BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO: Order/KS/AE/2021-22/12185-12201]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of:

Noticeee No.	**Noticee Name**	**PAN**
1	Arun Panchariya	AEVPP6125N
2	Pan Asia Advisors Ltd.	NA
3	The Alta Vista (Earlier Vintage FZE)	NA
4	India Focus Cardinal Fund	NA
5	Ashok Panchariya	AEVPP6124P
6	Alka India Ltd.	AABCA6702F
7	Basmati Securities Pvt. Ltd.	AAACB4324K
8	Oudh Finance & Investment Pvt. Ltd.	AAACO3597K
9	Madanlal Girdharilal Bugaliya	ALMPB5163A
10	Indra Varun Trade Impex Pvt. Ltd.	AACCI3088H
11	Delight Financial Advisors Ltd.	AACCD7366D
12	Vinod Amrutlaal Naai	AEUPN9210P
13	Newgen International Pvt. Ltd	AACCN3776H
14	Excel Paints Private Ltd	AAACE2875N
15	Cherry Cosmetics Pvt. Ltd.	AAACC4789R
16	Edelweiss Estates Pvt. Ltd.	AABCE1275F
17	SV Enterprises (Prop: Sarfaraz Khan Pathan)	ACRPP5552H

(hereinafter collectively referred to as "Noticees")

In the matter of GDR Issues of 6 companies

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**'), upon receipt of alerts in its surveillance system, started investigation in regard to the following companies - Asahi Infrastructure & Projects Limited (**Asahi**), Avon Corporation Limited (**Avon**), CAT Technologies Limited (**CAT**), IKF Technologies Limited (**IKF**), K Sera Sera Limited (**K Sera**) and Maars Software International Limited (**Maars**) (hereinafter collectively referred to as '**issuer companies**') which had come out with their respective issues of Global Depository Receipts (**GDR**) during the period of March 2007 to November 2009. SEBI conducted investigation in respect to the GDR issue of all the aforesaid companies except Maars Software International Ltd. for the period from January 1, 2009 to September 21, 2011 (hereinafter referred to as '**Investigation Period 1**'/'**IP 1**'). At the same time, SEBI also conducted investigation in the GDR issue of Maars Software International Limited (hereinafter referred to as '**Maars**') for the period of January 1, 2007 till September 21, 2011('**Investigation period 2**'/'**IP 2**' and collectively referred to as '**Investigation Period**'). Based on the investigation, it was alleged that the complete process of issuance of GDRs and the subsequent conversion of the GDRs into shares of the aforesaid issuer companies were devised and structured by one Arun Panchariya (hereinafter referred to as '**AP / Noticee 1**') in connivance with the Issuer Companies. The Book Running Lead Manager to the GDR issues was Pan Asia Advisors Ltd (hereinafter referred to as '**Pan Asia / Noticee 2**'), and it was observed that AP is the founder and director of Pan Asia and further that he is also 100% shareholder of Pan Asia. It was observed that Vintage FZE (hereinafter referred to as '**Vintage / Noticee 3**') was the common subscriber to the GDRs of the aforesaid issuer companies. It is alleged in the IR that the complete process of GDR issuance by these companies was devised and structured by AP in connivance with the issuer companies to the detriment of the Indian investors wherein AP arranged for loans for the subscription of GDRs by Vintage and, thereafter, certain Foreign Institutional Investors (hereinafter referred to as "FIIs") / Sub-accounts including India Focus Cardinal Fund (hereinafter referred to as '**IFCF**'/'**Noticee 4**'), observed to be

connected to AP, converted the GDRs into underlying shares and sold them in the Indian securities market. It was further observed that a group of 13 connected entities comprising of Ashok Panchariya (hereinafter referred to as '**Noticee 5**'/'**Ashok**'), Alka India Ltd. (hereinafter referred to as '**Noticee 6**'/'**Alka**'), Basmati Securities Pvt. Ltd. (hereinafter referred to as '**Noticee 7**'/'**Basmati**'), Oudh Finance & Investment Pvt. Ltd., (hereinafter referred to as '**Noticee 8**'/'**Oudh**'), Madanlal Girdharilal Bugaliya (hereinafter referred to as '**Noticee 9**'/'**Madanlal**'), Indra Varun Trade Impex Pvt. Ltd. (hereinafter referred to as '**Noticee 10**'/'**Indra**'), Delight Financial Advisors Ltd, (hereinafter referred to as '**Noticee 11**'/'**Delight**'), Vinod Amrutlaal Naai (hereinafter referred to as '**Noticee 12**'/'**Vinod**'), Newgen International Pvt. Ltd. (hereinafter referred to as '**Noticee 13**'/'**Newgen**'), Excel Paints Private Ltd. (hereinafter referred to as '**Noticee 14**'/'**Excel**'), Cherry Cosmetics Pvt. Ltd. (hereinafter referred to as '**Noticee 15**'/'**Cherry**'), Edelweiss Estates Pvt. Ltd. (hereinafter referred to as '**Noticee 16**'/'**Edelweiss**'), SV Enterprise/Sarfaraz Khan Pathan (hereinafter referred to as '**Noticee 17**'/'**SV**'/'**Sarfaraz**' and hereinafter collectively referred to as '**CP Group**'), who also had connection with AP acted as counterparty to the trades of the said FIIs / Sub-accounts who also traded amongst themselves. It was alleged that the trading of the CP Group had contributed to the immense rise in the liquidity of the scrip. It was alleged that the trading by the CP Group in various scrip was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that Sub-Accounts can off load shares and to purchase shares from Sub-Accounts and sell it to Indian domestic investors. It is further alleged that this was done to meet the objective of allowing offloading of shares by Sub-Accounts in Indian market thereby completing the Scheme of monetizing the GDRs and make Indian domestic investors pay for the structured GDRs. It was alleged that all the Noticees had connections with AP and AP had substantial influence over their activities during the Investigation Period.

2. Accordingly, adjudication proceedings was initiated under Section 15HA of SEBI Act, 1992 (hereinafter referred to as the '**SEBI Act**') against the Noticees for the alleged violation of the provisions of -

a) Section 12A(a), (b) and (c) of the SEBI Act read with Regulation 3(c), 3(d), 4(1), 4(2)(c), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**') by Noticee 1 and 2.
b) Section 12A(a), (b) and (c) of SEBI Act read with Regulation 3(c), 3(d), 4(2)(a), (c), (e), (f) and (k) of PFUTP Regulations by Noticee 3 and 5.

c) Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a), (c) and (e) of the PFUTP Regulations by Noticee 4.

d) Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations by Noticee 5 to 17.

3. Further, non-compliance of summons issued by SEBI was alleged against the following Noticee 1, 2, 4, and 17 and therefore, adjudication proceedings was initiated under Section 15A(a) of SEBI Act against Noticee 1, 2, 4, and 17 for the alleged violation of Section 11C(3) read with 11C(6)of SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

4. Shri Suresh Gupta was appointed as the Adjudicating Officer vide Order dated June 15, 2016 under Section 19 read with Section 15-I(1) of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**SEBI Adjudication Rules'**) to inquire into and adjudge under the provisions of Section 15A(a) and Section 15HA of the SEBI Act, as applicable, the aforesaid violations alleged to have been committed by the Noticees. Subsequently, the undersigned was appointed as the Adjudicating Officer vide order dated July 05, 2018.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING:

5. A common Show Cause Notice (hereinafter referred to as '**SCN'**) ref. SEBI/HO/EAD-8/KS/VC/23262/2019 dated September 06, 2019 was issued to AP and Pan Asia i.e. Noticee 1 and 2. A common Show Cause Notice ref. SEBI/HO/EAD-8/KS/VC/23346/2019 dated September 06, 2019 was issued to

Vintage and Ashok i.e. Noticee 3 and 5. A Show Cause Notice ref. SEBI/HO/EAD-8/KS/VC/23351/2019 dated September 06, 2019 was issued to IFCF i.e. Noticee 4. Further a common Show Cause Notice ref. SEBI/HO/EAD-8/KS/VC/23342/2019 dated September 06, 2019 was issued to the CP Group entities i.e. Noticee 5 to 17. The aforesaid SCNs were issued under the provisions of Rule 4(1) of SEBI Adjudication Rules to show cause as to why an inquiry should not be held against them and why penalty, if any, should not be imposed on them under Sections 15A(a) and 15HA of the SEBI Act, as applicable, for alleged violation of the relevant provisions of law.

6. The following was *inter alia* alleged in the aforesaid SCNs –

<u>SCN to Noticee 1 to 4</u>

a) It is observed from the Investigation Report (hereinafter referred to as "**IR**") that 7 companies including Asahi Infrastructure & Projects Ltd, Avon Corporation Ltd, Cat Technologies Ltd, IKF Technologies Ltd, K Sera Sera Ltd, and Maars Software International Ltd. (hereinafter collectively referred to as '**issuer companies**') had come up with their respective GDR issues during the period of March 2007 to November 2009. In this regard, it is observed that Pan Asia was the Book Running Lead Manager of all the issuer companies. Further, it is also observed that AP is the founder and director of Pan Asia. He is also 100% shareholder of Panasia. It is alleged in the IR that the complete process of GDR issuance by these companies was devised and structured by AP in connivance with the issuer companies to the detriment of the Indian Investors wherein AP arranged for loans for the subscription of GDRs and thereafter converted the GDRs into underlying shares. It is further alleged that, therefore, the activities of AP along with entities connected to AP have resulted in Indian retail investors ultimately bearing the cost of these GDRs. It is also alleged that Pan Asia had played a prominent role in the whole fraudulent scheme.

b) The following are the details of the GDRs issued by the companies :

Sr. No	Issuer	Date of GDR Issue	Pre GDR equity ('000)	Shares issued under GDR ('000)	% GDR to Pre GDR equity	Market Cap prior to GDR issue(Rs Crore)	Capital raised by GDR Issue(Rs. Crore)	% Capital raised to pre GDR Market Cap
1	IKF	31-03-07	1,06,690	1,32,000	123	79.60	47.96	60.25
2	CAT	27-07-07	5,750	25,286	440	3.00	26.13	871.20
3	Maars	10-08-07	66,160	73,800	112	29.71	72.93	265.02
4	K Sera	26-10-07	19,513	47,619	244	71.02	98.42	138.58
6	Asahi	29-04-09	37,196	2,99,100	804	2.64	32.99	1137.94
7	IKF	15-05-09	2,68,190	1,62,391	61	79.66	54.44	68.35
8	Avon	19-06-09	16,580	48,000	289	14.71	48.13	327.19
9	K Sera	16-10-09	67,131	1,34,257	200	137.95	138.73	100.57
10	CAT	06-11-09	31,576	47,860	152	50.81	46.83	92.17

Loan & Pledge Agreement .

c) It was observed that Vintage was the sole subscriber to the GDR issuances of the Issuer Companies. Vintage, is a company established in Jebel Ali Free Zone, Dubai on January 02, 2001. Alkarni Holdings Ltd was a 100% shareholder of Vintage. The founder and director of Vintage is AP, who also controlled its management as the following family members of AP were the shareholders of Alkarni Holdings Ltd.

Name of Share Holder	% of shareholding
Arun Panchariya	52.50%
Radhadevi Satish Panchariya	15.00%
Sarita Arun Panchariya	15.00%
Madhudevi Ashok Panchariya	15.00%
Ashok Panchariya	2.50%

d) It is also observed that, as the authorised signatory and while in control of Vintage FZE, AP signed Loan Agreements with an Austria based bank namely, European American Investment Bank AG (hereinafter referred to as "**Euram**").

e) It is further observed that the Issuer Companies signed Pledge Agreements with Euram. According to the Pledge Agreements, the proceeds of GDR issuance were to be deposited and pledged by the examined companies with Euram even before the GDRs were issued by those companies.

f) It is alleged that the Loan Agreement was an integral part of Pledge Agreement, signed between examined Companies and Euram. The Loan Agreement (signed between Vintage FZE and Euram) and Pledge Agreement (signed between examined Companies and Euram) enabled Vintage FZE to obtain loan from Euram to subscribe to GDR issues of Issuer Companies.

g) Further, it is observed that Euram Asia was joint venture in Dubai between Euram and Panasia. AP was holding 49% in Euram Asia by way of his investment in Panasia. AP and Mr. Satish Panchariya, brother of AP, were also the directors of Euram Asia in which Euram was holding 51% of the total shareholding.

h) The details of loan agreements and pledge agreements signed for the purpose of subscription of GDRs of Examined Companies are as given below.

Sr. No.	Issuer	Date of GDR Issue	GDR Issue Size ($ '000)	Borrower	Loan Amount ($ '000)	Date of Loan Agreement	Lender	Date of Pledge Agreement
1	IKF	31-03-07	11,000	Seazun	14,000	27-03-07	Banco	27-03-07
2	CAT	27-07-07	6,457	Vintage	6,457	23-07-07	Euram	20-07-07
3	Maars	10-08-07	17,933	Vintage	17,933	27-07-07	Euram	27-07-07
4	K Sera	26-10-07	25,000	Vintage	25,000	30-10-07	Euram	30-10-07
5	Asahi	29-04-09	5,982	Vintage	5,982	21-04-09	Euram	21-04-09
6	IKF	15-05-09	10,988	Vintage	10,988	28-04-09	Euram	28-04-09
7	Avon	19-06-09	10,000	Vintage	10,000	10-06-09	Euram	10-06-09
8	K Sera	16-10-09	29,984	Vintage	29,984	06-10-09	Euram	06-10-09
9	CAT	06-11-09	10,003	Vintage	10,003	27-10-09	Euram	27-10-09

i) It is alleged that after subscribing to GDRs through a fraudulent arrangement with the Issuer Companies as described above, AP (through Vintage FZE), employed certain sub-accounts viz. India Focus Cardinal Fund (hereinafter referred to as '**IFCF**') and KII Ltd. which received the GDRs from Vintage FZE and thereafter converted those GDRs into underlying shares. It is observed that IFCF and KII started dealing in the GDRs of issuer Companies from June 2009 and after that no other FII/Sub-Account has cancelled GDRs of Issuer Companies except KII and IFCF.

j) It is alleged that IFCF is a fund based in Mauritius and registered with SEBI as a Sub-Account. It is observed that AP was the chief investment officer of

Cardinal Capital Partners Ltd (CCPL). AP is also 100% shareholder of CCPL. CCPL, in turn, is 100% shareholder of IFCF. CCPL was also acting as Investment manager of IFCF.

k) It is further observed that CCPL is registered as an FII with SEBI since June 20, 2011 and IFCF is registered as its Sub-Account in India. Prior to registration of CCPL with SEBI, IFCF was registered as a sub-account of Euram which, itself, was registered as FII with SEBI. It is further alleged that AP and his family members are major investors in the fund through their associated companies. In this regard, it is observed that AP was director of IFCF until October 28, 2010 during the period of investigation by SEBI as confirmed by IFCF vide its letter dated April 02, 2012.

l) It is further observed that Credo Investments Holding Ltd (**Credo**) and KII Ltd. are group companies of Credo group. It is alleged that AP on behalf of Vintage signed a loan agreement with Credo, wherein it provided loan to Credo to further lend it to KII so that KII can purchase GDRs of Issuer Companies. In view of this, it is alleged that the dealings of KII in the GDRs of Issuer Companies were also under control of AP

m) The table provides details of cancellation of GDRs of issuer Companies done by KII and IFCF as on June 30, 2012.

GDR Issue	Date	Total GDRs Issued	Total GDRs Cancelled till June 30, 2012	GDRs cancelled between June 01, 2009 and June 30, 2012	GDRs cancelled by IFCF	GDRs cancelled by KII	% of GDRs cancelled by IFCF & KII to total GDRs cancelled	% of GDRs cancelled by IFCF & KII to total GDRs cancelled between June 01, 2009 to June 30, 2012
Asahi	29-04-09	29,91,000	15,14,450	15,14,450	13,81,000	1,00,000	97.8	97.8
Avon	19-06-09	16,00,000	16,00,000	16,00,000	14,44,000	1,56,000	100.0	100.0
CAT	27-07-07	43,04,348	25,80,000	1,95,000	1,20,000	75,000	7.6	100.0
CAT	06-11-09	15,95,333	13,685	13,685	13,685	0	100.0	100.0
IKF	31-03-07	1,10,00,000	1,10,00,000	0	0	0	0.0	0.0
IKF	15-05-09	54,13,048	10,34,000	10,34,000	9,89,000	45,000	100.0	100.0
K Sera	26-10-07	47,61,900	47,61,900	33,41,900	13,96,757	19,45,143	70.2	100.0
K Sera	16-10-09	44,75,238	12,35,500	12,35,500	7,58,500	4,77,000	100.0	100.0
Maars	10-08-07	73,80,000	57,92,800	15,77,800	11,27,800	4,50,000	27.2	100.0

In view of the above table and observations in previous paragraphs, it is alleged that, from June 01, 2009, the activity of cancelling GDRs and converting to shares was done entirely under direct control of AP.

n) It is observed that Financial Market Authority (Austria), vide its letter dated March 27, 2012, informed SEBI that the major investor in Class A shares of IFCF was Vintage FZE, as it was holding 63.11% in Class A shares of IFCF.

o) It is also observed that there were arrangements between Credo Investments Holding Ltd (‘**Credo**’), KII and Vintage for dealing in GDRs of Issuer Companies. Vintage had signed a loan agreement with Credo, wherein it provided loan to Credo to further lend it to KII so that KII can purchase GDRs of Issuer Companies from Vintage

p) It is alleged that the funds for the purchase of GDRs are provided by AP to FIIs, either by direct investment in the fund like IFCF or by entering into contractual agreement and providing loan to FIIs/Sub-Accounts (e.g. KII etc.). It is alleged that, in this process, the funds have only moved from one AP controlled company (IFCF) to another AP controlled company (Vintage) and vice versa.

q) It is alleged that the shares sold by IFCF and KII were purchased in large quantities by certain set of Indian clients connected to AP, viz. Ashok Panchariya, Basmati Securities Pvt. Ltd, SV Enterprise/Sarfaraz Khan, Madanlal Girdharilal Bugaliya, Indra Varun Trade Impex Pvt. Ltd, Delight Financial Advisors Ltd, Vinod Amrutlaal Naai, Newgen International Pvt. Ltd, Excel Paints Pvt. Ltd, Cherry Cosmetics Pvt. Ltd, Edelweiss Estates Pvt. Ltd (hereinafter collectively referred to as **“CP Group**”). A detailed table depicting the basis of connection among CP group entities and between CP group and AP is given as Annexure to the SCN. The details of the transactions of the CP Group with IFCF and KII are given below:

Scrip name	**Sub-Account**	**Total number of shares sold by Sub-Account**	**Total value. of shares sold by Sub-Account (Rs.)**	**CP Group entities purchasing shares from Sub-Accounts**	**No. of shares purchased by CP Group entities from Sub-Accounts**	**Value of shares purchased by CP Group entities from Sub-Accounts (Rs.)**	**% of no. of shares sold to CP Group entities to total sale by Sub-**	**% of no. of shares sold to CP Group to total sale by Sub-**

							Accounts	Accounts
(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**(G)**	**H=%(F/C)**	**(I=Σ H)**
Asahi	**IFCF**	6,44,81,646	11,89,67,319	Indravarun	65,99,900	3,39,36,012	10.24	45.46
				Basmati	1,90,52,069	2,80,81,895	29.55	
				SV	34,11,300	35,02,024	5.29	
				Newgen	2,42,100	21,78,900	0.38	
				Oudh	1,023	9,217	0.002	
	KII	35,00,000	35,01,264	SV	20,00,000	20,00,000	57.14	78.59
				Basmati	7,50,755	7,50,755	21.45	
Avon	**IFCF**	4,31,20,000	27,28,84,812	Delight	2,21,56,688	12,68,65,267	51.38	88.69
				Vinod	82,35,444	4,98,64,172	19.10	
				Basmati	31,46,551	2,48,58,504	7.30	
				SV	23,11,178	2,30,72,059	5.36	
				Oudh	17,96,694	1,50,22,854	4.17	
				Newgen	3,00,000	19,50,000	0.70	
				Edelweiss	2,86,302	18,46,648	0.66	
				Madanlal	7,449	45,760	0.02	
				Cherry	350	1,969	0.001	
	KII	46,80,000	3,12,53,475	Delight	14,69,688	81,10,078	31.40	72.22
				SV	6,51,286	65,42,180	13.92	
				Vinod	9,29,835	54,82,870	19.87	
				Indravarun	3,27,968	16,39,840	7.01	
				Cherry	500	2,588	0.01	
				Oudh	600	3,098	0.01	
CAT	**IFCF**	2,45,200	28,63,902	Oudh	1,49,999	18,10,488	61.17	99.92
				Basmati	94,990	10,49,662	38.74	
				Madanlal	11	123	0.004	
IKF	**IFCF**	1,96,07,456	8,67,92,834	Basmati	71,13,479	3,27,09,289	36.28	66.17
				Oudh	38,80,064	1,66,88,888	19.79	
				Alka	10,94,788	47,07,588	5.58	
				SV	8,85,605	38,05,185	4.52	
K Sera BSE	**IFCF**	1,35,45,000	17,15,80,484	Basmati	38,35,944	4,96,34,193	28.32	69.30
				Oudh	38,24,611	4,79,39,878	28.24	
				Newgen	14,24,152	1,78,16,544	10.51	
				SV	3,01,269	38,25,198	2.22	

				Cherry	1,852	23,203	0.01	
	KII	1,21,31,430	15,71,82,321	Newgen	29,54,473	4,20,90,010	24.35	52.75
				Basmati	17,36,974	2,14,92,449	14.32	
				Oudh	13,13,835	1,65,28,570	10.83	
				SV	3,78,067	48,91,686	3.12	
				Cherry	13,347	1,72,262	0.11	
				Indravarun	2,199	25,956	0.02	
				Madanlal	1	13	0.00	
K Sera NSE	**IFCF**	1,34,67,750	17,05,33,116	Basmati	43,28,355	5,59,58,509	32.14	54.10
				Oudh	16,12,394	2,01,22,523	11.97	
				Newgen	13,42,648	1,66,37,362	9.97	
				SV	1,000	13,050	0.01	
				Cherry	900	11,010	0.01	
				Madanlal	12	147	0.00	
	KII	1,25,30,000	16,44,61,404	Newgen	27,63,627	4,09,86,308	22.06	52.18
				Basmati	25,94,350	3,31,72,942	20.71	
				Oudh	11,78,960	1,46,99,597	9.41	
				Cherry	430	5,665	0.00	
				Madanlal	2	26	0.00	
Maars BSE	**IFCF**	61,31,239	2,17,12,348	Basmati	14,87,645	51,33,838	24.26	39.38
				SV	7,00,303	23,85,815	11.42	
				Edelweiss	2,26,048	10,05,914	3.69	
				Cherry	800	2,473	0.01	

r) From the above table, it is observed that the shares were not completely sold by IFCF and KII. Further, majority of the shares sold by IFCF and KII were purchased by the CP Group. It is also observed that, out of total shares sold by IFCF and KII Ltd., a range of 39.38% (IFCF in Maars) to almost 100% (IFCF in CAT) of shares sold by IFCF and KII were purchased by the CP group. IFCF and KII sold shares worth a total of Rs. 1,20,17,33,278 of Asahi, Avon, CAT, IKF, K Sera, Maars during the Investigation Period. Out of this, shares worth Rs. 79,11,13,054 were sold by IFCF and KII to the CP Group. Therefore, it is observed from the above that a major portion of shares of the aforesaid companies (around 65.83%) sold by IFCF and KII were purchased by the CP Group.

s) Thereafter, the CP group then sold the shares purchased from IFCF and KII to retail investors. It has also been alleged that the members of the CP

Group traded in large quantities among themselves which increased the liquidity of the scrip of Issuer Companies. The details of day wise sale of shares by IFCF and KII are given in Annexure to the SCN. Thus, in view of the above observations and table given as Annexure, it is observed that all the aforesaid entities have connections with AP and AP has substantial influence over their activities.

t) Further, the schedule of repayment of installment of loan taken by Vintage from Euram, as submitted by AP, is enclosed as Annexure to the SCN. It is observed that, even before Vintage started to repay the loan taken for a particular GDR issue, IFCF and KII had converted large amount of GDRs of the Issuer Companies into their underlying shares and thereafter sold these shares in the Indian market. Following table illustrates the same:

Scrip	**Date of issuance of GDRs**	**Amount of Loan taken by Vintage for subscription of GDRs (USD)**	**Date of first instalment of repayment of loan by Vintage**	**Amount (in USD) of first instalment of loan repayment by Vintage**	**Number of shares sold in India (after conversion from GDRs) by IFCF/KII prior to date of payment of first instalment of loan by Vintage to Euram Bank**	**Sell value of shares sold in India by IFCF/KII before first instalment of repayment of Loan by Vintage (INR)**
Asahi	29-Apr-09	5,982,000	16-Dec-09	100,000	6,79,81,646	1,61,36,948
Avon	19-Jun-09	10,000,000	18-Aug-09	1,500,000	4,78,00,000	3,31,65,300
Cat	06-Nov-09	10,003,000	03-Dec-09	3,000,000	2,45,200	28,60,272
IKF	15-May-09	10,988,000	23-Aug-09	100,000	1,96,07,456	25,63,464
K Sera	16-Oct-09	29,984,000	25-Nov-09	300,000	5,16,74,003180	1,61,77,223

u) The details of day wise sale of shares by IFCF and KII are given as Annexure to the SCN. As alleged above, Vintage, IFCF and KII were all under the control of AP. In view of this, it is alleged that some part of the repayment of loan by Vintage was done by converting the fraudulently acquired GDRs into underlying shares and selling them to Indian investors.

v) It is alleged that, as a consequence of the said fraudulent arrangement perpetuated by AP, instead of capital being raised from foreign investors through issuance of the GDRs, the Indian investors ultimately paid for part of GDRs after the said GDRs were converted into underlying shares and sold by AP controlled entities in the Indian securities market to the investors.

w) It is further observed from the KYC documents of Alkarni Holding Ltd. that Ashok (Noticee 5) is a director and a shareholder of Alkarni Holding Ltd. It is also observed from the letter dated December 28, 2010 of Jebel Ali Free Zone Authority to Euram Bank, a copy of which was forwarded to SEBI by Euram Bank, that Ashok (Noticee 5) was also a director of Vintage.

x) In view of this, it is alleged that Ashok, being a director and owner of Alkarni Holding Ltd. as well as being a director of Vintage, is equally liable for the violations committed by Vintage.

y) It is observed that, in terms of Section 11C(3) read with 11C(6) of the SEBI Act, it is obligatory on any person so summoned by the Investigating Authority to produce the necessary documents/information/appear in person to/before the Investigating Authority. It is observed that during the course of investigation, vide summons dated November 28, 2011 and March 21, 2012, SEBI, inter alia, advised IFCF to furnish details of beneficial owners of all its investors. In this regard, it is alleged that IFCF failed to provide the said information. Further, even though GDRs were transferred from Vintage and IFCF and both Vintage and IFCF are controlled by AP, IFCF vide letter dated April 2, 20212 denied any connection or agreement with Vintage and denied entering into any agreement contractually or otherwise with any entity for purchase, sale and conversion of GDRs of the Issuer Companies.

z) In view of the above, Noticee 1 and 2 were alleged to have violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulation 3(c), 3(d), 4(1), 4(2)(c), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations. Noticee 3 and 5 were alleged to have violated the provisions of Section 12A(a), (b) and (c) of SEBI Act read with Regulation 3(c), 3(d), 4(2)(a), (c), (e), (f) and (k) of PFUTP Regulations. Noticee 4 was alleged to have violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a), (c) and (e) of the PFUTP Regulations, and Section 11C(3) read with 11C(6)of SEBI Act.

SCN to Noticee 5 to 17

aa) It is alleged that the complete process of issuance of GDRs and the subsequent conversion of the GDRs into shares were devised and structured by AP in connivance with the Issuer Companies. It is further alleged that AP had orchestrated a fraud by devising a mechanism under which structured GDRs were issued by Asahi, Avon, CAT, IKF, K Sera Sera, and Maars which were subsequently sold after their conversion into underlying shares, through various entities which are connected to AP.

bb) It is observed that the sub-accounts, namely, India Focus Cardinal Fund (**IFCF**) and KII Limited (**KII**) (hereinafter collectively referred to as '**Sub-accounts**') which were allegedly connected to AP converted the GDRs held by them into underlying shares and sold the same in the Indian market. The counter parties to majority of such sale were CP group who were also allegedly connected to AP. A tabular depiction of the alleged connection among IFCF, KII, CP group and AP as mentioned in the investigation report is enclosed as Annexure to the SCN. Copy of the documents in support of the aforesaid connection is enclosed as Annexure to SCN.

cc) It was observed that AP, through one of the companies controlled by him, namely, Vintage FZE acquired all the GDRs of the issuer companies by utilizing the loans taken from European American Investment Bank ('**Euram Bank**'). In this regard, the securities for such loans were provided by the respective issuer companies by way of pledge agreement with Euram Bank wherein they pledged the GDR proceedings with Euram Bank. Thus, it is alleged that, effectively, AP was holding the GDRs of the issuer companies without incurring any cost. Thereafter, by way of converting the GDRs and selling the resultant shares in India, AP was able to monetize the structured GDRs.

dd) It was observed that during the Investigation Period, out of the GDRs subscribed by Vintage, GDRs worth Rs. 1,20,17,33,280 were sold by it through IFCF and KII after converting the same into shares. Similar to Vintage, IFCF and KII were also allegedly under the control of AP. The comparison of GDRs acquired by Vintage to GDRs sold by it to IFCF and KII till September 21, 2011 are given below:

Issuer	Date of GDR Issue	No. of GDRs acquired by Vintage	No. of GDRs sold by Vintage to IFCF and KII	% of GDRs sold by Vintage to IFCF and KII to total GDRs acquired by Vintage
Asahi	29-Apr-09	29,91,000	16,51,000	55.20

Avon	19-Jun-09	16,00,000	16,00,000	100.00
CAT	27-Jul-07	43,04,348	1,95,000	4.53
	11-Jun-09	15,95,333	13,685	0.86
IKF	15-May-09	54,13,048	31,84,000	58.82
K Sera	26-Aug-07	47,61,900	32,56,900	68.39
	16-Oct-09	44,75,238	13,85,000	30.95
Maars	8-Oct-07	73,80,000	20,75,000	28.12

ee) The details of the transactions of the CP Group with IFCF and KII till September 21, 2011 are given in the table mentioned in point (q) above.

ff) From the said table, it is observed that the shares of issuer companies were not completely sold by IFCF and KII. Majority of the shares sold by IFCF and KII were purchased by the CP Group, only to be sold later. It is also observed that a range of 39.38% (IFCF in Maars) to almost 100% (IFCF in CAT) of shares sold by IFCF and KII were purchased by the Noticees. In total, IFCF and KII sold shares worth Rs. 1,20,17,33,278 of the issuer companies during the Investigation Period. Out of this, shares worth Rs. 79,11,13,054 were sold by IFCF and KII to the CP Group. Therefore, it is observed from the above that a major portion of shares of the aforesaid companies (around 65.83%) sold by IFCF and KII were purchased by the CP Group.

Trading in Issuer Companies by the sub-accounts and the CP Group:

Asahi

gg) It is observed that there were 676 trading days during the IP 1 in the scrip of Asahi. The Sub-accounts started selling the shares of Asahi on August 21, 2009 and the CP Group started trading in Asahi from May 08, 2009. However, from May 08, 2009 till September 03, 2009, there were only 9 trades worth Rs. 15,729 between sub accounts and CP Group. The frequent trading by CP Group in Asahi started after September 03, 2009 only. In total, CP Group traded on 467 days out of these 676 trading days. Thus, it is observed that CP Group started trading in Asahi almost 10 days after issuance of GDRs. However, the significant trading of CP Group started 12 days after the Sub-Accounts started selling the shares obtained from conversion of GDRs in underlying shares. IFCF and KII had cancelled a total of 49.52% i.e. 14,81,000 GDRs issued by Asahi till September 21, 2011.

The below table gives the details of buy and sell trades done by CP Group and Sub-Accounts in the scrip of Asahi during January 01, 2009 to September 21, 2011:

No. of shares purchased by CP Group and Sub-Accounts	No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Value of shares purchased by CP Group and Sub-Accounts (Rs.)	Value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
14,19,98,218	20,88,09,850	-6,68,11,632	59,14,44,766	69,88,66,722	40.02

hh) It is observed that the concentration of the CP Group and the Sub-accounts on gross basis in trading of Asahi during IP 1 is 40.02% of total market volume of 43,83,00,410 shares. The average daily turnover (hereinafter referred to as "**average turnover")** in Asahi on days when neither CP Group nor Sub-Account had traded was Rs. 93,472. However, the average turnover increased to Rs. 33,98,620 on days when CP Group or Sub-Account had traded in the scrip of Asahi. Thus, the average turnover on days when Sub-Accounts or CP Group traded increased 3,535.98%. In view of this, it is alleged that the Sub-Accounts and CP group had played a predominant role in creating liquidity in the scrip of Asahi. It is also alleged that the significant increase of turnover in Asahi was due to the activities of CP Group and Sub-Accounts.

ii) It is observed that the CP Group purchased shares from the Sub-Accounts and then subsequently sold those shares. By doing so. It is alleged that the CP group was assisting the Sub-Accounts in the sale of shares in Indian Securities Market. The below table provides a summary of shares of Asahi sold by the sub-accounts to the CP Group till during IP 1:

Sub-Account	Total no. of shares sold by Sub-Account	Total value. of shares sold by Sub-Account (Rs.)	CP Group entities purchasing shares from Sub-Accounts	No. of shares purchased by CP Group entities from Sub-Accounts	Value of shares purchased by CP Group entities from Sub-Accounts (Rs.)	% of no. of shares sold to CP Group entities to total sale by Sub-Accounts	% of no. of shares sold to CP Group to total sale by Sub-Accounts
(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**G =%(E/B)**	**(H=Σ G)**
IFCF	6,44,81,646	11,89,67,319	Indravarun	65,99,900	3,39,36,012	10.24	45.45
			Basmati	1,90,52,069	2,80,81,895	29.55	
			SV	34,11,300	35,02,024	5.29	
			Newgen	2,42,100	21,78,900	0.38	

			Oudh	1,023	9,217	0.002	
KII	35,00,000	35,01,264	SV	20,00,000	20,00,000	57.14	78.59
			Basmati	7,50,755	7,50,755	21.45	

Thus, it is alleged that around 45.45% of shares sold by IFCF of Asahi and 78.59% of shares sold by KII of Asahi were purchased by CP group members.

jj) It is further observed that the shares purchased by the CP Group either from the Sub-Accounts or other CP Group members were subsequently sold to other investors in the Indian market by them. The below table provides a summary of trades done by the sub-accounts and CP Group during IP 1:

Entity	**No. of shares of Issuer Companies purchased**	**No. of shares of Issuer Companies sold**	**Value of shares of Issuer Companies purchased (Rs.)**	**Value of shares of Issuer Companies sold (Rs.)**
Basmati	6,69,35,345	6,64,68,948	17,76,56,132	17,01,67,794
Cherry	1,82,027	1,82,027	17,82,397	17,72,095
Edelweiss	500	500	510	505
Excel	7,735	7,735	7,384	8,345
IFCF	0	6,44,81,646	0	11,89,67,319
Indravarun	4,36,89,358	4,34,42,939	34,61,08,424	33,89,92,963
KII	0	35,00,000	0	35,01,264
Newgen	19,49,020	19,39,024	1,70,51,078	1,72,41,331
Oudh	15,22,490	15,22,474	1,13,14,544	1,03,98,206
SV	2,77,11,743	2,72,64,557	3,75,24,298	3,78,16,900

kk) It is alleged that, without the trading of the CP Group in Asahi, it was not possible for IFCF and KII to sell the shares worth Rs. 12,24,68,583 as the average turnover in the scrip of Asahi on days when the CP Group or the Sub-Accounts had not traded was Rs. 93,472. Therefore, due to the trading by the CP Group and the Sub-Accounts, the turnover in the said scrip increased around 36 times.

ll) From the above, it is alleged that the trading by the CP Group in the scrip of Asahi was done for the purpose of creation of liquidity in the market in order to attract gullible investors to trade in the scrip of Asahi so that Sub-Accounts can off-load shares. In this process, the CP group purchased shares of Asahi from sub-accounts as well as other noticees and sold them to the other investors. It is alleged that this was done to meet the objective of allowing offloading of shares by Sub-Accounts in Indian market thereby completing the GDR Scheme of monetizing the GDRs and make indian domestic investors pay for the structured GDRs.

Avon Corporation Ltd

mm) It is observed that there were 676 trading days during IP 1. The CP Group started trading in Avon from June 16, 2009 and in total traded on 351 trading days during IP 1. It is observed that IFCF and KII cancelled 100% of the GDRs of Avon during the period August 03, 2009 till November 03, 2010. The CP Group also continued trading in Avon till November 04, 2010. There was hardly any trading by CP Group after November 04, 2010 except negligible trading worth Rs. 72,026 on 5 days between November 04, 2010 and September 21, 2011. Thus, it is alleged that the CP Group stopped trading in Avon once all the GDRs were cancelled and the underlying shares were sold by IFCF and KII. The below table gives the details of buy and sell trades done by CP Group and Sub-Accounts in the scrip of Avon during the period of January 01, 2009 till November 04, 2010:

Gross No. of shares purchased by CP Group and Sub-Accounts	Gross No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)	Gross value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
12,09,47,787	16,86,69,427	-4,77,21,640	88,79,49,050	1,17,23,99,197	50.12

nn) From the above, it is observed that the concentration of the CP Group and the Sub-Accounts on gross basis in Avon during the period January 01, 2009 to November 04, 2010 was 50.12% of total market volume of 28,89,51,348 shares.

oo) It is observed that during the period January 01, 2009 to November 04, 2010, the average turnover in Avon on days when neither CP Group nor Sub-Accounts had traded was Rs. 3,92,881. However, the average turnover increased to Rs. 58,92,707 on days when either CP Group or Sub-Account have traded. Thus, the average turnover on days when Sub-Accounts or CP Group traded increased by 1,399.87% as compared to days when neither of them had traded. In view of this, it is alleged that the significant increase of turnover in the Avon was due to the activities of CP Group and Sub-

Accounts. The below table provides a summary of shares of Avon sold by Sub-Accounts to CP Group during IP 1:

Sub-Account	Total no. of shares sold by Sub-Account	Total value. of shares sold by Sub-Account (Rs.)	CP Group entities purchasing shares from Sub-Accounts	No. of shares purchased by CP Group entities from Sub-Accounts	Value of shares purchased by CP Group entities from Sub-Accounts (Rs.)	% of no. of shares sold to CP Group entities to total sale by Sub-Accounts	% of no. of shares sold to CP Group to total sale by Sub-Accounts
(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**G =%(E/B)**	**(H=Σ G)**
IFCF	4,31,20,000	27,28,84,812	Delight	2,21,56,688	12,68,65,267	51.38	88.68
			Vinod	82,35,444	4,98,64,172	19.10	
			Basmati	31,46,551	2,48,58,504	7.30	
			SV	23,11,178	2,30,72,059	5.36	
			Oudh	17,96,694	1,50,22,854	4.17	
			Newgen	3,00,000	19,50,000	0.70	
			Edelweiss	2,86,302	18,46,648	0.66	
			Madanlal	7,449	45,760	0.02	
			Cherry	350	1,969	0.00	
KII	46,80,000	3,12,53,475	Delight	14,69,688	81,10,078	31.40	72.22
			SV	6,51,286	65,42,180	13.92	
			Vinod	9,29,835	54,82,870	19.87	
			Indravarun	3,27,968	16,39,840	7.01	
			Cherry	500	2,588	0.01	
			Oudh	600	3,098	0.01	

Thus, it is alleged that 88.68% of shares sold by IFCF of Avon and 72.22% of shares sold by KII of Avon were purchased by CP group members.

pp) The shares purchased by the CP Group either from the Sub-Accounts or other Noticees were ultimately sold to other investors in India. The below table provides a summary of trades done by the CP Group and the Sub-Account during IP 1:

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Alka	13,91,958	13,10,478	1,58,36,166	1,24,27,013
Basmati	1,23,09,027	1,23,13,632	11,70,98,105	11,07,16,818
Cherry	3,78,267	3,78,267	30,99,049	29,67,605
Delight	4,83,85,168	4,83,72,944	27,77,34,735	27,51,34,110
Edelweiss	3,66,269	3,71,269	23,55,145	24,29,668
Excel	42,489	42,689	4,45,528	4,25,897
IFCF	0	4,31,20,000	0	27,28,84,812
Indravarun	9,59,768	9,59,768	51,26,240	53,10,698
KII	0	46,80,000	0	3,12,53,475

Madanlal	13,96,261	13,96,261	1,12,67,976	1,10,07,888
Newgen	7,71,309	7,71,309	51,88,434	49,42,452
Oudh	39,67,249	39,67,249	3,51,17,967	3,29,81,939
SV	1,90,22,766	1,90,29,205	20,06,97,327	19,82,23,521
Vinod	3,19,59,906	3,19,64,510	21,40,03,853	21,17,43,851

qq) It is alleged that without the trading of the CP Group in Avon it was not possible for IFCF and KII to sell the shares worth Rs. 30,41,38,287 as the average turnover in the scrip of Avon on days when CP Group and Sub-Account had not traded was only Rs. 3,92,881. It is also alleged that due to the trading by CP Group or Sub-Accounts the turnover of the scrip increased around 15 times.

rr) From the above, it is alleged that the trading by the CP Group in the scrip of Avon was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that Sub-Accounts can off load shares and to purchase shares from Sub-Accounts and sell it to other investors. It is alleged that this was done to meet the objective of allowing offloading of shares by Sub-Accounts in Indian market thereby completing the scheme of monetizing the GDRs and make investors pay for the structured GDRs.

<u>CAT Technologies Ltd</u>

ss) It is observed that, out of 676 trading days during IP 1, the CP Group and the Sub-Accounts traded on 642 days in the scrip of CAT. The CP Group was already active in CAT before the beginning of the IP 1 due to the fact that CAT had issued GDRs twice (in 2007 and 2009). The below table gives the details of buy and sell trades done by the CP Group and Sub-Accounts in CAT during IP 1:

Gross No. of shares purchased by CP Group and Sub-Accounts	**Gross No. of shares sold by CP Group and Sub-Accounts**	**Net volume of trading by CP Group and Sub-Accounts**	**Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)**	**Gross value of shares sold by CP Group and Sub-Accounts (Rs.)**	**% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis**
8,28,96,495	7,56,99,670	71,96,825	1,06,39,37,149	97,30,80,840	59.93

tt) From the above table, it is observed that the concentration of the CP Group and the Sub-Account on gross basis in the scrip of CAT during IP 1 was

59.93% of total market volume of 13,23,17,805 shares. The average turnover on days when neither the CP Group nor the Sub-Account have traded was only Rs. 1,50,480 which increased to Rs. 25,18,404 on days when the CP Group or the Sub-Account had traded. Thus average turnover on days when the Sub-Accounts or the CP Group traded increased by 1,573.58%. Therefore, it is alleged that the significant increase of turnover in the CAT was due to the activities of CP Group and Sub-Accounts. Following table provides a summary of shares of CAT sold by Sub-Accounts to CP Group till September 21, 2011.

Sub-Account	Total no. of shares sold by Sub-Account	Total value. of shares sold by Sub-Account (Rs.)	CP Group entities purchasing shares from Sub-Accounts	No. of shares purchased by CP Group entities from Sub-Accounts	Value of shares purchased by CP Group entities from Sub-Accounts (Rs.)	% of no. of shares sold to CP Group entities to total sale by Sub-Accounts	% of no. of shares sold to CP Group to total sale by Sub-Accounts
(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**G =%(E/B)**	**(H=Σ G)**
IFCF	2,45,200	28,63,902	Oudh	1,49,999	18,10,488	61.17	99.92
			Basmati	94,990	10,49,662	38.74	
			Madanlal	11	123	0.004	

Thus, it is alleged that 99.92% of shares sold by IFCF of CAT were purchased by CP group members.

uu) The shares purchased by some of the CP Group members either from the IFCF or from other Noticees were ultimately sold to other investors in India. The below table provides a summary of trades done by some of the CP Group entities and IFCF during IP 1:

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Alka	6,37,920	1,04,542	32,75,219	11,52,685
Basmati	1,49,27,183	1,28,49,995	13,05,76,248	11,20,03,744
Cherry	14,90,926	9,55,363	1,66,08,874	1,33,11,253
Delight	2,11,78,444	2,09,92,568	34,41,28,773	33,61,62,316
Edelweiss	15,66,729	2,16,347	2,47,25,782	21,92,061
Excel	3,11,313	3,11,313	13,39,973	13,64,788
IFCF	0	2,45,200	0	28,63,902
Indravarun	1,91,245	39,265	19,75,229	3,97,266
Madanlal	24,10,132	24,11,061	3,00,58,372	3,03,18,097
Newgen	11,55,565	16,59,115	1,13,57,416	1,43,08,120
Oudh	39,32,343	16,96,093	5,06,75,383	2,01,94,727
SV	84,83,416	85,25,069	7,58,27,046	7,69,84,046
Vinod	2,66,11,279	2,56,93,739	37,33,88,834	36,18,27,834

vv) From the above, it is alleged that the trading by the CP Group in the scrip of CAT was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that IFCF could off load shares and to purchase shares from IFCF and sell it to other investors. It is alleged that this was done to meet the objective of allowing offloading of shares by IFCF in Indian market thereby completing the Scheme of monetizing the GDRs and make Indian domestic investors pay for the structured GDRs.

<u>IKF Technologies Ltd</u>

ww) It is observed that, out of 676 trading days during IP 1, the CP Group and IFCF in total traded on 357 trading days in the scrip of IKF. The CP Group was already active in IKF before the beginning of investigation period due to the fact that IKF had issued GDRs twice (in 2007 and 2009). The below table gives the details of trades done by CP Group and IFCF in IKF during IP 1:

Gross No. of shares purchased by CP Group and Sub-Accounts	**Gross No. of shares sold by CP Group and Sub-Accounts**	**Net volume of trading by CP Group and Sub-Accounts**	**Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)**	**Gross value of shares sold by CP Group and Sub-Accounts (Rs.)**	**% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis**
15,14,85,265	14,10,95,056	1,03,90,209	64,43,50,415	59,02,81,258	24.03

xx) It is observed that the concentration of the CP Group and IFCF on gross basis in IKF during IP 1 was 24.03% of total market volume of 60,88,53,818 shares. The average turnover on days when neither CP Group nor IFCF had traded was Rs. 17,04,879 which had increased to Rs. 59,09,749 on days when CP Group or IFCF had traded. Thus average turnover on days when IFCF or CP Group traded increased by 246.64%. It is alleged that significant increase of turnover in IKF was due to the activities of CP Group and IFCF. The below table provides a summary of shares of IKF sold by IFCF to CP Group till during IP 1:

Sub-Account	Total no. of shares sold by Sub-Account	Total value. of shares sold by Sub-Account (Rs.)	CP Group entities purchasing shares from Sub-Accounts	No. of shares purchased by CP Group entities from Sub-Accounts	Value of shares purchased by CP Group entities from Sub-Accounts (Rs.)	% of no. of shares sold to CP Group entities to total sale by Sub-Accounts	% of no. of shares sold to CP Group to total sale by Sub-Accounts
(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**G =%(E/B)**	**(H=Σ G)**
IFCF	1,96,07,456	8,67,92,834	Basmati	71,13,479	3,27,09,289	36.28	66.17
			Oudh	38,80,064	1,66,88,888	19.79	
			Alka	10,94,788	47,07,588	5.58	
			SV	8,85,605	38,05,185	4.52	

yy) From the above, it is observed that Alka, Oudh, SV and Basmati, all of whom were allegedly connected to AP had purchased 66.17% shares from AP controlled IFCF. The below table provides a summary of trades done by some of the CP Group entities and IFCF during IP 1:

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Basmati	59,691,361	40,819,166	250,070,527	168,371,465
Excel	646,976	969,822	3,001,336	4,222,983
Oudh	12,139,184	7,158,858	54,348,527	24,620,527
Alka	4,274,298	2,174,298	18,263,222	9,564,366
IFCF	0	19,607,456	0	86,792,834
Indravarun	37,793,269	37,300,460	152,835,573	149,300,613
Newgen	1,056,212	143,202	4,107,281	560,842
SV	25,263,855	25,278,555	114,469,883	114,565,029
Vinod	170,381	170,381	767,893	747,950
Madanlal	15,000	18,000	60,311	72,930
Cherry	58,190	58,190	2,21,317	2,20,681
Edelweiss	1,03,76,539	73,96,668	4,62,04,546	3,12,41,036

zz) From the above, it is alleged that the trading by the CP Group in the scrip of IKF was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that IFCF could off load shares and to purchase shares from IFCF and sell it to other investors. It is alleged that this was done to meet the objective of allowing offloading of shares by IFCF in Indian market thereby completing the whole Scheme of monetizing the GDRs and make Indian domestic investors pay for the structured GDRs.

K Sera Sera Ltd.

aaa) It is observed that, out of 676 trading days on Bombay Stock Exchange during IP 1, CP Group and Sub-Accounts in total traded on 651 trading days in the scrip of K Sera. The CP Group was already active in K Sera before the beginning of IP 1 due to the fact that K Sera had issued GDRs twice (in 2007 and 2009). The below table gives the details of trades done by CP Group and the Sub-Accounts in K Sera on BSE during IP 1:

Gross No. of shares purchased by CP Group and Sub-Accounts	Gross No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)	Gross value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
19,66,46,786	22,14,96,402	-2,48,49,616	2,61,24,40,925	2,88,59,22,423	28.52

bbb) It is observed from the above table that the concentration of CP Group and Sub-Account on gross basis in K Sera on BSE during IP 1 was 28.52% of total market volume of 73,31,73,990 shares. The average turnover on days when neither CP Group nor Sub-Account had traded was Rs. 11,05,544 which had increased to Rs. 1,48,06,870 on days when CP Group or Sub-Account had traded. Thus average turnover on days when Sub-Accounts or CP Group traded increased by 1,239.32%. Therefore, it is alleged that the significant increase of turnover in K Sera on BSE was due to the activities of CP Group and Sub-Accounts. The below table provides a summary of shares of K Sera sold by Sub-Accounts to CP Group on BSE till during IP 1:

Sub-Account	Total no. of shares sold by Sub-Account	Total value. of shares sold by Sub-Account (Rs.)	CP Group entities purchasing shares from Sub-Accounts	No. of shares purchased by CP Group entities from Sub-Accounts	Value of shares purchased by CP Group entities from Sub-Accounts (Rs.)	% of no. of shares sold to CP Group entities to total sale by Sub-Accounts	% of no. of shares sold to CP Group to total sale by Sub-Accounts
(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**G =%(E/B)**	**(H=Σ G)**
IFCF	1,35,45,000	17,15,80,484	Basmati	38,35,944	4,96,34,193	28.32	69.30
			Oudh	38,24,611	4,79,39,878	28.24	
			Newgen	14,24,152	1,78,16,544	10.51	
			SV	3,01,269	38,25,198	2.22	
			Cherry	1,852	23,203	0.01	
KII	1,21,31,430	15,71,82,321	Newgen	29,54,473	4,20,90,010	24.35	52.75

			Basmati	17,36,974	2,14,92,449	14.32	
			Oudh	13,13,835	1,65,28,570	10.83	
			SV	3,78,067	48,91,686	3.12	
			Cherry	13,347	1,72,262	0.11	
			Indravarun	2,199	25,956	0.02	
			Madanlal	1	13	0.00001	

ccc) From the above table, it is observed that on BSE, the CP Group had purchased 69.30% of shares sold by IFCF and 52.75% shares sold by KII in the scrip of K Sera. The shares purchased by the CP Group either from Sub-Accounts or other Noticees were ultimately sold in the market. The below table provides a summary of trades done by the CP Group and Sub-Account on BSE during IP 1:

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Alka	11,17,081	21,30,227	1,56,18,480	2,29,95,122
Ashok	65,000	65,151	11,30,020	14,30,167
Basmati	7,58,43,553	7,78,71,414	98,60,02,785	99,91,16,272
Cherry	15,68,139	15,07,002	2,26,27,749	2,14,11,667
Edelweiss	74,63,840	63,66,347	9,31,20,251	7,85,62,805
Excel	71,64,117	71,26,617	8,69,69,316	8,64,95,944
IFCF	0	1,35,45,000	0	17,15,80,484
Indravarun	2,54,24,389	2,57,97,495	34,13,00,303	34,77,09,033
KII	0	1,21,31,430	0	15,71,82,321
Madanlal	14,914	12,452	2,00,083	1,67,084
Newgen	1,55,60,248	1,22,26,287	20,61,89,545	14,80,50,385
Oudh	2,26,62,210	2,33,82,571	29,48,56,433	29,96,79,917
SV	3,94,22,326	3,89,93,440	55,80,56,770	54,52,49,406
Vinod	3,40,969	3,40,969	63,69,189	62,91,816

ddd) It is observed that, out of 676 trading days during IP 1 on National Stock Exchange of India Limited (**NSE**), the CP Group and sub-accounts in total traded on 645 trading days in the scrip of K Sera. The below table gives the details of done by the CP Group and the Sub-Accounts in K Sera on NSE during IP 1:

Gross No. of shares purchased by CP Group and Sub-Accounts	Gross No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)	Gross value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
15,98,45,233	17,34,69,466	-1,36,24,233	2,11,69,35,038	2,23,63,83,464	25.66

eee) It is observed that the concentration of the CP Group and the Sub-Account on gross basis in K Sera on NSE during IP 1 was 25.66% of total market volume of 64,94,08,016 shares. The average turnover on days when neither CP Group nor Sub-Account had traded was Rs. 12,39,966 which had increased to Rs. 1,32,44,345 on days when CP Group or Sub-Account traded. Thus average turnover on days when Sub-Accounts or CP Group traded in the scrip of K Sera on NSE increased by 968.12%. Therefore, it is alleged that significant increase of turnover in K Sera on NSE was due to the activities of the CP Group and the Sub-Accounts. The below table provides a summary of shares of K Sera sold by Sub-Accounts to CP Group on NSE during IP 1:

Sub-Account	Total no. of shares sold by Sub-Account	Total value. of shares sold by Sub-Account (Rs.)	CP Group entities purchasing shares from Sub-Accounts	No. of shares purchased by CP Group entities from Sub-Accounts	Value of shares purchased by CP Group entities from Sub-Accounts (Rs.)	% of no. of shares sold to CP Group entities to total sale by Sub-Accounts	% of no. of shares sold to CP Group to total sale by Sub-Accounts
(A)	(B)	(C)	(D)	(E)	(F)	G =%(E/B)	(H=Σ G)
IFCF	1,34,67,750	17,05,33,116	Basmati	43,28,355	5,59,58,509	32.14	54.10
			Oudh	16,12,394	2,01,22,523	11.97	
			Newgen	13,42,648	1,66,37,362	9.97	
			SV	1,000	13,050	0.01	
			Cherry	900	11,010	0.01	
			Madanlal	12	147	0.0001	
KII	1,25,30,000	16,44,61,404	Newgen	27,63,627	4,09,86,308	22.06	52.17
			Basmati	25,94,350	3,31,72,942	20.71	
			Oudh	11,78,960	1,46,99,597	9.41	
			Cherry	430	5,665	0.00	
			Madanlal	2	26	0	

fff) From the above table, it is observed that the CP Group had purchased 54.10% of shares sold by IFCF and 52.17% of total shares sold by KII. The shares purchased by the CP Group either from the Sub-Accounts or other Noticees were ultimately sold to other investors in India. The below table provides a summary of trades done by some of the CP Group entities and Sub-Accounts on NSE during IP 1:

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)

Alka	28,30,695	23,75,566	3,88,57,686	2,52,06,688
Ashok	1,99,925	0	30,98,838	0
Basmati	8,52,73,453	7,80,37,467	1,11,65,54,577	99,60,40,098
Cherry	7,30,370	5,75,527	1,00,70,873	78,59,618
Edelweiss	44,13,146	28,72,467	5,46,00,640	3,41,77,631
Excel	0	37,500	0	6,42,801
IFCF	0	1,34,67,750	0	17,05,33,116
Indravarun	1,90,76,414	1,82,68,254	26,38,06,980	24,88,10,656
KII	0	1,25,30,000	0	16,44,61,404
Madanlal	20,749	16,412	3,31,734	2,60,209
Newgen	1,71,74,328	1,53,86,496	22,57,90,931	18,73,56,828
Oudh	2,72,76,619	2,63,30,444	36,23,03,587	34,56,91,898
SV	28,49,534	35,71,583	4,15,19,193	5,53,42,518

ggg) It is observed that, on days when the Sub-Accounts or CP Group traded in K Sera on BSE, the turnover in the scrip increased around 8 times. Similarly, on days when the Sub-Accounts or CP Group had traded in K Sera on NSE, the average turnover had increased by 11 times.

hhh) From the above, it is alleged that the trading by the CP Group in the scrip of K Sera was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that the Sub-Accounts could off load shares and to purchase shares from Sub-Accounts and sell them to other investors in India. It is alleged that this was done to meet the objective of allowing offloading of shares by Sub-Accounts in Indian market thereby completing the Scheme of monetizing the GDRs and make Indian domestic investors pay for the structured GDRs.

Maars Software International Ltd

iii) It is observed that Maars issued GDRs on August 10, 2007. The CP Group entities started trading in scrip of Maars from December 11, 2007 (barring August 10, 2007 when Basmati purchased and sold 5,000 shares). It is observed that the CP Group was trading in the scrip of Maars till July 07, 2011. Therefore, SEBI had conducted investigation regarding the role of CP Group in creating artificial liquidity for the period of December 11, 2007 to July 07, 2011. It is observed that there were 882 trading days during the said period and CP Group and IFCF in total traded on 302 days out of these

882 trading days. The below table gives the details of trades done by CP Group and IFCF in Maars during the period of December 11, 2007 to July 07, 2011:

Gross No. of shares purchased by CP Group and Sub-Accounts	Gross No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)	Gross value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
5,74,27,453	6,57,09,530	-82,82,077	23,20,72,199	26,76,21,489	23.09

jjj) It is observed that the concentration of the CP Group and IFCF in Maars on gross basis during December 11, 2007 to July 07, 2011 was 23.09% of total market volume of 26,66,74,413 shares. During the said period, the average turnover on days when neither CP Group nor IFCF had traded was Rs. 2,91,676 which had increased to Rs. 31,38,751 on days when CP Group or IFCF had traded. Thus, average turnover on days when the CP Group or IFCF traded increased by 976.11%. Therefore, it is alleged that significant increase of turnover in Maars was due to the activities of the CP Group and IFCF. The below table provides a summary of shares of Maars sold by IFCF to CP Group during IP 2:

Sub-Account	Total no. of shares sold by Sub-Account	Total value. of shares sold by Sub-Account (Rs.)	CP Group entities purchasing shares from Sub-Accounts	No. of shares purchased by CP Group entities from Sub-Accounts	Value of shares purchased by CP Group entities from Sub-Accounts (Rs.)	% of no. of shares sold to CP Group entities to total sale by Sub-Accounts	% of no. of shares sold to CP Group to total sale by Sub-Accounts
(A)	(B)	(C)	(D)	(E)	(F)	G =%(E/B)	(H=Σ G)
IFCF	61,31,239	2,17,12,348	Basmati	14,87,645	51,33,838	24.26	39.38
			SV	7,00,303	23,85,815	11.42	
			Edelweiss	2,26,048	10,05,914	3.69	
			Cherry	800	2,473	0.01	

kkk) It is observed that the shares purchased by the CP Group members either from IFCF or the other Noticees were ultimately sold in the market. The below table provides a summary of trades done by some of the CP Group entities and IFCF during IP 2:

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Alka	16,48,973	29,77,728	65,52,882	1,11,83,003
Basmati	1,94,95,826	2,04,37,315	6,75,47,224	7,40,61,960
Edelweiss	29,70,133	20,16,457	1,30,80,817	1,05,43,413
Indravarun	2,54,318	2,54,318	2,21,234	2,19,948
Oudh	20,80,260	20,80,260	50,85,770	54,51,611
SV	2,99,82,075	3,05,18,929	13,39,72,695	13,47,30,538
Vinod	100	100	370	319
IFCF	0	61,31,239	0	2,17,12,348
Cherry	10,00,768	12,93,184	56,31,957	97,18,350

lll) From the above, it is alleged that the trading by the CP Group in the scrip of Maars was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that IFCF can off load shares and to purchase shares from IFCF and sell them to other investors. It is alleged that this was done to meet the objective of allowing offloading of shares by IFCF in Indian market thereby completing the Scheme of monetizing the GDRs and make investors pay for the structured GDRs.

<u>Creation of market (artificial liquidity creation) by members of the CP Group by Trading among themselves and with sub-accounts</u>

mmm) From the above paragraphs, it is observed that the CP Group assisted IFCF & KII in selling the shares of Issuer Companies by creating artificial liquidity in the scrips and they also acted as major purchaser of shares from IFCF & KII and later sold these shares to other investors in India. Details of trading by IFCF, KII and CP Group Members in Issuer Companies are given as Annexure to SCN. The below table provides summary of total purchase and sale done by CP Group and Sub-Accounts in the scrips of Issuer Companies during the Investigation Period:

Issuer	Period of examination of trading	Gross Buy Volume	Gross Sell Volume	Net Trade Volume	Gross Buy Value	Gross Sell Value
Asahi	Jan 01, 2009 to Sep 21, 2011	14,19,98,218	20,88,09,850	-6,68,11,632	59,14,44,766	69,88,66,722
Avon	Jan 01, 2009 to	12,09,47,787	16,86,69,427	4,77,21,640	88,79,49,050	1,17,23,99,197

Issuer	Period of examination of trading	Gross Buy Volume	Gross Sell Volume	Net Trade Volume	Gross Buy Value	Gross Sell Value
	Nov 04, 2010					
CAT	Jan 01, 2009 to Sep 21, 2011	8,28,96,495	7,56,99,670	71,96,825	1,06,39,37,149	97,30,80,840
IKF	Jan 01, 2009 to Sep 21, 2011	15,14,85,265	14,10,95,056	1,03,90,209	64,43,50,415	59,02,81,258
K Sera BSE	Jan 01, 2009 to Sep 21, 2011	19,66,46,786	22,14,96,402	-2,48,49,616	2,61,24,40,925	2,88,59,22,423
K Sera NSE	Jan 01, 2009 to Sep 21, 2011	15,98,45,233	17,34,69,466	-1,36,24,233	2,11,69,35,038	2,23,63,83,464
Maars BSE	Dec 11, 2007 to July 07, 2011	5,74,27,453	6,57,09,530	-82,82,077	23,20,72,199	26,76,21,489

nnn) From the above table, it is observed that the CP Group and the sub-accounts were net sellers in five out of seven cases (including K Sera at NSE). In view of this, it is alleged that the Sub-Accounts and the CP Group had dealt in shares of Issuer Companies only to offload the shares. The below table provides a summary of concentration of trades by the CP Group and the Sub-Accounts to total turnover of the scrips during the Investigation Period:

Scrip Name	No. of Entities (CP Group / Sub-Accounts)	Period of examination of trading	Gross Buy Volume	Gross Sell Volume	Gross Trade Volume	% Concentration gross basis of CP Group & sub-accounts to Market Volume
Asahi	10	Jan 01, 2009 to Sep 21, 2011	14,19,98,218	20,88,09,850	35,08,08,068	40.02
Avon	14	Jan 01, 2009 to Nov 04, 2010	12,09,47,787	16,86,69,427	28,96,17,214	50.12
Cat	13	Jan 01, 2009 to Sep 21, 2011	8,28,96,495	7,56,99,670	15,85,96,165	59.93
IKF	12	Jan 01, 2009 to Sep 21, 2011	15,14,85,265	14,10,95,056	29,25,80,321	24.03
K Sera BSE	14	Jan 01, 2009 to Sep 21, 2011	19,66,46,786	22,14,96,402	41,81,43,188	28.52
K Sera NSE	13	Jan 01, 2009 to Sep 21, 2011	15,98,45,233	17,34,69,466	33,33,14,699	25.66
Maars BSE	9	Dec 11, 2007 to July 07, 2011	5,74,27,453	6,57,09,530	12,31,36,983	23.09

ooo) From the above table, it is observed that, during the Investigation Period, the Sub-Accounts and the CP Group members had contributed in a range of 23.09% to 59.93% to the total turnover in the shares of Issuer Companies. For example, in the scrip of CAT, the Sub-Accounts and the CP Group members (total 13 entities) had contributed around 59.93% in the total turnover of the scrip during the Investigation Period. From the above, it is observed that substantial amount of concentration in the scrips of Issuer Companies was due to trades done by the Sub-Accounts and the CP Group members. Further analysis shows that large amount of trading by the Sub-Accounts and the CP Group was among themselves only. In this regard, a detail of trades done by the Sub-Accounts and the Noticees among themselves is placed as Annexure to SCN. The below Table provides summary of trades done among IFCF, KII and CP Group members during Investigation Period:

Scrip Name	Period of examination of trading	CP Group & Sub-Accounts Gross Trade Volume	No. of shares traded by IFCF, KII and the CP Group members among themselves	% of CP Group and Sub-Accounts trading among themselves to total trading by them
Asahi	Jan 01, 2009 to Sep 21, 2011	35,08,08,068	8,46,92,044	24.14
Avon	Jan 01, 2009 to Nov 04, 2010	28,96,17,214	13,98,46,772	48.29
CAT	Jan 01, 2009 to Sep 21, 2011	15,85,96,165	9,21,64,408	58.11
IKF	Jan 01, 2009 to Sep 21, 2011	29,25,80,321	8,97,18,030	30.66
K Sera BSE	Jan 01, 2009 to Sep 21, 2011	41,81,43,188	9,21,09,310	22.03
K Sera NSE	Jan 01, 2009 to Sep 21, 2011	33,33,14,699	6,79,19,350	20.38
Maars BSE	Dec 11, 2007 to July 07, 2011	12,31,36,983	2,10,60,268	17.10

ppp) The above table shows that in the scrip of Asahi, the Sub-Accounts and the CP Group traded 8,46,92,044 shares among themselves, which was 24.14% of the total trading in the scrip of Asahi by them. Similarly, it is observed that a range of 17.10% (Maars) to 58.11% (CAT) of trading of the CP Group and the Sub-Accounts in Issuer Companies was due to trading among themselves. This data indicates that the large portion of trading by the CP Group, IFCF and KII was due to trades matching with one another. The individual contribution of each of the Sub-Accounts and the CP Group entities in a tabular format is attached as Annexure to SCN. The data clearly indicates that the CP group absorbed large portion of the sale orders by IFCF and KII and also contributed to liquidity in the scrip of the Issuer companies.

qqq) In view of the above, it is alleged that the trading of the CP Group had contributed to the immense rise in the liquidity of the scrip. From the above, it is alleged that the trading by the CP Group in various scrip was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that Sub-Accounts can off load shares and to purchase shares from Sub-Accounts and sell it to Indian domestic investors. It is further alleged that this was done to meet the objective of allowing offloading of shares by Sub-Accounts in Indian market thereby completing the Scheme of monetizing the GDRs and make Indian domestic investors pay for the structured GDRs.

rrr) The below table provides the information regarding the increase in the trading turnover of Issuer Companies due to the trading by the CP Group and the Sub-Accounts

Name of the Scrip	**Period Examined**	**Average daily turnover in Rs. on days when CP Group or Sub-Accounts have not traded in the scrips**	**Average daily turnover in Rs. on days when CP Group and Sub-Accounts have traded in the scrips**	**No. of times turnover increased due to trading by Sub-Accounts and CP Group**
Asahi	Jan 01, 2009 to Sep 21, 2011	93,472	33,98,620	36.36
Avon	Jan 01, 2009 to Nov 04, 2010	3,92,881	58,92,707	15.00
CAT	Jan 01, 2009 to Sep 21, 2011	1,50,480	25,18,404	16.74
IKF	Jan 01, 2009 to Sep 21, 2011	17,04,879	59,09,749	3.47
K Sera BSE	Jan 01, 2009 to Sep 21, 2011	11,05,544	1,48,06,870	13.39
K Sera NSE	Jan 01, 2009 to Sep 21, 2011	12,39,966	1,32,44,345	10.68
Maars	Dec 11, 2007 to July 07, 2011	2,91,676	31,38,751	10.76

sss) In view of this, it is alleged that CP group entities had connections with AP and AP had substantial influence over their activities during the Investigation Period. Therefore, it is alleged that the Noticees 5 to 17 have violated the provisions of Sections 12A(a), (b) and (c) of the SEBI Act read with regulations 3 (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations.

Reply and Hearing of Noticees : -

I. Noticee 1, 2 and 3

7. The SCN was sent to Noticee 2 at the following 2 addresses – (i) Level 1 Devonshsire House, Mayfair Place, London, England, W1J 8 AJ, which address was as per the Companies House website (viz.https://www.gov.uk/government/organisations/companies-house) at the relevant

time of issuing SCN and (ii) Minister House, 42 Mincing Lane, London EC3 R7AE. The common SCN issued to Noticee 1 and 2 was delivered to them at the following address – Level 1 Devonshsire House, Mayfair Place, London, England, W1J 8 AJ and for Noticee 2 it returned undelivered from the other address (i.e. Minister House, 42 Mincing Lane, London EC3 R7AE). The SCN sent to Noticee 1 at the following address – 7 AYLMER Drive, Stanmore, Middlesex, United Kingdom, HA7 3EJ was delivered. However, no reply was received from the above Noticees. Subsequently, Noticee 1 and 2 were granted an opportunity of hearing on December 16, 2019 vide Hearing Notice dated November 18, 2019. The said Noticees were also granted opportunity to submit their reply to the SCN on or before December 09, 2019. The said Hearing Notice was delivered at the address of Noticee 1 and 2 at the following address – Level 1 Devonshsire House, Mayfair Place, London, England, W1J 8 AJ. However, the said hearing was not attended by Noticee 1 and 2. Subsequently, vide Hearing Notice dated December 17, 2019, Noticee 1 and 2 were granted another opportunity of hearing on January 16, 2020. The said Hearing Notice was delivered to Noticee 1 and 2 at the above mentioned address. However, I note that despite service of notices, the said Noticees did not appear for the hearing nor submitted any reply to the SCN.

8. Thereafter, vide Hearing Notice dated November 19, 2020 Noticee 1 and 2 were granted another opportunity of hearing on December 10, 2020. The Noticees were also granted opportunity to submit their replies to the SCN latest by December 04, 2020. Vide the said hearing Notice, copies of following documents were also attached – i) Details of cancellation requests for the GDRs of the following companies - Asahi Infrastructure & Projects Ltd, Avon Corporation Ltd, CAT Technologies Ltd, Maars Software International Ltd., IKF Technologies Ltd., and K Sera Sera Ltd. (2 Emails dated 26/06/2012 from the Depository Banks), ii) Details of Shares received by India Focus Cardinal Fund and KII Ltd in their demat accounts post the cancellation of GDRs of the aforesaid companies (Emails dated 02/08/2012 and 06/08/2012 from the local custodians), and iii) Details of Loan repayment by Vintage FZE to EURAM Bank (Bank statement of Vintage FZE and details of repayment submitted vide letter

dated May 29, 2013 to SEBI). The aforesaid Hearing Notices dated November 19, 2020 returned undelivered from the addresses of Noticee 1 and 2. Subsequently, vide letter dated December 01, 2020 (received through email dated December 02, 2020 from email id : arun.panchariya@me.com), Noticee 1 (AP) inter alia submitted that he has not received the SCN dated September 16, 2019, and requested to be provided with the same. Further, it was requested that he be provided a fresh date of hearing after providing of time to file his reply on receipt of the alleged SCN. Vide email dated December 16, 2020, the copy of the SCN and its annexures was sent to Noticee 1. Thereafter, vide email dated January 18, 2021, the Noticee 1 was granted an opportunity of personal hearing on February 02, 2021. Vide email dated January 28, 2021, reply was received from Mr. Sandeep Wadhwan, advocate and authorized representative (AR) of Noticee 1 stating that they are not in receipt of the SCN through email dated December 16, 2021 or its attachments and it was requested to send the SCN and its annexures. Accordingly, vide email dated January 29, 2021, it was communicated to the AR and Noticee 1, that the SCN and its annexures may be collected from SEBI's office at Mumbai on February 01, 2021. The SCN and its annexures as well as copies of following documents were collected by the authorized person of Noticee 1 viz. Mr. Shrikant Joshi on February 01, 2021 – i) Details of cancellation requests for the GDRs of the 6 issuer companies (2 Emails dated 26/06/2012 from the Depository Banks), ii) Details of Shares received by India Focus Cardinal Fund and KII Ltd in their demat accounts post the cancellation of GDRs of the aforesaid companies (Emails dated 02/08/2012 and 06/08/2012 from the local custodians), and iii) Details of Loan repayment by Vintage FZE to EURAM Bank (Bank statement of Vintage FZE and details of repayment submitted vide letter dated May 29, 2013 to SEBI).

9. Vide letter dated February 13, 2021 (received vide email dated February 16, 2021), Noticee 1 (AP) submitted reply to the SCN. The main submissions made therein are as follows –

   This is with reference to the show cause notice dated September, 06, 2019 as mentioned in the aforesaid subject which was served upon me for the first time on

01.02.2021 in the office of SEBI, Mumbai through my authorized person. I submit my reply as under:-

PRELIMINARY SUBMISSIONS:-

At the outset and without prejudice to anything stated hereinafter, I deny all the allegations charges and findings made against me in the said Show Cause Notice dated September 06, 2019. Nothing contained in the said Show Cause Notice may be deemed to have been admitted by me merely on account of non traverse and unless specifically admitted.

A SHOW CAUSE NOTICE IS WITHOUT JURISDICTION

1. SCN is addressed to me Arun Panchariya (AP), in my personal capacity, residing Outside India for the last more than 17 years (over two decades). I am having certifications in finance and have been in the financial services industry in Middle East and Europe. I was never and have never been registered with the SEBI or Reserve Bank of India ("RBI") or any other regulatory agency in India and have never had a place of business in India. I have never carried out any activities within India, being the jurisdiction of the SEBI. Therefore, SEBI cannot be said to have any jurisdiction over my business activities outside India or jurisdiction over me in my personal capacity. In the circumstances, the Show Cause Notice has been issued without any jurisdiction and it is necessary from all corners that it must be dropped outrightly.

2. As stated above, since I am a natural person resident outside India, the SEBI has no jurisdiction to initiate action against natural persons resident outside India as the scope of the SEBI Act extends to the whole of India only and not outside India. Further, penalty has been sought to be imposed under Section 15HA of the SEBI Act, 1992 (herein after referred to as "the Act"), which is not tenable either on facts or law over persons residing outside India. As per Section 15 of the Act, when any person fails to perform any acts, that he is required under the Act, he is liable for penalties. In the present case, neither I nor any of my business activities being performed outside India, are governed by the Act or its rules/regulations, therefore, penalty sought to be imposed under Section 15HA is not applicable on me.

3. I am in the business of advising companies in relation to their investment decisions, my business is conducted entirely outside the territory and jurisdiction of India and the scope of my work and the advice I provide to companies relate to actions outside the territory and jurisdiction of India. I am neither in intermediary, which is required to be registered with SEBI under the provisions of the SEBI Act, 1992 nor in control of any entity that is required to be registered with SEBI or regulated by SEBI. Therefore, I *cannot be considered as person having interaction or connection with the Indian securities market and consequently, SEBI cannot be said to have any jurisdiction over my business activities or me. Hence the said show cause notice has been issued without jurisdiction and ought to be recalled immediately.*

4. Further, SEBI does not have jurisdiction more so when it has not framed any regulation governing GDRs. The GDR Scheme of 1993 shows that GDRs are to be "created and issued" by an Overseas Depository Bank. No Merchant Banker (Lead Manager) registered with SEBI or any other authority in India is competent to handle GDRs issued abroad by an Issuer Company located in India. SEBI cannot thus conceivably extend its reach to a company or person incorporated outside India.

5. The Show Cause Notices does not make a reference to the "jurisdictional fact" although I repeatedly submitted the same in response to the aforesaid SCNs, personal hearings and in various appeals filed by me against the orders passed against me in my personal name. Show Cause Notices has, thus, failed to establish that SEBI has jurisdiction to issue the same to me or to take the actions speculated therein against me.

6. The SCN has been issued against me alleging that I have connection with the various entities mentioned in the said SCNs and I am the beneficiary under various other entities like Pan Asia Advisors Limited, Vintage, India Focus Cardinal Fund, Cardinal Capital Partner Limited, KII, Cardo Investments Holding Limited etc. Each of these entities is duly incorporated under the relevant laws and have a separate legal existence and my role is totally different from the activities carried on by these entities under their Charter. I am not even beneficiary and connected.

7. From a bare reading of the Show Cause Notice, it is clear that SEBI has made allegations of manipulation against entities as stated above Despite this, they have deliberately chosen not to issue Show Cause Notice against these entities. From the conduct of the SEBI and its investigating team, it is clear that the entire investigation and the subsequent issuance of the impugned Show Cause Notice to me in my personal capacity, is out of personal vendetta and an attempt to launch a witch-hunting campaign against me.

B. INORDINATE AND UN-EXPLAINED DELAY IN ISSUING SHOW CAUSE NOTICE RESULTING IN VITIATION OF THE SAME:-

1. The Show Cause Notice has been issued in the year 2019 and served upon me in the year 2021 with regard to the transactions for the relevant period of the years from

2008-2009-2010-2011. There is an inordinate delay in initiating the proceedings and therefore on this short ground the proceedings initiated by the SEBI should be dropped on the ground of latches.

2. In this regard, it is submitted that even your show cause notice is relying upon investigation report (Annexure-2) of the year 2010-11 but there is no justification as to why SEBI waited for more than 9 years to issue the instant show cause notice.

3. The SCN is also very vague as it does not disclose the kind of measures SEBI is contemplating to take after 10+ years. The Noticees are completely in the dark about what exactly SEBI has in mind, as regards the consequences, and are unable to address SEBI on the same not only that I found that SEBI officials set a negative frame of mind against me in passing order against me, I am saying that because as a proof I have seen different decisions in SEBI's order which reflects in similar cause/event of transaction of other cases of GDR.

4. The First ad interim ex party order has been passed against me i.e. Mr. Arun Panchariya in my capacity as Managing Director of Pan Asia Advisors and also against Pan Asia Advisors, on 21st September, 2011 in the matter of GDR manipulations and the vague allegation was of Money Laundering. However afterwards in the SCN issued 16th May, 2013 after that the said allegation relating to money laundering and market manipulation has been withdrawn as no allegation of Market manipulation has been mentioned in the said SCN.

5. The SEBI was aware of the alleged violation as mentioned in the SCN even when they had issued SCN with respect to PAN Asia and thus there is no justification for waiting for more than nine years to issue the instant show cause notice at such a belated stage. There is an inordinate delay in initiating the proceedings and there is no justification with the SEBI as to why it had sat over the matter for such a long time.

6. From the material available on record it is clear that the alleged irregularities/transactions/activities (though strictly denied) were noticed by SEBI in the year 2010 and immediately, investigation was launched and concluded in the year 2011 itself. However, nothing has transpired as to why the SEBI investigation remained pending and sat over the matter for more than 10 years. Even SCN qua PAN Asia matter was issued in the year 2013. The allegations as levelled in the instant SCN are overlapping with the SCN issued way back in the year 2013. Thus, there is a delay of 9 years in the issuance of the show cause notice.

*7. The controversy in this regard is squarely covered by a decision of the SAT in **Mr. Rakesh Kathotia & Ors. vs SEBI in Appeal No. 7 of 2016 decided on May 27, 2019**. The relevant paragraph is extracted herein below:-*

> *"23. It is no doubt true that no period of limitation is prescribed in the Act or the Regulations for issuance of a show cause notice or for completion of the adjudication proceedings. The Supreme Court in **Government of India vs, Citedal Fine Pharmaceuticals, Madras and Others, [AIR (1989) SC 1771]** held that in the absence of any period of limitation, the authority is required to exercise its powers within a reasonable period. What would be the reasonable period would depend on the facts of each case and that no hard and fast rule can be laid down in this regard as the determination of this question would depend on the facts of each case. This proposition of law has been consistently reiterated by the Supreme Court in **Bhavnagar University v. Palitana Sugar Mill (2004) Vol.12 SCC 670, State of Punjab vs. Bhatinda District Coop. Milk P. Union Ltd (2007) Vol.11 SCC 363 and Joint Collector Ranga Reddy Dist. & Anr. vs. D. Narsing Rao & Ors. (2015) Vol. 3 SCC 695.** The Supreme Court recently in the case of **Adjudicating Officer, SEBI vs. Bhavesh Pabari (2019) SCC Online SC 294** held:*
>
> > *"There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created etc."*

*8. This view is further reiterated in the matter of **Ashok Shivlal Rupani & Ors. vs. SEBI (Appeal No. 417 of 2018 along with other connected appeals decided on August 22, 2019)** as well as a decision in **Sanjay Jethalal Soni & Ors. vs SEBI in Appeal No. 102 of 2019 and other connected appeals decided on November 14, 2019**.*

*9. Further, **Civil Appeal No. 8444 –8445 of 2019 Securities and Exchange Board of India vs. Ashok Shivlal Rupani & Anr**, etc was dismissed by the Hon'ble Supreme Court on November 15, 2019 thus affirming the decision of the SAT on inordinate delay in such cases.*

*10. Again following the same issue of delay in issuance of SCN, the SAT has again reiterated its decision in **Ashlesh Gunvantbhai Shah Vs. SEBI (Appeal No. 169 of 2019) decided on 31.01.2020**.*

In all the above cases, the penalty has been set aside on account of inordinate and unexplained delay in issuing SCNs.

4.AP ALREADY RESIGNED DURING RELEVANT PERIOD; NOTICEE WAS NOT A PART OF MANAGEMENT OF THE ENTITIES (EVEN OUTSIDE INDIA), DURING THE RELEVANT PERIOD;

A) *Mandates/arrangements/role in relation to the GDR issues outside India are granted/played by various entities like Vintage FZE, IFCF, Pan Asia. All these entities are distinct and separate legal entities having their own management and decision making body. I have resigned from Vintage FZE (Resigned year 2009), IFCF (resigned year 2010), and Pan Asia (year OCT-2011) and since then I am not part of its management team.*

B) *In relation to the Vintage FZE, I had already resigned and I was Director only till 2007. All the decisions of Vintage FZE including Loan default were taken by the then Management in the best interest of the Company.*

C) *In relation to allegations against India Focus Cardinal Fund and KII Ltd, the same are vehemently denied. I did not exercise any control over India Focus. In this regard, I submit that at the point of time when I was a director, the investment decisions of India Focus were taken collectively by its Board of Directors and accordingly, the orders for the trades would be placed with the brokers. I was neither the whole-time director nor the managing director of India Focus. Further, in relation to the other FIIs/sub-accounts, there is no document or evidence provided to me in support of the allegation that they are connected to or controlled by myself except showing few connections which are totally independent Business relationships. Therefore, there is no question of my being illegally or improperly connected to or being in control of the entities.*

D) *It is respectfully submitted that the Show cause notice is incorrectly issued against myself. Further, it is submitted that I do not exercise any control over the FIIs/sub-accounts or the Entities for me to be able to make any decision in relation to their investments or trades; I have not traded in the Indian securities market and I have not assisted in any purported trading by any party.*

D. SEBI HAS NO POWER TO LIFT/PIERCE CORPORTE VEIL OF ENTITES ESPECIALLY INCORPORTED OUTSIDE INDIA;

1. Entire show cause notices, is based on "connection" of AP i.e. myself to various corporate legal entities, and allegations levied against me i.e. Arun Panchariya in individual/personal capacity based on assumptions and presumptions of being the beneficiary.

2. The SCN is issued under the provisions of Rule 4(1) of the SEBI (Procedure for holding inquiry and imposing penalties by Adjudicating Officer) Rules 1995 for imposition of penalty under Section 15HA of the SEBI Act for alleged violations under Sections 12A (a),(b)(c) of the SEBI Act and Regulations 3(1) (a)(b)(c)(d) and 4(1) of the SEBI PFUTP Regulations 2003.

3. Allegations in the SCN is based on the theory that the Noticee is instrumental in devising the alleged fraudulent scheme of GDR and is the beneficiary. AP is not involved in the GDR issue in his personal capacity, the SCN is issued to him in his personal capacity; the AP is made to answer for the alleged irregularities of other entities. SEBI has no powers under the SEBI Act, to lift or pierce the corporate veil. Each of these entities have separate legal existence as limited liability companies having been duly incorporated in the relevant jurisdictions. Said entities are independent, incorporated under respective foreign jurisdictions and some of them are regulated with respective financial market regulator/s of their respective jurisdictions.

4. The Powers to lift the corporate veil cannot be exercised by an Adjudicating officer exercising powers for imposing penalty under Section 15HA of the SEBI Act. The factors to be considered for imposing a penalty are specifically provided in Section 15 JB of the Act. The adjudicating officer cannot go beyond the scope of these provisions. Entities whose veil is purportedly attempted to be lifted are not entities incorporated in India and any proceedings for lifting corporate veil can be held outside by the relevant authorities overseas having jurisdiction over such matters and following the due process under the relevant overseas laws, and not by SEBI under the provisions of the SEBI Act.

5. In such circumstances, there is no reason for the SEBI to attempt to lift the corporate veil. SEBI is deliberately disregarding the principle laid down in ***Salomon v. A. Salomon & Co. Ltd****. There is no power or, in the facts and circumstances of the case, warrant or justification for the SEBI to have lifted/pierced the corporate veil and in any case, the SEBI does not have the power to lift the corporate veil of an entity incorporated outside India.*

6. SEBI has no such powers to lift the corporate veil and hold me as a beneficiary and at the same time ignoring key roles of Issuing Corporate company and its beneficial nature *to execute the same. Since I became NRI, I do not deal in Indian Securities market as individual nor registered with any Indian Share Broking firms nor hold any Demat Account.*

7. SEBI officer knows that each & Every regulated entity has Board and Board is responsible for day to day business but ignoring such fact, SEBI officials are targeting me and portraying me as beneficiary of the transaction as individual by piercing veil, which is absolutely wrong not only that SEBI has written submission from FSC Mauritius on functioning parameters of the FUND but still SEBI is ignoring that report.

8. SEBI officers know that FUND has two different ways of share holding pattern i.e. Non-redemption capital with voting rights and redemption capital with Voting rights with Share Capital Class wise. Here SEBI's Investigation Officer has intentionally hidden the truth in report about benefits going to the beneficiary of the fund and benefits going to the beneficiary of class where GDR were converted and traded. Either SEBI official were not good enough with his knowledge being regulator to understand the said parameters.

9. SEBI officers have also pierced the veil of Vintage FZE to put all blame on me as a beneficiary, whereas, Company was operated with General Manager for day to day business who is responsible and incharge of affairs of the company as per United Arab Emirates law and not only that Vintage FZE had a 100% share Holding of the corporate company and also for certain periods of time, there were a Arab Share Holder of the company but Investigation Officer has hidden this truth though he has all papers with him and just framed me as creator of Device.

E. MALICE/MALAFIDE/BIAS IN IMPLICATING AP IN THE PROCEEDINGS:-

1. In the CD supplied by you along with the show cause notice on 02.02.2021, you are relying upon Annexure-6(b) which is a letter dated April 2, 2021 sent by India Focus Cardinal Funds to Mr. Avarjeet Singh. Therefore, it is clear that the investigation report Annexure-2 has been prepared by biased mind on the ground that Mr. Avarjeet Singh was appointed as Investigation Officer of the GDR case by the SEBI. The said officer was caught red handed and arrested by the Central Bureau of Investigation in case bearing No.RC 11(A)/2012-G?NR Special Case No.19/12 of the CBI, India wherein the CBI had collected numerous documents from the DFSA-Dubai, FSA-London including the recorded statement of the undersigned A.P. and written statements etc. much before the arrest of Avarjeet Singh to the effect that the said Avarjeet Singh had resorted to this case just for the purpose of demanding bribe money from us though, he had no jurisdiction on me.

2. That SEBI started this investigation in the year 2010 and made its Ego issue as SEBI officials did not have Jurisdiction but they passed orders. The Investigating Officer at the relevant time namely Avarjeet Singh did all this for his ego satisfaction and to earn *bribe money. In that exercise, he was caught red handed by the CBI. Post that SEBI department had suspended him. Now, the SEBI officials are coming under influence to pass new orders just in order to take revenge from the appellant and where-ever, they deem fit, are fitting the name of the appellant, come what may.*

3. SEBI started investigation with Money laundering and Price Manipulation in the script and debarred the appellant for 10 years from Indian market. Now, SEBI is passing Show Cause Notices each day after inordinate and unexplained delay loan and pledge in agreement were executed by and between two Corporate Companies and non of the documents were ever signed by the A.P. i.e. me on SEBI is targeting the noticee without any rhyme or reason. The discussion explanation and reasoning given in the show cause notice to involve me as a Noticee is itself not sufficient so as to warrant penalty orders against the Noticee and that too, without impleading the concerned entities as parties.

Reply on Merits:

1. That the contents of entire show Cause Notice are vehemently denied being totally incorrect. In this regard, it is submitted that as per your own averment, the Investigation report Annexure 2 was concluded in the year 2010-11 itself with regard to the same matter of PAN Asia. However, the AO was appointed only in July 2018. Therefore, there is no justification with you for causing such a mammoth delay in issuing the instant SCN. There is an unexplained and unreasonable delay of more than 9 years in the same. At the time of conclusion of Investigation Report Annexure 2, the AO/SEBI were aware of the alleged violations as mentioned in the SCN and even they had issued SCN to PAN Asia with respect to debarment. From the allegations mentioned in the SCN, it is clear that the alleged irregularities (though strictly denied) were noticed by the SEBI in the year 2010. Therefore, there is no justification for waiting or more than nine years to issue instant SCN. Moreover, there is no violation on my part as alleged.

2. That I am not and cannot be termed as a person associated with the Indian securities market either as a market intermediary or as a market player. I do not deal, sell or buy Indian securities in any manner. I am not connected to any person or entity named in the Investigation Report in the manner alleged therein. I do not control their activities or their investment decisions. Further with regard to the PAN ASIA, the entire matter is pending the gaze of judicial scrutiny before the Hon'ble Supreme Court and I reiterate the averments made in the C.A. No. 009516 - 009517 / 2017 pending before the Hon'ble Supreme Court of India. Since the allegations as contained in the instant Show Cause Notice are overlapping and akin to the SCNs issued in the year 2011 and 2013 by the then Deputy General Manager, of Integrated Surveillance Department of SEBI with regard to

PAN Asia and me containing same averments, so I reiterate my replies to the said Show Cause Notices as well given vide letter dated 29.05.2013.

3. That the notice further vehemently deny the SEBI allegations of any wrongful and illegitimate activities in the SCN. By narrating a transaction in a negative manner, it does not show any unlawfulness of it. Therefore, I Arun Panchariya has not violated any provisions of SEBI or any regulations framed by SEBI.

4. That the SCN proceeds on the premise that on account of such alleged connections, I exercised unilateral control over the parties in the scheme purported by the Investigation Report Annexure 2 and thereby allegedly upon the alleged scheme itself. In this regard, it is pertinent to note that assuming whilst denying that there was indeed such connection between the entries mentioned in the show cause notice and me, the same does not and cannot imply that the decision of such entities were controlled by me. Further, it is also pertinent to note that the show cause notice or investigation report or any document provided to me does not indicate in any manner the exercising of such control by PAN Asia or myself.

5. That since I am not a person connected with the Indian Securities Market, I am not regulated by SEBI and it has no jurisdiction over me or my activities. Hence, I am not required to answer each and every allegation in this SCN, which itself is based on conjectures and surmises.

6. That since over the last more than 10 years, the SEBI has failed to establish that I have entered into any illegal arrangement or activity that is fraudulent, it is requested that the present Show Cause Notice may be withdrawn being suffering from delay and latches, which are unexplained and justified.

7. That further I reserve my right to make further parawise submissions, if required, and I request that I may be provided with an opportunity of appear for hearing either self or through authorised person or attorney before the AO in SEBI and make submissions, before any order is passed in the matter.

10. Subsequently, vide email dated February 26, 2021, Noticee 1 was granted personal hearing on March 10, 2021. In view of the pandemic the said hearing was conducted through video conference, wherein Mr. Sandeep Wadhwan, advocate, the authorized representative (AR) of Noticee 1 reiterated the submissions made by the Noticee 1 vide letter dated February 13, 2021. Further, the AR stated that the copy of the letter dated 29.05.2013 would be

submitted in the present proceedings as the same has been referred in the Noticee's reply dated February 13, 2021. Further, in para E.1 of Noticee's reply dated February 13, 2021, reference was made to "Annexure-6(b) which is letter dated April 2, 2021 sent by India Focus Cardinal Funds". In this regard, the AR has made the correction in the reply that the same referred to "Annexure-5(b) which is letter dated April 2, 2012 sent by India Focus Cardinal Fund.". Further, vide email dated March 10, 2021, the AR of Noticee 1 has submitted the copy of petition filed by Pan Asia before the Hon'ble Supreme Court which contained the Noticee 1's letter dated 29.05.2013 to SEBI.

11. The SCN dated September 06, 2019 issued to Noticee 3 (i.e. Vintage) returned undelivered from its addresses (*(i) Office No – LB12001 Jebel Ali Free Zone, Dubai - UAE ; (ii) Villa No. 7, 30th Street, Behind ETA ASCON House; P.O. Box:61454, Jebel Ali, Dubai – UAE; (iii) V. Tharak, General Manager, P.O. Box – 327655, Ras Al Khaimah, UAE*) available as per records with the caption "unclaimed". Subsequently, vide letter dated December 24, 2020, copy of the SCN was once again sent to Noticee 3. Further copy of the following documents viz. - i) Details of cancellation requests for the GDRs of the Issuer companies ii) Details of Shares received by India Focus Cardinal Fund and KII Ltd in their demat accounts post the cancellation of GDRs of the aforesaid companies; iii) Details of Loan repayment by Vintage FZE to EURAM Bank was also enclosed. Further, Vintage was granted an opportunity of personal hearing on January 22, 2021 vide the aforesaid letter dated December 24, 2021. However, the said letter returned undelivered from the addresses of Vintage. The letter and its annexures were also sent through email dated December 29, 2020 to the email id info@altavistaintl.com (as available from the website: www.altavistaintl.com). However, a reply dated December 30, 2021 was received from the aforesaid email id, wherein one Mr. Tharakeshwar TV *inter alia* stated that Altavista International FZE was registered with RAKEZ since 2012 and deals in bath and bend linen and that they have no dealings with any GDR issues. It was further stated that they are in no way connected with Vintage FZE and are different from the Alta Vista based in Jebel Ali; and that the emails had erroneously been sent to them. Further, as Noticee 3 was in located in free zone (Jebel Ali Free

Zone), the assistance of foreign regulator could not be availed in serving the SCN to the Noticee. All possible attempts were made to serve the SCN on Noticee 3 keeping in mind the principles of natural justice.

12. Though the common SCN could not be served on Noticee 3, however the SCN had been served on Noticee 5 (Ashok) who was one of the directors at the relevant time who had also replied. Despite the attempts made to serve notices on Noticee 3 and further duly served on Noticee 5, additionally, during the personal hearing of AP held on March 10, 2021, it was communicated to the AR that the Show Cause Notice (SCN) No. SEBI/HO/EAD-8/KS/VC/23346/2019 dated September 06, 2019 issued to Noticee 3 viz. Vintage (presently known as The Alta Vista FZE) along with the annexures to the SCN would be served on the AR and Noticee 1 through email as the Noticee 1 was the Managing Director of Vintage at the relevant point as per the available documentary evidence. It was mentioned during hearing that the SCN issued to The Alta Vista FZE had earlier returned undelivered from the address of The Alta Vista FZE. In this regard, the AR requested for time to file submissions and an opportunity of personal hearing, and accordingly, the personal hearing for Noticee 3 was scheduled on March 16, 2021 as per the AR's request, and further it was mentioned to the AR that the reply in this regard should be submitted atleast 2 days prior to the date of hearing. Accordingly, pursuant to the aforesaid hearing, the SCN along with annexures issued to Vintage was emailed to Noticee 1 and the AR vide email dated March 10, 2021. Further, the following documents viz. - i) Details of cancellation requests for the GDRs of the issuer companies ii) Details of Shares received by IFCF and KII Ltd in their demat accounts post the cancellation of GDRs of the aforesaid companies; iii) Details of Loan repayment by Vintage to EURAM Bank.

13. Subsequently, vide letter dated March 15, 2021, Noticee 1 i.e. AP inter alia submitted that he had been wrongly served on March 10,2021 with the SCN issued to Vintage in the matter. He further submitted that he had resigned from Vintage in the year 2009, and he is neither director nor authorized person to represent Vintage. Further, vide the aforesaid letter dated March 15, 2021, a

copy of letter dated December 28, 2010 from the Jebel Ali Free Zone Authority was enclosed providing the details of Vintage. On perusal of the document provided by AP, it is noted that that the 100% shareholder of Vintage is Alkarni Holdings Ltd, and its director is Ashok.

14. A personal hearing in respect of Vintage was held on March 16, 2021, wherein Mr. Sandeep Wadhwan, the AR of Noticee 1 (Noticee 1 was Managing Director of Vintage) appeared through video conferencing on the webex platform. The contents of the SCN and the allegations levelled against Vintage in the SCN were explained to the AR. It was further explained that the SCN issued to Vintage had returned undelivered from its address(es) and accordingly, the same was served through email dated March 10, 2021 on Mr. Arun Panchariya in his capacity as Managing Director of Vintage at the relevant period and being the natural person. It was explained to the AR that the SCN was not served in the personal name of Mr. Arun Panchariya, but in his capacity as Managing Director of Vintage at the relevant period. In this regard, the AR reiterated the submissions made by AP vide his letter dated March 15, 2021. Further, vide email dated March 17, 2021, the AR of Noticee 1 stated that the SCN issued to Vintage has been wrongly served on his client i.e. AP, and that AP cannot represent Vintage. In this regard, I note that AP was the Managing Director of Vintage at the relevant time and in the said capacity has signed the necessary documents viz. all the Loan Agreements with EURAM involving the respective Issuer Companies on behalf of Vintage. Further, regarding the ownership of Vintage, I note that Vintage was 100% owned by Alkarni Holdings Ltd (‘Alkarni’). In turn Alkarni was 100% owned by AP and his family members with AP alone holding 52.50% of Alkarni. In view of the aforesaid facts and circumstances, whereby the SCN has been served and the opportunity of hearing has been duly granted to Vintage through AP, I am therefore proceeding with the matter on the basis of material available on record with respect to Noticee 3 i.e. Vintage.

Noticee 4 (IFCF)

15. I note that the SCN had returned undelivered from the addresses of the Noticee 4 which were available on records. Thereafter, it is observed that Financial Services Commission, Mauritius (**FSC, Mauritius**) had issued a communique dated June 20, 2017 by way of which it was informed to general public that FSC, Mauritius, vide its Public Notice dated 14 September 2015, informed that it had issued directions to the Noticee 4 to initiate the necessary actions for the orderly dissolution of its business and the discharge of its liabilities in accordance with the Insolvency Act 2009 of Mauritius. FSC, Mauritius further informed the public that Messrs. Mohammed Reaz Emambocus and Deokumar Gangoosirdar had been appointed as Joint Liquidators (hereinafter referred to as '**Liquidators**') of the Noticee on May 09, 2017 following a court order.

16. Accordingly, vide letter dated December 17, 2019, the Liquidators were forwarded a copy of SCN along with the annexures. They were advised to submit the reply to the SCN, if any, on or before January 10, 2020. Further, the Liquidators were also provided with an opportunity of personal hearing on January 16, 2020. I note that the said letter was sent to the Liquidators by way of Airmail at the address mentioned in the communique dated June 20, 2017 of FSC, Mauritius. Further, a copy of the said letter was also forwarded to the Liquidators at their Email ID, as given in the abovementioned communique, by way of a digitally signed Email. I note from the material available on record that the letter was served on the address of the Liquidators. However, no reply was received from the Liquidators in this regard. Further, the Liquidators also failed to avail the opportunity of personal hearing granted to them.

17. Thereafter, vide letter dated January 23, 2020, a final opportunity to submit the reply to the SCN, if any, was provided to the Liquidators on or before February 05, 2020. A final opportunity of personal hearing was also provided to the Liquidators on February 12, 2020. The said letter was also sent to the address of the Liquidators by way of Airmail as well as the Email ID of the Liquidators by way of a digitally signed Email. I also note from the material available on record that the said letter was served upon the Liquidators. However, the Liquidators again failed to submit any reply to the SCN and also failed to avail of the opportunity of personal hearing provided to them. Thereafter, vide letter

dated November 19, 2020, copy of the following documents pertaining to the matter - i) Details of cancellation requests for the GDRs of the following companies - Asahi Infrastructure & Projects Ltd, Avon Corporation Ltd, CAT Technologies Ltd, Maars Software International Ltd., IKF Technologies Ltd., and K Sera Sera Ltd. ii) Details of Shares received by India Focus Cardinal Fund and KII Ltd in their demat accounts post the cancellation of GDRs of the aforesaid companies; iii) Details of Loan repayment by Vintage FZE to EURAM Bank, were provided to the Liquidators, and an opportunity to submit their reply, if any, was also provided. Further, vide the said letter a final opportunity of personal hearing on December 10, 2020 before the AO was also provided. The said letter was also sent to the address of the Liquidators by way of Airmail as well as the Email ID of the Liquidators. I also note from the material available on record that the said letter was served upon the Liquidators. However, the Liquidators again failed to submit any reply to the SCN and also failed to avail of the opportunity of personal hearing provided to them. Therefore, I note that the principles of Natural Justice have been complied with and I proceed against Noticee 4 on the basis of material available on record.

<u>Noticee 5 to 17</u>

18. The SCN was delivered to the following Noticees viz. Ashok, Alka, Basmati, Oudh, and SV.

19. Vide his letter dated October 15, 2019, the Noticee 5, Ashok inter alia requested for additional 4 weeks time to file his reply in the matter. Subsequently, vide Hearing Notice dated December 02, 2019, Ashok was granted an opportunity of personal hearing on December 11, 2019. Vide the said Notice, Ashok was also granted opportunity to submit his reply to the SCN. Vide his reply dated December 08, 2019, Ashok submitted as follows –

    1. *I have received the aforesaid Hearing Notice under Rule 4(3) of the SEBI (Procedure for Holding Inquiry and imposing penalties by Adjudicating Officer) Rules, 1995. At the outset and without prejudice to anything stated hereinafter 1 deny all the allegations made against me in the said show cause notice in the matter of GDR issue of 6 companies; nothing contained in the said Show Cause*

Notice (SCN) may be considered as being admitted by me merely on the ground of non-traverse.

2. *I humbly submit that I have received the aforesaid Notice of Hearing bearing no. SEBI/HO/EAD-8/KS/VC/31982/1/2019 dated December 02, 2019 on December 07, 2019 and 1 am resident of Ahmedabad Gujarat and going through certain health infirmities so it is practically not possible for me to file the reply and appear for the personal hearing on the same date due to short span of time.*
3. *I hereby state that the matter pertains to the year 2009 which is almost 11 years older and I had consulted with law firm for drafting an appropriate reply to the aforesaid show cause notice.*
4. *It is submitted that in order to file response in the matter I require the material / documents relied upon by your good self while issuing the Notice, It is therefore request you to provide us the inspection of all the material / documents relied upon by your good self in the captioned matter including but not limited to the following documents viz:*

    Complete Investigation Report for the investigation conducted by SEBI in the matter of GDR issue of 1) Asahi Infrastructure & Projects Limited, 2) Avon Corporation Limited, 3) CAT Technologies Limited, 4) IKF Technologies Limited, 5) K Sera Sera Limited, 6) Maars Software International Limited.

    Any other documents/material relied upon while issuing the Show Cause Notices No. A&E/EAD-8/KS/VC/23342/1/2019 dated September 06, 2019.
5. *It is humbly submitted that, without the inspection of the documents/ materials/ statement and other evidences which were referred to and relied upon for the issuance of the Notice, it is impossible for me to put up an appropriate and complete defence and submit a detailed reply to the allegations levelled against me in the said Notice.*
6. *That I reserve my right to seek more documents/materials as and when required during the course of proceedings.*
7. *It is submitted that I am keen to file his objection to the Notice and same shall be submitted within a reasonable period upon the inspection of the documents/ materials/ statement and other evidences which are referred and relied in the Notice.*

8. *Therefore, in light of the aforesaid I humbly request your good self to reschedule the present hearing granted in the matter to any date after providing an opportunity for inspection of documents.*
9. *It is humbly submitted that this letter is not a delaying tactic but a genuine difficulty on my part. It is submitted that I have no desire of delaying the present proceedings. Any inconvenience caused due to the present letter is regretted.*
10. *It is requested to your good self that not to pass any adverse order without giving me an opportunity for filing detailed reply and of personal hearing as it forms the part of principles of natural justice.*

11. Accordingly, vide letter dated December 09, 2019, Ashok was granted an opportunity of inspection of documents in the matter and was advised to contact the Enforcement Department of SEBI in this regard. I note that the inspection of documents was carried out by the authorized representative of Ashok on December 27, 2019. Thereafter, vide letter dated January 03, 2020, Ashok was granted opportunity to submit his reply to the SCN by January 20, 2020. Vide the said letter, Ashok was also granted an opportunity of personal hearing on January 27, 2020. Vide his letter dated January 20, 2020, Ashok inter alia requested for additional time of four weeks to file reply and attend the personal hearing in the matter. Subsequently, vide letter dated August 14, 2020, Ashok inter alia requested for cross examination of certain entities viz. Mr. Arun Panchariya, Officials of Vintage FZE, Mr. Mukesh Chauradiya, Officials of European American Investment Bank, Officials of Credo Investment Holdings Ltd, and officials of KII Ltd in the matter. Vide letter dated November 19, 2020, it was communicated to Ashok that cross-examination may be permitted only when a finding in an investigation/ inspection/ examination is based on a statement given by person other than the Noticee or expert opinion given in reports such as an auditor report, technical report, forensic report etc. Further, it was communicated that however, in the present matter, no statement of any of the persons mentioned by him in his letter dated August 14, 2020, had been recorded and used for the purpose of the present adjudication proceedings. I note that the cross examination request was not justified. Further, it was communicated that the evidence relied upon at the time of preparation of SCN

have already been supplied to him. Vide the said letter dated November 19, 2020, Ashok was granted an opportunity of personal hearing on December 09, 2020. Ashok was also granted opportunity to submit his reply, if any, to the SCN.

12. Vide two separate letters dated December 08, 2020, Ashok submitted reply to the SCN Nos. SEBI/HO/EAD-8/KS/VC/23342/1/2019 (Common SCN issued to Noticee 5 to 17 i.e. CP group), and SEBI/HO/EAD-8/KS/VC/23346/1/2019 (Common SCN issued to Noticee 3 and 5 i.e. Vintage and Ashok) issued to him.

13. In response to SCN No. SEBI/HO/EAD-8/KS/VC/23342/1/2019, Ashok submitted as follows –

*1. Please refer to the captioned notice dated September 06, 2019 (hereinafter referred to as the **"Notice/SCN").** Vide the Notice, it has interalia alleged that I have violated the provisions of Section 12A(a), (b) and (c) of SEBI Act, 1992 (hereinafter referred to as the **"SEBI, Act"**) read with Regulations 3 (a), (b), (c), (d), 4(1), 4(2)(a), (c), (e), (f), and (k) of SEBI (Prohibition of Fraudulent & Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as the **"PFUTP Regulations"**).*

*2. Further, vide the Notice, you have called upon me to show cause why an inquiry should not be held against me in terms of Rule 4 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the "**Adjudication Rules**") read with the provisions of Section 15 I of the SEBI Act and why penalty, if any, should not be imposed on me under the provisions of Section for the alleged aforesaid violation of SEBI Act and PFUTP Regulations.*

3. At the outset, I vehemently deny the aforesaid allegations levelled against me in the Notice. It is submitted that I do not accept or admit anything stated in the Notice except where the same is expressly admitted in this reply. Nothing stated therein shall be deemed to be admitted by me merely on account of non-traverse and unless the same is specifically admitted by me herein.

*4. It is alleged that Shri Arun Panchariya (hereinafter referred to as "**AP**") had orchestrated a fraud by devising a mechanism under which structured GDRs were issued by Asahi Infrastructure & Projects Limited (hereinafter referred to as "**Asahi**"), Avon Corporation Limited (hereinafter referred to as "**Avon**"), Cat*

*Technologies Limited (hereinafter referred to as "**CAT**"), IKF Technologies Limited (hereinafter referred to as "**IKF**"), K Sera Sera Limited (hereinafter referred to as "**k Sera**"), and Maars Software International Limited (hereinafter referred to as "**Maars**") (hereinafter referred to as "**Issuer Companies**"), was sole subscribed by Alta Vista FZE (earlier known as "**Vintage FZE**") (hereinafter referred to as "**Vintage**"), then AP connected Sub - Accounts namely entities i.e. Indian Focus Cardinal Funds (hereinafter referred to as "**IFCF**") and KII Limited (hereinafter referred to as "**KII**") converted the GDRs held by them into underlying shares and sold the same in the Indian Market.*

*5. It is further alleged that the counter parties to majority of such sale were the Noticees i. e. me, Alka India Limited (hereinafter referred to as "**Alka**"), Basmati Securities Private Limited (hereinafter referred to as "**Basmati**"), Oudh Finance & Investment Private Limited (hereinafter referred to as "**Oudh**"), Madanlal Girdharilal Bugaliya (hereinafter referred to as "**Madanlal**"), Indra Varun Trade Impex Private Limited (hereinafter referred to as "**Indra**"), Delight Financial Advisors Limited (hereinafter referred to as "**Delight**"), Vinod Amrultlaal Naai (hereinafter referred to as "**Vinod**"), Excel Paints Private Limited (hereinafter referred to as "**Excel**"), Newgen International Private Limited (hereinafter referred to as "**Newgen**"), Cherry Cosmetics Private Limited (hereinafter referred to as "**Cherry**"), Edelweiss Estates Private Limited (hereinafter referred to as "**Edelweiss**"), and SV Enterprise/ Sarfaraz Khan Pathan (hereinafter referred to as "**SV/Sardfaraz**"), (hereinafter collectively referred to as "**CP Group**"), who were allegedly connected to AP.*

6. In this regard, I humbly submit that the allegations levelled against me in the Notice are bald, sweeping, and do not provide a single piece of credible evidence which justify the allegations levelled against me in the Notice.

7. I submit that this is a preliminary reply based on the documents made available to me along with the Notice, and I reserve my rights to file additional detailed reply to the Notice if and when warranted.

8. The Notice nowhere suggests what specifically has been erroneous or fraudulent or violative of the specific provisions of law and directly in a completely vague and general manner alleges fraud and violations of the provisions of SEBI Act and PFUTP Regulations as a result of undertaking the said GDR Issuance.

9. Before going into para wise reply to the Notice, my preliminary submission to the Notice as under:

Lack of Evidence in support of the contents of The Notice

a) I humbly submit that the complete materials/documents in support of the aforesaid allegations have not been made available to me. Due to the unavailability of all such documents/material based on which the allegations have been levelled against me, it renders me ill-equipped to effectively defend the charges levelled against upon in the Notice. Failure to provide such complete material to me is bad in law and contrary to the settled principles of natural justice.

b) It is submitted that complete trade log and order log and the details connection with counter parties to trades has not been provided with the Notice.

c) Further, it is submitted that the aforesaid pending documents/information with SEBI shows that the data provided by SEBI in the Notice is just the tip of the iceberg and various relevant information and data remains undisclosed by SEBI. Thus, it is submitted that it would not be possible for me to present a comprehensive submission without the aforesaid information. The same is a gross violation of Natural Justice, and therefore the entire Notice should be quashed and set aside on this ground alone.

d) Therefore, I am limiting my submissions strictly on the basis of the documents available on record and requests the Ld. Adjudicating Officer not to rely upon any data / documents / averment / statements beyond the material which is available on record as provided to me. Since the documents was not provided with the Notice, hence, there cannot be a determination on the following:

i. Any reference to Artificial /manipulative trades

ii. Connection / relation to me with its counterparty brokers / counterparty clients

No Connection with Any Person / Entity in the Notice

*a) In order to allege the creation of "**artificial liquidity creation**", it is imperative to show that parties carrying out the trades (alleged to be in the nature of manipulative trades) were connected to each other or at least shared a common objective of creating artificial volume/ artificial liquidity, with this common objective they carried out trades which were not genuine or which did not intend real trading.*

b) Therefore, it is necessary to prove that two contracting parties had struck a deal beforehand, i.e. there was meeting of minds between the two contracting parties. I humbly submit that I was completely unaware of the identity of the actual buyer and counter party broker, there cannot be any question of meeting of minds. In fact no evidence or averments has been put forth in the Notice to suggest that the I had any prior consensus or there existed a meeting of minds with the counter party.

c) Further it is almost impossible to know the identity of the parties in a screen-based transaction. The position has been accepted and affirmed by SEBI before the Joint Parliamentary Committee (JPC) on Stock Market Scam and matters relating thereto, 2001, which tabled its report in the Parliament in December, 2002. In the report it has, inter alia, been stated: "SEBI has also confirmed that in the screen based trading that is prevalent in the stock exchange now, the buyer or the broker will not be aware of the identity of the seller or the broker."

d) It is further submitted that I did not have any relation/connection with the entities/persons mentioned in the Notice or with any of the counter parties to my trades. The trades were done in normal course devoid of any malafide intentions and knowledge of any such alleged scheme as carved out in the Notice.

e) Further, I humbly submit that they did not have any relation/connection with IFCF and KII or/with any of the counter parties. Further, they submit that the Notice does not provide any connection/ relation with the counter party. In this regard, the Notice humbly submits that without proving the existence of any malafide intention or collusion between of the parties to the trade, the allegation of artificial trades does not survive qua them. Hence, my trading were done in normal course devoid of any malafide intentions and knowledge of any such alleged scheme as carved out in the Notice.

f) Therefore, from the above it can be fairly concluded that nothing has been shown in the Notice to make good the allegation of collusion against me. I humbly submit that the Notice fails to produce the requisite evidence in support of the charge and the same demolishes the very basic premise of the Notice and hence the directions mentioned therein deserve to be vacated against me.

*10. The paragraph no. 1 of the Notice deal with Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") an ad interim ex-parte Order dated September 21, 2011 (hereinafter referred to as "**Interim Order**") passed certain directions against issuer companies, and FII. In this regard, it is submitted that the said Interim Order is matter of record and I accordingly offer no comment at this stage.*

11. The paragraph no. 2 of the Notice deal with the appointment of your goodself in the present matter vide communique dated July 05, 2018 under the provision of Section 15-I(1) of SEBI Act read with Rules 3 of the Adjudication Rules to inquire into and adjudge the aforesaid violations allegedly committed by me. In this regard, *it is submitted that the said communique is matter of record and I accordingly offer no comment at this stage.*

12. However, there is unexplained and inordinate delay in the initiation of the present proceeding and appointment of your goodself to inquire and adjudge the present matter. The alleged violation of provisions of SEBI Act and Regulation has allegedly committed in March 2007 to November 2009 and appointment of your goodself's in the present matter was in year 2018, i.e. nearly 10 years, and issuance of the Notice in year 2019, i.e. nearly 11 years, has caused prejudice to me to defend the present matter. Since the present matter pertain over the 10 years, it is difficult for me to remember the antecedents, and be unable to dilate on the factual position of the present matter, which took place in year 2007 and 2009.

13. I would like to draw your goodself's attention on the order ***HB Stock holdings Limited vs. Securities and Exchange Board of India dated 27.08.2013****, in which the Hon'ble Securities Appellate Tribunal held that: "Allowing matters to go on and on for years together by the Respondent serves no purpose, rather it risks loss of evidence such as important documents which may get destroyed while the issue gathers dust. Such systemic failures occur to the disadvantage of all parties concerned and lead to consequences such as genuine violators being allowed to function normally in the capital market for years together, whereas I some situations the reputation of innocent entities gets tarnished as they wait for the wheels of justice to turn a bit faster than the pace at which they seem to be going."*

14. In this regard, I would like to submit that on account of the unnatural and unexplained delay of more than 10 years, the present proceeding liable to be quashed qua me.

*15. The paragraph no. 3 to 5 of the Notice deal with observation of Investigation Report (hereinafter referred to as "**IR**") that certain companies including Asahi, Avon, Cat, IKF, k Sera and Maars had come up with their respective GDR issues.*

*16. It is observed that one Pan Asia Advisors Ltd. (hereinafter referred to as "**Pan**") was the Book Running Lead Manager of all the issuer companies. Further, it is also observed that Arun Panchariya (hereinafter referred to as "**AP**") is founder (holding 100 percentage shareholding) and director of Pan.*

17. It is alleged in the IR that the complete process of GDR issuance by these companies was devised and structured by AP, wherein AP arrange loans for Vintage to subscribed to GDR issues of Issuer Companies.

18. It is further alleged that Vintage sold the GDRs to entities connected to AP, which converted the GDRs into underlying shares and sold them in the Indian Securities Market.

19. In this regard, it is submitted that the said paragraph of the Notice states what the investigation allegedly revealed, the alleged finding in the investigation report does not pertain to me and the Notice itself does not at any place, allege or produces any material on record, to suggest or establish that I have been in any manner connected with any of the violations suggested in the said paragraph.

20. I humbly submit that I do not have any connections/nexus with IFCF and KII, even the Notice has also failed to show any connections/nexus/ collusion with them. Further, I humbly submit that the Notice has failed to show any alleged trade with the IFCF and KII or CP Group. Hence, the Notice has failed to provide the details of alleged trades between me and with any member of CP Group or IFCF and KII, and alleging trades executed by me as manipulative or fraudulent, does not hold any water.

21. I humbly submit that a serious charge of fraud and manipulation cannot be levelled merely on the possibility. There has to be some collusion / connection / relation / nexus / prior meeting of minds to be shown so as to substantiate such trading between the entities.

22. In this context your goodself's attention is invited to the judgment rendered by the Hon'ble Securities Appellate Tribunal in the matter of ***M/s. Jagruti Securities Ltd Versus Securities Exchange Board of India (Appeal No. 102 of 2006 dated October 27, 2008)*** *has clearly held that: "Artificial price, is a price determined by the buyer and the seller in a premeditated manner through collusion by manipulating the system. Black's Law Dictionary defines the word 'artificial' as "Made or produced by a human or human intervention rather than by nature". If we substitute the word 'trading system' for nature in this definition, it becomes clear that an artificial trade/price is the one that is executed or determined by human manipulation rather than through the operation of the system. As at present advised, we are of the view that in an artificial trade there has to be* ***<u>collusion between the buyer and the seller, and in absence of any collusion, the trade cannot be termed as artificial</u>."*** *(emphasis supplied)*

23. Further, I would like to cite the Order of the Hon'ble SAT in the case of ***M/s Nishith M. Shah HUF Versus SEBI*** *whereby it has been held that: "if trading in miniscule amount leads to an increase in the price of the scrips one can presume* *or infer that the trading in manipulative but such trading cannot happen unilaterally.* ***<u>There must be evidence to show collusion between the buyer and the seller. In the instant case there is none. The principle of preponderance of probability cannot be exercised in the absence of any connection between the seller and buyer</u>"***

24. It is submitted that the presumption which has been drawn from the Notice is that all my trades were premeditated and were carried out in connivance with each other, i.e. IFCF and KII or CP Group. In this regard, it is submitted that under the current market mechanism of screen-based trading it is impossible to know the identity of the parties and further, it is highly improbable to intentionally match trades on the screen based platform.

25. Further, I humbly submit that in the present case, it has not been shown that any of the parties to the transactions i.e. buying client and selling client, buying broker and selling broker had any understanding. Not even single evidence has been placed on record to prove/show that the alleged CP Group of suspected entities had any sort of common understanding for entering into such manipulative or fraudulent trades.

26. Further, I humbly submit that adverse inferences against me has been drawn based on the alleged connections as set out in the Notice by erroneously clubbing me with other persons/entities. The said clubbing with others has resulted in distorted conclusions against me. The entire grouping (in so far, I am concerned) is erroneous and misleading.

27. With regard to the observations pertaining to alleged connection with various related/connected entities, as set out in Annexure 3 to the Notice pertaining to me, following be noted:

a) Ashok is brother of AP

i. In this regard, it is submitted that just because I am a brother of AP, no adverse inference can be drawn against me. I would like to submit that there is no allegation of alleged trades have been levied on me with AP. It transpired that such a connection has been included so as to create a bias in the investigation which clearly points out to the prejudice against me.

b) Ashok is also brother of Satish Panchariya and Satish Panchariya is mentioned as promoter, Executive Director, Chairman, and Managing Director of Alka during Investigation Period in the Annual Report of Alka.

i. In this regard, it is submitted that just because I am a brother of Satish, no adverse inference can be drawn against me. I would like to submit that there is no allegation of alleged trades have been on me with Satish. It transpired that such a connection has been included so as to create a bias in the investigation which clearly points out to the prejudice against me.

c) Ashok was executive director of Alka in March 2011

i. In this regard, I humbly submit that I was the one of the directors of Alka in March, 2011, i.e. after issuance of GDRs of 6 companies. Hence, no adverse interface can be drawn against me because this is beyond the period of Investigation Period.

ii. Further, I humbly submit that even though I was a director in Alka, neither was I involved in day-to-day affairs of Alka nor was I aware about the alleged manipulative scheme of AP. iii. I would like to submit that there is no allegation of alleged trades have been levied on me with Alka. It transpired that such a connection has been included so as to create a bias in the investigation which clearly points out to the prejudice against me.

d) Ashok is introducer and nominee in the Bank Account of SV.

i. In this regard, it is submitted that Mr. Sarfaraz Khan (Proprietor of SV Enterprises) was a known acquaintance of me and he approached me to act as an introducer and nominee in the ICICI Bank for opening of Bank Account of SV Enterprises. Therefore, without going into the details of the business activities carried by Mr. Sarfaraz Khan, I in a good faith helped and agreed to act as an introducer and nominee in the bank account of SV. Therefore, just because Mr. Sarfaraz Khan was known acquaintance of me, no adverse inference can be drawn against me. I would like to submit that there is no allegation of alleged trades have been levied on me with SV.

e) Ashok is director of Vintage

i. It is alleged that I was the one of the directors of Vintage during the Investigation Period. In this regard, I humbly submit that even though I was a director in Vintage, neither was I involved in day-to-day affairs of Vintage nor was I aware about the alleged manipulative scheme of AP. Further, the Notice has also failed to produces any material on record to show that I was involved in day-to-day affairs of Vintage. Hence, I cannot be held liable vicariously, when I was not involved in day-to-day business of Vintage.

28. I humbly submit that serious allegations of manipulation or fraudulent cannot be alleged on the basis of mere surmises and conjectures, as has been done in *the instant case. Admittedly, neither connection has been shown with the counter party nor any circumstances are there which could even remotely show that there are alleged trades.*

29. In this context it is submitted that Hon'ble Supreme Court in the matter of ***Varanasaya Sanskrit Vishwa Vidyalaya & Anr. Versus Dr. Rajkishore Tripathi and Anr****. has inter alia been held that*

*"__**using strong language not sufficient. Proof required. It is not enough to state in general terms that there was collusion "without more particulars**__. General allegations are insufficient even to amount to an averment of fraud or which only court ought to take notice, however strong the language in which they are couched may be, and the same applies to undue influence and coercion."*

30. The Hon'ble Supreme Court in the matter of ***Union of India Versus Chaturbhai M. Patel (AIR 1976 SC 712)*** *held that:*

"fraud, even in civil proceedings, must be established beyond reasonable doubt."

31. Further, the Hon'ble Securities Appellate Tribunal in the matter of ***Price Waterhouse & Co Versus SEBI (SAT Order dated 09.09.2019, Appeal No. 06 of 2018):*** *"In order to bring them culpable within the four corners of Section 12A and Regulation 3 and 4 of PFUTP Regulations, fraud has to be proved on the basis of evidence"*

32. Further, the Hon'ble Securities Appellate Tribunal in the matter of ***Networth Stock broking Ltd Versus SEBI (SAT Order dated 19.06.2012, Appeal No. 5 of 2012):*** *"This Tribunal has been consistently holding that violation of PFUTP regulations involves commission of fraud which is indeed a serious market offence and a high degree of probability is required to establish such a charge".*

33. Further, the Hon'ble Securities Appellate Tribunal in the matter of ***Parsoli Corporation Limited Versus SEBI (SAT order dated 12.08.2011, Appeal no. 146 of 2010):***

"We agree that fraud is a serious charge but we do not agree with the learned senior counsel that in civil proceedings like the present, it cannot be established on preponderance of probabilities. In civil proceedings, unlike in criminal proceedings, even a serious charge like fraud has to be established on preponderance of probabilities and since this charge is serious higher has to be the degree of probability to establish the same. Having regard to the manner in which the appellants conducted themselves in transferring the shares of the innocent shareholders, we are satisfied that the charge of fraud in the present case has been

established with the required degree of probability….. In civil proceedings of the kind we are dealing with, it is not necessary to establish the motive of the wrongdoer nor is it necessary to prove mens rea…."

34. Furthermore, the Hon'ble Securities Appellate Tribunal in the matter of ***Sterlite Industries Versus SEBI (Appeal No. 20/2001 dated 22nd October 2001):***

"...in the absence of reasonably strong evidence, even in a civil proceeding, a person cannot be held guilty and awarded punishment. Mere surmise, conjuncture or suspicion cannot sustain the finding of fault".

35. In the light of the aforesaid judgment, I humbly submit that serious allegation of violation of PFUTP Regulations cannot be alleged on the basis of mere surmises and conjectures and based on the erroneous erroneously clubbing me with other persons/entities, as has been done in the instant case.

36. The paragraph no. 6 of the Notice deal with comparison of GDRs acquired by Vintage to GDRs sold by it to IFCF till September 21, 2001. The said paragraph is a matter of record and does not pertain to me. Hence, no comment is accordingly offered at this stage.

37. The paragraph no 7 of the Notice deal with the details of the transaction of the CP Group with IFCF and KII September 21, 2011. In this regard, it is submitted that in after perusing the list of details at paragraph no. 7, it transpired that the Notice has failed to alleged my trades as manipulative or artificial trades. The said table does not speak my name, which clearly show that my trades are genuine and bona fide. Further, it appears that just because I am brother of AP and then director of Vintage does not mean that I am connected to the AP or any fraudulent scheme. There is no nexus and connection of my trade with any party, FII, CP Group, AP. Hence, the Notice at the outset should be quashed against me.

38. The paragraph no. 8 deal with the shares of Issuer Companies were not completely sold by IFCF and KII. Majority of the shares sold by IFCF and KII were purchased by the CP Group, only to be sold later. Further, it is also alleged that a range of 39.38% (IFCF in Maars) to most 100% (IFCF in CAT) of shares sold by IFCF and KII were purchased by CP Group.

39. In this regard, I humbly submit that the complete trade log and order log has not been provided with the Notice, hence, I can't comment on the said paragraph. Without prejudice, I humbly submit that all my trades in the IP are genuine and without any malafide intentions.

40. The paragraphs no. 9 to 14 deals with the trading in Asahi by the sub- Accounts and the CP Group. In this regard, it is submitted that the said paragraph does not deal with me or there is no specific observation/finding against my trades. Hence, I positively assume that there is not allegation of alleged trades with me, accordingly, no comment is offered at this stage.

41. The paragraphs no. 15 to 20 deals with the trading in Avon by the sub- Accounts and the CP Group. In this regard, it is submitted that the said paragraph does not deal with me or there is no specific observation/finding against my trades. Hence, I positively assume that there is not allegation of alleged trades with me, accordingly, no comment is offered at this stage.

42. The paragraphs no. 21 to 24 deals with the trading in CAT by the sub- Accounts and the CP Group. In this regard, it is submitted that the said paragraph does not deal with me or there is no specific observation/finding against my trades. Hence, I positively assume that there is not allegation of alleged trades with me, accordingly, no comment is offered at this stage.

43. The paragraphs no. 25 to 28 deals with the trading in IKF by the sub- Accounts and the CP Group. In this regard, it is submitted that the said paragraph does not deal with me or there is no specific observation/finding against my trades. Hence, I positively assume that there is not allegation of alleged trades with me, accordingly, no comment is offered at this stage.

*44. The paragraphs no. 29 deals with the trading in K Sera, it is observed that out of 676 trading days on Bombay Stock Exchange ("**BSE**") during IP-1, the CP Group and Sub- Accounts in total traded on 651 trading days in the scrip of K Sera. In this regard, it is submitted that out of 676 trading days, I traded only 7 days (in BSE 5 days and in NSE 2 days) in the said scrip, which is very miniscule to create artificial liquidity. If my aim was to create artificial liquidity then my trading in the said scrip would be high, however, it is present case, it is very minuscule to create the artificial liquidity.*

45. It is further observed that the total 28.52 % contribution of trading by the CP Group and Sub -Accounts to market volume of in the said scrip on BSE during IP 1 and out of which my contribution was less then 1%, which is very minuscule to alleged that my trades were artificial trades.

46. Further, I submit that the gross no. of shares purchased by CP Group and Sub-Accounts are 19,66,46,786, out of which my purchased in the said scrip during the *said period was 65,000 which is 3.30 % of shares with the CP Group, which is very less to alleged that I have created artificial liquidity in the market.*

47. Further, I submit that the gross no. of shares sold by CP Group and Sub-Accounts are 22,14,96,402 out of which my sold in the said scrip during the said period was 65,151 with the CP Group, which is 0.02%, of the shares with the CP Group, which is very less to alleged that I have created artificial liquidity in the market.

48. It is further submitted that no connection has been established with any of the counter parties to the trades executed by me, which is as many as 32 independent counter parties on the buy side and 25 independent counter parties on the sell side, none of which are connected to the me.

49. The paragraphs no. 30 deal with allegation that the significant increase of turnover in K Sera on BSE was due to the activities of CP Group and Sub-Accounts. Further, the said paragraph deal with the table at page 18 of the Notice, wherein the alleged members of CP Group and Sub- Accounts names has been mentioned, who has significant increase the turnover in K Sera, in this regard, it is submitted that my name is not there in the list of the alleged list, hence I positively assume that my trades were not manipulative trades with view to increase the turnover in K Sera.

50. The paragraph no. 31 deal with the observation that the CP Group had purchased 69.30% of shares sold by IFCF and 52.75% shares sold by KII in the scrip of K Sera. In this regard, it is submitted that I have purchased 65,000 shares of K Sera and sold 65,151 shares of K Sera, which is very minuscule, to alleged that my trades were artificial.

*51. The paragraph no 32 deal with the trading in K Sera, it is observed that out of 676 trading days on National Stock Exchange of India Limited ("**NSE**") during IP-1, the CP group and sub- Accounts in total traded on 645 trading days in the scrip of K Sera. In this regard, it is submitted that out of 676 trading days, I traded only 7 days (in BSE 5 days and in NSE 2 days) in the said scrip, which is very miniscule to create artificial liquidity. If my aim was to create artificial liquidity then my trading in the said scrip would be high, however, it is present case, it is very minuscule to create the artificial liquidity.*

52. It is further observed that the total 25.66 % contribution of trading by the CP Group and Sub -Accounts to market volume of in the said scrip on NSE during IP

1 and out of which my contribution was less than 1%, which is very minuscule to alleged that my trades were artificial trades.

53. Further, I submit that the gross no. of shares purchased by CP Group and Sub-Accounts are 15,98,45,233 out of which my purchased in the said scrip during the said period was 1,99,925 which is 0.12 % of shares with the CP Group, which is very less to alleged that I have created artificial liquidity in the market.

54. Further, I submit that the gross no. of shares sold by CP Group and Sub-Accounts are 17,34,69,466 out of which my sold in the said scrip during the said period was nil with the CP Group, which is very less to alleged that I have created artificial liquidity in the market.

55. The paragraphs no. 33 deal with allegation that the significant increase of turnover in K Sera on BSE was due to the activities of CP Group and Sub-Accounts. Further, the said paragraph deal with the table at page 18 of the Notice, wherein the alleged members of CP Group and Sub- Accounts names has been mentioned, who has significant increase the turnover in K Sera, in this regard, it is submitted that my name is not there in the list of the alleged list, hence I positively assume that my trades were not manipulative trades with view to increase the turnover in K Sera.

56. The paragraph no. 34 deal with the observation that CP Group had purchased 54.10% of shares sold by IFCF and 52.17% shares sold by KII in the scrip of K Sera. In this regard, it is submitted that I have purchased 1,99,925 shares of K Sera and sold nil, which is very minuscule, to alleged that my trades were artificial.

57. The paragraphs no. 35 and 36 of the Notice deal with allegation that the trading by CP Group is the scrip of K sear was done to create artificial liquidity in the market in order to attract gullible investors to trade in the scrip, so that Sub – Accounts could off load shares and to purchased shares from Sub – Accounts and sell them to other investors in India. In this regard, I deny that my trading was done to create artificial liquidity in the market. Further, from aforesaid, it can be seen that my trades were so minuscule to alleged the same.

58. Further, I submit that there is no connection/nexus has been drawn by the Notice to the alleged trades, later, without establishing any connection/ nexus between the trades parties, the Notice has proceeds and alleged that my trades were artificial, is patently erroneous.

59. The paragraphs no. 37 to 40 deals with the trading in Maars by the sub-Accounts and the CP Group. In this regard, it is submitted that the said paragraph does not deal with me or there is no specific observation/finding against my trades. Hence, I positively assume that there is not allegation of alleged trades with me, accordingly, no comment is offered at this stage.

60. The paragraphs no. 41 to 46 deals with observation that the CP Group assisted IFCF and KII in selling the shares of Issuer Companies by creating artificial liquidity in the scrips and they also acted as major purchaser of the shares from IFCF and KII and later sold these shares to other investor in India. In this regard, I repeat and reiterate my submission that I am not a member of the CP Group, even the Notice has failed to established any connection and nexus of my trades with the CP Group. My trades are independent and with view to earn profit, my trades have no link to alleged scheme, so called devise by AP.

61. I repeat and reiterate my submission that my trades devoid any malafide and they are genuine trades. Further, I deny that my trading had contributed to the immense rise in the liquidity of the scrip.

62. Further, it is pertinent to mentioned herein that if was I part of the scheme, then my trades would be in all Issuer companies, but in the present case, it was only in K Sera, which is also very minuscule, hence, no negative inference can been drawn against me.

63. The paragraph no. 47 of the Notice deal with allegation that I have violated the provision of Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3 (c), (d) and 4(2)(a), (c), (e), (f), (k) of the PFUTP Regulations. In this regard, I wish to submit as under:

a) In so far as the alleged violation of Section 12(A)(a) of the SEBI Act is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have never, directly or indirectly, employed any manipulative or deceptive device or contrivance, in relation to the issue, purchase or sale of any shares listed or proposed to be listed on a recognized stock exchange, in contravention of the SEBI Act and rules or regulations made thereunder. Therefore, the Notice has completely erred in alleging that I have violated Section 12A (a) of the SEBI Act.

b) In so far as the alleged violation of Section 12(A)(b) of the SEBI Act is concerned, it is submitted that from the submissions made in the aforesaid paragraphs, it clearly emerges I have never, directly or indirectly, employed 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 recognized stock exchange. Therefore, the Notice has completely erred in alleging that I have violated Section 12A(b) of the SEBI Act.*

c) In so far as the alleged violation of Section 12(A)(c) of the SEBI Act is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have never, directly or indirectly, engaged myself in any act, practice, course of business which operates as or would operate as a fraud or deceit upon any person, in connection with the issue or dealing in securities which are listed or proposed to be listed on a recognized stock exchange, in contravention of the SEBI Act and rules or regulations made thereunder. Therefore, the Notice has completely erred in alleging that I have violated Section 12A(c) of the SEBI Act.

d) In so far as the alleged violation of Regulation 3(a) of the PFUTP Regulation is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have never, directly or indirectly, buy, sell or otherwise deal in securities in a fraudulent manner. Therefore, the Notice has completely erred in alleging that I have violated Regulation 3(a) of the PFUTP Regulations.

e) In so far as the alleged violation of Regulation 3(b) of the PFUTP Regulation is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have never, directly or indirectly, use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange. Therefore, the Notice has completely erred in alleging that I have violated Regulation 3(b) of the PFUTP Regulations.

f) In so far as the alleged violation of Regulation 3(c) of the PFUTP Regulation is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have never, directly or indirectly, employed 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 recognized stock exchange. Therefore, the Notice has completely erred in alleging that I have violated Regulation 3(c) of the PFUTP Regulations.

g) In so far as the alleged violation of Regulation 3(d) of the PFUTP Regulations is concerned, it is submitted that from the submissions made in the aforesaid *paragraphs it clearly emerges that I have never, directly or indirectly, engaged myself in any act, practice, course of business which operates as or would operate as a fraud or deceit upon any person, in connection with the issue or dealing in securities which are listed or proposed to be listed on a recognized stock exchange, in contravention of the SEBI Act and rules or regulations made thereunder. Therefore, the Notice has completely erred in alleging that I have violated Regulation 3(d) of the PFUTP Regulations.*

h) In so far as the alleged violation of Regulation 4(1) of the PFUTP Regulations is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have neither indulging in fraudulent or an unfair trade practice in the securities market Therefore, the Notice has completely erred in alleging that I have violated Regulation 4(1) of the PFUTP Regulations.

i) In so far as the alleged violation of Regulation 4(2)(a) of the PFUTP Regulations is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have neither indulging in an act which creates false nor created a misleading appearance of trading in the securities market Therefore, the Notice has completely erred in alleging that I have violated Regulation 4(2)(a) of the PFUTP Regulations.

64. The paragraph no. 20 of the Notice deal with monetary penalty under the provision of Section 15HA of the SEBI Act in respect of the alleged violations. In this regard, I humbly submit that while determining the quantum of penalty under the aforementioned provisions, the provisions of Section 15 J of the SEBI Act shall be required to be taken into account which reads as under:

***"15J - Factors to be taken into account by the adjudicating officer:** While adjudging quantum of penalty under section 15-I, 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."

*a) With regard to Clause (a):- **"the amount of disproportionate gain or unfair advantage, whether quantifiable, made as a result of the default":** it is* *submitted that the findings does not lead to the conclusion that there has been disproportionate gain or unfair advantage by me.*

b) With regard to Clause (b);- ***"the amount of loss caused to an investor or group of investors as a result of the default"*** *: it is submitted that there are no investor complaints filed at any Stock Exchange or SEBI in respect of any act and omission on my part and the same has also not been alleged in the Notices. In absence of any direct information, the allegation of causing loss to other investors is baseless.*

c) With regard to Clause (c):- ***"the repetitive nature of the default."*** *it is submitted that I never been held guilty for any violation of SEBI Laws, and it has been first time the present proceeding have been initiated against me. Further, I submit that I have clean records and always maintained transparency, integrity, honesty and accountability in all its operations and hence there is no question of the repetitive nature of default.*

*65. I humbly submit that a bare perusal of the SEBI Act indicates that it is not mandatory for the Adjudicating Officer to impose a penalty every time he come to conclusion that any person /entity has failed to comply with the specified requirement under the Act and/or the Regulations. Even though Section 15HA of the SEBI Act contains the words "****shall be liable to a penalty****" there is no strict or mandatory obligation on the part of the defaulter to suffer such penalty.*

66. In this regard, I would like to draw your goodself's attention on the Judgement passed by the Hon'ble Supreme Court of India in the matter ***Superintended and Remembrancer Legal Affairs to Government of West Bengal Versus Abani Maity*** *(****1979) 4 SCC 85*** *held that:*

"…..Accordingly, the word "liable" occurring in many statutes, has been held as not conveying the sense of an absolute obligation or penalty but merely importing a possibility of attracting such obligation, or penalty, even where this word is used along with the words "shall be"……"

67. Further, I would like to draw your goodself's attention on decision of Hon'ble High Court of Bombay in the matter of ***SEBI Versus Cobot International Capital Corporation Limited (Cabot) {2004 51 SCL 307 (BOM)}*** *to state that where the breach of the regulation is unintentional, not deliberate, technical, minor and based on a bonafide belief, strict enforcement of the regulations may not be warranted. The Hon'ble High Court has stated that the authority may refuse to impose a penalty for justifiable reasons.*

*68. Further, the Hon'ble Apex Court in the case of **Ex-Naik Sardar Singh vs. Union of India (1991) 3 SCC 212)** inter alia held that:*

"the penalty imposed must be commensurate with the gravity of the misconduct and that any penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution."

*69. Further in the matter of **Ranjit Thakur vs. Union of India (AIR 1987 SC 2386**) it was held that:*

"The Sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review would ensure that even on an aspect which is, otherwise, within the exclusive province of Court Martial, if the decision of the Court even as to sentence is an outrageous defiance of logic then the sentence would not be immune from correction. Irrationality and perversity are recognized ground of judicial review. The penalty imposed must be commensurate with the gravity of the misconduct and that any penalty disproportionate to the gravity of the misconduct would be violative of Art. 14 of the Constitution. The point to note and emphasis is that all powers have legal limits."

*70. Further, Hon'ble Supreme Court of India in the case of **Adjudicating Officer Versus Bhavesh Pabari dated 28th February 2019** held that section 15J are illustrative in nature and depends from situation to situation: "……This dictum, however, does not mean that factum of continuing default is not a relevant factor, as Ihave held that clauses (a) to (c) in Section 15-J of the SEBI Act are merely illustrative and are not the only grounds/factors which can be taken into consideration while determining the quantum of penalty."*

*71. Further in the matter of **P G Electroplast Versus SEBI**, Hon'ble SAT held that: "…….The AO while imposing the penalty has not factored this department while fixing the quantum of penalty. Further, in our opinion, the factors contemplated under Section 15J was also not considered by the AO in the right perspective…."*

72. Accordingly, in light of aforesaid, it is submitted that the vide Order dated September 05, 2017 Hon'ble Whole Time Member of SEBI has restraint me from securities market for a period of ten years from the date of that Order. Hence, before imposing the penalty, without prejudice, your goodself should consider the said restrained order.

73. Furthermore, I humbly submit that SEBI has failed to make out a prima facie case against me, and therefore the Notice qua me needs to be quashed and set aside in entirety.

74. Thus, in view of the facts stated, arguments advanced and authorities cited, it is humbly submitted that the present proceedings are illegal and is contrary to principles of natural justice. I humbly submit that the allegation levied in the Notices does not corroborate with the corresponding evidence provided in the present matter and needs to be quashed.

75. In the present case, since no primary violation of SEBI Act or PFUTP Regulations against me has been made out and as it has also explained the genuineness of the case, the question of holding an inquiry against it in terms of Rule 4 of Adjudicating Rules and imposing a penalty for the alleged violation does not arise. Therefore, it is duly submitted that I have not committed any wrong, and no charge has been established against me, even prima facie, to warrant any action.

76. It is submitted that I reserve my right to modify and add additional grounds in these submissions. It is respectfully submitted that the allegations in the Notice do not flow out of the factual position and therefore cannot be legally sustained to warrant any penalty against me.

14. In response dated December 08, 2020 to SCN No. SEBI/HO/EAD-8/KS/VC/23346/1/2019, Ashok submitted as follows –

    1. *Please refer to the captioned notice dated September 06, 2019 (hereinafter referred to as the "Notice/SCN"). Vide the Notice, it has interalia alleged that I have violated the provisions of Section 12A(a), (b) and (c) of SEBI Act, 1992 (hereinafter referred to as the "SEBI, Act") read with Regulations 3 (c), (d) and 4(2)(a), (c), (e), (f), and (k) of SEBI (Prohibition of Fraudulent & Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as the "PFUTP Regulations").*
    2. *Further, vide the Notice, you have called upon me to show cause why an inquiry should not be held against me in terms of Rule 4 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the "**Adjudication Rules**") read with the provisions of Section 15 I of the SEBI Act and why penalty, if any, should not be imposed on me under the provisions of Section for the alleged aforesaid violation of SEBI Act and PFUTP Regulations.*
    3. *At the outset, I vehemently deny the aforesaid allegations levelled against me in the Notice. It is submitted that I do not accept or admit anything stated in the*

Notice except where the same is expressly admitted in this reply. Nothing stated therein shall be deemed to be admitted by me merely on account of non-traverse and unless the same is specifically admitted by me herein.

4. *It is alleged in the Notice that I being a director and owner of Alkarni Holding Ltd. (hereinafter referred to as "**Alkarni**"), as well as being a director of the Alta Vista FZE (earlier known as "**Vintage FZE**") (hereinafter referred to as "**Vintage**") during the period of March 2007 to November, 2009 (hereinafter referred to as "**Investigation Period/IP**"), is liable for the violations committed by Vintage.*
5. *In this regard, I humbly submit that the allegations levelled against me in the Notice are bald, sweeping, and do not provide a single piece of credible evidence which justify the allegations levelled against me in the Notice.*
6. *I submit that this is a preliminary reply based on the documents made available to me along with the Notice, and I reserve my rights to file additional detailed reply to the Notice if and when warranted.*
7. *I humbly submit that it can be seen from the Notice that there is no specific averment, allegation or statement against me as to the nature of fraud which has been alleged or in fact there has been no allegation that which provisions of law or regulations does the GDR Issuance violate for being conducted and issued in the manner that is has been alleged. After dealing with basic facts of the GDR Issuance and stating documents and materials that are matters of fact and record, the Notice directly jumps to a conclusion that there has been a fraudulent scheme of GDR Issuance without providing any material, detail, opportunity to me to defend any specific violations of any law or regulations which have given rise to such an apprehension and allegation in the Notice.*
8. *The SCN nowhere suggests what specifically has been erroneous or fraudulent or violative of the specific provisions of law and directly in a completely vague and general manner alleges fraud and violations of the provisions of SEBI Act and PFUTP Regulations as a result of undertaking the said GDR Issuance.*

Violation of Principles of Natural Justice: No opportunity of Cross-Examination provided

9. *It is submitted that I was not involved in any purported fraudulent schemes and I deny that he had any role whatsoever, explicit or implicit, direct or indirect, in any alleged illegalities / violations.*
10. *Considering the nature of allegations and the number of other entities involved in the purported fraudulent scheme, it is imperative that I will be provided an opportunity to cross-examine, at the very least, the other noticee to the SCN.*
11. *It is submitted that such cross-examination is essential to ascertain and elicit the truth, which obviously ought to be the entire object and purpose of the present proceedings. It is submitted that such opportunity of cross examination becomes even more important and essential in cases such as the present case, where the allegations against me are based on mere conjecture, surmise and hypothesis.*

12. *In this regard, I would like to draw your goodself's kind attention on the legal principle settled down by a constitution bench of the Hon'ble Supreme Court in the matter of* ***A.K. Roy versus Union of India*** *(AIR 1982 SC 710) wherein it was noted that,*

"The principle that witnesses must be confronted and offered for cross-examination applies generally to proceedings in which witnesses are examined or documents are adduced in evidence in order to prove a point. Cross-examination then becomes a powerful weapon for showing the untruthfulness of that evidence."

13. *The similar legal view was adopted by another judgment of the Hon'ble Supreme Court in the matter of* ***New India Assurance Co. Limited v. Nusli Neville Wadia and Anr. AIR 2008 SC 876.***
14. *Furthermore, I would like to refer and rely on the Judgment of the Hon'ble SAT in the matter of* ***Bharat Jayantilal Patel v. SEBI*** *(Appeal No. 126 of 2010 dated September 15, 2010) wherein Hon'ble SAT observed that right of cross-examination is a bare minimum requirement of the principles of natural justice which needs to be complied with in all quasijudicial proceedings that are conducted by the SEBI.*

Allegations in the SCN are levied merely on Surmises and Conjectures

15. *It is submitted that I have been roped in on the basis of mere surmises and conjectures and there is absolutely no involvement in any fraudulent scheme relating to the GDR issues.*
16. *The Hon'ble SAT has also observed in* ***Sameer C Arora v. SEBI, (Order dated October 15, 2004 in Appeal No. 83/2000)*** *as follows: -*

*"**While we appreciate the difficulty it is not possible for us to let mere suspicions, conjectures and hypothesis** take the place of evidence as described in the Indian Evidence Act….. We have therefore no hesitation in exonerating him honourably of all the charges."*
Emphasis Supplied]

17. *It is evident from various instances in the Notice that the charges at best are vague and based on conjectures. The Notice has based the charges on speculative statements repeatedly and as such the Notice must be withdrawn.*
18. *The paragraph no. 1 of the Notice deal with the appointment of your goodself in the present matter vide communique dated July 05, 2018 under the provision of Section 15-I (1) of SEBI Act read with Rules 3 of the Adjudication Rules to inquire into and adjudge the aforesaid violations allegedly committed by me. In this regard, it is submitted that the said communique is matter of record and I accordingly offer no comment at this stage.*
19. *However, there is unexplained and inordinate delay in the initiation of the present proceeding and appointment of your goodself to inquire and adjudge the present matter. The alleged violation of provisions of SEBI Act and Regulation has allegedly committed in March 2007 to November 2009 and appointment of your goodself's in the present matter was in year 2018, i.e. nearly 10 years, and issuance of the Notice in year 2019, i.e. nearly 11 years, has caused prejudice to me to defend the present matter. Since the present*

matter pertain over the 10 years, it is difficult for me to remember the antecedents, and be unable to dilate on the factual position of the present matter, which took place in year 2007 and 2009.

20. *I would like to draw your goodself's attention on the order* ***HB Stock holdings Limited vs. Securities and Exchange Board of India*** *dated27****.08.2013****, in which the Hon'ble Securities Appellate Tribunal held that:*

    "Allowing matters to go on and on for years together by the Respondent serves no purpose, rather it risks loss of evidence such as important documents which may get destroyed while the issue gathers dust. Such systemic failures occur to the disadvantage of all parties concerned and lead to consequences such as genuine violators being allowed to function normally in the capital market for years together, whereas I some situations the reputation of innocent entities gets tarnished as they wait for the wheels of justice to turn a bit faster than the pace at which they seem to be going."
21. *In this regard, I would like to submit that on account of the unnatural and unexplained delay of more than 10 years, the present proceeding liable to be quashed qua me.*
22. *The paragraph no. 2 of the Notice deal with observation of Investigation Report (hereinafter referred to as "****IR****") that certain companies including Asahi Infrastructure & Projects Ltd. (hereinafter referred to as "****Asahi****"), Avon Corporation Ltd. (hereinafter referred to as "****Avon****"), Cat Technologies Ltd. hereinafter referred to as "****CAT****"), IKF Technologies Ltd. (hereinafter referred to as "****IKF****"), K Sera Sera Ltd. (hereinafter referred to as "****k Sera****"), and Maars Software International Ltd. (hereinafter referred to as "****Maars****") (hereinafter referred to as "****Issuer Companies****") had come up with their respective GDR issues.*
23. *It is observed that one Pan Asia Advisors Ltd. (hereinafter referred to as "****Pan****") was the Book Running Lead Manager of all the issuer companies. Further, it is also observed that Arun Panchariya (hereinafter referred to as "****AP****") is founder (holding 100 percentage shareholding) and director of Pan.*
24. *It is alleged in the IR that the complete process of GDR issuance by these companies was devised and structured by AP, wherein AP arrange loans for Vintage to subscribed to GDR issues of Issuer Companies.*
25. *It is further alleged that Vintage sold the GDRs to entities connected to AP, which converted the GDRs into underlying shares and sold them in the Indian Securities Market.*
26. *In this regard, it is submitted that the said paragraph of the Notice states what the investigation allegedly revealed, the alleged finding in the investigation report does not pertain to me and the Notice itself does not at any place, allege or produces any material on record, to suggest or establish that I have been in any manner connected with any of the violations suggested in the said paragraph.*
27. *It is transpired from the said paragraph that the basis of issuance of the Notice qua me is that I was the one of the directors of Vintage during the Investigation Period. In this regard, I humbly submit that even though I was a director in Vintage, neither was I involved in day-to-day affairs of Vintage nor was I aware*

about the alleged manipulative scheme of AP. Further, the Notice has also failed to produces any material on record to show that I was involved in day-to-day affairs of Vintage. Hence, I cannot be held liable vicariously, when I was not involved in day-to-day business of Vintage.

28. *Further, as per the Section 27 of the SEBI Act, which clearly affirms that* ***"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]".***

The text of the Section 27 of the SEBI Act is extracted hereunder: -

"162[Contravention by companies.]

27. (1) Where 163[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 164[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 165[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 166[contravention] was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such 167[contravention].

(2) Notwithstanding anything contained in sub-section (1), where an 168[contravention] under this Act has been committed by a company and it is proved that the 169[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 170[contravention] and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm."

29. *Further, your goodself's kind attention is drawn to the recent judgement of Hon'ble Securities Appellate Tribunal in the matter of* ***Adesh Jain versus Securities and Exchange Board of India (Appeal No. 217 of 2020 decided on November 19, 2020),*** *which relied on its earlier judgment of* ***Adi Cooper vs Securities and Exchange Board of India (Appeal No. 124 of 2019 decided on November 5, 2019),*** *which as follows: -*

30. *The relevant para of* ***Adi Cooper Versus Securities and Exchange Board of India (Appeal No. 124 of 2019 decided on November 5, 2019*** *is extracted hereunder: -*

10. A perusal of the aforesaid provisions clearly indicates that the appellant Adi Cooper was neither directly or indirectly involved in any fraudulent activity nor employed any scheme to defraud any shareholder or investor. The WTM *committed a manifest error in holding that the appellant Adi Cooper cannot be absolved of the consequences of the resolution of January 30, 2008 even though he was not present in the time when the issuance of GDR and execution of the loan and pledge agreements.* ***We are of the opinion that the resolution of January 30, 2008 does not indicate any resolution or execution of the loan or the pledge agreement and, thus, holding the appellant that he was actively involved in the manipulation of the market through this fraudulent scheme is patently erroneous and farfetched. In the light of the aforesaid, we are of the opinion that the order of the WTM debarring the appellant Adi Cooper from accessing the securities market for two years cannot be sustained."***

31. *Further, the relevant para of* ***Adesh Jain Versus Securities and Exchange Board of India (Appeal No. 217 of 2020 decided on November 19, 2020),*** *is extracted hereunder: -*

"14. ***We also find that there is no finding of the fact that the appellant was involved in the day-to-day affairs of the management of the Company****. The submission of Shri Shyam Mehta, the learned senior counsel for the respondent that the appellant attended several board meetings and was chairman of various committees which can be find out from the annual reports are submissions which are not borne out from the records. The submissions so made are beyond the pleadings and cannot be taken into consideration. The respondent cannot be allowed to better their case and rely upon such documents which are not part of the record.* ***There is no finding that the appellant, being a director for more than 10 years, was deemed to be involved in the day-to-day affairs and management of the Company nor there is any finding that the appellant was chairman of various committees and therefore deemed to be involved in the day-to-day affairs of the Company****. There is no finding that the credit agreement and the charge account agreement were in the knowledge of the appellant. On the other hand, it is the consistent case of the appellant that he was a practicing chartered accountant and a non-executive independent director and was only involved in policy decisions. These facts have not been disputed nor controvert by any documentary evidence before the WTM.*

15. We also find that the reliance of Section 27 of the SEBI Act is patently erroneous. Section 27 is not applicable if the offence is committed without the knowledge of the incumbent. We have already held that there is no finding given by the WTM that the appellant was involved in the day-to-day affairs and management of the Company. On the other hand, a specific case was stated by the appellant that the fraud was committed by the mastermind, namely, the chairman, managing director and the authorized signatory / director Mr. Rajinder Singh Negi and that he had no knowledge of the violation committed by the masterminds of the PFUTP Regulations. This fact has not been denied by the respondent. In our view Section 27 of the SEBI Act has no application. Consequently, the decision relied upon by the respondent in N. Narayanan (supra) is distinguishable and not applicable to the present facts and circumstances of the case.

16. In view of the aforesaid, the impugned order insofar as it relates to the appellant cannot be sustained and is quashed. The appeal is allowed with no order as to costs."

32. *Further, I would like to draw your goodself's attention on the circular issued by Ministry of Corporate Affairs on 25th March 2011 "**the Circular 1/2011 dated July 29, 2011, the Ministry of Company Affairs"** vide which it is clarified that no director shall be held liable for any violation by the company or by any other officer of the company, if the violation occurred without his or her knowledge and without his or her consent or connivance, or where he or she has acted diligently. Further, it is pertinent to mention herein that the said circular states that the prosecution should be filed primarily against the Managing Director and against such directors who were in charge and responsible for the affairs of the company.*
33. *In this regard, I repeat and reiterate my submission that neither I was involved in day-to-day affairs of Vintage, nor I was aware about the alleged manipulative scheme of AP. Even, the Notice also failed to established that I was involved in the day-to-day affairs of Vintage.*
34. *The paragraph no. 3 of the Notice deal with details of the GDRs issued by the Issuer Companies. The said paragraph is a matter of record and does not pertain to me. Hence, no comment is accordingly offered at this stage.*
35. *The paragraph no. 4 of the Notice deal with the observation that Vintage was the sole subscriber to the GDR issuances of the Issuer Companies. Further, it is also observed that Alkarni was the 100 percentage shareholder of Vintage. The founder and director of Vintage is AP, who also controlled its management as the family members of AP were the shareholder of Alkarni.*
36. *In this regard, it is submitted that I deny that I have any role in subscribing the GDR issuances of the Issuer Company. I repeat and reiterate my submission that neither I was involved in day-to-day affairs of Vintage, nor I was aware about the alleged manipulative scheme of AP.*
37. *Further, I submit that AP was the 100 percentage shareholder of Vintage till November 4, 2010. Thereafter, Alkarni acquired Vintage in the month of November, 2010 i.e. a year after the GDR issues of all six companies were successfully closed. The copy of the share certificate of Vintage is enclosed herewith marked as **Annexure – "A".***
38. *Accordingly, I humbly submit that any alleged connection through family controlled like AP and his family controlled Alkarni and Alkarni controlled Vintage, is patently erroneous and based on surmises and conjecture. It is crystal clear from the fact that Alkarni was not connected during the Investigation Period. Hence, any alleged connection through Alkarni is based on surmises and conjecture.*
39. *The paragraph no. 5 of the Notice deal with the observation that Vintage signed various Loan Agreements with European American Investment Bank AG (hereinafter referred to as "**Euram Bank**").*
40. *In this regard, I repeat and reiterate my submissions that neither I was involved in day-to-day affairs of Vintage, nor I was aware about the said Loan Agreements. Even the Notice has also failed to establish that I was part of the scheme and aware about the said Loan Agreement.*

41. *Further, it is submitted that I neither signed any alleged loan agreement nor appointed any person to sign any alleged loan agreement to subscribe to GDRs of Issuer Companies. Further, as per Annexure 3 and Annexure 4 of the Notice, it also crystal clear that I was not a party to any alleged Loan Agreement or Pledge Agreement. The table below showing the person signatory on behalf of Vintage;*

Table A: Showing person signatory on behalf of Vintage

Serial No.	***Name issuer company***	***Loan Agreement signed by person on behalf of Vintage***
1.	*CAT*	*Arun Panchariya/Managing Director*
2.	*Maars*	*Arun Panchariya/Managing Director*
3.	*K Sera*	*Arun Panchariya/Managing Director*
4.	*Asahi*	*Arun Panchariya/Managing Director*
5.	*IKF*	*Arun Panchariya/Managing Director*
6.	*Avon*	*Arun Panchariya/Managing Director*

42. *The paragraph no. 6 of the Notice deal with the observation that Euram Asia was a joint venture in Dubai between Euram and Pan, in which AP was holding 49 percentage by way of his investment in Pan. The said paragraph is a matter of record and does not pertain to me. Hence, no comment is accordingly offered at this stage.*
43. *The paragraph no. 7 of the Notice deal with details of Loan Agreements and Pledge Agreements signed for the purpose of subscription of GDRs of Issuer Companies. In this regard, it is submitted that the said paragraph is a matter of record and does not pertain to me. Hence, no comment is accordingly offered at this stage.*
44. *The paragraph no. 8 of the Notice deal with the allegation that after subscribing to GDRs through an alleged fraudulent arrangement with the Issuer Companies, Vintage transferred the GDRs to certain subaccounts viz. India Focus Cardinal Fund (hereinafter referred to as "**IFCF**") and KII Ltd. (hereinafter referred to as "**KII**"), who converted those GDRs into underlying shares. In this regard, I repeat and reiterate my submissions that neither I was involved in day to day affairs of Vintage nor I was aware about transfer of the GDRs to certain sub-accounts viz. IFCF, KII.*
45. *Further, I humbly submit that the Notice has completely failed to establish any connections with issuer companies or sub- accounts i.e. IFCF, KII with respect to issuance of GDRs, cancellation of GDRs. Hence, by no stretch of imagination it can lead to a legitimate conclusion that I was part of the GDR scheme.*
46. *The paragraph no. 9 of the Notice deal with details of cancellation of GDRs of Issuer Companies done by KII and IFCF. In this regard, I repeat and reiterate my submissions that neither I have any connection with IFCF and KII nor I was aware about cancellation of GDRs of Issuer Companies by IFCF and KII. Further, the said paragraph is matter of record and does not pertain to me. Hence, no comment is accordingly offered at this stage.*

47. *The paragraph no. 10 of the Notice deal with the observations that IFCF is registered as a sub-account of Cardinal Capital Partners Ltd.(hereinafter referred to as "**CCPL**"), which was registered with Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") as a Foreign Institution Investor (hereinafter referred to as "**FII**"). It is further observed that IFCF was under the control of AP and CCPL was acting as Investment manager of IFCF. In this regard, it is submitted that the said paragraph is matter of record and does not pertain to me. Hence, no comment is accordingly offered at this stage.*
48. *The paragraph no. 11 of the Notice deal with observation that there were arrangements between Credo Investments Holding Ltd. (hereinafter referred to as "**Credo**"). It is also observed that Vintage had signed a Loan Agreement with Credo, wherein it provided loan to Credo to further lend it to KII, so that KII can purchase GDRs of Issuer Companies from Vintage.*
49. *In this regard, I humbly submit that I deny having any knowledge of such alleged Loan Agreement with Credo, wherein it provided loan to Credo to further lend it to KII so that KII can purchase GDRs of Issuer Companies from Vintage. Further, I humbly submit that I was not a signatory to the loan agreement between Credo, KII and Vintage, accordingly, the said paragraph does not pertain to me, thus, no comment is accordingly offered at this stage.*
50. *The paragraph no. 12 of the Notice deal with allegation that the funds for the purchase of GDRs are provided by Vintage to FIIs, either by direct investment in the fund like IFCF or by entering into contractual agreement and providing loan to FIIs/Sub-Accounts (e.g. KII etc.).*
51. *In this regard, I humbly submit that I deny that I was party to a scheme, wherein the funds for the purchase of GDRs are provided by Vintage to FIIs, either by direct investment in the fund like IFCF or by entering into contractual agreement and providing loan to FIIs/Sub-Accounts. Further, I humbly submit that the said allegation is bald, sweeping and does not provide a single piece of credible evidence which justify the allegations levelled against me.*
52. *The paragraph no. 13 and 14 of the Notice deal with allegation that the shares sold by IFCF and KII were purchased in large quantities by certain set of Indian clients connected to AP, viz. me, Basmati Securities Private Ltd. (hereinafter referred to as "**Basmati**"), S V Enterprises (hereinafter referred to as "**SV**"), Madanlal Girdharilal Bugaliya (hereinafter referred to as "**Madanlal**"), Indra Varun Trade Impex Private Limited (hereinafter referred to as "**Indra**"), Delight Financial Advisors Ltd. (hereinafter referred to as "**Delight**"), Vinod Amrutlaal Naai (hereinafter referred to as "**Vinod**"), Newgen International Private Limited (hereinafter referred to as "**Newgen**"), Excel Paints Private Limited (hereinafter referred to as "**Excel**"), Cherry Cosmetics Private Limited (hereinafter referred to as "**Cherry**"), and Edelweiss Estates Private Limited (hereinafter referred to as "**Edelweiss**") (hereinafter collectively referred to as "**CP Group**").*
53. *Further, the paragraph 14 of the Notice, also alleged that IFCF and KII sold the majority of shares of the Issuer Companies and these shares were purchased by CP group. The CP Group then sold the shares purchased from IFCF and KII to retail investors. It has also been alleged that the members of the CP group*

traded in large quantities among themselves, which increased the liquidity of the scrip of Issuer Companies.

54. *In this regard, I vehemently deny that I was a member of CP Group and nor I traded in large quantities of shares between the CP Group. Even the Notice has also failed to show any alleged connection/nexus/collusion between me and any member of CP Group.*
55. *It is pertinent to mention that the table at page 6 and 7 of the Notice, which deal with details of the transactions of the CP Group with IFCF and KII, does not show my name, by that it is abundantly clear that I have not traded in large quantities with CP Group, which allegedly increased the liquidity of the scrip of Issuer Companies.*
56. *I humbly submit that I do not have any connections/nexus with IFCF and KII, even the Notice has also failed to show any connections/nexus/ collusion with them. Further, I humbly submit that the Notice has failed to show any alleged trade with the IFCF and KII or CP Group. Hence, the Notice has failed to provide the details of alleged trades between me and with any member of CP Group or IFCF and KII, and alleging trades executed by me as manipulative or fraudulent, does not hold any water.*
57. *I humbly submit that a serious charge of fraud and manipulation cannot be levelled merely on the possibility. There has to be some collusion / connection / relation / nexus / prior meeting of minds to be shown so as to substantiate such trading between the entities.*
58. *In this context your goodself's attention is invited to the judgment rendered by the Hon'ble Securities Appellate Tribunal in the matter of* ***M/s. Jagruti Securities Ltd Versus Securities Exchange Board of India (Appeal No. 102 of 2006 dated October 27, 2008)*** *has clearly held that:*

    "Artificial price, is a price determined by the buyer and the seller in a premeditated manner through collusion by manipulating the system. Black's Law Dictionary defines the word 'artificial' as "Made or produced by a human or human intervention rather than by nature". If we substitute the word 'trading system' for nature in this definition, it becomes clear that an artificial trade/price is the one that is executed or determined by human manipulation rather than through the operation of the system. As at present advised, we are of the view that in an artificial trade there has to be ***collusion between the buyer and the seller, and in absence of any collusion, the trade cannot be termed as artificial."*** *(emphasis supplied)*

59. *Further, I would like to cite the Order of the Hon'ble SAT in the case of* ***M/s Nishith M. Shah HUF Versus SEBI*** *whereby it has been held that:*

    "if trading in miniscule amount leads to an increase in the price of the scrips one can presume or infer that the trading in manipulative but such trading cannot happen unilaterally. ***There must be evidence to show collusion between the buyer and the seller. In the instant case there is none. The principle of preponderance of probability cannot be exercised in the absence of any connection between the seller and buyer****"*

60. *It is submitted that the presumption which has been drawn from the Notice is that all my trades were premeditated and were carried out in connivance with each other, i.e. IFCF and KII or CP Group. In this regard, it is submitted that under the current market mechanism of screenbased trading it is impossible to*

know the identity of the parties and further, it is highly improbable to intentionally match trades on the screen based platform.

61. *Further, I humbly submit that in the present case, it has not been shown that any of the parties to the transactions i.e. buying client and selling client, buying broker and selling broker had any understanding. Not even single evidence has been placed on record to prove/show that the alleged CP Group of suspected entities had any sort of common understanding for entering into such manipulative or fraudulent trades.*
62. *Further, I humbly submit that adverse inferences against me has been drawn based on the alleged connections as set out in the Notice by erroneously clubbing me with other persons/entities. The said clubbing with others has resulted in distorted conclusions against me. The entire grouping (in so far, I am concerned) is erroneous and misleading.*
63. *With regard to the observations pertaining to alleged connection with various related/connected entities, as set out in Annexure 8 to the Notice pertaining to me, following be noted:*

a) *Ashok is brother of AP*

i. In this regard, it is submitted that just because I am a brother of AP, no adverse inference can be drawn against me. I would like to submit that there is no allegation of alleged trades have been levied on me with AP. It transpired that such a connection has been included so as to create a bias in the investigation which clearly points out to the prejudice against me.

b) *Ashok is also brother of Satish Panchariya and Satish Panchariya is mentioned as promoter, Executive Director, Chairman, and Managing Director of Alka during Investigation Period in the Annual Report of Alka.*

i. In this regard, it is submitted that just because I am a brother of Satish, no adverse inference can be drawn against me. I would like to submit that there is no allegation of alleged trades have been on me with Satish. It transpired that such a connection has been included so as to create a bias in the investigation which clearly points out to the prejudice against me.

c) *Ashok was executive director of Alka in March 2011*

i. *In this regard, I humbly submit that I was the one of the directors of Alka in March, 2011, i.e. after issuance of GDRs of 6 companies. Hence, no adverse interface can be drawn against me because this is beyond the period of Investigation Period.*

ii. *Further, I humbly submit that even though I was a director in Alka, neither was I involved in day-to-day affairs of Alka nor was I aware about the alleged manipulative scheme of AP.*

iii. *I would like to submit that there is no allegation of alleged trades have been levied on me with Alka. It transpired that such a connection has been included so as to create a bias in the investigation which clearly points out to the prejudice against me.*

d) *Ashok is introducer and nominee in the Bank Account of SV.*

i. In this regard, it is submitted that Mr. Sarfaraz Khan (Proprietor of SV Enterprises) was a known acquaintance of me and he approached me to act as an *introducer and nominee in the ICICI Bank for opening of Bank Account of SV Enterprises. Therefore, without going into the details of the business activities carried by Mr. Sarfaraz Khan, I in a good faith helped and agreed to act as an introducer and nominee in the bank account of SV. Therefore, just because Mr. Sarfaraz Khan was known acquaintance of me, no adverse inference can be drawn against me. I would like to submit that there is no allegation of alleged trades have been levied on me with SV.*

64. *I humbly submit that serious allegations of manipulation or fraudulent cannot be alleged on the basis of mere surmises and conjectures, as has been done in the instant case. Admittedly, neither connection has been shown with the counter party nor any circumstances are there which could even remotely show that there are alleged trades.*

65. *In this context it is submitted that Hon'ble Supreme Court in the matter of* ***Varanasaya Sanskrit Vishwa Vidyalaya & Anr. Versus Dr. Rajkishore Tripathi and Anr****. has inter alia been held that*

    *"**using strong language not sufficient. Proof required. It is not enough to state in general terms that there was collusion "without more particulars**. General allegations are insufficient even to amount to an averment of fraud or which only court ought to take notice, however strong the language in which they are couched may be, and the same applies to undue influence and coercion."*

66. *The Hon'ble Supreme Court in the matter of* ***Union of India Versus Chaturbhai M. Patel (AIR 1976 SC 712)*** *held that:*

    "fraud, even in civil proceedings, must be established beyond reasonable doubt."

67. *Further, the Hon'ble Securities Appellate Tribunal in the matter of* ***Price Waterhouse & Co Versus SEBI (SAT Order dated 09.09.2019, Appeal No. 06 of 2018):***

    "In order to bring them culpable within the four corners of Section 12A and Regulation 3 and 4 of PFUTP Regulations, fraud has to be proved on the basis of evidence"

68. *Further, the Hon'ble Securities Appellate Tribunal in the matter of* ***Networth Stock broking Ltd Versus SEBI (SAT Order dated 19.06.2012, Appeal No. 5 of 2012):***

    "This Tribunal has been consistently holding that violation of PFUTP regulations involves commission of fraud which is indeed a serious market offence and a high degree of probability is required to establish such a charge".

69. *Further, the Hon'ble Securities Appellate Tribunal in the matter of* ***Parsoli Corporation Limited Versus SEBI (SAT order dated 12.08.2011, Appeal no. 146 of 2010):***

    "We agree that fraud is a serious charge but we do not agree with the learned senior counsel that in civil proceedings like the present, it cannot be established on preponderance of probabilities. In civil proceedings, unlike in criminal proceedings, even a serious charge like fraud has to be established on preponderance of probabilities and since this charge is serious higher has to be the degree of probability to establish the same. Having regard to the manner in which the appellants conducted themselves in transferring the shares of the innocent shareholders, we are satisfied that the charge of fraud in the present case has been established with the required degree of probability….. In civil

proceedings of the kind we are dealing with, it is not necessary to establish the motive of the wrongdoer nor is it necessary to prove mens rea…."

70. *Furthermore, the Hon'ble Securities Appellate Tribunal in the matter of* ***Sterlite Industries Versus SEBI (Appeal No. 20/2001 dated 22nd October 2001):***

    "...in the absence of reasonably strong evidence, even in a civil proceeding, a person cannot be held guilty and awarded punishment. Mere surmise, conjuncture or suspicion cannot sustain the finding of fault".

71. *In the light of the aforesaid judgment, I humbly submit that serious allegation of violation of PFUTP Regulations cannot be alleged on the basis of mere surmises and conjectures and based on the erroneous erroneously clubbing me with other persons/entities, as has been done in the instant case.*
72. *The paragraph no. 15 of the Notice deal with the schedule of repayment of instalment of loan taken by Vintage as submitted by AP. It is also observed that, even before Vintage started to repay the loan taken for a particular GDR issue, IFCF and KII had converted large amount of GDRs of the Issuer Companies into their underlying shares and thereafter sold these shares in Indian Market. In this regard, I repeat and reiterate my submission that neither I was involved in day-to-day affairs of Vintage nor I was aware about the schedule of repayment of instalment of loan taken by Vintage. Further, it is pertinent to mention herein that when the said schedule of repayment of loan submitted by AP, then how come I was aware about the same. The allegation is itself contrary to the factual presentation in the Notice.*
73. *The paragraph no. 16 of the Notice deal with the details of day wise sale of shares by IFCF and KII. Further, it is alleged that as Vintage, IFCF and KII were under the control of AP, some part of the repayment of loan by Vintage was done by converting the fraudulent acquired GDRs and selling them to Indian Investors. In this regard, I humbly submit that when the Notice itself speak that Vintage was under control of AP, then why this Notice has been issued against me for being a director of Vintage, when I was not involved in day-to-day affairs of Vintage. Further, I humbly submit that the said paragraph does not deal specifically with me, hence no comment is accordingly offered at this stage.*
74. *The paragraph no. 17 of the Notice deal with the allegation that fraudulent arrangement was perpetuated by Vintage, instead of capital being raised from foreign investors through issuance of the GDRs, the Indian investors ultimately paid for part of GDRs after the said GDRs were converted into underlying shares and sold by AP controlled entities in the Indian Securities Market to the Investors. In this regard, I vehemently deny that I was part of any fraudulent arrangement alleged to be perpetuated by Vintage. I repeat and reiterate my submission that neither I was involved in day to day affairs of Vintage nor I was aware about the fraudulent arrangement. Further, I humbly submit that the Notice has failed to prove or established that I was aware about the said fraudulent arrangement.*
75. *The paragraph no. 18 &19 of the Notice deal with observation from KYC documents of Alkarni, in which I was director and a shareholder. And alleged that I being a director and owner of Alkarni as well as Vintage, is equally liable for violation committed by Vintage.*

76. *In this regard, I repeat and reiterate my aforesaid submission that even though I was a director in Vintage, neither was I involved in day-to-day affairs of Vintage nor was I aware about the alleged manipulative scheme of AP. Further, the Notice has also failed to producers any material on record to show that I was involved in day-to-day affairs of Vintage. Hence, I cannot be held liable vicariously, when I was not involved in day-to-day affairs of Vintage.*

77. *The paragraph no. 20 of the Notice deal with allegation that I have violated the provision of Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3 (c), (d) and 4(2)(a), (c), (e), (f), (k) of the PFUTP Regulations. In this regard, I wish to submit as under:*

a) *In so far as the alleged violation of Section 12(A)(a) of the SEBI Act is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have never, directly or indirectly, employed any manipulative or deceptive device or contrivance, in relation to the issue, purchase or sale of any shares listed or proposed to be listed on a recognized stock exchange, in contravention of the SEBI Act and rules or regulations made thereunder. Therefore, the Notice has completely erred in alleging that I have violated Section 12A (a) of the SEBI Act.*

b) *In so far as the alleged violation of Section 12(A)(b) of the SEBI Act is concerned, it is submitted that from the submissions made in the aforesaid paragraphs, it clearly emerges I have never, directly or indirectly, employed 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 recognized stock exchange. Therefore, the Notice has completely erred in alleging that I have violated Section 12A (b) of the SEBI Act.*

c) *In so far as the alleged violation of Section 12(A)(c) of the SEBI Act is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have never, directly or indirectly, engaged myself in any act, practice, course of business which operates as or would operate as a fraud or deceit upon any person, in connection with the issue or dealing in securities which are listed or proposed to be listed on a recognized stock exchange, in contravention of the SEBI Act and rules or regulations made thereunder. Therefore, the Notice has completely erred in alleging that I have violated Section 12A(c) of the SEBI Act.*

d) *In so far as the alleged violation of Regulation 3(c) of the PFUTP Regulation is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have never, directly or indirectly, employed 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 recognized stock exchange. Therefore, the Notice has completely erred in alleging that I have violated Regulation 3(c) of the PFUTP Regulations.*

e) *In so far as the alleged violation of Regulation 3(d) of the PFUTP Regulations is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have never, directly or indirectly, engaged myself in any act, practice, course of business which operates as or would operate as a fraud or deceit upon any person, in connection with the issue or dealing in securities which are listed or proposed to be listed on a recognized stock exchange, in contravention of the SEBI Act and rules or regulations made* *thereunder. Therefore, the Notice has completely erred in alleging that I have violated Regulation 3(d) of the PFUTP Regulations.*

f) *In so far as the alleged violation of Regulation 4(2)(a) of the PFUTP Regulations is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have neither indulging in an act which creates false nor created a misleading appearance of trading in the securities market Therefore, the Notice has completely erred in alleging that I have violated Regulation 4(2)(a) of the PFUTP Regulations.*

g) *In so far as the alleged violation of Regulation 4(2)(c) of the PFUTP Regulations is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that I have neither advanced nor agreed to advance any money to any person thereby inducing any other person to offer to buy security in any issue only with an intention of securing minimum subscription to such issue. Therefore, the Notice has completely erred in alleging that I have violated Regulation 4(2)(c) of the PFUTP Regulations.*

h) *In so far as the alleged violation of Regulation 4(2)(e) of the PFUTP Regulations is concerned, it is submitted that from the submissions made in the aforesaid paragraphs it clearly emerges that neither act nor omission of my part was amounting to manipulation of the price of a security Therefore, the Notice has completely erred in alleging that I have violated Regulation 4(2)(e) of the PFUTP Regulations.*

i) *In so far as the alleged violation of Regulation 4(2)(f) of the PFUTP Regulations is concerned, it is submitted that from the submissions made in the aforesaid submissions, it clearly emerges that I have not published or caused to be published or caused to be reported by any person dealing in securities any information which is not true or which I did not believe to be true prior to or in the course of dealing in securities. It is reiterated that any information furnished by us to the BSE was under the bona fide belief of its truth and accuracy and on the basis of the valid documents. Therefore, the Notice has completely erred in alleging that I have violated Regulation 4(2)(f) of the PFUTP Regulations.*

j) *In so far as the alleged violation of Regulation 4(2)(k) of the PFUTP Regulations is concerned, it is submitted that from the submissions made in the aforesaid submissions, is clearly emerges that I have never carried out any advertisement that was misleading or that contained information in a distorted manner and which could influence the decision of the investors. Therefore, the Notice has completely erred in alleging that I have violated Regulation 4(2)(k) of the PFUTP Regulations.*

78. *The paragraph no. 20 of the Notice deal with monetary penalty under the provision of Section 15HA of the SEBI Act in respect of the alleged violations. In this regard, I humbly submit that while determining the quantum of penalty under the aforementioned provisions, the provisions of Section 15 J of the SEBI Act shall be required to be taken into account which reads as under:*

"15J - Factors to be taken into account by the adjudicating officer:
While adjudging quantum of penalty under section 15-I, 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."*

a) *With regard to Clause (a):- **“the amount of disproportionate gain or unfair advantage, whether quantifiable, made as a result of the default”:** it is submitted that the findings does not lead to the conclusion that there has been disproportionate gain or unfair advantage by me.*

b) *With regard to Clause (b);- **“the amount of loss caused to an investor or group of investors as a result of the default”** : it is submitted that there are no investor complaints filed at any Stock Exchange or SEBI in respect of any act and omission on my part and the same has also not been alleged in the Notices. In absence of any direct information, the allegation of causing loss to other investors is baseless.*

c) *With regard to Clause (c):- **“the repetitive nature of the default.”** it is submitted that I never been held guilty for any violation of SEBI Laws, and it has been first time the present proceeding have been initiated against me. Further, I submit that I have clean records and always maintained transparency, integrity, honesty and accountability in all its operations and hence there is no question of the repetitive nature of default.*

79. *I humbly submit that a bare perusal of the SEBI Act indicates that it is not mandatory for the Adjudicating Officer to impose a penalty every time he come to conclusion that any person /entity has failed to comply with the specified requirement under the Act and/or the Regulations. Even though Section 15HA of the SEBI Act contains the words “**shall be liable to a penalty**” there is no strict or mandatory obligation on the part of the defaulter to suffer such penalty.*
80. *In this regard, I would like to draw your goodself’s attention on the Judgement passed by the Hon’ble Supreme Court of India in the matter **Superintended and Remembrancer Legal Affairs to Government of West Bengal Versus Abani Maity** (**1979) 4 SCC 85** held that:*

   “…..Accordingly, the word "liable" occurring in many statutes, has been held as not conveying the sense of an absolute obligation or penalty but merely importing a possibility of attracting such obligation, or penalty, even where this word is used along with the words "shall be"……”
81. *Further, I would like to draw your goodself’s attention on decision of Hon’ble High Court of Bombay in the matter of **SEBI Versus Cobot International Capital Corporation Limited (Cabot) {2004 51 SCL 307 (BOM)}** to state that where the breach of the regulation is unintentional, not deliberate, technical, minor and based on a bonafide belief, strict enforcement of the regulations may not be warranted. The Hon’ble High Court has stated that the authority may refuse to impose a penalty forjustifiable reasons.*
82. *Further, the Hon’ble Apex Court in the case of **Ex-Naik Sardar Singh vs. Union of India (1991) 3 SCC 212)** inter alia held that:*

   "the penalty imposed must be commensurate with the gravity of the misconduct and that any penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution."
83. *Further in the matter of **Ranjit Thakur vs. Union of India (AIR 1987 SC 2386**) it was held that:*

"The Sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review would ensure that even on an aspect which is, otherwise, within the exclusive province of Court Martial, if the decision of the Court even as to sentence is an outrageous defiance of logic then the sentence would not be immune from correction.

Irrationality and perversity are recognized ground of judicial review. The penalty imposed must be commensurate with the gravity of the misconduct and that any penalty disproportionate to the gravity of the misconduct would be violative of Art. 14 of the Constitution. The point to note and emphasis is that all powers have legal limits."

84. *Further, Hon'ble Supreme Court of India in the case of* ***Adjudicating Officer Versus Bhavesh Pabari dated 28th February 2019*** *held that section 15J are illustrative in nature and depends from situation to situation:*

"……This dictum, however, does not mean that factum of continuing default is not a relevant factor, as Ihave held that clauses (a) to (c) in Section 15¬J of the SEBI Act are merely illustrative and are not the only grounds/factors which can be taken into consideration while determining the quantum of penalty."

85. *Further in the matter of* ***P G Electroplast Versus SEBI****, Hon'ble SAT held that:*

"…….The AO while imposing the penalty has not factored this department while fixing the quantum of penalty. Further, in our opinion, the factors contemplated under Section 15J was also not considered by the AO in the right perspective…."

86. *Accordingly, in light of aforesaid, it is submitted that the vide Order dated September 05, 2017 Hon'ble Whole Time Member of SEBI has restraint me from securities market for a period of ten years from the date of that Order. Hence, before imposing the penalty, without prejudice, your goodself should consider the said restrained order.*
87. *Furthermore, I humbly submit that SEBI has failed to make out a prima facie case against me, and therefore the Notice qua me needs to be quashed and set aside in entirety.*
88. *Thus, in view of the facts stated, arguments advanced and authorities cited, it is humbly submitted that the present proceedings are illegal and is contrary to principles of natural justice. I humbly submit that the allegation levied in the Notices does not corroborate with the corresponding evidence provided in the present matter and needs to be quashed.*
89. *In the present case, since no primary violation of SEBI Act or PFUTP Regulations against me has been made out and as it has also explained the genuineness of the case, the question of holding an inquiry against it in terms of Rule 4 of Adjudicating Rules and imposing a penalty for the alleged violation does not arise. Therefore, it is duly submitted that I have not committed any wrong, and no charge has been established against me, even prima facie, to warrant any action.*
90. *It is submitted that I reserve my right to modify and add additional grounds in these submissions. It is respectfully submitted that the allegations in the Notice*

do not flow out of the factual position and therefore cannot be legally sustained to warrant any penalty against me.

15. Subsequently, hearing was conducted in respect of Ashok on December 09, 2020 through videoconference on the webex platform owing to the pandemic, wherein the following authorized representatives (**ARs**) - Shri Jitendra Sharda, and Shri Kunal Katariya, advocates, appeared on behalf of the Noticee, and reiterated the submissions made by the Noticee vide letter dated December 08, 2020 was reiterated. Further, during the hearing it was stated by the ARs that vide letter dated December 09, 2020, the Noticee, Ashok inter alia has requested for the trade and order log in the matter. In this regard, it was communicated to the ARs that if the trade and order log are available, the same shall be shared with the Noticee. The said hearing was concluded and the ARs did not request any further opportunity of personal hearing. Thereafter, vide email dated January 15, 2021, the trade log pertaining to Ashok was provided to his ARs. Vide letter dated January 19, 2021, Ashok submitted additional reply as follows –

*1. Please refer to your goodself' email dated January 15, 2021 vide which your goodself has provided traded log with respect to my trades in the scrip of KSS Limited (hereinafter referred to as "**KSS**") in the captioned matter.*

2. In this context, it is submitted that vide letter dated December 09, 2020, the Noticee had requested certain documents/materials, which were referred to and relied upon by SEBI in issuance of the Notice.

3. It is further submitted that the following documents / materials, were sought from your goodself's in order for the Noticee to file a complete and appropriate reply to the Notice:

- *The complete order log and trade log of all the Issuer companies during the investigation period.*
- *Connection / relation to me with its counterparty brokers / counterparty clients.*
- *Any other documents/material relied upon while issuing the Show Cause Notices No. A&E/EAD-8/KS/VC/23342/1/2019 dated September 06, 2019."*

4. However, all the submission of the Noticee's were completely ignored by your goodself and vide email dated January 15, 2021, had provided only trade details of the Notricee in the scrip of KSS. Further, the Noticee humbly submit that the complete trade log and Order log has not been provided to the Noticee.
5. The aforesaid pending documents/information with SEBI shows that the data provided by SEBI in the Notice is just the tip of the Iceberg and various relevant information and data are being kept by SEBI. Thus, it is submitted that it would not be possible for the Noticee to present a comprehensive submission without the aforesaid information. The same is a gross violation of Natural Justice, and therefore the entire SCN should be quashed and set aside on this ground alone.
6. The Noticee is therefore limiting its submissions strictly on the basis of the documents available on record and requests the Ld. Adjudicating Officer not to rely upon any data / documents / averment / statements beyond the material which is available on record as provided to the Noticee. Since the documents sought for by the Noticee have not been provided their cannot be a determination on the following:

- *Any reference to manipulative trades*
- *Any reference to trades of various other entities and / or the overall trading in the alleged scrip.*
- *Any reference to the price or volume variation / price or volume movements / facts affecting the price on the alleged scrip traded by the Noticee.*
- *Connection / relation of the Noticee with its counterparty brokers / counterparty clients*
- *The manner in which the orders were placed by the Noticee with his broker and the manner in which the trades were executed by the broker on behalf of Noticee.*
- *The manner in which action was approved against the Noticee in the present matter.*

7. The Noticee denies and disputes that SEBI observation that "substantial amount of concentration in the scrips of Issuer Companies was due to trades done by the Sub- Accounts and the CP Group members. Further, analysis shows that large amount of trading by the Sub- Accounts and the CP Group was among themselves only." Since the complete order log and trade log has *not provided to the Noticee and it is therefore presumed that no such data or documents exist in the file of the Adjudicating Officer. Hence, the said observation is also illegal and devoid of any legal merit.*

8. It is further denied and disputed that SEBI conducted any investigation into the trading activities of Issuer Companies, which are allegedly connected to AP, as no documents or details about the investigation or the investigation report have been provided and therefore it is presumed that no such data or documents exists.

9. Without the details of complete trade log and order log during the Investigation period, which makes the allegations of the SCN baseless and therefore cannot be relied upon by the Ld. Adjudicating Officer while conducting the present proceedings. The data supplied along with the SCN does not bring out the necessary circumstances under which the orders were placed by the Noticee or executing these trades which even though were sought by the Noticee but have not been provided. In the circumstance there is no evidence whatsoever to reflect upon the conduct and the manner in which the alleged trades were executed.

10. In view of the above, the Noticee further request your goodself to provide the complete order log and trade log of during the investigation period, thereafter, provide reasonable time to analysis and response the same.

16. Vide email dated January 25, 2021, it was clarified to the Noticee, Ashok that details of connection of Ashok with CP group had been provided as annexure to the SCN, and further the tradelog pertaining to his trades had already been provided to him. Further, it was clarified that all the relied upon documents in the matter had already been provided to him. Vide letter dated January 28, 2020 received through email dated January 28, 2020, Ashok made additional submissions, and the main contentions made therein are *inter alia* as follows –

i. *Further, I humbly submit that a serious charge of fraud and manipulation cannot be levelled merely on the possibility. There has to be some collusion / connection / relation / nexus / prior meeting of minds to be shown so as to substantiate such trading between the entities*

ii. *It is submitted that till date the complete trade log and Order log has not been provided to me to defend my case, since the allegation involved the manipulative and fraudulent trading in the scrip of KSS.*

iii. *Vide judgement rendered by Hon'ble SAT in the matter of M/s. Jagruti Securities Ltd Versus Securities Exchange Board of India(Appeal No. 102 of 2006 dated October 27, 2008) and M/s Nishith M. Shah HUF Versus SEBI whereby it has sternly held that there must be evidence to show collusion between the buyer and the seller and if there is collusion between the parties then the principle of preponderance of probability cannot be exercised in the absence of any connection between the seller and buyer.*

iv. *In the present case, it has not been shown that any of the parties to the transactions i.e. buying client and selling client, buying broker and selling broker had any understanding.*

v. *On perusal of my trades from the trade log so provided by your goodself it can been that out of 676 trading days in the scrip of KSS on BSE, I traded only 5 days in the said scrip, which is very miniscule to create artificial liquidity. If my aim was to create artificial liquidity then my trading in the said scrip would be high, however, in the present case, it is very minuscule to create the artificial liquidity.*

vi. *Further, it is submitted that there was total 28.52 % contribution of trading by the CP Group and Sub -Accounts to market volume of in the said scrip on BSE during IP 1 and out of which my contribution was less than 1% to the CP Group as well as the Market volume, which is very minuscule to alleged that my trades were artificial trades.*

vii. *Further, I submit that the gross no. of shares purchased by CP Group and Sub-Accounts are 19,66,46,786 out of which my purchased shares in the said scrip during the said period was 65,000 which is 3.30 % of shares with the CP Group which is very less to for establishment of allegation that I have created artificial liquidity in the market.*

viii. *Further, I submit that the gross no. of shares sold by CP Group and Sub- Accounts are 22,14,96,402 out of which my sale of shares in the said scrip during the said period was 65,151 with the CP Group, which is 0.02%, of the shares with the CP Group, which is very less to establish the allegation that I have created artificial liquidity in the market.*

ix. *It is further submitted that no connection has been established with any of the counter parties to the trades executed by me, which is as many as 32 independent counter parties on the buy side and 25 independent counter parties on the sell side, none of which are connected to me.*

x. *Further, I humbly submit and reiterate that out of 676 trading days on NSE during IP-1, the CP group and sub- Accounts in total traded on 645 trading days in the scrip of K Sera. In this regard, it is submitted that out of 676 trading days, I traded only 2 days in the said scrip, which is very miniscule to create artificial liquidity. If my aim was to create artificial liquidity then my trading in the said scrip would be high, however, it is present case, and it is very minuscule to create the artificial liquidity.*

xi. *It is further observed that the total 25.66 % contribution of trading by the CP Group and Sub -Accounts to market volume of in the said scrip on NSE during IP 1 and out of which my contribution was less than 1%, which is very minuscule to alleged that my trades were artificial trades.*

xii. *Further, I submit that the gross no. of shares purchased by CP Group and Sub-Accounts are 15,98,45,233 out of which my purchased in the said scrip during the said period was 1,99,925 which is 0.12 % of shares with the CP Group, which is very less to alleged that I have created artificial liquidity in the market.*

xiii. *Further, I submit that the gross no. of shares sold by CP Group and Sub- Accounts are 17,34,69,466 out of which my sold in the said scrip during the said period was nil with the CP Group.*

xiv. *Further, I submit that there is no connection/nexus has been drawn by the Notice to the alleged trades, later, without establishing any connection/ nexus between the trade parties; the Notice has proceeded and alleged that my trades were artificial which is patently erroneous.*

xv. *Further, I humbly submit that if your goodself makes a presumption that my trades were manipulative and fraudulent then my profit in the said scrips would not be rupee 3 lakhs, it would be higher but on contrary if your goodself seen my trading pattern and profit so made in the said scrip of KSS, by no stretch of imagination it can be alleged as manipulative trades.*

xvi. *Further, I humbly submit that to show my bona fide trades in the present matter, I have requested Central Depository Services (India) Limited (hereinafter referred to as "**CDSL**") to provide details of my demat account with my broker i.e. Parsoli Corporation Limited, in order to establish my trades are genuine. Therefore, it is requested to go refer the details of demat account before passing an adverse order against me as this a call for justice. The copy of the letter to CDSL is attached herewith as **Exhibit "A".***

17. Subsequently, vide letter dated March 16, 2021, Ashok made additional submissions. The main contentions *inter alia* made therein are as follows –

i. *Please refer to the captioned notice, vide which your goodself has interalia alleged that I have violated the provisions of Section 12A(a), (b) and (c) of SEBI Act, 1992 (hereinafter referred to as the "SEBI, Act") read with Regulations 3 (a), (b), (c), (d), 4(1), 4(2)(a), (c), (e), (f), and (k) of SEBI (Prohibition of Fraudulent & Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as the "PFUTP Regulations").*

ii. *Further, I vide my letters dated December 09, 2020, January 19, 2021 and January 28, 2021 had requested a complete trade log and order log of the scrip of KSS during of Investigation Period, in order to file a complete and appropriate reply to the Notice in the captioned matter.*

iii. *However, it seems that my request for providing the complete trade log and order log has been rejected by your goodself in the captioned matter. In this regard, I submit and repeat my submissions that without the details of complete trade log and order log during the Investigation period, which makes the allegations of the Notice baseless and therefore cannot be relied upon by the Ld. Adjudicating Officer while conducting the present proceedings.*

iv. *That a serious charge of fraud and manipulation cannot be levelled merely on the possibility. There has to be some collusion / connection / relation / nexus / prior meeting of minds to be shown so as to substantiate such trading between the entities.*

v. *Accordingly, I humbly submit that the present Notice has failed to shown any connection with any of the counter parties to the transactions i.e. buying client and selling client, buying broker and selling broker had any understanding. Not even single evidence has been placed on record to prove/show that the alleged CP Group of suspected entities had any sort of common understanding for entering into such manipulative or fraudulent trades.*

vi. *I reiterate my submission that serious the allegation of violation of PFUTP Regulations cannot be alleged on the basis of mere surmises and conjectures and based on the erroneous erroneously clubbing me with other persons/entities, as has been done in the instant case.*

vii. *Further, I humbly submit that if your goodself presumption that my trades were manipulative and fraudulent then it is pertinent to mention herein that my profit in the said scrips would not be rupees 3 lakhs during the Investigation Period.*

viii. *Further, I humbly submit that If your goodself peruse the overall my trades in the said scrip, which include the investigation period and trades after investigation period, then it will show I have accumulated loss in the said scrip. Since, I do not have complete trade data with me, I am not in position to provide exact amount of loss accumulated in my account.*

ix. *I humbly submit that on November 11, 2009, I have 1,99,774 shares of KSS in my demat account, the value of these shares as per Notice is rupees 30,98,838.*

x. *Further, on March 01, 2011, I sold 1,99,774 shares of KSS in the market. Since, the complete data is not with me, I am unable to provide the precise amount and price at which the said share where sold.*

xi. *Nevertheless, if your goodself thinks I have sold at higher price that day i.e. (on March 01, 2011, the High Price is 11.40, Low Price is 11, WAP is 11.07) then also it is crystal clear that I have accumulated loss of around Rs. 8 lakhs (1,99,774*11.40 = 22,77,423.6) in the scrip of KSS.*

Sr. No	Transaction particular	No. of Share purchased	No. of Share sold	Price	Total no. of shares	Value of Share
1	11/11/2009	65,000	-	Not Available	1,99,774	**30,98,838**
2	01/03/2011	-	1,99,774	11.40 (Higher Price assume)	0	**22,77,423.6**
Total						**-8,21,144**

xii. *Furthermore, I humbly submit that SEBI has failed to make out a prima facie case against me, and therefore the Notice qua me needs to be quashed and set aside in entirety.*

xiii. *In the present case, since no primary violation of SEBI Act or PFUTP Regulations against me has been made out and as it has also explained the genuineness of the case, the question of holding an inquiry against it in terms of Rule 4 of Adjudicating Rules and imposing a penalty for the alleged violation does not arise. Therefore, it is duly submitted that I have not committed any wrong, and no charge has been established against me, even prima facie, to warrant any action*

<u>Reply and Hearing in respect of Alka</u>

18. The SCN was delivered to Alka however, no reply was received from it within the stipulated time. Vide Hearing Notice dated December 02, 2019, Alka was granted an opportunity of personal hearing on December 11, 2019. Further,

Alka was also granted opportunity to submit its reply to the SCN. Vide letter dated December 09, 2019, Alka inter alia requested for inspection of the documents in the matter. The aforesaid request of the Noticee was granted, and the authorized representative of Alka carried out the inspection of documents on December 26, 2019.

19. Accordingly, vide Hearing Notice dated January 03, 2020, Alka was granted an opportunity of personal hearing on January 27, 2020. Vide letter dated January 20, 2020, Alka submitted as follows –

    1. *Please refer to the your Notice bearing no. SEBI/HO/EAD-8/KSA/C/530/2020 dated January 03, 2020.* ***("Notice"),*** *vide which your goodself granted us the opportunity of filing reply by January 20, 2020 and the hearing on January 27, 2020 at 2:30 PM.*

    2. *At the outset, we strongly each and allegations raised against us in the said show cause notice in the matter of GDR issue of 6 companies; nothing contained in the said Show Cause Notice (SCN) may be considered as being admitted by me merely on the ground of non-traverse.*

    3. *In this regard, it is submitted that, our authorized Representative Mr. Subhash Jaiswar had conducted inspection of documents on 26th December, 2019 and we haven't received any of the documents as asked at the time inspection of documents. Therefore it is humbly requested to provide the complete set of documents asked at the time of inspection of documents on 26.12.2019 in order to file appropriate reply to the aforesaid SCN.*

    4. *In view of the aforesaid, I humbly request your goodself to kindly provide the documents and reschedule the date of hearing to any date after 4 to 5 weeks.*

    5. *I sincerely apologize for the inconvenience caused to your goodself due to the same and earnestly request your goodself not to consider this as a delaying tactic.*

20. Subsequently, vide email dated March 04, 2021, it was communicated to Alka that the inspection of relied upon documents in the matter had already been carried out by it on December 26, 2019. Further, Alka was granted a final opportunity of personal hearing on March 12, 2021. However, no reply in this regard was received from Alka, and the said hearing was also not attended by Alka.

Reply and Hearing of Basmati

21. The SCN was served to Basmati, however, no reply was received from it within the stipulated time. Vide Hearing Notice dated December 02, 2019, Basmati was granted an opportunity of personal hearing on December 11, 2019. Further, vide the said Notice, Basmati was provided opportunity to submit its reply to the SCN. I note that Basmati did not appear for the said hearing, nor submitted any reply. Vide Hearing Notice dated December 16, 2019, Basmati was granted another opportunity of personal hearing on January 06, 2020. Basmati once again did not attend the said hearing. Vide its letter dated January 06, 2020, Basmati inter alia requested for inspection of documents in the matter. Accordingly, opportunity for inspection was granted to Basmati vide letter dated January 14, 2020, and in this regard, the Noticee was advised to contact the Enforcement Department of SEBI. Vide email dated November 04, 2020, copies of the relied upon documents were provided by Enforcement Department of SEBI to Basmati. Thereafter, vide Hearing Notice dated November 11, 2020, Basmati was granted opportunity of personal hearing on November 24, 2020. Vide the said notice, it was also communicated to the Noticee that in case of failure to submit any reply to the SCN or in case of absence at the above scheduled hearing, no further opportunity of hearing in the matter shall be granted and the matter will be proceeded further based on the material available on record. However, no reply was received from Basmati, nor did it appear for the scheduled hearing.

Reply and Hearing of Oudh

22. The SCN was served to Oudh, however, no reply was received from it within the stipulated time. Vide Hearing Notice dated December 02, 20219, Oudh was granted an opportunity of personal hearing on December 11, 2019. Further, vide the said Notice, Oudh was provided opportunity to submit its reply to the SCN. I note that Oudh did not appear for the said hearing, nor submitted any reply. Vide Hearing Notice dated December 16, 2019, Oudh was granted another opportunity of personal hearing on January 06, 2020. Oudh once again did not attend the said hearing. Vide its letter dated January 10, 2020, Oudh

inter alia requested for inspection of documents in the matter. Accordingly, opportunity for inspection was granted to Oudh vide letter dated January 14, 2020, and in this regard, the Noticee was advised to contact the Enforcement Department of SEBI. Vide email dated November 04, 2020, copies of the relied upon documents were provided by Enforcement Department of SEBI to Oudh. Thereafter, vide Hearing Notice dated November 11, 2020, Oudh was granted opportunity of personal hearing on November 24, 2020. Vide the said notice, it was also communicated to the Noticee that in case of failure to submit any reply to the SCN or in case of absence at the above scheduled hearing, no further opportunity of hearing in the matter shall be granted and the matter will be proceeded further based on the material available on record. However, no reply was received from Oudh, nor did it appear for the scheduled hearing.

Reply and Hearing of SV

23. The SCN was duly served to SV, and vide its email dated October 10, 2019, SV *inter alia* stated " *i am in receipt of your above stated notice at my residential address At 10/11 Amir park society, sarkhej Road Ahmedabad. in response to the above cited notice ... presently i am abroad and it will take some time to return to India, also i will have to gather and compile the information for submission to your office which is possible only after i reach to India, therefore, you are requested to please give me some more time for submission of my reply and the required information to your office, i hope that you will understand my present situation and grant me an adjournment period of some time. i am sorry for the inconvenience caused to you".* Vide Hearing Notice dated December 02, 2019, SV was granted opportunity of personal hearing on December 11, 2019. Further, vide the said Notice, SV was provided opportunity to submit its reply to the SCN. I note that the Noticee did not appear for the said hearing. Vide his email and letter dated December 11, 2019, SV submitted as follows –

"*I have received a letter From SEBI on 10.12.2019 And I am in receipt of your hearing notice bearing reference no. SEBI/HO/EAD-8/KS/VC/31978/2019 and at present I am out of india due to work purpose and due this reason it won't be possible for me to before file reply and present before your good self. Also, it is* *stated that I had consulted law firm in order file an appropriate reply to the Show Cause Notice bearing Reference no. No. A&E/EAD-8/KS/VC/23342/1/2019 dated September 06, 2019 under Rule 4(1) of SEBI (Procedure for Holding Inquiry and imposing penalties) Rules, 1995 in the matter of GDR issue of 6 companies and with reference to the same I need to have inspection of the documents including but not limited to Complete Investigation Report for the investigation conducted by SEBI in the matter of GDR issue of 6 companies and any other documents relied by your goodself. Therefore it is humbly requested to grant a date for inspection of documents and any other suitable date for filing reply and suitable date for hearing. In light of the above it is humbly requested to your good self to provide an opportunity to file detailed reply and opportunity of personal hearing and it is my humble request to not to pass any adverse order without giving an opportunity of personal hearing in this matter and for this act of kindness I shall be grateful."*

24. Accordingly, opportunity for inspection was granted to SV vide letter dated January 03, 2020, and in this regard, the Noticee was advised to contact the Enforcement Department of SEBI. The authorized representative of SV appeared before SEBI and carried out the inspection of documents on January 22, 2020. Thereafter, vide Hearing Notice dated February 10, 2020, SV was granted an opportunity of hearing on February 26, 2020. Vide the said notice, SV was also granted opportunity to submit its reply in the matter latest by February 20, 2020. Vide its letter dated February 19, 2020, the Noticee stated that its authorized representative had conducted inspection of documents on January 27, 2020 and that they haven't received any of the documents as asked at the time of inspection of documents. The Noticee requested to be provided the complete set of documents asked at the time of inspection and requested to reschedule the date of hearing. Vide letter dated March 03, 2020, SV was asked to submit the list of documents sought by it in the matter, in order to examine its aforesaid request further. In reply, vide letter dated March 09, 2020, SV requested to be provided all the material / documents relied upon the matter including but not limited to the following documents viz.:

a. Complete Investigation Report for the investigation conducted by SEBI in the matter of GDR issue of 1) Asahi Infrastructure & Projects Limited, 2) Avon

Corporation Limited, 3) CAT Technologies Limited, 4) IKF Technologies Limited, 5) K Sera Sera Limited, 6) Maars Software International Limited.
b. Any other documents/material relied upon while issuing the Show Cause Notices No. A&E/EAD-8/KS/VC/23342/1/2019 dated September 06, 2019

25. Vide letter dated November 11, 2020, it was communicated to SV that the copy of the investigation report has already been provided to it along with the SCN. It was further communicated that its other query regarding any other documents was too general to act upon. Further, copies of the summons dated January 12, 20212 and August 12, 2013 issued to SV by the Investigating Authority was enclosed with the aforesaid letter dated November 11, 2020. It was thus noted that all the relied upon documents were provided to SV. Further, it was granted a final opportunity to submit its reply to the SCN latest by November 22, 2020. A final opportunity of personal hearing was granted to SV on November 25, 2020. However, no reply was received from SV.

<u>Reply and Hearing of Madanlal, Vinod, Indra, Delight, Newgen, Excel, Cherry, and Edelweiss</u>

26. The SCN sent to Madanlal, Vinod, Indra, Delight, Newgen, Excel, Cherry, and Edelweiss through Speed Post with Acknowledgement Due returned undelivered from their respective addresses. Accordingly, in terms of Rule 7 of the SEBI Adjudication Rules, the SCN was sent for service at the respective last known address of the aforesaid Noticees through affixture.

<u>Madanlal and Vinod</u>

27. The SCNs were affixed at the last known addresses of the following Noticees - Madanlal (Address: Door No: 48, B G Tower, Outside Delhi Darwaja, Ahmedabad, Gujarat-380001) and Vinod (Address: 2087-A-6, Jay Ambe Nagar, Thaltej, Ahmedabad, Gujarat-380001). However, no reply was received from the aforesaid Noticees. Thereafter, vide Hearing Notices dated December 16, 2019, Madanlal and Vinod were granted an opportunity of personal hearing on January 06, 2020, and were also granted opportunity to submit their reply to the SCN. The said Hearing Notices were affixed on December 19, 2019 at the last known addresses of Madanlal and Vinod. However, the said Noticees did

not appear for the hearing scheduled on January 06, 2020 nor filed any reply to the SCN. Thereafter, vide Hearing Notices dated January 17, 2020, Madanlal and Vinod were granted one more opportunity of personal hearing on January 31, 2020, and were also granted opportunity to submit their reply to the SCN. The said Hearing Notices were affixed on December 19, 2020 at the last known addresses of Madanlal and Vinod. However, the said Noticees did not appear for the hearing scheduled on January 31, 2020 nor filed any reply to the SCN.

Newgen, Excel, Cherry, and Edelweiss

28. The SCN issued to Indra, Newgen, Excel, Cherry, and Edelweiss could not be affixed at their respective last known addresses. Accordingly, public notice for the undelivered SCNs was published in the Times of India newspaper on December 08, 2019. Vide the Notice, it was communicated that the SCN issued to Indra, Newgen, Excel, Cherry, and Edelweiss had returned undelivered from their respective addresses, and that the same was uploaded in the SEBI website under the head "Unserved Summons/Notices". Vide the said publication, the above Noticees were granted opportunity to submit their replies to the SCN and were also granted an opportunity of personal hearing on December 16, 2019. Subsequently, the aforesaid Noticees were also granted an opportunity of personal hearing on January 16, 2020 through newspaper publication on January 06, 2020.

29. In response to the newspaper publication, vide letters dated January 16, 2020, Newgen, Excel, Cherry, and Edelweiss *inter alia* stated that they could not locate the copy of the SCN in the SEBI website, and requested for copy of the same. Vide letter dated January 20, 2020 Newgen, Excel, Cherry, and Edelweiss were informed that the unserved SCN was available on the SEBI website and in this regard the screenshot of the SEBI website was forwarded to the above Noticees. Further, the SCN was provided to the above Noticees and they were granted opportunity to submit their reply, if any, to the SCN latest by January 31, 2020. Vide the aforesaid letter dated January 20, 2020 the above Noticees were also granted an opportunity of personal hearing on February 06, 2020. Newgen, Excel, Cherry, and Edelweiss did not attend the

said hearing. The above letter dated January 20, 2020 sent to Excel and Edelweiss at the addresses mentioned in their replies dated January 16, 2020 returned undelivered; copy of the letter was also shared with the above Noticees through email at the respective email ids (excelpaints@gmail.com for Excel; info@erpl.com for Edelweiss) mentioned in their letters. Vide letters dated January 31, 2020, Newgen, Excel, and Cherry requested for additional time to additional time to submit reply and attend hearing in the matter. No reply was received from Edelweiss. Accordingly, vide Hearing Notices dated February 11, 2020 Newgen, Excel, and Cherry were granted opportunity to submit their reply to the SCN by February 28, 2020, and an opportunity of personal hearing on March 04, 2020. Newgen, Excel, and Cherry did not attend the said hearing. Newgen and Cherry vide their letters dated March 02, 2020 requested for inspection of documents in the matter. No reply was received from Excel. Vide letter dated March 09, 2020 Newgen and Cherry were granted opportunity of inspection of documents in the matter and were advised to contact the Enforcement Department of SEBI in this regard. Vide email dated November 04, 2020, Newgen and Cherry were provided with the scanned copies of the documents relied upon in the matter by SEBI. Thereafter, vide Hearing Notices dated November 11, 2020, Newgen and Cherry were granted a final opportunity of personal hearing on November 24, 2020. However, Newgen and Cherry did not appear for the aforesaid hearing nor was any reply received from them. Vide email dated January 27, 2021 (sent from the email id : edelweissestates@gmail.com), Edelweiss stated that they had received the SCN and inter alia requested for the inspection of the complete investigation report and any other documents while issuing SCN. Vide email dated March 15, 20221, it was clarified to Edelweiss that the copy of the investigation report has already been provided to the Noticee as Annexure 2 of the SCN, and further it was informed that all the relied upon documents had been provided to the Noticee. Accordingly, Edelweiss was granted a final opportunity to submit reply to the SCN latest by March 24, 2021 and a final opportunity of personal hearing on March 26, 2021. However, no reply was received from Edelweiss, nor did it appear for the hearing. Vide email dated March 15, 2021, Excel was granted a final opportunity of submitting reply to the SCN latest by March 24, 2021 and a final opportunity of personal hearing on March 26, 2021. However, no reply was received from Excel, nor did it appear for the hearing.

30. With regard to Indra and Delight, it was observed from the website of MCA that the status of the said companies was showing as “Stike-off”.

31. Considering the fact that the above Noticees have neither filed any reply nor has availed the opportunity of personal hearing despite being granted opportunities for the same, I am of the view that the said Noticees have nothing to submit, and in terms of rule 4(7) of the SEBI Adjudication Rules, the matter can be proceeded ex-parte on the basis of material available on record. In absence of any response from the Noticees to the SCN, I presume that the Noticees have admitted the charges levelled against it. In this regard, it is pertinent to note that the Hon’ble Securities Appellate Tribunal (SAT) in the matter of Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006) has, inter alia, observed that,

"......the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them”.

32. Further, the Hon’ble SAT in the matter of *Sanjay Kumar Tayal & Others vs SEBI* (Appeal No. 68 of 2013 decided on February 11, 2014), has also, inter alia, and held that:

“...appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices...”

33. Further, the same position is reiterated by the Hon’ble SAT in the matter of *Dave Harihar Kirtibhai Vs SEBI* (Appeal No. 181 of 214 dated December 19, 2014), wherein the Hon’ble SAT held as under:

"...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal..."

34. In view of the aforesaid orders of the Hon'ble SAT, I find no reason to take a different view and accordingly I deem it appropriate to proceed against the Noticees ex-parte, based on the material available on record.

<u>CONSIDERATION OF ISSUES AND FINDINGS:</u>

35. I have taken into consideration the facts and circumstances of the case, and the material available on record. The issues that arise for consideration before me are:-
    a. Whether the Noticee 1 and 2 have violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulation 3(c), 3(d), 4(1), 4(2)(c), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, and whether Noticee 1 and 2 have violated the provisions of Section 11C(3) read with Section 11C(6) of SEBI Act?
    b. Whether Noticee 3 and 5 have violated the provisions of Section 12A(a), (b) and (c) of SEBI Act read with Regulation 3(c), 3(d), 4(2)(a), (c), (e), (f) and (k) of PFUTP Regulations?
    c. Whether Noticee 4 has violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulation 3(c), 3(d), 4(1), 4(2)(c), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations, and whether Noticee 4 has

violated the provisions of Section 11C(3) read with Section 11C(6) of SEBI Act?

d. Whether Noticee 5 to 17 have violated the provisions of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3 (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, and whether Noticee 17 has violated the provisions of Section 11C(3) read with Section 11C(6) of SEBI Act?
e. If yes, whether the Noticees are liable for penalty under Section 15HA and 15A(a) of SEBI Act, as applicable?
f. If yes, what should be the quantum of penalty that should be imposed on them?

36. Before moving forward, the relevant extracts of the provision of law, allegedly violated by the Noticees, are mentioned as under-

SEBI Act

Investigation.

11C.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(6) If any person fails without reasonable cause or refuses—

…….

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

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

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

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

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

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in

or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—

(a) indulging in an act which creates false or misleading appearance of trading in the securities market;

(c)advancing or agreeing to advance any money to any person thereby inducing any other person to offer to buy any security in any issue only with the intention of securing the minimum subscription to such issue;

(e) any act or omission amounting to manipulation of the price of a security

(f)publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

(k) an advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors;

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

37. Before moving forward, I would like to deal with certain preliminary issues raised by the Noticees. Noticee 1 (AP) has contended that he has never been registered with SEBI or RBI, and that SEBI cannot be said to have any jurisdiction over his business activities outside India or jurisdiction over him in his personal capacity. AP has further contended since he is a natural person resident outside India, SEBI has no jurisdiction against him. AP has contended that he is neither an intermediary, which is required to be registered with SEBI under the provisions of the SEBI Act, 1992 nor in control of any entity that is required to be registered with SEBI or regulated by SEBI, therefore, he cannot be considered as person having interaction or connection with the Indian

securities market and consequently. AP has contended that no Merchant Banker (Lead Manager) registered with SEBI or any other authority in India is competent to handle GDRs issued abroad by an Issuer Company located in India, thus SEBI cannot conceivably extend its reach to a company or person incorporated outside India.

38. 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.

39. I note that a person need not necessarily be an intermediary or registered with SEBI in any capacity to fall within the ambit of its jurisdiction. I do not find any merit in the contention of AP that because they are not intermediaries or were registered with SEBI, they are not subject to SEBI's jurisdiction. Rather, I observe that the activities of AP, Pan Asia, Vintage etc have had 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.

40. In this regard, I note that with regards to jurisdiction of SEBI against AP 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.*"

41. With regards to AP's contention that being a natural person residing outside India, SEBI has no jurisdiction on him. In this regard, I note that there is no such

restriction in law. In the instant case, I find that AP and other 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 AP and find no merits in the above contentions of the Noticee. For similar reasons, in the context of the instant matter, I also find that SEBI has jurisdiction over other Noticees in the matter.

42. Noticee 1 and 5 (i.e. AP and Ashok respectively) have also contended that there has been an inordinate and un-explained delay in issuing the SCN. In this regard, I note that the GDRs under consideration in the present proceedings were issued in March 2007 and May 2009. However, I note that the present matter is complex involving investigation of various entities registered under foreign jurisdiction. The same, *inter alia*, required collaboration with foreign regulators by SEBI and collection of information. In this regard, I note that Hon'ble SAT in its order dated February 05, 2020 in the matter of *Jindal Cotex Ltd. vs. SEBI* had made the following observations:

"*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.*"

43. In this regard, I also note that proceedings in respect of the GDR issue of the Issuer Companies were initiated by SEBI as early as 2011, wherein SEBI passed an interim order dated September 21, 2011. Thereafter, pursuant to investigation in the matter, vide final order dated June 20, 2013, directions were passed against AP and Pan Asia. Pursuant to the completion of investigation against the Issuer companies and their promoters/directors, Cals Refineries Ltd and its promoters/directors, and other entities including the Sub-Accounts and CP group etc, final orders were passed by SEBI against those entities during 2013 to 2019. Adjudication proceedings were initiated against the above entities

and pursuant to the appointment of the undersigned as AO vide Order dated July 05, 2018, SCNs were issued in the matter. Further, the Noticees were granted opportunity for inspection of documents, submitting replies and hearing in the matter. Thus, I note that there is no delay in the present adjudication proceedings. Further, I would like to rely upon the judgement of Hon'ble SAT in the case of *Ravi Mohan & Ors. vs. SEBI* (SAT Appeal No. 97 of 2014, DoD 16/12/2015) wherein it was held that : -

> *"....................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.................."*

44. In this context I find it relevant to refer to the order passed by Hon'ble SAT in the case of *Metex Marketing Pvt. Ltd. vs. SEBI* (order dated June 4, 2019) wherein Hon'ble SAT held that: "*This Tribunal has consistently held that in the absence of any specific provision in the SEBI Act or in the Takeover Regulations, the fact that there was a delay on the part of SEBI in initiating proceedings for violation of any provision of the Act cannot be a ground to quash the penalty imposed for such violation*.".

45. It is noted that in the instant matter AP and the other Noticees have been alleged to have orchestrated a fraudulent scheme of GDR issues of six Issuer Companies and committing market manipulation, and thus committing a fraud on the investors in the Indian securities market. Such charges against the

Noticees make the instant matter grave. In this context, I would also like to refer the observations of Hon'ble Supreme Court of India in the matter of *State vs. R. Vasanthi Stanley* reported in AIR 2015 SC 3691 wherein the Apex Court has held that "…*serious economic offence or for that matter the offence that has the potentiality to create a dent in the financial health of the institutions, is not to be quashed on the ground that there is delay in trial…*". Therefore, I do not find any merits in the above contentions of Noticee 1.

46. Further, before moving forward, I would like to deal with the contention raised by the Noticees with regard to supply of documents. I note that the allegations against the Noticees are clearly delineated in the SCN and all the relevant documents that have been relied upon in the SCN have been provided to the Noticees as annexures to the SCN. Further, inspection of documents have been granted to the Noticees and opportunity to file reply and hearing has been granted to the Noticees. I note that in the present proceeding reliance is being placed on only those documents, which have been provided to the Noticees. Noticee 5 has *inter alia* contended that he was not provided with the complete trade and order log. In this regard, I note that the trade log of Noticee 5 in the scrip of the Issuer Companies has been provided to him vide email dated January 15, 2021. Further the details of trading by IFCF, KII and CP Group Members in Issuer Companies, details of trading by the CP Group Members among themselves, and Individual contribution of each of the Sub-Accounts and the CP Group entities has been provided as Annexure 5, 6 and 7 respectively to the SCN. Thus, all the available relied upon documents has been provided to Noticee 5. Further, I note that the Hon'ble SAT, in its order dated February 12, 2020, in the matter of *Shruti Vora vs. SEBI* has held that : *"Reliance was also made of a decision of the Supreme Court in Union of India and Others vs E. Bashyan (1988) 2 SCC 196 which has no bearing to the controversy involved in the present context, in as much as, the said decision relates to a disciplinary proceedings wherein the Supreme Court observed that the inquiry report was required to be made available to the delinquent. An inquiry report is totally distinct and different from an investigation report. The inquiry report considers all the materials in the inquiry proceedings which form the basis of the final order*

and therefore the said report is required to be made available to the delinquent. In the instant case, the show cause notice relies upon certain documents which have been made available. Thus the investigation report is not required to be supplied".

"The learned counsel has also placed reliance upon a minority view of this Tribunal in Price Waterhouse vs Securities and Exchange Board of India decided by this Tribunal in Appeal No. 8 of 2011 on June 1, 2011 wherein it was observed that fairness demands that the entire material collected during the course of investigation should be made available for inspection to the person whose conduct was in question and hat said material should also be supplied. In our opinion, the said minority view is directly against the decision of the Supreme Court in Natwar Singh case (supra)".

"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."

47. Further, the Hon'ble SAT in the matter of *Anant R Sathe Vs SEBI* (Appeal No. 150 of 2020) vide Order dated July 17, 2020 has reaffirmed the principle elucidated in the judgment of Shruti Vora's case, which was reproduced herein above and ruled that *"the Authority is required to supply the documents that they rely upon while serving the show cause notice which in the instant case has been done and which is sufficient for the purpose of filing an efficacious reply in his defence".*

48. In view of the above, since all the documents which are relevant and relied upon in the instant proceedings have been provided to the Noticees, I am of the opinion that principles of natural justice have been duly complied with in the

instant proceedings and no prejudice in filing reply has been caused to the Noticees.

49. Having decided the preliminary issues raised by the Noticees, now I proceed to deal with the merits of the matter.

50. I note from the IR that the issuer companies had come up with their respective GDR issues during the period of March 2007 to November 2009 (hereinafter referred to as '**investigation period**'/'**relevant period**'). Pan Asia was the Book Running Lead Manager to the said GDRs issues of issuer companies. I note from the IR that AP was the Promoter & Managing Director as well as 100% shareholder of Pan Asia at the relevant time. I note from the IR that the following GDR issues were managed by Pan Asia during the relevant period of time:

Table 1

Sr. No	Issuer	Date of GDR Issue	Pre GDR equity ('000)	Shares issued under GDR ('000)	% GDR to Pre GDR equity	Market Cap prior to GDR issue(Rs Crore)	Capital raised by GDR Issue(Rs. Crore)	% Capital raised to pre GDR Market Cap
1	IKF	31-03-07	1,06,690	1,32,000	123	79.60	47.96	60.25
2	CAT	27-07-07	5,750	25,286	440	3.00	26.13	871.20
3	Maars	10-08-07	66,160	73,800	112	29.71	72.93	265.02
4	K Sera	26-10-07	19,513	47,619	244	71.02	98.42	138.58
5	Asahi	29-04-09	37,196	2,99,100	804	2.64	32.99	1137.94
6	IKF	15-05-09	2,68,190	1,62,391	61	79.66	54.44	68.35
7	Avon	19-06-09	16,580	48,000	289	14.71	48.13	327.19
8	K Sera	16-10-09	67,131	1,34,257	200	137.95	138.73	100.57
9	CAT	06-11-09	31,576	47,860	152	50.81	46.83	92.17

51. I note from the IR that all but the first GDR issue of IKF, listed at S. No. 1 in the above table, were completely subscribed by Vintage. In this regard, I note from the letter dated March 27, 2012 of Financial Market Authority, Austria that Vintage was owned by Alkarni Holding Ltd. which, in turn, was owned by AP and his family members. Prior to the issuance of the GDRs listed at S. No. 2 to 9 in the above table, Vintage entered into separate but similar loan agreements with European American Investment Bank AG ('**Euram Bank**') by which Euram Bank advanced loans to Vintage expressly to subscribe to the GDRs to be issued by the issuer companies. I note from the said loan agreements that AP

was the Managing Director of Vintage during the relevant period and he had signed on behalf of Vintage on these loan agreements.

52. I also note from the IR that Euram Asia was joint venture in Dubai between Euram and Panasia. AP was holding 49% in Euram Asia by way of his investment in Panasia. AP and Mr. Satish Panchariya, brother of AP, were also the directors of Euram Asia. Euram was holding 51% of shareholding in Euram Asia.

53. I note that the Loan Agreements and Pledge Agreements between Euram Bank, Vintage and Asahi, Avon, CAT Technologies, IKF, Maars and K Sera, were structured to further the fraudulent issuance and subscription of the GDR Issues of the aforesaid Issuer Companies during the year 2007 and 2009. Pan Asia was appointed by the Issuer Companies as the Lead Manager for their GDR Issues. AP was the Managing Director of Pan Asia (Lead Manager of the GDR issue of the Issuer Companies) and was holding 100% shares during the time of issuance of GDRs by the Issuer Companies.

54. At the same time, each of the said issuer companies opened accounts with Euram Bank. The issuer companies also entered into separate but identical pledge agreements by which they pledged the proceeds of their respective GDR issues with Euram Bank as security for the loans given by Euram Bank to Vintage to subscribe to the GDRs. Using the loan amounts, Vintage subscribed to entire GDR issues of the Issuer Companies. The details of such loan agreements and pledge agreements are given below:

Table 2

Sr. No.	Issuer	Date of GDR Issue	GDR Issue Size ($ '000)	Borrower	Loan Amount ($ '000)	Date of Loan Agreement	Lender	Date of Pledge Agreement
1	CAT	27-07-07	6,457	Vintage	6,457	23-07-07	Euram Bank	20-07-07
2	Maars	10-08-07	17,933	Vintage	17,933	27-07-07	Euram Bank	27-07-07
3	K Sera	26-10-07	25,000	Vintage	25,000	30-10-07	Euram Bank	30-10-07
4	Asahi	29-04-09	5,982	Vintage	5,982	21-04-09	Euram Bank	21-04-09
5	IKF	15-05-09	10,988	Vintage	10,988	28-04-09	Euram Bank	28-04-09
6	Avon	19-06-09	10,000	Vintage	10,000	10-06-09	Euram Bank	10-06-09
7	K Sera	16-10-09	29,984	Vintage	29,984	06-10-09	Euram Bank	06-10-09

8	CAT	06-11-09	10,003	Vintage	10,003	27-10-09	Euram Bank	27-10-09

55. Since the same *modus operandi* was adopted in respect of the *GDR Issues of* all the Issuer Companies, for convenience, facts relating to the GDRs of Asahi are considered. I note as follows -

   i. I note from the subscriber's side, as part of the GDR scheme that, eight days prior to the issuance of the GDRs of Asahi, Vintage entered into a loan agreement ref. K210409-003 dated April 21, 2009 with Euram Bank by which Euram Bank advanced loan of US $5.98 million to Vintage expressly for subscribing to the GDRs to be issued by Asahi which observation I note from the covenants of the loan agreement brought out in subsequent paragraph(s). The said loan agreement was signed by AP on behalf of Vintage as its Managing Director. I further note from the IR that AP was the founder and director of Vintage and Alkarni, a company registered in British Virgin Island with its entire share capital held by AP and his family, is the 100% shareholder of Vintage. In view of these facts, I hold that Vintage was controlled by AP during the relevant period of time.

   ii. As noted above, on perusal of the Loan Agreement, I note that the following has, *inter alia,* been mentioned therein –

      1. *<u>Currency and the amount of facility:</u>*
         USD 5,982,000/-
         (The amount is exactly the same amount raised by Asahi through the said GDR offering.) (Explanation supplied).

      2. *<u>Nature and purpose of facility:</u>*
         To provide funding enabling Vintage FZE to take down GDR issue of Asahi Infrastructure & Projects Limited's Luxembourg public offering and may only be transferred to Euram account nr. 540 030, Asahi Infrastructure & Projects Limited."
         (The specific purpose of the loan/ draw down was for the purpose of subscribing to the GDR issue of Asahi. 540 030 is the client account number of Asahi.)(Explanation supplied).

      6. *<u>Security</u>*
         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. 540 030 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. 540 030 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.*

iii. A Pledge Agreement dated April 21, 2009, was also executed between Asahi and Euram. By the said pledge agreement, Asahi pledged the proceeds of its GDR issue with Euram Bank as security for the loan given by Euram Bank to Vintage for subscribing to its GDRs. The salient Clauses of the Pledge Agreement *inter alia* are as under:

3. *Preamble*

   By loan agreement K210409-003 (hereinafter referred to as the "Loan Agreement") dated April 21, 2009, the Bank granted a loan (hereinafter referred to as the "Loan") to Vintage FZE, AAH-213, Al Ahamadi House, Jebel Ali Free Trade Zone, Jebel Ali, Dubai, United Arab Emirates ("the Borrower") in the amount of $ USD 5,892,000.00 million. <u>The Pledgor has received a copy of the Loan Agreement and acknowledges and agrees to its terms and conditions</u>.

4. *Pledge*

   1.1. *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:*

1.1.1. 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 5,982,000.00 existing from time to time at present or hereafter on the securities account(s) no. 540 030 held with the Bank (hereinafter referred to as the "Pledged Securities Account") and all amounts credited at any particular time therein.

1.1.2. 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. 540 030 kept by the Bank (hereinafter referred to as the "Pledged Time Deposit Account ") and all amounts credited at any particular time therein.

(the Pledged securities account and the Pledged Time Deposit account hereinafter referred to as the "Pledged Accounts", the Pledged Securities and the Pledged Accounts hereinafter collectively referred to as "Collateral")

1.2. 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.*"

iv. I note that the Pledge Agreement refers to the Loan Agreement dated April 21, 2009 between the borrower i.e. Vintage and Euram Bank, whereby Vintage was granted a loan of USD 5,982,000. It further mentions that "*The Pledgor has received a copy of the Loan Agreement … and acknowledges and agrees to its terms and conditions*".

v. On perusal of the contents of the Pledge Agreement, it is noted that Asahi had agreed to pledge all 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. 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*".

The Pledge Agreement was an integral part of the Loan Agreement.

vi. I note from the perusal of the Pledge Agreement and the Loan Agreement that both of them are dated April 21, 2009. Further, I note that

- Clause 6.1 of the Loan Agreement specifies that the Pledge Agreement was an integral part of the Loan Agreement.
- The preamble of the pledge agreement clearly mentions that the pledge is being created for the purpose of the loan agreement.

Therefore, in view of the above points, I hold that both the loan agreement and pledge agreement are intertwined with each other and support each other. Therefore, one cannot be read in isolation of the another.

vii. I note that the above pledge agreement which was instrumental in the whole scheme of GDR issue was not disclosed to the BSE (Bombay Stock Exchange).

viii. From the Know Your Client ("KYC") document in respect of Asahi's bank account with Euram, it is observed that the authorised signatory for the operation of the bank account was Shri Laxminarayan Jainarayan Rathi (Chairman and Managing Director of Asahi during GDR Issue in April 2009).

ix. From the certified copy of an extract from the Minutes of the Meeting of the Board of Directors of Asahi held on January 31, 2008, which was received from Euram–Bank, the following is observed:

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

RESOLVED FURTHER THAT Mr. Laxminarayan Jainarayan Rathi, Managing Director, be and is hereby severally authorized to sign, execute, any application, agreement, escrow agreement, document, undertaking, confirmation, declaration and any 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 Mr. Laxminarayan Jainarayan Rathi, Managing Director, be and are hereby severally authorised 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 other branch of EURAM Bank, including the Offshore Branch, for the purpose of operation of and dealing with the said account and carry out other relevant and necessary transactions and generally to take all such steps and to do such things as may be required from time to time on behalf of the Company. RESOLVED FURTHER THAT the Bank be and is hereby authorised 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."

x. From the corporate announcements available on BSE website, it is observed that Asahi had informed BSE on May 04, 2009 that the GDR Issue for USD 5.98 million had been fully subscribed and had closed on April 28, 2009 and that the allotment of 29,91,000 Global Depositary Receipts underlying 29,91,00,000 Equity shares of Re.1/-each at par was made by the Board in its meeting held on April 29, 2009. Further, Asahi, on June 01, 2009 informed BSE that the following were the investors in the GDR issue of Asahi (similar information was given to SEBI by Asahi) –

Table 3

Sl. No.	Name of Subscriber	Address	Amount paid (US$)	GDRs Subscribed	% to total GDR issue
		Hong Kong			
1.	Greenwich Management Inc. (herein after referred to as '**Greenwich**')	Floor - 18, One International Finance Centre, 1 Harbour view Street, Central, Hong Kong.	29,82,000	14,91,000	49.85
		Singapore			
2.	Tradetec Corporation (herein after referred to as '**Tradetec**')	Level 47, Prudential Tower, 30 Cecil Street, Singapore – 049712 Email: bw@tradeteccorporation.com.	30,00,000	15,00,000	50.15
	Total		**59,82,000**	**29,91,000**	**100**

xi. I note from the IR that the above entities were also subscribers in other GDR issues also. In order to contact these initial investors, SEBI had sent emails to their available (Email) addresses and also had issued summons to their contact addresses as per records. However, all the Emails and summons returned undelivered. Thereafter, SEBI contacted the respective Financial Markets Regulators of Hong Kong and Singapore. In this regard, I note that following:

(i)The Securities and Futures Commission of Hong Kong, vide its Email dated July 31, 2012, informed SEBI that Greenwich Management Inc. is not present at the address given above.

(ii)The Monetary Authority of Singapore, vide its Email dated July 27, 2012, informed SEBI that the building Prudential Tower, where Tradetec Corporation is supposed to have an office at Level 47, does not have a Level (floor) 47. The highest floor is Level 30.

xii. SEBI obtained the information regarding the initial investors in GDRs from the Issuer Companies who in turn had received the same from Pan Asia.

These details of initial investors of the Issuer Companies were found to be false. Thus, it was artificially made to appear that the GDRs have been subscribed by foreign investors when in fact the GDRs were subscribed by one entity viz. Vintage. In this connection, AP had questioned the methodology adopted by SEBI for verifying the address of the initial investors from foreign regulators. AP has submitted that such methodology was inadequate because the initial investors were often special purpose vehicles incorporated for the purpose of making the investment and thereafter disbanded. In this regard, I note that the Hon'ble SAT in the matter of *Pan Asia Advisors Ltd. vs. SEBI*, held the following in its order dated October 25, 2016:

> "*It is equally interesting to note from the investigation carried out by SEBI that the alleged initial subscribers to the GDRs were nonexistent entities because, e-mails and summons issued to those entities were return back undelivered. Moreover, the respective securities market regulators of the Countries in which the alleged initial subscribers were supposed to be situated have informed SEBI that the addresses of the initial subscribers are either non-existent or do not belong to those entities. In case of Tradetec the address shown was 'level 47, Prudential Tower, 30 Cecil Street, Singapore, 049712'. Investigation carried out by SEBI through the Monetary Authority of Singapore revealed that there was no level 47 and the highest floor of Prudential Tower was level 30 and that Tradetec is not even listed in the office directory of Singapore. One of the alleged initial subscriber known as Rexflex Ltd. was found to be controlled by AP and admittedly the name of Rexflex Ltd. has now been changed PAN Asia Management Ltd. Even in case of other issuer companies, the WTM of SEBI has recorded a finding in para 15 of the impugned order that those entities do not exist at the given address and the names of those entities do not exist in the official directory of the Countries in which the said entities were supposed to be situated. In these circumstances, findings recorded in the*

impugned order that the names of initial subscribers exist only in fiction and that the appellants have artificially sought to create an impression that the GDRs were initially subscribed by foreign investors other than Vintage cannot be faulted."

56. The Loan Agreement and Pledge Agreement drew strength from each other and were intricately connected. As stated in the preceding paragraphs, events subsequent to the execution of the Pledge Agreement clearly reveal that Asahi used the GDR Issue proceeds deposited in its bank account as security for the obligation of Vintage under the Loan Agreement. Further, the disbursement of loan by Euram occurred immediately subsequent to the execution of Pledge Agreement by Asahi. Asahi did not have any free capital available immediately since the withdrawal of GDR proceeds was conditional and dependent on the loan payment by Vintage. As a result, Asahi's right as an Issuing Company of GDRs was locked up. In this regard I note that the Hon'ble SAT in its Order dated October 25, 2016 in the matter of *Pan Asia Advisors Limited vs. SEBI* has held as follows:

"*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.*"

57. Noticee 1 i.e. AP has contended that he had resigned from Vintage in the year 2009 and from Pan Asia in October 2011. AP has also submitted that he was a director in Vintage only till 2007. AP has also contended that he had not signed any documents. In this regard, I note that from the Loan Agreements of 8 GDR issues pertaining to the Issuer Companies (details provided in Table 2 above), AP had signed the said Loan Agreements having various dates between July 20, 2007 to October 27, 2009 on behalf of Vintage as its Managing Director. Further, Pan Asia had managed all the aforesaid GDR issues as the lead

manager, and AP was its Managing Director and 100% shareholder. AP was director in Pan Asia during April 24, 2006 to September 29, 2011 i.e. during the relevant period of the GDR issues of the Issuer Companies. Thus, I find no basis in the above contentions of AP.

58. AP has contended that that there was no illegality in the Loan Agreement entered into between Vintage and Euram in the six GDR issues that were examined. As seen from the aforementioned paragraphs, AP controlled Vintage, the original subscriber to the GDR Issues and was also its Authorised Signatory. As the Authorised Signatory and while in control of Vintage, AP signed Loan Agreements with Euram Bank. Each Loan Agreement was intricately connected with another Agreement viz. Pledge Agreement, signed between Issuer Companies and Euram Bank. The Loan Agreement (signed between Vintage and Euram Bank) and Pledge Agreement (signed between Issuer Companies and Euram Bank) enabled Vintage to obtain loans from Euram Bank to subscribe to GDR Issues of the Issuer Companies. The Issuer Companies, in turn, pledged the subscription proceeds received from the lone subscriber i.e. Vintage, for the loan availed by Vintage from Euram Bank for the subscription of the GDR Issue of the same Issuer Company. Therefore, there was no real movement of funds involved during the GDR issuance process except for a few book entries which resulted in a surge in the capital of the Issuer Companies. Therefore, the result of the Pledge Agreements and Loan Agreements signed among Issuer Companies, Euram Bank and Vintage was that even after successful completion of the GDR issues by Issuer Companies, there was no free capital available with the Issuer Companies immediately pursuant to the issuance of GDRs. This was because the capital raised by GDRs was provided as security against loan taken by Vintage from Euram Bank. However, this crucial information was not available to the investors in India. Vintage thus, effectively became the sole subscriber of the GDR issuances of the Issuer Companies. By means of these agreements, Vintage, became the largest holder of capital of these Issuer Companies as the GDRs accounted for a major portion of the capital of these companies. The above explained back to back Loan and Pledge Agreements entered into by Issuer

Companies with Euram Bank and Vintage has led to the Issuer Companies giving security / guarantee / financial assistance for the purpose of subscription of its own GDR issue; the GDRs having shares as underlying and being freely convertible to shares due to two-way fungibility. In view of the aforesaid, I find that Vintage colluded with the Issuer Companies in the fraudulent arrangement regarding subscription of GDRs of the said Companies, which acted as an inducement for other persons to offer to buy the shares of the Issuer Companies in India thereby resulted in 'fraud' as defined under the PFUTP Regulations. I note that as its Director, Ashok was hugely important in the hierarchy of Vintage and therefore, is also liable for the 'fraud' committed by Vintage.

59. Noticee 5, Ashok, has submitted that though he was a director of Vintage he was not involved in the day to day affairs of Vintage. Ashok has further submitted that he was not aware of the alleged manipulative scheme of AP and about the loan agreements. Ashok has also contended that no adverse inference be drawn because he was the brother of AP. Ashok has further submitted that AP was the 100% shareholder of Vintage till November 04, 2010 post which Alkarni became the shareholder of Vintage. In this regard, I note that Ashok was admittedly the director of Vintage during the relevant time when Vintage became the subscriber to the GDR issues of the Issuer companies and subsequently transferred GDRs to IFCF and KII. Ashok has also contended that he has not signed any loan agreement. I note that the same is not alleged as per the SCN.

60. Noticee 1 i.e. AP has also contended that he is not involved in the GDR issue in his personal capacity, that the SCN is issued to him in his personal capacity, and that he is made to answer for the alleged irregularities of other entities. It was further contended that SEBI has no powers to lift or pierce the corporate veil. Further, AP has *inter alia* submitted that he was not connected to any person or entity named in the Investigation Report in the manner alleged therein. In this regard, I note that as mentioned at various places in the IR and the SCN, AP was the Managing Director and 100% shareholder of Pan Asia; he was also the Managing Director of Vintage and executed the loan

agreements with EURAM Bank to procure loans for Vintage; he was also the Chief Investment Officer in IFCF and admittedly a director in IFCF till 2010. His ownership in the aforesaid companies has also been described previously. Thus, I find the role of AP and the association of AP at every stage of the GDR issuance and market manipulation by virtue of his ownership and directorship in Pan Asia (lead manager to the GDR issues), Vintage (subscriber), IFCF (Sub-account) and further by his connection with CP group. Thus, I note that AP has played different roles at various stages of the GDR game plan. Therefore, the arguments, including lifting of corporate veil, are of no avail. I note that no corporate veil has been lifted the way that has been argued by AP.

61. I note that AP (being MD in Pan Asia and Vintage, and Chief Investment Officer and Director in IFCF) and Ashok (being director of Vintage) had been vested with substantial powers in respect of the above companies, which are artificial juristic persons, and the directors / KMP as a principle assume the character as "officer in default" for any violation, for the reason being any company including a foreign company is an artificial person that has to necessarily function through human support. In this regard, I would also like to quote the Orders of the Hon'ble Supreme Court of India in the matter of Shri N. Narayanan vs. SEBI decided on 26.04.2013, wherein it was held that - *"... 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.".* Further, Hon'ble High Court of Madras in Madhavan Nambiar vs Registrar of Companies (2002 108 CompCas 1 Mad) has held that – "*… Section 5 of the Companies Act defines the expression "officer who is in default". The expression means either (a) the managing director or managing directors ; (b) the whole-time director or whole-time directors ; (c) the manager ; (d) the secretary ; (e) any person in accordance with whose directions or instructions the board of directors of the company is accustomed to act; (f) any person charged by the board with the responsibility of complying with that provision ; (g) any director or directors who may be specified by the board in this behalf or where no director is so specified, all the directors.*
… Section 29 of the Companies Act provides the general power of the board….Therefore it follows there cannot be a blanket direction or a blanket indemnity in favour of the petitioner or other directors who have been nominated by the

Government either ex officio or otherwise. Hence the second point deserves to be answered against the petitioner…. There may be a delegation, but ultimately it comes before the board and it is the board and the general body of the company which are responsible..."

62. Further, I note that Section 27 of SEBI Act also deals with offences by Companies. In the said provision, Section 27(1) says that, in case of a default by a company, every person who at the time the offence 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 offence and shall be liable to be proceeded against and punished accordingly.

63. In light of the above principles, I am unable to accept the above plea of Ashok that he was not involved in the day to day affairs of Vintage. I also find it very difficult to accept that Ashok was unaware of the fraudulent activities in which Vintage was engaged in light of the fact that Ashok was part of the very same board of directors of Vintage wherein AP was the Managing Director. Further, I am unable to accept the contentions of AP that the SCN was issued to him in his personal capacity, and that he is made to answer for the alleged irregularities of other entities.

64. AP has also contended that the key roles of the GDR issuing companies who were also beneficiaries has been ignored. In this regard, I note that adjudication proceedings have also been conducted against the Issuer Companies. Thus, I do not find any merits in the said contentions of Noticee 1.

65. AP has contended that that there is malice/malafide/bias in implicating him in the proceedings and that the investigation report has been prepared with a biased mind. However, I find no basis in the said arguments.

66. AP has contended that he cannot be termed as a person associated with the Indian securities market, and has submitted that the matter concerning Pan Asia is pending the gaze of judicial scrutiny before the Hon'ble Supreme Court and that he reiterates the averments made in C.A No. 009516-009517 / 2017 pending before the Hon'ble Supreme Court. In this regard, I note that there is

no restraint order by the Hon'ble Supreme Court with respect to the present proceedings. Further, AP in his reply has stated that he reiterates his reply made vide letter dated 29.05.2013 to SEBI. I note that in the said reply, AP has *inter alia* contended that SEBI has no jurisdiction over him and other entities and that he cannot be termed as 'person associated with the Indian securities market'. I note the facts of SEBI's jurisdiction in the matter has already been established as discussed previously in this order. In this regard, I note that in its Order dated October 25, 2016 in Pan Asia Advisors Limited vs. SEBI, the Hon'ble SAT while interpreting the expression 'fraud' under the PFUTP Regulations, 2003, has held 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."

67. I note that Vintage acquired the GDRs of the Issuer Companies and thereafter, transferred a substantial portion of such GDRs to related entities viz. IFCF and KII, with an ulterior motive to offload these GDRs in Indian Markets by converting these GDRs into shares and selling these shares to Indian investors. As stated in the preceding paragraphs, the loans for acquiring GDRs of the Issuer Companies was provided to Vintage by Euram Bank and the collateral/security for the aforesaid loans was provided by the Issuer Companies through the pledging of GDR proceeds. In the event of any default by Vintage in respect of the loan availed from Euram Bank, the Issuer Companies had to part away with the proceeds from the GDR subscription. Thus, effectively, AP (through Vintage) was holding the GDRs of the Issuer Companies without incurring any cost/risk. I note that IFCF, in its Email dated July 12, 2010, has admitted that it had acquired the GDRs through Euroclear. I also note from the IR that Euram Bank had sold the GDRs on behalf of Vintage by way of Over the counter (**OTC**) transactions to FIIs and their sub-accounts such as IFCF, KII and others.

68. Noticee 1 i.e. AP has submitted that he resigned from IFCF in the year 2010, and further that he did not exercise any control over IFCF. AP has further contended that at the point of time when he was a director, the investment decisions of IFCF were taken collectively by its Board of Directors and accordingly, the orders for the trades would be placed with the brokers. I note that both IFCF and KII were related to AP and Vintage. I note from the letter dated April 02, 2012 of IFCF to SEBI that, during the period January 01, 2009 to May 31, 2010, 100% shareholding of IFCF was with Cardinal Capital Partners and 100% shareholding of Cardinal Capital Partners, in-turn, was with AP. At the same time, Financial Market Authority of Austria, vide its letter dated March 27, 2012, informed SEBI that Euram Bank was investing in Class A shares of shares of IFCF on behalf of Vintage. Further, I note from the IR that Vintage was a majority shareholder of IFCF as it was holding 63.11% Class A shares of IFCF and Class A of IFCF was exclusively investing in the GDRs of Indian companies and subsequently selling in Indian Markets. At the same time, I also note from the Email dated July 12, 2010 of AP to SEBI that he had replied as "*Chief Investment Manager of Cardinal Capital Partners and Investment Manager of IFCF*". These facts are not disputed by AP and IFCF. I also note from the letter dated March 27, 2012 of Financial Market Authority of Austria that Vintage was owned by Alkarni Holdings Ltd. which in turn was owned by AP and his family members. Therefore, I am of the view that AP was indirectly holding 100% shares of IFCF and by virtue of being its Investment Manager, he was in a position to control the investment decisions of IFCF which include the acquisition of GDRs of issuer companies etc. Therefore, I do not find any merits in the above contentions of Noticee 1.

69. I incidentally also note that, vide an agreement dated July 13, 2009, Vintage had given a loan of US $ 20,00,000 to Credo Investment Holding Ltd., holding company of another FII, KII Ltd. (**KII**) to on-lend it to KII "*to enable KII to purchase any Indian securities listed in India or on an overseas stock exchange (the "Securities"), Where appropriate and the Securities take the form of GDRs or ADRs, KII will convert the securities into the shares in the underlying companies and will sell them in India and then use the sale proceeds to buy*

further Securities and to repeat the said process until KII elects to terminate such activities and to settle any outstanding transactions resulting from such activities." AP had signed the loan agreement between Credo and Vintage as the authorized signatory of Vintage. Thus, AP was not only purchasing GDRs of the issuer companies in IFCF as the investment manager of IFCF, he had also funded KII to purchase GDRs from Vintage, using the loan taken from Vintage.

70. A detailed summary of GDRs sold by Vintage to IFCF and KII and sale of such GDRs post cancellation by IFCF and KII in Issuer Companies is given in the table below:

Table 4

Issuer	Date of GDR Issue	No. of GDRs acquired by Vintage	No. of GDRs sold by Vintage to IFCF and KII	% of GDRs sold by Vintage to IFCF and KII to total GDRs acquired by Vintage
Asahi	29-Apr-09	29,91,000	16,51,000	55.20
Avon	19-Jun-09	16,00,000	16,00,000	100.00
CAT	27-Jul-07	43,04,348	1,95,000	4.53
	11-Jun-09	15,95,333	13,685	0.86
IKF	15-May-09	54,13,048	31,84,000	58.82
K Sera	26-Aug-07	47,61,900	32,56,900	68.39
	16-Oct-09	44,75,238	13,85,000	30.95
Maars	8-Oct-07	73,80,000	20,75,000	28.12

I further note from the IR that these GDRs were thereafter converted by IFCF and KII into underlying shares. The detail of such conversion of GDRs into underlying shares is as below:

Table 5

GDR Issue	Total GDRs Issued	No. of GDRs sold by Vintage to IFCF & KII	GDRs cancelled by IFCF	GDRs cancelled by KII	% of GDRs cancelled by IFCF & KII to total GDRs cancelled	Total no. of shares received by IFCF & KII after cancellation of GDRs	Total no. of shares sold by IFCF and KII in Indian Markets	Total Value of shares sold by IFCF & KII in Indian Markets (Rs)
Asahi	29,91,000	16,51,000	13,81,000	1,00,000	97.8	14,81,00,000	6,79,81,646	12,24,68,583
Avon	16,00,000	16,00,000	14,44,000	1,56,000	100.0	4,80,00,000	4,78,00,000	30,41,38,288
CAT	43,04,348	1,95,000	1,20,000	75,000	7.6	11,70,000	2,45,200	28,63,902
	15,95,333	13,685	13,685	0	100.0	4,10,550		

IKF	54,13,048	31,84,000	9,89,000	45,000	100.0	3,10,20,000	1,96,07,456	8,67,92,834
K Sera	47,61,900	32,56,900	13,96,757	19,45,143	70.2	3,34,19,000	5,16,74,180	66,37,57,325
	44,75,238	13,85,000	7,58,500	4,77,000	100.0	3,70,65,000		
Maars	73,80,000	20,75,000	11,27,800	4,50,000	27.2	1,57,78,000	61,31,239	2,17,12,348
							TOTAL	**1,20,17,33,280**

71. In this regard, I note from the IR that the *modus operandi* employed by AP in all the above GDRs was same. Therefore, for the purpose of illustration, I take note of transfer of GDRs of Asahi and, thereafter, their conversion to underlying shares, as given in the IR. I note that the GDRs of Asahi were transferred to IFCF and KII as per details given in the table below:

Table 6

Date of Transaction	Name of Acquirer	Name of Seller	Quantity of GDRs acquired	Value of GDR Acquired ($)	Trading Platform	Value per GDR ($)
17-08-09	IFCF	Euram	44,000	1,10,000	OTC	2.50
24-08-09	IFCF	Euram	1,11,000	2,38,650	OTC	2.15
16-11-09	KII	Euram	35,000	63,504	OTC	1.81
03-12-09	IFCF	Euram	50,000	94,500	OTC	1.89
17-12-09	IFCF	Euram	76,000	1,49,720	OTC	1.97
21-01-10	KII	Euram	65,000	1,20,557	OTC	1.85
02-02-10	IFCF	Euram	1,50,000	2,77,500	OTC	1.85
09-05-10	IFCF	Euram	1,00,000	3,02,000	OTC	3.02
13-08-10	IFCF	Euram	2,00,000	4,10,000	OTC	2.05
05-10-10	IFCF	Euram	50,000	91,000	OTC	1.82
12-10-10	IFCF	Euram	50,000	96,500	OTC	1.93
21-10-10	IFCF	Euram	50,000	93,000	OTC	1.86
27-10-10	IFCF	Euram	1,00,000	1,85,000	OTC	1.85
06-11-10	IFCF	Euram	1,00,000	1,86,000	OTC	1.86
09-03-11	IFCF	Euram	50,000	1,12,153	OTC	2.24
10-03-11	IFCF	Euram	1,00,000	2,23,152	OTC	2.23
26-04-11	IFCF	Euram	1,50,000	3,03,000	OTC	2.02
15-06-11	IFCF	Euram	1,70,000	2,32,900	OTC	1.37
	Total		**16,51,000**	**32,89,136**		**1.99**

72. Thereafter, I note that these GDRs were cancelled and were converted into underlying shares during August 19, 2008 and June 15, 2011 as below:

Table 7

Transaction Date	Entities cancelling GDRs on behalf of FIIs/Sub-Accounts	GDRs Cancelled	Shares Released
19-08-2009	Euram	44,000	44,00,000

25-08-2009	Euram	1,11,000	1,11,00,000
23-11-2009	J.P. Morgan Clearing Corp.	35,000	35,00,000
04-12-2009	Euram	50,000	50,00,000
18-12-2009	Euram	76,000	76,00,000
27-01-2010	Jefferies & Co, Inc	65,000	65,00,000
02-02-2010	Euram	1,50,000	1,50,00,000
09-08-2010	Euram	30,000	30,00,000
11-08-2010	Euram	20,000	20,00,000
12-08-2010	Euram	50,000	50,00,000
24-08-2010	Euram	20,000	20,00,000
09-09-2010	Euram	50,000	50,00,000
20-09-2010	Euram	25,000	25,00,000
22-09-2010	Euram	35,000	35,00,000
05-10-2010	Euram	50,000	50,00,000
01-03-2011	Euram	1,00,000	1,00,00,000
20-04-2011	SIX SIS AG	33,450	33,45,000
26-04-2011	Euram	65,000	65,00,000
31-05-2011	Euram	1,45,000	1,45,00,000
03-06-2011	Euram	1,45,000	1,45,00,000
07-06-2011	Euram	74,500	74,50,000
14-06-2011	Euram	1,40,500	1,40,50,000
	Total	**15,14,450**	**15,14,45,000**

73. I note that, thereafter, IFCF sold the underlying shares of the issuer companies in the Indian securities market. I note from the IR that the majority of shares sold by IFCF were purchased by a group of entities (hereinafter referred to as '**CP Group**') as per the table given below:

Table 8

Scrip name	**Sub-Account**	**Total number of shares sold by Sub-Account**	**Total value. of shares sold by Sub-Account (Rs.)**	**CP Group entities purchasing shares from Sub-Accounts**	**No. of shares purchased by CP Group entities from Sub-Accounts**	**Value of shares purchased by CP Group entities from Sub-Accounts (Rs.)**	**% of no. of shares sold to CP Group entities to total sale by Sub-Accounts**	**% of no. of shares sold to CP Group to total sale by Sub-Accounts**
(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**(G)**	**H=%(F/C)**	**(I=Σ H)**
Asahi	**IFCF**	6,44,81,646	11,89,67,319	Indravarun	65,99,900	3,39,36,012	10.24	45.46
				Basmati	1,90,52,069	2,80,81,895	29.55	
				SV	34,11,300	35,02,024	5.29	
				Newgen	2,42,100	21,78,900	0.38	

				Oudh	1,023	9,217	0.002	
	KII	35,00,000	35,01,264	SV	20,00,000	20,00,000	57.14	78.59
				Basmati	7,50,755	7,50,755	21.45	
Avon	**IFCF**	4,31,20,000	27,28,84,812	Delight	2,21,56,688	12,68,65,267	51.38	88.69
				Vinod	82,35,444	4,98,64,172	19.10	
				Basmati	31,46,551	2,48,58,504	7.30	
				SV	23,11,178	2,30,72,059	5.36	
				Oudh	17,96,694	1,50,22,854	4.17	
				Newgen	3,00,000	19,50,000	0.70	
				Edelweiss	2,86,302	18,46,648	0.66	
				Madanlal	7,449	45,760	0.02	
				Cherry	350	1,969	0.001	
	KII	46,80,000	3,12,53,475	Delight	14,69,688	81,10,078	31.40	72.22
				SV	6,51,286	65,42,180	13.92	
				Vinod	9,29,835	54,82,870	19.87	
				Indravarun	3,27,968	16,39,840	7.01	
				Cherry	500	2,588	0.01	
				Oudh	600	3,098	0.01	
CAT	**IFCF**	2,45,200	28,63,902	Oudh	1,49,999	18,10,488	61.17	99.92
				Basmati	94,990	10,49,662	38.74	
				Madanlal	11	123	0.004	
IKF	**IFCF**	1,96,07,456	8,67,92,834	Basmati	71,13,479	3,27,09,289	36.28	66.17
				Oudh	38,80,064	1,66,88,888	19.79	
				Alka	10,94,788	47,07,588	5.58	
				SV	8,85,605	38,05,185	4.52	
K Sera BSE	**IFCF**	1,35,45,000	17,15,80,484	Basmati	38,35,944	4,96,34,193	28.32	69.30
				Oudh	38,24,611	4,79,39,878	28.24	
				Newgen	14,24,152	1,78,16,544	10.51	
				SV	3,01,269	38,25,198	2.22	
				Cherry	1,852	23,203	0.01	
	KII	1,21,31,430	15,71,82,321	Newgen	29,54,473	4,20,90,010	24.35	52.75
				Basmati	17,36,974	2,14,92,449	14.32	
				Oudh	13,13,835	1,65,28,570	10.83	
				SV	3,78,067	48,91,686	3.12	
				Cherry	13,347	1,72,262	0.11	
				Indravarun	2,199	25,956	0.02	
				Madanlal	1	13	0.00	
K Sera NSE	**IFCF**	1,34,67,750	17,05,33,116	Basmati	43,28,355	5,59,58,509	32.14	54.10
				Oudh	16,12,394	2,01,22,523	11.97	

				Newgen	13,42,648	1,66,37,362	9.97	
				SV	1,000	13,050	0.01	
				Cherry	900	11,010	0.01	
				Madanlal	12	147	0.00	
	KII	1,25,30,000	16,44,61,404	Newgen	27,63,627	4,09,86,308	22.06	52.18
				Basmati	25,94,350	3,31,72,942	20.71	
				Oudh	11,78,960	1,46,99,597	9.41	
				Cherry	430	5,665	0.00	
				Madanlal	2	26	0.00	
Maars BSE	**IFCF**	61,31,239	2,17,12,348	Basmati	14,87,645	51,33,838	24.26	39.38
				SV	7,00,303	23,85,815	11.42	
				Edelweiss	2,26,048	10,05,914	3.69	
				Cherry	800	2,473	0.01	

74. From the above table, it is observed that the shares of issuer companies were not completely sold by IFCF and KII. Majority of the shares sold by IFCF and KII were purchased by the CP Group, only to be sold later. It is also observed that a range of 39.38% (IFCF in Maars) to almost 100% (IFCF in CAT) of shares sold by IFCF and KII were purchased by the Noticees. In total, IFCF and KII sold shares worth Rs. 1,20,17,33,278 of the issuer companies during the Investigation Period. Out of this, shares worth Rs. 79,11,13,054 were sold by IFCF and KII to the CP Group. Therefore, it is observed from the above that a major portion of shares of the aforesaid companies (around 65.83%) sold by IFCF and KII were purchased by the CP Group.

75. Further, from the schedule of repayment of installment of loan taken by Vintage as submitted by AP it is observed that even before Vintage started to repay the loan taken for a particular GDR issue, IFCF and KII had converted large amount of GDRs of the Issuer Companies into their underlying shares and, thereafter, sold these shares in the Indian market. Following table illustrates the same:

Scrip	**Date of issuance of GDRs**	**Amount of Loan taken by Vintage for subscription of GDRs (USD)**	**Date of first installment of repayment of loan by Vintage**	**Amount (in USD) of first installment of loan repayment by Vintage**	**Number of shares sold in India (after conversion from GDRs) by IFCF/KII prior to date of payment of first installment of of loan by Vintage to Euram Bank**
Asahi	29-Apr-09	5,982,000	16-Dec-09	100,000	1,49,53,354
Avon	19-Jun-09	10,000,000	18-Aug-09	1,500,000	31,40,000

Cat	06-Nov-09	10,003,000	03-Dec-09	3,000,000	2,45,000
IKF	15-May-09	10,988,000	23-Aug-09	100,000	6,07,456
K Sera	16-Oct-09	29,984,000	25-Nov-09	300,000	11,40,000

76. I further note from the material available on record that entities of CP group are connected with AP. In this regard, a detailed list of entities of CP group and their connections with AP are as below:

Table 9

Sr. No	**Name of Entity**	**Having Connection with**	**Details of connection**
1.	Ashok Panchariya (Ashok)	AP Alka SV	• Ashok is brother of AP. • Ashok is also brother of Satish Panchariya. Satish Panchariya is mentioned as Promoter, Executive Director, Chairman, and Managing Director of Alka during Investigation Period in the Annual reports of Alka. • Ashok was executive director of Alka in March 2011. • Ashok is introducer and nominee in the Bank Account of SV. • Ashok was also director and secretary in Vintage FZE during investigation period. (Source: MCA and BSE filing of Alka. Annual reports of Alka for FY 2010-11, 2011-12. KYC documents of Vintage FZE with Euram Bank. KYC documents of SV available with ICICI bank)
2.	Alka India Ltd (Alka)	AP Ashok Basmati Oudh Newgen Madanlal Edelweiss Estates	• AP and Ashok are among the promoters of Alka. • As per Annual Return of Basmati filed with MCA on September 30, 2005, Alka and Oudh are among the shareholders of Basmati. Together, they hold 37.68% of the shares of Basmati. • Alka, Newgen and Cherry have common phone number (9820113530) in the KYC documents available with their respective brokers viz, Indiabulls Securities Ltd, B. Lodha Securities Ltd. and Cpr Capital Services Ltd. • Alka, Newgen and Oudh have another common phone number (9702001974) in their KYC documents available with their respective brokers viz, Mansi Share & Stock Advisors Pvt Ltd, Alankit Assignments Ltd and Arch Finance Ltd.

			• Madanlal and Alka have common address - 704 De Sahajanand Complex, Shahibaug, Ahmedabad, Gujarat, India, 380004 in the KYC documents available with SSJ Finance & Securities Pvt. Ltd, Madhya Pradesh stock Exchange and Indiabulls Securities Ltd.) • Edelweiss Estates and Alka have common phone number (26736438) in the KYC documents available with their respective brokers/depository participants – Shriram Insight Share Brokers Ltd and Multiplex Capital Ltd. (Source: MCA and BSE filing of Alka. KYC documents with B. Lodha Securities Ltd. Indiabulls Securities Ltd, Mansi Share & Stock Advisors Pvt Ltd, Alankit Assignments Ltd and Arch Finance Ltd, Ssj Finance & Securities Pvt. Ltd, Madhya Pradesh stock Exchange Indiabulls Securities Ltd, Shriram Insight Share Brokers Ltd and Multiplex Capital Ltd.)
3.	Basmati Securities Pvt. Ltd. (Basmati)	AP Alka Oudh Excel	• Basmati holds 27.8% of the shares of Oudh. • As per Annual Return of Basmati filed with MCA on September 30, 2005, Alka and Oudh are among the shareholders of Basmati. Together, they hold 37.68% of the shares of Basmati. • Basmati and Excel have common phone number (22642039) in the KYC documents available with their brokers Religare Securities Ltd. and Cpr Capital Services Ltd. • Basmati and Oudh have common authorised signatory (Rahul C Shah) for operating their demat accounts as per the KYC documents provided by depository participants – Shriram Insight Share Brokers, K & A Securities Pvt Ltd and Motilal Oswal Securities Ltd. • Basmati and Oudh have common phone number (9619040060) and address - Room No. 5, Ground Floor, Heera Mahal Building, 250 Kalbadevi Road, Mumbai - 400002 in the KYC documents available with depository participant Shriram Insight Share Brokers Ltd. • Basmati and Oudh have common phone number (32015743) and address – 5/7 Kothari House 2nd Floor Office No 4 Fort Mumbai in the KYC documents available

			with brokers/ depository participants B.lodha Securities Ltd., Motilal Oswal Securities Ltd, Anand Rathi Share and Stock Brokers Ltd and Networth Stock Broking Ltd. • Basmati and Oudh have common phone number (24526764) and address – Kothari House 1st Floor 5/7 Oak Lane Fort Bombay in the KYC documents available with broker Vertex Securities Ltd. (Source: MCA and BSE filing of Alka. KYC documents available with Religare Securities Ltd. and Cpr Capital Services Ltd, Shriram Insight Share Brokers, K & A Securities Pvt Ltd, Motilal Oswal Securities Ltd., Shriram Insight Share Brokers Ltd., B.lodha Securities Ltd. and Networth Stock Broking Ltd., Anand Rathi Share and Stock Brokers Ltd and Vertex Securities Ltd.
4.	Oudh Finance& Investment Pvt Ltd. (Oudh)	AP Basmati Alka	• Basmati holds 27.8% of the shares of Oudh. • As per Annual Return of Basmati filed with MCA on September 30, 2005, Alka and Oudh are among the shareholders of Basmati. Together, they hold 37.68% of the shares of Basmati. • Basmati and Oudh have coomon authorised signatory (Rahul C Shah) for operating their demat accounts as per the KYC documents provided by depository participants– Shriram Insight Share Brokers, K & A Securities Pvt Ltd and Motilal Oswal Securities Ltd. • Basmati and Oudh have common phone number (9619040060) and address - Room No. 5, Ground Floor, Heera Mahal Building, 250 Kalbadevi Road, Mumbai - 400002 in the KYC documents available with depository participant Shriram Insight Share Brokers Ltd. • Basmati and Oudh have common phone number (32015743) and address – 5/7 Kothari House 2nd Floor Office No 4 Fort Mumbai in the KYC documents available with brokers/ depository participants B.lodha Securities Ltd., Motilal Oswal Securities Ltd, Anand Rathi Share and Stock Brokers Ltd and Networth Stock Broking Ltd. • Basmati and Oudh have common phone number (24526764) and address – Kothari House 1st Floor 5/7

			Oak Lane Fort Bombay in the KYC documents available with broker Vertex Securities Ltd. (Source: MCA and BSE filing of Alka, KYC Documents available with Shriram Insight Share Brokers, K & A Securities Pvt Ltd, Motilal Oswal Securities Ltd., Shriram Insight Share Brokers Ltd., B.lodha Securities Ltd. and Networth Stock Broking Ltd., Anand Rathi Share and Stock Brokers Ltd and Vertex Securities Ltd.)
5.	SV Enterprise / Sarfaraz Khan Pathan (SV)	AP Ashok Vinod Alka Madanlal	• SV is the proprietary firm of Mr. Sarfaraz Khan Pathan. • In the KYC of bank account of SV maintained with ICICI Bank, Ashok is mentioned as introducer and nominee. • SV is involved in fund transactions with Alka. From the statement of SV's account no. 002405013273, maintained with ICICI Bank, it is observed that during the period from January 1, 2010 to April 30, 2010, SV received Rs. 83 lakh from Alka and transferred Rs. 85 lakh to Alka. • On 14/10/2009 SV transferred Rs. 69 lakh to a Gujarat based entity viz, Gujarat Enterprise. Subsequently, on same day i.e. 14/10/2009, Gujarat Enterprise transferred Rs. 54 lakh to the broker of Vinod viz, Equisearch Broker Private Ltd ("**Equisearch**"), which was then credited in the ledger account of Vinod maintained with Equisearch. These 54 lakh were utilised by Vinod for trading in the shares of Issuer Companies along with few other shares. • In the demat account of Sarfaraz Khan Pathan maintained with Shah Investors Home Limited, the nominee of the account is mentioned as Ashok and the witnesses are Satish Panchariya and Madanlal Bugaliya (Source: Bank account statements of Gujarat Enterprise's account no. 2306 with Gujarat Mercantile Co-op Bank Ltd., SV's account no. 002405013273 with ICICI Bank, KYC documents of SV available with ICICI Bank and KYC of demat account of SV with Shah Investors Home Limited)
6.	Madanlal Girdharilal	AP Alka SV Vinod	• Madanlal is director of Panchariya Gin Pvt Ltd during Investigation period. The registered address of Panchariya Gin Pvt Ltd is same as that of Alka. Further, AP was previously director of Panchariya Gin Pvt Ltd.

	Bugaliya (Madanlal)		• Madanlal is the owner of proprietary firm Brahmani Trading Company ("**Brahmani**"). Brahmani transferred Rs. 50 lakh to Gujarat Enterprise on 20/10/2009 which were then transferred to the broker of Vinod viz, Equisearch Broker Private Ltd, which was then credited by the broker in the account of Vinod maintained with the broker and was utilised by Vinod for trading primarily in the shares of Issuer Companies. • From the KYC documents of Brahmani, furnished by ING Vysya Bank, it is observed that Brahmani was referred to the said bank by Alka India Ltd. • Brahmani is involved in fund transactions with SV. From the statement of Brahmani's account no. 524011012327 and SV's account no. 524011012343, maintained with ING Vysya Bank, it is observed that during the period from October 1, 2009 to October 31, 2009, Brahmani received Rs. 9.9 lakhs from SV and transferred Rs. 48.13 lakhs to SV. • In the demat account of Sarfaraz Khan Pathan maintained with Shah Investors Home Limited, the nominee of the account is mentioned as Ashok and the witnesses are Satish Panchariya and Madanlal Bugaliya • Madanlal and Vinod have common phone number (9879555539) in KYC documents with their respective brokers viz, Bonanza Portfolio Pvt. Ltd. and Equisearch Broking Pvt. Ltd. • Madanlal and Alka have common address - 704 De Sahajanand Complex, Shahibaug, Ahmedabad, Gujarat, India, 380004 in the KYC documents available with Ssj Finance & Securities Pvt. Ltd, Madhya Pradesh stock Exchange and Indiabulls Securities Ltd.) (Source: Bank account statements and KYC documents of Gujarat Enterprise's account no. 2306 with Gujarat Mercantile Co-op Bank Ltd. and Brahmani's account no. 524011012327 with ING Vysya Bank, KYC of demat account of SV with Shah Investors Home Limited and MCA Website. KYC Documents available with Bonanza Portfolio Pvt. Ltd. and Equisearch Broking Pvt. Ltd, Ssj Finance &

			Securities Pvt.ltd., Madhya Pradesh stock Exchange and Indiabulls Securities Ltd)
7.	Indra Varun Trade Impex Pvt Ltd (Indravarun)	AP Alka Maars	• The director of Indravarun, viz., Kaushal Rajaram Patel (PAN-AZZPP8194L) through his proprietary firm K P Enterprises is involved in frequent financial transactions with Alka. During the period from November 1, 2010 to March 31, 2011, K P Enterprises transferred a total of Rs. 2.20 crore to Alka in 9 transactions from its bank account in IDBI Bank. • K P Enterprise and Kaushal Rajaram Patel's address (Shop No 24 Pancharatna Opp Railway Station, Station Road, Bhyander East, Thane 401105) is same as address of Indravarun. • K P Enterprises received Rs. 18.75 lakh from Maars on 30-12-2010 in its bank account with IDBI Bank. Subsequently, K P Enterprises transferred Rs. 19 lakh to Alka on 03-01-2011. (source: statement of K P Enterprise's account no. 662102000005319 in IDBI Bank and KYC documents of Indravarun)
8.	Delight Financial Advisors Ltd (Delight)	AP Indravarun	• One of the directors of Delight, viz. Manish R Sharma has the same address as Indravarun and K P Enterprises. • The witness (Supriya Gopal) in Memorandum of Association (MOA) of Indravarun has the same address as Delight. (source : KYC documents of Indravarun and Delight provided by ICICI Bank)
9.	Vinod A Naai (Vinod)	AP SV Madanlal	• On 14/10/2009 SV transferred Rs. 69 lakh to a Gujarat based entity viz, Gujarat Enterprise. Subsequently, on same day i.e. 14/10/2009, Gujarat Enterprise transferred Rs. 54 lakh to Equisearch, which was then credited in the ledger account of Vinod maintained with Equisearch. These 54 lakh were utilised by Vinod for trading in the shares of Issuer Companies along with few other shares. • Brahmani (owned by Madanlal) transferred Rs. 50 lakh to Gujarat Enterprise on 20/10/2009 which were then transferred on same day to Equisearch, which was then credited in the ledger account of Vinod maintained with

			Equisearch and was utilised by Vinod for trading primarily in the shares of Issuer Companies. • Madanlal and Vinod have common phone number (9879555539) in KYC documents with their respective brokers, Bonanza Portfolio Pvt. Ltd. and Equisearch Broking Pvt. Ltd. (Source: Bank account statements of Gujarat Enterprise's account no. 2306 with Gujarat Mercantile Co-op Bank Ltd. and Brahmani's account no. 524011012327 with ING Vysya Bank. KYC Documents of Madanlal and Vinod provided by Bonanza Portfolio Pvt. Ltd. and Equisearch Broking Pvt. Ltd.)
10.	Newgen International Pvt Ltd (Newgen)	Maars AP Ashok Excel Alka Oudh Cherry	• One of the shareholders of Newgen is Vintage FZE (UAE) Pvt Ltd. which was holding around 33% of its shares as on dates 28-Sep-2007, 31-Mar-2008, and 30-Sep-10. • As on 27/05/2011 Vintage FZE (India) Pvt Ltd. (previously known as Vedant Finvest and Consultant Pvt Ltd and having same address as Vintage FZE (UAE) Pvt Ltd)was holding around 16.49 % of Newgen's shares. • AP was appointed as director of Vintage FZE (India) Pvt. Ltd on February 20, 2007. • Ashok (brother of AP) is the majority shareholder(97.54% of total shares) and director of Vintage FZE (India) Pvt. Ltd. • As per shareholding pattern of Newgen on 28-Sep-2007, Maars and Vintage FZE (UAE) Pvt Ltd were collectively holding 95.98% of Newgen’s shares till September 2010. After September 2010, Vintage FZE (India) became holder of 1,64,920 shares of Newgen replacing Vintage FZE (UAE) Pvt Ltd. • Shareholding Pattern of Newgen shows that as on 31/03/2011 Excel is a shareholder in Newgen. It was holding 3,12,000 shares as on 31/03/2011. These 3,12,000 shares were previously held by Maars. • Alka, Newgen and Cherry have common phone number (9820113530) in the KYC documents available with their respective brokers viz, Indiabulls Securities Ltd, B. Lodha Securities Ltd. and Cpr Capital Services Ltd.

			• Alka, Newgen and Oudh have another common phone number (9702001974) in their KYC documents available with their respective brokers viz, Mansi Share & Stock Advisors Pvt Ltd, Alankit Assignments Ltd and Arch Finance Ltd. (Source: KYC documents provided by the broker, Shriram Insight Share Brokers Ltd and MCA Website. KYC documents with B. Lodha Securities Ltd. Indiabulls Securities Ltd, Mansi Share & Stock Advisors Pvt Ltd, Alankit Assignments Ltd, Arch Finance Ltd and Cpr Capital services Ltd)
11.	Excel Paints Private Ltd (Excel)	AP Ashok Newgen Basmati Edelweiss Estates	• Excel is a shareholder in Vintage FZE (India) Pvt ltd where AP was appointed as director in 2007. • As on 31/03/2011 Excel is a shareholder in Newgen. It was holding 3,12,000 shares. These 3,12,000 shares were previously held by Maars. • Basmati and Excel have common phone number (22642039) • Excel and Edelweiss Estates have common phone number (55814154) in the KYC documents available with their brokers/depository participants – Shriram Insights Share Brokers Ltd, Indiabulls Securities Pvt Ltd and Systematix Shares and Stocks (India) Ltd (Source: KYC documents provided by B. Lodha Securities Pvt Ltd and Shriram Insight Share Brokers. KYC documents available with Religare Securities Ltd., Cpr Capital Services Ltd, Indiabulls Securities Pvt Ltd and Systematix Shares and Stocks (India) Ltd)
12.	Edelweiss Estates Pvt Ltd. (Edelweiss Estates)	Alka Excel	• Edelweiss Estates and Alka have common phone number (26736438) in the KYC documents available with their respective brokers/depository participant – Shriram Insight Share Brokers Ltd and Multiplex Capital Ltd. • Edelweiss Estates and Excel have common phone number (55814154) in the KYC documents available with their brokers/depository participants – Shriram Insight Share Brokers Ltd, Indiabulls Securities Pvt Ltd and Systematix Shares and Stocks (India) Ltd

			(Source: KYC documents provided by the brokers Shriram Insight Share Brokers Ltd, Multiplex Capital Ltd., Indiabulls Securities Pvt Ltd, Systematix Shares and Stocks (India) Ltd)
13.	Cherry Cosmetics Pvt Ltd (Cherry)	Alka Newgen	• Cherry, Alka and Newgen have common phone number (9820113530) in the KYC documents available with their respective brokers – Cpr Capital Services Ltd., Indiabulls Securities Ltd. and B.lodha Securities Ltd. (Source: KYC documents provided by the brokers/depository participants - Cpr Capital Services Ltd., Indiabulls Securities Ltd. and B.lodha Securities Ltd., Cpr Capital Services Ltd, Indiabulls Securities Pvt Ltd and B.Lodha Securities Ltd.)
14.	SV Enterprise / Sarfaraz Khan Pathan (SV)	AP Ashok Vinod Alka Madanlal	• SV is the proprietary firm of Mr. Sarfaraz Khan Pathan. • In the KYC of bank account of SV maintained with ICICI Bank, Ashok is mentioned as introducer and nominee. • SV is involved in fund transactions with Alka. From the statement of SV's account no. 002405013273, maintained with ICICI Bank, it is observed that during the period from January 1, 2010 to April 30, 2010, SV received Rs. 83 lakh from Alka and transferred Rs. 85 lakh to Alka. • On 14/10/2009 SV transferred Rs. 69 lakh to a Gujarat based entity viz, Gujarat Enterprise. Subsequently, on same day i.e. 14/10/2009, Gujarat Enterprise transferred Rs. 54 lakh to the broker of Vinod viz, Equisearch Broker Private Ltd ("**Equisearch**"), which was then credited in the ledger account of Vinod maintained with Equisearch. These 54 lakhs were utilised by Vinod for trading in the shares of Issuer Companies along with few other shares. • In the demat account of Sarfaraz Khan Pathan maintained with Shah Investors Home Limited, the nominee of the account is mentioned as Ashok and the witnesses are Satish Panchariya and Madanlal Bugaliya (Source: Bank account statements of Gujarat Enterprise's account no. 2306 with Gujarat Mercantile Co-op Bank Ltd., SV's account no. 002405013273 with ICICI Bank, KYC

			documents of SV available with ICICI Bank and KYC of demat account of SV with Shah Investors Home Limited)

77. Noticee 5 (Ashok) has denied any connection with other Noticees and the CP group entities. Noticee 5 has submitted that no adverse inference can be drawn against him due to the fact that he was brother of AP and Mr. Satish Panchariya (MD and promoter of Alka). Further, it was submitted that no adverse inference be drawn due to him being an executive director of Alka and director in Vintage as he was not involved in day to day affairs of the said companies. Further, he has submitted that he in good faith helped and agreed to become an introducer and nominee for the bank account of SV (proprietor: Mr. Sarfaraz Khan) in ICICI Bank. I find no basis in the above arguments and find the connection of Noticee 5 with AP and CP group entities to be strong.

78. Thereafter, I note that the CP group sold the shares purchased from IFCF and KII to retail investors. I also note that the members of the CP Group traded in large quantities among themselves which increased the liquidity of the scrip of Issuer Companies. At the same time, it is important to note that, due to continuous purchase and sale of shares by CP group entities in Indian Securities market, liquidity in the scrips of issuer companies had increased to a large extent which evidently helped IFCF to offload the shares of issuer companies. The detail of such increase in liquidity in the scrips of issuer companies, as per the IR, is as below:

Table 10

Name of the Scrip	Period Examined	Average daily turnover in Rs. on days when CP Group or Sub-Accounts have not traded in the scrips	Average daily turnover in Rs. on days when CP Group and Sub-Accounts have traded in the scrips	No. of times turnover increased due to trading by Sub-Accounts and CP Group
Asahi	Jan 01, 2009 to Sep 21, 2011	93,472	33,98,620	36.36
Avon	Jan 01, 2009 to Nov 04, 2010	3,92,881	58,92,707	15.00
CAT	Jan 01, 2009 to Sep 21, 2011	1,50,480	25,18,404	16.74
IKF	Jan 01, 2009 to	17,04,879	59,09,749	3.47

	Sep 21, 2011			
K Sera BSE	Jan 01, 2009 to Sep 21, 2011	11,05,544	1,48,06,870	13.39
K Sera NSE	Jan 01, 2009 to Sep 21, 2011	12,39,966	1,32,44,345	10.68
Maars	Dec 11, 2007 to July 07, 2011	2,91,676	31,38,751	10.76

79. Thus, in view of the above table, it is clear that the trading among FIIs viz. IFCF and KII and CP group entities, has led to increase in liquidity in the scrips of issuer companies from 3.47 times to as high as 36.36 times which allowed IFCF & KII to offload the shares of issuer companies. In this regard, I note that Hon'ble SAT, in its order dated October 25, 2016, in the matter of *o* has held that:

"*27. It is equally important to note that immediately after subscribing to the GDRs, Vintage (controlled by AP) sold some of the GDRs to FIIs/sub accounts such as IFCF & KII which were also controlled by AP. <u>IFCF & KII admittedly converted GDRs into underlying equity shares of the issuer companies from the domestic custodian bank in India and sold the said shares on the Stock Exchanges in India</u>. It is also recorded in the impugned order that the shares sold by IFCF and KII were bought by entities such as Alka, Oudh, Basmati & SV with which AP was connected. Thus, at every stage of the GDR issue i.e. from the stage of issuing GDRs, subscribing to the GDRs, transferring the GDRs to FII/sub accounts for conversion of GDRs into equity shares and acquiring the said shares through the Stock Exchanges in India, Managing Director of PAN Asia was involved. In other words, apart from making it artificially appear that GDRs have been subscribed by foreign investors when in fact the GDRs were subscribed by AP through Vintage, AP ensured that the GDRs were sold by Vintage to the entities controlled by AP and further ensured that the equity shares generated on conversion of GDRs were acquired by the entities with which AP was connected. <u>Even though all GDRs were not converted and sold, it is apparent that the modus operandi adopted by the appellants was not only to create an artificial impression that the GDRs have been subscribed by foreign investors, but also to create an impression that after the GDR issue, investors in India have started subscribing to the</u>*

shares of issuer companies when in fact the shares were sold and acquired by the entities controlled by AP. In these circumstances inference drawn by SEBI that at every stage of the GDR issue, the acts committed by the appellants constituted fraud on the investors in India cannot be faulted." (Emphasis Supplied.)

80. Thus, I am of the view that IFCF had played a very important role in the whole scheme of GDR issues of issuer companies wherein it purchased GDRs from Vintage, converted them into underlying shares and sold the same in Indian Securities Market. The same was part of an elaborate and detailed scheme created and executed by AP, with the help of the issuer companies and his connected entities.

81. I incidentally note that the Hon'ble SAT, vide its order dated June 08, 2018, had exonerated KII of the allegation of fraud in the GDR Issues of issuer companies involved in the scheme but the same was done only on the ground that KII was not privy to the fraud committed by the IFCF while again holding that the IFCF was controlled by AP and, therefore, was privy to the whole fraud committed by AP. had committed the fraud. In this regard, the following was held by Hon'ble SAT:

"*22. It is not in dispute that IFCF was controlled by Mr. Arun Panchariya, whereas, the relationship of Vintage (controlled by Mr. Arun Panchariya) and the appellant was only a contractual relationship which is neither held to be illegal nor contrary to law. Therefore, fact that IFCF has been found to be privy to the fraud committed by Mr. Arun Panchariya on the investors in India could not be a ground to hold that the appellant was also privy to the said fraud committed by Mr. Arun Panchariya.*"

82. Further, I note from the IR that, even before Vintage started to repay the loan taken for a particular GDR issue, IFCF had converted large amount of GDRs of the Issuer Companies into their underlying shares and thereafter sold these shares in the Indian market. The following table illustrates the same:

Table 11

Scrip	Date of issuance of GDRs	Amount of Loan taken by Vintage for subscription of GDRs (USD)	Date of first installment of repayment of loan by Vintage	Amount (in USD) of first installment of loan repayment by Vintage	Number of shares sold in India (after conversion from GDRs) by IFCF/KII prior to date of payment of first installment of of loan by Vintage to Euram Bank
Asahi	29-Apr-09	5,982,000	16-Dec-09	100,000	1,49,53,354
Avon	19-Jun-09	10,000,000	18-Aug-09	1,500,000	31,40,000
Cat	06-Nov-09	10,003,000	03-Dec-09	3,000,000	2,45,000
IKF	15-May-09	10,988,000	23-Aug-09	100,000	6,07,456
K Sera	16-Oct-09	29,984,000	25-Nov-09	300,000	11,40,000

In this regard, I note that the Hon'ble SAT in its order dated October 25, 2016 in the matter of *Pan Asia Advisors Ltd. vs SEBI* has held that :

"*Argument of the appellants that the AO has erroneously held that source of funding for the GDRs were done by converting the GDRs and thereafter selling the shares in the Indian Market and repatriating the sale proceeds to repay the loan taken by Vintage is not entirely correct. It is a matter of record that Vintage by a Loan Agreement entered into with Credo Investment Holdings Ltd. ("Credo" for short) advanced loan of 2 Million USD for on-lending it to its associate company KII Ltd. so as to enable KII to purchase GDRs of the issuer companies, convert the GDRs into equity shares and sell those shares in the Indian Market and utilize the sale proceeds to buy further GDRs on the Luxembourg Stock Exchange and repeat the said process until KII elects to terminate such activities. Admittedly, KII acquired GDRs from Vintage and after converting the GDRs in to equity shares sold the equity shares in the Indian Market. In that context it was held that source of funding the GDRs was by converting the GDRs and selling the shares in the Indian Securities Market. It is not the case of SEBI that all the GDRs of all the issuers companies were converted into equity shares and sold in the Indian Market and the sale proceeds were utilized for repaying the loan taken by Vintage.*"

83. In view of all the above, I note that IFCF, by virtue of its connection with AP, was privy to the complete scheme of GDR issue of the issuer companies which led to allotment of their respective GDR issues to only one entity i.e. Vintage using the loan obtained from Euram Bank which was secured by the respective issuer companies by pledging their respective GDR proceeds. It is reiterated

that AP was also the Investment Manager of IFCF. I hold that IFCF, by purchasing the GDRs from Vintage, converting them into underlying shares and selling the underlying shares in Indian Securities Market, has played an active role in the whole fraud. I note that the modus operandi adopted in the present case not only sought to create an artificial impression that the GDRs have been subscribed successfully by foreign investors, but also created an impression that after the GDR issue, investors in India have started to the shares of issuer companies when in fact the shares were sold and acquired by the entities controlled by AP.

<u>Trading in Issuer Companies by the sub-accounts and the CP Group</u>

84. With regards to the trading in Issuer Companies by the sub-accounts and the CP Group, I note as follows –

85. **<u>Asahi</u>**: It is observed that there were 676 trading days during the IP 1 in the scrip of Asahi. The Sub-accounts started selling the shares of Asahi on August 21, 2009 and the CP Group started trading in Asahi from May 08, 2009. However, from May 08, 2009 till September 03, 2009, there were only 9 trades worth Rs. 15,729 between sub accounts and CP Group. The frequent trading by CP Group in Asahi started after September 03, 2009 only. In total, CP Group traded on 467 days out of these 676 trading days. Thus, it is observed that CP Group started trading in Asahi almost 10 days after issuance of GDRs. However, the significant trading of CP Group started 12 days after the Sub-Accounts started selling the shares obtained from conversion of GDRs in underlying shares. IFCF and KII had cancelled a total of 49.52% i.e. 14,81,000 GDRs issued by Asahi till September 21, 2011. The below table gives the details of buy and sell trades done by CP Group and Sub-Accounts in the scrip of Asahi during January 01, 2009 to September 21, 2011:

Table 12

No. of shares purchased by CP Group and Sub-Accounts	No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Value of shares purchased by CP Group and Sub-	Value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of

			Accounts (Rs.)		scrip on gross basis
14,19,98,218	20,88,09,850	-6,68,11,632	59,14,44,766	69,88,66,722	40.02

86. It is observed that the concentration of the CP Group and the Sub-accounts on gross basis in trading of Asahi during IP 1 is 40.02% of total market volume of 43,83,00,410 shares. The average daily turnover (hereinafter referred to as "**average turnover")** in Asahi on days when neither CP Group nor Sub-Account had traded was Rs. 93,472. However, the average turnover increased to Rs. 33,98,620 on days when CP Group or Sub-Account had traded in the scrip of Asahi. Thus, the average turnover on days when Sub-Accounts or CP Group traded increased 3,535.98%. In view of the same, it is observed that the Sub-Accounts and CP group had played a predominant role in creating liquidity in the scrip of Asahi. I note that the significant increase of turnover in Asahi was due to the activities of CP Group and Sub-Accounts.

87. It is observed that the CP Group purchased shares from the Sub-Accounts and then subsequently sold those shares. By doing so, I note that the CP group was assisting the Sub-Accounts in the sale of shares in Indian Securities Market. As noted in Table 8, 45.46% of shares sold by IFCF and 78.59% of shares sold by KII were purchased by CP group. It is further observed that the shares purchased by the CP Group either from the Sub-Accounts or other CP Group members were subsequently sold to other investors in the Indian market by them. The below table provides a summary of trades done by the sub-accounts and CP Group during IP 1:

Table 13

Entity	No. of shares of Issuer Companies purchased	No. of shares of Issuer Companies sold	Value of shares of Issuer Companies purchased (Rs.)	Value of shares of Issuer Companies sold (Rs.)
Basmati	6,69,35,345	6,64,68,948	17,76,56,132	17,01,67,794
Cherry	1,82,027	1,82,027	17,82,397	17,72,095
Edelweiss	500	500	510	505
Excel	7,735	7,735	7,384	8,345
IFCF	0	6,44,81,646	0	11,89,67,319
Indravarun	4,36,89,358	4,34,42,939	34,61,08,424	33,89,92,963

KII	0	35,00,000	0	35,01,264
Newgen	19,49,020	19,39,024	1,70,51,078	1,72,41,331
Oudh	15,22,490	15,22,474	1,13,14,544	1,03,98,206
SV	2,77,11,743	2,72,64,557	3,75,24,298	3,78,16,900

88. I note that without the trading of the CP Group in Asahi it was not possible for IFCF and KII to sell the shares worth Rs. 12,24,68,583 as the average turnover in the scrip of Asahi on days when the CP Group or the Sub-Accounts had not traded was Rs. 93,472. Therefore, due to the trading by the CP Group and the Sub-Accounts, the turnover in the said scrip increased around 36 times.

89. From the above, I note that the trading by the CP Group in the scrip of Asahi was done for the purpose of creation of liquidity in the market in order to attract gullible investors to trade in the scrip of Asahi so that Sub-Accounts can off-load shares. In this process, the CP group purchased shares of Asahi from sub-accounts as well as other noticees and sold them to the other investors. I note that this was done to meet the objective of allowing offloading of shares by Sub-Accounts in Indian market thereby completing the GDR Scheme of monetizing the GDRs and make indian domestic investors pay for the structured GDRs

90. **Avon**: It is observed that there were 676 trading days during IP 1. The CP Group started trading in Avon from June 16, 2009 and in total traded on 351 trading days during IP 1. It is observed that IFCF and KII cancelled 100% of the GDRs of Avon during the period August 03, 2009 till November 03, 2010. The CP Group also continued trading in Avon till November 04, 2010. There was hardly any trading by CP Group after November 04, 2010 except negligible trading worth Rs. 72,026 on 5 days between November 04, 2010 and September 21, 2011. Thus, it is observed that the CP Group stopped trading in Avon once all the GDRs were cancelled and the underlying shares were sold by IFCF and KII. As noted in Table 8, 88.69% of shares sold by IFCF and 72.22% of shares sold by KII were purchased by CP group. It is further observed that the shares purchased by the CP Group either from the Sub-Accounts or other CP Group members were subsequently sold to other investors in the Indian market by them. The below table provides a summary of trades done by the sub-accounts and CP Group during IP 1:

Table 14

Gross No. of shares purchased by CP Group and Sub-Accounts	Gross No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)	Gross value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
12,09,47,787	16,86,69,427	-4,77,21,640	88,79,49,050	1,17,23,99,197	50.12

91. From the above, I note that the concentration of the CP Group and the Sub-Accounts on gross basis in Avon during the period January 01, 2009 to November 04, 2010 was 50.12% of total market volume of 28,89,51,348 shares (i.e. 57,79,02,696 shares on gross basis).

92. I note that during the period January 01, 2009 to November 04, 2010, the average turnover in Avon on days when neither CP Group nor Sub-Accounts had traded was Rs. 3,92,881. However, the average turnover increased to Rs. 58,92,707 on days when either CP Group or Sub-Account have traded. Thus, the average turnover on days when Sub-Accounts or CP Group traded increased by 1,399.87% as compared to days when neither of them had traded. In view of this, I note that the significant increase of turnover in the Avon was due to the activities of CP Group and Sub-Accounts. As noted in Table 8, 88.69% of shares sold by IFCF and 72.22% of shares sold by KII were purchased by CP group. The shares purchased by the CP Group either from Sub-Accounts or other Noticees were ultimately sold in the market. The below table provides a summary of trades done by the CP Group and Sub-Account on BSE during IP 1:

Table 15

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Alka	13,91,958	13,10,478	1,58,36,166	1,24,27,013
Basmati	1,23,09,027	1,23,13,632	11,70,98,105	11,07,16,818
Cherry	3,78,267	3,78,267	30,99,049	29,67,605
Delight	4,83,85,168	4,83,72,944	27,77,34,735	27,51,34,110
Edelweiss	3,66,269	3,71,269	23,55,145	24,29,668
Excel	42,489	42,689	4,45,528	4,25,897
IFCF	0	4,31,20,000	0	27,28,84,812

Indravarun	9,59,768	9,59,768	51,26,240	53,10,698
KII	0	46,80,000	0	3,12,53,475
Madanlal	13,96,261	13,96,261	1,12,67,976	1,10,07,888
Newgen	7,71,309	7,71,309	51,88,434	49,42,452
Oudh	39,67,249	39,67,249	3,51,17,967	3,29,81,939
SV	1,90,22,766	1,90,29,205	20,06,97,327	19,82,23,521
Vinod	3,19,59,906	3,19,64,510	21,40,03,853	21,17,43,851

93. I note that without the trading of the CP Group in Avon it was not possible for IFCF and KII to sell the shares worth Rs. 30,41,38,287 as the average turnover in the scrip of Avon on days when CP Group and Sub-Account had not traded was only Rs. 3,92,881. I also note that due to the trading by CP Group or Sub-Accounts the turnover of the scrip increased around 15 times.

94. From the above, I note that the trading by the CP Group in the scrip of Avon was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that Sub-Accounts can off load shares and to purchase shares from Sub-Accounts and sell it to other investors. I note that this was done to meet the objective of allowing offloading of shares by Sub-Accounts in Indian market thereby completing the scheme of monetizing the GDRs and make investors pay for the structured GDRs.

95. **CAT**: It is observed that, out of 676 trading days during IP 1, the CP Group and the Sub-Accounts traded on 642 days in the scrip of CAT. The CP Group was already active in CAT before the beginning of the IP 1 due to the fact that CAT had issued GDRs twice (in 2007 and 2009). The below table gives the details of buy and sell trades done by the CP Group and Sub-Accounts in CAT during IP 1:

Table 16

Gross No. of shares purchased by CP Group and Sub-Accounts	Gross No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)	Gross value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
8,28,96,495	7,56,99,670	71,96,825	1,06,39,37,149	97,30,80,840	59.93

96. From the above table, I note that the concentration of the CP Group and the Sub-Account on gross basis in the scrip of CAT during IP 1 was 59.93% of total market volume of 13,23,17,805 shares. The average turnover on days when neither the CP Group nor the Sub-Account have traded was only Rs. 1,50,480 which increased to Rs. 25,18,404 on days when the CP Group or the Sub-Account had traded. Thus average turnover on days when the Sub-Accounts or the CP Group traded increased by 1,573.58%. Therefore, it is alleged that the significant increase of turnover in CAT was due to the activities of CP Group and Sub-Accounts. As noted in Table 8, 99.92% of shares sold by IFCF were purchased by CP group.

97. The shares purchased by some of the CP Group members either from the IFCF or from other Noticees were ultimately sold to other investors in India. The below table provides a summary of trades done by some of the CP Group entities and IFCF during IP 1:

Table 17

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Alka	6,37,920	1,04,542	32,75,219	11,52,685
Basmati	1,49,27,183	1,28,49,995	13,05,76,248	11,20,03,744
Cherry	14,90,926	9,55,363	1,66,08,874	1,33,11,253
Delight	2,11,78,444	2,09,92,568	34,41,28,773	33,61,62,316
Edelweiss	15,66,729	2,16,347	2,47,25,782	21,92,061
Excel	3,11,313	3,11,313	13,39,973	13,64,788
IFCF	0	2,45,200	0	28,63,902
Indravarun	1,91,245	39,265	19,75,229	3,97,266
Madanlal	24,10,132	24,11,061	3,00,58,372	3,03,18,097
Newgen	11,55,565	16,59,115	1,13,57,416	1,43,08,120
Oudh	39,32,343	16,96,093	5,06,75,383	2,01,94,727
SV	84,83,416	85,25,069	7,58,27,046	7,69,84,046
Vinod	2,66,11,279	2,56,93,739	37,33,88,834	36,18,27,834

98. From the above, I note that the trading by the CP Group in the scrip of CAT was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that IFCF could off load shares and to purchase shares from IFCF and sell it to other investors. I note that this was done to meet the objective of allowing offloading of shares by IFCF in Indian market thereby completing

the Scheme of monetizing the GDRs and make Indian domestic investors pay for the structured GDRs.

99. **IKF**: It is observed that, out of 676 trading days during IP 1, the CP Group and IFCF in total traded on 357 trading days in the scrip of IKF. The CP Group was already active in IKF before the beginning of investigation period due to the fact that IKF had issued GDRs twice (in 2007 and 2009). The below table gives the details of trades done by CP Group and IFCF in IKF during IP 1:

Table 18

Gross No. of shares purchased by CP Group and Sub-Accounts	Gross No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)	Gross value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
15,14,85,265	14,10,95,056	1,03,90,209	64,43,50,415	59,02,81,258	24.03

100. I note that the concentration of the CP Group and IFCF on gross basis in IKF during IP 1 was 24.03% of total market volume of 60,88,53,818 shares (i.e.1,21,77,07,636 shares on gross basis). The average turnover on days when neither CP Group nor IFCF had traded was Rs. 17,04,879 which had increased to Rs. 59,09,749 on days when CP Group or IFCF had traded. Thus average turnover on days when IFCF or CP Group traded increased by 246.64%. I note that significant increase of turnover in IKF was due to the activities of CP Group and IFCF. As noted in Table 8, 66.17% of shares sold by IFCF were purchased by CP group. The below table provides a summary of trades done by some of the CP Group entities and IFCF during IP 1:

Table 19

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Basmati	59,691,361	40,819,166	250,070,527	168,371,465
Excel	646,976	969,822	3,001,336	4,222,983
Oudh	12,139,184	7,158,858	54,348,527	24,620,527
Alka	4,274,298	2,174,298	18,263,222	9,564,366
IFCF	0	19,607,456	0	86,792,834

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Indravarun	37,793,269	37,300,460	152,835,573	149,300,613
Newgen	1,056,212	143,202	4,107,281	560,842
SV	25,263,855	25,278,555	114,469,883	114,565,029
Vinod	170,381	170,381	767,893	747,950
Madanlal	15,000	18,000	60,311	72,930
Cherry	58,190	58,190	2,21,317	2,20,681
Edelweiss	1,03,76,539	73,96,668	4,62,04,546	3,12,41,036

101. From the above, I note that the trading by the CP Group in the scrip of IKF was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that IFCF could off load shares and to purchase shares from IFCF and sell it to other investors. I note that this was done to meet the objective of allowing offloading of shares by IFCF in Indian market thereby completing the whole Scheme of monetizing the GDRs and make Indian domestic investors pay for the structured GDRs.

102. **K Sera** : It is observed that, out of 676 trading days on Bombay Stock Exchange during IP 1, CP Group and Sub-Accounts in total traded on 651 trading days in the scrip of K Sera. The CP Group was already active in K Sera before the beginning of IP 1 due to the fact that K Sera had issued GDRs twice (in 2007 and 2009). The below table gives the details of trades done by CP Group and the Sub-Accounts in K Sera on BSE during IP 1:

Table 20

Gross No. of shares purchased by CP Group and Sub-Accounts	Gross No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)	Gross value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
19,66,46,786	22,14,96,402	-2,48,49,616	2,61,24,40,925	2,88,59,22,423	28.52

103. I note from the above table that the concentration of CP Group and Sub-Account on gross basis in K Sera on BSE during IP 1 was 28.52% of total market volume of 73,31,73,990 shares (i.e. 1,46,63,47,980 shares on gross

basis). The average turnover on days when neither CP Group nor Sub-Account had traded was Rs. 11,05,544 which had increased to Rs. 1,48,06,870 on days when CP Group or Sub-Account had traded. Thus average turnover on days when Sub-Accounts or CP Group traded increased by 1,239.32%. Therefore, I note that the significant increase of turnover in K Sera on BSE was due to the activities of CP Group and Sub-Accounts. As noted in Table 8, 69.30% of shares sold by IFCF and 52.75% of shares sold by KII were purchased by CP group. I note that the shares purchased by the CP Group either from Sub-Accounts or other Noticees were ultimately sold in the market. The below table provides a summary of trades done by the CP Group and Sub-Account on BSE during IP 1:

Table 21

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Alka	11,17,081	21,30,227	1,56,18,480	2,29,95,122
Ashok	65,000	65,151	11,30,020	14,30,167
Basmati	7,58,43,553	7,78,71,414	98,60,02,785	99,91,16,272
Cherry	15,68,139	15,07,002	2,26,27,749	2,14,11,667
Edelweiss	74,63,840	63,66,347	9,31,20,251	7,85,62,805
Excel	71,64,117	71,26,617	8,69,69,316	8,64,95,944
IFCF	0	1,35,45,000	0	17,15,80,484
Indravarun	2,54,24,389	2,57,97,495	34,13,00,303	34,77,09,033
KII	0	1,21,31,430	0	15,71,82,321
Madanlal	14,914	12,452	2,00,083	1,67,084
Newgen	1,55,60,248	1,22,26,287	20,61,89,545	14,80,50,385
Oudh	2,26,62,210	2,33,82,571	29,48,56,433	29,96,79,917
SV	3,94,22,326	3,89,93,440	55,80,56,770	54,52,49,406
Vinod	3,40,969	3,40,969	63,69,189	62,91,816

104. I note that, out of 676 trading days during IP 1 on National Stock Exchange of India Limited (**NSE**), the CP Group and sub-accounts in total traded on 645 trading days in the scrip of K Sera. The below table gives the details of done by the CP Group and the Sub-Accounts in K Sera on NSE during IP 1:

Table 22

Gross No. of shares purchased by CP Group and Sub-Accounts	Gross No. of shares sold by CP Group and Sub-Accounts	Net volume of trading by CP Group and Sub-Accounts	Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)	Gross value of shares sold by CP Group and Sub-Accounts (Rs.)	% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis
15,98,45,233	17,34,69,466	-1,36,24,233	2,11,69,35,038	2,23,63,83,464	25.66

105. I note that the concentration of the CP Group and the Sub-Account on gross basis in K Sera on NSE during IP 1 was 25.66% of total market volume of 64,94,08,016 shares (i.e. 1,29,88,16,032 shares on gross basis). The average turnover on days when neither CP Group nor Sub-Account had traded was Rs. 12,39,966 which had increased to Rs. 1,32,44,345 on days when CP Group or Sub-Account traded. Thus average turnover on days when Sub-Accounts or CP Group traded in the scrip of K Sera on NSE increased by 968.12%. Therefore, it is alleged that significant increase of turnover in K Sera on NSE was due to the activities of the CP Group and the Sub-Accounts. As noted in Table 8, in NSE, 54.10% of shares sold by IFCF and 52.17% of shares sold by KII were purchased by CP group. I note that the shares purchased by the CP Group either from the Sub-Accounts or other Noticees were ultimately sold to other investors in India. The below table provides a summary of trades done by some of the CP Group entities and Sub-Accounts on NSE during IP 1:

Table 23

Entity Name	No. of shares purchased of Issuer Companies	No. of shares sold of Issuer Companies	Value of shares purchased of Issuer Companies (Rs.)	Value of shares sold of Issuer Companies (Rs.)
Alka	28,30,695	23,75,566	3,88,57,686	2,52,06,688
Ashok	1,99,925	0	30,98,838	0
Basmati	8,52,73,453	7,80,37,467	1,11,65,54,577	99,60,40,098
Cherry	7,30,370	5,75,527	1,00,70,873	78,59,618
Edelweiss	44,13,146	28,72,467	5,46,00,640	3,41,77,631
Excel	0	37,500	0	6,42,801
IFCF	0	1,34,67,750	0	17,05,33,116
Indravarun	1,90,76,414	1,82,68,254	26,38,06,980	24,88,10,656
KII	0	1,25,30,000	0	16,44,61,404
Madanlal	20,749	16,412	3,31,734	2,60,209
Newgen	1,71,74,328	1,53,86,496	22,57,90,931	18,73,56,828
Oudh	2,72,76,619	2,63,30,444	36,23,03,587	34,56,91,898
SV	28,49,534	35,71,583	4,15,19,193	5,53,42,518

106. I note that, on days when the Sub-Accounts or CP Group traded in K Sera on BSE, the turnover in the scrip increased around 8 times. Similarly, on days when the Sub-Accounts or CP Group had traded in K Sera on NSE, the average turnover had increased by 11 times.

107. From the above, I note that the trading by the CP Group in the scrip of K Sera was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that the Sub-Accounts could off load shares and to purchase shares from Sub-Accounts and sell them to other investors in India. I note that this was done to meet the objective of allowing offloading of shares by Sub-Accounts in Indian market thereby completing the Scheme of monetizing the GDRs and make Indian domestic investors pay for the structured GDRs.

108. **<u>Maars</u>**: It is observed that Maars issued GDRs on August 10, 2007. The CP Group entities started trading in scrip of Maars from December 11, 2007 (barring August 10, 2007 when Basmati purchased and sold 5,000 shares). It is observed that the CP Group was trading in the scrip of Maars till July 07, 2011. Therefore, SEBI had conducted investigation regarding the role of CP Group in creating artificial liquidity for the period of December 11, 2007 to July 07, 2011. It is observed that there were 882 trading days during the said period and CP Group and IFCF in total traded on 302 days out of these 882 trading days. The below table gives the details of trades done by CP Group and IFCF in Maars during the period of December 11, 2007 to July 07, 2011:

Table 24

Gross No. of shares purchased by CP Group and Sub-Accounts	**Gross No. of shares sold by CP Group and Sub-Accounts**	**Net volume of trading by CP Group and Sub-Accounts**	**Gross value of shares purchased by CP Group and Sub-Accounts (Rs.)**	**Gross value of shares sold by CP Group and Sub-Accounts (Rs.)**	**% contribution of trading by CP Group and Sub-Accounts to market volume of scrip on gross basis**
5,74,27,453	6,57,09,530	-82,82,077	23,20,72,199	26,76,21,489	23.09

109. I note that the concentration of the CP Group and IFCF in Maars on gross basis during December 11, 2007 to July 07, 2011 was 23.09% of total market

volume of 26,66,74,413 shares (i.e. 53,33,48,226 shares on gross basis). During the said period, the average turnover on days when neither CP Group nor IFCF had traded was Rs. 2,91,676 which had increased to Rs. 31,38,751 on days when CP Group or IFCF had traded. Thus, average turnover on days when the CP Group or IFCF traded increased by 976.11%. Therefore, I note that significant increase of turnover in Maars was due to the activities of the CP Group and IFCF. As noted in Table 8, 39.38% of shares sold by IFCF were purchased by CP group.

110. I note that the shares purchased by the CP Group members either from IFCF or the other Noticees were ultimately sold in the market. The below table provides a summary of trades done by some of the CP Group entities and IFCF during IP 2:

Table 25

Entity Name	**No. of shares purchased of Issuer Companies**	**No. of shares sold of Issuer Companies**	**Value of shares purchased of Issuer Companies (Rs.)**	**Value of shares sold of Issuer Companies (Rs.)**
Alka	16,48,973	29,77,728	65,52,882	1,11,83,003
Basmati	1,94,95,826	2,04,37,315	6,75,47,224	7,40,61,960
Edelweiss	29,70,133	20,16,457	1,30,80,817	1,05,43,413
Indravarun	2,54,318	2,54,318	2,21,234	2,19,948
Oudh	20,80,260	20,80,260	50,85,770	54,51,611
SV	2,99,82,075	3,05,18,929	13,39,72,695	13,47,30,538
Vinod	100	100	370	319
IFCF	0	61,31,239	0	2,17,12,348
Cherry	10,00,768	12,93,184	56,31,957	97,18,350

111. From the above, I note that the trading by the CP Group in the scrip of Maars was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that IFCF can off load shares and to purchase shares from IFCF and sell them to other investors. I note that the same was done to meet the objective of allowing offloading of shares by IFCF in Indian market thereby completing the Scheme of monetizing the GDRs and make investors pay for the structured GDRs.

Creation of market (artificial liquidity creation) by members of the CP Group by Trading among themselves and with sub-accounts

112. **Significant Trading in the scrips of Issuer Companies**: From the above paragraphs, it is observed that the CP Group assisted IFCF & KII in selling the shares of Issuer Companies by creating artificial liquidity in the scrips and they also acted as major purchaser of shares from IFCF & KII and later sold these shares to other investors in India. The below table provides summary of total purchase and sale done by CP Group and Sub-Accounts in the scrips of Issuer Companies during the Investigation Period:

Table 26

Issuer	Period of examination of trading	Gross Buy Volume	Gross Sell Volume	Net Trade Volume	Gross Buy Value (Rs.)	Gross Sell Value (Rs.)
Asahi	Jan 01, 2009 to Sep 21, 2011	14,19,98,218	20,88,09,850	-6,68,11,632	59,14,44,766	69,88,66,722
Avon	Jan 01, 2009 to Nov 04, 2010	12,09,47,787	16,86,69,427	4,77,21,640	88,79,49,050	1,17,23,99,197
CAT	Jan 01, 2009 to Sep 21, 2011	8,28,96,495	7,56,99,670	71,96,825	1,06,39,37,149	97,30,80,840
IKF	Jan 01, 2009 to Sep 21, 2011	15,14,85,265	14,10,95,056	1,03,90,209	64,43,50,415	59,02,81,258
K Sera BSE	Jan 01, 2009 to Sep 21, 2011	19,66,46,786	22,14,96,402	-2,48,49,616	2,61,24,40,925	2,88,59,22,423
K Sera NSE	Jan 01, 2009 to Sep 21, 2011	15,98,45,233	17,34,69,466	-1,36,24,233	2,11,69,35,038	2,23,63,83,464
Maars BSE	Dec 11, 2007 to July 07, 2011	5,74,27,453	6,57,09,530	-82,82,077	23,20,72,199	26,76,21,489

113. From the above table, it is observed that the CP Group and the sub-accounts were net sellers in five out of seven cases (including K Sera at NSE). In view of this, I note that the Sub-Accounts and the CP Group had dealt in shares of Issuer Companies only to offload the shares. The below table provides a summary of concentration of trades by the CP Group and the Sub-Accounts to total turnover of the scrips during the Investigation Period:

Table 27

Scrip Name	No. of Entities (CP Group / Sub-Accounts)	Period of examination of trading	Gross Buy Volume	Gross Sell Volume	Gross Trade Volume	% Concentration gross basis of CP Group & sub-accounts to Market Volume
Asahi	10	Jan 01, 2009 to	14,19,98,218	20,88,09,850	35,08,08,068	40.02

Scrip Name	No. of Entities (CP Group / Sub-Accounts)	Period of examination of trading	Gross Buy Volume	Gross Sell Volume	Gross Trade Volume	% Concentration gross basis of CP Group & sub-accounts to Market Volume
		Sep 21, 2011				
Avon	14	Jan 01, 2009 to Nov 04, 2010	12,09,47,787	16,86,69,427	28,96,17,214	50.12
Cat	13	Jan 01, 2009 to Sep 21, 2011	8,28,96,495	7,56,99,670	15,85,96,165	59.93
IKF	12	Jan 01, 2009 to Sep 21, 2011	15,14,85,265	14,10,95,056	29,25,80,321	24.03
K Sera BSE	14	Jan 01, 2009 to Sep 21, 2011	19,66,46,786	22,14,96,402	41,81,43,188	28.52
K Sera NSE	13	Jan 01, 2009 to Sep 21, 2011	15,98,45,233	17,34,69,466	33,33,14,699	25.66
Maars BSE	9	Dec 11, 2007 to July 07, 2011	5,74,27,453	6,57,09,530	12,31,36,983	23.09

114. From the above table, it is observed that, during the Investigation Period, the Sub-Accounts and the CP Group members had contributed in a range of 23.09% to 59.93% to the total turnover in the shares of Issuer Companies. For example, in the scrip of CAT, the Sub-Accounts and the CP Group members (total 13 entities) had contributed around 59.93% in the total turnover of the scrip during the Investigation Period. From the above, it is observed that substantial amount of concentration in the scrips of Issuer Companies was due to trades done by the Sub-Accounts and the CP Group members.

115. **Trading amongst themselves** : Further analysis shows that large amount of trading by the Sub-Accounts and the CP Group was among themselves only. The below Table provides summary of trades done among IFCF, KII and CP Group members during Investigation Period:

Table 28

Scrip Name	Period of examination of trading	CP Group & Sub-Accounts Gross Trade Volume	No. of shares traded by IFCF, KII and the CP Group members among themselves	% of CP Group and Sub-Accounts trading among themselves to total trading by them
Asahi	Jan 01, 2009 to Sep 21, 2011	35,08,08,068	8,46,92,044	24.14
Avon	Jan 01, 2009 to Nov 04, 2010	28,96,17,214	13,98,46,772	48.29

Scrip Name	Period of examination of trading	CP Group & Sub-Accounts Gross Trade Volume	No. of shares traded by IFCF, KII and the CP Group members among themselves	% of CP Group and Sub-Accounts trading among themselves to total trading by them
CAT	Jan 01, 2009 to Sep 21, 2011	15,85,96,165	9,21,64,408	58.11
IKF	Jan 01, 2009 to Sep 21, 2011	29,25,80,321	8,97,18,030	30.66
K Sera BSE	Jan 01, 2009 to Sep 21, 2011	41,81,43,188	9,21,09,310	22.03
K Sera NSE	Jan 01, 2009 to Sep 21, 2011	33,33,14,699	6,79,19,350	20.38
Maars BSE	Dec 11, 2007 to July 07, 2011	12,31,36,983	2,10,60,268	17.10

116. The above table shows that in the scrip of Asahi, the Sub-Accounts and the CP Group traded 8,46,92,044 shares among themselves, which was 24.14% of the total trading in the scrip of Asahi by them. Similarly, it is observed that a range of 17.10% (Maars) to 58.11% (CAT) of trading of the CP Group and the Sub-Accounts in Issuer Companies was due to trading among themselves. This data indicates that the large portion of trading by the CP Group, IFCF and KII was due to trades matching with one another. Further, from the above data and the individual contribution of each of the Sub-Accounts and the CP Group entities clearly indicates that the CP group absorbed large portion of the sale orders by IFCF and KII and also contributed to liquidity in the scrip of the Issuer companies.

117. Noticee 5 (Ashok) has contended that in order to allege creation of artificial liquidity it is imperative to show that parties carrying out trades are connected to each other or atleast shared a common objective of creating artificial liquidity. It was further submitted that there should be meeting of minds between the parties. Noticee 5 has further submitted that no connection has been established with any of the counterparties to his trades and that his trades were done in the normal course. In this regard, from the trade log shared with Noticee 5, I note that Ashok has traded 1,30,151 shares on gross basis in K Sera in BSE, and out of the same, for 90,724 shares in 25 trades, the counterparty to

his trades are Cherry, Basmati and SV i.e. CP group entities. Further, out of 25 such trades, in 12 trades the time difference between the buy and sell orders is less than 60 seconds. In K Sera scrip in NSE, Ashok has purchased 1,99,925 shares in 2 trades, and the counterparty to his entire trades is Basmati i.e. CP group entity. Further, the time difference between the buy and sell orders in the 2 trades is less than 60 seconds. The same shows that CP group entities traded significantly amongst themselves to increase liquidity in the scrip of Issuer Companies. Thus, I find no merit in the above contentions of Noticee 5.

118. Noticee 5 has also contended that his trades were miniscule as compared to the gross no. of shares purchased and sold by CP group. In this regard, I note that Noticee has been shown to be a part of CP group entities, and the contribution of the group as a whole has to be considered which is significant compared to the total trading volume in the Issuer Companies. Thus, I find no merits in the above contentions of Noticee 5.

119. Further, Noticee 5 has submitted that he incurred loss in the scrip of K Sera. It was submitted that on November 11, 2009 he had 1,99,774 shares of K Sera in his demat account and which was valued at Rs. 30,98,838. It was further submitted that the same was sold on March 01, 2011 when the highest price for that day was Rs. 11.40, thus he incurred a loss of around Rs. 8 Lakhs. In this regard, I note that price manipulation is not the charge against Noticee 5, thus I find the submissions to be not relevant. Thus, I find no merits in the above contentions of Noticee 5.

120. In view of the above, I note that the trading of the CP Group had contributed to the immense rise in the liquidity of the scrip. From the above, I note that the trading by the CP Group in various scrip was done to create liquidity in the market in order to attract gullible investors to trade in the scrip so that Sub-Accounts can off load shares and to purchase shares from Sub-Accounts and sell it to Indian domestic investors. It is further noted that this was done to meet the objective of allowing offloading of shares by Sub-Accounts in Indian market thereby completing the Scheme of monetizing the GDRs and make Indian domestic investors pay for the structured GDRs.

121. **Increase in the average daily turnover of Issuer Companies**: The below table provides the information regarding the increase in the trading turnover of Issuer Companies due to the trading by the CP Group and the Sub-Accounts:

Table 29

Name of the Scrip	Period Examined	Average daily turnover in Rs. on days when CP Group or Sub-Accounts have not traded in the scrips	Average daily turnover in Rs. on days when CP Group and Sub-Accounts have traded in the scrips	No. of times turnover increased due to trading by Sub-Accounts and CP Group
Asahi	Jan 01, 2009 to Sep 21, 2011	93,472	33,98,620	36.36
Avon	Jan 01, 2009 to Nov 04, 2010	3,92,881	58,92,707	15.00
CAT	Jan 01, 2009 to Sep 21, 2011	1,50,480	25,18,404	16.74
IKF	Jan 01, 2009 to Sep 21, 2011	17,04,879	59,09,749	3.47
K Sera BSE	Jan 01, 2009 to Sep 21, 2011	11,05,544	1,48,06,870	13.39
K Sera NSE	Jan 01, 2009 to Sep 21, 2011	12,39,966	1,32,44,345	10.68
Maars	Dec 11, 2007 to July 07, 2011	2,91,676	31,38,751	10.76

122. As can be seen from the abovementioned Table, a significant increase in the average daily turnover in the scrip of the Issuer Companies is observed on the days in which Sub-Accounts and CP Group have traded as against days when trades were not carried out by them. In view of this, I note that the Sub-Accounts and CP group had played a predominant role in creating liquidity in the scrip of the Issuer Companies. Therefore, I note that the significant increase of turnover in Issuer Companies was due to the activities of CP Group and Sub-Accounts.

123. In view of the above, I note that CP group entities had connections with AP and AP had substantial influence over their activities during the Investigation Period.

124. Thus I note that the complete process of GDR issuance by the Issuer Companies was devised and structured by AP. As noted above, the *modus operandi* adopted by AP, Pan Asia, Vintage and its Directors; IFCF and CP group entities in the fraudulent arrangement of GDR Issues to defraud

investors, the subsequent cancellation of GDRs, the sale of the resultant shares and subsequent trading in the Issuer Companies scrip has been fraught with *mala fides* at every stage of its execution, wherein each entity had its role to play. In this regard, I also note the following –

a. Vide a SEBI Order dated June 20, 2013, Pan Asia and AP were, as persons connected to the Indian Securities Market debarred from rendering services in connection with instruments that are defined as 'securities' under Section 2(h) of the Securities Contracts (Regulation) Act, 1956 ("SCRA") for a period of 10 years and further were prohibited from accessing the capital market directly or indirectly for a period of 10 years.

b. On an appeal by Pan Asia and AP (collectively referred to as "**Appellants**") against the aforementioned SEBI Order dated June 20, 2013, the Hon'ble SAT vide an Order dated September 30, 2013, allowed the appeal and set aside the aforesaid Order on the ground that SEBI had no jurisdiction to initiate proceedings against the Appellants in relation to the role played by them as Lead Managers to the GDRs issued by several Indian Companies outside India.

c. On appeal against the Hon'ble SAT Order dated filed by SEBI September 30, 2013, the Hon'ble Supreme Court vide a judgment dated July 6, 2015, in the matter of SEBI vs. Pan Asia Advisors Limited and Another (Civil Appeal No. 10560/2013), set aside the decision of the Hon'ble SAT and held that SEBI had jurisdiction to initiate proceedings against the Appellants if the Appellants as Lead Managers to the GDRs had violated the provisions of SEBI Act and the Regulations framed thereunder and remanded the matter for fresh decision on merits in respect of the appeal filed by the Appellants against the SEBI Order dated June 20, 2013.

d. Thereafter, vide SAT Order dated October 25, 2016, the Hon'ble SAT while dismissing the appeal filed by the Appellants *inter alia* held as under –

“18. Question then to be considered is, whether SEBI is justified in holding that the Appellants have committed fraud on the investors in India. Admittedly, PAN Asia was appointed as a Lead Manager to the GDR Issue and as a Lead Manager it was the duty of PAN Asia to make reasonable endeavours to procure investors outside India and inform the ESCROW agent in writing of any deposit made by the investors in the ESCROW account. It is not in dispute that prior to the issuance of GDRs of Asahi, AP as a Managing Director and Authorized Signatory of Vintage had entered into a Loan Agreement dated 21.04.2009 with Euram Bank and had obtained loan of US $10 million to take down the GDRs of Asahi. Thus, AP on the one hand as Managing Director of PAN Asia got the GDRs of Asahi issued for subscription by foreign investors and on the other hand as Managing Director of Vintage took loan to take down entire GDRs of Asahi.

19.Apart from taking loan of US $10 million from Euram Bank under the Loan Agreement dated 21.04.2009, a Pledge Agreement dated on 21.04.2009 was executed between Asahi and Euram Bank, wherein Asahi agreed to abide by the terms and conditions of the Loan Agreement dated 21.04.2009 between Euram and Vintage and further agreed to pledge all its right, title and interest in and to the securities deposited in the pledged securities account and Pledged Time Deposit account so as to secure the present and future obligation of Vintage to the Euram Bank to the Extent of US $10 million or any other amount that may thereafter become payable by Vintage to Euram Bank.

20.In the reply to the show cause notice issued by SEBI, AP had categorically stated that Vintage intended to make profit through a takedown of the GDRs issued by the Indian Companies and at the same time ensure successful placement of the GDRs with the investors outside India. It is further stated by AP that for the aforesaid purpose Vintage took loan from Euram Bank and upon closure of the GDR Issue, Vintage paid the take down amount to the issuer *companies by transferring the loan proceeds from Euram Bank to the ESCROW accounts of the issuer companies which was then transferred to the accounts of issuer companies.*

21.Thus, instead of ensuring that the foreign investors subscribe to the GDRs of Asahi, AP as Managing Director of PAN Asia planned to subscribe to the GDRs of Asahi through Vintage and in fact as Managing Director of Vintage took loan of 10 million US $ from Euram Bank for subscribing to the GDRs of Asahi and made Asahi to pledge to the Euram Bank the GDR subscription amount of US $10 million as security for the loan taken by Vintage. Similar modus operandi was adopted in case of other issuer companies. Thus, the investors in India were made to believe that in the global market the issuer companies have acquired high reputation in terms of investment potential and hence the foreign investors have fully subscribed to the GDRs, when in fact, the GDRs were subscribed by AP through Vintage which was wholly owned by AP. In other words, PAN Asia as a Lead Manager and AP as Managing Director of PAN Asia attempted to mislead the investors in India that the GDRs have been subscribed by foreign investors when in fact the GDRs were subscribed by AP through Vintage. Any attempt to mislead the investors in India constitutes fraud on the investors under the PFUTP Regulations.

....

27.It is equally important to note that immediately after subscribing to the GDRs, Vintage (controlled by AP) sold some of the GDRs to FIIs/sub accounts such as IFCF & KII which were also controlled by AP. IFCF & KII admittedly converted GDRs into underlying equity shares of the issuer companies from the domestic custodian bank in India and sold the said shares on the Stock Exchanges in India. It is also recorded in the impugned order that the shares sold by IFCF and KII were bought by entities such as Alka, Oudh, Basmati & SV with *which AP was connected. Thus, at every stage of the GDR Issue i.e. from the stage of issuing GDRs, subscribing to the GDRs, transferring the GDRs to FII/sub accounts for conversion of GDRs into equity shares and acquiring the said shares through the Stock Exchanges in India, Managing Director of PAN Asia was involved. In other words, apart from making it artificially appear that GDRs have been subscribed by foreign investors when in fact the GDRs were subscribed by AP through Vintage, AP ensured that the GDRs were sold by Vintage to the entities controlled by AP and further ensured that the equity shares generated on conversion of GDRs were acquired by the entities with which AP was connected. Even though all GDRs were not converted and sold, it is apparent that the modus operandi adopted by the Appellants was not only to create an artificial impression that the GDRs have been subscribed by foreign investors, but also to create an impression that after the GDR Issue, investors in India have started subscribing to the shares of issuer companies when in fact the shares were sold and acquired by the entities controlled by AP. In these circumstances inference drawn by SEBI that at every stage of the GDR Issue, the acts committed by the Appellants constituted fraud on the investors in India cannot be faulted.*

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."

125. I note that the provisions of Sections 12A(a), (b), and (c) of the SEBI Act read with the PFUTP Regulations *inter alia* prohibit buying, selling or dealing in securities in a fraudulent manner; employment of any manipulative/deceptive

device, scheme or artifice to defraud in connection with dealing in securities; engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with dealing in securities. Further, the PFUTP Regulations *inter alia* prohibit fraudulent and unfair trade practices in securities through various acts, omissions stated therein. In my view, any fraudulent or deceptive device, scheme, act, omission, etc. which has the potential to *inter alia* induce sale/purchase of securities of any company; influence investment decisions of investors in such company; or result in wrongful gain, etc. would be covered within the prohibition under the aforementioned provisions of law.

126. For reasons detailed in the preceding paragraphs, I conclude that Noticee 1 and 2 (i.e. AP and Pan Asia respectively) have violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulation 3(c), 3(d), 4(1), 4(2)(c), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations. Further, I conclude that 3 and 5 (i.e. Vintage and Ashok respectively) have violated the provisions of Section 12A(a), (b) and (c) of SEBI Act read with Regulation 3(c), 3(d), 4(2)(a), (c), (e), (f) and (k) of PFUTP Regulations. Further I conclude that Noticee 4 (i.e. IFCF) has violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulation 3(c), 3(d), 4(1), 4(2)(c), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations. Further, I also conclude that Noticee 5 to 17 have violated the provisions of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3 (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations.

Violation of Section 11C(3) read with Section 11C(6) of SEBI Act by Noticee 17 (SV Enterprises)

127. I note that the trading of Noticee 17 in the shares of Issuer Companies as compared to that of the CP Group and sub-accounts during the Investigation Period is as given below:

Table 30

Scrip	Total no. of shares	Total number of shares sold by SV	Total no. of shares traded by SV	Total no. of shares purchased by	Total no. of shares sold by	Total no. of shares traded by CP Group	% Contributio n of SV to

	purchased by SV			CP Group and Sub-Accounts	CP Group and Sub-Accounts	and Sub-Accounts	trading volume of CP Group and Sub-Accounts
(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**(G)**	**H=%(D/G)**
Asahi	2,77,11,743	2,72,64,557	5,49,76,300	14,19,98,218	20,88,09,850	35,08,08,068	15.67
Avon	1,90,22,766	1,90,29,205	3,80,51,971	12,09,47,787	16,86,69,427	28,96,17,214	13.14
CAT	84,83,416	85,25,069	1,70,08,485	8,28,96,495	7,56,99,670	15,85,96,165	10.72
IKF	2,52,63,855	2,52,78,555	5,05,42,410	15,14,85,265	14,10,95,056	29,25,80,321	17.27
K Sera BSE	3,94,22,326	3,89,93,440	7,84,15,766	19,66,46,786	22,14,96,402	41,81,43,188	18.75
K Sera NSE	28,49,534	35,71,583	64,21,117	15,98,45,233	17,34,69,466	33,33,14,699	1.93
Maars BSE*	2,99,82,075	3,05,18,929	6,05,01,004	5,64,36,685	6,44,21,346	12,08,58,031	50.06
Total	**15,27,35,715**	**15,31,81,338**	**30,59,17,053**	**91,02,56,469**	**1,05,36,61,217**	**1,96,39,17,686**	**15.58**

*Period for Maars is from January 01, 2007 to September 21, 2011

128. From the above table, I note that Noticee 17 had contributed 15.58% to total trading activity of CP Group and Sub-Accounts. The same indicates that Noticee 17 was one of the most prominent and active members of the CP Group. The below table provides details of total shares purchased by SV from IFCF and KII.

Table 31

Scrip	Sub-Account	No. of shares purchased by SV from Sub-Accounts	Value of Shares Purchased by SV from Sub-Accounts
Asahi	IFCF	34,11,300	35,02,024
	KII	20,00,000	20,00,000
Avon	IFCF	23,11,178	2,30,72,059
	KII	6,51,286	65,42,180
IKF	IFCF	8,85,605	38,05,185
K Sera BSE	IFCF	3,01,269	38,25,198
	KII	3,78,067	48,91,686
K Sera NSE	IFCF	1,000	13,050
Maars BSE	IFCF	7,00,303	23,85,815
	Total	**1,07,30,732**	**4,99,46,473**

129. It is observed that Sarfaraz is the proprietor of SV Enterprise viz. Noticee 17. It is observed from the records that he was called for personal hearing before Whole Time Member – SEBI vide letter dated November 16, 2011. The personal hearing was scheduled on November 29, 2011. However, Sarfaraz did not reply to aforesaid letter of SEBI and failed to appear for personal hearing

before Whole Time Member, SEBI on November 29, 2011. Thereafter, Summons was issued to Noticee 17 vide letter dated January 12, 2012 for submission of the following information in connection with its dealings in the shares of Issuer Companies - bank statements from/to which the funds for the purchase/sales has been paid/received while trading in the shares of the Issuer Companies, source of funds for the transactions, use of funds generated out of transactions, details of persons responsible for taking decisions regarding the transactions etc. However, Noticee 17 did not reply to aforesaid summons of SEBI. On May 28, 2012, Noticee 17 appeared before the Investigating Authority and requested for some more time to submit required information. However, Noticee 17 failed to provide any information to SEBI.

130. In view of this, another summons was issued to Noticee 17 vide letter dated August 12, 2013 for submission of information. Noticee 17, vide letter dated August 18, 2013, replied to aforesaid summons of SEBI and requested for additional thirty days' time for submission of information sought in the said summons. However, Noticee 17 again failed to provide any information to SEBI. In view of this, I note that Noticee 17 had deliberately not cooperated with SEBI in the investigation. However, from the data available with SEBI regarding trading of Noticee 17 as described in above paragraphs, I note that Noticee 17 had acted in connivance with AP related entities for carrying out manipulation in the shares of Issuer Companies. I note that the aforesaid summons were shared with the Noticee 17 during the present proceedings, however Noticee 17 has not refuted the facts of non-compliance with summons issued by SEBI. With regard to the above, reliance is placed on the Order dated July 14, 2016, of the Hon'ble SAT in Appeal no. 22 of 2016 (*Concord Realty Private Limited vs. SEBI*), wherein it held: "*Once it is established that there is failure to furnish requisite particulars called for and there is failure to appear before the concerned officer of SEBI as per the summons issued to the appellant, it obviously means that there is violation of section 11C(3) and section 11C(5) of SEBI Act..*."

131. Therefore, I hold that the Noticee 17 has failed to furnish the above sought information and thereby hampered the investigation of SEBI; thereby, has violated the provision of Section 11C(3) of SEBI Act. However, I note that the power to try an entity and punish accordingly, if required, under Section 11C(6) lies with some other forum and the same is outside the purview of an Adjudication Proceedings. Therefore, I hold that the provisions of Section 11C(6) of SEBI Act will not be applicable in the present adjudication proceedings.

Violation of Section 11C(3) read with Section 11C(6) of SEBI Act by Noticee 4 (IFCF)

132. It is alleged that the Noticee 4 (IFCF), by its failure to submit the complete and correct information regarding the GDR issues of the issuer companies has violated the provisions of Section 11C(3) read with 11C(6) of SEBI Act. In this regard, it is observed that there are two allegations against the Noticee viz.:

- Wrong submission of information
- Non-submission of information

133. I note that Section 11C(3) of SEBI Act requires any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before the Investigating Authority or any person authorised by it in this behalf which the investigating authority considers relevant or necessary for the purposes of its investigation.

134. In this regard, I note that IFCF was a sub-account of Cardinal Capital Partners (CCP) which was registered with SEBI as a Foreign Institutional Investor. SEBI had issued two different summons to CCP c/o IFCF on November 28, 2011 and March 21, 2012, wherein it was advised to submit certain information/details listed therein.

135. In this regard, it is alleged that the Noticee 4, in its replies to the Summons, submitted certain wrong information. Therefore, adjudication proceedings under Section 15A(a) has been initiated against the Noticee 4. In this regard, without going into the merits of the allegation, I note that Hon'ble Supreme Court

of India, in its judgment dated March 07, 2017 in the matter of Bonanza Biotech Ltd. vs. SEBI had made the following observation:

"Learned counsel appearing for the appellant also relied on para 2.4 of the report submitted by the expert group constituted by the Securities and Exchange Board of India under the Chairmanship of Mr. Justice M. H. Kania, former Chief Justice of India which reads as follows:

"*The group noted that as per the provisions of Chapter VIA of SEBI Act, SEBI can impose monetary penalty for the failure to furnish information or delay in furnishing information. However, there is no provision for monetary penalty for giving false information. The Group felt that during the course of investigation under the provisions of SEBI Act, SEBI may come across situations, where intermediaries/persons associated with securities market furnish false information. In order to tackle the said situation, SEBI should have specific power under the SEBI Act, which would empower SEBI to initiate adjudication proceedings for furnishing false information…….*

Having regard to the submissions made, we are of the view that that the order passed by the Tribunal is not sustainable and hence the same is set aside."

In view of the above observations of Hon'ble Supreme Court of India, I hold that the proceedings against the Noticee 4 for submission of wrong information cannot be continued under Section 15A(a) of SEBI Act. Therefore, I dispose of the SCN against the Noticee 4 limited to the allegation of furnishing of wrong information.

136. Further, vide Summons dated November 28, 2011 and March 21, 2012, SEBI inter alia advised IFCF to furnish details of beneficial owners of all its investors. In this regard, it is also alleged that IFCF has failed to submit the information regarding its beneficial owners to SEBI despite repeated issuance of summons.

137. I note that, upon failure of the Noticee 4 to provide the abovementioned information, SEBI obtained the said information from Financial Market Authority, Austria which in turn acquired this information from Euram Bank. I also note from the said information that Vintage was having 63.11% investment

in Class A shares of IFCF through Euram Bank. I also note from the IR that one Atique Al Aqadi Trading Company (**Atique**) was also holding 29.06% of Class A Shares of IFCF. Further, I incidentally note from the IR that Atique was also one of the major shareholders of Panasia along with AP prior to AP acquiring Atique's stake in Panasia. I note that there is no denial of the aforesaid facts by the Noticee.

138. I am of the view that this information was not submitted by the Noticee 4 deliberately as this clearly shows control and ownership of AP and his connected entities in IFCF. Therefore, the motive behind such deliberate non-submission was to hamper the investigation of SEBI so as to break the chain of connection in the whole scheme. The said failure to furnish correct information was intended to stall and prevent SEBI from unearthing crucial information inter alia including the modus operandi adopted by AP in the whole scheme of issuance of GDRs.

139. Therefore, I hold that the Noticee 4 has failed to furnish the above sought information and thereby hampered the investigation of SEBI; thereby, has violated the provision of Section 11C(3) of SEBI Act. However, I note that the power to try an entity and punish accordingly, if required, under Section 11C(6) lies with some other forum and the same is outside the purview of an Adjudication Proceedings. Therefore, I hold that the provisions of Section 11C(6) of SEBI Act will not be applicable in the present adjudication proceedings.

140. I further note that the IR has alleged Noticee 1 and 2 to have not complied with the summons issued by SEBI and hence were alleged to have violated Section 11C(3) read with 11C(6) of SEBI Act, however, in the absence of adequate evidence it is not possible to proceed with the same.

e. If yes, whether the Noticees are liable for penalty under Section 15HA and 15A(a) of SEBI Act, as applicable?

141. As established in the pre-paragraphs, AP and Pan Asia (i.e. Noticee 1 and 2) have violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulation 3(c), 3(d), 4(1), 4(2)(c), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations. Vintage and Ashok (i.e. Noticee 3 and 5) have violated the provisions of Section 12A(a), (b) and (c) of SEBI Act read with Regulation 3(c), 3(d), 4(2)(a), (c), (e), (f) and (k) of PFUTP Regulations. IFCF (i.e. Noticee 4) has violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulation 3(c), 3(d), 4(1), 4(2)(c), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations, and the provisions of Section 11C(3) of SEBI Act. CP Group entities (i.e. Noticee 5 to 17) have violated the provisions of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3 (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations. Further SV Enterprises (i.e. Noticee 17) has violated the provisions of Section 11C(3) of SEBI Act.

142. **Noticee 4(IFCF)** : I note that Financial Services Commission, Mauritius (**FSC, Mauritius**) had issued a communique dated June 20, 2017 by way of which it was informed to general public that FSC, Mauritius, vide its Public Notice dated 14 September 2015, informed that it had issued directions to the Noticee 4 to initiate the necessary actions for the orderly dissolution of its business and the discharge of its liabilities in accordance with the Insolvency Act 2009 of Mauritius. Vide the aforesaid communique dated June 20, 2017, FSC, Mauritius further informed the public that Messrs. Mohammed Reaz Emambocus and Deokumar Gangoosirdar had been appointed as Joint Liquidators of the Noticee on May 09, 2017 following a court order. In this regard, I deem it pertinent to mention the provision of Section 105(2) of the said Act which reads as under:

> ***105. Proceedings against company***
>
> *(1) At any time after the presentation of a petition under section 102 and before a winding up order is made, the company, a creditor or a contributory may, where any action or proceedings against the company is pending, apply to the Court to stay or restrain further proceedings in the action or proceedings, and the Court may stay or restrain the proceedings accordingly on such terms as it thinks appropriate.*

(2) Where a winding up order has been made or a provisional liquidator has been appointed, no action or proceedings shall be proceeded with or commenced against the company except –

(a) by leave of the Court; and

(b) on such terms as the Court thinks appropriate.

143. According to Black's Law Dictionary, Sixth Edition, the term 'Proceedings' means, "any action, hearing, investigation, inquest or inquiry (whether conducted by a court, administrative agency, hearing officer, arbitrator, legislative body, or any other person authorized by law) in which pursuant to law, testimony can be compelled to be given. Therefore, prima facie, adjudication proceedings will fall under the term proceedings as used in Section 105 (2) of (Mauritius) Insolvency Act, 2009. I note that there is no material on record to suggest that the leave of the Court has been taken in the matter in terms of Section 105 of Insolvency Act, 2009. In view of the above, I note that the violations against Noticee 4 have been established, however since Noticee 4 is under liquidation, in the facts and circumstances of the instant case, I conclude that the proceedings qua the Noticee 4 initiated vide SCN dated September 06, 2019 is disposed of without imposition of penalty

144. **Noticee 10 (Indra) and Noticee 11 (Delight)** : I note from the MCA website that the status of the Noticee 10 viz. Indravarun Trade Impex Pvt Ltd (CIN: U51900MH2010PTC203100; Address: Office No. 42 Pancharatna, Opp Railway Station, Bhayandar East, Thane 401105), and Noticee 11 viz. Delight Financial Advisor Private Limited (CIN: U67120MH2007PTC169245; Address: A/301 Sai Mahal RNP Park, Bhayandar East, Thane 401105) has been shown as "Strike Off". Further, on perusal of the Form No. STK-7, Notice of Striking Off and Dissolution No. ROC-MUM/Section 248/2017/STK-7/2 dated July 10, 2017, as available in the MCA website, issued by the Registrar of Companies, Mumbai, Maharashtra, I note that it has been stated in the said notice that pursuant to Section 248(5) of the Companies Act, 2013, Noticee 10 has been struck off the register of companies, and stands "dissolved" since June 23, 2017. Further, on perusal of the Form No. STK-7, Notice of Striking Off and Dissolution No. ROC-MUM/Section 248/2017/STK-7/1 dated July 10, 2017, as

available in the MCA website, issued by the Registrar of Companies, Mumbai, Maharashtra, I note that it has been stated in the said notice that pursuant to Section 248(5) of the Companies Act, 2013, Noticee 11 has been struck off the register of companies, and stands "dissolved" since June 16, 2017. Since the above Noticees have been "dissolved", in the facts and circumstances of the instant case, I conclude that the proceedings qua the Noticee 10 and 11 initiated vide SCN dated September 06, 2019 is disposed of without imposition of penalty.

145. Therefore, Noticee 1 to 3, 5 to 9, and 12 to 17 are liable for a penalty under Section 15HA of SEBI Act. The text of the said provision of law is being reproduced below:

<u>SEBI Act</u>

Penalty for fraudulent and unfair trade practices.

15HA.*If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty 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.*

146. It has further been established that Noticee 4 and 17 are liable for penalty under Section 15A(a) of SEBI Act. The text of the said provision of law is being reproduced below:

<u>SEBI Act</u>

Penalty for failure to furnish information, return, etc.

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

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

147. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the 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.

148. With regard to the above factors, it may be noted that the investigation report has not quantified the profit made or the loss caused to general investors on account of the violations committed by the Noticees. However, I note that the fraudulent scheme relating to the GDR issues was repeatedly implemented in the GDR issues of six Issuer Companies namely, Asahi, Avon, CAT, IKF, K Sera and Maars adopting the same *modus operandi*. I specifically and distinctly note that AP had roles, directly or indirectly through his arms, in all segments of the game in all the GDR issues of all the above Issuer Companies.

149. Further, in light of order dated August 02, 2019 of Hon’ble SAT in the matter of P G Electroplast vs SEBI, I also note that, vide Order dated June 20, 2013, Hon’ble Whole Time Member of SEBI has debarred Noticee 1 and 2 from rendering services in connection with instruments that are defined as securities (as in section 2(h) of SCRA, 1956) in the Indian market or in any way dealing with them, directly or indirectly, and also from accessing the capital market directly or indirectly, for a period of ten years. Further, I note that vide Order dated September 19, 2014, Hon’ble Whole Time Member of SEBI has prohibited Noticee 5 to 9 and 12 to 17 from accessing the capital market directly or indirectly, and dealing in securities or instruments with Indian securities as underlying, in any manner whatsoever, for a period of five years. Further, I also note that vide Order dated September 05, 2017, Hon’ble Whole Time Member of SEBI has prohibited Noticee 3 and 5 from accessing the capital market directly or indirectly, and dealing in securities or instruments with Indian securities as underlying, in any manner whatsoever, for a period of ten years.

ORDER

150. After taking into consideration the facts and circumstances of the case, material/facts on record and also the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of Adjudication Rules, hereby impose the following penalty on the Noticees under Section 15A(a) & 15HA of the SEBI Act for their violation of the provisions of SEBI Act and PFUTP Regulations, as discussed in this order:

Noticeee No.	Noticee Name	Provision	Penalty
1	Arun Panchariya	Section 15HA of SEBI Act	Rs. 25,00,00,000/- (Rupees Twenty Five Crore Only)
2	Pan Asia Advisors Ltd.	Section 15HA of SEBI Act	Rs. 3,00,00,000/- (Rupees Three Crore Only)
3	The Alta Vista (Earlier Vintage FZE)	Section 15HA of SEBI Act	Rs. 3,00,00,000/- (Rupees Three Crore Only)
5	Ashok Panchariya	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
6	Alka India Ltd.	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
7	Basmati Securities Pvt. Ltd.	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
8	Oudh Finance & Investment Pvt. Ltd.	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
9	Madanlal Girdharilal Bugaliya	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
12	Vinod Amrutlaal Naai	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)

13	Newgen International Pvt. Ltd	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
14	Excel Paints Private Ltd	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
15	Cherry Cosmetics Pvt. Ltd.	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
16	Edelweiss Estates Pvt. Ltd.	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
17	SV Enterprises (Prop: Sarfaraz Khan Pathan)	Section 15HA of SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
		Section 15A(a) of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)

In respect of Noticee 4, 10 and 11 no penalty is imposed in view of the reasons as discussed in the preceding paragraphs.

20. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the above Noticees. 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 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. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in

21. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department–DRA-1), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.". The Noticee shall also provide the following details while forwarding DD / payment information:

a) Name and PAN of the Noticee
b) Name of the case / matter
c) Purpose of Payment – Payment of penalty under AO proceedings
d) Bank Name and Account Number
e) Transaction Number

7. 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 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

8. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticees and also to the Securities and Exchange Board of India.

Place: Mumbai
Date: June 08, 2021

K SARAVANAN
CHIEF GENERAL MANAGER
AND ADJUDICATING OFFICER