QJA/AB/MIRSD/MIRSD3/28840/2023-24

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Section 12(3) of the Securities and Exchange Board of India Act, 1992 read with Regulation 27 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008

In respect of:

Name of the Noticee	SEBI Registration No.
Angel One Limited (Earlier known as Angel Broking Private Limited)	**INZ000161534**

In the matter of EOW Investigations

Background:

1. An investigation was conducted by the Securities and Exchange Board of India (hereinafter referred to as '**SEBI**'), pursuant to two news articles dated January 08, 2014, *inter alia*, alleging the dematerialization and selling of shares in dormant accounts using forged documents by certain entities during the period from September 14, 2009 till March 08, 2013 (hereinafter referred to as '**Investigation Period'**). SEBI's investigation revealed that shares of 14 listed companies were allegedly acquired in the name of 26 bogus and non-existing entities through transfer of allegedly stolen or counterfeit physical shares and the said shares were subsequently dematerialized in the accounts of these 26 bogus entities.

2. It was observed during the course of investigation that Angel One Limited (earlier known as Angel Broking Private Limited) (hereinafter referred to as the "**the noticee**"), a registered stock broker and a member of BSE Limited (hereinafter referred to as '**BSE**') and National Stock Exchange of India Limited (hereinafter referred to as '**NSE**'), had allegedly failed to exercise due skill, care, diligence, professionalism and efficiency in the conduct of its business. It was observed during

the investigation that the noticee had allegedly failed to exercise due skill, care, diligence, professionalism and efficiency by:

i. not putting in place a procedure for client introduction;
ii. not having a system to verify mobile numbers and email IDs of clients with any original documents;
iii. not filing the suspicious transaction report (hereinafter referred to as **"STR"**) for transactions entered into by 26 of its clients to the Financial Intelligence Unit (hereinafter referred to as the **"FIU"**);
iv. not capturing the details of the place where the Know Your Customer (hereinafter referred to as **"KYC"**) forms were filled in a proper manner;
v. accepting orders from persons not authorized by the clients; and
vi. showing lack of diligence while dealing with the bogus entities, including Mr, Anil Purshottam Atre (hereinafter referred to as **"Mr. Atre"**).

3. In view of the above, it was alleged that the noticee had violated the provisions of Clause A(2) of Code of Conduct as specified in Schedule II read with regulation 9(f) of the Securities and Exchange Board of India (Stock-Brokers) Regulations, 1992 (hereinafter referred to as the "**Broker Regulations**").

4. Pursuant to conclusion of the investigation, SEBI appointed a Designated Authority (hereinafter referred to as **'the DA'**) to inquire into and to submit a report pertaining to the alleged violation of Clause A(2) of Code of Conduct as specified in Schedule II read with regulation 9(f) of the Broker Regulations.

5. The DA, after conducting the enquiry, as specified under regulation 25 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 (hereinafter referred to as the '**Intermediaries Regulations**'), submitted the Enquiry Report dated July 29, 2022 (hereinafter referred to as the **"Enquiry Report"**) wherein the DA has made the following observations:

a. The DA has observed that the allegations mentioned at para 2(i) and (ii) above, i.e., the noticee failed to exercise due skill, care, diligence, professionalism and efficiency on account of not having a procedure for client introduction and not having a system to verify mobile numbers and email IDs of clients with any original documents do not stand established.

b. As regards the allegation levelled at para 2(iii), i.e., non-reporting of '*suspicious transactions*' to FIU by the noticee, the DA has observed that the noticee, as per paras 8, 9 and 2.2 of the guidelines of the SEBI Circular ISD/CIR/RR/AML/1/06 dated January 18, 2006, read with para 4 sub-clause (c) of Suspicious Transactions Report Guidelines mentioned under para 6 of SEBI Circular ISD/CIR/RR/AML/2/06 dated March 20, 2006 and para 10 and para 13 of SEBI Master Circular CIR/ISD/AML/3/2010 dated December 31, 2010 (hereinafter collectively referred to as "**SEBI PML Circulars**"), was under an obligation to report certain transactions of its clients to FIU, which it failed to do. The DA has observed that by not adhering to the SEBI PML Circulars, the noticee failed to exercise due care and diligence, professionalism in the conduct of its business.

c. As regards the allegation at para 2(iv), the DA has observed that the noticee has failed to follow the KYC process in letter and in spirit as the '*Place*' section in the KYC form was filled by the staff of the noticee and not the clients.

d. As regards the allegation at para 2(v), the DA has observed that the allegation pertaining to lack of proper checks for order acceptance by its dealers, stands established, as it had accepted orders from persons which were not authorized by the clients.

e. As regards the allegation at para 2(vi), the DA has observed that the act of introducing the bogus/ fraud entities to the noticee in a '*casual manner*' shows lack of diligence by the noticee while dealing with the bogus entities and thus, the said allegation also stands established.

6. Accordingly, the DA recommended that the Certificate of Registration of the noticee (bearing no. INZ000161534), as a broker, may be suspended for a period of three months. The relevant excerpt of the Report is produced hereunder:

> *"In view of the violations as established, facts and circumstances of the case, I find that the instant enquiry proceedings initiated vide the SCN dated October 04, 2018 against the Noticee viz. Angel One Limited (earlier known as Angel Broking Pvt Ltd) is a fit case for recommending punitive action in the form of suspension of the certificate of registration as specified under Regulations 26(1)(iii) of the Intermediaries Regulations read with Regulation 27 of the Broker Regulations and Section 12(3) of the SEBI Act, 1992. Therefore, in terms of Regulation 26(1)(iii) of the Intermediaries Regulations, I recommend that the registration of the Noticee, i.e., Angel One Ltd. (earlier known as Angel Broking Pvt Ltd.) [SEBI Registration No.: INZ000161534] as a broker be suspended for three months.*"

7. Pursuant to submission of the Enquiry Report, a Post Enquiry Show Cause notice dated October 6, 2022 (hereinafter referred to as the **"SCN"**) enclosing a copy of the Enquiry Report therewith was issued to the noticee to show cause as to why the action, as recommended by the DA, including other appropriate directions, if any, in terms of regulation 27 of the Intermediaries Regulations should not be taken/ issued against the noticee.

8. The noticee, vide its letter dated November 11, 2022, filed the reply to the SCN and a hearing in the matter was scheduled on January 24, 2023.

9. On the scheduled date of hearing, Authorized Representatives of the noticee viz. Mr. Somasekhar Sundaresan, Advocate, Mr. Pravin Bathe, Chief Legal and Compliance Officer of the noticee, and Shri Bhavin Parekh, Associate Director of the noticee, appeared through video conferencing and made oral submissions in line with the reply earlier filed in the matter. As requested, the noticee was provided with 10 days' time to file post hearing submissions in the matter, which it filed vide letter dated February 3, 2023.

