



भारतीय प्रतिभूति  
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Securities and Exchange  
Board of India

CHIEF GENERAL MANAGER &  
ADJUDICATING OFFICER

Through Speed Post AD

SEBI/HO/DSR/JR/3375/2/2022  
January 27, 2022

|    |                                                                                                                                                  |    |                                                                                                                              |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------|----|------------------------------------------------------------------------------------------------------------------------------|
| 1. | Vitan Agro Industries Limited<br>(PAN: AAACC1353K)<br>D/ 29, N.G. Park Building,<br>No. 2 CHS Ltd., Rawal Pada,<br>Dahisar East<br>Mumbai 400068 | 2. | Dinanath Shyamsundar<br>(PAN: BKXPS1638G)<br>Adars Apts, Flat 4, Ground Floor,<br>No. 67 Vepery High Road,<br>Chennai 600007 |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------|----|------------------------------------------------------------------------------------------------------------------------------|

Notice under Rule 4(1) of SEBI (Procedure for Holding Inquiry and imposing penalties) Rules, 1995 and Rule 4(1) of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 in the matter of preferential allotment of shares by Vitan Agro Industries Limited

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") vide communique dated September 2, 2021 (**Annexure 1**) appointed the undersigned as the Adjudicating Officer under Section 19 read with Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**the Rules**") and under section 23I of Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "**SCRA**") read with Rule 3 of the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as "**SCR Rules**") to inquire into and adjudicate into the alleged violations of provisions of SEBI Act, SCRA, SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"), erstwhile Listing Agreement [which is now SEBI (Listing Obligations and Disclosure

*In the matter of Vitan Agro Industries Limited*

Page 1 of 17

सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051.  
दूरभाष : 2644 9950 / 4045 9950 (आई.वी.आर. एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in

SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051.  
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अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

Requirements) Regulations, 2015 (hereinafter referred to as “**LODR Regulations**”)] by Vitan Agro Industries Limited (hereinafter referred to as “**VIAL**”/ “**company**”) and its whole time director Dinanath Shyamsunder during the period January 18, 2014 to May 31, 2014.

- It is observed that the company passed the resolution in extra ordinary general meeting held on January 18, 2014 for issuing 84,60,000 equity shares of Rs 10 each and at a premium of Rs 5 on a preferential basis (**Annexure 2**). However, the Board of Directors of the company on February 14, 2014 allotted 40,10,000 equity shares of Rs.10/- each at a premium of Rs.5/- per share aggregating Rs 6.01 crores during the IP (**Annexure 3**).

Details of preferential issue

| Sr. No | Date of allotment | No. of allottees* | No of shares | Issue Price (in Rs) | Issue Proceeds (in Rs) |
|--------|-------------------|-------------------|--------------|---------------------|------------------------|
| 1      | February 14, 2014 | 26                | 4010000      | 15                  | 6,01,50,000/-          |

- The objects of the preferential issue of shares as presented to the shareholders in the notice of EGM dated December 23, 2013 (**Annexure 4**) was as:

*“The purpose of the issue is to achieve long term plans of the company and to meet the funding requirements including ongoing capital expenditure. With this inflow of capital, the Company will augment its financial position”*

- Company has received the payment w.r.t. the preferential allotment in its bank account in Vijaya Bank (A/C No. 300500301000576). The payment details of 26 allottees are placed at **Annexure 5**.
- SEBI vide email dated January 18, 2019 sought details of utilization of preferential issue from the VAIL. The company vide email dated February 01, 2019 (**Annexure 6**) submitted the details with respect to fund utilization from the proceeds of preferential issue:

Details of the Fund utilized from proceeds of preferential issue as stated by company

| S.No. | Name of Party                   | Date       | Amount    | Remark |
|-------|---------------------------------|------------|-----------|--------|
| 1     | Laurus Textiles Private Limited | 14/02/2014 | 52,00,000 | Loan   |
| 2     | Voilet Infra Trading (P) Ltd    | 14/02/2014 | 8,00,000  | Loan   |



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

| S.No. | Name of Party                      | Date       | Amount             | Remark                   |
|-------|------------------------------------|------------|--------------------|--------------------------|
| 3     | Haripriya Buildcon Private Limited | 15/02/2014 | 30,00,000          | Loan                     |
| 4     | Haripriya Buildcon Private Limited | 17/02/2014 | 26,00,000          | Loan                     |
| 5     | Salsar Multitrade Private Limited  | 17/02/2014 | 25,00,000          | Loan                     |
| 6     | Carewell industries Limited        | 14/02/2014 | 1,00,00,000        | Stock Advance            |
| 7     | Radhasoami Resources Limited       | 14/02/2014 | 2,50,00,000        | Loan to NBFC on interest |
| 8     | Gajanan Enterprises                | 14/02/2014 | 85,50,000          | Shares Purchased         |
| 9     | Radhasoami Resources Limited       | 14/02/2014 | 25,00,000          | Loan to NBFC on interest |
|       | <b>Total</b>                       |            | <b>6,01,50,000</b> |                          |

6. The company also inter-alia submitted to SEBI:

*“ the company do not wish to get in to NBFC Segment but is utilizing the aforementioned segment for utilizing for gain, the surplus funds available with the company to maintain a reasonable return to the investors. It is the general practice of industry to plan any capital infusion in the company keeping in view both the short -term and long term plans of company. It is a prudent management’s policy to deploy the funds available judiciously and thus earns a reasonable return on investments till the long term objectives of the company do not materialize. From the above clarification it is evident that the company has utilized proceeds from preferential issue in line with on -going business activities of the company in conformity with the objects of issue as stated in the notice of EGM and line with the business object of MOA “*

7. Further, SEBI vide email dated July 31, 2019 sought documentary evidences for the fund utilization submitted by company. VAIL vide letter dated August 01, 2019 submitted copy of ledger account (**Annexure 7**) and copy of Loan agreements entered in with the following parties. (**Annexure 8**)

1. Radhasoami Resources Ltd
2. Salasar Multitrade Private Limited
3. Laurus Textiles Private Limited
4. Voilet Infra Trading (P) Ltd
5. Haripriya Buildcon Private Limited



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

8. Company provided the copy of bank statement highlighting the transfer of Rs. 1 Crore to Carewell Industries Ltd but failed to provide proof for the purpose stated i.e. as advance for purchasing inventory. Moreover, Carewell Industries Ltd cancelled the order on February 22, 2014 and assured the refund of advance by March 31, 2014 (**Annexure 9**).
9. The Bank statements of VAIL viz Vijaya Bank (now Bank of Baroda) A/c no 300500301000576 (**Annexure 10**) was analysed to check the utilization of preferential allotment proceeds by VAIL. It was observed that the company has transferred the major proceeds of the preferential issue to the 7 entities as given below:

Details of funds transferred by VAIL to various entities:

| S.No | Name of Entity                     | Date of Transfer | Amount Transferred (Rs.) |
|------|------------------------------------|------------------|--------------------------|
| 1    | Carewell industries Limited        | 14/02/2014       | 10000000                 |
| 2    | Radhasoami Resources Ltd           | 14/02/2014       | 25000000                 |
| 3    | Radhasoami Resources Ltd           | 15/02/2014       | 2500000                  |
| 4    | Laurus Textiles Private Limited    | 14/02/2014       | 5200000                  |
| 5    | Gajanan Enterprises                | 14/02/2014       | 5500000                  |
| 6    | Gajanan Enterprises                | 14/02/2014       | 4500000                  |
| 7    | Voilet Infra Trading (P) Ltd       | 14/02/2014       | 800000                   |
| 8    | Haripriya Buildcon Private Limited | 15/02/2014       | 3000000                  |
| 9    | Haripriya Buildcon Private Limited | 17/02/2014       | 2600000                  |
| 10   | Salasar Multitrade Private Limited | 17/02/2014       | 2500000                  |
|      | <b>Total</b>                       |                  | <b>61600000</b>          |

10. Upon analysis of the company's replies, bank statements of the company, it is observed that the preferential issue proceeds were utilized by VAIL in the following manner:

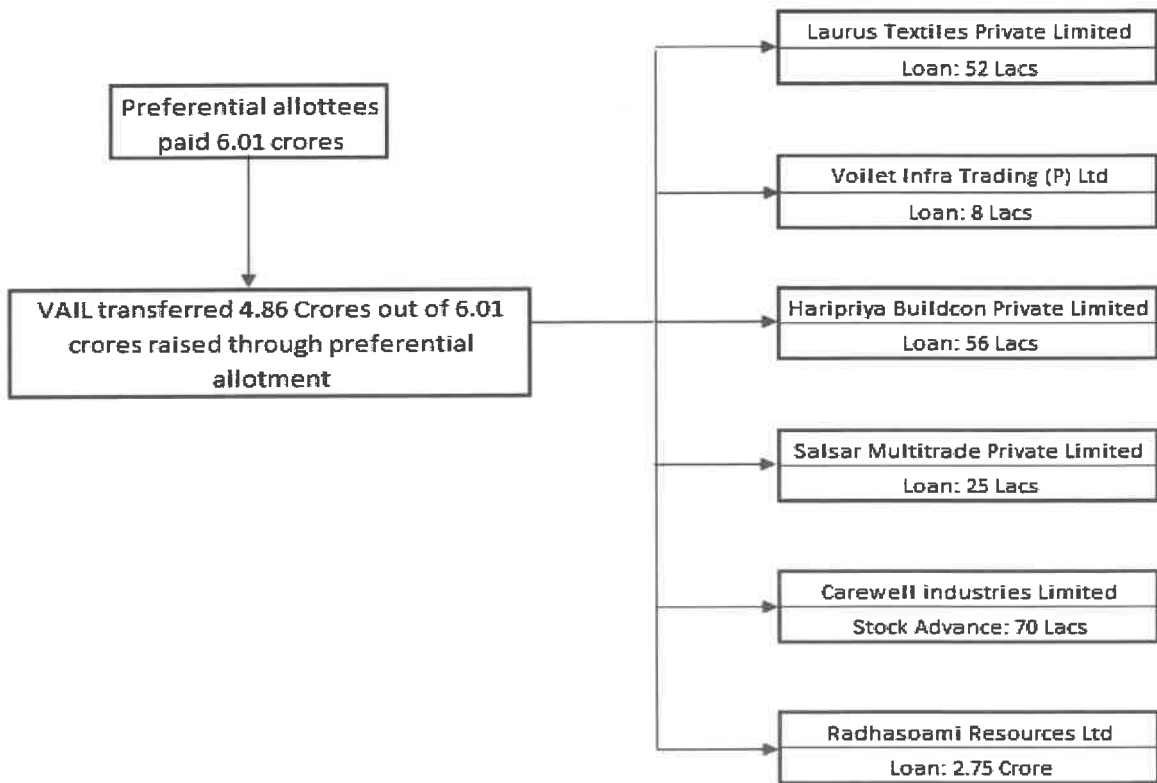
- Issue proceeds of Rs 4.86 crores used for giving Loans & Advances
- Issue proceeds of Rs 1.3 crore used for purchase of shares



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

11. The detailed analysis and observations on the transfer of issue proceeds by the company and their utilization and return or non-return, as the case may be, by the entities are as under:



12. VAIL has submitted that, out of the preferential issue proceeds of Rs 6.01 crores, 4.16 crores were transferred as loans & advances to 5 entities i.e. Laurus Textiles Private Limited, Voilet Infra Trading (P) Ltd, Haripriya Buildcon Private Limited, Salsar Multitrade Private Limited, Radhasoami Resources Limited. Further, it has transferred Rs 1 crore to Carewell Industries Limited as advance for purchasing the inventory.



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

13. Based on the available documents such as loan agreements submitted by VAIL and bank statements of VAIL, transactions with aforesaid 5 entities are summarized as under:

**Loan Summary**

| S.No | Name of Borrower                   | Loan amount as per agreement<br>(Date of loan agreement) | Interest Payable p.a. | Term of Loan |
|------|------------------------------------|----------------------------------------------------------|-----------------------|--------------|
| 1    | Laurus Textiles Private Limited    | Rs 52 Lacs<br>(13/02/2014)                               | 12%                   | 3 years      |
| 2    | Voilet Infra Trading (P) Ltd       | Rs 8 Lacs<br>(12/02/2014)                                | 12%                   | 3 years      |
| 3    | Haripriya Buildcon Private Limited | Rs 56 Lacs<br>(13/02/2014)                               | 12%                   | 3 years      |
| 4    | Salasar Multitrade Private Limited | Rs 25 Lacs<br>(15/02/2014)                               | 12%                   | 3 years      |
| 5    | Radhasoami Resources Limited       | Rs 2.75 Crore<br>(13/02/2014)                            | 10%                   | 3 years      |

**14. Detailed analysis of VAIL's transaction with 6 entities is as under:**

- Laurus Textiles Private Limited (LTPL):** VAIL vide its email dated February 01, 2019 to SEBI accepted that on receipt of preferential allotment money, VAIL transferred Rs 52 Lacs on February 14, 2014 to LTPL as "Loan". On perusal of the loan agreement executed between VAIL and LTPL, it was observed that LTPL had borrowed Rs 52 Lacs from VAIL towards financing working capital requirements of the Business at interest rate of 12% p.a. for a period of 3 years. The loan agreement was signed by Dinanath Shyamsundar, Director on behalf of VAIL. On further analysis of the bank statements of LTPL, it is observed that LTPL transferred 20 Lacs to Kamtanath Syn and 32 Lacs to Triveni Enterprises Ltd. Further, it is observed that funds were not transferred back from LTPL to VAIL or its promoters and directors. On analysis of bank statement of VAIL, it is observed that there was no transfer of funds into the VAIL bank account (A/c No. 300500301000576) from the loanee after the end of 3 years till December 31, 2017.
- Voilet Infra Trading (P) Ltd (VITL):** VAIL vide its email dated February 01, 2019 to SEBI accepted that on receipt of preferential allotment money, VAIL transferred Rs 8 Lacs on February 14, 2014 to VITL as "Loan". On perusal of the loan agreement executed between VAIL and VITL, it was observed



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

that VITL had borrowed Rs 8 Lacs from VAIL towards financing working capital requirements at interest rate of 12% p.a. for a period of 3 years. The loan agreement was signed by Dinanath Shyam Sundar, Director on behalf of VAIL. On further analysis of the bank statements of VITL, it is observed that VITL transferred 8 Lacs to Triveni Enterprises Ltd. Further, it is observed that funds were not transferred back from VITL to VAIL or its promoters and directors. On analysis of bank statement of VAIL, it is observed that there was no transfer of funds into the VAIL bank account (A/c No. 300500301000576) from the loanee after the end of 3 years till December 31, 2017.

- iii. **Hari Priya Buildcon Private Limited (HBPL):** VAIL vide its email dated February 01, 2019 to SEBI accepted that on receipt of preferential allotment money, VAIL transferred Rs 56 Lacs in total on February 15 & 17, 2014 to HBPL as "Loan". On perusal of the loan agreement executed between VAIL and HBPL, it was observed that HBPL had borrowed Rs 56 Lacs from VAIL towards financing working capital requirements of the Business at interest rate of 12% p.a. for a period of 3 years. The loan agreements were signed by Dinanath Shyam Sundar, Director on behalf of VAIL. On further analysis of the bank statements of HBPL, it is observed that HBPL transferred 30 Lacs to Mody Enterprises and 26.65 Lacs to Kunti Enterprise. Further, it is observed that funds were not transferred back from HBPL to VAIL or its promoters and directors. On analysis of bank statement of VAIL, it is observed that there was no transfer of funds into the VAIL bank account (A/c No. 300500301000576) from the loanee after the end of 3 years till December 31, 2017.
- iv. **Salasar Multitrade Private Limited (SMPL):** VAIL vide its email dated February 01, 2019 to SEBI accepted that on receipt of preferential allotment money, VAIL transferred Rs 25 Lacs on February 17, 2014 to SMPL as "Loan". On perusal of the loan agreement executed between VAIL and SMPL, it was observed that SMPL had borrowed Rs 25 Lacs from VAIL towards financing working capital requirements of the Business at interest rate of 12% p.a. for a period of 3 years. The loan agreement was signed by Dinanath Shyam Sundar, Director on behalf of VAIL. On further analysis of the bank statements of SMPL, it is observed that SMPL had not transferred the amount received as loan from VAIL to any other entity in next 6 months. On analysis of bank statement of VAIL, it is observed that there was no



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

transfer of funds into the VAIL bank account (A/c No. 300500301000576) from the loanee after the end of 3 years till December 31, 2017.

- v. **Radhasoami Resources Ltd (RRL):** VAIL vide its email dated February 01, 2019 to SEBI accepted that on receipt of preferential allotment money, it transferred Rs 2.75 Crores in total on February 14 & 15, 2014 to RRL as "Loan". On perusal of the loan agreement executed between VAIL and RRL, it was observed that RRL had borrowed Rs 2.75 Crores from VAIL towards financing working capital requirements of the Business at interest rate of 10% p.a. for a period of 3 years. The loan agreement was signed by Dinanath Shyam Sundar, Director on behalf of VAIL. On further analysis of the bank statements of RRL, it is observed that RRL had transferred funds to several entities. These transfers were made out of the amount received as loan from VAIL. Further, it is observed that funds were not transferred back to promoters and directors of VAIL. On analysis of bank statement of VAIL, it is observed that loan amount of 2.75 crore was not transferred back to VAIL bank account (A/c No. 300500301000576) from the loanee after the end of 3 years till December 31, 2017.
- vi. **Carewell industries Limited:** VAIL vide its email dated February 01, 2019 to SEBI accepted that on receipt of preferential allotment money, it transferred Rs 1 Crore on February 14, 2014 to Carewell industries Limited as advance for purchase of inventory. However, when SEBI vide letter dated August 1, 2019 sought documentary evidence, VAIL failed to provide proof for the stated purpose i.e. order of Rs 1 crore for purchasing inventory. Based on the documents submitted by VAIL, it is observed that Carewell Industries limited had cancelled the order on February 22, 2014 and assured refund of advance by March 31, 2014. It is also observed that VAIL had bought 2 Lac shares (total amount 30 Lacs) of Carewell Industries limited on March 11, 2014 (**Annexure 11**).

15. On perusal of loan agreements, copies of which were provided by the company, following is observed:

- The agreement of loans were executed on letter head of Vitan Agro Industries Ltd. Though signed by both parties, they were not executed on stamp paper, not notarized and not registered, not dated thus raising doubts about the legal validity and scope of enforcing the agreement.
- No collateral was secured for the loans provided.



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

16. As per loan agreements, all loans had the time period of 3 years calculated from the sanction date and interest to be paid together with the capital sum of the loan at the end of the loan period. However, it is observed that there was no transfer of funds into the VAIL bank account (A/c No. 300500301000576) from the loanees after the end of 3 years till December 31, 2017.
17. As observed from the above analysis, out of the preferential issue proceeds of Rs 6.01 crores, total amount of Rs 4.16 Crores (i.e. approx. 69% of total funds) was transferred by VAIL to 5 entities as "loan". It is also observed that VAIL vide its letter dated February 04, 2016 to BSE (**Annexure 12**) inter-alia stated  
*"Our prime line of business is agro based products & our growth rate is at a reasonable phase from year to year....  
...We are engaged in to the business of trading of Pulses, Spices, Edible Oil  
...We also own chain of Vegetarian Restaurants under our Subsidiary Amirdam Food Pvt Ltd.  
...Our Future Business Modules as under: We wish to enlarge our Restaurant base through India and be a leading chain of Restaurants.  
...Further, we are also devising strategies to start Quick Service Restaurants or Food on Wheels where by entering the segment of packed Foods/meals to tap the potential of the busy working class population..."*
18. Further, VAIL in the Information Memorandum submitted to BSE for direct listing on Exchange Platform (**Annexure 13**) inter-alia stated *"Our prime matter of business is agro based products. Our vision is to be a global player in Agro and Food industry by running successful Speciality Stores strategic business with forward and backward integration plans. We are engaged in to the business of trading of Pulses, Grains, Spices, Edible Oil, Agarbattis and Agro based fast moving consumer goods and have plans to open/launch Speciality Stores pan India. Company also has plans to venture in to the industry of delivering packed Tiffin's/Lunches to MNC's Educational Institutions, IT Hubs etc. on contract basis."*
19. The objects of the preferential issue of shares as presented to the shareholders in notice for extra ordinary general meeting of members of the company held on January 18, 2014 were:



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

"to achieve long term plans of the company and to meet the funding requirements including ongoing capital expenditure. With this inflow of the capital the company will augments its financial positions."

20. Thus, in view of the above and documents available it is alleged that lending money and purchasing of Shares of private limited companies is neither the core activity of the company nor the object or purpose of the preferential issue made by the company.

21. The company had transferred a sum of Rs 1 Crore to Gajanan Enterprises out of the preferential issue proceeds of Rs 6.01 crores to purchase shares of RKKR Holding Private Limited, Siddarth Mercantile Private Limited, Ultra Veneers & Boards Private Limited and Sheet N Blank Private Limited. SEBI vide summon dated June 30, 2021 (**Annexure 14**) sought details and copy of share certificates from VAIL w.r.t. shares purchased through Gajanan Enterprises. However, VAIL has not provided the required information. (**Annexure 15**).

22. Further, it is observed that after cancellation of order for purchase of inventory by Carewell Industries Ltd, VAIL had purchased shares of Carewell for Rs 30 Lacs on February 14, 2014 (**Annexure 16**)

Summary of shares purchased from proceeds of preferential allotment

| S.No | Name of Company of which Shares purchased | Number of shares | Rate | Total Amount(in Rs) |
|------|-------------------------------------------|------------------|------|---------------------|
| 1    | RKKR Holding Private Limited              | 30000            | 100  | 3000000             |
| 2    | Siddarth Mercantile Private Limited       | 62500            | 40   | 2500000             |
| 3    | Ultra Veneers & Boards Private Limited    | 50000            | 30   | 1500000             |
| 4    | Sheet N Blank Private Limited             | 30000            | 100  | 3000000             |
| 5    | Carewell industries Limited               | 200000           | 15   | 3000000             |
|      | Total                                     |                  |      | 13000000            |

23. As can be observed from the above analysis, out of the preferential issue proceeds of Rs 6.01 crores, total amount of Rs 1.30 Crores (i.e. approx. 22% of total funds) was transferred by VAIL to 2 entities viz Gajanan Enterprises, Carewell Industries Limited for purchasing shares of private limited companies which was neither the

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अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

core activity of the company nor the object or purpose of the preferential issue made by the company.

24. As per the Notice dated December 23, 2013 given to shareholders for Extra Ordinary General Meeting on January 18, 2014 and the resolution passed, the funds raised by preferential allotment of shares shall be utilized to achieve long term plans of the company and to meet the funding requirements including ongoing capital expenditure. With this inflow of the capital the company will augment its financial positions.
25. Based on replies received from company, it was observed that 69% of the proceeds of preferential allotment were utilized for disbursement of loans (3 years) without any legally binding document, without any collateral which a listed company is reasonably expected to do in the interest of the shareholders. It has also utilized 22% of the proceeds for purchasing shares of private limited companies which was not the object of the preferential allotment. Thus, the object of the issue as presented to shareholders were not true and the company misled the shareholders and which influenced the decision of the investors.
26. In view of the above, it is alleged that VAIL has violated regulations 3(a)(b)(c)(d), 4(1), 4(2)(f), 4(2)(k) & 4(2)(r) of PFUTP Regulations r/w Section 12A (a)(b)(c) of SEBI Act.
27. A company is a legal entity and as such, it cannot act by itself, but only through its directors who are expected to exercise their power on behalf of the company with due diligence and within the framework of law. It was observed that Dinanath Shyamsundar was in the board of the company from the date of passing of board resolution for issue of preferential shares i.e. January 18, 2014 to the date when the preferential allotment money of Rs 6.01 crores was fully utilized i.e. February 17, 2014.
28. As per the Notice dated December 23, 2013 given to shareholders for Extra Ordinary General Meeting and the resolution passed by VAIL, the funds raised by preferential allotment of shares shall be utilized to achieve long term plans of the company and to meet the funding requirements including ongoing capital



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
*Securities and Exchange  
Board of India*

expenditure. With this inflow of the capital the company will augments its financial positions.

29. The Notice to Extra Ordinary General Meeting had the signature of Dinanath Shyamsundar, Director of VAIL. Company vide email dated July 23, 2021 was asked to share the Minutes of Board Meeting held on January 18, 2014 but it didn't provide the same. Minutes of Board meeting held on January 18, 2014 are not available on MCA website but as per Annual report 2014 available on bseindia.com, Dinanath Shyamsundar is Whole Time Director and member of the Audit Committee (**Annexure 17**). Moreover, Dinanath Shyamsundar has executed all the loan agreements on behalf of VAIL for disbursing loans to 5 entities i.e. Laurus Textiles Private Limited, Voilet Infra Trading (P) Ltd, Haripriya Buildcon Private Limited, Salsar Multitrade Private Limited, Radhasoami Resources Limited.
30. KYC for Bank account 300500301000576 was sought from bank and it was found that Dinanath Shyamsundar and Kokila Gangan were the authorized signatories of the Bank account (**Annexure 18**) through which loan amount was disbursed and money was transferred to purchase shares.
31. In view of the above, it is alleged that the fraudulent act of deviating and misutilising the preferential issue proceeds were done by VAIL with the knowledge of its director Mr. Dinanath Syamsundar. Thus, Mr. Dinanath Shyamsundar violated Regulation 3 (a), (b), (c), (d), 4 (1), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations r/w Section 12A (a),(b),(c) of the SEBI Act.
32. VAIL was listed on the Madras Stock Exchange (hereinafter referred to as "MSE") and Delhi Stock Exchange (hereinafter referred to as "DSE") at the time of preferential allotment dated February 14, 2014. Thereafter, VAIL was listed on BSE w.e.f. July 16, 2014. The company has ratified the resolution for utilization of funds raised through preferential issue dated February 14, 2014 by way of passing resolution in Extra-Ordinary General Meeting held on January 18, 2014. The extent to which the deviation had been made such as giving loans and purchase of shares of private limited companies should have been disclosed to MSE and DSE, on a quarterly basis, as per Clause 43 of the listing agreement.
33. Although MSE and DSE have exited the stock exchange business, efforts were made to gather information from them in respect of compliance by VAIL to Clause



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
**Securities and Exchange  
Board of India**

43 of the erstwhile Listing Agreement. However, they failed to provide the required information.

34. **With regard to** disclosure under Clause 43 of the listing agreement r/w Section 21 of SCRA, BSE vide SCN dated August 16, 2016 asked the VAIL regarding the disclosure under Clause 43 of listing agreement requirement and in response to the same VAIL vide its reply letter dated August 23, 2016 inter-alia replied “the company has utilized proceeds from preferential issue in line with on-going business activities of the company, in conformity with the objects of the issue as stated in the Notice convening EGM and line with the business Objects of Memorandum of Association and your allegation for not following Clause 43 of erstwhile listing agreement is wrong.”
35. BSE vide email dated July 26, 2021 also confirmed to SEBI that exchange is not in receipt of any disclosure/announcement indicating the variation between projected utilization and actual utilization of funds raised through preferential allotment issue. (Annexure 19). In view of the above, it is concluded that the company did not utilize the funds raised from preferential allotment of shares for the purposes for which it has approved in the EGM and it has not furnished the statement to the exchange indicating the variations between projected and actual utilization of funds.
36. In view of the above, it is alleged that VAIL violated Clause 43 of the Listing Agreement (which is now regulation 32 of LODR Regulations) r/w Section 21 of SCRA.
37. The relevant provisions of law allegedly violated by the company and Dinanath Shyamsunder are reproduced as under:

**Relevant provisions of PFUTP Regulation:**

- 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



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

- 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:—*
- (f) *Publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities.*
- (k) *An advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors.*
- (r) *Planting false or misleading news which may induce sale or purchase of securities.*

**Relevant provisions of SEBI Act:**

***Prohibition of manipulative and deceptive devices***

*12A. No person shall directly or indirectly—*

- (a) *use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;*
- (b) *employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognized stock exchange;*
- (c) *engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which*



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

*are listed or proposed to be listed on a recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;*

**Relevant provisions of LODR**

**32. Statement of deviation(s) or variation(s).**

*(1) The listed entity shall submit to the stock exchange the following statement(s) on a quarterly basis for public issue, rights issue, preferential issue etc. :-*

*(a) indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable;*  
*(b) indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilisation of funds made by it in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilisation of funds.*

*(2) The statement(s) specified in sub-regulation (1), shall be continued to be given till such time the issue proceeds have been fully utilised or the purpose for which these proceeds were raised has been achieved.*

*(3) The statement(s) specified in sub-regulation (1), shall be placed before the audit committee for review and after such review, shall be submitted to the stock exchange(s).*

*(4) The listed entity shall furnish an explanation for the variation specified in sub-regulation (1), in the directors' report in the annual report.*

*(5) The listed entity shall prepare an annual statement of funds utilized for purposes other than those stated in the offer document/prospectus/notice, certified by the statutory auditors of the listed entity, and place it before the audit committee till such time the full money raised through the issue has been fully utilized.*

*(6) Where the listed entity has appointed a monitoring agency to monitor utilisation of proceeds of a public or rights issue, the listed entity shall submit to the stock exchange(s) any comments or report received from the monitoring agency 158[within forty-five days from the end of each quarter].*

*(7) Where the listed entity has appointed a monitoring agency to monitor the utilisation of proceeds of a public or rights issue, the monitoring report of such agency shall be placed before the audit committee on an annual basis, promptly upon its receipt. Explanation,— 159[For the purpose of sub-regulations (6) and (7), "monitoring agency" shall mean the monitoring agency as specified in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.]*



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

(8) For the purpose of this regulation, any reference to “quarterly/quarter” in case of listed entity which have listed their specified securities on SME Exchange shall respectively be read as “half yearly/half year”.

38. The above allegation, if proved, make the Dinanath Shyamsunder liable for penalty under section 15HA of SEBI Act and the company liable under section 15HA of SEBI Act and section 23E of SCRA which reads as under:

***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 twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.

***Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.***

***23E.*** If a company or any person managing collective investment scheme or mutual fund 123[or real estate investment trust or infrastructure investment trust or alternative investment fund], fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.

39. You are advised to submit reply, if any, to the undersigned, at the address given below as well as through email at “dsr@sebi.gov.in” in MS Word/ MS Excel Format, within 14 days from the date of the receipt of this notice, failing which it shall be presumed that they have no reply to submit and the matter would be further proceeded ex – parte. You may also indicate whether you desire a personal hearing in the matter.

**Securities and Exchange Board of India**  
SEBI Bhavan- II, Plot No. C-7, ‘G’ Block,  
Bandra Kurla Complex, Bandra (East)  
**Mumbai – 400 051**

40. You are advised to provide copy of PAN and email id and also to keep the undersigned informed about the change in correspondence address, if any, till the

proceedings are complete.

41. You may also note that a settlement mechanism is provided under the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018. If you wish to avail the benefit of the settlement process, you may also apply for the same in the manner provided in the said regulations under intimation to the undersigned.



**D SURA REDDY**  
**Chief General Manager &**  
**Adjudicating Officer**

**Annexures:**

1. Copy of communique dated September 2, 2021
2. Copy of the extract of Extra Ordinary General Meeting dated January 18, 2014
3. Copy of the extract of Meeting of Board of Directors dated February 14, 2014
4. Copy of Notice dated December 23, 2013 of Extra Ordinary General Meeting dated January 18, 2014
5. Copy of payment details of 26 allottees
6. Copy of email dated February 1, 2019
7. Copy of ledger account
8. Copy of Loan Agreement
9. Copy of transactions with Carewell Industries Limited
10. Copy of Bank Statement of VAIL
11. Copy of allotment of 2,00,000 shares
12. Copy of letter dated February 4, 2016
13. Copy of Information Memorandum for listing of VAIL
14. Copy of summons dated June 30, 2021
15. Proof of delivery of summons
16. Copy of shares of Carewell purchased by VAIL
17. Copy of Annual Report 2013-14
18. Copy of email from bank showing the authorized signatories
19. Copy of email from BSE dated July 26, 2021