

**SECURITIES AND EXCHANGE BOARD OF INDIA**

[ADJUDICATION ORDER NO. Order/KS/AE/2020-21/9502]

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

In respect of

**M/s Yuvraj Securities**

**SEBI Registration No. INZ000165313**

In the matter of M/s Yuvraj Securities

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**BACKGROUND OF THE CASE**

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) along with National Stock Exchange Limited (hereinafter referred to as ‘**NSE**’) conducted a comprehensive inspection of M/s Yuvraj Securities (hereinafter referred to as ‘**Yuvraj**’ / ‘**Noticee**’). The period of inspection was from April 01, 2017 to February 28, 2019 (hereinafter referred to as “**IP**”).

2. Based on the findings of inspection, SEBI initiated adjudication proceedings against the Noticee under the provisions of Section 15HB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act, 1992**”) and Section 23D of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as the “**SCRA, 1956**”) for the alleged violations of the provisions of the below mentioned Acts, SEBI Regulations and Circulars:
- i. Section 23D of SCRA;
  - ii. SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993;
  - iii. SEBI Circular No. MIRSD/SE/Cir-19/2009 dated December 03, 2009;
  - iv. SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
  - v. SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011.
  - vi. SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/4 dated June 22, 2017 and
  - vii. SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017.

### **APPOINTMENT OF ADJUDICATING OFFICER**

3. The undersigned was appointed as the Adjudicating Officer vide order dated January 28, 2020 to conduct adjudication proceedings in the manner specified under Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as “**SEBI Adjudication Rules**”) and Rule 4 of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as “**SCR**”)

**Adjudication Rules”)** for the above alleged violations committed by the Noticee.

#### **SHOW CAUSE NOTICE, REPLY AND HEARING**

4. A Show Cause Notice dated March 23, 2020 (hereinafter referred to as ‘SCN’) was issued to the Noticee under Rule 4(1) of the SEBI Adjudication Rules and Rule 4(1) of the SCRA Adjudication Rules to show-cause as to why an inquiry should not be initiated against the Noticee and why penalty should not be imposed upon the Noticee under Section 15HB of the SEBI Act and Section 23D of the SCRA for the violations alleged to have been committed by the Noticee.
5. The following violations were alleged in the SCN to have been committed by the Noticee:

#### ***Finding A: Non –Segregation of clients fund and Securities.***

##### ***a) Misuse of client funds:***

- i. Based on the principles and guidelines stipulated in provisions of clause 3 of Annexure to SEBI Circulars No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and Clause 1 of Annexure to SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993, reconciliation of clients’ funds lying with the Noticee was done with the total available funds, i.e., cash and cash equivalents with the stock broker and with the clearing corporation/ clearing member to detect any mis-utilization of the clients’ funds. It was observed that in 15 out of 18 sample cases, the Noticee had misused client*

fund as the value of G, as specified in the above SEBI Circular dated September 26, 2016, is negative. Further, the amount of mis-utilization of the credit client's fund was observed to be in the range of the amount of Rs. 0.59 lakh to Rs.1.03 Crore in the said instances.

- ii. It was further observed that there was shortfall in the case and bank balances of the member to cover the client payables as on December 31, 2018 for amount of Rs. 56,16,102.53. The member had total fund balances of Rs. 4,70,13,296.95 to cover the client payable of Rs. 5,26,29,399.48/-.

**b) Pledging of Client Securities:**

- iii. It was observed that Securities of constituents was pledged with bank to raise funds. Funds raised by pledging client's securities from bank/financial institution were used for respective clients' obligations. The mis-utilization of clients' securities by pledging ranging from Rs. 1.08 lakhs to Rs. 35.53 lakhs.

The summary of the said annexure is as below:

Date	Total Amount Raised	No of clients (A)	Out of A, No of clients with credit balance whose securities were pledged	Total value of securities Pledged (B)	Out of B, value of securities pledged of clients with credit balance/ NIL balance
23-08-18	40,00,000	4	2	85,25,567	22,50,612
21-08-18	30,00,000	2	1	52,49,390	1,08,850
10-04-18	17,00,000	1	1	32,31,000	32,31,000
14-05-18	17,00,000	1	1	35,53,425	35,53,425
26-9-18	12,50,000	3	3	24,28,932	24,28,932

- iv. In view of the same, it is alleged that the Noticee has violated the provisions of clause 2.5 of Annexure to SEBI Circular No.

SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and  
SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993.

**c) Non - Segregation of Clients Fund:**

- v. 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. The stock broker shall not use client funds and securities for proprietary purposes including settlement of proprietary obligation as guideline stipulated in clause 2.4 of Annexure to SEBI Circulars No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and Clause 1 of Annexure to SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993.
- vi. It was observed that in several instances of fund transfer between broker's client bank accounts and own/proprietary bank accounts. In 12 instances of fund transfers between brokers' client bank accounts and own/proprietary bank accounts aggregating to Rs. 67.01 lakhs. It is noted that individual client's funds are being mixed with brokers self-account. The details are as below;

Sr. No.	Client A/c No.	Proprietary A/c No.	Date of transaction	Amount (Rs.)
1	57500000185680	917020070760621	05-07-18	1,00,000
2	57500000185680	917020070760621	23-08-18	5,00,000
3	57500000185680	917020070760621	15-11-18	(5,000)
4	918020020250414	917020070760621	02-05-18	10,00,000
5	918020020250414	917020070760621	15-05-18	24,50,000
6	918020020250414	917020070760621	27-08-18	(1,00,000)
7	918020020255710	917020070760621	10-04-18	(10,00,000)

8	918020020255710	917020070760621	21-08-18	10,21,000
9	918020020255710	917020070760621	15-10-18	(2,00,000)
10	57500000174685	605031575	10-09-18	(75,000)
11	57500000174685	917020070760621	19-10-18	50,000
12	57500000174685	917020070760621	12-11-18	2,00,000

