BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/SBM/KL/2022-23/16940]

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
Hamraj Fashions Consultants Private Limited
(now known as Gilani Infra Private Limited)
(PAN: AACCH2998F)

65/B, Pathuria Ghat Street, Ground Floor,
Kolkatta, West Bengal 700006

In the matter of
Secunderabad Healthcare Limited

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) received a reference letter from the Department of Income Tax on February 10, 2015, forwarding statement recording of one Mr. Shirish C Shah, an accommodation entry provider, alleging that certain entities, through the stock exchange mechanism, generated bogus Long Term Capital Gain (LTCG) in many scrips including the scrip of Secunderabad Healthcare Limited (hereinafter referred to as '**SHL**'/**'company'**). In this regard, SEBI conducted an investigation with a focus to ascertain if there were any violations of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **'SEBI Act'**), SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (hereinafter referred to as **'ICDR Regulations'**) and SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as **'PFUTP Regulations'**) in the context of the funding of preferential allottees by SHL in the preferential allotment scheme made by the company during the year 2010. It is observed that the scrip of SHL is listed only on BSE since February 26, 2001.
2. Pursuant to the investigations, it was alleged that SHL made a preferential allotment of 8,00,00,000 warrants convertible into 8,00,00,000 equity shares of Rs. 10/- each for

cash at a premium of Rs. 8.60 per share on preferential basis to 27 non-promoter entities, on October 14, 2010 and the warrants were converted into equity shares in two tranches i.e. on March 02, 2011 and March 31, 2012. Among the aforesaid 27 non-promoter entities, it is observed that one M/s Hamraj Fashions Consultants Private Limited (now known as Gilani Infra Private Limited and hereinafter referred to as **'Noticee'**) was allotted 37,00,000 warrants on preferential basis. Pursuant to the conversion of the aforesaid warrants to equity shares on March 02, 2011, the total consideration amount to be paid by the Noticee to SHL, for subscription of the aforesaid shares amounted to Rs. 6,88,20,000/-. In this regard, in terms of the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations, the Noticee was required to transfer the total amount of Rs. 6,88,20,000/- to SHL at the time of allotment of equity shares, pursuant to exercise of option against each such warrant i.e. before March 14, 2012. However, it is alleged in the investigation that the total funds transferred by the Noticee to SHL towards subscription of the aforesaid 37,00,000 convertible warrants amounted to only 25% of the required amount i.e. Rs. 1,72,05,000/-, which is less than the required amount of Rs. 6,88,20,000/-. Therefore, it is alleged in the investigation that the Noticee failed to transfer the remaining 75% of the required amount i.e. Rs. 5,16,15,000 /- to SHL.

3. In view of the above, it is alleged that, SHL, by issuing equity shares to the Noticee without receiving full consideration amount from it and the Noticee by receiving shares from SHL through preferential allotment without paying full consideration amount, have together violated the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations. Further, it is alleged that SHL (a listed company on BSE) gave a public impression of capital infusion through preferential allotment, whereas, in reality, SHL, inter-alia, allotted shares to the Noticee without receiving full consideration amount from it for the said allotment. In view of the above, it is alleged that SHL provided benefit to the Noticee through the preferential allotment scheme and hence, SHL along with the Noticee perpetrated fraud on other allotees/shareholders and the ordinary investing public who had transacted in the shares of SHL post preferential allotment. Therefore, it is alleged that the Noticee had also violated the provisions of Sections 12A (a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d), and 4(1) of PFUTP Regulations.

4. In view of the above, SEBI initiated adjudication proceedings against the Noticee under the provisions of Section 15HA and Section 15HB of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

5. Dr Anitha Anoop was appointed as the Adjudicating Officer ('**AO**') in the matter vide communique dated July 29, 2019 under Section 19 of the SEBI Act read with Section 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**), to inquire into and adjudge under the provisions of the Section 15HA and Section 15HB of the SEBI Act, the aforementioned alleged violation of the provisions of law by the Noticee. Pursuant to the transfer of Dr Anitha Anoop to another department, the undersigned has been appointed as the AO vide communique dated November 03, 2020.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. Show Cause Notice ref no. SEBI/EAD/AA/MKG/156/2019 dated December 31, 2019 (hereinafter referred to as **'SCN'**) was issued to the Noticee in terms of Rule 4(1) of the Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticee and why penalty be not imposed on it in terms of the provisions of the Section 15HA and Section 15HB of the SEBI Act for the violations alleged to have been committed by the Noticee. The SCN, *inter-alia,* alleged the following: -
   a. *The Noticee 4/Hamraj Fashions Consultants Private Limited was allotted 37,00,000 shares pursuant to conversion of warrants, on March 02, 2011. At the issue price of Rs 18.60, the total required amount for subscription of the 37,00,000 shares was Rs 6,88,20,000/-. SEBI observed that the Noticee 4 had transferred Rs. Rs. 1,72,05,000/- (from account 8284000001244 - Yes Bank) to the bank account of the Noticee 1, through multiple transactions between August 12, 2010 and October 06, 2010. SEBI observed that the funds received by the Noticee 1, from the Noticee 4, are equivalent to only 25% of the subscription amount towards the shares, upon conversion of the warrants.*

   b. *Vide various emails and summons, the Noticee 1 was advised to provide an explanation with respect to transfers of funds to the Noticee 2 to 10 however the Noticee 1 did not provide any specific detail regarding the aforesaid transfers of funds. In view of the* *aforesaid failure on the part of the Noticee 1, it is alleged that the Noticee 1 does not have any justification/ explanation with respect to the return of the funds to the Noticee 2 to 10. As the consideration received from the Noticee 2 to 10 was less than the required amount, it is alleged that the Noticee 1, by issuing equity shares to the Noticee 2 to 10, without receiving full consideration and the Noticee 2 to 10 by receiving shares without paying full consideration, have together violated Regulation 77(1) and 77(3) of ICDR Regulations.*

c. *It is alleged that as the Noticees 2 to 10 did not pay full consideration for the conversion of warrants to equity shares, the aforesaid Noticees 2 to 10, were benefited by the company at the loss of other shareholders of the company.*

d. *When a company raises capital through share issuance, it is a capital infusion and ordinary investor perceives such capital infusion as a measure which strengthens the company's financial fundamentals thereby attracting the investing public to transact in the shares of the company. However, in the instant matter it is alleged that although the listed company i.e. the Noticee 1, gave a public impression of such capital infusion through preferential allotment, in reality, the Noticee 1, interalia, allotted shares to nine out of the 27 allottees without receiving full consideration. In view of the above, it is alleged that by providing benefit to the Noticees 2 to 10 through the preferential allotment scheme, the Noticee 1 along with the Noticees 2 to 10 had perpetrated a fraud on the other allottees, shareholders and the ordinary investing public who had transacted in the shares post preferential allotment. Therefore, it is alleged that the Noticees have violated section 12A(a), (b), (c) of SEBI Act read with Regulations 3(a), (b), (c), (d) &) of PFUTP Regulations.*

7. Vide letter dated June 21, 2021 and email dated January 10, 2022, the Noticee made the following major submissions in its reply to the SCN: -

   a. *The Noticee reiterates that there is nothing due and payable to SHL on part of the Noticee w.r.t. to the equity shares allotted to it or otherwise.*

   b. *the Noticee had appealed against the order dated 30th April 2021 before the Hon'ble Securities Appellate Tribunal (Honble SAT). Accordingly, vide its order dated 17th June 2021 the Hon ble SAT was pleased to remand the matter back to the file of the Honble Whole Time Member as the Noticee was not served with the SCN.*

   c. *The Noticee states that while issuing the SCN SEBI has failed to consider that there was substantial compliance of applicable provisions of laws on part of the Noticee and all payments were made by the Noticee to SHL before the due dates. Hence, there are no violations on part of the Noticee under ICDR Regulations which warrant a penalty under the SEBI Act.*

d. *The Noticee states that, it appears that the SCN was issued to the Noticee on account of not providing of information by the SHI, w.r.t. to the considering received by it from the allottees including the Noticee. Pertinently, the fact remains that the amount of INR 5, 16, 15,000 which are alleged to have been not paid by the Noticee to SHL have actually been paid on the following dates well before the due dates*

e. *During the year under review, 4,00, 96,000 Equity Shares were issued in lieu of the Convertible Equity shares on 2nd March, 2011 by the Company consequent to the payment of entire consideration and upon exercise of the option of conversion by the allotees. "*

f. *Therefore, it can be seen that in the annual reports of 2010 and 2011 which are available in the public domain (published on the stock exchange viz. BSE Ltd.) the auditors had recorded, receipts of the entire consideration by the company towards issue and conversion of convertible warrants issued by SHL, which are the subject matter of the impugned order. Moreover, no qualifications have been given by the auditor in the Annual Report w.r.t. conversion of warrants and consideration towards the same.*

g. *Therefore, the allegations of the violation of PFUTP against the Noticee, as more specifically set out in the SCN, do not hold any ground and on this ground alone the SCN may be set aside.*

CONSIDERATION OF ISSUES AND FINDINGS

8. I have carefully perused the allegations levelled against the Noticee in the SCN, the replies of the Noticee and also the documents/evidence available on record.

   The issues that arise for consideration in the present case are: -

   I. Whether the Noticee has violated the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations and Sections 12A (a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d), and 4(1) of PFUTP Regulations?

   II. If yes, whether the violation would attract monetary penalty on the Noticee under the provisions of the Section 15HA and the Section 15HB of the SEBI Act?

   III. If yes, what should be the quantum of monetary penalty?

9. Before moving forward, the relevant provisions of the SEBI Act, ICDR Regulations and PFUTP Regulations, allegedly violated by the Noticee are reproduced as under:

   SEBI Act

   12A. No person shall directly or indirectly—

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

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

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

ICDR Regulations

Payment of consideration.

77. (1) Full consideration of specified securities other than warrants issued under this Chapter shall be paid by the allotees at the time of allotment of such specified securities:

Provided that in case of a preferential issue of specified securities pursuant to a scheme of corporate debt restructuring as per the corporate debt restructuring framework specified by the Reserve Bank of India, the allotees may pay the consideration in terms of such scheme.

(2) ………

(3) The balance seventy five per cent. of the consideration shall be paid at the time of allotment of equity shares pursuant to exercise of option against each such warrant by the warrant holder.

PFUTP Regulations

3. Prohibition of certain dealings in securities. No person shall directly or indirectly-

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

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

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.*

ISSUE I :- Whether the Noticee has violated the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations and Sections 12A (a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d), and 4(1) of PFUTP Regulations?

ISSUE II. If yes, whether the violation would attract monetary penalty on the Noticee under the provisions of the Section 15HA and Section 15HB of the SEBI Act?

10. The Noticee in its reply dated June 21, 2021 categorically submitted that prior to the allotment of warrants on October 14, 2010, it had paid an amount of Rs. 1,72,05,000 /- (25% of the full consideration amount) to SHL during the period from August 12, 2010 to October 06, 2010. Further, it had paid the balance 75% of the consideration amount of Rs. 5,16,15,000/- to SHL during the period from October 20, 2010 to February 19, 2011. Therefore, Noticee submitted that it had paid full consideration amount of Rs. 6,88,20,000/- to SHL towards the allotment of 37,00,000 shares.

11. In the context of the instant adjudication proceedings, it is pertinent to mention that parallel proceedings were also initiated against the Noticee under the provisions of Section 11B of the SEBI Act, where the nature of the violations and the allegations made against the Noticee are identical. In this regard, the Whole Time Member (WTM) SEBI, passed an order ref: WTM/SM/EFD1/DRA4/19/2021-22 dated April 30, 2021 (hereinafter referred to as **'WTM order dated April 30, 2021'**) against the Noticee which was an *ex-parte* order as the Noticee, neither submitted his reply nor availed the opportunity of hearing during the course of the 11B proceedings. In his findings vide the aforesaid order dated April 30, 2021, the WTM SEBI established the violations alleged against the Noticee and issued the following directions:
    a. *Noticee is restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly in any manner whatsoever for a period of 02 years from the date of this order.*
    b. *Noticee is directed to pay the balance consideration to the Secunderabad HealthCare Limited (Noticee no. 1) in terms of amount shown to be recovered in Table no.-5 of the order. The above collection and payment shall be completed within a period of 60 (sixty) days from the date of this order.*
    c. *It is further clarified that during the period of restraint, the existing holding of securities including the holding of units of mutual funds of the Noticee shall remain under freeze.*

d. *Obligation of the Noticee, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange (s), as existing on the date of this Order, can take place irrespective of the restraint/prohibition imposed by this Order, only in respect of pending unsettled transactions, if any. Further, all open positions, if any, of the Noticee in the F & O segment of the stock exchange, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.*
e. *This Order shall come into force with immediate effect.*

12. Aggrieved by the aforesaid WTM order dated April 30, 2021, the Noticee filed an Appeal No. 383 of 2021 before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as **'Hon'ble SAT'**). The Hon'ble SAT vide its order dated June 17, 2021 allowed the aforesaid appeal filed by the Noticee and remitted the matter to SEBI holding, *inter-alia*, the following:
"..Since the matter is being reconsidered by the WTM with regard to the other Noticees coupled with the fact that the appellant now contended that they have evidence to show that the balance consideration was paid towards the convertible warrants we deem it fit to set aside this order in so far as it relates to the appellant and remit the matter to the WTM for reconsideration.
In view of the aforesaid, the impugned order in so far as it relates to the appellant is set aside. The matter is remitted to the WTM for reconsideration."

13. Pursuant to the above directions of the Hon'ble SAT, the WTM SEBI issued a show cause notice dated July 19, 2019 (hereinafter referred to as '**SCN dated July 19, 2019**') to the Noticee, considered the replies of the Noticee and passed an order ref: WTM/SM/EFD1/DRA4/13476/2021-22 dated September 23, 2021 (hereinafter referred to as **'WTM order dated September 23, 2021'**) in respect of the Noticee. In his findings vide the aforesaid order dated September 23, 2021, WTM-SEBI, inter-alia, concluded that the Noticee had paid the full consideration amount to SHL and therefore, WTM-SEBI exonerated the Noticee and disposed of the proceedings initiated against the Noticee under the provisions of Section 11B of the SEBI Act without any direction. In this regard, I note that the conclusions drawn against the Noticee in the WTM order dated September 23, 2021 deals with identical facts/findings/violations which have been levelled against the Noticee in the context of the present proceedings. Further, the SCN issued against the Noticee in the present proceedings also levelled same charges/allegations against the Noticee. The relevant observations/conclusions

brought out in respect of the Noticee in the aforesaid order by WTM-SEBI are reproduce as under:

" 12) I note that the Noticee has now filed a reply in rebuttal to the aforesaid allegations made in the SCN stating that it has already paid remaining consideration of 75% to the tune of INR 5,16,15,000 to the Company by February 19, 2011, which is much before the due date of March 14, 2012 set out for the payment of consideration as per terms of payment mandated by the Company. The Noticee has also furnished the details of the payment of INR 5,16,15,000 it had made to the Company as under:

Table-2

Date	***Amount***	***Due Date***	***Remarks***
October 20, 2010	*3,00,00,000*	*March 14, 2012*	*75% paid*
October 22, 2010	*1,00,00,000*	*March 14, 2012*	
November 12, 2010	*40,00,000*	*March 14, 2012*	
December 09, 2010	*75,00,000*	*March 14, 2012*	
February 19, 2011	*1,15,000*	*March 14, 2012*	
Total	***5,16,15,000 /-***		

From a perusal of the copy of the Bank Statements of Yes Bank for Financial Year 2010-2011 furnished by the Noticee in support of its afore-stated claim of having paid the remaining 75% of total consideration against the allotment of warrants and equity share, I find that different sums of money on different dates aggregating to INR 5,16,15,000 as indicated above in Table no.-2 have indeed been transferred from Yes Bank Account no. 8284000001244 of the Noticee to the Yes Bank Account no. 000684000002574 of the Company during the period from October 20, 2010 to February 19, 2011. The said receipt of funds gets corroboration from the amounts paid in tranches by the Noticee as shown in the above table from its Yes Bank Account on the respective dates. I therefore find that the Noticee has furnished sufficient evidence in supports of the claim that it had paid full consideration to the Yes Bank account of the Company by February 19, 2011 from its aforesaid Yes Bank account.

13. I note from the 20th Annual Report of the Company for the year 2010-11 as submitted by the Noticee and also available on the website of the BSE Ltd. that the auditors had in fact recorded about the receipts of the entire consideration by the Company towards issue and conversion of convertible warrants issued by SHL. Further, it is observed that the Company vide its disclosure dated April 03, 2012 made on the BSE Ltd. regarding outcome of the Board meeting held on March 31, 2012 has duly disclosed that the Company has *decided to issue and allot equity shares in lieu of Convertible Equity Warrants to the allottees consequent to their exercising option to convert warrants by paying balance 75% consideration towards the same. Therefore, having considered the materials on record, I am of the view that the Noticee is successful in rebutting the allegations made against it in the SCN by establishing that it had indeed paid full consideration towards the allotment of warrants as well as the equity shares post the conversion of those warrants. I am therefore, inclined to grant exoneration to the Noticee by accepting its submission that it has actually paid the remaining 75% of the consideration to the tune of INR 5,16,15,000/- by February 19, 2011 to the Company from its Yes Bank account and thus in effect, has paid the full consideration to the Company towards this purpose.*

In view of the facts and circumstances of this case and aforesaid discussions, I hold that the Noticee has paid full and adequate consideration to the Company towards allotment of 37,00,000 equity shares of SHL as per the terms of payment mandated by the Company

DIRECTION

In view of the facts and circumstances of the case and the aforesaid discussions and findings, I, in exercise of the powers conferred upon me under Section 19 read with Sections 11(1), 11(4), 11B of the SEBI Act, 1992 hereby pass following direction:

i. The SCN dated July 19, 2019 issued against the Noticee is disposed off without any direction.

14. I note that WTM-SEBI after considering the submissions made by the Noticee and after perusing the bank statements of Yes Bank for FY 2010-2011 furnished by the Noticee, had concluded that apart from the amount of Rs. 1,72,05,000 /- (25% the total required amount) already paid by the Noticee to SHL during the period from August 12, 2010 to October 06, 2010, the remaining 75% of the total consideration amount i.e. Rs. 5,16,15,000 /- (in respect of the allotment of convertible warrants in the preferential allotment scheme came out on October 24, 2010) has also been transferred from the Noticee's Yes Bank account (acc no. 8284000001244) to the YES Bank account of SHL during the period from October 20, 2010 to February 19, 2011. Therefore, the WTM-SEBI held that the Noticee had transferred full consideration amount of Rs. 6,88,20,000 /- to SHL before the stipulated time limit of March 14, 2012. Therefore, WTM-SEBI in the order dated September 23, 2021 concluded that the Noticee had paid full consideration amount to SHL towards subscription of convertible warrants and accordingly discharged the Noticee from the allegations levelled against it. In the

context of the present proceedings, I note that the Noticee has relied upon the findings of WTM order and made similar submissions before me in respect of the allegations levelled against it in the instant adjudication proceedings initiated vide SCN dated December 31, 2019.

15. I have independently examined the submissions made the Noticee in respect of the allegation levelled against it and also examined the relevant bank statements submitted by the Noticee and conclude that the Noticee transferred the total required amount Rs. 6,88,20,000 /- to SHL, towards the allotment of convertible warrants in the preferential allotment scheme made by SHL. I note that the aforesaid transfer of funds was made by the Noticee to SHL by February 19, 2011 i.e. before the stipulated time limit of March 14, 2012, as given under Regulation 77 (1) r/w Regulation 77 (3) of ICDR Regulations. Hence, I also concur with the observations/findings of WTM-SEBI, vide order dated September 23, 2021. In view of the above, I conclude that the allegations levelled against the Noticee that it had received shares from SHL through preferential allotment without paying full consideration amount and that the Noticee perpetrated fraud on other allotees/shareholders and the ordinary investing public who had transacted in the shares of the SHL post preferential allotment, do not stand established. In view of the above, the allegations levelled against the Noticee in respect of the violation of the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations and Sections 12A (a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d), and 4(1) of PFUTP Regulations, is unsustainable and do not stand established.

ORDER

16. In view of the above observations/findings and in exercise of the powers conferred upon me under section 15I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby dispose of the Adjudication Proceedings against the Noticee viz. M/s Hamraj Fashions Consultants Private Limited (now known as Gilani Infra Private Limited) vide SCN dated December 31, 2019.

17. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee viz. M/s Hamraj Fashions Consultants Private Limited (now known as Gilani Infra Private Limited) also to the Securities and Exchange Board of India.

Date: May 31, 2022 **Suresh B Menon**

Place: Mumbai **ADJUDICATING OFFICER**