

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

In respect of:

S K Infosolutions Pvt Ltd
Registrars & Share Transfer Agents
(SEBI registration no. INR000003886)
(PAN no. – Not available)
Address: 34/1A Sudhir Chatterjee Street,
Kolkata – 700 006

In the matter of inspection of books and records of S K Infosolutions Pvt Ltd

BACKGROUND

1. Securities and Exchange Board of India (hereinafter, referred to as “SEBI”) conducted an inspection of books and records of S K Infosolutions Pvt Ltd, SEBI registered Registrars & Share Transfer Agents bearing SEBI registration no. INR000003886 (hereinafter, referred to as “Noticee”) during October 05-07, 2015 covering period 01/04/2014 to the date of inspection. Further, SEBI through a chartered accountant conducted another audit / inspection during December 26-30, 2016 covering period 01/04/2013 to 31/03/2016. Above said two inspection / audit by SEBI are hereinafter commonly referred to as “inspection”.
2. Following findings were noticed during the inspections:
 - a) Failure to enter into legal / valid agreement with 22 client companies and 10 client body corporates.
 - b) Non implementation of code of conduct under PIT Regulations 2015.
 - c) Misrepresentation of facts related to status of specimen signature records of 9 companies and non-assistance therein to inspection team.
3. Based on the above findings which prima facie violated the following provisions of law, SEBI initiated adjudication proceedings against the notice on March 21, 2018: -
 - a) Regulation 9A (1)(b) of SEBI(Registrars to an Issue and Share Transfer Agents) Regulations, 1993 (hereinafter, referred to as “RTA & STA Regulations 1993”);
 - b) Instruction 1 under heading “Agreement to be entered into with Issuer / body corporate” of RRTI Circular No. 1(94-95) dated 11/10/2014;
 - c) Clause 9 (1) of SEBI (Prohibition of Insider Trading) Regulations, 1995 (hereinafter, referred to as “PIT Regulations 2015”); and
 - d) Regulation 18 (2) and clause 2 of Code of Conduct read with Regulation 13 of RTA & STA Regulations 1993

APPOINTMENT OF ADJUDICATING OFFICER

4. In terms of the adjudication proceedings against the Noticee, in terms of Section 15-I of SEBI Act, 1992 (hereinafter, referred to as “**SEBI Act**”) and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter, referred to as “**SEBI Adjudication Rules**”), SEBI appointed an Adjudicating Officer on March 26, 2018 to inquire into and adjudge the alleged violations enumerated above, and if satisfied, impose liable penalty, as deem fit, in terms of rule 5 of the SEBI Adjudication Rules and Sections 15B and 15HB of SEBI Act. The said proceedings were communicated to the Adjudicating Officer on May 09, 2018

SHOW CAUSE NOTICE, WRITTEN SUBMISSIONS, PERSONAL HEARING

5. Show Cause Notice No. SEBI/HO/EAD-8/JS/DJ/OW/ P/20334/1/2018 dated July 19, 2018 (hereinafter referred to as “**SCN**”) was issued to the Noticee under rule 4(1) of the SEBI Adjudication Rules, mentioning the allegations made against the Noticee and to show cause as to why an inquiry should not be held and penalty be not imposed in terms of Rule 5 of the SEBI Adjudication Rules and section 15B and 15HB of the SEBI.
6. SCN was delivered to Noticee, and in reply to the SCN, Noticee vide letter dated July 30, 2017 made following key submissions:

(a) Firstly, we beg to submit that we have been following & observing SEBI Regulation 9A(1)(b) of the SEBI Regulations 1993 with all possible care and cautions except very few occasional mistakes / irregularities which might have occurred due to inadvertence and lack of vigilant carefulness already reported, now fully rectified and reinstated.

(b) We are actual Registrars of ISSUER/BODY CORPORATE for which we have entered into the specific Agreement and hence there is no question of violation in this regard as per instruction of RRTI Circular no. 1(94-95) dated 11/10/2014.

(c) Since there is no existence of insider trading, so question of violation does not arise, in this regard.