10. The submissions made by the noticee in its reply / written submissions dated November 11, 2022 and February 3, 2023 and the oral submissions made during the course of personal hearing are summarized hereunder:

i. The recommendation of the DA is untenable, unfair, disproportionate, inappropriate for the following reasons:
   a) The material on record would show that the noticee discovered the case of identity theft and immediately initiated action which included intimation to regulatory agencies and police authorities;
   b) On the same facts and circumstances, adjudication proceedings were also initiated against the noticee in its capacity as a depository participant and after taking into account the facts and circumstances of the case and observing how the noticee was a victim, it was exonerated by the Adjudicating Officer (hereinafter referred to as **"AO"**). The facts in the adjudication proceedings and the present proceedings are similar right from the account opening procedure to non-reporting of suspicious transactions to the FIU. The same entity, i.e., the noticee has a certificate of registration as a depository participant as well as a stock broker. Now, for another officer of SEBI to take a different approach is grossly unfair and inappropriate;
   c) There was nothing suspicious about the transactions of the clients who had traded in the shares obtained by means of identity theft. As soon as the theft was identified, the suspicion was indeed reported;
   d) Even if it is assumed that some of the technical violations are sustainable, the recommendation to suspend the entire nationwide broking operations of the noticee, for a period of three months, in 2023 for the alleged negligence pertaining to events that took place in 2009-2013 is not tenable;

ii. Vide order dated April 29, 2021 (hereinafter referred to as the **"AO Order"**), SEBI while dealing with the Noticee as a depository participant, had passed an adjudication order on the very same facts and circumstances and as regards the KYC process followed by the noticee in respect of the 26 entities, the AO has conclusively and categorically held that the noticee was compliant and diligent

and consequently, the adjudication proceedings were accordingly disposed of without any imposition of penalty. It is a settled position of law that once an issue on the same facts and between the same parties has been determined judicially, it gives rise to 'issue estoppel' and thus the allegations in respect of the KYC process must necessarily be dropped against the noticee;

iii. While surveillance measures of several financial market operators were compromised, the *suo moto* actions of the noticee, on the basis of complaint of Mr. Surendra Kayal (based in Kolkata) (hereinafter referred to as **"Mr Kayal-Kolkata"**), helped unravel the market wide scam and it was the noticee itself who had identified the link and connection between the 26 fraudulent accounts through its investigations;

iv. The accounts of 26 bogus entities were opened on the basis of legitimate documents such as PANs, ration cards, driving licenses and bank accounts, and using these identity and address proofs, the miscreants managed to create fake identities which were then used to open accounts with the noticee;

v. The noticee has made the following submissions as regards the allegation of failure to file the STRs with the FIU:
   a) The DA has relied upon the SEBI PML Circulars to observe that the noticee did not file the STRs to FIU but the show cause noticee dated October 9, 2018, issued by the DA, did not contain any such allegation that the noticee had failed to file STRs in terms of the SEBI PML Circulars and thus, the DA has overreached the show cause notice, by relying upon the SEBI PML Circulars in the Enquiry Report;
   b) The noticee had reported the transactions to FIU as soon as the suspicion was aroused in May 2013 after receiving a complaint from Mr. Kayal-Kolkata;
   c) The transactions did not involve any ingredient of '*suspicious transactions*' in terms of Prevention of Money-laundering (Maintenance of Records) Rules, 2005 (hereinafter referred to as **"PML Rules"**);

d) The DA has failed to consider that the 26 bogus entities had been trading with the noticee for a period of about four years and there was no reason or unusual circumstance which could have aroused a reasonable suspicion in the mind of the noticee. The DA observed that the transactions were suspicious as the trading turnover of these clients was not commensurate with the annual income of the clients, such observation of DA is not supported by law, as a person need not have a sizeable income if such person has a sizeable wealth;

e) The noticee itself is a victim of fraud and a whistle-blower and any imposition of penalty as severe as the penalty recommended by the DA would be unjust, inappropriate and baseless. During the investigation period, the noticee had system in place to generate alerts and 302 STRs were filed by the noticee between April 2009 to March 2014;

f) The bogus entities were already holding shares which were sold and there was no reason to believe that their wealth in the form of their shareholding should render their transactions worthy of suspicion;

g) The value of dematerialized shares held by the clients in most instances was higher than the value of trades of these clients and majority of the trades of these clients were sale transactions of shares already held in their demat account which were not purchased through the noticee and were only dematerialized through the Registrar to an Issue and Share Transfer Agent (hereinafter referred to as **"RTA"**) on presentation of the physical share certificates. The total value of transactions executed through the noticee for all these 26 clients was around ₹1.82 crore, which included sale of the dematerialized shares to the tune of ₹1.59 crore. The value of trading of shares other than sale of dematerialized shares was only ₹22.7 lakh across all the 26 clients over a period of 4 years. The physical shares presented for dematerialization were issued by RTAs of the respective companies in the name of the clients and thus, the noticee had no reason to suspect the sale of the said shares;

h) At the relevant time, the clients were required to disclose their income in the form of a range and there was no mandatory requirement for the client to provide tax returns as proof of income or assets. Thus, the noticee had no

means to ascertain the purchase value of historical holdings of the now dematerialized shares of the clients. Physical shares already held and subsequently dematerialized could not have been co-related with the disclosed income as they were securities/ assets already held in the name of the clients;

i) As regards the transactions of Mr. Kayal- Kolkata, out of the total transactions amounting to ₹22,54,974, only ₹14, 226.50 was related to trade on exchange other than the shares dematerialized by him. Since majority of the transactions from Mr. Kayal- Kolkata were sale transactions of shares already owned by him, there was no reason for the noticee to suspect the transactions;

j) Para 10.2 of the SEBI Master Circular dated December 31, 2010 sets out an illustrative list of circumstances which may be in the nature of suspicious transactions and none of the said circumstances existed at the relevant point. Further para 13.2(b) of the aforesaid Circular also requires for recording of reasons for treating any transaction as suspicious and there was no contemporaneous factor that could have given rise to suspicion for the noticee to file a STR. Pursuant to its investigation and the suspicion, the noticee immediately filed a complaint with the Economic Offences Wing (EOW) and also filed STRs with the FIU, as required, by May 2013;

k) The requirement to generate alert pertaining to disproportionate trading activity vis-à-vis reported income/ net-worth of a client was introduced for the first time vide NSE Circular dated July 01, 2021, i.e., much after the investigation period and thus, neither SEBI nor the exchanges had the requirement laid down for generation of alerts on the basis of trading which was not commensurate with the declared annual income;

l) The DA has sought to place reliance on the decision of the Hon'ble Securities Appellate Tribunal (hereinafter referred to as **"SAT"**) in the matter of ***M/s Marwadi Shares and Finance Limited Vs. SEBI***[1] (hereinafter referred to as **"Marwadi Case"**) and order dated September 18, 2003 in the matter of ***Madhukar Sheth Vs. SEBI***[2] (hereinafter referred to as **"Madhukar Case"**).

