BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/JS/VC/2025-26/31828)

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:

Samena Special Situations Mauritius
(PAN: AAOCS5502Q)
(SEBI Reg. No. INMUFP080816)

In the matter of Samena Special Situations Mauritius

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**) conducted an examination in the matter of delay in intimation of material changes by Samena Special Situations Mauritius, Foreign Portfolio Investor (hereinafter referred to as **"Noticee/ FPI"**).

2. Based on the findings of the examination, SEBI initiated adjudication proceedings against the Noticee for allegedly violating the provisions of regulation 22(1)(c) of the SEBI (Foreign Portfolio Investors) Regulations, 2019 (hereinafter referred to as **"FPI Regulations"**) read with clause 14(i) of part A of Master Circular No. SEBI/HO/AFD/AFD-PoD-2/P/CIR/2024/70 dated May 30, 2024 (hereinafter referred to as **"Master Circular"**) and clause 12(i) of Part A of Master Circular.

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI appointed the undersigned as Adjudicating Officer vide order dated August 11, 2025, under section 15-I(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **"SEBI Act"**) and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"Rules"**) read with section 19 of the SEBI Act, to inquire into and adjudge under the provisions of the section 15HB of the SEBI Act read with regulation 43 of the FPI Regulations for the alleged violations by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Show Cause Notice bearing Ref. No. SEBI/HO/EAD-2/JS/VC/23562/2025 dated September 02, 2025 (hereinafter referred to as **"SCN"**) was issued to the Noticee in terms of the provisions of rule 4(1) of the Rules read with section 15-I of the SEBI Act, requesting Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed upon the Noticee under section 15HB of the SEBI Act for the alleged violation.

5. The SCN, *inter alia*, alleged the following:

   *(a) SEBI received a reference from Designated Depository Participant, viz., Standard Chartered Bank (hereinafter referred to as **"SCB" / "DDP"**) on March 13, 2024 as part of monthly reporting on delay in intimation of material changes through SI Portal, informing that the Noticee had not intimated the details regarding addition and deletion of share class(es) along with updated Beneficial Owner (hereinafter also referred to as **"BO"**) information, in accordance with the requirements stipulated in clause 12 of Part A of Master Circular.*

   *(b) Considering the reference from the DDP pertaining to delay in intimation of addition or deletion of share classes of the FPI (a Type I change), an examination was conducted to ascertain the compliance with the provisions of the FPI Regulations and Master Circular from the effective date of addition of new share class until date of intimation to DDP, i.e., from December 13, 2023 to March 05, 2024 (hereinafter referred to as **"Examination Period"**).*

   (c) During the course of examination, it was observed that the Noticee vide declaration dated November 24, 2016, had intimated the DDP that it was maintaining a segregated portfolio for separate classes of shares wherein each such class of shares were in turn broad based.

   (d) Following this, in 2020, Noticee made a BO declaration on December 28, 2020. As per the said BO declaration, Samena Special Situations Fund II LP was the BO by ownership/entitlement holding more than 10% in the FPI. Further, Samena Capital Mauritius Management was the BO by control, and the natural person by control indirectly was Mr. Shirish Saraf.

   (e) In 2024, Noticee informed DDP vide letter dated February 20, 2024 received by DDP on March 05, 2024, regarding addition of one new share class (Class III) for which money was invested in India w.e.f. December 13, 2023. Noticee also provided the details of BO of the share class III along with aforesaid intimation to DDP.

   (f) It was observed that the Noticee intimated the addition of share class III to DDP and submitted the new BO declarations to DDP with a delay of 82 days, i.e., from December 13, 2023 to March 05, 2024. This was intimated by DDP to SEBI on March 13, 2024. The details of the additional share class are summarized as under:

Table-1: Summary showing the type of material changes intimated to SEBI

Name of FPI	***Effective Date of Change***	***Summary of Changes***	***Date of intimation by the FPI to DDP***	***No of earlier delays in Intimation***
Samena Special Situations Mauritius (INMUFP080816)	*December 13, 2023*	*Addition of one Share Class (III)*	*March 05, 2024*	*1*

(g) It was observed that the Noticee vide its letter dated February 20, 2024, did not provide any valid reason for making investments over a period of 82 days without intimation of BO details of the additional share class III.

(h) The BO declaration dated February 20, 2024 shows that the BO by ownership/entitlement holding more than 10% in the share class III was Samena Capital and the BO by control was same as declared earlier.

(i) Therefore, it was observed that the Noticee made investments in India through a new share class III without prior intimation of the BO (holding more than 10% by ownership/entitlement) of the share class III, which was observed to be Samena Capital and not an existing BO.

(j) As per clause 12(i) of Part A of the Master Circular, in case of addition of share class, an FPI with segregated portfolio shall be required to provide BO information prior to investing in India through such new share class. Further, it provides that the FPI shall not make investments prior to submission of BO details of these share classes.

(k) It was observed that the Noticee made investments totalling to ₹20.02/- crore through the share class III during the period from December 13, 2023 to March 05, 2024 without providing the BO information of the said share class. The details of such investments made by the FPI is summarized in table below:

Table 2: Details of investments through share class III by the FPI during the examination period

Sr. No.	***Trade Date***	***Scrip Name***	***Quantity***	***Amount (in ₹)***
1	*13-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*103045*	*27347487.36*
2	*21-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*21816*	*5874762.35*
3	*29-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*20500*	*5541624.38*
4	*28-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*150000*	*40559594.10*
5	*14-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*18869*	*5102192.66*
6	*26-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*3494*	*944928.94*
7	*19-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*32142*	*8697950.18*
8	*15-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*96178*	*26053546.41*
9	*18-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*25160*	*6816002.25*
10	*26-Dec-2023*	*Ugro Capital Limited (Equity Share)*	*268601*	*73319987.57*
		Total	***739805***	***20,02,58,076.20***

(l) *The DDP, inter alia, confirmed vide email dated February 19, 2025 that the trades executed by Noticee between December 13, 2023 to March 05, 2024 were through the newly added share class (participating shares – Class III).*

(m) *In view of the above, it was alleged that the Noticee violated the following provisions:*
(i) regulation 22(1)(c) of FPI Regulations read with clause 14(i) of Part A of Master Circular for not intimating addition of new share Class III with a delay of 82 days;
(ii) clause 12(i) of Part A of Master Circular for making additional investments worth ₹20.02 crore during the examination period without providing the prior intimation of the BO of new share Class III.

