WTM/GM/EFD-I/DRA-II/09/2021–22

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 27(5) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008.

IN RESPECT OF –

NOTICEE	**COMPUTECH SHARECAP LIMITED** **REGISTRAR TO AN ISSUE AND SHARE TRANSFER AGENT** **SEBI REGISTRATION NO. – INR000003647**

BACKGROUND –

1. Computech Sharecap Limited (hereinafter referred to as '**Noticee**') is registered with Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') as a Category-I Registrar to an Issue and Share Transfer Agent (hereinafter referred to as '**RTA**') having SEBI registration number INR000003647.

2. SEBI in exercise of its powers under Regulation 16 read with Regulation 21 of the SEBI (Registrar to an Issue and Share Transfer Agents) Regulations, 1993 ("**RTA Regulations**" in short) had decided to conduct an audit of the Noticee and accordingly vide letter no. MIRSD-3/OW/33395/2016 dated December 9, 2016 had informed the Noticee regarding the audit to verify whether the books of accounts, physical records and other documents are being maintained by the Noticee in the manner as specified under the provisions of

RTA Regulations, Securities Contracts (Regulations) Act, 1956 (hereinafter referred to as "**SCRA**"**)** and SEBI Act, 1992 (**SEBI Act**). Accordingly, VMM & Co., Chartered Accountants (hereinafter referred to as "Chartered Accountants") was appointed by SEBI to audit the business of the Noticee covering the period from April 1, 2013 till March 31, 2016, which was conducted during December 27-30, 2016. As on the date of the audit, the Noticee, as an RTA, was handling 15 listed companies, totaling around 2,50,000 folios. However, it was reported by the Chartered Accountants that the Noticee had not cooperated with them during audit and had confronted them, as a result of which, the Chartered Accountants could not offer their analysis/ opinion on any of the terms of reference of the audit.

3. Subsequently, vide letter dated December 12, 2018, SEBI conveyed its decision to conduct an inspection of the books and accounts, records and other documents pertaining to the Noticee's RTI/STA registration to verify whether the same were being maintained in the specified manner under SCRA, 1956, SEBI Act and the rules, regulations and circulars made thereunder. Vide the said letter dated December 12, 2018, SEBI sought information in the form of an Inspection Questionnaire from the Noticee, which, along with relevant supporting documents, was to be furnished by December 27, 2018. However, the Noticee failed to provide the requisite information within the stipulated time period and therefore a reminder was sent on January 2, 2019 to submit

the required information as per format of the Inspection Questionnaire on an immediate basis. The Noticee allegedly did not provide any data even after the aforesaid reminder. Thereafter, a surprise inspection of the Noticee was carried out by SEBI on January 10, 11 and 14, 2019 at the premises of the registered office address of the Noticee to verify whether the books of accounts, records and other documents were being maintained in the manner specified under RTA Regulations, SCRA and SEBI Act, for the period April 01, 2013 to December 31, 2018. During the said inspection also, the Noticee allegedly did not cooperate with SEBI and provided only partial / incomplete data / information for the inspection period. On the basis of the said partial/incomplete information received from the Noticee during the inspection, the Noticee vide email dated January 15, 2019 was asked to keep the records of 270 sample cases pertaining to processing of demat / remat requests, transfer / transmission requests and issue of duplicate shares ready for inspection latest by January 21, 2019. Vide email dated January 18, 2019, the Noticee *inter alia* submitted that it was in the process of obtaining the required samples and sought more time for the same. The Noticee vide email dated January 21, 2019 was granted time two more days to provide complete information as per Inspection Questionnaire and keep the samples ready for inspection latest by January 23, 2019. The Noticee vide email dated January 25, 2019 again asked for more time to provide the information. However,

despite the extension of time provided to the Noticee, SEBI did not receive the requisite data/information from the Noticee.

4. It was therefore alleged that the Noticee did not cooperate with the Inspecting Authority during SEBI inspection in January 2019 and during the Audit in December 2016, failed to provide the required data/information to SEBI within stipulated time and did not maintain records, thereby violating the provisions of Clause 2, 16, 17, 18 and 20 of the Code of Conduct prescribed under Schedule III read under Regulation 13 and Regulation 18 of the RTA Regulations. The Noticee is also alleged to have failed to file the half yearly reports to SEBI since March 2013 till date, thereby violating SEBI Circular No. CIR/MIRSD/7/2012 dated July 5, 2012.

5. Considering the above, SEBI initiated proceedings under the SEBI (Intermediaries) Regulations, 2008 ("Intermediaries Regulations", in short) against the Noticee and appointed a Designated Authority (DA) to enquire into the aforesaid violations under Section 12(3) of the SEBI Act and Regulation 23 of the Intermediaries Regulations. The DA issued a show cause notice (SCN) dated July 30, 2019 to the Noticee under Regulation 25(1) of the Intermediaries Regulations and upon a consideration of the facts and material before him, found the Noticee to be in violation of the abovementioned provisions of law. Accordingly, the DA, vide his report dated August 26, 2019 (DA Report),

submitted under Regulation 27 of the Intermediaries Regulations, recommended that the Noticee's certificate of registration as an RTA be cancelled.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING –

6. Thereafter, a show cause notice dated October 03, 2019 ("post-enquiry SCN") was issued to the Noticee, enclosing therewith a copy of the DA Report, calling upon the Noticee to show cause as to why action as recommended by the DA or any other action including passing of direction as deemed appropriate by the Competent Authority should not be taken against it, in terms of Regulation 28(2) of the Intermediaries Regulations.

