BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/BM/GN/2024-25/30714]

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

Noticee No.	Name of the Noticee	PAN
1	Incred Capital Wealth Portfolio Managers Private Limited (Merchant Banker)	AAHCB6503H

In the matter of

Incred Capital Wealth Portfolio Managers Private Limited

Background

1) Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted an inspection of Incred Capital Wealth Portfolio Managers Private Limited (Merchant Banker) (hereinafter referred to as **Noticee**) from August 09, 2023 to August 10, 2023. The period covered in the inspection was from April 01, 2022 to July 31, 2023 (hereinafter referred to as **'Inspection Period'**).

2) The Noticee is a SEBI-registered Merchant Banker having SEBI registration number as INM000012865 as Merchant Banker.

3) Based on the findings of Inspection conducted by SEBI, and the response dated November 04, 2023 of the Noticee to the inspection findings, submitted to SEBI, certain alleged non-compliances were observed of SEBI (Merchant Bankers) Regulations, 1992,(hereinafter referred to as **Merchant Bankers Regulation**) and circulars issued by SEBI.

APPOINTMENT OF ADJUDICATING OFFICER

4) SEBI, vide communiqué dated March 15, 2024, appointed the undersigned as the Adjudicating Officer to inquire into and adjudge under the provisions of Section 15HB of the SEBI Act for the violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

5) Show Cause Notice (hereinafter being referred to as the **"SCN"**) dated April 03, 2024 was issued to Noticee in terms Rule 4(1) of Adjudication Rules to show cause as to why an inquiry should not be initiated against Noticee and why penalty, if any, should not be imposed upon Noticee under Section 15HB of SEBI Act for the alleged violations of Regulation 31(2) of the Merchant Bankers Regulations, 1992 and Clause 2 of Schedule III (Code of Conduct for Merchant Bankers) read with Regulation 13 of the Merchant Bankers Regulations and SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007.

6) Following are allegations made against the Noticee in the SCN-

   a) During inspection it was observed that Noticee has not provided reasonable and timely access to the Inspection team to verify the designated investors' grievance email id of the Noticee i.e. customer.grievance@incredcapital.com and deleted the test email before verification by the inspection team and therefore, the due verification of the investors' grievance email id of the Noticee, by the Inspecting Authority could not be conducted..

   b) In view of the above, it was alleged that the Noticee has violated Regulation 31(2) of the Merchant Bankers Regulations and Clause 2 of Schedule III (Code of Conduct for Merchant Bankers) read with Regulation 13 of the Merchant Bankers Regulations and SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007.

7) The SCN was sent to Noticee through Speed Post AD and via digitally signed Email on April 03, 2024 and was duly served upon Noticee. Vide letter dated April 19, 2024, Noticee sought inspection of documents and also informed that they have filed settlement application. Vide email dated April 25, 2024 Noticee was requested to specify the documents which they wanted to inspect. Thereafter, vide email dated May 02, 2024,

Noticee specified the documents for inspection. In view of the same, vide email dated May 30, 2024 inspection of the documents as sought by Noticee was scheduled on June 06, 2024 and the inspection of documents was completed on the scheduled day.

8) In the interest of natural justice, an opportunity of personal hearing was granted to Noticee on July 18, 2024 vide hearing notice dated June 21, 2024. The said hearing notice was sent to Noticee through SPAD and digitally signed email dated June 24, 2024 and was duly served upon Noticee. Vide email dated July 12, 2024 Noticee submitted its reply which is summarized below-

   a) *Noticee submitted that the test mail was deleted due to an inadvertent error, the mails addressed to the address customer.greivance@incredcapital.com were also being directed to the address of the compliance officer, as the work flow was very minimal during the inspection period, the test email was available at the email address of the compliance officer.*

   b) *Noticee submitted that there was no grievances received at all either to the customer grievance address or at compliance officer's email address, there were no complaints received on the SEBI SCORES platform also.*

   c) *Noticee submitted that it provided reasonable and timely access to the inspection team. It has maintained high standards of integrity, dignity and fairness in the conduct of business.*

   d) *Noticee submitted that every menial breach cannot result in monetary penalty, in this regard, Noticee placed reliance on SAT order dated January 07, 2021 State Bank of India vs SEBI.*

9) The Authorised Representative (ARs), appeared for the hearing scheduled on July 18, 2024 through zoom platform and made submissions on the lines of written reply submitted by Noticee.

10) As Noticee applied for settlement, further proceedings were kept in abeyance until the completion of settlement proceedings. Vide email dated July 25, 2024 settlement division of SEBI informed about withdrawal of settlement application by the Noticee. In the interest

of natural justice vide email dated July 30, 2024, another opportunity of hearing was provided to the Noticee on August 07, 2024. Vide email dated July 31, 2024 Noticee sought adjournment of hearing scheduled on August 07, 2024. In view of the same, vide email dated July 31, 2024 the hearing was rescheduled to August 12th, 2024. AR of the Noticee attended the hearing on the scheduled day and reiterated the submissions already made vide reply dated July 12, 2024. During hearing AR also referred to the following additional documents -

(a) Declaration dated August 10, 2023 by compliance officer of the Noticee.

(b) Noticee's letter dated January 25, 2024 to SEBI.

(c) Noticee's reply dated November 04, 2023 to the preliminary findings of inspection

11) During hearing AR further sought time till August 19, 2024 for making additional submissions along with the documents mentioned above at para 10(a), 10(b) and 10(c).

12) Vide email dated August 12, 2024, Noticee submitted the following documents-

a) Copy of Noticee's letter dated January 25, 2024 to SEBI.

b) Copy of declaration dated August 10, 2023 by compliance officer of the Noticee.

c) Copy of the Noticee's reply dated November 04, 2023 to the preliminary findings of inspection.

13) Further, vide email dated August 19, 2024, Noticee submitted the additional reply dated August 19, 2024. The Noticee's additional reply is summarised below:

a) *Noticee submitted that the law provides that in order for redressal of investor complaints as well as for undertaking necessary follow-up actions as necessary, an exclusive email id of the grievance redressal division/ compliance officer is required to be designated. In the instant case, SEBI ought to appreciate the fact that the Noticee was in compliant with the said requirement and in fact had the Designated email id in place other than that of the compliance officer.*

b) *Noticee submitted that it had established a system that it had a functional designated email id, and the emails sent to the designated email id were routed to the inbox of the compliance officer, Ms. Preeti Lalwani. This system was put in place by using the technological mechanism of email routing which is used in various organisations to ensure that the right messages reach right individuals without any additional hassle.*

c) *Noticee submitted that it was using email routing, which allows for the redirection of emails sent to one email-id so that they are stored in the inbox of another account.*

d) *Therefore, Noticee submitted that the Noticee's Designated email id was operational on the date of inspection and the emails were simply routed to the inbox of the compliance officer.*

The Noticee had provided reasonable access during the inspection.

e) *Noticee submitted that on August 10, 2023, during the inspection process, the inspection team communicated to the compliance officer that the investor grievance redressal email-id should have a separate email inbox, therefore in addition to the emails being routed to the compliance officer email id, the emails were routed to the separate email inbox created for customer grievances.*

No email other than the test email stored in the newly created inbox was deleted.

f) *Noticee submitted that the email inbox was created pursuant to discussions with the inspection team. Moreover, SEBI ought to appreciate that the test email sent by Mr. Hitesh Mandot at 12:09pm was received by the compliance officer in her email inbox and continues to be in the inbox of the compliance officer even today and can be verified.*

g) *Noticee submitted that the email inbox of customer grievances was also shown to the inspecting team. However, since it was a test email to the customer grievance inbox, in addition the compliance officer inbox, it was deleted so that any genuine complaints could be tracked from that date from the customer grievance inbox itself.*

h) *Noticee submitted that the August Undertaking also refers to the second test email which was sent to the Designated email id, which got duly stored in the newly created* *separate inbox of the Designated email id, highlighting the veracity of the operationality of the Designated email id.*

i) *Noticee submitted that there have been no investor complaints until date.*

j) *Noticee submitted that the facts of the case do not warrant imposition of any monetary penalty.*

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

14) The undersigned has taken into consideration the facts and circumstances of the case and the material available on record and the submission of the Noticee. The issues that arise for consideration in the present case are:

ISSUE I: Whether Noticee has violated Regulation 31(2) of the Merchant Bankers Regulations and Clause 2 of Schedule III (Code of Conduct for Merchant Bankers) read with Regulation 13 of the Merchant Bankers Regulations and SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007?

ISSUE II- Does the violation, if any, attract monetary penalty under Section 15HB of the SEBI Act, 1992 for Noticee?

ISSUE III- If so, how much penalty should be imposed taking into consideration the factors mentioned in Section 15J of the SEBI Act?

15) Before proceeding further, it will be appropriate to refer the provisions of Regulation 31(2) of the Merchant Bankers Regulations and Clause 2 of Schedule III (Code of Conduct for Merchant Bankers) read with Regulation 13 of the Merchant Bankers Regulations and SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007.

Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992

Regulation 31 - Obligations of merchant banker on inspection by the Board.

(2) - The merchant banker shall allow the inspecting authority to have reasonable access to the premises occupied by such merchant banker or by any other person on his

behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the merchant banker or any such other person and also provide copies of documents or other materials which, in the opinion of the inspecting authority, are relevant for the purposes of the inspection.

Regulation 13 - Code of conduct

Every merchant banker shall abide by the Code of Conduct as specified in Schedule III.

SCHEDULE III

CODE OF CONDUCT FOR MERCHANT BANKERS

2. A merchant banker shall maintain high standards of integrity, dignity and fairness in the conduct of its business.

SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007

https://www.sebi.gov.in/legal/circulars/jan-2007/exclusive-e-mail-id-for-redressel-of-investor-complaints_9431.html.

FINDINGS

16) On perusal of the material available on record and giving regard to the facts and submission of the noticee and circumstances of the case the undersigned records the findings hereunder:

ISSUE I: Whether Noticee has violated Regulation 31(2) of the Merchant Bankers Regulations and Clause 2 of Schedule III (Code of Conduct for Merchant Bankers) read with Regulation 13 of the Merchant Bankers Regulations and SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007?

