BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/GG/VP/2021-22/15609-15620

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

In respect of:

Noticee No.	Name of the Entities	Pan No. of the entities
1	Voltaire Leasing Finance Ltd	AAACV1794R
2	Mr. Amalesh Sadhu	BEZPS8956R
3	Mr. Harivallabh Mundhra	AAAPM8378D
4	Mr. Manish Baid	ADWPB8817D
5	Mr. Samir Baid	AEIPB5692K
6	Ms. Saroj Baid	AEDPB3177Q
7	Mr. Inder Chand Baid	ACXPB4769Q
8	Khoobsurat Limited	AABCK0685K
9	Delineate Traders Private Limited	AAECD1878J
10	Timelink Sales Private Limited	AAECT1504F
11	Arihant Multi Commercial Limited	AAACS6039G
12	Tanaya Vincom Private Limited	AADCT8361K

In the matter of Voltaire Leasing and Finance Limited

A. BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an investigation of draft offer document with respect to open offer received on 12.02.2014 for acquisition of 10,70,680 (26%) equity shares of face value of Rs. 10 each of fully paid up equity shares of Voltaire Leasing and Finance Limited (hereinafter referred to as "**Noticee No. 1/ VLFL/ The Company**") by Dilip Rajkumar Patodia (Acquirer) and Siddhivinayak

Broking Ltd (PAC) at a price of Rs. 50/- per share in terms of the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as SAST Regulations, 2011 wherein it was observed from the shareholding buildup of promoters that the shareholding of the seller promoter Ms. Madhuri O Damani ('Madhuri'/'Promoter') had significantly reduced from 74.04% on March 31, 2011 to 9.32% on March 25, 2013. The preferential allotments were made by Noticee No. 1 on November 22, 2012 (14,60,000 shares, 35.45% of total shareholding) and March 13, 2013 (13,18,000 shares, 32.01% of total shareholding) and August 03, 2013 (9,40,000 shares, 22.83% of total shareholding), hence, the period between November 22, 2012 and August 03, 2013 was taken as investigation period (hereinafter referred to as the "**Investigation Period**"**).**

2. The investigation revealed that VLFL, Noticee No. 1 has funded the preferential allotments made to Noticee Nos. 9 (Delineate) and 10 (Timelink) through Noticee Nos. 11 and 12 (Arihant & Tanaya); and funded the preferential allotments made to Noticees No. 4 - 7 (the four members of the Baid family) through Noticee No. 8 Khoobsurat; leading to allegations that VLFL and Noticee Nos. 4 -12 had violated the provisions of Sections 12A (a), (b), (c) of the SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of the PFUTP Regulations. For the aforesaid act of VLFL, its non-independent directors at the relevant period of the preferential allotment *viz.* Mr. Amlesh Sadhu (Noticee No. 2) and Mr. Harivallabh Mundra (Noticee No. 3) were responsible for the act of the Company and thus, alleged to have violated Sections 12A (a), (b), (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d) and 4(1) of the SEBI (Prohibition of Fruadulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **PFUTP Regulations**). With respect to analysis of acquisition of shares of VLFL through Persons Acting in Concert (hereinafter referred to as '**PAC**"), it was observed that VLFL has funded the preferential allotment made to Noticee Nos. 4 to 7 (Baid family) through Noticee No. 8 Khoobsurat and the preferential allotments made to Noticee

Nos. 9 & 10 through Noticee Nos. 11 to 12, and thus, all these Noticees were acting as PACs. The total holding of all these Noticees as PACs adds upto 15.83% in VLFL. Since Noticee Nos. 4 to 7 (Baid family) failed to provide any disclosures to BSE, they were alleged to have violated Regulations 29(1) and 29(3) of the SAST Regulations.

B. APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed Shri Amit Pradhan, Chief General Manager as Adjudicating Officer vide Order dated 11.02.2020. Since Shri Amit Pradhan, Chief General Manager proceeded on deputation, SEBI appointed Shri Prasanta Mahapatra, Chief General Manger as Adjudicating Officer vide order dated 18.06.2021 and subsequently, SEBI appointed me, as the Adjudicating Officer under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the “SEBI Act”) read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the “SEBI Adjudication Rules”) vide order dated November 12, 2021 to inquire into and adjudge under section 15A(b) and/ or 15HA of the SEBI Act, against the Noticees for the alleged violations referred above.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

4. A show cause notice dated 23.07.2020 (hereinafter referred to as “SCN”) was issued against the Noticees under rule 4(1) of the SEBI Adjudication Rules to show cause as to why an inquiry should not be initiated against them and why penalty should not be imposed against them under section 15A(b) and/ or section 15HA of the SEBI Act, as applicable, for the alleged violation of the provisions of Regulations 29(1) read with 29(3) of the SAST Regulations and/ or Sections 12A (a), (b), (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d) and 4(1) of the PFUTP Regulations.

5. The facts leading to above violations by the Noticees are as under:- In the course of investigation conducted by SEBI for the matters relating to funding by the company to preferential allottees, following was observed as under:

a. VLFL was incorporated on September 03, 1984 with the Registrar of Companies, Maharashtra at Mumbai. The main object of the Company is to carry on the business of finance and trading, hire purchase, leasing and to finance leasing operations of all kinds, purchasing, selling, hiring or letting on hire all kinds of plant & machinery and equipment. VLFL is currently involved in financing activities which are proprietary in nature. (Source: Company website - http://www.volfltd.com, Bloomberg).

b. During the investigation period, the board of directors of the Company were as under:

Table No : 1

DIN/PAN	Name	Designation	Appointment Date	Cessation Date
00235198/ BEZPS8956R	Amlesh Sadhu	Managing Director	03-Sept-2012	13-Apr-2015
00434785/ AAAPM8378D	Harivallabh Mundra	Director	21-Jun-1990	26-Sept-2014
00239377/ AMEPM2160M	Nirmal Kr. Manna	Director	29-Oct-2012	27-Aug-2018
00502216/ AEMPM4922K	Shreevallabh Mundra	Independent Director	17-Feb-1994	26-Sept-2014

Source: MCA/Annual Reports of the company/Company's Reply dated March 7, 2019.

c. The shareholding pattern of the Company during the quarter September, 2012 to December, 2013 is given below:

Table No: 2

Particulars	Quarter ended Sep, 2012			Quarter ended Dec, 2012			Quarter ended Mar, 2013		
	No. of share holders	No. of shares	%	No. of share holders	No. of shares	%	No. of share holders	No. of shares	%
Promoter Holding	1	296150	74.04	1	296150	15.92	1	16150	0.51
Non Promoter Holding	78	103850	25.96	123	1563850	84.08	417	3161850	99.49
Total share capital	79	400000	100	124	1860000	100	418	3178000	100
Particulars	**Quarter ended June, 2013**			**Quarter ended Sep, 2013**			**Quarter ended Dec, 2013**		
	No. of share holders	**No. of shares**	**%**	**No. of share holders**	**No. of shares**	**%**	**No. of share holders**	**No. of shares**	**%**
Promoter Holding	1	16150	0.51	1	16150	0.39	1	16150	0.39
Non Promoter Holding	481	3161850	99.49	548	4101850	99.61	602	4101850	99.61
Total share capital	482	3178000	100	549	4118000	100	603	4118000	100

d. The details of promoters' shareholding during the quarter beginning from September, 2012 and ending in December, 2013 is given below:

Table No: 3

Name	Sep 30, 2012		Dec 31, 2012		Mar 31, 2013	
Ms. Madhuri Omprakash Damani	**Shares in nos.**	**Holding in %**	**Shares in nos.**	**Holding in %**	**Shares in nos.**	**Holding in %**
	2,96,150	74.04	2,96,150	15.92	16,150	0.51
	June 30, 2013		**Sep 30, 2013**		**Dec 31, 2013**	
	Shares in nos.	**Holding in %**	**Shares in nos.**	**Holding in %**	**Shares in nos.**	**Holding in %**
	16,150	0.51	16,150	0.39	16,150	0.39

e. It was observed that shareholding of promoter, Ms. Madhuri Damani reduced from 74.04% on September, 2012 to 15.92% in December, 2012. It was also observed that the number of shares held by the promoter remained the same during the aforementioned period i.e. 2,96,150 shares. It was further observed that the promoter shareholding reduced from 15.92% on December, 2012 to 0.51% in March, 2013. Also, the promoter shareholding reduced from 15.92% to 9.32% on March 13, 2013 due to preferential allotment on March 13, 2013 by the Company. Thereafter, it was observed that the shareholding of the promoter, Ms. Madhuri Damani further reduced from 9.32% to 6.02%, from 6.02% to 2.24% and from 2.24% to 0.51% during March, 2013 due to sale of shares by Ms. Madhuri on March 25, 2013, March 26, 2013 and March 28, 2013, respectively.

f. BSE vide emails dated February 27, 2019, March 20, 2019, March 22, 2019, April 23, 2019 and April 30, 2019 informed that, Ms. Madhuri Damani has provided the disclosures with respect to sale of its shares of the Company under Regulation 13(6) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred as "PIT Regulations") within the required time.

6. As per notices available on BSE website, the following 3 preferential allotment of shares were made by the Company to non-promoter entities: -

A. 14,60,000 equity shares of Rs.10/- each for cash were issued at a premium of Rs. 40/- on November 22, 2012.
B. 13,18,000 equity shares of Rs.10/- each for cash were issued at a premium of Rs. 40/- on March 13, 2013 to non-promoters on preferential basis.
C. 9,40,000 equity shares of Rs. 10/- each for cash were issued at a premium of Rs. 40/- per share on August 3, 2013.

7. In order to investigate the matter of funding of preferential allottees by the Company, bank statements of following bank account(s) were examined by the investigation team to ascertain the fund flow from the Company to the allottees:

A. Bank account(s) of the Company, in which the amounts were credited from the 118 preferential allottees;
B. Bank account(s) of the 118 preferential allottees from which the amounts were debited for the aforesaid preferential allotments; and

C. the Bank account(s) of other entities from which the preferential allottees had received funds, if any.

8. The bank statements of the top three/ five entities to whom VLFL had transferred the funds, after each preferential allotment was analyzed. On analysis of the same, it was observed that VLFL has received Rs. 7.30 Cr from the first preferential allotment (i.e. on November 22, 2012 - from October 31, 2012 – November 21, 2012), Rs. 6.59 Cr from the second preferential allotment (i.e. on March 13, 2013 - from February 28, 2013-March 13, 2013) and Rs.4.70 cr from the third preferential allotment (i.e. on August 3, 2013 - from July 26, 2013- August 3, 2013). To check whether any funds, have in turn been transferred from VLFL to the preferential allottees, and the entities to whom the funds were transferred by VLFL after receipt of money towards the preferential allotments were examined and the observations are elaborated in the coming paragraphs.

9. It was observed that the Company had transferred Rs. 6.57 Cr out of the Rs. 6.59 Cr (i.e. preferential allotment proceed of the second preferential allotment) to following entities:

Table No. 4

S.No.	Entities	Amount (in Rs. Crore)	Date of transfer
a	Tanaya Vincom Pvt Ltd	0.95	14/03/2013
b	Arihant Multi Commercial Limited	1.02	14/03/2013
c	Khoobsurat Ltd.	1.60	14/03/2013
d	Moonview Vintrade Private Limited*	1.00	N.A
e	Startree Dealcom Private Limited*	2.00	N.A.
Total		**6.57**	

* No adverse findings were observed against the Moonview Vintrade Private Limited and Startree Dealcom Private Limited w.r.t. aforesaid fund transfer.

D. Allegation of Fund Transfers and Non-disclosure of PACs

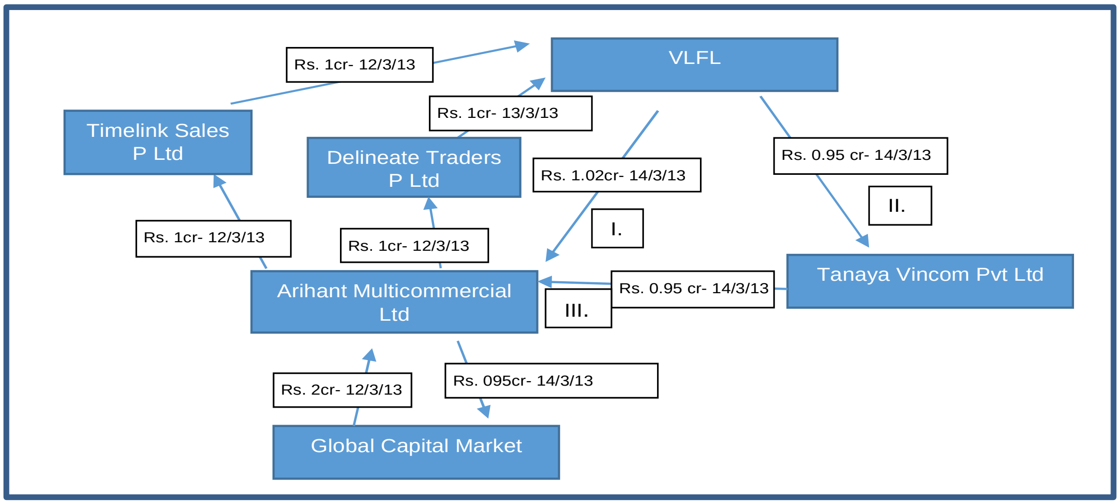
10. Based on the fund transfers, the investigation identified 2 main chains of fund transfers, linking VLFL with certain conduits who have funded the allotees to subscribe to the preferential allotment. Two such fund transfer chains are being analysed and discussed hereunder in Part-I, to the extent the transfers bear a nexus to the preferential allotment. Part-II deals with the disclosure violations that were brought to light by the investigation:

10.1. Part-I-A. **Fund transfer from VLFL to conduits Tanaya and Arihant (Noticee Nos. 11&12)**

10.1.1. The first chain of fund transfer being analysed is from VLFL to two allottees namely, Noticee Nos. 9 and 10 (Delineate Trader Private Limited and Timelink Sales Private Limited) through alleged conduits Noticee Nos.11 and 12 (i.e. Tanaya Vincom Private Limited and Arihant Multi Commercial Limited). It was observed that VLFL transferred Rs. 0.95 crs to Tanaya Vincom Pvt Ltd. (Noticee No. 12) on March 14, 2013, a day after the preferential allotment. In turn, Tanaya Vincom Pvt Ltd transferred Rs. 0.95 cr to Arihant Multicommercial Ltd. (Noticee No. 11) on the same date i.e. 14.03.2013, Arihant had transferred Rs. 0.95 cr to one Global Capital Market on March 14, 2013. Likewise, it was observed that VLFL separately transferred Rs. 1.02 crs to Noticee No. 11 (Arihant) on March 14, 2013.

10.1.2. It was further observed that Arihant had transferred funds, 1 crore each, to the allottees Delineate Traders Private Limited - Noticee No. 9 and Timelink Sales Private Limited- Noticee No. 10 on March 12, 2013, a day before the preferential allotment. It was also seen that Global Capital Market had transferred Rs. 2 crore to Arihant on March 12, 2013. The flow of funds between VLFL, the allottees (Noticees Nos. 9 and 10), Noticee No. 11, Noticee No. 12, as well as Global Capital Market along with the dates is pictorially represented below:

Figure 1

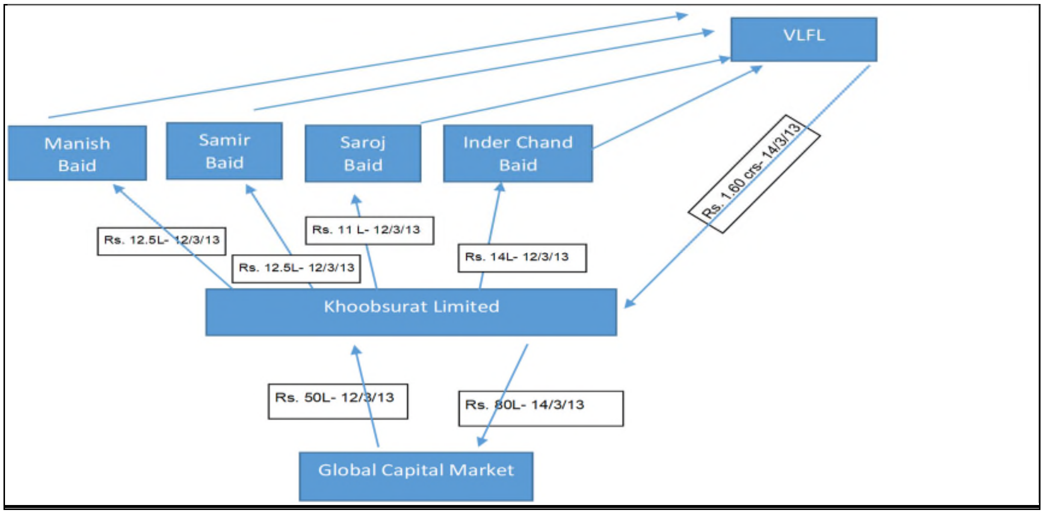


10.2. Part-1.B **Fund transfer from VLFL to conduit Noticee No. 8 (Khoobsurat Limited)**

10.2.1. The Second chain of Fund transfers observed was from VLFL to Noticee Nos. 4 to 7, namely Manish Baid, Samir Baid, Saroj Baid, Inder Chand Baid through conduit Noticee No.8 – Khubsoorat limited. It was observed that VLFL transferred Rs. 1.60 crore to Noticee No. 8 Khoobsurat Ltd. in three transactions on March 14, 2013.

10.2.2. It was observed that Noticee No. 8 amongst several other entities had transferred funds to the tune of Rs 50 Lakh aggregate to Mr. Manish Baid (Noticee No. 4), Mr. Samir Baid (Noticee No. 5), Ms. Saroj Baid (Noticee No. 6) and Mr. Inder Chand Baid (Noticee No. 7) on March 12, 2013. It was also observed that Global Capital Market had transferred Rs. 0.50 crore to Noticee No. 8 on March 12, 2013. It was further observed that Noticee No. 7 was one of the directors in Global Capital Market. The flow of funds along with the dates between VLFL, the allottees (Noticees No. 4 to 7), Noticee No. 8 as well as Global Capital Market is pictorially represented below:

Figure 2



Based on the fund transfers as shown in Figures-I and II above, investigation was done to ascertain VLFL's role in the fund transfer and the role of the conduits/ allottees. The role of each of the entity is elaborated under each issue for purpose of adjudication and the issues are identified below;

11. Issues:

A. Fund Transfers -

(i) Whether the fund transfers done by VLFL to Noticee Nos. 8, 11 and 12 on 14/03/2013 show that it financed its own preferential allotments?

(ii) Whether Noticee No.8, acted as a conduit to fund the subscription money to Noticee Nos. 4 to 7 as one group;

(iii) Whether Noticee Nos. 11 and 12 acted as conduits to transfer funds to Noticee Nos. 9 and 10 separately for subscribing to preferential allotment.?

(iv) Whether the subscribers - Noticee Nos. 4 to 7 as a group and the Noticee Nos. 9 and 10 are bona fide subscribers?

(v) If any of the above issue is answered in the affirmative, whether it constitutes a violation of the provisions of sections

12A (a), (b,) (c) of the SEBI Act read with Regulations 3 (a) to (d) and 4(1) of the SEBI PFUTP Regulations?

(vi) If yes, whether the Directors of VLFL viz Amalesh Sadhu, the Managing Director of VLFL and Harivallabh Mundra, Director of VLFL can be held vicariously responsible for the acts of VLFL, which resulted in the violation of the provisions of SEBI PFUTP Regulations.

B. Disclosure violations:

Whether Noticee Nos. 4 to 7 acted as PACs and had acquired 15.83% shares of VLFL in the preferential allotment and was in violation of Regulations 29(1) and 29(3) of the SAST Regulations? If yes, whether the Noticees are liable for monetary penalty under section 15A (b) of SEBI Act and what should be the quantum? Disclosure violations?

12. Issue-A- Nature of fund transfers done by VLFL to Noticee Nos. 8, 11 and 12 (the conduits).

Based on the fund transfers as shown in Figures-I and II above, investigation was done to ascertain VLFL's role in the fund transfer and the role of the conduits. For ease of understanding, aforesaid transactions have been divided into four parts i.e.,

(i) Fund transfer of Rs 1.02 cr between VLFL and Arihant (Noticee No: 11-conduit) on 14.03.2013,

(ii) Fund transfer of Rs 0.95 cr between VLFL and Tanaya Vincom Pvt. Ltd (Noticee No.12,-conduit), on 14.03.2013,

(iii) Fund transfer of Rs 0.95 cr between Noticee No. 12 (Tanaya) and Noticee No. 11 (Arihant) on 14.03.2013,

(iv) Fund transfer of Rs 1.60 Cr. between VLFL to Khoobsurat Limited (Noticee No.8 - conduit) on 14.03.2013.

Each part is further sub-divided into 2 parts dealing with (A) Facts and Observations of Investigation and (B) Reply of Noticees concerned; After elaboration and analysis of each of the aforesaid transfers (i) to (iv), it is concluded with Common Findings on the nature of the fund transfers in Para Nos. 13 to 26 herein.

12(i) Fund transfer of Rs 1.02 cr between VLFL and Arihant (Noticee No: 11-conduit)

12(i)(A)-Facts and Observations of Investigation:

12(i)(A).1 In order to ascertain whether VLFL has funded the transactions of the aforementioned allottees i.e. Noticee Nos. 9 (Delineate) and 10 (Timelink), details of the nature of the transaction dated March 14, 2013 and documentary evidence, with respect to the fund transfer of Rs 1.02 crore from VLFL to Noticee No. 11 Arihant, were sought from VLFL vide email dated March 15, 2018 and reminder email dated March 20, 2018. VLFL, vide email dated March 20, 2018, stated that it had received money in advance from Noticee No. 11 Arihant towards purchase of certain shares but as the deal could not be executed the same was returned to Noticee No. 11 Arihant. VLFL also stated that it had received payment of Rs. 1.00 crore from Noticee No. 11 (Arihant) on February 02, 2013 and Rs 0.02 crore on February 06, 2013, which was refunded to Noticee No. 11 Arihant on March 14, 2013. However, the investigation noted that VLFL had not submitted any document in support of its claim.

12(i)(A).2 Subsequently, vide email dated March 20, 2018, VLFL was once again advised to submit documents to support the contention that Noticee No. 11 (Arihant) had transferred advance amounts to purchase shares and to explain the relationship between VLFL and Noticee No. 11 Arihant. Vide email dated March 21, 2018, VLFL stated that the transactions made by Arihant were in the capacity of its client and it was trying to execute a deal for the acquisition of equity shares of an unlisted company. The money was paid by Arihant as advance so that the deal can be honoured in a timely and efficient manner, but after prolonged negotiations the deal could not be pulled off and they refunded the money to them on March 14, 2013. VLFL also enclosed the bank statement highlighting the payments received from Noticee No. 11 Arihant.

12(i)(A).3 In order to verify the same, bank account statement of VLFL was examined by the investigation wherein it was observed that VLFL had received Rs 1.00 crore and Rs 0.02 crore from Noticee No. 11 Arihant (Earlier known as Lifeline Druges & Pharma Limited) on February 05, 2013 and February 06, 2013. However, the investigation observed that VLFL could not provide any substantial documentary evidence other than its bank statement to support its claim regarding transfer of funds from Arihant to VLFL to purchase shares of an unlisted company.

12(i)(A).4 Since no substantial documentary evidence was submitted, summons dated March 15, 2019, was sent to VLFL to provide verifiable documentary evidence such as contract/ agreement entered into between VLFL and Arihant by March 19, 2019. The aforesaid summons sent *via* post returned undelivered. The same was sent *via* email also. VLFL vide email dated March 23, 2019, provided a copy of letter dated March 14, 2013 addressed to Arihant or erstwhile Lifeline Drugs & Pharma Limited (LDPL), wherein VLFL stated that it was remitting the advance money as VLFL was unable to sell the required securities to LDPL in the same duration and at the same rate that was mutually decided between VLFL and Arihant. Vide the same email, VLFL also provided a letter dated April 1, 2013, from Noticee No. 11, Arihant confirming accounts for the period April 1, 2012 to March 31, 2013.

12(i)(B)- Reply of VLFL

VLFL vide reply dated 20.04.2021 has denied the charges and submitted that the observation in the SCN are based on incomplete appreciation of factual position. It was submitted that, VLFL was into the business of finance and trading, hire purchase, and to finance leasing and to finance leasing operations of all kinds, purchasing, selling, hiring or letting on hire all kinds of plant and machinery and equipment. It was further submitted that, during January 2013, VLFL agreed to arrange the purchase of shares of an unlisted company viz. Sunfast Merchant Private Limited to Noticee No. 11, Arihant. Based on the same, Arihant transferred an amount of Rs. 1 crore on February 02, 2013 and Rs. 0.02 crore on February 06, 2013 to VLFL as advance. Unfortunately, despite prolonged negotiations the deal did not go through and hence the advance money was refunded by VLFL to Arihant. In support thereof, VLFL submitted copy of the Ledger maintained by them and also copy of bank statement showing the fund transfer. VLFL also submitted copy of Memorandum of Understanding (MOU) executed with Arihant i.e. Lifeline (Know known as Arihant) and copy of the letter dated March 14, 2013 wherein it was stated that, VLFL regrets to inform that the deal between VLFL and Arihant stands cancelled and in accordance with mutually decided terms and conditions VLFL is remitting back the advance money of Rs 1,02,00,000/-. VLFL submitted that, the factum of repayment of advance money to Arihant was made after receipt of preferential allotment money completely destroys the allegation of funding of preferential allotment by VLFL. VLFL vide its written submissions dated 14.02.2022 submitted that as per the SCN itself all the money that has been paid to the Noticees for preferential allotment can be linked back to Global Capital Market and the basis of the SCN is alleged fund movement/ flow between all the Noticees and Global Capital Market. SEBI has taken a conscious and considered decision to not make Global Capital Market as Noticee and issue SCN to Global Capital Market. However, the SCN alleges fraudulent scheme and charges on all other entities which are part of the fund flow. On that logic itself, SEBI could not have charged the other entities who were part of the fund flow. VLFL submitted that, it was obvious on the basis of SEBI's conscious decision in the case of Global Capital Market in this present matter that SCN to other entities who are alleged to be part of the fund flow has been issued without application of mind. VLFL further submitted that under S. 77 of the Companies Act, 1956, companies are specifically prohibited to directly or indirectly provide loan or funds or financial assistance for subscribing to their own shares, this has been delegated to SEBI in so far as listed companies are concerned. It is critical to note that no such charge has been brought against VLFL in the SCN.

Reply of Arihant

12(i)(C)-It is noted from the records, that SCN was served on Noticee No. 11 Arihant on 11.01.2021 via email and the same was acknowledged by Arihant vide email dated 21.01.2021, However, no reply was filed by Arihant in the matter.

12(ii) Fund transfer of Rs 0.95 cr between VLFL and Tanaya Vincom Pvt. Ltd. (Noticee No.12- conduit)

12(ii)(A)(i)- Facts and observations of Investigation:

It was observed from the SCN, that VLFL had transferred 0.95 crore to Noticee No. 12 (Tanaya Vincom Pvt. Ltd). During the course of investigation, the investigating team vide email dated September 28, 2018 and reminder emails dated October 8, October 15, 2018, sent to VLFL called for details of the aforementioned transaction and documentary evidence in this regard. Vide email dated October 17, 2018. VLFL stated that the said transaction was repayment of advance money to Tanaya, which they had received on February 28, 2013 and as the deal was not executed they had refunded the money of 95,00,000/- on March 14, 2013. Vide email dated December 20, 2018, VLFL was once again advised to provide all the information sought vide email dated September 28, 2018.

VLFL, vide email dated December 25, 2018, sent a copy of a letter of Tanaya dated February 5, 2013, wherein, Tanaya had stated as follows:

a. That a sum of Rs 1 crore is forwarded as advance for acquisition of shares of Anuska Vanijya Private Limited.

b. The terms and conditions would be mutually decided.

c. In case both the parties are not able to execute the deal, then the advance given for acquisition of the aforementioned shares would be returned back.

However, the investigation noted that VLFL failed to submit any conclusive evidence to suggest the nature of financing advance.

12(ii)A(ii)-In order to verify the same, bank account statement of VLFL was examined, wherein it was observed that VLFL had received Rs 1.00 crore from Tanaya on February 28, 2013. However, it was also observed that VLFL could not provide any substantial documentary evidence (other than its bank statement and a letter of Tanaya dated February 5, 2013) to support its claim regarding transfer of funds from Tanaya to it to purchase shares of an unlisted company.

12(ii)A(iii)-Since no substantial documentary evidence was submitted, summons dated March 15, 2019, was sent to VLFL to provide verifiable documentary evidence such as contract/ agreement entered into between VLFL and Noticee No. 12, Tanaya by March 19, 2019. The aforesaid summons sent *via* post returned undelivered. The same was sent *via* email also. VLFL vide email dated March 23, 2019, provided a letter dated February 05, 2013 from Tanaya, wherein it was stated that they were forwarding a sum of Rs 1 crore as advance for acquisition of certain shares. Vide the same email, VLFL also provided ledger account of Tanaya in its books wherein the receipt and payment of Rs 1 crore on February 28, 2013 and March 14, 2013 could be observed.

12(ii)A(iv)- With regard to fund transfer of Rs. 0.95 crore from VLFL to 12 Tanaya, vide email dated October 1, 2018, reminder emails dated October 8, 2018, October 15, 2018, and summons dated October 19, 2018 and Summons dated January 3, 2019, Noticee No. 12- Tanaya was advised to provide details of the nature of the aforementioned transaction along with necessary supporting documents. However, summons sent via post returned undelivered. Vide letter dated January 16, 2019, Tanaya, stated that the amount of Rs 0.95 crore received by it from VLFL was received as a refund of advance, which had been given to VLFL on February 28, 2013 and as the deal was not executed the entire sum had been refunded by VLFL. Tanaya also provided a copy of the ledger account of VLFL in its books. However, investigation observed that Tanaya could not provide any substantial documentary evidence other than ledger copy and its letter dated February 5, 2013 to support its claim regarding transfer of funds from it to VLFL to purchase shares of an unlisted company.

12(ii)A(v)-Since no substantial documentary evidence was submitted, Summons dated March 15, 2019, was sent to Noticee No. 12, Tanaya to provide details, on the nature of transaction along with verifiable documentary evidence for which money had been paid to VLFL on February 28, 2013, before March 19, 2019. Tanaya vide letter dated March 18, 2019, provided copy of the letter dated February 5, 2013 addressed to VLFL, wherein it was stated that it had forwarded an advance sum of Rs 1 crore for acquisition of certain shares. Tanaya also provided the ledger account of VLFL in its books, wherein the payment and receipt of Rs 1 crore on February 28, 2013 and March 01, 2013/ March 14, 2013 could be observed.

12(ii)(B)- Reply of VLFL

12(ii)(B)(i)-VLFL submitted that allegation is based on incomplete appreciation of factual position. The said transaction was repayment of advance money to Noticee No.12 Tanaya. During January 2013, VLFL agreed to arrange and sell shares of an Unlisted Company viz. Anuska Vanijya Private Limited to Tanaya. Based on the said understanding, both the parties had signed a letter on February 05, 2013 wherein it was stated that an amount of Rs. 1 crore would be given as advance by Tanaya to VLFL for Purchase of shares of Anuska Vanijya Private Limited. Further, we had also entered into a Memorandum of Understanding (MOU) with Tanaya for the proposed deal on their behalf.

12(ii)(B)(i)-However, VLFL could not arrange the shares as per the terms and conditions as agreed, to Tanaya and therefore, based on the request made by Noticee No.12 Tanaya VLFL had returned back the advance to them. VLFL submitted copy of the Ledger maintained by them, bank statement, Memorandum of Understanding (MOU) executed with Tanaya and letter dated February 05, 2013. VLFL submitted that Noticee No.10 Timelink and Noticee No.9 Delineate had transferred funds to VLFL for subscribing to the shares through preferential allotment on 12.03.2013 and 13.03.2013 respectively. However, VLFL had returned the advance amount to Tanaya on 14.03.2013 i.e. after the remittance of subscription money by Noticee No.10 Timelink and Noticee No.9. It is submitted that the factum of repayment of advance money to Tanaya was made after receipt of preferential allotment money completely destroys the allegation of funding of preferential allotment by us. With respect to fund transfer from Tanaya to Arihant, it was submitted that we were not aware of the said fund transfer and based on the same no adverse inference can be drawn against them. VLFL further submitted that, the advance received and repayment to these entities is not solitary transactions of VLFL with these entities.

Over years there have been numerous such transactions of VLFL with these entities as can be seen from the following ledgers accounts [(1) Khoobsurat ledger account from the period 1.4.2012 to 31.3.2014 (ii) Noticee No.12 Tanaya ledger account from the period 1.4.2012 to 31.3.2014 submitted by VLFL. Further reliance was placed on the Adjudication Order dated January 28, 2022, in the matter of PIL Italica Lifestyle Ltd.

12(ii)(C)-Reply of Tanaya

During the course of the hearing held on 16.12.2021 the Noticee No. 12 Tanaya submitted that, they had received Rs 0.95 crore from VLFL against the advance given by the Noticee No. 12 Tanaya to VLFL in respect of purchase of share of certain company. The Noticee No. 12 Tanaya submitted that the details of the said deal will be provided along with the written submissions along with evidence. However, the Noticee No. 12 Tanaya did not submit any document in support of his claim.

12(iii) Fund transfer of Rs 0.95 cr between Noticee No. 12 Tanaya and Noticee No. 11 Arihant on 14.03.2013.

12(iii)(A)- Facts and observations of Investigation.

12(iii)(A)(i)-With regard to fund transfer of Rs 0.95 crore from Noticee No. 12 Tanaya to Noticee No. 11 Arihant on March 14, 2013, vide summons dated October 19, 2018, email dated December 20, 2018, reminder email dated December 26, 2018, summons dated January 3, 2019 and email dated January 21, 2019, Arihant was advised to provide details of the nature of the aforementioned transaction along with necessary supporting documents. However, summons sent *via* post returned undelivered. Vide email dated January 23, 2019, Arihant stated that the nature of the transaction with Tanaya was related to sale of equity shares. Arihant vide same letter provided the ledger copy of Arihant in the books of Tanaya as well as confirmation letter of Arihant.

12(iii)(A)(ii)-From the ledger copy of Tanaya it could be seen that an amount of Rs 0.95 crore has been paid to Arihant (also known as Lifeline Drugs & Pharma Ltd.) on March 14, 2013, which has been adjusted towards share purchase on March 28, 2013. However, it is seen that Arihant could not provide any substantial documentary evidence other than ledger copy in the books of Tanaya and an illegible letter of Arihant to support its claim of sale of equity shares to Tanaya. Since no substantial documentary evidence was submitted, summons dated March 15, 2019 was sent to Arihant to provide ledger copy of Tanaya in its books, legible copy of the confirmation letter of Arihant (an illegible copy of which was sent earlier) and verifiable documentary proof evidencing the sale of shares to Tanaya by March 19, 2019. Arihant vide emails/ letters dated March 19, 2019 and March 22, 2019 provided (a) a sale bill dated March 28, 2013 which stated that certain shares were sold to Tanaya; (b) a letter dated January 16, 2019, addressed to Tanaya, confirming accounts for the period April 1, 2012 to March 31, 2013; (c) a copy of ledger of Arihant in the books of Tanaya for FY 2012-13; and (d) a letter dated April 1, 2013, addressed to VLFL confirming accounts for the period April 1, 2012 to March 31, 2013. However, investigation found that Arihant failed to provide any substantial documentary proof evidencing sale of shares to Tanaya.

12(iii)(A)(iii)-With regard to fund transfer of Rs. 0.95 crore from Tanaya to Arihant on March 14, 2013, vide email dated October 1, 2018, reminder emails dated October 8, 2018, October 15, 2018, Summons dated October 19, 2018 (returned undelivered) and Summons dated January 3, 2019, Tanaya was advised to provide details of the nature of the aforementioned transaction along with necessary supporting documents. Vide letter dated January 16, 2019, Tanaya, stated that it had made a payment of Rs. 0.95 crore to Arihant for purchase of shares from Arihant *alias* LDPL, after which the entire transaction had been executed and the shares had been delivered to Arihant *alias*

LDPL. Tanaya also provided a copy of the ledger account of Arihant *alias* LDPL in its books.

12(iii)(A)(iv)-From the ledger copy provided by Tanaya, it was observed that an amount of Rs. 0.95 crore has been paid to Arihant *alias* LDPL on March 14, 2013, which had been adjusted towards share purchase on March 28, 2013. However, it was observed that Tanaya could not provide any substantial documentary evidence other than a ledger copy to support its claim regarding execution and purchase of shares from Arihant *alias* LDPL.

12(iii)(A)(v)-Since no substantial documentary evidence was submitted, summons dated March 15, 2019 was sent to Tanaya to provide verifiable documentary evidencing purchase of shares from Arihant by March 19, 2019. The aforesaid summons was also sent to Tanaya vide email dated March 15, 2019. Tanaya vide letter dated March 18, 2019, provided a letter dated March 28, 2013 from Arihant, wherein it was stated that Arihant had sold shares to Tanaya for a total sum of Rs 0.95 crore and forwarded a sum of Rs 1 crore as advance for acquisition of certain shares. Vide the same letter, Tanaya also provided the ledger account of Arihant in its books wherein the receipt of Rs. 1 crore on March 14, 2013 and the share purchased on March 28, 2013 could be observed.

12(iii)(A)(vi)-In view of the above observations and in the absence of substantial documentary evidence, it was alleged by the investigation that there was no agreement between Tanaya and Arihant to purchase shares of an unlisted company and the application money of the aforementioned preferential allottees was funded by VLFL through Tanaya.

12(iii)(B)-Reply of Noticee No. 1 Arihant

I note from the records that Arihant has not submitted its reply to the SCN despite receipt of the SCN.

12(iii)(C)-Reply of Noticee No.12 Tanaya

During the hearing conducted on 16.12.2021, the Authorised Representative (AR) of Tanaya had submitted that, in respect of amount given by Noticee No. 11(Arihant), Tanaya had received share from Arihant and submitted that details of the said deal will be provided along with the written submissions along with evidence and lastly the AR submitted it is a finance company and the details of the business of Noticee No. 12 Tanaya would be provided along with the written submissions.

12(iv) Fund transfer of Rs 1.60 Cr. between VLFL to Khoobsurat Limited (Noticee No.8 - conduit).

12(iv)(A)-Facts and observations of Investigation:

12(iv)(A)(i)-In order to ascertain whether VLFL has funded the transactions of the allottees (Noticees No. 4 - 7), details of the nature of the transaction dated March 14, 2013 and documentary evidence, with respect to the fund transfer of Rs. 1.60 crore from VLFL to Noticee No. 8 Khoobsurat, were sought by investigation team from VLFL vide email dated March 15, 2018. VLFL, vide email dated March 20, 2018, stated that they had received an advance payment of Rs. 1.00 crore and Rs. 0.60 crore on March 05, 2013 and March 06, 2013, respectively, from Khoobsurat, towards purchase of certain shares but as the deal could not be executed, VLFL had to return the money to Khoobsurat on March 14, 2013. Further, vide email dated March 21, 2018, VLFL stated that the transactions made by the mentioned entities were in the capacity of a client of VLFL and it was trying to execute a deal for the acquisition of equity shares of an unlisted company. The money was paid by

Khoobsurat as advance, so that the deal can be honored in a timely and efficient manner, but after pro-longed negotiations the deal could not be pulled off and it refunded the money to Khoobsurat on March 14, 2013. VLFL also enclosed the bank statement highlighting the payments received from the aforementioned entity.

12(iv)(A)(ii)-In order to verify, the bank account statement of VLFL was examined by the investigation team, wherein it was observed that VLFL had received Rs 1.00 crore and Rs 0.60 crore from Khoobsurat Limited on March 05, 2013 and March 06, 2013, respectively, as stated by it. However, it was observed that VLFL could not provide any substantial documentary evidence, other than its bank statement to support its claim regarding transfer of funds from Khoobsurat to VLFL to purchase shares of an unlisted company. Since, no substantial documentary evidence was provided, summons dated March 15, 2019 was sent to VLFL to provide verifiable documentary evidence in this regard, such as any contract/ agreement entered into between VLFL and Khoobsurat for the said transaction by March 19, 2019.

12(iv)(A)(iii)-VLFL vide email dated March 23, 2019, provided a letter dated March 05, 2013 from Khoobsurat wherein they had stated that they had paid a sum of Rs 1.60 crore for purchase of certain securities. It was also stated in the said letter that in case of cancellation of the aforementioned deal VLFL was requested to refund the amount within a period of 3 days. Vide the same email, VLFL also provided ledger account of Khoobsurat in its books, wherein, the receipt and payment of Rs. 1.60 crore on March 05, 2013/ March 06, 2013 and March 14, 2013, respectively, was observed.

12(iv)(A)(iv)-With regard to fund transfer of Rs. 1.60 crore from VLFL to Khoobsurat on March 14, 2013, vide summons dated March 15, 2019, details of the nature of the aforementioned transaction along with verifiable documentary evidence were sought from Khoobsurat by the investigating team. However, no reply was received from Khoobsurat to the aforementioned summons.

12(iv)(A)(v)-In view of the above, investigation alleged that VLFL, has funded the preferential allotments made to Noticee Nos. 4 – 7, the Baid family members, through Noticee No. 8 Khoobsurat. Global Capital Market had transferred an amount of Rs. 0.50 crore to Khoobsurat on March 12, 2013, who in turn transferred a cumulative amount of Rs. 0.50 crore to Baid family on the same date i.e. March 12, 2013. The amount of Rs. 1.60 crore was subsequently transferred by VLFL to Khoobsurat on March 14, 2013, post receipt of preferential allotment money by VLFL from Baid Family, who in turn transferred Rs 0.80 crore to Global Capital Market. It was alleged that in the allotment of preferential shares to Baid Family, funds were transferred from VLFL to the preferential allottees indirectly through a third party conduit Khoobsurat.

12(iv)(B)-Reply of VLFL

VLFL submitted that the alleged transaction was repayment of advance money to Khoobsurat. During February 2013, VLFL agreed to arrange shares of an Unlisted Company viz. Sadgati Trading Private Limited to Khoobsurat. Based on the same, Khoobsurat transferred an amount of Rs. 1 crore on March 05, 2013 and Rs. 0.60 crore on March 05, 2013 to VLFL. The said transactions by Khoobsurat were in capacity of our client who was trying to execute a deal through us for acquisition of equity shares of an unlisted company i.e. Sadgati Trading Private Limited. The advance money was made by Khoobsurat as they wanted to purchase the shares of the said company in a timely and effective manner. Unfortunately, despite prolonged negotiations the deal did not go through and hence the advance money was refunded by VLFL to Khoobsurat. The copy of the Ledger maintained by VLFL was submitted along with bank statement and copy of MOU with Khoobsurat and copy of the letter of communication dated March 04, 2013 was submitted by VLFL. VLFL further submitted that, the advance received and repayment to these entities is not solitary transactions of VLFL with these entities. Over years there have been numerous such transaction of VLFL with these entities as can be seen from the following ledgers accounts [(1) Noticee No. 8 Khoobsurat ledger account from the period 01.04.2012 to 31.03.2014 and (ii) Tanaya ledger account from the period 1.4.2012 to 31.3.2014 submitted by VLFL. Further VLFL relied on the Adjudication Order passed on January 28, 2022, in the matter of PIL Italica Lifestyle Ltd.

12(iv)(C)-Reply of Noticee Nos. 4 to 7 (Baid family)

The Investigating team had sought documentary evidence, with respect to the fund transfer of Rs 1.60 crore from VLFL to Khoobsurat. VLFL, vide email dated March 20, 2018, stated that they had received an advance payment of Rs 1.00 crore and Rs 0.60 crore on March 05, 2013 and March 06, 2013, respectively, from Khoobsurat, towards purchase of certain shares but as the deal could not be executed, VLFL had to return the money to Khoobsurat on March 14, 2013. The Noticee Nos. 4 to 7 has submitted copies of Certificate issued by Chartered Account viz. Alok Kumar Das who maintain their book and files their returns, inter alia, certifying the financial dealings with Khoobsurat Limited and the outstanding balance as on March 2013. Additionally, Noticee No. 4 has submitted copy of Certificate issued by Statutory Auditer viz. DBS & Associates evidencing the amount of Rs. 35,00,000/- as outstanding on 11.03.2013. The Noticee No. 4 Samir vide its reply letter dated 22.02.2021 inter alia submitted that, the Noticee Nos. 4, 5, 6 and 7 had regular financial dealing with various/ individual including Khoobsurat and provided ledger account of Khoobsurat maintained by Noticee No. 4 Samir.

Common Findings with respect to fund transfers

13. To begin with, I note that VLFL is in the business of finance and trading, hire purchase, leasing and financing leasing operations of all kinds, purchasing, selling, hiring or letting on hire all kinds of plant and machinery and equipment. I note that the Noticees except Timelink, Delineate and Arihant have produced documents such as (i) copies of ledger folio showing receipt of funds and refund: (ii) copies of MOUs executed for purchase of shares of identified companies and (iii) bank statements of the relevant period evidencing the fund transfers, amongst certain other documents. Further, I note that the investigation has chosen not to rely on the documents produced by the Noticees and have inferred that the fund transfers of VLFL done post the preferential allotment (i.e on 14.03.2013) was an artificial and fraudulent device or scheme of funding its own preferential allotment made to Noticee Nos. 4 to 7 and 9 and 10, which is violation of sections 12A (a),(b), (c) of SEBI Act read with Regulations 3(a) to (d) and 4(1) of SEBI (PFUTP) Regulations.

14. I have examined the documentary proof available before me and find that, out of all the documents produced before me, the set of account statements of ICICI Bank submitted by VLFL and Noticee Nos. 4 to 7 (the Baid family members) by itself, constitutes an independent piece of evidence, which carries enough evidentiary or probative value, as far as the genuineness of the fund transfers are concerned.

15. The relevant entries from the account statements submitted by VLFL, Samir Baid, Saroj Baid and Inder Chand Baid are extracted in the following table:

Table No:5

Details of fund transfers seen in Bank Statements submitted by VLFL

Sr No.	Date of fund tranfer	Amount received from	Amount paid to	Amount transfer
1	30.01.2013	Khoobsurat	VLFL	95,85,000
2	01.02.2013	Khoobsurat	VLFL	50,00,000
3	01.02.2013	Khoobsurat	VLFL	50,00,000
4	01.02.2013	Khoobsurat	VLFL	9,00,000
5	01.02.2013	Khoobsurat	VLFL	4,00,000
6	05.02.2013	Arihant	VLFL	1,00,00,000
7	06.02.2013	Arihant	VLFL	2,00,000
8	11.02.2013	Khoobsurat	VLFL	80,15,000
9	28.02.2013	Tanaya	VLFL	1,00,00,000
10	01.03.2013	VLFL	Tanaya	5,00,000
11	05.03.2013	Khoobsurat	VLFL	1,00,00,000
12	06.03.2013	Khoobsurat	VLFL	60,00,000
Fund Transfer post the preferential allotment				
13	14.03.2013	VLFL	Arihant	1,02,00,000
14	14.03.2013	VLFL	Khoobsurat	50,00,000
15	14.03.2013	VLFL	Khoobsurat	50,00,000
16	14.03.2013	VLFL	Khoobsurat	60,00,000

Details of fund transfers seen in Bank Statements submitted by Samir Baid

1	15.12.2012	Khoobsurat	Samir	2,00,000
2	07.03.2013	Samir	Khoobsurat	47,00,000
3	07.03.2013	Khoobsurat	Samir	34,00,000
4	12.03.2013	Khoobsurat	Samir	12,50,000
5	12.03.2013	Samir	VLFL	12,50,000
Fund Transfer post the preferential allotment				
6	20.04.2013	Khoobsurat	Samir	11,00,000
7	04.07.2013	Khoobsurat	Samir	10,00,000
8	27.08.2013	Samir	Khoobsurat	65,000
9	23.09.2013	Khoobsurat	Samir	10,00,000
10	23.09.2013	Khoobsurat	Samir	2,50,000
11	12.10.2013	Khoobsurat	Samir	75,0000
12	06.11.2013	Khoobsurat	Samir	2,00,000
13	06.11.2013	Khoobsurat	Samir	23,00,000
14	18.11.2013	Khoobsurat	Samir	13,00,000
15	13.02.2015	Tanaya	Samir	1,60,000
16	25.03.2015	Samir	Khoobsurat	1,00,000
17	31.03.2015	VLFL	Samir	12,50,000

Details of fund transfers seen in Bank Statements submitted by Saroj Baid

1	06.03.2013	Khoobsurat	Saroj	3,00,000
2	07.03.2013	Khoobsurat	Saroj	3,50,000
3	07.03.2013	Khoobsurat	Saroj	5,00,000
4	12.03.2013	Khoobsurat	Saroj	11,00,000
Fund Transfer post the preferential allotment				

5	14.06.2013	Saroj	Khoobsurat	22,50,000
6	13.11.2013	Khoobsurat	Saroj	4,50,000
7	19.11.2013	Saroj	Khoobsurat	10,00,000

Details of fund transfers seen in Bank Statements submitted by Inder Chand Baid

1	31.03.2015	Inder	VLFL	14,00,000

16. I note from the reply of VLFL that it was having independent business transactions with Noticee No. 8 (Khoobsurat), Noticee No. 11(Arihant) and Noticee No. 12 (Tanaya). I note from the bank statements submitted by VLFL that out of the 16 debit/ credit entries for the period 30.01.2013 to 14.03.2013, 5 entries shows that VLFL had transferred approximately Rs 2,67,00,000/- to Khoobsurat, Arihant and Tanaya and 8 entries show that VLFL had received Rs 4,49,00,000/- from Khoobsurat, 2 entries show that VLFL had received Rs 1,02,00,000/- from Arihant and Rs 1,00,00,000/- from Tanaya respectively. I note from the reply of Tanaya that, they were having other business transactions with VLFL, in the normal course. Similarly, I note from the replies of Noticee No. 8 Khoobsurat and Noticee Nos. 4 to 7 (the Baid family), that they were also having some business transactions with each other, prior to the preferential allotment.

17. I note from the account statement of Noticee No. 5, Samir that for the period of 15.12.2012 to 31.03.2015, he had paid approximately Rs 48,65,000/- to Noticee No. 8-Khoobsurat. Samir had received approximately Rs. 1,40,00,000 from Khoobsurat during the period 15.12.2012 to 18.11.2013. Further, I note from the ICICI bank statements that the members of the Baid family have had fund transfers pursuant to some business transactions even after the preferential allotment, as seen from the table above, wherein funds have moved between Noticee No. 8 and VLFL.

18. I note from the bank statement of Noticee No. 6 - Saroj that she had paid Rs 32,50,000 to Noticee No. 8-Khoobsurat, prior to the subject preferential allotment. I note from the bank statement of Noticee No. 7 - Inder that an amount of Rs 14,00,000/- was paid to VLFL on 15.03.2015.

19. I note that while VLFL has transferred a sum of Rs 1,60,00,000/- to Khoobsurat on 14.03.2013, Khoobsurat had transferred a much larger amount to the tune of Rs 4,49,00,000/- to VLFL, which by itself shows that there were other business transactions between both the parties. This cuts at the very root of the case of funding of preferential allotment by VLFL using Khoobsurat as a conduit.

20. Further, I specifically note that a total sum of Rs 2,37,25,000/- was transferred between Noticee No. 8 (Khoobsurat) and Noticee Nos. 4 to 7 (the Baid family) and the amount alleged to have been used for subscription of shares in preferential issue is merely Rs 50 Lakh. This also compels me to accept the contention that there were other business transactions between Khoobsurat and Noticee Nos. 4 to 7, which proves that Khoobsurat has not acted as a conduit, as alleged. Above all, the fund transfers have happened through the banking channel.

21. I note that VLFL had produced copies of three MOUs executed with Tanaya, Arihat, and Khoosurat during the relevant period as shown below:

Table No:6

Date of MOU	First party to MOU	Second Party to MOU	Purpose of MOU	Amount
25.02.2013	Tanaya	VLFL	To purchase share of Anuska Vanija Pvt Ltd	1,00,00,000/-
21.01.2013	Arihant	VLFL	To purchase share of Sunfast Merchant Private Limited	1,02,00,000/-
15.02.2013	Khoobsurat	VLFL	To purchase share of Sadgati Trading Private Limited	1,60,00,000/-

22. I note that the MOUs and the ledger folio entries are supporting the entries in the bank statements and I do not find anything to doubt the veracity of the execution of MOUs. Thus, I find that Noticee Nos. 4 to 7 and 9 and 10 are independent subscribers of the preferential allotment and do not appear to have been funded by VLFL through conduits i.e. Noticee Nos. 8, 11 and 12, as alleged in the SCN. The execution of MOUs appears to be transactions in the ordinary course of business of financing business of VLFL. On a holistic evaluation of the evidence on record, I am of the view that, the allegation of funding of preferential allotment by VLFL does not stand substantiated.

23. In this connection, I would like to make a note of the fact that Noticee Nos. 1, 4, 5, 6, and 7 had produced the relevant extracts of Ledger folios/ entries to substantiate the receipt or payment of funds from the others, which the investigation has chosen to ignore. I agree that there can be no presumption of correctness attaching to entries in books of account, unless it is proved that they are kept in the ordinary course of business. At the investigation stage, neither did the Noticees produce any additional evidence to show that the ledger folios were extracted from books kept in the ordinary course of business nor did the investigation specifically call for such proof. Moreover, I find that each of the ledger entry stands corroborated by the entries in the ICICI bank account statements, produced by the Noticees. Again, the bank statements produced by the Noticees could also have been independently verified from the concerned bank, if it had aroused any suspicion.

24. Further from the Chartered Accountant (CA) Certificate submitted by VLFL and Noticee Nos. 4 to 7 (the Baid family) the following details are noted:

Table No: 7

Name of the CA	Certificate dated	Name of the Noticee	Particular of the Certificate
Maheswari & Company	14.02.2022	VLFL	That VLFL had taken advances from Tanaya, Arihant and Khoobsurat and were creditors of VLFL. The amount lying with VLFL of these three entities were returned and was not funding by VLFL in any manner.
AK Das & Co.	03.03.2021	Samir	That Samir Baid had financial transaction with Khoobsurat from 2008 to 2018 and Samir Baid had received Rs 12,50,000/ from Khoobsurat.

			However, the credit balance of Khoobsurat as on 31.03.2013 had been fully re-paid by Samir in the month of July 2013
AK Das & Co.	18.02.2012	Manish	That Manish Baid had financial transaction with Khoobsurat from 2008 to 2018 and Manish had received Rs 35,50,000/- from Khoobsurat.
AK Das & Co.	04.03.2021	Inder	That Inder Baid had financial transaction with Khoobsurat from 2008 to 2018 and Inder had received Rs 14,00,000/ from Khoobsurat. However, the ledger balance of Khoobsurat as on 31.03.2013 hand been fully re-paid by Inder the month so 22.07.2013.
AK Das & Co.	03.03.2021	Saroj	That Saroj Baid had financial transaction with Khoobsurat from 2008 to 2018 and Inder had received Rs 11,00,000/ from Khoobsurat. However, the outstanding ledger balance of Khoobsurat as on 31.03.2013 hand been fully re-paid by Saroj in the month so 22.07.2013.
DBS & Associates.	23.02.2021	Manish	Manish Baid had credit balance in the books of Khoobsurat Limited amounting to Rs 35,50,000/- as on 11.03.2013.

25. The CA certificates produced by the aforesaid Noticees also support the findings in the foregoing paragraphs with respect to fund transfers between VLFL and Tanaya, Arihant and Khoobsurat on one hand and between Khoobsurat and the members of the Baid family, on the other. To conclude, I find that VLFL has not funded its own preferential allotment, nor employed Noticee Nos. 8, 11 and 12 as conduits to transfer funds to the allottees. I find that Noticee Nos. 4 to 7 as a group and Noticee Nos. 9 and 10 have independently subscribed to the preferential allotment of shares, with their own arrangement or resources, in the normal course. Hence there is no violation under section 12A(a),(b),(c) of the SEBI Act read with Regulations 3(a),(b), (c) and (d) and 4(1) of the SEBI (PFUTP) Regulations, committed by the aforesaid Noticees namely, VLFL, Manish Baid, Samir Baid, Saroj Baid, Inder Chand Baid, Khoobsurat, Arihant and Tanaya. I note that Delineate and Timelink had not entered appearance. However, since the case is that Timelink and Delineate were funded by VLFL through Arihant, in light of my finding that VLFL has not funded the preferential allotments and that there were independent business transactions between Arihant and VLFL, the allegations against the aforesaid Noticees (Timelink and Delineate) are no longer sustainable. I find that Noticee Nos. 9 and 10 have therefore not violated the provisions of the SEBI Act or the PFUTP Regulations, as alleged in the show cause notice.

26. In view of the findings given above, the related Issue at A(vi) regarding the liability of the directors, does not merit separate consideration. It is relevant to state that the managing director Amlesh Sadhu and non-independent director Harivallabh Mundra would become liable only if it is established that VLFL was involved in the alleged scheme. Thus, I do not find Noticee Nos. 2 and 3 to have violated the provisions of the SEBI Act or the PFUTP Regulations, as alleged in the show cause notice.

Issue B - Disclosure Violations

27. Now I proceed to deal with Issue B, whether Noticee Nos. 4 to 7 acted as PACs and had acquired 15.83% shares of VLFL in the preferential allotment and was in violation of Regulations 29(1) and 29(3) of the SAST Regulations? If yes, whether the Noticees are liable for monetary penalty under section 15A (b) of SEBI Act and what should be the quantum?

28. Facts in respect of acquisition of 15.83% share of VLFL by Noticee Nos. 4, 5, 6. 7, 8, 9, 10, 11, and 12.

Preferential Allotment 2:

Table No.8

PAN	Name of Allottee	Date of Allotment	No. of shares	Counterparty	% of shareholding
AAKPA8611R	Anand Agarwal	13-Mar-13	25000	M/s Solex Commercial & Credit Pvt Ltd	0.79%
ABQPA3907R	Ramesh Kumar Agarwal	13-Mar-13	25000	M/s Solex Commercial & Credit Pvt Ltd	0.79%
ABQPA5020K	Kedarnath Agarwal	13-Mar-13	25000	M/s Solex Commercial & Credit Pvt Ltd	0.79%
ADFPA4873M	Ravinder Kumar Agarwal	13-Mar-13	25000	a. Rajrani Consultants Pvt Ltd b. Rara Mercantile Private L c. Fortune Constructions Pvt Ltd d. Solex Commercial & Credit Pvt Ltd	0.79%

	Total- Solex Commercial & Credit Pvt Ltd		**100000**		**3.15%**
AIJPA1816F	Anurag Agarwal	13-Mar-13	25000	Mukut Behari Agarwal	0.79%
AADHM0807 N	Mukut Behari Agarwal (HUF)	13-Mar-13	25000		0.79%
	Total- Mukut Behari Agarwal		**50000**		**1.57%**
ABWPA2452K	Sunita Agarwal	13-Mar-13	25000	a. Maverick Commodity Brokers Private Limited b. Maverick Share Brokers Limited-General Business A/C c. Mukut Behari Agarwal HUF	0.79%
ABSPA1121H	M B Agarwal	13-Mar-13	25000	Maverick Commodity Brokers Private Limited	0.79%
	Total- Maverick Commodity Brokers Private Limited		**50000**		**1.57%**
AAYPA6437D	Brij Behari Agrawal	13-Mar-13	25000	a. Giriraj Agarwal b. Sajan Agrawal c. Priya Bansal	0.79%
ABHPA3309G	Dinesh Kumar Agarwal	13-Mar-13	25000	a. Pramila Agarwal b. Giriraj Agarwal	0.79%
	Total- Giriraj Agarwal		**50000**		**1.57%**
ACQPT5720L	Pallavi Tomar	13-Mar-13	25000	Pasupati Tradelink Pvt Ltd	0.79%
AALPT4876A	Shobha Tomar	13-Mar-13	25000		0.79%
ACQPT5708G	Surabhi Tomar	13-Mar-13	25000		0.79%
	Total- Pasupati Tradelink Pvt Ltd		**75000**		**2.36%**
AFOPA1833L	Ajay Agarwal	13-Mar-13	45000	Kota Dall Mill	1.42%
AAVPA5418K	Vasudev Agarwal	13-Mar-13	45000	Kota Dall Mill	1.42%
ABQPA2058P	Shambhu Agarwal	13-Mar-13	45000	a. Kota Dall Mill b. M/s Agrawal Agri Farm N Res Centre	1.42%
	Total- Kota Dal Mill		**135000**		**4.25%**
ABFPB2292M	Rahul Baid	13-Mar-13	25000	Mahalaxmi Brokerage	0.79%
ACQPB8221N	Rajeev Baid	13-Mar-13	25000		0.79%
ACQPB8220P	Rakhee Baid	13-Mar-13	25000		0.79%
	Total- Mahalaxmi Brokerage		**75000**		**2.36%**
AAECD1878J	Delineate Traders Private Limited	13-Mar-13	200000	Arihant Multi Commercial Limited	6.29%
AAECT1504F	Timelink Sales Private Limited	13-Mar-13	200000		6.29%
	Total- Arihant Multi Commercial Limited**		**400000**		**12.59%**
ADWPB8817 D	Manish Baid	13-Mar-13	25000	Khoobsurat Limited	0.79%
AEIPB5692K	Samir Baid	13-Mar-13	25000		0.79%
AEDPB3177Q	Saroj Baid	13-Mar-13	25000		0.79%
ACXPB4769Q	Inder Chand Baid	13-Mar-13	28000		0.88%
	Total - Khoobsurat Limited		**103000**		**3.24%**
PACs- Arihant Multi Commercial Limited and Khoobsurat Limited			**503000**		**15.83% (12.59% + 3.24%)**

Facts and observations of Investigation

29. From the above table, investigation observed that Noticee No. 9 Delineate and Noticee No. 10 Timeline, both of whom got funded by Noticee No. 11 Arihant and Noticee No. 12 Tanaya together hold 12.59% shares of VLFL. It was further observed that Noticee Nos. 4 – 7, who got funded by Noticee No. 8 Khoobsurat hold 3.24% shares of VLFL. Since, VLFL has funded the preferential allotment made to Noticee No. 9 (Delineate) and Noticee No. 10 (Timeline) through Noticee No. 11 (Arihant) and Noticee No. 12 (Tanaya) and the preferential allotments made to Noticee Nos. 4 – 7 (the Baid family) through Noticee No. 8 (Khoobsurat), it was alleged that all these entities were acting as PACs and the total holdings of the allottees *viz*. Noticee Nos. 4, 5, 6. 7, 8, 9, 10, 11, and 12 together adds up to 15.83% shareholding in VLFL and their total holding together exceeds 5% of the share capital in VLFL. Thus, it was alleged that Noticee No. 4 to 7 Baid family had failed to provide any disclosure to BSE under Regulation 29(1) and 29 (3) of SAST Regulations.

30. With respect to Noticee No. 9 (Delineate) and Noticee No. 10 (Timelink), BSE vide emails dated February 27, 2019, March 20, 2019 and March 22, 2019, April 23, 2019, April 30, 2019 had informed that they have made disclosures under Regulations 29(1) and 29(3) of SAST Regulations and VLFL has provided proof of disclosures under Regulation 13(6) of the PIT Regulations. It was observed that the disclosures with regard to aforesaid transactions under Regulations 29(1) and 29(3) of the SAST Regulations was made to BSE on March 18, 2013 and under Regulation 13(6) of the PIT Regulations was made to BSE on March 19, 2013. VLFL vide email dated May 8, 2019 stated that it had received the said disclosure from Noticee Nos. 9 and 10 on March 15, 2013. Therefore, investigation observed from the data provided by BSE that there was a delay of one day in making disclosure to BSE under Regulations 29(1) and 29(3) of the SAST Regulations. Thus, administrative warning was issued to Noticee No. 9 (Delineate) and Noticee No. 10 (Timelink) in this regard.

31. With respect to the shareholding of Noticee Nos. 4 – 7, i.e the Baid family members, no disclosures were provided under Regulations 29(1) and 29 (3) of the SAST Regulations. Vide email dated May 13, 2019 and reminder emails dated May 14, 2019, May 15, 2019, May 17, 2019 and May 24, 2019 as well as Summons dated June 4, 2019 (which was returned undelivered with reason 'No such consignee'), Summons dated August 23, 2019, VLFL was advised to provide dates of disclosures, along with copies of the disclosures provided by preferential allottees including Noticees Nos. 4 – 7 (the Baid family) under Regulations 29(1) to 29(3) of the SAST Regulations and under Regulations 13(1), (2), (3), (4) and (5) of the PIT Regulations. Vide email dated September 3, 2019, VLFL, *inter alia,* stated that in respect of Noticee Nos. 4 – 7, they were allottees of the preferential allotment made by the company on February 28, 2013, and they had applied for 25000 shares each and the same number of shares were allotted to them. Further, none of them were holding more than 5% of the total shareholding of VLFL after the allotment. Moreover, none of them was the director or acquirer or PAC of the company as defined under these regulations, during the period September 01, 2012 to November 30, 2013. However, investigation observed that, from the facts of the case, VLFL and Noticee Nos. 4-12 were PACs and their collective holding crossed 15.83% shares of the Company.

32. Based on the investigation findings pertaining to fund transfers and non-disclosure of shareholdings, it was alleged in the SCN that VLFL has funded the preferential allotments made to Noticee No. 9 (Delineate) and Noticee No. 10 (Timelink) through Noticee Nos. 11 and 12 (Arihant and Tanaya), as well as, the preferential allotments made to Noticees Nos. 4 – 7 (the Baid family) through Noticee No. 8 (Khoobsurat). Thus, it was alleged that all these Noticees (i.e., Noticee Nos. 9 and 10 along with 4 to 7) were acting as PACs. Since Noticee Nos. 9 and10 were issued administrative warning, it was alleged that Noticee Nos. 4 to 7 failed to make disclosures under

Regulations 29(1) and 29(3) of the SAST Regulations for acquisition of share of 15.83% in VLFL.

Reply of Baid Family

33. The Baid family was one of the allottees of the preferential allotment made by VLFL, wherein they had applied for shares and same was allotted to them by VLFL. They were merely a preferential allottee like other 118 preferential allottees. Further, the Baid family consisting of Noticee Nos. 4,5, 6 and 7 were not holding more than 5 % of the total shareholding of VLFL after allotment. They submitted that, the whole idea behind acquiring shares of VLFL was to make an investment and not to acquire substantial voting right or control over the management or affairs of VLFL in any manner. Further, the investment was made independently and not by acting in concert with, VLFL and Noticee No. 8 to 12, as erroneously alleged in the Notice.

Findings

34. Regulation 29(1) read with regulation 29(3) of SAST Regulations, provides that, any acquirer, together with persons acting in concert with him acquire shares or voting rights in a target company, which taken together aggregates to five per cent or more of the shares of such target company, has to disclose their aggregate shareholding and voting rights in such target company within two working days to every stock exchange where the shares of the target company are listed and the target company.

35. It is observed form the table above that Noticee Nos. 4 to 7 (the Baid family) had acquired 3.24% of the shares of VLFL in the preferential allotment dated 13.03.2013, which is below 5% as stipulated in the Regulation 29(1) of SAST Regulations. I note from the reply of Baid family that, they have submitted that the investment was made independently and not by acting in concert with, VLFL and Noticee No. 8 to 12. Further, in view of the finding at para 13 and 26 of this order, it is concluded that Noticee Nos. 4 to 7 were independent subscribers and were not funded by VLFL through conduit i.e. Noticee No. 8, Khoobsurat. Hence, I find that the allegation against Noticee Nos. 4 to 7 of acting as PACs with Noticee Nos. 9 and 10 is not sustainable. As the joint holding of Noticee Nos. 4 to 7 did not cross the threshold prescribed in Regulations 29(1) of the SAST Regulations, there was no need for them to make any disclosure as mandated in Regulation 29(3) thereof.

36. In view of the above findings, I hereby dispose of the SCN issued to all the Noticees without any finding against them.

37. In terms of rule 6 of the SEBI Adjudication Rules, copies of this order are being sent to the Noticees and also to SEBI.

Date: March 28, 2022
Place: Mumbai

GEETHA G
ADJUDICATING OFFICER