BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/NH/YK/2023-24/30193-30194

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

In respect of:

Noticee	PAN
Steel City Securities Limited	AAECS0970L
Mr. Satish Kumar Arya	ADPPA5763Q

In the matter of Steel City Securities Limited

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") received a complaint in the month of March 2021 against the Steel City Securities Limited (hereinafter referred to as **"Noticee No. 1"**) and its Managing Director viz. Mr. Satish Kumar Arya (hereinafter referred to as **"Noticee No. 2"),** *inter-alia,* raising concerns regarding the authenticity of educational qualifications/certificates of Noticee No. 2. After the receipt of the complaint, SEBI conducted an examination in the matter. Pursuant to examination, it was alleged that Noticee No. 1 had submitted fake/non-genuine B.Com degree certificate from Andhra University of Noticee No. 2 to the stock exchange and failed to exercise due diligence and care in identifying the inconsistencies in submissions made by Noticee No. 2. Therefore, it was alleged that Noticee No. 1 had violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of the SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as "**Brokers Regulations**"). It was further alleged that Noticee No. 2 had submitted his fake/non-genuine B.Com degree certificate from Andhra University to the stock exchange and therefore, alleged to have violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations

read with Section 27 of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**").

APPOINTMENT OF ADJUDICATING OFFICER

2. The undersigned was appointed as the Adjudicating Officer (hereinafter referred to as **"AO"**) vide communique dated November 04, 2022, under Section 19 read with Section 15-I of the SEBI Act and under Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"Adjudication Rules"**) to inquire into and adjudge under Section 15A(a) of the SEBI Act for the aforementioned violations alleged to be committed by the Noticees.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice ref no. SEBI/HO/EAD2/NH/KL/2022/64544 dated December 28, 2022 (hereinafter referred to as **"SCN"**) was served upon the Noticees through Speed Post Acknowledgement Due (**SPAD**) and e-mail under Rule 4 of Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against the Noticees under Section 15A(a) of the SEBI Act for the aforesaid alleged violations.

4. The observations and allegations mentioned in the SCN in respect of the Noticees, *inter-alia*, were as under:
    4.1. *It was observed that during the year 2000, Noticee No. 1 applied for membership as a trading member with BSE. While applying for the said membership, it was observed that the Noticee No. 1 submitted Chartered Accountant certified educational qualifications of Noticee No. 2 which include that Noticee No. 2 has obtained B. Com degree certificate from Andhra University in the year 1992. It is further observed that Noticee No. 2 signed and submitted his biodata and director's form to the stock exchange which contained the details of the aforementioned B. Com degree.*
    4.2. *However, during the course of the examination, it is observed that Noticee No. 1 and Noticee No. 2 denied having any connection with the said B. Com degree certificate of Andhra University in the name of Noticee No. 2, signed and submitted to the stock exchange.*

4.3. *It is further observed that:*

a. Noticee No. 2 accepted that he might have signed and submitted the director's form without verifying the educational qualification contents which mentions B. Com degree of Andhra University.

b. Noticee No. 2 accepted that the aforesaid action was an inadvertent mistake on his part.

4.4. *It was also observed that the Vishakapatnam City Police had registered an FIR No.37/2021 and Charge Sheet no. 4373/2021 was filed with 1st Additional Chief Metropolitan Magistrate at Visakhapatnam against Noticee No. 2. The said Charge Sheet filed by Visakhapatnam City Police stated that "prima facie case was established against Mr. Satish as he cheated the public and shareholders of Noticee with a fraudulent and dishonest intention by utilizing the fake degrees/ certificates viz. Bachelor of Commerce Degree obtained from Andhra University in the year 1992 and fake certificate of Bachelor of Alternative Medicine obtained from Indian Board of Alternative Medicine (IBAM), Kolkata, a university declared fake by University Grants Commission (UGC).*

4.5. *In view of the observations made above, it is alleged that the Noticee No. 2 being a Managing Director of Noticee No.1, submitted signed bio data and directors' details form to the stock exchange, which include details of non-genuine education certificate of Andhra University. In view thereof, it is alleged that Noticee No. 2 failed to exercise due diligence and care in the submissions made to the company and to the Stock Exchange. Therefore, it is alleged that Noticee No. 2 violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of code of conduct for stock brokers as specified in Schedule II of the Brokers Regulations read with Section 27 of the SEBI Act.*

4.6. *It is further alleged that by submitting non-genuine educational certificates of Noticee No. 2 to the stock exchange without verifying the contents of it, the Noticee No. 1 did not exercise due diligence and care and therefore failed to satisfy the conditions of registration mandated under the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct specified under Schedule II of Stock Brokers Regulations. In view thereof, it is alleged that the*

Noticee No. 1 violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of code of conduct for stock brokers as specified in Schedule II of the Stock Brokers Regulations.

5. Post issuance of SCN dated December 28, 2022, following is the sequence of events:

Date	Remark
December 29, 2022	Noticees vide e-mail acknowledged the receipt of SCN .
January 06, 2023	Noticees submitted that they had decided to file an application for settlement under SEBI (Settlement Proceedings) Regulations, 2018 and requested to keep the present proceedings in abeyance until the disposal of the settlement application, to be filed.
January 11, 2023	Noticees were advised to submit reply to SCN, if any, latest by January 19, 2023.
January 19, 2023	Noticees submitted reply to the SCN.
January 21, 2023	Noticees intimated that Settlement application filed on January 21, 2023.
February 16, 2023	Hearing Notice sent through e-mail and SPAD, for hearing scheduled on March 15, 2023.
March 15, 2023	The hearing was conducted. The Authorised Representatives (ARs) of the Noticees reiterated the earlier submissions made by the Noticees vide letter dated January 19, 2023. The ARs requested to provide additional relied upon documents in the matter, if any and requested for additional time to make further submissions in the matter. Noticees were granted time until March 29, 2023 to make additional submissions.
March 27, 2023	Noticees requested for additional time until April 15, 2023 to file their additional submissions. Noticees further requested to keep the present proceedings in abeyance until the disposal of the settlement application filed with SEBI.

