was the basis of giving buy recommendation in the scrip of V B Industries Ltd on www.accurateinv.com during the period April 9, 2018 to May 16, 2018? Explain the details.*

j) *Did you deal in the shares of V B Industries Ltd during the period April 9, 2018 to May 16, 2018? If yes, provide your trading details including number of shares purchased, purchase price, number of shares sold, sale price, date of transaction, name of the broker etc.*

k) *Who was putting/uploading/placing the advisory/recommendations on www.accurateinv.com*

l) *What was your role in operation/maintenance of the website www.accurateinv.com?*

m) *When the domain of the said website or website expired? Please explain the reason for the same.*

n) *Do you know or related/associated with following entity/person and/or its promoters/directors/employees in any manner:*

   i. *Daksh Infosoft Pvt. Ltd.*
   ii. *Dreamgains Financials India Pvt. Ltd.*
   iii. *Walkover Web Solution Pvt. Ltd.*
   iv. Newrise Technosys Pvt. Ltd.
   v. Sumit Khandewal of Daksh Infosoft Pvt.Ltd.
   vi. Kunal Shah, Compliance Officer, Dreamgains Financials India Pvt. Ltd.
   vii. Chinmay Daga, Walkover Web Solution Pvt. Ltd.
   viii. Rakesh Dwiwedi (Newrise Technosys Pvt. Ltd.)
   ix. Rathod Mangalbhai Valabhai
   x. Ashish Ravibhai Bhua
   xi. Mamta Rani
   xii. Vishal Gurjar
   xiii. Harshaben Tajeshbhai Joshi
   xiv. *Saurabh Mahendrabhai Shah*

   If yes, provide the nature of relation/association with aforesaid entities.

o) *Provide all your active bank account number along with bank name and branch address for the period April 09, 2018 to May 16, 2018.*

p) *Any other information would like to provide in the matter.*

14. However, no reply was received from Noticee within the stipulated time and another reminder to summons dated February 12, 2020 was issued to Noticee vide letter dated February 18, 2020 and Noticee was granted time till February 24, 2020 to submit the reply to the same.

15. I note from the delivery status obtained by SEBI from India Post website that the summons issued to Noticee on February 12, 2020, was returned undelivered with

the remark, “insufficient address.” on February 22, 2020. However, I note that reminder letter/ summons issued to Noticee on February 18, 2020 was served upon Noticee and the acknowledgement card signed by Noticee is available on record. However, I note that Noticee failed to provide information/document to SEBI despite receipt of reminder from SEBI.

16. As no reply was received from Noticee, another summons dated October 09, 2020 was issued to Noticee and he was granted time till October 23, 2020 to submit the reply. The information/document sought by IA in the aforesaid summons are reproduced hereunder:

a) *Provide your full name, occupation, residential address, email-ID, contact number and PAN*

b) *Provide the details of all the companies/partnership firms/limited liability partnerships that you or your family members are associated with.*

c) *It is gathered that you are Managing Director in the company viz. Robert Resources Limited and partner in the limited liability partnership viz. Sai Metaltech LLP. In this regard, provide the details of your role in the company/LLP and the date from which you are associated with these entities.*

d) *Are you related to the company viz. V B Industries Ltd, its promoters/directors/employees in any way? If yes, provide the details of the same.*

e) *How are you related/connected with Biz Buddy Media Marketing or its partners viz. Mr. Bhavin Pandya and Mr. Rakesh Bhatt? Please provide the details of the relationship/association and your dealings with them.*

f) *Why have you created the website www.accurateinv.com on the godaddy.com platform? Have you received money from V B Industries Ltd. or its promoters/Directors in this regard? If yes, please provide the details along with documentary evidence.*

g) *Why did you instruct Mr. Bhavinkumar Pandya to make payment to godaddy.com on April 22,2 018 for Rs. 580.14/-? Did you compensate him? I yes, provide the payment details along with documentary evidence.*

h) *Provide the details of the funds transferred by you and/or your related/associated entities as mentioned above to Biz Buddy Media Marketing during September 2017 to March 2018. What were the reason for making these fund transfers to Biz Buddy Media Marketing?*

i) *What was the source of the funds used to make funds transfers to Biz Buddy Media Marketing by you or your related/associated entities? If these funds were received by you or your related/associated entities from other entities, then, what were the reasons for receipt of these funds and what is your relationship with such entities?*