17) During inspection it was observed that Noticee has not provided reasonable and timely access to the SEBI Inspection team to verify the designated investors' grievance email id of the Noticee i.e. customer.grievance@incredcapital.com and deleted the test email before verification by the inspection team and therefore, the due verification of the

investors' grievance email id of the Noticee, by the Inspecting Authority could not be conducted.

18) In view of the above, it was alleged that the Noticee has violated Regulation 31(2) of the Merchant Bankers Regulations and Clause 2 of Schedule III (Code of Conduct for Merchant Bankers) read with Regulation 13 of the Merchant Bankers Regulations and SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007

19) It is noted that as per Regulation 31(2) of the Merchant Bankers Regulations and Clause 2 of Schedule III (Code of Conduct for Merchant Bankers) read with Regulation 13 of the Merchant Bankers Regulations and SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007 all the merchant bankers shall designate an e-mail ID of the grievance redressel division/compliance officer exclusively for the purpose of registering complaints by investors. The merchant banker extend shall extend reasonable facility for examining any computer data in the possession of the merchant banker and the merchant banker shall maintain high standards of integrity, dignity and fairness in the conduct of its business.

20) It is noted that during SEBI inspection a test mail was sent on August 10, 2023 at 12:09 PM by Mr. Hitesh Mandot, Managing Director, Corporate Finance on designated investors grievance redressal email ID of the Noticee i.e. customer.grievance@incredcapital.com for SEBI inspection team to verify if the aforesaid email ID is functional and whether Noticee has put in place a mechanism to resolve the investors complaints received on such designated email ID during Inspection period. After that, Noticee was advised to provide access to aforesaid Email ID for inspection team to verify if Noticee has received any complaints through email.

21) However, access was provided by Noticee to the aforesaid email ID for SEBI inspection team after almost three hours and it was observed by the inspection team that the inbox size of aforesaid email ID was zero and there was no emails in the inbox, including the test e-mail.

22) In reply to the SCN, Noticee submitted that it's designated email id was operational on the date of inspection and the emails were routed to the inbox of the compliance officer and the email dated August 10, 2023 continues to be in the inbox of the compliance officer even today. Noticee submitted that SEBI inspection team communicated to the compliance

officer that the investor grievance redressal email-id should have a separate email inbox, therefore in addition to the emails being routed to the compliance officer email id, the emails were routed to the separate email inbox created for customer grievances.

23) Noticee submitted that the email inbox of customer grievances was also shown to the inspecting team. However, since it was a test email to the customer grievance inbox, in addition to the compliance officer inbox, it was deleted so that any genuine complaints could be tracked from that date from the customer grievance inbox itself.

24) The undersigned notes that the Noticee has designated an exclusive email ID of the grievance redressal division as customer.grievance@incredcapital.com . During SEBI inspection, the test email was sent on August 10, 2023 at 12:09 PM by Mr. Hitesh Mandot and the said test mail was deleted by the compliance officer of the Noticee considering the fact that it was a test mail. However, the emails received on the email id were also routed to the email ID of the compliance officer. Therefore the email sent on August 10, 2023 at 12:09 PM by Mr. Hitesh Mandot was showing in the inbox of compliance officer. Further, another test email was sent by Mr. Hitesh Mandot at 03:38 PM to the aforesaid email ID, and the same was available. Thus, it is observed that Noticee has designated an e-mail ID of the grievance redressel division/compliance officer in compliance with SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007.

25) It is also noted that, during inspection, Noticee was informed that the investor grievance redressal email-id should have a separate email inbox, therefore, the separate email inbox was created and thereafter the access was provided to the inspecting officials. Therefore, it is observed that Noticee has provided access to its computer data in its possession to the inspecting authority. Thus there is no non-compliance of regulation 31 of the Merchant Bankers Regulation, 1992.

26) In view of the above discussion, the undersigned observes that the Noticee has designated investor grievance email ID i.e. customer.grievance@incredcapital.com and has also provided access to the Inspection team to verify the aforesaid designated investors' grievance email id of the Noticee. Therefore, the alleged violation of Regulation 31(2) of the Merchant Bankers Regulations and Clause 2 of Schedule III (Code of Conduct for Merchant Bankers) read with Regulation 13 of the Merchant Bankers Regulations and

SEBI Circular MIRSD/DPS III//Cir-01/07 dated January 22, 2007 does not stand established against the Noticee.

ORDER

27) In view of the above, the undersigned do not find it to be a fit case for imposition of penalty under section 15HB of SEBI Act, 1992. Hence, the SCN dated April 03, 2024 is disposed of, without imposition of penalty.

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

BARNALI MUKHERJEE
Digitally signed by BARNALI MUKHERJEE
Date: 2024.08.27 17:48:52 +05'30'

Place: Mumbai **BARNALI MUKHERJEE**

Date: August 27, 2024 **ADJUDICATING OFFICER**