

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA**CORAM: S. K. MOHANTY, WHOLE TIME MEMBER****ORDER**

Under Sections 11 (1), 11 (4), 11 (4A), 11B (1) and 11B (2) of the Securities and Exchange Board of India Act, 1992

In respect of:

Sl. No.	Name of the Entity	PAN
1	Global Infratech & Finance Ltd.	AABCA4255H
2	Pravin Tukaram Sawant	ANTPS3885K
3	Jagdish Chander Sharma	ARSPS7837E
4	Gordhan Lal Agrawal	AAMTA5741J
5	Sudhir Agrawal	ADFPA0152R
6	Anju Agarwal	ADGPA3454M
7	Anoop Jain	AADPJ2136K
8	Anoop Jain HUF	AAAHA6321A
9	Ritu Jain	AAMPJ9586C
10	Indira Naresh Riyawala	ADXPR2277E
11	Esha Kedia	ASEPK4977G
12	JMD Sounds Ltd.	AABCJ1907H

(The entities mentioned above are individually known by their respective name or Noticee no. and collectively referred to as "Noticees")

In the matter of Global Infratech & Finance Ltd.**Background**

1. Global Infratech & Finance Limited (hereinafter referred to as '**GIFL**' or '**Company**') (formerly known as "Asianlak Capital & Finance Ltd.") carries out activities of

investment, leasing, bill discounting and operations of secondary market. The shares of GIFL got listed on the BSE Ltd. on February 23, 1996. Currently, the *Company* is suspended from trading on the BSE Ltd. while its status as per MCA portal is “Active Non-Compliant”.

2. The *Company* made the following two preferential allotments in the year 2012:
 - 2.1. Preferential allotment (first preferential allotment) of 1,05,05,000 shares of INR 10/- at a premium of INR 5/- was made to 49 entities on January 19, 2012.
 - 2.2. Preferential allotment (second preferential allotment) of 98,50,000 shares of INR 10/- at a premium of INR 5/- was made to 44 entities on June 12, 2012.
3. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had conducted an investigation into the scrip of the *Company* to ascertain, *inter alia*, as to whether there was any funding assistance given by the *Company* to the preferential allottees in the aforesaid two preferential allotments, in contravention of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) read with the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”) during the period, December 1, 2011 to September 4, 2014 (hereinafter referred to as “**Investigation Period**”).

Show Cause Notice

4. Based on the outcome of the investigation, the present proceedings are arising out of a common show cause notice dated October 29, 2020 (hereinafter referred to as “**SCN**”) wherein it has been alleged that the *Company* through JMD Sounds Ltd., funded certain preferential allottees to subscribe to its preferential allotments of shares as subsequently, the proceeds of the preferential allotment collected by the *Company* was noticed to have been paid to JMD Sounds Ltd., thereby limiting the genuine capital infusion to that extent into the *Company*.
5. The facts in brief with respect to preferential allotments and the role of the *Noticees*, as noted from the SCN, are narrated as under:

5.1. First Preferential allotment made on January 19, 2012

5.1.1. GIFL had received INR.15,75,75,000/- in its HDFC Bank A/c No.12842000000973 during the period from December 27, 2011 to January 4, 2012 from 49 allottees for the preferential allotment made on January 19, 2012.

5.1.2. On analyzing the bank statement of the preferential allottees, it was observed that prior to preferential allotment, INR 1,58,75,000/- was transferred by JMD Sounds Ltd. to the accounts of certain allottees of the preferential allotment i.e., Mr. Gordhan Lal Agrawal, Mr. Sudhir Agrawal, Ms. Anju Agarwal, Mr. Anoop Jain, Anoop Jain (HUF), Ms. Ritu Jain Indira and Mr. Indira Naresh Riyawala. The details are given in the table below:

Table No. 1

Sl. No.	Name of Allottee	Shares allotted	Value of shares (INR)	Date of credit	Amount received from JMD Sounds Ltd. (INR)
1.	Anoop Jain	4,50,000	67,50,000	27/12/2011	1,00,00,000
1(a)	Anoop Jain (HUF)	4,50,000	67,50,000	27/12/2011	# 48,50,000 (through Anoop Jain a/c)
1(b)	Ritu Jain	2,50,000	37,50,000	27/12/2011	# 38,50,000 (through Anoop Jain / Anoop HUF a/c)
2.	Indira Naresh Riyawala	1,75,000	26,25,000	27/12/2011	15,00,000
3.	Gordhan Lal Agrawal	1,25,000	18,75,000	28/12/2011	18,75,000
4.	Sudhir Agrawal & Anju Agarwal	1,40,000	21,00,000	27/12/2011	25,00,000
Total funds received from JMD Sounds Ltd. by the Noticees mentioned at Sl. No.1 to 4					1,58,75,000

Amount transferred from the account of Anoop Jain out of Rs. 1 Crore received from JMD Sounds Ltd.

5.1.3. It was noted at the time of investigation that out of the proceeds of the first preferential allotment amounting to INR 15,75,75,000/- received by the GIFL during the period from December 27, 2011 to January 4, 2012 from 49

allottees, INR 15,50,00,000/- was transferred by GIFL to six entities during the period January 3, 2012 to January 9, 2012 and one of the said six entities was JMD Sounds Ltd. which had received INR 3.50 crore from GIFL during the period January 4, 2012 to January 9, 2012. The period of January 4, 2012 to January 9, 2012 was the period which was prior to the date of allotment of shares to the preferential allottees, which was on January 19, 2012.

5.2. Second Preferential allotment made on June 12, 2012

5.2.1. GIFL had received INR 14,77,50,000/- during the period from June 4, 2012 to June 8, 2012 from 44 allottees for the preferential allotment to be made on June 12, 2012.

5.2.2. On analyzing the bank statement of the preferential allottees, it was observed that prior to preferential allotment, INR 30,00,000/- was transferred by JMD Sounds Ltd. to the account of one of the allottees of preferential allotment i.e., Ms. Esha Kedia on June 7, 2012.

5.2.3. From the details of preferential allotment, it was observed that Ms. Esha Kedia was allotted 2,00,000 shares of the *Company* for a consideration of INR 30,00,000/-.

