BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/AD/2022-23/16841-16848]

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 AND UNDER SECTION 23-I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of:

1. **Teledata Technology Solutions Ltd. [PAN:AACCT5488Q]**
2. **Mr. K. Balasubramanian [PAN:AAFPB9215K]**
3. **Mr. N.Sakthivel [PAN: BCMPS6376L]**
4. **Mr.M.S.Ramakrishnan [PAN:AACPR6473J]**
5. **Mr. R. Ravichandran[PAN:AHJPR6079C]**
6. **Mr. G. Jagadish [PAN:AALPG8002H]**
7. **Mr. K. Padmanabhan [PAN:AAGPP9840B]**
8. **Mr. Arun Panchariya[PAN: AEVPP6125N]**

In the matter of GDR Issue of Teledata Technology Solutions Ltd.

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India ('**SEBI**') conducted an investigation into the alleged irregularities in the issuance of Global Depository Receipts (hereinafter referred to as "**GDRs**") by Teledata Technology Solutions Ltd (referred to as '**Teledata/Noticee 1'/TTSL/Company'**) during the period from February 01, 2010 to March 31, 2010. The focus of investigation was to ascertain whether shares underlying

GDRs were issued with proper consideration and whether appropriate disclosures were made by Teledata with respect to its GDRs.

2. Teledata is a company whose shares are listed on the BSE Ltd. (**BSE**) and National Stock Exchange of India Ltd. (**NSE**). I note from the website of Ministry of Corporate Affairs that at present, status of the Teledata is shown as “under liquidation”.

3. The investigations revealed that Teledata had issued 3.5 million GDRs amounting to US $ 36.96 million, on March 12, 2010, and the said issue was subscribed by one entity viz. Vintage FZE (now known as Alta Vista International FZE) (hereinafter referred to as “**Vintage**”). It was observed that the subscription amount was paid by Vintage by obtaining a loan from European American Investment Bank AG, Austria (“**EURAM Bank**”) by entering into Loan Agreement dated February 26 , 2010 with EURAM Bank (referred to as ‘**Loan Agreement’**). However, it was observed during the investigation that Teledata submitted wrong list of GDR subscribers to BSE.

4. It was observed that directors of Teledata in its Board Meeting held on January 30, 2010, had passed Board Resolution *inter alia* authorizing the opening of an account with EURAM Bank for the purpose of receiving subscription money in respect of the GDR issue of Teldata and also authorized EURAM Bank to honour all cheques, Draft, Bills of Exchanges, Promissory notes and other negotiable instruments signed, drawn, accepted or made on behalf of the Company severally by Mr. K. Padmanabhan, Authorized Signatory of the Company and to act on any instructions so given relating to the said Account whether the same to be overdrawn or not or relating to any transactions of the Company. Subsequently, Mr. K. Padmanabhan, in his capacity as Authorized Signatory of Teledata, signed a Pledge Agreement dated February 26, 2010 (referred to as ‘**Pledge Agreement’**) with EURAM Bank pledging GDR proceeds as collateral against the loan availed by Vintage. Vide the said pledge agreement, Teledata had pledged the GDR proceeds against the loan availed by Vintage for subscribing to GDRs of Teledata, thus securing Vintage’s loan. Ikon Capital Ltd. a UK based entity was the Lead Manager of GDR issue of Teledata. Therefore, it was alleged that the scheme of issuance of GDRs by Teledata was fraudulent.

5. It was observed that the Directors of Teledata namely, namely 1) Mr. K. Balasubramanian (referred to as '**Noticee 2**'), 2) Mr. N. Sakthivel (referred to as '**Noticee 3'**), 3) Mr. M. S. Ramakrishnan (referred to as '**Noticee 4**'), 4) Mr, R. Ravichandran (referred to as '**Noticee 5**'), and 5) Mr. G. Jagadish (referred to as '**Noticee 6**'), had attended the Teledata's board meeting dated January 30, 2010 which passed the resolution for opening of current account with EURAM Bank for GDR issue and authorized EURAM Bank to honour all cheques, Draft, Bills of Exchanges, Promissory notes and other negotiable instruments signed, drawn, accepted or made on behalf of the Company severally by Mr. K. Padmanabhan (referred to as '**Noticee 7**'), Authorized Signatory of the Company and to act on any instructions so given relating to the said Account whether the same to be overdrawn or not or relating to any transactions of the Company. Further, it was observed that Mr. K. Padmanabhan had executed the Pledge Agreement on behalf of Teledata. It was also observed that the proceeds of the GDR issue were deposited in Teledata's account held with EURAM Bank out of which Teledata had transferred some part to its subsidiary, Bitech International. Out of the proceeds, EURAM Bank adjusted the GDR amount equivalent to the unpaid loan by Vintage which was an amount of USD 32.53 million. Therefore, it was observed that GDRs to the tune of USD 32.53 million was issued by Teledata to Vintage without any consideration. It was therefore alleged that the individuals named above had acted as parties to the aforesaid fraudulent scheme. It was also observed that Mr Arun Panchariya (referred to as '**Noticee 8**') was the key person responsible for structuring the aforesaid fraudulent scheme of Teledata through its connected entities. (Noticees 1 to 8 hereinafter collectively referred to as '**Noticees**').

6. Investigation also observed that the aforesaid arrangement viz. Loan Agreement and Pledge Agreement was not disclosed to the public. Investigation further alleged that Teledata did not inform stock exchanges as required under clause 36(7) of Listing Agreement with regard to Pledge Agreement entered into with EURAM Bank for subscription of GDRs. Further, it was observed that Teledata did not follow Accounting Standards 1, 3 and 29 since it did not disclose/ provide for potential liability for pledged GDR proceeds, presented its cash balance pledged with EURAM Bank as free cash and did not disclose the fact of signing of Pledge Agreement and pledging of GDR proceeds as the same are the items, the knowledge of which might influence the decision of the user of the financial statements and thereby

Investigation observed that Teledata has not complied with Section 21 of Securities Contracts Regulations Act, 1956 read with Clauses 32 and 50 of Listing Agreement.

7. SEBI had, therefore, initiated adjudication proceedings against Noticee 1 under Section 15HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") for the alleged violation of the provisions of Sections 12A(a), (b), (c) of SEBI Act read with Regulations 3(a), (b), (c), (d) and 4(1), 4(2)(f), (k), (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003 (hereinafter referred to as "**PFUTP Regulations**") and Section 21 of the Securities Contracts Regulations Act, 1956 (hereinafter referred to as "**SCRA**") read with Clauses 32, 36(7) and 50 of the Listing Agreement by it and against Noticees 2 to 8 for alleged violations of Sections 12A (a), (b), (c) of SEBI Act read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations and by them.

APPOINTMENT OF ADJUDICATING OFFICER

8. Vide order dated May 21, 2019, SEBI appointed Shri B J Dilip, General Manager, SEBI (also referred to as "**erstwhile AO**") as the Adjudicating Officer under Section 19 of SEBI Act read with Section 15I and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as `**SEBI Adjudication Rules'**) and under Sub-section (1) of Section 23-I of SCRA and Rule 3 of (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**SCRA Adjudication Rules'**) to inquire into and adjudge the aforementioned violations alleged against Noticees. [Both SEBI Adjudication Rules and SCRA Adjudication Rules are hereinafter collectively referred to as "**Adjudication Rules"**]. Subsequent to the transfer of Shri B J Dilip, vide Order dated December 29, 2020, the undersigned was appointed as the Adjudicating Officer in the matter.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

9. A common show cause notice dated July 24, 2020 (hereinafter referred to as '**SCN**') was issued to Noticees by erstwhile AO under Rule 4 of Adjudication Rules to show cause as to why an inquiry should not be initiated against them and penalty, if any, not be imposed upon them for the aforesaid violations alleged to have been committed by them.

10. The SCNs were sent to Noticees 1-7 through Speed Post Acknowledgement due (herein after referred to as '**SPAD**'). The SCN was send to Noticee 8 i.e Arun Panchariya through digitally signed email dated August 13, 2020 and the same was duly served on him. I note that the delivery of SCN to Noticee 1 and Noticee 5 failed through SPAD, digitally signed email and affixture and therefore, the SCN was served on them through newspaper publication in the The Times of India, Dakshin Prakash and Thanthi newspapers, in Chennai and Tiruchirapally editions, respectively. Subsequently, it was noted that Noticee 1 was under liquidation, therefore SCN was send to Official Liquidator of Teledata vide letter dated March 30, 2022 through SPAD. The same was duly served on Official Liquidator of Teledata. The SCN was duly served on Noticee 3, Noticee 4, Noticee 6 through SPAD. The SCN was duly served on Noticee 2 and Noticee 7 through affixture as delivery of the SCN to them through SPAD and digitally signed email failed. On request of Noticee 7, SCN was again delivered to him through email dated January 03, 2022.

11. Considering the fact that Teledata is under the process of Liquidation, I note that the proceedings with reference to Teledata in the instant matter is for the limited purpose to determine if Teledata has violated securities laws and to determine the penalty, if any, in order to enable SEBI to crystallise its claim and to lodge such claim with the liquidator.

12. Noticees were given fifteen (15) days' time from the date of receipt of the SCN to make their submissions in respect of the allegations made in the SCN Thereafter, in the interest of natural justice and in order to conduct an inquiry in terms of Rule 4(3) of the Adjudication Rules, multiple opportunities of personal hearing in terms of Rule 7(d) of the Adjudication Rules were granted to all the Noticees as per details given below:

Noticee	**Noticee Name**	**Hearing Notice (HN) dates**	**Dates of Hearing**	**Mode of delivery of Hearing Notices**	**Status of personal hearings**
1.	Teledata Technology Solutions Ltd.	March 07, 2022	March 25, 2022	Publication	Failed to attend the hearing.
		December 02, 2021	December 27, 2021	SPAD/Email/Affixture failed	

Noticee	Noticee Name	Hearing Notice (HN) dates	Dates of Hearing	Mode of delivery of Hearing Notices	Status of personal hearings
2.	Mr. K Balasubramanian	December 02, 2021	December 27, 2021	SPAD	Noticee deceased.
		January 28, 2022	February 14, 2022	SPAD	
3.	Mr. N. Sakthivel	December 02, 2020	December 17, 2020	SPAD	Failed to attend the hearing.
		December 02, 2021	December 27, 2021	SPAD/Email	Failed to attend the hearing.
		January 28, 2022	February 14, 2022	SPAD	Attended the hearing through Authorised Representative, H Karthik Seshadri.
4.	Mr. M.S. Ramakrishnan	December 02, 2020	December 17, 2020	SPAD	Failed to attend the hearing.
		December 02, 2021	December 27, 2021	SPAD/Email	Failed to attend the hearing.
		January 28, 2022	February 14, 2022	SPAD	Attended the hearing through Authorised Representative, H Karthik Seshadri.
5.	Mr. R Ravichandran	March 07, 2022	March 25, 2022	Publication	Failed to attend the hearing.
		December 02, 2021	December 27, 2021	SPAD/Email/Affixture failed	
6.	Mr. G Jagadish	December 02, 2020	December 17, 2020	SPAD/Email	Failed to attend the hearing.
		December 02, 2021	December 27, 2021	SPAD/Email	Failed to attend the hearing.
		January 28, 2022	February 14, 2022	SPAD/Email	Attended the hearing through Authorised Representative, H Karthik Seshadri.

Noticee	Noticee Name	Hearing Notice (HN) dates	Dates of Hearing	Mode of delivery of Hearing Notices	Status of personal hearings
7.	Mr. K Padmanabhan	December 02, 2021	December 27, 2021	SPAD/Email	Attended hearing.
		January 28, 2022	February 24, 2022	SPAD/Email	Attended hearing.
8.	Mr. Arun Panchariya	December 02, 2021	December 27, 2021	SPAD/Email	Attended the hearing through Authorised Representative, Sandeep Wadhawan.

13. On February 14, 2022, Mr. H. Karthik Seshadri, Elizabeth Seshadri and A. Saranya Authorised Representatives (ARs) of Noticees 3, 4 and 6 appeared for the hearing and reiterated contents earlier submissions of Noticee 3 made on December 28, 2020 and also requested leave for making additional written submissions in the matter which was acceded to. I further note that on scheduled date of hearing i.e March 02, 2022, Authorised Representative of Noticee 8, i.e. Mr Sandeep Wadhawan appeared for hearing and also reiterated the earlier replies of Noticee 8 dated November 17, 2020 and February 11, 2022. Further, I note that on February 24, 2022, Noticee 7 attended the personal hearing before the undersigned and made following submissions:
    a) He was the promoter of the company and was authorized to operate the bank account.
    b) He invited Mr. Arun Panchariya for due diligence of GDR Issue of the Comoany
    c) He came to know of the Pledge Agreement only after going to Austria, when it was shown by EURAM Bank
    d) Facts mentioned in the Paragraph No. 24 of the SCN is factually wrong
    e) Mr. Arun Panchariya & others colluded in defrauding the investors of the Company.

14. I note that despite the service of SCN and HN in the matter, Noticees 1 and 5 neither filed any replies to the SCN nor attended the scheduled hearings. I also note that sufficient opportunities have been granted to Noticees to represent themselves in the matter. However, Noticees 1 and 5 have failed to make any submissions in the instant proceedings. In view of the above, I am compelled to proceed ex parte in the matter

against Noticees 1 and 5. In this regard, it is worth mentioning here that it is well settled position of law that if the facts/details of charges are not disputed by the person to whom show cause notice is issued, then, it is presumed that the same are admitted by him. The Hon'ble Securities Appellate Tribunal (**SAT**) in the matter of Classic Credit Ltd. v/s SEBI [2007] 76 SCL 51 (SAT - MUM), *inter-alia,* held that :

"......the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them".

Replies of Noticees

Summary of Reply filed by Noticee 2 vide his Reply dated December 28, 2020

1) *Noticee 2 is the ex-director of Teledata..Teledata is now facing liquidation proceedings before the Hon'ble Madras High Court. Noticee 2 has acted bonafide and approved the decision for raising capital by issuance of GDR.*

2) *Noticee 8 and EURAM Bank has played fraud on and they have misappropriated funds raised from issuance of GDR.*

3) *When Teledata tried to use the funds lying in the account of EURAM Bank, Teledat a was prevented which led to the filling of proceedings before Jurisdictional Court in Vienna. By the time proceedings culminated in Vienna due to paucity of funds, Teledata went into liquidation before the Hon'ble Madras High Court on a Petition filed by Canara Bank. Thereafter, directors of Teledata have filed proceedings in Hon'ble Madras High Court in C.A. No. 77, 78 and 79 in C.P. 275 of 2010. These proceedings were filed with the bonafide interest to recover GDR funds.*

4) *All legal proceedings shall be continued only with the leave of the Company Court that deals with the winding up of the Company in question. The question involved in the enquiry of the SCN under reply will have a direct bearing on the proceedings already being enquired into by the Hon'ble High Court, Madras. It would be in the interest of justice that leave of High Court, Madras be obtained.*

Summary of common reply submitted by Noticee Nos. 3, 4 & 6 vide their reply dated February 23, 2022

1) “Noticee Nos._3, 4 & 6 were only non-executive directors of the Company, Teledata and was not involved in the day to day management or operations of TTSL.

2) Noticees Nos. 3, 4 & 6 were part of the Board Resolution dated 30.01.2010.

3) Noticee Nos. 3, 4 & 6 were not aware of the Loan Agreement or Pledge Agreement. Noticee Nos. 3, 4 & 6 stated that Teledata was not part of the loan agreement.

4) This Loan agreement refers to a Pledge of account no. 580016, bank account of TTSL. It is not known how such a security document can be created without TTSL being a party to the undertaking. Secondly, this document is executed on 26.02.2010. Place of execution is not mentioned. It contains three annexures. The Pledge agreement is also stated to be an annexure. The interesting part is that the Pledge agreement that is supposed to be part of this Loan agreement document is dated 26.02.2010 but alleged to have been executed on 03.03.2010 at Mumbai. Therefore, it is for Euram bank and Vintage to explain how a Loan agreement signed on 26.02.2010 with a Pledge Agreement as an annexure was created when a signed Pledge agreement was not even available with them. It is humbly submitted that all these questions are being raised by the noticees. Company took legal advise in Austria and immediately initiated proceedings in the local Austrian Court for the recovery of sums lying in the EURAM Bank to the extent of USD 32, 470, 974.97 from its bank account.

5) The Company thereafter through the Liquidator made a claim in C.A. No. 79 of 2017 in C.P.275 of 2010 before the Hon'ble Madras High Court to direct EURAM Bank, Arun Panchariya, Pan Asia Advisors, Ikon Capital Limited and Vintage FZE to pay a sum of USD 32, 470, 974.97 with interest at 6 % per annum from 30.11.2011 till the date of repayment.

6) SCN seeks to invoke Regulation 3 and 4 of the SEBI (PFUTP) Regulations, 2003. Noticees replying, have not indulged in any fraudulent activities, nor indulged in any form of deceit. No manipulation or fraudulent activities have been undertaken by the Noticees herein. Euram Bank and Arun Panchariya have colluded and defrauded the company TTSL and its investors.

7) *On the role of Non Executive Directors, we humbly rely upon the judgment of Hon'ble SAT in Prafull Anubhai Shah vs. SEBI dated 28.06.2021."*

<u>Summary of reply submitted by Noticee No. 8 vide February 11, 2022 and November 17,2020</u>

1) "*It is brought to your kind notice that I had filed Civil Appeal No. 9516-9617 of 2017 before the Hon'ble Supreme Court against the order passed by the Hon'ble SAT, Mumbai, whereby, my debarment for a period of 10 years with effect from 21.09.2011 was confirmed by the Hon'ble SAT, Mumbai.*

2) *On 21.09.2021, when the above said appeal was being heard for arguments, it was observed by the Hon'ble Supreme Court that the period of debarment of 10 years must have been over by now as the debarment had taken with effect from 21st September 2011. Learned counsel for the SEBI took time to seek instructions and place the correct position on affidavit. Accordingly, the matter was adjourned to 26.10.2021.*

3) *The above said Civil Appeals were taken for final hearing by the Hon'ble Supreme Court when the appeals were disposed off as the period of debarment was already over on 03.01.2022. However, the Hon'ble Supreme Court has kept the entire issue open to be considered, in case, any occasion arises in the future.*

4) *Accordingly, your goodself is requested not to rely upon any observation made by the Hon'ble SAT in the matter of Pan Asia. Further, vide initial judgment dated 06.07.2015 passed by the Hon'ble Supreme Court in Civil Appeal No. 10560 of 2013 in para no.12, Hon'ble Supreme Court has categorically made it clear that it is not expressing any opinion as to the correctness or otherwise of stand of SEBI at this moment. It is clear, that the Hon'ble Supreme Court has never expressed any opinion on merits of the case at any stage.*

5) *As per the SEBI, the issue of GDR is not a fraudulent scheme but the manner of information to the stock exchange is such that it has resulted in fraudulent action on the part of the company, thereby, misleading the investors. Under such circumstances had the company informed to the Stock Exchange, there was no occasion for a SEBI to allege anything against the appellant. Even otherwise, it is company who has to be*

held liable and on the other hand, if any default having been occurred subsequently, the same cannot be attributed to the appellant. This entire allegation on the part of the SEBI against the appellant show their malafide approach in unnecessarily connecting the appellant with other entities.

6) *SCN is addressed to the appellant Arun Panchariya (AP), in his personal capacity, residing Outside India for the last more than 17 years (over two decades). He is having certifications in finance and have been in the financial services industry in Middle East and Europe. He was never and have never been registered with the SEBI or Reserve Bank of India ("RBI") or any other regulatory agency in India and have never had a place of business in India. He has never carried out any activities within India, being the jurisdiction of the SEBI. Therefore, SEBI cannot be said to have any jurisdiction over his business activities outside India or jurisdiction over him in his personal capacity. In the circumstances, the Show Cause Notice has been issued without any jurisdiction and it is necessary from all corners that it must be dropped outrightly…since appellant is a natural person resident outside India, the SEBI has no jurisdiction to initiate action against natural persons resident outside India as the scope of the SEBI Act extends to the whole of India only and not outside India. In the present case, neither he nor any of his business activities being performed outside India, are governed by the Act or its rules/regulations, therefore, disgorgement of amount imposed is not applicable on him.*

7) *Moreover, being non-resident Indian for over 20 years, he had established an independent entity Vintage FZE in the UAE, which is a limited liability company duly incorporated under the laws of UAE, Vintage was the subscriber to the GDR issue. He had also established Cardinal Capital Partners as a company in Mauritius. Cardinal Capital partners established India Focus Cardinal Fund (IFCF) wherein the capital to the extent of USD 1 only was held by Cardinal Capital. IFCF was licensed to operate a Collective Investment Scheme and pursuant thereto, IFCF issued different classes of Shares. He does not have any office or business in India. The activities of Vintage, IFCF and Cardinal Capital were wholly outside India. Moreover, appellant has already resigned from the said entities well before the alleged investigation period.*

8) *The Show Cause Notices does not make a reference to the "jurisdictional fact" although appellant had repeatedly submitted the same in response to the aforesaid*

SCNs, personal hearings and in various appeals filed by him against the orders passed against him in his personal name. Show Cause Notices has, thus, failed to establish that SEBI has jurisdiction to issue the same to his or to take the actions speculated therein against him.

9) *The SCN in the year 2018 has been issued with regard to the transactions for the relevant period from Jan 01, 2010 to Feb 28, 2010. There is an inordinate delay in initiating the proceedings and therefore on this short ground the proceedings initiated by the SEBI should be dropped on the ground of latches, based on Hon'ble SAT's orders in Ashok Shivlal Rupani & Ors. vs. SEBI (Appeal No. 417 of 2018 along with other connected appeals decided on August 22, 2019) as well as a decision in Sanjay Jethalal Soni & Ors. vs SEBI in Appeal No. 102 of 2019 and other connected appeals decided on November 14, 2019, and Ashlesh Gunvantbhai Shah Vs. SEBI (Appeal No.169 of 2019) decided on 31.01.2020.*

10) *In relation to the Vintage FZE, appellant had already resigned and he was Director only till 2007.*

11) *It is respectfully submitted that the Show cause notices is incorrectly issued against appellant. Further, it is submitted that the appellant does not exercise any control over the Flis/sub-accounts or the Entities for him to be able to make any decision in relation to their investments or trades; the appellant had never traded in the Indian securities market and had not assisted in any purported trading by any party.*

12) *SEBI officer very well understands that if any company propose IPO/GDR offer/FCCB offer/Right Issue being beneficiary of the fund raising program thus company is responsible for all rules & regulations to follow which has framed by SEBI/Companies Act - India or any respective regulators from India and all the time Indian Company is responsible for violation of any rules being beneficiary of transaction, if it such do so. In this case, SEBI Investigation Officer was very much aware that Company is beneficiary of the transaction but just creating a story on default of loan and making vintage as responsible as beneficiary whereas As per loan/Pledge agreement company has all time control on its GDR assets which company would have redeemed issued GDRs (underline equity share) same time the moment Vintage loan defaulted and if company didn't do so then it's very much clear that company has received money*

by Vintage FZE in its main account or subsidiary account in cash or kind. Moreover to it if company didn't receive money then why company let go its GDR to Vintage FZE was the reason since all this loan default situation were happened post SEBl's ex-Parte Order and confirming order beyond SEBl's investigation period which was fixed at first time. It shows all company were aware that what should they need to do if they are not receiving money of GDR i.e. redeem the capital and inform to stock exchange as well as SEBI but why company didn't do though they have GDR in their possession as per European American Investment Bank AG's drafted loan/pledge agreement.

13) *SEBI investigation officer himself is confused being saying its fraud whereas SEBI knows that it wasn't fraud at all since until order passed company were receiving money of GDR proceeds without any market manipulation nor price speculation nor any money laundering which was portrayed wrong in their first Ex. Parte order which was investigated by a corrupt SEBI officer Mr. Avarjit Singh who caught in Bribe case linked with GDR Ex. Parte order & investigation case related party from India. The appellant would submit that SEBI Investigation officer was corrupt & biased for whole investigation.*

14) *SEBI has no powers to lift the corporate veil w.r.t. the companies involved in the GDR issue.*

15) *SEBI officers have also pierced the veil of Vintage FZE to put all blame on the appellant as a beneficiary, whereas, Company was operated with General Manager for day to day business who is responsible and in-charge of affairs of the company as per United Arab Emirates law and not only that Vintage FZE had a 100% share Holding of the corporate company and also for certain periods of time, there were a Arab Share Holder of the company but Investigation Officer has hidden this truth though he has all papers with him and just framed the appellant as a creator of Device.*

16) *Hon'ble Supreme Court's judgement in the matter of Pan Asia Advisors GDR is not applicable to the GDR issue in question.*

17) *Without prejudice to the above, the appellant states that role of the concerned entities was twofold; one, investing and subscribing to the GDR and this is a legally valid transaction in the relevant jurisdiction. Neither the appellant nor the entities that*

subscribed have an obligation to make any disclosures in India. The Issuer has its own financial and legal advisors in India and advise the Issuer on compliance with Indian laws. The appellant submits that as brought out above, in SEBl's own view taken in HFCL and KEI the obtaining of financing for the GDRs and pledge of the GDRs and non-disclosure on the stock exchanges are violations that can be settled under the SEBI (Settlement of Administrative Proceedings) Regulations. The appellant submits that there was no compulsion on the Issuer to provide the security for the loan availed by Vintage from Euram bank and it was left open for the Issuer to approach any other banker. The appellant as investor/takedown subscriber is legally entitled to protect his interests and these contracts are strictly legal under the relevant local laws. If the SEBI can settle the alleged violations against the Issuers, there is no case against the appellant to allege that he had devised scheme to finance the GDRs.

18) *Thus, as far as the AP is concerned, the entire consideration for the GDRs has been obtained by the issuer and the GDRs were legally and fully subscribed. That under the GDR scheme the holder of the GDR is entitled to convert and sell the shares in the Indian stock exchanges. The allegation that the entities who sold the shares in the Indian are connected to the appellant does not dissolve the fact that this is a valid legal transaction and not a fraudulent scheme, as the GDR holder is entitled to convert and sell as per the GDR scheme. Therefore each leg of the transaction is legally valid and is a separate accounting transaction as well.*

19) *As per the allegations, the AP's first association with an Indian company for GDR has been shown in the SCN in 2006. Prior thereto, numerous companies have come out with GDR issues which had the market practices allegedly now found to be illegitimate by the SEBI. From the information available on the SEBl's website, it is found that the SEBI has passed orders in several GDR issue matters and it is evident that the method/process of raising GDR and listing on the Luxembourg stock exchange was laid down well before the period, when I was allegedly got associated in advising in the GDR market. The pattern of a single investor taking down the GDR, obtaining a loan from a bank, the bank taking a pledge of the GDR proceedings, the Issuer signing the pledge agreement and getting the GDR proceeds released after the loan repayment by the investor or subscriber was the market practice.*

20) *SEBI has passed various orders in which no action has been taken against the subscribers/investors like Willow, Solec company limited, Seviron company limited, Fusion Investment Ltd etc. Placing reliance on the doctrine of issue estoppal it submitted that, in light of the previous decision of the Hon'ble Whole Time Member, covering essentially similar facts and addressing similar legal issue, it is submitted that the charges against the AP be dropped.*

21) *It is reiterated here that SEBI has passed various orders in which no action has been taken against the investors like Clifford Partners, Solec Company Limited, Seviron Company Limited, Fusion Investment Ltd. etc.*

22) *It is also submitted that despite conducting the investigations for a long period, SEBI failed to provide original or certified copies of the documents relied upon."*

23) *Allegations are levelled that certain Entities are connected with the appellant and certain foreign institutional investors ("Flis") and sub- account converted part of the GDRs issued by the Issuer Companies and sold the resulting shares of the Issuer Companies in the Indian market. the show cause proceeds on the basis that on account of such alleged connection, the appellant exercised unilateral control over the parties allegedly involved in the 'scheme' purported by the Show Cause Notices and thereby allegedly upon the alleged 'scheme' itself. In this regard it is pertinent to note that assuming whilst denying that even if there was any such connection between the entities mentioned in the said Show Cause Notices and the appellant, the same does not and cannot imply that the decisions of such entities were controlled by the appellant. Further, it is also pertinent to note that the show cause notice or investigation report or any document provided to the appellant do not at all indicate in any manner the exercising of such control by the appellant. The allegations in this regard are therefore, based merely on surmises, conjectures and incorrect assumptions*."

Summary of reply submitted by Noticee No. 7 vide February 11, 2022

1) *Noticee 7 was authorized to operate the bank account only in respect of the proposed GDR funds.*
2) *Pledge Agreement has been fraudulently designed by forging his signature on a later date by Noticee 8 and EURAM Bank.*

3) Noticee came to know of the Pledge Agreement only after going to Austria, when it was shown by EURAM Bank

4) Facts mentioned in the Paragraph No. 24 of the SCN is factually wrong

5) Mr. Arun Panchariya & others colluded in defrauding the investors of the Company.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

15. I have carefully perused the charges levelled against Noticees, replies of Noticees to the SCN and other documents/ evidence available on record. The issues that arise for consideration in the present case are:

I. Whether:

A. Noticees have violated the provisions of Section 12A(a), (b), (c) of SEBI Act, read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations;

B. Noticee 1 has violated Regulation 4(2)(f), (k), (r) of PFUTP Regulations and Section 21 of SCRA read with Clauses 32, 36(7) and 50 of Listing Agreement?

II. Do the violations, if any, attract monetary penalty under:

A. Sections 15HA of SEBI Act and Section 23E of the SCRA for the alleged violations by Noticee 1?

B. Section 15HA SEBI Act for the alleged violations by Noticees 2 to 8?

III. If the answer to issue no. II is in affirmative, then what should be the quantum of monetary penalty?

16. The text of relevant provisions of the law which are alleged to have been violated by the Noticees and relevant extract whereof is reproduced below:

SEBI Act :"Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly –

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

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

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the Rules or the Regulations made thereunder;

"PFUTP Regulations:

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

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

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

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

(k) "disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities;"
(r) planting false or misleading news which may induce sale or purchase of securities.

Section 21 of Securities Contract (Regulation) Act, 1956 reads as follows:
"Where securities are listed on the application of any person in any recognized stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange."
Clause 36 of the Listing Agreement inter-alia states the following:
"The Company will also immediately inform the Exchange of all the events, which will have bearing on the performance/operations of the company as well as price sensitive information."
...
(7) Any other information having bearing on the operation/performance of the company as well as price sensitive information, The above information should be made public immediately."
Clause 50 of the listing agreement reads as follows:
"The company will mandatorily comply with all the Accounting Standards issued by Institute of Chartered Accountants of India (ICAI) from time to time."
Clause 32 of Listing Agreement inter-alia states as follows:
"The Company will also give a Cash Flow Statement along with Balance Sheet and Profit and Loss Account. The Cash Flow Statement will be prepared inaccordance with the Accounting Standard on Cash Flow Statement (AS-3) issued by the Institute of Chartered Accountants of India, and the Cash Flow Statement shall be presented only under the Indirect Method as given in AS-3."
AS-3 –Cash Flow Statements–inter-alia states the following:
"Cash comprises cash on hand and demand deposits with bank. Cash equivalents are short term, highly liquid investments that are readily convertible into known amounts of cash and which are subject to an insignificant risk of changes in valu

Issue No. I. Whether:

a) **Noticees have violated the provisions of Section 12A(a), (b), (c) of SEBI Act, read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations?**
b) **Noticee 1 has violated Regulation 4(2)(f), (k), (r) of PFUTP Regulations and Section 21 of SCRA read with Clauses 32, 36(7) and 50 of Listing Agreement?**

17. Before proceeding with the merits of the matter, It would be first appropriate to deal with certain preliminary objections raised by Noticees in the matter.

18. Noticee 2 had raised a preliminary objection that before initiating the present proceedings, SEBI ought to have obtained the leave of the Hon'ble High Court at Madras wherein the winding up petition against Teledata under Chapter VII of the Companies Act, 1956 has been admitted and a provisional liquidator has been appointed. In this regard, I note that in Company Petition No. 275 of 2010 filed before the Hon'ble Madras High Court, winding-up order in respect of Teledata was passed in July 2010. Thus, in respect of Teledata, Section 446 of the Companies Act, 1956 came into play in July 2010, which provided that when a winding up order has been made or the Official Liquidator has been appointed as provisional liquidator, no suit or other legal proceeding shall be commenced, or if pending at the date of the winding up order, shall be proceeded with, against the company, except by leave of the Tribunal and subject to such terms as the Tribunal may impose. Thereafter, I note that Section 279 of the Companies Act, 2013 came into force on December 15, 2016 which also contained similar requirement. However, even after coming into force of Section 279 of the Companies Act, 2013, Section 446 of the Companies Act, 1956 remained in the force, as Section 465 of the Companies Act, 2013 which inter alia dealt with the repeal and saving of Companies Act, 1956 was not in force till January 30, 2019 when the same was brought into force, by virtue of notification no. S.O. 560(E) dated January 30, 2019, only in respect of repeal and saving of Companies Act, 1956. I note that in the present case, SCN came to be issued on July 24, 2020. I note that Section 279 of the Companies Act, 2013 does not contain any such requirement of taking leave from the Tribunal for continuing or initiating proceedings against any other persons including the directors related to the Company concerned.

19. I note that Noticee 8 in his submissions has contended that adjudication proceedings initiated against Noticee 8 in the present matter should be dropped due to inordinate delay in issuance of SCN by SEBI. I note that the SCN in the present matter was issued in the year 2020 and pertains to the GDR issue of Teledata which occurred in the year 2010. In this regard, I note that SEBI initiated multiple investigations in the issue of GDRs in the overseas markets by the Indian companies on receipt of a complaint, in the year 2009, regarding misuse of GDR route by few companies. The investigation, *prima facie,* revealed that in many of the GDR issues, money for subscribing to GDR was availed as a loan by the subscribers, from an overseas Bank wherein the issuer company gave security for such loan taken by the subscribers, by pledging/creating charge on the GDR issue proceeds. It was also observed that such subscribers subscribed to the GDRs without any valid consideration and sold the underlying shares in the securities market in India. It is noted that investigation was initiated in respect of 59 GDR issues made by 51 Indian Companies during the period 2002 to 2014 involving the same *modus operandi,* as discussed above. In these investigations, since the GDRs were issued abroad and related transactions were carried out outside India, SEBI had to call for information from various entities situated abroad in such large number of fraudulent GDR issues. Such information, *inter alia,* included the details of (a) GDR issuer companies, (b) custodian of securities, (c) overseas depository, (d) overseas banks, (e) subscribers of GDR issue (mostly overseas), (f) lead manager, (g) various layers of transactions, etc. Since, these information were not readily forthcoming, SEBI had to collect information and documents from various sources including approaching the foreign regulators for assistance in procuring information and documents from the concerned entities situated outside India. The foreign regulators had also to collect this information from the concerned entities and then to furnish to SEBI. Thus, the process of collection of information in the matter was complex, tedious and time consuming. Teledata was one such GDR issuer where a similar *modus operandi,* as discussed above, was observed during investigation. On account of the multiple entities involved, many of which were based overseas, and the complexity of data to be gathered and collated, the investigation which was initiated in the instant matter in the year 2016 was completed in April, 2019. I note that after completion of the investigation, adjudication proceedings were initiated with appointment of Shri B.J. Dilip as Adjudicating Officer and the SCN was issued to the Noticees on July 24, 2020.

20. In the facts and circumstances of the present matter, I note that the investigation has been conducted and proceedings have been initiated in reasonable time. Further, I note that in Jindal Cotex Ltd. and others Vs. SEBI (Appeal No. 376 of 2019 decided on 05.02.2020) while dealing with an appeal emanating from the similar GDR issue wherein a plea of delay was also taken by the appellant therein, Hon'ble Securities Appellate Tribunal (SAT) held that*".............Arguments on delay in investigation and consequently affecting natural justice are also devoid of any merit in the matter since this Tribunal is aware of the complexity involved in the entire manipulative GDR issue; how long it took SEBI to gain information relating to the various entities from multiple jurisdictions in the matter of PAN Asia Advisors Limited (Supra) and Cals Refineries Limited (Supra) etc................"*

21. In his submissions, Noticee has also quoted the judgments of Hon'ble SAT in the matter of Mr Rakesh Kathotia & others vs SEBI (Appeal no 7 of 2016 decided on May 27, 2019), Ashok Rupani vs SEBI (Appeal no 417 od 2018 along with connected appeals decided on August 22, 2019), Sanjay Jethalal Soni & ors vs SEBI (appeal no 102 of 2019 and other connected appeals decided on November 14, 2019), Ashlesh Gunvantbhai Shah vs SEBI (Appeal no 169 of 2019) decided on 31.01.2020. However, I note that the facts and circumstances of the present case is clearly distinguishable from those of the aforementioned decisions and therefore not applicable to the present matter.

22. In view of the above, and considering the facts and circumstances, I note that there was no delay in the issuance of SCN in the matter as argued by the Noticee 8.

23. Further, Noticee 8 in his submissions has contended that SEBI has no territorial jurisdiction to investigate over entities located outside India governed by laws of other countries and also over persons, who are non-resident Indians. Noticee 8 in this regard has submitted that he has been residing outside India for the last more than 17 years and does not have any business activity in India. With regard to the aforementioned contention, I note that it has been clearly settled by the Hon'ble Supreme Court of India in its decision in SEBI vs. Pan Asia Advisors Ltd. & Anr (Civil Appeal No. 10560/2013 dated July 06, 2015) in a similar matter involving GDR issue that SEBI has adequate jurisdiction to try foreign entities involved in market manipulation involving GDRs which

were issued on the basis of underlying shares which are governed by Indian Law. The relevant extracts of the aforementioned judgment are reproduced hereunder:

"*Therefore, we are unable to see any violation of exercise of its jurisdiction since the underlying shares of GDR were created and dealt with as well as traded in the stock market of Indian Territory. Any act which caused any infringement in such trading of those underlying shares by virtue of any malfeasance or misfeasance or misdeeds committed by any person under the Act which worked against the interests of the investors in securities and the securities market, the SEBI was entitled to proceed against such persons who are involved in any of those allegations."*

24. Further, I also note that Hon'ble Securities Appellate Tribunal (SAT) in its decision Prospect Capital Ltd & Ors vs. SEBI (Appeal No. 632 of 2021 and other connected appeals) dated March 21, 2022, while dealing with question of jurisdiction of SEBI over appellants based in United Kingdom in a matter involving similar GDR Issue by placing reliance on aforementioned decision of Hon'ble Supreme Court in Pan Asia Advisors Ltd(supra) had dismissed the contention of appellants. In view of the ratio laid by the aforesaid judgements of Hon'ble Supreme Court and Hon'ble SAT, I find no merit in the contention of Noticee 8 that SEBI has no territorial jurisdiction over him.

25. I also note that Noticee 8 has contended that the investigation report was manipulated by SEBI officials as an act of revenge. I find this to be only a statement made by Noticee 8 to point certain loopholes in the investigation report, without any substance. However, I find that the instant proceedings have been initiated against Noticee 8 by clearly delineating the allegations against him in the SCN. So, the aforesaid contention is without any basis and therefore, I do not find it relevant to deal with it any further.

26. Now I proceed to deal with issue on merits in this case. The brief allegation in the SCN is that, on March 12, 2010, Teledata came out with a GDR issue of 35,37,505 GDRs (representing 35,37,50,500 shares of Teledata) which was subscribed by a single subscriber , namely, Vintage, a beneficially owned entity of Noticee 8. Vintage received the funds to subscribe to the issue from EURAM Bank as loan. EURAM Bank had secured the loan given to Vintage by pledging the proceeds from GDR issue of Teledata. Vintage repaid the loan only to the extent of USD 4.6 million and defaulted on the remaining repayment of USD 32.53 million. Thus, EURAM Bank recovered the default amount from the pledgee i.e. Teledata to the extent of USD 32.53 million. It has

been further alleged that 23,20,000 GDRs were transferred by Vintage to Noticee 8 connected FII sub-accounts who in turn converted the GDRs into equity shares of Teledata and sold the converted equity shares to the tune of Rs. 31.57 crore on Indian stock exchanges. In view of the above, the SCN alleges that Noticee 8 and his connected entities alongwith Teledata (through Noticees 2 to 7) were party to this fraudulent scheme to deceive the investors in the Indian securities market by making them believe that Teledata had successfully attracted investment from global investors through issue of GDRs and by ultimately dumping the shares received from cancellation and conversion of GDRs on the investors in the Indian securities market.

27. I note from the material available on the record that it is an undisputed fact that Noticee 1 had issued 3.5 million GDRs amounting to US $ 36.96 million on March 12, 2010. I note from the available records that the aforementioned issue of GDRs had been disclosed by Teledata in its annual report for Financial Year (FY) 2009-10. The details of the GDR Issue as noted from the email dated January 22, 2019 received by SEBI from HSBC Bank, the local custodian for the GDR Issue, are as given hereunder:

GDR issue date	No, of GDRs	Capital raised (USD mu.)	Local custodian	No, of equity shares underlying GDRs	Global Depository Bank	Lead Manager	Bank where GDR proceeds deposited	GDRs listed On
12-March-2010	35,37,505 (at USD 10.45	36.96	HSBC Bank	35,37,50,500	The Bank of New York Mellon, USA	Ikon Capital Ltd.(Ikon)	EURAM Bank, Austria	Luxembourg Stock Exchange

28. In this regard, I note from the available records that Vintage (now known as Alta Vista International FZE) had signed a loan agreement dated February 26, 2010 with EURAM Bank relating to a dollar term loan facility of USD 36.96 million for the purpose of subscribing to the GDR issue of Teledata. I also note from records that for the purpose of the GDR Issue, Teledata, Ikon and EURAM Bank had entered into an Escrow Agreement dated February 26, 2010.

29. I note from the perusal of the aforementioned loan agreement that the same was signed by Mr. Arun Panchariya (Noticee 8) in the capacity of Managing Director of Vintage. The relevant extracts of the loan agreement is reproduced hereunder:

<u>2 Nature and purpose of facility:</u>

Nature and purpose of facility" is

"To provide funding enabling Vintage FZE to take down GDR issue of 35,37,505 Luxembourg public offering and may only be transferred to EURAM account nr. 580 016,Teledata Technology Solutions Ltd."

<u>Security</u>

it is hereby irrevocably agreed that the following securities and any other securities which may be required by the Bank from time to time shall be given to the Bank as provided herein or in any other form or manner as may be demanded by the Bank:

1) Pledge of certain securities held from time to time in the Borrower's a/c no. 540012 at the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement.

2) Pledge of the account no. 580016 held with the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement."

30. Further, I note from the perusal of copy of the Know Your Customer (KYC) documents of Vintage for opening an account with EURAM Bank that Mr. Arun Panchariya (Noticee 8) was the beneficial owner and Managing Director of Vintage as on June 06, 2007. I further note that Alkarni Holding Ltd was the shareholder of Vintage and Mr. Arun Panchariya was the sole shareholder of Alkarni Holding Ltd. I also note that the existence and contents of the Loan Agreement has not been disputed by Noticee 8 in his submissions. Thus, I find that the sole subscriber to the GDR issue of Teledata, i.e., Vintage, was controlled by Noticee 8. In this regard, Noticee 8 has contended that he was the director of Vintage only till 2007. However, I note that Noticee 8 has not disputed that he was the signatory of the Loan Agreement. Further, on perusal of the Loan Agreement, I note that Noticee 8 had signed the Loan Agreement under the title "Managing Director" of Vintage. I further note from the aforementioned KYC Documents that Alkarni Holding Ltd was the shareholder of Vintage and Mr. Arun Panchariya was the sole shareholder of Alkarni Holding Ltd. Therefore, I do not find merit in the aforesaid contention of Noticee 8.

31. I note from material available on the record that the Board of Directors of Teledata passed a resolution dated January 30, 2010 (**Board Resolution**), wherein they, *inter alia,* approved of opening of current account with EURAM Bank for the purpose of its

GDR Issue. Further, vide the aforementioned resolution, Board of Directors of Teledata, authorized EURAM Bank to honour all cheques, Draft, Bills of Exchanges, Promissory notes and other negotiable instruments signed, drawn, accepted or made on behalf of the Company severally by Mr. K. Padmanabhan, Authorized Signatory of the Company and to act on any instructions so given relating to the said Account whether the same to be overdrawn or not or relating to any transactions of the Company. The extracts of the aforementioned Board Resolution are reproduced hereunder:

OPENING OF CURRENT ACCOUNT- EURAM BANK AUSTRIA FOR GDR ISSUE

The Chairman informed the Board of Director that the Company wants to open a "Current Account" for domestic division with Euram Bank Austria for the purpose of GDR issue. After discussions, it was decided to open an account and following resolution was passed.

RESOLVED THAT a bank account of the Company be opened with EURAM Bank Austria for GDR issue in the name of "Teledata Technology Solutions Ltd – GDR" and that the said Bank be and is hereby authorized to honour all cheques, Draft, Bils of Exchanges, Promissory notes and other negotiable instruments signed, drawn, accepted or made on behalf of the Company severally by Mr. K. Padmanabhan, Authorized Signatory of the Company and to act on any instructions so given relating to the said Account whether the same to overdrawn or not or relating to any transactions of the Company."

32. I also note from the available records that Noticee 1 had entered into Pledge Agreement with EURAM Bank dated February 26, 2010. The relevant features of aforementioned pledge agreement is reproduced hereunder:

1. Preamble

""By Loan Agreement K260210-007 (hereinafter referred to as the "Loan Agreement") dated 26 February, 2010 the Bank granted a loan (hereinafter referred to as the "Loan") to Vintage FZE, AAH -213, Al Ahamadi House, Jebel Ali Free Trade Zone, Jebel Ali, Dubai, United Arah Emirates (the "Borrawer") in the amount of USD 36,966,927.25. The pledger has received a copy of the Loan Agreement No K260210-007 and acknowledges and agrees to its terms and conditions,"

2. Pledge

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

2.1.1 all of its rights, title and interest in and to the securities deposited from time to time at present or hereafter (hereinafter referred to as the "Pledged Securities") and the balance of funds up to the amount USD 36,966,927.25 existing from time to time at present or hereafter on the securities account(s) no. 580016 held with the Bank (hereinafter referred to as the "Pledged Securities Account") and all amounts credited at any particular time therein.

2.1.2 all of its right, title and interest in and to, and the balance of funds existing from time to time at present or hereafter on the account(s) no. 580016 kept by the Bank (hereinafter referred to as the "Pledged Time Deposit Account") and all amounts credited at any particular time therein...

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

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

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

Realisation of the Pledge:

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

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

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

33. In light of the above observations in the preceding paragraphs, I find that though GDR proceeds were deposited in the bank account of Teledata, the amount deposited in the account was not at the disposal of the Teledata, as the same was kept as collateral for the loans availed by Vintage even prior to issuance of GDRs.

34. It is an undisputed fact that GDR subscription money was received from only one entity i.e. Vintage. I also note from records that EURAM Bank granted loan to Vintage specifically for subscription of GDRs of Teledata and the entire GDR issue of Teledata (35.37 million GDRs amounting to USD 36.96 million) was subscribed/funded by only one entity, i.e., Vintage. However, I note that vide letter dated March 16, 2010 to BSE, Teledata had provided following list of entities as allottees to its GDR Issue:

Sl. No.	**Name of the subscriber**	**No. of GDRs allotted**	**No of shares underlying**
1	Axinite Capital Inc.	2,72,727.27	2,72,72,727
2	Cruise Waterford Investments Ltd.	344497.61	3,44,49,761
3	Creative Stone Holdings Ltd.	302574.16	3,02,57,416
4	Tieze Group Holdings Ltd.	296650.72	2,96,65,072
5	Trapezius Capital Ltd.	306465.07	3,06,46,507
6	Imagination Group Holdings Ltd.	282296.65	2,82,29,665
7	Trendsetter Capital Inc.	315789.47	3,15,78,947
8	Flamboyant International Ltd.	263200.00	2,63,20,000
9	Knightsbridge	293485.86	2,93,48,586

	Management Inc.		
10	Flagstaff Investments Ltd.	296650.72	2,96,65,072
11	Echelon India Investments Ltd.	282009.57	2,82,00,957
12	Dynamic Holdings Investment Corp	236157.89	2,36,15,789
		3537505.00	**35,37,50,500**

In light of the above observations, I find that Teledata submitted wrong list of GDR subscribers to BSE.

35. I note from the bank statement of Teledata's EURAM Bank account that GDR proceeds of USD 36.96 million were deposited in Teledata's account no. 580016 held with EURAM Bank on March 11, 2010. I also note from the bank account statement of Teledata that out of GDR proceeds of USD 36.96 million, Teledata had transferred USD 4.63 million (includes the interest earned on money market instruments) to its subsidiary, Bitech International.

36. The details of transfer of GDR Proceeds by Teledata are tabulated below:-

Date of transfer of funds	**Amount of funds transferred from Teledata's EURAM Bank a/c to Bitech International's a/c (USD)**	**Amount of funds transferred to other entities (USD)**
11/03/2010		205.61 Expenses account Opening Fees
09/04/2010		2,500 Ecsrow Fee GDR Issue
19/04/2010	5,00,000	
27/04/2010	5,00,000	
07/05/2010	5,00,000	
10/05/2010		13,570 Al Jabha Legal Consultant FZC UAE Against invoice of legal service invoice

18/05/2010	5,00,000	
20/05/2010	5,00,000	
06/07/2010		9396.75 BNY Mellon Luxemburg
08/07/2010		50,000 Ikon Capital Ltd. London Payment of Lead Manger Fees
23/07/2010		19,960 Ikon Capital Ltd. London Refund
15/09/2010	6,25,000	
23/09/2010	8,75,000	
23/09/2010	5,00,000	
17/05/2011		3,87,000 Premier Management Consultancy Ltd Seychelles Part Payment against invoice of placement fees
09/11/2011	1,30,000	
08/02/2012		60,000 Dorda Brugger Jordis Towards legal expenses
18/04/2012		20,000 Dorda Brugger Jordis Payment towards legal fees
TOTAL	**46,30,000**	**5,62,632.36**

37. I find that due to the existence of the pledge agreement, transfer of amount from Teledata's EURAM Bank account was dependent on the repayment of the loan by Vintage. Details of repayment of loan by Vintage and transfer of fund by Teledata in its bank account in India, as provided by EURAM Bank are tabulated below:

Date of Loan Amount repaid by Vintage	Loan Amount repaid by Vintage (USD)	Date of Transfer of funds from Teledata's EURAM Bank a/c to Bitech International	Transfer of funds from Teledata's EURAM Bank a/c to Bitech International (USD)	Cumulative Loan Amount repaid by Vintage (USD)	Cumulative Transfer of funds from Teledata's EURAM Bank a/c to Bitech International (USD)
19/04/2010	5,05,000	19/04/2010	5,00,000	5,05,000	500000
27/04/2010	5,00,500	27/04/2010	5,00,000	10,05,500	1000000
07/05/2010	5,00,000	07/05/2010	5,00,000	15,05,500	1500000
10/05/2010	13,600	-	-	15,19,100	-
18/05/2010	5,00,000	18/05/2010	5,00,000	20,19,100	2000000
20/05/2010	5,00,000	20/05/2010	5,00,000	25,19,100	2500000
06/07/2010	60,000	-	-	25,79,100	-
15/09/2010	6,25,000	15/09/2010	6,25,000	32,04,100	3125000

22/09/2010	13,25,000	23/09/2010	8,75,000	45,29,100	4000000
23/09/2010	29,000	23/09/2010	5,00,000	45,58,100	4500000
18/11/2011	50,000	09/11/2011	1,30,000	46,08,100	46,30,000
				46,08,100	46,30,000

38. I note from the above table that only after Vintage repaid the loan amounts, in instalments, an equal or less amount of money was transferred from Teledata's EURAM Bank account to its subsidiary, Bitech International. For instance, on May 20, 2020, Vintage repaid loan installment of USD 5,00,000 to EURAM and on the same day, same amount of USD 5,00,000 was transferred by Teledata from its Account in EURAM to Bitech International.

39. I note that out the total loan amount of USD 36.96 million, Vintage repaid the loan amount to the extent of USD 4.60 million in 11 installments from April 19, 2010 to November 18, 2011 and thereafter, defaulted on loan repayment. In this regard, on June 30, 2016, EURAM Bank informed the following to Teledata:

"*AS you probably will have learned from your external Austrian legal advisors, the AustrianSupreme Court ("OGH") has rendered a - final and legally binding - decision in favor of Euram Bank AG in this matter on 14 June 2016, delivered to us on 24 June 2016.*

We, therefore, kindly inform you that we have realized the balances of your pledged time deposit account held under customer number 580016 with Euram Bank AG, in conformity with the pledge agreement dated 26 February 2010 in the total amount of USD 32,533.384,23 (Thirty Two Million, Five Hundred Thirty Three Thousand, Three Hundred Eighty Four United States Dollars and Twenty Three Cents)

in order to repay part of the outstanding loan K260210-007 of Alta Vista International FZE. Please find attached copies of account statements. After realization of the pledged time deposit account all accounts held under customer number 580016 were closed.

Furthermore be informed that in case your pledge agreement at hand regarding the time deposit account had been adjudicated invalid (which is, however, anyway not the case) the related loan agreement with Alta Vista would have become invalid as weil as a consequence (lacking condition ecedent) and the respective amounts would have been re-booked/retracted by Euram Bank AG inconformity with Austrian law as well due to back settlement of all related agreements (Riickabwicklung).

However, pursuant to the realization of the pledged time deposit account held under customer number 580016 and Section 1358 of the Austrian Civil Code ("ABGB") Teledata Technlology Solutions Ltd, automatically takes the Bank's position as pledgee regarding 1217505 GDRs of Teledata Technology Solutions Ltd. (ISIN US87931R1014). Please be aware that from now on Teledata Technology Solutions Ltd. is the pledgee of the GDRs..."

40. From the copy of the judgment dated October 23, 2019 by the Hon'ble High Court at Madras, in C.A. No. 77 and 78 and 489 to 491 of 2017 in C.P. No. 275 of 2010, which has been submitted by Noticees 2, 3, 4, 6 and 7, I note that Teledata through its ex-directors and a contributory has filed Comp. A. No. 79 of 2017 praying for directions to Respondent no. 2 to 6, therein, to jointly and severally pay the company in liquidation, the sum of US $ 32,470,974.97 together with interest at 6% per annum from 30.11.2011 along with future interest at the rate of 6% per annum till the date of payment. From the submissions of the EURAM Bank as recorded in the said order of the Hon'ble Madras High Court, I note that, -

    a. Teledata through its ex-directors contested the invocation of pledge by EURAM Bank upon the default of loan repayment by Vintage, by filing a suit before the Commercial Court in Austria.

    b. The said suit was dismissed on the ground that an arbitration clause existed in the Escrow Agreement and the Pledge Agreement.

    c. The Court in Austria held that the execution of the Escrow Agreement is not in dispute and therefore, the Arbitration Proceedings should be conducted under the Escrow Agreement and that the arbitration clause contained therein is sufficient to assume and exercise jurisdiction over the dispute relating to the Pledge Agreement.

    d. This position was confirmed in Appeals up to the Supreme Court of Austria. Accordingly, Teledata through its ex-directors commenced an Arbitration Proceeding before Vienna International Arbitration Centre, however, Teledata failed to prosecute the Arbitration Proceedings by remitting the requisite deposit/fees and therefore, the Arbitration Proceedings were terminated.

41. From the judgment dated October 23, 2019 of the Hon'ble High Court at Madras, I note that the Comp A. No. 79 of 2017 was directed to be listed by the Hon'ble High Court on November 01, 2019.

42. I note that Noticees 3, 4 and 6 have contended that they were non-executive directors of Teledata and that they were not responsible for the day-to-day operations of the company. Further, Noticees 3, 4 and 6, in support of their contentions has also placed reliance on the decision of the Hon'ble SAT in Prafull Anubhai Shah v SEBI (Appeal No. 389 of 2021 decision dated 28.06.2021). In this regard, I note that Hon'ble SAT in Chromatic India Ltd & Anr vs. SEBI (Appeal No. 393 of 2020, decision dated May 12, 2021) while deciding on the liability of Independent Director who was also a member of the Audit Committee in a matter involving similar GDR Issue has held the following:
The Resolution dated August 13, 2010 by itself does not create any suspicion nor creates any fraudulent act. Being a signatory to the said Resolution by itself does not violate any provision of the SEBI Act or the PFUTP Regulations. However, being part of the Audit Committee he had access to the financial status of the company. It is deemed to be in his knowledge that the GDR proceeds of the company were lying in an account in European American Investment Bank ("Euram Bank") and the same was not being utilized for the business purposes of the company rather it was being utilized as collateral for the loan given to Vintage. Being part of the Audit Committee he should have raised a red flag by observing that the funds were not being utilized by the company for the purpose for which the GDR were issued. In this regard, this Tribunal in Mr. Kishore Hegde vs SEBI (Appeal No. 300 of 2019 decided on November 05, 2019) held:-
'The contention of this appellant that he was not involved in the day to day running of the company cannot be accepted as he was found to be part of the resolution process of the company and his involvement in the issuance of the GDR proceeds. Apart from the above, we also find that the appellant was also the Chairman of the audit committee of the company. The WTM found that being the Chairman of the audit committee, he did not place any objection as to why the GDR proceeds did not reach the company and how the proceeds were utilized. We are thus, of the opinion that in the light of the findings given by the WTM, the appellant Kishore Hegde was part of the scheme through which issue of GDR by the company was effected through a fraudulent arrangement of loan agreement and pledge agreement. We are also of the opinion that the conduct of the appellant Kishore Hegde was inimical to the interest of the company,

to the investors, as well as to the shareholders and, the action of the appellant Kishore Hegde was in violation of Section 12A of the SEBI Act read with Regulations 3 and 4 of the PFUTP Regulations."

43. From perusal of the “Report on Corporate Governance” in the Annual Reports for Financial Years (FY) 2009-10 and 2010-2011, I note that Noticees 3 and 6 were the Non-Executive Independent Directors of the Teledata and M.S Ramakrishnan, i.e Noticee 4, was the Whole Time Director of the Teledata. I also note that Noticee 2, Noticee 3 and Noticee 5 were members of the Audit Committee and Noticee 3 was the Chairman of the Audit Committee of Teledata for the FYs 2009-10 and 2010-11. In this regard, I note that it *is inter alia* the responsibility of the Audit Committee in accordance with Clause 49(II)(D) of the then applicable Listing Agreement, to review the financial reporting process of the Company, review the annual and quarterly financial statements of the Company before being presented to the board of the Company and to review the Statement of Use/ Application of funds raised through public issue. I also note that in accordance with Clause 41(ii)(a) and 41(II)(e) of the Listing Agreement, the quarterly and the annual financial statements were to be approved by the board of directors of the Company. Thus, in the light of the fact that Noticee 4 was the whole time director of Teledata and that Noticee 3 was the Chairman of the Audit Committee of the Company and the aforesaid judgment of Hon’ble SAT, I cannot agree with this contention of Noticees 3 and 4 that they were not involved in the functioning of the Company.

44. Further, Noticees 3, 4 and 6 have contended that they have not authorized any person including Noticee 7 by way of any resolution to execute pledge. However I note that the aforesaid Noticees have not disputed the fact that they were signatories to the Board Resolution and that by being signatories to the aforesaid resolution, Noticees 3, 4 and 6 had passed the resolution for opening a current account with the EURAM Bank and also authorized Noticee 7 to do all such acts in relation to the transactions of the company with EURAM Bank, i.e., the aforesaid resolution gave wide powers to Noticee 7 to enable him to execute the Pledge Agreement and consciously agreed to the delegation of such wide powers to Noticee 7 . Noticees 3, 4 and 6 have further contended that they were neither aware of the Loan Agreement nor of the Pledge Agreement and that they came to know of the aforesaid agreements only on November 08, 2011. They have also contended that neither they nor Teledata were a party to the

Loan Agreement between EURAM Bank and Vintage. In this regard, I note that GDRs proceeds amounting to USD 36.96 million were deposited in Teledata's account held with EURAM Bank on March 11, 2010. However, I observe from records that only after Vintage repaid the loan amounts, in instalments, an equivalent or less amount of money was transferred from Teledata's EURAM Bank account to its subsidiary, Bitech International. The said fund transfer started from April 19, 2010. Therefore, from the pattern of fund transfers, I note that Teledata and in turn, its directors, could not have been unaware of the arrangement of loan by the subscriber and pledge of its GDR proceeds which were dictated by the terms of the Loan and Pledge Agreements. Therefore, I find that the above contentions of Noticees 3, 4 and 6 lack merit.

45. It has been further contended that while the Loan agreement refers to a pledge of account no. 580016, bank account of TTSL as a security in Clause 6.1, it is not known how such a security document can be created without Teledata being a party to this undertaking. Noticees 3, 4 and 6 have also contended that the Pledge Agreement was dated February 26, 2010, however it was executed on March 03, 2010 and the place of execution of the loan agreement is not mentioned. Therefore, Noticees 3, 4 and 6 have contended that it is for EURAM Bank and Vintage to explain how a Loan Agreement signed on February 26, 2010 with a Pledge Agreement as an Annexure was created when the signed Pledge Agreement was not even available with them. I have taken note of the aforementioned contention of Noticees 3, 4 and 6. On perusal of the impugned Loan Agreement, I note that the same is dated February 26, 2010 and further it mentions about the pledge of Account No. 580016 in a separate Pledge Agreement which is attached. However, I note that the Loan Agreement does not bear the date on which it was executed. Therefore, it cannot be said with certainty that the same was executed before the Pledge Agreement as is being contended by the aforesaid Noticees. In view of the foregoing, the contention of the aforesaid Noticees that the Pledge Agreement was fraudulent or that Teledata or its directors were unaware of the existence of the Pledge Agreement, does not hold good. Noticees 3, 4 and 6 in their submissions have also contended that seal of the company affixed to the Pledge Agreement is at complete variance with the seal of the company. However, I note that no legal recourse has been taken by the Noticees w.r.t. the aforesaid contention and therefore, I do not find merit in this contention.

46. I note that Noticee 7 in his submissions has contended he had not signed the Pledge Agreement and he also contended that he was authorized to operate the bank account of the Teledata in EURAM only and not authorized to enter into pledge agreement on behalf of the Company. Noticee 7 has further contended that he came to know of Pledge Agreement only after reaching Austria and immediately filed law suit against EURAM Bank. With regard to the aforementioned contention of Noticee 7, I note that Noticee 7 had not submitted any documentary evidence to indicate that he had filed any legal course against EURAM Bank or that he had filed any criminal complaint against any entity concerning claimed forging of his signature in the Pledge Agreement. In light of the same, I am not inclined to accept the aforementioned contention of Noticee 7 that he has not signed Pledge Agreement. Noticee 7 has also contended that EURAM Bank was sending monthly/quarterly statement showing the Company's account and accrual of interest in that account and according to Noticee 7, if pledge was there, EURAM Bank must have shown pledge in their statement. I note from the perusal of the Pledge Agreement that there is no clause in the Pledge Agreement which states that the amount deposited in the Teledata's Account would not earn any interest and therefore, this contention of Noticee 7 lacks merit. I also note that Noticee 7 was the promoter of Teledata as well as Managing Director of Teledata's subsidiary, Bitech International, to which GDR proceeds were transferred by Teledata pursuant to part repayment of loan by Vintage. Mr. K Padmanabhan was also director of Teledata during the period 27/10/2006 to 10/07/2008. In light of the aforesaid facts, I am not inclined to accept the aforesaid contentions of Noticee 7.

47. Other than proceedings initiated against EURAM Bank for recovery of sums of money as stated in the preceding paragraphs, nothing has been submitted by Noticees to show that anyother proceedings have been initiated against EURAM Bank by the directors of Teledata. I also note from the perusal of Annual Reports for FY 2009-10, 2010-11 that all the directors of Teledata had attended all the board meetings conducted in the aforementioned financial years. I also note that directors of Teledata i.e Noticees 2 to 6 were part of all the Board decisions regarding issue of GDRs by Teledata. For instance, Board had passed resolution dated 25.02.2010 to adopt Escrow Agreement in its Board Meeting dated 25.02.2010 which was attended by Noticees 2 to 6. In this regard, it is particularly relevant to note that despite subscription money being received by Teledata only from single entity i.e. Vintage in its Escrow Account, Teledata had provided wrongful list of GDR allotees to BSE. I note that

Noticees 2-7 have also not provided any reason/explanation regarding such wrong disclosure to BSE. Therefore, I conclude that Teledata, along with its directors pledged the GDR Proceeds through the Pledge Agreement executed by Noticee 7. Further as discussed earlier, from perusal of the Loan Agreement and the bank account statement of Vintage, I find that Vintage had availed of a loan from EURAM Bank to the extent of USD 36.96 million to subscribe to the GDRs of Teledata.

48. I note that the Pledge Agreement refers to the Loan Agreement dated February 26, 2010 between the borrower i.e. Vintage, and EURAM Bank, whereby Vintage was granted loan of USD 36.96 million and it is stated that the Pledgor i.e. Teledata has received a copy of the said Loan Agreement and acknowledges and agrees to its terms and conditions. Therefore, by signing the Pledge Agreement, Teledata is clearly aware that Vintage was the subscriber to the GDR issue. On perusal of the contents of the Pledge Agreement, I note that the Pledgor had agreed to pledge all its rights, title and interest in and to the securities deposited in the Pledge Securities Account and funds in Pledged Time Deposit Account so as to secure the present and future obligations of Vintage. The Pledge Agreement also expressly states that: *"In the case that the Borrower fails to make payment on any due amount, or defaults in accordance with the Loan Agreement, the Pledgor herewith grants its express consent and the Bank is entitled to apply the funds in the Pledged Accounts to settle the Obligations"*. Regarding the dates, it is noted that the Pledge Agreement and the Loan Agreement were both dated February 26, 2010. Further, I also note that Clause 6.1 of the Loan Agreement specifies that the Pledge Agreement was an integral part of the Loan Agreement. Therefore, it is clear that issuance and subscription of GDRs was done through loan availed by Vintage from EURAM Bank which the company and its directors were aware of. It is also seen that although the GDR proceeds were deposited in the bank account of Noticee 1, the amount deposited was not at the disposal of Noticee 1 since it was pledged.

49. I note from the available records Euram Bank adjusted USD 32.53 million on June 30, 2016 against the loan default by Vintage. In light of the above, I find that GDRs to the tune of USD 32.53 million was issued by Teledata to Vintage without any consideration.

50. It has been alleged in the SCN that Mr. Arun Panchariya (**AP**), i.e., Noticee 8, was the key person who devised and structured the GDR issue in connivance with Teledata. With regard to allegation of connection of Noticee 8 with certain other corporate entities involved in GDR Issue of Teledata, Noticee 8 has contended that each of entities were duly incorporated under relevant laws and he has no role in activities carried out by these entities. Noticee 8 in his submissions has further contended that entire SCN is based on " connection" of AP to various corporate legal entities and allegations levelled against Noticee 8 was based on assumptions and presumptions of being beneficiary. Noticee 8 has contended the SCN is issued against him in his personal capacity for the alleged irregularities of other entities like Vintage. In this regard, Noticee 8 has contended that SEBI has no powers under SEBI Act to lift or pierce the corporate veil.

51. From perusal of documents placed on record, I note that Noticee 8 was connected to other entities who were involved in the GDR Issue. The summary of connection/association of AP with various entities related to the present matter as noted from the Administrative Fine Statement available on Dubai Financial Services Authority(DFSA) website is tabulated below:

Sl. No.	Name of entity	Connection/association of AP with entity
1	Vintage FZE (now known as Alta Vista International FZE)	AP was beneficial owner (as on June 06, 2007) and Managing Director (as on June 06, 2007 and May 12, 2010). Alkarni Holdings Ltd. was sole shareholder of Vintage as on December 28, 2010 and AP was sole director of Alkarni as on April 21, 2014.
2	India Focus Cardinal Fund	AP was director from August 22, 2008 to October 28, 2010, Investment Manager (as on July 12, 2010) and 100% shareholder (January 01, 2009 to May 31, 2010) and beneficial owner since August 22, 2008
3	Cardinal Capital Partners	AP was 100% shareholder and Chief Investment Officer (as on July 12, 2010). Noticee no. 12 held 100% shares of Noticee no. 4.
4	EURAM Bank	AP connected Pan Asia Advisors Ltd. had joint venture with EURAM Bank namely EURAM Bank Asia Ltd. (incorporated on August 23, 2009, dissolved in December 30, 2013).
5	EURAM Bank Asia Ltd.	AP was director and president. AP resigned as president and member of board of the EURAM Bank Asia Ltd. on September 22, 2011.

52. It has been established earlier that Vintage was controlled fully by Noticee 8 through a 99.99% shareholding control. It is further noted that India Focus Cardinal Fund(Mauritius)was registered as sub account of FII-EURAM Bank from December 12, 2008 to July 19, 2011 and India Focus Cardinal Fund(**IFCF**), was granted transfer

from EURAM Bank to another FII (FPI) Cardinal Capital Partners (**CCP**) on July 20, 2011 and was registered as sub account of FII, CCP, for the period July 20, 2011 to June 19, 2017. It is further observed that during the period January 2009 to May 31, 2010, CCP held 100% shares of IFCF and Noticee 8 held 100% shares of CCP. Thus, Noticee 8 was 100% shareholder of IFCF. I also note from records Noticee also served as Chief Investment Officer of CCP in 2010. It is also noted that Noticee was director in IFCF from August 22, 2008 to October 28, 2010 and was also its Investment Officer. It is clear from the above that Noticee 8 was connected to IFCF, CCP and EURAM Bank and the same has also not been disputed by Noticee 8.

53. With regard to the above contention of Noticee 8, I am of the view that Noticee 8 being the signatory of the Loan Agreement entered by Vintage and being the beneficial owner of the Vintage and being connected to other corporate entities involved in the GDR issue of Teledata cannot now distance himself from the acts of these corporate entities. Further, I cannot accept the contention of Noticee 8 that SEBI has no power under SEBI Act to lift or pierce the corporate veil. In this regard, I note that principle of lifting corporate veil came into existence to prevent people from hiding behind the corporate vehicle to perpetrate their crimes and irregularities. In this regard, I place reliance on the decision of Hon'ble Supreme Court (Larger Bench) in the matter of LIC Vs Escorts Limited (1986 AIR 1370), wherein while discussing the doctrine of corporate veil, the Court had observed:

"90. … the corporate veil may be lifted where a statute itself contemplates lifting the veil, or fraud or improper conduct is intended to be prevented, or a taxing statute or a beneficent statute is sought to be evaded or where associated companies are inextricably connected as to be, in reality, part of one concern. It is neither necessary nor desirable to enumerate the classes of cases where lifting the veil is permissible, since that must necessarily depend on the relevant statutory or other provisions, the object sought to be achieved, the impugned conduct, the involvement of the element of the public interest, the effect on parties who may be affected, etc."

54. Reliance can also be made on another judgment of the Hon'ble SAT in the matter of Sahara Asset Management Company P. Ltd. Vs. SEBI (SAT Appeal 428/2018 decided on June 27, 2017) wherein it was held that *"In the securities market, SEBI Act empowers SEBI to take actions in the interest of protecting the interests of the investors and hence lifting the corporate veil to the extent to identify who controls a*

regulated entity cannot be faulted. Without such a power SEBI will be a mute spectator to many of the corporate misdeeds which may jeopardize the interests of investors. Given the mandate of SEBI to protect the interests of the investors in the securities market SEBI is statutorily empowered to lift the corporate veil and find out the truth whenever interests of the investors are affected or likely to be affected". Therefore I am not inclined to accept the afore mentioned contentions of Noticee 8 that SEBI has no power to lift corporate veil of entities involved in the GDR issue of Teledata.

55. Further, Noticee 8 in his submissions has contended that he had done only legally valid transactions. To this effect, Noticee 8 has contended that investing and subscribing to the GDRs and conversion of GDRs and their sale in Indian Market are separate legally valid transactions.

56. It has been noted that AP connected entity Vintage subscribed to the GDR issue of Teledata by entering into Loan Agreement with EURAM Bank for which Teledata pledged its GDR proceeds as security. In the matter of GDR issue of Jindal Cotex (Appeal No. 376 of 2019),the Hon'ble SAT in its order dated February 05, 2020 has held that this arrangement itself vitiates the entire issue of GDR as it is through an artificial arrangement supported by the company itself which enables the subscription to the GDR .I note that from April 08, 2010 and as on May 12, 2011, 23,20,000 GDRs were cancelled and converted into equity shares of Teledata. I also note from available records that post cancellation of GDRs, FII-sub-accounts namely IFCF received total 23,20,00,000 shares on conversion of 23,20,000 GDRs. I observe that IFCF sold entire 23,20,00,000 shares allotted to it for a value if Rs 31.57 Crores. IFCF was incorporated on August 22, 2008 in Mauritius and was registered as sub-account of FII-EURAM Bank from December 12, 2008 to July 19, 2011. EURAM Bank and CCP did not make investment in India except their sub-account IFCF which sold shares of Teledata in the market. AP connected FII sub-account, i.e., IFCF cancelled the GDRs and sold the converted equity shares on NSE and BSE. I note that AP connected FIIs, namely EURAM Bank and CCP made AP controlled IFCF their sub-account to facilitate it in selling converted equity shares of Teledata. It has also been noted earlier that AP controlled Vintage defaulted on loan payment of USD 32.53 million and same amount was adjusted by EURAM Bank from the GDR proceeds of Teledata as Teledata had pledged GDR proceeds against this loan. I note that AP connected entities were involved at majority of stages of GDR issue and sale of shares after their conversion.

57. In this context, I find it pertinent to note that in the matter of the Pan Asia Advsors & Ors Ltd v SEBI (Appeal No. 126 of 2013, Decision dated 25.10.2016) the Hon'ble SAT has discussed the role of the Noticee 8 in six GDR matters wherein the modus operandi adopted was similar. In the said matter the Hon'ble Tribunal has observed as follows: "*Even though all GDRs were not converted and sold, it is apparent that the modus operandi adopted by the appellants was not only to create an artificial impression that the GDRs have been subscribed by foreign investors, but also to create an impression that after the GDR issue, investors in India have started subscribing to the shares of issuer companies when in fact the shares were sold and acquired by the entities controlled by AP. In these circumstances inference drawn by SEBI thatat every stage of the GDR issue, the acts committed by the appellants constituted fraud on the investors in India cannot be faulted*." In light of the aforementioned observations, I find that contention of Noticee 8 that he was not the keyperson or mastermind in the structuring of the GDR Scheme lacks merit.

58. I find that said scheme of issue of GDRs of Teledata constitutes 'fraud' and I find that Noticee 8 connived with Noticees 1 to 7 to structure the fraudulent issue of GDRs wherein Teledata suffered a loss to the tune of USD 32.53 million. Therefore, contention of Noticee 8 that investing and subscribing to the GDRs and conversion of GDRs and their sale in Indian Market are separate legally valid transactions cannot be accepted.

59. I note from the examination of corporate announcements made by Teledata from April 2009 till date that Teledata did not inform the stock exchanges about entering into Pledge Agreement/ collateral security. I note that the fraudulent arrangement of Loan and Pledge agreements, which resulted in the subscription of GDR issues of the company was not disclosed to the stock exchanges in a true and complete manner but was reported as misleading news which contained information in a distorted manner. The company reported in its annual report for FY 2009-10 that *"TTSL has issued 35,37,505 GDRs representing 35,37,50,500 underlying Equity Shares of nominal value of Rs.2.00 each (offered at Rs.4.85 each) at USD 10.45 each GDR. Each GDR represents 100 equity shares in the capital of the company. The equity shares represented by the GDRs will represent approximately 242.58% of the company outstanding share capital before issue. The Proceeds amounting to USD*

3,69,66,927.25(INR 17,15,689.93 thousand) from the said GDRs were received on 11 /03/2010 and credited to EURAM Bank (European American Investment Bank) whose registered office is at Wallnerstrassee 4, A-1010,Vienna, Austria "which might have made investors believe that the said GDR issue was genuinely subscribed.

60. From perusal of Annual Reports for FY 2009-10 and 2010-11 of Teledata, I observe that the notes forming part of the accounts in the said Annual Reports state the following :
"The financial statements are prepared under the historical cost convention from the books of accounts maintained on accrual basis, in conformity with accounting principles generally accepted in India, and comply with the accounting standards issued by the council of the Institute of Chartered Accountants of India and referred to in Section 211 (3C) of the Companies Act, 1956, (the Act)..."

61. I further note in the aforementioned Annual Reports that Teledata had provided the details of account kept by the Teledata with EURAM Bank which shown as cash and bank balances as below:

Particulars of Cash & Cash equivalent	As on 31/03/2010	As on 31/03/2011
CASH AND BANK BALANCES Balance with Non - Scheduled Banks (Euram Bank- Vienna, Austria) Deposit Agreement	16,982.03	14,856.36

62. As already established Teledata had pledged its GDR Proceeds of USD 39.6 million with EURAM Bank against the loan availed by the vintage. I note that as on March 31, 2010, Vintage didn't repay any loan amount and as on March 31, 2011, Vintage repaid loan amounting to only USD 4.60 million, therefore loan of USD 32.41 million (approximately Rs. 144.71 crore, at RBI exchange rate of 44.65 per USD on 31 /03/2011) was outstanding. Hence, Rs. 169.82 Crore (as on March 31, 2010) and Rs. 148.56 Crore (as on March 31, 2011) lying in Teledata's EURAM Bank account were not free cash and cash equivalent as per Accounting Standard (AS)-3. Therefore, I find that Teledata has not complied with clauses 32 and 50 of the Listing Agreement.

63. In the instant matter, I note that since Vintage didn't repay the whole loan amount Teledata could utilize its GDR proceeds only to the extent of amount repaid by Vintage and thus there was an obligation on Teledata to disclose amounts of USD 36.96 million in FY 2010-11 and USD 32.41 million in FY 2010-11 (GDR proceeds kept with EURAM Bank as security) as contingent liability as on the dates of balance sheet i.e. March 31, 2010 and March 31, 2011 respectively, in the event of default of repayment of loan by Vintage. Therefore, a contingent liability to the extent of Rs. 169.82 Crore and Rs. 144.71 Crore was required to be disclosed by Teledata in its financial statements for the FY 2009-10 and 2010-11. In this regard, from the examination of the Annual Report of Teledata for FY 2009-10, I note that Teledata did not disclose the contingent liability in Annual Reports for FY 2009-10 and FY 2010-11 for GDR proceeds pledged with EURAM Bank in terms of AS 29 and thereby Teledata has not complied with clause 50 of the Listing Agreement.

64. AS-1 provides that an enterprise (i.e. Teledata) shall consider prudence, substance over form and materiality as major parameters while preparing its annual financial statements. In this regard, I note that Teledata in its financial statement for the Annual Report 2009-10 and 2010-11) did not follow prudence since it did not disclose the contingent liability/ make provision for potential liability and also did not follow materiality as it did not disclose the fact of signing of Pledge Agreement and pledging of GDR proceeds, as the same are items, the knowledge of which might influence the decision of the users of the financial statements.

65. In view of the above observations, I find that Teledata did not comply with accounting standards - 1, 3 and 29 and has thereby violated section 21 of SCRA read with clauses 32 and 50 of the Listing Agreement.

66. Further, I note from the examination of corporate announcements made by Teledata from January 2010 till date that Teledata did not inform stock exchanges about entering into Pledge Agreement/ collateral security with EURAM Bank and pledging GDR proceeds against loan availed by Vintage for subscription of GDRs of Teledata. I note that the same was price sensitive information which could have impacted the price of the scrip. In the light of above observations, I find that Teledata did not comply with Clause 36(7) of Listing Agreement and therefore, has violated Section 21 of SCRA read with Clause 36(7) of Listing Agreement.

67. Thus, I find that AP devised a fraudulent GDR scheme along with Teledata wherein without paying real consideration, Vintage received allotment of GDRs. Further I find that Teledata misled the Indian investors by concealing the information of entering into Pledge Agreement and by informing GDR related news in a distorted manner to stock exchanges which made investors believe that GDRs were genuinely subscribed and caused loss to the shareholders to the tune of USD 32.53 million. I note that in his submissions, Noticee 8 has contended that he is not liable for misinformation supplied by Teledata to the stock exchanges. In this regard, I note that allegations against Noticee 8 relates to him being key person in structuring the GDR Issue of Teledata and is not specific to the misinformation supplied by Teledata to stock exchanges.

68. I note that Vintage was also a wholly owned entity of the Noticee and was part of the fraudulent scheme wherein without paying consideration/subscription money, it received allotment of GDRs in violation of law. Some of such GDRs were transferred by Vintage to other connected entities, who after converting them into underlying shares of Teledata, sold the shares in the Indian securities market.

69. From the scheme as brought out above, it is evident that the scheme was designed to create an impression of receiving funds through GDR subscription. The total GDR issue size was around 3537505 GDRs, through which capital amounting to USD 36.96 million was raised. This wrong impression was aided by Teledata when it gave misleading disclosures about the subscribers to the issue and suppressed information regarding the Pledge conditions of the GDR proceeds pledged with Euram Bank..The GDR subscription was structured in a manner whereby the Noticee 8 controlled subscriber, Vintage, acquired the GDRs without spending a penny, through pledge of the GDRs and GDR proceeds against the loan used for subscription. Thus, no funds actually flowed to the Company i.e.Teledata until Vintage repaid the loans. While Vintage repaid part of the loan, and funds to that extent did flow to Teledata, Vintage defaulted in its loan obligation to the extent off USD 32.35 million. Hence, Teledata did not get equivalent funds against the equity it had issued, leading to a loss to shareholders of Teledata, whose valuations were diluted by the expanded equity capital.

70. In view of the aforesaid facts presented and observations made, I find that Noticees were involved in fraudulent and unfair trade practice relating to securities market, thereby contravening Section 12A(a), (b), (c) of SEBI Act, read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations. I further find that by providing wrongful and misleading information relating to its GDR issue in its Annual Reports and to the stock exchanges, Noticee 1 has violated the provisions of Regulation 4(2)(f), (k), (r) of PFUTP Regulations.

71. In this regard, I also note that Learned Whole Time Member of SEBI , *vide,* his Order dated August 13, 2021, in parallel proceedings initiated by the SEBI involving same matter has also held that Noticees 2-8 have violated Section 12A(a) of SEBI Act and Regulations 3(b) and 4(1) of PFUTP Regulations.

72. Further, I note that Mr K. Balasubramanian, Noticee 2, has passed away on January 22, 2022 as per communication received from his brother vide letter dated February 08, 2022 and has attached along with the aforementioned communication a copy of certificate of death of Noticee 2. In this regard, I note that in Girijandini vs. Bijendra Narain (AIR 1967 SC 2110), the Hon'ble Supreme Court*, inter-alia,* observed that in case of personal action, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives, and in such cases, the maxim *actio personalis moriturcum persona* (personal action dies with the death of the person) would apply. The Hon'ble Securities Appellate Tribunal has also held in Chandravadan J.Dalal v/s. SEBI(Appeal No.35/2004) that, "*The appeal abates since the appellant during the pendency of the appeal died on 29th November, 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates".*

73. Therefore, relying on the aforementioned Order of Hon'ble Supreme Court, I am of the view that the adjudication proceedings initiated against Noticee 2 will not survive and are liable to be abated. Thus, for Noticee 2 , I find that Issue II and III does not require further consideration.

Issue II: Do the violations, if any, attract monetary penalty under:

A. **Sections 15HA of SEBI Act and Section 23E of the SCRA for the alleged violations by Noticee 1?**
B. **Section 15HA SEBI Act for the alleged violations by Noticees 3 to 8?**

74. The above allegations levelled against Noticees in the SCN have been established in the preceding paragraphs. In context of the above, I refer to the observations of Hon'ble Supreme Court in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein the Hon'ble Court had held that: "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established..…..*"

75. Therefore, in view of the findings and placing reliance on the above judgment of Hon'ble Supreme Court, I find that the aforesaid violations committed by Noticee 1 would attract monetary penalty under Sections 15HA of SEBI Act and Section 23E of the SCRA and violations committed by Noticees (excluding Noticee 2) would attract monetary penalty under Sections 15HA of SEBI Act . The aforesaid provisions are reproduced as under:

Section 23E of SCRA: *Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds*
23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.

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

76. Further, I note that in the matters of M/s. NDTV vs. SEBI (Appeal No. 358 of 2015 – Hon'ble SAT's order dated 07.08.2019) and Oasis Securities Ltd. & Ors. vs. SEBI (Appeal No. 316 of 2018 – Hon'ble SAT's order dated 17.03.2020) Hon'ble SAT had upheld the imposition of penalty under Section 23E of SCRA on the appellant companies therein for violation of clauses of Listing agreement. However, I note that

in a subsequent order, the Hon'ble SAT vide its order dated 03.05.2021 in Suzlon Energy Ltd. and Anr. vs. SEBI (Appeal No. 201 of 2018) had set aside the imposition of penalty by AO under Section 23E of SCRA on the ground that the said provision was not applicable to violation of provisions of Listing agreement. I note that the said order has been challenged by SEBI in its appeal before the Hon'ble Supreme Court in Civil Appeal No. 4741 of 2021 titled SEBI vs. Suzlon Energy Ltd & Anr and the matter is pending. Since the legal issue regarding Section 23E of SCRA is under appeal, the enforcement of penalty under Section 23E of SCRA on Noticee 1 shall be subject to the outcome of the aforesaid appeal before the Hon'ble Supreme Court of India.

Issue No.3 - What should be the quantum of monetary penalty?

77. While determining the quantum of penalty under 15HA of the SEBI Act and Section 23E of SCRA , it is important to consider the factors as stipulated in Section 15J of the SEBI Act and Section 23J of SCRA, which read as under:-

SEBI Act

Factors to be taken into account by the adjudicating officer.
Section 15J *- While adjudging quantum of penalty under section 15-I, thadjudicating officer shall have due regard to the following factors, namely:-*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.

SCRA
Factors to be taken into account by adjudicating officer.
Section 23J. -While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely:—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
c) the repetitive nature of the default.

78. In the instant case, it is not possible from the material on record to quantify the amount of disproportionate gain or unfair advantage resulting from the aforesaid default of Noticees or the consequent loss caused to investors as a result of the default. Further, material on record also do not show that violations of Noticees are repetitive in nature. Further, in the Order dated August 13, 2021, the Ld. Whole Time Member of SEBI has debarred *inter alia,* Noticees 2-8 from accessing securities market and further prohibited from buying, selling or dealing in securities, directly or indirectly, in any manner, whatsoever, or being associated with the securities market in any manner, whatsoever, for a period of two (2) years. I further, note that more than 10 years has elapsed since the impugned issue of GDRs by Teledata. However, I note the whole scheme of self financing of the GDR issue of Teledata executed by the Noticees was an elaborate fraud played with respect to the securities market at large involving an amount of USD 36.96 million. Thus, the gravity of the fraudulent conduct of the Noticees cannot be overlooked.

ORDER

79. Having considered all the facts and circumstances of the case, the material available on record and also the factors mentioned in Section 15J of the SEBI Act, as enumerated above, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act and Section 23J of the SCRA read with Rule 5 of the Adjudication Rules, hereby impose following penalty on :

SL No.	Name of the Noticees	Penalty under	Penalty Amount
1.	Teledata Technology Solutions Ltd.	Section 15HA of SEBI Act	Rs.10,00,00,000/-(Rupees Ten Crore Only)
		Section 23E of the SCRA	Rs.10,00,000/-(Rupees Ten Lakh Only)

2.	Mr. N.Sakthivel	Section 15HA of SEBI Act	Rs. 10,00,000/- (Rupees Ten Lakh Only)
3.	Mr.M.S.Ramakrishnan		Rs. 10,00,000/- (Rupees Ten Lakh Only)
4.	Mr. R. Ravichandran		Rs. 10,00,000/- (Rupees Ten Lakh Only)
5.	Mr. G. Jagadish		Rs. 10,00,000/- (Rupees Ten Lakh Only)
6.	Mr. K. Padmanabhan		Rs. 20,00,000/- (Rupees Twenty Lakh Only)
7.	Mr. Arun Panchariya		Rs.20,00,000/- (Rupees Twenty Lakh Only)

80. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the aforementioned Noticees.

81. As noted earlier in the Order, Teledata is under the process of liquidation and in this respect, I hold that penalty imposed with respect to Teledata may be filed as a claim with the Official Liquidator of Teledata.

82. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in.

83. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD – DRA - I, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

1. Case Name:	
2. Name of payee:	

3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

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

85. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticees and also to SEBI.

Place: Mumbai **SOMA MAJUMDER**
Date: May 31, 2022 **ADJUDICATING OFFICER**