BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/MC/RM/2022-23/23027-23069]

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

In respect of –

1. **Sulabh Engineers and Services Limited (PAN: AABCS9697M)** having address at B-32 APMC Market -1 Phase II, Sector 19,Vashi,Navi Mumbai - 400705
2. **Manoj Kumar Agarwal (PAN ABBPA2306H)** having address at 14/75 Gopal Vihar Civil Lines Near Marchant Chamber Hall Kanpur Uttar Pradesh 208001
3. **Krishana Agarwal (PAN: ACFPA8079A)** having address at 53/07 Nayaganj Kanpur Uttar Pradesh 208001
4. **Ruchi Agarwal (PAN: ADHPJ2647J)** having address at 53/07 Nayaganj Kanpur Uttar Pradesh 208001
5. **Santosh Kumar Agarwal (PAN: ABKPA7972Q)** having address at 53/07 Nayaganj Kanpur Uttar Pradesh 208001
6. **Sandhya Agarwal (PAN ACVPA1791R)** having address at at 53/07 Nayaganj Kanpur Uttar Pradesh 208001
7. **Santosh Kumar Agarwal HUF (PAN: AADHS9036D)** having address at 53/07 Nayaganj Kanpur Uttar Pradesh 208001
8. **Govind Mercantile (P) Ltd. (PAN: AABCG9548H)** having address at 18 B Naveen Market Kanpur Uttar Pradesh 208001
9. **Manish Agarwal (PAN: ABBPA2326D)** having address at 53/07 Nayaganj Kanpur Uttar Pradesh 208001
10. **Manish Kumar Garg (PAN: AFDPG9852J)** having address at 13/386 , Civil Lines Kanpur Uttar Pradesh 208001
11. **Praveen Kumar Kurele (PAN: ADKPK9580A)** having address at R-847, First floor New Rajendra Nagar New Delhi 110060

12. **Naveen Kumar Kurele (PAN: AGUPK5822A)** having address at R-847, First floor New Rajendra Nagar New Delhi 110060
13. **Arun Kumar HUF (PAN: AAIHA4621B)** having address at D-151 East of Kailash New Delhi 110065
14. **Mahabir Pershad HUF (PAN: AAEHM9343L)** having address at D-151 East of Kailash New Delhi 110065
15. **Narender Kumar HUF (PAN: AAEHN5960N)** having address at D-151 East of Kailash New Delhi 110065
16. **Madhurani Goenka (PAN: AAQPG0239D)** having address at 51/40, Nayaganj Kanpur Uttar Pradesh 208001
17. **Rajni Gupta (PAN: AATPG2292F)** having address at 51/40, Nayaganj Kanpur Uttar Pradesh 208001
18. **Som Prakash Goenka (PAN: AAQPG0238C)** having address at 51/40, Nayaganj Kanpur Uttar Pradesh 208001
19. **Surendra Kumar Gupta (PAN: AAQPG0240E)** having address at 51/40, Nayaganj Kanpur Uttar Pradesh 208001
20. **Virendra Sharma (PAN: ABNPS0940F)** having address at 5-11-1044/11 Bhojarao Lane Alake Kambla Parameshwari Kripa Mangalore Karnataka 575003
21. **Akhil Gupta (PAN: ACYPG1748F)** having address at 133/87 M Block Kidwai Nagar Kanpur Uttar Pradesh 208001
22. **Jaiprakash Sharma (PAN: ABZPS8013P)** having address at 128/293 K Block Kidwai Nagar Kanpur Uttar Pradesh 208011
23. **Mahabir Pershad Agarwal (PAN: AEZPD7918M)** having addresses at
    i. 49/52 General Ganj Kanpur Uttar Pradesh 208001
    ii. X-1/135 Kirshnapuram G.T. Road Kanpur Uttar Pradesh 208007
24. **Ajay Kumar Singhal (PAN: AGGPS2777L)** having addresses at
    i. Flat No 38 Plot No. 112 NDMC CGHS Engineering New Delhi 110092
    ii. 26/78, 2nd Floor West Patel Nagar New Delhi 110008
25. **Sanjay Kumar HUF (PAN: AAQHS9987L)** having address at D-151 East of Kailash New Delhi 110065

26. **Key Men Laminators Pvt. Ltd. (PAN: AABCK3085D)** having address at 53/7 Naya Ganj Kanpur Uttar Pradesh 208001
27. **Accumen PolyPack Pvt. Ltd. (PAN: AAHCA8861D)** having address at 53/07 Sri Niketan Nayaganj Kanpur 208001
28. **Shubham Goldie Masale Pvt. Ltd. (PAN: AAFCS0265H)** having address at 51 40 Goldiee House Nayaganj Kanpur 208001
29. **Neil Industries Ltd (PAN: AABCN1473G)** having address at 16/19 A Civil Lines Kanpur Uttar Pradesh Kanpur 208001
30. **Success Vyapar Pvt. Ltd. (PAN: AAKCS0190G)** having address at 16/19 A Civil Lines Kanpur 208001
31. **Goldie Masale Pvt. Ltd (PAN: AAACG6669E)** having address at 51/40 Goldie House Nayaganj Kanpur 208001
32. **Orange International (PAN: AAACO9533H)** having address at 55, Regal Building Connaught Circus New Delhi- 110001
33. **Sanjay International (PAN: AALFS9318N)** having address at D 151 East of Kailash New Delhi- 110065
34. **Maxwell (PAN: AABFM3510G)** having address at C 44 Greater Kailash Delhi-110048
35. **Mehendipur Balaji Impex Pvt. Ltd. (PAN: AAECM7300C)** having address at 51/56, Sita Ram Market, Shakkarpatti Kanpur 208001
36. **Ghata Mehndipurbalaji Grinding Works Pvt. Ltd. (PAN: AADCG4368D)** having address at 133/188, Jatanpurwa,Transport Nagar Kanpur Uttar Pradesh 208023
37. **Samtal Financial System Pvt. Ltd (PAN: AAKCS6185K)** having address at 16/19 A Civil Lines Kanpur Uttar Pradesh Kanpur 208001
38. **Manav Gramudyog Mandal (PAN: AACCM2737K)** having address at 51/40 Naya Ganj Kanpur Uttar Pradesh 208001
39. **Veena Agarwal (PAN: ACFPA9422P)** having address at 53/07 Naya Ganj Kanpur Uttar Pradesh 208001
40. **Kalpana Agarwal (PAN: ACFPA8078B)** having address at 53/7 Nayaganj Kanpur Uttar Pradesh Kanpur 208001

41. **Dilip Kumar Agarwal (PAN: ACFPA9421Q)** having address at 53/7 Nayaganj Kanpur Uttar Pradesh Kanpur 208001
42. **Jaya Agarwal (PAN: ACFPA9420R)** having address at 53/7 Sri Niketan Nayaganj Kanpur Uttar Pradesh Kanpur 208001
43. **Ram Bhateri (PAN: AMPPS3154C)** having address at 128/293 K Block Kidwai Nagar Kanpur 208011

In the matter of preferential allotment process and substantial acquisition in the scrip of Sulabh Engineers and Services Ltd.

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as 'SEB**I**') initiated adjudication proceedings against Sulabh Engineers & Services Ltd. ('SESL'/ 'the Company'/'**Noticee 1**'), eight promoters of SESL namely Manoj Kumar Agarwal **('Noticee 2'**), Krishana Agarwal ('**Noticee 3**'), Ruchi Agarwal ('**Noticee 4'**), Santosh Kumar Agarwal ('**Noticee 5'**), Sandhya Agarwal ('**Noticee 6'**), Santosh Kumar Agarwal HUF ('**Noticee 7'**), Govind Mercantile (P) Ltd. ('**Noticee 8'**) and Manish Agarwal ('**Noticee 9'**), sixteen preferential allottees of SESL namely Manish Kumar Garg ('**Noticee 10'**), Praveen Kumar Kurele ('**Noticee 11'**), Naveen Kumar Kurele ('**Noticee 12'**), Arun Kumar HUF ('**Noticee 13'**), Mahabir Pershad HUF ('**Noticee 14'**), Narender Kumar HUF ('**Noticee 15'**), Madhurani Goenka ('**Noticee 16'**), Rajni Gupta ('**Noticee 17'**), Somprakash Goenka ('**Noticee 18'**), Surendra Kumar Gupta ('**Noticee 19'**), Virendra Sharma ('**Noticee 20'**), Akhil Gupta ('**Noticee 21'**), Jaiprakash Sharma ('**Noticee 22'**), Mahabir Pershad Agarwal ('**Noticee 23'**), Ajay Kumar Singhal ('**Noticee 24'**) and Sanjay Kumar HUF ('**Noticee 25'**), and eighteen entities who allegedly facilitated SESL in funding preferential allottees by permitting their bank accounts to be used for routing of funds to preferential allottees, namely, Key Men Laminators Pvt. Ltd. ('**Noticee 26'**), Accumen PolyPack Pvt. Ltd.('**Noticee 27'**), Shubham Goldie Masale Pvt. Ltd.('**Noticee 28'**), Neil Industries Ltd ('**Noticee 29'**), Success Vyapar Pvt. Ltd. ('**Noticee 30'**), Goldie Masale Pvt. Ltd. ('**Noticee 31'**), Orange International ('**Noticee 32'**),

Sanjay International ('**Noticee 33'**), Maxwell ("**Noticee 34'**), Mehendipur Balaji Impex Pvt. Ltd. ('**Noticee 35'**), Ghata Mehndipurbalaji Grinding Works Pvt. Ltd. ('**Noticee 36'**), Samtal Financial System Pvt. Ltd. ('**Noticee 37'**), Manav Gramudyog Mandal ('**Noticee 38'**), Veena Agarwal ('**Noticee 39'**), Kalpana Agarwal ('**Noticee 40'**), Dilip Kumar Agarwal ('**Noticee 41'**), Jaya Agarwal ('**Noticee 42'**) and Ram Bhateri ('**Noticee 43'**) under Section 15HA of SEBI Act for alleged violation of Section 12A (a), (b), (c) of the SEBI Act, 1992 read with Regulations 3 (b), (c), (d) & 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 ('PFUTP Regulations').

APPOINTMENT OF ADJUDICATING OFFICER

2. Undersigned was appointed as the Adjudicating Officer vide communique dated April 23, 2021 under Section 15-I of the SEBI Act read with Rule 3 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as **'Adjudication Rules'**) to inquire into and adjudge under the provisions of Section 15 HA of the SEBI Act, the aforesaid alleged violations by the Noticees.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. EAD5/MC/VS/19486/1-14 & 19488/1-22 & 19489/1-9/2021 dated August 13, 2021 (hereinafter be referred to as, the "**SCN**") was served upon the Noticees under Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('Adjudication Rules') to show cause as to why an inquiry should not be held and penalty not be imposed against Noticees under Sections 15 HA of SEBI Act for the aforesaid alleged violations.

4. The allegations levelled against the Noticees in the SCN are summarized as below:

5. SEBI conducted an investigation *inter alia* into self-financing of its own preferential allotment of 28,00,000 shares on 28.03.2011 and 70,00,000 shares on 23.03.2012 to 27 and 46 promoter and non-promoter entities by SESL during the respective preferential allotments. Investigation was carried out during the period March 01, 2011 to April 30, 2012 (**Investigation period/ IP**). During this period preferential allotment was made to 8 promoters and 58 other allottees.

6. SESL was incorporated in the year 1983. The Company is a non-banking financial company registered with the Reserve Bank of India. The company was listed on BSE on October 16, 1984. The company is engaged in the investment of unquoted equity shares i.e. unlisted shares.

7. During the investigation period, the directors of SESL were as follows:-

Source: MCA website, Annual report FY 2010-2011 and FY 2011-12

Director Name	**Directorship**
Manoj Kumar Agarwal	Executive Director
Rajiv Agrawal	Independent Director
Rakesh Chand Agarwal	Independent Director
Santosh Kumar Agrawal	Non-Executive Director
Deepa Mittal	Executive Director

8. From an analysis of Unique Client Codes, it was observed that promoters and the other allottees were connected and their connections were detailed in the SCN.

9. Findings of investigation with respect to the preferential allotment process are detailed below.

10. The following promoters of the company were allocated shares through preferential allotment of 10,00,000 shares (Rs.2,00,00,000) on March 21,2011 and 18,50,000 shares (Rs. 3,70,00,000) on March 23,2012:-

Sr. No.	Name	Allotment 1 – no of shares	Allotment 1 – amount in Rs.	Allotment 2 - no of shares	Allotment 2 - amount in Rs.
1.	Santosh Kumar Agarwal	2,00,000	40,00,000	3,00,000	60,00,000
2.	Manish Agarwal	2,00,000	40,00,000	NA	NA
3.	Manoj Kumar Agarwal	NA	NA	1,50,000	30,00,000
4.	Ruchi Agarwal	2,00,000	40,00,000	4,00,000	80,00,000
5.	Sandhya Agarwal	2,00,000	40,00,000	4,00,000	80,00,000
6.	Krishana Agarwal	2,00,000	40,00,000	2,00,000	40,00,000
7.	Santosh Kumar Agarwal & Sons HUF	NA	NA	1,00,000	20,00,000
8	Govind Mercantile Pvt. Ltd.	NA	NA	3,00,000	60,00,000

Santosh Kumar Agarwal (Noticee 5) (Promoter)

11. 1st allotment: Santosh Kumar Agarwal was allotted 200,000 shares in the preferential allotment and he had transferred Rs. 40,00,000/- from the account no. 302502010019486 of Union Bank of India Kanpur Branch on March 17, 2011. On analysis of Bank account statement, it was observed that he had received credit of Rs. 625,000 and Rs.16,00,000 on March 16, 2011 and Rs. 22,25,000, Rs. 380,000 on March 17, 2011. These credits were received from Nagarmal Agarwal HUF, Santosh Krishna HUF and Santosh Kumar Agarwal. On analyzing the account statement of Nagarmal Agarwal HUF, Santosh Krishna HUF and Santosh Kumar Agarwal, they had received credits from Key Men Laminators Pvt Ltd and Santosh Kumar Agarwal. The authorized signatory of Key Men Laminators is Manish Agrawal who is one of promoter and preferential allottee and connected to SKA through UCC. The illustration of fund flow was given in Annexure 2.1 of SCN.

12. 2nd allotment: Santosh Kumar Agarwal (ABKPA7972Q) was allotted 3,00,000 shares in the preferential allotment and he had transferred Rs.60,00,000 from account no. 302502010019486 of Union Bank of India.

13. **Manish Agarwal (Noticee 9) (Promoter)**

    1st allotment: Manish Agarwal was allotted 200,000 shares in the preferential allotment and he had transferred Rs. 40,00,000/- from the account no. 3025010019490.On analysis of bank statement it was observed that Rs.

40,00,000/- was transferred from Key Men Laminators PVT LTD who in turn received various credits from Shubham Goldie Masale Pvt. Ltd. in which Surendra Kumar Gupta/Som Prakash Goenka are authorized signatory who are also preferential allottees. The illustration of fund flow was given in Annexure 2.1 of SCN.

14. **Ruchi Agarwal: (Noticee 4) (Promoter)**

1st allotment: Ruchi Agarwal was allotted 200,000 shares in the preferential allotment and she had transferred Rs. 40,00,000/- from the account no. 302502010051136 of Union Bank of India Kanpur Branch on March 17, 2011. On analysis of his bank account statement it was observed that she had received credit of Rs. 4,00,000/-, Rs.10,00,000, Rs.10,00,000 and Rs. 12,00,000.00 as transfer on earlier day of transfer of such funds i.e. March 16, 2011. It has received the credits from Accumen Polypack Private Limited, Key Men Laminators Pvt Ltd and Shubham Goldie Masale Pvt. Ltd .The illustration of fund flow was given in Annexure 2.1 of SCN.

2nd allotment: Ruchi Agarwal was allotted 4,00,000 shares in the preferential allotment and she had transferred Rs.80,00,000 from account no. 302502010051136 of Union Bank of India.

15. **Sandhya Agarwal: (Noticee 6) (Promoter)**

1st allotment: On analysis of bank account statement credit of Rs. 42,00,000 on March 16, 2011 and Rs.40,75,000 on March 17, 2011 was observed. Union bank was requested to provide remitter details of these transfers. Accordingly, Union bank inter-alia, informed that Mr. Manish Agarwal received credit of Rs. 42,00,000 from Mr. Manoj Kumar Agarwal on March 16, 2011. The illustration of fund flow was given in Annexure 2.1 of SCN.

2nd allotment: was allotted 4,00,000 shares in the preferential allotment and he had transferred Rs.80,00,000 from account no. 302502010019489 of Union Bank of India.

16. **Krishana Agarwal (Noticee 3) (Promoter)**

1st allotment: Krishana Agarwal was allotted 200,000 shares in the preferential allotment and she had transferred Rs. 40,00,000 from the account no. 302502010019487 of Union Bank of India Kanpur Branch on March 17, 2011. On analysis of bank account statement, it was observed that credit of Rs. 25,00,000/, Rs. 10,00,000 and Rs. 6,50,000 on March 16, 2011 was received from Key Men Laminators Pvt Ltd, Kalpana and Veena had received credit of Rs. 6.5 lakhs from Accumen Polypack Private Limited. The illustration of fund flow as derived was given in Annexure 2.1 of SCN.

2nd allotment: Krishana Agarwal was allotted 2,00,000 shares in the preferential allotment and she had transferred Rs.40,00,000 from account no. 302502010019487 of Union Bank of India.

17. **Som Prakash Goenka (Noticee 18)**

1st allotment: Som Prakash was allotted 70,000 shares in the preferential allotment and he had transferred Rs. 14,00,000 from the account no. 302502010014721 of Union Bank of India Kanpur Branch on March 17, 2011. The illustration of fund flow was given in Annexure 2.1 of SCN.

2nd allotment: Som Prakash Goenka was allotted 4,00,000 shares in the preferential allotment and he had transferred Rs.80,00,000 from account no. 302502010014721 of Union Bank of India.

18. **Surender Kumar Gupta (Noticee 19)**

1st allotment: SK Gupta was allotted 70,000 shares in the preferential allotment and transferred Rs.14,00,000 from the account No. 302502010012542 of Union Bank. The illustration of fund flow was given in Annexure 2.1 of SCN.

2nd allotment: he was allotted 4,00,000 shares in the second preferential allotment and he had transferred Rs.80,00,000 from account no. 302502010012542 of Union Bank of India.

19. **Santosh Kumar Agarwal HUF (Noticee 7) (Promoter**)

2nd allotment: SKA was allotted 1,00,000 shares in the preferential allotment and he had transferred Rs.20,00,000 from account no. 302502010516956 of Union Bank of India. The illustration of fund flow was given in Annexure 2.1 of SCN.

20. **Madhu Rani Goenka (Noticee 16)**

2nd allotment: Madhu Rani Goenka was allotted 2,75,000 shares in the preferential allotment 2 and he had transferred Rs.5500000 from account no. 302502010012829 of Union Bank of India. The illustration of fund flow was given in Annexure 2.1 of SCN.

21. **Rajni Gupta (Noticee 17)**

2nd allotment was allotted 2,75,000 shares in the preferential allotment 2 and she had transferred Rs.55,00,000 from account no. 302502010016592 of Union Bank of India. The illustration of fund flow was given in Annexure 2.1 of SCN.

22. **Manish Kumar Garg (Noticee 10)**

1st allotment: M K Garg was allotted 70,000 shares in the preferential allotment and he had transferred Rs. 14,00,000/- from the account no. 01800100001899 of UCO Bank. The illustration of fund flow was given in Annexure 2.1 of SCN.

23. **Virendra Sharma (Noticee 20)**

2nd allotment: Virendra Sharma was allotted 1,25,000 shares in the preferential allotment and had transferred Rs. 25,00,000 from account no.

302501010035139 of Union Bank of India. The illustration of fund flow was given in Annexure 2.2 of SCN.

24. **Akhil Gupta (Noticee 21)**

2nd allotment: Akhil Gupta was allotted 1,25,000 shares in the preferential allotment and he/she had transferred Rs.20,00,000 from account no. 522907866 of Indian Bank. The illustration of fund flow was given in Annexure 2.2 of SCN.

25. **Praveen Kumar Kurele (Noticee 11)**

2nd allotment: Praveen Kumar Kurele was allotted 1,50,000 shares in the preferential allotment and he had transferred Rs.30,00,000 from account no. 1310020000131 of Kotak Mahindra Bank. The illustration of fund flow was given in Annexure 2.2 of SCN.

26. **Naveen Kumar Kurele (Noticee 12)**

2nd allotment: Naveen Kumar Kurele was allotted 1,50,000 shares in the preferential allotment and he had transferred Rs.30,00,000 from account no. 1310020000115 of Kotak Mahindra Bank. The illustration of fund flow was given in Annexure 2.2 of SCN.

27. **Manoj Kumar Agarwal (Noticee 2) (Promoter)** was allotted 1,50,000 shares in the preferential allotment and he had transferred Rs.30,00,000 from account no. 302502010517290 of Union Bank of India. The illustration of fund flow was given in Annexure 2.2 of SCN.

28. **Govind Mercantile Pvt. Ltd. (Noticee 8) (Promoter)**

2nd allotment: The entity was allotted 3,00,000 shares in the preferential allotment 2 and had transferred Rs.60,00,000 from account no. 10550200020773 of Bank of Baroda. On analysis of the bank account statement the following was observed:

Date of credit	Amount of credit	Counterparty 1	Date of credit in the account of counterparty 1	Amount of credit in account of counterparty 1	Counter party 2
12-03-2012	9,99,950/-	Karwa Exports Pvt Ltd	No adverse comments		
13-03-2012	38,00,000/-	Padam Raj Agarwal	13/03/2012	40,40,000	Achintya Securities
13-03-2012	20,00,000/-	V S Carpet	09/03/2012	50,00,000	Sheikh Bhullan And Sons

29. No connections could be established between Karwa Exports (P) Ltd, Achintya securities and Sheikh Bhullan & Sons with Govind Mercantile Pvt. Ltd. However, Govind Mercantile Pvt. Ltd. had funded Santosh Kumar Agarwal & Sons HUF and fund flow was illustrated at Annexure 2.2 of SCN.

30. **Mahabir Pershad Agarwal (Noticee 23)**

1st allotment: Mahabir Prasad Agarwal was allotted 70,000 shares in the preferential allotment and he had transferred Rs. 14,00,000 from the account 27280100001772 (Bank of Baroda) to the bank account of Sulabh on March 17, 2011. On analysis of his bank account statement, it was observed that Mr. Mahabir Prasad Agarwal received credit of Rs. 14,00,000 through RTGS with narration UBINH11075011345 GHATA MEHNDIPURBALAJI GRINDI - on March 16, 2011. As per the MCA database the directors of M/s Ghata Mehndipurbalaji Grinding Works Private Limited are Manoj Kumar Agarwal is one of the director of the company along with other director Jai Prakash Sharma. The fund flow was illustrated at Annexure 2.3 of SCN.

31. **Jai Prakash Sharma (Noticee 22)**

2nd allotment: Jai Prakash Sharma was allotted 1,25,000 shares in the preferential allotment and he had transferred Rs.25,00,000 from account no. 302502010518643 of Union Bank of India. The fund flow was illustrated at Annexure 2.3 of SCN.

32. **Ajay Kumar Singhal (Noticee 24)**

1st Allotment: Ajay Kumar Singhal was allotted 70,000 shares in the preferential allotment and he had transferred Rs. 14,00,000/- from the account no. 10001664036 of State Bank of Patiala. On analysis of his bank account statement it was observed that he has received credit of Rs. 14,00,000 from Samtal Financial Systems Pvt Ltd. On March 16, 2011 wherein Subodh Agarwal was one of the director during 2011 (01 March 2007 to 04 September 2013). Manoj Kumar Agarwal was director from 01 March 2007 to 25 May 2010. Subodh Kumar Agarwal was associated with Mr. Manoj Kumar Agarwal and Ms. Deepa Mittal ("new promoters" of Sulabh) since February 27, 2007. Samtal Financial Systems Pvt Ltd had received Rs. 50,00,000 from Bakliwal Vyapaar Private Limited on March 14,2011. The fund flow was illustrated at Annexure 2.2 of SCN.

33. **Sanjay Kumar HUF (Noticee 25)**

2nd Allotment: SK HUF was allotted 1,25,000 shares in the preferential allotment and he had transferred Rs.25,00,000 from account no. 77301100057500 of Andhra Bank. On analysis of the bank account statement, it was observed that it had received Rs. 25,00,000 from Sanjay International on March 09, 2012. Further Sanjay International had received Rs. 50,00,000 from Orange International Pvt Ltd. The fund flow was illustrated at Annexure 2.2 of SCN.

34. **Arun Kumar HUF (Noticee 13)**

2nd allotment: Arun Kumar HUF was allotted 1,25,000 shares in the preferential allotment and had transferred Rs.25,00,000 from account no. 77301100057499 of Andhra bank. The fund flow was illustrated at Annexure 2.2 of SCN.

35. **Narender Kumar HUF (Noticee 15)**

2nd allotment**:** Narender Kumar HUF was allotted 1,25,000 shares in the preferential allotment and he had transferred Rs.25,00,000 from account no.

77310100000663 of Andhra bank. The fund flow was illustrated at Annexure 2.2 of SCN.

36. **Mahabir Pershad HUF (Noticee 14)**

2nd allotment: The HUF was allotted 1,25,000 shares in the preferential allotment and he/she had transferred Rs.25,00,000 from account no. 77310011005652 of Andhra bank. The fund flow was illustrated at Annexure 2.2 of SCN.

37. **Key Men Laminators Pvt Ltd., Shubham Goldiee Masale Pvt. Ltd, Goldie Masale Pvt Ltd. and Accumen Polypack Pvt. Ltd as financing entities/conduit**

38. The flow of funding for the said preferential allotments was illustrated in Annexure 2.1 of SCN**.**

39. **Key Men Laminators Pvt Ltd (Noticee 26) and Accumen Polypack Pvt. Ltd (Noticee 27)** : It was observed that the promoters Manish Agarwal, Krishna Agarwal, Santosh Kumar Agarwal and Ruchi Agarwal, Sandhya Agarwal (depicted in Annexure 2.1 of SCN) received funds in their bank account a day prior (March 16,2011) to date of allotment (March 17,2011) from Key Men Laminators Pvt. Ltd. and Accumen Polypack Pvt. Ltd. Further, it was also observed that the balance in their accounts were less than Rs 10,000/- before and after the receipt of these funds. Hence, it was inferred that the funding was by Key Men Laminators Pvt Ltd and Accumen Polypack Pvt. Ltd through various conduits. Only in case of Santosh Kumar Agarwal, partial funding has been done by Key Men Laminators Pvt Ltd to an extent of 22.25 lacs of the total amount of RS. 40 lacs paid by Santosh Kumar Agarwal to the company. Key Men Laminators Pvt Ltd is connected to the company though common director Shri Manish Agarwal who is also the promoter and preferential allottee in SESL. Accumen Polypack Pvt. Ltd is connected to company through Manoj Kumar

Agarwal (promoter) who is the authorized signatory in Accumen Polypack Pvt. Ltd

40. **Shubham Goldiee Masale Pvt. Ltd (Noticee 28) and Goldie Masale Pvt Ltd (Noticee 31)** : It was observed that Goldie Masale Pvt. Ltd. and Shubham Goldie Masale Pvt Ltd funded four allottees namely Madhurani Goenka (Rs. 55 lacs), Rajni Gupta (Rs. 55 lacs), Somprakash Goenka (Rs 15 lacs and Rs 80 lacs) and Surendra Kumar Gupta (Rs 15 lacs and Rs 80 lacs). Som Prakash Goenka, Surendra Kumar Gupta and Rajni Gupta were connected amongst themselves and to promoters through UCC and they are also the authorized signatories in Goldie Masale Pvt. Ltd. and both Som Prakash Goenka, Surendra Kumar Gupta are the authorized signatories in Shubham Goldie Masale Pvt. Ltd. Further Shubham Goldie Masale Pvt Ltd has also provided Rs. 150 lacs to Key Men Laminators Pvt. Ltd on March 11, 2011 which it has distributed to various allottees as mentioned above.

41. **Neil Industries Ltd. (Noticee 29), Success Vyapar Pvt Ltd (Noticee 30), Samtal Financial Systems Pvt Ltd (Noticee 37) , Accumen PolyPack Pvt. Ltd. (Noticee 27) Orange International (Noticee 32), Sanjay International (Noticee 33), Maxwell (Noticee 34) as financing entities /conduit**

Neil Industries Ltd:

42. From the chart at **Annexure 2. 2** of SCN it was seen that:-
   a) Neil industries had received Rs. 1,33,00,000 from Success Vyapar Pvt. Ltd on March 14,2012.
   b) It is observed that Neil industries Ltd had funded to a tune of Rs. 220 lakhs for 2nd allotment allotments to 3 promoters (Krishana Agarwal (Rs. 80 lacs), Ruchi Agarwal(Rs .80 lacs), Santosh Kumar Agarwal (Rs. 60 lacs)

c) Further it has funded 3 other allottees namely Manish Kumar Garg (Rs. 16 lacs), Naveen Kumar Kurele (Rs. 30 lacs) and Praveen Kumar Kurele (Rs. 30 lacs) directly.

d) Neil Industries has funded 4 other allottees and Arun Kumar HUF(Rs. 25 lacs), Mahabir Prasad HUF(Rs. 25 lacs), Narender Kumar HUF (Rs. 25 lacs) and Sanjay Kumar HUF (Rs. 25 lacs) through Orange International, Sanjay International and Maxwell as conduits as depicted in chart above.

e) It is also noted that the balance before and after the said transfers were only Rs. 17487/- and Rs. 2,57,863/-.

f) It is also observed that the company has returned an amount of Rs. 100 lacs on 28 March 2012 to Success Vyapar Pvt. Ltd through Sonachandi.

43. **Samtal Financial System Pvt Ltd:** It is observed that Manoj Kumar's allotment (Rs. 30 lacs) was funded by Samtal Financial System Pvt Ltd which in turn was received through cash deposits. Since it was cash deposits, it could not be traced further. Samtal Financial System Pvt Ltd is connected to company through common promoter director, Manoj Kumar Agarwal.

44. **Accumen Polypack Pvt. Ltd:** Sandhya Agarwal's allotment (Rs.80 lac) has been funded partially by Accumen Polypack Pvt. Ltd through Manoj Agarwal for an amount of Rs. 50 lacs. Accumen Polypack Pvt. Ltd is connected to company through Manoj Kumar Agarwal who is the authorized signatory in Accumen Polypack Pvt. Ltd

45. **Success Vyapar Pvt. Ltd:** As illustrated in the chart at Annexure, It is observed that the company SESL had funded Virendra Sharma and Akhil Gupta directly through Success Vyapar Pvt. Ltd.to a tune of Rs.50 lacs.

46. **Ghata Mehendipur Balaji (Noticee 36) and Mahndipur Balaji Impex (Noticee 35) as conduit**

47. As observed in the chart at Annexure 2.3 of SCN, Mehendipur Balaji Impex Pvt. Ltd/ Ghata Mehndipurbalaji Grinding Works (P) Ltd funded Mahabir Prasad Agarwal and Jaiprakash Sharma. It is also observed that Ghata Mehendipur Balaji Grinding Works (P) Ltd is connected to the company through Manoj Agarwal.

48. It was also observed that the entities acting as conduit for the transfer of funds were also connected through common directorship/ authorized signatories and with the company and the details are provided in Annexure 2.4 of SCN.

49. In view of the above, it was alleged that –
    a) Noticee 1/the Company provided funds for subscription of its preferential issue,
    b) Noticees 2-9 (promoters of the Company) and Noticees 10-25 (non-promoter allottees) received funds from Noticee 1/the Company and used the funds for subscribing to the preferential issue
    c) Noticees 26-43 acted as conduits for transfer of funds from Noticee 1/the Company to Noticees 2-25 for the subscribing to shares of Noticee 1/the Company during the preferential issue

50. Therefore the Noticees were alleged to have violated Section 12A (a), (b), (c) of the SEBI Act, 1992 read with Regulations 3 (b), (c), (d) & 4(1) of SEBI (PFUTP) Regulations, 2003.

51. The abovementioned alleged violations, if established, makes the Noticees liable for penalty under Section 15 HA of the SEBI Act.

52. The Noticees' response to the SCN, in respect of inspection of documents, filing of reply and attendance in personal hearing before undersigned is as follows:

Noticee No.	Filed reply vide letter/Email dated	Date of Inspection of documents	Personal Hearing Date	Remarks/Represented by
1. Sulabh Engineers and Services Limited	09.12.2022, 11.11.2022, 02.09.2022, 18.07.2022	18.11.2022	12.01.2023	Mr. Meit Shah
2. Manoj Kumar Agarwal	14.12.2022, 10.09.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
3. Krishana Agarwal	23.11.2022, 17.11.2022, 11.11.2022, 31.12.2022, 02.09.2021	11.11.2022	Not availed	Mr. Meit Shah
4. Ruchi Agarwal	31.12.2022, 09.12.2022, 17.11.2022, 18.07.2022, 02.09.2021	11.11.2022	Not availed	Mr. Meit Shah
5. Santosh Kumar Agarwal	09.12.2022, 23.11.2022, 17.11.2022, 11.11.2022, 18.07.2022, 02.09.2021, 31.12.2022	11.11.2022	Not availed	Mr. Meit Shah
6. Sandhya Agarwal	27.12.2022, 23.11.2022, 16.07.2022, 02.09.2021	18.11.2022	Not availed	Mr. Meit Shah
7. Santosh Kumar Agarwal HUF	30.12.2022, 09.12.2022, 11.11.2022, 18.07.2022, 02.09.2021	11.11.2022	Not availed	Mr. Meit Shah
8. Govind Mercantile (P) Ltd.	30.12.2022, 10.12.2022, 29.11.2022,	--	06.01.2023	Mr. Meit Shah

	21.11.2022, 19.07.2022			
9. Manish Agarwal	29.12.2022, 11.11.2022, 18.07.2022, 02.09.2021	11.11.2022	Not availed	Mr. Meit Shah
10. Manish Kumar Garg	22.12.2022, 18.07.2022	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
11. Praveen Kumar Kurele	13.12.2022, 18.07.2022	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
12. Naveen Kumar Kurele	13.12.2022, 18.07.2022	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
13. Arun Kumar HUF	26.12.2022, 25.08.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
14. Mahabir Pershad HUF	25.08.2021, 26.12.2022	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
15. Narender Kumar HUF	26.12.2022, 29.08.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
16. Madhurani Goenka	10.12.2022, 02.09.2021, 02.01.2023	--	13.12.2022	Dr. S K Jain
17. Rajni Gupta	10.12.2022, 02.09.2021, 02.01.2023	--	13.12.2022	Dr. S K Jain
18. Som Prakash Goenka	10.12.2022, , 02.01.2023	--	13.12.2022	Dr. S K Jain
19. Surendra Kumar Gupta	10.12.2022, 02.01.2023	--	13.12.2022	Dr. S K Jain
20. Virendra Sharma	23.12.2022, 10.09.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate

21. Akhil Gupta	23.12.2022, 18.07.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
22.Jaiprakash Sharma	14.12.2022, 10.09.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
23. Mahabir Pershad Agarwal	03.11.2021	--	Not availed	
24. Ajay Kumar Singhal	22.12.2022,	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
25. Sanjay Kumar HUF	26.12.2022, 29.08.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
26. Key Men Laminators Pvt. Ltd.	11.11.2022, 29.12.2022, 23.11.2022, 01.09.2021	11.11.2022	Not availed	Mr. Meit Shah
27. Accumen PolyPack Pvt. Ltd.	28.12.2022, 09.12.2022, 23.11.2022, 11.11.2022, 18.07.2022, 03.09.2021	18.11.2022	Not availed	Mr. Meit Shah
28. Shubham Goldie Masale Pvt. Ltd.	02.01.2023, 10.12.2022, 02.09.2021	--	13.12.2022	Dr. S K Jain
29. Neil Industries Ltd	30.12.2022, 26.08.2021	--	05.01.2023	Mr. Aashim Sood
30. Success Vyapar Pvt. Ltd.	26.12.2022, 19.07.2022,	--	05.01.2023	Mr. Harsh Kesharia
31. Goldie Masale Pvt. Ltd	10.12.2022, 02.01.2023	--	13.12.2022	Dr. S K Jain
32. Orange International	28.12.2022, 01.09.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate

33. Sanjay International	28.12.2022, 03.09.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
34. Maxwell	28.12.2022, 01.09.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
35.Mehendipur Balaji Impex Pvt. Ltd.	14.12.2022, 10.09.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
36. Ghata Mehndipurbalaji Grinding Works Pvt. Ltd.	14.12.2022, 10.09.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate
37. Samtal Financial System Pvt. Ltd	No reply	--	Not availed	--
38. Manav Gramudyog Mandal	02.01.2023, 10.12.2022, 02.09.2021	--	13.12.2022	Dr. S K Jain
39. Veena Agarwal	16.12.2022, 09.12.2022, 23.11.2022, 25.07.2022, 01.11.2021	18.11.2022	Not availed	Mr. Meit Shah
40. Kalpana Agarwal	14.12.2022, 09.12.2022, 07.09.2021	18.11.2022	Not availed	Mr. Meit Shah
41. Dilip Kumar Agarwal	14.12.2022, 25.07.2022, 08.09.2021	18.11.2022	Not availed	Mr. Meit Shah
42. Jaya Agarwal	14.12.2022, 09.12.2022, 11.11.2022, 25.07.2022, 7.09.2021	18.11.2022	Not availed	Mr. Meit Shah
43. Ram Bhateri	14.12.2022, 10.09.2021	22.11.2022	05.01.2023	Mr. Vikas Bengani, Advocate

53. The SCN and Hearing Notices were served to Noticees through SPAD/ email. Further, in terms of requests made by certain Noticees, relevant excerpts of Investigation report along with its annexures in the matter were provided to the Noticees as detailed above.

54. The key submissions of the Noticees are summarized as below:

Common submissions of Noticees

55. The SCN is issued with inordinate delay of more than 9 years, which highly prejudices the case of Noticee. No reasons mentioned for belatedly initiating the proceedings with unexplained delay of 9 years. Though there is no limitation period under Statute, the proceedings have to be initiated within a reasonable time. In this regard judgments in the matter of Mr. Ashok V Rupani & Ors (SAT); Rakesh Kathotia vs. SEBI (SAT), Yatin Pandya HUF vs. SEBI, H B Stockholdings , Khandala Securities Ltd., State of Gujarat vs. Patel Raghav Natha, SEBI vs. BhaveshPabari, Rajiv Bhanot & Ors. Vs. SEBI etc. have been referred by the Noticees.

56. SCN is *ex-facie* illegal, as it illegally combined two discrete stages contemplated under Rule 4 of the Inquiry Rules, since it proposes to impose a penalty at the first instance, whereas at this stage cause is only to be shown as to why an Enquiry should not be instituted against the Noticee. Noticee contended that Rule 4(1) contemplates first SCN and Rule 4(3) contemplates second notice, at this stage AO does not have the power to impose a Penalty. Noticee referred judgments like T.Taknao (Supreme Court), Natwar Singh vs. Director of Enforcement (Supreme Court).

57. Noticee has not been provided with the details/documents regarding basis of connection among the Noticees/entities. Further the complete copy of Investigation Report has also not been provided. These documents are directly

relevant to the allegations made against Noticee, and such action is in violation of principle of natural justice.

58. There is a contradiction in respect of the charging provisions, since para 58 of SCN refers 15A(b), whereas para 57 refers 15HA for imposing penalty on Noticee.

59. Strict proof required for a serious charge of 'fraud and the evidence has to be compelling to charge someone of fraud', and judgments in the matter of R. K. Global v/s SEBI (Appeal no. 158/2008 decided on 16.09.2010)1 Hon'ble Securities Appellate Tribunal, in the matter of Narendra Ganatra v/s SEBI (Appeal No 47 of 2011 decided on 29.07.2011), in the matter of Videocon International v /s SEBI (2002) 4 CLJ 402 (SAT), Parsoli Corporation v/s SEBI (Appeal No 146/2011 decided on 12.08.2011) (SAT) are referred.

60. In regard to sharing of common address (16 19 A Civil Lines, Kanpur, Uttar Pradesh 208001) by some of the Noticees is concerned, it is submitted that 16/19 A Civil Lines is a commercial cum residential premises wherein couple of flats, shops and offices are situated. Noticees don’t share the residential premises as alleged with other entities.

Noticee 1

61. Mr. Manoj Kumar Agarwal (PAN-ABBPA2306H), Noticee 2 is/was never a promoter of Sulabh.

62. Noticee 1 is RBI registered NBFC, with main activities including giving loans for business, capacity expansion, working capital, loan against property, loan for purchase of equipment etc.

63. Noticee 1 in its normal course of business activity, had given an interest bearing loan of Rs. 1,00,00,000/- on 27.03.2012 to Sona Chandi who is a big reputed

jeweler in Kanpur. The loan was returned in the year 2013, with interest of Rs.17,42,948/-. Signed copy of confirmation of accounts, Form no. 16A etc. are placed on record in support. No linkage should be established between Sulabh and Sona Chandi on the basis of inter se fund transfer between Sona Chandi and other entities. The aforesaid loan was one of the many loans given by Noticee 1 to various other entities. Sona Chandi is not part of ongoing proceedings.

64. There is no purchase/sale and/or dealing of securities nor is there any allegation of any allegation of fraudulent practice against Noticee. There are no adverse findings against Noticee in the entire SCN w.r.t fraudulent practices. The only allegation is w.r.t. alleged fund transfer with Sona Chandi. Hence, provision of section 15HA cannot be made applicable to case and penalty cannot be imposed on Noticee.

65. Noticee has complied with regulatory compliances required for issuance of preferential allotment after which it was allowed to allot shares on preferential basis and got the nod from BSE for allotment of shares on preferential basis and for listing. This process was followed by the Company not once but twice in 2011 and 2012. The regulations in respect of disclosures, lock-in period as per listing agreement was also complied with.

66. BSE vide Ex-Parte notice dated 01.01.2015 suspended trading in shares of Sulabh. Thereafter, BSE vide notice dated 01.03.2017 revoked the suspension of trading of Sulabh.

Noticee 2

67. Noticee submits that his name is Manoj Agarwal, not Manoj Kumar Agarwal, as well Noticee is not a promoter of Sulabh, as wrongly mentioned in the SCN. Further, the telephone no. 3073793 never belonged to the Noticee. Further, Noticee was never allotted any shares of Sulabh.

68. Noticee has not received any funds from Sulabh or from entities who have received funds from Sulabh. Noticee has neither received the alleged funds from Noticee 27 nor transferred funds to Noticee 6. Further, the funds received from Noticee 37 was a loan which was repaid by Noticee on 25.09.2014. Bank statements are placed on records.

69. In regard to sharing of common address (16 19 A Civil Lines, Kanpur, Uttar Pradesh 208001) by Noticee 29, 30 and 37 is concerned, it is submitted that 16/19 A Civil Lines is a commercial cum residential premises wherein couple of flats, shops and offices are situated.

70. Noticee has no connection with Sulabh or its promoters. During the relevant period, Noticee was on the board of Noticee 35. During the relevant period Noticee 35 has on two directors with identical names i.e. Manoj Kumar Agarwal:
    a) Mr. Manoj Kumar Agarwal (PAN No. AFPPA5170H) son of Mr. Mahaveer Prasad Agarwal having DIN No. 0658873 and
    b) Mr. Manoj Kumar Agarwal (PAN No. ABBPA2306H) son of Mr. Brijmohan Agarwal having DIN No. 00658948

71. Mr. Manoj Kumar Agarwal (PAN No. ACFPA8077Q) son of Mr. Santosh Kumar Agawral having DIN No. 1767926 is promoter of Sulabh and has identical name with aforesaid two directors and Noticee. Similarly one of the director of Noticee 36 (Mr. Manoj Kumar Agarwal (PAN No.AFPPA5170H) has name identical to aforesaid promoter of Sulabh. Hence the alleged connections are incorrect based on wrong facts.

Noticee 3 and 5

72. Noticee was a promoter of Sulabh and subscribed to preferential issue of Sulabh.

73. It is alleged that Noticee received 25 lakhs from Noticee 26. It is submitted that Noticee 26 belongs to Noticee's son Manish Kumar Agarwal, as Noticee 26 was in need of funds, Noticee had given them unsecured business loan. On 16.03.2011, the said loan given to Noticee 26 was returned. An interest of Rs. 2,52,736/- was also paid by Noticee 26 on the unsecured loan taken by them. Further, Noticee 26 had also deposited TDS on the said interest paid by them.

74. Further, the aforesaid receipt of Rs. 25,00,000/- is not an isolated transaction but is a part of series of unsecured loans given by Noticee to Noticee 26. Hence, no adverse inference be drawn against Noticee in this regard.

75. In regard to financial transaction with Noticee 39 (received Rs. 6,50,000/-) & Noticee 40 (Received Rs. 10,00,000/-), it is submitted that Noticee 39 and 40, are Noticee's sister in law. The said transaction of Rs. 6,50,000/- received from Noticee 39 and Rs. 10,00,000/- received from Noticee 40 is a gift. The said gift is within the family so no adverse inference be drawn against Noticee in this regard. A copy of Gift Deed dated 16.03.2011 between Veena Agarwal & me and between Kalpana Agarwal & Noticee is placed on records.

76. It is alleged that Noticee received Rs. 80,00,000/- from Noticee 29. However, Noticee submit that Noticee had received Rs. 40,00,000/- and not Rs. 80,00,000/- from Noticee 29 as alleged in the SCN. Noticee's submissions on receipt of Rs. 40,00,000/- is as under:
    a) Noticee 29 is an Non-Banking Financial Company (NBFC) registered with RBI which is engaged in providing loans for business etc.
    b) For some business purpose, Noticee had availed loan of Rs.40,00,000/- on 14.03.2012.
    c) The said loan was repaid to Noticee 29 on 10.06.2013.
    d) A copy of Ledger Account of Noticee 29 Industries Ltd in Noticee's books of accounts is placed on records.

e) Hence, the said fund transaction with Noticee 29 was commercial in nature, wherein a loan was given and the said loan was repaid by Noticee. Therefore, no adverse inference be drawn against Noticee in this regard.

f) Further, Noticee was unaware as to from where did Noticee 29 received funds from nor did enquire it from Noticee 29 as Noticee had no role of whatsoever nature in their financial dealings as carried out by Noticee 29 with other entities/persons.

77. Noticee's transactions in Sulabh are independent and totally in isolation to the transactions carried out by other entities/person in the shares of Sulabh.

78. Show Cause Notice that investment made by Noticee as preferential allottee of Sulabh was made with some sinister motive. In this regard, Noticee state that as the Company was being promoted and run by Noticee's son, Manoj Kumar Agarwal, Noticee was all the way more hopeful about the future of Sulabh. Additionally, it was Noticee's understanding that Noticee's association with Sulabh would create positive impact of the Company in the minds of general public as it is a general perception that a promoter who himself invests in the shares of the Company is positive about the future growth of the Company.

79. In view of the aforesaid, Noticee had applied for 2,00,000 shares of Sulabh at Rs. 20/- each on 17.03.2011 and was allotted said shares in March - 2011. The amount for the aforesaid shares was paid from Noticee's own funds. Further, Noticee had applied for 2,00,000 shares of Sulabh at Rs. 20/- each and was allotted said shares in March 2012. The amount for the aforesaid shares i.e. Rs. 40,00,000/- was paid from Noticee's own funds. Hence, it cannot be alleged that Noticee had subscribed to the preferential issue of Sulabh based on funds received by Sulabh.

Noticee 4

80. Noticee was a promoter of Sulabh and subscribed to preferential issue of Sulabh.

81. It is alleged that Noticee received 10 lakhs from Noticee 27. It is submitted that Noticee 27 belongs to Noticee's brother in law which was in need of funds, Noticee had given them unsecured business loan. On 16.03.2011, the said loan given to Noticee 26 was returned. An interest of Rs. 94,715/- was also paid by Noticee 26 on the unsecured loan taken by them. Further, Noticee 26 had also deposited TDS on the said interest paid by them.

82. Further, the aforesaid receipt of Rs. 10,00,000/- is not an isolated transaction but is a part of series of unsecured loans given by Noticee to Noticee 26. Hence, no adverse inference be drawn against Noticee in this regard.

83. The transaction of Rs. 12 lakh with Noticee 42 (who is Noticee's husband's real aunt) is a gift to Noticee from Noticee 42. Gift deed is placed on records, no adverse inference may be drawn. Further, the transaction of Rs. 10 lakhs with Noticee 41, who is real uncle of Noticee's husband was to meet urgent need of funds for Noticee, which has been repaid back in October 2014. Ledger of accounts is placed on records.

84. It is alleged that Noticee received 10 lakhs from Noticee 26. It is submitted that Noticee received Rs.4 lakhs. Noticee 26 belongs to Noticee's husband which was in need of funds, Noticee had given them unsecured business loan. On 16.03.2011, the said loan given to Noticee 26 was returned. An interest of Rs. 27,748/- was also paid by Noticee 26 on the unsecured loan taken by them. Further, Noticee 26 had also deposited TDS on the said interest paid by them.

85. Show Cause Notice that investment made by Noticee as preferential allottee of Sulabh was made with some sinister motive. In this regard, Noticee submit that

the investment was made in compliance of securities market laws and as an investor in capital market. Further, the transactions carried out by Noticee is independent of other entities.

Noticee 6

86. It is alleged that Noticee share common number "05123012853" with Krishana Agarwal. The said number "05123012853" does not belong to Noticee. However, any documents as to how the said number is linked to Noticee has not been provided along with the SCN.

87. Mr. Manoj Kumar Agarwal is Noticee's husband, and funds of Rs.42 lakhs received from him was duly returned.

88. Noticee is promoter of Sulabh and applied for 4,00,000 shares of Sulabh at Rs.20/- each and was allotted said shares in March 2012. The amount for the aforesaid shares i.e. Rs. 80,00,000/- was paid from Noticee's own funds.

Noticee 7

89. It is alleged that Noticee received 20 lakhs from Noticee 8. It is submitted that no such fund movement took place, instead the amount was transferred by Noticee 8 to Nagarmal Agarwal (HUF) and not to Noticee, which is evident from the bank account statement.

90. Further, the aforesaid receipt of Rs. 25,00,000/- is not an isolated transaction but is a part of series of unsecured loans given by Noticee to Noticee 26. Hence, no adverse inference be drawn against Noticee in this regard.

91. Noticee's transactions in Sulabh are independent and totally in isolation to the transactions carried out by other entities/person in the shares of Sulabh.

92. Show Cause Notice that investment made by Noticee as preferential allottee of Sulabh was made with some sinister motive. In this regard, Noticee state that as the Company was being promoted and run by Noticee's Karta's son, Manoj Kumar Agarwal, Noticee was all the way more hopeful about the future of Sulabh. Additionally, it was Noticee's understanding that Noticee's association with Sulabh would create positive impact of the Company in the minds of general public as it is a general perception that a promoter who himself invests in the shares of the Company is positive about the future growth of the Company.

93. In view of the aforesaid, Noticee had applied for 1,00,000 shares of Sulabh at Rs. 20/- each on 1403.2012 and was allotted said shares in March - 2012. The amount for the aforesaid shares was paid from Noticee's own funds. The amount for the aforesaid shares was paid from Noticee's own funds. Post-split in shares of Sulabh, the total holding of Noticee in undersigned rose to 10,00,000 shares, which Noticee still holds. Hence, it cannot be alleged that Noticee had subscribed to the preferential issue of Sulabh based on funds received by Sulabh.

Noticee 8

94. It is alleged that Noticee received 20 lakhs to Noticee 7. It is submitted that no such fund movement took place, instead the amount was transferred by Noticee to Nagarmal Agarwal (HUF) and not to Noticee 7, which is evident from the bank account statement.

95. Show Cause Notice that investment made by Noticee as preferential allottee of Sulabh was made with some sinister motive. In this regard, Noticee state that as the Company was being promoted Notice's promoter entity, Manoj Kumar Agarwal, Noticee was all the way more hopeful about the future of Sulabh. Additionally, it was Noticee's understanding that Noticee's association with Sulabh would create positive impact of the Company in the minds of general

public as it is a general perception that a promoter who himself invests in the shares of the Company is positive about the future growth of the Company.

96. In view of the aforesaid, Noticee had applied for 3,00,000 shares of Sulabh at Rs. 20/- each on 14.03.2012 and was allotted said shares in March - 2012. The amount for the aforesaid shares was paid from Noticee's own funds. The amount for the aforesaid shares was paid from Noticee's own funds. Post-split in shares of Sulabh, the total holding of Noticee in undersigned rose to 30,00,000 shares, which Noticee still holds. Hence, it cannot be alleged that Noticee had subscribed to the preferential issue of Sulabh based on funds received by Sulabh.

Noticee 9

97. Noticee was a promoter of Sulabh and subscribed to preferential issue of Sulabh.

98. It is alleged that Noticee received 40 lakhs from Noticee 26. It is submitted that Noticee is promoter/director of Noticee 26 which was in need of funds, Noticee had given them unsecured business loan. On 16.03.2011, the said loan given to Noticee 26 was returned. An interest of Rs. 3,94,471/- was also paid by Noticee 26 on the unsecured loan taken by them. Further, Noticee 26 had also deposited TDS on the said interest paid by them.

99. Further, the aforesaid receipt of Rs. 40,00,000/- is not an isolated transaction but is a part of series of unsecured loans given by Noticee to Noticee 26. Hence, no adverse inference be drawn against Noticee in this regard.

100. Noticee's transactions in Sulabh are independent and totally in isolation to the transactions carried out by other entities/person in the shares of Sulabh.

101. Show Cause Notice that investment made by Noticee as preferential allottee of Sulabh was made with some sinister motive. In this regard, Noticee state that as the Company was being promoted and run by Noticee's brother, Manoj Kumar Agarwal, Noticee was all the way more hopeful about the future of Sulabh. Additionally, it was Noticee's understanding that Noticee's association with Sulabh would create positive impact of the Company in the minds of general public as it is a general perception that a promoter who himself invests in the shares of the Company is positive about the future growth of the Company.

102. In view of the aforesaid, Noticee had applied for 2,00,000 shares of Sulabh at Rs. 20/- each on 17.03.2011 and was allotted said shares in March - 2011. The amount for the aforesaid shares was paid from Noticee's own funds. Further, Noticee had applied for 2,00,000 shares of Sulabh at Rs. 20/- each and was allotted said shares in March 2011. The amount for the aforesaid was paid from Noticee's own funds. Hence, it cannot be alleged that Noticee had subscribed to the preferential issue of Sulabh based on funds received by Sulabh.

Noticee 10

103. Noticee 29 is an NBFC, and the funds received from it are loans availed which were repaid back on 11.10.2013. The ITRs placed on records, reflect that Noticee had enough resources to make payment of consideration amount of Rs.14 lakhs. Noticee has not received any money from Sulabh for the allotment.

104. Further, there are glaring discrepancies in the SCN, basis which incorrect connections are made and allegations are levied.

Noticee 11

105. Noticee 29 is an NBFC, and the funds received from it are loans availed which were repaid back on 24.05.2012 and 19.06.2012.

106. The ITRs placed on records, reflect that Noticee had enough resources to make payment of consideration amount of Rs.30 lakhs. Noticee has not received any money from Sulabh for the allotment.

107. Further, there are glaring discrepancies in the SCN, basis which incorrect connections are made and allegations are levied.

Noticee 12

108. Noticee 29 is an NBFC, and the funds received from it are loans availed which were repaid back on 24.05.2012 and 19.06.2012.

109. The ITRs placed on records, reflect that Noticee had enough resources to make payment of consideration amount of Rs.14 lakhs. Noticee has not received any money from Sulabh for the allotment.

110. Further, there are glaring discrepancies in the SCN, basis which incorrect connections are made and allegations are levied.

Noticee 13

111. In respect of the transfer with Noticee 33, it is submitted that the Noticee 33 is partnership firm with Karta of the Noticee as Partner with his brothers. Further, Noticee 33, 32, 34 are formed by family members of Noticee's Karta, and the fund movements among them are not unusual. Further, the Noticee has running account with Noticee 33, on account of which impugned transactions were inter-se transactions.

112. In respect of impugned transactions with Noticee 29, it is submitted that Noticee 29 is an NBFC, and Noticee 32 took loan of Rs.50 lakhs from Noticee 29 and the same was repaid.

113. Few transactions have been selected in order to make observations, which leads to erroneous conclusions. Further, there were other glaring discrepancies in SCN. On the basis of such incomplete analysis such serious charge of cannot be levied.

Noticee 14

114. In respect of the transfer with Noticee 34, it is submitted that the Noticee 34 is partnership firm with Karta of the Noticee as Partner. Further, Noticee 32, 34 are controlled by family members of the Noticee’s Karta, hence the fund movements among entities is not unusual. Further, the Noticee has running account with Noticee 33, with credit balance, on account of which impugned transactions were inter-se transactions.

115. In respect of impugned transactions with Noticee 29, it is submitted that Noticee 29 is an NBFC, and Noticee 32 took loan of Rs.50 lakhs from Noticee 29 and the same was repaid.

116. Few transactions have been selected in order to make observations, which leads to erroneous conclusions. Further, there were other glaring discrepancies in SCN. On the basis of such incomplete analysis such serious charge of cannot be levied.

Noticee 15

117. In respect of the transfer with Noticee 34, it is submitted that the Noticee 34 is partnership firm with Karta of the Noticee as Partner. Further, Noticee 32, 34 are controlled by family members of the Noticee’s Karta, hence the fund movements among entities is not unusual. Further, the Noticee has running account with Noticee 34, with credit balance, on account of which impugned transactions were inter-se transactions.

118. In respect of impugned transactions with Noticee 29, it is submitted that Noticee 29 is an NBFC, and Noticee 32 took loan of Rs.50 lakhs from Noticee 29 and the same was repaid.

119. Few transactions have been selected in order to make observations, which leads to erroneous conclusions. Further, there were other glaring discrepancies in SCN. On the basis of such incomplete analysis such serious charge of cannot be levied.

Noticee 16, 17, 18, 19

120. Phone No. 0512-3255576 belongs to Prabhat Financial Services Ltd., who is SEBI registered Stock Broker and DP.

121. In respect of the fund transfer from Noticee 31, it is submitted that the Noticee provided interest bearing funds to Noticee 31, towards which the Noticee received interest reflected in Form 26AS, ledger accounts .

122. Noticee has subscribed for the preferential allotment from own funds, for which Noticee had sufficient resources as evidenced from ITRs of Noticee placed on records.

Noticee 20

123. In respect of the fund transfer from Noticee 30, it is submitted that the Noticee sole proprietor of Shiv Trading Company which took loan of Rs. 60 lakhs from Noticee 30, which was repaid along with the interest. Noticee has subscribed for the preferential allotment from own funds, for which Noticee had sufficient resources as evidenced from ITRs of Noticee placed on records.

Noticee 21

124. Noticee submits that Noticee has not used the telephone number 3073793 at any point of time. The said telephone number (0512-3073793) as per Google

Search belongs to Member Broker- M/s Prabhat Financial Services Limited who is Noticee’s broker at the relevant time.

125. Noticee deny that it received any funds from Sulabh for subscribing to Second Preferential Issue made by Sulabh. Noticee has not received any money indirectly or directly from Sulabh or promotoers of Sulabh or other preferential allottees of Sulabh.

126. Noticee was allotted 1,25,000 shares in the Second preferential Issue and transferred Rs.25,00,000/- to Sulabh. In regard to the transactions of Rs. 20 Lakhs (12.03.2012) and Rs. 5 lakhs (16.03.2012), between Noticee and Noticee 30 (now known as Shithala Dealers Limited), it is submitted that Noticee 30 provided a loan of Rs.70 Lakhs to Noticee in the year 2012 and 2013. The loan was repaid back by Noticee on 18.02.2015 and 03.03.2015. Confirmation of accounts and bank accounts statements are placed on records in support.

127. The fund movements from Sulabh to Sona Chandi and further from Sona Chandi to Noticee 30 had taken place on 27.03.2012 and 28.03.2012 respectively whereas Noticee had taken loan of Rs. 25 lakhs from Noticee 30 in between 12.03.2012 and 15.03.2012. There is no connection between loan taken by Noticee and transfer of funds by Sulabh to Sona Chandi.

128. In regard to sharing of common address (16 19 A Civil Lines, Kanpur, Uttar Pradesh 208001) by Noticee 29, 30 and 37 is concerned, it is submitted that 16/19 A Civil Lines is a commercial cum residential premises wherein couple of flats, shops and offices are situated.

129. Discrepancies in the SCN: SCN states that Sulabh allotted 1,50,000 shares in Second preferential issue to promoter of the company i.e. Mr. Manoj Kumar Agarwal. However, as per records and AO order dated 30.08.2022 it is noted that Sulabh had not issued any shares to Mr. Manoj Kumar Agarwal S/o Mr.

Santosh Kumar Agarwal (PAN No.ACFPA8077Q), who is actually the promoter of the company in first and/or second preferential issue.

130. Sulabh made two preferential issues i.e. first on 21.03.2011 for 28 lakhs shares and second on 23.03.2012 for 70 lakh shares, which were allotted after receipt of payment of Rs. 19.60 Crores. It is contended that how Sulabh can self finance its own preferential issue by transferring Rs. 1 crore only to Sona Chandi after completion of both the preferential issues.

131. Since, at the stage of investigation, SEBI has given clean chit to as many as 42 preferential allottees out of total 66 Preferential Allottees, whereas connections with these preferential allottees have been referred for making allegations against Noticees.

132. SCN is issued to Noticee 2, alleging that he is promoter whereas he is not actually the promoter of the company. Further findings in the investigation report has been made on the basis that Manoj Agarwal promoter of the company has transferred funds to several entities/Noticees.

Noticee 22

133. In respect of the fund transfer from Noticee 43, it is submitted that the Noticee is one of the directors in Noticee 35 and Notice 43 is mother of Noticee. Noticee 43 gifted Rs.25 lakhs to Noticee.

134. In respect of the connection between signatory of Noticee 35 and Mr. Manoj Kumar Aggarwal, no details have been provided. Further, no details regarding authorized signatory of Noticee has been provided.

Noticee 23

135. No submission was made on merit.

Noticee 24

136. There is contradiction in the date of receipt of the fund by Noticee from Noticee 37 in the para 37 of SCN and chart provided at Annexure 2.2 of the SCN.

137. Noticee has not used the telephone number 3073793 at any point of time. The said telephone number (0512-3073793) as per Google Search belongs to Member Broker- M/s Prabhat Financial Services Limited who is Noticee's broker at the relevant time.

138. Noticee deny that it received any funds from Sulabh or from entities who received funds from Sulabh. None of the preferential allottees of Sulabh received money from Sulabh.

139. Noticee was allotted 70,000 shares in the preferential issue and transferred Rs.14,00,000/- to Sulabh. In regard to the transactions of Rs. 14 Lakhs (16.03.2012) between Noticee and Noticee 37, it is submitted that Noticee 37 provided a loan of Rs.14 Lakhs to Noticee on 16.03.2011. The loan was repaid back by Noticee on 12.05.20211 (Rs.6 lakhs) and on 14.03.2013 (Rs. 8 lakhs). Confirmation of accounts and bank accounts statements are placed on records in support. Further its difficult to recollect the transactions which occurred 10 years back.

140. SCN has made allegations on the basis of connections with entities who have not been made Noticees in the SCN, whereas no allegations by referring them could be made.

141. Noticee funded on its own the application for preferential issue, and did not receive any money from Sulabh. In support ITRs for AT 2011-12 to 2013-14 is placed on records, substantiating that Noticee had enough resources to make payment of consideration amount (Rs.14 lakhs) for application.

142. Discrepancies in the SCN: SCN states that Sulabh allotted 1,50,000 shares in Second preferential issue to promoter of the company i.e. Mr. Manoj Kumar Agarwal. However, as per records and AO order dated 30.08.2022 it is noted that Sulabh had not issued any shares to Mr. Manoj Kumar Agarwal S/o Mr. Santosh Kumar Agarwal (PAN No.ACFPA8077Q), who is actually the promoter of the company in first and/or second preferential issue.

143. Sulabh made two preferential issues i.e. first on 21.03.2011 for 28 lakhs shares and second on 23.03.2012 for 70 lakh shares, which were allotted after receipt of payment of Rs. 19.60 Crores. It is contended that how Sulabh can self finance its own preferential issue by transferring Rs. 1 crore only to Sona Chandi after completion of both the preferential issues.

Noticee 25

144. In respect of the transfer with Noticee 33, it is submitted that the Noticee 34 is partnership firm with Karta of the Noticee as Partner. Further, Noticee 32, 33, 34 are controlled by family members of the Noticee’s Karta, hence the fund movements among entities is not unusual. Further, the Noticee has running account with Noticee 33, with credit balance, on account of which impugned transactions were inter-se transactions.

145. In respect of impugned transactions with Noticee 29, it is submitted that Noticee 29 is an NBFC, and Noticee 32 took loan of Rs.50 lakhs from Noticee 29 and the same was repaid.

146. Few transactions have been selected in order to make observations, which leads to erroneous conclusions. Further, there were other glaring discrepancies in SCN. On the basis of such incomplete analysis such serious charge of cannot be levied.

Noticee 26

147. Noticee is involved in manufacturing and export of multi coloured printed laminated flexible packaging material/pouches & multilayer film. Our financial transactions are independent and totally in isolation to the transactions carried out by other entities/person in the scrip of Sulabh nor is it related to their buying of preferential shares of Sulabh.

148. In respect of financial transactions with Noticee 9 (Given Rs. 40,00,000), Noticee 3 (Given Rs. 25,00,000), Noticee 4 (Given Rs. 10,00,000), Noticee 41 (Given Rs. 6,00,000), Nagarmal HUF (Given Rs.17,00,000), Noticee 39 (Given Rs. 6,50,000) and Noticee 5 (Given Rs. 6,50,000), It is submitted that all the above entities are director's viz. Manish Agarwal's family members. Manish Agarwal is Director of Noticee Company, Ms. Krishna Agarwal is Director's mother, Ms. Ruchi Agarwal is Director's wife, Mr. Dilip Kumar Agarwal is Director's Uncle, Ms. Veena Agarwal is Director's Aunt, Santosh Kr. Agarwal HUF is Director's father HUF and Nagarmal HUF is Director's father HUF.

149. All the transactions as mentioned aforesaid are repayment of unsecured business loan taken from the aforesaid entities who are family members and for which interest was also paid by Noticee. Further, Noticee had also deposited TDS on the said interest paid by it. Signed copy of ledger accounts of the entities in the books of Noticees from 01.04.2010 to 31.03.2011, form 26AS, CA certificate are placed on records.

150. Noticee 28 is part of Goldie Masale Group, and Noticee has business relation with Noticee 28, being manufacturer of multi coloured printed laminated flexible packaging material/pouches & multilayer film. The transactions of Rs.1.50 Crore with Noticee 28 are business transactions and are part of series of payments towards supply of goods/materials supplied, over a period of time. Ledger copies, sample invoices, CA Certificates are placed on records.

Noticee 27

151. Noticee is involved in manufacturing and export of multi coloured printed laminated flexible packaging material/pouches & multilayer film. Our financial transactions are independent and totally in isolation to the transactions carried out by other entities/person in the scrip of Sulabh nor is it related to their buying of preferential shares of Sulabh.

152. In respect of financial transactions with Manoj Kumar Agarwal (Given Rs. 40,00,000), Noticee 4 (Given Rs. 10,00,000), Noticee 41 (Given Rs. 4,00,000), Noticee 42 (Given Rs. 5,00,000), it is submitted that all the above entities are director's viz. Manish Agarwal's family members. Manish Agarwal is Director of Noticee Company, Ms. Ruchi Agarwal is Director's wife, Mr. Dilip Kumar Agarwal is Director's Uncle, Ms. Veena Agarwal and Jaya Agarwal are Director's Aunt.

153. All the transactions as mentioned aforesaid are repayment of unsecured business loan taken from the aforesaid entities who are family members of director or promoter/director himself, further for such loans interest were also paid by Noticee. Further, Noticee had also deposited TDS on the said interest paid by it. Signed copy of ledger accounts of the entities in the books of Noticees from 01.04.2010 to 31.03.2011, form 26AS, CA certificate are placed on records.

Noticee 28

154. Noticee 16, 17, 18, 19 are founders/directors of Noticee 28 and Noticee 31; and have been providing interest bearing funds to Noticee 28 and Noticee 31. Further Noticee has financial transactions with Noticee 21 and 38. The name of the Noticee is not appearing in the table detailing the connection amongst entities. There is no documents in support of the basis of connections. The transaction of Noticee with Noticee-26 is for the supply of packaging material,

which is its supplier for past 15 years. In support, Form 26 AS(s), ITR copies, ledger accounts are placed on records.

155. Noticee has not received any money indirectly or directly from Sulabh or promoters of Sulabh or other preferential allottees of Sulabh.

156. In regard to fund movements between Noticee, Noticee 31 and Noticee 38, it is submitted that aforesaid are group companies of Goldiee group and supply material and provide services to each other from last two decades, and in consideration regular payments were made. In support, ledger accounts were placed on records.

Noticee 29

157. Investigation report (IR) has relied on certain bank entries, which have not been logically verified leading to erroneous conclusions and findings. During investigation Noticee was contacted by SEBI and Noticee provided details for 4 bank entries in Noticee's bank account. No further queries were posed to Noticee by SEBI, which could have provided details of other fund movements with Noticees/entities. IR has not considered that Sulabh is an NBFC and its principal business is to provide loan to parties.

158. Para 6 of IR states that Sulabh had gathered Rs. 19.60 Crores by preferential allotment to 74 allottees, whereas the BSE website reveals that the preferential allotment was made to only 73 entities.

159. SEBI has given clean chit to as many 42 preferential allottees in the IR, and has not gone in depth of the bank entries and has levied charges.

160. Noticee submits following in regard to its transactions:

a) Noticee received Rs.226.91 lakhs (09.02.2012-13.03.2012) from M/s. Bhaishajya Aurved Bhawan (P) Ltd. Noticee had given loan of Rs. 208 lakhs to M/s. Bhaishajya Aurved Bhawan (P) Ltd. which was returned back along with interest.
b) Noticee has textile business also, under which it supplied cloth to Noticee 30, against which it received Rs.153 lakhs
c) Noticee 10 was given loan of Rs.16.50 lakhs by Noticee which was repaid
d) Noticee gave loan of Rs. 50 lakhs to Noticee 32 on 07.03.2012 which was repaid back on 21.05.2014
e) Noticee gave loan of Rs. 30 lakhs to Noticee 12 on 07.03.2012 which was repaid on 24.05.2012 and 12.06.2012.
f) Noticee gave loan of Rs. 30 lakhs to Noticee 11 on 07.03.2012 which was repaid on 24.05.2012 and 12.06.2012.
g) Noticee gave loan of Rs. 30 lakhs to Noticee 12 on 07.03.2012 which was repaid on 24.05.2012 and 12.06.2012.
h) Noticee gave loan of Rs. 60 lakhs to Noticee 6 on 14.03.2012 which was repaid on 10.06.2013.
i) Noticee gave loan of Rs. 40 lakhs to Noticee 3 on 14.03.2012 which was repaid on 10.06.2013. SCN wrongly mentions the amount as 80 lakhs.

   Ledger accounts and bank account statements are placed on records in support of aforesaid transactions.

161. Funds provided to various entities are from the own source of Noticee, Noticee has not received any money from Sulabh directly or indirectly.

Noticee 30

162. Sona Chandi is largest Jewellery showroom in Kanpur, and Noticee has provided loans to Sona Chandi on couple of occasions which was subsequently returned back along with interest. Further, Sona Chandi deducted TDS on the

interest paid to Noticee. Noticee has no concern with the transfer of Rs.100 lakhs by Sulabh to Sona Chandi. Sona Chandi had overdraft facility in its bank account and after repayment of Rs.100 lakhs to Noticee, Sona Chandi has debit balance of Rs.69,26,697.62 in the bank account. Confirmation of accounts, Form 16A, TDS Certificates are placed on records.

163. Shiv Trading company (Proprietorship firm of Noticee 20), is in the business of trading of Supari, and Noticee gave loans to Shiv Trading company on couple of occasions, which were returned back and interest was received. Confirmation of accounts, bank statements are placed on records. Apart from the Rs.25 lakhs loan given, there were 5 other occasions when the Noticee gave loan to Shiv Trading Company.

164. In respect of fund transfer to Noticee 24, it is submitted that Noticee provided loan to Noticee 24 on 4 occasion which was returned back on 18.02.2015 and 03.03.2015. Confirmation of accounts, bank statements are placed on records.

165. Further, in respect of transfer of funds from Noticee to Noticee 29, it is submitted that Noticee is also in the business of Textile Products, and Noticee purchased cloths from Noticee 29 in consideration Noticee transferred Rs.1.53 Crores to Noticee 29 in between 07.03.2012 to 14.03.2012. Copy of ledger and bank account statements are placed on records.

166. In regard to sharing of common address (16 19 A Civil Lines, Kanpur, Uttar Pradesh 208001) by Noticee 29 and 37 is concerned, it is submitted that 16/19 A Civil Lines is a commercial cum residential premises wherein couple of flats, shops and offices are situated. Noticee doesn't share the residential premises as alleged with other entities.

167. Sulabh made its first preferential issue on 28.03.2011 and second preferential issue on 23.03.2012, whereas Sulabh had transferred Rs.100 lakhs to Sona Chandi on 27.03.2012 i.e. one year later from its first preferential issue and 4

days later from its second preferential issue. Therefore, it is not possible for Sulabh to self-finance its own preferential issue. Further since Sulabh only transferred Rs.100 lakhs to Sona Chandi, whereas the issue size of Sulabh was Rs.1960 lakhs. Further since all the payments to Sulabh by its preferential Allottees were made on or before the dates of its preferential Issues, the allegation of Noticee being conduit used for routing of funds falls apart.

168. When IR has given clean chit to 42 Allottees, Sona Chandi is not charged for transfer of Rs. 100 lakhs from Sulabh, charging Noticee for alleged fund transfer demonstrates predetermined bias in its approach.

Noticee 31

169. The name of the Noticee is not appearing in the table detailing the connection between promoter and other allottees. There is no finding in the SCN that Noticee has indirectly funded other preferential allottees.

170. Noticee is one of the largest and biggest spices and food products maker in India, engaged in sale of spices, pickles, papad, tea, agarbatti etc., and Mr. Surendra Kumar Gupta, Mr. Som Prakash Goenka, Mrs. Madhu Rani Goenka, Mrs. Rajni The founders/directors of the Noticee provide Interest Bearing funds to company and Shubham Goldie Masala Pvt, Ltd.

171. Noticee has not received any money indirectly or directly from Sulabh or promotoers of Sulabh or other preferential allottees of Sulabh. Further, the Noticee has financial transactions with Noticee 28 and 38 on account of its spices business transactions. The transaction of Noticee with Noticee-26 is for the supply of packaging material, which is its supplier for past 15 years. In support, ITR copies, ledger accounts are placed on records.

172. In regard to the payments made to Noticee 16, 17, 18, 19 by Noticee, it is contended that the aforesaid are Founders/Directors of the Noticee company,

which have provided interest bearing loans to the Noticee, which were repaid to them with interest at the end of each financial year. Form 26 AS(s) is placed on records for the same.

173. In regard to fund movements between Noticee, Noticee 28 and Noticee 38, it is submitted that aforesaid are group companies of Goldiee group and supply material and provide services to each other from last two decades, and in consideration regular payments were made. In support, ledger accounts were placed on records.

174. Noticee received Rs.175 lakhs on 15.03.2011 from Noticee 38 against debit balance of Rs.4,46,90,834.60 in the account of Noticee in its books.

Noticee 32

175. In respect of the transfer with Noticee 33 and 34, it is submitted that the Noticee's directors are partners in Noticee 33 and their father is partner in Noticee 34. Partnership firm with Karta of the Noticee as Partner. Further, Noticee 32, 33, 34 are controlled by family members of the Noticee's Karta, hence the fund movements among entities is not unusual. Further, the Noticee has running account with Noticee 33, with credit balance, on account of which impugned transactions were inter-se transactions.

176. In respect of impugned transactions with Noticee 29, it is submitted that Noticee 29 is an NBFC, and Noticee took loan of Rs.50 lakhs from Noticee 29 and the same was repaid.

Noticee 33

177. In respect of the transfer with Noticee 13 and 25, it is submitted that the Noticee is partnership firm with Karta of the Noticee 13 and 25 as Partners. Further, Noticee 32, 33, 34 are controlled by family members of the Noticee's Karta, hence the fund movements among entities is not unusual. Further, the Noticee

13, 25 has running account with Noticee, with credit balance, on account of which impugned transactions were inter-se transactions.

178. In respect of impugned transactions with Noticee 29, it is submitted that Noticee 29 is an NBFC, and Noticee 32 took loan of Rs.50 lakhs from Noticee 29 and the same was repaid.

Noticee 34

179. In respect of the transfer with Noticee 14 and 15, it is submitted that the Noticee is partnership firm with Karta of the Noticee 14 and 15 as Partners. Further, Noticee 32, 33, 34 are controlled by family members of the Noticee's Karta, hence the fund movements among entities is not unusual. Further, the Noticee 14, 15 has running account with Noticee, with credit balance, on account of which impugned transactions were inter-se transactions.

180. In respect of impugned transactions with Noticee 29, it is submitted that Noticee 29 is an NBFC, and Noticee 32 took loan of Rs.50 lakhs from Noticee 29 and the same was repaid.

Noticee 35

181. Noticee is not a preferential allottee.

182. In respect of the connection between signatory of Noticee and Mr. Manoj Kumar Aggarwal, no details have been provided. Further, no details regarding authorized signatory of Noticee has been provided.

183. Noticee repaid Noticee 43 Rs.25 lakhs on 07.03.2012 towards her credit balance lying in her account with Noticee. Noticee 43 has running account with Noticee. Noticee has paid interest to Noticee 43 for the loan and the same is reflected in Form 26 AS of Noticee 43. Further Mr. Jai Prakash Sharma one of

the director of Noticee, is son of Noticee 43. Concerned 26AS and ITR returns are placed on records.

184. Noticee has no connection with Sulabh or its promoters. During the relevant period, Noticee had on its Board, two directors with identical names i.e. Manoj Kumar Agarwal:
    a) Mr. Manoj Kumar Agarwal (PAN No. AFPPA5170H) son of Mr. Mahaveer Prasad Agawral having DIN No. 0658873 and
    b) Mr. Manoj Kumar Agarwal (PAN No. ABBPA2306H) son of Mr. Brijmohan Agarwal having DIN No. 00658948

185. Similarly, Mr. Manoj Kumar Agarwal (PAN No. AFPPA5170H) son of Mr. Mahaveer Prasad Agawral having DIN No. 0658873 is director in Noticee no. 36.

186. Noticee submits that Mr. Manoj Kumar Agarwal, son of Mr. Santosh Kumar Agarwal (PAN No. ACFPA8077Q) having DIN No. 1767926 is one of the promoter of Sulabh and has identical name with aforesaid two directors of the Noticee. Due to the identical names of aforesaid directors incorrect connections have been assumed.

187. Noticee has neither traded in Scrip of Sulabh, nor was preferential allottee, nor facilitated Sulabh in any funding by permitting its bank accounts for routing of funds.

188. Discrepancies in the SCN: SCN states that Sulabh allotted 1,50,000 shares in Second preferential issue to promoter of the company i.e. Mr. Manoj Kumar Agarwal. However, as per records and AO order dated 30.08.2022 it is noted that Sulabh had not issued any shares to Mr. Manoj Kumar Agarwal S/o Mr. Santosh Kumar Agarwal (PAN No.ACFPA8077Q), who is actually the promoter of the company in first and/or second preferential issue.

Noticee 36

189. Noticee 23 i.e. Mr. Mahabir Prasad Agarwal [father of Mr. Manoj Kumar Agarwal (PAN No. AFPPA5170H) who is the director of Noticee Company] was repaid Rs.14 lakhs on 16.03.2011 towards his credit balance as per running account with the Noticee. Noticee 23 provided interest bearing funds to Noticee, and Noticee paid interest at the end of each FY. Form 26AS and ITR records are placed on records.

190. There are erroneous conclusions drawn as the name of the different entities is same i.e. Manoj Kumar Agarwal.

Noticee 38 and 39

191. The allegation is only in respect of transaction of Rs. 175 lakhs on 16.03.2011 to Noticee 31 from Noticee. Noticee has not received any money indirectly or directly from Sulabh or promotoers of Sulabh or other preferential allottees of Sulabh.

192. Noticee gives finishing touches to the Spices and other material and sells to Noticee 28.

193. The name of the Noticee is not appearing in the table detailing the connection between promoter and other allottees. There is no finding in the SCN that Noticee has indirectly funded other preferential allottees.

194. Mr. Surendra Kumar Gupta (Noticee 19), Mr. Som Prakash Goenka (Noticee 18), Mrs. Madhu Rani Goenka (Noticee 16), Mrs. Rajni (Noticee 17) are the founders/directors of the Noticee 28 and 31. They provide Interest Bearing funds to the aforesaid Noticees. Noticee 16, 17, 18, 19 have running accounts with Noticee 28. Supporting Form 26AS, ledger accounts are placed on records.

195. Noticee has not received any money indirectly or directly from Sulabh or promotoers of Sulabh or other preferential allottees of Sulabh. Further, the Noticee has financial transactions with Noticee 28 on account of its business transactions. The transaction of Noticee 28 with Noticee-26 is for the supply of packaging material, which is its supplier for past 15 years. In support, ITR copies, ledger accounts are placed on records.

196. Noticee 31 had credit balance of Rs.4,46,90,834.60 as on 15.03.2011 against supply of materials, towards which Notice paid Rs.90 Lakh and Rs.85 Lakhs to Noticee 31 on 15.03.2011. In support CA signed ledgers of Noticee 31 are placed on records.

Noticee 40

197. Noticee submits that Noticee's financial transactions are independent and totally in isolation to the transactions carried out by other entities/person in the scrip of Sulabh nor is it related to their buying of preferential shares of Sulabh.
198. In respect of Noticee's financial transactions with Noticee 3, it is submitted that Noticee 3, is wife of Noticee's brother in law. The alleged transaction of Rs.10 lakhs is gift from Noticee to Noticee 4. Copy of gift deed dated 16.03.2011 is placed on records.

Noticee 41

199. Noticee submits that Noticee's financial transactions are independent and totally in isolation to the transactions carried out by other entities/person in the scrip of Sulabh nor is it related to their buying of preferential shares of Sulabh.

200. In respect of Noticee's financial transactions with Noticee 26 and 27, it is submitted that Noticee 26 and 27, belongs to Noticee's nephew i.e. Manoj Kumar Agarwal, which were in the need of funds, Noticee gave them loan, which was returned back, and the interest was also paid. Noticee deposited TDS on the interest paid by them, in support ledgers, form 26AS. The said

transaction was business transaction, temporary loan. Further, Noticee 4 is Noticee's daughter in law (wife of Noticee's nephew) who needed some fund, so Noticee loaned Rs. 10 lakhs in March 2011 to Noticee 4, which was repaid back on October 2014. Noticee deposited TDS on the interest received, in support ledgers, form 26AS are placed on records. The transactions with Noticee 26 and 27 were business transaction, temporary loan.

Noticee 42

201. Noticee submits that Noticee's financial transactions are independent and totally in isolation to the transactions carried out by other entities/person in the scrip of Sulabh nor is it related to their buying of preferential shares of Sulabh.

202. In respect of Noticee's financial transactions with Noticee 27, it is submitted that Noticee 27, belongs to Noticee's nephew i.e. Manoj Kumar Agarwal, which was in the need of funds, Noticee gave them loan, which was returned back on 14.03.2011, and the interest of Rs.50,745/- was also paid. Noticee deposited TDS on the interest paid by them, in support ledgers, form 26AS. The said transaction was business transaction, temporary loan.

203. In respect of Noticee's financial transactions with Noticee 4, it is submitted that Noticee 4, is wife of Noticee's nephew. The alleged transaction of Rs.12 lakhs is gift from Noticee to Noticee 4. Copy of gift deed dated 16.03.2011 is placed on records.

Noticee 43

204. In respect of Noticee's financial transactions with Noticee 35, it is submitted that Noticee 27 had a running account with them and Rs.25 lakh paid by Noticee 35 is for interest bearing loan provided by Noticee. Noticee deposited TDS on the interest paid by them, in support ledgers, ITRs, and form 26AS. The said transaction was business transaction, temporary loan.

205. There are erroneous conclusions drawn as the name of the different entities is same i.e. Manoj Kumar Agarwal.

Other Common submissions of Noticee 16, 17, 18, 19, 28, 31, and 38

206. Certificates from practicing Chartered Accountants certifying the nature of transactions and amount received/paid by Noticees are placed on records. Further, upon perusal of Form 26 AS, it can be observed that the Noticees had paid interest and deducted Tax while making payment of interest.

207. Noticee 16, 17, 18 and 19 have placed on records copies of ledger, Form 26 AS, ITR acknowledgements, in support of running accounts maintained by Noticees, showcasing that the Noticees had credit balances in their accounts with Noticee 31, which Noticee 31 has repaid to Noticees. The certificates shows that the Noticee No. 16 to 19 had subscribed to the preferential allotments from their own funds.

Noticee 23 and 37

208. Noticees 23 and 37 neither appeared for hearing nor submitted reply or reply on merit to SCN. As adequate opportunity was provided to these Noticees to submit reply and appear for hearing, which they failed to avail, the proceedings against them are being undertaken ex-parte.

209. As the inquiry in the matter has been completed, I now proceed to decide the case on the basis of SCN issued, replies made by the Noticees and material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

210. The issues that arise for consideration in the instant matter are:

Issue No. I Whether the Noticees have violated Section 12A (a), (b), (c) of the SEBI Act, 1992 read with Regulations 3 (b), (c), (d) & 4(1) of SEBI

(Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 ('PFUTP Regulations').

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15HA of SEBI Act, 1992? And

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I **Whether the Noticees have violated Section 12A (a), (b), (c) of the SEBI Act, 1992 read with Regulations 3 (b), (c), (d) & 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 ('PFUTP Regulations').**

211. Before proceeding with the consideration of issues, there is need to address the preliminary issue raised by the Noticees that there was inordinate delay in initiation of proceedings and prejudice has been caused to the entity. In this regard, I note that pursuant to alerts generated in year 2012-2014, SEBI undertook investigation in the scrip of Sulabh, and subsequently enforcement proceedings were initiated against few entities in respect of manipulation of scrip. Further, SEBI received a letter from DIT and an anonymous complaint, subsequent to which a separate investigation w.r.t. funding by Sulabh to Preferential allottees and Substantial acquisition was initiated in year 2015. The investigation was concluded on 09.03.2021. Undersigned was appointed as AO in the matter vide order dated April 23, 2021, and the SCN was issued on 13.08.2021. I take note of the time taken to initiate and complete the investigations. I also note that there is no provision in the SEBI Act, 1992 which provides limitation period for taking action for the violation of the provisions of the Act or the Regulations made thereunder.

212. Another preliminary contention of the Noticees is that the SCN is ex-facie illegal, as it illegally combined two discrete stages contemplated under Rule 4 of the Adjudication Rules, i.e. Rule 4(1) contemplates issuance first of an SCN and Rule 4(3) contemplates issuance of a second notice, and till that stage AO does not have the power to impose a Penalty. In this regard, I note that in compliance of Rule 4(1), SCN dated 13.08.2021 was issued to the Noticees requiring them to show cause why an inquiry should not be held against them. The SCN specified the nature of offences alleged to have been committed and the penalty proposed to enable the noticees to effectively reply to the SCN. Further, since undersigned decided to proceed with the inquiry, in compliance of Rule 4(3), separate Hearing Notices (HNs) were issued to the Noticees, an opportunity for hearing was granted to Noticees. Neither at stage of SCN nor at stage of HNs penalty has been imposed on any of the Noticees or finalized. I therefore note that the procedure followed in the matter is in compliance with the Adjudication Rules.

213. Noticees have contended that they have not been provided with the details/documents regarding basis of connection among the Noticees/entities, complete copy of Investigation Report; which is directly relevant to the allegations made against Noticees. In this regard, I note that all the documents available on records and relied upon during the proceedings have been provided to the Noticees. Further, the details/documents regarding basis of connection among the Noticees/entities as detailed in table given at para 9 of the SCN and Annexure 2.4 of SCN are not available on records and hence could not be provided to the Noticees, and are not relied upon during the proceedings.

214. Noticees have contended that there is discrepancy in respect of charging provisions in SCN, as para 58 of SCN refers 15A(b). In this regard, I note that there is an inadvertent typological error in the SCN, and the correct charging provisions is 15HA in the instant adjudication proceedings. In view of the above, the contention of the Noticees is accepted.

215. I note that the allegations in the SCN against the Noticees of financing of the preferential issue by Sulabh flow from the transaction of Sulabh on 27.03.2012 transferring Rs.100 lacs to Sona Chandi. All other fund flows alleged in the SCN emanate from Sona Chandi and the transfer of funds by Sona Chandi to alleged conduits for routing the money to its preferential allottees for funding.

216. In this regard, Noticees have contended that the two preferential allotments, took place on 28.03.2011 and 23.03.2012 respectively, in total amounting to Rs. 19.60 Crores, whereas the alleged transfer of Rs.1 crore by Sulabh to Sona Chandi took place on 27.03.2012 i.e. after 1 year from first allotment and 4 days after 2nd allotment. Further as per extant rules and regulations the preferential allotment was made to allottees subsequent to receipt of allotment application money by Sulabh from these applicants. There have been no observation/allegation against noticees in regard to non-payment of money to Sulabh for preferential allotment. Further, the Noticees have contended that the impugned transfer of Rs.1 crore from Noticee 1, which is an NBFC was a loan given to Sona Chandi (an established reputed jeweler in Kanpur) which was returned back in year 2013 with interest, hence the allegation of funding does not stand.

217. In this regard I note that since the first allotment took place on 28.03.2011, the transfer dated 27.03.2012, cannot be construed as funding of preferential allotment after a year by Noticee 1. With regard to allegation of funding of 2nd allotment I note that, the allotment was for Rs.14 Crores and funds from allottees were received during the period 09.03.2012-14.03.2012 at least 13 days before the impugned fund transfer. I also note from the submissions of Noticee 1 that the Noticee 1 is an RBI registered NBFC (Reg. No. B-13.01780 dated 25.01.2005). From the records it is observed that Sulabh booked interest of Rs.17,42,948 (confirmation of accounts signed by Sona Chandi) and Sona Chandi deducted TDS (Form No.16A) on the interest paid to Sulabh on the loan during March 2012 – March 2013. From the bank account statement of Sulabh,

I note that Sona Chandi transferred Rs. 25 lakhs each on 30.10.2013, 31.10.2013 and Rs.50 lakhs on 14.11.2013, which as per confirmation of bank accounts reflects repayment of loan of Rs. 1 Crore by Sona Chandi. The payments of interest as reflected in confirmation of accounts matches with the bank account statement of Sulabh. The TDS deduction as reflected in the confirmation of accounts matches with the Form 16A of Sona Chandi. In view of the above, I conclude that the money given by Sulabh to Sona Chandi was returned back along with interest, indicating that the Rs. 1 crore was given by Sulabh to Sona Chandi which corresponds to the profile of Noticee 1 being an NBFC.

218. Since, the impugned amount of Rs. 1 Crore has been returned to Sulabh by Sona Chandi, and considering that the amount of Rs. 1 crore was received by Sona Chandi after the allotments had been made by Sulabh against receipt of funds from preferential allottees, the possibility of the usage of the same amount for funding of its own 2nd preferential allotment by routing through conduit entities to its preferential allottees is not plausible.

219. I note that there are no documents available on record to establish the alleged connections between the different Noticees. I also take note that the allegations in the SCN were based on erroneous assumption that Noticee 2 i.e. Manoj Agarwal was a promoter of Sulabh. The promoter of Sulabh was Manoj Kumar Agarwal and hence erroneous connection was drawn based on assuming that the two are the same person. Further, many of the Noticees have submitted ledger of accounts, Form 26AS as well as CA certificates in support of the transactions alleged to be the transfer of money for funding preferential allotments. The Noticees have also submitted documents in support showing that the alleged transactions were not standalone transactions, but were part of regular business transactions. From the documents submitted by Noticees, as well as in view of the conclusion drawn in regard to the transfer of Rs. 1 crore from Sulabh to Sona Chandi, I find that the impugned transactions of alleged conduit entities to preferential allottees cannot be construed as funding of

preferential allotment by Sulabh. It is also pertinent that no allegations have been levelled against Sona Chandi.

220. Considering that the SCN has not brought out any direct fund movement between Sulabh and the other Noticees except through the loan given to Sona Chandi, the transactions which have taken place between the various Noticees cannot be linked back to Sulabh as the Rs. 1 crore transfer from Sulabh to Sona Chandi took place after the preferential issues, and has been shown to be a genuine loan transaction as noted above. In view of the above, I find that material on record is not sufficient to conclude that there was funding by Sulabh of its preferential allotments. Therefore, it is not established that Noticees have violated Section 12A (a), (b), (c) of the SEBI Act, 1992 read with Regulations 3 (b), (c), (d) & 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (‘PFUTP Regulations’).

221. As the violations alleged against the Noticees are not established, issues II and III do not merit consideration.

ORDER

222. In view of the findings noted in the preceding paragraphs, the adjudication proceedings initiated against the Noticees vide SCN dated August 13, 2021 are disposed of.

223. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules and Rule 6 of the Depository Adjudication Rules.

DATE: January 23, 2023 **MANINDER CHEEMA**

PLACE: MUMBAI **ADJUDICATING OFFICER**