- vii. *In view of the above, it is alleged that the Noticee has used funds of credit balance clients for the benefit of debit balance clients, pledging of clients securities and segregation of client funds. In view of the same, it is alleged that the Noticee has violated the provisions of Section 23D of SCRA read with SEBI Circular no. SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.*

**Finding B: Monthly/ quarterly settlement of fund & securities:**

- viii. *It is observed that the Noticee has not settled of running accounts of client's funds and securities on quarterly/monthly basis. The details of instances where the running account are not settled on quarterly/monthly basis were annexed to the SCN.*
- ix. *It was observed that the amount of non – settlement of running account of client aggregating to Rs. 33.3 lakh for the quarter July to September 2018 for 9 clients and Rs. 16 lakhs for the quarter October to December 2018 for 7 clients. The above instances of non-settlement of running account, as brought out above, are not in compliance with the provisions of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. In view of the same, it is alleged that the Noticee has violated the provisions of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated*

*December 03, 2009 and Clause 8.1 of Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.*

***Finding C: Client Funding:***

- x. Stock Broker 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 continue beyond the fifth trading day, as reckoned from date to pay-in. Guidelines stipulated in *clause 2.6 to Annexure to SEBI Circulars No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and Clause 2(d) of SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2/017/64 dated June 22, 2017.*
- xi. *It was observed that the Noticee had granted exposure beyond T+2+5 days for amount aggregating to Rs. 39.64 lakhs. The client wise data of exposure were enclosed with SCN. In view of the same, it is alleged that the Noticee has violated the provisions clause 2.6 of Annexure to SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and Clause 2(d) of SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2/017/64 dated June 22, 2017.*

***Finding D: Client Registration Process (KYC and KRA Process):***

- xii. *The inspection team verified sample KYCs of different types of clients viz. individuals and HUF clients to check whether the documents, as required by various SEBI Circulars, are being collected by the Noticee. The following deficiencies were observed:*
- a) *KYC forms had a tick for BSE, but TM is registered only in NSE (20 instances)*
- b) *KYC forms had tick in CDS/Commodity segment, bur TM is not registered in these 2 segments (9instances)*

c) *In 3 KYC forms it was noticed that the income shown in KYC was less than the income proofs given.*

xiii. *In view of the above, it is alleged that the Noticee has violated the provisions of SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011.*

**Finding E: Client Order Recording**

xiv. *It was observed that the Noticee has not maintained evidence of client order placements in the form of any verifiable record. The Noticee shall execute trades of clients only after keeping evidence of the client placing such order. It is alleged that the Noticee has violated the provisions of SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 date September 26, 2017.*

**Finding F: Incorrect Reporting of enhanced supervision data:**

xv. *Uploading clients' fund balance and securities balance by the stock Brokers on Stock Exchange Systems guidelines stipulated in provision of clause 7 of Annexure to SEBI Circulars No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016. The Noticee had incorrectly reported fund balance and securities of 17 clients. It is alleged that the Noticee has violated the provisions of clause 7 of SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.*

xvi. *The above mentioned observations in respect of failure to segregate securities and moneys of client, monthly / quarterly settlement of funds and securities, client registration process (KYC and KRA process) and analysis of enhanced supervision data resulting in alleged violations of relevant provisions of SEBI Circulars by the Noticee as brought out above, if proved,*



*makes the Noticee liable for monetary penalty under the provisions of Section 15HB of the SEBI Act.*

6. In view of the prevailing circumstances due to COVID-19 pandemic, the SCN issued to the Noticee was sent through Speed Post and also via digitally signed email dated July 29, 2020 in terms of Rule 7 (b) of the SEBI Adjudication Rules and Rule 7(b) of SCR Adjudication Rules. It is noted that the said email did not bounce. However, no reply was received from the Noticee. In view of the above, vide notice dated August 18, 2020 the Noticee was granted a final opportunity to submit its reply to the SCN latest by August 25, 2020. Further, considering the facts and circumstances of the instant case, opining that an inquiry should be held in the matter, the Noticee was granted an opportunity of hearing on September 02, 2020 vide the aforesaid notice which was served by way of digitally signed email dated August 20, 2020. It is noted that the said email did not bounce. However, the Noticee failed to submit any reply and also failed to appear on the date of hearing. In view of the above, vide notice dated September 03, 2020 and sent through email dated September 03, 2020, the Noticee was granted one final opportunity of hearing on September 09, 2020. Considering the pandemic situation, the aforesaid hearing for the Noticee was scheduled at SEBI's Eastern Regional Office at Kolkata. It is noted that the said email did not bounce back. However, the Noticee again failed to avail of the same. The Noticee vide email dated September 06, 2020 (email id: [vijaygoel02@gmail.com](mailto:vijaygoel02@gmail.com)) acknowledged receipt of the SCN and further submitted that it had received the notice for

hearing (scheduled on September 02, 2020) on September 02, 2020, and requested for 30 days for preparing the reply and hearing. Accordingly, vide email dated September 25, 2020 issued to the Noticee's aforesaid email id i.e. [vijaygoel02@gmail.com](mailto:vijaygoel02@gmail.com), the Noticee was granted an opportunity for personal hearing on October 09, 2020. Further, vide the said email the Noticee was also granted opportunity to file its reply on or before September 30, 2020. However, I note that the Noticee did not appear for the aforesaid hearing nor has filed any reply to the SCN.

7. In light of the aforesaid circumstances of the case, I find it pertinent to note that the Hon'ble Securities Appellate Tribunal ('SAT') in the matter of Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006) has, *inter-alia*, observed, "*..... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them*". The same view was reiterated by the Hon'ble SAT in the matter of Sanjay Kumar Tayal & Others vs SEBI (Appeal No. 68 of 2013 decided on February 11, 2014), wherein it was, *inter alia*, observed, "*..... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices...*" Accordingly, in absence of response

of the Noticee to the SCN, it may be presumed and inferred that the allegations/charges have been admitted by the Noticee.

8. Having noted the above, I also refer to the observations of the Hon'ble SAT in the matter of Dave Harihar Kirtibhai Vs SEBI (Appeal No. 181 of 214 dated December 19, 2014), wherein the Hon'ble SAT observed as under:

*“...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal...”*


9. In view of the observations made by the Hon'ble SAT, I find no reason to take a different view. In view of the aforesaid steps taken and as per Rule 4(7) of SEBI Adjudication Rules and Rule 4(7) of SCR Adjudication Rules, if any person fails, neglects or refuses to appear as required by sub-rule (3) before the Adjudicating Officer, he may proceed with the inquiry in the absence of

such person after recording the reasons for doing so. Though the Noticee has not submitted any reply, however considering the principles of natural justice, I rely upon the replies given by the Noticee to SEBI, post inspection. Thus, I am proceeding with the matter on the basis of material available on record.

### **CONSIDERATION OF ISSUES AND FINDINGS**

10. I have carefully perused the charges levelled against the Noticee, and the documents / material available on record. The issues that arise for consideration in the present case are :

(a) Whether the Noticee has violated the following Acts, SEBI Regulations and SEBI Circulars:

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- i. Section 23D of SCRA;
  - ii. SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993;
  - iii. SEBI Circular No. MIRSD/SE/Cir-19/2009 dated December 03, 2009;
  - iv. SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
  - v. SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011.
  - vi. SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/4 dated June 22, 2017 and

vii. SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108  
dated September 26, 2017.

- (b) Do the violations, if any, attract monetary penalty under Section 15HB of the SEBI Act and Section 23D of the SCRA?
- (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act and Section 23J of the SCRA?

**A: Non-Segregation of client fund and securities**

**a) Misuse of Clients Funds**

11. The first allegation against the Noticee was that, out of 18 sample days taken during inspection, the Noticee had misused the funds of balance clients on 15 days as the value of 'G', as specified in the aforesaid SEBI Circulars No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016, was found to be negative on the said dates as below:

Sr. No	Date	Total fund balance available in all client Bank Accounts, including the settlement account, maintained by the stock broker across stock exchanges	Collateral deposited with clearing corporation /clearing member in form of Cash and Cash Equivalents (Fixed deposit(FD), Bank guarantee(BG),etc.) across all 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	Total credit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligation)	Calculation	Total debit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposited by clients, and uncleared cheques issued to clients and the margin obligation)	Value of proprietary non-cash collaterals i.e. securities which have been deposited with the clearing corporations and/or clearing member across all Stock Exchanges	Non funded portion of the Bank Guarantee across all Stock Exchanges	Proprietary Margin obligation across exchanges
		A	B	C	G=(A+B)-C	D	E	F	P
1	03/09/18	2,87,987.90	4,60,00,000.00	5,49,38,674.10	(86,50,686.20)	2,70,74,875.02	58,431.12	-	1,20,64,101.49
2	04/09/18	5,85,235.40	4,60,00,000.00	5,55,16,629.95	(89,31,394.55)	2,74,01,829.88	56,823.12	-	1,43,21,196.17
3	05/09/18	20,288.90	4,60,00,000.00	5,29,89,436.86	(69,69,147.96)	2,75,56,735.77	56,281.84	-	1,42,70,945.04
4	06/09/18	3,86,429.01	4,60,00,000.00	5,40,97,738.18	(77,11,309.17)	2,74,18,384.82	56,664.44	-	1,43,08,708.27
5	07/09/18	54,613.36	5,35,00,000.00	5,33,09,596.32	2,45,017.04	2,73,99,220.14	57,001.56	-	1,45,10,831.40
6	10/09/18	3,81,953.16	5,35,00,000.00	5,52,26,259.37	(13,44,306.21)	2,73,87,002.79	56,405.20	-	1,34,36,207.14
7	11/09/18	29,032.26	5,35,00,000.00	5,41,27,438.72	(5,98,406.46)	2,74,03,520.95	55,815.64	-	1,11,31,909.46
8	12/09/18	2,01,339.51	5,20,00,000.00	5,37,53,529.46	(15,52,189.95)	2,74,41,015.92	55,314.68	-	1,19,07,760.35
9	14/09/18	2,43,469.26	5,20,00,000.00	5,16,72,037.00	5,71,432.26	2,74,41,846.07	56,195.44	-	1,25,99,687.90
10	17/09/18	2,09,935.91	5,20,00,000.00	5,22,68,627.14	(58,691.23)	2,74,55,938.11	55,825.84	-	1,10,84,294.18
11	18/09/18	6,70,579.31	5,10,00,000.00	5,24,97,424.12	(8,26,844.81)	2,74,65,492.48	54,985.08	-	1,05,57,423.64
12	19/09/18	3,03,494.09	5,10,00,000.00	5,07,47,520.50	5,55,973.59	2,76,66,793.89	54,226.72	-	99,86,246.06
13	21/09/18	5,09,101.34	4,80,00,000.00	5,12,96,865.81	(27,87,764.47)	2,75,96,422.00	66,744.70	-	90,86,174.58
14	24/09/18	3,10,738.26	4,40,00,000.00	4,77,05,332.90	(33,94,594.64)	2,74,49,666.48	64,568.00	-	1,00,97,298.06
15	25/09/18	12,93,651.81	4,40,00,000.00	4,88,25,544.80	(35,31,892.99)	2,72,86,979.20	52,624.52	-	1,17,22,972.85
16	26/09/18	22,82,337.76	4,40,00,000.00	4,87,67,240.26	(24,84,902.50)	2,69,34,253.43	51,654.40	-	91,45,564.53
17	27/09/18	25,13,344.63	4,40,00,000.00	5,05,64,037.07	(40,50,692.44)	2,69,29,561.51	54,362.28	-	56,77,901.58
18	28/09/18	18,173.38	3,60,00,000.00	4,63,32,972.38	(1,03,14,799.00)	2,59,53,880.96	50,878.84	-	82,17,411.60

Date	Calculation	Margin utilized for positions of credit balance clients across all Stock Exchanges	Unutilized collateral lying with the clearing corporations / or clearing member	Calculation	Calculation
	<b>I=P-(G+E+F)</b>	<b>MC</b>	<b>MF</b>	<b>J=B-(MC+MF)</b>	<b>J=(C-A)-(MC+MF)</b>
03/09/18	1,20,05,670.37	2,72,08,692.86	1,25,22,081.76	62,69,225.38	
04/09/18	1,42,64,373.05	3,59,63,335.91	25,99,835.45	74,36,828.64	
05/09/18	1,42,14,663.20	3,73,13,930.94	9,21,163.16	77,64,905.90	
06/09/18	1,42,52,043.83	4,35,00,856.87	6,69,966.09	18,29,177.04	
07/09/18	1,42,08,812.80	4,71,36,164.09	3,41,959.99		57,76,858.88
10/09/18	1,33,79,801.94	4,92,87,748.73	12,69,592.52	29,42,658.75	
11/09/18	1,10,76,093.82	4,71,95,039.54	33,13,178.59	29,91,781.87	
12/09/18	1,18,52,445.67	4,96,70,179.08	10,23,253.37	13,06,567.55	
14/09/18	1,19,72,060.20	4,58,08,807.60	4,02,759.35		52,17,000.79
17/09/18	1,10,28,468.34	4,50,03,303.99	5,19,042.19	64,77,653.82	
18/09/18	1,05,02,438.56	4,25,28,522.98	42,48,654.67	42,22,822.35	
19/09/18	93,76,045.75	4,13,33,779.11	39,75,424.43		51,34,822.87
21/09/18	90,19,429.88	3,95,79,018.00	5,55,343.21	78,65,638.79	
24/09/18	1,00,32,730.06	3,53,84,087.02	3,82,328.09	82,33,584.89	
25/09/18	1,16,70,348.33	4,01,16,612.18	19,52,614.82	19,30,773.00	
26/09/18	90,93,910.13	3,64,84,948.86	54,96,823.71	20,18,227.43	
27/09/18	56,23,539.30	1,74,40,499.96	2,72,32,292.17	(6,72,792.13)	
28/09/18	81,66,532.76	2,09,99,976.53	1,14,48,174.62	35,51,848.85	

12. It is also observed that the amount of mis-utilization of the credit clients' fund was observed to be in the range of the amount of Rs. 0.59 lakh to Rs.1.03 Crore in the said instances. From the above, it is noted that out of 18 trading

days in 15 trading days total available fund with the broker (column: A+B) is less than the ledger credit balance of clients (column-C) which indicates utilization of clients' funds for other purposes (column-G) i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for brokers' own purposes. Further, the absolute value of the column G is observed to be less than the absolute value of column D i.e. aggregate value of debit balances of all clients. The same indicates that the Noticee has possibly utilized funds of credit balance clients towards settlement obligations of debit balance clients. Further, in all the sample days, the value in column "I" is positive i.e.  $P > (G+E+F)$  which indicates that the proprietary margin obligation is greater than the sum of proprietary funds and securities lying with the clearing corporation/clearing member, which shows that the Noticee has mis-utilized clients' assets towards proprietary margin obligations. Further, in 17 days out of 18 sample days (except on 27.09.2019), the value of J is positive i.e.  $B > (MC+MF)$  or  $(C-A) > (MC+MF)$  which indicates that the clients funds lying with the clearing corporation/clearing member is greater than sum of credit clients margin obligation and free collateral deposits available with the clearing corporation/clearing member. Hence, it is observed that clients' funds lying with the clearing corporation/clearing member were being utilized towards margin obligations of debit balance clients and/or proprietary margin obligations.



13. As already noted, the Noticee has not submitted any reply to the SCN before me. However, with regards to the aforesaid observations, I note from the record that the Noticee vide his reply dated July 12, 2019 to SEBI post inspection (which was provided as Annexure C to the SCN) has stated that *“This was happened erroneously; we adhere and strive to put a check/curb on this. .... This is to ensure you that it has happened unintentionally, we shall comply with the same”*.
14. It is further observed that there was shortfall in the cash and bank balances of the member to cover the client payables as on December 31, 2018, as detailed below. The member had total fund balances of Rs. 4,70,13,296.95 to cover the client payable of Rs. 5,26,29,399.48 i.e. shortfall for amount of Rs. 56,16,102.53.

<b>Particulars</b>	<b>As on 31-Dec-2018 (Rs.)</b>
Clients payable – (A)	5,26,29,399.48
Client Bank, FD, Liquid Funds and other deposits - (B)	6,13,296.95
Funds with NSE & Clearing Member - (C)	4,64,00,000
Net Available Funds to cover Client payables – (B+C-A) (shortage)	(56,16,102.53)

With regards to the aforesaid observation, the Noticee in its reply dated July 12, 2019 to SEBI has submitted that *“We bring to your notice that apart from Total Funds available, we do have good debtors (realisable) of Rs. 1.49 Crore”*. In this regard, I however note that the same cannot be taken into consideration for the calculation of funds payable to clients as per the circular.

15. Further, I note that SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 mandates that – “..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.”*

From the above, I note that the stock broker is mandated not only to keep separate accounts for clients' and own dealings but also not to withdraw money from clients' account except in the situations permitted thereunder. Further, the said Circular does not permit using excess funds of one client to meet liability of another client. 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. Further from the admitted fact that there was a shortfall of an amount of Rs. 56,16,102.53/- as on December 31, 2018 signifies that the Noticee was inter mingling the clients' funds and its own funds.

16. I also note that SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 also mandates the same principle specified in SEBI

Circular SMD/SED/CIR/93/23321 dated November 18, 1993 such that the total available funds, i.e., day end balance in all clients bank accounts (A), cash and cash equivalents with the stock broker and with the exchange / clearing corporation/ clearing member (B), should always be equal to or greater than clients' funds as per ledger balance (C) and if  $[(A+B) - C = G]$  is negative, then it indicates that the credit balance clients' funds have been misused by the stock broker for its own purposes or for settlement obligations of debit balance clients. Since, in the present matter, the 'G' value is less than the total debit balance of all debit balance clients (D), it is observed that the Noticee has utilized the funds of credit balance clients towards meeting the obligations of debit balance clients. In view of the above, I find that the allegation of mis-utilization of credit balance clients' funds on the instances referred to in the SCN is established against the Noticee. In view of the same, I find that the Noticee has violated the provisions of Section 23D of SCRA read with Clause 1 of Annexure to SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and Clause 3 of Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/ P/2016/95 dated September 26, 2016.

**b) Pledging of Client Securities:**

17. It was observed that securities of constituent's were pledged by the Noticee with bank to raise funds. The mis-utilization of clients' securities by pledging ranged from Rs. 1.08 lakhs to Rs. 35.53 lakhs. The summary of the same is as below:

Date	Total Amount Raised	No of clients (A)	Out of A, No of clients with credit balance/ NIL balance whose securities were pledged	Total value of securities Pledged (B)	Out of B, value of securities pledged of clients with credit balance/ NIL balance
(*) 23-08-18	40,00,000	4	1 (*)	85,25,567	21,78,737.50(*)
21-08-18	30,00,000	2	1	52,49,390	1,08,850
10-04-18	17,00,000	1	1	32,31,000	32,31,000
14-05-18	17,00,000	1	1	35,53,425	35,53,425
26-09-18	12,50,000	3	3	24,28,932.50	24,28,932.50

(\*) As per the inspection report, on 23.08.2018 the number of clients with credit balance/ nil balance was 2 and the value of pledged securities belonging to those clients was Rs.22,50,612/-. However, on perusal of the data submitted by the broker which formed a part of the inspection report, I note that only one client (Client – Abhishek Kumar Jain, UCC – A001) had credit balance as on that day.

18. I note that a stock broker can pledge securities of only debit balance clients and that too to the extent of raising funds equivalent to the respective clients' obligation. However, as noted above, the Noticee has pledged the securities of the clients with credit balance or NIL balance in the instant case. The same has also been admitted by the Noticee vide his reply to SEBI dated July 12, 2019 wherein it has stated that "We adhere to the norms. We shall comply with this". In view of the same, I conclude that I find that the Noticee has violated the provisions of clause 2.5 of Annexure to SEBI Circulars No.

SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and  
SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993.

**c) Non – Segregation of Clients Funds**

19. I note that it is compulsory for all Member brokers to keep the money of the clients in a separate account and their own money in a separate account. The stock broker shall not use client funds and securities for proprietary purpose including settlement of proprietary obligation as per guideline stipulated in clause 2.4 of Annexure to SEBI Circulars No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and Clause 1 of Annexure to SEBI Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993.
20. Though it was observed during the inspection that the Noticee had maintained separate client and own account, it was noted that there were several instances of fund transfer between broker's client bank accounts and own/proprietary bank accounts. There were 12 instances of fund transfers between brokers' client bank accounts and own/proprietary bank accounts aggregating to Rs. 67.01 lakhs. It was noted that individual client's funds were being mixed with brokers self-account where Noticee used funds of credit balance clients for the benefit of debit balance clients, pledging of clients securities and segregation of client funds, the details are as below;

Sr. No.	Client A/c No.	Proprietary A/c No.	Date of transaction	Amount (Rs.)
1	57500000185680	917020070760621	05-07-18	1,00,000
2	57500000185680	917020070760621	23-08-18	5,00,000
3	57500000185680	917020070760621	15-11-18	(5,000)
4	918020020250414	917020070760621	02-05-18	10,00,000
5	918020020250414	917020070760621	15-05-18	24,50,000
6	918020020250414	917020070760621	27-08-18	(1,00,000)
7	918020020255710	917020070760621	10-04-18	(10,00,000)
8	918020020255710	917020070760621	21-08-18	10,21,000
9	918020020255710	917020070760621	15-10-18	(2,00,000)
10	57500000174685	605031575	10-09-18	(75,000)
11	57500000174685	917020070760621	19-10-18	50,000
12	57500000174685	917020070760621	12-11-18	2,00,000

21. In reply to the aforesaid observation of the inspection team, the Noticee vide his reply to SEBI admitted to the above and stated that the same were inadvertently done. In view of the same, I conclude that the Noticee has violated the provisions of Section 23D of SCRA read with SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993 and SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

22. Further, in view of the conclusions arrived at paragraphs 16, 18 and 21 in respect of mis-utilization of clients' funds, pledging of clients securities and non-segregation of client's funds by the Noticee, I further conclude that the Noticee is liable for monetary penalty under Section 23D of SCRA, 1956 which reads as under:

**Section 23D of SCRA**

**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 liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

**B: Monthly/ quarterly settlement of fund & securities:**

23. Further, the allegation against the Noticee is that it had not settled running accounts of client's funds and securities on quarterly/monthly basis. It was observed that the amount of non – settlement of running account of client aggregating to Rs.33.3 lakh for the quarter July to September 2018 for 9 clients and Rs.16 lakhs for the quarter October to December 2018 for 7 clients. In reply to the aforesaid observation, the Noticee in his reply to SEBI post inspection had submitted that it could only partially settle the running accounts and subsequent to the inspection settlement was done. However, I note that no evidence of the same was submitted neither before the inspection team nor before me in reply to the SCN. Further, I also note that on many occasions, Noticee has not assigned any reasons for non-settlement of funds and securities, which clearly goes to prove that Noticee was not in compliance with the requirements of SEBI Circulars dated December 3, 2009 and September 26, 2016.

24. In the context of non-settlement of funds and securities by stock broker, I would like to place reliance on a judgment of Hon'ble SAT in the matter of Indira Securities Pvt Ltd vs SEBI, Appeal no 50 of 2014, decided on June 23, 2014, wherein Hon'ble SAT had observed the following *"We have minutely perused the contents of SEBI's circular in question as well as the three clarifications issued by NSE and we do not subscribe to the view advanced by the learned counsel for the appellant. The concept of monthly or quarterly running settlement of clients' accounts by the brokers is incorporated in the said circular dated December 3, 2009 with a view to instill greater transparency and discipline in the dealings between the clients and the broker. The circular was issued by SEBI after detailed consultation with various quarters including Investors Association, Secondary Market Advisory Committee (SMAC). Market Participants and major stock exchanges. Therefore, it cannot be said that SEBI issued this circular dated December 3, 2009 as a directive only and not as a mandatory one"*

25. In view of the above, I conclude that the Noticee had failed to settle running account, as brought out above and thus had failed to comply with the provisions of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure to SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

**C. Client Funding:**



26. In terms of provisions stipulated in clause 2.6 to Annexure to SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and Clause 2(d) of SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2/017/64 dated June 22, 2017, Stock Broker 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 continue beyond the fifth trading day, as reckoned from date to pay-in.

27. It was observed that the Noticee had granted exposure beyond T+2+5 days for amount aggregating to Rs.39.64 lakhs. The client wise data of exposure is as under:

Sl No.	Client Code	Client Name	Date of Debit ( T day)	EOD Debit Balance on T Day (Rs.)	Credits before the date of exposure (Rs.)	Debits before the date of exposure (Rs.)	Date of Further exposure beyond T+2+5 days	Amt of T day debit balance unrecovered (Rs.)
				A	B	C		D=A+B
1	D002	DINESH AGARWAL HUF	01-Aug-18	(2,322,162.04)	1,349,085.14	(73.78)	08-Oct-18	(973,076.90)
2	D003	DINESH AGARWAL	14-Aug-18	(1,156,746.87)	742,685.94	(1,332.72)	14-Dec-18	(414,060.93)
3	M002	MANGAT RAM AGARWAL	04-Sep-18	(665,770.23)	-	-	21-Sep-18	(665,770.23)
4	K001	KAMALA GARG	08-Aug-18	(879,060.35)	168,697.76	168,687.50)	23-Aug-18	(710,362.59)

Client Code	Client Name	Ledger balance before the date of further Exposure (Rs.)	Amount of Further exposure beyond T+2+5 days (Rs.)	Amount Funded (Rs.)
		E=(A+C)-B	F	H=D+F
D002	DINESH AGARWAL HUF	(973,150.68)	(127,309.96)	(1,100,386.86)
D003	DINESH AGARWAL	(415,393.65)	(666,593.43)	(1,080,654.36)
M002	MANGAT RAM AGARWAL	(665,770.23)	(184,374.94)	(850,145.17)
K001	KAMALA GARG	(879,050.09)	(222,638.31)	(933,000.90)
			<b>TOTAL</b>	<b>3,964,187.29</b>

28. From the above, it is noted that the Noticee has allowed 4 sample clients to take further position without clearing the earlier dues. In reply to the said observation, the Noticee vide its letter dated July 12, 2019 to SEBI has admitted to the facts alleged and has stated "*We ensure you that this has been stopped completely and we are not allowing to trade*". I note that letting such investors who have failed to clear their dues within stipulated time adversely impacts the settlement process of the Broker and cannot be viewed leniently. In view of the same and taking into consideration of the aforementioned admission by the Noticee, I conclude that the Noticee has admittedly violated the provisions clause 2.6 of Annexure to SEBI Circulars No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and Clause 2(d) of SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2/017/64 dated June 22, 2017.

**D: Client Registration Process (KYC and KRA Process):**

29. On verification of sample 31 KYCs of different types of clients viz. individuals and HUF clients to check whether the documents, as required by various SEBI Circulars, are being collected by the Noticee, the following deficiencies were observed:

- a) KYC forms had a tick for BSE, but TM is registered only in NSE (20 instances)
- b) KYC forms had tick in CDS/Commodity segment, bur TM is not registered in these 2 segments (9instances)

- c) In 3 KYC forms it was noticed that the income shown in KYC was less than the income proofs given.

30. The details of above instances of non-collection of required documents is as under:

SI DO.	Client Code	Client Name	PAN	Tick under BSE in KYC	Tick under Currency/ Commodity segment	Income slab mismatch with KYC and income proofs
1	A001	ABHISHEK KUMAR JAIN	AGDPJ3387N	Yes	No	No
2	C001	CHIRON COMMODITIES TRADING COMPANY PVT. LTD.	AACCV2773Q	Yes	No	No
3	D001	DILIP KUMAR RUNGTA	ACWPR6697J	Yes	No	No
4	D002	DINESH AGARWAL HUF	AACHD1873N	Yes	No	No
5	D003	DINESH AGARWAL	ACXPA1620K	Yes	No	No
6	D004	DEVENDRA KUMAR MANTRI	AIDPM1867C	Yes	Yes	No
7	F001	MD FAZLUR RAHMAN	APFPR3137K	Yes	No	No
8	G001	GOURAVJOPAT	AGKPJ9054B	Yes	No	No
9	K001	KAMALAGARG	AEAPG9984R	Yes	No	No
10	M001	MEENA DEVI BHAIYA	AAPPB7154B	Yes	Yes	Yes
11	M002	MANGAT RAM AGARWAL	ACEPA5391A	Yes	No	No
12	N001	NAV RATAN BHAIYA	AMCPB4642F	Yes	Yes	No
13	P001	PREM RATAN BHAIYA	AJHPB5482G	Yes	Yes	Yes
14	P002	PREM RATAN BHAIYA HUF	AAOHP1351H	Yes	Yes	Yes
15	P003	PRNOB DEY	ANHPD2954J	Yes	No	No
16	P005	PRATAP KUMAR DAS	AGGPD3895G	Yes	No	No
17	R001	REKHA BHAIYA	BVFPB9097K	Yes	Yes	No
18	R002	RAKHIJAIN	ADXPJ1270H	Yes	Yes	No
19	R004	RAKESH KUMAR JAIN	ACGPJ9690K	Yes	No	No
20	R005	RAGHAV AGARWAL	ALBPA0492J	Yes	No	No
21	R006	RAJNISH PANDEY	ANVPP0501B	Yes	No	No
22	R008	REEMA CHANDAK	ABZPC2487R	Yes	No	No
23	S001	SEEMA AGARWAL	ADAPA3217E	Yes	No	No
24	S009	SYED SHAMS TABREZ	BJWPS5194R	Yes	No	No
25	U001	UMATODI	AFFPT5749B	Yes	No	No
26	U002	UTPAL BANERJEE	AKSPB8113H	Yes	No	No
27	V001	VIJAY KUMAR GOEL HUF	AAKHV8481N	Yes	No	No
28	V002	VASUNDHARA MANTRI	AHAPM8711B	Yes	Yes	No
29	V003	VIJAYSHREE STEELS PVT. LTD.	AAACV9604N	Yes	Yes	No

31. In reply to the aforesaid observation, the Noticee vide his reply before the inspection admitted to the above and stated that the aforementioned mistakes by it had been rectified and complied. However, no evidence was submitted in support of the same and no reply to the SCN has also been filed before me. In view of the same, I conclude that the Noticee's actions are in clear disregard towards the provisions of Clause 3(ii)(a) of SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011 whereby as a part of uniform documentation to be followed by the Members, SEBI had *inter alia* given the details of KYC form for capturing the basic information about the client and instruction/check list to fill up the form - Annexure-2 therein.

#### **E: Client Order Recording**

32. I note that in terms of the provisions of SEBI Circular No. CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108 dated September 26, 2017, the Noticee was to execute trades of clients only after keeping evidence of the client placing such order. In this regard, while the inspection team observed that the broker had put in place a call recording software and manpower to record orders from clients, however, when the team enquired as regards samples of order recording, the broker informed that all the records had been deleted inadvertently and no backup was maintained at their end. It is also noted that the Noticee vide his reply before the inspection team has admitted to the same that the recordings had been deleted inadvertently. In this regard, I note that clause III of aforementioned SEBI Circular stipulates 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. Email from 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.*

*IV. Further, wherever the order instructions are received from clients through the telephone, the stock broker shall mandatorily use telephone recording system to record the instructions and maintain telephone recordings as part of its records.”*

33. Therefore, I note that it is a mandatory obligation for stock brokers to preserve records so as to produce the same in case of dispute in order to discharge the burden of proof on it in such cases. In view of the same, the submission of the Noticee that it was inadvertently deleted cannot be accepted moreso given the fact that such failure will facilitate scope for illegal trades through the brokers.

Therefore, noting that the broker failed to maintained evidence of client order placements in the form of any verifiable record, I conclude that the Noticee has violated the provisions of the aforesaid circular September 26, 2016.

**F: Incorrect Reporting of enhanced supervision data:**

34. Further, clause 7 to the annexure of SEBI circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 stipulates a mandatory obligation to upload clients' fund balance and securities balance on Stock Exchange Systems which is as under:

***Uploading clients' fund balance and securities balance by the Stock***

***Brokers on Stock Exchange system***

*The Stock Exchanges shall put in place a mechanism and ensure that stock brokers upload the following data on a monthly basis for every client onto each Stock Exchange system where the broker is a member*

*7.1.1. Exchange-wise end of day fund balance as per the client ledger, consolidated across all segments and also net funds payable or receivable by the broker to/from the client across all Exchanges*

*7.1.2. End of day securities balances (as on last trading day of the month) consolidated ISIN wise (i.e., total number of ISINs and number of securities consolidated ISIN wise (i.e., total number of ISINs and number of securities across all ISINs)*

*7.1.3. For every client, number of securities pledged, if any, and the funds raised from the pledging of such securities*

7.1.4. The data at Para 7.1.1, 7.1.2 and 7.1.3 pertains to the last trading day of the month. The stock broker shall submit the aforesaid data within seven days of the last trading day of the month.

7.2. Each Stock Exchange shall in turn forward this information to clients via Email and/or SMS on the email IDs and mobile numbers uploaded by the stock broker to the Exchange for their clients.

35. However, in the instant case, it is noted that the Noticee had incorrectly reported fund balances of 16 clients, and securities balance of 1 client, the details of which are as under:

SI no.	Client Code	Client Name	Fund balance as on 28-Feb-2019	Enhanced supervision submission as on 28-Feb-2019	Difference between	Remarks
1	A001	ABHISHEK KUMAR JAIN	20238003.02	20265626.5	-27623.45	Enhanced data not matching with ledger balance
2	C001	CHIRON COMMODITIES TRADING COMPANY PVT. LTD.	-346313.51	-477662.65	131349.14	Enhanced data not matching with ledger balance
3	F001	MD FAZLUR RAHMAN	963052.07	776786.84	186265.23	Enhanced data not matching with ledger balance
4	M006	MD SHAHNAWAZ	1205639.80	1177697.51	27942.29	Enhanced data not matching with ledger balance
5	M001	MEENA DEVI BH AI YA	3147317.18	3164947.23	-17630.05	Enhanced data not matching with ledger balance
6	M007	MOHAMMED AMIN	-173.75	-404.38	230.63	Enhanced data not matching with ledger balance
7	P001	PREM RATAN BHAIYA	4886447.28	4863284.94	23162.34	Enhanced data not matching with ledger balance
8	P002	PREM RATAN BHAIYA HUF	6991613.76	7269140.11	-277526.35	Enhanced data not matching with ledger balance
9	R009	RAJESH KUMAR GUPTA HUF	58323.69	15217.9	43105.79	Enhanced data not matching with ledger balance
10	R004	RAKESH KUMAR JAIN	1175711.23	1075180.02	100531.21	Enhanced data not matching with ledger balance
11	R008	REEMA CHAND AK	85151.90	84273.17	878.73	Enhanced data not matching with ledger balance
12	S006	SUBHASISHDAS	-453021	-958.18	-3572.03	Enhanced data not matching with ledger balance
13	S005	SUJIT SULTANIA HUF	297651.56	299574.21	-1922.65	Enhanced data not matching with ledger balance
14	V001	VD AY KUMAR GOEL HUF	15448756.70	16038891.5	-590134.82	Enhanced data not matching with ledger balance

15	V004	VIJAYSHREE INDUSTRIES PVT. LTD.	-342622.11	-657000.35	314378.24	Enhanced data not matching with ledger balance
16	V003	VIJAYSHREE STEELS PVT. LTD.	290039.48	-60482.87	350522.35	Enhanced data not matching with ledger balance

SL No.	UCC	ISIN	Scrip Name	Back Office Holding as on 28- Feb-2019	Enhanced submission as on 28- Feb-2019	Difference between Back office & Enhanced supervision submission	Reason
1	D001	INE236G01019	TVSELECT	0	2000	2000 (*)	Enhanced data not matching with BO
2	D001	INE806A01020	VIKASECO	0	31000	31000	Enhanced data not matching with BO

(\*) As per the inspection report, the difference between the back office holding data and the enhanced submission data of the client - D001 in TVSELECT scrip was 850 shares. However, the actual difference was observed to be 2000 shares as per data from NSE.

36. With respect to the above, I note that the Noticee in its reply dated July 12, 2019 to SEBI has admitted to the wrong reporting and has stated “*This is to bring to your notice that so far as Clients’ Fund balance is concern, we have not taken the T day obligation (FNO Segment) to the balances and accordingly reported the same for all clients. Further, so far as Clients’ securities balance are concerned, yes this was reported wrong by mistake, which could not be ascertained in due time, but further we have reported correctly*”. However, I note that such a stringent requirement was brought in to instill a greater efficiency of Brokers and safeguard the investors from their funds being mutualized by the broker. The Noticee’s actions which is in total disregard to the same cannot be viewed leniently and therefore, I conclude that the Noticee is in violation of the aforementioned provisions of clause 7 of Annexure to SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.



37. In view of my conclusions arrived at paragraphs above in respect of Noticees's proven failure to segregate securities and moneys of client, monthly / quarterly settlement of funds and securities, client registration process (KYC and KRA process) and analysis of enhanced supervision data resulting in the violations of provisions of SEBI Circulars mentioned therein, I further conclude that the Noticee is liable for monetary penalty under the provisions of Section 15HB of the SEBI Act. The text of the aforesaid provision is reproduced as under:

**SEBI Act**

***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.*

38. In this regard, I note that Hon'ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that - "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant...*".

39. Further, I note that the provisions of Section 15J of the SEBI Act read with SEBI Adjudication Rules, 1995 and Section 23J of the SCRA read with Rule 5 of the SCR Adjudication Rules, 2005 require that while adjudging the quantum of penalty, 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.”*

40. In the present matter, it is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. Further from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors /clients on account of default by the Noticee. From the material available on record, I note that the violations are not repetitive. However, I am of the view that the abovementioned lapses on the part of the Noticee cannot be viewed lightly as they are serious in nature. Hence, the lapses/violations committed by the Noticee deserves and attracts penalty as per law.

### **ORDER**

41. Having considered all the facts and circumstances of the case and the material available on record along with the factors mentioned in Section 15J of SEBI Act, 1992 and Section 23J of SCRA, 1956, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 read with Rule 5 of SEBI Adjudication Rules 1995 and Section 23-I of the SCRA, 1956 read

with Rule 5 of the SCR Adjudication Rules, 2005, hereby impose a total penalty on the Noticee viz. Yuvraj Securities:

S. No.	Penalty	Under the provisions of
1	Rs. 2,00,000/- (Rupees Two Lakh Only)	Section 23D of SCRA, 1956
2	Rs. 2,00,000/- (Rupees Two Lakh Only)	Section 15HB of the SEBI Act, 1992
<b>Total</b>	<b>Rs. 4,00,000/- (Rupees Four Lakh Only)</b>	

42. I am of the view that the said penalty is commensurate with the lapse/ omission on the part of the Noticee. 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, OR through online payment facility available on the website of SEBI, i.e. [www.sebi.gov.in](http://www.sebi.gov.in) on the following path, by clicking on the payment link:

LEGAL MEDIA GROUP  
ENFORCEMENT → Orders → Orders of AO → PAY NOW.

In case of any difficulties in payment of penalties, the Noticee may contact the support at [portalhelp@sebi.gov.in](mailto:portalhelp@sebi.gov.in).

43. The aforesaid Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department–DRA-2), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.". The Noticee shall also provide the following details while forwarding DD / payment information:

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

44. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated 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.

45. In terms of the provisions of Rule 6 of the SEBI Adjudication Rules, 1995 and SCR Adjudication Rules, 2005, a copy of this order is being sent to the Noticee viz. Yuvraj Securities and also to the Securities and Exchange Board of India.

**Date: October 29, 2020**

**Place: Mumbai**

**K SARAVANAN  
CHIEF GENERAL MANAGER &  
ADJUDICATING OFFICER**