BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/AD/2022-23/16292-16300]

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:-

Sr. No.	Name and PAN of Noticees
1.	M/s Sanatan Herbals and Naturals Limited [**PAN: AAFCS6461D**]
2.	M/s Camson Farm Produce P. Limited [**PAN: AAACR9470N**]
3.	M/s Shashtika Health Resort and Spa P. Limited [**PAN: AAACR9470N]**
4.	Mr. Karan Singh [**PAN:AMKPK4001D**]
5.	Ms. Geeta Singh [**PAN:ACDPS8930S**]
6.	Ms. Alka Singh [**PAN: APRPS5726D**]
7.	Mr. Akbal Narayan Singh [**PAN: ABFPS9453D**]
8.	Mr. Veerendra Kumar [**PAN: AODPS6092K**]
9.	Mr. Dhirendra Kumar [**PAN: ADTPK0348P**]

In the matter of M/s Camson Bio Technologies Ltd.

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") had conducted an investigation into the trading and dealings in the scrip of M/s Camson Bio Technologies Ltd. (hereinafter referred to as the "**Camson Bio**/**Company/By Name**"), which was listed on the Bangalore Stock Exchange (hereinafter referred to as the "**BgSE**") and subsequent to the derecognition of BgSE, has been listed

on the Bombay Stock Exchange (hereinafter referred to as "**the BSE**")**.** During the investigation, it was observed by the SEBI that M/s Sanatan Herbals and Naturals Ltd (hereinafter referred to as "**Noticee 1/By Name**"), M/s Camson Farm Produce P. Limited (hereinafter referred to as **"Noticee 2/By Name"**), M/s Shashtika Health Resort and Spa P. Limited (hereinafter referred to as **"Noticee 3/By Name"**), Mr. Karan Singh (hereinafter referred to as **"Noticee 4/By Name"**),Ms. Geeta Singh (hereinafter referred to as **"Noticee 5/By Name"**) Ms. Alka Singh (hereinafter referred to as **"Noticee 6/ By Name"**), Mr. Akbal Narayan Singh (hereinafter referred to as **"Noticee 7/By Name"**)Mr. Veerendra Kumar (hereinafter referred to as **"Noticee 8/By Name"**) and Mr. Dhirendra Kumar (hereinafter referred to as "**Noticee 9/By Name"**) (Noticees 1 to 9 are hereinafter collectively referred to as "**Noticees"**) being acquirers/persons acting in concert (also referred to as "**PACs**"), failed in making public disclosure of offer for acquisition of shares, which was required to be made under the provisions of Regulation 11(1) read with Regulation 14(1) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations,1997 (hereinafter referred to as the "**SAST Regulations,1997**") read with Regulation 35 of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 (hereinafter referred as "**SAST Regulations, 2011"**).

2. Therefore, SEBI initiated adjudication proceedings against Noticees under provisions of Section 15H of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") for the aforementioned alleged violations by Noticees.

APPOINTMENT OF ADJUDICATING OFFICER

3. Vide order dated January 17, 2017, SEBI appointed Ms. Rachna Anand (hereinafter referred to as "**erstwhile AO**"), as the Adjudicating Officer under Section 15(I) of SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'Adjudication Rules') to inquire into and adjudge under the provisions of Section 15H of the SEBI Act, the alleged violation of provisions of SAST Regulations by Noticees. Pursuant to the transfer of erstwhile AO, Shri. B. J Dilip was appointed as the Adjudication Officer in this matter. Thereafter, vide Order dated December 29, 2020, the undersigned

was appointed as the Adjudication Officer (hereinafter referred to as **"AO"**) in this matter.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. Show Cause Notices dated September 18, 2017 (hereinafter referred to as **'SCN'**) was issued to Noticees by the erstwhile AO under Rule 4 of the (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 to show-cause as to why an inquiry should not be initiated against Noticees and penalties, if any, not be imposed upon them under the provisions of Section 15H of SEBI Act, for the aforesaid violations alleged to have been committed by them.

5. The allegations levelled against Noticees in the SCN are as under:

a) *On examination of the holdings of the Company for the period January 01, 2008 to June 30, 2013 (hereinafter referred to as " **Investigation Period**"), it was observed that Noticees were PACs in terms of Regulation 2(e) of the SAST Regulations. The inter-se relationship of Noticees is reproduced hereunder:*

Sr. No.	**Name of the Promoter**	**Relationship**
1	M/s. Santan Herbals and Naturals Limited	(1),(2) & (3) are under same management
2	M/s. Camson Farm	(1),(2) & (3) are under same management
3	M/s Shashtika Health Resort and Spa P. Limited	(1),(2) & (3) are under same management
4	Geeta Singh	Director of (1), (2) & (3) during investigation period and wife of managing director of M/s. Camson Bio
5	Karan SIngh	Director of (1), (2) & (3) during investigation period and son of managing director of M/s. Camson Bio
6	Dhirendra Kumar	Husband of Ms. Geeta Singh and managing director of m/s. camson bio
7	Veerendra Kumar	Brother of Dhirendra Kumar
8	Alka Singh	Wife of Veerendra Kumar
9	Akbal Narayan Singh	Father of Dhirendra Kumar

a) During the investigation, it was observed that the total shareholdings of the PACs at the end of June 2009 was 51,38,530 shares, amounting to 37.51% of total share capital (1,37,00,000 shares) of the Company. It is thereafter alleged that on July

16, 2009, M/s Sanatan Hearbals and Naturals Ltd acquired 9,25,200 shares (5,90,000 shares from Mr. Ram Yadav and 3,35,200 shares from Mr. Veerendra Kumar) whereas M/s Camson Farm Produce P. Ltd. acquired 8,10,540 shares (5,69,600 shares from Ms. Sangeeta K. Shetty and 2,40,940 shares from Mr. Jamuna Prasad). As a result of this acquisition, it is alleged that the total shareholding of PACs at the end of September 2009 was 65,39,070 shares, amounting to 47.73% of the total share capital (1,37,00,000) of the Company, leading to an increase of 10.22% in the total shareholding of PACs.

b) *An e-mail was sent by the SEBI to Integrated Enterprises (India) Limited, the Registrar and Transfer Agent of the Company (hereinafter, "RTA") on May 09, 2016 to provide the details of shares transferred/received in physical form and details of shares dematerialized/re-materialized by M/s Camson Farm Produce P. Ltd. and M/s Sanatan Herbals and Naturals Ltd. for the period December 01, 2008 to September 31, 2013. In its reply dated May 13, 2016, the RTA provided SEBI list of transfers of the said entities. As per the information provided by the RTA, Certificates N9. 55414, 55404, 55403 and 55416 list out the details of transactions mentioned in the allegations.*

c) *During further investigation, it was observed that the total shareholdings of the PACs at the end of December 2010 was 50,98,670 shares, amounting to 31.77% of total share capital (1,60,50,000 shares) of the Company. It is thereafter alleged that on March 14, 2011, M/s Shashtika Hotels and Resorts P. Ltd. as well as Mr. Dhirendra Kumar were allotted 9,90,000 shares each as a result of conversion of warrants. Consequent to this acquisition, is alleged that the total shareholding of Persons acting in Concert at the end of March 2011 was 70,78,670 shares, amounting to 39.04% of the total share capital (1,81,30,000) of the Company, leading to an increase of 7.27% in the total shareholding of Persons acting in Concert. it In its e-mail dated May 18, 2016 to SEBI, the RTA provided details of allotment of shares alleged in the paragraph above.*

d) *Since both the acquisitions dated July 16, 2009 as well as March 14, 2011 were in excess of 5% of shares/voting rights, Noticees were under a statutory obligation to make a public announcement to acquire shares. To ascertain if there were any open offers made in the scrip of the Company during the period December 31,* *2007 to September 30, 2013, an e-mail dated July 12, 2016 was sent to the Corporate Finance Department of SEBI. Vide e-mail dated July 12, 2016, the Corporate Finance Department of SEBI informed that no open offer was received in the scrip of the Company during the period December 31, 2007 to September 30, 2013.*

e) *In view of the alleged failure of the Noticees in making a public announcement to acquire shares, it is alleged that Noticees have violated the provisions of Regulation 11(1) read with Regulation 14(1) of SAST Regulations read with Regulation 35 of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011.*

6. The SCNs were sent to Noticees through Speed Post Acknowledgement due (herein after referred to as '**SPAD**'). The delivery status of the SCNs are as follows:

Name of Noticee	SCN Delivered (Date/ Mode)	Remarks
M/s Sanatan Hebals and Naturals Ltd	Undelivered through SPAD	Entity vide letter dated October 23, 2017 submitted that it was in receipt of SCN.
M/s Camson Farm Produce Pvt. Ltd	Undelivered through SPAD	Entity vide letter dated October 23, 2017 submitted that it was in receipt of SCN. SCN also delivered through newspaper publication dated March 31, 2022.
M/s Shashtika Health Resort and Spa Limited	Undelivered through SPAD	Entity vide letter dated October 23, 2017 submitted that it was in receipt of SCN. SCN also delivered through newspaper publication dated March 31, 2022.
Mr. Karan Singh	Delivered. acknowledgement card present in the records	
Ms. Geeta Singh	Delivered acknowledgement card not present in the records.	Entity vide letter dated October 23, 2017 submitted that it was in receipt of SCN.
Ms. Alka Singh	Delivered acknowledgement card present in the records	NA

Name of Noticee	SCN Delivered (Date/ Mode)	Remarks
Mr. Akbal Narayan Singh	Undelivered through SPAD	AR Poonam Gadkari. Represent on the behalf of Noticee . SCN also delivered through Newspaper Publication dated March 31, 2022.
Mr. Veerendra Kumar	Delivered acknowledgement card present in the records	NA
Mr..Dhirendra Kumar	Delivered acknowledgement card present in the records	NA

7. Noticees were given fourteen (14) days from receipt of the SCN to make their submissions in respect of the allegations made in the SCN. Subsequent to the issuance of the SCNs, in the interest of natural justice, multiple opportunities of personal hearing were granted to Noticees as per details given below:

Noticee	Noticee Name	Hearing Notice (HN) dates	Dates of Hearing	Mode of delivery of Hearing Notices	Status of personal hearings
1.	M/s Sanatan Hebals and Naturals Ltd	13.12.2017(by erstwhile AO)	04.01.2018(by erstwhile AO)	SPAD/Delivered	Failed to attend the hearing
		06.12.2021(before undersigned)	28.12.2021	SPAD/Not Delivered	
		09.02.2022(before undersigned)	28.02.2022	SPAD/Not delivered Digitally signed email- Undelivered	
2.	M/s Camson Farm Produce Pvt. Ltd	13.12.2017(by erstwhile AO)	04.01.2018(by erstwhile AO)	SPAD/Delivered	Failed to attend the hearing
		06.12.2021(before undersigned)	28.12.2021	SPAD/Not delivered	
		09.02.2022(before undersigned)	28.02.2022	Affixture- Not done Digitally signed email- Undelivered	
		14.03.2022(before undersigned)	29.03.2022	Digitally signed Email- Delivered	
		31.03.2022(before undersigned)	19.04.2022	Delivered through Newspaper publication	

Noticee	Noticee Name	Hearing Notice (HN) dates	Dates of Hearing	Mode of delivery of Hearing Notices	Status of personal hearings
3.	M/s Shashtika Health Resort and Spa Limited	13.12.2017 (by erstwhile AO)	04.01.2018(by erstwhile AO)	SPAD/Not delivered	Attended the hearing through Common representative, Poonam Gadkari, Juris Matrix Partners LLP
		06.12.2021(before undersigned)	28.12.2021	SPAD/Not Delivered	Failed to attend the hearing
		09.02.2022(before undersigned)	28.02.2022	SPAD/Not delivered, Affixture- Not done Digitally signed email- Undelivered	
		31.03.2022(before undersigned)	19.04.2022	Delivered through Newspaper publication	
4.	Mr. Karan Singh	13.12.2017 (by erstwhile AO)	04.01.2018(by erstwhile AO)	SPAD/Delivered	Attended the hearing through Common representative, Poonam Gadkari, Juris Matrix Partners LLP
		06.12.2021(before undersigned)	28.12.2021	SPAD/Not delivered	Failed to attend the hearing
		09.02.2022	28.02.2022	SPAD/Not delivered Affixtures done Digitally signed email- Delivered	
		30.3.2022	19.04.2022	Email	Attended the hearing
5.	Ms. Geeta Singh	13.12.2017 (by erstwhile AO)	04.01.2018(by erstwhile AO)	SPAD/Delivered	Attended the hearing through Common representative, Poonam Gadkari, Juris Matrix Partners LLP
		06.12.2021(before undersigned)	28.12.2021	SPAD/Not delivered	Failed to attend the hearing

Noticee	Noticee Name	Hearing Notice (HN) dates	Dates of Hearing	Mode of delivery of Hearing Notices	Status of personal hearings
		09.02.2022	28.02.2022	SPAD/Not delivered, Affixtures done Digitally signed email- Delivered	
6.	Ms. Alka Singh	13.12.2017(by erstwhile AO)	04.01.2018(by erstwhile AO)	SPAD/Delivered	Attended the hearing
		06.12.2021(before undersigned)	28.12.2021	SPAD/Delivered & through Digitally signed email	
7.	Mr. Akbal Narayan Singh	13.12.2017(by erstwhile AO)	04.01.2018(by erstwhile AO)	SPAD/Not delivered	Attended the hearing through Common representative, Poonam Gadkari, Juris Matrix Partners LLP
		06.12.2021(before undersigned)	28.12.2021	SPAD/Not delivered	Failed to attend the hearing
		09.02.2022	28.02.2022	SPAD/Not delivered, Affixtures- Not done Digitally signed email- Delivered;	
		31.03.2022	19.04.2022	Delivered through Newspaper publication	
8.	Mr. Veerendra Kumar	13.12.2017(by erstwhile AO)	04.01.2018(by erstwhile AO)	SPAD/Delivered	Attended the hearing
		06.12.2021(before undersigned)	28.12.2021	SPAD/Delivered & through Digitally signed email	
9.	Mr.. Dhirendra Kumar	13.12.2017(by erstwhile AO)	04.01.2018(by erstwhile AO)	SPAD/Delivered	Attended the hearing through Common representative, Poonam Gadkari, Juris Matrix Partners LLP
		06.12.2021(before undersigned)	28.12.2021	SPAD/Not delivered	Failed to attend the hearing

Noticee	Noticee Name	Hearing Notice (HN) dates	Dates of Hearing	Mode of delivery of Hearing Notices	Status of personal hearings
		09.02.2022	28.02.2022	SPAD/Not delivered, Affxiutres-Delivered Digitally signed email- Not Delivered;	

8. On January 04, 2018, Authorised Representative (AR) of Noticees 3,4,5,7 and 9, Ms. Poonam Gadkari, Juris Matrix Partners LLP, attended the hearing before the erstwhile AO and stated that the impugned acquisitions were transfers of shares from the employees of the Company. AR also stated that additional submissions in the matter would be filed by February 01, 2018. Similarly on the same day, Noticee 8 i.e. Mr. Veerendra Kumar appeared in person for the personal hearing before the erstwhile AO and also represented his wife i.e Noticee 6, Ms. Alka Singh and submitted that he shall file detailed response to the SCN by February 01, 2018. Pursuant to the hearing, Noticees 6 and 8 filed additional submissions in the matter vide letter dated January 22, 2018.

9. Subsequent to the appointment of undersigned as AO, Noticees 6 and Noticee 8 availed the opportunity of hearing granted to them before undersigned on December 28, 2021. During the hearing, Noticee stated that all her transactions in the Company is managed by her brother-in-law, Mr. Dhirendra Kumar i.e Noticee 9. Similarly, during the hearing, Noticee 8 submitted that he was not aware of any share dealings nor had he signed any share transfer forms. Noticee also contended that all the transactions were managed by his brother i.e. Noticee 9 and he was not in touch with his brother for the last 4-5 years. Both Noticee 6 and Noticee 8 sought for additional time till January 10, 2022 for making additional submission in the matter, which was acceded to by the undersigned. Pursuant to the hearing, Noticees 6 and 8 made common additional submissions in the matter vide letter/email dated January 07, 2022.

10. On April 19, 2022, the scheduled date of hearing, Mr Karan Singh, KNM Partners the AR of Noticee 4, appeared on behalf of the undersigned and reiterated the submissions made by earlier reply of Noticee 4 dated April 07, 2022.

Replies of Noticees

11. Vide letters dated December 26, 2017, February 14, 2018, October 20,2020, Noticees 3, 4,5,7, and 9 submitted their common reply to the SCN and the same is summarized hereunder:

    a *Noticees 3, 4,5,6,7,8 and 9 admitted to the fact that Sanatan Herbals and Camson Farm acquired 9,25,200 shares and 8,10,540 shares, respectively, of the Company on July 16, 2009. Noticees also admitted to the fact that Noticee 3 and Noticee 9 acquired 9,90,000 shares as a result of conversion of warrants on March 14, 2011.*

    b *That the term 'Acquirer' has been gravely misinterpreted. Under Regulation 11(1) of the Takeover Regulations, the obligation of making the public announcement is of the 'Acquirer' and not the PACs. The acquirer can acquire shares on his own or through or with PACs. However the acquirer only has to make the public announcement and not the PAC. The aforementioned Noticees submitted that charges for non compliance with regulation 11 (1) of the Takeover Regulations can only be against the acquirers Sanatan Herbals and Camson Farm for the acquisitions dated July 16, 2009 and for acquisitions dated Mr. Dhirendra Kumar and M/s Shashtika and not against PACs.*

    c *The intention behind formulating Regulations 11 (1) r/w 14(1) of the Takeover Regulations is that every investor must have opportunity to exit from the company in event of change in control and management of the company.*

    d *The acquisition in the year 2009 and 2011 as alleged could not have led to substantial change in control and management of the company.*

    e *For the purposes of the impugned acquisitions, they were not acting in concert with the Acquirers. The Acquirers acted on their own volition and there was no common intention to acquire any further shares or control. Therefore, it was submitted by the Noticees 3, 4,5,6,7,8 and 9 that for the purposes of the impugned acquisition, they were not PACs along with the Acquirers. Therefore, since they did not acquire any of the shares in question they were not obligated to make a public announcement.*

f *There was no intention to put the investors of the company at a disadvantage.*

g *At the time of acquiring such shares, Noticees 3, 4,5,6,7,8 and 9 were unaware of the requirement issued under Regulation 11(1) read with Regulation 14(1) of the Takeover Regulations, 1997 and neither were they advised to take any such actions. They had no mala fide intention behind acquiring these shares and the said acquisition was done for investing in the Company after considering its prospect. Further, the acquisition had not led to any disadvantage for the investors nor has it effected major change in control or management of the Company.*

h *During the financial year 2010, all responsibilities in respect of filings and compliances as mandated from time to time, were handled by Akbal Narayan Singh. Further, Akbal Narayan Singh vide his Affidavit dated September 22, 2020 has taken sole responsibility to be held liable for any and all compliance issues that may arise in respect of the present transactions.*

i *Additionally, it was submitted that the Annual Reports for the Financial Years 2008 till 2013, have time and again been disclosed on the BgSE and the BSE websites and have also been duly circulated to the respective shareholders of the Company in due compliance with the regulatory requirements. In this respect, no objections were raised by either the statutory auditor or the compliance officers of Company. Therefore, there was no reason to believe at any point in time that a breach has taken place.*

j *In and around November 2013, Geeta Singh and Karan Singh resigned from the position of Directors of Camson Farm. vide an Order dated July 31, 2015, the Hon'ble High Court at Karnataka had approved the scheme of arrangement (demerger) of seeds business from M/s Camson Bio to Camson Seeds Ltd. Further, on June 14, 2018, the National Company Law Tribunal, Bangalore had ordered Camson Bio to be liquidated under the provisions of the Insolvency and Bankruptcy Code, 2016 ("IBC 2016"). As on date of reply i.e. October 20, 2020, Sanatan Herbals has been struck off from the Registrar of Companies ("ROC"). Therefore, in light of the above circumstances, the penal measures as mentioned under Regulation 44 (f) stand without an effective remedy given that Camson Bio is already in the process of being liquidated. In the given circumstances, SEBI, being the regulatory body is merely making an attempt to abuse its power to penalize* *me for an event in respect of which sufficient time has lapsed and effectively as on date, there lies no remedy.*

k *The Noticees also submitted that as the aforementioned Noticees were filing settlement applications in terms of the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 ("**Settlement Regulations 2014**") the proceedings against them be deferred/kept in abeyance till such time the applications were disposed of*

12. Vide letters dated December 20, 2017, January 22, 2018 and January 07, 2022, Noticees 6 and 8 submitted their common reply to the SCN and extracts of the same is reproduced hereunder:

a *I have been considered as a 'Person acting in concert', only based on the fact that I am brother of the Executive (Managing Director) of the company, Mr.Dhirendra Kumar.*

b *I was only Non-Executive Director in the company and has never been involved in the day to the day working and operations of the company. Further I would like to again reiterate the fact that my name has been misused for the purpose of company management by Noticee 9 ,Mr.Dhirendra Kumar, without my information and agreement. I had always been blindsided by him in all the matters of the company at all levels of management. I had never participated in any of the decision making meeting or activity of the company during the entire time when I was made the Non-executive director of the company.*

c *I am not a Director or a Key Managerial Person (KMP) in the M/s Camson Farm Produce Pvt. Ltd (Noticee 2), Sanatan Herbals and Naturals Ltd. (Noticee 1) and Shashtika Health Resort and Spa Pvt. Ltd., accordingly I did not had any control over any operations or any investment or business decision taken by the respective companies and accordingly I will be unable to provide any information/details regarding the working and decision making authorities of these companies and should not be held accountable for their actions under any circumstances.*

d *Even if I consider, the above acquisition of shares in my name by Sanatan Herbals, to be true, still as I am not the acquirer of shares so I have not violated any provisions of the SAST Regulations, as it was to be done by Sanatan Herbals.*

e *I had never agreed and/or invested any of my personal funds in the equity shares of the company, against the warrants issued by the company and accordingly no funds from my bank account was ever utilised to be invested in any equity shares of the company. We (Noticee 8 and Noticee 6) have not acquired any additional shares from the company nor transferred the same to any company or individual and hold only shares which were allocated to us initially when the company had gone public during the year 1995-1996.*

13. Vide letter dated April 07, 2022, Noticee 4 made additional submissions in the matter as given hereunder:
    - *a)* *Noticee 4 submitted that the alleged breach was not deliberate and nondisclosure, if any, was due to lack of understanding of law and hence no penalty may be imposed on him. Noticee contended that penalty ought not to be imposed when there is a mere technical breach of the provisions of law. In this regard, Noticee placed reliance on decision of the Hon'ble Supreme Court in the matter of Hindustan Steel Ltd. v. State of Orissa,AIR 1970 SC 253, decisions of the Hon'ble Securities Appellate Tribunal in M/s. Cabot International Capital Corporation Vs. Adjudicating Officer, SEBI, Appeal No. 24/2000 and Reliance Industries Ltd. v SEBI 2004 SCC OnLine SAT 69.*
    - *b)* *Non-disclosure of acquisition did not provide Noticee 4 with any disproportionate gain or unfair advantage, nor was their intention to evade the procedural aspects of the SAST Regulations.*
    - *c)* *The object of the SEBI Act is not to punish a Noticee for every minor infractions that occur in the course of conduct of its business, even assuming for the sake of argument, that there was at all an infraction in present case.*
    - *d)* *There is no evidence that would suggest that First Acquisition and Second Acquisition caused any loss to any investor or any group of investors.*
    - *e)* *There was no repetitive default.Non-disclosure of acquisition undertaken in the Investigating Period was a "one off" isolated incident and Noticee 4 has not engaged in any repetitive or systematic violations of the provisions of Regulation 11(1) read with Regulation 14 (1) of SEBI (Substantial Acquisition of Shares & Takeovers) Regulations,1997 read with Regulation*

35 of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011.

f) *The Ld. WTM, SEBI vide Order dated 22.06.2021 has restrained the Noticee from accessing the securities market or buy, sell or otherwise deal in the securities market for a period of 5 year. The present SCN while making allegations against Noticee 4 has completely ignored the irreparable loss and damage which he had already suffering on account of directions issued by the Hon'ble WTM, SEBI vide his Order dated June 22, 2021 against him. Consequently, once the Ld. WTM has already restrained the Noticee from accessing the securities market then a further penalty should not be imposed by AO. In this regard, Noticee placed reliance on the decision of Hon'ble SAT in Sterling Investment Corporation Limited & Anr.Vs. Securities and Exchange Board of India Appeal No.388/2004, 388A/2004 & 388B/2004.*

g) *Noticee 4 submitted that in light of Order dated June 22, 2021 of Hon'ble WTM, SEBI the subsequent proceedings arising out of present SCN under response are barred by principles of Res-Judicata. In this regard, Noticee 4 placed reliance on decisions of the Hon'ble Supreme Court in Alka Gupta v. Narender Kumar Gupta, (2010) 10 SCC 141; Canara Bank v. N.G. Subbaraya Setty, (2018) 16 SCC 228*

h) *Noticee 4 submitted that the Ld. WTM itself did not pass any directions concerning transaction with M/s Sanatan Herbals and Naturals Ltd in view of the fact that M/s Sanatan Herbals and Naturals Ltd has been struck off from the Registrar of Companies*

14. With respect to Noticee 2, I note that despite the service of SCN and HN in the matter, Noticee 2 neither filed any reply to the SCN nor attended the scheduled hearings. In view of the above, I am compelled to proceed ex parte in the matter against Noticee 2. Therefore, the present proceedings against the Noticee 2 are undertaken ex-parte on the basis of available documents and information. In this regard it is worth mentioning here that it is well settled position of law that if the facts / details of charges are not disputed by the person to whom show cause notice is issued, then, it is presumed that the same are admitted by him. The Hon'ble Securities Appellate Tribunal (SAT) in the matter of Classic Credit Ltd. v/s SEBI [2007] 76 SCL 51 (SAT - MUM) inter-alia held that – "the appellants did not file any

reply to the second show-cause notice. This being so, it has to be presumed that the charges

15. Considering the preceding paragraphs, I am of the view that principles of natural justice has been met in the present case. Now, I proceed to consider and examine the issues arising in the matter on the basis of replies of Noticees and material available on record.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

16. I have carefully perused the charges levelled against Noticees, replies/submissions filed by Noticees and other documents/ evidence available on record. The issues that arise for consideration in the present case are:

    I. Whether Noticees have violated the provisions of Regulation 11(1) read with Regulation 14(1) of SAST Regulations,1997 read with Regulation 35 of the SAST Regulations, 2011?
    II. Do the violation, if any, attract monetary penalty under Section 15H of SEBI Act?
    III. If the answer to issue no. 2 is in affirmative, then what should be the quantum of monetary penalty?

17. Before moving forward, it is pertinent to refer to the relevant provisions of the SAST Regulations 1997 and 2011, which are reproduced as under:

    SAST Regulations, 1997

    Consolidation of holdings.

    11(1) No acquirer who, together with persons acting in concert with him, has acquired, in accordance with the provisions of law, 15 per cent or more but less than fifty five per cent (55%) of the shares or voting rights in a company, shall acquire, either by himself or through or with persons acting in concert with him, additional shares or voting rights entitling him to exercise more than 5% of the voting rights, with post acquisition shareholding or voting rights not exceeding fifty five per cent., in any financial year ending on 31st March unless such acquirer makes a public announcement to acquire shares in accordance with the regulations.

Timing of the public announcement of offer.

14. (1) The public announcement referred to in regulation 10 or regulation 11 shall be made by the merchant banker not later than four working days of entering into an agreement for acquisition of shares or i.. voting rights or deciding to acquire shares or voting rights exceeding the respective percentage specified therein:

<u>SAST Regulations, 2011</u>

<u>Repeal and Savings.</u>

35.(1) The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, stand repealed from the date on which these regulations come into force.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken including comments on any letter of offer, exemption granted by the Board, fees collected, any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations, prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(b) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations has never been repealed;

(c) any open offer for which a public announcement has been made under the repealed regulations shall be required to be continued and completed under the repealed regulations.

…………………………………………………...

18. Before I proceed to deal with the matter on merits, I would like to address the preliminary objections raised by Noticees as regards the SCN. I note that Noticee 4

in his reply to the SCN has submitted that Learned Whole Time Member (WTM) of SEBI vide Order dated June 22, 2021 (also referred to as "**June 22 Order")** has, *inter alia,* restrained Noticee 4 from accessing the securities markets for a period of 5 years in a matter involving same facts and circumstances and issue as that of the present adjudication proceedings. Noticee 4 has contended that once the Learned WTM, SEBI has already restrained a Noticee from accessing the securities market then a further penalty should not be imposed by the AO. To support his aforementioned contention, Noticee also placed reliance on the decision of Hon'ble SAT in Sterling Investment Corporation Limited & Anr vs. SEBI, Appeal No. 388/2004, 388A/2004 & 388B/2004. In this regard, I note that the facts and circumstances in the present case is clearly distinguishable from that of the aforementioned case and hence ratio laid therein cannot be made applicable to the present matter.

19. Further, Noticee 4 has also contended that the present proceedings before the AO dealing with the same facts and issues as that of the aforementioned Order of the Learned WTM, SEBI is barred by the principles of res judicata. In this context, Noticee 4 placed reliance on the decisions of Hon'ble Supreme Court in Alka Gupta vs. Narender Kumar Gupta (2010) 10 SCC 141 and Canara Bank v. N.G Subbaraya Setty, (2018) 16 SCC 228. I note that facts and circumstances in the present case is different from that in the aforementioned decisions of Hon'ble Supreme Court. In this regard, I note that proceedings before the learned WTM of SEBI were concluded by Order dated June 22, 2021 and the present proceedings before the undersigned are parallel proceedings initiated under the SEBI Act involving same facts and circumstances and issue. While the former was initiated vide Show Cause Notice dated January 31, 2017 under Section 11B of SEBI Act, as it stood at that time, which contains the power of Board to issue directions, the present adjudication proceedings have been initiated under Chapter VIA of the SEBI Act, to determine the imposition of monetary penalty. Since the objective of the present proceedings is determine imposition of monetary penalty which is different from that in 11 B proceedings before the learned WTM, I note that same cannot be considered to be barred by principles of res judicata. In this context, I would also like to place reliance on decision of the Hon'ble SAT in Ms Sunil Gupta vs. SEBI, dated April 21, 2017, wherein it was held that:

"…..6. Where a person violates the provisions contained in the SEBI Act and the regulations made thereunder, then, SEBI is empowered to initiate penalty proceedings against that person under Chapter VIA of SEBI Act and also issue directions in the interests of investors or securities market as it deems fit under Chapter IV of SEBI Act. Thus, the powers conferred on the Board under Chapter IV are independent from the powers to impose penalty under Chapter VIA of SEBI Act. Accordingly, in the present case, since the appellant had indulged in synchronized/ circular trades in gross violation of SEBI Act/ PFUTP Regulations and the same was detrimental to the interests of the investors and securities market, the Board deemed it fit to issue direction under Chapter IV in addition to the penalty imposed under Chapter VIA of SEBI Act. Therefore, in the facts of present case, initiation of proceedings under Chapter IV even after initiating proceedings under Chapter VIA cannot be faulted.

7. Counsel for appellant had placed reliance on decisions of the Apex Court in the case of Kunjan Nair Sivaraman Nair (Supra) & in the case of Dr. Subramanian Swamy (Supra) which have no relevance to the facts of present case, because, SEBI Act itself contemplates that where a person violates SEBI Act and the regulations made thereunder, then apart from imposing penalty under Chapter VIA, it would be open to the Board to issue such directions at it deems fit under Chapter IV of SEBI Act."

20. In light of the above observations and placing reliance on the aforementioned Order of Hon'ble SAT, I find that contention of Noticee 4 that the present proceedings is barred by principle of res judicata lacks merit. Noticee 4 in his submissions has also contended that since the Company is now under liquidation, the proceedings initiated in respect of the Company have become infructuous. However, I am of the view that Noticees cannot escape from their legal liability merely because the company is under liquidation. Therefore, I find the aforementioned contention of Noticee 4 to be not tenable.

21. Further, I note that Noticees 3,4,5,8 and 9 in their common reply to the SCN dated October 20, 2020 have contended that undue delay in issuance of SCN in the present matter is unjustified. In this regard, I note that period of alleged violations was from years 2009 -2011. I note that investigation in the matter was conducted in

the years 2015-2016. The investigation in the matter was concluded on August 30, 2016. Pursuant to that, AO was appointed in the matter vide order dated January 17, 2017. The SCN in the matter was issued on December 13, 2017. Thus, I observe that the SCN was issued almost 6 years after the alleged violation. I note that much time has passed after the alleged violations for issuance of the SCN in the matter. However, I find that although Noticees have contended that there was delay in issuance of the SCN, they have not specified whether due to the aforementioned delay, Noticees have suffered any prejudice. In this context, I find it pertinent to refer to the decision of Hon'ble SAT in its decision dated March 17, 2020 in the Pooja Vinay Jain vs Sebi, Appeal No. 152 of 2019 wherein Hon'ble SAT has held that "*Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same*." Thus, I find that in absence of any specific prejudice caused to Noticee, the delay in the issuance of the SCN cannot be considered as a reason for quashing the SCN. However, I note that in the present case, delay in issuance of the SCN may be considered as a mitigating factor while determining penalty under Section 15 J of SEBI Act. Therefore, I note that Noticees contentions regarding the SCN cannot be sustained. I now proceed to deal with matter on merits.

Issue No.I- Whether Noticees have violated Regulation 11(1) read with Regulation 14(1) of SAST Regulations,1997 read with Regulation 35 of the SAST Regulations, 2011?

22. I observe from the materials available on record that the total shareholdings of Noticees at the end of June 2009 was 51,38,530 shares amounting to 37.51% of total share capital (1,37,00,000 shares) of the Company. In this regard, I note that Noticees 3-9 have not dispute the same in their replies to the SCN.

23. In the present matter, I note from the letter dated May 13, 2016, received by SEBI from Integrated Enterprises (India) Limited, the Registrar and Transfer Agent of the Company (hereinafter, "RTA") that on July 16, 2009, Noticee 1 i.e. M/s Sanatan Herbals and Naturals Ltd had acquired 9,25,200 shares (5,90,000 shares from Mr. Ram Yadav and 3,35,200 shares from Mr. Veerendra Kumar). Similarly, from the same letter, I note that on the same day, Noticee 2 i.e. M/s Camson Farm Produce Pvt. Ltd. had acquired 8,10,540 shares (5,69,600 shares from Ms. Sangeeta K.

Shetty and 2,40,940 shares from Mr. Jamuna Prasad). The aforementioned fact has also been not been disputed by Noticees 3,4,5,7 and 9 in their reply to the SCN.

24. It has been alleged in the SCN that as a result of this acquisition, the total shareholding of Noticees at the end of September 2009 was 65,39,070 shares, amounting to 47.73% of the total share capital (1,37,00,000) of the Company, leading to an increase of 10.22% in the total shareholding of Noticees. The same has also not been disputed by Noticees 3-9 in their replies to the SCN. I also note that this has also been established by Learned WTM in his Order dated June 22, 2021. The aforementioned Order of the Learned WTM has also not been challenged by Noticees before the Hon'ble SAT and therefore has reached finality in the eyes of law.

25. The pre and post shareholdings of Noticees for the acquisitions dated July 16, 2009, are as given hereunder:

Names of the entities	**Pre holding (as on 15/07/09)**		**Post-acquisition holding (I.E. 16.07.09)**		**Change in holding**	
	No. of shares	**% of Tns**	**No. Of shares**	**% of tns**	**No. Of Shares**	**% of Tns**
Dhirendra Kumar	9,26,580	6.76	9,26,580	6.76	0	0.00
Veerendra Kumar	4,45,200	3.25	1,10,000	0.80	-3,35,200	-2.45
Akbal Narayan Singh	1,18,500	0.86	1,18,500	0.86	0	0.00
Alka Singh	32,710	0.24	32,710	0.24	0	0.00
Geeta Singh	7,92,710	5.79	7,92,710	5.79	0	0.00
Karan Singh	6,83,630	4.99	6,83,630	4.99	0	0.00
Sanatan Herbals & Naturals Ltd.	9,64,500	7.04	18,89,700	13.79	9,25,200	6.75
Camson Farm Produce P. Ltd	11,74,700	8.57	19,85,240	14.49	8,10,540	5.92
Grand **Total**	**51,38,530**	**37.51**	**65,39,070**	**47.73**	**14,00,540**	**10.22**

26. Further, I note that RTA, vide, its email dated May 18, 2016 to SEBI stated that on March 14, 2011, Noticee 3 i.e. M/s Shashtika Hotels and Resorts Private Ltd as well as Noticee 9 i.e. Mr. Dhirendra Kumar were allotted 9,90,000 shares each as a result of conversion of warrants. This has also been admitted by Noticees in their submissions. It was alleged in the SCN that the total shareholdings of the PACs at the end of December 2010 was 50,98,670 shares, amounting to 31.77% of total share capital (1,60,50,000 shares) of the Company. The SCN further alleges that consequent to the conversion of the warrants, the total shareholding of PACs at the

end of March 2011 was 70,78,670 shares, amounting to 39.04% of the total share capital (1,81,30,000) of the Company, leading to an increase of 7.27% in the total shareholding of PACs. The aforementioned facts have been admitted by Noticees in their contentions. The same has also been established in the Order of the Learned WTM of SEBI. The pre and post shareholdings of Noticees for the acquisition dated July 16, 2009, are as given hereunder:

PRE AND POST SHAREHOLDING						
Names of the entities	**Pre holding (as on 13/03/11)**		**Post-acquisition holding (i.e. 14/03/11)**		**Change in holding**	
	No. of shares	**% of Tns**	**No. of shares**	**% of tns**	**No. of shares**	**% of Tns**
Dhirendra Kumar	9,26,580	5.77	19,16,580	10.57	9,90,000	4.80
Veerendra Kumar	1,10,000	0.69	1,10,000	0.61	0	-0.08
Akbal Narayan Singh	1,18,500	0.74	1,18,500	0.65	0	-0.08
Alka Singh	32,710	0.20	32,710	0.18	0	-0.02
Geeta Singh	7,92,710	4.94	7,92,710	4.37	0	-0.57
Karan Singh	6,83,630	4.26	6,83,630	3.77	0	-0.49
Sanatan Herbals & Naturals ltd	4,49,300	2.80	4,49,300	2.48	0	-0.32
Camson Farm Produce P. ltd	19,85,240	12.37	19,85,240	10.95	0	-1.42
Shashtika Health Resorts & Spa P. ltd			9,90,000	5.46	9,90,000	5.46
GRAND TOTAL	**50,98,670**	**31.77**	**70,78,670**	**39.04**	**19,80,000**	**7.27**
TOTAL NO. OF SHARES (TNS)	**1,60,50,000**		**1,81,30,000**			

27. It has been alleged in the SCN that Noticees fell within the definition of acquirers/PACs under SAST Regulations, 1997 for the acquisitions dated July 16, 2009 and March 14, 2011. I note that for transactions dated July 16, 2009, by virtue of their acquisition of shares, Noticee 1 and 2 fall within the definition of acquirer under Regulation 2(1)(b) of SAST Regulations, 1997. Similarly, by virtue of acquisition of shares by way of conversion of warrants on March 14, 2011, I note that Noticee 3 and Noticee 9 fall within the definition of acquirer under Regulation 2(1)(b) of SAST Regulations, 1997. I note that the term PACs has been defined under Regulation 2(1)(e) of SAST Regulations, 1997. Regulation 2(1)(e) of SAST Regulations,1997 is reproduced hereunder:

(e) "person acting in concert" comprises,—

(1) persons who, for a common objective or purpose of substantial acquisition of shares or voting rights or gaining control over the target company, pursuant to an agreement or understanding (formal or informal), directly or indirectly co-operate by acquiring or agreeing to acquire shares or voting rights in the target company or control over the target company.

(2) Without prejudice to the generality of this definition, the following persons will be deemed to be persons acting in concert with other persons in the same category, unless the contrary is established :

(i) a company, its holding company, or subsidiary or such company or company under the same management either individually or together with each other;

(ii) a company with any of its directors, or any person entrusted with the management of the funds of the company;

(iii) directors of companies referred to in sub-clause (i) of clause (2) and their associates;

(iv)mutual fund with sponsor or trustee or asset management company;

(v) foreign institutional investors with sub-account(s);

(vi)merchant bankers with their client(s) as acquirer;

(vii)portfolio managers with their client(s) as acquirer;

(viii)venture capital funds with sponsors;

(ix)banks with financial advisers, stock brokers of the acquirer, or any company which is a holding company, subsidiary or relative of the acquirer :

Provided that sub-clause (ix) shall not apply to a bank whose sole relationship with the acquirer or with any company, which is a holding company or a subsidiary of the acquirer or with a relative of the acquirer, is by way of providing normal commercial banking services or such activities in connection with the offer such as confirming availability of funds, handling acceptances and other registration work;

(x) any investment company with any person who has an interest as director, fund manager, trustee, or as a shareholder having not less than 2 per cent of the paid-up capital of that company or with any other investment company in which such person or his associate holds not less than 2 per cent of the paid-up capital of the latter company.

Note : For the purposes of this clause —associate‖ means,—

(a) any relative of that person within the meaning of section 6 of

the Companies Act, 1956 (1 of 1956); and

(b) family trusts and Hindu undivided families;

Meaning of "relative" as per Companies Act, 1956: A person shall be deemed to be a relative of another if, and only if,–(a)they are members of a Hindu undivided family; or(b) they are husband and wife; or(c)the one is related to the other in the manner indicated in Schedule IA, which is reproduced below:

1	Father	8	Mother's mother	15	Daughter's son
2	Mother (including step-mother)	9	Mother's father	16	Daughter's son's wife
3	Son (including step-son)	10	Son's son	17	Daughter's daughter
4	Son's wife	11	Son's son's wife	18	Daughter's daughter's husband
5	Daughter (including step-daughter)	12	Son's daughter	19	Brother (including step-brother)
6	Father's father	13	Son's daughter's husband	20	Brother's wife
7	Father's mother	14	Daughter's husband	21	Sister (including step sister)
				22	Sister's husband

28. I note from materials available on record that Noticees are interconnected with each other in following ways:

Sr. No.	**Name of the Promoter**	**Relationship**
1	M/s. Santan Herbals and Naturals Limited	(1),(2) & (3) are under same management
2	M/s. Camson Farm	(1),(2) & (3) are under same management
3	M/s Shashtika Health Resort and Spa P. Limited	(1),(2) & (3) are under same management
4	Geeta Singh	Director of (1), (2) & (3) during investigation period and wife of managing director of M/s. Camson Bio
5	Karan SIngh	Director of (1), (2) & (3) during investigation period and son of managing director of M/s. Camson Bio
6	Dhirendra Kumar	Husband of Ms. Geeta Singh and managing director of m/s. camson bio
7	Veerendra Kumar	Brother of Dhirendra Kumar
8	Alka Singh	Wife of Veerendra Kumar
9	Akbal Narayan Singh	Father of Dhirendra Kumar

29. I note from the table above and information obtained from the Ministry of Corporate Affairs website that the directors of Noticees 1and 2 during the period from January 1, 2008 to September 30, 2013, were Noticees 4 and 5 i.e. Mr. Karan Singh and Ms. Geeta Singh. I also note from replies of Noticee Nos. 4 and 5 to the SCN that that they had resigned as Directors of Noticee 2 only in November 2013. Further, Noticees 4 and 5 were also Directors of Noticee 3 during the period from June 22, 2009 to September 30, 2013. Therefore, I note that Noticee 1 and Noticee 2 being

companies under the same management as that of the acquirer, Noticee 3 are deemed to be PACs in accordance with 2(1)(e)(2)(i) of SAST Regulations,1997 for the acquisitions dated March 14, 2011. Regulation 2(1)(e)(2)of SAST Regulations,1997 is a deeming provision and persons listed under Regulation 2(1)(e)(2) of SAST Regulations,1997 are presumed to be PACs unless contrary is established. I also note that in the SCN, it has been alleged that Noticee 3, M/s Shashtika Health Resort and Spa Limited was PAC for acquisitions dated July 16, 2009. However, I note that during the acquisitions dated July 16, 2009, Noticee 3 was neither a shareholder of the Company nor had acquired any shares of the Company. In the light of the foregoing, I find that for acquisitions dated July 16, 2009, Noticee 3 cannot be considered as PAC with the acquirers, Noticee 1 and Noticee 2.

30. I note from available records that Noticee 5 and Noticee 4 are the wife and son, respectively, of Noticee 9, i.e. Mr. Dhirendra Kumar, who was the Managing Director of Camson Bio during the Investigation period. I note that Noticee 7 is the father of Noticee 9 while Noticee 8 is his brother and Noticee 6 is the wife of Noticee 8. I note from the submissions of Noticees 4, 5, 6, 7, 8 and 9 that they have not disputed the aforesaid relationships. Considering the aforementioned relationships of Noticees 4,5,6,7,8 to Noticee 9, i.e. acquirer for transaction dated March 14, 2011, I find that Noticee 4,5,6,7,8 can be considered as deemed to be PACs with Noticee 9 in accordance with Regulation 2(1)(e)(2)(iii) of SAST Regulations, 1997. At this juncture, I also find it pertinent to refer to findings of Learned WTM, SEBI in his order dated June 22, 2021 relating to a matter in which allegations of violations of PFUTP Regulations in the scrip of Camson Biotechnology was under consideration. In the aforementioned case, Learned WTM SEBI has observed that "*For the Financial Year ending 2008–09, Geeta Singh (wife of Dhirendra Kumar) and Karan Singh (son of Dhirendra Kumar) held 99.93% and 0.07% stake in Camson Farm. Further, Geeta Singh and Karan Singh also held 98% and 2% stake in Sanatan Herbals for the Financial Year ending 2008–09. Hence, Camson Farm and Sanatan Herbals are connected to the Promoter and Managing Director of Camson Bio, Dhirendra Kuma*r."

31. Further, I note from the shareholding pattern of the Company filed with the BgSE for the Quarter ended on July 20, 2009 to Quarter ended on March 31, 2012,that Geeta

Singh, Karan Singh, Dhirendra Kumar, Akbal Narayan Singh and Alka Singh come under "Promoter and Promoter Group" of Camson Bio. I also note from the shareholding pattern of Company filed with BgSE that Sanatan Herbals and Camson Farm were shown as Promoters of the Company for the quarter ended December 2007. Subsequently, the two entities were not shown as Promoters from the quarter ended March 2008 till December 2009 and thereafter, were once again shown as Promoters for the quarters ended March 2010 to June 2013. As per Regulation 2(1)(e)(2)(iv) of SAST Regulations,1997, I note that promoter and members of promoter group, are deemed to be PACs. In this connection, I would like to refer to the judgement of Hon'ble SAT dated November 20, 2017 in the Appeal No. 484 and 485 of 2015, wherein Hon'ble SAT held the following

"23. In this connection, it is pertinent to note that the Adjudicating Officer has categorically mentioned in the impugned order that the appellants are part of the promoter group and have all along been making disclosures before the Stock Exchanges and SEBI as common promoter group. The appellants have not brought on record anything either before the Learned Adjudicating Officer or this Tribunal to point out that there were differences among the promoters in acquiring more than 5% shares either by Mr. Bikramjit Ahluwalia or by any other Promoter. Therefore, the contention of the appellant as regards non-meeting of minds in the acquisition of shares in violation of SAST Regulation cannot be countenanced".

32. Further, I note that Karan Singh, Geeta Singh and Dhirendra Kumar also share same address and had also filed common replies to SCN dated December 26, 2017, February 14, 2018 and October 20, 2020. They also attended common hearing before the erstwhile AO om January 04, 2018. I observe from the reply of Mr. Vireendra Kumar, that he was a non-executive director of the Company.

33. I note that Noticees 3, 4,5,6,7, 8 and 9 has contended that they do not fall under the definition of PACs under Regulation 2(1)(e) of SAST Regulations,1997. I note that Noticees 3,4,5,7 and 9 in their submissions have also contended that there was no common objective/intent in acquiring the shares of the Company. Further, I note that Noticee 8 has contended that he and his wife, Noticee 6 cannot be considered as PACs just because he is the brother of the Noticee 9, being Executive (Managing Director) of the company. Noticee 8 has contended that he was only a Non-Executive Director in the company and has never been involved in the day-to-day

working and operations of the company. Noticee 8 further contended that he was not director or key managerial persons of Noticees 1, 2 and 3 and is not involved in the day to the day operations of these companies. Further, Noticee 8 has contended that he was never involved in any investment/purchase/sale activity of equity shares of the Company during 2007 till 2016.

34. In this context, it is pertinent to highlight that decision of Hon'ble Supreme Court of India in the matter of Technip SA V/s SMS Holding (P) Ltd. and Ors. (2005) 5 SCC 465 (Civil Appeals Nos. 9258-65 of 2003 with Nos. 10092-98 of 2003, decided on May 11, 2005), wherein Hon'ble Supreme Court while analyzing the concept of PACs held that

"*The standard of proof required to establish such concert is one of probability and may be established "if having regard to their relation etc., their conduct, and their common interest, that it may be inferred that they must be acting together: evidence of actual concerted acting is normally difficult to obtain, and is not insisted upon" . While deciding whether a company was one in which the public were substantially interested within the meaning of Section 23A of the Income Tax Act, 1922 this Court said:-"The test is not whether they have actually acted in concert but whether the circumstances are such that human experience tells us that it can safely be taken that they must be acting together. It is not necessary to state the kind of evidence that will prove such concerted actings. Each case must necessarily be decided on its own facts ".*

35. However, considering the aforesaid observations and placing reliance on the above mentioned judgement of Hon'ble Supreme Court, I find that the aforesaid contentions of Noticees 3 - 9 lack merit and therefore, I conclude that Noticees 4, 5,6,7,8 and 9 were PACs for acquisitions made by Noticees 1 and 2 on July 16, 2009 and Noticees 1,2,4,5,6,7 and 8 were PACs for acquisitions made by Noticees 3 and 9 on March 14, 2011.

36. As per Regulation 11(1) of the SAST Regulations, 1997, an acquirer, who along with the persons acting in concert with him has acquired 15% or more but less than 55% of the shares or voting rights in a company is required to make a public announcement to acquire shares in case if he, either by himself or through persons acting in concert acquires additional shares or voting rights entitling him to exercise

more than 5% of the voting rights. Further, in terms of Regulation 14(1) of the SAST Regulations, 1997 such public announcement under Regulation 11(1) of the SAST Regulations,1997 has to be made within 4 days of entering into an agreement for acquisition of shares or voting rights or deciding to acquire shares or voting rights.

37. It has been alleged in the SCN that the Noticees as PACs did not make the requisite public announcement in terms of Regulation 11(1) of the SAST Regulations, 1997 read with Regulation 14(1) of the SAST Regulations, 1997 for the impugned transactions on July 16, 2009 and March 14, 2011. From the details of the transactions mentioned in the earlier part of the order, I note that before the acquisition on July 15, 2009, the shareholding of Noticees in the scrip of the Company was 51,38, 530 i.e. 37.51% of the total shareholding. Subsequent to the acquisition, the shareholding of the acquirers along with PACs increased to 65,39,070 i.e. 47.73% of the total shareholding. Therefore, there was an increase of 14,00,540 shares in the shareholding of acquirers along with PACs, which amounted to 10.22% of total shareholding of the Company, i.,e in excess of 5%. Similarly, before the acquisition of shares by Noticees on March 14, 2011, the total shareholding of Noticees in the scrip of the Company was 50,98,670 i.e. 31.77 % of the total shareholding and subsequent to acquisition the shareholding of the acquirers along with PACs increased to 70,78,670 i.e. 39.04 % of the total shareholding. Therefore, there was an increase of 19,80,000 shares in the shareholding of acquirer along with PACs, which amounted to 7.27% of the total shareholding of the Company, i.e., it exceeded 5%. I find that on both of the aforesaid occasions, the limits prescribed under the Regulation 11(1) of SAST Regulations, 2011 were breached on account of the aforesaid acquisitions.

38. Therefore, I note that Noticees 1,2,4,5,6,7,8 and 9 being acquirers and PACs for transactions dated July 16, 2009 and Noticees 1 to 9 being acquirers and PACs for transactions dated March 14, 2011 were under an obligation to make public announcements under Regulation 11(1) of the SAST Regulations,1997 read with Regulation 14(1) of the SAST Regulations,1997 in respect of the aforesaid acquisitions. However, I note from available records that no public announcements as mandated under Regulation 11(1) of the SAST Regulations, 1997 read with Regulation 14(1) of the SAST Regulations, 1997 were made by Noticees in the scrip of the Company during the period December 31, 2007 to September 30, 2013.

I note that in their submissions, Noticees have also not disputed the fact that requisite public announcements under the aforesaid Regulations were not made by them.

39. Noticees 3,4,5, 7 and 9 have also contended at the time of alleged acquisition they were not aware of nor advised of the requirement of making public announcement under Regulation 11(1) read with regulation 14(1) of SAST Regulations, 1997. In this regard, I note that it is well settled position of law that ignorance of law is not an excuse and everyone is presumed to know the law of the land. A person cannot defend his illegal actions by stating that he was not aware his actions were illegal, even if he honestly believed that they were not breaking the law. Therefore, I do not find any merit in this contention of Noticees 3,4,5, 7 and 9.

40. I also note that Noticees 3,4,5, 7 and 9, in their reply to the SCN, have contended that acquisitions dated July 16, 2009 and March 14, 2011 were made without the intention of bringing change in the management/taking over of the company. In this regard, I note that requirement of making a public announcement under Regulation 11(1) of SAST Regulations, 1997 is triggered on exceeding the threshold limit prescribed under the aforesaid Regulation and is not contingent on change of control or otherwise. The aforementioned Noticees have also contended that the default was a technical lapse and was done without any malafide intent. In this regard, I note that the intention and motive behind an acquisition of shares is not relevant for application of Regulation 11(1) read Regulation 14(1) of SAST Regulations, 1997. In this regard, Hon'ble SAT in the matter of Akriti Global Traders Ltd. Vs. SEBI, decided on 30.09.2014, held that *"... Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit, because, firstly, penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay*..". I would also like to place reliance on decision of Hon'ble SAT in Virendrakumar Jayantilal Patel Vs SEBI (appeal no.299 of 2014 and Order dated October 14, 2014) wherein Hon'ble SAT held that :

"........... obligation to make the disclosures within the stipulated time is a mandatory obligation and penalty is imposed for not complying with the mandatory obligation. Similarly, argument that the failure to make the disclosures

within the stipulated time, was unintentional, technical or inadvertent and that no gain or unfair advantage has accrued to the appellant, is also without any merit, because, all these factors are mitigating factors and these factors do not obliterate the obligation to make the disclosures". In view of the foregoing, I find that the aforesaid contentions of Noticees 3,4,5, 7 and 9 have no bearing on the allegations levelled against them.

41. In light of the observations in preceding paragraphs, I find that Noticees 1,2,4,5,6,7,8 and 9 being acquirers and PACs for acquisitions made on July 16, 2009 and Noticees 1-9 being acquirers and PACs for acquisitions made on March 14, 2011 have failed to make requisite public announcements and therefore, have violated Regulation 11(1) read with Regulation 14(1) of the SAST Regulations, 1997 read with Regulation 35 of SAST Regulations, 2011.

42. Noticees 3,4,5, 7 and 9 in their submissions have further contended that obligation to make public announcement under Regulation 11(1) of SAST Regulations,1997 lies only on acquirer and not on PACs. In this regard, I note that Regulation 22(19) of SAST Regulations, 1997 states that *"the acquirer and the persons acting in concert with him shall be jointly and severally responsible for fulfilment of obligations under the aforesaid Regulations".* In this context, I find it pertinent to highlight the decision of Hon'ble SAT in Mr. Gopalakrishnan Raman and Ors v SEBI, Appeal No. 281 of 2014 and Appeal No. 280 of 2014,Order dated November 20, 2015, wherein Hon'ble SAT has held that:

"………

m) The obligation to make disclosures under Chapter II of the Takeover Regulations, 1997 and the obligation to make an open offer under Chapter III of the Takeover Regulations, 1997 are separate and distinct. The obligation to make disclosures under Chapter II are to be complied with by every person who is required to make the disclosure, whereas the obligation to make an open offer under Chapter III is a joint and several obligation of the persons required to make the open offer………

……………

o) Obligation to make a declaration under regulation 8(2) of Takeover Regulations, 1997 is cast on the promoter individually, whereas, obligation to make an open offer under regulation 10, 11, 12 of the Takeover Regulations, 1997 are on the acquirer *and the persons acting in concert with him jointly and/ or severally as specified under regulation 22(19) of Takeover Regulations, 1997………..”*

43. Thus, I find that the above judgment of Hon’ble SAT establishes the principle of joint and several liability of the Acquirer and PACs under SAST Regulations. In the instant proceedings, if one of the Noticees had made the public announcement on behalf of all the Noticees, then all the Noticees would have been deemed to have complied with Regulation 11(1) read with Regulation 14(1) of the SAST Regulations, 1997. However, it has been established that Noticees 1,2,4,5,6,7,8 and 9 being acquirers and PACs for acquisitions made on July 16, 2009 and Noticees 1-9 being acquirers and PACs for acquisitions made on March 14, 2011 failed to make requisite public announcements. Therefore, in view of the aforesaid observations and placing reliance on the aforementioned judgement of the Hon’ble SAT, I conclude that aforementioned Noticees will be jointly and severally liable for the legal consequences of such default.

44. In this context, it is pertinent to note that Learned WTM, SEBI in his June 22 Order has also held that for the acquisitions made on July 16, 2009, Noticees 1,2,4,5,6,7,8 and 9 and for the acquisitions made on March 14, 2011, Noticees would be liable jointly and severally to make a public announcement for an open offer under Regulation 11(1) read Regulation 14(1) of SAST Regulations, 1997.

<u>Issue No. II- Does the violation attract monetary penalty under Section 15H of SEBI Act?</u>

45. It has been established in the preceding paragraphs that Noticees have violated Regulation 11(1) read Regulation 14(1) of SAST Regulations,1997 read with Regulation 35 of SAST Regulations, 2011. In context of the above, I refer to the observations of Hon’ble Supreme Court in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein the Hon’ble Court had held that:

“*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established..…..*”

46. Therefore, in light of the aforesaid violations as established and placing reliance on the aforementioned decision of Hon'ble Supreme Court, I find that the above violations by Noticees would attract monetary penalty under Section 15H of SEBI Act. The text of the aforesaid provision is reproduced hereunder:

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. *Penalty for non-disclosure of acquisition of shares and takeovers- If any person, who is required under this Act or any rules or regulations made thereunder, fails to,-*

(i)disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii)make a public announcement to acquire shares at a minimum price; or

(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv)make payment of consideration to the shareholders who sold their · shares pursuant to letter of offer,

he shall be liable to a penalty twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.

47. However, with respect to Noticee 1, it is observed from the website of Ministry of Corporate Affairs that the status of Noticee 1 has been shown as 'struck off' from the list of companies by the Registrar of Companies, Bangalore (herein after referred to "RoC"). It is an established fact that when a company's name is struck-off from the RoC list and the company is also dissolved, then it is a non-existing company and adjudication proceedings cannot continue against such a non-existing company.

48. In this context, the Hon'ble Delhi High Court in the case of Commissioner of Income Tax (CIT) vs. Vived Marketing Services (P) Ltd., ITA NO. 273/2009 dated September 17, 2009 has held that - *"When the Assessing Officer passed the order of assessment against the respondent company, it had already been dissolved and struck off the register of the Registrar of companies under Section 560 of the Companies Act. In these circumstances, the Tribunal rightly held that there could not have been any* assessment *order passed against the company which was not in existence as on that date in the eyes of law it had already been dissolved. We are*

of the opinion that the view taken by the Tribunal is perfectly valid and in accordance with law."

49. In view of the foregoing, adjudication proceedings against Noticee 1 is disposed of without imposing penalty.

Issue No. III - What should be the quantum of monetary penalty?

50. While determining the quantum of penalty under Section 15H of the SEBI Act, it is important to consider the factors as stipulated in Section 15J of the SEBI Act, which reads as under:-

SEBI Act

Factors to be taken into account by the adjudicating officer.

Section 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 a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.

51. In the instant case, it is not possible from the material on record to quantify the amount of disproportionate gain or unfair advantage resulting from the default of Noticees in making public announcement or the consequent loss caused to investors as a result of the default. Though it may not be possible to ascertain the monetary loss to the investors on account of the default by the Noticees, timely public announcement by Noticees would have been of significant importance from the point of view of the investors as that would have prompted them to buy or sell shares of the company at that point of time, which is the intent behind the SAST Regulations, 1997. However, I note that matter pertains to violations which were committed 12 -13 years ago. I also note that much time has passed after the alleged violations for issuance of the SCN in the matter and such delay can be

considered as mitigating factor in this case. I also note that in the instant case, the default of Noticees 1,2,4,5,6,7,8 and 9 are repetitive in nature as they have not complied with obligation to make public announcement under Regulation 11(1) read with Regulation 14(1) of SAST Regulations in 2 instances.

ORDER

52. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by Noticees and also the factors mentioned in Section 15J of the SEBI Act, as enumerated above, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose following penalties jointly and severally on following Noticees.

A. For Acquisitions dated July 16, 2009

Sr. No.	**Name of Noticees**	**Penalty imposed**
1.	M/s Camson Farm Produce Pvt. Ltd	Rs. 10,00,000/- (Rupees ten lakh only)
2.	Mr. Karan Singh	
3.	Ms. Geeta Singh	
4.	Ms. Alka Singh	
5.	Mr. Akbal Narayan Singh	
6.	Mr. Veerendra Kumar	
7.	Mr. Dhirendra Kumar	

B. For Acquisitions dated March 14, 2011

Sr. No.	Name of Noticees	Penalty imposed
1.	M/s Camson Farm Produce Pvt. Ltd	Rs. 10,00,000/- (Rupees ten lakh only)
2.	M/s Shashtika Health Resort and Spa Limited	
3.	Mr. Karan Singh	
4.	Ms. Geeta Singh	
5.	Ms. Alka Singh	
6.	Mr. Akbal Narayan Singh	
7.	Mr. Veerendra Kumar	
8.	Mr.Dhirendra Kumar	

53. Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, Noticees may contact the support at portalhelp@sebi.gov.in.

54. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD – DRA - I, 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)	

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

56. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticees and also to SEBI.

Place: Mumbai **SOMA MAJUMDER**

Date: April 29, 2022 **ADJUDICATING OFFICER**