[1] Appeal No. 85 of 2011, Decided on July 26, 2021
[2] Appeal No. 46 of 2002

These cases are completely distinguishable on facts. In the Marwadi Case, the transactions were self-trades and had no economic rationale. In the Madhukar case, the entity therein had not taken any steps to report suspicious transactions to the FIU however, in the present case the Noticee has reported the transactions to FIU after conducting the investigation;

vi. The noticee has made the following submissions as regards the allegation that the '*Place*' section in the KYC forms was not filled properly:

a) The AO vide its Order dated April 29, 2021 has categorically observed that the KYC forms of the clients were stamped with dates and the details such as branch code, branch stamp etc. with date and addresses of the noticee and witnesses were recorded in the account opening form and therefore missing date or time, cannot itself render the KYC process deficient or not diligent. Similarly, in the present matter, non-capturing of '*Place*', in itself, cannot render the KYC process deficient;

b) The noticee's centralized KYC processing office is in Hyderabad and the staff at Hyderabad may have filled the place as 'Hyd', when left blank by the clients. While the KYC documents may have reflected 'Hyd' in the '*Place*' section, the KYC form itself and the supporting documents provided by the clients clearly reflects the actual addresses provided by the clients;

c) It is not the case that the location of the clients is unknown and the addresses of the clients have been missed or have not been recorded. The DA has not taken into account these submissions of the noticee and has observed that the spirit of the KYC has to be adhered to in order to control frauds and identify suspicious activities;

d) The accounts of all the 26 bogus entities were opened by the noticee in due compliance with the prevalent norms specified by SEBI and the exchanges. The entities had provided documents such as PAN cards, ration cards, bank statements/ cancelled cheque etc. On verifying the details of the PAN cards through the Income Tax website, it was noted that details of all these 26 entities were available in the income tax records, confirming the authenticity of the PAN cards;

e) The '*Place*' field left blank in the KYC forms is at best a venial or technical breach and the same does not amount to tampering with the spirit of the KYC process and does not merit a penal consequence;
f) The noticee has always endeavored to improve the process of KYC and make it error free and it has undergone tremendous change over time including the digitalization of the process of onboarding the clients;

vii. The noticee has made the following submissions as regards the allegation of accepting orders from persons not authorized by the clients:
a) The DA has failed to appreciate the contentions of the noticee as the said calls were made/ received to/ from the registered mobile numbers of the clients and as such, since the calls were being made/ received to/ from the registered mobile numbers of the clients, there was no requirement to conduct a verification;
b) A dealer through frequent telephone interactions with a client can reasonably accurately determine if it is a different person talking from the same mobile number and in case of any suspicion the dealer puts verification questions that are more difficult for an imposter to answer promptly. Mr. Arvind Shah who spoke on behalf of Mrs. Pushpa Shah was her husband and had the same address and both of them were clients with the noticee and thus, the dealer had no suspicion to act upon;
c) Although not mandated under regulations, the noticee used to send trade confirmations through SMS on the registered mobile number of the clients, over and above, the contract notes sent to the clients. No complaints were raised by the clients. Further, the noticee has nearly fully eliminated offline trades over telephones by migrating 99% of its clients to online trades through its mobile app;
d) Over the years, the noticee has taken steps to fool-proof its systems such as shifting its clients to online trading which is enabled by ID and password, by making efforts to create client awareness about safe trading practices, including informing clients about precautions which must be taken while transacting through an authorized person etc.;

viii. The noticee has made the following submissions as regards the allegation that Anil Purshottam Atre and other clients were introduced in a '*casual manner*' by the noticee's sub-broker:

a) The DA has arrived at the conclusion that there was lack of diligence while dealing with bogus entities on the basis that Mr. Atre was non-existing bogus entity and that the sub-broker of the noticee did the introduction and KYC of Mr. Atre in a casual manner and not as per the intent and spirit of KYC norms as specified by SEBI;

b) The aforesaid conclusion has been arrived at by the DA by placing excessive reliance on the statement made by Mr. Hemant Punamiya and the DA has failed to appreciate that the account of Mr. Atre was opened after completing all the procedural formalities including In Person Verification (hereinafter referred to as **"IPV"**) and Original Seen and Verified (hereinafter referred to as **"OSV"**) at noticee's branch in Goregaon office. The statement of Mr. Hemant Punamiya corroborates that IPV was duly done by the noticee. The KYC documents of Mr. Atre bear the stamp of IPV and OSV completion. Further, Mr. Hemant Punamiya has admitted on oath before SEBI that his brother Mr. Bhushan Punamiya (who also worked as employee of the same sub-broker where Mr. Hemant Punamiya worked), introduced Mr. Atre as a client;

c) The contention that Mr. Atre was introduced in a '*casual manner*' is meritless and baseless and the very term '*casual manner*' is extremely arbitrary. The DA has sought to rely upon statement of Mr. Hemant Punamiya which mentions that the introduction of Mr. Atre was casual but no clarification has been sought from Mr. Hemant Punamiya as to what was meant by '*casual manner*';

d) The DA has failed to consider that all account opening formalities and KYC processes were duly followed by the noticee, including in relation to Mr. Atre, and the same has been accepted by the DA in the Enquiry Report itself. Further, there is no rule/ regulation/ circular which sets out the standard that has to be complied with by a broker in respect of introduction of clients;

e) The DA has failed to consider the noticee, as a stock broker, had completed all the KYC processes and formalities before opening the account of the

clients. The account was opened on the basis of the documents such PAN card, ration card, bank cheque etc., which were independently verified by the noticee. Thus, undue reliance on the term '*casual manner*', which has not been defined anywhere, is completely misplaced and meritless;

f) As per SEBI Circular dated August 22, 2011, a broker is required to capture additional information about clients and while information such as bank account, depository account, etc., are mandatorily required to be captured, the details of the introducer are optional to be captured. Thus, it is unclear as to why the noticee is being charged with a purported violation of improper KYC and introduction of clients in a casual manner when SEBI has itself made the requirement of capturing the details of the introducer of the client as optional;

ix. The noticee has also contended that the recommendation of the DA is not commensurate with the facts, as under:

a) The allegations raised and the conclusions drawn by the DA against the noticee have been arrived at with the benefit of hindsight and the DA ought to have considered the facts and circumstances prevalent in 2009-2013 and the information/ knowledge that the noticee had at the relevant point of time. The DA should not have rejected the noticee's submissions and contentions by considering the same with an added lens of fraud and material which has come in light pursuant to the investigation;

b) The present proceedings would not have been initiated if the noticee had not reported the irregularities and findings of its *suo moto* investigation to EOW and other authorities;

c) The DA has failed to consider that the noticee was also a victim of the fraud. The accounts of the 26 bogus entities were opened after verification of the state issued documents and the noticee had no reason to question the authenticity of these documents. The bogus entities seemed to have circumvented the checks and balances of various institutions and government agencies prior to approaching the noticee with respective proofs of address and identity and thus, it was not only the noticee's infrastructure which was misused but other state machineries were also misused;

d) The Hon'ble Supreme Court in the matter of ***SEBI Vs. Rakhi Trading Private Limited***[3] had observed that as the market grows, ingenious means of manipulation are employed and thus, it is evident that while the market intermediary is reasonably expected to put in place measures to avoid market frauds but if somehow a market fraud is executed using ingenious means, the market intermediary would be held liable. The noticee in the present case had acted diligently and with due skill and care and grave allegations of violation of provisions of Stock Broker Regulations and Intermediaries Regulations would have a major impact on the reputation of the noticee;

e) The DA has not provided any reason/ justification as to why the recommendation of suspension of certificate of registration has been made by the DA;

x. The noticee has also expressed its concern about the impact of the recommendation as under:

a) The DA has failed to evaluate the harsh and severe impact of the recommendation not only on the noticee and its operations but other stakeholders, including clients and shareholders of the noticee;

b) The DA has failed to consider that the noticee is one of the prominent stock broking institutions in India that has been in business for over 26 years and has a client base of over 1.2 crore clients, has 1.20 lakh public shareholders of the company and employees;

c) The noticee's operations have grown multifold since 2009-10 and the suspensions of certificate of registration is an extreme and hurtful measure and the noticee would need to shut shop if it cannot conduct itself as a broker for even a week, leave alone being suspended for three months;

xi. The noticee has argued that the proceedings are entirely vitiated by delay and laches. It has stated that:

a) The documents on the basis of which the proceedings have been initiated by SEBI have been available with SEBI since 2013. However, the show cause

[3] (2018) 13 SCC 753

notice under regulation 25 of the Intermediaries Regulations was issued on October 09, 2018 with a gross and unexplained delay of 5 years and the present SCN has been issued on October 06, 2022, i.e., after a gross and unexplained delay of 9 years. Further, there has been a gross and unexplained delay of more than 4 years in concluding the proceedings under regulation 25 of the Intermediaries Regulations.

b) It is a settled position that even though there is no period of limitation prescribed under the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **"SEBI Act"**) and /or SEBI Regulations for issuance of show cause notice, SEBI is required to exercise its powers within a reasonable period of time. In this regard, reliance is placed on the decision of Hon'ble SAT in the matter of ***Ashok Shivlal Rupani and another Vs. SEBI***[4] dated August 22, 2019, ***Rakesh Kathotia and Others Vs. SEBI***[5] dated May 27, 2019 and the Hon'ble Supreme Court in the matter of ***Adjudicating Officer, SEBI Vs. Bhavesh Pabari***[6] and ***SEBI Vs. Sunil Khaitan and others***[7], dated July 07, 2022, etc.;

xii. It is a settled principle of law that due diligence means doing everything reasonable and not everything that is possible. Further, a market intermediary cannot be expected to conduct its business while always assuming that a fraud is in the offing;

xiii. The 26 accounts were opened over the course of multiple years and over multiple branches of the noticee and few individuals seem to have visited different branches for the IPV with different set of original documents and thus, the face of the person opening the account and the photo used in the identity documents would match and there would be nothing amiss;

[4] Appeal No. 417 of 2018
[5] Appeal No. 07 of 2016
[6] (2019) 5 SCC 90
[7] 2022 SCC Online SC 862

xiv. Reliance is placed on the decision of the Hon'ble Supreme Court in the matter of ***SEBI Vs. Kishore R. Ajmera***[8] to submit that several factors like volume of trades, the extent of knowledge etc., must be considered in order to hold a broker liable of violating the SEBI Regulations and thus, merely because the noticee has facilitated a transactions, it cannot be held that the noticee has violated the SEBI Regulations

Consideration of Issues and Findings:

11. Having carefully examined the material available on record *viz*. the Enquiry Report, the SCN, the reply/written and the oral submissions put forth during the course of personal hearing, the allegations against the noticee can be categorized under six heads. The *first* allegation is that there was no set procedure of client introduction and any person could be introduced as a client without following proper procedure for introduction and registration and KYC. The *second* allegation is that the noticee has no system wherein the contact details of the client (mobile number, email ID, etc.) could be verified with some original documents as proof or even by calling the client on his given mobile number. The *third* allegation is that the noticee failed to report suspicious transaction of 26 bogus entities which were not commensurate with their declared annual income, to FIU. The *fourth* allegation against the noticee is that there is a loophole in the filling up of KYC, in the noticee's systems as the '*Place*' section in the KYC forms of the 26 entities was left blank by the clients and was later on filled as '*Hyd*' by the employees of the noticee. The *fifth* allegation against the noticee is that the noticee does not have proper checks as regards the order acceptance by its dealers, as the dealer of the noticee had accepted orders from persons who did not have the requisite authorization in this regard from the clients. The *sixth* allegation against the noticee is that there was lack of diligence by the noticee while dealing with bogus entities which were its clients as the clients were introduced to the noticee in a '*casual manner*'.

12. As regards the *first* allegation, the DA in the report has observed that the allegation does not stand established against the noticee. The noticee had submitted before

[8] (2016) 6 SCC 368

the DA that it had set out procedures in place for client introduction, registration and KYC and all the processes were duly followed while opening the accounts for 26 clients. The documents of all the bogus entities were verified and recorded as per the then existing guidelines. Since these accounts were opened with the noticee over a span of 5 years (2008-2013) across various branches, it would have been impossible to detect manually that the accounts under different names were being opened using same or similar looking photographs, common addresses and common numbers. The noticee has also relied on the AO Order passed in its favor as a depository participant, to submit that the allegation of failure to exercise due care and diligence in respect of account opening formalities of 26 clients cannot be sustained.