5.2.4. It was noted at the time of investigation that out of the proceeds of the second preferential allotment amounting to INR 14,77,50,000/- received from 44 allottees, INR 14,55,00,000/- was transferred by GIFL to 11 entities during the period June 9, 2012 to June 14, 2012 and one of the said 11 entities was JMD Sounds Ltd. which had received INR 3 crore from GIFL during the period June 9, 2012 to June 13, 2012. Out of INR 3 crore, INR 2 crore was transferred by GIFL to JMD Sounds Ltd. on June 9, 2012, which is prior to the date of allotment of shares to the preferential allottees, which was on June 12, 2012.

5.3. In view of the above findings, it is alleged that the *Company* along with its Executive Directors, namely, Mr. Pravin Tukaram Sawant and Mr. Jagdish Chander Sharma and the preferential allottees, namely, Mr. Gordhan Lal Agrawal,

Mr. Sudhir Agrawal, Ms. Anju Agarwal, Mr. Anoop Jain, Anoop Jain HUF, Ms. Ritu Jain, Ms. Indira Naresh Riyawala and Ms. Esha Kedia who had received funds from JMD Sounds Ltd. (which acted as a conduit) for subscribing to the preferential issues of the *Company* have indulged in a fraudulent or an unfair trade practice hence, have been alleged to have violated Sections 12A(a), (b) and (c) of SEBI Act read with regulations 3(b), (c), (d) and 4(1) and 4(2)(d) of the PFUTP Regulations.

5.4. Based on the above, the *Notices* were advised to show cause as to why suitable actions/directions in terms of Sections 11(1), 11B (1) and 11(4) of the SEBI Act, including debarment for an appropriate period should not be issued against them for the violations as alleged above. The aforementioned *Notices* were also called upon to show cause as to why penalty, if any should not be imposed upon them under Sections 11(4A) and 11B (2) read with Section 15HA of the SEBI Act for the aforesaid alleged violations.

Reply and Hearing

6. In response to the SCN, Anoop Jain HUF vide its letter dated November 24, 2020 submitted its reply wherein it denied the allegations levelled against it and *inter alia* submitted as follows:

6.1. The impugned fund transaction does not pertain to allotment of shares of GIFL.

6.2. Shares of GIFL were purchased from its own funds.

6.3. *Noticee* has invested money in normal course of its investment activity and the said investment was within its financial and risk bearing capacity.

6.4. *Noticee* requested for an opportunity of inspection and hearing in the extant matter.

7. Mr. Anoop Jain and Ms. Ritu Jain vide their letter dated November 24, 2020 made similar submissions as that of Anoop Jain HUF, including making a request for an opportunity of inspection and hearing in the extant matter.

8. It is observed from the records that no response to the SCN was received from Mr. Pravin Tukaram Sawant, Mr. Gordhan Lal Agrawal, Mr. Sudhir Agrawal, Ms. Anju

Agarwal, Ms. Indira Naresh Riyawala and JMD Sounds Ltd. inspite of service of SCN. Proof of service is available on record. However, the SCN sent to the *Company*, to Mr. Jagdish Chander Sharma and Ms. Esha Kedia had returned undelivered from their last known addresses. Therefore, the SCN was served on the aforesaid three *Notices* through newspaper publication on June 4-5, 2021 (Times of India, Navbharat Times and Lokmat newspapers). A copy of the SCN was also uploaded on the SEBI website under the heading “Unserved Summons / Notices” on June 2, 2021. In response to the same, the *Company* vide its email dated June 5, 2021 requested for a copy of the SCN. The SCN was delivered to the *Company* through the email address provided by it and the *Company* was given time till June 14, 2021 to submit its response to the SCN.

9. Post publication of SCN in the newspaper, Ms. Esha Kedia vide an email dated June 9, 2021 informed SEBI that she had received the SCN dated October 29, 2020 at her “Hauz Khas Enclave, New Delhi” address on April 13, 2021. Therefore, she was shocked to know from the newspaper publication that the SCN was undelivered at her last known address. Further, she requested for six weeks’ time to submit a response to the SCN.
10. SEBI vide its email dated June 14, 2021 served a copy of the SCN on Ms. Esha Kedia and granted her time till June 30, 2021 to submit her reply to the SCN. She was also informed that the SCN which was sent to her initially by Speed Post on October 29, 2020 had returned undelivered. Initially the SCN was sent to Ms. Esha Kedia at her “Greater Kailash Part – II, New Delhi” address. Moreover, the SCN was also sent to Ms. Esha Kedia by email to esha_kedia28@yahoo.co.in on December 3, 2020.
11. With respect to the inspection request of Mr. Anoop Jain, Anoop Jain HUF and Ms. Ritu Jain, due to the prevailing COVID-19 situation at that time, the aforesaid three *Notices* were provided scanned copies of all the relied upon documents vide an email dated July 1, 2021 (when the pandemic was at its worst phase), instead of letting them physical inspection. Further, the said *Notices* were advised to submit a reply to the SCN by July 8, 2021.
12. Ms. Esha Kedia vide her letter dated July 21, 2021 submitted her reply wherein she denied the allegations levelled against her and *inter alia* submitted as follows:

- 12.1. The SCN has been issued after more than 8 years of the impugned transaction. Even though no period of limitation has been prescribed, issuance of SCN has to be within a reasonable period of time. Therefore, for the inordinate delay in issuing the SCN, the current proceedings need to be dropped *qua* her.
- 12.2. She is an investor in the securities market and trades in the ordinary course.
- 12.3. She came to know about the proposed preferential allotment from Mr. Vijay Sharma, Stephen House Kolkata who recommended to her to make some investment in the shares of GIFL.
- 12.4. Subscription amount towards the shares was paid by her out of her own funds.
- 12.5. She had purchased a residential property in March 2008 which she wanted to sell in 2012. In that context, JMD Sounds Ltd. had approached her in April 2012. An agreement to Sell and Purchase was executed between the **Noticees** on June 7, 2012 wherein JMD Sounds Ltd. had agreed to purchase the property for INR 1.30 Crore and the *Noticees* had decide to complete the sale transaction by December 7, 2012. Pursuant to the same, JMD Sounds Ltd. had transferred INR 30 lakh to her on June 7, 2012 and the balance was to be paid within a period of six months. Subsequently, JMD Sounds Ltd. expressed its reluctance to go ahead with the sale and requested to return the advance amount. She had returned the advance amount to JMD Sounds Ltd. on October 29, 2013. *Noticee* has submitted a copy of the Agreement to Sell & Purchase and her bank statement in support of her submission.
- 12.6. She made the payment of INR 30 lakh towards preferential allotment on June 8, 2012 while GIFL had transferred money to JMD Sounds Ltd. on June 9, 2012 and on June 13, 2012. Therefore, the allegation that she has been funded by GIFL through JMD Sounds Ltd. is contrary to factual position on record.
- 12.7. A copy of investigation report has not been made available to her.

- 12.8. She denies that she did not have substantial funds prior to the fund transfer by JMD Sounds Ltd. As can be noted from the Balance Sheet for the AY 2011-12 and 2012-13 that her networth was around INR 2 crore. She did not want to disturb the funds lying locked in business etc. and therefore, she had used the funds transferred by JMD Sounds Ltd. However, the same does not mean that she did not have the financial means to subscribe to the preferential allotment.
- 12.9. Fraud under PFUTP Regulations can be established only when inducement is established. If inducement is not made out, then the charge of fraud automatically fails. The same has been held by Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**SAT**") in the matter of *Price Waterhouse Cooper vs. SEBI*.
- 12.10. The measure to be adopted by SEBI under Sections 11 and 11B of the SEBI Act should be remedial and not punitive in nature. Therefore, the facts in the present matter warrants no action under Sections 11 and 11B of the SEBI Act. Further, the *Noticee* has neither made any gain nor has caused loss to any investor by subscribing to the preferential allotment.
13. Considering the facts and circumstances of the matter, the *Notices* were granted an opportunity of personal hearing on December 14-15, 2021 through Webex. Vide personal hearing notice dated October 12, 2021, the *Notices* were informed about the personal hearing opportunity granted to them in the present matter.
14. It is observed from the available records that the personal hearing notice was served on all the *Notices* except for Mr. Pravin Tukaram Sawant and Mr. Jagdish Chander Sharma. The unserved personal hearing notices were uploaded on SEBI website under the heading "Unserved Summons / Notices" on October 29, 2021 and were also published in newspaper on November 9, 2021.
15. In response to the personal hearing notice the *Company*, Mr. Anoop Jain, Ms. Ritu Jain, Anoop Jain (HUF) and JMD Sounds Ltd. had sought adjournment of the scheduled personal hearing. Considering the fact that the extant matter dealt with allegation of financing by the *Company* of its preferential issues through a conduit i.e. JMD Sounds Ltd., in order to effectively adjudicate the matter, it was considered proper to ask for
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the reply from the said conduit as well as from the other preferential allottees for consideration (out of 8 preferential allottees, only 1 had submitted a detailed reply). Therefore, the hearing earlier fixed for the *Company*, all the preferential allottees and for the conduit was adjourned, to enable them to file their detailed written responses to the SCN. With respect to Mr. Pravin Tukaram Sawant and Mr. Jagdish Chander Sharma, considering the fact that the personal hearing notice was served upon them via newspaper publication, the scheduled hearing *qua* the said two *Noticees* was proceeded with. However, none of the two *Noticees* or their authorised representative appeared for the personal hearing. Hence the personal hearing *qua* Mr. Pravin Tukaram Sawant and Mr. Jagdish Chander Sharma was concluded by recording their absence.

16. JMD Sounds Ltd. vide its letters dated December 13 and 21, 2021 requested for certain documents in the matter namely, a copy of the investigation report, copies of statements of entities recorded by SEBI and copies of all SEBI's correspondences in the matter. In response to the said request of JMD Sounds Ltd., vide an email dated December 21, 2021, the *Noticee* was informed that the findings of the investigation have been comprehensively incorporated in the SCN. The SCN along with its annexures was once again provided to the *Noticee* for their ready reference and the *Noticee* was advised to submit its response within 21 days from the receipt of the communication. Similarly, vide emails dated December 17, 2021 and April 5, 2022, Mr. Gordhan Lal Agrawal, Mr. Sudhir Agrawal, Ms. Anju Agarwal were advised to submit their written responses to the SCN.

17. Vide an email dated December 13, 2021, the Authorised Representative (hereinafter referred to as "**AR**") of Ms. Indira Naresh Riyawala submitted a written reply dated December 9, 2021 to the SCN wherein the allegation made in the SCN against her was denied and *inter alia* it was submitted as follows:

17.1. There is an inordinate delay of almost 9 years in initiating the present proceedings and on this ground alone the proceedings may be dropped.

17.2. She has been regular investor in the securities market and has also invested in properties and agricultural land for the last 25 years.

- 17.3. She had received the proposal to invest in the preferential issue of GIFL somewhere in October 2011 and she had paid the consideration for the allotment to GIFL on December 29, 2011. The allotment of shares was made to her on January 19, 2012.
- 17.4. In and around the same time, she had decided to sell a bungalow plot for which JMD Sounds Ltd. had approached her and had paid a sum of INR 15 lakh around December 27, 2011 as a token amount. As per the SCN, JMD Sounds Ltd. had received a total amount of INR 3.5 crore from GIFL between January 4, 2012 to January 9, 2012 which is subsequent to the transfer of money to her by JMD Sounds Ltd.
- 17.5. She has invested her own funds for the preferential issue. Needless to say that she had invested INR 26.25 lakh in the preferential issue while she had received only INR 15 lakh from JMD Sounds Ltd.
- 17.6. The deal between her and JMD Sounds Ltd. did not fructify and she had returned the token amount to JMD Sounds Ltd. on February 29, 2012.
18. Mr. Anoop Jain vide his letter dated January 3, 2022 while denying the allegations levelled against him in the SCN has *inter alia*, submitted as follows:
- 18.1. SEBI has not provided any reason for refusal to grant him inspection of documents as requested by him.
- 18.2. The SCN has been issued after a gap of 9 years from the preferential issue of the *Company*. Hence, there is an inordinate delay in initiation of the present proceedings.
- 18.3. The fund transaction with JMD Sounds Ltd. was for the sale of a flat owned by him in New Delhi. A sale agreement was signed between them for INR 1.5 crore out of which an advance of INR 1 crore was received by him on December 27, 2011 in two tranches of INR 60, 000/- and INR 40,000/-. Further, the balance amount of INR 50 lakh was to be paid by JMD Sounds Ltd. on or before September 30, 2012 in order for the agreement to attain finality. However, by JMD Sounds Ltd. failed to pay the balance amount inspite of several reminders. Therefore, the
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sale agreement was cancelled and on January 11, 2013, he had refunded the advance amount received by him to by JMD Sounds Ltd.

18.4. The investment in the preferential issue of the *Company* was a small fraction of his total networth which in the Assessment Year 2011-2012 was INR 2.66 crore. A Chartered Accountant certificate is also submitted certifying his networth as on March 31, 2011 as INR 11.90 crore.

18.5. He has been a regular investor in the securities market and has been investing in both primary and secondary market including debentures and bonds for last 25 years.

18.6. The purchase of shares of the *Company* was based on the advice given by his known person, Mr. Sanjib Khetry. It was on Mr. Sanjib Khetry reference that the *Company* provided him with a corporate presentation wherein the activities of the *Company* were explained to him. A retail investor like him, who has limited skill and experience of fundamental research and technical analysis, invests on the basis of recommendation.

18.7. It is incumbent upon SEBI to provide notice of what specific measure SEBI is contemplating so that the *Noticee* is able to present their case on the suitability or otherwise of the specific measure proposed. Reference is drawn to the matter of *Gorkha Security Services vs. Govt. of NCT of Delhi & Ors.* decided on August 4, 2014 by the Hon'ble Supreme Court of India.

18.8. It is a settled law that the taint of fraud cannot be charged on preponderance of probability. Reference is drawn to the matter of *Ram Sharan Yadav vs. Thakur Muneshwar Nath Singh* [(1984) 4 SCC 649] decided by the Hon'ble Supreme Court of India.

19. Anoop Jain HUF and Ms. Ritu Jain vide their letter dated December 31, 2021 have also made similar submissions as have been made by Mr. Anoop Jain.

20. All the *Noticees* were granted another opportunity of personal hearing in the present matter on August 25, 2022. Vide personal hearing notices dated June 27, 2022, *Noticees* were informed about the personal hearing scheduled on August 25, 2022 in

the matter. From the records, it is observed that the personal hearing notices were served on all the *Noticees* except for Mr. Jagdish C. Sharma.

21. The *Company* vide its letter dated August 23, 2022 submitted a reply to the SCN wherein it denied the allegations levelled against it in the SCN and submitted as follows:

21.1. There has been a delay of 9 years from the preferential issues in issuing the SCN in the present matter.

21.2. The fund transactions with JMD Sounds Ltd. was in respect of purchasing shares of certain private limited companies in the ordinary course of the *Company* purchasing shares of various companies.

21.3. There is nothing in the SCN to suggest that the *Company* was aware of the fund transactions between JMD Sounds Ltd. and other preferential allottees or that said fund transactions were done on the behalf or at the behest of the *Company*. Further, the *Company* has no control over JMD Sounds Ltd. and it has no involvement or any role to play in the management and affairs of JMD Sounds Ltd.

21.4. If the allegation is correct, then as on January 4, 2012 the *Company* is already aware that JMD Sounds Ltd. has funded INR 1,58,75,000/- to preferential allottees. Then where was the need for the *Company* to give funds to the extent of INR 3.5 crore to JMD Sounds Ltd. during January 4-9, 2012.

21.5. There is no allegation that the alleged preferential allotment amount was siphoned off or mis-utilised by the *Company* or the *Company* has tried to manipulate the price and / or volume in the scrip.

22. Mr. Gordhan Lal Agarwal, Mr. Sudhir Agarwal and Ms. Anju Agarwal vide their common letter dated August 24, 2022 while denying the allegations levelled against them in the SCN, have *inter alia* made the following submissions:

22.1. There has been inordinate delay in issuing the SCN in the present matter.

22.2. The fund transaction with JMD Sounds Ltd. was with respect to sale of office premises owned by them for INR 93 lakh. The sale agreement was entered into among the *Noticees* for which an advance amount of INR 43,75,000/- was paid by JMD Sounds Ltd. to the *Noticees* and it was agreed that the balance amount of INR 49,25,000/- would be paid within 18 months. Subsequently, JMD Sounds Ltd. failed to pay the balance amount due to which the agreement to sell was cancelled. The advance paid was returned to JMD Sounds Ltd. after 18 months.

22.3. The fund transaction between JMD Sounds Ltd. and the *Noticees* was on December 27-28, 2011 while the fund transfer between the *Company* and JMD Sounds Ltd. was during January 4-9, 2012. Further, there is complete mismatch in quantum of funds transferred between the *Company* and JMD Sounds Ltd. and the *Company* and JMD Sounds Ltd. and the other *Noticees*.

23. Mr. Gordhan Lal Agarwal, Mr. Sudhir Agarwal and Ms. Anju Agarwal have waived off their opportunity of personal hearing in the present matter. On the day of the personal hearing scheduled on August 25, 2022 Mr. Vinay Chauhan appeared for the personal hearing on behalf of the *Company*, Mr. Anoop Jain, Anoop Jian (HUF), Ms. Ritu Jain and Ms. Esha Kedia. He reiterated the submissions already made in the reply of the said *Noticees*. He further requested for a week's time to make additional submissions which was acceded to. Mr. Chetan Shah and Mr. Aditya Thanvi appeared on behalf of Ms. Indira N Riyawala and reiterated the submissions made in her written reply. The personal hearing in the matter was concluded for all the *Noticees* except for Mr. Jagdish C. Sharma who was given a last opportunity of personal hearing on October 19, 2022 in the present matter. However, the personal hearing notice on him had to be served via affixture and newspaper publication (Pratahkal and Times of India).

24. Subsequent to the aforementioned personal hearing that was held on August 25, 2022 which JMD Sounds Ltd. had failed to appear inspite of service of personal hearing notice, JMD Sounds Ltd. submitted a reply in the matter vide its letter dated September 3, 2022. In the said reply, it denied the allegations levelled against it in the SCN and *inter alia* submitted as follows:

24.1. There has been inordinate delay in issuing the SCN in the present matter.

24.2. The fund transaction with the *Company* was the sale consideration for the shares sold by it to the *Company* during January 2012. The details of the said sale are as follows (copy of bill and ledger is submitted as evidence):

Table No. 2

Sl. No.	Name of the Scrip	No. of Shares	Amount (in INR)
1	Meghacity Kutir Pvt. Ltd.	1,46,000	1,46,00,000
2	Novel Power Pvt. Ltd.	1,12,000	1,12,00,000
3	Meghacity Niwas Pvt. Ltd.	77,000	77,00,000
4	Sargam Vintrade Pvt. Ltd.	15,000	15,00,000
			3,50,00,000

24.3. Further, during June 2012, it had agreed to sell the following shares to the *Company*:

Table No. 3

Sl. No.	Name of the Scrip	No. of Shares	Amount (in INR)
1	Dinman Marketing Pvt. Ltd.	1,25,000	1,25,00,000
2	Northern Infra Project Pvt. Ltd.	10,000	10,00,000
3	Surya Alloys Ind Ltd.	2,10,000	4,20,00,000
			5,55,00,000

24.4. In the context of sale of shares mentioned in table no. 3, the *Company* had transferred INR 5.55 crore to the *Noticee* on multiple dates. Subsequently, due to the inability of the *Noticee* to deliver the shares of Surya Alloys Ind Ltd., the *Noticee* had refunded the balance amount of INR 4.2 crore to the *Company*.

24.5. There are other fund transfers between the *Noticee* and the *Company* as borne out from the ledger maintained by it.

24.6. Out of INR 3.5 crore transferred by the *Company* to the *Noticee*, only INR 1.58 crore has been alleged to be part of funding. Strangely there is deafening

silence regarding the balance amount of INR 1.48 crore. Similarly, out of INR 3 crore which was transferred by the *Company* to the *Noticee* during the time of second preferential allotment, the SCN sets out details of only INR 30 lakh and there is no word regarding the remaining balance amount of INR 2.70 crore.

24.7. The *Noticee* reiterated the submissions made by Mr. Anoop Jain, Ms. Indira N. Raiyawala, Mr. Gordhan Lal Agarwal and Ms. Esha Kedia with respect to fund transaction with the respective *Noticees*.

25. Considering the aforestated written reply of JMD Sounds Ltd., a last opportunity of personal hearing was granted to the said *Noticee* on October 19, 2022. The personal hearing date was communicated to JMD Sounds Ltd. vide an email dated September 30, 2022.

26. Post hearing, Mr. Anoop Jain on behalf of Ms. Ritu Jain, Anoop Jain HUF and himself vide a letter dated September 13, 2022 has reiterated the earlier submissions made by them and *inter alia* has submitted as follows;

26.1. There is no adverse allegation that the *Noticees* are connected to the *Company* or to JMD Sounds Ltd.

26.2. Investigation has failed to inquire the basis for meeting of minds between the *Noticees* and the *Company* pursuant to which the *Company* has indirectly funded the *Noticees* and also the basis for meeting of minds between the *Noticees* and JMD Sounds Ltd. pursuant to which JMD Sounds Ltd. has funded the *Noticees* on behalf of the *Company*.

26.3. If the allottees have already paid the requisite consideration to the *Company* for the preferential allotment, where is the question of *Company* funding the preferential allottees for seeking subscription.

26.4. If purported theory is correct, then the *Company* would have funded the entire subscription amount instead of funding lesser amount in certain cases and higher amount in certain cases.

- 26.5. Even if the *Noticees* have used the funds provided by JMD Sounds Ltd., for seeking subscription, the same cannot be treated as funds provided by the *Company* to them especially in the absence of any material to demonstrate that the *Noticees* were aware of JMD Sounds Ltd. being funded by the *Company* or there was a meeting of minds between the *Noticees* and the *Company*.
27. The *Company* vide its letter dated October 7, 2022 has also made its post hearing submissions wherein it reiterated its earlier submissions and has *inter alia* submitted as follows:
- 27.1. The allegation of funding is limited to 7 allottees out of total 93 allottees in both the preferential allotments.
- 27.2. The details of the shares purchased and sold during the FYs 2011-12 and 2012-13 are enclosed with the reply. From the said details it would be evident that the *Company* had bought and sold shares of various companies, for different quantum and from different entities. In monetary terms the *Company* had purchased shares for around INR 18.88 crore and had sold shares worth INR 1.68 crore during FY 2011-12. Similarly, in the FY 2012-13, the *Company* had purchased shares for around INR 13.93 crore and had sold shares worth INR 13.14 crore.
28. It is noted from records that the personal hearing which was scheduled on October 19, 2022 for Mr. Jagdish C. Sharma and JMD Sounds Ltd. was not attended by the said *Noticees* inspite of service of personal hearing notices on them. Thus, I find that adequate opportunities to the *Noticees* have been provided to appear before me for their personal hearing as well as for making written submissions in response to the SCN served on them.

Consideration of Issues and findings

29. I have carefully perused and considered the findings of SEBI's investigation and have also considered the above noted submissions made by the *Noticees* both written and oral, the contents of which have already been highlighted in the preceding paragraphs. After going through all the material, as aforesaid, available on record, I find that

essentially, the issue that arises for determination in the present matter is whether the *Company*, through JMD Sounds Ltd. has under a scheme, engaged in funding the subscription by a few of the allottees in its two preferential issues.

30. In order to evaluate the charges made against the *Noticees* on merit, it is relevant that reference may be made to the relevant provisions of SEBI Act and PFUTP Regulations, that have been either allegedly violated by the *Noticees* or are otherwise relevant for the present proceedings. The said provisions are reproduced hereunder for ready reference:

SEBI Act

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

Section 12A.No person shall directly or indirectly—

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

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a 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 recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder.

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 which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

PFUTP Regulations

Prohibition of certain dealings in securities

Regulation 3. No person shall directly or indirectly—

(a) ...

(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 thereunder;

(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 thereunder.

Prohibition of manipulative, fraudulent and unfair trade practices

Regulation 4 (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

31. Now, advertng to the issue of the *Company* indulging in funding its own preferential issues, I note from the record that the *Company* had made two preferential allotments on January 19, 2012 and on June 12, 2012 respectively. In the first preferential allotment, 1,05,05,000 shares of INR 10/- at a premium of INR 5/- were allotted to 49 entities from which the *Company* had raised INR 15,75,75,000/- by way of subscription to the said preferential issue. Subsequently, in the second preferential allotment, 98,50,000 shares of INR 10/- at a premium of INR 5/- were allotted to another set of 44 entities from which the *Company* had raised INR 14,77,50,000/- by way of subscription to the said second preferential issue. It is noted from the examination of the bank statements (HDFC Bank and Dena Bank) of the *Company* that out of the total proceeds of both the preferential issues amounting to INR 30,53,25,000/-, the *Company* had transferred INR 6.50 crore to JMD Sounds Ltd. in two tranches, post receipt of the funds from the proposed allottees. Further, it is noted upon scrutiny of the bank statements of the *Noticeses* who are the preferential allottees in the present proceedings, that prior to transferring funds from their bank accounts

to the *Company* for subscribing to its preferential issue, they had received funds from JMD Sounds Ltd.

32. From the replies of the *Noticees* who are the preferential allottees, I note that the sum and substance of their contention is that the funds that they had received from JMD Sounds Ltd. was for a real estate transaction that didn't go through and consequently, they had returned the money to JMD Sounds Ltd. after a period of time. Mr. Anoop Jain, Anoop Jain (HUF), Ms. Ritu Jain and Ms. Esha Kedia have submitted an agreement to sell made on a stamp paper entered into between them and JMD Sounds Ltd. while Mr. Gordhan Lal Agarwal, Mr. Sudhir Agrawal and Ms. Anju Agarwal have stated that due to lapse of time they cannot trace the agreement to sell entered into between them and JMD Sounds Ltd. Ms. Indira N. Raiyawala has not submitted any document in support of her submission. On the other hand, the gist of the reply of the *Company* and JMD Sounds Ltd. is that the fund transaction between them pertained to the sale of shares of a few private limited companies. Further, while emphatically denying the allegation of funding a few of the preferential allottees, bills, ledger and extracts of balance sheet from the relevant year's Annual Report have been submitted to substantiate the said claims that the funds transactions that have taken place between them during the relevant period of time were pertaining to dealing in securities.
33. From the replies of the *Noticees* who are preferential allottees, the following commonality is noted:
- 33.1. All of them have separately entered into real estate transactions with JMD Sounds Ltd.
- 33.2. Out of the 7 allottees, 4 allottees have submitted an agreement to sell prepared on a stamp paper entered between them and JMD Sounds Ltd. while the remaining entities have not submitted any kind of documentary proof. Coincidentally, JMD Sounds Ltd. also has not submitted any kind of documentary proof for the real estate transaction purportedly entered with the remaining 3 allottees, though it has submitted the copies of agreement to sell entered into by it with the other 4 allottees.

- 33.3. None of the *Noticees* who are preferential allottees, has submitted any correspondences with JMD Sounds Ltd. with respect to the said real estate transactions except for a few of them submitting only the copy of the agreement to sell. It is highly unlikely that a real estate transaction of a substantial value has no paper trail except for an agreement to sell.
- 33.4. It is also a strange coincidence that all of them were looking to sell their respective properties during the same time period and all of them were approached by JMD Sounds Ltd. only, to buy their respective properties.
- 33.5. It is also an uncanny coincidence that none of the aforesaid sale transactions saw the light of the day.
- 33.6. None of the above *Noticees* had returned the money to JMD Sounds Ltd. immediately after the said property deal with JMD Sounds Ltd. became infructuous. The money was returned to JMD Sounds Ltd. after a considerable period of time and for which no explanation has been submitted by the said *Noticees* as to why there was a delay in paying the money back to JMD Sounds Ltd. upon failure of the deals to materialise. Similarly, during investigation also, nothing has been ascertained with respect to the above transaction which would explain the reason for the delay in paying the amount back to JMD Sounds Ltd. by the above noted preferential allottees. Interestingly, during the intervening period, nothing has been submitted by JMD Sounds Ltd. to suggest if it had sent any reminders to the aforesaid *Noticees* to return its money upon failure of the property deals with them which by no stretch of imagination was a paltry sum.
- 33.7. All the aforesaid preferential allottees had received funds from JMD Sounds Ltd. just prior to transferring of money from their respective bank accounts to the *Company* happened towards subscription to the preferential allotment.
34. The aforesaid commonality and similarity of facts and peculiar circumstances across the *Noticees* who had subscribed to the preferential issues in the first blush, looks permissible grounds for taking actions against the *Noticees*. The real estate transactions supposedly entered into by the *Noticees* with JMD Sounds that never saw the light of the day appear suspicious, vague and incoherent. However, based on such
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suspicious transactions, even it is assumed that the money transferred by JMD Sounds to the accounts of the *Noticees* to subscribe to the preferential issue of the *Company*, to prove the allegation about the *Company* funding the *Noticees* to subscribe to its preferential issue, fund transactions between the *Company* and JMD Sounds, either directly or indirectly, has to be established, at least on a preponderance of probability basis, to prove that the said fund transfers represent nothing but funding the *Noticees* through JMD Sounds. In this connection, I cannot lose sight of the fact that the allegation in the instant matter is regarding the *Company* funding its own preferential issues through layered transactions / conduits. Thus, it has to be seen as to whether adequate evidence has been brought on record to establish the perpetration of the alleged 'scheme' by the *Company* and the conduit (JMD Sounds Ltd.) along with the preferential allottees. In other words, one has to examine the circumstances as brought out by the findings of the investigation which would show the involvement of the *Company* and the conduit (JMD Sounds Ltd.) in the employment of the alleged 'scheme', apart from looking into the deficiencies or short comings in the conduct of or transactions made by the preferential allottees and / or their unexplained or unusual behaviour. There is no gainsaying that in matters like this, direct evidence would be rare and in majority of the cases, one will have to take note of the immediate and proximate facts and circumstances surrounding the events on the basis of which, the charges / allegations are to be founded so as to reach a reasonable conclusion therefrom. Here, it would be appropriate to refer to the order of the Hon'ble Supreme Court of India in the matter of *Hanumant vs. State of Madhya Pradesh* [AIR 1952 Supreme Court 343] wherein it was held as follows:

"...In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

35. In the light of the aforesaid finding of the Hon'ble Apex Court, I note that in the matters where reliance is being placed on circumstantial evidence, the circumstances based on which the chain of evidence is built should tilt the scales either in favour of the charge or otherwise. To put it differently, the inquiry which is being conducted in the

instant adjudication proceedings, requires to be disposed of only pursuant to the appreciation of all the facts and circumstances of the matter and after application of the relevant provision of law to the said facts and circumstances of the case. There is no denying that all the facts and facets will not have equal weightage. Adequacy and relevancy of some facts will be more than the others depending on the circumstances of the matter. It will be apt here to note that the standard of proof for the instant subject matter is essentially dependent upon the preponderance of probabilities. Therefore, upon examination of all the facts and circumstances in the matter, one has to consider as to whether on a preponderance of probability basis, can a prudent person reasonably infer that in the given facts and circumstances of the matter, the allegation as levelled in the SCN, outweigh the facts and circumstances available to the contrary i.e., in support of the *Noticees*.

36. In view of the aforesaid discussion, I now proceed to examine the circumstances which have been brought on record to demonstrate the involvement of the *Company* and the conduit (JMD Sounds Ltd.) in the employment of the alleged 'scheme' to fund both the preferential allotments. The said circumstances are as follows:

36.1. The *Company* has transferred INR 3.50 crore to JMD Sounds Ltd. during the period January 4-9, 2012 and INR 3 crore to JMD Sounds Ltd. during the period June 9-13, 2012.

36.2. JMD Sounds Ltd. had transferred the money to the preferential allottees who are the *Noticees* in the matter, just prior to them subscribing to the preferential allotment of the *Company*.

36.3. Prior to receipt of funds from JMD Sounds Ltd. and just before subscribing to the issue, the bank account of Mr. Anoop Jain, Anoop Jain HUF, Ms. Ritu Jain and Ms. Esha Kedia did not have sufficient balance.

36.4. Full subscription money for the preferential issue was paid by Ms. Ritu Jain, Mr. Gordhan Lal Agarwal, Mr. Sudhir Agarwal / Ms. Anju Agarwal and Ms. Esha Kedia, out of the funds received from JMD Sounds Ltd.

37. With respect to the aforesaid circumstances, I note that it is the transfer of funds from the *Company* to the account of JMD Sounds Ltd. as cited above that has become the basis for alleging the funding of the *Noticee* allottees through JMD Sounds Ltd. The allegation of funding stands on two independent but inter-linked legs and both the legs of the alleged scheme has to be successfully implemented to achieve the desired result of establishing the charge against the *Company* funding its own preferential issue. Thus, to bring home the charge as levelled in the SCN, both the legs of the alleged scheme have to be successfully implemented by the perpetrators of the alleged scheme.

38. Now moving on to evaluate the findings of the investigation with respect to the transfer of funds between the *Company* and JMD Sounds Ltd., the following is noted from the available records:

38.1. The funds were transferred by the *Company* to JMD Sounds Ltd., post the subscription by the *Notices* who are preferential allottees.

38.2. Out of INR 3.50 crore which was transferred by the *Company* to JMD Sounds Ltd. during the period January 4-9, 2012, INR 1,58,75,000/- was allegedly utilised to fund the 1st preferential issue made on January 19, 2012. There is no finding in the investigation report with respect to the utilisation or non-utilisation of the balance amount. In other words, the fund trail of INR 1,91,25,000/- has not been examined, to explain how the entire INR 3.50 crore was utilised by JMD Sounds Ltd. There is also no material to show and explain the fact that when the alleged funding was required to the extent of INR 1,58,75,000/- then why did the *Company* had transferred additional amount of INR 1,91,25,000/- to JMD Sounds Ltd. The above assumes importance as the *Company* and JMD Sounds Ltd. have submitted that the aforesaid fund transfer was made towards the consideration of sale of shares of a few private companies. In this regard, I note that it was not the first time that the *Company* was buying shares of a private limited company. The *Company* in its ordinary course of business was investing in shares of private limited companies as can be seen from its Annual Reports for the FY 2009-10 to 2012-13. The Annual Report of FY 2011-12 reflects the unlisted shares that were

bought by the *Company* from JMD Sounds Ltd. The *Company* has also submitted bills for the purchase of said unlisted shares. There is no material made available on record based on which a suspicion can be raised with respect to the aforesaid transaction being a transaction for funding the preferential allottees who are *Noticees* in the present proceedings and not for purchase of unlisted shares from JMD Sounds as already is reflected and supported by the Annual Return of the *Company*. Considering the evidence submitted by the *Company* in the form of its Annual Report, it becomes further difficult to find any discrepancy in the justification submitted by the *Company* and JMD Sounds Ltd. with respect to the said transaction. Similarly, out of INR 3 crore which was transferred by the *Company* to JMD Sounds Ltd. during the period June 9-13, 2012, INR 30 lakh was allegedly utilised to fund the 2nd preferential issue made on June 12, 2012. There is no finding in the investigation report with respect to the utilisation or non-utilisation of the balance amount. In other words, there is no justification available pertaining to the balance transfer of INR 2.7 crore that the *Company* had transferred to JMD Sounds Ltd. and therefore, it becomes difficult to understand how the entire INR 3 crore was utilised by JMD Sounds Ltd. It can't be ignored and brushed aside that the *Company* and JMD Sounds Ltd. have submitted that the aforesaid fund transfer was made against the consideration of sale of shares of a few private companies which have been mentioned in the Annual Report of the *Company* also.

38.3. It is noted from the records that post the above noted two rounds of preferential allotments during which the *Company* had transferred funds to JMD Sounds Ltd., the latter was not the only recipient of the funds from the *Company*. There were 5 other recipients of funds post 1st preferential allotment and 10 other recipients of funds post the 2nd preferential allotment.

39. From the above, it is noted that the *Company* in its normal and ordinary course of business was buying the shares of certain private limited companies from JMD Sounds Ltd. and the same is supported by documentary evidence which on basis of material available on record cannot be brushed aside simpliciter. Further, during the said period the *Company* was not only dealing / having fund transactions with JMD Sounds

Ltd. but also was having fund transactions concurrently with multiple companies. There is no material available on record to demonstrate why JMD Sounds Ltd. stands on a different footing than the other companies who also had fund transactions with the *Company* during the said period.

40. The aforesaid material circumstances have to be seen in conjunction with another important aspect of the matter i.e., of the absence of any connection between the *Company* and JMD Sounds Ltd. prior to the impugned fund transfers. It is not to say that in every case involving allegation of a company funding its own issue, the funds have to be first transferred from the company through a layered transaction to the intended allottees and then the intended allottees would subscribe to the issue. There can be situations where the intended allottees have received funds from a conduit and after they have subscribed to the issue, the company would reimburse the conduit. However, in such a scenario which is the same as that has been alleged in the instant matter, one has to establish a connection between the company and the conduit prior to the fund transfer. The same is essential to prove that the company and the conduit knew each other before hand and they had come together to devise a scheme to fund the issue of shares by the company. Alternatively, a connection has to be established between the conduit and the intended allottees prior to the issue, to demonstrate that there was some kind of meeting of minds between them. Both the scenarios in the instant matter have not been brought out at the time of investigation. Further, no other material has been brought on record to demonstrate any meeting of minds amongst the various constituents of the alleged scheme employed to fund the preferential issue of the *Company*.

41. I note from the SCN that the crux of the allegation in the matter is that the *Company* has funded its own preferential issues through certain preferential allottees via JMD Sounds Ltd. Thus, for the allegation to stand, it is essential to first establish that the fund transaction between the *Company* and JMD Sounds Ltd. was for the purpose of the funding of the preferential issues, which as noted in preceding paragraphs, is not adequately supported by the circumstances unearthed at the time of the investigation. In the instant matter, it has already been noted above that the alleged scheme had two separate but inter linked legs, both of which had to be successfully implemented for

the fruition of the alleged scheme and failure to implement any one of the leg of the alleged scheme, would inevitably result in an ineffective scheme. As noted above, the investigation has not brought out adequate circumstances so as to demonstrate that the leg of the alleged scheme wherein the *Company* is transferring funds to JMD Sounds Ltd. is practically the reimbursement made for the funding that the latter had done on behalf of the *Company* prior to subscription by the *Noticees*. Thus, as one of the important facts of the alleged scheme has not been established, the entire scheme falls apart. As has been observed that the allegations pertaining to funding by the *Company* a few of its preferential allottees through JMD Sounds rest on two legs; the first being transfer of fund to the account of the preferential allottees and second being reimbursement by the *Company* to the conduit i.e. JMD Sounds Ltd., after the preferential allottees had transferred the consideration towards the preferential allotment to the *Company*. It has been also observed that that the *Company* has successfully explained the transfer of funds to the account of JMD Sounds Ltd. and in the absence of any material to dispute and discredit the above fund transfers between the *Company* and JMD Sounds Ltd. that were made in connection with purchase of unlisted shares, it becomes unsustainable to hold with confidence that the said transfer was nothing but the reimbursement to JMD Sounds Ltd. Since, justifiable explanation has been offered for the alleged first leg of the scheme, consequently, there is no ground for me to further examine the other leg of the alleged scheme which is that of fund transfers between JMD Sounds Ltd. and the preferential allottees, notwithstanding the suspicious nature of such transactions as discussed above.

42. There is another additional factor which assumes significance in the instant matter. It is noted that the allegation of funding for the 1st preferential allotment is against 6 allottees out of 49 allottees while the allegation for the 2nd preferential allotment is against 1 allottee out of 44 allottees. In this regard, the *Noticees* have relied upon the order of the Hon'ble Securities Appellate Tribunal in the matter of *Ravindra Kumar Grover vs. SEBI & Ors.* decided on February 8, 2022 wherein the Hon'ble Tribunal has held as follows:

"...It is difficult for us to digest that the company would orchestrate a scheme to benefit one preferential allottee out of 88 allottees."

The aforesaid finding of the Hon'ble Tribunal has to be seen in the light of the material circumstances of the matter viz., absence of any *inter se* connection between the *Company* and JMD Sounds Ltd. and between JMD Sounds Ltd. and the *Notices* who are preferential allottees and the fact that the funds received by the preferential allottees who are *Notices* in the matter from JMD Sounds Ltd. were returned by the said preferential allottees before the initiation of the instant proceedings. Thus, it is difficult for me to turn a blind eye to the aforesaid material extenuating circumstances and thereby I am constrained to give a benefit of doubt to the *Notices* in the present matter.

43. In view of the aforesaid discussions, I note that though there are circumstances which would demonstrate a very strange similarity in the actions of the *Notices* who are preferential allottees in the instant matter and also highlight their unusual and identical behaviour with respect to their dealings with JMD Sounds Ltd., however, there are other circumstances present in the matter to the contrary viz., absence of any *inter se* connection between the *Company* and JMD Sounds Ltd. and between JMD Sounds Ltd. and the *Notices* who are preferential allottees, alleged involvement of only 7 allottees out of 93 allottees in the alleged scheme, lack of any discrepancy or material to show an anomaly in the sale transaction between the *Company* and JMD Sounds Ltd. and the fact that JMD Sounds was not the only recipient of the funds from the *Company* post preferential issue, etc. all of which run counter to the allegations levelled against the *Notices* in the instant matter.

44. As observed in the beginning of the Order, before arriving at any finding in a matter based on circumstantial evidence, one has to weigh the significance and implication of the various attending circumstances of the matter. It goes without saying that not all the circumstances will have the same weightage or will have similar kind of material implication in deciding the case. The materiality that is assigned to any circumstance would depend on the allegation that is levelled in the matter and accordingly a cumulative weightage of the various circumstances has to be considered before arriving at the finding. In the given facts and circumstances of the matter, I am of the view that on a basis of preponderance of probability, the cumulative weightage of the circumstances, especially the absence of any evidence to indicate a possible

meeting of minds between the *Company* and its alleged conduit, JMD Sounds Ltd. and between JMD Sounds Ltd. and the *Notices* preferential allottees, are not sufficient to come to a finding holding that the *Company* has funded its preferential issue through JMD Sounds Ltd. to a few of its preferential allottees. The exonerating circumstances far outweigh the circumstances based on which the allegations have been levelled against the *Notices* in the SCN. In the light of the aforesaid finding, it is held that the *Notices* in the matter have not violated Sections 12A(a), (b) and (c) of SEBI Act read with regulations 3(b), (c), (d) and 4(1) and 4(2)(d) of the PFUTP Regulations.

45. The allegation levelled against the *Notices* having been dropped, the other issues raised by the *Notices* do not find any merit any consideration.

Directions

46. Having carefully considered the materials available on record, the submissions advanced by the *Notices* and in the light of the aforesaid discussions, I, in exercise of the powers conferred upon me under Sections 11(1) and 11B read with Section 19 of the Securities and Exchange Board of India Act, 1992, dispose of the show cause notice dated October 29, 2020 against Global Infratech & Finance Ltd., Mr. Pravin Tukaram Sawant, Mr. Jagdish Chander Sharma, Mr. Gordhan Lal Agrawal, Mr. Sudhir Agrawal, Ms. Anju Agarwal, Mr. Anoop Jain, Anoop Jain HUF, Ms. Ritu Jain, Ms. Indira Naresh Riyawala, Ms. Esha Kedia and JMD Sounds Ltd.

47. The Order shall come into force with the immediate effect.

48. A copy of this order shall be forwarded to all the *Notices*.

-Sd-

Date: June 19, 2023

Place: Mumbai

S. K. MOHANTY

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA