BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO: Order/SBM/VS/2022-23/16303)

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

In respect of:

Sristek Consulting Pvt. Ltd.

(Now known as Sristek Clinical Research Solutions Ltd.)

DLF Cyber City,

Block – 3, 8th Floor,

Gachibowli Village,

Serilingampally Mandal,

Hyderabad-500048

In the matter of

Transgene Biotek Limited

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') initiated investigation into the irregularities in the issue of Global Depository Receipts (hereinafter referred to as '**GDRs**') by Transgene Biotek Limited (hereinafter referred to as '**Company**'/ '**TBL**') during the period February 01, 2011 to June 30, 2013 (hereinafter referred to as the '**investigation period**'). During the course of investigation, it was observed that TBL came up with its GDR issues on two different occasions: first on February 22, 2011 and second on October 03, 2011. In this regard, it is observed that Fundabilis GmbH, Munstergasse 128001 Zurich, Switzerland (hereinafter referred to as '**Fundabilis**') was the book running lead manager for the said two GDR issues of TBL. It was also observed that the funds raised through the GDR issues were siphoned off/diverted through layered transactions involving various entities, including Sristek Consulting Pvt. Ltd. (Now known as Sristek Clinical Research Solutions Ltd.) (hereinafter referred to as '**Noticee**'). Pursuant to the completion of the investigation and observations contained therein, SEBI initiated adjudication proceedings in

respect of certain entities, including the Noticee under the provisions of section 15 HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') for the alleged violation of the provisions of section 12A(a), (b), (c) of the SEBI Act read with regulations 3(a), (b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**') by the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

2. Pursunat to the transfer of Dr. Anitha Anoop, the erstwhile Adjudicating Officer ('**AO**') in the matter, vide *communique* dated November 3, 2020, the undersigned was appointed as the AO in the matter, to conduct the adjudication proceedings in the manner specified under rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') and impose such penalty, as deemed fit, upon the Noticee, in terms of rule 5 of the Adjudication Rules and section 15HA of the SEBI Act.

SHOW CAUSE NOTICE, HEARING AND REPLY

3. Show Cause Notice ref. EAD-4/ADJ/BS/DS/OW/18492/5/2018 dated June 29, 2018 (hereinafter referred to as '**SCN**') was issued to the Noticee under the provisions of rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against the Noticee and penalty be not imposed on it under the provisions of section 15HA of the SEBI Act for its alleged violation of the provisions of sections 12A(a), (b) and (c) of the SEBI Act read with regulations 3(a), (b), (c), (d) and 4 (1) of the PFUTP Regulations. The details in respect of the violation by the Noticee as observed from the SCN are as given below:

    a. It was observed that from the first tranche of GDR proceeds Noticee received net USD 0.115 million in its ICICI Bank Hyderabad Branch account through SyMetric Sciences Inc. (**'SyMetric')**. Further, from the second tranche of GDR proceeds, it received USD 4.004 million in its HSBC Bank Hong Kong account through Transgene HK. The amount received in second tranche was further transferred to Bluejet Express Pte Ltd. and Asiarich Venture Ltd. (USD 2 million each).

b. As per TBL's letter, there was no agreement of TBL with Noticee to provide any services by Noticee. Yet, Noticee received approximately 4 million USD from the proceeds of GDR through Transgene HK, and transferred the same to other entities.

c. It is alleged that Noticee acted as a conduit in diverting GDR proceeds. It is further alleged that Noticee is common shareholder among SyMetric and Asia First Technologies Ltd. ('**AFTL**'). Wherein, as per investigation report both these entities entered into dubious agreements with TBL and acted as conduits in diverting GDR proceeds.

CONSIDERATION OF ISSUES AND FINDINGS

4. The SCN dated June 29, 2018 which was issued to the Noticee had returned undelivered. In the interest of natural justice, an opportunity of personal hearing was granted to the Noticee on July 18, 2019, vide hearing notice dated June 11, 2019. The notice of hearing could not be affixed at the last known address of the Noticee as the Noticee was not found at the given address. Therefore, an email was sent to sampathkumar@sristek.com (email id of the Noticee available with SEBI) and another opportunity of personal hearing was granted to the Noticee on November 11, 2019, vide email dated October 25, 2019 by the erstwhile Adjudicating Officer. However, the Noticee and/or its representative failed to appear for the hearing on the scheduled date. Thereafter, upon my appointment as the Adjudicating Officer in the matter, another opportunity to file reply to the SCN was granted to the Noticee on September 01, 2021. However, the notice had returned undelivered with remarks '*refused by mail room*'. Therefore, during the course of the proceeding, the status/address of the Noticee was ascertained from the Ministry of Corporate Affairs (MCA) website. It was observed that the status of the Noticee has been shown as '**Dissolved**'. Therefore, the email address of the Official Liquidator ('**OL**') i.e., liquidator.sristek@gmail.com was obtained from the website of MCA and OL was requested to provide the following information with respect to the Noticee:
   a. Date of dissolution of the Company i.e., Sristek Consulting Pvt. Ltd.
   b. Present status of the Company w.r.t. to dissolution.
   c. Any other information w.r.t. the company may be provided.

5. In response, a reply dated April 05, 2022 was received from OL of the Noticee wherein, *inter alia*, the following was mentioned:

> *"…In an IA filed by the Liquidator, the Honorable NCLT, Hyderabad ordered for Dissolution of CD M/s. Sristek Clinical Research Solutions Limited., ("Corporate Debtor") vide order dated 14.07.2021…"*

6. In this regard, along with its reply, OL also enclosed a copy of the Order dated July 14, 2021 of National Company Law Tribunal, Hyderabad Bench, wherein it was mentioned that "…*Corporate Debtor herein i.e., M/s Sristek Clinical Research Solution Limited stands dissolved from the date of this order…*".

7. It is an established fact that when a company's name is struck-off from the RoC list and the company is also dissolved, then it is a non-existing company and the adjudication proceedings against the non-existing company is thus nullity. In this context, I would like to draw reference to a judgment of the Hon'ble Delhi High Court in the matter of Commissioner of *Income Tax (CIT) vs Vived Marketing Services (P) Ltd., ITA NO. 273/2009 dated September 17, 20*09 in which it was held that - *"…When the Assessing Officer passed the order of assessment against the respondent company, it had already been dissolved and struck off the register of the Registrar of companies under Section 560 of the Companies Act. In these circumstances, the Tribunal rightly held that there could not have been any assessment order passed against the company which was not in existence as on that date in the eyes of law it had already been dissolved. We are of the opinion that the view taken by the Tribunal is perfectly valid and in accordance with law."*

8. Further, Black's Law Dictionary explains 'dissolution' as termination or winding up. It further clarifies that the dissolution of a corporation is the termination of its legal existence. Strike off essentially means removing the name of the company from the Register maintained by the Registrar of Companies. It is like closure of the company and the company will not be in existence after being struck-off and cannot perform any operations.

9. It is pertinent to note that, in the context of the alleged manipulation in the GDR issue of TBL, in exercise the powers conferred under sections 11(1), 11(4) & 11 B of the SEBI Act, an order dated August 28, 2019 has already been passed by SEBI against certain persons/entities, including the Noticee wherein SEBI had restrained the Noticee from accessing the securities market. Vide the said order, the Noticee was also prohibited from accessing the securities market, directly or indirectly, and also restrained from buying, selling or dealing in securities, including units of mutual funds, either directly or indirectly, or in any other manner whatsoever, for a period of three years. Thus, I observe that Noticee was already under debarment for its

alleged role in the GDR issue of TBL and Noticee has been restrained by SEBI from dealing in the securities market till the period of its liquidation.

10. In this context, I also note that separate Adjudication Proceedinbgs have been initiated against Mr. Sampath Kumar Meesala ('**Sampath**'), Director of the Noticee and also the key person behind the Noticee, who was in-charge of the day-to-day affairs of the business activities/decisions of the Noticee during the relevant period. I note that the said proceeding against Sampath is in progress. I further note that adjudication proceedings have been initiated against Sampath for his involvement in the entire scheme of diverting the GDR proceeds of TBL and later legitimizing it through back-dated agreement and invoices, and hence aiding and abetting TBL in diverting the proceeds of GDR issues.

11. Therefore, in view of the facts and circumstances noted in the preceding paragraphs and also the fact that the Noticee's name has been struck-off from the RoC list and also 'dissolved' as on July 14, 2021, as per the RoC notification, I conclude that the present adjudication proceedings initiated against the Noticee vide SCN dated June 29, 2018 cannot be proceeded with.

ORDER

12. In view of the above observations/findings and in exercise of the powers conferred upon me under section 15I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby dispose of the Adjudication Proceedings initiated against the Noticee viz. Sristek Consulting Pvt. Ltd. (Now known as Sristek Clinical Research Solutions Ltd.) vide SCN dated June 29, 2018.

13. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to Official Liquidator of Sristek Consulting Pvt. Ltd. (Now known as Sristek Clinical Research Solutions Ltd.) and also to Securities and Exchange Board of India.

Date: April 29, 2022
Place: Mumbai

SURESH B MENON
ADJUDICATING OFFICER