BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No. Order/MC/RM/2022-23/17546]

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND UNDER SECTION 19-H (2) OF DEPOSITORIES ACT 1996 READ WITH RULE 5 OF DEPOSITORIES (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of –

SS Corporate Securities Ltd. having address at NDM-2, Block-D, 3rd Floor Netaji Subhash Place, Near Fun Cinema, Pitampura, New Delhi-110034

In the matter of Delta Leasing & Finance Ltd.

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') initiated adjudication proceedings against SS Corporate Securities Ltd. (**Noticee)** for the alleged violations of clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of SEBI (Depositories and Participants) Regulations, 1996 (hereinafter referred to as **"D&P Regulations, 1996"**) read with Regulation 20AA *ibid* read with Regulation 98 of SEBI (Depositories and Participants) Regulations, 2018 (hereinafter referred to as **"D&P Regulations, 2018)** and clause 1.8(vii) & 1.8(viii) of SEBI Master Circular, CIR/MRD/DP/13/2013 dated April 15, 2013.

APPOINTMENT OF ADJUDICATING OFFICER

2. The undersigned was appointed as Adjudicating Officer (hereinafter referred to as '**AO**') *vide* order dated December 21, 2020 to inquire into and adjudge under Section 15HB of the SEBI Act, read with Section 19G of the Depositories Act, the

aforesaid alleged violations against the Noticee. The appointment of the AO was communicated *vide* order dated January 13, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. EAD5/MC/ST/2021/15254 dated July 14, 2021 (hereinafter referred to as '**SCN**') was issued to the Noticee in terms of Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('SEBI Adjudication Rules') and 4(1) of the Depositories (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 ('Depositories Adjudication Rules') to show cause as to why an inquiry should not be held and penalty not be imposed against Noticee in terms of Section 15HB of the SEBI Act, read with Section 19 G of the Depositories Act, for the aforesaid alleged violations.

4. The allegations levelled against the Noticee in the SCN are summarized as below:

5. Delta Leasing & Finance Ltd. (DLFL) was incorporated in November 1983 and was listed on DSE on June 27, 1984 and at BSE on April 18, 2013. As per the website of DLFL, the company is engaged in investments and providing loan & advances and other related activities. Address details of DLFL are as under:

Registered Office Address	55, F.I.E, Patparganj Industrial Area, New Delhi– 110092
Corporate Office Address	104, Mukund House, Azadpur, New Delhi-110033

6. An investigation was conducted into the trading activities in the scrip of DLFL from January 1, 2013 to December 31, 2014. Examination of off market data obtained from the Depositories revealed that promoter entities transferred substantial quantity of shares to several entities during the investigation period.

7. The off market transactions executed during the investigation period were carried out electronically in dematerialized form by transfer from the account of a

Beneficial Owner (Transferor or Source Client) to the account of another beneficial owner (Transferee or the Target Client) through Delivery Instruction Slips (DIS).

8. On scrutiny of the DIS of some of the Source clients, it was observed that consideration amount for the off market transfer of shares was not stated in the DIS. In certain other cases, the consideration amount was indicated to have been received in cash and in some other cases, though the consideration amount was mentioned but the mode and manner of the amount received were not stated. Copy of DIS slips were provided as **Annexure-2** with SCN**.** The Source clients and the Target clients did not substantiate their claim of consideration received / paid with any documentary evidences in response to the summons issued seeking the aforementioned information.

9. In this connection, the role of the Depository Participants (DP) in the off market transactions through DIS was examined to ascertain as to whether the DPs exercised their due diligence and complied with the Rules and Regulations before executing such off market transfers.

10. Code of Conduct is prescribed for a DP in Regulation 20AA under Schedule III, governing its day-to-day activities as a DP and requires that DPs act in a prompt, effective and efficient manner and maintain high standards of integrity in all its dealings.

11. Further, in terms of para 1.8(vii) of SEBI Master Circular bearing Ref. No. CIR/MRD/DP/13/2013 dated April 15, 2013, *"the DPs shall cross check with the BOs under exceptional circumstances before acting upon the DIS".* And para 1.8(viii) of the said Master Circular states that *"the authorized official of the DP verifying such transactions with the BO, shall record the details of the process, date, time, etc., of the verification on the Instruction Slip under his signature".*

12. It was observed that the Noticee executed off market transactions which are considered as transactions under exceptional circumstances whereby the DPs are required to enquire with the beneficial owners about the transactions before its execution and record the same. The table below gives summary of such transactions:

Name of DP	Cash			Gift			Loan/Return of loan shares			Bad Deliver/Delivery return			Consideration not mentioned		
	No. of source client	No. of transactions	Qty of shares	No. of source clients	No. of transactions	Qty of shares	No. of source clients	No. of transactions	Qty of shares	No. of source clients	No. of transactions	Qty of shares	No. of source clients	No. of transactions	Qty of shares
SS Corporate Securities Ltd.	0	0	0	0	0	0	0	0	0	1	2	2,50,000	1	1	1,00,000

13. Details of the transactions executed were given as **Annexure-3** with SCN. On specific query to Noticee vide letters and summons pertaining to the extent of suo-moto due diligence exercised by them, the Noticee replied that it had exercised considerable due diligence while executing the transactions and had also obtained confirmation from the Source clients during verification of the DIS. However, the Noticee did not provide any documentary evidence of any record showing the name of the BO with whom verified, the manner of verification either phone or in person, date of such verification, the phone number to which calls made etc. substantiating their contention. The following Table gives details of summon issued and summary of the reply of the Noticee.

S No.	Name of the DP	Date of Letter/Summons issued	Date of Reply	Remarks
1	SS Corporate	21.06.2019	04.07.2019	Confirmed exercise of due diligence but not substantiated with documentary evidence such

	Securities Ltd.			as cross verification with the source client and recording of the same

14. Further, on verification with depositories, as to whether any alerts were generated in their system about the aforesaid transactions and if so whether the same had been conveyed to the Noticees, the depositories had provided the details of alerts sent to them and on examination of the same, it was seen that the Depositories had sent alerts in respect of many of the aforesaid transactions to the Noticee, the details of which are as under:

Sr no.	**Name of DP**	**No. of clients**	**No. of transactions**	**Alerts Received from NSDL**	**Alerts Received from CDSL**
1	SS Corporate Securities Ltd.	2	3	3	Nil

15. While a sample of few of such alerts are provided below, the remaining instances were provided in **Annexure-4** of the SCN:

DP ID	**DP Name**	**Client ID**	**First Holder Name**	**First Holder PAN**	**Qty**	**Execution Date**	**Category of Exceptional Transaction**
IN303108	SS Corporate Securities Limited	10124168	Meera mishra	AJBPM5839R	1,50,000	22.03.2014	Bad Deliver/Delivery Return
IN303108	SS Corporate Securities Limited	10124168	Meera mishra	AJBPM5839R	1,00,000	06.03.2014	Bad Deliver/Delivery Return

16. On specific queries to the Noticee regarding the nature of action taken on the alerts provided by the Depositories, the Noticee informed that the alerts were examined and as no suspicion or concerns was seen, the alerts had been closed.

17. In view of the above, Noticee was alleged to have violated clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of D&P Regulations, 1996 read with Regulation 20AA read with Regulation 98 of D&P Regulations, 2018; and clause 1.8(vii) & 1.8 (viii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013.

18. The relevant clauses of D&P Regulations, 1996 & 2018, SEBI Master Circulars dated December 31, 2010 and April 15, 2013 are reproduced as under:

D&P Regulations, 1996:-

THIRD SCHEDULE

CODE OF CONDUCT FOR PARTICIPANTS

***1**. A participant shall make all efforts to protect the interests of investors.*

***2**. A participant shall always endeavor to—*

(b) ensure that all professional dealings are effected in a prompt, effective and efficient manner;

***3.** A participant shall maintain high standards of integrity in all its dealings with its clients and other intermediaries, in the conduct of its business.*

***4**. A participant shall be prompt and diligent in opening of a beneficial owner account, dispatch of the dematerialization request form, rematerialisation request form and execution of debit instruction slip and in all the other activities undertaken by him on behalf of the beneficial owners.*

***11**. A participant shall maintain the required level of knowledge and competency and abide by the provisions of the Act, Rules, Regulations and circulars and directions issued by the Board. The participant shall also comply with the award of the Ombudsman passed under the Securities and Exchange Board of India (Ombudsman) Regulations, 2003.*

Participants to abide by code of conduct.

***20AA.** The participant holding a certificate of initial or permanent registration shall, at all times, abide by the Code of Conduct as specified in Third Schedule.*

D&P Regulations, 2018:-

Repeal and savings.

***98**.(1) On and from the commencement of these regulations, the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, shall stand repealed.*

(2)Notwithstanding such repeal, anything done or any action taken or purported to have been taken or contemplated under the repealed regulations before the commencement of these regulations shall be deemed to have been done or taken or commenced or contemplated under the corresponding provisions of these regulations.

(3)After the repeal of the regulations referred to in sub-regulation (1), any reference thereto in any regulation, guideline, circular or direction issued by the Board shall be deemed to be a reference to the relevant provisions of these regulations.

SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013:-

1.8 Safeguards to address the concerns of the investors on transfer of securities in dematerialized mode.

vii. The DPs shall cross check with the BOs under exceptional circumstances before acting upon the DIS.

viii. "….The authorized official of the DP verifying such transactions with the BO, shall record the details of the process, date, time, etc., of the verification on the instruction slip under his signature".

19. The aforesaid alleged violations, if established, make the Noticee liable for monetary penalty under Section 15HB of the SEBI Act, read with Section 19G of Depositories Act.

20. In response to the SCN, Noticee filed the reply to the SCN vide letter dated June 09, 2022. Opportunity of hearing was provided to the Noticee through video conferencing on June 20, 2022. Mr. Mr. Meit Shah and Mr. Prakash Shah, Advocate Authorised Representatives (AR) of the Noticee attended the hearing and reiterated the submissions made in reply.

21. The key submissions of the Noticee are summarized as below:

22. The present matter of the captioned SCN pertains to a period which is around 7 years old from the date of transactions i.e. in the year 2014. Hence, there is an inordinate delay in present proceedings by SEBI. In this regard, the Noticee has referred several judgments.

23. As per SCN, Noticee as a Depository Participant (DP) had a duty to perform some kind of investigation and independently determine the purpose of off-market transactions executed in demat mode, back in the year 2013-14, whereas nothing of this sort was required from the DPs nor any standard operating procedure was available, under the relevant provisions of law that were applicable during the year 2013-14.

24. The role of the DP is that of a facilitator and not investigator - the role is to hold securities in accounts, to transfer securities between accounts on the instruction of the Beneficial Owner ('BO') account holder, to facilitate the transfer of ownership of securities, and also to facilitate safe-keeping of such securities etc. These functions have been designated by the Regulator itself-as long as instructions sent by BO account holders are in order, DIS slips are properly detailed and verified, and the details match the BO Master slip, DPs do not have to start with suspicion on every transaction they facilitate.

25. The statutes regarding the due diligence requirements of DPs have become more stringent in the recent years, the relevant period goes about 7 years back; the laws in force at that time must be considered, not those in force now.

26. Once the facilitative role of the DP as an intermediary has been discharged in accordance with law, it cannot then be punished for the lack of diligence based on an assumed and not a clearly spelt statutory provision/obligation, to start with suspicion in the transactions executed by the clients more so, when Noticee's capacity to defend such an allegation has degenerated due to passage of the inordinate time with time many changes occurred in organization.

27. Off-Market Transactions are permissible by law and all of them cannot be designated as Exceptional Circumstances, further DP's role is not investigative. As per Para 13 of the SCN, certain off market transactions from the year 2013-14 have been alleged to be transactions under exceptional circumstances only because of category i.e. Bad Delivery/Delivery Return not mentioned. But, strangely in the SCN - there is no mention of any provisions of law which classify these under 'exceptional circumstances'.

28. Indeed, no classification or definition of the term "exceptional circumstances" has even been offered by SEBI in the SCN, or in any other legislation on record. Without a specific statute/definition to rely, classifying the abovementioned transactions as belonging to "exceptional circumstance" purely at the instance of the Regulator appears to be arbitrary, and should not be held against Noticee that too after 7 long years.

29. Based on the unreasonable & retrospective classification of "transactions under exceptional circumstances", it is further alleged in the SCN that Noticee required to verify the above-mentioned transactions with the Beneficial Owner in accordance with the provisions of Clause (vii) of Reg. 1.8 of Master Circular No. CIR/MRD/DP/13/2013 dated 15.04.2013 being attracted by the fact of exceptional circumstances.

30. The objective of a DP is to provide appropriate services to investors in order to better facilitate their trades/transfers both on and off the market. DP does not have any investigative powers. The form which the transactions in securities take be it gift, loan/return or cash, rests on the trading parties only, it's not for a DP to dictate the commercial dealings/understanding between such parties.

31. As off-market transactions themselves are not inherently dubious, the impugned transfers were always executed pursuant to verification of the BO account holder in compliance with the applicable circulars and provisions, and reasons had been

provided in the DIS slips of the impugned transactions, there was no onus on the DP to investigate further.

32. The transactions mentioned in the SCN were executed according to the interests of the client and in the normal course of business. Noticee had the responsibility to verify the details of the Beneficial Owners and the transactions, which was indeed carried out by its staff in line with the standing instructions and internal control systems. Upon verification, no suspicion arose regarding the legitimacy of these transactions. Moreover, as a DP, it was not for it to investigate those transactions, but only to question details such as identity, account number, client validity, and appropriate addresses, which were all duly verified by Noticee during the relevant period.

33. The form of the impugned transactions and reasons mentioned on the respective DISs were not unusual ex-facie as a matter of fact nowhere the law applicable during the relevant period categorized those transactions as exceptional suspicious- in absence of any contemporaneous statutory/regulatory instruction Noticee did not assume an investigative role going beyond our scope. With no substantial or statutory reason to read these transactions as exceptional circumstances, Noticee thus reasonably complied with the due diligence requirements as were then applicable.

34. In light of the position explained above, it is clear that Noticee indeed ensured due safeguards, to address the concerns of investors on transfer of securities in demat mode and there is no violation of Clause (viii) of Reg. 1.8 of the abovementioned Master Circular dated 15.04.2013- as alleged.

35. There are two prerequisites for said Clause to come into play- either the concerned account must have become inactive for a continuous period of 6 months, or if the concerned BO Account has 5 or more ISINs, and all such ISINs are transferred at one time. With respect to all accounts involved in trading during the Investigation period, neither of these criteria has been met at any point

nothing to the contrary has been alleged in the SCN. Clause (viii) is thus not attracted with respect to Noticee.

36. As per the Master Circular of SEBI dated 15.04.2013 bearing no. CIR/MRD/DP/13/2013, DPs are required to put in a suitable internal control system to ensure that they exercise due diligence in opening accounts, complying with KYC requirements, in ensuring systems safety in complying with client instructions, manner of uploading client instructions and in verifying signatures and maintaining client records.

37. As per the Internal Control mechanisms instituted by Noticee in accordance with the above-mentioned circular, it was ensured that due diligence carries out in bona fide before executing the Transactions- verification of signatures, prior confirmation from the Client and/or Transferor, date of DIS, First Holder's name, ISIN of security, name of the scrip, quantity, execution date, settlement number (in case of on market transactions), target client ID (in case of off-market transaction) signature of all joint holders, and so on. Moreover, it was further ensured that details of the BO mentioned on the DIS such as the name of the BO, DP ID, etc. matched with the details in the BO master list. But, due to lapse of inordinate time, the specifics of all these procedures performed cannot be proved by documentary evidence at this belated stage- and any adverse inference should not be drawn because, the transactions concerned are around 7 years old, and many of the client- interacting staff as well from the backend teams of that time are not even working with Noticee anymore. Human memory cannot retain specific details of such old transactions; the attending records are not available- as regular cleaning of old & archaic data is done.

38. In the case of off-market transactions during the relevant period of long past, it was not necessary to mention the reasons for each and every type of transaction- the procedures applicable were performed by Noticee. It appears that the SCN has proceeded based on the prescriptions/circulars introduced in the later years, particularly the one issued by NSDL on 15.07.2019 bearing reference no.

NSDL/POLICY/2019/0041. It is submitted that the same should not be done and our conduct should be judged only in the light of the law applicable during the contemporaneous period.

39. As such, the provisions of Clause vii. of Section 1.8 of Master Circular dated 15.04.2013 bearing reference no. CIR/MRD/DP/13/2013 have been fully complied with. Given the vast span of time between the concerned investigation period and the time such information was requested from Noticee (around 7 years gap). Many of Noticee’s clients facing staff have been changed over the years, as such people who might have been able to offer explanations on the cross-verification done are no longer working with Noticee. But to the best of Noticee’s knowledge, cross-verification were often made by the staff over calls all impugned transactions were reasonably verified and confirmed with the source clients.

40. In Paragraphs 15 and 17 of the SCN, it is stated that alerts with respect to certain transactions were sent to the Noticee, upon which the alerts were duly examined. It is submitted that alerts are sent by depositories on a regular basis (especially with regard to off-market transactions), and the process itself is automated and part of the normal course of business. No reasons or details for said alerts are ever provided alongside, which greatly limits the actions DPs can take, besides verifying the transaction once again. While the limited excerpt provided in the SCN lists reasons/category, which have been provided by the Regulator only upon investigation, the same were not contained in the alerts provided by the Depository. It is added that the alerts have not been uniformly sent to all the DPs concerned w.r.t transactions in the scrip of Delta Leasing during the relevant period (admittedly, only 5 out of 12 Noticees have received such alerts) had these alerts been specific to any kind of wrong-doing observed in the transactions, these would have been sent to all the Noticees, this goes a long way to showcase that the alerts sent by Depository were automated/based on some predefined parameter/logic that has not been explained and those alerts did not point out

any wrong/suspicion in itself or required anything other than a re-check by the DP.

41. Nevertheless, all such alerts were examined and duly dealt with by cross verification carried out by the Compliance Officer of the Company. Given that the transactions mentioned in the alerts were found to be substantiated by the BO account holders upon cross-verification, the alerts were then duly closed. These transactions were executed only after carrying out the due diligence as per regulatory requirements. Therefore, no adverse inference should be drawn against Noticee on this basis.

42. Moreover, it must be stated that the ostensible goal and duty of Noticee as Depository Participant is question and supervise the details or transactions such as identity, address, account number, validity or the client etc., at least at the time of the Investigation Period i.e. 2013-14. While standards may have become stricter in recent years, it is evident that Noticee had reasonably complied with the regulations in effect during the relevant period time.

43. The basis for determination of standard of due diligence is what can be expected from a reasonable and prudent person. While conducting an exercise of due diligence, it is not reasonable to expect a prudent person, in the ordinary course of business, to inspect every piece of information with a suspicious mind; rather an effort should be made to identify a fraud/lie if circumstances arise, which should raise the suspicion in the mind of a reasonable person.

44. Nowhere in the SCN, it has been substantiated that how the said 3 off market transactions executed have been qualified to be done under 'exceptional' circumstances. Further, the word 'due diligence' has not been defined in the regulation. Accordingly, 'due diligence' means diligence reasonably expected from and ordinarily exercised by a person.

45. As the inquiry in the matter is complete, I now proceed to decide the matter on the basis of SCN issued, reply received and material placed on record.

CONSIDERATION OF ISSUES AND FINDINGS

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

Issue No. I	Whether the Noticee violated clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of SEBI (Depositories and Participants) Regulations, 1996 (hereinafter referred to as **"D&P Regulations, 1996"**) read with Regulation 20AA ibid read with Regulation 98 of SEBI (Depositories and Participants) Regulations, 2018 (hereinafter referred to as **"D&P Regulations, 2018)** and clause 1.8(vii) & 1.8(viii) of SEBI Master Circular, CIR/MRD/DP/13/2013 dated April 15, 2013?
Issue No. II	If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act, read with Section 19G of the Depositories Act?
Issue No. III	If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules; and Section 19I of the Depositories Act read with Rule 5(2) of the Depositories Adjudication Rules?

Issue No. I Whether the Noticee violated clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of SEBI (Depositories and Participants) Regulations, 1996 (hereinafter referred to as "D&P Regulations, 1996") read with Regulation 20AA ibid read with Regulation 98 of SEBI (Depositories and Participants) Regulations, 2018 (hereinafter referred to as "D&P Regulations, 2018) and clause 1.8(vii) & 1.8(viii) of SEBI Master Circular, CIR/MRD/DP/13/2013 dated April 15, 2013?

47. Before going into the merits of the case, I note that the Noticee has contended that there is an inordinate delay of 7 years in the matter. In this regard, it is noted that the Investigation was initiated in the year 2019 and was concluded in the year 2020. The appointment of the undersigned in the matter was made in January, 2021. Hence, it cannot be said that there is inordinate delay in the initiation of the instant proceedings against the Noticee. I also note that no limitation is prescribed in SEBI Act or Regulations for issuance of SCN or for completion of the Adjudication proceedings.

48. The allegations against the Noticee are based upon three off market transactions in respect of which Noticee was required to carry out certain due diligence. The transactions are alleged to be under exceptional circumstances whereby DPs were required to cross check with the Beneficial Owners (BOs) about the transactions before its execution.

49. I note that the Noticee has contended that in the SCN there is no mention of any provision of law as per which the impugned transactions have been classified under 'exceptional circumstances', hence such classification is arbitrary. Noticee has also contended that off-market transactions themselves are not inherently dubious, and the impugned transfers were executed pursuant to verification of the BO account holder in compliance with the applicable circulars and provisions, and reasons had been provided in the DIS slips of the impugned transactions, there was no onus on the Noticee being a facilitator to investigate further. Noticee has also contended that DIS slips used in impugned transactions were not unusual ex-facie, hence Noticee while undertaking due safeguards carried out those transactions.

50. In this regard, I note that clause 1.8 (vii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013 states that "The DPs shall cross check with the BOs under exceptional circumstances before acting upon the DIS" However, the term "exceptional circumstances" has not been defined, and there is no provision in the aforesaid circular, giving any indication or direction as to

which transaction is to be classified as exceptional. The differentiation of the off market transactions into categories such as “Cash”, “Gift”, “Loan/ Return of Loan shares”, “Bad Delivery/Delivery Return” and “Consideration not mentioned category”, and treating these categories as exceptional circumstances, is not provided in this circular which was applicable during the relevant period. These categories were specified much later in July 2019.

51. I also take note of the Noticee’s contention that it verified the details of the DIS slips with Beneficial Owners (BOs) before carrying out the transactions. However, the Noticee has not produced any details of verification on DIS slips by the Noticee, pleading that the impugned transactions are around 7 years old, and many of its client- interacting staff as well from the backend teams of that time are not working with Noticee anymore, and specific details of such old transactions, and the attending records are not available with the Noticee as regular cleaning of old & archaic data is done.

52. I note that for the three impugned transactions the copy of the DIS Slips are not available in records. Accordingly, I have perused the list providing details of the three impugned transactions (hereinafter referred as ‘list’) available on records, and note that the reason mentioned in three DIS Slips as per list were ‘Bad Delivery’, ‘Sale’ and ‘Delivery Return’; and in none of the DIS slips the sale consideration was mentioned. I note that since for two transactions in DIS Slips, ‘Bad Delivery’ and ‘Delivery Return’ is mentioned as reason of transfer, the reason for not mentioning consideration for these transfers is recorded.

53. Further, in regard to one transaction where as per the list ‘Sale’ is mentioned as reason for transfer, consideration is not mentioned. However, since the relevant DIS slip for the impugned sale transaction is not available on records, nothing conclusive in this regard could be established. Further, it is noted from the observations available in the list that the “Shree Sai City Promoters & Developers Pvt Ltd” (target client) provided bank account statements to SEBI which indicated

transfer of money to “Tushar India Pvt. Ltd.” (source client). In view of the above, I find that the said ‘Sale Transaction’ was not a cash transaction.

54. I also note that the requirement of cross-checking with the BO was put in place to safeguard the concerns of investors, and the material on record does not bring out any concerns raised by respective BOs.

55. In view of the above, I find that, there is insufficient material on record to conclude that these impugned off market transactions were cash transactions or were under exceptional circumstances. Hence violation of clause 1.8 (vii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013 by Noticee is not established.

56. I also note that as per clause 1.8 (viii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013, verification with BO is applicable in cases wherein either all the ISIN balances in an account are transferred at a time and there was no debit transaction in the account for past 6 months, OR if the concerned BO Account has 5 or more ISINs, and all such ISINs are transferred at one time. Noticee has submitted that with respect to accounts involved in impugned transactions, neither of these criteria has been met at any point. However, no supporting documents have been placed on record by the Noticee in this regard. I also note that there is no material on record to substantiate that the criteria for verification as stipulated in aforesaid clause was met for the accounts involved in the off market transactions executed by the Noticee.

57. In view of the above, in the absence of any records to contradict the Noticee claims, I find that Noticee has not violated clause 1.8 (viii) of SEBI Master Circular CIR/MRD/DP/13/2013 dated April 15, 2013.

58. In cases of alerts received from depositories in respect of certain transactions, the allegation against the Noticee is that it had uniformly informed that the alerts were examined, no suspicion or concerns was seen, and the alerts had been

closed, thereby failing to exercise due diligence. In this regard, Noticee has contended that, the alerts received from Depositories did not provide the reason and details for inclusion of a particular transaction for alert, and Noticee exercised due diligence with the BOs for the transactions for which the depository alerts were received by it, before executing the transactions. However, the Noticee has not put on records any document in support of the same.

59. Based on material on record, I find that in the case of NSDL, 6 types of alerts were shared with DPs, categorized on basis of criteria developed by depositories and FIU-IND pursuant to guidelines of PMLA Act, 2002. The DPs were required to analyze these alerts and ascertain whether the transactions intimated as alerts by the Depositories are suspicious in nature, and submit the report directly to FIU-IND. Further, the category of exceptional transaction for the alerts were not provided by the depositories to the DPs. I note that with the given set of information available with Noticee at relevant period and keeping in view the role of DP as prescribed in applicable rules and regulations, it cannot be said with certainty that the actions taken by the Noticee were inadequate or lacking in due diligence.

60. In view of the above, I find that material on records does not establish that Noticee failed to exercise reasonable due diligence and violated clause 1, 2(b), 3, 4, 11 of Part A of Schedule III of Code of Conduct of SEBI (Depositories and Participants) Regulations, 1996 (hereinafter referred to as **"D&P Regulations, 1996"**) read with Regulation 20AA ibid read with Regulation 98 of SEBI (Depositories and Participants) Regulations, 2018 (hereinafter referred to as **"D&P Regulations, 2018).**

61. As the violations alleged against the Noticee are not established, issues II and III do not merit consideration.

ORDER

62. In view of the findings noted in the preceding paragraphs, the adjudication proceedings initiated against the Noticee vide SCN dated July 14, 2021 are disposed of.

63. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules and Rule 6 of the Depository Adjudication Rules.

DATE: June 30, 2022 **MANINDER CHEEMA**
PLACE: MUMBAI **ADJUDICATING OFFICER**