March 28, 2023	Additional relied upon documents in the matter sent to Noticees through e-mail.
October 17, 2023	Undersigned was informed by SEBI that the settlement application filed by Noticees have been rejected by the panel of Whole Time Members.
October 20, 2023	Hearing Notice sent to Noticees through e-mail and SPAD, for hearing scheduled on November 09, 2023. Noticees were also advised to file additional submissions, if any, latest by November 06, 2023.
November 06, 2023	Noticees filed additional submissions.
November 07, 2023	Noticees filed additional submissions.
November 09, 2023	The hearing was conducted. The ARs of the Noticees reiterated the earlier submissions made by the Noticees.
December 28, 2023	Fresh documents were sent to undersigned by SEBI to be considered as additional documents/materials in the present proceedings.
January 11, 2024	Noticees filed additional submissions.
January 12, 2024	Noticees filed additional submissions.
January 12, 2024	Fresh documents were sent to undersigned by the SEBI to be considered as additional documents/materials in the present proceedings.
January 16, 2024	In the interest of natural justice, additional documents/materials to be considered in the instant case were sent to Noticees and the Noticees were advised to submit their response, if any, latest by January 22, 2024.
January 20, 2024	Noticees requested for additional time until January 31, 2024 to file their response on additional documents/materials. Noticees also requested for the cross examination and one more opportunity of personal hearing.
January 23, 2024	Noticees were granted time until January 31, 2024 to file their response on the additional documents/materials provided to them vide letter dated January 16, 2024.

January 30, 2024	Noticees filed their response on the additional documents/materials provided to them vide letter dated January 16, 2024 and reiterated their request for the opportunity of cross examination and personal hearing.
February 13, 2024 & February 21, 2024	Vide e-mail dated February 13, 2024 and February 21, 2024, Noticees were granted opportunities of personal hearing on February 21, 2024 and February 29, 2024 respectively as, *inter-alia*, requested by the Noticees in their letter dated January 30, 2024. However, vide letters dated February 14, 2024 and February 22, 2024, Noticees insisted that opportunity of cross examination may be provided prior to personal hearing.
February 27, 2024	Opportunity of cross examination provided to Noticees on March 12, 2024 and Noticees were advised to confirm the same latest by February 28, 2024.
February 28, 2024	Noticees requested for additional 3 days' time to confirm their presence for the cross examination scheduled on March 12, 2024.
March 04, 2024	Noticees submitted Authority letter of the ARs to be present for cross examination scheduled on March 12, 2024.
March 05, 2024	Complainant was advised to present for cross examination scheduled on March 12, 2024.
March 06, 2024	Complainant requested to reschedule the cross examination to March 14, 2024 or March 15, 2024. Request of Complainant was considered and the cross examination was rescheduled to March 14, 2024 and the same was intimated to Complainant and Noticees. Noticees acknowledged the receipt of intimation.
March 14, 2024	Cross examination held and concluded.
March 14, 2024	Noticees were granted opportunity of hearing as requested by them on March 20, 2024.
March 18, 2024	Noticees filed additional submissions pursuant to cross examination of Complainant.

March 20, 2024	Hearing concluded. The ARs of the Noticees reiterated the earlier submissions made by the Noticees. The ARs requested for additional time to make further submissions in the matter. Noticees were granted time until March 22, 2024 to make additional submissions.
March 21, 2024	Noticee No. 2 filed additional submissions

6. The Noticees, vide letters dated January 19, 2023, November 06, 2023, November 07, 2023, January 11, 2024, January 12, 2024, January 30, 2024, March 18, 2024 and March 21, 2024, *inter-alia*, submitted the following replies to the SCN, reproduced in *verbatim*:

"

6.1. *Brief Profile of the Mr. Satish*

a. Mr. Satish completed his higher secondary (equivalent to 12th standard) of the Central Board of Secondary Education in the year 1977.

b. Mr. Satish joined Indian Navy in the year 1978 and took voluntary retirement in the year 1993

c. Mr. Satish obtained degree of Bachelor of Alternative Systems of Medicine (BASM) from Indian Board of Alternative Medicine, Kolkata; Distance mode in the year 2001.

d. Mr. Satish obtained PG Diploma, which was an 18- month course, in Business Administration (PGDBM) from Indian Institute of Management and Technology, Chennai in distance mode in the year 2004. It is one of the few institutions in India to introduce new diploma courses on ISO 9000, QS 14000 under correspondence education.

e. Mr. Satish obtained B.com degree from Kalinga University in the year 2005 with an intention to possess a formal degree in Commerce since he is into the field of Finance after joining Steel City Securities Limited.

f. Mr. Satish obtained a Ph. D from New Age Intemational University in the year 2009.

6.2. *It is humbly submit that the basic minimum Educational Qualification for a director of a trading member of the Exchange. Notably, under last para of Annexure 2 of SCN i.e. Relevant extract of the BSE report as under:*

Quote:

"Based on the submissions made by the Trading member and discussions with other Exchanges, we wish to inform you that as the minimum qualification requirement for a director of a trading member as per the extant process is 12th pass and as there is no question raised on his 12th Pass certificate, Shri Satish Kumar Arya was and is qualified to become designated director of the TM. All additional qualification whether from recognized or unrecognized institution has no bearing on his directorship of the member company as per the extant requirement."

6.3. *We understand that the present proceedings are initiated against us on the basis of complaint filed against us. In this regard, we state that the complainant has approached various forums to settle his personal grievance against Noticee no. 2 viz. Mr. Satish Kumar Arya and has been indulging into forum shopping. He has also filed a criminal complaint with IV Town Police Station, Visakhapatnam bearing Ref. No. Crime No. 37 of 2021. In this regard, we- submit and attach the following:*

i. *A copy of case status. daily Order dated 29.11.2022 and Docket Order dated 29.11.2022 received on 21.01.2023 from Hon'ble Court of Additional Chief Metropolitan Magistrate, Visakhapatnam is hereto annexed and marked as Annexure – 1.*

ii. *A copy of Order 19.10.2022 passed by Hon'ble High Court of Andhra Pradesh (Criminal Petition No. 2369 of 2022) is hereto annexed and marked as Annexure – 2.*

iii. *From the aforesaid Orders, it can be concluded that the Hon'ble Court of Additional. Chief Metropolitan Magistrate Court of JFCM Courts, Visakhapatnam has closed the case registered against Mr. Satish Kumar Arya (Case Number: CC/0004373/2021).*

iv. *It is pertinent to note that pursuant to Order dated 29.11.2022 passed by Hon'ble Court of Additional. Chief Metropolitan Magistrate Court of JFCM Courts, Visakhapatnam, the subject matter has reached its finality and as on date nothing is pending against Mr. Satish Kumar Arya.*

v. *Further, it is also pertinent to note that Mr. Satish Arya had sought legal opinion from Adv. G. Parvateeswara Rao on the FIR 37/2021 and Chargesheet thereon vide C.C. No. 4373/2021. Even, Adv. G. Parvateeswara Rao is of the view that there is no pendency of the allegations against Mr. Satish Arya as all proceedings in C.C. No. 4373/2021 is closed.*

6.4. *In addition to what is stated aforesaid, we would like to submit that the matter pertaining to Charge Sheet No. 3936/2023 (Final Report) filed before The Hon'ble Court of Additional Chief Metropolitan Magistrate at Visakhapatnam is a new matter and till date we have not received any documents or communication pertaining to the same. Therefore, we submit that the matter is pending and the same is Sub-Judice.*

6.5. *w.r.t. allegations as alleged in the SCN and w.r.t. Steel City Capital Services Pvt Ltd and their subsequent amalgamation with Steel City Securities Ltd, we submit as under:*

i. *The Company i.e. Steel City Capital Services Pvt Ltd (**Steel City Capital**) filed Application forms for Corporate and Derivatives membership. The said forms were filed on 08.08.2000.*

ii. *Thereafter, SEBI granted "Certificate of Registration" to Steel City Capital.*

iii. *BSE vide letter dated 12.02.2005 bearing reference no. MEB/ARC/RBP/1445/2005, granted prior approval for merger of Steel City Capital Services Pvt Ltd (BSE Member) and Steel City Holdings Pvt Ltd with Steel City Securities Ltd (NSE Member)*

iv. *Thereafter, Steel City Capital amalgamated with Steel City Securities Ltd pursuant to order dated 24.03.2005 passed by Hon'ble High Court of Andhra Pradesh.*

v. *Thereafter, Steel City Securities Ltd was granted registration as a Stock Broker in Cash Segment by SEBI.*

vi. *Therefore, we submit that Steel City Capital who filed application and relevant documents for obtaining membership of BSE, is no longer in existence.*

vii. *Additionally, Steel City Securities Ltd has filed all the relevant and requisite documents with BSE and no adverse inference w.r.t. the same has been drawn by SEBI or BSE.*

6.6. *In addition to what is stated aforesaid, we would like to submit as under:*

i. *When the two companies amalgamate and merge into one the transferor company i.e. Steel City Capital Services (P) Ltd loses its entity as it ceases to have its business. Further, the corporate entity of Transferor Company ceases to exist with effect from the date the amalgamation is made effective.*

ii. *Additionally, there is complete destruction of corporate personality of the transferor company i.e. in present case Steel City Capital Services (P) Ltd.*

iii. *It is pertinent to note that "fit and proper" is a "Status" and cannot be treated either as an asset or liability. Given the said understanding, of the "fit and proper" status of the Transferor Company does not pass on to the resultant company. Therefore, the alleged consequences of the action of Transferor Company i.e. Steel City Capital Services (P) Ltd cannot be imposed upon the Transferee Company i.e. Steel City Securities.*

iv. *Further, any disqualification of the transferor entity, that gets amalgamated, would not have a bearing on the 'fit and proper' person status of the resultant entity.*

6.7. *In support of our aforesaid submissions, reliance placed on the Orders passed by the Hon'ble Supreme court ("SC") in the matter of Saraswati Industrial Syndicate Ltd., Hon'ble Securities Appellate Tribunal ("SAT") in the matter of S.K.D.C. Consultants Ltd., Ld. Whole Time Member/Ld. Quasi- Judicial Authority, SEBI in the matter of Smart Commodity Brokers Pvt. Ltd., Prudent Comder Pvt. Ltd., Tradebulls Commodities Broking Pvt. Ltd., Aasma Commodities Pvt. Ltd., Aditya Birla Commodities Broking Ltd., Choice Merchandise Broking Pvt. Ltd.*

6.8. *In view of the aforesaid submissions and based on facts and circumstances, we deny that we have violated Clause A(1) and A(2) of Code of Conduct for Stock Brokers as specified in Schedule II of Stock Brokers Regulations. Further, it is also denied that Noticee No. 2 violated Section 27 of the SEBI Act. Further, it is submitted as under:*

i. *<u>Clause A(1) of Code of Conduct or Stock Broker</u>*
We submit that we have maintained highest standard of integrity, promptitude and fairness in the conduct of our business. The Lexicon dictionary defines 'integrity' as 'soundness, moral principles and character as shown by one person dealing with another in making and performing of contracts'

In this regard, we state that, we have conducted our business with utmost integrity and adhered to soundness, moral principles and character as expected to be shown by a broker in handling it's business.

ii. *Clause A(2) of Code of Conduct for Stock Brokers*

We submit that we have exercised due skill, care and diligence in conduct of our business and otherwise.

The word "due diligence" has not been defined in the Code of Conduct. According to Oxford Dictionary (Edition 2006), the word "diligence" means careful and persistent application or effort. "Diligent" means careful and steady in application to one's work and duties, showing care and effort.

As per Black's Law Dictionary (Eighth Edition), "diligence" means a continual effort to accomplish something, care; caution; the attention and care required from a person in a given situation. "Due diligence" means the diligence reasonably expected from and ordinarily exercised by a person who seeks to satisfy a legal requirement or to discharge an obligation.

According to Words and Phrases by Drain-Dyspnea (Permanent Edition 13A) "due diligence", in law, means doing everything reasonable, not everything possible. "Due diligence" means reasonable diligence; it means such diligence as a prudent man would exercise in the conduct of his own affairs.

Clause A (2) of the Code of Conduct mandates that a stock broker shall act with due skill, care and diligence in the conduct of all its business. Such due skill, care and diligence can only mean that broker shall act in such a way that a person of ordinary prudence would act in the normal circumstances in carrying out activities and functions relating to its business and will remain careful and diligent. We have exercised all due skill, care and diligence as a man of ordinary prudence is expected to do in carrying out our business activities.

With regard to the allegations by SEBI, we state that the same is totally errorneous and baseless. In support to our aforesaid submissions, we place reliance on Judgement passed by Hon'ble Supreme Court of India, in the matter of Chander Kanta Bansal V. Rajinder Singh Anand MANU/SC/ 7310/2008: (2008) 5 sec 117 has held as under:

“The words “due diligence" have not been defined in the Code of Civil Procedure, 1908. According to Oxford Dictionary (Edn. 2006), the word “diligence" means

careful and persistent application or effort. "Diligent" means careful and steady in application to one's work and duties, showing care and effort. As per Black's law Dictionary (18th Edn), "Due Diligence" means the diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation. According to Words and Pharses by Drain-Dyspnea (Permanent Edn. 13-A) "due diligence", in law, means doing everything reasonable, not everything possible. "Due Diligence" means reasonable diligence; it means such diligence as a prudent man would exercise in the conduct of his own affairs."

6.9. *Further, we would like to submit that the RPO, Visakhapatnam had also sought clarification w.r.t. documents submitted by Mr. Satish Kumar Arya at the time of passport application. In this regard, please find below the correspondences exchanged between RPO and Mr. Satish Kumar Arya.*

(i) RPO by letter dated 05.07.2023 addressed to Mr. Satish Kumar Arya sought clarification w.r.t. documents submitted for the passport application by Mr. Satish Kumar Arya.

