

**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

[ADJUDICATION ORDER NO: Order/GR/BM/2022-23/16742-16747]

---

**ORDER 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**

**In respect of:**

| <b>Noticee No.</b> | <b>Name of the Noticee</b> | <b>PAN</b> |
|--------------------|----------------------------|------------|
| <b>1.</b>          | Shri S. Giridharan         | AAGPG2646E |
| <b>2.</b>          | Ms. G. Gita                | AAGPG2647F |
| <b>3.</b>          | Shri T.S. Ravichandran     | AAJPR0108F |
| <b>4.</b>          | Shri S. Arvind             | AACPA7943E |
| <b>5.</b>          | Shri. Arun Panchariya      | AEVPP6125N |
| <b>6.</b>          | Shri. Mukesh Chauradiya    | AAVPC0966A |

**In the matter of GDR Issue of Edserv Softsystems Limited.,**

---

(The aforesaid entities are hereinafter individually referred to by their respective names/ Noticee numbers. and collectively as “Noticees”, unless the context specifies otherwise)

## **BACKGROUND IN BRIEF**

1. The 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 Edserv Softsystemes Ltd., (hereinafter referred to as “**Company**”/ “**Edserv**”) during the period from July 01, 2011 to August 31, 2011 (hereinafter referred to as “**Investigation Period**”).
2. The investigation, *prima facie*, revealed that Edserv had issued 1.60 million GDRs (amounting to USD 23.89 Million), on August 10, 2011 equivalent to 80,00,000 equity shares having par value of Rs. 10 each, and the said issue was subscribed by one entity viz. Vintage FZE (now known as Alta Vista International FZE) (hereinafter referred to as “**Vintage**”). It was observed that the subscription amount was paid by Vintage by obtaining a loan from European American Investment Bank AG (“**EURAM Bank**”) by entering into Loan Agreement dated July 25, 2011 with EURAM Bank.
3. Further, it was observed that S Giridharan (Noticee No. 1) and S. Arvind (Noticee No. 4) attended the Board Meeting of Edserv held on April 29, 2011 and passed a board resolution inter alia authorizing Ms.G Gita (Noticee No. 2), Managing Director of the Company for opening of an account with EURAM Bank for the purpose of receiving subscription money in respect of the GDR issue of Edserv and also for using the funds deposited in the said bank account as security in connection with loans, if any.

4. However, subsequently G Gita (Noticee No. 2), T.S. Ravichandran (Noticee No.3) and S. Arvind (Noticee No. 4), Directors on the Board of Edserv in the board meeting dated July 25, 2011 passed another board resolution and additionally authorised Mr. S. Giridharan (Noticee No. 1), *Chairman & CEO of the Company* to sign, execute any application, agreement etc. as may be required.
5. It was observed that the subscription amount was paid by Vintage by obtaining a loan from European American Investment Bank AG ("**EURAM Bank**") by entering into Loan Agreement dated July 25, 2011 with EURAM Bank. Thereafter, it was observed that S Giridharan (Noticee No.1) had signed and executed the Pledge Agreement dated July 25, 2011 with EURAM Bank pledging GDR proceeds as collateral against the loan availed by Vintage for subscribing to GDRs of Edserv, thus securing Vintage's loan. Therefore, it was alleged that the scheme of issuance of GDRs was fraudulent and the individuals named above i.e. the Directors of Edserv had acted as parties to the fraudulent scheme.
6. In addition, on perusal of copy of Know Your Customer documents (signed on June 06, 2007) of Vintage available with EURAM Bank, during investigation it was also observed that Mr Mukesh Chauradiya (Noticee No. 6) had signed the Loan Agreement dated July 25, 2011 on behalf of Vintage in the capacity of its Managing Director. It was further observed that the passport of Noticee No.1 received by EURAM Bank and the copy of the pledge agreement was verified by Mr. Arun Panchariya (Noticee No. 5).

7. It was also observed that on default on loan payment of USD 23.29 million by Vintage, the amount was adjusted by EURAM Bank from the GDR proceeds of Edserv as it had pledged GDR proceeds against the said loan.
8. Apart from the above, it was also observed that some Foreign Institutional Investors (**FIIs**) connected and controlled by Noticee No.5, namely India Focus Cardinal Fund, sub-account of EURAM Bank and Cardinal Capital Partners and High Blue Sky Emerging Market Fund, sub-account of Golden Cliff (FII), converted the GDRs into Equity Shares and sold shares in the Indian securities market amounting to Rs.12,85,90,978.
9. Considering the fact that Vintage was sole subscriber to GDR issue, with Shri Arun Panchariya (Noticee No. 5) being the beneficial owner of Vintage, which defaulted on loan repayment, it is alleged that converted equity shares sold by the aforesaid FIIs were originally acquired by Vintage free of cost. Thus, it is alleged that Shri Arun Panchariya (Noticee No. 5) devised GDR scheme along with Edserv 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 Edserv to the tune of USD 23.29 million. Therefore, it was alleged that the Noticee No. 5 and 6 were also part of the scheme of fraudulent issuance of GDRs.
10. SEBI had, therefore, initiated adjudication proceedings *inter alia* against Noticee No. 1 to 6 i.e. Shri S. Giridharan, Ms. G. Gita, Shri T.S. Ravichandran, Shri S. Arvind, Shri. Arun Panchariya and Shri. Mukesh Chauradiya respectively, 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**”) for acting as party to the fraudulent scheme.

11. **APPOINTMENT OF THE ADJUDICATING OFFICER**

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 January 10, 2018, to inquire into and adjudge under Section 15HA of the SEBI Act, 1992 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 place of Shri Biju S. Thereafter, the undersigned was appointed as the Adjudicating Officer in the instant case, which was communicated vide communiqué dated May 22, 2019. These proceedings are therefore being 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**

Show Cause Notice No. EAD-4/ADJ/BS/DS/OW/18136-41/2018 dated June 27, 2018 (hereinafter referred to as “**SCN**”) was issued by the erstwhile AO, Shri Biju S. to the Noticees in terms of Section 15-I of the SEBI Act, 1992 read with Rule 4

of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as “**SEBI Adjudication Rules**”) to show cause as to why an enquiry should not be initiated and penalty be not imposed under Section 15HA of the SEBI Act 1992 as applicable for the alleged violations specified in the SCNs.

12. The said SCN issued to Shri S. Giridharan (Noticee No.1) and Ms. G. Gita (Noticee No.2) was issued at the same address which returned undelivered. It was then served twice to the Noticee No. 1 and 2 vide email dated October 23, 2018 and December 03, 2018 respectively. Subsequently, in the interest of natural justice, opportunity of personal hearing was granted to them vide hearing notice dated April 27, 2022 to which Noticee No.1, while replying on behalf of himself as well as Noticee No. 2, submitted that he was not aware of the said SCN though it was sent to the same email id on multiple occasions. The SCN was again forwarded to them vide email dated April 25, 2022. Thereafter, vide email dated April 25, 2022, they (Noticee No. 1 and 2) sought adjournment of hearing which was granted to them and the hearing was accordingly rescheduled on May 04, 2022. Meanwhile, they made submissions vide email dated May 04, 2022. Subsequently, Noticee No. 1 attended the said hearing on May 04, 2022 on behalf of himself and Noticee No. 2 and sought 3 weeks' time for making further submission. As the SCN was already issued and served to them in 2018, 10 days' time was granted to them for making additional submission. However, it is noted that no additional reply is filed by them till date.

13. The SCN dated June 27, 2018 was served to T.S. Ravichandran (Noticee No.3) and S. Arvind (Noticee No. 4). They filed their replies vide email dated July 05, 2018. Subsequently, vide hearing notice dated April 18, 2022, opportunity of personal hearing was granted to them on April 27, 2022. However, vide mail dated April 25, 2022, both, Noticee No. 3 and 4 submitted that as in the WTM order, they were held to be not responsible for the lapses committed by the Company, no further action is required in this matter against them. Both Noticee No. 3 and 4 didn't attend the said hearing.
14. The said SCN dated June 27, 2018 was served to Shri. Arun Panchariya (Noticee No. 5) and Shri. Mukesh Chauradiya (Noticee No.6). Both of the above Noticees submitted their reply to the SCN vide letter dated July 19, 201 and July 03, 2018 respectively. Subsequently, vide hearing notice dated April 18, 2022 opportunity of personal hearing was granted to them on April 27, 2022. The said hearing notice returned undelivered from all 3 addresses of Noticee No. 5. Thereafter, it was served to him vide mail dated April 28, 2022 but he didn't attend the aforesaid hearing.
15. Vide mail dated May 16, 2022, Noticee No. 6 submitted that he couldn't attend the hearing because of late receipt of the notice. Accordingly, one more opportunity of hearing was granted to Noticee No. 6 on May 25, 2022. Noticee No. 6 attended the hearing on May 25, 2022 and reiterated the submissions made by him by his letter dated July 03, 2018.

16. **The summary of the replies submitted by Noticee 1 to 6 are as under:**

**S Giridharan (Noticee No. 1) and G Gita (Noticee No. 2):**

- a) We are not aware of any SCN dated June 27, 2018 other than the SCN dated January, 2018 with regard to the GDRs of Edserv for which the proceedings and prosecution got initiated from your end subsequently after we have responded to the same in detail.
- b) The SCN issued by you on June, 2018 and pursued further by your goodself after a gap of 4 years of issuing the same is do with the GDR issued by M/s Edserv Softsystems in the year 2011.
- c) The company is in liquidation by an honorable Highcourt order on 19th August 2013 and immediately after that the Official liquidator (OL) attached to Highcourt Madras had been appointed to be the sole custodian of the company to take care of all affairs of the company.
- d) So the undersigned can't represent the company for the investigation of the GDR done by the company officially unless and until the OL grants authorisation for us to represent, after giving us all the details of the GDR, the records and communications and correspondence associated with the GDR that transpired during 2011 by looking at official mail communications which are lying with OL.
- e) This matter may kindly be pursued only after including the OL as Noticee 1 who is the sole custodian of the company and hearing them representing the company.

**T. S. Ravichandran (Noticee No. 3) and S. Arvind (Noticee No. 4):**

- f) They were Independent Non-Executive Director of the Company and NOT in charge of and responsible to the Company for the affairs of the Company. They were NOT responsible for the day to day affairs of the Company.*
- g) The lapses pointed out in the instant case in respect of the GDR issue are lapses which they were not aware of when they were Directors of the Company.*
- h) Noticee No. 1 and 2 alone were responsible for day to day affairs of the Company and matters related to GDR issue.*
- i) Non-disclosure of loan and pledge agreement as well as that GDR's were not fully subscribed was not disclosed to the Board of Directors.*
- j) Mere certification of the Board Resolution does not make them part of any conspiracy to issue improper GDR's.*
- k) Noticee No. 4 sent an email to Noticee No. 1 with a copy to Noticee No. 3 questioning how he had made this investment without Board clearance and asking him to give a statement of the use of funds as on that date. They also told him that funds were needed in India for Company operations and questioned him as to when he would be able to get any funds to India for the use of the Company. They also asked him to give all details of the use of the GDR funds as on 6<sup>th</sup> November 2012 as also to indicate to them any difficulties experienced by him in repatriating funds to India. No reply from Noticee No. 1 was received.*
- l) Noticee No. 3 and 4 resigned as Director of the Company w.e.f. December 10, 2012 and January 28, 2013 respectively.*

**Arun Panchariya (Noticee No. 5):**

- m) The Hon'ble Supreme Court in the case of SEBI v P a n Asia Advisors Ltd and others laid down that SEBI has jurisdiction to take action against me only if GDR issue has an adverse impact on the Indian securities markets. In other words, unless it is shown by SEBI that the issue of GDRs by any Indian company adversely impacted the Indian securities market, it would have no jurisdiction to proceed against me for alleged manipulation or violations committed it in respect of a GDR issue.*
- n) I hereby deny each and every allegations of manipulative activities raised against me as the present Notice has completely failed to establish as to how GDR issue involved in the present case adversely impacted the Indian securities market and the same notice leads to the mala fide intention of SEBI for unjustifiably harassing me.*

**Mukesh Chauradiya (Noticee No. 6):**

- o) 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;*
- p) In the Shareholder's list as on September30, 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;*

- q) Arun Panchariya was initially the sole director, subsequently somewhere in 2010, Ashok Panchariya, his brother, replaced him as the Director of Vintage FZE;*
- r) 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;*
- s) 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;*
- t) 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;*
- u) 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;*
- v) 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;*

w) *The Noticee signed only the loan redemption letters on instruction from Arun Panchariya;*

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

y) *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;*

z) *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;*

aa) *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; and*

bb) *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.*

17. In view of the above, I am of the view 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 reply to the SCN and appear for hearing.

### **CONSIDERATION OF ISSUES**

18. Considering the above facts, in the present proceeding, the 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 GDRs issued by Edserv, have been responsible for fraudulent issues of GDRs and, as a consequence, whether 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?
- II. Does the violation, if established, attract monetary penalty under Section 15HA of the SEBI Act, 1992?
- III. If yes, then what should be the quantum of penalty?

### **OBSERVATIONS AND FINDINGS**

19. 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 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.*

20. Before proceeding with the merits of the matter, it would be appropriate to first deal with following preliminary contentions raised by some of the Noticees:

- a) Jurisdiction of SEBI challenged as GDR issue done outside India
- b) Delay in the proceedings

21. Noticee No. 5 and 6 has raised the contention about the jurisdiction of SEBI in the instant matter, as GDR issue was done outside of India. Noticee No. 5 has quoted the Hon'ble Supreme Court judgement in the case of SEBI v Pan Asia Advisors Ltd and others contending that SEBI has jurisdiction to take action against him only if GDR issue has an adverse impact on the Indian securities markets.

22. In this regard, I note that the issuance of GDRs is from the authorised share capital of a company listed in Indian stock exchanges. Any structuring or manipulation related to GDRs has a direct impact on the stocks of the companies trading in Indian market. I further note that the underlying security of the GDRs are Indian securities and the two-way fungibility scheme for GDRs allows for conversion of GDRs in Indian market and vice versa, and the impact of such issuance, cancellation/conversion and sale/transfer of shares so converted has direct bearing on the securities market in India.
23. Further, I observe that the activities of Mr. Panchariya, Pan Asia, Vintage etc have a direct connection on the securities market in India as amply brought out in the Investigation Report and in the SCN and therefore they certainly fall within the ambit of SEBI's jurisdiction.
24. In this regard, I note that with regards to jurisdiction of SEBI against Mr. Panchariya and the lead manager viz. Pan Asia involving the alleged violations of provisions of SEBI Act and PFUTP Regulations, the Hon'ble Supreme Court in the matter of **SEBI vs Pan Asia Advisors Ltd & Anr** vide its Order dated July 06, 2015 has held that –

*“73. Along with the Section 12A, when we read Regulation 2(1)(c) of 2003 Regulations, the act of fraud has been elaborately defined to include any kind of activity which would work against the interest of the investors in securities. Further, such interest of investors can be better ascertained by making reference to Section 2(h)(iii) of the SCR Act, 1956 which defines the ‘security’ to mean the right or interest in securities. A conspectus reference to Section 12A(a) (b) and (c) read along with*

*Regulation 2(1)(b) and (c), as well as Section 2(h)(iii) of the SCR Act, 1956 sufficiently disclose that it would cover any act which will have relevance in protecting the interest of the investors in securities and security market with any person however remotely the same are connected with such securities, in the event of such an act working against the interest of investors in securities and securities market by way of fraud which has been elaborately defined under Regulation 2(i)(c) of 2003 Regulations.*

*74. Having thus noted the statutory prescription relating to the issuance of GDR based on the underlying shares of the issuing company, the manner in which such GDRs were being traded in the global market with the support and assistance of Lead Manager, the scope of construing GDRs as 'securities' falling under the definition of 'securities' as defined under Section 2(h) of the SCR Act, 1956 requires to be noted. The extent of duties and powers vested with SEBI, namely, the protection of the interest of investors in securities and securities market and also the prohibitive measures as well as penal action that can be taken by SEBI whenever it comes across any fraud committed by any person relating to the interest of the investors in securities and securities market are very wide."*

I note that Hon'ble Supreme Court of India also made the following observations:

*"We are therefore convinced that having regard to the nature of allegations in the interests of investors in securities as well as the statutory obligation/duty cast upon SEBI to protect their interests, SEBI has got every jurisdiction to proceed against the respondents as well as the issuing company."*

25. Also I note that there is no such restriction in law. In the instant case, I find that Noticees have been alleged to have engaged in fraudulent activities adversely affecting the interests of investors in the Indian securities market. In view of the foregoing, I am of the considered view that SEBI has jurisdiction to proceed against Noticee No. 5 and 6 and find no merits in the above contentions of the Noticees.

26. Noticee No 1 and 2 has made a contention that the SCN was issued in June 2018 and pursued after a gap of 4 years for GDR issued by M/s Edserv Softsystems in the year 2011. In this regard, I note that in the present case, SEBI investigated issue of GDRs in the overseas markets by the Indian companies on receipt of a complaint in the year 2009, regarding misuse of GDR route by few companies. The investigation prima facie revealed that in many of the GDR issues, money for subscribing to GDR was availed as a loan by the subscribers, from an overseas Bank wherein the issuer company gave security for such loan taken by the subscribers, by pledging/creating charge on the GDR issue proceeds. It was also observed that such subscribers subscribed the GDRs without any valid consideration and sold the underlying shares in the securities market in India. Accordingly, where such *modus operandi* was prima facie observed, such GDR issues made before the year 2009 were examined. SEBI initiated investigation as soon as SEBI came to know that such companies have adopted the modus operandi as referred to above. Since, the GDRs are issued abroad and related transactions were carried out outside India, SEBI had to call information from the various entities situated abroad in such large number of fraudulent GDR issues. Such information inter alia included the details of (a) GDR issuer companies, (b) custodian of securities, (c) overseas depository, (d) overseas banks, (e) subscribers of GDR issue (mostly overseas), (f) lead manager, (g) various layers of transactions, etc. This information was not readily forthcoming. Therefore, SEBI had to collect information and documents from various sources including approaching the foreign regulators for assistance in procuring information and

documents from the concerned entities situated outside India. The foreign regulators had also to collect this information from the concerned entities and then to furnish to SEBI. Thus, the process of collection of information in the matter was complex, tedious and time consuming. It is noted from SEBI order dated June 16, 2016 that investigation was initiated in respect of 59 GDR issues made by 51 Indian Companies during the period 2002 to 2014. BCIL (Noticee No. 1) was one such GDR issuer where such modus operandi were also observed and the investigation was completed in March, 2017. I note that after completion of the investigation, the SCN was issued to the Noticees on June 29, 2018. From the above facts and circumstances of the case, it cannot be said that there was inordinate and unreasonable delay in the matter, as contended by the aforesaid Noticee No.3.

27. It is further noted that there is no provision in the SEBI Act, 1992 which provides limitation period for taking action for the violation of the provisions of the Act or the Regulations made thereunder. In terms of Section 24(1) of the SEBI Act, 1992, any contravention to the provisions of SEBI Act and the Rules and Regulations framed thereunder is punishable with imprisonment for a term which may extend to the period of ten years and thus there is no limitation for initiating action for the same. In **Ravi Mohan & Ors. v. SEBI** and other connected appeals decided on August 27, 2013, the Hon'ble SAT while referring to its own decision in **HB Stockholdings Ltd. v. SEBI** (Appeal no. 114 of 2012 decided on August 27, 2003) (which has also been relied upon by the Noticees) and decision of Hon'ble Supreme Court in **Collector of Central Excise, New Delhi v. Bhagsons Paint Industry (India)** reported in 2003 (158) ELT 129 (S.C.), held as under:

*“....Based on decision of this Tribunal in case of HB Stockholdings Ltd. vs. SEBI (Appeal no. 114 of 2012 decided on 27.08.2013) it is contended on behalf of the appellants that in view of the delay of more than 8 years in issuing the show cause notice, the impugned order is liable to be quashed and set aside. There is no merit in this contention, because, this Tribunal while setting aside the decision of SEBI on merits has clearly held in para 20 of the order, that delay itself may not be fatal in each and every case. Moreover, the Apex Court in case of Collector of Central Excise, New Delhi vs. Bhagsons Paint Industry (India) reported in 2003 (158) ELT 129 (S.C) has held that if there no statutory bar for adjudicating the matter beyond a particular date, the Tribunal cannot set aside the adjudication order merely on the ground that the adjudication order is passed after a lapse of several years from the date of issuing notice....”*

28. In the facts and circumstances of the present matter, I note that the investigation has been conducted and proceedings have been initiated in reasonable time. In the matter of **Jindal Cotex Ltd. and others Vs. SEBI** (Appeal No. 376 of 2019 decided on 05.02.2020) while dealing with an appeal emanating from the similar GDR issue wherein a plea of delay was also taken by the appellant therein, Hon'ble SAT observed as under:

*“.....Arguments on delay in investigation and consequently affecting natural justice are also devoid of any merit in the matter since this Tribunal is aware of the complexity involved in the entire manipulative GDR issue; how long it took SEBI to gain information relating to the various entities from multiple jurisdictions in the matter of PAN Asia Advisors Limited (Supra) and Cals Refineries Limited (Supra) etc.....”*

29. In view of the above, and considering the facts and circumstances, I note that there was no delay in the issuance of SCN in the matter as argued by the Noticee No. 1 and 2, so the contentions of the Noticee in this regard are without merits. Further, delay in initiating the proceedings itself should not be a ground for discharging the Noticee.

**Issue I: Whether the Noticees in light of their role in GDR issues of EDSERV, have been responsible for fraudulent issues of GDRs and, as a consequence, whether 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?**

30. From the material available on record, I note that Edserv had issued 1.60 million GDRs (amounting to USD 23.89 million) on August 10, 2011, equivalent to 80,00,000 equity shares having par value of Rs.10 each. Summary of the aforesaid GDRs issued by Edserv, is tabulated below.

| GDR issue date | No. GDRs Issued (mn.) | Capital raised (US\$ mn.) | Local custodian | No. of equity shares underlying GDRs | Global Depository Bank  | Lead Manager                    | Bank where GDR proceeds deposited | GDRs listed on           |
|----------------|-----------------------|---------------------------|-----------------|--------------------------------------|-------------------------|---------------------------------|-----------------------------------|--------------------------|
| 10-Aug-2011    | 1.60                  | 23.89                     | HSBC, Mumbai    | 80,00,000                            | Bank of New York Mellon | Pan Asian Advisors Ltd., London | EURAM Bank, Austria               | Luxomberg Stock Exchange |

31. SEBI Investigation observed that subscription to the GDR was obtained through a loan agreement as well as a pledge agreement, details of which are discussed in the following paragraphs, and therefore, it was alleged that the GDR issuance was done through a fraudulent arrangement.

32. Investigations further observed that an entity viz. Vintage FZE (now known as Alta Vista International FZE) (hereinafter referred to as “**Vintage**”) had obtained a loan of USD 23.89 million by entering into a Loan Agreement dated July 25, 2011, with EURAM Bank to subscribe to the GDRs of Edserv. The aforesaid Loan Agreement was signed by the Noticee No. 6 in the capacity of Managing Director of Vintage. On perusal of the Loan Agreement, I note that the following has been *inter alia* mentioned therein –

1. Currency and the amount of facility:

USD 23,888,000

(The amount is exactly the same amount raised by Edserv through the said GDR offering.)

2. Nature and purpose of facility:

To provide funding enabling Vintage FZE to take down GDR issue of 1,600,000 Luxembourg public offering and may only be transferred to EURAM account nr. 580048, Edserv Softsystems Limited”

6. Security

6.1. 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 account 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. 580048 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.

33. From the aforesaid Loan Agreement, I note that Vintage had availed a loan facility to the extent of USD 23.89 million from EURAM Bank to subscribe to the GDRs of Edserv.

34. And also from the certified true copy of Edserv's Board Resolution dated April 29, 2011 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.”***

***“RESOLVED FURTHER THAT Mrs. G Gita, Managing Director of the Company, be and are 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.”***

***“RESOLVED FURTHER THAT Mrs. G Gita, Managing Director of the Company, be and are hereby severally authorized draw cheques and other documents, and to give instructions from time to time as may be necessary to the said Euram Bank or any of branch of Euram Bank, including the Offshore Branch, for the purpose of operation of and dealing with the said vank account and carry out other relevant and necessary transactions and generally to take all such steps and to do all such things as may be required from time to time on behalf of the Company.***

***“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.”***

35. Further, as per Edserv's Board Resolution dated July 25, 2011, it is observed that Noticee No. 1 was additionally authorised to sign, execute any application, agreement etc. as may be required. The relevant part of the Board Resolution is reproduced below::

***"RESOLVED THAT** in addition to the authority granted by the ADR/GDR/FCCB Committee at its meeting held on 29th April 2011 to Mrs. G.Gitaa, Managing Director of the Company, Mr. S. Giridharan, Chairman & CEO of the Company be and is hereby additionally authorised to operate the company's account held with EURAM bank or any branch of EURAM Bank, including the Offshore Branch, outside India, 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 and to draw cheques and other documents, and to give instructions from time to time as may be necessary to the said EURAM bank or any of branch of EURAM bank, including the Offshore Branch, for the purpose of operation of and dealing with the said bank account and carry out other relevant and necessary transactions and generally to take all such steps and to do all such things as may be required from time to time on behalf of the company."*

36. From the aforesaid resolution of the Board Meeting it is observed that the Board of Directors of Edserv had authorized, Shri. S Giridharan (Noticee No.1), Chairman and CEO, to sign and execute any application, agreement and other paper from time to time as may be required by EURAM Bank. For this purpose, Shri. S Giridharan (Noticee No.1) was inter alia authorized to carry and use the seal of Edserv. In the

said resolution, the Board of Directors had further authorized EURAM Bank to use the funds deposited in the bank account opened with EURAM Bank in the manner of subscription money in respect of the GDR issue of the company, as security in connection with loans, if any.

37. From the copy of the minutes of the meeting, it is observed that the Noticee 1 and 4 attended the Board Meeting dated April 29, 2011 and Noticee No. 2, 3 and 4 attended the Board Meeting dated July 25, 2011 approving the aforementioned resolutions, first authorizing Noticee No. 2 and then additionally authorizing Noticee No.1. The aforesaid fact of opening of bank account with EURAM Bank for such purposes as stated in the Board resolution and reproduced above has not been refuted by any of the Noticee No. 1 to 4.

38. I note from the records made available by EURAM Bank that subsequently Edserv had entered into a Pledge Agreement with EURAM Bank on July 25, 2011. The said Pledge Agreement was signed by Shri. S Giridharan (Noticee No.1) on behalf of Edserv, in the capacity of Chairman and CEO of Edserv. The salient Clauses of the Pledge Agreement are *inter alia* as under:

1. Preamble

*By loan agreement K250711-001 (hereinafter referred to as the "Loan Agreement") dated 25 July, 2011, the Bank granted a loan (hereinafter referred to as the "Loan") to Vintage FZE, AAH-213, Al Ahmadi House, Jebel Ali Free Trade Zone, Jebel Ali, Dubai, United Arab Emirates ("the Borrower") in the amount of \$ USD 23,888,000. The Pledgor has received a copy of the Loan Agreement No. K250711-001 and acknowledges and agrees to its terms and conditions."*

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 bills 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 of USD 23,888,000 existing from time to time at present or hereafter on the **securities account(s) no.580048** 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. 580048 kept by the Bank (hereinafter referred to as the “Pledged Time Deposit Account”) and all amounts credited at any particular time therein. The interest rate on the deposit in the amount of facility amount of the Loan Agreement will be fixed at 0.25% p.a.

(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.....

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 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

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 transactions, selected by the Bank.

6.3. *The 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."*

39. I note that the Pledge Agreement refers to the Loan Agreement dated July 25, 2011 between the borrower i.e. Vintage, and EURAM Bank, whereby Vintage was granted a loan of USD 23.89 million, and it is stated that the Pledgor i.e. Edserv has received a copy of the said Loan Agreement and acknowledges and agrees to its terms and conditions. By signing the Pledge Agreement, Edserv is deemed to be clearly aware that Vintage was the subscriber to the GDR issue. On perusal of the contents of the Pledge Agreement, it is noted that the Pledgor had agreed to pledge Edserv 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 Agreement 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."*

Regarding the dates, it is noted that the Pledge Agreement and the Loan Agreement were both dated July 25, 2011. Further, I also note that the Loan Agreement expressly states that the Pledge Agreement was an integral part of the Loan Agreement.

40. From the Loan Agreement and the bank account statement of Vintage, I note that Vintage had availed a loan from the EURAM Bank to the extent of USD 23.89 million to subscribe to the GDRs of Edserv. From the statement of Vintage's bank account and the escrow account for the GDR issue, it is observed that Vintage had instructed EURAM to transfer an amount of USD 23.89 million from its account and to credit it into the escrow account of Edserv. Accordingly, the said amount was credited to the account of Edserv on August 09, 2011. The bank account statement of Edserv 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 issue of Edserv comprising 1.60 million GDRs (amounting to USD 23.89 million), was subscribed by only one entity, i.e. Vintage. I further note that the loan agreement between Vintage and EURAM was signed on July 25, 2011 and on the same date Vintage had instructed EURAM to transfer the said amount of USD 23.89 million from its account to that of Edserv and in turn the same Edserv account was pledged with EURAM Bank under the Pledge Agreement.

41. Further, it is observed from Vintage's loan account statement with EURAM Bank that Vintage repaid the loan amount to the extent of USD 0.6 million on February 23, 2012 and thereafter defaulted on the repayment of balance loan amount of USD 23.29 million (including interest on loan amount). Details of repayment of loan by Vintage as observed from information provided by EURAM Bank are tabulated below:

| Date      | Particulars                | Repayment of loan by Vintage to EURAM | Payment (transfer) of amounts by Edserv |
|-----------|----------------------------|---------------------------------------|-----------------------------------------|
| 23-Feb-12 | Repayments                 | 600,000                               |                                         |
| 23-Feb-12 | Edserv Softsystems Limited |                                       | 300,000                                 |
| 23-Feb-12 | Edserv Softsystems FZE     |                                       | 300,000                                 |
|           | Total                      | 600,000                               | 600,000                                 |

42. From the details of fund transfer stated immediately above, I observe that only after Vintage repaid loan installment to EURAM Bank, that Edserv could make payments from its account maintained with the same bank and such payments were exactly for the same amount that Vintage repaid to EURAM Bank except. Therefore, it is evident that the amount transferred from Edserv's EURAM Bank account was dependent on the repayment of the loan by Vintage to EURAM Bank.

43. I note that when, loan repayment was made by Vintage, Edserv transferred funds from its EURAM Bank account to the other bank accounts of Edserv. In view of the above, I note that the transfer from Edserv's EURAM account to other accounts of Edserv is in sync with the date and amount of loan repaid by Vintage to EURAM Bank (the details pertaining to this have already been tabulated in preceding paragraph). Therefore, I note that the amounts transferred from Edserv's EURAM account to Edserv's other bank accounts were dependent on the repayment of the loan by Vintage. It also establishes that the purpose of the Pledge Agreement was to facilitate the subscription of GDR issue and securing the loan obtained by Vintage.

44. Thus, I note that in the above manner, the obligation of Vintage under the Loan Agreement was secured by Edserv through the Pledge Agreement, and accordingly, the subscription of the GDR issue was facilitated in the above manner. I note that due to such pledging of the GDR proceeds, the funds were not available at Edserv's disposal. In view of the above, I note that the GDRs were not issued in a genuine manner, but through a fraudulent arrangement.

45. I also note that with regards to the subscription of GDR issues of certain other listed Indian companies through the aforesaid *modus operandi* viz. involving arrangement of Loan Agreement and Pledge Agreement, the Hon'ble Securities Appellate Tribunal ("SAT") in its Order dated October 25, 2016 in Appeal No. 126 of 2013 in the matter of ***Pan Asia Advisors Limited vs. SEBI*** had observed:

*"28.... there can be no dispute that the GDR subscription amounts running into several million US \$ were not available to the issuer companies till the loan taken by Vintage for subscribing to GDRs were repaid to Euram Bank. Admittedly, the loans were repaid by Vintage after a long period of time. Therefore, in the facts of present case, findings recorded by SEBI that in reality there was no fund movement after the GDRs were subscribed, cannot be faulted."*

46. In the present matter, I note that the GDR subscription amount of USD 23.89 million was not available to Edserv for utilization until the loan taken by Vintage for subscribing to the GDRs was repaid to the EURAM Bank. I also note that after the subscription of GDR on August 10, 2011, a small amount of USD 6,00,000 could

be made available to Edserv that too only on February 23, 2012, i.e. after a period of almost 5 months since the subscription money for the GDR issue was received in the EURAM Bank account of Edserv. From the above mentioned table, I note that the date and amount of repayment of loan by Vintage to Euram Bank are synchronous with every transfer by Edserv out of its account held with Euram Bank, which was pledged as security for the loan. Hence, it appears that only when Vintage repaid the sum of money, Edserv was able to transfer a similar sum to its bank accounts in India and was able to use the same for any other purpose, as the charge on the pledged account was removed to that extent. Therefore, it is apparent that the amount transferred from Edserv's Euram Bank Account was dependent on the repayment of the loan by Vintage.

47. From the documents available on record, it is observed that the GDRs were subscribed by one entity only, viz. Vintage FZE. I also note that the Pledge Agreement dated July 25, 2011, which was specifically signed by the authorized representative of Edserv makes reference to Vintage. The same also clearly shows that Edserv was aware that the subscriber to the GDR issue was just Vintage. Such actions also indicate *mala fide* intention on the part of Edserv and Vintage.

48. As discussed above, I note that Edserv had itself facilitated subscription of its GDR issue wherein the subscriber (Vintage) obtained loan from the EURAM Bank for subscribing the GDR issue of Edserv and Edserv secured that loan by pledging the GDR proceeds with the EURAM Bank.

49. In this regard, I note that the Hon'ble Supreme Court in its judgment in the matter of **Kanaiyalal Baldevbhai Patel v. SEBI** (civil appeal no. 2595 of 2013) has also observed that:

*“if Regulation 2(c) of the 2003 Regulations was to be dissected and analyzed it is clear that any act, expression, omission or concealment committed, whether in a deceitful manner or not, by any person while dealing in securities to induce another person to deal in securities would amount to a fraudulent act. The emphasis in the definition in Regulation 2(c) of the 2003 Regulations is not, therefore, of whether the act, expression, omission or concealment has been committed in a deceitful manner but whether such act, expression, omission or concealment has/had the effect of inducing another person to deal in securities”.*

Further, I note that the Hon'ble Supreme Court in the same judgment, has also observed that *“that the provisions of Regulations 3 (a), (b), (c), (d) and 4(1) are couched in general terms to cover diverse situations and possibilities. Once a conclusion, that fraud has been committed while dealing in securities, is arrived at, these provisions get attracted in a situation....”.*

50. It is therefore, the aforementioned act of Edserv resulted in 'fraud' as defined under the PFUTP Regulations, 2003. In this respect, it would be appropriate to refer to the Order of the Hon'ble SAT in **Pan Asia Advisors Limited vs. SEBI** cited above

wherein, while interpreting the expression of 'fraud' under the PFUTP Regulations, 2003, it was observed that:

*"From the aforesaid definition (of 'fraud') it is absolutely clear that if a person by his act either directly or indirectly causes the investors in the securities market in India to believe in something which is not true and thereby induces the investors in India to deal in securities, then that person is said to have committed fraud on the investors in India. In such a case, action can be taken under the PFUTP Regulations against the person committing the fraud, irrespective of the fact any investor has actually become a victim of such fraud or not. In other words, under the PFUTP Regulations, SEBI is empowered to take action against any person if his act constitutes fraud on the securities market, even though no investor has actually become a victim of such fraud. In fact, object of framing PFUTP Regulations is to prevent fraud being committed on the investors dealing in the securities market and not to take action only after the investors have become victims of such fraud."*

51. In view of the above, I note that the scheme of arrangement of Edserv, in allotting GDR issue to only one entity i.e. Vintage which subscribed the GDR issue by obtaining loan from Euram Bank and the same was again secured by the Edserv by pledging its GDR proceeds, lead to conclusion that the same were done in a fraudulent manner with a view to influence the decision of the investors and to induce the sale or purchase of its scrip. During this entire process the Noticee Nos. 1 to 4 were the Directors of Edserv, and were in charge of its affairs.

**S Giridharan (Noticee No. 1) and G Gita (Noticee No. 2):**

52. Noticee No. 1 and 2 have contended that they cannot represent the company for the investigation of the GDR done by the company unless and until the Official Liquidator (OL) grants authorisation for them to represent, after giving them all the details of the GDR, the records and communications and correspondence associated with the GDR that transpired during 2011 by looking at official mail communications which are lying with OL. They have further stated that this matter may be pursued only after including the OL as Noticee who is the sole custodian of the company and hearing them representing the company.
53. With regards to the above contention of Noticee No. 1 and 2 that they cannot represent the company unless and until the OL grants authorisation for them to represent, after giving them all the details of the GDR, the records and communications and correspondence associated with the GDR and that this matter may be pursued only after including the OL as Noticee, I note that copies of all documents which were relied upon by SEBI in making allegations in the SCN have been provided to the aforesaid Noticees along with the SCN. Further, I note that the relevant findings of the investigation report have been provided for and captured in the SCN that have been issued to the Noticee. The documents provided with the SCN are as follows:

|    |                                                            |
|----|------------------------------------------------------------|
| a) | Vintage Loan Agreement dated July 25, 2011 with EURAM Bank |
| b) | Company's resolution in its meeting on July 25, 2011       |

|    |                                                                                      |
|----|--------------------------------------------------------------------------------------|
| c) | Pledge Agreement dated July 25, 2011 between Edserve and EURAM Bank                  |
| d) | Pan Asia Advisors Limited's letter dated February 20, 2012                           |
| e) | Certificate of Incumbency of Alkarni Holding Limited                                 |
| f) | Account Opening information and other related documents of India Focus Cardinal Fund |
| g) | Documents related to HighBlueSky Emerging Market Fund                                |
| h) | Edserv's letter to EURAM Bank dated July 31, 2012                                    |

54. In view of the above, I note that no specific prejudice has been caused to Noticee Nos. 1 and 2 in submitting their reply to the SCN. Further, with regards to making the Official Liquidator a party, I note that it is within SEBI's sole discretion, based on the facts of the matter, to make any entity a Noticee of a show-cause notice. In the present matter, Noticee Nos. 1 and 2 have been called upon to reply to the allegations made in the SCN and in that regard necessary documents, which have been relied upon by SEBI, have been provided to the aforesaid Noticees. Therefore, I do not find any merit in the above contentions of Noticee No. 1 and 2.

55. I note that, S. Giridharan (Noticee No. 1) was the Chairman and CEO and G Gita (Noticee No. 2) was the Managing Director of EDSERV. Further, it is observed that Noticee No. 1 was authorized to sign, execute any application, agreement, escrow agreement, document, undertaking etc. as may be required by EURAM Bank. It is also observed that Noticee No. 1 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 this Company, by way of the said Board Resolution dated July 25, 2011. It is also noted from the copy of the board resolution received from

EURAM Bank, that it was in fact certified to be true by Noticee no. 2, 3 and 4, and furthermore EURAM Bank was authorized to use Edserv GDR proceeds deposited with them, as security in connection with any loan. It is further noted that the Pledge Agreement entered into by Edserv with EURAM Bank, whereby a deposit account of Edserv maintained with EURAM Bank having USD 23.89 million was given as security for all the obligations of Vintage under the Loan Agreement and had been signed by Noticee No. 1.

56. I further note from the contents of the Pledge Agreement dated July 25, 2011 that Edserv had agreed to pledge all its rights, title and interest in and to the funds deposited in its designated bank account as well as the interest accrued therein so as to secure the present and future obligations of Vintage. The Preamble of the Pledge Agreement also expressly states that:

*"By loan agreement K250711-001 (hereinafter referred to as the "Loan Agreement") dated 25 July, 2011, the Bank granted a loan (hereinafter referred to as the "Loan") to Vintage FZE, AAH-213, Al Ahmadi House, Jebel Ali Free Trade Zone, Jebel Ali, Dubai, United Arab Emirates ("the Borrower") in the amount of \$ USD 23,888,000. The Pledgor has received a copy of the Loan Agreement No. K250711-001 and acknowledges and agrees to its terms and conditions." (Emphasis Supplied)*

57. From the above preamble to Pledge Agreement, it is clear that Noticee No. 1 and 2 were aware of the loan agreement and acknowledged and agreed to its terms and conditions. Further, I also note that the pledge agreement entered into by and between Edserv and Euram Bank on July 25, 2011 was signed by S Giridharan (Noticee No 1) for Edserv.

58. I also note that Noticee No.1 was authorized to use the funds in the EURAM Bank account of EDSERV and with such authorization he had entered into the Pledge agreement with EURAM Bank, providing securities for the loan obtained by Vintage to subscribe to the GDR issue of EDSERV. I also note that Noticee No. 2 was part of the board meeting, where the resolution was passed to authorize the Noticee No. 1 with broad powers with respect to the GDR issue. Thus, the aforesaid Noticees (1 to 2) were the human agency through which the aforesaid fraudulent scheme of EDSERV to finance its own GDR issue was effected. Therefore, Noticee No. 1 and 2 being the Chairman / CEO and Managing Director of Edserv were in charge of the day to day affairs of the company at the relevant point in time and are also liable for this fraud committed by the company under their watch.

59. It is pertinent to mention Section 27 of the SEBI Act, 1992 which talks about 'Contravention by Companies', as per the said provision:

*"(1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:*

*Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.*

*(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.”*

60. Further, it would be appropriate to once again refer to the order of the Hon’ble SAT in ***Pan Asia Advisors Limited vs. SEBI***, cited above wherein, while interpreting the expression of ‘fraud’ under the PFUTP Regulations, 2003, it was observed that “...SEBI is empowered to take action against any person if his act constitutes fraud on the securities market, even though no investor has actually become a victim of such fraud. In fact, object of framing PFUTP Regulations is to prevent fraud being committed on the investors dealing in the securities market and not to take action only after the investors have become victims of such fraud.”

61. Further, the Hon’ble Supreme Court of India in the matter of ***SEBI vs. Shri Ram Mutual Fund*** [(2006) 68 SCL 216 (SC)] held that, “In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the regulations is established and hence the intention of the parties committing such violations becomes wholly irrelevant...”.

62. In view of the same, it is established that Noticee No. 1 and 2 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.

**T. S. Ravichandran (Noticee No. 3) and S. Arvind (Noticee No. 4):**

63. Noticee No. 3 and 4 in support of their assertion that they were not aware or had knowledge of the scheme for fraudulent issuance of GDRs have provided certain correspondence exchanged between Noticee Nos. 3 and 4 and Noticee Nos. 1 and 2 and also agendas of Audit Committee meetings dated February 13, 2012 and May 30, 2012.

64. It is seen from the agenda note of the Audit Committee meeting dated February 13, 2012 that the GDR proceeds amounting to USD 23,888,000 was lying unutilised. Further, the agenda note of the Audit Committee meeting dated May 30, 2012 shows that as on March 31, 2012, a total of USD 600,000 had been utilised. The Agenda Note further states that USD 300,000 was utilised for content development and another USD 300,000 was in subsidiary accounts i.e., Edserv Softsystems Limited FZE.

65. Further, Noticee Nos. 3 and 4 have provided a copy of an email dated November 06, 2012 addressed by S. Arvind (Noticee No. 4) to S. Giridharan (Noticee No. 1), with a copy marked to T. S. Ravichandran (Noticee No. 3). It is seen from the said email that Edserv had acquired a company in the UAE, M/s Alta Vista without the

Board being consulted. In this regard, S. Arvind has written in the email that *“I find from the web site of BSE that Edserv has acquired an E learning company in UAE. While this is good the Board has not been consulted on this acquisition and has not approved this acquisition. How much has been invested and what are the source of funds?”* He further states in the said email, *“Please also let me know what happened to the GDR funds which should have come to India by now for use in day to day operations. Most companies I have been associated with (and I have been involved in GDR operations of many reputable companies in India of large industrial groups) have been able to get the funds within 10 days of placement of the GDR abroad. Edserv seems to be a special case of delay.”* Also by way of an email dated November 07, 2012, Noticee No. 4 has enquired about any valuation done prior to the acquisition of the UAE entity.

66. I note that what is relevant for examination, with respect to the liability of Noticee Nos. 3 and 4 who were Non- Executive Independent Directors of the Company, are the circumstances indicating the knowledge of the said Noticees of the Pledge Agreement whereby the GDR proceeds were pledged as security for the loan taken by Vintage to subscribe to the GDR issue and the extent of due diligence exercised by the said Noticees in ensuring that the Company did not indulge in any act of illegality.

67. As regards the first question, I see that Noticee Nos. 3 and 4 have certified the authenticity of the July 25, 2011 Board Resolution, a fact which has not been denied by them. However, it has been asserted by the said Noticees that they were not

aware of the Pledge Agreement, whereby the GDR proceeds were pledged as security for the loan taken by Vintage. Further, from the email exchanges, it appears that the utilisation of the GDR proceeds for acquisition of M/s Alta Vista, a company incorporated in the UAE, was without concurrence of the board of directors of the Company. As regards the second question of due-diligence exercised, I note from the above that Noticee Nos. 3 and 4 had actively sought information and details from S. Giridharan (Noticee No. 1), the Chairman and CEO of the Company regarding the utilisation of the GDR proceeds and the acquisition of Alta Vista FZE, a company incorporated in the UAE. I also note that after the email dated November 06, 2012, whereby information was sought from S. Giridharan, with respect to the utilisation of GDR proceeds, T. S. Ravichandran, Noticee No. 3 and S. Arvind, Noticee No. 4, resigned as a Director of the Company on December 10, 2012 and January 28, 2013 respectively. Upon a holistic view of the facts, I am inclined to grant the benefit of doubt to Noticee Nos. 3 and 4, especially in view of the diligence exhibited by them with respect to the utilisation of the GDR proceeds followed by their decision to step down from the Board of Edserv, soon thereafter.

68. Accordingly, I hold that T.S. Ravichandran (Noticee No.3) and S. Arvind (Noticee No. 4) have not violated the provisions of Section 12A(a), 12A(b), 12A(c) of the SEBI Act 1992 read with Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

**Arun Panchariya (Noticee No. 5) and Mukesh Chauradiya (Noticee No. 6):**

69. In the present matter, Vintage was sole subscriber of GDR issue of Edserv and subscription was arranged through a loan availed from EURAM Bank to the extent of USD 23.89 million for which security was provided by Edserv by pledging its GDR proceeds. The Noticee No. 6 had signed the Loan Agreement in capacity of the Managing Director of Vintage. Further, Vintage defaulted in repayment of loan to the extent of USD 23.29 million, thereby GDR proceeds to that extent were adjusted by EURAM. Hence, it is evident that Vintage acquired GDRs of Edserv to the tune of USD 23.29 million at free of cost. On perusal of copy of Know Your Customer documents (signed on June 06, 2007) of Vintage available with EURAM Bank, it is observed that the Noticee No.5 is the beneficial owner of Vintage.
70. Further, I note that the Noticee No. 5 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.
71. I find that Noticee no. 5 had aided and abetted the fraudulent scheme of self-financing of the GDR issue of Edserv by acting on behalf of Vintage. I note that Noticee No.5 was the beneficial owner of Vintage FZE in which the Noticee No.6 had served as Managing Director. Therefore, Noticee No. 5 was connected with the Noticee No. 6. The role played by Vintage in the fraudulent scheme has already been brought out in details in the preceding paragraphs. From the above, it is

observed that the Noticee No. 6 held key position in Vintage (was Managing Director and authorized signatory of Vintage) and was in the knowledge of Noticee No.5's scheme of subscribing to GDR issues through Loan Agreement and defaulting on repayment of loan in several GDR issues (as the Noticee No. 6 had signed the Loan Agreements and Vintage's redemption of loan amount requests for repayment of Vintage's loan in the capacity of Authorized Signatory)

72. Noticee No. 6 in his submissions/replies submitted to SEBI has refuted the allegations made in the SCN. The fundamental grounds of defence taken by the Noticee are-

a. He has never been the Director or Managing Director of Vintage FZE, and he only held the position of Manager;

b. The decisions to subscribe to the GDRs and obtain loan from Euram Bank for subscribing to the GDRs was taken by Arun Panchariya and the Noticee, had no role to play in it he signed the loan redemption letters and letter for extension of loan repayment on the instructions of Arun Panchariya;

c. The Noticee 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.

d. The instant matter is beyond the territorial jurisdiction of SEBI as all the commissions and omissions on the part of the Noticee were done in Dubai (JAFZA).

e. 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 content of the show cause notice.

73. The Noticee have submitted that a copy of the Investigation Report/ other documents on the basis of which the SCN was issued, was not provided to them despite the request made by them. 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.

74. 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 be 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.

75. The contention with regards to the lack of territorial jurisdiction with SEBI in the instant matter is already dealt in the preceding paragraphs.
76. With respect to the defence of the Noticee being an employee of Vintage, reference is made to the Loan Agreement entered into by Vintage with EURAM Bank. Mukesh Chauradiya signed the said Loan Agreement and loan redemption letters to EURAM for the loan availed for subscription of Edserv's GDR issue as Authorized Signatory of Vintage FZE. Various other letters with regards to the said GDR issue were also signed by Mukesh Chauradiya as Authorized Signatory/Director of Vintage.
77. It is seen from the letter dated December 30, 2010 addressed to EURAM Bank 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. The circumstances indicate that Mukesh Chauradiya (Noticee No. 6) was playing an important role in

the affairs of Vintage during the relevant period. In this regard I note that a similar contention had been raised by Mukesh Chauradiya (Noticee No. 6) 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 the company Vintage FZE and he has never benefited anything in 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 are responsible people in Vintage FZE 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 USD 13.24 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.*

78. As held by the Hon’ble SAT, the exact designation of the Noticee No. 6 is not relevant. I note that Noticee No. 6 executed several loan agreements/ signed other documents in various matters involving fraud related to GDR issues where Vintage was involved. In view of this, it can be concluded that Noticee No. 6 held key position in Vintage and cannot plead ignorance of the scheme of manipulation.
79. Therefore, Noticee No. 6 acted as an aide to the Noticee No.5 and facilitated the fraudulent scheme by executing the Loan Agreement and Loan Redemption Letters in capacity of the Managing Director of Vintage.
80. Thus, Noticees No. 5 and 6 being the key managerial personnel/ owner of Vintage, facilitated Vintage in selling the converted equity shares of the company and are squarely responsible for the fraud perpetrated and I hold them to have violated 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.

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

81. The Hon'ble Supreme Court of India in the matter of **SEBI vs. Shri Ram Mutual Fund** (cited above) 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.”*

82. 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:

*“33. 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.”*

83. Noticee No. 1, 2, 5 and 6 had jointly and in close connivance with each other, had acted as one part of the entire fraudulent scheme by arranging for the subscription of the GDRs through Vintage using the pledge agreement signed on behalf of Edserv to obtain a loan from the EURAM Bank and then to dispose the shares acquired through such GDRs, routing of the monies received from Edserv, thereby creating an elaborate façade of demand for the securities of Edserv.
84. Thus, the violation of Section 12A(a), (b), (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations by the Noticee No. 2, 4, 5 and 6 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.”***

85. 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* law 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?**

86. In this regard, the provisions of Section 15J of the SEBI Act, 1992, Rule 5 of the SEBI 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.*

87. With regard to the above factors to be considered while determining the quantum of penalty, it may be noted that the Directors of Edserve, Noticee No. 1 and 2 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 23.89 million, only USD 0.6 million was transferred for GDR issue expenses to Edserv's bank account in India. Vintage repaid the loan amount to the extent of USD 0.6 million and thereafter defaulted on the remaining loan amount. On account of the loan default by Vintage and the subsequent instruction to EURAM by Edserv, EURAM adjusted outstanding loan amount (includes interest on loan amounts) of USD 23.29 million from Edserv's GDR proceeds. Hence, GDRs to the tune of USD 23.29 million were issued by Edserv to vintage at free of cost and at the cost of other investors of Edserv. The said subscription of the GDRs by Vintage was funded by Edserv itself, through the Noticees No. 1 and 2. Therefore, the magnitude of the fraud committed by Noticee No. 1 and 2 is enormous as is evident from the issue size of USD 23.89 million. Also, against Vintage and Noticee Nos. 5 and 6, in past also actions have been taken by SEBI for their involvement in similar fraudulent GDR schemes.

## **ORDER**

88. After taking into consideration 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, 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, hereby impose the following penalty on the Noticee No. 1, 2, 5 and 6:

| <b>Noticee</b>                                                                | <b>Violation and Penal Provisions</b>                                                                                                                                                                           | <b>Penalty</b>                                   |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| <b>Shri. S<br/>Giridharan<br/>(Noticee No. 1)<br/>(PAN:<br/>AAGPG2646E)</b>   | 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 | <b>Rs. 20,00,000/-<br/>(Rupees Twenty Lakhs)</b> |
| <b>Ms. G Gita<br/>(Noticee No. 2)<br/>(PAN:<br/>AAGPG2647F)</b>               | 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 | <b>Rs. 10,00,000/-<br/>(Rupees Ten Lakhs)</b>    |
| <b>Mr. Mukesh<br/>Chauradiya,<br/>Noticee No. 6<br/>[PAN:<br/>AAVPC0966A]</b> | 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 | <b>Rs. 20,00,000/-<br/>(Rupees Twenty Lakhs)</b> |
| <b>Mr. Arun<br/>Panchariya,<br/>Noticee No. 5</b>                             | Penalty imposed under Section 15HA of the SEBI Act, 1992 for violation of the provisions of Section 12A (a), (b), (c) of                                                                                        | <b>Rs. 10,00,000/-<br/>(Rupees Ten Lakhs)</b>    |

|                              |                                                                                              |  |
|------------------------------|----------------------------------------------------------------------------------------------|--|
| <b>(PAN:<br/>AEVPP6125N)</b> | SEBI Act, 1992 read with Regulations<br>3(a), (b), (c), (d) and 4(1) of PFUTP<br>Regulations |  |
|------------------------------|----------------------------------------------------------------------------------------------|--|

89. The above 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](http://www.sebi.gov.in) on the following path, by clicking on the payment link.

**ENFORCEMENT →Orders →Orders of AO →PAY NOW**

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:

|                                           |  |
|-------------------------------------------|--|
| 1. Case Name:                             |  |
| 2. Name of the Noticee:                   |  |
| 3. PAN No. of the Noticee                 |  |
| 4. Date of payment:                       |  |
| 5. Amount paid:                           |  |
| 6. Transaction no.:                       |  |
| 7. Bank details in which payment is made: |  |

|                                                                                                    |  |
|----------------------------------------------------------------------------------------------------|--|
| 8. Payment is made for:<br><br>(like penalties/ disgorgement/<br>recovery/ settlement amount etc.) |  |
|----------------------------------------------------------------------------------------------------|--|

90. 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.

91. 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 31, 2022**

**Adjudicating Officer**