BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. EAD-7/BD /NR/2020-21/7927-30

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

In respect of:

1. Hiran Orgochem Ltd., *(PAN: AAACH0977)* C/o Kantilal Hiran C-103, Vastu Park Evershine Nagar, Malad (West) Mumbai – 400064.	2. Kantilal Hiran *(PAN: AAUPH7660P)* C-103, Vastu Park Evershine Nagar, Malad (West) Mumbai – 400064.
3. Arun Panchariya *(PAN: AEVPP6125N)* J-04, Emirates Hills Jhulnar Street-2 Dubai, United Arab Emirates.	4. Mukesh Chauradiya *(PAN: AAVPC0966A)* 02, Adinath Nagar Opportunity Rita Park Society Giridhar Nagar, Shahibaug Ahmedabad – 380004.

(The aforesaid entities are hereinafter individually referred to by their respective names/Noticee nos. and collectively as "Noticees", unless the context specifies otherwise)

In the matter of issue of GDRs by Hiran Orgochem Ltd.,

BACKGROUND

1. Securities and Exchange Board of India (SEBI) conducted an investigation to ascertain whether shares underlying Global Depository Receipts (GDRs) of Hiran Orgochem Ltd., (*hereinafter referred to as "Hiran"/ "Company" / "Noticee 1"*) were issued with proper consideration and whether appropriate disclosures in compliance with Listing Agreement, if any, were made by Hiran with respect to the GDRs. The period under investigation was during issuance of GDRs i.e. April 01, 2010 to May 31, 2010 (*hereinafter referred to as "investigation period").*

2. Hiran was a Company listed on the Bombay Stock Exchange Ltd., *(hereinafter referred to as "BSE")*, issued 15,38,462 GDRs (amounting to US$ 10.00 Million)

representing 4,61,53,860 underlying Equity Shares of face value of ₹10/- each at an offer price of US $ 6.50 per GDR on May 20, 2010. The issue was subscribed by one entity viz., Vintage FZE (now known as Alta Vista International FZE) *(hereinafter referred to as "Vintage")*. It was observed that the subscription amount was paid by Vintage by obtaining loan from European American Investment Bank AG (*hereinafter referred to as "EURAM Bank"*) by entering into Loan Agreement dated March 15, 2010 with EURAM Bank. It was further observed that Hiran provided security towards the loan obtained by Vintage, through Pledge Agreement dated March 15, 2010 executed between Hiran and EURAM Bank, wherein Hiran pledged GDR proceeds against the loan availed by Vintage for subscribing to GDRs of Hiran. It was observed that the aforesaid Pledge Agreement was signed by Kantilal Hiran *(hereinafter referred to as "Noticee 2")*, Chairman and Managing Director of Hiran Orgochem Ltd., which was an integral part of Loan Agreement entered into between Vintage and EURAM Bank, and these agreements enabled Vintage to avail the loan from EURAM Bank for subscribing GDRs of Hiran. It was alleged that the GDR issue would not have been subscribed had Hiran not given such security towards the loan taken by Vintage. The investigation further revealed that the Company had reported to BSE that the GDR issue of the Company has been successfully subscribed which made investors believe that the said GDR issue was genuinely subscribed. It was also observed that the aforesaid arrangement (viz., Loan Agreement and Pledge Agreement) was not disclosed to the public, and the Company allegedly reported misleading news to the BSE which contained information in a distorted manner and may have influenced decision of investors. Therefore, it was alleged that the scheme of issuance of GDRs was fraudulent.

3. The investigation revealed that Hiran transferred US$ 5.09 million to its bank account in India. On account of default on loan repayment by Vintage, EURAM Bank adjusted the outstanding amount of US$ 4,945,613.91 on May 27, 2013 from the GDR proceeds of the Hiran kept in Hiran's EURAM Bank account. The GDR proceeds to the extent of US$ 4.95 million were adjusted by EURAM Bank towards the outstanding loan liability of Vintage which was written off by Hiran in May, 2013. Thus, it is observed that 50% of the underlying shares of the GDRs

were issued without proper consideration. It was further observed that Hiran furnished wrong information to SEBI by providing a false list of GDR subscribers.

4. Therefore, it is alleged that the Noticee 1 i.e., the Company had violated the provision of Section 12A(a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a),(b), (c), (d) and 4(1), 4(2)(f), (k), (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 *(hereinafter referred to as "SEBI (PFUTP) Regulations)* and the Noticee 2 i.e., Kantilal Hiran who was party to the fraud by executing the Pledge Agreement has violated the provision of Section 12A(a),(b) and (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of SEBI (PFUTP) Regulations, 2003.

5. It was also observed that Hiran did not inform BSE regarding (a) write off amounting to INR 27.51 cr., (US$ 4.95 million) (b) delisting of GDRs on Luxembourg Stock Exchange and (c) entering into Pledge Agreement, which is alleged to have been the violation of the provisions of Section 21 of Securities Contracts (Regulation) Act, 1956 *(hereinafter referred to as "SCRA")* read with Clause 36 (7) of Listing Agreement.

6. Further, the investigation revealed that Hiran did not follow Accounting Standards – 1, 3 and 29 issued by ICAI, since it did not disclose and did not make provision for potential liability, presented its cash balance with EURAM Bank as free cash available with the company and did not disclose the fact of signing of Pledge Agreement and pledging of GDR proceeds as the same are the items, the knowledge of which might influence the decision of the user of the financial statements. Therefore, it is alleged that the Noticee 1 had violated the provisions of Section 21 of SCRA 1956 read with Clause 32 and 50 of the Listing Agreement.

7. The investigation found that that entire process of GDR issue by Hiran i.e. from subscription of GDRs to the sale of converted shares to the Indian investors, was devised and structured by Arun Panchariya (hereinafter referred to as "AP" / "Noticee 3") in connivance with Hiran. It was found that to the detriment of the Indian investors, AP arranged loans for the subscription of GDRs of Hiran by Vintage, wherein AP was Managing Director, 100% shareholder and Authorized

Signatory, through EURAM Bank (connected to "AP") and, thereafter, using certain Foreign Institutional Investors (FIIs), got the GDRs converted into underlying shares and sold them in the Indian securities market with the help of certain domestic entities connected to him. Hence, it is alleged that the Noticee 3 in connivance with the Noticee 1 and other connected entities, devised fraudulent GDR scheme and committed fraud. Therefore, it is alleged that the Noticee 3 by devising such a fraudulent, deceptive and manipulative scheme had violated the provisions of Section 12A(a), 12A(b), 12A(c) of SEBI Act, 1992 read with section 3(a), 3(b), 3(c) 3(d), 4(1) of SEBI (PFUTP) Regulations.

8. Further, the investigation revealed that Mukesh Chauradiya *(hereinafter referred to as "Noticee 4")* was the Managing Director and Authorized Signatory of Vintage when it defaulted on repayment of loan of US$ 4.95 million. It was observed that the Noticee 4 was a close associate of Noticee 3 and collaborated with other Noticees & Vintage and performed the role assigned to him and thus acted as a party to the fraudulent scheme. Therefore, it is alleged that the Noticee 4 had violated the provisions of Section 12A(a), 12A(b), 12A(c) of SEBI Act, 1992 read with section 3(a), 3(b), 3(c) 3(d), 4(1) of SEBI (PFUTP) Regulations

APPOINTMENT OF ADJUDICATION OFFICER

9. Based on the findings of the investigation, SEBI initiated Adjudication proceedings against the Noticees and appointed Shri Jeevan Sonparote as the Adjudicating Officer vide Order dated May 23, 2017 *(communicated vide Order dated July 18, 2017*) under Section 19 read with Sub-section (1) of Section 15I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and imposing penalties) Rules, 1995 (*hereinafter referred to as SEBI Adjudication Rules)* and under Sub-section (1) of Section 23I of SCRA, 1956 and Rule 3 of Securities Contract Regulation (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (SCR Adjudication Rules) to inquire into and adjudge the alleged violations committed by the following Noticees of the provisions of the corresponding Act and Regulations, under respective Sections of SCRA and SEBI.

Sl. No.	Name of the Noticee	Violations observed	Initiation of Adjudication under the legal provisions
1	Hiran Orgochem Ltd.,	Section 12 A (a) (b) and (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d) and 4 (1), 4 (2) (f), (k) (r) of SEBI (PFUTP) Regulations.	Section 15 HA of SEBI Act.
		Section 21 of SCRA read with Clauses 36 (7), 32 and 50 of Listing Agreement.	Section 23E of SCRA.
2	Kantilal Hiran	Section 12 A (a) (b) and (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d) and 4 (1) SEBI (PFUTP) Regulations.	Section 15HA of SEBI Act.
3	Arun Panchariya		
4	Mukesh Chauradiya		

10. Pursuant to internal restructuring, the instant proceedings have been transferred to the undersigned vide Order dated September 26, 2019.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

11. A common Show Cause Notice (SCN) dated August 22, 2017 was issued to the Noticees, under Rule 4(1) of the SEBI Adjudication Rules and Rule 4 (1) of SCR Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed under Section 15 HA of the SEBI Act and Section 23E of SCRA *(as applicable)*, for the violations alleged to have been committed by the Noticees as mentioned in the above paragraphs. The SCN along with the Annexures mentioned therein were served on all the Noticees through email also on August 24, 2017.

Reply of Noticees 1 & 2

12. I note from the records that on behalf of the Noticees 1 and 2, the Company i.e, Hiran vide letter dated October 4, 2017 sought extension of time till November 30, 2017 to furnish the reply to the charges alleged in the SCN. Accordingly, vide email dated October 10, 2017; the Noticees were given extension of time till October 23, 2017 to furnish their reply. Since, there was no reply forthcoming

from the Noticees, vide communique dated October 26, 2017, the Noticees were provided with another opportunity to file their reply by November 2, 2017 and also an opportunity of personal hearing on November 27, 2017. I note from the records that no replies were filed by the Noticees 1 & 2. Therefore, vide notice dated November 9, 2017 the Noticees were informed of non-receipt of reply to the SCN and reminded of personal hearing scheduled on November 27, 2017.

13. Vide letter dated November 21, 2017, the Noticee 2 submitted that the Company is under liquidation and an Official Liquidator has been appointed by the High Court to wind up the Company. The Noticee 2 further informed that the Official Liquidator so appointed has taken over the physical possession of the Company and thus the data / accounts / details / records etc., are under their custody. The Noticee 2 further submitted that he was following up with the Official Liquidator for GDR related records and therefore sought some time to submit the reply after receipt of documents from the Official Liquidator. Accordingly, the Noticee requested for adjournment of hearing scheduled on November 27, 2017.

14. On behalf of the Noticee 1, the Noticee 2 vide another letter dated November 21, 2017 while reiterating the submissions made by him on the pre-paragraph, requested that no legal proceedings shall cease to have effect against the Company, since the Company is under liquidation Further, the Noticee in the said communique stated that a copy of the SCN was being marked to the Official Liquidator of the Company for necessary action at their end.

15. The Official Liquidator vide letter dated November 24, 2017 addressed to the Noticee 2 provided with an opportunity of inspection of documents with prior intimation, a copy of which was marked to the Learned Adjudicating Officer.

16. Despite lapse of considerable time, since no reply was furnished by the Noticees 1 & 2, vide notice dated January 19, 2018, the Noticees were given another opportunity to furnish their reply by January 25, 2018, besides providig with an opportunity of personal hearing on February 5, 2018. A copy of the said notice was marked to the Official Liquidator, High Court of Bombay.

17. It is noted that the Noticees failed to submit their reply to the SCN once again and also did not avail the opportunity of personal hearing which was scheduled on February 5, 2018. Therefore, vide notice dated February 6, 2018; the Noticees were once again given another opportunity to furnish their reply by February 20, 2018, besides providing them with an opportunity of personal hearing on March 1, 2018. The said notice was also marked to the Official Liquidator, High Court of Bombay.

18. On behalf of the Noticees 1 & 2, the Noticee 2 vide letter dated February 3, 2018 while reiterating his earlier submissions made vide letter dated November 21, 2017 claimed of non-receipt of reply from the Official Liquidator. The Noticee 2 further submitted that there were no Board of Directors of the Company and hence expressed his inability to confirm the presence in the personal hearing scheduled on February 5, 2018 in respect of the Noticee 1. The Noticee 2 further requested to keep the proceedings initiated against him in abeyance. Vide communique dated February 8, 2018, the Noticee 2 was provided with a copy of the letter dated November 24, 2017 addressed to him by the Official Liquidator for carrying out inspection of documents.

19. The Noticee 2 vide letter dated February 27, 2018 submitted his reply, which is summarized hereunder:

    (a) *On receipt of copy of inspection letter, I realized that inspection of documents have been provided to me by the Office of the Official Liquidator in this matter only since various issues were being sorted out with the permission of the Hon'ble High Court of Bombay, hence, the said inspection letter got mixed up with those correspondences.*

    (b) *I hereby seek certain documents which have been relied upon while preparing SCN to enable me to submit my reply to the same.*

    (c) *Further, I hereby seek inspection of documents and thereafter a time frame of 21 days to submit the reply.*

Reply of Noticee 3

20. The SCN sent by Speed Post to the last known address of the Noticee 3 (Arun Panchariya) as per records (i.e., Ahmedabad) returned undelivered. Therefore,

vide letter dated October 26, 2017 the SCN along with the annexures mentioned therein were sent to the Noticee's address at Dubai, requiring the Noticee to submit his reply with 14 days from the date of receipt of the Notice, besides providing with an opportunity of personal hearing on November 27, 2017.

21. The Noticee 3 vide letter dated November 15, 2017 furnished his reply, which is summarized hereunder:

    (a) *I have already replied vide my letter dated August 17, 2017 to the SCN dated June 0, 2017 issued under Section 11B of the SEBI Act in the same matter.*

    (b) *It is submitted that the Hon'ble Supreme Court in the case of SEBI Vs Pan Asia Advisors Ltd., and Others, laid down that SEBI has jurisdiction to take action against me only if GDR issue has an adverse impact on the Indian Securities Markets. In other words, unless it is shown by SEBI that the issue of GDRs by any Indian Company adversely impacted the Indian Securities Market, it would have no jurisdiction to proceed against me for the alleged manipulation or violations committed it in respect of a GDR issue. Therefore, in order to claim its jurisdiction for taking action in a matter arising out of a GDR issue, SEBI must establish that the same had adversely impacted the Indian Securities Market.*

    (c) *It is therefore, submitted that the present Notice has completely failed to establish as to how GDR issue involved in the present case adversely impacted the Indian Securities Market, which is a pre-requisite, as per the aforesaid settled position of Law laid down in this regard by the Hon'ble Supreme Court, for SEBI to claim jurisdiction in respect of GDR issue.*

    (d) *Without prejudice to the above, I have already challenged the Hon'ble Tribunal Order dated October 25, 2016 and its review Order dated February 15, 2017 before the Hon'ble Supreme Court of India – C.A. No. 009526/2017 and which is yet pending, as on date and accordingly the matter is sub-judice.*

    (e) *I reserve my right for any submission in case the Hon'ble Supreme Court of India gave its decision against me.*

22. Vide notice dated December 27, 2017, the Noticee was informed that the SCN dated August 22, 2017 issued was in respect of the Adjudication proceedings, which is different to the SCN dated June 30, 2017 under Section 11B of SEBI Act. Therefore, the Noticee was given one more opportunity to furnish his reply

within 14 days from the date of receipt of the communique, besides providing him with an opportunity of personal hearing on January 22, 2018.

23. The Noticee vide letter dated January 18, 2018 submitted that even though the instant proceedings might be separate, but the subject issue is the same of the GDRs issue and the same matter is sub-judice. The Noticee further informed that he is a NRI resided at Dubai and has serious health issues pertaining to Sinus and advised against travelling for at least two months by the Doctor. Therefore, the Noticee expressed his inability to file reply to the SCN and also to attend the hearing scheduled on January 22, 2018.

Reply of Noticee 4

24. The Noticee 4 vide email dated September 15, 2017 acknowledged receipt of the SCN through email and sought 10 days extension of time to furnish his reply. The Noticee 4 vide email dated September 15, 2017 submitted his reply, which is summarized hereunder:

(a) *I was merely a Manager in Vintage and not a Managing Director as wrongly alleged in the Notice and the all major decisions of the Company (i.e., Vintage) were collectively taken by the Directors and the shareholders only. I was added as Additional Signatory in the EURAM Bank for smooth operation of the Company. Thus, the Notice, which has been issued to me, proceeds on the wrongful assumption that I was Managing Director of Vintage, involved in the alleged scheme and therefore deserves to be quashed and set aside on this ground alone. I was only an Authorised Signatory when Vintage defaulted in its repayment of loan.*

(b) *Without prejudice to the above, even if it is assumed without admitting that there was fraud which was perpetrated, the violations of the same can be attributed to Hiran. The Notice has completely erred in implicating me in the present matter merely because I had signed a Loan Agreement on behalf of Vintage, which is any case was a completely valid and legal agreement.*

(c) *I joined Vintage in the year 2006 and I had played roll as Manager of the Company. I was assigned as Additional Signatory with EURAM Bank because Mr. Arun Panchariya was travelling most of the time and the Company (Vintage) and EURAM Bank were facing problem of Mr. Arun Panchariya's signature most of the time.*

(d) *With regard to the allegation of signing of Loan Agreement for subscription of GDRs issued by Vikas Metal and Power Ltd., and Rasoya Proteins Ltd., I would like to submit that the loan agreement which was entered into by Vintage with EURAM Bank was completely valid and legal arrangement and I had no reason whatsoever to doubt the genuineness of the same and therefore, no violation, if any can be attributed to me. In fact, the said loan agreement was signed by me on behalf of the Vintage and no personal liability can be cast upon me in this regard. Thus, the Notice which has been issued to me, proceeds on wrongful assumption that merely because I had signed the loan agreement, I was involved in the alleged scheme and therefore, deserves to be quashed and set aside on this ground along being issued on the basis of conjectures and surmises.*

(e) *Without prejudice to the above, the Notice has completely erred in drawing an adverse inference against me on the basis that I had signed the Account Charge Agreement. In this regard, I wish to state that the said Account Charge Agreement which was entered into by me on behalf of Visu International Ltd., was signed by me in UAE as I was UAE resident and it was completely valid and legal arrangement and I had no reason whatsoever to doubt the genuineness of the same and therefore, no violation, if any, can be attributed to me.*

(f) *I dealt in several issues of GDRs with Mr. Arun Panchariya where my roll was limited to Vintage. My role in GDR issue was to co-ordinate only and whatever document I signed was duly checked by Compliance Officer of EURAM Bank.*

(g) *It is most respectfully submitted that the Notice has completely erred in contending that I violated the provisions of Section 12 A (a) (b) and (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d) and 4 (1) SEBI (PFUTP) Regulations.*

25. Pursuant to the above submissions made by the Noticee 4, an opportunity of personal hearing was granted to the Noticee on November 27, 2017, which was communicated vide notice dated November 9, 2017. I note that the Noticee appeared before the Learned Adjudicating Officer on the scheduled date of hearing and reiterated the submissions made vide email dated September 15, 2017. The Noticee sought time up to December 18, 2017 to make an additional submission, which was acceded to.