(d) We are apt and obligated to maintain the code of conduct as scheduled, which can be inspected by your inspection team at any point of time.

Findings of inspection and audit

We admit, we could not furnish the copies of Agreement of 22 cases because copies of agreements of so called client companies had been lying with them and could not be collected because at that time, due to acuteness of non-availability of stamp paper from the vendors, we were put in a tight corner, but subsequently those agreements of 22 companies have been collected and are now with us and can be produced at any time, if asked for.

About execution of Agreements on same series of stamp paper, we submit herein, that at that point of time there occurred non availability of requisite stamp paper from the vendor and we had been apprehending loss of the concerned clients company, for being delayed and as such, finding no other alternative we became compelled to use xerox copies of stamp paper with an idea to replace them with valid stamp paper soon after appropriate stamp papers were available from the vendor, it was so done and we forwarded Xerox copies of the such valid stamp papers to the Auditors, These are readily available with us now and can be produced, as and when asked for.

As already maintained code of conduct to regulation monitoring and reports for trading by the employee or any other connected person no involved in any trade and this was not communicated, since this was not passed as a resolution in the Board meeting, so it could not be presented at that point of time.

Except 2 companies (single point maintained) out of 52 companies we did not receive at all response to our request and we have therefore stopped our services to them with due notice.

We have already collected specimen signature of the shareholder of 1. Bipin Industries Limited, 2. Blue Bird Commercial Ltd, 3. Cyber Family Co. Ltd, 4. Kemicare Products Ltd, 5. LCC Infotech Ltd, 6. Mirzapur Electrical Ltd, 7. SGS Investments Ltd and those are electronics available with us. M/s Jenbon Nichalo Finance Limited and Leasing Finance Limited have shut up their doors and as such specimen signatures could not be collected from them.

In consideration of all submissions placed on this plea before you may kindly deal with sympathy and flexibility & irregularities our par may kindly be condoned at best.”

7. Vide notice of hearing dated August 7, 2018, Noticee was granted opportunity of hearing on August 23, 2018. Noticee through its authorised representatives (AR) accompanied by its officials availed the hearing on August 23, 2018 and following are the proceeds from the same:

“AR reiterated submissions of Noticee made in its reply dated July 30, 2018, and requested to take lenient view with regard to the inadvertent errors on their part as mentioned in their said reply. AR sought permission to file additional submission in the matter, and in this regard Noticee was granted time till August 31, 2018 to make its additional submissions through e-mail.”

8. Noticee, vide its e-mail dated August 31, 2018 made following additional submissions:

“Without prejudice, we further re-submit herein, that most of the irregularities and mistakes are due to our client company’s negligence and non-responsive attitudes. The details have already been mentioned in our letter dated 30/07/2018, as much as possible, at the capacity of our utmost efforts been mentioned in our letter dated 30/07/2018, as possible, at the capacity of our utmost efforts & endeavour.

We have now been able to collect most of the agreements which have been lying with the client companies, at their custodies. Specifically about two companies namely 1)Jenson Nicholson Finance Ltd & 2)Leasing Finance Ltd from whom, we could not get the agreements and any other document by any means because they have already shut down.

About uses of photocopies of the stamp paper, we have already explained the circumstances stamp papers could not be available from the vendors at the crucial time, and when the stamp paper were available the concerned agreements were restored on the fresh stamp papers.

As per your advice we have decided to offer services to the shareholders despite non-receipt of service charges. As you find mistakes and irregularities that have been occurred in our performances are now taken care of very cautiously and we fervently expect that you will be kind enough to condone us from the charges to be imposed.

Last but not the least, we assure and commit to the effect that, there will be no recurrence of such mistake in near future and your inspection team will find flawless documents and streamed line services at best. We now meekly & humbly hope that you will be kind enough to absolve us from any charges whichever it might be, for which, we shall remain ever grateful to your kind personage.”