j) *What was the basis of giving buy recommendation in the scrip of V B Industries Ltd on www.accurateinv.com during the period April 25, 2018 to May 15,2 018? Explain in details*

k) *Did you or your related/associated entities deal in the shares of V B Industries Ltd during the period January 01, 2018 to May 15, 2018? If yes, provide your trading details including number of shares purchased/sold, purchase/sale price, date of transaction, name of the broker etc.*

l) *Provide all your bank account numbers along with the bank name.*

m) *Are you or your related/associated entities connected/related/associated directly or indirectly with any of the following entities? If yes, provide the complete details.*

i. *V B Industries*
ii. *Shyam Sundar Parasramka (Director V B Industries)*
iii. *Sandp Ray (Director V B Industries)*
iv. *Johar Pal Singh (Director V B Industries)*
v. *Sangeeta Joshi (Director V B Industries)*
vi. *Saroj Devi Kothari (Director V B Industries)*
vii. *Sumit Khandewal, Daksh Infosoft Pvt Ltd*
viii. *Kunal Shah, Compliance Officer, Dreamgains*
ix. *Chinmay Daga, Walkover Web Solution Pvt Ltd.*
x. *Rakesh Dwiwedi (Newrise Technosys Pvt Ltd)*
xi. *Rathod Mangalbhai Valabhai*
xii. *Ashish Ravibhai Bhua*

xiii. *Mamta Rani*
xiv. *Darshwana Trading Private Limited*
xv. *Samudhita Sales Private Limited*
xvi. *Onceover Dealtrade Pvt Ltd*
xvii. *Sandarshika Vanijya Private Limited*
xviii. *Outstripe Suppliers Pvt Ltd*
xix. *Nextel Garments Private Limited*
xx. *Goldensight Vinimay Pvt Ltd*
xxi. *Vishal Shah*
xxii. *Sukun Enterprise (Prop: Pavar Dipak Bhai)*
xxiii. *Milan Corporation (Prop: Milan D Patel)*
xxiv. *Chavda Minesh Nathusinh*
xxv. *Vishal Enterprise (Prop: Vishal Nikulbhai CHunara)*
xxvi. *Sun Overseas (Prop: Nainesh Shah)*
xxvii. *M K Corporation (Prop: Naineshbhai Natvarlal Shah)*
xxviii. *Sahyog Corporation (Prop: Avtaar Mahesh Bhai Chauhan)*
xxix. *Akshat Enterprsie (Prop: Ashish Yogendra Pandya)*
xxx. *Global Enterprises (Prop: Anil Tondon)*

n) *Any other information you would like to submit in the matter*.

17. The said summons dated October 09, 2020 was sent to 2 addresses of Noticee, i.e. (i)Mr. Hanif Kasambhai Shekh, Managing Director, Robert Resources Limited, 3rd Floor, Plot No 1067, Opp. Bindu Nivas, Kaliyabid Road, Bhavnagar, Gujarat – 364001 and (ii) Mr. Hanif Kasambhai Shekh, Partner, Sai Metaltech LLP, Pl. No. 1280, Sh. No. G/F 9, Eva Surbhi Waghwadi Road, Bhavnagar, Gujarat – 364002. From the documents available on record, I note that summons dated October 09, 2020 was served upon Noticee at the second address i.e. Sai Metaltech LLP, Pl. No. 1280, Sh. No. G/F 9, Eva Surbhi Waghwadi Road, Bhavnagar, Gujarat – 364002. The copy of the delivery status taken from India Post website is available on record. However, Noticee still failed to provide any information/document to SEBI.

18. I note from the material available on record that, as Noticee did not provide any reply to summons dated October 09, 2020, a reminder to the said summons was sent to the last known available address of the Noticee on November 05, 2020 and Noticee was granted time till November 12, 2020, for submitting the reply. Records show that the reminder was served upon Noticee on November 11, 2020. The copy of the delivery status taken from India Post website and the signed acknowledgement card by Noticee is also available on record. However, no reply was received from Noticee. Therefore, a second reminder was issued to Noticee on November 20, 2020 and Noticee was granted time till November 27, 2020 for submitting the reply to summons. From the copy of the delivery status taken from India Post website as available on record, I note that the second reminder to summons was served upon Noticee on November 26, 2020. However, Noticee still failed to provide the information/document as required in the summons despite receipt of summons dated October 09, 2020 and reminder to the said summons dated November 05, 2020 and November 20, 2020.

19. Noticee, in his reply to SCN has acknowledged that he failed to provide the information/document as sought by SEBI vide summonses dated February 12, 2020 and October 09, 2020 and reminders summons issued by SEBI, despite receipt of the same.

20. I note that a statutory duty is cast upon Noticee under Section 11C (3) of SEBI Act to comply with and to co-operate with the investigation process and to provide the information/document as may be required by the IA. Once information/document is called for by IA under Section 11C (3) of SEBI Act, it necessarily commands performance of duty by the persons/entity who has been called upon to furnish such information/document. I also observe from the Investigation Report that information/document sought from Noticee vide the aforesaid summonses was crucial for further investigation into the creation and operating the website viz. www.accurateinv.com and his association/ connection with entities involved in the scrip of VBIL and non-submission of the information/document by Noticee has hampered the investigation.

21. From the foregoing observations as well as admission by Noticee himself, I find that Noticee failed to produce/furnish the information/document sought by IA through the repeated summonses dated February 12, 2020 and October 09, 2020 and reminders dated November 05, 2020 and November 20, 2020.

22. In view of the above, I conclude that the allegation that Noticee has violated Section 11C (3) of SEBI Act stands established.

Issue No.9(II) - Does the violation attract monetary penalty under Section 15A(a) of SEBI Act?

23. I note that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that *"In our considered opinion, penalty is attracted as soon as the* contravention *of the statutory obligation as contemplated by the Act and the Regulations is established..….".* Further, Hon'ble SAT, in Appeal No.95/04 vide its order dated August 9, 2004 in Mayfair Paper & Board Pvt. Ltd. V SEBI held that failure to furnish information to the Investigating Authority of SEBI shall attract the penalty prescribed under Section 15A of the SEBI Act. Therefore, in view of the above violations as brought out in the foregoing paragraphs and placing reliance on the aforementioned judgement, I find that Noticee is liable for monetary penalty under Section 15A (a) of SEBI Act.

24. The text of Section 15A(a) of SEBI Act is reproduced below:

SEBI Act

Section 15A (a) of the SEBI Act: 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:

<u>Issue No.9(III) - What would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?</u>

25. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Adjudication Rules, require that while adjudging the quantum of penalty, 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.

26. In the instant matter, from the material on record, it is not possible to quantify the disproportionate gains made by Noticee or the loss caused to investors as a result of the failure on the part of Noticee to honour the summons. However, I note from the Investigation Report that non-submission of information by the Noticee hampered the investigation and in absence of documents/ information sought from the Noticee, certain specific details in the investigation could not be established and the investigation had to be concluded based on the available information/ documents. I am of the view that Noticee's failure to furnish required information to the Investigating Authority reflects the Noticee's disregard for the investigation process of SEBI. I observe that on account of non-cooperation by the Noticee, the investigation was hampered and such default needs to be viewed seriously. I also note that a penalty of Rs. 6 lakhs and Rs. 7 lakhs have been imposed against Noticee in the past for similar violation in the matter of Leading Leasing Finance & Investment Company Limited and Pro Fin Capital Services Limited respectively. I find that despite imposition of penalties by SEBI for similar defaults, Noticee has admittedly continued to violate SEBI’s regulatory provisions, which shows his utter

disregard for adhering to the rules/regulations framed by SEBI and such brazen conduct needs an appropriate penalty.

ORDER

27. Having considered all the facts and circumstances of the case, the material available on record and also the factors mentioned in Section 15J of the SEBI Act, as enumerated above, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only) on Noticee i.e. Hanif Kasambhai Shekh, under the provisions of Section 15A(a) of SEBI Act. I am of the view that the said penalty is commensurate with the lapse/omission on the part of Noticee.

28. Noticee 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, Noticee may contact the support at portalhelp@sebi.gov.in

29. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD – DRA - I, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

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)	

30. 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 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties of Noticee.

31. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee viz. Hanif Kasambhai Shekh and also to SEBI.

Date: January 20, 2023 **SOMA MAJUMDER**

Place: Mumbai **ADJUDICATING OFFICER**