BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No. Order/MC/RM/2022-23/19769-19793]

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

In respect of –

1. **Mr. Ajay Gupta (PAN: AADPG9382Q)** having address at H - 208, H Block, Ashok Vihar, PH I PH-1, Delhi-110052
2. **Ajeet Singh Chauhan (PAN: AAFPC4720N)** having address at F 17, Shatabdi Enclv, Sec 49 Barola, Noida, Gautam Buddha Nagar, Uttar Pradesh -201301
3. **Ms. Anju Pipalwa (PAN: ALNPP7535M)** having addresses at:
    i. Deutsche Bank, DB House, Hazarimal Somani Marg, Post Box 1142, Fort, Mumbai – 400001
    ii. C-297, Gama-I, Greater Noida, Gautam Budh Nagar, Ghaziabad, Uttarpradesh-201308
4. **Antimony marketing private limited (PAN: AAKCA6099A)** having address at 7, Grant lane, 3rd floor, Kolkata, West Bengal-700012
5. **Ms. Babita Goyal (PAN: AAHPG1610P)** having address at E-24, Kamla nagar, Delhi – 110007
6. **Bryn Commodities & Derivatives Private Limited (PAN: AAFCB3540C)** having address at 35, Ganesh Chandra Avenue, 3rd Floor, Kolkata West Bengal-700013
7. **Carder Distributors Private Limited (PAN: AAECC8564C)** having address at 21, Bentinck Street Ground Floor, Kolkata -700001
8. **Doraemon Commodities & Derivatives Pvt. Ltd. (PAN: AAECD5329A)** having address at 29A, Weston street, 3rd floor, Room no. C-5 Kolkata, West Bengal-700012
9. **Mr. Harvinder Singh Malhotra (PAN: CMZPM8833L)** having address at C-36/3, 2nd Floor, Mahendra Enclave, Delhi-110033

10. **Ms. Kanta Devi (PAN: AFCPD6087P)** having address at H.No-146a, Mandi Khas-I Koseekala, Mathura, Uttar Pradesh -281403
11. **Mr. Nawal Kishore (PAN: AAGPK1458C)** having address at 18/1, Rajpur Road, Civil Lines P.S. Delhi-110054
12. **Mr. Nitin Harish Agarwal (PAN: AGTPA6509M)** having address at Wz- 60, Rattan Park, Basai Darapur, Delhi- 110015
13. **Orange Commotrade Pvt Ltd. (Nainadevi Commotrade Pvt. Ltd.) (PAN: AABCO6972D)** having address at T-40, Karan Motor Market, Kashmiri Gate, 3rd floor, Gali Behal Saheb, Ganda Nala Road, Delhi-110006
14. **Mr. Nityanand Thakur (PAN: ACDFS3492D)** having address at 14/2, Old China Bazar Street 1st Floor, Room No-56/A, Kolkata, West Bengal- 700001
15. **Mr. Pradeep (PAN:BWXPP6405L)** having address at A-131, Ibrahampur, Delhi-110036
16. **Mr. Pravin Kumar Agarwal (PAN: AALFG0729M)** having address at 14/2, Old China Bazar Street, Room No - 56a, Kolkata, West Bengal -700001
17. **Mr. Prem Lal Roy (PAN: ACRPR2362R)** having address at 57/1/1A, Peary Mohan Sur, Garden Lane, K M C, Narkeldanga, Kolkata, West Bengal -700085
18. **Mr. Ram Yadav (PAN: ALCPY3487E)** having address at 516, Prahladpur bangar, Near Balmiki Mandir, Prahladpur, Bangar, Delhi- 110042
19. **Ms. Renu Jindal (PAN: ADDPJ7206K)** having address at F-3/12, Model Town-Iii Delhi-110009
20. **Jagtarni Commodities Pvt. Ltd. (Shitlamata Commodities Pvt. Ltd.) (PAN: AACCJ9550B)** having addresses at
    1. 4056-57C, Room No.3C, 3rd Floor, Naya bazar, Near lahori gate, Delhi-110006
    2. T-40, Karan Motor Market, Gali Bahal Sahib, Ganda Nala road, Kashmere gate, Delhi-
21. **Mr. Surendra Sharma (PAN: AAJFN3554B)** having address at 14/2, Old China Bazar Street, 1st Floor, Room No-56a, Kolkata, West Bengal -700001
22. **Teampack Commodities Pvt. Ltd. (PAN: AAECT6776H)** having address at 71, Canning Street, 4th floor Kolkata, West Bengal -700001

23. **Mr. Praveen Goyal (PAN: AZCPG7812P)** having address at E 24 Kamla Nagar Delhi-110007
24. **Ms. Usha Goel (PAN: AARPG8726C)** having address at Kd-10, Kavi Nagar, Ghaziabad, Uttar Pradesh -201001
25. **Yasomati Distributors Pvt. Ltd. (PAN: AAACY5689G)** having address at 161/1 M.G. Road Kolkata West Bengal-700007

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 **Mr. Ajay Gupta** ("**Noticee-1"), Mr. Ajeet Singh Chauhan ("Noticee-2"), Ms. Anju Pipalwa ("Noticee-3"), Antimony marketing private limited ("Noticee-4"), Ms. Babita Goyal** ("**Noticee-5"), Bryn Commodities & Derivatives Private Limited ("Noticee-6"), Carder Distributors Private Limited ("Noticee-7"), Doraemon Commodities & Derivatives Pvt. Ltd.** ("**Noticee-8"), Mr. Harvinder Singh Malhotra ("Noticee-9"), Ms. Kanta Devi** ("**Noticee-10"), Mr. Nawal Kishore ("Noticee-11"), Mr. Nitin Harish Agarwal ("Noticee-12"), Orange Commotrade Pvt Ltd. (Nainadevi Commotrade Pvt. Ltd.) ("Noticee-13"), Mr. Nityanand Thakur ("Noticee-14") Mr. Pradeep** ("**Noticee-15"), Mr. Pravin Kumar Agarwal ("Noticee-16"), Mr. Prem Lal Roy ("Noticee-17"), Mr. Ram Yadav ("Noticee-18), Ms. Renu Jindal ("Noticee-19") Jagtarni Commodities Pvt. Ltd. (Shitlamata Commodities Pvt. Ltd.)** ("**Noticee-20"), Mr. Surendra Sharma ("Noticee-21"), Teampack Commodities Pvt. Ltd ("Noticee-22"), Mr. Praveen Goyal** ("**Noticee-23"), Ms. Usha Goel ("Noticee-24"), and Yasomati Distributors Pvt. Ltd. ("Noticee-25")** for the alleged violations of Section 11C(2) and 11C(3) of SEBI Act, 1992.

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 15A(a) of the SEBI 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/2021/11409 dated June 02, 2021 (hereinafter referred to as '**SCN**') was issued to the Noticees in terms of Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('SEBI Adjudication Rules') to show cause as to why an inquiry should not be held and penalty not be imposed against Noticees in terms of Section 15A(a) of the SEBI Act for the aforesaid alleged violations.

4. The allegations levelled against the Noticees 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. The Noticees engaged in some off-market transactions in the scrip of DLFL during the year 2013 which were required to be settled as spot delivery contract.

6. A "spot delivery contract" is defined in SCRA to mean a contract which provides for actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the dispatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality.

7. Summons were issued to the Noticee seeking information on date of receipt / payment of consideration for the transactions carried out. Noticees had allegedly

failed to respond to summons issued in any manner. Details of non-compliance of summon by Noticees (as target/source Client) are as under:

Non-Compliance of summons by Noticees who were the Source Clients

Sr no.	Name of Noticee	Status of delivery	Date of Delivery	Proof of Delivery	Particulars of Reminders sent
1.	Praveen goyal	Delivered through email to goyalpraveen15@gmail.com	30.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
2.	Praveen goyal	Delivered through email to pravingoyalpal@gmail.com	11.02.2020	Email delivery receipt	
3.	Antimony marketing private limited	Delivered through email to contactus1112@yahoo.in & antimonymarketingpvtltd@gmail.com	24.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
4.	Bryn commodities & derivatives private limited	Delivered through email to e_solutions91@yahoo.in	18.02.2020	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020 & 28.02.2020
5.	Carder distributors private limited	Delivered through email to contactus1112@yahoo.in	11.12.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
6.	Doraemon commodities & derivatives private limited	Delivered through email to e_solutions91@yahoo.in	30.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
7.	Babita goyal	Delivered through email to goyalpraveen15@gmail.com	30.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
8.	Jagtarni commodities pvt. Ltd	Delivered through email to 'accounts@jagtarni.com'	11.02.2020	Email delivery receipt	Reminder mail sent on 11.12.2019
9.	Nityanand thakur	Delivered through email to nathkur690@gmail.com	29.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
10.	Nityanand thakur	Delivered through email to nthakur690@gmail.com	11.02.2020	Email delivery receipt	Reminder mail sent on 11.12.2019
11.	Orange commotrade pvt. Ltd	Delivered through email to 'janoo.city@gmail.com'	30.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
12.	Ram yadav	Delivered through email to 'sunriseinfin@yahoo.co.in'	24.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
13.	Surendra sharma	Physical copy delivered on 05.11.2019 and Delivered	05.11.2019	Email delivery	Reminder mail sent on

		through email to 'surendra.1973sharma@gmail.com' on 01.11.2019		receipt and acknowledgement	11.12.2019 & 02.01.2020
14.	Teampack commodities private limited	Delivered through email to 'pradyut Securities' <rksec02@gmail.com>; 'e_solutions91@yahoo.in'	28.02.2020	Email delivery receipt	Reminder mail sent on 28.02.2019
15.	Yasomati distributors private limited	Delivered through email to 'yasomatidistributors@gmail.com'	29.10.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020
16.	Kanta devi	Delivered through email to 'mayank2rai@yahoo.com'	01.11.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 02.01.2020

Non-compliance of summons by Noticees who were the Target clients

Sr no.	Name of Noticee	Status of delivery	Date of Delivery	Proof of Delivery	Particulars of Reminders sent
1.	Ajay Gupta	Delivered through email to ajaygupta1093b@gmail.com	14.11.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 25.12.2019
2.	Ajeet Singh Chauhan	Delivered through email to ajeetchauhan@hotmail.com	18.11.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 25.12.2019
3.	Anju Pipalwa	Delivered through email to pipalwa.anju@gmail.com	01.11.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 25.12.2019
4.	Harvinder Singh Malhotra	Delivered through email to tajrealbuild03@gmail.com	01.11.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 25.12.2019
5.	Nawal Kishore	Delivered through email to nawalkishorechaurasia@gmail.com	13.11.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 25.12.2019
6.	Nitin Harish Agarwal	physical copy delivered on 22.11.2019 & Delivered through email to nitin@europemail.com on 19.11.2019	22.11.2019	Email delivery receipt and acknowledgement	Reminder mail sent on 11.12.2019 & 02.01.2020
7.	Pradeep	Delivered through email to acctspradeep@gmail.com	19.11.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 25.12.2019
8.	Pravin Kumar Agarwal	physical copy delivered on 18.11.2019 & Delivered through email to pravin.1986agarwal@gmail.com on 13.11.2019	18.11.2019	Email delivery receipt and acknowledgement	Reminder mail sent on 11.12.2019 & 02.01.2020
9.	Prem Lal Roy	Delivered through email to roypremlal@gmail.com	13.11.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 25.12.2019
10	Renu Jindal	Delivered through email to jindal21@ymail.com & renujindal012@gmail.com	14.11.2019	Email delivery receipt	Reminder mail sent on 11.12.2019 & 25.12.2019

		on 14.11.2019 & 25.12.2019 respectively			
11	Usha Goel	physical copy delivered on 08.11.2019 & Delivered through email to neerajgoel.abes@gmail.com & ushagoel51@gmail.com on 01.11.2019	08.11.2019	Email delivery receipt and acknowledgement	Reminder mail sent on 11.12.2019 & 02.01.2020

8. The delivery of summons sent to Noticees through email were confirmed through IT Department- SEBI, vide their email dated 18.12.2019. The email summons were in addition to sending of summons by speed post with acknowledgement due. The scanned copy of the summons were also sent to the e-mail ID of the Noticees registered by them with the Depositories through KYC. No reply was received even after issuance of reminders to the summons as stated above. The reply of the Noticees to the summons was important to ascertain the date of settlement of transactions which is crucial to determine whether the transaction carried out was as per the time frame stipulated in Section 2(i)(a) of SCRA.

9. In view of the above, Noticees were alleged to have violated alleged to have violated Section 11C(2) and 11C(3) of the SEBI Act.

The relevant clauses of SC(R)A and SEBI Act are reproduced as under:

SC(R)A:-

***2 (i)** In this Act, unless the context otherwise requires,— spot delivery contract" means a contract which provides for,-*

***(a)** actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;*

SEBI Act:-

Investigation.

***11C -** where the Board has reasonable ground to believe that-*

(2) *Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorized by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.*

(3) *The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.*

10. The aforesaid alleged violations, if established, make the Noticees liable for monetary penalty under Section 15A(a) of the SEBI Act.

11. In response to SCN, Noticees neither filed any reply nor attended personal hearing before undersigned. The details of the delivery of SCN and Hearing Notice(HN) to the Noticees is as follows:

Noticee Name	**SCN/Hearing Notice delivered by**
Mr. Ajay Gupta	SCN and HN served by email (on email address ajaygupta1093b@gmail.com) on 02.06.2021 and 13.09.2022 respectively
Ajeet Singh Chauhan	SCN served by SPAD and by email (on email address ajeetchauhan@hotmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Ms. Anju Pipalwa	SCN served by SPAD and by email (on email address pipalwa.anju@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Antimony marketing private limited	SCN served by email (on email address antimonymarketingpvtltd@gmail.com) on 02.06.2021 and HN on 13.09.2022 through email
Ms. Babita Goyal	SCN served by email (on email address goyalpraveen15@gmail.com) on 02.06.2021 and HN on 13.09.2022 through email

Bryn Commodities & Derivatives Private Limited	SCN served by email (on email address e_solutions91@yahoo.in) on 02.06.2021 and HN on 05.07.2022 through email
Carder Distributors Private Limited	SCN served by email (on email address contactus1112@yahoo.in) on 02.06.2021 and HN on 05.07.2022 through email
Doraemon Commodities & Derivatives Pvt. Ltd.	SCN served by email (on email address e_solutions91@yahoo.in) on 02.06.2021 and HN on 05.07.2022 through email
Mr. Harvinder Singh Malhotra	SCN served by SPAD and by email (on email address tajrealbuild03@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Ms. Kanta Devi	SCN served by email (on email address e_solutions91@yahoo.in) on 02.06.2021 and HN on 05.07.2022 through email
Mr. Nawal Kishore	SCN served by SPAD and by email (on email address nawalkishorechaurasia@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Mr. Nitin Harish Agarwal	SCN served by email (on email address nitin@europemail.com) on 02.06.2021 and HN on 05.07.2022 through email
Orange Commotrade Pvt Ltd.	SCN served by SPAD and by email (on email addresses janoo.city@gmail.com; nikhiljain7476@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Mr. Nityanand Thakur	SCN served by email on email address (nthakur690@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Mr. Pradeep	SCN served by email (on email address acctspradeep@gmail.com) on 02.06.2021 and HN on 13.09.2022 through email
Mr. Pravin Kumar Agarwal	SCN served by email (on email address pravin.1986agarwal@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Mr. Prem Lal Roy	SCN served by email on email address (on email address roypremlal@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Mr. Ram Yadav	SCN served by email (on email addresses yadavram8010@gmail.com, sunriseinfin@yahoo.co.in) on 02.06.2021 and HN on 05.07.2022 through email
Ms. Renu Jindal	SCN served by email (on email address jindal21@ymail.com) on 02.06.2021 and HN on 05.07.2022 through email
Jagtarni Commodities Pvt. Ltd.	SCN served by SPAD and by email on email address (janoo.city@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Mr. Surendra Sharma	SCN served by email (on email address surendra.1973sharma@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Teampack Commodities Pvt. Ltd.	SCN served by email (on email address teampackcommodities@yahoo.in) on 02.06.2021 and HN on 05.07.2022 through email
Mr. Praveen Goyal	SCN served by email on email address (pravingoyalpal@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Ms. Usha Goel	SCN served by SPAD and by email (on email addresses ushagoel51@gmail.com, neerajgoel.abes@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email
Yasomati Distributors Pvt. Ltd.	SCN served by email (on email address yasomatidistributors@gmail.com) on 02.06.2021 and HN on 05.07.2022 through email

12. From the details of delivery of SCN and HN as given in the table above, I note that Noticees did not submit any reply to the SCN, and did not appear for personal hearing, despite being provided with sufficient opportunity for filing the reply to

the SCN and to appear for hearing. In these facts and circumstances, with respect to these Noticees, the matter can be proceeded ex-parte on the basis of material available on record in terms of Rule 4(7) of the Adjudication Rules which reads as under: -

"4(7) If any person fails, neglects or refuses to appear as required by sub-rule (3) before the Board or the adjudicating officer, the Board or the adjudicating officer may proceed with the inquiry in the absence of such person after recording the reasons for doing so."

CONSIDERATION OF ISSUES AND FINDINGS

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

Issue No. I	Whether the Noticees violated Section 11C(2) and 11C(3) of SEBI Act?
Issue No. II	If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15A(a) of the SEBI Act?
Issue No. III	If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I Whether the Noticees violated Section 11C(2) and 11C(3) of SEBI Act?

14. The allegation against the Noticees is that they did not respond to the summons issued and delivered to them as illustrated in the tables above.

15. I have perused the documents available on record and note that none of the Noticees except Noticee no. 2, responded to the summons. I note that Noticee 2 responded to the summons dated November 18, 2019, vide letter dated December 10, 2019. The Noticee 2 submitted a statement issued by the seller of shares, Natraj Capital & Credit Pvt. Ltd, for the duration March 15, 2010 to March

31, 2014 and Bill for 18,750 shares of DLFL from Natraj Capital & Credit Pvt. Ltd. The bill and transaction statement reflect that the shares of DLFL were bought by Noticee 2 on March 15, 2010, and the payment towards the purchase was cleared by Noticee 2 to Natraj Capital & Credit Pvt. Ltd. in tranches till March 20, 2014 including late payment charges. Further, Noticee 2 also submitted his demat account transaction statement for duration from March 01, 2013 to December 24, 2019. While the Noticee 2 did not provide the Bank account statement or cash receipt etc., towards the payment made, I note that the statement issued by Natraj Capital & Credit Pvt. Ltd provides the dates of payments made towards purchase of shares made by Noticee 2, which was sufficient to determine whether the transaction was carried out was as per the time frame stipulated in Section 2(i)(a) of SCRA. There is nothing on record to indicate that SEBI posed any further queries to the Noticee 2. Hence, I find that Noticee 2 complied with the summons issued to him regarding his transactions in DLFL.

16. In view of the above, it is established that **Noticee 2 did not violate Section 11 C(2) and 11C(3) of SEBI Act.**

17. In regard to Noticee No. 1 and 3 to 25, I note that in absence of any response from the said 25 Noticees, it is presumed that they have admitted the charge of violation of provisions as alleged in the case. In this regard, it is pertinent to note that the Hon'ble SAT in the matter of *Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006)* has, inter-alia, observed that, "............ *the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them*". It is also pertinent to note that the Hon'ble SAT in the matter of *Sanjay Kumar Tayal & Others vs. SEBI (Appeal No. 68 of 2013 decided on February 11, 2014)*, has also, inter alia, observed that: "........... *appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges*

leveled against them in the show cause notices...". Therefore, it can reasonably be presumed that the allegations made against them have been admitted by the Noticees No. 1 and 3 to 25 in this case. The material on record does not indicate anything to ex facie hold otherwise.

18. On the basis of documents available on records, I note that the aforesaid Noticees by not responding to summons failed to furnish bank statements/cash receipt/share bills, in respect of their transactions; which would have provided SEBI, crucial and essential information for ascertaining the compliance status of the impugned transactions with the time frame for settlement as stipulated in Section 2(i)(a) of SCRA, 1956. Failure on their part to give reply to summons impeded the investigation as it could not be ascertained as to whether the impugned transactions were carried out in in the manner stipulated in Section 2(i)(a) of SCRA and therefore not in contravention of the provisions of section 13, section 16 & section 18 of SCRA, 1956 read with SEBI Notification G.S.R 219 (E) dated March 2, 2000 and SEBI Notification No. LAD-NRO/GN/2013-14/26/6667 dated October 03, 2013.