6. I note that the SCN issued to Noticee was duly served upon it. Vide letter dated June 30, 2025, Noticee submitted its reply to the SCN.

7. The relevant extract of the reply of the Noticee is reproduced as under:

Preliminary Submission

(a) *Issuance of the SCN qua the Noticee is unduly harsh and unwarranted: At the outset Noticee submitted that the allegations contained in the SCN, which emanate from SEBI's Examination Report, have been remedied by the Noticee. Further, taken at the highest, the non-compliances, if any, were non-repetitive and mere technical violations that did not lead to any loss to investors or any undue gains to the Noticee. Furthermore, there is nothing on record to establish that any of the violations alleged in the SCN were deliberate, continual and repetitious in nature, so as to merit initiation of adjudication proceedings against the Noticee. It is an established position that every irregularity or deficiency noticed during the course of an examination/inspection does not call for initiation of penalty proceedings. Given the aforesaid, issuance of the instant SCN and initiation of adjudication proceedings against the Noticee is not only unduly harsh, excessive and unwarranted but also in departure from SEBI's own established internal policies on this subject, including the Enforcement Manual dated February 24, 2020 (as amended on August 03, 2021) which provides following guidelines while dealing with first time violations:*

> *"2.1.1. As a matter of policy, the violations that can be remedied by corrective measures or first time violations (other than the cases where there is no ill-gotten gain or fraudulent and unfair trade practice affecting the market integrity or causing widespread losses to investors or money mobilisation by unregistered Collective Investment Scheme (CIS) or Deemed Public Issues (DPI) entities, administrative actions (soft actions) such as issuing administrative action) such as issuing administrative warning letters, deficiency/caution letters, advice letters and expedited settlement proceedings (as a newly proposed administrative action) for late filings, delayed compliance, etc. in accordance with the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014.*
>
> *2.1.2 Minor violations by intermediaries observed during inspection may predominantly be dealt with by administrative actions as per the general guidelines in Para 2.1.1. If violations are continued or repeated even after administrative actions, adjudication proceedings may be considered. In the cases where such violations are continued or repeated even after initiation of adjudication/imposition*

of penalties, the action under enquiry regulations such as suspension or cancellation of certificate of registration, etc. may be considered"

(b) *It is further submitted that no administrative actions have been initiated by SEBI in respect of the examination conducted by it and thus these allegations enumerated in the SCN cannot be sustained as the basis for initiation of the proceedings (being an administrative warning and a failure thereafter to rectify the violations) do not exist. In fact, to the contrary, the alleged non-compliances highlighted by SEBI in their examination have been rectified and communicated to the DDP much prior to the issuance of the SCN which seems to have been completely overlooked. In any event, there is no allegation in the SCN concerning violation of any administrative actions taken by SEBI, basis which the adjudication proceedings had to be initiated.*

(c) *Further, the Examination Report which evidently forms the basis of the SCN itself at Paragraph 20 refers to the SOP for initiating actions against custodians. DDPs, FPIs and FVCIs dated August 03, 2023 which states that adjudication proceedings may be initiated for the following type of non-compliances:*

- *Delay in intimation of material change in case of critical changes.*
- *Investment conditions and limits and restrictions related non-compliances.*

(d) *In light of the above, Noticee submitted that allegations in the SCN concern delay in intimation of the addition of a new share class and the corresponding BO details. However, this procedural lapse ought not to be construed as a "critical change" within the meaning of the SOP, which clearly distinguishes between delays in intimation of material changes and those involving critical changes. In the present case, the Noticee did not undergo any material transformation in its ownership structure as the BO by control remained unchanged, and the BO by ownership for the new share class was an entity already affiliated with the fund. Noticee submitted that the delay in reporting does not meet the threshold of a critical change that would justify adjudication proceedings.*

(e) *Cause of action in the instant matter is stale: Noticee submitted that the alleged violation(s) qua the Noticee have already been duly rectified, and nothing remains as on date of this reply. The Noticee, upon identifying the inadvertent lapse on its part, immediately initiated corrective steps to ensure compliance with the provisions of regulation 22(1)(c) of the FPI Regulations read with clause 12(i) and 14(i) of Part A of the Master Circular. Noticee submitted that the correspondence in respect of addition of new share class and beneficial ownership declaration of the new share class was duly shared with the DDP vide email on March 01, 2024 and physical copy of the same was couriered on the same day from Mauritius.*

(f) *In view thereof, Noticee submitted that the it has already implemented corrective measures to alleviate any regulatory concerns and the cause of action as captured in the SCN qua the Noticee has become stale. Consequently, Noticee submitted that no adverse direction ought to be taken against the Noticee for such alleged violation.*

(g) *Object of inspection/examination is remedial and not punitive: Noticee submitted that it is a settled position of law that the object of conducting examination of a regulated*

*entity is not to impose penalty, but to uncover the truth. In this regard, reference is drawn to the Hon'ble Securities Appellate Tribunal's (**"SAT"**) order in UPSE Securities Limited v. SEBI (Appeal No. 109 of 2011, decided on July 25, 2011) whereby the Hon'ble SAT had ruled in context of inspection as under:*

> *"5….the object of carrying out inspection of books of accounts and records of any intermediary including a stock exchange or its subsidiaries is to ensure compliance with the provisions of the Act, Rules, Regulations, By-laws and circulars issued from time to time which are meant to regulate the securities market. Every little irregularity / deficiency noticed during the course of the inspection is not culpable and does not call for initiation of penalty proceedings. The purpose of inspection in quite a few cases could be better achieved if the inspecting team at the time of the inspection were to advise the erring entity."*

(h) *Further, in the matter of Religare Securities Limited v. SEBI (Appeal No. 23 of 2011, decided on June 16, 2011), the Hon'ble SAT has held that the purpose of this routine inspection is to highlight the irregularities in the system followed by the intermediaries and recommend changes therein; the intent should not be to initiate any kind of punitive action. The relevant portion of SAT's order is set out below for ease of reference:*

> *"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..."*

(i) *Similarly, the Hon'ble SAT in IDBI Trusteeship Services Limited v. SEBI (Appeal No. 186 of 2023, decided on February 22, 2023) has observed that every irregularity or deficiency noticed during the course of inspection does not call for initiation of penalty proceedings. The relevant excerpt of the aforesaid decision is reproduced below for facility:*

> *"We may also point out that every irregularity or deficiency noticed during the course of inspection does not call for initiation of penalty proceedings. The purpose of inspection is to advise the entity to cure the lapse that have been found. If any serious lapse is discovered, then penalty action can be taken."*

(j) *It is accordingly submitted that the SCN ought to be withdrawn on this count alone, as no deficiency or irregularity exists in the instant matter at the Noticee's end especially in light of the corrective measures implemented by the Noticee upon identification of the alleged default.*

Submissions on Merits

(a) *<u>The Noticee immediately implemented corrective steps in respect of the alleged default of non-intimation of addition of new share class III for a period of 82 days</u>:*

- *Noticee submitted that on December 11, 2023, it had created and issued a new participating share class – participating share class III. The class III shares were issued to Samena Capital – a Cayman based exempt Company. Subsequently,*

through December 13, 2024 to December 29, 2024, the Noticee made investments in Ugro Capital Limited via the new class III shares.

- *Noticee submitted that due to, inter alia, an inadvertent oversight in filing obligations concerning addition of the new share class and its BO details, the intimation thereof was unintentionally delayed till March 01, 2024. Noticee submitted that the factum of delay in intimation was identified during the preparations for granular disclosure filing for the FPI in or around January-February 2024 and was immediately communicated to the DDP.*

- *Noticee submitted that during preparations for granular disclosure on January 24, 2024, the Noticee has in fact shared the entire structure chart and granular disclosure indicating the new share class III and its beneficial owners.*

- *It is reiterated that upon identification of the alleged lapse, immediate corrective steps were taken to ensure compliance with regulation 22(1)(c) of FPI Regulations, read with clause 12 (i) and 14 (i) of Part A of the Master Circular. As stated hereinabove, the correspondence in respect of addition of new share class and BO declaration of the new share class was shared with DDP team on March 01, 2024 vide email and physical copy was couriered on the same day from Mauritius.*

- *Noticee submitted that the very fact that it shared the entire structure chart and granular disclosure indicating the new share class III and its BO's and the Noticee's correspondence dated March 01, 2024 to the DDP in respect of addition of new share class and BO declaration of the new share class abundantly highlights the bona fides of the Noticee and militates against any notion of suppression of any material information or changes in respect of the Noticee's commercial operations as a law abiding entity.*

(b) *<u>The alleged default was purely inadvertent, and a result of regulatory uncertainty faced by the Noticee</u>:*

- *It is further submitted that that alleged breach in the present case was purely inadvertent and in the face of uncertainty faced by the Noticee in terms of the applicable regulatory framework as opposed to a mala fide intent to usurp thereof. Noticee submitted that it, as an offshore entity, harboured the bona fide belief that the DDP would provide necessary guidance on potential concerns, if any. Such fact assumes significance in light of the fact that regulation 22(1)(c) of the FPI Regulations has witnessed successive amendments in the recent past itself.*

- *Noticee submitted that regulation 22(1)(c) of the FPI Regulations vide SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2023 w.e.f. March 03, 2023 substituted the text of the provision which earlier read as "(c) forthwith inform the Board and designated depository participant in writing, if there is any material change in the information including any direct or indirect change in its structure or ownership or control, previously furnished by him to the Board or designated depository participant;"*

- *Following the aforementioned amendment, the provision imposed a timeline for such intimation by adding "as soon as possible but not later than seven working days." – the provision under which the Noticee has been charged under the SCN.*

- *Noticee submitted that regulation 22(1)(c) of the FPI Regulations has since been amended again and the words and symbol "as soon as possible but not later than seven working days", has now been omitted by the SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2024 w.e.f. June 03, 2024. Presently, regulation 22(1)(c) of the FPI Regulations reads as follows:*

  "inform the Board and designated depository participant in writing, if there is any material change in the information including any direct or indirect change in its structure or ownership or control or investor group previously furnished by him to the Board or designated depository participant, in the manner and within the timelines as may be specified by the Board from time to time"

- *In light of the above, Noticee submitted that regulation 22(1)(c) of the FPI Regulations has evolved successively in a short span of time and the Noticee, as an offshore entity, carried the legitimate expectation that it would be guided by the DDP on potential concerns and the necessary steps required to be taken in response thereto.*

- *Thus, Noticee submitted the alleged default was purely inadvertent, and a result of regulatory uncertainty faced by the Noticee and not a deliberate scheme to subvert the applicable regulatory framework.*

(c) *<u>The alleged default did not result in any undue harm to investors or the securities market</u>:*

- *Noticee submitted that the addition of class III also did not result in the addition of new beneficial owners via holding of economic interests in it. Prior to issuance of class III, Samena Special Situations Fund II L.P. ("SSSF II") was identified as the only shareholder owning more than 10% in the Noticee via ownership of participating shares. SSSF II is an Exempted Limited Partnership under the Exempted Limited Partnership Act of the Cayman Islands. The partnership consists of 42 Limited Partners with none of them owning more than 10% of the Partnership. Samena Capital, being one of the Limited Partners of SSSF II and holding an 8.44% stake in the partnership, has at all times been considered as one of the ultimate beneficial owners of the Noticee.*

- *After the issuance of class III shares, Samena Capital became the 100% owner of class III shares in addition to its ownership of 8.44% of the pre-existing participating shares. The issuance of class III shares did not introduce a new shareholder, but instead increased the stake of Samena Capital, the existing ultimate shareholder, in the Company.*

- *In view of the above, Noticee submitted that there was no mala fide scheme at play by it to invest large chunks of monies through improper channels at any point in time. In fact, the Noticee has ceased its operations in the Indian securities market via this investment vehicle as is evident from a perusal of Paragraph 8 of the*

Examination Report (being Annexure 1 to the SCN), which confirms that the Noticee's Assets Under Control ("AUC") as on March 31, 2024 were INR 4,369,097,691 whereas the AUC of the Noticee as on March 31, 2025 is NIL.

- *In view of the foregoing, Noticee submitted that the alleged non-compliance was inadvertent in nature and did not result in any investor prejudice or adverse impact on the market. Accordingly, no adverse action ought to be taken against the Noticee.*

(d) *<u>The SCN erroneously charges the Noticee for two separate and distinct violations</u>:*

- *Paragraph 16 of the SCN canvasses the charges levelled qua the Noticee being a) regulation 22(1)(c) of FPI Regulations read with clause 14(i) of Part A of the Master Circular for not intimating addition of new share class III with a delay of 82 days and; b) clause 12(i) of Part A of Master Circular for making additional investments worth INR 20.02 crore during the Examination Period without providing the prior intimation of the BO of new share class III. Noticee submitted that in the present case, the invocation of both regulation 22(1)(c) of the FPI Regulations and clause 12(i) of Part A of the Master Circular is duplicative and legally untenable. Noticee submitted that clause 12(i) specifically governs the procedural requirement for submission of BO details prior to investment through a new share class. In similar legislative vein, regulation 22(1)(c) of the FPI Regulations, read with clause 14(i) of the Master Circular, pertains to the obligation to intimate material changes such as addition of share classes. It is significant to consider that the failure to submit BO details prior to investment (clause 12(i)) is a direct consequence of the delay in intimation of the new share class (regulation 22(1)(c)). These provisions are not independent violations but rather sequential outcomes of the same factual lapse. Therefore, penalizing both amounts to double jeopardy for a single inadvertent omission.*

- *In support of the above, reliance is placed on the decision of the Hon'ble SAT in Vitro Commodities Private Limited v. SEBI (Appeal No. 118 of 2013, decided on September 04, 2013) wherein the Hon'ble Tribunal ruled that when violation of one regulation automatically triggers another, there is no justification for imposition of penalty of second one.*

- *Moreover, both provisions fall within the same regulatory framework and are designed to ensure transparency and timely disclosure of material changes. When the breach of one provision inherently triggers the breach of another, it is unreasonable and disproportionate to impose separate penalties for each. The regulatory intent is to ensure compliance, not to multiply penal consequences for a single procedural delay. In this context, the Noticee's lapse in timely intimation of the new share class automatically led to the delayed submission of BO details, and thus, the imposition of penalties under both provisions lacks independent justification and is therefore legally untenable.*

(e) *<u>Cause of action does not survive and consequently, no liability ought to be imposed</u>:*

- *Noticee submitted that the allegations set out against it are only academic at this juncture given that necessary rectifications have already been implemented.*

- *Further given the alleged non-compliances were procedural irregularities, if any, which have not affected the interests of the investors, the SCN ought to be withdrawn in light of the corrective steps taken by the Noticee which abundantly highlight the bona fides of the Noticee.*

(f) *Without Prejudice to the above, the alleged violations are at best merely technical and venial in nature which do not merit imposition of penalty:*

- *Without prejudice to the submissions, Noticee submitted that the SCN seeks to penalize it for technical violations that no longer exists. In light of the fact that alleged non-compliances were procedural irregularities at best, which have not affected the interests of the investors, the alleged violations at best are technical or venial breach, no gain has been made by the Noticee, no loss has been caused to public investors as a consequence of the same, and the Noticee had no mala fide intent, the facts of the matter do not merit imposition of penalty. In this regard, reliance is placed on Ld. WTM's Order in the matter of acquisition of shares of Refex Refrigerants Limited dated February 02, 2017, whereby considering the aforesaid factors, the Ld. WTM disposed the proceedings without any adverse directions against the notice therein observing as under:*

  "13. On an overall assessment of the facts and circumstances of the case, I am inclined to arrive at the following conclusions:

  that there is a violation of regulation 11(2) of the Takeover Regulations, 1997 by the Noticee;

  that the violation is un-intentional and not for consolidation

  that the violation is technical and venial in nature; and

  14. In view of the above, in exercise of powers conferred upon me under section 11B of the SEBI Act, 1992, I do not find this to be a fit case warranting a direction as proposed in the show cause notice dated February 26, 2016 and the show cause notice stands disposed accordingly."

- *In similar vein, Noticee submitted that the Hon'ble SAT in Doogar and Associates v. SEBI (Appeal No. 20 of 2002) observed as follows in respect of imposition of penalty:*

  "… 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…"

(g) *In light of the above, Noticee submitted that alleged lapse by it was purely un-intentional and the Noticee has subsequently complied with the regulatory mandate as illustrated hereinabove. Thus, any non-compliance for a short period of time, resulting in some technical violations, ought to be looked at with leniency.*

Prayer

(a) *In light of the submission made hereinabove, it is thus prayed that the SCN be withdrawn with immediate effect and no penalty under section 15HB of the SEBI Act be imposed on the Noticee, as a consequence of the alleged violations which, without prejudice to the aforesaid are non est. Reliance is placed on the Hon'ble SAT's order in P.G. Electroplast Limited v. SEBI [Appeal No.281 of 2017] whereby it was observed that in cases of venial / technical violations, an authority, exercising its discretion under section 15J of the SEBI Act would be justified in refusing to impose any penalty:*

> *"Penalty can be imposed for failure to carry out a statutory obligation under the SEBI's Act. Factors contemplated under Section 15J are required to be taken into consideration before imposing a penalty. 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 Act."*

(b) *Similarly, the Hon'ble Supreme Court of India in Hindustan Steel Ltd. v. State of Orissa (1969 (2) SCC 627), pronounced as follows:*

> *"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. Those in charge of the affairs of the Company in failing to register the Company as a dealer acted in the honest and genuine belief that the Company was not a dealer. Granting that they erred, no case for imposing penalty was made out."*

(c) *In light of the above, it is prayed that no penalty should be imposed on the Noticee as a result of the alleged violations in relation to charges levelled against it in the SCN.*

(d) *Without prejudice to anything stated hereinabove, Noticee submitted that in case SEBI decides to levy any penalty on Noticee, it must take into account factors specified in section 15J of the SEBI Act. The wordings of section 15J are as follows:*

> *"15J: Factors to be taken into account by the adjudicating officer:*

While adjudging the quantum of penalty under section 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, whether 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."

(e) *With regard to clause (a):- "the amount of disproportionate gain or unfair advantage, whether quantifiable, made as a result of the default": Noticee submitted that the findings in the SCN do not allege that it has made any disproportionate gain or gained any unfair advantage on account of the alleged violations. With regard to clause (b):- "the amount of loss caused to an investor or group of investors as a result of the default": Noticee submitted that there is no document on record to suggest that any loss whatsoever has been caused to any investor as a result of the allegations levelled in the SCN, further, the same has also not been alleged in the SCN. With regard to clause (c):- "the repetitive nature of the default." Noticee submitted that the alleged violation were non est, and hence there is no question of repetitive nature of the default.*

(f) *Further, the Hon'ble Supreme Court of India in Adjudicating Officer, Securities and Exchange Board of India v. Bhavesh Pabari, (2019) 5 SCC 90, held that the provisions of Clauses (a), (b) and (c) of section 15-J are only illustrative in nature and have to be taken into account whenever such circumstances exist. The Hon'ble Supreme Court of India further held that factors other than those enumerated in Clauses (a), (b) and (c) of section 15-J can also be considered by the Adjudicating Officer. Therefore, in light of the submissions made out by us hereinabove, it is prayed that the SCN be revoked, and no penalty be imposed, or without prejudice to the above, if imposed, it be minimal.*

(g) *Lastly, Noticee submitted that in SEBI in Adjudication Order in the matter of M/s Pathway Finance Societe A Responsabilite Limitee dated August 31, 2020 whilst considering the violation of inter alia a) Appointment of custodian of securities ; b) Obligations and responsibilities of designated depository participants (as set out under the FPI Regulations and c) Change in Material Information and d) Other Changes relating to FPI as set out under the 2014 Operational Guidelines only imposed a penalty of INR 5,00,000. Thus, Noticee submitted that the scope of the alleged violation in the present matter being limited, penalty, if any, ought to be consistent with SEBI's stance in similar matters.*

8. Vide notice of hearing dated September 19, 2025, an opportunity of hearing was granted to the Noticee on October 15, 2025. Authorised representatives of the Noticee, viz., Mr. Tomu Francis, assisted by Ms. Zarnaab Aswad and Mr. Apoorva Upadhyay, Khaitan & Co attended the personal hearing through video-conferencing on the said date and reiterated the submissions made by the Noticee vide reply dated September 16, 2025. Further, a settlement application was filed by the Noticee

in the matter on October 16, 2025. Vide email dated November 11, 2025, Noticee informed that the said settlement application was withdrawn by it.

CONSIDERATION OF ISSUES AND FINDINGS

9. I have perused the charges levelled against the Noticee in the SCN, its reply, submissions made during personal hearing and material available on record. The issues that arise for consideration in the present case are as follows:

   I. Whether Noticee intimated the addition of share class III to DDP and submitted the new BO declarations to DDP with a delay of 82 days and thereby violated the provisions of regulation 22(1)(c) of FPI Regulations read with clause 14(i) of Part A of Master Circular?

   II. Whether Noticee made the additional investments without providing the prior intimation of the BO of new share Class III and thereby violated the provisions of clause 12(i) of Part A of Master Circular?

   III. Does the violation, if any, attract monetary penalty under section 15HB of the SEBI Act?

   IV. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in section 15-J of the SEBI Act read with rule 5(2) of the Rules?

10. Before proceeding further, it is pertinent to refer to the provisions of FPI Regulations and Master Circular dated May 30, 2024, which are allegedly violated by the Noticee, as under:

FPI Regulations:
22. General obligations and responsibilities of foreign portfolio investors.
(1) (c). "the FPI shall as soon as possible but not later than seven working days, inform the Board and designated depository participant in writing, if there is any material change in the information including any direct or indirect change in its structure or ownership or control or investor group previously furnished by him to the Board or designated depository participant."

Master Circular dated May 30, 2024:
"12. Requirement for segregated Portfolios
(i). Funds investing in India include those with sub-funds or separate classes of shares or equivalent structure with segregated portfolio for such sub-funds or separate classes of shares or equivalent structure. The assets & liabilities across such sub-funds or separate classes of shares or equivalent structure may be ring fenced from each other as directed by FPI. FPIs having segregated portfolio(s) are required to provide BO declaration for each fund/ sub-fund/ share class/ equivalent structure that invests in India. Further, in case of

addition of fund / sub fund / share class /equivalent structure with segregated portfolio that invests in India, the FPI shall be required to provide BO information prior to investing in India through such new fund/sub fund/share class/equivalent structure."

"14. Change in Material Information
(i). In terms of Regulation 22(1)(c), if there is any change in the material information previously furnished by the FPI to the DDP and/or SEBI, which has a bearing on the certificate granted by the DDP on behalf of the Board or relating to any direct or indirect change in its structure or ownership or control, change in regulatory status, merger, demerger or restructuring, change in category/ sub-category / structure/ jurisdiction/ name of FPI/ beneficial ownership etc, of the FPI, it shall as soon as possible but not later than seven working days inform the DDP and/or the Board in writing."

11. The issues raised in this matter are dealt in the following paragraphs.

Issue I. Whether Noticee intimated the addition of share class III to DDP and submitted the new BO declarations to DDP with a delay of 82 days and thereby violated the provisions of regulation 22(1)(c) of FPI Regulations read with clause 14(i) of Part A of Master Circular?

Issue II. Whether Noticee made the additional investments without providing the prior intimation of the BO of new share Class III and thereby violated the provisions of clause 12(i) of Part A of Master Circular?

12. Before proceeding to the merits of the case, it is appropriate to deal with the following preliminary issues raised by the Noticee. Noticee submitted that the issuance of the SCN qua the Noticee is unduly harsh and unwarranted as the violation was merely technical and non-repetitive and it was remedied by the Noticee much prior to the issuance of the SCN. Noticee further submitted that initiation of adjudication proceedings against the Noticee is in deviation from SEBI's own internal policies on this subject, including the Enforcement Manual. In this regard, it is noted that the Enforcement Manual relied upon by the Noticee is internal document which, *inter alia*, guides the officers of SEBI in selection of appropriate actions while giving ample discretion to competent authority to initiate appropriate action in novel scenarios. Further, the said Enforcement Manual itself states that it has been prepared to guide officers of SEBI and is for internal use only. Any non-observance or deviation from this manual will not vitiate any quasi-judicial proceedings. Moreover, it is noted that portion of the Enforcement Manual quoted by the Noticee in its reply is related to policy for taking Administrative Actions. However, in respect of Enforcement Actions, it is specified that *"Enforcement actions may be considered after satisfying the*

availability of sufficient evidence, considering the ingredients of the violations and the principles/precedents laid down in the orders of SEBI and SAT/ Courts". Irrespective of the above, in the instant matter there is no deviation from the said Manual as the Noticee has not read the Manual in its entirety where it states that '*for late filings, delayed compliance, etc. in accordance with the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014*'. As such, the Manual is not providing for administrative action rather provides for settlement opportunity which is at the discretion of the Noticee. Incidentally, it is found that the Noticee had filed for settlement in this matter which it withdrew later. Thus, initiation of the extant adjudication proceedings do not suffer from any procedural infirmities, hence, the said contentions of the Noticee are misconceived and untenable.

13. Regarding Noticee's submission that the violation was merely technical and had been remedied by it prior to the issuance of the SCN, it is noted that the requirement of intimation of material changes in the information regarding addition of a new share class and the requirement of prior intimation regarding change in BO details of new share Class III before investing in India is vital for the regulations of FPIs and the obligation is clearly stipulated in the FPI Regulations / Master Circular, therefore, the alleged violations cannot be considered as mere technical violations. Further, the alleged violations persisted during the examination period and Noticee intimated the addition of share class III to DDP with a delay of 82 days and prior intimation of the BO of such new share class was not given to DDP, therefore, the obligation to make a prior intimation cannot be substituted or satisfied by making a delayed intimation. Thus, the contention of the Noticee that the violations were remedied by it much prior to the issuance of the SCN is untenable.

14. Noticee further submitted that there is no allegation in the SCN concerning violation of any administrative actions taken by SEBI, basis which the adjudication proceedings had to be initiated. In this regard, it is noted that for initiation of adjudication proceedings, there is no prerequisite or requirement of violation of any administrative actions as contended by the Noticee. Therefore, the contention of the Noticee is devoid of any merit.

15. Further, Noticee submitted that the Examination Report at Para 20 refers to an internal SOP, which states that adjudication proceedings may be initiated for the

non-compliances, viz., delay in intimation of material change in case of critical changes and investment conditions and limits and restrictions related non-compliances and argued that procedural lapse should not to be construed as a critical change within the meaning of the SOP. In this regard, it is noted that the competent authority had relied upon the said SOP and in his wisdom found that the extant case is suitable for adjudication proceedings. It appears that in his opinion, the addition of new class of shares and the BO for the new class of shares, were critical changes. In the extant proceedings, it is not open to question the wisdom of the competent authority, however, I am of the opinion that as far as an FPI is concerned, its investment in new class of shares and the BO thereof are critical information for the reason that it is a foreign entity.

16. Noticee further submitted that the cause of action in the instant matter is stale as it had already been duly rectified and nothing remains as on date of this reply. In this regard, it is observed hereinabove that the said requirements of giving intimations clearly mandated in the FPI Regulations / Master Circular, which were allegedly not complied with by the Noticee, and the obligation to make a prior intimation cannot be substituted or satisfied by making a delayed intimation and the alleged violations persisted during the examination period, therefore, the said contentions of the Noticee is bereft of any merit.

17. In view of the above, it is noted that the preliminary issues raised by the Noticee hold no merit. Having dealt with the preliminary contentions, I shall now proceed to address the key issues that arise for consideration.

18. It was alleged in the SCN that the Noticee intimated the addition of share class III to DDP on March 05, 2024, for which money was invested in India w.e.f. December 13, 2023, i.e., a delay of 82 days. SCN also alleged that the Noticee submitted the new BO declarations to DDP with a delay of 82 days.

19. In response to above allegations, Noticee submitted that on December 11, 2023, it had created and issued a new participating share class – participating share class III and from December 13, 2024 to December 29, 2024, the Noticee made investments in Ugro Capital Limited via the new class III shares. Noticee submitted that due to an inadvertent oversight in filing obligations concerning addition of the

new share class and its BO details, the intimation thereof was unintentionally delayed till March 01, 2024. In this regard, it is noted that the delay in filing of the intimation regarding addition of new share Class III and making of additional investments without providing the prior intimation of the BO details of new share class to the DDP has not been disputed by the Noticee and it admitted the violations.

20. Noticee also argued that it immediately implemented corrective steps in respect of the alleged default of non-intimation of addition of new share class III for a period of 82 days. In this regard, it is noted that the violation in the instant matter is the delayed intimation, however, Noticee is interpreting the same as a corrective measure, which in my view is misconceived. Further, it is observed that the Noticee also made the investments totaling ₹20.02/- crore through the share class III during the said period from December 13, 2023 to March 05, 2024, without providing the BO information of the said share class. In this regard, clause 12(i) of Part A of the Master Circular provides that in case of addition of a share class, an FPI with segregated portfolio shall be required to provide BO information prior to investing in India through such new share class. Further, said clause stipulates that the FPI shall not make investments prior to submission of BO details of these share classes. However, in complete disregard to the said regulatory provisions, Noticee made the investments as mentioned above, without providing the prior intimation of the BO details of new share class III. The said violation cannot be rectified and remedied by making a delayed post investment intimation to DDP. Further, it is reiterated that the obligation to make a prior intimation cannot be substituted or fulfilled by making a delayed intimation. Therefore, the said contention of the Noticee is untenable.

21. Noticee further submitted that the alleged default was purely inadvertent and a result of regulatory uncertainty faced by the Noticee as regulation 22(1)(c) of the FPI Regulations has been amended three times and evolved successively in a short span of time. In this regard, it is observed that the violation took place during December 2023 to March 2024 and regulation 22(1)(c) of the FPI Regulations at the relevant time provides that *"as soon as possible but not later than seven working days, inform the Board and designated depository participant in writing, if there is any material change in the information including any direct or indirect change in its structure or ownership or control or investor group previously furnished by him to the*

Board or designated depository participant;". Thereafter, w.e.f. Jun 03, 2024, the words "*as soon as possible but not later than seven working days"* were omitted and the words *"in the manner and within the timelines as may be specified by the Board from time to time"* were inserted in regulation 22(1)(c) of the FPI Regulations. At the same time, SEBI Master Circular dated May 30, 2024 for FPIs also mandated that the FPI shall *"as soon as possible but not later than seven working days inform the DDP and/or the Board in writing."* Hence, it is noted that there was no material change in the regulatory provisions related to the furnishing of information including any direct or indirect change in FPI structure or ownership or control or investor group or change in beneficial ownership, etc., and the obligation of the Noticee to inform the DDP and/or the Board had remained uniform throughout. Further, it is also noted that the Noticee is liable to comply with the applicable regulatory provisions and it cannot escape from its obligations by citing the regulatory uncertainty, which was non-existent as discussed above. Therefore, the contention of the Noticee that violation is a result of regulatory uncertainty is misplaced and devoid of any merit.

22. Further, Noticee submitted that the SCN erroneously charges the Noticee for two separate and distinct violations, however, the provisions violated are not independent rather sequential outcomes of the same factual lapse as clause 12(i) of Part A of Master Circular governs the procedural requirement for submission of BO details prior to investment through a new share class is a direct consequence of the delay in intimation of the new share class, i.e., regulation 22(1)(c) of FPI Regulations, therefore, penalizing for both amounts to double jeopardy for a single inadvertent omission. In this regard, it is noted that the regulation 22(1)(c) of FPI Regulations read with clause 14(i) of Part A of Master Circular provides for the requirement of '*intimation regarding addition of new share class'* and clause 12(i) of Part A of Master Circular provides for the requirement of *'providing BO information to DDP prior to investing in India through such new share class*,' which are two separate and distinct requirements and emanate from different provisions. Therefore, the contention of the Noticee that is untenable.

23. In this regard, Noticee placed reliance on the decision of the Hon'ble SAT in *Vitro Commodities Private Limited v. SEBI*, wherein the Hon'ble Tribunal observed that when violation of one regulation automatically triggers another, there is no

justification for imposition of penalty of second one. I note that in the said matter, imposition of different penalties for violation of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and SEBI (Prohibition of Insider Trading) Regulations, 1992 was observed to be unjustified by Hon'ble SAT as the provisions of said regulations were not substantially different and violation of first automatically triggered the violation of second. However, in the instant matter, the addition of new share class is one event and subsequent act of making investment through such new share class is another distinct event, each with its own requirements and implications. Therefore, the violation of one provision did not automatically trigger the another violation in this case as contended by the Noticee.

24. Noticee further contended that the cause of action had not survived and consequently, no liability ought to be imposed. In this regard, it is noted that the said contention of the Noticee has already been dealt with hereinabove at para 13 and 16, therefore, the contention of the Noticee that the cause of action does not survive do not merit further consideration.

25. In view of the above, I hold that the Noticee violated the following provisions:
    (a) Regulation 22(1)(c) of FPI Regulations read with clause 14(i) of Part A of Master Circular for not intimating addition of new share Class III with a delay of 82 days;
    (b) Clause 12(i) of Part A of Master Circular for making additional investments worth ₹20.02 crore without providing the prior intimation of the BO of new share Class III.

Issue III. Does the violation, if any, attract monetary penalty under section 15HB of the SEBI Act?

26. In the preceding paragraphs, it has been established that the Noticee violated the provisions of regulation 22(1)(c) of FPI Regulations read with clause 14(i) of Part A of Master Circular and clause 12(i) of Part A of Master Circular.

27. With regard to levy of monetary penalty, Noticee submitted that the violations are at best merely technical, inadvertent and venial in nature which do not merit imposition of penalty, the default did not result in any undue harm to investors or the securities market and object of examination is remedial and not punitive, hence, no penalty

should be imposed on it. In this regard, Noticee relied on the observations of the Hon'ble Supreme Court in the case of *Hindustan Steel v. State of Orissa*[1], observations of the Hon'ble SAT in the matter of *UPSE Securities Limited v. SEBI*[2], *Religare Securities Limited v. SEBI*[3], *IDBI Trusteeship Services Limited v. SEBI*[4], *Doogar and Associates v. SEBI*[5], *P.G. Electroplast Limited v. SEBI*[6] and observations in WTM's Order dated February 02, 2017 in the matter of acquisition of shares of *Refex Refrigerants Limited*.

28. I find that the allegation of violations established in the cases relied upon by Noticee are materially different from the violations that have been established in the present case. Further, the facts and circumstances of the said cases differ from the instant matter and Noticee has also failed to demonstrate that how the aforesaid cases will be applicable in the instant proceedings. I shall now proceed to deal with the aforesaid cases in the following paragraphs.

29. In the matter of *Hindustan Steel v. State of Orissa*, it was held by the Hon'ble Supreme Court that "*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 bonafide belief that the offender is not liable to act in the manner prescribed by the statute."* I note that the position has since been clarified by the Hon'ble Supreme Court in its order dated May 23, 2006 in the case of *Chairman SEBI v. Shriram Mutual Fund and Anr. 68 SC 216 (SC),* wherein it was held that decision in case of Hindustan Steel Ltd. pertained to criminal/quasi criminal proceedings and it would not apply to imposition of civil liabilities under SEBI Act and regulations made thereunder.

30. Further, I note that the Hon'ble SAT in the matter of *UPSE Securities Limited* observed that for serious lapses, it would always be open to SEBI to take penal action in accordance with law. In the matter of *Religare Securities Limited*, the

[1] (1969 (2) SCC 627)
[2] (Appeal No. 109 of 2011, decided on July 25, 2011)
[3] (Appeal No. 23 of 2011, decided on June 16, 2011)
[4] (Appeal No. 186 of 2023, decided on February 22, 2023)
[5] (Appeal No. 20 of 2002)
[6] (Appeal No. 281 of 2017)

Hon'ble SAT dealt with procedural lapses identified during an inspection of the intermediary's broking and depository operations. The Hon'ble SAT noted that the inspecting team had failed to raise queries or seek clarifications during the inspection and therefore, the benefit of doubt was extended to the intermediary. In said matter, the Hon'ble SAT observed: *"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."* Similarly, in the matter of *IDBI Trusteeship Services Limited,* inspection findings were made regarding failure in updating the default history information and asset cover certificate, which were observed to be technical and not serious in nature by the Hon'ble SAT. I note that it is not a case where inspection found minor and technical discrepancy/irregularity, however, the lapses in the instant matter are serious and substantial in nature as observed hereinabove. Therefore, the ratio of aforesaid cases does not provide any relief to the Noticee in the instant matter.

31. Similarly, in the matter the of *Doogar and Associates*, the merchant banker filed a copy of the public announcement related to public offer with delay. However, the violations established in the present cases are materially different and grave from the violations of the relied upon matter. The Hon'ble SAT in the said matter took into account the fact that the AO had not questioned the reliability of the reasoning given the merchant banker for failure to submit a copy of the public announcement to SEBI within the timelines. In the said case, there was an omission by the employee where the merchant banker had acted honestly and diligently, unlike the present matter.

32. In respect of *P.G. Electroplast* case, it is noted that the matter is related to providing adequate disclosures in the draft red herring prospectus by P.G. Electroplast for public issue, where the Hon'ble SAT observed the information related to the ICD agreements were communicated to its merchant banker, the prospectus had fairly disclosed the relevant information in the prospectus and the detail related to agreements for purchase of land executed with other entities was mentioned in the prospectus but not at the appropriate place. Hence, the non-disclosure was observed to be a technical violation only and the maximum penalty of Rs. 1 crore each imposed upon the appellants was observed to be grossly disproportionate to

the violation. However, the facts and circumstances of the case and violations established in the present cases are materially different from the observations made by the Hon'ble SAT in said matter. Accordingly, reliance placed by the Noticee on the observations of the Hon'ble SAT in case of P.G. Electroplast is untenable.

33. As regards SEBI WTM's Order dated February 02, 2017 in the matter of acquisition of shares of *Refex Refrigerants Limited,* it is noted that the allegations were pertaining to violation of provisions of SEBI Takeover Regulations, where acquisition of minuscule and negligible percentage of shares (42 shares) was involved and subsequent amendments to the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 introduced more relaxed provisions that would have permitted such an acquisition without an open offer, which mitigated the gravity of the violation. Hence, said case does not stand on the same footing as the given case of Noticee. Further, I also note that the Hon'ble Supreme Court in the matter of *Adjudicating Officer v. Bhavesh Pabari* held that section 15J are merely illustrative and are not the only grounds/factors which can be taken into consideration while determining the quantum of penalty. Hence, the aforesaid contentions of the Noticee are not acceptable.

34. With regard to contentions of the Noticee that the non-compliance was inadvertent in nature and did not result in any investor prejudice or adverse impact on the market, no gain has been made by the Noticee and no loss has been caused to public investors, I note that the Hon'ble SAT in the matter of *Komal Nahata v. SEBI (Appeal No. 5 of 2014 dated January 27, 2014)* observed that the *"Argument that no investor has suffered on account of non-disclosure and that the AO has not considered the mitigating factors set out under Section 15J of SEBI Act, 1992 is without any merit because firstly penalty for noncompliance of SAST Regulations, 1997 and PIT Regulations, 1992 is not dependent upon the investors actually suffering on account of such non-disclosure"*.

35. I further note that in Appeal No. 78 of 2014 in the case of *Akriti Global Traders Ltd. v. SEBI*, the Hon'ble SAT vide order dated September 30, 2014 observed that the *"… Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit, because, firstly, penal liability arises as soon as provisions under*

the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay".

36. Further, reliance is placed on the judgment of Hon'ble Supreme Court dated May 23, 2006 in the matter of *SEBI v. Shriram Mutual Fund (Supra),* wherein it was, *inter alia,* observed 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. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.*"

37. Therefore, the aforesaid violations, make the Noticee liable for penalty under section 15HB of the SEBI Act read with regulation 43 of the FPI Regulations. The said section reads as follows:

"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."*

Issue IV. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in section 15-J of the SEBI Act read with rule 5(2) of the Rules?

38. While determining the quantum of penalty, the following factors stipulated in section 15-J of the SEBI Act are taken into account:

"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."

39. In this connection, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of non-compliance to the provisions of provisions of the FPI Regulations and Master Circular is not available from the material available on record. With respect to the repetitive nature of the default, I note that previously Administrative Warnings were issued to the Noticee at two instances for delay in intimation of change in director. Further, in the present matter, it is established that the Noticee intimated addition of new share class with a delay and made the additional investments without providing the prior intimation of the BO details of such new share class to DDP, which constitute substantial violations to the provisions of the FPI Regulations and Master Circular dated May 30, 2024. The said violations by the Noticee attract monetary penalty.

40. It is relevant to note that Noticee had drawn comparison to regulatory requirements applicable to domestic entities to itself in the rulings of Hon'ble SAT and Courts citied above, where the Noticee is a foreign entity and that being so, the requirement of prior intimation before investing in India assumes significance and in my opinion, a failure in this regard is a serious lapse. However, the fact that Noticee subsequently made the intimation regarding addition of new share class and provided the relevant information to DDP, though with a delay, is taken into account while adjudging the quantum of penalty.

ORDER

41. Taking into account the facts and circumstances of the case, material available on record, submissions of the Noticee, findings hereinabove and factors mentioned in section 15J of the SEBI Act, in exercise of the powers conferred upon me under section 15-I of the SEBI Act read with rule 5 of the Rules, I hereby impose a monetary penalty of ₹ 2,00,000/- (Rupees Two Lakh only) on the Noticee section 15HB of the SEBI Act read with regulation 43 of the FPI Regulations for violation of the provisions of regulation 22(1)(c) of FPI Regulations read with clause 14(i) of Part A of Master Circular and clause 12(i) of Part A of Master Circular. In my view, the said penalty is commensurate with the violation committed by the Noticee in this case.

42. 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

43. 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.

44. In terms of rule 6 of the Rules, copy of this order is sent to the Noticee and also to SEBI.

JAI SEBASTIAN
Digitally signed by JAI SEBASTIAN
Date: 2025.12.09 17:05:09 +05'30'

Place: Mumbai
Date: December 09, 2025

JAI SEBASTIAN
ADJUDICATING OFFICER