

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. Order/BM/JR/2023-24/ 28876**

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

In respect of:

**L & T Investment Management Limited
AABCC5819R**

In the matter of Inspection Report of L & T Mutual Fund

Facts of the Case:

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) appointed an auditor M/s Ummed Jain & Co. to conduct inspection of L&T Mutual Fund for the period April 01, 2019 to March 31, 2021. The auditor submitted the inspection report on July 15, 2022. Based on the findings of the inspection, SEBI alleged violation of regulation 25(2) of SEBI (Mutual Funds) Regulations, 1996 (hereinafter referred to as “**MF Regulations**”) and clause 9 of Fifth Schedule – Part A of MF Regulations and SEBI circular no. MFD/CIR/6/73/2000 dated July 27, 2000 by L & T Investment Management Limited (hereinafter referred to as “**AMC**”/ “**Noticee**”).

Appointment of Adjudicating Officer:

2. SEBI appointed the undersigned as Adjudicating Officer (**AO**) vide communique dated March 8, 2023 under Section 19 read with section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”), read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties Rules, 1995 (hereinafter referred to as “**Adjudication Rules**”) to enquire into and adjudge under the provisions of section 15HB of the SEBI Act the aforesaid alleged violations committed by the Noticee.

Show Cause Notice, Reply and Personal Hearing:

3. Show Cause Notice dated March 20, 2023 (hereinafter referred to as 'SCN') was issued in terms of rule 4(1) of the Rules read with section 15-I of the SEBI Act to the Noticee alleging, inter alia, the following:

a) It is alleged that the AMC maintains the data, facts and opinion leading to decision in case of first-time investment. But no detailed reasons containing data, facts and opinion leading to select a particular security for sale are recorded by the Fund Manager in subsequent purchase and sale. It was observed by the auditor that AMC uses only standard phrases such as "investment purchase", "switching to better opportunities", "booking profits", "increasing exposure", "decreasing exposure", etc. in support of each buying/selling of a security.

b) On perusal of the instances pointed out by the auditors and rationale provided by the AMC for the investment decisions, following table is compiled:

Instrument Name	Portfolio	Trade Date	Buy Qty	Buy Value	Sell Qty	Sell Value	Rationale recorded/ Mandatory remarks
Hindustan Zinc Ltd	L&T India Value Fund	07-Aug-20	6,55,000	16,28,05,046			Investment Purchase
Hindustan Zinc Ltd	L&T India Value Fund	14-Sep-20			2,59,615	5,90,87,413	Switching to better opportunities
Hindustan Zinc Ltd	L&T India Value Fund	15-Sep-20			2,61,387	5,82,84,884	Switching to better opportunities
Hindustan Zinc Ltd	L&T India Value Fund	17-Sep-20			1,33,998	2,92,61,880	Need to Raise Cash For Tactical Reasons
Loss						(1,61,70,869)	
Sadbhav Engineering Ltd.	L&T Infrastructure Fund	25-Apr-19	5,00,802	11,76,88,432			Investment Purchase
Sadbhav Engineering Ltd.	L&T Infrastructure Fund	26-Apr-19	1,97,500	4,72,78,478			Increasing Exposure
Sadbhav Engineering Ltd.	L&T Infrastructure Fund	30-Apr-19	4,488	10,73,724			Increasing Exposure
Sadbhav Engineering Ltd.	L&T Infrastructure Fund	02-May-19	8,742	20,54,366			Increasing Exposure
Sadbhav Engineering Ltd.	L&T Infrastructure Fund	03-May-19	2,772	6,50,889			Increasing Exposure
Sadbhav Engineering Ltd.	L&T Infrastructure Fund	06-May-19	809	1,91,542			Increasing Exposure
Sadbhav Engineering Ltd.	L&T Infrastructure Fund	07-May-19	14,219	33,41,075			Increasing Exposure
Sadbhav Engineering Ltd.	L&T Infrastructure Fund	08-May-19	22,258	50,82,090			Increasing Exposure

Sadbhav Engineering Ltd.	L&T Infrastructure Fund	23-Apr-20			7,51,590	2,76,74,012	Need to Raise Cash For Tactical Reasons
Loss						(14,96,86,584)	
Vodafone Idea Ltd	L&T Mid Cap Fund	04-Dec-19	8,00,00,000	61,49,61,205			Investment Purchase
Vodafone Idea Ltd	L&T Mid Cap Fund	17-Jan-20			2,11,50,000	9,38,42,087	Reducing Exposure
Vodafone Idea Ltd	L&T Mid Cap Fund	12-Feb-20			5,88,50,000	26,67,76,570	Switching to better opportunities
Loss						(25,43,42,548)	

c) The provisions of SEBI Circular No. MFD/CIR/ 6 / 73 /2000 dated July 27, 2000 with respect to recording of investment decisions by Mutual Funds require the following:

- (i) The AMCs need to maintain records in support of each investment decision which will indicate the data, facts and opinion leading to that decision.
- (ii) While the AMC boards can prescribe broad parameters for investments, it is important that the basis for taking individual scrip wise investment decision in equity and debt securities should be recorded
- (iii) While there should be a detailed research report analyzing various factors for each investment decision taken for the first time, the reasons for subsequent purchase and sales in the same scrip should be recorded.
- (iv) The contents of the research reports may be decided by the asset management companies and the trustees.
- (v) AMC boards may develop a mechanism to verify that due diligence is being exercised while making investment decisions.

d) Comments were received from the AMC vide emails dated October 12, 2022, October 18, 2022 and January 30, 2022 and after analysis of the same, following discrepancies were observed in the operations of the AMC during the inspection period 2019-21:

- I. **Not properly recording of investment decisions as per SEBI Circular:**
 - a. As per the above mentioned SEBI Circular, while detailed research report analyzing various factors for each investment decision taken for the first time was prepared, for each subsequent purchase and sales in the same scrip the reasons for investment should be recorded. Further, the AMCs need to maintain records in support of each investment. However, allegedly the AMC failed to do so.

- b. Data, facts and opinion leading to that decision and the basis for taking individual scrip wise investment decision in equity and debt securities should be recorded. Further, Regulations 25 (2) of MF Regulations stipulates that the asset management company (AMC) shall exercise due diligence and care in all its investment decisions as would be exercised by other persons engaged in the same business. However, the AMC allegedly failed to comply with it.

