BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No. Order/AN/AK/2024-25/31183]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND UNDER SECTION 23-I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF THE SECURITIES CONTRACTS (REGULATIONS) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of:

Junjharji Investment Private Ltd.
(Stock Broker)
(PAN: AAACJ8174F / SEBI Registration Number: INZ000291231**)**

In the matter of Junjharji Investment Private Ltd.

A. BRIEF BACKGROUND:

1. Securities and Exchange Board of India ('SEBI') along with NSE ('Stock Exchange'/ 'Exchange') conducted comprehensive joint inspection of Junjharji Investment Private Limited ('Noticee'/ 'entity'/ 'Broker'/ 'Junjharji'/ 'JIPL'), during January 09, 2023 to January 13, 2023 for the inspection period- April 2021 to December 2022.

2. Pursuant to the inspection, the findings of the inspection were communicated to the entity on March 06, 2023 and the entity submitted its final reply to the observations on March 13, 2023. Thereafter, SEBI carried out post inspection analysis in the matter wherein SEBI inter alia observed and alleged the violations of the following provisions:

2.1. Section 23D of Securities Contracts (Regulation) Act, 1956 [‘SC(R)Act, 1956’], read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993; and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016; Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

2.2. Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016; Clause 12 of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009; Clause 5.1 SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/1577 dated June 16, 2021.

2.3. Clause 2.3 of SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008 read with Clause A(2) & A(5) of the code of conduct, read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992.

2.4. Clause 6 of SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011; Clause (iii) (a) & (b) to Annexure of SEBI Cir. SEBI/HO/MRD2/DCAP/CIR/P/2020/127 dated July 20, 2020.

2.5. Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

2.6. Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017.

2.7. Clause A (1), (2) & 5 of Schedule II of Code of Conduct Regulation 9 of SEBI (Stock Brokers) Regulation, 1992.

2.8. Clause 2 of SEBI Circular SEBI/HO/MIRSD/DOP/P/CIR/2021/676 dated December 02, 2021.

2.9. Clause 1 (i) and (iii) of SEBI Circular MIRSD/Cir-26/2011 dated December 23, 2011 read with Clause 3 (a) of MIRSD/Cir-5/2012 dated April 13, 2012, Clause 1 of SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016.

2.10. Clause III of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017.

2.11. Clause 16 & 17 of SEBI circular SEBI/HO/MIRSD/CIR/PB/2018/147 on Cyber Security and Cyber Resilience dated December 03, 2018.

3. In view thereof, inter alia, SEBI initiated Adjudication proceedings in respect of the Noticee under Section 15-I of the Securities and Exchange Board of India Act, 1992 and 23-I of the Securities Contracts (Regulation) Act, 1956 for the alleged violations of the provisions of law, as stated.

B. APPOINTMENT OF ADJUDICATING OFFICER:

4. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violations by the Noticee, as stated and therefore, in exercise of the powers conferred under Section 19 of the SEBI Act, 1992 read with Section 15I (1) of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and under Section 23 I of the Securities Contracts (Regulation) Act, 1956 read with Rule 3 of the Securities Contracts (Regulations) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005, the Competent Authority appointed the undersigned as Adjudicating Officer in the instant proceedings vide order dated July 18, 2023. The proceedings of appointment were communicated to the undersigned vide Communique dated April 16, 2024.

C. SHOW CAUSE NOTICE, REPLY, AND HEARING:

5. A Show Cause Notice No. SEBI/HO/EAD/EAD5/P/OW/2024/17414 dated May 22, 2024 (SCN) was issued upon the Noticee under Rule 4 of the Adjudication Rules, to show cause as to why an inquiry should not be held and penalty not be imposed against the Noticee under Section 23D of the

SC(R) Act and Section 15HB of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee.

6. The allegations in respect of the Noticee inter alia brought out in the SCN areas under:

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4. Findings and Observations by SEBI and Alleged Violations thereto in respect of the Noticee are as under:

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4.1. Finding A: Non – segregation of clients' funds:

a) In 38 out of 63 dates, the broker has misused clients' funds (value of G is negative) in the range of Rs. 0.8 Lakh to Rs. 1.03 Crore for these days.

b) In 12 out of 63 dates, value of J is positive, indicating mis-utilisation of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations for these 12 days. The misuse ranges from Rs. 5.7 Lakh to Rs. 2.92 Crore.

c) In 87 instances transfer of funds made from client bank account to proprietary account and vice versa.

4.1.1. During the inspection it was observed that transfer of funds made from client bank account to own account for purpose other than specified in regulation. It was also observed that no reconciliation was being maintained for such transfers….

4.1.2. It may be noted that inspection authority vide letter dated September 23, 2022 sought response in the specific format to pre-inspection questionnaire (PIQ) and supporting documents for the purpose of inspection latest by October 10, 2022. Additionally, Point 10 of Part IV (Monitoring of Client Funds) of the Pre-questionnaire also specifies to provide all the supporting files /documents with respect to cash collaterals as mentioned in the Part IV of the questionnaire.

4.1.3. Vide email dated 27/10/2022, the member had submitted the response to PIQ. However, the information as provided by the entity was partial. The same is evident from G related data as provide by the member. The Member has not provided the data for all trading days as asked in Point No 1 of Part IV. Even the member has also not provided all relevant back office/supporting documents of exchange, clearing corporation, clearing members etc.

4.1.4. During the inspection i.e. on 09/01/2023, member was asked to provide all the relevant documents for the purpose of inspection. Subsequently repeated follow up was made by the inspection team either verbally or through email. The member has provided the information on piece-meal basis. …

4.1.5. In view of the above, G calculation table has been prepared on the basis of information as provided by the member.

4.1.6. It is observed that, total fund available with the broker is less than the aggregate value of credit balance of all the clients (negative G balance) in 37 trading dates ranging from approximately Rs 80,998/- to Rs 1,03,11,124/-. Month-wise details are as under:

Month	*No of Days*	*Minimum amount (in Rs)*	*Maximum Amount*
May 2021	*13*	*80,998/-*	*32,98,696/-*
July 2021	*4*	*7,35,414/-*	*19,10,878/-*
January 2022	*20*	*22,59,928/-*	*1,03,11,124/-*

4.1.7. With respect to calculation of I (alerts related to possibilities of misutilisation of clients' assets towards proprietary margin obligations), it is observed that Proprietary margin obligation (P) was less than sum of the proprietary funds (positive value of G), the value of proprietary securities (E) and the non-funded portion of bank guarantee (F) available in the Stock Exchanges for all sample trading dates. No adverse observation found.

4.1.8. With respect to calculation of J (alerts related to Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading), it is observed that, the clients' funds lying with the clearing corporation/clearing member is more than the sum of credit clients' margin obligations (MC) and free collateral deposits available with the clearing corporation/clearing member (MF) for 12 trading days (positive J balance), which indicates possible misuse of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations. Value of positive J balance for all trading days was approximately Rs 5.70 lakh and Rs 2.92 Cr respectively

The "G" calculation sheet attached at Annexure 2B to IR.

No of Instances (G): 38/63 (sample instances)
Average misutilisation (G): Rs. 24.72 Lakh
Range: Rs. 0.8 Lakh to Rs. 1.03 Crore

No of Instances (J): 12/63 (sample instances)
Average misutilisation (J): Rs. 1.69 Crore
Range: Rs. 5.7 Lakh to Rs. 2.92 Crore

4.1.9. The Noticee in its reply to the findings of Inspection report submitted that, the total funds available have always been more than the credit balance of all the clients. the directors who are promoters of the company are regd as clients too. The same has been explained during the personal visit to the sebi office. There has been no short fall of any kind on any day.

4.1.10. However, SEBI in this regard observed that, the G value is negative for 38 out of 63 sample dates, which indicates the broker has misused clients' funds. The average misutilised amount is Rs. 24.72 Lakh. Similarly, J value is positive for 12 out of 63 sample dates indicating mis-utilisation of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations. The average misutilised amount is Rs. 1.69 Crore. The broker has not given any tenable submission in support of his claim. Therefore, submission of broker is not accepted.

In view of the above, it is alleged that the Noticee had violated the following provisions:

For 4.1. a) and b) - Section 23D of SC(R) Act, 1956 read with Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
For 4.1. c) - Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

4.2. Finding B: Non settlement of clients' accounts:
Out of sample 574 active clients, for 62 instances funds were not settled. The amount of non-settlement ranges between Rs. 0.01 Lakh- Rs. 7.54 Lakh.
In 123 out of sample 574 instances, retention statements were not sent to clients and for 5 clients retention statements were sent with delay.

4.2.1. During the inspection period it was observed that TM has fully/partially not settled the client funds. 62 instances were found to be non-settled out of 574 instances. The amount of non-settled funds was in the range of Rs. 5,000/- to Rs. 7,54,647/-

4.2.2. Retention statements were not provided by member during inspection/not sent by the member for 123 instances out of 574 instances

4.2.3. Retention statement was delayed in sending for 5 instances out of 574 instances.
No. of instances (Active Clients) – 62 out of 574 instances(across 6 quarters)
Range – Rs. 1,331 to Rs. 7.54 Lakh
Average : Rs. 5.23 Lakh

4.2.4. The Noticee in its reply to the findings of Inspection report submitted that, we are following all the rules as laid by NSE and Sebi. Some accounts may have gone imply un noticed and/or the amounts would have been negligible. In some cases the account belongs to the directors son and or their family. None of the clients have been unsettled at all. Also, in some cases there are amounts in the margin account of the active clients which were not settled at the clients requests. We have sent retention statements to each and every client either on email or through hand delivery. There was a delay in one particular month due to back office upgradation. Rest there is no instance that the retention sheet has not been sent.

4.2.5. However, SEBI in this regard observed that, the member has not settled amounts in 62 out of 574 sample instances for active clients.The maximum non-settled amount for any quarter in case of active clients is Rs. 9.46 Lakh.Retention statement were not sent to clients in 123 instances out of 574 instances. The broker has not provided any tenable explanation/ supporting documents as proof of compliance.
In view of the above, it is alleged that the Noticee had violated the following provisions:
Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
Clause 12 of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009
Clause 5.1 SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021

4.3. Finding C: Stock reconciliation:
In 20 instances the broker has not done periodic reconciliation of back office holdings of client's securities with actual stocks lying in DP accounts.

4.3.1. All mismatch alerts were sent to broker for their comments. Broker submitted its response to the mismatch alerts along with supporting documents such as Pool Account Statement etc.

4.3.2. On perusal of supporting documents and comments submitted by the brokers, certain irregularities were observed. It was noted that the member has uploaded incorrect holdings for all the sample instances, for which the member could not provide any supporting documents. On seeking clarification regarding the same, the member has vide their e-mail dated February 23, 2023 …inter-alia informed that "some operational errors have occurred" and "errors were purely due to system upgradation and certain functions which were not enabled from the back office software".

4.3.3. It was observed that while uploading Holding Statements, Early Pay-ins have not been considered for all the sample instances and hence Mismatch was captured in the system.

4.3.4. The Noticee in its reply to the findings of Inspection report submitted that, the mismatch was due to a operational error. The same was clarified earlier.

4.3.5. However, SEBI in this regard observed that, the broker has admitted its deficiency. The broker has submitted that mismatch occurred in 20 instances due to operation error. The reason of mismatch can't be accepted as it's broker responsibility to place proper systems and assure that correct reporting is made to the exchange. The broker has failed to act with due skill, care and diligence during dealing with securities.
In view of the above, it is alleged that the Noticee had violated the following provisions:
Clause 2.3 of SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008 read with Clause A(2) & A(5) of the code of conduct, read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992.

4.4. Finding D: Incorrect reporting of margin:
Out of sample 90 instances, for 7 instances margin were falsely reported to the Exchange. Total Amount of false reporting was Rs. 14.02 Lakh.

4.4.1. During the inspection period it was observed that TM has not met margin requirement at client level, due to which it was observed that shortfall in margin collection in 7 instances out of total sample of 90 amounting to total margin shortfall of Rs. 14,02,690. (Annexure 5 to IR)

4.4.2. 4.4.2. The Noticee in its reply to the findings of Inspection report submitted that, there is no wrong reporting of the margin. The cash equivalent is uploaded as per system. No Manual interference is there.

4.4.3. 4.4.3. However, SEBI in this regard observed that, in absence of any tenable explanation of broker along with supporting documents, the submission of broker is not accepted. Hence, the broker has incorrectly reported margin of Rs. 14,02,690 in 7 instances.
In view of the above, it is alleged that the Noticee had violated the following provisions:
Clause 6 SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011

4.5. Finding E: Incorrect submission of data to exchange:
There was a difference between Client Trial Balance and Data submitted to exchange as Cash and Cash Equivalents as on 31-Dec-2022. The difference was in the range of Rs 14,757/- and Rs 13,97,551/-

4.5.1. It was observed that there was a difference between Client Trial Balance and Data submitted to exchange as Cash and Cash Equivalents as on 31-Dec-2022. The difference was in the range of Rs 14,757/- and Rs 13,97,551/-.(Annexure 6 to IR)

4.5.2. The Noticee in its reply to the findings of Inspection report submitted that, the data upload as is per system.

4.5.3. However, SEBI in this regard observed that, the broker has not submitted any proof in support of his contentions against observation made in the inspection report.
In view of the above, it is alleged that the Noticee had violated the following provisions:
Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

4.6. Finding F:Client funding:

Out of sample 10 clients the broker has funded 2 clients beyond T+2+5 days and allowed further exposure. Total amount of funding is Rs. 7.15 Lakh

4.6.1. *During the inspection period it was observed that there were 2 instances where member is engaged in funding activities to the extent of Rs 6,53,338/- and Rs 61,700/- respectively.*

4.6.2. *The Noticee in its reply to the findings of Inspection report submitted that, we don't undertake margin funding. This could be a running account where in the debit was cleared in the next day. We don't charge interest and don't undertake margin funding.*

4.6.3. *However, SEBI in this regard observed that, The broker has not submitted any proof of compliance against observation made in the inspection report.*

In view of the above, it is alleged that the Noticee had violated the following provisions:

Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017

4.7. *Finding G: Terminal Verification & Certifications:*

Two Terminals authorized in the name of Mr. Aditya Karwa, and Mr. Kamal Kishore Karwa was being operated by unauthorized person, Shri Dhananjoy Mandal

4.7.1. *It was observed that 2 Terminals authorized in the name of Mr. Aditya Karwa, and Mr. Kamal Kishore Karwa was being operated by unauthorized person, Shri Dhananjoy Mandal, Employee. ..*

4.7.2. *The Noticee in its reply to the findings of Inspection report submitted that, Mr Mondal was only in the seat as the directors were not in room. He was not executing any trades.*

4.7.3. *However, SEBI in this regard observed that, the broker has not submitted any tenable proof in support of his contentions. Further, no unauthorized person should be granted access to the trading terminals.*

In view of the above, it is alleged that the Noticee had violated the following provisions:

Clause A (1), (2) & 5 of Schedule II of Code of Conduct Regulation 9 of SEBI (Stock Brokers) Regulation, 1992

4.8. *Finding H: Investor Grievances:*

The broker has not Published Investor Charter or disclosed investor complaint details at their office premises

4.8.1. *No Pending complaints during the inspection period as per SCORES database. However, it is observed that the member has maintained any complaint register for lodging complaint, if any, by their clients.*

4.8.2. *Further, it was observed that the entity has not Published Investor Charter or disclosed investor complaint details at their office premises.*

4.8.3. *The Noticee in its reply to the findings of Inspection report submitted that, there is no investor complaint in the complaint register.The investor charter and details of complaints to the compliances officer is displayed in the office.*

4.8.4. *However, SEBI in this regard observed that, the broker has not submitted any tenable proof with respect to his submissions.*

In view of the above, it is alleged that the Noticee had violated the following provisions:

Clause 2 of SEBI Circular SEBI/HO/MIRSD/DOP/P/CIR/2021/676 dated December 02, 2021

4.9. *Finding I:Client registration process:*

(sample size: 10 clients)

The broker has not complied with the requirement of uploading the KYC information with the SEBI registered KRAs for all the clients on a continuous basis within the prescribed time limit

The broker has not uploaded the KYC data with CKYCR in respect of all accounts (except FPIs) opened during the Audit period

4.9.1. *Following observations were observed during the inspection:*

4.9.1.1.*Member has not complied with the requirement of uploading the KYC information with the SEBI registered KRAs for all the clients on a continuous basis within the prescribed time limit as per SEBI circular MIRSD/Cir-26/2011 dated December 23, 2011 and MIRSD/Cir-5/2012 dated April 13, 2013.*

4.9.1.2. *Member has not uploaded the KYC data with CKYCR in respect of all accounts (except FPIs) opened during the Audit period.*

4.9.1.3. *Member has uploaded the KYC data with CKYCR in respect of all existing individual accounts (i.e. accounts opened prior to the Audit period). Further, member has uploaded the KYC records with CKYCR pertaining to accounts of individuals opened prior to August 01, 2016, as and when updated KYC information is obtained / received from the client.*

4.9.1.4. *Member has verified their existing back office records with the MNRL List published on TRAI Website and in case the mobile number of their existing clients is appearing in the MNRL (Mobile Number Revocation list) List, member has updated correct mobile number in their back office records as well as in UCC database of the Exchange.*

4.9.1.5. *Member has identified all inactive client accounts and marked / flagged as Inactive in UCC database of the Exchange.*

4.9.2. *The Noticee in its reply to the findings of Inspection report submitted that, we have complied with all the SEBI directives. The registration was delayed by the KRA agency of which emails we have shared. Now everything is in place and al the KYC data is being uploaded with the regd KRA's*

4.9.3. *However, SEBI in this regard observed that, The broker has not provided any document in support of his contentions that registration was delayed by the KRA.*

In view of the above, it is alleged that the Noticee had violated the following provisions:

Clause 1 (i) and (iii) of SEBI Circular MIRSD/Cir-26/2011 dated December 23, 2011 read with Clause 3 (a) of MIRSD/Cir-5/2012 dated April 13, 2012,

Clause 1 of SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016.

