BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/GR/PU/2022-23/16559-16566)

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 (HEREINAFTER REFERRED TO "SEBI ACT") READ WITH RULE 5 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND SECTION 23–I OF SECURITIES CONTRACT (REGULATION) ACT, 1956 (HEREINAFTER REFERRED TO "SCRA") AND RULE 5 OF SECURITIES CONTRACT (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of:

Noticee No.	Noticee	PAN
1.	SOUTHERN ISPAT AND ENERGY LTD.	AAECS6476P
2.	MR. VIVEK AGARWAL	ADAPA2289E
3.	MS. ANUSUYA DEVI AGARWAL	ACOPA7958H
4.	MS. RICHA AGARWAL	AAEPR4954Q
5.	MR. V. MANIKANDAN	AHSPM8760C
6.	MR. R.S.SIVARAMAKRISHNAN	BGIPS6010B
7.	MR. ARUN PANCHARIYA	AEVPP6125N
8.	MR. MUKESH CHAURADIYA	AAVPC0966A

In the matter of disclosures by Southern Ispat and Energy Ltd. in respect of its GDR issue

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(The aforesaid entities are hereinafter individually referred to by their respective Names/ Noticee Nos. and collectively as "Noticees", unless the context specifies otherwise)

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **"SEBI"** conducted investigation into the alleged irregularities in the Global Depository Receipts (herein after referred to as **"GDRs"**) issued by Southern Ispat and Energy Ltd. ('hereinafter referred to as **"the company"/ "SIEL"**) for the period around issuance of two GDR issues i.e., July 25, 2010 to August 25, 2010 (GDR-I) and May 25, 2011 to June 25, 2011 (GDR-II). The focus of investigation was to ascertain whether shares underlying GDRs were issued with proper consideration and whether appropriate disclosures, if any, were made by SIEL with respect to its GDRs.

2. SIEL is a company whose shares are listed on the NSE and BSE Ltd. The investigation, prima facie, revealed that SIEL had come up with its GDR issue on two different occasions; first on August 10, 2010 and second on June 10, 2011. SIEL had first issued 1.09 million GDRs (amounting to USD 10 Million) on August 10, 2010, equivalent to 3, 27, 23,400 equity shares of Rs. 10 each, and the second one issued 2.946 million GDRs (amounting to USD 19.978 million) on June 10, 2011. SIEL in total issued 4.037 million GDRs amounting to US $ 29.98 million on August 10, 2010 **('GDR Issue-I')** and June 10, 2011 **('GDR Issue-II')**.

3. It was observed that directors of SIEL namely, Mr. Vivek Agarwal (Noticee No.2), Ms. Anusuya Devi Agarwal (Noticee No.3), Ms. Richa Agarwal (Noticee No.4.), Mr. V. Manikandan (Noticee No.5), and Mr. R. Sivaramakrishnan (Noticee No.6) in its board

meeting held on April 7, 2010, had passed Board Resolution inter alia authorizing the opening of an account with European American Investment Bank AG (**“EURAM Bank”**) for the purpose of receiving subscription money in respect of the GDR issues of SIEL and also for using the funds deposited in the said bank account as security in connection with loans, if any, and authorized Mr. Vivek Agarwal, Chairman and Managing Director (CMD) to sign, execute any application, agreement etc., as required by EURAM Bank

4. The said issues were subscribed by one entity viz. Vintage FZE (now known as Alta Vista International FZE) (hereinafter referred to as **“Vintage”)**. It was observed that for the aforesaid GDR issues, the subscription amount was paid by Vintage by obtaining a loan from EURAM Bank entering into Loan Agreement., Arun Panchariya (Noticee No.7) who was director and sole beneficial owner of Vintage signed the Loan Agreement dated July 19, 2010 for the First issue of GDRs by the Company and Mukesh Chauradiya (Noticee No.8), signed the Loan Agreement dated April 28, 2011 for the Second issue of GDRs with EURAM Bank.

5. SIEL had signed a pledge agreement dated July 14, 2010 and April 28, 2011 respectively with EURAM Bank pledging GDR proceeds as collateral against the loans availed by Vintage, executed by Mr. Vivek Agarwal, (Noticee No. 2) Chairman and Managing Director of SIEL. Vide the said pledge agreements, SIEL had pledged the GDR proceeds against the loan availed by Vintage for subscribing to GDRs of SIEL, thus securing Vintage’s loan.

6. Further, it was observed that Pan Asia Advisors Limited ('Pan Asia'), a UK based entity was the Lead Manager to the GDR issues - I & II of SIEL. Pan Asia vide letter dated February 25, 2016 had provided details of its directorship and connection with Mr. Arun Panchariya (Noticee No. 7). On the perusal of the said document, it was observed that Pan Asia was incorporated on April 24, 2006 and Arun Panchariya was director during the period August 30, 2006 to September 29, 2011. Vide letter dated February 20, 2012, Pan Asia had submitted that Arun Panchariya held 100% shareholding in the company during the period July 2008 to January 2012.

7. Susequently, Vintage defaulted on loan repayment of GDR issue-II of USD 13.679 million including interest and same amount was adjusted by EURAM Bank from the GDR proceeds of SIEL as it had pledged GDR proceeds against this loan.

8. The GDRs acquired by Vintage were later cancelled and converted into shares and subsequently sold through sub-accounts of FIIs in the Indian market.

9. Sub-accounts of FIIs controlled and connected to Arun Panchariya (Noticee No. 7) i.e. India Focus Cardinal Fund, High Blue Sky Emerging Market Fund (HBSF) and Aspire Emerging Fund (ASPIRE) were made to facilitate them in selling the converted equity shares of the company for a total of INR 23.05 Crores. Hence, it is observed that shares sold by HBSF and ASPIRE included shares which were acquired by Vintage at free of cost as Vintage defaulted on loan repayment and same was set off using the GDR proceeds kept as security.

10. Since the converted equity shares sold by India Focus Cardinal Fund, High Blue Sky Emerging Market Fund and Aspire Emerging Fund were originally acquired by Vintage in the Indian Market, free of cost, hence, it was alleged that Arun Panchariya (Noticee No. 7) devised GDR scheme along with SIEL and they misled the Indian investors by concealing the information of entering into Pledge Agreement which made investors believe that GDRs were genuinely subscribed while loan default alone caused loss to the shareholders of SIEL to the tune of USD 13.679 million.

11. Therefore, it was alleged that the scheme of issuance of GDRs was fraudulent and Noticee No.1 to 8 were found to have acted as party to the fraudulent schemes of GDR issues of SIEL.

12. Further, it was also observed that the aforesaid arrangement (viz. Loan Agreements and Pledge Agreements) was not disclosed to the public. Investigation further alleged that SIEL did not inform stock exchange as required under clause 36(7) Listing Agreement with regard to 1) Pledge Agreement entered into with EURAM Bank for subscription of GDRs. 2) Delisting of GDRs on Luxemburg Stock Exchange 3) Termination of GDR facility by Global Depository i.e. Bank of New York Mellon, which were material events as well as price sensitive information that could have impacted the price of the scrip. Further, it was observed that SIEL did not follow Accounting Standards 1, 3 and 29 since it did not disclose/provide for potential liability for pledged GDR proceeds, presented its cash balance pledged with EURAM Bank as free cash and did not disclose the fact of signing of Pledge Agreement and pledging of GDR proceeds as the same are the items,

the knowledge of which might influence the decision of the user of the financial statements.

13. SEBI had, therefore, initiated adjudication proceedings inter alia against Noticee No. 1 (SIEL) under Section 15HA of the Securities and Exchange Board of India act, 1992 and Section 23 E of the SCRA, the alleged violation of Section 12A(a), (b), (c) of SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1), 4(2) (f), (k) and (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as PFUTP Regulations), Section 21 of SCRA read with Clauses 36(7) of Listing Agreement and Section 21 of SCRA read with Clauses 32 and 50 of the Listing Agreement. Adjudication proceedings were also initiated against Noticee No 2 to 8 under Section 15HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act, 1992") for the alleged violation of the provisions of Section 12A(a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003 (hereinafter referred to as "PFUTP Regulations").

APPOINTMENT OF THE ADJUDICATING OFFICER

14. Earlier, Shri Biju S, Chief General Manager, was appointed as Adjudicating Officer (AO) in the matter, which was communicated to the AO vide communiqué dated May 17, 2018, to inquire into and adjudge under Section 15HA of the SEBI Act, 1992 and Section 23E of the SCRA the aforesaid violations alleged to have been committed by the Noticees. Subsequently, vide Order dated July 06, 2018, Shri Satya Ranjan Prasad was

appointed as the Adjudicating Officer in the matter in the place of Shri Biju. S. Thereafter, the undersigned was appointed as the Adjudicating Officer in the instant case, which was communicated vide communique dated May 22, 2019.These proceedings are therefore been carried forward where they had been left off by the previous AO, and an opportunity of personal hearing was granted as detailed hereinafter.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

15. Show Cause Notice No. EAD4/ADJ/BS/AE/OW/18557,18543,18560,18559,18551, 18583,18548,18551/1/2018 dated June 29, 2018 (hereinafter referred to as **"SCN"**) was issued by the erstwhile AO to the Noticees in terms of Section 15-I of the SEBI Act, 1992 and Section 23 E of the SCRA read with Rule 4(1) of the SEBI Adjudication Rules and Rule 4(1) of SCRA Adjudication Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed under Section 15HA of the SEBI Act 1992 and/or under section 23E of the SCRA as applicable for the alleged violations specified in the SCNs.

16. The said SCNs issued to SIEL (Noticee No. 1), Mr. V. Manikandan (Noticee no. 5), Mr. R. Sivaramakrishnan (Noticee No.6) and Mr. Mukesh Chauradiya (Noticee No. 8) were duly delivered. Further, SIEL submitted its common reply along with Noticee No. 2 (Mr. Vivek Agarwal vide letter dated August 16, 2018 , Mr. R. Sivaramakrishnan submitted their replies vide letter dated July 27, 2018, July 28, 2018, August 10, 2018, October 03, 2018 and April 25, 2022. Mr. Mukesh Chauradiya submitted his reply vide letter dated

July 30, 2018 and Mr. R. Manikandan submitted their replies dated August 17, 2018 and November 14, 2018.

17. The SCNs to the rest of Noticees returned undelivered. Subsequently, after the handing over of the proceedings to the undersigned the e-mail addresses of Mr. Vivek Agarwal (Noticee No.2), Ms. Anusuya Devi Agarwal (Noticee No. 3), Ms. Richa Agarwal (Noticee No.4) and Mr. Arun Panchariya (Noticee No. 7) were obtained and the scanned copy of the SCNs were mailed at their respective email IDs vide email dated April 30, 2022.

18. Despite seeking extension for filing the reply the said noticees failed to submit any reply. Subsequently, an opportunity of personal hearing was granted to the Noticees on May 02, 2022, the notice of hearing was sent to the said noticees through email (Noticee No. 1,2,3,4 and 7) and speed post (Noticee No. 5,6 and 8). Subsequently, the said noticees sought adjournment and the same was accepted and another opportunity to attend the hearing was provided on May 11, 2022. During the adjourned personal hearing, again none of the noticees attended. Subsequently, Mr. Mukesh Chauradiya (Noticee No. 8) requested adjournment of hearing vide email dated 16/05/2022, it was granted and final opportunity was given on 25/05/2022. In the personal hearing, Noticee No. 8 reiterated the submission he made vide letter dated July 30, 2018.

19. **The summary of the replies submitted by Noticee 5, 7 and 8 are as under:**

Noticee No. 5 in his replies has inter-alia submitted the followings:

a. The Noticee joined the board of SIEL as a non-executive independent director on April 23, 2007 and had no involvement whatsoever in the day to day activities of the company;

b. It was submitted that the authority to sign documents given to the Noticee No. 2 in the Board Meeting of April 07, 2010 with respect to the GDR issue was a part of daily routine matters and there was no malafide intention behind the same;

c. It was submitted that the Noticee was not aware of the existence of the entity vintage which had subscribed to the GDR issue on the basis of a loan given by Euram Bank;

d. The Noticee was merely discharging his duty as a director by attending the Board Meetings and authorizing the Managing Director to sign certain documents so that the company could carry on its activities; and

e. The Noticee submitted that he has resigned from the company (SIEL) as Director from February 07, 2012.

Noticee No. 7 in his replies has inter-alia submitted the followings:

a. The Noticee submitted that he never visited the registered office of SIEL and never attended any Board Meetings or General Meetings or Committee meetings of the SEIL. Noticee never took single paisa for sitting fees or for any other reason from the company;

b. It was submitted that Noticee resigned from the directorship of SIEL w.e.f. 01/02/2011;

c. The Noticee did not attend the Board Meeting on June 10, 2011 and was totally ignorant of fraudulent dealings of Mr. Vivek Agarwal and other directors. The fraud conspired after the Noticee resigned;

d. Since the Noticee resigned on 01/02/2011, the Noticee is not privy to subsequent activities of the company and cannot be held responsible for the activities happened thereafter; and

e. The Noticee submitted that in the Board Meeting of April 07, 2010, attended by him, opening of bank account with EURAM bank and authorizing the EURAM Bank to use the GDR proceeds as security against the loan availed by Vintage was never discussed. This item was not in the agenda of the meeting.

The Noticee No. 8 in his replies has inter alia submitted the followings:

a. The Implementing Regulations No.1/92 (Pursuant to Law No.9 of 1992) of Free Zone Enterprise in Jebel Ali Free Zone Authority, UAE (JAFZA), under which Vintage FZE was registered, required that there shall be a single owner, and It was Arun Panchariya who was the legal and beneficial owner of Vintage;

b. In the Shareholder's list as on September 30, 2009/2010/2011/2012/2013 in relation to Ramsai Investment Holding Private Limited (Vintage FZE Investment Holding Private Limited), it can be clearly seen that Arun Panchariya held 99% of Equity Shares in the company, so all along Arun Panchariya was the beneficial owner of the company;

c. The administrative fine statement passed by DFSA imposing fine of US $12,000 on Mr. Arun Panchariya also indicates that Arun Panchariya was the Licensed Director in relation to Vintage FZE;

d. Arun Panchariya was initially the sole director, subsequently somewhere in 2010, Ashok Panchariya, his brother, replaced him as the Director of Vintage FZE;

e. The copy of the JAFZA Visa of Arun Panchariya for the period January 12, 2010 to January11, 2013 shows his designation to be Managing Director;

f. The Noticee has never been the Director or Managing Director of Vintage FZE, as alleged in the SCN, and that he only held the position of Manager;

g. The copies of the Noticee's resident-permits for the period 14th September 2005 to 9th September 2017 show that his designation/position was General Manager and not Director or Managing Director;

h. The Employment Card issued to the Noticee by JAFZA shows that he has always been an employee of Vintage FZE, and not a Director or Managing Director;

i. The decisions to subscribe to the GDRs issued by Rainbow and to obtain loan from Euram Bank for subscribing to the GDRs was taken by Arun Panchariya as the Director/sole owner of Vintage FZE, and the Noticee, as an employee, had no role to play in it;

j. In respect of the loan agreement signed by the Noticee, it has been stated by the Noticee that he signed the document, on instructions from Arun Panchariya, owing to the conflict of interest that existed as Arun Panchariya was the Director and President of Euram Bank Asia., and he also held a stake in Euram Bank Asia;

k. The Noticee signed only the loan redemption letters on instruction from Arun Panchariya;

l. The Noticee was not aware of any arrangement that Arun Panchariya may have had with SIEL in arranging the loan and its repayment, and that the Noticee had no role to play in the said transaction;

m. He did not gain any other advantage, monetary or otherwise for any of the acts done by him as an employee of Vintage FZE, working under Arun Panchariya;

n. The Noticee being a nominee director in some of the subsidiaries is true, though the same has nothing to do with the allegations contained in the present matter of GDR issue is concerned;

o. Noticee was not involved in the investigation process and no summon or Investigation report was provided to him, hence he cannot comment upon the veracity of the contents of the show cause notice;

p. The title “Managing Director” was pre-printed or part of the proforma of the Bank, and it was by over sight continued to be so; and

q. Since the actions took place in Dubai (JAFZA) UAE, SEBI does not have territorial jurisdiction to issue the Show Cause Notice and to act upon it.

20. In view of the above, I note that principles of natural justice have been duly complied with, as SCN and hearing Notice were duly served upon the Noticees and sufficient opportunity was also granted to the Noticees to submit reply to the SCN and appear for personal hearing.

CONSIDERATION OF ISSUES

21. In view of the above facts, in the present proceedings, a careful examination has been done with respect to the allegations against the Noticees taking into consideration of their replies to the SCN and the documents / material available on record. The issues that arise for consideration in the present case are :

I. Whether the Noticees in light of their role in GDR issues of SIEL, have been responsible for fraudulent issues of GDRs and, as a consequence whether the Noticees have violated the provisions of Section 12A(a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d), 4 (1), 4(2) (f), (k), (r) of SEBI (PFUTP) Regulations, 2003, and Section 21 of SCRA, 1956 read with Clauses 32, 36(7) and 50 of Listing Agreement, as applicable?

II. Does the violation, if established, attract monetary penalty under Section 15HA of the SEBI Act, 1992 and Section 23E of SCRA, as applicable?

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

OBSERVATIONS AND FINDINGS

22. Before I proceed further with the matter, it is pertinent to mention the relevant provisions of the SEBI Act, 1992 and PFUTP Regulations, alleged to have been violated by the aforesaid Noticees. The same are reproduced below:

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;"

PFUTP Regulations, 2003:

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 thereunder;

(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 thereunder.

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) "disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities;"

(r) planting false or misleading news which may induce sale or purchase of securities.

Section 21 of Securities Contract (Regulation) Act, 1956 reads as follows:

"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."

Clause 36 of the Listing Agreement inter-alia states the following:

"The Company will also immediately inform the Exchange of all the events, which will have bearing on the performance/operations of the company as well as price sensitive information."

…

(7) Any other information having bearing on the operation/performance of the company as well as price sensitive information,

The above information should be made public immediately."

Clause 50 of the listing agreement reads as follows:

"The company will mandatorily comply with all the Accounting Standards issued by Institute of Chartered Accountants of India (ICAI) from time to time."

Clause 32 of Listing Agreement inter-alia states as follows:

"The Company will also give a Cash Flow Statement along with Balance Sheet and Profit and Loss Account. The Cash Flow Statement will be prepared in accordance with the Accounting Standard on Cash Flow Statement (AS-3) issued by the Institute of Chartered Accountants of India, and the Cash Flow Statement shall be presented only under the Indirect Method as given in AS-3."

AS- 3 – Cash Flow Statements– inter-alia states the following:

"Cash comprises cash on hand and demand deposits with bank.

Cash equivalents are short term, highly liquid investments that are readily convertible into known amounts of cash and which are subject to an insignificant risk of changes in value."

Issue I: Whether the Noticees in light of their role in GDR issues of SIEL, have been responsible for fraudulent issues of GDRs and, as a consequence whether the Noticees have violated the provisions of Section 12A(a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d), 4 (1), 4(2) (f), (k), (r) of SEBI (PFUTP) Regulations, 2003, and Section 21 of SCRA, 1956 read with Clauses 32, 36(7) and 50 of Listing Agreement, as applicable?

23. From the materials available on record, I note that SIEL had come up with its GDR issues on two different occasions; first on August 10, 2010 and second on June 10, 2011. SIEL had first issued 1.09 million GDRs (amounting to USD 10 Million) on August 10, 2010, equivalent to 3,27,23,400, equity shares of Rs. 10 each, and the second one issued 2.946

million GDRs (amounting to USD 19.978 million) on June 10, 2011. In total, SIEL issued 4.037 million GDRs amounting to US $ 29.98 million on August 10, 2010 (‘GDR Issue-I’) and June 10, 2011 (‘GDR Issue-II’). Summary of the aforesaid GDRs issued by SIEL, is tabulated below:

GDR Issue-I

GDR issue date	**No. of GDRs issued *(mn.)***	**Capital raised (USD mn.)**	**Local custodian**	**No. of equity shares underlying GDRs**	**Global Depository Bank**	**Lead Manager**	**Bank where GDR proceeds deposited**	**GDRs listed on**
10-Aug-2010	1.09 (at USD 9.17 each GDR)	10.00	DBS Bank	3,27,23,400	The Bank of New York Mellon, USA	Pan Asia Advisors Ltd.	EURAM Bank, Austria	Luxembourg Stock Exchange

GDR Issue-II

GDR issue date	**No. of GDRs issued (mn.)**	**Capital raised (USD mn.)**	**Local custodian**	**No. of equity shares underlying GDRs**	**Global Depository Bank**	**Lead Manager**	**Bank where GDR proceeds deposited**	**GDRs listed on**
10-June-2011	2.946 (at USD 6.78 each GDR)	19.978	DBS Bank	8,83,99,980	The Bank of New York Mellon, USA	Pan Asia Advisors Ltd.	EURAM Bank, Austria	Luxembourg Stock Exchange

24. SEBI Investigation observed that subscription to the above said GDR issues were obtained through a loan agreements as well as a pledge agreements, details of which are discussed in the following paragraphs, and therefore, it was alleged that both the GDR issues were done through a fraudulent arrangement amounting to a self-financing of the subscription to the GDRs by SIEL.

25. Investigation further observed that an entity viz. Vintage FZE (“**Vintage**”) had obtained a loan of USD 10 million by entering into a Loan Agreement dated July 19, 2010

and for loan of USD 19.978 million by entering into a Loan agreement dated April 28, 2011 with EURAM Bank to subscribe to the GDRs of SIEL. For the GDR issue I, the Loan Agreement was signed by Mr.Arun Panchariya, (Noticee No.7) and for GDR issue II, the Loan Agreement was signed by Mr. Mukesh Chauradiya (Noticee 8), in the capacity of Managing Director of Vintage for subscription of GDRs of SIEL.

GDR issue – I

26. On perusal of the Loan Agreement, I note that the following has been inter alia mentioned therein –

(a) *"Nature and purpose of facility" is "To provide funding enabling Vintage FZE to take down GDR issue of 1,090,780 Luxembourg public offering and may only be transferred to EURAM account nr. 580021, Southern Ispat and Energy Limited." This account is same where SIEL deposited its GDR proceeds.*

The Loan Agreement also states the following:

6. Security

In order to secure all and any of the Bank's claims and entitlements against the Borrower, arising now or in the future out of or in connection with the Loan or any other obligation or liability of the Borrower to the Bank, including without limitation other loans granted in the future, it is hereby irrevocably agreed that the following securities and any other securities which may be required by the Bank from time to time shall be given to the Bank as provided herein or in any other form or manner as may be demanded by the Bank:

- *Pledge of certain securities held from time to time in the Borrower's a/c no. 540012 at the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement.*

- *Pledge of the account no. 580021 held with the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement.*

<u>GDR issue – II</u>

27. The following was inter-alia mentioned in the Loan Agreement:-

1. Nature and purpose of facility

"*To provide funding enabling Vintage FZE to take down GDR issue of 2,946,666 Luxembourg public offering and may only be transferred to EURAM account nr. 580021, Southern Ispat and Energy Limited.*"

This account is same where SIEL deposited its GDR proceeds.

6. Security

"….*it is hereby irrevocably agreed that the following securities and any other securities which may be required by the Bank from time to time shall be given to the Bank as provided herein or in any other form or manner as may be demanded by the Bank:*

- *Pledge of certain securities held from time to time in the Borrower's a/c no. 540012 at the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement.*

- *Pledge of the account no. 580021 held with the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement."*

28. From the examination of the above referred Loan Agreements, it was observed that Vintage had availed loan facility to the extent of USD 29.978 million from EURAM Bank to subscribe to GDR Issues- I & II of SIEL.

29. From the certified true copy of SIEL's Board Resolution dated April 7, 2010 provided by EURAM Bank, it is observed that the following resolution was inter alia passed in the said meeting–

"RESOLVED THAT a bank account be opened with EURAM Bank ("the Bank") or any branch of Euram Bank, including the Offshore Branch, outside India for the purpose of receiving subscription money in respect of the Global Depository Receipt issue of the Company."

Resolution also states that:

"RESOLVED FURTHER THAT Shri Vivek Agarwal, Chairman and Managing Director of the Company, be and is hereby severally authorized to sign, execute, any application, agreement, escrow agreement, document, undertaking, confirmation, declaration and other paper(s) from time to time, as may be required by the Bank and to carry and affix, Common Seal of the Company thereon, if and when so required."

Resolution further states that:

"RESOLVED FURTHER THAT the Bank be and is hereby authorized to use the funds so deposited in the aforesaid bank account as security in connection with loans if any as well as to enter into any Escrow Agreement or similar arrangements if and when so required."

30. From the aforesaid resolution of the board meeting, I note that the Board of Directors of SIEL had authorized, Mr. Vivek Agarwal, Chairman and Managing Director, to sign, execute any application, agreement and other paper from time to time as may be required by EURAM Bank. For this purpose, Mr. Vivek Agarwal was inter alia authorized to carry and use the seal of SIEL. In the said resolution, the Board of Directors had further authorized EURAM Bank to use the funds deposited in the SIEL's bank account opened with EURAM Bank for depositing the subscription money received from the GDR issues of the company, as security in connection with loans, if any.

31. Further, I note from the records made available by EURAM Bank that subsequently SIEL had entered into a Pledge Agreement with EURAM Bank on July 19, 2010 and April 28, 2011 for GDR issue I and II respectively. The said Pledge Agreements were signed by Mr. Vivek Agarwal on behalf of SIEL, in the capacity of Chairman and Managing Director of SIEL. The salient Clauses of the Pledge Agreement are inter alia as under:

<u>GDR Issue-I</u>

32. A Pledge Agreement dated July 19, 2010 was signed between SIEL (*as Pledgor*) and EURAM Bank (*as Bank*). The Agreement was signed by Mr. Vivek Agarwal on behalf of SIEL. The details of the Agreement are mentioned herein below:-

33. The preamble of the Pledge Agreement states as under:

By Loan Agreement K190710-003 (hereinafter referred to as the "Loan Agreement") dated 19 July 2010 the Bank granted a loan (hereinafter referred to as the "Loan") to Vintage FZE, AAH-213, Al Ahamadi House, Jebel Ali Free Trade Zone, Jebel Ali, Dubai, United Arab Emirates (the "Borrower") in the amount of USD 10,002,452.60. The pledger has *received a copy of the Loan Agreement No K210311-003 and acknowledges and agrees to its terms and conditions."*

34. The pledge created in the Pledge Agreement is stated below:

<u>"2. Pledge</u>

2.1 In order to secure any and all obligations, present and future, whether conditional or unconditional of the Borrower towards the Bank under the Loan Agreement and any and all respective amendments thereto and for any and all other current or future claims which the Bank may have against the Borrower in connection with the Loan Agreement- including those limited as to condition or time or not yet due-irrespective of whether such claims have originated from the account relationship, from bill of exchange, guarantees and liabilities assumed by the Borrower or by the Bank, or have otherwise resulted from business relations, or have been assigned in connection therewith to the Bank ("the Obligations") the Pledgor hereby pledges to the Bank the following assets as collateral to the Bank:

2.1.1 all of its rights, title and interest in and to the securities deposited from time to time at present or hereafter (hereinafter referred to as the "Pledged Securities") and the balance of funds up to the amount USD 10,002,452.60 existing from time to time at present or hereafter on the securities account(s) no. 580021 held with the Bank (hereinafter referred to as the "Pledged Securities Account") and all amounts credited at any particular time therein.

2.1.2 all of its right, title and interest in and to, and the balance of funds existing from time to time at present or hereafter on the account(s) no. 580021 kept by the Bank *(hereinafter referred to as the "Pledged Time Deposit Account") and all amounts credited at any particular time therein….*

(The pledged Securities Account and the Pledged Time Deposit Account hereinafter referred to as the "Pledged Accounts", the Pledged Securities and the Pledged Accounts hereinafter collectively referred to as "Collateral")

2.2 The Pledgor agrees to deposit with the Bank all dividends, interest and other payments, distributions of cash or other property resulting from the Pledged Securities and funds.

2.3 The Bank herewith accepts the pledge established pursuant to section 2.1 hereof."

35. Further, following condition was put in the Pledge Agreement for realization of the pledge.

"6. Realisation of the Pledge

6.1 In the case that the Borrower fails to make payment on any due amount, or defaults in accordance with the Loan Agreement, the Pledgor herewith grants its express consent and the Bank is entitled to apply the funds in the Pledged Account to settle the Obligations. In such case the Bank shall transfer the funds on the Pledged Accounts, even repeatedly, to an account specified by the Bank.

6.2 Notwithstanding the foregoing, in the case that the Borrower fails to make payment on any due amount, or defaults in providing or increasing security, the Pledgor herewith grants its express consent and the Bank is entitled to realize the Pledged Securities (i) at a public auction for those items of Pledged Securities for which no market price is *quoted or which are not listed on a recognized stock exchange or (ii) in a private sale pursuant to the provisions of Section 376 Austrian Commercial Code unless the Bank decides to exercise its rights through court proceedings. The Pledgor and the Bank agree to realize those items of the Pledged Securities for which a market price is quoted or which are listed on a stock exchange through sale by a broker publicly authorized for such transaction, a selected by the Bank.*

6.3The Bank may realize the pledge rather than accepting payments from the Borrower after maturity of the claim if the Bank has reason to believe that the Borrower's payments may be contestable."

GDR Issue-II

36. A Pledge Agreement dated April 28, 2011 was entered into between SIEL (*as Pledgor*) and EURAM Bank. The Agreement was signed by Mr. Vivek Agarwal (Managing Director of SIEL) on behalf of SIEL. The details of the Agreement are mentioned herein below:-

a) The preamble of the Pledge Agreement states as under:

"By Loan Agreement K270411-001 (hereinafter referred to as the "Loan Agreement") dated 28 April 2011 the Bank granted a loan (hereinafter referred to as the "Loan") to Vintage FZE, AAH-213, Al Ahamadi House, Jebel Ali Free Trade Zone, Jebel Ali, Dubai, United Arab Emirates (the "Borrower") in the amount of USD 19,978,395.48. The pledger has received a copy of the Loan Agreement No K270411-001 and acknowledges and agrees to its terms and conditions."

b) The pledge created in the Pledge Agreement is stated below:

"2. Pledge

2.1 In order to secure any and all obligations, present and future, whether conditional or unconditional of the Borrower towards the Bank under the Loan Agreement and any and all respective amendments thereto and for any and all other current or future claims which the Bank may have against the Borrower in connection with the Loan Agreement- including those limited as to condition or time or not yet due-irrespective of whether such claims have originated from the account relationship, from bill of exchange, guarantees and liabilities assumed by the Borrower or by the Bank, or have otherwise resulted from business relations, or have been assigned in connection therewith to the Bank ("the Obligations") the Pledgor hereby pledges to the Bank the following assets as collateral to the Bank:

2.1.1 all of its rights, title and interest in and to the securities deposited from time to time at present or hereafter (hereinafter referred to as the "Pledged Securities") and the balance of funds up to the amount USD 10,002,452.60 existing from time to time at present or hereafter on the securities account(s) no. 580021 held with the Bank (hereinafter referred to as the "Pledged Securities Account") and all amounts credited at any particular time therein.

2.1.2 all of its right, title and interest in and to, and the balance of funds existing from time to time at present or hereafter on the account(s) no. 580021 kept by the Bank (hereinafter referred to as the "Pledged Time Deposit Account") and all amounts credited at any particular time therein….

(The pledged Securities Account and the Pledged Time Deposit Account hereinafter referred to as the "Pledged Accounts", the Pledged Securities and the Pledged Accounts hereinafter collectively referred to as "Collateral")

2.2 The Pledgor agrees to deposit with the Bank all dividends, interest and other payments, distributions of cash or other property resulting from the Pledged Securities and funds.

2.3 The Bank herewith accepts the pledge established pursuant to section 2.1 hereof."

c) Further, following condition was put in the Pledge Agreement for realization of the pledge.

6. Realisation of the Pledge

6.1 In the case that the Borrower fails to make payment on any due amount, or defaults in accordance with the Loan Agreement, the Pledgor herewith grants its express consent and the Bank is entitled to apply the funds in the Pledged Account to settle the Obligations. In such case the Bank shall transfer the funds on the Pledged Accounts, even repeatedly, to an account specified by the Bank.

6.2 Notwithstanding the foregoing, in the case that the Borrower fails to make payment on any due amount, or defaults in providing or increasing security, the Pledgor herewith grants its express consent and the Bank is entitled to realize the Pledged Securities (i) at a public auction for those items of Pledged Securities for which no market price is quoted or which are not listed on a recognized stock exchange or (ii) in a private sale pursuant to the provisions of Section 376 Austrian Commercial Code unless the Bank decides to exercise its rights through court proceedings. The Pledgor and the Bank agree to realize those items of the Pledged Securities for which a market price is quoted or which are listed on a stock exchange through sale by a broker publicly authorized for such transaction, a selected by the Bank.

6.3The Bank may realize the pledge rather than accepting payments from the Borrower after maturity of the claim if the Bank has reason to believe that the Borrower's payments may be contestable

37. I note that on examination of Loan Agreements, Pledge Agreements, loan account statement of Vintage**,** Escrow account statement of SIEL revealed that EURAM Bank granted loans to Vintage specifically for subscription of GDRs of SIEL. The Escrow account statement show that GDR subscription money for GDR Issues- I & II was received from only one entity i.e. Vintage. Therefore, investigation observed that GDR Issues- I & II of SIEL (total of 4.039 million GDRs amounting to USD 29.98 million) were subscribed by only one entity, i.e., Vintage. SIEL pledged GDR proceeds even before issuance of GDRs to secure the rights of EURAM Bank against the loans given by EURAM Bank to Vintage for subscription to GDR issues. Therefore, it was observed

that though the GDR proceeds were deposited in the bank account of SIEL, the amount deposited in the account was not at the disposal of the company as same was kept as collateral for the loans availed by Vintage even prior to issuance of GDRs. Further I note that the Pledge Agreement refers to the Loan Agreement between the borrower i.e. Vintage, and EURAM Bank, whereby Vintage was granted a loan of USD 29.98 million, and it is stated that the Pledgor i.e. SIEL has received a copy of the said Loan Agreements and acknowledges and agrees to its terms and conditions. By signing the Pledge Agreements, SIEL is deemed to be clearly aware that Vintage was the subscriber to the GDR issues. On perusal of the contents of the Pledge Agreement, it is noted that the Pledgor had agreed to pledge SIEL its rights, title and interest in and to the securities deposited in the Pledge Securities Account and funds in Pledged Time Deposit Account so as to secure the present and future obligations of Vintage. As already reproduced above, the Pledge Agreements also expressly states that:

"In the case that the Borrower fails to make payment on any due amount, or defaults in accordance with the Loan Agreement, the Pledgor herewith grants its express consent and the Bank is entitled to apply the funds in the Pledged Accounts to settle the Obligations. In such case the bank shall transfer the funds on the pledged accounts, even repeatedly to an account specified by the Bank."

38. Regarding the dates, it is noted that the Pledge Agreement and the Loan Agreement were both dated July 19, 2010 (GDR – I) and April 28, 2011 (GDR – II). Further, I also note that the Loan Agreement expressly states that the Pledge Agreement was an integral part of the Loan Agreement.

39. From the Loan Agreements and the bank account statement of Vintage, I note that Vintage had availed a loan from the EURAM Bank to the extent of USD 29.98 million to subscribe to the GDRs of SIEL. From the statement of Vintage's bank account and the escrow account for the GDR issue, I note that Vintage had instructed EURAM to transfer an amount of USD 29.98 million from its account and to credit it into the escrow account of SIEL. The said amount was credited to the account of SIEL on August 9,

2010 (10 million) and on June 9, 2011 (19.98 million). The bank account statement of SIEL clearly shows that the said amount as received from one entity only, i.e. Vintage. From the above, it is evident that GDR subscription money was received from only one entity i.e. Vintage. Accordingly, I note that the GDR issues of SIEL comprising 4.037 million GDRs amounting to USD 29.98 million, was subscribed by only one entity, i.e. Vintage. I further note that the loan agreements between Vintage and EURAM was signed on July 19, 2010 and April 28, 2011 and on the same dates Vintage had instructed EURAM to transfer the said amount of USD 29.98 million from it account to that of SIEL and that SIEL's account was pledged with EURAM Bank under the Pledge Agreements.

40. It was observed that out of GDR proceeds of USD 10 million of GDR Issue-I, SIEL transferred USD 2.20 million to its Indian bank account and USD 7.46 million to SIEL FZE. Similarly, for GDR Issue-II, SIEL transferred USD 6.35 million to SIEL FZE. However, it was observed that only after Vintage repaid the loan instalments, SIEL transferred monies from EURAM Bank. The manner in which the funds were transferred/ withdrawn from SIEL's EURAM Bank account and the fact that the transfer of funds was dependent on the loan repayment by Vintage, led to establish that monies transferred from SIEL's EURAM Bank account was dependent on repayment of loan by Vintage and that SIEL was aware of the Loan/Pledge Agreements.

41. On perusal of the Bank statement of Vintage, in respect of loan availed by it for subscription of GDR Issue-II of SIEL, I note that Vintage repaid loan amount of USD 6.313 million and thereafter defaulted on the loan repayment of USD 13.679 million including interest.

42. In this regard, vide letter dated August 08, 2012 signed by Mr. Vivek Agarwal, SIEL confirmed the rights of EURAM Bank to set-off the pledged deposit with the outstanding loan amount of USD 13.665 million and outstanding interest.

43. Vintage repaid loan amount in full for the first GDR issue. However for the second GDR issue of USD 19.978 million Vintage repaid USD 6.131 million and thereafter defaulted

on the repayment of balance loan amount of USD 13.679 million (includes interest on loan amount).

44. In line with the above, EURAM Bank adjusted USD 13.679 (including interest on loan amount) on August 27, 2012. Hence, I note that GDRs to the tune of USD 13.679 million were issued by SIEL to Vintage without any consideration.

45. It was also observed that SIEL was aware of the loan defaulted by Vintage and based on the information available on records, it is observed that SIEL did not take any step to safeguard the interest of the company or its shareholders.

46. Further, from the SIEL's Annual Report for FY 2012-13, I note that SIEL did not mention about the loan default by Vintage or adjustment of GDR proceeds to the extent of USD 13.679 million by EURAM Bank. Further, on examination of corporate announcements made by SIEL to BSE during the period August 27, 2012 to September 30, 2012, I note that SIEL did not intimate the stock exchange also in this regard. Thus, I note that SIEL was acting hand in glove with Mr. Arun Panchariya and his connected entities and caused the loss to its shareholders to the tune of USD 13.679 million. From above it is established that Noticee No. 1 (SIEL) violated the provisions of Section 12A(a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1), 4(2) (f), (k), (r) of PFUTP Regulations 2003.

47. Further, it was also observed that on perusal of the corporate announcements made by SIEL to stock exchanges (BSE) during the periods March 15, 2010 to September 15, 2010 and November 01, 2010 to June 30, 2011, it was observed that SIEL did not inform stock exchanges with regard to entering into Pledge Agreements with EURAM Bank and pledging GDR proceeds against the loans availed by the Vintage for subscription of GDR Issues-I & II of SIEL which were price sensitive information and could have impacted the price of the scrip and thereby SIEL did not comply with clause 36(7) of the Listing Agreement and as observed Noticee no. 1 (SIEL) has violated Section 21 of SCRA,1956 read with clause 36(7) of Listing Agreement.

48. SIEL in its Annual Report for FY 2011-12 stated that "*In the preparation of the Annual Accounts, all applicable Accounting Standards have been followed and proper explanations relating to material departures, if any have been furnished. Accounting policies as listed in notes to the financial statements have been made so as to give a true and fair view of the state of affairs of the Company for the financial year 2011- 12 for the period ended on 30th June,2012 and of the Profit of the Company for the Accounting Year ended on that day*."

49. In the Annual Report for FY 2011-12, SIEL showed cash and cash equivalent at the end of the period from April 01, 2011 to June 30, 2012 as Rs. 1,043.31 million for FY 2011-12 and included the same as Cash and Cash equivalents for the purpose of Cash Flow Statement prepared in accordance with Accounting Standard 3. However, on perusal of Vintage's loan account statement, SIEL's EURAM retail bank account statement, Pledge Agreement and SIEL's letter dated August 08, 2012 to EURAM Bank, it was observed that SIEL had pledged its GDR proceeds of USD 19.978 million with EURAM against the loan availed by the Vintage for subscription of GDR Issue-II (details already mentioned in the preceding paragraphs) and as on June 30, 2012, an amount of USD 13.67 million was payable by Vintage. Hence, the amount lying in SIEL's EURAM bank account as on June 30, 2012 was not free cash and cash equivalent as per AS-3. Therefore, SIEL has not complied with the Clause 32 and 50 of the Listing Agreement. Accordingly, Noticee no. 1 (SIEL) has violated the provisions of Section 21 of SCRA, 1956 read with Clause 32 and 50 of the Listing Agreement.

AS 29 – 'Provisions, Contingent liabilities and Contingent Assets' inter-alia states as follows:

"10.4 A contingent liability is:

a) a possible obligation that arises from past events and the existence of which will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the enterprise; or

b) a present obligation that arises from past events but is not recognised because:

i. it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation;

ii. a reliable estimate of the amount of the obligation cannot be made.

27. A contingent liability is disclosed, as required by paragraph 68, unless the possibility of an outflow of resources embodying economic benefits is remote.

68. Unless the possibility of any outflow in settlement is remote, an enterprise should disclose for each class of contingent liability at the balance sheet date a brief description of the nature of the contingent liability and, where practicable:

a) an estimate of its financial effect, measured under paragraphs 35-45
b) an indication of the uncertainties relating to any outflow; and
c) the possibility of any reimbursement.

71. Where any of the information required by paragraph 68 is not disclosed because it is not practicable to do so, that fact should be stated."

50. As mentioned earlier, SIEL had pledged its GDR proceeds of USD 19.978 million against the loan availed of by Vintage for subscription of GDR Issue-II of SIEL and SIEL could utilize its GDR proceeds only to the extent of amount repaid by Vintage. As on June 30, 2012, an amount of USD 13.67 million was payable by Vintage and there was a possible obligation on SIEL for at least to the extent of USD 13.67 million (approximately Rs. 64.47 crore, RBI reference rate Rs. 56.309 as on June 30, 2012) in FY 2011-12 on the date of balance sheet i.e. June 30, 2012, in the event of default of repayment of loan by Vintage which is contingent liability in nature, which was subsequently defaulted. Therefore, a contingent liability to the extent of Rs. 64.47 crore was required to be disclosed by SIEL in its financial statements for the FY 2011-12. From the examination of the Annual Report of SIEL for FY 2011-12 it was observed that SIEL did not disclose contingent liability to the extent of Rs. 64.47 crore in its financial statements for the FY 2011-12 in terms of AS 29, thereby SIEL has not complied with AS-29 and violated clause 50 of the Listing Agreement. Accordingly, Noticee no. 1 (SIEL) has violated the provisions of Section 21 of SCRA, 1956 read with Clause 50 of the Listing Agreement.

AS- 1– Disclosure of Accounting Policies–deals with the disclosure of significant accounting policies followed in preparing and presenting financial statements.AS -1 inter-alia states the following:

"Considerations in the Selection of Accounting Policies

16. The primary consideration in the selection of accounting policies by an enterprise is that the financial statements prepared and presented on the basis of such accounting policies should represent a true and fair view of the state of affairs of the enterprise as at the balance sheet date and of the profit or loss for the period ended on that date.

17. For this purpose, the major considerations governing the selection and application of accounting policies are:—

a) Prudence

In view of the uncertainty attached to future events, profits are not anticipated but recognized only when realised though not necessarily in cash. Provision is made for all known liabilities and losses even though the amount cannot be determined with certainty and represents only a best estimate in the light of available information.

b) Substance over Form

The accounting treatment and presentation in financial statements of transactions and events should be governed by their substance and not merely by the legal form.

c) Materiality

Financial statements should disclose all "material" items, i.e. items the knowledge of which might influence the decisions of the user of the financial Statements."

51. From the above, it is clear that AS-1 provides that an enterprise (i.e. SIEL) shall consider prudence, substance over form and materiality as major parameters while preparing its annual financial statements. It is observed that SIEL (in its financial statement for the Annual Report 2011-12) did not follow prudence since it did not disclose the contingent liability/ make provision for potential liability, did not follow substance over form as presented its bank balance with EURAM Bank as free cash available with the company and also did not follow materiality as it did not disclose the fact of signing of Pledge Agreement and pledging of GDR proceeds, as the same are items, the knowledge of which might influence the decision of the user of the financial statements.

52. From the above, it is observed that SIEL has not complied with Accounting Standards–29 and therefore Noticee no. 1 (SIEL) has violated section 21 of SCRA read with clause 50 of the Listing Agreement.

53. It was observed that GDRs of SIEL were listed on Luxembourg Stock Exchange (LUX) w.e.f. April 13, 2011 and delisted w.e.f. April 03, 2014. On perusal of the corporate announcements made by SIEL during the period April 03, 2014 till May 31, 2014, it was observed that SIEL did not inform stock exchanges about the delisting of the GDRs. In view of the above, it is observed that SIEL did not inform stock exchange (BSE) about delisting of GDRs on LUX which was price sensitive information and could have impacted the price of the scrip and thereby SIEL did not comply with clause 36(7) of Listing Agreement and thereby violated section 21 of SCRA, 1956. Hence, Noticee No. 1 (SIEL) violated Section 21 of SCRA, 1956 read with clause 36(7) of Listing Agreement.

54. Vide email dated July 09, 2016, Global Depository i.e. The Bank of New York Mellon, has informed SEBI that GDR program was terminated on April 23, 2015. It is observed that no GDRs were outstanding for conversion on the date of termination of GDR program. Corporate announcements made by SIEL on Stock Exchange (BSE) during the period April 23, 2015 till May 31, 2015 were examined and it was observed that SIEL did not inform stock exchanges about the termination of the GDR program was material event and price sensitive information. By not informing stock exchange (BSE) about termination of the GDR program, SEIL did not comply with clause 36(7) of Listing Agreement. Hence, Noticee No. 1 (SIEL) violated Section 21 of SCRA, 1956 read with clause 36(7) of Listing Agreement.

<u>Role of Directors of SIEL (Noticee Nos. 2 to 6)</u>

55. The Annual Report of the Company for the financial year 2010-11 and 2011-12 states that during the said period there were a total of 11 directors in the Company. The names and details of the directors who attended the meeting of the Board of Directors on April 07, 2010, approving the pledge of GDR proceeds are provided hereunder:

Name of Directors	Category of Directors
Vivek Agarwal	Executive Director / Chairman/ Authorized Signatory
Richa Agarwal	Director (resigned w.e.f. 27.12.2010)
Anusuya Devi Agarwal	Director (resigned w.e.f. 27.12.2010)
R. Sivaramakrishnan	Non- Executive Director (resigned w.e.f. 14.02.2011)
V Manikandan	Independent Director / Chairman of Audit Committee (now resigned)

Vivek Agarwal (Noticee No. 2)

56. During the investigation period, as seen from the Annual Report, Vivek Agarwal was the Managing Director of the Company. Further, by way of the Board Resolution dated April 07, 2010, Vivek Agarwal was authorized to sign, execute any application, agreement, escrow agreement, document, undertaking etc. as may be required by the Bank, i.e. EURAM Bank. By way of the said Board Resolution, the Noticee was also authorized to draw cheques and generally to take all such steps and do all such things as may be required from time to time on behalf of the company in relation to the GDR issues.

57. It is further noted that the Pledge Agreement entered into by SIEL with EURAM Bank, whereby a deposit account of SIEL maintained with EURAM Bank was given as security for all the obligations of Vintage under the Loan Agreement, had been signed by Vivek Agarwal. The letter from SIEL confirming that EURAM Bank had the right to set off the pledged cash deposit with the outstanding loan of Vintage amounting to USD 13.678 million was also signed by Vivek Agarwal.

58. In view of the same, I find that Vivek Agarwal (Noticee No.2), who was actively involved in the day-to-day activities of the Company, and had entered into the Pledge Agreement on behalf of the Company was the human agency through which the aforesaid fraudulent scheme of RPL to finance its own GDR issue was effected. Hence violated the provisions of Section 12A (a), (b), (c) of the SEBI Act 1992 r/w Regulations 3 (a), (b), (c), (d) and 4 (1) of the SEBI (PFUTP) Regulations, 2003.

***Anusuya Devi Agarwal and Richa Agarwal and R, Sivaramakrishnan (Noticee No. 3, 4 and* 6)**

59. As regard to the Noticee No. 3 and 4, former Directors of the Company, it is observed from the available record that the said Noticees had resigned on December 27, 2010, even before the Board Meeting held on June 10, 2011 which had taken the decision in respect of allotting the GDRs in respect of Issue-II as they resigned prior to that. However, even though the said Noticees were not part of the Board Meeting in which the decision to allot the GDRs in respect of Issue-II was taken, they were part of the Board Meeting held on April 07, 2010, wherein the decision to proceed with the issue of GDRs Issue I and II, was taken. However, considering that they had resigned prior to Issue II and only four months after the first issue of GDR i.e. August 25, 2010, the liability for monitoring the use of proceeds from the said issues and responsibility for ensuring the transfer of the said proceeds to the bank account of the company in India cannot be imposed on to them.

60. With respect to R. Sivaramkrishnan (Noticee No. 6), he was an Independent Non-Executive Director of SIEL. He resigned from the Board of the Company on 14th February, 2011. Here again, considering that the noticee had resigned prior to Issue II, and 5 months after the first issue, the liability for monitoring the use of proceeds from the said issue and responsibility for ensuring the transfer of the said proceeds to the bank account of the company in India cannot be imposed.

61. The Noticee No.6 further submitted that in the Board Meeting of April 07, 2010, attended by him, opening of bank account with EURAM bank and authorizing the EURAM Bank to use the GDR proceeds as security against the loan availed by Vintage was never discussed. This item was not in the Agenda of the Meeting. However, on perusal of the Minutes of the Board Meeting held on April 07, 2010 shared by SIEL vide e-mail dated December 04, 2017 it can be clearly seen that the said resolution was discussed and passed in the said Board Meeting. The same further proves the wrong disclosures made by SIEL.

V. Manikandan (Noticee No. 5)

62. V.Manikandan (Noticee No.5) was an independent non-executive director of SIEL. The Noticee in his replies have submitted that he was the Non-executive Independent Director of the SIEL and joined the company on April 23, 2007 in the same designation. He further submitted that he was not involved in the day to day activities of the company. However, from the Minutes of the Board Meeting of April 07, 2010, it is observed that the Noticee was appointed to the Audit Committee of the SIEL. Further on perusal of the Annual Report of SIEL for the year 2010-11 it is observed that the Noticee was also the chairman of Audit committee and attended all its meetings during the said Financial Year. In view of the same, it is to be noted that he had the added responsibility to monitor the end use of the funds that were raised by issue of the GDRs and also ensuring their transfer to the accounts of the company in India.

63. The Noticee has submitted that he sent his resignation to SIEL on February 07, 2012. However, the funds for the issue of GDR Issue - I was transferred in 2010 for GDR Issue- II the transfer process was on going during the time of retirement. The Noticee by virtue of being the Director and Chairman/ Member of the Audit Committee had long association with the company and as observed from the reply submitted by Noticee No. 6, Mr. V. Manikandan was instrumental in bringing Noticee No. 6 to the Board of the company as Independent Director indicates his influence within the company. In view

of the above observations I find Noticee No. 5 (V. Manikandan**)** to have violated the provisions of Section 12A (a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of SEBI (PFUTP) Regulations, 2003.

Role of Mr. Arun Panchariya (Noticee No.7):

64. In the present matter, Vintage was sole subscriber of GDR issue of SIEL and subscription was arranged through a loan availed from EURAM Bank to the extent of USD 29.980 million for which security was provided by RPL by pledging its GDR proceeds. Arun Panchariya (Noticee No.7) had signed the Loan Agreement of GDR Issue-I in capacity of the Managing Director of Vintage. Further, Vintage defaulted in repayment of loan to the extent of USD 13.679 million, thereby GDR proceeds to that extent were adjusted by EURAM. Hence, it is apparent that Vintage acquired GDRs of SIEL to the tune of USD 13.679 million at free of cost. Further, on perusal of Administrative Fine Statement passed by the Dubai Financial Services Authority against Arun Panchariya, he had disclosed that he was controller/director/partner in three firms including Vintage FZE. So, it shows that Noticee No.7 is the beneficial/ sole owner of Vintage.

65. Further, I note that the Noticee No. 7 who was connected with various other entities including Foreign Institutional Investors (FIIs) and Sub-accounts involved in the issuance of GDRs that facilitated FIIs in selling the converted equity shares of the company.

Cancellation of GDRs and sale of converted equity shares:

66. As regard to the cancellation of GDRs and sale of converted equity shares, I note that even though consideration for a substantial portion of Issue II had not effectively passed from Vintage to SIEL, the GDRs issued (GDR-II) were allowed to be converted into equity shares, and these shares were eventually sold in the Indian market. The cancellation of GDRs started from September 02, 2010 and went on till April 06, 2015.

67. GDRs were converted into equity shares and these shares were sold in the Indian Securities Market. Credit of the converted equity shares of GDRs in the beneficiaries' account started from September 02, 2010 and continued till April 06, 2015. All 4,037,446 GDRs (100% GDRs issued) were converted.

68. Post cancellation of GDRs, FII-sub accounts namely 1) India Focus Cardinal Fund 2) High Blue Sky Emerging Market Fund ('HBSF'), and 3) Aspire Emerging Fund ('ASPIRE'), received total 42,45,17,250 shares on conversion of 40,37,446 GDRs.

Sale of converted equity shares:

69. Vide email dated December 05, 2017, depository NSDL provided the transaction statement for above mentioned three FII sub-accounts. The sub-account wise summary is tabulated below:

Sl. No.	***Name of the entity***	***No of shares sold***	***Trade Value (Rs.)***	***No of shares held***
1	*IFCF*	*2,50,43,400*	*27,12,68,471.05*	*-*
2	*HBSF*	*33,32,96,980*	*22,60,90,313.22*	*3,18,22,577*
3	*ASPIRE*	*5,95,74,218*	*44,19,453.08*	*4,65,30,082*
TOTAL		***41,79,14,598***	***50,17,78,237.35***	***7,83,52,659***

70. From the above table, I note that 41,79,14,598 converted shares of GDRs of SIEL were sold by the sub-accounts in the Indian market for a consideration of Rs.50.18 crore.

71. On account of loan default by Arun Panchariya (Noticee No. 7) controlled Vintage, USD 13.679 million were adjusted by EURAM Bank from the GDR proceeds of SIEL. So effectively, the shares converted from the GDRs equivalent to the value of USD 13.679 million were acquired by Vintage free of cost. Thereafter, sub-accounts HBSF and ASPIRE who are connected to Arun Panchariya converted GDRs into Equity shares and sold converted equity shares of SIEL in Indian Securities Market through Arun Panchariya connected FIIs namely KBC Aldini Capital Limited and Golden Cliff for a total of INR 23.05 Crore. From above it is observed that shares sold by HBSF and ASPIRE were the shares which were acquired by Vintage at free of cost as Vintage

defaulted on loan repayment. Therefore, Noticee no. 7 on account of being the sole beneficiary of Vintage and connected entity of sub-accounts (HBSF and ASPIRE) has violated the provisions of Section 12A (a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of SEBI (PFUTP) Regulations, 2003.

Role of Mr. Mukesh Chauradiya (Noticee No.8)

72. Mr. Mukesh Chauradiya had long association with Arun Panchariya (Noticee No. 7). He has worked as director in Ramsai Investment Holdings Private Limited wherein Arun Panchariya was director and was also holding 99.98% shares. Further, Mr. Mukesh Chauradiya signed the Loan Agreement with EURAM for the loans availed for subscription of SIEL's GDR issue-II as Managing Director of Vintage. Loan agreement dated July 19, 2010 was signed by Mr. Arun Panchariya as a Managing Director for Vintage, and Mr. Mukesh Chauradiya as Managing Director of Vintage, signed Loan Agreement dated April 28, 2011 for subscription of SIEL's GDR issue-II.

73. From the above, it was observed that Mr. Mukesh Chauradiya held key position in Vintage (was Managing Director and authorized signatory of Vintage) and was in knowledge of the Arun Panchariya's scheme of subscribing to GDR issues through Loan Agreements and defaulting on loan in several GDR issues (as Mr. Mukesh Chauradiya signed the Loan Agreements and Vintage's redemption of loan amount requests for repayment of Vintage's loan).

74. As seen earlier, Arun Panchariya (Noticee no. 7) had aided and abetted the fraudulent scheme of self-financing of the GDR issue of SIEL by acting on behalf of Vintage in the capacity of its Managing Director by executing the loan agreement on behalf of Vintage with EURAM Bank. Also, Noticee No.7 was the sole beneficial owner of Vintage FZE in which Noticee No.8 had served as Managing Director. Therefore, the Noticee No. 7 was connected with the Noticee No.8. The role played by Vintage in the fraudulent scheme has already been brought out in details in the preceding paragraphs. Mr. Mukesh Chauradiya acted as aid to Arun Panchariya and facilitated Arun Panchariya's scheme

by executing the Loan Agreement of SIEL for GDR Issue- II in the capacity of Managing Director of Vintage. Thereby, he acted as party to fraudulent scheme.

75. Noticee No.8 (Mukesh Chauradiya), in his replies has raised objection that since the GDR issue process took place outside the territorial boundaries of India, SEBI has no jurisdiction in the matter. In this regard, it is stated that the issue of SEBI's jurisdiction w.r.t to similar issuances of GDR was settled by the Hon'ble Supreme Court vide its judgment dated July 06, 2015 in the matter of ***Securities and Exchange Board of India v. Pan Asia Advisors Ltd. and Another*** (Civil Appeal No. 10560/2013, AIR 2015 SC 2782) dealing with the issuance of GDRs by companies and SEBI's territorial jurisdiction therein has noted that GDRs are issued by an overseas depository bank on the basis of the shares deposited by a company with a domestic custodian bank in India. Considering this, the Supreme Court held that since GDR issuances were backed by underlying shares held by the Domestic Custodian Bank in India, a GDR can be construed as a right or interest in securities. Section 2(h) of the Securities Contracts (Regulation) Act, 1956, which enlists the instruments that can be considered as 'Securities' and includes rights or interest in securities among those. Further, the Hon'ble Supreme Court placed reliance on the case of ***GVK Industries Officer v. Income Tax Officer*** (2011) 4 SCC 36, where it had been held that a law may proceed against an extra-territorial aspect, in case it had "got a cause and something in India or related to India and Indians in terms of impact, effect of consequence". The Court also placed reliance on the effects doctrine; which meant that in case the allegations of manipulation were true, there would be adverse consequences in the Indian securities market. In view of the above-mentioned reasons, the Hon'ble Supreme Court concluded that any fraudulent activity impinging upon the interests of Indian investors would squarely fall within the jurisdiction of SEBI. Thus, it was held by the Court that SEBI had the powers to initiate action against Pan Asia Advisors and Arun Panchariya, even though they were based outside India, since their actions impinged upon the interests of Indian investors.

76. Thus, the issue of jurisdiction of SEBI in GDR matters having been settled by the Hon'ble Supreme Court this defence of the Noticee cannot be accepted.

77. Noticee No.8 (Mukesh Chauradiya) has submitted that a copy of the Investigation Report/ other documents on the basis of which the SCN was issued, was not provided to him despite the request made by him. From the SCN and Annexures, I find that all the relevant and relied upon documents in support of the SCN and also the findings of the investigation captured in the SCN have been forwarded to the Noticee. Further, on a comparison of the SCN and the Investigation Report, it is observed that the SCN has reproduced the contents of the Investigation Report to a large extent and hence it tantamount to providing the Investigation Report itself.

78. In this regard, it would be appropriate to refer to the Order of Hon'ble SAT dated February 12, 2020 in ***Shruti Vora vs. SEBI*** (Appeal No. 28 of 2020) wherein, it was observed that: "The contention that the appellant is entitled for copies of all the documents in possession of the AO which has not been relied upon at the preliminary stage when the AO has not formed any opinion as to whether any inquiry at all is required to he held cannot be accepted. A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon." In view of the aforesaid, I find that the contention of the Noticee that SEBI has not provided complete documents is untenable.

79. With respect to the defence of Noticee No. 8 being an employee of Vintage FZE holding the position of Manager and never appointed the Director or Managing Director as Noticee No. 7 (Arun Panchariya) was the sole beneficiary and owner of Vintage FZE had complete control. In this regard, reference is made to the Loan Agreement entered into by Vintage with EURAM Bank. The said agreement has been signed by Mukesh Chauradiya on behalf of Vintage, and in the space for providing the "Title" of the

signatory, Managing Director has been mentioned. Further, I note that the letter dated December 30, 2010 addressed by Vintage to EURAM Bank, has been signed by Mukesh Chauradiya, suffixing Director to his name. It is relevant to note that by way of the said letter, it has been represented to EURAM Bank that "Mr. Mukesh Chauradiya, Managing Director of the company, has successfully completed the Training Program of DGCX in 2005."

80. It is seen from the letter dated December 30, 2010 addressed to EURAM Bank and the Loan Agreement dated April 28, 2011 that the Noticee has represented himself to be the Managing Director / Director of Vintage. Having represented himself as being the Managing Director /Director of Vintage, the Noticee cannot seek relief from the consequences of such representation by asserting that he was merely an employee.

81. In this regard I note that a similar contention had been raised by Mukesh Chauradiya before the Hon'ble SAT in ***Mukesh Chauradiya vs. SEBI*** (Date of Decision: January 7, 2021 Appeal No.260 of 2020) wherein it was argued that he was never a managing director of Vintage FZE; he was initially only a Manager and later on a General Manager. It was contended that he was never a beneficial owner of Vintage FZE and he had never benefited from the alleged violation as he was only a salaried employee of Vintage FZE. In the matter, the Hon'ble SAT held as follows:

> *"It* is *an undisputed fact that the appellant has signed as Managing Director as we also note at page 94 of the Memo of appeal. It is not that he signed "for managing director" or "on behalf of managing director" etc. Therefore, irrespective of the dispute relating to the designation as contended by the appellant, the appellant was undoubtedly having the power to sign as managing director. In the certificate given by the JAFZA only 3 names [and 4 designations, with the sole Director, being named as the Secretary also] are indicated who responsible people in Vintage FZE are and appellant was one of them. Therefore, the dispute as to what was the exact designation of the appellant is irrelevant in the context that admittedly the appellant signed as Managing Director of Vintage FZE. It is also important to clarify here that*

using a designation in other jurisdictions, such as UAE in the instant case, or elsewhere, for comparison to similar designations in India is also not relevant because designations vary widely even with respect to similarly placed officials across multiple jurisdictions. What is relevant is only whether the appellant was holding a position in which he could put his signature, that too in a loan agreement for USD13.24 million with a bank under the designation of Managing Director. In any case designation of a person and whether a person is "an officer in default" in an organization etc. are irrelevant when the charge is that of aiding and abetting fraud under the PFUTP Regulations, which is the case herein."

82. So, as held by the Hon'ble SAT, the exact designation of the present Noticee is not relevant. What is relevant is whether the Noticee No. 8 was holding a position in which he could put his signature in the Loan Agreement with EURAM Bank under the designation of Managing Director. From the facts of the case, it clearly appears that the appellant was holding a position by way of which he could execute binding agreements on behalf of Vintage. Thus, the circumstances indicate that Mukesh Chauradiya was playing an important role in the affairs of Vintage during the relevant period. Accordingly, I find that Mukesh Chauradiya in his capacity of Managing Director and authorized signatory of Vintage has violated Section 12A (a), (b), (c) of the SEBI Act 1992 r/w Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

***<u>Issue II</u>*: Does the violation, attract monetary penalty under Section 15HA of the SEBI Act, 1992 and Section 23E of the SCRA, as applicable?**

83. The aforesaid violations make the Noticee Nos. 1, 2, 5, 7, 8 liable for monetary penalty under Sections 15 HA of SEBI Act, 1992, and Section 23E of SCRA, 1956, as applicable.

<u>SEBI Act, 1992</u>

Penalty for fraudulent and unfair trade practices.

15HA*.If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.*

SCRA, 1956

Penalty for contravention where no separate penalty has been provided.

23E. *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 not exceeding twenty-five crore rupees*.

84. The Hon'ble Supreme Court of India in the matter of ***SEBI vs. Shri Ram Mutual Fund*** [(2006) 68 SCL 216 (SC)] held that:

"once the violation of statutory regulations is established, imposition of penalty becomes sine qua non of violation and the intention of parties committing such violation becomes totally irrelevant. Once the contravention is established, then the penalty is to follow."

85. I note that the Hon'ble Supreme Court, in the matter of ***N Narayanan v. Adjudicating Officer, SEBI*** (Civil Appeals No. 4112-4113 of 2013) has observed as under:

"Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602 that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provided against him personally. He cannot shut

his eyes to what must be obvious to everyone who examines the affairs of the company even superficially."

86. The Noticee Nos. 1, 2, 5, 7, 8 had jointly and in close connivance with each other, had acted in concert in the entire fraudulent scheme by arranging for the subscription of the GDRs through Vintage using the pledge agreement signed on behalf of SIEL to obtain a loan from the EURAM Bank and then to dispose the shares acquired through such GDRs, thereby creating an elaborate façade of demand for the securities of SIEL.

87. Thus, the violation of Section 12A(a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d), 4 (1), 4(2) (f), (k), (r) of SEBI (PFUTP) Regulations, 2003, and Section 21 of SCRA, 1956 read with Clauses 32, 36(7) and 50 of Listing Agreement, as applicable by the Noticees make them liable for imposition of penalty under Section 15HA of the SEBI Act, 1992, which reads as below:

SEBI Act, 1992

"Penalty for fraudulent and unfair trade practices.

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

The provisions of section 15 HA as it stood prior to its amendment before September 8, 2014, at the time of occurrence of the aforesaid violations is reproduced herein below:

"15HA. *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher."*

As per the dates of violations, Section 15HA of SEBI Act, as it stood prior to the amendment, is applicable. Nevertheless, guided by the principle of rule of beneficial construction of even ex post facto laws to mitigate the rigour of law, as was laid by the Hon'ble Supreme Court in ***T. Barai vs. Henry Ah Hoe and Ors.*** *(07.12.1982 -SC): MANU/SC/0123/1982 [(1983)1SCC177],* the amended version of section 15HA of SEBI Act is being applied.

Issue III: If yes, then what should be the quantum of penalty?

88. In this regard, the provisions of Section 15J of the SEBI Act, 1992 read with Rule 5 (2) of the SEBI Adjudication Rules and Section 23E of SCRA read with Rule 5 (2) of the SCR Adjudication Rules require that while adjudging the quantum of penalty, 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.

89. With regard to the above factors to be considered while determining the quantum of penalty, it may be noted that SIEL had misled the Indian investors by concealing the information of entering into Pledge Agreement and informing GDR related news in a distorted manner to stock exchange which made investors believe that GDRs were genuinely subscribed. Out of the GDR proceeds of USD 29.98 million, an amount of USD 16.13 million was transferred to SIEL and USD 13.67 million were adjusted by EURAM against the loan of Vintage. Since the GDR proceeds amounting to USD 13.67

million were used to set off the loan amount taken by Vintage for subscription of SIEL's GDR, the shares converted against those GDRs were effectively issued at free of cost to Vintage (headed and managed by the Noticees No. 7 and 8) aided by the Noticee No.7, and this had caused a loss to the shareholders to the tune of USD 13.67 million. The said subscription of the GDRs by Vintage was funded by SIEL itself, through the Noticee Nos. 2 and 5. The magnitude of the fraud committed by the Noticees is enormous as is evident from the issue size of USD 29.980 million.

ORDER

90. After taking into consideration all the facts and circumstances of the case, gravity of violations and the material on record, and also the factors stipulated in Section 15J of the SEBI Act, 1992 and Section 23J of SCRA, 1956, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 read with Rule 5 of the SEBI Adjudication Rules, and Section 23-I of SCRA, 1956 read with Rule 5 of SCR Adjudication Rules, hereby impose the following penalty on the Noticees mentioned hereunder –

Entity	**Penal Provisions**	**Penalty**
Southern Ispat And Energy Ltd., Noticee No. 1	Penalty imposed under Section 15HA of the Securities and Exchange Board of India act, 1992 and Section 23 E of the SCRA, the alleged violation of Section 12A(a), (b), (c) of SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1), 4(2) (f), (k) and (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as PFUTP Regulations), Section 21	**Rs. 10,00,00,000/- (Rupees Ten Crores only)**

	of SCRA read with Clauses 36(7) of Listing Agreement and Section 21 of SCRA read with Clauses 32 and 50 of the Listing Agreement.	
Mr.Vivek Agarwal, Noticee No. 2	Penalty imposed under Section 15HA of the SEBI Act, 1992 for violation of the provisions of Section 12A (a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations	**Rs. 20,00,000/- (Rupees Twenty Lakhs only)**
Mr. V. Manikandan, Noticee No. 5	Penalty imposed under Section 15HA of the SEBI Act, 1992 for violation of the provisions of Section 12A (a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations	**Rs. 10,00,000/- (Rupees Ten Lakhs only)**
Mr. Arun Panchariya, Noticee No. 7	Penalty imposed under Section 15HA of the SEBI Act, 1992 for violation of the provisions of Section 12A (a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations	**Rs. 20,00,000/- (Rupees Twenty Lakhs only)**
Mr. Mukesh Chauradiya, Noticee No. 8	Penalty imposed under Section 15HA of the SEBI Act, 1992 for violation of the provisions of Section 12A (a), (b), (c) of SEBI Act, 1992	**Rs. 20,00,000/- (Rupees Twenty Lakhs only)**

	read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations	

91. The abovementioned Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link.

ENFORCEMENT →Orders →Orders of AO →PAY NOW

92. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – 1 of SEBI. The Noticee shall provide the following details while forwarding DD/ payment information:

Name and PAN of the entity (Noticee):

Name of the case / matter:

Purpose of Payment – Payment of penalty under AO proceedings:

Bank Name and Account Number:

Transaction Number:

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

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

Place: Mumbai	**G. Ramar**
Date: May 26, 2022	**Adjudicating Officer**