



**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
[ADJUDICATION ORDER NO. Order/SM/KS/2025-26/32389]

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

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**In respect of:**

**Asirvad Micro Finance Limited**

PAN: AAGCA5257J

**In the matter of Asirvad Micro Finance Limited**

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**A. BRIEF BACKGROUND**

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had received Draft Red Hearing Prospectus (hereinafter referred to as 'DRHP') of Asirvad Micro Finance Limited (hereinafter referred to as '**AMFL**' / '**Noticee**'). Upon examination of the DRHP, certain violations were observed. Further, examination was carried out to ascertain whether there was any violation of the relevant provisions of Companies Act, 2013 and SEBI (Issue and Listing of Debt Securities) Regulations, 2008 with respect to issuance of NCDs (ISIN - INE516Q08281) by AMFL to Karvy Capital Limited (hereinafter referred to as '**KCL**').
2. Pursuant to the examination, SEBI inter alia observed and alleged the violation of provisions of Section 42 of (Chapter – III of Prospectus and Allotment of Securities) Companies Act, 2013 read with Rule 14(2) of Companies (Prospectus and Allotment of Securities) Rules, 2014, Section 26(4) read with 2(70), 26(6) read



with 26(1), 23(1) & 33(1) of the Companies Act, 2013; Regulations 4(3), 6, 7, 8, 9 and 16 of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (hereinafter referred to as '**SEBI ILDS Regulations**').

3. In view thereof, SEBI had initiated Adjudication Proceedings in respect of the Noticee under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act, 1992**'), for the alleged violation of the provisions, as stated.

## **B. APPOINTMENT OF ADJUDICATING OFFICER**

4. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violation by the Noticee, as stated above and therefore, in exercise of the powers conferred under Section 15 I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') read with Section 19 of the SEBI Act, 1992, Competent Authority appointed Ms. Barnali Mukherjee, Chief General Manager ('CGM') SEBI as Adjudicating Officer vide order dated August 02, 2024 (Communique dated August 02, 2024) to inquire into and adjudge under Section 15HB of the SEBI Act, 1992 for the alleged violation by the Noticee, as applicable.
5. Pursuant to superannuation of Ms. Barnali Mukherjee, vide order dated January 15, 2025, Shri. Amar Navlani, General Manager, SEBI (erstwhile AO) was appointed as the Adjudicating Officer. Pursuant to transfer of erstwhile AO, vide order dated September 11, 2025, the undersigned was appointed as Adjudicating officer in the matter and the proceedings of appointment were communicated to the undersigned vide Communique dated September 19, 2025.



### C. SHOW CAUSE NOTICE, REPLY AND HEARING

6. A Show Cause Notice bearing reference No. SEBI/EAD/BM/GN/26176/1/2024 dated September 03, 2024, (hereinafter referred to as 'SCN') was served upon the Noticee in terms of Rule 4(1) of SEBI Adjudication Rules vide digitally signed email dated September 03, 2024 and also through Speed Post Acknowledgment Due (SPAD), to show cause within 21 days of receipt of the SCN, as to why inquiry should not be held and penalty be not imposed under Section 15HB of the SEBI Act, 1992 for the alleged violations by the Noticee, as stated. The said SCN was served upon the Noticee through Speed post and email.
7. The key allegations in respect of the Noticee inter alia brought out in the SCN are as under:

“.....

3) From the submissions of Noticee and JM Financial Limited (merchant banker handling the public issue of equity shares of Noticee) following is observed.:

- a) Noticee had issued NCDs (ISIN – INE516Q08281) on private placement basis in two tranches i.e. Tranche-I and Tranche-II, which got listed on June 04, 2019 and June 26, 2019, respectively. Noticee allotted these NCD to Karvy Capital Limited on May 30, 2019 (Tranche-I) and June 20, 2019 (Tranche-II). One day prior to the date of listing of Tranche-I NCDs, it was observed that the number of investors were 739.
- b) Following table summarizes the details of Tranche-I and Tranche-II issue by Noticee:  
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- c) The Chronology of events w.r.t issuance of the NCDs in concerned is tabulated below:  
.....

- 4) From the chronology of events following is observed:
- a. Tranche 1 issue of NCDs opened and closed for subscription on May 30, 2019. Karvy Capital Limited (KCL) was the sole allottee for Tranche 1 issue. KCL paid INR 40 Crores to Noticee on May 30, 2019.
- b. On May 30, 2019, NCDs were credited to demat account of KCL (Account no. 10022079)
- c. As per BENPOS statement of June 03, 2019 (one day prior to listing), the number of NCD holders were 739...Further, KCL was not the holder of NCDs as per BENPOS statement as on June 03, 2019.
- d. Therefore, it may be said that after initial allotment on May 30, 2019 ...there was down selling of NCDs by KCL, which led to number of holders to 739 as on June 03, 2024...
- 5) It is observed that KCL has charged fees of INR 1 Crore (plus taxes) as structuring fees from Noticee. Therefore, it may be said the KCL did not enter the transaction of NCD issue as an investor. KCL entered as a service provider to arrange funds for Noticee. KCL is a SEBI registered portfolio manager having registration number INP000004524. From the DTD executed on May 30, 2019 for the issue of NCDs it is observed that KCL is acting as a representative of debenture holders..



- 6) *It is observed that KCL subscribed to the NCDs and down sold it to other investors even before listing of the NCDs which led to number of holders being 739 as on June 03, 2019. Therefore, it appears that the allotment was supposed to be made as public issue, however, it was made as private placement.*
- 7) *As per Section 42(2) of Companies Act, 2013 read with Rule 14(2) of Companies (Share Capital and Debentures) Rules, 2014, in case of Private placement of debt securities, any sale of securities to more than 200 persons will be deemed to be a public issue. Further, as per Section 25(2) of Companies Act, 2013, if the securities are sold to public within 6 months of allotment, then the original allotment of securities will be deemed to be a public issue.*
- 8) *Therefore, reading Section 25(2) and Section 42(2) of Companies Act, 2013 with Rule 14(2) of Companies (Share Capital and Debentures) Rules, 2014, it may be said that in case of private placement of NCDs when the allotment of securities is made to less than 200 persons and further the securities are down sold to more than 200 persons within 6 months of original allotment, than the original allotment will be deemed to be a public issue.*
- 9) *Further, as per Section 42(11) of Companies Act, 2013, if the issue of securities is deemed to be a public issue then the public issue norms prescribed in Companies Act, 2013 and Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 and Regulations issued thereunder shall be applicable.*
- 10) *In the instant case, Noticee allotted debentures (ISIN INE516Q08182) to Karvy Capital Limited on May 30, 2019. These debentures were eventually down-sold to 739 investors till June 03, 2019 (before the date of listing). In view of the same, it may be said that the issue of these NCDs by Noticee is deemed to be public issue in terms of Section 25(2) and Section 42(2) of Companies Act, 2013 read with Rule 14(2) of Companies (Share Capital and Debentures) Rules, 2014.*
- 11) *Therefore, as per Section 42(11), public issue norms applicable for issue of Debentures as per Companies Act, 2013 and SEBI (Issue and Listing of Debt Securities) Regulations, 2008 will be applicable. Hence, it is alleged that Noticee has violated Section 42 of Companies Act, 2013 read with Rule 14(2) of Companies (Share Capital and Debenture) Rules, 2014.*
- 12) *Noticee was a Public limited company as on the date of allotment of ISIN INE516Q08281 and issued debt securities through private placement which is deemed to be a public issue. Therefore, Noticee has to comply with provisions of Chapter III part I of Companies Act 2013. In the instant case, it is observed that Noticee has allegedly not complied with provisions of Chapter III Part 1 of Companies Act, 2013. In view of the same it is alleged that Noticee is not in compliance with the provisions of Section 23(1) of Companies Act 2013.*
- 13) *Section 33(1) of Companies Act 2013, inter-alia states that application form to subscribe securities in a public issue of NCDs, shall be accompanied by an Abridged Prospectus. In the instant case, on the perusal of the information provided by the issuer..., it is observed that no Abridged Prospectus was issued w.r.t. the issuance of NCDs. In view of the same, it is alleged that Noticee is in violation of Section 33(1) of Companies Act.*
- 14) *Section 26(4) read with Section 2(70) of Companies Act, 2013 inter-alia states that it shall be disclosed in the prospectus issued by the issuer that no prospectus by the issuer or on the behalf of the issuer shall be issued to public before publication of prospectus and before delivery of the signed copy of the prospectus to the RoC with the signature of directors or proposed to be directors of the issuer company. In the instant case, it is alleged that no prospectus was issued by Noticee w.r.t. the issuance of NCDs. In view of the same, it is alleged that Noticee is in violation of section 26(4) read with 2(70) of Companies Act 2013.*
- 15) *Section 26(6) of companies act 2013 read with Section 26(1) of Companies act 2013 inter-alia states that a public company coming up with an issuance of securities in Capital Market, has to mention on the front page of the prospectus that the final prospectus to the issue is filed with RoC. In the instant case, AMFL is a public company registered with RBI as an NBFC. Further, on the perusal of the information provided by the Noticee, it is observed that final prospectus to the issue was not filed with RoC. In view of the same, it is alleged that issuer is in violation of section 26(6) read with 26(1) of Companies Act 2013.*
- 16) *Regulation 4(3) of ILDS Regulations inter alia states that the issuer shall appoint a SEBI registered merchant banker for handling the issuer. However, in the instant case, it is alleged that merchant banker has not been appointed by Noticee. In view of the same, it is alleged that Noticee is not in compliance with Regulation 4(3) of ILDS Regulations.*



- 17) *Regulation 6 of ILDS Regulations inter alia state that to make a public issue of debt securities a draft offer document should be filed with stock exchange and disclosed on Exchange's website for at least 7 working days. In the instant case, it is alleged that no draft offer document was filed by Noticee with the Stock Exchange. In view of the same, it is alleged that Noticee is not in compliance with Regulation 6 of ILDS Regulations.*
- 18) *Regulation 7 of ILDS Regulations inter alia state that the draft and final offer document shall be disclosed on websites of stock exchanges and shall be disclosed in PDF/HTML formats. Further, Regulation 7 states that the offer document shall be filed with Registrar of Companies and physical copy shall be provided to any person who has made such request. In the instant case, it is alleged that draft offer document and Final Offer Document is not filed with the Exchange. In addition to this, as per the submission of Noticee, it is observed that final offer document w.r.t. the issuance of NCDs is not filed with RoC...In view of the same, it is alleged that Noticee is not in compliance with Regulation 7 of ILDS regulations.*
- 19) *Regulation 8 of ILDS Regulations inter alia state that the issuer has to make an advertisement in a newspaper and the advertisement shall be truthful, fair and clear. Further, the advertisements shall not be misleading and not contain a statement, promise or forecast which is untrue or misleading. In the instant case, on the perusal of the information provided by the issuer, it is alleged that Noticee has not made any advertisement. In view of the same, it is alleged that Noticee is not in compliance with Regulation 8 of ILDS Regulations.*
- 20) *Regulation 9 of ILDS Regulations inter alia states that in case of public issue of NCDs, every application form will be accompanied by abridged prospectus. In the instant case, it is observed that AMFL has not issued any abridged prospectus .... In view of the same, it may be said that AMFL is not in compliance with Regulation 9 of ILDS Regulations.*
- 21) *Regulation 16 of ILDS Regulations inter-alia states that in case of public issue of debt securities a Debenture Redemption Reserve (DRR) in accordance with the provisions of Companies act 2013, shall be created. However, in the instant case, on the perusal of information memorandum..it is alleged that no DRR was created by the issuer. In view of the same, it is alleged that Noticee is not in compliance of Regulation 16 of ILDS Regulations.*

....'

8. Vide letter dated September 24, 2024, Noticee submitted its preliminary response to the SCN and also requested for inspection of documents. Noticee availed the opportunity of inspection of documents on October 15, 2024.
9. In the interest of principles of natural justice, vide Hearing Notice dated October 25, 2024, an opportunity of personal hearing was provided to the Noticee on November 06, 2024. On the scheduled date of hearing i.e. November 06, 2024, the Noticee availed the opportunity of personal hearing through video conference whereby Noticee was represented through its Authorised Representative ('ARs') viz., Ms. Aparna Menon, Company Secretary and Mr. Rajesh KRN Namboodiripad, Chief Financial Officer of the company. During the hearing, the ARs relied upon and reiterated the submissions



made vide Noticee' s letter dated September 24, 2024. Additionally, the Noticee vide email dated October 30, 2024 informed regarding filling of settlement application, which was subsequently withdrawn by the Noticee vide letter dated December 31, 2024.

10. Pursuant to appointment of the undersigned as AO, vide email dated November 25, 2025, Noticee was provided another opportunity of personal hearing. Noticee availed the opportunity of personal hearing on February 11, 2026 and further filed additional submissions on February 20, 2026.
11. The key submissions made by Noticee in its replies are as under:

Noticee's submissions vide letter dated September 24, 2024:

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"Submissions of the Noticee"

1. Asirvad Micro Finance Limited ("the Company") had issued information memorandum dated May 30, 2019 to Karvy Capital Limited-Excel Portfolio ("KCL") inviting them to subscribe to 40,000 non-convertible debentures ("NCDs") of face value Rs. 10,000 each ("Tranche I NCDs") and information memorandum dated June 20, 2019 to KCL inviting them to subscribe to 10,000 NCDs of face value Rs. 10,000 each ("Tranche II NCDs").

2. The Company followed the process for issue and allotment as prescribed under the Companies Act, 2013, the Allotment Rules as well as the SEBI (Issue and Listing of Debt Securities) Regulation, 2008 ("ILDS Regulations") by issuing a private placement offer letter and information memorandum both dated May 30, 2019 and June 20, 2019 in respect of the Tranche I NCDs and Tranche II NCDs, respectively, to KCL. Further, the Company has made all required form filings such as form PAS-3 within the stipulated time with the Registrar of Companies.

3. The Borrowing and Securities Allotment Committee of the Company had pursuant to circular resolutions dated May 30, 2019, and June 20, 2019, passed resolutions authorizing such allotment of NCDs to KCL, strictly on a private placement basis. The Company does not authorize the release of any public advertisements or utilize any media, marketing or distribution channels or agents to inform the public at large about the issue of the NCDs. The offer/ invitation to offer to subscribe to the NCDs was made to a single identified person, i.e. KCL.

4. The Company did not offer/make an invitation to offer the Tranche I NCDs and Tranche II NCDs to more than 200 persons in a financial year as stipulated in Section 42(2) of the Companies Act and Rule 14(2)(b) of the Allotment Rules. The Company had offered and allotted Tranche I NCDs and Tranche II NCDs to only one investor, i.e. KCL, and any act of further transfer was not in conjunction with or in, knowledge of the Company.

5. As on the date of allotment and listing of the respective Tranche I NCDs and Tranche II NCDs, the Company was not aware of, or party to, (i) any downselling agreements/arrangements/ fee arrangements for downselling, in respect of the NCDs; (ii) any discussions with investors / purchasers of Company NCDs in respect of downselling; or (iii) any agreements/ arrangements that may contravene Section 42 of the Companies Act, 2013, and rules and regulations each thereunder, including but not limited to the NCDs issued by the Company to KCL in 2019. Accordingly, the Company had undertaken the issue and allotment of the NCDs in compliance with Allotment Rules and was under



no obligation to maintain the data with respect to the secondary transfers of these NCDs by KCL, including the date of transfer and the number of NCDs transferred.

6. The Company did not receive BENPOS of the NCD prior to listing, i.e., June 04, 2019.

7. Therefore, the Company could not have been considered to have become aware of the alleged contravention in law upon receipt of the BENPOS Statement.

8. Regarding the deemed public issue and alleged violations of Section 25, Section 42 and resultant alleged violations of Sections 2(70), 25, 26, 33, 42 and relevant rules of Companies Act, 2013, attention is invited to facts of Adjudication Order No. Order/BS/RG/2023-24/29358 in the matter of Utkarsh Small Finance Bank Ltd., which also involved KCL detailing the below:

"On November 10, 2022, the ROC passed an order disposing of the Noticee's Adjudication Application without any action against the Noticee, stating that in the facts and circumstances of the case, the alleged violations did not pertain to actions committed by the Noticee, its promoters or directors. The ROC further indicated that in the facts of the present case, the violations had to be adjudicated vis-à-vis the security-holder, i.e. KCL. However, in terms of the relevant provisions of the Companies Act pursuant to which the present Compounding Application was filed by the Noticee, the ROC did not have the powers to proceed against the security-holder."

9. With regard to the alleged violations of Regulations 4, 6, 7, 8, 9, 16, of ILDS Regulations we wish to submit that the NCDs were issued in compliance with the regulations applicable to private placement of NCDs as highlighted above and was subsequently listed at BSE.

10. With regard to the structuring fee paid to KCL, we submit that such payment was made by the Company in the ordinary course similar to payments made by the Company in the past to its lenders in similar transactions toward processing fees and other miscellaneous fees charged by lenders, including PSU Banks, while granting loans, wherein a fee is levied by the lender itself. We humbly submit that a fee payment of this nature does not establish a relationship between KCL and the Company as an arranger of funds. Additionally, as detailed in the Information Memorandum, "Vivriti Capital Private Limited" was denoted as the arranger for the NCD issuance and were paid arrangement fees by the Company.

11. Further, SEBI, vide its Adjudication Order No. Order/BM/GN/2023-24/25912 dated April 25, 2023, in the matter of Role of Karvy Capital Limited in the matter of NCDs issued by Utkarsh Small Finance Bank Limited, had imposed a penalty on KCL. SEBI's order makes it evident that breaches of the extant law were entirely on part of KCL.

12. In terms of the Notice, the Company is inter alia required to show cause as to why penalty should not be imposed under Section 15HB for the aforesaid violations which has been demonstrated above. In this regard, it is relevant to note that while adjudging penalty SEBI is required to consider the factors laid down in Section 15J of the SEBI Act. The Company most respectfully submits that none of the factors specified under Section 15J of the SEBI Act have been met in the present case.

a. The Company has not obtained any disproportionate gain or advantage specifically on account of any of the allegations made out in the Notice.

b. There is no evidence, direct or indirect, that would suggest that the Company acted in a manner that caused any loss to any investor at large.

c. The Company has not committed any repetitive default in the instant case.

In light of the above, it is humbly submitted that the notice is bereft of any material that would justify imposition of any penalty.

13. The Company during the due diligence process for the purposes of making disclosure in the DRHP, noticed that the number of investors one day prior to listing was 739 and the Company has taken swift action by prepaying the NCD holders along with prepayment penalty of 2% on the principal amount prepaid, in compliance with the provisions entailed in the Information Memorandum. Based on this, we are requesting you to not levy any penalty on the Company.

14. We request you to note that following facts should be considered as mitigating circumstances:

a. Present SCN arose out of a bona-fide and suo motu disclosure by the Company in its DRHP.

b. The Company has completed the early redemption of the NCDs and has prepaid the entire redemption amount, thereby eliminating any possibilities of future risk arising out of the NCDs.

c. Additionally, it may be noted that since we are compliant with all applicable laws in relation to the allotment of the NCDs (as highlighted above), there is no offence that has been committed.

....."

Noticee's key additional submissions vide letter dated February 20, 2026:

".....

**Annexure A**



1. Asirvad Micro Finance Limited ("the Company") had issued Non-Convertible Debenture(s) on private placement basis, vide two information memorandums:

(i) Information memorandum dated May 30, 2019 ("Tranche I NCDs");

(ii) Information memorandum dated June 20, 2019 ("Tranche II NCDs");

Tranche I NCDs and Tranche II NCDs are collectively referred as "NCDs" and the Information Memorandums of Tranche I NCDs and Tranche II NCDs are collectively referred as "IMs".

2. The IMs clearly indicated that the Tranche I NCDs was for an aggregate sum of Rs. 40 crores (Rupees Forty Crores) comprising of 40,000 NCDs with a face value of Rs. 10,000 each; and the Tranche II NCDs for an aggregate sum of Rs. 10 crores (Rupees Ten crores) comprising of 10,000 NCDs with a face value of Rs. 10,000 each; aggregating up to Rs. 50 crores (Rupees Fifty crores).

3. The NCDs were Fully Paid-Up, Rated, Listed, Senior, Unsecured, Redeemable, Taxable, Non-Convertible Debentures.

4. The IMs in unequivocal terms mentioned as follows:

"This Information Memorandum, the Private Placement Offer Letter and the contents hereof are restricted only for the intended recipient(s) who have been addressed directly and specifically through a communication by the Issuer and only such recipients are eligible to apply for the Debentures. All Investors are required to comply with the relevant regulations/ guidelines applicable to them for investing in this Issue. The contents of this Information Memorandum and/ or the Private Placement Offer Letter are intended to be used only by those potential Investors to whom it is distributed. It is not intended for distribution to any other person and should not be reproduced by the recipient."

5. The Company followed the process for issuance and allotment as prescribed under the Companies Act, 2013, the Allotment Rules as well as the SEBI (Issue and Listing of Debt Securities) Regulation, 2008 ("ILDS Regulations") by issuing a Private Placement Offer Letter and IMs in respect of the NCDs, respectively, to Karvy Capital Limited-Excel Portfolio ("KCL"). Further, the Company has made all requisite filings such as Form PAS-3 within the stipulated timeline with the Registrar of Companies.

6. The Borrowing and Securities Allotment Committee of the Company had pursuant to circular resolutions dated May 30, 2019, and June 20, 2019, passed resolutions authorizing such allotment of NCDs to KCL, strictly on a private placement basis. The Company did not cause any public advertisements or utilize any media, marketing or distribution channels or agents to inform the public at large about the issuance of the NCDs. The offer/ invitation to offer to subscribe to the NCDs was made to a single identified legal entity, i.e., KCL only.

7. In this context, it is pertinent to note that the Company has approached only KCL to subscribe to the NCDs.

8. The Company did not offer/make an invitation to offer the NCDs to more than 200 persons in a financial year as stipulated in Section 42(2) of the Companies Act, 2013 and Rule 14(2)(b) of the Allotment Rules. The Company had offered and allotted NCDs to only one investor, i.e., KCL. Thereafter, as the legitimate subscriber of the NCDs, what KCL does with the NCDs, which is the exclusive asset/ investment of KCL, is its prerogative and the Company has no control over the actions or omissions of KCL. The Company can affirm and reiterate that it has not acted in connivance or collusion with KCL, in the subsequent sale/ transfer of NCDs.

9. As on the date of allotment and listing of the respective Tranche I NCDs and Tranche II NCDs, the Company was not aware of, or party to, (i) any down selling agreements/ arrangements/ fee arrangements for down selling, in respect of the NCDs; (ii) any discussions with investors / purchasers of Company NCDs in respect of down selling; or (iii) any agreements/ arrangements that may contravene Section 42 of the Companies Act, 2013, and rules and regulations thereunder, including but not limited to the NCDs issued by the Company to KCL in 2019. Accordingly, the Company had undertaken the issue and allotment of the NCDs in strict compliance with the Allotment Rules and was under no obligation to maintain the data with respect to the secondary transfers of these NCDs by KCL, including the date of transfer and the number of NCDs transferred.

10. The Company did not receive BENPOS of the NCD prior to listing, i.e., June 04, 2019.

11. Therefore, the Company could not have been considered to have become aware of the alleged contravention in law upon receipt of the BENPOS Statement.

12. Regarding the deemed public issue and alleged violations of Section 25, Section 42 and resultant alleged violations of Sections 2(70), 25, 26, 33, 42 and relevant rules of Companies Act, 2013, attention is invited to facts of Adjudication Order No. Order/BS/RG/2023-24/29358 in the matter of Utkarsh Small Finance Bank Ltd., which also involved KCL detailing the below:

"On November 10, 2022, the ROC passed an order disposing of the Noticee's Adjudication Application without any action against the Noticee, stating that in the facts and circumstances of the case, the alleged violations did not pertain to actions committed by the Noticee, its promoters or directors. The ROC further indicated that in the facts of the present case, the violations had to be adjudicated vis-à-vis the security-holder, i.e. KCL. However, in terms of the relevant provisions of the Companies Act pursuant to which the present Compounding Application was filed by the Noticee, the ROC did not have the powers to proceed against the security-holder."



13. With regard to the alleged violations of Regulations 4, 6, 7, 8, 9, 16, of ILDS Regulations we wish to submit that the NCDs were issued in strict compliance with the regulations applicable to private placement of NCDs as highlighted above and was subsequently listed at BSE.

14. With regard to the structuring fee paid to KCL, we submit that such payment was made by the Company in the usual and ordinary course similar to payments made by the Company in the past to its lenders in similar transactions toward processing fees and other miscellaneous fees charged by lenders, including PSU Banks, while granting loans, wherein a fee is levied by the lender itself. We humbly submit that a fee payment of this nature does not establish a relationship between KCL and the Company as an arranger of funds. Additionally, as detailed in the Information Memorandum, "Vivriti Capital Private Limited" was the arranger for the NCD issuance and were paid arrangement fees by the Company.

15. In terms of the Notice, the Company is inter alia required to show cause as to why penalty should not be imposed under Section 15HB for the aforesaid violations which has been demonstrated above. In this regard, it is relevant to note that while adjudging penalty SEBI is required to consider the factors laid down in Section 15J of the SEBI Act. The Company most respectfully submits that none of the factors specified under Section 15J of the SEBI Act have been met in the present case.

a. The Company has not obtained any disproportionate gain or advantage specifically on account of any of the allegations made out in the Notice.

b. There is no evidence, direct or indirect, that would suggest that the Company acted in a manner that caused any loss to any investor at large.

c. The Company has not committed any 'repetitive default' in the instant case.

In light of the above, it is humbly submitted that the notice is bereft of any material that would justify imposition of any penalty as the issuer Company has no control over the secondary market sale/ transfer of NCDs, after the primary issue.

16. The Company during the due diligence process for the purposes of making disclosure in the DRHP, noticed that the number of investors one day prior to listing was 739 and the Company has taken swift action by prepaying the NCD holders along with prepayment penalty of 2% on the principal amount prepaid, in compliance with the provisions entailed in the IMs. Based on this, we humbly request SEBI not to impose any penalty on the Company, as it has acted in utmost good faith and without any negligence.

17. It may be noted that the Company on December 31, 2024, withdrew the settlement application filed under the Securities and Exchange Board of India (Settlement Proceedings) Regulations 2018 on this matter.

18. We further request the Learned Adjudicating Officer to note that following facts as mitigating circumstances:

a. Present SCN arose out of a bonafide and suo moto disclosure made by the Company in its DRHP in October 2023.

b. The Company has completed the early redemption of the NCDs and has prepaid the entire redemption amount, thereby eliminating any possibilities of future risk arising out of the NCDs.

c. Additionally, it may be noted that since the Company is compliant with all applicable laws in relation to the allotment of the NCDs (as indicated above), there is no breach or violation of any of the provisions of law or regulations.

....."

## **D. CONSIDERATION OF ISSUES AND FINDINGS**

12. The issues that arise for consideration in the instant matter are:

**Issue No. I: Whether the Noticee had violated the relevant provisions of Companies Act, 2013 and SEBI (ILDS) Regulations, 2008, as alleged?**

**Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act, 1992**



**Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?**

13. Before proceeding further, I would like to refer to the relevant regulatory provisions under consideration as given below:

**Chapter - III**  
**Companies (Prospectus and Allotment of Securities)**  
**PART – II – Private Placement**

**42. Issue of shares on private placement basis. —**

- (1) A company may, subject to the provisions of this section, make a private placement of securities.
- (2) A private placement shall be made only to a select group of persons who have been identified by the Board (herein referred to as "identified persons"), whose number shall not exceed fifty or such higher number as may be prescribed [excluding the qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option in terms of provisions of clause (b) of sub-section (1) of section 62], in a financial year subject to such conditions as may be prescribed.
- (3) A company making private placement shall issue private placement offer and application in such form and manner as may be prescribed to identified persons, whose names and addresses are recorded by the company in such manner as may be prescribed:

*Provided that the private placement offer and application shall not carry any right of renunciation.*

*Explanation I.—"private placement" means any offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in this section.*

*Explanation II. —"qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, as amended from time to time, made under the Securities and Exchange Board of India Act, 1992, (15 of 1992).*

*Explanation III.—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more*



than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter.

.....

- (8) A company making any allotment of securities under this section, shall file with the Registrar a return of allotment within fifteen days from the date of the allotment in such manner as may be prescribed, including a complete list of all allottees, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.
- (9) If a company defaults in filing the return of allotment within the period prescribed under sub-section (8), the company, its promoters and directors shall be liable to a penalty for each default of one thousand rupees for each day during which such default continues but not exceeding twenty-five lakh rupees.
- (10) Subject to sub-section (11), if a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount raised through the private placement or two crore rupees, whichever is lower, and the company shall also refund all monies with interest as specified in sub-section (6) to subscribers within a period of thirty days of the order imposing the penalty.
- (11) Notwithstanding anything contained in sub-section (9) and sub-section (10), any private placement issue not made in compliance of the provisions of sub-section (2) shall be deemed to be a public offer and all the provisions of this Act and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall be applicable.

### **Rule 14(2) of Companies (Prospectus and Allotment of Securities)**

#### **Rules, 2014 reads as under:**

- (2) For the purpose of sub-section (2) of section 42, an offer or invitation to subscribe securities under private placement **shall not be made to persons more than two hundred in the aggregate in a financial year:**

*Provided that any offer or invitation made to qualified institutional buyers, or to employees of the company under a scheme of employee's stock option as per provisions of clause (b) of sub-section (1) of section 62 shall not be considered while calculating the limit of two hundred persons.*

*Explanation. - For the purposes of this sub-rule it is hereby clarified that the restrictions aforesaid would be reckoned individually for each kind of security that is equity share, preference share or debenture.'*



### **Companies Act, 2013**

**23. Public offer and private placement.** — (1) A public company may issue securities—

- (a) to public through prospectus (herein referred to as "public offer") by complying with the provisions of this Part; or
- (b) through private placement by complying with the provisions of Part II of this Chapter; or
- (c) through a rights issue or a bonus issue in accordance with the provisions of this Act and in case of a listed company or a company which intends to get its securities listed also with the provisions of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules and regulations made thereunder.

(2) A private company may issue securities—

- (a) by way of rights issue or bonus issue in accordance with the provisions of this Act; or
- (b) through private placement by complying with the provisions of Part II of this Chapter.

*Explanation.* — For the purposes of this Chapter, "public offer" includes initial public offer or further public offer of securities to the public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of a prospectus.

**33. Issue of application forms for securities.** — (1) No form of application for the purchase of any of the securities of a company shall be issued unless such form is accompanied by an abridged prospectus.

*Provided that nothing in this sub-section shall apply if it is shown that the form of application was issued —*

- (a) in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to such securities; or
- (b) in relation to securities which were not offered to the public.

**“Section 26(4) Matters to be stated in prospectus:** No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless on or before the date of its publication, there has been delivered to the Registrar for registration, a copy thereof signed by every person who is named therein as a director or proposed director of the company or by his duly authorised attorney”.

**“Section 2(70) Definitions:** —prospectus means any document described or issued as a prospectus and includes a red herring prospectus referred to in section 32 or shelf prospectus referred to in section 31 or any notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of body corporate”

**“26(1)-** Every prospectus issued by or on behalf of a public company either with reference to its formation or subsequently, or by or on behalf of any person who is or has been engaged or interested in the formation of a public company, shall be dated and signed and shall, state such information and set out such reports



*on financial information as may be specified by the Securities and Exchange Board in consultation with the Central Government*

*Provided that until the Securities and Exchange Board specifies the information and reports on financial information under this sub-section, the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992 (15 of 1992), in respect of such financial information or reports on financial information shall apply”.*

**“26(6)- Every prospectus issued under sub-section (1) shall, on the face of it, -**

- (a) state that a copy has been delivered for filing to the Registrar as required under sub-section (4); and*
- (b) specify any documents required by this section to be attached to the copy so delivered or refer to statements included in the prospectus which specify these documents”.*

### **SEBI (Issue and Listing of Debt Securities) Regulations, 2008**

#### **4. General Conditions -**

- (3) The issuer shall appoint one or more merchant bankers registered with the Board at least one of whom shall be a lead merchant banker.*

#### **6. Filing of draft offer document -**

- (1) No issuer shall make a public issue of debt securities unless a draft offer document has been filed with the designated stock exchange through the lead merchant banker.*
- (2) The draft offer document filed with the designated stock exchange shall be made public by posting the same on the website of the designated stock exchange for seeking public comments for a period of seven working days from the date of filing the draft offer document with such exchange.*
- (3) The draft offer document may also be displayed on the website of the issuer, merchant bankers and the stock exchanges where the debt securities are proposed to be listed.*
- (4) The lead merchant banker shall ensure that the draft offer document clearly specifies the names and contact particulars of the compliance officer of the lead merchant banker and the issuer including the postal and email address, telephone and fax numbers.*
- (5) The lead merchant banker shall ensure that all comments received on the draft offer document are suitably addressed prior to the filing of the offer document with the Registrar of Companies.*
- (6) A copy of draft and final offer document shall also be forwarded to the Board for its records, simultaneously with filing of these documents with designated stock exchange.*
- (7) The lead merchant banker shall, prior to filing of the offer document with the Registrar of Companies, furnish to the Board a due diligence certificate as per Schedule II of these regulations.*
- (8) The debenture trustee shall, prior to the opening of the public issue, furnish to the Board a due diligence certificate as per Schedule III of these regulations.*



**7. Mode of disclosure -**

- (1) *The draft offer document and final offer document shall be displayed on the websites of stock exchanges and shall be available for download in PDF / HTML formats.*
- (2) *The offer document shall be filed with the Registrar of Companies or Board, as the case may be, along with an electronic copy of the same.*
- (3) *Any person may obtain a physical copy of the draft offer document and final offer document from the registered office of the issuer or the merchant bankers upon making a request.*

**8. Advertisements for public issues-**

- (1) *The issuer shall make an advertisement in an English national daily and a Hindi national daily with wide circulation, on or before the issue opening date.*
- (2) *The advertisement shall be truthful, fair and clear and shall not contain any statement, promise or forecast which is untrue or misleading.*
- (3) *Any advertisement issued by the issuer shall not contain any matters which are extraneous to the contents of the offer document.*

**9. Abridged prospectus and application forms -**

- (1) *The issuer and lead merchant banker shall ensure that:*
  - (a) *every application form issued by the issuer is accompanied by a copy of the abridged prospectus;*
  - (b) *the abridged prospectus shall not contain matters which are extraneous to the contents of the prospectus;*
  - (c) *adequate space shall be provided in the application form to enable the investors to fill in various details like name, address, etc.*

**16. Debenture redemption reserve -**

- (1) *For the redemption of the debt securities issued by a company, the issuer shall create debenture redemption reserve in accordance with the provisions of the Companies Act, 1956 and circulars issued by Central Government in this regard.*
- (2) *Where the issuer has defaulted in payment of interest on debt securities or redemption thereof or in creation of security as per the terms of the issue of debt securities, any distribution of dividend shall require approval of the debenture trustees.*

.....”

14. I now proceed to deal with the merits of the case in respect of the alleged contraventions by Noticee.

**FINDINGS**

On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticee, I record my findings hereunder:



**Issue No. I: Whether the Noticee had violated the relevant provisions of Companies Act, 2013 and SEBI (ILDS) Regulations, 2008, as alleged?**

15. It is alleged in the SCN that the Noticee had violated the provisions of Companies Act, 2013 and ILDS Regulations, 2008 as private placement of NCDs (ISIN INE516Q08182) ultimately turned out to be Deemed Public Issue because of down selling of NCDs by KCL to 739 investors.
16. Noticee in response to the above allegations levelled in the SCN, has submitted that the Company followed the process for issuance and allotment as prescribed under the Companies Act, 2013, the Allotment Rules as well as the SEBI ILDS Regulations by issuing a Private Placement Offer Letter and Information Memorandum ('IM') in respect of the NCDs to KCL. Further, the Company has made all requisite filings such as Form PAS-3 within the stipulated timeline with the Registrar of Companies.
17. The Noticee further quoted the IMs terms as mentioned below:

*"This Information Memorandum, the Private Placement Offer Letter and the contents hereof are restricted only for the intended recipient(s) who have been addressed directly and specifically through a communication by the Issuer and only such recipients are eligible to apply for the Debentures. All Investors are required to comply with the relevant regulations/ guidelines applicable to them for investing in this Issue. The contents of this Information Memorandum and/ or the Private Placement Offer Letter are intended to be used only by those potential Investors to whom it is distributed. It is not intended for distribution to any other person and should not be reproduced by the recipient."*
18. The Noticee further stated that the Borrowing and Securities Allotment Committee of the Company had pursuant to circular



resolutions dated May 30, 2019, and June 20, 2019, passed resolutions authorizing such allotment of NCDs to KCL, strictly on a private placement basis. The Company did not cause any public advertisements or utilize any media, marketing or distribution channels or agents to inform the public at large about the issuance of the NCDs. The offer/ invitation to offer to subscribe to the NCDs was made to a single identified legal entity, i.e., KCL only.

19. The Noticee also stated that the Company had not offered/made an invitation to offer the NCDs to more than 200 persons in a financial year as stipulated in Section 42(2) of Companies Act, 2013 and Rule 14(2)(b) of Allotment Rules. The Company had offered and allotted NCDs to only one investor, i.e., KCL. Thereafter, as the legitimate subscriber of the NCDs, what KCL does with the NCDs, which is the exclusive asset/ investment of KCL, is its prerogative and the Company has no control over the actions or omissions of KCL. The Company can affirm and reiterate that it has not acted in connivance or collusion with KCL, in the subsequent sale/ transfer of NCDs. The Company has approached only KCL to subscribe to the NCDs.
  
20. As stated by the Noticee, as on the date of allotment and listing of the respective Tranche I NCDs and Tranche II NCDs, the Company was not aware of, or party to, (i) any down selling agreements/ arrangements/ fee arrangements for down selling, in respect of the NCDs; (ii) any discussions with investors / purchasers of Company NCDs in respect of down selling; or (iii) any agreements/ arrangements that may contravene Section 42 of the Companies Act, 2013, and rules and regulations thereunder, including but not limited to the NCDs issued by the Company to KCL in 2019. Accordingly, the Company had undertaken the issue and allotment of the NCDs in strict compliance with the Allotment Rules and was under no



obligation to maintain the data with respect to the secondary transfers of these NCDs by KCL, including the date of transfer and the number of NCDs transferred.

21. The Noticee also stated that it did not receive BENPOS of the NCD prior to listing, i.e., June 04, 2019. Therefore, the Company could not have been considered to have become aware of the alleged contravention in law upon receipt of the BENPOS Statement.
  
22. Before proceeding further, I would take note of the following facts of the instant matter;
  - I. Tranche 1 issue of NCDs opened and closed for subscription on May 30, 2019. Karvy Capital Limited (KCL) was the sole allottee for Tranche 1 issue.
  - II. KCL paid INR 40 Crores to Noticee on May 30, 2019. On May 30, 2019, NCDs were credited to portfolio demat account of KCL (Account no. 10022079).
  - III. As per BENPOS statement of June 03, 2019 (one day prior to listing), the number of NCD holders were 739. Further, KCL was not the holder of NCDs as per BENPOS statement as on June 03, 2019.
  - IV. Therefore, it may be said that after initial allotment on May 30, 2019, there was down selling of NCDs by KCL, which led to number of holders to 739 as on June 03, 2019. KCL has charged fees of INR 1 Crore (plus taxes) as structuring fees from Noticee.
  
23. Noticee's contention is that it has offered and allotted NCDs to only one investor KCL. Thereafter, as the legitimate subscriber of the NCDs, what KCL does with the NCDs which is exclusive asset/ investment of KCL, is its prerogative and the Company has no control



over the actions of omissions of KCL. It has not acted in connivance or collusions with KCL, in the subsequent sale/ transfer of NCDs.

24. In regard to above, it is pertinent to mention that the relevant provisions of Companies Act, 2013 such as section – 25(2) and Section 42 of Companies Act, 2013 read with Rule 14(2) of Companies (Prospectus and Allotment of Securities) Rules, 2014 specifically provide that where the allotment of securities is made to less than 200 persons in case of private placement and the said securities are down sold to more than 200 persons within 6 months of original allotment, then the original allotment will be deemed to be a public issue. Moreover, as per Section 42(11) of Companies Act, 2013, such “deemed public issue” and public issue norms prescribed in Companies Act, 2013, Securities Contracts (Regulation) Act, 1956, SEBI Act, 1992 and SEBI (ILDS) Regulations, 2008 will be applicable. Further, the Noticee has no response to the facts mentioned in paragraph 22(II) above regarding transfer of NCDs to KCL’s portfolio demat account. Therefore, based on the aforesaid facts, it can be said that the Noticee was not unaware of the fact that KCL was subscribing to the aforesaid issue of NCDs on behalf of other investors. Otherwise, there was no need to transfer the NCDs to the portfolio demat account of KCL.
25. Noticee's further contention is that it could not have been considered to have become aware of the alleged contravention in law upon receipt of the BENPOS Statement of NCDs on June 04, 2019.
26. The Noticee's argument perhaps is that it became aware of secondary transfer of NCDs by KCL only upon receiving the BENPOS report on June 04, 2019. However, provisions prescribed under Section – 25(2) read with Section - 42 of Companies Act, 2013



suggests 'deeming fiction' unless contrary is proved. It is pertinent to mention that KCL charged INR 1 Crore (plus taxes) structuring fee despite being the investor in the NCDs and also explicitly recognised as a "Representative of the Debenture Holders" in Debenture Trust Deed ('DTD') rather than investor/ sole investor. In view of these facts, above contention of the Noticee of having become aware of the secondary transfer only upon receipt of the BENPOS statement in respect of the NCDs cannot be accepted.

27. Moreover, with respect to facts mentioned in paragraph 22(III), I observe that the Noticee's contention that the payment of INR 1 Crore (plus taxes) to KCL was made in the usual and ordinary course towards processing fee and other miscellaneous fees, similar to payments made in past to its lenders including PSU Banks, is weak. On perusal of tax invoice dated May 30, 2019 raised by KCL to Noticee, it is evident that the same is termed as 'structuring fee' and coupled with the fact that KCL is designated as a "Representative of the Debenture Holders" in DTD and later NCDs were down-sold to 739 investors within just four days from the allotment date of Tranche I i.e. May 30, 2019. Based on these facts and observations, I find it highly improbable that a single legitimate and independent subscriber would invest its own capital to hold securities and then receive a massive processing fee from the issuer despite having a separate official "Arranger" i.e Vivriti Capital Limited as stated in the Information Memorandum (IM). In view of the timeline and financial transactions in the matter, I cannot but conclude that Noticee was aware of the fact that KCL was acting as a de facto underwriter/distributor and not as a sole investor.
28. In view thereof, the said offer of NCDs by Noticee cannot be considered as private placement and Noticee was under statutory



obligation to comply with public issue norms. Therefore, I find that the Noticee has violated the provisions of Section 42 (Chapter – III of Prospectus and Allotment of Securities) of Companies Act, 2013 read with Rule 14(2) of Companies (Prospectus and Allotment of Securities) Rules, 2014, Section 26(4) read with 2(70), 26(6) read with 26(1), 23(1) & 33(1) of the Companies Act, 2013; Regulations 4(3), 6, 7, 8, 9 and 16 of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008

29. Noticee has further submitted in its response that regarding the deemed public issue and alleged violations of Section 25, Section 42 and resultant alleged violations of Sections 2(70), 25, 26, 33, 42 and relevant rules of Companies Act, 2013, attention is invited to facts of Adjudication Order No. Order/BS/RG/2023-24/29358 in the matter of Utkarsh Small Finance Bank Ltd., which also involved KCL detailing the below:

*“On November 10, 2022, the ROC passed an order disposing of the Noticee’s Adjudication Application without any action against the Noticee, stating that in the facts and circumstances of the case, the alleged violations did not pertain to actions committed by the Noticee, its promoters or directors. The ROC further indicated that in the facts of the present case, the violations had to be adjudicated vis-à-vis the security-holder, i.e. KCL. However, in terms of the relevant provisions of the Companies Act pursuant to which the present Compounding Application was filed by the Noticee, the ROC did not have the powers to proceed against the security-holder.*

30. I observe that Noticee has conveniently quoted the ROC’s observation mentioned in the above mentioned SEBI AO Order but has ignored the final conclusion of the same SEBI AO Order. Despite the ROC dropping its own proceedings under the Companies Act, the issuer (Utkarsh Small Finance Bank) was held liable by the SEBI AO



for circumventing the public issue norms in that matter and SEBI imposed a monetary penalty of INR 1 Lakh on the issuer. Therefore, the very precedent the Noticee relies upon actually confirms that the issuer remains liable under SEBI regulations when a purported private placement turns out to be a public issue in reality. Moreover, it may be noted that for violation of provisions pertaining to public issue of NCDs, SEBI is empowered to initiate proceedings under the provisions of ILDS Regulations as the case of issuance of NCDs in the instant matter by the Noticee. The primary responsibility to ensure the integrity of a debt issuance and protect public investors lies unequivocally with the Issuer. An issuer cannot circumvent its regulatory obligations by using an intermediary to bypass the regulatory framework for public issues.

31. The Noticee has also submitted that SEBI in its Order dated April 25, 2023 found that KCL had, in relation to the issuance of the relevant NCDs, failed to disclose its conflict of interest in violation of the erstwhile SEBI (Portfolio Managers) Regulations, 1993 and that SEBI's Order penalising KCL also makes it evident that breaches of extant law in relation to the issuance and allotment of the relevant NCDs were entirely on the part of KCL. On perusal on the said Order, I find that the facts pertaining to the same are as below:

- 31.1. KCL in capacity of NBFC structured the NCDs for the Noticee, for which it received an advisory fee of Rs.98,55,000/- and thereafter, KCL in capacity of PMS subscribed to 2500 unsecured NCDs of Rs. 1,00,000/- each on behalf of its clients on July 11, 2018 amounting to Rs. 25 Crores and transferred the same to its 355 PMS clients on July 20, 2018.



- 31.2. Therefore, there was conflict of interest in the dual role played by KCL as a structurer of the deal and also as an investor on behalf of their clients through its PMS arm.
32. In this regard, I note that the Noticee's contention in this regard suffers from a misunderstanding of independent regulatory obligations of the parties involved. In this respect, I note that in the above matter relied upon by the Noticee, KCL was penalised for its role as a registered intermediary specifically for violating the SEBI (Portfolio Managers) Regulations in respect of managing its clients' funds and also acting as an arranger rather than a portfolio manager. However, the instant adjudication proceedings against the Noticee are for the violations of provisions under SEBI (ILDS) Regulations and the Companies Act, 2013. As stated in preceding paragraphs, in case of deemed public issue, the statutory obligation to ensure compliance with public issue requirements rests squarely and exclusively on the Issuer. The Noticee issued securities that were instantly off loaded to 739 retail investors without the mandatory regulatory safeguards for retail investors.
33. In view of the above, I am of the opinion that the aforesaid SEBI AO Order dated April 25, 2023, in no way puts the entire blame for the violation of norms of public issue in respect of issuance of aforesaid NCDs, on KCL. Therefore, the Noticee's contention is devoid of merit. I note that the downselling of NCDs has led to circumvention of the norms of public issue wherein Noticee has not complied with provisions of Section 42 of (Chapter – III of Prospectus and Allotment of Securities) of Companies Act, 2013 read with Rule 14(2) of Companies (Prospectus and Allotment of Securities) Rules, 2014, Section 26(4) read with 2(70), 26(6) read with 26(1), 23(1) & 33(1) of



the Companies Act 2013; Regulations 4(3), 6, 7, 8, 9 and 16 of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008.

**Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act, 1992?**

34. From the discussion in the first issue, it is noted that the violations were established as described above and accordingly, I am of the view that the Noticee is liable for imposition of penalty in terms of Section 15HB of SEBI Act, 1992.

**Section 15HB of SEBI Act:**

***Penalty for contravention where no separate penalty has been provided:***

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

**Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?**

35. In this regard, while determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the SEBI which is reproduced as under:

**Section 15J of SEBI Act:**

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



*While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -*

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused to an investor or group of investors as a result of the default;*
- (c) the repetitive nature of the default.”*

36. It has been submitted by the Noticee that it has not made any disproportionate gain and no loss has been caused to the investors and further, Noticee's act are not repetitive in nature as per provisions given under section 15J of SEBI Act. Based on this, the Noticee has requested that penalty may not be imposed on it.
37. In this regard, I note that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. From the material available on record, there was no investor complaint against the Noticee. Also, the Noticee's default is not repetitive in nature. However, it is pertinent to mention here that the downselling of NCDs has led the Noticee to circumvent the norms of public issue wherein the Noticee has not complied with provisions under Section 42 of (Chapter – III of Prospectus and Allotment of Securities) of Companies Act, 2013 read with Rule 14(2) of Companies (Prospectus and Allotment of Securities) Rules, 2014, Section 26(4) read with 2(70), 26(6) read with 26(1), 23(1) & 33(1) of the Companies Act, 2013; Regulations 4(3), 6, 7, 8, 9 and 16 of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008.
38. While determining the quantum of penalty, the following mitigating factors need to be considered:



38.1. The debentures have been redeemed by the Noticee and apparently, no complaints of investors are brought on record in these proceedings.

38.2. The present proceedings arose pursuant to a *suo moto* filing of DRHP by the Noticee wherein Noticee informed regarding issuance of NCDs.

## **E. ORDER**

39. In view thereof, after consideration of facts and circumstances of the case, the matter available on record, the submissions made by the Noticee and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, I hereby impose a monetary penalty of **INR 1,00,000/- (Rupees One lakh only)** on the Noticee, under section – 15HB of SEBI Act, 1992. In my view, the said penalty will be commensurate with lapse/omission on part of the Noticee in this case.
40. The Noticee shall remit /pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e. [www.sebi.gov.in](http://www.sebi.gov.in), by following the below provided payment path:

***ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW***

41. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under Section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.



42. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

**Date: APRIL 28, 2026**

**Place: MUMBAI**

**SUDEEP** Digitally signed  
by SUDEEP  
**MISHRA** MISHRA  
Date: 2026.04.28  
16:09:17 +05'30'

**SUDEEP MISHRA**

**ADJUDICATING OFFICER**