4.10. *Finding J: Client's Order Recording:*

The broker doesn't have any system to record or preserve calls made by clients

4.10.1. *The member could not provide call records of all sample dates. The member has informed that "recordings for the period are not in the back up devices and has crashed, but we do have from previous years and this year which we have attached. The mobile phones keep changing and some data/back up files did get corrupted, we have sent what we could find from the backup drives." ..Hence it is observed that the entity doesn't have any system to record or preserve calls made by clients.*

4.10.2. *The Noticee in its reply to the findings of Inspection report submitted that, we have voice recording in all your mobile phones and samples were sent on emails. Even currently all the orders are recorded on the mobile phones and on whatsapp. We have not faced any dispute from any client due to some wrong order entry.*

4.10.3. *However, SEBI in this regard observed that, The broker has not submitted any documentary proof with respect to his submissions.*

In view of the above, it is alleged that the Noticee had violated the following provisions:

Clause III of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017.

4.11. *Cyber Security & Cyber Resilience framework:*

The broker does not have two-factor security (such as VPNs, Firewall, controls etc.).

The broker does not carry out VAPT regularly.

No CCTV Installed in premise. Further no physical security observed at their office during inspection
Cyber policy of member is merely a facsimile copy of Cyber Security & CyberResilience framework as laid down by SEBI

4.11.1. The following are the observations made:

4.11.1.1.1. The broker does not have two-factor security (such as VPNs, Firewall, controls etc.).

4.11.1.1.2. The broker does not carry out VAPT regularly.

4.11.1.1.3. No CCTV Installed in premise. Further no physical security observed at their office during inspection

4.11.1.1.4. It is observed that, cyber policy of member is merely a facsimile copy of Cyber Security & Cyber Resilience framework as laid down by SEBI. During the inspection the member could not provide further details on such policy points. This indicates lack the objectivity of cyber policy as described in Cyber Security & Cyber Resilience frame work policy.

4.11.2. The Noticee in its reply to the findings of Inspection report submitted that, two factor security has been implemented for Firewall Controls Vapt reports is done and ready. (attach 3) Cyber Policy is very much in place and since we are a small braking unit, we have the required security which is needed to carry out our operations without any glitch.

4.11.3. However, SEBI in this regard observed that, From the reply of the broker it is observed that 2-factor security has been implemented and VAPT has been done subsequent to the inspection. The broker has submitted VAPT dated 28.02.2023. However, no documentary proof has been submitted by broker in support of other non-compliances.
In view of the above, it is alleged that the Noticee had violated the following provisions:
Clause 16 & 17 of SEBI circular SEBI/HO/MIRSD/CIR/ PB/2018/147 on Cyber Security and Cyber Resilience dated December 03, 2018.

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7. Vide letter dated June 12, 2024, the Noticee submitted its reply to the SCN through its Authorised Representative viz., SK Singhi and Partners LLP.

8. In the interest of principles of natural justice, vide Hearing Notice dated June 14, 2024 Noticee was afforded an opportunity of hearing on June 20, 2024, and the Noticee was interalia advised to submit its additional reply, if any atleast 2 working days prior to the scheduled date of hearing. On the scheduled date of hearing i.e. on June 20, 2024, the Noticee availed the hearing opportunity through its Authorized Representative (ARs) viz., Mr. Kunal Katariya, Advocate, Chandresh Rao (Representative of S.K.Singhi & Partners LLP), Rhythm Rathod (Representative of S.K.Singhi & Partners LLP) and Aditya Karwa, Director, wherein the ARs inter alia requested for adjournment citing urgent engagement elsewhere and requested for another date of hearing, which was allowed.

9. Having regard to the request of the Noticee, vide Hearing Notice dated July 10, 2024, inter alia Noticee was afforded another opportunity of hearing on July 18, 2024 and was again advised to submit additional reply to SCN, if any, atleast 2 working days prior to the hearing. Vide email and letter dated July 16, 2024, the Noticee submitted its additional reply to the SCN. On the scheduled date of hearing i.e. on July 18, 2024, the Noticee availed the opportunity of hearing through its Authorised Representatives (ARs) viz. Kunal Katariya, Chandresh Rao, Rhythm Rathod and Aditya Karwa. During

the hearing, the ARs relied upon and reiterated the submissions made by the vide Noticee's replies to the SCN dated June 12, 2024 and July 16, 2024. The ARs indicated that the written submissions dated June 12, 2024 and July 16, 2024 were final and complete and that there were no additional/further submissions to be made in respect of the Noticee.

10. Key submissions of Noticee made vide its replies dated June 12, 2024 and July 16, 2024, to the SCN respectively, are as under:

Submissions dated June 12, 2024:

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PRILIMANARY SUBMISSION

7. *Our Clients say that our Clients have neither misused and/or mis-utilized our Clients' funds nor the transfer of funds are made from the Clients' bank account to proprietor bank account. It is true and correct to mention that the said transfer of fund from the Clients' account to our Clients account is as per the regular working requirement of a business and thus the said Notice/SCN must be retracted at this juncture itself.*
8. *Our Clients further say that our Clients are following all the rules, regulations and guidelines as laid down by the National Stock Exchange of India Limited (hereinafter referred to as the **"NSE"**) as well as SEBI. It is pertinent to note that the Retention Statement have been provided in all the months/quarters and there is no violation in respect of the non-settlement of Clients' account. It is further pertinent to note that the said Retention Statement have been provided to each client either on email or through hand delivery hence there is no violation of non-settlement on that count.*
9. *Our Clients specifically and categorically deny that that our Clients have uploaded incorrect holding for all the sample instances, however our Clients state the said stock mismatch had already been notified by our Client by it's email dated 23rd February, 2023 inter-alia informing that the same was caused due to back office software failure and later the same had been revised through ISIN in back office software after consulting with the NSE and thus the violation as alleged is wrong and illegal and alleged only to harass our Clients for the reason best known to you.*
10. *Our Clients say that our Clients are not in breach of the violation of the incorrect reporting of the margin. It is pertinent to note that our Clients have uploaded cash equivalent as per system and there is no manual interference by our Clients in respect of incorrect reporting of margin. It is further pertinent to note that our Clients being a bonafide broker have never falsely reported anything to the Exchange and thus the same as alleged in the said Notice/SCN is false, wrong, concocted and incorrect.*
11. *Our Clients states that our Clients never submitted data to the exchange wherein there is a difference in amount as the same is always sent by the system and there is no manual interference of the broker or our Clients or any of its representatives and with respect to the allegations that there was a difference between client trial balance and data submitted to the exchange as cash and cash equivalents and the difference was in the range of Rs. 14,757/- and Rs. 13,97,551/- is denied in toto.*
12. *Our client further states that with respect to the allegations that there was client margin funding and the said allegations are denied in toto. As per annexure 7 to the Inspection Report there is an alleged violation of an amount of Rs. 6,53,338/- and Rs. 61,700/- of the accounts Anjalika Karwa and Siddhant Banthia. Our client further states that the reasons for the said alleged violations would be for the reasons that both of the account were running accounts, and the debit balance must have been cleared on the next day i.e., after the trading day and therefore the same must have been reported as a violation due to delay in clearance of the same.*
13. *Our client states that as to the allegations that two of the terminals were authorised in the name of Aditya Karwa and Mr. Kamal Kishore Karwa was being operated by unauthorised person by one employee Shri Dhananjoy Mondal, is denied. As per Clause A (1), (2) & 5 of Schedule II of the Code of Conduct Regulation 9 of SEBI (Stockbrokers), Regulation, 1992 no unauthorised person should be granted access to the trading terminals but Mr. Mondal were present on two of the terminals only when the directors were not in the room and Mr. Mondal were not executing any trades. Therefore, the said contention does not hold ground.*
14. *Our client further states that the allegations with respect to investor grievances is also denied by our Clients. Our Clients' further states that at present there are no pending complaints from the investors and the same was the case at the time of the inspection as per SCORES database. The SEBI in its SCN has accepted that we have maintained complaint register for lodging complaint and our client states that the investor charter and the details of the complaints were also informed to the compliances officer and also displayed in our office as well as on our website. Therefore, the said contention as referred in the above referred Notice/ SCN does not hold ground as the same have been added in the said Notice/ SCN for the reasons best known to you.*
15. *Our client further states that with respect to the violation of Client Registration Police our Clients' states that in the last focus inspection (2022-2023) conducted by NSE for details related to KRA's and CKYC, all the data were submitted to the NSE and to SEBI and all active and traded Clients are registered with the KRA. Therefore, the said contention does not hold ground.*
16. *Our Clients specifically and categorically deny that our Clients doesn't have any system to record or preserve calls made by it's Clients. It is pertinent to note that our Clients have a proper and legitimate process of keeping all the data in respect of the order entry. It is further pertinent to note that our Clients have voice recording in all our Client's mobile phone and all the order recording through voice call or phone call are stored as per guideline. It is further pertinent to note that our Clients till date have not faced any dispute and/or grievances from any client regarding wrong data entry and thus the violation alleged by you in your said Notice/SCN is wrong, false, illegal, baseless and incorrect.*

PARAWISE REPLY:

17. *Without prejudice to the above our Clients now deals with para-wise reply of your above referred Show Cause Notice dated 22nd May, 2024;*
18. *With reference to paragraph 1 of the above referred Notice/SCN, Our Clients say that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture.*
19. *With reference to paragraph 2 of the above referred Notice/SCN, our Clients say that the violations alleged by you are ex-facie wrong, false, concocted, baseless and incorrect and are solely alleged to harass our Clients and you have no sufficient grounds to investigate and/or to issue said Notice/SCN in favour of our Clients. It is relevant to mention that our Clients are a bonafide and legitimate broker and have a goodwill to maintain and thus our Clients as and by way of abundant precaution take every step in order to maintain the reputation in the vicinity and our Clients bonafide and legitimate broker are not in breach of any violations alleged by you.*
20. *With reference to paragraph 3 of the above referred Notice/SCN, Our Clients say that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture.*
21. *With reference to paragraph 4.1.a of the above referred Notice/SCN, our Clients say that our Clients have not misused and/or mis-utilized it's Clients' funds. It is pertinent to note that whatever stated in the said paragraph is wrongly and incorrectly interpreted as our Clients have neither misused Clients' funds nor the value of G is positive as per our Clients records. It is further pertinent to note that the NSE website clearly shows the Summary Table which specifically points out that the specific client funds are not used for other client and the amount of client funds used for own purpose is not applicable as our Client's intention are bonafide and does not have any ulterior motive. Hereto annexed and marked Annexure "A" is the copy of the screen shot form the NSE Website confirming the same.*
22. *With reference to paragraph 4.1.b of the above referred Notice/SCN, our Clients say that our Clients have not mis-utilised any of the Clients' funds towards margin obligation of debit balance Clients and proprietary margin obligations of those 23 days out 63 dates and the same can be verified as per our records and thus the same is wrongly interpreted and/or alleged by you in the said Notice/SCN as being wrong, incorrect and baseless. Hereto annexed and marked Annexure "B" is the copy of the excel sheet verifying and confirming the above fact.*
23. *With reference to paragraph 4.1.c of the above referred Notice/SCN, our client say that our Clients have not transferred any Clients funds from client's bank account to the proprietary bank account and vice versa, thus the same is wrongly interpreted and/or alleged by you in the said Notice/SCN as being wrong, incorrect and baseless.*
24. *With reference to paragraph 4.1.1 of the above referred Notice/SCN, our Clients say that our Clients have not at any point transferred funds made from client's bank account to own account for any purpose and thus the violation alleged by you shall be retracted by you as being false, wrong and incorrect and the same can be seen form the NSE Website screenshot of the Summary Table which specifically points out that the specific client funds are not used for other client and the amount of client funds used for own purpose is not applicable as annexed at Exhibit A of the said reply.*
25. *With reference to paragraph 4.1.2, 4.1.3, 4.1.4, 4.1.5 of the above referred Notice/SCN, Our Clients say that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture.*
26. *With reference to paragraph 4.1.6, 4.1.7, 4.1.8 of the above referred Notice/SCN, our Clients say that the said statements, contentions and allegations as alleged by you in the said paragraph is ex-facie wrong, false, incorrect and baseless and our Clients specifically and categorically deny each and every allegations alleged by you.*
27. *With reference to paragraph 4.1.9 of the above referred Notice/SCN, Our Clients say that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture.*
28. *With reference to paragraph 4.1.10 of the above referred Notice/SCN, our Clients say that the value of G is positive as per the screen shot annexed at Exhibit A and thus the broker i.e. our Clients has not misused Clients' funds. Our Clients further repeat, reiterate and confirm that our Clients have not mis-utilised Clients' funds as alleged by you and in support of our Clients' claim, submission and proof is hereby annexed at Exhibit A and B.*
29. *With reference to paragraph 4.2, 4.2.1 to 4.2.3 of the above referred Notice/SCN, Our Clients say that our Clients are following all the rules, regulations and guidelines as laid down by the National Stock Exchange of India Limited as well as SEBI. It is pertinent to note that the Statement of Periodic Settlement have been provided in all the months/quarters and there is no violation in respect of the non-settlement of Clients' account. It is further pertinent to note that the said Retention Statement have been provided to each client either on email or through hand delivery hence there is no violation of non-settlement on that count. Hereto annexed and marked Annexure "C" colly are the copies of the Clients' Statement for Periodic Settlement as well an Excel Sheet with all the details of the said Clients' through which the said Statement have been given.*
30. *With reference to paragraph 4.2.4 of the above referred Notice/SCN, Our Clients say that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture.*
31. *With reference to paragraph 4.2.5 of the above referred Notice/SCN, our Clients say that our Clients have settled amounts of all client and also the Retention Statement was also sent to all the Clients and thus the violations alleged by you in the said paragraph in the above referred notice/SCN is wrong, false incorrect and baseless and the proof is annexed at Exhibit C of the said Notice/SCN.*
32. *With reference to paragraph 4.3.1 of the above referred Notice/SCN, Our Clients say that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture.*
33. *With reference to paragraph 4.3.2 and 4.3.3 of the above referred Notice/SCN, our Clients say that our Clients have neither deliberately nor intentionally uploaded the incorrect holding, however due to operational error solely due to system upgradation and certain software error function which were not enabled from the back office software and thus the mismatch in the stock reconciliation occurred. Hereto annexed and marked Annexure "D" is the copy of the excel sheet working stating all the instances where the said mismatch had happened due to the said system upgradation failure confirming the above fact.*
34. *With reference to paragraph 4.3.4 of the above referred Notice/SCN, Our Clients say that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture.*
35. *With reference to paragraph 4.3.5 of the above referred Notice/SCN, our Clients states that our Clients being a bonafide broker is holding a goodwill in the vicinity, however our Clients neither deliberately nor intentionally have caused the mismatch but due to operational failure/ software failure, it was not in the hands of our Clients to handle that and also our Clients have proper system to assure the correct reporting is being sent to the Exchange and proof of the same is annexed at Exhibit D of the present reply.*
36. *With respect to paragraph no. 4.4.1 to 4.4.3 of the above referred Notice/SCN, our client further categorically and specifically denies the contents of the said paragraph and our client states that they are not in breach of the violation of the incorrect reporting of the margin. Our client states that there is no manual interference by our Clients and the same is backed by system and therefore even there being a delay cannot be held upon our client. Our client states that they are the bonafide broker have never falsely reported to the exchange. Hereto annexed and marked as Annexure "E" Colly are the copies of the transaction statement and the excel working confirming the abovesaid facts.*
37. *With respect to paragraph No. 4.5.1. to 4.5.3 of the above referred Notice/SCN, our client states that the difference of the amount of Manoj Banthia having client code **24 differed from Rs. 14,757/- amount as per the system there was delay T+1 days which was also recorded in the **24 ledger and the settlement pay in took place on 30th December 2022 for an amount of Rs. 14,880/-. With respect to the amount of Rs. 13,97,551/- for the client Kamal*

*Karwa having client code **38 who is also the director of our Clients herein and the said amount of Rs. 14,00,000/- was received is in the loan account from IndusInd Bank and the monies has been received from the director. Our client states that there have not been any instances of any violation of incorrect data submission from our client to the exchange and therefore our Clients are not liable for punishment as the reporting of margin is as per system and no manual interference is there in reporting of margin to the SEBI. As per Annexure 6 to the Inspection Report there were multiple persons which were marked in the chart as differences for an amount of Rs. 25,537, Rs. 97,756 and Rs. 18,543 for the accounts Kamal Karwa, Aditya Karwa and Pallavi Khaitan respectively and the reply chart which were given by SEBI and therefore which were not mentioned in the SCN but with abundant caution our Clients is also dealing with the same herein. Our client states that as respect to the date of the Aditya Karwa the difference of amount of Rs. 25,537/- was due to Fno payin and with respect to Pallavi Khaitan the difference amount of Rs. 18,500 was reflected due to reasons that there was a delay of T+1 days so the difference in FNO ledger. With respect to Kamal Karwa, he is also the director of our client and therefore the difference amount of Rs. 97,756/- were reflected. Hereto annexed and marked as Annexure "F" and Annexure "G" Colly are the copies of Cash and Cash Equivalents ledger as on 31st December 2022 and the copies of the client **24 ledger, **38 ledger, **38 loan account ledger and **84 ledger respectively evidencing that there has not been violation from our Clients.*

38. *With respect to paragraph no. 4.6.1. to 4.6.3 of the above referred Notice/SCN, our client states that the allegations of client funding is negated as Anjalika Karwa is the director of our client and there is enough balance in other family accounts and with respect to the account Siddhant Banthia the amount was of Rs. 61,700/- which was inadvertently overseen by our Clients but the same was rectified by our Clients. Therefore, our client further states that our client do no undertake margin funding and this could be a running account wherein the debit account must have been cleared the next day after trading. Our client states that our client does not charge interest or even undertake margin or client funding. Hereto annexed and marked as Annexure "H" are the copies of the ledger accounts.*
39. *With respect to paragraph no. 4.7.1. to 4.7.3 of the above referred Notice/SCN, our client further relies on our reply to letter dated 6th March 2023 which is annexed to the SCN dated 22nd May 2024 and our client states that Mr. Dhananjoy Mondal was only in the seat as the directors were not in the room. It was also clarified that Mr. Mondal were not executing any trades.*
40. *With respect to paragraph No. 4.8.1. to 4.8.4 of the above referred Notice/SCN, our client states that there are no pending grievances pending from the investors and our client further states that the same was also informed to the SEBI and also citizen charter is also part of the website and also pasted in the office of our client. Therefore, the contention of you, the addressee that there are investor grievances are negated.*
41. *With respect to paragraph no. 4.9.1 to 4.9.3 of the above referred Notice/SCN, our client further states that with respect to the violation of Client Registration Police our Clients' states that in the last focus inspection (2022-2023) conducted by NSE for details related to KRA's and CKYC, all the data were submitted to the NSE and to SEBI and all active and traded Clients are registered with the KRA. Therefore, the said contention does not hold ground. Therefore, the same is denied by our client and our client craves leave to refer and rely upon the documentary proofs evidencing registration in the KRA's. Hereto annexed and marked Annexure "I" are the copies of the details of CKYC number alongwith CERSAI screenshot identifying that the said CKYC have been registered with KRAs.*
42. *With respect to 4.10.1 to 4.10.3 to the SCN, our client further categorically and specifically denies the contents of the said paragraphs and our client states that every call with the client/ customers is recorded by our client and the sample sets can be provided to you. Therefore, our client rejects the contentions of not preserving Clients order recording. Our client craves leave to refer and rely upon the call recordings as and when the circumstances so warrant.*
43. *With respect to paragraph 5 of the above referred Notice/SCN, Our clients say that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture.*
44. *With respect to paragraph 6 of the above referred Notice/SCN, our Clients deny each and every allegations alleged by you and in view of the above facts and circumstances, it is true, correct and relevant to mention that our Clients are not in breach of any violations as per the documentary proof annexed herewith and thus our Clients are not liable for any monetary penalty as alleged.*
45. *With respect to paragraph 7 of the above referred Notice/SCN, our Clients are hereby showing it's bonafide by furnishing the various documentary proof as annexed herewith and thus no inquiry should be held against our Client as our Clients have not caused any violations as per records furnished in the present reply.*
46. *With reference to paragraph 8 of the above referred Notice/SCN, our Client say that our Clients replying to you within due time as per your email dated 10th June 2024 and thus no delay has been caused in filing the present reply and thus the same may be taken on record and our Clients shall be given a clean chit as they have not caused any breach towards the violations alleged by you and thus the said Notice/SCN shall be retracted and no further actions shall be initiated for the reasons aforesaid.*
47. *With respect to paragraph 9 of the above referred Notice/SCN, With respect to paragraph 5 of the above referred Notice/SCN, Our Clients say that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture as there is no change in contact details of our Clients.*
48. *With respect to paragraph 11 of the above referred Notice/SCN, Our Client say that the contents thereof are a matter of record, and hence, the same does not warrant any comments.*
49. *With respect of paragraph 12 of the above referred Notice/SCN, Our Client sau that the contents thereof are a matter of record, and hence, the same does not warrant any comments at this juncture.*
50. *In view of the above facts and circumstances, Our Clients call upon you to withdraw and/or retract your above referred Show Cause Notice dated 22nd May, 2024 and no further action and/or proceedings against our Clients be initiated before any court of law in pursuance of the Show Cause Notice dated 22nd May, 2024.*

…'

Additional Submissions dated July 16, 2024:

'…

PRIMARY REPLY:

9. *Our Client crave leave to refer and reply upon the reply dated 12th June 2024 and the contents of the said reply shall be deemed to reproduced herein in verbatim.*
10. *With reference to the above, the above said violation i.e. at 4.11 of the Show Cause Notice dated 22nd May 2024 issued under Regulations 25(1) of the Securities Exchange Board of India (Intermediaries) Regulations Act, 2008 was in addition to the allegations as already dealt in our Reply dated 12th June 2024 and the same is being dealt with hereinbelow:*

a. It is pertinent to note that our Client are not in violations of the aforesaid breach of the alleged violations and the same is denied in toto.
b. It is further pertinent to note that our Client have taken all the necessary precautions so as to determine that there is proper security measures in not only the said building premises but also there is CCTV surveillance on each and every floor on the building as well as there is a collapsable gate on the entry of the business premises. It is also relevant to mention that the all the computer in the business premises is password protected and all the software have proper system to store data and protect each and every trade executed during the course of business. Hereto annexed and marked Annexure "B" colly are the photographs of the building premises, floor of the business premises, collapsable gate and all the security measures taken for data storage and software protection.
c. Thus, the said violation as alleged under the said SCN are wrong, false, incorrect, vexatious and does not make out a case for any violations caused by our Client and the same is denied in toto.

ADDITIONAL REPLY:

11. Our client states that with respect to the contention of finding and observations by you and alleged violations w.r.t to non-segregation of funds are mentioned hereinbelow:
a) The alleged violations of non-segregation of funds and funds being available with the broker is less than the aggregate value of the credit balance of all the clients (negative G balance) is denied.
b) You in your show cause notice has stated that for the month of May 2021, July 2021 and January 2022 the G was negative. However, Aditya Karwa i.e., director of our client had credit balance of more than 2.5 crores for all the three months i.e., May 2021, July 2021 and January 2022. Hereto annexed and marked as "Annexure C" are the copies of the excel sheet evidencing credit balance kept is more than 2.5 crores.
c) The total funds available have always been more than the credit balance of all the clients, the directors are also registered as clients in our Client company and as a result there was no shortfall of any kind on any day.

12. Our Client states that with respect to the contentions of the client registration process raised by SEBI in the SCN in paragraph no. 4.9 is additionally dealt it as under:
a) Our Client states that we have already dealt with the contentions in our Reply dated 12th June 2024 and we have attached the CKYC data registered with the KRA in our reply.
b) However, the contention of SEBI was replied to by our Client and was stated that the delay in registration of the CKYC data was due to the KRA agency. Our client have addressed emails to SEBI and/or KRA agencies as there was a delay due to the KRA agency and the same was informed vide email dated 23rd August, 2021. Hereto annexed and marked as "Annexure D" are the email dated 23rd August 2021.

JUDGMENTS RELIED:

13. In view of the settled principle of law as echoed by the Hon'ble Securities Appellate Tribunal in Religare Securities V/s Securities Exchange Board of India, Hon'ble Securities Appellate Tribunal order dated 16th June 2011 in Appeal No. 23 of 2011 where it was held that:

> *5. It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy / irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."*
>
> *"Emphasis Supplied"*

14. It is pertinent to note that in the present case, all the said violations alleged by you are not only minor but also negligible and any discrepancy and/or irregularity caused and/or found during the course of inspection by you and the same should have been neglected and ignored considering the violations as alleged by you as there existed no such breaches as alleged by you from our Client and thus the same needs to be withdrawn and set aside.

15. Furthermore, it was also illustrated in Hindustan Steel V/s State of Orissa, 1969 (2) SCC 627, that the SEBI having the authority and/or power to impose penalty due to any minor discrepancy/irregularity as alleged and the same should not be a guiding force to impose such penalty onto our Client, as our Client did not commit any violation as alleged by you neither deliberately and intentionally nor with any dishonest intention. The relevant paragraph of the aforesaid case is mentioned hereinbelow for your ready reference:

> *"8. Under the Act penalty may be imposed for failure to register as a dealer Section 9(1) read with Section 25(1) (a) of the Act. But the liability to pay penalty does not arise merely upon proof of default in registering as a dealer. An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute."*
>
> *"Emphasis supplied"*

16. Our Client further state that in Siddharth Chaturvedi V/s SEBI, (2016) 12 SCC 119, it was held that"

> *"11… In fact, the facts of the present case would go to show that where there is allegedly only a technical default, and the three parameters of Section 15J would allegedly be satisfied by the Appellants, namely, that no disproportionate or unfair advantage has been made as a result of the default; no loss has been caused to an investor or group of investors as a result of the default; and there is in fact, no repetitive nature of default, no penalty at all ought to be imposed."*

"Emphasis supplied"

17. *Our client states that, it is relevant to mention that our Client have neither deliberately nor intentionally caused any breach of the alleged violation but if any of the said alleged violations is committed by our Client then it is only because of the technical default and/or software malfunctions and mismatch caused due to the same and thus the alleged violations so caused needs to be withdrawn and/or set aside.*
18. *Our Client further states that in relevance to the present matter, in Adjudicating Officer, SEBI v. Bhavesh Pabari, (2019) 5 SCC 90, it was held that:*

    "5. …if the penalty provisions are to be understood as not admitting of any exception or discretion and the penalty as prescribed in Section 15A to Section 15HA of the SEBI Act is to be mandatorily imposed in case of default/failure, Section 15J of the SEBI Act would stand obliterated and eclipsed. Hence, the question referred. Sections 15A(a) to 15HA have to be read along with Section 15J in a manner to avoid any inconsistency or repugnancy. Provision of one section cannot be used to nullify and obtrude another unless it is impossible to reconcile the two provisions.

    […]

    We, therefore, deem it appropriate to hold that the provisions of Section 15J were never eclipsed and had continued to apply in terms thereof to the defaults under Section 15A(a) of the SEBI Act.

    […]

    6. …We would hold the legislative intent was not to prescribe minimum mandatory penalty of Rs.1 lakh per day during which the default and failure had continued. We would prefer to read and interpret Section 15A(a) as it was between 25th October, 2002 and 7th September, 2014 in line with the Amendment Act 27 of 2014 as giving discretion to the Adjudicating Officer to impose minimum penalty of Rs.1 lakh subject to maximum penalty of Rs.1 crore, keeping in view the period of default as well as aggravating and mitigating circumstances including those specified in Section 15J of the SEBI Act."

    "Emphasis Supplied"

19. *It is pertinent to note that in Piramal Enterprises v. SEBI, Appeal No. 466 of 2016, Order dated May 15, 2019, it was held that:*

    "24. …the object of the Act is not only to protect the investors but also the securities market…SEBI is the watchdog and not a bulldog. If there is an infraction of a rule, remedial measures should be taken in the first instance and not punitive measures…a reasonable benefit of doubt should be extended to the PEL instead of mechanically imposing a penalty. Other factors should be considered..."

20. *It is further pertinent to note that in PG Electroplast & Ors. v. SEBI, Appeal No. 281 of 2017, Order dated August 2, 2019, it was held that:*

    "18. …if it is found that a party has not acted deliberately, then the authority has a discretion, to be exercised judicially, whether in a given case, after taking into consideration of all the relevant circumstances, as to whether a penalty should be imposed or not. Even if a minimum penalty is prescribed, the authority, after considering the circumstances of the case and other factors enumerated in Section 15J would be justified in refusing to impose penalty when there is a technical or venial breach of the provisions of the SEBI Act."

    "Emphasis supplied"

21. *In the present case in comparison to the aforesaid case, it is relevant to mention that our Client repeat, reiterate and confirm that our Client have neither intentionally nor deliberately caused any breach pursuant to the violation as alleged by you and out Client pray that all the documentary proof of the same have been provided in Reply Letter dated 12th June, 2024 as well as in the present reply.*
22. *In view of the above, our client state that in relation to the present matter and in support, in Price Waterhouse Coopers Private Limited v. CIT Kolkata & Anr, (2012) 11 Supreme Court Cases 316, it was held that:*

    "15. The contents of the tax audit report suggest that there is no question of the assessee concealing its income. There is also no question of the assessee furnishing any inaccurate particulars. It appears to us that all that has happened in the present case is that through a bona fide and inadvertent error, the assessee while submitting its return, failed to add the provision for gratuity to its total income. This can only be described as a human error which we are all prone to make. The calibre and expertise of the assessee has little or nothing to do with the inadvertent error. That the assessee should have been careful cannot be doubted, but the absence of due care, in a case such as the present one, does not mean that the assessee is guilty of either furnishing inaccurate particulars or attempting to conceal its income.

    16. We are of the opinion, given the peculiar facts of this case, that the imposition of penalty on the assessee is not justified. We are satisfied that the assessee had committed an inadvertent and bona fide error and had not intended to or attempted to either conceal its income or furnish inaccurate particulars"

    "Emphasis supplied"

23. *Thus, in view of the above facts and circumstances, our clients hereby requests the Adjudicating Officer to immediately withdraw all the proceedings initiated by SEBI against our client or withdraw/ or retract your above referred Show Cause Notice dated 22nd May 2024 bearing reference no. SEBI/HO/EAD/EAD5/P/OW/2024/17414/1 and Show Cause Notice dated 22nd May 2024 bearing reference no. SEBI/HO/ED/EAD5/P/ OW/2024/17415/1 and request that no further action be initiated against our client pursuant to the above referred Show Cause Notices.*

….'