II. Not establishing a mechanism to verify that due diligence is being exercised while making investment decisions properly in terms of the aforesaid SEBI Circular and not in compliance with the Investment Policy Manual approved by the AMC Board in terms of the aforesaid SEBI Circular

- a. The provisions of SEBI Circular No. MFD/CIR/ 6 / 73 /2000 dated July 27, 2000 with respect to recording of investment decisions by Mutual Funds require that the AMC boards will develop a mechanism to verify that due diligence is being exercised while making investment decisions. Hence, the board approved Investment policy manual shall be complied by the AMC which mentions that apart from detailed analysis of financial statements, each analyst would actively monitor the companies in his / her respective sector and the companies in active coverage would be tracked very closely and would have detailed research reports / notes.
- b. Further, the Investment policy manual also mentions that large universe of stocks shall be actively tracked and reviewed on a continuous basis by the equity team to ensure pro-active research and effective fund management.
- c. By not updating the research reports on a quarterly basis despite the availability of updated financial statements of investee companies, the AMC has allegedly failed to continuously track its active stocks as stated in its investment policy manual.

4. The SCN was duly delivered to the Noticee. Noticee vide letter dated April 11, 2023 sought inspection of documents. Noticee was given opportunity to inspect documents on April 27, 2023 vide email dated April 13, 2023. The documents were inspected by the Authorised Representative (hereinafter referred to as “AR”) of the Noticee on the scheduled date. After inspection of documents, the Noticee was advised to file the reply on or before May 19, 2023. The Noticee, vide email dated May 19, 2023 sought time till May 26, 2023 to file its reply. Further, vide email dated May 26, 2023, the Noticee submitted that it shall file its reply on or before June 2, 2023. The Noticee replied to the SCN vide letter dated June 1, 2023 stating, inter alia, the following:

- *The Noticee did indeed record detailed reasons behind its investments in a security. The requirement of law is that this must be done in detail at the first instance of investing in a security. Every subsequent investment decision in relation to that security was also backed by reasons. The Notice does not dispute this either. However, based on a misreading of the Circular, the Notice alleges that even subsequent investment decisions would need to be backed by detailed reasons i.e. facts, data and opinion. This interpretation is being adopted in the Notice for the first time, in nearly two decades since the Circular was issued. The Circular makes a careful distinction between the process to be followed for a first time investment decision in a security and a subsequent investment decision in relation to the same security, which the Notice loses sight of.*
- *The Notice has also erred in finding fault with the Noticee merely because investments made by three schemes of L&T MF in three investee companies led to losses viz:- (i) Investments by L&T Value Fund in Hindustan Zinc Limited, (ii) Investments by L&T Infrastructure Fund in Sadbhav Engineering Limited and (iii) Investments by L&T Midcap Fund in Vodafone Idea Ltd. In other words, had these investments yielded a profit -the allegation of lack of adequate reasons and lack of due diligence would not have been levelled. The process followed for making these investments was precisely the same as the process for any other investment. The adequacy and quality of the Noticee's due diligence cannot be tested with reference to the outcome of investment decisions. A profitable investment decision could be unreasoned while a loss- making decision could be supported by a plethora of reasons. The quality of diligence cannot be tested by such*

happenstance outcomes. In any case, as stated above, the Circular has been mis-applied.

- The Notice in effect second guesses the wisdom of bona-fide commercial decisions taken by the Noticee by questioning the adequacy of reasons specified by the Noticee, in support of an investment decision. Investment decisions are not akin to quasi-judicial orders which are required to articulate detailed reasons that weighed with the decision maker. Investment decisions are informed by a range of considerations that are essentially subjective. The law is well settled that Courts and regulatory authorities cannot sit in judgement over the commercial wisdom of party. The fact that SEBI may believe an investment decision was not adequately reasoned, with the benefit of hindsight, is therefore a subjective one. This can neither substitute the Noticee's judgement at the time it was made, or render the judgement a flawed one, let alone lead to penal proceedings being adopted against the Noticee.*
- The Hon'ble Supreme Court has recently emphasized that SEBI must be "consistent and predictable" and that "regularity and predictability, along with certainty, are hallmarks of good regulation and governance". It held that the principle of doubtful interpretation would be squarely applicable (in that case dealing with the Takeover Regulations where SEBI adopted a stand inconsistent with past conduct) and where two views are possible on a penal provision, the view which favours exempting the subject from penalty must be preferred. Since the view adopted by the Noticee as indeed other funds – have held the field for over two decades without SEBI ever expressing a contrary view – the Noticee cannot be penalised since SEBI has chosen for the first time in two decades, to take a different view.*
- The Notice has also mixed up two distinct matters-the research reports which are updated annually, and investment decisions taken based on active tracking of performance of investee companies. The fact that research reports are being updated annually does not mean that there is no active tracking of investee companies in the interregnum. Merely because of a finding of a loss in some transactions, to level an allegation that research reports are not updated frequently and therefore assuming that the stock is not tracked regularly, is wholly arbitrary and unreasonable. There is no basis for the assertion that the frequency with which*

the reports were updated had any bearing on the quality of investment decisions which are taken inter-alia based on performance of investee companies.

- SEBI has also lost sight of the purpose of an inspection. The purpose of an inspection is not to escalate every alleged violation discovered during an inspection, into a penal proceeding. It is settled law that inspections must be undertaken with a view to improve and strengthen an intermediary's processes. The purpose of an inspection is not to unsettle established practices and procedures that have been adopted for two decades, by placing a novel interpretation on a Circular-one that SEBI did not adopt for over two decades.*
- The Circular has advised AMCs to maintain records in support of each investment decision which will indicate the data, facts and opinion leading to that decision. The Circular thereafter proceeds to state that while there should be a detailed research report analysing various factors for each investment decision taken for the first time, the reasons for subsequent purchase and sales in the same scrip should be recorded and that the contents of the research reports may be decided by the AMCs and the trustees. The Circular also states that the AMC boards can prescribe broad parameter for investments and the basis for taking individual scrip wise investment decision in equity and debt securities should be recorded.*
- The research analysts maintain their models for the respective companies which are updated on a regular basis. Fund managers engage with the research analysts and discuss stocks with the help of these models / updates. Such discussions are key inputs to the decision-making process. Apart from the detailed justification reports on companies which get updated on a yearly basis, the research analyst also keep the fund managers updated about any developments in the company / sector, any change in earnings, valuations etc. These updates are given either as part of in-person discussions or exchanged on emails. The research analysts also maintain a one-page investment thesis on portfolio stocks, apart from maintaining valuation sheets which are also used in discussions on a regular basis.*
- The Notice has gone one step further and suggests an expectation of detailed reasons over and above the detailed research report, in alleging a violation of a provision which is not even contemplated. As stated, investment transactions are business judgements and not judicial pronouncements.*

- *The basis of the allegation in the Notice that subsequent investment decisions were not backed by detailed reasons appears to be based on investment decisions made by three schemes of L&T MF in three investee companies:-*
 - a. *L&T Value Fund's investment in securities of Hindustan Zinc Limited where 6.55 lakh shares were purchased on August 7, 2020 (which was backed by a detailed research report) and the shares were sold between September 14, 2020 and September 17, 2020 (on account of better opportunities and raising cash);*
 - b. *L&T Infrastructure Fund's investment in Sadbhav Engineering where 7.51 lakh shares were purchased between April and May 2019 and 7.51 lakh shares were sold on April 23, 2020 (for raising cash for tactical reasons);*
 - c. *L&T Midcap Fund's investment in Vodafone Idea where 8,00,00,000 shares were purchased on December 4, 2019 and the shares were sold between January and February 2020 (for reducing exposure and better investment opportunities);*
- *Each of these investment decisions have been explained by the Noticee. There is no allegation that these decisions were motivated by collateral considerations or were against the interests of the unit holders. The charge is that the reasons were not detailed enough with particulars (facts, data and opinion) which led to a loss. This in effect amounts to second guessing the commercial wisdom behind these business decisions that too based on their outcome. The law is well settled that SEBI cannot second guess commercial decisions taken and more so, on the unstated premise that these decisions did not yield the desired results.*
- *The Noticee has adopted a bona-fide interpretation that the latter part of the Circular is distinct and stands on a different footing from a first time investment decision.*
- *Therefore, this is an interpretation of the Circular that is being canvassed in the Notice for the first time in over two decades. This cannot become the basis to undo the practices of the past and worse, penalise a Noticee for adhering to a standard, that was in SEBI's view good law for over two decades -until the present Notice.*
- *The Notice alleges that the Noticee has failed to update research reports of investee companies on a quarterly basis. There is no requirement whether in the MF Regulations or in any circulars issued by SEBI that specifies the period within which the research reports must be updated. Therefore, the allegation that research reports were not updated on a quarterly basis is untenable.*

- *The fact that financial results of an investee company may be available on a quarterly basis does not mean that the Noticee is required to update its research reports on a quarterly basis. Had this been SEBI's objective, nothing prevented SEBI from amending the MF Regulations or issuing a circular requiring mutual funds to do so.*
- *The Notice has also mixed up the frequency within which the research report is updated with the tracking and monitoring of its active portfolio of stocks. The Noticee has a team that monitors material developments in the market and suitable investment decisions are taken on that basis. The mere fact that a research report is updated annually does not mean that the Noticee's analysts track the performance of investee companies only on an annual basis. In fact, the record shows investment decisions were taken promptly and the Noticee reacted to material information concerning these companies, available in the public domain.*
- *The Noticee has set out the reasons for which the sale was undertaken over a month after the purchase which have been noticed in the Inspection Report. Such an investment decision would not have been possible, if the Noticee did not actively monitor the investee companies or tracked them only on an annual basis as wrongly alleged in the Notice. In fact, if the premise of the Notice is accepted, that reports must be updated on a quarterly basis entailing review of the portfolio on a quarterly basis- then the Noticee would not have monitored Vodafone Idea and would have missed an important adverse development that materially altered the basis of its initial investment decision.*
- *The Noticee cannot be guilty of both – failing to react in a timely manner after an investment is made and reacting too quickly by exiting an investment recently made. If anything, this points to the fact that the Noticee was actively monitoring its portfolio and did not wait for an annual review of the portfolio as wrongly alleged in the Notice.*
- *The research analysts' recommendations are subsequently discussed in the investment team meetings but the final decision on inclusion of a stock in the portfolio rests with the fund managers, who have the overall responsibility of their portfolios. The research analyst will prepare a detailed research report on every company and the same will be refreshed every 12 months. The stocks bought in the portfolio are reviewed periodically and the fund manager may decide to exit a stock on achieving the price target or for other reasons such as weakening business*

prospects or if he finds better investment opportunity elsewhere. The portfolios are monitored continuously to ensure that they are positioned to meet their investment objectives.

- In the three instances identified by SEBI in the Inspection Report, in fact, the record shows that the Noticee was actively tracking the investee companies. In each of the three instances, the reasons that motivated the decision to exit these investments have neither been assailed as being false or erroneous.
- In fact, the decision to exit the investments made in Hindustan Zinc and Vodafone Idea was taken within a period of 39 days and 44 days respectively- far less than even the quarterly review standard canvassed in the Notice. Therefore, to suggest that there has been no active monitoring of the portfolio of the Noticee, is belied by the record and the contemporaneous conduct of the Noticee.

5. In the interest of natural justice, opportunity of personal hearing was given to the Noticee on June 16, 2023 vide hearing notice dated June 2, 2023. Subsequently, a supplementary show cause notice dated June 16, 2023 was issued to the Noticee stating, inter alia, the following:

“Inspection brought out certain instances where substantial losses were incurred by L&T Mutual Fund schemes on investment in certain securities. The findings of the Inspection for each security along with the AMC comments are placed below:

I. Sadbhav Engineering:

- a. The research report dated 31.07.2019 was available in which the annual audited financial data for the FY 2018-19 were considered and a buy recommendation at Rs.141 given by the Analyst.
- b. The company reported net losses in the 4 preceding financial years (including FY 2018-19) as per consolidated financials but the analyst took reference of standalone financials only in his research report which shows net profit whereas consolidated annual report shows net loss. The analyst's presentation was not correct as the consolidated financials was not considered in the research report. The review report does not have reference earlier review/research report. No evidence is provided for sharing the said report to Fund Managers.
- c. The L&T Infrastructure Fund invested Rs.17.73 crore during 25.4.2019 to 8.5.2019 in shares of Sadbhav Engg. Ltd @ Rs.235.90 per share. Subsequently all shares were sold for Rs.2.76 crore on 23.4.2020 at an average rate of Rs.36.90 per share after holding for approx. one-year and **booked a loss of Rs.14.97 crore**. In this regard, the fund manager mentioned in the mandatory remark's column “need to raise cash for tactical reasons”. The research analyst did not give any review report before booking the loss to the extent

of 84% of the funds invested. No detailed reasons were recorded by the Fund Manager for selling the shares on loss within a period of 1 year as against the buying recommendation of Analyst on 31.7.2019 at Rs.141. Similarly, L&T Emerging Opportunity fund sold its holding of 2,34,652 shares at a consideration of Rs.95.23 lacs at an average rate of Rs.40.48 per share between 1/06/2020 to 17/06/2020.

- d. The annual report of 2019-20 was reviewed on 31.7.2020 by analysts and recommended to reduce exposure at a price of Rs.43 per share on that day but all shares were already sold on 23.4.2020 and there was NIL holding on the date of review/research report.

AMC Comments: *Sadbhav Engg. Ltd* Infrastructure sector works on project basis which leads to creation of subsidiaries and special purpose vehicles for these projects. Due to the nature of the business, there are PAT losses on consolidated basis and the correct way to value them is through a Sum of the parts (SoTP) method wherein we break the business into developer & contractor and value them separately.

In future, where there are such cases, they will try and provide more details on financials and valuation in the research report.

Sell decisions are made by the fund manager based on various factors like company fundamentals, valuations, market conditions, availability of other opportunities, portfolio liquidity etc. It is part of their regular process and the decision making is the responsibility of the fund manager.

As a part of their research process, a detailed research report analyzing various factors for each investment decision taken for the first time is being maintained and the reasons for subsequent purchases and sales in the same scrip are recorded. In their view and as is the industry practice, there is no regulatory requirement to maintain a detailed report for reducing or exiting any stock holdings in the portfolio, irrespective of profit or loss.

Further, recommendations given by the analyst are not necessarily meant to be executed on the same day. Once a recommendation is given by the analyst, the fund manager can take the decision to execute it based on his view on markets, the stock, portfolio needs, etc.

II. Vodafone Idea:

- a. L&T Midcap scheme made investment of Rs.61.59 crore in Vodafone Idea shares @Rs.7.69 per share on 4.12.2019. The research report dated 2.12.2019 recommended investment in the said company for medium and long term but the all shares were sold after 44 days and 70 days at an average rate of Rs.4.50 per share and booked a huge loss of Rs.25.43 crore.
- b. The research analyst did not give any review report when 211.49 lacs shares were sold @ Rs.4.48 per share on 17.1.2020.
- c. No detailed reasons were recorded by the Fund Manager for selling shares at a huge loss within a short period of holding for 44 days as against the recommendation for holding for a medium and long term i.e. loss booked after erosion of 42% of the fund value. The

whole 588.50 lacs shares were sold at average rate of Rs.4.535 per share without taking opinion of Analyst.

- d. The review of research of Vodafone Idea was done on 30.6.2017. The annual report of 2017-18 was available, but this company was not reviewed after the availability of annual report. The annual report of 2018-19 was available on 26.7.2019, but it was reviewed on 2.12.2019 i.e. after a delay of 3 months.

AMC Comments: Following developments took place during the period Dec 2019 to Jan 2020 which in their view affected the future prospects of the company in a significant manner and thus led to a relook on the investment thesis of the company.

- 01-Dec-19 telecom tariff hike: This was the first across the board tariff hike taken by the telecom industry.
- 16-Jan-20: VIL's review petition on the AGR case was dismissed by the SC. This meant that VIL couldn't contest the DoT's AGR liability of Rs583bn. VIL was banking on the success of this review. Yet again, this brought survival concerns to the fore and VIL's share price fell significantly.

III. Hindustan Zinc:

- a. The review of research report of Hind Zinc was done on 12.10.2017 thereafter no review/research report was prepared for next 2 years despite availability of the annual report of 2017-18 and 2018-19. The next review report was made after approx. 3 years on 21.07.2020 when annual report of 2019-20 was available on 21.7.2020. The Analysts recommended for buying the share at a price of Rs.183 for medium and long term.
- b. In next month the L&T Value Fund invested Rs.16.28 crore on 7.8.2020 @ Rs.248.27 per share as against recommended price of Rs.183 on 21.7.2020. Subsequently all holding of Hind Zinc were sold after holding it for 39 days i.e. 14.9.2020 to 17.9.2020 at an average rate of Rs.222.98 per share and booked a loss of Rs.1.61 crore.
- c. The fund manager mentioned in the mandatory remark's column "switching to better opportunity" but details of better opportunity were not mentioned. The research analyst did not give any review report before booking loss of 9% of the fund invested in a short period.

AMC Comments: Uncertainty regarding the delisting of Vedanta shares, pledging of its holding in Hindustan Zinc, Supreme court allowing arbitration proceedings against the government for Vedanta taking full control of Hindustan Zinc etc. led to taking a view to exit the holding.

As per their investment policy the analyst is expected to write a detailed research report once every twelve months. Publication of annual report does not have any bearing on this process. However, they shall consider your suggestion to link it with the publication of annual reports. Sell decisions are made by the fund manager based on various factors like company fundamentals, valuations, market conditions, availability of other

opportunities, portfolio liquidity etc. It is part of their regular process and the decision making is the responsibility of the fund manager.

6. Further, with respect to the observation on losses incurred in investments in Sadbhav Engineering, Vodafone Idea and Hindustan Zinc, the following concerns are raised:

i. Sadbhav Engineering

- a. With respect to Sadbhav Engineering, L&T Infrastructure Fund had invested Rs.17.73 crore during 25.4.2019 to 8.5.2019 in shares of Sadbhav Engg. Ltd @ Rs.235.90 per share by recording decisions "Investment Purchase" and "increasing exposure". Subsequently all shares were sold for Rs.2.76 crore on 23.4.2020 at an average rate of Rs.36.90 per share after holding for one-year approx. and booked a loss of Rs.14.97 crore by recording decisions "need to raise cash for tactical reasons".



- b. The relevant research report pertaining to the security was available is dated 31.07.2019, in which the annual audited financial data for the FY 2018-19 were considered. The company reported net losses in the 4 preceding financial years (including FY 2018-19) as per consolidated financials but the analyst took reference of standalone financials only in his research report which shows net profit whereas consolidated annual report shows net loss. The review report does not have reference earlier review/research report.
- c. No evidence was provided for sharing the said report to Fund Managers. There was no subsequent updation of the report based on Quarterly Audited Financials of the

company, which is available in public domain. The annual report of 2019-20 was reviewed on 31.7.2020 by analysts and recommended to reduce exposure at a price of Rs.43 per share on that day but all shares were already sold on 23.4.2020 and there was NIL holding on the date of review/research report. On perusal, it is also noted that even the name of the Analyst was not mentioned on research report dated July 31, 2019. The board approved Investment policy manual was not complied by the AMC which mentions that apart from detailed analysis of financial statements, each analyst would actively monitor the companies in his / her respective sector and the companies in active coverage would be tracked very closely and would have detailed research reports / notes.

- d. *With respect to the said sale, the fund manager mentioned in the mandatory remark's column "need to raise cash for tactical reasons". However, no detailed reasons were recorded by the Fund Manager for selling the shares on loss within a period of 1 year as against the buying recommendation of Analyst on 31.7.2019 at Rs.141.*
- e. *While SEBI Circular No. MFD/CIR/ 6 / 73 /2000 dated July 27, 2000 requires a detailed research report analyzing various factors for each investment decision taken for the first time is maintained, Regulations 25 (2) of SEBI (Mutual Funds) Regulations, 1996 stipulates that the asset management company (AMC) shall exercise due diligence and care in all its investment decisions as would be exercised by other persons engaged in the same business. Further, as per Clause 9 of Fifth Schedule – Part A of the SEBI (Mutual Funds) Regulations, 1996 stipulates that the asset management company shall render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgment.*
- f. *It was observed that once an investment is made, AMC has a responsibility to ensure that such investment decisions are reviewed on periodical basis at least on publication of quarterly results by the company, as the regulation require AMC to exercise due diligence and care in investment decisions as would be exercised by other persons engaged in the same business.*

ii. Vodafone Idea Ltd:

- a. *With respect to Vodafone Idea Shares, L&T Midcap scheme made investment of Rs.61.49 crore in Vodafone Idea shares @Rs.7.69 per share on 4.12.2019 by recording reasons "Investment Purchase" and all the shares were sold after 44 days and 70 days at an average rate of Rs.4.51 per share by recording decisions "Reducing Exposure" and "Switching to better opportunities".*
- b. *AMC stated on December 1, 2019 there was a telecom tariff hike which was the first across the board tariff hike taken by the telecom industry. However, on January 16, 2020 VIL's review petition on the AGR case was dismissed by the SC. This meant that VIL couldn't contest the DoT's AGR liability of Rs583bn. VIL was banking on the success of this review. Yet again, this brought survival concerns to the fore and VIL's share price fell significantly.*

- c. *As per the inspection findings, the review of research of Vodafone Idea was done on 30.6.2017. The annual report of 2017-18 was available, but this company was not reviewed after the availability of annual report. The annual report of 2018-19 was available on 26.7.2019, but it was reviewed on 2.12.2019 i.e. after a delay of 3 months. On perusal, it is also noted that even the name of the Analyst was not mentioned on research report dated December 02, 2019*
- d. *The research report dated 2.12.2019 recommended investment in the said company for medium and long term but the all shares were sold after 44 days and 70 days at an average rate of Rs.4.50 per share and booked a huge loss of Rs.25.43 crore. Further, the Research Report in one of the risks is mentioned that no relief in AGR penalty and the entire payment to be made in the near term;*
- e. *No detailed reasons were recorded by the Fund Manager for selling shares at a huge loss within a short period of holding for 44-70 days as against the recommendation for holding for a medium and long term i.e. loss booked after erosion of 41% of the investment.*
- f. *Reasons for decision is not recorded as stipulated in SEBI Circular No. MFD/CIR/ 6 / 73 /2000 dated July 27, 2000. Further, Regulations 25 (2) of SEBI (Mutual Funds) Regulations, 1996 stipulates that the asset management company (AMC) shall exercise due diligence and care in all its investment decisions as would be exercised by other persons engaged in the same business. Further, Clause 9 of Fifth Schedule –Part A of the SEBI (Mutual Funds) Regulations, 1996 stipulates that the AMC shall render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgment. The same is not complied with.*

iii. Hindustan Zinc:

- a. *With respect to Hindustan Zinc Shares, L&T Value Fund invested Rs.16.28 crore on 7.8.2020 in shares of Hind Zinc @ Rs.248.56 per share by recording reasons “Investment Purchase” as against recommended price of CMP - Rs.183 on 21.7.2020. Subsequently all holding of Hind Zinc were sold after holding it for 39 days i.e. 14.9.2020 to 17.9.2020 at an average rate of Rs.223.87 per share and booked a loss of Rs.1.61 crore. In this regard, the AMC has stated that:*
 - *Uncertainty regarding the delisting of Vedanta shares, pledging of its holding in Hindustan Zinc, Supreme court allowing arbitration proceedings against the government for Vedanta taking full control of Hindustan Zinc etc. led to taking a view to exit the holding*
 - *Sell decisions are made by the fund manager based on various factors like company fundamentals, valuations, market conditions, availability of other opportunities, portfolio liquidity etc. It is part of their regular process and the decision making is the responsibility of the fund manager.*
 - *Recommendations given by the analyst are not necessarily meant to be executed on the same day.*
 - *Once a recommendation is given by the analyst, the fund manager can take the decision to execute it based on his view on markets, the stock, portfolio needs, etc.*

- *The research analyst makes a recommendation on a stock and once accepted, the stock becomes a part of the universe. The fund manager is then allowed to buy the stock depending on his/her view on the market, portfolio requirements and other factors as mentioned in their above response.*
- b. *The concerned research report of Hindustan Zinc was made on 21.07.2020 when annual report of 2019-20. The Analysts recommended for buying the share at a price of Rs.183 for medium and long term. On perusal, it is also noted that even the name of the Analyst was not mentioned on research report dated July 21, 2020*
- c. *The fund manager mentioned in the mandatory remark's column "switching to better opportunity". The Fund Manager booking loss booked a loss of Rs.1.61 crore in a short period without giving proper record of investment decisions.*
- d. *Reasons for decision is not recorded as stipulated in SEBI Circular No. MFD/CIR/ 6 / 73 /2000 dated July 27,2000. Regulations 25 (2) of SEBI (Mutual Funds) Regulations, 1996 stipulates that the asset management company (AMC) shall exercise due diligence and care in all its investment decisions as would be exercised by other persons engaged in the same business. Further, as per Clause 9 of Fifth Schedule – Part A of the SEBI (Mutual Funds) Regulations, 1996 stipulates that the asset management company shall render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgment. The same is not complied with."*

7. Due to the issuance of the supplementary show cause notice, the personal hearing scheduled on June 16, 2023 was adjourned. The Noticee replied to the supplementary show cause notice vide letter dated July 7, 2023 stating, inter alia, the following:

- *The Reply has already set out in detail that SEBI cannot second guess bona-fide commercial decisions taken as a matter of best judgement, and that too with the benefit of hindsight. Therefore, the submissions made here are without prejudice to the Noticee's submission that SEBI to cannot initiate regulatory proceedings merely because the investment decisions led to losses or that it has a different view.*

I. *Sadbhav Engineering Limited ("Sadbhav")*

The allegations are untenable for the following reasons:-

- a. *None of the expectations outlined above as forming the basis of penal proceedings, is backed by stipulation in the law;*
- b. *The research report expressly referred to "Standalone Results" of Sadbhav. The research analyst did not suggest otherwise and was conscious that he was making a recommendation based on standalone results. Indeed, the Noticee and its research analysts are well aware of the distinction between standalone and consolidated results. The fact that consolidated results was not specifically extracted in the research report does not mean that the Noticee was unaware of the consolidated results, which were in the public domain. There is no stipulation that there must be a formal recording of being aware of publicly*

available information. Indeed, no fault has been found with the material contained in the research report all of which justify the recommendation made by the analyst;

- c. *It is quite extraordinary for SEBI to suggest that since an entity reports a loss it would render the company untouchable for a mutual fund and worse, seek to visit the fund with a penalty;*
- d. *Investment decisions take into account a range of considerations -including the company's future earning potential. Past performance cannot be determinative of whether an entity would perform well in the future. The decision to sell was also made at a time of heightened uncertainty during the COVID-19 pandemic and the nation-wide lockdown that was in place at the time. These are matters of commercial judgement that cannot become the subject matter of regulatory proceedings.;*
- e. *Should such a standard be expected of a mutual fund in a penal proceeding, such a standard must find a place in the regulations;*
- f. *The mere fact that Sadbhav reported losses on a consolidated basis – and the Noticee's investment decision ultimately led to a loss, cannot become the basis to assail a bona-fide view expressed in a research report or render the investment decision made by the Noticee, lacking in diligence;*
- g. *As regards the purported absence of any reference to the earlier research report and the absence of the name of the research analyst, these are not matters that become worthy of a regulatory proceeding for a penalty;*
- h. *None of the SEBI Circulars cited in the Notice (or the Supp. Notice) stipulate that every research report must contain a reference to the earlier report and the name of the research analyst who prepared the report. The fact that these details were not in the research report does not make the investment decision an unreasoned one or lacking in diligence. Even credit rating agencies are not required to maintain such a format in their reports -they have to spell out their rating process;*
- i. *The allegations about the research report being updated only annually despite information of quarterly results being available in the public domain, has already been dealt with in the Reply. Suffice it to say, the research reports are formally updated annually but it is wrong to extrapolate that fact and allege that, in the interregnum, there was no active tracking of the scrip. The fact that there was active tracking of Sadbhav Engineering is evident from the fact that while the research report was scheduled for an annual review on July 31, 2020, the Noticee sold shares of Sadbhav on April 23, 2020-with reasons;*
- j. *The Supp. Notice has sought to draw a non-existent connection between the review of the research report dated July 31, 2020 and the sale of shares of Sadbhav, prior in time, on April 23, 2020. Research reports are routinely updated on an annual basis for the stocks tracked by the Noticee regardless of whether the Noticee's schemes have an exposure to the stock.*

Scrips that L&T MF may have invested in the past are also evaluated to determine whether they are worthy of an investment in the future. This certainly does not mean that the decision to sell shares of Sadbhav on April 23, 2020 was without basis or without recording of reasons;

- k. Neither the MF Regulations nor the Circular prescribe any format or the details a research report must contain; and*
- l. In any case, each of these investment decisions have been explained by the Noticee. As stated in the Reply, in the absence of any allegation that these decisions were motivated by collateral considerations or were against the interests of the unit holders, any charge under the Regulation 25(2) of the MF Regulations and/or the Circular, is untenable.*

II. Vodafone Idea Limited ("Vodafone")

The allegations in the Supp. Notice are untenable for the following reasons:

- a. The fact that Vodafone released its annual report on July 26, 2019 does not mean that the Noticee is required to prepare a research report immediately particularly when there was no investment in Vodafone at that stage. The Supp. Notice does not cite any circular or regulation that requires the Noticee to review its research report every time financial results are made available or other material developments, relating to the issuer company take place;*
- b. In the case of Vodafone, a detailed research report was prepared by the analyst on December 2, 2019 prior to L&T Midcap Fund's investment in Vodafone on December 4, 2019. This research report took into account the annual report of Vodafone which was made available on July 26, 2019. To therefore suggest that the research report was delayed and prepared only in December 2019 is a complete red-herring as there was no prior investment in Vodafone, as on date of the annual report (July 26, 2019), by L&T Midcap Fund;*
- c. Owing to negative developments pertaining to the telecom sector (referred to in the Reply such as the ruling of the Hon'ble Supreme Court on AGR dues in January 2020), the Noticee decided to reduce its exposure to Vodafone. The adverse developments between December 2019 to January 2020, in the fund manager's view affected the future prospects of Vodafone in the significant manner and the shares were sold between January 2020 and February 2020 for reducing exposure and better investment opportunities, which were duly recorded;*
- d. There was a material change in circumstances since the recommendation was made in December 2019 -which the Supp. Notice does not dispute. The Noticee like any prudent and responsible institution reacted to the negative outlook on the telecom sector and the huge financial liability that Vodafone was likely to be saddled with (owing to the Supreme Court's dismissal of the review petition against its judgement holding telecom companies liable for AGR dues);*

- e. To find fault with the sale and suggest that the Noticee could not have cut its exposure shortly after the investment because its analyst recommended the investment in Vodafone to be for a medium-long term, is untenable. Investment recommendations are not cast in stone. They must respond to a dynamic and ever changing market. The fact that there were adverse developments shortly after the recommendation was made, has not been disputed all of which led to a bona-fide commercial decision to sell;
- f. The Noticee's Investment Policy also categorically provides that, "As far as possible the fund manager would go by the in-house analyst's recommendation, but he will have complete discretion to go against the analyst's recommendation." (See page 13 of 20 of the Investment Policy). In this case, the fund manager went by the analyst's recommendation but reacted to adverse news available shortly after which was bona-fide. As stated earlier, a bona-fide commercial judgement call of the fund manager cannot be subject matter of a regulatory proceeding by SEBI, unless it is shown that the decision was tainted by collateral considerations.

III. Hindustan Zinc Limited ("Hindustan Zinc")

The allegations against the Noticee are untenable for the following reasons:-

- a. As stated earlier, SEBI's attempt to link the requirement to prepare a research report with disclosure of the annual report by the investee company – is not at all a position founded in law. In the name of due diligence, SEBI cannot legislate new requirements in the MF Regulations or circulars issued from time to time;
- b. Besides, a detailed research report was prepared by the analyst on July 21, 2020 (i.e. prior to L&T Value Fund's investment in Hindustan Zinc on August 7, 2020). Therefore, the fact that the research report was made prior to investment decision is undisputed. The mere fact that it was not updated the annual report was released, is a red-herring;
- c. L&T Value Fund's investment in securities of Hindustan Zinc where shares were purchased was done on August 7, 2020, backed by the detailed research report;
- d. Thereafter, uncertainty regarding the delisting of Vedanta shares, pledging its holding in Hindustan Zinc, the Hon'ble Supreme Court allowing proceedings against the Government for Vedanta taking full control of Hindustan Zinc, etc. led to a bona-fide view that the Noticee must cut its exposure. Accordingly, the shares were sold between September 14, 2020 September 17, 2020 on account of between opportunities and raising cash, which reasons were duly recorded using the broad parameters as set Reply.

- e. *Like in the case of the investment in Vodafone, the Supp. Notice is founded the fundamentally wrong premise that recommendations once made, must followed mechanically, without regard to subsequent developments which to a need for review;*
8. An opportunity of personal hearing was given to the Noticee to appear for personal hearing before the undersigned on July 17, 2023. Vide notice dated July 11, 2023. The Noticee vide email dated July 12, 2023 sought for another date of personal hearing. Acceding to its request final opportunity of personal hearing was given to the Noticee on August 1, 2023 vide email dated July 13, 2023. The Noticee appeared on the scheduled date and reiterated the submissions made vide letters dated June 1, 2023 and July 7, 2023. On a query raised by the undersigned, the Noticee undertook to make further submissions subsequent to the personal hearing. Vide letter dated August 14, 2023, the Noticee made further submissions stating inter alia, the following:
- *“The judgement call on which Suitable Option is to be selected for each trade is an informed one and is based inter-alia on discussions between fund managers and analysts which occurred on a daily-basis, and other supporting documentation for the scrip on basis the broad parameters provided in the Investment Policy. That such a decision was taken would be borne out by the discussions among the analysts and managers who would regularly engage in team meetings extensively. These being operational meetings, would not be minuted and recorded – the decision would culminate in the selection of the Suitable Option;*
 - *The fund managers and analysts had team meetings on a daily basis where sector and stocks of the portfolios were discussed extensively. Further, if any in-depth discussion was required on any particular stock/scrip, then the fund managers and the analysts would have one to one detailed discussion, based on which the fund managers would take investment decisions;*
 - *It is noteworthy that the aforesaid is not just a submission across the bar. All of these are borne out in the Noticee’s written and documented investment policy;*
 - *Apart from discussions with the analysts, the fund managers would also consider the market outlook, sector outlook and stock outlook, which is dynamic and ever evolving and subject to change based on extenuating circumstances;*
 - *Given the change in management of the Noticee and the sheer distance of time from the inspection period (April 1, 2019 to March 31, 2021), contemporaneous records in the form of emails and other exchanges the analysts may have had with the fund managers during the inspection period – are not traceable;*
 - *Pertinently, the Notice and the Supp. Notice **do not** allege that reasons were not recorded. They notice that reasons were indeed recorded but fault is sought to be found with the alleged inadequacy of the reasons for certain investment decisions, taken by the Noticee, which led to losses – in itself a subjective allegation that would not lend itself to penalty;*

- *The practice of recording summary reasons for subsequent investment decisions as aforesaid was always an industry practice which is followed consistently by all mutual funds for over two decades since the SEBI Circular. SEBI has never assailed such a practice, which is why there is no case law at all despite the SEBI Circular in question is over two decades old. Multiple inspections have been conducted by SEBI including of the Noticee. Till date, this very same consistent practice has never been found fault with. In this period, if at all SEBI had expressed a desire for a redesign, that could have been achieved – precisely what the Hon'ble Securities Appellate Tribunal has ruled is an objective of an inspection process in the **Religare** case cited in the Reply to Notice."*

CONSIDERATION OF ISSUES AND FINDINGS

9. The issues that arise for consideration in the instant matter are:

- (a) Whether Noticee has violated SEBI circular no. MFD/CIR/6/73/2000 dated July 27, 2000, regulation 25 (2) of MF Regulations and clause 9 of Fifth Schedule – Part A of MF Regulations;
- (b) Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15HB of SEBI Act?; and,
- (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

10. The relevant provisions are mentioned hereunder:

"25. Asset management company and its obligations

(2) The asset management company shall exercise due diligence and care in all its investment decisions as would be exercised by other persons engaged in the same business.

FIFTH SCHEDULE

Code of Conduct

Part A

9. Trustees and the asset management company shall render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgment."

“MFD/CIR/ 6 / 73 /2000
July 27, 2000

All Mutual Funds Registered with SEBI/ Unit Trust of India

Dear Sirs,

Re : Recording of investment decisions by Mutual Funds

Some of the inspection reports of mutual funds indicate substantial depletion of assets of some of the schemes. We have also come across instances wherein the companies have never paid interest and principal amount to mutual funds particularly when the securities were bought on private placement basis. While going through the portfolio statements of the mutual funds, we find non-performing assets (NPAs) and some of the scrips valued at a negligible amount. All this is reflected in the NAVs of the mutual funds.

Sub-regulation (2) of Regulation 25 of SEBI (Mutual Funds) Regulations, 1996 stipulates that the asset management company (AMC) shall exercise due diligence and care in all its investment decisions as would be exercised by other persons engaged in the same business. With a purpose to implement the regulation in an effective manner and to bring about transparency in investment decisions, the AMCs are hereby advised to maintain records in support of each investment decision which will indicate the data, facts and opinion leading to that decision. While the AMC boards can prescribe broad parameters for investments, it is important that the basis for taking individual scripwise investment decision in equity and debt securities should be recorded. While there should be a detailed research report analysing various factors for each investment decision taken for the first time, the reasons for subsequent purchase and sales in the same scrip should be recorded. The contents of the research reports may be decided by the asset management companies and the trustees.

AMC boards may develop a mechanism to verify that due diligence is being exercised while making investment decisions. They may pay specific attention in case of investment in unlisted and privately placed securities, unrated debt securities, NPAs, transactions where associates are involved and the instances where there is poor performance of the schemes.

The AMCs shall report the compliance of the above in their periodical reports to the trustees and the trustees shall report to SEBI in their half-yearly reports. Trustees may also check its compliance through the independent auditors or internal/statutory auditors or other systems developed by them.

This circular is being issued in accordance with the provisions of the Regulation 77 of the SEBI (Mutual Funds) Regulations, 1996. The details of its compliance and the system developed in this regard may be informed to us by August 16, 2000. After placing the matter before the Boards of AMCs and trustees, a final detailed compliance report may be sent to us.

Yours faithfully,”

FINDINGS

11. I find that the main allegations against the Noticee are:

- a) Not properly recording of investment decisions as per SEBI Circular;

- b) Not establishing a mechanism to verify that due diligence is being exercised while making investment decisions properly in terms of the aforesaid SEBI Circular and not in compliance with the Investment Policy Manual approved by the AMC Board in terms of the aforesaid SEBI Circular and thereby
- c) violated SEBI circular no. MFD/CIR/6/73/2000 dated July 27, 2000, regulation 25 (2) of MF Regulations and clause 9 of Fifth Schedule – Part A of MF Regulations;

12.To demonstrate that the Noticee had failed to maintain proper record of investments and not establishing a mechanism to verify that due diligence is being exercised, investments in Sadbhav Engineering Ltd., Vodafone Idea Ltd. and Hindustan Zinc were analysed.