26. The Noticee vide email dated December 11, 2017 sought extension of time up to January 31, 2018 to make additional submissions. The Noticee vide email/letter

dated January 28, 2018 made additional submissions. I note from the reply submitted by the Noticee that he had reiterated the earlier submissions made by him vide email dated September 15, 2017, which are not reproduced hereunder for the sake of repetition. The additional submissions made by the Noticee are summarized hereunder:

(a) *I have tried to compile relevant documents / papers from Jebel Ali Free Zone Authority, UAE ("JAFZA"). I am enclosing herewith a copy of my email correspondence dated December 2, 2017 written to the JAFZA seeking the desired information which is necessary for the purpose of defending the charges against me in the SCN.*

(b) *I submit that since SEBI has powers of a Civil Court under Section 11 of the SEBI Act, appropriate directions under Section 11 may be issued to JAFZA requiring it to issue us necessary clarification or information.*

(c) *I submit that under the Implementing Regulations No. 1/92 (Pursuant Law No. 9 of 1992) of FZE, under which the Vintage FZE was registered as Free Zone Enterprises in JAFZA, shall have a single owner. I submit that in this case it was Mr. Arun Panchariya who has been the beneficial and legal owner of Vintage. It was a single member enterprise and he was the owner and the only Director of the Vintage and the face behind Vintage.*

(d) *I submit that from the copies of my resident permits for the period 14th September 2005 to 9th September 2017, it can be seen that my designation / position has always been mentioned as the General Manager and not as a Director /Managing Director.*

(e) *I submit that from the letter dated 1 October 2009 written by Vintage to Abu Dhabi Commercial Bank, it can be seen that I was referred to as the General Manager since September 2005. The said letter was signed by Mr. Arun Panchariya himself.*

(f) *I submit that it can be seen from the copy of the JAFZA Visa of Mr. Arun Panchariya for the period 12/01/2010 to 11/01/2013 that his designation was mentioned clearly as Managing Director.*

(g) *I submit that from the Employment Card issued to me by JAFZA, it can be seen that I had always been an employee of Vintage and not a Managing Director / Director of it.*

(h) The shareholding in Vintage by Arun Panchariya was more than 99.99% of its shareholding and I was just holding qualification shares of mere 1 or 2 shares.

(i) The Administrative fine statement passed by DFSA imposing fine of US$12,000 on Mr. Arun Panchariya also clearly indicates that he was the Licensed Director in relation to Vintage.

(j) The role of Arun Panchariya is further evident from the letter dated February 25, 2016 addressed to Financial Conduct Authority of London by Global Finance & Capital Ltd.,

(k) Further, I submit that on the Loan Agreement No. K150310-001 dated March 16, 2010 (datelined Vienna) *between EURAM Bank and Vintage, Mr. Arun Panchariya had signed as Managing Director of Vintage.*

(l) The decision to subscribe to GDR of Hiran and to obtain loan from EURAM Bank for subscribing to GDRs of Hiran was the sole decision of Mr. Arun Panchariya as the sole Director and Owner of Vintage and I as an employee, had no role to play in it

(m) It is pertinent to mention here that Mr. Arun Panchariya was also a Director and President of EURAM Bank Asia. This is a fact mentioned in the SCN, at the relevant time and documentation for grant of loan was only a formality. It can be seen from some of the documents attached to SCN that Mr. Arun Panchariya as a Director of EURAM Bank Asia had verified the signatures therein.

(n) I submit that the said EURAM Bank Asia was a JV between Mr. Arun Panchariya (shares held through Pan Asia Advisors Ltd.,). It is an admitted fact that Mr. Arun Panchariya has been 100% owner of Pan Asia Advisors Ltd., as recorded in the SCN.

(o) Since, Mr. Arun Panchariya is sole owner and Director of Vintage and was a Director and President of erstwhile EURAM Bank Asia, it was he who had taken all decisions and as instructed by him I signed some documents as Authorised Signatory addressed to the Bank in view of the potential conflict of Mr. Arun Panchariya created by his being the owner of Vintage and President, EURAM Bank Asia.

(p) With regard to Para 6.2 (b) (vi) of the SCN, which was a letter signed by me as an Authorized Signatory, but wrongly mentioned as Director / Managing Director – from Vintage to EURAM Bank, I reiterated that I was asked to sign

the said document in view of the conflict of Mr. Arun Panchariya as President of EURAM Bank Asia.

(q) *I submit that I did not sign the Loan documents with EURAM Bank in case of Hiran, except that I signed the loan redemption requests in case of loan taken for subscription to Hiran GDR, as an Authorised Signatory for Vintage.*

(r) *I submit that I have no role to play in transfer of 11,55,000 GDRs to India Focus CardinalFund.*

(s) *I submit that I was a Director of Alka India Ltd., as a Nominee Director appointed by Mr. Arun Panchariya. I reiterate that I was a Director on Vintage FZE Investment Holding Pvt., Ltd., (Ramsai Investment Holding Pvt., Ltd.,) (first appointment and subsequent from 17/08/2010 to 17/03/2016) and nothing sinister can be attributed to the same.*

(t) *I submit that I might have signed the Loan Documents of Vikas Metal and Power Ltd., in view of the conflicting situation Arun Panchariya placed himself in, which was explained above.*

(u) *With regard to Visu International Ltd., I submit that I was authorized by the Board of Visue to sign the certain documents on its behalf with the Bank Efisa as a Local Representative. I submit that nothing sinister can be attributed to the same.*

27. Further, pursuant to receipt of a request from the Noticee 4 to carry out inspection of documents, the Noticee was provided with an opportunity for the same on February 12, 2018.

28. Consequent upon transfer of the instant proceedings to the undersigned vide Order dated September 26, 2019, vide notice dated March 2, 2020, all the Noticees were informed of the same and an opportunity of personal hearing was provided to all the Noticees on March 18, 2020.

29. I note that except Noticee 4, the remaining Noticees neither provided any reply in this regard nor attended the personal hearing on March 18, 2020. The Noticee 4 vide email dated March 17, 2020 expressed his inability to attend the hearing on March 18, 2020 owing to certain domestic issues and requested to schedule it on March 26, 2020, which was acceded to.

30. However, due to imposition of Lockdown on account of Covid-19 pandemic, the hearing scheduled on March 26, 2020 could not be conducted. Subsequently, in view of the prevailing circumstances due to outbreak of Covid-19, the Noticee was exempted from personal hearing, instead the Noticee was given an opportunity of hearing through WhatsApp vide call on May 20, 2020, which was communicated vide email dated May 11, 2020. On the scheduled date of hearing i.e., May 20, 2020 the Noticee appeared for hearing through WhatsApp video call along with Mr. Devendra Dhanesha (*Authorized Representative).* The Noticee while reiterating the submissions by him vide email dated January 28, 2018, undertakes to make additional submissions by May 22, 2020. The Noticee 4 vide email dated May 21, 2020 filed his additional submissions, which are summarized hereunder:

(a) I submit that since I have not been in possession of the constitutional documents of the Vintage, I am not in a position to submit the same.

(b) From year 1999 to 2005, I was involved in trading of surgical items while I was at Ahmedabad.

(c) Somewhere in the year 2005, Mr. Arun Panchariya offered me an employment in his trading company Vintage, which was a single person company owned and controlled by Mr. Arun Panchariya set up in JAFZA, Dubai.

(d) Somewhere in the year 2007, I was added as an Authorized Signatory in relation to the Bank account held by Vintage with EURAM Bank, Austria.

(e) My job profile initially was restricted to trading business. Mr. Arun Panchariya and his family members had been involved in GDR/Equity issuances by Indian entities since 1992.

(f) I had no financial or any other interest in the loan availed by Vintage, subscription to the GDRs or in the repayment of loans availed by Vintage.

CONSIDERATION OF ISSUES

31. I have taken into consideration the facts and material available on record. I observe that the allegations levelled against the Noticee 1 are that it had violated the provisions of Section 12 A (a), (b), (c) of SEBI Act read with Regulation 3 (a)

(b) (c) (d), 4 (1), 4 (2) (f) (k) (r) of SEBI (PFUTP) Regulations, 2003 and Section 21 of SCRA read with Clause 36 (7), 32 and 50 of the Listing Agreement. Further, the allegations levelled against the Noticee 2 to 4 are that they had have violated the provisions of Section 12 A (a) (b) (c) of SEBI Act, 1992 read with Regulation 3 (a) (b) (c) (d) and 4 (1) of SEBI (PFUTP) Regulations.

32. After perusal of the material available on record, I have the following issues for consideration, viz.,

ISSUE-I: Whether the Noticees have violated the relevant provisions of SEBI Act, SEBI (PFUTP) Regulations, SCRA and Listing Agreement?

ISSUE-II: Does the violation, if any, attract monetary penalty under Section 15HAof SEBI Act and Section 23E of SCRA?

ISSUE-III: If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act and Section 23J of SCRA?

ISSUE-I: Whether the Noticees have violated the relevant provisions of SEBI Act, SEBI (PFUTP) Regulations, SCRA and Listing Agreement?

33. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI Act, SEBI (PFUTP) Regulations, SCRA and Listing Agreement alleged to have been violated by the Noticees, which reads as under:

Section 12 (A) (a) (b) (c) of SEBI Act

No person shall directly or indirectly

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

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue,

dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

Regulation 3 of PFUTP Regulations: - 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 thereunder;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made thereunder.

Regulation 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.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:-

(f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities

(k) an advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors;

(r) planting false or misleading news which may induce sale or purchase of securities;

Section 21 of SCRA

Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange

Clause 36 (7) of Listing Agreement

Apart from complying with all specific requirements as above, the Company will keep the Exchange informed of events such as strikes, lock-outs, closure on account of power cuts, etc. both at the time of occurrence of the event and subsequently after the cessation of the event in order to enable the shareholders and the public to appraise the position of the Company and to avoid the establishment of a false market in its securities. In addition, the Company will furnish to the Exchange on request such information concerning the Company as the Exchange may reasonably require. The Company will also immediately inform the Exchange of all the events, which will have bearing on the performance/operations of the company as well as price sensitive information. The material events may be events such as:

(7) Any other information having bearing on the operation/performance of the company as well as price sensitive information, which includes but not restricted to;

i) Issue of any class of securities.

ii) Acquisition, merger, de-merger, amalgamation, restructuring, scheme of arrangement, spin off or selling divisions of the company, etc.

iii) Change in market lot of the company's shares, sub-division of equity shares of company.

iv) Voluntary delisting by the company from the stock exchange(s).

v) Forfeiture of shares.

vi) Any action, which will result in alteration in, the terms regarding Redemption/cancellation/retirement in whole or in part of any securities issued by the company.

vii) Information regarding opening, closing of status of ADR, GDR, or any other class of securities to be issued abroad.

viii) Cancellation of dividend/rights/bonus, etc.

Clause 32 of Listing Agreement

The Company will also give a Cash Flow Statement along with Balance Sheet and Profit and Loss Account. The Cash Flow Statement will be prepared in accordance with the Accounting Standard on Cash Flow Statement (AS-3) issued by the Institute of Chartered Accountants of India, *and the Cash Flow Statement shall be presented only under the Indirect Method as given in AS-3.*

Clause 50 of Listing Agreement

The company will mandatorily comply with all the Accounting Standards issued by Institute of Chartered Accountants of India (ICAI) from time to time

34. Hiran Orgochem Ltd., was incorporated on March 22, 1983 in Mumbai and is an integrated manufacturer of active pharmaceutical ingredients and formulations. The shares of the Company were listed on BSE and the scrip has been suspended due to penal reasons w.e.f March 31, 2015.

35. The Board of Directors of Hiran for the financial years 2009-10 and 2010-11 are furnished hereunder:

Sl. No.	Name of the Director	Designation
1.	Mr. Kantilal Hiran	Chairman & MD, Executive, Promoter
2.	Mr. Vijay K. Hiran	Whole Time Director, Executive, Promoter (resigned w.e.f. May 05, 2011)
3.	Mr. Naresh K. Hiran	Whole Time Director, Executive, Promoter (appointed w.e.f. November 01, 2009, resigned w.e.f. May 05, 2011)
4.	Mr. H. N. Bafna	Non-executive independent director
5.	Mr. Mukesh Naik	Non-executive independent director
6.	Mr. M. Kailash Kumar	Non-executive independent director
7.	Mr. Ashok A. Lunia	Non-executive independent director

36. The category wise shareholding pattern of the Company for the quarter ended March 2010 to September 2010 is given below:

(Source: www.bseindia.com)

Particular	**Quarter ended March 2010**			**Quarter ended June 2010**		
	No. of share holders	**No. of shares**	**%**	**No. of share holders**	**No. of shares**	**%**
Promoter Holding	15	2,37,90,755	45.31	15	2,37,90,555	24.11
Non Promoter Holding	5,572	2,87,12,245	54.69	5,472	3,11,12,445	31.54
Shares held by custodians and against which Depository Receipts have been issued	0	0	0	1	4,37,53,860	44.35
Total no. of shares	5,587	5,25,03,000	100.00	5,488	9,86,56,860	100.00

Particular	**Quarter ended September 2010**		
	No. of share holders	**No. of shares**	**%**
Promoter Holding	15	2,37,90,555	24.11
Non Promoter Holding	6,709	4,32,62,445	43.85
Shares held by custodians and against which Depository Receipts have been issued	1	3,16,03,860	32.03
Total no. of shares	6,725	9,86,56,860	100.00

37. From the above shareholding pattern, it is observed that the promoter shareholding decreased from 45.31% for the quarter ended March 2010 to 24.11% for the quarter ended September 2010. The decrease in shareholding was due to increase in the total number of shares of the Company due to issuance of GDRs. However, in absolute terms, the number of shares held by the promoters has been decreased only by 200 shares. It was also noted that the company issued bonus shares in the proportion of 4 new equity share of INR 10 each fully paid up for every 1 equity shares of INR 10 each fully paid to shareholders with a record date of September 12, 2009 i.e. prior to GDR issue.

38. The financial performance of the Company for the quarter ended March 30, 2010 to September 2010 and for the financial years ended 2009-10 and for the period April 2010 to June 2011 are furnished hereunder:

(Source: www.bseindia.com) (in ₹ crores)

Description	**Quarter Ended**		
	Mar 31, 2010	**June 30, 2010**	**Sept 30, 2010**
Net sales	NA	51.77	28.22
Other Income	NA	0.81	0.56
Total income	NA	52.58	29.78
Profit after tax	NA	1.91	-0.40

Description	**Year Ended**	
	2009-10	**April 10-June 11**
Net sales	202.96	147.84
Other Income	2.67	4.83
Total income	205.64	152.67
Profit after tax	7.45	-83.38

39. It is observed from the above that that net sales of the Company has gone down significantly during the period from June 2010 to September 2010.

40. The price volume analysis of the scrip (Hiran) before, during and after the period of investigation period is furnished hereunder.

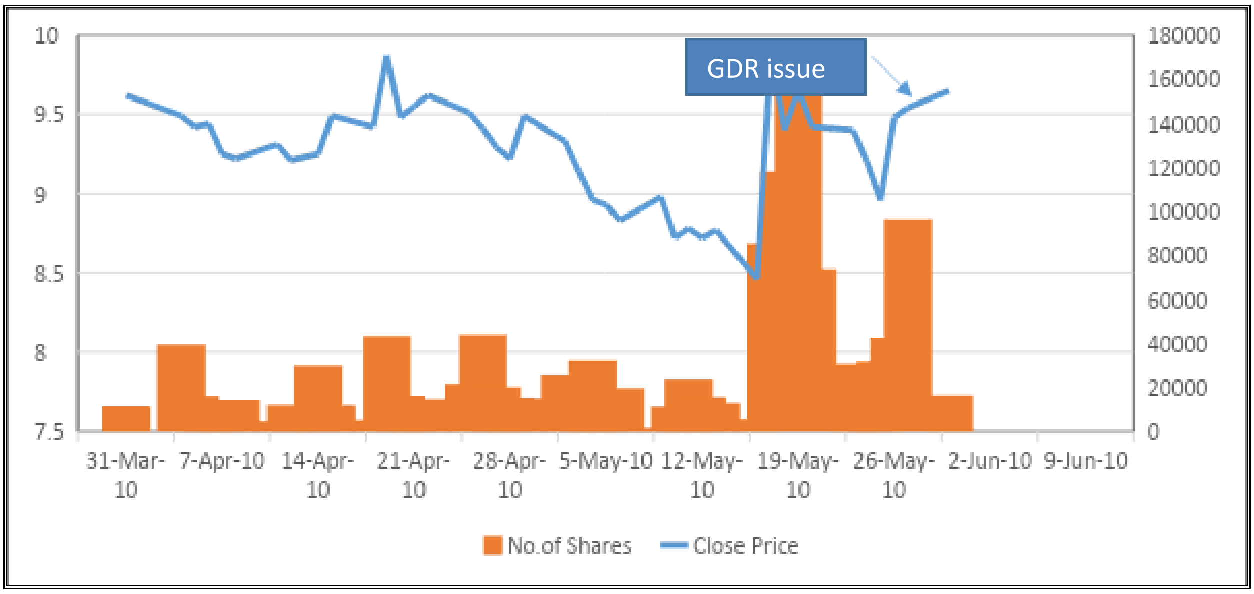
(Source: bseindia.com)

Period	**Dates**		**Opening Price (volume) on first day of the period (₹)**	**Closing price (volume) on last day of the period (₹)**	**Low price (volume) during the period (₹)**	**High Price (volume) during the period (₹)**	**Avg. no. of (shares) traded daily during the period**
Before Investigation period	(04 Jan 10 –31 Mar 10)	**Price**	10.80	9.11	8.00 (18/03/2010)	10.80 (04/05/2010)	25,359.52
		Vol	49,367	18,057	2200 (15/03/2010)	192105 (25/03/2010)	
During Investigation period	(01April 10-31 May 10)	**Price**	9.50	9.65	8.40 (17/05/2010)	10.50 (27/04/2010)	29,837.95
		Vol	11,380	16,307	1623 (10/05/2010)	168563 (20/05/2010)	

After investigation period	(01 Jun 10 –31 Aug10)	**Price**	9.50	10.00	9.25 (29/06/2010)	11.49 (05/07/2010)	1,94,771.18
		Vol	12,306	73,437	3827 (17/05/2010)	1260126 (12/07/2010)	

41. The Price volume chart of the scrip (face value @ ₹10) for the for the investigation period is as follows:

(Source: www.bseindia.com)



<u>Findings on the alleged violation of the provisions of SEBI Act & SEBI (PFUTP) Regulations, 2003 by the Noticees</u>

42. I shall now proceed to deal with the allegations levelled against all the Noticees. For this purpose, I consider it appropriate to examine in detail the entire chronology of events starting from decision to raise financial resources by way of GDR till the receipt of GDR proceeds, allotment of GDR, listing of GDRs, conversion of GDRs, sale of converted shares to the Indian investors and delisting of GDRs.

43. The Board of Directors of Hiran in its meeting held on August 29, 2009 decided to issue GDRs for an aggregate amount not exceeding ₹75 crores. Pursuant to a resolution passed by Shareholders through postal ballot on October 16, 2009, the Board of Directors of Hiran in its meeting held on February 22, 2010 approved opening of GDRs. In this regard, the Board of Directors authorized Kantilal Hiran, Managing Director (Noticee 2), Vijay Hiran, Director and Naresh

Hiran, Director to do as such acts, deeds and sign any documents, papers, forms in compliance with the above objective.

44. I note from the certified true copy of the resolution passed in the meeting of Board of Directors of Hiran held on October 31, 2009 which inter-alia states as follows:

> a) *"Resolved that a bank account be opened with EURAM Bank (the Bank) or any branch of EURAM Bank including the off-shore Branch outside India for the purpose of receiving subscription money in respect of the Global Depository Receipt Issue of the Company".*
>
> b) *"Resolved further that Mr. Kantilal Hiran and Mr. Vijay Hiran, Directors of the Company be and are hereby severally authorized to sign, execute, any application, agreement, escrow agreement, document, undertaking, confirmation, declaration and other paper(s) from time to time as may be required by the Bank and to carry and affix common seal of the company thereon, if and when so required."*
>
> c) *"Resolved further that Mr. Kantilal Hiran and Mr. Vijay Hiran, Directors of the Company be and are hereby severally authorized to draw cheques and other documents, and to give instructions from time to time as may be necessary to the said EURAM Bank or any branch of EURAM Bank including the off-shore branch, for the purpose of operation of and dealing with the said bank account and carry out other relevant and necessary transactions and generally to take all such steps and to do all such things as may be required from time to time on behalf of this company."*
>
> d) *"Resolved further that the Bank be and is hereby authorized to use the funds so deposited in the aforesaid bank account as security in connection with loans if any as well as to enter into any Escrow agreement or similar agreements if and when so required."*

45. From the above, it is noted that the Board of Hiran had considered the proposal to open account with EURAM Bank for the purpose of receiving subscription money in respect of the GDRs, proposed to be issued by Hiran. In this regard, the Board of Hiran had also passed resolution authorising Kantilal Hiran and Vijay Hiran, Directors of the Company to sign, execute, any application, agreement, escrow agreement, document, undertaking, confirmation, declaration and other paper(s) from time to time as may be required by the Bank and to carry and affix common seal of the company thereon, if and when so required. Further, the resolution was passed which specifically provided for authorising banks to use the funds so deposited in the bank account proposed to be opened with EURAM Bank as security in connection with loans, if any, as well as to enter into any Escrow agreement or similar agreements if and when so required. I note

that the aforesaid decisions taken by the Board were not disclosed to BSE, though they relate to GDRs, proposed to be issued.

46. I note from the correspondence received from Hiran vide letter dated June 22, 2015 that the Company had issued 15,38,462 GDRs (US$ 10.00 million) on May 20, 2010. The GDR proceeds were deposited with EURAM Bank. The summary of the GDR issue by Hiran as per the email received from DBS Bank, Custodian in terms of email dated September 3, 2015 is tabulated below:

GDR issue date	No. of GDRs issued	Capital raised (US$ mn.)	Local custodian	No. of equity shares underlying GDRs	Global Depository Bank	Lead Manager	Bank where GDR proceeds deposited	GDRs listed on
20-May-2010	15,38,462	10.00	DBS Bank, Mumbai	4,61,53,860	The Bank of New York Mellon	IKON Capital Limited, UK	EURAM, Austria	Luxembourg Stock Exchange

47. Further, the Company vide letter dated June 22, 2015 had provided the list of subscribers to its GDRs, which is tabulated as under:

Sl. No.	Name of the subscriber	No. of GDRs allotted	Country of subscriber
1	Axinite Inc	1,80,000	United Arab Emirates
2	Cruise Waterford Ltd.	1,46,462	United Kingdom
3	Fort Tropical Ltd.	2,32,000	Indonesia
4	Mediterranean Capital Holdings Corp.	1,60,000	Portugal
5	Scholari Investments Ltd.	2,60,000	South Africa
6	Uranus Global Ltd.	2,50,000	Philippines
7	Victory Pillar Holdings Ltd.	3,10,000	Indonesia
Total		**15,38,462**	

48. I note from the records made available to me that on March 15, 2020 Vintage executed a Loan Agreement No. K150310-001with EURAM Bank by which EURAM Bank agreed to make available a loan facility of US$10 Million expressly for subscribing to the GDRs to be issued by Hiran. The said loan agreement was signed by Arun Panchariya (Noticee 3) in the capacity of Managing Director, Vintage.

49. As noted above, on perusal of the Loan Agreement, I note that the following has, inter alia, been mentioned therein –

1. *<u>Currency and the amount of facility</u>:*
   US$10 Million (The amount is exactly the same amount raised by HIran through the said GDR offering.)

2. *<u>Nature and purpose of facility</u>:*
To provide funding enabling Vintage FZE to take down GDR issue of 1,538,462 Luxemburg public offering and may only be transferred to EURAM account nr. 580012, Hiran Orgochem Ltd., (The specific purpose of the loan/ draw down was for the purpose of subscribing to the GDR issue of Hiran 580012 is the client account number of Hiran.)

6. *<u>Security</u>*:
6.1In order to secure all and any of the Bank's claims and entitlements against the Borrower, arising now or in the future out of or in connection with the Loan or any other obligation or liability of the Borrower to the Bank, including without limitation other loans granted in the future , it is hereby irrevocably agreed that the following securities and any other securities which may be required by the Bank from time to time shall be given to the Bank as provided herein or in any other form or manner as may be demanded by the Bank: "
- *Pledge of certain securities held from time to time in the Borrower's account no. 540012 at the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement.*
- *Pledge of the account no. 580012 held with the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement.*

50. From the aforesaid Loan Agreement, I note that Vintage opened a loan account (no., 540012) and had availed of a loan facility to the extent of US$10 Million from EURAM Bank solely for the purpose of subscribing to the GDRs of Hiran. At the same time Hiran opened its account (A/c No. 580012) with EURAM Bank for the purpose of credit of proceeds of GDR Issue. I also note that, on the day (i.e., March 15, 2010) when Vintage had entered into loan agreement with EURAM Bank, as discussed in pre-paragraphs, HIRAN also entered into a pledge agreement as Pledger with EURAM Bank which was signed by the Noticee 2 as the Managing Director of Hiran. By the said pledge agreement, Hiran pledged the proceeds of its GDR issue with EURAM Bank as security for the loan extended by EURAM Bank to Vintage for subscribing to its GDRs.

51. The salient Clauses of the Pledge Agreement inter alia are as under:

1. *<u>The preamble</u>*

"By Loan Agreement K150310-001 (hereinafter referred to as the "Loan Agreement") dated 15 March 2010, the Bank granted a loan (hereinafter referred to as the "Loan") to Vintage FZE, AAH-213, Al Ahamadi House, Jebel Ali Free Trade Zone, Jebel Ali, Dubai, United Arab Emirates (the "Borrower") in the amount of US$10,000,003.00. The Pledgor has received a copy of the Loan Agreement No. K150310-001 and acknowledges and agrees to its terms and conditions."

2. Pledge

2.1 In order to secure any and all obligations, present and future, whether conditional or unconditional of the Borrower towards the Bank under the Loan Agreement and any and all respective amendments thereto and for any and all other current or future claims which the Bank may have against the Borrower in connection with the Loan Agreement- including those limited as to condition or time or not yet due-irrespective of whether such claims have originated from the account relationship, from bill of exchange, guarantees and liabilities assumed by the Borrower or by the Bank, or have otherwise resulted from business relations, or have been assigned in connection therewith to the Bank ("the Obligations")the Pledgor hereby pledges to the Bank the following assets as collateral to the Bank:

2.1.1 all of its rights, title and interest in and to the securities deposited from time to time at present or hereafter (hereinafter referred to as the "Pledged Securities") and the balance of funds up to the amount US$ 10,000,003.00 existing from time to time at present or hereafter on the securities account(s) no. 580012 held with the Bank (hereinafter referred to as the "Pledged Securities Account") and all amounts credited at any particular time therein.

2.1.2 all of its right, title and interest in and to, and the balance of funds existing from time to time at present or hereafter on the account(s) no. 580012 kept by the Bank (hereinafter referred to as the "Pledged Time Deposit Account") and all amounts credited at any particular time therein….

(The pledged Securities Account and the Pledged Time Deposit Account hereinafter referred to as the "Pledged Accounts", the Pledged Securities and the Pledged Accounts hereinafter collectively referred to as "Collateral")

2.2 The Pledger agrees to deposit with the Bank all dividends, interest and other payments, distributions of cash or other property resulting from the Pledged Securities and funds.

2.3 The Bank herewith accepts the pledge established pursuant to section 2.1 hereof."

52. Further, the following condition has been put in the Pledge Agreement for realization of the pledge.

6. <u>Realisation of the Pledge</u>

6.1 In the case that the Borrower fails to make payment on any due amount, or defaults in accordance with the Loan Agreement, the Pledgor herewith grants its express consent and the Bank is entitled to apply the funds in the Pledged Account to settle the Obligations. In such case the Bank shall transfer the funds on the Pledged Accounts, even repeatedly, to an account specified by the Bank.

6.2 Notwithstanding the foregoing, in the case that the Borrower fails to make payment on any due amount, or defaults in providing or increasing security, the Pledger herewith grants its express consent and the Bank is entitled to realize the Pledged Securities (i) at a public auction for those items of Pledged Securities for which no market price is quoted or which are not listed on a recognized stock exchange or (ii) in a private sale pursuant to the provisions of Section 376 Austrian Commercial Code unless the Bank decides to exercise its rights through court proceedings. The Pledger and the Bank agree to realize those items of the Pledged Securities for which a market price is quoted or which are listed on a stock exchange through sale by a broker publicly authorized for such transaction, selected by the Bank.

6.3 The Bank may realize the pledge rather than accepting payments from the Borrower after maturity of the claim if the Bank has reason to believe that the Borrower's payments may be contestable."

53. I note that the Pledge Agreement refers to the Loan Agreement dated March 15, 2010 between the borrower i.e. Vintage and EURAM Bank (Lendor), whereby Vintage was granted a loan of US$10 Million and it is stated that the Pledger i.e. Hiran had received a copy of the said Loan Agreement and had also acknowledged and agreed to the terms and conditions of the said loan agreement. Therefore, I observe that, while signing the Pledge Agreement, Hiran was clearly aware that Vintage had acquired a loan only to subscribe to the GDR issue of Hiran. Further, as the pledge agreement was signed by Noticee 2 on behalf of Hiran, in his capacity as Chairman and Managing Director of Hiran, I note that he had, as clearly mentioned in the Pledge agreement, acknowledged receiving the said loan agreement and agreed to its terms and conditions after perusing the said agreement. On perusal of the contents of the Pledge Agreement, it is noted that HIran had agreed to pledge all its rights, title and interest in and to the securities deposited in the Pledge Securities Account and funds in Pledged Time Deposit Account so as to secure the present and future obligations of Vintage. This arrangement shows that the Noticee 2 i.e Kantilal Hiran had complete knowledge about the subscriber to GDR issue well in advance (March 2010) before the actual GDR issue (May 2010). Despite being fully aware, I note that the Noticee 1 i.e., Hiran and the Noticee 2 being

Managing Director of the Noticee 1 have deliberately misled investigations by submitting a false and fabricated list of subscribers as mentioned at para 47 above. Besides, the Noticees have also withheld such material information to the shareholders / investors regarding the sole subscriber and also pre-arrangement scheme of pledging GDR proceeds and securities to EURAM Bank. Taking into consideration the above findings, I conclude that Noticee 1 and the Noticee 2 acted in deceptive manner and were in complicity with fraudulent scheme of GDR issue whereby gullible investors were induced to falsely believe that GDR was subscribed by genuine investors as against manipulators.

54. I note from the perusal of the Loan agreement entered into by Vintage with EURAM and Pledge agreement entered into by Hiran with EURAM, that both are dated March 15, 2010. I note that the Loan agreement specifies that the Pledge agreement was an integral part of the Loan agreement and as per the preamble of the Pledge agreement; it explicitly mentions that the pledge is being created for the purpose of the loan agreement. These agreements enabled Vintage to avail the loan from EURAM for subscribing GDRs of Hiran Orgochem Ltd., and these arrangements resulted in subscription of GDRs issued by the Company. The GDR issue would not have subscribed had the company not given any such security towards the loan taken by Vintage.

55. I note from the records that GDR proceeds of an amount of US $10,000,003 were credited to the bank account (no., 05800120014) of Hiran with EURAM Bank, Austria on May 20, 2010. It is to be distinctly noted that the same were not available at the disposal of Hiran, since Hiran pledged the GDR proceeds amount to US$ 10 Million with EURAM Bank, as a security for the loan (US$ 10 Million) raised by Vintage for subscribing to the GDRs issued by Hiran.

56. The Details of realization of funds by Hiran out of GDR proceeds of US$ 10.00 million is tabulated below:

(Source: EURAM bank a/c statement)

Date of receipt of funds	Amount of funds received by Hiran Orgochem Ltd. in India (US$)
October 08, 2010	1,000,000.00
October 12, 2010	1,000,000.00

October 14, 2010	1,000,000.00
October 18, 2010	1,000,000.00
October 19, 2010	1,000,000.00
June 17, 2013	95,769.77
Total	**5,095,769.77**

57. It is noted that Hiran signed a Pledge Agreement with EURAM Bank and pledged GDR proceeds of US$10.00 million as collateral against the Loan availed by Vintage. I note that Vintage repaid the loan amount to the extent of US$ 5.07 million in several installments from June 08, 2010 to October 19, 2010 to EURAM Bank. The details of repayment of loan by Vintage, as provided by EURAM Bank are furnished hereunder:

Date	Repayment of loan amount by Vintage (in US$)	Date	Amount of funds transferred from Hiran's EURAM Bank account (in US$)
08/06/2010	13,000.00	-	-
08/07/2010	62,500.00	-	-
08/10/2010	1,000,500.00	08/10/2010	1,000,000.00
12/10/2010	1,000,000.00	12/10/2010	1,000,000.00
14/10/2010	1,000,000.00	14/10/2010	1,000,000.00
18/10/2010	1,000,000.00	18/10/2010	1,000,000.00
19/10/2010	1,000,000.00	19/10/2010	1,000,000.00
-	-	17/06/2013	95,769.77
Total	**5,076,000.00**		**5,095,769.77**

58. On perusal of the Hiran's Bank account and Vintage's loan account statement, I note that Vintage repaid loan amount of US$ 5,076,000 till October 19, 2010 and thereafter defaulted on the loan payment. It is noted from the above table that only after Vintage repaid loan instalments, equal/ less amount of money was transferred from Hiran's EURAM Bank account to Hiran's bank account in India (ICICI Bank account no. 001105011836) on the same day (except on one instance when US$ 0.09 million were transferred without repayment of loan by Vintage on that day). It is evident from the above findings that the amount transferred from Hiran's EURAM Bank account to its bank account in India was dependent on the repayment of the loan by Vintage.

59. In terms of Reserve Bank of India Circular number 52 dated November 23, 2002, the proceeds of the ADR/GDR issue raised abroad shall be repatriated into India

within a period of one month of the closure of the issue. However, it is noted from the above table that the Issuer Company i.e., Hiran after allotting the GDRs to Vintage for US$10 Million, received only 50% of the proceeds i.e., US$ 5 Million during October 8, 2010 to October 19, 2020 and thus repatriated the same (50% of the GDR proceeds) to its account in India after a delay of around 5 months. The remaining proceeds were never received by Hiran from Vintage, which means 50% of the GDRs were issued by Hiran without any consideration.

60. Pursuant to default of repayment of loan by Vintage, EURAM Bank vide letters dated August 21, 2012 and April 11, 2013, informed Hiran that despite multiple demands for repayment of US$ 4,924,003 plus interest of US$ 21,610.9, Vintage has not repaid the outstanding loan amount. Further, vide notice dated April 11, 2013 EURAM Bank informed Hiran that in accordance with the Pledge agreement executed by Hiran, in order to secure the above mentioned loan of US$4,945,613.91 *(inclusive of interest)*, defaulted by Vintage, it would exercise its right and invoke the charge of Hiran's deposit towards repayment of loan defaulted by Hiran.

61. Further, I note from the copy of a letter dated October 31, 2012 sent by Hiran to EURAM Bank which states that:

"… we hereby confirm that the pledge agreement entered into by and between Hiran Orgochem Ltd. and Europran American Investment Bank AG is valid and was duly signed by Hiran Orgochem Ltd.

Further, we confirm the right of European American Investment Bank AG to set off the pledged cash deposit with outstanding loan amount 4924003.00 US$.

As soon as European American Investment Bank AG has exerted its right to set off all remaining GDR's regarding Hiran Orgochem Ltd. (ISIN US4335251025) held in deposit no : 540012 1 E of Alta Vista International FZE with European American Investment Bank AG shall be transferred by European American Investment Bank AG to the following deposit account.

Beneficiary Bank: Habib Bank AG Zurich, Zurich, (account number 20311-333-196205)…"

62. I note from the above communication of Hiran to EURAM Bank that it had consented for invocation of charge on Hiran's deposit with EURAM Bank towards repayment of loan amount of US$4,924,003 defaulted by Vintage. I note that on

account of default on repayment of loan obtained by Vintage, GDR proceeds amounting to US$ 4.95 million were set off by EURAM Bank on May 27, 2013, which is evidenced from the bank statement of Hiran and thereby Hiran did not receive the consideration for 50% of the GDR issue. In this connection, it is pertinent to note that SEBI vide letter dated October 10, 2016 sought the information from Swiss Financial Market Supervisory Authority (FINMA) inter alia regarding the GDRs received by Habib Bank, whether GDRs were received on behalf of client of Habib Bank and KYC of such client. I note that Habib Bank has not responded to SEBI's request

63. Thus, I note that out of the GDR proceeds of US$10 million, Hiran received US$5.09 million only and the balance proceeds of US$ 4.95, which was defaulted by Vintage, was paid by Hiran to EURAM Bank from the proceeds of the Company i.e., Noticee 1. Thus, I note that 50% of the underlying shares of the GDRs were issued without proper consideration, by Hiran.

64. The company reported to the stock exchange (BSE) on May 21, 2010 that, "… the Board of Directors of the Company at its meeting held on May 21, 2010, inter alia, has considered and approved allotment of 15,38,462 GDRs representing 46153860 underlying Equity Shares of face value of ₹ 10/ each at an offer price of US $ 6.50 per GDR..", which might have made investors believe that the said GDR issue was genuinely subscribed. This announcement neither mentioned nor indicated that the GDRs were allotted to, or subscribed by, a single entity on the basis of pledge of GDR proceeds and rather it tends to give a message to the market that there was considerable demand for its GDR in the overseas market and the same were successfully subscribed. From the aforesaid findings, it is an established fact that Company did not receive total GDR consideration, whereas it was shown as fully subscribed from public point of view and later on writing off the same clearly indicates that company was fully aware of the scheme of manipulation. I, thus, find that the corporate announcement made by Hiran on May 21, 2010, regarding allotment of GDR issues was distorted and might have mislead the investors and/ or created a false impression in the minds of the investors that the GDR issue was fully subscribed whereas the Hiran itself had facilitated subscription of its GDR issue

wherein the subscriber (Vintage) obtained loan from EURAM Bank for subscribing the GDR issue of Hiran, and Hiran secured that loan by pledging the GDR proceeds with the EURAM Bank.

65. Further, I note that Hiran furnished wrong information to SEBI by providing false list of GDR subscribers, whereas from the above findings it remains a fact that GDRs issued by Hiran on May 20, 2010 were fully subscribed by only one entity i.e., Vintage as against the 7 entities as claimed by the Company, which I consider a deliberate attempt to mislead the inquiry, which indicates the mala-fide intention of the Company.

66. I note that had Hiran not given security for the loan taken by Vintage, Vintage would not have got finance to subscribe to GDR's, consequently the GDR issue would not have been successful as Vintage was the only allottee to the issue. Further, the circular movement of funds starting from the source of funds to repayment of loan through invoking the Pledge agreement clearly establishes that 50% of GDRs were allocated to Vintage free of cost. Thus, I conclude that Hiran had devised a fraudulent, deceptive and manipulative scheme of GDR Issue and created GDRs without actually receiving any consideration for the same. Further, given that Hiran was connected to Vintage well before the issue of GDR, it corroborates that Hiran had deliberately and carefully planned and executed the fraudulent, deceptive and manipulative scheme of GDR issues as mentioned above.

67. In this regard, I note that the facts of the present matter and the modus operandi employed in the present GDR issue are similar to facts and modus operandi in the GDR issue of Cals Refineries Ltd. wherein the Hon'ble SAT vide its order dated October 12, 2017 has made the following observations:

"In these circumstances, the conclusion drawn by SEBI that opening a bank account with Banco and executing the Account Charge Agreement were the acts done by Cals through its directors to finance Honor for subscribing the GDRs issued by Cals in gross violation of Section 77(2) of the Companies Act, 1956 and the provisions contained in the SEBI Act and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 ('PFUTP Regulations' for convenience), cannot be faulted."

68. In this regard it is also pertinent to mention that with regard to the subscription of GDR issues of certain other listed Indian companies through the aforesaid modus operandi viz., involving arrangement of Loan Agreement and Pledge Agreement, the Hon'ble SAT in its Order dated October 25, 2016 in Appeal No. 126 of 2013 in the matter of Pan Asia Advisors Limited vs. SEBI had observed:

"28.... there can be no dispute that the GDR subscription amounts running into several million US $ were not available to the issuer companies till the loan taken by Vintage for subscribing to GDRs were repaid to EURAM Bank. Admittedly, the loans were repaid by Vintage after a long period of time. Therefore, in the facts of present case, findings recorded by SEBI that in reality there was no fund movement after the GDRs were subscribed, cannot be faulted."

69. In view of the discussions and observations made in the preceding paragraphs, I find that the entire scheme created by the Company starting with passing of the impugned Board Resolution, followed by entering into Pledge agreement so as to permit use of its GDR proceeds as a security against a loan taken by Vintage from the same Bank (i.e., EURAM), making an announcement on May 21, 2010 that the GDRs have been successfully allotted and then not disclosing to the Public about the said impugned Board Resolutions, and the details of Pledge agreement, which reveal the Company's blatant commitment to secure the loan obligation of its GDR subscriber etc., have cumulatively succeeded in misleading as well as inducing the susceptible investors at large. Such a scheme and arrangement has in it, all the ingredients that comprise a fraudulent activity in the Securities Market. In view of the above, I hold that by its acts of concealing and suppressing vital material facts about execution of the Loan and Pledge agreements, the Noticee Company has committed a fraudulent act upon its own existing Shareholders and also upon all the investors of the Securities Market who might have been induced to deal in the shares of the Company due to the artificially created positive outlook about the Company's performance. Under the circumstances, the above stated acts of the Company, such as indulging in a fraudulent scheme for GDR issuance as discussed above and concealing material information from the knowledge of the shareholder and overall engaging in such trade practices as highlighted in my fingings in the preceding

paragraphs, are bound to be held to be in violation of provisions of Section 12A(a), (b), (c) of the SEBI Act read with Regulations 3(a),(b),(c),(d), 4(1),4(2)(f),(k),(r) of SEBI (PFUTP) Regulations by the Noticee 1.

70. I note that during the investigation period, the Noticee 2 (Kantilal Hiran) was Chairman and Managing Director of Hiran Orgochem Ltd., i.e., Noticee 1. I note from the records that the Noticee 2 had signed all the documents while opening of bank account with EURAM Bank, entering into Pledge agreement with EURAM Bank, which acted as a security to the loan availed by Vintage for subscription of GDRs. It is thus evident that Noticee 2 had full knowledge of the manipulative scheme and therefore was involved at all stages relating to issuance of GDRs, arrangement of Loan to Vintage, by signing various documents / agreement necessary for the purpose.

71. In this connection, the observation of the Hon'ble Supreme Court in the matter of N Narayanan Vs. Adjudicating Officer, SEBI in Civil Appeal Nos., 4112-4113 of 2013 (Order dated April 26, 2013) is worth mentioning, which reads as under.

> *"SEBI, the market regulator, has to deal sternly with companies and their Directors indulging in manipulative and deceptive devices, insider trading etc. or else they will be failing in their duty to promote orderly and healthy growth of the Securities market. Economic offence, people of this country should know, is a serious crime which, if not properly dealt with, as it should be, will affect not only country's economic growth, but also slow the inflow of foreign investment by genuine investors and also casts a slur on India's securities market. Message should go that our country will not tolerate "market abuse" and that we are governed by the "Rule of Law". Fraud, deceit, artificiality, SEBI should ensure, have no place in the securities market of this country and „market security" is our motto. People with power and money and in management of the companies, unfortunately often command more respect in our society than the subscribers and investors in their companies. Companies are thriving with investors' contributions but they are a divided lot. SEBI has, therefore, a duty to protect investors individual and collective, against opportunistic behaviour of Directors and Insiders of the listed companies so as to safeguard market's integrity"*.

72. In view of the above findings and in view of the ratio laid down by the Hon'ble SAT in its above Order, I conclude that the Noticee 2 i.e., Kantilal Hiran, Chairman and Managing Director of Hiran Orgochem Ltd., was directly involved

and therefore it can be said beyond reasonable doubt that he had conceived and executed the deceptive and manipulative scheme, which is in violation of the provisions of Section 12A(a), (b), (c) of the SEBI Act read with Regulations 3(a),(b),(c),(d) and 4(1) of SEBI (PFUTP) Regulations.

73. The Noticee 2 in his submissions stated that the Company i.e., Hiran Orgochem Ltd., (Noticee 1) is under liquidation and an Official Liquidator has been appointed by the High Court to wind up the Company and therefore requested to squash the proceedings initiated against the Noticee 1. In this connection, I would like to dwell upon the legal provisions governing the proceedings in respect of the Companies which are under liquidation. I note that in terms of Section 446 (1) of the Companies Act, 1956, *"when a winding up Order has been made or the Official Liquidator has been appointed as provisional liquidator, no suit or other legal proceedings shall be commenced or if pending at the date of the winding up Order, shall be proceeded with, against the Company, except by leave of the Tribunal and subject to such terms as the Tribunal may impose".*

74. I note that Adjudication proceedings is a proceeding to adjudicate / assess whether a person has violated the provisions under the SEBI Laws and the assessment of the amount of penalty to be imposed on the person, if found guilty. However, recover proceedings for failure to pay penalty would fall under *"other legal proceedings"* as stipulated in Section 446 (1) of the Companies Act, 1956. This distinction between assessment and recovery proceedings has be laid down in various Courts including the Hon'ble Supreme Court in the case of *S V Kondaskar Vs. V M Deshpande (AIR 1972 SC 878)*, wherein the Income Tax Officer was of the view that it does not need to take the leave of the Court for assessing the company. The Hon'ble Supreme Court held that:

"That fact that after the amount of tax payable by an assessee has been determined or quantified its realization from a Company in liquidation is governed by the Act because the Income Tax payable also being a debt has to rank pari passu with other debts due from the Company does not mean that the assessment proceedings for computing the amount of tax must be held to be such other legal proceedings as can only be started or continued with the leave of the liquidation court under Section 446 of the Act. The Liquidation Court, in our opinion, cannot perform the functions of Income Tax Officers while assessing

the amount of tax payable by the assessees even if the assessee be the company which is being wound up by the Court. The orders made by the Income Tax Officer in the course of assessment or re-assessment proceedings are subject to appeal to the higher hierarchy under the Income Tax Act. There are also provisions for reference to the High Court and for appeals from the decisions of the High Court to the Supreme Court and then there are provisions for revision by the Commissioner of Income Tax".

"The language of Section446 must be son construed as to eliminate such startling consequences as investing the winding up court with the powers of an Income Tax Officer conferred on him by the Income Tax Act, because in our view the legislature could not have intended such a result".

Further, it was held that "The argument that the proceedings for assessment or reassessment of a Company which is being wound up can only be started or continued with the leave of the liquidator court is also, on the scheme of both of the Act and of the Income Tax Act, unacceptable. We have not been shown any principle on which the liquidation court should be vested with the power to stop assessment proceedings for determining the amount of tax payable by the company which is being wound up. The liquidator court would have full powers to scrutinize the claim of the revenue after Income Tax has been determined and its payment demanded from the Liquidator. It would be open to the liquidation court then to decide how far under the Law, the amount of Income Tax determined by the Department should be accepted as a lawful liability on the funds of the Company in liquidation".

75. In line with the ratio laid down by the Hon'ble Apex Court, I am of the view that the aforesaid principle will apply with respect to Adjudication proceedings as it is for the Adjudicating Officer to assess / determine whether a person has violated the SEBI Laws and the amount of penalty that is to be imposed The powers to adjudicate under the SEBI Act has been vested with the Adjudicating Officer. Therefore, as rightfully decided by the Hon'ble Apex Court, the liquidation court would have full power to scrutinize the claim of the revenue after the income tax (in this case penalty) has been determined and its payment is demanded from the Liquidator.

76. Further, reliance is placed on the Order of the Hon'ble Calcutta High Court in the matter of Official Liquidator, HC Vs CIT (WB) {AIR 197 Cal 349}, wherein it was held that the leave of the Court is necessary by the Department in respect of any

recovery proceedings and no leave of Court is necessary by the Department in respect of any assessment proceedings of the Company.

77. In view of the above, I am of the view that the provisions of Section 446 of the Companies Act, 1956 would apply to recovery proceedings only and not to Adjudication proceedings. Therefore, I am not inclined to take into consideration the request made by the Noticee to quash the proceedings against the Company, since it is under liquidation. Further, I deem it appropriate to mention here that the Notices sent to the Noticee 2 on January 19, 2018 and February 2, 2018 requiring the Noticee to furnish reply to the charges alleged in the SCN and to appear for personal hearing, was also marked to the Official Liquidator, High Court of Bombay. However, I note that no response has been received from the Official Liquidator in this regard.

78. The Noticee 2 in his submissions sought certain documents which have been relied upon while preparing SCN to enable me to submit my reply to the same. In this regard, I note that the allegations against the Noticee are clearly delineated in the SCN and all the relevant documents that have been relied upon in the SCN have been provided to the Noticees as enclosures to the SCN and it is the Noticees' responsibility to defend his case by referring to the documents on which SEBI has relied upon in the SCN. The documents provided to the Noticee along with the SCN are tabulated hereunder:

Annexure No.	Particulars	No. of pages
1.	Copy of shareholding details of Hiren Orgochem Limited	04
2.	Copy of corporate announcements by Hiren	04
3.	Copy of letter of Hiren Orgochem Limited dated June 22, 2015	25
4.	email dated September 03, 2015 from DBS Bank	03
4A	copy of page no. 53 of offering circular of Hiran Orgochem Ltd. evidencing use of proceeds	01
5A	Copy of Loan Agreement No. K150310-001	08
5B	Copy of Pledge Agreement	06
5C	Copy of Escrow agreement	15
5D	Copy of Hiran Orgochem Ltd.'s retail bank account no. 580012 statement	07
5E	Copy of Vintage's loan account no 540012 statement	03
5F	Copy of Escrow Account no 580012 Statement	01
6	Copy of Know Your Customer documents (signed on June 06, 2007) of Vintage, available with EURAM Bank	02

7	Copy of Vintage's redemption of loan amount request (signed by Mr. Mukesh Chauradiya) for GDR issue of Hiran	07
8	Copy of the details of the Vintage's repayment of loan to the extent of US$ 5.07 million	09
9	Copy of certified copy of board resolution dated October 31, 2009 of Hiran Orgochem Ltd. (signed by Mr. Kantilal Hiran)	02
10	Copy of the corporate announcements made by Hiran on stock exchange (BSE) for the period from March-June 2010, evidencing the non-information about Pledge Agreement	02
11	Copy of Mr. Kantilal Hiran's statement	06
11A	Copy of the relevant page no. 7 of Annual Report of FY 2012-13	01
12	Copy of a letter dated October 31, 2012 sent by Hiran to EURAM Bank	03
13	Copy of the letters dated August 21, 2012, April 11, 2013 and May 28, 2013	06
14	Copy of the relevant pages (page no. 10 and 15) of Annual Report of FY 2013-14	02
15	Copy of Hiran's emails dated March 11, 2016 providing copy of GPCB's closure notice	06
16	Copy of the relevant page (page no. 7, 28 and 37) of Annual Report of FY 2012-13	03
17	Copy of emails dated May 12, 2016, in respect of AGM/ Board meeting agenda, resolution and minutes/ resolution regarding write off by Hiran	05
18	Copy of corporate announcement made to Stock Exchange on May 31, 2013	01
19	Copy of the relevant pages (FY 2013-14 page no. 15 and FY 2014-15 page no. 31)	02
20	Copy of the CSSF Luxembourg letter dated December 01, 2015	04
21	Copy of the page no. 51 of Annual Report of Hiran for FY 2014-15	01
22	Copy of the corporate announcements made by Hiran on BSE during the period April 03, 2014 till April 30, 2014	01
23	Details of GDR transactions as submitted by EURAM Bank	03
24	Copy of the custodian DBS Bank email dated August 22, 2015 and January 05, 2017	05
25	Copy of email dated November 26, 2015 received from Division of Foreign Portfolio Investors & Custodians	02
26	e-mail dated April 29, 2016 from Highblue Sky Emerging Market Fund	06
27	Copy of letter dated September 15, 2016 and e-mail dated September 22, 2016	14
28	NSDL's email dated March 01, 2016 and January 05, 2017	12
29	BSE's email dated February 25, 2017	03
30	Copy of the termination notice available on The Bank of New York Mellon's website	02
31	Custodian DBS Bank's email dated January 05, 2017	02
32	Copy of Administrative Fine Statement	04
33	Documents in respect of Pan Asia Advisors Ltd. had joint venture with EURAM Bank namely EURAM Bank Asia Limited	08
34	Copy of MCA documents indicating details of directors / owners connected to Mr Arun Panchariya	14
35	Highblue Sky's emails dated March 02, 2016 and April 29, 2016 providing details of its shareholders and directors	07

36	KBC Aldini emails dated May 02, 2016 and April 28, 2016 submitting its directorship and shareholder details	12
37	India Focus Cardinal Fund letter dated April 02, 2012 and Arun Panchariya's email dated July 12, 2010 evidencing AP's connection with India Focus and Cardinal Capital	06
38	Copy of Pan Asia Advisor's letter dated February 25, 2016 from OIA, SEBI and letter dated February 20, 2012, evidencing Arun Panchariya's beneficial ownership in Pan Asia	20
39	Copy of the KYC documents received from ICICI Bank vide email dated November 27, 2015 and information obtained through Google search	07
40	India Focus Cardinal Fund's account opening form with EURAM Bank showing Reema Narayan Shetty as authorized signatory of India Focus Cardinal Fund	09
41	DBS bank email dated September 03, 2015 providing conversion details of several scrips (Southern Ispat, Syncom , Vikash Metal, Texmo Pipes, Bhoruka, Sybly, Birla Cotsyn) showing conversion by Highblue Sky Emerging Market Fund	09
42	Securities transactions (GDR transactions) provided by EURAM Bank showing receipt of GDRs by India Focus Cardinal Fund from Vintage for several scrips (through letter dated January 22, 2016)	11
43	DFPI&C SEBI email dated November 30, 2015 evidencing India Focus Cardinal Fund was only sub account registered with EURAM Bank	01
44	ICICI Bank email dated December 01, 2015 and March 16, 2016 evidencing nil investment by FIIs EURAM Bank, KBC Aldini capital, Vaibhav Investments (Golden Cliff) and Cardinal Capital Partners	01
45	Hiran AR (FY 2010-11 page no. 4 and FY 2011-12 page no. 3, FY 2012-13 page no. 5 and FY 2013-14 page no. 10) for cash and cash equivalent amount	04
46	Hiran AR (FY 2010-11 page no.. 20-23, FY 2011-12 page no. 28 and 37) for cash and cash equivalent amount which included cash with EURAM Bank	06
47	Hiran AR (FY 2010-11 page no. 28, FY 2011-12 page no. 43) evidencing non provision of contingent liability for amount lying with EURAM Bank which was pledged against the Vintage's loan	02

79. In this regard, I note that Hon'ble SAT, in its order dated February 12, 2020, in the matter of Shruti Vora vs. SEBI had made the following observations:

"Reliance was also made of a decision of the Supreme Court in Union of India and Others vs E. Bashyan (1988) 2 SCC 196 which has no bearing to the controversy involved in the present context, in as much as, the said decision relates to a disciplinary proceedings wherein the Supreme Court observed that the inquiry report was required to be made available to the delinquent. An inquiry report is totally distinct and different from an investigation report. The inquiry report considers all the materials in the inquiry proceedings which form the basis of the final order and therefore the said report is required to be made available to the delinquent. In the instant case, the show cause notice relies upon certain documents which have been made available. Thus the investigation report is not required to be supplied".

“The learned counsel has also placed reliance upon a minority view of this Tribunal in Price Waterhouse vs Securities and Exchange Board of India decided by this Tribunal in Appeal No. 8 of 2011 on June 1, 2011 wherein it was observed that fairness demands that the entire material collected during the course of investigation should be made available for inspection to the person whose conduct was in question and that said material should also be supplied. In our opinion, the said minority view is directly against the decision of the Supreme Court in Natwar Singh case (supra)”.

“A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. 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.”

80. In view of the above, since all the documents which were relevant and relied upon in the instant proceedings as mentioned in pre-paragraph 78, have been provided to the Noticee along with the SCN, I am of the opinion that principles of natural justice have been duly complied with in the instant proceedings. Therefore, I do not find that the interest of the Noticees has been prejudiced in any manner, and the Noticee has not explained as to how its interest is getting prejudiced by not having a copy of the investigation report when the charges/allegations along with documents in support of the show cause have been clearly spelt out in the SCN and the detailed facts on the basis of which those charges have been framed are already contained in the SCN and the annexures enclosed to the said SCN. Under the circumstances, I find the Noticee’s objection on the ground of non-receipt of investigation report is frivolous and unfounded, hence reject the same.

81. It was alleged in the SCN that the Noticee 3 i.e., Arun Panchariya *(hereinafter referred to as “AP” / “Noticee 3”),* in connivance with the Noticee 1 and other connected entities, devised fraudulent GDR scheme and committed fraud right from the stage of subscription of GDRs and to the sale of converted shares to the Indian investors. I note that according to an Administrative Fine Statement

available on Dubai Financial Services Authority (DFSA) website, AP held positions with Pan Asia Advisors Ltd. (now known as Global Finance and Capital Ltd.), Vintage (now known as Alta Vista International FZE) and India Focus Cardinal Fund (Mauritius). A brief summary of connection/ association of AP with various entities as brought out in the investigation are tabulated below.

(Source: MCA database, custodian DBS Bank and foreign regulators)

Sl. No.	Name of the entity	Connection/association of AP with entity
1	Vintage FZE (now known as Alta Vista International FZE)	AP was Managing Director as on May 05, 2010 as well as beneficial owner
2	India Focus Cardinal Fund (IFCF)	AP was director from August 22, 2008 to October 28, 2010, Investment Officer (100% shareholder) and beneficial owner
3	Cardinal Capital Partners Limited	AP was beneficial owner and 100% shareholder
4	EURAM Bank, Austria	AP connected Pan Asia Advisors Ltd. had joint venture with EURAM Bank namely EURAM Bank Asia Limited.
5	EURAM Bank Asia Limited	AP was director and president (resigned on September 22, 2011)
6	Mr. Mukesh Chauradiya	AP was beneficial owner of Vintage FZE in which Mr. Mukesh Chauradiya served as Managing Director and director. In Ramsai Investment Holdings Private Limited, where AP was holding 99.98% shares (for the period 2009-2013) and was director for the period from February 04, 2008 to August 18, 2010 wherein Mr. Mukesh Chauradiya was director in the same company (first appointment from February 04, 2008 and second appointment from August 17, 2010 till March 17, 2016).
7	Mr. Anant Kailash Chandra Sharma	AP and Mr. Anant Kailash Chandra Sharma were directors in Sai Sant Advisory (India) Private Limited: AP-August 31, 2007 to October 20, 2010 Anant Kailash Chandra Sharma-December 01, 2009 till March 18, 2016. AP's brother Mr. Satish Ramswaroop Panchariya is promoter of Alka India Limited. Anant Kailash Chandra Sharma is also additional director in Alka India Limited since December 01, 2009 till date. AP's brother Mr. Satish Ramswaroop Panchariya and Mr. Ashosk Ramswaroop Panchariya are directors in Alka India Limited since October 05, 2011 and April 29, 2005 respectively, till date.

8	Highblue Sky Emerging Market Fund	Mr. Anant Kailash Chandra Sharma is director and beneficial owner of Highblue Sky Emerging Market Fund (since September 09, 2014 till date). Mr. Anant Kailash Chandra Sharma is connected to AP.
9	Golden Cliff (previously known as Vaibhav Investments Limited)	Mr. Anant Kailash Chandra Sharma is director and 100% beneficial owner (since September 09, 2014 till date)) of Golden Cliff. Anant Kailash Chandra Sharma is connected to AP. Reema Narayan Shetty was director and 100% beneficial owner (from September 12, 2013 till September 09, 2014)) of Golden Cliff. She was authorized signatory for the bank account of AP connected entity India Focus Cardinal Fund which was maintained with EURAM Bank Austria.
10	KBC Aldini Capital Ltd	Mr. Daniel Baumslag was director of KBC Aldini Capital (till September 27, 2011) and Highblue Sky Emerging Market Fund (from March 05, 2010 to June 14, 2011). Mr. Daniel Baumslag was 100% shareholder of Highblue Sky Emerging Market Fund (from March 05, 2010 to June 14, 2011). Mr. Anant Kailash Chandra Sharma is connected to AP and Anant is beneficial owner and director of Highblue Sky Emerging Market Fund since April 21, 2014 till date of the investigation.

82. Now, I would like to deal with the basis of connection of AP with other entities, which were involved in the process of issue of GDRs by Hiran. I note from the letter dated February 20, 2012 addressed to SEBI by Pan Asia Advisors Ltd., that Arun Panchariya was the Promoter / Director of Pan Asia Advisors Ltd., holding 100% shareholding and his period of directorship was from April 24, 2006 to September 29, 2011. I note from the information sourced from EURAM Bank through Financial Market Authority, Austria vide emails dated March 03, 2016, March 01, 2016, February 15, 2016 and information available on Dubai International Financial Centre (DIFC) website, Pan Asia Advisors Ltd., had a joint venture with the EURAM Bank namely EURAM Bank Asia Ltd., which was incorporated on August 23, 2009 and dissolved on December 30, 2013. It is pertinent to note that AP was Director and President in EURAM Bank Asia Ltd., and resigned from the posts on September 22, 2011. Further, I note from the account opening form of Vintage with EURAM Bank (Account No. 540012) dated June 6, 2007, AP was the Director and ultimate Beneficial Owner of Vintage. It is also noted that on behalf of Vintage, the Loan agreement for an amount of US$ 10 Million for subscribing to the GDRs of Hiran was executed by AP in the capacity of Managing Director. I also note from the Pledge agreement entered

into between Hiran and EURAM Bank, in the capacity of Director, EURAM Bank Asia Ltd., AP signed the document with the remarks *“signature verified”.*

83. From the above connections, it is evident that Pan Asia Advisors Ltd., was owned by AP, which had a joint venture with EURAM Bank Asia Ltd., in which he was a Director and President and in such capacity had signed on the Pledge agreement executed by Hiran with EURAM Bank, certifying the credentials. It is also evident that AP owned Vintage.

84. From the aforesaid facts, it is evident that through his Company i.e., Vintage, AP subscribed to the GDRs of Hiran by obtaining loan from EURAM Bank, where his Company (Pan Asia Advisors Ltd.,) had joint venture with EURAM Bank Asia Ltd., by ensuring that the Issuer Company i.e., Hiran enters into Pledge Agreement with EURAM Bank for pledging the proceeds of GDRs for securing the loan. In a nutshell, to put it in simple words, well before the start of GDR issue process, the Borrower, Lender and Subscriber for securing the proceeds of GDRs issued by Hiran were pre-decided as all entities involved were connected or controlled by AP. Thus, based on the chronology, timing, pattern of transactions, I am of the view that AP had meticulously conceived and executed fraudulent and deceptive schemes by involving a wide network of entities under his control registered and located at various locations across the Globe. Such network of entities along with control over the bank, borrower and FII / Sub account loudly indicates that he had well established and tested machinery to execute such schemes to various Indian Companies which were looking to raise capital in foreign jurisdiction for better standing or credibility in the eyes of investors. The flare of mastery over such schemes can also be inferred from the terms of loan agreement and restrictive conditions included regarding pledge of GDR proceeds and simultaneous pledge agreement to forfeit the GDR process in case of loan default by vintage. In fact, on a plain reading of loan agreement entered prior to issue of GDRs, when seen in conjunction with the actual events, it can be reasonably concluded that entire scheme was designed only to deceive the Indian investors by taking away money from Indian Markets, through sale of GDRs converted shares and routing such proceeds through AP connected

entities then to Hiren, only to give a colour of subscription by genuine foreign investors.

85. Thus, instead of ensuring that the foreign investors subscribed to the GDRs of Hiran, AP as Managing Director of Vintage planned to get the entire GDR subscribed by one entity i.e vintage, controlled and owned by AP. In fact AP as Managing Director of Vintage took a loan of US$10 Million from EURAM Bank for subscribing to the GDRs of Hiran. It is surprising to note that such transactions are clearly with conflict of interest and also tantamount to loan given to self. Such an arrangement was structured dauntingly by AP as he was certain that Hiran would agree to pledge to the EURAM Bank the entire GDR subscription amount of US$10 Million as security for the loan taken by Vintage. I am of the view that AP managing to get such terms, as mentioned above, signed by Hiren hints at the strong possibility that AP was in command as genuine rational dealings demands that terms would be as per the Company raising capital and not in the nature where entire GDR proceeds are pledged as security for the subscriber. The absence of rationality in transaction clearly suggests that such structured and crafted arrangements were not genuine and meant for other purposes. Thus, such arrangements on one hand restricted Hiren from getting the GDR proceeds immediately upon conclusion of GDRs while on other hand freely allowed allotment of GDRs to Vintage as GDRs was fully subscribed on paper. The modus operandi of GDR conversions, sale of shares and repayment of loan have been detailed in following paras. Consequent upon full subscription of GDR as mentioned above, investors in India were made to believe that in the global market Hiran has acquired a high reputation in terms of investment potential and hence the foreign investors have fully subscribed to the GDRs, whereas GDRs were subscribed by AP through Vintage which was wholly owned by AP. In other words, AP by virtue of his control over Vintage and having connection with EURAM Bank attempted to mislead the investors in India that the GDRs have been subscribed by genuine foreign investors. I note that any attempt to mislead the investors in India constitutes fraud on the investors under the SEBI (PFUTP) Regulations. Thus, AP was the root cause in creating an artificial impression that the GDRs have been subscribed by foreign investors

when in fact GDRs were purchased by AP through Vintage. Such an act is clearly prohibited under the SEBI (PFUTP) Regulations.

86. It was also alleged in the SCN that pursuant to subscription of GDRs in a fraudulent manner, Vintage transferred GDRs to FIIs/Sub-accounts (India Focus Cardinal Fund and HighblueSky Emerging Market Fund), which were also controlled by AP and who in turn converted GDRs into underlying equity shares of the Hiran from the domestic custodian bank in India and sold the said shares on the Stock Exchanges in India.

87. I would like to deal with the basis of connection of AP entities who were involved, post subscription of GDRs. I note from the table of connection mentioned in Para 81 above that EURAM Bank was also registered as Foreign Institutional Investor (FII) in India with SEBI (during the period November 21, 2008 to November 20, 2011) and India Focus Cardinal Fund *(hereinafter referred to as "IFCF")* was registered as a sub–account (during the period December 12, 2008 to July 19, 2011) of EURAM Bank. I note from the records that except India Focus Cardinal Fund, no other sub account was registered with EURAM Bank. Further, I also note that IFCF was registered as a sub-account of Cardinal Capital Partners Ltd., *(hereinafter referred to as "CCPL")* during July 20, 2011 and June 19, 2017 an FII registered with SEBI (during the period June 22, 2011 and June 19, 2017). I note from the letter dated September 15, 2016 received from Financial Service Commission, Maruitius, that CCPL was the management shareholder of IFCF since August 26, 2008, wherein AP was the beneficial owner (100% shareholding) and one of the Directors of IFCF (100% shareholding) from August 22, 2008 till October 28, 2010. I also note from the above communique that AP was the Chief Operating Officer of CCPL. Further, I note from the Administrative Fine Statement issued by Dubai Financial Services Authority (DFSA) in respect of Arun Panchariya (Licensed Director), DFSA Number 1002975 that AP became a Director of CCPL on August 22, 2008 and remains a Director. From the above, it is evident that AP had control over EURAM Bank and CCPL, both FIIs registered with SEBI besides having control over its sub-accounts viz., IFCF and thus it is concluded that these entities are connected to AP. It is pertinent to

note that both IFCF and CCPL were incorporated on August 22, 2008 in Mauritius.

88. As regards Highblue Sky Emerging Market Fund [previously known as KBC Aldini Capital (Mauritius) Ltd.] *(henceforth referred to as "HBSEMF"),* I note that it was registered as sub-account under FII-KBC Aldini Capital Ltd., during the period June 18, 2010 to October 21, 2012 and thereafter the sub account was transferred to FII-Golden Cliff [previously known as Vaibhav Investments Ltd.,] *(henceforth referred to as "GC")* for the period October 22, 2012 to February 28, 2017. I also note that HBSEMF and GC were incorporated on March 5, 2010 and June 25, 2007 respectively in Mauritius.

89. On perusal of the KYC documents of Highblue Sky Emerging Market Fund obtained from ICICI Bank Ltd., vide email dated November 27, 2015, it is noted that HBSEMF was having registered address at – *C/o AURISS INTERNATIONAL LTD, 2ND FLOOR, WING A, CYBERTOWER 1, EBENE, CYBERCITY EBENE, MAURITIUS*. The email address therein mentioned was fundadmin@aurisse.com and contact number as +2304640077. However, as per SEBI's records, HBSEMF has mentioned it's email id as saleem@aurisse.com Further, the investigation found from the search made on Google that Aurisse International Limited is based out of Mauritius and it was earlier known as Al Jabha (Mauritius) Ltd., and Mr. Mukesh Chauradiya was Director and CFO of the Aurisse International Limited in 2011. Further, from the website Aurisse International Ltd., it is observed that it shares common address and contact number with that of HBSEMF.

90. I note from the email dated March 2, 2016 received from HBSEMF that Golden Cliff *(which was earlier known as Vaibhav Investments Ltd.,)* is 100% shareholder of HBSEMF since April 21, 2014. The summary of connection of Mr. Anant Kailash Chandra Sharma with Golden Cliff and HBSEMF as per the information provided by HBSEMF vide emails dated March 2, 2016 and April 29, 2016 is tabulated below:

Connection with Highblue Sky Emerging Market Fund (HBSEMF)		**Connection with Golden Cliff GC)**	
1.	Director since August 11, 2014 till date	1.	Director since July 16, 2014

2.	Beneficial owner (100% shareholder) since September 09,2014 (by virtue of being beneficial owner of Golden Cliff since September 09, 2014 which in turn is beneficial owner of Highblue Sky Emerging Market Fund since April 21, 2014) till date	2.	Beneficial owner (100% shareholder) since September 09, 2014 till date

91. I note from the above table that Mr. Anant Kailash Chandra Sharma was Director of HBSEMF since August 11, 2014 and also beneficial owner (100% shareholding) of HBSEMF since September 9, 2014 (*by virtue of being beneficial owner of GC since September 9, 2014)* which in turn beneficial owner of HBSEMF since April 21, 2014. Further, I also note that Mr. Anant Kailash Chandra Sharma was Director of GC since July 16, 2014 and also beneficial owner (100% shareholding) since September 9, 2014. Further, I note from the information available on the Ministry of Corporate Affairs (MCA) website that Mr. Anant Kailash Chandra and AP are connected to each other as both were Directors in Sai Sant Advisory (India) Private Limited during a common period. Mr. Anant Kailash Chandra Sharma was Director from December 01, 2009 to March 18, 2016 and AP was Director from August 31, 2007 to October 20, 2010.

92. Upon examination of the Account Opening Form of IFCF available with EURAM Bank, it is observed that Reema Narayan Shetty was Authorized Signatory of IFCF for the bank account held with EURAM Bank Austria as on June 02, 2011. The summary of connection of Reema Narayan Shetty with HBSEMF and Golden Cliff as per the information provided by HBSEMF vide emails dated March 2, 2016 and April 29, 2016 is tabulated below.

Connection with Golden Cliff (GC)		**Connection with Highblue Sky Emerging Market Fund (HBSEMF)**	
1.	Director from May 16, 2013 to August 01, 2014	1.	Beneficial owner (100% shareholder) from April 21, 2014 to September 09, 2014 (by virtue of being beneficial owner of Golden Cliff which in turn is beneficial owner of Highblue Sky Emerging Market Fund)
2.	Beneficial owner (100% shareholder) from September 12, 2013 to September 09, 2014		

93. I note from the above table that Reema Narayan Shetty was Director in GC from May 16, 2013 to August 1, 2015 and 100% beneficial owner of GC from September 12, 2013 till September 09, 2014. I also note from the above table that Reema Narayan Shetty was beneficial owner of HBSEMF (100%

shareholding) from April 21, 2014 to September 9, 2014, by virtue of being beneficial owner of GC which in turn was beneficial owner of HBSEMF.

94. Thus, from the above connections it is evident that Mr. Anant Kailash Chandra Sharma who worked with AP, and Reema Narayan Shetty who worked with AP connected entity (India Focus Cardinal Fund), are associated with HBSEMF as beneficial owners.

95. Further, I note that Mr. Anant Kailash Chandra Sharma and Mr. Mukesh Chauradiya are also connected to each other. Mr. Anant Kailash Chandra Sharma served as Additional Director of Alka India Limited (from December 01, 2009 till date) and Mr. Mukesh Chauradiya served as director of Alka India Limited from January 31, 2006 till June 01, 2010. It is pertinent to note from the Administrative Fine Statement of DFSA in respect of AP, that AP was Director of Alka India Ltd., *(listed company in India)* from January 9, 1994 to January 11, 2001. I note from the shareholding pattern filed by Alka India Ltd., with BSE that AP is one of the Promoters of Alka India Ltd., Further, from the MCA records, I note that in Ramsai Investment Holdings Private Limited, Mr. Mukesh Chauradiya and Mr. Anant Kailash Chandra Sharma served as Director from August 17, 2010 to March 17, 2016 and from September 01, 2015 to March 18, 2016 respectively. I further note that AP was 99.98% shareholder in Ramsai Investment Holdings Private Limited (for the period 2009-2013) and Director from February 04, 2008 to August 18, 2010. From the above basis of connections, it is evident that HBSEM is connected to the AP since its beneficial owners are connected to AP/ his connected entities.

96. I note form the details of GDR transactions provided by EURAM Bank, out of the 15,38,462 GDRs of Hiran, acquired by Vintage on May 20, 2010, Vintage had transferred 11,55,000 GDRs to IFCF, the details of which are furnished hereunder:

Date of transaction	**No., of GDRs received by IFCF from Vintage**
02/06/2010	1,75,000
22/09/2010	1,25,000
23/09/2010	2,80,000
24/09/2010	80,000

14/10/2010	50,000
10/11/2010	25,000
11/11/2010	90,000
02/12/2010	60,000
06/12/2010	1,20,000
14/12/2010	1,50,000
Total	**11,55,000**

97. I note from the above table that pursuant to acquiring GDRs on May 20, 2010, Vintage had started transferring the GDRs to IFCF from two weeks thereon. I note that there is no evidence on record to suggest that the GDRs were being actually sold to IFCF. Even if it is assumed there was any consideration, the same cannot be considered as genuine since Vintage and IFCF are connected entities of AP. Therefore movement of funds if any would merely be book entries to disturb the audit trail. Given the common connection between them, the preponderance of probability strongly indicates that the transfer of GDRs to IFCF by Vintage was made as part of the fraudulent scheme of AP to offload shares to gullible investors in India Securities Markets after conversion of GDR into equity shares. Further, I am of the view that AP had craftily orchestrated the scheme of manipulation through a web of various connected entities which operated outside Indian Jurisdiction in order to make the audit trail of money and transfer of GDR complex and onerous.

98. Further, I note from the email dated April 29, 2016 received from HBSEMF that it had converted 4,83,589 GDRs of Hiran and provided the details of purchase of GDRs, which are furnished hereunder:

Date	No. of GDRs	Name of the counterparty	Type of transaction
10-Jul-13	141,243	Mauritius Commercial Bank	Purchase of GDRs
06-Nov-13	242,346	Habib Bank AG Zurich	Purchase of GDRs
23-Jul-14	396,757	Mauritius Commercial Bank	Purchase of GDRs
03-Jun-15	-296,757	Ambrus Value Fund Ltd	GDRs Redemption (in Kind)
05-Jun-15	141,116	Aries Capital Fund	GDR Subscription (in kind)
Total	**6,24,705**		

99. It is to be noted that the issuance of GDRs is from the authorised share capital of a company listed in Indian stock exchanges and that the underlying security of the GDRs are Indian securities and the two–way fungibility scheme for GDRs

allows for conversion of GDRs in Indian market and vice versa. Conversion of GDRs into equity share is termed as cancellation of GDRs.

100. It is established that all GDRs issued by Hiran were subscribed by Vintage alone and pursuant to which the GDRs were transferred to the FIIs/Sub-accounts of entities connected to AP, who converted it into equity shares and these shares were sold in the Indian Capital Market. The details of GDRs converted into equity shares by IFCF and HBSEMF, as per the email dated August 22, 2015 and January 5, 2017 furnished by DBS Bank, Custodian, are furnished hereunder:

Date of conversion of GDRs	No. of GDRs converted	No. of equity shares issued on conversion of GDRs	No. of outstanding GDRs	No., of outstanding shares	Entity becoming holder of equity shares post conversion of GDRs
28-Jun-10	80,000	24,00,000	14,58,462	4,37,53,860	India Focus Cardinal Fund (IFCF) DPID: IN301348 (ICICI Bank) Client ID: 20016866
16-Jul-10	30,000	9,00,000	14,28,462	4,28,53,860	
23-Sep-10	65,000	19,50,000	13,63,462	4,09,03,860	
24-Sep-10	1,53,000	45,90,000	12,10,462	3,63,13,860	
27-Sep-10	72,000	21,60,000	11,38,462	3,41,53,860	
29-Sep-10	85,000	25,50,000	10,53,462	3,16,03,860	
4-Oct-10	50,000	15,00,000	10,03,462	3,01,03,860	
4-Nov-10	32,000	9,60,000	9,71,462	2,91,43,860	
16-Nov-10	50,000	15,00,000	9,21,462	2,76,43,860	
17-Jul-13	1,00,000	30,00,000	8,21,462	2,46,43,860	Highblue Sky Emerging Market Fund (HBSEMF) DPID: IN301348 (ICICI Bank) Client ID: 20018819
7-Nov-13	41,243	12,37,290	7,80,219	2,34,06,570	
13-Nov-13	1,00,000	30,00,000	6,80,219	2,04,06,570	
10-Dec-13	75,000	22,50,000	6,05,219	1,81,56,570	
8-Jan-14	67,346	20,20,380	5,37,873	1,61,36,190	
30-Jul-14	1,00,000	30,00,000	**4,37,873**	**1,31,36,190**	
Total	**11,00,589**	**3,30,17,670**			

101. From the above table, I note that out of the 15,38,462 GDRs issued by Hiran, 11,00,589 GDRs i.e., 71.54% of the total GDRs were converted into the underlying equity shares of 3,30,17,670 by IFCF and HBSEMF. I also note that conversion GDRs started within 1 and half months from the date of issuance of GDRs. I also note that IFCF had converted 6,17,000 GDRs for 1,85,10,000 underlying shares and HBSEMF converted 4,83,589 GDRs into 1,45,07,670 underlying shares, of Hiran. Further, It can be inferred from above tabe that balance of 4,37,874 GDRs representing 1,31,36,190 underlying shares of Hiran, were not converted.

102. I note from the email received from DBS Bank Custodian, dated September 3, 2015, that post conversion of GDRs, the underlying equity shares were transferred to the respective beneficiary's accounts of IFCF and HBSEMF as mentioned in the above table at para number 100 above, on the same day when the GDRs were converted into equity shares by the aforementioned 2 entities.

103. The investigation found that IFCF and HBSEMF further sold the 3,00,17,670 converted equity shares (which they received post cancellation of GDRs) in Indian securities market on BSE. I note from the BSE email dated February 25, 2016, the details of sale transactions carried out by IFCF and HBSEMF in the scrip of Hiran, post conversion of GDRs, are furnished hereunder:

Trades of IFCF on BSE

Trade date	No., of share sold	Value of shares in ₹
05-07-2010	3,00,000	30,00,924.33
06-07-2010	1,00,000	10,00,000.00
07-07-2010	2,00,000	20,00,000.00
12-07-2010	2,00,000	20,40,000.00
13-07-2010	2,00,000	19,80,012.00
19-07-2010	2,00,000	19,22,398.36
06-08-2010	1,00,000	10,03,045.95
20-09-2010	1,00,000	10,00,573.95
22-09-2010	18,20,000	1,90,42,085.26
23-09-2010	18,20,000	2,19,14,008.62
24-09-2010	34,30,000	4,54,55,203.68
27-09-2010	20,83,520	2,55,06,155.84
29-09-2010	9,49,801	1,09,28,402.32
29-09-2010	6,23,661	71,75,389.66
05-10-2010	26,878	4,20,668.69
03-11-2010	9,36,488	1,03,90,458.06
11-11-2010	5,00,000	55,01,012.63
12-11-2010	6,50,000	67,52,963.56
13-05-2011	4,92,716	25,37,537.17
02-06-2011	4,00,000	17,60,010.01
09-10-2012	45,643	76,223.81
10-10-2012	636	1,049.40
11-10-2012	27,682	41,821.80
12-10-2012	43,989	63,128.57
17-10-2012	2,00,000	2,68,557.01
19-10-2012	2,00,000	2,50,304.52
23-10-2012	3,02,501	3,48,760.77
25-10-2012	2,40,000	2,61,600.00
30-10-2012	79,000	85,448.01

05-11-2012	61,001	70,151.15
07-11-2012	2,00,000	2,26,184.00
08-11-2012	50,000	56,000.00
20-11-2012	2,92,150	3,03,837.49
11-12-2012	85,000	88,461.70
12-12-2012	2,00,000	2,00,000.00
14-12-2012	2,42,203	2,34,291.43
18-12-2012	1,35,000	1,21,500.00
26-12-2012	2,00,000	1,82,093.29
27-12-2012	67,383	67,383.00
28-12-2012	21,362	21,362.00
31-12-2012	2,018	2,018.00
02-01-2013	1,63,005	1,58,114.85
03-01-2013	5,738	5,680.62
04-01-2013	61,063	60,452.37
07-01-2013	4,51,022	3,95,230.73
22-01-2013	540	469.80
Total	**1,85,10,000**	**17,49,20,974.41**

Trades of HBSEMF on BSE

Trade date	No., of share sold	Value of shares in ₹
18-07-2013	39,805	27,863.80
31-10-2013	5,75,812	4,60,649.60
01-11-2013	11,27,769	9,58,603.65
03-11-2013	2,11,000	1,72,471.09
05-11-2013	10,00,000	7,22,314.80
08-11-2013	12,50,000	6,74,711.80
21-11-2013	1,22,950	57,786.50
22-11-2013	2,64,219	1,21,351.19
25-11-2013	92,020	41,409.00
02-12-2013	5,60,000	2,52,000.00
30-12-2013	2,16,369	1,14,675.57
31-12-2013	83,112	45,711.60
01-01-2014	5,00,000	2,85,000.00
02-01-2014	5,00,000	2,89,975.00
03-01-2014	5,00,000	2,95,000.00
23-04-2014	19,60,000	10,97,600.00
08-05-2014	24,50,000	14,28,215.30
22-05-2014	54,614	33,314.54
Total	**1,15,07,670**	**70,78,653.44**

104. From the above table, I note that post conversion of GDRs, IFCF started selling 1,85,10,000 converted shares, from July 6, 2010 i.e., within 8 days from the date of conversion of GDRs and by January 22, 2013, it had sold all converted

shares for a sale consideration of ₹17,49,20,974.40. Further, I note that HBSEMF had also sold 1,15,07,670 shares out of the 1,45,07,670 converted shares for sale consideration of ₹70,78,653.44.

105. A brief summary of sell trades of IFCF and HBSEMF on BSE is placed below:

Name of entity	No. of shares sold on BSE	Trade value on BSE (INR)
India Focus Cardinal Fund	1,85,10,000	17,49,20,974.40
Highblue Sky Emerging Market Fund	1,15,07,670	70,78,653.44
Total	**3,00,17,670**	**18,19,99,627.80**

106. From the above findings, I note that out of the 15,38,462 GDRs subscribed by Vintage, 11,55,000 GDRs were transferred to IFCF, pursuant to which IFCF had converted 11,00,589 GDRs into 3,00,17,670 underlying shares of Hiran. Thereafter, AP through his connected entities off-loaded 3,00,17,670 underlying shares of GDRs to Indian investors for an amount of ₹18,19,99,627.80 during the period July 05, 2010 to May 22, 2014. I note that The Bank of New York Mellon (Global Custodian) issued Termination Notice to holders of GDRs of Hiran on March 16, 2015 and the facility was terminated w.e.f. June 15, 2015. Post termination of the GDR program, I note that no sale of shares of Hiran took place in the market.

107. I note that Hiren had allotted 15,38,462 GDRs (4,61,53,860 underlying shares) to Vintage for a total consideration of $10 Million. Out of the total Loan of $10 Million (which is also GDR proceeds) taken from EURAM Bank for subscribing to GDRs of Hiren, Vintage repaid 50% of the loan (i.e., US$5 Million out of US$10 Million) and balance 50% of loan was forfeited from the GDR proceeds by EURAM Bank. Thus, it is apparent from records that Hiren had actually received only $5 Million as against the total GDR amount of $ 10 Million. In the absence of flow of entire proceeds of GDR to Hiren, it can be inferred that only 50% of total GDRs of 15,38,462 is fully subscribed i.e 7,69,231 GDRs and balance of 50% of GDRs i.e. 7,69,231 GDR (2,30,76,930 underlying shares) can be said to be in circulation without any consideration i.e. free of cost. Further such free GDRs

were at the disposal of Vintage i.e., 7,69,231 GDRs representing 2,30,76,930 shares. Whereas, from the above findings it is established that AP through his connected entities off-loaded 3,00,17,670 shares, representing 11,00,589 GDRs. Thus, I conclude that AP connected entities have sold 11,00,589 GDRs (after conversion into underlying shares) which also includes 7,69,231 GDRs. I am of the view that since the GDRs were procured free of cost, corresponding sale consideration of such shares should be considered ill-gotten gains.

108. In order to quantify the ill-gotten gains, I take note of that AP connected entities have sold 3,00,17,670 shares in Indian Markets which can be said to be money taken away from Indian investors as shares were sold in Indian Markets and gullible investors have paid for such sale consideration on BSE. Further, I also note that AP being 100% beneficial owner of India Focus Cardinal Fund, entire sale consideration of ₹ 17,49,20,974 pursuant to sale of 1,85,10,000 shares (representing 6,17,000 GDRs) in Indian Markets can be said to have been cornered by AP directly. Similarly, Highblue Emerging Market Fund being connected to AP, It can be said that entire sale consideration of ₹ 70,78,653 pursuant to sale of 1,15,07,670 shares (representing 3,83,589 GDRs) in Indian Markets are ill gotten, at the cost of indian investors. Thus, I conclude that total ill gotten gains made by AP is ₹ 18,19,99,627 i.e ₹17,49,20,974 directly and ₹ 70,78,653 indirectly as they are illegal proceeds made out of conversion of 7,69,231 GDRs acquired without consideration, as mentioned in above paras. Such ill-gotten gains were made at the cost of unsuspecting Indian investors who bought shares on the news that Hiren has successfully raised money from foreign investors. I am of the view that any attempt made by any entity to deceive investors and enrich at their cost cannot be ignored and should be dealt firmly in the interest of markets and investors.

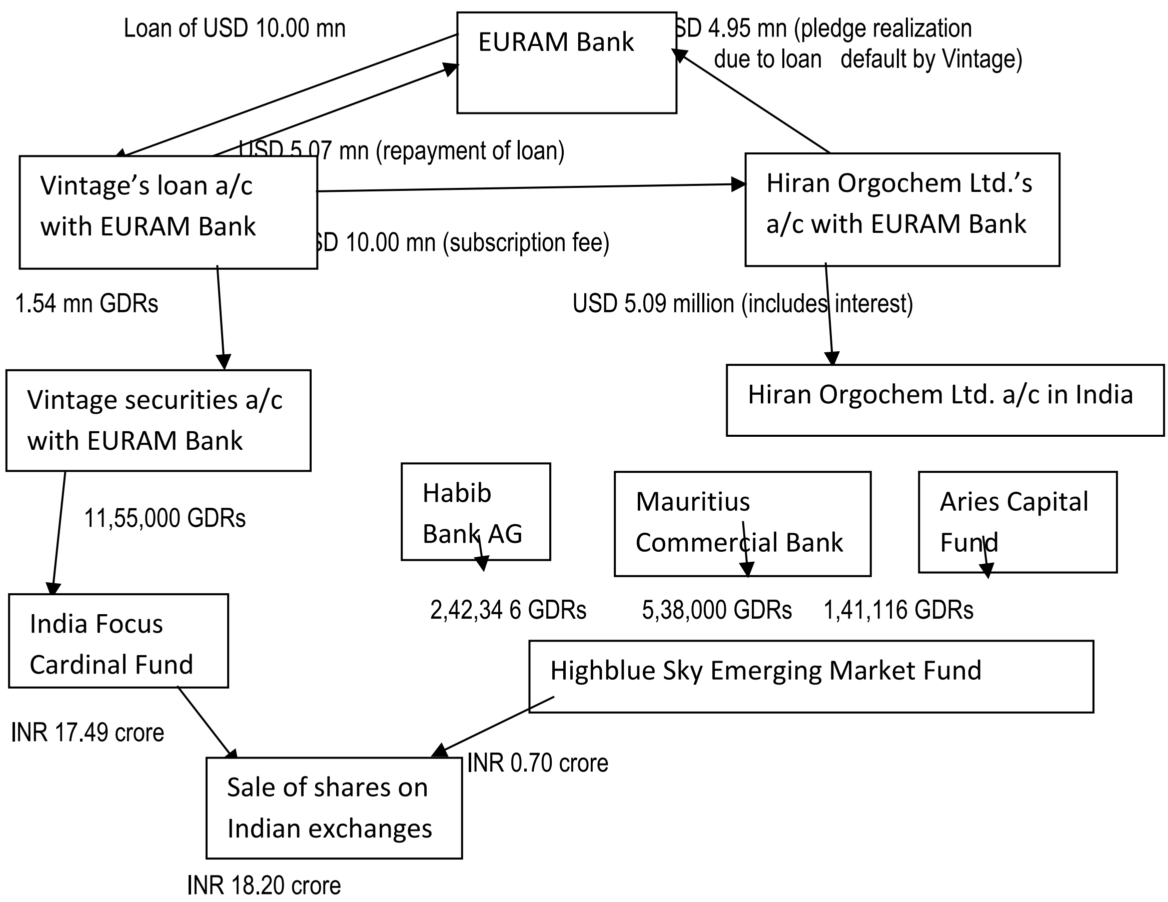
109. It is important to note that immediately after subscribing to the GDRs, Vintage (controlled by AP) transferred GDRs to FIIs/sub accounts such as IFCF & HBSEMF which were also controlled by AP. Thereafter, IFCF & HBSEMF admittedly converted GDRs into underlying equity shares of Hiran from the domestic custodian bank in India (i.e., DBS Bank) and sold the said shares on the Stock Exchanges in India. Thus, at every stage of the GDR issue i.e. from

the stage of issuing GDRs, subscribing to the GDRs, transferring the GDRs to FII/sub-accounts *(connected to AP)* for conversion of GDRs into equity shares and subsequent sales of shares through the FII/Sub-accounts connected to him on Stock Exchanges in India, AP was involved. In other words, apart from making it artificially appear that GDRs have been subscribed by foreign investors when in fact the GDRs were subscribed by AP through Vintage, AP ensured that the GDRs were transferred by Vintage to the entities controlled by AP and further ensured that the equity shares generated on conversion of GDRs were acquired by the entities with which AP was connected. It is a matter of record that 71.54% of GDRs were converted into the underlying equity shares of 3,30,17,670 and out of which 3,00,17,670 shares were sold (i.e., 90.19% of total converted shares) and thereby AP made ill-gotten gain of ₹18,19,99,627.80 through his connected entities on the Indian Stock Exchange (i.e., BSE). It is apparent that the modus operandi adopted by AP was not only to create an artificial impression that the GDRs have been subscribed by foreign investors, but also to create an impression that after the GDR issue, investors in India have started subscribing to the shares of issuer companies when in fact the shares were sold by the entities controlled by AP. In these circumstances at every stage of the GDR issue, I conclude that the acts committed by AP constituted fraud on the investors in India.

110. Investment in domestic companies by foreign institutional investors is considered to be positive news. Further, the availability of US$ 10 million for the future business expansion further enhances the trust of investors in the company Hiran. The Indian investors may invest in such companies with high percentage of holding by FIIs/Sub-accounts, despite them being less liquid, since companies with high FII holdings are generally considered more valuable as FIIs are expected to be sophisticated investors. An investment by FIIs in a low priced low volume company may generate false hopes to the investors of a possible turnaround in the financial health of the company. In these circumstances, I note that the Indian investors are ignorant of full market information regarding pre-arrangement for subscription of GDRs and subsequent sale of underlying shares. The victims of the events that are played out, as described in pre-paragraphs are therefore the Indian investors who end up holding shares of

companies that are injected with an artificial value due to the misleading acts of AP and at prices that impart virtually no value. Therefore, I conclude that the scheme articulated, structured and executed by AP constitutes fraud on the Indian investors.

111. The issuance of Hiran's GDRs, flow of funds and subsequent sale of shares is shown diagrammatically below:



112. I note that fraud in the present case is committed on the investors in India, in two stages. Firstly, AP in connivance with the Issuer Company (i.e., Hiran) subscribed to their GDRs through Vintage which was wholly owned by him by obtaining loan from EURAM Bank (connected entity), for which the proceeds of GDRs were pledged by Hiran by executing a Pledge agreement with EURAM Bank. Thus, the investors in India were falsely made to believe that the foreign investors have shown keen interest in the scrip of Hiran when in fact the GDRs were not subscribed by foreign investors but by AP through Vintage, which was wholly owned by AP. Secondly, the GDRs so acquired were then transferred to

IFCF & HBSEMF (entities controlled by AP), who then converted the GDRs into underlying shares and sold the said shares in the Indian securities market and made ill-gotten gain of ₹18,19,99,627.80. In the entire process, AP was the sole beneficiary who made an ill-gotten gain of around ₹18.20 crores. These transactions gave an impression that the investors in India have started subscribing to the shares of Hiran when in fact the shares were sold by the entities controlled by AP and thereby made unlawful gain.

113. It is noted that GDRs finally resulted in substantial conversion and selling of the underlying shares in the Indian securities market. GDR derives its existence from securities listed in Indian Stock markets. The issuance of GDRs are from the authorised share capital (falling under the jurisdiction of SEBI and other Indian regulators) of a company listed in Indian Stock Exchanges. Any structuring or manipulation related to GDRs has a direct impact on the stocks of the companies trading in Indian market. In view of the flawless collaborative evidence as brought out in the instant Order, I conclude that AP was the key person who committed fraud at every stage of the GDR process to the ultimate detriment of investors in Indian securities market, which had acted as an inducement for other persons to offer to buy the shares of Hiran in the Indian securities market.

114. In this context, I further find it proper to refer to the observations of Hon'ble Supreme Court of India dated July 6, 2015 in the matter of SEBI vs PAN Asia Advisors Ltd & anr., (2015) 14 SCC 71 wherein Hon'ble Supreme Court, while dealing with issue of GDR by way of a similar arrangement of Loan and Pledge Agreement, have observed the following:

"the most relevant fact which is to be borne in mind is that the existence of GDRs is always dependent upon the extent of underlying ordinary shares lying with the Domestic Custodian Bank…………….. ….that for creation of GDRs which can be traded only at the global level, the issuing company should have developed a reputation at a level where the marketability of its investment creation potential will have a demand at the hands of the foreign investors. Simultaneously, having regard to the development of the issuing company in the market and the confidence built up with the investors both internally as well as at global level, the issuing company's desire to raise foreign funds by creating GDRs should have the appreciation of investors for them to develop a keen

interest to invest in such GDRs. Mere desire to raise foreign investments without any scope for the issuing company to develop a market demand for its GDRs by increasing the share capital for that purpose is not the underlying basis for creation of GDRs………. To put it differently, by artificial creation of global level investment operation, either the issuing company on its own or with the aid of its lead Manager cannot attempt to make it appear as though there is scope for trading GDRs at the global level while in reality there is none…."

115. Further, I find it appropriate to refer to the Order of the Hon'ble SAT dated February 5, 2020 in the matter of Jindal Cotex Ltd., Vs SEBI (*Appeal No. 376 of 2019)*, wherein Tribunal held as under:

"We do not agree with the submissions made by the learned counsel for the appellants. This Tribunal had passed a number of orders relating to manipulations and fraudulent behaviour from the part of a few companies and several connected entities including Vintage. EURAM Bank has also been one of the entities found to be part of those transactions. Such judgements include PAN Asia Advisors Limited and Anr. vs. SEBI (Appeal No. 126 of 2013 decided on 25.10.2016) and Cals Refineries Limited vs. SEBI (Appeal No. 04 of 2014 decided on 12.10.2017). The modus operandi adopted in all such cases have been similar i.e. the subscriber to the GDR issue (Vintage here) taking a loan from a foreign bank/ investment bank (EURAM Bank here) enabled by a Pledge Agreement signed between the issuer company (JCL here) and the loaner bank. This arrangement itself vitiates the entire issue of GDR as it is through an artificial arrangement supported by the company itself which enables the subscription to the GDR. Therefore, the contention in the order that it is a fraudulent scheme created by the appellants along with some other entities cannot be faulted. In this context, it is relevant to note that in our order in the matter of PAN Asia Advisors Limited (Supra) (Lead Manager) and Vintage (subscriber) whose beneficial owner was Arun Panchariya were all found to be guilty of the violations of Indian Securities Laws under the PFUTP Regulations, 2003. The same has been the modus operandi in respect of Cals Refineries Limited (Supra) though the entities connected therein were different."

116. In view of the above findings and in line with the ratio laid down by the Hon'ble Supreme Court and Hon'ble SAT, I conclude that the Noticee 3 i.e., Arun Panchariya who was the key person in articulating, devising, structuring and executing the deceptive and manipulative scheme of GDR issue by Hiran had violated the provisions of Section 12A(a), (b), (c) of the SEBI Act read with Regulations 3(a),(b),(c),(d) and 4(1) of SEBI (PFUTP) Regulations.

117. The Noticee 3 i.e., AP in his submissions submitted that he had challenged the Hon'ble Tribunal Order dated October 25, 2016 and its review Order dated February 15, 2017 before the Hon'ble Supreme Court of India – C.A. No. 009526/2017 and which is yet pending, as on date and accordingly the matter is sub-judice. I note from the records that there has been no stay granted by the Hon'ble Supreme Court on the Orders of the Hon'ble SAT dated October 25, 2016 & February 15, 2017 and also I find that there is any stay on the initiation / continuation of the instant Adjudication proceedings from any Court of Law. Therefore, I am not inclined to keep the instant proceedings in abeyance.

118. It has been alleged in the SCN that the Noticee 4 i.e., Mukesh Chauradiya, close associate of AP, in the capacity of Managing Director of Vintage, collaborated with AP, Hiran and Vintage and performed the role assigned to him and thus acted as party to the fraudulent scheme.

119. I note from the basis of connections of AP connected entities as tabulated in Para 81 above that Mukesh Chauradiya (Noticee 4) was closely associated with AP, as he was shown Managing Director / Director of Vintage, in which AP was the Beneficial Owner. Further, I note that the Noticee was an Authorized Signatory of Vintage and he signed redemption of loan amount request of Vintage to EURAM Bank in the instant matter. I also note that the Noticee 4 was a Director in Ramsai Investment Holdings Private Ltd., wherein AP was Director in the same company and was holding 99.98% shares. It is pertinent to note that the Noticee 4 is also connected with one Mr. Anant Kailash Chandra Sharma (beneficial owner of HBSEMF & GC – AP connected entities) who served as Additional Director of Alka India Ltd., (from December 01, 2009 till date), wherein Mukesh Chauradiya also served as Director of Alka India Ltd., from January 31, 2006 till June 01, 2010. In this connection, it is relevant to note that Alka India Ltd., is promoted by AP. From these connections, it is clearly established that the Noticee 4 (Mukesh Chauradiya) was close associate of Noticee 3 (Arun Panchariya).

120. Further, I also note that the Noticee 4 signed a Loan Agreement dated March 22, 2011 on behalf of Vintage in the capacity of its Managing Director for obtaining

loan for subscription of GDRs issued by Vikash Metal and Power Ltd., From the aforesaid records, during the relevant time, I note that he was Managing Director of the Vintage when Vintage defaulted on the repayment of loan availed by Vintage for subscription of GDRs of Hiran. I also take into cognizance of the Loan Agreement dated February 14, 2011 executed by the Noticee 4 as Managing Director of Vintage for subscription of GDRs issued by Rasoya Proteins Ltd., I note that vide letter dated July 26, 2016 Comissão do Mercado de Valores Mobiliários (CMVM), Portugal Regulator, provided copy of deposit account opening form and Account Charge Agreement available with Banco Efisa (a bank based out of Portugal where Visu International Ltd., GDR proceeds were deposited) for the GDR issue of Visu International Ltd., On perusal of the above documents I note that the Noticee 4 signed the Account Charge Agreement in the capacity of Authorized Signatory of Visu International Ltd., (listed company based in India) and he was shown as General Manager of Visu International Ltd., in the deposit account opening form.

121. It is pertinent to note that in the matter of issuance of GDRs by Rasoya Proteins Ltd., SEBI vide ad interim ex-parte order dated September 24, 2014 restrained Mukesh Chauradiya (Noticee 4) from accessing the securities market and further prohibited from buying, selling or dealing in securities or any instrument exchangeable or convertible into securities, directly or indirectly, in any manner whatsoever, till further directions. I note that the aforesaid directions were confirmed vide order dated March 23, 2015.

122. Further, in the matter of issuance of GDRs by Visu International Ltd., SEBI vide Order dated February 14, 2020 restrained Mukesh Chauradiya (Noticee 4) from accessing the securities market and further prohibited from buying, selling or dealing in securities or any instrument exchangeable or convertible into securities, directly or indirectly for one year.

123. From the above, it is clear that the Noticee 4 dealt in several GDR issues with AP and acted as party to fraud in collaboration with AP, AP connected entities, by being Authorised Signatory to an Indian Listed Company (Visu International) to execute Pledge agreement, Managing Director of Vintage to execute Loan agreements with Vikash Metal & Rasoya Proteins (Indian Listed Companies) for

securing the GDRs issued by these two companies and Director in Alka India Ltd., (Promoted by AP) & Ramsai Investment Holdings Private Ltd., (almost 100% shareholding by AP) besides being Authorised Signatory in the GDR issue of Hiran. From the above, it is evident that the Noticee 4 was fully aware of the fraudulent plan/arrangement with regard to the subscription of GDRs and thereafter monetizing those GDRs through the sale of underlying shares of the GDRs and thus had acted in a fraudulent and deceptive manner, which is in violation of the provisions of Section 12A(a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a),(b), (c), (d) and 4(1) of SEBI (PFUTP) Regulations, 2003.

124. The Noticee 4 in his submissions contended that he was never been Managing Director of Vintage and to substantiate he had produced various documents which depicts his role as Manager employed with Vintage. On perusal of the documents, at the first blush the contention put forth by the Noticee 4 appears to be justifiable, but on a deeper look, it lacks any substance for the following reasons:

(a) On behalf of Vintage, the Noticee 4 had admittedly executed the loan documents in the capacity of Managing Director, Vintage, with EURAM Bank for subscribing to the GDRs of Rasoya Proteins Ltd., and Vikash Metal & Power Ltd.,

(b) He was Authorised Signatory of Vintage when Vintage had defaulted in repayment of loan to EURAM in the GDR issue of Hiran.

(c) Further, on perusal of the letter dated December 30, 2010 addressed by Vintage to EURAM Bank, I note that Vintage certified the credentials of Mukesh Chauradiya Managing Director of the Vintage. It is pertinent to note that the said letter was signed by Mukesh Chauradiya himself in the capacity of Managing Director of Vintage.

125. Further, the Noticee 4 stated that for the purpose of convenience and for avoiding conflict of interest arisen due to AP being Managing Director of Vintage and Director of EURAM Bank, he had signed various documents in the capacity of Managing Director. However, I note that the Noticee 4 has not produced any evidence or any submission to support that he has actually acted responsibly or that he has raised all pertinent issues before signing all the documents as stated

above for recusing himself that he had signed the documents as Proxy to AP in good faith and confidence. I note that the Noticee 4 by executing the documents as stated above in the capacity of Authorised Signatory/Managing Director of Vintage for the purposes of convenience and to avoid conflict interest, cannot avoid the consequential actions, as he has acted conduit to AP, knowingly fully aware of the fraudulent and deceptive scheme devised by AP. The claim made by the Noticee that he was ignorant of the fraud perpetrated by AP and that was a just a Signatory, is a mere post thought and devoid of merit.

126. The Noticee in his submissions contended that all concerned persons/parties in relation to the GDR issue of Hiran must have been before the concerned authority and deciding the issue of fraud in the absence of all parties allegedly involved in the fraud would be a breach of principle of natural justice. In this regard, I deem it appropriate to refer to the observations of the Hon'ble SAT on the similar contention raised by the Appellants in the matter of Pan Asia Advisors Ltd. vs. SEBI, wherein the Hon'ble SAT that:

> *"Similarly, if fraud is said to have been committed by AP on the investors in India by subscribing to the GDR outside India by entering into Loan Agreement/ Pledge Agreement outside India through the entities with which AP was connected, then, even if the GDRs were validly issued and even if the Loan Agreement/ Pledge Agreement were valid, proceedings could be initiated against AP for committing fraud on the investors in India without impleading the entities who issued the GDRs and without impleading the entities who were parties to the Loan Agreement/ Pledge Agreement. In other words, whether the Loan Agreement/ Pledge Agreement were validly entered into or not, proceedings could be initiated against AP if the very act of AP in subscribing to the GDRs through his connected entities constituted fraud on the investors in India. In such a case, the entities which issued the GDRs viz. Overseas Depository Banks or the entities who were parties to the Loan Agreement/ Pledge Agreement are not required to be impleaded as parties to the proceedings initiated against AP for committing fraud on the investors in India. Therefore, the argument of the appellants that without impleading the Overseas Depository Banks/ parties to Loan Agreement & Pledge Agreement as parties to the proceedings initiated against the appellants, no order could be passed against the appellants cannot be accepted."*

127. Therefore, in light of the above observation of Hon'ble SAT, the contention of the Noticees has no merit and the same cannot be accepted

128. I note that the provisions of Section 12A(a), (b), (c) of the SEBI Act read with Regulations 3(c), (d) of the SEBI (PFUTP) Regulations, inter alia prohibit buying, selling or dealing in securities in a fraudulent manner; employment of any manipulative/deceptive device, scheme or artifice to defraud in connection with dealing in securities; engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with dealing in securities. Further, Regulations 4(1) and 4(2) (f), 4(2) (k), 4(2) (r) of the SEBI (PFUTP) Regulations, inter alia prohibit indulgence in fraudulent and unfair trade practices in securities through various acts, omissions stated therein. In my view, any fraudulent or deceptive device, scheme, act, omission, etc., which has the potential to inter alia induce sale/purchase of securities of any company; influence investment decisions of investors in such company; or result in wrongful gain, etc. would be covered within the prohibition under the aforementioned provisions of law.

129. The Hon'ble SAT in the matter of Pan Asia Advisors Ltd. vs. SEBI, while interpreting the expression of 'fraud' under the PFUTP Regulations, 2003, observed as under:

"From the aforesaid definition (of 'fraud') it is absolutely clear that if a person by his act either directly or indirectly causes the investors in the securities market in India to believe in something which is not true and thereby induces the investors in India to deal in securities, then that person is said to have committed fraud on the investors in India. In such a case, action can be taken under the PFUTP Regulations against the person committing the fraud, irrespective of the fact any investor has actually become a victim of such fraud or not. In other words, under the PFUTP Regulations, SEBI is empowered to take action against any person if his act constitutes fraud on the securities market, even though no investor has actually become a victim of such fraud. In fact, object of framing PFUTP Regulations is to prevent fraud being committed on the investors dealing in the securities market and not to take action only after the investors have become victims of such fraud."

130. In this regard, I note that the Hon'ble Supreme Court in its judgment in the matter of Kanaiyalal Baldevbhai Patel vs. SEBI has also observed as under:

"if Regulation 2(c) of the 2003 Regulations was to be dissected and analysed, it is clear that any act, expression, omission or concealment committed, whether in

a deceitful manner or not, by any person while dealing in securities to induce another person to deal in securities would amount to a fraudulent act. The emphasis in the definition in Regulation 2(c) of the 2003 Regulations is not, therefore, of whether the act, expression, omission or concealment has been committed in a deceitful manner but whether such act, expression, omission or concealment has/had the effect of inducing another person to deal in securities".

131. I note that the Hon'ble Supreme Court in the same judgement, has also observed that *"that the provisions of Regulations 3 (a), (b), (c), (d) and 4(1) of SEBI (PFUTP) Regulations are couched in general terms to cover diverse situations and possibilities. Once a conclusion, that fraud has been committed while dealing in securities, is arrived at, all these provisions get attracted in a situation....".*

132. In this regard, the following observations made by the Hon'ble SAT in matter of V.Natarajan vs. SEBI (Order dated June 29, 2011 in Appeal No.104 of 2011) are worth mentioning:

"... we are satisfied that the provisions of Regulations 3 and 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 were violated. These regulations, among others, prohibit any person from employing 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 an exchange. They also prohibit persons from engaging 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 that are listed on stock exchanges. These regulations also prohibit persons from indulging in a fraudulent or unfair trade practice in securities which includes publishing any information which is not true or which he does not believe to be true. Any advertisement that is misleading or contains information in a distorted manner which may influence the decision of the investors is also an unfair trade practice in securities which is prohibited. The regulations also make it clear that planting false or misleading news which may induce the public for selling or purchasing securities would also come within the ambit of unfair trade practice in securities. ...."

133. Based on evidence on record, I note that all the essential ingredients of fraud as defined in SEBI (PFUTP) Regulations are present in this case. It is noted that Hiran had put in public domain such facts which it does not believe is true and have actively concealed deceptive plan despite being fully aware of the same deceptive scheme. By entering into the Pledge Agreement for facilitating the subscription of its own GDRs, Hiran has played a fraud on the securities market and misled the investors and created a false impression about the Company in the securities market. Hence, I find that, the Noticee 1 i.e., Hiran Orgochem Ltd., has violated the provisions of Section 12 A (a) (b) (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d), 4 (1), 4 (2) (f), (k), (r) of SEBI (PFUTP) Regulations, 2003. Further, I note that the Noticee 2 (Kantilal Hiran) by executing Pledge agreement with EURAM Bank, whereby the proceeds of GDRs were pledged for securing the loan raised by Vintage to subscribe to the GDRs issued by Hiran, had inflicted a fraud on the investors in securities market, which is in violation of the provisions of Section 12 A (a) (b) (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d) and 4 (1) of SEBI (PFUTP) Regulations, 2003. I also note that the Noticee 3 i.e., Arun Panchariya was the key person actively involved in the GDR process of Hiran at every stage and perpetrated fraud on the investors in Indian securities market by way of subscribing to GDRs in fraudulent manner by obtaining loan, defaulting on loan payment, converting GDRs into equity shares and subsequently selling converted shares. Therefore, I find that such acts of the Noticee 3 are in violation of the provisions of Section 12 A (a) (b) (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d) and 4 (1) of SEBI (PFUTP) Regulations, 2003. Further, the Noticee 4 by acting as conduit to AP in furtherance of common intention to defraud the investors had violated the provisions of Section 12 A (a) (b) (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d) and 4 (1) of SEBI (PFUTP) Regulations, 2003

Findings on the alleged violation of the provisions of Section 21 of SCRA by Hiran (Noticee 1)

134. It is important to note that Investors are guided by all disclosures made by the listed company to the Stock Exchange where its shares are listed. Therefore, listed companies should ensure that all disclosures made by it in terms of listing agreement are transparent, true and fair at all times. Any concealment or mis-

representation of facts, which are relevant to investors, will tantamount to engaging a deceptive, fraudulent and manipulative scheme. In terms of Clause 36 (7) of the Listing Agreement, the Company is required to immediately inform the Stock Exchange of all the events, which will have bearing on the performance/operations of the company as well as price sensitive information which inter-alia includes status of ADR / GDR or any other class of securities to be issued abroad.

135. In the instant case, the Noticee 1 being a listed company had pre-arranged subscription of GDRs as per the scheme mentioned above. I note from the corporate announcements made by Noticee during March to June 2010, the Noticee 1 has not informed BSE of entering into Pledge Agreement with EURAM Bank, whereby the GDR proceeds were pledged against the loan availed of by the Vintage for subscription of GDRs of Hiran, which could have an impact on the performance/ operation of the company. Had such back to back agreements not taken place, the GDR issue would not have gone through and thus I note that such arrangements were also price sensitive information. I am of the view that if such information was available in public domain during the relevant time, it would have been materially relevant for investors to make an informed decision. I note that though Hiran was fully aware of such an arrangement, choosing not to disclose the same to BSE clearly brings out the deceptive intent of Hiran. Non-availability of such information in the public domain to that extent during the relevant period had misled investors and therefore affected their interests.

136. It is established from the pre-paragraphs that Hiran signed a Pledge Agreement with EURAM Bank and pledged GDR proceeds as collateral against loan availed by Vintage for an amount of US$10 Million. It can be seen from the pre-paragraphs that Vintage repaid loan amount of US$ 5,076,000 till October 19, 2010 and thereafter defaulted on the loan payment. It is also noted that on May 27, 2013, EURAM Bank adjusted US$ 4,945,613.91 from Hiran’s bank account (where GDR proceeds were deposited) towards loan taken by Vintage, which is evidence from EURAM Bank account of Hiran. However, I note from the Annual reports of Hiran for the financial year 2012-13, wherein Hiran mentioned that US$ 4,945,613 (equivalent to INR 27,50,74,047) with EURAM Bank in retail

account has been seized by the bank on May 27, 2013 to recover as alleged third party loan to Alta Vista International FZE *(earlier known as Vintage)* pursuant to a Pledge Agreement alleged to have been executed by the Company with EURAM Bank. Further, I note that Hiran made a provision of INR 27,50,74,047 for balance seized by EURAM Bank in its annual report for the financial year 2012-13. However, Hiran did not mention the same in its Annual Report for the financial year 2012-13 that it has written off US$ 4,945,613 (equivalent to INR 27,50,74,047).

137. Vide e-mail dated May 12, 2016, Hiran was requested to provide a copy of AGM/ Board meeting agenda, resolution and minutes/ resolution with regard to write-off by Hiran. Vide its e-mail dated May 16, 2016, Hiran provided copy of Board resolution dated May 31, 2013 in which Hiran's Board of Directors approved write off for outstanding deposit lying with EURAM bank amounting to US$ 4,945,613 (equivalent to INR 27,50,74,047). However, I note that Hiran vide the said email submitted that the rest of the documents are not available with it (copy of AGM agenda, voting and resolution for write off). Further, I note that the information of write off was not part of the corporate announcement made to the Stock Exchange on May 31, 2013 about the outcome of the said Board meeting. In view of the above, it is evident that Hiran did not inform stock exchange regarding the write off amounting to US$ 4,945,613 (equivalent to INR 27,50,74,047) which could have impacted on the performance/ operation of the company. I note from the Annual Reports of Hiran for the financial years 2013-14 and 2014-15, wherein the stated that it has filed a case against EURAM Bank. However, I note that Kantilal Hiran Chairman and Managing Director of Hiran upon seeking clarification on case, in his statement dated March 08, 2016 before the Investigating Authority submitted that as per his knowledge till date no case has been filed against any entity in the court in relation to non-receipt of GDR proceeds due to financial crisis. Therefore, it is observed that Hiran concealed the information regarding write off in a corporate announcement made to stock exchange (BSE).

138. Further, I note that GDRs of HIran were listed on Luxembourg Stock Exchange on May 25, 2010 and delisted on April 3, 2014. I note that as on the date of delisting of GDRs, 5,37,873 GDRs were outstanding. However, in the Annual

Report for the financial year 2014-15, Hiran stated that GDRs are listed on Luxembourg Stock Exchange, whereas GDRs were delisted on April 3, 2014 i.e., just 3 days after the commencement of financial year 2014-15. Further, I note from the corporate announcements made by HIran to BSE for the period April 1, 2014 to April 30, 2014, Hiran did not inform BSE about delisting of GDRs on Luxembourg Stock Exchange. I note that Hiran by not informing stock exchange regarding delisting of GDRs is considered to be a deliberate attempt to ensure that such information does not affect the price of the scrip in any way.

139. It is a well laid down policy that, in order to ensure fairness and efficiency in the securities market, two factors generally apply, which are timely disclosures and adequacy of the information disclosed. The objective of continuous disclosures by listed companies is to provide transparency during the lifetime of the listed entity. The disclosures were mandated on listed companies to enable the shareholders and the public to be appraised of the position of the company and to avoid the establishment of a false market in its securities. If a listed company does not make the disclosures on material events, which has bearing on its share price, it would ultimately defeat the purpose of disclosures which are meant for the benefit of investors in taking an informed decision. In the instant case, since the Noticee 1 had not disclosed the pre-arrangement for subscription of GDRs, write-off outstanding deposit lying with EURAM Bank amounting to US$ 4,945,613 (equivalent to INR 27,50,74,047), subsequent delisting of GDRs on Luxembourg Stock Exchange and misrepresentation of facts on listing of GDRs in its Annual Report, I conclude that the Noticee had violated the provisions of Section 21 of SCRA read with Clause 36 (7) of Listing Agreement.

140. In terms of Clause 32 of Listing Agreement, a listed company shall give a Cash Flow Statement along with Balance Sheet and Profit and Loss Account, which shall be prepared in accordance with the Accounting Standard on Cash Flow Statement (AS-3) issued by the Institute of Chartered Accountants of India (AS-3), and that the Cash Flow Statement shall be presented only under the Indirect Method as given in AS-3. I note from the Annual Reports of Hiran for the financial years 2010-11, 2012-13, and 2013-14, it had stated that the Company has followed the applicable accounting standards in the preparation of the

annual reports and there had been no material departure. However, I note from the annual report for the financial year 2010-11, Hiran showed cash and cash equivalent at the end of the period as INR 25.11 crore. However, it is observed that out of INR 25.11 crore, an amount of INR 22.02 crore was lying in the bank account with EURAM Bank which was pledged with EURAM Bank against the loan availed by Vintage as mentioned in the preceding paragraphs. Therefore, the amount of INR 22.02 crore lying in EURAM Bank's account is not cash and cash equivalent as per AS-3. Similarly, for the financial year 2011-12, Hiran had shown cash and cash equivalent at the end of period as INR 27.97 crore (which includes the amount of INR 36.24 lacs issued to various parties). It is observed that out of the INR 27.97 crore, an amount of INR 28.33 crore was lying in the bank account of EURAM Bank which was pledged with EURAM Bank against the loan availed by Vintage as mentioned in the preceding paragraphs. Hence, amount of INR 28.33 crore is not cash and cash equivalent as per AS-3. Therefore, I find that the Noticee by not complying with AS-3 issued by ICAI had violated the provisions of Section 21 of SCRA read with Clause 32 of Listing Agreement.

141. As mentioned in preceding paragraphs, Hiran had pledged its GDR proceeds of US$ 10.00 million against the loan availed of by Vintage for subscription of GDRs of Hiran. I note that could utilize its GDR proceeds only to the extent of amount repaid by Vintage and there was a possible obligation on Hiran for an amount INR 22.02 crore in financial year 2010-11 and INR 28.33 crore in fanatical year 2011-12 (amount kept with EURAM) on the date of balance sheet i.e. June 30, 2011and June 30, 2012 respectively in the event of default of repayment of loan by Vintage which is contingent liability in nature. From the examination of the Annual Report of for the financial year 2010-12, I note that Hiran had not disclosed the amount lying in its EURAM Bank account as contingent liability for amount kept of INR 22.02 crore and INR 28.33 crore in its financial statements for the financial years 2010-11 and 2011-12 respectively, as required under AS-29 issued by ICAI. The objective of this Standard is to ensure that appropriate recognition criteria and measurement bases are applied to provisions and contingent liabilities and that sufficient information is disclosed in the notes to the financial statements to enable users to understand their nature,

timing and amount. The objective of this Standard is also to lay down appropriate accounting for contingent assets. Therefore, I conclude that Hiran by not adhering to the provisions of AS-29 had violated the provisions of Section 21 of SCRA read with Clause 50 of Listing Agreement.

142. I note that AS-1 issued by ICAI provides that an enterprise shall consider prudence, substance over form and materiality as major parameters while preparing its annual financial statements. It is observed that Hiran did not follow prudence since it did not disclose and did not make provision for potential liability, did not follow substance over form and presented its cash balance as free cash available with the company and also did not follow materiality as it did not disclose the fact of signing of Pledge Agreement and pledging of GDR proceeds as the same are items, the knowledge of which might influence the decision of the user of the financial statements. Therefore, I find that the Noticee 1 by not complying with the provisions of AS-1 had violated the provisions of Clause 21 of Listing Agreement read with Clause 50 of Listing Agreement.

ISSUE–II: Does the violation, if any, attract monetary penalty under Section 23E of SCRA and Section 15HA of SEBI Act.?

143. It is established from the above findings that Noticees 1 & 2 had a pre-meditated plan to provide financial assistance by means of pledge of entire GDR subscription proceeds for the purpose of ensuring the issuance and subscription of its GDRs and in turn the underlying equity shares without receiving any consideration at the time of GDR issue. It is also established that the Noticee 3 indulged in employing fraudulent plan/arrangement, device, artifice and contrivance with regard to the subscription of GDRs, creation of underlying shares using the facade of GDR issue, monetizing those GDRs through the sale of underlying shares of the GDRs and inducing and alluring Indian investors to deal in shares of Hiran. I also note that the Noticee 4 had acted as party to the fraud perpetrated on the Indian investors by the Noticee 3. The pre-determined fraudulent and manipulative acts of a few entities damage the integrity of the market. Further, the genuine investors are put at risk because of the fraudulent

artifice employed by the entities as observed in this case. It is also established that the Noticee 1 deliberately flouted the Listing Agreement norms.

144. Therefore, as the alleged violation against the Noticees stands established, the Noticees are liable for monetary penalty under Section 15HA of SEBI Act, the provisions of which are reproduced hereunder:

Section 15HA of SEBI Act - Penalty for fraudulent and unfair trade practices

"If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty five crore rupees or three times the amount of profits made out of such practices, whichever is higher".

145. Further, the Noticee 1 having violated the provisions of Section 21 of SCRA read with Clauses 32, 36 (7) and 50 of Listing Agreement, is liable for monetary penalty under Section 23E of SCRA, the provisions of which are reproduced hereunder:

Section 23E of SCRA - Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds

If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be 115[liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees.

ISSUE-III: If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 23J of SCRA and Section 15J of SEBI Act?

146. While determining the quantum of monetary penalty under Section 23E of SCRA and Section 15HA of SEBI Act, I have considered the factors stipulated in Section 23J of SCRA and Section 15J of SEBI Act, which reads as under:

Section 23J of SCRA and Section 15J SEBI Act - Factors to be taken into account by the Adjudicating Officer

While adjudging quantum of penalty under Section 23-I of SCRA and

Section 15-I of SEBI Act, 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.

147. It is established that the Noticee 3 i.e., Aurn Panchariya devised and structured the GDR issue of Hiran through his connected entities at all stages by ensuring that AP controlled Vintage subscribed to GDR issue by entering into Loan Agreement, AP connected EURAM Bank extended loan to Vintage and made AP controlled India Focus Cardinal Fund its sub account to facilitate off-loading of converted equity shares. I also note that AP connected entities IFCF and HBSMEF cancelled GDRs and off loaded converted shares. It is a matter of record that Hiran wrote off US$ 4.95 million on account of loan default by AP controlled Vintage as Hiran had pledged GDR proceeds against this loan. Further, it is established that from the entire fraudulent scheme, AP through his connected entity Vintage acquired GDRs without consideration, converted them through his connected entities viz., Highblue Sky Emerging Market Fund and India Focus Cardinal Fund, and sold the converted shares pre termination of the GDR program on Indian stock exchanges and enriched himself by INR 18.20 crore, which is an ill-gotten gain at the cost of unsuspecting investors who bought shares of Hiren. Therefore, I note that the ill-gotten gain of INR 18.20 crore made by AP through his connected entities masked as foreign investors is actually a loss inflicted on the shareholders of Hiran and money lost by investors who bought shares when AP connected entities sold share on BSE. It is evident that the shares sold by India Focus Cardinal Fund and Highblue Sky Emerging Market Fund were issued without proper consideration as Vintage defaulted on loan repayment and post realisation of the proceeds upon sale of underlying shares by these two entities, Vintage had repaid 50% of the loan amount i.e., US$ 5 Million.

148. Further, I note that AP perpetrated these fraudulent schemes in connivance with the promoters/ directors of various issuer companies listed in India, wherein AP is found to have been guilty of executing similar modus operandi with the same set of entities connected to him, resulting into Indian investors becoming ultimate bearer of the cost of these GDRs. To put it in nutshell, the issuance of these GDRs was for private gain at the cost of public good.

149. Therefore, I am of the view that, in order to meet the ends of justice, exemplary penalty is warranted against the Noticee 3, given the gravity of fraudulent scheme devised and executed in Indian Markets which affected the integrity of markets. Therefore, in terms of Section 15HA of the SEBI Act, the maximum penalty i.e., three times of the profit made or ₹25 crores, whichever is higher, is appropriate, to be imposed on the Noticee 3. In above paras, I arrived at the amount of ill-gotten gains made by Noticee 3, which has been considered for deciding the quantum of penalty. The material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the other Noticees and the loss suffered by the investors as a result of these Noticees' default. The consequences resulting from violations committed by the Noticees are of very grave nature and are prejudicial to the interests of investors in the securities market. If violations of this nature and magnitude are not dealt with seriously with a firm hand then investors will lose faith in the Indian Securities Market and even good companies will find it extremely difficult to raise capital in future.

150. A basic premise that underlies the integrity of the securities market is that persons connected with the securities market conform to standards of transparency, good governance and ethical behaviour prescribed in securities laws and do not resort to fraudulent activities. In this case, it is established that Noticee 1, and 2 by employing fraudulent arrangement with regard to subscription of GDRs had acted in a manner which is fraudulent and deceptive, thereby detrimental to the interest of investors in the Indian securities market. The Noticee 1 defrauded the Indian investors by entering Pledge Agreement with respect to subscription of GDRs outside India and thereby inducing the Indian investors to deal in the shares of Hiran by deliberately making false/misleading

statements, misrepresenting, actively suppressing and concealing material facts /regarding GDR proceeds being available at Hiran's disposal when in fact GDR issuance, was just a facade to create underlying equity shares without receipt of consideration. The manner in which the entire scheme of fraudulent and deceptive scheme was planned and executed by the Chairman and Managing Director of Hiran demonstrates beyond reasonable doubt the manipulative intent to deliberately withhold the critical information to Stock Exchange and also to the investors which ultimately enabled them to carry out the fraud. Such a conduct by the Executive Head of a listed company erodes the trust and confidence of investors and also threatens the integrity of the securities market. Therefore, such lapses need to be dealt with sternly to protect the interest of investors in the securities market. Therefore, I find it appropriate to impose suitable penalty on the Noticees 1 & 2.

151. However, it is important to note that timely disclosure of information, as prescribed under the statute, is an important regulatory tool intended to serve a public purpose. Timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so prevents investors from taking a well-informed investment decision. It is established that Hiran had deliberately and actively concealed the true and material facts and made several false and misleading disclosures and also made misrepresentation of facts to the stock exchange and investors in its shares. Such acts on the part of the Listed Company cannot be viewed leniently.

ORDER

152. In view of the foregoing, I, therefore, in exercise of the powers conferred upon me under Section 23I of SCRA and Section 15I of SEBI Act read with Rule 5 of SCR Rules and SEBI Adjudication Rules, hereby impose a penalty on the Noticees as under.

Sl. No., of the Noticee	**Name of the Noticee**	**Penalty amount in ₹ and words**	**Imposition of penalty under**
1	Hiran Orgochem Ltd.,	10,00,00,000 (Rupees Ten Crore only)	Section 15HA of SEBI Act for violation of the provisions of Section 12 A (a) (b) (c) of SEBI Act read

			with Regulation 3 (a) (b) (c) (d), 4 (1), 4 (2) (f) (k) (r) of SEBI (PFUTP) Regulations, 2003
		25,00,000/- (Rupees Twenty Five Lakhs only)	Section 23E of SCRA for violation of the provisions of Section 21 of SCRA read with Clause 36 (7), 32 and Clause 50 of Listing Agreement
2	Kantilal Hiran	1,00,00,000 (Rupees One Crores only)	Section 15HA of SEBI Act for violation of the provisions of Section 12 A (a) (b) (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d) and 4 (1) of SEBI (PFUTP) Regulations, 2003
3	Arun Panchariya	50,00,00,000 (Rupees Fifty Crores only)	Section 15HA of SEBI Act for violation of the provisions of Section 12 A (a) (b) (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d) and 4 (1) of SEBI (PFUTP) Regulations, 2003
4	Mukesh Charuadiya	15,00,000 (Rupees Fifteen lakhs only)	Section 15HA of SEBI Act for violation of the provisions of Section 12 A (a) (b) (c) of SEBI Act read with Regulation 3 (a) (b) (c) (d) and 4 (1) of SEBI (PFUTP) Regulations, 2003

153. The said penalty imposed on the Noticees, as mentioned above, shall commensurate with the violation committed and acts as a deterrent factor for the Noticee and others in protecting the interest of investors.

154. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favor of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR through online payment facility available on the SEBI website **www.sebi.gov.in** on the following path by clicking on the payment link.

ENFORCEMENT → Orders → Orders of AO → PAY NOW

155. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-I, DRA-I, SEBI, in the format as given in table below:

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for	Penalty

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

157. In terms of Rule 6 of the SCR Adjudication Rules and SEBI Adjudication Rules, copies of this Order are sent to all the Noticees and also to SEBI.

Date: June 17, 2020 **B J DILIP**

Place: Mumbai **ADJUDICATING OFFICER**