BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/KS/AS/2021-22/13573-13600]

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

In respect of

1.	**Shri Jagannath T Poonja** 5, CD, Mona Apartments, 46F, Bhulabhai Desai Road, Mumbai-400026	**2.**	**Jagannath T Poonja (HUF)** 5, CD, Mona Apartments, 46F, Bhulabhai Desai Road, Mumbai-400026
3.	**Ms. Sangeeta Poonja,** 5, CD, Mona Apartments, 46F, Bhulabhai Desai Road, Mumbai-400026	**4.**	**Shri Abhinay Poonja,** 5, CD, Mona Apartments, 46F, Bhulabhai Desai Road, Mumbai-400026
5.	**Ms. Aparna Poonja** 5, CD, Mona Apartments, 46F, Bhulabhai Desai Road, Mumbai-400026	**6.**	**Shri Nimish C Shah,** 13-A, New Woodland CHS, Pedder Road, Mumbai - 400026
7.	**Shri Nimish C Shah (HUF),** 13-A, New Woodland CHS, Pedder Road, Mumbai – 400026	**8.**	**Ms. Jalpa Nimish Shah,** 13-A, New Woodland CHS, Pedder Road, Mumbai - 400026
9.	**Chandulal D Shah (HUF),** 13-A, New Woodland CHS, Pedder Road, Mumbai – 400026	**10.**	**Ms. Indumati C Shah,** 704, Pleasant Park, 65, Pedder road, Mumbai – 400 026
11.	**Shri Shirish Desai,** Sovika Chemicals P Ltd.,	**12.**	**Ms.Usha S Desai,**

B/2, Pareksh Mahel, VN Road, Mumbai- 400 020	V S Road, Prabhadevi, Kirti College Chowk, Mumbai- 400 028
13. C H Gajaria, Qirtas & Gajria, P.O. 387, Safat Kuwait	**14. Ms. Chandralata Gajaria,** 3, Sonawala Road, 67, Marine Drive, Mumbai- 400 020
15. Ms. Chandrika Gajaria, 3, Sonawala Road, 67, Marine Drive, Mumbai- 400 020	**16. Ms. Kusum Gajaria,** 3, Sonawala Road, 67, Marine Drive, Mumbai- 400 020
17. L H Gajaria, Tokyo Technical Corporation, Myogadani Heights, no. 3-5-4, Ohtsuka, Bunkyo Ku, Tokyo 112, Japan	**18. Shri Sohan C Mehta** Flat No. 1307, 13th Floor, Grande Tower, 2 Senapati Bapat Marg, Lower Parel. Mumbai- 400 013
19. Shri Sohan C Mehta HUF, Flat No. 1307, 13th Floor, Grande Tower, 2 Senapati Bapat Marg, Lower Parel. Mumbai- 400 013	**20. Ms Sudha Mehta,** Flat No.23, 7th Floor, Blue Gardenia, Peddar Road, Mumbai- 400 026
21. Shri Sahil Mehta, Flat No.23, 7th Floor, Blue Gardenia, Peddar Road, Mumbai- 400 026	**22. Ms. Mansi Mehta,** Flat No.23, 7th Floor, Blue Gardenia, Peddar Road, Mumbai- 400 026
23. Ms Hiraben Mehta, Flat No.23, 7th Floor, Blue Gardenia, Peddar Road, Mumbai- 400 026	**24. Shri Ketan Dalal,** 9A, Residences, 9th Floor, Bomajee Petit Road, Mumbai- 400 026
25. Umrigar Investment P ltd., KK Chambers, Second Floor, Sir P T Marg, Fort, Mumbai- 400 026	**26. Carmona Investment & finance P Ltd.,** KK Chambers, Second Floor, Sir P T Marg, Fort, Mumbai- 400 026

27. Jamish Investment P Ltd., KK Chambers, Second Floor, Sir P T Marg, Fort, Mumbai- 400 026	28. Ms.Vidhi N Shah, 13-A, New Woodland CHS, 67, Peddar Road, Mumbai- 400 026

In the matter of Fortune Financial Services (India) Ltd
(now The Investment Trust of India Ltd)

BACKGROUND

1. An open offer was made for the acquisition of upto 73,69,958 equity shares having face value of Rs.10/-each, representing 26% of the fully paid voting share capital of Fortune Financial Services (India) Ltd. (now known as The Investment Trust of India Ltd. and hereinafter referred to as ***Fortune/Target Company***) on a fully diluted basis, from the public shareholders at a price of Rs. 100/-per equity share, through a public announcement dated December 04, 2014 by Neostar Developers LLP, Aditya Infotech P Ltd. and Shri Chintan Vijay Valia along with Shri Sudhir V Valia, Ms. Raksha S Valia, Shri Vijay M Parekh and Shri Paresh M Parekh.

2. Securities and Exchange Board of India (hereinafter referred to as ***SEBI***) examined the letter of offer pertaining to aforesaid open offer and observed *interalia* that the following entities violated provisions of Regulations 11(1) and 11(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as ***SAST Regulations, 1997***), and Regulation 30(2) read with 30(3) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as ***SAST Regulations, 2011***) as mentioned below:

Sr. No	Entity Name	Alleged Violation of provisions
1	Nimish C Shah	• Noticee 1 to 14 allegedly violation provisions of Regulations 11(1) and 11(2) of SAST Regulations, 1997 and Regulation 30(2) read with
2	J T Poonja	
3	Sangeeta Poonja	
4	Abhinay Poonja	
5	Aparna Poonja	
6	Umrigar Investment Pvt. Ltd.	
7	Jalpa Nimish Shah	
8	Indumati C Shah	

9	Nimish C Shah HUF	Regulation 30(3) of SAST Regulations, 2011 • Noticee 15 to 26 allegedly violated provisions of Regulations 11(1) and 11(2) of the SAST Regulations, 1997 • Noticee 27 and 28 allegedly violated provisions of Regulation 30(2) read with 30(3) of the SAST Regulations, 2011
10	Sohan C Mehta	
11	Sohan C Mehta HUF	
12	J T Poonja (HUF)	
13	Sudha Mehta	
14	Sahil Mehta	
15	Chandulal D Shah (HUF)	
16	Shirish Desai	
17	Usha S Desai	
18	C H Gajaria	
19	Chandralata Gajaria	
20	Chandrika Gajaria	
21	Kusum Gajaria	
22	L H Gajaria	
23	Mansi Mehta	
24	Hiraben Mehta	
25	Ketan Dalal	
26	Carmona Investments & finance P ltd.	
27	Jamish Investment P Ltd.	
28	Vidhi N Shah	

The entities mentioned above are hereinafter individually referred to by their ***respective names/ Noticee number*** and collectively referred to as ***Noticees/you***.

APPOINTMENT OF ADJUDICATING OFFICER

3. In this regard, SEBI initiated Adjudication Proceedings against the Noticees and appointed Ms. Rachna Anand as the Adjudicating Officer, conveyed vide communique dated July 15, 2016 under Section 15-I of the SEBI Act, 1992 and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as ***Adjudication Rules, 1995***) to inquire and adjudge under Section 15 A(b) of the SEBI Act, 1992 the alleged violation of Regulation 30(2) read with 30(3) of the SAST Regulations, 2011 and under Section 15H(ii) of the SEBI Act, 1992 the alleged violation of provisions of Regulation 11(1) and 11(2) of the SAST Regulations, 1997 by the Noticees as stated above. Thereafter, the matter was transferred to Shri Jeevan Sonparote, and pursuant to his transfer, to Shri V S Sundaresan. Finally, pursuant to transfer of Shri V S Sundaresan, the undersigned was appointed as Adjudicating Officer in the matter, conveyed vide communique dated December 26, 2019.

<u>SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING</u>

4. A Common Show Cause Notice dated January 01, 2019 (hereinafter referred to as ***SCN***) was issued by the erstwhile AO to Noticees in terms of Rule 4 of the Adjudication Rules, 1995 read with Section 15-I of the SEBI Act, 1992 to show-cause as to why an inquiry should not be initiated and penalty be not imposed under Section 15 A(b) for the alleged violation of the provisions of Regulations 30(2) read with 30(3) of the SAST Regulations, 2011 and under Section 15 H(ii) for the alleged violation of the provisions of Regulations 11(1) and 11(2) of the SAST Regulation, 1997. The allegations made in the SCN are reproduced below:

- *SEBI, received a Letter of Offer(s), filed by Sharyans Resources Ltd., Aditya Infotech P Ltd., Fine Estates P Ltd and Neostar Developers LLP along with Persons Acting in Concert ('**PAC'**) namely Sudhir V Valia, Raksha S Valia, Vijay M Parekh and Paresh M Parekh to acquire 26% of the voting share capital of Fortune in 2013.*

- *SEBI, while examining the letter of offer document, has observed that Nimish Shah, the promoters of Fortune and a noticee had acquired 8.098% of the share capital of the Company, due to which the total holdings of the promoters of Fortune had increased to 70.208% of the share capital of Fortune from 62.12% of the share capital. Usha Desai, another promoter of FFSL and a noticee had acquired 8.248% of the share capital of FFSL on January 14, 2000, which resulted in increase in promoter's holdings in FFSL to 76.37% from the holding of 68.13% of the share capital of FFSL.*

- *Further, on June 30, 2006, Nimish C Shah (HUF), acquired 9.874% shares of Fortune, which resulted in increase in promoter's holdings of Fortune to 77.88% of the share capital of Fortune. On August 21, 2007 and July 31, 2008, Carmona Investment, promoter of Fortune had acquired 0.40% and 0.520% of the share capital of Fortune, which resulted in increase in the holdings of the promoters of Fortune from 59.03% to 59.95% of the share capital of Fortune.*

- *Further, Sohan Mehta, Promoter of Fortune and a noticee, on August 31, 2007 had acquired 0.94% of the share capital of Fortune, which resulted in increase in the holdings of the promoters of Fortune to 60.89% of the share capital of Fortune. The list of promoters of Fortune for the period / quarters ended September 20, 1999, January 14, 2000, June 30, 2006, August 21, 2007 and August 30, 2007 as provided by FFSL vide email dated August 24, 2017, as enclosed was provided as an Annexure to the SCN.*

- *Thus, the promoters of Fortune, namely the noticees at Sr. No. 1-30 are alleged to have violated of provisions of SAST Regulations, 1997 and SAST Regulations, 2011 respectively for not making open offer for the transactions on September 20, 1999, January 14, 2000, June 30, 2006, August 21, 2007, and August 30, 2007. Accordingly, it is alleged that the promoters of Fortune at Sr. No. 1-30 have violated Regulation 11(1) and Regulation 11(2) of SAST Regulations, 1997.*

- *Also, while examining the letter of Offer document filed, it is observed that the promoters of FFSL, noticees at Sr. No. 1-32 have failed to disclose their aggregate shareholding and voting rights in Fortune within the stipulated time of seven working days from the end of each financial year to the stock exchange and the Company. Thus, the promoters at Sr. no. 1-14, 31-32 are alleged to have violated Regulation 30(2) read with Regulation 30(3) of SAST Regulations, 2011. A copy of email of BSE dated July 14, 2015 detailing the date on which the disclosure was filed by promoters of FFSL to BSE is enclosed was provided as an annexure to the SCN.*

5. The status of delivery of SCN and further communication thereafter with each of the Noticees is detailed below:

5.1 Shri Jagannath T Poonja; Jagannath T Poonja (HUF); Ms. Sangeeta Poonja; Shri Abhinay Poonja; Ms. Aparna Poonja; Mr. Nimish C Shah; Nimish C Shah (HUF); Ms. Jalpa Nimish Shah; Chandulal D Shah HUF; Ms. Indumati C Shah; Shri Shirish Desai; Ms. Usha S Desai; Shri Sohan C Mehta; Sohan C Mehta (HUF); Ms. Sudha Mehta; Shri Sahil Mehta; Ms. Mansi Mehta; Umrigar

<u>Investment Pvt. Ltd.; Jamish Investment Pvt. Ltd.; Ms. Vidhi N Shah</u> (*Noticee group 1*)

The common SCN dated January 01, 2019 was served on the Noticees vide Speed Post Acknowledgement Due (SPAD).

Vide letter dated January 15, 2019, Ms. Vidhi N Shah conveyed that she was a minor on the date of non-compliance alleged in the SCN

Vide letter dated January 18, 2019, Finsec Law Advisors submitted *vakalatnama*, intimating its appointment as the Authorized Representative (AR) for *Noticee group 1* except Ms Vidhi N Shah and Chandulal D Shah (HUF) (viz. Shri Jagannath T Poonja; Jagannath T Poonja (HUF); Ms. Sangeeta Poonja; Shri Abhinay Poonja; Ms. Aparna Poonja; Mr. Nimish C Shah; Nimish C Shah (HUF); Ms. Jalpa Nimish Shah; Ms. Indumati C Shah; Shri Shirish Desai; Ms. Usha S Desai; Shri Sohan C Mehta; Sohan C Mehta (HUF); Ms. Sudha Mehta; Shri Sahil Mehta; Ms. Mansi Mehta; Umrigar Investment Pvt. Ltd.; Jamish Investment Pvt. Ltd.). Also, vide the aforesaid email, the AR intimated that they had not made the purchase of shares of the target company, as alleged in the SCN. Further, the AR requested for information/ documents evidencing such acquisition of shares of the target company to the Noticees, including trade details and stock exchange data, and also requested for other documents, apart from annexures to the SCN, relied upon in issuing the SCN.

Vide letter dated February 10, 2020, AR was granted opportunity of personal hearing as regards the aforesaid 18 Noticees i.e. *Noticee group 1* except Ms Vidhi N Shah and Chandulal D Shah HUF on March 02, 2020. Vide letter dated February 18, 2020, AR requested for adjournment of personal hearing in the matter, and also reiterated that the aforesaid 18 Noticees had not made the purchase of shares as alleged in the SCN, and also reiterated their request for certain additional documents/ information apart from annexures to the SCN. Vide email dated February 27, 2020, AR intimated that it was representing Chandulal D Shah HUF in the matter as well, and reiterated the submissions made for the other 18 Noticees vide email dated January 18, 2019 and February 18, 2020, with regard to Chandulal D Shah HUF as well.

Vide letter dated February 17, 2020, Ms. Vidhi N Shah was granted opportunity of personal hearing on March 02, 2020. Vide letter dated February 26, 2020, Ms. Vidhi N Shah reiterated that she was a minor at the time of alleged non-compliance. She provided a copy of her birth certificate, and also cited judgement of the Hon'ble Supreme Court in the matter of Ritesh Agarwal and Anr. Vs SEBI, and judgement of the Hon'ble SAT in the matter of Vatsal Agarwal vs SEBI, in this regard.

Vide letter dated March 11, 2020, AR was intimated that acceding to its request, inspection of documents relied upon in the matter was granted, and the aforesaid letter was forwarded to Enforcement Department of SEBI (EFD). Vide email dated November 26, 2020, EFD informed the undersigned that inspection of documents in the matter was granted to AR. Vide email dated December 02, 2020, AR was granted time till December 09, 2020 and also, an opportunity of personal hearing was granted on December 11, 2020. Vide letter dated December 04, 2020, AR conveyed that all the documents relied upon in the SCN had not been provided to it. Further, AR again requested for certain additional documents vide the aforesaid letter, and also, requested for adjournment of personal hearing in the matter.

Vide email dated December 22, 2020, the name of natural guardian of Ms Vidhi N Shah was sought from the aforesaid AR, who was representing other entities forming part of *Noticee group 1*. Vide email dated December 23, 2020, the said AR conveyed that the natural guardian of Ms. Vidhi N Shah was Mr Nimish C Shah. Vide email dated December 30, 2020, AR conveyed that it would be representing Ms Vidhi N Shah in the matter as well, along with other Noticees of *Noticee group 1*.

Vide emails dated December 31, 2020, AR was granted another opportunity of personal hearing on January 18, 2021 as regards *Noticee group 1*, and was conveyed the following comments in respect of the documents sought by it as regards the matter:

Sr. no.	Documents sought by Noticees	Comments of office of AO
a.	*Trade logs evidencing the alleged acquisition of shares of the Company by the Noticees*	*No market trades have been brought out in the SCN thus request for trade logs is unfounded.*
b.	*Any letters / emails / communication between BSE and SEBI pertaining to the alleged acquisitions of shares of the Company and the alleged non-disclosures by the Noticees; apart from the emails provided as part of Annexure 3 and 4 of the SCN.*	*Query is vague and general. Though the documents were already provided in the CD along with the SCN. The same is provided herewith **once again** at **Annexure 'A'** at page 1 to 18, i.e. (i) Email dated Aug 07, 2017 along with the trailing emails dated Aug 03, 2017 and July 13, 2015; (ii) Email dated July 27, 2017 along with the trailing emails dated July 10, 2017; June 28, 2017; (iii) Email dated April 17, 2018 along with the trailing email dated April 12, 2018*
c.	*Any letters / emails / communication between Elara Capital and SEBI pertaining to the alleged acquisitions of shares of the Company and the alleged non-disclosures by the Noticees, including but not limited to, the email dated Jan 29, 2014 sent by SEBI to Elara Capital;*	*Query is vague and general. However, letters dated Jan 24, 2014 and Feb 25, 2014 is provided herewith at **Annexure 'B'** at page 19 to 37. Further, email dated Jan 29, 2014 is not relied upon in the SCN.*
d.	*Any letters / emails / communication between the company and SEBI pertaining*	*Query is vague and general. Though the documents were already provided in the CD along*

	to the alleged acquisitions of shares of the Company and the alleged non-disclosures by the Noticees.	*with the SCN. The same is provided herewith once again at* ***Annexure 'C'*** *at page 38 to 49, i.e. Email dated March 13, 2018 along with the trailing emails dated Jan 21, 2016; Jan 27, 2016; August 09, 2017; August 24, 2017; Jan 22, 2018.*
e.	*Any examination report prepared analysing the alleged trades / acquisition of shares in the Company by the Noticees*	*Relevant extracts of Examination report pertaining to the Noticees are enclosed herewith at* ***Annexure 'D'*** *at page 50 to 54.*
f.	*Any other information, other than the documents provided as annexure to the SCN, relied upon by SEBI while issuing the SCN.*	*Query is vague and general.*

Vide email dated January 14, 2021, AR confirmed its appearance for hearing scheduled on January 18, 2021. Vide email dated January 17, 2021, AR submitted reply to the SCN as regards *Noticee group 1*. The main contentions made therein are summarized below:

- The SCN has been issued after an inordinate delay, which gravely prejudices the Noticees. In this regard, AR cited judgement of the Hon'ble SC in the matter of Government of India vs Citadel Fine Pharmaceutical Madaras & Ors and of the Hon'ble SAT in the matters of AstraZeneca Pharma India Ltd vs SEBI, Parag Sarda vs SEBI, Sanjay Jethalal Soni & Ors. Vs SEBI, Rakesh Kathotia & Ors. Vs SEBI and Ashok Shivlal Rupani and Anr. Vs SEBI.
- Noticees had sold their shareholding in the target company around 2014 and are no longer part of promoter group of the target company. Noticees are only associated with the target company as minority shareholders now.

Since the SCN pertains to event that occurred close to 20 years ago, the Noticees no longer have any reasonable personal or institutional memories of the event that transpired at that time and the issuance of SCN to Noticees as a delayed stage is prejudicial.

- The SCN is vague and unclear. The SCN does not provide any details about the trades by which shares of target company were acquired by Noticees, and the provisions which are allegedly violated on such acquisition which gave rise to the obligation on the Noticees to make open offers on various occasions. For instance, as part of annexure 4 to the SCN, two documents are provided which contain emails sent by BSE Ltd to SEBI on July 14, 2015 and April 17, 2017, wherein the date of receipt of disclosures for the year ended March 31, 2012 from the disclosure Noticees in the two documents is different. In this regard, AR cited judgement of the Hob'ble SAT in the matter of Dhanalakshmi Bank Ltd vs SEBI and Vikas G Bengani vs Adjudicating Officer, SEBI, and of the Hon'ble SC in the matter of Commissioner of Central Excise, Bangalore vs Brindavan Beverages (P) Ltd and Ors., Canara Bank & Ors. Vs Debasis Das & Ors., Sanjay Kumar Gupta vs SEBI and M/s Swarnaganga Trading Pvt Ltd vs SEBI.
- The SCN is self-contradictory. For instance, paragraph 4 of the SCN alleges that Ms. Usha Desai acquired 8.248% of the share capital of the target company on January 14, 2000. However, a perusal of annexure 3 to the SCN contradicts this allegations, as contrary to what is alleged in the SCN, Ms. Usha Desai's shareholding in fact decreased to 0.03% on January 14, 2000 from 0.20% earlier on September 20, 1999.
- Noticees have been prejudiced by the lack of information provided by SEBI. AR had requested SEBI to provide all the documents relied upon in the SCN vide letters dated Janaury 18, 2019, February 18, 2020, February 27, 2020 and December 04, 2020. In this regard, AR cited judgement of the Hon'ble SC in the matter of Natwar Singh vs Director of Enforcement and Anr, and of the Hon'ble SAT in the matter of Shruti Vora vs SEBI and Ms. Smitaben N Shah vs SEBI.

- Detailed Submissions:
    - It is denied that Nimish C Shah acquired 8.09% of share capital of the target company on September 20, 1999. The SCN does not provide any evidence to prove that such a transaction had taken place. Noticees have found a 'Disclosure of Shareholding' document filed by target company with BSE on November 13, 1999, wherein the company has stated that there had been no change in shareholdings of the promoters from the date of closure of books i.e. August 18-21, 1999 till the date of document i.e. November 13, 1999. Further, the shareholding of Nimish C Shah as per the aforesaid document is 466602 shares, which is exactly the same of his shareholding on September 20, 1999, after the alleged acquisition of shares of the target company as per the SCN.
    - It is denied that Ms. Usha Desai acquired 8.248% of share capital of the target company on January 14, 2000, increasing the total promoter shareholding to 76.37%. Further, as per annexure 3 to the SCN, the shareholding of Ms. Usha Desai, which was 8900 shares/ 0.03% on September 20, 1999, marginally reduced to 1000 shares or 0.03%. Thus, as per annexures to the SCN itself, it is clear that Ms. Usha Desai had not acquired any shares on January 14, 2000.
    - It is denied that Nimish C Shah (HUF) acquired 9.47% of the share capital of the target company on June 30, 2006, increasing the total promoter shareholding to 77.88%. Shareholding of Nimish C Shah (HUF) had not changed from March 31, 2006 to September 30, 2006. Further, the shareholding of promoter group remained consistent at 77.88% during this period and had not increased as alleged in the SCN.
    - Carmona Investment was not a part of the promoter group of the company, and Noticees are unaware of any acquisition of shares by it in the FY 2007-08 to FY 2008-09. This contention is supported

by the document shared with the Noticees by SEBI through email on December 31, 2020.

- It is denied that Sohan C Mehta acquired 0.945 of the share capital of the target company on August 31, 2007. Even as per publicly available shareholding pattern on the website of BSE Ltd, the shareholding of Sohan C Mehta for the quarters ending June 30, 2007 and September 30, 2007 is the same i.e. 94,800 shares.
- Disclosures under Regulation 30(2) read with 30(3) of the SAST Regulations, 2011 for the year ended March 31, 2012 have been made within due date.
- There is a delay of merely 5 days for filing of disclosures for the year ended March 31, 2013 required under provisions of Regulation 30(2) read with 30(3) of the SAST Regulations, 2011. Such delay is purely technical and completely unintentional. In this regard, AR cited judgement of the Hon'ble High Court of Bombay in the matter of SEBI vs Cabot International Capital Corporation, and of the Hon'ble SAT in the matters of AstraZeneca Pharma India Ltd & Anr. Vs SEBI, and Rakesh Kathotia & Ors. Vs SEBI.

The personal hearing in matter was held on January 18, 2021 through video conferencing over webex platform. During the course of hearing, ARs raised certain concerns with regard to the documents made available to them. In view of the same, ARs were granted an opportunity to reconcile the documents/ data given to them on January 19, 2021 in premises of SEBI Headquarters, Mumbai and further, it was conveyed to them that once the said reconciliation was over, another hearing would be scheduled.

Vide email dated January 22, 2021, it was conveyed to the AR that he attended the reconciliation of documents on January 19, 2021 and had submitted reply to the SCN submitted vide letter dated January 17, 2021. Further, vide email dated March 31, 2021, following was conveyed to the AR:

(i) You have acknowledged the receipt of certain documents as provided by Office of Adjudicating Office (Office of AO) vide email dated December 31, 2020 acceding to your request thereof.

(ii) In your reply (sub-point IV. Preliminary Submissions) as continued at para 22 at page 8, reads as " Paragraph 4 of the SCN alleges that Mr. Nimish Shah had acquired 8.098% of the share capital of the company. It is submitted that no particulars of such acquisition nor any verifiable documents disclosing details of such acquisition have been provided in the SCN. Further, even the date or year of such acquisition have been provided in the SCN. Further, even the date or year of such acquisition is not provided in Paragraph 4. It is left to the Noticees to determine the date of the alleged acquisition from a holistic review of the SCN and the annexures."

The said details of acquisitions as sought by Noticees, were verified with Operations department of SEBI (OD). OD in their response stated that the desired information has been obtained from Merchant Banker (MB) through email dated March 01, 2021. (From the said email, it is noted that MB submitted the acquisition details through a copy of letter dated January 24, 2014 which was submitted to SEBI on earlier occasion i.e. on January 27, 2014.) The said information was already shared with the Noticees by Office of AO vide email dated December 31, 2020 {as also mentioned in point (i) above} while acceding to their request for "any letters / emails / communication between Elara Capital and SEBI pertaining to the alleged acquisitions of shares of the Company and the alleged non-disclosures by the Noticees, including but not limited to, the email dated Jan 29, 2014 sent by SEBI to Elara Capital".

Further, vide aforesaid email, AR was granted opportunity of personal hearing on March 31, 2021. The personal hearing was held in the matter on March 31, 2021 through video conferencing over webex platform. During the course of hearing, the AR reiterated submissions made by it vide letter dated January 17, 2021 and also, stated that the Noticees represented by him were promoters of the target company and were 'persons acting in concert'. Vide email dated March 31, 2021, AR acknowledged receipt of the record of proceedings, and also brought into attention the following typographical error in its reply dated January 17, 2021:

"*As on January 01, 2020, this marginally reduced to 1000 shares, or 0.03%*

Kindly request you to read this as,

As on January 14, 2000, this marginally reduced to 1000 shares, or 0.03%"

5.2 Carmona Investment & Finance Ltd

The common SCN dated January 01, 2019 was sent to the Noticee vide SPAD. Vide letter dated January 22, 2019, Noticee conveyed the following:

- It was not a promoter of the target company or the promoter group.
- It was never a 'person acting in concert' with the promoter and promoter group of the company.
- In SEBI order no 34 dated August 28, 2000 against Mr J T Poonja, its was accepted that Noticee was not part of the promoter or promoter group of the target company. Therefore, acquisition of 0.520% of shares of the target company does not amount to creeping acquisition and does not require disclosure under Regulation 11 of the SAST Regulations, 2011 from Noticee.

Vide letter and email dated February 10, 2020, Noticee was granted opportunity of personal hearing on March 02, 2020. The email ID on which the aforesaid email was sent was provided by the Noticee along with its letter dated January 22, 2019. However, no communication was received from Noticee in this regard. Further, vide email dated December 31, 2020, Noticee was granted opportunity of personal hearing on January 18, 2021. However, no communication was received from Noticee in this regard.

Further, vide letter dated March 22, 2021, Noticee was granted opportunity of personal hearing on March 31, 2021. The said hearing notice was sent to the Noticee vide hand delivery/ affixture. However, the notice could not be delivered.

Therefore, Noticee was granted opportunity of personal hearing on April 30, 2021 vide publication dated April 21, 2021. However, no communication was received from Noticee as regards personal hearing in the matter.

5.3 Hiraben Mehta

The common SCN dated January 01, 2019 was sent to the Noticee vide SPAD. However, the said notice could not be delivered. Thereafter, pursuant to appointment of the undersigned as Adjudicating Officer in the matter, copy of the SCN along with the covering letter dated January 17, 2021 was sent to the Noticee vide hand delivery/ affixture. However, the said letter along with copy of SCN could not delivered/ affixed. Therefore, vide publication dated December 30, 2020, Noticee was served the SCN and was also granted opportunity of personal hearing on October 06, 2020. However, no reply was received from Noticee in this regard.

5.4 Ketan Dalal

The common SCN dated January 01, 2019 was served on the Noticee vide SPAD. Vide letter dated February 10, 2020, Noticee was granted opportunity of personal hearing on March 03, 2020. Vide email dated February 24, 2020, Noticee informed that he would attend personal hearing scheduled in the matter and also, that he was never a promoter of Fortune. Vide letter dated February 29, 2020, Fortune submitted the following:

- Noticee and any of his relatives had never been a promoter of Fortune. There were a couple of instances wherein he and his relatives were incorrectly mentioned as promoter.
- Noticee had been a director of Fortune, and he resigned w.e.f. July 25, 2001 as per intimation of his resignation submitted to BSE on September 12, 2001.

Further, vide email and letter dated February 29, 2020, Noticee submitted that he was not a promoter of Fortune. Also, vide aforesaid letter, he requested for inspection of documents relied upon in the SCN and for adjournment of personal hearing scheduled on March 03, 2020.

Vide letter dated March 11, 2020, Noticee was informed that his request for inspection of documents was forwarded to EFD. Vide letter and email dated September 25, 2020, Noticee acknowledged that inspection of the documents was undertaken by ARs of the Noticee on September 23, 2020. Also, Noticee made the following submissions as regards the SCN vide aforesaid letter:

- Noticee submitted that during the inspection of documents, no other documents could be made available basis which he could be considered as promoter of Fortune, except Annexure 3 to the SCN which carried the list of promoters submitted by Fortune. However, Noticee submitted that his name was mentioned in said list erroneously.
- Fortune vide its letter dated February 29, 2020 had acknowledged the error made it by including the name of Noticee in the list of promoters.
- Noticee was only associated with Fortune as independent director, from which he resigned with effect from July 25, 2001.

Vide email dated October 20, 2020, AR of the Noticee again forwarded its submissions dated September 25, 2020 to EFD, which were forwarded by EFD to the undersigned thereafter.

Vide email dated December 31, 2020, Noticee was granted opportunity of personal hearing on January 18, 2021. Noticee confirmed its appearance for hearing vide email dated December 31, 2020. The personal hearing was held on the scheduled date. During the course of hearing, Noticee reiterated submissions made in his reply dated February 29, 2020 and September 25, 2020. Hearing minutes are on record.

Vide email dated February 22, 2021, Noticee reiterated that he was never a promoter of Fortune, and that Fortune itself had certified the same vide letter dated February 26, 2020. Noticee further stated that he was in practice from 1981 till 2017, and submitted the following documents to corroborate the same:

- The Institute of Chartered Accountant of India (ICAI) membership document dated June 30, 2017 which showed that his certificate of practice was issued on February 20, 1981.
- The letter dated August 03, 2017 from ICAI which showed that his certificate of practice was cancelled from July 31, 2017.

5.5 L H Gajaria, Kusum Gajaria, Chandrika Gajaria, Chandralata Gajaria, C H Gajaria (*Noticee group 2*)

The common SCN dated January 01, 2019 was sent to the Noticee group 2 vide SPAD. Vide letter dated January 12, 2019, Shri C H Gajaria submitted the following on behalf of *Noticee group 2*:

- *Notice group 2* comprised of family members, who acquired 3,00,000 equity shares of Fortune in 1992 by original subscription at the face value of Rs 10 per share. Subsequently, Fortune issued bonus shares, rights issue and public issue from time to time, and the aggregate holding of the family was 8,88,000 shares.
- Shares held by Shri H R Gajaria were inherited by Ms Tara Gajaria. Shares held by Noticee group 2 were gifted to Ms Tara Gajaria in FY 2000-01. Thus, Tara Gajaria held 8,88,000 shares as on 26.03.2021. Ms Tara Gajaria sold her entire holding of 8,88,000 shares to Shri J T Poonja and Shri Nimish C Shah at mutually agreed price of Rs 5 per share on 26.03.2001. Thereafter, entire shareholding of family was transferred to the above named persons and they held nil shares on 26.03.2001.
- *Noticee group 2* was not aware of subsequent transfer of shares made by Shri J T Poonja and Shri Nimish C Shah.
- *Noticee group 2* were not party to the transactions made by Shri J t Poonja and Shri Nimish C Shah, and hence, were not liable for compliance of SEBI Regulations.

Vide letter dated February 10, 2020, AR of the Noticee group 2 was granted opportunity of personal hearing on March 02, 2020. Vide letter dated February 29, 2020, AR *interalia* submitted the following:

- *Noticee group 2* had not dealt with Shri J T Poonja and Shri Nimish Shah, as their shares were gifted to Mrs Tara Gajaria in 2000, and therefore, they were only *inter se* promoters along with Mrs Tara Gajaria. Noticee group 2 were not aware of any deal made by Shri J T Poonja and Shri Nimish Shah in respect of Fortune and were not party to the open offer.
- *Noticee group 2* is not connected to the impugned transactions

- The response dated February 29, 2020 may be treated as compliance with hearing fixed on March 02, 2020 in the matter.

CONSIDERATION OF ISSUES AND FINDINGS

6. Considering the findings of Investigation, the allegations made out in the SCN and the submissions made by the Noticees, I find that following issues require consideration in the present case:
   - **(a) Whether the Noticees 1 to 26 violated provisions of Regulation 11(1) and Regulation 11(2) of SAST Regulations, 1997?**
   - **(b) Whether the Noticees 1 to 14 and Noticee 27 and 28 violated provisions of Regulation 30(2) read with Regulation 30(3) of SAST Regulations, 2011?**
   - **(c) Do the violations, if any, attract penalty under Section 15H(ii) and/ or Section 15A(b) of the SEBI Act, 1992?**
   - **(d) If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of the SEBI Act, 1992?**

7. Before moving forward, I find it relevant to mention provisions of the SAST Regulations, 1997 and the SAST Regulations, 2011 which are alleged to be violated by the Noticees:

SEBI (SUBSTANTIAL ACQUISTION OF SHARES AND TAKEOVERS) REGULATIONS), 1997

Consolidation of holdings.

11. (1) No acquirer who, together with persons acting in concert with him, has acquired, in accordance with the provisions of law, [1][15 per cent or more but less than [2][fifty five per cent (55%)]] of the shares or voting rights in a company, shall acquire, either by himself or through or with persons acting in concert with him,

---

[1] *Substituted for "not less than 10% but not more than 51%" by the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 1998, w.e.f. 28-10-98.*

[2]*Substituted for —75%‖ by the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2005, w.e.f. 3-1-2005*

additional shares or voting rights entitling him to exercise more than [3][5% of the voting rights],[4][with post acquisition shareholding or voting rights not exceeding fifty five per cent.,] [5][in any financial year ending on 31st March] unless such acquirer makes a public announcement to acquire shares in accordance with the regulations.

[6][(2) No acquirer, who together with persons acting in concert with him holds, fifty-five per cent (55%) or more but less than seventy-five per cent (75%) of the shares or voting rights in a target company, shall acquire either by himself or through [7][or with] persons acting in concert with him any additional shares [8][entitling him to exercise voting rights] or voting rights therein, unless he makes a public announcement to acquire shares in accordance with these Regulations: Provided that in a case where the target company had obtained listing of its shares by making an offer of at least ten per cent (10%) of issue size to the public in terms of clause (b) of sub-rule (2) of rule 19 of the Securities Contracts (Regulation) Rules, 1957, or in terms of any relaxation granted from strict enforcement of the said rule, this sub-regulation shall apply as if for the words and figures seventy-five per cent (75%)', the words and figures ninety per cent (90%)' were substituted.]

---

[3] *Substituted for —10% of the voting rights‖ by the SEBI (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2002, w.e.f. 1-10-2002. Earlier it was substituted for —5% of the voting rights‖ by the SEBI (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2001, w.e.f. 24-10-2001.*

[4] *Inserted by the SEBI (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2009, w.e.f. 6-11-2009.*

[5] *Substituted for the words —in any period of 12 months‖ by the SEBI (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2002, w.e.f. 9-9-2002*

[6] *Substituted by the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2006, w.e.f. 26-5-2006. Prior to its substitution, sub-regulation (2), as amended by the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2005, w.e.f. 3-1-2005 and SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 1998, w.e.f. 28-10-1998, read as under: —(2) An acquirer, who together with persons acting in concert with him has acquired, in accordance with the provisions of law, fifty five per cent (55%) or more but less than seventy five per cent (75%) of the shares or voting rights in a target company, may acquire either by himself or through persons acting in concert with him any additional share or voting right, only if he makes a public announcement to acquire shares or voting rights in accordance with these regulations*

[7] *Inserted by the SEBI (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2009, w.e.f. 6-11-2009*

[8] *Inserted by the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2008, w.e.f. 31-10-2008*

[9][Provided further that such acquirer may, [10][notwithstanding the acquisition made under regulation 10 or sub-regulation (1) of regulation 11,] without making a public announcement under these Regulations, acquire, either by himself or through or with persons acting in concert with him, additional shares or voting rights entitling him upto five per cent. (5%) voting rights in the target company subject to the following:-

(i)the acquisition is made through open market purchase in normal segment on the stock exchange but not through bulk deal /block deal/ negotiated deal/ preferential allotment; or the increase in the shareholding or voting rights of the acquirer is pursuant to a buyback of shares by the target company;

(ii)the post-acquisition shareholding of the acquirer together with persons acting in concert with him shall not increase beyond seventy five per cent. (75%).]

SEBI (SUBSTANTIAL ACQUISTION OF SHARES AND TAKEOVERS) REGULATIONS, 2011

Continual disclosures.

30(2) The promoter of every target company shall together with persons acting in concert with him, disclose their aggregate shareholding and voting rights as of the thirty-first day of March, in such target company in such form as may be specified.

(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within seven working days from the end of each financial year to,—

(a) every stock exchange where the shares of the target company are listed; and

(b) the target company at its registered office.

[9] *Inserted by the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2008, w.e.f. 31-10-2008*

[10] *Inserted by the SEBI (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2009, w.e.f. 6-11-2009*

8. I note that Noticees have raised certain preliminary contentions, which merit consideration first. Noticees have *interalia* contended that the SCN has been issued after an inordinate delay, which has gravely prejudiced Noticees, and that since the SCN pertains to events that occurred close to 20 years ago, the Noticees no longer have any reasonable personal or institutional memories of the event that transpired at that time and the issuance of SCN to Noticees at such a delayed stage is prejudicial. I note that SEBI received a letter of offer dated February 25, 2014, basis which it investigated the alleged violation of provisions of SAST Regulations, 1997 and SAST Regulations, 2011 *interalia* by Noticees. The scope of investigation covered analysis of acquisition of shares by promoters, pursuant to which adjudication proceedings were approved in the matter on January 08, 2016. Thereafter, vide an order dated April 25, 2016, Ms. Rachna Anand was appointed as AO in the matter, conveyed vide communique dated July 15, 2016. Further, pursuant to routine transfer of matters among the AOs, the undersigned was appointed as AO, conveyed vide communique dated December 26, 2019. Also, the inquiry proceedings in the matter involved serving SCNs and Hearing Noticees as per Rule 7 of the Adjudication Rules, 1995, and further, providing opportunities of personal hearings as regards each of the Noticees. In view of the same, I note that the time taken for completion of investigation, for issuance of SCNs and conducting personal hearing for a large number of Noticees cannot be termed as unreasonable delay. I also rely on the judgement of the Hon'ble SAT in the matter of Bipin R Vora vs SEBI (decided on March 22, 2006), wherein it was held that,

> "*As regards the plea of delay and latches and submission that the show cause notice is barred by limitation, I do not find any merit in these contentions as the time and efforts involved in an investigation though may vary from case to case, generally investigations per-se is a time consuming process which invariably involve collection, scrutiny and careful examination of voluminous records/ order-trade details of all the concerned including the exchanges/recording of statements etc. and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market*".

Therefore, I note that contentions of Noticees in this regard are without merits.

9. Noticees have further contended that they have been prejudiced by the lack of information provided by SEBI, which had been sought by them vide letters dated January 18, 2019, February 18, 2020, February 27, 2020 and December 04, 2020. I note in this regard that the Noticees carried out inspection of documents relied upon in the SCN, as acknowledged by them vide letter dated December 04, 2020. However, Noticees requested for additional documents vide aforesaid letter, so that vide email dated December 31, 2020, Noticees were provided certain additional documents as detailed below:

Sr. no.	***Documents sought by Noticees***	***Comments of office of AO***
a.	*Trade logs evidencing the alleged acquisition of shares of the Company by the Noticees*	*No market trades have been brought out in the SCN thus request for trade logs is unfounded.*
b.	*Any letters / emails / communication between BSE and SEBI pertaining to the alleged acquisitions of shares of the Company and the alleged non-disclosures by the Noticees; apart from the emails provided as part of Annexure 3 and 4 of the SCN.*	*Query is vague and general. Though the documents were already provided in the CD along with the SCN. The same is provided herewith* ***once again*** *at* ***Annexure 'A'*** *at page 1 to 18, i.e. (i) Email dated Aug 07, 2017 along with the trailing emails dated Aug 03, 2017 and July 13, 2015; (ii) Email dated July 27, 2017 along with the trailing emails dated July 10, 2017; June 28, 2017; (iii) Email dated April 17, 2018 along with the trailing email dated April 12, 2018*
c.	*Any letters / emails / communication between Elara Capital and SEBI pertaining to the alleged acquisitions of shares of the Company and the alleged non-disclosures by the Noticees, including but not limited to, the email dated Jan 29, 2014 sent by SEBI to Elara Capital;*	*Query is vague and general. However, letters dated Jan 24, 2014 and Feb 25, 2014 is provided herewith at* ***Annexure 'B'*** *at page 19 to 37. Further, email dated Jan 29, 2014 is not relied upon in the SCN.*
d.	*Any letters / emails / communication between the company and SEBI*	*Query is vague and general. Though the documents were already provided in the*

	pertaining to the alleged acquisitions of shares of the Company and the alleged non-disclosures by the Noticees.	*CD along with the SCN. The same is provided herewith once again at **Annexure 'C'** at page 38 to 49, i.e. Email dated March 13, 2018 along with the trailing emails dated Jan 21, 2016; Jan 27, 2016; August 09, 2017; August 24, 2017; Jan 22, 2018.*
e.	*Any examination report prepared analysing the alleged trades / acquisition of shares in the Company by the Noticees*	*Relevant extracts of Examination report pertaining to the Noticees are enclosed herewith at **Annexure 'D'** at page 50 to 54.*
f.	*Any other information, other than the documents provided as annexure to the SCN, relied upon by SEBI while issuing the SCN.*	*Query is vague and general.*

10. Further, during the course of hearing, ARs of Noticees raised certain concerns with regard to the documents made available to them, so that an opportunity to reconcile various documents given to Noticees was provided at the premises of SEBI Headquarters, Mumbai on January 19, 2021. Pursuant to aforesaid reconciliation carried out by ARs, another opportunity of personal hearing was availed by them on March 31, 2021. Therefore, I note that the Noticees' concerns as regards access to documents relied upon in the issuance of SCN were addressed suitably, and that Noticees have been provided access to all the documents relied upon in the instant proceedings. In this regard, I note that the Hon'ble SAT in the matter of Shruti Vora vs SEBI (decided on February 12, 2020) held that,

"A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon"

Therefore, I reject the contentions of Noticees in this regard.

11. I further note that Vidhi N Shah has conveyed that she was a minor on the date of cause of action as alleged in the SCN. I note from the copy of PAN card (PAN-BHOPS3116F) submitted by her along with letter dated January 15, 2019 that her date of birth is September 21, 1989, such that she was a minor on the date of transactions alleged to have violated Regulation 11(1) and 11(2) of the SAST Regulations, 1997. Further, vide email dated December 23, 2020, AR of the Noticee group 1 conveyed that natural guardian of Vidhi N Shah was Nimish C Shah, wherein AR represented Nimish C Shah as well, as regards instant proceedings. I note that the Hon'ble Supreme Court in the matter of Ritesh Agarwal and Anr. Vs SEBI and Othrs. [2008] INDLAW SC 989 held the following:

> *"A contract must be entered into by a person who can make a promise or make an offer. If he cannot make an offer or in his favour an offer cannot be made, the contract would be void as an agreement which is not enforceable in law would be void. Section 11 of Indian Contract Act, 1872 provides that the person who is competent to contract must be the age of majority."*

Therefore, I note that Vidhi N Shah cannot be held liable for acquisitions undertaken when she was a minor. I further note the provisions of Section 8 of the Hindu Minority and Guardianship Act, 1956 as follows:

> *8. Powers of natural guardian.—(1) The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant.*

I note that the respective Noticee viz. Nimish C Shah, who is natural guardian of the aforesaid minor Noticee is responsible not only on his own behalf, but also on behalf of the minor Noticee viz. Vidhi N Shah. Therefore, the SCN qua Vidhi N Shah is disposed of without imposition of any penalty as regards alleged violation of Regulation 11(1) and 11(2) of the SAST Regulations, 1997. However, she became a major when the cause of action arose as regards alleged violations of Regulation 30(2) read with 30(3) of the SAST Regulations, 2011, resultantly she continues to be responsible for the charges alleged under aforesaid provisions of SAST Regulations, 2011. I now proceed to consider the matter on merits as per available records.

12. SEBI, while examining the letter of offer filed by Sharyans Resources Ltd., Aditya Infotech P Ltd., Fine Estates P Ltd and Neostar Developers LLP along with Persons Acting in Concert ('PAC') namely Sudhir V Valia, Raksha S Valia, Vijay M Parekh and Paresh M Parekh to acquire 26% of the voting share capital of Fortune in 2013, observed that certain promoters, who are also Noticees in the instant matter, undertook transactions as per following details as regards shares of Fortune:

S No	Name of promoter/ Noticee	Details of transactions undertaken in shares of Fortune	Change in shareholding of promoters in Fortune
1	Nimish C Shah	Acquired 8.098% of share capital on September 20, 1999	Increased to 70.218% from 62.12% of share capital
2	Usha Desai	Acquired 8.248% of share capital on January 14, 2000	Increased to 76.37% from 68.13% of share capital
3	Nimish C Shah (HUF)	Acquired 9.874% of share capital on June 30, 2006	Increased to 77.88% of share capital
4.	Carmona Investment	Acquired 0.40% and 0.520% of share capital on August 21, 2007 and July 31, 2008 respectively	Increased to 59.95% from 59.03% of share capital
5.	Sohan Mehta	Acquired 0.94% of share capital on August 31, 2007	Increased to 60.89% of share capital

13. It was alleged that the above acquisition of shares required Noticees 1 to 26 to make public announcement, and that by not doing so, the aforesaid Noticees violated the provisions of Regulations 11(1) and 11(2) of the SAST Regulations, 1997.

14. I note that Regulation 11(1) of the SAST Regulations, 1997 reveals that any person along with 'persons acting in concert' (PAC), who intends to acquire shares in a company and already holds more than 15% but less than 55% of shareholding, must mandatorily make public announcement if the acquisition in a given financial

year goes beyond 5%. Further, as per Regulation 11(2) of the SAST Regulations, 1997, any person along with PAC', who already owns more than 55% but less than 75% shareholding, shall make a public announcement if he intends to acquire any additional shares in a given financial year.

15. I note the allegations in the SCN to be that the promoters had failed to make public announcement under the impugned provisions of the SAST Regulations, 1997 as per the following details:

S No	Name of promoter/ Noticee	Details of transaction undertaken in shares of Fortune	Change in shareholding of promoters in Fortune	Whether requirement of public announcement under Regulation 11(1) or 11(2) of the SAST Regulations, 1997
1	Nimish C Shah	Acquired 8.098% of share capital on September 20, 1999	Increased to 70.208% from 62.12% of share capital	Yes, under Regulation 11(2) of the SAST Regulations, 1997
2	Usha Desai	Acquired 8.248% of share capital on January 14, 2000	Increased to 76.37% from 68.13% of share capital	Yes, under Regulation 11(2) of the SAST Regulations, 1997
3	Nimish C Shah (HUF)	Acquired 9.874% of share capital on June 30, 2006	Increased to 77.88% of share capital	Yes, under Regulation 11(2) of the SAST Regulations, 1997
4.	Carmona Investment	Acquired 0.40% and 0.520% of share capital on August 21, 2007 and July 31, 2008 respectively	Increased to 59.95% from 59.03% of share capital	Yes, under Regulation 11(2) of the SAST Regulations, 1997
5.	Sohan Mehta	Acquired 0.94% of share capital on August 31, 2007	Increased to 60.89% from 59.94% of share capital	Yes, under Regulation 11(2) of the SAST Regulations, 1997

16. I note that Regulation 11(1) and 11(2) cast the obligation to make public announcement upon the acquirer, who undertakes the creeping acquisition along with PAC. In this regard, I note the definitions of '*acquirer*' and '*persons acting in concert*' from Regulation 2(b) of the SAST Regulations, 1997:

2(b) —acquirer means any person who, directly or indirectly, acquires or agrees to acquire shares or voting rights in the target company, or acquires or agrees to acquire control over the target company, either by himself or with any person acting in concert with the acquirer;

……….

……….

(e) person acting in concert comprises,—

(1) persons who, for a common objective or purpose of substantial acquisition of shares or voting rights or gaining control over the target company, pursuant to an agreement or understanding

(formal or informal), directly or indirectly co-operate by acquiring or agreeing to acquire shares or voting rights in the target company or control over the target company.

(2) Without prejudice to the generality of this definition, the following persons will be deemed to be persons acting in concert with other persons in the same category, unless the contrary is

established :

(i) a company, its holding company, or subsidiary or such company or company under the same management either individually or together with each other;

(ii) a company with any of its directors, or any person entrusted with the management of the funds of the company;

(iii) directors of companies referred to in sub-clause (i) of clause (2) and their associates;

(iv)mutual fund with sponsor or trustee or asset management company;

(v) foreign institutional investors with sub-account(s);

(vi)merchant bankers with their client(s) as acquirer;

(vii)portfolio managers with their client(s) as acquirer;

(viii)venture capital funds with sponsors;

(ix)banks with financial advisers, stock brokers of the acquirer,

or any company which is a holding company, subsidiary or relative of the acquirer :

Provided that sub-clause (ix) shall not apply to a bank whose sole relationship with the acquirer or with any company, which is a holding company or a subsidiary of the acquirer or with a relative of the acquirer, is by way of providing normal commercial banking services or such activities in connection with the offer such as confirming availability of funds, handling acceptances and other registration work;

(x) any investment company with any person who has an interest as director, fund manager, trustee, or as a shareholder having not less than 2 per cent of the paid-

up capital of that company or with any other investment company in which such person or his associate holds not less than 2 per cent of the paid-up capital of the latter company.

Note : For the purposes of this clause —associate means,— (a) any relative of that person within the meaning of section 6 of the Companies Act, 1956 (1 of 1956); and

(b) family trusts and Hindu undivided families;

I note from the above definition that promoters *ipso facto* do not qualify as PAC as regards provisions of the SAST Regulations, 1997. I note in this regard, that the Hon'ble SAT held the following in the matter of Modipon Ltd vs SEBI [Appeal No 34 2001 decided on July 31, 2001]:

> *It may be noted that the promoter as such need not be an acquirer automatically. Any person, and shareholder including the promoter will become an acquirer or a person acting in concert with the acquirer only if he falls within the definition of these expressions provided in regulation 2(6) and 2(e). It is the conduct of the party that decides the identity. A dormant promoter or a promoter simpliciter who neither acquires nor agrees to acquire shares or voting rights or control over the target company is not an acquirer and his shareholding in the target company cannot be considered as the shareholding of the acquirer warranting exclusion from the public shareholding. Similarly, if the characteristics of a person acting in concert stated in the definition are found missing in the case of a person, it may not be proper to consider him as a person acting in concert with the acquirer*

Therefore, I first proceed to consider whether Noticees, who were promoters of Fortune, form PAC as regards impugned considerations.

17. I note that Carmona Investment & Finance Ltd has contended that it was not a promoter of target company and has also contended that the same had been accepted by SEBI in its order dated August 28, 2000 against J T Poonja. I note that no material has been brought on record to substantiate that Carmona Investment

& Finance Ltd was a PAC along with other promoter(s). Further, Ketan Dalal has also contended that he or his relatives had never been promoters of Fortune, and that he had been a director of Fortune, from which position he had resigned w.e.f. July 25, 2001. I note from the record that Fortune vide its letter dated February 29, 2020 stated that Ketan Dalal was never a promoter of Fortune. Further that, no material has been brought on record to allege that Ketan Dalal was a PAC along with other promoters. Similarly, as regards Hiraben Mehta, it has not been alleged or brought on record that she was a PAC along with other promoters. I also note that the allegations framed in the SCN do not rely on any acquisitions done by Carmona Investments & Finance Ltd, Ketan Dalal and/or Hiraben Mehta, such that the instant allegation of violation of provisions of Regulation 11(1) and 11(2) of the SAST Regulations, 1997 against the aforesaid Noticees viz. Carmona Investments & Finance Ltd, Ketan Dalal and/or Hiraben Mehta, are not established.

18. I note that that as regards the Noticees, viz. Shri Jagannath T Poonja; Jagannath T Poonja (HUF); Ms. Sangeeta Poonja; Shri Abhinay Poonja; Ms. Aparna Poonja; Mr. Nimish C Shah; Nimish C Shah (HUF); Ms. Jalpa Nimish Shah; Chandulal D Shah HUF; Ms. Indumati C Shah; Shri Shirish Desai; Ms. Usha S Desai; Shri Sohan C Mehta; Sohan C Mehta (HUF); Ms. Sudha Mehta; Shri Sahil Mehta; Ms. Mansi Mehta; Umrigar Investment Pvt. Ltd.; Jamish Investment Pvt. Ltd.; Ms. Vidhi N Shah (natural guardian-Nimish C Shah) (*Noticee group 1*), it was stated by their AR during the course of hearing dated March 31, 2021, that the aforesaid Noticees, who were promoters of Fortune as regards the impugned considerations, were also PACs.

19. Further, I note that L H Gajaria, Kusum Gajaria, Chandrika Gajaria, Chandralata Gajaria, C H Gajaria (*Noticee group 2*), who were admittedly family members, had contended that they were *inter se* promoters along with Tara gajaria, whose shares had been sold to J T Poonja and Nimish C Shah on March 26, 2001, and that they were not connected with any acquisitions as alleged in the SCN. I also note that no acquisitions undertaken by aforesaid Noticee(s) has been alleged in the SCN. Therefore, I note that as per the available records, it cannot be held that Noticee group 2 acted in concert with Noticee group 1 as regards impugned acquisition of

shares, so that the charges levelled against them as regards violation of Regulation 11(1) and 11(2) of the SAST Regulations, 1997 are not established.

20. I note from the records that as per letter dated January 24, 2014 from Elara Capital (hereinafter referred to as ***'EC'***), who was the Merchant Banker as regards open offer being made by acquirers, there was an increase in shareholding of Usha Desai by 8.248% on January 14, 2000 was a result of buy back of equity shares by target company, and that no shares were acquired by Usha Desai on January 14, 2000. I note that such increase in shareholding of Usha Desai was a result of passive acquisition, resulting from buy back of shares undertaken by Fortune. In this regard, I note that the Hon'ble SAT in the matter of Raghu Hari Dalmia And Ors vs SEBI (Appeal No 134 of 2011 decided on November 21, 2011) held the following as regards requirement of public announcement under Regulation 11(1) of the SAST Regulations, 1997:

> *"In the case before us, it is the admitted position of the parties that the appellants (promoters of the company) did not participate in the buy back and that there was no change in their shareholding. The percentage increase in their voting rights was not by reason of any act of theirs but was incidental to the buy back of shares of other shareholders by the company. Such a passive increase in the proportion of the voting rights of the promoters of the company will not attract regulation 11(1) of the takeover code…………………..….. It is well settled principle of law that a provision ought not to be interpreted in a manner which may impose upon a person an obligation which may be highly onerous or require him to do something which is impossible for no action of his. In this view of the matter, we are of the firm opinion that passive acquisition does not attract the provisions of regulations 11(1) of the takeover code".*

Therefore, I note that in the instant matter, the facts are similarly placed, so that the passive acquisition of shares undertaken by Usha Desai cannot trigger the obligation to undertake public announcement as mandated under Regulation 11(2) of the SAST Regulations, 1997.

21. I note on the basis of consideration made in the preceding paragraphs, that the following entities being the promoters who were PACs, and who were obligated to make public announcement as regards acquisition of shares under Regulation 11(2) of the SAST Regulations, 1997 as detailed below:

S No	Promoters comprising PAC	Name of promoter/ Noticee	Details of transaction undertaken in shares of Fortune	Change in shareholding of promoters in Fortune	Total acquisitions by 'persons acting in concert' in given financial year
1	Shri Jagannath T Poonja; Jagannath T Poonja (HUF); Ms. Sangeeta Poonja; Shri Abhinay Poonja; Ms. Aparna Poonja; Mr. Nimish C Shah; Nimish C Shah (HUF); Ms. Jalpa Nimish Shah; Chandulal D Shah HUF; Ms. Indumati C Shah; Shri Shirish Desai; Ms. Usha S Desai; Shri Sohan C Mehta; Sohan C Mehta (HUF); Ms. Sudha Mehta; Shri Sahil Mehta; Ms. Mansi Mehta; Umrigar Investment Pvt. Ltd.; Jamish Investment Pvt. Ltd.; Ms. Vidhi N Shah (Noticee group 1)	Nimish C Shah	Acquired 8.098% of share capital on September 20, 1999	Increased to 70.208% from 62.12% of share capital	Acquisition of 8.098% of share capital in the financial year 1999-2000
3		Nimish C Shah (HUF)	Acquired 9.874% of share capital on June 30, 2006	Increased to 77.88% of share capital	Acquisition of 9.874% of share capital in the financial year 2006-2007
		Sohan Mehta	Acquired 0.94% of share capital on August 31, 2007	Increased to 60.89% from 59.94% of share capital	Acquisition of 0.94% of share capital in the financial year 2007-2008

22. In this regard, I note that Noticees have *interalia* denied the acquisition of shares undertaken by Nimish C Shah, amounting to 8.098% on September 20, 1999, as alleged in the SCN. Noticees have also contended that the details of the impugned acquisition undertaken by Nimish C Shah has not been brought on record. I note from Noticees' submissions that as per 'Disclosure of Shareholding' document filed by Fortune with BSE on November 13, 1999, Fortune had stated that there had been no change in shareholdings of the promoters from the date of closure of books i.e. August 18-21, 1999 till the date of document i.e. November 13, 1999. Further, I note that EC vide its letter dated January 24, 2014 (shared with Noticees vide email dated December 31, 2020) had stated that the increase in shareholding of promoters on September 20, 1999 was a result of classification of Tara Gajaria as a promoter. I also note that there is no material on record to justify that Tara Gajaria, at the time of acquisition was acting in concert with other promoters as regards

acquisition of shares. Considering the above facts *in toto,* I am inclined to give benefit of doubt to Nimish C Shah, so that the allegations of violations against him are not established.

23. I also note that Noticees have denied the acquisition of shares undertaken by Nimish C Shah (HUF), amounting to 9.874%. It has been contended that shareholding of Nimish C Shah (HUF) had not changed from March 31, 2006 to September 30, 2006, and shareholding of promoter group remained consistent at 77.88% during this period. I note from letter dated January 24, 2014 received from EC that increase in shareholding of Nimish C Shah (HUF) was a result of *interse* transfer of shares among promoters, which also did not result in any increase in shareholding on promoters. I further note from shareholding pattern of promoters of Fortune publicly available on BSE website, that the shareholding of promoters and promoter group had remained unchanged at 77.88% on March 31, 2006 and on September 30, 2006. Therefore, based on available records and contentions made by Noticee, I hold that as regards impugned acquisition of shares by Nimish C Shah (HUF), promoters undertook *interse* transfer of shares, which did not result in an increase in promoter shareholding and thus, did not attract the obligation to undertake public announcement as mandated under Regulation 11(2) of the SAST Regulations, 1997.

24. Further, Noticees have also denied the acquisition of shares undertaken by Sohan Mehta on August 31, 2007, amounting to 0.94%, and have contended that the shareholding of Sohan C Mehta for the quarters ending June 30, 2007 and September 30, 2007 was same i.e. 94,800 shares. I note from the publicly available shareholding pattern of Fortune on BSE website that the aforesaid fact as contended by Noticees is correct. I also note that vide letter dated January 24, 2014, EC submitted that the increase in shares of Sohan C Mehta was because of *interse* transfer from promoters viz. Sohan Mehta (HUF) and Sahil Mehta. Based on available records, I note that the violations alleged against Sohan C Mehta as regards impugned provisions of SAST Regulations, 1997 are not established.

25. Therefore, basis considerations made in preceding paragraphs, I hold that allegation of violation of provisions of Regulation 11(1) and 11(2) of the SAST Regulations, 1997 against the Noticees is not established.

Issue (b) Whether the Noticees 1 to 14 and Noticee 27 and 28 violated provisions of Regulation 30(2) read with Regulation 30(3) of SAST Regulations, 2011?

26. It was alleged that the promoters of Fortune viz. Nimish C Shah, J T Poonja, Sangeeta Poonja, Abhinay Poonja, Aparna Poonja, Umrigar Investment Pvt. Ltd., Jalpa Nimish Shah, Indumati C Shah, Nimish C Shah HUF, Sohan C Mehta, Sohan C Mehta HUF, J T Poonja (HUF), Sudha Mehta, Sahil Mehta, Jamish Investment Pvt Ltd and Vidhi N Shah (natural guardian-Nimish C Shah) failed to disclose their aggregate shareholding and voting rights in Fortune, within the stipulated time of seven working days from end of financial years 2011-12 and 2012-13, to the stock exchange and to the company, leading to violation of Regulation 30(2) read with 30(3) of the SAST Regulations, 2011.

27. I note that as per Regulation 30(2) of the SAST Regulations, 2011, the promoter of every target company together with the persons acting in concert with him, is/are mandated to disclose their aggregate shareholding and voting rights as of 31st March, to the stock exchange and the target company, within seven working days from the end of each financial year.

28. I note from email dated April 17, 2018 from BSE (provided to Noticees as Annexure 4 to the SCN) that the disclosure under Regulation 30(2) read with 30(3) of the SAST Regulations, 2011 were filed by Noticees *qua* promoters of Fortune, as per following details:

Noticee no	Entity Name	Disclosure received date as on FY ending 31 March, 2012	Disclosure received date as on FY ending 31 March, 2013
1	Nimish C Shah	12/04/2012	17/04/2013
2	J T Poonja	12/04/2012	17/04/2013

3	Sangeeta Poonja	12/04/2012	17/04/2013
4	Abhinay Poonja	12/04/2012	17/04/2013
5	Aparna Poonja	12/04/2012	17/04/2013
6	Umrigar Investment Pvt. Ltd.	12/04/2012	17/04/2013
7	Jalpa Nimish Shah	12/04/2012	17/04/2013
8	Indumati C Shah	12/04/2012	17/04/2013
9	Nimish C Shah HUF	12/04/2012	17/04/2013
10	Sohan C Mehta	12/04/2012	17/04/2013
11	Sohan C Mehta HUF	12/04/2012	17/04/2013
12	J T Poonja (HUF)	12/04/2012	17/04/2013
13	Sudha Mehta	12/04/2012	17/04/2013
14	Sahil Mehta	12/04/2012	17/04/2013
27	Jamish Investment P Ltd.	12/04/2012	17/04/2013
28	Vidhi N Shah	12/04/2012	17/04/2013

29. Noticees have *interalia* contended that there was no delay in making the impugned disclosures as regards FY 2011-12, as they were made within seven working days of 31st March i.e. on April 12, 2012. In this regard, I note the definition of 'working days' as per SAST Regulations, 2011 as follows:

"2(1)……….

[11](zf) "working day" means any working day of the Board."

I note that in April 2012, Board had public holidays on April 01, April 05, April 06 and April 14. I note that the timeline of seven days for making impugned disclosures ended on April 12, 2012, so that Noticees made their disclosures within the prescribed timeline as mandated.

30. Further, as regards FY 2012-13, I note that Board had public holidays on April 11 and April 14, so that the time line of making aforesaid disclosures ended on April 09, 2013. Therefore, Noticees admittedly made delayed disclosure as regards FY 2012-2013 on April 17, 2013, after a delay of five working days.

[11] Clause (ze) renumbered as clause "(zf)" by the SEBI (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2016, w.e.f.25-05-2016

31. Noticees have *interalia* contended that the SCN is unclear, as the date of receipt of disclosure as regards Regulation 30(2) of the SAST Regulations, 2011 is different in two separate emails dated July 14, 2015 and April 17, 2018 from BSE, provided as Annexure 4 to the SCN to the Noticees. I note that BSE provided details as regards filing of disclosures vide email dated July 14, 2015, and again provided details with minor corrections vide email dated April 17, 2018. I note that the relevant evidence relied upon in the SCN was duly provided to the Noticees, and the dates conveyed vide the aforesaid latest email were admitted by Noticees in their replies as well. Therefore, I note that no prejudice has been caused to the Noticees, such that I reject aforesaid contentions of the Noticees.

32. Noticees have *interalia* contended that the delay of 5 days in making aforesaid disclosures was merely technical, and it was completely unintentional. In this regard, I place reliance on the judgement of the Hon'ble SAT dated October 14, 2014 in the matter of Virendrakumar Jayantilal Patel vs. SEBI (Appeal No 299 of 2014) , wherein it was held that,

> *"....... obligation to make disclosures within the stipulated time is a mandatory obligation and penalty is imposed for not complying with the mandatory obligation. Similarly, argument that the failure to make disclosures within the stipulated time, was unintentional, technical or inadvertent and that no gain or unfair advantage has accrued to the appellant, is also without any merit, because, all these factors are mitigating factors and these factors do not obliterate the obligation to make disclosure."*

Therefore, I note that Noticees violated provisions of Regulation 30(2) read with 30(3) of the SAST Regulations, 2011.

Issue (b) Does the violation, if any, attract penalty under Section 15A(b) of the SEBI Act, 1992?

33. I note that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC)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 and hence the intention of the parties committing such violation becomes wholly irrelevant…."

34. Therefore, I am of the view that monetary penalty needs to be imposed upon the Noticees viz. Nimish C Shah, J T Poonja, Sangeeta Poonja, Abhinay Poonja, Aparna Poonja, Umrigar Investment Pvt. Ltd., Jalpa Nimish Shah, Indumati C Shah, Nimish C Shah HUF, Sohan C Mehta, Sohan C Mehta HUF, J T Poonja (HUF), Sudha Mehta, Sahil Mehta and Jamish Investment Pvt Ltd under Section 15 A(b) of the SEBI Act, 1992 for the violation of the provisions of Section 30(2) read with 30(3) of the SAST Regulations, 2011.

35. The text of Section 15 A(b) of the SEBI Act, 1992 is reproduced hereunder:

SEBI Act, 1992

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty [12][which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.]

Issue (c) If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of the SEBI Act, 1992?

36. While determining the quantum of penalty under Section 15 A(b) of the SEBI Act, 1992, it is important to consider the factors stipulated in Section 15J of the SEBI Act, 1992 read with Rule 5(2) of the Adjudication Rules, 1995 which read as under:

SEBI Act, 1992

15J While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely

[12] Substituted for the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014

(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.

37. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on the part of the said Noticee. Further, material available on record does not show that the said failure is repetitive. However, in the present matter I note that by making delayed disclosures as regards the aggregate shareholding and voting rights, Noticees viz. Nimish C Shah, J T Poonja, Sangeeta Poonja, Abhinay Poonja, Aparna Poonja, Umrigar Investment Pvt. Ltd., Jalpa Nimish Shah, Indumati C Shah, Nimish C Shah HUF, Sohan C Mehta, Sohan C Mehta HUF, J T Poonja (HUF), Sudha Mehta, Sahil Mehta and Jamish Investment Pvt Ltd have violated provisions of Regulation 30(2) read with 30(3) of the SAST Regulations, 2011.

ORDER

38. Accordingly, taking into account the aforesaid observations and in exercise of power conferred upon me under Section 15-I of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, 1995, I hereby impose following penalty under Section 15 A(b) of the SEBI Act, 1992 on Noticees for violation of Regulations 30(2) read with 30(3) of the SAST Regulations, 2011:

Name of Noticees	Penalty (Rs)
Nimish C Shah, J T Poonja, Sangeeta Poonja, Abhinay Poonja, Aparna Poonja, Umrigar Investment Pvt. Ltd., Jalpa Nimish Shah, Indumati C Shah, Nimish C Shah HUF, Sohan C Mehta, Sohan C Mehta HUF, J T Poonja (HUF), Sudha Mehta, Sahil Mehta, Jamish Investment Pvt Ltd and Vidhi N Shah	Rs 1,00,000/- (Rupees One Lakh Only) (To be paid jointly and severally)

39. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR 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.

40. The aforesaid Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department - DRA-4), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.". The Noticee shall also provide the following details while forwarding DD / payment information:

a) Name and PAN of the Noticee
b) Name of the case / matter
c) Purpose of Payment – Payment of penalty under AO proceedings
d) Bank Name and Account Number
e) Transaction Number

41. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under Section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

42. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticees and also to the Securities and Exchange Board of India.

Date: September 29, 2021 **K SARAVANAN**

Place: Mumbai **ADJUDICATING OFFICER**