BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER: EAD-9/VKV/GSS/2019-20/6770 - 6772]

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

In respect of:

Noticee No.	Name of the Entity	PAN Details
1.	Tarini International Limited	(PAN No.: AABCT7379R)
2.	Mr. Vakamulla Chandra Shekhar	(PAN No.: AOBPS6042M)
3.	Mrs. Vakamulla Anu Naidu	(PAN No.: ADPPN6394L)

In the matter of:
M/s. Tarini International Ltd.
(CIN No. L74899DL1999PLC097993)

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (herein after referred to as 'SEBI'), had carried out investigation into the IPO of equity shares issued by Tarini International Ltd. and its subsequent activities relating to trading of shares on the stock exchange during the period from June 26, 2014 and August 22, 2014 ('investigation period').
2. Investigations prima-facie revealed that out of the IPO proceeds of ₹16.31 crores raised by the Company, approximately ₹15.40 crores were not utilized by Tarini for the objects stated in the Prospectus and instead were diverted to various group companies and through them to some other entities/ persons. The IPO proceeds were also found to have been diverted for funding other entities to purchase Tarini's own shares in deviation from the disclosure made in the prospectus.
3. Further, a loan of₹5.50 crores taken by Tarini from one Hind Ispat Ltd. (hereinafter referred to as "Hind Ispat") after the date of Prospectus and before the date of allotment, was alleged to be not disclosed to the public by issuing a public notice in the newspapers as required under the relevant

Regulations. The company was observed to have furnished wrong information in the statement explaining the variations between projected utilization of funds as disclosed in its prospectus vis-à-vis the actual utilization of funds.

4. Thus, the Company is alleged to have misled and defrauded the investors at large by providing wrong and misleading information/disclosure in its Prospectus and other filings.
5. Pursuant to the investigation, SEBI initiated adjudication proceedings under Section 15HA of the Securities and Exchange Board of India Act, 1992, (hereinafter referred to as "SEBI Act") against Noticees namely; Tarini International Ltd. (hereinafter referred to as 'Tarini' or 'Noticee No. 1'), Mr. Vakamulla Chandra Shekhar ('Noticee No. 2') and Mrs. Vakamulla Anu Naidu ('Noticee No. 3') and collectively referred as 'Noticees' for the alleged violation of the provisions of Section 12A (a), (b) and (c) of the SEBI Act r/w Regulation 3 (a), (b), (c) and (d), Regulation 4(1), 4(2)(f) and 4(k) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations") and under section 23E of Securities Contracts (Regulation), Act, 1956 ("hereinafter referred to as SCRA") against Noticee no. 1 for violation of the provisions of clause 45 and 46 of the SME Listing agreement r/w section 21 of the SCRA.

APPOINTMENT OF ADJUDICATING OFFICER

6. The erstwhile Adjudicating Officer (AO) was appointed vide communication order dated February 02, 2017 under section 15I (1) and 15I(2) of Securities and Exchange Board of India Act, 1992 ('SEBI Act') and under section 23-I of Securities Contracts (Regulation), Act, 1956 ('SCRA') to inquire into and adjudge the alleged violation by the entities mentioned therein in the Initial Public Offer ('IPO') of Tarini and if satisfied that penalty is liable, to impose such penalty deemed fit in terms of Rule 5 of the Adjudication Rules and in terms of Section 15HA of the SEBI Act and section 23E of SCRA. Subsequently, in the matter the undersigned has been appointed as AO by SEBI, vide communication order dated August 13, 2019, to inquire into and adjudge, the violation of the SEBI Act, SCRA, PFUTP Regulations and SME Listing agreement alleged to have been committed by the Noticees.

SHOW CAUSE NOTICE, WRITTEN SUBMISSIONS, PERSONAL HEARING

7. A Show Cause Notice (SCN) dated December 15, 2017, was served to Noticee No. 1 to 3 as named above on December 23, 2017, under Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (AO Rules). However, Noticees vide their letter dated January 10, 2018 sought extension of four week to submit their reply to the SCN. Thereafter, vide letter dated February 09, 2018, Noticees filed their reply to the SCN.
8. Thereafter, vide Hearing Notice (HN) dated September 14, 2018, the Noticees were given opportunity of personal hearing, in terms of Rule 4(3) of AO rules, on October 08, 2018. The same was successfully delivered to all the Noticees on September 19, 2018.

9. However, the hearing was not attended by any of the Noticees. Thereafter, second HN was issued to all the Noticees on the same day when the first hearing was scheduled i.e. October 08, 2018, wherein all the Noticees were granted second opportunity of personal hearing on October 24, 2018. The HNs were delivered to all the Noticees on October 13, 2018.
10. In the meantime, the Noticees, vide a common letter dated October 15, 2018, had sought for cross-examination of representatives of the Merchant banker of Tarini. However, the same was not granted to the Noticees.
11. Subsequently, vide HN dated April 01, 2019, third opportunity of personal hearing was given to the Noticees on April 23, 2019. The HN was served upon all the Noticees on April 08, 2019.
12. Thereafter, vide a common letter dated April 18, 2019, the Noticees had sought for adjournment of hearing in the first week of June 2019.
13. Subsequently, vide HN dated April 24, 2019, fourth opportunity of personal hearing was granted to the Noticees on June 03, 2019. The said HN was delivered to all the Noticees on April 29, 2019.
14. On the scheduled date of hearing, Authorized Representative (AR) of the Noticees attended the hearing on behalf of the Noticees and made written submissions on behalf of the Noticees. The Noticees were granted two weeks' time to file additional written submissions. The Noticees filed additional written submissions vide their common letter dated June 17, 2019.
15. Thereafter, consequent to transfer of proceedings, the Noticees were given another opportunity of personal hearing vide HN dated August 22, 2019, on September 13, 2019. However, since, the HNs had returned undelivered, the same was sent by way of digitally signed electronic e-mail to all the Noticees on October 30, 2019, granting opportunity of personal hearing to all the Noticees on November 25, 2019.
16. However, none of the Noticees appeared on the scheduled date of hearing. Thus, vide HN dated December 23, 2019, another opportunity of personal hearing was granted to all the Noticees by way of affixture, wherein the HN was affixed at the last known address of the Noticees in terms of rule 7(c) of AO rules, on January 15, 2020.
17. On the scheduled date of hearing, AR of the Noticees appeared on behalf of Noticees. The AR of the Noticees reiterated their earlier submissions.
18. The key submissions of the Noticee are as follows:

- *The complaint of shri Sanjay Kumar against them is pseudonymous complaint and he has used a fake name and address for making the said complaint....'". It is respectfully submitted that no cognizance ought to be taken of such a complaint which has been disowned by the Ministry itself.*
- *Tarini International has used the IPO proceeds for the working capital (not project specific funding) for its self and its subsidiaries and its Associate companies such as Tarini International Ltd, Tarini Infrastructure Ltd, B. Some India (P) Ltd, Venture Infrastructure Ltd, Tarini Sugar & distilleries Ltd and Tarini wilderness & Innovations Ltd. to achieve the object of increasing the volume of operations in the field of power allied infrastructure sectors.*
- *Tarini Group of companies as mentioned above including Tarini International i.e Noticee No.1 is one single entity which is being managed by Mr. Vakamulla Chandrashekhar and his wife Mrs. V Anu Naidu and close relatives.*

- *It is a settled proposition of law that the corporate veil should be lifted where group companies are inextricably interconnected so as to be, in reality, part of one concern .It is respectfully submitted that the Noticeesare inviting the AO to look behind its own corporate personality and to recognize that the proceeds of the IPO were utilized to achieve the objects as mentioned in the prospectus by transferring them to its subsidiary /Associate Companies.*
- *It is respectfully submitted that Notice No.l in the said prospectus has described their business strategies, strengths and order book to show the number of projects undertaken by Noticee No.l and its Group companies.*
- *Noticee No.l transferred the remaining sum of Rs. 50,00,000/- to BantiaFintrade Pvt Ltd on 1st July, 2017 from the IPO proceeds for the purpose of purchasing the land on behalf of Tarini Sugar & Distilleries Pvt Ltd.*
- *The said projects as mentioned above are hindered on account of Noticee No.l being subjected to raids and investigations by various government department for matters which don't relate to the Noticees for the last three and half years. The said investigations and raids have been challenged in various forums and courts. In such raids and investigations, various important papers and information belonging to Noticee No.l have been taken over by the noticee is finding it difficult to substantiate their stand.*
- *Noticee No.l has utilized the said loan amount taken from Hind Ispat Ltd for various purposes of which details have been submitted by email dated 4th April, 2016. The said loan was repaid from the IPO proceeds on 27th June, 2014 in the bank Recount held in ICICI Bank by Noticee No.l. The said transaction is recorded in the Books of accounts maintained by Noticee No.l.*
- *This was the first time that the Noticee was coming with an IPO. For the said IPO, Noticee No.l had appointed a merchant banker i.e. Guinness Corporate Advisors to help them launch a successful IPO in compliance with rules and Regulations as mentioned under ICDR Regulations and SEBI Act. Further, Noticee No.l had also verbally informed the merchant bankers of the said loan which Merchant Banker to inform and take steps to see that all the information provided by the issuer company, between the filing of the prospectus and closing of the scrip, has to be disclosed to the general public so that they can take an informed decision.*
- *It is respectfully submitted that the Noticees have conducted interviews and press conferences appraising the public of the IPO. In the said public Conference and interviews the merchant Banker's presence was always there. In the said press conferences and interviews, it is respectfully submitted that the information with respect to a loan taken from Hind Ispat was disclosed. Unfortunately, the disclosure of the said loan was not captured in the printed news.*
- *It is respectfully submitted that there is no evidence whatsoever in support of the allegations that the entities as mentioned above i.e. PRRSB / Shallot TieUp Pvt Ltd, and the Noticee Nol. / Group Companies had any relationship in the form of commonality of directors, control, address etc. There is nothing on record that would show the Noticee No.l or its Group Companies connived, in any manner, to purchase its shares in the IPO in question.*
- *Noticee No.l has provided the Board all the required documents and books of accounts maintained by Noticee No.l to substantiate thesaid payment. Further Noticee No.l is also relying on the salary statement for the period July-August 2014. The said salaries are paid from Karur Vysya bank Ltd, A/c No. 410513512.The gross salary paid to staff is Rs. 33,10,000/- which is working capital of Noticee No.l*
- *In the month of August, Noticee No.l decided not to use the services of B. Soilmec India Pvt Ltd and hence the said work was distributed to other entities. Noticee No.l incurred a total expense of Rs. 1,56,70,463/- for the work carried out by Noticee No.l personally and by various entities.*
- *Travel expenses incurred for Brand Building: The Noticees also incurred expenses by taking part in various trade shows for achieving the objects as mentioned in the prospectus. The representatives of Noticee No.l used to travel to take part in such trade*

shows for the purpose of brand building. The Representatives of the Noticees use to travel back and forth to various places, inter alia Bombay, Rajkot and Madras by Air and railway for which services of Travels agencies were engaged for booking Airline and railways Ticket. For the said services, the Noticees incurred a total expense of Rs.10,04,556/-

- *Purchase of Stamp paper and Registration expenses: Noticee No.1 to complete the purchase of the said land as mentioned above incurred expenditure by way of stamp duty and registration expenses and further incurred expenditure with respect to legal fees. Noticee No.1 through its subsidiary Tarini Sugar & Distilleries incurred an expenditure **of Rs.12,61,000/-** for the said purpose out of the IPO proceeds. The said fact can be noticed on perusal of the said statements as annexed to the said reply.*
- *It is respectfully submitted that Noticee No.1 made a part payment of the loan advanced by Noticee No.3 upto Rs. **73,50,000/-** from the funds already available in the bank account and not from the loan advanced from Hind Ispat limited.*
- *The Noticees had appointed CNBC Awaz to dispense information to the public with respect to the Noticees through Digital media, for which TV 18 Broadcasting Ltd raised an invoice of R**s.7,86,520/-***
- *Notice No. 1 had appointed Adnack Advertisements for printing, and designing IPO brochure and dispensing Public information with respect to the Noticees. In respect of these services, Adnack advertisements had raised bills to the tune of Rs.**39,24,088.32.***
- *The Noticees also incurred expenses by taking part in various trade shows for achieving the objects as mentioned in the prospectus. The representatives of Noticee No.1 used to travel to take part in such trade shows for the purpose of brand building the Representatives of the Noticees use to travel back and forth to various places, inter alia Bombay, Rajkot and Madras by Air and railway for which services of Travels agencies were engaged for booking Airline and railways Ticket. For the said services, the Noticees incurred a total expense of Rs. **10,04,556/-.***

<u>ISSUES FOR CONSIDERATION</u>

19. After perusal of the material available on record, the following issues arise for consideration;

    Issue No. I: Whether Noticee No. 1, 2 and 3 have violated Regulation 57 (1), regulations 60(4) and 60(7) (a) of SEBI (ICDR) Regulations 2009?

    Issue No. II: Whether the Noticee No. 1 has violated clause 45 and 46 of the SME Listing agreement read with section 21 of the SCRA?

    Issue No. III: Whether Noticee No. 1, 2 and 3 have violated Section 12A (a), (b) and (c) of the SEBI Act r/w Regulation 3 (a), (b), (c) and (d), Regulation 4(1), 4(2)(f) and 4(k) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003?

    Issue No. IV: Does the violation, if any, on the part of the Noticees attract monetary penalty under Section 15HA of the SEBI Act, 1992 and section 23E of SCRA?

    Issue No. V: If so, what quantum of monetary penalty should be imposed on the Noticees considering the factors stated in section 15J of SEBI Act, 1992?

<u>FINDINGS</u>

20. Before dealing with the issues involved in the matter in seriatim, the texts of the said provisions are reproduced as under:

SEBI (ICDR) 2009

Manner of disclosures in the offer document.

Regulation 57. *(1) The offer document shall contain all material disclosures which are true and adequate so as to enable the applicants to take an informed investment decision.*

Regulation 60(4):

(4) "*The issuer shall make prompt, true and fair disclosure of all material developments which take place during the following period mentioned in this sub-regulation, relating to its business and securities and also relating to the business and securities of its subsidiaries, group companies, etc., which may have a material effect on the issuer, by issuing public notices in all the newspapers in which the issuer had issued pre-issue advertisement under regulation 47 or regulation 55, as the case may be:*

(a) in case of public issue, between the date of registering final prospectus or the red herring prospectus, as the case may be, with the Registrar of Companies, and the date of allotment of specified securities;

(b) …"

Regulation 60(7) (a) Public communications, publicity materials, advertisements and research reports.

"Any advertisement or research report issued or caused to be issued by an issuer, any intermediary concerned with the issue or their associates shall comply with the following:

(a) it shall be truthful, fair and shall not be manipulative or deceptive or distorted and it shall not contain any statement, promise or forecast which is untrue or misleading;"

Relevant Provision of SEBI Act, 1992

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. *No person shall directly or indirectly—*

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

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

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

Relevant provisions of PFUTP Regulations, 2003:

***Regulation 3**. Prohibition of certain dealings in securities No person shall directly or indirectly—*

No person shall directly or indirectly—

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

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

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

Regulation 4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

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

(k*) an advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors;*

Relevant provision of Securities Contracts (Regulation), Act, 1956

Conditions for listing.

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

Issue No. I: Whether Noticee No. 1, 2 and 3 have violated Regulation 57 (1), regulations 60(4) and 60(7) (a) of SEBI (ICDR) Regulations 2009?

Issue No. II: Whether the Noticee No. 1 has violated clause 45 and 46 of the SME Listing agreement read with section 21 of the SCRA?

Issue No. III: Whether Noticee No. 1, 2 and 3 have violated Section 12A (a), (b) and (c) of the SEBI Act r/w Regulation 3 (a), (b), (c) and (d), Regulation 4(1), 4(2)(f) and 4(k) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003?

21. Before dealing with the issues under consideration, it is noted that the Noticees have made a preliminary objection that *"the investigation which was carried out by the board was on the basis of a fake complaint."* In this regard, it is noted that Noticee no.1 had filed a writ petition bearing no. 9058 of 2014 before the Hon'ble High court of Delhi with a prayer to direct SEBI not to take cognizance of the complaint forwarded by the Ministry of Finance, Department of Economic Affairs and not to proceed with any investigation as the said compliant is a fake complaint inasmuch as the complainant has used a fake address and perhaps a fake identity and thus, the said complaint is a malafide and, therefore, ought to have been disregarded completely.

22. In this regard, it is noted that the Hon'ble High Court of Delhi vide its order dated December 19, 2014 made an observation that *"I am unable to accept the said contention as the SEBI being an independent authority is entrusted with the duty to safeguard the investors and is bound to enquire into complaints? Even anonymous ones? Where, in its wisdom, it is of the opinion that investigations are necessary or warranted. Needless to mention that the SEBI shall proceed in accordance with law uninfluenced by any direction or suggestion of any other party".*

23. In light of above observation of Hon'ble High Court of Delhi, it is noted that the objection raised by the Noticees does not warrant any consideration. It is also observed that alleged violations as mentioned in the SCN are not solely based on the complaint, rather based on findings of investigation, which was conducted following the due procedure. Thus, the contention of the Noticees that *"the investigation which was carried out by the board was on the basis of a fake complaint."* does not hold any merit and need not be dealt further under current proceedings.

24. It is noted that The shareholding pattern of Tarini before and after IPO (i.e. as on June 24, 2014) is given below:

Category	**Pre-Issue**		**Post-Issue**	
	No. of Shares	**%**	**No. of Shares**	**%**
Promoters and its group	90,19,934	99.99	90,19,934	69.39
Public - Institutions (Market makers)	-	-	2,01,000	1.55
Public – Non-Institititions	66	0.01	37,77,066	29.06
Total	90,20,000	100	1,29,98,000	100

25. Shareholding pattern of promoters of Tarini before and after IPO (i.e. as on June 24, 2014) is given below:

Promoter	**Pre-Issue**		**Post-Issue**	
	No. of Shares	**%**	**No. of Shares**	**%**
Vakamulla Chandrashekhar	70,18,281	77.80	70,18,281	54.00
Vakamulla Anu Naidu	20,01,565	22.20	20,01,565	15.39
Vakamulla Anjaneyulu	22	0.00	22	0.00
V A Rajeshwari	22	0.00	22	0.00
Vakamulla Bhaskar Naidu	22	0.00	22	0.00
Vakamulla Tarini Naidu	22	0.00	22	0.00
Total	90,19,934	100	90,19,934	69.39

26. On perusal of the Prospectus of Tarini dated May 23, 2014, it is observed that it made a public issue of 39,78,000 equity shares of Rs.10 each of the company for cash at a price of Rs.41 per share (fixed

price), aggregating to Rs.16.31 crores of which, 2,01,000 equity shares (5.05% of Issue size) of Rs.10/- each were reserved for subscription by market makers to the issue (the "market maker reservation portion"). The issue, less the market maker reservation portion i.e. issue of 37,77,000 equity shares of Rs.10/- each is hereinafter referred to as the "net issue". The issue and the net issue constitute 30.60% and 29.06%, respectively of the post issue paid up equity share capital of Tarini.

Issue Open	Issue Type	Issue Size	Issue Size (Rs.)	Face Value	Issue Price	Market Lot	Minimum Order Quantity	Listing At
Jun 9, 2014 - Jun 13, 2014	Fixed Price Issue IPO	3,978,000 Equity Shares of Rs.10	Rs. 16.31 Crore	Rs. 10 Per Equity Share	Rs. 41 Per Equity Share	3,000 Shares	3,000 Shares	BSE SME

27. Further, as stated on page no. 44 - 46 of the prospectus, the objects of the issue were to finance the business expansion plans and achieve the benefits of listing on the SME platform of BSE Ltd. The category-wise allocation of IPO proceeds to be utilized as stated in the prospectus is given below:

S.No	Particulars	Amount (Rs. in Lakhs)
I	To finance long term incremental working capital requirements	1,000.00
II	Renovation & Interior of Registered Office	160.00
III	Brand Building	150.00
IV	General Corporate purposes	250.00
V	Issue expenses	70.98
	Total	**1,630.98**

28. Tarini has made the following disclosure in its Annual Report for the F.Y. 2014-15 regarding actual utilization of IPO proceeds against various heads:

Sl.	Particulars	Amount Proposed to be utilized as per the Prospectus (₹ in Lacs)	Actual Utilization of amount as per Annual Report (₹ in Lacs)
i.	To finance long term incremental working capital requirements	1,000.00	888.38
ii.	Renovation & Interior of Registered Office	160.00	159.28
iii.	Brand Building	150.00	72.95
iv.	General Corporate purposes	250.00	430.00
v.	Issue expenses	70.98	80.37
	Total	**1630.98**	**1630.98**

29. As may be seen from above, the actual utilization under different heads as presented in the Annual Report of the company are not in conformity with the head-wise outlays projected in the Prospectus. The Annual Report shows overspending towards some objects like general corporate purpose while the company has spent less than projected outlay for working capital requirements. Further, in contrast to the aforesaid disclosures in the Annual Report, it is noted that that during the course of investigation, several other irregularities have been noted with respect to actual utilization of IPO proceeds.
30. It was also observed during investigation that Tarini had made a fixed deposit of ₹1,50,00,000 with Karur Vysya Bank and also had repaid a loan of ₹5,50,00,000 taken from Hind Ispat from the proceeds of IPO. Under the circumstances, in course of Investigation, Tarini was advised to provide the item-wise details of utilization of IPO proceeds. Details regarding the same as provided by Tarini, vide email dated April 04, 2016, are as under:

Sl.	**Objects of the Issue**	**Source of the funds**	**Amount (₹)**
A.	Working Capital	Maturity amount of FD made out of IPO proceeds	34,77,665
		IPO Proceeds	7,59,85,863
		Sub Total	*7,94,63,528*
		Loan From Hind Ispat Ltd. which was repaid out of IPO proceeds	5,16,01,450
Sub total			13,10,64,978
B.	Renovation Interior	IPO Proceeds	1,20,00,000
C.	Brand Building	Maturity amount of FD made out of IPO proceeds	1,87,926
		IPO Proceeds	7,70,790
Sub total			9,58,716
D.	General Corporate Expenses	Maturity amount of FD made out of IPO proceeds	94,26,000
E.	Issue Expenses	Maturity amount of FD made out of IPO proceeds	16,30,980
		IPO Proceeds	47,24,844
Sub total			63,55,824
		Total	**15,98,05,518**

31. It is observed from the Annual Report of Tarini for the Financial Year 2014-15 that the above mentioned details furnished by Tarini were not in conformity with the disclosure of utilization of IPO proceeds made in its Annual Report for FY 2014-15.

32. In order to deal with issues no. I, II & III as listed above, object wise utilization of IPO proceeds (as mentioned above) are being examined in succeeding paragraphs.

I. <u>FIRST OBJECTIVE: TO FINANCE LONG TERM INCREMENTAL WORKING CAPITAL REQUIREMENTS</u>

33. It is further observed that Tarini submitted the following details of utilization of IPO proceeds towards financing Long Term Incremental Working Capital Requirements of the company:

S. No	Date	Name of the entity	Amount in Rs.	Reason for Payment
1	26/06/2014	Tarini Infrastructure Ltd	1,00,00,000	Preparation of Detailed Project Report and Detailed Designing for 2 Nos. hydro power projects with total capacity of 100 MW in Kingdom of Lesotho awarded to M/s Tarini Hydro Power Lesotho Ltd. (a 100% subsidiary of M/s Tarini Infrastructure Ltd.
	27/06/2014		1,90,00,000	
	02/07/2014		1,50,000	
	07/07/2014		50,000	
	08/07/2014		8,00,000	
2	26/06/2014	Tarini Sugars & Distilleries Ltd	1,00,00,000	Advances for the purpose of procurement of plant & machinery required for setting up of new sugar factory owned by M/s Tarini Sugars. .
	01/07/2014		20,00,000	
	07/07/2014		5,10,000	
3	01/07/2014	B.Soilmec India Private Limited	30,00,000	For carrying out drill holes for the purpose of core sampling, soil testing, rock strata investigation and testing at Durgadalli small hydro power project owned by B. Soilmec India and Civil Work including Plastering , flooring & tiles, electrical work, sanitary, painting, finishing and POP Etc.
4	26/06/2014	Venture Infrastructure Ltd	1,00,00,000	Sub contract for carrying out detailed drawings & designs for power evacuation arrangement and erection of electrical equipment required at 5 MW Kanayatana small hydro power project owned by M/s Tarini International Ltd.
5	30/06/2014	Tarini Wilderness Innovation Pvt Ltd	50,00,000	Construction of boundry wall along the periphery of 6 Acre land
	11/07/2014		10,00,000	
	30/07/2014		5,00,000	

S. No	Date	Name of the entity	Amount in Rs.	Reason for Payment
6	01/07/2014	Bantia Fintrade Pvt Ltd	50,00,000	Assisting for purchase of Land(13.61 Hectare) from Farmers
7	27/06/2014	Chandaluri Hari Krishna	9,90,000	Advance against salary
8	01/07/2014	Chandaluri Hari Krishna	5,00,000	Salary
9	07/07/2014	ICICI Bank Ltd	45,38,174	Interest and Installment Charges
10	July-Aug 2014	Salary to staff	34,77,665	Salary for the month of July to Aug'14
11	July-Aug 2014	Administration Charges	27,05,450	Electricity, Telephone and Daily running cost (May & June)
12	07/07/2014	TDS	2,42,239	Payment to TDS
		Total	**7,94,63,528**	

Repayment of Loan amount to M/s.Hind Ispat Ltd. (Hind Ispat)

34. It is observed from the bank account statements that Tarini had made payments aggregating to Rs.550 lakhs to M/s. Hind Ispat out of IPO proceeds on June 26 and June 27, 2014. With regard to the same, it has been admitted by the Noticees in their reply dated February 09, 2018, that *"The said loan was taken on the basis of and personal reputation of Mr. Vakamulla Chandrashekhar i.e. Noticee No.3. No formal agreement was executed for availing the said loan.The said loan was transferred to Noticee No.1 in an Account held in Karur Vysya Bank Ltd between 16th June, 2014 and 17th June, 2014."*

    Tarini in its reply has also submitted that "*it had taken the loan just before the IPO from Hind Ispat on June 16 and 17, 2014, which was subsequently repaid from the IPO proceeds on June 26 and June 27, 2014. Since the said loan was taken by Tarini to meet urgent working capital requirement prior to the IPO, the same was paid back out of the IPO proceeds under the head of Working capital.*"

35. It has further been observed that Vide email dated January 04, 2016 and April 04, 2016, Tarini had provided the following details of utilisation of Loan taken from Hind Ispat;

S. No	Date	Particulars	Amount in (Rs.)	Remark
1	17-06-2014	Tarini Infrastructure Ltd	1,00,00,000	Working Capital for Lesotho Project
2	16-06-2014	Tarini Sugars & Distilleries ltd	2,00,00,000	Advances for purchase of Plant and Machinery
3	17-06-2014	B.Soilmec India Pvt Ltd	30,00,000	DPR Survey Investigation and Land acquisition
4	17-06-2014	Venture Infrastructure Ltd	75,00,000	Work order for Kanayatna Hydro Power Project
5		**Banthia Fintrade Pvt Ltd**	**50,00,000**	**Assisting for purchase of Land(13.61 Hectare) from Farmers**

6	May & June 2014	Salary for the month of May to July'14	32,00,000	Salary to staff
7	May & June 2014	Administration charges	29,01,450	Electricity Telephone and daily running cost
		Total	**5,16,01,450**	

36. On perusal of MCA website it is observed that entities mentioned in the table above are connected to each other and to Tarini by virtue of having common directors. It is further observed that the entities mentioned in the table above are part of the Promoter group of Tarini (as disclosed in the prospectus of Tarini). It is further noted that none of the Noticees have raised any objection with respect to connection amongst them. Thus, it is clear that the Noticees were connected to each other as common directors of Tarini.
37. A consolidated summary of the various amounts transferred to five different promoter group entities, under the head of working capital requirements directly from IPO proceeds as well as from the loan amount received from Hind Ispat are summarized as under:

Sl.	**Name of the promoter group entity**	**Total amount paid and shown as working capital (₹)**
1	Tarini Infrastructure Ltd.	4,00,00,000
2	Tarini Sugars & Distilleries Ltd.	2,00,00,000
3	B. Soilmec India Private Ltd.	60,00,000
4	Venture Infrastructure Ltd	1,75,00,000
5	Tarini Wilderness Innovation Pvt. Ltd.	1,25,10,000
Total		**9,60,10,000**

38. It is further noted that Tarini vide its e-mail dated January 04, 2016, had submitted the copies of loan agreements between Tarini and its alleged group entities. On perusal of the agreements it was observed that Tarini had given loans to its group companies, the details of the same are given below:

S. No	**Name of the entity**	**Supporting documents**
1	Tarini Infrastructure Ltd	Loan agreement for Rs.4,00,00,000 dated July 30, 2014 entered between Tarini and the entity to fund the working capital requirements of the entity w.r.t its project at Lesotho, South Africa.
2	Tarini Sugars & Distilleries Ltd	Two agreements for ₹3,70,00,000 & ₹60,00,000/- both dated July 30, 2014 entered between Tarini and the entity to meet the expenses for various purposes related to establishment of Sugar Factory at Parbhani, Maharashtra by Tarini Sugars & Distilleries Ltd. The said fund given to the entity was shown as loan.
3	B.Soilmec India Private Ltd	Loan agreements for Rs.1,65,00,000 dated July 30, 2014 entered between Tarini and the entity to fund the projects of the entity and acquire the land.

4	Venture Infrastructure Ltd	Loan agreement for Rs.1,75,00,000 dated July 30, 2014 entered between Tarini and the entity to fund the Hydro power project of the entity at Kanayatna, Karnataka.
5	Tarini Wilderness Innovation Pvt Ltd	Loan agreement for Rs.65,00,000 dated July 30, 2014 entered between Tarini and the entity to fund the construction of the Boundary wall for the farm house of the entity situated at Village Dera Mandi, New Delhi

39. It is noted that all the aforementioned loan agreement executed between Tarini and its Group entities / Subsidiaries to whom IPO proceeds are alleged to have been transferred are dated July 30, 2014. It is further observed that all the agreements are executed on a plain piece of paper, which are neither stamped nor notarized. Moreover, it is noted that contents of all the agreements are similar. Thus, the so called loan agreements produced by the Noticees under current proceedings cannot be regarded as an authenticated documents / documentary proof to establish contention of the Noticees and merely propagates an afterthought on part of the Noticees.
40. Moreover, Noticees have failed to provide any other supporting documents such as recovery schedule towards recovery of loan availed by the alleged entities (Group Companies). It has also been noted that no evidence such as documents pertaining to hypothecation / mortgage of assets / property to create collateral security towards the alleged loan, through which an aggregate amount ₹9.60 crores have been transferred to the group companies, has been placed on record by the Noticees.
41. Therefore, it is concluded that the Noticees, have failed to provide any convincing documents, evidence or material in support of their claim to prove that the alleged credit transactions pertain to loan facility tendered by Tarini to its Group companies.
42. Further, on perusal of the prospectus of Tarini, dated May 23, 2014, it is observed that at page 44 under the section Details of the objects of the issue, it was stated as under:
"We are presently engaged in the business of engineering with focus in to power sector. Going forward, we plan to increase our volume of operations. We have been retained for preparation of two Hydro Power Projects in Lesotho, Africa for an estimated value of Rs. 125 Crs. Therefore, our anticipated growth would push up the increase in sales and thereby need of additional long term working capital on account of providing credit period sought by our clients and for payment to manpower's and procurement of materials."
43. However, from the details of utilization submitted by Tarini, and the loan agreements, it is alleged that the IPO proceeds was utilized by Tarini for financing the capital expenditure of its group companies by way of loans. This is in the nature of financing activities which was not a part of the objects of the issue disclosed in the prospectus. In view of above, it is clear that IPO proceeds were not utilized by Tarini for meeting the need of additional long term working capital.
44. It is further observed that Tarini on July 07, 2014, had submitted that it had made a payment of Rs. 45,38,174 to ICICI bank from its bank account no. 662705114448 held with ICICI bank account. However, on perusal of the Bank statement of said account no such transaction was found. Vide email

dated September 01, 2016 Tarini was advised to submit details in this regard. Subsequently, Tarini vide email dated September 02, 2016, had replied as under:

"The payment of Rs 45,38,174 from ICICI bank ltd pertain to service against working capital which was not reflecting in bank account as it was automatically debited by the bank from the IPO proceeds i.e. negative balance of bank overdraft account as on date was adjusted by the bank.

45. Further, on perusal of the bank account statements, it was observed that the IPO proceeds of Rs.16,30,98,000 received in the bank account of Tarini-Public Issue, a/c no. 000405105203 was transferred to another bank Account of Tarini International Limited maintained with ICICI bank, a/c no. 662705114448 as follows:

S. No	Date of Transfer	From Account	To Account	Amount Credited
1	26-06-2014	M/s.TIL-Public Issue A/c.No. 000405105203 ICICI Bank Current Account	M/s. Tarini International Ltd A/c. No. 662705114448 ICICI Bank Current Account	10,00,00,000
2	27-06-2014			6,30,98,000
			Total	**16,30,98,000**

46. During the investigation, it was observed that just before the transfer of the aforesaid amounts from Public issue account to the current account of Tarini, the bank account stood at negative balance of Rs. 34,99,136, which became positive after the transfer of the amount on June 26, 2016. Thus, contrary to the submissions made by Tarini, as on July 7, 2014, the bank statement showed a positive balance of Rs. 39,19,580. Hence, in view of the foregoing, it is clear that the amount of Rs.45,38,174 out of IPO proceeds were not utilized by Tarini to Finance Long Term Incremental Working Capital Requirements. Further, the utilization of the IPO proceeds towards adjusting the existing negative balance in the bank accounts was not as per the objects stated in the prospectus.
47. It is further noted that the Noticees in their reply dated February 09, 2018, have submitted that, "*It is a settled proposition of law that the corporate veil should be lifted where group companies are inextricably interconnected so as to be, in reality, part of one concern .It is respectfully submitted that the Noticees are inviting the AO to look behind its own corporate personality and to recognize that the proceeds of the IPO were utilized to achieve the objects as mentioned in the prospectus by transferring them to its subsidiary /Associate Companies.*"
48. In this regard, it is noted that the doctrine of lifting up of corporate veil has been established to maintain efficiency in business. The law goes behind the veil or screen in between the company and its members in order to find out the person behind the mask for the sole reason that is to make the wrongdoer personally liable by applying the doctrine of lifting up of corporate veil.
49. A clear understanding of the doctrine of lifting up of corporate veil is necessary and also clear understanding of corporate personality is also necessary along with the provisions in Indian companies' act 2013 and other provisions relating to lifting up of corporate veil. The elements of

lifting up of corporate veil and grounds under which the veil is lifted can be easily understood through the lens of leading case laws and judgement passed by the Hon'ble courts.

50. The Supreme Court in Life Insurance Corporation of India v. Escorts Ltd. decided on 19 December, 1985, noted that although a company is a separate legal entity distinct from that of its members, the corporate veil may be lifted and the corporate personality may be ignored. The individual persons are to be recognized for who they are in exceptional circumstances. The Apex Court also opined that it is not desirable to enumerate class or classes of companies where lifting of the veil is permissible <u>as it must depend on several factors such as the statute, the object sought to be achieved, conduct, an involvement of public interest, the effect on parties etc</u>.

51. Thus, in light of above, it is clear that Doctrine of lifting of corporate veil has been established as a progressive law to punish the wrongdoer, being the legislative intent and not to facilitate the fraud. Shelter under the law cannot be extended to destroy the legislative intent of the same law.

52. It has further been noted that the Noticees have contended that *"Tarini, its subsidiaries, associates and all other promoters related entities are to be understood as one entity and the money raised by way of an IPO by Tarini was in effect meant for the working capital needs of itself as well as of its group/ related companies."* In this regard, it is noted that section 27 of the Companies Act, 2013, *"A company shall not, at any time, vary the terms of a contract referred to in the prospectus or objects for which the prospectus was issued, except subject to the approval of, or except subject to an authority given by the company in general meeting by way of special resolution"*

53. From the above, it is clear that the objects of the prospectus cannot be changed except as provided under law. It is further noted that none of the objects of prospectus of Tarini stated that the money raised by way of an IPO by Tarini was meant for the working capital needs of itself as well as of its group/ related companies. Thus, allocation of IPO proceeds to group companies of Tarini were not at all included in the objects of Prospectus.

54. It is further observed that the Noticees on one had have consistently and strongly raised the contention of treating Tarini and its group companies as one legal entity. However, on other hand, it is noted that Group entities of Tarini have separate bank accounts, to which Tarini itself has transferred the money on various instances. Moreover, Tarini has executed loan agreements with its own Group Companies / Subsidiaries and the Noticees clearly admit that the group companies are in fact different/separate entities who have been dealt at arm's length.

55. It is also observed that the agreements as submitted by the Noticees contain a narration under a clause stating that *"This was discussed between both the parties"*. On the one hand the Noticees state that IPO proceeds have been transferred to group companies under the belief that they are meant for utilization by the entire Tarini group of companies, whereas from the details of utilization and from the loan agreements, it is evident that the IPO proceeds were utilized by Tarini for advancing loans to its group companies at an interest of PLR+2%.

56. Hence, contention of the Noticees has no *locus standi* and thus, it is concluded that the agreements submitted on behalf of the Noticees to justify the transfer of IPO proceeds to group entities under

the head of working capital appear to be an afterthought exercise to provide a rationale for the diversion of IPO proceeds to group entities that has taken place as soon as the IPO proceeds were received.

57. In view of the above, it is clear that Tarini has utilized the IPO proceeds for financing the activities of its group companies by way of advancing loans to them. Therefore, this act of Tarini can be stated to be in the nature of financing activities and not utilization of IPO proceeds for meeting its working capital requirements, as mentioned in the prospectus.

58. It is further noted that by the aforementioned act, Noticees have misled the investors by not disclosing the material information of actual intended utilization of IPO proceeds for assisting the group companies and not for meeting it's own project expenditure.

59. It is seen that out of a total sum of ₹13.10 crores, as claimed by Tarini to have been spent towards meeting working capital needs vide its email dated April 04, 2016, ₹9.60 crores was indeed transferred to above mentioned 5 group entities. In this regard, Tarini has submitted that the above amounts were advanced as loans in terms of the loan agreements dated July 30, 2014 signed with each of the above group entities. However, on a perusal of the loan agreements signed by Tarini with each of the above mentioned group companies, following is observed;

S. No	**Name of the entity**	**Supporting documents**
1	Tarini Infrastructure Ltd	Loan agreement for Rs.4,00,00,000 dated July 30, 2014 entered between Tarini and the entity to fund the working capital requirements of the entity w.r.t its project at Lesotho, South Africa.
2	Tarini Sugars & Distilleries Ltd	Two agreements for ₹3,70,00,000 & ₹60,00,000/- both dated July 30, 2014 entered between Tarini and the entity to meet the expenses for various purposes related to establishment of Sugar Factory at Parbhani, Maharashtra by Tarini Sugars & Distilleries Ltd. The said fund given to the entity was shown as loan.
3	B.Soilmec India Private Ltd	Loan agreements for Rs.1,65,00,000 dated July 30, 2014 entered between Tarini and the entity to fund the projects of the entity and acquire the land.
4	Venture Infrastructure Ltd	Loan agreement for Rs.1,75,00,000 dated July 30, 2014 entered between Tarini and the entity to fund the Hydro power project of the entity at Kanayatna, Karnataka.
5	Tarini Wilderness Innovation Pvt Ltd	Loan agreement for Rs.65,00,000 dated July 30, 2014 entered between Tarini and the entity to fund the construction of the Boundary wall for the farm house of the entity situated at Village Dera Mandi, New Delhi

60. In this regard, , it is noted that the Loan agreement dated July 30, 2014 entered between Tarini and M/s. Tarini Infrastructure Ltd. to fund the working capital requirements of the entity w.r.t its project at Lesotho, South Africa, is for the amount of Rs.4,00,00,000. However, on perusal of details of payment made towards the deployment of loan amount taken from Hind spat, it is observed that

amount transferred was Rs. 2,98,00,000/-. Therefore, from the above analysis, it is clear that there is a clear discrepancy between the amount for which loan agreement was executed and the actual deployment of loan money.

61. On perusal of Annual Report of Tarini for the FY 2014-15, it is also noted that on page no. 15 of the report under the heading *Particulars of Loans and guarantee*, it is stated that;

"Pursuant to requirement under section 134(3)(g) of the Companies Act, 2013, the particulars of loans, guarantee or investments under section 186 of the Act as at the end of Financial Year 2014-15 are attached as Annexure-III, which forms part of this report."

62. Further, on perusal of Annexure –III of the prospectus of Tarini, it is observed that details of loans are as mentioned below;

S. No	Name of the entity	Loan Given (amount)
1	Tarini Infrastructure Ltd	4,80,01,282/-
2	Tarini Sugars & Distilleries Ltd	4,15,40,993/-
3	B.Soilmec India Private Ltd	1,66,55,241/-
4	Venture Infrastructure Ltd	1,75,52,731/-
5	Tarini Wilderness Innovation Pvt Ltd	66,48,947/-

63. From the above, it is clear that there appears to be discrepancy in the loan amount as reflected on the loan agreements executed between Tarini and its subsidiaries and the one mentioned in the prospectus.

64. Further on perusal of the account statement of Tarini, it is observed that amount of Rs. 1,00,00,000/- and Rs 50,00,000/- was transferred to 4105135-12 of Karur Vysya Bank of Tarini Infrastructure on July 01, 2014, which was much prior to date of execution of loan agreement.

65. In this regard, Noticees have not provided any substantial reason / justification for such urgency that warranted borrowing of such an amount from Hind Ispat after the registration of prospectus for IPO and just prior to date of allotment of shares.

66. Thus, from the foregoing, it is clear that contention of the Noticee that it had taken the loan just before the IPO from Hind Ispat on June 16 and 17, 2014, which was subsequently repaid from the IPO proceeds on June 26 and June 27, 2014. Since the said loan was taken by Tarini to meet urgent working capital requirement prior to the IPO, the same was paid back out of the IPO proceeds under the head of Working capital, has no ground and thus, cannot be considered under current proceedings.

67. Apart from the funds aggregating to ₹.9.60 crores directly transferred to the group entities as loans under the head "working capital", as discussed in the preceding paragraphs, some more payments of IPO proceeds under the head of working capital have been made to following parties.

Sl.	Name of the entity/ category	Amount transferred in ₹
1	Bantia Fintrade Pvt. Ltd	1,00,00,000
2	Salary to staff	66,77,665

3	Administration Charges	56,06,900
4	ICICI Bank Ltd	45,38,174
5	Chandaluri Hari Krishna	14,90,000 (9,90,000 + 5,00,000)
6	TDS	2,42,239
	Total	**2,85,54,978**

68. It is also noted that the Noticees had submitted details of working capital requirement and reason for transfer of funds, vide their e-mail dated January 04, 2016 and April 04, 2016, wherein the amount of Rs. 5,00,000 was transferred as salary and amount of Rs. 9,90,000 was transferred as *advance against salary* in HDFC Bank a/c no. 03541140014305 of Chandaluri Hari Krishna.
69. Here, it is pertinent to note that no documents such as Form 16 of the employee, recovery schedule with respect to recovery of such advance etc., has been submitted by the Noticees in this regard to elucidate their contention that such transfer of funds to Chandaluri Hari Krishna was *in-lieu* of advance against the salary.
70. With respect to payment of Rs.50,00,000 made to Banthia Fintrade Pvt Limited ("Banthia"), Noticees have submitted that *"Noticee No.l had transferred partly a sum of Rs. 50,00,000/- to Bantia Fin Trade Pvt Ltd for purchasing the said land as mentioned above. The said part amount was transferred on 12th June, 2014 from the funds of Noticee No.l and not from the IPO proceeds. Noticee No.l transferred the remaining sum of Rs. 50,00,000/- to BantiaFintrade Pvt Ltd on 1st July, 2014 from the IPO proceeds for the purpose of purchasing the said land as mentioned above on behalf of Tarini Sugar & Distilleries Pvt Ltd."*
71. Thus, it is observed that the Noticees in their reply dated February 09, 2018, have denied having made payment of sum of ₹.50 lacs to Banthia on 12th June, 2014. However, Noticees in their said reply have admitted the fact of making payment of ₹50.00 Lakh to Bantia on 1st July, 2014. Here, it is pertinent to mention that Noticee No.1 vide its e-mail dated April 04, 2016, had submitted details of utilization of IPO proceeds, wherein Noticee No.1 had clearly admitted the fact of making payment of ₹.50 lacs to Banthia on 12th June, 2014 out of loan taken from Hind Ispat for the purpose of purchasing 13.61 hectares of land.
72. It is to be mentioned here that while the timing of propagating this theory at this stage of proceeding stinks of an afterthought on part of the Noticees. However, in order to evaluate the same, it is observed that Noticees in their reply dated February 09, 2018, have not submitted any document except making a mere submission, as mentioned above. Thus, by making mere submission contradicting to its own earlier submission vide e-mail dated April 04, 2018, purely smells of a postscript on part of Noticees and thus, cannot be considered under current proceedings. Therefore, it remains admitted by the Noticees that Banthia was paid an amount of ₹.100 lacs out of the IPO proceeds.
73. Moving into merits of the submission made by the Noticee no.1, it is observed that the funds were transferred to Banthia on June 12, 2014 out of IPO proceeds for for the purpose of purchasing 13.61 hectares of land on behalf of Tarini Sugar & Distilleries Pvt Ltd. and not for Tarini International Ltd.

i.e. Noticee No.1. Thus, the IPO proceeds were utilized for Group Company / subsidiary company of Tarini, which was not mentioned in the objects of prospectus. Thus, the payment to Banthia is a diversion of fund from the IPO proceeds of Tarini in favour its group entity.

74. With respect to payment of salary to staff, it is noted that the Noticees have claimed that Tarini has paid a total salary of ₹66,77,665 for the months from May to August 2014. However, Noticees have not submitted any substantial evidence such as Form 16 of its employees to establish the fact if such fund transfer was indeed paid as salary to its staff, as claimed by Tarini. Moreover, it is noted from Annual report of Tarini for the year 2014-15, the total salary and wages for the entire year was shown at ₹56,08,221, whereas from the list submitted by Tarini, it is noted that monthly salary expenditure has been shown as 66,77,665 for the months from May to August 2014 (as recorded in WTM order dated March 29, 2019). Thus, when compared with the salary figures mentioned in Annual Report of Tarini, for an entire year, the salary claimed to have been paid for only 4 months becomes more than the entire year's salary made by Company. Thus, no credible evidence has been submitted by Noticees to substantiate their claim of payment of ₹66,77,665 towards the salary of employees out of the IPO proceeds for the months of May to August, 2014. Under the circumstances such an expenditure remains unsubstantiated by the Noticees.

75. It is noted that a sum of ₹56,06,900 has been shown to have been spent on administrative expenses out of the IPO proceeds. In support of the same, the Noticees have provided copies of Telephone/ internet bills. From the perusal of the item wise list submitted by Noticees, it is noted that bills pertaining Electricity, Telephone, Internet etc., have been raised in various names viz; Tarini International Pvt Ltd, Venture Energy & Technologies Ltd, Tarini Infrastructure Ltd, Dev Kumar Pathan, V. Chandrashekhar, Naresh Kumar Saini, Mr. Bobby etc. This shows that the proceeds of IPO have been utilised to pay the bills of entities other than Tarini.

76. Moreover, it is noted from the Annual Report of Tarini for the financial year 2014-15 that the amount towards Telephone and internet expenses is shown as only ₹2,97,249 (on page 55 of the annual report). Thus, it is noted that the Noticees could only place justification for utilization of only ₹2,97,249 out of total sum of ₹56,06,900 amount shown toward administrative expenses in their reply. Thus, it is concluded that a considerable and major portion of IPO proceeds have been diverted for unknown and unexplained purposes in the garb of administrative charges.

77. Therefore, out of the ₹.2.85 crores (as mentioned in the table above) claimed by Tarini having spent towards its working capital requirements, major portion of this expenditure viz. payments to Banthia Fintrade Pvt. Ltd., towards salary to staff and administrative charges were found to have been incurred either for and on behalf of other group entity or grossly overstated. Apparently the IPO proceeds have been misappropriated towards inexplicable purposes and not for any working capital requirements of Tarini.

78. It is also alleged in the SCN that upon receipt of loan from Hind Ispat just prior to IPO, Tarini transferred an amount of ₹73,50,000 to the bank accounts of Shri Vakamulla Chandra Shekhar, Managing director of Tarini, as shown in the table below;

Date	**From**	**To**	**Amount Transferred**
17.06.2014	Tarini International Ltd A/c No. 4105135000000012 Karur Vysya Bank	Mr.Vakamulla Chandra Shekhar A/c No. 4105155000000175 Karur Vysya Bank	50,00,000
17.06.2014			23,50,000
Total			**73,50,000**

79. It has noted that it has been submitted by Noticees that no money has been paid to Shri Vakamulla Chandra Shekhar out of loan amount taken from Hind Ispat. Noticees have also submitted that the amount transferred to Shri Vakamulla Chandra Shekhar was on account of fund infused in the company by Shri Vakamulla Chandra Shekhar in the month of May 2014. However, the said amount has not been transferred out of the loan received from Hind Ispat. The Noticees, have however, not submitted any supporting document to show that Tarini had sufficient credit balance in its accounts to remit the amount to the account of Shri Vakamulla Chandra Shekhar. Tarini has also not submitted any document to substantiate the so called infusion of fund made by Shri Vakamulla Chandra Shekhar, as claimed by them, which justified transfer of funds to his accounts. It is also noted that the said infusion by Shri Vakamulla Chandra Shekhar as claimed by the Noticees was not disclosed to the shareholders/ investors, hence the explanation offered by the Noticees with respect to the payment to Shri Chandra Shekhar towards infusion of money is untenable and rejected.

80. Nevertheless, it is noted that investigation has not brought out any concrete evidence to suggest that the amount transferred to the account of Mr. Vakamulla Chandra Sekhar was out of the loan availed from Hind Ispat. The break-up of utilization of loan obtained from Hind Ispat also does not talk about the transfer of funds of ₹.73.50 lakhs to Mr. Vakamulla Chandra Sekhar as has been alleged. The item wise break up as mentioned in para 35 above with respect to utilization of Hind Ispat loans as submitted by Tarini has not been contradicted in the Investigation report either.

81. Under these circumstances it cannot be held that Tarini has mis-utilised the loan availed from Hind Ispat by transferring money to the account of Mr. Vakamulla Chandra Sekhar out of the said loan. Nevertheless, the fact remains that nature of the funds transferred to the accounts of Mr. Vakamulla Chandra Sekhar just prior to the IPO, irrespective of its source, has neither been disclosed to the shareholders by the promoters nor been explained by the company with any supporting evidence.

82. It is further alleged in the SCN that the fact of availing loan of ₹550.00 Lakh by Tarini from Hind Ispat on 16 and 17 of June 2014 i.e. between the date of prospectus (May 23, 2014) and date of allotment (June 24, 2014) which was later repaid out of the proceeds of IPO, was not disclosed by Tarini by issuing a public notice in newspapers as required under relevant regulations, Hence, Tarini has been alleged to have violated Regulation 60(4) of SEBI (ICDR) Regulations 2009.

83. In this regard, Tarini has submitted that the receipt of loan from Hind Ispat was informed to its Merchant Banker verbally and the same was also disclosed by issuing press releases, hence for any default on this count, merchant banker should be held accountable. Tarini also provided the copies of various newspaper clippings in support of its reply. Tarini has also requested to allow them to cross examine the representative of Merchant Banker, who have denied having received any such information from them, verbally or otherwise.

84. It is also noted that aforesaid provisions of ICDR regulations governing such disclosure reads as *"The issuer shall make prompt, true and fair disclosure of all material developments which take place during the following period mentioned in this sub-regulation, relating to its business and securities and also relating to the business and securities of its subsidiaries, group companies, etc., which may have a material effect on the issuer, by issuing public notices in all the newspapers in which the issuer had issued pre-issue advertisement under regulation 47 or regulation 55, as the case may be."* Thus, the provision imposes a duty on the issuer company and not on the Merchant Banker to disclose all material facts by issuing public notices in the newspapers.

85. Moreover, on perusal of newspaper clippings, it is noted that there was no "public notice" issued by Tarini about availing of loan from Hind Ispat. In view of the above, it is concluded that Tarini has failed to disclose the aforesaid loan transaction executed between the date of prospectus and the date of allotment. Such action on part of Tarini has led to the violation of alleged provisions of ICDR Regulations.

86. Subsequently, with regard to cross examination of merchant banker, it is opined that the merchant banker has neither been examined nor has it given any statement under oath before any official of SEBI, which can suo moto warrant any cross examination under law.

87. Thereafter, going into merits, it is noted that the Noticees could have easily rebutted/denied or contradicted contention made by the merchant banker by providing supporting documents demonstrating that they had timely communicated to the merchant banker about the loan availed from Hind Ispat.

88. It is also noted that all the contentions of the Noticees in this regard are baseless and which is not backed by any supporting evidence / document to establish their claim. The Noticees have also submitted that "*Noticees have conducted interviews and press conferences appraising the public of the IPO. In the said press conferences and interviews, the information with respect to a loan taken from Hind Ispat was disclosed. Unfortunately, the disclosure of the said loan was not captured in the printed news."* Thus, from above, it is clear that the Noticees have nowhere provided any documentary / concrete proof validating their contention. Therefore, claim of Noticees that the fact of availing loan from Hind Ispat was well communicated to the Merchant banker seems to be an afterthought on part of the Noticees.

89. It is also noted that Noticees have till date not initiated any action against the merchant banker for such non-disclosure. Thus, if the Noticees had indeed communicated the material fact of availing loan from Hind Ispat to the Merchant Banker and hold merchant banker responsible for the non-disclosure

of loan transaction to the public, Noticees would have certainly taken action in this regard by lodging a complaint against Merchant Banker, which is not the case.

90. In this regard, reference may also be drawn towards in the matter of Bharatiya Global Infomedia Ltd. v. SEBI, SAT Appeal No. 481 of 2016, decided on June 25, 2016, wherein Hon'ble Securities Appellate Tribunal ("SAT"), while dealing with the similar issue observed that *"..Appellant no.1 replied that all the documents and information in this regard was provided to the Merchant Banker. However, the Merchant Banker defaulted in making the disclosure in the RHP and prospectus. …" "…..The documents were admittedly vetted and signed by the appellants…."*

    "…..In our view the appellant cannot escape the responsibility by blaming the lead Merchant Banker in this regard….."

91. In view of the foregoing, it is concluded that the Noticees have violated Regulation 57 (1), regulations 60(4) and 60(7) (a) of SEBI (ICDR) Regulations 2009.

92. In this regard, it is noted that SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 has been rescinded and SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2018 (hereinafter referred to as "ICDR, 2018") as notified on September 11, 2018 and has been brought into force from sixtieth day from September 11, 2018. Here, reference may be drawn towards Repeal and savings clause of ICDR, 2018 under Regulation, which states that;

    Repeal and Savings

    301. (1) On and from the commencement of these regulations, the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements), Regulations 2009 shall stand rescinded.

    Notwithstanding such rescission:

    (a) anything done or any action taken or purported to have been done or taken including observation made in respect of any draft offer document, any enquiry or investigation commenced or show cause notice issued in respect of the said Regulations shall be deemed to have been done or taken under the corresponding provisions of these regulations.

    (b) any offer document, whether draft or otherwise, filed or application made to the Board under the said Regulations and pending before it shall be deemed to have been filed or made under the corresponding provisions of these regulations.

    Thus, by virtue of repeal and saving clause of ICDR, 2018, the current proceedings are saved.

II. <u>SECOND OBJECTIVE: RENOVATION & INTERIOR OF REGISTERED OFFICE</u>

93. It is observed that with respect to fund requirements for renovation and Interior of the registered office, Tarini in its prospectus has stated as under:

    We operate from our registered office situated at D-2, 1st Floor, Amar Colony, Lajpat Nagar IV, New Delhi-110024 which is owned by ourselves. Going forward, as we plan to expand our operations and to participate in tenders to undertake engineering contracts to vertically increase our operations. In order to gear up, we need to modernize and renovate our registered office. We have estimated an expenditure of Rs. 160.00 Lacs towards the Interior and renovation of our Registered Office. The break-up of the expenditure is set forth below:

SN	Particulars	Contractor/Supplier	Total cost (Rs. in Lacs)
1	Civil work including excavation, foundation, RCC Work, plastering, flooring & tiles, woodwork, electrical work, sanitary, painting, finishing and POP Etc.	Maple Destinations & Dreambuild Pvt. Ltd, New Delhi	130.00
2	Furniture, Fixture, Storage, Modernization and interiors	Vibha Interiors & Infracon India Pvt. Ltd., Gurgaon	29.87
	Total		**159.87**
	Rounded off		**160.00**

94. However, the amount projected towards carrying out renovation and interior work in the registered office, as informed vide e-mail dated April, 04, 2016 is ₹1,56,58,280. In this regard, it is noted that Tarini had entered into an agreement with M/s Mapple Destinations and Dream Build Pvt. Ltd. ("Mapple"), for carrying out the renovation work prior to the IPO. The said contract was executed for ₹160.00 Lakh. It is alleged in the SCN that knowing well that Mapple or the persons behind Mapple had no previous experience in execution of renovation and interior work, still Tarini decided to award the work to them as they were known to the Noticees. To this allegation, it is submitted by Tarini that the contract with Mapple was terminated after execution of work worth ₹30.00 Lakh (approx.) by them and thereafter, the rest of the work related to renovation and interior work was executed by its group company, M/s B. Soilmec Pvt. Ltd. (hereinafter referred to as "Soilmec").
95. In this regard, it is observed that Noticees have submitted copies of Loan agreements for ₹1,65,00,000 dated July 30, 2014 entered between Tarini and Soilmec. On perusal of loan agreement, it is noted that the terms of agreement only contain clauses pertaining to loan availed to acquire land preparation of project report, survey investigation etc. and thus, has no clause pertaining to renovation and interior expenses.
96. Moreover, it is also noted that the Noticees have not provided any substantial document to establish that Tarini had indeed entered into any agreement with Mapple. Since the fact of existence of any agreement has not been established, question of termination of the same has no relevance under current proceedings. Thus, it is concluded that the agreement was not related to any renovation and interior work of registered office of the company and transfer of funds amounting to ₹1,20 Lacs to Soilmec was not to complete the renovation and interior work carried out in the registered office of Tarini.
97. The IPO proceeds appear to have actually diverted to one of the promoter related entities for unknown work in the garb of renovation and interior work. Hence, the submission of the Noticees in this regard is found to be grossly erroneous, unsubstantiated and not acceptable. Thus it becomes evident that the entire expenditure claimed under renovation of registered office has actually been

appropriated for some other unexplained purpose, thereby blatantly deviating from the stated objects of IPO as mentioned in the prospectus.

III. <u>THIRD OBJECTIVE: BRAND BUILDING</u>

98. With respect to fund requirements for brand building, Tarini in its prospectus has stated as under: *We believe that continuous brand building is necessary for achieving widespread recognition of our services. Going forward, as we plan to establish our brand name and to create a visibility, our company intends to deploy Rs.150.00 Lacs out of net issue proceeds, as detailed in following table:*

Sr. no.	Particulars	Amount (Rs. In Lacs)
1	Print Media	50.00
2	Participation in Trade Shows & Exhibitions	50.00
3	Conference and PR Meetings	50.00
	Total	**150.00**

99. Thus, from above it is seen that Tarini intended to deploy ₹150.00 Lacs out of net issue proceeds for brand building. However, it is noted from page no. 15 of the annual report of Tarini for the FY 2014 -15 that the actual utilization towards brand building was ₹72.95 lacs. Thus, on perusal of the annual report of Tarini, it is clear that the amount of ₹72.95 lacs was actually utilized for brand building as against ₹150 lacs (as mentioned in the prospectus) proposed to be utilized for brand building.

100.However, Tarini in its reply dated February 09, 2018, has provided details towards utilization of IPO proceeds as shown below;

Supplier Name	Amount paid (Rs.)	Payment made for
TV18 broadcast Limited	7,86,520	Advertisement on CNBC Awaz
Adnack Advertising	39,24,088.32	For printing of pamphlets and other
Travel expenses	10,04,556	For taking part in Trade shows
Total	57,15,164.22	

101. In this regard, it is noted that the Noticees have submitted *"The Noticees had appointed CNBC Awaz to dispense information to the public with respect to the Noticees through Digital media, for which TV 18 Broadcasting Ltd raised an invoice of Rs.7,86,520/-"* However, on perusal of reply of the Noticees it is noted that the Noticees have not submitted any supporting document such as copy of the a agreement entered between Noticee no. 1 and CNBC Awaz, with respect to appointment of CNBC Awaz to dispense information to the public with respect to the Noticees through Digital media. Moreover, there appears to be no contract between Noticee no. 1 and Adnack Advertising for entering into a contract for printing, and designing IPO brochure, with respect to which bills of amount ₹39,24,088.32/- were claimed.

102.Noticees have submitted that the representatives of Noticee No.l used to travel to take part in such trade shows for the purpose of brand building. Noticees in their reply dated February 09, 2018, have submitted that Noticees have incurred a total expense of ₹ 10,04,556/- towards travel expenses incurred for brand building. However, on perusal of bills submitted towards travel expenses, it is also noted that the Noticees have only submitted an unauthenticated copy of ledger account statement and no documentary proof or supporting evidence such as proof of travel, copies of Air / train ticket, boarding pass etc. for the journey availed by representative of Tarini, has been submitted by the Noticees. Thus, amount of ₹ 10,04,556/-, as claimed by the Noticees, incurred towards total expenses on travelling is an erroneous and vague amount.

103.Also there appears to be discrepancy in the bill amount of TV18 broadcast Limited and Adnack Advertising and details of brand building expenses submitted by Tarini on a plain piece of paper towards utilization of IPO proceeds. It is noted that the amount appearing on the bill of TV18 broadcast Limited is ₹ 7,86,520/- and the one provided by Tarini is 7,00,000. Likewise, amount appearing on the bill submitted by the Noticees towards Adnack Advertising and Travel charges is ₹39,24,088.32/- and ₹ 10,04,556/- respectively. However, the one provided by Tarini in its reply is ₹ 38,68,540/- and 9,83,196/- respectively. Therefore, there appears to be discrepancy in the amount claimed on bills and quoted by Noticees in their reply.

104.Nevertheless, taking the above contention of Noticees into consideration, it is noted that out of the amount of ₹72.95 lacs, as mentioned in the annual report of Tarini for the FY 2014 -15 towards actual utilization, amount of only ₹ 57,15,164.22/- has been essentially utilized by Tarini towards brand building. To sum up, out of the ₹72.95 lacs claimed by Tarini having spent towards brand building, major portion of this expenditure is found to have been either grossly overstated or is backed by no documentary evidence. Apparently the IPO proceeds have been misappropriated towards inexplicable purposes and not for the purpose mentioned in the prospectus. Thus, it is concluded that the major expenditure claimed under brand building has actually been appropriated for some other unexplained purpose, thereby blatantly deviating from the stated objects of IPO.

IV. <u>FOURTH OBJECTIVE: GENERAL CORPORATE PURPOSES</u>

105.It is observed that Tarini With respect to fund requirements for General Corporate purposes, the company in its prospectus has stated as under:

"Our Company in accordance with the policies set up by our Board, will have flexibility in applying the remaining Net proceeds of this Issue aggregating 250.00 Lacs, for general corporate purpose towards, financing normal capital expenditure, strategic initiatives, expanding into new geographies, pre-operative expenses, funding routine working capital and strengthening our marketing capabilities."

106.The details of utilization of IPO proceeds under this head as provided by company are as under:

Sl. No.	Supplier Name	Amount paid (Rs.)	Payment made for

1	Arvee Sales	2,37,000	Purchase of Air Conditioners
2	Tarini Sugars & Distilleries Ltd	38,50,000	Security Deposit with Kisan Nagari Sahakari Bank relating to setting up of Sugar Factory
3	Tarini Sugars & Distilleries Ltd	40,78,000	Registry amount
4	Tarini Sugars & Distilleries Ltd	12,61,000	Purchase of Stamp paper and Registry
	Total	**94,26,000**	

107.In this regard, Noticees have submitted that "*Noticee No.l from the proceeds of the issue deposited a sum of Rs. 1,50,00,000/- as fixed deposit in A/c No. 410513512 of Karur Vysya bank. Noticee No.l have revoked the fixed deposit and used the said proceeds for general corporate expenses.*"

108.However, it is noted that the aforesaid contention of the Noticees seem to be vague and baseless as Noticees have not supported their contention with any documentary evidence such as copy of Fixed deposit, copy of application tendered towards revocation of such fixed deposit, copy of the letter received from the bank with respect to such revocation, copy of bank statement etc.

109.It is further noted that on perusal of the documents submitted by Tarini in support of the payments at sl. nos. 2 to 4 such as Security Deposit in Kisan Nagarik Sehkari bank Ltd., copy of sale deed, copy treasury receipt etc., it is observed that the aforesaid payments pertain to Tarini Sugars and Distilleries Limited with respect to Purchase of Land and setting up of Sugar Factory by Tarini Sugars and Distilleries at Parbhani, Maharashtra and do not pertain to Tarini.

110.Further, with respect to payment mentioned at serial no. 1 in the table above, it is noted that the aforesaid payment was made by Tarini. Thus, it is concluded that out of above mentioned payment details, as submitted by Tarini, only ₹2,37,000 was actually utilized by Tarini towards general corporate purposes out of the total expenditure of ₹94.26 lakhs claimed to be utilized for general corporate purposes.

111. From the foregoing, it is concluded that amount of ₹91,89,000 was being diverted towards meeting the expenditure for setting up the proposed sugar factory of Tarini Sugars and Distilleries, which was one of the Group companies of Tarini. Such, utilization of IPO proceeds can certainly not be regarded to have been incurred towards the objects stated in the prospectus for which the IPO proceeds were received by Tarini.

112.In this regard, it is also noted that the statutory auditors in their audit report have qualified the Consolidated Financial Statements for the F.Y. 2014-15 by making the following observation:

"We draw attention to the note 30 of the financial statements whereby the holding company has raised the money by way of Public Issue, during the year. Further, there has been variation in the utilization of money, between the objects of public issue contained in the prospectus and actual utilization, which was need to be authorized from the members. In view of this, we are unable to comment upon the appropriateness of variation in utilization of money by holding company."

113.Further, the Secretarial Auditor in their secretarial audit report for the financial year ended 31st March 2015 has inter-alia, made the following observation:

"We draw attention to the note 27 of the financial statements whereby the company has raised the funds by way of Public Issue, during the year, and the variation is observed in utilization of funds as against the terms of Public issue contained in Prospectus without complying with the provisions of Section 27 of the Act."

114.Thus, in light of above observation, it is clear that the deviations made by Tarini from the stated objects of the IPO, while utilizing the IPO proceeds were by both the auditors.

V. <u>FIFTH OBJECTIVE: GENERAL ISSUE EXPENSES</u>

115.On perusal of available records, it is noted that IPO proceeds were meant to be utilized on issue expenses to the extent of ₹.70.98 lacs against which ₹.47.24 lacs is explained to have been incurred by Tarini as per its email dated April 04, 2016. Since, there is no allegation with regard to the utilization of the issue expenses in the SCN against the Noticees, hence the same is not being discussed further under current proceedings.

116. Therefore, to conclude the finding with respect to utilization of IPO proceeds under above discussed five heads / objective, on the basis of material / documents available on record, are recorded below;

a. A sum of ₹9.60 crores has been transferred to 5 different group entities as discussed in preceding paras. The amount has been diverted to the group entities soon after receiving the IPO proceeds which was later regularized in books by way of execution of ex-facto loan agreements with the respective group entities.

b. A sum of ₹.2.85 crores claimed under different heads by Tarini as third-party pay-outs under the larger head of working capital as discussed in previous paras, was found to be not supported by adequate explanation and evidence and much of these expenditures which are paid to different entities, are found to be unexplained and in deviation to the stated objects of the Prospectus.

c. Out of ₹.1.60 crores committed for spending on renovation and interior work of Registered office in the prospectus, ₹.1.2 crore is claimed to have been paid to a group entity, B Soilmec Pvt. Ltd. in the name of renovation and interior work but in actuality it was paid on the basis of a loan agreement with the said company, thus amounting to diversion of the said amount to the group company.

d. Out of the amount of ₹72.95 lacs, as mentioned in the annual report of Tarini for the FY 2014-15, amount of only ₹ 57,15,164.22/- has been essentially utilized by Tarini towards brand building.

e. ₹.91.89 lacs out of ₹.94.26 lacs claimed to have been incurred for general corporate expense by Tarini as discussed above, was found to have been paid to a group entity of Tarini viz. Tarini Sugars & Distilleries Ltd. in connection with setting up of a sugar factory by the said group company.

117.From the above, it is evident that, the very purpose of IPO i.e. for meeting long term working capital requirements, renovation of the registered office etc. was defeated by the acts of the company and that Tarini had no plans to utilize money as per disclosures made in the prospectus. Therefore, it is concluded that the disclosures made by Tarini in its prospectus in respect of object of issue, are untrue, manipulative and misleading.

118. Further, with respect to allegation pertaining to violation of listing agreement is noted that as per the clause 45 of the SME Listing agreement the company is required furnish on a half yearly basis a statement to the Stock Exchange indicating the variations between projected utilization of funds made by it in its prospectus and the actual utilization of funds. Further, as per the clause 46 of the SME Listing agreement the company is required to furnish to the Stock Exchange on a half yearly basis, a statement indicating material deviations, if any, in the use of proceeds of a public issue from the objects stated in the offer document. The company is required to provide the aforesaid information to the Stock Exchange along with the interim or annual financial results submitted under clause 43 and shall also be displayed in the website of the Issuer.

119. On perusal of the available material on record, it is noted that the company has provided the aforesaid statements along with the annual financial results for the year ended March 31, 2015 and same is available on its website as well. However, the company has not furnished the same in its half yearly financial results for the year ending September 30, 2014 and the same is not uploaded on its website as well.

120.In addition to above the statement of utilization of funds submitted along with annual financial accounts for the year ending March 31, 2015 is different from the actual utilization of IPO proceeds and hence the company has provided the wrong information in its annual accounts w.r.t utilization of IPO proceeds. In view of above, it is concluded that Noticee no.1 i.e. Tarini has violated the clauses 45 and 46 of the SME Listing agreement r/w Section 21 of the Securities Contracts (Regulation) Act, 1956.

<u>Diversion of IPO Proceeds</u>

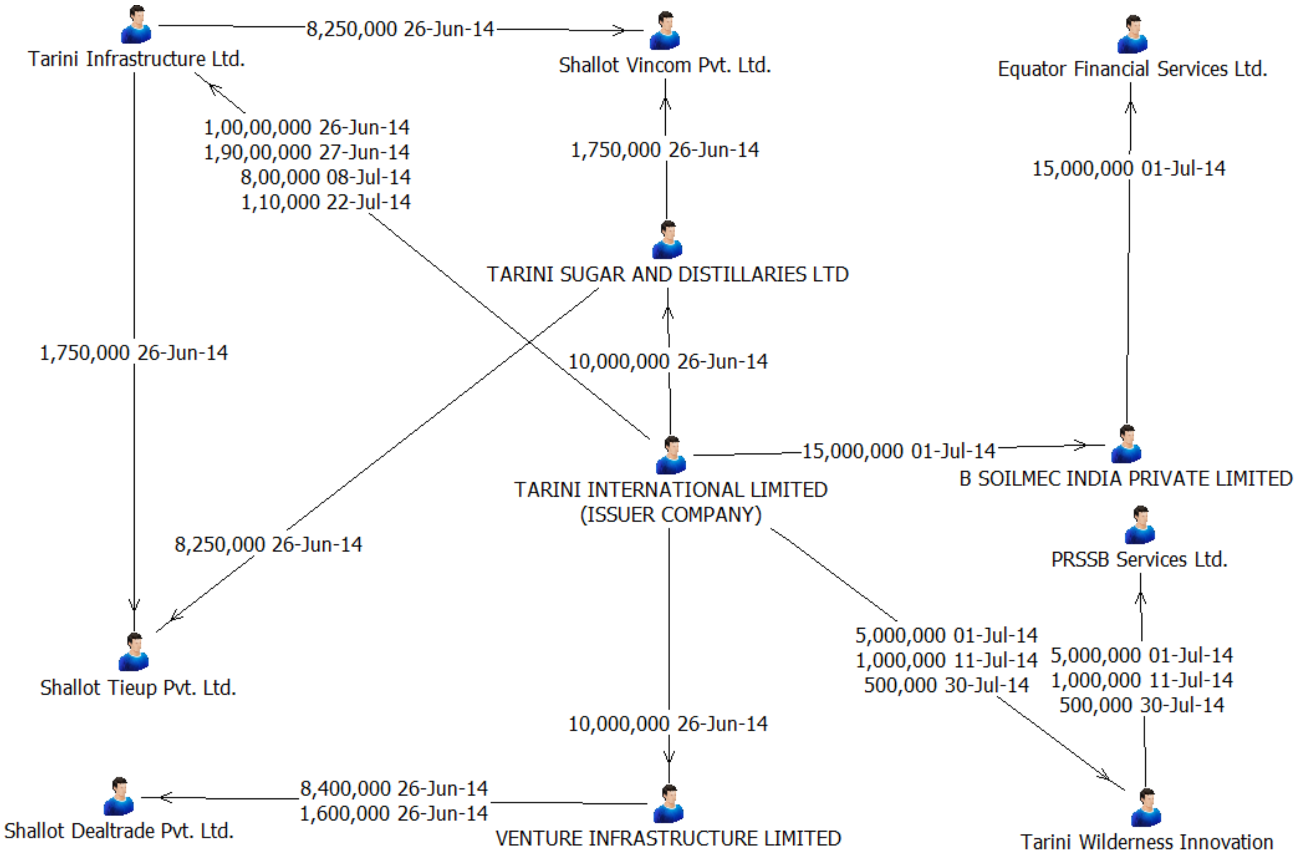
121. It is observed that Tarini has furnished the details of ₹7.94 crores transferred by it mostly to various group entities out of IPO proceeds allegedly to meet their working capital needs. In this regard, while examining the bank statement of the group companies of Tarini during Investigation, it was found that there are a number of instances where after receiving funds from Tarini, some of the group entities, have in turn, transferred substantial amounts (out of the funds received from Tarini) to different unrelated third parties.

122.These instances of fund transfers to third parties have been shown in the table below:

Date	From	To	Amount
26-Jun-14	Tarini Infrastructure Ltd.	Shallot Vincom Pvt. Ltd.	82,50,000
26-Jun-14	Tarini Infrastructure Ltd.	Shallot Tieup Pvt. Ltd.	17,50,000
26-Jun-14	Tarini Sugar And Distillaries Ltd	Shallot Vincom Pvt. Ltd.	17,50,000
26-Jun-14	Tarini Sugar And Distillaries Ltd	Shallot Tieup Pvt. Ltd.	82,50,000

26-Jun-14	Venture Infrastructure Ltd	Shallot Dealtrade Pvt. Ltd.	84,00,000
26-Jun-14	Venture Infrastructure Ltd	Shallot Dealtrade Pvt. Ltd.	16,00,000
01-Jul-14	B Soilmec India Private Ltd	Equator Financial Services Ltd.	1,50,00,000
01-Jul-14	Tarini Wilderness Innovation	PRSSB Services Ltd.	50,00,000
11-Jul-14	Tarini Wilderness Innovation	PRSSB Services Ltd.	10,00,000
30-Jul-14	Tarini Wilderness Innovation	PRSSB Services Ltd.	5,00,000

123. The above transactions are diagrammatically represented as below:



124.During the investigation it was observed that one of the Shallot group companies viz. Shallot and also PRSSB have purchased substantial quantities of shares of Tarini, prima facie by using the money which was received by them from Tarini group entities.

125.The details of purchase of equity shares of Tarini by the above mentioned two companies are as follows:

Buyer Name	Trade date/s	Total buy qty.	Out of the same, qty. bought from the original allottees (no. of allottees)	Avg. Rate	Total value
Shallot Tieup Pvt. Ltd	June 26, 2014 *(day of listing of Tarini shares)*	1,23,000	1,20,000 (27)	36.05	44,35,380
PRSSB	July, 4, 7,8,9	1,62,000	1,62,000 (54)	41.09	66,57,300

126.In this regard, it is noted that Noticees have not denied the fact that the above mentioned two entities namely Shallot Tie Up and PRSSB Services Ltd. ("PRSSB") had received the funds from Tarini for further utilization towards the purchase of equity shares of Tarini immediately after the receipt of the funds.

127. It is further noted that the above-mentioned two allottees had purchased the shares from the original allottees either on the day of listing or a few days after the listing. In this regard, it has been submitted by the Noticees that "*the original allottees are free to sell their shares after allotment and the Noticees are not responsible for the purchase of shares from the original allottees by the above entities.*" However, the proximity between the timing of transfer of funds and subsequent purchase of shares makes it ample clear that the aforesaid two entities namely; Shallot Tie Up and PRSSB have utilized IPO proceeds transferred to them by Tarini group companies for purchase of shares of Tarini.

128. On perusal of prospectus of Tarini, it is also observed that at para 29 in page 42, the issuer company has stated that *"No payment, direct, indirect in the nature of discount, commission and allowance, or otherwise shall be made either by us or by our Promoters to the persons who receive allotments, if any, in the issue"*. However, certain transactions made by Tarini group entities contradict the above hypothesis made by Tarini in its Prospectus. The said transactions are mentioned in the table below;

Sl	Name of the Tarini group entity	Amount received from Tarini	Date	Paid to	Amount in ₹	Date
1	Tarini Infrastructure Ltd.	1,00,00,000	26-Jun-14	Shallot Vincom Pvt. Ltd.	82,50,000	26-Jun-14
				Shallot Tieup Pvt. Ltd.	17,50,000	26-Jun-14
2	Tarini Sugar and Distilleries Ltd.	1,00,00,000	26-Jun-14	Shallot Vincom Pvt. Ltd.	17,50,000	26-Jun-14
				Shallot Tieup Pvt. Ltd.	82,50,000	26-Jun-14

Sl	Name of the Tarini group entity	Amount received from Tarini	Date	Paid to	Amount in ₹	Date
3	Venture Infrastructure Ltd.	1,00,00,000	26-Jun-14	Shallot Deal Trade Pvt. Ltd.	84,00,000	26-Jun-14
				Shallot Deal Trade Pvt. Ltd.	16,00,000	26-Jun-14
4	B Soilmec India Private Ltd.	1,50,00,000	01-Jul-14	Equator Financial Services Ltd.	1,50,00,000	01-Jul-14
5	Tarini Wilderness Innovation	50,00,000	01-Jul-14	PRSSB Services Ltd.	50,00,000	01-Jul-14
6	Tarini Wilderness Innovation	10,00,000	01-Jul-14	PRSSB Services Ltd.	10,00,000	11-Jul-14
7	Tarini Wilderness Innovation	5,00,000	30-Jul-14	PRSSB Services Ltd.	5,00,000	30-Jul-14

From the above, it is apparent that Tarini, through its group/promoter related companies viz; Tarini Infrastructure Limited, Tarini Sugar and Distilleries Limited and Venture Infrastructure Ltd., has transferred its IPO proceeds to Shallot group of companies. These amounts are part of the IPO proceeds that has been routed by Tarini though the two group companies.

129.In this regard, Noticees in their reply have submitted that *"the Merchant Banker introduced Noticees to Shallot group companies"*. However, the Merchant Banker vide email dated September 06, 2016 had replied that *"Guiness Corporate Advisors Pvt. Ltd. or any of its directors have never introduced Tarini International Limited or its directors/promoters with the companies namely Shallot Vincom Pvt. Ltd., Shallot Tieup Pvt. Ltd., Shallot Dealtrade Limited or any of the directors of these companies for the supply of Plant and Equipment. Further, there is no relationship between Guiness Corporate Advisors Pvt. Ltd. or its directors with Shallot Vincom Pvt. Ltd., Shallot Tieup Pvt. Ltd., Shallot dealtrade Limited and their directors."*

130. It is further noted that during the investigation Tarini was advised to explain the reason for advancing the sum of Rs.714.10 lakhs out of IPO proceeds to subsidiaries for various purposes. Tarini, vide its e-mail dated January 12, 2016 inter alia submitted as under:

"The Group is established since 1995, and is involved in Electricity Generation, distribution, EPCC, Transmission , sugar, distillery and pharmaceuticals manufacture, contractors, and technical and project consultancy services in the related areas by the way of its formal SPVs(Special Purpose Vehicles).

The respective project companies (SUVs) in whose names the projects stand allotted shall be taking up the implementation of these projects in a phased manner, which are either as subsidiary or associate of M/s Tarini International Ltd which went for IPO for itself as well as for its group.

The money so raised in the IPO was for the working capital for itself as well as for its group to the best of our knowledge. The pre-operative funding so incurred in the projects by itself and its SUVs/Subsidiary/Associate has till now been treated as working capital for Tarini International Limited since its inception. The ultimate benefit of these projects is to strengthen and stabilize the financial position of Tarini International Ltd. On *successful implementation and commissioning of projects the parent company receive following benefits on regular basis:*

1. *Project implementation contract fees*
2. *Earning of dividend from the new company*
3. *Maintenance work of project*
4. *Enhancement of holdings*
5. *Even Turnkey contract for project implementation."*

131. Subsequently, Tarini vide email dated February 25, 2016, submitted details of utilization of the IPO proceeds by group companies and replied that;

"*The companies under reference had initiated discussions with the respective vendors (who were got introduced to us by our Merchant Bankers) for availing of their services / supply of goods as early as beginning of June 2014. The vendors during the discussion requested for advance payment since it was second hand plant and machinery, payment of advance will enable the parties to hold on to the said goods. These payments were remitted through banking channels the details of which were given already to various authorities including your good-self.*

Further, when we were in the process of finalisation of terms and conditions for issue of Orders and other relevant documentations, the Income Tax authorities, under the direction of the Ministry of Finance, have raided our premises for more than forty eight hours and took away all the documents / computers / hard disks / files, without giving any chance for us to take a copy of the same and till today we have not been supplied even a copy of any of them despite repeated requests.

The said raids were conducted by the Income Tax authorities without jurisdiction and we have challenged the said raid with the Hon'ble High Court of Delhi, who have issued orders in this regard. It will be pertinent to note that the projects could not move forward because of the said raids by various departments and is stand-still and we are put at grave loss and misery till date without any solution.

In view of the foregoing, we are not in a position to produce any further document in this regard"

132. In view of the above, it is clear that the Noticees have escaped from submitting any substantial document, under current proceedings, to establish the justification of utilization of IPO proceeds. Further, on analysis of Trade log and order log details in the scrip of Tarini, it was noted that entities PRRSB and Shallot Tieup Private Ltd ("Shallot") which had received funds from Tarini or from its group companies had purchased the Shares of Tarini International Limited from the allottees. The details of transfer of funds is shown below;

Date	From	To	Amount	From a/c	To a/c
01-Jul-14	Tarini	Tarini Wilderness Innovation	50,00,000	662705114448	662705600007

11-Jul-14	Tarini	Tarini Wilderness Innovation	10,00,000	662705114448	662705600007
30-Jul-14	Tarini	Tarini Wilderness Innovation	5,00,000	662705114448	662705600007
01-Jul-14	Tarini Wilderness Innovation	PRSSB Services Ltd.	50,00,000	662705600007	909020045322608
11-Jul-14	Tarini Wilderness Innovation	PRSSB Services Ltd.	10,00,000	662705600007	909020045322608
30-Jul-14	Tarini Wilderness Innovation	PRSSB Services Ltd.	5,00,000	662705600007	909020045322608

133.It was observed that 54 entities had applied 3,000 shares each i.e., total of 1,62,000 shares through the broker Pravin Ratilal Share & Stock Brokers Ltd. ("Pravin"). These 54 entities had sold the shares of 1,62,000 shares through the same broker Pravin on 4 trading days ie.e. July 04, July 07 to July 09, 2014. The entire shares were bought by Pravin's group company PRRSB. It is pertinent to mention that all the buy and sell orders were placed through the single terminal id: 205. PRRSB had bought these shares for the amount of Rs.66,57,300 and the amount of Rs.65,00,000 was received by PRRSB from Tarini through its group company Tarini Wilderness Innovations Pvt. Ltd. in three transactions of ₹50.00 lakh, ₹10.00 lakh & ₹5.00 Lakh during the month of July, 2014, as stated in the Table above.

134. In this regard, it was submitted by Tarini that the said amount was a loan to PRSSB. However, in support of the said loan, only documents submitted was a letter from Tarini Wilderness to PRSSB seeking confirmation of balance of ₹65,00,000 as on March 31, 2015. The account did not have any entry for charging interest and it was noticed that Tarini Wilderness transferred the amounts received from Tarini to PRSSB on the same day of receipt. No loan agreement between the two entities has been produced to authenticate that the money transferred to PRSSB Ltd. was indeed a loan transaction.

135.Considering the fact that Tarini Wilderness had transferred the amounts received from Tarini to PRSSB on the same day of receipt and the proximity of dates of money transfer and the dates of purchase of shares, in the absence of any other transaction between Tarini/its group company and PRSSB between July 01, 2013 and June 30, 2015, it is evident that Tarini had diverted the IPO proceeds to PRRSB to buy its own shares from the allottees.

136.With respect to sum of ₹1.5 crores paid to Equator Financial Services Ltd. by Soilmec, (a Tarini group company) it was submitted that the same was an interest bearing loan @12% interest given to Equator Financial Services and TDS has been deducted on the interest received for FY 2014-15. Copy of the TDS certificate has been provided to support their claim that the amount was advanced as a loan by Soilmec to Equator Services. It is noted that the investigation has not made any adverse inference with regard to the payment made to Equator. Thus, no adverse finding is recorded against the same under current proceedings.

137.It was further submitted by the Noticees under current proceedings that the Shallot group companies have been paid by Tarini Infra, Tarini Sugar, Venture Infra mainly for the purpose of acquiring second hand plant and machinery for sugar factory and co-generation plant.

138.In this regard, it was observed that Shallot bought 1,23,000 shares on the listing day for Rs.44,35,380. Out of 1,23,000 shares, 1,20,000 shares were bought from the allottees. The details are given below:

Buyer Name	Buyer total buy qty.	Avg. Rate	Total Buy Qty. from the Allottees	Number of Allottees
Shallot Tieup Pvt. Ltd	1,23,000	36.05	1,20,000	27

139.It was further observed that Shallot has received Rs.100 lakhs from Tarini's IPO proceeds as under:

Level-1			
Date	**From**	**To**	**Amount**
26-Jun-14	Tarini International Limited.	Tarini Infrastructure Ltd	1,00,00,000
26-Jun-14	Tarini International Limited.	Tarini Sugar And Distillaries Ltd	1,00,00,000
Level-2			
26-Jun-14	Tarini Infrastructure Ltd	Shallot Tieup Pvt Ltd	17,50,000
26-Jun-14	Tarini Sugar And Distillaries Ltd	Shallot Tieup Pvt Ltd	82,50,000
		Total	1,00,00,000

140. It is noted that Shallot vide email dated December 01, 2015, submitted that it had used the funds received to purchase shares of certain companies including 1,23,000 shares of Tarini at Rs.36.06 per share on July 01, 2015. It is noted that inadvertently, in the email of Shallot, the date of transaction in the scrip of Tarini has been mentioned as July 1, 2015 instead of July 1, 2014, which is the actual date of purchase of Tarini shares by Shallot. The typographical error in mentioning the date is supported by the fact that the purchase price of ₹36.05 per share was available only in July 2014 while price of the scrip of Tarini was in the range of ₹13-15 only in July 2015.

141.However, shallot did not provide the reasons for which it received the funds from Tarini's group company. Thus, from the above, it is clear that the explanation earlier offered by the Noticees that the money that was transferred to Shallot group companies was meant for acquiring second hand plant & machinery for sugar factory, has been proven to be false and erroneous by the categorical response received from Shallot, who has candidly admitted that the fund was received to purchase of shares of Tarini.

142.It is noticed that Shallot Tie up Ltd. had bought 1,23,000 shares of Tarini on 01of July 2014, out of which 1,20,000 shares were bought from the original allottees. It may be noted that there was no other transaction executed between Tarini group of companies and Shallot group of companies during the period July, 2013 to June 30, 2015. The Noticees have thus failed to submit any documents in support of their explanation justifying the transfer of funds to Shallot and have also not submitted any rebuttal to the claim of Shallot that the funds received from Tarini group of companies were meant for purchase of shares of Tarini. From the above, it is evident that Tarini had diverted the IPO proceeds of Rs.44,35,380 (1,23,000 shares * Rs.36.06) to Shallot to buy its own shares in violation of the stated objects of the IPO.

143. To sum up, Tarini had diverted the IPO proceeds Rs.109 lakhs from its intended use towards object as mentioned in its prospectus and funded the purchase of its own shares as shown in the table below;

Name of the entity	**Total no. of shares purchased from allottees**	**Funds received from Tarini out of IPO proceeds.**
PRRSB Services Limited	1,62,000	65,00,000
Shallot Tie-up Private Ltd	1,23,000	44,35,380
Total	2,85,000	1,09,35,380

144.From the above discussion, it is clear that Tarini had come out with an IPO to raise money to the tune of in ₹16.30 Crore. After examination of the allegations levelled in the SCN against Tarni and other Noticees based on the findings of the investigation done by SEBI, the transactions through which the IPO proceeds were claimed to have been utilized and replies submitted by the Noticees, following is concluded;

i. Tarini has not utilized the proceeds the IPO proceeds in conformity with the objects of IPO as stated in the prospectus. The Investigation reveals that only a part of the IPO proceeds has been utilized in line with the objects of the prospectus while the a major portion of the proceeds have been diverted towards utilization mostly by the group/associate companies of Tarini.

ii. Tarini has diverted approximately a sum of ₹9.60 crores in the form of loans to different group entities under the head "working capital requirements". Also about ₹1.20 crores has been paid to a group entity under the head of renovation expenses and ₹91.89 lakhs to another group entity in the name of corporate expenses. The entity wise diversion of IPO proceeds has been gathered in the following table:

Sl	Name of the Entity	Amount Diverted (₹)	Purpose
1.	Tarini Infrastructure Ltd.	4,00,00,000	Working capital
2.	Tarini Sugars & Distilleries Ltd.	2,00,00,000	Working capital
		91,89,000	General Corporate Purpose
3.	B. Soilmec India Private Ltd.	1,20,00,000	Working Capital
		60,00,000	General Corporate Expenses
4.	Venture Infrastructure Ltd.	1,75,00,000	Working Capital
5.	Tarini Wilderness Innovation Pvt. Ltd.	1,25,10,000	Working Capital
	Total	**11,71,99,000**	

iii. From the above table that Noticees have straightway diverted or utilized IPO proceeds to the tune of ₹11.71Crore (approx.) for purposes other than the commitments made under the object of IPO in the Prospectus. These amounts have been channelized to the accounts of other group entities mostly in the form of loans and advances or under the garb of renovation & interior or general corporate expenses. Prima facie the above sum of money was transferred to the group companies as soon as the IPO proceeds were received. Bulk of the IPO proceeds was also seen to have been transferred much before executing a formal loan agreement with the group entities without demonstrating the justification for such sense of urgency of the promoters and directors of Tarini to divert the IPO proceeds to the accounts of group companies. Thus, there is a clear cut diversion of at least ₹11,71,99,000/- from the IPO proceeds out of the total utilization of ₹15.98 crores furnished by Tarini vide its email dated April 04, 2016.

iv. Out of the remaining amount also, substantial amounts have been apparently misappropriated by the Noticees which is evident from the fact that except for the expenditure incurred for the purposes such as brand building and issue expenses, the claims made by the notices towards administrative expenses and payment of salary etc. are not supported by any reliable explanation or evidence. As already discussed above that the expenses aggregating to ₹2.85 crores remain unsubstantiated by the Noticees. However, from the materials available on record, it is observed that the exact extent of such mis-utilization or misappropriation of IPO proceeds under various heads of administrative expenses and the entities/ persons to whom such payments have been made are not ascertainable in clear terms. The expenses incurred under these heads to a large extent remain unexplained but having been paid off/remitted to various third parties and for different administrative purposes are difficult to be retrieved or to get refunded back by the Noticee Company.

v. However, transfer of IPO proceeds to the group/associate companies, under the guise of extending loan, renovation and general corporate expenses etc., are undisputed by the Noticees and are also clearly ascertainable in exact quantum.

145.Thus, going by the amounts of funds diversions to group entities as tabulated above, there remains no doubt that Tarini has transferred a major portion of IPO proceeds to its group/associate companies wherein the Noticee No 2 & 3 are having controlling interest/major stake. The very objectives of the IPO as identified in the Prospectus were for meeting long term working capital requirements, renovation of the registered office etc. were defeated by the deliberate acts of the company, its MD and the Whole Time Director. I find that the Noticees have concealed/failed to make material disclosures in the Prospectus regarding their actual intention to use the proceeds thereby depriving its prospective investors of a precious and vital information that their money, meant to be invested in Tarini, would actually be utilized by entities other than the Issuer Company. This clearly amounts to a breach of trust reposed by the investors in Tarini and its Noticee directors as they have failed to come clean and inform the investors all the material facts in the Prospectus as required under law.

146.From the facts discussed above, it is clear that Tarini and the Noticee directors knowingly utilized the issue proceeds for the purposes other than as stated in the prospectus to help its group companies. I note that Tarini has not only failed to disclose the fact that the proceeds of its IPO would be substantially utilized for its group companies but also has made wrong, misleading statements and concealed crucial material information such as loan taken from Hind Ispat prior to the IPO, from the investors. Therefore, Noticees have violated the Regulations 57(1), 60(4) and 60(7)(a) of SEBI (ICDR) Regulations 2009, which mandates that Issuer Company shall make all material and adequate disclosures in the offer document, which are true and adequate enough to enable the share applicants to take an informed investment decision.

147. The offer document should contain information, which shall be truthful, fair and shall not be manipulative or deceptive or distorted and it shall not contain any statement, promise or forecast which is untrue or misleading. However, going by factual analysis in the preceding paragraphs, by concealing material information and by providing information in a distorted manner in the offer document, The Noticees have committed a fraud on the investors. The above act of Noticees have resulted in creating a misleading appearance about the prospect of Tarini IPO in the securities market so much so to mislead and induce the investors to subscribe to the IPO, thereby violating Section 12A(a),(b)(c) of SEBI Act 1992 r/w Regulations 3 (a),(b),(c) and (d), 4 (1), 4 (2) (f) and (k) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003. Had the prospective investors been aware of the exact utilization of the IPO proceeds that was weighing in the minds of the Noticees at the time of

issuing offer documents, the investors certainly would have taken their investment decisions differently in a more informed manner.

148. In this context it will be relevant to refer the view taken by the Hon'ble Securities Appellate Tribunal (SAT) in the matter of Bharatiya Global Infomedia Ltd. v. SEBI, SAT Appeal No. 481 of 2016, decided on June 25, 2016, observed that *" the investor public was misled by suppressing the material facts or transactions which occurred prior to RHP, post RHP and before issue of shares. Not only this, the IPO proceeds were misused for entering into manipulative trades. Some of the substantive amount was diverted"*

149. Here it is also relevant to refer to the judgment of the Hon'ble SAT in the matter of V. Natarajan vs. SEBI, SAT Appeal No.104 of 2011, wherein it was held that:-

"… we are satisfied that the provisions of Regulations 3 and 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, were violated. These regulations, among others, prohibit any person from employing any device, scheme or artifice to defraud in connection with dealing in or Issue of securities which are listed or proposed to be listed on an exchange. They also prohibit persons from engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities that are listed on stock exchanges. These regulations also prohibit persons from indulging in a fraudulent or unfair trade practice in securities which includes publishing any information which is not true or which he does not believe to be true. Any advertisement that is misleading or contains information in a distorted manner which may influence the decision of the investors is also an unfair trade practice in securities which is prohibited. The regulations also make it clear that planting false or misleading news which may induce the public for selling or purchasing securities would also come within the ambit of unfair trade practice in securities… … A basic premise that underlies the integrity of securities market is that persons connected with securities market conform to standards of transparency, good governance and ethical behavior prescribed in securities laws and do not resort to fraudulent activities."

150.It would be also appropriate here to refer to the following observations made by the Hon'ble Supreme Court in its judgment dated April 26, 2013, in N. Narayanan v. Adjudicating Officer SEBI (Civil Appeal Nos.4112-4113 of 2013) wherein the Hon’ble Apex court have held that *"SEBI, the market regulator, has to deal sternly with companies and their Directors indulging in manipulative and deceptive devices, insider trading etc. or else they will be failing in their duty to promote orderly and healthy growth of the Securities market. Economic offence, people of this country should know, is a serious crime which, if not properly dealt with, as it should be, will affect not only country’s economic growth, but also slow the inflow of foreign investment by genuine investors and also casts a slur on India’s securities market. Message should go that our country will not tolerate “market abuse” and that we are governed by the “Rule of Law”. Fraud, deceit, artificiality, SEBI should ensure, have no place in the securities market of this country and ‘market security’ is our motto."*

151. It is also noted that Whole Time Member, SEBI, vide order dated March 29, 2019, had passed directions against the aforesaid three Noticees for the same set of violations as alleged under current proceedings, wherein Noticee no. 1 i.e. Tarini was directed to bring back / recover the

IPO proceeds aggregating to ₹11,71,99,000. Additionally, Noticees were directed not to access securities market, directly or indirectly for a period of four years from the date of completion of recovery of the diverted funds with interest.

152.Keeping in mind the dicta of various Courts as reproduced above, in the present case, Noticees have acted in a manner highly detrimental to the interests of investors in securities market. The rulings of the Hon'ble Supreme Court and the decisions of Securities Appellate Tribunal discussed in the preceding paragraph squarely apply to the facts of the instant case. The violations of law on the part of Tarini and its Directors, if not dealt with sternly, could give rise to a situation of mistrust where raising of capital would become extremely difficult even for honest companies.

153.Keeping in view the foregoing discussions and observations, I am of firm opinion that the Noticees namely Tarini, Vakamulla Anu Naidu and Vakamulla Chandra Shekhar, have violated the provisions of Section 12A (a), (b) and (c) of the Act read with Regulation 3(a),(b), (c),(d), Regulation 4(1), 4(2)(f) and 4(k) of the PFUTP Regulations and Noticee no. 1 i.e. Tarini has violated clauses 45 and 46 of the SME Listing agreement r/w Section 21 of SCRA. Thus, liable for monetary penalties as prescribed under Section 15HA of the SEBI Act and section 23E of SCRA, respectively.

Issue No. III: Does the violation, if any, on the part of the Noticees attract monetary penalty under Section 15HA of the SEBI Act, 1992 and section 23E of SCRA?

154.The aforesaid violations as mentioned above, make the Noticees liable for penalty under section 15HA of SEBI Act 1992 and Noticee no. 1 liable for penalty under section 23E of SCRA, which reads as follows:

Relevant provisions of SEBI Act:

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.*

Relevant provisions of SC(R) Act

Section 23E: **[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds].**

If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees.

Power to adjudicate.

> ***15-I.*** *(1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H, 15HA and 15HB, the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.*
>
> *(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.*
>
> ***23-I.*** *(1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.*
>
> *(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.*

155.As regards the Noticee, it is clear that it is liable for imposition of penalty as is drawn from the Hon'ble Supreme Court of India Order in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC), wherein Hon'ble SC held that:

"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…"

156. In light of the above, it is noted that although the Noticees have already been debarred from securities market for the period stipulated in the WTM order dated march 29, 2019. However, current proceedings being entirely independent from the proceedings before the WTM, an appropriate penalty shall be imposed on the Noticees to have deterrent effect so as to ensure that such acts, if not punished appropriately, would not only violate the provisions of Securities Law but also would erode the confidence of investors even in the genuine SME companies.

Issue No. IV: If so, what quantum of monetary penalty should be imposed on the Noticees considering the factors stated in section 15J of SEBI Act, 1992?

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

"15J - Factors to be taken into account by the adjudicating officer

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

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default; (c) the repetitive nature of the default.

Explanation: For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F,15G,15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

158.Based on the material available on record, it is observed that Noticees have misappropriated proceeds of IPO aggregating to ₹11.71Crore (approx.), as identified earlier in this order and which have been subsequently transferred/ passed to it's group/associate entities. Thus, it is concluded that the Noticees, by their act, have disturbed the equilibrium of securities market by not disclosing material information to investors and misappropriating IPO proceed for the purpose other than that mentioned in the prospectus, thus, deserves imposition of appropriate penalty.

ORDER

159.Having considered all the facts and circumstances of the case, material available on record, violation established, the factors mentioned in Section 15J of the SEBI Act, in my view, the following penalties, under section 15HA of SEBI Act for violation of provisions of Section 12A (a), (b) and (c) of the SEBI Act r/w Regulation 3 (a), (b), (c) and (d), Regulation 4(1), 4(2)(f) and 4(k) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003, is commensurate with the violations committed by the aforesaid Noticees in this case. The Noticees shall be jointly and severally, liable to pay the following penalty amount;

Name of the Noticee(s) and PAN Details	**Monetary Penalty (Rs.)**
1. Tarini International Limited (Company) (AABCT7379R)	5,00,00,000/- (Five Crores Only)
2. Mr. Vakamulla Chandra Shekhar (Managing Director) (AOBPS6042M)	5,00,00,000/- (Five Crores Only)
3. Mrs. Vakamulla Anu Naidu (Whole Time Director) (ADPPN6394L)	2,00,00,000/- (Two Crores Only)
Total	**12,00,00,000/- (Twelve Crores Only)**

and on Noticee no. 1 under section 23E of SCRA for violation of provisions of clause 45 and 46 of the SME Listing agreement r/w section 21 of the SCRA;

Name of the Noticee(s) and PAN Details	**Monetary Penalty (Rs.)**
1. Tarini International Limited (Company) (AABCT7379R)	**5,00,000/- (Five lakhs Only)**

160.Noticee shall remit / pay the said amount of penalties, as mentioned in the table above, within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through e-payment facility into Bank Account the details of which are given below;

Account No. for remittance of penalties levied by Adjudication Officer	
Bank Name	State Bank of India
Branch	Bandra Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

161.The above Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Chief General Manager of Enforcement Department of SEBI (EFD-DRA-III). The Format for forwarding details/ confirmations of e-payments made to SEBI shall be in the form as provided At Annexure A of Press Release No. 131/2016 dated August 09, 2016 shown at the SEBI Website which is produced as under;

1. Case Name :
2. Name of Payee:
3. Date of payment:
4. Amount Paid:
5. Transaction No:
6. Bank Details in which payment is made:

162.Payment is made for: (like penalties/disgorgement/recovery/Settlement amount and legal charges along with order details)

163.Payment can also be made online by following the below path at SEBI website sebi.gov.in

ENFORCEMENT → Orders → Orders of AO → PAY NOW

164.In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to the SEBI.

Date: February 10, 2020 **Vijayant Kumar Verma**

Place: Mumbai **Adjudicating Officer**