7. In response to the post-enquiry SCN, the Noticee submitted letters dated November 05, 2019 and January 29, 2020 and made a request for copy and inspection of certain documents. The Noticee was granted an opportunity of inspection of documents on February 10, 2020 and was provided with copies of certain documents. Meanwhile, the Noticee submitted its reply to the SCN vide letter dated December 17, 2019. The Noticee was granted an opportunity of personal hearing on September 08, 2020 which was attended by the Noticee's authorized representative, Shri Somasekhar Sunderasan, Advocate, via video conferencing during which he reiterated the Noticee's submissions contained in letter dated December 17, 2019. Subsequently, the Noticee submitted further written submissions dated September 20, 2020.

8. The Noticee vide letter dated December 17, 2019 has submitted *inter alia* the following:

(a) The Noticee denies all the findings made against it in the DA Report.

(b) The Noticee has not been provided with copies of the following documents relied upon by the DA, in violation of principles of natural justice:

- Copy of the correspondence between SEBI and M/s VMM Co, Chartered Accountants, who were appointed by SEBI to conduct an audit of RTA's business.
- Post Inspection Analysis
- Intra Departmental email dated January 07, 2019.

(c) The 270 samples, which the Noticee was directed to submit, were submitted to SEBI under cover of Noticee's letter dated August 19, 2019; i.e. well before the DA Report was submitted. In the said letter, the Noticee has submitted that the delay in submitting the said 270 samples was because these were quite old and in the possession of the respective companies, which had stored them in remote storage facilities. The Half Yearly Reports sought by SEBI were also provided to SEBI. However, the DA has failed to consider these documents / records in his Report despite the same being submitted well before the Report was finalized, which is a violation of principles of natural justice.

(d) The Auditor appointed by SEBI vide letter dated December 09, 2016 to conduct audit was with respect to only the listed companies being served by the Noticee. The Auditor in fact conducted an audit and submitted his report vide letter dated January 05, 2017.

(e) The Noticee denies the allegation that it had not co-operated with the Auditor. As set out in Noticee's emails dated December 28, 2016, December 29, 2016, January 2, 2017 and February 16, 2017, it had provided the Auditor with all the relevant documents and records relating to the work assigned to the Auditor and the Terms of Reference thereof as set out in letter dated December 9, 2016. Copies of the aforesaid emails are enclosed.

(f) The Noticee denies the allegation that it had not co-operated with SEBI in "suitable manner". Some of the documents sought by SEBI prior to and in the course of inspection i.e. actual physical documents relating to processing of demat / remat requests, transfer / transmission requests and issue of duplicate shares had been returned to the respective Companies after use at the Noticee's end and therefore, had to be retrieved from them. Since the documents were related to the year 2013 onwards and since the respective companies to which they were related had stored the documents in remote locations, these could not be retrieved and provided to SEBI within the stipulated period. After constant follow up and persuasion, the Noticee was able to obtain the documents and submit the same to SEBI on August 23, 2019 (under cover of Noticee's letter dated August 19, 2019). The Noticee repeats, reiterates and submits that the documents were provided to SEBI much before the DA submitted his report. Therefore, the allegation

that the Noticee did not provide the required documents and records to SEBI and thereby failed to cooperate with SEBI is erroneous and false.

(g) The Noticee denies that it had failed to maintain any records as required under the RTA Regulations or otherwise.

(h) In view of the above, the Noticee denies that it had violated clauses 2, 16, 17, 18 and 20 of the Code of Conduct as specified in Schedule III to the RTA Regulations read with Regulations 13 & 18 of the RTA Regulations.

(i) As submitted above, the Noticee had not been provided with all the relevant documents and records that were relied upon by SEBI while issuing the SCN. The Noticee could not have submitted a complete and comprehensive reply to the allegations and charges made against it based only on the records available with it. Therefore, it sought time to file reply after the documents were made available to it. This request was logical and legally sound, yet the DA, while not intimating the Noticee that its request had been rejected, came to an erroneous finding in the DA Report all the relevant documents relied upon by SEBI were in Noticee's custody and that there was no need to provide copies of the same. The DA has erroneously come to a finding that in order to establish the charge of non-maintenance of records/documents pertaining to the Noticee's business as an RTA and failure to comply with the Code of Conduct, the electronic correspondence between SEBI and the Noticee was being relied upon and that those documents were in Noticee's custody. In fact, SEBI and the DA

have relied upon correspondence between the Auditor and SEBI as well as internal correspondence in SEBI, which have not been provided to the Noticee by the DA. The same is in violation of the principles of natural justice. The DA has also erred in coming to a finding that the Noticee had sought to delay the proceedings by making unnecessary requests for documents.

