BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. Order/GG/VP/2022-23/21666

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

In respect of
Investmaxima Advisors LLP,
Manager of Investmaxima Trust

In the matter of Non-Compliance of SEBI (Alternative Investment Funds) Regulations, 2012

A. FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) initiated Adjudication Proceedings in respect of Investmaxima Advisors LLP (hereinafter referred as "**Noticee**") the manager of Investmaxima Trust a SEBI registered Alternative Investment Funds (hereinafter referred to as "**AIF**") for alleged violation of Regulation of 24(b) read with Regulation 28 of Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (hereinafter referred as "**AIF Regulations**") read with SEBI Circular No. CIR/IMD/DF/10/2013, dated 29 July 2013 and Circular No. SEBI/HO/IM D/DF1/CIR/P/2017/87, dated 31 July 2017. Regulation 28 of AIF Regulations casts an obligation on the registered AIFs to file such reports, as desired by the Board. The July 2013 circular cited above dealing with the Operational, Prudential and Reporting Norms for AIFs, provides

that Category I and II AIFs and Category III AIFs (which do not undertake leverage shall submit report to SEBI on a quarterly basis in a specified format). After operationalizing the online facilities for registration and for filing reports to SEBI, SEBI issued the Circular of July 2017 cited above, stipulating that all SEBI registered AIFs shall file their compliance reports and submit other requests under the provisions of AIF Regulations and circulars through the online system (i.e. SEBI Intermediary Portal/ SI Portal). As some of the registered AIFs were not filing reports as advised in the circulars, SEBI communicated with the Noticee herein through letters/ emails, on several occasions. Since the communications remained unanswered, it was decided to initiate enforcement action against the Noticee under Section 15EA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the **'SEBI Act'**).

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI initiated adjudication proceedings against the Noticee and appointed me, as the Adjudicating Officer under section 15-I of SEBI Act read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the **'Adjudication Rules'**) *vide* order dated 24.03.2022 to inquire into and adjudge under section 15EA of the SEBI Act, with respect to the allegations against the Noticee.

B. SHOW CAUSE NOTICE AND HEARING

3. A notice dated 05.05.2022 was issued to the Noticee under rule 4(1) of the SEBI Adjudication Rules to show cause as to why an inquiry should not be initiated against Noticee and why penalty should not be imposed against Noticee under section 15EA of the SEBI Act for the alleged violation of the provisions of Regulation 24(b) read Regulation 28 of AIF Regulations read with SEBI Circulars No. CIR/IMD/DF/10/2013, dated 29 July 2013 and Circular No. SEBI/HO/IM D/DF1/CIR/P/2017/87, dated 31 July 2017. The notice dated 05.05.2022 is hereinafter referred to as "**SCN**". SEBI had sent various emails/

letters dated 08.02.2021, 17.10.2019, 04.10.2019, 09.10.2019, 22.02.2021, 06.05.2021, 10.05.2021, 06.10.2021, and 22.10.2021 to Investmaxima Trust.

4. Investmaxima Trust failed to reply to the above emails/ letters. In view of the same, it was alleged that the Noticee had failed to comply with the requirements under the Circulars of 2013 and 2017 read with Regulation 28 of AIF Regulations. Accordingly, Show Cause Notice bearing Reference No. EAD-6/GG/VP/19206/7/2022 dated 05.05.2022 was issued to the Noticee inter alia alleging that the Noticee as the manager of the Investmaxima Trust was responsible for submission of periodic reports to SEBI for December 2020, March 2021, June 2021 and September 2021 quarters, and having failed to do, violated Regulation 24(b) read with Regulation 28 of AIF Regulations, 2012 along with SEBI Circular Nos. CIR/IMD/DF/10/2013, dated 29 July 2013 and SEBI/HO/IMD/DF1/CIR/P/2017/87, dated 31 July 2017. The extracts of the said provisions are reproduced later in this order.

5. The SCN dated 05.05.2022 was sent through Speed Post/ Acknowledgement Due. The said SCN returned undelivered with a remark **"left".** The SCN dated 05.05.2022 was also sent via email at Email ID psp@goodluckfinsolutions.com, info@investmaximaadvisors.com; psp@investmaximaadivsors.com and vaibhaviodha85@yahoo.com. The SCN sent at the above email IDs were not delivered except to vaibhaviodha85@yahoo.com. Thereafter the Noticee was granted an opportunity of hearing on 29.09.2022 vide Hearing Notice dated 15.09.2022 and the said Hearing Notice was sent via Hand Delivery/ Affixture and the copy of the SCN was also enclosed with the Hearing Notice dated 15.09.2022. Since the hearing notice could not be affixed at the last known address of the Noticee another opportunity of hearing was granted to the Noticee on 27.10.2022 via new paper publication and the details of the SCN was also published in the newspaper. The details of SCN and the Hearing Notice was published on 22.10.2022 in Prahar Newspaper Marathi edition and in Prathakal Newspaper Hindi edition. However, the Noticee failed to submit its reply to the SCN and failed to

avail the opportunity of personal hearing. Hence I am proceeding ex-parte against the Noticee.

C. ISSUES

6. I have perused the records regarding alleged violations stated in the SCN. The issue that arise for consideration are as under: -

Whether Noticee has violated Regulation 24(b) and Regulation 28 of AIF Regulations read with SEBI Circular No. CIR/IMD/DF/10/2013, dated 29 July 2013 and Circular No. SEBI/HO/IM D/DF1/CIR/P/2017/87, dated 31 July 2017. If yes, whether Noticee are liable for monetary penalty under section 15 EA of SEBI Act?

7. The aforesaid provisions are reproduced hereunder:

Obligation of Manager.

24. The Manager shall be obliged to:

(a) address all investor complaints;

(b) provide to the Board any information sought by Board;

(c) maintain all records as may be specified by the Board;

(d) take all steps to address conflict of interest as specified in these regulations;

(e) ensure transparency and disclosure as specified in the regulations.

Regulation 28 of AIF Regulation

Submission of reports to the Board.

28. The Board may at any time call upon the Alternative Investment Fund to file such reports, as the Board may desire, with respect to the activities carried on by the Alternative Investment Fund

Relevant provisions of SEBI Circulars No. CIR/IMD/DF/10/2013, dated 29 July 2013

Sub: Operational, Prudential and Reporting Norms for Alternative Investment Funds (AIFs)

"…

3.2 Submission of reports to SEBI

i. Under Regulation 28 of the AIF Regulations, All AIFs shall submit periodical reports to SEBI relating to their activity as an Alternative Investment Fund.

ii. Category I and II AIFs and the Category III AIFs which do not undertake leverage shall submit report to SEBI on a quarterly basis in the format as specified in Annexure I.

iii. Category III AIFs which undertake leverage shall submit a report to SEBI on a monthly basis in the format as specified in Annexure II.

iv. Reports shall be submitted by AIFs online through the online reporting system provided by SEBI. However, till such online system is made available, reports shall be sent by email to aifreporting@sebi.gov.in. Excel sheet to be filled in this regard is available on SEBI website under the section 'Info for' 'Alternative Investment Funds'. Once the online system is made available by SEBI, no reports shall be sent by email. Further, AIFs are advised to note that no physical reports shall be filed with SEBI.

v. The reports for the period upto the quarter ended June 30, 2013 for AIFs which are already registered with SEBI shall be sent vide email to the aforesaid email address within one month from the date of this circular.

vi. Reports shall be submitted within 7 calendar days from the end of quarter/ end of month as the case maybe.

….."

Relevant provisions of SEBI Circular No. SEBI/HO/IM D/DF1/CIR/P/2017/87 dated 31 July 2017.

Sub: Online Filing System for Alternative Investment Funds.

"….

***"**2. All applicants desirous of seeking registration as an AIF are now required to submit their applications online only, through SEBI Intermediary Portal at https://siportal.sebi.gov.in. Furthermore, all SEBI registered AIFs are now required to file their compliance reports and submit applications for any request under the provisions of AIF Regulations and circulars issued thereunder, through the online system only. The aforesaid online filing system for AIF has been made operational with immediate effect.*

3. Link for SEBI Intermediary Portal is also available on SEBI website - www.sebi.gov.in. In case of any queries and clarifications, users may refer to the manual provided in the portal or contact the Portal Helpline as specified in the manual.

4. Existing SEBI registered AIFs have already been advised to activate their online accounts.

5…."

D. CONSIDERATION OF ISSUES AND FINDINGS

8. I have perused the records and I note that the SCN was served to the Noticee via newspaper publication. Since, no reply has been filed by the Noticee, I am proceeding against the Noticee, based on the material available on records.

9. Regulation 28 of the AIF Regulations provides that if any registered entity fails to submit the periodic reports as desired by the Board, then the Board is empowered to initiate enforcement action. SEBI CIRCULAR No. CIR/IMD/DF/10/2013 dated July 29, 2013, addressed to AIFs and Custodians of Category III AIFs provides that all AIFs shall submit periodical reports to SEBI relating to their activity as an AIF. It was further provided that Category I and II AIFs and Category III AIFs which do not undertake leverage shall submit reports to SEBI on a quarterly basis in the prescribed format and Category III AIFs which undertake leverage shall submit a report to SEBI on a monthly basis in the prescribed format. The said Reports shall be submitted by AIFs online through the online reporting system provided by SEBI. However, till such an online system is made available, reports shall be sent by email to aifreporting@sebi.gov.in. The Excel sheet to be filled in this regard was made available on SEBI website under the section 'Info for' '→'Alternative Investment Funds'. Once the online system is made available by SEBI, no reports shall be sent by email. Further, AIFs were advised not to file physical reports with SEBI thereafter.

10. SEBI came out with another CIRCULAR SEBI/HO/IMD/DF1/CIR/P/2017/87 dated July 31, 2017 addressed to AIFs and Custodians of Category III AIFs stating that SEBI has introduced an online system for filings related to AIFs. The

online system can be used for application for registration, reporting and filing in terms of the provisions of AIF Regulations and circulars issued thereunder. It was further provided that all applicants desirous of seeking registration as an AIF are now required to submit their applications online only, through SEBI Intermediary Portal at https://siportal.sebi.gov.in (hereinafter referred to as "**SI Portal**"). Furthermore, it was stated that all SEBI registered AIFs are now required to file their compliance reports and submit applications for any request under the provisions of AIF Regulations and circulars issued thereunder, through the online system only, and the aforesaid online filing system for AIF was made operational with immediate effect i.e., from 31 July 2017.

11. I note that SEBI prepares consolidated data generated by SEBI Intermediary Portal to show accurate and complete information/statistics pertaining to AIFs. The category-wise consolidated monthly/quarterly investment data is prepared by SEBI based on the reports submitted by AIFs and the said data is disseminated on the website of SEBI. For the consolidation of the data generated by SI Portal to show the accurate and complete information/statistics, it was required that all registered AIFs should submit their periodic reports on SI portal within the stipulated timeline and in the format as prescribed in the SEBI Circulars. To ensure that all the AIFs submit their periodic reports in a timely manner, SI Portal sends automated emails as a reminder for the submission of reports and thereafter SEBI follows up with the AIFs which do not submit their monthly/quarterly investment data by the due date.

12. I note as AIF manager of Investmaxima Trust, Noticee failed to file their quarterly reports for quarters December 2020, March 2021, June 2021 and September 2021. Pursuant to automated emails sent through SI Portal regarding non filing of quarterly reports, SEBI had sent various emails to the Noticee. The Noticee however failed to reply.

13. I note that even the SCN had to be served on the Noticee via newspaper publication.

14. Thus, I find that Noticee being manager of the Investmaxima Trust was under an obligation to provide to the Board, (SEBI), any information sought and file such reports as the Board may desire, in terms of Regulation 24(b) of AIF Regulations. Since Investmaxima Trust failed to submit the reports to SEBI, I find that the Noticee has violated the provisions of Regulation 24(b) and Regulation 28 of AIF Regulations read with SEBI Circular Nos. CIR/IMD/DF/10/2013 dated 29 July 2013 and SEBI/HO/IM D/DF1/CIR/P/2017/87 dated 31 July 2017 and is therefore liable for monetary penalty.

Quantification of penalty

15. I note that the provisions invoked for imposing penalty against the Noticees herein is section 15EA wherein the minimum penalty prescribed is one lakh and maximum is one crore or three times the amount of gains made out of such failure, whichever is higher. While imposing monetary penalty I find it relevant to ascertain the importance of the provisions obligating Investmaxima Trust to file periodical reports. These reports are the regulator's tools for monitoring the activities of Investmaxima Trust. I note that this violation warrants imposition of a penalty to the tune of Rs 2,00,000/- (Rs Two Lakh) on the Noticee, in my assessment.

ORDER

16. In exercise of the powers conferred upon me under Section 15 I read with Rule 5 of the Adjudication Rules, I hereby impose penalty of *Rs* 2,00,000/- (Rs Two Lakh) on the Noticee.

17. The Noticee shall remit/pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai.

18. The Noticee shall remit/ pay the said amount of penalty within 45 days of receipt of this order through Demand Draft in favour of “SEBI -Penalties Remittable to Government of India”, payable at Mumbai, or the 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. In case of any difficulties in payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in.

19. The Noticee shall forward said Demand Draft or the details/ confirmation of penalty so paid to the Division Chief, Enforcement Department-I, DRA-4, SEBI. The Noticee shall provide the following details while forwarding DD/payment information:

1. Name and PAN of the entity (Noticee)
2. Name of the case / matter
3. Purpose of Payment –Payment of penalty under AO proceedings
4. Bank Name and Account Number
5. Transaction Number

20. In terms of Rule 6 of the Adjudication Rules, copy of this order are sent to the Noticee and also to SEBI.

Date: **November 30, 2022** **GEETHA G.**
Place: **Mumbai** **ADJUDICATING OFFICER**