

**IN THE SECURITIES APPELLATE TRIBUNAL  
AT MUMBAI**

**DATED THIS THE 15<sup>TH</sup> DAY OF JUNE, 2026**

**CORAM: Justice P.S. Dinesh Kumar, Presiding Officer  
Ms. Meera Swarup, Technical Member  
Dr. Dheeraj Bhatnagar, Technical Member**

**Appeal No.371 of 2025  
[Along with Misc. Application  
Nos.869 and 870 of 2025]**

Prakash Ganpat Utekar  
8/801, Gandhar Tower,  
Khed Galli, Near Utkarshya Building,  
Prabhadevi, Mumbai – 400 025.

...Appellant

(By Mr. Aansh Desai, Advocate i/b. Pythagoras Legal for the  
Appellant.)

Securities and Exchange Board of India  
SEBI Bhavan, Plot No.C-4A,  
Bandra Kurla Complex, Bandra (E),  
Mumbai – 400 051.

...Respondent

(By Ms. Gulnar Mistry, Advocate with Mr. Bhushan Shah and Mr.  
Abhishek Nair, Advocates i/b. Mansukhlal Hiralal & Co. for the  
Respondent.)

**With  
Appeal No.372 of 2025  
[Along with Misc. Application No.871  
and 872 of 2025]**

Venkatraman Natarajan

1001/1002, Mount Everest,  
A Wing, 10<sup>th</sup> Floor,  
Bhakti Park Near I Max Cinema,  
Wadala (E), Mumbai – 400037.

...Appellant

(By Mr. Aansh Desai, Advocate i/b Pythagoras Legal for the Appellant.)

Securities and Exchange Board of India  
SEBI Bhavan, Plot No.C-4A,  
Bandra Kurla Complex, Bandra (E),  
Mumbai – 400 051.

...Respondent

(By Ms. Gulnar Mistry, Advocate with Mr. Bhushan Shah and Mr. Abhishek Nair, Advocates i/b. Mansukhlal Hiralal & Co. for the Respondent.)

**With**  
**Appeal No.374 of 2025**  
**[Along with Misc. Application No.942**  
**of 2025]**

Omprakash Basantlal Goenka  
101, 10<sup>th</sup> Floor, Somerset House,  
Sophia College Lane, Warden Road,  
Mumbai – 400026.

...Appellant

(By Mr. Vinay Chauhan, Advocate with Mr. Aansh Desai, Advocate i/b. Pythagoras Legal for the Appellant.)

Securities and Exchange Board of India  
SEBI Bhavan, Plot No.C-4A,  
Bandra Kurla Complex, Bandra (E),  
Mumbai – 400 051.

...Respondent

(By Ms. Gulnar Mistry, Advocate with Mr. Bhushan Shah and Mr. Abhishek Nair, Advocates i/b. Mansukhlal Hiralal & Co. for the Respondent.)

THESE APPEALS ARE FILED UNDER SECTION 15T OF THE SEBI ACT TO SET ASIDE THE ORDER DATED DECEMBER 28, 2018 PASSED BY THE AO, SEBI.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON APRIL 9, 2026 COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE TRIBUNAL MADE THE FOLLOWING:

### **ORDER**

**Per: Justice P. S. Dinesh Kumar, Presiding Officer**

These three appeals are directed against order dated December 28, 2018, passed by the AO<sup>1</sup>, SEBI<sup>2</sup> imposing a penalty of ₹50 Lakhs on the appellants and other Noticees payable jointly/severely for non-compliance with SEBI's directions contained in its *ex parte ad interim* order<sup>3</sup> and the confirmatory order<sup>4</sup> passed by the WTM<sup>5</sup>.

2. Appeal No.371 of 2025 is filed by Noticee No.3, Prakash Ganpat Utekar; Appeal No.372 of 2025 is by Noticee No.4,

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<sup>1</sup> Adjudicating Officer

<sup>2</sup> Securities and Exchange Board of India

<sup>3</sup> dated June 03, 2015

<sup>4</sup> dated August 24, 2015

<sup>5</sup> Whole Time Member

Venkataraman Natarajan; Appeal No.374 of 2025 is by Noticee No.2, Omprakash Basantlal Goenka.

3. We have heard Mr. Vinay Chauhan and Mr. Aansh Desai, learned Advocates for the appellants and Ms. Gulnar Mistry, learned Advocate for the SEBI.

4. Brief facts of the case are:

- a) On January 17, 2014, SEBI received a complaint against Citrus Check Inns Limited ('Company' for short) alleging *inter alia* that the Company was running a ponzi scheme and refused to refund the money invested by the public.
- b) SEBI, after investigation, found that the Company was carrying on Collective Investment Scheme ('CIS' for short) activities and passed an *ex parte ad interim* order directing the Company and Directors not to collect any money from investors under any scheme and not to launch any new scheme. The interim order was subsequently confirmed.
- c) All Noticees challenged both the interim order and the confirmatory order in this Tribunal in Appeal Nos.416, 421 of 2015. This Tribunal, *vide* order dated February 03, 2016, set aside SEBI's directions and directed the Noticees to apply for registration under the CIS Regulations<sup>6</sup>. On appeal, the Hon'ble Supreme Court of India *vide* order

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<sup>6</sup> SEBI (Collective Investment Scheme) Regulations,1999

dated November 09, 2016 in Civil Appeal Nos.6590-6591 of 2016 set aside this Tribunal's order and restored the directions issued by the SEBI.

- d) SEBI had received complaints stating that the appellants were collecting funds either by themselves or through related group companies in violation of SEBI's orders<sup>7</sup>.
- e) SEBI issued an SCN dated July 14, 2017, to the Company and its Directors calling upon them to show cause as to why an inquiry be not held and penalty be not imposed under Section 15HB of the SEBI Act, 1992.
- f) The Company had gone into CIRP<sup>8</sup> and the IRP<sup>9</sup> for the Company informed the same to the SEBI. Except the IRP for the Company, no other noticee replied to the SCN. The AO proceeded *ex parte* and passed the impugned order.

5. Appellants' are Noticee Nos.2 to 4. Omprakash Basantlal Goenka<sup>10</sup> ('Omprakash' for short) is Noticee No.2, Prakash Ganpat Utekar<sup>11</sup> ('Prakash' for short) is Noticee No.3 and Venkatraman Natarajan<sup>12</sup> ('Venkatraman' for short) is Noticee No.4. Their case is, they were not aware of the SCN and the impugned order as they were in Central Jail, Nashik. The SCN

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<sup>7</sup> dated 03.06.2015 and 24.08.2015

<sup>8</sup> Corporate Insolvency Resolution Process

<sup>9</sup> Insolvency Resolution Professional

<sup>10</sup> Appellant in Appeal No.374 of 2025

<sup>11</sup> Appellant in Appeal No.371 of 2025

<sup>12</sup> Appellant in Appeal No.372 of 2025

was served at the Company's address which was not accessible to the appellants after appointment of IRP. The hearing notices were sent to the email ids which were under the IRP's control. On December 14, 2024, appellants received the demand notice<sup>13</sup> and later, in the same month received the attachment notice. The appellants came to know about the SCN and impugned order only after receipt of the demand notice and the attachment notices. In substance, they have contended that the SCN, hearing notices and the impugned order were not served upon them and therefore, the impugned order is in violation of principles of natural justice.

6. Mr. Vinay Chauhan and Mr. Aansh Desai, learned Advocates for the appellants submitted that:

- i. On May 2, 2017, the Hon'ble NCLT, Mumbai, appointed the IRP. The SCN dated July 14, 2017 was sent to the Company's address i.e. 16-19, Shilpin Center, 1<sup>st</sup> floor, 40, GD Ambedkar Marg, Wadala-400031. After appointment of the IRP, appellants had no access to the office premises as the Company was closed and all operations were suspended.
- ii. Omprakash was arrested and in custody between May 20, 2018 and September 30, 2019. Prakash and Venkatraman were arrested and were in custody between October 2018 and March 2020. The first hearing notice dated

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<sup>13</sup> dated 11.12.2024

June 19, 2018, was sent to Company's address. The same was undelivered with the postal endorsement with the remark 'left'. The second hearing notice dated was also sent to Company's address. The hearing notices were also sent on email ids 'cs-legal@mirahgroup.in, reservation@citruscheckinns.in and customerservice@citruscheckinns.in', but appellants did not have access to Company's emails as the same were under the control of the IRP. The third hearing notice was served on Omprakash by an email dated September 6, 2018. During that period, Omprakash was in jail. The third hearing notice was attempted to be served on addresses of Prakash and Venkatraman, but they were returned undelivered with the remark 'left'. SEBI's act of uploading 'Unserved Summons/Notices' cannot substitute mandatory service and it cannot be considered as deemed service. On October 18, 2018, the fourth hearing notice was published in three news dailies. The appellants were in jail and cannot be presumed to have knowledge of hearing notices. Omprakash's family members were residing outside India, while he was in jail. The family members of Prakash had shifted to different locations and were not residing at his residential address, while he was in jail. The family members of Venkatraman were residing in their native village in Tamil Nadu.

- iii. SCN and hearing notices have not been served upon the appellants as per Rule 7 of the SEBI (Procedure for Holding

Inquiry and Imposing Penalties) Rules, 1995 and the non-service of the SCN is in violation of law. He placed reliance on *Uma Karthikeyan v. SEBI*<sup>14</sup>, *Dhiren Dharamdas Agrawal v. SEBI*<sup>15</sup> and *Paresh Nathalal Chauhan v. SEBI*<sup>16</sup>.

- iv. Prakash (Noticee No.3) and Venkatraman (Noticee No.4) were Non-Executive Directors with no role in the day-to-day affairs of the company. The allegation in the impugned order is collection of ₹25,000/- from only two investors. There is no material on record to establish that the appellants had personally collected any money from investors and there is no material to establish their direct involvement in the alleged violations.
- v. The impugned order was also not served on the appellants. Omprakash was in jail when the impugned order was emailed to him at omgoenka@mirahgroup.in and he had no access to the same. The alleged hand delivery to Mr. Bhimrao Ganpat Utekar on behalf of Prakash is neither service upon appellant nor service upon his authorised representative. In the case Venkatraman, delivery of impugned order through speed post was unsuccessful and returned undelivered.

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<sup>14</sup> 2021 SCC OnLine SAT 1154

<sup>15</sup> 2022 SCC OnLine SAT 1299

<sup>16</sup> 2025 SCC OnLine SAT 396

vi. The moratorium was imposed under IBC<sup>17</sup>. Therefore, the proceedings initiated by the AO, SEBI pursuant to the SCN are *void ab initio* and they are in contravention of Sections 14 and 31 of the IBC.

7. In reply, Ms. Gulnar Mistry, learned Advocate for the SEBI submitted that:

a. Appellants have wrongly calculated the period of delay in filing the appeal. There is an inordinate delay of 2278 days and they have failed to show 'sufficient cause' for condonation of delay.

b. SEBI effected due service upon each of the appellants in accordance with Rule 7 of the SEBI Rules, 1995<sup>18</sup>. The SCN along with all relevant annexures was issued and served to the appellants through speed post at Company's address. However, no reply to the SCN was received.

c. The first hearing notice was attempted to be served to Company's address. However, the notices were not delivered.

d. The second hearing notice was attempted to be served at Company's another address and the same also

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<sup>17</sup> Insolvency and Bankruptcy Code, 2016

<sup>18</sup> SEBI (Procedure for Holding Inquiries and Imposing Penalties) Rules, 1995

returned undelivered. Since the notices returned unserved, the respondent attempted to serve the copies of the second hearing *vide* email dated July 23, 2018 to cs-legal@mirahgroup.in, reservation@citruscheckinns.in and customerservice@citruscheckinns.in. After a lapse of one year, the IRP *vide* email dated September 8, 2018 informed the SEBI that the Company was under CIRP.

e. The third hearing notice was served to Omprakash (Noticee No.2) by an email dated September 6, 2018 in accordance with Rule 7(b) of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995. The third hearing notice was served on Prakash (Noticee No.3) at the last known address and it was accepted on September 11, 2018 by one Mr. Sonal Bhalchandra Utekar on his behalf. An attempt was made to serve Venkatraman (Noticee No.4) at his last known address, but the same could not be effected. Therefore, it was uploaded on SEBI's website under the head 'Unserved Summons/Notices'. On October 18, 2018, SEBI published the fourth hearing notice in Mumbai edition of three news dailies, namely Times of India, Navbharat Times and Maharashtra Times.

f. SEBI served the impugned order on Prakash (Noticee No.3) and it was duly acknowledged, while service to Venkatraman (Noticee No.4) returned undelivered, evidencing attempt of service. Omprakash (Noticee No.2)

was duly served by an email dated January 2, 2019 in compliance with Rule 7(b) of the Adjudication Rules, 1995.

g. SEBI affixed the impugned order on the last known address of the appellants. At the time of affixture of the impugned order at the residence of Prakash (Noticee No.3), one Mr. Bhimrao Ganpat Utekar received the impugned order.

h. Without prejudice, even if the appellants were not aware of the proceedings for being in judicial custody, the appellants have not provided any reason for not challenging the impugned order post release from custody considering that the notices were delivered by emails, affixtures and publication.

8. We have carefully considered the rival contentions and perused the records.

9. Admitted position is, appellants have filed these appeals challenging the *ex parte* order. Their principal grievance is that the impugned order is in violation of principles of natural justice.

10. The mode of service is prescribed in SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995. It has been amended on December 31, 2021. Admittedly, these cases are of the period prior to the amendment. The main ground urged by the learned Advocates

for the appellants is that there is violation of Rule 7(a) of the Rules. The said Rule reads thus:

*“7. Service of notices and orders.*

*A notice or an order issued under these rules shall be served on the person in the following manner, that is to say,—*

*(a) by delivering or tendering it to that person or his duly authorised agent;”*

*(Emphasis Supplied)*

11. SEBI’s stand is that the service can be effected in the alternative modes as per the amended provision and the amendment is only clarificatory in nature.

12. This Tribunal has considered the similar issue in *Uma Karthikeyan v. SEBI*<sup>19</sup> and held as follows:

*“8. A perusal of the aforesaid rule will indicate that the first step for serving a notice upon a person is by delivering or tendering it to that person or to his duly authorised agent as per Rule 7(a) of the Rules of 1995. In the instant case no steps have been taken by the respondent to serve the appellant as per Rule 7(a) and straightway the respondent have taken steps under Rule 7(b) and thereafter under 7(c). In our view it was not open to the respondent to jump or skip Rule 7(a) and serve notice under Rule 7(b) and 7(c). If service had been attempted under Rule 7(a) by delivering or tendering it to that person i.e. by personal service the person tendering the service would have found out*

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<sup>19</sup> Appeal No.513 of 2020 decided on 19.05.2021 by Securities Appellate Tribunal, Mumbai

*that the appellant had left the premises. Affixation at the address which has been vacated by the appellant is no service in the eyes of law. Thus, in our opinion without attempting service under Rule 7(a), affixation under Rule 7(c) becomes irregular. In any view service has been attempted by affixation on the address which had been vacated by the appellant since 2012 which fact has not been denied. Thus, we are of the opinion that service is insufficient. The appellant was not served with the show cause notice, etc.”*

*(Emphasis Supplied)*

13. The above judgment has remained unchallenged and binding on SEBI. Therefore, in our considered view, the impugned order suffers from violation of principles of natural justice.

14. In the result, these appeals merit consideration. Hence, the following:

#### **ORDER**

- i. Appeal Nos.371, 372 and 374 of 2025 are **allowed**.
- ii. Order dated December 28, 2018 is set aside *qua* the appellants.
- iii. Matter is remanded to SEBI for fresh consideration.
- iv. Appellant shall appear before the SEBI on July 15, 2026 without any further notice from SEBI and shall fully cooperate without seeking any adjournment.

- v. SEBI shall provide an opportunity to the appellants to file their reply to the show cause notice and complete all further proceedings as expeditiously as possible and in any event, not later than December 31, 2026.
- vi. Pending interlocutory application(s), if any, stand disposed of.
- vii. No costs.

Justice P.S. Dinesh Kumar  
Presiding Officer

Ms. Meera Swarup  
Technical Member

Dr. Dheeraj Bhatnagar  
Technical Member

15.06.2026  
RHN