BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/AK/AS/2023-24/ 28712-28715

UNDER SECTION 23-I OF THE SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF THE SCR(R) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005 AND SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 IN RESPECT OF:

Noticee No.	Name of Noticee (PAN)	Address
1	Balasore Alloys Limited (AAACI3967P)	Balgopalpur, Dist. Balasore, Odisha - 756020
2	Anil Kumar Surekha (AJGPS8652M)	1901, C-Wing, Chaitanya Towers Housing Society, Appasaheb, Marathe Marg, Prabhadevi, Mumbai - 400025
3	Rajendra Kumar Parakh (AEJPP0728B)	Flat 908, Tower 1, Ujwala Luxury Apartments, Near City Center 2, Kolkata - 700157.
4	Nikunj Pansari (ASYPP4760A)	2, Kshirod Ghosh Road, Nilgiri Appt, 2nd Floor, Block - B, Howrah, West Bengal- 711101.

In the matter of Balasore Alloys Ltd

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**) received a letter dated March 19, 2020, from the Central Economic Intelligence Bureau (hereinafter referred to as **"CEIB"**), wherein CEIB had shared the findings of the office of Director General of Income Tax, Hyderabad during their search under Section 132 of the Income Tax Act, 1961, conducted in Balasore Alloys Ltd (hereinafter referred to as **"Noticee No. 1/ BAL"**). Based on the above mentioned

information, SEBI initiated an investigation in the matter for the period of April 01, 2014, to March 31, 2019 (hereinafter referred to as "**Investigation Period**") to ascertain whether the financial statements of BAL were manipulated and to ascertain whether there was any violation of the relevant provisions of law.

2. On the basis of findings of aforesaid investigation, the following was alleged:

2.1 BAL/ Noticee No. 1 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), and 4(2)(r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as **"PFUTP Regulations"**) read with Section 12A of SEBI, 1992 (hereinafter referred to as "**SEBI Act**"). Further, it was alleged that Noticee No. 1 violated the provisions of Regulations 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(e), 4(1)(g), 4(2)(e), 33(1)(a), 33(1)(c) and 48 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as **"LODR Regulations"**) read with Clause 49(I)(C) of Listing Agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of Securities Contracts Regulation Act, 1956 (hereinafter referred to as **"SCRA"**) and Section 27(1) of SEBI Act;

2.2 Anil Kumar Surekha (hereinafter referred to as **"Noticee No.2"**) violated provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, read with Section 12A of SEBI Act. Further, it was alleged that Noticee No. 2 violated the provisions of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act;

2.3 Rajendra Kumar Parekh (hereinafter referred to as **"Noticee No.3"**) violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations read with Section 12A of SEBI Act. Further, it was alleged that Noticee No. 3 violated provisions of Regulations 4(2)(f)(i)(2),4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of the LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations and Section 21 of SCRA;

2.4 Nikunj Pansari (hereinafter referred to as **"Noticee No. 4"**) violated provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations read with Section 12A of SEBI Act. Further, it was alleged that Noticee No.4 violated provisions of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of the LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

3. On being satisfied that there are sufficient grounds to inquire and adjudicate upon the aforesaid alleged violations, SEBI in exercise of powers under Section 23-I of the SCRA and Rule 3 of the SCR(R) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as the **"Adjudication Rules, 2005"**), and Section 19 r/w Section 15-I of the SEBI Act and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the **"Adjudication Rules, 1995"**), appointed the undersigned as the Adjudicating Officer, vide Order dated February 27, 2023, to inquire into and adjudge under Section 23-I r/w Section 23H of the SCRA, and under Section 15-I r/w Section 15HA and 15HB of the SEBI Act the alleged violations by the Noticees.

SHOW CAUSE NOTICE AND PERSONAL HEARING

4. A common Show Cause Notice dated March 27, 2023 (hereinafter referred to as **"SCN"**) was issued to the Noticees to show cause as to why an inquiry should not be initiated against them, and why penalty, if any, should not be imposed against them under Section 15HA and 15HB of the SEBI Act and, under Section 23H of the SCRA for alleged violations by the Noticees. The details of communication with the Noticees are provided below:

4.1. <u>Noticee No.1</u>

SCN was served on the Noticee vide SPAD and further, digitally signed copy of SCN was served vide email dated March 28, 2023. Vide response dated April 10, 2023, Noticee sought inspection of documents in the matter. Vide emails dated April 12 and 13, 2023, Noticee was asked to provide list of documents required for inspection, and was provided opportunity of inspection of documents on April 19, 2023. Vide email dated April 14, 2023, Noticee requested for adjournment of opportunity of inspection, and further, sought inspection of physical copies of all documents related to the instant proceedings. Vide email dated April 18, 2023, Noticee was granted opportunity of inspection of documents on April 26, 2023. Vide email dated April 25, 2023, Noticee submitted the list of documents for inspection. Inspection of documents was held on April 26, 2023. During the course of inspection, Noticee inspected the documents available on record, and further, sought inspection of certain additional documents. Vide email dated June 05, 2023 and letter dated June 13, 2023, Noticee was provided the documents as sought during the course of inspection, as available on record, and further, was provided comments pertaining to each of the documents sought by the Noticee vide email dated April 25, 2023. Vide email dated June 08, 2023, Noticee sought additional time for submitting reply to the SCN. Vide email dated June 08, 2023, Noticee was granted time till June 29, 2023 to submit reply to the SCN. Vide response dated June 27, 2023, Noticee submitted reply to the SCN. Personal Hearing in the matter was held on August 02, 2023. During the course of hearing, Authorized Representative made submissions relying upon the response dated June 27, 2023. Further, time till August 16, 2023 was granted to make additional submissions in the matter, if any. Accordingly, Noticees made additional submissions vide response dated August 16, 2023.

4.2. <u>Noticee Nos. 2, 3 and 4</u>

SCN was served on the Noticees vide SPAD and further, digitally signed copies of SCN were served vide email dated March 28, 2023. Vide emails dated April 04 and 12, 2023, Noticees submitted request for inspection of documents, and also provided list of documents for the same. Vide email dated April 13, 2023, Noticees were granted opportunity of inspection on April 19, 2023. Inspection of documents was held on April 19, 2023. During the course of inspection, Noticees inspected the documents available on record. Further during the course of inspection and vide email dated April 20, 2023, Noticees sought inspection of certain other documents. Vide email dated June 05, 2023 and as handed over in person vide letter dated June 12, 2023, Noticees were provided copy of the documents as sought during the course of inspection, as available on record, and further, were provided comments pertaining to each of the documents sought by the Noticees. Vide email dated June 06, 2023, Noticees were provided time till June 27, 2023 to submit reply to the SCN. Vide email dated June 14, 2023, Noticees sought copy of deposition of Mr Anil Kumar Sureka. Accordingly, the same was provided vide email dated June 15, 2023. Vide separate responses dated June 26, 2023, Noticees submitted replies to the SCN. Vide letter dated July 15, 2023, Noticees sought reply submitted by Mr Pramod Kumar Mittal, if any, in the matter. Vide email dated July 24, 2023, it was conveyed that the communication received from Mr Pramod Kumar Mittal prior to the approval of Enforcement Action in the matter had already been provided to the Noticees. Personal Hearing in the matter was held on August 03, 2023. During the course of hearing, Authorized Representative of the Noticees made submissions relying upon the separate responses dated June 26, 2023 submitted by the Noticees. Further, time till August 16, 2023 was granted to make additional submissions in the matter, if any. Accordingly, Noticees made additional submissions vide response dated August 10, 2023.

CONSIDERATION OF ISSUES AND FINDINGS

5. The issues that arise for consideration are as under:

5.1. Whether Noticee No. 1 carried out misrepresentation pertaining to bogus purchases in the name of Crackers India Alloys Ltd (hereinafter referred to as "**CIAL**") during FY 2014-15 and FY 2015-16, resulting violation of provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act and Regulations 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(e), 4(1)(g), 4(2)(e), 33(1)(a), 33(1)(c) and 48 of LODR Regulations read with Clause 49(I)(C) of Listing Agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) of SEBI Act?

5.2. Whether Noticee No. 1 carried out misrepresentation pertaining to repayment of “Long-term Borrowings” to Sri Mahalaxmi Solar Energy Private Limited (hereinafter referred to as “**SMSEPL**”) & Jaltarang Vanijya Private Limited (hereinafter referred to asl “**JVPL**”) and receipt of “Loans & Advances” given to Uttam Galva Metallics Ltd (hereinafter referred to as “**UGML**”), resulting in violation of provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act and Regulations 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(e), 4(1)(g), 4(2)(e), 33(1)(a), 33(1)(c) and 48 of LODR Regulations read with Clause 49(I)(C) of Listing Agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) of SEBI Act?

5.3. Whether Noticee No. 2 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act?

5.4. Whether Noticee No. 3 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations and Section 21 of SCRA?

5.5. Whether Noticee No. 4 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act?

5.6. If yes, whether the violations, if any, attract monetary penalty under the provisions of Section 23H of the SCRA and/ or Section 15HA and 15HB of the SEBI Act, as applicable? If so, what quantum of monetary penalty should be imposed on the Noticees after taking into consideration the factors mentioned in Section 23J of the SCRA and Section 15J of the SEBI Act?

6. Before I proceed with the matter, it is pertinent to mention the relevant legal provisions alleged to have been violated by the Noticees, as applicable during the Investigation Period, and the same are reproduced below:

SEBI Act:

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;

27(1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

27(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention *has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.*

PFUTP Regulations:

Prohibition of manipulative, fraudulent and unfair trade practices

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

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves any of the following: —

(e) any act or omission amounting to manipulation of the price of a security including, influencing or manipulating the reference price or bench mark price of any securities

(f) knowingly publishing or causing to publish or reporting or causing to report by a person dealing in securities any information relating to securities, including financial results, financial statements, mergers and acquisitions, regulatory approvals 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) knowingly planting false or misleading news which may induce sale or purchase of securities.

LODR Regulations:

Principles governing disclosures and obligations.

4(1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:

(a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.

(b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of

all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.

(c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.

(e) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.

(g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.

4(2)(e) Disclosure and transparency: The listed entity shall ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the listed entity, in the following manner:

(i) Information shall be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.

(ii) Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by users.

(iii) Minutes of the meeting shall be maintained explicitly recording dissenting opinions, if any.

4(2)(f) Responsibilities of the Board of Directors: The board of directors of the listed entity shall have the following responsibilities:

(i)Disclosure of information

(2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.

(ii) Key functions of the board of directors-

(2) Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.

(6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.

(7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.

(iii)Other responsibilities

(3) Members of the board of directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders.

(6) The board of directors shall maintain high ethical standards and shall take into account the interests of stakeholders.

(7) The board of directors shall exercise objective independent judgement on corporate affairs.

17(8) The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II.

33(1) While preparing financial results, the listed entity shall comply with the following:

(a) The financial results shall be prepared on the basis of accrual accounting policy and shall be in accordance with uniform accounting practices adopted for all the periods.

(c) The standalone financial results and consolidated financial results shall be prepared as per Generally Accepted Accounting Principles in India:

Provided that in addition to the above, the listed entity may also submit the financial results, as per the International Financial Reporting Standards notified by the International Accounting Standards Board.

33(2) The approval and authentication of the financial results shall be done by listed entity in the following manner:

(a) The quarterly financial results submitted shall be approved by the Board of Directors:

Provided that while placing the financial results before the board of directors, the chief executive officer and chief financial officer of the listed entity shall certify that the financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading.

48 Accounting Standards.

The listed entity shall comply with all the applicable and notified Accounting Standards from time to time.

103 Repeal and Savings

(1) On and from the commencement of these regulations, all circulars stipulating or modifying the provisions of the listing agreements including those specified in Schedule X, shall stand rescinded.

(2) Notwithstanding such rescission, anything done or any action taken or purported to have been done or taken including any enquiry or investigation commenced or show cause notice issued in respect of the circulars specified in sub-regulation (1) or the Listing Agreements, entered into between stock exchange(s) and listed entity, in force prior to the commencement of these regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations.

SCRA:

21. Conditions for listing.

Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.

Listing Agreement dated April 17, 2014:

49 (I) Corporate Governance

C. Disclosure and transparency

1. The company should ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the company.

a. Information should be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.

b. Channels for disseminating information should provide for equal, timely and cost efficient access to relevant information by users.

c. The company should maintain minutes of the meeting explicitly recording dissenting opinions, if any.

d. The company should implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and should also ensure that the annual audit is conducted by an independent, competent and qualified auditor.

Clause 49 (IX) CEO/CFO certification

The CEO, i.e. the Managing Director or Manager appointed in terms of the Companies Act, 1956 and the CFO i.e. the whole-time Finance Director or any other person heading the finance function discharging that function shall certify to the Board that:

A. They have reviewed financial statements and the cash flow statement for the year and that to the best of their knowledge and belief:

1. these statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading;

2. these statements together present a true and fair view of the company's affairs and are in compliance with existing accounting standards, applicable laws and regulations.

B. There are, to the best of their knowledge and belief, no transactions entered into by the company during the year which are fraudulent, illegal or violative of the company's code of conduct.

C. They accept responsibility for establishing and maintaining internal controls for financial reporting and that they have evaluated the effectiveness of internal control *systems of the company pertaining to financial reporting and they have disclosed to the auditors and the Audit Committee, deficiencies in the design or operation of such internal controls, if any, of which they are aware and the steps they have taken or propose to take to rectify these deficiencies.*

D. They have indicated to the auditors and the Audit committee:
1. significant changes in internal control over financial reporting during the year;
2. significant changes in accounting policies during the year and that the same have been disclosed in the notes to the financial statements; and
3. instances of significant fraud of which they have become aware and the involvement therein, if any, of the management or an employee having a significant role in the company's internal control system over financial reporting.

7. The findings of the investigation and allegations levelled against the Noticees in the SCN are summarized below:

7.1. **Misrepresentation pertaining to bogus purchases in the name of CIAL during FY 2014-15 and FY 2015-16**

7.1.1. Vide letter dated March 19, 2020, CEIB had provided, interalia, the information pertaining to bogus purchases made by BAL in the name of CIAL, and conveyed that the money so paid was in turn transferred to some shell companies created by BAL for its ultimate use, such that an initial estimation on this count suggested that BAL had concealed around Rs. 28.42 Crores.

7.1.2. Mr. Abhijit Chatterjee, the compliance officer of BAL, vide email dated June 20, 2022, interalia, had submitted the following to SEBI:

The relationship between BAL & CIAL is purely that of buyer-seller. BAL used to purchase low ash metallurgical coal (LAM coke) from CIAL against advance payment made to them. The details of ownership of CIAL are not known to BAL and no promoter/ promoter group entities/ directors of BAL have any interest in CIAL.
BAL had also sourced LAM Coke from Manchester United Marines Pvt Ltd (MUMPL) during FY 2013-14 & FY 2014-15 amounting to about 11,000 Metric Ton. There was 100% utilization of purchases from the aforesaid companies by BAL.

7.1.3. It was observed on perusal of CIAL's bank statements, that it had no fund transfers with BAL. Further, the counterparty details of BAL with respect to payments made to CIAL, as obtained from the State Bank of India (SBI), were as below:

Bank account details of CIAL mentioned by SBI

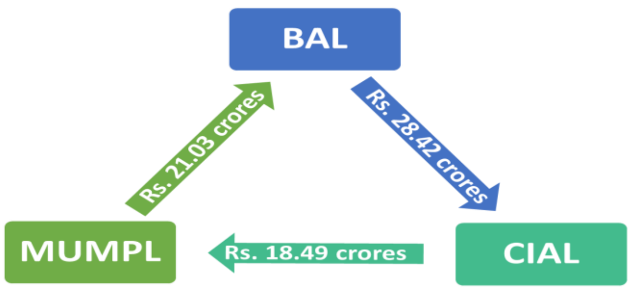
Name	Crackers India Alloys Limited
Account Number	720500301000548
IFSC code	VIJB0007205
Bank	Vijaya Bank*

Vijaya Bank subsequently got merged with Bank of Baroda (BoB**)*

7.1.4. On perusal of the bank statements pertaining to the aforementioned account for the period April 01, 2013 to March 31, 2020, a net receipt of funds from BAL to the tune of Rs. 28.42 Crores, were identified during FY 2014-15 and FY 2015-16. It was further observed that out of these funds, an aggregate of Rs. 18.49 Crores, were transferred to Manchester United Marines Pvt Ltd (hereinafter referred to as **"MUMPL"**).

7.1.5. On perusal of MUMPL's bank statements, it was noted that MUMPL had transferred an aggregate of Rs. 21.03 Crores to BAL almost on the same days as the receipt from CIAL, indicating circular transactions.

<u>Pictorial representation of circular transactions</u>



7.1.6. Mr. Pramod Kumar Jena, one of the directors of CIAL, vide email dated July 21, 2022, submitted, interalia, that CIAL had no transactions with BAL and he was not aware of the company MUMPL. It was also observed that BAL or MUMPL were not on the list of the top 10 customers and vendors of CIAL from FY 2013-14 to FY 2020-21.

7.1.7. Mr. Basanta Kumar Jena (Group CFO) & Mr. Prasanna Kumar Jena (Sr. Manager), on behalf of CIAL, at their deposition before SEBI, dated August 24, 2022, mentioned the following:

BAL was not a customer of CIAL and is in no way related to CIAL. The bank account which has receipts from BAL, is forged and not owned by CIAL. CIAL's only product was sponge iron and LAM Coke was a raw material for CIAL, hence there was no way that they could have been supplying LAM Coke.

7.1.8. However, Mr. Anil Kumar Surekha (MD of BAL and Noticee No. 2), in his deposition before SEBI, dated August 24, 2022, and Mr. Rajendra Kumar Parakh (CFO of BAL and Noticee No. 3), in his deposition before SEBI, dated September 12, 2022, reiterated that CIAL was a vendor of BAL.

7.1.9. Based on the contradictions in the submissions made by BAL and CIAL, the KYC of bank account number 720500301000548, was sought from Bank of Baroda (BoB), which submitted the signature card of authorized signatories for CIAL's aforesaid bank account number i.e., Shri Shrinibash Sahoo and Smt. Suprasanna Sahoo. Further, the KYC of Shri Shrinibash Sahoo and Smt. Suprasanna Sahoo were sought from CDSL Ventures Limited (CDSL)

7.1.10. On perusal of the signature card submitted by BoB and the KYC submitted by CDSL, it was observed that the photographs and signatures were different in both documents. Also, for Smt. Suprasanna Sahoo, the PAN number submitted by BoB was AHWPS4873C, whereas her PAN number, as submitted by CDSL, was AHWPS4879C. Based on the above, it was observed that the bank account number 720500301000548 did not belong to CIAL.

7.1.11. The statutory auditor of BAL, Mr. Amit Chaturvedi, partner of Chaturvedi & Shah LLP, during his deposition before SEBI, held on September 21, 2022, had submitted that he was not aware of the entity named CIAL. Thereafter, Mr. Amit Chaturvedi, vide email dated October 05, 2022, had submitted certain details, inter alia, including purchase details of LAM Coke by BAL for the period FY 2014-15 to FY 2019-20. On perusal of this data, it was observed that BAL had purchased 11,694 MT from CIAL, i.e. 20.42% of the total purchase of LAM coke by BAL during FY 2015 -16, thereby making CIAL the second largest supplier of LAM Coke to BAL for that FY.

7.1.12. With regard to the contradiction in Mr Amit Chaturvedi's deposition and submissions made vide email dated October 05, 2022, he, vide email dated October 21, 2022, submitted that the submissions made vide email were correct. He also submitted copy of invoice along with inspection slip and transporter copy, with respect to CIAL. On perusal of CIAL's invoice dated September 09, 2015, submitted by Mr. Amit Chaturvedi, it was observed that signature of "S. Sahoo", present on the CIAL's invoice, was matching with the signature on the signature card submitted by BoB.

7.1.13. Further, on perusal of the inspection slip and transporter copy pertaining to CIAL's invoice, it was observed that a lorry bearing vehicle number OR21C5146 transported 17.2 MT of LAM Coke to BAL. However, on verification of the vehicle details, it was noted that the vehicle number OR21C5146 was registered on August 31, 2010, and pertained to a two-wheeler, contrary to the claim in the transporter copy.

7.1.14. Based on the above, it was alleged that by entering into fictitious purchase transactions amounting to Rs. 28.42 Crores, BAL misrepresented its financial statements during FY 2014-15 and FY 2015-16 and misled its investors.

7.2. Misrepresentation pertaining to repayment of "Long-term Borrowings" to SMSEPL and JVPL and receipt of "Loans & Advances" given to UGML

7.2.1. On perusal of the PMC bank account of BAL, it was observed that, on March 31, 2015, BAL received Rs. 154.80 Crores from UGML, and transferred the said amount to SMSEPL and JVPL on the same day. In this regard, Mr. Abhijit Chatterjee, vide email dated June 20, 2022, submitted the following:

At a meeting held on September 27, 2012, BAL had decided to make a strategic investment in UGML as approved by its board of directors. The funds required for making such an investment were made available through its promoter group companies, JVPL - Rs 92.36 Crores and SMSEPL - Rs 101.69 Crores.

The total investment amount of Rs. 198.75 Crores was paid to UGML and the same was duly disclosed in the Audited Balance Sheet of BAL for the FY 2012-13 under Note 13 - Loans and Advances under the head Advance recoverable in cash or kind as Advance against strategic investment.

However, due to the non-execution of the deal between BAL and UGML, the deal was called off in FY 2014-15 and UGML refunded the amount totalling Rs 161,91,42,455/- over the FY 2014-15 and FY 2015-16. The balance amount of ***Rs 36,83,57,545/-*** *is still outstanding to be received from UGML and the same is reflected in the Annual Report of BAL for the FY ended March 2018.*

Accordingly, the amount received from UGML was refunded to the aforesaid two promoter companies and all the transactions were duly accounted for and disclosed in the audited Balance Sheet and IT Return filed by BAL.

Therefore, the amount of Rs 154 crore received by BAL from UGML on May 31, 2015, was actually a refund of an investment made in UGML during FY 2012-13 and should not be construed as any loan or advance received by BAL.

Relevant disclosures were made in the audited balance sheet of BAL for FY 2014-15 and 2015-16. All applicable statutory requirements were complied with.

A summary of the Board Resolutions (BR), is reproduced as under:

BR dated November 09, 2012: BAL has paid Rs. 172.25 Crores for strategic investment in UGML, as an advance against equity during the quarter, and the same is included in the non-current loans & advances.

BR dated February 14, 2013: BAL has further paid Rs. 26.50 Crores for the above-mentioned purpose during the quarter. The total amount paid to UGML till December 31, 2012, is Rs 198.75 Crores

BR dated May 27, 2015: Due to the cancellation of the strategic investment deal with UGML, BAL got a refund from UGML of Rs. 154.80 Crores, and a balance of Rs. 43.95 Crores is lying with UGML as an advance towards the supply of raw material, to be supplied on or before June 30, 2016. During the quarter, BAL refunded Rs. 194.05 Crores to SMSEPL & JVPL. As on March 31, 2015, no amount is payable to SMSEPL & JVPL towards their advances.

7.2.2. On the perusal of submissions made by BAL and its annual reports, the following were observed:

7.2.2.1. BAL submitted that it advanced Rs. 198.75 Crores to UGML in FY 2012-13. Correspondingly, BAL in its Annual Report for the FY 2012-13, had duly recorded an asset in the form of 'Loans & Advances' to the tune of Rs. 198.75 Crores in its balance sheet and a cash outflow amounting to Rs. 198.75 Crores in its cash flow statement.

7.2.2.2. Further, BAL in its Annual Report for the FY 2014-15, squared off the liability it created in FY 2012-13 indicating that the liability of Rs. 194.05 Crores had been paid back. However, in the cash flow statement, BAL has recorded a corresponding cash outflow of only Rs. 172.18 Crores indicating that it has paid back only Rs. 172.18 Crores and not Rs. 194.05 Crores as reflected in the balance sheet.

7.2.2.3. Further, BAL in its Annual Report for the FY 2014-15, had also squared off the asset it created in FY 2012-13 and has recorded a corresponding cash inflow of Rs. 198.75 Crores in its cash flow statement, indicating that BAL had received the complete refund of Rs. 198.75 Crores advanced to UGML. This was in contradiction to the submission of BAL that UGML refunded Rs. 161,91,42,455/- during the FY 2014-15 and FY 2015-16 and a balance amount of Rs. 36,83,57,545/- was still outstanding to be received from UGML.

7.2.3. From the above analysis, the following misrepresentations in financial statements of FY 2014-15 were observed:

7.2.3.1. There was a discrepancy in the financials i.e. balance sheet and cash flow statement of BAL for FY 2014-15, with respect to the liability i.e. squaring off of the liability of Rs. 194.05 Crores vis-à-vis cash outflow of only Rs. 172.18 Crores.

7.2.3.2. With respect to the asset being squared off for the total amount of Rs. 198.75 Crores and a corresponding cash inflow of the same amount recorded in the cash flow statement, BAL had not shown a true and fair picture of its financials as it had submitted that it received only Rs. 161.91 Crores and a balance of Rs.36.83 Crores was still outstanding to be received from UGML. Further, no outstanding receivable balance of Rs. 36.83 Crores had been shown by BAL for FY 2015-16 and FY 2016-17.

7.2.4. In FY 2014-15, BAL had already squared off the asset of Rs. 198.75 Crores. Further, it did not show any balance receivable in this regard nor has mentioned anything about the outstanding receivable balance in the notes to accounts during FY 2015-16 and FY 2016-17. However, all of a sudden, in FY 2017-18, BAL showed an off-balance sheet item of an outstanding receivable balance amounting to Rs. 36.83 Crores in its notes to accounts. Further, during FY 2018-19, BAL booked an exceptional loss of Rs. 36.83 Crores. Hence, based on all these, it was observed that BAL had fraudulently written off Rs. 36.83 Crores in FY 2018-19, which it had already claimed to have received, and had already squared off the complete asset of Rs. 198.75 Crores in FY 2014-15. Further, it was observed that BAL, in its submission to SEBI dated June 20, 2022, stated that a balance amount of Rs 36,83,57,545/- was still outstanding to be received from UGML, which was factually incorrect and untrue submission, as BAL has written off the balance amount of Rs. 36.83 Crores as an exceptional item in FY 2018-19.

7.2.5. Hence, based on all the above, it was alleged that, during FY 2014-15, despite not receiving the total amount of Rs. 198.75 Crores, BAL squared off the asset worth Rs. 198.75 Crores and recorded a corresponding cash inflow of Rs. 198.75 Crores. Also, during FY 2018-19, BAL further booked an exceptional loss for the already squared-off asset. Thus, BAL misrepresented its financial statements for an amount of Rs. 36.83 Crores from FY 2014-15 to FY 2018-19 and misled the investors.

7.3. Alleged violations against Noticees

7.3.1. It was alleged that Noticee No. 1 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act. Further, it was alleged that Noticee No. 1 also violated provisions of Regulations 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(e), 4(1)(g), 4(2)(e), 33(1)(a), 33(1)(c) and 48 of LODR Regulations read with Clause 49(I)(C) of

Listing Agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) of SEBI Act.

7.3.2. It was observed that Noticee No. 2 was appointed as the Managing Director of BAL w.e.f. April 17, 2012. He had signed the financials of BAL for the FY 2011-12 to FY 2018-19 and signed CEO/CFO certification, in the capacity of 'CEO', for the FY 2011-12 to FY 2018-19. Noticee No. 2, being Managing Director and member of the Board of Directors of BAL, was involved and responsible for the BAL's financial misstatements with knowledge and intention to deceit or induce investors and shareholders for carrying out fraud and furnishing untrue and fraudulent compliance certificates to the Board of Directors of BAL which led to the publication of untrue and misleading financials of the Company. Therefore, it was alleged that Noticee No.2 violated provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, read with Section 12A of SEBI Act. Further, it was alleged that Noticee No.2 violated provisions of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act.

7.3.3. It was observed that Noticee No. 3 was appointed as an Additional Director designated as Director-Finance of BAL w.e.f. November 17, 2011. He signed the financials of BAL for FY 2011-12 to FY 2016-17 and the CEO/CFO certification, in the capacity of 'CFO', for FY 2011-12 to FY 2016-17. Noticee No.3 by virtue of his involvement in the transactions of fraudulent misrepresentation of financials, had failed in his duties as a CFO cum Director-Finance of BAL and his actions had been detrimental to the interest of the minority shareholders of BAL. Without his involvement, these transactions could not have been executed. Therefore, it was alleged that Noticee No.3 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act. Further, it was alleged that Noticee No.3 violated provisions of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations and Section 21 of SCRA.

7.3.4. It was observed that Noticee No. 4 was appointed as an Additional Director cum Whole-time director of BAL and designated as Director-Finance & CFO w.e.f. December 14, 2017. He signed the financials of BAL for FY 2017-18 and FY 2018-19 and the CEO/CFO certification, in the capacity of 'CFO', for FY 2017-18 and FY 2018-19. Noticee No. 4 by virtue of his involvement in the transactions of fraudulent misrepresentation of financials, had failed in his duties as a CFO cum Director-Finance of BAL and his actions had been detrimental to the interest of the minority shareholders of BAL. Therefore, it was alleged that Noticee No. 4 violated provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act. Further, it was alleged that Noticee No.4 violated provisions of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act.

8. The submissions made by the Noticees as regards allegations levelled against them are summarized below.

8.1. <u>Noticee No. 1:</u>

8.1.1. Inspection of all the records collected by SEBI was not provided, resulting in violation of principles of natural justice and prejudice to the Noticee. In this regard, Noticee has relied upon the judgements of the Hon'ble Supreme Court in the matters of V K Sasikala vs State (2012) 9 SCC 771, Price Waterhouse & Co vs SEBI and CBI vs INX Media Pvt Ltd & Ors.

8.1.2. The issuance of SCN after an inordinate delay made it impossible to collect contemporaneous evidences to rebut the allegations made in the SCN. The relevant persons in BAL are not available due to various reasons.

8.1.3. Financial misstatements are outside the purview of Regulation 4(1) and 4(2) of the PFUTP Regulations as the said provisions are attracted only when there is a fraudulent or unfair trade practice while "dealing in securities"/

"securities market". A plain reading of the Regulation 2(1)(b) of the PFUTP Regulations shows that dealing in securities would only include acts of buying, selling or subscribing the shares and cannot be interpreted to include "financial misstatements" as is being done in the instant matter. The word "includes" in Regulation 2(1)(b) cannot be given an expanded meaning so as to include "financial misstatements". The definition of "dealing in securities"/ "securities market" has become wider only after insertion of Explanation to Regulation 4(1) of the PFUTP Regulations which was only inserted in 2020 vide an amendment to PFUTP Regulations, and is not applicable to the instant violations. In this regard, Noticee has relied upon the judgement of the The Hon'ble Supreme Court of India in the case of South Gujarat Roofing Tiles vs State of Gujarat and Another (1977 SCR (1) 878).

8.1.4. Three independent auditors have found no discrepancy in the accounts that the purchased material was either not received or not consumed.

8.1.5. Part B-2 of the Cost Audit Reports for the year 2014-15 and 2015-16 shows the consumption of domestic coke, which indicates that the same was consumed by BAL.

8.1.6. BAL operated on SAP system which does not allow back dated entries. Noticees have already produced SAP entries (993 in number) showing the details about the LAM Coke received from CIAL, such as date of receipt of material, Gate Pass No., Gross Weight etc. The aforesaid entries pertaining to receipt and consumption of LAM coke evidences its consumption.

8.1.7. The allegations are based on random statements of some persons, which does not establish conclusively the allegations levelled in the SCN. SEBI's reliance on the statement of Mr Pramod Kumar Jena, who is not even a present director of CIAL is misplaced.

8.1.8. In respect of difference in the signatures of authorized signatories of CIAL in the records of Bank of Baroda and of CDSL, Noticees submitted that SEBI officials themselves could not say that the signatures were different without a report from independent expert witness

8.1.9. BAL had made the transactions in the bank account of CIAL for purchasing the raw material. However, whether CIAL recorded the same in its books of accounts is of no concern to BAL, and further, it did not have the knowledge or the means to find out the same.

8.1.10. As regards the vehicle registration number on the inspection slip and transporter copy belonging to a Scooter, the same was sole responsibility of the seller. There could have been a mistake in recording the vehicle numbers, which was not required to be verified by BAL. BAL purchased the material on the basis of Freight On Road i.e. it was the responsibility of the seller to supply the material at BAL’s factory at seller's own costs, risks and expenses. Therefore, the transportation was not the responsibility of BAL and hence, it did not hire the trucks.

8.1.11. The amount received by BAL from MUMPL was a refund of an earlier transaction. Further, BAL is not aware of the transactions between CIAL and MUMPL.

8.1.12. BAL had made advance of Rs 198.75 Crores to UGML, however, due to non-execution of the relevant deal, the investment was called off and UGML had refunded amount of Rs 161.91 Crores in FY 2014-15 and FY 2015-16.

8.1.13. With regard to the amount of Rs 36.83 Crores outstanding with UGML, BAL entered into an agreement with UGML for supply of raw material for the aforesaid amount, and a Purchase Order was issued by BAL accordingly. However, the amount could not be repaid by UGML, and presently it is before NCLT and BAL is one of the members of Committee of Creditors.

8.1.14. According to the accounting standard applicable to BAL, Cash Flow statement in the Audited Annual Accounts were to be reflected by the way of (i) Cash flow from operating activities (ii) Cash flow from investing activities (iii) Cash flow from financing activities. The advances given to UGML in 2012 were reflected under ‘Cash Flow from Investing activities’. Thereafter, when on account of non-execution of deal between the Company and UGML, the amount that was received back from UGML in the year 2014 was also reflected in ‘Cash flow from Investing Activities’.

8.1.15. The balance amount of Rs 36.83 Crores which had not been paid back was shown in ‘Cash Flow from Operating activities’. In FY 2014-15, the transaction of the proposed long-term investment which was part of Investing

Activities was squared off and the entire amount of Rs 198.75 Crores was shown under the head ‘Cash flow from Investing Activities’. The amount of Rs 172.18 Crores which was received in the same year was correctly shown under the head ‘Cash flow from Financing Activities’. The balance amount of Rs.36,83,57,545/- left with UGML was shown under the head ‘Cash Flow from Operating Activities’.

8.1.16. The notes in account for FY 2017-18 and FY 2018-19 were given to present the updated information to shareholders of BAL. Further, UGML was admitted into insolvency proceedings before NCLT and BAL being the operational creditor had very little chance for recovery. Therefore, the entire amount was written off with due approval of Audit Committee.

8.1.17. Mr. Amit Chaturvedi, the statutory auditor of Noticee No. 1 had by email dated 05.10.2022 placed on record the details of LAM Coke purchased by Noticee No. 1 from FY 2014-15 till FY 2019-20 from various suppliers including CIAL. Mr. Amit Chaturvedi vide his email dated 21.10.2022 had also produced an invoice as a sample of purchase of LAM Coke from CIAL.

8.2. Noticee Nos 2, 3 and 4

8.2.1. SCN had not been issued in accordance with Rule 4 of the Adjudication Rules, 1995. The three stage process contemplated by the said Rules has not been followed. In this regard, Noticee relied upon the judgements of the Hon’ble Supreme Court in the matters of T. Takano vs SEBI and Natwar Singh vs Director of Enforcement and of the Hon’ble Securities Appellate Tribunal (hereinafter referred to as “**SAT**”) in the matter of UBS Securities Asia Ltd vs SEBI.

8.2.2. SCN has been issued after an inordinate delay, and the instant proceedings are liable to be dropped on this ground alone. In this regard, Noticee relied upon the judgements of the Hon’ble SAT in the matters of Rajiv Bhanot vs SEBI, Rakesh Kathotia vs SEBI, Ashok Shivlal Rupani vs SEBI, Anilkumar Nandkumar Harchandani & Others vs SEBI and of the Hon’ble Supreme Court in the matter of Anil Rai vs State of Bihar.

8.2.3. Noticees had not been provided the relevant documents referred to and relied upon in the SCN, resulting in violation of principles of natural justice. In this regard, Noticees relied upon the judgements of the Hon'ble Supreme Court in the matter of T. Takano vs SEBI, Price Waterhouse vs SEBI, and of the Hon'ble SAT in the matter of Vikas Gourihar Narnavar vs SEBI.

8.2.4. Noticee No. 2 was Managing Director and CEO of BAL from April 17, 2012 to April 16, 2021. Presently, he is 67.5 years old and retired. Noticee No. 3 was Director (Finance) and CFO of BAL from November 17, 2011 to June 30, 2017. Noticee No. 4 was Director (Finance) of BAL from December 14, 2017 to March 24, 2021.

8.2.5. BAL was a process and system driven company with a robust ERP system, such that all receipts and payments, issue and consumption of materials, finished goods produced etc were duly entered in the said ERP system.

8.2.6. All the material received at BAL was duly weighed and inspected by Quality Control Department, and the same is evident from the Inspection slip recording the transaction of BAL with CIAL.

8.2.7. Costing Department of BAL was maintaining Cost Accounting Records showing therein the cost of materials used and the finished goods produced therefrom. Since all receipts of LAM Coke from various parties including CIAL were duly recorded in ERP system, there was no bogus purchases of LAM Coke during FY 2014-15 and FY 2015-16.

8.2.8. MUMPL had not supplied LAM Coke to BAL during FY 2013-14 to FY 2014-15. Further, CIAL was a vendor of BAL, and BAL used to purchase LAM Coke from CIAL against advance payments made to them. All payments for purchase of LAM Coke from CIAL were made through NEFT/ RTGS from the bank account of BAL maintained with SBI to the Bank Account of CIAL maintained with erstwhile Vijaya Bank.

8.2.9. BAL had made payments to CIAL against purchases of LAM Coke in FY 2014-15 and 2015-16, amounting to Rs 28.42 Crores. However, breakup of the said Rs 28.42 Crores was not provided by SEBI to the Noticees.

8.2.10. Mr. Abhijit Chatterjee in his email dated 20.06.2022 stated that *"there was 100% utilization of purchases made by BAL"*. Further, Mr Amit Chaturvedi had provided a Statement of Purchase of LAM coke made by BAL from various Parties including CIAL in F.Y 2014-15 and 2015-16.

8.2.11. The amounts transferred between BAL, CIAL and MUMPL pertaining to circular transfers are totally different, and to allege that such transactions were circular defies logic. Any receipt of funds by BAL from MUMPL must have been against the transactions carried out in normal course of business.

8.2.12. Erstwhile Vijaya Bank should have opened account of CIAL after conducting proper KYC. BAL had made payment to CIAL against all purchases from its account with SBI to CIAL's account with erstwhile Vijaya Bank. Hence, there was no question of doubting the identity of CIAL from whom BAL had purchased LAM Coke and had made relevant payment against such purchases through Banking Channel.

8.2.13. Mr Amit Chaturvedi, partner of Chaturvedi and Shah LLP, had duly checked all relevant documents pertaining to receipt, issue and consumption of raw materials, but had not found any discrepancy therein.

8.2.14. The observation pertaining to the vehicle number must have arisen due to certain typo-graphical error.

8.2.15. All purchases of LAM Coke by BAL were audited by an Independent Firm of Chartered Accountant, and also pre audit of all transactions was carried out by one of the 'big four' audit firms. None of the auditors had given any adverse remark. Further, Cost Audit Reports provided by M/s Shome & Banerjee, Cost Accountants for FY 2014-15 and FY 2015-16 also did not contain any adverse observations.

8.2.16. The Management Discussion and Analysis Report, forming part of Annual Financial Statements of BAL, also mentioned that BAL had robust and comprehensive Internal Financial Control System commensurate with size, scale and complexity of operations.

8.2.17. In FY 2014-15 and 2015-16, BAL had received refund of Rs. 161.91 Crore from UGML against Investment of Rs. 198.75 Crs made in FY 2012-13. However, since the strategic investment was called off, the entire amount of Rs.198.75 Crs was shown as cash inflow from Investing Activities and the balance amount of Rs. 43.95 Crs was treated as an advance recoverable in cash/ kind against supply of Raw Materials and became part of Operating Activities.

8.2.18. Since BAL had received Rs. 154.80 Crs as a refund against an Investment of Rs. 198.75 Crs and the nature of Activity has changed from “Investing” to “Operating” Activities, the said balance amount of Rs. 43.95 Crs was reflected in Cash Flow Statement as a net amount of Rs. 3267.33 Lakhs under the heading “Decrease/(Increase) Loans and advance and Other Assets”.

8.2.19. Similarly, in the Cash Flow Statement for FY 2014-15 as against Rs. 194.05 Crs from JVPL and SMSEPL, BAL recorded a Cash outflow of Rs. 172.18 Crs under the heading “Repayment of Long Term Borrowing" as the balance amount of Rs. 21.87 Crs was on account of inflow in form of Term Loan and Equipment Finance.

8.2.20. It is refuted that BAL had not shown any balance receivable nor had mentioned anything about the outstanding receivable balance in the Notes to the Accounts during FY 2015-16 and FY 2016-17. Instead, the amount of Rs 36.84 Crores was included in the amount under the head “Advances recoverable in cash or kind”.

8.2.21. BAL had repaid Rs. 194.05 Crs to JVPL (Rs. 92.36 Crs) and SMSEPL (Rs. 101.69 Crs) and in the Cash Flow Statement a net repayment amount has been shown as Rs. 17218.99 Lakhs under point ‘C’ ‘Cash Flow from Financing Activities’.

8.2.22. As UGML was admitted to CIRP in FY 2018-19, BAL had written off Rs 36.84 Crores in its accounts in FY 2018-19 with due approval from Audit Committee. Upon resolution of UGML, approximately Rs 7 lakhs had been received by BAL. Therefore, proper disclosure has been made in Cash Flow, Balance Sheet, Notes to Accounts, and there is no concealment of the balance amount receivable from UGML.

Issue No. I: Whether Noticee No. 1 carried out misrepresentation pertaining to bogus purchases in the name of CIAL during FY 2014-15 and FY 2015-16, resulting in violation of provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act and Regulations 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(e), 4(1)(g), 4(2)(e), 33(1)(a), 33(1)(c) and 48 of LODR Regulations read with Clause 49(I)(C) of Listing Agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) of SEBI Act?

9. Before dealing with the issue on merits, I note that the Noticees have contended that the instant SCN was issued after an inordinate delay, and that the instant proceedings are liable to be set aside on this ground alone. Noticees have also relied upon the judgements of the Hon'ble SAT in the matters of Rajiv Bhanot vs SEBI, Rakesh Kathotia vs SEBI, Ashok Shivlal Rupani vs SEBI, Anilkumar Nandkumar Harchandani & Others vs SEBI and of the Hon'ble Supreme Court in the matter of Anil Rai vs State of Bihar. In this regard, I note that SEBI came to know about the alleged misrepresentation vide reference dated March 19, 2020 received from CEIB. Thereafter, SEBI and BSE had sought clarifications from Noticee No. 1 pertaining to the prima facie findings referred by CEIB, and held a meeting with Chief Financial Officer of Noticee No. 1 on October 26, 2021. After seeking repeated extensions for submission of requisite information, BAL submitted partial information vide emails dated November 26, 2021 and December 03, 2021, and complete information only vide email dated June 20, 2022. Thereafter, detailed investigation in the matter was carried out and Adjudication Proceedings were approved on January 25, 2023. Pursuant to the same, SCN dated March 27, 2023 was issued and thereafter, inquiry proceedings were initiated comprising of inspection of documents and personal hearing in the matter. I find it relevant to note that Noticees allegedly carried out misrepresentation of financial statements pertaining to large quantum of funds, and therefore, cannot contend for disposal of proceedings merely on the grounds that there was time gap in detection of alleged violations by CEIB. I also note that the allegations pertain to financial statements pertaining to Noticee No.1 itself, and that Noticee

Nos. 2, 3 and 4 held key managerial positions in Noticee No.1 for various durations of time, such that Noticees can be reasonably expected to have necessary wherewithal to explain the inconsistencies in their financial statements involving large amounts of shareholder's money.

10. I further note that the case laws relied upon by the Noticees are distinguishable from the instant matter. For instance, in the matter of Ashok Shivlal Rupani vs SEBI, the violations alleged therein occurred in 2010, and the Investigation Period was observed between January 04, 2010 to January 10, 2011, while the SCN was issued in 2018. Further, the disclosure violations that had occurred were held to be 'technical' in nature by the Hon'ble SAT, which is distinguishable vis-a-vis the instant matter. Therefore, I note that the time gap in detection of possible violation by CEIB and the Investigation by SEBI can at best serve as a mitigating factor, but are not sufficient to dispose of the proceedings altogether. Therefore, I reject the contentions of the Noticees in this regard.

11. Noticees have also contended that Inspection of all the records collected by SEBI was not provided, resulting in violation of principles of natural justice and prejudice to the Noticees. In this regard, Noticee has relied upon the judgements of the Hon'ble Supreme Court in the matter of V K Sasikala vs State (2012) 9 SCC 771, Price Waterhouse & Co vs SEBI, CBI vs INX Media Pvt Ltd & Ors and T. Takano vs SEBI; and of the Hon'ble SAT in the matter of Vikas Gourihar Narnavar vs SEBI. I note that the Noticees had sought inspection of documents after receipt of the SCN, and the same was provided to them on April 19, 2023 (Noticee Nos. 2, 3, 4) and April 26, 2023 (Noticee No. 1). Pursuant to the inspection, the Noticees had sought certain additional documents pertaining to the matter. Accordingly, Noticees were provided the documents sought which were available on record, and were provided comments for each of the documents which could not be provided. The comments provided to the Noticees are reproduced below:

<u>Comments pertaining to documents requested by Noticee No. 1</u>

S.no	***Documents sought during inspection by the AR of Noticee no. 1 as per email dated April 26, 2023.***	***Document (s) provided / could not be provided, for inspection.***
1.	*Order dated 27.02.2023 of the Competent Authority appointing Mr. Amit Kapoor as the Adjudicating Officer.*	*The said document is available and is provided in CD/Email.*
2.	*Letter dated 19.02.2020 from Central Economic Intelligence Bureau (CEIB) containing findings of DGIT (Investigations), Hyderabad about the search conducted on the company under Section 132 of the IT Act along with all annexures.*	*The said document is available and is provided in CD/Email.*
3.	*Investigation Report along with all annexures and documents referred in the Investigation Report including all the documents collected (whether relied or not) by SEBI during the investigation.*	*The relevant pages of the Investigation Report and Annexures that has been relied upon as available, is provided in CD/Email.*
4.	*Bank statements of State Bank of India, Axis and IDBI Bank of CIAL which have not been provided in Annexure 6*	*The said document is available and is provided in CD/Email.*
5.	*Pages of bank statements which are missing in Annexure 7;*	*The said document is available and is provided in CD/Email.*
6.	*Detailed bank statements of CIAL's bank account in Bank of Baroda (720500301000548) for the period April 01, 2013, to March 31, 2020 as the same are not provided in Annexure 8.*	*The said document is available and is provided in CD/Email.*
7.	*Bank statements which are not provided in Annexure 9.*	*The said document is available and is provided in CD/Email.*
8.	*Email dated 21.07.2022 along with annexures which have not been provided in Annexure 10.*	*The first attachment to the email has been relied upon and has been provided. The second attachment has not been relied upon and therefore would not be provided.*
9.	*Depositions of Mr Basant Kumar Jena and Mr Prasanna Kumar Jena which have not been provided in Annexure 11.*	*The said document is available and is provided in CD/Email.*
10.	*Deposition of Mr. Anil Kumar Surekha dated 24.08.2022.*	*The said document is available and is provided in CD/Email.*
11.	*Deposition of Mr. Rajendra Kumar Parakh dated 12.09.2022.*	*The said document is available and is provided in CD/Email.*
12.	*Legible copies of the specimen signature cards of Shri Shrinibash Sahoo and Smt. Suprasanna Sahoo in Annexure 12.*	*The annexure 12 pertains to the KYC of Bank account number 720500301000548. The legible copy of KYC has been provided. A copy of the signatory card of authorised signatories for CIAL's i.e Shri Shrinibash Sahoo and Suprasanna Sahoo received from BOB is provided in CD/Email.*
13.	*Documents collected by Bank of Baroda while opening the Account No 720500301000548 including the account opening form and IDs of the authorized signatories as well as the persons who introduced them.*	*The document sought is not relied upon is not available on file. The document cannot be provided.*

14.	*Legible copy of Annexure 13.*	*The Annexure 13 pertains to the KYC of Shri Shrinibash Sahoo and Suprasanna Sahoo received from CDSL. The legible copy of KYC has been provided. There is no other copy available.*
15.	*Deposition of Mr Amit Chaturvedi dated 21.09.2022.*	*The said document is available and is provided in CD/Email.*
16.	*Account opening forms and all authorization forms from the beginning submitted by CIAL while opening and operating all bank accounts but not limited to State Bank of India, Axis, IDBI and HDFC Bank from time to time.*	*The document sought is not available on file and is not relied upon. The document cannot be provided.*

Comments pertaining to documents requested by Noticee No. 2, 3 and 4

S no.	***Documents sought during inspection by the AR of Noticee no. 2,3 & 4 along with documents sought as per email dated April 17, 2023.***	***Document (s) provided / could not be provided, for inspection.***
1.	*Investigation Report in the matter of Balasore Alloys Limited.*	*The said document is available and is provided in CD/Email.*
2.	*Copies of Annual Report/ Financial Statements of Balasore Alloys Limited (BAL) for the Financial Years 2012-13 as referred in Para 9.2.2 (ii) at page No. 10 of SCN.*	*The relevant pages of the Annual Report/ Financial Statements of Balasore Alloys Limited (BAL) for the Financial Years 2012-13 is available and is provided in CD/Email. The Annual Report/ Financial Statements of BAL are publically available in MCA website.*
3.	*Copies of Annual Reports/ Financial Statements of BAL for the Investigation Period i.e for Financial Years 2014-15 to 2018-19.*	*The relevant pages of the Annual Report/ Financial Statements of Balasore Alloys Limited (BAL) for the Financial Years 2014-15 to 2018-19 is available and is provided in CD/Email. The Annual Report/ Financial Statements of BAL are publically available in MCA website.*
4.	*Complete copy of letter dated 19.03.2020 received from Central Economic Intelligence Bureau (CEIB) wherein CEIB had shared the findings of the Office Director General of Income Tax (DGIT) (Inv.), Hyderabad during their search under section 132 of the Income Tax Act, conducted in BAL as referred in Para 7(a) at Page No. 4 of SCN.*	*The said document is available and is provided in CD/Email.*
5.	*Break up of Rs. 28.42 Crores as alleged as concealed by BAL as referred to in Para 7(a) at Page No. 4 of SCN.*	*The breakup of Rs. 28.42 Crores is not available to be provided, as it is an information received from CEIB.*
6.	*Copy of all Statements of Bank Accounts maintained by CIAL with SBI, Axis and IDBI Bank as referred in Annexure 6" only the Bank Statement of HDFC Bank had been provided.*	*The said document is available and is provided in CD/Email.*

7.	*Copy of Account details of Crackers India Alloys Limited as maintained with Vijay Bank (Since merged with BOB)(Account Number:720500301000548) for the period 1.04.2013 to 31.03.2020 as referred in Para 9.1.4 of SCN as copy of Bank Statement of said account is not annexed to "Annexure 8".*	*The said document is available and is provided in CD/Email.*
8.	*Copy of Bank Statement of Manchester United Marines Private Limited (MUMPL) as referred in Para 9.1.5 of SCN as copy of Bank Statement of said account is not annexed to "Annexure 9".*	*The said document is available and is provided in CD/Email.*
9.	*Copy of Deposition of Mr. Basanta Kumar Jena and Mr. Prassana Kumar Jena as referred in Para 9.1.7 of SCN as copy of Deposition of above mentioned persons in not annexed to Annexure 11".*	*The said document is available and is provided in CD/Email.*
10.	*Please provide the details of working of Rs. 20.42% of the total purchase of LAM coke by BAL during the Financial Year 2015-16 as referred in Para 9.1.13 at page no. 8 of SCN.*	*The said document is available and is provided in CD/Email. However the financial Year 2015-2016 may be read as 2014-2015.*
11.	*Details of WhatsApp call record dated 07.07.2022 between Mr. Parmod Kumar Jena and DGM (Sareena P U) as referred in email dated 07.07.2022 sent by Saketh Sai Pallapolu to Mr. Parmod Kumar Jena at "Annexure 10" of SCN.*	*The details of the WhatsApp call record is not available and cannot be provided. However the content of the call has been referred to in the Email dated 07.07.2022.*
12.	*Copy of Deposition of Mr. Anil Kumar Surekha and Mr. Rajendra Kumar Parakeh as referred in Para 9.1.8 at page no. 7 of SCN.*	*The said document is available and is provided in CD/Email.*
13.	*Legible copy of Signatory Card as annexed in "Annexure 13" of SCN.*	*The annexure 13 pertains to the KYC of Shri Shrinibash Sahoo and Suprasanna Sahoo received from CDSL. The legible copy of KYC has been provided. However a copy of the signatory card of authorised signatories for CIAL's Bank account number 720500301000548 received from BOB is available and is provided in CD/Email.*
14.	*Copy of Deposition of Mr. Amit Chaturvedi as referred in Para 9.1.13 at Page No. 8 of SCN as copy of Deposition of above mentioned person in not annexed to "Annexure 14".*	*The Annexure 14 is to be read as "A copy of the Email post deposition before SEBI by Mr. Amit Chaturvedi dated October 05,2022" and the said document has been provided. However as sought the deposition of Mr. Amit Chaturvedi on September 21,2022 is available and is provided in CD/Email.*
15.	*In Para 9.2.1 reference of PMC Bank Account of BAL has been made however, PMC Bank Account of BAL as provide in Annexure 17 does not contain the Name of the Bank, Account Number and Name of the Bank Account Holder.*	*The said document is available and is provided in CD/Email.*
16.	*Copies of the following documents relating to Board Meetings held during Financial Years 2012-13 to 2018-19 of BAL*	*The documents sought is not available on record and cannot be provided.*

	i.Notice of each Board Meetings along with proof of Service of Notices to Noticee No. 2; *ii. Notes on agenda items of each Board Meetings;* *iii. Attendance sheets of all Board Meetings;* *iv. Minutes of all Board Meetings;*	
17.	*SEBI has issued summon to Mr. Pramod Mittal who was Chairperson and Promoter Director of BAL during Investigation Period and his Statement on oath was also recorded by SEBI. Requesting you to kindly provide us the details of the same.*	*The summons issued to Mr. Pramod Mittal is available on record and its provided. However he had not appeared for the summon issued and his statement on oath was not recorded by SEBI.*
18.	*Supreme Court Order – Certified copy*	*The said document is available and is provided in CD/Email.*
19.	*IT Assessment Orders*	*The said document is available and is provided in CD/Email.*
20.	*Tribunal Order copy*	
21.	*Examination Report from BSE on CEIB letter*	

12. I note from the above that all the relevant documents were provided to the Noticees either during the course of Inspection or thereafter, and that the Noticees were provided reasons for not providing certain additional documents as sought by them. Therefore, I note that the principles of natural justice have been complied with and the contentions of the Noticees in this regard are without merits.

13. Further, Noticees have contended that the adjudication process as stipulated under the Adjudication Rules have not been followed in the instant matter. In this regard, I note that upon culmination of detailed Investigation in the matter, the undersigned was appointed as the Adjudicating Officer by the Competent Authority. Thereafter, the SCN dated March 27, 2023 was issued to the Noticees to show cause as to why inquiry should not be initiated for the violations alleged against them, in terms of Rule 4(1) of Adjudication Rules. Further, the undersigned issued Hearing Notices after the Noticees had carried out inspection of documents and responded to the SCN, in order to carry out inquiry in the matter in compliance with Rule 4(3) of Adjudication Rules. Finally, the instant Adjudication Order is being passed upon grant of hearing and culmination of the inquiry process. Therefore, I note from the above chronology that the provisions of the Adjudication Rules have been complied with in the matter, and that the Noticees' contentions pertaining to non-adherence with the Adjudication Rules are devoid of merits.

14. I now proceed to consider the issue on merits. I note that during the Investigation Period, BAL had transferred funds amounting to Rs 28.42 Crores to the bank account of CIAL. Further, I note that the aforesaid fund transfers were done to the following bank account, apparently belonging to CIAL:

Name	Crackers India Alloys Limited
Account Number	720500301000548
IFSC code	VIJB0007205
Bank	Vijaya Bank (erstwhile)

15. I further note from perusal of the bank statement of the aforesaid bank account, that during the Investigation Period, funds amounting to Rs 18.49 Crores were transferred to one company viz. MUMPL. I note from the bank statement of MUMPL that Rs 21.03 Crores were transferred back to BAL, either on the same or the next day of receiving funds from CIAL.

16. I note that representatives of CIAL, viz. Mr Pramod Kumar Jena (Director), Mr Basanta Kumar Jena (CFO) and Mr Prasanna Kumar Jena (Senior Manager), vide their emails or depositions had denied that they ever had any transactions with BAL or MUMPL. They had contended that the bank account no. 720500301000548 was not owned by CIAL, and had been forged. Further, they had also submitted that CIAL never exported LAM Coke, as the same was a raw material for CIAL itself.

17. Further, Noticee Nos. 2 and 3, vide their respective depositions dated August 24, 2022 and September 12, 2022 respectively, reiterated that CIAL was in fact a vendor of BAL. The statutory auditor of BAL, Mr. Amit Chaturvedi, partner of Chaturvedi & Shah LLP, during his deposition held on September 21, 2022, submitted that he was not aware of the entity named CIAL. However, Mr. Amit Chaturvedi, vide email dated October 05, 2022, contradicted the submissions made in his deposition and submitted, inter alia, purchase details of LAM Coke by BAL for the period FY 2014-15 to FY 2019-20, wherein it was stated that BAL had purchased 11,694 MT from CIAL during FY 2015 -16, making CIAL the second largest supplier of LAM Coke to BAL for the said Fiscal Year.

18. I note that the submissions by representatives of BAL and CIAL are contradictory. I also note Noticees' submissions that Mr Pramod Kumar Jena was a former director, and that mere statements made by few persons must not be relied upon to level the instant allegations. Therefore, I am inclined to consider the evidences pertaining to the authenticity of the account of CIAL, the account of MUMPL and the nature of transfers between them in totality to bring out whether the transfer of Rs 28.42 Crores by BAL to CIAL was fraudulent, and resulted in misrepresentation of financial statements.

19. In this regard, I note firstly that the KYC of bank account number 720500301000548, into which the transfers had been made, was sought from BoB; BoB submitted the signature card of authorized signatories for CIAL's bank account number 720500301000548 i.e., Shri Shrinibash Sahoo and Smt. Suprasanna Sahoo. Further, the KYC of Shri Shrinibash Sahoo and Smt. Suprasanna Sahoo were sought from CDSL. I note on perusal of the aforesaid signature cards submitted by BoB and the KYC submitted by CDSL, that there was apparent mismatch between the photographs and signatures in both documents. Further, Smt. Suprasanna Sahoo' PAN number as submitted by BoB was AHWPS4873C whereas her PAN number, as submitted by CDSL, was AHWPS4879C. I note that the even though the aforesaid irregularities point to the possibility that CIAL's account was forged and used as a conduit in circular trades orchestrated by BAL, however, the said evidences are not sufficient to conclusively arrive at such finding. Therefore, I now proceed to consider further material on record in light of the above observations.

20. I note that Mr Amit Chaturvedi, statutory auditor of BAL, vide email dated October 21, 2022, interalia, submitted sample copy of invoice along with inspection slip and transporter copy, with respect to one transaction with CIAL. I note on perusal of the inspection slip and transporter copy pertaining to CIAL's invoice, that a lorry bearing vehicle number OR21C5146 was transporting 17.2 MT of LAM Coke. However, on verification of the vehicle details, I note that the same belongs to a

two-wheeler. I note that the Noticees have submitted in this regard that the BAL purchased the material on Freight on Record basis; transaction of material was recorded in SAP ERP system; error in entering the vehicle number must be typographical, and that Noticees have ensured compliance with necessary procedures for taking delivery of LAM Coke by paying the requisite amount. I note that the Noticees' submissions appear to be convincing in first glance. However, I also note that Noticees have attempted to claim ignorance with respect to both the issues, i.e. that of mismatch in KYC details of CIAL's bank account, and the issue with vehicle number recorded in the inspection slip/ transporter copy, and have submitted that their liability was limited to receiving the LAM Coke after making payment of requisite amount in CIAL's bank account.

21. I now proceed to consider the authenticity of transfers in bank account belonging to MUMPL. I note from the perusal of the bank statement of MUMPL that during the IP, 62 transactions had taken place using the said account, and that 57 of the said 62 transactions involved either receiving funds from CIAL, or transferring them to BAL. I also note that the chain of transfers involving receipt of funds from CIAL and transferring the same to BAL happened on exactly the same date in all the instances. I note for instance the following transactions:

Date of transaction	Narration	Debit_amount	Credit_Amount
26/08/2014	CIAL		24,85,000.00
26/08/2014	BAL	24,75,000.00	
27/08/2014	CIAL		24,90,000.00
27/08/2014	BAL	25,25,000.00	

22. I also find it relevant to note that 92% (57 out of 62) of the transactions that happened in the bank account of MUMPL were pertaining to the circular transfers, and that there were no transfers recorded in the account after transfer of Rs 20,00,000/- to BAL on September 24, 2014. Further, I note that Mr Abhijit Chatterjee, the compliance officer of BAL, had submitted vide email dated June 20, 2022 that MUMPL had supplied LAM Coke amounting to 11,000 Metric Ton to BAL. However, I find it peculiar to note based on the available bank statements that MUMPL has only made debit transfers to BAL, instead of receiving payment for the supply of LAM Coke to BAL as per Mr Abhijit Chatterjee's submissions.

Further, vide their reply to the SCN, Noticees have also made an alternate submission, that the amount received from MUMPL were in lieu of refunds owed to BAL. However, Noticees have not produced any evidentiary proof to substantiate their claim in the form any prior agreement, contract etc. nor have they given any proof of any money given to MUMPL in the past for which they received the refunds. Also, the contention pertaining to refunds does not explain why MUMPL would refund the amount via a series of transactions, in sync with the amounts received from the account of CIAL. Additionally, I note from the website of Ministry of Corporate Affairs that Status of MUMPL currently is “Strike Off”. Therefore, I note from the aforesaid facts and evidences that it can be clearly established that MUMPL’s bank account was used merely as a conduit for effecting circular fund transfers, which ended in the bank account of BAL.

23. I also note that the CIAL account had a similar pattern of transfers, such that the amount received by it from BAL, was transferred to MUMPL within a short duration till September 24, 2015, and after the said date, to certain other entities in same manner. I also note that CIAL’s bank account kept on transferring the amounts received from BAL to various entities throughout the Investigation Period. I note that the instant observation when read in totality with other circumstances indicates that BAL had in fact, used accounts of both CIAL and MUMPL for effecting circular transfer of funds.

24. Noticees have contended that Costing Department of BAL had maintained Cost Accounting Records showing therein the cost of materials used and the finished goods produced therefrom. The said reports had also been audited by independent auditors, who found no discrepancy in the accounts that the purchased material was either not received or not consumed. I note from the reports of the auditors as submitted by the Noticees that the same pertained to cost audit of BAL for FY 2014-15 and 2015-16, and were submitted by the auditor viz. M/s Shome and Bannerjee, for the purpose of expressing their opinion of the cost statement and other details, in terms of Section 148 of the Companies Act

2013. I note that the referred reports did not directly deal with the facts of present allegations, and are not relevant in context of instant proceedings.

25. Noticees have submitted that Part B-2 of the Cost Audit Reports for the year 2014-15 and 2015-16 shows the consumption of domestic coke, which indicates that domestic coke was consumed by BAL. Further, Noticees have contended that Mr Amit Chaturvedi, the statutory auditor, had enclosed as Statement of Purchase of LAM Coke made by BAL from CIAL in FY 2014-15 and FY 2015-16, vide his email dated October 05, 2022 to SEBI. I note that the consumption of domestic coke by BAL as a raw material is not under dispute. However, the aforesaid demonstration by the Noticees does not demonstrate that the transaction of LAM Coke amounting to Rs 28.42 Crores actually resulted in delivery of the relevant quantity of LAM Coke to BAL from CIAL.

26. Noticees have further contended that BAL operated on SAP ERP system which does not allow back dated entries, and that the entries pertaining to receipt and consumption of domestic coke have been recorded in the SAP system, which evidences its consumption. I note from the records of SAP system submitted by the Noticees that there is no correlation between the entries made in the SAP system and the transfers from BAL made to CIAL. For instance, the records from the SAP system show purchase of LAM Coke by BAL beginning June 03, 2014. However, I note from the bank statement of CIAL that the first transfer from BAL to CIAL amounting to Rs 25,00,000 had taken place only on August 25, 2014, which goes against Noticees' submissions that BAL used to make advance payments to CIAL. Further, I note that the Inspection slip submitted by Mr Abhijit Chatterjee showed purchase of 17.2 MT of LAM Coke, with the invoice dated September 09, 2015. However, I am unable to find the corresponding entry for the purchase on records of SAP system submitted by the Noticees. The aforesaid inconsistencies indicate towards non-genuineness of records submitted by the Noticees.

27. Noticees have further contended that the breakup of the alleged Rs 28.42 Crores, which had been transferred by BAL to CIAL during FY 2014-15 and 2015-16, had not been provided. I note that the aforesaid amount was calculated on the basis of statement of bank account purportedly belonging to CIAL, wherein transfers totalling to the aforesaid amount had been made by BAL on various dates. The said bank statement has already been provided to the Noticees. Therefore, the information pertaining to the transfer of said amount, as available on record had already been provided to the Noticees, and the contentions are liable to be rejected on the same grounds.

28. Noticees have further contended that the amounts transferred between BAL, CIAL and MUMPL pertaining to the alleged circular transfers were different, and to allege that such transactions were circular defies logic. In this regard, I note that the circular transactions have been alleged on the basis of transaction pattern across the bank statements of the aforesaid three accounts, such that there was very small time gap between the successive transfers completing the circular pattern. Further, I note that even if benefit of doubt is granted on the ground of difference in the amounts transferred, still it can be reasonably concluded that the amount of Rs 18.49 Crores which was returned by CIAL to MUMPL, and eventually to BAL, cannot be accounted for and pertained to the bogus purchases made by BAL.

29. Noticees have also contended that financial misstatements are outside of purview of Regulation 4(1) and 4(2) of the PFUTP Regulations as the said provisions are attracted only when there is a fraudulent or unfair trade practice while dealing in securities. Further, Noticees have also submitted that The definition of “dealing in securities”/ “securities market” has become wider only after insertion of Explanation to Regulation 4(1) of the PFUTP Regulations w.e.f. October 19, 2020, which is not applicable to the instant violations. In this regard, I note that Regulation 4(1) along with the explanation inserted w.e.f. October 19, 2020 reads as below:

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

Explanation.–For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.

I note that admittedly, the explanation makes it clear that concealment of any assets or earnings to manipulate financial statements, as is the case in instant matter, amounts to fraud. The question that exists before me is whether the said explanation can be read retrospectively to imply that the instant violations by Noticees, committed prior to its insertion, also attracted provisions of fraud. In this regard, I place reliance on judgement of the Hon'ble Supreme Court in the matter of State Of Bihar & Ors vs Ramesh Prasad Verma (Dead) decided on on 31 January, 2017, wherein it was, interalia, held that,

"*Suffice it to state that any legislation or instrument having the force of law, if clarificatory, declaratory or explanatory in nature and purport, in order to supply an obvious omission or to clear up doubts qua any prior law, retrospective operation thereof is generally intended."*

Further, the Hon'ble Supreme Court in the matter of Sree Sankaracharya University of Sanskrit & Ors vs. Dr. Manu & Anr decided on May 16, 2023, held, interalia, that,

"8.1. It is trite that any legislation or instrument having the force of law, which is clarificatory or explanatory in nature and purport and which seeks to clear doubts or correct an obvious omission in a statute, would generally be retrospective in operation, vide Ramesh Prasad Verma.

……….

8.2. ………. it may be useful to refer to the following extract from the treatise, Principles of Statutory Interpretation, 11th Edition (2008) by Justice G.P. Singh on the sweep of a clarificatory/declaratory/explanatory provision:

"The presumption against retrospective operation is not applicable to declaratory statutes. As stated in Craies and approved by the Supreme Court: For modern purposes a declaratory Act may be defined as an Act to remove doubts existing as to the common law, or the meaning or effect of any Statute. Such acts are usually held to be retrospective.

[…] An explanatory Act is generally passed to supply an obvious omission or to clear up doubts as to the meaning of the previous Act. It is well settled that if a statute is curative or merely declaratory of the previous law, retrospective operation is generally intended. The language '<u>shall be deemed always to have meant' or 'shall be deemed never to have included'</u> is declaratory and is in plain terms retrospective……."

I note from the above that the explanation inserted in Regulation 4(1) of the PFUTP Regulations was clarificatory in nature, and can be applied retrospectively. Therefore, ingredients of fraud are attracted against the Noticee for misstatement of financial statements, and contentions of Noticees in this regard are without merits.

30. Therefore, I note from the evidences available on record, and the observations made above, that Noticee No. 1 had indulged in bogus transaction of LAM Coke with CIAL, amounting to at least Rs 18.42 Crores, and misrepresented the financial statements pertaining to the same. Therefore, Noticee No. 1 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act and Regulations 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(e), 4(1)(g), 4(2)(e), 33(1)(a), 33(1)(c) and 48 of LODR Regulations read with Clause 49(I)(C) of Listing Agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) of SEBI Act.

Issue No. II: Whether Noticee No. 1 carried out misrepresentation pertaining to repayment of "Long-term Borrowings" to SMSEPL and JVPL and receipt of "Loans & Advances" given to UGML, resulting in violation of provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act and Regulations 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(e), 4(1)(g), 4(2)(e), 33(1)(a), 33(1)(c) and 48 of LODR Regulations read with Clause 49(I)(C) of Listing Agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) of SEBI Act?

31. I note from the Annual Report for FY 2012-13 of BAL, that during the said Fiscal Year, Noticee No. 1 received Rs 194.05 Crores from its promoter group companies, i.e. Rs. 92.36 Crores from JVPL and Rs 101.69 Crores from SMSEPL, which was recorded in its Notes to Financial Statements (Page No- 49) under heading *'5. Long Term Borrowing'*, and under category of *'Unsecured borrowings' (Advance Towards Promoter Contribution)*. Further, BAL also recorded the same in its cash flow statement (Page No-42) under heading '*C. Cash Flow From Financing Activities'* as *'Proceeds from Long term borrowing'*. Noticee No. 1 had also advanced Rs. 198.75 Crores to UGML in FY 2012-13, and recorded the same in its Notes to Financial Statements (Page No. 90) under the heading *'13. Loans and advances'* as *'Advance against strategic investment'*, and also in its cash flow statement under the heading *'B. Cash Flow From Financing Activities'*.

32. I further note that in the Annual Report for FY 2014-15, Noticee No. 1 squared off the liability of Rs. 194.05 Crores, recording the same in the Notes to The Financial Statements. However, in the cash flow statement, Noticee No. 1 recorded a corresponding cash outflow of Rs. 172.18 Crores under the heading *'C. Cash Flow From Financing Activities'*, indicating that it paid back only Rs. 172.18 Crores.

33. Further, Noticee No. 1 in the Annual Report for the FY 2014-15, squared off the asset pertaining to the Strategic Investment in UGML in the Notes to Financial Statement under the heading *'Loans and Advances'* created in FY 2012-13 and

recorded a corresponding cash inflow of Rs. 198.75 Crores in its cash flow statement, under heading *'B. Cash Flow From Investing Activities'* and sub heading *'Refund of Advance against Strategic Investment'*. I note that the aforesaid indicated that Noticee No. 1 received the complete refund of Rs. 198.75 Crores advanced to UGML. However, I note that the same is contradictory to the submission made by Mr Abhijit Chatterjee, Compliance Officer of BAL, that UGML refunded BAL Rs. 161,91,42,455/- cumulatively during the FY 2014-15 and FY 2015-16, and a balance amount of Rs. 36,83,57,545/- was still outstanding to be received from UGML. Further, in FY 2017-18, BAL showed an off-balance sheet item of an outstanding receivable balance amounting to Rs. 36.83 Crores in its Notes to accounts, and during FY 2018-19, BAL booked an exceptional loss of Rs. 36.83 Crores.

34. I note that that there was an apparent misrepresentation pertaining to status of the strategic investment amounting to Rs 198.75 Crores advanced to UGML, as even though the Annual Report for FY 2014-15 stated that the entire asset had been squared off and recorded a Cash inflow of Rs 198.75 Crores in the Cash Flow Statement, the amount received in the bank account of Noticee No. 1 as submitted by Mr Abhijit Chatterjee was Rs 154.80 Crores in FY 2014-15 and Rs 7.11 Crores later in FY 2015-16. Accordingly, I note that Noticee No. 1 had apparently not disclosed that Rs 36.83 Crores was still outstanding to be received from UGML.

35. I further note that Noticees No. 1 recorded the aforesaid amount outstanding receivable balance amounting to Rs. 36.83 Crores in the Annual Report for FY 2017-18 in its Notes to accounts. Further, Noticee No. 1 also recorded an exceptional loss in the Annual Report for FY 2018-19 amounting to Rs 36.83 Crores as follows:

<u>Notes to the Consolidated financial statements for the Year ended 31st March, 2019</u>

42. In past company had given advance of ₹ 3,683.58 lacs to a vendor for supply of raw material which later on gone into dispute and ultimately refund of amount was to be done by the vendor based on memorandum of understanding entered between parties. However during the year Vendor company has been admitted under Insolvency and Bankruptcy

Code 2016 by National Company Law Tribunal and the company has filed its claim to the Resolution Professional (RP) and which has also been admitted by RP. Extent of amount that would be realized will depend upon outcome of resolution proceedings which at present is not ascertainable. On Account of the uncertainty in realization, company based on prudence has written off the advance and shown as an exceptional item.'

36. In this regard, Noticees have submitted that there was no misrepresentation, as BAL and UGML had decided to call off the strategic investment in FY 2014-15, and accordingly, UGL had refunded Rs 154.80 Crores to BAL in FY 2014-15 and Rs 7.11 Crores in FY 2015-16. The entire amount of Rs.198.75 Crs was shown as 'Cash Inflow from Investing Activities' in the Cash Flow Statement and the balance amount was treated as an advance recoverable in cash/ kind against supply of Raw Materials and became part of Operating Activities. Further, Noticees have also submitted that the pending amount of Rs 36.84 Crores was included in the amount under the head *'Advances recoverable in cash or kind'* for FY 2015-16 and FY 2016-17. UGML was admitted to CIRP in FY 2018-19, and thereafter, Noticee No. 1 had written off Rs 36.84 Crores in its accounts in FY 2018-19 with due approval from Audit Committee. Upon resolution of UGML, approximately Rs 7 Lakhs had been received by Noticee No. 1. Therefore, Noticees have submitted that proper disclosure had been made in Cash Flow Statement, Balance Sheet and Notes to Accounts, and there was no concealment of the balance amount receivable from UGML.

37. I note that after receipt of partial refund from UGML, pursuant to calling off of strategic investment by Noticee No. 1 in UGML, the dues owed by UGML pertaining to the remaining amount of Rs 36.84 Crores were restructured. Accordingly, in the Cash Flow Statement in Annual Report for FY 2014-15 (Page No. 80), the entire amount of Rs. 198.75 Crores pertaining to the planned Strategic Investment which could not fructify, was shown as *'B. Cash Flow from Investing Activities'* under the sub-head *'Refund of Advance against Strategic Investment'*. The remaining amount i.e. Rs 43.95 Crores was converted to Purchase Order, and the same was duly shown as *'Advance against supply of Raw Materials'* under heading

'A. Cash Flow From Operating Activities' in the Cash Flow Statement. I also note from the submissions of the Noticees that the amount owed by UGML was also duly reflected in Note No. 13 of the Financial Statement of BAL for FY 2014-15, wherein a sum of Rs. 55.74 Crs had been shown as *'Advances recoverable in cash or kind'* under the heading *'Loans and Advances (unsecured considered good unless stated otherwise)'*, and the dues of Rs 43.95 Crores formed part of the aforesaid amount of Rs 55.74 Crores .

38. I note that Noticee No. 1 had further received Rs. 7.11 Crores from UGML in FY 2015-16 against Rs. 43.95 Crores, such that a balance of Rs. 36.84 Crs was remaining as an advance against supply of Raw Material. Further, UGML was admitted to CIRP proceedings in FY 2018-19, and accordingly, the amount of Rs 36.84 Crores owed by UGML was written off in 2018-19 after due approval from the Audit Committee of Noticee No. 1. I also note from the submissions of Noticees that Noticee No. 1 had filed its claim for recovery of money to the Resolution Professional appointed in the matter of UGML, and upon resolution of UGML, a sum of Rs. 7 Lakhs (approx.) was received by BAL in FY 2020-21.

39. I note that the discrepancy in the financial statements pertaining to the squaring off of loan amounting to Rs 198.75 Crores to UGML was because of the reclassification of the pending refund from UGML as '*Advance against supply of Raw Materials'*, such that a Purchase Order of Rs 36.84 Crores was issued in favor of UGML by Noticee No. 1 in lieu of the pending amount. Eventually, the said amount was written off by Noticee No. 1 in FY 2018-19, upon admission of CIRP application against UGML.

40. I note that in absence of any evidence to the contrary, I am inclined to accept the contentions of Noticees as regards the reclassification of funds pending with UGML pursuant to cancellation of proposed Strategic Investment of Rs 198.75 Crores. Therefore, on the basis of material available on record and submissions made by the Noticees, I am willing to give benefit doubt to the Noticees and

dispose of the instant allegations levelled under Issue No. 2 against Noticee No. 1.

Issue No. III: Whether Noticee No. 2 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act?

41. I note the details of roles of Noticee No. 2, 3 and 4 in Noticee No. 1 as below:

Noticee No.	Name	Category	Date of Appointment	Cessation Date
2	Anil Kumar Surekha	Managing Director (MD)	17/11/2011	17/04/2021
3	Rajendra Kumar Parakh	Director - Finance & CFO	17/11/2011	30/06/2017
4	Nikunj Pansari	Director - Finance & CFO	11/08/2018	24/03/2021

42. I note that Noticee No. 2 was appointed as the Managing Director of Noticee No. 1 w.e.f. April 17, 2012, and had signed the financials of Noticee No. 1 for the FY 2011-12 to FY 2018-19. He had also signed CEO/CFO certification, in the capacity of 'CEO', for the FY 2011-12 to FY 2018-19. He was a 'key managerial personnel' in BAL by virtue of his designation as the Managing Director in terms of the Companies Act, 2013. As disclosed in the Annual Reports, he had attended 26 board meetings in Noticee No. 1 held during the Investigation Period.

43. I note that the violations established against Noticee No. 1 pertaining to bogus purchases made vis-à-vis CIAL amounting to Rs 28 Crores happened during the tenure of Noticee No. 1 as the Managing Director. Accordingly, I note that Noticee No. 2, as the Managing Director, was responsible for violations established against Noticee No. 1 in paragraph 30 above.

Issue No. IV: Whether Noticee No. 3 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations and Section 21 of SCRA?

44. I note from paragraph 41 above that Noticee No. 3 was Director (Finance) and CFO of BAL from November 17, 2011 to June 30, 2017. He had signed the financials of BAL for FY 2011-12 to FY 2016-17 and the CEO/CFO certification, in the capacity of 'CFO', for FY 2011-12 to FY 2016-17. Further, he was a 'Key Managerial Personnel' in BAL by virtue of his designation as the Director (Finance) in terms of the Companies Act, 2013. As disclosed in the Annual Reports, he attended 14 board meetings during the Investigation Period.

45. I note that the violations established against Noticee No. 1 pertaining to bogus purchases made vis-à-vis CIAL amounting to Rs 28 Crores happened during the tenure of Noticee No. 1 as the CFO. Accordingly, I note that Noticee No. 2, as the Managing Director, was responsible for violations established against Noticee No. 1 in paragraph 30 above.

Issue No. V: Whether Noticee No. 4 violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act?

46. I note that Noticee No. 4 was Director (Finance) of Noticee No. 1 from December 14, 2017 to March 24, 2021. I further note that the allegations against Noticee No. 4 pertain to the violations alleged against Noticee No. 1 under Issue No. II, which had taken place during the tenure of Noticee No. 4 as CFO. However, the violations alleged under Issue No. II could not be established; therefore, I note that the violations alleged against Noticee No. 4 also fail on the same grounds.

Issue No. VI: If yes, whether the violations, if any, attract monetary penalty under the provisions of Section 23H of the SCRA and/ or Section 15HA and 15HB of the SEBI Act, as applicable? If so, what quantum of monetary penalty should be imposed on the Noticees after taking into consideration the factors mentioned in Section 23J of the SCRA and Section 15J of the SEBI Act?

47. I note that following is established in the foregoing paragraphs;

47.1 that Noticees No. 1 has violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act and Regulations 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(e), 4(1)(g), 4(2)(e), 33(1)(a), 33(1)(c) and 48 of LODR Regulations read with Clause 49(I)(C) of Listing Agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) of SEBI Act.

47.2 that Noticee No. 2 has violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act, and;

47.3 that Noticee No. 3 has violated the provisions of Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations and Section 21 of SCRA.

The violations established against Noticee No. 1 to 3 attract monetary penalty under Section 15HA and 15HB of the SEBI Act, and Section 23H of the SCRA.

48. The provisions of Section 15HA and 15HB of the SEBI Act and Section 23H of the SCRA, read as under:

SEBI Act

Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

SCRA

Penalty for contravention where no separate penalty has been provided.

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

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

SEBI Act

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I or section 11 or section 11B, the Board or 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.

SCRA

Factors to be taken into account by the adjudicating officer.

23J. While adjudging quantum of penalty under section 12A or section 23-I, the Securities and Exchange Board of India or 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.

50. I note that the amount of disproportionate gain or unfair advantage made by Noticee Nos. 1 to 3 is not available. With respect to the repetitive nature of the default, I find that there is nothing on record to indicate any past violations committed by the Noticee Nos.1 to 3. However, I note that the bogus purchases made by Noticee No. 1 resulted in misrepresentation of financial statements amounting to atleast Rs 18.42 Crores.

ORDER

51. After taking into consideration the facts of the matter, violations established against Noticee Nos. 1 to 3, and various factors such as the time gap in initiation of the proceedings, and others mentioned in Section 15J of the SEBI Act and Section 23J of the SCRA, I impose the following penalty on them:

Noticees (PAN)	Violation of provisions	Penalty u/s	Penalty in Rs.
Balasore Alloys Limited (AAACI3967P)	Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), and 4(2)(r) of PFUTP Regulations read with Section	Section 15HA and 15HB of the	Rs. 10,00,000 (Rupees Ten Lakhs Only)

	12A of SEBI Act and Regulations 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(e), 4(1)(g), 4(2)(e), 33(1)(a), 33(1)(c) and 48 of LODR Regulations read with Clause 49(I)(C) of Listing Agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) of SEBI Act	SEBI Act, and Section 23H of the SCRA	
Anil Kumar Surekha (PAJGPS8652M)	Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations, Section 21 of SCRA and Section 27(1) and 27(2) of SEBI Act	Section 15HA and 15HB of the SEBI Act, and Section 23H of the SCRA	Rs. 5,00,000 (Rupees Five Lakhs Only)
Rajendra Kumar Parakh (AEJPP0728B)	Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations read with Section 12A of SEBI Act, and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(6)(7), 4(2)(f)(iii)(3)(6)(7), 33(1)(a), 33(1)(c), 48, 17(8), 33(2)(a) of LODR Regulations, read with	Section 15HA and 15HB of the SEBI Act, and Section 23H of the SCRA	Rs. 5,00,000 (Rupees Five Lakhs Only)

	Clause 49(IX) of the Listing agreement dated April 17, 2014, read with Regulation 103 of LODR Regulations and Section 21 of SCRA		

I find that the said penalty is commensurate with the violations committed by Noticee Nos. 1 to 3 in this case.

52. Noticees 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

53. 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 and Section 23JB of the SCRA for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

54. In terms of Rule 6 of the Adjudication Rules, 2005 and Rule 6 of the Adjudication Rules, 1995, a copy of this order is being sent to the Noticees and also to the SEBI.

Place: Mumbai **AMIT KAPOOR**

Date: August 18, 2023 **ADJUDICATING OFFICER**