19. In view of the above, I find that **that Noticee 1 and 3 to 25 failed to provide information to SEBI upon receipt of summons, and violated Section 11C(2) and 11C(3) of SEBI Act.**

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15A(a) of the SEBI Act?

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

20. As it is established that Noticee 1 and 3 to 25 failed to provide information to SEBI upon receipt of summons, and thereby violated Section 11C(2) and 11C(3)

of SEBI Act, as brought out in the foregoing paragraphs, they are liable for monetary penalty under Section 15A(a) of SEBI act which states as follows:

SEBI Act:

Penalty for failure to furnish information, return, etc.

15A. *If any person, who is required under this Act or any rules or regulations made thereunder,—*

(a) *to furnish any document, return or report to the Board, fails to furnish the same or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.*

21. While determining the quantum of penalty under 15A(a) of SEBI Act the following factors stipulated in Section 15J of the SEBI Act have to be given due regard:

SEBI Act

Factors to be taken into account by the adjudicating officer.

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

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

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

(c) the repetitive nature of the default.

22. I note that the material on record has not brought out any disproportionate gain made by the Noticees 1 and 3 to 25 or loss caused to investors by the Noticees. I also note that while the summons were issued in 2019-20, the transactions pertain to the period 2013-14. In view of the above, taking into consideration facts and circumstances of the case and mitigating factors, I am of the view that a penalty of Rs.1,00,000/- each on Noticees 1 and 3 to 25 under Section 15A(a) of SEBI Act will be commensurate with the violations committed by the Noticees.

ORDER

23. After taking into consideration all the facts and circumstances of the case, in exercise of the powers conferred upon me under section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose the penalty of Rs.1,00,000/- (Rupees One Lakh only) under Section 15A(a) of SEBI Act for violation of Section 11C(2) and 11C(3) of SEBI Act, on each of the following Noticees - **Mr. Ajay Gupta** (**Noticee-1), Ms. Anju Pipalwa (Noticee-3), Antimony marketing private limited (Noticee-4), Ms. Babita Goyal** (**Noticee-5), Bryn Commodities & Derivatives Private Limited (Noticee-6), Carder Distributors Private Limited (Noticee-7), Doraemon Commodities & Derivatives Pvt. Ltd.** (**Noticee-8), Mr. Harvinder Singh Malhotra (Noticee-9), Ms. Kanta Devi** (**Noticee-10), Mr. Nawal Kishore (Noticee-11), Mr. Nitin Harish Agarwal (Noticee-12), Orange Commotrade Pvt Ltd. (Nainadevi Commotrade Pvt. Ltd.) (Noticee-13), Mr. Nityanand Thakur (Noticee-14), Mr. Pradeep** (**Noticee-15), Mr. Pravin Kumar Agarwal (Noticee-16), Mr. Prem Lal Roy (Noticee-17), Mr. Ram Yadav (Noticee-18), Ms. Renu Jindal (Noticee-19) Jagtarni Commodities Pvt. Ltd. (Shitlamata Commodities Pvt. Ltd.)** (**Noticee-20), Mr. Surendra Sharma (Noticee-21), Teampack Commodities Pvt. Ltd (Noticee-22), Mr. Praveen Goyal** (**Noticee-23), Ms. Usha Goel (Noticee-24), and Yasomati Distributors Pvt. Ltd. (Noticee-25),**

24. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI -Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link

ENFORCEMENT → Orders → Orders of AO → PAY NOW

25. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department –Division of Regulatory Action – IV of SEBI. The Noticee shall provide the following details while forwarding DD/ payment information:

    a) Name and PAN of the entity (Noticee)
    b) Name of the case / matter
    c) Purpose of Payment –Payment of penalty under AO proceedings
    d) Bank Name and Account Number
    e) Transaction Number

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

DATE: September 29, 2022	**MANINDER CHEEMA**
PLACE: MUMBAI	**ADJUDICATING OFFICER**