BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/PM/NS/2022-23/16490

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

In respect of:

M/s Link Intime India Pvt. Ltd
Registrar to an Issue and Share Transfer Agent
SEBI Registration No- INR000004058

In the matter of M/s Link Intime India Pvt. Ltd

A. <u>BACKGROUND OF THE CASE</u>

1. M/s Link Intime India Pvt. Ltd (hereinafter referred to as **"Noticee"/LIIPL**) is registered with Securities and Exchange Board of India as Category I Registrar to an Issue and Share Transfer Agent (hereinafter referred to as **"RTA"**) having SEBI registration number INR000004058. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") carried out an inspection of the Noticee at its Vadodara branch on September 27, 2017, October 6, 2017 and October 27, 2017, (hereinafter referred to as the "**Inspection period).**

2. SEBI had received a complaint against the Noticee alleging misappropriation of shares of long deceased persons. It was stated in the complaint that shares of two persons, namely Shri Vasant Dinanath Rao and Smt Laxmi Vasant Rao(hereinafter referred to as "clients")who had died decades ago, were transferred to demat accounts fraudulently opened in their names, sold and the money taken out which happened despite the heirs of the above mentioned

persons informed the Share Transfer Agent (Noticee). The shares were pertaining to Alembic Ltd (AL) and Alembic Pharmaceuticals Ltd (APL).Based on the observations made by the Inspection Team (hereinafter referred to as **“Inspection”**), it was alleged that Noticee violated Clauses 3 and 25 of the Code of Conduct read with Regulation 13 of the SEBI (**Registrars to an Issue and Share Transfer Agents**) Regulations, 1993 and Clause D(1) of Schedule VI read with Regulation 39(4) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as “**LODR Regulations**”).

B. APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned, as the Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the “**SEBI Act**”) read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the “**SEBI Adjudication Rules**”), conveyed *vide communique* dated May 10, 2019 to inquire into and adjudge under section 15HB of the SEBI Act 1992, with respect to the allegations against the Noticee.

C. SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. Show Cause Notice dated October 22, 2019 (hereinafter referred to as **SCN**) was issued to the Noticee under rule 4(1) of the Adjudication Rules, 1995 to show cause as to why an inquiry should not be initiated against the Noticee and why penalty, if any, should not be imposed on the Noticee under section 15HB of the SEBI Act, 1992, for the alleged violations of the provisions of Clauses 3 and 25 of the Code of Conduct read with Regulation 13 of the SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 and Clause D(1) of Schedule VI read with Regulation 39(4) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. The allegations against the Noticee are as follows:

5. *SEBI conducted an inspection of the Noticee on September 27, 2017, October 6, 2017 and October 27, 2017 upon receipt of a complaint of alleged mis-appropriation of shares of long deceased persons. The objective of inspection was to examine suspected cases of transfers of unclaimed shares.*
6. *From the material available on record, it is observed that SEBI had received a complaint against the Noticee alleging misappropriation of shares of long deceased persons. It was stated in the complaint that shares of two persons, namely Shri Vasant Dinanath Rao and Smt Laxmi Vasant Rao who had died decades ago, were transferred to demat accounts fraudulently opened in their names, sold and the money taken out which happened despite the heirs of the above mentioned persons informed the Share Transfer Agent (Noticee). The shares were pertaining to Alembic Ltd (AL) and Alembic Pharmaceuticals Ltd (APL).*
7. *With regard to above irregularities of shares of Shri Vasant Dinanath Rao and Smt Laxmi Vasant Rao, inspection team observed that LIIPL had not maintained proper systems and procedures at Vadodara branch which led to siphoning off of shares of Vasant Rao and Laxmi Rao. LIIPL has not collected all documentary requirements in case of transmission.*
8. *Though LIIPL was informed about death of Vasant Rao and Laxmi Rao, it did not put any alert in records pertaining to shareholders. In this regard, Noticee submitted that there was neither any regulation nor industry practice to mark stop transfers merely on the basis of such communication. Further, as per circular dated May 09, 2001, 'stop transfer' is not marked for reason other than missing/lost/stolen shares or court case.*
9. *LIIPL did not refer to their own letter giving procedure for transmission to heirs of Vasant and Laxmi Rao which was available in electronic record while processing claim form of alleged manipulator. In this regard, LIIPL stated that it was not required to refer to the old correspondence. It was found that old correspondence was readily available in logs of folio and was related to procedure for transmission/deletion/transposition. Therefore, Inspection has stated that submission of Noticee was not acceptable.*

10. *LIIPL did not make any verification of genuineness of attached documents submitted by alleged manipulator. In this regard, Noticee stated that it had relied on the documents received from the Depository Participant as SEBI circulars mandate that a Depository Participant is supposed to do in person verification while opening any demat account and verify all the copies of the documents with the originals. Therefore LIIPL was not required to go into the genuineness of the identity of the claimant when its signatures matched those of Vasant Rao and Laxmi Rao. With respect to this submissions of the Noticee, it may be noted that as per Schedule VI read with Regulation 39(4) of LODR, 2015, listed entity/Share Transfer Agent (STA) should credit the shares lying in unclaimed suspense account after proper verification of the identity of claimant. In view of this, Inspection has stated that LIIPL was required to be more cautious.*
11. *There were two specimen signature cards in folio no. 2794 (of Vasant Rao and Laxmi Rao). First card had signature of Bharti Mehta and second card had signature of Vasant Rao and Laxmi Rao. Address of Vasant and Laxmi Rao on signature card was different from that in client master database.*
12. *Folio number mentioned on signature card of Vasant Rao and Laxmi Rao were overwritten. Officials of Noticee submitted that when multiple signatures are available in same folio, signature on claim form is matched with all specimen signatures available. If any of the signatures matches, then document is processed.*
13. *LIIPL had submitted that records containing multiple sets of signatures in same folio were as provided to LIIPL by AL/APL and this is a legacy issue. While LIIPL cannot be faulted for having multiple signature in same folio, inspection has stated that it should have been more careful in handling such cases.*

14. I note from the material available on record that the SCN was served to the Noticee through speed post. Reply was received from the Noticee *vide* letters dated November 11, 2019 & January 30, 2020. Subsequently, in accordance with the principle of natural justice, opportunity of personal hearing was accorded to the Noticee on January 04, 2022 vide email dated December 27, 2021. Noticee

vide email dated December 30, 2021 requested for 3 weeks extension which was acceded to. Meanwhile, Noticee vide letter dated January 17, 2022 submitted its reply to the SCN. The Noticee was once again provided with opportunity of personal hearing on February 24, 2022. Mr. Sumit Agrawal, from M/s. Regstreet Law Advisors & Ms. Shruti S. Rajan from M/s. Trilegal (Authorized representatives) along with Compliance officer of Noticee, attended the personal hearing. The Authorized Representatives sought additional time of 10 days to make further submissions which was acceded to. Noticee vide email dated March 04, 2022 made the additional submission. The summary of the submissions of the Noticee are as follows:

15. *In the year 2003, the Noticee was appointed as an RTA for Alembic Limited ("AL"). As detailed in our Response, several corporate actions took place with respect to AL and Alembic Pharmaceuticals Limited ("APL") (collectively referred to as "Alembic Group") between 2006 and 2013, which necessitated the issuance of additional share certificates and their dispatch to the shareholders of the two companies*

16. *In this regard, the Noticee issued three monthly reminders to the shareholders of the unclaimed share certificates in AL and APL at the registered postal address available on its records, in terms of Clause 5A(I)(a) of the erstwhile Listing Agreement, advising that the shares be claimed before being transferred to the unclaimed share suspense account. Accordingly, the Noticee, in line with the applicable law, transferred all the unclaimed shares of AL & APL ("Unclaimed Shares") to the unclaimed share suspense account of the respective companies in demat form.*

17. *Mr. Vasant Dinanath Rao and Mrs. Laxmi Vasant Rao ("Deceased Shareholders") were shareholders of AL. On May 18, 2010, the Noticee received a letter from Mr. Gautam Nayak, on behalf of Mr. Sharad Vasant Rao, claiming himself to be the next of kin of the Deceased Shareholders, and seeking transmission of their shares. On June 11, 2010, the Noticee responded to this letter seeking copies of supporting documents such as probate or will or succession certificate to supplement the request for transmission**. However, there was no response forthcoming and no documentary evidence***

adduced in support of the claim regarding the death of the Deceased Shareholders.

18. *On May 4, 2016, the Noticee received a demat request from Mr. Vasant Rao ("Claimant") seeking that the Unclaimed Shares be credited to his demat account, which was held through his Depository Participant SBICAP Securities Limited ("SBICAP"). The Noticee was also provided with the PAN card, Voter ID card and Client Master Form issued by SBICAP and the duly executed claim forms as documentary evidence confirming the identity of the Claimant. The signatures of the Claimant were verified against the signatures maintained in the Noticee's records – i.e. the folios, as obtained from AL and APL, the condition of which has been shown to your good self during the Personal Hearing. Upon the signatures matching, the documents were forwarded by the Noticee to AL / APL for verification and further action. AL / APL took the steps for having the shares transferred out of the Unclaimed Share Suspense Account maintained by them by issuing Delivery Instruction Slips (DIS) to the Depository Participant with whom AL and APL had opened the Unclaimed Share Suspense Demat Account where the shares of the complainant were deposited, remained and in fact, continues to remain under the control of AL and APL.*
19. *Thereafter, only in April-May 2017, AL received a transmission request for the Unclaimed Shares from Mr. Gautam Nayak on behalf of Mr. Sharad Vasant Rao, seven years after the initial request was made. In response, Mr. Nayak was informed that the said shares had already been transferred from Unclaimed Suspense Demat Account of the Company in 2016*
20. *It may be noted that Mr. Gautam Nayak's aforesaid request came after 30 years of the death of the Deceased Shareholders, and a further seven years were taken to furnish any form of documentary evidence to support their claim. However, since the shares had already moved from the Unpaid Suspense Demat Account of the Company, no further action could have been taken.*
21. *When the Noticee received the first request for transmissions of the shares from Mr. Gautam Nayak on May 17, 2010, it promptly reverted seeking the supporting documents required to undertake the transmission of shares. However, no response to the same was received.*

22. *Merely on the basis of the request, without supporting documents, it would not have been prudent to transmit the shares on a mere say-so and therefore on receipt of no response, the transmission request was closed*.

23. *As per the regulations and the industry practice, the Noticee was only required to mark 'stop transfer' for the reasons of "missing / lost / stolen or court cases" – since none of these were the case in the instant matter, no such 'stop transfer' was marked. Hence, in the instant matter, there was no requirement to consider the incomplete 2010 transmission request in 2016.*

24. *The request received in 2016 was accompanied with signed documents bearing signatures matching those of the Deceased Shareholders. The matching signatures in the signature folio and the claim form was also demonstrated to your good self during the Personal Hearing. Therefore, the Noticee had cogent grounds to recognise the signed claim form*

25. *The Noticee as an RTA is constrained by the quality of material it receives from a listed entity. The signature records maintained by the Noticee have been provided by AL/APL. Since AL was incorporated over a century ago and the physical documents maintained by AL were very old at the time of its hand-over to the Noticee, the records were naturally in deteriorating condition, as have been shown to your good self during the Personal Hearing.*

26. *Further, at the time of allotment of shares in 1970-1980 and even prior as well as till date, there was/ is no legal requirement to collect the photographs of the shareholders by AL/APL. Hence, the same were neither available with the Noticee nor provided by AL/APL*

27. *Hence, in May 2016, the Noticee in the instant matter has undertaken the necessary due diligence as was required under law by an RTA, including:Collection of relevant documents like PAN Card, Voter ID card and Client Master Form issued by SBICAP;Collection of duly executed claim forms;Verification and matching of signatures in the claim form with the specimen signature available in the folio provided by AL/APL; and Even though it was not a requirement, verification of PAN card from the Income tax database and confirming the validity of the same.*

28. *Other than taking steps to try and better the quality of databases of specimen signatures and adhering to the highest standards, the Noticee has also carried out digitization of its records since 2010, It has also developed and implemented the software 'Insta' which ensures that audit trails and processing status of inward entries are made and are available throughout the process cycle including the outward.*

29. *The responsibility to verify the identity of a demat account holder, and the documents submitted for this purpose, devolves on the SEBI registered depository participant, which was SBICAP in this case. The depository participant is also required to carry out in-person verification while opening any demat account . Further, the depository participant is also liable for any loss caused to the beneficial owner on account of lapses on the part of the participant*

30. *Thus, the Noticee was merely required to ensure that the relevant documents had been submitted and was not required to validate the documents that were accompanied with the claim form*

31. *In fact, the final decision for releasing the shares and having the shares transferred out of the Unclaimed Share Suspense Account to the Claimant, was the responsibility and the same was undertaken by AL/ APL without reference to the Noticee. Therefore, it is humbly submitted that the Noticee justifiably acted on the basis of the information / documents provided by the investor, which included a copy of the Client Master Form issued by the DP, which is SBICAP and relying thereon, the Noticee was not required to ascertain the veracity of such documents.Hence no adverse inference can be drawn against the Noticee being the RTA. Any adverse inference in respect of LIIPL would be perverse in facts as well as in law . Noticee has contended that SEBI has rejected the request of inspection and request of cross examination, Noticee also further contended that there is inordinate delay and the purpose of inspection is punitive. Noticee has placed reliance upon various judgement of Hon'ble SAT and Hon'ble Supreme Court.*

32. *An appeal was preferred on behalf of the said Mr. Sharad Vasant Rao against the Alembic group before the National Company Law Tribunal (at Ahmedabad), arising out of the same facts, under Section 59 of the Companies Act, 2013 which*

subsequently came to be dismissed as withdrawn basis a settlement arrived between Alembic group and Sharad Vasant Rao. Hence, it is submitted that even the legal heir (Complainant) of the Deceased Shareholders have been protected against any loss

33. *Reference may also be made to the order dated June 24, 2021 passed by the Ld. Whole Time Member Shri. G Mahalingam as well as the order dated October 28, 2021 passed by the Ld. Adjudicating Officer Smt. Maninder Cheema with respect to the Noticee, where no adverse directions were passed against the Noticee on account of the cause of action being a legacy issue faced by the whole industry and no specific commission / omission by the Noticee in those proceedings which would have warranted any adverse findings / directions. The fact of the non-availability of signatures and poor quality of data (like specimen signatures) available with the Noticee (in its role as an RTA) has been taken cognizance of. It is requested that, in the precent proceedings also, this factor be noted.*

D. CONSIDERATION OF ISSUES

34. Considering the facts and circumstances of the case, reply of the Noticee and the material available on record, the issues that arise for consideration in the present case are:
    - **(a) Whether the Noticee have violated Clauses 3 and 25 of the Code of Conduct read with Regulation 13 of the SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 and Clause D(1) of Schedule VI read with Regulation 39(4) of the LODR Regulations.?**
    - **(b) Does the violations, if any, on the part of the Noticee would attract monetary penalty under section 15 HB of the SEBI Act, 1992?**
    - **(c) If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors mentioned in section 15J of SEBI Act, 1992?**

35. Before moving forward, it is pertinent to refer to the relevant provisions which read as under:

Relevant provisions of SEBI (Registrar to an Issue & Share Transfer Agent) Regulations, 1993:

SCHEDULE III [Regulation 13]-CODE OF CONDUCT

3. A Registrar to an Issue and Share Transfer Agent shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment.

25. A Registrar to an Issue and Share Transfer Agent shall ensure that it has satisfactory internal control procedures in place as well as adequate financial and operational capabilities which can be reasonably expected to take care of any losses arising due to theft, fraud and other dishonest acts, professional misconduct or omissions.

Relevant provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

SCHEDULE VI: MANNER OF DEALING WITH UNCLAIMED SHARES

D. Procedure in case of claim by allottee

(1) As and when the allottee approaches the listed entity, the listed entity shall, after proper verification of the identity of the allottee either credit the shares lying in the Unclaimed Suspense Account or demat suspense account, as applicable, to the demat account of the allottee to the extent of the allottee's entitlement, or deliver the physical certificates after re-materialising the same, depending on what has been opted for by the allottee:

Provided that the rematerializing of the physical certificates shall be done only in case where the shares were originally issued in physical form.

Issuance of Certificates or Receipts/Letters/Advices for securities and dealing with unclaimed securities.

Regulation 39(4): The listed entity shall comply with the procedural requirements specified in Schedule VI while dealing with securities issued pursuant to the public issue or any other issue, physical or otherwise, which remain unclaimed and/or are lying in the escrow account, as applicable.

36. I have perused the allegations made in the SCN and considered the various submissions made by the Noticee. I will now proceed to deal with the case on merits.

37. **Allegation 1: Noticee was informed about death of Vasant Rao and Laxmi Rao, it did not put any alert in records pertaining to shareholders.** I note that *noticee submitted there is no guideline with respect to put any alert merely on intimation of death of shareholders and as per SEBI Circular dated May 9, 2001, a 'stop transfer' is not marked for any reason other than missing / lost / stolen shares or a court case, neither of which were applicable in the facts of this case*. I note that on May 17, 2010, the Noticee received a letter from one Mr. Gautam Nayak, on behalf of Mr. Sharad Vasant Rao, claiming himself to be the next of kin of the Deceased Shareholders in AL and APL and therefore, entitled to the shares of the Deceased Shareholders, while asserting his inability to find the physical share certificates held by his late parents. I note that vide letter dated June 11, 2010, the Noticee responded to the above request from Mr. Nayak in ordinary course, requesting copies of probate of will or a succession certificate to supplement the request for transmission of the Unclaimed Shares. However it is seen that no response was received from Mr. Nayak or Mr. Sharad Rao in this regard. In view of the non-response by Mr Nayak or Mr. Sharad Vasant Rao to Noticee's letter dated June 11, 2010 as also the Noticee's submission about requirements prescribed in SEBI circular dated May 9, 2001, the charge of not putting any alert in records pertaining to shareholders does not stand established

38. **Allegation 2: Noticee did not refer to their own letter giving procedure for transmission to heirs of Vasant and Laxmi Rao which was available in electronic record while processing claim form of alleged manipulator.** The

Noticee submitted that *during that period all the documents received were not scanned and maintained as electronic records in the system (although physical documents available in records). The replies to such letter generated through system and are continuously available. However the letter dated May 17, 2010 was not scanned and not form part of electronic record. Noticee also contented that Noticee was not required to refer to the old correspondence.* I accept the contention of Noticee that the letter dated May 17, 2010 wasn't in record. I note that the letter dated June 11, 2010 was generated through system and the letter was issued in reference to the letter received by the Noticee on May 17, 2010. Therefore the letter dated June 11, 2010 was readily available in the logs folio of the Noticee and was related to procedure for transmission/deletion/transposition. Therefore the contention raised by the Noticee in the aforesaid allegation doesn't hold any merit. However, the question arises whether the course of action would have been different if Noticee could have referred to the old communication which was readily available in the logs of Noticee. I am of the view that the genuineness of any information requires evidence to substantiate it. In the present case the client's next of kin failed to provide relevant supporting documents (viz. copies of probate of will or a succession certificate or any other document to substantiate the claims of clients next of kin) to the Noticee, Hence I note that in the absence of any material evidence, the authenticity of the information is in question. In view of the above I note that the instant allegation made in the SCN is not established.

39. **Allegation 3: Noticee did not make any verification of genuineness of attached documents submitted by alleged manipulator.** In respect of the said allegation Noticee *submitted that the responsibility to verify the identity of a demat account holder, and the documents submitted for this purpose, devolves on the depository participant, which was SBICAP in this case. This is augmented by the terms of Clauses 3 and 3(1) of the SEBI Circular dated December 23, 2011 on Guidelines in pursuance of the SEBI KYC Registration Agency (KRA)*

Regulations, 2011 for In-Person Verification (IPV), which requires a depository participant to carry out IPV while opening any demat account.

I note that on May 10, 2016, a letter dated May 04, 2016 was received by Noticee from persons purporting to be Vasant Dinanath Rao and Laxmi Vasant Rao containing two duly executed Claim Forms along with self-attested copies of the Client Master, Voter ID card and PAN Card of Vasant Dinanath Rao and Laxmi Vasant Rao. I note that Noticee produced duly executed Claim Forms along with self-attested copies of the Client Master, Voter ID card and PAN Card of Vasant Dinanath Rao and Laxmi Vasant Rao during physical hearing on February 24, 2022. Noticee also produced Signature Book which is received by Noticee from the AL/APL(Company). On perusal of the above documents, I note that claim form were duly signed by Vasant Dinanath Rao and Laxmi Vasant Rao. I also note that signature on Claim Forms matched with signature Book. In view of the above fact I am of the view that Noticee matched the signature with signature book which is the only verifiable document available. Noticee had also taken 2 KYC documents which were duly signed by the Vasant Dinanath Rao and Laxmi Vasant Rao. I further note that as per Clauses 3 and 3(1/2/3) of the SEBI Circular dated December 23, 2011 on Guidelines in pursuance of the SEBI KYC Registration Agency (KRA) Regulations, 2011 for In-Person Verification (IPV), once the KYC has been done by a SEBI registered intermediary, i.e., SBICAP in this case, the other intermediaries in the capital markets can rely on such KYC, in accordance with the SEBI (Know-Your-Client Registration Agency) Regulations, 2011 read with SEBI circular dated December 23, 2011. Therefore, the allegation that Noticee did not make any verification of genuineness of attached documents submitted by alleged manipulator does not stand established

40. **Allegation 4: There were two specimen signature cards in folio no. 2794 (of Vasant Rao and Laxmi Rao). First card had signature of Bharti Mehta and second card had signature of Vasant Rao and Laxmi Rao. Address of Vasant and Laxmi Rao on signature card was different from that in client**

master database. Folio number mentioned on signature card of Vasant Rao and Laxmi Rao were overwritten. In this regard Noticee *submitted that these records were as provided to LIIPL by AL/APL and this is a legacy issue. The same was conveyed to AL/APL from time to time.*

I note that Noticee has received the signature book from the AL/APL (company), Noticee produced the same during the personal hearing therefore I accept the submissions made by the Noticee.

41. In view of the facts brought out in the preceding paragraphs, the moot question that remains for consideration is whether the Noticee exercised proper due diligence or not

Here I would like to draw the attention to the judgment of ***Hon'ble Securities Appellate Tribunal ('SAT') in the matter of Cameo Corporate Services Limited vs Securities and Exchange Board of India (appeal no. Appeal No. 566 of 2019 decide on 26.11.2019)*** *has, inter-alia, observed that… Having heard the learned counsel for the parties and having perused the ex parte ad interim order and the confirmatory order we find that except in the case of the complainant where there is a prima facie case of a person impersonating the grandfather of the complainant all other discrepancies either relate to mismatching of photographs or signatures or that the PAN card being fake and not been verified from the Income Tax website / NSDL and accordingly a prima facie case of lack of basic due diligence was made out against the appellant. "What is noticeable is that apart from the complainant's case no other investor has come forward to make a complaint relating to the wrongful transfer of the share certificates illegally to a third party".*

Further, I would also like to mention that in ***Chander Kanta Bansal v. Rajinder Singh Anand , the Hon'ble Supreme Court*** *was concerned with amendment of pleadings under the Code of Civil Procedure, and placed reliance on the following definitions of 'due diligence':"10…The words "due diligence" has not* *been defined in the Code. According to Oxford Dictionary (Edition 2006), the word "diligence" means careful and persistent application or effort. "Diligent" means careful and steady in application to one's work and duties, showing care and effort. As per Black's Law Dictionary (Eighth Edition), "diligence" means a continual effort to accomplish something, care; caution; the attention and care required from a person in a given situation. "Due diligence" means the diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation. According to Words and Phrases by Drain-Dyspnea (Permanent Edition 13A) "due diligence", in law, means doing everything reasonable, not everything possible. "Due diligence" means reasonable diligence; it means such diligence as a prudent man would exercise in the conduct of his own affairs. It is clear that unless the party takes prompt steps, mere action cannot be accepted and file a petition after the commencement of trial…."*

From the above, it can be seen that the concept of due-diligence is not speculative but based on reasonable and expected actions founded in law. An obligation to act or omit to do has to be specifically prescribed by law especially when its breach has civil and penal consequences. As brought out in the preceding paragraphs 37-40, the Noticee has at various stages exercised reasonable due diligence and hence in view of the same, the allegations made in the SCN do not stand established.

I further note that Noticee submitted that an appeal was preferred on behalf of the said Mr. Sharad Vasant Rao against the Alembic group before the National Company Law Tribunal (at Ahmedabad), arising out of the same facts, under Section 59 of the Companies Act, 2013 which subsequently came to be dismissed as withdrawn basis a settlement arrived between Alembic group and Sharad Vasant Rao. Therefore I note that even the legal heir (Complainant) of the Deceased Shareholders have been protected against any loss.

Order

42. Considering the facts and circumstances of the case as stated above, the Show Cause Notice ref no SEBI/EAD-6/PM/RR/27805/1/2019 dated October 22, 2019 issued against the Noticee is accordingly disposed of.

43. In terms of Rule 6 of the SEBI Adjudication Rules, copies of this order are being sent to the Noticee and also to SEBI.

Date: May 20, 2022 **PRASANTA MAHAPATRA**
Place: Mumbai **ADJUDICATING OFFICER**