Other submissions on records

9. As per records on file, SEBI vide letter dated April 4, 2018 (hereinafter, referred to as **“caution letter”**) to the Noticee issued caution for certain 12 discrepancies found during the inspection conducted in December 2016, and it was informed that adjudication proceedings have also been initiated for certain rest of the violations emerged from said inspection and which are part of the present proceedings.
10. Subsequent to above, Noticee vide its letter dated April 30, 2018 made submission about corrective action taken by Noticee regarding said 12 discrepancies and three alleged violations under consideration in present proceedings.
11. As regards to the alleged violation under consideration in present proceedings, Noticee submitted that the agreements with 22 client companies earlier non-traceable has been found with the client companies and are now available with the Noticee, 10 agreements executed on

color Xerox copy of same series of stamp paper was due to paucity of stamp per with the vendor and Noticee has now executed agreements on valid stamp papers, and Code of conduct to regulate, monitor and report trading has now been formulated as per terms of SEBI.

CONSIDERATION OF ISSUES AND FINDINGS

12. Having examined the SCN, the reply of the Noticee to SCN, submissions made in the personal hearing, additional submissions, and other material available on record, the issues that arise for consideration in the present case are as follows:
 - a) Whether the Noticee has violated provisions of
 - i) Regulation 9A(1)(b) of RTA & STA Regulations 1993, Instruction 1 under heading “Agreement to be entered into with Issuer / body corporate” of RRTI Circular No. 1(94-95) dated 11/10/2014,
 - ii) Regulation 9(1) of PIT Regulations 2015,
 - iii) Regulation 18(2) of RTA & STA Regulations 1993 and Clause 2 of Code of Conduct read with Regulation 13 of RTA & STA Regulations 1993
 - b) If yes, does the violation, if any, attract monetary penalty under Sections 15B and 15HB of the SEBI Act?
 - c) If yes, what quantum of monetary penalty should be imposed on the Noticee taking into consideration the factors mentioned in Section 15J of the SEBI Act?

FINDINGS

13. On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticees, the findings with respect to the Noticee are recorded hereunder-

Alleged violation of regulation 9A(1)(b) of RTA & STA Regulations 1993, Instruction 1 under heading “Agreement to be entered into with Issuer / body corporate” of RRTI Circular No. 1(94-95) dated 11/10/2014

14. During the inspection in December 2016, it was observed by SEBI that Noticee could not furnish agreement required to be entered with 22 client companies of the total 54 listed companies which were clients of Noticee. In this regard, Noticee submitted that they could not trace the said 22 agreements and found them missing at the time of inspection, and assured that same will be traced subsequently after rigorous search at end of Noticee very soon. It is on records that further information in this regard was not submitted till the initiation of present proceedings. Thus, it is alleged that Noticee failed to enter into necessary agreements with its said 22 client companies.
15. Further, agreements between Noticee and certain 10 body corporates were entered in same series of stamp paper using color xerox copy of stamp paper, which as per Noticee’s claim happened due to oversight at its end. Thus, it is alleged that the 10 agreements executed by Noticee on same series of stamp paper was invalid.

Before going forward, reference is made to the relevant provisions alleged to have been violated by the noticee:

RTA & STA Regulations 1993

35[9A. Conditions of registration.—(1) 36[registration granted under regulation 8]] shall be subject to the following conditions, namely:-

.....

(b) without prejudice to its obligations under any other law for the time being in force, it shall enter into a legally binding agreement with the body corporate or the person or group of persons for or on whose behalf it is acting as a registrar to an issue or a share transfer agent stating therein the allocation of duties and responsibilities between itself and such body corporate or person or group of persons, as the case may be;

35 Inserted by the SEBI (Registrars to an Issue and Share Transfer Agents) (Amendment) Regulations, 2006, w.e.f. 7-9-2006.

36 Substituted for the words “Any 36[initial registration] granted under regulation 8 or any 36[permanent registration granted under regulation 8A]” by the Securities and Exchange Board of India (Change in Conditions of Registration of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to this. The words “initial registration” were substituted for ‘registration’ by the SEBI (Registrars to an Issue and Share Transfer Agents) (Amendment) Regulations, 2011, w.e.f. 5-7-2011.

RRTI Circular No. 1(94-95) dated 11/10/2014;

INSTRUCTIONS TO REGISTRARS TO AN ISSUE / SHARE TRANSFER AGENTS

Agreement to be entered into with Issuer / body corporate.

1. In terms of rule 4(1)(b) of the SEBI (Registrars to an Issue and Share Transfer Agents) Rules, 1993, all Registrars to an Issue / Share Transfer Agents are required to enter into a legally valid agreement with the Issuers / Body corporate. SEBI has evolved models of Agreement to be entered into between RTI and Issuer (Annexure A) and STA and Body corporate (Annexure B). The models have been formulated with a view to bringing about standardisation in the legal relationship between the RTI and Issuer and STA and body corporate. While the RTI / STA and the Issuer / body corporate may suitably modify the agreement depending upon the circumstances of each case, they should, as far as possible, observe the spirit behind the various clauses contained in the model agreements. While doing so, it must also be ensured that neither party should reserve for itself any rights which would have the effect of diminishing in any way its liabilities and obligations under the Companies Act, 1956 and SEBI (Registrars to an Issue and Share Transfer Agents) Rules and Regulations, 1993.

Where the Registrar to an Issue / Share Transfer agent is a company the agreement should be executed by persons authorized to execute documents in accordance with the Articles of Associations of the company; in case of partnership firms the Agreement should be executed by all the partners or the Managing partner acting under the authority of the other partners; and in the case of a proprietary concern, by the proprietor himself.

The Agreement must be stamped according to the Local Stamp Laws for the time being in force at the place of execution.

In the case of a large issue, the Issuer may decide to appoint / associate more than one RTI. In such a case the Agreement shall be executed by all the RTIs and the Issuer and the Lead Manager shall be a confirming party. The scope of work and responsibilities of each Registrar shall be clearly spelt out in the Agreement.

The Agreement entered into by a RTI with an Issuer shall be valid at least until the expiry of one year from the date of closing of the Issue and in the case of an Agreement entered into by a STA with a body corporate, it shall be valid for a minimum period of one year renewable if the circumstances so require.

A certified copy of the executed agreement between the RTI and the issuer shall be immediately forwarded to the Lead Managers to the Issue (Pre-issue and Post-Issue).

16. As per records, upon receipt of caution letter dated April 4, 2018, Noticee vide letter dated April 30, 2018 informed SEBI about various corrective action taken by it, and therein it was also informed that it has now found the said 22 agreement which were lying with the client

companies and same is now available with the Noticee. The above submission has also been reiterated in reply of the Noticee to the SCN. Noticee, in its reply dated July 19, 2018 to the SCN has submitted that we could not furnish the copies of Agreement of 22 cases because copies of agreements of so called client companies had been lying with them and we could not collect them from the so called companies due to somehow or rather, either paucity of seriousness, etc. But subsequently those agreements of 22 companies have been collected and are now with us and can be produced at any time, if asked for.

17. Considering the submissions available on record, it is noted that agreements with the said 22 client companies were executed though may have been untraceable at the time of inspection, but are now available. Given the above evidence the alleged violation of Noticee not entering into agreements with 22 client companies is not established.
18. As regards the allegation of agreements entered with 10 client body corporates, Noticee in its submissions, including submission in reply to the SCN, has admitted that it fail to enter into agreement on appropriate valid stamp paper. As per submissions of Noticee, it has now taken corrective action and have entered into fresh valid agreement with the said 10 clients, however given the gravity of the issue, the corrective action has come too late, this delay could jeopardised the interests of the shareholders.
19. In view of the above, it is clear that Noticee had failed to enter into legally valid agreement with its 10 client body corporates at appropriate time, and thereby, Noticee has violated provisions of Instruction 1 of “Instructions to Registrars to an Issue / Share Transfer Agents” provided in RRTI Circular No. 1(94-95) dated 11/10/2014 and Regulation 9(1)(b) of RTA & STA Regulations 1993.

Alleged violation of Regulation 9(1) of PIT Regulations 2015 for alleged non implementation of code of conduct under PIT Regulations 2015

20. During the inspection in December 2016, it is found that Noticee has not formulated a code of conduct to regulate, monitor and report of trading by its employees and other connected persons, which is requisite as per Regulation 9(1) of PIT Regulations 2015, which reads as under:

Code of Conduct.

9. (1) The board of directors of every listed company and market intermediary shall formulate a code of conduct to regulate, monitor and report trading by its employees and other connected persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B to these regulations, without diluting the provisions of these regulations in any manner.

NOTE: *It is intended that every company whose securities are listed on stock exchanges and every market intermediary registered with SEBI is mandatorily required to formulate a code of conduct governing trading by its employees. The standards set out in the schedule are required to be addressed by such code of conduct.*

21. Thus, it is alleged that there was a failure at the end of Noticee to formulate the said requisite code of conduct, and thereby Noticee has violated Clause 9 (1) of PIT Regulations 2015.

22. As per records, upon receipt of caution letter dated April 4, 2018, Noticee vide letter dated April 30, 2018 informed SEBI about various corrective action taken by it, and therein it was also informed that Code of conduct to regulate, monitor and report trading has now been formulated. Further, in reply to SCN under present proceedings, Noticee submitted that since this was not passed as a resolution in the Board meeting, the same could not be presented at the time of inspection.
23. It is to be mentioned that the PIT Regulations 2015 were notified on January 15, 2015 and came into effect / force on May 15, 2015. As per provisions of said Regulation 9(1), it is mandatory for a market intermediary registered with SEBI including Noticee which is an RTA & STA, that the necessary code of conduct is formulated by its board. Admittedly, the said code was not formulated till the time of inspection, and it is only after findings conveyed to the Noticee, same have now been formulated.
24. In view of the above, it is clear that Noticee failed to formulate the necessary code of conduct under Regulation 9(1) of PIT Regulation 2015 at the appropriate time, and the same was formulated more than six months after the above regulations came into effect. Thereby, Noticee has violated provisions of Regulation 9(1) of PIT Regulation 2015.

Alleged violation of Regulation 18(2) of RTA & STA Regulations 1993 and Clause 2 of Code of Conduct read with Regulation 13 of RTA & STA Regulations 1993 for alleged misrepresentation of facts related to status of specimen signature records of 9 companies and non-assistance therein to inspection team

25. As per regulation 53A of SEBI (Depositories and Participants) Regulations, 1996, all the matters relating to transfer of securities, maintenance of records of holders of securities, handling of physical securities and establishing connectivity with the depositories shall be handled and maintained at a single point i.e, either in-house by the issuer or by a Share Transfer Agent registered with SEBI.
26. During the inspection in October 2015, SEBI observed that Noticee did not have the specimen signatures of the shareholders w.r.t the following 9 client companies viz, 1. Bipin Industries Development Ltd, 2. Blue Bird Commercial Ltd, 3. Cyber Family Dot Com Ltd, 4. Jenson & Nicholson Finances Services Ltd, 5. Kemicare Products Ltd, 6. LCC Infrotech Ltd, 7. Leasing Finance Ltd, 8. Mirzapur Electrical Industries Ltd, 9. SGS Investments Ltd.
27. SEBI, through letter dated January 15, 2016 conveyed the above findings to the Noticee. In this regard, from the reply of Noticee dated January 25, 2016, SEBI found that Noticee admitted that specimen signature records of the shareholders of 2 companies viz, M/s Bipin Industries Development Ltd and M/s Total Infotech Ltd are not available with them, and Noticee though claimed presence of specimen signature records for rest 7 of the said 9 companies.

28. As per records, to verify the claim of the Noticee, the inspection team revisited the office of the Noticee on November 4, 2016, however, Noticee vide letter dated the same day submitted to SEBI that the signature cards were not available for the following 9 companies viz, 1. Bipin Industries Development Ltd, 2. Blue Bird Commercial Ltd, 3. Cyber Family Dot Com Ltd, 4. Jenson & Nicholson Finances Services Ltd, 5. LCC Infrotech Ltd, 6. Leasing Finance Ltd, 7. SGS Investments, 8. Asiatic Oxygen Ltd and 9. Bhatkawa Tea Industries Ltd. Thus it has been alleged that Noticee through its contradictory submissions misrepresented the facts to the inspection team by claiming that they had signature cards of seven out of nine companies cited in the findings of inspection communicated to Noticee.
29. Further, Noticee, in its reply dated July 30, 2018 to the SCN submitted that *except 2 companies (single point maintained) out of 52 companies we did not receive at all response to our request and we have therefore stopped our services to them with due notice. We have already collected specimen signature of the shareholder of 1. Bipin Industries Limited, 2. Blue Bird Commercial Ltd, 3. Cyber Family Co. Ltd, 4. Kemicare Products Ltd, 5. LCC Infotech Ltd, 6. Mirzapur Electrical Ltd, 7. SGS Investments Ltd and those are electronics available with us. M/s Jenhon Nichalo Finance Limited and Leasing Finance Limited have shut up their doors and as such specimen signatures could not be collected from them.*
30. On perusal of records in the present matter, it is noted that Noticee made submissions on 4 occasions regarding non-availability of specimen signature records of client companies with the Noticee. Name of such companies mentioned in submissions of Noticee are tabulated as follows:

As per information provided by Noticee, name of companies for which specimen signature records were not available with the Noticee				
Sl.	Submissions made in inspection during October 02-05, 2015	Submissions in letter dated January 25, 2016	Submissions in letter dated November 4, 2016	Submissions in reply dated July 30, 2018 to SCN
1	Bipin Industries Development Ltd	Bipin Industries Development Ltd	Asiatic Oxygen Ltd	Jenhon Nichalo Finance Ltd
2	Blue Bird Commercial Ltd	Total Infotent Ltd	Bhatkawa Tea Industries Ltd	Leasing Finance Ltd
3	Cyber Family Dot Com Ltd	-	Bipin Industries Development Ltd	-
4	Jenson & Nicholson Finances Services Ltd	-	Blue Bird Commercial Ltd	-
5	Kemicare Products Ltd	-	Cyber Family Tot Comp Ltd	-
6	LCC Infrotech Ltd	-	Jenshon & Nicholson Finance Ltd	-
7	Leasing Finance Ltd	-	LCC Infotech Ltd	-
8	Mirzapur Electrical Industries Ltd	-	Leasing Finance Ltd	-
9	SGS Investments Ltd	-	SGS Investments Ltd	-

31. Contrary to the contention of Noticee in its reply to the SCN, it is noted that the Noticee has been making differing submissions. As per findings of inspection, Noticee did not had specimen signature records for 9 client companies (*refer column 2 of above table*). However,

Noticee replied to inspection findings through letter dated January 25, 2016, stating that it do not have specimen signature records for only 2 companies (*refer column 3 of above table*) and readily possess the same for rest 7 companies. These submissions were once again contradicted by Noticee in its subsequent letter dated November 4, 2016 mentioning 6 companies (for which it earlier claimed possession of specimen signature records) among the 9 companies (*refer column 4 of above table*) for which it do not have the specimen signature records. Hence, submissions of Noticee were found to be contradicting to its own earlier submissions. Considering the scenario and information available on record, it is not possible to decipher the final submissions made by Noticee in its reply to SCN.

32. Regulation 18 (2) of RTA & STA Regulations 1993 puts obligation on RTA & STA to “*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.*”. Further, as per clause 2 of Code of Conduct read with Regulation 13 of RTA & STA Regulations 1993 “*A Registrar to an Issue and Share Transfer Agent shall fulfill its obligations in a prompt, ethical and professional manner.*”
33. It is pertinent to note that Noticee was required to provide access to the relevant information to SEBI during the inspection. Noticee, being a registered RTA & STA was also expected to abide by the said prescribed code of conduct, which required it to fulfil its obligations in a prompt, ethical and professional manner. However, as observed above Noticee failed to provide access to correct information to SEBI, and have submitted contradictory information to SEBI.
34. In view of the above, it is determined that the Noticee has violated provisions of Regulation 18 (2) of RTA & STA Regulations 1993 and clause 2 of Code of Conduct read with Regulation 13 of RTA & STA Regulations 1993.

Issue b) If yes, does the violation, if any, attract monetary penalty under Sections 15B, and 15HB of the SEBI Act?

35. Hon’ble Supreme Court of India in the matter of **SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC)** has 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...*”.
36. Hence, in this regard, Noticee is liable for penalty to the extent the alleged violations have been established against the Noticee, as mentioned above.
37. The violation established above involving failure to enter into legally valid agreement with 10 body corporate clients at appropriate time, attract penalty under SEBI 15B of SEBI Act, which reads as follows:

Penalty for failure by any person to enter into agreement with clients.

15B. *If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ⁶²[a penalty ⁶³[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]].*

⁶² Substituted for —a penalty not exceeding five lakh rupees for every such failure^l, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶³ Substituted for the words —of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less^l by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.

38. Further, the violation established above involving failure to formulate code of conduct under PIT Regulations 2015 at appropriate time, failure to provide required relevant information to SEBI attract penalty under Section 15HB of SEBI Act, which reads as follows:

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be ⁹⁰[liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]*

⁹⁰ Substituted for the words —liable to a penalty which may extend to one crore rupees^l by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.

Issue c) - If yes, what quantum of monetary penalty should be imposed on the Noticee taking into consideration the factors mentioned in Section 15J of the SEBI Act?

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

“Factors to be taken into account by the adjudicating officer

15J. *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.”*

40. The available records neither reveals nor specify disproportionate gains/unfair advantage made by the Noticee, and the specific loss suffered by the investors due to such violations. However, it cannot be ignored that an RTA & STA (Noticee) is required to adhere to directives / provisions of law, be diligent and professional in its various tasks which are important for smooth / safe functioning of securities market. In this case, the Noticee has committed breach of provisions as established above.
41. The Noticee has informed about remedial actions taken by it. As regard to the corrective action involving entering into fresh agreements with said 10 client body corporates and formulation of necessary code of conduct under PIT Regulations 2015, it is noted that the same have been taken pursuant to inspection

42. Therefore, taking into consideration the facts /circumstance of the case, a justifiable penalty needs to be imposed upon the Noticee.

ORDER

43. In view of the above, after taking into consideration all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15J of the SEBI Act, following penalty is imposed upon Noticee S K Infosolutions Pvt Ltd:

- a) Rs.3,00,000/- (Rupees Three Lakh only) under Section 15B of SEBI Act; and
b) Rs.2,00,000/-(Rupees Two Lakh only) under Section 15 HB of SEBI Act

Which would be commensurate with the violations committed by Noticee as established above.

44. The Noticee shall remit / pay the said amount of penalty (total Rs.5 Lakh only) within 45 (forty five) days of receipt of this order either by way of Demand Draft (DD) in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or through e-payment facility into Bank Account, the details whereof are as follows:-

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

45. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department 1, Division of Regulatory Action 2 [EFD1-DRA2], SEBI Bhavan, Plot No.C4-A,‘G’ Block, Bandra Kurla Complex, Bandra (East), Mumbai – 400051. The Format for forwarding details / confirmations of e-payments made to SEBI shall be in the form as provided at Annexure A of Press Release No. 131/2016 dated August 09, 2016 shown at the SEBI Website which is produced as under;

1. Case Name :
2. Name of Payee:
3. Date of payment:
4. Amount Paid:
5. Transaction No:
6. Bank Details in which payment is made:
7. Payment is made for: (like penalties/disgorgement/recovery/Settlement amount and legal charges along with order details)

46. In terms of rule 6 of the SEBI Adjudication Rules, copies of this order is being sent to the Noticee and also to the SEBI.

Date: September 19, 2018
Place: Mumbai

Jeevan Sonparote
Adjudicating Officer