BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SR/AS/2020-21/8827-8863/59-95]

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995 AND UNDER SECTION 23-I OF THE SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF THE SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 2005

In respect of

Sr. No.	Name of the Entity	PAN No.	Order No.
1	Pankaj J. Shah (HUF)	AAIHS5790M	EAD/SR/AS/AO/8827/59
2	Pankaj J. Shah	AMZPS2994Q	EAD/SR/AS/AO/8828/60
3	Pintu Kacharaji Teli (HUF)	AACHT3722L	EAD/SR/AS/AO/8829/61
4	Pintu Kacharaji Teli	ALZPT8200D	EAD/SR/AS/AO/8830/62
5	Vani Dilip Sitaram (HUF)	AAHHV0378P	EAD/SR/AS/AO/8831/63
6	Dilip Sitaram Wani	ABXPW6055B	EAD/SR/AS/AO/8832/64
7	Kamlaben Dhansingbhai Lodha	ADMPL7536P	EAD/SR/AS/AO/8833/65
8	Pushpaben Dilipkumar Vani	AGJPV7559E	EAD/SR/AS/AO/8834/66
9	Trivedi Vijay Mahipatram (HUF)	AACHT3689L	EAD/SR/AS/AO/8835/67
10	Vijay Mahipatray Trivedi	AGNPT7343N	EAD/SR/AS/AO/8836/68
11	Smitaben Bharatbhai Khambhati	AKAPM2479D	EAD/SR/AS/AO/8837/69
12	Sheela Anjay Gupta	ALHPG9421D	EAD/SR/AS/AO/8838/70
13	Gitaben Vahalabhai Jadav	AIXPJ9862G	EAD/SR/AS/AO/8839/71
14	Sonalben Nimeshkumar Raval	AMAPR3470K	EAD/SR/AS/AO/8840/72
15	Johnali Gulamali Momin	ARJPM1558K	EAD/SR/AS/AO/8841/73
16	Mahera Johnali Momin	ARJPM1559J	EAD/SR/AS/AO/8842/74
17	Hansaben Jayeshkumar Parmar	ATZPP4475C	EAD/SR/AS/AO/8843/75
18	Gawmati Mathurbhai Parmar	AUBPP2964R	EAD/SR/AS/AO/8844/76
19	Parulben Manilal Parmar	ATZPP4014H	EAD/SR/AS/AO/8845/77

20	Hasumatiben Manilal Parmar	AUBPP3083B	EAD/SR/AS/AO/8846/78
21	Premlata Bhagavendas Koshti	AWYPK0197L	EAD/SR/AS/AO/8847/79
22	Dakshaben Banavarilal Sharma	BPPPS5841L	EAD/SR/AS/AO/8848/80
23	Ansoyaben Rajendrakumar Shukal	BPPPS5842K	EAD/SR/AS/AO/8849/81
24	Chhaya Rakesh Sable	BRBPS8409L	EAD/SR/AS/AO/8850/82
25	Ritaben Bharatbhai Shah	APFPS4223R	EAD/SR/AS/AO/8851/83
26	Rinaben Premchandabhai Parmar	AUBPP3074E	EAD/SR/AS/AO/8852/84
27	Geetaben Narottambhai Parmar	AUBPP3076G	EAD/SR/AS/AO/8853/85
28	Sangitaben Bhupeshbhai Bhavsar	AOJPB6507Q	EAD/SR/AS/AO/8854/86
29	Vijay Mangaldas Shah (HUF)	AAGHV9796J	EAD/SR/AS/AO/8855/87
30	Krupa Pankaj Shah	AGDPS3989F	EAD/SR/AS/AO/8856/88
31	Chandresh Kanaiyalal Bijava	ALPPB2894R	EAD/SR/AS/AO/8857/89
32	Manjulaben Chandreshbhai Bijava	AOIPB3569H	EAD/SR/AS/AO/8858/90
33	Lekhaben Dineshbhai Shah	APCPS2087N	EAD/SR/AS/AO/8859/91
34	Mukesh Chandreshbhai Bijava	AUMPB7059C	EAD/SR/AS/AO/8860/92
35	Shah Arpit Pankajkumar	BGMPS0141K	EAD/SR/AS/AO/8861/93
36	Shah Swara Pankajkumar	AYCPS2791Q	EAD/SR/AS/AO/8862/94
37	Jayesh Virchandbhai Shah (HUF)	AAFHJ7084J	EAD/SR/AS/AO/8863/95

In the matter of trading activities of Pankaj J. Shah HUF and connected entities in the scrips of L&T Finance Holdings Ltd., Tree House Education Ltd. and Future Ventures India Ltd.

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (in short **SEBI**) received a Suspicious Transaction Report from Financial Intelligence Unit (in short **FIU**), Government of India stating that a client viz. Ms. Swara P. Shah received 19,431 shares of L&T Finance Holdings Ltd. (in short **L&T**) through off-market transactions from 55 entities who had received shares in allotment during Initial Public Offering (in short **IPO**) of L&T. In this regard, Investigating Authority (in short **IA**) was appointed to investigate the matter. Investigation period was May 10, 2011 to

December 31, 2011 (in short **IP**). However, wherever deemed necessary, IA has made reference outside the IP. IA observed that certain entities had applied in various IPOs and transferred the proceeds from sale of the shares allotted in the IPOs to Pankaj J. Shah HUF (hereinafter referred to as **Noticee 1**), so that Mr. Pankaj J. Shah (hereinafter referred to as **Noticee 2**) who is father of Ms. Swara P Shah (hereinafter referred to as **Noticee 36)** and Karta of Noticee 1, and concluded that prima facie, Noticee 1 appears to have cornered the shares meant for Retail Individual Investor (in short **RII**) category in IPOs of Tree House Education Ltd. (in short **TH**), L&T and Future Ventures India Ltd (in short **FV**).

2. In this regard, IA observed –

2.1 alleged violation of section 12A(a), (b) and (c) of the Securities and Exchange Board of India Act, 1992 (in short the **SEBI Act, 1992**) and regulations 3(a), (b), (c) and (d) and 4(1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (in short the **PFUTP Regulations, 2003**) by Noticee 1, Noticee 2, Pintu Kacharaji Teli (HUF) (hereinafter referred to as **Noticee 3**), Pintu Kacharaji Teli (hereinafter referred to as **Noticee 4**), Vani Dilip Sitaram (HUF) (hereinafter referred to as **Noticee 5**), Dilip Sitaram Wani (hereinafter referred to as **Noticee 6**), Kamlaben Dhansingbhai Lodha (hereinafter referred to as **Noticee 7**), Pushpaben Dilipkumar Vani (hereinafter referred to as **Noticee 8**), Trivedi Vijay Mahipatram (HUF) (hereinafter referred to as **Noticee 9**), Vijay Mahipatray Trivedi (hereinafter referred to as **Noticee 10**), Smitaben Bharatbhai Khambhati (hereinafter referred to as **Noticee 11**), Sheela Anjay Gupta (hereinafter referred to as **Noticee 12**), Gitaben Vahalabhai Jadav (hereinafter referred to as **Noticee 13**), Sonalben Nimeshkumar Raval (hereinafter referred to as **Noticee 14**), Johnali Gulamali Momin (hereinafter referred to as **Noticee 15**), Mahera Johnali Momin (hereinafter referred to as **Noticee 16**), Hansaben Jayeshkumar Parmar (hereinafter referred to as **Noticee 17**), Gawmati Mathurbhai Parmar (hereinafter referred to as **Noticee 18**), Parulben Manilal Parmar (hereinafter referred to as **Noticee 19**), Hasumatiben Manilal Parmar (hereinafter referred to as **Noticee 20**), Premlata Bhagavendas Koshti (hereinafter referred to as **Noticee 21**), Dakshaben Banavarilal Sharma (hereinafter referred to as **Noticee 22**), Ansoyaben Rajendrakumar Shukal (hereinafter referred to as **Noticee 23**), Chhaya Rakesh Sable (hereinafter referred to as **Noticee 24**), Ritaben Bharatbhai Shah (hereinafter referred to as **Noticee 25**), Rinaben Premchandabhai Parmar (hereinafter referred to as **Noticee 26**), Geetaben Narottambhai Parmar (hereinafter referred to as **Noticee 27**), Sangitaben Bhupeshbhai Bhavsar (hereinafter referred to as **Noticee 28**), Vijay Mangaldas Shah (HUF) (hereinafter referred to as **Noticee 29**), Krupa Pankaj Shah (hereinafter referred to as **Noticee 30**), Chandresh Kanaiyalal Bijava (hereinafter referred to as **Noticee 31**), Manjulaben Chandreshbhai Bijava (hereinafter referred to as **Noticee 32**), Lekhaben Dineshbhai Shah (hereinafter referred to as **Noticee 33**), Mukesh Chandreshbhai Bijava (hereinafter referred to as **Noticee 34**), Shah Arpit Pankajkumar (hereinafter referred to as **Noticee 35**), Noticee 36 and Jayesh Virchandbhai Shah (HUF) (hereinafter referred to as **Noticee 37**). (Noticees 1 to 37 are hereinafter collectively referred to as Noticees)

2.2 alleged violation of section 2(i)(a) read with (in short r/w) sections 13, 16 and 18 of the Securities Contracts (Regulation) Act, 1956 (in short the SCRA, 1956) by Noticees 1 to 36.

APPOINTMENT OF ADJUDICATING OFFICER

3. Based upon the findings of IA, Operations Department (In short **OD**) of SEBI initiated Adjudication Proceedings and the Competent Authority appointed Shri Nagendraa Parakh as the Adjudicating Officer, which was conveyed vide communique dated November 15, 2016, under section 19 r/w section 15-I of the SEBI Act, 1992 and rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (in short the **AO Rules, 1995**) to inquire into and adjudge, under the provision of section 15HA of the SEBI Act, 1992 for the alleged violation of section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulations 3(a), (b), (c), (d) and 4(1) of the PFUTP Regulations, 2003 by the Noticees and under section 23-I of the SCRA, 1956 and rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 2005 (in short the **AO Rules, 2005**) to inquire into and adjudge,

under the provisions of section 23H of the SCRA, 1956 for the alleged violations of section 2(i)(a) r/w sections 13, 16 and 18 of the SCRA, 1956 by the Noticees 1 to 36. Subsequently, the matter was transferred to Ms. Sangeeta Rathod (undersigned) vide order dated July 10, 2017. The appointment of the undersigned as Adjudicating Officer was conveyed vide communique dated June 21, 2018, whereas all relevant record was transferred on November 18, 2019.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A common Show Cause Notice dated December 30, 2019 (in short **SCN**) was issued to the Noticees under rule 4 of the AO Rules, 1995 to show cause as to why an inquiry should not be held against them and why penalty under section 15HA of the SEBI Act, 1992 be not imposed on the Noticees and under rule 4 of the AO Rules, 2005 to show cause as to why an inquiry should not be held and why penalty under section 23H of the SCRA, 1956 be not imposed on the Noticees no 1 to 36 for the violations as alleged and specified in the said SCN.

5. Details of the SCN are given as under:

   - *Securities and Exchange Board of India (in short **SEBI**) received a Suspicious Transaction Report from Financial Intelligence Unit, Government of India stating that a client (Ms. Swara P. Shah) received 19,431 shares of L&T Finance Holdings Ltd. (in short **L&T Finance**) through off-market transactions from 55 entities who had received shares in allotment during Initial Public Offering (in short **IPO**) of L&T Finance. In this regard, a department of SEBI (in short **OD**) appointed an Investigating Authority (in short **IA**) to investigate the matter. Investigation period was May 10, 2011 to December 31, 2011 (in short **IP**), however, wherever deemed necessary, IA has made reference outside the IP.*
   - *IA observed that certain entities had applied in various IPOs and transferred the proceeds from sale of the shares allotted in the IPOs to Pankaj J. Shah HUF (Mr. Pankaj J. Shah is father of Ms. Swara P. Shah and Karta of Pankaj J. Shah HUF) and concluded that prima facie, Pankaj J Shah HUF appears to have cornered the shares meant for Retail Individual Investor (RII) category in IPOs of Tree House Education Ltd. (in short **Tree House**), L&T Finance and, Future Ventures India Ltd (in short **Future Ventures**).*
   - *IA observed that certain suspected entities were allotted 31,694 shares in Tree House (0.376% of total offer size, 1.07% of RII category shares), 22,427 shares in L&T (0.002% of offer size, 0.03% of RII category shares) and 6,12,000 shares in Future Ventures (0.082% of offer size, 0.23% of RII category shares). IA issued letters to the said entities who invested in the IPOs in order to find out details of funding used for investment, reason for transferring sale proceeds to Pankaj J. Shah HUF and other information. Consequently, the entities replied*

that they had invested in the above-mentioned IPOs using funding through loan provided by Pankaj J. Shah HUF, with the sale proceeds transferred as repayment of the loan taken.

- *In this regard, IA observed –*

  *4.1 alleged violation of section 12A(a),(b) and (c) of the Securities and Exchange Board of India Act, 1992 (in short **SEBI Act**) and regulations 3(a),(b),(c) and (d) and 4(1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (in short **PFUTP Regulations**) by – (1) Pankaj J. Shah HUF, (2)Pankaj J. Shah,(3) Pintu Kacharaji Teli (HUF),(4) Pintu Kacharaji Teli(5) Vani Dilip Sitaram(HUF),(6) Dilip Sitaram Wani,(7) Kamlaben Dhansingbhai Lodha,(8) Pushpaben Dilipkumar Vani,(9) Trivedi Vijay Mahipatram (HUF),(10) Vijay Mahipatray Trivedi,(11) Smitaben Bharatbhai Khambhati,(12) Sheela Anjay Gupta,(13) Gitaben Vahalabhai Jadav,(14) Sonalben Nimeshkumar Raval,(15) Johnali Gulamali Momin,(16) Mahera Johnali Momin,(17) Hansaben Jayeshkumar Parmar,(18) Gawmati Mathurbhai Parmar,(19) Parulben Manilal Parmar,(20) Hasumatiben Manilal Parmar,(21) Premlata Bhagavendas Koshti,(22) Dakshaben Banavarilal Sharma,(23) Ansoyaben Rajendrakumar Shukal,(24) Chhaya Rakesh Sable,(25) Ritaben Bharatbhai Shah,(26) Rinaben Premchandabhai Parmar,(27) Geetaben Narottambhai Parmar,(28) Sangitaben Bhupeshbhai Bhavsar,(29) Vijay Mangaldas Shah (HUF),(30) Krupa Pankaj Shah,(31) Chandresh Kanaiyalal Bijava,(32) Manjulaben Chandreshbhai Bijava,(33) Lekhaben Dineshbhai Shah,(34) Mukesh Chandreshbhai Bijava,(35) Shah Arpit Pankajkumar,(36) Shah Swara Pankajkumar and (37) Jayesh Virchandbhai Shah (HUF) (hereinafter referred to as Noticee Nos. 1 to 37 respectively or by their individual names and collectively referred to as **Noticees/You**).*

  *4.2 alleged violation of section 2(i)(a) read with (r/w) sections 13, 16 and 18 of The Securities Contracts (Regulation) Act, 1956 (in short **SCRA**) by Noticees No. 1 to No. 36.*

- *Based upon the findings of IA, OD of SEBI initiated adjudication proceedings against you. SEBI appointed Shri Nagendraa Parakh as the Adjudicating Officer conveyed vide communique dated November 15, 2016, under section 23-I of SCRA and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 2005 (in short **AO Rules, 2005**) to inquire into and adjudge under the provisions of section 23H of SCRA for the alleged violations of section 2(i)(a) read with (r/w) sections 13, 16 and 18 of SCRA, and under section 19 r/w section 15-I of the SEBI Act, 1992 and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (in short **AO Rules, 1995**) to inquire into and adjudge under the provision of section 15HA of the SEBI Act, 1992 for the alleged violation of section 12A(a),(b) and (c) of SEBI Act and regulations 3(a),(b),(c),(d) and 4(1) of the PFUTP Regulations by the Noticees. Subsequently, the matter was transferred to Ms. Sangeeta Rathod (undersigned) vide order dated July 10, 2017. The appointment of the undersigned as Adjudicating Officer was conveyed vide communique dated June 21, 2018. The copy of communique of the order appointing Ms. Sangeeta Rathod as Adjudicating Officer is enclosed as **Annexure A**.*

* *IA observed that aforementioned 35 entities (out of the considered entities), comprising Noticee no. 3 to Noticee no. 37 were connected to Noticee no.1 in the below mentioned manner.*

Name	***Basis of connection among said Noticees***
• *Trivedi Vijay Mahipatram (HUF), Teli Pintu Kacharaji (HUF), Dilip Sitaram Wani(HUF), Dilip Sitaram Wani, Kamlaben Dhansingbhai Lodha, Pushpaben Dilipkumar Vani,* • *Vijay Mahipatray Trivedi, Gitaben Vahalabhai Jadav, Smitaben Bharatbhai Khambhati, Sheela Anjay Gupta, Pintu Kacharaji Teli,* • *Sonalben Nimeshkumar Raval, Sangitaben Bhupeshbhai Bhavsar, Hansaben Jayeshkumar Parmar, Gawmati Mathurbhai Parmar, Rinaben Premchandabhai Parmar, Hasumatiben Manilal Parmar,* • *Premlata Bhagavendas Koshti, Dakshaben Banavarilal Sharma, Ansoyaben Rajendrakumar Shukal, Chhaya Rakesh Sable, Mahera Johnali Momin*	*1. Same phone no in KYC (9824011558) as Pankaj J Shah HUF* *2. All entities, except Mahera Johnali Momin, authorized Shri Bharat Patel (PAN APUPP6502R) to carry out the trades in shares on their behalf. Shri Bharat Patel was a clerk employed by Pankaj J Shah at Phoolghar Bal Vikas Kendra, Shah Mill Compound, Ahmedabad – 380001, during investigation period* *3. Common address in KYC: Phoolghar Bal Vikas Kendra, Shah Mill Compound, Ahmedabad - 380001*
• *Ritaben Bharatbhai Shah*	*Noticee authorized Shri Bharat Patel (PAN APUPP6502R) to carry out the trades in shares on her behalf. Shri Bharat Patel was a clerk employed by Pankaj J Shah at Phoolghar Bal Vikas Kendra, Shah Mill Compound, Ahmedabad – 380001, during investigation period*
• *Parulben Manilal Parmar, Geetaben Narottambhai Parmar*	*1. Noticees authorized Shri Bharat Patel (PAN-APUPP6502R) to carry out the trades in shares on their behalf. Shri Bharat Patel was a clerk employed by Pankaj J Shah at Phoolghar Bal Vikas Kendra, Shah Mill Compound, Ahmedabad – 380001, during investigation period* *2. Common address in KYC: Phoolghar Bal Vikas Kendra, Shah Mill Compound, Ahmedabad - 380001*

• *Johnali Gulamali Momin*	*1. Same phone no in KYC for demat account (9824011558) as Pankaj J Shah HUF.* *2. Shri Bharat Patel (PAN APUPP6502R) authorized to carry out the trades in shares on his behalf. Shri Bharat Patel was a clerk employed by Pankaj J Shah at Phoolghar Bal Vikas Kendra, Shah Mill Compound, Ahmedabad – 380001, during investigation period*
• *Manjulaben Chandreshbhai Bijava, Mukesh Chandreshbhai Bijava, Chandresh Kanaiyalal Bijava*	*Same phone no in KYC for demat account (9824011558) as Pankaj J Shah HUF*
• *Vijay Mangaldas Shah (HUF), Jayesh Virchandbhai Shah (HUF)*	
• *Shah Arpit Pankajkumar, Shah Swara Pankajkumar, Krupa Pankaj Shah, Lekhaben Dineshbhai Shah*	*1. Same phone no in KYC for demat account (9824011558) and same address (5, Yeshovijay Flat, Anandnagar Bus Stop, Bhattha Paldi, Ahmedabad) as Pankaj J Shah HUF* *2. Entities had authorized Shri Pankaj J. Shah to carry out the trades in shares on their behalf.*

*Copy of correspondence with broker and relevant KYC documents are enclosed herewith as **Annexure B**.*

- *Noticee no. 3 to 37 received 15,847 shares in the IPO of Tree House, 12,013 shares in the IPO of L & T Finance and 3,78,000 shares in the IPO of Future Ventures. IA observed that said Noticee no. 3 to 37 sold the shares so allotted and transferred the proceeds thereof to Noticee No. 1. The details are as under:*

		Shares allotted in IPO		
Noticee No.	***Name of Noticee***	***Tree House***	***L&T Finance***	***Future Ventures***
3	*Teli Pintu Kacharaji (huf)*	*511*	*353*	*0*
4	*Pintu Kacharaji Teli*	*512*	*354*	*18000*
5	*Vani Dilip Sitaram (huf)*	*0*	*354*	*0*
6	*Dilip Sitaram Wani*	*512*	*353*	*0*

7	*Kamlaben Dhansingbhai Lodha*	*511*	*354*	*0*
8	*Pushpaben Dilipkumar Vani*	*511*	*353*	*18000*
9	*Trivedi Vijay Mahipatram (huf)*	*511*	*353*	*0*
10	*Vijay Mahipatray Trivedi*	*511*	*353*	*18000*
11	*Smitaben Bharatbhai Khambhati*	*0*	*354*	*0*
12	*Sheela Anjay Gupta*	*511*	*353*	*18000*
13	*Gitaben Vahalabhai Jadav*	*511*	*353*	*18000*
14	*Sonalben Nimeshkumar Raval*	*511*	*353*	*18000*
15	*Johnali Gulamali Momin*	*511*	*353*	*18000*
16	*Mahera Johnali Momin*	*511*	*353*	*18000*
17	*Hansaben Jayeshkumar Parmar*	*511*	*353*	*18000*
18	*Gawmati Mathurbhai Parmar*	*511*	*353*	*18000*
19	*Parulben Manilal Parmar*	*512*	*353*	*18000*
20	*Hasumatiben Manilal Parmar*	*511*	*354*	*18000*
21	*Premlata Bhagavendas Koshti*	*512*	*353*	*18000*
22	*Dakshaben Banavarilal Sharma*	*511*	*354*	*0*
23	*Ansoyaben Rajendrakumar Shukal*	*0*	*353*	*0*
24	*Chhaya Rakesh Sable*	*511*	*354*	*18000*
25	*Ritaben Bharatbhai Shah*	*512*	*353*	*0*
26	*Rinaben Premchandabhai Parmar*	*511*	*353*	*18000*

27	*Geetaben Narottambhai Parmar*	*511*	*353*	*0*
28	*Sangitaben Bhupeshbhai Bhavsar*	*511*	*353*	*18000*
29	*Vijay Mangaldas Shah (huf)*	*511*	*354*	*0*
30	*Krupa Pankaj Shah*	*511*	*353*	*18000*
31	*Chandresh Kanaiyalal Bijava*	*512*	*354*	*18000*
32	*Manjulaben Chandreshbhai Bijava*	*511*	*353*	*0*
33	*Lekhaben Dineshbhai Shah*	*511*	*353*	*18000*
34	*Mukesh Chandreshbhai Bijava*	*511*	*354*	*18000*
35	*Shah Arpit Pankajkumar*	*0*	*354*	*0*
36	*Shah Swara Pankajkumar*	*511*	*353*	*18000*
37	*Jayesh Virchandbhai Shah (HUF)*	*511*	*0*	*0*

- *Vide letter dated October 01, 2014, IA advised Noticee No. 1 to provide details regarding its activities, reasons for receiving and providing funds to aforementioned entities who were allotted shares in IPO and other details. Consequently, Noticee No. 1 had stated, as attached in* ***Annexure C****, that it was engaged in educational and investment activities. He had denied having any connection with Tree House, L&T Finance and Future Ventures, and claimed that suspected entities to which it advanced funds were his relatives/ family friends.*
- *Further, IA advised Noticee No. 1 vide summons dated October 31, 2014 to provide details of funding received and its relationship with certain entities which appeared to finance it. Noticee No. 1 submitted copy of its accounts and the bank statement.*
- *Noticee No. 2 was also owner of Phoolghar Bal Vikas Kendra located at Shahpur Mill Compound, Ahmedabad - 380001. Noticee No. 1 and 2 had phone number 9824011558 as per their KYC.*
- *IA further observed that Noticee no. 3 to 37 sold the shares so allotted to them and transferred the proceeds thereof to Noticee No. 1. The details are as under:*

Name of IPO	*Amount borrowed by Noticee no. 3 to 37 from Pankaj J. Shah, HUF (Rs.)*	*Total number of shares allotted to Noticee no. 3 to 37*	*Value of shares allotted (Rs.)*	*Amount realised by Noticee no. 3 to 37 on sale of the shares allotted(Rs.)*	*Total amount transferred by Noticee no. 3 to 37, to Pankaj J. Shah, HUF (Rs.)*
Tree House	*25,01,700*	*15,847*	*20,44,263*	*24,41,010*	*25,42,000*
L & T	*11,27,000*	*12013*	*7,12,740*	*5,20,854*	*10,55,364*
Future Ventures	*21,12,600*	*3,78,000*	*37,80,000*	*31,82,400*	*21,12,600*
Total	*57,41,300*		*65,37,003*	*61,44,264*	*57,09,964*

- *Noticee No. 1 in its letters to IA had stated that it was running current account with Noticee no. 3 to 37, and did not have an exact amount of repayment and fixed rate of interest calculated against each loan. Further, IA observed that there was no clear match between amount of funding by Noticee No. 1, the amount realized on sale proceeds and the repayment made by Noticee no. 3 to 37 to Noticee No. 1. Bank account statements of Noticee no. 3 to 37 have been enclosed in* ***Annexure D*** *in a CD. Details of some of the said noticees are given below for illustration:*

Name of the noticee	*Scrip*	*Amount borrowed from Pankaj J. Shah HUF(Rs)*	*Value of shares allotted(Rs)*	*Amount realized upon sale(Rs)*	*Amount transferred to Pankaj J. Shah HUF(Rs)*
Trivedi Vijay Mahipatram (Huf)	*L & T Finance*	*29300*	*18356*	*15302.55*	*26844*
Teli Pintu Kacharaji	*L & T Finance*	*29000*	*18408*	*15345.90*	*26844*
Dilip Sitaram Wani	*Tree House*	*80700*	*66048*	*79113.25*	*82000*
Kamlaben Dhansingbhai Lodha	*Tree House*	*80700*	*65919*	*78462.95*	*82000*

Pushpaben Dilipkumar Vani	*Future Ventures*	*100600*	*180000*	*158400*	*100600*
Gitaben Vahalabhai Jadav	*Future Ventures*	*100600*	*180000*	*144900*	*100600*

(Source: Bank statements of entities)

- *Letters were issued to the Noticee No. 3 to Noticee no. 37 to find out whether they had invested in the above mentioned IPOs, details of funding used for investment, reason for transferring sale proceeds to Noticee No.1 and relationship with Tree House, L&T Finance and Future Ventures. Noticee's replies (except Noticee no. 19,20) are attached in* ***Annexure E*** *(in the enclosed CD), mentioning that they had invested in the above mentioned IPOs, using loan provided by Pankaj J. Shah HUF (Noticee no. 1) and that sale proceeds were transferred as repayment of the loan taken. Also, they confirmed that they were either family friends or relatives of Pankaj Shah (Noticee no. 2) and that they had no relation with Tree House, L&T Finance and Future Ventures.*
- *IA observed that Noticee No. 1 advanced funds to Noticee no. 3 to 37, connected to it to enable them to apply in the three IPOs in the Retail Individual Investor (RII) category, and cornered the shares in the RII Category in the three IPOs of Tree House, L & T Finance and Future Ventures. The extent of subscription in the IPOs is mentioned below:*

	Times subscription		
Category	***Tree House***	***L&T Finance***	***Future Ventures***
QIB	*1.02*	*1.93*	*0.26*
NII	*1.68*	*6.18*	*7.81*
RII	*2.76*	*9.61*	*0.61*
Employee	*NA*	*1.53*	*NA*
Total	*1.85*	*5.34*	*1.52*

- *Thus, IA observed that Noticee no.3 to 37 aided Noticee No. 1 in cornering the shares in the RII category in the 3 IPOs, and by advancing funds to Noticee no. 3 to 37 connected to it to enable them to apply in the three IPOs in the Retail Individual Investor (RII) category, Noticee No. 1 cornered the shares in the RII Category in the three IPOs of Tree House, L & T Finance and Future Ventures. Thus it is alleged that the Noticees violated regulations 3(a),(b),(c) and (d) and 4(1) of the PFUTP Regulations and section 12A (a),(b) and (c) of the SEBI Act.*
- *Further, IA investigated into dealings of Noticee No. 36 and observed that certain entities transferred certain number of shares of L&T Finance to Noticee no. 36 and also received the same number of shares of L&T Finance from Noticee No.*

36 in off-market transactions. Noticee No. 36 was advised by IA to offer explanation for receiving shares of L&T Finance through off-market and later on transferring these shares back to those entities, including Noticee no. 1 to 35. Noticee no. 36 replied stating that she wanted to use the funds to trade in derivatives market. However, IA observed that the above explanation is unacceptable given that the shares were financed by father of Noticee No. 36 i.e. Noticee No. 2, through his firm Noticee No. 1. Details of said transactions and relevant demat statements are placed at ***Annexure F*** *(in the CD enclosed)**.*** *Details of entities who transferred shares to Noticee No. 36 and vice-versa are as follows:*

Noticee no.	***Name of the Noticee***	***Shares transacted with Noticee No. 36***
1	*Pankaj J. Shah (HUF)*	*353*
2	*Pankaj J. Shah*	*354*
3	*Trivedi Vijay Mahipatram (HUF)*	*353*
4	*Teli Pintu Kacharaji (HUF)*	*353*
5	*Vani Dilip Sitaram (HUF)*	*354*
6	*Dilip Sitaram Wani*	*353*
7	*Kamlaben Dhansingbhai Lodha*	*354*
8	*Pushpaben Dilipkumar Vani*	*353*
9	*Vijay Mahipatray Trivedi*	*353*
10	*Gitaben Vahalabhai Jadav*	*353*
11	*Smitaben Bharatbhai Khambhati*	*354*
12	*Sheela Anjay Gupta*	*353*
13	*Pintu Kacharaji Teli*	*354*
14	*Sonalben Nimeshkumar Raval*	*353*
15	*Sangitaben Bhupeshbhai Bhavsar*	*353*
16	*Mahera Johnali Momin*	*353*
17	*Hansaben Jayeshkumar Parmar*	*353*
18	*Gawmati Mathurbhai Parmar*	*353*
19	*Rinaben Premchandabhai Parmar*	*353*
20	*Hasumatiben Manilal Parmar*	*354*
21	*Premlata Bhagavendas Koshti*	*353*
22	*Dakshaben Banavarilal Sharma*	*354*

23	*Ansoyaben Rajendrakumar Shukal*	*353*
24	*Chhaya Rakesh Sable*	*354*
25	*Ritaben Bharatbhai Shah*	*353*
26	*Parulben Manilal Parmar*	*353*
27	*Geetaben Narottambhai Parmar*	*353*
28	*Johnali Gulamali Momin*	*353*
29	*Vijay Mangaldas Shah (HUF)*	*354*
30	*Krupa Pankaj Shah*	*353*
31	*Chandresh Kanaiyalal Bijava*	*354*
32	*Manjulaben Chandreshbhai Bijava*	*353*
33	*Lekhaben Dineshbhai Shah*	*353*
34	*Mukesh Chandreshbhai Bijava*	*354*
35	*Shah Arpit Pankajkumar*	*354*

- *Thus, IA observed that the said off-market transactions entered into by Noticee no. 1 to 36 were done without making payment for shares received or receiving payment for shares transferred out, allegedly violating sections 2(i)(a) read with 13, 16, and 18 of SCRA.*

6. The SCNs were issued to the Noticees through speed post acknowledgement due (SPAD) and the same were delivered to the Noticees except Noticee 7, and acknowledgement of service of SCNs is on record. Request was made to the Western Regional Office, SEBI (in short **WRO**) to deliver the SCN to Noticee 7 through hand delivery or by affixture vide ON dated January 13, 2020. WRO delivered the SCN to Noticee 7 through hand delivery and informed about the same vide ON received on January 24, 2020 and vide email dated January 29, 2020. Noticees requested for inspection of certain documents related to the issuance of SCN vide separate letters. Enforcement Department (in short **EFD**) was requested to facilitate inspection as requested by the Noticees vide letters dated January 27, 2020 and January 29, 2020. Noticees confirmed names of Authorized Representatives (in short **ARs**) for availing the said inspection vide separate letters dated February 11, 2020. Said inspection was conducted by the ARs on behalf of the Noticees on February 25, 2020, and EFD conveyed the same to AO vide ON dated March 05, 2020. As per the proceedings of inspection, Noticees requested for inspection of certain additional documents. Vide letters

dated March 12, 2020, Noticees were granted an opportunity of personal hearing scheduled on April 08, 2020 and in the same letter Noticees were advised that inspection was provided for all documents relied upon in the issuance of SCN and that, to submit replies to the SCNs. The ARs on behalf of Noticees requested for adjournment of hearing due to COVID-19 situation vide email dated April 08, 2020 which was acceded to. Vide email dated April 18, 2020, ARs on behalf of Noticees requested for providing certain additional documents over and above inspected by them, and vide email dated April 19, 2020, and they were again advised that all material relied upon for issuing the SCN was conveyed, and that they are to file replies, if any to the SCNs. Vide email dated April 19, 2020, the ARs on behalf of the Noticees again requested for inspection of additional documents. In this regard, vide email dated April 28, 2020, the EFD confirmed about completion of inspection of documents which took place on February 25, 2020. Vide email dated April 28, 2020, the ARs were requested to file replies to the SCN, if any, by May 10, 2020. Vide email dated May 08, 2020, ARs requested for additional 10 days for filing the replies. Vide separate emails in the months of May and June, 2020, the ARs submitted replies to the SCNs on behalf of the Noticees. Vide email dated June 22, 2020, ARs were given opportunity of personal hearing on June 25, 2020. Vide email dated June 22, 2020, ARs requested for postponement of the hearing citing personal concerns. Vide email dated June 23, 2020, ARs were given an opportunity of personal hearing on June 30, 2020. Vide email June 29, 2020, the ARs confirmed their appearance for the personal hearing. The ARs appeared for personal hearing held on June 30, 2020. Separate letters dated February 11, 2020 authorizing ARs for appearing in the hearing were submitted during hearing. The ARs reiterated submissions made in the replies to the SCN and raised objection regarding non-completion of inspection. In this regard, it was conveyed that all documents relied upon in the issuance of SCN were provided to the Noticees in the inspection dated February 25, 2020. During proceedings of the hearing, the ARs requested for time to submit additional information and acceding to the said request, time till July 30, 2020 was granted. Hearing minutes are on record. The delivery of all outgoing email communication from AO is confirmed and the report of such deliveries are on record. Vide email dated July 30, 2020, ARs requested for additional time of one day for filling the additional submissions. Noticees made additional submissions vide email dated July 31, 2020.

7. Replies received and submission made during hearing by the Noticees are summarized hereunder:

(a) **Replies of Noticee 1 and Noticee 2:**

- *Noticee No. 1 is a Hindu Undivided Family (“HUF”) consisting of [Mr. Pankaj Shah (Karta of Noticee No. 1), Mrs. Krupa Pankaj Shah, Ms. Swara Shah, and Mr. Arpit Pankajkumar Shah. Noticee No. 2 (in his capacity as a karta of Noticee No. 1) lends small amounts of money to friends and relatives (on a need basis) and earns interest on the same. Noticee No. 2 is the proprietor of the Phoolghar Bal Vikas Kendra and the trustee of Phoolgarh Primary School located at Shahpur Area in Ahmedabad (both the schools collectively referred to as “Schools ”) since the last 15 years. He is involved in the management of both the aforesaid Schools. Being the karta of Noticee No. 1, Noticee No. 2 lends money belonging to Noticee No. 1 to the employees of the schools managed by Noticee No. 2, his friends and family members who are in need of liquid funds.*

- *While the loan extended by Noticee No. 1 was usually not based on any written documentation, the loanees were charged a small interest for the money taken as loan. In the present instance, Noticee No. 1 gave a small loan to certain persons including Noticee Nos. 3 to 37 of the SCN. Such funds were utilized by Noticee Nos. 3 to 37 for participating in the IPOs ..These loans were repaid by Noticee Nos. 3 to 37 through a mix of sale proceeds from IPO, cheque and cash payment. At no point of time, the Noticees have received shares from Noticee Nos. 3 to 37.*

- *JM Financials Pvt. Ltd. (“JM Financials ”) used to provide funding facility to its clients for applying in IPOs at the relevant time (to some of the client’s Monarch Stock Brokers had provided IPO funding). Accordingly, to majority extent for applying in the IPO, such Noticee Nos. 3 to 37 were taking funding facility from their broker JM Financials. However, JM Financials, as per their policy, did not fund the margin requirement for IPO applications. Thus, the remaining funds (i.e. margin requirement) were received as loans from Noticee No. 1 on a need basis. It was a pure money transaction where Noticee Nos. 3 to 37 required funding to subscribe to an IPO, and thereafter, earned profits or borne losses upon sale of the shares acquired through the IPO. From Noticee*

Nos. 3 to 37, the Noticees neither received any profits from the sale of the shares received in the IPO nor had to bear losses made due to such sale.

- *The allegations framed in the SCN relate to the IPOs …..which were more than eight years ago. The SCN does not provide any explanation to justify the inordinate and unconscionable delay in initiation of proceedings against the Noticees at such a belated stage. It is respectfully submitted that the initiation of proceedings by SEBI after such a long delay, severely prejudices the ability of the Noticees to adequately respond to the SCN since the documents/ facts pertaining to the repayment of loan by Noticee Nos. 3 to 37 are not readily available with the Noticees. In this regard, attention of the Hon'ble Adjudicating Officer is drawn to the fact that the requirement to preserve documents under various legislations is not more than seven to eight years. … SEBI reached out to Noticee No. 1 for some details in October 2014, viz. more than five years ago. Thereafter, there was no communication from SEBI up until issuance of the SCN….*Noticees placed reliance on judgements of the Hon'ble Supreme Court of India in the case of Mohamad Kavi Mohamad Amin v. Fatmabai Ibrahim and judgements of the Hon'ble Securities Apellate Tribunal in the matters of HB Stockholdings Ltd. V. SEBI, Sanjay Soni vs SEBI and Libord Finance Ltd. vs Whole Time Member, SEBI.

- *Consequently, the Noticees would hereby like to place on record the fact that given the inordinate delay in issuance of the SCN, long beyond the expiry of even the maximum document retention period prescribed under law, the Noticees' ability to adequately respond to the SCN has been gravely jeopardized and the Noticees cannot be called upon at this stage to respond to the SCN. It is also respectfully submitted that the gross delay was entirely attributable to SEBI and the Noticees had no role to play in the same…*

- *While the inspection was provided on February 25, 2020 (" Inspection "), the authorized representative of the Noticees were not provided with certain documents requested at such time. These documents include, (i) investigation report, (ii) suspicious transaction report received by SEBI from Financial Intelligence Unit, and (iii) authority letters of various noticees authorizing Mr. Bharat Patel, (collectively referred to as " RelevantDocuments "). SEBI has not taken into account the request of the Noticees for such documents basis which the present proceedings are being conducted. Subsequently, the same request was made by vide an email dated 18th April 2020. In this regard, it is humbly submitted that it is settled position in law that the material shared in a proceeding has to include not only the material that will help support the charges but also include the material that would undermine the charges* *levelled, i.e., all material that is "relevant" (whether to SEBI or to the Noticees or otherwise) and not just all material "relied upon" by SEBI…...denial of an opportunity, without any reasonable cause to review the same, is neither fair nor just and fundamentally impairs the ability of a person to defend himself.* Noticees placed reliance on judgement of Hon'ble Securities Appellate Tribunal in the case of Shruti Vora vs SEBI in this regard. *In the present case, SEBI has clearly relied on (i) the observations of the investigating authority to conclude that the Noticees have violated SEBI laws, and (ii) report of the Financial Intelligence Unit. Applying the law laid down by the Hon'ble SAT, SEBI ought to provide documents including investigation report and report of Financial Intelligence Unit which was relied upon by SEBI while framing charge in the SCN.*

- *SEBI has erred in joining both Noticee No. 1 and Noticee No. 2 as parties in the present proceedings insofar as the charge of PFUTP Regulations is concerned. It is an admitted position that Noticee No. 1 provided loans to Noticee Nos. 3 to 37 for the purpose of subscribing to the IPOs of L&T, Treehouse and Future Ventures. The repayment of the loan has also been made to Noticee No. 1. Given that Noticee No. 1 is an HUF, it is merely a legal fiction and is thus, a creature of law and cannot be created by an act of parties (except in case of adoption and reunion). Under Section 2(31) of the Income Tax Act, 1961, an HUF is treated as a 'person'. Noticee No. 2 is a karta of the HUF and, is therefore obligated to manage the affairs of Noticee No. 1. The funds of Noticee No. 1 were used for giving loans to Noticee Nos. 3 to 37, and consequently, the funds from the return of the investment i.e. repayment of loan with interest belongs to Noticee No. 1. Accordingly, even assuming the charge of PFUTP Regulations is leviable, the same can only exist against either Noticee No. 1 or Noticee No. 2, but not both. Any imposition of monetary penalty on both Noticee No. 1 and Noticee No. 2 is against the principles of natural justice. The SCN fails to make out a case for charging both Noticee No. 1 and Noticee No. 2……In fact at paragraph 14, the SCN observes that " IA observed that Noticee No. 1 advanced funds to Noticee no. 3 to 37, connected to it to enable them to apply in the three IPOs in the Retail Individual Investor (RII) category, and cornered the shares in the RII Category in the three IPOs of Tree House, L&T Finance and Future Ventures." . In paragraph 15 of the SCN, it is categorically stated that Noticee Nos. 3 to 37 aided " Noticee No. 1 in cornering the shares in the RII category in the 3 IPOs " This further demonstrates that Noticee No. 2, in his individual capacity, had no role to play in giving loans to Noticee Nos. 3 to 37. Thus, in absence of any charge of violation of PFUTP Regulations against Noticee No. 2, the SCN ought to be discharged vis-à-vis Noticee No. 2. Any* *findings to the contrary will be against principles of natural justice…..There is no prohibition in law for Noticee No. 1 to extend finances to family members (especially immediate family members)….Commonly, the head of the family funds the accounts of their children/ spouse/ in laws to participate in the securities market. Extrapolating any other view i.e. SEBI holding that a head of family funding account of the family is in violation of PFUTP Regulations, then the securities market will come to a standstill.*

- *The 1 st allegation in the SCN….is respectfully submitted that the entire premise is erroneous. Noticee No. 1 extended a loan facility to Noticee Nos. 3 to 37, which was repaid by such Noticee Nos. 3 to 37 subsequently along with a small interest. At no point of time, did Noticee No. 1 received the shares of L&T, Tree House and Future Ventures from Noticee Nos. 3 to 37. Thus, there is no question of cornering shares …Noticee Nos. 3 to 37 had running loan accounts with Noticee No. 1, i.e. these noticees used to avail financing facility from Noticee No. 1…Ledgers indicating the interest paid by aforesaid entities was enclosed as Annexure B.*

- <u>*No connection with other Noticees*</u>*…Whilst, the Noticees know Noticee Nos. 3 to 37, there is no linkage established by SEBI to show that the Noticees acted in concert with Noticee Nos. 3 to 37. ….The judicial precedents indisputably hold that fraud is a serious offence and, therefore, the standard of proof must be of a higher degree and mere conjectures and surmises will not be sufficient to hold a person liable for fraud.* Noticees placed reliance on judgement of the Hon'ble Securities Appellate Tribunal in the cases of KSL & Industries Ltd. v. SEBI and of the Hon'ble Supreme Court of India in the cases Union of India v. Chaturbhai M. Patel & Co., AIR 1976 SC 712 and Nandakishore Prasad v. State of Bihar, in this regard…….*it is submitted that it is an established jurisprudence that for proving charges of fraud under PFUTP Regulations, the evidence adduced must be compelling which can be inferred by logical process of reasoning from the totality of facts and circumstances surrounding the allegations.* Noticees placed reliance on judgement of the Hon'ble Supreme Court of India in the case of Hanumat v. State of Madhya Pradesh….*In this regard, attention of SEBI is drawn to the reply of JM Financials to SEBI, which, interalia, makes it clear that the Noticees were neither authorized to operate the account nor introducer for Noticee Nos. 3 to 37.*

- <u>*Elements of fraud missing:*</u> *It is respectfully submitted that the requirement of 'intention' is a pre-requisite to prove 'fraud' for violation of PFUTP Regulations. It should be noted that the offences alleged under the PFUTP Regulations in the present case are serious offences which require evidence of 'fraud or deceit' and are not just ordinary civil* *defaults. It is a settled principle recognized by SEBI that "the necessity of 'intent' and the element of 'fraud' appears to be a pre-requisite in all parts of Regulation 3 and 4 of the PFUTP Regulations"… it is submitted that in the absence of any evidence that the Noticees had indulged in fraudulent activities, SEBI erred in alleging the Noticees to be in violation of the provisions of the SEBI Act and/ or PFUTP Regulations in any manner whatsoever.*

- *<u>SCRA Violations:</u> Swara Shah was desirous to trade in the futures & options ("F&O") segment of the exchange as the market was bullish and booming at that time. For this purpose, Swara wanted to offer certain shares as collateral to the trading member (JM Financials). Noticee No. 2, being father of Swara, assisted his daughter by lending his shares of L&T. Also, Noticee No. 1, being the HUF and Swara being part of the HUF at such time, also lent L&T shares to Swara….Being part of the family, the Noticees have the ability to give unsecured interest-free loans to its family member i.e. Noticee No. 36 in the present case. … the Noticees were not required to receive any payment for the off-market transfer of the said shares of L&T to their family member i.e. Swara Shah. In any event, Swara Shah transferred the shares back to the Noticees since she was unable to arrange margin money in the form of cash which was also required for trading in F&O segment….it is respectfully submitted that there was no real buying and selling of shares from the Noticees to Swara Shah and subsequently from Swara Shah to the Noticees. Accordingly, Section 2(i)(a) read with Sections 13, 16, and 18 of SCRA is not triggered in the present case.*

- *It is respectfully submitted that Noticee No. 1 has neither derived any benefit nor any advantage from the alleged contravention in the SCN i.e. (i) by allegedly cornering shares in the RII category, and (ii) transfers in relation to L&T shares with Noticee No. 36. …Noticee No. 2 has so far had an impeccable record, and is a hardworking entrepreneur. The Noticees have not taken the present regulatory proceedings in a nonchalant manner. The Noticees are not guilty of conduct which is contumacious or dishonest or acted in conscious disregard of law. ..* Noticee cited judgement of The Hon'ble Supreme Court in the case of Hindustan Steel Ltd vs SEBI…..*Without prejudice to the aforesaid, the Noticees submit that the alleged cornering of shares .. had no impact on the price of the scrips given the minuscule per cent. of the shares acquired as against the offer size. Without prejudice, one must also note that cornering of shares involves actual transfer of shares by various entities to one entity who has financed the transaction. In the present case, there is no such transfer of shares to Noticee No. 1. In fact, Noticee Nos. 3 to 37 have sold the shares on different days and have incurred a loss/made profit. There is not an iota of evidence to suggest that the*

Noticees directed Noticee Nos. 3 to 37 to sell shares and forward the proceeds to the Noticees. Thus, the allegation of violation of PFUTP Regulations does not arise. Further, there is no charge that the transactions impugned in the present SCN has resulted in excessive or undesirable speculation or that it had any market wide adverse impact…. It is humbly requested that SEBI shows largeness of heart by not imposing any penalty, given that any monetary penalty imposed on the Noticees will not meet ends of justice. In any event, given the current worldwide pandemic due to Covid-19, the Noticees and their family members are facing severe financial difficulty.

(b) Replies of Noticee 3 and Noticee 4:

Replies of the Noticee 3 and 4 are on similar lines of Noticee 1 and 2 mentioned in above including delay in issuance of SCN, inspection of documents, element of fraud, defence of alleged PFUTP and SCRA violations and mitigating factors. Additional points mentioned therein are given below:

- *Noticees had availed a loan from Noticee No. 1 for the period April 2011 to March 2012 and the interest paid for the period April 2011 to March 2012:*

Sr No	*Name of the Noticee*	*Amount taken on loan from Noticee No. 1*	*Amount paid to Noticee No. 1*
1	*Pintu Kacharaji Teli (HUF)*	*347400*	*349242*
2	*Pintu Kacharaji Teli*	*449650*	*451067*

- *Noticee No. 4 was aware that Noticee No. 1 used to advance small loans to friends, family and employees of the school where Noticee No. 4 was employed. Thus, Noticee No. 4 reached out to Noticee No. 2 for a financing facility… According, a plain vanilla loan was advanced by Noticee No. 2 (through Noticee No. 1) to the Noticees. The bank statement, for the period April 2011 to March 2012, in support thereof is annexed here as Annexure C. The Noticees made profit / loss according to their investments in the IPO and pursuant to their sale of the shares allotted in the IPO…..*

- *In any event, the allegation that the Noticees aided Noticee No. 1 in cornering shares is baseless and without any merits. It is respectfully submitted that cornering of shares by a person is itself not an offence. Thus, even if by subscribing to the IPOs of L&T Finance, Treehouse and Future Ventures by the Noticees with the funds of Noticee No. 1 resulted in the alleged 'cornering' of shares, this itself will not result in an offence.* Noticees cited judgement of the Hon'ble Securities Appellate Tribunal in the case of Paresh M. Parekh & Ors. Vs SEBI in this regard.

- *Insofar as the connection of the Noticees with Noticee No. 1 is concerned as observed at paragraph 6 of the SCN, it is respectfully submitted that Noticee No. 4 took assistance of Mr. Bharat Patel, who was the clerk at the school where Noticee No. 4 was employed. Mr. Bharat Patel was authorized to operate the accounts for ease of operation. Further, the Noticees did not have mobile phones at the relevant time, therefore in the KYC documentation, Noticee No. 2's mobile phone was mentioned.*

Also, the Noticees provided the school address given that they were employed there. In any event, subsequently the Noticee No. 4 updated the mobile numbers in the KYC documentation. However, documentary proof in this regard is not available presently and due to COVID - 19 pandemic the Noticee's are unable to approach JM Financial's for the same.

- *Further, the SCN purports to connect all the noticees without showing how the connection lead to violation of PFUTP Regulations by aiding Noticee No. 1 in cornering shares in the RII category …*
- *Ms. Swara Shah (Noticee No. 36 / Swara Shah), the co-parcenor of Noticee No. 1 and daughter of Noticee No. 2, was desirous to trade in the futures & options ("F&O") segment of the exchange as the market was bullish and booming at that time. For this purpose, Swara wanted to offer certain shares as collateral to the trading member (JM Financials). The Noticees were owing monies to Noticee No. 1, i.e. funds taken on loan from Noticee No. 1 for subscribing to the IPOs. Noticee No. 2 informed us that Ms. Swara Shah was desirous to keep certain number of shares as collateral with her broker. Accordingly, the Noticees had an arrangement with Noticee No. 1. By way of this arrangement, the Noticees would temporarily provide their shares of L&T Finance (approximately worth Rs. 15,000 on the date of transfer) as loan/ collaterals to Noticee No. 36, at the request of Noticee No. 1 (viz. the HUF in which Noticee No. 36 was a coparcenor). In this regard, the Noticees transferred L&T Finance to Noticee No. 36 in lieu of the debt owed (Rs. 15,833 (Noticee No. 4) and Rs. 16, 408 (Noticee No. 3) owed as on 02nd September 2011) to the HUF of Ms. Swara Shah. Thus, there was no need for a consideration for this transaction. In any event, the shares of L&T Finance (approximately worth Rs. 18,000 on the date of transfer) were transferred back to the Noticees and subsequently, the Noticees also cleared their debt (Rs. 15,833 (Noticee No. 4) and Rs. 16,408 (Noticee No. 3) owed as on 08th January 2012) with Noticee No. 1 as on 08th January 2012. It has been given to understand to the Noticees that Noticee No. 36 did not trade in the F&O segment, as she failed to arrange margin money in the form of cash which was also required for trading in F&O segment. In view of the above, it is respectfully submitted that there was no real buying and selling of shares from the Noticees to Swara Shah and subsequently from Swara Shah to the Noticees. Accordingly, Section 2(i)(a) read with Sections 13, 16, and 18 of SCRA is not triggered in the present case.*
- *The amount of money in relation to this transaction is also minuscule i.e. only around INR 15,000 to 18,000.…*

(c) **Replies of Noticee 5 to 29, Noticee 31, 32,34, 37:** Replies of the Noticees 5 to 29 and 31, 32, 34 and 37 on similar lines of Noticee 1, 2, 3, and 4 mentioned in above including delay in issuance of SCN, inspection of documents, element of fraud, defence of alleged violations of the PFUTP Regulations, 2003 and the SCRA, 1956 (for Noticees 5 to 29, 31, 32 and 34) and mitigating factors. Additional points mentioned therein are given below:

- Noticee 15, 16 and 25 submitted that they had not authorized Mr. Bharat Patel to operate their account as alleged in the SCN
- Noticee 15 used to operate account on his own and

- Noticee 16 and 25 had authorized their husbands to operate their accounts.

(d) **Replies of Noticee 30, Noticee 33 Noticee 35 and Noticee 36:** Noticees 30, 33, 35 and 36 reiterated submissions made by Noticee 1 and Noticee 2. Additionally, Noticee 30, Noticee 35 and Noticee 36 submitted that as they are coparceners in Noticee 1 and Noticee 33 submitted that as she is mother-in-law of Noticee 2, Noticee 1 had the right to extend funds to them on a need basis, and that there is no prohibition in law for the same. Also that, as Noticee 36 was assisted by her relatives Noticee 30 (her mother), Noticee 33 (her grandmother) and Noticee 35 (her brother) through the transfer of shares of L&T, so that she could invest in the Futures and Options segment, no payment of consideration was required to be made therefor.

(e) A**dditional submissions made by AR on behalf of the Noticees vide email dated July 31, 2020:**

- *SEBI has relied on the observations of the Investigating Authority to determine the allegations against the Noticees. Thus, it is sine qua non that a copy of the Investigation Report (or extract thereof) be furnished to the Noticees. In absence thereof, the principles of natural justice have not been adhered to, by SEBI.*

- *Charging both Noticee Nos. 1 and 2 for cornering of shares is entirely fallacious given that Noticee No. 1 (Pankaj Shah HUF) is the Hindu Undivided Family ("HUF") of which Noticee No. 2 is part of. The fund movement to Noticee Nos. 3 to 37 has happened from the HUF account and not the individual account of Noticee No. 2 (i.e. Pankaj Shah). Thus, at best, the charge is only leviable against Noticee No. 1 and not Noticee No. 2. Without prejudice to rest of the submissions, a monetary penalty if imposed on both Noticee Nos. 1 and 2 will be illegal.*

- *The charge of cornering of shares by Noticee No. 1 by giving funds to the family members i.e. Noticee No. 30 (wife of Noticee No. 2), Lekhaben Dineshbhai Shah (Noticee no. 33) (mother-in-law of Noticee No. 2), Noticee No. 35 (son of Noticee No. 2) and Noticee No. 36 (daughter of Noticee No. 2), is entirely misconceived. In fact, Noticee No. 1 has not even received the funds back from such family members. Thus, charge of cornering of shares cannot lie against Noticee No. 1 vis-à-vis Noticee Nos. 30, 33, 35 and 36. As a natural consequence of the above, the charge against Noticee Nos. 30, 33, 35 and 36 for aiding Noticee No. 1 ..cannot stand. Accordingly, it is respectfully submitted that the SCN should be discharged against Noticee Nos. 30, 33, 35 and 36 in respect of the allegation of violation of PFUTP Regulations.*

- *Insofar as Noticee Nos. 3 to 29, 31, 32, 34 and 37 ("Other Noticees") is concerned, SEBI's entire case rest on the premise that (i) Noticee No. 1 cornered shares of L&T Finance, Treehouse and Future Ventures by extending funds to the Other Noticees to subscribe to the respective IPOs and thereafter, transferring the sale proceeds back to Noticee No. 1; and (ii) Other Noticees aided Noticee No. 1 …This entire premise is erroneous.*

- *The Noticees, in their Replies, have submitted evidence … copies (Annexure B of the Reply dated May 13, 2020 of Noticee Nos. 1 and 2) of the ledger accounts in relation to the Other Noticees. This document clearly indicates that funding facility provided by Noticee No. 1 was in the nature of a loan transaction. The Other Noticees had running loan accounts with Noticee No. 1, and, therefore they availed the financing facility from Noticee No. 1. At the end of the financial year 2011-12, all debts were repaid along with interest. In fact, Noticee No. 1 has even paid income tax on the income earned out of funds provided to Other Noticees. The income tax return of the relevant financial of Noticee No. 1 year was also submitted as Annexure C……..Another important aspect which has been overlooked in the SCN is that the funding by Noticee No. 1 to the Other Noticees was only partial. In fact, approximately 90% of the funding facility came from the broker, JM Financials Pvt. Ltd. ("JM Financials"),…..*

- *Pertinently, the charge levelled against the Noticees is a serious one. However, there is no evidence (direct or circumstantial) which leads to the conclusion that Noticee No. 1 cornered shares and Noticee Nos. 3 to 37 aided in cornering of the shares. In fact, it is respectfully submitted that the key ingredients of a fraud allegation are also missing. Accordingly, reliance should be placed on the explanation and documents provided by the Noticees (especially since these are uncontroverted by SEBI).*

- *SEBI has merely levied the charge on the Noticees on the basis of there being a connection between the parties. While it is not in dispute that the Noticees are known to each other, however, there is no connection vis-à-vis the transactions concerned.*

- *Connection: In respect of the family members (i.e. Noticee Nos. 30, 33, 35 and 36), Noticee No. 1 extended funds for applying in the IPOs. This is certainly not an illegal activity since the funds were not repaid by such family members and therefore, there was no cornering of shares. Thus, the fact of Noticee No. 1 being connected with Noticee Nos. 30, 33, 35 and 36 is of no relevance. Consequently, the charge of Noticee Nos. 30, 33, 35 and 36 aiding Noticee No. 1 in cornering shares of L&T Finance, Treehouse and Future Ventures is baseless. Noticee Nos. 4, 6 to 8, 10 to 14, 17 to 24, 26 to 28 were employees of either Phoolghar Balvikar Kendra where Noticee No. 2 is a proprietor or of Phoolghar Primary School where Noticee No. 2 is a managing trustee . Hereto annexed and marked as Annexure 5 (colly) are the proof of employment viz. Experience certificate, copy of the school inspection report and bank statements showing the name of school. Admittedly, Noticee No. 2 (through Noticee No. 1) extended funds and had running loan accounts for the employees of the school and friends. This certainly does not indicate that the Other Noticees joined hands with Noticee No. 1 to perpetrate a fraud of cornering of shares in the IPOs of L&T Finance, Treehouse and Future Ventures. In fact, the Other Noticees had applied to IPOs for making small profits. In any event, the connection purported to be established in paragraph 6 of the SCN is also incorrect. SEBI has asserted that Noticee No. 1 is connected with the Other Noticees by way of common address, common mobile number, common authorized personnel, etc. Pertinently, Noticee Nos. 4, 6 to 8, 10 to 14, 17 to 24, 26 to 28, who were working at Phoolghar Bal Vikas Kendra (school) had opened their bank accounts with their working place (school) address. Further while opening the trading cum demat account with the broker, the bank statements were provided as address proof. Therefore, the address of the school is reflected in the KYC documents. Further, it is respectfully submitted that all such parameters to test the connection stands disproved since most of the Other Noticees have updated their address, mobile number, authorized personnel etc. subsequent to opening of their account. Copies of the Demat Client Master of Noticee Nos. 1 to 37 is enclosed as Annexure 6 colly. It is hereby clarified that Demat Client Master for Mr. Chandresh Bijava (Noticee No. 31) is not available.*

- *SCRA violations: Whilst this allegation has been addressed in each of the Replies of the Noticees, additional proof of the Instruction Slip for Delivery/ Receipt ("DIS") is being produced here which demonstrates the nature of the off-market transactions between Noticee No. 36 and Noticee Nos. 1 to 35. In the place of reason for trade on DIS, it is clearly mentioned that the reason provided by Noticee Nos. 1 to 35 was 'Loan'. In view thereof, it is clear that Noticee No. 36 to assistance of Noticee No. 1 (the HUF), Noticee No. 2 (her father), Noticee No. 30 (her mother), Noticee No. 33 (her grand-mother) and Noticee No. 35 (her brother) in obtaining shares of L&T Finance on loan for the purpose of trading on the futures & options ("F&O") segment of the exchange. Thus, there was no need of any consideration to be paid. In respect of the non-family member noticees (i.e. Noticee Nos. 3 to 29, 31, 32, 34, collectively referred to as "Non-Family Noticees"), the fact that DIS shows that the transfer from Non-Family Noticees to Noticee No. 36 was only for 'Loan'. Thereafter, transfer of shares of L&T Finance from Noticee No. 36 to Non-Family Noticees was recorded in the DIS as 'Loan Return'. Thus, it is respectfully submitted that there was no consideration required given that the loan was against the debt owed by Non-Family Noticees to Noticee No. 1. Copies of the DIS as available is enclosed here as Annexure 7 colly. It is hereby clarified that due to inordinate delay in issuance of SCN, the DIS for transfer between Noticee No. 36 and Noticee Nos. 23 is not tracable.*

- *Separately, on the day of Hearing we, on behalf of the Noticees, filed circulars of Central Depository Services (India) Limited ("CDSL") dated August 17, 2016, September 11, 2017 and July 15, 2019 by way of an email dated June 30, 2020. It is essential to see how the law has evolved in relation to off-market transactions. By reading of August 17, 2016 circular of CDSL, it is abundantly clear that as on August 2016 off-market transactions without actual fund movement was permissible under 'Others' and 'Transfer Between Family Members'. In fact, the requirement to insert 'Consideration Amount' as a mandatory field was only applicable when the transaction was 'For Off-Market Sale/ Purchase". In the present case, the shares of L&T Finance were transferred from Non-Family Noticees and Family Noticees only for the purpose of a loan to Noticee No. 36. Thus, such transactions fall under the categories of 'Others' and 'Transfer Between Family Members'. Pertinently, the off-market transfers between Noticee No. 36 and other noticees occurred in 2011-12. Thus, there was no violation of the SCRA at such time. The fact that the depository participant did not cancel the transaction further is demonstrative of the fact that the transactions were legitimate. It is only by way of July 15, 2019 circular of CDSL were the reason codes for transactions between the categories of 'Others' and 'Transfer Between Family Members' was discontinued. For the ease of reference, the said CDSL circulars are enclosed here as Annexure 8 colly. Thus, it is clear from CDSL circulars that prior to July 2019 there was no requirement to actually disclose the consideration amount or demonstrate that there was a fund flow for an off-market transfer. This is further confirmed from the DIS also being enclosed in these submissions. In view thereof, there was no trigger of Section 2(i)(a) read with Sections 13, 16, and 18 of SCRA in the present case. Accordingly, there was no violation of the SCRA as alleged by SEBI in the SCN.*

8. After taking into account the allegations levelled in the SCN, replies submitted vide emails in the month of May and June, 2020 and additional submission vide email dated July 31, 2020 made by the Noticees, and other evidences/material available on record, I hereby proceed to decide the case on merit.

CONSIDERATION OF ISSUES, EVIDENCES AND FINDINGS

9. I have carefully perused the charges levelled against the Noticees in the SCN and other material available on record. In the instant matter, the following issues arise for consideration and determination: -

a. ***Whether the Noticees have violated the provisions of section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulations 3(a), (b), (c) and (d) and 4(1) of the PFUTP Regulations, 2003?***

b. ***Whether Noticees 1 to 36 have violated the provisions of section 2(i)(a) read with section 13, 16 and 18 of the SCRA, 1956?***

c. ***Do the violations, if any, on the part of any of the Noticees attract monetary penalty under section 15HA of the SEBI Act, 1992 and/or section 23H of the SCRA, 1956?***

d. ***If yes to c, then what would be the monetary penalty that can be imposed upon the said Noticees, taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992 r/w rule 5(2) of the AO Rules, 1995 and/or in section 23J of the SCRA, 1956 r/w rule 5(2) of the AO Rules, 2005?***

Before proceeding further, I refer to the relevant provisions of the SEBI Act, 1992, the PFUTP Regulations, 2003 and the SCRA, 1956.

SCRA, 1956

Section 2(i)

"spot delivery contract" means a contract which provides for, —

(a) actual delivery of securities and the payment of a price therefore either on the same day as the date of the contract or on the next day, the actual period taken for the dispatch of the securities or the remittance of money therefore through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;

Contracts in notified areas illegal in certain circumstances.

Section *13. If the Central Government is satisfied, having regard to the nature or the volume of transactions in securities in any State or States or area that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such State or States or area, and thereupon every contract in such State or States or area which is entered into after the date of the notification otherwise than between the members of a recognized stock* *exchange or recognized stock exchanges in such State or States or area or through or with such member shall be illegal:*

Provided that any contract entered into between members of two or more recognized stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.

Power to prohibit contracts in certain cases.

Section *16.(1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.*

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

Section *18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.*

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section shall so apply.

SEBI Act, 1992

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

12A. No person shall directly or indirectly—

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

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

<u>PFUTP Regulations, 2003</u>

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—
(a) buy, sell or otherwise deal in securities in a fraudulent manner;
(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;
(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;
(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

10. **Issue a: *Whether the Noticees have violated the provisions of section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulations 3(a), (b), (c) and (d) and 4(1) of the PFUTP Regulations, 2003?***

a. I note that the Noticees have been charged with violation of various provisions of the SEBI Act, 1992 and PFUTP Regulations, 2003 which were duly conveyed through common SCN sent by individual letters which have been duly delivered in terms of the AO Rules. I also note that the said SCN was supported with evidence made available on record by the OD. The Noticees have defended against the said charges through various submissions through replies and in the hearing proceedings. Various contentions made by the Notices pertain to mainly delay in issuance of SCN, inspection of documents, connection established by OD and SCRA violations, some of which have been supported by evidence submitted alongwith replies by the Noticees. The said contentions and evidences are being dealt with in following paras.

b. Noticees have interalia submitted that SCN was issued after eight years of the said three IPOs and that SCN does not provide any explanation to justify the delay in initiation of proceedings against the Noticees also that delay severely prejudices the ability of the Noticees to adequately respond to the SCN. In this regard, it is noted that there are no timelines prescribed in the SEBI Act, 1992 for initiating the adjudication proceedings, and from the available record it can be ascertained that adjudication proceedings were approved in the matter in 2016 after completion of inspection. Further that appointment of undersigned as AO was communicated vide communique dated June 21, 2018, whereas all relevant record was conveyed vide ON dated November 18, 2019. In this regards, Noticees have placed reliance on observations of the Hon'ble Securities Appellate Tribunal (in short the **SAT**) in HB Stockholding vs SEBI case. I note that case facts are different in instant case, so that in the referred case, after issuance of SCN in 2005 and conduct of hearing in 2006, proceedings remained in abeyance till 2011, when another hearing was called, and that prejudice was caused due to such delay inter alia including application of substantive portions of amended law in the judicial proceedings which were not in force at the time of commission of offence. These facts do not apply to the instant case. Noticees have also placed reliance on observations of the Hon'ble SAT in Sanjay Soni vs SEBI case. I note that in referred case, a second SCN was issued in 2017 after issuance of first SCN in 2012, so that the Hon'ble SAT observed a delay of five years in issuing SCN by SEBI while being aware of the violation. These case facts do not apply to the instant case. The citations made by Noticees in this regards can thus be distinguished. As regards, contentions of the Noticees regarding delay in issue of SCN I refer to observations of the Hon'ble SAT in Pooja Vinay Jain vs SEBI, having similar case facts as the instant case "*The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same*" and I also refer to observations of the Hon'ble SAT in Bipin R Vora vs SEBI, "*As regards the plea of delay and latches and submission that the show* *cause notice is barred by limitation, I do not find any merit in these contentions as the time and efforts involved in an investigation though may vary from case to case, generally investigations per-se is a time consuming process which invariably involve collection, scrutiny and careful examination of voluminous records/ order-trade details of all the concerned including the exchanges/recording of statements etc. and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market*". In conclusion, as regards the various contentions of Noticees, I opine that delay in issuance of SCN is not sufficient ground for quashing the instant adjudication proceedings.

c. Noticees have interalia submitted that inspection of investigation report and suspicious transactions report(STR) was not allowed though apparently SCN relies upon these and that their ability to defend themselves is prejudiced and impaired. In this regard, Noticees have also cited various case laws supporting their contentions. As regards, inspection, undersigned has ascertained from the relevant Department of SEBI that the same was concluded on February 25, 2020 and that all documents relied upon by the SCN have been inspected by the Noticees. As regards, the contention of the Noticees that documents relied upon have not been provided, in my view is baseless, as any content of STR has not been referred to in the SCN and all relevant observations of the IA alongwith any evidence made available on record have been conveyed to the Noticess through and alongwith the SCN. The record shows this. Additionally, I hereby place reliance on observations made by the Hon'ble SAT in the case of Shruti Vora vs SEBI, wherein appellant had filed an appeal on grounds of not being allowed to inspect investigation report and other documents, "*We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon…..In view of the aforesaid, the request of the appellant for supply of the documents in possession of the authority is misconceived and cannot be accepted. Prima facie, the only object in making such demand is to obstruct the proceedings."* In light of the material on record and the aforementioned case law, I do not accept the various contentions of the Noticees that inspection was not complete and thereby may have hampered their defence.

d. Noticee 1 and 2 have inter alia submitted that only one of them can be charged for the alleged cornering of shares in the three IPOs, as while Noticee 1 had entered into transactions with Noticee 3 to 37, Noticee 2 i.e. karta of Noticee 1 had not done so. In this regard, the available record does not show fund movement or any other transactions related to alleged violations under PFUTP Regulations, 2003 and therefore I accept this contention of Noticee 2.

e. Connections alleged: Noticees have interalia contended that while the Noticees knew each other, had same addresses and had shared phone no, but they are not connected. In this regard, I note from the SCN and supporting documents (e.g. KYC, Bank transactions, Demat statements etc.) that the connections established by the IA is an admitted position by the Noticees except Noticee 25 who submitted that she had not authorized Mr. Bharat Patel to operate their account as alleged in the SCN. There is no material on record to counter this contention of the Noticee 25 that she had not authorized Mr. Bharat Patel, therefore the same is acceptable.

   Noticees 4, 6, 7, 8, 10 to 14, 17 to 24, 26, 27, 28 have submitted that they were working at Phoolghar Bal Vikas Kendra (school) and had opened their bank accounts with their working place address. As regards the mobile no. in the KYC Noticee have contended that, "…. *connection of the Noticees with Noticee No. 1 is concerned as observed at paragraph 6 of the SCN, it is respectfully submitted that Noticee No. 4 took assistance of Mr. Bharat Patel, who was the clerk at the school where Noticee No. 4 was employed. Mr. Bharat Patel was authorized to operate the accounts for ease of operation. Further, the Noticees did not have mobile phones at the relevant time, therefore in the KYC documentation, Noticee No. 2's mobile phone was mentioned. Also, the Noticees provided the school address given that they were employed there. In any event, subsequently the Noticee No. 4 updated the mobile numbers in the KYC documentation. However, documentary proof in this regard is not available presently and due to COVID - 19 pandemic the Noticee's are unable to approach JM Financial's for the same."* Noticees have made various submissions however, they have not submitted any evidentiary proof countering the material on record which is: KYC documents, Demat Statements, Bank Transactions etc. As regards, the case laws cited by Noticees, the absence of the evidentiary proof countering the material submitted by OD ie. KYC etc which are actually presumed to be filled and signed by the said Noticees, and have been provided with the SCN, are not relevant.

f. It is alleged that Noticee 1 advanced funds to Noticee 3 to 37, so that Noticee 3 to 37 participated in the said IPOs and were allotted certain shares. Noticee 3 to 37 then sold these shares and transferred the proceeds thereof to Noticee 1. Thereby, Noticee 1 allegedly cornered shares in the RII category in three IPOs and Noticee 3 to 37 aided Noticee 1 in the alleged cornering of shares, violating section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulations 3(a), (b), (c) and (d) and 4(1) of the PFUTP Regulations, 2003.

g. Noticees submitted various contentions regarding the PFUTP allegations levelled in the SCN. Noticees have inter alia submitted that the advances made by Noticee 1 to Noticee 3 to 37 were in the form of loans, to allow them to participate in the IPOs and make small profits. Details of a some of the Noticees for example are as follows:

Noticee 3: Details of participation of in IPO of L&T

	From Noticee 1	To JM financials	Date of allotment of shares to Noticee 3	From JM Financial	To Noticee 1	From JM Financial	To Noticee 1
Date of transfer of funds	27/7/11	28/7/11	05/8/11	11/8/11	12/08/11	07/1/12	09/1/12
Amount transferred (Rs)	29000	30700	-	11644	11644	15253.88	15200

Noticee 6: Details of participation of Noticee 6 in IPO of L&T

	From Noticee 1	To JM financials	Date of allotment of shares to Noticee 6	From JM Financial	To Noticee 1	From JM Financial	To Noticee 1

Date of transfer of funds	27/7/11	28/7/11	05/8/11	11/8/11	12/08/11	07/1/12	09/1/12
Amount transferred (Rs)	29000	30700	-	11644	11644	15253.88	15200

Noticee 9: Details of participation of Noticee 9 in IPO of L&T:

	From Noticee 1	To JM financials	Date of allotment of shares to Noticee 9	From JM Financial	To Noticee 1	From JM Financial	To Noticee 1
Date of transfer of funds	27/07/11	28/7/11	05/8/11	11/8/11	12/08/11	07/1/12	09/1/12
Amount transferred (Rs)	29300	30700	-	11644	11644	15253.87	15200

From the various replies submitted by Noticees, this same pattern of transfer of funds/securities is seen in case of the all the Noticee from Noticee no 3 to 37, for their transactions with Noticee 1.

Noticee 1 and 2 have submitted interalia the ledgers maintained with certain other Noticees, and have contended that interest payment was done to those Noticees in the year end as shown under the heading, 'INTEREST AND OTHER CHARGES'. I note that Noticee 1 and 2 have not submitted any calculation of interest being charged and explanation of 'OTHER CHARGES' as noted in the heading. Noticees have contended that Noticee 4 to 28 except Noticee 5,9,15,16,25 were employees of Noticee 2. However, for the ledgers submitted showing financial transactions between Noticee 1(Noticee 2 being Karta) and said Noticees, I cannot forgo the possibility that the said ledgers are not a complete record of financial transactions between Noticees 3 to 37 and Noticee 1 and also said ledgers are not a third party evidence, veracity of which can be proven/ascertained by any stakeholder. These observations are made from the details of ledger statements of, for eg. given below are ledgers of Noticee 15 and Noticee 17.

For Noticee 15 juxtaposed with Noticee 17 ledger:

Date	Debit (Rs)	Credit (Rs)	Date	Debit (Rs)	Credit(Rs)
19/4/11	51000		19/4/11	51000	
27/4/11	100600		27/4/11	100600	
6/5/11		26375	6/5/11		26550
11/5/11	70800		11/5/11	70800	
13/5/11		100600	13/5/11		100600
3/6/11		73900	3/6/11		73900
24/6/11	15950		24/6/11	16150	
21/7/11		37800	21/7/11		37800
27/7/11	29100		27/7/11	29000	
11/8/11		11644	11/8/11		11644
12/8/11	80700		12/8/11	80700	
2/9/11		82000	2/9/11		82000
8/1/12		15200	8/1/12		15200
11/1/12	55550		11/1/12	55550	
1/2/12	20000		1/2/12	20000	
18/2/12		58800	18/2/12		58800
23/2/12	26000		23/2/12	26000	
15/3/12		44800	15/3/12		44800
23/3/12		<u>2000</u>	23/3/12		<u>6000</u>
31/3/12 (INTEREST & OTHER CHARGES)	3419		31/3/12 (INTEREST & OTHER CHARGES)	7494	

I note from comparison of above two ledgers that though the dates of transactions are identical and the amount of funds transferred are almost equal except for the underlined value, “interest & other charges” paid by the said Noticees, which appear incongruous. Contrary to the contentions of the said Noticees that the transfer of funds under consideration were in the form of loan and were not to aid Noticee 1 for the alleged cornering of RII quota in the said IPOs, there appears no congruity in the interest charges vis a vis alleged loan given by Noticee 1. The same can be noted for other Noticees and therefore I cannot accept the contentions of the Noticees that the said fund transfers were done as loans given by Noticee 1 occasionally to the friends and family.

Some of the Noticees have also contended that they are just employees in the said Schools and took loans to boost their earning by investing in IPOs. I note the following from submissions of the said Noticees:

	Income Profile	**Amount taken from Noticee 1 for investment (Rs)**
Noticee 8	Earns a salary of 8600 pm	449400
Noticee 10	Earns a salary of 9100 pm	450100
Noticee 12	Earns a salary of 4900 pm	449600
Noticee 17	Earns a salary of 9000 pm	449800
Noticee 18	Earns a salary of 8600 pm	447600
Noticee 21	Earns a salary of 4600 pm	449600
Noticee 34	Earns a salary of 6000 pm	450000

I note that despite varying monthly income (as submitted by those Noticees) the aforementioned Noticee have taken almost the similar amounts from Noticee 1 and also they have taken the financial risk of borrowing 100% of the amount needed to invest from broker and Noticee 1 and also the said amount was also extended by broker and Noticee 1 despite the risk of losing carrying cost in case no allotment and losing value in case listing price is below issue price. Further the shares allotted to Noticees in the three IPOs as per the records are:

Notice e No.	**Name of Noticee**	**Shares allotted in IPO**		
		Tree House	**L&T Finance**	**Future Ventures**
3	Teli Pintu Kacharaji (huf)	511	353	0
4	Pintu Kacharaji Teli	512	354	18000
5	Vani Dilip Sitaram (huf)	0	354	0
6	Dilip Sitaram Wani	512	353	0

7	Kamlaben Dhansingbhai Lodha	511	354	0
8	Pushpaben Dilipkumar Vani	511	353	18000
9	Trivedi Vijay Mahipatram (huf)	511	353	0
10	Vijay Mahipatray Trivedi	511	353	18000
11	Smitaben Bharatbhai Khambhati	0	354	0
12	Sheela Anjay Gupta	511	353	18000
13	Gitaben Vahalabhai Jadav	511	353	18000
14	Sonalben Nimeshkumar Raval	511	353	18000
15	Johnali Gulamali Momin	511	353	18000
16	Mahera Johnali Momin	511	353	18000
17	Hansaben Jayeshkumar Parmar	511	353	18000
18	Gawmati Mathurbhai Parmar	511	353	18000
19	Parulben Manilal Parmar	512	353	18000
20	Hasumatiben Manilal Parmar	511	354	18000
21	Premlata Bhagavendas Koshti	512	353	18000
22	Dakshaben Banavarilal Sharma	511	354	0
23	Ansoyaben Rajendrakumar Shukal	0	353	0
24	Chhaya Rakesh Sable	511	354	18000
25	Ritaben Bharatbhai Shah	512	353	0
26	Rinaben Premchandabhai Parmar	511	353	18000
27	Geetaben Narottambhai Parmar	511	353	0
28	Sangitaben Bhupeshbhai Bhavsar	511	353	18000
29	Vijay Mangaldas Shah (huf)	511	354	0
30	Krupa Pankaj Shah	511	353	18000
31	Chandresh Kanaiyalal Bijava	512	354	18000
32	Manjulaben Chandreshbhai Bijava	511	353	0
33	Lekhaben Dineshbhai Shah	511	353	18000
34	Mukesh Chandreshbhai Bijava	511	354	18000
35	Shah Arpit Pankajkumar	0	354	0
36	Shah Swara Pankajkumar	511	353	18000
37	Jayesh Virchandbhai Shah (HUF)	511	0	0

Noticees 3 to 37, applied to IPOs with the amounts borrowed from Noticee 1 and major amount of funding from broker despite risk of losing most of their money. This itself implies that said Noticees were aiding and abetting Noticee 1 which had large sums to lend to others to apply in IPOs, which if itself had applied in the said IPOs would not have gotten assured proportionate allocation, because the said applications would have to be done in HNI quota and not RII quota. This is further buttressed from following submissions of Noticees regarding the dates of opening of demat accounts, some of which are given below.

Noticee No	**Date of opening Demat account**
3	31/05/2011
4	05/04/2011
6	09/05/2011
7	02/05/2011
8	28/03/2011
9	24/05/2011
10	01/04/2011
12	28/03/2011
13	28/03/2011
14	05/04/2011
15	31/03/2011
16	04/04/2011
17	28/03/2011
18	28/03/2011
19	02/04/2011
20	28/03/2011

I note that demat accounts of most of the Noticee 3 to 37 were opened just prior to the date of the said IPOs (L&T listed on August 12, 2011, TH listed on August 26, 2011 and FV listed on May 10, 2011), which points to possibility of meeting of minds of the Noticees for the purpose of investing in the said IPOs. Noticees have contended that the opening of accounts was genuine and also that most of them have later updated their correspondence details. I note in this regard that only the connivance of Noticee 3 to 37 with Noticee 1 in respect of the allotment of shares in the three IPOs is under consideration, and opening of accounts is not under scanner because extant demat rules and practices require demat accounts for allocation.

I further note the profits/ losses made by a sample comprising of Noticee 3 to 12, by selling shares so allotted in the IPO of L&T. The sample is representative of the trend for Noticee 3 to 37.

Noticee no	**Profit/Loss made (Rs)**
3	-3058.78
4	-3102.12
5	-3021
6	-3102.13
7	-3073.78
8	-3117
9	-3102.12
10	-3102.13
11	-3047
12	-3102.13

It is seen from above that despite low monthly income(KYC) the said Noticees borrowed funds from Noticee 1(and broker) and sold off shares while also bearing losses and the carrying cost, which tantamounts to risk taking behavior, unless Noticee 1 was using the other Noticees as a conduit to apply in the said IPOs and therefore Noticee 3 to 37 might have been indifferent to financial risks involved. In this regard, I refer to the observations of the Hon'ble Supreme Court (in short the **SC**) in SEBI Versus Kishore R. Ajmera in this regard, "*It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances* *surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion*".

From all of the above I conclude that the Noticees 3 to 37 acted as conduit of the Noticee 1 to apply in the RII quota with the funds of Noticee 1, which if Noticee 1 had applied would not have qualified for the RII quota, where application money was capped at Rs. 2 lac per application. Also RII quota had assured allotment versus HNI quota and thereby the said charges of alleged violation of PFUTP Regulations, 2003 are established.

Noticees 30, 35 and 36 have submitted that they are coparceners in Noticee 1, and any monetary transaction between them for investment purpose cannot be construed to be an unfair trade practice and that Noticee 30, 35 and 36 cannot be charged for aiding cornering of retail shares by Noticee 1. Noticee 33 has submitted that being mother-in-law of Noticee 2 (karta of Noticee 1), Noticee 1 had the right to extend funds to her as a family member. In this regard available record shows in case of Noticee 30, 35 and 36, the bank statement shows multiple transactions and pinpointing the relevant transaction related to PFUTP charges is not done. Further, as regards Noticee 33, the bank statement available on record supports the charges levelled.

h. Case laws cited: Noticees have interalia cited decision of Hon'ble SAT in the matter of Paresh M Paresh & Othrs vs SEBI, and stated that mere cornering of shares is not an offence, and that no evidence suggesting manipulation of market or facilitating Noticee no 1 in defrauding the market has been brought on record. I note the case facts of the referred case, wherein one person lent funds to appellants as per a MoU to enable them to participate in IPO of his firms, to allegedly save failure of the IPO. The appellants had only pecuniary relationship and were governed by a MoU which clearly stated transaction involved. In instant case, there appears to be no such contract, financial or social, which encompasses all Noticees from 3 to 37.

Noticees have interalia submitted that the SCN connects all the entities without showing how the connections led to violation of the PFUTP Regulations, 2003 wherein Noticee no 3 to 37 aided Noticee no 1 in cornering shares. Noticees have brought attention to observations of the Hon'ble SAT in the case of Ashlesh Shah vs SEBI, that the mere fact of being linked to a party is not enough to establish a charge of fraud, and that mere connection without other supporting facts is not sufficient to establish violation. In the instant case, along with connection of Noticees 3-37 with Noticee 1, their chain of financial transactions has been taken into consideration to adjudge the matter.

Noticees have cited Hon'ble SAT in KSL and Industries Ltd vs SEBI to further contend that the SCN has alleged a serious charge of fraud on grounds of suspicion and that the standard of proof must be of higher degree, and not based on conjecture and surmise. Noticees have cited the Hon'ble SC in Union of India v. Chaturbhai M. Patel & Co, stating that, "*However suspicious may be the circumstances, however, strange the coincidences, and however grave the doubts, suspicion alone can never take the place of proof*". Unlike the case facts of the said matter, in the instant case, evidence to show connections and financial transactions has been given.

Noticees have further quoted the Hon'ble SC in Nand Kishore Prasad vs State of Bihar And Ors, wherein it was observed that in domestic tribunals, conclusion should be arrived on the basis of some evidentiary proof and not mere suspicion. In the instant case, there is sufficient evidence qualifying aforementioned principle that is there is '*evidential material which with some degree of definiteness points to the guilt of the delinquent in respect of the charge against him.*'

Noticees have further cited observations of the Hon'ble SC in Hanumant vs The State of Madhya Pradesh, stating that circumstantial evidence relied by SEBI to prove some allegation should lead to only one conclusion and that a suspicion cannot be a ground for charging a person with serious violations such as fraud. I note that in referred case, the Hon'ble SC made the observations as cited by Noticees as it finally acquitted the appellants of the charges, which were held by lower courts merely on the basis of an uncorroborated testimony and no other evidence. Case facts of instant proceedings are not comparable.

Noticees interalia submitted that requirement of 'intention' is a pre-requisite to prove 'fraud' for violation of the PFUTP Regulations, 2003. I note that the Hon'ble SC in the matter of SEBI vs. Shri Ram Mutual Fund held that "*once the violation of statutory regulations is established, imposition of penalty becomes sine qua* *non of violation and the intention of parties committing such violation becomes totally irrelevant. Once the contravention is established, then the penalty is to follow."*

i. Based on the considerations above, I note that Noticee 1 advanced funds to Noticee 3 to 37, which were connected to Noticee 1 by means of common mobile numbers, common address, employment under Noticee 2 (karta of Noticee 1) etc. Noticee 3 to 37 then invested the money so received as margin in the three IPOs, and then sold these shares received in the IPO thereafter. Then, Noticee no 3 to 37 returned the amount, as received upon selling the shares, to Noticee no 1, thereby Noticee 1 circumvented the maximum limit of applying in Retail quota of the IPOs and cornered retail quota of the said IPOs with the help of other Noticees.

j. I note definition of fraud as per the PFUTP regulations, 2003: "*fraud includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss,.".* I note that in the instant case, element of fraud as per the above definition is present, so that Noticee 1 employed a scheme to manipulate the market mechanism in connivance with and while inducing his 'agents' (ie. Noticees 3 to 37) to deal in securities, wherein whether a gain was made or not is an irrelevant point.

k. I note observations of the Hon'ble SC in SEBI vs Kanaiyalal Baldevbhai Patel, "*Broadly trade practice is unfair if the conduct undermines the ethical standards and good faith dealings between parties engaged in business transactions. It is to be noted that unfair trade practices are not subject to a single definition; rather it requires adjudication on case to case basis. Whether an act or practice is unfair is to be determined by all the facts and circumstances surrounding the transaction* ". I note that as per circumstances of this case, allegations of violation of PFUTP Regulations as charged are established against the Noticees.

l. I place reliance on observations of the Hon'ble SAT in SEBI vs Ketan Parekh, "Whether *a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties* *which could be inferred from the attending circumstances because direct evidence in such cases may not be available*".

m. In view of all of the above submissions of Noticees, the evidentiary proof given by the Noticees and record made available by OD, as well as the referred case laws, and taking into consideration, the circumstantial evidence, and as inferred from reasoning, I note that the pattern of dealing suggests that such dealings of the Noticees were driven by factors other than prudent risk taking ability and such cornering of shares of the RII tantamounst to violation the sanctity of market mechanism. In view of all of the above, I conclude that the charges of the SEBI Act, 1992 and the PFUTP Regulations, 2003 levelled against Noticees no. 1, 3 to 24, 26 to 29, 31 to 34 and 37 and conveyed vide the aforementioned SCNs are hereby established and I conclude that said Noticees violated section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulations 3(a), (b), (c) and (d) and 4(1) of the PFUTP Regulations, 2003.

11. Issue b: *Whether Noticees 1 to 36 have violated the provisions of section 2(i)(a) read with section 13, 16 and 18 of the SCRA, 1956?*

a. It is alleged that Noticees 1 to 35 transferred certain number of shares of L&T to Noticee 36 and also received the same number of shares of L&T from Noticee 36 in off-market transactions, and that Noticees except Noticee 37 did not receive/make payments for consideration towards the said off-market transactions within the period specified for 'spot delivery contracts' under section 2(i)(a) r/w sections 13, 16 and 18 of the SCRA, 1956.

b. On a plain reading of section 2(i)(a) of the SCRA, 1956, it is apparent that a spot transaction gets completed on actual delivery of shares by one party and payment of consideration by the other party either on the same day or the next day of the contract. Therefore, in a 'spot delivery contract' the payment of consideration amount must be done either on the same day or the next day of the transaction as stipulated under section 2(i)(a) of the SCRA, 1956. In this regard, I refer to the observations made by the Hon'ble SAT in its order dated July 17, 2007 in the matter of Alok Kehtan Vs. SEBI, Appeal No. 55 of 2007, that: *"………..it is clear that the appellant sold his unlisted shares on*

25.08.1999 in an off market transaction and received the sale consideration of Rs. 22,50,000/-only in January, 2000 which is much beyond the time permitted by section 2(i) of the SCRA. Since the transaction was off market the contract for the sale of shares could only be by way of spot delivery in view of the restriction imposed by the Board under section 16 of SCRA which mandates that the sale consideration ought to have been received either on the same day of the transaction or on the following day. It is, thus, clear that the sale of shares by the appellant on 25.08.1999 in the off market transaction is violative of the restriction imposed under section 16 read with section 2(i) of SCRA." Further, it is pertinent to refer to the observations and decision of the Hon'ble SAT in its decision in the case of Mrs. Bhanuben Jaisukhlal Shah v. SEBI (Appeal No. 271 decided on March 5, 2010) in which the above mentioned issue has been elaborately dealt with and the Hon'ble SAT stated as follows: "*A spot delivery contract has been defined in section 2(i) of the Act the provisions of which, before and after the amendment, have been reproduced hereinabove. Since all the securities prior to the coming into force of the Depositories Act were held in the physical form, spot delivery contract was defined to mean a contract which provided for the actual delivery of the securities and the payment of price therefor either on the same day as the date of the contract or on the next day. In other words, a spot delivery contract is a contract between two persons buying and selling securities off-market where the delivery and payment is effected either on the same day or on the next day*". I note from record that it is not in dispute that the said alleged transactions were off-market and in light of the above case laws the said off-market transactions were in the nature of spot transactions under section 2(i)(a) of the SCRA, 1956 as is alleged in the SCN.

c. From the available record, I find that Noticee 1 to 35 indulged in two off-market transactions, for each Noticee, in the scrip of L&T with Noticee 36, as seen from the demat account statements available on record of Noticee 1 to 35 and Noticee 36 (BO ID – 1203330000437283). Upon perusal of the demat statements on record, I note that demat statement of Noticee 36 is classified as individual, and I also see that there is no second holder of the said demat account. I note from the said demat statements that Noticee 1 to 35 transferred certain shares of L&T to Noticee 36 and Noticee 1 to 35 received certain shares of L&T from Noticee 36 through off market transactions. Details of these transaction are:

Noticee no.	Name of the Noticee	Shares transacted with Noticee No. 36
1	Pankaj J. Shah (HUF)	353
2	Pankaj J. Shah	354
3	Trivedi Vijay Mahipatram (HUF)	353
4	Teli Pintu Kacharaji (HUF)	353
5	Vani Dilip Sitaram (HUF)	354
6	Dilip Sitaram Wani	353
7	Kamlaben Dhansingbhai Lodha	354
8	Pushpaben Dilipkumar Vani	353
9	Vijay Mahipatray Trivedi	353
10	Gitaben Vahalabhai Jadav	353
11	Smitaben Bharatbhai Khambhati	354
12	Sheela Anjay Gupta	353
13	Pintu Kacharaji Teli	354
14	Sonalben Nimeshkumar Raval	353
15	Sangitaben Bhupeshbhai Bhavsar	353
16	Mahera Johnali Momin	353
17	Hansaben Jayeshkumar Parmar	353
18	Gawmati Mathurbhai Parmar	353
19	Rinaben Premchandabhai Parmar	353
20	Hasumatiben Manilal Parmar	354
21	Premlata Bhagavendas Koshti	353
22	Dakshaben Banavarilal Sharma	354
23	Ansoyaben Rajendrakumar Shukal	353
24	Chhaya Rakesh Sable	354
25	Ritaben Bharatbhai Shah	353
26	Parulben Manilal Parmar	353
27	Geetaben Narottambhai Parmar	353
28	Johnali Gulamali Momin	353
29	Vijay Mangaldas Shah (HUF)	354
30	Krupa Pankaj Shah	353
31	Chandresh Kanaiyalal Bijava	354

32	Manjulaben Chandreshbhai Bijava	353
33	Lekhaben Dineshbhai Shah	353
34	Mukesh Chandreshbhai Bijava	354
35	Shah Arpit Pankajkumar	354

d. In this regard, Noticees have submitted that Noticee 36, the co-parcenor of Noticee 1 and daughter Noticee 2 (karta of Noticee 1) wished to trade in Futures & Options segment, and was in need of certain shares to offer as collateral to broker, the trading member. Noticee 3 to 35 owed money to Noticee 1, so that they transferred their L&T shares to Noticee 36 as collateral until the repayment of debt. In this regard I note following details as per submissions made, for a sample comprising Noticee 3 to 8, so that it represents the trend for Noticee 3 to 35:

Noticee no	***Amount owed (Rs)***	***Value of shares transferred to Noticee 36 (Rs)***	***Transaction as per ledger of Noticee 1***
3	*16408 (as on 2/9/11)*	*15000 (on 15/9/11)*	*No transaction after 2/9/11 till 8/1/12*
4	*15833(as on 2/9/11)*	*15000(on 15/9/11)*	*No transaction after 2/9/11 till 8/1/12*
5	*21450(as on 2/9/11)*	*15000(on 27/9/11)*	*No transaction in the month of Sept. 2011*
6	*16481(as on 2/9/11)*	*15000(on 15/9/11)*	*No transaction after 2/9/11 till 8/1/12*
7	*15833(as on 2/9/11)*	*15000(on 15/9/11)*	*No transaction after 2/9/11 till 8/1/12*
8	*18156(-do-)*	*15000(-do-)*	*No transaction after 2/9/11 till 8/1/12*

e. Firstly, I note that value of shares transferred by each of the Noticee 3 to 8 is lesser than the amount they purportedly owed to Noticee 1, however, Noticee 3 to 8 did not transfer shares of FV and TH which they possessed to settle the debt, if any, fully. Secondly, Noticees have submitted that the shares were transferred in lieu of debt repayment for the time being to Noticee 1, but I do not find any corresponding entry in the ledgers of Noticee 1 on the dates on which transfer of shares took place, which disputes the contention of said Noticees (example of two such ledgers are mentioned in the para 10 g above). Some of the Noticees have submitted DIS slips of the said transfers with remark ‘loan’ ., however, if the shares were loaned and returned, then the question of settling the debt, if any does not arise, thus, the evidence and submissions of the said Noticee are internally inconsistent and therefore not acceptable.

f. Noticees have submitted that Noticee 2 (father), 30 (mother), 33 (grandmother) and 35 (brother) were relatives of Noticee 36, while Noticee 36 was co-parcenor in Noticee 1, so that there was no need of payment of any consideration for the assistance by way of loaning of shares by them to Noticee 36. In this regard, Noticees have referred to CDSL Circular dated August 14, 2019 and other circulars to demonstrate the evolving regulatory thought in the matter. In this regard, it is noted that the circulars by any Depository is to give operational structure for implementation of policy specified in the higher legislation ie SCRA, 1956 in the instant matter and thereby cannot prevail over requirements specified under SCRA, 1956 which is to make/receive consideration upon receipt/transfer of shares

g. Noticees have further contended that as Noticee 36 was a coparcener in Noticee 1, she received the shares in lieu of debt owed by Noticee 3 to 35 with Noticee 1, and was not required to make any payment in this regard to Noticee 3 to 35. As per Black’s Law Dictionary, meaning of the word "*coparcener means persons to whom an estate of inheritance descends jointly, and by whom it is held as an entire estate*”. In the instant matter, the shares have been applied for in an IPO and were allotted to Noticees 3 to 35, as is seen from the record, hence the question of being co-parcener or having received the said shares in estate does not arise. Noticees’ contention regarding the Noticee 1 and Noticee 36 being co-parceners and therefore money transferred to one is good enough consideration of shares received by other, is not acceptable to me.

h. In view of the above, it is noted that the Noticees no 1 to 36 did not receive/make payment consideration for the said off-market transactions. Hence, by not making/receiving payment either on the same day or next day of the said transaction made in off-market as per the requirements prescribed under section 2(i)(a) of the SCRA, 1956, Noticee 1 to 36 violated the provisions of section 2(i)(a) r/w sections 13, 16 and 18 of the SCRA, 1956 and hence, the allegations levelled stand established.

12. **Issue c:** ***Do the violations, if any, on the part of any of the Noticees attract monetary penalty under section 15HA of the SEBI Act, 1992 and/or section 23H of the SCRA, 1956?***

Therefore, after taking into account the aforesaid entire facts / circumstance of the case, and material available on record, I am of the view that said violations of provisions of section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulations 3(a), (b), (c) and (d) and 4(1) of the PFUTP Regulations, 2003 by Noticees 1, 3 to 24, 26 to 29, 31 to 34 and 37 attracts imposition of monetary penalties under section 15HA of the SEBI Act, 1992, and that said violations of section 2(i)(a) r/w sections 13, 16 and 18 of the SCRA, 1956 by Noticees 1 to 36 attracts imposition of monetary penalty under section 23H of the SCRA, 1956, which are reproduced below:

<u>SEBI Act, 1992</u>

15HA. *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.*

<u>SCRA, 1956</u>

23H. *Whoever fails to comply with any provision of this Act, the rules or articles or byelaws or the regulations of the recognized stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.*

13. **Issue d –** ***If yes to c, then what would be the monetary penalty that can be imposed upon the said Noticees, taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992 r/w rule 5(2) of the AO Rules, 1995 and/or in section 23J of the SCRA, 1956 r/w rule 5(2) of the AO Rules, 2005?***

(a) While determining the quantum of penalty under section 15J of SEBI Act, 1992 and under section 23J of the SCRA, 1956, it is important to consider the factors stipulated in section 15J of SEBI Act, 1992 r/w rule 5(2) of the AO Rules, 1995 and in section 23J of SCRA, 1956 r/w rule 5(2) of the AO Rules, 12005 which read as under: -

SEBI Act, 1992

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.

SCRA, 1956

23J *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.

(b) I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticees and the losses, if any, suffered by the investors due to such violations on the part of the said Noticees. Further, material available on record does not show that the said failure is repetitive.

(c) I note that the extant sections 15HA of the SEBI Act, 1992 and 23H of the SCRA, 1956 does not specify any minimum penalty while it specifies the upper limit.

(d) Therefore, taking into consideration the facts / circumstance of the case, I am of the view that the Noticees 1, 3 to 24, 26 to 29, 31 to 34 and 37 are liable for a monetary penalty of Rs 35,00,000/- (Rupees Thirty Five Lakh only) to be paid jointly and severally for violating the provisions of section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulations 3(a), (b), (c) and (d) and 4(1) of the PFUTP Regulations, 2003. As also, Noticees 1 to 35 are liable to pay penalty of Rs. 25,000/- (Rupees Twenty-five thousand only) each for violating the provisions of section 2(i)(a) r/w sections 13, 16 and 18 of the SCRA, 1956 and Noticees 36 is liable to pay penalty of Rs. 2,50,000/- (Rupees Two lac Fifty thousand only) for violating the provisions of section 2(i)(a) r/w sections 13, 16 and 18 of the SCRA, 1956.

ORDER

14. In exercise of the powers conferred under section 15-I of the SEBI Act, 1992 and rule 5 of the AO Rules, 1995, and under section 23-I of the SCRA, 1956 and rule 5 of the AO Rules, 2005, I hereby impose following penalties under section 15HA of the SEBI Act, 1992 and under section 23H of the SCRA,1956

Name of the Noticee	**Regulations violated and penalty section**	**Penalty (Rs.)**
Pankaj J. Shah (HUF), Pintu Kacharaji Teli (HUF). Pintu Kacharaji Teli, Vani Dilip Sitaram (HUF), Dilip Sitaram Wani, Kamlaben Dhansingbhai Lodha, Pushpaben Dilipkumar Vani , Trivedi Vijay Mahipatram (HUF), Vijay Mahipatray Trivedi, Smitaben Bharatbhai Khambhati, Sheela Anjay Gupta, Gitaben Vahalabhai Jadav, Sonalben Nimeshkumar Raval, Johnali Gulamali Momin, Mahera Johnali Momin, Hansaben Jayeshkumar Parmar, Gawmati Mathurbhai Parmar, Parulben Manilal Parmar, Hasumatiben Manilal Parmar. Premlata Bhagavendas Koshti, Dakshaben Banavarilal Sharma, Ansoyaben Rajendrakumar Shukal, Chhaya Rakesh Sable, Rinaben Premchandabhai Parmar, Geetaben Narottambhai Parmar, Sangitaben Bhupeshbhai Bhavsar, Vijay Mangaldas Shah (HUF), Chandresh Kanaiyalal Bijava, Manjulaben Chandreshbhai Bijava, Lekhaben Dineshbhai Shah, Mukesh Chandreshbhai Bijava, Jayesh Virchandbhai Shah (HUF)	Section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulations 3(a), (b), (c) and (d) and 4(1) of the PFUTP Regulations, 2003 Penalty under section 15HA of the SEBI Act, 1992	Rs. 35 lac jointly and severally

Name of the Entity	**Regulations violated and penalty section**	**Penalty (Rs.)**
Pankaj J. Shah (HUF)	Section 2(i)(a) of the SCRA, 1956 r/w	25,000/-
Pankaj J. Shah		25,000/-

Pintu Kacharaji Teli (HUF)	sections 13, 16 and 18 of the SCRA, 1956 Penalty under section 23H of the SCRA, 1956	25,000/-
Pintu Kacharaji Teli		25,000/-
Vani Dilip Sitaram (HUF)		25,000/-
Dilip Sitaram Wani		25,000/-
Kamlaben Dhansingbhai Lodha		25,000/-
Pushpaben Dilipkumar Vani		25,000/-
Trivedi Vijay Mahipatram (HUF)		25,000/-
Vijay Mahipatray Trivedi		25,000/-
Smitaben Bharatbhai Khambhati		25,000/-
Sheela Anjay Gupta		25,000/-
Gitaben Vahalabhai Jadav		25,000/-
Sonalben Nimeshkumar Raval		25,000/-
Johnali Gulamali Momin		25,000/-
Mahera Johnali Momin		25,000/-
Hansaben Jayeshkumar Parmar		25,000/-
Gawmati Mathurbhai Parmar		25,000/-
Parulben Manilal Parmar		25,000/-
Hasumatiben Manilal Parmar		25,000/-
Premlata Bhagavendas Koshti		25,000/-
Dakshaben Banavarilal Sharma		25,000/-
Ansoyaben Rajendrakumar Shukal		25,000/-
Chhaya Rakesh Sable		25,000/-
Ritaben Bharatbhai Shah		25,000/-
Rinaben Premchandabhai Parmar		25,000/-
Geetaben Narottambhai Parmar		25,000/-
Sangitaben Bhupeshbhai Bhavsar		25,000/-
Vijay Mangaldas Shah (HUF)		25,000/-
Krupa Pankaj Shah		25,000/-
Chandresh Kanaiyalal Bijava		25,000/-
Manjulaben Chandreshbhai Bijava		25,000/-
Lekhaben Dineshbhai Shah		25,000/-

Mukesh Chandreshbhai Bijava		25,000/-
Shah Arpit Pankajkumar		25,000/-
Shah Swara Pankajkumar		2.5 lac only

I am of the view that the said penalty is commensurate with the defaults committed by the said Noticees.

15. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order by one of following two modes:

    a. By using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html
    b. By way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai.

16. Details of Demand Draft made as given in format below shall be sent to "The Division Chief, EFD-DRA-III, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051." and also to e-mail id :- tad@sebi.gov.in

    a) Case Name
    b) Name of the 'Payer/Noticee'
    c) Date of Payment
    d) Amount Paid
    e) Transaction No.
    f) Bank Details in which payment is made
    g) Payment is made for (like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)

17. 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, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

18. Copies of this Adjudication Order are being sent to the Noticees and also to SEBI in terms of rule 6 of the AO Rules, 1995 and rule 6 of the AO Rules, 2005.

Date: August 31, 2020 **SANGEETA RATHOD**
Place: Mumbai **ADJUDICATING OFFICER**