(j) The Noticee has not been provided with the copies of the correspondence between SEBI and the Auditor (whether in electronic form or otherwise) and the Post Inspection Analysis, which have been relied upon by the DA in his Report, which is a clear violation of the Principles of Natural Justice and the Enquiry process having been thus vitiated, the Enquiry Report deserves to be rejected.

(k) The terms of the audit as set out in SEBI's letter dated December 9, 2016 unambiguously stated that the audit shall be only with respect to listed companies being served by the Noticee as an RTA. However, the Auditor sought to go beyond the scope of audit by seeking details such as:

a. *Who in the board meeting of the issuer company declares dividend?*"
b. "*Who from the company informs the stock exchange of the dividend declared by the company in the board meeting?*"
c. "*Why does the issuer company not retain the same banker for dividends paid over years*"
d. '*Why does the rate of dividend paid by the company fluctuate annually?*"
e. "*Why some companies skipped dividend in a particular year out of the 3 year audit period?*"

(l) The Auditor acted beyond the scope of audit by calling for financial details of the Noticee. It may be noted that the Noticee's financial records and books of account (of the companies the Noticee served) were not being audited. The DA has erroneously come to a finding that the said information was necessary although it was not part of the terms of audit. The DA, while referring to paragraph 3 (a) of the letter dated December 9, 2016 has failed to consider paragraph 2 of the said letter which specifies that "*The audit shall be conducted by you for the preceding 3 years i.e. April 01, 2013 to March 31, 2016, with respect to only the listed companies being served by Computech Sharecap Limited*" (Emphasis supplied). The terms of reference as set out in paragraph 3 of the said letter have to be construed in keeping with the mandate set out in paragraph 2 and not beyond the same. Thus, the Audit ought not to have been construed as a financial audit of books of accounts and records of the Noticee and therefore, the Noticee was correct and justified in refusing to provide such records.

(m) There is no requirement under the RTA Regulations or the Companies Act, 2013 that physical copies of Dividend Warrants sent to shareholders need to be retained by the Company or the RTA. Therefore, no physical records relating to documents could be shown to the Auditor. Admittedly, the electronic records relating to payment of dividends (benpos.txt and dividend payment file) were seen by the Auditor.

(n) Banks do not provide the Noticee with statements relating to payment of dividend to individual shareholders and it was not possible for the Noticee to recall dividend warrants, which were not encashed, from the shareholders. It is pertinent to note that as far as company and RTA are concerned, the date of dispatch of the Dividend Warrant is the date of compliance with the requirement to pay Dividend; and not the date on which the Dividend Warrant was encashed by the shareholder. The DA has failed to appreciate that the RTA is not expected to ensure that the dividend declared by the Company is credited to the account of the shareholder. Similarly, the share certificates after recording transfer were sent through Registered Post and the postal journal (described as control sheet in the Auditor's report) clearly recorded date of dispatch (which demonstrates proof of dispatch) which was the relevant date as far as RTA is concerned. Similarly, in respect of Demat Requests, the date of completion of the same was the relevant date of confirmation into the depository system and not the date of credit of dematerialized shares into the account of the shareholder.

(o) As regards demat and transfer requests, it is pertinent to note that after processing the request, the forms and accompanying documents are not retained by the RTA; rather, at convenient intervals they are returned to the issuer company, which keeps them in safe custody. Admittedly, the Auditor did verify some of the forms and documents that were available with the

Noticee. The documents relating to demat and transfer requests were sought by SEBI in its inspection and there was a delay in providing the same to SEBI because the same had to be called for from the respective issuer companies. The Auditor was in a hurry to complete the audit within a few days and it was not possible for the Noticee to obtain all the documents and records relating to demat requests and transfers for the preceding 3 years within the short span of time stipulated by the Auditor.

(p) With reference to the email dated December 28, 2016, the Noticee submits that the DA has mistaken sarcasm for insult. The Noticee has utmost respect for professionals, especially those appointed by SEBI. Through the aforesaid email, the Noticee only wished to suggest to the Auditor that given the limited time frame within which he intended to complete the audit, the methodology adopted by him might not have been the most appropriate one. Further, as set out in the said email dated December 28, 2016, the Noticee had furnished all the details and documents sought by the Auditor and certain other clarifications sought by them. With reference to email dated January 2, 2017, while the Noticee admits that the language used may have been more idiomatic than necessary, the DA has failed to appreciate that the same expressed the Noticee's frustration with the manner in which the audit was being done. The Auditor insisted that the Noticee's office with full staff be kept open on Sunday, January 1, 2017 and all employees be present, so he could go back to Hyderabad as soon as possible,

preferably the same night itself. In this regard, the DA has failed to consider the Noticee's email dated January 2, 2017 addressed to SEBI, wherein it had expressed anguish at the manner in which the Auditor was asking for irrelevant details and documents, while failing to adhere to the mandate given to him by SEBI vide letter dated December 9, 2016. No reply of any kind was received from SEBI to the Noticee's emails. The DA has failed to consider other emails addressed by the Noticee to the Auditor and the documents and records provided to them. The DA has also failed to consider that the Auditor had embarked on a fishing/roving enquiry into matters which he did not have a mandate to get into at all. In view of the above, the Noticee denies that it had failed to fulfill its obligations under Regulation 18 of the RTA Regulations, as well as provisions of Clauses 2 & 17 of the Code of Conduct for RTAs, as alleged.

(q) As regards the allegation of not providing documents during the SEBI inspection, the Noticee submits that it had received an intimation regarding inspection from SEBI on December 12, 2018 and a reminder vide email on December 28, 2018. However, in view of the ongoing audit and the constant demands being made by the Auditor, there was a delay in collecting and collating the data and documents sought by SEBI.

(r) With regard to the surprise inspection by SEBI on January 10, 11 and 14, 2019 and the subsequent direction vide email of January 15, 2019 to keep a list of supporting documents, relating to processing of 110 demat requests, 100

transfer requests, 20 transmission requests, 10 remat requests and 30 requests for issue of duplicate shares, the Noticee submits that the list was handed over to it on January 14, 2019 and was also sent vide email dated January 15, 2019. The list contained documents from as far back as 2013 onwards of various different companies. As mentioned above, the Noticee does not retain the application/request form and supporting documents after the request is processed and therefore, it had to call for the same from the respective issuer companies. Since the records related to 6 preceding years, the companies took some time to locate and send the same. The Noticee was advised not to send the documents piecemeal but to submit all documents together. This was done by the Noticee vide letter dated August 19, 2019 i.e. before the DA submitted his report. Yet, the DA has erroneously held that the documents sought by SEBI were not submitted. In view of the above, the Noticee denies that "key" documents pertaining to its activity as an RTA were not maintained properly by it. Therefore, it denies that it has violated the provisions of Clauses 2, 16, 17, 18 and 20 of the Code of Conduct for RTAs r/w Regulation 18 of the RTA Regulations.

(s) The Noticee submits that it had not been provided with a copy of the purported "intra department email dated January 7, 2019" and it denies that it had failed to submit the half yearly report since March 2013, in violation of the directives in SEBI's circular dated July 5, 2012.

(t) The Noticee denies that its conduct in the course of audit by the Auditor was unprofessional or sub-standard or that its conduct and the alleged shortcoming in maintaining records can in any manner be construed as being detrimental to the interests of investors or the securities market. The recommendation of the DA to cancel the Noticee's certificate of registration is grossly disproportionate, excessive and unsustainable in fact and in law.

9. Subsequent to the personal hearing on September 08, 2020, the Noticee vide letter dated September 20, 2020 has made *inter alia* the following additional submissions:

(a) Apart from the grounds cited above by the Noticee, the recommendation of the DA is unsustainable for the following reasons:

- Rejection of the Noticee's request for inspection, which was made pursuant to the SCN dated July 30, 2019 issued by the DA.
- Refusing to provide or even disclosing the existence or otherwise of SEBI inspection report and its outcome.
- Treating the request for inspection as a reply on merits.
- Providing only 14 days for a reply, as against 21 days provided under Regulation 28(2) of the Intermediaries Regulations.
- Proceeding to draw up a report with the recommendation ex-parte within 6 days of the receipt of the request for inspection.

- Purporting to adopt a summary procedure under Regulation 33B when such procedure was not at all applicable and the SCN had been issued under Regulation 25 and not Regulation 33B(2) of the Intermediaries Regulations. The DA denied the Noticee an opportunity of personal hearing.

(b) The DA Report inter-alia contained factual errors including a finding that the information sought for inspection was part of SEBI inspection whereas the inspection report has not been provided at all. Such a finding is contrary to the record.

(c) Instead of adopting a judicial approach, the DA appears to have been swayed by the fracas between the Noticee and the Auditor.

(d) In any case, the information sought by SEBI team related to a period of dating back five years, when the obligation at the relevant time was to maintain records for three years and the documents sought were not in the immediate custody of the Noticee. These documents were indeed ultimately provided to SEBI, albeit with a bona fide delay.

(e) The harshest possible penalty of cancellation has been recommended, without putting the Noticee on notice that such a measure was being contemplated.

(f) The charge of non-co-operation with the Auditor is not sustainable since the required information and documents were indeed provided to the Auditor.

(g) The charge of non-cooperation with SEBI is not sustainable. All the processes, such as transfers, transmission, duplicate certificates etc., were shown to the inspecting officials in electronic format in the computer for the entire period (from April 01, 2013 to January 2019) for all the companies. As regards the photocopies of original documents pertaining to 270 samples identified by SEBI officials, these pertained to over five years period in various years. Since SEBI had clarified that "no partial records shall be inspected", the Noticee forwarded all the documents from the godown of various companies where these had been stored and photocopying the same on August 19, 2019. While seeking the documents, SEBI had ignored the fact that under the RTA Regulation, as it existed at the relevant time, an RTA was required to preserve a prescribed set of documents and books of account for a period of 3 preceding financial years, whereas the documents pertained to 5 years' period dating back to April 01, 2013. The Noticee could not have been expected to furnish records for the years 2013-14 and 2014-15.

(h) SEBI did not exchange any correspondence with the Noticee calling upon it to furnish the information for six months and the Noticee later provided the information bona fide.

(i) The charge of non-filing of half-yearly reports for a period of five years is factually incorrect as this data has been filed by the Noticee from time to time and again was re-sent to SEBI. In any case, asking for half-yearly

reports for the period from 2013-14 is not correct, as the Noticee had no obligation to preserve these records for more than 3 years.

(j) The recommendation of DA is excessive, grossly disproportionate and unwarranted.

CONSIDERATION AND FINDINGS –

10. I have examined the facts of the case and the charges against the Noticee. I note that the allegations against the Noticee relate to Noticee's alleged non-cooperation with SEBI appointed Auditor, VMM & Co., in December 2016 and Inspecting Authority of SEBI during inspection in January 2019 and also non-submission of mandatory half yearly reports over various years within the prescribed timeline. I note that the Noticee has contested these charges on the procedural aspect as well as on merit. Now, I proceed to deal with the same one by one.

11. As regards the charge of non-cooperation with the Auditor, I note from the records that the Auditor had submitted its Audit Report dated January 05, 2017 where it reported that the Noticee had failed to provide various information and documents required by them, such as the agreement with listed companies for providing RTA services, list of records, registers and books of account maintained by the Noticee, the financials of the RTA, the soft files of dividend master and payment files, the copies of emails sent to banks for payment of dividends, the mails of benpos (beneficiary position) received

as of the dividend record date, inward / outward correspondence, copies of quarterly compliance reports submitted to SEBI, access to online confirmations for verifying the completion of the Demat requests etc. In view of the above, the Auditor concluded that they were unable to express any opinion on all the four terms of reference given by SEBI.

12. I note that the Noticee vide letter dated January 10, 2017 had denied the findings of the Audit Report alleging noncooperation with the Auditor and has contended that various information and documents sought by the Auditor were indeed provided, contrary to the Auditor's claims. Further, in respect of certain information and documents which were allegedly not furnished by the Noticee to the Auditor, the Noticee had claimed that those were not covered under the terms of reference made by SEBI. At the outset, I note that while there are claims and counter-claims by the Auditor and the Noticee regarding the documents and information actually furnished during the Audit, a perusal of records of emails dated from December 28, 2016 to January 02, 2017 sent by the Noticee to the Auditor clearly shows that the attitude and tenor of the Noticee throughout the audit process was that of confrontation against the Auditor and not-co-operation. For example, the Auditor had asked for copies of agreements with listed companies entered into by the Noticee. However, it appears from the Noticee's emails that the same were denied on the flimsy ground that these agreements were not entered into during the Inspection Period. Similarly, the Auditor had asked for soft copies of all dividends paid,

by each listed company serviced by the Noticee for each year. The Noticee declined to provide the same to the Auditor on the pretext that the same was current data which could be misused. Similarly, the RTA did not furnish its financial books of accounts to the Auditor for the last three years in-spite of repeated requests, on the ground that it was not a financial audit of the Noticee. However, it is noted that a registered RTA has to fulfil capital adequacy requirements provided under Regulation 7 of the RTA Regulations and has to be financially solvent to meet the 'fit and proper person criteria' mandated under Regulation 6A of the RTA Regulations read with Schedule II of the Intermediaries Regulations. Thus, the books of accounts of the Noticee were definitely covered under the terms of reference of the SEBI inspection, which the Noticee refused to provide to the Auditor. It clearly appears from the records that rather than cooperating with the Auditor, the Noticee was making roving enquiries from the Auditor as regards his qualifications, address and certifications etc., even though the Auditor was appointed by SEBI itself. Further, the Noticee made several disparaging remarks in its emails to the Noticee. I note that in one such email dated December 28, 2016, the Noticee *inter alia* commented: *"It is pertinent to mention here that we have been in the business of Share Registry since 1969, a very long time ago. Notwithstanding your limited experience of Share Accounting, we feel it is your good fortune to be assigned to our small Registry, for if it were a larger Registry having 200-300 companies or more, where each dividend for each year for each Company*

having in aggregate millions of shareholders, were to be audited as you have in our case, we shudder to think the number of months it would have taken to complete the audit." Similarly, vide email dated January 02, 2017, the Noticee has commented: "*Your visiting card does not have your postal address or landline telephone number. When requested by the undersigned to mention the same on your card by hand, you refused stating that it is not necessary since your personal email ID and mobile number are mentioned. Unless you operate in transit from a bus or train which changes destinations frequently, or from a place where you only hang your tooth-brush, is there any apprehension or embarrassment for you to mention the postal address and landline telephone number on your visiting card?"*. I find that the Noticee's abovementioned comments to the Auditor were in bad taste.

13. I further note from records that the appointment of the Auditor by SEBI for the abovementioned audit of Noticee's business was done under Regulation 21 of the RTA Regulations which provides that an auditor appointed by SEBI under the said Regulation shall have the same powers of the inspecting authority as mentioned in Regulation 16 of the RTA Regulations and the obligations of the RTA under Regulation 18 shall be applicable to the investigation by an auditor under Regulation 21. Thus, I find that the Auditor appointed by SEBI in this case had same status and power as an inspecting authority appointed by SEBI under Regulation 16 of the RTA Regulations. However, from the records of emails sent by the Noticee to the Auditor as well

as from the Audit Report submitted by the Noticee, it is apparent that the entire Audit process was vitiated by the acrimonious exchanges between the Auditor and the Noticee and the entire focus of the Noticee during Audit exercise was to frustrate the said exercise anyhow. I note that the confrontationist and hostile behavior and attitude of the Noticee, which appears to have resulted in incomplete audit exercise, certainly indicates non-cooperation on part of the Noticee with the SEBI appointed Auditor. I am of the opinion that the conduct of the Noticee, as appearing from its emails to the Auditor, as well as its failure to provide proper explanation for non-furnishing of various information sought by the Auditor are sufficient to prove the charges of non-cooperation and non-maintenance of records.

14. As regards the SEBI inspection referred to above, I note from records that SEBI vide letter dated December 12, 2018 had informed the Noticee that it had decided to undertake an inspection of the books of accounts, records and other documents pertaining to the Noticee's RTI/STA registration to verify whether the same were being maintained in the manner specified by the SCR Act, 1956, the SEBI Act, 1992 and the rules, regulations and circulars made thereunder. Vide the said letter, the Noticee was advised to send certain information as per enclosed format (Inspection Questionnaire) latest by December 27, 2018. The said letter was delivered to the Noticee on December 13, 2018. However, there was absolutely no response received by SEBI from the Noticee in this regard. Subsequently, a reminder letter dated January 02, 2019 was sent to the

Noticee asking it to send the required information immediately. However, this time also, there was no response from the Noticee. Since the Noticee was not furnishing the required information and there was apparent non-cooperation on the part of the Noticee, SEBI decided to conduct surprise inspection of the Noticee and a SEBI inspection team visited the Noticee's office on January 10, 11 and 14, 2019 (3 days). During the visit, after several requests, only partial data /information was provided to SEBI for the inspection period i.e. April 01, 2013 to December 31, 2018, which was:

(a) Demat requests processed during inspection period

(b) Remat requests processed during inspection period

(c) Transfer requests processed during inspection period

(d) Transmission requests processed during inspection period

(e) Complaints received through scores portal

(f) Duplicate share requests processed during inspection period.

15. On perusal of the partial data received, 270 samples were asked to be retrieved by January 21, 2019, along with the remaining information of the Inspection Questionnaire. However, till January 21, 2019 the Noticee neither provided complete information nor retrieved the samples. The Noticee vide email dated January 18, 2019 had sought more time to provide the documents. SEBI vide email dated January 21, 2019 granted two more days to the Noticee to provide complete information and keep the records ready for inspection latest by

January 23, 2019, failing which the Noticee would be liable for action by SEBI. However, even by January 23, 2019, the Noticee did not furnish the required information and documents and vide email dated January 25, 2019 again sought more time.

16. I note that the abovementioned failure of the Noticee to furnish required information and documents to SEBI despite several reminders and extension of time, in itself, is sufficient to establish the charge of non-cooperation with SEBI and non-maintenance of essential records, as alleged against the Noticee. The DA in his report has accordingly held the Noticee accountable for the said violations.

17. I note that the Noticee has challenged the findings of the DA on various grounds. First of all, it has submitted that it was not provided with certain documents, including copy of the inspection report pertaining to SEBI's inspection and also copy of post inspection analysis pertaining to the audit by the Auditor. However, in this regard, I note that the facts mentioned in the SCN issued by the DA sufficiently explained the allegations against the Noticee with sufficient details and there is nothing in SEBI inspection report which has a bearing on the current proceedings that has not been brought to the knowledge of the Noticee. The facts pertaining to SEBI Inspection mentioned above in this order above, which sufficiently explain the allegations against the Noticee, are clearly mentioned in the said SCN. Thus,

I find that the Noticee's cause has not been adversely affected in any manner. If the Noticee found that any such allegation pertaining to SEBI's inspection mentioned in the SCN issued by the DA was without any basis, it could have specifically pointed out the same. However, the submissions of the Noticee in this regard are rhetorical in nature and lack substance. As regards the Post Inspection Analysis pertaining to the Audit, I note that the allegations pertaining to the audit were based on Auditor's Report a copy of which was already given to the Noticee after the Auditor had submitted the same to SEBI. Thus, not providing a copy of Post Inspection Analysis, which is an internal document of SEBI, cannot be said to have affected Noticee's case.

18. As regards the delay in submission of required records, the Noticee has submitted that the information sought by SEBI in December 2018 and January 2019 pertained to a five-year period dating back to April 01, 2013 whereas under Regulation 14 of the Intermediaries Regulations, the Noticee was only obligated to maintain the records pertaining to preceding three financial years. Thus, it could not have been expected to produce records pertaining to years 2013-14 and 2014-15. In this regard, I note that the Noticee had not raised this plea at the first opportunity at the time of inspection when such records were sought or immediately thereafter. Hence, the abovementioned plea of the Noticee seems to be an afterthought. Further, the samples pertaining to the years 2013-14 and 2014-15 were very well covered by the inspection period

chosen for the abovementioned Audit which could not be completed due to non-cooperation by the Noticee. The Noticee cannot be allowed to take advantage of situations which arose due to its failure to cooperate during the audit exercise.

19. The Noticee has further contended that the DA has not considered the fact that it had submitted the required information and documents to SEBI vide its letter dated August 19, 2019, which was earlier than the submission of Report by the DA. However, in this regard, at the outset, I note that the said information submitted by the Noticee was still incomplete. First of all, the Noticee failed to submit the response to the questionnaire provided to it in December 2018, which was sent to it prior to the start of SEBI inspection. The said questionnaire sought detailed information about the functions performed by the Noticee as an RTA. The Noticee has not provided the same till date, and thus the information provided by the Noticee still remains incomplete. Further, even assuming that the information submitted vide letter dated August 19, 2019 was complete, it would still mean a delay of seven months in submitting the same. Any late submission of the required information to SEBI by an intermediary not only hampers the entire process of inspection and totally defeats the purpose of the entire exercise of inspection, but also impedes SEBI's obligation to effectively regulate and supervise the securities market. Further, it is well settled position of law that submission of required

information after considerable delay is as good as non-submission amounting to non-compliance. In this case, the information and documents were sought from the Noticee during Dec 2018 and Jan 2019, whereas the Noticee's submissions (which at best is partial information) have been received during August 2019. It appears from the records that the Noticee made absolutely no efforts to furnish the required information to SEBI and it was only after the SCN was issued by the DA, that the Noticee, out of fear of the impending regulatory action, attempted to cover up for the same by submitting partial information in August 2019. Thus, the Noticee's contention that the DA has overlooked the information submitted before filing of DA Report has no merit.

20. I note that the following Clauses of Code of Conduct for RTAs prescribed under Schedule III read with Regulation 13 of the RTA Regulations, put various obligations on an RTA, which are as follows:

- Clause 2: An RTA shall fulfil its obligations in a prompt, ethical and professional manner.
- Clause 16: An RTA shall maintain the required level of knowledge and competency and abide by the provisions of the Act, rules, regulations, circulars and directions issued by SEBI.
- Clause 17: An RTA shall co-operate with SEBI as and when required.

- Clause 18: An RTA shall not neglect or fail or refuse to submit to SEBI or other agencies with which he is registered, such books, documents, correspondence, and papers or any part thereof as may be demanded / requested from time to time.
- Clause 20: An RTA shall take adequate and necessary steps to ensure that continuity in data and record keeping is maintained and that the data or records are not lost or destroyed. Further, it shall ensure that for electronic records and data, up-to-date back up is always available with it.

21. I further note that Regulation 18 of the RTA Regulations provide the following:

"18. Obligations of registrar to an issue and share transfer agent on inspection by the Board—

(1) It shall be the duty of every director, proprietor, partner, officer and employee of the registrar to an issue or share transfer agent, who is being inspected, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with the statements and information relating to the transactions in securities market within such time as the said officer may require.

(2) The registrar to an issue or share transfer agent shall allow the inspecting authority to have reasonable access to the premises occupied by them or by any other person on their behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the registrar to

an issue or share transfer agent or any other person on their behalf and also provide copies of documents or other materials which, in the opinion of the inspecting authority are relevant.

(3) The inspecting authority, in the course of inspection, shall be entitled to examine or record statements of any member, director, partner, proprietor and employee of the registrar to an issue or share transfer agent.

(4) It shall be the duty of every director, proprietor, partner, officer or employee of the registrar to an issue and share transfer agent to give to the inspecting authority all assistance in connection with the inspection, which the registrar to an issue or share transfer agent may be reasonably be expected to give."

22. Considering all the above-mentioned facts and circumstances, I am of the firm opinion that the Noticee by failing to maintain and furnish the mandatory records has violated the provisions of Clauses 2, 16, 17, 18 and 20 of the Code of Conduct for RTA prescribed under Schedule III read with Regulation 13 and 18(1) of the RTA Regulations.

23. Having observed as above, I note that the Noticee has challenged the DA Report on certain procedural grounds. It has contended that even though the SCN by the DA was issued under Regulation 25 (Chapter-V) of the Intermediaries Regulations, the DA has wrongly proceeded under Regulation 33B (Chapter V-A) of the Intermediaries Regulations and has denied the Noticee an opportunity of personal hearing before him. I note that the

provisions of Chapter V, which include Regulation 25 also, do not mandate a personal hearing by the DA, unlike the provisions of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995. I note that the DA has wrongly referred to the provisions of Regulation 33B to deny the Noticee an opportunity of personal hearing. However, in any case, I, being the final authority in the instant proceeds, have already given an opportunity of personal hearing to the Noticee. Further, the DA Report is only recommendatory in nature and is not final and conclusive. Considering the same, I do not find that the principles of natural justice have been violated in any manner in this case. Thus, the contention of the Noticee does not hold much water.

24. The Noticee has also challenged that the DA Report on the ground that the DA granted only 14 days' time to the Noticee to file its reply to the SCN, as against 21 days mandated under Regulation 25(4) of the Intermediaries Regulations. However, I note that Regulation 25(4) provides for granting time "not exceeding twenty-one days from date of service thereof" for filing a reply. Thus, the DA's action cannot be found fault with. In any case, the allegations contained in the SCN issued by the DA have been independently adjudicated by me in this order.

25. The Noticee is also alleged to have violated the provisions of SEBI Circular No. CIR/MIRSD/7/2012 dated July 05, 2012 which provide for submission of

half yearly reports to SEBI by an RTA. The Noticee allegedly did not submit the half yearly reports from March 2013 till the date of inspection by SEBI. I note from the provisions of the said Circular dated July 05, 2012 that such half-yearly reports by an RTA have to be sent to a designated email id rta@sebi.gov.in within three months of the expiry of the half year. I note that though the Noticee has claimed to have submitted such reports to SEBI, the following Table, as per data available with SEBI, shows the timing of submission of various half yearly reports by the Noticee:

Period for which Report to be submitted	**Due date for submissions as per SEBI Circular dated July 05, 2012**	**Date of Actual Submission**
HALF YEAR ENDED MARCH 2017	June 30, 2017	August 30, 2019
HALF YEAR ENDED SEPTEMBER 2017	December 31, 2017	August 30, 2019
HALF YEAR ENDED MARCH 2018	June 30, 2018	August 30, 2019
HALF YEAR ENDED SEPTEMBER 2018	December 31, 2018	September 03, 2019
HALF YEAR ENDED MARCH 2019	June 30, 2019	September 03, 2019
HALF YEAR ENDED SEPT 2019	December 31, 2019	July 16, 2020
HALF YEAR ENDED MARCH 2020	June 30, 2020	July 16, 2020

26. From the above, it is quite clear that the Noticee had failed to submit the half yearly reports within prescribed time. It had not submitted the reports for the inspection period, as alleged, and has submitted the half yearly reports for some half-years covered by the inspection period only on August 30, 2019 and September 03, 2019 i.e. after a delay ranging from 21 to 26 months. It is further noted that the Noticee has still not submitted half-yearly reports for the period September 30, 2013 to September 30, 2017. It appears that even the submission

of half yearly reports for some half-years with inordinate delay as mentioned above has been done only after DA had submitted his Report in the instant proceedings. Thus, the allegation of violation of the provisions of the abovementioned SEBI Circular by the Noticee stands clearly established.

27. Having concluded as above, I note that periodical inspection of registered intermediaries by SEBI to examine various statutory compliances by such intermediaries is an important regulatory function. Any non-cooperation by an intermediary with SEBI by way of its failure to maintain the mandatory records or to furnish such records within prescribed time adversely affects SEBI's ability to effectively regulate the securities market and protect the interest of the investors, as mandated under the SEBI Act, 1992. This assumes even greater significance considering the recent unearthing of fraud committed on gullible investors by some RTAs. Thus, the violations by the Noticee need to be viewed very seriously.

28. Further, I note from records that SEBI in the past also had found similar acts of non-maintenance of records by the Noticee during another SEBI inspection conducted for the period from January 01, 2008 to December 31, 2009 pursuant to which SEBI had issued a warning letter dated March 15, 2011 to the Noticee. Thus, I find that the Noticee is a habitual offender and its continuance as a registered RTA is not in the interest of the securities market. Further, considering that the Noticee has a very small clientele (comprising of only 15

listed companies, totaling around 2,50,000 folios, as per Noticee's own admission), it was expected that the Noticee would have a robust system for maintenance of essential records and would fully co-operate during inspections by SEBI. However, the abovementioned violations by the Noticee clearly show the Noticee's incompetence to continue as an RTA. Considering the above, I am inclined to accept the recommendations of the DA that the certificate of registration of the Noticee be cancelled.

ORDER –

29. In view of the above, I, in exercise of powers conferred on me under Section 12 (3) read with Section 19 of the SEBI Act and Regulation 27 (5) of the Intermediaries Regulations, and upon consideration of the facts and circumstances as above, hereby cancel the certificate of registration of the Noticee, bearing no. INR000003647, as an RTA. However, since the cancellation of certificate of registration of the Noticee is likely to cause inconvenience to the client companies of the Noticee and the investors at large in the immediate future, the said cancellation of certificate of registration of the Noticee shall take effect after one month from the date of this order. The listed companies which are clients of the Noticee are advised to switch over their activities related to an RTA, either in-house or to another RTA registered with SEBI, before the date of coming into effect of the abovementioned cancellation of certificate of registration of the Noticee. The Noticee shall

provide the requisite cooperation to these companies for the said purpose, in terms of Regulation 30A(8)(c) of the Intermediaries Regulations and shall ensure compliance with Clause 23 of the Code of Conduct for RTAs specified in Schedule III read with Regulation 13 of the RTA Regulations. However, the time period of one month provided for handing over of the records / data to the client companies, as specified in abovementioned Clause 23, shall be counted from the date of this order.

30. The Noticee shall serve a copy of this order to the companies which are currently availing the services of the Noticee as an RTA, within three days of receipt of this order.

31. A copy of this order shall be served upon the exchanges and the depositories.

PLACE: MUMBAI **G. MAHALINGAM**

DATE: JUNE 11, 2021 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA