BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/SV/VC/2023-24/30164)

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995; AND SECTION 23-I OF THE SECURITIES CONTRACT (REGULATION) ACT, 1956 READ WITH RULE 5 OF THE SECURITIES CONTRACT (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005.

In respect of

Family Care Hospitals Limited

(PAN: AAACP2883M)

In the matter of Family Care Hospitals Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted examination in the matter of Family Care Hospitals Limited (hereinafter referred to as the **'Noticee'** or **'FCHL'** or **'Company'**). Noticee is a company listed on BSE. The Company was formerly named as 'Scandent Imaging Limited'. The name of the company stood changed with effect from September 5, 2022, pursuant to a Certificate of Incorporation issued by the Ministry of Corporate Affairs pursuant to change of name.

2. SEBI received complaints from two persons who were shareholders of FCHL (hereinafter referred to as **'complainants'**), *inter alia* alleging the Company of the fraud and diversion of funds, non-disclosure of material information, violation of LODR Regulations and market manipulations in the shares of the Company. After perusal of the complaints, the matter was taken up with the Company through the

Exchange (BSE). The Exchange was also advised by SEBI to collect the certified true copies of all the approvals for Related Party Transactions (RPT) from the audit committee, board of directors and shareholders for the FYs 2021-22 and 2022-23, from the Company. The same was submitted by the Company. BSE submitted its response on the said complaints vide its Email dated February 1, 2023 along with the comments / explanations of the Company on the complaints.

3. Thereafter, SEBI conducted examination in the aforementioned matter along with the other issues noticed and taken up *suo moto* by SEBI, for the possible violation of the provisions of SEBI Regulations and Circulars. The observations made during the course of the examination were recorded as the Examination Report.

4. Based on the findings of examination of FCHL, SEBI initiated adjudication proceedings against the Noticee for alleged violation of the following provisions:
   (a) Regulations 4(1)(d) and 4(1)(e) read with Regulation 30(12) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('hereinafter referred to as **'LODR Regulations'**);
   (b) Regulation 23(4) read with Regulation 23(1) of the LODR Regulations;
   (c) Regulation 4(1)(c) read with Regulation 30(2) of the LODR Regulations;
   (d) Regulation 23(4) of the LODR Regulations;
   (e) Regulations 4(1)(c) of the LODR Regulations read with SEBI Circular CIR/CFD/CMD/8/2015 dated November 4, 2015 and 44(3) of the LODR Regulations;
   (f) Regulation 4(1)(d) and (e) read with Regulation 23(9) of the LODR Regulations and SEBI circular SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021; and
   (g) Regulation 4(1)(c) and (e) read with Regulation 23(9) of the LODR Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

5. SEBI appointed the undersigned as the Adjudicating Officer, vide order dated August 25, 2023, under Section 15-I of the SEBI Act, 1992 read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **'SEBI Adjudication Rules'**) read with Section 19 of the SEBI Act, 1992, and, under Section 23-I of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as **'SCRA, 1956'**) read with Rule 3 of the Securities Contract (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as **'SCR Adjudication Rules'**), to inquire into and adjudge under the provisions of the Section 15A(b) and Section 15HB of the SEBI Act, 1992 and Section 23A(a) of the SCRA, 1956, for the violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

6. Show Cause Notice bearing reference no.- SEBI/HO/EAD-8/SKV/VC/41762/2023 dated October 10, 2023 (hereinafter referred to as **'SCN'**) was issued to the Noticee in terms of the provisions of Rule 4(1) of the SEBI Adjudication Rules read with Section 15-I of the SEBI Act, 1992; and Rule 4(1) of the SCR Adjudication Rules read with Section 23-I of the SCRA, 1956, requiring the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed upon the Noticee under Section 15A(b) and Section 15HB of the SEBI Act, 1992 and Section 23A(a) of the SCRA, 1956 for the alleged violations. I note that SCN issued to Noticee was duly served upon the Noticee and it was acknowledged by the Noticee. After seeking multiple extensions for furnishing reply to the SCN, vide email / letter dated January 10, 2021, Noticee submitted reply to the SCN.

7. In the interest of natural justice, an opportunity of hearing on January 16, 2024 was granted to the Noticee vide Hearing Notice dated January 04, 2024. However, Noticee requested for extension of 10 days' time to appear for the scheduled hearing. Considering the request of extension for hearing, the another opportunity of hearing was granted to the Noticee on February 02, 2024. Authorised Representative viz. Kunal Kataria, Advocate (hereinafter referred to as **'AR'**) attended the hearing and reiterated the submissions made by the Noticee vide

letter dated January 10, 2024. AR further stated to furnish the additional submissions in the captioned matter by February 09, 2024. Accordingly, vide email / letter dated February 12, 2024, Noticee furnished the additional submissions in the matter.

CONSIDERATION OF ISSUES AND FINDINGS

8. I have carefully perused the charges levelled against the Noticee in the SCN, submissions made by the Noticee and material available on record. The issues that arise for consideration in the present case are as follows:

   I. Whether the Noticee has violated the regulatory provisions mentioned at para 4 hereinabove?

   II. Does the violation, if any, attract monetary penalty under Section 15A(b) and Section 15HB of the SEBI Act, 1992 and Section 23A(a) of the SCRA, 1956?

   III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15-J of the SEBI Act, 1992 read with Rule 5(2) of the SEBI Adjudication Rules; and Section 23-J of the SCRA, 1956 read with Rule 5(2) of the SCR Adjudication Rules?

9. Before proceeding further, it is pertinent to refer to the relevant provisions of LODR Regulations and SEBI Circulars which are alleged to have been violated. The said provisions are reproduced hereunder:

Relevant provisions of LODR Regulations:

Principles governing disclosures and obligations.

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

…………..

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

(d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.

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

Related party transactions.

23. *(1) The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions [including clear threshold limits duly approved by the board of directors and such policy shall be reviewed by the board of directors at least once every three years and updated accordingly]:*

[Provided that a transaction with a related party shall be considered material, if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds rupees one thousand crore or ten per cent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity, whichever is lower.]

[(1A) Notwithstanding the above, a transaction involving payments made to a related party with respect to brand usage or royalty shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceed five percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.]

(4) All material related party transactions [and subsequent material modifications as defined by the audit committee under sub-regulation (2)] shall require [prior] approval of the shareholders through resolution and [no related party shall vote to approve] such resolutions whether the entity is a related party to the particular transaction or not:

[Provided that prior approval of the shareholders of a listed entity shall not be required for a related party transaction to which the listed subsidiary is a party but the listed entity is not a party, if regulation 23 and sub-regulation (2) of regulation 15 of these regulations are applicable to such listed subsidiary.

Explanation: For related party transactions of unlisted subsidiaries of a listed subsidiary as referred above, the prior approval of the shareholders of the listed subsidiary shall suffice.]

[Provided [further] that the requirements specified under this sub-regulation shall not apply in respect of a resolution plan approved under section 31 of the Insolvency Code, subject to the event being disclosed to the recognized stock exchanges within one day of the resolution plan being approved;]

(9) The listed entity shall submit to the stock exchanges disclosures of related party transactions in the format as specified by the Board from time to time, and publish the same on its website:

Provided that a 'high value debt listed entity' shall submit such disclosures along with its standalone financial results for the half year:

Provided further that the listed entity shall make such disclosures every six months within fifteen days from the date of publication of its standalone and consolidated financial results:

Provided further that the listed entity shall make such disclosures every six months on the date of publication of its standalone and consolidated financial results with effect from April 1, 2023.

Disclosure of events or information.

30. *………*

(2) Events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.

……………

(12) In case where an event occurs or an information is available with the listed entity, which has not been indicated in Para A or B of Part A of Schedule III, but which may have material effect on it, the listed entity is required to make adequate disclosures in regard thereof.

Meetings of shareholders and voting.

44. *………*

(3) The listed entity shall submit to the stock exchange, within [two working days] of conclusion of its General Meeting, details regarding the voting results in the format specified by the Board.

Web link of SEBI Circular CIR/CFD/CMD/8/2015 dated November 4, 2015:
https://www.sebi.gov.in/legal/circulars/nov-2015/format-for-voting-results_30950.html

Web link of SEBI circular SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021:
https://www.sebi.gov.in/legal/circulars/nov-2021/disclosure-obligations-of-listed-entities-in-relation-to-related-party-transactions_54113.html

10. Based on perusal of the material available on record and giving regard to the facts and submission of the Noticee and circumstances of the case, I record my findings hereunder:

Issue I. Whether the Noticee has violated the regulatory provisions mentioned at para 4 hereinabove?

11. At the outset, I find that following alleged violations are to be established, in the instant matter:

   A. Non-disclosure of complete details regarding the assignment of debt to the promoter,
   B. Violation of the prescribed RPT approval norms,
   C. Incorrect disclosure of interest of Directors/ KMPs in the Explanatory Statement for the RPT resolutions proposed in AGM of the Company,
   D. Related parties voted in the shareholder resolution approving RPTs,
   E. False and inaccurate submissions in the Voting Results,
   F. Non- providing of the requisite information to shareholders while seeking approval for RPTs at the AGM,
   G. Shareholders approvals not taken for material RPTs,
   H. Non-disclosures of RPT,

I. Requisite details of RPTs not provided in the disclosures for the HYE September 2022.

A. <u>Non-disclosure of complete details regarding the assignment of debt to the promoter:</u>

12. The complainants alleged that the item 5 in the outcome of Board Meeting held on June 29, 2022 disseminated on the Exchange informs that *"The Company has received letter from certain creditors informing the assignment of their receivables to Mr. Gautam Deshpande (Promoter) or its assignee pursuant to understanding as agreed between such creditors and the promoter. Accordingly, an amount of Rs. 2,11,30,000 is now due and payable by the Company to Mr. Gautam Deshpande (Promoter) or its assignee."* Though the said amount constitutes nearly half the net profit of the Company in FY 2021-22 and was approved as due and payable to the Promoter, however, the Company had disclosed no details regarding the assignment of debt by undisclosed creditors. The dissemination made was therefore inadequate and not in compliance with the LODR Regulations.

13. In this regard, it was observed during examination that the event of assignment of debt was not indicated either in Para A or B of Part A of Schedule III of the LODR Regulations. However, from the financial statements of the Company, it was noted that the net worth of the Company as at March 31, 2022 was ₹14.24 crores. The debt being assigned, at ₹2.11 crores, was significant (14.82% of the net worth of the Company). The information was therefore an important material information, disclosure of which would have been in the interests of the shareholders of the Company. Further, with the debt being assigned to the promoter of the Company, utmost transparency in the matter was a responsibility of the Company towards its non-promoter shareholders.

14. In view of the above, it was alleged in the SCN that Noticee had failed to provide adequate information regarding the assignment of a significant amount of debt (i.e. 14.82% of the net worth of the Company) to the promoter, therefore, it has violated

the provisions of Regulations 4(1)(d) and 4(1)(e) read with Regulation 30(12) of the LODR Regulations.

Reply of Noticee

15. With regards to above allegations, Noticee *inter alia* submitted that the Company made adequate disclosure to the exchange regarding the assignment of debt by certain creditors to Gautam Deshpande. SEBI has noted that the list of creditors was also disclosed to the exchange vide email dated October 10, 2022. Only 2 of the creditors out of the list of creditors given carried out the proposed assignment and received shares against their dues. While the other creditors gave consent letters, they have not carried out the same. Noticee further submitted that the debt is not assigned in full. Actual amount of assignment was ₹56 Lakhs only. Shares were allotted to these 2 creditors. No amount was however paid to Gautam D.

16. SEBI's reasoning to allege that assignment of debt materially affected the company because of the amount of the debt involved is baseless. Assignment of debt does not affect the Company's interests as the debt amount remains unchanged. Therefore, it cannot be said that non -disclosure of details of the debt materially affected the Company.

17. Noticee further submitted that the assigned debt is ₹56 Lakhs, even going by the reasoning of SEBI, since only 2 creditors assigned the debt, the amount of debt was ₹56 Lakhs. The said amount merely forms 3.93% of the Company's net worth and as such cannot be held to be a significant change. Thus, the Company on such account as aforesaid cannot be held to be in violation of Regulations 4(1)(d) and 4(1)(e) read with Regulation 30(12) of the LODR Regulations.

Findings

18. I note that as per Regulations 4 of LODR Regulations, the listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors. The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely

and presented in a simple language. Further, as per Regulations 30 of LODR Regulations, the disclosure of events or information specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events. In case where an event occurs or an information is available with the listed entity, which has not been indicated in Para A or B of Part A of Schedule III, but which may have material effect on it, the listed entity is required to make adequate disclosures in regard thereof.

19. With regards to Noticee submission that it made adequate disclosure to the exchange regarding the assignment of debt and the list of creditors was also disclosed to the exchange vide email dated October 10, 2022, I find that the Board Meeting wherein resolution to assign the debt by certain creditors to Gautam Deshpande was passed was held on June 29, 2022, however, the said disclosure was made on October 10, 2022. The disclosure made on October 10, 2022 was delayed and not made timely as required under the LODR Regulations and the same was also made during an ongoing SEBI query. Therefore, the above contentions of Noticee do not hold any merit.

20. Further, Noticee submitted that the debt was not assigned in full and actual amount of assignment was only ₹56 Lakhs, since only 2 creditors assigned the debt. Shares were allotted to these 2 creditors and no amount was paid to Gautam Deshpande. In this regard, I note that the events that the actual amount of assignment was only ₹56 Lakhs, shares were allotted to 2 creditors and no amount was paid to Gautam Deshpande (promoter) etc. took place on a future date and when the Board resolution to assign the debt of ₹2.11 crores by certain creditors to Gautam Deshpande was passed on June 29, 2022, the Noticee was liable to disclose the adequate and complete information to the Exchange regarding the assignment of debt of ₹2.11 crores (i.e. 14.82% of the net worth of the Company) to the promoter, which was a significant amount and hence it was a material event. Thus, the above contentions of Noticee are not acceptable. In light of the aforesaid, I further hold that the Noticee's contention that the said amount (₹56 Lakhs) merely

forms 3.93% of the Company's net worth and as such cannot be held to be a significant change, also do not hold any merit.

21. I note that the Noticee's further contention that assignment of debt did not materially affect the company's interests as the debt amount remains unchanged is not acceptable as the debt of ₹2.11 crores (i.e. 14.82% of the net worth of the Company) was assigned by certain creditors to Mr. Gautam Deshpande (Promoter of the Company) and the amount was then due and payable by the Company to Mr. Gautam Deshpande or its assignee. The information was therefore an important material information and, in my view, it would have impacted the decision making process of the shareholders. Thus, the disclosure of such material information was required to be done as per LODR Regulations, which would have been in the interests of the shareholders of the Company. Further, with the debt being assigned to the promoter of the Company, utmost transparency in the matter was a responsibility of the Company towards its non-promoter shareholders.

22. Noticee's submission that non -disclosure of details of the debt materially not affected the Company is devoid of any merit as allegation was that the disclosure of assignment of debt was not done by the Company and non-disclosure of the said material information was not in the interests of the shareholders of the Company, specially, in the interests of its non-promoter shareholders. Here, it is pertinent to note that the purpose of disclosure of any material information is to provide the adequate, complete and timely information to all the shareholders of the Company and thus to protect their interest and not the Company's interest as stated by the Noticee. Also, the Company ought to have made further disclosures of actually what had transpired / actual amount of assignment etc. in the interest of transparency and full disclosure of details to the shareholders.

23. In view of the above, I hold that Noticee had failed to provide adequate and timely information to the stock exchange and investors regarding the assignment of debt of ₹2.11 crores (i.e. 14.82% of the net worth of the Company) to the promoter,

therefore, Noticee has violated the provisions of Regulations 4(1)(d) and 4(1)(e) read with Regulation 30(12) of the LODR Regulations.

B. <u>Violation of the prescribed RPT approval norms:</u>

24. It was alleged in the SCN that a resolution was passed under Item 7 in the 28th AGM of the Company held on July 28, 2022 approving RPTs with unnamed related parties up to an aggregate of ₹100 crores for FY 2022-23. Such blanket approval was alleged to be a violation of the LODR Regulations.

25. The certified true copies of RPT approvals submitted by the Company were perused during examination and it was observed that the following approvals were taken from the Audit Committee, the Board of Directors and the shareholders of the Company:
    (a) The Audit Committee of the Company, in its meeting dated June 29, 2022, resolved that subject to shareholder approval, the approval of the Audit Committee is accorded for RPTs for the following transactions proposed to be entered into by the Company up to a maximum aggregate value of ₹100 crores for FY 2022-23:

Table No. 1

<table>
<tr><td>Name of Related Party</td><td>Nature of Relationship</td><td>Material Terms of the Contract / Arrangement</td><td>Monetary Value of Contract / arrangement for F.Y. 2022-2023 and onwards</td><td>The indicative base price or current contracted price and formula for variation in the price, if any</td><td>Any other information relevant or important for the audit committee to decision on the proposed resolution</td></tr>
<tr><td>Onelife Capital Advisors Limited</td><td>Promoters Group</td><td rowspan="3">In line with prevailing market comparable rates on arm's length basis as may be mutually agreed.</td><td>20 Crore</td><td rowspan="3">On Arm's length basis. Prices are basis on arm's length having reference of market price</td><td rowspan="3">None</td></tr>
<tr><td>Onelife Capital Advisors Limited</td><td>Promoters Group</td><td>10 Crore</td></tr>
<tr><td>Dealmoney Distribution And</td><td>Promoters Group</td><td>39 Crore</td></tr>
</table>

E-marketing Pivate Limited				however remains static for the contracted quantity and delivery period	
Dealmoney Securities Pivate Limited	Promoters Group		40 Lakhs		
Dealmoney Distribution And Advisory Services Private Limited	Promoters Group		30 Crore		
Gautam Deshpande	Promoters		20 Lakhs		
Sowmya Deshpande	Promoters Group		20 Lakhs		
Amit Tyagi	Key management personnel of entity or parent		20 Lakhs		

(b) The Board of Directors thereafter passed a resolution on the same day, i.e. June 29, 2022, approving transactions proposed to be entered into by the Company with unnamed related parties up to a maximum aggregate value of ₹100 crores for FY 2022-23, subject to approval of the shareholders. It was further resolved that the Board of Directors is authorised to approve such transactions on a case to case basis within the approved limit of ₹100 crores.

(c) The approval of the shareholders as alleged was taken thereafter on July 28, 2022 as Item No. 7 of the 28th AGM. The shareholder resolution approved transactions proposed to be entered into by the Company with unnamed related parties up to a maximum aggregate value of ₹100 crores for FY 2022-23. It further resolved that the Board of Directors is authorised *"to approve such transactions on case to case basis within the approved limit…"*

The Explanatory Statement to the said Item No. 7 in the Notice for the 28th AGM stated as follows:

"Section 188 of the Act and the applicable rules framed thereunder provide that any Related Party Transaction will require prior approval of the shareholders through ordinary resolution, if the aggregate value of

transaction(s) amounts to 10% or more of the annual turnover of the Company as per last audited financial results of the Company.

The value of the proposed transactions with the related parties as mentioned in the Companies Act, 2013 is expected to be around Rs. 100 crores during the financial year 2022-23.

Hence, approval of the shareholders is being sought for the said Related Party Transaction(s) proposed to be entered into by your Company with the related parties as mentioned under the Companies Act, 2013 in the Financial Year 2022-23.

None of the Directors and KMPs of the Company or their respective relatives is concerned or interested, financially or otherwise, in the resolution."

(d) All the approvals were accorded subject to the RPTs being carried out *"at arm's length basis and in the ordinary course of business of the Company".*

26. In this regard, it was noted that effective from April 1, 2022, Regulation 23(4) of the LODR Regulations *inter alia* mandates that *"all material related party transactions"* shall require prior approval of the shareholders through resolution.

27. Further, Regulation 23(1) of the LODR Regulations provides that *"a transaction with a related party shall be considered material, if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds rupees one thousand crore or ten per cent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity, whichever is lower."*

28. From the financial statements of the Company, it was observed that the consolidated turnover of the Company for the FY ending on March 31, 2022 was ₹42.38 crores. Therefore, as per Regulation 23(1) of the LODR Regulations, transactions with related parties, either individually or on a cumulative basis for FY 2022-23, exceeding ₹4.24 crores shall be considered as material RPTs requiring

prior approval of the shareholders as per Regulation 23(4) of the LODR Regulations.

29. However, it was observed during examination that the Company had passed a resolution in its AGM approving transactions proposed to be entered into by the Company with unnamed related parties *“on such terms and conditions as the Board of Directors may deem fit”* up to an aggregate value of ₹100 crores for FY 2022-23 and further authorised the Board of Directors to approve RPTs on a case to case basis within the approved limit of ₹100 crores.

30. In view of the above, it was alleged in the SCN that the omnibus approval granted to Board of Directors of the Company to enter into RPTs up to ₹100 crores with unnamed related parties, in the board resolution dated June 29, 2022 and in the shareholder resolution through Item No. 7 of the 28th AGM held on July 28, 2022 were in violation of Regulation 23(4) read with Regulation 23(1) of the LODR Regulations. Therefore, it was alleged that Noticee has violated the provisions of Regulation 23(4) read with Regulation 23(1) of the LODR Regulations.

Reply of Noticee

31. With regards to above allegations, Noticee *inter alia* submitted that approval sought by Audit Committee, the Board of Directors and the Shareholders with respect to RPTs was for setting the threshold limit of aggregate value of ₹100 crores. The names of the related parties were shared with the Audit Committee with the proposed transaction value involved. However, approval was not sought for the transactions but for the threshold limit only. The approval was also accordingly given by the Board of Directors and the Shareholders. The shareholders also passed a resolution authorising Board of Directors to approve such transactions on case to case basis within the approved limit. While the shareholders authorised the Board of Directors to give approval to RPTs subject to the threshold, the approval did not bar the shareholders from giving approval to RPTs as mandated by law. There was no blanket approval given to the Board of Directors. It is further evident from the approval sought from the shareholders for the RPT with Onelife. This

clearly shows that the intention of the resolution of the “unnamed parties” was only to approve the threshold limit and not give omnibus approval to transactions with RPTs. The Regulations 23(1) and 23(4) of the LODR Regulations are duly complied with.

32. Noticee further submitted that the SCN does not allege omnibus approval given by Audit committee. The Audit Committee has approved the threshold limit aggregating to ₹100 crores with the knowledge of the proposed (and not actual) transaction amounts with the RPTs. There is no approval given to any transaction in effect. Thus, there is no omnibus resolution passed by the Audit Committee. Similarly, the AGM has also not passed any omnibus resolutions. Further, since there were no transactions in effect at the time of resolution and only proposed transactions aggregating to ₹100 crores, there is no approval granted by the shareholders to any transaction exceeding ₹4.24 crores. The only RPT transaction approved by the shareholders was approving the threshold of exceeding ₹100 crores for RPTs.

Findings

33. I note that the allegation is that a resolution was passed under Item 7 in the 28th AGM of the Company held on July 28, 2022 approving RPTs with unnamed related parties up to an aggregate of ₹100 crores for FY 2022-23. Further, an approval was allegedly granted to Board of Directors of the Company to enter into RPTs up to ₹100 crores. Such blanket approvals were alleged to be a violation of the LODR Regulations.

34. In this regard, Noticee’s submissions that the names of the related parties were shared with the Audit Committee with the proposed transaction value involved and approval was not sought for the transactions but for the threshold limit only, which was accordingly given by the Board of Directors and the Shareholders, do not hold any merit as the names of the related parties and transaction value involved was shared only with the Audit Committee and not with the Board of Directors and the

Shareholders, and Board of Directors and Shareholders gave the blanket approval to RPTs with unnamed related parties up to an aggregate of ₹100 crores.

35. Noticee's further contention that the threshold limit aggregating to ₹100 crores with the knowledge of the proposed (and not actual) transaction amounts with the RPTs was approved is not tenable as Regulation 23(4) of the LODR Regulations mandates that all material related party transactions shall require prior approval of the shareholders through resolution, thus, prior approval for proposed transactions and not for actual transactions is required to be taken by the Noticee.

36. Further, the submission of Noticee that there was no blanket approval given to the Board of Directors does not hold true as an approval was granted to Board of Directors of the Company by shareholders to enter into RPTs up to ₹100 crores and Noticee itself admitted that the shareholders passed a resolution authorising Board of Directors to approve such transactions on case to case basis within the approved limit and the only transaction approved by the shareholders was approving the threshold of ₹100 crores for RPTs.

37. In view of the above, I hold that a resolution was passed under Item 7 in the 28th AGM of the Company held on July 28, 2022 approving RPTs with unnamed related parties up to an aggregate of ₹100 crores for FY 2022-23, and further, a blanket approval was also granted to Board of Directors of the Company to enter into RPTs up to ₹100 crores in the AGM. Therefore, I hold that the Noticee has violated the provisions of Regulation 23(4) read with Regulation 23(1) of the LODR Regulations.

C. <u>Incorrect disclosure of interest of Directors/ KMPs in the Explanatory Statement for the RPT resolutions proposed in AGM of the Company:</u>

38. It was alleged in the SCN that three resolutions pertaining to approval of RPTs were proposed in the Notice to the 28th AGM (including an Addendum issued later), which was to be held on July 28, 2022, as listed below:

i. Item No. 7 of the Notice for the AGM: Proposed RPTs up to an aggregate of ₹100 crores with unnamed related parties were proposed to be approved for FY 2022-23 [prior approval for next FY]

ii. Item No. 8 of the Notice for the AGM: RPTs with Onelife Capital Advisors Limited ("**Onelife**") for inter-corporate loans up to ₹9 crores were proposed to be approved for FY 2021-22 [ratification for previous FY]

iii. Item No. 9 of the Notice for the AGM: Proposed RPTs with Onelife for inter-corporate loans up to ₹20 crores were proposed to be approved for FY 2022-23 [prior approval for next FY]

39. It was observed during examination from the RPT disclosures of the Company for both FY 2021-22 and 2022-23 that the nature of relationship of several related parties with the Company were mentioned as "Common KMP", "KMP", etc. It was also noted that Mr. Pandoo Naig, the Managing Director of FCHL (signatory to the Notice for the AGM), is the promoter of Onelife, a company with which FCHL has been having large RPTs.

40. However, the Company had, pursuant to Section 102(1) of the Companies Act, 2013, declared in the Explanatory Statements to both Item Nos. 7 and 9 of the Notice to the 28th AGM of the Company that "*None of the Directors and KMPs of the Company or their respective relatives is concerned or interested, financially or otherwise, in the resolution*". Therefore, Noticee had allegedly submitted false and misleading statements in the Explanatory Statements for the RPT resolutions proposed in Item Nos. 7 and 9 of the Notice to the 28th AGM of the Company.

41. Since the Notice to the 28th AGM of the Company was disseminated on the Exchanges pursuant to Regulation 30(2) of the LODR Regulations and the said Notice allegedly contained misleading information, therefore, it was alleged in the SCN that Noticee has violated the provisions of Regulation 4(1)(c) read with Regulation 30(2) of LODR Regulations.

Reply of Noticee

42. With regards to above allegations, Noticee *inter alia* submitted that the Explanatory Statement made with respect to the RPT resolutions proposed in Item Nos. 7 and 9 of the Notice to the AGM of the Company gives details of the transaction in accordance with the Companies Act and the SEBI Circular. Noticee further submitted that that none of the Directors and KMPs of the Company were financially and otherwise interested in the resolutions passed in Items 7 and 9 of the Notice to the 28 AGM. The transactions at Items 7 and 9 were between the two Companies and directors and KMPs of the Company did not have any personal gains involved in the transaction. The Explanatory Statements given were therefore not false. There was thus no misleading information disseminated to the exchange.

Findings

43. I note that three resolutions pertaining to approval of RPTs were proposed in the Notice to the 28th AGM of the Company. Mr. Pandoo Naig, Managing Director of FCHL (signatory to the Notice for the AGM), was the promoter of Onelife, a company with which the aforesaid RPTs were proposed to be approved. However, the Company had declared in the Explanatory Statements to the Item Nos. 7 and 9 of the Notice to the AGM of the Company that "*None of the Directors and KMPs of the Company or their respective relatives is concerned or interested, financially or otherwise, in the resolution*".

44. In this regard, Noticee's submission that the RPT transactions at Items 7 and 9 were between the two Companies, and directors and KMPs of the Company did not have any personal gains involved in the transaction is not acceptable as Mr. Pandoo Naig was the Managing Director of FCHL and was also a promoter of Onelife with which RPTs of FCHL were proposed to be approved, hence being a promoter of the company with which RPTs of FCHL were proposed to be approved he was financially or otherwise interested in the resolution. Thus, the Company's declaration in the Explanatory Statements to the Item Nos. 7 and 9 of the Notice to the AGM of the Company that none of the Directors and KMPs of the Company

were concerned or interested, financially or otherwise, in the resolution, was false and misleading.

45. Further, since the Notice to the 28th AGM of the Company was disseminated on the stock exchanges pursuant to Regulation 30(2) of the LODR Regulations and the said Notice contained misleading and incorrect information, therefore, I hold that the allegation of violation of the Noticee has violated the provisions of Regulation 4(1)(c) read with Regulation 30(2) of LODR Regulations.

D. Related parties voted in the shareholder resolution approving RPTs:

46. During examination, the voting results of the Company were checked to ascertain whether the related parties had refrained from approving the three resolutions approving material RPTs as described above in para 23 for FY 2021-22 and FY 2022-23 in accordance with Regulation 23(4) of LODR Regulations and following was observed:

FY 2022-23:

(a) As indicated in para 28 hereinabove, transactions with related parties, either individually or on a cumulative basis for FY 2022-23, exceeding ₹4.24 crores were material RPTs as prescribed under Regulation 23(1) of the LODR. These material RPTs required prior approval of the shareholders through a resolution as per Regulation 23(4) of LODR Regulations. Further, no related parties were to vote to approve any resolution considering approval of material RPTs.

(b) Item No. 9 of the Notice to the 28th AGM proposed an Ordinary Resolution to approve RPT with Onelife for inter-corporate loans up to an aggregate value of ₹20 crores in FY2022-23, in compliance with the requirement of Regulation 23(4) of LODR Regulations to obtain shareholders' approval for material RPTs.

(c) It was observed from the shareholding pattern of Onelife that Gautam Deshpande (promoter of FCHL) and Sowmya Deshpande (promoter group of FCHL) both belonged to the promoter group of Onelife.

(d) Gautam Deshpande, as on June 30, 2022 held 1,19,18,316 shares of FCHL constituting 37.13% of its share capital while Sowmya Deshpande, the spouse of Gautam Deshpande, held 16,89,301 shares constituting 5.26%. There were no other promoter/ promoter group entities of FCHL with shareholding in FCHL.

(e) In view of Gautam Deshpande and Sowmya Deshpande being a part of the promoter group of Onelife, they were "related parties" as defined in Regulation 2(1)(zb) of the LODR Regulations.

(f) Accordingly, they were to not vote to approve resolutions considering approval of RPTs in Item No. 9, in accordance with Regulation 23(4) of the LODR Regulations.

(g) Similarly, while Item No. 7 proposed a blanket approval for all RPTs with unnamed related parties up to an aggregate of ₹100 crores for FY 2022-23, the promoters (being related parties), were to not vote to approve resolutions considering approval of RPTs in Item No. 7, in accordance with Regulation 23(4) of the LODR Regulations.

(h) However, it was observed from the Voting Results for the 28th AGM that the promoter/ promoter group, having a shareholding of 1,36,07,617 shares (split between the two individuals as detailed above) polled 1,19,18,316 votes in favour of the resolutions under Item Nos. 7 and 9 each. These votes constituted 86.67% of the total votes polled for both the resolutions under item Nos. 7 and 9.

FY 2021-22:

(a) From the financial statements of the Company, it was observed that the consolidated turnover of the Company for FY 2020-21 was ₹35.37 crores. Therefore, as per Regulation 23(1) of the LODR Regulations, transactions with related parties, either individually or on a cumulative basis for FY 2022-23, exceeding ₹3.54 crores shall be considered as material RPTs requiring shareholder approval as per Regulation 23(4) of the LODR Regulations.

Further, no related parties were to vote to approve any resolution considering approval of material RPTs.

(b) Item No. 8 of the Notice to the 28th AGM proposed an Ordinary Resolution to approve RPTs with Onelife for inter-corporate loans up to an aggregate value of ₹9 crores in FY 2021-22, in compliance with the requirement of Regulation 23(4) of LODR Regulations to obtain shareholders' approval for material RPTs.

(c) However, it was observed from the Voting Results for the 28th AGM that the promoter/ promoter group, having a shareholding of 1,36,07,617 (split between the two individuals as detailed above) polled 1,19,18,316 votes in favour of the resolution under Item 8. These votes constituted 86.67% of the total votes polled for the resolutions under item No. 8.

47. In view of the above, it was alleged in the SCN that the Noticee by allowing related parties to vote to approve the resolutions under Item Nos. 7 and 9 considering approval of RPTs for FY 2022-23 and resolution under Item No. 8 considering approval of RPTs with Onelife for FY 2021-22 has violated the provisions of Regulation 23(4) of the LODR Regulations.

Reply of Noticee

48. With regards to above allegations, Noticee *inter alia* submitted that the Explanatory Statement made with respect to the RPT resolutions proposed in Item Nos. 7 and 9 of the Notice to the AGM of the Company gives details of the transaction in accordance with the Companies Act and the SEBI Circular. Noticee further submitted that that none of the Directors and KMPs of the Company were financially and otherwise interested in the resolutions passed in Items 7 and 9 of the Notice to the 28 AGM. The transactions at Items 7 and 9 were between the two Companies and directors and KMPs of the Company did not have any personal gains involved in the transaction. The Explanatory Statements given were therefore not false. There was thus no misleading information disseminated to the exchange.

Findings

49. Regulation 23(4) of LODR Regulations *inter alia* mandated that *"all material related party transactions"* shall require shareholder approval through resolution and that *no related party shall vote to approve such resolutions*. W.e.f. April 1, 2022, it was amended to mandate *prior* approval of shareholders.

50. Noticee's contention that the RPTs at Items 7 and 9 were between the two Companies, and directors and KMPs of the Company did not have any personal gains involved in the transactions and were not financially and otherwise interested in the resolutions is not tenable as I note from the shareholding pattern of Onelife that Gautam Deshpande (promoter of FCHL) and Sowmya Deshpande (promoter group of FCHL) both belonged to the promoter group of Onelife. Gautam Deshpande, as on June 30, 2022 held 1,19,18,316 shares of FCHL constituting 37.13% of its share capital while Sowmya Deshpande, the spouse of Gautam Deshpande, held 16,89,301 shares constituting 5.26%. In view of Gautam Deshpande and Sowmya Deshpande being a part of the promoter group of Onelife, they were "related parties" for the RPTs proposed to be approved in the AGM, as defined in Regulation 2(1)(zb) of the LODR Regulations.

FY 2022-23:

51. Hence, Gautam Deshpande (promoter of FCHL) and Sowmya Deshpande (promoter group of FCHL), also being a part of the promoter group of Onelife, should have not voted for the resolution to consider approval of RPT in Item No. 9 (RPTs with Onelife for inter-corporate loans up to an aggregate value of ₹20 crores in FY2022-23) of the Notice to the 28th AGM, in accordance with Regulation 23(4) of the LODR Regulations.

52. Similarly, while Item No. 7 of the Notice to the 28th AGM, proposed a blanket approval for all RPTs with unnamed related parties up to an aggregate of ₹100 crores for FY 2022-23, the promoter/ promoter group, Gautam Deshpande (promoter of FCHL) and Sowmya Deshpande (promoter group of FCHL), being

related parties, were not to vote to approve resolutions considering approval of RPT in Item No. 7, in accordance with Regulation 23(4) of the LODR Regulations.

53. However, I find from the Voting Results for the 28th AGM that the promoter/ promoter group of FCHL, having a shareholding of 1,36,07,617 shares, constituting 42.39% of its share capital (split between Gautam Deshpande - 1,19,18,316 shares constituting 37.13% of share capital and Sowmya Deshpande - 16,89,301 shares constituting 5.26% of share capital of FCHL) polled 1,19,18,316 votes in favour of the resolutions under Item Nos. 7 and 9 of the Notice to the 28th AGM, each. These votes constituted 86.67% of the total votes polled for both the resolutions under item Nos. 7 and 9.

FY 2021-22:

54. Further, I note that item No. 8 of the Notice to the 28th AGM proposed an Ordinary Resolution to approve RPT with Onelife for inter-corporate loans up to an aggregate value of ₹9 crores in FY 2021-22, in compliance with the requirement of Regulation 23(4) of LODR Regulations to obtain shareholders' approval for material RPTs and no related parties were to vote to approve any resolution considering approval of material RPTs. However, I find from the Voting Results for the 28th AGM that the promoter/ promoter group, having a shareholding of 1,36,07,617 (split between Gautam Deshpande and Sowmya Deshpande as detailed above) polled 1,19,18,316 votes in favour of the resolution under Item 8. These votes constituted 86.67% of the total votes polled for the resolutions under item No. 8 of the Notice to the 28th AGM.

55. In view of the above, I note that the Noticee allowed related parties to vote to approve the resolutions under item Nos. 7 and 9 considering approval of RPTs for FY 2022-23 and resolution under item No. 8 considering approval of RPTs with Onelife for FY 2021-22, therefore, I hold that Noticee has violated the provisions of Regulation 23(4) of the LODR Regulations.

E. <u>False and inaccurate submissions in the Voting Results:</u>

56. SCN alleged that 3 resolutions as mentioned in para 38 pertaining to approval of RPTs were passed in the 28th AGM of the Company.

57. In this regard, it was observed during examination that under Item No. 7 of the AGM, RPTs up to an aggregate of ₹100 crores with unnamed related parties were approved for FY 2022-23. The promoters of the Company fell within the definition of "related parties" as per Regulation 2(1)(zb) and were therefore interested in any resolution approving RPTs. However, in response to the question "Whether promoter/ promoter group are interested in agenda/ resolution?" in the Voting Results, the Company had answered "No". Such question is a part of the format for voting results prescribed in SEBI circular CIR/CFD/CMD/8/2015 dated November 4, 2015.

58. Further, it was observed that under Item No. 8 of the AGM, RPTs up to ₹9 crores with Onelife were approved for FY 2021-22. The promoters of the Company fell within the definition of "related parties" as per Regulation 2(1)(zb), belonged to the promoter group of Onelife and were therefore interested in any resolution approving transactions with Onelife. However, in response to the question "Whether promoter/ promoter group are interested in agenda/ resolution?" in the Voting Results, the Company had answered "No".

59. Further, it was observed that under Item No. 9 of the AGM, RPTs up to ₹20 crores with Onelife were approved for FY 2022-23. The promoters of the Company fell within the definition of "related parties" as per Regulation 2(1)(zb), belonged to the promoter group of Onelife and were therefore interested in any resolution approving transactions with Onelife. However, in response to the question "Whether promoter/ promoter group are interested in agenda/ resolution?" in the Voting Results, the Company had answered "No".

60. In view of the above, it was alleged in the SCN that the Noticee had provided false and inaccurate submissions in the Voting Results in its responses to the question "Whether promoter/ promoter group are interested in agenda/ resolution?" for item

nos. 7, 8 and 9. Therefore, it was alleged that the Noticee has violated the provisions of SEBI Circular CIR/CFD/CMD/8/2015 dated November 4, 2015 read with Regulations 4(1)(c) and 44(3) of the LODR Regulations.

Reply of Noticee

61. With regards to above allegations, Noticee *inter alia* submitted that the Explanatory Statement made with respect to the RPT resolutions proposed in Item Nos. 7 and 9 of the Notice to the AGM of the Company gives details of the transaction in accordance with the Companies Act and the SEBI Circular. Noticee further submitted that that none of the Directors and KMPs of the Company were financially and otherwise interested in the resolutions passed in Items 7 and 9 of the Notice to the 28 AGM. The transactions at Items 7 and 9 were between the two Companies and directors and KMPs of the Company did not have any personal gains involved in the transaction. The Explanatory Statements given were therefore not false. There was thus no misleading information disseminated to the exchange.

Findings

62. Noticee's contention that the RPTs at Items 7 and 9 were between the two Companies, and directors and KMPs of the Company did not have any personal gains involved in the transactions and were not financially and otherwise interested in the resolutions is not tenable as the findings with respect to the issue of *'Related parties voted in the shareholder resolution approving RPT's*' and similar submissions made therein, has already been made and recorded hereinabove at para no. 49 to 55.

63. Accordingly, I note that under item No. 7 of the AGM, RPTs up to an aggregate of ₹100 crores with unnamed related parties were approved for FY 2022-23. The promoter / promoter group of the Company fell within the definition of "related parties" as per Regulation 2(1)(zb) and therefore they were interested in any resolution approving RPTs. However, in response to the question "Whether promoter/ promoter group are interested in agenda/ resolution?" in the Voting Results, the Company had answered "No". Such question is a part of the format

for voting results prescribed in SEBI circular CIR/CFD/CMD/8/2015 dated November 4, 2015.

64. Similarly, I find that under item No. 8 of the AGM, RPTs up to ₹9 crores with Onelife were approved for FY 2021-22. The promoter / promoter group of the Company fell within the definition of “related parties” as per Regulation 2(1)(zb), belonged to the promoter group of Onelife and were therefore interested in any resolution approving transactions with Onelife. However, in response to the question “Whether promoter/ promoter group are interested in agenda/ resolution?” in the Voting Results, the Company had answered “No”.

65. Further, I note that under Item No. 9 of the AGM, RPTs up to ₹20 crores with Onelife were approved for FY 2022-23. The promoter / promoter group of the Company fell within the definition of “related parties” as per Regulation 2(1)(zb), belonged to the promoter group of Onelife and were therefore interested in any resolution approving transactions with Onelife. However, in response to the question “Whether promoter/ promoter group are interested in agenda/ resolution?” in the Voting Results, the Company had answered “No”.

66. In view of the above, I hold that the Noticee had provided false and inaccurate submissions in the Voting Results in its responses to the question “Whether promoter/ promoter group are interested in agenda/ resolution?” for item nos. 7, 8 and 9 of the 28th AGM of the Company. Therefore, I hold that the Noticee has violated the provisions of SEBI Circular CIR/CFD/CMD/8/2015 dated November 4, 2015 read with Regulations 4(1)(c) and 44(3) of the LODR Regulations.

F. Non- providing of the requisite information to shareholders while seeking approval for RPTs at the AGM:

67. It was noted that SEBI Circular SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021 *inter alia* mandates that w.e.f. 1.4.2022, the notice being sent to the shareholders seeking approval for any proposed RPT shall, in addition to the

requirements under the Companies Act, 2013, *inter alia* include the following information as a part of the explanatory statement:

i. Type, material terms and particulars of the proposed transaction;
ii. Name of the related party and its relationship with the listed entity or its subsidiary, including nature of its concern or interest (financial or otherwise);
iii. Tenure of the proposed transaction (particular tenure shall be specified);
iv. Value of the proposed transaction;
v. The percentage of the listed entity's annual consolidated turnover, for the immediately preceding financial year;
vi. If the transaction relates to any loans, inter-corporate deposits, advances or investments made or given by the listed entity or its subsidiary:
    a) details of the source of funds in connection with the proposed transaction;
    b) applicable terms, including covenants, tenure, interest rate and repayment schedule, whether secured or unsecured; if secured, the nature of security; and
    c) the purpose for which the funds will be utilized by the ultimate beneficiary of such funds pursuant to the RPT
vii. Justification as to why the RPT is in the interest of the listed entity.

68. The Explanatory Statement in Notice dated July 6, 2022 for the 28th AGM of the Company which was to be held on July 28, 2022, wherein approvals were sought for RPTs under Items Nos. 7 and 9 were perused during examination to examine for disclosure of details as mandated in the aforementioned SEBI Circular.

69. In this regard, it was observed during examination that the Explanatory Statement for Item No. 7 where the resolution proposed approval of proposed RPTs up to an aggregate of ₹100 crores for FY 2022-23, none of the details as required under the aforementioned SEBI circular were found to have been disclosed, including the requirement to disclose the name of the related party itself.

70. Further, it was observed that in the Explanatory Statement for Item No. 9 where the resolution proposed approval of proposed inter-corporate loans up to an aggregate of ₹20 crores with the related party Onelife for FY 2022-23, the following details as required under the aforementioned SEBI circular were found to have been not disclosed:
   a) Tenure of the proposed transaction,
   b) Percentage of the listed entity's annual consolidated turnover, for the immediately preceding financial year, that is represented by the value of the proposed transaction,
   c) Details of the source of funds in connection with the proposed transaction,
   d) Applicable terms, including covenants, tenure, interest rate and repayment schedule, whether secured or unsecured; if secured, the nature of security,
   e) The purpose for which the funds will be utilized by the ultimate beneficiary of such funds pursuant to the RPT,
   f) Justification as to why the RPT is in the interest of the listed entity.

71. In view of the above, it was alleged in the SCN that the Noticee had not disclosed the requisite details in its Explanatory Statement in the Notice to the AGM for resolutions proposing approval of proposed RPTs, and therefore, Noticee has allegedly violated Regulation 4(1)(d) and (e) read with Regulation 23(9) of the LODR Regulations and provisions of SEBI circular SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021.

Reply of Noticee

72. With respect to approval given to Item 7 and 9 of the Notice to the 28th AGM, Noticee submitted that the Explanatory Statement made with respect to the same gives details of the transaction in accordance with the Companies Act and the SEBI Circular. Therefore, there is no violation of any LODR Regulations or SEBI Circulars. Noticee furnished the 28th AGM Notice along with the corrigendum.

Findings

73. I have perused the Notice to the 28th AGM along with the corrigendum as furnished by the Noticee and I find that items Nos. 7 and 9 of Explanatory Statement as well corrigendum to the Notice dated July 6, 2022 for the 28th AGM of the Company for resolutions proposing approval of proposed RPTs do not provide the complete details as required by the SEBI Circular no. SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021, thus the above submission of the Noticee is not acceptable.

74. In this regard, I find that the Explanatory Statement for Item No. 7 where the resolution proposed approval of proposed RPTs up to an aggregate of ₹100 crores for FY 2022-23, none of the details as required under the aforementioned SEBI circular were disclosed, including the requirement to disclose the name of the related party itself.

75. Further, I find that in the Explanatory Statement for Item No. 9 where the resolution proposed approval of proposed inter-corporate loans up to an aggregate of ₹20 crores with the related party Onelife for FY 2022-23, the following details as required under the aforementioned SEBI circular were not disclosed:
    g) Tenure of the proposed transaction,
    h) Percentage of the listed entity's annual consolidated turnover, for the immediately preceding financial year, that is represented by the value of the proposed transaction,
    i) Details of the source of funds in connection with the proposed transaction,
    j) Applicable terms, including covenants, tenure, interest rate and repayment schedule, whether secured or unsecured; if secured, the nature of security,
    k) The purpose for which the funds will be utilized by the ultimate beneficiary of such funds pursuant to the RPT,
    l) Justification as to why the RPT is in the interest of the listed entity.

76. In view of the above, I hold that the Noticee had not disclosed the requisite details in its Explanatory Statement to the Notice to the 28th AGM for resolutions proposing approval of proposed RPTs, and therefore, Noticee has allegedly violated

Regulation 4(1)(d) and (e) read with Regulation 23(9) of the LODR Regulations and provisions of SEBI circular SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021.

G. <u>Shareholders approvals not taken for material RPTs:</u>

77. As indicated in para 28 and 46 above, transactions with related parties exceeding ₹4.24 crores and ₹3.54 crores, whether individually or on a cumulative basis for FY 2022-23 and FY 2021-22 respectively, required shareholder approvals as prescribed in Regulation 23(4) of the LODR Regulations.

78. However, upon perusal of the disclosures of RPTs by the Company for FY 2021-22 and FY 2022-23, the disclosures appeared to be erroneous. For instance, with the level of rounding in millions, the Company had declared a total amount of ₹19,78,965.06 crores in related party transactions for the Half Year Ending (**'HYE'**) March 2022.

79. Clarification was sought from the Company, which, vide email dated April 25, 2023, submitted as below:

    "Please note that RPT data previously provided was mentioned in 'Rupees'. Since we were unaware that the data was showing in 'Lacs'. Therefore the amount was very high comparative to actual amount. It was an inadvertent mistake…"

80. The Company was advised to submit the revised RPTs in the XBRL format on the BSE portal. The Company revised its disclosures for HYE September 2021 and March 2022 and submitted the acknowledgement vide email dated May 8, 2023.

81. Upon perusal of the disclosures of RPTs by the Company for HYE March 2023, it was observed that the Company had disclosed an advance of ₹121.9 million (₹12.19 crores) to Dealmoney Securities Pvt. Ltd. (the counterparty) as "value of transaction during the reporting period". Since the transaction for the period exceeded the threshold of ₹4.24 crores for FY 2022-23 as described in para 28

above, transactions with the entity required prior approval of the shareholders as prescribed in Regulation 23(4) of the LODR Regulations. However, it was observed that no shareholders' approval was taken for the said RPT.

82. In view of the above, it was alleged in the SCN that Noticee had entered into a material related party transaction with Dealmoney Securities Pvt. Ltd. in FY 2022-23 without obtaining prior approval of the shareholders, and therefore, Noticee has violated the provisions of Regulation 23(4) of the LODR Regulations.

Reply of Noticee

83. In response to above allegations, Noticee submitted that such omission in approval process was not intentional and had occurred due to internal issues which arose because of change in the Company Secretary.

Findings

84. I note that Noticee in its submission has accepted the violations that Noticee had entered into a material related party transaction with Dealmoney Securities Pvt. Ltd. in FY 2022-23 without obtaining prior approval of the shareholders. Therefore, I hold that Noticee has violated the provisions of Regulation 23(4) of the LODR Regulations.

H. <u>Non-disclosures of RPT:</u>

85. It was observed during examination that the Company, when submitting the revised disclosures for the reporting period of HYE March 2022, has made significant changes in its disclosures of RPTs beyond its admission of rounding errors, as mentioned hereinabove. The significant mismatches between the "Value of Transaction during the Reporting Period" in the original disclosure (adjusted for the Company's submission that the data was in Rupees) and the figures in the revised disclosure are listed below:

Table No. 2: Mismatches in the original RPT disclosure and revised RPT disclosure for HYE March 2022

Counterparty	Type of RPT	Value of RPT (adjusted original disclosure) (₹ in millions)	Value of RPT (revised disclosure) (₹ in millions)
Onelife Capital Advisors Limited	Loan/ Advance	18.4	103.635
Gautam Deshpande	Loan	0.59	-
Gautam Deshpande	Any other – excess payment received adjustable against future expenses	-	4.38

86. Similarly, it was observed that the Company has made significant changes in its disclosures of RPTs when submitting the revised disclosures for the reporting period of HYE September 2021. The changes were beyond its admission of rounding errors. The significant mismatches between the "Value of Transaction during the Reporting Period" in the original disclosure (adjusted for the Company's submission that the data was in Rupees) and the figures in the revised disclosure are listed below:

Table No. 3: Mismatches in the original RPT disclosure and revised RPT disclosure for HYE September 2021

Counterparty	Type of RPT	Value of RPT (adjusted original disclosure) (₹ in millions)	Value of RPT (revised disclosure) (₹ in millions)
Onelife Capital Advisors Limited	Loan/ Advance	2.54 (loan taken) 0.98 (loan given)	35.84
Dealmoney Distribution and E-Marketing Pvt. Ltd.	Sale of goods and services	8.20	-
Dealmoney Securities Pvt. Ltd.	Loan/ Advance	0.10	1.55

Counterparty	Type of RPT	Value of RPT (adjusted original disclosure) (₹ in millions)	Value of RPT (revised disclosure) (₹ in millions)
Dealmoney Distribution and Advisory Services Pvt. Ltd.	Purchase of goods and services	5.45	-

87. In view of the above, it was alleged in the SCN that Noticee had originally submitted a defective disclosures of its related party transactions for the HYE March 2022 and September 2021, and therefore, Noticee has violated the provisions of Regulation 4(1)(c) and (e) read with Regulation 23(9) of the LODR Regulations.

Reply of Noticee

88. Noticee submitted that the SCN wrongly seeks to allege violation of Regulation 23(9) read with Regulation 4(1)(c) and (e) for the HYE disclosures September 2021 and March 2022. Regulation 23(9) was added by an 6th amendment to LODR Regulation and was to be enforced with effect from April 01, 2022. Therefore, any HYE disclosure before April 01, 2022 do not fall under the purview of Regulation 23(9). As such, there cannot be any violation of Regulation 23(9) read with Regulation 4(1)(c) and (e) for alleged error in the HYE of September 2021 and March 2022.

89. Noticee further submitted that the Company had inadvertently erred in its reporting of data which was to be reported in 'Lacs'. The Company had reported in 'Rupees'. The Company immediately made rectifications on becoming aware of the error made in September 2021 HYE and March 2022 HYE and produced the revised disclosures.

Findings

90. In this regard, I find that Regulation 23(9) of the LODR Regulations was amended with effect from April 01, 2022 sixth amendment to the Regulations, however, prior

to the said amendment also, Regulation 23(9) was in existence, which reads as under:

"(9) The listed entity shall submit within 30 days from the date of publication of its standalone and consolidated financial results for the half year, disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website.

Provided that a 'high value debt listed entity' shall submit such disclosures along with its standalone financial results for the half year;"

91. I note that the above stated provisions of Regulation 23(9) of the LODR Regulations were prevailing before the sixth amendment and hence were applicable to the RPTs of the Noticee for the HYE March 2022 and September 2021. Above mentioned Regulation 23(9) of the LODR Regulations provides that the listed entity shall submit within 30 days from the date of publication of its standalone and consolidated financial results for the half year, disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website. Hence, Noticee was under obligation to make the correct and timely disclosures of its related party transactions for the HYE March 2022 and September 2021 as per aforementioned prevailing Regulation 23(9) of the LODR Regulations at that time.

92. However, Noticee when submitting the revised disclosures for the reporting period of HYE March 2022 and HYE September 2021, has made significant changes in its disclosures of RPTs beyond its admission of rounding errors, as mentioned hereinabove at para 78 to 80. The significant mismatches are between the "Value of Transaction during the Reporting Period" in the original RPTs disclosure (adjusted for the Company's submission that the data was in Rupees) and the figures in the revised RPTs disclosure for HYE March 2022 and HYE September 2021 as given above in table no. 2 and 3, respectively.

93. In view of the above, I hold that Noticee had originally submitted a defective disclosures of its related party transactions for the HYE March 2022 and HYE September 2021, and therefore, Noticee has violated the provisions of Regulation 4(1)(c) and (e) read with Regulation 23(9) of the LODR Regulations.

I. <u>Requisite details of RPTs not provided in the disclosures for the HYE September 2022:</u>

94. Regulation 23(9) of the LODR prescribed that *"The listed entity shall submit to the stock exchanges disclosures of related party transactions in the format as specified by the Board from time to time…".* The said format has been prescribed vide SEBI circular SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021 as an Annex. The format was applicable w.e.f. April 1, 2022.

95. It is *inter alia* required that additional disclosures be made in case the RPT relates to loans, inter-corporate deposits, advances or investments made or given by the listed entity / subsidiary. The additional disclosures required are details of the nature (loan/ advance/ intercorporate deposit/ investment), Interest Rate (%), tenure, secured/ unsecured, and the purpose for which the funds will be utilised by the ultimate recipient of funds (end usage).

96. However, it was observed during examination that that no such disclosures were made by Noticee in the Company's disclosure of RPTs for HYE September 2022 where loans/ advances have been given to/ taken from Onelife and Mr. Gautam Deshpande.

97. In view of the above, it was alleged in the SCN that Noticee has violated the provisions of Regulation 4(1)(d) and (e) read with Regulation 23(9) of the LODR Regulations and provisions of SEBI circular SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021.

Reply of Noticee

98. Noticee has not furnished any specific submission w.r.t. the above allegations related to ‘Requisite details of RPTs not provided in the disclosures for the HYE September 2022’.

Findings

99. I note that Noticee has not furnished any submission w.r.t. the above allegations, which indicates that Noticee has nothing to submit in this regard and hence, it is presumed that the above charges alleged against Noticee in the SCN have been admitted by it.

Issue II. Does the violation, if any, attract monetary penalty under Section 15A(b) and Section 15HB of the SEBI Act, 1992 and Section 23A(a) of the SCRA, 1956?

100. In the light of findings and observations made against the Noticee brought out in the foregoing paragraphs, it is evident that the Noticee has violated the following regulatory provisions:

(a) Regulations 4(1)(d) and 4(1)(e) read with Regulation 30(12) of the LODR Regulations;

(b) Regulation 23(4) read with Regulation 23(1) of the LODR Regulations;

(c) Regulation 4(1)(c) read with Regulation 30(2) of the LODR Regulations;

(d) Regulation 23(4) of the LODR Regulations;

(e) Regulations 4(1)(c) of the LODR Regulations read with SEBI Circular CIR/CFD/CMD/8/2015 dated November 4, 2015 and 44(3) of the LODR Regulations;

(f) Regulation 4(1)(d) and (e) read with Regulation 23(9) of the LODR Regulations and SEBI circular SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021; and

(g) Regulation 4(1)(c) and (e) read with Regulation 23(9) of the LODR Regulations.

101. Considering the material available on record, reply of the Noticee and findings made hereinabove and it has been held that Noticee has violated the provisions above regulatory provisions. The said violations make the Noticee liable for monetary penalty under the provisions of the SEBI Act, 1992 and SCRA, 1956.

102. While accepting the violations that RPT was entered with Dealmoney Securities Pvt. Ltd. in FY 2022-23, without obtaining prior approval of the shareholders, Noticee submitted that no loss was caused to any investor or any group of investors as a result of such inadvertent error. There was no disproportionate gain or unfair advantage made as a result of such inadvertent error. Further, regarding levy of penalty, Noticee also relied upon the orders of the Hon’ble Supreme Court in the case of Hindustan Steel Ltd. v. State of Orissa, (1972 83 ITR 26 (SC)) and the Hon'ble SAT in the case of DSE Financial Services Ltd v. SEBI (Appeal No. 153 of 2012) and submitted that Noticee ought not be penalised for alleged violation of provisions of LODR Regulations and/or any SEBI Circulars.

103. In this regard, I note that Hon'ble Securities Appellate Tribunal (‘SAT’) in the matter of ***Komal Nahata v. Securities and Exchange Board of India*** *(Appeal No. 5 of 2014 dated January 27, 2014)* has observed that:- *“Argument that no investor has suffered on account of non-disclosure and that the AO has not considered the mitigating factors set out under Section 15J of SEBI Act, 1992 is without any merit because firstly penalty for noncompliance of SAST Regulations, 1997 and PIT Regulations, 1992 is not dependent upon the investors actually suffering on account of such non-disclosure”*.

104. I also note that in Appeal No. 78 of 2014 in the case of ***Akriti Global Traders Ltd. Vs. SEBI***, the Hon'ble SAT vide order dated September 30, 2014 has observed that: *“… Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit, because, firstly, penal liability arises as soon*

as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay".

105. Further, reliance is placed upon the judgment of Hon'ble Supreme Court of India in the matter of **SEBI Vs. Shri Ram Mutual Fund** [2006] 68 SCL 216(SC) wherein it was *inter alia* held that –

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

106. The aforesaid violations, makes the Noticee liable for penalty under Section 15A(b) and Section 15HB of the SEBI Act, 1992 and Section 23A(a) of the SCRA, 1956. The contents of the said provisions of law is reproduced herein below:

Relevant provisions of the SEBI Act, 1992:

Penalty for failure to furnish information, return, etc.

15A. *If any person, who is required under this Act or any rules or regulations made thereunder,-*

……….

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;

Penalty for contravention where no separate penalty has been provided.

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

Relevant provisions of the SCRA, 1956:

Penalty for failure to furnish information, return, etc.

23A. *Any person, who is required under this Act or any rules made thereunder,—*

(a) to furnish any information, document, books, returns or report to the recongnised stock exchange or to the Board, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recongnised stock exchange or the Act or rules made thereunder, or who furnishes false, incorrect or incomplete information, document, books, return or report, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees for each such failure;

Issue III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15-J of the SEBI Act, 1992 read with Rule 5(2) of the SEBI Adjudication Rules; and Section 23-J of the SCRA, 1956 read with Rule 5(2) of the SCR Adjudication Rules?

107. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15-J of the SEBI Act, 1992 and Section 23-J of the SCRA, 1956, which reads as under: -

SEBI Act, 1992

Factors to be taken into account while adjudging quantum of penalty

15J *While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely :—*

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

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

(c) the repetitive nature of the default.

[Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c)

of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]

SCRA, 1956

Factors to be taken into account while adjudging quantum of penalty.

23J. *While adjudging the quantum of penalty under section 12A or section 23-I, the Securities and Exchange Board of India or the adjudicating officer shall have due regard to the following factors, namely:-*

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

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

(c) the repetitive nature of the default.

[Explanation.- For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.]

108. In this case, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of non-compliance to the provisions of the LODR Regulations and SEBI Circulars is not available. With respect to the repetitive nature of the default, I do not find anything of record. However, in the present matter, based on findings of the examination, it has been established that the Noticee has not complied with the requirements of the LODR Regulations and SEBI Circulars and violated various provisions as indicated hereinabove. Noticee was under a statutory obligation to abide by the provisions of the LODR Regulations and SEBI Circulars, which it failed to do during the examination period. The said violations by the Noticee attracts monetary penalty.

ORDER

109. Considering all the facts and circumstances of the case including the submissions of the Noticee and findings elaborated hereinabove, exercising the powers conferred upon me under Section 15-I of SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, 1995, and Section 23-I of the SCRA, 1956 read with Rule 5 of the SCR Adjudication Rules, I hereby impose a monetary penalty of ₹15,00,000/- (INR Fifteen lakh only) under Section 15A(b) and Section 15HB of the SEBI Act, 1992 and Section 23A(a) of the SCRA, 1956, on the Noticee. In my view, the said penalty is commensurate with the violations committed by the Noticee in this case.

110. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

111. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated 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.

112. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticee and also to the SEBI.

Place: Mumbai — **SHASHI KUMAR VALSAKUMAR**

Date: March 21, 2024 — **ADJUDICATING OFFICER**