BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/SBM/KL/ 2022-23/16501]

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

In respect of
Mr. Bhanuprasad Dipakkumar Trivedi
(PAN: ABTPT6882D)
Address: Flat no. 1703, Sky Vistas Towers
Next to Cosmopolitan College, Near Versova Police Station
Andheri (West), Mumbai - 400053

Address: No 802, Bhagshree Apartments
Satellite Road, Near Fun Republic
Ahmedabad – 380 015

In the matter of
IPO Investigations

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI')** conducted an investigation into the alleged irregularities into the buying, selling and dealings in the shares of certain companies during their initial public offering (hereinafter referred to as **'IPO')**. In this regard, investigation was conducted into the role of Mr. Bhanuprasad Dipakkumar Trivedi (hereinafter referred to as **'Noticee')** in the shares of IDFC Limited (erstwhile Infrastructure Development Finance Company Ltd. and hereinafter referred to as **'IDFC'**) and Sasken Communications Ltd (hereinafter referred to as **'Sasken')** as regards his trading/dealings in the aforementioned two scrips i.e IDFC and Sasken during the year 2005. Both the companies viz. IDFC and Sasken had come out with their respective IPOs in the year 2005. It was alleged that a scheme of cornering the shares that were offered through the IPOs of various companies, including the IPOs of IDFC

and Sasken were employed by certain persons/entities, including the Noticee during the year 2005. Based on the investigations conducted by SEBI and irregularities observed therein, which were committed by the entities/persons, including the Noticee, adjudication proceedings were initiated against the Noticee under the provisions of section 15 HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') for his alleged violation of the provisions of Sections 12A(a), (b) & (c) of the SEBI Act and Regulations 3(a), (b), (c), (d) and 4 (1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **'PFUTP Regulations'**)

2. Subsequently, an adjudication order dated March 31, 2010 (hereinafter referred to as **'AO Order')** was passed in the matter by the then Adjudicating Officer ('AO') in respect of the Noticee imposing a penalty of Rs. 4,00,00,000/-**.** Aggrieved by the said AO Order, the Noticee preferred an appeal before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as **'SAT')**. Hon'ble SAT, vide order dated July 05, 2010 (hereinafter referred to as **'SAT Order')** dismissed the appeal filed by the Noticee but reduced the penalty amount to Rs. 2,00,00,000. Thereafter, the Notice filed an appeal against the Hon'ble SAT Order before the Hon'ble Supreme Court. Subsequently, Hon'ble Supreme Court, vide its order dated July 17, 2013, without going into the merits of the case, remanded the matter back to SEBI for consideration, keeping all the issues open. Hon'ble SC while remanding the matter to SEBI held the following:

   "IN view of the above, this appeal is disposed of by remanding the matter to S.E.B.I.; keeping all the issues open and with a direction to the Appellant to comply with the earlier direction in relation to furnishing of assets."

3. In view of the above, SEBI appointed Adjudicating Officer (AO) in the matter on October 09, 2013 to adjudicate the proceedings against the Noticee. During the course of the proceedings, it was noted that the then Whole Time Member of SEBI, vide his Order dated June 12, 2015, had directed fresh investigation in the matter of the IPO irregularities, *inter alia*, pertaining to Jayesh P. Khandwala HUF (hereinafter referred to as '**Jayesh-HUF'**), proprietor of Zealous Trading Company (hereinafter referred to as **'Zealous'**), its role in the Initial Public Offers (IPOs) of IDFC, Sasken and Suzlon Energy

Ltd. and its alleged direct/indirect transactions, both financial and securities, with the entities/persons, including Bhanuprasad Trivedi HUF (hereinafter referred to as **'Bhanuprasad-HUF'**) and the alleged illegal gains made by Jayesh-HUF in the said IPOs. Subsequently, the investigation report containing the additional findings w.r.t the various persons/entities, including the Noticee was submitted by the concerned department of SEBI in the matter.

4. The investigations conducted in the matter revealed that the Noticee through his HUF i.e Bhanuprasad HUF along with Jayesh HUF were involved in the scheme of cornering the shares that were offered by IDFC and Sasken through their respective IPOs during the year 2005. It is observed that the Noticee is the Karta of Bhanuprasad HUF and the transactions in IDFC and Sasken were done through Bhanuprasad HUF. It is alleged that Bhanuprasad HUF purchased 11,00,000 shares of IDFC from Roopal Panchal (hereinafter referred to as **'Roopal')** in a single off-market transaction at an issue price of Rs.34, post-listing of IDFC, whereas, the prevailing market price at the relevant point of time was Rs. 69.50, which was much higher than the issue price of Rs. 34. In this context, it was revealed during the course of investigations that Roopal had acquired substantial number of shares of IDFC from the original allottees of IDFC by way of off-market transactions a day prior to listing of the scrip of IDFC.

5. In the context of the present proceeding, it is relevant to discuss the role played by 'Roopal' in the overall scheme of cornering the shares of IDFC and Sasken pursuant to their respective IPOs and listing post the IPOs. It was observed that a very large number of afferent demat accounts were opened in the scheme of cornering the shares of various IPOs of the companies (including IDFC and Sasken) with the active connivance /collusion of various persons/entities, which includes the members belonging to the 'Panchal group', including Roopal and the 'Financiers' (Jayesh HUF etc). It was observed that on allotment of the shares in the various IPOs of the companies in the afferent accounts, these shares, post-allotment, were transferred from the afferent accounts to the account of the 'Panchal group', including Roopal and the entities belonging to the 'Panchal group'/ 'Roopal' in turn transferred the shares to the demat account of the financiers (including Jayesh HUF) and other entities. These entities i.e

the Financiers/ entities who received the shares from Roopal/ Panchal group in turn sold the shares in the market and made substantial gains at the cost of other genuine investors.

6. It is observed that pursuant to the receipt of 11 lakh shares of IDFC from Roopal by way of off-market transaction on August 13, 2005, Bhanuprasad HUF had, allegedly, sold these shares on-market on the next trading day i.e August 16, 2005 and earned profits which, *prima facie,* suggests that Bhanuprasad HUF and Roopal had acted in a pre-determined manner. Therefore, it is alleged in the investigations that Bhanuprasad HUF was the beneficiary in respect of the 11,00,000 shares of IDFC as well as the profits earned on account of the sale of these shares thereof.
7. Further, it was observed during investigation that Jayesh HUF transferred 14,275 shares of Sasken to Bhanuprasad HUF on September 9, 2005 at a rate of Rs.260/- per share by way of off-market transaction. Bhanuprasad HUF sold 14,275 shares of Sasken on September 9, 2005 by way of on-market transaction at the rate of Rs.493.54 for Rs.70,45,343/- and the profit from this transaction amounted to Rs.33,33,783.35. It is alleged that the above sum of Rs.70,45,343.75 i.e. sale proceeds in respect of the 14,275 shares of Sasken was transferred by the Noticee to Jayesh HUF as the aforementioned transaction, including the purchase cost of the said shares were actually financed by Jayesh HUF. Therefore, it is alleged that Noticee through his HUF i.e. Bhanuprasad HUF had aided and abetted the financiers i.e Jayesh HUF in the scheme of cornering and disposal of shares of Sasken.

8. It is therefore alleged that the aforesaid trading/dealings of the Noticee was detrimental to the interest of the investors in the IPOs of Sasken and IDFC and therefore, Noticee has allegedly violated the provisions of Sections 12A(a), (b) & (c) of the SEBI Act and Regulations 3(a), (b), (c), (d) and 4 (1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities market) Regulations, 2003 (hereinafter referred to as **'PFUTP Regulations'**). In view of the same, Adjudication proceedings have been initiated against the Noticee under the provisions of section 15 HA of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

9. Ms. Anita Kenkare was appointed as the Adjudicating Officer ('**AO**') in the matter vide communique dated October 11, 2013 under Section 19 of the SEBI Act read with Section 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**), to inquire into and adjudge under the provisions of section 15 HA of the SEBI Act, the aforementioned alleged violation of the provisions of law by the Noticee. Subsequently, the matter was transferred to the undersigned vide communique dated October 04, 2017. Upon transfer of the undersigned, the matter was transferred to Dr. Anitha Anoop who was appointed as the AO in the matter vide communique dated March 25, 2019. Subsequently, after the transfer of Dr. Anitha Anoop, vide communique dated November 03, 2020, the undersigned was again appointed as the AO in the matter.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

10. A total of three Show Cause Notices (hereinafter referred to as '**SCNs'**) have been issued in the said matter to the Noticee. The first show cause notice (hereinafter referred to as '**First SCN**') ref no. A&E/BS/69326/2006 was issued to the Noticee on June 15, 2006, which was followed by another show cause notice dated July 20, 2009, ref no: EAD-1/SRP/RK/170201/2009 (hereinafter referred to as '**Second SCN**'). The SCNs were issued to the Noticee in terms of Rule 4 (1) of the Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticee and why penalty be not imposed on him in terms of the provisions of section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.
11. The SCNs (First and Second) issued to the Noticee, *inter-alia,* alleged the following: -

First SCN:

a. It is alleged that you had cornered / acquired the shares in the various IPO's by the companies during the period 2003 – 2005 by financing various entities (hereinafter referred to as 'Key Operators'), who made fictious applications in the category reserved for retail investors through the medium of thousands of fictitious / benami applicants for the IPOs during the period 2003 - 2005.

b. *It is alleged that you acted through these key operators who had opened many demat accounts in fictitious and benami names and made large number of applications in the IPOs in the category of retail investors in fictitious and benami names. In this regard it is alleged that the said practice was adopted to corner the quota for retail investors in the IPOs by the companies. On allotment of shares in the category of retail investors in the IPOs, the said shares were transferred to the demat account of these key operators. It is alleged that these key operators subsequently transferred the shares to your account through off market deals. As you have been the ultimate beneficiary, it is alleged that you were the financier of the key operators in the whole process.*

Second SCN:

c. *The investigations found that certain 'key operators' acted in concert with financiers / other entities and cornered shares meant for retail category. The key operators opened thousands of fictitious /demat accounts (afferent accounts) and made applications for subscription in various IPOs. Subsequent to allotment, key operators received shares in their demat accounts on or before the day of listing from afferent accounts. Thereafter, as per the prior understanding cornered shares were either transferred to financiers who provided finance for IPO subscription, or sold shares to various entities including Bhanuprasad D. Trivedi (hereinafter referred to as 'BDT/you') on or after the day of listing.*
d. *It is alleged that you cornered shares by acting in concert with Roopal Panchal and Jayesh Khandwala, as per prior understanding, in the IPOs of Sasken Communications Ltd. (hereinafter referred to as 'Sasken') and Infrastructure Development and Finance Co. Ltd. (hereinafter referred to as 'IDFC Ltd.'). It is alleged that you acting in concert with Jayesh Khandwala and Roopal Panchal made ill-gotten gains by facilitating transaction of funds and shares through your account. The details are mentioned below.*

Dealings in the IPO of IDFC Ltd.

e. *In the IPO of IDFC Ltd., Roopal Panchal acquired/cornered 72,04,610 shares meant for retail investors. These shares were received from 12,258 afferent accounts before the day of listing (August 12, 2005) in the de-mat account of Roopal Panchal (Client id: 11920868) held with Karvy Stock Broking Ltd. (DP). It is alleged that you received 11 lakh shares of IDFC Ltd. from Roopal Panchal on August 13, 2005 at issue price of Rs.34/- whereas corresponding closing market price on the August 12, 2005 was Rs.69.55. Such a deal clearly indicates prior understanding /arrangement with Roopal Panchal. The purchase consideration of Rs.3,74,00,000 (11,00,000 shares multiplied by Rs.34/-) was paid by you to Roopal Panchal vide cheque number 148688 on 13.08.2005. The above transactions are also reflected in your bank account held with HDFC Bank bearing account number 0061000225427. Jayesh Khandwala - HUF (client id: 10147757) for short referred to as 'Jayesh', transferred Rs.3.74 crore to you on August 13, 2005 vide cheque number 881331 which was used by you to pay Roopal Panchal as aforesaid. It is evident from the account number 0062100004760 of Roopal Panchal that the same amount of Rs.3.74 crore was transferred to Jayesh on August 13, 2005. It is therefore alleged that you acted as a front entity of Jayesh and the transactions were routed through your bank/de-mat account. The* *trails of funds were observed to be circular in nature and have come back to Jayesh as aforesaid.*

f. *You sold these 11 lakh shares of IDFC Ltd. through Khandwala Integrated Financial Services Pvt. Ltd. (KIFSPL), member NSE, on August 16, 2005 at the rate of Rs.66.25 for Rs.7,28,75,000/- which was paid by KIFSPL in your bank account with HDFC Bank (A/c. No. 0061000225427) on August 17, 2005 as per the ledger submitted by KIFSPL. From your bank account, it is observed that entire sale proceeds were transferred to the bank account of Jayesh on the same date. Thus the total ill-gotten gains made in the transaction i.e. Rs.3,54,75,000/- [11,00,000 shares multiplied by (Rs.66.25 - Rs.34)] was transferred to Jayesh and you facilitated him to make these gains.*

<u>*Dealings in the IPO of Sasken*</u>

g. *It is alleged that 13,550 shares of Sasken received by Jayesh from Roopal Panchal, Sugandh Estate and Investment Pvt. Ltd. and Biren Kantilal Shah (referred to as 'key operators') were transferred to you on September 9, 2005 at a rate of Rs.260/- per share. You sold 14,275 shares of Sasken on September 9, 2005 at the rate of Rs.493.54 through KIFSPL for Rs.70,45,343/-. It is alleged that the above sum of Rs.70,45,343.75 was transferred by you to Jayesh vide cheque number 148695 from your bank account number 0061000225427. The profit from this transaction amounted to Rs.233.54 per share (Rs.493.54 - Rs.260.00). The total ill-gotten profits on such deal aggregates to Rs.33,33,783.35. It is alleged that finance for cornering of 14,275 shares was provided by Jayesh. Thereafter, key operators transferred these shares to Jayesh as per their prior understanding who in turn routed the same through your de-mat account. You thereafter sold these shares and immediately transferred the entire sale proceeds to Jayesh. These transactions are deceptive and misleading and were carried out for layering and disturbing the trails of funds and shares to mislead.*

h. *It is alleged that 13,550 shares of Sasken received by Jayesh from Roopal Panchal, Sugandh Estate and Investment Pvt. Ltd. and Biren Kantilal Shah (referred to as 'key operators') were transferred to you on September 9, 2005 at a rate of Rs.260/- per share. You sold 14,275 shares of Sasken on September 9, 2005 at the rate of Rs.493.54 through KIFSPL for Rs.70,45,343/-. It is alleged that the above sum of Rs.70,45,343.75 was transferred by you to Jayesh vide cheque number 148695 from your bank account number 0061000225427. The profit from this transaction amounted to Rs.233.54 per share (Rs.493.54 - Rs.260.00). The total ill-gotten profits on such deal aggregates to Rs.33,33,783.35. It is alleged that finance for cornering of 14,275 shares was provided by Jayesh. Thereafter, key operators transferred these shares to Jayesh as per their prior understanding who in turn routed the same through your de-mat account. You thereafter sold these shares and immediately transferred the entire sale proceeds to Jayesh. These transactions are deceptive and misleading and were carried out for layering and disturbing the trails of funds and shares to mislead.*

12. As mentioned in the pre-paras of this order, an AO Order was passed in the matter on March 31, 2010 imposing penalty of Rs 4 crore on the Noticee in respect of the First

and Second SCNs. Subsequently, an appeal was preferred by the Noticee against the said AO Order before the Hon'ble SAT. In this regard, pursuant to an appeal filed by the Noticee against the above AO Order, Hon'ble SAT vide its order dated July 05, 2010, dismissed the appeal filed by the Noticee and modified the AO Order by reducing the penalty imposed on him from Rs 4,00,00,000/- to Rs. 2,00,00,000/-. Vide the said Order, Hon'ble SAT held that the Noticee while trading/dealing in the shares of Sasken and IDFC had not dealt in these scrips in the ordinary course of business in the secondary market but had acted in concert with Jayesh HUF and Roopal in the IPO scam and further held that the Noticee had indulged in unfair trade practices in order to facilitate Jayesh HUF to corner the shares of the IPOs and make illegal gains in the IPOs of the said companies. Aggrieved by the said Order of Hon'ble SAT, the Noticee filed an appeal before the Hon'ble Supreme Court for relief in the matter. Subsequently, Hon'ble Supreme Court, vide its order dated July 17, 2013, without going into the merits of the case remanded the matter back to SEBI for consideration.

13. Meanwhile, another Order dated December 16, 2014 was passed by Hon'ble SAT in the matter of Jayesh HUF in the IPO investigations setting aside the SEBI Order dated August 12, 2013 passed against Jayesh HUF due to the factual infirmities/inconsistencies observed in the said order dated August 12, 2013 of WTM-SEBI. In view of the same, WTM- SEBI vide his order dated June 12, 2015, directed fresh investigation to be conducted in the matter pertaining to Jayesh HUF, proprietor of Zealous, its role in the IPOs of IDFC, Sasken and Suzlon Energy Ltd. and its alleged direct/indirect transactions, both financial and securities, with the entities/persons, including Bhanuprasad HUF (the Noticee being the Karta of Bhanuprasad HUF). Thereafter, the re-investigation in the matter was completed by SEBI and the report was submitted. Subsequently, based on the findings/observations of the re-investigation and observations contained in the investigation report, another SCN dated January 31, 2020 (hereinafter referred to as '**Third SCN**') was issued to the Noticee wherein additional facts/findings/observations/allegations revealed during the course of the re-investigation were mentioned. It was stated in the Third SCN issued to the Noticee that the SCN is being issued to him on the basis of additional facts and

observations presented before the AO through the re-investigation report. Further, during the course of the proceedings, the Noticee was also informed vide email dated July 14, 2021 about the fact that the Third SCN has been issued to him in addition to the first and second SCNs and the allegations/findings as mentioned in the three SCNs have to be read together in the context of the present proceedings. Therefore, in the present proceedings against the Noticee, the three SCNs issued to the Noticee are also collectively referred to as '**SCNs**' at various places of this Order. The following additional findings/observations as brought out in the re-investigation report were alleged in the Third SCN issued to the Noticee:

Third SCN

i. *It was alleged in the previous SCNs that the amount of Rs. 3,74,00,000 moved in a circuitous manner from Jayesh-HUF to Bhanu, Bhanu to Roopal and then Roopal to Jayesh- HUF on August 13, 2005 and that the above transactions, prima facie, indicated that Bhanu only acted as front entity of Jayesh-HUF and the transactions of Jayesh-HUF were routed through the bank/demat account of Bhanu.*

j. *Upon examination of the bank account statements of Zealous Trading Company (hereinafter referred to as **'Zealous'),** Bhanu and Roopal **(Annexure** 7), it is,* prima facie, *observed that Jayesh-HUF had provided Rs.3,74,00,000 to Bhanu on August 13, 2005 which was utilized by Bhanu towards the purchase of 11,00,000 shares of IDFC from Roopal. It was also observed that in addition to the alleged movement of Rs.3,74,00,000 from Jayesh-HUF to Bhanu, Bhanu to Roopal and then Roopal to Jayesh-HUF, another transaction was also executed between Jayesh-HUF and Roopal, whereby, Rs. 3,74,00,000 was transferred by Jayesh-HUF to Roopal on August 17, 2005. In view of the above transaction on August 17, 2005, it is now observed that the trail of funds was not circular in nature and Rs.3,74,00,000 had not come back to Jayesh-HUF, as alleged in the previous SCNs.*

k. *Bhanu has stated in its submissions that it had purchased 11,00,000 shares from Roopal for total amount of Rs.3,90,50,000 (Rs.35.50 per share) and that towards this purchase consideration, it had borrowed Rs.3,74,00,000 from Jayesh- HUF on August 13, 2005 and the balance amount of Rs.16,50,000 was paid to Roopal in June, 2006 in 3 instalments. However, it is, prima facie, observed that Bhanu had received 11,00,000 shares from Roopal in off-market on August 13, 2005 i.e. much before the payment of balance amount in June 2006 and had sold the same shares on August 16, 2005. Therefore, it is alleged that the submissions of Bhanu of paying the balance amount of Rs.16,50,000 to Roopal in June, 2006 seems to be an afterthought and an attempt to show that Rs.3,74,00,000 was not the full consideration for 11,00,000 shares.*

l. *Further, the investigation has now revealed that, prima facie, Jayesh-HUF had provided funds to Roopal for only 3,45,800 shares of IDFC that were transferred from Roopal to*

Jayesh-HUF and not for the 11,00,000 shares of IDFC that were transferred from Roopal to Bhanu, as was alleged in the previous SCNs.

m. *In respect of 11,00,000 shares purchased by Bhanu in off-market from Roopal on August 13, 2005, it is, prima facie, observed that these shares were purchased at issue price i.e. Rs. 34 whereas corresponding closing price on the listing date August 12, 2005 (as August 13, 2005 was Saturday) was Rs. 69.50. The fact that Roopal transferred 11,00,000 shares to Bhanu through off-market on August 13, 2005 i.e. after the listing of such shares , prima facie, indicates that she deliberately chose to transfer the shares in off-market at issue price whereas she could have sold such shares in the secondary market at the price which was much higher than issue price. Therefore, it is alleged on the basis of above that Bhanu and Roopal had acted in pre-meditated manner with prior understanding between them.*

n. *Further, Bhanu had sold these 11,00,000 shares on August 16, 2005 through the broker KIFS (where Jayesh and his brother are Directors). As per the copy of the contract notes (Annexure 8) provided by KIFS, it is observed that the gross consideration of such sale was Rs.7,28,75,000 and the net consideration after deduction of brokerage and taxes was Rs.7,27,15,512. However, it is alleged that KIFS from its bank account no. 0060140000398 with HDFC Bank had transferred the gross proceeds amounting to Rs.7,28,75,000 to Bhanu on August 17, 2005 i.e. one day before the settlement of such trade and Bhanu, in turn, had transferred the said amount to Jayesh on the same day. It is alleged that the aforesaid transaction of KIFS is suspicious as KIFS has not charged its client viz. Bhanu for brokerage and other taxes, as mentioned in the contract note and it has also credited the client's account with sale proceeds before the settlement of the said trade. It is further observed that Bhanu had also stated that the gross payout of Rs.7,28,75,000 was utilized towards repayment of its outstanding loan amount with Zealous Therefore, it is alleged that the above transaction was executed between Jayesh-HUF and Bhanu with prior understanding and pre-agreed terms between them.*

o. *In order to ascertain whether the profit earned out of sale proceeds of 11,00,000 shares by Bhanu amounted to unlawful gains, various Orders in the matter viz. Adjudication Order dated March 31, 2010, Hon'ble SAT Order dated July 05, 2010 and Hon'ble Supreme Court's Order dated October 11, 2013 were also perused. Considering the observations of the aforementioned orders and in the light of the observations and allegations discussed in previous paragraphs, it is alleged that Bhanu has not acted as mere front entity of Jayesh-HUF, as alleged in the previous SCNs but is the actual beneficiary of these 11,00,000 shares of the IDFC as well as the profit of Rs. 3,54,75,000 (Rs. 7,28,75,000 - Rs. 3,74,00,000) earned on the sale thereof.*

p. *Therefore, in view of the alleged unlawful gain to the tune of Rs. 3,54,75,000 made by the Noticee in connivance with other entities, by dealing in 11,00,000 shares of IDFC, it is alleged that Noticee violated the provisions of Sections 12A(a), (b) & (C) of the SEBI Act and Regulations 3(a),(b),(c),(d) and 4 (1) of the PFUTP Regulations. The relevant provisions of SEBI Act and the PFUTP Regulations are as under:*

14. In response to the Third SCN, Noticee vide his letter dated February 24, 2020 requested for additional time to submit his reply in the matter. Vide letter dated March

13, 2020, the Noticee was advised to submit his reply by April 05, 2020 and appear for a personal hearing on April 20, 2020. Vide emails dated April 15, 2020 and July 16, 2020, the Noticee requested for additional time due to the prevailing Covid situation and lockdown imposed at various parts of the country. Thereafter, vide letter dated September 04, 2020, a preliminary reply was submitted by the Noticee in the matter. The major submissions made by the Noticee in this regard are as follows:

a) *In view the Order dated 17.07.2013 of Hon'ble Supreme Court, SEBI would be required to properly discuss and conclude all the issues arising out of and during the course of this whole proceedings so far, from the perspective of SEBI as well as from my perspective, before going ahead in deciding this matter at SEBI's end, because all these are inherently part of the matter and are the most relevant issues hence, any ignorance or avoidance may not be in line with letter and spirit of Hon'ble SC Order.*
b) *This is referred as supplementary SCN based on further SEBI investigation wherein it found that certain key operators acted in concert with financiers and other entities and cornered shares meant for retail investors. Subsequently on allotment, the key operators received shares in their demat account on or before the listing day. Then as per prior understanding, the cornered shares were transferred to financiers who provided finance for IPO subscription or sold to various entities including me on or after the listing day. This allegation states that I am party in the cases of IDFC Ltd and Sasken Communication Ltd. In this backdrop, SCN strangely alleges that allottees sold shares to me on or after the listing day.*
c) *So the issue here is that the allegations are without documentary proof which could establish such wild allegations of my understanding with key operators or my acting as financier etc. This SCN is silent on my acts of financing other 22 key operators, an allegation which was made by SEBI after investigation.*
d) *The allegation was specific and made with list of those 22 names in 15.06.2006 SCN, wherein I was referred, by SEBI, as financier to these 24 key operators.*

Issues in relation to Findings in AO

e) *At different places they are vague, at some places they are selective extracts from other reports, not made part of SCN and at some places they are "admissions" in nature that proofs for their claims and allegations is not possible.*
f) *AO states that I was identified as person involved in the scheme of cornering of shares to the detriment of retail individual investors in the IPO of IDFC and Sasken and I became the beneficiary of the scheme. So the issue is that it is a new and different allegation, made in AO, which is different than SCN allegation where I was made facilitator.*
g) *AO states that supplementary notice is elaboration of allegations of earlier SCN about my role in cornering of shares in IPOs and he further states that no new violations of law by me have been made in supplementary SCN other than what was stated in first SCN. The issue here is though there are no new allegations but more important issue is that SEBI*

did not deny that I did not acted as financier in acts and deeds of other 22 key operators. This non denial keeps those 22 key operators matter alive without any single evidence against me.

h) AO states that it is observed that I have not disputed the fact that the shares which I received from Mr. Jayesh and M.s Panchal were cornered. I made contradictory statements before CBI and before SEBI with regard to my financial position during the IPO of IDFC. Further, circumstances suggest that Khandwala Integrated Financial Services and Jayesh Khandwala are related and they have acted in concert. On the basis of the contradictory statement by me, I am untrustworthy. Therefore, AO of SEBI's of the view that there was a prior understanding between me and Ms. Panchal. Issue arise over here is that it is on record that I never made statement on behalf of Mr. Jayesh or Ms. Panchal so the inference of AO that I did not dispute that shares were cornered is absolutely out of his own imagination without any evidence of any sort. As far as CBI report extracts are concerned, there are many issues which will arise from the CBI Report and extracting such selective portion itself is a big issue for discussion and arriving at decision on the basis of documentary and supporting evidences.

New Allegations and change in findings of investigation

i) This SCN states that there has been another transaction of Rs 3.74 Cr amongst the parties on the basis of which SEBI understands that transactions under enquiry were not circular in nature.

j) The above inference in this SCN is contradictory to the very basis of the previous two show cause notices and the adjudication order. As stated hereinabove, in earlier SCNs and AO, which were made after enquiring and investigation for about 3 years, and thereafter SEBI found that I am a financier, a front entity and a facilitator of circular transactions, all at the same time. This "all at the same time" was a different allegation on me from the allegation made in first SCN that I was a financier in the transactions under investigation.

15. Thereafter, vide email dated October 01, 2020, the Noticee was advised to submit his final reply in the matter by October 30, 2020. Noticee vide his email dated October 23, 2020, requested for inspection of the documents in the matter. Vide email dated November 06, 2020, the Noticee was informed that his request for the inspection of documents has been forwarded to the concerned department of SEBI. He was further informed that pursuant to the transfer of Ms. Anitha Anoop, the undersigned has been appointed as the AO in the matter. Thereafter, vide email dated March 13, 2021, it was informed by the concerned department of SEBI that the inspection of documents has been conducted by the Noticee on March 12, 2021. Subsequently, vide email dated May 20, 2021, Noticee once again requested for the inspection of certain additional documents/records pertaining to the matter. The response to the same was sent to the

Noticee vide email dated June 07, 2021 wherein he was advised to make written submissions by June 22, 2021. Vide email dated June 21, 2021, the Noticee requested for three weeks' time to file his submissions in the matter. The Noticee was granted time till July 15, 2021 to file his reply. However, Noticee once again requested for additional time to submit his reply vide his email dated July 14, 2021. Vide email dated July 16, 2021, Noticee was advised to file his reply/submissions by July 30, 2021 and also appear for a personal hearing through the online WEBEX platform on August 06, 2021. However, as the Noticee failed to furnish his reply by July 30, 2021, the Noticee was once again advised to submit his reply by August 03, 2021. Thereafter, the Noticee submitted his reply in the matter on August 03, 2021 and appeared for the personal hearing (Webex platform) on August 06, 2021. The major submissions made by the Noticee vide his reply dated August 03, 2021 and also the submissions made during the course of the personal hearing are as under:

a) *At the very outset, except as expressly admitted by me, I deny all the allegations contained in all 3 SCN's and nothing should be deemed to be admitted by me for want of specific traverse. I deny having violated any provisions of the SEBI Act and/or its allied regulations, including the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, as alleged in the SCN, or at all. I repeat, reiterate and confirm all that has been stated by me in all my previous replies, correspondence, and pleadings before SEBI, the Hon'ble SAT and the Hon'ble Supreme Court as if the same were reproduced herein.*
b) *There has been gross and unexplained delay in the matter causing grave prejudice to me. The Hon'ble Supreme Court of India disposed of my said appeal by an order dated 17 July 2013 recording the consent of the Ld. Attorney General appearing for SEBI, that the matter be remanded to SEBI for reconsideration. For 7 years nothing was done and I believed that SEBI had decided to close the matter since I had already suffered years of litigation, harassment and even an extensive debarment under the Ad-interim and final Orders dated 27.4.2006 and 30.7.2009 of the Ld. WTM which totally ruined my trading business and reputation. I was therefore shocked and surprised to receive the SCN – 3 dated 13.1.2020. It is submitted that the impugned transactions are of the year 2005, and because of the said extraordinary and unexplained delay the matter ought to be closed without any adverse order.*
c) *It is submitted that the Hon'ble Supreme Court's order dated 17 July 2013 recorded the consent of the Ld. Attorney General appearing for SEBI, that the matter be remanded to SEBI for reconsideration. This was obviously only so as to avoid an order on merits against SEBI. This is obviously also the reason for the enormous delay from 2013 till 2020. Therefore, there is no rationale to now seek to again reopen the matter and once again make me suffer more litigation in my old age.*
d) *I was an investor who used to trade and invest in the shares of various companies and*

also invested in various mutual funds on a regular basis, including with funds which I used to borrow from third parties. Similarly, trades would be also executed in the said HUF's accounts with borrowed funds. I am now about 86 years of age and have stopped trading inter alia since the several orders passed by SEBI ruined my reputation and standing in the market.

e) *The SCN-1, SCN-2 and SCN-3 make allegations against me in relation to transactions by the said HUF in the shares of IDFC Limited and Sasken Communications Limited. During the relevant period, I / the HUF had traded in shares of various companies like Hindalco, Indiabulls, Infosys, Mega Corporation, SBI, Syndicate Bank, Tata Engineering, TISCO, Videocon, ICICI Bank, etc. Normally my investment strategy was for very short term holdings, arbitraging, day trading, etc. I also used to keep a look out for trading opportunities at the time of IPO's, since at the time of IPO's the prices are volatile, there are normally off market trade opportunities which are risky and may result in loss or profit.*

f) *I used to regularly borrow funds into the account of the said HUF for a short period for trading and repay the loans with interest. Lenders had trust in me and the said HUF since we had never defaulted and there were no official loan documents executed nor was any security demanded. In those days, regular traders like me were trusted and money was loaned on trust. This was very common at the relevant time in the market. Due to my trading strategy, investment acumen and good will earned over more than two decades in the market, I used to enjoy a very good reputation and lenders who knew me would advance loans on mere request and I / the said HUF used to repay the same with interest and the same were duly accounted for in the records and income tax accounts / returns of the said HUF. Such loans were accounted for on a running account basis and I / the said HUF would make repayments as and when I sold off the shares. It may also be kept in mind that at the relevant time in the year 2005, it was not a common practice for market traders to borrow funds for trading from banks or NBFC's nor were such loans given as freely then by banks and NBFCs as they are now given.*

g) *At the time of the IPO of IDFC Limited, I came to learn that the shares allotted in the said IPO were available for off market sale even prior to the listing/trading thereof. I had enquired with my brokers and they told me that one Ms. Roopal Panchal ("Ms. Panchal") apparently had such shares of IDFC. I was introduced by them to her and I negotiated with Ms. Panchal for sale of shares of IDFC. On or about 10 August 2005, it was agreed that the said HUF would purchase 11,00,000 shares at the rate of Rs. 35.50, i.e., for a total consideration of Rs. 3,90,50,000/-. I however had insisted that the said HUF would pay for the same after the shares were actually received in and credited to its demat account inter alia since this was an off market transaction and the protections available for exchange base transactions were not available in off market transfers. Furthermore, the said HUF did not then have the required the funds and would have to arrange for the same.*

h) *Pursuant to the aforesaid agreement, Ms. Panchal handed over to me a delivery instruction slip for the transfer of 11,00,000 shares. On 13 August 2005, the shares were credited to my Demat account. To pay for the shares, I contacted Mr. Jayesh Khandwala ("Mr. Khandwala") who was well known to me and from whom the said HUF had previously also borrowed funds as proved even by the annexures to the said SCN itself. He used to* *lend the said HUF funds through his firm "Zealous Trading Company" ("Zealous"). At that time, the said HUF already owed him about Rs. 3.7 crores, yet because of our good relations, he agreed to lend a further Rs. 3.74 crores to pay for the said IDFC shares. Therefore, as agreed, Zealous transferred an amount of Rs. 3.74 crores to the said HUF on 13 August 2005 and the said HUF immediately paid over the same as a part payment to Ms. Panchal. The balance agreed price of the said shares being Rs. 16.5 lakhs was paid by the said HUF to Ms. Panchal in 3 tranches in June 2006 ; i.e.; Rs. 1,00,000 on 5 June 2006, Rs. 8,50,000 on 8 June 2006 and Rs. 7,00,000 on 9 June 2006.*

i) *The shares of IDFC were listed on the stock exchanges and trading commenced on 12 August 2005, at which time, the market prices went higher than the price the said HUF had paid to acquire the shares. The said HUF had an opportunity to make a quick profit and quickly repay the outstanding loans taken from Mr. Khandwala. Consequently, on 16 August 2005, the said HUF sold the said 11,00,000 shares of IDFC on the stock exchanges at the average rate of Rs. 66.18 per share for a total of Rs. 7,28,00,520/- as evidenced by the contract note for the same which is annexed at Annexure 8 to SCN-3. From the said transaction, the said HUF made a short term gain of Rs. 3.36 crores and paid short term capital gains tax accordingly.*

j) *At that time the said HUF had a debit balance in my loan account and owed about Rs. 7,43,25,540/- to Zealous. The said HUF therefore paid Rs. 7,28,75,000/- to Zealous thereby leaving the outstanding debit balance of Rs. 14,54,540/-. All these transactions were duly disclosed in the income tax returns of the said HUF and all relevant documents have already been submitted to SEBI.*

k) *Mr. Khandwala had informed me that he had 14,275 shares of Sasken available for sale. Consequently, on 7 September 2005, the said HUF purchased the said 14,275 shares of Sasken from Mr. Khandwala's HUF at the rate of Rs. 300.40 per share for a total consideration of Rs. 42,88,210/-. The said HUF received delivery of the said shares on 9 September 2005 and 14 September 2005. The shares were listed and traded on 9 September 2005 and the said HUF sold the said shares at the rate of Rs. 493.54 for a total consideration of Rs. 70,38,257.25. The said HUF made a short term capital gain of Rs. 27,50,047.25 and paid an amount of Rs. 2,75,000/- towards short term capital gain tax.*

l) *Since at that time the said HUF owed money to Zealous, it paid Rs. 70,45,343/- to Zealous. The aforesaid transactions and payments were duly reflected and disclosed in the said HUF income tax returns and accounts.*

m) *All the said transactions were bona fide and under the honest belief that the same were legitimate and genuine. I was never aware as to how Mr. Khandwala and/or Ms. Panchal had obtained the said shares. I was never aware of any fraud or mischief by them as later alleged by SEBI and I most certainly was not a party to any such fraud or mischief.*

n) *It is obviously only after a long and detailed investigation that SEBI has concluded that the said shares were unlawfully cornered vide benami, fictitious and/or afferent accounts. Admittedly neither I nor the said HUF had any role to play in creating or operating any such benami, fictitious and/or afferent bank or demat accounts. I was not a party to and was not aware of any alleged misdeeds of Mr. Khandwala and/or Ms. Panchal, if any.*

o) *The only factual allegations against me / the said HUF, is that the said HUF borrowed* *funds, bought the said shares off market at relatively low prices, sold the same on market at higher prices and made profits and refunded the loans taken. It is submitted that SEBI itself and the Hon'ble SAT have repeatedly held that the same can amount to no fraud or manipulation or violation. Even in the "LTCG" matters, SEBI had decided that SEBI can appropriately proceed only against parties who manipulated the market price and volume or those connected to the concerned company. Even preferential allottees who had directly taken shares from companies at very low prices and off market buyers who bought shares off market at very low rates have been exonerated even though they made huge profits. It is therefore submitted that the present proceedings against me ought to be dropped. Borrowing and lending of funds can never amount to any violation and the same is most common for share market trading. Buying shares off market can amount to no violation, nor does SEBI at all monitor the prices in off market trades. The on-market sales by the said HUF are not even alleged to be manipulative or violative of any law, rule or regulation. It is not even alleged that I / the said HUF are in any manner connected to either IDFC or Sasken or any of their promoters or directors. It is therefore submitted that the proceedings as against me are untenable and ought to be dropped.*

p) *After the said order dated 17 July 2013 of the Hon'ble Supreme Court, no notice of hearing was given to me for 6 ½ years and therefore I believed that SEBI had correctly decided to drop the proceedings against me.*

q) *Suddenly, SEBI issued a summons dated 3 January 2017 to me and once again sought the same information which was already furnished to SEBI during its investigations and by my previous replies. The summons dated 3 January 2017 clearly was an attempt to create an excuse for the unexplained inordinate delay and to revive the said proceedings against me. While I had complied with the said summons by my reply dated 12 January 2017, the reply to the summons served no purpose as I once again submitted the same information which SEBI already had in its possession.*

r) *To my utter shock and surprise, the 31 January 2020 SCN (SCN-3) was issued to me, now once again doing a volte face and once again changing the allegations against me after 15 years. It is now alleged that I was a "beneficiary" of the said transaction in IDFC and not a "conduit" or "front" as originally alleged. The alleged reason for the said new allegation is that some alleged new investigation report had found that the Rs. 3.74 crores received by Mr. Khandwala from Ms. Panchal on 13.8.2005 had allegedly been again paid by Mr. Khandwala to Ms. Panchal on 17.8.2005. While obviously the same is a transaction allegedly between Mr. Khandwala and Ms. Panchal and I am not aware of and do not admit the same, this new allegation made for the first time after over 15 years, also discloses total non-application of mind, since even if it is assumed that the same is correct, it is inconceivable as to how it can lead to any allegation that I was the "beneficiary" of any so called violations or mischief of Ms. Panchal &/or Mr. Khandwala.*

s) *As aforesaid, the Hon'ble Supreme Court by its order dated 17 July 2013 remanded the matter back to SEBI for reconsideration on the proceedings as then existed. No liberty was even sought by SEBI to issue new, more or additional SCNs in the matter and no such liberty was given by the Hon'ble Supreme Court. It is therefore submitted that it was not open to SEBI to issue the said SCN-1 dated 13.1.2020 and the same ought to be withdrawn.*

t) *It is submitted that even after 15 (fifteen) years and numerous responses, SEBI continues, on some pretext or another, to issue further Show Cause Notice(s) to me and keeps changing its allegations and charge every time. Initially, in the Ad-interim ex parte Order dated 27.4.2006, it was alleged that I was a "financier". SCN-1 alleged that I had "financed" the "key operators" for IPOs of 21 companies. This was admittedly false and given up by SEBI itself. By SCN – 2, SEBI made allegations against me only in respect of the IOPs of IDFC and Sasken. Since I had proved with documentary evidence that there was no question of alleging that I had provided any finance to Mrs. Panchal, the allegations were changed to then alleging that I was a "front" and a "conduit" for Mr. Khandwala and that Mr. Khandwala was the ultimate beneficiary, as held in the previous Adjudicating Officers Order. Now it is by the SCN-3 sought to be falsely alleged that I was the "ultimate beneficiary" of the said trades, that too on the basis of the curious allegation that Mr. Khandwala had paid Mrs. Panchal Rs.3.74 on 17.8.2005. Yet, you have required me to again reply to all the said 3 SCNs. It is therefore submitted that the same is untenable and vitiates the present proceedings.*

u) *The remand of the matter by the Hon'ble Supreme Court does not permit the SEBI to "reinvestigate" the matter and issue a fresh SCN with new allegations and charges to somehow or other pass orders against me.*

v) *In view of the aforesaid, the issuance of the fresh SCN when the matter was remanded back by the Hon'ble Supreme Court is not sustainable. It was not open to SEBI to again issue a fresh show cause notice and change the charge.*

w) *SCN-1 was a completely vague SCN falsely alleging that I was a "financier" . It was alleged that the shares meant for the retail investors were cornered by "key operators" by opening various benami and/or fictitious and/or afferent bank and demat accounts, through which applications were made for shares in the IPOs of 21 companies, using funds provided by the "financiers". It was further alleged that through these accounts, shares meant for retail investors in the IPOs were cornered and the same were then transferred to the said "key operators". It was alleged that these "key operators" transferred the said shares to the "financiers" and the "financiers" sold the shares on the first day of listing thereby making profits. I have at all times maintained and proved with documentary evidence that I had never funded anyone for any IPO applications. I only agreed to buy the shares and paid for them after I received them. No advance funding was provided by me to anyone. Mrs. Panchal already had the shares of IDFC and sold the same to the said HUF. The said HUF paid for them only after it received them. SEBI also admits that the said HUF paid Ms. Panchal only on 13 August 2005 and the balance in June 2006. Even for the shares of Sasken, admittedly the said HUF paid for the same only when it received the shares and never financed any applications in the IPOs. Therefore, by no stretch of imagination could it be alleged that I or the said HUF "financed " any IPO applications or Ms. Panchal. The charge that I was a "financier" was therefore ex-facie unsustainable and was later dropped by SEBI. It is therefore most confusing as to whether by again insisting that I answer all the said 3 SCN's, the same said allegations are now sought to be revived.*

x) *SCN-2 made allegations only in respect of the shares of IDFC and Sasken. It was alleged that I acted as a conduit / front entity for Mr. Khandwalas HUF and thereby facilitated Mr. Khandwalas HUF to make ill-gotten gains by routing the funds and shares received from*

Ms. Panchal through my accounts. It was alleged that I acted as a front entity of Mr. Khandwalas HUF and the transactions were routed through my the banks/demat accounts. It was alleged that the movement of the funds was circular in nature and funds given by Mr. Khandwalas HUF had come back to Mr. Khandwalas HUF. Thus, the allegation that I was a "financier" was dropped and the charge against me in SCN-2 was that I was a conduit / front for the benefit of Mr. Khandwalas HUF. This allegation was unsustainable and illogical. It was alleged that the Rs. 3.74 Crores was circulated by payment from Mr. Khandwalas HUF to me, by me to Mrs. Panchal and by Mrs. Panchal back to Mr. Khandwala's HUF, all on 13.8.2005. As aforesaid, the said HUF had borrowed the funds from Zealous, (the proprietary concern of Mr. Khandwala) to buy the said shares from Mrs. Panchal, and later repaid the loan with interest after selling the shares, as set above. I am not aware nor concerned as to why Mrs. Panchal made any payments to Mr. Khandwala nor has the Respondent disclosed as to what their explanations were for the same. However, the said fund movement between the said HUF and Mr. Khandwala / Zealous was in the normal course of borrowing lending transactions, which they had a long standing relation of and a running account was maintained between the said HUF and Zealous as aforesaid.

y) *SCN-3 now for the first time after 15 years, alleges that SEBI has discovered that apart from the said fund movement on 13.8.2005, a further Rs. 3.74 Crores was transferred by Mr. Khandwala to Mrs. Panchal on 17.8.2005, and it is alleged that the same in some manner amounts to showing that I was the 'beneficiary" of the transactions. As aforesaid, I am not aware of, do not admit and I am not concerned with the alleged payment by Mr. Khandwala to Mrs. Panchal on 17.8.2005. it is not even alleged that the said funds were passed on by Mrs. Panchal to me. It is incomprehensible as to how the fund trail stopping at Mrs. Panchal instead of Mr. Khandwala amounts to me being the beneficiary of the transaction.*

z) *Without prejudice to the aforesaid, it is submitted that there is not an iota of evidence to substantiate the allegation that Mr. Khandwala paid Rs. 3.74 crores to Ms. Panchal on 17.8.2005 as now alleged in the SCN-3. It is also now alleged in paragraph 10 of SCN-3 for the first time that there were some transactions between Jayesh Khandwala HUF and Ms. Panchal in relation to some 3,45,800 shares of IDFC. I am not aware of nor concerned with and I do not admit any such alleged transaction between Mrs. Panchal and Mr. Khandwala. No particulars of any such alleged transaction have been disclosed. Since the said HUF bought the said 11 lac shares from Mrs. Panchal with funds borrowed from Mr. Khandwala / Zealous as aforesaid and since the same is proved by bank records, it cannot be now alleged to the contrary. It is not disputed or denied that the said HUF paid the purchase consideration to Ms. Panchal and received the shares against the same. Strangely, SCN-3 alleges that the allegations in the previous SCN's was incorrect, yet maintains that SCN-3 is in addition to the SCN 1 & 2 and not in substitution thereof. The same is ex facie untenable, incomprehensible and confusing.*

aa) *I submit that SEBI itself had referred the matter to the CBI for investigation since the CBI is the most premier investigative agency in the country. CBI thoroughly investigated all the allegations and thereafter came to a conclusion that I did not participate in any conspiracy. Further, if I was a "beneficiary" of the alleged fraud, I would have been charge sheeted as* *all the evidence was clearly available with the Central Bureau of Investigation. SEBI cannot ignore the findings of the CBI which has rendered a categorical finding in the final report that my purchase of shares from Ms. Panchal was legal.*

bb) *It is alleged in the SCN-3 that the gross sale consideration for the shares was Rs. 7,28,75,000/- as per the contract note, however, as per the contract note being Annexure 8 to SCN-3 itself, the said shares were sold for a gross consideration of Rs. 7,28,00,520/-. In fact, the net amount was only Rs. 7,27,15,512/-. The said HUF had a running account with the said broker and the broker always made pay outs in round figures which would be less than the total amount then payable to the said HUF. SCN-3 alleges that the broker paid the amount on the day following the transaction ; i.e. ; on 17 August 2005, before the pay out by the Exchange. On the one hand, the SCN does not allege that the same amounts to any violation of any law, rule, regulation etc. On the other hand, it is for the broker to explain the same since it is the broker who made the said payment to me. SEBI has not disclosed his explanation for the same.*

cc) *The SCNs allege that there was some prior understanding between Mr. Khandwala and me and between Ms. Panchal and me but do not state what this alleged "understanding" is alleged to be and the allegation is vague and meaningless. Obviously there was a prior understanding between me and them as explained by me herein above. Mr. Khandwala agreed to loan me the money through Zealous and Mrs. Panchal agreed to sell the said shares to the said HUF. The said HUF purchased the said shares with the intention and hope of making short term gains. The said HUF sold the shares when it could make a profit. The quantity purchased was sold off and the loans of Zealous were paid off. As aforesaid, admittedly the said HUF was regularly borrowing from Zealous and repaying the loans. Obviously, the purchase and sale of shares as well as the borrowing and refund of loans, all happened only pursuant to a "prior understanding" between me and the respective parties, but the same was not at all fraudulent or deceptive or manipulative or any other way a violation of any law, rule, regulation etc. as incorrectly insinuated or otherwise.*

16. The Noticee also referred to the following judgments of the Hon'ble SAT in his aforementioned reply:

    a) Order in the matter of Ashlesh Gunvantbhai Shah vs SEBI
    b) Order in the matter of Devendra Suresh Gupta vs. Securities and Exchange Board of India
    c) Order in the matter of Vasudev Ramchandra Kamat vs SEBI

CONSIDERATION OF ISSUES AND FINDINGS

17. I have carefully perused the allegations leveled against the Noticee in the SCNs, the replies of the Noticee to the SCNs i.e the first, second and the third SCN issued to Noticee, the documents/evidence available on record, including the report submitted after the re-investigation conducted in the matter. I have also perused the AO Order dated March 31, 2010 and also the Orders passed by Hon'ble SAT dated July 05, 2010

and Hon'ble SC dated July 17, 2013 in the said matter.

18. The issues that arise for consideration in the present case are: -

    I. **Whether the Noticee, by way of his trading/dealings in the shares of IDFC and Sasken, had acted in collusion with Jayesh HUF and others to the detriment of other investors in the IPOs of IDFC and Sasken, thereby violating the provisions of sections 12A(a), (b) & (c) of the SEBI Act and Regulations 3(a), (b), (c), (d) and 4 (1) of the PFUTP Regulations?**

    II. **If yes, whether the violation would attract monetary penalty on the Noticee under the provisions of section 15HA of the SEBI Act?**

    III. **If yes, what should be the quantum of monetary penalty?**

19. Before moving forward, the relevant provisions of the SEBI Act and PFUTP Regulations (as it existed at the relevant point of time), allegedly violated by the Noticee are mentioned as under:

SEBI Act

"Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities and control

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 recognised 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 recognised 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 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"*

PFUTP Regulations:

Prohibition of certain dealings in securities

3. *No person shall directly or indirectly-*

(a) *buy, sell or otherwise deal in securities in a fraudulent manner;*
(b) *use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*
(c) *employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*
(d) *engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

4. *Prohibition of manipulative, fraudulent and unfair trade practices*
(1) *Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or unfair trade practice in securities.*

I. Whether the Noticee, by way of his trading/dealings in the shares of IDFC and Sasken, had acted in collusion with Jayesh HUF and others to the detriment of the investors in the IPOs of IDFC and Sasken, thereby violating the provisions of sections 12A(a), (b) & (c) of the SEBI Act and Regulations 3(a), (b), (c), (d) and 4 (1) of the PFUTP Regulations?

20. The Noticee has vehemently contended that there has been gross and unexplained delay in the matter of the adjudication proceedings initiated against him as the impugned transactions were done in the year 2005. In this regard, the sequence of the events leading to issuance of SCNs have already been explained in detail in the pre-paragraphs of this order. The circumstances under which the re-investigation was ordered by WTM- SEBI in the matter of IPO investigations and the consequent issuance of the third SCN to the Noticee has already been elaborated in the previous paragraphs of this order. At the cost of repetition, it is noted that pursuant to the remanding of the matter by Hon'ble Supreme Court, there was a re-investigation that was ordered in the matter primarily to examine the role of Jayesh HUF and other entities which had allegedly acted in collusion with Bhanuprasad HUF (of which Noticee is the Karta) and

the 'Panchal Group', including Roopal in the alleged cornering and disposal of shares of IDFC and Sasken pursuant to their IPOs. Therefore, pending outcome of the re-investigation that was ordered in the matter and submission of the report after the re-investigation, the adjudication proceedings against the Noticee could not be progressed further. It is also observed that pursuant to the re-investigation and the third SCN issued to the Noticee, during the course of the proceedings, Noticee was persistently seeking time to make his final submissions despite repeated reminders issued to him by SEBI. The relevant details of the communication exchanged between SEBI and the Noticee in this regard are mentioned at para 15 of this order. Further, delay in completion of investigation and/or initiation or completion of the enforcement proceedings, in itself, cannot be a ground for dropping the proceedings. Only in cases where a Noticee is adversely affected, can such a submission be considered. In this context, I find it relevant to refer to the order passed by Hon'ble SAT in the case of Metex Marketing Pvt. Ltd. vs. SEBI (order dated June 4, 2019) wherein Hon'ble SAT held that:

> *"This Tribunal has consistently held that in the absence of any specific provision in the SEBI Act or in the Takeover Regulations, the fact that there was a delay on the part of SEBI in initiating* proceedings *for violation of any provision of the Act cannot be a ground to quash the penalty imposed for such violation*".

In this regard, I find that, PFUTP Regulations and/or the SEBI Act also does not have any specific provisions w.r.t., timeline /limitation etc., and therefore, a parallel can be drawn and the fact of delay in completion of investigation and/or initiation or completion of enforcement proceedings, in itself, cannot be a ground for dropping the proceedings. Further, pursuant to the re-investigation, a SCN dated January 31, 2020 (Third SCN) was also issued to the Noticee and ample opportunities were provided to the Noticee to make his submissions and also to appear for hearing in the interest of natural justice. After prolonged correspondence with the Noticee, he made his submissions in the matter and also appeared for the hearing. Thus, the above contention of the Noticee regarding delay etc is without any merit.

21. The Noticee has also contended that the SCNs (i.e SCN nos 1 to 3) have been wrongly issued to him in his individual capacity as the allegations made in the said SCNs have

been levelled against Bhanuprasad HUF and he is merely a Karta of the said HUF. It was also contended that the impugned trading/dealings in the scrips of Sasken and IDFC were made in the account of Bhanuprasad HUF of which the Noticee is the Karta. I am not in agreement with the aforesaid contentions of the Noticee. It is common knowledge that the Karta of an HUF has unlimited liability w.r.t. the HUF when compared to other co-parceners of HUF. It is the Karta who has the full control over the HUF and it is the Karta who manages the affairs of the business of HUF. A Karta can take advice from the other members of the family but is not bound to accept their decisions. As such, it is the Karta who is solely responsible for all the acts/deeds, legal or illegal, of the HUF. In the instant matter, the Noticee has not disputed the fact that he is the Karta of Bhanuprasad HUF. The Noticee has also concurred with the fact that the decisions related to the dealings/trading of his HUF i.e Bhanuprasad HUF in the shares of IDFC and Sasken, which are the subject matter of adjudication in the present matter, were taken by him during the relevant time. In my assessment, the aforesaid submissions of the Noticee that the SCNs have been wrongly issued to him is merely an attempt to distance himself from the dealings/wrongdoing done through his HUF i.e Bhanuprasad HUF on technical grounds whereas, it is already established that as the Karta of Bhanuprasad HUF, all the impugned transactions in IDFC and Sasken were undertaken by the Noticee himself. Therefore, the contention of the Noticee regarding the SCNs being wrongly issued to him instead of Bhanuprasad HUF in the context of the present proceeding is baseless and without any merit.

Allegations w.r.t trading / dealings of the Noticee in the shares of IDFC:

22. The investigation conducted by SEBI and various orders passed in the matter of the IPO investigations during the year 2003-2005 revealed that Roopal received/acquired/cornered 72,04,610 shares of IDFC through the IPO issue, from the category reserved for the retail investors, by making use of 12,258 benami / fictitious demat/afferent accounts. These shares were received in off market transfers into her demat account (client id:11920868), which was held with Karvy Stock Broking Ltd. one day prior to the day of listing of the scrip of IDFC, i.e., August 12, 2005. The shares of

IDFC were issued to the public at the price of Rs.34/- per share, and the closing market price of the shares on the day of listing i.e., August 12, 2005 was Rs.69.55 per share. As per the SCNs, the Noticee received 11,00,000 shares of IDFC from Roopal on August 13, 2005 at a price of Rs 34 per share through off market deal in his demat account (client id:10147757) which was held with Khandwala Integrated Financial Services Pvt. Ltd. (hereinafter referred to as '**KIFS'**), a Depository Participant of NSDL. The Noticee received the shares from Roopal at a price substantially lower than the prevailing market price. The Noticee received an amount of Rs.3,74,00,000/- from Jayesh HUF, on August 13, 2005 and he passed on the entire amount/proceeds to Roopal on the same day, towards the purchase consideration of the 11,00,000 shares of IDFC. It is noted that Roopal also transferred Rs. 3,74,00,000/- received from Bhanuprasad HUF to the account of Jayesh HUF on the same day viz. August 13, 2005. Thereafter, it is noted that the Noticee sold these 11,00,000 shares @ Rs.66.25 per share on August 16, 2005 in the market through his broker viz. KIFS and received the sale proceeds of Rs.7,28,75,000 in his bank account with HDFC Bank (A/c. No. 0061000225427) from KIFS on August 17, 2005, i.e., before the actual date of pay-out from the exchange. It was observed that the Noticee passed on the entire amount received from KIFS to Jayesh HUF – (Karta Jayesh Khandwala) on the same day.

23. Thus, it is alleged that the amount of Rs.3,74,00,000 had moved in a circuitous manner from Jayesh-HUF to Bhanuprasad HUF, Bhanuprasad HUF to Roopal and then from Roopal to Jayesh- HUF on August 13, 2005. The above transactions indicated that Bhanuprasad HUF had acted as front entity to Jayesh-HUF and that the transactions of Jayesh-HUF were actually routed through the bank/demat account of Bhanuprasad HUF.

24. The Noticee has in his submissions stated that Bhanuprasad HUF had purchased 11,00,000 shares from Roopal for a total amount of Rs 3,90,50,000 (Rs.35.50 per share) and that towards this purchase consideration, he had borrowed Rs.3,74,00,000 from Jayesh HUF on August 13, 2005 and the balance amount of Rs.16,50,000 was paid to Roopal in June, 2006 in 3 instalments. However, it is observed that Bhanuprasad HUF had received 11,00,000 shares from Roopal in off-market transaction on August 13, 2005 i.e. much before the payment of the balance amount in

June 2006 but had sold the same shares on August 16, 2005. Hence, Noticee's version of paying the balance amount of Rs.16,50,000 to Roopal in June, 2006 cannot be accepted and it is merely an attempt to show that Rs.3,74,00,000 was not the full consideration in respect of the 11,00,000 shares. Further, the version put forth by the Noticee, as above, could also be to hide the fact regarding his role in aiding and abetting Jayesh HUF and Roopal in the scheme of cornering the shares of IDFC pursuant to its IPO.

25. In respect of 11,00,000 shares of IDFC purchased by Bhanuprasad HUF in off-market from Roopal on August 13, 2005, it was observed that these shares were purchased at the issue price i.e. Rs.34 whereas, the corresponding closing price of IDFC on the listing date i.e August 12, 2005 (as August 13, 2005 was Saturday and trading holiday) was Rs.69.50. The fact that Roopal transferred 11,00,000 shares to Bhanuprasad HUF through off-market on August 13,2005 i.e. after the listing of such shares indicates that Roopal consciously chose to transfer the shares in off- market to Bhanuprasad HUF whereas she could have sold such shares in the secondary market at a higher price (which was much more than the issue price). Hence, this establishes the fact that Bhanuprasad HUF (Karta- Noticee) and Roopal along with Jayesh HUF were acting in concert and had acted in a pre- determined manner with prior understanding between them.

26. Further, Bhanuprasad HUF had sold 11,00,000 shares on August 16, 2005 through his broker viz. KIFS (where Jayesh Khandwala, Karta of Jayesh HUF and his brother are Directors). As per the copy of the contract note provided by KIFS in respect of the above transaction involving sale of 11,00,000 shares of IDFC on behalf of Bhanuprasad HUF, it is observed that the gross consideration of such sale was Rs.7,28,75,000 and the net consideration after the deduction of brokerage, STT, Service Tax etc. was Rs.7,27,15,512. However, KIFS, from its bank account no. 0060140000398 maintained with HDFC Bank had transferred the gross proceeds amounting to Rs.7,28,75,000 to Bhanuprasad HUF on August 17, 2005 i.e. one day before the due date of settlement of such trade and Bhanuprasad HUF, in turn, had transferred the said amount to Jayesh HUF on the same day. It is observed that although the contract note issued by KIFS to Banuprasad HUF mentioned a net consideration of Rs 7,27,15,512 (after the deduction

of brokerage, service tax, STT etc) payable to Bhanuprasad HUF, KIFS had in actuality transferred an amount of Rs 7,28,75,000 (which in fact was the gross amount after the sale). It is irrational for a stock broker to not charge a client with brokerage, STT, Service Tax etc. as mentioned in the contract note and credit the client's account with the entire gross sale proceeds before the settlement date of the said trade i.e settlement in this case was made before the actual pay out of the funds/securities. Further, Bhanuprasad HUF had also stated that the gross payout of Rs.7,28,75,000 was utilized towards the repayment of his outstanding loan amount with Zealous. Hence, it is established that the above transaction was executed between Jayesh HUF and Bhanuprasad HUF with a prior understanding and pre-agreed understanding between them.

27. Further, the re-investigation in the matter conducted by SEBI had also revealed that in addition to the alleged circuitous movement of Rs.3,74,00,000 on August 13, 2005, which took place from Jayesh HUF to Bhanuprasad HUF, Bhanuprasad HUF to Roopal and then from Roopal to Jayesh HUF, another transaction was also executed between Jayesh HUF and Roopal whereby Rs.3,74,00,000 was transferred by Jayesh HUF to Roopal on August 17, 2005. In view of this transaction which took place on August 17, 2005, it has been alleged in the re-investigation report that the trail of funds which took place on August 13, 2005, as discussed above, was not circular in nature as Rs. 3,74,00,000 which was initially financed by Jayesh HUF (towards the purchase of 11,00,000 shares of IDFC by Bhanuprasad HUF from Roopal) had not ultimately come back to Jayesh HUF. Thus, based on the re-investigation that was conducted by SEBI in the matter, it is alleged that since the amount of Rs. 3,74,00,000 transferred by Jayesh HUF to Bhanuprasad HUF had not come back to the account of Jayesh HUF, he i.e Jayesh HUF was not the ultimate beneficiary in respect of the above mentioned transactions and therefore, it was alleged/observed in the re-investigation report that it was Bhanuprasad HUF (Karta- Noticee) who was the ultimate beneficiary in respect of such series of transactions involving 11,00,000 shares of IDFC.

28. However, in his submissions made to the SCNs, the Noticee has contended that he cannot be alleged to be the ultimate beneficiary in respect of the said amount of Rs 3,74,00,000 as this amount was transferred by Jayesh HUF to Roopal directly and neither the investigation report nor the SCNs have established that Bhanuprasad HUF

i.e Noticee (as Karta) can be associated with the aforesaid transaction in any manner and therefore was the ultimate beneficiary in respect of the transaction involving 11 lakh shares of IDFC, as mentioned above. In this regard, after perusing the relevant records, I am also in agreement with the aforesaid contentions of the Noticee. As explained above, the circuitous nature of the movement of funds between Jayesh HUF, Bhanuprasad HUF and Roopal have already been established. It is clear from the findings of the investigation that Roopal had transferred Rs. 3,74,00,000/- to Jayesh HUF on the same day she received the funds from Bhanuprasad HUF. Thus, to say that just because Jayesh HUF had transferred an amount of Rs. 3,74,00,000/- to Roopal on August 17, 2005 (after the circuitous transaction of Rs. 3,74,00,000/- from Jayesh HUF to Bhanuprasad HUF to Roopal to Jayesh HUF was completed on August 17, 2005), the allegation levelled in the SCNs that Bhanuprasad HUF i.e Noticee was the ultimate beneficiary in respect of the above transaction cannot be accepted. It is also noted that, the investigation report has not established that the profit earned out of the sale of 11,00,000 shares of IDFC had ultimately come to the account of the Noticee / Bhanuprasad HUF. Further, the investigation has also not established that Rs. 3,74,00,000 that was transferred by Jayesh HUF to Roopal on August 17, 2005 were in turn transferred by her to the account of the Noticee / Bhanuprasad HUF. Thus, I am of the view that in order to establish the charge that Bhanuprasad HUF / Noticee was the ultimate beneficiary of such transaction, it is essential to prove that after the completion of transaction, the funds were actually transferred to the account of Bhanuprasad HUF or its Karta, i.e the Noticee. It is clear that the entire amount in respect of the purchase of 11,00,000 shares of IDFC by Bhanuprasad HUF was provided by Jayesh HUF on August 13, 2005. Further, the entire sale proceeds w.r.t the sale of 11,00,000 shares of IDFC were transferred by Bhanuprasad HUF to Jayesh HUF on August 17, 2005. Thus, as far as the dealings of Bhanuprasad HUF (Karta – Noticee) is concerned, it is amply evident from the records that the source of the funds in respect of the purchase of the 11 lakh shares of IDFC and the ultimate beneficiary after the sale of the said 11 lakh shares of IDFC was not Bhanuprasad HUF/ Noticee and therefore, the Noticee cannot be the ultimate beneficiary of such transaction. The factual position has also been held by Hon'ble SAT in its order dated July 05, 2010 in the appeal filed by the Noticee against the AO Order dated March 31, 2010 and the WTM order passed in the said matter. The relevant conclusion/ observations of Hon'ble SAT in this regard are reproduced below:

"10. Having carefully examined the case as set up by the appellant and also by the Board and from the record that we have before us, it is more than clear that the appellant was hand-in-glove with both Roopalben and Khandwala with whom he had a prior understanding and he facilitated Khandwala to make ill-gotten gains and that he allowed the funds and shares to be routed through his accounts as alleged and as found by the whole time member in the impugned order. The story as set up by the appellant is difficult to believe in the face of the material that is on the record. If the appellant purchased 11 lac shares from Roopalben at the rate of Rs.35.50 per share, as claimed by him, then he should have paid her Rs.3,90,50,000. Admittedly, he did not pay this amount to her on August 13, 2005 on which date the shares were transferred to his demat account. He paid only a sum of Rs.3,74,00,000 as is clear from his bank account and this is the same amount which he received from Khandwala on the same day. This amount which the appellant received from Khandwala and paid to Roopalben clearly shows that she transferred the shares at the issue price of Rs.34 per share and not at the rate of Rs.35.50 as claimed by the appellant. To overcome this difficulty of difference in the two amounts, the appellant has introduced the fiction of deferred payment of Rs.16,50,000 at a distant date of more than nine months. This amount of Rs.16,50,000/- if paid by the appellant to Roopalben in June, 2007 cannot be towards the purchase of these shares but could well be for some other purpose. The appellant says he had no connection with Roopalben. If that were so, why should she transfer 11 lacs shares to him without receiving the full amount. Again, the shares were transferred and payment made on August 13, 2005 on which date they were already listed (they were listed on August 12, 2005) and the closing price of the scrip on the first day of listing was Rs.69.55. When the shares could be sold in the market for Rs.69.55 per share or around that price, why should Roopalben transfer such a large chunk of shares to the appellant only at the rate of Rs.35.50 per share and that too on deferred payment. Let us not forget that Roopalben has been identified as one of the key operators and a prominent player in the IPO scam who abused the system and cornered very large number of shares in different IPOs only to make money which she had to pass on to the financiers. She had not gone to the market for charity. Further, in his replies filed to the various show cause notices issued to him, the appellant has categorically stated that he purchased the 11 lac shares from Roopalben in an off-market transaction in a spot deal. The appellant claims to be a seasoned market player and if his claim is right, he would have known that in a spot delivery contract the payment of price for the purchase has to be made on the date of the contract or on the next day and if it is not so made the transaction becomes illegal.

This is the requirement of Section 2(i) of the Securities Contracts (Regulation) Act, 1956. Surely, we do not expect a seasoned market player dealing in lacs of shares to execute such an illegal transaction. As a matter of fact, he did not execute any illegal transaction. He purchased the shares in a spot transaction(s) and made the payment of Rs.3,74,00,000 to

Roopalben at the issue price of Rs.34 per share on the same day which money had come from Khandwala. There is yet another reason why we cannot accept the ipse dixit of the appellant that he entered into an oral agreement for the purchase of shares on August 10, 2005. In one of his replies filed on December 16, 2006 to the show cause notice dated June 15, 2006 he himself admitted that the shares had been purchased by him on August 13, 2005. The relevant part of his reply has been reproduced in para 3 above. Again, in his letter of July 3, 2007 addressed to the adjudicating officer while submitting documents after the personal hearing, the appellant clearly stated that the 11 lac shares of IDFC had been purchased on SPOT as per purchase voucher no. 35 dated August 13, 2005. How can we now believe that he had entered into a verbal agreement to purchase the shares on August 10, 2005. This is clearly an afterthought. Moreover, the appellant did not have money to purchase the shares. The amount of Rs.3,74,00,000 (representing the issue price of 11 lac shares) came to his account from Khandwala only on August 13, 2005 and he paid that amount to Roopalben on that day when the shares were transferred to his demat account. This clearly indicates that the transaction took place on August 13, 2005 and we cannot believe that there was any verbal agreement on August 10, 2005 as claimed by the appellant. Interestingly, Roopalben transferred Rs.3,74,00,000 to Khandwala on August 13, 2005 itself and this is clear from her bank account. Obviously, the appellant pleads ignorance about this transfer as he claims he has no links with Roopalben. But the fact of the matter is that Khandwala transferred Rs.3.74 crores to the appellant which money was given to Roopalben for the purchase of 11 lac shares at the issue price and Roopalben transferred the same amount back to Khandwala and all this happened on August 13,2005. In other words, the amount which came from Khandwala went back to him in his account on the same day through the appellant and Roopalben and the circle was complete. What more proof is required to establish the obvious link between the three of them. These facts clearly go to establish that they were acting in concert with each other. Again, the story that the appellant took loan from Khandwala for the purchase of shares cannot be believed in the circumstances of the present case. Except for the ipse dixit of the appellant, there is not even an iota of material to show that any loan transaction took place. There is nothing on the record to show that Khandwla was a money lender but assuming that to be so, it is impossible to believe that such huge sums of money could have been lent without any documentation or security. Since the appellant has set up the case that he borrowed money from Khandwala, it was for him to establish the fact by producing cogent material on the record. In the absence of any such material, we cannot but hold that the story of borrowing money is incredible and cannot be relied upon. Another interesting feature of the case may be noticed at this stage. It is the appellant's own case that having procured the shares from Roopalben at the rate of Rs.34 per share as found by us or, at the most, at the rate of Rs.35.50 per share as claimed by him, he sold them in the market on August 16, 2005 at the rate of Rs.66.25 per share for a total amount of Rs.7,28,75,000. This sale was on market through the broker and a contract note was executed a copy of which is on the record. He received this amount in his bank account on the following day i.e., August 17, 2005. According to the T+2 system of settlement of trades that is prevalent in the market, the payout date was August 18, 2005. Surprisingly, he received the amount one day prior to the payout date and more interestingly, he transferred the entire sale proceeds to Khandwala on the same day without deduction of any brokerage, securities turnover tax, service tax, etc. On a query made by us, the learned *counsel for the appellant informed us that Khandwala's brother is a director in the broker company (Khandwala Integrated Financial Services Pvt. Ltd.). All this leads us only to one conclusion that the appellant, Roopalben and Khandwala were acting in concert with each other in the IPO scam while dealing in the shares of IDFC and that the appellant did not make any purchases in the secondary market in the ordinary course of trading as was now sought to be argued before us. From what we have observed above, it is clear that Khandwala was providing the finances which were being routed through the accounts of the appellant and his demat account had also been used for parking and selling the shares.*

The shares cornered in the IPO could have been sold directly by Roopalben or Khandwala in the market without involving the appellant but apparently he was brought in only to complicate the web of entities involved in the IPO scam and obfuscate the issue with a view to avoid detection.

29. The term appellant that has been mentioned in the aforementioned order of Hon'ble SAT is also the Noticee in the context of the present proceedings. Clearly, from the above conclusions drawn by Hon'ble SAT in its Order dated July 05, 2010, it is observed that the Noticee has concocted a fiction of a deferred payment of Rs 16.5 lacs as claimed to have been paid by him to Roopal in June 2006. It is also clear that Jayesh Khandwala/Jayesh HUF was providing the finances which were being routed through the accounts of the Noticee and the demat account of the Noticee had also been used for parking and selling the shares. Thus, Noticee has clearly aided and abetted Jayesh HUF and Roopal in cornering the shares of IDFC post IPO and in the process facilitated Jayesh HUF in making ill-gotten gains from the sale of these shares.

<u>Role of the Noticee w.r.t IPO of Sasken</u>

30. During the course of investigations, it was further observed that the Noticee received a total of 13,550 shares of Sasken on September 9, 2005 and 725 shares on September 14, 2005 from Jayesh HUF, who, in turn, had received these shares from three entities, including Roopal. The Sasken shares were issued to the public at the price of Rs.260/- per share and were listed on September 9, 2005. Bhanuprasad HUF (Karta- Noticee) sold 14,275 shares of Sasken on September 9, 2005 in the market through his broker i.e KIFS at Rs.493.54 per share and received Rs.70,45,343.75 from the broker. Thereafter, Bhanuprasad HUF passed on the entire sale proceeds i.e. Rs.70,45,343.75 to Jayesh HUF vide cheque No.148695 from his Bank Account No.0061000225427 held with HDFC Bank.

31. In the context of the above transactions in the scrip of Sasken by the Noticee, I would once again like to rely upon the order of Hon'ble SAT dated July 05, 2010 in the matter of IPO investigations and the appeal filed by the Noticee against the WTM's Order and AO order dated March 31, 2010. The relevant conclusions drawn by Hon'ble SAT in its order dated July 05, 2020 are as under:

"*11. This brings us to the IPO shares of Sasken. Here again we have no doubt that the appellant played foul in selling the shares received from Khandwala which clearly shows that he was mixed up with him. It is not in dispute that after receiving the shares of Sasken from three key operators including Roopalben, Khandwala transferred on September 9, 2005 and September 14, 2005, 13,550 and 725 shares respectively aggregating to 14,275 shares to the appellant. It is the appellant's case that he purchased these shares from Khandwala at the rate of Rs.300.40 per share for a total consideration of Rs.42,88,210. The demat account of the appellant shows that he received these shares from Khandwala but there is not an iota of evidence on the record to show that the appellant ever purchased these shares. He has not produced bank account or any other supporting document to show that consideration was paid for these shares. His ipse dixit cannot be accepted. The onus was on him to establish that he purchased the shares. In the absence of any evidence we cannot but hold that these shares were transferred without consideration. Again, the appellant sold these shares through the broker on September 9, 2005 at the rate of Rs.493.54 per share for a gross amount of Rs.70,45,343.75 even though by that date he had received only 13,550 shares. This by itself is not an illegality because short sales are permissible. However, the interesting part of the story is that the broker transferred on September 14, 2005 the gross amount of Rs.70,45,343.75 to the account of the appellant without deducting brokerage, turnover tax and other transaction charges and the appellant on receipt of the amount immediately on the same day transferred the gross amount of sale proceeds to Khandwala. A copy of the bank account of the appellant is on the record. We cannot believe the version of the appellant that the amount had been transferred towards the repayment of the loan because the accounts have not been produced. We are satisfied that in the absence of any other cogent explanation, the appellant is resorting to the same loan theory which has no basis.*

The transfer of Sasken shares to the appellant and the subsequent sale by him and remitting the amount to Khandwala is enough proof of the fact that he was a front entity of Khandwala for selling the cornered shares for making illegal gains.

12. <u>In view of our findings recorded above, we have no hesitation to hold that the appellant did not deal with the shares of IDFC and Sasken in the ordinary course of business in the secondary market but was acting in concert with Roopalben and Khandwala in the IPO scam. We are in agreement with the whole time member that the appellant indulged in unfair trade practices in the securities market and facilitated Khandwala to make ill-gotten gains and thereby violated Section 12A of the Act and Regulations 3 and 4 of the Regulations."</u>

…

Since the appellant has made no profits himself and only acted in league with Roopalben and a willing tool in the hands of Khandwala, the question of any disproportionate gain or unfair advantage made by him does not arise. Similarly, clause (b) of Section 15J would also not be of any assistance in computing the amount of penalty as there is nothing on the record to show the amount of loss caused to any investor or group of investors. Clause (c) of Section 15J is, however, attracted to the extent that the wrongful acts committed by the appellant were repetitive in as much as he dealt in that manner in two IPOs of IDFC and Sasken though the show cause notice alleges that he participated in all the 21 IPOs involved in the scam which is not true. Even though we do not agree with the reasons recorded by the adjudicating officer for holding the appellant guilty, we do agree that he has played foul in the market in the two IPOs as discussed above. For the aforesaid wrongful acts of his, penalty must follow as held by the Supreme Court in Chairman, SEBI vs. Shriram Mutual Fund and another, AIR 2006 S.C. 2287…

32. Thus, it is clear from the above order of Hon'ble SAT and also from the findings of investigation /re-investigation and the allegations levelled against the Noticee in the SCNs (i.e. the first, second and third SCN) that Bhanuprasad HUF, for which the Noticee was the Karta had acted as the front entity in concert with Jayesh HUF and Roopal to the detriment of the retail investors by aiding and abetting them in the cornering of the shares of both IDFC and Sasken pursuant to their IPOs. The aforesaid activities of the Noticee along with the other key operators/ financiers resulted in the loss to the retail investors as the shares cornered by such entities were from the quota earmarked for the retail investors and therefore, the retail investors could not benefit from the price appreciation in the shares of IDFC and Sasken upon their listing. Further, there was opportunity loss suffered by the genuine investors who applied in the IPOs of these companies as they could not get allotment as a result of the above cornering act/scheme employed by Jayesh HUF, Roopal in connivance with the Noticee.
33. It was also contended by the Noticee that SEBI has been consistently changing its stance with respect to his role in the IPO irregularities and the Noticee mentioned that the change in the stance taken by SEBI has been observed from the allegations levelled against the Noticee in the First, Second and Third SCN issued to him in the context of the present proceedings. The Noticee mentioned that the First SCN had alleged that he had acted as the Financier, the Second SCN had alleged that the Noticee has acted

as conduit/front entity to Jayesh Khandwala/Jayesh HUF. Further, the third SCN has termed the Noticee as the beneficiary of the entire manipulative scheme of cornering of the shares post-IPO of IDFC and Sasken. In this regard, I note that although different terms have been used through the SCNs issued to the Noticee regarding his role in the entire manipulation, there is no inconsistency in the finding/observation as regards the allegations pertaining to the modus operandi adopted by the Noticee, Jayesh Khandwala, Jayesh HUF and Roopal in the cornering of the shares of IDFC & Sasken. Only in the Third SCN, a finding with respect to an additional transaction of Rs. 3,74,000/- which had taken place on August 17, 2005 between Jayesh HUF to Roopal, as revealed from the re-investigation, has been mentioned. However, the allegation that it can be inferred that the Noticee is the ultimate beneficiary w.r.t the cornering of 11,00,000 shares of IDFC due to such additional transaction between Roopal and Jayesh HUF and the conclusion drawn that Noticee was not the actual beneficiary has already been discussed in the pre-paragraphs of this order. Thus, I find no merit in the submission of the Noticee that the three SCNs issued to him contained inconsistent allegations/infirmities.

34. Finally, the Noticee has contended that the remand of the matter by the Hon'ble Supreme Court does not permit SEBI to "re-investigate" the matter and issue a fresh SCN with new set of allegations/ charges in order to somehow or other pass orders against him. In this context, Noticee has also drawn reference to a judgment of Hon'ble SAT in the matter of Devendra Suresh Gupta vs. Securities and Exchange Board of India (Appeal no. 176 of 2020) wherein it had relied on its previous judgement in the case of Vasudev Ramchandra Kamat vs SEBI wherein it was held by Hon'ble SAT that "*a specific direction was issued that the matter is restored to the file of the AO and the AO was required to decide the matter afresh on merits. It means that the AO was required to decide the matter afresh pursuant to the show cause notice dated October 8, 2013. The AO was required to deal with the charges levelled against the appellant under the said show cause notice dated October 8, 2013. It was not open to the AO to issue a fresh show cause notice incorporating a new charge.*"

35. I have perused the above judgments of Hon'ble SAT. In my assessment, the facts and circumstances of the instant proceedings against the Noticee are totally different from

the facts of the matter discussed in the aforementioned orders of Hon'ble SAT. It is pertinent to note that the Hon'ble Supreme Court, while remanding the matter back to SEBI on July 17, 2013 had clearly ordered that "…*matter is disposed of by remanding the matter to SEBI, keeping all the issues open…*". Thus, there was no restriction placed by Hon'ble Supreme Court that the issue has to be adjudicated by the AO only on the basis of existing facts and additional facts/findings cannot be incorporated by the AO. In the instant matter, it is important to note that once fresh findings have been revealed during the course of re-investigation conducted in the matter, such new findings and resultant allegations that have been levelled against the Noticee have to be communicated to him by way of an additional SCN, as was done in the present matter. It is imperative to note here that the reasons for ordering re-investigation in the matter have been adequately addressed in the pre-paras of this order and the same are not repeated for the sake of brevity. The re-investigation in the matter was directed by the Whole Time Member of SEBI vide his order dated June 12, 2015. As the Noticee has aided and abetted Jayesh Khandwala/Jayesh HUF in perpetrating the fraud on the investors of securities market, it was imperative that the findings of such re-investigation are also considered by the AO for adjudging the overall role of the Noticee through the current proceedings. Further, the third SCN issued in the matter i.e. the SCN issued after the order of Hon'ble SAT contained additional findings /allegations and the same was incorporated in the third SCN which was issued in addition to the previous two SCNs addressed to the Noticee. In this regard, during the course of the current proceedings, it was made clear to the Noticee that the third SCN issued to him in the matter is in addition to the First and Second SCN and the third SCN merely incorporates additional facts/allegations that have emerged during the course of re-investigation conducted in the matter. Further, as already discussed on pre pages of this order, the allegation/charges levelled against the Noticee through the third SCN have been disposed of as the said allegations against the Noticee (alleged through the third SCN) were not found to be sustainable. Thus, the contentions of the Noticee questioning the re-investigation conducted in the matter and the issue of the third SCN to him after the re-investigation is baseless and without any merit.

36. Thus, from the overall facts/observations made above, I conclude that the aforesaid

activity of the Noticee, wherein he utilized the accounts of Bhanuprasad HUF to aid and abet Jayesh Khandwala, Jayesh HUF and Roopal in cornering the shares of IDFC and Sasken in respect of their IPOs and later on selling the shares at higher rates, resulted in loss to the retail investors, as the shares cornered by the aforementioned persons/entities were from the quota earmarked for the retail investors. Therefore, in view of the above findings/observations, I conclude that the Noticee has violated the provisions of Sections 12A(a), (b) & (c) of the SEBI Act and Regulations 3(a), (b), (c), (d) and 4 (1) of the PFUTP Regulations.

II. If yes, whether the violation would attract monetary penalty on the Noticee under the provisions of section 15HA of the SEBI Act?

37. Therefore, in the facts and circumstances of the case, I am of the view that such defaults by the Noticee attract the liability to pay penalty as prescribed under Section 15 HA of the SEBI Act, which provides as follows: -

SEBI Act

PENALTIES AND ADJUDICATION

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

III. If yes, what should be the quantum of monetary penalty?

38. For the purpose of adjudication of the penalty, it is relevant to mention that under section 15 I of the SEBI Act, imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The guidelines in this regard are provided by the legislature in section 15J of the SEBI Act. As per the explanation appended to section 15J, vide Part VIII of Chapter VI of the Finance Act, 2017, which was brought after the Judgment of Hon'ble Supreme Court in the case of Roofit Industries, while adjudging the quantum of penalty, the adjudicating officer has discretion and such discretion should be exercised having due regard to the factors specified in section 15J of the SEBI Act,

which reads as under: -

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

a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as result of the default;

b) the amount of loss caused to an investor or group of investors as a result of the default;

c) the repetitive nature of the default.

Explanation. —For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

39. Having regard to the factors listed in section 15J, I would now like to examine the monetary impact of the aforementioned act of the Noticee in cornering/disposal of the shares of the IPOs of Sasken and IDFC by actively colluding with the financiers / key operators and the specific role played by the Noticee in such activities. As already held by Hon'ble SAT vide Order dated July 05, 2010, the Noticee was the front entity / conduit which acted in a manner so as to enable Jayesh Khandwala / Jayesh HUF to benefit by cornering the shares of IDFC and Sasken and later on disposing them at higher rates. In the process, the entities unlawfully enriched at the cost of genuine investors. The shares cornered in the IPOs of IDFC and Sasken could have been sold directly by Roopal or Jayesh HUF/ Jayesh Khandwala in the market without involving the services of the Noticee. However, from the scheme/manipulation orchestrated by the above entities, it was evident that the Noticee was roped in to aid and abet the operators/financiers only to complicate the web of entities involved in the IPO scam and obfuscate the issue with a view to avoid detection by regulatory agencies. From the material available on record, it is established that the Noticee had acted as conduit in relation to the two IPOs viz. IDFC and Sasken. However, the exact amount of commission earned by the Noticee, if any, by acting as a front/conduit to the financiers/operators has not been mentioned in the Investigation report. I have also considered the fact that the impugned transaction had taken place in 2005 and around

17 years have elapsed since then. I have also noted that, in the matter of IPO irregularities, Noticee was restrained/debarred for a period of one year vide WTM-SEBI Order dated July 30, 2009. However, at the same time, I cannot lose sight of the fact that the activities of the Noticee had allowed Jayesh HUF and Roopal to corner the shares of IDFC and Sasken pursuant to their IPO issues, which was detrimental to the interest of the retail investors as the shares that were cornered/disposed by these entities were the shares that were earmarked for the retail investors in the aforesaid IPOs. As a result of the same, the retail investors suffered opportunity loss and the financiers/operators enriched at the cost of the genuine retail investors. Further, the IPO scam that took place during the relevant time i.e. 2003 to 2005 had eroded the confidence of several investors in the securities market.

ORDER

40. Therefore, considering all the facts and circumstances of the case and exercising the powers conferred upon me under section 15 I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby impose monetary penalty of Rs. 50,00,000/- (Rupees Fifty Lakh only) on the Noticee viz. Mr. Bhanuprasad Dipakkumar Trivedi (Karta of Bhanuprasad HUF) in terms of section 15HA of the SEBI Act for his violation of the provisions of Sections 12A(a), (b) & (c) of the SEBI Act and Regulations 3(a), (b), (c), (d) and 4 (1) of the PFUTP Regulations. In my view, the said penalty is commensurate with the violation committed by the Noticee in this case.

41. The Noticee shall remit / pay the said total amount of penalty within 45 days of the receipt of this order either by way of Demand Draft in favour of "SEBI- *Penalties Remittable to Government of India*", payable at Mumbai, or by following the path at SEBI website www.sebi.gov.in, ENFORCEMENT > Orders > Orders of AO > PAY NOW; OR by using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

42. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD1-DRA-IV, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

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

43. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee viz. Mr. Bhanuprasad Dipakkumar Trivedi (Karta Bhanuprasad HUF) and also to the Securities and Exchange Board of India.

Date: May 23, 2022 **Suresh B Menon**

Place: Mumbai **ADJUDICATING OFFICER**