BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/SV/VC/2023-24/29949)

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

In respect of

Aryaman Financial Services Limited

(PAN: AABCD1228K)

(SEBI Regn. No.: INM000011344)

In the matter of Aryaman Financial Services Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted inspection of Aryaman Financial Services Limited (hereinafter referred to as the **'AFSL'** or **'Noticee'**). Noticee is registered with SEBI as a Merchant Banker (Registration no. INM000011344). SEBI conducted the inspection of the Noticee on October 31, 2022 and the period covered under inspection was Financial Year 2021 – 2022 (hereinafter referred to as **'inspection period'**). The observations made during the course of inspection were recorded as inspection report and observations were communicated to the Noticee vide SEBI letter dated February 17, 2023. Noticee had submitted its comments / explanations on the aforesaid observations of the inspection vide its letter and e-mail dated March 06, 2023 and subsequent clarifications were provided vide e-mail dated April 19, 2023.

2. Based on the findings of inspection of AFSL, SEBI initiated adjudication proceedings against the Noticee for alleged violation of the following provisions:

(a) Regulation 245 (3) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (hereinafter referred to as **‘ICDR Regulations, 2018’**) and Regulation 13 read with Clause 4 of Schedule III of SEBI (Merchant Bankers) Regulations, 1992 (hereinafter referred to as **‘Merchant Bankers Regulations, 1992’**).

(b) Regulation 245 (3) of ICDR Regulations, 2018 and Regulation 13 read with Clause 6 and Clause 7 of Schedule III of Merchant Bankers Regulations, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI appointed the undersigned as the Adjudicating Officer, vide order dated July 24, 2023, under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **‘SEBI Act, 1992’**), and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **‘Adjudication Rules, 1995’**) read with Section 19 of the SEBI Act, 1992, to inquire into and adjudge under the provisions of the Section 15HB of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Show Cause Notice bearing reference no.- SEBI/HO/EAD-8/SKV/VC/34121/2023 dated August 23, 2023 (hereinafter referred to as **‘SCN’**) was issued to the Noticee in terms of the provisions of Rule 4(1) of the Adjudication Rules, 1995 read with Section 15-I of the SEBI Act, 1992, requiring the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed upon the Noticee under Section 15HB of the SEBI Act, 1992 for the alleged violations. I note that SCN issued to Noticee was duly served upon the Noticee and it was acknowledged by the Noticee. Vide email / letter dated October 10, 2023, Noticee submitted reply to the SCN.

5. In the interest of natural justice, an opportunity of hearing on October 20, 2023 was granted to the Noticee vide Hearing Notice dated October 11, 2023. Authorised Representatives viz. Mr. Shripal S. Shah, Executive Director and Mr. Deepak Biyani, Vice President of the Noticee (hereinafter referred to as **“ARs”**) attended

the hearing in person at SEBI Bhavan-II on October 20, 2023 and reiterated the submissions made by the Noticee vide letter dated October 20, 2023. ARs further stated to furnish the additional submissions in the captioned matter by October 27, 2023. Accordingly, vide email / letter dated October 27, 2023, Noticee furnished the revised submissions in the matter.

CONSIDERATION OF ISSUES AND FINDINGS

6. I have carefully perused the charges levelled against the Noticee in the SCN, submissions made by the Noticee and material available on record. The issues that arise for consideration in the present case are as follows:

   I. Whether the Noticee has violated the following provisions:

   (a) Regulation 245 (3) of ICDR Regulations, 2018 and Regulation 13 read with Clause 4 of Schedule III of Merchant Bankers Regulations, 1992.

   (b) Regulation 245 (3) of ICDR Regulations, 2018 and Regulation 13 read with Clause 6 and Clause 7 of Schedule III of Merchant Bankers Regulations, 1992.

   II. Does the violation, if any, attract monetary penalty under Section 15HB of the SEBI Act, 1992?

   III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15-J of the SEBI Act, 1992 read with Rule 5(2) of the Adjudication Rules, 1995?

7. Before proceeding further, it is pertinent to refer to the relevant provisions of ICDR Regulations, 2018 and Merchant Bankers Regulations, 1992 which are alleged to have been violated. The said provisions are reproduced hereunder:

<u>ICDR Regulations, 2018:</u>

Disclosures in the draft offer document and offer document

245. (3) The lead manager(s) shall exercise due diligence and satisfy themselves about all aspects of the issue including the veracity and adequacy of disclosure in the draft offer document and the offer document.

Merchant Bankers Regulations, 1992:

[SCHEDULE III

Merchant Bankers Regulations, 1992

[Regulation 13]

Code of Conduct for Merchant Bankers

………..

4. A merchant banker shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment.

………..

6. A merchant banker shall ensure that adequate disclosures are made to the investors in a timely manner in accordance with the applicable regulations and guidelines so as to enable them to make a balanced and informed decision.

7. A merchant banker shall endeavour to ensure that the investors are provided with true and adequate information without making any misleading or exaggerated claims or any misrepresentation and are made aware of the attendant risks before taking any investment decision.

8. Based on perusal of the material available on record and giving regard to the facts and submission of the Noticee and circumstances of the case, I record my findings hereunder:

Issue I. Whether the Noticee has violated the following provisions:

(a) Regulation 245 (3) of ICDR Regulations, 2018 and Regulation 13 read with Clause 4 of Schedule III of Merchant Bankers Regulations, 1992.

(b) Regulation 245 (3) of ICDR Regulations, 2018 and Regulation 13 read with Clause 6 and Clause 7 of Schedule III of Merchant Bankers Regulations, 1992.

9. At the outset, I find that there are 3 alleged violations to be established for attracting the provisions stated in issue- I, in the instant matter:

A. Failure to exercise proper due diligence,

B. Misleading disclosures in Prospectus, and

C. Failure to ensure appropriate classification of promoters in Prospectus.

A. <u>Failure to exercise proper due diligence:</u>

(a) Objects of Offer:

10. It was alleged in the SCN that Noticee had failed to exercise proper due diligence in respect of the IPO of Times Green Energy (India) Limited. With regard to the objects of offer on 'Funding Setting up of Sanitary Napkin SBUs - ₹60 lakhs', it was observed from the due-diligence documents submitted by the Noticee that reliance was placed on a confirmation given by the Company for estimating the cost associated with the object. The confirmation given by the Company states that the Noticee is indemnified in the case the disclosure is incorrect or mis-leading. The Prospectus also states that the costs are based on management estimates. Thus, it was alleged that the Noticee had not independently verified the costs for setting up of the Special Business Units ('**SBUs**') through means such as obtaining quotations from vendors or any agency. It was alleged that since 6 SBUs were proposed to be set up, the total cost of the machines would be ₹42 lakhs which is almost 15% of the net proceeds of the issue. Therefore, Noticee allegedly failed to ensure the adequate due-diligence and verification of the disclosures made in the offer document. Further, Noticee should have also verified the locations of the SBUs and the rental costs.

Reply of Noticee

11. With regards to above observations, Noticee *inter alia* submitted that the issuer company was relatively new to the business of sanitary napkins. This idea of creating SBU in small villages was also a venture relatively untried by them. They provided quotations to Noticee from some vendor for complete end to end machining for making sanitary napkins. However, the SBU of the issuer company, would not be installing a complete end to end machining for making sanitary napkins, but only part of the manufacturing process would take place with limited tools and machines. This idea being new for the issuer company and its eco-system, they were unable to get signed binding agreements / quotation from vendors. Hence no concrete third party document was available for the same and

hence Noticee had to rely on management estimates. In due diligence process, many times certain matters need to be relied on management estimates and there are various precedents for the same in the past too.

12. Noticee further submitted that it had disclosed the fact in the risk factor that the issuer company was relatively new to the business of sanitary napkins and they propose to set up small size SBUs in few villages whereby semi prepared materials will be sent by our vendors to such SBUs and our local representative shall complete the manufacturing and packaging of these products at such SBU. Further, Noticee had disclosed the location details under the chapter titled "Objects of the Issue" on page 53 of the Prospectus. Extract of the same was submitted as *"…intends to set up small SBUs at various village / district levels including but not limited to Mangalagiri (Andhra Pradesh), Gannavaram (Andhra Pradesh), S. Kota (Andhra Pradesh), Yadagirigutta (Telangana), Bhongir (Telangana) and Janagaon (Telangana) functioning as processing centres for making Sanitary Napkins at local level and ..."*. It was further submitted that they had identified & proposed the villages / districts areas however the exact location was not finalized at that time. Further please note that only ₹3.00 Lakhs per location was proposed to utilize for setting up of such SBU (including rental cost), which is very minimal for any set-up. Noticee wanted to be more prudent by highlighting the fact to investors that such a SBU set up costs are not fixed based on a formal agreement/quotation and is based on management estimates. Noticee had promptly disclosed this fact to the investor.

13. Further, Noticee stated that it had disclosed the quotations / other supporting documents for other objects such as "Funding Purchase and Set-up of Registered Office" and "Funding Purchase of Vehicle and ERP Package". This shows that there is no intention to not conduct proper due diligence. There is various precedence in which utilisation of certain part of the IPO proceeds were based on management estimates by other Merchant Banker also (before as well as after Noticee's case), as standard industry practice. Noticee furnished the summary of IPO cases of Gian Life Care Limited, AAA Technologies Limited and Maruti Interior Products Limited and stated that 27.73% to 60.45% utilisation of net proceeds of

the issue were based on estimates only in these cases and no quotations were disclosed in the Offer Documents.

14. Noticee further submitted that each case is different and depending upon case to case basis, it has to exercise its due diligence, independent professional judgement (based on materiality) and ensured to disclosed the actual fact of the case and thereby no misleading disclosures to the Investors.

Findings

15. I find that as per the final offer document, the objects proposed setting up of 6 SBUs, costing ₹10 lakhs each. The break-up for each SBU was ₹7 lakhs for cost of machines & related materials (manufacturing / processing machine, dispenser / vending machine, incinerator and related materials) and ₹3 lakhs for estimated rental cost of location and other incidentals. In this regard, I accept the submissions of the Noticee that the issuer provided quotations to Noticee from some vendor for complete end to end machining for making sanitary napkins. However, the SBU of the issuer company, would not be installing a complete end to end machining for making sanitary napkins, but only part of the manufacturing process would take place with limited tools and machines. This idea being new for the issuer company and its eco-system, they were unable to get signed binding agreements / quotation from vendors. Hence, no concrete third party document was available for the same and hence Noticee had to rely on management estimates.

16. Regarding verification of the locations of the SBUs and the rental costs, I am inclined to accept the submissions of the Noticee that were given it had disclosed the location details (identified & proposed villages / districts areas) under the chapter titled "Objects of the Issue" of the Prospectus, however, the exact location was not finalised at that time.

17. In view of the above and other submissions of the Noticee, I hold that the allegations that Noticee has failed to ensure proper due diligence regarding estimated costs of the objects of the offer, does not stand established.

(b) Background of Directors:

18. It was alleged in the SCN that Noticee had failed to verify the past association of Mrs. Durga Suddhapalli (Independent Director, as per the prospectus) with Xenon Infotech. In this case, Noticee relied only on the resume provided by Mrs. Durga Suddhapalli and evidence corroborating the same appeared to be incomplete. Further, in the absence of adequate evidence, Noticee had not included a risk factor in the Prospectus on non-availability of documents pertaining to work experience of Mrs. Durga Suddhapalli.

Reply of Noticee

19. With regards to above observations, Noticee *inter alia* submitted that it had asked for the supporting documents w.r.t. Xenon Infotech to Mrs. Durga Suddhapalli, however, she was unable to provide the same, as she had left the said organisation in 2014 and was not in touch with anyone there. As she had mostly worked for non-profit organizations except for short period with Xenon Infotech, Noticee had relied on self-certified bio-data of Mrs. Durga Suddhapalli for the same. Firstly, Noticee decided to ignore the association with Xenon Infotech and not to disclose the same in the Offer Document but that would have led to misleading disclosures. Hence, Noticee decided to disclose the name of Xenon Infotech but not highlighted any experience of the same in Mrs. Durga Suddhapalli's profile. Noticee also internally discussed whether it should add a risk factor in the Offer Document for non-availability of this document, however, its team felt that, Xenon Infotech is not a big brand or MNC and by disclosing or by not disclosing such association would not have a material affect on the decision making process of the investors & hence Noticee felt that non-availability of only 1 (One) "specific" proof pertaining to past association of only 1 (One) Director out of all the Directors / KMPs / Promoters, would not lead to a material risk factor and hence Noticee did not include the same. However, Due diligence is not a fix format or "objective" process, and Noticee has noted this that in future it shall ensure that if any specific proof is not available for a past association of any Directors / KMPs / Promoters, it would include a risk factor to such effect.

20. The above decision to not include a risk factor for this fact based on Noticee's understanding of materiality of risk should be considered as allowed based on the specific mention of the code of conduct stating "exercise independent judgement". Further it does not affect the decision making process of the investors and caused any loss to investors at large.

Findings

21. I note the Noticee's submissions that it disclosed the name of Xenon Infotech but not highlighted any experience of the same in Mrs. Durga Suddhapalli's profile. Further, Noticee stated that it felt that Xenon Infotech is not a big brand or MNC and by disclosing or by not disclosing such association would not have a material effect on the decision making process of the investors, hence, Noticee felt that non-availability of only one "specific" proof pertaining to past association of only one Director out of all the Directors / KMPs / Promoters, would not lead to a material risk factor and hence Noticee did not include the same. I am inclined to accept the submissions of the Noticee that association of Mrs. Durga Suddhapalli with Xenon Infotech would not materially impact the decision making process of investors.

(c) Disclosure of Promoter and Promoter Group

22. It was alleged in the SCN that under the Section on "Our Promoter Group", it was stated that certain relatives of promoters, come under the purview of promoter group as per SEBI (ICDR) Regulations, 2018. It was further stated that "*However, our Promoters currently do not maintain any personal and business relationship, arrangements, dealings with the aforesaid persons in the normal course as would have been perceived by virtue of their relationship. Further, none of the aforesaid persons have any financial transactions with our Company or have any interest in the shareholding of our Company. Accordingly, the disclosures of entities of the aforesaid persons are not included under the disclosure relating to the Promoter Group."* Thus, disclosures related to certain entities which fall into the definition of promoter group as per ICDR Regulations, 2018 have not been made in the Offer Document. However, from the documents submitted by Noticee, it was observed that *prima facie* no supporting documents regarding efforts to contact the relatives

of promoters (who were not classified as 'promoter group' in the offer document) were obtained by the Noticee.

Reply of Noticee

23. With regards to above observations, Noticee *inter alia* submitted that certain relatives had severed relations with the promoters and they are not connected with each other since long time. They were not involved with the company or its business activities in past or presently and hence were not really material w.r.t. the future of the company. Further, Noticee did not have contact details of these promoter group members.

24. It was general practice in the Industry (at that time) that Offer Documents would mention such fact as part of the promoter group chapter as a routine factual disclosure. Hence in order to ensure correct disclosures are made available to the investors, Noticee had disclosed in the Offer Document, that the disclosures of certain Promoter Group entities are not included and the reason thereof. There was such precedence in the past for such kind of limited disclosures.

25. The SEBI inspection period cover 7 IPOs and in all other cases Noticee had provided full disclosures. Since this was a unique case, Noticee had exercised its due diligence, independent professional judgement and ensured to disclose the actual fact of the case and thereby ensured investors were made aware that certain relatives have severed relations with the promoters and hence to that extent no supporting documents or disclosures are made w.r.t. such relatives.

26. Noticee further submitted that it was well agreed between all industry participants that relatives who have never participated in the business nor had any transactions with the company, do not have any material impact on the decision-making process of the Investor. Noticee had discussed the matter with the management & the legal advisors at that time and thought it fit to obtain a certificate from CA Firm M/s. N G Rao & Associates to reconfirm that none of these disassociated relatives have any transactions with the Issuer company.

27. Further, SEBI had recently issued (i.e. in July 2023) advisory email to all the Merchant Banker and the Stock Exchanges, informing them that do not use such precedence for the limited disclosures and instead file an exemption application for limited disclosures on case to case basis. The fact that this advisory mail is sent after the IPO of Times Green proves that what Noticee did was a general market practice and not a matter of improper due diligence on its part.

Findings

28. I note that Noticee submitted that certain relatives had severed relations with the promoters and they were not connected with each other since long time. They were not involved with the company or its business activities in past or presently and hence were not really material w.r.t. the future of the company. Further, in order to ensure correct disclosures are made available to the investors, Noticee had disclosed in the Offer Document, that the disclosures of certain Promoter Group entities are not included and the reason thereof. Noticee further submitted that it ensured to disclose the actual fact of the case and thereby ensured investors were made aware that certain relatives have severed relations with the promoters. Noticee had obtained a certificate from CA Firm M/s. N G Rao & Associates to reconfirm that none of these disassociated relatives have any transactions with the Issuer company. Therefore, considering the above submissions of Noticee, I hold that allegations that Noticee has not undertaken its own due-diligence w.r.t. relationship of the promoters with the relatives, does not stand established.

29. In view of the findings noted in above para, I hold that the allegation of violation of the provisions of Regulation 245 (3) of ICDR Regulations, 2018 and Regulation 13 read with Clause 4 of Schedule III of Merchant Bankers Regulations, 1992, does not stand established.

B. <u>Misleading disclosures in Prospectus:</u>

30. It was alleged in the SCN that Noticee had not submitted sufficient evidence for the disclosures regarding the educational qualifications of directors, i.e. Mrs. Dinne Lakshmi Jumaal, Managing Director and Mrs. Jayashree Gadde, Whole-Time

Director are under-graduates, as disclosed in the Prospectus and Noticee relied only on the resume provided by the Directors. Further, in the absence of adequate evidence, Noticee had not included a risk factor in the Prospectus on non-availability of documents pertaining to educational qualifications of directors.

Reply of Noticee

31. With regards to above observations, Noticee *inter alia* submitted that when someone is claiming that she does not have any qualification degree, then how a merchant banker is supposed to independently verify the qualification certificates of such person. Further Noticee had disclosed that she is undergraduate and Noticee had not disclosed any specific qualification like “Engineer” or “B. Com” etc. The spirit of the Regulations is to make Investor aware of the qualification of the Directors i.e whether they are qualified enough for the operational activities of the Company and / or whether they can adopt the changes as required by the respective industry, due to their qualification background.

32. The general interpretation of the word “undergraduate” is that the person is not qualified enough and does not possess any Bachelor Degree. Further as per Oxford Dictionary, the meaning of the word “undergraduate” is “a university student who has not yet taken his/her first degree”. The respective Directors in its case, does not possess any professional qualifications like CA, CS, Doctorate, Engineer, etc. and further they don’t have any Bachelor Degree in any of the stream, as applicable in the law of the land. Hence by disclosing the word “undergraduate” w.r.t. their qualifications, it can’t be term as “misleading disclosures” in Prospectus. If Noticee had disclosed that the said person is a “Engineer” or “B. Com” etc. then that would concur as being a violation of the SEBI Regulations.

33. As a good practice, in such cases Noticee now had started to write specific negative sentence that “he/she does not have any specific qualification & does not hold any Bachelor / Master or any professional degree.”

Findings

34. Noticee's submitted that as per Oxford Dictionary, the meaning of the word "undergraduate" is "a university student who has not yet taken his/her first degree", The Directors do not possess any professional qualifications like CA, CS, Doctorate, Engineer, etc. and further they don't have any bachelor degree in any of the stream and the term 'under-graduate' was used to signify it. I am of the view that stating the educational qualifications of director as undergraduate, who do not possess any material education, would not be material and effect the decision making of the investors, thus, I am inclined to accept the submissions of the Noticee.

35. Therefore, I hold that the allegation of violation of the provisions of Regulation 245 (3) of ICDR Regulations, 2018 and Regulation 13 read with Clause 6 and Clause 7 of Schedule III of Merchant Bankers Regulations, 1992, does not stand established.

C. <u>Failure to ensure appropriate classification of promoters in Prospectus.</u>

36. It was alleged in the SCN that as per the Prospectus, the CFO of the Company, Mr. Srinivas Prasad Kanuparthi, had a pre-issue shareholding of 39% and a post-issue shareholding of 23.44%. He is also spouse of the promoter of the Company, Mrs. Kanuparthi Vani, however he was classified as promoter group and was not classified as 'promoter'.

Reply of Noticee

37. With regards to above observations, Noticee *inter alia* submitted that ICDR Regulations, 2018 define "Promoter" as a person

(i) who has been named as such in the Offer Document or Annual Return or
(ii) who has control over affairs of the Issuer whether as a Shareholders, Director or otherwise or

(iii) in accordance with whose advice the Board of Directors of the Issuer is accustomed to act
Provided that nothing in sub-clause (iii) shall apply to a person who is acting merely in a professional capacity.

38. As per sub-clause (ii) above, a professional whole time / executive director (not belonging to the Promoter Group) should also include in the Promoter Category because he has the control over affairs of the Issuer Company. However, that's not the interpretation of the Regulations. For example, in professionally managed company, professional whole time / executive directors have control over affairs of the Issuer. However, they are not categorized as Promoters.

39. Defining Promoter was done based on disclosures made in the Annual Return, based on the decision of the management and they should fulfil any criteria under sub-clause (i) to (iii) of ICDR Regulations, 2018, as mentioned above. Mr. Srinivas Prasad Kanuparthi was fulfilling the criteria under sub-clause (ii) above, but was not categorized as Promoters by the Issuer Company in their Annual Return whereas only Mrs. Dinne Laxmi and Mrs. Vani were shown as "Promoters" in the Annual Returns filed by the Company with the ROC and they are fulfilling the criteria under sub-clause (i) & (iii) of ICDR Regulations, 2018. Hence, Noticee has shown them as Promoters of the Company. Noticee did not have any right or reason to make them redefine their Promoters.

40. Mrs. Dinne Laxmi was the Managing Director whereas Mr. Srinivas Prasad was the CFO at the time of IPO. Further, as on date also, Mrs. Dinne Laxmi as well as Mrs. Vani are on the Board of the Company, whereas, Mr. Srinivas Prasad is the CEO of the Company. The CFO as well as CEO are coming under KMP and are below the Board of the Company.

41. Secondly, even if Noticee did not disclose Mr. Srininvas as Promoter, Noticee had disclosed the following w.r.t. Mr. Srinivas in the Offer Document:
    - He is the spouse of one of the Promoters i,e Mrs. Kanuparthi Vani.

- Details of family members of Mrs. Kanuparthi Vani are disclosed in Promoter Group (as required). Since he is husband of Mrs. Kanuparthi Vani, the details of family members of Mr. Srinivas Prasad Kanuparthi are same as that of Mrs. Kanuparthi Vani and accordingly were covered in the disclosures.
- He is the CFO of the Company. His qualification, experience, etc. were also disclosed in the Prospectus.
- He holds 39.00% of the Pre Issue Capital and will holds 23.44% of the Post Issue Capital of the Company.

42. Accordingly, all the material disclosure (w.r.t. to the Promoter) were disclosed for Mr. Srinivas also. If Mr. Srinivas was to shown as Promoter due to above mentioned disclosure in the Offer Document, then the Designation Stock Exchange would not give the In-principle approval for the Issue unless Noticee include Mr. Srininvas as Promoter of the Company.

43. Further, even if Noticee had disclosed him as Promoter, it does not affect the decision making process of the investors & caused any loss to investors at large. Adequate disclosures were made in the Offer Document to enable the investors to make a balanced and informed decision.

Findings

44. Noticee has contended that Mr. Srinivas Prasad was not a promoter as per ICDR definition of promoter. I note that Mr. Srinivas Prasad Kanuparthi had a substantial pre-issue shareholding of 39% and as per the available shareholding pattern filed by the Company, as on September 2022, he is the single largest shareholder holding 23.44% shares with the promoters viz. Vani Kanuparthi and Lakhmi Jumaal Dinne holding 13.34% and 10.82% shares respectively.

45. With regard to Noticee’s submission that as on date Mrs. Dinne Laxmi as well as Mrs. Vani are on the Board of the Company, whereas, Mr. Srinivas Prasad is the CEO of the Company, I note that Mr. Srinivas Prasad Kanuparthi was also mentioned as CFO in the offer document while his spouse, Mrs. Kanuparthi Vani

who was named as promoter, who was not even on the Board of the Company at the time of filing the offer document. Mrs. Kanuparthi Vani’s appointment to the Board of the Company was approved by shareholders only in the AGM held in September 2022.

46. In view of the above, the contention of the Noticee that Mr. Srinivas Prasad was not a promoter as per ICDR definition of promoter is not acceptable.

47. Noticee’s further submitted that though it did not disclose Mr. Srininvas as Promoter, however, it had disclosed the relevant facts w.r.t. Mr. Srinivas in the Offer Document. I note that the said disclosure can only be considered as mitigating factors while deciding the amount of penalty.

48. Noticee’s contention that if Mr. Srinivas was to shown as Promoter due to aforesaid disclosure mentioned in the Offer Document, then the Designation Stock Exchange would not give the in-principle approval for the issue unless Noticee include Mr. Srininvas as Promoter of the Company, is not acceptable as if the Exchange have given the in-principle approval for the issue doesn’t mean that all the classification of promoters and disclosures are correct. Further, Noticee is responsible for ensuring the veracity and adequacy of disclosures in the offer document.

49. Considering that Mr. Srinivas Prasad Kanuparthi was the single largest shareholder, he was the CFO and is now the CEO of the Company, while his spouse was not even on the Board of the Company when the offer document was filed, thus, I hold that Mr. Srinivas Prasad Kanuparthi had control over the affairs of the Company and it was not appropriate to classify him as “promoter group” instead of “promoter”.

50. In view of the above, I hold that Noticee has failed to ensure appropriate classification of promoters in the offer document of the Company, therefore, the allegation of violation of the provisions of Regulation 245 (3) of ICDR Regulations, 2018 and Regulation 13 read with Clause 6 and Clause 7 of Schedule III of Merchant Bankers Regulations, 1992, stand established.

Issue II. Does the violation, if any, attract monetary penalty under Section 15 C and 15 HB of the SEBI Act, 1992?

51. In the light of findings and observations made against the Noticee brought out in the foregoing paragraphs, has been established that the Noticee has violated the regulatory provisions of Regulation 245 (3) of ICDR Regulations, 2018 and Regulation 13 read with Clause 6 and Clause 7 of Schedule III of Merchant Bankers Regulations, 1992.

52. Considering the material available on record, reply of the Noticee and findings made hereinabove and it has been held that Noticee has violated the provisions of ICDR Regulations, 2018 and Merchant Bankers Regulations, 1992. The said violations make the Noticee liable for monetary penalty under the provisions of the SEBI Act, 1992.

53. In this regard, reliance is placed upon the judgment of Hon'ble Supreme Court of India in the matter of **SEBI Vs. Shri Ram Mutual Fund** [2006] 68 SCL 216(SC) which inter-alia has 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...".

54. The aforesaid violations, makes the Noticee liable for penalty under Section 15 HB of the SEBI Act, 1992. The contents of the said provisions of law is reproduced herein below:

SEBI Act, 1992

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no* *separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

Issue III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15-J of the SEBI Act, 1992 read with Rule 5(2) of the Adjudication Rules, 1995?

55. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15-J of the SEBI Act, 1992, which reads as under: -

SEBI Act, 1992

Factors to be taken into account while adjudging quantum of penalty

15J *While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely :—*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

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

56. In this case, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of non-compliance of the provisions of the SEBI Regulations is not available. With respect to the repetitive nature of the default, I find that vide order of WTM dated March 11, 2020, Noticee was prohibited from taking up any new assignment and from taking up any new clients for a period of three months for failing to carry out proper due diligence with respect to the information and

declaration contained in the RHP/Prospectus and for aiding and abetting Midvalley Entertainment Limited in siphoning of the funds received from the IPO and causing harm to the investors. In the present matter based on findings of the inspection it has been established that the Noticee has not complied with the requirements of the SEBI Regulations w.r.t. IPO of Times Green Energy (India) Limited as indicated above. Noticee was under a statutory obligation to abide by the provisions of the SEBI Regulations, which it failed to do during the inspection period. The said violations by the Noticee attracts monetary penalty. At the same time, as also mentioned in previous paragraph 47, I am keeping in mind that for the violations the defense presented by the Noticee is being taken towards mitigating factors.

ORDER

57. Considering all the facts and circumstances of the case including the submissions of the Noticee and findings elaborated hereinabove, exercising the powers conferred upon me under Section 15-I of SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, 1995, I hereby impose a monetary penalty of ₹1,00,000/- (INR One lakh only) under Section 15 HB of the SEBI Act, 1992, on the Noticee. In my view, the said penalty is commensurate with the violations committed by the Noticee in this case.

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

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

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

60. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticee and also to the SEBI.

Place: Mumbai	**SHASHI KUMAR VALSAKUMAR**
Date: December 29, 2023	**ADJUDICATING OFFICER**