(ii) In response to the aforesaid letter, Mr. Satish Kumar Arya by letter dated 17.07.2023 gave clarification and submitted all the relevant documents.

(iii) Thereafter, RPO by letter dated 24.07.2023 addressed to Mr. Satish Kumar Arya requested him to visit passport office along with certain documents.

(iv) Mr. Satish Kumar Arya by letter dated 01.08.2033 gave detailed clarification and submitted all the requisite documents as mentioned in the said letter. Further, Mr. Satish Kumar Arya also requested RPO to drop all further proceedings in the said matter.

(v) It is pertinent to note that since last communication dated 01.08.2023, no further communication was exchanged between RPO and Mr. Satish Kumar Arya. Further, the passport of Mr. Satish Kumar Arya is perfectly valid and no further action w.r.t. the same has been taken by RPO."

6.10. *Apart from what is stated aforesaid, we would like to submit that the alleged findings in the SCN pertains to the year 2000, which presently is almost 23 years old. However, it is pertinent to note that from the year 2000 till today i.e. 2023, our Company has been* *running smoothly and regularly complying with the all the provisions as applicable to us from time to time.*

6.11. *SEBI vide email dated 05.03.2024 informed us that cross examination shall be limited to the documents relied upon in the SCN and two emails dated 04.12.2023 and 08.01.2024 sent by Mr. Rajagopal Reddy Guduru which are part of SEBI's letter dated 16.01.2024. However, at the time of cross examination, we were directed to restrict our cross examination only in respect to restrict our cross examination only in respect Bachelor of Commerce Degree of 1992 of Andhra University.*

6.12. *On consideration of our aforesaid submissions, and answers given during cross examination we respectfully state that complaints filed and communication provided by Mr. Rajagopal Reddy Guduru are not reliable and ought not be considered in the present proceedings*.

6.13. *Further, the said Application form also contains the Auditor's Certificate dated 03.08.2000 issued by Sudhakar & Kumar Associates, Chartered Accountants whereby they have Certified as under:*

"We certify that STEEL CITY CAPITAL SERVICES Private Limited / ~~Limited~~ is eligible to be elected as a member of the Exchange in terms of rule 19A(b) of the Rules, Bye-laws and Regulations of the Stock Exchange, Bombay.

We further certify that the directors of the company are not disqualified for being members of a stock exchange under clause (1) [except sub-clause (b) and sub-clause (f)] of Rule 8 of the Securities Contracts (Regulations) Rules, 1957, and the directors of the company had not held the offices of detectors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange."

Therefore, it can be said that I as a director of the Company was not disqualified for being member of stock exchange.

6.14. *I submit that at the relevant time, I was only Director (Operations) and Mr. G Sree Rama Murthy was Managing Director and Mr. Rajagopal Reddy Guduru, the Complainant was Executive Director. In my view, Mr. G Sree Rama Murthy and Mr.*

Rajagopal Reddy Guduru had higher responsibility being the Managing Director and Executive Director respectively. I was merely a Director (Operations).

It is pertinent to note that no proceedings have been initiated against Mr. G Sree Rama Murthy, the then Managing Director and Mr. Rajagopal Reddy Guduru, the then Executive Director of Steel City Capital Services (P) Ltd.

7. It is noted that the SCN along with the annexures and the Hearing Notice were duly served on the Noticees. The Noticees were granted sufficient opportunities to make submissions in reply to the SCN, of cross examination and of personal hearing. Thus, the principles of natural justice were adhered to.

CONSIDERATION OF ISSUES

8. After careful perusal of the material on record, I note that the issues that arise for consideration in the present case are as follows:

   I. Whether Noticee No. 1 had violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations?

   II. Whether Noticee No. 2 had violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations read with Section 27 of the SEBI Act?

   III. Does the violation, if any, on the part of Noticees attract a monetary penalty under section 15A(a) of the SEBI Act?

   IV. If so, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act?

9. Before proceeding further, it is pertinent to refer to the relevant provisions of the Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations and Section 27 of the SEBI Act, which are given below:

SECURITIES AND EXCHANGE BOARD OF INDIA (STOCK BROKERS) REGULATIONS, 1992

Conditions of registration.

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

CODE OF CONDUCT FOR STOCK BROKERS

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

SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

Offences by Companies

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director,

manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

10. I will now proceed to deal with the allegations levelled against the Noticees in the SCN, the submissions made by the Noticees and record my observations/findings in the following paragraphs.

Issue I - Whether Noticee No. 1 had violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations?

11. From the material available on record, I note the facts stated in the SCN were that Noticee No. 1 while applying for the membership as a trading member with BSE in the Year 2000 submitted Director's form and Bio-Data form of Noticee No. 2 signed by Noticee No. 2 which include the details of educational qualification as B.Com from Andhra University in the Year 1992. The copy of the said B.Com degree certificate attested by the chartered accountant was also enclosed along with the application. During the course of examination, Noticees denied having any connection with the said B. Com Degree from Andhra University and submitted that Noticee No. 2 might have signed the Bio-Data form and Director's form submitted to Stock Exchange without verifying the Educational Qualification contents in the said forms which mentions B.Com Degree of Andhra University. It was also accepted that the same was an inadvertent mistake on the part of Noticee No. 2.

12. In view of the above, it was alleged against Noticee No. 1 in the SCN that while applying for the membership as a trading member of BSE, Noticee No. 1 had submitted fake/non-genuine B. Com degree certificate of Noticee No. 2 from Andhra University to the Stock Exchange. It was further alleged that by submitting non-genuine educational certificate of Noticee No. 2 to the Stock Exchange, Noticee No. 1 did not exercise due diligence and care.

13. I note that Noticees have, *inter-alia*, submitted various grounds as their defense which are discussed in the following paragraphs under different headings for the ease of discussion:

14. **Amalgamation of Steel City Capital Services Pvt. Ltd. with Steel City Securities Ltd.**

14.1. In response to the SCN, the Noticees in their replies have, *inter-alia,* stated as under:

*"The Company i.e. Steel City Capital Services Pvt Ltd (**Steel City Capital**) filed Application forms for Corporate and Derivatives membership. The said forms were filed on 08.08.2000. Thereafter, Steel City Capital amalgamated with Steel City Securities Ltd pursuant to order dated 24.03.2005 passed by Hon'ble High Court of Andhra Pradesh…………. Therefore, we submit that Steel City Capital who filed application and relevant documents for obtaining membership of BSE, is no longer in existence.*

When the two companies amalgamate and merge into one the transferor company i.e. Steel City Capital Services (P) Ltd loses its entity as it ceases to have its business. Further, the corporate entity of Transferor Company ceases to exist with effect from the date the amalgamation is made effective. Additionally, there is complete destruction of corporate personality of the transferor company i.e. in present case Steel City Capital Services (P) Ltd. It is pertinent to note that "fit and proper" is a "Status" and cannot be treated either as an asset or liability. Given the said understanding, of the "fit and proper" status of the Transferor Company does not pass on to the resultant company. Therefore, the alleged consequences of the action of Transferor Company i.e. Steel City Capital Services (P) Ltd cannot be imposed upon the Transferee Company i.e. Steel City Securities. Further, any disqualification of the transferor entity, that gets amalgamated, would not have a bearing on the 'fit and proper' person status of the resultant entity."

14.2. In this regard, from the perusal of the material available on record, I note that the fact that Steel City Capital Services Pvt. Limited *(which later on amalgamated with Noticee No. 1 pursuant to order dated March 24, 2005 passed by Hon'ble High Court of Andhra Pradesh)* submitted non-genuine educational certificate of Noticee No. 2 to the BSE in Year 2000 while applying for the membership as a trading member with the BSE has not been disputed by the Noticee No. 1. Accordingly, the question that now arises for consideration is whether the present proceedings can be continued against Noticee No. 1 for the violations committed by Steel City Capital Services Pvt. Ltd. prior to Amalgamation.

14.3. In this context, I find it appropriate to refer to the relevant provisions of the Companies Act 1956:

"***394. PROVISIONS FOR FACILITATING RECONSTRUCTION AND AMALGAMATION OF COMPANIES***

(1) Where an application is made to the Court under section 391 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Court –

(a) that the compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of any company or companies, or the amalgamation of any two or more companies; and

(b) that under the scheme the whole or any part of the undertaking, property or liabilities of any company concerned in the scheme (in this section referred to as a "transferor-company") is to be transferred to another company (in this section referred to as "the transferee-company");

The Court may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provision for all or any of the following matters:

(i) the transfer to the transferee-company of the whole or any part of the undertaking, property or liabilities of any transferor-company;"

14.4. From the perusal of the order dated March 24, 2005, passed by Hon'ble High Court of Andhra Pradesh, I note that the said order, *inter-alia*, states as under:

"1. that this court doth hereby sanction the scheme of amalgamation and doth hereby declare the same to be binding on the transferor companies and the transferee company i.e. viz., M/s Steel City Holdings Ltd., and M/s Steel City Capital Services Pvt. Ltd., (Transferor Companies) with M/s Steel City Securities Limited (transferee company)

…………

3. that all the liabilities and duties of the transferor companies be transferred without further act or deed to the transferee company and accordingly the same *shall pursuant to section 394(2) of the Companies Act 1956 be transferred to and become the liabilities and duties of the transferee company."*

14.5. In this context, I would like to further refer to the judgment of Hon'ble Supreme Court of India in the case of *Saraswati Industrial Syndicate v C.I.T. [Judgment dated September 04, 1990*], wherein it was held that *"the true effect and character of the amalgamation largely depends on the terms of the scheme of merger. But there cannot be any doubt that when two companies amalgamate and merge into one the transferor company loses its entity as it ceases to have its business.* ***However, their respective rights and liabilities are determined under scheme of amalgamation*** *but the corporate entity of the transferor company ceases to exist with effect from the date the amalgamation is made effective."* ***[Emphasis Supplied]***

14.6. In view of the above, I note that it is a settled position that the respective rights and liabilities of entities involved in a scheme of amalgamation has to be determined from the Scheme of Amalgamation document. In this regard, it is pertinent to note the following clauses of the Scheme of Amalgamation:

"1.7 Undertaking of the Transferor Company means
b. all the debts, liabilities, duties and obligations of the respective Transferor Companies as on the Appointed Date of whatsoever kind….
3. TRANSFER OF UNDERTAKING
With effect from the Appointed Date, the entire undertaking of the respective Transferor Companies more fully described under Para 1.7 supra, shall, without any further act, deed or order be transferred to and vested in or deemed to have been transferred to or vested in the Transferee Company in accordance with and pursuant to Section 394 of the Act."

14.7. All the submissions of the Noticees regarding amalgamation including case laws have been considered.

14.8. In this context, I note that, in terms of paragraphs 1.7 and 3 of the Scheme of Amalgamation of Steel City Capital Services Pvt. Ltd. with Noticee No. 1, all the debts, liabilities, duties and obligations of Steel City Capital Services Pvt. Ltd. shall stand transferred to Noticee No. 1 so as to become the debts, liabilities, duties and obligations of Noticee No. 1. Accordingly, Noticee No. 1 is liable for all the debts, liabilities, duties and obligations of Steel City Capital Services Pvt. Ltd. prior to Amalgamation. I further note that the Noticee No. 2 whose educational qualification of B.Com from Andhra University was in question in the present proceedings was a director in Steel City Capital Services Pvt. Ltd. at the time of applying for membership of the Stock Exchange. It is pertinent to note that presently Noticee No. 2 holds the position of managing director in Noticee No. 1. Hence, the aforesaid contention of the Noticees that consequences of the action of transferor company i.e. Steel City Capital Services Pvt. Ltd. cannot be imposed upon the transferee company i.e. Noticee No. 1 cannot be accepted.

14.9. It is also noted that the Noticees in their submissions, inter-alia, also stated as under:

"It is pertinent to note that "fit and proper" is a "Status" and cannot be treated either as an asset or liability. Given the said understanding, of the "fit and proper" status of the Transferor Company does not pass on to the resultant company………. Further, any disqualification of the transferor entity, that gets amalgamated, would not have a bearing on the 'fit and proper' person status of the resultant entity."

14.10. All the submissions of the Noticees regarding 'fit and proper' including orders of Whole Time Member and Quasi-Judicial Authority have been considered.

14.11. In this regard, it is pertinent to note that the question of 'fit and proper' status of Noticee No. 1 is not an issue before me in the present Adjudication Proceedings. Hence, the aforesaid contention of the Noticees does not require further consideration.

15. **Minimum Educational Qualification for a director of a trading member of the Exchange**

15.1. I note that Noticees in their replies to SCN, *inter-alia*, further contended as under:

"It is humbly submit that the basic minimum Educational Qualification for a director of a trading member of the Exchange. Notably, under last para of Annexure 2 of SCN i.e. Relevant extract of the BSE report as under:

Quote:

"Based on the submissions made by the Trading member and discussions with other Exchanges, we wish to inform you that as the minimum qualification requirement for a director of a trading member as per the extant process is 12th pass and as there is no question raised on his 12th Pass certificate, Shri Satish Kumar Arya was and is qualified to become designated director of the TM. All additional qualification whether from recognized or unrecognized institution has no bearing on his directorship of the member company as per the extant requirement.

Further, the said Application form also contains the Auditor's Certificate dated 03.08.2000 issued by Sudhakar & Kumar Associates, Chartered Accountants whereby they have Certified as under:

"We certify that STEEL CITY CAPITAL SERVICES Private Limited / ~~Limited~~ is eligible to be elected as a member of the Exchange in terms of rule 19A(b) of the Rules, Bye-laws and Regulations of the Stock Exchange, Bombay.
We further certify that the directors of the company are not disqualified for being members of a stock exchange under clause (1) [except sub-clause (b) and sub-clause (f)] of Rule 8 of the Securities Contracts (Regulations) Rules, 1957, and the directors of the company had not held the offices of detectors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange."

Therefore, it can be said that I as a director of the Company was not disqualified for being member of stock exchange."

15.2. In this regard, I note that whether Noticee No. 2 was qualified to become director of Trading Member is not in question in the present proceedings. Hence, the aforesaid contention of the Noticees does not require further consideration.

16. **FIR and Charge Sheet filed against Noticee No. 2**

16.1. In regard to the observation mentioned in SCN that "*Vishakapatnam City Police had registered an FIR No.37/2021 and Charge Sheet no. 4373/2021 was filed with 1st Additional Chief Metropolitan Magistrate at Visakhapatnam against*

Noticee No. 2. The said Charge Sheet filed by Visakhapatnam City Police stated that "prima facie case was established against Mr. Satish as he cheated the public and shareholders of Noticee with a fraudulent and dishonest intention by utilizing the fake degrees/ certificates viz. Bachelor of Commerce Degree obtained from Andhra University in the year 1992.", Noticees in their replies, *inter-alia*, submitted as under:

"It is pertinent to note that pursuant to Order dated 29.11.2022 passed by Hon'ble Court of Additional. Chief Metropolitan Magistrate Court of JFCM Courts, Visakhapatnam, the subject matter has reached its finality and as on date nothing is pending against Mr. Satish Kumar Arya.
Further, it is also pertinent to note that Mr. Satish Arya had sought legal opinion from Adv. G. Parvateeswara Rao on the FIR 37/2021 and Chargesheet thereon vide C.C. No. 4373/2021. Even, Adv. G. Parvateeswara Rao is of the view that there is no pendency of the allegations against Mr. Satish Arya as all proceedings in C.C. No. 4373/2021 is closed."

16.2. In this regard, I note that additional documents (e-mail dated December 04, 2023 and January 08, 2024 sent by Complainant) were sent to undersigned by SEBI on January 12, 2024 in the present proceedings. The additional documents, *inter-alia*, include the following in regard to FIR registered with Visakhapatnam City Police:
"As a matter of fact, the FIR 37/2021 was not closed. Mr. Arya had approached the High Court to set aside the Preliminary Chargesheet filed by the IV Town Police Station, as the investigation was not completed and he had not prayed for the FIR quash. The Hon. High Court had set aside the submitted Charge Sheet No. 4373/2021 and ordered the Police to complete the investigation and to submit the Final Report(Chargesheet). Accordingly, the Police completed their investigation and submitted the Final Chargesheet on 02-01-2023, in the Hon. Ist MM Court, Visakhapatnam. The Hon Judge, 1st MM Court has taken cognizance and numbered it as Chargesheet No. 3936/2023. The first hearing took place on 30-11-2023. Now the case is posted for trial."

16.3. In the interest of natural justice, the above additional documents were provided to Noticees vide letter dated January 16, 2024. Noticees vide letter dated January 30, 2024, *inter-alia*, submitted as under in this regard:

"…. we would like to submit that the matter pertaining to Charge Sheet No. 3936/2023 (Final Report) filed before The Hon'ble Court of Additional Chief Metropolitan Magistrate at Visakhapatnam is a new matter and till date we have not received any documents or communication pertaining to the same. Therefore, we submit that the matter is pending and the same is Sub-Judice."

16.4. In this regard, I note that the status of the Case No. CC/0004373/2021 in the website of the Visakhapatnam District Court as on March 19, 2024 is mentioned as "Closed" vide order dated November 29, 2022. It is further noted that the order dated November 29, 2022, *inter-alia*, read as under:

"…………It is pertinent to mention that the supplementary charge sheet was filed by the Sub-Inspector of Police, IV Town P.S on 07.06.2022 and the same is very much available in the record. However, as per the Orders of Hon'ble High Court of AP in Crl.P.No.2369/2022 the cognizance which was taken by this court on preliminary charge sheet shall be set aside. Hence, the cognizance, dt.20.11.2021 which was taking on preliminary charge sheet and assigned CC.No.4373/2021 is hereby set aside. ***Accordingly, the proceedings in C.C.4373/2021 are closed."***

16.5. I further note that the status of the Case No. CC/0003936/2023 in the website of the Visakhapatnam District Court as on March 19, 2024 is as under:

"*Accused called absent. Issue fresh summons to accused call on 13.09.2024."*

16.6. I have taken note of the aforementioned current status of the Case No. CC/0004373/2021 as mentioned in SCN and Case No. CC/0003936/2023 as mentioned in e-mail dated December 04, 2023 of Complainant which was provided as an additional document in the present proceedings. In this context, I further note from the website of Visakhapatnam District Court that the case is still not concluded since the next hearing is scheduled on September 13, 2024. Though a case regarding B.Com degree seems to have been taken cognizance by a competent court in Visakhapatnam, the case as per records available in public domain, is still open and no conclusion seems to have been made, as yet by the Hon’ble Court. Therefore, this case pending in the Visakhapatnam Court cannot be held to have any bearing on this proceeding.

16.7. In regard to the legal opinion by one Adv. G. Parvateeswara Rao submitted by Noticees in their replies, I note that the said legal opinion does not pertain to Case No. CC/0003936/2023 which is still pending before the Hon’ble Court. Anyway the legal opinion of an advocate cannot be held binding in a quasi-judicial proceeding. Therefore, this submission of the Notice does not merit consideration.

17. B.Com Certificate from Andhra University furnished to Regional Passport Office

17.1. I note that additional documents (e-mail dated December 04, 2023 and January 08, 2024 sent by Complainant) which were sent to undersigned by SEBI on January 12, 2024 in the present proceedings *inter-alia*, also include the following:
“……the same B. Com forged certificate was furnished to the Regional Passport Office at the time of his application for the Passport No. F3350836. On my complaint the RPO had taken cognizance and awarded the punishment as per the extent rules/guidelines”

17.2. In this regard, Noticees vide letter dated January 30, 2024, *inter-alia*, submitted as under:
“RPO by letter dated 05.07.2023 addressed to Mr. Satish Kumar Arya sought clarification w.r.t. documents submitted for the passport application by Mr. Satish Kumar Arya.
In response to the aforesaid letter, Mr. Satish Kumar Arya by letter dated 17.07.2023 gave clarification and submitted all the relevant documents.
Thereafter, RPO by letter dated 24.07.2023 addressed to Mr. Satish Kumar Arya requested him to visit passport office along with certain documents.
Mr. Satish Kumar Arya by letter dated 01.08.2033 gave detailed clarification and submitted all the requisite documents as mentioned in the said letter. Further, Mr. Satish Kumar Arya also requested RPO to drop all further proceedings in the said matter.

It is pertinent to note that since last communication dated 01.08.2023, no further communication was exchanged between RPO and Mr. Satish Kumar Arya. Further, the passport of Mr. Satish Kumar Arya is perfectly valid and no further action w.r.t. the same has been taken by RPO."

17.3. In this context, from the letter dated July 17, 2023 through which Noticee No. 2 had given clarification to Regional Passport Office as submitted by the Noticees, it is, *inter-alia*, noted that:

"*Recently I came to know that with my first passport making time the agent has submitted some AU B.Com Xerox. I have never submitted AU B.Com to the agent or passport office."*

17.4. From the aforesaid submission of the Noticees, I note that the fact that a copy of a B.Com degree certificate from Andhra University was attached along with the passport application has not been disputed by the Noticees.

18. Maintain integrity, promptitude and fairness and exercised due skill, care and diligence in conduct of the business

18.1. I note that Noticees in their replies, *inter-alia*, further contended as under:

"We submit that we have maintained highest standard of integrity, promptitude and fairness in the conduct of our business. The Lexicon dictionary defines 'integrity' as 'soundness, moral principles and character as shown by one person dealing with another in making and performing of contracts'

In this regard, we state that, we have conducted our business with utmost integrity and adhered to soundness, moral principles and character as expected to be shown by a broker in handling it's business.

We submit that we have exercised due skill, care and diligence in conduct of our business and otherwise.

Clause A (2) of the Code of Conduct mandates that a stock broker shall act with due skill, care and diligence in the conduct of all its business. Such due skill, care and diligence can only mean that broker shall act in such a way that a person of ordinary prudence would act in the normal circumstances in carrying out activities and functions relating to its business and will remain careful and diligent. We have *exercised all due skill, care and diligence as a man of ordinary prudence is expected to do in carrying out our business activities."*

18.2. In this regard, I note that no material has been made available by the Noticees in support of their above submissions. I further note that, the allegations in the present proceedings is specific to the information/document provided in the application submitted to the Stock Exchange. Hence, it is not pertinent to consider above submissions of the Noticees.

18.3. I further note that Noticees in their replies have submitted certain case laws and dictionary meaning of 'Due Diligence'. In this regard, I am of the view that a person having ordinary prudence and exercising reasonable diligence, would check contents before affixing his signature. Thus, in this case, the reasonable due diligence which ought to have been exercised by the Noticees, has not been done.

19. Cross-Examination

19.1 Fresh documents were sent to undersigned by the SEBI to be considered as additional documents/materials in the present proceedings on December 28, 2023 and January 12, 2024. In the interest of natural justice, those additional documents/materials were sent to the Noticees vide letter dated January 16, 2024. and the Noticees were advised to submit their response, if any, latest by January 22, 2024. Vide letter dated January 20, 2024, Noticees requested for additional time until January 31, 2024 to file their response on additional documents/materials. Noticees also requested for the cross examination of the Complainant whose e-mails have been relied upon as additional documents/materials in the present case and one more opportunity of personal hearing. Considering their request for additional time, the Noticees were granted time till January 31, 2024 to file their replies against the additional documents/materials provided to them.

19.2 Vide letter dated January 30, 2024, Noticees filed their response on the additional documents/materials and reiterated their request for the opportunity of cross examination and personal hearing. Vide e-mail dated February 13, 2024 and February 21, 2024, Noticees were granted opportunities of personal hearing on February 21, 2024 and February 29, 2024 respectively as, *inter-alia*, requested by the Noticees in their letter dated January 30, 2024. However, vide letters dated February 14, 2024 and February 22, 2024, Noticees persistently insisted that personal hearing may be held after the cross examination. In the interest of natural justice, Noticees were granted opportunity of cross examination prior to personal hearing and the Noticees were informed that cross examination shall be limited to the documents relied upon in the SCN and the additional documents provided to the Noticees vide letter dated January 16, 2024. Cross examination was held and concluded on March 14, 2024.

19.3 Post conclusion of cross examination, Noticees vide letter dated March 18, 2024, *inter-alia*, submitted as under:

"SEBI vide email dated 05.03.2024 informed us that cross examination shall be limited to the documents relied upon in the SCN and two emails dated 04.12.2023 and 08.01.2024 sent by Mr. Rajagopal Reddy Guduru which are part of SEBI's letter dated 16.01.2024. However, at the time of cross examination, we were directed to restrict our cross examination only in respect to Bachelor of Commerce Degree of 1992 of Andhra University"

19.4. In this regard, from the material available on record, I note that the question in the present proceedings pertains to B.Com degree of Noticee No. 2 from Andhra University. Hence, the cross examination was limited only to the allegations which were in question and the documents/materials relevant in the present proceedings.

19.5. I note that post cross examination, Noticees vide letter dated March 18, 2024, *inter-alia*, also submitted as under:

"……. On consideration of our aforesaid submissions, and answers given during cross examination we respectfully state that complaints filed and communication provided by Mr. Rajagopal Reddy Guduru are not reliable and ought not be considered in the present proceedings."

19.6. In this regard, from the material available on record, I note that pursuant to receipt of the complaint, SEBI conducted an examination in the matter. Present proceedings were initiated against the Noticees and the SCN was issued based on the examination done by SCN. The documents relevant to the allegations were also enclosed along with the SCN. I further note that the supporting documents were also enclosed along with the two e-mails dated December 04, 2023 and January 08, 2024 sent by Complainant which were considered as an additional material in the present proceedings. However, in the interest of natural justice, an opportunity of cross examination as requested by Noticees were granted on March 14, 2024. In this background, I find that the aforesaid contention of the Noticees does not require further consideration.

20. In view of the discussions in the previous paragraphs, I note that no justifiable reason has been brought on record by the Noticees with regard to the violations alleged in the SCN. As noted from previous paragraphs, it is rather an undisputed fact that the fake/non-genuine information/certificate pertaining to educational qualification of Noticee No. 2 as B.Com from Andhra University was submitted to the Stock Exchange. It is further noted that a copy of B.Com degree certificate from Andhra University was also submitted to the Regional Passport Offfice.

21. A person with ordinary prudence applying reasonable diligence cannot ignore same discrepancy multiple times and that too the details pertaining to his own educational qualification. Thus, it is established that Noticee No. 1 had failed to exercise due skill, care and diligence and not maintained high standard of integrity, promptitude and fairness and therefore, violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations.

Issue II - Whether Noticee No. 2 had violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations read with Section 27 of the SEBI Act?

Proceedings against other Directors not initiated

22. I note that Noticee No. 2 in his reply dated March 21, 2024, *inter-alia*, contended as under:

"I submit that at the relevant time, I was only Director (Operations) and Mr. G Sree Rama Murthy was Managing Director and Mr. Rajagopal Reddy Guduru, the

Complainant was Executive Director. In my view, Mr. G Sree Rama Murthy Mr. Rajagopal Reddy Guduru had higher responsibility being the Managing Director and Executive Director respectively. I was merely a Director (Operations).

It is pertinent to note that no proceedings have been initiated against Mr. G Sree Rama Murthy, the then Managing Director and Mr. Rajagopal Reddy Guduru, the then Executive Director of Steel City Capital Services (P) Ltd."

23. In this regard, I note that the fact that Director's form and Bio-data form of Noticee No. 2 signed by him which was submitted to Stock Exchange include the details of educational qualification of Noticee No. 2 as B.Com from Andhra University in the Year 1992 is not in dispute. Noticee No. 2 being the signatory of the said forms was responsible to ensure that the information in the said forms were true and correct. It is further noted that the gamut of the present proceedings is limited to alleged violations committed by the Noticees. The role of the other directors is beyond the scope of the present proceedings. Hence, the contention of the Noticee No. 2 in this regard is beyond the consideration of this proceedings.

24. In view of the aforesaid discussions, since violation of the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations has been established against Noticee No. 1, Noticee No. 2 being Director of Noticee No. 1 and considering the fact that fake/non-genuine educational qualification of Noticee No. 2 as B.Com from Andhra University has been submitted to the Stock Exchange, it is established that Noticee No. 2 had also violated the provisions of Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations by virtue of Section 27 of the SEBI Act.

Issue III - Does the violation, if any, on the part of the Noticees attract monetary penalty under Section 15A(a) of SEBI Act?

25. As it has been established that the Noticees have violated the provisions of law as alleged in the SCN, the Noticees are liable for payment of a monetary penalty in terms of Section 15A(a) of the SEBI Act.

26. In this context, I would also like to also refer to the order of the Hon'ble Supreme Court of India in the matter of *Chairman, SEBI Vs Shriram Mutual Fund {[2006]5 SCC 361}*, Hon'ble Supreme Court of India 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 and hence the intention of the parties committing such violation becomes wholly irrelevant A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.''*

27. The text of the *above* said Section 15A(a) of the SEBI Act is reproduced below:

"

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, he shall be liable to a penalty not exceeding one lakh and fifty thousand rupees for each such failure;"

28. In this regard, I note that the Finance Act, 2018 inserted *"or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents"* in the *aforementioned* provisions of Section 15A(a) of the SEBI Act with effect from March 08, 2019. I further note that a similar provision was also inserted in Section 15A(b) of the SEBI Act vide Finance Act, 2018. In this context, I would like to refer to the order of Hon'ble SAT dated August 29, 2023 in the matter of *Omprakash Kovuri & Ors. Vs. SEBI, inter-alia, states as under:*

"The insertion made by Act No. 13 of 2018 was only clarificatory. The words "false, incorrect or incomplete information, return, report, books or other document" elucidates the already existing requirement of filing or furnishing information."

29. In view of the above, I conclude that Noticees are liable for payment of a monetary penalty in *terms* of Section 15A(a) of the SEBI Act for the violation of the provisions of law as established in the aforesaid paras.

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

30. While determining the quantum of penalty under section 15A(a), it is important to consider the factors stipulated in section 15J of SEBI Act, which reads as under:

    "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."

Factors Considered While Imposing Penalty

31. The available records neither specify disproportionate gains/unfair advantage made by Noticees nor the loss, if any, suffered by the investors due to such violations. However, I take note of the fact that SEBI had previously imposed penalty on the Noticee No. 1.

32. I have also taken note of the BSE examination report which, *inter-alia*, states that, "*minimum qualification requirement for a director of a trading member as per the extant* process *is 12th pass……………. All additional qualification whether from recognized or unrecognized institution has no bearing on his directorship of the member company as per the extant requirement".* Although fake/non-genuine educational qualification of Noticee No. 2 as B.Com from Andhra University submitted to the Stock Exchange may not have a bearing on his eligibility to become a director of the Trading member, I cannot ignore the fact that fake/non-genuine information/document was submitted to the Stock Exchange. Moreover, Director's form signed by Noticee No. 2 also contains the declaration clause that "*what is states above is true to the best of my knowledge*". This negligence on part of the Noticees clearly shows that Noticees has failed to act

with skill, care and diligence and have a bearing on their integrity, promptitude and fairness in their submissions made to Stock Exchange.

33. I note that Noticees in their replies, *inter-alia*, stated as under:
"*Apart from what is stated aforesaid, we would like to submit that the alleged findings in the SCN pertains to the year 2000, which presently is almost 23 years old.*"

34. I have taken into consideration the aforesaid factors while adjudging the quantum of penalty. In this context, I would like to refer to the Judgment of Hon'ble Supreme Court in the matter of ***SEBI vs. Bhavesh Pabari (AIR 2019 SC 1265)*** which, *inter-alia,* states as under:

"We, therefore, hold and take the view that conditions stipulated in clauses (a), (b) and (c) of Section 15-J are not exhaustive and in the given facts of a case, there can be circumstances beyond those enumerated by clauses (a), (b) and (c) of Section 15-J which can be taken note of by the Adjudicating Officer while determining the quantum of penalty."

ORDER

35. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in the exercise of powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I, hereby, impose the following penalty on the Noticees:

Table 1

Noticees Name	Violation	Penal Provision	Penalty Amount
Steel City Securities Ltd.	Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations.	Section 15A(a) of SEBI Act	Rs. 25,000/- (Rupees Twenty Five Thousand only)
Mr. Satish Kumar Arya	Regulation 9 (f) read with Clause A (1) and A (2) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations read with Section 27 of the SEBI Act		Rs. 50,000/- (Rupees Fifty Thousand only)

36. I am of the view that the said penalty is commensurate with the violations committed by the Noticees in the present proceedings.

37. The Noticees 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.

38. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees and also to the Securities and Exchange Board of India.

Date: March 28, 2024

Place: Mumbai

N HARIHARAN

CHIEF GENERAL MANAGER
AND ADJUDICATING OFFICER