Sadbhav Engineering

13.In case of Sadbhav Engineering, the research report dated July 31, 2019 was available in which the annual audited financial data for the FY 2018-19 were considered and a buy recommendation at Rs.141 was given by the Analyst. L&T Infrastructure Fund invested Rs.17.73 crore during April 25, 2019 to May 8, 2019 in shares of Sadbhav Engg. Ltd @ Rs.235.90 per share. Subsequently all shares were sold for Rs.2.76 crore on April 23, 2020 at an average rate of Rs.36.90 per share after holding for approx. one-year and booked a loss of Rs.14.97 crore. In this regard, the fund manager mentioned in the mandatory remark's column "need to raise cash for tactical reasons". The research analyst did not give any review report before booking the loss to the extent of 84% of the funds invested. No detailed reasons were recorded by the Fund Manager for selling the shares on loss within a period of 1 year as against the buying recommendation of Analyst on July 31, 2019 at Rs.141. Further, in the subsequent research report dated July 31, 2020 which considered the annual report of 2019-2020, it was recommended to reduce exposure but the holding was already NIL.

14.Noticee submitted that that the decision to sell was taken during the pandemic when there was nationwide lockdown to reduce further loss. This was a commercial decision taken by the Noticee and does not require regulatory intervention.

Vodafone Idea Limited

15. In case of Vodafone Idea Limited, it was observed that though the annual report was available on July 26, 2019, it was reviewed on December 2, 2019. The research report dated December 2, 2019 recommended investment in the said company for medium and long term but the all shares were sold after 44 days and 70 days at an average rate of Rs.4.50 per share and booked a huge loss of Rs.25.43 crore. Noticee sold the holdings after 44 days and 70 days i.e on January 17, 2020 and February 12 2020 and cited the reason 'reducing exposure', 'switching to better opportunities' respectively. No detailed reasons were recorded by the Fund Manager for selling shares at a huge loss within a short period of holding for 44 days as against the recommendation for holding for a medium and long term i.e. loss booked after erosion of 42% of the fund value.

16. Noticee submitted that Hon'ble Supreme Court in January 2020 had rejected the review petition filed by telecom operators including Vodafone Idea on AGR dues. For Vodafone Idea, the ruling meant that it would be saddled with a huge financial liability in excess of Rs. 50,000 crores. Due to this negative development the fund manager chose to ignore the recommendation in the research report and sell the shares intending to reduce the loss.

Hindustan Zinc

17. In case of Hindustan Zinc, it is observed that the review report was made after a gap of two years on July 21, 2020. The Analysts recommended for buying the share at a price of Rs.183 for medium and long term. In next month L&T Value Fund invested Rs.16.28 crore on August 7, 2020 @ Rs.248.27 per share as against recommended price of Rs.183 on July 21, 2020. Subsequently all holding of Hind Zinc were sold after holding it for 39 days i.e. September 14, 2020 to September 17, 2020 at an average rate of Rs.222.98 per share and booked a loss of Rs.1.61 crore. The reasoning provided for this was given as "switching for better opportunities" although no details of better opportunities were provided.

18. Noticee submitted that uncertainty regarding the delisting of Vedanta shares, pledging of its holding in Hindustan Zinc, Supreme court allowing arbitration proceedings against the government for Vedanta taking full control of Hindustan Zinc etc. led to taking a view to exit the holding. As per their investment policy the analyst is expected to write a detailed research report once every twelve months. Publication of annual report does not have any bearing on this process.
19. It is noted that SEBI Circular MFD/CIR/6/73/2000 dated July 27, 2000 states that: *“While there should be a detailed research report analyzing various factors for each investment decision taken for the first time, the reasons for subsequent purchase and sales in the same scrip should be recorded.”* From the bare reading of the circular, it is clear that when the investment is to be made for the first time in a scrip, it should be backed up by detailed research report. However, there appears to be no clarity in regard to the extent of detailed reasoning on any subsequent buy or sell. It is observed from the documents available before me during the proceedings that SEBI itself has stated that the circular lacks clarity with regard to the details that has to be considered by the AMC while making subsequent investment decision, and a clarificatory circular is proposed to be issued.
20. Given the above provisions where there is no specific regulatory requirement to give details for subsequent investments there does not arise of any question of non-compliance. Thus Noticee cannot be held liable for the alleged violation of SEBI circular no. MFD/CIR/6/73/2000 dated July 27, 2000.
21. It has been alleged that Noticee did not establish a mechanism to verify that due diligence is being exercised while making investment decisions properly in terms of the aforesaid SEBI Circular and not in compliance with the Investment Policy Manual approved by the AMC Board in terms of the aforesaid SEBI Circular. It is observed that as per the AMC's investment policy manual apart from detailed analysis of financial statements, each analyst would actively monitor the companies in his/her respective sector and the companies in active coverage would be tracked very closely and would have detailed research reports/notes. Further, it was observed that Noticee was updating the research reports on annual

basis despite the availability of updated financial statements of the investee companies and has thus failed to continuously track its active stocks as stated in its investment policy manual.

22. Noticee submitted that there is no requirement either in MF Regulations or in any circulars issued by SEBI that specifies the period within which the research reports must be updated. Noticee further submitted that the fact that research reports are being updated annually does not mean that there is no active tracking of investee companies in the interregnum.

23. I observe that there are no timelines given in the MF Regulations or Circular prescribing timelines for updating research report. The Noticee has claimed that there was active monitoring of stocks of the investee companies for eg. in case of Vodafone, decision to divestment was taken in a period of less than the quarterly review due to telecom tariff hike and Vodafone's review petition on the AGR case was dismissed by the Hon'ble Supreme Court. Thus, there appears to be nothing on records to negate the claim of the Noticee. Thus the allegation of lack of due diligence by not updating the research report does not stand established. Therefore, the alleged violation of regulation 25(2) of MF Regulations and clause 9 of Fifth Schedule – Part A of MF Regulations by the Noticee does not stand established.

24. Further, considering that the alleged violation against the Noticee does not stand established, I note that Issues II and III do not require any consideration.

ORDER

25. Accordingly, taking into account the aforesaid findings, the adjudication proceedings initiated against the Noticee i.e., L & T Investment Management Limited vide SCN dated March 20, 2023 and supplementary SCN dated June 16, 2023 stand disposed of without any penalty.

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

Date: August 23, 2023

Place: Mumbai

**BARNALI MUKHERJEE
ADJUDICATING OFFICER**