WTM/ASB/CFID/CFID_1/23008/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

Under Sections 11 (1), 11(4), 11(4A), 11B and 11B (2) 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:

Noticee	PAN
Coffee Day Enterprises Limited	AADCC3995L

In the matter of Coffee Day Enterprises Limited

Background:

1. SEBI issued a Show Cause Notice dated December 07, 2021 (hereinafter referred to as "**SCN**") to Coffee Day Enterprises Limited (hereinafter referred to as **"the Noticee" / "the Company" / "CDEL"**). The facts of the case and the allegations against CDEL, as mentioned in the SCN, are stated as under:

2. CDEL was incorporated in 2008 and has its registered office at 23/2, Coffee Day Square, Vittal Mallya Road, Bangalore, Karnataka – 560001. The equity shares of the Company are listed on National Stock Exchange of India Ltd. (NSE) and BSE since November 02, 2015. Coffee Day Enterprises Ltd is the parent company of Coffee Day Group. The Company, primarily through its subsidiaries, associates and joint venture companies, does business in multiple sectors such as coffee-retail and exports, leasing of commercial office space, financial services, Integrated Multimodal Logistics, Hospitality and Information Technology (IT) / Information Technology Enabled Services (ITeS).

3. Mr. V.G. Siddhartha, the Chairman of the Coffee Day Group, had reportedly committed suicide in July 2019. It was reported that he had left behind a suicide note dated July 27, 2019 addressed to the Board of Directors and Coffee day family wherein he revealed that he was in deep debt. After Mr. V.G. Siddhartha's passing away, the Board of CDEL engaged the services of Shri Ashok Kumar Malhotra, retired DIG of Central Bureau of Investigation, and Agastya Legal LLP, in September 2019, to *inter-alia* investigate the books of accounts of CDEL and its subsidiaries. SEBI had also initiated investigation in the matter on its own, to ascertain whether funds were diverted to related entities which resulted in possible violation of provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 ("**PFUTP Regulations, 2003**") and /or SEBI (Listing Obligations and Disclosure Requirements, Regulations, 2015 ("**LODR Regulations, 2015**").

4. Based on the findings contained in the investigation report of Shri Ashok Kumar Malhotra (hereinafter referred to as "**Investigation Report**"), submitted by CDEL to SEBI in July 2020, and the detailed investigation carried out by SEBI, diversion of funds amounting to Rs. 3,535 Crore from 7 subsidiaries of CDEL to Mysore Amalgamated Coffee Estates Ltd. ('**MACEL**'), an entity related to promoters of CDEL, was revealed. The details of the said diversion of funds are provided below.

Details of the subsidiaries of CDEL

5. CDEL has a total of 49 subsidiaries. The investigation by SEBI revealed that funds had been diverted from the following 7 subsidiaries of CDEL to MACEL:

(i) Coffee Day Global Ltd. ("CDGL")

6. Coffee Day Global Ltd. is a major subsidiary of CDEL and largest share of revenue and profits of CDEL is derived from business of this subsidiary. CDEL owns 82.09% of CDGL. CDGL's flagship Café Coffee Day (CCD) operated 1,192 cafes in 208 cities and 412 CCD Value Express Kiosks during the period under

investigation. The operating results of CDGL for FY 2018-19 and FY 2019-20 and amount of dues outstanding from MACEL, were as under:

Rs. in Crore

Particulars	FY ended March 31, 2019	FY ended March 31, 2020
Revenue	1,794.29	1,507.33
Other Income	34.94	49.72
Total Income	1,829.22	1,557.05
Profit after Tax	48.67	-346.74
Amount of dues outstanding from MACEL	65	1,112
Net Worth	1440.44	1002.24

(ii) Tanglin Retail Reality Developments Pvt. Ltd. ("TRRDPL")

7. Tanglin Retail Reality Developments Pvt. Ltd. is a wholly owned subsidiary of CDEL. It is in the business of real estate. Its activities include buying, selling, renting and operating of self-owned or leased real estate such as apartment buildings, dwellings, non-residential buildings, etc. It is also into development and sale of land and cemetery lots, operating of apartment hotels and residential mobile home sites. The operating results of the TRRDPL for FY 2018-19 and FY 2019-20 and amount of dues outstanding from MACEL, were as under:

Rs. in Crore

Particulars	FY ended March 31, 2019	FY ended March 31, 2020
Revenue	0	0
Other Income	0.89	0.35
Total Income	0.89	0.35
Profit after Tax	-2.53	-60.63
Amount of dues outstanding from MACEL	789	1,050
Net Worth	(50.96)	(111.59)

(iii) Tanglin Developments Ltd. ("TDL")

8. Tanglin Developments Ltd. is engaged in setting up fully integrated Information Technology Park and campuses for software development at Bangalore and Mangalore. TDL has been permitted to set up Special Economic Zones for Information Technology and / or Information Technology Enabled Services at "Global Village", Mysore Road, Bangalore. CDEL owns 87.12% of the subsidiary. The operating results of TDL for FY 2018-19 and FY 2019-20 and amount of dues outstanding from MACEL, were as under:

Rs. in Crore

Particulars	FY ended March 31, 2019	FY ended March 31, 2020
Revenue	2.22	2.43
Other Income	77.35	14.53
Total Income	79.57	16.96
Profit from discontinuing operations	-0.35	1,273.40
Profit after Tax	2.92	975.87
Amount outstanding from MACEL	-12	620
Net Worth	80.84	1065.05

(iv) Giri Vidhyuth (India) Ltd. ("GVIL")

9. Giri Vidhyuth (India) Ltd. is a wholly owned subsidiary of CDEL. It is engaged in the business of power generation, i.e. to generate, produce, buy, sell, resell, transmit, accumulate, distribute, or deal in electric power and establish thermal power plants, hydel power plants, atomic plants, solar power plants, etc. GVIL is yet to commence its operations. The operating results of GVIL for FY 2018-19 and FY 2019-20 and amount of dues outstanding from MACEL, were as under:

Rs. in Crore

Particulars	FY ended March 31, 2019	FY ended March 31, 2020
Revenue	0	0
Other Income	0	0
Total Income	0	0
Profit after Tax	-17.34	-83.09

Amount outstanding from MACEL	0	370
Net Worth	(17.12)	(100.21)

(v) Coffee Day Hotels and Resorts Pvt. Ltd. ("CDHRPL")

10. Coffee Day Hotels and Resorts Pvt. Ltd. is a wholly owned subsidiary of CDEL. It is engaged in business of Hotels, camping sites and other provision of short-stay accommodation. The operating results of CDHRPL for FY 2018-19 and FY 2019-20 and amount of dues outstanding from MACEL, were as under:

Rs. in Crore

Particulars	FY ended March 31, 2019	FY ended March 31, 2020
Revenue	11.78	10.48
Other Income	0.05	0
Total Income	11.83	10.48
Profit after Tax	-19.91	-16.94
Amount outstanding from MACEL	0	155
Net Worth	(47.67)	(64.59)

(vi) Coffee Day Trading Ltd. ("CDTL")

11. Coffee Day Trading Ltd., in which CDEL holds 88.77% shares, is engaged in the business of getting into joint ventures for setting up information technology and related businesses, developing infrastructure for information technology companies, manufacture or dealing in computer and related products. It is also involved in importing, processing and wholesale trading in coffee and allied products. The operating results of CDTL for FY 2018-19 and FY 2019-20 and amount of dues outstanding from MACEL, were as under:

Rs. in Crore

Particulars	FY ended March 31, 2019	FY ended March 31, 2020
Revenue	322.92	971.03
Other Income	4.33	0.02
Total Income	327.26	971.05
Profit after Tax	138.51	878.08

Amount outstanding from MACEL	0	125
Net Worth	415.76	1293.80

(vii) Coffee Day Econ Pvt. Ltd. ("CDEPL")

12. Coffee Day Econ Pvt. Ltd. is a joint venture where CDEL owns 99.99%. Incorporated on March 28, 2019, Coffee Day Econ Pvt. Ltd. is engaged in the business of retailing of coffee and other products through its chain of outlets under the brand name 'Fresh n Ground Coffee Day', 'Coffee Day Essentials', etc. CDEPL derives its revenue from retail operations from the sale of coffee beans, tea and other related products. The operating results of CDEPL for FY 2019-20 and amount of dues outstanding from MACEL, were as under:

Rs. in Crore

Particulars	FY ended March 31, 2020
Revenue	63.21
Other Income	1.14
Total Income	64.35
Profit after Tax	-8.56
Amount of dues outstanding from MACEL	103
Net Worth	121.08

13. The key financials of the Noticee, CDEL, for FYs ended March 31, 2019 and March 31, 2020 (as per its Annual Report for the FY 2019–20), were as under:

Rs. in Crore

Particulars	FY ended March 31, 2019	FY ended March 31, 2020
Revenue	*3568.91	2552.44
Other Income	*172.72	100.57
Total Income	*3741.63	2653.01
Profit after Tax	147.23	1848.51
Net Worth	3166.00	4937.00
*Figures have been restated from those contained in the Annual Report for the FY 2018–19		

Diversion of funds amounting to Rs. 3,535 Crore from the subsidiary companies of CDEL to MACEL

14. In response to an email dated July 23, 2020 from SEBI, CDEL vide email dated July 27, 2020 forwarded a copy of Investigation Report dated July 24, 2020 and *inter-alia* informed SEBI that "*MACEL, an entity on the personal business side of Late V. G. Siddhartha had a continuing business relationship with subsidiary companies of CDEL. MACEL was paid advances by subsidiary companies of CDEL & the same is elaborated in the Investigation report. The amounts were sent to MACEL through normal banking channels. The personal assets/shares of Late V.G. Siddhartha were hypothecated / pledged for business loans of the Company and its subsidiaries. He also gave personal guarantees for the Company and its subsidiaries and also provided personal guarantee of his family members. The debt levels which were approximately Rs. 7,200 Crore as on March 31, 2019 has been brought down by Rs. 4,000 Crore till date. The present debt of the group is approximately around Rs. 3,200 cr.*"

15. From CDEL's email dated July 28, 2020, it was noted that out of 49 subsidiaries of CDEL, 7 subsidiaries had outstanding dues from MACEL. The details of outstanding of these 7 subsidiaries from MACEL as of March 31, 2019 and July 31, 2019 were as under:

Rs. in Crore

		Outstanding Dues from MACEL	
Sl. No.	**Name of the subsidiary**	**As on March 31, 2019**	**As on July 31, 2019**
1	Coffee Day Global Ltd.	65	1,112
2	Tanglin Retail Reality Developments Pvt. Ltd.	789	1,050
3	Tanglin Developments Ltd.	-12	620
4	Giri Vidhyuth (India) Ltd.	-	370
5	Coffee Day Hotels and Resorts Pvt. Ltd.	-	155
6	Coffee Day Trading Ltd.	-	125
7	Coffee Day Econ Pvt Ltd.	-	103
Total		**842**	**3,535**

16. From the above table, it was observed that within a short period of four months i.e. between April 01, 2019 to July 31, 2019, Rs. 2,693 Crore (Rs. 3,535 Crore – Rs. 842 Crore) was transferred from 7 subsidiaries of CDEL to MACEL. CDEL also submitted to SEBI copies of letters dated July 24, 2020 to MACEL from 6 subsidiaries, viz. CDGL, TRRDPL, TDL, GVIL, CDHRPL and CDTL, seeking a repayment plan for the amounts payable by MACEL to these subsidiaries. Further, CDEL vide email dated 26.02.2021, provided MACEL's dues to CDEL's subsidiaries, as on 31-12-2020, based on then outstanding.

17. The principal dues had come down to Rs. 3,494 Crore, i.e. a reduction of Rs. 41 Crore in 17 months, as detailed below:

Rs. in Crore

Sl. No.	Name of the Company/ subsidiaries	Outstanding dues from MACEL as of 31.12.2020
1.	Coffee Day Global Limited	1,105
2.	Tanglin Retail Reality Developments Private Ltd	1,050
3.	Tanglin Developments Ltd	604
4.	Giri Vidhyuth (India) Limited	370
5.	Coffee Day Hotels and Resorts Private Limited	137
6.	Coffee Day Trading Limited	125
7.	Coffee Day Econ Private Limited	103
	Total	**3,494**

18. As regards the purpose of transfers, person(s) responsible for taking the decision of transferring aforesaid funds, confirmation sought from MACEL etc., CDEL vide email dated August 24, 2020 *inter-alia* submitted:

- MACEL owned coffee estates and used to supply coffee beans in the ordinary course of business to CDGL for its coffee business. MACEL had decades of business relation with CDGL. The funds were transferred to MACEL (after 1st April 2019), from subsidiary Companies by Late V.G. Siddhartha and purpose of transfer was not recorded. The Investigation Report stated – *"'We are of the considered opinion that MACEL owes a sum of Rs. 3,535 Crore to the subsidiaries of CDEL as at 31stJuly 2019. Out of the above, a sum of Rs. 842*

Crore was due to these subsidiaries by MACEL as at 31st March 2019 as per the Consolidated Audited Financial Statements. Therefore, a sum of Rs. 2,693 Crore is incremental outstanding that needs to be addressed."

- All the amounts advanced to MACEL by the subsidiaries were through normal banking channel. Late V.G. Siddhartha alone took decisions to transfer the amounts from subsidiaries to MACEL.

- MACEL has also confirmed the amount outstanding to the subsidiaries of CDEL. The subsidiaries had asked MACEL for a plan of action to repay the outstanding amount. MACEL, after discussion with its directors, asked for 30 days' time for providing the action plan.

19. As per the information provided by MACEL to SEBI vide email dated September 28, 2020, Rs. 3,499 Crore was payable by MACEL to subsidiaries of CDEL as at July 31, 2020. Details of the funds payable by MACEL to subsidiaries of CDEL as on March 31,2019, July 31,2019 and July 31, 2020 are as under:

Rs. in Crore

Sl. No.	Name of the Company/ subsidiaries	As at 31.03.2019	As at 31.07.2019	As at 31.07.2020
1	Coffee Day Global Limited	65	1,112	1,105
2	Tanglin Retail Reality Developments Pvt. Ltd.	789	1,050	1,050
3	Tanglin Developments Limited	(12)	620	608
4	Giri Vidhyuth (India) Limited		370	370
5	Coffee Day Hotels and Resorts Pvt. Ltd.	-	155	138
6	Coffee Day Trading Limited		125	125
7	Coffee Day Econ Private Limited		103	103
	TOTAL	**842**	**3,535**	**3,499**

20. Subsequently, SEBI vide email dated October 15, 2020 sought from MACEL information with respect to flow of funds from subsidiaries of CDEL to MACEL, its utilization and the relevant bank accounts used for inward / outward transfers (in

MS Excel format). MACEL vide email dated December 15, 2020 provided the desired information and stated *inter-alia* the following:

"Mysore Amalgamated Coffee Estates Limited (MACEL) has around 600 acres of Coffee Plantations in Chikkamagalur /Hassan Dist. Late. V. G. Siddhartha (VGS) and his family owns around 10,000 acres of coffee estates through various entities belonging to VGS & Family. All these estates are managed and operated by MACEL. All expenses and income of these entities are monitored by MACEL. Hence there have been regular financial transactions between MACEL and these entities. There were lot of transactions on daily basis between MACEL and these entities. Further, we would like to bring to your kind attention that VGS used to transfer amount from MACEL to various entities himself or by using the cheques pre-signed by Authorised Signatories. VGS used to ask the Authorised Signatories to sign bunch of cheques which were kept in his possession and used them as and when required.

All these transactions are carried out / approved by VGS. Due to large transactions between MACEL and other entities on day to day basis, we have provided the authorized signatories to the respective bank accounts instead of authorized signatories for the transfer of amount.

MACEL has engaged external experts to ascertain the details of deployment of the aforesaid funds. We are in constant touch with the subsidiaries of Coffee Day Enterprises Limited and are actively working towards the plan for repayment of dues of MACEL."

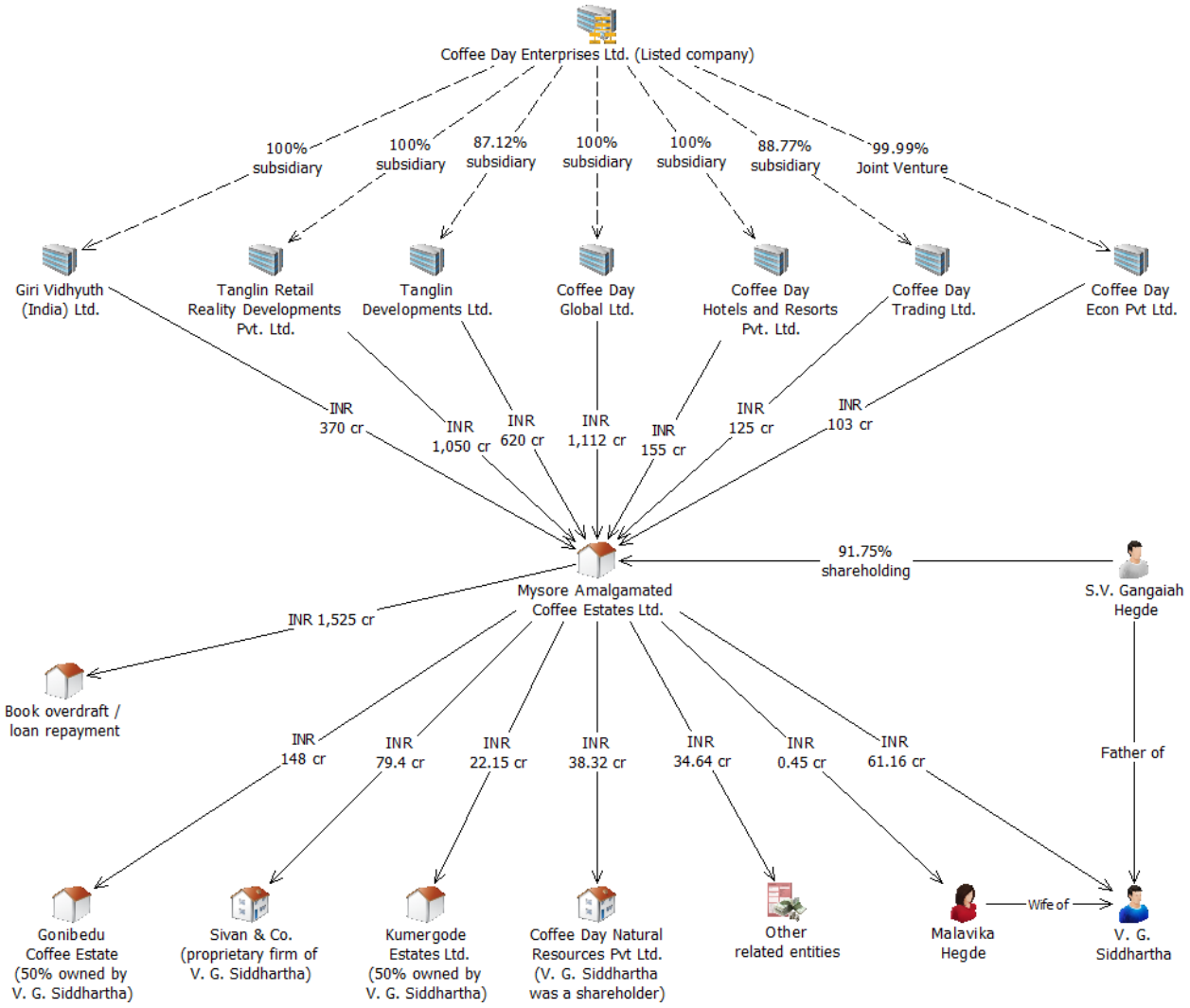
21. Vide email dated October 20, 2020, SEBI sought additional information from CDEL with respect to transfer of funds from CDEL & its subsidiaries to MACEL for the period from March 31, 2019 to July 31, 2019, the sources of funds of the subsidiaries, the bank accounts through which the money was transferred and

relevant supporting documentary evidences like minutes of Board Meeting, documentary evidence for authorized signatories, shareholder's approval, etc. CDEL vide email dated November 21, 2020 provided partial information and submitted *inter alia* that the Investigation Report submitted by Mr. Ashok Kumar Malhotra, amply demonstrated the manner in which VGS used to single-handedly monitor and oversee every financial transaction, including transfers to MACEL, sometimes as sole signatory to the cheques.

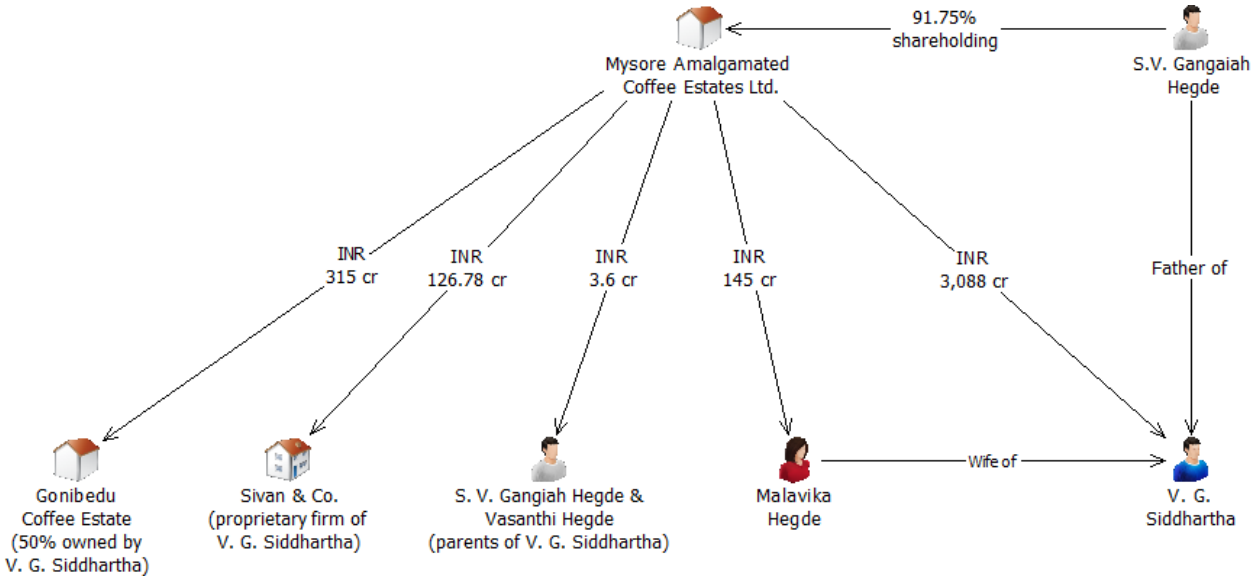
22. It was observed that the Investigation Report submitted by Mr. Ashok Kumar Malhotra had identified 6 subsidiaries viz. TDL, CDTL, TRRDL, GVIL, CDHPRL and TRRPDL as material subsidiaries. Out of the same, CDTL fulfilled the criteria prescribed under Regulations 16 and 24 of the LODR Regulations, 2015, since income of CDTL for FY 2018-19 was Rs.327.26 Crore and for F.Y. 2019-20 was Rs. 971.20 Crore which exceeded 10% of annual consolidated turnover or net worth of CDEL. However, the fact of its being a material subsidiary was not disclosed in the Annual Report of CDEL.

23. MACEL was established in 1944. It has an authorized capital of Rs. 15 Lakh. It was observed that 91.75% shareholding in MACEL was held by Late S. V. Gangaiah Hegde, father of VGS and 70 other shareholders, each holding small number of shares, as on December 15, 2022.

24. As per the information provided by MACEL vide their email dated 15 December, 2020, a total of Rs. 384.17 Crore had been transferred from MACEL to VGS and related parties (Gonibedu Coffee Estate, Sivan & Co., Kumergode Estates Ltd., Coffee Day Natural Resources Pvt. Ltd, Malavika Hegde etc.). A pictorial representation of the fund trail is provided below:



25. As stated above, as per MACEL's email dated December 15, 2020, a total of Rs. 384.17 Crore had been transferred from MACEL to VGS and related parties. However, based on independent analysis of bank statements of MACEL and the information provided by CA Lavitha Shetty (statutory auditor of MACEL), it was observed that the outstanding balances from VGS and his related entities to MACEL as on July 31, 2019, were much higher than what was informed by MACEL vide its email dated December 15, 2020. Based on two bank statements where major funds activity occurred (Union Bank of India A/c. no 510101005672952 and Yes Bank A/c no. 000181300000200) and the information provided by CA Lavitha Shetty, the trail for funds transferred from MACEL to major related parties of Late V. G. Siddhartha was as under:



26. It was observed from CDEL's email dated December 1, 2020 that no approval was obtained from the Board of Directors, Audit Committee or the shareholders of CDEL while transferring funds from subsidiaries of CDEL to MACEL. Further, from the Investigation Report submitted by Mr. Ashok Kumar Malhotra and various replies of CDEL and MACEL submitted to SEBI, it was observed that VGS was in control of most of the finance function of CDEL and its subsidiaries. Based on the fund trail established above, it was observed that out of the funds diverted from

subsidiaries of CDEL to MACEL, majority of funds were further diverted from MACEL to entities where VGS and his relatives were interested parties, of which Rs. 3088 Crore went to VGS himself and Rs.145 Crore went to Malavika Hegde.

27. Further, in the Annual Report of CDEL for FY 2018-19, only two subsidiaries, viz. Coffee Day Global Limited and SICAL Logistics Ltd, were disclosed as 'material subsidiary' by CDEL. CDEL had allegedly failed to identify material subsidiary in accordance with Regulation 16 of LODR Regulations, 2015, which resulted in significant transactions of fund diversion being missed out from the scrutiny and notice of the Board of Directors and Audit committee of CDEL, which allegedly amounted to violation of Regulation 16 and 24 of the LODR Regulations, 2015 by CDEL. It was thus alleged that the consolidated financials of CDEL did not give a true and fair picture of the operations of CDEL to its shareholders. It was also alleged that CDEL had failed to maintain adequate internal control over its finance functions and carry out adequate due diligence and exercise independent judgement, thereby aiding in the misuse and diversion of CDEL's funds through its subsidiaries for the benefit of promoter group entities.

28. In view of the above, it was alleged that CDEL had violated the provisions of Regulation 23(4) read with Regulation 23(1) as well as Regulations 16 and 24 of the LODR Regulations, 2015.

Price movement in the scrip of CDEL during Investigation Period

29. In terms of explanation to Regulation 4(1) of the PFUTP Regulations, 2003, "*any act of diversion, mis-utilization or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that*

company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market."

30. The news of the untimely and unfortunate passing away of VGS and his admission to the Board of Directors and Coffee day family of responsibility for every financial transaction between CDEL / its subsidiaries and MACEL and its related entities became public knowledge around the end of July 2019. It was seen that the closing price of the scrip of CDEL was Rs. 285.15 on April 1, 2019 and Rs. 225 on July 2, 2019. The price fell to Rs. 66.05 by August 19, 2019 and further to Rs. 27.95 as on October 29, 2019 (i.e. fall of around 88% compared to the July 2, 2019 share price). From the above price movement, it was amply evident that the concealed act of diversion of funds / financial transactions impacted the price of the scrip of CDEL which resulted in huge losses to investors.

31. In view of the above, it was alleged that the abovementioned diversion of funds and its concealment amounted to unfair trade practice in the securities market in terms of regulation 4(1) of the PFUTP Regulations, 2003, thereby resulting in violation of provisions of Regulations 3(b), (c) & (d) and Regulation 4(1) of PFUTP Regulations, 2003.

Violation of Related Party Transaction Norms

32. Accounting Standard 'AS 18- Related Party Disclosures' defines 'related parties'. MACEL, to whom funds amounting to Rs. 3,535 Crore were diverted from 7 subsidiaries of CDEL, was a related party of CDEL, as disclosed in the Annual Reports of CDEL for FY 2018-19 and FY 2019-20. However, from CDEL's submissions to SEBI made vide emails dated December 01, 2020 and December 16, 2020, it was observed that no approval was obtained from the Board of Directors, Audit Committee or the shareholders of CDEL before transferring funds from subsidiaries of CDEL to MACEL.

33. From the minutes of the meeting of the Audit Committee of CDGL held on May 24, 2019, it was observed that an omnibus approval was granted for purchase of coffee beans from MACEL / advances to MACEL for Rs. 80 Crore for transactions in FY 2019-20. However, the advances by CDGL to MACEL in FY 2019-20 was Rs. 1,048 Crore, which was a significantly higher multiple of the amount approved (Rs.80 Crore) by the CDGL's Audit Committee.

34. Further, it was noted that no approval of audit committee was obtained for transactions entered into between MACEL and other 6 subsidiaries (viz. TDL, CDHRPL, TRRDPL, CDEPL, CDTL and GVIL), as was required under regulation 23(2) of the LODR Regulations, 2015. The transfers made by the said six subsidiaries to MACEL were without any approval from the audit committee of CDEL, which was corroborated by CDEL's reply dated December 1, 2020.

35. As per Regulation 23(1) of the LODR Regulations, 2015, "*a transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.*" Further, as per Regulation 23(4) provides *inter alia* that "*all material related party transactions shall require approval of the shareholders through resolution and no related party shall vote to approve such resolutions whether the entity is a related party to the particular transaction or not.*"

36. The related party transactions of CDEL (on a consolidated level) with MACEL during FY 2018-19 i.e. Rs. 842 Crore, exceeded ten percent of annual consolidated turnover of CDEL (10% of turnover of Rs. 3,787 Crore), as per its audited financial statements for FY 2017-18. Similarly, related party transaction of CDEL (on a consolidated level) with MACEL during FY 2019-20 i.e. Rs. 2,693 Crore, exceeded

ten percent of annual consolidated turnover of CDEL (10% of turnover of Rs. 4,264 Crore), as per its audited financial statements for FY 2018-19. However, no shareholders' approval was obtained by CDEL for the aforesaid related party transactions with MACEL during FY 2018-19 and FY 2019-20, as required under regulation 23(4) read with regulation 23(1) of the LODR, Regulations, 2015.

37. Further, on examination of the agenda and minutes of the Board meeting and Audit Committee of CDEL and its 7 subsidiaries, it was observed that no approvals from the Board of Directors, Audit Committee and shareholders were obtained for the net transfer of funds of Rs. 3,535 Crore from subsidiaries of CDEL to MACEL, in violation of Regulation 23 (1) & (2) and 24 of the LODR Regulations, 2015.

38. The provisions of Companies Act, 2013 require all companies (listed and unlisted) to prepare the books of accounts and other financial statements which give a true and fair view of its state of affairs. Similar conditions are also laid down under Regulations 4(1) & 5 of the LODR Regulations, 2015. It was alleged that CDEL had failed to comply with the said provisions, thereby violating them.

39. In view of the above, the SCN called upon the Noticee to show cause as to why appropriate directions under Section 11(4), 11(4A) read with Section 11(1) and 11B, 11B(2) of the SEBI Act, 1992 and Rule 4 of SEBI (Procedure for holding Inquiry and Imposing Penalties) Rules, 1995 including directions for taking necessary steps to recover Rs. 3,494 Crore from MACEL within an appropriate period and directions imposing monetary penalty under Sections 15HA and 15HB of the SEBI Act, 1992, should not be issued against it for the alleged violations mentioned above.

40. The SCN was duly served on the Noticee. As per the Noticee's request, opportunities for inspection of documents were provided to the Noticee on February 23, 2022 and May 05, 2022. The Noticee was granted opportunities of

personal hearing on August 02, 2022 and August 25, 2022 which was attended by the authorized representative of the Noticee. The Noticee filed its reply to the SCN vide letter dated August 24, 2022 and made additional submissions vide letter dated September 06, 2022. The Noticee also filed a settlement application under the provisions of SEBI (Settlement Proceedings) Regulations, 2018, which was rejected by SEBI.

41. The Noticee in its replies dated August 24, 2022 and September 06, 2022 as well as during personal hearings has submitted *inter alia* the following:

(a) The Noticee denies all the allegations and charges made against it in the SCN.

(b) Mr. V. G. Siddhartha ("VGS"), the Founder, Promoter and Managing Director of CDEL, prior to his unfortunate demise on July 31,2019 left behind a letter dated July 27, 2019 addressed to the Noticee, which constitutes a dying declaration. In the said letter, VGS stated that *"My team, auditors and senior management are totally unaware of all my transactions. The Law should hold me and only me accountable, as I have withheld this information from everybody including my family."*

(c) Immediately, after the sudden turn of events, the Noticee convened a meeting where an Interim Chairperson was appointed, who read out the statements made in VGS's letter dated July 27, 2019. The Board took note of the same and resolved to investigate the matters set out in the letter. The Board appointed Mr. Ashok Kumar Malhotra, retired DIG of CBI along with Agastya Legal LLP, New Delhi, headed by Dr. M. R. Venkatesh and a support team of professionals like Chartered Accountants to investigate into the facts and circumstances underlying the contents of the letter dated July 27,2019 addressed by VGS and to scrutinize the books of accounts of the Noticee and its 48 subsidiaries. The demise of VGS and its aftermath significantly impacted and disrupted the day-to-day functioning of the Noticee. Eventually, the Investigation Report of Mr. Ashok Kumar Malhotra and Agastya Legal LLP was issued on July 24, 2020.

(d) Over the period, the management and Board of the Noticee are giving their best to get back the company on track and the receipt of the SCN at this stage is demoralizing.

(e) In the abovementioned unprecedented circumstances, the Noticee adopted "continuous improvement measures" to strengthen the systems, acting in the interest of the shareholders and other stakeholders. The Noticee also appointed Mr. S.V. Ranganath, a former IAS officer, as an independent interim chairman of the Noticee, reconstituted the Board of the Noticee with new experienced directors; appointed new Auditors; and strengthened the internal audits and secretarial audits of the group companies.

(f) The SCN alleges that no approval was obtained from the Board of Directors, Audit Committee and Shareholders of the Noticee while transferring funds from subsidiaries of the Noticee to MACEL, which qualified as “related party transactions”. However, the definition of “related party transactions” under Regulation 2(zc) of LODR Regulations pertains only to the transactions between listed entity and a related party. On the other hand, the transactions referred to in the SCN all pertained to transactions between various subsidiary companies of the Noticee and MACEL. At the time of the alleged transactions, viz. April 01, 2018 to March 31, 2019 and April 01, 2019 to July 31, 2019, there was no requirement for obtaining prior approval of Board of Directors, Audit Committee and Shareholders of the listed company in connection with transaction between the subsidiary of a listed company and a related party of the listed company or any of its subsidiaries. The definition of “related party transactions” under Regulation 2(zc) was substantively amended only in November 2021 to bring within its purview transactions between a listed entity or any of its subsidiaries on one hand and related party of the listed entity or any of its subsidiaries on the other hand. Pursuant to the said amendment, with effect from April 01, 2022, related party transactions with a subsidiary of a listed company would require the approval of the audit committee and shareholders of the listed entity. The Noticee i.e. the listed entity did not have any related party transaction with MACEL during

the Investigation Period to attract the provisions of Regulation 23(2) and Regulation 23(4) of the LODR Regulations.

(g) As regards the outstanding from MACEL to the 7 subsidiaries of the Noticee to the tune of Rs. 842 Crore during FY 2018-19, the Noticee submits that the transactions between the subsidiaries of the Noticee and MACEL during the financial year 2018 - 19 were at all points disclosed in the financial statements of the respective subsidiary, as well as in the Consolidated Financials of Parent Company (i.e. the Noticee). The SCN refers to the transaction of Rs.65 Crore between CDGL and MACEL and transaction of Rs.789 Crore between TRRDPL and MACEL. The Consolidated Financials were circulated/disclosed with the approval of Audit Committee and Board of Directors to the Shareholders of the Company as well as the statutory authorities.

(h) CDGL had a regular coffee procurement relationship with MACEL and these transactions in the regular course had been duly approved by the audit committee of CDGL and the same was properly disclosed regularly to the concerned authorities.

(i) As regards the transfer of Rs.789 Crore from TRRDPL to MACEL, the same pertained to sale of shares of Mindtree Ltd to L&T, which was approved by the Board of the Noticee and also disclosed to the stock exchange. Further, details of the transaction relating to sale of shares of Mindtree Ltd. and the connected financing arrangements were also recorded in TRRDPL Board Minutes dated March 18, 2019 which were placed before the Noticee's Board and taken note of on May 24, 2019.

(j) Appropriate disclosures of such transactions between the subsidiaries of the Noticee and MACEL have also been made in the Annual Reports of the Noticee under the caption "Notes to the Consolidated Financial Statements". Further, the certified financial statements of the subsidiaries and CDEL also show the transactions between the 7 subsidiaries of the Noticee and MACEL. Therefore, full disclosure of such transactions was made to shareholders and various authorities.

(k) The details of transactions between the 7 subsidiaries of Noticee and MACEL during April 2019 to July 2019, became known only because of the investigation commissioned by the Noticee's Board of Directors culminating in the Investigation Report. Hence the allegations against the Noticee in respect of these transactions cannot be sustained.

(l) As per the findings, observations and conclusions of SEBI's Investigation Report, transactions made during the period April 01, 2019 to July 31, 2019 were not known to the Board of Directors until the receipt of the Investigation Report of Mr. Ashok Kumar Malhotra on July 24, 2020. Therefore, there was no question of approval from the Board of the Noticee for these transactions. In any event, appropriate disclosures of transactions between the 7 subsidiaries of CDEL and MACEL have also been made in the Annual Reports of the Noticee for the financial year 2019-20 under the caption "Notes to the Consolidated Financial Statements".

(m) Out of the 7 subsidiaries identified in the SCN, only CDGL was a material subsidiary in terms of the provisions of Regulation 16 of the LODR at the relevant time and was disclosed as such in the Annual Report for the FYs 2018-19 and 2019-20. None of the other 6 subsidiaries, viz. TDL, CDTL, TRRDPL, GVIL, CDHRPL and CDECON, was material subsidiary at the relevant time. The SCN wrongly alleges that CDTL fulfilled the criteria for 'material subsidiary' as its income of Rs.327.26 Crore for the FY 2018-19 and Rs.371.20 Crore for the FY 2019-20 exceeded 10% of the annual consolidated turnover or net worth of CDEL but was not disclosed as a material subsidiary in the Annual Report of CDEL. However, as per the definition of "material subsidiary" as it stood in the year 2018 -19, a material subsidiary was a subsidiary whose income or net worth exceeded 20% of the consolidated income or net worth of the listed entity and its subsidiaries in the immediately preceding accounting year. It was only by an amendment which came into effect from April 01, 2019 that the definition of material subsidiary was changed to mean a subsidiary whose income or net worth exceeded 10% of the consolidated income or net worth. CDTL did not fall within

the definition of material subsidiary for the period 2018-19 since during the Financial Year 2017-18 (i.e. the immediately preceding accounting year), the income of CDTL was Rs. 167 Crore which was only 4% of the consolidated income of Rs. 3851 Crore of the Noticee, as against 20% prescribed at that time for being a material subsidiary. In any case, the income of CDTL did not even exceed 10% of the consolidated income of the Noticee and its subsidiaries in the immediately preceding accounting year. Similarly, CDTL was not a material subsidiary during the FY 2019-20, since during the FY 2018-19 (i.e. immediately preceding accounting year), the income of CDTL was Rs.327 Crore which was only 9% of the consolidated income of Rs. 3741 Crore of the Noticee in the immediately preceding accounting year and did not exceed the threshold limit of 10% applicable at that time. Accordingly, there is no violation of Regulation 16 and 24 of the LODR Regulation as alleged in the SCN. Even the auditors of CDEL have not noted any exception in connection with identification of material subsidiary for the years 2018-19 and 2019-20.

(n) The Noticee and its Board acted with due diligence in compliance with the applicable regulations. The Noticee has 48 subsidiaries into diverse businesses and different professionals were appointed such as CFO/Head-Finance of different subsidiaries instead of having one CFO for the entire Group. The subsidiaries of the Noticee, including the 7 subsidiaries referred to in the SCN, were incorporated separately and had their distinct and independent board of directors and the key managerial persons who were in charge of the day-to-day functioning of the respective subsidiary.

(o) The Noticee conducted its business exercising due diligence and the allegations in connection with failure to maintain adequate internal controls over its treasury functions is denied. The consolidated financial statements containing disclosure of transactions as referred to in the SCN between the 7 subsidiaries of the Noticee and MACEL were circulated to various parties such as shareholders, Registrar of Companies, Stock Exchanges etc. and the statutory auditors of CDEL as well as the 7 subsidiaries of the Noticee, have certified the compliances made by them.

All transactions between the 7 subsidiaries of CDEL and MACEL were effected through banks.

(p) Neither the SCN nor the Investigation Report identify or establish as to how the Noticee is alleged to have violated the provisions of PFUTP Regulations. SEBI's own Investigation Report states that V.G. Siddhartha was the sole person who was responsible for directing employees to facilitate the transfer of funds from subsidiaries of the Noticee to MACEL and that the Board of Directors was not aware of transfer of funds between April, 2019 to July 2019 before the discovery of suicide letter of VGS on July 27, 2019 which contained his confession. Therefore, the Noticee cannot be said to have violated the provisions of PFUTP Regulations, as alleged.

(q) The Noticee denies the allegation pertaining to violation of PFUTP Regulations and submits that the price of the security of Noticee fell due to the sudden news of VGS's unfortunate demise. It was only upon the receipt of the Investigation Report of Mr. Ashok Kumar Malhotra that it became known that during April 2019 – July 2019, 7 subsidiaries of the Noticee were having outstanding dues from MACEL. Since the transactions between the 7 subsidiaries of the Noticee with MACEL were not known, the fall in the price of the security of Noticee cannot be attributed to the same.

(r) The SCN asks the Company to show cause as to why directions to recover funds should not be issued. However, the Noticee had itself appointed Justice (Retd.) K. L. Manjunath, former judge of Hon'ble High Court of Karnataka, to advice on the aspect of recovery of amounts by the 7 Subsidiaries of the Noticee from MACEL. However, unfortunately, while his report/advice was awaited, Justice (Retd.) K. L. Manjunath passed away on January 23, 2022. The Board of the Noticee then appointed Justice (Retd.) Nagamohandas for advising on the aspect of recovery of amounts by subsidiaries of the Noticee from MACEL, who recommended to file a commercial suit against MACEL for recovery of amounts by 7 subsidiaries of the Noticee, which was approved and accepted by the Noticee on July 25, 2022. Further, the Board of the Noticee also appointed Justice

(Retd.) Nagamohandas to oversee and monitor the filing and proceedings of the Commercial Suit. Further, subsidiaries were asked by the Noticee to take necessary action for recovery of amounts from MACEL. The subsidiaries have appointed a lawyer who has initiated the process of the Commercial Suit. It is thus evident that the Noticee has already initiated necessary steps to recover monies from MACEL.

Consideration of issues:

42. I have examined the facts of the case, the allegations against the Noticee mentioned in the SCN, the submissions of the Noticee in respect of the allegations and other material available on record. Having considered the same, I now proceed to decide the issues at hand.

43. I note that the Noticee is alleged to have diverted funds amounting to Rs. 3535 Crore from its subsidiary companies to MACEL, a related party of the Noticee, without approval of the Board, Audit Committee or shareholders of CDEL in an unauthorized and concealed manner, in violation of the provisions of Regulations 16, 23(1), 23(4) & 24 of the LODR Regulations, 2015 and Section 12A(a), (b) & (c) of the SEBI Act, 1992 read with Regulations 3(b), (c) & (d) and 4(1) of the PFUTP Regulations.

44. I note that the allegations against the Noticee mentioned in the SCN can be broadly summarized into two heads, which have to be examined independently. The same are:

(i) Whether the transfer of funds to the tune of Rs. 3535 Crore from the subsidiary companies of CDEL to MACEL was done without approval of the Board, Audit Committee or shareholders of CDEL in an unauthorized and concealed

manner and without complying with the requirements of Regulations 4, 5, 16, 23(1), 23(2), 23(4) & 24 of the LODR Regulations, 2015, and

(ii) Whether the fund transfers from subsidiaries of CDEL to MACEL was in the nature of diversion of funds which amounted to fraudulent, manipulative and unfair trade practice, resulting in violation of provisions of Section 12A(a), (b) & (c) of the SEBI Act, 1992 read with Regulations 3(b), (c) & (d) and 4(1) of the PFUTP Regulations.

45. As regards the first category of alleged violations mentioned above, I note that the SCN has alleged the following:

(a) Violation of Regulation 4(1)(a) of the LODR Regulations, 2015 read with Regulation 16 which provide that a listed entity shall make disclosures in accordance with the principle that information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosures.
(b) Violation of Regulation 23(1), (2) & (4) of LODR Regulations, 2015 which provide for approval of Audit Committee and shareholders of listed company for related party transactions.
(c) Violation of Regulation 5 of LODR Regulations, 2015 which provides that listed entity shall ensure that key managerial personnel, directors, promoters or any person dealing with the listed entity, complies with responsibilities or obligations, if any, assigned to them under LODR Regulations, 2015.

46. I note that the abovementioned allegation pertain to CDEL's alleged failure to disclose certain subsidiary company as 'material subsidiary' in its Annual Report, in accordance with Regulation 4 read with 16(1)(c) of LODR Regulations, 2015 and failure to obtain approval of the shareholders and Audit Committee for transfer of funds from subsidiaries of CDEL to MACEL, which were allegedly related party

transactions, in terms of the provisions of Regulations 23(1), (2) & (4) of the LODR Regulations, 2015.

47. In this regard, I note that the SCN alleges that CDTL qualified to be a material subsidiary as per provisions of Regulation 16 of LODR Regulations, 2015, as its income for FYs 2018-19 and 2019-20 was Rs.327.26 Crore and Rs.971.05 Crore respectively, which exceeded 10% of annual consolidated turnover or net worth of CDEL. However, CDTL was not disclosed as a material subsidiary in the Annual Report of CDEL.

48. I note that in respect of the above allegation, the Noticee has contended that the provisions of Regulations 16(1)(c) of LODR Regulations, 2015 as they existed at the relevant time i.e. during FY 2018-19, provided a threshold limit of 20% of income or net worth of listed entity in the previous financial year for qualifying a subsidiary as material subsidiary, as against 10% mentioned by SEBI in the SCN. According to the Noticee, during the previous financial year, i.e. FY 2017-18, the income of CDTL was Rs.167 Crore whereas CDEL's consolidated income was Rs.3851 Crore, i.e. CDTL's income was 4% of the consolidated income of CDEL. The Noticee has further contended that the provision of Regulation 16(1)(c) was amended to reduce the threshold limit to 10%, with effect from April 01, 2019. According to the Noticee, for the FY 2019-20, even if the revised threshold limit is considered, then also CDTL did not qualify to be a material subsidiary for FY 2019-20, since in the previous financial year, i.e. FY 2018-19, the income of CDTL was Rs.327 Crore whereas the consolidated income of the Noticee was Rs.3741 Crore, i.e. CDTL's income was 9% of CDEL's consolidated income.

49. Having considered the above submissions, I note that Regulation 16(1)(c) of the LODR Regulations, 2015, as it exists today, provides that *"material subsidiary" shall mean a subsidiary, whose income or net worth exceeds ten per cent of the consolidated income or net worth respectively, of the listed entity and its*

subsidiaries in the immediately preceding year. I further note that prior to April 01, 2019, the threshold limit in respect of income or net worth provided in the said Regulation was 20%. From the said provision, I note that for deciding whether a subsidiary qualifies to be a material subsidiary or not, either of the two parameters i.e. income or net worth has to be considered. In this regard, I note the following details regarding income and net worth of CDEL and CDTL for FYs 2017-18 and 2018-19:

	CDEL (#)		**CDTL**	
	Networth	**Consolidated Income**	**Networth**	**Total Income**
2017-18	3015.46	3851.11	281.06	167.40
2018-19	3166.14	4466.79	415.76	327.25

(# Source: Annual Report of CDEL for FY 2018-19, Pg. 134 -135)

50. From the above figures, while determining whether CDTL qualified to be a material subsidiary of CDEL for FY 2019-20, I note that during the immediately preceding financial year (i.e. FY 2018-19) the net worth of CDTL and CDEL stood at Rs.415.76 Crore and Rs.3166.14 Crore respectively, i.e. net worth of CDTL exceeded 10% net worth of CDEL for that FY. I thus find that CDTL qualified to be a material subsidiary of CDEL for FY 2019-20 and that by not declaring CDTL as a material subsidiary in annual reports for FY 2019-20, CDEL has violated the provisions of Regulation 4(1)(a) read with Regulation 16(1)(c) of the LODR Regulations.

51. As regards the allegation that the Noticee had not obtained approval of the Board, the Audit Committee and the Shareholders in respect of the transfer of funds from subsidiaries of the Noticee to MACEL, which were allegedly related party transactions, the Noticee has contended that the definition of 'related party transactions' under Regulation 2(zc) and the provisions in respect of them under Regulation 23, prior to April 01, 2022, covered within their ambit only the transactions between the listed entity on one hand and a related part of the listed entity on the other hand. The Noticee has contended that the transactions between

the subsidiaries of a listed entity and a related part of the listed entity were not covered by provisions of Regulation 23 which provide for obtaining approval of the Audit Committee and the shareholders of the listed entity. According to the Noticee, since the transactions involving transfer of funds did not involve the listed company but its subsidiaries, the provisions of Regulation 23 requiring approval of Audit Committee and the shareholders would not apply.

52. I have considered the abovementioned submissions of the Noticee. I note that Regulation 2(zc) which defines a 'related party transaction' and Regulation 23 which prescribe the need for approval of Audit Committee and shareholders of a listed company, prior to their amendment, which was applied prospectively with effect from April 01, 2022 onwards, did not cover transactions involving subsidiaries of a listed company and only after the amendment, the said provisions now include transactions involving subsidiaries. I note that at the relevant time when the transactions in question involving transfer of funds from subsidiaries to MACEL were done, though the amended provisions in Regulation 2(zc) and Regulation 23 had not come into effect, CDEL on its own ought to have treated its subsidiaries as equivalent to a listed company (i.e. itself), since it derived all its value from its subsidiaries and had no inherent value of its own. In this regard, para 61 may be referred to for details. In such circumstances, it should have followed the spirit of the pre-amended regulation by treating the concerned transactions as related party transactions and following the norms applicable to such transactions. Considering the same, though I am convinced that the Noticee had not followed the prescribed norms for related party transactions, I am constrained to let off the Noticee in this respect purely on technicalities.

53. Now coming to the allegation of violation of the provisions of Regulation 5 of the LODR Regulations, I note that the said provision provides that a listed entity shall ensure that key managerial personnel, directors, promoters or any person dealing with the listed entity, complies with responsibilities or obligations, if any, assigned

to them under LODR Regulations, 2015. The SCN has alleged that the Noticee failed to comply with the said provisions as there was diversion of funds from the subsidiaries of CDEL to MACEL.

54. I note that the Noticee has denied the above allegations and has submitted that its Board of Directors acted with due diligence in compliance with the applicable regulations. As per the Noticee, the subsidiaries of the Noticee, including the 7 subsidiaries referred to in the SCN, were incorporated separately and had their distinct and independent board of directors and the key managerial persons who were in charge of the day-to-day functioning of the respective subsidiary.

55. Having examined the facts of the case, I find that the Noticee grossly failed in ensuring that its directors, key managerial personnel and promoters or those belonging to the subsidiaries acted in conformity with responsibilities and obligations assigned to them under LODR Regulations, 2015. I note that the Noticee has itself admitted that VGS, the Promoter and CEO, was running the entire show within CDEL and its subsidiaries. It has further admitted that VGS used to collect the signed blank cheques and all the fund transfers were done by him. I find that this amounts to an admission by the Noticee that the listed company was being run like a personal fiefdom with no checks and balances in place. Nothing, it appears, could have prevented the diversion of funds from the subsidiaries of CDEL. The manner in which VGS operated, as disclosed in the Investigation Report of Mr. Malhotra and admitted by the Noticee, rather than being a clean chit to the Noticee, amounts to a clear indictment of the Noticee for its willful dereliction of duty of ensuring that its directors, promoters and KMPs acted as per prescribed procedures. Accordingly, I hold the Noticee guilty of violation of Regulation 5 of the LODR Regulations.

56. The next issue that needs consideration is whether the total fund transfers to the tune of Rs. 3,535 Crore, from the subsidiary companies of CDEL to MACEL was

in the nature of fund diversion which amounted to fraudulent, manipulative and unfair trade practice, resulting in violation of provisions of PFUTP Regulations. In this context, it is pertinent to note that vide an email dated December 22, 2022, SEBI had sought the following information from MACEL:

a. Total revenue, profit and net worth for the last six financial years (year wise) of Mysore Amalgamated Coffee Estates Limited (MACEL) in following tabular format:

Particulars/Year	**2016-17**	**2017-18**	**2018-19**	**2019-20**	**2020-21**	**2021-22**
Revenue						
Profit						
Net Worth						

b. Details of business transactions with CDEL and its subsidiaries for the last six financial years (year wise), including revenue generated from such business operations.

c. Loans / advances outstanding as on date to MACEL from entities related to V. G. Siddhartha and his family.

57. Vide email dated December 29, 2022, MACEL submitted the information concerning the total revenue, profit and net worth for the last six financial years (year wise) of Mysore Amalgamated Coffee Estates Limited (MACEL), as under:

Rs. in Crore

Particulars/Year	**2016-17**	**2017-18**	**2018-19**	**2019-20**	**2020-21**	**2021-22**
Revenue from Coffee plantations	4.26	2.17	1.70	3.27	2.55	4.64
Income from other sources – Interest	2.42	2.00	2.34	0.15	-	-
Total Revenue	6.68	4.17	4.04	3.42	2.55	4.64
Profit/Loss	-21.07	-32.79	-57.54	-40.65	-19.28	-23.00
Net Worth	-133.32	-166.11	-223.65	-264.31	-283.60	-306.61

58. As regards the information sought at para 56 b. and c., MACEL requested for a short extension of two weeks to compile and provide the same. However, as on date, MACEL has not provided the aforesaid information.

59. Accordingly, in order to decide on this issue, I deem it important to put certain facts and observations in perspective, which are as under.

(a) The brief financials of MACEL, as available from their filings with Ministry of Corporate Affairs (Form No AOC-4) for financial years 2019/2020/2021 are as under:

Rs. In Crore

Particular	**March 31, 2019**	**March 31, 2020**	**March 31, 2021**
Share Capital	0.10	0.10	0.10
Reserve & Surplus	(223.76)	(264.42)	(283.70)
Long Term Borrowing	1652.22	3830.57	3841.30
Long Term Loan from Related Parties	-	3821.47	3838.87
Short Term Borrowing	2375.87	498.30	498.15
Short Term Loan from Related Parties	-	498.05	498.14
Long Term Loans & Advances	3795.32	4174.77	4199.91
Loan to Related Parties	-	4171.52	4197.16
Revenue from Operations	1.71	3.27	2.55
Profit	(57.54)	(40.66)	(19.29)
Net Worth	(223.66)	(264.32)	(283.60)

(b) The financials of MACEL, as stated above, show that though MACEL had a large balance sheet, it had negligible operations and had negative net worth. It is clear from the above financials that MACEL had huge borrowings which were taken almost entirely from Related Parties. Further, it is observed that these borrowings (short term and long term) were almost entirely utilized for giving Long Term Loans and advances to its Related Parties. These unambiguously show that MACEL was merely acting as a pass-through entity between one set of related parties to other set of related parties. CDEL in its submissions to SEBI had stated that CDGL had regular coffee procurement relationship with MACEL [para 41(h)]. However, the financials of MACEL give a different picture. The revenues of MACEL during 2018-19 and 2019-20 (the years during which the fund diversion to MACEL had occurred) were merely Rs.1.71 Crore and Rs.3.27

Crore respectively. Shockingly, it made losses in both the years and its net worth was fully eroded. It is quite intriguing that despite the extremely weak financial position of MACEL, the subsidiaries of CDEL decided to advance funds to the tune of Rs. 3,535 Crore to MACEL. This sum was more than the net worth of the Noticee, Rs. 3166 Crore as of March 31, 2019.

(c) Of the sums transferred from 7 subsidiaries of CDEL to MACEL during the FYs 2018-19 and 2019-20, two subsidiaries (TRRDPL and GVIL) had no revenue from their own operations and yet they transferred a total of Rs. 1,420 Crore to MACEL. Similar observations are made in respect of other subsidiaries, viz. TDL, GVIL, CDHRPL and CDEPL, as reflected in the Tables under Paras 6 to 12 above. It thus appears that the funds which were transferred from these subsidiaries to MACEL had come from other sources and that these subsidiaries had merely acted as conduits for transfer of funds to MACEL. Same can be said of MACEL too as it had limited or virtually no operations but acted as a pass-through entity for further transfers to related parties.

(d) VGS had pledged his shareholding and had given personal guarantees for the loans of CDEL's subsidiaries. VGS's family holding in CDEL has come down from 53.93% (at the end of June 2019) to 9.59 (at the end of December 2022) due to invocation of pledge on the said shares.

(e) It is noted that CDEL vide its email dated August 24, 2020 has admitted that transfer of funds from subsidiaries companies to MACEL after April 01, 2019 was done by VGS without recording the purpose of such transfers. It appears from the Company's admission that the entire operations within CDEL including its subsidiaries was loosely controlled with no well-defined structures.

(f) It is also noteworthy that 91.75% shares of MACEL were held by Late S.V. Gangaiah Hegde, father of VGS. As per the analysis of bank statements and information provided by CA Lavitha Shetty, almost entire money received by MACEL from the subsidiary companies of CDEL was diverted to VGS, his wife and other related entities of VGS, as depicted in the pictorial representation provided under para 25 above (i.e. Rs.3,088 Crore to VGS, Rs.154 Crore to

VGS's wife Ms. Malavika Hegde etc.). It is thus noted that VGS and his immediate family members and related parties were the direct beneficiaries of the funds transferred from subsidiaries of CDEL.

(g) After the news of demise of VGS and his admission of responsibility for the financial transaction done by him in CDEL came out around the end of July 2019, the price of the CDEL scrip which at Rs. 225 on July 2, 2019 fell to Rs. 66.05 by August 19, 2019 (i.e. fall of around 70% compared to July 2, 2019 price) and Rs. 27.95 as on October 29, 2019 (i.e. fall of around 88% compared to July 2, 2019 price). The above price movement makes it evident that the concealed act of diversion of funds had a direct impact on the price of the scrip of CDEL.

(h) In terms of explanation to Regulation 4(1) of the PFUTP Regulations, 2003, "*any act of diversion, mis-utilization or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market."* (emphasis supplied)

60. From the above observations, I find that the transfer of funds to the tune of Rs. 3,535 Crore from the subsidiaries of CDEL to MACEL was nothing but fraudulent diversion of funds of CDEL's subsidiaries for the personal benefit of VGS and his family related entities. The said diversion of funds had an adverse effect on the price of the scrip of CDEL (share price fell by almost 90% after fraud came to light) leading to massive erosion of shareholder's wealth. I note from records that CDEL has huge debts which were availed from public financial institutions like banks which still remain unpaid. It is apparent that MACEL, which is almost entirely personally owned by VGS's family (91.75%), has benefitted from the abovementioned fund diversion at the cost its public shareholders. Monies have

very clearly moved from the public space (CDEL and subsidiaries) to the private space (MACEL and VGS related entities).

61. Apart from the above, I note that the Red Herring Prospectus (RHP) of CDEL that was filed with ROC at the time of its going public in 2015 stated *inter alia* the following:

a) "***Our dependence on our ownership interests in our subsidiaries to generate revenues and a lack of substantial operations and fixed assets within our Company.***

b) ***Our operations are conducted through our Subsidiaries.***

c) We incurred losses on a consolidated basis for the Financial Years 2013, 2014 and 2015, and the three-month period ended June 30, 2015 of Rs.214.05 million, Rs.770.28 million, Rs.872.35 million and Rs.200.45million, respectively.

d) We are the parent company of the Coffee Day Group, which houses Café Coffee Day that pioneered the coffee culture in the chained café segment in India.

e) We are engaged in our coffee business through our subsidiary, Coffee Day Global Limited (earlier known as Amalgamated Bean Coffee Trading Company Limited) ("CDGL") and its subsidiaries. We are also engaged in coffee trading through CDEL and Coffee Day Trading Limited. In addition to having the largest chain of cafés in India, we operate a highly optimized and vertically integrated coffee business which ranges from procuring, processing and roasting of coffee beans to retailing of coffee products across various formats.

f) In addition to our coffee business, we operate other select businesses that are aimed at leveraging India's growth potential, namely, development of IT-ITES technology parks, logistics, financial services, hospitality and IT-ITES.

g) Our wholly-owned subsidiary, Tanglin Development Limited ("TDL"), is engaged in the development and management of technology parks and related infrastructure, offering bespoke infrastructure facilities for IT-ITES enterprises. As of June 30, 2015, TDL had two technology parks, namely Global

Village situated in Bengaluru, Karnataka with a land parcel spread over an area of approximately 114 acres (of which approximately 91 acres has clear land titles; see section "Risk Factors- Our title and development rights or other interests over certain of our land bank may be subject to legal uncertainties and defects"on page 39), and Tech Bay situated in Mangaluru, Karnataka with a land parcel spread over an area of approximately 21 acres.

h) *Our subsidiary, SICAL Logistics Limited ("SLL"), in which we hold a 52.83% equity holding, is one of the leading integrated logistics solution providers in India with over five decades of experience. SLL is listed on the BSE and NSE and had a market capitalization of Rs. 8,009.42 million as of June 30, 2015.*

i) *Our subsidiary, Way2Wealth Securities Private Limited ("W2W Securities"), in which we hold an 85.53% equity holding, is a retail focused investment advisory company which provides wealth management, broking, portfolio management and investment advisory services. As of June 30, 2015, W2W Securities had branches (owned and franchised) spread across 21 states in India.*

j) *We own and operate three luxury boutique resorts (one directly through our Company, and two through our wholly-owned subsidiary, Coffee Day Hotels & Resorts Private Limited ("CDHRPL"), under the brand The Serai. Our resorts are located in the State of Karnataka at Chikkmagaluru, Bandipur and Kabini. In addition, we also hold a minority interest in and manage a luxury resort located in Andaman and Nicobar Islands.*

k) *We also have investments in certain IT-ITES and other technology companies such as Mindtree in which we own a 16.75% equity holding (effective holding being 16.04%) as of June 30, 2015 and in which our Promoter, V.G. Siddhartha additionally owns 3.01%. Mindtree is listed on the BSE and NSE, and it had a market capitalization of Rs. 106,707.76 million as of June 30, 2015 (source: www.nseindia.com). Our other investee companies include Ittiam, Magnasoft and Global Edge."*

62. I note that CDEL has stated in its RHP that it conducted its business through its subsidiaries. Thus, CDEL derived its value from its subsidiaries and therefore, all subsidiaries are material to the Noticee. Given the same, all the earnings and cash flows of the subsidiaries should have flowed up (up-streamed) to the parent. Instead, the monies flowed down (down-streamed) to related entities, starting from MACEL. For instance, the transfer of Rs. 789 Crore from TRRDPL to MACEL in FY 2018-19, which according to the Company, pertained to sale of shares of Mindtree Ltd. to L&T, should have been up-streamed to CDEL, as the sale of CDEL's shareholding in Mindtree should have benefitted CDEL's shareholders only. Instead, the sale proceeds were diverted to MACEL. The Board of the Noticee and its management appear to have completely failed in their responsibility to secure the interests of shareholders while approving the transfer of the sale proceeds to MACEL. To put it differently, investors who purchased shares of CDEL to own a part of the Coffee Day Group would have considered themselves to own part of Mindtree Ltd. too through CDEL's indirect ownership in Mindtree Ltd., through TRRDPL, as mentioned in point (k) of the previous paragraph.

63. CDEL in its submissions has contended that all the fund transfers from subsidiary companies to MACEL after April 01, 2019 were single handedly done by VGS and the board of directors of CDEL was not aware of the same. In this regard, I note that VGS was holding the position of Chairman and MD of CDEL and had acted and taken all decisions in respect of the said transfers in his official capacity. Considering the same, the role of the MD and Chairman cannot be separated from that of the Company and they ought to be treated as one and same as far as the issue of accountability and liability is concerned. I thus find that CDEL as a company is accountable for the abovementioned fraudulent transfer of funds from subsidiary companies to MACEL and consequently has violated the provisions of Section 12A(a), (b) & (c) of the SEBI Act, 1992 read with Regulations 3(b), (c) & (d) and 4(1) of the PFUTP Regulations.

64. The next issue that arises for consideration is what should be the appropriate direction that needs to be issued in this matter for recovery of the money which has been fraudulently diverted from CDEL subsidiaries to MACEL and further to related entities. In this regard, I note that the Noticee has submitted that it has already started taking necessary steps for recovery of money due from MACEL by filing of commercial suit. As per the Company's submissions, the Board of the Noticee has appointed Justice (Retd.) Nagamohandas to oversee and monitor the filing and proceedings of the Commercial Suit. The Company has further submitted that the Board of the Noticee decided that necessary steps should be taken by the subsidiaries and on July 25, 2022, the Noticee made stock exchange disclosure regarding the same. Accordingly, CDEL subsidiaries were asked by the Noticee to take necessary action for recovery of amounts from MACEL as recommended by Hon'ble Justice (Retd.) Nagamohandas. The subsidiaries have appointed a lawyer who has initiated the process of the Commercial Suit to recover overdue amounts from MACEL. However, it must be noted that the amounts transferred to MACEL are no more with MACEL.

65. Additionally, I find from CDEL's submissions made vide a recent email dated December 09, 2022 that the outstanding dues of the seven subsidiaries from MACEL, as at September 30, 2022 stand at Rs.3,424.25 Crore. The break-up of outstanding dues to subsidiaries of CDEL is as follows:

(Rs in Crore)

Subsidiary company	**Outstanding dues from MACEL as on Sept 30, 2022**
Coffee Day Global Limited	1,032.43
Tanglin Retail Reality Developments Pvt. Ltd.	1,050.31
Tanglin Developments Limited	607.49
Giri Vidhyuth (India) Limited	370.00
Coffee Day Hotels and Resorts Pvt. Ltd.	135.82
Coffee Day Trading Limited	125.00
Coffee Day Econ Private Limited	103.20
Total	**3,424.25**

66. I note that out of the total dues of Rs. 3,535 Crore as on July 31, 2019, the subsidiaries have managed to recover a paltry sum of Rs.110.75 Crore till September 30, 2022 (i.e. within a period of more than 3 years). At this pace of recovery, there is no real possibility of the subsidiaries recovering money even in perpetuity. This also shows lack of interest on part of the Noticee and its subsidiaries to recover the outstanding dues. The Company's submissions that it has started the process of recovery of the outstanding amount from MACEL cannot be given credence. Further, the abovementioned outstanding dues is the principal amount. If interest, at a reasonable rate is applied and considered, the liability would be much higher.

67. Apart from the above, I note that the Company's stated attempts to recover money are a non-starter due to the following factors:

(a) MACEL is almost entirely owned by VGS's family, having 91.75% shares. At the same time, CDEL is also controlled by VGS's family members. Thus, the claimant and the debtor are both controlled by the same set of persons, viz. family members of Late VGS, leading to conflicts of interest. Given the fact that the persons who are in control of the debtor and the claimant are essentially same, the chances of CDEL taking effective coercive action against MACEL for payment of due amount would naturally be low and thus, the efficacy of the exercise undertaken by CDEL as mentioned above remains doubtful and cannot be taken at face value. In any case, filing of recovery suit against MACEL by CDEL and its subsidiaries has little meaning as the money lies somewhere else as seen from the financials of MACEL.

(b) The conflict of interest becomes more profound considering the fact that, as per the Company's shareholding pattern available on BSE website, the promoter shareholding in CDEL as on December 31, 2022 has come down to 9.59 % from a high of 53.93% immediately prior to the discovery of fraud in July 2019. Further, out of the current promoter holding of 9.59% in CDEL, 2.36% shares

are pledged / encumbered, which means that the promoters (i.e. VGL's family) effectively own only about 7.23% shares in CDEL. Under such circumstances, the moot question is whether the family which owns 91.75% shares in MACEL would genuinely be interested in up-streaming funds from MACEL and its related parties to an entity where it has a limited stake and effectively holds a mere 7.23% share (i.e. CDEL). There is apparently no economic interest for MACEL and its related parties to return the funds to CDEL / its subsidiaries.

(c) Given that only Rs.110.75 Crore has been returned by MACEL to CDEL subsidiaries since July 2019, it leads to an inference that the interests of the family are so deeply entrenched as to render any efforts by CDEL to recover the dues superficial and futile.

68. The transactions resulting in diversion of funds, as discussed above, are striking in their scale and unjust to investors. I note that due to the fund diversion from subsidiaries of CDEL, the investors of CDEL would have lost heavily on their investment in this company. Even today, Café Coffee Day as a brand has good brand recall value and goodwill. However, this goodwill and brand value of the listed entity i.e. CDEL was misused to borrow from lenders and move the proceeds to related private entities within the VSG family through MACEL. It cannot be allowed that CDEL, its shareholders and creditors take losses while MACEL and the promoter entities to whom money was transferred from MACEL afterwards get to keep and enjoy the money transferred by the seven subsidiaries of CDEL.

69. The money that was transferred from the seven subsidiaries to MACEL has gone to the personal accounts of VGS, his family and related entities and thus remains in the system. The money cannot be said to have vanished. Under these circumstances, can it be reasonably expected that one arm of the family would act against another arm of the same family? Further, would the funds from MACEL be up-streamed back to the seven subsidiaries from which it originated? Given the fact that VGS's family and related entities are the direct beneficiaries of the fund

diversion and are deeply conflicted, it would be naive to expect that this money would be shifted to CDEL's seven subsidiaries where the family currently owns only about 7.23% effective beneficial ownership.

70. The beneficial ownerships of the family in these two companies, i.e. 7.23% in CDEL and 91.75% in MACEL, point to conflict of interest that is so deep that the process of recovery has not even started in right earnest. The reluctance on part of CDEL to recover dues from MACEL is apparent from the fact that CDEL has so far not taken any coercive action against MACEL. In fact, when the fraud was first discovered, rather than taking urgent steps for recovery, it opted to wait for the findings of the investigation of Shri Ashok Kumar Malhotra, Retired DIG of CBI who was appointed by CDEL to look into the books and accounts of CDEL and its subsidiaries. There are ample grounds to believe that the Board and management of CDEL (past and present) have not been fair and square and they have a lot of answering to do to shareholders. Considering the findings in the preceding paragraphs, it becomes imperative to ensure that the process of recovery of outstanding dues of CDEL's subsidiaries from MACEL is not prejudiced in any way due to the conflict of interests, which is so obvious in this case. Thus, it will be in order if the matter of recovery of dues from MACEL is not left entirely in the hands of CDEL's Board but is monitored by an independent entity. I have considered these factors while deciding the appropriate directions to be issued in this matter.

71. It has already been established above that the Noticee has violated the provisions of PFUTP Regulations and LODR Regulations. The same makes the Noticee liable for monetary penalty under Sections 15HA and 15HB of the SEBI Act, 1992. I note that while deciding the appropriate monetary penalty under these provisions, the factors mentioned under Section 15J of the SEBI Act, 1992 have to be considered. In this regard, I note that there is no material to show any quantifiable disproportionate gain or unfair advantage made by the Noticee as a result of the defaults. Further, there is no record showing repetitive nature of defaults. However, I find that due to the defaults committed by the Noticee, the shareholders of the

Noticee have suffered massive losses due to fall in price of the scrip. The said defaults have also affected the Noticee's market standing. Considering all these, I deem it appropriate to impose the maximum penalty of Rs.25 Crore under Section 15HA for the violations pertaining to fraudulent and unfair trade practices and Rs.1 Crore under Section 15HB of the SEBI Act, 1992, for the violations of the provisions of LODR Regulations, 2015.

72. Be that as it may, to conclude, I note that a while a company is an artificial person, it can't operate by itself. It is the natural persons, i.e. the directors and KMPs, who make a company function. In this case, while the directors and KMPs (past and present) of CDEL and its subsidiaries have not been made a party to the current proceedings, I feel that considering the manner of fund diversion, as disclosed above, it is imperative to carry out a detailed examination of acts and omissions of such persons by lifting the corporate veil, which is a widely accepted canon of corporate jurisprudence and has been followed by SEBI in many cases in the past.

Directions:

73. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11, 11(4), 11(4A), 11B and 11B(2) read with of Section 19 of the SEBI Act, 1992, hereby direct the following:

(a) The Noticee shall take all necessary steps for recovery of entire dues from MACEL and its related entities, along with due interest, that are outstanding to the subsidiaries of the Noticee.

(b) The Noticee, in consultation with the NSE, shall appoint an independent law firm, of standing and repute, to take effective steps for recovery of the outstanding dues, as directed in sub-para (a) above, within 60 days of this order. The law firm,

so appointed, shall act independent of the Board of CDEL for this matter, under the oversight of the NSE, on behalf of the Noticee and its subsidiaries.

(c) The Noticee, its Board and its subsidiaries shall extend all necessary assistance and authorization to the law firm, appointed in terms of direction at sub-para (b), as directed above. The valid expenses incurred by the law firm in discharge of its obligations shall be borne by the Noticee.

(d) The law firm so appointed under sub-para (b) above shall file a quarterly report with NSE / CDEL Board, detailing the progress in the recovery process.

(e) The Noticee shall place in every annual general meeting an updated detailed report on the recovery process undertaken by the Noticee and its subsidiaries, as submitted by the law firm appointed in terms of direction at sub-para (b) above, for the information of its shareholders.

(f) The tenure of the law firm appointed in terms of sub-para (b) above shall be until the lapse of three months from the date of conclusion of three annual general meetings of CDEL, held after passing of this order or till the dues are recovered, whichever is earlier. If the dues still remain to be recovered at the time of conclusion of three annual general meetings, the shareholders of CDEL shall decide the appropriate way forward, including whether the management should continue to run the Company.

(g) The Noticee is hereby imposed with a total monetary penalty of Rs.25,00,00,000 (Rupees Twenty-Five Crore) under Section 15HA and Rs. 1,00,00,000 (Rupees One Crore) under Section 15HB of the SEBI Act, 1992. [Total monetary penalty of Rs.26,00,00,000 (Rupees Twenty-Six Crore)]

(h) The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI -Penalties

Remittable to Government of India", payable at Mumbai, OR 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 -> PAYNOW. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

(i) The Noticee shall forward said Demand Draft or the said confirmation of e-payment made in the format, as given in the table below, which should be sent to "The Division Chief, CFID-SEC2, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra-Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id: tad@sebi.gov.in.

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)	

74. This order comes into force with immediate effect.

75. A copy of this order shall be sent to the Noticee, recognized Stock Exchanges, Depositories and Registrar and Transfer Agents for information and compliances.

Place: Mumbai **ASHWANI BHATIA**

Date: January 24, 2023 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA