

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11 AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 - IN THE MATTER OF FIRST FINANCIAL SERVICES LIMITED.

In respect of:

Sl. No.	Noticee/PAN	PAN	Representatives
1	East India Securities Limited (hereinafter referred to as "EISL")	AABCE2412N	1. Mr. Paras Parekh, Advocate 2. Mr. Dhaval Kothari, Advocate 3. Mr. Vivek Agarwal, Director 4. Mr. Sanjeev Mohta, Chief Operating Officer
2	Value & Worth	AFFV5756K	Mr. Gaurav Singh, Advocate
3	Mr. Santosh Kumar Shah (hereinafter referred to as "Santosh Shah")	AACCM0579K	Not Attended
4	Shree Sudharshan Castings Private Ltd. (hereinafter referred to as "Shree Sudharshan")	AABCM6864G	Not Attended
5	Madsan Agencies Private Limited (hereinafter referred to as "Madsan")	AADCS9429B	Not Attended
6	Motorex Finance Private Limited (hereinafter referred to as "Motorex")	AACCM1042R	Not Attended
7	Midnight Agencies Private Limited (hereinafter referred to as "Midnight Agencies")	ALGPS0859J	Not Attended
	The above entities are hereinafter collectively referred to as "the entities of <i>First Financial Group</i> " or "the Noticees" or individually by their respective names.		

1. Securities and Exchange Board of India (SEBI), vide an *ad interim ex-parte* order dated December 19, 2014 (hereinafter referred to as "*interim order*") restrained First Financial Services Limited (hereinafter referred to as "*First Financial*" or "the company") and 151 other entities including the Noticees herein from accessing the securities market and further prohibited them from buying, selling or dealing in securities in any manner whatsoever, till further directions. The *interim order* was passed taking into account facts and circumstances more particularly described therein and summarised *inter alia* as under:-

(a) Trading in the shares of *First Financial* was suspended by BSE from June, 2000 for non-compliance of the Equity Listing Agreement and was revoked in July 2011.

(b) Thereafter, on December 08, 2011, *First Financial* had made a preferential allotment of

54,50,000 equity shares at the price of ₹20/- per share (hereinafter referred to as the "1st preferential allotment").

- (c) On April 28, 2012, it made another preferential allotment of 24,50,000 equity shares at the price of ₹20/- per share (hereinafter referred to as the "2nd preferential allotment"). Thus, in total, *First Financial* allotted 77,00,000 equity shares to 83 persons/entities.
- (d) In spite of poor and meagre fundamentals, tarnished track record of long period of suspension of trading and below par market price, *First Financial* was able to garner funds aggregating to ₹15,40,00,000/- from the *preferential allottees* at a premium of ₹10/- per share within a short span of five months of revocation of suspension. *First Financial* even did not exist at the registered and corporate office addresses available as per BSE's record.
- (e) The equity shares allotted on preferential basis to aforesaid allottees were locked-in for a period of one year, i.e., up to December 07, 2012 and April 27, 2013 respectively in the instant case in terms of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009. Thus, these shares held by the said 83 allottees pursuant to preferential allotment were not tradable till December 07, 2012 and April 28, 2013 respectively.
- (f) During the period from May 15, 2012 to February 08, 2013 (Patch-1), the price of the scrip rose from ₹5/- to ₹263/-, i.e., an increase of 5,160% (53 times) with an average volume of 23 shares per day and total volume of 2653 shares in 115 trading days with an average of 1 trade per day.
- (g) Thus, the price in the scrip had increased during the lock-in period on the shares held by the aforesaid allottees. Such sharp rise in price of the scrip was not supported by any acceptable market factor such as fundamentals, trading history, corporate announcements, etc. as discussed in the *interim order* but was on account of non-genuine and manipulative trading in the scrip by certain entities.
- (h) Thereafter, from February 11, 2013 to December 12, 2013 (Patch-2), the scrip was traded with an average volume of 41,252 shares per day and total volume of 86,21,776 shares in 209 trading days. As compared to Patch-1, in Patch-2 the average volume had increased by 179256% (1793 times) and average price increased by 193%. During this period, the *preferential allottees* sold their shares and a group of entities named as *First Financial Group* in the *interim order*, acting as buyers provided exit to the *preferential allottees* thereby created artificial volume.
- (i) Most of the trades were taking place between the *preferential allottees* and the entities of

First Financial Group as described in the *interim order*. During this period, the *preferential allottees* were selling and in the process gaining a huge profits/gains.

- (j) On December 13, 2013, the equity shares of *First Financial* were split in the ratio of 1:10. Consequent to these actions, paid up share capital of *First Financial* increased to ₹80,74,76,000 comprising 8,07,47,600 shares (i.e. an increase of 7,70,00,000 shares) as on quarter ending December 31, 2013.
- (k) Pursuant to the stock split, price of the scrip opened at ₹17.7 on December 13, 2013 and fell to as low as ₹7 as on March 31, 2014. During this period, the scrip was traded with an average volume of 8,02,667 shares per day and total volume of 6,01,90,286 shares in 75 trading days.
- (l) The funds received as proceeds of preferential allotment were utilised for purposes other than those disclosed and were transferred to various entities on the same day or next day and was never retained in the company for expansion of its business or execute its future plans as envisaged in the special resolution passed under section 81(1A) of the Companies Act, 1956.
- (m) It was *inter alia* noted that:-
 - (i) Even when substantial number of shares, i.e., 77 lakh shares were locked-in and non transferable/tradable, price of the scrip increased substantially to the extent of 5160% with a very small chunk of volume/purchases by certain entities;
 - (ii) After the expiry of the lock-in period (i.e., in Patch 2), the average volume increased astronomically by 1,79,256% (1793 times) and average price increased by 193% on account of trading amongst the *First Financial Group* and the *preferential allottees*.
- (n) Following *modus operandi* was observed in the matter:
 - (i) Firstly, shares were allotted on preferential basis to 83 entities by *First Financial*. A company which was dormant or suspended for 11 years with nil activity was able to garner funds amounting to ₹15.40 crore (about 42 times of its share capital) by way of preferential allotment.
 - (ii) During the lock-in period, the price of the scrip increased from ₹5/- to ₹300/- during the examination period.
 - (iii) After the expiry of lock-in, the *preferential allottees* sold the shares to the entities of *First Financial Group*, thereby raking in huge profits.
- (o) It was, thus, *prima facie* observed that the *preferential allottees* acting in concert with the entities of the *First Financial Group* misused the stock exchange system to generate fictitious long term capital gains (LTCG). In the process, the entities of the *First Financial*

Group and the *preferential allottees* artificially increased the volume and price of the scrip and misused securities market system for making illegal gains and to convert ill-gotten gains into genuine one.

2. The allegation against the Noticees as mentioned in the *interim order* is that acts and omissions of the Noticees forming part of the *First Financial Group* are ‘*fraudulent*’ as defined under regulation 2(1)(c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (‘PFUTP Regulations’) and are in contravention of the provisions of regulations 3(a), (b), (c) and (d) and 4(1), 4(2)(a), (b), (e) and (g) thereof and section 12A(a), (b) and (c) of the Securities and Exchange Board of India Act, 1992. This allegation against the Noticees is made on the basis of following:
 - (a) The Noticees acted as buyers to the *preferential allottees* thereby creating artificial demand for the supply of shares from *preferential allottees*.
 - (b) The Noticees are connected among themselves and provided huge profitable exit to the *preferential allottees* in such a scrip that has hardly any credential in the market.
 - (c) In the process, the Noticees acting in concert with the *preferential allottees* misused the stock exchange system to provide fictitious long term capital gain (LTCG) benefit to the *preferential allottees* so as to convert unaccounted income into accounted one with no payment of taxes as LTCG is tax exempt.
 - (d) As a result, average trading volume in the scrip of *First Financial* increased astronomically to the extent of 179256% (approximately 1793 times) and average price increased by 197% in Patch-2 only after the entities of the *First Financial Group* and the *preferential allottees* started trading in the scrip.
 - (e) Securities market system was used to artificially increase volume and price of the scrip for making illegal gains and to convert ill-gotten gains into genuine one.
 - (f) Thus, the preferential allotment was used as a tool for implementation of the dubious plan, device and artifice of the entities of the *First Financial Group* and the *preferential allottees*.
3. Pursuant to the *interim order*, EISL and Value & Worth, filed their replies and availed opportunities of personal hearings. The remaining Noticees, namely, Madsan, Midnight Agencies, Shree Sudharshan, Motorex and Mr. Santosh Shah filed their replies in the matter and sought exemption from personal hearing.
4. While the proceedings pursuant to the *interim order* were underway EISL made requests to SEBI to permit them to deal in government securities (G-Sec) as well as to deal in debt/fixed income securities. After examining their requests, vide letter dated January 01, 2016, SEBI permitted EISL to deal in the G-Sec. SEBI also permitted EISL to deal in debt/fixed income securities on behalf of its clients subject to the following:

- (i) An undertaking in this regard is given to stock exchange/depository.
 - (ii) A new demat account tagged as client margin account is opened for the purpose of operating the debt/fixed income securities business.
 - (iii) Dealing in debt/fixed income securities shall be carried out under the supervision of stock exchange/depository (including appropriate disclosure, reporting, etc.)
5. Additionally, the Noticees represented to SEBI that exposing their portfolio of securities to any adverse movement in the market may affect their financial as well as operational stability in the market that may cause unnecessary hardship to them. Further, their businesses have been suffering for lack of working capital and that they are unable to utilize the proceeds of genuine investments made by them through legal means for business purposes or their urgent personal and professional needs. After considering their requests, SEBI vide separate letters dated January 15, 2016 permitted the Noticees as under:
- (i) subscribe to units of the mutual funds including through SIP and redeem the units of the mutual funds so subscribed;
 - (ii) avail the benefits of corporate actions like rights issue, bonus issue, stock split, dividend, etc.
 - (iii) sell the securities lying in their demat accounts as on the date of the *interim order*, other than the shares of the companies which are suspended from trading by the concerned stock exchange, in orderly manner under the supervision of the stock exchanges so as not to disturb the market equilibrium and deposit the sale proceeds in a interest bearing escrow account with a nationalised bank.
 - (iv) utilise and deal with the sale proceeds, lying in the aforesaid escrow account under the supervision of the concerned stock exchange, as provided hereunder:-
 - (a) the Noticees shall kept the sale proceeds in a fixed deposit with a nationalised bank or utilise them for subscription to units of the mutual funds which shall always be held in the demat form and if such units are redeemed the proceeds thereof shall be credited to the aforesaid escrow account or shall be utilised for subscription to the units of mutual funds;
 - (b) the Noticees may utilise upto 25% of the value of their portfolio as on the date of the *interim order* for their business purposes and/or for meeting other exigencies.
(Explanation: For the purposes of determining the portfolio value of the Noticees, the value of portfolio of securities lying in the demat account/s (individual and joint both) on the date of the *interim order* after excluding the value of shares that have been suspended from trading as on the date of the said communication will be considered. For NBFCs and stock brokers the value of portfolio will exclude the value of clients' securities lying in their demat accounts.)

- (v) The aforementioned window for sale of shares lying in respective portfolio shall be withdrawn if the Noticees execute any trade beyond those mentioned in clause (iii) above. The aforesaid reliefs shall be subject to the supervision of the stock exchanges and depositories.
6. In case of Value & Worth, Madsan, Midnight Agencies and Shree Sudharshan, the letter communicating the interim reliefs could not be delivered at their registered address and were returned with the remarks 'no such company' or 'company not located'. At the request of these Noticees, the scanned copy of the said letters were sent to them through e-mail.
7. Having dealt with the requests of the Noticees for interim relief, I now proceed to conclude the proceedings in respect of the Noticees. The replies and submissions of the Noticees are *inter alia* summarised as under:

I. EISL:

- (1) The *interim order* has been passed without giving any show cause notice and opportunity to EISL of being heard which is against the principles of natural justice. SEBI had no basis to issue such directions on an *ex-parte* basis and such directions do not aid or assist the ongoing investigations is apparent from the contents of the correspondence SEBI has exchanged with EISL (December 13, 2014 to December 15, 2014) in relation to the referred transaction merely 6 days before the passing of the *interim order*.
- (2) The *interim order* is devoid of any explanation whatsoever as to how EISL was connected to Madsan and its role in the alleged fraudulent transactions.
- (3) In para 15 of the *interim order*, it is mentioned that "*Madsan Agencies is connected to East India Securities and others through off-market*". This is factually incorrect as EISL has not done any off-market transaction in scrip of *First Financial* with any entity including Madsan for the following reasons:
 - (a) EISL is a depository participant registered with NSDL and Madsan has a depository account with EISL bearing client demat ID No. "10451576".
 - (b) On January 16, 2014, Madsan had transferred 3,50,000 shares of *First Financial* by way of off-market transaction to Mr. Santosh Shah having demat account with EISL bearing no. "10141755". This fact is also borne by the transaction statement and NSDL's confirmation letter in this regard.
 - (c) It has been erroneously concluded that EISL was the recipient of the shares transferred by Madsan. EISL's name merely appears in the transaction statement in its capacity as the depository participant in the said transfer of shares.
- (4) EISL has no relationship whatsoever with *First Financial*, its promoters, associates,

office-bearers, key-persons, *preferential allottees* or the persons who earned capital gains or any other entity mentioned in the *interim order*. (An undertaking-cum-indemnity bond in this regard has been enclosed by EISL)

- (5) There is nothing in the *interim order* to allege or demonstrate any wrong-doing on part of EISL. The *interim order* does not make out any case, *prima facie* or otherwise, for issuance and continuation of the directions against EISL.
- (6) Due to the restraint, EISL would not be able to repay loans which come up for maturity in due course of business. The restraint has led to complete drying up of its liquidity and it is having grave difficulties in submitting margin money to the Clearing Corporations, necessary for its role as a SEBI registered Clearing Member on all the segments of the stock exchanges.
- (7) EISL neither owns nor holds in its demat account any shares of *First Financial*. No harm or prejudice that would be occasioned to any investor or the securities market should EISL be allowed to continue to deal in the securities market.
- (8) Considering the above, the restraints imposed on EISL vide the *interim order* ought to be revoked without any further adverse observations or directions.

II. Value & Worth:

- (1) The *interim order* has been passed without giving any show cause notice and opportunity to Value & Worth of being heard which is against the principles of natural justice.
- (2) Value & worth, being a stock broker at NSE - derivatives and capital market segment, have traded in the scrip of *First Financial* in its proprietary capacity during normal course of business which is not even 0.001% of overall turnover of Value & Worth.
- (3) The *interim order* does not set out or allege as to how Value & Worth is connected to *First Financial* and role in the alleged fraudulent transactions. Table III in para 15 of the *interim order* merely mentions the name Value & Worth in the list of connected entities at Sl. no. - 53 of the *interim order* without giving any basis of connection mentioned with respect to its name.
- (4) Apart from the above, there is no other reference to Value & Worth in the entire *interim order*. There is nothing in the *interim order* to demonstrate the reason for passing the directions against Value & Worth.
- (5) Value & Worth has no relationship whatsoever with *First Financial*, its promoters, directors, associates, office-bearers, key-persons and neither does it have any relationship with any of the *preferential allottees* or the persons who earned capital gains or the specified entities who were actively involved in the manipulation.
- (6) There is nothing in the *interim order* to allege or demonstrate that allowing us to trade in the securities market is in any manner detrimental to the interest of investors. The restraints imposed on Value & Worth vide the *interim order* ought to be revoked.

III. Madsan, Midnight Agencies, Shree Sudharshan, Motorex and Mr. Santosh Shah:

- (1) The *interim order* has been passed without giving them any opportunity to explain their position and thus the said order is against the principles of equity and natural justice.
- (2) They are not part of any group called '*First Financial Group*' nor misused the securities market system.
- (3) Madsan, Midnight Agencies, Motorex and Shree Sudarshan are group/associate companies and also connected to Mr. Santosh Shah.
- (4) They are neither connected to *First Financial* or its promoter or director nor any other entities mentioned in the *interim order*.
- (5) The email id (vinayshah0004@yahoo.co.in) mentioned in the *interim order* as a basis of connection in Table-III is of Mr. Vinay Shah who is maintaining the books of accounts and this email id was given to the stock brokers, depository participants, etc. and at other places in order to receive all the emails and keep the books of accounts updated and other compliances to be carried out regularly.
- (6) They dealt in the shares of *First Financial* on the anonymous and electronic trading platform of the stock exchange approved by SEBI wherein the counter party is not known. It did not provide any exit to any preferential allottee as alleged in the *interim order*.
- (7) The volume traded by them in the shares of *First Financial* is a miniscule of total volume traded in Patch-2 which is as follows:

Name	Buy quantity	Sell quantity
Santosh Shah	129500	2135000
Shree Sudharshan	51000	44500
Madsan	35000	-
Motorex	22000	-
Midnight Agencies	20000	-

- (8) The shares bought by Madsan, Motorex and Midnight Agencies through stock exchange were later on sold to Mr. Santosh Shah in the off market.
- (9) Out of 51000 shares bought by Shree Shudarshan, 44500 shares were sold through the stock exchange platform whereas 6500 shares were sold to Gagan dealers off-market deals.
- (10) They invested money in the shares of *First Financial* in the normal course of investment activity and did not create any artificial volume and deny being a part of the alleged "*First Financial Group*". Thus there is no fraudulent act nor violated any provisions of the PFUTP Regulations.
- (11) The investment activity in share market is based on newspaper reports, media reports, company details and their performance information gathered from market sources, etc.
- (12) They are neither part of any dubious plan, device and artifice to generate fictitious Long Term capital gains (LTCG) nor hand in glove with any person/ entity.

- (13) Shree Sudarshan further submitted that apart from Mr. Santosh Shah, Madsan, Motorex, EISL, Value & Worth and Midnight Agencies, it is not connected/related/associated to any other entity and hence cannot by any stretch of imagination be considered as connected/related to *First Financial* and/or its promoters/directors.
 - (14) Madsan submitted that EISL is its depository participant and therefore they share a purely professional relationship.
 - (15) These Noticees may be permitted to deal in securities, to use their respective demat accounts and to redeem/sell their mutual funds units and other securities.
8. I note that in the instant case, requests of the Noticees seeking certain reliefs have already been considered by SEBI and appropriate interim reliefs, as mentioned above, have already been granted to the Noticees. Now at this stage, in view of submissions made by the Noticees and in the facts and circumstances so far brought on record, the limited issue to be considered is whether the direction in the *interim order qua* the Noticees need to be continued, revoked or modified in any manner.
9. I have carefully considered the allegations and the submissions of the Noticees and have perused the documents available on record. Before dealing with submissions of the Noticees on merit it is deemed necessary to deal with the preliminary contentions raised by them. The first such contention is that the *interim order* has been passed in complete disregard of the principles of natural justice in as much as no opportunity of hearing was provided to the Noticees. In this regard, I note that the *interim order* has been passed on the basis of *prima facie* findings observed during the preliminary examination/inquiry undertaken by SEBI. The facts and circumstances necessitating issuance of directions by the *interim order* have been examined and dealt with in the said *interim order*. The *interim order* has also been issued in the nature of show cause notice affording the Noticees a post decisional opportunity. This position has been upheld in various judgements of the Hon'ble High Courts. Relevant portions of few such judgments are referred to hereinafter:-
- (a) Hon'ble Bombay High Court in *Anand Rathie & Others Vs. SEBI* (2002 (2) BomCR 403 upheld the procedure of post decisional hearing in such matters and observed as under:
- "31. It is thus clearly seen that pre decisional natural justice is not always necessary when ad-interim orders are made pending investigation or enquiry, unless so provided by the statute and rules of natural justice would be satisfied if the affected party is given post decisional hearing. It is not that natural justice is not attracted when the orders of suspension or like orders of interim nature are made. The distinction is that it is not always necessary to grant prior opportunity of hearing when ad-interim orders are made and principles of natural justice will be satisfied if post decisional hearing is given if demanded.
32. Thus, it is a settled position that while *ex parte* interim orders may always be made without a pre decisional opportunity or without the order itself providing for a post decisional opportunity, the

principles of natural justice which are never excluded will be satisfied if a post decisional opportunity is given, if demanded."

- (b) Hon'ble High Court of Judicature for Rajasthan at Jaipur in the matter *M/s. Avon Realcon Pvt. Ltd. & Ors Vs. Union of India & Ors* (D.B. Civil WP No. 5135/2010 Raj HC) has held that:

"...Perusal of the provisions of Sections 11(4) & 11(B) shows that the Board is given powers to take few measures either pending investigation or enquiry or on its completion. The Second Proviso to Section 11, however, makes it clear that either before or after passing of the orders, intermediaries or persons concerned would be given opportunity of hearing. In the light of aforesaid, it cannot be said that there is absolute elimination of the principles of natural justice. Even if, the facts of this case are looked into, after passing the impugned order, petitioners were called upon to submit their objections within a period of 21 days. This is to provide opportunity of hearing to the petitioners before final decision is taken. Hence, in this case itself absolute elimination of principles of natural justice does not exist. The fact, however, remains as to whether post-decisional hearing can be a substitute for pre-decisional hearing. It is a settled law that unless a statutory provision either specifically or by necessary implication excludes the application of principles of natural justice, the requirement of giving reasonable opportunity exists before an order is made. The case herein is that by statutory provision, principles of natural justice are adhered to after orders are passed. This is to achieve the object of SEBI Act. Interim orders are passed by the Court, Tribunal and Quasi Judicial Authority in given facts and circumstances of the case showing urgency or emergent situation. This cannot be said to be elimination of the principles of natural justice or if ex-parte orders are passed, then to say that objections thereupon would amount to post-decisional hearing. Second Proviso to Section 11 of the SEBI Act provides adequate safeguards for adhering to the principles of natural justice, which otherwise is a case herein also..."

10. I, therefore, find that the interim order has been passed in accordance with law and established procedure. In this case, as discussed hereinabove, the purpose of the *interim order* is to achieve the objectives of investor protection and safeguarding the market integrity by enforcing the provisions of the SEBI Act, 1992.
11. The Noticees have raised another preliminary contention that no emergency situation existed warranting such an *ex parte ad-interim* order. It may be noted that the time taken to arrive at such decision/action is dependent on the complexity of the matter, its scale and *modus operandi* involved and other attendant circumstances. The power under section 11 and 11B of the SEBI Act, 1992 can be invoked at any stage, i.e., either during pendency or on completion of enquiry/inquiry or investigation. I, therefore, do not find any merit in the contention of the Noticees in this regard.
12. Having dealt with the preliminary contentions of the Noticees, I now proceed to deal with

submissions of the Noticees on merit. The Noticees have contended that there is nothing in the *interim order* to allege or demonstrate any wrong-doing on their part. In this regard, I would like to reiterate para 14 of the *interim order* which reads as under:

“On analysis of trading activity during Patch 2, certain entities related/connected to First Financial were found to be the net buyers to the preferential allottees and thereby created artificial demand for the supply of shares from preferential allottees. Their inter-relationship/connection were noted from the Know Your Client (KYC) details, their bank statements, off-market transactions amongst them and the information available on the Ministry of Corporate Affairs ("MCA") website. Considering the large number of these related/connected entities, it was deemed necessary to shortlist those who were closely connected to First Financial and/or were instrumental in the price rise and/or contributed in volume of First Financial during Patch 2 of the Examination Period”.

13. The Noticees forming part of the *First Financial Group* have contended that they have traded on the anonymous screen based system of the stock exchanges and as such their trades cannot be regarded as having manipulative/fraudulent intent. They have further contended that they have not provided exit to the *preferential allottees*. In this context, I note that in the screen based trading, the manipulative or fraudulent intent can be inferred from various factors such as conduct of the party, pattern of transactions, etc. In this context, vide its order dated July 14, 2006, in *Ketan Parekh vs. SEBI* (Appeal no. 2/2004), the Hon’ble SAT has observed that:

"The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, ..., the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."

14. In the instant case, the Noticees had acted as buyers when the *preferential allottees* were selling the shares of *First Financial* after the lock-in period. It is apparent from the trading pattern that these Noticees had bought shares at high prices and sold it at extremely low prices, during the same time and in the same manner, thereby incurring huge losses when there was no general downturn in the market. Such trading behaviour belies any economic rationale and indicates existence of premeditated arrangement among the *preferential allottees* and these Noticees. Moreover, as discussed in the *interim order*, had these Noticees and other entities of the *First Financial Group* not traded/dealt in the scrip of *First Financial* during the relevant time, it would not have been possible for the *preferential allottees* to offload/sell in large numbers at such price (i.e., 69,95,530 shares at an average price of ₹276) in such a stock that has hardly any intrinsic value. It is further noted from the trading data that, apart from buying shares from the *preferential allottees*, entities of the *First Financial Group* also indulged in

trades among themselves in order to maintain the price at the desired level so as to aid the *preferential allottees* in exiting at higher price thereby contributing to artificial volume in the scrip as well. This is supported by the fact that price of the scrip remained in the range of ₹268.65 to ₹295 from February 11, 2013 to July 31, 2013 and thereafter gradually fell to ₹178.45 by December 12, 2013 with average volume of 41252 shares per day and total volume of 86,21,766 shares.

15. In view of these facts and circumstances, I find that the Noticees had acted in concert/league and misused the exchange platform to provide exit to the *preferential allottees* at a high price thereby enabling these *preferential allottees* to reap the benefit of tax exemption available under the Income Tax Act, as discussed in the *interim order*. I, therefore, reject the contention of these Noticees in this regard.
16. EISL has contended that the basis of its connection with Madsan, as indicated in the *interim order*, is the off-market transfer between the two. In this regard, it has submitted that the transfers were effected by EISL in its capacity as a depository participant of the buyer and seller whereby Madsan had transferred 3,50,000 shares of *First Financial* to Mr. Santosh Shah and thus cannot constitute any wrong-doing or illegality on its part. I note that the primary reason for issuance of interim directions against EISL, like other entities of the *First Financial Group*, was its role in dealing in the scrip of *First Financial* in the manner as discussed in para's hereinabove. The off-market transaction as discussed in the *interim order* was identified to give an indication of connection of EISL with the other entity/entities of the *First Financial Group*. Moreover, it is a fact that EISL is also registered as stock broker and depository participant to the remaining Noticees, namely, Value & Worth, Madsan, Santosh Shah, Motorex, Midnight Agencies and Shree Sudarshan. Thus, there is no doubt that the Noticees, namely, Madsan, Santosh Shah, Motorex, Midnight Agencies and Shree Sudarshan are known to EISL at least for certain period of time. This is further corroborated by the fact that Madsan, Shree Sudharshan and Midnight Agencies had fund transactions with Kokila Exports Private Limited during the period 2012-2013. During the said period, Mr. Sanjay Kumar Shroff was a common director of EISL and Kokila Exports Private Limited. Similarly, Mr. Vishal Agarwal, a director of Kokila Exports Private Limited was a family member of the promoter group of EISL. In view of these facts and circumstances, I find that the Noticees, namely, Madsan, Mr. Santosh Shah, Motorex, Midnight Agencies and Shree Sudarshan are directly or indirectly connected to EISL by virtue of their relationship with EISL or on account of transactions with person or entity connected with EISL.
17. Further, Shree Sudarshan in its replies has admitted to be connected to the other Noticees, namely, EISL, Value & Worth, Madsan, Motorex, Midnight Agencies and Mr. Santosh Shah. It has also contended that apart from these connections, they are not connected/related/associated to any other entity and hence cannot by any stretch of

imagination be considered as connected/related to FFSL and/or its promoters/directors. As a matter of fact, the other Noticees, namely, Madsan, Mr. Santosh Shah, Motorex and Midnight Agencies have also admitted in their submissions that they are connected to each other. Further, it is also noticed from the Ministry of Corporate Affairs (MCA) website that Madsan Agencies, Motorex and Shree Sudharshan share the same address, i.e., 9/12 Lal Bazaar Street, Block-E, 2nd Floor, Kolkata-700001 whereas the address of Midnight Agencies is 9/12 Lal Bazaar Street, Block-E, 4th Floor, Kolkata-700001. Additionally, it is an undisputed fact that Value & Worth is connected to EISL by way of common addresses (10/1D, Lal Bazaar Street, Kolkata and DA-14, Sector-I, Salt Lake City, Kolkata) and two of its directors, namely, Ms. Adya Agarwal and Ms. Monica Agarwal are family members of Mr. Vivek Agarwal and Mr. Lakshendra Kumar Agarwal, the promoters/directors of EISL. Thus, all these above evidences or findings, confirms that EISL and Value & Worth are connected to each other.

18. It is worthwhile to note that the Noticees have traded in similar manner as of other entities of the *First Financial Group* as discussed in the *interim order*, i.e., buying the shares at high price at the time when the *preferential allottees* were selling. This finding is substantiated with the trading data (annexed), which is also summarised herein below:

Table-I

Sr. No.	Noticees	Buy Quantity	Buy Value (in ₹)	Sell Quantity	Sell value (in ₹)
1	EISL	429000	49173435	2040000	16550500
2	Value & Worth	45000	12393000	450000	3657000
3	Mr. Santosh Shah	129500	37942856	2135000	17408500
4	Shree Sudharshan	51000	14767200	44500	12816250
5	Madsan	35000	10253850	-	-
6	Motorex	22000	6505250	-	-
7	Midnight Agencies	20000	5740000	-	-

19. From the above table, it is noted that the Noticees have bought the shares of *First Financial* from the market at the same time when the *preferential allottees* were selling their shares using the stock exchange mechanism. Thereafter, within a period of one year, 4 of the Noticees (namely, EISL, Value & Worth, Mr. Santosh Shah and Shree Sudharshan) sold their shares using the stock exchange mechanism while the remaining 3 Noticees (namely, Madsan, Motorex and Midnight Agencies) have transferred their shares off-market to one of the Noticees, namely, Mr. Santosh Shah. This fact has also been admitted by the said Noticees in their submissions. From the trading pattern and as brought in the *interim order*, it is seen that the Noticees, namely, EISL, Value & Worth, Mr. Santosh Shah and Shree Sudharshan have traded in a fashion similar to the other entities of the *First Financial Group*, i.e., buying at higher price thereby providing profitable exit to the *preferential allottees* and later on selling these shares in the market. In the whole process these Noticees alongwith others have contributed to trading volume in the scrip of *First Financial* that rose to 86,21,776 shares in

Patch-2 and 6,01,90,286 shares in Patch-3 as compared to 2653 shares in Patch-I. This significant increase in the volume appears to be unnatural considering the background of *First Financial* and was possible only because of the concerted trading between the Noticees forming part of the *First Financial Group* on one hand as buyers and the *preferential allottees* on the other hand as sellers.

20. It is also pertinent to note that in any normal market, a sudden supply if not matched by similar demand leads to price fall. In this peculiar case, the *preferential allottees* were able to offload shares at high price (average closing price ₹276) continuously for a period of more than 11 months because of the artificial demand created by the entities of the *First Financial Group* so as to absorb the supply from the *preferential allottees*. This artificial demand in the scrip created by the entities of *First Financial Group* including the Noticees had the potential to induce any genuine investor to invest in the scrip without knowing the scheme of operations deployed, as in the instant case. Thus, the above facts and circumstances reinforces the finding in the *interim order* that entities of the *First Financial Group* and *preferential allottees* used the securities market system to artificially increase volume and price of the scrip for making illegal gains and to convert ill-gotten gains into genuine one.
21. The Noticees have contended that they invested in the shares of *First Financial* as a normal investment activity and did not create any artificial volume. I note that considering the poor fundamentals and tarnished track record of the company, investment of approximately ₹4.92 crores by EISL, ₹1.24 crores by Value & Worth, ₹3.79 crores by Mr. Santosh Shah, ₹1.47 crores by Shree Sudarshan, ₹1.02 crores by Madsan, ₹65 lakhs by Motorex and ₹57 lakhs by Midnight Agencies in the scrip of *First Financial* that has hardly any intrinsic value cannot be termed as rational/normal buying or investment behaviour. It is further noticed that consequent to purchase of shares at high prices, EISL, Value & Worth and Mr. Santosh Shah sold their shareholding in *First Financial* at an extremely low prices (at an average price of ₹8 per share) thereby incurring an approximate loss of ₹3.26 crores, ₹87 lakhs and ₹2.05 crores respectively which is similar to the trading pattern of other entities of the *First Financial Group*.
22. It is worthwhile to note that there was hardly any trading history in the scrip of *First Financial* nor does the company had any business or financial standing in the securities market till May 2012 as the scrips of *First Financial* were suspended for trading from June 2000 onwards for non payment of statutory fees and non-compliances. Thus, considering these poor credentials of the company, in my opinion, no prudent investor would like to invest in such company unless there was a pre-mediated plan. This is further corroborated by the fact that a set of entities named as *First Financial Group* continuously acted as buyers while the other set of entities named as *preferential allottees* acted as seller. This trading pattern or behaviour in itself suggests that entities are acting in concert for a common objective that is to provide

profitable exit to the *preferential allottees* as a part of the scheme or device as brought out in the *interim order*. In view of these facts and circumstances of this case and pending investigation in the matter, I do not find merit in the contentions of the Noticees.

23. In the instant case, the *interim order* has reasonably highlighted the *modus operandi* wherein *First Financial*, its promoters and directors in nexus with the *preferential allottees* made a facade of preferential allotment ostensibly to raise money and thereafter the *preferential allottees* with the aid of the entities of the *First Financial Group* misused the stock exchange mechanism to exit at a high price in order to generate fictitious LTCG. Subsequently, pursuant to passing of interim order, it is also gathered that this type of *modus operandi* or scheme of operations are devised not only help the concerned entities to claim LTCG and convert their unaccounted money into accounted one but also to accommodate other entities who wants to book short term loss in their books of accounts in order to pay less tax. This aspect of booking of short term loss to reduce tax liability can be well envisaged from the trading pattern of the *First Financial Group* whereby they purchased shares at high price and sold these shares at very low price within a period of one year using the stock exchange mechanism thereby booking short term loss. While the tax related issues will be looked after by the other law enforcement agencies, SEBI would look into the probable violations of securities market system. Thus, in the instant case, entities of the *First Financial Group* including the Noticees, while acting under dubious plan, device and artifice, have traded in the shares of *First Financial* that *prima facie* led to the creation of artificial volume in the scrip by misuse of securities market system. Therefore, the acts and deeds of the Noticees are fraudulent and are in contravention of the provisions of the Securities Laws so far as it relates to the misuse of securities market system.
24. The aforesaid finding is also corroborated by the statement of Mr. Lakshmendra Kumar Agarwal, promoter-director of EISL, recorded under oath on January 22, 2015 under section 133A of the Income Tax Act, 1961 before the DDIT (Investigation) U-1(1) whereby he has, *inter alia*, admitted to be acquainted with Mr. Arun Khemka and Mr. Santosh Shah who used to provide accommodation entry of share capital and that he had availed such accommodation entry from them.
25. In view of these facts and circumstances, I find that at this stage the Noticees have failed to give any plausible reasoning/explanation for their acts and omissions as described in the *interim order* and have not been able to make out a *prima facie* case for revocation of the *interim order*. I also note that investigation in the matter is in progress and appropriate decision, in accordance with law, would be taken after completion thereof.
26. In this case it has, *inter alia*, been found that *First Financial* in connivance with the *preferential allottees* floated the scheme of preferential allotment and the *preferential allottees* in

connivance/nexus with the entities of the *First Financial Group* misused the stock exchange mechanism to get the benefit of LTCG in the manner as specified in the *interim order*. EISL, Value & Worth, Madsan, Mr. Santosh Shah, Motorex, Midnight Agencies and Shree Sudarshan forming part of *First Financial Group* had acted in concert and indulged in fraudulent and manipulative trading that provided exit to the *preferential allottees* and thereby created artificial volumes in the scrip of *First Financial* as brought out in the *interim order*.

27. In my view, the facts and circumstances of the case justify the continuation of the directions passed against the Noticees vide the *interim order* dated December 19, 2014 subject to the interim reliefs already granted to them. In view of the foregoing, I, in exercise of the powers conferred upon me under section 19, read with sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 hereby confirm the directions contained in the *ad interim ex parte order qua* the Noticees subject to the interim reliefs already granted to them.
28. This order is without prejudice to any enforcement action that SEBI may deem necessary against the aforesaid Noticees on completion of the investigation in the matter. This order shall continue to be in force till further directions. A copy of this order shall be served on all recognized stock exchanges and depositories to ensure compliance with above directions.

Sd/-

DATE: JUNE 14th, 2016

PLACE: MUMBAI

RAJEEV KUMAR AGARWAL

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

Annexure-I: Trade details of Noticees

Clnt PAN	Clnt Name	Date	Gr Buy Vol	Gr Sell Vol	Gr Buy Value	Gr Sell Value
AABCE2412N	VIVEK AGARWAL/EISL	10/09/2013	13000	0	3793500.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	11/09/2013	17000	0	4947000.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	12/09/2013	19000	0	5519500.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	16/09/2013	20000	0	5788500.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	18/09/2013	10000	0	2880000.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	19/09/2013	10000	0	2890000.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	23/09/2013	10000	0	2875000.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	25/09/2013	5000	0	1435000.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	25/10/2013	10000	0	2520000.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	18/11/2013	20000	0	4240000.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	09/12/2013	15000	0	2700000.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	11/12/2013	30000	0	5400000.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	17/12/2013	100000	0	1679965.70	0.00
AABCE2412N	VIVEK AGARWAL/EISL	18/12/2013	150000	0	2504970.00	0.00
AABCE2412N	VIVEK AGARWAL/EISL	20/01/2014	0	300000	0.00	2460000.00
AABCE2412N	VIVEK AGARWAL/EISL	22/01/2014	0	300000	0.00	2460000.00
AABCE2412N	VIVEK AGARWAL/EISL	27/01/2014	0	500000	0.00	4050000.00
AABCE2412N	VIVEK AGARWAL/EISL	29/01/2014	0	450000	0.00	3636000.00
AABCE2412N	VIVEK AGARWAL/EISL	30/01/2014	0	490000	0.00	3944500.00

AABCM6864G	VIJAY KUMAR SHAH/MIDNIGHT AGENCIES PVT LTD	20/03/2013	20000	0	5740000.00	0.00
------------	--	------------	-------	---	------------	------

AACCM0579K	MADSAN AGENCIES PRIVATE LIMITED	21/03/2013	18000	0	5238000.00	0.00
AACCM0579K	MADSAN AGENCIES PRIVATE LIMITED	06/05/2013	17000	0	5015850.00	0.00

AACCM1042R	MOTOREX FINANCE PVT LTD	12/04/2013	17000	0	5027750.00	0.00
AACCM1042R	MOTOREX FINANCE PVT LTD	15/04/2013	5000	0	1477500.00	0.00

AADCS9429B	SHREE SUDHARSHAN CASTINGS PVT LTD	18/03/2013	14000	0	3993500.00	0.00
AADCS9429B	SHREE SUDHARSHAN CASTINGS PVT LTD	19/03/2013	20000	0	5740000.00	0.00
AADCS9429B	SHREE SUDHARSHAN CASTINGS PVT LTD	17/04/2013	17000	0	5033700.00	0.00
AADCS9429B	SHREE SUDHARSHAN CASTINGS PVT LTD	04/09/2013	0	12000	0.00	3489600.00
AADCS9429B	SHREE SUDHARSHAN CASTINGS PVT LTD	19/09/2013	0	12000	0.00	3474000.00
AADCS9429B	SHREE SUDHARSHAN CASTINGS PVT LTD	20/09/2013	0	2000	0.00	575900.00
AADCS9429B	SHREE SUDHARSHAN CASTINGS PVT LTD	25/09/2013	0	10000	0.00	2850000.00
AADCS9429B	SHREE SUDHARSHAN CASTINGS PVT LTD	27/09/2013	0	8500	0.00	2426750.00

AAFFV5756K	VALUE & WORTH	13/09/2013	18000	0	5202000.00	0.00
AAFFV5756K	VALUE & WORTH	17/09/2013	12000	0	3456000.00	0.00

AAFFV5756K	VALUE & WORTH	23/10/2013	15000	0	3735000.00	0.00
AAFFV5756K	VALUE & WORTH	28/01/2014	0	300000	0.00	2445000.00
AAFFV5756K	VALUE & WORTH	29/01/2014	0	150000	0.00	1212000.00

ALGPS0859J	SANTOSH KUMAR SHAH	10/04/2013	17000	0	5027750.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	16/04/2013	11000	0	3250500.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	22/04/2013	10000	0	2962500.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	26/04/2013	8000	0	2372000.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	29/04/2013	17000	0	5019250.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	02/05/2013	20000	0	5905006.25	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	03/05/2013	2000	0	589600.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	04/09/2013	12000	0	3489600.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	19/09/2013	12000	0	3474000.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	20/09/2013	2000	0	575900.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	25/09/2013	10000	0	2850000.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	27/09/2013	8500	0	2426750.00	0.00
ALGPS0859J	SANTOSH KUMAR SHAH	17/01/2014	0	300000	0.00	2400000.00
ALGPS0859J	SANTOSH KUMAR SHAH	20/01/2014	0	300000	0.00	2475000.00
ALGPS0859J	SANTOSH KUMAR SHAH	21/01/2014	0	300000	0.00	2460000.00
ALGPS0859J	SANTOSH KUMAR SHAH	22/01/2014	0	500000	0.00	4095000.00
ALGPS0859J	SANTOSH KUMAR SHAH	28/01/2014	0	735000	0.00	5978500.00

Sd/-

DATE: JUNE 14th, 2016

PLACE: MUMBAI

RAJEEV KUMAR AGARWAL

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA