BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No.: ORDER/VV/AS/2022-23/24962 - 24968]

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992.

In respect of:

Noticee No.	Name of the Noticee	PAN / DIN No.
1	Salasar Trading Company Limited (Proprietor - Manoj Kumar Garg)	AAEPG8328D
2	King Empire Tradexim Pvt. Ltd.	-
3	Om Raj Garg, Director - King Empire Tradexim Pvt. Ltd.	02504390
4	Chandan Gupta, Director – King Empire Tradexim Pvt. Ltd.	AIXPG2195F
5	King Power Industries Limited	AADCK9238Q
6	Avnish Bhatnagar, Director –King Power Industries Limited	AAWPB2025L
7	Arvind Poddar, Director – King Power Industries Limited	AODPA6026K

In the matter of IPO of Shilpi Cable Technologies Ltd

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1. Shilpi Cable Technologies Ltd. (hereinafter referred to as '**Company'** or **'SCTL'**) is a listed company, whose shares are listed on National Stock Exchange of India Limited ("**NSE**") and Bombay Stock Exchange Limited ("**BSE**"). The Company came out with an Initial Public Offer ("**IPO**") for issuance of 80,98,145 equity shares of face value Rs.10/- each through 100% book building process at a price of Rs. 69/- per fully paid up equity share (including a premium of Rs 59/- per equity share) and aggregating to approximately Rs. 55.87 crore. SCTL was listed on the exchanges BSE and NSE on April 08, 2011. On the date of listing, on BSE the scrip opened at Rs. 78.35/- and touched a high of Rs. 84.65/- before closing at Rs. 47.60/- and thereby registered a fall of 39.25% from the opening price. On NSE, it opened at Rs.78.00/- and touched a high of Rs.84.70/- before closing at Rs. 48.05/- and thereby registered a fall of 38.4% from the opening price. Accordingly, Securities and Exchange Board of India ("**SEBI**") *suo moto* initiated investigation in the matter of IPO of the Company relating to bidding analysis, listing day analysis, trading analysis, utilization of IPO proceeds, deviation from objects mentioned in the final prospectus/ Red Herring Prospectus ("**RHP**") and violations of corresponding regulatory requirements by the Company.

2. The observations of investigation are detailed in following paragraphs:

A. Details of IPO is as follows (***Source:*** *Red Herring Prospectus dated March 15, 2011 and Final Offer Document/ Prospectus dated March 28, 2011, filed with* ROC):

Table 1

Issue Open Period	March 22 - 25, 2011
Issue Size (No. of shares)	80,98,145
Issue Size (Value in approx Rs. crores)	Rs.55.87 crores
Process of Issue	100% Book Building
Price Band	Rs.65 - Rs.69 per equity share
Issue Price	Rs.69 per equity share
Face Value	Rs.10 per equity share
Date of Listing	April 08, 2011

B. The objects of the issue as per the Prospectus dated March 28, 2011 are as under:

Table 2 (Source: *Prospectus Pages 36 – 44 of RHP***)**

S.No.	Particulars	Amount (in ₹ crore)
1	To raise funds for capital expenditure on Cable/wire Assembly shop	8.65
2	To raise funds for capital expenditure on Tools for 3G enabling	4.47
3	To raise funds for capital expenditure on augmenting cable manufacturing capabilities	16.21
4	To raise funds towards margin for working capital for the proposed new businesses	15.54
5	To raise funds for investment in the Subsidiary of the Company, M/s Shilpi Cabletronics Limited	5.00
6	To raise funds for General corporate purposes	3.00
7	To meet the expenses of the issue	3.00
Total		**55.87**

C. SCTL in its quarterly financial results filings to Exchanges (*as prescribed in Clause 43A of listing agreement*) had disclosed IPO utilization on a quarterly basis in the notes to quarterly financial results. From the transactions in the bank statements of SCTL and its reply dated February 19, 2016, it's observed that IPO proceeds were utilized towards the payment to 17 entities including Salasar Trading Company Limited ("**Noticee No. 1**" or "**Salasar**"), King Empire Tradexim Pvt. Ltd. ("**Noticee No. 2**" or "**King Empire**") and King Power Industries Pvt. Ltd. ("**Noticee No. 5**" or "**King Power**"), payment of IDBI Term Loan, Fixed Deposit Receipt with PNB and Other Expenses/ Payments.

D. It was noted that payments from the entire IPO proceeds have been made during the period April 07, 2011 to April 18, 2011. From the reply of the Company, it's observed that there has been a stark deviation in the actual utilization of IPO proceeds to that mentioned in the final prospectus. It's noted that substantial portion of the IPO proceeds were used to repay *unsecured creditors, advances to a group entity – Shilpi*

Communications Pvt. Ltd, to the vendors who were subsequently selected by the Company to replace the vendors mentioned in the prospectus and working capital requirement.

E. It's observed that the Company had deviated from the objects of the IPO by approx. Rs. 50 Crore by utilizing towards means different from the objects to the Issue mentioned in the prospectus. Further, the entire proceeds of IPO were used to make payments to entities and means divergent from that mentioned in the prospectus during the month of April 2011 itself.

F. From the analysis of bank account statements of the Company and the Company's reply dated Feb 19, 2016, it's observed that the Company had utilized some of the IPO proceeds towards transactions with entities whose credentials and businesses are doubtful, including, Salasar (Rs 8.20 Crores), King Empire (Rs 2.60 Crores) and King Power (Rs 2.50 Crores). The above payments towards Salasar, King Power and King Empire for working capital requirement was divergent from the objects of the issue proposed in the final prospectus.

G. It has been observed that the businesses of the three entities – Salasar, King Power and King Empire are questionable. Further, King Empire and King Power being incorporated in 2010 only and their revenue and sales does not commensurate with their meagre fixed assets, employee costs, etc.

3. In view of above, it was alleged that the Company had transferred IPO proceeds to entities Salasar, King Power and King Empire, whose credentials are questionable and for transactions which in essence are dubious. Further, the funds through a series of transactions were routed to outside of the country. Therefore, it has been alleged that the entities Salasar Trading Co. (Proprietor – Shri Manoj Kumar Garg), King Power Industries {Directors – Shri Avnish Bhatnagar (Noticee No. 6) and Shri Arvind Poddar (Noticee No. 7)} and King Empire Tradexim {Directors – Shri Om Raj Garg (Noticee No. 3) and Shri Arvind Poddar (Noticee No. 4)} have acted as conduits for the transfer of IPO proceeds and being party to dubious transactions and therefore, these entities and their directors/ proprietors i.e. Noticees No. 1 to 7 (hereinafter together referred to as "**Noticees**") have violated the provisions of Section 12A(c) of the SEBI Act, 1992 read with Regulation 3(d) and 4(1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter to be referred as "**PFUTP Regulations**").

4. The competent authority in SEBI has *prima facie* felt satisfied that there are sufficient grounds to inquire and adjudicate the alleged violations of the aforesaid provisions of the

SEBI Act and PFUTP Regulations by the Noticees. Accordingly, vide communication order dated July 09, 2021, Shri Parag Basu ("**erstwhile AO**") had been appointed as the Adjudicating Officer under Section 15I(1) of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **'Adjudication Rules'**) in the matter to inquire and adjudge under Rule 5 of the Adjudication Rules and under Section 15HA of the SEBI Act, of the alleged aforesaid violations by the Noticees. Thereafter, pursuant to transfer of erstwhile AO, undersigned has been appointed as the Adjudicating Officer vide communication order dated March 11, 2022. It has been advised that except for the change of the Adjudicating Officer, the other terms and condition of the original orders (whereby the aforesaid Adjudicating Officers was appointed) '*shall remain unchanged and shall be in full force and effect*'. It has also been advised that '*I should proceed in accordance with the terms of reference made in the original orders*'.

5. Accordingly, in terms of Rule 4(1) of the Adjudication Rules read with section 15I of the SEBI Act, a notice to show cause no. EAD-9/ADJ-SCN/VKV/OW/21516/1-11/2022 dated May 20, 2022 (hereinafter referred to as '**SCN**') was issued to the Noticees calling upon them to show cause as to why an inquiry should not be held against them in terms of Rule 4 of the Adjudication Rules and why penalty, if any, be not imposed under Section 15HA of the SEBI Act, as the case may be for respective alleged violations as mentioned hereinabove. The SCN was forwarded to 7 Noticees *via* Speed Post Acknowledgement Due (**SPAD**). However, the SCN w.r.t. all 7 Noticees returned undelivered with remarks – '*Left without Address', 'No such firm on address', 'Insufficient Address'* and *'No Such Person on address',* respectively. Further, the SCN was also forwarded to these Noticees *via* digitally signed e-mail in terms of Rule 7(1) of the Adjudication Rules, however, no reply to the SCN was received from the Noticees. Though SCN forwarded to the aforesaid 7 Noticees *via* e-mail dated May 23, 2022 had not bounced, however, in terms of undelivered returned SCN, it was presumed that the SCN to aforesaid Noticees could not be served. After considering the aforementioned remarks on returned undelivered SCN envelopes, I was of the opinion that the attempt of delivery of SCN *via* hand delivery/ affixture would have been a futile exercise, as said Noticees were either not residing on given address or their address on record was incomplete. Accordingly, SCN *cum* Hearing Notice to said 7 Noticees was delivered / served by way of paper publication in terms of Rule 7(3) of the Adjudication Rules. The aforesaid SCN *cum* Hearing Notice was published on June 29, 2022 in New Delhi edition of Times of India and Navbharat Times and Jaipur edition of Times of India and Rajasthan Patrika, wherein, the Noticees have been granted 14 days' time from the date of publish of the Notice to submit their reply, if any, to the SCN and to avail the opportunity of personal hearing on July 20, 2022. Thereafter, vide e-mail dated July 01, 2022, Mr. Avnish

Bhatnagar, Noticee No. 6 requested to forward SCN on his e-mail address - jaipurmaharaja@gmail.com. Accordingly, vide e-mail dated July 01, 2022 copy of the SCN along with Annexures 11 and 12 had been forwarded to him and he was asked to share his mailing address, so that other relied upon and relevant document of the SCN may be forwarded to him in a CD. Vide e-mail dated July 12, 2022, Mr. Avnish confirmed the receipt of all the documents in a CD on July 09, 2022 and requested for 15 days' time for filing reply to the SCN. Thus, I note that the SCN *cum* Hearing Notice has been delivered to 6 Noticees *via* Paper Publication on June 29, 2022 and to Mr. Avnish on July 09, 2022.

6. Vide e-mail dated July 13, 2022, Mr. Avnish was informed that his request for additional time to file reply has been acceded to and he may file reply by July 24, 2022. He was further informed that the hearing scheduled in the matter on July 20, 2022 had been adjourned for July 26, 2022. On July 18, 2022, Mr. Avnish authorized representative, Advocate Harsh L. Behany – Partner HN Legal (hereinafter referred to as "**AR**") sought extension up to August 15, 2022 for filing reply to the SCN on the ground of complex history of the matter. This time Mr. Avnish was allowed time up to July 29, 2022 to file his reply to the SCN and the hearing scheduled in the matter on July 26, 2022 had been adjourned for August 02, 2022. Thereafter, instead of filing reply to the SCN, vide letter dated July 27, 2022, the AR on behalf of the Noticee had sought several documents/ materials relied upon in the SCN and also sought inspection of relied upon and relevant documents in the matter. Since, the documents sought by Mr. Avnish were quite voluminous and same were available with the SEBI Registry, it has taken substantial time to obtain the same. Subsequently, vide letter dated January 18, 2023, Mr. Avnish had been granted inspection of the records and documents referred to and relied on in the matter on January 24, 2023, wherein, it was stated that all the documents requested *via* letter dated July 27, 2022 will be provided to them in a CD on day of inspection. After seeking extension for inspection, Adv. Saloni Manjrekar and Ms. Prachi Sanghvi i/b HN Legal undertaken the inspection of documents/ records of relied upon and relevant documents on January 31, 2023 and collected all the documents requested by them vide letter dated July 27, 2022 in a CD. Further, vide letter dated February 06, 2023, AR stated that the inspection of the documents is duly completed and complied.

7. Accordingly, in terms of Rule 4(3) of the Adjudication Rules and on considering the material available on record, an opportunity of personal hearing has been granted to Mr. Avnish online *via* Webex platform on February 13, 2023 and he was allowed time up to February 10, 2023 to file reply to the SCN. Adv. Saloni Manjrekar vide her e-mail dated February 07, 2023 stated that their counsel Mr. Kunal Katariya was not available and therefore, she requested for 2 weeks' further extension to file the reply to the SCN and to conduct hearing

thereafter. Considering the principle of natural justice, the Noticee was allowed time up to February 19, 2023 to file reply to the SCN and was granted last opportunity of personal hearing on February 21, 2023. Surprisingly, instead of filing reply to the SCN, vide letter dated February 16, 2023, the AR stated that, his Noticee has not been provided with the documents sought by him and inspection of all the documents. In this regard, vide e-mail dated February 17, 2023, it was informed to Mr. Avnish that all the relied upon and relevant documents has already been provided to him along with SCN and later on during the inspection of documents (in a CD) and thus, principles laid down by the Hon'ble Supreme Court in T. Takano judgement has been duly complied in instant proceedings. He was also advised to avail the opportunity granted to him, as same is last and final opportunity extended to him. Thereafter, vide e-mail dated February 18, 2023, Mr. Avnish filed his reply to the SCN and on February 21, 2023, Adv. Kunal Katariya and Adv. Saloni Manjrekar appeared for hearing on behalf of Mr. Avnish and made submissions in line with Noticee written submission dated February 19, 2023. ARs have further requested for time up to March 01, 2023 for making additional written submissions. Mr. Avnish request acceded to and the hearing in the matter concluded. Further, other 6 Noticees has not responded at all and not availed the hearing granted to them on July 20, 2022. Mr. Avnish filed additional written submissions on March 02, 2023.

8. In view of above, I note that apart from Mr. Avnish, Noticee No. 6, for Noticees No. 1 – 5 and 7, the SCN *cum* hearing notice has been served *via* paper publication on June 29, 2022 and these 6 Noticees have failed to file any reply to the SCN and also failed to avail the opportunity of hearing during instant proceedings. Therefore, these 6 Noticees have failed to avail the opportunities extended to them during the instant proceedings. In view of above, in my view sufficient opportunity of filing reply to the SCN and making representation during instant proceedings has been extended to the aforesaid 6 Noticees, however they failed to avail the same. In these facts and circumstances, I am of the view that the matter can be proceeded *ex-parte* w.r.t. these 6 Noticees on the basis of material available on record in terms of Rule 4(7) of the Adjudication Rules which reads as under: -

> *"**4(7)** If any person fails, neglects or refuses to appear as required by sub-rule (3) before the Board or the adjudicating officer, the Board or the adjudicating officer may proceed with the inquiry in the absence of such person after recording the reasons for doing so."*

9. I note that Noticees No. 1 to 5 and 7 have failed to file any response during instant proceedings. In the fact and circumstances of the case, I am of the view that the aforesaid Noticees have defied the regulatory provisions and I, therefore, deem it fit to draw an adverse inference against the aforesaid Noticees. Further, in absence of any response from

the said Noticees, it is presumed that they have admitted the charge of violations of provisions as alleged in the case. In this regard, it is pertinent to note that the Hon'ble SAT in the matter of *Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006)* has, *inter-alia*, observed that, *"........... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them"*. It is also pertinent to note that the Hon'ble SAT in the matter of *Sanjay Kumar Tayal & Others vs SEBI (Appeal No. 68 of 2013 decided on February 11, 2014)*, has also, *inter alia*, observed that: *"........... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices..."*. Therefore, it can reasonably be presumed that the allegations/charges have been admitted by the Noticees No. 1 to 5 and 7 in this case. The material on record do not indicate anything to *ex facie* hold otherwise.

10. The submissions and additional written submissions made by Mr. Avnish, Noticee no. 6 vide letters dated February 19, 2023 and March 02, 2023 in the matter *inter alia* is as follows:

    a. He is a salaried management professional specializing in International Marketing for more than 20 years. In the end of year 2009, while he was searching for a new job, he came across Manoj Kumar Garg ("**Manoj**"), who told him that he was in the business of trading and export business house and wanted to set-up a FMCG manufacturing and export business and had identified land to set up biscuit manufacturing factory. Mr. Manoj assured me that he would provide me a job for marketing in the biscuit producing company, Frisco Foods Private Limited ("**Frisco**"), a company incorporated in the 1980s, which they were in the process of acquiring. Mr. Manoj then introduced him to Mr. Chandan Bhatia and Mr. Naresh Jain as his companions, who were working and doing business with him. He was offered the role to head the marketing of biscuit project of Frisco and he accepted this offer and joined in November 2009, when he was told that I would be appointed Executive Director for which he will be requiring a Director Identification Number ("**DIN**"). Mr. Manoj, Mr. Chandan and Mr. Naresh for the purpose of applying for DIN took his signatures on several forms and blank pages for digital signatures and identification number. Mr. Manoj office applied for his DIN in November, 2009 and consequently, he received the DIN approval letter dated November 27, 2009 and the number was generated on December 02, 2009. Mr. Manoj, Mr. Chandan and Mr. Naresh also informed him that till Frisco's acquisition is completed, he will receive salary from M/s Mangalam Creation Private Limited, which was company of Mr. Manoj.

b. Frisco was acquired by Mr. Manoj and some of his associates in February 2010, pursuant to which he was appointed as Executive Director of Frisco vide Appointment letter dated March 01, 2010. His role in Frisco was mainly marketing and planning the factory, plant and machinery, construction of the factory, recruitment of technical and sales staff etc. From date of appointment with Frisco, he started receiving salary from Frisco. The production of biscuit along with sales started in May 2010.

c. In 2011, however it came to his knowledge that Mr. Manoj and Mr. Chandan had made him Director in various Companies of Mr. Manoj without consent by misusing his DIN and Digital signatures. Since, he was never involved in any business of these companies nor any financial transactions, he confronted Mr. Manoj and Mr. Chandan, but no satisfactory answer was provided by them, thereafter, he decided to leave the group at the earliest. Around early 2011, Mr. Naresh introduced him to Mr. Tarun Jain and Mr. Mukesh Jain and told him to start consulting them in all his decisions in Frisco. Since, he was uncomfortable with his name added as director in various companies without his knowledge and consent and as he was also not aware of the working of those companies he had resigned on May 07, 2011 from Frisco and all the companies/entities where he was made a director/partner /CEO without his knowledge and consent, by addressing an email to Mr. Manoj and Mr. Naresh, who headed the companies under name of Glints Global Group of Companies. His resignation was accepted by the Board of directors of Frisco on May 11, 2011 and a circular was issued to the staff of Frisco.

d. He was never a part of the King Power, Noticee No. 5 and his DIN was misused and signatures were forged by Mr. Manoj, his brother Vipin Kumar Gupta, Mr. Chandan, Manoj Kumar Mandai, Manoj Garg's partner Mr. Naresh, his brothers and nephew Bimal Jain, Satpal Jain and Tarun Jain and their associates (hereinafter together referred to as "**Manoj and his associates**") to make him a director in King Power. He is in fact a victim of fraudulent acts of Manoj and his associates, therefore, he cannot be held liable for the alleged violations of the SEBI Act or the PFUTP Regulations.

e. On resignation, Mr. Manoj assured me that my name will be removed from all companies. Thereafter, he moved back to his hometown, Jaipur in August 2011 and joined a job in the Real Estate vertical of Golcha Group on June 02, 2012. Thereafter, he did not ever contact Mr. Manoj or his associates.

f. On May 03, 2016, he received a letter dated April 07, 2016 from SEBI seeking information for ongoing investigation in the matter. He replied to the said email vide email dated May 06, 2016 and provided detailed response to the information sought by the SEBI and provided his bank statements with a date wise matching of the banking transactions vide email dated May 28, 2016.

g. Around 2018, several cases were filed against Mr. Manoj and his associates by the Enforcement Directorate ("**ED**"). The ED in its charge sheet dated November 01, 2018 filed before the Ld. District and Session Judge of Rohini Court, New Delhi, Sh. Rajesh Malik (In ECIR/05/HIU/2018 bearing Complaint no. 263 of 2020) between ED and Naresh Jain, Birnal Jain and their associates, observed that Mr. Naresh controlled the financial affairs of Frisco and took key decisions therein and was the key managerial personnel. It was also observed that Mr. Naresh, Mr. Bimal and their associates have forged and fabricated signatures to incorporate shell company's/paper entities to open and operate bank accounts. It further observed that entities were incorporated by using original identity proofs and documents of employees, dummy shareholders and directors as well by fabricating identity proofs and documents of these shareholders and directors. Nowhere in the entire report or order, any observations were made against him or even his name was mentioned. He became aware of investigations done by ED much later, pursuant to notice of Income Tax Office ("**ITO**").

h. On March 29, 2018, he got notice from ITO, Jaipur, wherein, it was informed to him that his Assessment Year 2010-11 has been reopened and it was with regard to the transaction of the said forged companies/factory created by the Manoj and his associates fraudulently. Thereafter, on December 05, 2018, he was issued a show cause notice by ITO, Jaipur, under which he was enquired about Frisco and King Power and during these proceedings, he became aware of forged documents created by Mr. Manoj and his associates like "*share transfer form, annual return, balance sheet, a power of attorney, etc.*" by forging his signatures and misusing it for illegal purposes.

i. Pursuant to the notice from ITO, he tried contacting Mr. Manoj and associates and Mr. Manoj Kumar Mandal (the Company Secretary of Frisco) to confront them and get himself removed from these companies immediately. On December 13-14, 2018 and January 25, 2019, he was able to contact Mr. Mukesh Jain and Mr. Naresh on call, who threatened him that Mr. Manoj and his associates are of criminal nature and they have connection with criminal minded persons and if he initiates any legal proceedings against them, then they will implicate him in other companies and ruin his life.

j. He had already filed a written complaint with Magesh Nagar Police Station, Jaipur on December 22, 2018 and on December 31, 2018 against Mr. Manoj and his associates, which was registered as criminal complaint number 04/2019 pursuant to the ITO proceedings. He had also given all the documents where his signatures were forged for forensic inspection on February 03, 2019, which included the Special Power of Attorney ("**PoA**"), Memorandum of Association ("**MoA**"), Articles of Association ("**AoA**") of King Power, all dated April 15, 2010. He had given his ITR dated July 28, 2012 and his specimen signatures for comparison to the forensic examiner. The Forensic examiner vide his report dated February 04, 2019 opined that the signatures on PoA, MoA and AoA of Kings Power are dissimilar to his signatures on ITR dated July 28, 2012 and his specimen signatures. Pursuant to his complaints, the Police lodged FIR no. 84 on February 16, 2019 against Mr. Manoj, Vipin Kumar Gupta, Manaj Kumar Mandal, Chand Bhatia, Naresh Jain, Mukhesh Jain, Sandeep Sagar, Tarun Jain, Goverdhan Das Asopa, Arvind Poddar and their unknown companies for, *inter alia*, breach of trust, fraud and cheating by misusing his digital signatures and forging documents. The Jaipur Police on December 07, 2020 issued an Investigation Progress report stating that all charges as per FIR filed by him have been primarily found established.

k. During September 2020, he came across various newspaper articles which reported that ED has arrested Mr. Naresh Jain for hawala transactions and that ED was probing him and his associates in some money laundering cases. He also came across a Red Corner Notice published by Interpol against Mr. Manoj for charges of criminal conspiracy, cheating, forgery and criminal misconduct.

l. The Hon'ble Delhi High Court vide its order dated July 30, 2021 (*Bail Application no. 112/2021 filed by Bimal Jain and Naresh Jain*), while denying bail observed that both persons along with their accomplices hatched a criminal conspiracy to cause loss to the exchequer and banks by indulging in illegal foreign exchange transactions on the basis of forged/fabricated documents. They forged documents like *identity proof, birth and education certificate, voter id, PAN Card and signatures to incorporate entities*, operate bank accounts, facilitate bogus invoices and rotate funds through web of shell companies to cause undue benefit to the parties involved.

m. During the inspection on January 31, 2023, Authority failed to provide all the documents sought by him including the Investigation Report as sought for in the Inspection Letter. In this regard he has placed reliance upon the judgement of Hon'ble Supreme Court in the matter of *T. Takano*.

n. There has been inordinate delay in issuance of SCN as first time information was sought from him in 2016, wherein, SCN has been issued in 2022.

o. The allegations in the SCN upon him are based on account opening form with Axis Bank and his purported signatures on PoA, MoA and AoA of King Power, however, the forensic examination report dated December 04, 2019 shows that signatures on PoA, MoA and AoA are forged one and the investigation progress report of Jaipur police also confirm the same. Further, the Hon'ble Courts and authorities have also taken a view that Mr. Manoj, Mr. Naresh Jain and their associates were involved in forgery and fabrication of documents. His purported appointment as director in King Power was on the basis of forged signature and thus, he cannot be alleged to be cognizant of his alleged association with King Power.

p. With respect to the account opening form with Axis Bank, he submits that Mr. Manoj and Mr. Chandan had taken his signatures on the blank form on the pretext of account for Frisco. It is clear from the form that the form hasn't been filled by him. Therefore, he cannot be held liable for acts of King Power.

q. Further, it is not even the case of the SCN that he has personally benefitted from any of the alleged wrongdoings. Even in the detailed investigations done by EOW, ED, CID, he has never been accused of being associated with Manoj and his associates or alleged to have been a beneficiary. He had not been named in any FIR or charge sheet by these investigation agencies after a thorough and detailed investigation. Their *modus operandi* as observed by these authorities and the courts is to form *shell companies using genuine documents of persons fraudulently and forging signatures on documents*. Manoj and his associates misused his DIN and digital signatures and forged his signatures on documents to appoint him as director in such companies.

r. Most of the invoices of King Power provided to him pursuant to inspection are after his resignation on May 07, 2011. In any case, even from the few invoices prior to his resignation, it is evident that he was not the signatory. Thus, it cannot even be alleged that he was involved in day-to-day affairs of King Power. Moreover, he was never even a shareholder of King Power. Merely being cognizant of association with a company does not make the purported associated person liable for acts of the company. Even assuming he was cognizant of his association with King Power, SEBI has to show that he was involved in the affairs of King Power.

s. The SCN fails to show his engagement in any act which operates as fraud or alleged to have indulged in a fraudulent or unfair trade practice. The words "engage" and "indulge" inherently carry with it an element of conscious participation. The SCN fails to make out a case of conscious participation by him in any fraudulent activity of the Company. In this regard he has placed reliance upon the judgements of Hon'ble Securities Appellate Tribunal ("**SAT**") in the matter of *Price Waterhouse and Co. v. SEBI* (Appeal no. 6 rf 2018, dated 09.09.2018), Hon'ble Supreme Court in the matter of *SEBI v. Kanahaiyalal Baldevbhai Patel* (Civil Appeal no. 2595 rf 2013) and Ld. Whole Time Member ("**WTM**") in the matter of *Talia Global Venture Ltd.*

t. In the present case, he has not dealt in securities either directly or indirectly. There is also no charge against him that he aided in any fraudulent or manipulative activity. The *PwC Judgment* (*supra*), expressly held that more than reckless or careless, inducement becomes more significant where fraud is alleged. The SCN also does not find that he induced any fraudulent act.

u. The SCN does not make any allegation *qua* him with respect to any transactions in his bank account. Admittedly, no funds have moved from SCTL to his bank account directly or indirectly. During the course of the hearing, an explanation was sought regarding the contents of his complaint with the Police and the facts in relation to misuse of his bank account by his employer. In response to the same and without prejudice to the fact that the same has no bearing to the contents of the SCN, he submits that Mr. Manoj and Mr. Chandan contacted him in April 2010, when he was working from Jaipur for Frisco and told him to give them a signed cheque book of any of the bank account, which he was not using regularly, as they wanted to pay some regulatory fees like ROC fees etc. from his account, till Frisco's account started working. They had assured him that the cheques will not be misused. Since at the time he was in need for a job and had been given one by them, he gave a signed cheque book of his account in Axis Bank, Tilak Nagar Branch, Jaipur (A/c No. 031010100070823) in good faith. In 2010, there were no facilities of SMS alerts or Internet Banking for bank accounts, thus, he had no knowledge of transactions happened in the said bank account. At the time of resignation, he had asked them to return the security cheques, however they informed him that the cheques were submitted at the time of filing forms and the remaining cheques were all cancelled and can't be misused. It is pertinent to note that he was never a beneficiary of any transactions carried out by Manoj and his associates in the said Axis bank account.

v. As per the bank account statement of King Power, which forms part of the documents provided to me pursuant to inspection on January 31, 2023, it is seen from the 7 transactions with the said Axis bank account, that all the debit and credit transactions took place on the same day for the same amounts. Admittedly, these transactions have nothing to do with the allegations in the SCN. All the transactions were done by Manoj and his associates.

11. I have considered the allegation levelled in the terms of reference, the relevant material brought on record, reply/ submissions of the Noticee No. 6 made during the instant proceedings before the undersigned. Before dealing the case, it would be appropriate to provide reference to the provisions alleged to be violated by the Noticees at the relevant time and same read as under: -

<u>SEBI Act</u>

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

12A. *No person shall directly or indirectly—*

(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;.

<u>PFUTP Regulations</u>

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

12. In the facts and circumstances of this case, the question before me in this case is – whether, Salasar (Noticee No. 1), King Power (Noticee No. 2) and its director (Noticee No. 3 and 4) and King Empire (Noticee No. 5) and its director (Noticee No. 6 and 7) have aided the Company SCTL in routing the funds outside the country and thus, acted as conduits for the transfer of IPO proceeds and were party to such dubious transactions. Further, whether by acting as conduits these Noticees have violated the provisions of Section 12A(c) of the SEBI Act, 1992 r/w Regulation 3(d) and 4(1) of the PFUTP Regulations. I note that the

Noticee No. 6 has raised technical objections w.r.t. instant proceedings, therefore, it would be appropriate to deal the technical objections at first, before dealing the case on merits.

13. I note that, one of the technical contention raised by Mr. Avnish is that the SCN has been issued in 2022, wherein, first time the information was sought from him in 2016. Therefore, there is inordinate delay in the issuance of the SCN. In this regard, I note that, the Company was listed on Exchange on April 08, 2011 and on the day of listing the scrip of SCTL opened at Rs 78/- (issue price Rs. 69/-) and closed at Rs 48.05/- i.e. registered a fall of 30.36%. Further, SEBI had observed 19 such IPOs in year 2011, wherein, several anomalies have been observed and accordingly, on February 06, 2012, SEBI has approved investigation into 19 such IPOs and SCTL was one of those 19 companies. During the course of investigation, letters have been sent to the Company seeking various information. The Company had furnished initial replies and sought extension for remaining queries. During the process of collection/ obtaining information, SCTL reply dated October 31, 2014 about the utilization of proceeds found to be inconsistent with the bank fund flows received by the banks by the SEBI. Subsequently, a visit was carried at the SCTL, Delhi office on November 27-28, 2014 for collection of information. During visit, SCTL stated that it will furnish remaining documents by December 10, 2014. Thereafter, a draft investigation report has been prepared in March, 2015 and placed before internal committee, wherein, internal committee has advised for further investigation of the matter. Thereafter, summons has been issued to several other entities, including the Noticee companies and firms; their proprietor and directors; and the person connected to these entities. At this stage during August, 2016, it was decided that the issue related to "*deviation from the objects of issue and IPO utilization by SCTL*" to be dealt separately. After carrying out extensive investigation and detail analysis of trade and order data; financial statements, bank transactions, fund flows, fund trails, fund movements related to the same, analysis of foreign entities, their fund trails, etc. the final investigation report was presented on March 02, 2021 and the action was approved on March 05, 2021. Further, with respect to the fund transfer of SCTL to the foreign entities from IPO proceeds, the matter was referred to the Enforcement Directorate, Directorate of Revenue Intelligence and the Financial Intelligence Unit for necessary actions at their end. The competent authority had appointed Shri Parag Basu (erstwhile AO) as Adjudicating Officer vide communication order dated July 09, 2021. Subsequently, vide order dated March 11, 2022 undersigned has been appointed as Adjudicating Officer and on receipt of records, the SCN to the Noticees have been issued on May 20, 2022 in this matter.

14. I further note that, the investigation carried out in this case was quite complex due to detailed analysis carried out of the trade log, order log, fund movements, fund trails,

financial statements, bank transactions and involvement of foreign entities and study of fund movement with these entities. I also note that there is no provision in the SEBI Act which lays down any limitation period for initiating any proceedings/ action under the SEBI Act. Whether a delay in a particular case is justified or not depends on the facts and circumstances of each case. I further note that, initiating a proceeding under the appropriate provisions of SEBI Act is a regulatory prerogative of SEBI depending upon the outcome of the fact finding exercise, which is the investigation done in this case, and just because the alleged violation was committed in a distant past cannot be a ground to vitiate initiation of these proceedings. Also, it is a settled principle that a delay in a particular case depends on the facts and circumstances of each case. In this regard, I note that, in the judgement relied upon by the Noticee in the matter of *Ashlesh Gunvantbhai Shah* (*Supra*), the Hon'ble SAT has made the following pertinent remarks:

"It is no doubt true that no period of limitation is prescribed in the Act or the Regulations for issuance of a show cause notice or for completion of the adjudication proceedings. The Supreme Court in Government of India vs, Citedal Fine Pharmaceuticals, Madras and Others, [AIR (1989) SC 1771] held that in the absence of any period of limitation, the authority is required to exercise its powers within a reasonable period. <u>What would be the reasonable period would depend on the facts of each case and that no hard and fast rule can be laid down in this regard as the determination of this question would depend on the facts of each case.</u> This proposition of law has been consistently reiterated by the Supreme Court [..]. (emphasis applied)

15. I further note that in *Pooja Vinay Jain vs. SEBI* (Appeal No. 152 of 2019) decided on March 17, 2020, the Hon'ble SAT *inter alia* held the following:

The decision would show that the power to initiate the proceedings must be exercised by the authorities within a reasonable time. This would depend upon the facts and circumstances of the case, nature of the default / statute and prejudice caused to the noticee.

……It was simply stated that since the proceedings were launched by respondent SEBI after a period seven years, the same should be quashed on the ground of delay. The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same."

16. I also note that, Hon'ble Supreme Court in the case of Adjudicating Officer, *SEBI vs. Bhavesh Pabari (2019) SCC Online SC 294* held:

"There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created etc."

17. In this regard, I note that Hon'ble SAT has qualified through aforesaid rulings by saying that the reasonable period would depend on the facts and circumstances of each case and that

no hard and fast rule can be laid down in this regard. I am also of the opinion that, even if there is any delay as alleged, same cannot be the sole ground to exonerate these Noticees from liability of penalty under SEBI Act, if the charges and allegations against the Noticees are serious and established on desired preponderance of probability.

18. Another technical contention of Mr. Avnish is that all the documents sought by him including the investigation report as sought for in the inspection letter has not been provided to him during the instant proceedings. In this regard, I note that Mr. Avnish has been provided with the relied upon and relevant documents in the instant proceedings along with the SCN, such as – *copy of RHP/ Prospectus; copy of the Company letter dated February 19, 2016 along with documents/ bank statements/ ledgers; copy of bank statements of the Company; details of IPO Fund Deployment provided by the Company; copy of the Company letter dated November 28, 2014 and copies of sample invoices w.r.t. Salasar, King Power and King Empire; MCA Documents, Balance Sheet, Ledgers, etc. w.r.t. Salasar, King Power and King Empire; MCA Documents, ledgers, etc. of Golden Jubilee; copy of bank statements and other supporting documents of the Company and* ***the relevant extract of the Investigation Report****, etc.* During the instant proceedings, Mr. Avnish had sought several other documents/ materials, which as per him were relied upon documents in the SCN and was material information. I once again reiterate that, all the relied upon and relevant documents were already provided to him along with the SCN, however, considering the principle pronounce by the Hon'ble Supreme Court in the *T. Takano* judgement, the Noticee has been provided with the documents sought by him vide letter dated July 27, 2022, in a CD during the inspection of documents on January 31, 2023, such as – *RHP of the Company dated March 15, 2011; Quarterly Financial Results of the Company filed with the Exchanges along with notes to quarterly financial results; Disclosures made by the Company on NSE specifically including disclosures made December 2011, onwards; Annexure 2 Part 4 and Annexure 2 Part 5 to Reply/Letter of SCTL dated February 19, 2016; bills, invoices perused by SEBI in support of transactions with Salasar, King Power and King Empire; Ledger statements of King Power in the books of SCTL for Financial years 2010-11 and 2011- 12; Bank statements of King Power (Axis Bank – 910020045065839) along with the Bank account opening form and the In Person Verification proof of King Power Axis Bank; Letter dated May 18, 2016, from Ravi Shankar Goel & Co., on behalf of Shir Poddar to SEBI; Account Opening Form of King Power with Axis Bank; Power of Attorney submitted by Sh. Manoj Ku. Mandal; Memorandum of Association of King Power; Memorandum of Association of King Power; Emails dated May 10, 2016, June 22, 2016, December 16, 2016 and March 11, 2017; Letters of SCTL dated May 19, 2016 and July 02, 2016, along with annexures thereto; Annexures to SCTL Letter dated December 9, 2014; Email dated February 09, 2017; Bank statement accounts of Salasar and King Empire, etc.*

19. On January 31, 2023, the ARs of Mr. Avnish have inspected aforementioned documents in 17 files placed before them and collected the aforementioned CD. Further, vide letter dated February 06, 2023, AR of Mr. Avnish stated that the inspection of the documents is duly completed and complied. Post inspection of documents Mr. Avnish was granted with an opportunity of personal hearing on February 13, 2023 and he was allowed time up to February 10, 2023 to file reply to the SCN. He sought further extension for filing reply to the SCN and adjournment for scheduled hearing and I note that, Adv. Saloni Manjrekar while seeking aforementioned extension and adjournment vide her e-mail dated February 07, 2023, had not mentioned at all about the documents not being provided to the Noticees during the proceedings or about incomplete inspection. Instead the reason provided by the AR was non availability of counsel Mr. Kunal Katariya on scheduled date of hearing. Only on February 16, 2023 i.e. 15 days' after the completion of inspection of documents, AR stated that his client has not been provided with the documents sought by it and inspection of all the documents, wherein, previously the same AR had submitted on record that the inspection of documents in the instant proceedings has been completed and complied with. Considering that all the relied upon and relevant documents provided to Mr. Avnish along with the SCN; additional documents sought by him, provided to him during the inspection of documents and relevant extract of the Investigation Report provided to him during the instant proceedings, principles laid down by the Hon'ble Supreme Court in *T. Takano* judgement has been duly complied in instant proceedings and Mr. Avnish has all the documents to present his case on the merits of the case. Therefore, I found no merit in such contentions of the Noticee and reject the same hereby.

20. On merits of the case, I note that as per the Prospectus dated March 28, 2011, Rs 55.87 crores were assigned for 7 different objects (*Refer Table 2*) and SCTL in its quarterly financial results filings to Exchanges (*as prescribed in Clause 43A of listing agreement*), had disclosed IPO utilization on a quarterly basis in the notes to quarterly financial results. The disclosures made by SCTL on NSE are summarized in the table as follows:

Table 3 (Source: NSE)

Description (Figures in Rs. Cr)	**Jun-11**	**Sep-11**	**Dec-11***	**Mar-12***	**Jun-12***	**Sep-12***	**Dec-12***	**Mar-13***
Capital Expenditure Expansion	11.69	11.69	17.36	17.36	17.36	17.36	19.01	20.9
Investment in Subsidiary	5	5	5	5	5	5	5	5
Issue Expenses	1.99	1.99	1.99	2.01	2.01	2.01	2.01	2.01
Fixed Deposits	32.25	24.75	-	-	-	-	-	-
Margin for opening LCs for imported machinery	-	-	13	13	-	-	-	-
Sub-total	50.93	43.43	37.35	37.37	24.37	24.37	26.02	27.91
Working Capital #	4.95	12.45	18.53	18.51	31.51	31.51	29.86	27.97

Total	55.88	55.88	55.88	55.88	55.88	55.88	55.88	55.88

The amount utilized towards working capital have been deduced from the statement made by the company that "the balance issue proceeds has been utilized in working capital pending utilization for the objects of the issue".

* In the disclosures made Dec 2011 onwards, the company had stated that the balance issue proceeds has been utilized in working capital pending utilization for the objects of the issue as modified by the resolution passed by the shareholders in its AGM dated 29.09.2011.

21. I note from the bank transactions of the Company and its reply dated February 19, 2016 that IPO proceeds were utilized towards the following entities:

Table 4 (Payments from IPO Proceeds in Rs. crore)

S.No.	Particulars/ Name of Entity	Amount	S.No.	Particulars/ Name of Entity	Amount
(1)	Payment of IDBI Term Loan	2.41	(11)	SE Investments Limited	0.24
(2)	Salasar Trading Co.	8.20	(12)	Prerna Arcade Pvt Limited	9.00
(3)	King Empire Tradexim Pvt. Ltd.	2.60	(13)	Progressive Trade Impex Pvt Ltd	0.70
(4)	King Power Industries Pvt. Ltd.	2.50	(14)	Sarswati Vincom Ltd.	1.00
(5)	E.I. Dupont De Nemours & Co.	0.03	(15)	Essential Trade Expo Pvt Ltd	0.24
(6)	Dubai Cable Company Pvt. Ltd.	1.68	(16)	LC-Hanwha Corporation	1.81
(7)	RRJR Trading Pvt. Ltd.	0.75	(17)	D & A Financial Services (P) Limited	0.35
(8)	Shilpi Cabletronics Limited	6.73	(18)	Hem Securities Limited	0.22
(9)	FDR with PNB	11.33	(19)	Sobhagya Advertising Services	0.05
(10)	Shilpi Communications Pvt. Ltd.	6.05	(20)	Other Expenses/ Payments	0.003

22. From the available records, I found that payments from the entire IPO proceeds have been made during the period April 07, 2011 to April 18, 2011 and there has been a stark deviation in the actual utilization of IPO proceeds to that mentioned in the final prospectus. It's noted that substantial portion of the IPO proceeds were used to repay *unsecured creditors, advances to a group entity – Shilpi Communications Pvt. Ltd, to the vendors who were subsequently selected by the Company to replace the vendors mentioned in the prospectus and working capital requirement*. A summary of the comparison between the actual utilization of IPO proceeds, as observed from the bank statements and supporting documents submitted by the Company in its letter to that mentioned in the prospectus is as follows:

Table 5 (Source: SCTL's reply dated 19.02.2016)

S.No	Particulars (fig in Rs Crore)	Actual utilization proposed in the Prospectus	Submission of the company reg. the utilization of IPO proceeds as on date of co. reply i.e. Feb 19, 2016	As observed from the supporting documents and bank statements in co. reply dated Feb 19, 2016	Deviation (after taking the full utilization of IPO proceeds)
1	To raise funds for capital expenditure on Cable/wire Assembly shop	8.65	1.62	-	-
2	To raise funds for capital expenditure on Tools for 3G enabling	4.47	-	-	-
3	To raise funds for capital expenditure	16.21	19.36	-	-

S.No	Particulars (fig in Rs Crore)	Actual utilization proposed in the Prospectus	Submission of the company reg. the utilization of IPO proceeds as on date of co. reply i.e. Feb 19, 2016	As observed from the supporting documents and bank statements in co. reply dated Feb 19, 2016	Deviation (after taking the full utilization of IPO proceeds)
	on augmenting cable manufacturing capabilities				
4	To raise funds towards margin for working capital for the proposed new businesses	15.54	27.88	-	-
5	To raise funds for investment in the Subsidiary of the Company, M/s Shilpi Cabletronics Limited	5.00	5.00	5.00	
6	To raise funds for General corporate purposes	3.00	-	0.20	-
7	To meet the expenses of the issue	3.00	2.02	0.62	-
8	Advances to Group Companies *	-	-	7.78	7.78
9	FDs as margin payment for LCs *	-	-	11.33	11.33
10	Repayment of Unsecured Loans already taken*	-	-	11.18	11.18
11	To meet working capital requirements of existing business*	-	-	17.36	17.36
12	Amount paid towards Term Loan*	-	-	2.41	2.41
	Total	**55.88**	**55.88**	**55.88**	**50.06**

* IPO proceeds were utilized under these heads contrary to what was mentioned in the prospectus.

23. From the above table 5, I observed that the company had deviated from the objects of the IPO by **approx. Rs. 50 Crore** by utilizing towards means different from the objects to the Issue mentioned in the prospectus. Further, the entire proceeds of IPO were used to make payments to entities and means divergent from that mentioned in the prospectus during the month of April 2011 itself. From the analysis of bank account statements of the Company and the Company's reply dated February 19, 2016, it's observed that the company had utilized some of the IPO proceeds towards transactions with entities whose credentials and businesses are doubtful. Detailed analysis of payment towards such suspicious transactions are as follows:

i. From the bank account statements, it's observed that several payments to the tune of Rs. 8.20 Crore from the IPO proceeds have been made to Salasar and payments to the tune of Rs. 2.6 Cr and Rs. 2.5 Cr from the IPO proceeds were made to King Empire and King Power, respectively. Details of such transfers are as follows: -

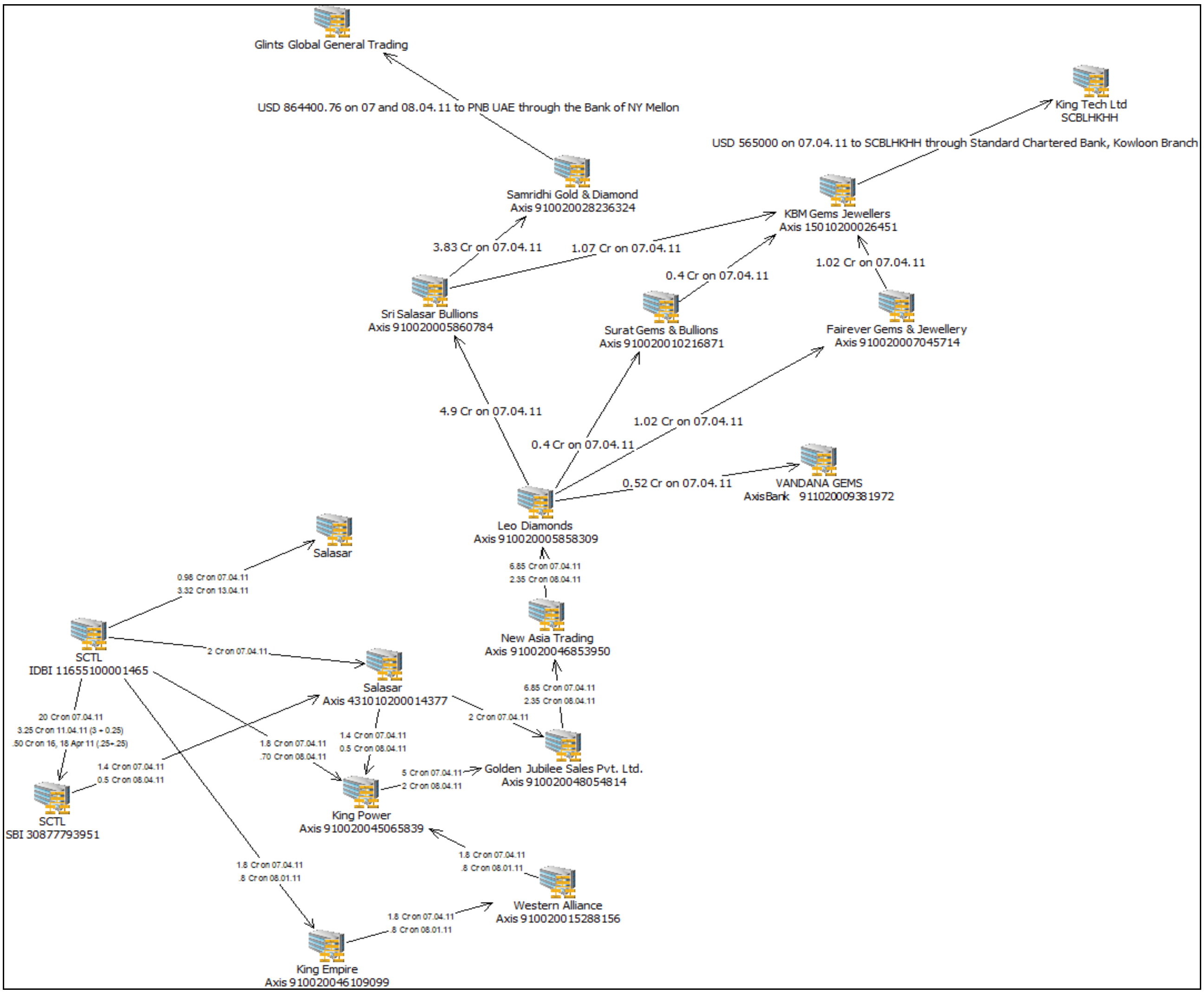
Table 6 (Source: SCTL's reply dated 19.02.2016)

Sl No.	Transferor	Transferee	Amount (in Rs crore) (Date)
1	SCTL (SBI 30877793951)	King Empire Tradexim Pvt. Ltd. (Axis	1.8 (07.04.2011)

		910020046109099)	
2	SCTL (SBI 30877793951)	King Empire Tradexim Pvt. Ltd. (Axis 910020046109099)	0.8 (08.04.2011)
King Empire Tradexim Pvt. Ltd.			**2.6**
3	SCTL (SBI 30877793951)	King Power Industries Pvt. Ltd (Axis 910020045065839)	1.8 (07.04.2011)
4	SCTL (SBI 30877793951)	King Power Industries Pvt. Ltd (Axis 910020045065839)	0.7 (08.04.2011)
King Power Industries Pvt. Ltd			**2.5**
5	SCTL (IDBI 11655100001465)	Salasar Trading Co. (Axis 431010200014377)	2.0 (07.04.2011)
6	SCTL (IDBI 11655100001465)	Salasar Trading Co. (BoI)	0.98 (07.04.2011)
7	SCTL (IDBI 11655100001465)	Salasar Trading Co. (BoI)	3.32 (13.04.2011)
8	SCTL (SBI 30877793951)	Salasar Trading Co. (Axis 431010200014377)	1.4 (07.04.2011)
9	SCTL (SBI 30877793951)	Salasar Trading Co. (Axis 431010200014377)	0.5 (08.04.2011)
Salasar Trading Co.			**8.2**
Total			**13.3**

ii. The details of such payments and subsequent fund flows is depicted as follows:

<u>Figure 1: Payment made from IPO proceeds to Salasar, King Power and King Empire</u>



iii. In its reply, the Company had stated that the said payments were for the purpose of working capital and upon perusal of the bills submitted in support of the said transactions, I observed that the goods described in the bills were connectors, cables and jumpers. Therefore, in my view the above payments towards Salasar, King Power and King Empire for working capital requirement was divergent from the objects of the issue proposed in the final prospectus.

24. I note that the SCN has alleged that the credentials and businesses of the entities Salasar, King Power and King Empire are found to be doubtful, accordingly, it would be appropriate to look into the credentials of the aforementioned 3 entities:

i. **King Power Industries Limited (PAN: AADCK9238Q): -**

a) On observing the MCA records, it's found that King Power was incorporated on April 22, 2010 with CIN- U40104DL2010PTC201834 and registered at the address - *H-3, 106, FF Vardhaman Plaza, Netaji Subhash Palace, Pitampura, New Delhi – 110034*. The status of King Power on MCA is showing as Active with the date of last AGM as Sept 30, 2019. The new registered address of the company is *Office No-217, Radha Chamber, Plot No-19 and 20, G-Block, Community Centre, Vikaspuri, New Delhi West Delhi 110018*. The main objects of King Power as per its Memorandum of Association ("**MoA**") is to carry on the business as traders, importers, exporters, …….. of all kinds of electrical appliances, ….. and to deal in all kinds of electrical and electronic apparatus/ hardware/ instruments, components and goods including all types of wire, …… in India or abroad.

b) From the Form No. 1 (*Application and declaration for incorporation of a company*) and Form 32, the following details during the relevant period of investigation in addition to the above are observed:

Table 7 (Source: Filings made by King Power on MCA for the relevant periods)

Sl No.	Particulars	Remarks
1	Particulars of Promoters/ Directors	1. Avnish Bhatnagar (DIN – 02863857/PAN- AAWPB2025L); Email: mandalmk@gmail.com/ abhay77777@gmail.com 2. Arvind Poddar (DIN – 02910991/ PAN - AODPA6026K); Email: mandalmk@gmail.com/ abhay77777@gmail.com
2	Email id of the company	mandalmk@gmail.com

c) A brief of the financials of King Power for the financial years 2010-11 and 2011-12 are as follows:

Table 8 (Source: Filings made by King Power on MCA for the relevant periods)

Particulars		FY 2011-12 (in Rs.)	FY 2010-11 (in Rs.)
Balance sheet [Abstract]			
Total shareholders' funds		**1,13,86,378.77***	**4,85,505.96**
Total non-current liabilities		**5,468**	**3,072**
Total current liabilities		**99,10,04,456.19**	**75,12,63,322.56**
Short-term borrowings		21,52,77,914	8,14,43,431
Trade payables		77,48,45,981	66,96,14,643
Total equity and liabilities		**100,23,96,302.96**	**75,17,51,900.52**
Assets [Abstract]			
Total fixed assets		**24,260**	**36,282**
Total non-current assets		24,260	36,282
Current assets [Abstract]			
	Current investments – FDR with Bank	51,10,000	0
	Inventories	*0*	*14,47,280*
	Trade receivables	96,49,13,730.64	74,96,62,151.3
	Cash and bank balances	34,53,858.28	4,61,987.22
	Short-term loans and advances (unsecured)	2,87,86,304.04	0
	Other current assets	1,08,150	1,44,200
Total current assets		100,23,72,042.96	75,17,15,618.52
Total assets		**100,23,96,302.96**	**75,17,51,900.52**

Table 9 (Source: Filings made by King Power on MCA for the relevant periods)

Particular	FY 2011-12	FY 2010-11
Profit and Loss [Abstract]		
Total Turnover/Receipts	n.a	221,53,14,405
Total Expenditure	n.a	221,53,49,347
Profit Before Tax	n.a	5,57,894.96
Profit After Tax	**10,00,872.81**	**3,88,578**

** During the period, 9,90,000 shares were allotted to Golden Jubilee Sales Pvt. Ltd.*

d) As per note captioned Technical Absorption and Energy Conservation of the Annual Report, the auditor of the financial statements had certified that "*During the year the Company have not produced and/or manufactured its products. So, there was no consumption of energy and technology absorption.*"

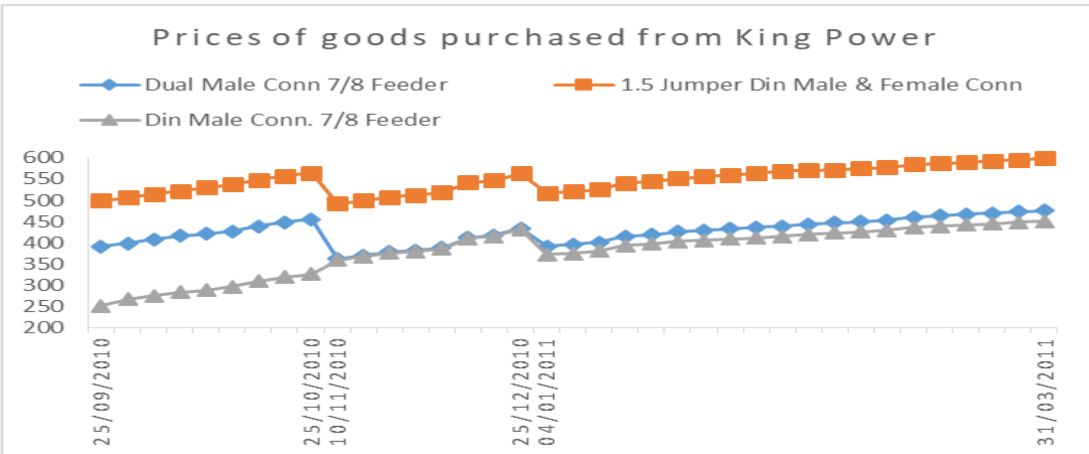
e) From the financial statements of the King Power, it is apparent that it did not have any major fixed asset and it had an abnormally high level of inventory turnover. Further, from the total turnover and the total expenses for FY 2010-11, it is observed that King Power is not involved in any value addition of goods. The major asset of King Power was trade receivables and funding of King Power was mainly met by unsecured short term borrowings and Trade payables. The inventory held by King Power as on March 31, 2010 was stock of cables and connectors.

f) From the ledger statements of King Power, in the books of SCTL, for the financial years 2010-11 and 2011-12, I observed that SCTL had made purchase of goods worth Rs. 22.70 Crore and Rs. 106 Crore in the financial years 2010-11 and 2011-12, respectively, from King Power; and Shilpi Cabletronics had made purchase of goods worth Rs. 12.93 Crore and Rs. 12.10 Crore in the financial years 2010-11 and 2011-12, respectively, from King Power.

g) From the bank statement of King Power (Axis Bank – 910020045065839), I observed that King Power had substantial transactions with Salasar, Shilpi Cabletronics Ltd., Silver Jubliee Tradexim Pvt Ltd, Western Alliance Tradexim Pvt Ltd, Ford Asia Trading Pvt. Ltd. and Golden Jubilee Sales Pvt Ltd during the financial years 2010-11 & 2011-12.

h) Further, from an analysis of the said bills for the goods purchased by the Company from King Power during the financial year 2010-11, I observed that the per unit prices of Din Male Connector 7/8 Feeder cable purchased by SCTL from King Power steadily increased by 72%, at an average of 4% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*), from Rs. 251/- per unit on September 25, 2010 to Rs. 432/- per unit on December 25, 2010. The price of Din Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 13% from Rs. 432/- per unit in the previous invoice (dated December 25, 2010) to Rs. 372/- per unit on January 04, 2011. Subsequently, a similar trend of steady rise in prices was observed during January 04, 2011 and March 31, 2011 where the per unit price of Din Male Connector 7/8 Feeder cable increased from Rs. 372/- per unit on January 04, 2011 to Rs. 451/- per unit on March 31, 2011, an increase of almost 20% with an average of 1% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). Overall, the per unit price for the item Din Male Connector 7/8 Feeder cable purchased by SCTL from King Power increased by almost 80% within a span of 6 months. A price chart for the same is placed below:

<u>Figure 2: Price Chart of goods purchased by SCTL from King Power in FY 2010-11</u>



i) The per unit prices of Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Power steadily increased by 16%, at an average of 1.8% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*), from Rs. 392/- per unit on September 25, 2010 to Rs. 456/- per unit on October 25, 2010. The price of Dual Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 26% from Rs. 456/- per unit in the previous invoice (dated October 25, 2010) to Rs. 362 per unit on November 10, 2011. Subsequently, a trend of steady rise in prices was observed during November 10, 2011 and December 25, 2010 where the per unit price of Dual Male Connector 7/8 Feeder cable increased from Rs. 362/- per unit on Nov 10, 2011 to Rs. 434/- per unit on December 25, 2010, an increase of almost 20% with an average of 2.5% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). The price of Dual Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 10% from Rs. 434/- per unit in the previous invoice (dated December 25, 2010) to Rs. 392/- per unit on January 4, 2011. Subsequently, a trend of steady rise in prices was observed during January 4, 2011 and March 31, 2011 where the per unit price of Dual Male Connector 7/8 Feeder cable increased from Rs. 392/- per unit on January 4, 2011 to Rs. 476/- per unit on March 31, 2011, an increase of almost 21% with an average of 1% per invoice (even though the gap between the dates of two immediate invoices was mere 4-5 days). Overall, the per unit price for the item Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Power increased by almost 21% within a span of 6 months.

j) Per unit prices of 1.5 Jumper Din Male & Female Connector purchased by SCTL from King Power steadily increased by 13%, at an average of 1.4% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*), from Rs. 500/- per unit on September 25, 2010 to Rs. 565/- per unit on October 25, 2010. The price of 1.5 Jumper Din Male & Female Connector purchased by SCTL reduced by almost 15% from Rs. 565/- per unit in the previous invoice (dated October 25, 2010) to Rs. 492/- per unit on November 10, 2011. Subsequently, a similar trend of steady rise in prices was observed during November 10, 2011 and December 25, 2010 where the per unit price of 1.5 Jumper Din Male & Female Connector increased from Rs. 492/- per unit on November 10, 2011 to Rs. 564/- per unit on December 25, 2010, an increase of almost 15% with an average of 1.8% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). The price of 1.5 Jumper Din Male & Female Connector purchased by SCTL reduced by almost 9% from Rs. 564/- per unit in the previous invoice (dated December 25, 2010) to Rs. 517/- per unit on January 4, 2011. Subsequently, a similar trend of steady rise in prices was observed during January 4, 2011 and March 31, 2011 where the per unit price of 1.5 Jumper Din Male & Female Connector increased from Rs. 517/- per unit on Jan 4, 2011 to Rs. 599/- per unit on March 31, 2011, an increase of almost 16% with an average of 0.8% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). Overall, the per unit price for the item Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Power increased by almost 20% within a span of 6 months.

k) I note that, though King Power was incorporated in April 2010, the Company placed substantial portion of its purchases with King Power during the period 2010 – 2012, which is suspicious in itself. Further, vide Summons dated April 07, 2016 and November 07, 2016, information was sought from King Power and its directors *viz.* Shri Avnish Bhatnagar (Noticee No. 6) and Shri Arvind Poddar (Noticee No. 7). According to submission by Shri Avnish, Mr. Manoj Garg's (*Manoj Kumar Garg is the proprietor of Salasar Trading Co., one of the entities to whom IPO proceeds were transferred*) office applied for his DIN number in November 2009 for his appointment as director in Frisco and using his DIN and digital signatures and Shri Garg's office appointed him as director in other companies in addition to Frisco without his prior consent. Ravi Sankar Goel & Co. (Chartered Accountants), on behalf of Shri Arvind, vide letter dated May 18, 2016, submitted that Shri Arvind was related with King Power as director and also as shareholder for the period from incorporation on April 22, 2010 till August 27, 2011. Also, I note that despite seeking additional time to file reply to the summons, King Power had failed to provide information. In view of the discussion and analysis in above sub-paras of para 24(i), financials of the company and continuous fluctuations in the price of the inventories with a defined pattern, I found that the business and credentials of King Power are doubtful.

ii. **King Empire Tradexim Pvt. Ltd. (PAN: AIXPG2195F)**

a) From the MCA records, I observed that King Empire was incorporated on April 22, 2010 with CIN- U51909DL2010PTC201868 and registered at the address – *3/17 C.S.M., Janakpuri, New Delhi – 110058*. The registered address of the company changed to *212A, Ansal Majestic Power, VikasPuri, New Delhi – 110018* on October 25, 2010. The present status of the company on MCA is showing as Active with the date of last AGM as September 30, 2019. One of the main objects of King Empire as per its MoA is to carry on the business as buyers, sellers, importers, exporters, distributors, agents, traders, brokers, factors, stockiest, commission agents, and dealers of: Engineering goods, leather goods, machine tools, small tools, metals, alloys, iron pipe fitting, nuts, bolts and accessories automobiles, and automobile parts and steel, stainless steel, and …

b) From the Form No. 1 (*Application and declaration for incorporation of a company*), the following details during the relevant period of investigation in addition to the above are observed:

Table 10 (Source: Filings made by King Empire on MCA for the relevant periods)

Sl No.	Particulars	Remarks
1	Particulars of Promoters/ Directors	1. Chandan Bhatia (ceased to be director w.e.f. 22.04.2010); DIN – 00510103; Email: mandalmk@gmail.com 2. Vijay Julka (ceased to be director w.e.f. 09.11.2010); DIN – 01167290; PAN – AAHPJ0342H; Email: abhay77777@gmail.com 3. Om Raj Garg (Independent Director w.e.f. 02.11.2010); DIN – 02504390; Email: abhay77777@gmail.com 4. Chandan Gupta (Independent Director w.e.f. 22.04.2010); DIN – 03029001/ PAN- AIXPG2195F); Email: mandalmk@gmail.com; 5. Davendra Ku. Sharma (Independent Director w.e.f. 30.04.2011); (DIN – 02738418)
2	Email id of the company	mandalmk@gmail.com (Form 18 dated 16.04.2010)

c) A brief of the financials of King Power for the financial years 2010-11 and 2011-12 are as under:

Table 11 (Source: Filings made by King Empire on MCA for the relevant periods)

Particulars		FY 2011-12 (in Rs.)	FY 2010-11 (in Rs.)
Balance sheet [Abstract]			
Total shareholders' funds		**1,05,55,421.05**	**2,14,044.93**
Total non-current liabilities		**5,292**	**2,961**
Current liabilities [Abstract]			
	Short-term borrowings	16,71,20,000	0
	Trade payables	52,25,87,966	14,16,58,200
Total current liabilities		**69,01,50,968**	**14,17,18,737**
Total equity and liabilities		**70,07,11,681.05**	**14,19,35,742.93**
Assets [Abstract]			
Total fixed assets		**24,022**	**35,919**
Current assets [Abstract]			
	Current investments – FDR with Bank	1,00,000	0
	Inventories	*6,42,19,144*	*5,92,720*
	Trade receivables/ Sundry Debtors	62,89,03,365.52	13,81,34,697
	Cash and bank balances	-21,82,427.58	3,61,099.17
	Short-term loans and advances (unsecured)	96,40,677.11	28,02,107.76
Total current assets		70,06,87,659.05	14,18,99,823.93

Particulars	FY 2011-12 (in Rs.)	FY 2010-11 (in Rs.)
Total assets	**70,07,11,681.05**	**14,19,35,742.93**

*During the period, 9,90,000 shares were allotted to Golden Jubilee Sales Pvt. Ltd.

Table 12 (Source: Filings made by King Empire on MCA for the relevant periods)

Particulars	FY 2011-12	FY 2010-11
Profit and Loss [Abstract]		
Total Turnover/Receipts	n.a.	24,90,53,294
Total Expenditure	n.a.	24,88,88,251
Purchases		24,84,54,558
Audit Fee		12,500
Rent		93,000
Salary		2,35,000
Depreciation		13,411
Profit Before Tax	n.a.	1,65,043
Profit After Tax	**4,41,376**	**1,17,006**

d) From the Balance Sheet and Profit and Loss Statement of King Empire for the period April 22, 2010 to March 31, 2011, I observed that King Empire did not have any major asset and had an abnormally high level of inventory turnover. Further, from the total turnover and the total expenses for FY 2010-11, it is observed that King Power is not involved in any value addition of goods. The major asset of King Empire was trade receivables and funding of King Empire was mainly met by unsecured short term borrowings and Trade payables.

e) From the Annual Report of King Empire, I observed that King Empire had the total trade receivables/ sundry debtors at Rs. 13.81 Crore as on end of March 31, 2011. This was on account of SCTL and Shilpi Cabletronics which owed Rs. 7.21 Crore and Rs. 6.60 Crore respectively to King Empire. Thus, at the end of the financial year 2010-11, 100% of trade receivables/ sundry debtors of King Empire were SCTL and Shilpi Cabletronics.

f) The inventory held by King Empire as on March 31, 2010 was stock of cables and connectors. Major part of the funding to King Empire was from trade payables/ sundry creditors at Rs. 14.16 Crore (i.e. Ford Asia Trading Pvt. Ltd. – Rs. 2.76 Crore, Silver Jubilee Tradexim Pvt. Ltd. – Rs. 3.46 Crore and Western Alliance Tradexim Pvt Ltd. – Rs. 7.94 Crore) as on March 31, 2011.

g) From the Balance Sheet of King Empire for the financial years 2010-11 and 2011-12, I observed that it had hardly any fixed assets and that it did not own any premises given that it paid rent of Rs 0.93 lac during 2010-11. Further, from the Profit and Loss statement for the Financial Year ending 2011, I observed that King Empire had incurred expenses of Rs. 2.35 lac towards salary and Rs. 0.93 lac towards rent which is disproportionately low given the substantially high sales and expenses figures. From the above, it's apparent that King Empire's turnover/ expenses were not commensurate with its infrastructure and employee base.

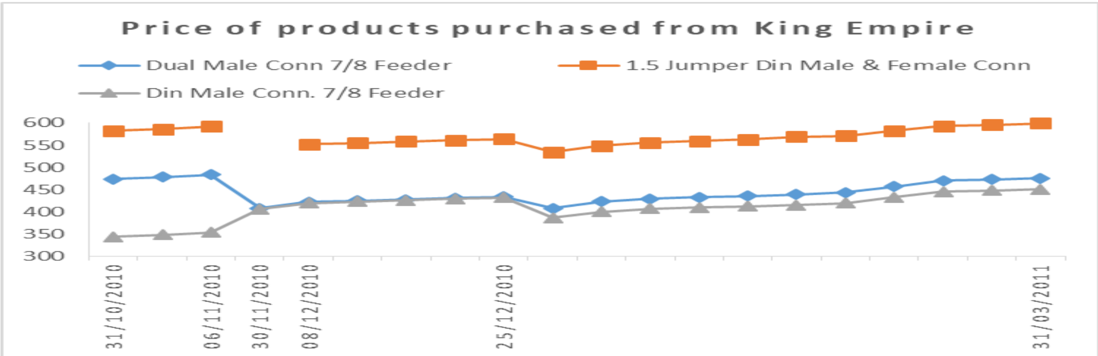
h) From the ledger statements of King Empire, in the books of SCTL, for the financial years 2010-11 and 2011-12, I observed that SCTL had made purchase of goods worth Rs. 11.53 Crore and Rs. 106 Crore in the financial years 2010-11 and 2011-12, respectively, and Shilpi Cabletronics had made purchase of goods worth Rs. 16.80 crore and Rs. 24.8 crore in the financial years 2010-11 and 2011-12, respectively.

i) During the financial year 2010-11, it's observed that SCTL and Shilpi Cabletronics had purchased goods worth Rs. 11.53 crore and Rs. 16.8 crore, respectively, and aggregating to Rs. 28.3 crore from King Empire. However, from the financial statements of King Empire for the financial year 2010-11, discrepancy is observed with regard to the total revenue of King Empire and the same had been reported as Rs. 24.90 crore. However, from the above it's inferred that SCTL and Shilpi Cabletronics were the only customers of King Empire during the FY 2010-11.

j) From the bank statement of King Empire (Axis Bank – 910020045065839), I observed that it had substantial transactions with Shilpi Cabletronics Ltd., Silver Jubliee Tradeexim Pvt Ltd, Western Alliance Tradeexim Pvt Ltd, Ford Asia Trading Pvt. Ltd. and Golden Jubilee Sales Pvt Ltd during the financial years 2010-11 and 2011-12. In view of the same, the decision of SCTL to place substantial orders to procure raw materials from King Empire, which was then recently incorporated in 2010 and did not have any other customer except for SCTL and Shilpi Cabletronics, is questionable.

k) Further, from an analysis of the bills for the goods purchased by the company from King Empire during FY 2010-11, the following are observed:

Figure 3: Price Chart of goods purchased by SCTL from King Empire in FY 2010-11



l) I note that, per unit prices of Din Male Connector 7/8 Feeder cable purchased by SCTL from King Empire steadily increased by 26%, at an average of 2.8% per invoice, from Rs. 344/- per unit on October 31, 2010 to Rs. 432/- per unit on December 25, 2010. The price of Din Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 10.5% from Rs. 432/- per unit in the previous invoice (dated December 25, 2010) to Rs. 387/- per unit on January 22, 2011. Subsequently, a similar trend of steady rise in prices was observed during January 22, 2011 and March 31, 2011 where the per unit price of Din Male Connector 7/8 Feeder cable increased from Rs. 387/- per unit on January 22, 2011 to Rs. 451/- per unit on March 31, 2011, an increase of almost 17% with an average of 1.5% per invoice. Overall, the per unit price for the item Din Male Connector 7/8 Feeder cable purchased by SCTL from King Empire increased by almost 31% within a span of 6 months.

m) Per unit prices of Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Empire steadily increased by 2% in a matter of days from Rs. 474/- per unit on October 31, 2010 to Rs. 484/- per unit on November 6, 2010. The price of Dual Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 16% from Rs. 484/- per unit in the previous invoice (dated November 6, 2010) to Rs. 408/- per unit on November 30, 2011. Subsequently, a trend of steady rise in prices was observed during November 30, 2011 and December 25, 2010 where the per unit price of Dual Male Connector 7/8 Feeder cable increased from Rs. 408/- per unit on November 30, 2011 to Rs. 434/- per unit on December 25, 2010, an increase of almost 6% with an average of 1.1% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). The price of Dual Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 6% from Rs. 434/- per unit in the previous invoice (dated December 25, 2010) to Rs. 408/- per unit on January 4, 2011. Subsequently, a trend of steady rise in prices was observed during January 4, 2011 and March 31, 2011 where the per unit price of Dual Male Connector 7/8 Feeder cable increased from Rs. 408/- per unit on January 4, 2011 to Rs. 476/- per unit on Mar 31, 2011, an increase of almost 17% with an average of 1.5% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). Overall, the per unit price for the item Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Empire fluctuated a lot during the 6 months' period with a high price of Rs. 484/- per unit on November 6, 2010 and a low price of Rs. 408/- per unit price on November 30, 2010 and January 22, 2010.

n) Per unit prices of Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Empire increased by 2% in a matter of days from Rs. 474/- per unit on October 31, 2010 to Rs. 484/- per unit on November 6, 2010. The price of Dual Male Connector

7/8 Feeder cable purchased by SCTL reduced by almost 16% from Rs. 484/- per unit in the previous invoice (dated November 6, 2010) to Rs. 408/- per unit on November 30, 2011. Subsequently, a trend of steady rise in prices was observed during November 30, 2011 and December 25, 2010 where the per unit price of Dual Male Connector 7/8 Feeder cable increased from Rs. 408/- per unit on November 30, 2011 to Rs. 434/- per unit on December 25, 2010, an increase of almost 6% with an average of 1.1% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). The price of Dual Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 6% from Rs. 434/- per unit in the previous invoice (dated Dec 25, 2010) to Rs. 408 per unit on January 4, 2011. Subsequently, a trend of steady rise in prices was observed during January 4, 2011 and March 31, 2011 where the per unit price of Dual Male Connector 7/8 Feeder cable increased from Rs. 408/- per unit on January 4, 2011 to Rs. 476/- per unit on March 31, 2011, an increase of almost 17% with an average of 1.5% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). It was observed that there was a lot of fluctuation in the per unit price for the item Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Empire during the 6 months' period with a high price of Rs. 484/- per unit on November 6, 2010 and a low price of Rs. 408/- per unit price on November 30, 2010 and January 22, 2010.

o) Per unit prices of 1.5 Jumper Din Male & Female Connector purchased by SCTL from King Empire steadily increased by 1.72% in a matter of days from Rs. 582/- per unit on October 31, 2010 to Rs. 592/- per unit on November 6, 2010. The price of 1.5 Jumper Din Male & Female Connector purchased by SCTL reduced by almost 7% from Rs. 592/- per unit in the previous invoice (dated November 6, 2010) to Rs. 552/- per unit on December 8, 2010. Subsequently, a trend of steady rise in prices was observed during December 8, 2010 and December 25, 2010 where the per unit price of 1.5 Jumper Din Male & Female Connector increased from Rs. 552/- per unit on December 8, 2010 to Rs. 564/- per unit on December 25, 2010, an increase of almost 2%. The price of 1.5 Jumper Din Male & Female Connector purchased by SCTL reduced by almost 5.3% from Rs. 564/- per unit in the previous invoice (dated December 25, 2010) to Rs. 534/- per unit on January 22, 2011. Subsequently, a trend of steady rise in prices was observed during January 22, 2011 and March 31, 2011 where the per unit price of 1.5 Jumper Din Male & Female Connector increased from Rs. 534/- per unit on January 22, 2011 to Rs. 599/- per unit on March 31, 2011, an increase of almost 12% with an average of 1.1% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). It was observed that there was a lot of fluctuation in the per unit price for the item 1.5

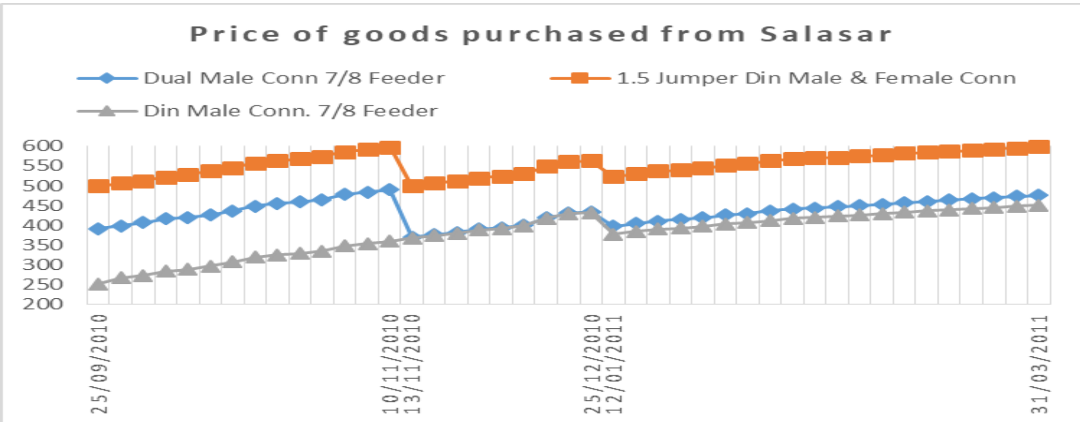
Jumper Din Male & Female Connector purchased by SCTL from King Empire during the 6 months' period with a high price of Rs. 599/- per unit on March 31, 2011 and a low price of Rs. 534/- per unit price on January 22, 2010.

p) Vide Summons dated April 07, 2016 and November 07, 2016, information was sought from King Empire and its directors Shri Chandan Gupta and Shri Om Raj Garg. However, letters sent to King Empire, Rrjr Trading Pvt Ltd and Shri Om Raj Garg was returned with the reason "*Unclaimed*". While, the letter to Sh. Chandan Gupta returned with the reason "*Addressee Moved*". In view of the discussion and analysis in above sub-paras of para 24(ii), financials of the company and continuous fluctuations in the price of the inventories with a defined pattern, I found that the business and credentials of King Empire are doubtful.

iii. **Salasar Trading Co. Ltd. (Prop. Manoj Kumar Garg) (PAN: AAEPG8328D)**

a) From the Know Your Customer ("**KYC**") and Account Opening Form ("**AOF**") of Salasar with Axis Bank, I observed that Salasar is a sole proprietorship of Sh. Manoj Kumar Garg (PAN: AAEPG8328D & DIN: 01772147). As per the KYC & AOF documents, the address of Salasar is *A-63, Shankar Garden, Vikaspuri, Delhi – 110018*. Since, the entity is a proprietorship, no public information of its financials are available. However, from an analysis of the bills for the goods purchased by the Company from Salasar Trading during the financial year 2010-11, I observed as follows:

Figure 4: Price Chart of goods purchased by SCTL from Salasar in FY 2010-11



b) I note that, per unit prices of Din Male Connector 7/8 Feeder cable purchased by SCTL from Salasar Trading steadily increased by 72%, at an average of 4% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*), from Rs. 251/- per unit on September 25, 2010 to Rs. 432/- per unit on December 25, 2010. The price of Din Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 13% from Rs. 432/- per unit in the previous invoice (dated December 25, 2010) to Rs. 377/- per unit on January 12, 2011. Subsequently, a similar trend of steady rise in prices was observed during January 12, 2011 and March 31, 2011 where the per unit price of Din Male Connector 7/8 Feeder cable increased from Rs. 377/- per unit on January 4, 2011 to Rs. 451/- per unit on March 31, 2011, an increase of almost 20% with an average of 1% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). Overall, the per unit price for the item Din Male Connector 7/8 Feeder cable purchased by SCTL from King Power increased by almost 80% within a span of 6 months.

c) Per unit prices of Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Power steadily increased by 25%, at an average of 1.8% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*), from Rs. 392/- per unit on September 25, 2010 to Rs. 490/- per unit on November 10, 2010. The price of Dual Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 24% from Rs. 490/- per unit in the previous invoice (dated November 10, 2010) to Rs. 370/- per unit on November 13, 2010. Subsequently, a trend of steady rise in prices was observed during November 13, 2011 and December 25, 2010 where the per unit price of Dual Male Connector 7/8 Feeder cable increased from Rs. 370/- per unit on November 13, 2010 to Rs. 434/- per unit on December 25, 2010, an increase of almost 17% with an average of 2% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). The price of Dual Male Connector 7/8 Feeder cable purchased by SCTL reduced by almost 9% from Rs. 434/- per unit in the previous invoice (dated December 25, 2010) to Rs. 397/- per unit on January 12, 2011. Subsequently, a trend of steady rise in prices was observed during January 4, 2011 and March 31, 2011 where the per unit price of Dual Male Connector 7/8 Feeder cable increased from Rs. 397/- per unit on January 12, 2011 to Rs. 476/- per unit on March 31, 2011, an increase of almost 20% with an average of 1% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). Overall, the per unit price for the item Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Power increased by almost 21% within a span of 6 months.

d) Per unit prices of 1.5 Jumper Din Male & Female Connector purchased by SCTL from King Power steadily increased by 20%, at an average of 1.4% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*), from Rs. 500/- per unit on September 25, 2010 to Rs. 598/- per unit on November 10, 2010. The price of 1.5 Jumper Din Male & Female Connector purchased by SCTL reduced by almost 16% from Rs. 598/- per unit in the previous invoice (dated November 10, 2010) to Rs. 500/- per unit on November 13, 2011. Subsequently, a trend of steady rise in prices was observed during November 13, 2011 and December 25, 2010 where the per unit price of 1.5 Jumper Din Male & Female Connector increased from Rs. 500/- per unit on November 13, 2011 to Rs. 564/- per unit on December 25, 2010, an increase of almost 13% with an average of 1.4% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). The price of 1.5 Jumper Din Male & Female Connector purchased by SCTL reduced by almost 7% from Rs. 564/- per unit in the previous invoice (dated December 25, 2010) to Rs. 523/- per unit on January 12, 2011. Subsequently, a trend of steady rise in prices was observed during January 12, 2011 and March 31, 2011 where the per unit price of 1.5 Jumper Din Male & Female Connector increased from Rs. 523/- per unit on January 12, 2011 to Rs. 599/- per unit on March 31, 2011, an increase of almost 15% with an average of 0.8% per invoice (*even though the gap between the dates of two immediate invoices was mere 4-5 days*). Overall, the per unit price for the item Dual Male Connector 7/8 Feeder cable purchased by SCTL from King Power increased by almost 20% within a span of 6 months.

e) I further note that, Shri Garg, proprietor, Salasar, vide his letter dated April 27, 2016, informed that the business of the firm was already closed long back and that since he was involved in overseas business from 2007 onwards, he was not concentrating on business affairs in India and not in possession of any of the records sought relating to the transactions between Salasar and other entities. Vide letter dated April 26, 2016, Shri Garg was called upon to provide his complete address and vide letter dated April 27, 2016 was informed that several financial transactions were observed between him and the aforesaid entities during 2010-11 and 2011-12. Accordingly, it was reiterated asking Shri Garg to provide his relation with the entities and submit corroborating documents for such transactions. However, no reply was received from Shri Garg.

f) From the ledger statements of Salasar in the books of SCTL, for the financial years 2010-11 and 2011-12, I observed that SCTL had made purchase of goods worth Rs. 33.67 Crore and Rs. 64.52 Crore in the financial years 2010-11 and 2011-12, respectively. Further, from the bank statement of Salasar (Axis Bank – 431010200014377), I observed that it had regular transactions with King Power, King Empire, Silver Jubliee Tradeexim Pvt Ltd, Western Alliance Tradeexim Pvt Ltd, Ford Asia Trading Pvt. Ltd. and Golden Jubilee Sales Pvt Ltd during the financial years 2010-11 and 2011-12.

g) The submission by Shri Garg that he, being the proprietor of Salasar, had never been associated or dealt with the said entities is rebutted by the aforesaid facts. Further though, SCTL and Shilpi Cabletronics had transactions worth more than Rs 100 Crore with Salasar, however, its failed to provide the complete contact details of the employees from both parties who had dealt with such transactions. Thus, I am of a view that SCTL had deliberately not disclosed the complete details of such employees in order to prevent SEBI from contacting employees and to conceal such dubious transactions. In view of the discussion and analysis in above sub-paras of para 24(iii), continuous fluctuations in the price of the inventories with a defined pattern, I found that the business and credentials of Salasar are doubtful.

25. From the documents provided by the Company (*w.r.t. Salasar, King Power and King Empire during FY 2010-11 and 2011-12*) vide its letters dated May 19, 2016, July 02, 2016 and email dated February 09, 2017, I have observed as follows:

i. With regard to the details of the contact person of the suppliers/ customers, the Company had not submitted the details of the contact persons of the suppliers citing that due to change in employees, the contact details may not be available.

ii. With regard to the copies of correspondences with the selected suppliers and description and criteria on the basis of selection of the particular suppliers for providing raw materials, machineries, etc., the Company despite being a listed entity had submitted that most of the business dealings in it happen verbally and informally and no such record is available with it.

iii. With regard to the contact person of the Company, who had dealt with the suppliers, the Company had submitted that the entire dealings were managed by only one person *viz.* Shri Manoj Verma. As regard details of person(s) sought, the Company did not provide relevant details in so far as only a name *viz.* Mr. Manoj Verma was provided and indicating that the person was no longer associated with the Company and providing incomplete address and a contact number which too was indicated to be with another employee of the company.

iv. The company vide email dated Feb 09, 2017, had submitted that due to mishandling of records it was unable to locate the relevant details and records of the employee who was dealings with the suppliers.

v. Considering the denials, non-submissions and non-sharing details of suppliers and its employees by the Company during the investigation, I found that the business credentials of Salasar, King Power and King Empire, with whom the Company was substantially purchasing the products during FY 2010-11 and 2011-12 is highly suspicious and dubious.

26. I have perused the KYC and AOF of the bank accounts of the entities – King Empire, King Power and Golden Jubilee Sales Pvt. Ltd. and the records available on MCA and have observed as follows:

i. Shri Manoj Kumar Garg (DIN: 01772147) is the sole proprietor of Salasar and as per Form 1 of Golden Jubilee Sales Pvt. Ltd., Shri Garg is also one of the promoter directors of Golden Jubilee Sales Pvt. Ltd. Further, as per the Form 18 (reg. place of registered office) of Golden Jubilee Sales Pvt. Ltd. dated 15.04.2010, the email-id of Golden Jubilee Sales Pvt. Ltd. was mentioned as mandalmk@gmail.com and as per Form -32 (reg. appointment of Director) dated 15.04.2010 of Golden Jubilee, the email-id of Shri Garg was mentioned as abhay77777@gmail.com.

ii. As per Form 18 and Form 32 of King Empire, both dated 16.04.2010, it's observed that the email-id of King Empire was mentioned as mandalmk@gmail.com (as per Form 18) and the email-ids of its promoter directors were mentioned as mandalmk@gmail.com (for Sh. Chandan Bhatia) and abhay77777@gmail.com (for Shri Vijay Julka).

iii. As per Form 18 and Form 32 of King Power, both dated 15.04.2010, the email-id of King Power was mentioned as mandalmk@gmail.com (as per Form 18) and the email-ids of its promoter directors (as per Form 32) were mentioned as abhay77777@gmail.com (for Sh. Avnish Bhatnagar and Sh. Arvind Poddar), while as per Form 1, the email-ids of the directors were mentioned as mandalmk@gmail.com.

iv. Evidently from the above, there is commonality of email-ids between Golden Jubilee Sales, Salasar, King Power and King Empire. Thus, it is observed that Salasar, King Empire and King Power are run by the same set of entities and connected to each other. Further, it's observed Shri Manoj Kumar Garg is the sole proprietor of Salasar and was the promoter director of Golden Jubilee Sales. Also, during the financial year 2011-12, it's observed that Golden Jubilee Sales had infused Rs. 99 lacs each in the share capital of King Empire and King Power. From the bank statements of the entities - Salasar, King Power, King Empire, substantial transactions were observed between these three entities.

27. In view of the above observations, I found that Salasar, King Power and King Empire and Golden Jubilee Sales are related entities. Further, King Empire and King Power being

incorporated in 2010 only and their revenue and sales are not commensurate with their meagre fixed assets, employee costs, etc. Also, the Company had failed to provide any supporting documents i.e. waybill to prove if any actual movement of goods took place or the transactions were just mere book entries without any actual movement of goods. Given the aforementioned facts, the businesses of the three entities – Salasar, King Power and King Empire are highly questionable and there are serious suspicions regarding their business operations and credentials.

28. In view of the discussion and analysis in above paras 20-27, I am of the view that the Company had transferred IPO proceeds to entities Salasar, King Power and King Empire, whose credentials are questionable and for transactions which in essence are dubious. Further, as depicted in Figure 1, the funds through a series of transactions, were routed to outside of the country. Also, in absence of any material stating otherwise on record, I opine that the allegation against Salasar, King Power and King Empire of acting as conduits for the transfer of IPO proceeds and being party to dubious transactions stand established.

29. It is a well-known fact that a company being a juristic person, acts through its board of directors, who individually and collectively hold the position of trust and have fiduciary duties towards the company, the shareholders and other stakeholders. All its deeds and functions are the result of acts of its board of directors. Therefore, officers of a company who are responsible for acts done in the name of the company are sought to be made personally liable for acts which result in violation of laws. As per the Section 2(60) of the Companies Act, 2013, "*officer in default*" has been defined as follows:

> "
> *(60) "officer who is in default", for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following officers of a company, namely: —*
>
> *(i) whole-time director;*
> *(ii) key managerial personnel;*
> *(iii) where there is no key managerial personnel, such director or Directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the Directors, if no director is so specified;*
> *(iv) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default;*
> *(v) any person in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity;*

every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;"

30. Further, Salasar, Noticee No. 1 is a proprietorship firm and Mr. Manoj Kumar Garg is its proprietor. It is a well-known fact that a sole proprietorship firm is not considered to be a separate legal entity. The assets and liabilities of the sole proprietorship and the proprietor are considered one and the same. Therefore, the proprietor is held personally liable for the liabilities of the sole proprietorship firm. Considering the same, Mr. Manoj Kumar Garg is liable for such a dubious fund transactions role of Salasar of acting as conduit for the transfer of IPO proceeds. Also, in terms of above para 29, directors of King Power and King Empire are liable for the act of these two companies, respectively, until and unless stated otherwise. I note that, during the instant proceedings, Mr. Manoj Kumar Garg, Mr. Om Raj Garg (Noticee No. 3), Mr. Chandan Gupta (Noticee No. 4) and Mr. Arvind Poddar (Noticee No. 7) being the proprietor or director of Salasar, King Empire and King Power, respectively, had failed to file any reply to the SCN and also failed to avail the opportunity of the personal hearing. Therefore, I note that there is nothing on the record available to state otherwise w.r.t. role of the aforementioned proprietor or director of Salasar, King Empire and King Power, respectively, and thus, I held them liable for the act of Salasar, King Empire and King Power in this matter.

31. Mr. Avnish, Noticee No. 6, who is alleged to be the director of the King Power during the relevant point of time, in the instant proceedings before me has denied the fact of being director of the King Power. Instead, he has submitted that his DIN and digital signature, submitted for appointment as executive director of Frisco, has been misused by Mr. Manoj and his associates for appointing him as a director of their associate companies. He was never involved in any business of these companies nor in any financial transactions and he had tendered his resignation on May 07, 2011 from Frisco and all the companies/entities where he was made a director/partner /CEO without his knowledge and consent. As per his submissions, Mr. Avnish is himself a victim of fraudulent acts of Manoj and his associates, who have fraudulently used his credentials in several of their group companies under name of Glints Global Group of Companies ("**Glints Group**"). In this regard, I note that the basis of association of Mr. Avnish with King Power in this case is his signature on AOF of Axis Bank and the PoA submitted under his signature in favor of Mr. Manoj Kumar Mandal. Further, Mr. Avnish was a signatory to both the documents and a subscriber to the MoA and AoA of King Power and therefore, it has been alleged that he was cognizant of his association with King Power.

32. In this case, DIN has been allotted to Mr. Avnish on November 27, 2009. Thereafter, on March 01, 2010, he was appointed as Executive Director in Frisco on monthly payroll. On May 07, 2011, *via* e-mail to Co-Chairmen, Glints Group i.e. Mr. Naresh and Mr. Manoj, he has given a reference to earlier discussions with Mr. Naresh and Mr. Manoj and a meeting with them on May 03, 2011 at Vikas Puri, New Delhi Office regarding changes in their understandings and his profile. Vide aforementioned e-mail, Mr. Avnish had tendered his resignation from all positions in Glints Group, Frisco and all other related companies/ Firms/ Entities, with immediate effect. He further mentioned that during his tenure between October 01, 2009 – May 07, 2011, he was appointed/entered as Director/ Partner/ CEO, etc. in several Companies/ Firms by Mr. Manoj and Mr. Naresh, therefore, he requested them to file his resignation with RoC in all of their group companies/ firms and relieve him from posts of all firms and entities on immediate basis. He also mentioned in the said e-mail that, he was not involved in working of all Companies/ Firms/ Entities of Glints Group, except Frisco.

33. I note from the available record before me that, Mr. Avnish was appointed as the director of the King Power from April 22, 2010 to May 07, 2011 i.e. for a brief period of approximately 1 year. However, his role in King Power has not been elaborated in the documents placed before me. Further, he has contested his appointment in King Power. In the instant proceedings, to prove his point of misuse of his signature and identity by the Manoj Kumar and associates, Mr. Avnish has produced before me a certificate obtained from Dr. Dinesh Sethi, Former Addl. Director, Rajasthan Police, who is a Document Examiner and Forensic Consultant. As per the aforementioned certificate dated February 04, 2019, there is a mismatch in signature of Mr. Avnish in the said PoA, MoA and AoA of the King Power, when compared with his signature in Income Tax return dated July 28, 2012 and his specimen signature attested on February 03, 2019. I have perused the aforesaid certificate issued by Mr. Sethi in favor of Mr. Avnish and I note that the said certificate has been obtained *suo moto* by Mr. Avnish and same has not been issued pursuant to any investigation/ examination by any investigative agencies. Further, I note that signature mentioned as R2 obtained from MoA of King Power and signature mentioned as R3 obtained from AoA of King Power are not the same as imposed on MoA and AoA of King Power, respectively. Even a general person from his naked eye can found that the signature mentioned as R2 and R3 are falsely stated to be signature of Mr. Avnish on MoA and AoA, respectively. Instead, Mr. Avnish signature on said MoA and AoA closely matching with his acknowledgement signature on March 01, 2010 letter, wherein, he was appointed as Executive Director in Frisco. I have further perused Mr. Avnish signature on AoF of Axis Bank under the seal of Director, King Power and I found that the said signature closely

matches with signature of Mr. Avnish on said letter dated March 01, 2010 produced by Mr. Avnish during the instant proceedings. The said signature on AoF of Axis Bank also closely matches with the signature of Mr. Avnish on MoA and AoA of King power. Considering such peculiar facts and circumstances, I am of the opinion that the aforementioned certificate issued by Dr. Sethi cannot be relied upon due to basic error appearing upfront related to his examination pertaining to signature R2 and R3. I am also of the opinion that Mr. Avnish signature on his appointment letter dated March 01, 2010 (produced by himself) closely matches with his signature on AoF of Axis Bank, MoA and AoA of King Power.

34. I further note that, Mr. Avnish has filed an FIR on February 16, 2019 in Mahesh Nagar Police Station of Jaipur City (South) against Manoj and Associates, wherein, he has alleged that by misusing his digital signature, DIN and identity, he was drafted as Director/ Proprietor in 20 Gilt Group companies. He further alleged that his Axis Bank A/c 031010100070823 *via* his Cheque Book has been grossly misused by Manoj and Associates. I have perused the aforesaid FIR and FIR Progress Report dated December 07, 2020 and I note that, the said A/c No. 031010100070823 along with blank signed cheques was provided by Mr. Avnish himself, though, as per Mr. Avnish the same was handed over by him to Manoj and Associates, as they have asked for one of his bank account, sparely used by him for the purpose of statutory transactions related to Frisco. On close scrutiny of the said A/c No. 031010100070823, I observed that several high value transactions have undertaken from this bank A/c ranging from Rs 10 Lakh to Rs 1.18 Crore during April 16, 2010 to April 21, 2012. Further, several cash deposit and withdrawal of value ranging from Rs 5,000/- to 65,000/- has undertaken from said bank A/c of Mr. Avnish during January 13, 2010 to December 15, 2012. Even a Fixed Deposit Receipt of Rs 2.5 Lakh has been created on June 04, 2010, cheque withdrawal of Rs 2.5 Lakh in favor of Mr. Avnish on June 30, 2011, NEFT Payment of Rs 1.6 Lakh on November 11, 2012 and several payments related to HSBC and Citi Bank card had undertaken from the said bank A/c during January 13, 2010 to December 15, 2012. I also found that a new series of cheque book starting from 812241 has been used in the said bank A/c from December 18, 2010 onwards till August 13, 2012 (812258). I also found it to be quite surprising that Mr. Avnish was not aware of high value transactions taking place in his personal saving accounts involving Gilt Group companies and specifically King Power. Considering the above transactions (*apart from the transactions pertaining to the Gilt Group companies*) in the aforesaid bank a/c of Mr. Avnish, the transactions post his resignations, cash transactions, FDR, NEFT and Credit Card payments, I am of the view that Mr. Avnish was well aware of the transactions taking place in his bank A/c 031010100070823 and in few of the transactions his beneficial interest was involved, such as ATM withdrawals and Credit Card payments.

35. I have also perused the newspaper reports, complaint of ED filed in the Court of Sh. Rakesh Kumar – IV, Ld. ASJ [Special Judge (PMLA)] dated November 01, 2018 and copy of order dated July 30, 2021 (declining bail) pertaining to Mr. Naresh Jain, Bimal Jain and Pankaj Jain and Mr. Manoj Garg profile and I note that the aforementioned Manoj and Associates are dubious and fraudulent entities as per the record of other investigative agencies. However, the aforementioned fact does not mean that Mr. Avnish was not aware of his association in King Power, therefore, I reject such contentions of Mr. Avnish.

36. In terms of above, I am of the opinion that to implicate a person, namely, a director of any fraudulent act, it is necessary for the authority to show that the said person or director was involved in the fraud with regard to that issue or that he was involved in the defalcation/ diversion of the funds, which was raised through public issue. In the instant case, I find that Mr. Avnish was a signatory of the Axis Bank, MoA and AoA pertaining to King Power. Further, he has himself provided his personal bank account for routing / diverging the funds among the Gilt Group of Companies, which also involved King Power. I am of a view that directors of the company can be held responsible for the wrong done by the company, as there is sufficient evidence on record to prove his active role and accordingly, he is vicarious liable for the act of King Power. I have perused the judgement of Hon'ble SAT in the matter of *Price Waterhouse and Co.* (*Supra*) and Ld. WTM in the matter of *Talia Global Venture Ltd.* relied upon by Mr. Avnish and I note that both cases are different in terms of facts and circumstances than the instant case, as *PwC case* pertains to an auditor and Talia case discuss about the scope of sections 12(a),(b),(c) of the SEBI Act and Regulations 3(b),(c) and (d) and 4(1) and 4(2)(f) & (r) of the PFUTP Regulations. In this case, charge upon Mr. Avnish is casted based upon his statutory and integral role in King Power, who had acted as conduit and aided the Company in diverting the fund raised through public issue through several fund transactions to the tune of Rs 2.5 Crores.

37. I note that, under Section 12A of the SEBI Act and Regulation 3 of the PFUTP Regulations the expression "*any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations,"* has to be understood in the sense of a term having legal significance (as opposed to its ordinary English or non-legal technical sense). From the provisions in Section 12A of the SEBI Act and Regulations 3 and 4 of the PFUTP Regulations it is clear that prohibition contained therein are wide enough to include all kinds of market misconduct and abuse. Hon'ble Supreme Court in *N. Narayanan v. Adjudicating Officer, SEBI* (2013) 12 SCC 152, held that-

> *"Prevention of market abuse and preservation of market integrity is the hallmark of Securities Law. Section 12A read with Regulations 3 and 4 of the Regulations 2003 essentially intended to preserve 'market integrity' and to prevent 'Market abuse'. The object of the SEBI Act is to protect the interest of*

investors in securities and to promote the development and to regulate the securities market, so as to promote orderly, healthy growth of securities market and to promote investors protection. Securities market is based on free and open access to information, the integrity of the market is predicated on the quality and the manner on which it is made available to market. 'Market abuse' impairs economic growth and erodes investor's confidence. Market abuse refers to the use of manipulative and deceptive devices, giving out incorrect or misleading information, so as to encourage investors to jump into conclusions, on wrong premises, which is known to be wrong to the abusers. The statutory provisions mentioned earlier deal with the situations where a person, who deals in securities, takes advantage of the impact of an action, may be manipulative, on the anticipated impact on the market resulting in the "creation of artificiality".

38. When seen in context of prohibitions under Section 12A and Regulations 3 and 4 read with definition of the term '*fraud*' under Regulation 2(c), it is deducible that they depend upon '*dealing in securities*' or employing any device, scheme or artifice to defraud *'in connection with dealing in or issue of securities'* or 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.'* In this case, the Noticees by acting as conduits have aided the Company in routing the funds out of the country through series of transactions, which was raised from the general public in a public issue. By such act of active involvement in a fraudulent act in connection with the issue of securities, these Noticees have contravened the relevant provisions of the SEBI Act and the PFUTP Regulations. Further, Regulation 4(1), prohibits indulgence in *"fraudulent and unfair trade practices"* in securities. In *SEBI v. Kishore R. Ajmera, (2016) 6 SCC 368* Hon'ble Supreme Court has observed that –

"the SEBI Act and the Regulations framed there under are intended to protect the interests of investors in the Securities Market which has seen substantial growth in tune with the parallel developments in the economy. Investors' confidence in the Capital/Securities Market is a reflection of the effectiveness of the regulatory mechanism in force. All such measures are intended to preempt manipulative trading and check all kinds of impermissible conduct in order to boost the investors' confidence in the Capital market. The primary purpose of the statutory enactments is to provide an environment conductive to increased participation and investment in the securities market which is vital to the growth and development of the economy. The provisions of the SEBI Act and the Regulations will, therefore, have to be understood and interpreted in the above light."

39. Hon'ble Supreme Court, while dealing further with the scope of the prohibitions contained in the PFUTP Regulations, while reemphasized its above ruling further held in the matter of *SEBI Vs Kanhaiyalal Baldevbhai Patel (CIVIL APPEAL NO. 2595 OF 2013)* decided on September 20, 2017 held that –

"… it can be inferred that as a matter of principle, while interpreting this regulation, the court must weigh against an interpretation which will protect unjust claims over just, fraud over legality and expediency over principle. Once this rule is clearly established, individual cases should not pose any problem."

40. The aforesaid prohibitions contemplate deployment of a fraudulent or unfair or manipulative '*device*', '*scheme*', '*artifice*' or '*contrivance*' with a design or purpose or plan or motive to '*defraud*', to '*deceive*', to '*manipulate*', to '*induce*', etc. *'in connection with dealing in securities'* and apply even in cases where the acts or omissions or concealments committed, whether in a deceitful manner or not, by any person while dealing in securities to induce any person to deal in securities would amount to *fraudulent* act. Hon'ble Supreme Court in the above referred *Kanhaiyalal Baldevbhai Patel* case also held that – *"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."* Hon'ble Supreme Court further held that the definition of "*fraud*" expands beyond what can normally be understood to be a '*fraudulent*' act. The emphasis is on act of inducement. It further held that for scrutinizing the cases under the PFUTP Regulations, mere inference, rather than proof, that the person induced would not have acted in the manner that he did but for the inducement is sufficient. No element of dishonesty or bad faith in the making of the inducement would be required.

41. Accordingly, when the issue and proceeds raised by a company in a public issue are grossly mis-represented and deviated from the stated objects in an issue, then it is established that the Company is involved in an act of fraud and deceit upon its investors from whom it has raised the amount. Further, the Noticees have aided the Company in such act of fraud and deceit by instrumental in routing the funds from the Company, which was meant for stated object in an IPO. Therefore, after considering the discussions so far and the facts and circumstances of this case, I found that Salasar, King Power and King Empire and their respective proprietor and directors have aided the Company in such act of fraud and deceit upon its investors and were integral part of such fraudulent act and and unfair practice in connection with misuse of the proceed from the issuance of securities of the Company and thus, the Noticees have violated the provisions of the section 12A(c) of the SEBI Act, 1992 read with Regulation 3(d) and 4(1) of the PFUTP Regulations. Accordingly, the Noticees No. 1 to 7 are respectively liable for penalty under Section 15HA of the SEBI Act as applicable at the relevant time. The said provision of section 15HA reads as under: -

SEBI Act

Penalty for fraudulent and unfair trade practices.

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

42. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the Act, 1992 which reads as follows: -

15J - Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default."
Explanation. *—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section;*

43. In this case, from the material available on record, it can be seen that the Company had diverted approx. Rs. 50 Crore by utilizing towards means different from the objects to the Issue mentioned in the prospectus and the entire proceeds of IPO were diverted during the month of April 2011 itself in which IPO was listed. Out of the diverted amount of approx. Rs. 50 Crore, Rs 13.3 Crores were diverted through Salasar (Rs 8.2 Crores), King Power (Rs 2.5 Crores) and King Empire (Rs 2.6 Crores). Although the extent of loss suffered by the investors as a result of diversion of IPO proceeds in this case cannot be computed, however, it is certain that such fraudulent act of diversion of public issue proceeds has resulted in defraud and deceit upon the gullible investors who invested in the public issue of the Company. I am also of the view that, Mr. Manoj Garg, Proprietor of Noticees No. 1, Mr. Om Raj Garg (Noticee No. 3) and Mr. Chandan Gupta (Noticee No. 4) directors of King Empire (Noticee No. 2) and Mr. Avnish Bhatnagar (Noticee No. 6) and Mr. Arvind Poddar (Noticee No. 7) directors of King Power (Noticee No. 5), were at the helm of the Proprietorship or the Noticee company, respectively, and thus, they have played integral role in perpetrating such fraud on investors of the Company by aiding the Company. Therefore, it is incumbent upon SEBI to take stern view with regard to such fraudulent practices.

44. It is also to be kept in mind that the misappropriation of the Company's fund is a heinous act, and thus, same need to be dealt sternly and suitably penalized. However, while so holding I am also mindful of the fact that the instant proceedings have been initiated in May, 2022 i.e. much after the public issue in questions i.e. April, 2011. Considering the nature of violation in this case such delay in enforcing the provisions of law or such diversion of the funds and loss to the investors, in my view, would not hinder imposition of monetary penalty lest it should lead to compromising with the aforesaid purpose of effective deterrence and the perpetrator of such fraud would enjoy the benefits at the peril of the Company and its shareholders. Therefore, the leniency to exonerate the violators merely on

account of delay in initiation of these proceedings be against the very objective of penal provisions under section 15HA of the SEBI Act. Although such delay and diverted amount could be considered as a mitigating factor while adjudging the quantum of penalty.

45. In view of the above guiding principles, factors under section 15J, judgement of Hon'ble Supreme Court in the matter of Bhavesh Pabari, gravity of default and mitigating factors, and exercising the powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose following penalty on the following Noticees under section 15HA of the SEBI Act and in my view, the said penalty commensurate with the violations committed by these Noticees in this case:

Noticee	Amount of Penalty
Salasar Trading Company Limited (Propreitor - Manoj Kumar Garg)	₹15,00,000/- (Rupees Fifteen Lakh Only)
King Empire Tradexim Pvt. Ltd.	₹2,00,000/- (Rupees Two Lakh Only)
Mr. Om Raj Garg	₹2,00,000/- (Rupees Two Lakh Only)
Mr. Chandan Gupta	₹2,00,000/- (Rupees Two Lakh Only)
King Power Industries Limited	₹2,00,000/- (Rupees Two Lakh Only)
Mr. Avnish Bhatnagar	₹1,00,000/- (Rupees One Lakh Only)
Mr. Arvind Poddar	₹2,00,000/- (Rupees Two Lakh Only)

46. The Noticee shall remit / pay the said total amount of penalty within 45 days of receipt of this order by way online payment on SEBI website at following tabs on SEBI website www.sebi.gov.in – **ENFORCEMENT -> Orders -> Orders of AO -> Pay Online.** In case you face any difficulties in payment of penalties, you may contact the support at portalhelp@sebi.gov.in .

47. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

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

Date: March 28, 2023
Place: Mumbai

Vijayant Kumar Verma
Adjudicating Officer