

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: ORDER/BM/RK/2024-25/30710)**

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

Name of the Entity	Registration Number	PAN
Catalyst Trusteeship Limited	IND000000034	AACCG4147R

FACTS OF THE CASE

1. The Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) conducted an examination in the matter of breach of covenants by Spandana Sphoorty Financial Limited (“**SSFL/ Company**”), a company listed on Bombay Stock Exchange Limited (“**BSE**”) and National Stock Exchange (“**NSE**”). The examination was to ascertain whether there was any violation of the provisions of SEBI (Debenture Trustee) Regulations, 1993 (hereinafter referred to as the “**DT Regulations**”), SEBI (Listing Obligations And Disclosure Requirements) Regulations, 2015, (hereinafter referred to as “**LODR Regulations**”) and SEBI circulars by Catalyst Trusteeship Limited (hereinafter referred to as “**Noticee/Catalyst Trusteeship Limited/CTL**”) for the period from March 31, 2023 to October 31, 2023 (hereinafter referred to as the Examination Period/EP).
2. During the examination, it was observed that the Noticee which is registered with SEBI as a Debenture Trustee (“**DT**”) having Registration No. IND000000034, did

not follow the procedure mandated under extant SEBI circular mentioned below and also it did not inform the concerned CRA(s) about the breach of covenants of the trust deed.

3. The aforesaid alleged conduct of the Noticee was in violation of the following:
 - a) Clause 3 of SEBI Circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2020/ 230 dated November 12, 2020 (superseded by Master Circular for DTs dated March 31, 2023).
 - b) Clause 13 of Schedule III read with Regulation 16 of SEBI (Debenture Trustees) Regulations, 1993 and Clause 3 of SEBI Circular No. CIR/MIRSD/3/2013 dated March 15, 2013 (superseded by Master Circular for DTs dated March 31, 2023).
4. In view of the above, Adjudication proceedings was initiated under SEBI Act against the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

5. The undersigned was appointed as the Adjudicating Officer (“AO”) vide order dated December 08, 2023, communicated vide communique dated December 29, 2023 under Sub-section 1 of Section 15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure of Holding Inquire and Imposing Penalties) Rules, 1995 (hereinafter referred to as “**SEBI Adjudication Rules**”) to inquire into and adjudge under Section 15HB of the SEBI Act, for the aforesaid violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. Accordingly, a Show Cause Notice No. SEBI/HO/EAD/EAD/P/OW/2024/0000000644/1 dated January 04, 2024 (hereinafter referred to as ‘**SCN**’) was issued to the Noticee under Rule 4 of the Adjudication Rules, to show cause as to why an inquiry should not be held and penalty be not imposed upon it under Section 15HB of the SEBI Act for the aforesaid alleged violations.

7. The said SCN was duly served on the Noticee via SPAD and vide email dated January 08, 2024. The proof of service is on record. In response, Noticee vide email dated January 29, 2024 submitted its reply to the SCN. Further, in the interest of natural justice and in order to conduct an inquiry in terms of Rule 4(3) of the SEBI Adjudication Rules, vide hearing Notice dated February 13, 2024, which was duly delivered, hearing opportunity was granted to appear in person on March 05, 2024. The said hearing was attended to by the Authorized Representative (AR) and employees of the Noticee wherein they reiterated the submissions made vide its letter dated January 29, 2024. The Noticee also made an additional submission in the matter vide its letter dated March 10, 2024. The submissions made by the Noticee vide its letters dated January 29, 2024 and March 10, 2024 are summarized hereunder:

7.1 Noticee submitted that since it had sent an intimation to the debenture holders on June 22, 2023 i.e. within 3 days in terms of Clause 6.1 of the SEBI Circular dated October 12, 2020 so it was in compliance with the alleged Clause 6.1 of the said Circular.

7.2 Noticee further submitted that even if the non-compliance of maintenance of the quality of security was for the reasons stated in the Auditor's report itself, the various following steps were taken by it that reflect that it took immediate and effective steps:

- a) Intimation vide mail dated June 22, 2023 to the debenture holders and sought instructions for further course of action within 15 days,*
- b) Communication dated June 26, 2023 by SSFL to all the debenture holders requesting for waiver to comply with the covenants in respect of which the non-compliance was observed by the Statutory Auditor,*
- c) Communication dated June 27, 2023 made by it to the debenture holders requesting for waiver of breach of covenants within 30 days subsequent to the communication by SSFL to the debenture holders,*
- d) Conducted meeting of debenture holders on June 30, 2023 through SSFL wherein SSFL had apprised of its status and sought views of the debenture holders on the options given by it,*
- e) In continuation to its earlier email dated June 22, 2023, Noticee vide email dated July 06, 2023 conveyed request of the SSFL to the debenture holders to provide consent by July 27, 2023 to the two options given viz. (i) waiver for breach of the stated covenant and (ii) accelerated redemption as per DTD,*
- f) On August 2, 2023, it had advised the SSFL to take appropriate action as per the IM and DTD on the basis of response received from the debenture holders.*

7.3 Noticee submitted that the very intent of SEBI Circular dated 13.10.2020 and 12.11.2020 is to take prompt action in case of any adverse event taking place in respect of the debentures and to bring it to the notice of the debenture holders and to seek further instructions for protecting their interest and from the series of events mentioned above, it was clear that it had taken prompt and more effective steps, rather than just technical compliance of guidelines.

7.4 Noticee also relied upon the following Clause of DTD, which reads as mentioned below:

“Notwithstanding anything herein contained; it shall be competent to all the Debenture Holder(s) to exercise the rights, powers and authorities of the Debenture Holder(s) under this Deed by a letter or letters signed by or on behalf of the Debenture Holder(s) without convening a meeting of the Debenture Holder(s) as if such letter of letter constitutes a resolution or majority Debenture Holders, as the case may be, passed at a meeting duly convened and held as aforesaid and shall have effect accordingly.”

7.5 Noticee submitted that in view of the aforementioned Clause, it was not mandatory for it to conduct a meeting of the Debenture Holders, and it could also obtain the instructions of the Debenture Holders in writing as well and therefore immediately upon intimation of event of default, it had informed the Debenture Holders through a Notice and requested for the further course of action within 15 days. However, upon the request of the SSFL, It had conducted the meeting of Debenture Holders on June 30, 2023, which was well within 30 days from the event of default and therefore the purpose of the provision of para 6.3 of SEBI Circular dated 13.10.2020 was complied with in spirit.

7.6 Noticee submitted that SEBI Circular dated March 15, 2013 and March 31, 2023 mandate the debenture trustee and CRAs to share information between themselves as and when available with them for effective discharge of their respective obligations. However, there is no specific timeline, nor the term “immediately” or “promptly” is mentioned in the referred clause. In view of the same, what is important is sharing of information by each other and not the method applied for it.

7.7 Noticee submitted that even if there is no specific time limit specified in these circulars, in the instant case the exchange of information had taken place within less than 10 days.

7.8 Noticee further submitted that Chapter VII of the SEBI Master Circular dated March 31, 2023 deals with different disclosures to be made by debenture trustee, which distinguishes between defaults in payment of principal / interest, that is to be disclosed on next day, while the breach of covenants is to be disclosed within 75 days of end of half-year.

CONSIDERATION OF ISSUES AND FINDINGS: -

8. The undersigned has perused the charges levelled against the Noticee, reply of the Noticee and the documents/material available on record. The issues that arise for consideration in the present case are:

Issue No. I: Whether Noticee has violated the aforesaid provisions of DT Regulations and SEBI Circular as mentioned at para 3 above?

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

Issue No. III: If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

9. Before proceeding further, the undersigned would like to refer to the relevant provisions of law as under:

SEBI (Debenture Trustees) Regulations, 1993

Duties of the debenture trustees.

Code of Conduct.

16. Every debenture trustee shall abide by the Code of Conduct as specified in Schedule III.

[SCHEDULE III

Securities and Exchange Board of India (Debenture Trustees)

Regulations, 1993

[Regulation 16]

CODE OF CONDUCT

13. A Debenture Trustee shall share information available with it regarding client

companies, with registered credit rating agencies.

Clause 3 of SEBI Circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2020/ 230 dated November 12, 2020 (superseded by Master Circular for DTs dated March 31, 2023)

B. Action to be taken in case of breach of covenants or terms of issue

3. In case of breach of covenants or terms of the issue by listed entity, the debenture trustee shall take steps as outlined in para 6.1 and 6.3 of SEBI Circular SEBI/HO/MIRSD/CRADT/CIR/P/2020/203 dated October 13, 2020 and thereafter take necessary action as decided in the meeting of holders of debt securities in this regard.

Clause 3 of SEBI Circular No. CIR/MIRSD/3/2013 dated March 15, 2013

Sub: Sharing of information regarding issuer companies between Debenture Trustees and Credit Rating Agencies

3. In consultation with DTs and CRAs, it has been decided that registered DTs and CRAs shall share information with each other as specified in the Annexure. DTs and CRAs may share any other information from time to time in respect of issues/issuer companies which would help them in effective discharge of their duties.

Issue No. I: Whether Noticee has violated the aforesaid provisions of DT Regulations and SEBI Circulars as mentioned at para 3 above?

10. Pursuant to examination of an email communication between the Noticee and SSFL regarding the breach of certain financial covenants as per the Debenture Trust Deeds (DTDs) for the Quarter Ending March 31, 2023 by SSFL, it was observed that there was a breach of covenants of the trust deed in the following ISINs tabulated in table 1 below:

Table 1:

ISIN	Covenants breached as per Statutory Auditors Certificate/DTD	Clause no. as per DTD	No. of Debenture Holders (as on date of breach of covenants)
INE572J07133	Portfolio quality 30 days ratio excluding loans of Andhra Pradesh and Telangana of less than or equal to 5%, (On balance sheet >30/On balance sheet gross loan portfolio)	9.3 (a)/ Pg.25	1
INE572J07224	The company shall at all time until the redemption of all outstanding debentures, maintain an Adjusted Return on Asset of	10.3(d) /Pg.36	1

	greater than 0.5% (Zero decimal Point five percent)		
INE572J07281	The company shall at all time until the redemption of all outstanding debentures, maintain an Adjusted Return on Asset of greater than 0.5% (Zero decimal Point five percent)	2.5.3.(c)/Pg.39	1
INE572J07323	The company shall at all time until the redemption of all outstanding debentures, maintain an Adjusted Return on Asset of greater than 0.5% (Zero decimal Point five percent)	2.5.3.(c)/Pg.41	1
INE572J07398	Portfolio quality 30 days ratio less than or equal to 30% - Till Jun 30, 2022, From Jul 1, 22 to Sep 30, 22 - 23% , From 1 Oct, 22 to 31 Dec, 22 - 15% , From 1 Jan, 23 to 31 Mar, 23 - 10% and 5% thereafter	2.5.3.(b)/Pg.41	1
INE572J07414	Portfolio quality 30 days ratio less than or equal to 23% - Till Sep 30, 2022, From 1 Oct, 22 to 31 Dec, 22 - 15%, From 1 Jan, 23 to 31 Mar, 23 - 10% and From 1 Apr 23 Onwards 5%	2.5.3.(b)/Pg.42	1
INE572J07455	Min liquidity amt equivalent to next 3 months liabilities after including put option/interest reset on liabilities in the form of unencumbered cash & cash equivalents.	2.4.2.(g)/Pg.54	143
INE572J07463	Min liquidity amt equivalent to next 3 months liabilities after including put option/ interest reset on liabilities in the form of unencumbered cash & cash equivalents.	2.4.2.(g)/Pg.54	1
INE572J07489	Min liquidity amt equivalent to next 3 months liabilities after including put option/ interest reset on liabilities in the form of unencumbered cash & cash equivalents.	2.4.2.(g)/Pg.53	438
INE572J07521	1. Maintain a minimum tangible net worth shall be 2800 cr 2. Shall maintain minimum liquidity amount after including put options/ interest reset on liabilities equivalent to: a. Next 2 month liabilities (as reported in statement of structural liquidity submitted to RBI) till the end of 14 months from deemed date of allotment	Schedule 2- Clause 2.7 & 2.9 (a)/Pg.73	216
INE572J07539	1. Maintain a minimum tangible net worth shall be 2800 cr 2. Shall maintain minimum liquidity amount after including put options/ interest reset on liabilities equivalent to: a. Next 2 month liabilities (as reported in statement of structural liquidity submitted to RBI) till the end of 14 months from deemed date of allotment	Schedule 2- Clause 2.7 & 2.9 (a)/Pg.73	1
INE572J07513	1. Maintain a minimum tangible net worth shall be 2800 cr 2. Shall maintain minimum liquidity amount after including put options/ interest reset on liabilities equivalent to: a. Next 2 month liabilities (as reported in statement of structural liquidity submitted to RBI) till the end of 14 months from deemed date of allotment	Schedule 2- Clause 2.7 & 2.9 (a)/Pg.71	667

11. With regard to the aforementioned breach of covenants, Noticee vide its email dated October 23, 2023 submitted to SEBI that basis the Statutory Auditor certificate dated June 19, 2023, received by it on June 20, 2023 for March' 23 quarter, it was observed by it that the issuer (SSFL) had defaulted certain financial covenants and accordingly intimation to debenture holders was made on June 22, 2023 and it had sought for further course of action from the said debenture holders requesting them to give instructions within fifteen (15) days from receipt of its communication. Further, it was observed that post deliberation with SSFL, Noticee had initiated virtual meeting dated June 30, 2023 of debenture holders to address the breaches.
12. Basis the responses received from debenture holders, a letter dated August 02, 2023 was shared by Noticee with SSFL informing it of the responses received. Further, it is observed that upon the instructions of the debenture holders, waiver was granted by certain no. of debenture holders and repayment was made to certain debenture holders.
13. It is observed that Clause 3 of SEBI Circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2020/ 230 dated November 12, 2020 inter-alia mandates that in case of breach of covenants, the debenture trustee to take necessary action as outlined in para 6.1 and 6.3 of SEBI Circular dated October 13, 2020 wherein Clause 6.1 of SEBI Circular dated October 13, 2020 inter alia mandates that the debenture trustee should send a notice to the investors within 3 days of breach of covenant and Clause 6.3 of SEBI of the said circular inter alias mandates that the debenture trustee should convene a meeting of all investors within 30 days of breach of covenants. Further, Clause 3 of the said Circular dated November 12, 2020 provides that the debenture trustee should take necessary action as decided in the meeting of the investors.
14. In this regard, Noticee No.1 vide email dated October 23, 2023 submitted that a meeting was arranged between the debenture holders and SSFL on June 30, 2023 basis the request raised by SSFL and that no separate meeting was conducted by it in the absence of any instructions from the Debenture holder to that aspect.

15. Further, it is observed that Noticee vide email dated October 31, 2023, submitted the following:

- a) *As informed by the Issuer, no formal minutes were prepared since the meeting held on June 30, 2023 was a discussion regarding business update and update on the occurrence of breach of covenants. During the call the company explained the business growth and improvements that have taken place since the issuance. Dedicated email ID was shared with the Debenture holders to raise their queries with respect to the breach of covenants.*
- b) *The outcome of the meeting was not made public by the Issuer, however a dedicated email id was shared with the debenture holders and their queries were resolved from time to time.*
- c) *Since dedicated email ID was shared with the debenture holders, their queries were resolved over email from time to time.*

16. It was also observed from the email dated October 13, 2023 and November 21, 2023 that the meeting held on June 30, 2023 between the debenture holders and issuer was requested by the issuer to update on the breach of covenants. In this regard, it is observed that in terms of SEBI Circular dated November 12, 2020 in case of breach of covenants or terms of the issue by listed entity, the debenture trustee should take steps as outlined in para 6.1 and 6.3 of SEBI Circular SEBI/HO/MIRSD/CRADT/CIR/P/2020/203 dated October 13, 2020 and thereafter take necessary action as decided in the meeting of holders of debt securities. However, in the instant case, was no action decided in the meeting of investors held on June 30, 2023, based on which Noticee was supposed to act as mandated under the SEBI Circular dated November 12, 2020 rather an email ID was shared with the investors to resolve their queries.

17. Accordingly, in view of the above, it is alleged that the Noticee has violated Clause 3 of SEBI Circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2020/ 230 dated November 12, 2020 (superseded by Master Circular for DTs dated March 31, 2023) by having failed to follow the procedure as laid down in the said SEBI Circular.

18. Noticee submitted that since it had sent an intimation to the debenture holders on June 22, 2023 i.e. within 3 days in terms of Clause 6.1 of the SEBI Circular dated October 12, 2020 so it was in compliance of the alleged Clause 6.1 of the said Circular.

19. It submitted that the nature of default committed by SSFL was not a financial default in payment of interest or principal amounts of debentures, giving straightway a right to the debenture holders to enforce the security, but the breach of covenant related to the maintenance of security in the manner described in Information Memorandum (IM) / Debenture Trust Deed (DTD). In this regard, Noticee relied upon the Auditors' Certificate dated 19.06.2023, which was the basis for considering the default, the same stated as follows:

“These covenants pertain to 30+PAR (Portfolio more than 30 days) plus the gross amount of loans written off over the twelve-month period, divided by the Company's Gross loan portfolio to be lower than the specified threshold as per the respective agreements. Accordingly, this has led to breach of covenant, as the company has written off Rs.8,861 million during FY 22-23 which is driven by higher NPA and SMA buckets at the start of the year primarily due to Covid-19 impact. Management is confident with current performance continuing the covenants will come well within the threshold. The company PAR excluding written off is 2.85% as on 31.03.2023.”

20. Noticee further submitted that even if the non-compliance of maintenance of the quality of security was for the reasons stated in the Auditor's report itself, the various following steps were taken by it that reflect that it took immediate and effective steps:

- g) Intimation vide mail dated June 22, 2023 to the debenture holders and sought instructions for further course of action within 15 days,
- h) Communication dated June 26, 2023 by SSFL to all the debenture holders requesting for waiver to comply with the covenants in respect of which the non-compliance was observed by the Statutory Auditor,

- i) Communication dated June 27, 2023 made by it to the debenture holders requesting for waiver of breach of covenants within 30 days subsequent to the communication by SSFL to the debenture holders,
- j) Conducted meeting of debenture holders on June 30, 2023 through SSFL wherein SSFL had apprised of its status and sought views of the debenture holders on the options given by it,
- k) In continuation to its earlier email dated June 22, 2023, Noticee vide email dated July 06, 2023 conveyed request of the SSFL to the debenture holders to provide consent by July 27, 2023 to the two options given viz. (i) waiver for breach of the stated covenant and (ii) accelerated redemption as per DTD,
- l) On August 2, 2023, it had advised the SSFL to take appropriate action as per the IM and DTD on the basis of response received from the debenture holders.

21. Noticee submitted that the very intent of SEBI Circular dated 13.10.2020 and 12.11.2020 is to take prompt action in case of any adverse event taking place in respect of the debentures and to bring it to the notice of the debenture holders and to seek further instructions for protecting their interest and from the series of events mentioned above, it was clear that it had taken prompt and more effective steps, rather than just technical compliance of guidelines.

22. Noticee also relied upon the following Clause of DTD, which reads as mentioned below:

“Notwithstanding anything herein contained; it shall be competent to all the Debenture Holder(s) to exercise the rights, powers and authorities of the Debenture Holder(s) under this Deed by a letter or letters signed by or on behalf of the Debenture Holder(s) without convening a meeting of the Debenture Holder(s) as if such letter of letter constitutes a resolution or majority Debenture Holders, as the case may be, passed at a meeting duly convened and held as aforesaid and shall have effect accordingly.”

23. Noticee submitted that in view of the aforementioned Clause, it was not mandatory for it to conduct a meeting of the debenture holders, and it could have also obtained the instructions of the debenture holders in writing as well and therefore

immediately upon intimation of event of default, it had informed the debenture holders through a Notice and requested for the further course of action within 15 days. However, upon the request of SSFL, it had conducted the meeting of Debenture Holders on June 30, 2023, which was well within 30 days from the event of default and therefore the purpose of the provision of para 6.3 of SEBI Circular dated 13.10.2020 was complied with in spirit.

24. Clause 3 of SEBI Circular dated November 12, 2020 and Clauses 6.1 and 6.3 of the SEBI Circular dated October 13, 2020, states as follows:

Clause 3 of SEBI Circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2020/ 230 dated November 12, 2020 (superseded by Master Circular for DTs dated March 31, 2023)

B. Action to be taken in case of breach of covenants or terms of issue

3. In case of breach of covenants or terms of the issue by listed entity, the debenture trustee shall take steps as outlined in para 6.1 and 6.3 of SEBI Circular SEBI/HO/MIRSD/CRADT/CIR/P/2020/203 dated October 13, 2020 and thereafter take necessary action as decided in the meeting of holders of debt securities in this regard.

Clauses 6.1 and 6.3 of the SEBI Circular dated October 13, 2020

6.1. The Debenture Trustee(s) shall send a notice to the investors within 3 days of the event of default by registered post/acknowledgement due or speed post/acknowledgement due or courier or hand delivery with proof of delivery as also through email as a text or as an attachment to email with a notification including a read receipt, and proof of dispatch of such notice or email, shall be maintained.

6.3. Debenture Trustee(s) shall convene the meeting of all investors within 30 days of the event of default (as per para 6.1 above)

25. From the above Clause 3 of the SEBI Circular Dated November 12, 2020, it is clear that the Noticee was to comply with the Clauses 6.1 and 6.3 of the SEBI Circular dated October 13, 2020 in case of breach of covenants or terms of issue by the issuer wherein Clause 6.1 of the SEBI Circular casts responsibility upon the Noticee to send a notice within 3 days of the event of default to the investors by RPAD or SPAD or hand delivery with proof of delivery in addition to email

communication to the investors and Clause 6.3 provides for convening the meeting of all investors within 30 days of default as per Clause 6.1.

26. In this regard, the undersigned notes that at the time of hearing the Noticee was advised to provide the documentary evidence in support of having conducted the meeting and intimated the debenture holders adequately as per the provisions mentioned above. In this regard, it is observed that the Noticee vide its email dated March 10, 2023 provided email communication sent to an email ID CA.XXXm@sc.com from its side on June 22, 2023. However, the material available on record shows that there was 1 debenture holder w.r.t ISINs INE572J07133, INE572J07224, INE572J07281, INE572J07323, INE572J07398, INE572J07414, INE572J07463, INE572J07539, 143 debenture holders w.r.t ISIN INE572J07455, 438 debenture holders w.r.t ISIN INE572J07489, 216 debenture holders w.r.t ISIN INE572J07521 and 667 debenture holders w.r.t ISIN INE572J07513, totaling to 2,615 debenture holders and the Noticee has provided email intimation to only 1 of the debenture holders. W.r.t conducting of meeting of debenture holders and issuers, the undersigned notes that the Noticee has provided email communications from one Mr Manikandan, Mr Karan Mohta and Himanshu HUF wherein it is observed that they have been requesting to explain the situation in layman's terms, share the transcript of the meeting or key points as it was heard in the call by them that the Noticee would advise the investor if it would be better to go for accelerated redemption or not and summary of meeting held on June 30, 2023 respectively. This shows that the Noticee had communicated the event of default to some of the debenture holders and the meeting was also conducted by it. But the Noticee has not provided any documentary evidence in support of having communicated all the debenture holders w.r.t breach of covenants and whether all of them attended the said virtual meeting. Further, it is noted that the Noticee has not provided any document in support of having communicated all the debenture holders via RPAD/SPAD or Courier in addition to the email communication in terms of the Clause 6.1 of the SEBI circular dated October 13, 2020. Thus, intimating one /few debenture holders and merely submitting that the debenture holders were intimated cannot be construed as a proper communication as per the provision of said circulars and thus not in

compliance with Clause 6.1 of the SEBI Circular dated October 13, 2020. Therefore, submission of the Noticee is not tenable.

27. It is observed that though at the behest of SSFL, Noticee had convened a meeting of debenture holders, the submission of the Noticee that it was not mandatory for it to convene the meeting as the DTD provided for a Clause which empowered debenture holders to exercise the rights/powers under the deed by a letter or letters signed by or on behalf of the debenture holder(s) in writing without convening a meeting of the said holder(s) is bereft of merits, as the circular specifically provides for convening meeting of debenture holders.

28. Although Noticee convened virtual meeting dated June 30, 2023 between some of the debenture holders and issuer. However, Noticee has failed to provide any documentary evidence viz, minutes of the said meeting basis which the action decided in the meeting could be ascertained as required under Clause 3 of the SEBI Circular dated November 12, 2020 and therefore, the Noticee failed to comply with the above Clause.

29. Accordingly, in view of the above, it stands established that the Noticee has violated Clause 3 of SEBI Circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2020/ 230 dated November 12, 2020 (superseded by Master Circular for DTs dated March 31, 2023).

Alleged Violation 2: Non-informing the concerned CRA(s) about the breach of covenants of the Trust deed

30. As regards captioned violation, it was observed that Noticee vide email dated October 23, 2023 submitted that it had intimated the concerned CRA about the breach of covenants vide email dated June 26, 2023 and submitted a PDF copy of email correspondence.

31. Vide email dated October 30, 2023, SEBI had sought a copy of the email dated June 26, 2023 sent by Noticee to concerned CRA(s) i.e. India Ratings in the instant case, intimating breach of covenants as attachment, which was submitted by

Noticee vide its email dated October 31, 2023. From the said email communication between the CRA and Noticee, it was observed that first communication was from the CRA (India Ratings) to the Noticee seeking information about the breach of covenants on June 28, 2023 and that email dated June 26, 2023 as claimed aforesaid by the said Noticee was not present in the submissions made by it. On seeking comments from Noticee w.r.t the said contradiction, Noticee vide email dated November 21, 2023 submitted the following:

- a. *Post going through the previous attachments shared from our end, it is observed that the date mentioned vide email dated October 31, 2023 and October 23, 2023 was an inadvertent error, the correct date of intimation to CRA is June 29, 2023. Apologies for the inconvenience caused.*
- b. *Since the breach was observed by trustee on June 20, 2023 basis the statutory auditor certificate received, communication was already initiated among the issuer and the debenture holders. Since CRA had upfront asked for the information w.r.t. the breach, the same was intimated in response to CRA's email dated June 29, 2023.*

32. In terms of Clause 3 of SEBI Circular No. CIR/MIRSD/3/2013 dated March 15, 2013 (superseded by Master Circular for DTs dated March 31, 2023), the information about the breach of covenants should be shared with the CRA on receipt of the information whereas the Noticee in the instant case had observed the said breach of covenants on June 20, 2023 and did not share the same to the concerned CRA till June 29, 2023. The information was shared with the CRA after the concerned CRA sought information w.r.t the same.

33. In view of the above, it is alleged that Noticee has violated the provision of Clause 13 of Schedule III read with Regulation 16 of SEBI (Debenture Trustees) Regulations, 1993 and Clause 3 of SEBI Circular No. CIR/MIRSD/3/2013 dated March 15, 2013 (superseded by Master Circular for DTs dated March 31, 2023) by

not informing the concerned CRA(s) about the breach of covenants of the trust deed.

34. Noticee submitted that SEBI Circular dated March 15, 2013 and March 31, 2023 mandate the debenture trustee and CRAs to share information between themselves as and when available with them for effective discharge of their respective obligations. However, there is no specific timeline, nor the term “immediately” or “promptly” is mentioned in the referred clause.

35. Noticee submitted that even if there is no specific time limit specified in these circulars, in the instant case the exchange of information had taken place within less than 10 days.

36. Noticee further submitted that Chapter VII of the SEBI Master Circular dated March 31, 2023 deals with different disclosures to be made by debenture trustee, which distinguishes between defaults in payment of principal / interest, that is to be disclosed on next day, while the breach of covenants is to be disclosed within 75 days of end of half-year.

37. In this regard, it is pertinent to refer to the relevant Clause 3 of the SEBI Circular dated March 15, 2013, which reads as mentioned herein below:

3. *In consultation with DTs and CRAs, it has been decided that registered DTs and CRAs shall share information with each other as specified in the Annexure. DTs and CRAs may share any other information from time to time in respect of issues/issuer companies which would help them in effective discharge of their duties.*

38. The undersigned notes that the said Clause 3 provides for sharing of information between the DTs and CRAs. However, in the instant case the material available on record shows that India Ratings vide its email dated June 28, 2023 sought details of covenants regarding which SSFL had requested for waivers, details of issuances, waivers requested by SSFL over last 6 months, detailed term sheets

for the defaulted ISINs. This shows that it was not a sharing of information between the Noticee and India Ratings as has been misconstrued by the Noticee rather there were questions raised to the Noticee by India Ratings w.r.t the breach of covenants for which Noticee responded vide its email dated June 29, 2023.

39. The aforesaid conspicuously shows that the Noticee didn't share any information upfront with India Ratings despite breach of covenants observed by it on June 20, 2023 and therefore, submission of the Noticee is devoid of merits. Noticee has failed to comply with Clause 3 of SEBI Circular No. CIR/MIRSD/3/2013 dated March 15, 2013 and did not abide by Code of conduct as specified in Schedule III.
40. With respect to the submission of the Noticee that Chapter VII of the SEBI Master Circular dated March 31, 2023 deals disclosures to be made by debenture trustee, which distinguishes between defaults in payment of principal / interest, that is to be disclosed on next day, while the breach of covenants is to be disclosed within 75 days of end of half-year, the undersigned notes that the timeline of disclosure within 75 days is regarding disclosure on the website of the Noticee w.r.t breach of covenants rather than the sharing of information with CRA. Thus, the Noticee appears to have misplaced the provisions of the said Circular. Therefore, undersigned finds no merits in submission of the Noticee.
41. Accordingly, in view of the above, it stands established that the Noticee has violated the provision of Clause 13 of Schedule III read with Regulation 16 of SEBI (Debenture Trustees) Regulations, 1993 and Clause 3 of SEBI Circular No. CIR/MIRSD/3/2013 dated March 15, 2013 (superseded by Master Circular for DTs dated March 31, 2023) by not informing the concerned CRA(s) about the breach of covenants of the trust deed.

Issue No. II: If yes, does the violation, on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act, as applicable?

42. As it has been established that the Noticee has violated following provisions of SEBI DT Regulations and SEBI circulars.

- a) Clause 3 of SEBI Circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2020/ 230 dated November 12, 2020 (superseded by Master Circular for DTs dated March 31, 2023) by having failed to follow the procedure as laid down in the said SEBI Circular.
- b) Clause 13 of Schedule III read with Regulation 16 of SEBI (Debenture Trustees) Regulations, 1993 and Clause 3 of SEBI Circular No. CIR/MIRSD/3/2013 dated March 15, 2013 (superseded by Master Circular for DTs dated March 31, 2023).

43. In context of the above, the undersigned refers to the observations of Hon'ble Supreme Court in the matter of **Chairman, SEBI vs. Shriram Mutual Fund** {[2006] 5 SCC 361} wherein the Hon'ble Court had observed: *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not."*

44. Therefore, the aforesaid violations committed by the Noticee attract monetary penalty under Section 15HB of the SEBI Act for the aforementioned violation. The text of the said provision is reproduced hereunder:

Relevant provisions of SEBI Act, 1992

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 III- If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of the SEBI Act?

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

Factors to be taken into account by the adjudicating officer under SEBI Act

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

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

46. The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, suffered by the investors as a result of the Noticee's failure, nor the same has been alleged by SEBI. As regard to the repetitive nature of the default, the undersigned finds that the Noticee has not been penalized by SEBI in the past.

47. The evidence/observations on record against Noticee, ostensibly suggest the failure on part of the Noticee to comply with the provisions of DT Regulations and SEBI Circulars which cannot be taken leniently and such violations deserve to be adequately penalized. The very purpose of the said provisions is to deter wrong doing and promote ethical conduct in the securities market.

48. The undersigned cannot lose sight of the fact that irregularities were committed by the Noticee during the aforementioned IP. The Noticee being a registered intermediary is expected to adhere to fair practices and maintain a high degree of professionalism in the conduct of its business. Further, it is pertinent to that the role of a DT is crucial as it is primarily responsible to ensure that the interest of the debenture holders is not hampered by the issuer companies. Much power is given to trustees as they stand as a protector for the investors. The Noticee was under a statutory obligation to abide by the provisions of the Circulars issued by the Regulator, which it failed to do during the IP.

ORDER

49. Having considered the facts and circumstances of the case, the material available on record, the factors mentioned in 15J of SEBI Act and also taking into account judgment of the **Hon'ble Supreme Court in SEBI vs. Bhavesh Pabari** (2019) 5 SCC 90 and in exercise of power conferred upon undersigned under Section 15I of the SEBI Act read with Rule 5 of the SEBI Rules, 1995, the undersigned hereby imposes following penalty under Section 15HB of the SEBI Act on the Noticee:

Name of the Entity	Penalty Provisions	Penalty (Rs.)
Catalyst Trusteeship Limited (Noticee)	Section 15HB of the SEBI Act	Rs 1,00,000/- (Rupees One Lac Only)

50. The undersigned is of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

51. 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 on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW.

52. In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in

53. The aforesaid Noticee shall forward the details / confirmation of penalty so paid to “The Division Chief (Enforcement Department 1 DRA-3), Securities and Exchange Board of India, SEBI Bhavan II, Plot No. C/7, “G” Block BKC, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.” The Noticee shall also provide the following details while forwarding DD / payment information:

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

54. 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.

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

Place: Mumbai

Date: August 26, 2024

BARNALI MUKHERJEE

ADJUDICATING OFFICER