13. On perusal of the records, it is observed that the said allegation stems from the statement of Mr. Surendra Suryakant Kadam (sales executive of the noticee), which was recorded during the course of investigation, wherein, it was stated by him that he got in touch with two clients (found to be bogus entities later) on a random basis and there was no criterion for the introduction of clients. I have perused the observations of the DA made in the Enquiry Report and I am in agreement with the observations made by the DA. Without prejudice to the other findings in the Enquiry Report in relation to compliance with KYC requirements, in respect of the allegation regarding there not being any set procedure for client introduction, the DA has observed that on perusal of the KYC forms of certain entities, the introducer details were found to be duly recorded by the noticee and the noticee had carried out the KYC process for the said clients in accordance with the established practices/ guidelines. The noticee had collected the PAN cards, ration cards, bank passbooks, cancelled cheque etc., from the clients and had verified the same in accordance with the applicable framework. Thus, since the introducer details were duly recorded in the KYC forms and the documents related to KYC were also collected and verified, I find merit in the submissions of the noticee and agree with the observations of the DA.

14. With respect to the *second* allegation also the DA has found the noticee to be not in violation of the applicable laws. The noticee had submitted before the DA that

there was no requirement to verify contact details, i.e., mobile number and Email IDs with original documents during the relevant period, i.e., 2008-2013 and such requirement was not mandated by SEBI/ Exchanges. The noticee has also subsequently adopted measures such as setting up a tele-verification desk and verification via One Time Passwords. I find that the DA in the Enquiry Report has observed that the SEBI Circular dated August 22, 2011 on '*Simplification and Rationalization of Trading Account Opening Process*' which provided for documents/ requirements of account opening process does not provide for the verification of mobile numbers of Email IDs of the clients. In absence of any regulatory requirement and any specific framework, i.e., what exactly the noticee should have done to verify the mobile numbers/ Email IDs, the noticee cannot be held liable for not exercising due care and skill. I agree with the findings of the DA and hold that the allegation pertaining to verification of contact details of clients does not stand established.

15. With respect to the remaining allegations, i.e., non-reporting of '*suspicious transactions*' to FIU, improper filling of KYC; as details of '*place*' was left vacant by the clients, lack of checks for acceptance of orders from clients, and lack of due diligence in dealings with bogus entities, after taking into consideration the contents of the SCN and the written and oral submissions made by the noticee, the following issues arise for my consideration:
    a) Whether the transactions of 26 bogus entities fall within the purview of the term '*suspicious transactions*' as defined under rule 2(1)(g) of the PML Rules?
    b) Whether the noticee has violated the SEBI PML Circulars by not reporting the suspicious transactions to FIU?
    c) Whether there was a deficiency in the noticee's systems for filling up of KYC forms, as the '*Place*' section in the KYC forms of the 26 entities was left blank by the clients and was later on filled as '*Hyd*' by the employees of the noticee?
    d) Whether there were lack of checks from the noticee regarding the acceptance of orders from its clients?

e) Whether there was lack of due diligence on the part of the noticee while dealing with the bogus entities?

f) Whether the noticee has violated Clause A(2) of the Code of Conduct as specified in Schedule II read with regulation 9(f) of the Broker Regulations?

16. Before dealing with the issues at hand, I deem apposite to refer to the relevant provisions of law alleged to have been violated in the matter, extracts whereof are reproduced below:

"SEBI (Stock Brokers) Regulations, 1992:

Conditions of registration.

9. *Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-*

…

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II; and

SCHEDULE II

Securities and Exchange Board of India (Stock Brokers) Regulations, 1992

CODE OF CONDUCT FOR STOCK BROKERS

[Regulation 9]

A. General.

(1) …

(2) *Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business.*

Rule 2(1)(g) of the PML Rules

(g) "Suspicious transaction" means a transaction referred to in clause (h), including an attempted transaction, whether or not made in cash, which to a person acting in good faith-

(a) gives rise to a reasonable ground of suspicion that it may involve proceeds of an offence specified in the Schedule to the Act, regardless of the value involved; or

(b) appears to be made in circumstances of unusual or unjustified complexity; or

(c) appears to have no economic rationale or bona fide purpose; or

(d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism;

Explanation. - Transaction involving financing of the activities relating to terrorism includes transaction involving funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by a terrorist, terrorist organisation or those who finance or are attempting to finance terrorism

SEBI PML Circulars

A. SEBI Master Circular dated December 31, 2010

10. Suspicious Transaction Monitoring & Reporting

10.1 Intermediaries shall ensure that appropriate steps are taken to enable suspicious transactions to be recognized and have appropriate procedures for reporting suspicious transactions. While determining suspicious transactions, intermediaries shall be guided by the definition of a suspicious transaction contained in PML Rules as amended from time to time.

10.2 A list of circumstances which may be in the nature of suspicious transactions is given below. This list is only illustrative and whether a particular transaction is suspicious or not will depend upon the background, details of the transactions and other facts and circumstances:

a) Clients whose identity verification seems difficult or clients that appear not to cooperate

b) Asset management services for clients where the source of the funds is not clear or not in keeping with clients apparent standing /business activity;

c) Clients based in high risk jurisdictions;

d) Substantial increases in business without apparent cause;

e) Clients transferring large sums of money to or from overseas locations with instructions for payment in cash;

f) Attempted transfer of investment proceeds to apparently unrelated third parties;

g) Unusual transactions by CSCs and businesses undertaken by offshore banks/financial services, businesses reported to be in the nature of export- import of small items.

10.3 Any suspicious transaction shall be immediately notified to the Money Laundering Control Officer or any other designated officer within the intermediary. The notification may be done in the form of a detailed report with specific reference to the clients, transactions and the nature /reason of suspicion. However, it shall be ensured that there is continuity in dealing with the client as normal until told otherwise and the client shall not be told of the report/suspicion. In exceptional circumstances, consent may not be given to continue to operate the account, and transactions may be suspended, in one or more jurisdictions concerned in the transaction, or other action taken. The Principal Officer/Money Laundering Control Officer and other appropriate compliance, risk management and related staff members shall have timely access to client identification data and CDD information, transaction records and other relevant information.

13. Reporting to Financial Intelligence Unit-India

13.1 In terms of the PML Rules, intermediaries are required to report information relating to cash and suspicious transactions to the Director, Financial Intelligence Unit-India (FIU-IND) at the following address:

Director, FIU-IND,
Financial Intelligence Unit-India,
6th Floor, Hotel Samrat, Chanakyapuri,
New Delhi-110021.
Website: http://fiuindia.gov.in

13.2 Intermediaries shall carefully go through all the reporting requirements and formats enclosed with this circular. These requirements and formats are divided into two parts- Manual Formats and Electronic Formats. Details of these formats are given in the documents (Cash Transaction Report- version 1.0 and Suspicious Transactions Report version 1.0) which are also enclosed with this circular. These documents contain detailed directives on the compilation and manner/procedure of submission of the manual/electronic reports to FIU-IND. The related hardware and technical requirement for preparing reports in manual/electronic format, the related data files and data structures thereof are also detailed in these documents. Intermediaries, which are not in a position to immediately file electronic reports, may file manual reports with FIU-IND as per the formats prescribed. While detailed instructions for filing all types of reports are given in the instructions part of the related formats, intermediaries shall adhere to the following:

(a) The Cash Transaction Report (CTR) (wherever applicable) for each month shall be submitted to FIU-IND by 15th of the succeeding month.

(b) The Suspicious Transaction Report (STR) shall be submitted within 7 days of arriving at a conclusion that any transaction, whether cash or non-cash, or a series of transactions integrally connected are of suspicious nature. The Principal Officer shall record his reasons for treating any transaction or a series of transactions as suspicious. It shall be ensured that there is no undue delay in arriving at such a conclusion.

(c) The Principal Officer will be responsible for timely submission of CTR and STR to FIU-IND;

(d) Utmost confidentiality shall filing of CTR and STR to FIU-IND. The reports may be transmitted by speed/registered post/fax at the notified address.

(e) No nil reporting needs to be made to FIU-IND in case there are no cash/suspicious transactions to be reported."

17. The provisions of SEBI Circulars dated January 18, 2006 and March 20, 2006 have not been reproduced above as the provisions relevant to the present proceedings have been appropriately covered in the SEBI Master Circular dated December 31, 2010 which consolidates and supersedes the earlier circulars, including the circulars dated March 20, 2006 and January 18, 2006.

18. I shall now proceed to examine the issues framed at para 15 above on merits in light of the submissions made by the noticee and material available on record.

19. The noticee has submitted that it was never given an opportunity of dealing with the alleged violation of the SEBI PML Circulars before the DA as the same was never raised in the SCN issued by the DA or at the time of hearing before the DA. In this regard, I am of the view that the Post Enquiry SCN issued to the noticee contained all relevant material, including the Enquiry Report, which in turn included the reliance on the SEBI PML Circulars. Further, as noted from the records, the noticee has filed its written submissions on the alleged violations of the SEBI PML Circulars and also made oral submissions in respect of the said alleged violations during the course of personal hearing dated January 24, 2023. Therefore, in my opinion, the noticee has been provided with a just and fair opportunity to present its case and make arguments as regards the reliance upon the SEBI PML Circulars in the

present proceedings. Further, I observe from the SCN issued by the DA that even though the SEBI PML Circulars have not been specifically mentioned by the DA, the SCN issued by the DA contains the allegation that the noticee had failed to report certain transactions to FIU and/ or other authorities. Accordingly, the alleged violation of PML Circulars can be examined.

20. It has to be examined whether the transactions executed by 26 clients of the noticee would fall within the purview of the term '*suspicious transactions*', and if the same is answered in affirmative, whether the noticee defaulted by not reporting the said transactions to FIU. In order to examine the impugned transactions on the aforesaid criteria, it is necessary to reproduce the impugned transactions. Here, I deem it relevant to note, from the submissions of the noticee before the DA, that the noticee had reported the transactions to the FIU in May, 2013 on becoming aware about the suspicious nature of the same. The noticee had also submitted the details of total value of dematerialized shares and the total value of trading by the 26 bogus entities to the DA, which are reproduced hereunder for ready reference:

Table No. 1

Sr. No.	Client Code	Name of the Client	Total Value of Shares Dematerialized	Total Value of Trade on the Exchange	Income range as per KYC form
1	R29799	RAJIV C SHAH	14,817,217	907760	Between 1 – 5 lacs
2	KNPR2363	INDRA B MISHRA	16,36,739	*	< 1 lac
3	VRN811	SHRIRAMPURI HARIDEWAN	3,09,063	526669	Below 1 lac
4	VRN810	HIRA SANTOSH AGGARWAL	2,50,123	142464	Below 1 lac
5	KNPR3852	MUKESH KUMAR MITTAL	1,47,714	65482	Below 1 lac
6	S90140	SAMER RAJIV SHAH	6,51,855	832987	Below 1 lac
7	P45230	PUSHPA ARVIND SHAH	6,04,414	942225	Between 1 – 5 lacs
8	A60266	ARVIND POPATBHAI SHAH	8,28,883	170998	Below 1 lac
9	S93202	SUKESH ARVIND SHAH	1,00,227	118163	Below 1 lac
10	F2610	FANNY CLARICE ALETHEA COLLINS	*	72169	Below 1 lac
11	D35503	DEOKI MODI	17,35,317	1766836	Between 1 – 5 lacs
12	S96267	SURENDRA PRAKASH KAYAL	23,52,375	2254974	Between 1 – 5 lacs
13	B31224	BHARAT HASMUKH MODY	15,02,388	1301334	Between 1 – 5 lacs
14	A64897	ASHWIN HASMUKHLAL MODY	12,13,724	1410131	Below 1 lac

15	K46335	KESAVAN MENON	13,30,448	1286139	Below 1 lac
16	VRN137 1	RAM NAWAL SINGH	13,09,375	1235849	Below 1 lac
17	M67717	MOHANRAO G METTAR	8,68,750	814289	Below 1 lac
18	N40462	NARENDRAKUMAR G VYAS	5,15,829	408070	Below 1 lac
19	S114167	SHEETAL ARORA	4,38,175	397132	Below 1 lac
20	R69022	RUPPRAKASH AGARWAL	33,74,525	468794	Below 1 lac
21	D40914	DEVKI DINESH AGARWAL	1,67,938	245948	Below 1 lac
22	K50649	KAMALNAYAN MUSSADY	1,64,188	189452	Below 1 lac
23	A77119	ANIL PURUSHOTTAM ATRE	45,190	47416	1-5 lacs
24	S128966	SATYA PAUL SAIGAL	13,91,150	1404795	1-5 lacs
25	C19061	CHITRA TAGGARSHE	3,37,750	378358	1-5 lacs
26	P57420	PRAVESH BHATTACHARYA	3,69,625	998258	Below 1 lac

** not available on record*

21. On the basis of the above table, the DA had observed that as the annual incomes of 26 clients was either below ₹1 lakh or between ₹1-5 lakh, the value of the shares dematerialized by the bogus clients and the value of the trades executed by the said clients was, therefore, not commensurate with their annual income.

22. The DA has further observed that as per the Investigation Report, there were several instances where the trading values of the entities were not commensurate with their annual income. One such instance, as noted by the DA is with respect to Mr. Surendra Kumar Kayal (bogus entity based out of Mumbai). The annual income of Mr. Surendra Kayal was between ₹1-5 lakh but on two consecutive days, the trading value of sell transactions of Mr. Surendra Kumar Kayal was around ₹14.14 lakh and ₹6.62 lakh, respectively, which was not commensurate with his annual income. Thus, the DA has observed that since the annual income of the clients was not commensurate with their trading turnover, the noticee ought to have reported the transactions to FIU, as there was reasonable suspicion that the clients may not have been trading with a bonafide purpose and they may have been acting as a front/ conduit for somebody else.

23. The noticee in its defence has submitted that the impugned transactions did not meet the ingredients of the definition of '*suspicious transaction*' as the same did not give rise to reasonable suspicion that the same involved proceeds of crime, or were made in unusual/ unjustified complexity or were made without any economic rationale or bonafide purpose. The noticee has also submitted that the 26 clients had been trading with the noticee for a period of 4 years and at the relevant time there was no unusual circumstance which could have raised any suspicion in the mind of the noticee. The clients were already holding the shares and thus, there was no reason to believe that their wealth in the form of shareholding should render their transactions worth of suspicion. The noticee has also submitted that the majority of the trading value (as captured in Table No. 1 above) during the investigation period was from sale transactions of shares dematerialized by the clients. The clients already held the physical shares and the same were subsequently dematerialized and thus, sale of such shares could not have been co-related with the annual income of the clients as they were assets/ securities already held in the name of the clients. Further, the noticee has also submitted that for total transaction value of ₹22,54,974 of Mr. Surendra Kumar Kayal, only ₹14,226.50 pertained to trades on the exchange other than the shares dematerialized by the client. The total transaction value of ₹22,54,974, includes an amount of ₹22,40,747.50 from the sale of dematerialized shares. Therefore, since the majority of the transactions of Mr. Surendra Kumar Kayal were sale transactions of shares already owned by him, the noticee had no reason to suspect the transactions.

24. I have perused the observations made by the DA and the submissions of the noticee. At the onset, I find that on coming to know about the suspicious nature of the transactions, the noticee reported the same to the FIU in May, 2013. It does not seem logical that before the fraud came to light, the noticee would have had any reason to look at the impugned transactions of all the 26 entities together. In this regard, in light of the submission of the noticee that the respective trading values for the 26 clients, are for the entire period for which the said clients were registered with the noticee and the said turnover includes sale of shares already owned by the client, I am inclined to revisit the DA's observation that the trading turnover of the clients was far greater than their annual income. As is visible from the table No.1

above, there is no specific date/ period available on record vis-à-vis, the impugned transactions. Further, the exact number of transactions entered into by the clients is also not available except for one client, i.e., Mr. Surendra Kumar Kayal. Although, in the case of Mr. Surendra Kumar Kayal, the DA has observed that the trading value of around ₹20 lakh was generated on two days, the said value was generated by sale transactions. Further, the DA has also not delved into the breakdown of other transactions which were under examination. Similarly, the DA has also not addressed the fact that the total value of trade on the exchange by Ms. Indra B Mishra and total value of shares dematerialized by Ms. Fanny Clarice Alethea Collins was not available on record for appreciation of facts. It is the submission of the noticee that the said transactions involved sale of dematerialized shares. The noticee has argued that the clients were already in possession of the physical shares which were subsequently dematerialized and sold and thus, regarding the sale of such dematerialized shares, the noticee had no reason to suspect the transactions. It has not been disputed by the DA that most of the shares sold by the said clients were already owned by them as physical shares and dematerialized by them. As the respective values of the trades by the clients are not much in excess of the dematerialized shares already possessed by them and in the absence of any specific day wise details of the value of the trades, I find merit in the aforesaid contention of the noticee. In absence of the breakdown of the specific time period of the impugned transactions, i.e., the exact period when the said turnover was generated by these clients and the number of transactions, it may not be possible to adjudge the suspiciousness of the said transactions, if any, purely on the basis of the value of trades. Further, the Enquiry Report does not have sufficient material on record for analyzing whether the trading value generated by the remaining 25 clients (excluding Mr. Surendra Kumar Kayal) was over a short period of time or stretched over multiple months/ years. In light of the same, I am of the view that the DA ought to have considered the fact that the total trading turnover, mainly included sale of dematerialized shares, which were already owned by the clients.

25. In terms of the PML Rules/ SEBI PML Circulars, there need not be any conclusive evidence on record for a broker to suspect that the transactions of its clients suffered

from one or more attributes of '*suspicious transactions*' as defined under PML Rules (reproduced at para 16 of this order). The legal obligation involves reporting of transactions to FIU if they appear to be in the nature of such '*suspicious transactions*'. I note that in the present matter, if the value generated by the sale of dematerialized shares is not taken into account (already owned by the clients), the remaining value of transactions, spread over a period, cannot be termed as suspicious. As regards the transactions of Mr. Surendra Kumar Kayal, the trading value, on two days separately mentioned by the DA, without the turnover generated by the sale of dematerialized shares was around ₹14,226.50. In light of the justification that the majority of the turnover was generated by sale of shares already owned by the clients, I am inclined to agree with the submissions of the noticee that it had no reason to suspect the legality of impugned transactions.

26. In light of the aforesaid discussion, I am of the considered view that it would not have been possible for the noticee to suspect that the impugned transactions had been done in circumstances of unusual or unjustified complexity or involved the proceeds of crime as specified in the schedule of Prevention of Money-laundering Act, 2002 or involved financing of the activities relating to terrorism or were not bona fide in nature.

27. Having noted that the impugned transactions could not have been labelled as '*suspicious transactions*', I answer the issues framed at Para 15(a) and 15(b), i.e., whether the transactions of clients of the noticee fall within the purview of the term '*suspicious transactions*' as defined under rule 2(1)(g) of the PML Rules and should have been reported to the FIU, above in the negative.

28. As regards the issue framed at Para 15(c), the DA has observed that there was a deficiency in filling up of KYC forms, as the '*Place*' section in the KYC forms was left blank by the clients and later was filled by the employees of the noticee. The noticee, while placing reliance on the AO Order, has submitted that the KYC forms were duly filled and contained details such as branch code, branch stamp with date and address of the noticee and witnesses and thus, absence of place, in itself, will not render the KYC process deficient or make the noticee not diligent. The noticee

has submitted that since its centralized KYC processing office is located in Hyderabad, its staff at Hyderabad may have filled the places as 'Hyd' and the KYC forms and the documents provided by the clients clearly reflects the actual addresses of the clients. In this regard, I am of the view that such submissions of the noticee only substantiates the allegation that the '*Place*' section in the KYC forms was not filled in accordance with the statutory requirements. The noticee has not disputed that the '*Place*' section in the KYC forms was left blank by the clients, rather the noticee has sought to justify the fact that all the KYCs of 26 clients had 'Hyd' in the '*Place*' section by submitting that the same may have been filled by the noticee's employees which were located in Hyderabad. Although the '*Place*' section was left blank in the KYC forms, the KYC forms have not been found to be lacking in any other aspect by the DA and also the KYC forms was accompanied with the proofs of the actual addresses of the clients. Further, as noted from the submissions of the noticee, the process of onboarding of clients has also been digitalized now, so as to avoid any error in the KYC process. Thus, in my opinion, it is not in dispute that the noticee has failed to exercise due diligence and care, in recording the place of filling up of KYC forms. However, it must also be noted that the said violation is technical in nature. Accordingly, I answer the issue framed at Para 15(c) in the affirmative.

29. As regards the issue framed at Para 15(d), the DA has observed that there was a lack of proper checks on the noticee's part with respect to acceptance of orders from its clients. The basis of the said allegation is that for two of its female clients, namely, Ms. Devki Dinesh Agrawal and Ms. Pushpa Arvind Shah (which were found to be bogus entities), the orders were placed by a male person and the same were accepted by the noticee. The noticee, in this regard, has submitted that since all the calls were made to/ from the registered mobile numbers of the clients, there was no requirement of verification. The noticee has also submitted that through frequent telephonic conversations, the dealers can with reasonable accuracy determine if it is a different person talking from the same mobile. The noticee has not made any submission as regards the orders placed by another male person on behalf Ms. Devki Dinesh Agrawal. As regards Ms. Pushpa Arvind Shah, the noticee has submitted that Mr. Arvind Shah, husband of Ms. Pushpa Shah, was placing orders

on her behalf. As per the noticee, both, Ms. Pushpa Shah and Mr. Arvind Shah, were clients of the noticee, having same addresses and thus no suspicion was raised in the mind of the dealer. The noticee has also submitted that confirmations were sent through SMSs in addition to the contract notes, no complaints were received from the clients and over the period of time, the noticee has upgraded its order placing mechanism to eliminate the possibility of orders being placed without the knowledge of the clients.

30. I have perused the allegation levelled against the noticee and the submissions made by it. It has not been disputed by the noticee that the orders were, in fact, not placed by the registered clients and the same were placed by other individuals. The submission of the noticee that calls were made on registered mobile numbers cannot in itself absolve the noticee of its liability to ensure that law is followed in letter and in spirit. The law, as it stood then and as it stands today, does not allow acceptance of orders from third parties without any authorization from the client itself. The correct way of accepting orders from third parties is to take on record a letter of authority from the client and then the broker may accept orders placed by the person, so authorized by the client. Further, the noticee has also not made any submission as regards the allegation levelled against it in respect of Ms. Devki Dinesh Agrawal. It is not the case of the noticee that an authorization was granted by its clients to third parties who had placed the orders and thus, I am of the view that the noticee has failed to exercise due skill and care, insofar, it accepted orders from the unauthorized individuals. Accordingly, I am in agreement with the observations of the DA and answer the issue framed at Para 15(d) in the affirmative.

31. As regards issue framed at Para 15(e), the DA has observed that the fact that a bogus entity was introduced to the noticee in a '*casual manner*', shows the lack of diligence on the part of the noticee while dealing with the bogus entities. The said allegation is based on the fact that Mr. Atre was a bogus entity, and an employee of the sub-broker of the noticee, namely. P. Babulal and Company, introduced Mr. Atre in a '*casual manner*' to the noticee. It is observed from the Enquiry Report that during the course of investigation, Mr. Hemant Punamiya (Manager of P. Babulal and Company) had stated that, Mr. Bhushan Punamiya, an employee of P. Babulal

and Company, had introduced Mr. Atre in a '*casual manner'* to the noticee. On the basis of the said statement of Mr. Hemant Punamiya, it has been alleged that there was lack of diligence on the part of the noticee while dealing with the bogus entities.

32. Mr. Atre was introduced to the noticee by Mr. Hemant Punamiya and Mr. Bhushan Punamiya, who, as observed by the DA, are connected to Mr. Arvind Babulal Goyal, the orchestrator of the fraud. The noticee, in its defence, has submitted that the account of Mr. Atre was opened by the noticee after completing all the formalities such as IPV and OSV and the KYC forms of the clients of the noticee had the relevant IPV/OSV stamps. The noticee has also submitted that the term '*casual manner*', which has not been defined anywhere, has been relied upon by the DA excessively. The noticee has also relied upon the SEBI Circular dated August 22, 2011 to submit that recording the introducer details in the KYC forms was optional and since the noticee has captured all the relevant details including the optional details, the noticee has complied with the spirit of account opening procedure. I have perused the observations of the DA and the defence raised by the noticee and I find merit in the submissions of the noticee. It is not the case of SEBI that the KYC of Mr. Atre (or other bogus entities) was not done properly and that there was a lack of diligence in account opening of the bogus entities. The present allegation against the noticee is that '*…the act of introducing the bogus/ fraud entity to Angel in a "casual manner" while opening entity's account shows that there was lack of diligence by the Noticee while dealing with bogus entities which were its clients.*' The basis of the allegation against the noticee is that the introduction of the client, by the sub-broker, was done in a '*casual manner*' which in turn shows that the noticee was not diligent while dealing with the bogus entities. The term '*casual manner*', as submitted by the noticee, has not been defined anywhere. I agree that undue reliance cannot be placed upon the same. Further, the lack of diligence on the part of noticee, as regards its dealings with the bogus entities, has to be adjudged in light of the KYC done by it and the account opening procedure adopted by it. As noted above, neither of the said aspects have been questioned by the DA and the noticee has not been alleged to not have followed the requisite KYC/ account opening formalities. Further, as noted from the Enquiry Report, the noticee had completed the account opening formalities and had relied upon government

issued documents such as PAN cards, ration cards etc. for the purpose of KYC and the same were independently verified by the noticee. Thus, the allegation as regards lack of diligence while dealing with the bogus entities are not sustainable. Accordingly, I answer the issue framed at Para 15(e) in the negative.

33. In view of the discussion above, I hold that the noticee failed to exercise due diligence as it did not ensure that the '*Place*' section in the KYC forms was duly filled in by the clients and accepted orders from unauthorized individuals. However, considering the mitigating factors such as lapse of considerable amount of time from the time of violations and subsequent requisite corrective measures taken by the noticee, I am of the view that a three months' suspension at this point in time as recommended by the DA is not warranted. I, therefore, disagree with the quantum of punishment recommended by the DA and hold that issuance of regulatory censure to the noticee would be reasonable and would meet the ends of justice in the instant case

Order

34. I, in exercise of the powers conferred upon me under Section 12(3) and Section 19 of the SEBI Act read with Regulation 27(5) of the Intermediaries regulations, hereby warn the noticee, Angel One Limited (Earlier known as Angel Broking Limited) to be careful and diligent in the conduct of all its business.

35. A copy of this order shall be served on the Noticee.

Sd/-

DATE: AUGSUT 22, 2023
PLACE: MUMBAI

ANAND R. BAIWAR
EXECUTIVE DIRECTOR
SECURITIES AND EXCHANGE BOARD OF INDIA