BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/VV/NK/2022-23/16740-16759]

UNDER SECTION 15 I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995

In respect of:

NOTICEE NO.	**NAME & PAN NO.**	**NOTICEE NO.**	**NAME & PAN NO.**
1	Beejay Investment & Financial Consultants Pvt Ltd (AABCB0832B)	11	Shri MANISH AGARWAL (APLPA3819B)
2	Shri SUDHIR JAIN DIRECTOR – BEEJAY INVESTMENT & FINANCIAL CONSULTANTS PVT LTD (AEUPJ6167K)	12	M/s NEELANCHAL MERCANTILE PRIVATE LIMITED (AAACN8842N)
3	Ms RASHMI JAIN DIRECTOR – M/s BEEJAY INVESTMENT & FINANCIAL CONSULTANTS PVT LTD (ABBPL1283E)	13	Shri SURENDRA AGARWALA DIRECTOR – M/s NEELANCHAL MERCANTILE PRIVATE LIMITED (ADHPA1860E)
4	M/s Eversight Tradecomm Private Limited (AAACE7667E)	14	Shri BHUPENDRA KUMAR DHANUKA DIRECTOR – NEELANCHAL MERCANTILE PRIVATE LIMITED (ACOPD8512C)

5	Shri ADISH JAIN DIRECTOR – EVERSIGHT TRADECOMM PRIVATE LIMITED (AGZPJ0317Q)	15	M/s DIVYADRISHTI MERCHANTS (P) LTD (AABCD8147K)
6	Shri PEEYUSH JAIN DIRECTOR – EVERSIGHT TRADECOMM PRIVATE LIMITED (AFNPJ8263L)	16	M/s DIVYADRISHTI TRADERS (P) LTD (AABCD8146J)
7	M/s STUPENDORS TRADERS PRIVATE LIMITED (AADCS7524F)	17	Shri DEBASIS MISHRA (AHBPM8657M)
8	Shri VICKY KOTHARI DIRECTOR – M/s STUPENDORS TRADERS PRIVATE LIMITED (AKQPK4594D)	18	Shri RAJESH KUMAR AGARWAL (ADDPA1188K)
9	Ms PRATIVA KOTHARI DIRECTOR – STUPENDORS TRADERS PRIVATE LIMITED (AWCPK5030E)	19	Shri KINKAR BHATTACHARYA (AMDPB1266E)
10	FLEX TRADE PVT LTD (AAACF6723A)	20	Shri SUKANTA CHATTERJEE (AIRPC7338Q)

In the matter of violation of SEBI directions by Beejay Investment & Financial Consultants Private Ltd and Ors.

BACKGROUND

1. SEBI vide ad-interim ex-parte order dated June 04, 2009 in the matter of alleged manipulative trading by certain connected entities, in particular, in the scrips of Cals Refineries Limited (Cals), Confidence Petroleum India Limited, Bang Overseas Limited, Shree Precoated Steels Limited (now known as Ajmera Realty & Infra Limited) and Temptation Foods Limited issued directions inter-alia in respect of entities viz., Beejay Investment & Financial Consultants Private Ltd. bearing PAN no. AABCB0832B (hereinafter, also referred to as "Beejay"), Eversight Tradecomm Private Limited bearing PAN no. AAACE7667E (hereinafter, also referred to as "Eversight") and Shri Sudhir Jain restraining them from accessing the securities market and prohibited them from buying, selling or dealing in securities market directly or indirectly. The directions against Sudhir and Beejay were confirmed vide Confirmatory Order dated January 19, 2010 and the directions against Eversight was confirmed vide Confirmatory Order dated January 25, 2010. Beejay and its director Shri Sudhir were prohibited from buying, selling or dealing in securities market during the period June 04, 2009 to November 14, 2012. Beejay and its director Shri Sudhir were prohibited from buying, selling or dealing in securities market during the period June 04, 2009 to November 14, 2012.

2. Subsequently, considering the fact that period of restraint undergone inter-alia by Beejay and Sudhir was sufficient for the violations committed by it, the directions issued vide orders dated June 04, 2009 & January 19, 2010 were discontinued vide order dated November 15, 2012, and in similar lines, directions against Eversight were discontinued vide the order dated September 7, 2012.

3. Thereafter, SEBI received Suspicious Transaction Report (hereinafter, also referred to as "**STR**") dated December 21, 2012 from Financial Intelligence Unit ("**FIU**") generated by ICICI Bank inter-alia in relation to Shri Sudhir Jain, Beejay and Eversight due to large value transactions in their bank accounts during the period September 10, 2011 to September 09, 2012. As the said entities were restrained from accessing the securities market by SEBI, for the said period, vide interim order dated June 04, 2009 and Confirmatory Orders dated January 19, 2010 and January 25, 2010, SEBI ordered an

investigation into the dealings of the said entities for the period from September 01, 2011 to September 30, 2012 ("**Investigation Period**").

4. As an ad-interim measure, directions were issued vide Order dated June 16, 2016 by Hon'ble Whole Time Member of SEBI (**WTM**) (Ad- interim ex-parte order) for impounding such alleged unlawful gains of a sum of Rs. 27,44,34,765/ - (alleged gain of Rs. 18,99,43,661/- + interest of `8,44,91,104/- from 01/10/2012 to 15/06/2016) u/s 11(4)(d) of the SEBI Act, 1992 against Beejay and its 2 directors, Eversight and its 2 directors, Stupendors Traders Pvt Ltd and its 2 directors, Neelanchal Mercantile Pvt Ltd and its 2 directors and Divyadrishti Merchants Pvt Ltd & Divyadrishti Traders Pvt Ltd and their 4 directors. Directions were confirmed vide Order dated March 27, 2017(confirmatory order). Further, the Confirmatory Order directed that, with respect to the quantum of illegal gains to be disgorged, the figure already arrived at in the Order dated June 16, 2016 shall be once again be looked into considering the contentions raised by Neelanchal Mercantile Private Limited (in its reply dated February 01, 2017)

5. The focus of investigation was drawn from SEBI Order WTM/PS/57/IVD/JUN/2016 dated June 16, 2016 wherein it was inter-alia directed to conduct fresh investigation covering all the bank accounts that were used for trading by the entities aiding the debarred entities (viz. Shri Sudhir Jain, Beejay Investments & Financial Consultants Pvt Ltd and Eversight Tradecomm Pvt Ltd) to trade in the securities market during the investigation period/IP (viz. September 01, 2011 to September 30, 2012). Additionally, SEBI Order WTM/SR/IVD-ID-7/21/03/2017 dated March 27, 2017 directed relooking the quantum of illegal gains to be disgorged by considering the contentions raised by Neelanchal Mercantile Pvt Ltd (in the reply dated February 01, 2017).

6. Thus, pursuant to the investigation, it was observed that the **Debarred Entities/Noticees -** Beejay, Eversight - transferred funds directly to **Trading Entities/ Noticees** - Neelanchal Mercantile Private Limited (**Neelanchal**), Divyadrishti Merchants Private Limited (**DDM**) and Divyadrishti Traders Private Limited (**DDT**), and in some cases indirectly to the said Trading Entities routing it through **Conduit Entities/ Noticees** – Stupendors Traders

Private Limited (**Stupendors**) and Flex Trade Pvt. Limited (**Flex**). The Trading Entities in turn transferred such funds to various stock brokers. It was alleged that the Debarred Entities had adopted this circuitous approach to access the securities market in order to circumvent the restraint orders passed by SEBI.

7. Since, it is a settled position of law that the directors, during their tenure, are responsible and liable for the conduct of the day to day affairs and business of the company. Thus, In view of the aforementioned, SEBI has initiated adjudication proceedings against the Noticees viz. companies and its directors during the investigation period under the provisions of Section 15HB and 15HA of SEBI Act, 1992 for the Violation of the directions issued by SEBI vide orders dated Jan 19, 2010 and Jan 25, 2010 (Order dt Jan 19, 2010 pertained to Noticees at S.No.1-2 and Order dt Jan 25, 2010 pertained to Noticees at S.No.4) (**SEBI Orders (Directions))**and Regulation 3(a), (b), (c) & (d) and 4(1) & 4(2)(a) of SEBI(PFUTP) Regulation, 2003 respectively.

APPOINTMENT OF ADJUDICATING OFFICER

8. Shri Jeevan Sonparote was appointed as the Adjudicating Officer **(erstwhile AO)** by SEBI, vide communication order dated June 14, 2018 under section 15I of Securities and Exchange Board of India Act, 1992 (**SEBI Act, 1992**) and under Rule 3 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter, also referred to as "**Adjudication Rules**") to inquire into and adjudge under Section 15HA and 15HB of SEBI Act, 1992. Subsequently upon transfer of Shri Jeevan Sonparote, the undersigned has been appointed as Adjudicating Officer (**AO**) by SEBI in the matter vide communication order dated August 13, 2019, to inquire into and adjudge, the violation of SEBI Orders (Directions) and violations of SEBI Reg. 3(a),(b),(c),(d),4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (**PFUTP Regulations, 2003**) by the Noticees.

SHOW CAUSE NOTICE,HEARING and REPLY

9. A Show Cause Notice dated July 6, 2018 **(**hereinafter referred to as **"SCN*")*** was issued to the Noticees by erstwhile AO in terms of Rule 4 of SEBI (Procedure for holding inquiry and imposing penalties) Rules, 1995 read with Section 15-I of the Securities and Exchange Board of India Act, 1992 to show cause as to why an inquiry should not be initiated against them in terms of Rule 4 of SEBI Adjudication Rules and penalty should not be imposed under Section 15HA and 15HB of SEBI Act, 1992 for the violation of SEBI Orders (Directions) and violations of SEBI Reg. 3(a),(b),(c),(d),4(1), 4(2)(a) of SEBI PFUTP Regulations, 2003 respectively by the Noticees.

10. The allegations levelled against the Noticees in the SCN are summarized as below:

1. *It was observed during the investigation that the Noticees, Beejay Investment & Financial Consultants Private Limited and Eversight Tradecomm Private Limited were indirectly trading through the Noticees Divyadrishti Merchants Private Limited (DDM), Divyadrishti Traders Private Limited (DDT) and Neelanchal Mercantile Private Limited, who were observed to be connected to the debarred Noticees. Further its was observed that the Noticees Stupendors Traders Pvt Ltd and Flex Trade Private Limited, who were also connected to the debarred Noticees, acted as conduits in transferring fund from the debarred Noticees to the Noticees facilitating trades of the debarred Noticees, in certain instances.*

2. *The connection among the Noticees is as follows:*

Name of the entity	***Connection Details***
	Debarred Noticees
Beejay Investment & Financial Consultants Pvt Ltd *Directors* *a. Shri Sudhir Jain* *b. Smt Rashmi Jain*	*Shri Sudhir Jain director of Beejay is a relative of Shri Adish Jain & Shri Peeyush Jain, directors of Eversight. (source: SEBI WTM Order dated January 25, 2010)* *Shri Sudhir Jain is the brother-in-law of Shri Vicky Kothari, director of Stupendors (source : SEBI WTM Order dated April 09, 2012).* *Beejay purchased shares of Siddhi Commotrade Pvt Ltd & Corus Marketing Pvt Ltd which share common address (163B, M G Road, 3rd Floor Kolkata – 700 007) & common director (Shri Debasis Mishra) with DDM & DDT*

Eversight Tradecomm Pvt Ltd Directors c. Shri Peeyush Jain d. Shri Adish Jain Email id as per MCA website peeyush_jain10@rediffmail.com	Directors of Eversight are relatives of Shri Sudhir Jain. Common email id with Neelanchal. Copy of form 66 under Companies Act 1956 in respect of Eversight Tradecomm Pvt Ltd is enclosed as **Annexure-6** and copy of Form 32 under Companies Act 1956 is enclosed as **Annexure-7**
Entities facilitating trades of debarred entities	
Neelanchal Mercantile Pvt Ltd. Email id as per MCA website peeyush_jain10@rediffmail.com	Common email id with Eversight Divyadrishti Merchants Private Limited holds 17,500 shares of Milestone Shares & Stock Broking Pvt Ltd, which in turn holds 12,50,000 shares of Neelanchal. Copy of Annual Report filed under Companies Act, 1956 is enclosed as **Annexure-8**.
Divya Drishti Merchants Pvt Ltd 163B, M G Road, 3rd Floor Kolkata – 700 007 Directors a. Shri Rajesh Kumar Agarwal b. Shri Debasis Mishra c. Shri Sukanta Chatterjee d. Shri Kinkar Bhattacharya Email id as per MCA website korpsec@yahoo.co.in	Common address & common directors with Divyadrishti Traders Private Limited. Common address & Common director (Shri Debasis Mishra) with Siddhi Commotrade Pvt Ltd & Corus Marketing Pvt Ltd. The shares of the said companies were purchased by Beejay from Divyadrishti Merchants Private Limited. Divyadrishti Merchants Private Limited holds 17,500 shares of Milestone Shares & Stock Broking Pvt Ltd, a shareholder of Neelanchal holding 1,250,000 shares of Neelanchal. Shri Rajesh Kumar Agarwal is a brother of Shri Sushil Kumar Agarwal, director of Korp. Common email id with Korp (korpsec@yahoo.co.in) Directors of a shareholder of Divyadrishti Merchants Private Limited (Anuj Realtors Pvt Ltd) were Shri Anuj Agarwal (S/o Shri Sushil Kumar Agarwal) & Smt Meena Agarwal (W/o Shri Sushil Kumar Agarwal) , One of the directors of a shareholder of Divyadrishti Merchants Private Limited (Greencorp Impex Pvt Ltd) was Shri Bijay Kumar Poddar (currently Compliance Officer of Korp) Common Company Secretary(in whole-time practice) with Korp (Shri Manoj Prasad Shaw)

Divya Drishti Traders Pvt Ltd *163B, M G Road, 3rd Floor Kolkata – 700 007* *<u>Directors</u>* *a. Shri Rajesh Kumar Agarwal* *b. Shri Debasis Mishra* *c. Shri Sukanta Chatterjee* *d. Shri Kinkar Bhattacharya*	*Common address & common directors with Divyadrishti Merchants Private Limited. Common address (163B, M G Road, 3rd Floor Kolkata – 700 007) and Common director (Shri Debasis Mishra) with Corus Marketing Pvt Ltd. The shares of the said companies were purchased by Beejay from Divyadrishti Traders Private Limited.*
Stupendors Traders Pvt Ltd *<u>Directors</u>* *a. Shri Vicky Kothari* *b. Smt Prathiva Kothari*	*Shri Vicky Kothari, director of Stupendors, is the brother-in-law of Shri Sudhir Jain, director of Beejay*

Fund Flow Details

3. *It was observed from the account statements of DDT (A/c No. 000605010082, ICICI Bank) & DDM (A/c No. 000605010065, ICICI Bank) during the period December 01, 2008 to January 30, 2010 i.e before the entities Beejay, Eversight & Sudhir were debarred, that the fund transactions of Neelanchal & DDT with Sudhir, Beejay & Eversight were not significant, vis-à-vis the fund transactions during the IP. However, during the IP, it is observed that the transactions between the said entities was significant. The copy of account statement is enclosed as* ***Annexure-9 and 10*** *respectively. On the basis of bank account statements of the Noticees, for sake of brevity, certain instances where indirect fund flow from Beejay to certain brokers & vice-versa were analyzed as given below, broker-wise:*

3.1. It is observed from trade details of the Noticees that Neelanchal had traded through the broker Religare Securities during the IP. Fund trail for the said trades were analyzed and it was observed that Beejay had directly/indirectly transferred funds to Neelanchal through Stupendors, who transferred the same to Religare for trading. For examples, it was observed that on 08/12/2011 Beejay had transferred Rs.2 crores to Stupendors (A/c

No. 627705054163, ICICI Bank) who immediately transferred the said amount to Neelanchal. The account balance of Stupendor prior to the transaction with Beejay was only Rs.17,406. Similarily, Neelancal had transferred the amount of Rs.2 crores immediately to Religare. The account balance of Neelanchal prior to the transaction with Stupendors was only Rs.15,03,133. ***Hence it is alleged that, Stupendors & Neelanchal had aided Beejay to transfer the said Rs.2 crores to Religare.***

Similarly, it was observed that on 09/12/2011, Stupendors & Neelanchal had aided Beejay to transfer Rs.85 lakhs to Religare.

From the trade details provided by Religare, it was observed that Neelanchal had traded on 08/12/2011 & 09/12/2011. From the client ledger of Neelanchal provided by Religare and NSE Settlement data obtained from NSE Website, it was observed that the above funds received by Neelanchal were utilized for purchase of shares by Neelanchal.

Trades of Neelanchal on 08/12/2011 & 09/12/2011 through Religare are as follows:

Table I

Date	***Exchange***	***Security Name***	***Buy Qty***	***Sell Qty***
08/12/2011	*NSE*	*Pipavav Defense*	*551128*	*0*
09/12/2011	*BSE*		*100000*	*0*
	NSE		*1220000*	*0*

Details of entire trades by Neelanchal through Religare during IP is as follows:

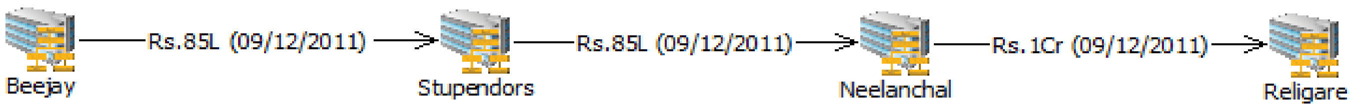
No. of Scrips	***Buy Qty***	***Total Buy Value (in Crores)***	***Sell Qty***	***Total Sell Value (in Crores)***
		BSE		
3	*73,39,720*	*62.28*	*63,95,383*	*59.74*
		NSE		
3	*2,20,85,209*	*179.89*	*1,37,04,546*	*125.34*

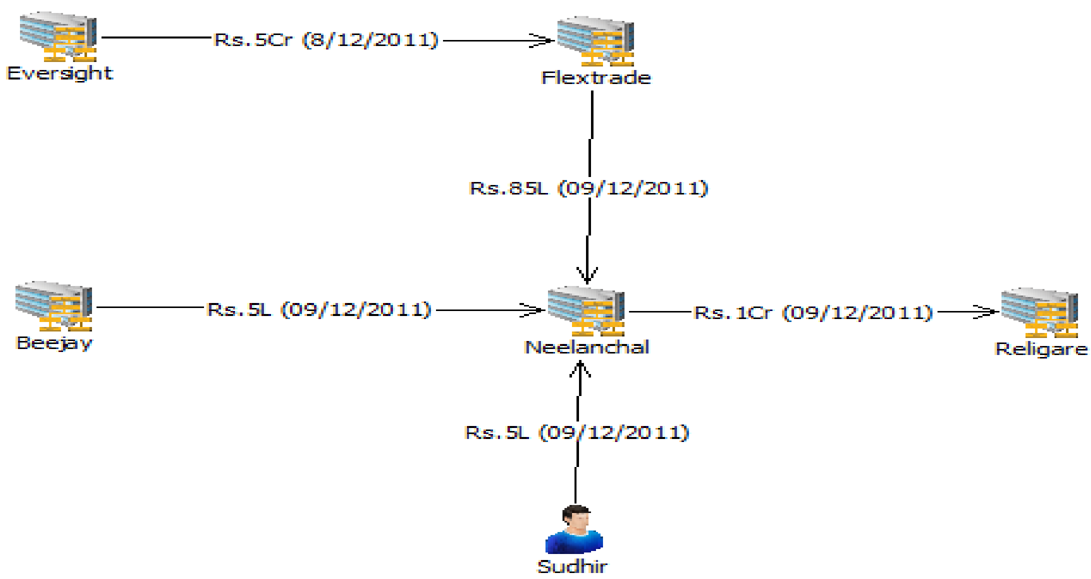
It was observed that only Neelanchal had traded during the IP period. The details of the pay-in and pay-out concerning Neelanchal, while trading through the stock broker Religare, during the IP are as follows:

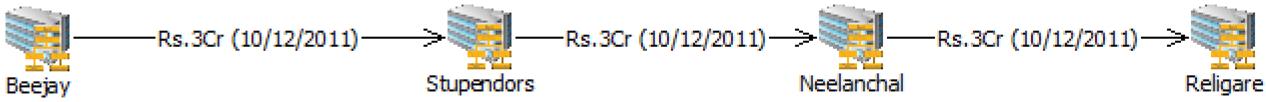
Table 2

Pay-in details			
Name of Entity	***Bank Name***	***Bank A/c No.***	***Total Amount (in Rs.)***
Neelanchal	*ICICI Bank*	*627705500278*	*19,00,00,000.00*
	Axis Bank	*912020009815980*	*1,56,30,43,133.27*
Total			***1,75,30,43,133.27***
Pay-out details			
Name of Entity	***Bank Name***	***Bank A/c No.***	***Total Amount (in Rs.)***
Neelanchal	*ICICI Bank*	*627705500278*	*3,02,469.54*
	Axis Bank	*912020009815980*	*1,15,96,07,511.83*
Total			***1,15,99,09,981.37***

<u>Pay-in</u>







It is observed from the above that, the funds were routed by the debarred Noticees to the connected Noticees Neelanchal, who in turn was trading in the market through the stock broker Religare. The total amount routed by the debarred Noticees to the connected Noticee Neelanchal for trading through the stock broker Religare during the IP was Rs.14.08 Cr approximately.

3.2. It is observed from trade details of the Noticees that Neelanchal had traded through the broker IFCI during the IP. Fund trail for the said trades were analyzed and it was observed that Beejay & Eversight had directly/indirectly transferred funds to Neelanchal, who transferred the same to the broker for trading. For examples on 06/09/2011, IFCI transferred Rs.1.5 crores to Neelanchal which in turn transferred the same amount to Beejay through Stupendors. The account balance of Neelanchal prior to this transaction was only Rs.12,224.10. Stupendors had immediately transferred the said amount to Beejay. The client ledger of Neelanchal with IFCI along with BSE/NSE settlement data indicates that the said amount was received by Neelanchal from trades on the stock exchanges. Therefore, Stupendors & Neelanchal had transferred the funds received through trading indirectly to Beejay. Similarily on November 30, 2011, Beejay transferred Rs.3 crores to Stupendors. The account balance of Stupendors prior to this transaction was only Rs.3,17,406. Thereafter, Stupendors transferred Rs.2.25 crores from the said amount to Neelanchal which in turn transferred Rs.2 crores to IFCI. It is observed from the client ledger of Neelanchal with IFCI and BSE/NSE Settlement details that these funds were used for trading by Neelanchal through IFCI. ***Therefore, it is alleged that Stupendors & Neelanchal had aided Beejay to transfer the said Rs.2.25crores to IFCI.*** *Trade details of Neelanchal through IFCI is as follows:*

No. of Scrips	***Buy Qty***	***Total Buy Value (in Crores)***	***Sell Qty***	***Total Sell Value (in Crores)***
BSE				
7	*31,97,538*	*27.54*	*41,24,812*	*33.03*
NSE				
6	*64,66,399*	*49.88*	*62,99,697*	*48.88*

Similarly, on 04/07/2012, Eversight transferred Rs.50 lakhs to Neelanchal which was subsequently transferred to Stupendors. The account balance of Neelanchal prior to the receipt of funds from Eversight was only Rs.1,508.64 and post receipt of the said funds was Rs.50,01,508.64. The account balance of Stupendors prior to receiving Rs.50lakhs from Neelanchal was Rs.7,445.51 and after receiving this amount was Rs.50,07,445.51. Stupendors on the same day reversed the transaction of Rs.50 lakhs with Neelanchal who transferred this amount to IFCI. It was observed from the client sheet provided by NSE that Neelanchal had traded through IFCI after receiving the funds. Therefore, it is alleged that, Stupendors & Neelanchal had aided Eversight to transfer the said Rs.50 lakhs to IFCI.

Trades of Neelanchal on 06/09/2011 & 30/11/2011 through IFCI are given below:

Table III

Date	***Exchange***	***Security Name***	***Buy Qty***	***Sell Qty***
06/09/2011	*BSE*	*Pipavav Def & Offshr Engg*	*38,052*	*34,455*
	NSE		*33,817*	*18,059*
	BSE	*Parsvnath Developer Ltd*	*32,847*	*1,14,999*
	NSE		*13,762*	*63,311*
30/11/2011	*BSE*	*Pipavav Def & Offshr Engg*	*1,00,000*	*0*
	NSE		*3,65,500*	*0*
	BSE	*Parsvnath Developer Ltd*	*3,307*	*0*
	NSE		*3,25,310*	*0*

3.3. It is observed from trade details of the Noticees that Neelanchal had traded through the broker Aditya Birla Money Limited (ABM) during the IP. Fund trail for the said trades were analyzed and it was observed that Beejay had directly/indirectly transferred funds, through Stupendors, to Neelanchal, who transferred the same to the broker for trading. For examples, on 25/10/2011, Beejay transferred Rs.10 lakhs to Neelanchal through Stupendors. The account balance of Stupendors prior to the receipt of funds from Beejay was only Rs.16,831.05 and post receipt of the said funds was Rs.10,16,831.05. Neelanchal transferred this amount to ABM. It was observed from the client sheet provided by NSE that Neelanchal had traded through ABM after receiving the funds on 26/10/2011.

Therefore, it is alleged that Stupendors & Neelanchal had aided Beejay to transfer the said Rs.10 lakhs to ABM.

Similarly, on 25/01/2012, ABM transferred Rs.1.65 lakhs to Neelanchal which in turn transferred Rs.1.60 lakhs to Stupendors. The account balance of Neelanchal prior to the reciept of funds from ABM was only Rs.7,999.56 and post receipt of the said funds was Rs.1,72,999.56. The account balance of Stupendors prior to the receipt of funds from Neelanchal was only Rs.12,755.89 and post receipt of the said funds was Rs.1,72,755.89. Stupendors transferred Rs.1lakhs out of the said amount to Beejay. Therefore, Stupendors & Neelanchal had transferred the funds received through trading indirectly to Beejay.

The total trades by Neelanchal through ABM during the IP is given below:

Table IV

Date	**Exchange**	**Security Name**	**Buy Qty**	**Sell Qty**
26/10/2011	NSE	Parsvnath Developers Ltd.	25000	0
	BSE		25000	0
31/10/2011	BSE		0	25000
15/11/2011	NSE		0	25000
	NSE	Pipavav Def & Offshr Engg	43000	0
	BSE		25000	0
21/11/2011	NSE		0	63000
	BSE		0	5000
Total			118000	118000

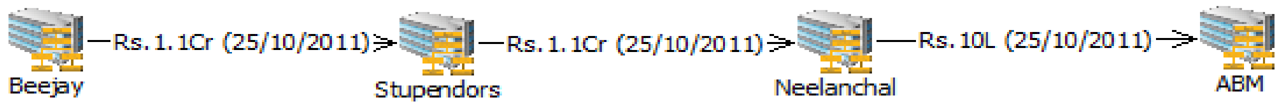
It is observed that DDM & DDT did not hold a trading account or demat account with ABM. The details of pay-in and pay-out concerning Neelanchal, while trading through the stock broker ABM, during the IP is as follows:

Table 5

Pay-in details			
Name of Entity	**Bank Name**	**Bank A/c No.**	**Total Amount (in Rs.)**
Neelanchal	ICICI Bank	627705500278	20,00,750.00

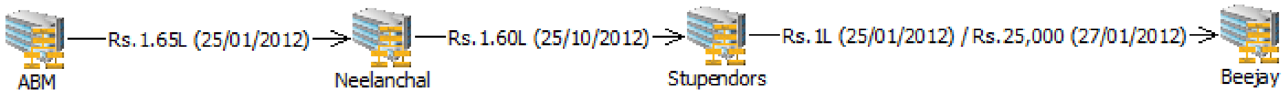
Pay-out details			
Name of Entity	***Bank Name***	***Bank A/c No.***	***Total Amount (in Rs.)***
Neelanchal	*ICICI Bank*	*627705500278*	*1,65,000.00*

Pay-in



It is observed from above that, on 25/10/2011, Beejay routed Rs.1.1Cr to Neelanchal through Stupendors and a part of the said funds (viz. Rs.10 lakhs) were transferred by Neelanchal to ABM. The total amount routed by the debarred Noticees to the connected Noticees Neelanchal for trading through the stock broker ABM during the IP was Rs.10 lakhs approximately.

Pay-out



(the date of the transaction between Neelanchal and Stupendors as erroneously shown as 25/10/2012 in the SCN instead of 25/01/2012)

It is observed from the above that, on 25/01/2012, Rs.1.25 lakhs out of the total payout of Rs.1.65 lakhs made by ABM to Neelanchal was routed indirectly to Beejay through Stupendors.

The total trades by Neelanchal through ABM during the IP is as follows:

Exchange-BSE			
Day Date	***Scrip Name***	***Buy Trades***	***Sell Trades***
26/10/2011	*PARSVNATH*	*25000*	*0*
31/10/2011	*PARSVNATH*	*0*	*25000*
15/11/2011	*PIPAVAVDOC*	*25000*	*0*
21/11/2011	*PIPAVAVDOC*	*0*	*5000*
Total		***50000***	***30000***

3.4. It is observed from trade details of the Noticees that Neelanchal had traded through the broker India Infoline Limited (IIFL) during the IP. Fund trail for the said trades were analyzed and it was observed that Beejay had directly/indirectly transferred funds to Neelanchal, who transferred the same to the broker for trading. For examples on 20/10/2011, Beejay transferred Rs.1 crore to Neelanchal through Stupendors. The account balance of Stupendors prior to the receipt of funds from Beejay was only Rs.16,858.63 and post receipt of the said funds was Rs.1,00,16,858.63. The account balance of Neelanchal prior to receiving Rs.1 crore from Stupendors was Rs.19,606.51 and after receiving this amount was Rs.1,00,19,606.51. Neelanchal transferred this amount to IIFL. It is observed that Neelanchal had traded through IIFL after receiving the funds. ***Therefore, it is alleged that Stupendors & Neelanchal had aided Beejay to transfer the said Rs.1 crore to IIFL.***

Similarily on December 13, 2011, Beejay transferred Rs.32 lakhs to Stupendors. The account balance of Stupendors prior to this transaction was only Rs.17,406.47. Thereafter, Stupendors transferred Rs.32 lakhs from the said amount to Neelanchal which in turn transferred Rs.32 lakhs to IIFL. It is observed that Neelanchal had traded through IIFL after receiving the said funds. ***Therefore, it is alleged that Stupendors & Neelanchal had aided Beejay to transfer the said Rs.32 lakhs to IIFL.*** *Trade details of Neelanchal through IIFL is as follows:*

No. of Scrips	Buy Qty	Total Buy Value (in Crores)	Sell Qty	Total Sell Value (in Crores)
		BSE		
14	1,66,33,368	127.60	1,60,93,839	128.45
		NSE		
15	3,28,61,167	251.62	3,18,75,235	230.57

Trades of Neelanchal on 20/10/2011 & 13/12/2011 through IIFL are given below:

Table VI

Date	Exchange	Security Name	Buy Qty	Sell Qty
20/10/2011	BSE	Pipavav Def & Offshr Engg	2,00,000	0
	NSE		5,48,011	0
13/12/2011	BSE	Varun Industries Limited	0	3,245
	NSE	Parsvnath Developers Ltd.	1,44,740	0
	NSE	Varun Industries Limited	0	10,277

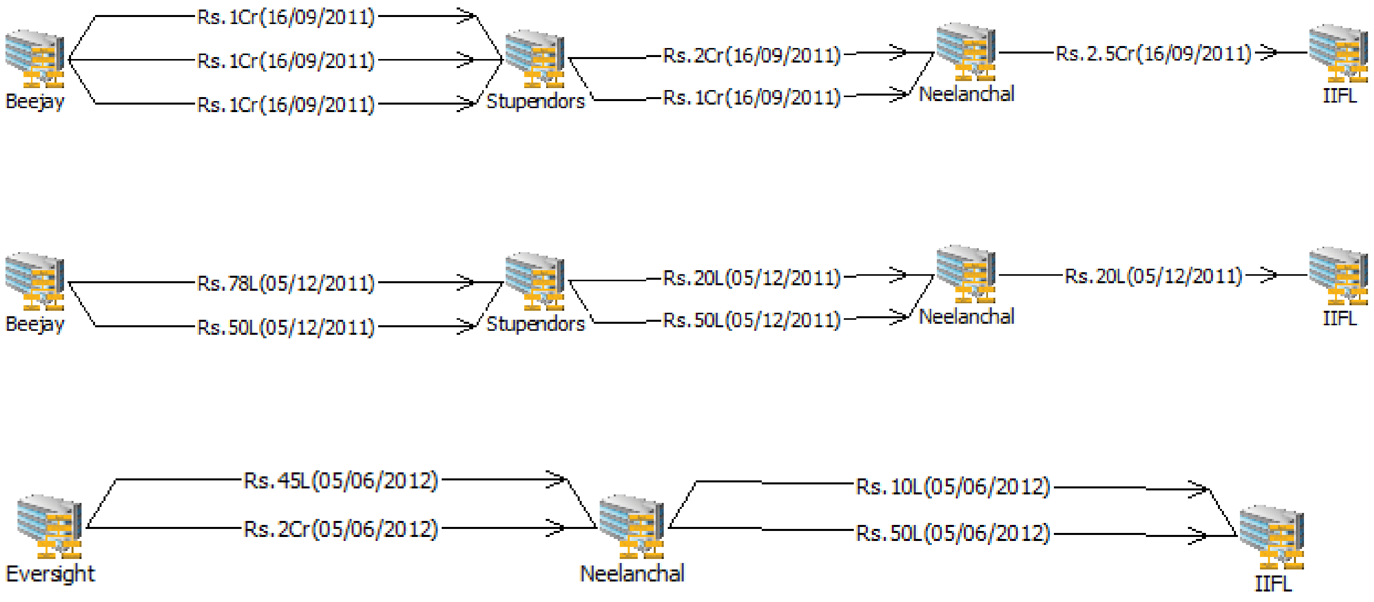
The details of pay-in and pay-out concerning DDM, DDT and Neelanchal, while trading through the stock broker IIFL, during the IP is as follows:

Table 7

Pay-in details			
Name of Entity	**Bank Name**	**Bank A/c No.**	**Total Amount (in Rs.)**
DDM	ICICI Bank	000605010065	5,15,00,000.00
	HDFC Bank	00082340012275	40,00,000.00
		15778420035021	14,00,42,148.30
Total			**19,55,42,148.30**
DDT	ICICI Bank	000605010082	1,44,25,000.00
Total			**1,44,25,000.00**
Neelanchal	Citi Bank	590304123	1,18,96,91,249.98
	Indusind Bank	200012399266	82,02,45,758.25
	ICICI Bank	627705500278	27,86,00,000.00
	HDFC Bank	00080340028320	50,00,000.00
Total			**2,29,35,37,008.23**
Pay-out details			
Name of Entity	**Bank Name**	**Bank A/c No.**	**Total Amount (in Rs.)**
DDM	ICICI Bank	000605010065	4,87,37,068.82
	HDFC Bank	15778420035021	16,06,96,607.31
Total			**20,94,33,676.13**
DDT	ICICI Bank	000605010082	63,897.23
Total			**63,897.23**

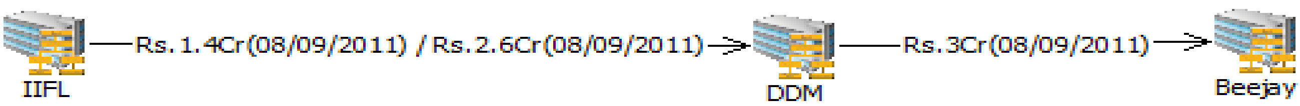
Neelanchal	*Citi Bank*	*590304123*	*99,22,68,057.72*
	Indusind Bank	*200012399266*	*1,07,47,72,744.65*
Total			***2,06,70,40,802.37***

<u>Pay-in</u>



It is observed from the above, funds were routed by the debarred Noticees to the connected Noticees Neelanchal, who in turn was trading in the market through the stock broker IIFL. The total amount routed by the debarred Noticees to the connected Noticee Neelanchal for trading through the stock broker IIFL during the IP was Rs.14.54 Cr approximately.

<u>Pay-out</u>



With respect to the pay-outs by IIFL in relation to its client DDM, as can be seen from the above, pay-outs made by IIFL to DDM were routed to the debarred Noticees. Rs.3 Cr out of total pay-out of Rs.20.94 Cr approx. by IIFL to its client DDM were routed to the debarred Noticees.

3.5. *It is observed that Millennium Stock Broking Private Limited (MSBPL) had made 2 pay-outs to DDT during the IP and there were no pay-ins. The details of pay-out* *concerning DDT, while trading through the stock broker MSBPL, during the IP is as follows:*

Table 8

Pay-out details			
Name of Entity	***Bank Name***	***Bank A/c No.***	***Total Amount (in Rs.)***
DDT	*HDFC Bank*	*00082340012265*	*7,42,726.00*
Total			***7,42,726.00***

The total trades by DDT through MSBPL during the IP is enclosed as **Annexure-11***.*

4. *In view of the above facts it is alleged that,*

4.1. The Noticees viz Beejay Investment & Financial Consultants Private Ltd and its Directors Shri Sudhir Jain and Ms Rashmi Jain had in directly traded in securities during the prohibition period there by violated SEBI Order dated January 19, 2010 and January 25, 2010.

4.2. The Noticees viz Eversight Tradecomm Private Limited and its Directors Shri Adish Jain and Shri Peeyush Jain had in directly traded in securities during the prohibition period there by violated SEBI Order dated January 25, 2010.

4.3. The Noticees viz Neelanchal Mercantile Private Limited and its Directors, Shri Surendra Agarwala, Shri Bhupendra Kumar Dhanuka and Divyadrishti Merchants Private Ltd and Divyadrishti Traders Private Ltd and their Directors Shri Debasis Mishra, Shri Rajesh Kumar Agarwal, Shri Kinkar Bhattacharya and Shri Sukanta Chatterjee who were connected to the debarred Noticees facilitated debarred Noticees, viz. Beejay Investment & Financial Consultants Private Ltd & Eversight Tradecomm Private Limited to trade in contravention of SEBI Orders dated January 19, 2010 & January 25, 2010 there by violated SEBI Orders dated January 19, 2010 & January 25, 2010.

4.4. The Noticees viz Stupendors Traders Private Limited and its Directors Shri Vicky Kothari, Ms Prativa Kothari and Flex Trade Pvt Ltd and its Directors Shri Manish Agarwal and Smt Rashmi Jain who were also connected to the debarred Noticees, acted as conduits in transferring fund from the debarred Noticees to the Noticees facilitating trades of the *debarred Noticees there by violated SEBI Orders dated January 19, 2010 & January 25, 2010.*

5. *In view of the above facts it is further alleged that,*

5.1. *The Noticees viz Beejay Investment & Financial Consultants Private Ltd and its Directors Shri Sudhir Jain and Ms Rashmi Jain and Eversight Tradecomm Private Limited and its Directors Shri Adish Jain and Shri Peeyush Jain were indirectly trading through the Noticees Divyadrishti Merchants Private Limited and its directors, Divyadrishti Traders Private Limited and its directors, and Neelanchal Mercantile Private Limited and its directors who were connected to the debarred entities thereby violated the directions issued by SEBI vide Orders dated January 19, 2010 and January 25, 2010 and thereby created false and misleading appearance of trading in the securities market there by violated Regulations 3(a), (b), (c) & (d) and 4(1) & 4(2)(a) of the SEBI (PFUTP) Regulations, 2003.*

5.2. *Noticee viz Neelanchal Mercantile Private Limited and its Directors, Shri Surendra Agarwala, Shri Bhupendra Kumar Dhanuka and Divyadrishti Merchants Private Ltd and Divyadrishti Traders Private Ltd and their Directors Shri Debasis Mishra, Shri Rajesh Kumar Agarwal, Shri Kinkar Bhattacharya and Shri Sukanta Chatterjee who were connected to the debarred Noticees facilitated debarred Noticees, viz. Beejay Investment & Financial Consultants Private Ltd & Eversight Tradecomm Private Limited to trade in contravention of SEBI Orders dated January 19, 2010 & January 25, 2010 there by and thereby aided/ abetted creating false and misleading appearance of trading in the securities market there by violated Regulations 3(a), (b), (c) & (d) and 4(1) & 4(2)(a) of the SEBI (PFUTP) Regulations, 2003.*

5.3. *The Noticees viz Stupendors Traders Private Limited and its Directors Shri Vicky Kothari, Ms Prativa Kothari and Flex Trade Pvt Ltd and its Directors Shri Manish Agarwal and Smt Rashmi Jain who were also connected to the debarred Noticees, acted as conduits in transferring fund from the debarred entities to the Noticees facilitating trades of the debarred Noticees there by aided/ abetted in creating false and misleading appearance of trading in the securities market there by violated Regulations 3(a), (b), (c) & (d) and 4(1) &*

6. *It is observed that the debarred Noticees along with the Noticees facilitating their trades had made profit of Rs. 15,73,33,664/- i.e. approx. 15.73 Cr. The details are as under:*

The trades of DDM, DDT and Neelanchal along with the corresponding profits made during the IP are as under:

Table 9

Name of Entity	***No. of scrips traded***		***Gross Profit (in Rs.)***
	BSE	***NSE***	
DDM	*9*	*27*	*8,97,928*
DDT	*14*	*73*	*1,00,69,388*
Neelanchal	*21*	*18*	*30,81,58,258*
Total			*31,91,25,574*

The summary of the F&O trades of the Noticees DDM, DDT & Neelanchal during the IP on NSE is given below:

Table 10

Name of Entity	***No. of trades***	***Buy Qty***	***Sell Qty***	***Buy Value (in Rs.)***	***Sell Value (in Rs.)***	***Profit (in Rs.)***
Neelanchal	*2*	*2500*	*2500*	*2,03,955*	*2,10,175*	*6,220.00*
DDM	*22*	*39,925*	*39,925*	*1,24,53,520*	*1,24,56,926*	*3,406.00*
DDT	*1*	*50*	*50*	*2,227.50*	*2,250*	*22.50*
Total						*9,649.00*

**BSE, vide email dated January 22, 2016 stated that the above 3 entities have not traded in the F&O segment during the IP.*

It is observed from the above Tables 21 & 22, the Noticees DDM, DDT & Neelanchal have made a combined gross profit of Rs.31.91 Cr by trading in the securities market during the IP.

The trade details of DDM, DDT & Neelanchal along with the corresponding gross profits made by the said entities is placed at ***Annexure-12****.*

The total fund transactions of the Noticees DDM, DDT & Neelanchal with Shri Sudhir, Beejay and Eversight, as per the submissions made by DDM, DDT & Neelanchal are as follows:

Table 11

Name of Entity	Name of debarred entity	Amount received from debarred entity	Amount transferred to debarred entity
DDM (vide letter dated December 08, 2017)	Eversight	85,00,000	-
	Beejay	2,48,200,000	12,56,50,000
DDT (vide letter dated December 08, 2017)	Beejay	13,62,00,000	10,47,00,000
Neelanchal (vide letter dated February 27, 2017)	Eversight	19,93,00,000	7,90,00,000
	Beejay	30,00,000	30,00,000
	Sudhir	15,00,000	15,00,000
Total		59,67,00,000	31,38,50,000

The total number of instances of fund flow from Beejay & Eversight to the Noticees DDM, DDT & Neelanchal were 120 out of which, in 35 instances, the said funds were observed to have been transferred to stock brokers as pay-in.

The total amount of funds routed by the debarred Noticees to the stock brokers through the Noticees DDM, DDT, Neelanchal, Stupendors and FTPL are as follows:

Table 12

Name of Stock Broker	Amount received from entities trading in the stock exchange (in Rs.)	Funds transferred by debarred entities to the entities trading in the stock exchange that were traced to stock brokers (in Rs.)	Amount transferred by the debarred entities to the entities trading in the stock exchange(in Rs.)	Multiplier (C/D)
A	B	C	D	
ABM	20,00,750	10,00,000	59,67,00,000	0.49

MSBPL	*0*	*0*		
Religare	*1,75,30,43,133*	*14,08,00,000*		
JMFL	*32,64,31,44,05*	*0*		
IIFL	*20,99,67,148*	*14,54,00,000*		
Korp	*3,92,40,000*	*50,00,000*		
GFSL	*1,90,80,958*	*0*		
MOSL	*4,31,27,880*	*20,00,000*		
Total	***5,33,07,74,274***	***29,42,00,000***		

It is observed from the above Table 24, that from the bank accounts of the debarred Noticees that an amount of Rs.59.67 Cr was transferred to DDM, DDT & Neelanchal, including certain instances through the connected Noticees Stupendors and FTPL. Certain portion of the said funds were traced to be used for trading by the said Noticees through various stock brokers. Out of Rs.59.67 Cr transferred to DDM, DDT & Neelanchal, Rs.29.42 Cr was observed to have been part of pay-ins paid to the respective brokers by the said Noticees. Further, the total gross profits made by the Noticees DDM, DDT & Neelanchal by trading in the securities market during the IP was Rs.31,91,25,574. As approx.49.30% of the total funds transferred by the debarred Noticees to DDM, DDT & Neelanchal, for facilitating trades of the debarred Noticees, could be traced to form part of pay-in to stock brokers, the total profits that can be attributed to debarred Noticees along with the Noticees facilitating their trades is Rs.15,73,33,664, i.e. approx. Rs.15.73 Cr.

In view of the above, it is alleged that the Noticees had made profit of approx. Rs.15.73 Cr by trading during the prohibition period.

7. *It is observed that SEBI had taken actions in the past against the following Noticees:*

Client Name	***Action Taken / Intiated***	***Case Name***
Beejay Investment & Financial Consultants Pvt Ltd	*Direction u/s 11B & Other Regulations*	*Trading by certain connected entities*
Sudhir Jain		
Flex Trade Private Limited		
Eversight Tradecomm Pvt Ltd		
Divyadrishti Merchants Pvt Ltd		*Tijaria Polypipes Ltd*
		Radford Global Ltd

		Pine Animation Limited
Divyadrishti Traders Pvt Ltd		*Tijaria Polypipes Ltd*
Stupendors Traders Pvt Ltd		*Trading by certain connected entities*
*Neelanchal Mercantile Pvt Ltd***		*In the matter of Pipavav Defence and Offshore Eng Limited, Parsvnath Developers Limited, Tulip Telecom Limited and Glodyne Technoserve Limited*
Shri Manish Agarwal	*Adjudication Proceedings*	*Sulabh Engineers & Services Ltd*
Korp Securities Limited	*Adjudication Proceedings*	*Bharatiya Global Infomedia Ltd.*
	Suspension	*Korp Securities Ltd.*

In view of the above, it is alleged that the Noticees viz, Beejay Investment & Financial Consultants Private Ltd, Shri Sudhir Jain, Eversight Tradecomm Private Limited, Stupendors Traders Private Limited, Flex Trade Pvt Ltd, Shri Manish Agarwal, Neelanchal Mercantile Private Limited, Divyadrishti Merchants Private Ltd and Divyadrishti Traders Private Ltd are in repeatedly violation of SEBI Act, and Regulations made thereunder.

8. *The applicable provisions are reproduced as under:*

CHAPTER II

PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO THE SECURITIES MARKET

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—

(a) indulging in an act which creates false or misleading appearance of trading in the securities market;

…….

9. The aforesaid violations on your part make you liable for penalty under Sections 15 HA and 15 HB of SEBI, 1992, as applicable, which reads as follows:

Penalty for fraudulent and unfair trade practices.

15HA. *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty [1][which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.*

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*

[1] Substituted for the words ―twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher‖ by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.

been provided, shall be [2][liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]"

11. The SCN was duly served upon all the Noticees via Speed Post Acknowledgement Due **(SPAD)** except Shri Adish Jain, director of Eversight Tradecomm Private Limited. As per Rule 7(3) of SEBI Adjudication Rules, SCN was served upon Mr. Adish Jain vide Newspaper publication dated October 12, 2018 in three newspaper, one in a daily newspaper having nationwide circulation and other two in a newspaper having circulation in the language of the region where that Noticee was last known to have resided or carried on business viz. Times of India, Kolkata edition, Sanmarg in Hindi language and Ananda Bazar Patrika in Bengali language. Vide the aforesaid Notice, Mr. Adidh jain was advised to file reply to SCN within 14 days from the date of this publication in terms of the SCN and was also issued provided an opportunity of personal hearing on October 19, 2018.However vide letter dated October 13, 2018, Mr. Adish jain requested adjournment of hearing.

12. No reply to SCN was received from Noticees by the stipulated timeline as mentioned in SCN. Thereafter, in terms of Rule 4(3) of the Adjudication Rules and the principle of natural justice, the erstwhile AO granted an opportunities of personal hearing/opportunity to file written submissions to Noticees on various occasions. Subsequently, pursuant to the transfer of erstwhile AO, the undersigned has been appointed as Adjudicating Officer vide communication order dated August 13, 2019 and subsequent to transfer of case to undersigned, another opportunity of hearing and making reply/ additional reply was granted to all Noticees through Webex due to ongoing pandemic. the Noticees filed their reply, additional reply and additional written submissions during the course of proceedings. Such dates along with details of appearances/responses are listed out hereunder:

[2] Substituted for the words —liable to a penalty which may extend to one crore rupees‖ by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.

S. NO.	NAME OF ENTITY	HEARING NOTICES	SOUGHT ADJOURNMENT TO HEARING/ADDITIONAL TIME TO FILE REPLY TO SCN	REPLY TO SCN	ADDITIONAL REPLY TO SCN	APPEARED FOR HEARING
1	Beejay Investment & Financial Consultants Private Ltd	07/09/2018, 24/09/2018, 24/10/2018, 22/12/2021	17/09/2018,15/10/2018,12/11/2018	01/07/2019	04/01/2022	Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 05/01/2022 and 24/01/2022
2	Shri Sudhir Jain	07/09/2018, 24/09/2018, 24/10/2018; 13/11/2018 VIA EMAIL, 22/12/2021	17/09/2018: 1 MONTHS TIME, 15/10/2018 & 12/11/2018 VIA EMAIL: 15 days' time to file reply	09/08/2019		Did not appear for hearing
3	Ms Rashmi Jain	07/09/2018, 24/09/2018, 24/10/2018; 13/11/2018 VIA EMAIL, 22/12/2021	17/09/2018: 1 MONTHS TIME, 15/10/2018 & 12/11/2018 VIA EMAIL: 15 days' time to file reply	09/08/2019		Did not appear for hearing
4	Eversight Tradecomm Private Limited	07/09/2018, 24/09/2018, 24/10/2018; 13/11/2018 VIA EMAIL, 22/12/2021	18/09/2018: ADJOURN HEARING,13/10/2018:ADJOURN,EMAIL AND LETTER DT 12/11/2018: TWO WEEKS ADJOURNMENT,08/01/2022,	27/01/2022:vide email to consider its reply dated 12/09/2020 before Hon'ble WTM in parallel 11B Proceedings		Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 05/01/2022 and 24/01/2022;

5	Shri Adish Jain	07/09/2018, 25/10/2018, 22/12/2021	13/10/2018,12/11/2018	27/01/2022:vide email by eversight to consider reply of eversight dated 12/09/2020 before Hon'ble WTM in parallel 11B Proceedings		Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 05/01/2022
6	Shri Peeyush Jain,	07/09/2018, 22/12/2021		27/01/2022:vide email by Eversight to consider reply of Eversight dt. 12/09/2020 before Hon'ble WTM in parallel 11B Proceedings		Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 05/01/2022
7	Stupendors Traders Private Limited	07/09/2018, 24/09/2018, 24/10/2018; EMAIL DATED 13/11/2018, 22/12/2021	18/09/2018,15/10/2018,12/11/2018 VIA EMAIL N LETTER,07/01/2022	28/01/2022:vide email to consider its reply dated 27/07/2020 before Hon'ble WTM in parallel 11B Proceedings		Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 06/01/2022
8	Shri Vicky Kothari,	07/09/2018, 24/09/2018, 24/10/2018	17/09/2018,15/10/2018,12/11/2018	28/01/2022:vide email by Stupendors to consider reply of Stupendors dated 27/07/2020 before Hon'ble WTM in parallel 11B Proceedings		Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 06/01/2022

9	Ms Prativa Kothari	07/09/2018, 24/09/2018, 25/10/2018, 22/12/2021	17/09/2018,15/10/2018,12/11/2018	28/01/2022:vide email by Stupendors to consider reply of Stupendors DATED 27/07/2020 before Hon'ble WTM in parallel 11B Proceedings		Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 06/01/2022
10	Flex Trade Pvt Ltd	07/09/2018, 24/09/2018, 24/10/2018, 22/12/2021, ,13/01/2022	17/09/2018: 1 MONTHS TIME, 15/10/2018:15 DAYS , 12/11/2018: 15 DAYS ,12/01/2022	02/08/2019	additional submissions vide email dated 26/01/2022.	Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 06/01/2022 and 24/01/2022
11	Shri Manish Agarwal	07/09/2018, 24/09/2018, 22/12/2021	17/09/2018,15/10/2018:15 days' time to file reply and adjourn hearing ;	-	-	Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 06/01/2022
12	Neelanchal Mercantile Private Limited	07/09/2018: AFFIXTURE FAILED,13/11/2018:Via Email,22/12/2021,12/01/2022	12/11/2018,07/01/2022	Neither reply was attached with email dated 12/11/2018 which was alleged to contain the replies to SCN by Neelanchal nor hard copy of replies received.		Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 07/01/2022 and 24/01/2022
13	Shri Surendra Agarwala	07/09/2018, 24/09/2018, 24/10/2018, 22/12/2021	17/09/2018, 15/10/2018, 12/11/2018	No reply to SCN		Did not appear for hearing on hearing dates granted by

						erstwhile AO as well as on 07/01/2022
14	Shri Bhupendra Kumar Dhanuka	07/09/2018; 01/10/2018, 24/10/2018, 22/12/2021	17/09/2018;ADJOURN BY 20 DAYS;15/10/2018: ADJOURN BY 10 DAYS; 12/11/2018;ADJOURN EARING ON 13/11/2018 BY 10 DAYS	No reply to SCN		Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 07/01/2022
15	Divyadrishti Merchants Private Ltd	07/09/2018, 15/10/2018; 31/10/2018, 22/12/2021	17/09/2018 via email: one month time to file reply and adjournment of Hearing,13/10/2018:sought additional time to make ;31/10/2018	24/07/2018:3 MONTHS TIME,24/11/2018		hearing held on 15/11/2018 before erstwhile AO, FCA Ashok kumar sharma, (AR) appeared for hearing ; did not appear for hearing before me held on 11/01/2022
16	Divyadrishti Traders Private Ltd	07/09/2018; 15/10/2018, 22/12/2021	17/09/2018 via email: one month time to file reply and adjournment of Hearing,13/10/2018:sought additional time to make ;31/10/2018	24/07/2018:3 MONTHS TIME,24/11/2018	17/01/2022	hearing held on 15/11/2018 before erstwhile AO, FCA Ashok kumar sharma, (AR) appeared for hearing; did not appear for hearing before me held on 11/01/2022

17	Shri Debasis Mishra	07/09/2018, 15/10/2018, 22/12/2021,	20/09/2019:45 DAYS TO REPLY AND ADJOURN HEARING;	24/07/2018:sought 3 months' time to file reply, 13/08/2018,11/12/2018-reply to SCN	21/01/2022	Did not appear for hearing on hearing dates granted by erstwhile AO as well as on 11/01/2022
18	Shri Rajesh Kumar Agarwal	07/09/2018, 10/10/2018, 22/12/2021	20/09/2018-45 DAYS TIME	24/07/2018&13/08/201:sought 3 months' time to file reply,11/12/2018-reply to SCN		hearing held on 15/11/2018 before erstwhile AO, FCA Ashok kumar sharma, (AR) appeared for hearing; did not appear for hearing before me held on 11/01/2022
19	Shri Kinkar Bhattacharya	07/09/2018, 10/10/2018, 22/12/2021	20/09/2018:45 days time to file reply	24/07/2018: sought 3 MONTHS TIME, 11/12/2018:replied to SCN	21/01/2022	hearing held on 15/11/2018 before erstwhile AO, FCA Ashok kumar sharma, (AR) appeared for hearing; did not appear for hearing before me held on 11/01/2022
20	Shri Sukanta Chatterjee	07/09/2018, 10/10/2018, 22/12/2021		24/07/2018: sought 3 MONTHS TIME ;11/12/2018: replied to SCN	21/01/2022	hearing held on 15/11/2018 before erstwhile AO, FCA Ashok kumar sharma,

						(AR) appeared for hearing; did not appear for hearing before me held on 11/01/2022

BRIEF SUBMISSIONS OF NOTICEES:

Noticee No. 1 – Beejay

Alleged Connections

1. Normal business connections with the other entities, including the alleged trading entities, have been unduly stretched in order to attribute their actions to the Noticee, which is legally untenable and unsustainable. Based on the alleged connections, trading of the alleged connected entities cannot be fastened on to noticee or any adverse inference drawn against it.

Fund Transfers

2. Noticee had regular financial dealings with various entities including the Trading Entities- DDM, DDT and Neelanchal - since long, wherein there were both borrowing and lending funds from/to the said entities and the Noticee had credit/debit balance in their account with the said entities.
3. By resorting to 'reverse engineering', SEBI has fastened the trades executed by the Trading Entities on to the Noticee. SEBI has picked up the dates when the Trading Entities have made pay-ins to their stock brokers, and gone backwards to trace the amount to Noticee.
4. Simultaneously, SEBI has picked up the dates when the Trading Entities have received pay-outs from their stock brokers, and have gone backwards to trace the amount to Noticee.
5. While resorting to 'reverse engineering' and fastening the trades of Trading entities on to Noticee, following has been completely ignored and overlooked :

a. There is no correlation between the amounts paid as pay-ins by the Trading Entities to their brokers / amounts received as pay-outs by Trading entities from their brokers and the amounts (both directly or indirectly) transferred by / transferred to, the Noticee.
b. There are various dates when the funds have been transferred by the Noticee to the Trading Entities, but no trades were carried out by the Trading Entities on the said dates.
c. That transfer of funds between the Noticee and the Trading Entities were going on in the ordinary course wherein the balances were fluctuating and wherein predominantly for most of the Investigation Period balance was tilted against the Noticee i.e. they were to repay the Trading Entities. Therefore, when the Noticee was repaying the amounts by transferring the funds, the said amounts cannot by any stretch be branded as amounts transferred by the Noticee for the purpose of trading through Trading Entities.

6. Noticee has placed on record all necessary evidence relating to the outstanding amount due to DDM, DDT and Stupendors viz. Bank Statement and Ledger Statement that we had credit balance with the said entities prior to the Investigation Period i.e. September 01, 2011. Therefore, the allegation that it traded indirectly in the securities market by transferring funds, directly /indirectly, to various entities are incorrect and completely contrary to factual position on record.
7. There are no allegations that such shares were acquired by trading entities out of funds received directly /indirectly from it. To hold us accountable for such trades is erroneous and based purely on surmises and conjunctures.
8. the alleged relationship between movement of fund and the alleged trades are erroneous and imaginary based purely on surmises and conjunctures.
9. It has no say or control over the acts of other entities. Therefore, the allegation that Stupendors and Neelanchal had aided it to access the securities market indirectly by transferring the funds is false and devoid of any basis.

Computation of Profits:

10. there is nothing on record to show that Noticee alongwith trading entities were connected with the stated brokers or were involved with them in any manner with regard to alleged trading done by the alleged trading entities.

11. Noticee is not aware about the alleged amounts received by the stated brokers from the alleged trading entities that had traded through the brokers.
12. SEBI has clubbed the funds transferred without any rhyme or reason. It is not aware of the alleged fund transfers by other debarred entities. Further, SEBI has not particularized the specific amount alleged by SEBI which we are alleged to have transferred to the alleged trading entities. Further, SEBI has failed to particularize and show the specific amount (out of the total amount transferred by us to the alleged entities) which SEBI is alleging to have been traced to the stock brokers qua them. In the absence of the same, it is severely handicapped to give an effective reply. It is reiterated that non particularization of the same, is fatal to the purported computation of profits.
13. In so far as "Column Multiplier" is concerned, it may be noted that since the whole clubbing done by SEBI with regard to funds transferred by the alleged debarred entities as contained in Column "C" & "D" are totally erroneous, the multiplier worked out on the basis of Column "C" & "D", is also totally erroneous. It is reiterated that SEBI has based on its whims and fancies, arbitrarily calculated the multiplier for reckoning profits etc . Thus the alleged computation of profit is fraught with errors and is wholly unreliable and untenable.
14. Noticee is not aware of the alleged gross profits made by the alleged trading entities. Based on the erroneously calculated multiplier, SEBI has again erroneously calculated the profit viz. 15.73 crore which is a combined figure .No particulars of alleged profits specifically attributed to it have been brought in record and we have been lumped with others, which is totally unknown to law.
15. the figure of “Gross Profit” completely ignores and overlooks the losses (if any) made by the alleged trading entities. Further, the alleged profit, if any, cannot be anything else other than the amounts deployed by alleged trading entities (involving 35 instances) and the profit (after adjusting loss if any) arising from deployment of such amounts in scrip on those particular days. Further, out of the alleged 35 instances the instances pertaining to it will have to be segregated and alleged profits (net of loss) arising from the said trades can only be attributed to it if at all.

16. not made any profits as alleged and the whole calculation etc is erroneous and absurd and is legally untenable and unsustainable

Additional reply of Beejay

1. Noticee reiterate and resubmit all that has been submitted vide its previous reply.

2. Noticee reproduced the following para of order dated April 09, 2021 of Hon'ble WTM in respect of SCN dated October 10, 2018 with the similar facts and allegations narrated in SCN dated July 6, 2018 wherein Honorable WTM has held that Noticees have not violated the provision of Regulations 3 (a), (b), (c), (d), and 4(1), of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 during the Investigation period:

   113. In this regard, I note that the SCN does not allege any manipulative or fraudulent trades done by the Trading Entities or employing any other unfair trade practice during the course of such trading The only charge that has been levelled in the SCN is that the Trading Entities and the Conduit Entities enabled the Debarred Entities to access the securities market in contravention of the SEBI directions. In this regard, I find that in the absence any allegations regarding manipulative, fraudulent or unfair practices during the course of such trading, mere trading in non-compliance with SEBI restraint directions does not ipso facto make such trades fraudulent or unfair trade practice as defined under the PFUTP Regulations. I am therefore of the view that such trades can only be viewed as a non-compliance with the directions issued by SEBI.

   114. In view of the same, I accept the contentions made on behalf of the Noticees and hold that the charge of violation of the provisions of the (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 by the Noticees does not stand."

   Noticees also reproduced the order dated 04.08.2021 in Appeal No. 530 of 2019 in the matter of Korp Securities Ltd. vs SEBI. Honorable SAT partly allowing the appeal of Korp Securities Ltd. held as under:

3. *It was contended that on the same charge and on the same issue proceedings were also initiated by the WTM and the WTM by its order dated April 30, 2021 has exonerated the appellant from this charge. The said order has become final. This fact has been brought on record by means of an additional affidavit which is not disputed by the respondent.*

4. *In view of the aforesaid, we are of the opinion that if another authority of SEBI has exonerated the appellant on the same issue, we do not see any reason why the order of penalty stipulated in paragraph No. 57(a) of the order of the AO should be allowed to stand.*

5. *In view of the aforesaid, the appeal is partly allowed. The penalty of Rs. 25 lac imposed for violation of Regulations 3 and 4 of the PFUTP Regulations is set aside*

Noticee No. 2 – Sudhir Jain

1. Noticee submitted that he was a director of Beejay and was looking after the management and administration of the Company. It was further submitted that the Noticee was adopting the submissions made on behalf of Noticee No. 1.

2. As regards the observations regarding connections alleged in the SCN, it was submitted that Adish Jain and Peeyush Jain were his distant relatives and Vicky Kothari was his brother in law. It was also submitted that the said persons were financially independent and traded independently.

3. The amount of Rs. 5 lakh that was transferred to Neelanchal by the Noticee was by way of a short term loan and was done in the ordinary course of business. It was also submitted that there was no connection between funds transferred by the Noticee and the trades done by Neelanchal.

Noticee No. 3 – Rashmi Jain

1. Noticee submitted that she was as a director of Beejay Investment and Financial Consultants Pvt. Lts. and Flex Trade Pvt. Ltd. in the past. It was submitted that she was a

director in Beejay during the period 20/11/2004 to 17/12/2012 and a director of Flex during the period 15/01/2008 to 10/03/2015.

2. Noticee further submitted that she was adopting the arguments made on behalf of Beejay and Flex.

<u>Noticee No. 4:</u> <u>Eversight Tradecomm Private Limited</u>

1. Noticee requested to take their reply dated September 12, 2020 before the Hon'ble WTM as their reply in the present SCN dated July 06, 2018.
2. Noticee did not have any transactions with DDT during the Investigation Period.
3. Noticee paid DDM a sum of Rs. 85,00,000/- towards purchase consideration of unlisted securities and that the sum so paid was for a valuable consideration. Moreover, presumably there are no allegations that such funds have been utilised by DDM for their payin obligations with the Brokers. Further, there is nothing on records to show that the Noticee received any part of the alleged unlawful gains made by DDM. When the Noticee has not received any proceeds from DDM, how are they liable to pay for the alleged unlawful gains.
4. In respect of allegations regarding fund flows with Neelanchal, it was submitted that,-
    a. A sum of Rs. 5 crores were advanced by the Noticee to Flex on 08/12/2011, in ordinary course of the business as an NBFC. It is alleged in the SCN that Flex has remitted a sum of Rs. 0.85 crores to Neelanchal on 08/12/2011 and Neelanchal has utilized the said sum for their payin obligation of Rs. 1 crore with Religare. Noticee submitted that they did not have any management or ownership control over Flex and the transfer of funds by Flex to Neelanchal was not on their advice or behest.

    b. Further, the difference in amount of fund movement between the Noticee and Flex, between Flex and Neelanchal and between Neelanchal and Religare proves that such movement of funds between the Noticee and Flex were in the ordinary course and has no bearing on payin amount of Neelanchal.

c. Further, as observed in the SCN, since there were instances of direct transactions between the Noticee and Neelanchal, where was the need for a conduit, as alleged in respect of Flex.

d. It has been alleged in the SCN that the Noticee has transferred a sum of Rs. 0.45 crores and Rs. 2 crores to Neelanchal on 05/06/2012 and that out of the said transfer Neelanchal has utilised a sum of Rs. 0.10 crores and Rs. 0.50 crores for meeting its payin obligation with broker IIFL. It was submitted in this regard that the Noticee had given loan to Neelanchal in ordinary course of NBFC business. At no point of time was the Noticee aware of the end use of such funds by Neelanchal.

e. Further, we would like to state that we are not aware of the trading done by Neelanchal, DDM, and DDT at BSE, NSE and on NSE F & O segment.

f. Further, with regards to “Gross Profit” of Trading Entities, it was submitted that the alleged gains worked out in Table 7 of the SCN do not relate to the Noticee and they were not a beneficiary of the gains made by Neelanchal, DDM and DDT.

5. It was submitted that if the payin made by the Trading Entities were made on behalf of the Noticee, then why was it that, no amount received as payout by the Trading Entities flowed back to the Noticee. SEBI has not brought on records any single instance to show that the payout received by the Trading Entities have been routed back to Noticee.
6. SEBI has completely ignored the fact that there were no restraining directions against Noticee’s directors and one of whom has also traded during the Investigation Period. Had the intention been to indirectly trade in the securities market, then the Noticee could have traded through their directors.
7. supply of the documents referred too and relied upon in the SCN is quite essential as without the same it is impossible for the Noticee to put up an appropriate /complete defence in the matter.

8. It was also contented by the Noticee that even though the SCN alleges fraudulent conducted on the part of the Noticee, yet it does not describe the acts or omissions committed by the Noticee which amounts to fraud within the definition provided under Section 2 of the PFUTP Regulations.

Computation of profits

9. "Gross Profit" are erroneous and illogical due to the following:
   a. A perusal of the trades of the Trading Entities shows that they have incurred substantial losses which has not been taken into account by SEBI.
   b. There is vast difference in quantities of shares bought and sold during the year by the Trading Entities, for which the SCN offers no explanation.
   c. In respect of the trades of the Trading Entities against which SEBI has not found any fault, viz, through broker J. M Financial Services Ltd. and Gateway Financial Services Pvt. Ltd., should never have been considered in the computation of profit, as their payin or payout has not been sourced from / to the Noticee.
   d. In respect of shares acquired by the Trading Entities before the Investigation Period, there are no allegations thereto; such trades were executed by the Trading Entities out of clean funds. As such it is improper to consider sale of such shares during the Investigation Period as a violation of SEBI PFUTP Regulations and considering them in working of Gains / Losses.
   e. The assumption of Opening Price and Closing Prime shows that the profit and loss worked out are not actual but are assumed and notional.

   f. In the SCN, SEBI has worked out the proportion of amount transferred by the Debarred Entities to the Trading Entities that were in turn traced to the payments made by Trading Entities to the stock brokers. Such a proportion is called multiplier and the same is computed at 0.49. The computation of Multiplier is highly erroneous. It is SEBI's own case that the Debarred Entities have transferred Rs. 29.42 crores to the Trading Entities which has partly been used by the Trading Entities to make payin of a sum of Rs. 533.07. Thus, the Multiplier should have been worked out by SEBI based on these two figures.

g. Even otherwise, it is SEBI's own case that in 35 instances the funds from the Debarred Entities have been transferred to stock brokers as pay-in. Since, SEBI alleges such trading to have been done on behalf of the Noticee, the specific trades for which such payin has been used must also be within the knowledge of SEBI. SEBI should therefore work out the actual profit and loss from such trades.

6. Noticee reproduced the following para of order dated April 09, 2021 of Hon'ble WTM in respect of SCN dated October 10, 2018 with the similar facts and allegations narrated in SCN dated July 6, 2018 wherein Honorable WTM has held that noticees have not violated the provision of Regulations 3 (a), (b), (c), (d), and 4(1), of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 during the Investigation period:

113. In this regard, I note that the SCN does not allege any manipulative or fraudulent trades done by the Trading Entities or employing any other unfair trade practice during the course of such trading The only charge that has been levelled in the SCN is that the Trading Entities and the Conduit Entities enabled the Debarred Entities to access the securities market in contravention of the SEBI directions. In this regard, <u>I find that in the absence any allegations regarding manipulative, fraudulent or unfair practices during the course of such trading, mere trading in non-compliance with SEBI restraint directions does not ipso facto make such trades fraudulent or unfair trade practice as defined under the PFUTP Regulations.</u> I am therefore of the view that such trades can only be viewed as a non-compliance with the directions issued by SEBI.

114. In view of the same, I accept the contentions made on behalf of the Noticees <u>and hold that the charge of violation of the provisions of the (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 by the Noticees does not stand.</u>"

Noticee No. 05 – Adish Jain

Noticee submitted that he was adopting the submissions made on behalf of Noticee no. 4

Noticee No. 06 – Peeyush Jain

Noticee submitted that he was adopting the submissions made on behalf of Noticee no. 4

Noticee No. 7 - Stupendors

Noticee requested to take their reply dated July 27, 2020 before the Hon'ble WTM as their reply in the present SCN dated July 06, 2018.

1. Noticee is a Non-Banking Finance Company ('NBFC') duly registered with Reserve Bank of India.
2. Regarding the alleged connection with various related/connected entities, the Noticee denied any such connection except as follows,-
   i. Insofar as Sudhir Jain is concerned, it was submitted that he is a distant relative of their director Vicky Kothari.
   ii. During the Investigation Period they gave loan and advances to Beejay wherein Sudhir Jain was a Director and have received repayment of the same from time to time.
   iii. Noticee had regular financial dealings with various entities including Beejay and Neelanchal before the Investigation Period and also subsequent to the Investigation Period. They had given loan and advances to these entities, which were duly repaid. All such transactions were in the ordinary course.
3. Noticee has been carrying out such activities since their inception and till date they have provided financial assistance to about 220 entities (approx). The quantum of loan and advances and clients to whom such financial assistance was submitted and the same is reproduced below:

Financial Year	**2010-11**	**2011-12**	**2012-13**	**2013-14**	**2014-15**
Outstanding balances as at year end	16,47,92,675/-	69,60,99,441/-	32,91,08,783/-	18,67,13,325/-	24,26,47,414/-

No of entities	13	14	22	25	24

Movements of Funds:

4. based purely on movement of funds between the Noticee and Beejay, and the Noticee and Neelanchal.

5. With regards to movements of funds during the Investigation Period, it was submitted as under,-

Sl No.	Particulars	Beejay		Neelanchal	
		Debit Summation	**Credit Summation**	**Debit Summation**	**Credit Summation**
1.	Amount (Rs. in lacs)	19,069.00	15,311.85	12,890.70	11,451.85
2.	No. of Entries	279	224	166	146
3.	Value of impugned Transaction	1.25	923.00	865.00	1.60
4.	No. of entries for impugned Transaction	2	5	5	1

Note : Credit Summation represents repayment of Loans

Debit Summation represents disbursement of Loan

6. Based on the Table above, the following submissions were made on behalf of the Noticee -

i. A substantial sum of money was received from Beejay and Neelanchal and also advanced to Beejay and Neelanchal which has not been impugned in the Notice.

ii. The transaction Noticee had with Beejay and Neelanchal were in the ordinary course and not for the purpose as alleged.

7. The allegations that the Noticee acted as a conduit for the trades of the Debarred Entities are erroneous and totally misplaced.
8. It is not a case of SEBI that all payments received from Beejay were transferred to Neelanchal. At times, some part of the repayment of loan received from Beejay was utilized by Noticee to disburse loan to Neelanchal. Such transactions have been viewed adversely in the Notice. Such repayments from Beejay were in the ordinary course and disbursements of loan to Neelanchal were also in the ordinary course of NBFC business.
9. The trading done by Neelanchal, DDM and DDT was not on the Noticee's advice or behest.
10. Noticee reproduced the following para of order dated April 09, 2021 of Hon'ble WTM in respect of SCN dated October 10, 2018 with the similar facts and allegations narrated in SCN dated July 6, 2018 wherein Honorable WTM has held that noticees have not violated the provision of Regulations 3 (a), (b), (c), (d), and 4(1), of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 during the Investigation period:

    113. In this regard, I note that the SCN does not allege any manipulative or fraudulent trades done by the Trading Entities or employing any other unfair trade practice during the course of such trading The only charge that has been levelled in the SCN is that the Trading Entities and the Conduit Entities enabled the Debarred Entities to access the securities market in contravention of the SEBI directions. In this regard, <u>I find that in the absence any allegations regarding manipulative, fraudulent or unfair practices during the course of such trading, mere trading in non-compliance with SEBI restraint directions does not ipso facto make such trades fraudulent or unfair trade practice as defined under the PFUTP Regulations.</u> I am therefore of the view that such trades can only be viewed as a non-compliance with the directions issued by SEBI.

114. In view of the same, I accept the contentions made on behalf of the Noticees <u>and hold that the charge of violation of the provisions of the (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 by the Noticees does not stand.</u>"

Noticee 08 - Vicky Kothari

Adopted the reply submitted by Noticee No. 7.

Noticee 09 - Prativa Kothari

Adopted the reply submitted by Noticee No. 7.

Noticee No. 10– Flex Trade

1. With regard to the observations in the SCN relating to the alleged connection with various related/connected entities, the Noticee denied connection and submitted that Unrelated and unconnected entities have been grouped together based on mere surmises and conjectures to draw adverse inferences without any basis.
2. Noticee stated that following case laws in this regard:

Order passed by the Hon'ble Securities Appellate Tribunal in the matter of Mr. Babubhai Desai vs Securities and Exchange Board of India (SAT Order dated 15.02.2016, Appeal No. 81 of 2014) the Hon'ble Securities Appellate Tribunal has *inter alia* observed that:

"There has to be unambiguous and clear evidence in respect of the connection sought to be established among the ten appellants *by the learned adjudicating officer in the impugned order. The guilt or culpability of each of the appellants has to be analyzed and established separately before holding them guilty of forming an alleged group to manipulate the price . or volume zn a given case. Mere common landline number or that of the accountant of the appellants would not by itself convert certain entities into a group or concert who could have jointly traded in a* *design. It is a serious charge and hence cogent and convincing evidence is required to be brought on record before the said charge could be proved against the appellants".*

In HB Stockholdings Limited vs. Securities and Exchange Board of India (SAT Order dated 27.08.2013 Appeal No. 114 of 2012) the Hon'ble Securities Appellate Tribunal has *inter alia* observed that:

"In this connection, we may also pertinently note that the mere factum of one or two Appellants sharing common address or one of the Appellants being the promoter of the other group at some point in time are not in themselves sufficient to bring home the residual charge against the Appellants. There has to be sufficient evidence on record to clearly prove connivance on the part of the Appellants with a counter party to prove the charge in question against the Appellants. In the absence of any such evidence and unambiguous findings by the learned WTM to this effect, we have no option but to quash the impugned order in question."

3. With regard to the observations in the SCN regarding transfer of funds to Eversight and Neelanchal, it is submitted that same was in the ordinary course of their business.
4. It is further submitted that nothing has been brought on record to demonstrate as to how the Noticee was aware of the trading done by the Trading Entities or connected wth the stated brokers during the Investigation Period.
5. It is further submitted that Noticee has never indulged in any fraudulent practices the alleged violations.

Additional reply

6. Noticee reiterate and resubmit all that has been submitted vide its previous reply.

7. Noticee reproduced the following para of order dated April 09, 2021 of Hon'ble WTM in respect of SCN dated October 10, 2018 with the similar facts and allegations narrated in SCN dated July 6, 2018 wherein Honorable WTM has held that noticees have not

violated the provision of Regulations 3 (a), (b), (c), (d), and 4(1), of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 during the Investigation period:

113. In this regard, I note that the SCN does not allege any manipulative or fraudulent trades done by the Trading Entities or employing any other unfair trade practice during the course of such trading The only charge that has been levelled in the SCN is that the Trading Entities and the Conduit Entities enabled the Debarred Entities to access the securities market in contravention of the SEBI directions. In this regard, <u>I find that in the absence any allegations regarding manipulative, fraudulent or unfair practices during the course of such trading, mere trading in non-compliance with SEBI restraint directions does not ipso facto make such trades fraudulent or unfair trade practice as defined under the PFUTP Regulations.</u> I am therefore of the view that such trades can only be viewed as a non-compliance with the directions issued by SEBI.

114. In view of the same, I accept the contentions made on behalf of the Noticees <u>and hold that the charge of violation of the provisions of the (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 by the Noticees does not stand.</u>"

8. Noticees also reproduced the order dated 04.08.2021 in Appeal No. 530 of 2019 in the matter of Korp Securities Ltd. vs SEBI. Honorable SAT partly allowing the appeal of Korp Securities Ltd. held as under:

3. *It was contended that on the same charge and on the same issue proceedings were also initiated by the WTM and the WTM by its order dated April 30, 2021 has exonerated the appellant from this charge. The said order has become final. This fact has been brought on record by means of an additional affidavit which is not disputed by the respondent.*
4. *In view of the aforesaid, we are of the opinion that if another authority of SEBI has exonerated the appellant on the same issue, we do not see any reason why the order of penalty stipulated in paragraph No. 57(a) of the order of the AO should be allowed to stand.*

5. *In view of the aforesaid, the appeal is partly allowed. The penalty of Rs. 25 lac imposed for violation of Regulations 3 and 4 of the PFUTP Regulations is set aside.*

<u>Notice No. 16 – DDT</u>

1. Noticee submitted that they have been trading in the securities market for the past several years, even before the "investigation period" and that all their trades were in the ordinary course, devoid of any manipulative intent, based on their commercial wisdom and analysis and out of their own and borrowed funds.
2. All the trades during the Investigation period were on their own account. Noticee had placed orders for all such trades, contract notes were generated in their name, pay ins pay out obligation were made by them and they were the beneficial owner of all the securities purchased during the period. All the transactions and the resultants profit and losses were duly disclosed in their audited books and the resultant profit and loss were duly assessed to taxes.
3. Noticee has traded in securities market before the Investigation period, during the Investigation period and subsequently but it is only their trades during the investigation period i.e 01/09/2011 to 30/09/2012, that has been impugned in the "SCN". Thereby, it implies that all other trades before and after the Investigation period were bonafide, genuine and in the ordinary course.

Movement of funds:

4. All the transaction with Beejay were in the normal course. The funds received from the Debarred Entities i.e. Beejay were in the normal course of business mostly against receivables and not towards the impugned trades / transactions. In fact the said fund transactions with the Debarred Entities have no correlation/connection with their trades impugned in the SCN. Therefore, the said transactions in any event cannot be said to be in contravention of any directions/orders of SEBI.

5. It is further submitted that they had financial transaction with Beejay and Eversight even prior to June 04, 2009 i.e. prior to their debarments and all such transactions were in the ordinary course. Thus, nothing adverse is to be read into flow of funds to / from these

entities during the Investigation Period or at any point of time. The same were in the ordinary course of business.

Relationship with the Debarred Entities

6. With reference to SEBI's observation that the Noitcee and DDM shared common address and common directors, it was submitted that DDM was a company under the same management and that cannot be a ground for drawing any kind of an adverse inference.
7. There are no allegations in the SCN that any part of the Noticee’s payin was sourced from the Debarred Entities neither is there any allegation that any part of the payout was remitted to the Debarred Entities. Thus, the alleged movements of funds to / from the Debarred Entities were in the ordinary course.
8. Out of alleged sum of Rs. 13.62 crores received by the Noticee from the alleged Debarred Entities and Rs. 10.47 crores paid back to the alleged Debarred Entities during the Investigation Period, there is not a single instance that the same has been utilized for trading in securities market.

Computation of profits

9. Noticee incurred a loss of Rs. 43,09,749/- in respect of trades in Sezal Glass Ltd.. whereas SEBI has erroneously worked out profit of Rs.10.08.899/ - on BSE.
10. We had opening stock of the following scripts as on 31st August, 2011, which were sold during the period 01/09/2011 to 30/09/2012. Such shares were also acquired from NSE and BSE in the past. Noticee’s trading prior to 01/09/2011 has not been alleged to be on behalf of the Debarred Entities, therefore their sale of such shares during the period cannot be alleged to be on behalf of the Debarred Entities, and profit and loss from the said transaction cannot be alleged to be belonging to the Debarred Entities.

Working out of the Multiplier

11. Arguments similar to the arguments made by Noticee 1 and Noticee 4 was made in this regard.

Additional Submission

12. Noticee reiterate and resubmit all that has been submitted vide its previous reply.

13. Noticee reproduced the following para of order dated April 09, 2021 of Hon'ble WTM in respect of SCN dated October 10, 2018 with the similar facts and allegations narrated in SCN dated July 6, 2018 wherein Honorable WTM has held that noticees have not violated the provision of Regulations 3 (a), (b), (c), (d), and 4(1), of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 during the Investigation period:

113. In this regard, I note that the SCN does not allege any manipulative or fraudulent trades done by the Trading Entities or employing any other unfair trade practice during the course of such trading The only charge that has been levelled in the SCN is that the Trading Entities and the Conduit Entities enabled the Debarred Entities to access the securities market in contravention of the SEBI directions. In this regard, <u>I find that in the absence any allegations regarding manipulative, fraudulent or unfair practices during the course of such trading, mere trading in non-compliance with SEBI restraint directions does not ipso facto make such trades fraudulent or unfair trade practice as defined under the PFUTP Regulations.</u> I am therefore of the view that such trades can only be viewed as a non-compliance with the directions issued by SEBI.

114. In view of the same, I accept the contentions made on behalf of the Noticees <u>and hold that the charge of violation of the provisions of the (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 by the Noticees does not stand.</u>"

14. Noticees also reproduced the order dated 04.08.2021 in Appeal No. 530 of 2019 in the matter of Korp Securities Ltd. vs SEBI. Honorable SAT partly allowing the appeal of Korp Securities Ltd. held as under:

3. It was contended that on the same charge and on the same issue proceedings were also initiated by the WTM and the WTM by its order dated April 30, 2021 has exonerated the appellant from this charge. The said order has become final. This fact has been brought on record by means of an additional affidavit which is not disputed by the respondent.

4. *In view of the aforesaid, we are of the opinion that if another authority of SEBI has exonerated the appellant on the same issue, we do not see any reason why the order of penalty stipulated in paragraph No. 57(a) of the order of the AO should be allowed to stand.*
5. *In view of the aforesaid, the appeal is partly allowed. The penalty of Rs. 25 lac imposed for violation of Regulations 3 and 4 of the PFUTP Regulations is set aside*

Noticee No. 15 –DDM

Noticee made submissions on the same lines as Noticee No. 16 – DDT.

Noticee No. 17 – Debasis Mishra

Noticee is submitted that he was a director of DDT and DDM from April 01, 2009 to June 29, 2012. Noticee submitted that he was adopting the submissions made on behalf of DDT and DDM.

Noticee No. 18- Rajesh Kumar Agarwal

Noticee has submitted that he was a Director of DDT and DDM from April 01, 2011 to June 29, 2012. It is submitted that he is the brother of Mr. Sushil Kumar Agarwal, who was a Director of Korp in the past. Noticee also submitted that he and his brother, Mr. Sushil Kumar Agarval, are independent and have independent livelihood. Noticee submitted that he was adopting the submissions made on behalf of DDT and DDM.

Noticee No. 19- Kinkar Bhattacharya

Noticee is submitted that he was a director of DDT and DDM from March 30, 2012. Noticee submitted that he was adopting the submissions made on behalf of DDT and DDM.

Noticee No. 20-Sukanta Chatterjee

Noticee submitted that he was a director of DDT and DDM only from March 30,2012 onwards and therefore he was not a Director of the entities for a substantial part of the IP. Noticee submitted that he was adopting the submissions made on behalf of DDT and DDM.

13. I note from material available on record that Neelanchal vide email dated November 12, 2018 has stated that it has enclosed replies with the email and sent the hard copies of the same. However, I note that no replies were attached with the email dated November 12, 2018 and no hard copy of reply is available on record.in this regard, I would like to rely on the following reply made by Neelanchal and its directors before Hon'ble WTM in parallel 11 B proceedings in the matter with the same set of facts and allegations as in the instant AO proceedings.

Brief submission of Neelanchal and its directors as mentioned in order dated April 09, 2021:

1. Noticee is an entity which has been trading in the securities market as a part of its business.
2. Noticee had large funding arrangements with various persons / institutions with yearly borrowings going upto 300-500 crores. During the financial year 2010 -2011, the Noticee borrowed a sum of Rs. 237,68,27,398/-. During the financial year 2011 -2012 the Noticee borrowed a sum of Rs.564,66,04,236/- Even in the financial year 2012- 2013, the total borrowing during the year was Rs. 552,10,42,993/-.
3. The amount of funds borrowed by the Noticee from the Debarred Entities which are alleged to be traced to the securities market are less than 1% of the yearly borrowings of the Noticee.
4. There is no material to show that the Noticee was buying and selling for or on behalf of the Debarred Entities. On the contrary, the profits / losses in respect of the trades have been booked and offered for Tax in the I.T. Returns of the Noticee and the same have been assessed. The assessment was reopened due to the allegation made against the Noticee by SEBI that they had facilitated trades of the Debarred Entities. However, the reassessment was dropped after the Noticee was able to satisfy the Assessing Officer that no such case was made out.
5. The entire amount borrowed from Debarred Entities stood repaid.
6. The allegation of SEBI inter alia in paragraph 12 of the SCN that any part of the profits earned by the Noticee is attributable to the Debarred Entities is totally misconceived.

7. The holding details of the Noticee show that the Noticee in fact continued to hold substantial shares even after the entire borrowings were repaid.
8. The Show Cause Notice proceeds on an erroneous ratio arrived at in Table 9 and alleges that 49% of the alleged profits of the Noticee were attributable to the Debarred Entities.
9. It was submitted that while the Noticee denies that there is any correlation between the funds received and the investment in the market, even if one was to consider the figures in table 9 of the SCN, such figures would have to be corrected as follows:

Name of Stock Broker	**Amount received from trading**	**Fund transferred by debarred entities to trading entities that were**	**Amount transferred by debarred entities to**	**Multiplier**
A	**B**	**C**	**D**	
ABM	20,00,750	10,00,000	59,67,00,00	3.86*
Religare	1,75,30,43,133	14,08,00,000		
IIFL	2,50,35,04,156	14,54,00,000		
Korp	3,92,40,000	50,00,000		
MOSL	4,31,27,880	20,00,000		
JMFL	3,26,43,14,405	-		
GFSL	1,90,80,958	-		
Total	**7,62,43,11,282**	**29,42,00,000**		

*29,42,00,000 / 7,62,43,11,282/- * 100 = 3.86%

Noticee no. 13 & 14: Surendra Agarwala and Bhupendra Kumar Dhanuka
Noticees adopted the reply submitted by Neelanchal.

14. As hearing / inquiry in this matter is concluded, therefore, after taking into account the allegations, submissions of the Noticees, Orders of Hon'ble WTM in the matter and evidences / material available on record, I hereby proceed to decide the case on merit.

CONSIDERATION OF ISSUES AND FINDINGS

15. I have carefully perused the charges levelled against the Noticees, their reply and the documents / evidence available on record. The issues that arise for consideration in the present case are:

I. **Whether the Noticees have violated SEBI Orders (Directions) and SEBI Reg. 3(a),(b),(c),(d),4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003?**

II. **Does the violation, if any, attract monetary penalty under Section 15HB and 15HA of SEBI of Act, 1992?**

III. **If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act??**

ISSUE I: Whether the Noticees have violated SEBI Orders (Directions) and SEBI Reg. 3(a),(b),(c),(d),4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003?

16. I note from the replies of Noticees, wherein they have contended the connection between them. In this regard, I note that in the SCN, connection between Noticees was established on the basis of KYC documents, fund transfers, common address, common email id and bank statements, that the Noticees were connected to each other. The details of the same are given in para 10 (2) of this order. I also note that the ad-interim ex-parte Order dated June 16, 2016 and confirmatory order dated March 27, 2017 in the matter and order of Hon'ble WTM dated November 15, 2012 in the matter of Temptation Foods Limited, Confidence Petroleum India Limited, Cals Refineries Limited and Shree Precoated Steels

Limited (now known as Ajmera Realty & Infra India Limited has extensively dealt with the issue of connection among Noticees and has clearly brought out the connections between the Noticees except flex and its directors.

17. With respect to contention of Flex with respect to its connection with other entities, I note that, flex was included in the group of suspected entities because Ms. Rashmi jain was director in Beejay during the period 20/11/2004 to 17/12/2012 and a director of Flex during the period 15/01/2008 to 10/03/2015 and Flex has Common Address with Beejay, viz. 13 B.B Ganguly Street, 2nd Floor, Room No.205, Kolkata – 700012. Mr. Sudhir Jain, husband of Ms. Rashmi Jain and director of Beejay is the current director of Flex. I also note from the order of Hon’ble WTM dated November 15th, 2012 in the matter of Temptation Foods Limited, Confidence Petroleum India Limited, Cals Refineries Limited and Shree Precoated Steels Limited (now known as Ajmera Realty & Infra India Limited that, Mr. Sudhir was also director of Flex till October 14, 2009.

18. Further, from the Investigation Report and order of Hon’ble WTM dated June 16, 2016, March 27, 2017 and April 09, 2021(**Orders of Hon’ble WTM**). I note that there was significant fund transaction between the Debarred Entities and the conduit/Trading Entities. Thus, the Connection of the Noticees to other connected conduit/ Trading entities is also established on the basis of flow of funds amongst the entities as demonstrated in the table below. For example, it was noted during the investigation and in the orders of Hon’ble WTM that Beejay and Eversight had transferred a total amount of -

a. Rs. 17.78 crores to Neelanchal during the investigation period.

b. Rs. 29.79 crores to DDM during the investigation period

c. Rs. 12.49 crores to DDT during the investigation period.

19. In their replies, the Noticees had contended that, these transactions were in the nature of short term loans and advances done in the ordinary course of business and they cannot form the basis of any connection between the entities. However, I note that despite repeated requests by SEBI to provide documentary evidence to support the claim made

that the fund transfers were in the nature of loans or short term advances, the Noticees have till date failed to submit any proof to substantiate these claims. Regarding interest paid/received and collateral, no details were provided to SEBI despite being asked by SEBI. It is noted that several high value transactions were observed between the Noticees during the investigation period and in many cases multiple transactions were observed over the course of a single day. I find it inconceivable that unconnected entities would enter into such loan transactions with each other without any written agreement. Beejay, Neelanchal, Eversight and Stupendors are NBFCs registered with the RBI. The main business of commercial NBFCs is borrowing/lending funds. One of the main revenues of NBFCs accrues from the Net Interest spread (which is the difference in borrowing and lending rates). It is highly unlikely that an NBFC being a commercial entity enters into a business transaction without any collateral and/or interest and that too for funds worth crores of rupees on regular basis and on certain occasions having multiple transactions on a single day.

20. It is highly unlikely that entities would enter into dealings worth huge sums in multiple transactions with one another without proper documentation specifying the terms & conditions including interest, collateral, etc. unless the entities are closely connected and/or are hand-in-glove with one another. Thus, in view of the aforesaid and Failure of the Noticees in providing specific details and documents relating to the said fund transfers or production of any satisfactory material/documents to dispute the inferences regarding their relationship /connection despite granting them multiple opportunities by SEBI gives further credence to the inference drawn from the connections listed out in para 10 (2) and connection of Flex with Beejay and its directors that these entities were acting as a group and were connected to each other. I, therefore, find no merit in the contentions of the Noticees and judgments relied upon by Flex in this regard.

21. With respect to fund transactions between debarred entities, conduit entities and trading entities, I note from the investigation report and orders of Hon'ble WTM that, the fund flows between these entities were not significant prior to the Investigation Period; however, during the investigation period, after the SEBI passed the restraint order against

the Debarred Entities, significant fund flows were observed between these entities. It was further observed during the investigation that a portion of the funds that were directly or indirectly transferred to the Trading Entities was transferred by the said entities to stockbrokers thereby enabling the Debarred Entities to indirectly access the securities market circumventing the orders passed by SEBI. A few instances of such fund flows were listed out in the SCN and the same is reproduced in paragraph 10 (3) of this order.

22. It is further noted that, the total fund transactions of the Noticees DDM, DDT & Neelanchal with Shri Sudhir, Beejay and Eversight, as per the submissions made by DDM, DDT & Neelanchal are as follows:

<table>
<tr><th>Name of Entity</th><th>Name of debarred entity</th><th>Amount received from debarred entity</th><th>Amount transferred to debarred entity</th></tr>
<tr><td rowspan="2">DDM (vide letter dated December 08, 2017)</td><td>Eversight</td><td>85,00,000</td><td>-</td></tr>
<tr><td>Beejay</td><td>2,48,200,000</td><td>12,56,50,000</td></tr>
<tr><td>DDT (vide letter dated December 08, 2017)</td><td>Beejay</td><td>13,62,00,000</td><td>10,47,00,000</td></tr>
<tr><td rowspan="3">Neelanchal (vide letter dated February 27, 2017)</td><td>Eversight</td><td>19,93,00,000</td><td>7,90,00,000</td></tr>
<tr><td>Beejay</td><td>30,00,000</td><td>30,00,000</td></tr>
<tr><td>Sudhir</td><td>15,00,000</td><td>15,00,000</td></tr>
<tr><td colspan="2">Total</td><td>59,67,00,000</td><td>31,38,50,000</td></tr>
</table>

23. I note that during Investigation Period the total number of instances of fund flow from Beejay & Eversight to the Noticees DDM, DDT & Neelanchal were 120 for a total amount of Rs. 59,67,00,000/- out of which, in 35 instances for a total amount of Rs. 29,42,00,000/-

, the said funds were observed to have been transferred to stock brokers as pay-in. The details of such transfers by the Debarred Entities to the stock brokers are given in the table below,

Name of Stock Broker	**Amount received from entities trading in the stock exchange (in Rs.)**	**Funds transferred by debarred entities to the entities trading in the stock exchange that were traced to stock brokers (in Rs.)**	**Amount transferred by the debarred entities to the entities trading in the stock exchange(in Rs.)**
A	**B**	**C**	**D**
ABM	20,00,750	10,00,000	59,67,00,000/-
MSBPL	0	0	
Religare	1,75,30,43,133	14,08,00,000	
JMFL	32,64,31,44,05	0	
IIFL	20,99,67,148	14,54,00,000	
Korp	3,92,40,000	50,00,000	
GFSL	1,90,80,958	0	
MOSL	4,31,27,880	20,00,000	
Total	**5,33,07,74,274**	**29,42,00,000**	

24. I further note that, the Noticees, viz. Rajesh Agarwal, Kinkar Bhattacharya and Sukanta Chatterjee submitted that they were not directors of the DDT and DDM for a substantial part of the investigation period. In this regard, I note from the Confirmatory Order dated March 27, 2017 that similar contentions were raised by them at that stage also and the same was not accepted by Hon'ble WTM. In this regard, I agree with the findings recorded in the Confirmatory Order dated March 27, 2017, that, "*it is settled position of law that the directors, during their tenure, are responsible and liable for the conduct of the business of the company and therefore cannot exclude themselves from the liabilities arising out of the activities of the Company merely by claiming that they were not directors for the entire period during which the violations were observed by SEBI*."

25. I note that the SCN has also alleged the violation of PFUTP regulations by Noticees for creating a misleading appearance of trading in the securities market. Thus, in this regard, I note that, there is no evidence to suggest employment of any device or scheme or artifice by trading entities to defraud or induce any person to trade in the scrip or to indulge in market manipulation. Further, there is no material on record to suggest that any single transaction done by them as structured/circular /reversal trades with regard to the allegation of misleading appearance in the securities market. Also, it cannot be inferred that such trades executed by trading entities created a false and misleading appearance of trading or have any impact on the price/volume of the scrips. In view of the said facts, the allegation of misleading appearance of trading in the securities market by them is not sustainable merely on the basis of fund transfers among Noticees. Thus, in the absence of any allegations regarding manipulative, fraudulent or unfair practices during the course of such trading, mere trading done by trading entities from the funds received directly/indirectly from debarred entities does not ipso facto make such trades fraudulent or unfair trade practice as defined under the PFUTP Regulations and in my view such trades can only be viewed as Violation of the directions issued by SEBI vide orders dated Jan 19, 2010 and Jan 25, 2010 (Order dt Jan 19, 2010 pertained to Noticee no. 1&2 and Order dt Jan 25, 2010 pertained to Noticee No. 4). Thus, in view of the same, I accept the contentions made on behalf of the Noticees and hold that the charge of violation of the provisions of the (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 by the Noticees does not stand established.

26. However, there is no iota of doubt that, the conduct of the entities as mentioned in pre paras and interim and confirmatory orders demonstrates an element of co-operation amongst themselves leading to the conclusion that they had colluded with an objective of facilitating trading in the securities market by the debarred entities in violation to the prohibition imposed on them vide SEBI Orders dated January 19, 2010 and January 25, 2010.

27. I note that vide SEBI order January 19 and 25, 2010, Beejay, Sudhir and Eversight were debarred from accessing the securities market and further prohibited from buying selling or dealing in securities in any manner whatsoever. In my view, in order to circumvent the said directions, these debarred entities used the connected conduit entities / Trading entities namely Stupendors Traders Private Limited, Flex Trade Pvt Ltd, Neelanchal Mercantile Private Limited, Divyadrishti Merchants Private Ltd and Divyadrishti Traders Private Ltd to trade. This is nothing but indirectly dealing in securities in contravention to the SEBI direction and conduit and trading entities allowed themselves to be used by the debarred entities.

28. Since, it is a settled position of law that the directors, during their tenure, are responsible and liable for the conduct of the day to day affairs and business of the company and therefore cannot exclude themselves from the liabilities arising out of the activities of the Company.

29. Thus, in view of the aforesaid, I conclude that:

    a) Debarred entities viz. Beejay Investment & Financial Consultants Private Ltd and its Directors Shri Sudhir Jain and Ms Rashmi Jain and Eversight Tradecomm Private Limited and its Directors Shri Adish Jain and Shri Peeyush Jain had indirectly traded in securities during the prohibition period by transfer of funds to conduit/trading entities thereby violated directions mentioned in SEBI Order dated January 19, 2010 and January 25, 2010.

    b) The Noticees viz. Neelanchal Mercantile Private Limited and its Directors, Shri Surendra Agarwala, Shri Bhupendra Kumar Dhanuka, Divyadrishti Merchants Private Ltd and Divyadrishti Traders Private Ltd and their Directors Shri Debasis Mishra, Shri Rajesh Kumar Agarwal, Shri Kinkar Bhattacharya and Shri Sukanta Chatterjee who were connected to the debarred Noticees facilitated debarred Noticees, viz. Beejay Investment & Financial Consultants Private Ltd & Eversight Tradecomm Private Limited to trade in contravention of SEBI Orders dated

January 19, 2010 & January 25, 2010 thereby violated SEBI Orders(directions) dated January 19, 2010 & January 25, 2010.

c) The Noticees viz Stupendors Traders Private Limited and its Directors Shri Vicky Kothari, Ms Prativa Kothari and Flex Trade Pvt Ltd and its Directors Shri Manish Agarwal and Smt Rashmi Jain who were also connected to the debarred Noticees, acted as conduits in transferring funds from the debarred Noticees to the Noticees facilitating trades of the debarred Noticees and thereby violated SEBI Orders dated January 19, 2010 & January 25, 2010.

ISSUE II: Does the violation, if any, attract monetary penalty under Section 15HB and 15HA of SEBI Act, 1992?

30. Since the charge of violation of the provisions of the (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 by the Noticees does not stand established. thus, it doesnot attract monetary penalty under 15HA of SEBI Act, 1992.

31. However, in view of the foregoing, it is concluded that the Noticees namely, Beejay Investment & Financial Consultants Private Ltd and its Directors Shri Sudhir Jain and Ms Rashmi Jain, Eversight Tradecomm Private Limited and its Directors Shri Adish Jain and Shri Peeyush Jain, Neelanchal Mercantile Private Limited and its Directors, Shri Surendra Agarwala, Shri Bhupendra Kumar Dhanuka, Divyadrishti Merchants Private Ltd and Divyadrishti Traders Private Ltd and their Directors Shri Debasis Mishra, Shri Rajesh Kumar Agarwal, Shri Kinkar Bhattacharya and Shri Sukanta Chatterjee, Stupendors Traders Private Limited and its Directors Shri Vicky Kothari, Ms Prativa Kothari and Flex Trade Pvt Ltd and its Directors Shri Manish Agarwal and Smt Rashmi Jain have violated the directions issued by SEBI vide orders dated Jan 19, 2010 and Jan 25, 2010 (Order dt Jan 19, 2010 pertained to entities at S.No.1-2 and Order dt Jan 25, 2010 pertained to entity at S.No.4).

32. Thus, referring to the judgment in the matter of *SEBI vs. Shriram Ram Mutual Fund 2006 SCL 216(SC)*, wherein Hon'ble Supreme Court held that; "*In our opinion, mens rea is not*

an essential ingredient for contravention of the provisions of a civil act. In our view, the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial. In other words, the breach of a civil obligation which attracts penalty under the provisions of an Act would immediately attract the levy of penalty irrespective of the fact whether the contravention was made by the defaulter with any guilty intention or not. We also further held that unless the language of the statute indicates the need to establish the presence of mens rea, it is wholly unnecessary to ascertain whether such a violation was intentional or not."

33. In light of violation of directions issued by SEBI vide orders dated Jan 19, 2010 and Jan 25, 2010 (Order dt Jan 19, 2010 pertained to entities at S.No.1-2 and Order dt Jan 25, 2010 pertained to entity at S.No.4) as established, it is a fit case to impose penalty under 15HB of the SEBI Act, which reads as under:

Section 15HB of SEBI Act.

Penalty for contravention where no separate penalty has been provided.

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

Issue No. III: If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

34. While determining the quantum of penalty under section 15 HB of the SEBI Act, it is important to consider the factors relevantly as stipulated in section 15J of the SEBI Act which read as under: -

Section 15J -Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15, 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.

35. On the basis of the material available on record, I have taken a note of the fact that Hon'ble WTM vide order dated April 09, 2021 has directed Noticees to jointly and severally disgorge an amount of Rs. 3,30,26,842/-. However, extent of loss suffered by the investors as a result of the violation of directions of SEBI Orders dated January 10, 2010 (pertaining to Beejay) and January 25, 2010 (pertaining to Eversight) is not available on record. I note that Noticees have blatantly violated the directions given by SEBI. Besides, non-adherence by Noticees to the regulatory directions is found to be repetitive in nature. I am of the view that the entities violating SEBI order / directions issued by SEBI seriously compromise the regulatory framework and such acts are detrimental to the interest of the investors in the securities market as also mentioned in the order dated January 19, 2010. The interest of the investors and the orderly development of the securities market requires that perpetrators of such activities should be suitably penalized. Such stark defiance displayed by the Noticees towards regulatory directions cannot be viewed lightly. violation of directions of SEBI Orders dated January 19, 2010 (pertaining to Beejay and Sudhir) and January 25, 2010 (pertaining to Eversight) have jeopardized the interests of the gullible investors. Therefore, the Noticees must be visited with imposition of appropriate penalty for such defiance displayed by them towards the regulatory directions issued by SEBI.

36. Considering the respective roles and active involvement of the Noticees by financing during the relevant period in fraudulent manner to indirectly trade in securities market through conduits and trading entities and also involvement of conduits and trading entities aiding the debarred entities, no lenient view can be taken. However, the fact that Noticees

have already been debarred from accessing securities market for certain periods vide SEBI orders dated June 16, 2016 and March 27, 2017 and direction of disgorgement of ill-gotten gains issued to Noticees is being considered as a mitigating factor in the present proceedings.

37. At the same time, the quantum of penalty has to be adjudged by also taking into account the role played by respective Noticees and the repetitive act as found in this case and principle of proportionality.

ORDER

38. After taking into consideration the nature and gravity of the charges established and reply of Noticees as discussed in the preceding paragraphs, I in exercise of the powers conferred upon me under 15 I of SEBI Act read with Rule 5 of the AO Adjudication Rules, 2005, hereby impose a penalty of Rs. 50,00,000/ - (Rupees Fifty Lakhs Only) jointly and severally on the Noticees in terms of 15HB of SEBI Act for Violation of the directions issued by SEBI vide orders dated Jan 19, 2010 and Jan 25, 2010 (Order dt Jan 19, 2010 pertained to Noticee No.1 & 4 and Order dt Jan 25, 2010 pertained to Noticee No.4)

PENALTY PAYMENT OPTIONS

39. The amount of penalty(ies) shall be paid either by way of demand draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or by online payment through following path at SEBI website www.sebi.gov.in, ENFORCEMENT → Orders → Orders of AO → Click on PAY NOW or at link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html. In case of any difficulties in payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in.

40. The said demand draft and its details or details of online payments made (in the format as given in table below) should be forwarded to "The Division Chief (Enforcement Department-1-DRA-4), the Securities and Exchange Board of India, SEBI Bhavan II, Plot No. C7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051."

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)	

41. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, for realization of the said amount of penalty along with interest thereon, *inter alia,* by attachment and sale of movable and immovable properties.

42. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this Order is sent to the Noticees and also to the Securities and Exchange Board of India.

Date : May 31, 2022 **Vijayant Kumar Verma**

Place : Mumbai **Adjudicating Officer**