

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: PRASHANT SARAN, WHOLE TIME MEMBER**

ORDER

**Under sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992
in the matter of IPO of Tijaria Polypipes Limited**

**In respect of Tijaria Polypipes Limited, its managing director - Mr. Alok Jain Tijaria, its
whole time directors - Mr. Vikas Jain Tijaria, Mr. Vineet Jain Tijaria and Mr. Praveen Jain
Tijaria, and its independent directors - Mr. Santosh Kumar and Mr. Padam Prakash Som
Prakash Bhatnagar**

Date of Hearing: December 20, 2012

Appearances

For Tijaria Polypipes Limited:

1. Mr. P. N. Modi, Senior Advocate
2. Mr. Vineet Jain Tijaria, Director, Tijaria Polypipes Limited
3. Mr. Ashwin Thool, Advocate
4. Mr. Ravichandra S. Hegde, Advocate
5. Mr. Abhishek Venkatraman, Advocate
6. Ms. Arti Raghavan, Advocate

For the Securities and Exchange Board of India:

1. Ms. Anita Anoop, Deputy Legal Adviser
2. Ms. Jeny John, Deputy General Manager
3. Ms. Deena Sarangadharan, Assistant General Manager
4. Mr. T. Vinay Rajneesh, Assistant Legal Adviser

1. Tijaria Polypipes Limited (hereinafter referred to as "TPL" or "the Company") came out with an Initial Public Offering ("IPO") of 1,00,00,000 equity shares of face value of ₹10 each, issued at a premium of ₹50/- per equity share, to raise ₹60 crore to fund its proposed expansion and diversification plans. The said issue, which opened for subscription on September 27, 2011 and closed on September 29, 2011, was reportedly oversubscribed by 1.2 times. TPL allotted 71,64,406 shares in the retail investors category which constituted 71.64% of the public issue. The shares of

the Company were listed on the Bombay Stock Exchange Limited (hereinafter referred to as "BSE") and the National Stock Exchange of India Limited (hereinafter referred to as "NSE").

2. On noticing a steep fall in the share price of TPL on the first day of trading/ listing, i.e., on October 14, 2011, the Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted an investigation. The preliminary findings of the said investigation, *prima facie* revealed that TPL had diverted substantial portion of the IPO proceeds, through layered transactions, to certain entities who had allegedly provided exit to the retail allottees/QIBs at a premium to the issue price with respect to the shares allotted in the IPO, in order to offset their losses in providing the said exit. It was also *prima facie* observed that the Company failed to disclose the fact that it availed ICDs for meeting working capital requirements and its decision to repay such ICDs from the IPO proceeds in the Prospectus/offer document of its IPO. In view of the preliminary findings of the investigation, SEBI vide an *ad interim ex-parte* order dated December 28, 2011 (hereinafter referred to as the "*interim order*") *inter alia* issued the following directions:

- i) TPL was prohibited from raising any further capital from the securities market, in any manner whatsoever, till further directions.
- ii) TPL, its Managing Director - Mr. Alok Jain Tijaria, its Whole Time Directors – Mr. Vikas Jain Tijaria, Mr. Praveen Jain Tijaria and Mr. Vineet Jain Tijaria, its Independent Directors – Mr. Pana Chand Jain, Mr. Pawan Kumar Jain, Dr. Padam Prakash Somprakash Bhatnagar and Mr. Santosh Kumar and its Finance Manager and Company Secretary – Mr. Tej Kumar Jain were prohibited from buying, selling or dealing in securities, in any manner whatsoever, till further directions. [*The directions issued vide the interim order against Mr. Pana Chand Jain, Mr. Pawan Kumar Jain and Mr. Tej Kumar Jain were revoked vide Order dated October 25, 2012*]
- iii) TPL was directed to call back the following amounts from the following entities to whom the IPO proceeds were found to have been diverted, as the ICD agreements/ purchase orders, wherever produced to explain such diversion by the company, were found to be fabricated. The portion of the IPO proceeds so diverted, were found to be *inter alia* routed to the individuals/ entities who had provided exit to the QIBs and/or retail allottees at a premium to the issue price :

Name of the Entity	Amount ₹
Shri Nath Trading Co.	2,00,00,000
Neelkanth Enterprise	2,00,00,000
V R International	50,00,000
Shastika Enterprises	50,00,000
Sanjivani Gems Private Limited	25,20,548
Shareware Finvin Private Limited	50,10,274
Bellisima Impex	10,36,67,123
Marine Gems Private Limited	75,89,384
Balasaria Holdings Private Limited	1,01,04,795
Nihita Finance	2,51,30,685
Total	20,40,22,809

This total amount of ₹20,40,22,809/- was directed to be deposited in an interest bearing escrow account with a scheduled commercial bank, till further orders.

- iv) TPL was also directed to call back ₹25 crore transferred from the IPO proceeds to its cash credit account and also all other amounts transferred/paid out of IPO proceeds to its promoters/directors or relatives of its promoters/directors or HUFs belonging to any of its promoters/ directors or associates or subsidiaries or group companies, if any. These amounts together with all of the IPO proceeds that were still lying unutilized with the company across all its bank/deposit accounts or any investments including in mutual funds, was asked to be deposited in an interest bearing escrow account with a scheduled commercial bank, till further orders.

3. The Company vide letter dated January 04, 2012, while denying the allegations/observations made against it in the *interim order*, submitted that it is considering legal remedies available to it and requested SEBI not to take coercive steps for implementation of the directions contained in paragraph 1(c) and (d) of the operative part of the *interim order*. Thereafter, vide letter dated January 16, 2012, the Company requested for inspection of documents/full record. The request for inspection was accepted and a date (*on February 07, 2012*) was fixed for the same and then rescheduled to February 13, 2012 on the request of the Company on the ground that its representative had other hearings. On February 13, 2012, the authorised representative of the Company appeared and inspected records/documents, as mentioned in the record of the proceedings of the inspection. The authorised representative had indicated that they would send a separate letter seeking further documents and material as required. No such request was received

thereafter. Though inspection was done in the month of February 2012, the Company did not file its reply nor sought for a personal hearing thereafter, when the *interim order* had specifically advised that the persons/entities (*against whom the same was passed*) may file their objections, if any, and, if they so desire, avail themselves of an opportunity of personal hearing before SEBI. Thereafter, the Company sent certain letters during August and September 2012, wherein it had informed that they had received summons from Court to appear in a case filed by Shrinath Trading Co. (*claimed to be one of its machine suppliers*).

4. The Company, thereafter, vide letter dated October 15, 2012, referred to its September 21, 2012 letter informing that the commercial production of "mink blankets" had successfully commenced. It stated that the main raw materials for the mink blanket are 'DTY', which was manufactured in its factory and 'FDY', which was procured from market. In the said letter, the Company also submitted that the machines and supplies were sourced from Neelkanth Enterprises, Goyal Trading Company, Suvidha International and R. K. International and that the machinery were purchased out of the funds received by it in its public issue.

5. Though the time line indicated in the *interim order* was not followed by the Company, SEBI in the interest of natural justice, afforded an opportunity of personal hearing to the Company pursuant to its requests made in its letters dated October 29, 2012 and November 21, 2012. The personal hearing was fixed on December 20, 2012. Meanwhile, the Company sent a letter dated December 01, 2012 stating that the inspection carried out was incomplete and that copies of certain documents were to be provided to it. However, it is noted that the said submission was made without mentioning as to what documents were required by it. It is also noted that when the authorised representative of the Company inspected the documents, he had clearly indicated in the record of inspection that copies of other documents/material would be sought as required by way of separate letter.

6. The Company vide the aforesaid letter dated December 01, 2012 enclosed a letter dated January 23, 2012 of the Company. It is noted that the enclosed letter though dated January 23, 2012 was received for the first time by SEBI vide the Company's letter dated December 01, 2012. The following submissions were *inter alia* made in the letter dated January 23, 2012 by the Company :

- (i) It is a matter of fact that the Company had taken ICDs from third parties in order to tide over its financial condition even before the proceeds from the IPO were realized by the Company. This is clearly evident from the perusal of the bank statements and the ICD agreements. Subsequent to the realization of the issue proceeds, the Company repaid the dues to entities as per the ICD agreements.
- (ii) The Company had received ₹1,00,00,000/- from Balasaria Holdings Private Limited on September 19, 2011 and the same were used towards purchase of raw material from Basudeo Enterprises Private Limited and P.P.Products. The Company had also taken ICDs from Bellisma Impex Private Limited to the tune of ₹ 10,25,00,000/- and the same were paid to suppliers of raw materials and for machinery from September 14, 2011 to October 07, 2011. The said amount was repaid by the Company along with interest after deducting TDS.
- (iii) The Company had taken loan of ₹ 2.5 crore from Nihita Financial Services Private Limited ("Nihita") and the same were also utilised for purchase of raw materials and machinery as required by the Company. The said loan was repaid to Nihita along with interest and after deducting TDS. A portion of the amount availed from Nihita was utilised for paying the security deposit to the stock exchange (BSE).
- (iv) TPL had also availed loan of ₹75,00,000/- from Marine Gems Private Limited and the same were utilized for purchases of raw material from Tarajyot Polymer Limited. The loan was repaid along with interest and after deducting TDS on October 14, 2011.
- (v) Shareware Finvin Private Limited had provided a loan of ₹50,00,000/- on October 10, 2011, which was repaid on October 13, 2011. The funds so availed were used to repay the outstanding loans extended by the promoters (Mr. Alok Tijaria, Ms. Maya Tijaria) to the Company to tide over working capital requirements.
- (vi) The Company had also received a sum of ₹25,00,000/- from Sanjivini Gems Private Limited on September 15, 2011 which was utilized to purchase raw materials from Tarajyot Polymer Private Limited.
- (vii) The company received ₹16.12 crore by way of ICDs from various companies which were utilized for its operations and for the project envisaged under the IPO. The manner in which the funds received through ICDs were utilized clearly shows that the Company took the initiative of obtaining ICDs when there was an immediate requirement of funds which could not have been arranged from any other source. There was also a likelihood of a huge hike in prices of polymer raw materials which was a main concern for the company. As the proceeds of the issue were not yet realized, the company decided to approach other companies to avail ICDs to tide over the financial situation and to book the raw material in advance. Accordingly, the ICDs were obtained from other companies, which funds were

utilized towards the objects of the issue. The proceeds of the ICDs were never utilized for any other use apart from making advance payments to the suppliers which was only with an intent to further the interest of the company and its operations. Upon receipt of the proceeds from the IPO, the Company repaid the amounts which were borrowed through ICDs.

- (viii) The allegation and the finding with regard to the alleged relation between the Company and some entities who had traded on the listing day, is baseless and not sustainable.
- (ix) Anticipating shortfall of raw materials, the Company had booked raw materials in advance and made advance payments to the suppliers. The same was a genuine and a prudent action by the Company. The Company too had filed application for a 'BIS license' which was pending with the concerned authority and was expected when it made the advance payment.
- (x) The main raw material which is required by the Company is polyethylene granules and its price is directly related to the price of crude oil. Further, the price of the US Dollar against the Indian Rupee was also increasing which had a direct bearing on the price of the crude oil. There was also a likelihood of huge price hike in the prices of the polymer raw material. The Company therefore anticipated that the price of the raw material would certainly increase. This was also a factor to book raw materials in advance to hedge the risk.
- (xi) As regard the observations made in relation to the purchase of machinery from Indian dealers, the Company submitted that the main reason for approaching the Indian suppliers for the project was due to bad experiences from the Chinese manufacturers. The Company had to face many problems in relation to three machines which were purchased from China. There was unreasonable delay in delivery ; shipping documentation and formalities were laborious ; after sales service for the products purchased from Chinese manufactures was disappointing ; requests to fix problems were left unattended ; assurances and commitments were never met ; Indian Companies gave competitive offers unlike the Chinese manufacturers who had increased the price of their machines by 30% from what had been mentioned in the project report, were the reasons why the Company preferred Indian suppliers.
- (xii) In the prospectus of the Company, under the paragraph on “*interim use of proceeds*”, it was stated that pending utilization of the proceeds out of the issue for the purpose described in the prospectus, the Company intends to temporarily invest the funds in high quality interest bearing liquid instruments including money market mutual funds and deposits with banks, and that pending utilization of issue proceeds, the same shall not be used for any investments in equity markets. No funds were diverted or invested in the equity markets. The outstanding loans which were availed for the purpose of purchasing raw material for the Company were repaid from the proceeds of the issue.

- (xiii) As stated in the prospectus, the company had not raised any bridge loan against the proceeds of the issue. This statement in the prospectus was true as there were no ICDs or any loans which were taken by the company as on the date of filing of the prospectus. The company executed the ICD agreements after the filing of the prospectus and availed of the funds from the entities for the reasons stated above. It cannot be said that the company failed to disclose the details of the ICDs in the prospectus.
- (xiv) The Company was not aware of any further details of the lenders other than the details pertaining to their nature of business and the terms of the ICD agreements. After the loan was repaid, the relationship with the ICD lenders and the obligations in the ICD agreements were discharged. The repayment of the funds are entered in the books of accounts of the company and are also reflected in bank entries.
- (xv) The Company is not related to Jivraj Bachibhai Zala, Pinac Stock Brokers Private Limited, Lopa S. Bhavnagari, Volga International Limited, Swift Tie Up Private Limited, Naveen Taparia, Hitendrakumar Dineshbhai Kapadia, Kirti Ramji Kothari, Divyadrishti Merchants Private Limited, Divyadrishti Traders Private Limited, Wheelers Developers Private Limited, Champak N. Pujara, Mr. Chetan Dave, Mr. Vimal Patel, Vanraj Kahor, Todi Securities Private Limited, Salasar Stock Broking Limited, Monarch Project and Finmarkets Limited, Monarch Research and Brokerage Private Limited and Grishma Securities Limited in any manner and there has been no observations to substantiate any connection with these entities whatsoever.
- (xvi) No funds were transferred to any of the above entities. The transaction with the ICD lender was for availing the loan facility before the IPO and it was returned to them with the interest as per the ICD agreement.
- (xvii) The allegation that a part of the IPO proceeds were *inter alia* transferred to Shri Nath Trading Co., Neelkanth Enterprise, V.R.International, Shastika Enterprises and Shareware Finvin Pvt. Ltd is made without providing any details. Merely, because there are entries in the bank statements about the transfer of funds, it cannot lead to a conclusion that the funds were not utilized as per the objects of the issue. The fund transfers are in relation to the purchase Order entered with the above mentioned entities. Merely, because the purchase order numbers in some case do not run serially as per the purchase order date, SEBI has alleged that the purchase orders have been fabricated in order to explain diversion of IPO proceed to the concerned entities. This allegation has also been made without appreciating that every transfer made by the company is reflected in the bank statements and also in the ledger account.
- (xviii) Without prejudice, the company had stated that the purchase order no. 292, 295 and 297 are issued serially which fails appreciation from SEBI. It is only with regard to the purchase

order no. 293 given to M/s Shastika Enterprises, which allegedly falls out of the serial as mentioned above.

- (xix) All the departments of the Company use the same dispatch spreadsheet, used for giving purchase order numbers, which is shared by a common folder by respective users. If this shared file is in use by one user, it cannot be used by another user at the same time. Generally departments book the purchase order numbers which can be used by that respective department in a day or two. After three days when the number so lapsed got allotted, there will only be a change in the date. In other words, the date as on the date of booking will be replaced by the date of sending the order. In case of any modification in the technical specifications of the item mentioned in purchase order, or any other kind of amendment in the order, only the date of such amendment is revised but the serial number of the purchase order would remain the same. This was the case with order no. 293, in which the technical specification of PVC sorter was revised twice. The first draft was prepared on October 4, 2011 and the same day the order number was booked. However, after finalization of all the terms, the final order was prepared on October 12, 2011 and only the date of the order was changed but not the order number. Anomaly in the serial number of purchase order was due to software used, which does not allow numbers to be changed to a purchase order, when the technical specification of PVC sorter was revised twice, though the software only takes the date on which the finalization of the terms and specification is done on the system. This working of allotment of numbers on the purchase order was never questioned by SEBI during the inspection or during the investigation.
- (xx) The increase in the price of the scrip despite the order passed by SEBI on December 28, 2011 shows that investor community is interested in the Company.
- (xxi) The Company has utilized all the monies raised in the IPO for its operations and expansion as envisaged in the Prospectus.

7. SEBI vide letter dated December 14, 2012 had intimated the Company regarding all correspondences made by the Company to SEBI clearly indicating that the authorized representative of the Company had done the inspection of documents and had mentioned that a separate letter seeking documents would be sent to SEBI. However, SEBI has not received any communication from the Company till October 29, 2011 seeking inspection of documents or a request for personal hearing. I note that the aforesaid SEBI letter did not have any reference to the letter dated January 23, 2012 as the same was received for the first time vide the Company's letter dated December 01, 2012.

8. Subsequently, SEBI vide letter dated December 18, 2012 (*in response to the Company's letter dated December 15, 2012*) briefly reiterated the contents of the SEBI letter dated December 14, 2012 with respect to inspection of documents and personal hearing.

9. In the personal hearing, Shri P. N. Modi, Senior Advocate appeared on behalf of the Company and its directors and made submissions. In the hearing, I had granted liberty to the Company to reconcile how the IPO proceeds of ₹60 crore was utilized towards the project cost taking into account the funding from other sources (loans, internal accruals etc) and for cross-reference of the same against the expenditure incurred towards cost of plant/machinery. The valuation of the plant/machinery (*claimed to be set-up/purchased utilizing the IPO proceeds*) were directed to be supported not only by invoices but also by secondary evidence (*tax challans etc*).

10. The Company vide letter dated December 21, 2012 submitted that it would be providing all the necessary documents and records along with its submissions.

11. Subsequently, the Company vide letter dated February 13, 2013, informed SEBI that it was in the process of collating the information and would be filing a reply providing all the relevant details regarding the utilization of the proceeds of its IPO. In response, SEBI vide letter dated February 22, 2013 informed the Company that it is granted a week's time to file reply/information and that if the same is not received, it would be presumed that the Company has no submissions to offer and SEBI would take such action as it may deem fit. Thereafter, vide letter dated February 28, 2013, TPL made submissions. The said letter also enclosed certain documents, namely, ledgers showing payments made to suppliers of plant and machinery (*including certain bills, transportation bills, VAT payments, etc*), ledgers with respect to expenses incurred towards building (*including certain bills, land purchase documents, lease agreements, etc*) and bills with respect to other expenditures/cost incurred by the Company. The submissions made by the Company in this letter were stated to be limited and dealing only with respect to the utilization of the IPO proceeds. The following *inter alia* were such submissions :

- (i) TPL was originally in the business of manufacturing plastic pipes. It proposed to commence the business of polyester yarn and mink blankets etc. The IPO was necessitated for (i) expanding the existing business of manufacturing pipes in view of the increasing demand for high quality pipes and (ii) proposed new venture for manufacture of yarn, mink blankets

and PET sheets. The estimated cost of the project was ₹108.52 crores. Out of the ₹108.52 crores, ₹60 crores was proposed to be raised through the IPO, 40 crores by way of term loan from financial institution and the remaining ₹8.52 crores from internal accruals. The IPO proceeds were utilised for the old existing business and expansion thereof and the setting up of the new business.

- (ii) The Company had utilised ₹682.43 lakhs for land and site development; ₹2354.29 lakhs for building; ₹4136.76 for plant and machinery (including electric installations); ₹549.19 lakhs for miscellaneous fixed assets; ₹404.08 lakhs towards preliminary and capital issue expenses; ₹435.78 lakhs for pre-operative expenses; ₹327.95 lakhs for advance for plant and machinery; ₹821 lakhs towards working capital margin and ₹71.20 lakhs as fixed deposit with bank. The same totals to ₹9782.68 lakhs. The payments made towards the aforesaid heads are reflected in the bank statements of TPL. Therefore, the allegation that the IPO proceeds were not utilized in accordance with the stated objects of the IPO is incorrect.
- (iii) The Company has not only utilized the IPO proceeds, as certified by the statutory auditor, it had also availed financial assistance from financial institutions towards development of projects of the Company.
- (iv) TPL has made true and adequate disclosure of all material facts in the Prospectus to enable applicants to take informed decision.
- (v) The loans in the form of ICDs were availed in order to purchase raw material, meet working capital requirements, pay for purchase of machinery etc. Such loans were availed for short duration as evident from the ICD agreements given that the process of launching the IPO was delayed. The loans availed through ICDs were repaid with interest on October 13, 2011, i.e., immediately on receipt of IPO funds.
- (vi) It can be physically verified that the new project has actually commenced. Commercial production of mink blankets had commenced and that the same are also sold from September 17, 2012. Therefore, it is indisputable that funds were utilised for setting up the new business and no question of diverting for any trading in the market.
- (vii) As regards the allegation of fund transfers to the promoters, it is submitted that the promoters had given interest free unsecured loans to the Company for working capital requirements in order to tide over shortfall. The same has been certified by the auditors of the Company. Funding of working capital requirements was one of the disclosed objects of the IPO. Consequently, the said working capital loans were refunded.

The Company has submitted various documents with the aforesaid reply and the same are dealt with in the subsequent paragraphs. According to the Company, it had utilized all the monies raised

in the IPO for its operations and expansion as envisaged in the prospectus. In view of the submissions, the Company requested SEBI to withdraw the directions contained in the *interim order*.

12. The Company had also requested for another opportunity of hearing vide the aforesaid reply. In this regard, I note that the Company was informed by SEBI (*vide letter dated February 22, 2013*) that it is granted time to file reply/documents as permitted in the personal hearing and in case SEBI does not receive any reply, it would be presumed that it has no submissions to offer and SEBI may take such action as it may deem fit based on its previous submissions. As mentioned above, the Company and its directors have already been granted an opportunity of personal hearing. They had availed of the opportunity and made submissions before me. Pursuant to such hearing, the Company has also filed its submissions along with certain documents for consideration. Since reasonable opportunity has already been afforded to the Company and its directors to file their replies/submissions and documents and also an opportunity of personal hearing was afforded and availed to make oral submissions, I am of the considered view that another opportunity of personal hearing would not be necessary for the purposes of this order. This order would only decide, in the light of the submissions made by the Company and its directors, whether the directions issued against them vide the *interim order* needs to be vacated or modified, in any manner or be confirmed till further directions.

13. I have considered the submissions/replies of the Company and its directors, the documents presented by them and other material available on record. The limited issue to be considered at this stage is whether the *ad interim ex-parte* directions issued against TPL, its managing director – Mr. Alok Jain Tijaria, its whole time directors – Mr. Vikas Jain Tijaria, Mr. Vineet Jain Tijaria and Mr. Praveen Jain Tijaria, and its independent directors – Mr. Santosh Kumar and Mr. Padam Prakash Som Prakash Bhatnagar, vide the *interim order* needs to be confirmed, vacated or modified in any manner, in the light of their submissions.

14. I note that TPL had raised ₹ 60 crore in its IPO. The said funds was primarily meant for implementation of Company's expansion and diversification projects. As per the disclosures made in the RHP, the cost of the expansion cum diversification project was ₹ 108.52 crore and the said ₹ 60 crore raised from IPO was to be utilized for the same. In its Prospectus dated September 12, 2011, under paragraph “*Interim use of proceeds*”, the Company had *inter alia* stated that pending

utilization of the proceeds out of the issue for the purposes described in the Prospectus, they intend to temporarily invest the funds in high quality interest bearing liquid instruments including money market mutual funds and deposit with banks, and, that pending utilization of issue proceeds, they shall not use the funds for any investments in equity markets. Further, in page number 56 of the Prospectus, TPL had declared that it had not raised any bridge loan against the proceeds of the present issue. However, the bank account of the Company had revealed that ₹45 crore out of the total IPO funds of ₹60 crore, were actually transferred by TPL as per the details below :

Name of the Entity	Date of Transfer	Amount ₹
Tijaria Polypipes Ltd. *	13-Oct-11	25,00,00,000
Shri Nath Trading Co.	13-Oct-11	2,00,00,000
Neelkanth Enterprise	13-Oct-11	2,00,00,000
V R International	13-Oct-11	50,00,000
Shastika Enterprises	13-Oct-11	50,00,000
Sanjivani Gems Pvt Ltd.	13-Oct-11	25,20,548
Shareware Finvin Pvt. Ltd.	13-Oct-11	50,10,274
Bellisima Impex	13-Oct-11	10,36,67,123
Marine Gems Pvt. Ltd.	13-Oct-11	75,89,384
Balasaria Holdings Pvt. Ltd.	13-Oct-11	1,01,04,795
Nihita Finance	13-Oct-11	2,51,30,685
Total		45,40,22,809

(* Cash credit account)

From the current account of TPL, ₹25 crores were transferred to the cash credit account of TPL with Bank of India on the very same day. Further, it is observed that on the same day, the IPO funds were transferred to the entities mentioned in the table above. The Company has claimed that the said entities were ICD lenders/ suppliers of plant and machinery.

15. The Company, in its submissions, had stated that it had raised funds through ICDs in order to meet its working capital requirements and that as soon as the IPO proceeds were received it had repaid the ICDs. However, there was no mention of such ICDs or the Company's decision to avail loans through ICDs in its Prospectus. From a copy of the minutes of the meeting of the Board of Directors of the Company held on Saturday, September 10, 2011, it is noted that the Chairman informed the Board of Directors that there was a need for extra funds for meeting the business need in view of project under progress. The minutes further records that Mr. Vineet Jain Tijaria, a director, was authorized to find out sources of raising funds and finalize the terms and conditions

favorable to the company. As noted from the minutes, a resolution was also passed to apply and avail loan for meeting business expenses from the following parties:

Name of the Party	Maximum Loan Amount to be taken ☐
Nihita Financial Services Pvt. Ltd., Mumbai	50 lacs
Marine Gems Pvt. Ltd., Surat	75 lacs
Sanjivani Gems Pvt. Ltd., Surat	25 lacs
Bellisima Impex	9.5 crore
Bellisima Impex	50 lacs
Balasaria Holdings, Kolkata	1 crore

16. Mr. Vineet Jain Tijaria was further authorized to negotiate, discuss, settle, finalize and accept terms and conditions of the said loan facility from the entities. It is observed that though the claimed receipt of funds by the company from ICD lenders was after the date of Prospectus i.e., September 12, 2011, the decision to avail finance through ICDs, the entities from whom such ICDs would be taken, the amount of funds under the ICDs, were all decided/taken on September 10, 2011, which is prior to the filing of the Prospectus with the Registrar of Companies. The decision to avail finance through ICDs is definitely a material information, which has not been disclosed. Therefore, the submission that the Company executed the ICD agreements after the filing of the Prospectus and that as on the date of filing of the Prospectus, there was no ICDs or loans taken by the Company, according to me is without any merit.

17. As mentioned above, the material information regarding the Company's purported decision to take ICDs, which was taken prior to the date of filing of the Prospectus, was not mentioned in the Prospectus dated September 12, 2011 of the Company. The Company has also claimed to have decided to repay such ICDs from out of the IPO proceeds. However, such a decision/plan did not form part of the *object* of the issue or under 'utilization of issue proceeds'. In stark contrast, the Company in page 56 of its Prospectus, had stated that it has not raised any bridge loans against the proceeds of its IPO. It is observed that under the details of objects of the issue, it was mentioned that an amount of ☐ 8.6 crore was estimated as provision for working capital margin and ☐ 2.8 crore towards provision for contingencies. There was no mention regarding the use of issue proceeds for repayment of ICDs. Therefore, I *prima facie* find that the Company had not disclosed,

in its Prospectus, its decision to avail ICDs to meet working capital requirements and that such ICDs would be repaid from out of the IPO proceeds as and when realized.

18. I note that the Company has claimed to have entered into agreements with Nihita Financial Services Private Limited, Mumbai, Marine Gems Private Limited, Surat, Sanjivani Gems Private Limited, Surat, Bellisima Impex, Balasaria Holdings, Kolkata and Shareware Finvin Private Limited with respect to availing ICDs. From the copies of such agreements submitted, it is observed that such ICD agreements entered with different entities across different cities/ states were all identically worded including the terms, clauses pertaining to repayment, interest and security, and, the only differentiating factors were the period of agreements and the date of such agreements. I also note that the Company has claimed that its Board approved for availing funds through ICDs to the tune of ₹ 12.5 crore. However, it is noted from the submissions of the Company that it has claimed to have availed ₹16.12 crore loan by way of ICDs from various companies as against the approval for availing ₹12.5 crore.

19. The Company had also submitted that funds were availed through ICDs as it expected the price of raw materials to shoot up and also expected large business orders. In this regard, I note that part of the ICD amounts were claimed to have been used for the repayment of loan availed from its promoters/promoter related entities. The decision to avail ICDs was said to have been taken on September 10, 2011 and the IPO closed on September 29, 2011. In the decision to avail ICDs, there seems to be no mention or approval for transfer of monies raised through ICDs to the promoters of the Company. Further, the pressing need to pay the promoters from the ICDs has not been explained by the Company/its directors. The decision to repay the loans taken from the promoters has not been disclosed in the Prospectus. It is also noted that some of the ICDs were taken for a very short tenure of three days and were repaid immediately on receipt of IPO funds. The Company has, in its submissions, admitted that it has taken loans for short durations. The same appears to be unusual. Further, it becomes very difficult to comprehend as to what was sought to be achieved by taking ICDs for durations as short as three days. It also becomes difficult to accept that the price of raw materials could increase so much or vary substantial in such a short span of three days. Moreover purchasing excess raw materials in anticipation of price rise amounts to speculation in raw materials rather than working capital requirement. This has not been disclosed in the Prospectus.

20. I note that the investigation has *prima facie* alleged that the monies claimed to be the repayment of ICDs, were found to be transferred to persons/entities (*who had sustained losses on account of their trades in the scrip on the listing day*), through layered transactions. Such entities/persons were found to have given exit to the retail allottees and QIBs at a premium to the issue price on the first day of trading. In this regard, I note that the Company had transferred approximately ₹ 10.36 crore from the IPO funds to Bellisima Impex on October 13, 2011. Mr. Jivraj Zala, one of the client's who had traded on the first day of listing, had received ₹3.8 crore from Bellisima Impex directly and had also received funds indirectly through layered transactions, i.e., through Vimal Patel, Vanraj Kahor and Jiya Traders from October 15, 2011 to October 18, 2011. Bellisima Impex had also transferred funds to two other clients who had traded on the first day of listing, namely, Ms Lopa Bhavanagari and Pinac Stock Brokers Private Limited routing it through the accounts of Dharamshri Desai and Parklight Securities Private Limited on October 17, 2011 and October 18, 2011.

21. TPL was found to have transferred ₹2.51 crore from the IPO proceeds to Nihita Financial Services Private Limited and ₹2 crore to Shri Nath Trading Co. on October 13, 2011 and the same was routed to the accounts of Ms. Lopa Bhavnagari and Pinac Stock Brokers Private Limited during the period - October 15, 2011 to October 17, 2011 through Parklight Securities Private Limited. Further, Nihita Financial Services Private Limited had transferred ₹50 lakhs to the account of Sanjukta Vanijya Private Limited on October 19, 2011 which was further routed to the account of another client, Swift Tie Up Private Limited on the same day routing it through Orbit Financial Consultant Limited.

22. TPL had also transferred ₹50 lakhs to the account of Shareware Finvin Private Limited on October 13, 2011 and the same was transferred to the account of Krishna Trade & Commerce Private Limited on October 17, 2011 and further transferred to the account of another client, Salasar Stock Broking Private Limited on October 18, 2011. TPL had transferred ₹50 lakhs to the account of Ballasaria Holdings on October 13, 2011 and the same was transferred to the account of another client, Todi Securities Private Limited on October 14, 2011 routing it through the accounts of KBR Township, Tillottama Holdings Private Limited, ARM Commodities Private Limited.

23. I also note that six clients (*namely Mr. Jivraj Zala, Ms. Lopa Saumil Bhavanagari, Pinac Stock Brokers Private Limited, Swift Tie Up Private Limited, Salasar Stock Broking Private Limited and Todi Securities Private Limited*) had incurred huge losses by allegedly providing exit to retail allottees and/or QIBs while trading in the scrip of TPL on the day of listing. Such losses of the clients were alleged to be partially set-off by the funds routed from TPL, as mentioned in the *interim order*. Part of the IPO proceeds were transferred through layered transactions.

24. As regards Ms. Lopa Saumil Bhavanagari and Pinac Stock Brokers Private Limited ("Pinac"), I note that SEBI had passed final orders dated May 20, 2013 and May 30, 2013 respectively, wherein they have been found to have contravened the provisions of Section 12A (a), (b) and (c) of the SEBI Act read with Regulations 3, 4(1) and 4(2)(a), (b) and (e) of the PFUTP Regulations. In view of the violations, Ms. Lopa Saumil Bhavanagari and Pinac Stock Brokers Private Limited were restrained from buying, selling or otherwise dealing in securities, directly or indirectly, for a period of five years. The following findings/observations from the orders are worth noting :

- (i) In the order against Ms. Lopa, it was found that she had traded in the scrip of TPL without having adequate risk taking capacity and suffered heavy monetary loss and that she *inter alia* traded in the scrip for ensuring exit to certain retail allottees/QIBs in the IPO. It was concluded that the trades in the scrip of TPL which resulted in the structured/reversal deals were not genuine sale – purchase transactions and had the effect of creating artificial volume. The conduct of Ms. Lopa was found to constitute a serious irregularity in the market and also disturbed the market equilibrium.
- (ii) In the Order against Pinac, the entity was also found to have indulged in trading in the shares of TPL for ensuring exit to certain retail allottees in the IPO and as result of the same, had suffered losses which were partly borne by TPL (*through layered fund transactions*) and Monarch. It was also inferred from the trading patterns that the same were done with the ulterior motive of creating artificial volume in the securities market. It was concluded that the trades of Pinac in the scrip of TPL which resulted in the structured deals were not genuine sale – purchase transaction and had the effect of creating artificial volume.

25. Availing ICDs without disclosures in the Prospectus, making payments to entities from the issue proceeds which have further found their way into the market through layered transactions, as observed above, indicate to me that it was allegedly a well planned scheme or device to fund/set-off losses of the ultimate entities/clients (who had incurred losses) while giving exit opportunities to the retail allottees and QIBs.

26. As per the Prospectus of TPL, the details regarding plant and machinery (*imported*) and plant and machinery (*indigenous*) was mentioned in *pages 59 to 64*. As per the said details, it was seen that the total estimated cost of the plant and machinery (imported as well as indigenous) was ₹ 62.25 crore. Out of the said expenditure, the cost of imported machinery alone was ₹ 50.25 crore. The Company vide letter dated August 6, 2012, mentioned that the procurement of plant and machinery was from local suppliers and not Chinese and the said decision was commercial in nature and taken bearing in mind the cost of machinery, life of the machinery, maintenance, installation, troubleshooting capabilities amongst other things. I also note that the Company, vide email dated December 08, 2011 has stated that only ₹10.14 crore (approx.) has been spent towards the cost of imported plant and machinery. Further as per the said email, the status of orders placed towards indigenous and Misc. Plant and Machinery is ₹21.99 crore vis-à-vis the budgeted indigenous machinery for ₹12 crore as per the Prospectus. Further, the Company had stated that towards indigenous machinery, orders were placed for approximately ₹10.20 crore with parties comprising R.K. International (₹1.25 crore), Suvidha International (₹1.54 crore), Shastika Enterprises (₹1.45 crore), Neelkath Enterprises (₹2.10 crore), Shri Nath Trading Co. (₹2 crore) and Goyal Trading Co. (₹1.35 crore). I note that part of the funds (₹90 lakhs) transferred to Shri Nath Trading Co. have been transferred ultimately to clients who had incurred huge losses while trading in the scrip on the day of listing, as alleged in the *interim order*.

27. I also note that at *page no. 76* of the Prospectus under the head, "*Interim use of proceeds*", the Company had stated that pending utilisation of the IPO proceeds, the same would be temporarily invested in high quality interest bearing liquid instruments including money market mutual funds and deposits with banks. However, the Company had not done so and instead it has claimed to have repaid the ICDs from out of the IPO proceeds. This action was never stated in the Prospectus filed on September 12, 2011. I also note that the investigation has observed that funds

transferred to certain entities (*which has been claimed to be repayment of ICDs*) were found to have been further transferred by those entities to certain persons/entities which had allegedly provided exit opportunity to certain allottees (retail allottees/QIBs) in the IPO. Considering the factors such as the non-disclosure of availing ICDs and the decision (*as claimed by the Company*) to repay such ICDs from IPO proceeds and the alleged routing of funds to off-set the losses incurred by those who provided exit to the IPO allottees, it can be *prima facie* alleged/observed that the Company, in order to explain diversion of funds to the entities, has claimed that those entities had extended loans to it by way of ICDs and the alleged transfer was the repayment of such loans. In this regard, I also note that the investigation has *prima facie* alleged that the Company had fabricated the ICD agreements entered with different entities which was allegedly used as a ploy for diversion of IPO proceeds.

28. A part of the IPO proceeds were *inter alia* also transferred to Shri Nath Trading Co., Neelkanth Enterprise, V R International, Shastika Enterprises and Shareware Finvin Pvt. Ltd, whom the Company had stated to be its suppliers of plant and machinery. In order to explain these transfer of funds, the Company produced copies of purchase orders entered with the following entities:

Name of the Party	Order No.	Date of Purchase Order	Amount (in ₹)
V R International	292	October 03, 2011	95,00,000
Neelkanth Enterprise	295	October 04, 2011	2,15,80,000
Shri Nath Trading Co.	297	October 10, 2011	2,00,00,000
Shastika Enterprises	293	October 12, 2011	50,00,000

It was seen that the purchase order placed on October 04 and 10, 2011 have order numbers that are after the order numbers of orders placed on October 12, 2011. It has been alleged that the purchase orders have been fabricated to explain the diversion of IPO proceeds to the concerned entities. The Company has made elaborate submissions with respect to such orders nos. being not in sequence to submit that the purchase orders have not been fabricated. I am of the view that conclusive findings on this issue may not be appropriate in this order, as the matter is subject of detailed investigation.

29. During the course of personal hearing held on December 20, 2012, I had directed the Company to reconcile how the proceeds of the IPO was utilised towards the project cost taking into account the funding from other sources such as banks and for cross reference of the same against the expenditure incurred towards the cost of plant and machinery. The valuation of plant/machinery was to be supported by secondary evidence such as sales tax receipts, income tax receipts etc. The Company was informed that mere copies of invoices towards purchases would not suffice and that secondary evidence in the form of government receipts, taxes paid(sales tax, VAT, customs/excise duty), bills of entry (in the case goods were imported) etc. should be furnished to SEBI. The Company vide its letter dated February 28, 2013 had forwarded its submissions towards utilisation of IPO proceeds. The letter enclosed invoices related to the procurement of plant and machinery and very limited secondary evidences to support the same. The documents submitted by the Company includes ledgers showing payments made to suppliers of plant and machinery (including certain bills, transportation bills, VAT payments, etc), ledgers with respect to expenses incurred towards building (including certain bills, land purchase documents, lease agreements, etc) and bills with respect to other expenditures/cost incurred out of the IPO proceeds. I have considered such documents and observe the following :

i) In terms of the Prospectus filed by the Company in connection with its IPO, the total cost of project envisaged therein was ₹108.52 crores. The said amount was proposed to be utilised for the purposes tabulated below:

Sl No	Particulars	Amount (₹ in Lakhs)
1	Land & Site Development	716.00
2	Building & Civil Construction	1466.00
3	Plant & Machinery	6225.00
4	Misc. fixed assets	590.00
5	Preliminary expenses & Capital Issue Expenses	495.00
6	Pre- operative Expenses	215.00
7	Provision for Contingencies	285.00
8	Working Capital Margin	860.00
	Total	10852.00

ii) The Company has submitted that its estimated cost of the project was 108.52 crores and the cost was to be funded as follows : ₹60 crores to be raised through the IPO; ₹40 crores to be raised by way of a term loan from financial institution and the remaining ₹8.52 crores was to be met from

internal accruals. As regards utilisation of funds, the Company has submitted that it has utilised ₹97.83 crores as follows :

Sl No	Particulars	Actual Utilisation Amount (₹ in Lakhs)
1	Land & Site Development	682.43
2	Building	2354.29
3	Plant & Machinery (<i>including electrical installations</i>)	4136.76
4	Misc. fixed assets	549.19
5	Preliminary and capital issue expenses	404.08
6	Pre- operative expenses	435.78
7	Advances for plant and machinery	327.95
8	Working capital margin	821.00
9	Fixed Deposit with bank	71.20
	Total	9782.68

iii) The Company has stated that it has utilized ₹41.37 crores for plant and machinery. In addition to such expenditure, the Company has also stated that it has paid ₹327.95 lakhs as advance for plant and machinery. With respect to the plant and machinery, the Company had provided invoices and receipts received from suppliers. However, they have provided very limited secondary evidence in this regard. I further observe from the documents provided by the company that the total amount spend on imported machinery approximately amounts to ₹ 15.02 crore. However, I observe from the documents provided by the Company that bill of entry with respect to such imported machinery has not been furnished by the Company as secondary evidence. It is well known that Bill of Entry is the most important evidence of any import in India.

iv) With respect to indigenous machinery for which the Company has shown an amount of ₹24.86 crore as expenditure,, I note that the Company has provided a summary statement of purchase against VAT invoices (Form VAT-07A) for the years 2011-12 and 2012-13 as secondary evidence to support the purchase of plant and machinery, building, raw materials, etc. From the VAT form downloaded from the website of the Government of Rajasthan, I note that ₹ 53,99,206.8/- was the amount of tax paid for the purchase of plant and machinery, building and raw materials of value ₹ 9,56,45,153/- as against ₹ 41.37 crores claimed to have been incurred as cost towards plant, machinery, building, etc. The Company has also submitted various invoices/challans as secondary evidence for purchase of plant and machinery. On perusal of the same, it is noted that

such documents and challans are of the Company/vendors and that no documents such as government receipts mentioned earlier was provided to support the purchase of such indigenous machinery.

v) A perusal of the ledgers of some of the suppliers of plant and machinery (*to whom the IPO proceeds were diverted*), namely, Shri Nath Trading Co, Suvidha International, V R International, etc shows that the company has not paid the VAT till January 2013. Also, I note that the bank accounts of the Company does not reflect any payments made towards VAT for purchase of plant and machinery to any of the said suppliers. I further note from the details furnished by the Company regarding the above mentioned suppliers that they are dry fruits dealers, kirana stores, scrap dealers, etc and there is no evidence that they are suppliers of plant and machinery.

vi) I also note that in the Prospectus, the Company stated that the cost of the Building would be ₹14.66 crores, whereas it claims to have spent ₹23.54 crores. The same is an escalation by about 62%. The Company has furnished receipts to support the total cost incurred on building as ₹23.54 crores and has furnished very limited secondary evidences to support the same. The evidences furnished includes invoices and weigh bridge receipts. I note that the company has not furnished any government receipts such as toll bridge receipts to support their claim. Also, I note that as per the inspection report of the term lender, Bank of India, Mid corporate Branch, Jaipur, regarding the inspection of project by its independent engineer, M/s R B Shah & Associates, the total built up area was 1,70,163 sq. ft. as provided by its independent valuer for which the total cost of construction and civil work completed till January 13, 2012 was ₹7.25 crore and the additional works to be completed worked out to be ₹7.51 crore. The project was considered to be complete with only 5% of the work remaining. However, as per the documents provided by the company, it is mentioned that the cost of construction for additional 87837 sq. ft. is ₹16 crore.

vii) I also note that the Company has submitted that ₹40 crores would be raised by way of a term loan from financial institution for funding its expansion plans. As per the documents furnished by Bank of India, Mid-corporate Branch, Jaipur (BOI), the total term loan disbursed by the said bank toward land, building, plant and machinery was ₹23.03 crore as on March 22, 2013. The buyer credit of machinery was ₹6.63 crore. In total, ₹28.66 crore was disbursed by BOI. As

mentioned above, the cost of the building has escalated and for the same the Company has not given any reasons.

30. In view of the above observations and *prima facie* findings, I find that the submissions and the explanation and supporting evidence produced by the Company with respect to its claimed expenditure, do not convince me to either revoke or modify, in any manner, the directions issued against the Company vide the *interim order*.

31. As mentioned above, part of IPO proceeds were *prima facie* found to be routed to entities who had traded in the market and incurred losses while providing exit to the retail allottees and /or QIBs at a premium to the issue on the day of listing. The *interim order* had directed TPL to call back ₹ 20,40,22,809 from certain entities to whom the IPO proceeds have been diverted and to deposit the same in an interest bearing escrow account with a scheduled commercial bank, till further orders. Also, TPL was directed to call back ₹ 25 crore transferred from the IPO proceeds to its cash credit account and also all other amounts transferred / paid out of IPO proceeds to its promoters/ directors or relatives of its promoters/ directors or HUFs belonging to any of its promoters/ directors or associates or subsidiaries or group companies, if any. These amounts together with all of the IPO proceeds that are still lying unutilized with the Company across its entire bank / deposit accounts or any investments including in mutual funds, was directed to be deposited in an interest bearing escrow account with a scheduled commercial bank, till further orders. I note that till date the said amounts have not been deposited by the Company, as directed in the *interim order*.

32. As regards the Managing Director - Mr. Alok Jain Tijaria, the Executive Directors - Mr. Vikas Jain Tijaria, Mr. Praveen Jain Tijaria and Mr. Vineet Jain Tijaria, I note that they are involved in the day to day activities and decision making of the Company. Further, the material decision to take ICDs was taken in the Board Meeting held on September 10, 2011 and the same was attended by Mr. Alok Jain Tijaria, Mr. Vikas Jain Tijaria, Mr. Vineet Jain Tijaria, Mr. Praveen Jain Tijaria and the independent directors, Mr. Santosh Kumar and Mr. Padam Prakash Som Prakash Bhatnagar. The Company and its directors, are definitely responsible for making true and complete disclosures regarding its business activities that have a bearing on the investment decisions of the investors in

its IPO. Therefore, I am of the opinion that they would also be responsible for the alleged violations/lapses/default by the Company.

33. Considering the totality of the facts and circumstances of the case including the alleged lapse/default of the Company in disclosing the fact that it availed ICDs for meeting working capital requirements, not disclosing the decision taken to repay such ICDs from the IPO proceeds, deviations in the utilization of issue proceeds as that stated in the prospectus, the alleged transfer of funds from TPL to certain entities through layered transactions allegedly to set-off their losses sustained in the process of providing exit to certain retail allottees/QIBs and subsequent sale on the listing day when the price had fallen, does not convince me at this stage to modify or vacate the directions issued against TPL, its directors Mr. Alok Jain Tijaria, Mr. Vikas Jain Tijaria, Mr. Vineet Jain Tijaria, Mr. Praveen Jain Tijaria and its independent directors, Mr. Santosh Kumar and Mr. Padam Prakash Som Prakash Bhatnagar. The investigation in the matter has been completed and appropriate action, in accordance with law, would be initiated against the Company and the aforesaid directors.

34. In view of the foregoing, I, in exercise of the powers conferred upon me under section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11(1), 11(4) and 11B thereof, hereby confirm the directions issued vide the *ad interim ex-parte* Order dated December 28, 2011 in the matter of IPO of Tijaria Polypipes Limited, against Tijaria Polypipes Limited (PAN: AACCT4796M), its directors, Mr. Alok Jain Tijaria (PAN: ABJPJ3116C), Mr. Vikas Jain Tijaria (PAN: ABTPJ8056D), Mr. Vineet Jain Tijaria (PAN: ABTPJ8166C), Mr. Praveen Jain Tijaria (PAN: ABTPJ8112G) and the independent directors, Mr. Santosh Kumar (PAN: ABJPJ3148G) and Mr. Padam Prakash Som Prakash Bhatnagar (PAN: ABTPJ9846M).

35. This Order shall be in force till further directions.

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Date : June 13, 2013
Place : Mumbai