D. CONSIDERATION OF ISSUES AND FINDINGS:

11. The following issue arises for consideration in the instant matter:

Issue No. I:	Whether the Noticee had violated the provisions of Securities Contracts (Regulation) Act, 1956, SEBI (Stock Brokers) Regulations, 1992, and SEBI Circulars, as alleged?
Issue No. II:	If yes, whether the violations on the part of the Noticee would attract monetary penalty under Section 23D of SC(R) Act, 1956 and 15HB of the SEBI Act, 1992?
Issue No. III:	If yes, what should be the monetary penalty that can be imposed upon the Noticee?

12. Before going into the merits of the case, it would be pertinent to firstly deal with the preliminary/ technical contentions raised by the Noticee as part of its reply to the SCN dated July 16, 2024.

12.1. The Noticee had inter alia contended that '…*our clients have already filed an Appeal No. 489 of 2023 before the Securities Appellate Tribunal challenging the Impugned order dated 24.8.2022 passed by the Member and Core Settlement Guarantee Fund Committee of the National Stock Exchange of India ("NSE") thereby have already imposed a penalty of Rs. 44,79,300/- (Rupees Forty-Four Lakhs Seventy-Nine Thousand Three Hundred Only) upon our Client… our clients suffered the said imposition for the same offences as raised by you in the said SCN dated 22nd May 2024 bearing Ref Nos. SEBI/HO/EAD/EAD5/P/OW/2024/17414/1 and SEBI/HO/ED/EAD5/P/ OW/2024/17415/1… adjudicating proceedings and inquiry proceedings initiated by the SEBI is a subset of the proceedings initiated by the NSE and almost all the violations are similar to each other. It is trite that any person shall not be punished twice for the same offence as the same protection is also granted by the constitution to its citizens. Our* *client is facing similar allegations from NSE and you, therefore the same is in violation of Article 20 of the Constitution of India….'*

In this regard, I note that apart from merely stating so, the Noticee has not brought out with relevant details and documents that the alleged violations in the instant proceedings were squarely covered in the NSE Order dated August 24, 2022 or that there is any bar on the instant proceedings due to the pending appeal before Hon'ble SAT in this regard.

I note that the Noticee did not bring out as to how the context of the above cited proceedings /appeals filed by the Noticee have any bearing on the instant proceedings. In this regard, I note from NSE order dated August 24, 2022, as available on NSE website that *' …The Exchange conducted a regular inspection of the books of accounts and records of Junjharji from April 1, 2019, to December 31, 2019, in March 2021…'* whereas the subject matter of instant proceedings are inter alia with respect to alleged violations observed for the Inspection Period April 2022 to December 2023 with respect to the Non – segregation of clients' funds, Non settlement of clients' accounts, Stock reconciliation, Incorrect reporting of margin, Incorrect submission of data to exchange, client funding, Terminal Verification & Certifications, Investor Grievances, Client registration process, Client's Order Recording, and, any other non-compliance observed during inspection etc. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

13. I now proceed to deal with the matter on merits as regards alleged violations in respect of the Noticee, as per the SCN.

<u>A – Non – segregation of clients' funds:</u>

14. In this regard, SEBI inter alia observed and alleged in respect of the Noticee that:

I. In 38 out of 63 dates, the broker had misused clients' funds (value of G was negative) in the range of Rs. 0.8 Lakh to Rs. 1.03 Crore for these days.

II. In 12 out of 63 dates, value of J was positive, indicating mis-utilisation of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations for these 12 days. The misuse ranges from Rs. 5.7 Lakh to Rs. 2.92 Crore.

III. In 87 instances transfer of funds were made from client bank account to proprietary account and vice versa.

In view thereof, it was alleged that Noticee had violated provisions of Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993; and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016; Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

14.1. Here it would be relevant to refer to the text of the provisions alleged to have been violated, which inter alia read as under:

Section 23D of SC(R) Act, 1956:

'…

121[Penalty for failure to segregate securities or moneys of client or clients.
23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be [122][liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]

…'

Clause 1 of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993:

'…

1. It shall be compulsory for all Member brokers to keep the money of the clients in a separate account and their own money in a separate account. No payment for transactions in which the Member broker is taking a position as a principal will be allowed to be made from the client's account. The above principles and the circumstances under which transfer from client's account to Member broker's account would be allowed are enumerated below.

A] Member Broker to keep Accounts: Every member broker shall keep such books of accounts, as will be necessary, to show and distinguish in connection with his business as a member -

i. Moneys received from or on account of each of his clients and,

ii. the moneys received and the moneys paid on Member's own account.

B] Obligation to pay money into "clients accounts". Every member broker who holds or receives money on account of a client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the member in the title of which the word "clients" shall appear (hereinafter referred to as "clients account"). Member broker may keep one consolidated clients account for all the clients or accounts in the name of each client, as he thinks fit: Provided that when a Member broker receives a cheque or draft representing in part money belonging to the client and in part money due to the Member, he shall pay the whole of such cheque or draft into the clients account and effect subsequent transfer as laid down below in para D (ii).

C] What moneys to be paid into "clients account". No money shall be paid into clients account other than -

i. money held or received on account of clients;

ii. such money belonging to the Member as may be necessary for the purpose of opening or maintaining the account;

iii. money for replacement of any sum which may by mistake or accident have been drawn from the account in contravention of para D given below;

iv. a cheque or draft received by the Member representing in part money belonging to the client and in part money due to the Member.

D] What moneys to be withdrawn from "clients account". No money shall be drawn from clients account other than -

i. money properly required for payment to or on behalf of clients or for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client;

ii. such money belonging to the Member as may have been paid into the client account under para 1 C [ii] or 1 C [iv] given above;

iii. money which may by mistake or accident have been paid into such account in contravention of para C above.

E] Right to lien, set-off etc., not affected. Nothing in this para 1 shall deprive a Member broker of any recourse or right, whether by way of lien, set-off, counter-claim charge or otherwise against moneys standing to the credit of clients account.

'…

Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016:

'…

3. Monitoring of Clients' Funds lying with the Stock Broker by the Stock Exchanges

…

3.2.Stock brokers shall submit the following data as on last trading day of every week to the Stock Exchanges on or before the next trading day:

A-Aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account, maintained by the stock broker across stock exchanges

B-Aggregate value of collateral deposited with clearing corporations and/or clearing member (in cases where the trades are settled through clearing member) in form of Cash and Cash Equivalents (Fixed deposit (FD), Bank guarantee (BG), etc.)(across Stock Exchanges). Only funded portion of the BG, i. e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered as part of B.

C-Aggregate value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligations)

D-Aggregate value of Debit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients, uncleared cheques issued to clients and the margin obligations)

E-Aggregate value of proprietary non-cash collaterals i.e. securities which have been deposited with the clearing corporations and/or clearing member (across Stock Exchanges)

F-Aggregate value of Non-funded part of the BG across Stock Exchanges

P-Aggregate value of Proprietary Margin Obligation across Stock Exchanges

MC-Aggregate value of Margin utilized for positions of Credit Balance Clients across Stock Exchanges

MF-Aggregate value of Unutilized collateral lying with the clearing corporations and/or clearing member across Stock Exchanges

3.3.Based on the aforesaid information submitted by the stock broker, Stock Exchanges shall put in place a mechanism for monitoring of clients' funds lying with the stock brokers on the principles enumerated below:

3.3.1.Funds of credit balance clients used for settlement obligation of debitclients or for own purpose:

Principle:

The total available funds i.e. cash and cash equivalents with the stock broker and with the clearing corporation/clearing member (A + B) should always be equal to or greater than Clients' funds as per ledger balance (C) Stock Exchanges shall calculate the difference i.e. G as follows -

$$G = (A+B)-C$$

If difference G is negative, then the total available fund is less than the ledger credit balance of clients. The value of G may indicate utilization of clients' funds for other purposes i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the stock brokers'

own purposes. The negative value of G acts as an alert to the Stock Exchanges. Thereafter, the absolute value of G shall be compared with debit balance of all clients as per client ledger D as follows:
If the absolute value of (G) is lesser than |D|, then the stock broker has possibly utilised funds of credit balance clients towards settlement obligations of debit balance clients to the extent of value of G.
If the absolute value of (G) is greater than |D|, then the stock broker has possibly utilised a part of funds of credit balance clients towards settlement obligations of debit balance clients and remaining part for his own purposes. In such cases the amount of client funds used for own purpose is calculated as follows:

$$H = |G| - |D|$$

…

3.3.3. Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading:
Stock Exchanges shall thereafter, verify whether the clients funds lying with the clearing corporation/clearing member are utilised towards margin obligations of debit balance clients and proprietary margin obligations.
Principle:
The clients' funds lying with the clearing corporation/clearing member should be less than or equal to sum of credit clients' margin obligations (MC) and free collateral deposits available with the clearing corporation/clearing member (MF
)If value of G is negative (i.e. A+B < C), then fund lying with the clearing corporation/ clearing member (B) is entirely clients' fund. In such cases, B is compared with Margin obligations of credit balance clients and the free deposits available with the clearing corporation/ clearing member. The value of J is calculated as under:

$$J = B - (MC + MF)$$

If value of G is positive (i.e. A+B > C), then fund lying with the clearing corporation/clearing member (B) may contain proprietary and clients' fund. Hence, the value of clients funds lying with the clearing corporation/ clearing member i.e. (C-A)shall be considered in the place of B.
In such cases, (C-A)is compared with Margin obligations of credit balance clients and the free deposits available with the clearing corporation/clearing member. The value of J, which is clients' funds utilised towards margin obligations of debit balance clients and proprietary margin obligations, is calculated as under:
J = (C -A) -(MC + MF)
The value of J, if positive, indicates the extent of clients' funds utilised towards margin obligations of debit balance clients and proprietary margin obligations. This value of J acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations.

…'

14.2. As regards, value of G being negative, I note the following from material available on record:

Sr No	Date	Total of Day end balance in Client Bank Account/ Settlement a/c	Colletaral deposited with clearing corporation in form of Cash & Cash equivalent	Colletaral deposited with clearing member in form of Cash & Cash equivalent	Total Credit Balance of all clients	**G = (A+B)-C** ***** **B=(B1+B2)**
1	04/05/2021	17,17,960	50,00,000	2,60,14,941	3,60,31,597	-3298696.5
2	05/05/2021	24,91,221	50,00,000	2,60,14,941	3,35,87,159	-80997.8
3	06/05/2021	14,89,166	50,00,000	2,57,14,941	3,41,17,177	-1913070.6
4	10/05/2021	11,86,578	50,00,000	2,56,30,111	3,44,78,683	-2661994.3
5	11/05/2021	11,69,479	50,00,000	2,56,30,111	3,23,85,787	-586196.85
6	12/05/2021	9,24,253	50,00,000	2,56,30,111	3,18,93,903	-339539.41
7	13/05/2021	9,24,253	50,00,000	2,56,30,111	3,18,93,903	-339539.41
8	17/05/2021	17,47,015	50,00,000	2,50,97,327	3,35,39,390	-1695048.9
9	18/05/2021	15,49,125	50,00,000	2,50,97,327	3,20,00,860	-354409.07
10	20/05/2021	22,43,887	70,00,000	2,50,97,327	3,65,14,753	-2173538.6
11	24/05/2021	18,52,139	50,00,000	2,56,02,554	3,40,95,456	-1640762.8
12	26/05/2021	19,24,330	50,00,000	2,56,02,554	3,48,74,317	-2347432.6
13	27/05/2021	19,82,083	60,00,000	2,56,02,369	3,41,96,560	-612107.69
14	28/05/2021	11,49,187	60,00,000	2,56,02,369	3,36,43,315	-891758.24
15	09/07/2021	23,87,077	60,00,000	2,51,76,856	3,54,74,811	-1910878.4
16	21/07/2021	20,67,517	50,00,000	2,61,88,148	3,39,91,079	-735414.23
17	26/07/2021	4,91,743	60,00,000	2,53,20,974	3,31,89,869	-1377151.8
18	29/07/2021	14,13,390	60,00,000	2,57,46,816	3,44,03,625	-1243418.8
19	03/01/2022	30,26,944	50,00,000	3,44,02,202	4,49,21,562	-2492416.1
20	04/01/2022	54,18,875	50,00,000	3,45,49,470	4,72,36,241	-2267896.1
21	05/01/2022	15,76,586	50,00,000	3,45,24,530	4,34,22,460	-2321343.8
22	06/01/2022	27,04,832	50,00,000	3,46,99,112	4,47,45,623	-2341678.6

23	07/01/2022	16,16,622	50,00,000	3,46,99,112	4,38,66,103	-2550368.6
24	10/01/2022	10,57,559	50,00,000	3,46,35,414	4,37,19,129	-3026156
25	11/01/2022	11,29,288	50,00,000	3,46,35,414	4,40,43,635	-3278933
26	12/01/2022	36,61,113	50,00,000	3,46,35,414	4,60,65,960	-2769433
27	13/01/2022	28,28,792	50,00,000	3,49,15,610	4,70,05,930	-4261528.3
28	14/01/2022	11,71,719	50,00,000	3,49,98,071	4,62,18,690	-5048899.6
29	17/01/2022	21,54,438	50,00,000	3,46,64,637	4,46,27,069	-2807993.7
30	18/01/2022	27,88,173	50,00,000	3,47,33,532	4,49,64,982	-2443276.7
31	19/01/2022	23,00,009	50,00,000	3,42,34,021	4,47,45,468	-3211437.8
32	20/01/2022	20,61,523	50,00,000	3,41,15,712	4,37,78,261	-2601025.8
33	21/01/2022	39,57,111	50,00,000	3,42,31,975	4,84,46,774	-5257688.3
34	24/01/2022	44,08,048	50,00,000	3,42,31,975	4,83,83,414	-4743391.3
35	25/01/2022	20,64,873	50,00,000	3,47,87,678	5,21,63,675	-10311124
36	27/01/2022	53,09,633	50,00,000	3,56,77,075	4,85,73,440	-2586732
37	28/01/2022	11,09,603	50,00,000	3,58,30,990	4,51,20,370	-3179777.5
38	31/01/2022	11,36,299	50,00,000	3,60,53,915	4,44,50,142	-2259927.9

14.3. As regards value of J, I note the following from material available on record:

Sr No	Date	Total of Day end balance in Client Bank Account/ Settlement a/c	Colletaral deposited with clearing corporation in form of Cash & Cash equivalent	Colletaral deposited with clearing member in form of Cash & Cash equivalent	Total Credit Balance of all clients	Total Debit Balance	Value of Own Securities deposited as colletaral with Clearing Member/Clearing Corporation	Non funded portion of Bank Gurantee	Proprietary Margin obligation	Margin utilized for position of credit Balance client provided by Member (MC)	Free colletaral deposited with Clearing corporation/ Clearing Member(MF)	J (C-A)-(MC+MF) B-(MC+MF) (For Negetive G)
1	07/05/2021	33,55,908	50,00,000	2,57,14,941	3,25,91,445	59,14,823	1,94,85,273	0	0	0	43,33,945	24901592
2	13/05/2021	9,24,253	50,00,000	2,56,30,111	3,18,93,903	85,21,591	1,98,73,493	0	0	0	16,95,629	28934482
3	14/05/2021	17,84,224	50,00,000	2,56,30,111	3,02,79,395	63,33,937	1,94,42,758	0	0	1,26,11,324	36,18,642	12265205
4	21/05/2021	6,25,300	70,00,000	2,50,97,327	3,17,52,802	66,00,501	1,89,42,474	0	0	1,37,94,743	22,60,643	15072116
5	24/05/2021	18,52,139	50,00,000	2,56,02,554	3,40,95,456	75,22,974	1,88,51,364	0	0	3,13,53,655	1,73,390	570281.4
6	28/05/2021	11,49,187	60,00,000	2,56,02,369	3,36,43,315	59,78,648	2,03,92,120	0	0	1,19,98,224	54,42,678	14161468
7	02/07/2021	47,01,660	60,00,000	2,51,76,856	3,31,92,689	55,12,146	1,96,99,932	0	26,683	1,26,79,607	47,08,197	11103225
8	09/07/2021	23,87,077	60,00,000	2,51,76,856	3,54,74,811	55,53,936	2,02,10,416	0	0	1,20,36,065	63,72,329	12768462
9	16/07/2021	19,41,923	60,00,000	2,50,88,148	3,13,49,347	62,64,869	1,96,59,472	0	261	1,09,32,704	9,81,528	17493192
10	21/07/2021	20,67,517	50,00,000	2,61,88,148	3,39,91,079	67,35,016	1,95,58,007	0	0	0	38,98,313	29289835
11	23/07/2021	29,24,657	60,00,000	2,54,68,828	3,39,41,063	66,44,605	2,01,81,036	0	79,118	1,03,61,207	13,72,767	19282432
12	30/07/2021	25,53,176	60,00,000	2,52,37,515	3,23,89,718	65,72,461	2,05,56,319	0	1,47,275	1,12,48,893	13,72,767	17214882

14.4. In this regard, as regards value of G, Noticee, as part of its reply dated June 12, 2024 and July 16, 2024 to the SCN, had made similar submissions, inter alia contending that *'…our Clients have not misused and/or mis-utilized it's Clients' funds. It is pertinent to note that whatever stated in the said paragraph is wrongly and incorrectly interpreted as our Clients have neither misused Clients' funds nor the value of G is positive as per our Clients records. It is further pertinent to note that the NSE website clearly shows the Summary Table which specifically points out that the specific client funds are not used for other client and the amount of client funds used for own purpose is not applicable as our Client's intention are bonafide and does not have any ulterior motive.*

In this regard, I note that the contentions of the Noticee are out of context in so far as the Noticee, as part of its reply dated June 12, 2024 has submitted Annexure A in this regard inter alia indicating the positive value of G. However, on perusal of the same it is noted that the same bears date as June 07, 2024 whereas, I note that the instant allegation is with respect to Inspection period April 2021 to December 2022. I note that the Noticee has not demonstrated with relevant details and documents that the value of G was positive, contrary to what has been observed and alleged. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

14.5. Further as regard 12 instances of positive value of J, I note that the Noticee has not made any submissions in this regard. I note from material available on record that even in its reply to the findings of Inspection, the Noticee had not made any specific submissions in this regard and had merely stated that *'…The total funds available have always been more than the credit balance of all the clients. the directors who are promoters of the company are regd as clients too. The same has been explained during the personal visit to the sebi office. There has been no short fall of any kind on any day…'.*

14.6. As regards alleged violation relating to transfer of funds made from client bank account to proprietary account and vice versa, Noticee, as part of its reply dated June 12, 2024, had inter alia contended that *'…our Clients have not transferred any Clients funds from client's bank account to the proprietary bank account and vice versa…'*

In this regard, I note that that the submissions of the Noticee are in the nature of mere statements. The Noticee has not provided any documents in support of its submissions.

In this regard, I note from material available on record that the following transactions were observed where transfer of funds were made from client bank account to own account for purpose other than specified in regulation.

Transfer of funds between Client and Proprietary account

Sl No	Date	Receipt (Rs.)	Payment (Rs.)	Balance (Rs.)	Exchange Remarks
1	05-04-2021	900,000		2,585,037	Purpose of fund transfer is other than stipulated in SEBI Circular
2	09-04-2021		75,000	2,028,627	Purpose of fund transfer is other than stipulated in SEBI Circular
3	26-04-2021		50,000	2,386,672	Purpose of fund transfer is other than stipulated in SEBI Circular
4	29-04-2021		50,000	3,077,975	Purpose of fund transfer is other than stipulated in SEBI Circular
5	03-05-2021		100,000	3,692,867	Purpose of fund transfer is other than stipulated in SEBI Circular
6	05-05-2021		50,000	2,966,903	Purpose of fund transfer is other than stipulated in SEBI Circular
7	08-05-2021		50,000	3,286,289	Purpose of fund transfer is other than stipulated in SEBI Circular
8	03-06-2021		120,000	835,658	Purpose of fund transfer is other than stipulated in SEBI Circular
9	09-06-2021		60,000	3,567,455	Purpose of fund transfer is other than stipulated in SEBI Circular
10	25-06-2021		160,000	3,784,806	Purpose of fund transfer is other than stipulated in SEBI Circular
11	14-07-2021		50,000	2,694,293	Purpose of fund transfer is other than stipulated in SEBI Circular
12	19-07-2021		100,000	2,417,914	Purpose of fund transfer is other than stipulated in SEBI Circular
13	19-07-2021		50,000	2,367,914	Purpose of fund transfer is other than stipulated in SEBI Circular
14	30-07-2021		60,000	2,490,428	Purpose of fund transfer is other than stipulated in SEBI Circular
15	04-08-2021		185,000	2,065,542	Purpose of fund transfer is other than stipulated in SEBI Circular
16	06-08-2021		50,000	1,999,634	Purpose of fund transfer is other than stipulated in SEBI Circular
17	31-08-2021		140,000	2,031,313	Purpose of fund transfer is other than stipulated in SEBI Circular
18	02-09-2021		80,000	2,233,814	Purpose of fund transfer is other than stipulated in SEBI Circular
19	07-09-2021		80,000	2,194,402	Purpose of fund transfer is other than stipulated in SEBI Circular
20	17-09-2021		50,000	3,617,929	Purpose of fund transfer is other than stipulated in SEBI Circular
21	23-09-2021		80,000	777,617	Purpose of fund transfer is other than stipulated in SEBI Circular
22	28-09-2021		100,000	7,302,946	Purpose of fund transfer is other than stipulated in SEBI Circular
23	04-10-2021		150,000	3,588,538	Purpose of fund transfer is other than stipulated in SEBI Circular
24	06-10-2021		50,000	2,782,180	Purpose of fund transfer is other than stipulated in SEBI Circular
25	08-10-2021		50,000	1,903,928	Purpose of fund transfer is other than stipulated in SEBI Circular
26	11-10-2021		100,000	1,803,928	Purpose of fund transfer is other than stipulated in SEBI Circular
27	27-10-2021		100,000	2,159,048	Purpose of fund transfer is other than stipulated in SEBI Circular
28	01-11-2021		130,000	3,853,293	Purpose of fund transfer is other than stipulated in SEBI Circular
29	08-11-2021		50,000	2,115,315	Purpose of fund transfer is other than stipulated in SEBI Circular
30	09-11-2021		50,000	3,713,327	Purpose of fund transfer is other than stipulated in SEBI Circular
31	10-11-2021	200,000		269,920	Purpose of fund transfer is other than stipulated in SEBI Circular
32	29-11-2021		150,000	4,676,045	Purpose of fund transfer is other than stipulated in SEBI Circular
33	03-12-2021		50,000	1,055,112	Purpose of fund transfer is other than stipulated in SEBI Circular
34	06-12-2021		50,000	1,005,112	Purpose of fund transfer is other than stipulated in SEBI Circular
35	07-12-2021		50,000	2,420,603	Purpose of fund transfer is other than stipulated in SEBI Circular
36	20-12-2021		75,000	12,015,910	Purpose of fund transfer is other than stipulated in SEBI Circular
37	28-12-2021		75,000	1,449,503	Purpose of fund transfer is other than stipulated in SEBI Circular
38	31-12-2021		50,000	2,558,514	Purpose of fund transfer is other than stipulated in SEBI Circular
39	04-01-2022		150,000	3,316,554	Purpose of fund transfer is other than stipulated in SEBI Circular
40	07-01-2022		130,000	1,590,465	Purpose of fund transfer is other than stipulated in SEBI Circular
41	31-01-2022		50,000	495,843	Purpose of fund transfer is other than stipulated in SEBI Circular
42	04-02-2022		125,000	630,632	Purpose of fund transfer is other than stipulated in SEBI Circular
43	04-02-2022		50,000	2,996,050	Purpose of fund transfer is other than stipulated in SEBI Circular
44	08-02-2022		50,000	6,028,862	Purpose of fund transfer is other than stipulated in SEBI Circular
45	04-03-2022		50,000	1,366,970	Purpose of fund transfer is other than stipulated in SEBI Circular
46	08-03-2022		50,000	1,470,998	Purpose of fund transfer is other than stipulated in SEBI Circular
47	10-03-2022		15,000	1,470,229	Purpose of fund transfer is other than stipulated in SEBI Circular
48	22-03-2022		75,000	1,598,882	Purpose of fund transfer is other than stipulated in SEBI Circular
49	24-03-2022		50,000	2,070,311	Purpose of fund transfer is other than stipulated in SEBI Circular
50	24-03-2022		50,000	2,020,311	Purpose of fund transfer is other than stipulated in SEBI Circular
51	31-03-2022		65,000	(143,538)	Purpose of fund transfer is other than stipulated in SEBI Circular
52	31-03-2022		800,000	(1,780,038)	Purpose of fund transfer is other than stipulated in SEBI Circular
53	31-03-2022		200,000	(2,025,003)	Purpose of fund transfer is other than stipulated in SEBI Circular
54	05-04-2022	140,000		(344,638)	Purpose of fund transfer is other than stipulated in SEBI Circular
55	07-04-2022		50,000	5,243,013	Purpose of fund transfer is other than stipulated in SEBI Circular

Sl No	Date	Receipt (Rs.)	Payment (Rs.)	Balance (Rs.)	Exchange Remarks
56	11-04-2022		150,000	2,276,235	Purpose of fund transfer is other than stipulated in SEBI Circular
57	21-04-2022		50,000	3,411,235	Purpose of fund transfer is other than stipulated in SEBI Circular
58	02-05-2022		150,000	1,946,384	Purpose of fund transfer is other than stipulated in SEBI Circular
59	06-05-2022		100,000	3,517,138	Purpose of fund transfer is other than stipulated in SEBI Circular
60	26-05-2022		65,000	155,129	Purpose of fund transfer is other than stipulated in SEBI Circular
61	03-06-2022		165,000	1,610,102	Purpose of fund transfer is other than stipulated in SEBI Circular
62	09-06-2022		50,000	1,097,937	Purpose of fund transfer is other than stipulated in SEBI Circular
63	13-06-2022		50,000	1,228,427	Purpose of fund transfer is other than stipulated in SEBI Circular
64	14-06-2022		60,000	(9,349,650)	Purpose of fund transfer is other than stipulated in SEBI Circular
65	22-06-2022		25,000	2,029,352	Purpose of fund transfer is other than stipulated in SEBI Circular
66	30-06-2022		50,000	1,127,656	Purpose of fund transfer is other than stipulated in SEBI Circular
67	01-07-2022		175,000	952,656	Purpose of fund transfer is other than stipulated in SEBI Circular
68	04-07-2022		140,000	6,528,344	Purpose of fund transfer is other than stipulated in SEBI Circular
69	07-07-2022		50,000	2,137,484	Purpose of fund transfer is other than stipulated in SEBI Circular
70	29-07-2022		200,000	1,360,153	Purpose of fund transfer is other than stipulated in SEBI Circular
71	16-08-2022		75,000	1,036,229	Purpose of fund transfer is other than stipulated in SEBI Circular
72	01-09-2022		10,000	828,101	Purpose of fund transfer is other than stipulated in SEBI Circular
73	05-09-2022		80,000	1,322,228	Purpose of fund transfer is other than stipulated in SEBI Circular
74	09-09-2022		50,000	869,745	Purpose of fund transfer is other than stipulated in SEBI Circular
75	16-09-2022		50,000	1,482,285	Purpose of fund transfer is other than stipulated in SEBI Circular
76	28-09-2022		50,000	922,755	Purpose of fund transfer is other than stipulated in SEBI Circular
77	29-09-2022		125,000	970,928	Purpose of fund transfer is other than stipulated in SEBI Circular
78	07-10-2022		80,000	1,361,896	Purpose of fund transfer is other than stipulated in SEBI Circular
79	01-11-2022		50,000	1,783,375	Purpose of fund transfer is other than stipulated in SEBI Circular
80	04-11-2022		100,000	1,464,617	Purpose of fund transfer is other than stipulated in SEBI Circular
81	07-11-2022		40,000	2,035,605	Purpose of fund transfer is other than stipulated in SEBI Circular
82	16-11-2022		35,000	7,062,625	Purpose of fund transfer is other than stipulated in SEBI Circular
83	22-11-2022		70,000	1,878,332	Purpose of fund transfer is other than stipulated in SEBI Circular
84	01-12-2022		175,000	8,540,181	Purpose of fund transfer is other than stipulated in SEBI Circular
85	05-12-2022		50,000	9,682,448	Purpose of fund transfer is other than stipulated in SEBI Circular
86	12-12-2022		50,000	1,330,910	Purpose of fund transfer is other than stipulated in SEBI Circular
87	21-12-2022		50,000	3,008,809	Purpose of fund transfer is other than stipulated in SEBI Circular

14.7. In view thereof, I find that the allegation that in 38 out of 63 dates, the broker had misused clients' funds (value of G was negative) in the range of Rs. 0.8 Lakh to Rs. 1.03 Crore for these days; in 12 out of 63 dates, value of J was positive, indicating mis-utilisation of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations for these 12 days. The misuse ranges from Rs. 5.7 Lakh to Rs. 2.92 Crore, stands established. Therefore, I hold that Noticee had violated provisions of 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993; and Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

I also find that the allegation that in 87 instances transfer of funds were made from client bank account to proprietary account and vice versa, stands established. Therefore, I hold that Noticee had violated provisions of

Section 23D of SC(R) Act, 1956 read with Clause 1 of Annexure of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 2.4.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

B – Non settlement of clients' accounts:

15. In this regard, SEBI inter alia observed and alleged that:

I. Out of sample 574 active clients, for 62 instances funds were not settled. The amount of non-settlement ranges between Rs. 0.01 Lakh- Rs. 7.54 Lakh.

II. In 123 out of sample 574 instances, retention statements were not sent to clients and for 5 clients retention statements were sent with delay.

In view thereof, it was alleged that Noticee had violated provisions of Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016; Clause 12 of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009; Clause 5.1 SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/1577 dated June 16, 2021.

15.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia read as under:

Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016:

'…

8.Running Account Settlement

8.1.In partial modification of circular on running account settlement, the stock broker shall ensure that;

8.1.1.There must be a gap of maximum 90/30 days (as per the choice of client viz. Quarterly/Monthly) between two running account settlements.

8.1.2.For the purpose of settlement of funds, the mode of transfer of funds shall be by way of electronic funds transfer viz., through National Electronic Funds Transfer (NEFT), Real Time Gross Settlement (RTGS), etc.

8.1.3.The required bank details for initiating electronic fund transfers shall be obtained from new clients and shall be updated for existing clients. Only in cases where electronic payment instructions have failed or have been rejected by the bank, then the stock broker may issue a physical payment instrument.

8.1.4.Statement of accounts containing an extract from client ledger for funds & securities along with a statement explaining the retention of funds/securities shall be sent within five days from the date when the account is considered to be settled.

…'

Clause 12 of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009:

'…

Running Account Authorization

12. Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the payout. However, a client may specifically authorize the stock broker to maintain a running account subject to the following conditions:

a. The authorization shall be renewed at least once a year and shall be dated.

b. The authorization shall be signed by the client only and not by any authorised person on his behalf or any holder of the Power of Attorney.

c. The authorization shall contain a clause that the Client may revoke the authorization at any time.

d. For the clients having outstanding obligations on the settlement date, the stock broker may retain the requisite securities/funds towards such obligations and may also retain the funds expected to be required to meet margin obligations for next 5 trading days, calculated in the manner specified by the exchanges.

e. The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.

f. The client shall bring any dispute arising from the statement of account or settlement so made to the notice of the broker preferably within 7 working days from the date of receipt of funds/securities or statement, as the case may be.

g. Such periodic settlement of running account may not be necessary:

i. for clients availing margin trading facility as per SEBI circular

ii. for funds received from the clients towards collaterals/margin in the form of bank guarantee (BG)/Fixed Deposit receipts (FDR). h. The stock broker shall transfer the funds / securities lying in the credit of the client within one working day of the request if the same are lying with him and within three working days from the request if the same are lying with the Clearing Member/Clearing Corporation.

i. There shall be no inter-client adjustments for the purpose of settlement of the 'running account'.

j. These conditions shall not apply to institutional clients settling trades through custodians. The existing practice may continue for them.

…'

Clause 5.1 SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/1577 dated June 16, 2021:

'…

5.1. The settlement of running account of funds of the client shall be done by the TM after considering the End of the day (EOD) obligation of funds as on the date of settlement across all the Exchanges, at least once within a gap of 30 / 90 days between two settlements of running account as per the preference of the client.

…'

15.2. In this regard, as regards 62 instances where funds were not settled, I note from material available on record that SEBI had inter alia observed the following:

Non settlement of client funds

Sl. No	Client Code	Date of Settlement	Total Funds (Rs.)	Total funds to be returned (Rs.)	Total funds returned (Rs.)	Non-settlement of funds (Rs.)
1	**34	30-06-21	5000	5,000	-	5,000
2	**29	30-06-21	10187	2,477	-	2,477
3	**94	30-06-21	221301.21	221,301	-	221,301
4	**38	30-06-21	114505.28	114,505	-	114,505
5	**39	30-06-21	26975.8	26,976	-	26,976

Sl. No	Client Code	Date of Settlement	Total Funds (Rs.)	Total funds to be returned (Rs.)	Total funds returned (Rs.)	Non-settlement of funds (Rs.)
6	**03	31-12-21	5000	5000	0	5,000
7	**08	31-12-21	5000	5000	0	5,000
8	**10	31-12-21	5000	5000	0	5,000
9	**19	31-12-21	5000	5000	0	5,000
10	**26	31-12-21	5000	5000	0	5,000
11	**34	31-12-21	5000	5000	0	5,000
12	**45	31-12-21	5000	5000	0	5,000
13	**65	31-12-21	2000	2000	0	2,000
14	**66	31-12-21	5605.41	1330.95	0	1,331
15	**70	31-12-21	5000	5000	0	5,000
16	**73	31-12-21	5000	5000	0	5,000
17	**74	31-12-21	5000	5000	0	5,000
18	**75	31-12-21	5131.13	5131.13	0	5,131
19	**03	31-12-21	3435.22	3435.22	0	3,435
20	**05	31-12-21	5000	5000	0	5,000
21	**39	31-12-21	1**653.37	1**653.37	0	124,653
22	**51	31-12-21	3369912.73	754646.60	0	754,647
23	**03	31-03-22	5000	5000	0	5,000
24	**08	31-03-22	5000	3503.26	0	3,503
25	**10	31-03-22	5000	5000	0	5,000
26	**19	31-03-22	5000	5000	0	5,000
27	**26	31-03-22	5000	5000	0	5,000
28	**34	31-03-22	5000	5000	0	5,000
29	**45	31-03-22	5000	5000	0	5,000
30	**65	31-03-22	2000	2000	0	2,000
31	**66	31-03-22	5000	5000	0	5,000
32	**70	31-03-22	5000	5000	0	5,000
33	**73	31-03-22	5000	5000	0	5,000
34	**74	31-03-22	5000	3599.28	0	3,599
35	**75	31-03-22	5000	5000	0	5,000
36	**00	31-03-22	5000	5000	0	5,000
37	**94	31-03-22	175000	175000	0	175,000
38	**16	31-03-22	593794.12	497519.43	0	497,519
39	**34	30-06-22	8015.71	8015.71	0	8,016
40	**38	30-06-22	10757.46	10757.46	0	10,757
41	**53	30-06-22	35454.40	25641.70	0	25,642
42	**03	30-09-21	5000	5000	0	5,000
43	**08	30-09-21	5000.99	4941.22	0	4,941
44	**10	30-09-21	5000	5000	0	5,000
45	**19	30-09-21	5000	5000	0	5,000
46	**26	30-09-21	5000	5000	0	5,000
47	**34	30-09-21	5000	5000	0	5,000
48	**45	30-09-21	5000	5000	0	5,000
49	**65	30-09-21	2000	2000	0	2,000
50	**66	30-09-21	5000	5000	0	5,000
51	**69	30-09-21	2542.07	2542.07	0	2,542
52	**70	30-09-21	5000	5000	0	5,000
53	**73	30-09-21	5000	5000	0	5,000
54	**74	30-09-21	4998	1916.33	0	1,916
55	**75	30-09-21	4962.87	4875.93	0	4,876
55	**43	30-09-21	30000	30000	0	30,000
57	**38	30-09-21	102837.64	102837.64	0	102,838
58	**39	30-09-21	41407.31	41407.31	0	41,407
59	**16	30-09-21	437630.66	437630.66	0	437,631
60	**05	07-10-22	7000	7000	0	7,000
61	**87	07-10-22	999059	323456.71	0	323,457
62	**38	07-10-22	41819.95	41819.95	0	41,820

15.3. Further, as regards retention statements, I note from material available on record that SEBI had observed the following:

Retention statement not available/sent:

Sl No	Date of Settlement	Quarter	Client Code	Remarks
1	30-06-21	Q1 (21-22)	**19	Retention statement not provided by member
2	30-06-21	Q1 (21-22)	**66	Retention statement not provided by member
3	30-06-21	Q1 (21-22)	**25	Retention statement not provided by member
4	30-06-21	Q1 (21-22)	**41	Retention statement not provided by member
5	30-06-21	Q1 (21-22)	**43	Retention statement not provided by member
6	30-06-21	Q1 (21-22)	**16	Retention statement not provided by member
7	30-06-21	Q1 (21-22)	**51	Retention statement not provided by member
8	30-06-21	Q1 (21-22)	**34	Retention statement not provided by member
9	30-06-21	Q1 (21-22)	**36	Retention statement not provided by member
10	30-06-21	Q1 (21-22)	**14	Retention statement not provided by member
11	30-06-21	Q1 (21-22)	**94	Retention statement not provided by member
12	30-06-21	Q1 (21-22)	**38	Retention statement not provided by member
13	30-06-21	Q1 (21-22)	**39	Retention statement not provided by member
14	31-12-21	Q3(21-22)	**03	Retention statement not provided by member
15	31-12-21	Q3(21-22)	**08	Retention statement not provided by member
16	31-12-21	Q3(21-22)	**10	Retention statement not provided by member
17	31-12-21	Q3(21-22)	**19	Retention statement not provided by member
18	31-12-21	Q3(21-22)	**26	Retention statement not provided by member
19	31-12-21	Q3(21-22)	**34	Retention statement not provided by member
20	31-12-21	Q3(21-22)	**45	Retention statement not provided by member
21	31-12-21	Q3(21-22)	**65	Retention statement not provided by member
22	31-12-21	Q3(21-22)	**66	Retention statement not provided by member
23	31-12-21	Q3(21-22)	**70	Retention statement not provided by member
24	31-12-21	Q3(21-22)	**73	Retention statement not provided by member
25	31-12-21	Q3(21-22)	**74	Retention statement not provided by member
26	31-12-21	Q3(21-22)	**75	Retention statement not provided by member
27	31-12-21	Q3(21-22)	**36	Retention statement not provided by member
28	31-12-21	Q3(21-22)	**03	Retention statement not provided by member
29	31-12-21	Q3(21-22)	**98	Retention statement not provided by member
30	31-12-21	Q3(21-22)	**03	Retention statement not provided by member
31	31-12-21	Q3(21-22)	**05	Retention statement not provided by member
32	31-12-21	Q3(21-22)	**05	Retention statement not provided by member
33	31-12-21	Q3(21-22)	**87	Retention statement not provided by member
34	31-12-21	Q3(21-22)	**12	Retention statement not provided by member
35	31-12-21	Q3(21-22)	**16	Retention statement not provided by member
36	31-12-21	Q3(21-22)	**70	Retention statement not provided by member
37	31-12-21	Q3(21-22)	**12	Retention statement not provided by member
38	31-12-21	Q3(21-22)	**39	Retention statement not provided by member
39	31-12-21	Q3(21-22)	**51	Retention statement not provided by member
40	31-03-22	Q4(21-22)	**03	Retention statement not provided by member
41	31-03-22	Q4(21-22)	**08	Retention statement not provided by member
42	31-03-22	Q4(21-22)	**10	Retention statement not provided by member
43	31-03-22	Q4(21-22)	**19	Retention statement not provided by member
44	31-03-22	Q4(21-22)	**26	Retention statement not provided by member
45	31-03-22	Q4(21-22)	**34	Retention statement not provided by member
46	31-03-22	Q4(21-22)	**45	Retention statement not provided by member
47	31-03-22	Q4(21-22)	**65	Retention statement not provided by member
48	31-03-22	Q4(21-22)	**66	Retention statement not provided by member
49	31-03-22	Q4(21-22)	**70	Retention statement not provided by member
50	31-03-22	Q4(21-22)	**73	Retention statement not provided by member
51	31-03-22	Q4(21-22)	**74	Retention statement not provided by member
52	31-03-22	Q4(21-22)	**75	Retention statement not provided by member
53	31-03-22	Q4(21-22)	**36	Retention statement not provided by member
54	31-03-22	Q4(21-22)	**99	Retention statement not provided by member
55	31-03-22	Q4(21-22)	**25	Retention statement not provided by member
56	31-03-22	Q4(21-22)	**26	Retention statement not provided by member
57	31-03-22	Q4(21-22)	**38	Retention statement not provided by member
58	31-03-22	Q4(21-22)	**29	Retention statement not provided by member
59	31-03-22	Q4(21-22)	**12	Retention statement not provided by member
60	31-03-22	Q4(21-22)	**34	Retention statement not provided by member
61	31-03-22	Q4(21-22)	**88	Retention statement not provided by member
62	31-03-22	Q4(21-22)	**12	Retention statement not provided by member
63	31-03-22	Q4(21-22)	**00	Retention statement not provided by member
64	31-03-22	Q4(21-22)	**94	Retention statement not provided by member
65	31-03-22	Q4(21-22)	**16	Retention statement not provided by member
66	31-03-22	Q4(21-22)	**51	Retention statement not provided by member
67	30-09-21	Q2 (21-22)	**10	Retention statement not provided by member
68	30-09-21	Q2 (21-22)	**26	Retention statement not provided by member

Sl No	Date of Settlement	Quarter	Client Code	Remarks
69	30-09-21	Q2 (21-22)	**45	Retention statement not provided by member
70	30-09-21	Q2 (21-22)	**65	Retention statement not provided by member
71	30-06-21	Q1 (21-22)	**08	Retention Statement Not Sent to client
72	30-06-21	Q1 (21-22)	**34	Retention Statement Not Sent to client
73	30-06-21	Q1 (21-22)	**70	Retention Statement Not Sent to client
74	30-06-21	Q1 (21-22)	**36	Retention Statement Not Sent to client
75	30-06-21	Q1 (21-22)	**26	Retention Statement Not Sent to client
76	30-06-21	Q1 (21-22)	5527	Retention Statement Not Sent to client
77	30-06-21	Q1 (21-22)	**98	Retention Statement Not Sent to client
78	30-06-21	Q1 (21-22)	**29	Retention Statement Not Sent to client
79	30-06-21	Q1 (21-22)	**12	Retention Statement Not Sent to client
80	31-12-21	Q3(21-22)	**53	Retention Statement Not Sent to client
81	31-12-21	Q3(21-22)	**31	Retention Statement Not Sent to client
82	31-12-21	Q3(21-22)	**89	Retention Statement Not Sent to client
83	31-03-22	Q4(21-22)	**98	Retention Statement Not Sent to client
84	31-03-22	Q4(21-22)	**53	Retention Statement Not Sent to client
85	31-03-22	Q4(21-22)	**31	Retention Statement Not Sent to client
86	31-03-22	Q4(21-22)	**89	Retention Statement Not Sent to client
87	30-06-22	Q1(22-23)	**31	Retention Statement Not Sent to client
88	30-06-22	Q1(22-23)	**89	Retention Statement Not Sent to client
89	30-06-22	Q1(22-23)	**03	Retention Statement Not Sent to client
90	30-06-22	Q1(22-23)	**98	Retention Statement Not Sent to client
91	30-06-22	Q1(22-23)	**53	Retention Statement Not Sent to client
92	30-09-21	Q2 (21-22)	**03	Retention Statement Not Sent to client
93	30-09-21	Q2 (21-22)	**08	Retention Statement Not Sent to client
94	30-09-21	Q2 (21-22)	**19	Retention Statement Not Sent to client
95	30-09-21	Q2 (21-22)	**34	Retention Statement Not Sent to client
96	30-09-21	Q2 (21-22)	**66	Retention Statement Not Sent to client
97	30-09-21	Q2 (21-22)	**69	Retention Statement Not Sent to client
98	30-09-21	Q2 (21-22)	**70	Retention Statement Not Sent to client
99	30-09-21	Q2 (21-22)	**73	Retention Statement Not Sent to client
100	30-09-21	Q2 (21-22)	**74	Retention Statement Not Sent to client
101	30-09-21	Q2 (21-22)	**75	Retention Statement Not Sent to client
102	30-09-21	Q2 (21-22)	**36	Retention Statement Not Sent to client
103	30-09-21	Q2 (21-22)	**25	Retention Statement Not Sent to client
104	30-09-21	Q2 (21-22)	**26	Retention Statement Not Sent to client
105	30-09-21	Q2 (21-22)	**41	Retention Statement Not Sent to client
106	30-09-21	Q2 (21-22)	**94	Retention Statement Not Sent to client
107	30-09-21	Q2 (21-22)	**98	Retention Statement Not Sent to client
108	30-09-21	Q2 (21-22)	**30	Retention Statement Not Sent to client
109	30-09-21	Q2 (21-22)	**43	Retention Statement Not Sent to client
110	30-09-21	Q2 (21-22)	**38	Retention Statement Not Sent to client
111	30-09-21	Q2 (21-22)	**29	Retention Statement Not Sent to client
112	30-09-21	Q2 (21-22)	**87	Retention Statement Not Sent to client
113	30-09-21	Q2 (21-22)	**12	Retention Statement Not Sent to client
114	30-09-21	Q2 (21-22)	**38	Retention Statement Not Sent to client
115	30-09-21	Q2 (21-22)	**39	Retention Statement Not Sent to client
116	30-09-21	Q2 (21-22)	**16	Retention Statement Not Sent to client
117	30-09-21	Q2 (21-22)	**51	Retention Statement Not Sent to client
118	30-09-21	Q2 (21-22)	**34	Retention Statement Not Sent to client
119	30-09-21	Q2 (21-22)	**88	Retention Statement Not Sent to client
120	30-09-21	Q2 (21-22)	**33	Retention Statement Not Sent to client
121	30-09-21	Q2 (21-22)	**53	Retention Statement Not Sent to client
122	30-09-21	Q2 (21-22)	**31	Retention Statement Not Sent to client
123	30-09-21	Q2 (21-22)	**89	Retention Statement Not Sent to client

Delay in sending retention statement:

Sl No	Date of Settlement	Quarter	Client Code	Statement should have been sent	Date of Statement Sent	Delay in days
1	07-10-22	Q2(22-23)	**08	12-10-22	04-11-22	23
2	07-10-22	Q2(22-23)	**05	12-10-22	04-11-22	23
3	07-10-22	Q2(22-23)	**87	12-10-22	04-11-22	23
4	07-10-22	Q2(22-23)	**38	12-10-22	04-11-22	23
5	07-10-22	Q2(22-23)	**53	12-10-22	04-11-22	23

15.4. In this regard, Noticee as part of its reply dated June 12, 2024 had inter alia contended that *'…It is pertinent to note that the Statement of Periodic Settlement have been provided in all the months/quarters and there is no violation in respect of the non-settlement of Clients' account…It is pertinent to note that the Retention Statement have been provided in all the months/quarters and there is no violation in respect of the non-settlement of Clients' account. It is further pertinent to note that the said Retention Statement have been provided to each client either on email or through hand delivery hence there is no violation of non-settlement on that count….'.*

As regards settlement of funds, I note that as part of its reply dated June 12, 2024 in this regard, Noticee has submitted documents titled as 'Periodic fund and securities settlement retention of funds and securities statement'. I note that same are not supported with relevant details and documents viz. bank statements etc., inter alia indicating that the funds were settled and amount, as indicated in the table, were returned to the clients.

As regard sending retention statements to the clients, I note that the contention of Noticee that the retention statements were sent to the clients through email or hand delivery are in the nature of mere statements as the Noticee has not demonstrated the same with relevant details and documents such as by providing copy of such emails or hand delivery proofs of having sent the retention statements to its clients. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

As regards delay in sending retention statements to its clients, I note that Noticee has neither denied nor disputed that there was delay in sending the retention statements in 5 instances, as alleged.

15.5. In view thereof, I find that the allegation that out of sample 574 active clients, for 62 instances funds were not settled; in 123 out of sample 574 instances, retention statements were not sent to clients and for 5 clients retention statements were sent with delay, stands established. Therefore, I hold that Noticee had violated provisions of Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016; Clause 12 of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009; Clause 5.1 SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/1577 dated June 16, 2021.

C– Stock Reconciliation:

16. In this regard, SEBI inter alia observed and alleged in respect of the Noticee that in 20 instances the broker had not done periodic reconciliation of back office holdings of client's securities with actual stocks lying in DP accounts.

In view thereof, it was alleged that Noticee had violated provisions of Clause 2.3 of SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008 read with Clause A(2) & A(5) of the code of conduct, read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992.

16.1. Here it would be relevant to refer to the text of the provisions alleged to have been violated, which inter alia read as under:

Clause 2.3 of SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008

'…
2.3 The records should be periodically reconciled with the actual collateral deposited with the broker.
…'

Clause A(2) & A(5) of the code of conduct, read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992:

'…
Conditions of registration.
9.Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-
….
(f) he shall at all times abide by the Code of Conduct as specified in Schedule II; and
…

SCHEDULE II
Securities and Exchange Board of India (Stock Brokers 104[***]) Regulations, 1992
CODE OF CONDUCT FOR STOCK BROKERS
[Regulation 9]

A. General.
…

(2) Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business.
…
(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.

…'

16.2. In this regard, I note from material available on record that SEBI had inter alia observed the following:

16.2.1. All mismatch alerts were sent to broker for its comments. Broker submitted its response to the mismatch alerts along with supporting documents such as Pool Account Statement etc.

16.2.2. On perusal of supporting documents and comments submitted by the brokers, certain irregularities were observed. It was noted that the member had uploaded incorrect holdings for all the sample instances, for which the member could not provide any supporting documents. On seeking clarification regarding the same, the member had vide its e-mail dated February 23, 2023 inter-alia informed that "*some operational errors have occurred*" and "*errors were purely due to system upgradation and certain functions which were not enabled from the back office software*"

16.2.3. It was observed that while uploading Holding Statements, Early Pay-ins had not been considered for all the sample instances and hence Mismatch was captured in the system.

16.3. In this regard, I note that the Noticee has neither denied nor disputed the allegation, instead, the submissions of the Noticee as part of its reply dated June 12, 2024 to the SCN, are in the nature of admission in so far as the Noticee has submitted that *'…the said stock mismatch had already been notified by our Client by it's email dated 23rd February, 2023 inter-alia informing that the same was caused due to back office software failure …our Clients neither deliberately nor intentionally have caused the mismatch but due to operational failure/ software failure, it was not in the hands of our Clients to handle that…*'.

16.4. In view thereof, I find that the allegation that in 20 instances the broker had not done periodic reconciliation of back office holdings of client's securities with actual stocks lying in DP accounts, stands established. Therefore, I hold that Noticee had violated provisions of Clause 2.3 of SEBI Circular MRD/DoP/SE/Cir-11/2008 dated April 17, 2008 read with Clause A(2) & A(5) of the code of conduct, read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992.

D – Incorrect reporting of margin:

17. In this regard, SEBI inter alia observed and alleged that out of sample 90 instances, for 7 instances margin were falsely reported to the Exchange. Total amount of false reporting was Rs. 14.02 Lakh.

In view thereof, it was alleged that Noticee had violated provisions of Clause 6 of SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011; Clause (iii) (a) & (b) to Annexure of SEBI Cir. SEBI/HO/MRD2/DCAP/CIR/P/2020/127 dated July 20, 2020.

17.1. Here it would be relevant to refer to the text of the provisions alleged to have been violated, which inter alia read as under:

Clause 6 of SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011:

'…
6. If during inspection it is found that a member has reported falsely the margin collected from clients, the member shall be penalized 100% of the falsely reported amount along with suspension of trading for 1 day in that segment.
…'

Clause (iii) (a) & (b) to Annexure of SEBI Cir. SEBI/HO/MRD2/DCAP/CIR/P/2020/127 dated July 20, 2020:

'…
(iii) The member shall have to report the margin collected from each client, as at EOD and peak margin collected during the day, in the following manner :
a) EOD margin obligation of the client shall be compared with the respective client margin available with the TM/CM at EOD.
AND
b) Peak margin obligation of the client, across the snapshots, shall be compared with respective client peak margin available with the TM/CM during the day.
…'

17.2. In this regard, I note from material available on record that SEBI had observed the following:

Sl No	Date	Client Code	Total EOD Margin Requirement (Rs.)	Ledger Balance (Rs.)	MTM FO (Rs.)	MTM CM (Rs.)	EPI after Hair cut (Rs.)	Shortfall (Rs.)
1	08-06-21	**51	4,960,257	547,913	276,414	2,352,353	1,037,852	745,725
2	08-06-21	**30	14,542	-	-	-		14,542
3	17-06-21	**08	11,664		-	5,934		5,730
4	18-06-21	**03	946,079		-	743,839		202,240
5	28-06-21	**59	158,609		-	-	57,399	101,210
6	29-10-21	**65	5,668		-	275		5,393
7	18-02-22	**02	816,496		-	488,647		327,850
							TOTAL	**14,02,690**

17.3. In this regard, Noticee as part of its reply dated June 12, 2024 had inter alia contended that *'… our client states that they are not in breach of the violation of the incorrect reporting of the margin. Our client states that there is no manual interference by our Clients and the same is backed by system and therefore even there being a delay cannot be held upon our client. Our client states that they are the bonafide broker have never falsely reported to the exchange....'.*

In this regard, I note that the contentions of the Noticee are out of context in so far as the Noticee has submitted that '..*even there being a delay cannot be held upon our client…'* as the instant allegation is with respect to false reporting of margin to the exchange.

In this regard, I note from the text of the Clause (iii) to Annexure of SEBI Cir. SEBI/HO/MRD2/DCAP/CIR/P/2020/127 dated July 20, 2020 that member shall have to report the margin collected from each client, as at EOD and peak margin collected during the day. Therefore, this circular casts a responsibility on the Noticee to have reported the margin collected from each client, in the manner provided therein. I note that the contention of Noticee that '…*no manual interference by our Clients and the same is backed by system and therefore even there being a delay cannot be held upon our client..'* cannot absolve the Noticee from the requirement of the aforesaid circulars in this regard, as the responsibility has been casted on the Noticee.

I also note that the submissions of the Noticee are in the nature of mere statements, the Noticee has not demonstrated with relevant details and documents that for 7 instances margin were correctly reported to the Exchange. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

17.4. In view thereof, I find that the allegation that out of sample 90 instances, for 7 instances margin were falsely reported to the Exchange. Total Amount of false reporting was Rs. 14.02 Lakh, stands established. Therefore, I hold that Noticee had violated provisions of Clause 6 of SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011; Clause (iii) (a) & (b) to Annexure of SEBI Cir. SEBI/HO/MRD2/DCAP/CIR/P/2020/127 dated July 20, 2020

E – Incorrect submission of data to exchange:

18. In this regard, SEBI inter alia observed and alleged that there was difference between client trial balance and data submitted to exchange as cash and cash equivalents as on 31-Dec-2022. The difference was in the range of Rs 14,757/- and Rs 13,97,551/-.

In view thereof, it was alleged that Noticee had violated provisions of Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

18.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia read as under:

'…
6.1.1.Monitoring criteria for Stock Brokers
…
j.In case stock broker shares incomplete/wrong data or fails to submit data on time.
…'

18.2. In this regard, I note from material available on record that SEBI had inter alia observed the following:

Client Code	Balance as per Trial balance as on 31-Dec-2022 (Rs.)	As per CE submission as on 31-Dec-2022 (Rs.)	Difference (Rs.)
**24	333,725	348,482	14,757
**38	48,067	1,445,618	1,397,551
**03	29,672,894	29,698,431	25,537

**51	97,756	-	97,756
**84	1,107,467	1,126,010	18,543

18.3. In this regard, Noticee as part of its reply dated June 12, 2024 to the SCN, had inter alia contended that '…*our client states that the difference of the amount of M**oj ****hia having client code client code **24 differed from Rs. 14,757/- amount as per the system there was delay T+1 days which was also recorded in the **24 ledger and the settlement pay in took place on 30th December 2022 for an amount of Rs. 14,880/-. With respect to the amount of Rs. 13,97,551/- … client code **38 who is also the director of our Clients herein and the said amount of Rs. 14,00,000/- was received is in the loan account from IndusInd Bank and the monies has been received from the director. .. As per Annexure 6 to the Inspection Report there were multiple persons which were marked in the chart as differences for an amount of Rs. 25,537, Rs. 97,756 and Rs. 18,543… Our client states that as respect to the date of the difference of amount of Rs. 25,537/- was due to Fno payin and with respect to .. the difference amount of Rs. 18,500 was reflected due to reasons that there was a delay of T+1 days so the difference in FNO ledger. With respect to **mal K***a, he is also the director of our client and therefore the difference amount of Rs. 97,756/- were reflected….*'

In this regard, I note that the allegation is with respect to differences observed by SEBI between client trial balance and data submitted to exchange as cash and cash equivalents as on 31-Dec-2022. The Noticee has not demonstrated with relevant details and document that there were no differences between the client trial balance and data submitted to exchange as cash and cash equivalents as on 31-Dec-2022, as alleged and observed instead it is understood from the reply of the Noticee that the Noticee has attempted to explain the rationale behind the differences. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

18.4. In view thereof, I find that the allegation that there was difference between Client Trial Balance and Data submitted to exchange as Cash and Cash Equivalents as on 31-Dec-2022. The difference was in the range of Rs

14,757/- and Rs 13,97,551/-, stands established. Therefore, I hold that Noticee had violated provisions of Clause 6.1.1(j) of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

F – Client funding:

19. In this regard, SEBI inter alia observed and alleged in respect of the Noticee that out of sample 10 clients the broker had funded 2 clients beyond T+2+5 days and allowed further exposure. Total amount of funding was Rs. 7.15 Lakh.

In view thereof, it was alleged that Noticee had violated provisions of Clause Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017.

19.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia read as under:

Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016:

'…
2.6.Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in.
…'

Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017:

'…
d.Clause2.6 stands modified as,"Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in,except,in accordance with the margin trading facility provided vide SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017 or as may be issued from time to time ."This clause would be effective from August 1, 2017.
…'

19.2. In this regard, I note from material available on record that SEBI had observed the following with respect to client funding:

Client Code	Date of Debit (T day)	EOD Debit Balance on T Day (Rs.) (A)	Credits before the date of exposure (Rs.) (B)	Debits before the date of exposure (Rs.) (C)	Date of Further exposure beyond T+2+5 days	Amt of T day debit balance unrecovered (Rs.) [D=A+B]	Ledger balance before the date of further Exposure (Rs.) [E=(A+B+C]	Amount of Further exposure beyond T+2+5 days (F) (Rs.)	Amount Funded [H=D+F] (Rs.)
**94	15-Apr-2021	800,647	168,705	101,740	28-Apr-2021	631,942	733,682	21,396	653,338
**71	12-May-2021	66,305	59,752	-	28-May-2021	6,553	6,553	55,147	61,700

19.3. In this regard, Noticee, as part of its reply dated June 12, 2024 to the SCN, had inter alia contended that *'…our client states that the allegations of client funding is negated as An****** K***a is the director of our client and there is enough balance in other family accounts and with respect to the account *****ant B*****a the amount was of Rs. 61,700/- which was inadvertently overseen by our Clients but the same was rectified by our Clients. Therefore, our client further states that our client do no undertake margin funding and this could be a running account wherein the debit account must have been cleared the next day after trading...'.*

In this regard, I note that the contentions of the Noticee in this regard are vague in nature in so far as the Noticee had submitted that '…*An****** K*** is the director of our client and there is enough balance in other family accounts* .' , whereas, instant allegation is with respect to funding clients beyond T+2+5 days and allowing further exposure. I note that each client account ought to be treated separately. The Noticee, though contending about having enough balance in family account with respect to client *An****** K***a*, has not demonstrated that whether any liberty was allowed to the Noticee to use family account balances for the said client.

The Noticee has not demonstrated with relevant details and documents that it had not funded its clients or allowed further exposure, as alleged. Further in this regard, I note that the submissions of the Noticee are hypothetical in nature in so far as the Noticee had submitted that '…*this could be a running account wherein the debit account must have been cleared the next day after trading…'.*

Further, as regards another client- *****ant B*****a, the Noticee has neither denied nor disputed the allegations, instead the submissions of the Noticee are in the nature of admission in so far as the Noticee has submitted that *'…amount was of Rs. 61,700/- which was inadvertently overseen by our Clients but the same was rectified by our Clients…'.*

19.4. In view thereof, I find that the allegation that out of sample 10 clients the broker had funded 2 clients beyond T+2+5 days and allowed further exposure. Total amount of funding was Rs. 7.15 Lakh, stands established. Therefore, I hold that the Noticee had violated provisions of Clause 2.6 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017.

<u>G – Terminal Verification & Certifications:</u>

20. In this regard, SEBI inter alia observed and alleged that two Terminals authorized in the name of Mr. Aditya Karwa, and Mr. Kamal Kishore Karwa were being operated by unauthorized person, Shri Dhananjoy Mandal.

In view thereof, it was alleged that Noticee had violated provisions of Clause A (1), (2) & 5 of Schedule II of Code of Conduct Regulation 9 of SEBI (Stock Brokers) Regulation, 1992.

20.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia read as under:

'…
Conditions of registration.
9.Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-
….
(f) he shall at all times abide by the Code of Conduct as specified in Schedule II; and
…

SCHEDULE II
Securities and Exchange Board of India (Stock Brokers 104[***]) Regulations, 1992
CODE OF CONDUCT FOR STOCK BROKERS
[Regulation 9]

A. General.
(1) Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.
(2) Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business.
…
(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.

…'

20.2. In this regard, Noticee as part of its reply dated June 12, 2024 to the SCN, had inter alia contended that *'… our client further relies on our reply to letter dated 6th March 2023 which is annexed to the SCN dated 22nd May 2024 and our client states that Mr. Dhananjoy Mondal was only in the seat as the directors were not in the room. It was also clarified that Mr. Mondal were not executing any trades.… '.*

20.3. In this regard, I note that the material available on record has not brought out clearly that two terminals authorized in the name of Mr. Aditya Karwa, and Mr. Kamal Kishore Karwa were being operated by unauthorized person, Shri Dhananjoy Mandal.

20.4. In view thereof, I find that the allegation that two terminals authorized in the name of Mr. Aditya Karwa, and Mr. Kamal Kishore Karwa were being operated by unauthorized person, Shri Dhananjoy Mandal, does not stand established.

H – Investor Grievances:

21. In this regard, SEBI inter alia observed and alleged that the broker had not published Investor Charter or disclosed investor complaint details at their office premises.

In view thereof, it was alleged that Noticee had violated provisions of Clause 2 of SEBI Circular SEBI/HO/MIRSD/DOP/P/CIR/2021/676 dated December 02, 2021.

21.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia read as under:

> *'…*
>
> *2) In this regard, Stock Exchanges are directed to advise Stock Brokers to bring the Investor Charter for Stock Brokers to the notice of their clients (existing as well as new clients) through disclosing the Investor Charter on their respective websites, making them available at prominent places in the office, provide a copy of Investor Charter as a part of account opening kit to the clients, through e-mails/ letters etc.*
> *…'*

21.2. In this regard, the Noticee as part of its reply dated June 12, 2024, had inter alia contended that *'…there are no pending grievances pending from the investors and our client further states that the same was also informed to the SEBI and also citizen charter is also part of the website and also pasted in the office of our client. Therefore, the contention of you, the addressee that there are investor grievances are negated.…'.*

In this regard, I note that the contentions of the Noticee are out of context in so far as the Noticee has contended that there are no pending grievances whereas the instant allegation is inter alia with respect to not publishing Investor Charter at their office premises. In this regard, I note that the Noticee has not demonstrated with relevant details and supporting documents indicating that it had made Investor Charter available at prominent places in the office during Inspection period.

In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

21.3. In view thereof, I find that the allegation that the broker had not Published Investor Charter, stands established. Therefore, I hold that the Noticee had violated provisions of Clause 2 of SEBI Circular SEBI/HO/MIRSD/DOP/P/CIR/2021/676 dated December 02, 2021.

<u>I – Client registration process: (sample size: 10 clients):</u>

22. In this regard, SEBI inter alia observed and alleged that the broker had not complied with the requirement of uploading the KYC information with the

SEBI registered KRAs for all the clients on a continuous basis within the prescribed time limit. The broker had not uploaded the KYC data with CKYCR in respect of all accounts (except FPIs) opened during the Audit period.

In view thereof, it was alleged that Noticee had violated provisions of Clause 1 (i) and (iii) of SEBI Circular MIRSD/Cir-26/2011 dated December 23, 2011 read with Clause 3 (a) of MIRSD/Cir-5/2012 dated April 13, 2012, Clause 1 of SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016 read with SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016.

22.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia read as under:

<u>1 (i) and (iii) of SEBI Circular MIRSD/Cir-26/2011 dated December 23, 2011:</u>

'…

1. Guidelines for Intermediaries:

i. After doing the initial KYC of the new clients, the intermediary shall forthwith upload the KYC information on the system of the KRA and send the KYC documents i.e. KYC application form and supporting documents of the clients to the KRA within 10 working days from the date of execution of documents by the client and maintain the proof of dispatch.

….

iii. For existing clients, the KYC data may be uploaded by the intermediary provided they are in conformity with details sought in the uniform KYC form prescribed vide SEBI circular no. MIRSD/SE/Cir-21/2011 dated October 05, 2011. While uploading these clients' data the intermediary shall ensure that there is no duplication of data in the KRA system.

…'

<u>Clause 3 (a) of MIRSD/Cir-5/2012 dated April 13, 2012:</u>

'…

3. The following guidelines for uploading the KYC data of the existing clients are being issued in consultation with the major Stock Exchanges, Depositories, KRAs, AMFI Brokers' Associations and market participants: a. For existing clients who trade / invest / deal with the intermediary anytime during the time period specified in the table given below starting from April 16, 2012, the intermediaries shall forthwith upload their KYC details in the KRA system. They shall also send original KYC documents to the KRA on continuous basis and complete the process within the prescribed time limits.

…'

<u>Clause 1 of SEBI circular CIR/MIRSD/120/2016 dated November 10, 2016:</u>

'…

1. This has reference to SEBI circular no. CIR/MIRSD/66/2016dated July21, 2016 on operationalisation of Central KYC Records Registry (CKYCR) wherein the registered intermediaries were directed to upload the KYC data with CKYCR, in respect of all individual accounts opened on or after August 01, 2016.

…'

<u>SEBI circular no. CIR/MIRSD/66/2016 dated July 21, 2016:</u>

'…

1. Please refer to SEBI circulars no. CIR/MIRSD/16/2011 dated August 22, 2011,MIRSD/SE/Cir-21/2011 dated October 5, 2011 and CIR/MIRSD/13/2013 dated December 26, 2013 on uniform Know Your Client („KYC") norms, prescribing a standard account opening form (AOF). AOF has been *divided in 2 parts - Part I contains the basic KYC details of the investor used by all SEBI registered intermediaries.*

2. *Government of India has authorized the Central Registry of Securitization and Asset Reconstruction and Security interest of India (CERSAI), set up under sub-section (1) of Section 20 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, to act as, and to perform the functions of, the Central KYC Records Registry under the PML Rules 2005,including receiving, storing, safeguarding and retrieving the KYC records in digital form of a "client", as defined in clause (ha) sub-section (1) of Section 2 of the Prevention of Money Laundering Act, 2002 (Copy of the Gazette notification No.S.O. 3183(E) dated November 26, 2015 is attached as Annexure 1).*
3. *As per the 2015 amendment to PML (Maintenance of Records) Rules, 2005 (the rules), every reporting entity shall capture the KYC information for sharing with the Central KYC Records Registry in the manner mentioned in the Rules, as per the KYC template for 'individuals' finalised by CERSAI.*
4. *Accordingly, the KYC template finalised by CERSAI shall be used by the registered intermediaries as Part I of AOF for individuals. The KYC template for 'individuals' and the 'Central KYC Registry Operating Guidelines 2016' for uploading KYC records on CKYCR finalised by CERSAI are enclosed herewith as Annexure 2 and Annexure 3 for your reference and necessary action. In this regard, it is clarified that the requirement for Permanent Account Number (PAN) would continue to be mandatory for completing the KYC process.*
5. *The 'live run' of the CKYCR has started with effect from July 15, 2016 in a phased manner beginning with new 'individual accounts'. Further, 'Test Environment' has also been made available by CERSAI for the use of the reporting entities.*
6. *In the first phase, the registered intermediaries shall upload the KYC data with CKYCR, in respect of all individual accounts opened on or after August 1, 2016, wherever KYC is required to be carried out as per the circulars issued by SEBI from time to time and accordingly, shall take steps to prepare their systems for uploading the KYC data.*

…'

22.2. In this regard, Noticee as part of its reply dated June 12, 2024 to the SCN had inter alia contended that *'…in the last focus inspection (2022-2023) conducted by NSE for details related to KRA's and CKYC, all the data were submitted to the NSE and to SEBI and all active and traded Clients are registered with the KRA….'*

In this regard, I note that the contention of the Noticee are out of context in so far as the contention of the Noticee is with respect to Inspection conducted by NSE for the period 2022-2023 whereas the instant allegation is with respect to inspection period April 2021 to December 2022.

I note that the Noticee has not demonstrated with relevant details and documents that it had complied with the requirement of uploading the KYC information with the SEBI registered KRAs for all the clients on a continuous basis within the prescribed time limit and that it had uploaded the KYC data with CKYCR in respect of all accounts opened during the relevant period. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

22.3. Further in this regard, Noticee as part of its reply dated July 16, 2024 had inter alia contended that *'…delay in registration of the CKYC data was due to the KRA agency. Our client have addressed emails to SEBI and/or KRA agencies as there was a delay due to the KRA agency and the same was informed vide email dated 23rd August, 2021….'.*

In this regard, I note that from the copy of email dated August 23, 2021 as submitted by the Noticee that Noticee was seeking status of its 'FI Registration' from CKYC. In view thereof, having regard to the submissions of the Noticee, I am inclined to allow benefit of doubt to the Noticee in this regard.

22.4. In view thereof, I find that the allegation that the broker had not complied with the requirement of uploading the KYC information with the SEBI registered KRAs for all the clients on a continuous basis within the prescribed time limit, stands established. Therefore, I hold that the Noticee had violated provisions of Clause 1 (i) and (iii) of SEBI Circular MIRSD/Cir-26/2011 dated December 23, 2011 read with Clause 3 (a) of MIRSD/Cir-5/2012 dated April 13, 2012.

J – Client's Order Recording:

23. In this regard, SEBI inter alia observed and alleged that broker didn't have any system to record or preserve calls made by clients.
In view thereof, it was alleged that Noticee had violated provisions of Clause III of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017.

23.1. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia read as under:
'…

III.To further strengthen regulatory provisions against un-authorized trades and also to harmonise the requirements across markets, it has now been decided that all brokers shall execute trades of clients only after keeping evidence of the client placing such order, it could be, inter alia, in the form of:

a.Physical record written & signed by client,
b.Telephone recording,
c.Emailfrom authorized email id,
d.Log for internet transactions,
e.Record of SMS messages,
f.Any other legally verifiable record.

When dispute arises, the burden of proof will be on the broker to produce the above records for the disputed trades.

…'

23.2. In this regard, Noticee as part of its reply dated June 12, 2024 had inter alia contended that *'… Our Clients specifically and categorically deny that our Clients doesn't have any system to record or preserve calls made by it's Clients. It is pertinent to note that our Clients have a proper and legitimate process of keeping all the data in respect of the order entry. It is further pertinent to note that our Clients have voice recording in all our Client's mobile phone and all the order recording through voice call or phone call are stored as per guideline. It is further pertinent to note that our Clients till date have not faced any dispute and/or grievances from any client regarding wrong data entry …every call with the client/ customers is recorded by our client and the sample sets can be provided to you. Therefore, our client rejects the contentions of not preserving Clients order recording…'.*

In this regard, I note that the contentions of the Noticee in this regard are in the nature of mere statements in so far as the Noticee has not provided any supporting documents or details to demonstrate that it was keeping call recordings. In this regard, I also note that even pursuant to the inspection, in its reply to the findings of inspection, the Noticee had not provided any supporting details or documents in this regard to SEBI. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

23.3. In view thereof, I find that the allegation that broker didn't have any system to record or preserve calls made by clients, stands established. Therefore, I hold that Noticee had violated provisions of Clause III of SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017.

23.4. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia read as under:

'…

> *16.All critical systems of the Stock Broker/ Depository Participant accessible over the internet should have two-factor security (such as VPNs, Firewall controls etc.)*
>
> *17.Stock Brokers / Depository Participants should ensure that records of user access to critical systems, wherever possible, are uniquely identified and logged for audit and review purposes. Such logs should be maintained and stored in a secure location for a time period not less than two (2) years.*

…'

23.5. In this regard, the Noticee, as part of its reply dated July 16, 2024, had inter alia contended that '…*our Client have taken all the necessary precautions so as to determine that there is proper security measures in not only the said building premises but also there is CCTV surveillance on each and every floor on the building as well as there is a collapsable gate on the entry of the business premises. It is also relevant to mention that the all the computer in the business premises is password protected and all the software have proper system to store data and protect each and every trade executed during the course of business. Hereto annexed and marked Annexure "B" colly are the photographs of the building premises, floor of the business premises, collapsable gate and all the security measures taken for data storage and software protection…..'.*

In this regard, I note that the Noticee has contended about presence of CCTV surveillance etc., now during the instant proceedings, however, the same was not contended by the Noticee previously in its reply to the findings of Inspection before SEBI.

I also note that the Annexure B, as submitted by the Noticee contains photographs dated June 27, 2024 and July 15, 2024. I note that the Noticee has not demonstrated with relevant details and documents that its premises had CCTV during the Inspection period. In view thereof, the contentions of the Noticee in this regard are devoid of merit and hence not acceptable.

23.6. Further, I note that the Noticee has not made any submissions with respect to other allegations in this regard during the instant proceedings viz., two-factor security (such as VPNs, Firewall, controls etc.), VAPT, Cyber policy. In this regard, I note from material available on record that pursuant to inspection, Noticee had submitted its replies to the findings of Inspection to SEBI whereby SEBI had observed that 2-factor security had been implemented and VAPT had been done subsequent to the inspection. The broker had submitted VAPT dated 28.02.2023. However, no documentary proof had been submitted by broker in support of other non-compliances in this regard before SEBI or during instant proceedings.

23.7. In view thereof, I find that the allegations with respect to Cyber Security & Cyber Resilience framework, stands established. Therefore, I hold that Noticee had violated provisions of Clause 16 & 17 of SEBI circular SEBI/HO/MIRSD/CIR/PB/2018/147 on Cyber Security and Cyber Resilience dated December 03, 2018.

Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Section 23D of SC(R) Act, 1956 and 15HB of the SEBI Act, 1992?

24. It has been established in the foregoing paragraphs that Noticee had violated various provisions of, SC(R) Act, 1956, SEBI (Stock Brokers) Regulations, 1992, and SEBI Circulars, as brought out and dealt with in the foregoing.

25. In this regard, the Noticee, as part of its reply dated July 16, 2024 had inter alia contended that '*…all the said violations alleged by you are not only minor but also negligible and any discrepancy and/or irregularity caused and/or*

found during the course of inspection by you and the same should have been neglected and ignored …SEBI having the authority and/or power to impose penalty due to any minor discrepancy/irregularity as alleged and the same should not be a guiding force to impose such penalty onto our Client…our Client have neither intentionally nor deliberately caused any breach pursuant to the violation as alleged by you …'.

The Noticee inter alia relied upon Hon'ble Securities Appellate Tribunal order dated 16th June 2011 in Appeal No. 23 of 2011 in Religare Securities V/s Securities Exchange Board of India; Hindustan Steel V/s State of Orissa, 1969 (2) SCC 627; Siddharth Chaturvedi V/s SEBI, (2016) 12 SCC 119; SEBI v. Bhavesh Pabari, (2019) 5 SCC 90; Piramal Enterprises v. SEBI, Appeal No. 466 of 2016, Order dated May 15, 2019; PG Electroplast & Ors. v. SEBI, Appeal No. 281 of 2017, Order dated August 2, 2019; Price Waterhouse Coopers Private Limited v. CIT Kolkata & Anr, (2012) 11 Supreme Court Cases 316.

In this regard, in my opinion each case is peculiar in its facts and circumstances based on which the violations are ascertained. Whether Adjudication proceedings are to be initiated in a case would depend on the facts and circumstances of each case. I also note that, initiation of Adjudication proceedings under the appropriate provisions of SEBI Act is a prerogative of SEBI depending upon the outcome of such exercise viz., Inspection and findings thereof. It would also be relevant to state that the subject matter of instant proceedings are as per the Communique of appointment of AO, duly approved by the Competent Authority.

I also note from the text of Hon'ble SAT order dated 16.06.2011 as relied upon by the Noticee itself that Hon'ble SAT had inter alia held that "... *This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent*...".

Further in this regard, I also note that the alleged violations in respect of the Noticee are of extant applicable provisions of law as are otherwise applicable to the entire category of intermediary viz., Stock Broker in the instant case, and not just about minor procedural aspects limited to Noticee alone. I note that the provisions relating to securities laws, including regulation and circulars issued by the regulator, are mandated inter alia with the objective of orderly functioning of the securities market and its constituents having regard to protection of the interest of the investors, which the Noticee failed to comply with, as dealt with and brought out in the foregoing. In view thereof, the contention of the Noticee in this regard cannot be accepted.

26. Therefore, for the established violation, as brought out in the foregoing paragraphs, I find that Noticee is liable for monetary penalty under Section 23D of SC(R) Act, 1956, Section 15HB of the SEBI Act, 1992 which inter alia reads as under:

Securities Contracts (Regulation) Act, 1956:

> *"…*
> ***Penalty for failure to segregate securities or moneys of client or clients.***
> *23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be 121[liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*
> *…"*

SEBI Act, 1992:

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

Note: for detailed/ complete text of the provisions, relevant Acts etc., may please be referred.

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

27. While determining the quantum of penalty under 23D of the Securities Contracts (Regulation) Act, 1956, and under Section 15HB of the SEBI Act, it is important to consider the factors as stipulated in Section 23J of Securities Contracts (Regulation) Act, 1956 and Section 15J of the SEBI Act, which reads as under: -

SC(R) Act, 1956:

'...
[136][137[Factors to be taken into account while adjudging quantum of penalty.]
23J. *While adjudging the quantum of penalty under [138][section 12A or section 23-I], the [139][the Securities and Exchange Board of India or the adjudicating officer] shall have due regard to the following factors, namely:—*
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.]
140[Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.
…'

SEBI Act, 1992

'…
Factors to be taken into account while adjudging quantum of penalty.
15J*. While adjudging quantum of penalty under 15- I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely:—*
a. the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
b. the amount of loss caused to an investor or group of investors as a result of the default;
c. the repetitive nature of the default.
Explanation.—For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.
…."

28. In the instant matter, I note that the material on record does not indicate the amount of disproportionate gain or unfair advantage made by the Noticee, and the amount of loss caused to an investor or group of investors as a result of the aforesaid violation, nor does it specifically indicate that the violations committed by the Noticee were repetitive in nature. However, I note that Noticee being a SEBI registered intermediary was required to comply with the applicable provisions of securities laws, which it had failed to comply with, as dealt with and brought out in the foregoing and which SEBI is duty bound to enforce compliance of. Such failure and non-compliances accordingly needs to be dealt with suitable penalty.

E. ORDER:

29. After taking into consideration the facts and circumstances of the case, material available on record, submissions made by the Noticee and also the factors mentioned in the preceding paragraphs, in exercise of the powers conferred upon me under Section 23-I of the SC(R) Act, 1956 and under Section 15-I of the SEBI Act, 1992 r/w Rule 5 of the Securities Contracts (Regulations) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, I hereby impose following penalty, as per details in Table below, upon the Noticee, for the aforementioned violations, as brought out in this order. In my view, the said penalty will be commensurate with the violations committed by the Noticee in this case.

Name of the Noticee	Penalty Under Section	Penalty Amount (Rs.)
Junjharji Investment Private Ltd.	15HB of SEBI Act, 1992	Rs. 5,00,000/- (Rupees Five Lakhs Only)
	23D of SC(R) Act, 1956	Rs. 1,00,000/- (Rupees One Lakh Only)

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

ENFORCEMENT → Orders → Orders of AO → PAY NOW

31. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

32. In terms of the provisions of Rule 6 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and Rule 6 of the Securities Contracts (Regulations) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

DATE: FEBRUARY 04, 2025	**AMAR NAVLANI**
PLACE: MUMBAI	**ADJUDICATING OFFICER**