

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. RA/DPS/ 382-383 /2018]

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

Adjudication Order in respect of:-

1. M/s Agrahar Securities Pvt. Ltd. (PAN – AABCA8883B)

SEBI Registration No. INS010725831 and INS230725835
84, 2nd Floor, Manish Towers,
J.C. Road, Bengaluru – 560002

2. M/s BgSE Financials Ltd.

SEBI Registration No. INB011074136, INB231074130 and INZ000095638
Stock Exchange Towers, 51, 1st Cross,
J.C. Road, Bengaluru – 560027

In the matter of M/s Agrahar Securities Pvt. Ltd – Sub Broker of M/s BgSE Financials Ltd.

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') has initiated adjudicating proceeding against M/s Agrahar Securities Pvt. Ltd., Sub-broker, SEBI Registration No. INS010725831 and INS230725835 (hereinafter referred to as '**the Noticee No. 1 / Sub Broker / Agrahar**') affiliated to M/s BgSE Financials Limited, Member BSE - SEBI Registration No. INB011074136, Member NSE - SEBI Registration No. INB231074130 and INZ000095638 (hereinafter referred to as '**the Noticee No. 2 / Broker / BgSE**'). All the Noticees collectively referred as '**Noticees/ You**'. Adjudication proceedings have been initiated against Noticee No. 1 for the alleged violations of SEBI Circular No. SEBI/MRD/SE/Cir- 33/2003/27/08 dated August 27, 2003, SMDRP/POLICY/CIR-49/2001 dated October 22, 2001, and SEBI/MIRSD//Cir-06/2004

dated January 13, 2004 read with clause A(1) and D(1) of code of conduct prescribed for the sub-brokers as stipulated in Schedule II under regulation 15 of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as '**Stock Brokers Regulations**') read with regulation 26(xx) of Stock Brokers Regulations. And Noticee No. 2 for the alleged violations of SEBI Circular No. SEBI/MRD/SE/15958/2003 dated August 22, 2003 and SEBI/MIRSD//Cir-06/2004 dated January 13, 2004 read with clause A(5) of code of conduct prescribed for the Stock Brokers as stipulated in Schedule II under regulation 9 read with regulation 26(xx) of Stock Brokers Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI, vide order dated August 12, 2016 appointed the undersigned as Adjudicating Officer under section 15 I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**'), read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') to inquire into and adjudge under section 15HB of the SEBI Act read with regulation 26(xx) of Stock Brokers Regulations.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice No. SEBI/HO/EAD/EAO/OW/P/2018/ 7846 /1 dated March 13, 2018 (hereinafter referred to as '**SCN**') was issued to the Noticee under rule 4(1) of the Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed on the Noticees for the alleged violation specified in the SCN. The allegations levelled against the Noticee in the SCN are mentioned below.
4. SEBI conducted inspection of Noticee No. 1 on October 01, 2014 to examine the activities of the Noticee No. 1 as a sub-broker and manner of handling of clients' funds and securities and its compliance level for the period comprised of F.Y. 2013-14 and 2014 - till date of inspection.
5. After scrutiny of the inspection report and comments of the Noticee in respect of irregularities as mentioned in the inspection report, SEBI initiated the adjudication proceedings against the Noticees vide aforesaid order. Copy of inspection report was

Annexure 2 of the SCN. The details of alleged irregularities / violations by the Noticee are mentioned below:

6. In terms of SEBI Circular No. SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003, *brokers and sub-brokers should not accept cash from the client whether against obligations or as margin for purchase of securities and/or give cash against sale of securities to the clients. Further, all payments shall be received / made by the brokers from / to the clients strictly by account payee crossed cheques / demand drafts or by way of direct credit into the bank account through EFT or any other mode allowed by RBI. The brokers shall accept cheques drawn only by the clients and also issue cheques in favour of the clients only, for their transactions. However, in exceptional circumstances the broker of sub- broker may receive the amount in cash, to the extent not in violation of the Income-tax requirement as may be in force from time to time.*
7. During inspection Noticee No. 1, had declared the following bank accounts maintained in the form of current accounts nomenclatured as "own a/cs" for his business purposes to its affiliated stock broker and in the pre-inspection questionnaire to SEBI:

Sl. No	Bank a/c No.	Name of bank	Purpose	Date of opening	Status
1	2442286000247	Can Bank	Own account	1999	Active

8. It was revealed from the bank statement of the bank account no. - 2442286000247, that during three months period from December 1, 2013 to February 28, 2014 alone, there were few instances of Cash deposits received in to the account and most of the time, the amount so received are far beyond the ceiling prescribed for such transactions as mentioned below:

LIST OF CASH DEPOSITS RECEIVED		
ACCOUNT NO.: 2442286000247		
CANARABANK		
Sl. No.	DATE	Amount Deposited
1	05/12/2013	4000
2	13/12/2013	70000
3	13/01/2014	25000
4	30/01/2014	250000
5	31/01/2014	150000
6	03/02/2014	65000
7	12/02/2014	20000
TOTAL		584000

9. During inspection Noticee No. 1 regarding the nature of receipt of such cash deposits and the details of remitters of such sums, the Noticee No. 1, vide letter dated 30.10.2014 has stated that as per the balance sheet dated March 31, 2014 of the company, the company had cash balance of Rs.13.33 lakhs and all cash deposits are basically deposits of surplus cash in hand from time to time and no other intent may be ascribed and therefore the purpose of such transactions with documentary evidence cannot be given.
10. It was observed that all the aforesaid cash transactions are in the nature of cash receipts and not payments, therefore, there should be an identified source / remitter for such cash receipts.
11. Apart from the above, there were also few cash withdrawals during the said period as mentioned below:

LIST OF CASH DEPOSITS RECEIVED		
ACCOUNT NO.: 2442286000247		
CANARABANK		
Sl. No.	DATE	Amount Deposited
1	06/12/2013	7500
2	09/12/2013	5000
3	19/12/2013	89000
4	26/12/2013	32000
5	01/01/2014	13000
6	02/01/2014	45000
7	03/01/2014	30000
8	07/01/2014	20000
9	10/01/2014	13000
10	17/01/2014	7000
11	24/01/2014	5000
	TOTAL	277500

12. During inspection Noticee No. 1 could not clearly account for such cash transactions nor it had furnished any valid reasons with documentary evidences for such cash receipts / payments and as such there is no transparency in such transactions.

13. Thus it is alleged that Noticee No. 1, by indulging in few unexplained cash transactions by accepting cash deposits in his business a/c, by not maintaining any records for substantiating the source of such cash deposits, accepting cash of quantum beyond the ceiling prescribed for the purpose, thus it is alleged that Noticee No. 1 is in violation of the provisions of the SEBI Circular No. SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003 and thereby is in violation of provisions of clause A(1) and D(1) of code of conduct prescribed for the sub-brokers in Schedule II under Regulation 15 of the Stock Brokers.

14. In terms of Clause 2(i) in chapter V of NSE Bye-Laws, *a trading member shall not deal with sub-brokers who are not registered with SEBI nor allow operation of its trading terminal at any office other than its registered office, branch offices and the offices of its registered sub-brokers*

15. In terms of SEBI Circular No. *SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 and NSE circular no. 163 (Download reference no NSE/MEM/1591) dated 20/04/2000 read with circular no 282 (Download reference no NSE/MEM/3574) dated 29/08/2002, trading terminals shall be located only in the main / branch offices of the trading member or in the office of a registered sub-broker of the trading member for the operations of the trading member and that CTCL terminals need to be located only in the office of the Trading Member or office of a registered sub-broker.*

16. During the course of inspection of Noticee No.1, it was observed that it had extended some of its trading terminals to persons at different locations as detailed below:

Sl.no.	Terminal No.	Name	Location
1	24\419\416	Ananth Bhat	Manish Towers #84, 2na floor, J.C.Road, Bangalore-560002
2	418	Raman Gupta	#55 , 151 Floor, S.V .Complex , K.R.Road, Basavanagudi, Bangalore- 560004
3	417\795	A.R. Shankar Prasad (Certificate in name of D.S.Suman)	BgSE Financials Limited, Madikeri
4	783	Mr.Krishna Murthy (Certificate in name of N.Shivkumar)	BgSE Financials Limited, Mysore
5	784	Sadhashiva .G.Bhat	Appearing for exam on 19/9/2014 at Mangalore NSEIT as certificate has expired. Sullia

17. During inspection it was observed that in case of persons listed in Sl. Nos. 2 to 5, they are neither the employees of the Noticee No. 1 nor the addresses are the branch office locations of the Noticee No. 1. Further, in respect of Sl. No. 2, 3 & 4 the persons for whom the trading terminals are provided also pursue an occupation/business of their own as mentioned below:

Sl. No	Terminal ID	Name of the person to whom provided	Occupation of the person to whom terminal provided	Remarks
1.	418	Raman Gupta	Director, Shri. Sidwin Financial Services & Investments P Ltd	The entity engaged in financial advisory services. By using the terminal provided by the Noticee No. 1, clientele dealings are done in as much as punching orders on behalf of clients, collection and distribution of contract notes, passing on pay-in and pay out cheques between the clients and the inspected entity etc. As such, it can be termed as the individual acting as un registered sub- broker.
2.	417/795	A.R Shankar Prasad (Certificate in name of D.S. Suman)	Managing Director, Coorg Index Securities Pvt Ltd. Activities engaged in finance industry.	While Shankar Prasad is claimed to be commission agent, his company is registered as a client with the inspected sub-broker Mr. Shankar Prasad provided with a trading terminal for exclusive use and to circumvent the rule requirement situated in the Branch office of the TM, being operated by an employee of the TM for Mr Shankar Prasad. Some of the clients introduced by AR Shankar Prasad has common e-mail IDs as CoorgIndex@yahoo.com and coorgindex@gmail.com . By using the terminal provided by the Noticee No. 1, clientele dealings are done in as much as punching orders on behalf of clients, collection and distribution of contract notes, passing on pay-in and pay out cheques between the clients and the inspected entity etc. As such, it can be termed as the individual acting as un registered sub-broker.
3.	784	Sadhashiva G Bhat	A sebi registered sub-boker of BGSEFL to trade in both NSE and BSE segment.	Proprietor of the sub-broking Concern. Provided with a trading terminal for use for the clients, clientele dealings are done in as much as punching orders on behalf of clients, collection and distribution of contract notes, passing on pay-in and pay out cheques between the clients and the inspected entity etc. As such, it can be termed as the individual acting as un registered sub- broker

18. In terms of SEBI circular (SMD-II/POLICY/CIR-37/99) dated November 26, 1999 where the subsidiaries of RSEs cannot engage in direct clientele dealing, then there is no necessity for the subsidiary to put up its trading terminals in its Branch office as aforesaid.

19. The following are the details of number of clients registered by each of the said four commission agents for whom the trades have been executed through the terminals provided to the commission agents.

Client Code	Number of clients Registered	Name of the client
AGHRSID	110	Shree Sidvin Financial Services Ltd
No-Code	85	Mr.A.R.Shankar Prasad
No-Code	52	Mr.Krishna Murthy
AGHRCSBG	23	Mr.Sadashiv Bhat

20. Apart from the above, the following are the details of the commission agents who have also registered themselves as clients and had done business volume through the terminals provided to them by the Noticee No. 1:

			01/04/2013 to 31/03/2014	01/04/2014 to 30/09/2014	01/04/2013 to 31/03/2014	01/04/2013 to 30/09/2014	
Client Code	No. of clients regd	Name of the client	NSECM t/o (Rs.)	NSECM t/o (Rs.)	BSECM t/o (Rs.)	BSECM t/o (Rs.)	TOTAL t/o (Rs.)
AGHRSID	110	Shree Sidvin Financial Services Ltd	NIL	NIL	NIL	NIL	NIL
AGHRSSR012	-	Mr.Raman	81935	55912	0	0	137847
No-Code	85	Mr.A.R.Shankar Prasad	NIL	NIL	NIL	NIL	NIL
No-Code	52	Mr.Krishna Murthy	NIL	NIL	NIL	NIL	NIL
AGHRCSBG	23	Mr.Sadashiv Bhat	21521028	47014563	71085	0	68606677

21. It is also observed that Noticee No. 1 has also shared its sub-brokerage with four agents for the volume of business done by the clients brought by them, as detailed below:

Financial Year 2013-14		Financial Year 2014-15	
Name of entity	Amt of brokerage shared	Name of entity	Amt of brokerage shared
SHANKAR PRASAD	119719	SHANKAR PRASAD	200940
S S FIN SER PVT LTD	313694	S S FIN SER PVT LTD	278163
KRISHNA MURTHY	78647	KRISHNA MURTHY	46950
SADASHIVA GBHAT	50092	SADASHIVA G BHAT	113496

22. Noticee No. 1, by extending the trading terminals provided by its affiliated stock broker / Noticee No. 2 to different locations which are neither the branch office of the Noticee No. 1 nor the users of the terminal are the employees of the Noticee No. 1 and by sharing sub-brokerage with persons without explicit provisions in the regulations of the Exchanges, nor any approval from the affiliated stock broker / Noticee No. 2 in this regard and by such acts of the Noticee No. 1, it is alleged that Noticee No. 1 is in violation of SEBI Circular No. SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 read with clause A(1) and D(1) of code of conduct prescribed for the sub-brokers as stipulated in Schedule II under regulation 15 read with regulation 26(xx) of Stock Brokers Regulations.

23. In terms of SEBI Circular No. SEBI/MIRSD//Cir-06/2004 dated January 13, 2004, a stock broker/ sub broker of an exchange cannot deal with brokers/sub brokers of the same exchange either for proprietary trading or for trading on behalf of clients, except with the prior permission of the exchange.

24. During the course of inspection, it was observed that, in contravention of the aforesaid provisions, the Noticee No. 1 dealt with another sub-broker by name Sadashiv Bhat G of the affiliated broker / Noticee No. 2, whereby the said sub-broker is not only registered as a client to the inspected entity / Noticee No. 1 and has also been provided with trading terminals by Noticee No. 1 for executing orders for its own set of ultimate clients. The sub-broker is also being paid brokerage for the same.

25. The following are the details of SEBI registration, client registration with the inspected entity / Noticee No. 1 of the sub-broker etc:

Name of the sub-broker	Sadashiva Bhat G
SEBI registration particulars	INS23A311219 Dated 25.5.2011 & INS01A273712 Dated 26.4.2011
Client code for registration as client with the inspected sub-broker and volume of business done	AGHRCSBG ranking No.3 in top 10 clients in terms of turnover for FY 2014-15 (till 31st Aug.2014) in NSE segment
No. of clients introduced to the inspected sub-broker & amount of brokerage earned	No. of clients introduced: 23 Brokerage Shared: 2013-14 2014-15 (till Aug 2014) Rs.50,092 Rs. 1,13,496

26. The following are few instances of pay-in and pay-outs received from the said sub-broker:

Client Code	Client Name	CHQ NO	PAYIN CHQ	CHQ DATE	AMOUNT (RS)	DATE OF DEPOSITE
AGHRCSBG	SADASHIVA G BHAT	FT	30/05/2014	30/05/2014	30000	30/05/2014
AGHRCSBG	SADASHIVA G BHAT	NEFT	06/02/2014	06/02/2014	50000	06/02/2014
AGHRCSBG	SADASHIVA G BHAT	NEFT	23/06/2014	23/06/2014	100000	23/06/2014

27. The Noticee No. 1 could not furnish any prior written permission received from the Exchanges before dealing with the said sub-broker.

28. By dealing with another sub-broker of the same Exchange where by the other sub-broker has been treated as a client, the Noticee No. 1 is in violation of SEBI Circular No. SEBI/MIRSD//Cir-06/2004 dated January 13, 2004 read with clause A(1) and D(1) of code of conduct prescribed for the sub-brokers as stipulated in Schedule II under regulation 15 read with regulation 26(xx) of Stock Brokers Regulations.

29. In terms of SEBI Circular No. SEBI/MRD/SE/15958/2003 dated August 22, 2003, *the stock exchanges which have formed subsidiaries are hereby directed to note that appropriate penal action including fine, suspension of trading rights of the subsidiaries/sub-brokers, etc., would be initiated, in case, any of the members of the exchange who are sub-brokers of the subsidiary is found to be indulging in providing unauthorized access to persons for illegal trading and/or providing their own terminal for illegal trading.*

30. It is the duty of the stock broker / Noticee No. 2, to exercise due diligence, who is the main intermediary who is responsible for the acts of its sub-broker / Noticee No. 1. As it is observed above at Para 14 - 22, Noticee No. 2, being the stock broker had allowed Noticee No. 1, sub-broker to locate trading terminals at locations which are neither the branch office of the Noticee No. 1 nor the users of the terminals are employees of the Noticee No. 1. Thus it is alleged that Noticee No. 2 is in violation of SEBI Circular No. SEBI/MRD/SE/15958/2003 dated August 22, 2003 read with clause A(5) of code of conduct prescribed for the Stock Brokers as stipulated in Schedule II under regulation 9 read with regulation 26(xx) of Stock Brokers Regulations.
31. In terms of SEBI Circular No. SEBI/MIRSD//Cir-06/2004 dated January 13, 2004, *a stock broker/ sub broker of an exchange cannot deal with brokers/sub brokers of the same exchange either for proprietary trading or for trading on behalf of clients, except with the prior permission of the exchange.*
32. As it is observed above at Para 23-28, Noticee No. 2 allowed the Noticee No. 1 to deal with another sub-broker of it by registering the sub-broker as a client of Noticee No. 1 and provided the trading terminal from Noticee No. 1 and allowing the sub-broker to carry out ultimate clientele transaction and thus it is alleged that Noticee No. 2 is in violation of SEBI Circular No. SEBI/MIRSD//Cir-06/2004 dated January 13, 2004 read with clause A(5) of code of conduct prescribed for the Stock Brokers as stipulated in Schedule II under regulation 9 read with regulation 26(xx) of Stock Brokers Regulations.
33. In view of the above, it is alleged that Noticee No. 1, by indulging in few unexplained cash transactions by accepting cash deposits in his business a/c, by not maintaining any records for substantiating the source of such cash deposits, accepting cash of quantum beyond the ceiling prescribed for the purpose, extending few of its trading terminals to locations which are neither its branch office nor the users of the terminals are its employees, sharing brokerage with few persons without explicit provisions in the regulations of the Exchanges, nor any approval from the affiliated stock broker and dealing with another sub-broker of the same Exchange where by the other sub-broker has been treated as a client, Noticee No. 1 is in violation of SEBI Circular No. SEBI/MRD/SE/Cir- 33/2003/27/08 dated August 27, 2003, SMDRP/POLICY/CIR-

49/2001 dated October 22, 2001, and SEBI/MIRSD//Cir-06/2004 dated January 13, 2004 read with clause A(1) and D(1) of code of conduct prescribed for the sub-brokers as stipulated in Schedule II under regulation 15 read with regulation 26(xx) of Stock Brokers Regulations. It is alleged that Noticee No. 2, by allowing Noticee No. 1 to locate terminals at locations which are neither the branch office of the Noticee No. 1, nor the users of the terminals are employees of the Noticee No. 1 and it also allowed the Noticee No. 1 to deal with another sub-broker of it by registering the sub-broker as a client of Noticee No. 1 and provided the trading terminal from Noticee No. 1 and allowing the sub-broker to carry out ultimate clientele transaction, thus it is alleged that Noticee No. 2, being the registered stock broker, who is responsible for the acts of the sub-broker / Noticee No. 1, is in violation of SEBI Circular No. SEBI/MRD/SE/15958/2003 dated August 22, 2003 and SEBI/MIRSD//Cir-06/2004 dated January 13, 2004 read with clause A(5) of code of conduct prescribed for the Stock Brokers as stipulated in Schedule II under regulation 9 read with regulation 26(xx) of Stock Brokers Regulations.

34. The aforesaid regulations are reproduced as under;

Stock Brokers Regulations

SCHEDULE II CODE OF CONDUCT FOR SUB-BROKERS

[Regulation 15]

A. General.

(1) Integrity: A Sub-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all investment business.

D. Sub-Brokers vis-à-vis Regulatory Authorities.

(1) General Conduct: A sub-broker shall not indulge in dishonourable, disgraceful or disorderly or improper conduct on the stock exchange nor shall he wilfully obstruct the business of the stock exchange. He shall comply with the rules, bye-laws and regulations of the stock exchange.

SCHEDULE II CODE OF CONDUCT FOR STOCK BROKERS

[Regulation 9]

A. General.

(1) Integrity: A Stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.

35. The aforesaid alleged violations, if established, make the Noticees liable for monetary penalty under section 15HB of the SEBI Act read with regulation 26(xx) of Stock Brokers Regulations, which reads as follows:

Liability for monetary penalty.

26. A stock broker or a sub-broker shall be liable for monetary penalty in respect of the following violations, namely-

(xx) Violations for which no separate penalty has been provided under these regulations.

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 may extend to one crore rupees.

36. The SCN was delivered to the Noticees and Noticee No. 1, vide letter dated March 26, 2018 and April 15, 2018 and Noticee No. 2, vide letter dated April 2, 2018, had submitted their reply in the matter, which inter alia stated are as under:

REPLY OF NOTICEE NO. 1:-

- a) Noticee No. 1 filed its reply dated March 26, 2018 and informed that Consequent to the Inspection Report received by us vide letter dated 18th March, 2015 we had vide a detailed reply dated 14th April, 2015 had given a point by point clarification on the issues raised as also immediate remedial steps taken by us.
- b) Further, by one more communication dated 1st April, 2016 we had apprised the Inspection Team of the progress report on the steps taken.
- c) Simultaneously, we had taken our Trading Member into confidence and implemented immediately within a matter of a fortnight all remedial steps that need to taken as per SEBI Rules.
- d) On 4th May, 2016 we were informed vide a letter (copy enclosed) that our reply had been reviewed and that we were to place our corrective actions with the Board of our Trading Member. Further, an administrative warning letter was issued which we accepted in all humility vide our letter dated 1st June, 2016.
- e) Immediately on receipt of the administrative warning letter, we placed once again before the Board of our Trading Member, all corrective actions, taken by us vide our letter dated 01.06.2016.
- f) In the light of the above clarifications and remedial actions explained to the Inspection Team we are shocked to receive a SCN. The SCN covers issues which we had already resolved and rectified and does not feature in the administrative warning letter issued to us dated 4th May, 2016.
- g) We are a small thirty year old firm with no complaints or irregularities since inception to date from our earlier inspections by SEBI, NSE and our Trading Member. We believe in

compliance of the highest order and we humbly believe that any lack of compliance is not intentional but more out of ignorance. We also believe that none of our acts have caused any damage to the market fabric or to the investing community at large. We also believe that they are technical lapses of minimum consequence which has been caused due to ignorance.

h) On the items raised in the SCN covering points 5,6,7,8,9,10,11,12 we would once again reiterate the reply given by us to the Inspection Team which they had accepted. The reply is reproduced below:

CASH TRANSACTIONS INDULGED IN BY THE SUB-BROKER

i) The account 24422860000247 is our own personal account. The said account are a general account used to pay for salary, rent, electricity, staff welfare, directors drawings, etc. The dividends from the investment of the company are credited here. We humbly submit that the opening cash balance was Rs.13.37 lakhs as explained at the time of inspection.

j) We don't deal in cash with any client and cash deposits are not allowed by our Trading Member. We repeat humbly that the cash deposited is a part of our tax paid cash as explained. As explained to the Inspection Team, the cash being part of our disclosed cash balance there was naturally no documentary evidence to provide for the same. To suggest that it raises suspicion would be totally wrong. We would like to emphatically state that we do not indulge in any cash transactions.

REMEDIAL MEASURES

k) We have taken immediate steps post inspection to curtail cash deposits and cash withdrawal. To segregate routine payments we have opened one more account in the same bank. The new account number is 2442201003063. A copy of the new bank account is enclosed vide Annexure B."

l) We also humbly submit that no cash ever was accepted from clients and no cash ever was paid to clients either as obligation or as margin and that we have followed the SEBI Circular - SEBI/MRD/SE/Gr-33/2003/27/08 dated August 27 in letter and spirit. We may once again submit that our Trading Member does not accept cash at all. We also humbly submit that since all the cash was a part of our tax paid/assessed money the question of remitter of the same or valid documentary evidence for the same does not arise. We humbly submit that we have been transparent in the matter. We also submit that total remedial action as explained above has been taken and this aberration may please be treated as one in time.

m) We humbly submit that the account nomenclature as own account and personal account were inadequately mixed and this being a first time aberration we should not be penalized.

n) We humbly submit as under for the various points raised by the SCN vide points 15 to 31. These were extensively explained and remedied in continuous communication with the Inspection Team and our Trading Member. We submit that these were unintentional and more guided by ignorance. We hereby state that;

i) Terminals 417/795 and 783 were well within the premises of BgSE Financials Ltd. and they are well within the purview of the SEBI Rules.

ii) Mr.A.R.Shankarprasad, though registered as a client has not traded on a single day a fact which was also brought to the notice of the Inspection Team. Further, on this lacuna being shown to us, we immediately withdrew his client registration. It was further made very clear to the Inspection Team that the said A.R.Shankarprasad was being remunerated for his job done through a brokerage and a disclosure to this effect was made to the Trading Member. We strongly rebut the submission that he

was acting as an unregistered sub-broker. In 2014, Coorg did not have much of an internet penetration and hence very few of the clients did not have email access. This matter has been rectified subsequently. We humbly submit that these matters were explained and accepted by the Inspection Team. A copy of the closed trading account was immediately submitted.

- iii) The same submission holds good for terminal 418. In this case we have immediately closed the terminal. We have also withdrawn Mr.Raman Gupta's client status. We humbly submit that he was being remunerated for the services rendered by him.*
- iv) The fact that Mr.Sadhashiv Bhat had applied for sub-brokership to BgSEFL was not known to us. Even assuming so, we humbly submit he had neither started his operations or otherwise. It is our ignorance of the same and no intention to by pass any rules. We have immediately withdrawn Mr. Sadhashiv Bhat and closed the terminal in question. It would be pertinent to note that Mr. Sadhashiv Bhat though registered in 2011 has not traded on a single day upto the date of inspection as a SEBI registered sub-broker. Consequent to the inspection he has withdrawn his SEBI registration on his own volition.*

- o) Kindly note that the trading accounts of Mr.Sadashiva Bhat, A.R. Shankar Prasad and Mr.Raman Guptha were forth with closed immediately under advice to our trading member.*
- p) We would like to state that as is apparent from our submissions above this breach was not intentional but an ignorance of the rules. No damage or inconvenience was caused or intended to be caused to any investor. The very fact can be gauged from the fact that there has been no complaint on the firm during its 30 years history of existence.*
- q) Both the issues raised in the SCN has been immediately remedied and proof submitted to the Inspection Team who apparently accepted the same within a record period of 30 days.*
- r) We sincerely request you to condone our acts and not levy any penalty in the light of the above detailed submissions as also the fact that it is a first time delinquency on our part.*

- s) Noticee No. 1 also filed additional reply vide email dated April 15, 2018. As a firm in business for over thirty years we have had a complaint free stint as also have been earlier inspected by SEBI,NSE our Trading Member BgSE Financials Ltd. many times without any remark.*

- t) The two issues raised by the SCN are matters relating to the circulars.*

I. SEBI Circular – MRD/SE/Cr-33/2003/27/08 dated August 27, 2003

- u) We strongly reiterate that we have not accepted cash from the clients weather against obligations or as margins for purchase of securities and/or give cash against sale of securities to the clients.*
- v) Our Trading Member BgSE Financials Ltd. does not indulge either in cash receipts and payments.*
- w) The Inspection Team has in its report identified seven cash deposits and eleven cash withdrawals spread over the period 1st December, 2013 to 28th February, 2014. A simple analysis would identify that out of the total cash deposits during the period, three deposits totaling Rs.4,65,000 were made between 30th January, 2014 to 3rd February, 2014. We humbly submit that these deposits were deposits out of the total opening tax paid cash balance in our possession. The differential amount deposited during the above mentioned*

period amounts to Rs.1,19,000 which is hardly Rs.40,000 per month. This amount is well within all legal requirements.

- x) The eleven withdrawals identified by the inspection team amounting to Rs.2,77,500 include two withdrawals cumulating to Rs.1,22,000 (89,000 + 32,000) which was withdrawn towards the function in the house of the Director. The balance amount of withdrawals cumulate to about Rs.50,000 per month spread over a period of ninety days.*
- y) Both the deposit and withdrawal sizes are reasonable compared to our scale of operation and by any stretch of imagination could not fall in the gambit of unexplained cash transactions.*
- z) The cash withdrawals/receipts mentioned in the report pertain to withdrawals and deposits of our own cash which was a part of tax paid cash balance of our audited accounts*
 - aa) In the said year also we have had a scrutiny assessment under the Income Tax Act.*
 - bb) We do not agree with the statement in the inspection reports (point 11 of the SCN) that, "During the inspection..... This is basically because these monies belonging to the firm will not have any documentary evidence for cash receipt/payments. The question of transparency is unfounded. Point 12 of the SCN suggests accepting cash deposits which is a wrong inference on the basis of the above based arguments.*
 - cc) The Inspection Team was given all clarifications/explanations/justifications in this connection. The fact is visible that the above mentioned issue was dropped in the Administrative Warning letter issued by the Inspecting Team*
 - dd) In conclusion, we humbly submit that we have not violated the above mentioned Circular in letter and spirit.*

II. SEBI Circular – SMBRP/POLICY Circular 49/2001 dated October 2001 and SEBI/MIRSD/Cir – 06/2004 dated January 13, 2004.

- ee) All the terminals in question were notified to our Trading Member. Relevant prescribed Form that was required was completed and handed over to our Trading Member. Each Form had complete details of the person, his complete address, NISM certificate, his relationship with us, mode of remuneration Based on this Form details were uploaded with the terminal number to NSE/BSE. Each of the terminal had NISM qualified personnel whose details were also filed with the Trading Member. These details were also produced to the Inspection Team.*
- ff) We sincerely submit in the light of the above that the question of unauthorized access to persons for illegal trading does not arise. The persons in question, therefore do not fall under the category of unauthorized sub-brokers.*
- gg) Mr.Raman Gupta, Mr.A.R.Shankerprasad, Mr.Krishnamurthy and Mr. Sadashiv G Bhat were remunerated in the form of a share in the brokerage earned.*
- hh) Immediately, on receipt of the inspection report, as a measure of abundant caution we closed Mr.Raman Gupta's trading account on 4th April, 2016. Simultaneously, the relevant terminal 418 was also deactivated based on the observation of the report under advise to the Trading Member and the Inspection Team.*
- ii) We are not in agreement with item 16 of the SCN where it says that, "As such it can be termed as an individual acting as an unregistered Sub-broker..... especially when all relevant applications have been completed and filed by us and our Trading Member is well aware of our actions.*
- jj) Mr.AR.Shankerprasad has always been operating from the branch premises of BgSE Financials Ltd. at Coorg. We have also lodged full details as required with our Trading*

- Member to make him an approved terminal user. We humbly state that he was in no way acting as an unregistered Sub-Broker. Further, he was also not a registered client with us.*
- kk) Mr. Sadashiv G Bhat had submitted a detailed approved user Form which was required to be submitted to our Trading Member. We humbly submit that he was in no way an unregistered Sub-Broker.*
- ll) Immediately on receipt of the inspection report as a measure of abundant caution and compliance Mr. Sadashiv Bhat's terminal was deactivated on 4th April, 2016 under advise to the Trading Member and the Inspecting Team. Further, Mr. Sadashiv Bhat also surrendered his Sub-Brokership on 4th March, 2016 as a measure of abundant caution. We humbly submit that he had only completed his formalities for Sub-brokership, but never operated the account even for a single day's transaction. The contravention that has been observed (in reference to points 22/23/24) is purely technical. It maybe pertinent to note that he never had access to any other terminal as of that date.*
- mm) The very fact that as SEBI Compliant Sub-brokers we took all the above corrective steps to the satisfaction of the Inspection Team and that is why none of these alleged violations did not figure in the Administrative Warning letter.*

REPLY OF NOTICEE NO. 2:-

- a) Noticee No. 2 filed its reply dated April 2, 2018 and informed that it had advised Noticee No. 1 to exercise necessary caution and rectify all the observations made by SEBI in their inspection report and also advised to not to give any scope for repetition of such observations in future.
- b) Since all the observations are procedural in nature and there is no financial loss to any client nor there are any complaints against Noticee No. 1 and all the observations made in the report are rectified and request to view the matter leniently and also request to drop the observations as pointed out in the inspection report in view of the administrative warning dated May 4, 2016 issued in this regard.

37. An opportunity of hearing was provided to the Noticees on April 17, 2018 vide notice dated April 3, 2018 through Speed Post AD. Hearing on April 17, 2017 was attended by the authorized representative (AR) of the Noticee No. 1. AR of Noticee No. 1, reiterated as submitted in its reply dated March 26, 2018 and email dated April 15, 2018 and submitted that we don't have any other material documents for submissions in this regard.

38. Hearing on April 17, 2017 was attended by the authorized representative (AR) of the Noticee No. 2. AR of Noticee No. 2, reiterated as submitted in its reply dated April 2, 2018 and submitted we would like to submit additional submissions by April 26, 2018.

Thereafter, Noticee No. 2 vide letter dated April 25, 2018 submitted its additional submissions along with the supporting documents are being mentioned below:-

(a) *Terminal ID 418 – Raman Guptha*

a. *We confirm that Mr. Raman Guptha is an employee of M/s Agrahar Securities Pvt. Ltd., and the declaration given by M/s Agrahar Securities Pvt. Ltd. to that extent is enclosed for your immediate reference. We confirm that the Trading account of Mr. Raman Guptha was closed on 13/04/2015 and the terminal was deactivated on 04/04/2016 (Proof of deactivation is enclosed in Annexure 1 for your kind perusal).*

(b) *Terminal ID 417/795 – A R Shankar Prasad (Certificate is in the name of D S Suman)*

a. *The Captioned Terminal is located in the Investor Service Centre of BgSE Financials Limited, Madikeri and was operated by Mr Shankar Prasad as an employee of M/s Agrahar Securities Pvt. Ltd., and not BgSE Financials Limited. I We once again confirm that BgSE Employees did not place the Orders on this terminal. We also confirm that the account of Coorg Index Securities Ltd was closed on 13/04/2015. Subsequent to the Inspection, we have deactivated the terminal No. 795 on 11/12/2014. (Copy of the allotment and cancellation letters are enclosed in Annexure 2)*

(c) *Terminal ID 784 - Sadashiv Bhat*

a. *We confirm that Mr. Sadashiv Bhat is an Authorised Person of M/s Agrahar Securities Pvt. Ltd., who is nothing but the employee of M/s Agrahar Securities Pvt. Ltd., and the Declaration given by M/s Agrahar Securities Pvt. Ltd. to that extent is enclosed for your immediate reference. It is further submitted that the captioned terminal was de-activated on 04/04/2016 as a measure of abundant caution. (Copy of the allotment and cancellation letters are enclosed in Annexure 3).*

(d) *It is further submitted that before allotment of user IDs, officials of BgSE Financials Limited will visit the places and after satisfying only, User ID request will be uploaded in the Exchange Portal. Relevant photos taken in the premises of Sadashiv Bhat and Raman Guptha are submitted in Annexure 4 for your kind perusal.*

(e) *A SEBI registered sub-broker of BgSEFL to trade in both NSE and BSE segment.*

a. *Mr. Sadashiv Bhat has been the client of M/s Agrahar Securities since 11/03/2008 and the screen shot of client details as per our Back office is attached for your reference as annexure. It is evident from the above that Mr. Sadashiv Bhat became a client of M/s Agrahar Securities Pvt. Ltd., even before applying for membership from erstwhile BGSE. Even though, Mr. Sadashiv Bhat was registered as a Deposit Based Trading Member of Bangalore Stock Exchange Limited in the year 2011 and he did not commence the business operations with BgSE Financials Ltd. (BgSE FL) as a Sub-broker. Earlier, he applied for the membership of M/s Bangalore Stock*

Exchange Ltd. (BGSE), as he can become full-fledged member of Regional Stock Exchange. However, after BGSE decided to surrender the Stock Exchange recognition, he had decided not to pursue further and did not operate through BgSEFL. We confirm that, there was no trading operation and turnover from the said sub-broker in BgSEFL from the date of Registration. Mr. Sadashiv Bhat had surrendered his Sub Broker Registration during March 2016, (copy enclosed in Annexure 5 for your reference).

- (f) *BgSE Financials Ltd., is conducting inspection of Sub-brokers on a regular basis as per the directives issued by SEBI/NSE/BSE. Circular dated 13th July 2012 issued to the Sub Brokers in this regard is enclosed for your immediate reference. Copy of the Circular is enclosed in Annexure 6 Copies of Inspection reports of M/s Agrahar Securities Limited conducted on 02/12/2013 & 22/12/2015 are submitted in Annexure 7 for your immediate reference.*
- (g) *Our Company always gives highly priority in following Compliance requirements stipulated for stock brokers and in the last two decades there are no complaints from clients against BgSE Financials Limited or its sub-brokers. It is further submitted that there are no major observations in the inspections conducted by Exchanges / Depositories, which may kindly be noted. We assure your good selves that we note to further improve our systems and procedures and do not give scope for any observations in the forthcoming inspections / Audits.*

CONSIDERATION OF ISSUES AND FINDINGS

39. The issues that arises for consideration in the present case are :

- I. Whether the Noticee No. 1 being the sub broker had indulged in several cash deposits / withdrawal transactions in its business account. If yes, then whether same is in violation of SEBI Circular No. SEBI/MRD/SE/Cir- 33/2003/27/08 dated August 27, 2003, clause A(1) and D(1) of code of conduct prescribed for sub-brokers in schedule II under Regulation 15 read with regulation 26(xx) of Stock Brokers Regulations?
- II. Whether the Noticees (being the sub broker/ stock broker) had allowed operation of its trading terminals by an unauthorized person and whether such terminals were not located at registered office / branch office of the stock broker and registered office of sub broker. If yes, then whether the Noticee No. 1 had violated SEBI Circular No. SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 and clause A(1) & D(1) of code of conduct prescribed for sub-brokers in schedule II under Regulation 15;

and whether the Noticee No. 2 had violated SEBI Circular No. SEBI/MRD/SE/15958/2003 dated August 22, 2003 and clause A(5) of code of conduct prescribed in Schedule II under regulation 9 read of Stock Brokers Regulations?

- III. Whether the Noticees had allowed the dealing of its clients with another stock broker / sub broker of the same exchange in violation of SEBI Circular No. SEBI/MIRSD//Cir-06/2004 dated January 13, 2004 and clause A(1) and D(1) of code of conduct prescribed for sub-brokers and clause A(5) of code of conduct prescribed for the Stock Brokers as stipulated in Schedule II of Stock Brokers Regulations?
- IV. Whether the aforesaid violation on the part of the Noticee(s), if established, would attract monetary penalty under section 15HB of SEBI Act?
- V. If yes, then, what would be the monetary penalty that can be imposed upon the Noticees considering the factors stipulated in section 15J of SEBI Act?

40. Taking into consideration and allegations and reply of the Noticee the case is being decided on merit hereunder.

ISSUE No. 1

Whether the Noticee No. 1 being the sub broker had indulged in several cash deposits / withdrawal transactions in its business account. If yes, then whether same is in violation of SEBI Circular No. SEBI/MRD/SE/Cir- 33/2003/27/08 dated August 27, 2003, clause A(1) and D(1) of code of conduct prescribed for sub-brokers in schedule II under Regulation 15 read with regulation 26(xx) of Stock Brokers Regulations?

41. It was alleged in the SCN that the Noticee No. 1 was having a bank account for its sub broking business purpose and there were several cash transactions (debit/credit) which were not in compliance with SEBI Circular No. SEBI/MRD/SE/Cir- 33/2003/27/08 dated August 27, 2003 and clause A(1) & D(1) of code of conduct prescribed for sub-brokers in schedule II under Regulation 15 read with regulation 26(xx) of Stock Brokers Regulations.

42. I have perused the aforesaid SEBI Circular dated August 27, 2003 and observed that said Circular states the Brokers and Sub-brokers *should not accept cash from the client whether against obligations or as margin for purchase of securities and/or give cash against sale of securities to the clients. Further, all payments shall be received / made by the brokers from/to the clients strictly by account payee crossed cheques / demand drafts or by way of direct credit into the bank account through EFT or any other mode allowed by RBI. The brokers shall accept cheques drawn only by the clients and also issue cheques in favour of the clients only for their transactions. However, in exceptional circumstances the broker or sub-broker may receive the amount in cash, to the extent not in violation of the Income-tax requirement as may be in force from time to time.*

43. I have perused from the available records that the Noticee No. 1 is having a bank account no. 2442286000247 - "own a/cs" for its business purposes and there are seven cash deposit instances and eleven cash withdrawals instances spread over the period December 1, 2013 to February 28, 2014. I note that in 7 instances the total cash deposits amount is ₹5,84,000/- and 11 cash withdrawal instances amounts to a total of ₹2,77,500/- during the period from December 1, 2013 to February 28, 2014. Here, it is necessary to mention that no exceptional circumstances along with any proof have been shown by the Noticee No. 1 to deposit / withdraw such amount in cash.

44. Towards the allegation, the Noticee No. 1 had submitted that these deposits were deposits out of the total opening tax paid cash balance. Eleven withdrawals identified by the inspection team amounting to ₹2,77,500 include two withdrawals cumulating to ₹1,22,000 (89,000 + 32,000) which was withdrawn towards the function in the house of the Director. It was also stated by the Noticee No. 1 that both the deposit and withdrawal sizes are reasonable compared to scale of operation and by any stretch of imagination could not fall in the gambit of unexplained cash transactions.

45. Noticee No. 1 also submitted that the account 2442286000247 is its own personal account and the said account is a general account used to pay for salary, rent, electricity, staff welfare, directors drawings, etc. The dividends from the investment of

the company are credited in this account. Noticee No. 1 further stated that it don't deal in cash with any client and cash deposits are not allowed by its Trading Member.

46. I have noted that the aforesaid deposits / withdrawal instances as alleged in the SCN remains undisputed by the Noticee No. 1. The submission of the Noticee No. 1 that account 24422860000247 is its own personal account and the said account is a general account used to pay for salary, rent, electricity, staff welfare, directors drawings, etc., is not acceptable as from the records (inspection report), it is seen that during the course of inspection only one bank account i.e. 24422860000247 of the Noticee No. 1 was made available. Also, during the present proceedings, Noticee No. 1 had not provided any other bank account details except as stated above. In absence of any separate bank account details i.e. for own purpose of the Noticee No. 1 and for its business/ sub broking purpose, it is very safely established that the Noticee No. 1 was using the aforesaid bank account no. 24422860000247 for its business purpose. Further, I cannot loose sight that admittedly, post inspection it had opened one more account in the same bank bearing account number is 2442201003063 for cash deposits and cash withdrawal. This makes clear that before this new bank account, the deposits / withdrawal on behalf of the clients as part of sub broking business was made in the aforesaid account no. 24422860000247. Therefore the aforesaid plea of the Noticee No. 1 is not acceptable.

47. The submission of the Noticee No. 1, that the aforesaid deposits were out of the total opening tax paid cash balances and aforesaid cash withdrawal was for the purpose of a function in the house of the Director, cannot be accepted as the aforesaid SEBI circular clearly mandates that brokers and sub broker should not accept cash from the client whether against obligations or as margin for purchase of securities and/or give cash against sale of securities to the clients. Also, the submission of the Noticee No. 1 that deposits/ withdrawal are reasonable as compared to its scale of operation, cannot be accepted in view of the above mandatory obligation under aforesaid Circular.

48. Thus, it is established that the Noticee No. 1 had indulged in several cash transactions in violation of SEBI Circular SEBI/MRD/SE/Cir- 33/2003/27/08 dated August 27, 2003 and same is not in consonance with clause A(1) and D(1) of code of conduct prescribed

for sub-brokers in schedule II under Regulation 15 read with regulation 26(xx) of Stock Brokers Regulations and thereby violated the same.

ISSUE No. 2

Whether the Noticees (being the sub broker/ stock broker) had allowed operation of its trading terminals by an unauthorized person and whether such terminals were not located at registered office / branch office of the stock broker and registered office of sub broker. If yes, then whether the Noticee No. 1 had violated SEBI Circular No. SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 and clause A(1) & D(1) of code of conduct prescribed for sub-brokers in schedule II under Regulation 15; and whether the Noticee No. 2 had violated SEBI Circular No. SEBI/MRD/SE/15958/2003 dated August 22, 2003 and clause A(5) of code of conduct prescribed in Schedule II under regulation 9 read of Stock Brokers Regulations?

49. It was alleged in the SCN that the Noticees had extended some of the terminals to the persons at a location which was not the registered office / branch office of the stock broker or the office of registered sub broker. It was also alleged in the SCN that some persons who were allotted to operate the trading terminal were neither the employee of the Noticees nor they were authorized to operate such terminals. The details of allegations had been indicated at para 13 – 21 and 29 of the SCN. Therefore it was alleged that Noticee No. 1 had violated SEBI Circular No. SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 and clause A(1) & D(1) of code of conduct prescribed for sub-brokers in schedule II under Regulation 15. It was also alleged that Noticee No. 2 had violated SEBI Circular No. SEBI/MRD/SE/15958/2003 dated August 22, 2003 and clause A(5) of code of conduct prescribed in Schedule II under regulation 9 read of Stock Brokers Regulations.

50. In respect to the allegations the Noticees had made the submissions at para 36 – 38 of this order and same are not reproduced for sake of brevity.

51. After taking into consideration the allegation and the replies of the Noticees, the present issue is being examined as under. I have noted from the available records that below

mentioned persons were alleged to have dealt / operated the trading terminal allocated by the Noticees from the locations which were not the registered office / branch office of the stock broker or the office of the registered sub broker. The details of such persons and terminals locations are shown in table below:-

Terminal No.	Name	Location
418	Raman Gupta	#55 , 151 Floor, S.V .Complex , K.R.Road, Basavanagudi, Bangalore- 560004
417\795	A.R. Shankar Prasad (Certificate in name of D.S.Suman)	BgSE Financials Limited, Madikeri
783	Mr.Krishna Murthy (Certificate in name of N.Shivkumar)	BgSE Financials Limited, Mysore
784	Sadhashiva .G.Bhat	Appearing for exam on 19/9/2014 at Mangalore NSEIT as certificate has expired. Sullia

52. It is noted from SEBI Circular dated October 22, 2001 which *inter-alia* stipulates as under:-

It has further come to the notice of SEBI that the trading terminals granted to the stockbrokers at various locations are being mis-utilised for unregistered sub-broking activities. In view of the above, Exchanges are advised to grant trading terminals only at the members' registered office, branch offices and their registered sub-brokers' offices. Trading terminals granted earlier in places other than mentioned above should be withdrawn immediately. The Stock exchanges shall amend their bye-laws accordingly to take action against the broker who mis-utilises or lets misutilisation of their trading terminals for unregistered sub-broking activities.

53. Also SEBI Circular dated August 22, 2003 which *inter-alia* stipulates as under:-

It has been brought to the notice of SEBI that some of the members of the exchanges who are sub-brokers of the subsidiary companies formed by the stock exchanges have been providing unauthorized access to persons for illegal trading and/or providing their own terminal for illegal trading.

The stock exchanges which have formed subsidiaries are hereby directed to note that appropriate penal action including fine, suspension of trading rights of the subsidiaries/s brokers, etc., would be initiated, in case, any of the members of the exchange who are sub-brokers of the subsidiary is found to be indulging in such type of activities referred the paragraph 1. The exchanges are also directed to exercise vigilance and surveillance on their subsidiaries/its members to ensure that the members do not indulge in these type activities.

54. It is noted from the aforesaid Circulars that there is a requirement of allocating trading terminals at locations only at the registered office / branch office of the stock broker or the office of the registered sub broker.

55. It is noted from the available records that after issuance of aforesaid Circulars, two persons namely Mr. Raman Gupta and Mr. Sadashiv Bhat were allocated terminals at a place which was not registered office / branch office of the stock broker or the office of the registered sub broker. The Noticees have not produced any evidence to show that the aforesaid 2 terminals (user: Mr. Raman Gupta and Mr. Sadashiv Bhat) were located at the location in compliance with the SEBI Circular dated October 22, 2001. In the reply, the Noticees had stated that the Terminal no. 418 (Mr. Raman Gupta) and Terminal no. 784 (Mr. Sadashiv Bhat) were closed / deactivated post inspection. From the said admission of deactivation / closure of the trading terminal, it is clear that these terminals were allocated or were not located at a place / location in compliance with aforesaid SEBI Circular dated October 22, 2001 and consequently the same were closed by the Noticee(s) post inspection. Also, I cannot ignore that during the period April 2013 – September 2014, Mr. Raman Gupta and Mr. Sadashiv Bhat had done business volume through the trading terminals provided by the Noticee(s) and the details are as under:

			01/04/2013 to 31/03/2014	01/04/2014 to 30/09/2014	01/04/2013 to 31/03/2014	01/04/2013 to 30/09/2014	
Client Code	No. of clients regd	Name of the client	NSECM t/o (Rs.)	NSECM t/o (Rs.)	BSECM t/o (Rs.)	BSECM t/o (Rs.)	TOTAL t/o (Rs.)

AGHRSSR012	-	Mr.Raman Gupta	81935	55912	0	0	137847
AGHRCSBG	23	Mr.Sadashiv Bhat	21521028	47014563	71085	0	68606677

56. The Noticees submitted that allocation of said two terminals (Terminal no. 418 and Terminal no. 784) was unintentional and same resulted due to ignorance of rules and no damage / inconvenience was caused to any investor. It is also submitted by the Noticee No. 2 that it is conducting inspection of the sub brokers regularly and there are no major observations during inspection. In my opinion, the aforesaid submissions will not support the case of Noticees as it is a fact that the terminals were not allocated in compliance with the aforesaid SEBI Circulars which infact is a compulsory requirement for smooth / safe functioning of the stock broking business and for the interest of investors.

57. As regards to the terminal i.e. 417/795 and 783 to Mr. A.R.Shankar Prasad and Mr. Krishna Murthy respectively, it is seen from the records that these were allotted at the location as required under aforesaid SEBI Circulars, however, it is noticed that these two terminal operators were not the employees / were unauthorized person to use the said terminals. No proof has been provided in the instant proceedings by the Noticees to prove that Mr. A.R.Shankar Prasad and Mr. Krishna Murthy were their employees. From the letter dated April 25, 2018 of the Noticee No. 2 enclosing an Annexure 2 therewith, it is seen that nowhere the name of Mr. A.R.Shankar Prasad appears and the user name of Terminal No. 417 is shown as Ms. Suman D S as she only bears the BCSM certificate issued by BSE. It is also noticed from said Annexure 2, that the user name of Terminal No. 795 is shown as T M Mohan Kumar, however no proof of any NCFM Certificate or BCSM Certificate is provided by the Noticees. In fact, in the Form for allotment of Terminal, the column of NISM certificate remains blank.

58. It is also noted from the records that Mr. A.R.Shankar Prasad was the Managing Director of Coorg Index Securities Pvt. Ltd. and was engaged in the activities of finance industries. Further, it is noted from the records that Noticee No. 1 had also shared its sub-brokerage with four agents for the volume of business done by the clients brought by them, as tabulated below and in reply also Noticee No. 1 referred about brokerage in respect of Mr. Shankar Prasad, Mr. Krishna Murthy and Mr. Sadashiv Bhat.

Financial Year 2013-14		Financial Year 2014-15	
Name of entity	Amt of brokerage shared	Name of entity	Amt of brokerage shared
SHANKAR PRASAD	119719	SHANKAR PRASAD	200940
S S FIN SER PVT LTD	313694	S S FIN SER PVT LTD	278163
KRISHNA MURTHY	78647	KRISHNA MURTHY	46950
SADASHIVA GBHAT	50092	SADASHIVA G BHAT	113496

59. From the above analysis, it is established that the Noticee(s) had allotted / allowed two terminals i.e. Terminal no. 418 (user: - Raman Gupta) and Terminal no. 784 (user: - Sadashiv Bhat) at a place which was not the registered office / branch office of the stock broker (Noticee No. 2) or the office of the registered sub broker (Noticee No. 1). Further, it is also established that Noticees had allowed / allotted the aforesaid two person (Mr. A.R.Shankar Prasad and Mr. Krishna Murthy) who were not authorized to operate the trading terminal as required in aforesaid SEBI Circulars. In view of the above, it is concluded that the Noticee No. 1 had violated SEBI Circular No. SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 read with clause A(1) & D(1) of code of conduct prescribed for sub-brokers in schedule II under Regulation 15; and Noticee No. 2 had violated SEBI Circular No. SEBI/MRD/SE/15958/2003 dated August 22, 2003 read with clause A(5) of code of conduct prescribed in Schedule II under regulation 9 read of Stock Brokers Regulations.

ISSUE No. 3

Whether the Noticees had allowed the dealing of its clients with another stock broker / sub broker of the same exchange in violation of SEBI Circular No. SEBI/MIRSD//Cir-06/2004 dated January 13, 2004 and clause A(1) and D(1) of code of conduct prescribed for sub-brokers and clause A(5) of code of conduct prescribed for the Stock Brokers as stipulated in Schedule II of Stock Brokers Regulations?

60. In respect to the aforesaid issue, I have examined the aforesaid SEBI Circular No. SEBI/MIRSD//Cir-06/2004 dated January 13, 2004 which stipulates as under:-

1. During the course of inspections carried out by SEBI of the books of accounts and other documents of members/sub brokers, it has been observed that certain members/sub brokers

are dealing through a large number of other stock brokers/sub brokers of the same exchange/other exchange for their proprietary trades as well as trades on behalf of clients.

3.1 A stock broker/ sub broker of an exchange can not deal with brokers/sub brokers of the same exchange either for proprietary trading or for trading on behalf of clients, except with the prior permission of the exchange. The stock exchanges while giving such permission, shall consider the reasons stated by the brokers/sub brokers for dealing with brokers/sub brokers of the same exchange and after carrying out due diligence allow such brokers/sub brokers to deal with only one stock broker/sub broker of the same exchange.

61. In the said Circular, it is mandated that no stock broker / sub broker shall deal with other brokers / sub brokers of the same exchange either for proprietary trading or on behalf of its client. It is noted from the records that Mr. Sadashiv Bhat was a client of Noticee No. 1 (sub broker) and was dealing through Noticee No. 2 (stock broker). There is no evidence showing that Noticee No. 1 was also dealing through another stock broker of the same exchange on behalf of Mr. Sadashiv Bhat (client) or in its proprietary account. Also, there is no evidence to show that Noticee No. 2 was also dealing in its proprietary account and on behalf of client through another stock broker. Further, it is not brought on record that being a client and upon becoming a sub broker lateron, Mr. Sadashiv Bhat had dealt in its proprietary account through another stock broker apart from Noticee No. 2. In view of the above, aforesaid allegation against the Noticees doesn't stand established.

ISSUE No. 4 & 5

Whether the violations on the part of the Noticee(s), if established, would attract monetary penalty under section 15HB of SEBI Act? AND If yes, then, what would be the monetary penalty that can be imposed upon the Noticees considering the factors stipulated in section 15J of SEBI Act?

62. Since the violation of SEBI Circular SEBI/MRD/SE/Cir- 33/2003/27/08 dated August 27, 2003, SEBI Circular No. SMDRP/POLICY/CIR-49/2001 dated October 22, 2001, SEBI Circular No. SEBI/MRD/SE/15958/2003 dated August 22, 2003 and clause A(5) and clause A(1) & D(1) of code of conduct in Schedule II under regulation 9 and 15 of the

stock broker regulation has been established against the Noticees, therefore, imposition of penalty under section 15HB of the SEBI Act is attracted in the present case.

63. Here, it is relevant to mention that the Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) has also held that “*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant...*”.

64. In view of the above, I am convinced that it is a fit case for imposing monetary penalty under section 15HB of the SEBI Act, read as under;

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 may extend to one crore rupees.*

65. While determining the quantum of penalty under section 15HB, it is important to consider the factors stipulated in section 15J of SEBI Act, which reads as under:-

15J - Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, 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.”*

66. Available records neither reveals specify disproportionate gains or unfair advantage made by the Noticees nor the loss caused to the investors due to aforesaid irregularities. Also, no past actions / repetitive nature of default has been shown in the inspection report. However, I also cannot ignore to mention Noticee No. 1 being a registered sub-broker and Noticee No. 2 being a registered Stock Broker are responsible for ensuring

the compliance of direction issued under the aforesaid Circulars and to heed the code of conduct prescribed. Taking into account aforesaid factors, considering the facts and circumstances of the case, I am of the view that a justifiable penalty needs to be imposed upon the Noticees to meet the ends of justice.

ORDER

67. After taking into consideration all the aforesaid facts / circumstances of the case, I hereby impose a penalty of ₹ 4,00,000/- (Rupees Four Lakh only) upon the Noticee No. 1 / M/s Agrahar Securities Pvt. Ltd. and of ₹4,00,000/-(Rupees Four Lakh only) on the Noticee No. 2 / M/s BgSE Financials Ltd, under section 15HB of the SEBI Act for the aforesaid violations. Therefore, a consolidated penalty of ₹8,00,000/-(Rupees Eight Lakh only) is imposed upon the Noticees. I am of the view that the said penalty would commensurate with the violations committed by the Noticees.

68. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI – Penalties Remittable to Government of India”, payable at Mumbai, or through e-payment facility into Bank Account the details of which are given below;

Account No. for remittance of penalties levied by Adjudication Officer	
Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

69. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the “Enforcement Department (DRA-II) of SEBI”. The Format for forwarding details / confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular No. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID - tad@sebi.gov.in.

Date	Department of SEBI	Name of Intermediary/ Other Entities	Type of Intermediary	SEBI Registration Number (if any)	PAN	Amount (in Rs.)	Purpose of Payment (including the period for which payment was made e.g. quarterly, annually)	Bank name and Account number from which payment is remitted	UTR No

70. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees and also to the SEBI.

DATE: MAY 11, 2018

PLACE: MUMBAI

RACHNA ANAND

ADJUDICATING OFFICER