BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No.: ORDER/VV/AS/2022-23/15978 - 16000]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND UNDER SECTION 23-I OF THE SECURITIES CONTRACTS (REGULATIONS) ACT, 1956.

In respect of:

Noticee No.	Noticee Name	PAN No.
1	Unisys Softwares and Holding Industries Limited	AABCC1191Q
2	Madhuvan Datamatics Traders Pvt. Ltd.	AAFCM3291B
3	Matara Electrical Traders Pvt. Ltd.	AAFCM3292C
4	Everlink Distributors Pvt. Ltd.	AACCE1268R
5	Sahayta Financial Consultancy Services India Pvt. Ltd.	AAHCS8640N
6	Neha Cassettes Pvt. Ltd.	AABCN6212F
7	Jai Ambe Cassettes Pvt. Ltd.	AABCJ1721D
8	Brijdham Dealcom Pvt. Ltd.	AADCB6626P
9	Gulistan Vanijya Pvt. Ltd.	AACCG5385R
10	Vibhuti Multi Trade Pvt. Ltd.	AACCV3776B
11	Allbright Electricals Pvt. Ltd.	AADCA9436E
12	Grafton Merchant Pvt. Ltd.	AABCG2641P
13	Winsher Commotrade Pvt. Ltd.	AAACW8434F
14	Scan Infrastructure Ltd.	AACCB3214C
15	Gaungour Suppliers Pvt. Ltd.	AADCG6785A
16	Jasper Vintrade Pvt. Ltd.	AACCJ5132F
17	Chandramukhi Vanijya Pvt. Ltd.	AADCC0116F
18	Natraj Vinimay Pvt. Ltd.	AACCN4643D
19	Miracle Tradecom Pvt. Ltd.	AAFCM8752P
20	Dove Suppliers Pvt. Ltd.	AADCD7017J
21	Silverson Dealtrade Pvt. Ltd.	AAPCS2813M
22	Honesty Goods Trader Pvt. Ltd.	AACCH5757N
23	Bhushan Power and Steel Ltd.	AAACB9760D

(*The aforesaid 23 noticees are hereinafter being referred to as Noticee No. 1 to 23, respectively or collectively referred to as '**the Noticees**'*)

In the matter of Unisys Softwares and Holding Industries Limited

1. Unisys Softwares and Holding Industries Limited (hereinafter referred as "**Unisys**" or "**the company**"), is a company having its shares listed on BSE Ltd. ('**BSE'**) and The Calcutta Stock Exchange Limited ('**CSE'**). Securities and Exchange Board of India ("**SEBI**") conducted

investigation in the affairs of the company during the period from January 19, 2010 to November 14, 2014 (hereinafter referred as "**investigation period**"). The scope of investigation was matters relating to change in promoters' shareholding pattern, disclosure compliance and preferential allotment process with respect to funding by the company to preferential allottees. The investigation *inter alia* observed violations with regard to -

a) Disclosure requirements under SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter also referred to as "**PIT Regulations**");

b) Funding by the company to the preferential allottees in the preferential allotment made by it on March 28, 2011.

2. The observations of investigation are detailed in following paragraphs:

A. **<u>Observations pertaining to disclosure requirements:</u>**

i. From the share transfer forms provided by Registrar and Share Transfer Agent ("**RTA**") of the company, it was observed that promoters of the company *viz.* Kritika Trust, Priyanka Vinyas Trust, Meenakshi Trust, Pratigya Trust and Prerna Trust had acquired the shares of the company on October 01, 2011. Since the change in their shareholding on account of transfer of shares exceeded Rs. 5 lakhs in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower, they were obligated to make disclosures to the company and the stock exchanges under Regulation 13(4A) read with 13(5) of the PIT Regulations read with Regulation 12 of the SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter also referred to as "**2015 PIT Regulations**"). They had made requisite disclosures to the Unisys on the date of acquisition itself.

ii. In terms of Regulation 13(6) of PIT Regulations read with Regulation 12 of the 2015 PIT Regulations, Unysis was under obligation to disclose the information received from the said promoters to the concerned stock exchanges *viz*, BSE and CSE within 2 working days of receipt of the information from the said promoters i.e. on or before October 04, 2011. While Unisys had made such disclosures to BSE, from the reply of CSE, SEBI observed that Unisys had failed to make disclosures to CSE under Regulation 13(6) of the PIT Regulations read with Regulation 12 of the 2015 PIT Regulations. The details of such change in shareholding and disclosure obligations are summarized in the table below:

Table 1

Sr. No.	Date of acquisition	Name of entity	Holding before transaction (number of shares and %)	Acquired/ disposal (number of shares)	Holding Post Transaction (number of shares and %)	Date of intimation to the company	Observation
1	01/10/2011	Noticee No.1	0	9,81,000	9,81,000 4.27%	01/10/2011	Failed to make disclosure to the exchange as the holding (in %) increased from 0 to 4.27% due to off-market transaction.
2	01/10/2011	Noticee No.2	0	2,87,200	2,87,200 1.25%	01/10/2011	Failed to make disclosure to the exchange as the holding (in %) increased from 0 to 1.25% due to off-market transaction.
3	01/10/2011	Noticee No.3	0	9,98,000	9,98,000 4.34%	01/10/2011	Failed to make disclosure to the exchange as the holding (in %) increased from 0 to 4.34% due to off-market transaction.
4	01/10/2011	Noticee No.4	0	9,95,700	9,95,700 4.33%	01/10/2011	Failed to make disclosure to the exchange as the holding in %) increased from 0 to 4.33% due to off-market transaction.
5	01/10/2011	Noticee No.5	0	9,94,300	9,94,300 4.32%	01/10/2011	Failed to make disclosure to the exchange as the holding (in %) increased from 0 to 4.32% due to off-market transaction.

iii. In view of the above, it has been alleged that Unisys had violated the provisions of Regulation 13(6) of PIT Regulations read with Regulation 12 of the 2015 PIT Regulations.

B. **Observations pertaining to Promoter and Promoter Group Shareholding Pattern submitted by Unisys to stock exchanges:**

i. From the shareholding pattern submitted by Unisys to BSE and CSE, it was observed that, during the quarter ending on December 2011, the entities namely, Suprapti Finvest Pvt. Ltd., Gobaj Commercial Co. Pvt. Ltd., Arunodaya Leafin Pvt. Ltd., Jain

Stock and Share Broker Ltd. and Moonlight Advisory Pvt. Ltd. were shown to be holding 9,98,000, 9,95,700, 9,94,300, 9,81,000 and 2,87,400 shares, respectively. However, from the reply of RTA and transaction statements provided by depositories, it was observed that the said entities were not holding any shares in the scrip of Unisys on December 31, 2011 and had transferred their shares on December 31, 2011.

ii. From the holdings/transactions provided by the RTA vide emails dated July 04, 2018 and July 19, 2018 and by depositories (NSDL and CDSL) vide emails dated July 16, 2018 and July 17, 2018, the holdings of Sushil Kr. Purohit (PAN-AFPPP9680R), Jagdish Prasad Purohit (PAN- AFSPP1444 E), Pawan Kr. Purohit (PAN-AJBPP6530G) and Kailash Prasad Purohit (PAN - AFQPP2675H) in the scrip of Unisys were 74,900, 15,000, 50,000 and zero shares, respectively as on Quarter ending June 2014. However, in the shareholding pattern as submitted by Unisys to BSE and CSE, the holdings against the names of the aforesaid entities in the scrip of Unisys were observed to be 10,72,900, 12,98,100, 10,44,300 and 9,81,000 shares, respectively.

iii. From the holdings/transactions provided by the RTA vide emails dated July 04, 2018 and July 19, 2018 and by depositories (NSDL and CDSL) vide emails dated July 16, 2018 and July 17, 2018, the holdings of Sushil Kr. Purohit(PAN-AFPPP9680R), Jagdish Prasad Purohit(PAN- AFSPP1444 E), Pawan Kr. Purohit(PAN-AJBPP6530G) and Kailash Prasad Purohit(PAN - AFQPP2675H) in the scrip of Unisys were 74,900, 15,000, 50,000 and zero shares, respectively, as on the Quarter ending September 2014 and December 2014. However, in the shareholding pattern as submitted by the company to BSE and CSE, the holdings against the names of the aforesaid entities in the scrip of Unisys were observed to be 10,72,900, 12,98,100, 10,44,300 and 10,31,000 shares, respectively.

iv. From the promoter/promoter group details provided by the RTA vide emails, the entities namely - Kritika Trust, Meenakshi Trust, Pratigya Trust, Prerna Trust and Priyanka Vinyas Trust belonged to the promoter or promoter group of Unisys during Quarter ending September 2014. However, the names of the said entities were not reflecting in the shareholding pattern submitted by Unisys to BSE and CSE for Quarter ending September 2014.

v. In view of the above, it has been alleged that Unisys had violated Section 21 of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "**SCRA**") read with Clause 35 of erstwhile Equity Listing Agreement as it had filed wrong quarterly shareholding pattern disclosures to BSE and CSE for the Quarter ending December 2011, June 2014 to December 2014 and on multiple instances, it had failed to ensure the correctness and authenticity of the information, as specified in Clause 35 of the erstwhile Equity Listing Agreement, while filing the same with the stock exchanges.

C. **<u>Observations with respect to funding by Unisys to the preferential allottees:</u>**

i. SEBI observed that as per the notice of Unisys dated December 29, 2010, *"the amount equal to 25% of the conversion price in relation to each convertible warrant shall be paid before the allotment i.e. March 28, 2011"*. The allottees paid 25% prior to the allotment on February 11, 2011 and the balance 75% was paid during March 2011. The details of allotment are as under:

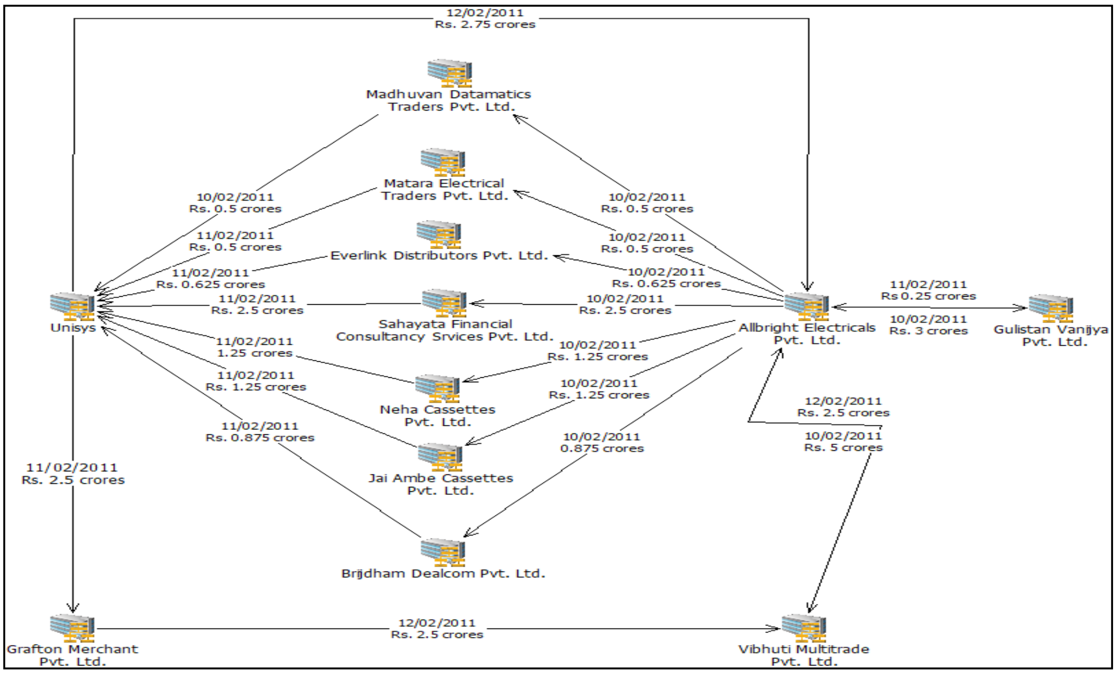
<u>Table 2</u>

Sr. no.	Name of the allottee	Noticee No.	Total no. of shares allotted	Total amount (in Rs. Crores)
1	Madhuvan Datamatics Traders Pvt. Ltd.	8	2,00,000	2
2	Matara Electrical Traders Pvt. Ltd.	9	2,00,000	2
3	Everlink Distrubutors Pvt. Ltd.	10	2,50,000	2.5
4	Sahayta Financial Consultancy Services India Pvt. Ltd.	11	10,00,000	10
5	Neha Cassettes Pvt. Ltd.	12	5,00,000	5
6	Jai Ambe Cassettes Pvt. Ltd.	13	5,00,000	5
7	Brijdham Dealcom Pvt. Ltd.	14	3,50,000	3.5

<u>25% of total amount of preferential allotment</u>

ii. From the bank account statements of Noticee No. 2 to 8, it was observed that the fund trail for 25% of the total amount for preferential allotment was identical. The graphical representation of the funds trail is given below:

<u>Pictorial 1</u>



iii. As seen from the above pictorial representation, the allottees i.e. Noticee No. 2 to 8 had transferred Rs. 7,50,00,000/-(in total) from their respective bank accounts to the bank account of Unisys on February 11, 2011.

iv. On analysis of the bank statements of the allottees i.e. Noticee No. 2 to 8, it was observed that:

a) On February 10, 2011, they had received Rs. 7,50,00,000/- from the account of Allbright Electricals Pvt. Ltd. (Noticee No. 11).
b) On February 11, 2011, Rs. 7,50,00,000/- received from the account of Noticee No. 11 was in turn transferred by Noticees No. 2 to 8 to Unisys (Noticee No. 1).

v. On analyzing the bank statement of Allbright, Noticee No. 11, it was observed that:

a) On February 10, 2011, it had received Rs. 3,00,00,000/- and Rs. 5,00,00,000/- from Gulistan Vanijya Pvt. Ltd. ("Noticee No. 9") and Vibhuti Multitrade Pvt. Ltd. ("Noticee No. 10"), respectively.
b) On February 10, 2011, it transferred Rs. 7,50,00,000/- to the accounts of Noticees No. 2 to 8.
c) It transferred Rs. 2,50,00,000/- and Rs. 25,00,000/- to Noticee No. 10 and Noticee No. 9 on February 12, 2011 and February 11, 2011, respectively.
d) On February 12, 2011, it had received Rs. 2,75,00,000/- from Unisys.

vi. On analyzing the bank statement of Grafton Merchant Pvt. Ltd. (Noticee No. 12), it was observed that:

a) On February 11, 2011, it had received Rs. 2,50,00,000/- from Unisys.
b) On February 12, 2011, it transferred Rs. 2,50,00,000/- to Noticee No. 10.

vii. On analyzing the bank statement of Unisys (Noticee No. 1), it was observed that:

a) On February 10, 2011 (i.e. one day prior to receiving the 25% of total amount from preferential allottees), the balance in its account was Rs. 1,58,150.84/-.
b) On February 11, 2011, it had transferred Rs. 2,50,00,000/- to Noticee No. 12 and on February 12, 2011, it had transferred Rs. 2,75,00,000/- to Noticee No. 11. Thus, it had transferred Rs 5,25,00,000/- to entities from which the preferential allottees i.e. Noticee No. 2 to 8 had received funds for preferential allotment on the same day and the next day (i.e. February 11, 2011 and February 12, 2011) from the preferential allotment proceeds.

viii. As per MCA details, Unisys reply letters and bank account opening forms/replies from banks, Noticees No. 9 to 12 were found to be connected to each other and/or with Unisys and the funds trail for all seven preferential allottees was traced back to a common set of entities. The details of connections are given in the table below:

Table 3

Sr. No.	Entity Name	Source of Connection
1	Gulistan Vanijya Pvt. Ltd.	Common address – 75/C PARK STREET KOLKATA WB 700016 with Unisys.
2	Grafton Merchants Pvt. Ltd.	• Common email address – dhruvonarayan.jha@rediffmail.com with Gulistan Vanijya • Transferred and received funds from Unisys during Investigation period
3	Allbright Electricals Pvt. Ltd.	Common director – Raj Kumar Purohit(DIN: 00609310) with Grafton Merchant Pvt. Ltd.
4	Vibhuti Multitrade Pvt. Ltd.	Transferred and received funds from Unisys during Investigation period.

ix. In view of the above, it has been alleged that:

a) Unisys had given financial assistance to the preferential allottees i.e. Noticee No. 2 to 8 to enable those allottees to subscribe to and buy its own shares allotted to them on a preferential basis by Unisys on March 28, 2011, thereby limiting genuine capital infusion to that extent.

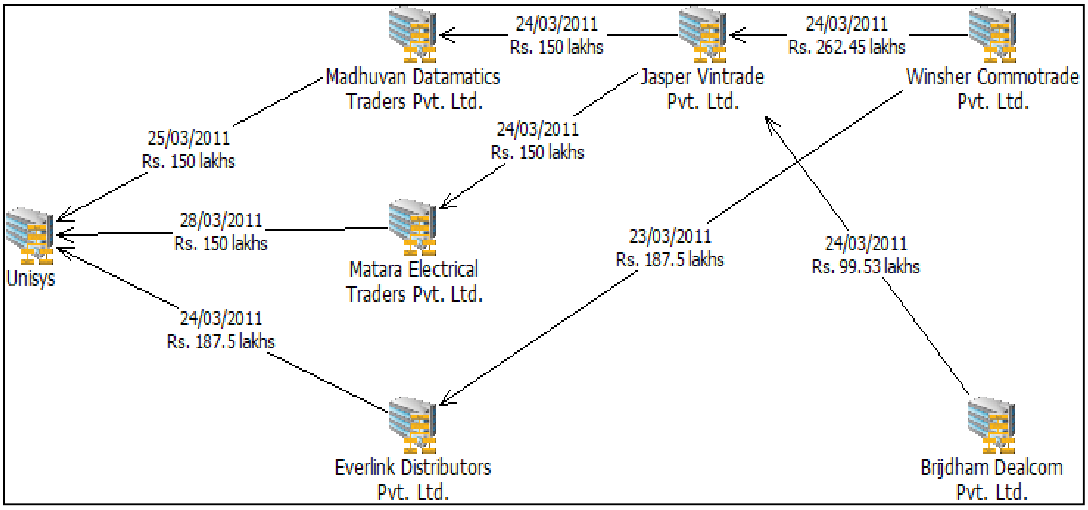
b) Noticee No. 9 to 12 acted as conduits and facilitated Unisys in giving financial assistance in connection with the subscription made by the preferential allottees i.e. Noticee No. 2 to 8.

c) Unisys, the allottees i.e. Noticee No. 2 to 8 and the conduits i.e. Noticee No. 9 to 12 who had received such funds from Unisys have engaged in a fraudulent act thereby violating the provisions of Section 12A (a), (b) and (c) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') read with Regulation 3 (a), (b), (c), (d) and Regulation 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**').

Balance 75% of total amount of preferential allotment

x. With regard to the three preferential allottees i.e. Noticee No. 2 to 4, the fund trail for the 75% of the total amount of preferential allotment is given as follows:

Pictorial 2



xi. As seen from the above pictorial representation, it has been observed that the allottees i.e. Noticees No. 2 & 3 have received funds from Jasper Vintrade Pvt. Ltd. (Noticee No. 16) and Everlink; Noticee No. 4 had received funds from Winsher Commotrade Pvt. Ltd. (Noticee No. 13) and Noticee No. 16 had received funds from Noticee No. 13 and Noticee No. 8.

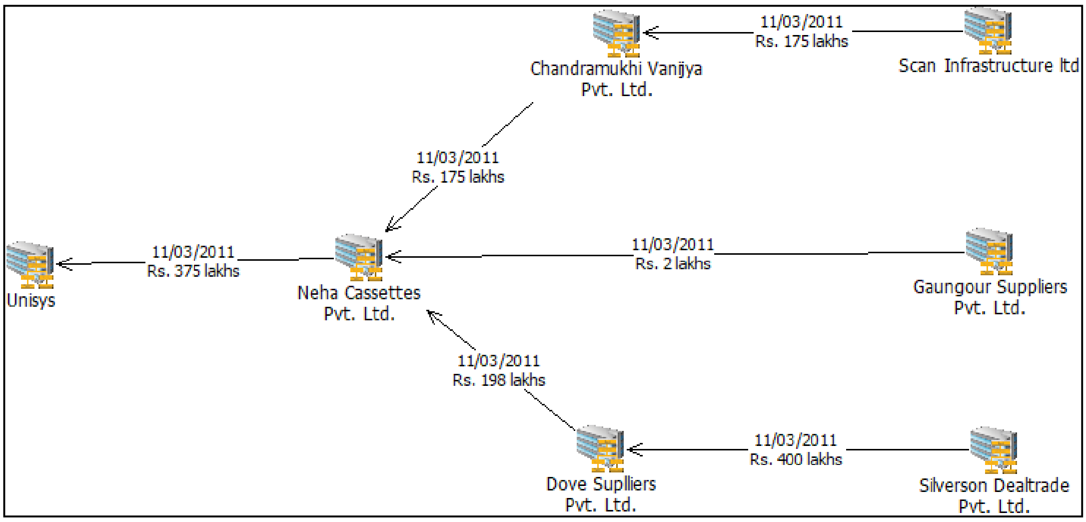
xii. As per MCA details, bank account statements, documents relating to the preferential allotment provided by BSE and Unisys reply dated July 02, 2018, the entities i.e. Noticee No. 8, 13 and 16 were found to be connected to each other and/or with Unisys. The details of connections are given in the table below:

Table 4

Sr. No.	Entity Name	Source of Connection
1	Brijdham Dealcom Pvt. Ltd.	• One of the preferential allottee • Common director – Raj Kumar Purohit(DIN: 00609310) with Allbright Electricals Pvt. Ltd.
2	Winsher Commotrade Pvt. Ltd.	• Common email address – ppurohit27@yahoo.in with Brijdham Dealcom Pvt. Ltd. • Common director – Raj Kumar Purohit(DIN: 00609310) with Brijdham Dealcom Pvt. Ltd.
3	Jasper Vintrade Pvt. Ltd.	• Director – Manik Lal Vyas (DIN: 03355023) was also director of Fort Vintrade Pvt. Ltd. along with Bajrang Lal Purohit (DIN: 02800534, Director of Winsher Commotrade Pvt. Ltd.) during Investigation period. • Transferred funds to Grafton Merchant Pvt. Ltd. during Investigation period.

xiii. With regard to the one preferential allottee i.e. Noticee No. 6, it has been observed that on March 10, 2011, the balance in its account was Rs. 20,28,445.1/-. The funds trail for the 75% of the total amount of preferential allotment is given below:

Pictorial 3



xiv. As seen from the above pictorial representation, it has been observed that:

a) Noticee No. 6 had received funds Chandramukhi Vanijya Pvt. Ltd ("Noticee No. 17"), Gaungour Suppliers Pvt. Ltd. ("Noticee No. 15") and Dove Suppliers Pvt. Ltd. ("Noticee No. 20").

b) Noticee No. 12 had transferred Rs. 3,75,00,000/- to Unisys towards preferential allotment.

c) Noticee No. 17 had received funds from Scan Infrastructure Ltd. ("Noticee No. 14") and Noticee No. 20 had received funds from Silverson Dealtrade Pvt. Ltd. ("Noticee No. 21").

xv. As per MCA details, the entities i.e. Noticee No. 14, 17, 15, 20 and 21 were found to be connected to each other and/or with Unisys. The details of connections are given in the table below:

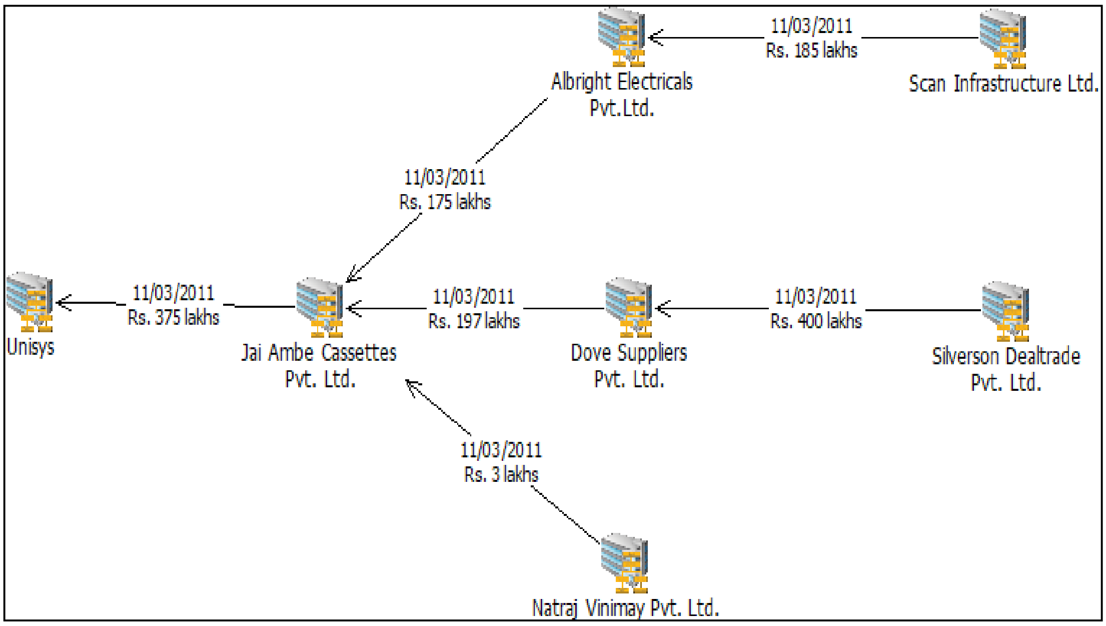
Table 5

Sr. No.	Entity Name	Source of Connection
1	Scan Infrastructure Ltd.	Director was Jagadish Prasad Purohit(DIN: 00083125) who was also the director and current managing director of Unisys
2	Chandramukhi Vanijya Pvt. Ltd.	Common director – Sarbeswar Parida (DIN: 01321462 with Gulistan Vanijya Pvt. Ltd.
3	Gaungour Suppliers Pvt. Ltd.	• Common email address – dhruvonarayan.jha@rediffmail.com with Gulistan Vanijya Pvt. Ltd. and Grafton Merchant Pvt. Ltd.) • Common director –Sarbeswar Parida(DIN: 01321462) with Gulistan Vanijya Pvt. Ltd.

Sr. No.	Entity Name	Source of Connection
4	Silverson Dealtrade Pvt. Ltd.	• Common director – Manik Lal Vyas (DIN: 03355023) and Bimla Devi Harsh (DIN: 03355006) with Jasper Vintrade Pvt. Ltd.)
5	Dove Suppliers Pvt. Ltd.	• Common director – Manik Lal Vyas (DIN: 03355023) and Bimla Devi Harsh(DIN: 03355006) with Silverson Dealtrade Pvt. Ltd. and Jasper Vintrade Pvt. Ltd.

xvi. With regard to the one preferential allottee i.e. Noticee No. 7, the fund trail for the 75% of the total amount of preferential allotment is given below:

Pictorial 4



xvii. As seen from the above pictorial representation, it has been observed that:

a) Noticee No. 7 had received funds from Allbright Electricals Pvt. Ltd. (Noticee No. 11"), Noticee No. 20 and Natraj Vinimay Pvt. Ltd. ("Noticee No. 18").

b) Noticee No. 11 had received funds from Noticee No. 14 and Noticee No. 20 had received funds from Noticee No. 21.

xviii. As per MCA details, Noticee No. 18 and other entities i.e. Noticee No. 14, 11, 21 and 20 were found to be connected to each other and/or with Unisys. The details of connections are given in the table below:

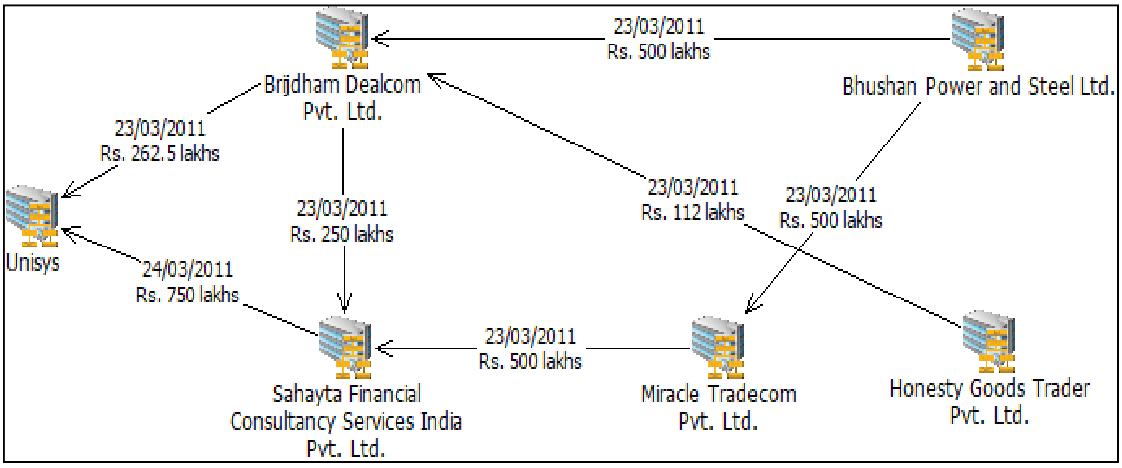
Table 6

Entity Name	Source of Connection
Natraj Vinimay Pvt. Ltd.	• Common director – Rajendra Kumar Kothari (DIN: 00083059) and Sarbeswar Parida(DIN: 01321462) with Gulistan Vanijya Pvt. Ltd.

	• Common email id- dhruvonarayan.jha@rediffmail.com with Gulistan Vanijya Pvt. Ltd.and Grafton Merchants Pvt. Ltd.

xix. With regard to the two preferential allottees i.e. Noticee No. 5 and 8, the fund trail for the 75% of the total amount of preferential allotment is given as follows:

Pictorial 5



xx. As seen from the above pictorial representation, it has been observed that:

a) Noticee No. 8 had received funds from Bhushan Power and Steel Ltd ("Noticee No. 23") and Honesty Goods Trader Pvt. Ltd. ("Noticee No. 22").

b) Noticee No. 5 had received funds from Noticee No. 8 and Miracle Tradecom Pvt. Ltd. ("Noticee No. 19").

xxi. As per MCA details and bank statements, Noticee No. 19, 22 and 23 were found to be connected to each other and/or with Unisys. The details of connections are given in the table below:

Table 7

Sr. No.	Entity Name	Source of Connection
1	Honesty Goods Trader Pvt. Ltd.	Common director – Manik Lal Vyas (DIN: 03355023) and Bimla Devi Harsh(DIN: 03355006) with Silverson Dealtrade Pvt. Ltd. and Jasper Vintrade Pvt. Ltd.
2	Miracle Tradecom Pvt. Ltd.	Common director –Raj Kumar Purohit(DIN: 00609310) with Allbright Electricals Pvt. Ltd.
3	Bhushan Power and Steel Ltd.	Transferred funds to Unisys during Investigation period

xxii. In view of the above sub-paras (x – xxi) of para 2(C), it has been alleged that:

a) The entities from which preferential allottees have received funds for the purchase of shares on a preferential basis were closely connected with each other and/or with Unisys.

b) Unisys had given financial assistance to the preferential allottees i.e. Noticees No. 2 to 8 to enable those allottees to subscribe to and buy its own shares allotted to them on a preferential basis by Unisys on March 28, 2011, thereby limiting genuine capital infusion to that extent.

c) Noticees No. 8 to 23 acted as conduits and facilitated Unisys in giving financial assistance by allowing their bank accounts for routing of funds in connection with the subscription made by the preferential allottees i.e. Noticees No. 2 to 8.

d) Unisys, the allottees i.e. Noticee No. 2 to 8 and the conduits i.e. Noticees No. 8 to 23 who had received such funds from Unisys have engaged in a fraudulent act thereby violating the provisions of Section 12A (a), (b) and (c) of SEBI Act read with Regulation 3 (a), (b), (c), (d) and Regulation 4(1) of PFUTP Regulations.

e) Unisys had also violated Sec 77(2) of the Companies Act, 1956 by giving financial assistance for purchase of its own shares which were allotted to Noticees No. 2 to 8 on preferential basis.

3. Therefore, in view of the observations recorded in the above paragraph, it has been alleged by SEBI that the Noticees have violated the following provisions of securities laws:

Table 8

Noticee	Violations alleged
Noticee No. 1	For the allegations mentioned at Paragraph no. 2(A), (B) and (C): i. Regulation 13(6) of PIT Regulations read with Regulation 12 of the 2015 PIT Regulations. ii. Section 21 of the SCRA read with Clause 35 of erstwhile Equity Listing Agreement. iii. Section 12A (a), (b) and (c) of SEBI Act read with Regulation 3 (a), (b), (c), (d) and Regulation 4(1) of PFUTP Regulations.
Noticees No. 2 to 23	For the allegations mentioned at Paragraph no. 2(C): Section 12A (a), (b) and (c) of SEBI Act read with Regulation 3 (a), (b), (c), (d) and Regulation 4(1) of PFUTP Regulations.

4. In view of above, the competent authority in SEBI *prima facie* felt satisfied that there are sufficient grounds to inquire and adjudicate upon the aforesaid violations by the 23 Noticees. By a *communication-order* dated May 13, 2019, Shri Santosh Shukla was appointed as Adjudicating Officer ("**erstwhile AO**") to inquire into and adjudge under Rule 5 of SEBI

(Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**SEBI Adjudication Rules**') and under Rule 5 of Securities Contracts (Regulation) (Procedure for Holding Inquiry and imposing penalties by Adjudicating Officer) Rules, 2005 (hereinafter referred to as **'SCRA Adjudication Rules'**) and adjudge the alleged violations by the Noticees as under:

Table 9

Noticee No. 1	Section 15A(b) and 15HA of the SEBI Act.
	Section 23H of the SCRA.
Noticee No. 2 to 23	Section 15HA of the SEBI Act.

5. Thereafter, pursuant to transfer of Shri Santosh Shukla, Shri Amit Pradhan was appointed as Adjudicating Officer and subsequently upon transfer of Shri Amit Pradhan, undersigned has been appointed as the Adjudicating Officer vide communication order dated June 21, 2021. It has been advised that except for the change of the Adjudicating Officer, the other terms and condition of the original orders (whereby the aforesaid Adjudicating Officers was appointed) '*shall remain unchanged and shall be in full force and effect'*. It has also been advised that '*I should proceed in accordance with the terms of reference made in the original orders*'.

6. Accordingly, in terms of Rule 4(1) of the SEBI Adjudication Rules and SCRA Adjudication Rules read with section 15I of the SEBI Act, a notice to show cause no. EAD-2/SS-SKS/OW/20056/1-23/2019 dated August 05, 2019 (hereinafter referred to as '**the SCN**') was issued to the Noticees by erstwhile AO calling upon them to show cause as to why an inquiry should not be held against them in terms of Rule 4 of the SEBI Adjudication Rules and SCRA Adjudication Rules and why penalty, if any, be not imposed under sections 15A(b) and 15HA of the SEBI Act and section 23H of the SCRA, as the case may be for respective alleged violations as mentioned hereinabove.

7. On receipt of records, it was observed that the SCN was forwarded *via* Speed Post Acknowledgement Due ("**SPAD**") to the Noticees. The delivery status on receipt of record was as follows:

Table 10

Name of Noticee	Date of SCN	SCN Delivered (Date/ Mode)
Unisys Softwares and Holding Industries Ltd	05/08/2019	Card without Acknowledgement.
Madhuvan Datamatics Traders Pvt. Ltd	05/08/2019	Returned Undelivered (Addresse Moved).
Matara Electrical Traders Pvt. Ltd	05/08/2019	Returned Undelivered (Addressee Moved)
Everlink Distributors Pvt. Ltd	05/08/2019	Returned Undelivered (No Such Company).
Sahayta Financial Consultancy Services India Pvt. Ltd	05/08/2019	Card without Acknowledgement.

Name of Noticee	Date of SCN	SCN Delivered (Date/ Mode)
Neha Cassettes Pvt. Ltd	05/08/2019	No Delivery Status.
Jai Ambe Cassettes Pvt. Ltd	05/08/2019	No Delivery Status.
Brijdham Dealcom Pvt. Ltd.	05/08/2019	Returned Undelivered (No Such Company)
Gulistan Vanijya Pvt. Ltd	05/08/2019	Card without Acknowledgement.
Vibhuti Multi Trade Pvt. Ltd	05/08/2019	No Delivery Status.
Allbright Electricals Pvt. Ltd.	05/08/2019	Card without Acknowledgement.
Grafton Merchant Pvt. Ltd	05/08/2019	Returned Undelivered (Door Locked).
Winsher Commotrade Pvt. Ltd	05/08/2019	Returned Undelivered (Insufficient Address).
Scan Infrastructure Ltd	05/08/2019	27/08/2019 (SPAD).
Gaungour Suppliers Pvt. Ltd	05/08/2019	No Delivery Status.
Jasper Vintrade Pvt. Ltd	05/08/2019	No Delivery Status.
Chandramukhi Vanijya Pvt. Ltd	05/08/2019	Returned Undelivered (Refuse to Accept).
Natraj Vinimay Pvt. Ltd	05/08/2019	Returned Undelivered.
Miracle Tradecom Pvt. Ltd	05/08/2019	Returned Undelivered (Addressee Moved).
Dove Suppliers Pvt. Ltd.	05/08/2019	Card without Acknowledgement.
Silverson Dealtrade Pvt. Ltd	05/08/2019	Returned Undelivered (Not Known).
Honesty Goods Trader Pvt. Ltd	05/08/2019	Card without Acknowledgement.
Bhushan Power and Steel Ltd.	05/08/2019	Card without Acknowledgement.

8. It was observed that the SCN w.r.t. 10 Noticees returned undelivered and w.r.t. 5 Noticees delivery status was not available. Further, w.r.t. 7 Noticees Acknowledgement Cards were available on file without any acknowledgement from Noticees. Accordingly, it was presumed that SCN w.r.t. 22 Noticees out of 23 Noticees remains undelivered. Accordingly, in terms of Rule 7(d) of SEBI Adjudication Rules and SCRA Adjudication Rules and on considering the Covid-19 pandemic situation across the country, the SCN to these 22 Noticees was duly served *via* Paper Publication on July 21, 2021 *via* following newspapers:

Table 11

Newspaper	Language	Edition
Times of India	English	Kolkata, New Delhi & Nagpur
Sanmarg	Hindi	Kolkata
Barthaman Patrika	Bengali	Kolkata
Navbharat	Hindi	New Delhi & Nagpur
Jan Sangram	Marathi	Wardha

9. It has been noted that despite service of the SCN to the Noticees, they have failed to submit any reply. However, two of the Noticees *viz.* Grafton (Noticee No. 12) and Natraj (Noticee No. 18), forwarded respective e-mail dated July 22, 2021 and provided their registered address. From the perusal of same, it was noted that the address was same as available in SEBI record from where SPAD returned undelivered. Vide reply e-mails dated July 22, 2021 the aforesaid

two Noticees were advised to submit their reply to the SCN within 14 days from publication, however, no reply was received from them. Accordingly, on considering the material available on record and as per the principle of natural justice, an opportunity of personal hearing under Rule 4(3) of the SEBI Adjudication Rules and SCRA Adjudication Rules was granted to the Noticees on September 08, 2021. The Hearing Notice dated August 10, 2018 was forwarded to Scan (Noticee No. 14), Grafton (Noticee No. 12) and Natraj (Noticee No. 18) *via* SPAD. The hearing notice was duly served upon Noticee No. 14, however, it again returned undelivered w.r.t. Noticees No. 12 and 18. Hearing Notice to other 20 Noticees was served *via* paper publication on August 18, 2021 in newspapers mentioned in Table 10 in terms of Rule 7(d) of SEBI Adjudication Rules and SCRA Adjudication Rules. In terms of Rule 7(b) SEBI Adjudication Rules and SCRA Adjudication Rules, the hearing notice was served upon Grafton (Noticee No. 12) and Natraj (Noticee No. 18) *via* digitally signed e-mail, respectively. However, none of the Noticees appeared for hearing on scheduled date.

10. In the meanwhile, separate letters dated September 02, 2021 were received from Unisys (Noticee No. 1), Everlink (Noticee No. 4), Brijdham (Noticee No. 8), Vibhuti (Noticee No. 10), Grafton (Noticee No. 12), Winsher (Noticee No. 13), Scan (Noticee No. 14), Chandramukhi (Noticee No. 17), Natraj (Noticee No. 18), Miracle (Noticee No. 19) and Dove (Noticee No. 20), wherein, they have sought 4 weeks' adjournment and also mentioned that, they will file reply to the SCN in meanwhile. However, these Noticees have failed to provide any cogent reason for seeking such adjournment in their letter, respectively. Considering the principle of natural justice, these Noticees were granted another opportunity of personal hearing on October 26, 2021, wherein, hearing notice was served *via* digitally signed e-mail dated September 21, 2021. The aforesaid hearing notice dated September 21, 2021 was also forwarded to these Noticees *via* SPAD, however, with respect to Noticees No. 4, 8, 10, 12, 13, 17, 18 and 20, the hearing notice returned undelivered. Thereafter, vide separate letters/e-mails dated October 05, 2021, Noticees No. 1, 10 and 18, requested for additional time ranging from 4-8 weeks' for filing replies to the SCN; and vide separate letters/e-mails dated October 18, 2021, Noticees No. 8, 12, 13, 14, 17, 19 and 20 requested for additional time ranging from 15 - 28 days' for filing replies to the SCN. Vide e-mail dated October 06, 2021, Noticee No. 4 stated that it has not received the SCN dated August 19, 2019 and requested to provide the same. In this regard vide e-mail dated October 18, 2021, the Noticee No. 4 was informed that the copy of SCN was uploaded on SEBI website and reference as well as the link of same was provided in the public notice dated July 21, 2021. Further, in its letter dated September 02, 2021, Noticee No. 4 has mentioned in para 2 that – "*it vehemently deny the allegations made in the SCN. It is submitted that we have not violated the provisions of regulations as alleged in the SCN*". In para 3 of the said letter, it has requested for additional time for reply and

adjournment of hearing and at that time it had not mentioned about non receipt of the SCN. However, as a principle of natural justice, Noticee No. 4 was once again provided with the copy of SCN and its annexures *via* aforesaid mail and was advised to file reply by October 24, 2021 and to appear for scheduled hearing on given date. Noticees No. 10 and 18 have filed reply to the SCN on 02.11.2021 and 01.11.2021, respectively and requested for the opportunity of hearing. Accordingly, vide digitally signed e-mail dated March 22, 2022, the hearing opportunity has been granted to Noticees No. 10 and 18 on March 25, 2022 *via* WEBEX, however, only Noticee No. 10 has availed the opportunity of hearing on scheduled date. With regard to aforesaid opportunities of hearing granted to these Noticees on October 26, 2021, a brief has been provided in following table w.r.t. Noticees No. 1, 4, 8, 10, 12, 13, 14, 17, 18, 19 and 20:

Table 12

Noticee	Noticee No.	Delivery of Hearing Notice	Remark
Unisys Softwares and Holding Industries Ltd.	1	SPAD and Digitally Signed e-mail dated 21.09.2021	Availed hearing on 26.10.2021 on basis of reply dated 25.10.2021. Mr. Vinay Chauhan, Advocate and Mr. K.C.Jacob, Advocate were authorized representative.
Everlink Distributors Pvt. Ltd.	4	Digitally Signed e-mail dated 21.09.2021	<u>*SPAD returned undelivered.*</u> Vide e-mail dated 18.10.2021 advised to appear for hearing on scheduled date. Neither appeared for hearing nor filed any reply, instead forwarded letter dated 18.10.2021 (received on 27.10.2021) requesting for further time.
Brijdham Dealcom Pvt. Ltd.	8	Digitally Signed e-mail dated 21.09.2021	<u>*SPAD returned undelivered.*</u> Not appeared for hearing on scheduled date. E-mail dated 29.10.2021 (*forwarded on e-mail id mentioned on letter head*) denying any further opportunities for hearing or filing reply also bounced.
Vibhuti Multi Trade Pvt. Ltd.	10	Digitally Signed e-mail dated 21.09.2021	<u>*SPAD returned undelivered.*</u> Matter Part-hear on October 26, 2021. Reply filed on 02.11.2021. Hearing concluded on March 25, 2022. Mr. Niraj Kanodia, Advocate was authorized representative.
Grafton Merchant Pvt. Ltd.	12	Digitally Signed e-mail dated 21.09.2021	<u>*SPAD returned undelivered.*</u> Not appeared for hearing on scheduled date. Vide e-mail dated 29.10.2021, it was informed that no further opportunities will be granted for hearing or filing reply. No reply filed till date.
Winsher Commotrade Pvt. Ltd.	13	Digitally Signed e-mail dated 21.09.2021	<u>*SPAD returned undelivered.*</u> Not appeared for hearing on scheduled date. E-mail dated 29.10.2021 (*forwarded on e-mail id mentioned on letter head*) denying any further opportunities for hearing or filing reply also bounced.
Scan Infrastructure Ltd.	14	SPAD and Digitally Signed e-	Not appeared for hearing on scheduled date. Vide e-mail dated 29.10.2021, it

		mail dated 21.09.2021	was informed that no further opportunities will be granted for hearing or filing reply. Vide e-mail dated November 01, 2021 forwarded reply to the SCN dated 29.10.2021.
Chandramukhi Vanijya Pvt. Ltd.	17	Digitally Signed e-mail dated 21.09.2021	*SPAD returned undelivered.* Not appeared for hearing on scheduled date. Vide e-mail dated 29.10.2021, it was informed that no further opportunities will be granted for hearing or filing reply. No reply filed till date.
Natraj Vinimay Pvt. Ltd.	18	Digitally Signed e-mail dated 21.09.2021	*SPAD returned undelivered.* Vide e-mail dated 18.10.2021 advised to appear for hearing on scheduled date. Neither appeared for hearing nor filed any reply, instead forwarded letter dated 18.10.2021 (received on 27.10.2021) requesting for further time. Vide e-mail dated 29.10.2021, it was informed that no further opportunities will be granted for hearing or filing reply. Reply filed vide letter dated 01.11.2021. Final hearing opportunity granted on March 25, 2021, which it again failed to avail.
Miracle Tradecom Pvt. Ltd.	19	Digitally Signed e-mail dated 21.09.2021	SPAD delivered. Not appeared for hearing on scheduled date. E-mail dated 29.10.2021 (*forwarded on e-mail id mentioned on letter head*) denying any further opportunities for hearing or filing reply also bounced.
Dove Suppliers Pvt. Ltd.	20	Digitally Signed e-mail dated 21.09.2021	*SPAD returned undelivered.* Not appeared for hearing on scheduled date. E-mail dated 29.10.2021 (*forwarded on e-mail id mentioned on letter head*) denying any further opportunities for hearing or filing reply also bounced.

11. In view of above, I note that apart from above mentioned noticees, for Noticees No. 2, 3, 5, 6, 7, 9, 11, 15, 16, 21, 22 and 23, the SCN and hearing notice has been served *via* paper publication on July 21, 2021 and August 18, 2021, respectively, and they have failed to file any reply to the SCN and also failed to avail the opportunity of hearing during instant proceedings. I further note that, 2 Noticees *viz.* Unisys (Noticee No. 1) and Vibhuti (Noticee No. 10) has availed the opportunity of hearing and Noticees No. 1, 10, 14 and 18 has filed their respective reply to the SCN. Other Noticees have failed to avail the opportunities granted to them for filing reply to the SCN and opportunities of personal hearing extended to them. I also note that, in the SCN and other communications issued to the Noticees, they were advised to provide their updated addresses and contact details. The Noticees No. 4, 8, 10, 12, 13, 17, 18, 19 and 20 have forwarded their requests on their letter heads, wherein, their address and email id was mentioned in header/ footer. However, the notice forwarded on these addresses returned undelivered. Further, these Noticees were communicating through physical letters

instead of using their e-mail ids, wherein, communications/ notice were issued to them through digitally signed e-mails/ e-mails by the office of Adjudicating Officer. For Noticees No. 8, 13, 19 and 20, the e-mail id mentioned on their letter head has been found wrong as e-mail forwarded on these mails bounced. Considering the above, I note that sufficient opportunities has been granted to aforementioned Noticees to file reply to the SCN and to represent case before me during the instant proceedings and only Noticees No. 1, 10, 14 and 18 have availed the same. I further note that, making paper publication time and again under the above mentioned scenario, wherein, the notice forwarded on addresses mentioned on letter heads returns undelivered and e-mails getting bounced w.r.t. Noticees No. 4, 8, 12, 13, 17, 19 and 20, it will be waste of time, money and resources, especially, when these Noticees are deliberately avoiding replying through mail and providing improper address due to which notices forwarded to them through SPAD returns undelivered.

12. In view of above, in my view sufficient opportunity of filing reply to the SCN and making representation during these proceedings has been extended to the aforesaid Noticees, however they failed to avail the same. In these facts and circumstances, I am of the view that the matter can be proceeded *ex-parte* on the basis of material available on record in terms of Rule 4(7) of the Adjudication Rules which reads as under: -

> *"**4(7)** If any person fails, neglects or refuses to appear as required by sub-rule (3) before the Board or the adjudicating officer, the Board or the adjudicating officer may proceed with the inquiry in the absence of such person after recording the reasons for doing so."*

13. I note that Noticees No. 2 to 9, 11 to 13, 15 to 17 and 19 to 23 have failed to file any response during instant proceedings. In the fact and circumstances of the case, I am of the view that the aforesaid Noticees have defied the regulatory provisions and I, therefore, deem it fit to draw an adverse inference against the aforesaid Noticees. Further, in absence of any response from the said Noticees, it is presumed that they have admitted the charge of violations of provisions as alleged in the case. In this regard, it is pertinent to note that the Hon'ble 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"*. It is also pertinent to note that 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*, observed 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..."*. Therefore, it can reasonably be presumed that the allegations/charges have been admitted by the Noticees No.

2 to 9, 11 to 13, 15 to 17 and 19 to 23 in this case. The material on record do not indicate anything to *ex facie* hold otherwise.

14. The submissions made by the Noticees No. 1, 10, 14 and 18 vide their replies to the SCN during the instant proceedings are as follows:

A. <u>Common Contentions of the Noticees No. 1, 10, 14 and 18</u>

a) The alleged violations in the SCN relate to the preferential allotment made by the Company in the year 2011 and alleged wrong/non-disclosure of shareholding in the year 2011. The present SCN has been issued on July 22, 2019 (i.e. almost 8-9 years after the impugned transaction). The aforesaid inordinate delay has severely prejudiced the Noticee. The said inordinate delay has not been explained by SEBI. The Noticee has placed reliance upon the judgements of Hon'ble Securities Appellate Tribunal ("**SAT**") in the matters of *Ashlesh Gunvantbhai Shah vs SEBI* (SAT Appeal no 169 of 2019), *Parag Sarda vs. SEBI* (SAT Appeal no 279 of 2020), *Morepen Laboratories Limited* (SAT Appeal No 62 of 2020), *Ashok K Chaudhary vs SEBI* (order dated November 05, 2008) and *Ashok Shivlal Rupani and Ors vs SEBI* (SAT Appeal no 417 of 2018).

b) Surprisingly, during the purported investigation conducted by SEBI, no information and/or explanations and/or clarifications regarding the various fund transactions in the SCN were ever sought from them. Adverse inferences against them are based on various fund transactions, which have been drawn behind its back and same are merely based on surmises and conjectures, which are completely contrary to the established factual position. There are various issues which should have been fully investigated before levelling serious allegations against it.

c) They have not made any gains or derived unfair advantage, as a result of falsely alleged violations. There is nothing to indicate in the SCN, that they have made any gains and also not caused any loss to the investors or group of investors. Therefore, imposition of any monetary penalty would be unjustified and unwarranted. In the circumstances, it is prayed that the charges in the SCN be dropped and no penalty be imposed.

B. <u>Unisys Softwares and Holding Industries Ltd. (Noticee No. 1)</u>

a) The disclosure violations brought out in the SCN is admitted, however, same was a technical lapse at its end. A brief explanation is detailed below: -

i. With regard to alleged non-disclosure for transactions on October 01, 2011 under Regulation 13(6) of the PIT Regulations, at the relevant time it had received the disclosure from the promoters of the Company *viz.* Kritika Trust, Vinyas Trust, Meenakshi Trust, Pratigya Trust and Prema Trust within the prescribed time and it had made requisite disclosure under Regulation 13 (6) of the PIT Regulation to BSE, but inadvertently it had missed making the disclosure regarding the same to the CSE. Further, when it became aware of the said lapse, CSE was already suspended from trading after SEBI had barred trading at C-Star (the online platform of CSE), for noncompliance of clearing and settlement norms. Therefore, it could not make any disclosure for the said disclosure.

ii. The aforesaid alleged non-disclosure by it was unintentional and by mistake. The alleged non-disclosure has not affected anybody's interest, including the shareholders of the Company. At relevant time the details of acquisition of shares by the said promoters, were already in public domain, *inter alia* by virtue of the disclosures made by it to BSE.

iii. With regard to alleged discrepancy in the shareholding pattern disclosures by it to BSE and CSE for few quarters i.e. December 2011, June 2014 to December 2014, same was an error of inadvertence and the same occurred because of *bona fide* error by its secretarial department and not actuated by any sinister intent or oblique motives. Post December 2014, it had always filed the correct shareholding pattern with the exchanges. The same would be evident from the submission of shareholding pattern disclosures by it to BSE and CSE and the shareholding pattern as per RTA data. We crave leave to refer to rely on the copy of the shareholding pattern disclosures by us to BSE and the shareholding pattern as per RTA data is documents as and when produced.

iv. Here it may be appreciated that the alleged violation of the provisions of Section 21 of SCRA read with Clause 35 of the Listing Agreement, is at the highest a technical and procedural lapse, which is venial in nature. Further, the same was not deliberate and intentional.

b) Allegation regarding violation of provisions of the PFUTP Regulations in the SCN are baseless and misplaced and also completely contrary to factual position on record. The allegation proceeds on specious and extraneous grounds, disregarding the material circumstances. It vehemently denies that it had given financial assistance to the preferential allottees to enable those allottees to subscribe to and buy its shares on a preferential basis on March 28, 2011, thereby limiting genuine capital infusion to that extent as alleged.

c) With regard to fund transfer on February 10, 2011 between Allbright and Noticees No. 2 to 8 (the preferential allottees), it was not aware of the said fund transfer and based on the same no adverse inference can be drawn against it. There is nothing mentioned in the SCN to suggest that it was aware of the fund transactions between Albright and Noticees No. 2 to 8 or that said fund transactions were at its behest.

d) With regard to funds received on February 11, 2011 from Noticees No. 2 to 8 (the preferential allottees), same was allotment amount received from the respective bank account of the said allottees.

e) With regard to funds transferred on February 12, 2011 by it to Allbright, it is stated that during the Investigation Period (*i.e. January 19, 2010 to November 14, 2014*) and prior/ post to the same, it was having regular financial dealings with various entities/individuals including Albright. The said transaction was advance money to Albright (*who agreed to arrange*) for purchase of shares of certain companies (*as a part of its investment activities and business operations*) for it and based on the same an amount of Rs. 2.75 crore was transferred on February 12, 2011to Allbright. Unfortunately, despite prolonged negotiations the deal did not go through and hence the said amount was refunded by Allbright after few days i.e. from February 18, 2011 to February 23, 2011. As an evidence, ledger book and bank statement is enclosed with reply.

f) Additionally, the differences in the quantum of funds transferred *viz*. Rs.7.50 Crores transferred to it by Noticee No. 2 to 8 towards the preferential allotment and Rs 2.75 crores transferred by it to Allbright have not been explained or reconciled while levelling the allegations. The said dichotomy has been left hanging in the balance and there is deafening silence on the same in the SCN. It is, therefore, denied that any funds were transferred by it to the preferential allottees indirectly through a conduit-Albright, as alleged.

g) With regard to fund transactions on February 10, 2011, February 11, 2011 and February 12, 2011 between Albright, Gulistan and Vibhuti, it was not aware of the said fund transfers and based on the transfer of funds between various third party entities no adverse inference can be drawn against it. There is nothing in the SCN to suggest that it was aware of the fund transactions between the said entities or that said fund transactions were at its behest.

h) With regard to funds transferred on February 12, 2011 by it to Grafton, the same was paid towards purchase of shares of Matrix Systel Pvt Ltd and Octopus Infotel Pvt Ltd as a part of its investments in unquoted shares. Further, the purchase of shares is also evidenced in its Annual Report and Bill raised by Grafton while purchasing the shares. It was already having financial transactions with Grafton even in the past i.e. prior to the alleged transaction. As an evidence, copies of ledger, Annual Report, bill raised, bank transactions, etc. is enclosed with reply.

i) There is no correlation between the amounts given by Grafton to Vibhuti. Further, it is not aware of the said transaction and there is nothing on record to show it was aware of the same. Therefore, based on the genuine financial transaction between it and Grafton, it cannot be alleged that it had funded the preferential allottees (Noticees No. 2 to 8) through Grafton and Albright.

j) It had no control over the day to day operations of Grafton & Albright, in terms of their fund transfer to other entities etc. At the relevant time, it was not aware about the details of transfer of funds by Grafton & Albright to other entities and the same was of no concern to it. Therefore, no adverse inference can be drawn against it on the basis of fund transactions between Grafton & Albright and Noticees No. 2 to 8.

k) The tenuous connections alleged in Para 5.8 of SCN are exceedingly vague and devoid of any material particulars. Based on tenuous connections, the actions of other entities cannot be attributed to it. That a sweeping allegation of some connection between some third parties has been made however, nothing turns on the same. Nothing has been brought on record to even remotely substantiate as to how it had any role or involvement in the fund transactions done by the alleged connected entities and also how based on the alleged tenuous connections, the fraudulent actions of other parties can be fastened upon it. In the SCN, normal relationships have been unduly stretched in order to somehow bunch it with other entities and attribute their actions/knowledge to it, which is legally untenable and unsustainable. In this regard reliance has been placed upon the judgement of Hon'ble SAT in the matter of *Smitaben N. Shah vs. SEBI* (SAT Order dated 30.07.2010 Appeal No. 37 of 2010).

l) It is denied that Unisys had given financial assistance to the preferential allottees i.e. Noticees No. 2 to 8 to enable those allottees to subscribe to and buy its own shares allotted to them on a preferential basis by Unisys on March 28, 2011, thereby limiting genuine capital infusion to that extent as alleged. It is also denied that Noticees No. 9 to 12 acted as conduits and facilitated Unisys in giving financial assistance in connection with the subscription made by the said preferential allottees.

m) With respect to fund transfers by various entities/individuals as set out in Para 5.10 and Para 5.11 of the SCN, it is not aware of the said fund transactions between various third party entities and based on the same no adverse inference can be drawn against it. Even as per SEBI, there is no connections between it and the entities *viz.* Jasper, Winsher, Chandramukhi, Gaungour and Dove, who allegedly provided funds to the allottees. Further, there is no allegation regarding any fund transaction by it with the said entities post the preferential allotment. Therefore, the whole allegation with respect to funding the allottees during the payment of balance 75% of total amount of preferential allotment does not sustain.

n) Pertinently, unlike the fund trail for 25% of the preferential allotment amount, where SEBI had found certain fund transactions between it and alleged conduit entities during the relevant period, there are no fund transactions by it in any manner with any of the alleged conduit entities during the payment of balance 75% of allotment amount by the preferential allottees.

o) With regard to the details of connection as set in Para 5.12, 5.15, 5.18 and 5.21 of the SCN, same are sweeping allegation of some connection between some third parties. The alleged connection i.e. common director with Scan and Bhushan has got nothing to do with preferential allotment made by it.

p) With regard to receipt of funds from Bhushan, the said transaction was in context of sale of shares of various companies to them by it during the relevant period. The copy of bill has been attached as evidence and therefore, same is based on the genuine commercial transaction with Bhushan and no adverse inference can be drawn.

q) Violation of provisions of Sections 12A (a), (b) and (c) of SEBI Act and Regulations 3(a), (b), (c) and (d) and 4(1)of PFUTP Regulations, as alleged have been sweepingly invoked without substantiating as to how the same are applicable in the facts and circumstances of the case. It is submitted that it has not violated any of the provisions of SCRA Act or SEBI Act or indulged in any fraudulent and unfair trade practices relating to securities as alleged or failed to comply with the listing conditions, therefore, there is no warrant for imposition of any penalty under Section 15 A(b), Section 15HA of SEBI Act and Section 23H of the SCRA.

r) It has set out following mitigating/ extenuating factors for kind consideration **<u>without prejudice</u>** to its submission:

i. It is not the case that the alleged preferential allotment amounts were siphoned off or mis-utilised by it (same is not even alleged).
ii. The funds raised by Unisys have been profitably deployed and the same is evidenced by the financials wherein the Profit after Tax has increased from Rs. 3.21 million in March 2011 quarter to Rs. 7.10 million in June 2011 quarter.
iii. There have been no investor complaints etc. against it.
iv. There are no allegations that the Company had tried to manipulate its share prices or indulged in any fraudulent practices pertaining to volume creation etc.
v. There has been undue delay in initiation of proceedings (i.e. around 10 years). It is well settled now that "*undue delay is a mitigating factor which has to be considered while imposing a penalty under section 15J of the SEBI Act*". (Refer: *Anita Jajodia vs SEBI* – SAT Order dated 20.01.2021).

C. Vibhuti Multi Trade Pvt. Ltd. (Noticee No. 10)

a) It admits that the transactions of its with Allbright and Grafton are not just singular in nature, as it previously had many other transactions with Allbright and Grafton towards purchase and sale of shares. These transactions are pure financial transactions and are in ordinary course of business. During the year 2010-11, it had advanced Allbright a sum total of INR 10 Crores against which it had received shares worth INR 4.20 crores from Albright; and it had advanced Grafton a sum total of INR 5.90 Crores against which it had received shares worth INR 3.34 crores from Grafton; and the balance amount was returned by Allbright and Grafton within the same financial year. The ledger account and invoices are enclosed as evidence and the tabular representation of the transactions are as follows:

<u>Table 13</u>

FY 2010-2011	Amount INR
A. Albright	
Opening Balance (A)	
Advances Påid towards share purchased during the year (B)	10,00,00,000

Shares Purchased during the year (C)	4,20,50,000
Advance Returned during the year (D)	5,79,50,000
Closing Balance (A+B-C-D)	-
B. Grafton	
Opening Balance (A)	
Advances Påid towards share purchased during the year (B)	5,90,00,000
Shares Purchased during the year (C)	3,34,00,000
Advance Returned during the year (D)	2,56,00,000
Closing Balance (A+B-C-D)	-

b) It denies the allegations levied upon it in Para 5.8 of the SCN, stating that it had transferred and received funds from Unisys during the investigation period. Moreover, the graphical representation of the funds trails in para 5.2 demonstrates that Vibhuti during the investigation period had entered into transactions between Allbright & Grafton. The statements in para 5.8 and 5.2 are contradictory in itself.

c) Further, it was not cognizant about the funds trail between Allbright & Grafton along with other seven preferential allottees.

d) Its registered office address is *Tiwari layout, Pulgaon Road, Survey No. 324, Taluka Deoli, Wardha- 442001* and official e-mail id is legal-secretarial2013@gmail.com. It apologies for the inconvenience caused to adjudicating authority due to returning of notices.

D. Scan Infrastructure Limited (Noticee No. 14)

a) The impugned fund transactions involving it were genuine commercial transactions undertaken in the ordinary course of business and were not a part of the alleged routing of funds in giving financial assistance to preferential allottees.

b) Allegation has been levelled against it on the sole premise that it had received funds from Unisys. Admittedly, as per SCN, there is no single fund transaction between Scan and Unisys. Also there is no allegation of any connection/ fund transfers between Scan and other Noticees apart from Noticees No. 11 and 17, which was in context of purchase of shares.

c) It had nothing to do with the management or operations of Unisys or the alleged preferential issues brought by Unisys, or the usage of preferential proceeds by Unisys. It is not related/ connected in any manner with preferential allottees who were allotted shares by Unisys. Admittedly, there is nothing in the SCN to demonstrate any kind of involvement even remotely with either Unisys or the Preferential Allottees or the other persons/ entities who had transferred funds to the preferential allottees.

Therefore, the burden of alleged actions of others (*including Unisys and its allottees*) cannot be saddled on it, especially in the absence of any connection with them and in the absence of any role of it. As per the SCN there was no fund transaction between it and any of the preferential allottees i.e. Noticees No. 2 to 8. In the absence of the same the allegation of giving financial assistance to preferential allottees by routing of funds cannot sustain.

d) With regard to fund transactions of Rs 175 Lakhs with Chandramukhi on March 11, 2011, the same were towards purchase of shares in various companies *viz.* Sudhanil Vanijya Ltd, Seagreen Realtors Pvt Ltd, Risewell Suppliers Pvt Ltd. The evidence of the said shares is also borne out by the bills issued by Chandramukhi, wherein, the quantum of shares has been disclosed. Its financial dealings with Chandramukhi were going on since long i.e. prior to the alleged transaction. Copy of ledger and bank statements are enclosed as evidence in this regard.

e) The fund transfer for purchase of shares by it in the ordinary course of its business has been erroneously given the complexion of providing funds to Chandramukhi, who in turn had transferred the funds to Neha (N-6) for subscribing the shares of Unisys. The said fund transactions have been unnecessarily linked with the fund transfers between Neha and Unisys, of which it had no knowledge or had any kind of control. During the relevant time it was not aware of the fund transfer between Chandramukhi and Neha. There is nothing in the SCN to show that it was aware of the said transaction the same was on behest of Scan.

f) Merely because two entities are having common director, cannot lead to an automatic inference that both of them are acting together, without any supporting material signifying concerted actions/ complicity. It may be appreciated that the allegations of acting together in a fraudulent manner are serious allegations and require substantiating material in support of the same, which is conspicuously absent in the instant case. In this regard reliance has been placed upon the judgement of Hon'ble SAT in the matter of *Babubhai Desai vs. SEBI* (SAT Order dated 15.02.2016). Therefore, based on the said transactions between Chandramukhi, Neha and Unisys, no adverse inferences can be drawn against it, *inter alia*, in terms of it being a conduit entity etc.

g) With regard to fund transactions of Rs 185 lakhs transferred to Allbright on March 11, 2011, same was were towards purchase of shares in various companies *viz.* M/S.

Surabhi Chemical Pvt Ltd, Microchip Infotel Pvt Ltd and Sepia Ventures Pvt Ltd. The evidence of the said shares is also borne out by the bills issued by Albright wherein the quantum of shares has been disclosed. It has been overlooked that its financial dealings with Albright were going on since long i.e. prior to the alleged transaction. Copy of ledger and bank statements are enclosed as evidence in this regard.

h) The fund transfer for purchase of shares by it in the ordinary course of its business has been erroneously given the complexion of providing funds to Albright, who in turn had transferred the funds to Jai Ambe for subscribing the shares of Unisys. The fund transactions of it with Albright have been unnecessarily linked with the fund transfers between Jai Ambe and Unisys, of which it had no knowledge or awareness or any kind of control.

i) There is nothing in SCN, to suggest that it was aware of entities from which preferential allottees have received funds for purchase of shares on a preferential basis were closely connected with each other or with Unisys. Further, it is categorically denied that it was a conduit entity as alleged or that it was part of alleged routing of funds in any manner. There is nothing in the SCN to even remotely indicate that Unisys or the preferential allottees or any of the alleged conduit entities have parted with any benefits with it in any manner.

j) While alleging funding by Unisys through it, to the preferential allottees, admittedly, it has not been shown – i) how Unisys has funded it, in the absence of any direct fund transfer; ii) how it has been assumed that the funds in the account of it are the funds belonging to Unisys; and iii) it has been assumed that funds transferred by Scan to other entities *viz.* Chandramukhi and Albright (*which are legitimate transactions*) are nothing but funds provided by Unisys and the funds transferred on behalf of or at behest of Unsiys.

k) Absent of flow of funds from Unsiys to Scan or absent of any material to demonstrate that funds in the account of it are funds belonging to Unisys, the whole charge of Scan acting as conduit collapses. It is reiterated that transactions executed by it were genuine and legitimate and had nothing to do with Unisys or its preferential allotment or the preferential allottees, in any manner. Further, the funds in the hands of it were not belonging to Unisys in any manner. Clearly, the allegations are bald and sweeping and are totally speculative and completely devoid of any basis.

E. Natraj Vinimay Pvt. Ltd. (Noticee No. 18)

a) It has purchased 26,250 shares of Nirnidhi Constructions Pvt Limited from Jai Ambe (N-7) at Rs. 1,05,00,000/- on April 16, 2010 and said purchase was made in ordinary course of business. The payment for the same was made by it to Jai Ambe on various days from August 25, 2010 to March 17, 2011. Bank A/c Statement, bills, ledger are enclosed as evidence. The transaction of Rs 3 lac to Jai Ambe on March 11, 2011 was part of consideration amount towards the purchase of the aforementioned shares and the same was not a part of financing activities as alleged.

b) It is evident from Para 5.16 of the SCN, that Rs. 3 lacs paid by it is independent and wholly unrelated to the payment made by Jai Ambe to Unisys. It is submitted that the required funds towards the preferential allotment had already been paid by Jai Ambe to Unisys i.e. Rs 175 lacs after receipt of funds of Rs 175 lacs from Albright. Therefore, the allegation in the SCN are based on the erroneous assumption that the Noticee had acted as conduits and facilitated transfer of preferential allotment to Unisys. The said allegation is totally incorrect and completely contrary to factual position on record.

c) During the relevant time the Noticee was dealing with its business activities independently without acting in concert with other entities including the other alleged conduit entities.

d) If two entities are connected, the same cannot lead to an automatic inference that both of them are acting in collusion, without any supporting material signifying concerted actions/ complicity. Reliance has been placed upon the judgement of Hon'ble SAT in the matter of *Smitaben N. Shah vs. SEBI* (SAT Order dated 30.07.2010 Appeal No. 37 of 2010). Therefore, the alleged connections in the Para 5.18 of the SCN based common directorship and common email ids with other entities are exceedingly vague and devoid of any material particulars and based on tenuous connections as alleged in the SCN, the actions of other entities cannot be attributed to Noticee. It had no connection/relationship with Unisys in any manner. Even in the SCN, it has been confirmed that none of its directors were directors of Unisys.

e) It is denied that it had helped Unisys or Jai Ambe in alleged routing of funds in any manner and it is also denied that it has acted as "*conduit*" or "*facilitated Unisys in giving financial assistance*" to preferential allottees.

15. I have considered the allegation levelled in the terms of reference, the relevant material brought on record, reply/ submissions of the Noticees No. 1, 10, 14 and 18 made during the instant proceedings before the undersigned. Before dealing the case, it would be appropriate to provide reference to the provisions alleged to be violated by the Noticees at the relevant times and same read as under: -

SEBI Act

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.

PIT Regulations, 1992

Disclosure by company to stock exchanges.

13. (6) Every listed company, within two working days of receipt, shall disclose to all stock exchanges on which the company is listed, the information received under sub-regulations (1), (2), (2A), (3), (4) and (4A) in the respective formats specified in Schedule III.

2015 PIT Regulations

Repeal and Savings.

12. (1) The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.

(2) Notwithstanding such repeal, —

(a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and

(b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(3) After the repeal of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.

SCRA

Conditions for listing

***21.** Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.*

Equity Listing Agreement

***35.** The issuer company agrees to file with the exchange the following details, separately for each class of equity shares/security in the formats specified in this clause, in compliance with the following timelines, namely: -*

a) One day prior to listing of its securities on the stock exchanges.

b) On a quarterly basis, within 21 days from the end of each quarter.

c) Within 10 days of any capital restructuring of the company resulting in a change exceeding +/-2% of the total paid-up share capital.

16. I note that, one of the common technical contentions of the Noticees No. 1, 10, 14 and 18 is that the SCN in the instant matter has been issued after a delay of 8-9 years from the date of impugned transactions and the aforesaid inordinate delay has severely prejudiced the Noticee. In this regard, I note that, the investigation in this matter has been initiated in July 15, 2015 on the basis of references received from Department of Income Tax alleging generation of bogus Long Term Capital Gain by sharply raising the price of the scrip and using of Stock Exchange mechanism for same, while trading in the scrip of several companies, and the Unisys was one of such company. Thereafter, a preliminary examination was carried out to identify the nature of allotments of shares/ convertible warrants on preferential basis, bonus/ split etc. in Unisys. Based on preliminary analysis, a detailed investigation has been approved in October, 2015 w.r.t. Unisys. An extensive investigation was carried out by SEBI, which included - calling for information from stock exchange, depositories, company and preferential allottees; analysis of trade and order data; analysis of the information received from stock exchange, depositories, company and preferential allottees; examination of preferential allotment process; identifying connections among LTP contributors, exit providers and preferential allottees; and detailed analysis of fund flows, bank account statements, fund trails, preferential allotments and fund movements related to the same, Unique Client Code details, etc. Subsequently, after extensive investigation, the final investigation report was presented on March 28, 2019 and the action was approved on March 28, 2019. Thereafter, Shri Santosh Shukla (erstwhile Adjudicating Officer) was appointed as Adjudicating Officer vide communication order dated May 13, 2019 and on receipt of records, the SCN to the Noticees have been issued on August 05, 2019 in this matter. In this regard, I would like to highlight the pertaining remark made by the Hon'ble SAT in the matter of *Hemant Madhusudan Sheth and Ors. vs. SEBI* (Appeal No. 06 of 2020; Date of Decision: 24.06.2021) – "*We find that the show cause notice was issued within a period of four years after analysing the facts given in the investigation report. Since a large number of trades were examined we are satisfied that in the given case there was no laches on the part of the respondent in initiating the proceedings*". I, therefore, find that there was no delay in issuance of SCN and no prejudice has been caused to the Noticee due to extensive procedure followed for completion of investigation.

17. The Noticees have placed reliance upon various judgements of Hon'ble SAT on the question of delay. In this regard, I note that there is no provision in the SEBI Act which lays down any limitation period for initiating any proceedings/ action under the SEBI Act. For establishing

the delay, if any, in the matter, the date when the violation came to the notice of the SEBI would be the relevant point (*when reference from Income Tax Authorities received during 2015*) and not the date of violation. Whether a delay in a particular case is justified or not depends on the facts and circumstances of each case. I further note that, initiating a proceeding under the appropriate provisions of SEBI Act is a regulatory prerogative of SEBI depending upon the outcome of the fact finding exercise, which is the investigation done in this case, and just because the alleged violation was committed in a distant past cannot be a ground to vitiate initiation of these proceedings. Also, it is a settled principle that a delay in a particular case depends on the facts and circumstances of each case. These Noticees have placed reliance upon the following judgements of the Hon'ble SAT in the matter of *Ashlesh Gunvantbhai Shah* (*Supra*), *Shri Ashok K. Chaudhary* (*Supra*), *Parag Sarda* (*Supra*), *Ashok Shivlal Rupani and Ors* (*Supra*) and *Morepen Laboratories Limited* (*Supra*). In this regard, I note that, in the judgement relied upon by the Noticee in the matter of *Ashlesh Gunvantbhai Shah* (*Supra*), the Hon'ble SAT has made the following pertinent remarks:

"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. <u>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.</u> This proposition of law has been consistently reiterated by the Supreme Court [..]. (emphasis applied)

18. I further note that in *Pooja Vinay Jain vs. SEBI* (Appeal No. 152 of 2019) decided on March 17, 2020, the Hon'ble SAT *inter alia* held the following:

"On the issue of delay, in the case of Ashok Rupani (supra), this Tribunal, inter-alia, noted the ratio in the case of Mr. Rakesh Kathotia and Ors. vs. SEBI [Appeal No 7 of 2016 decided on May 27, 2019]. Paragraph No. 7 of the case of Ashok Rupani Judgment is as under….

The decision would show that the power to initiate the proceedings must be exercised by the authorities within a reasonable time. This would depend upon the facts and circumstances of the case, nature of the default / statute and prejudice caused to the noticee.

……It was simply stated that since the proceedings were launched by respondent SEBI after a period seven years, the same should be quashed on the ground of delay. The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same."

19. I also note that, Hon'ble 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."

20. In this regard, I note that Hon'ble SAT has qualified through aforesaid rulings by saying that the reasonable period would depend on the facts and circumstances of each case and that no hard and fast rule can be laid down in this regard. I am of the view that present proceedings do not suffer from any infirmity on the ground of delay. I am also of the opinion that, even if there is any delay as alleged, same cannot be the sole ground to exonerate these Noticees from liability of penalty under SEBI Act, if the charges and allegations are established on desired preponderance of probability.

21. Another common technical contentions of the Noticees No. 1, 10, 14 and 18 is that during the purported investigation conducted by SEBI, no information and/or explanations and/or clarifications regarding the various fund transactions in the SCN were ever sought from them. In this regard, I note that, during investigation information/ documents has been sought from Unisys, Noticee No. 1 and Unisys has submitted its replies vide letters dated July 02, 2018 and November 13, 2018, which are also the part of relied upon documents in the instant proceedings and provided to the Noticees as Annexure 5 to the SCN. Further, it is a prerogative of the Investigation Authority, whether, to seek additional information/ documents/ explanations from particular individual or not; or whether to rely upon the documents already available on record. Also, SEBI Act and Regulations framed under it does not provide for any such mandatory requirements. Apart from above, I further note that ample opportunity has been granted to the Noticees during the instant proceedings before me to make proper submission/ representation and rebut the allegations and charges framed against them in the SCN. Considering the same, I reject such contentions of the Noticees.

Disclosure Violation by Noticee No. 1

22. Coming to the merit of the case, I note that, first charge alleged in the SCN is that the Noticee No. 1 being a company had failed to make disclosure under Regulation 13(6) of the PIT Regulation to CSE w.r.t. acquisition of the shares of the company by its promoters on October 01, 2011. In this regard, I note that the Noticee No. 1 has admitted the aforesaid lapse on its part, however, it has claimed that same was un-intentional and inadvertent error. It further claimed that same is a technical and procedural lapse, which is venial in nature. I

have perused the record and I observe that the Noticee No. 1 has make proper disclosure to the BSE w.r.t. acquisition of the shares of the Company by its promoters on October 01, 2011, however, it has failed to make disclosure to CSE. Further, this is not a case of non-disclosure, instead charge is related to failure in disclosure on another stock exchange where it is listed. I am of a view that, since the Noticee No. 1 has made disclosure on BSE, which is a leading stock exchange in our country, it can be fairly assumed that the information has been disseminated in public. Also, the purpose of the disclosure is to enable the investors in the scrip to take an informed investment or disinvestment decision, to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market; and I am of the view that aforesaid purpose get served with a disclosure made on BSE by the company during relevant period. Considering the aforesaid facts and circumstances, I am of a view that the default in making the disclosure under Regulation 13(6) of the PIT Regulation to CSE of said acquisition is a technical and venial lapse and I am inclined to take a lenient view in this regard.

23. With regard to second charge of filing wrong quarterly shareholding pattern disclosures to BSE and CSE for the Quarter ending December 2011, June 2014 to December 2014 and on multiple instances failing to ensure the correctness and authenticity of the information, the company has claim same to be a non-intentional, technical and venial lapse and same was occurred because of *bona fide* error by its secretarial department and not actuated by any sinister intent or oblique motives. I note that on continuous basis making wrong disclosure regarding shareholding pattern cannot be a justification for a company. As already discussed in above paras that the purpose of these disclosures is to bring about transparency in the transactions and to assist the Regulator to effectively monitor the transactions in the market. Timely and correct disclosures of the details of the shareholding of the persons in a company is of significant importance as such disclosures enable the investors in the scrip to take an informed investment or disinvestment decision. Hon'ble SAT in the matter of *Coimbatore Flavors & Fragrances Ltd. vs SEBI* (Appeal No. 209 of 2014 order dated August 11, 2014), has also held that "*Undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same.*" Further in the matter of Appeal No. 66 of 2003 -*Milan Mahendra Securities Pvt. Ltd. vs. SEBI*–the Hon'ble SAT, vide its order dated April 15, 2005 held that, "*the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market.*" Therefore, in my opinion making wrong disclosures on regular basis of quarterly shareholding of the company cannot be claimed to be technical and venial lapse, merely by making a simple

statement. Considering the admission of aforesaid lapse by the Noticee and repeated nature of the said lapse, I am of the opinion that the aforementioned lapse is neither technical nor venial, instead it is a deliberate defiance by the Noticee No. 1 and thus, Noticee No. 1 has violated the provisions of the section 21 of the SCRA read with Clause 35 of erstwhile Equity Listing Agreement.

PFUTP Violation by Noticees No. 1 - 23

24. The third charge in the SCN is of –a) providing financial assistance by Unisys, Noticee No. 1 to the preferential allottees i.e. Noticees No. 2 to 8 to enable these allottees to subscribe to and buy shares of Unisys on a preferential basis on March 28, 2011, thereby limiting genuine capital infusion to that extent; and b) the Noticees No. 8 to 23 have acted as conduits and facilitated Unisys in giving financial assistance by allowing their bank accounts for routing of funds in connection with the subscription made by the preferential allottees i.e. Noticees No. 2 to 8. In this regard, I note that the Unisys has issued a notice dated December 29, 2010 regarding issuance of "*convertible warrants*" on preferential basis, wherein 25% of the conversion price in relation to each convertible warrant have to be paid before the allotment i.e. March 28, 2011. Accordingly, the allottees i.e. Noticees No. 2 - 8 have paid 25% of amount prior to the allotment on February 11, 2011 and the balance 75% of amount was paid during March 2011. The details of allotment of "*convertible warrants*" on preferential basis made to Noticees No. 2 – 8 has been provided in Table 2. I have observed following with regard to the impugned allotment of "*convertible warrants*" on preferential basis:

A. 25% of total amount of preferential allotment

As provided in Pictorial 1, I note that on February 10, 2011, Allbright (Noticee No. 11) had received Rs 3 crores from Gulistan (Noticee No. 9) and Rs 5 crores from Vibhuti (Noticee No. 10), respectively. Thereafter, on same day i.e. February 10, 2011, Allbright had transferred Rs 0.5 crores, Rs 0.5 crores, Rs 0.625 crores, Rs 2.5 crores, Rs 1.25 crores, Rs 1.25 crores and 0.875 crores to Noticees No. 2 – 8, respectively, who were allottees. Subsequently, on receipt of funds from Noticee No. 11, on next day i.e. February 11, 2011, the allottees i.e. Noticees No. 2 to 8 have transferred Rs. 7,50,00,000/- (in total) from their respective bank accounts to the bank account of Unisys. Later on, on February 11, 2011, Allbright had transferred back Rs 25 lakh to Gulistan. On third day from the date (February 10, 2011) of first transfer i.e on February 12, 2011, Unisys (Noticee No. 1) transferred Rs 2.75 crores to Allbright and subsequently, Allbright transferred Rs 2.50 crores to Vibhuti. It is also observed that, on February 11, 2011 Unisys had transferred Rs 2.50 crores to Grafton (Noticee No. 12), which further transferred same amount of Rs 2.50 crores to Vibhuti. It is worth to note here that prior to receipt of allotment amount of Rs 7.50 crores from allottees i.e. Noticees No. 2 – 8, Unisys had a balance of Rs 1.58 lakh (approx..) in its account and after receipt of allotment account, it transferred back Rs 5.25 crores to Allbright and Grafton; and to Vibhuti *via* Grafton. From Table 3, I note that Unisys, Allbright, Gulistan, Vibhuti and Grafton are connected entities, as Gulistan share same address as that of the Unisys. Further, Allbright and Grafton has common directors, while Grafton and Gulistan has common e-mail address apart from several fund transactions with Unisys. Similarly, Vibhuti has several fund transactions with the Company during the Investigation period. In view of the aforesaid facts and circumstance, I am of the view that attendant circumstances of this case indicates that the Unisys has devised a fraudulent scheme and artifice along with the allottees i.e. Noticees No. 2 to 8 and the conduits i.e. Noticees No. 9 to 12, to fund its own preferential allotment and giving a deceitful impression of genuine capital infusion in the company through impugned preferential allotment. Considering engagement of these connected Noticees in such fraudulent act, I found these Noticees have violated the provisions of Sections 12A (a), (b) and (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d) and Regulation 4(1) of the PFUTP Regulations.

B. <u>75% of total amount of preferential allotment</u>

a) As provided in Pictorial 2, I note that on March 24, 2011, Brijdham (Noticee No. 8) and Winsher (Noticee No. 13) had transferred Rs 99.53 lakhs and Rs 262.45 lakhs to Jasper (Noticee No. 16), respectively. Thereafter, on same day, Jasper had transferred Rs 1.5 crores each to two allottees i.e. Madhuvan (Noticee No. 2) and Matara (Noticee No. 3), respectively. Subsequently, on receipt of funds from Jasper, Madhuvan had transferred Rs 1.5 crores to Unisys on March 25, 2011 and Matara had transferred Rs 1.5 crores to Unisys on March 28, 2011 in way of balance 75% subscription amount for impugned preferential allotment. Similarly, on March 23, 2011, Winsher had transferred Rs 187.5 lakhs to allottee Everlink (Noticee No. 4) and subsequently, Everlink transferred same amount to Unisys on March 24, 2011 in way of balance 75% subscription amount for impugned preferential allotment. From Table 4, I note that Brijdham, Winsher and Jasper are connected entities, as Brijdham, Winsher, Grafton and Allbright have common director and Brijdham is one of the allottee. Further, Winsher shares common e-mail id with Brijdham. I also note that Jasper director Mr. Manik Lal Vyas and Winsher director Mr. Bajrang Lal, together were directors in Fort Vintrade Pvt. Ltd. during the relevant time. Apart from the above, there were several fund transactions between Grafton and Jasper during the relevant period. Therefore, on considering the aforementioned fund transactions and connection among the aforementioned Noticees, I am of the opinion that Noticees No. 2, 3 and 4 have been funded *via* conduits i.e. Noticees No. 8, 13 and 16 for balance 75% subscription amount for impugned preferential allotment of Noticee No. 1. I further note that, in my view there is no material on record to rebut the aforesaid findings in this case.

b) As provided in Pictorial 3, I note that on March 11, 2011, Scan (Noticee No. 14) had transferred Rs 1.75 crores to Chandramukhi (Noticee No. 17), who further transferred same amount of Rs 1.75 crores to allottee Neha (Noticee No. 6) on same day. On same day i.e. March 11, 2011, Gaungour (Noticee No. 15) had transferred Rs 2 lakhs to Neha. Further, on same day i.e. March 11, 2011, Silverson (Noticee No. 21) had transferred Rs 4 crores to Dove (Noticee No. 20), who further transferred amount of Rs 1.98 crores to allottee Neha on same day. Subsequently, on receipt of amount of Rs 3.75 crores from Chandramukhi, Gaungour and Dove, allottee Neha had transferred Rs 3.75 crores to Unisys on same day i.e. March 11, 2011 in way of balance 75% subscription amount for impugned preferential allotment. It is worth to note here that, prior to the receipt of aforesaid amount by Neha, its account balance on March 10, 2011 was Rs. 20.28 lakhs (approx.). From Table 5, I note that, Scan director Mr. Jagdish Prasad Purohit was also the director and current managing director of Unisys. Chandramukhi, Gaungour and Gulistan had common director during relevant time and Gulistan has been found connected to Unisys on the basis of common address. Gaungour also shares common e-mail id with Gulistan and Grafton. Jasper, Silverson and Dove had common director Mr. Manik Lal Vyas during the relevant time. Therefore, on considering the aforementioned fund transactions and connection among the aforementioned Noticees, I am of the opinion that Noticee No. 6 had been funded *via* conduits i.e. Noticees No. 14, 15, 17, 20 and 21 for balance 75% subscription amount for impugned preferential allotment of Noticee No. 1. I further note that, in my view there is no material on record to rebut the aforesaid findings in this case.

c) As provided in Pictorial 4, I note that on March 11, 2011, Scan had transferred Rs 1.85 crores to Allbright, who further transferred amount of Rs 1.75 crores to allottee Jai Ambe (Noticee No. 7) on same day. On same day i.e. March 11, 2011, Silverson had transferred Rs 4 crores to Dove, who further transferred amount of Rs 1.97 crores to allottee Jai Ambe on same day. Further, on same day i.e. March 11, 2011, Natraj (Noticee No. 18) had transferred Rs 3 lakhs to Jai Ambe. Subsequently, on receipt of amount of Rs 3.75 crores from Allbright, Natraj and Dove, allottee Neha had transferred Rs 3.75 crores to Unisys on same day i.e. March 11, 2011 in way of balance 75% subscription amount for impugned preferential allotment. From Table 6, I note that, Natraj, Chandramukhi, Gaungour and Gulistan had common director Mr. Sarbeswar Parida and Natraj and Gulistan had one more common director Mr. Rajendra Kumar Kothari. Further, Natraj, Gaungour, Gulistan and Grafton shares common e-mail id. Therefore, on considering the aforementioned fund transactions and connection among the aforementioned Noticees, I am of the opinion that Noticee No. 7 had been funded *via* conduits i.e. Noticees No. 11, 14, 18, 20 and 21 for balance 75% subscription amount for impugned preferential allotment of Noticee No. 1. I further note that, in my view there is no material on record to rebut the aforesaid findings in this case.

d) As provided in Pictorial 5, I note that on March 23, 2011, Bhushan (Noticee No. 23) had transferred Rs. 5 crores each to allottee Brijdham (Noticee No. 8) and Miracle (Noticee No. 19). Further, Honesty (Noticee No. 22) had transferred Rs. 1.12 crores to allottee Brijdham on same day. Thereafter, on same day Miracle had transferred Rs. 5 crores received from Bhushan, to another allottee Sahayta (Noticee No. 5). Further, on same day i.e. March 23, 2011, allottee Brijdham out of the amount of Rs. 6.12 crores received from Bhushan and Honesty, had transferred Rs. 2.5 crores to another allottee Sahayta. Subsequently, on March 23, 2011, Brijdham had transferred Rs. 2.625 crores to Unisys as balance 75% subscription amount for impugned preferential allotment; and on March 24, 2011, Sahayta had transferred Rs. 7.5 crores received from Brijdham and Miracle on March 23, 2011 to Unisys as balance 75% subscription amount for impugned preferential allotment. From Table 7, I note that, Honesty, Jasper, Silverson and Dove had common director Mr. Manik Lal Vyas during the relevant time. Further, Miracle, Allbright, Winsher and Brijdham had common director Mr. Raj Kumar Purohit. Apart from the above, there were several fund transactions between Bhushan and Unisys during the relevant period. Therefore, on considering the aforementioned fund transactions and connection among the aforementioned Noticees, I am of the opinion that allottee Noticees No. 5 and 8 have been funded *via* conduits i.e. Noticees No. 19, 22 and 23 for balance 75% subscription amount for impugned preferential allotment of Noticee No. 1. Further, Noticee No. 8 apart from being allottee had also acted as conduit for funding the subscription amount of Sahayta w.r.t. impugned transaction. I also note that, in my view there is no material on record to rebut the aforesaid findings in this case.

e) I have noted following connection among the Noticees (*refer Table No. 3 – 7*) during investigation/ relevant time:

i. Brijdham (Noticee No. 8), Allbright (Noticee No. 11), Grafton (Noticee No. 12), Winsher (Noticee No. 13) and Miracle (Noticee No. 19) have common director Mr. Raj Kumar Purohit.

ii. Jasper (Noticee No. 16), Dove (Noticee No. 20), Silverson (Noticee No. 21) and Honesty (Noticee No. 22) have common director Mr. Manik Lal Vyas.

iii. Gulistan (Noticee No. 9), Gaungour (Noticee No. 15), Chandramukhi (Noticee No. 17) and Natraj (Noticee No. 18) have common director Mr. Sarbeswar Parida.

iv. Gulistan (Noticee No. 9) and Unisys (Noticee No. 1) shared common address - *75/C Park Street Kolkata WB 700016*.

v. Gulistan (Noticee No. 9), Grafton (Noticee No. 12), Gaungour (Noticee No. 15) and Natraj (Noticee No. 18) shared common e-mail id dhruvonarayan.jha@rediffmail.com .

vi. Brijdham (Noticee No. 8) and Winsher (Noticee No. 13) shared common e-mail id ppurohit27@yahoo.in .

vii. Vibhuti (Noticee No. 10), Grafton (Noticee No. 12) and Bhushan (Noticee No. 23) have frequently received/ transferred funds to Unisys.

viii. Director of Scan (Noticee No. 14), Mr. Jagdish Prasad Purohit was also the director and current managing director of Unisys.

f) I further note that, '*Preferential Allotment*' is a process in which shares are allotted to a specific group of people or companies which are interested in it on preferential basis at a predetermined price. In this case, shares were allotted by Unisys in a preferential allotment, which signifies that the allottees agreed with the company on one-to-one basis to fulfil its fund requirements. Further, Unisys was hardly having any credential in the market at the time of the preferential allotments, as in previous financial years it has generated meagre net profit of Rs 2 lakhs (2007-08), Rs 3.3 lakh (2008-2009), Rs 7.9 lakh (2009-2010) and 1.41 crores (2010-11). It is noted that, even in such circumstances, Unisys was able to raise approximately Rs. 30 crores through impugned preferential allotment. This could only be possible, if the preferential allottees had some prior understanding with Unisys, its promoter and directors and the exit providers with regard to the dubious plan, device and artifice.

g) Considering the aforesaid fund transactions (*refer sub-para (a) – (f) above*); connections among the company, allottees and conduits; and circumstances related to fund transfers on same date or nearby dates of payment of subscription amount related to impugned preferential allotments, I am of the opinion that, these peculiar attendant circumstances indicate towards employment of a fraudulent and manipulative scheme and device by these Noticees to give a dubious impression of genuine capital infusion in the company through impugned preferential allotments. In view of the same, I found these Noticees have violated the provisions of Sections 12A (a), (b) and (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d) and Regulation 4(1) of the PFUTP Regulations.

25. Now I will deal with the following contentions raised by the Noticees No. 1, 10, 14 and 18 raised during the instant proceedings:

a) The Noticee No. 1 has contended that allegations regarding violation of the provisions of the PFUTP Regulations in the SCN are baseless and misplaced and also completely contrary to factual position on record. The allegation proceeds on specious and extraneous grounds, disregarding the material circumstances. In this regard, I note that, SCN in detail has discussed the fund transactions and movements among the Unisys, Allottees and Conduits and for ease of understanding pictorial representations has also been provided. Further, connection among the Noticees have been brought out in form of tables in the SCN. The allegations in the SCNs are based on peculiar facts related to fund transactions, preferential allotments and circumstances discussed in detail in para 23 of this order. The attendant circumstances in this case indicates towards employment of fraudulent and manipulative device by the Noticee Company Unisys, therefore, I reject such contention of the said Noticee.

b) The Noticee No. 1 has contended that it was not aware of the fund transfer among other entities and allottees and based on the same no adverse inference can be drawn against it. In this regard, I note that, from above para 23B, the Unisys has been found connected to other Noticees. Further, fund transactions taking place among connected entities on a day or two before the transfer of subscription amount by allottees Noticees No. 2 to 8 to Unisys indicate that Unisys is the integral part of employing of fraudulent scheme in this case. Therefore, I do not find such contentions of the Unisys tenable.

c) Unisys stated that the funds transferred on February 12, 2011 to Allbright was advance money to arrange purchase of shares of certain companies and as an evidence it has attached ledger book and bank statement. I have perused the documents produced before me by Unisys and from the same, I note that apart from a ledger entry there is no other supporting documents such as agreement, details of shares to be purchased, price and quantity of shares to be purchase, etc, which may indicate that the said fund transactions were related to purchase of shares of certain companies. Further, out of the refund amount mentioned by Noticee between February 18, 2011 to February 23, 2011, only in a transaction dated February 24, 2011 a remark has been mentioned as "*BEING THE AMOUNT OF SHARES PURCHASED FROM THEM DETAILS AS PER BILL*" and the amount was Rs 4 lakhs. However, for none of the transaction i.e. either February 12, 2011 or transactions between February 18, 2011 to February 23, 2011, such a remark is mentioned. Considering facts and circumstance of this case, I find that the documents produced by Unisys in its support are not sufficient enough to prove that the said transactions were related to purchase of shares of certain companies, as stated by it. Therefore, I reject submission of the Noticee No. 1 in this regard.

d) Unisys has contended that the differences in the quantum of funds transferred *viz*. Rs.7.50 Crores transferred to it by Noticees No. 2 to 8 towards the preferential allotment and Rs 2.75 crores transferred by it to Allbright have not been explained or reconciled while levelling the allegations. The said dichotomy has been left hanging in the balance and there is deafening silence on the same in the SCN. In this regard, I note that, from Para 23A above, it is clear that the allottees have been funded by Allbright on February 11, 2011 and Allbright have received funds from Gulistan and Vibhuti prior to the transfer of funds to allottees. On February 11, 2011, Unisys transferred fund to Grafton and on next day Grafton transferred funds to Vibhuti. Further, on February 12, 2011, Unisys transferred funds to Allbright and Allbright transferred back the amounts to Vibhuti. I have noted from Pictorial 1 that Gulistan was the Noticee, who has funded Allbright with Rs 2.75 crores (netting transactions dated February 10 and 11, 2011) and Gulistan is a connected entity to Unisys as they both share same address. Considering these uncharacteristic circumstances and fund transactions, I found the contentions of the Unisys not tenable and thus, reject the same.

e) Unisys stated that the funds transferred on February 12, 2011 to Grafton was paid towards purchase of shares of Matrix Systel Pvt Ltd and Octopus Infotel Pvt Ltd as a part of its investments in unquoted shares. Further, the purchase of shares is also evidenced in its Annual Report and Bill raised by Grafton while purchasing the shares and as an evidence it has attached ledger book, bank statement, Annual Report, bill raised, etc. I have perused the documents provided by Unisys and I note that, fund of Rs 2.50 crores was transferred by the Unisys to Grafton on February 11, 2011 and subsequent to same there is an entry in ledger a/c with remark "*Ch. No. 000496 BEING THE AMOUNT PAID TO GRAFTON MERCHANTS PVT LTD*" and associated voucher number was 373, however, I found no mention or reference of amount being paid for the purchase of any share. Further, I found another entry in said ledger a/c on March 11, 2011, wherein, with remark it has mentioned that "*By INVESTMENT IN SHARES (UNQUOTED) - BEING THE AMT OF SHARES SALE TO THEM DETAILS AS PER BILL*" and a credit of Rs 2.69 crores to Unisys was shown, however, I has not been able to found any credit of Rs 2.69 crores in the bank accounts of Unisys produced. I have perused the bill produced before me and I note that said bill is without any reference number and pertains to date March 11, 2011, wherein, the impugned transaction in question is related to February 11, 2011. Further, in page 35 of the Annual Report, there is only the mention of "*Investment in Un-Quoted Shares & Securities*" of Rs. 85.46 crores in FY 2010-11 by Unisys and from the same it cannot be ascertained that payment of Rs 2.50 crores on February 11, 2011 was made by Unisys to Grafton for buying unquoted shares as claimed by it. Therefore, I found that Unisys has failed to substantiate its claim regarding transfer of funds of Rs 2.5 crores to Grafton on February 11, 2011 for unquoted shares. Instead I found that on February 11, 2011, Unisys had transferred Rs 2.5 crores to Grafton and subsequently on next day i.e. February 11, 2011, Grafton had forwarded Rs 2.5 crores to Vibhuti. Considering aforementioned facts and circumstances, I reject the claim of Unisys in this regard.

f) Unisys has contended that its connection with Scan on basis of common director and Bhushan on basis of several fund transactions is not related to preferential allotment. With regard to receipt of funds from Bhushan, the said transaction was in context of sale of shares of various companies during the relevant period and as an evidence it has attached bill w.r.t. said transactions. In this regard, I note that, the director of Scan Mr. Jagdish Prasad Purohit was the director of Unisys and later on became managing director of Unisys and in my view the aforementioned connection is a close connection, especially considering the fund transactions by Scan on March 11, 2011, wherein, Scan transferred amount of Rs 1.75 crores to Chandramukhi and Chandramukhi forwarded the same amount to allottee Neha and allottee Neha forwarded Rs 1.75 crores to Unisy and all of these transactions had taken place on same day i.e. March 11, 2011. On considering above facts and peculiar circumstances of the case, I am of the opinion that Scan has acted as conduit and is closely connected to Unisys. I have perused the bills produced by Unisys pertaining to Bhushan and I note that these bills are without any reference number and not supported by any ledger entries or bank debit/ credit in account of Unisys/ Bhushan on the given date of bills. I further note that, the fund transfers by Bhushan to allottee Brijdham and conduit Miracle had taken place on March 23, 2011. Therefore, I found these documents insufficient to substantiate the claim of Unisys and thus, I reject the contentions of Unisys in this regard and found it connected to Bhushan.

g) Noticee No. 10, Vibhuti has contended that transactions of its with Allbright and Grafton are not just singular in nature, as it previously had many other transactions with Allbright and Grafton towards purchase and sale of shares. During the year 2010-11, it had advanced Allbright a sum total of Rs. 10 Crores against which it had received shares worth Rs. 4.20 crores from Albright; and it had advanced Grafton a sum total of Rs. 5.90 Crores against which it had received shares worth Rs. 3.34 crores from Grafton; and the balance amount was returned by Allbright and Grafton within the same financial year. I have perused the ledger a/c and bills produced by the Vibhuti before me and I note that, as per ledger a/c for Allbright, it had made payment of Rs 5 crores to Allbright on February 10, 2011 and received Rs 2.5 crores from Allbright on February 12, 2011 and voucher number reference provided against these entries were 139 and 146, respectively and these voucher has not been produced before me. Further, the reference/ particulars mentioned w.r.t. both entries contains no mention of share purchase/ sale as claimed by the Vibhuti. I have perused a bill dated March 30, 2011 and found it to be without any bill/ reference number, wherein, details of purchase of shares of 4 companies have been provided and a respective entry has been provided in ledger a/c with a remark "*BEING THE AMT OF SHARES PURCHASES FROM THEM AS PER BILL DETAILS….*". From the documents produced by Vibhuti w.r.t. Allbright, I found that on March 30, 2011 ledger entry, there is specific mention of purchase of shares of 4 companies, however, there is no such mention in ledger entries for February 10, 2011 and February 12, 2011. Further, Vibhuti had provided no specific explanations for transferring Rs 5 crores to Allbright on February 10, 2011 and receiving Rs 2.5 crores from Allbright on February 12, 2011. Similar observations have been found w.r.t. ledger a/c entries and bill dated December 04, 2010 pertaining to Grafton, wherein, there is specific remark for purchase of shares of 3 companies for December 04, 2010 entry and no such remark for receiving Rs 2.5 crores from Grafton on February 12, 2011. Vibhuti also failed to produce any agreement or advance payment entries of Rs 10 crores to Allbright and Rs 5.90 crores to Grafton, respectively, for purchase of shares during the year, instead there were several debit and credit entries in ledger a/c without any remark related to purchase of shares as in case of December 04, 2010 and March 30, 2011 ledger entries. Considering the same, I am of the view that documents produced by Vibhuti are not sufficient enough to substantiate its claim and on considering the nature of fund transactions and particular circumstances, I reject contentions of the Vibhuti in these regards and found it to be a connected entity, which acted as conduit to facilitate fraudulent scheme devised in this case.

h) Noticee No. 14, Scan has stated that fund transactions of Rs 175 Lakhs with Chandramukhi on March 11, 2011 was towards purchase of shares in various companies *viz.* Sudhanil Vanijya Ltd, Seagreen Realtors Pvt Ltd, Risewell Suppliers Pvt Ltd. and as evidence it has submitted bills issued by Chandramukhi, ledger a/c and bank statements, etc. I have perused the documents placed before me by Scan during instant proceedings and I note that, as per ledger a/c of Chandramukhi vide reference voucher no. 112, Rs 1.75 crores has been received from the Scan as amount of '*sale of shares*'. Further, I have perused the bills issued by Chandramukhi and I found that there is no mention of any reference/ bill number on said bill. Also, Scan has failed to produce copy of any of the share certificate w.r.t. Sudhanil Vanijya Ltd, Seagreen Realtors Pvt Ltd and Risewell Suppliers Pvt Ltd. or any other documents, which can substantiate that it has purchased the shares of aforesaid unlisted companies. Therefore, I am of the view that the documents furnished by the Scan are insufficient to substantiate its claim of genuine share purchase transactions with Chandramukhi. With regard to fund transactions of Rs 185 lakhs transferred to Allbright on March 11, 2011, Scan has claimed that same were towards purchase of shares in various companies *viz.* M/S. Surabhi Chemical Pvt Ltd, Microchip Infotel Pvt Ltd and Sepia Ventures Pvt Ltd. and as evidence it has submitted bills issued by Allbright, ledger a/c and bank statements, etc. Further, I have perused the bills issued by Allbright and I found that there is no mention of any reference/ bill number on said bill. Also, said bill refers about shares of 3 companies equaling to Rs 4.20 crores, however, as per ledger a/c though investment in shares is shown for Rs 4.20 crores but two transactions of Rs 0.70 crores and Rs 1.85 crores have been shown as transferred to Allbright, which equals to Rs 2.55 crores. I note that Scan has failed to produce copy of any of the share certificate w.r.t. 3 companies or any other documents, which can substantiate that it has purchased the shares of aforesaid unlisted companies. Therefore, I am of the view that the documents furnished by the Scan are insufficient to substantiate its claim of genuine share purchase transactions with Allbright. It is further to be noted that on March 11, 2011, Scan had transferred Rs 1.75 crores to Chandramukhi and Chandramukhi had transferred same amount of Rs 1.75 crores on same day to allottee Neha and Neha had forwarded the amount received from Chandramukhi, Gaungour, Dove to Unisys on same day i.e. March 11, 2011 as subscription amount to impugned preferential allotment. Similarly, on same day i.e. March 11, 2011, Scan has transferred Rs 1.85 crores to Allbright, who had further transferred Rs 1.75 crores to allottee Jai Ambe and on receipt of the subscription amount of Rs 1.75 crores from Allbright, Rs 1.97 crores from Dove and Rs 3 lakhs from Natraj on same day i.e. March 11, 2011, Jai Ambe transferred subscription amount of Rs 3.75 crores for impugned preferential allotment to Unisys on March 11, 2011. I am of a view that all of the aforesaid fund transactions taking place on same day i.e. March 11, 2011 among the connected entities cannot be a coincidence and in no way can be considered as normal business transactions. As per above sub-para (f), Scan and Unisys is found closely related on the basis of common directorship and other mentioned entities are also found to be connected in one way or another. Considering the aforementioned facts and circumstances, I found that Scan has acted as conduit and was a connected entity, who was part of the fraudulent scheme as found in this case and therefore, I reject such contentions of Scan.

i) Scan has also contended that no single fund transaction between it and Unisys has been shown in SCN and as per Scan the allegations against it has been levelled on the sole premise that it had received funds from Unisys. In this regard, I reiterate the charge in the SCN made against Scan i.e. *"…..acted as conduits and facilitated Unisys in giving financial assistance by allowing their bank accounts for routing of funds in connection with the subscription made by the preferential allottees i.e. Noticee No. 2 to 8"*. From the same, it is clear that being a conduit entity, Scan had facilitated Unisys by providing financial assistance to allottees i.e. Neha (Noticee No. 6) and Jai Ambe (Noticee No. 7) for subscription amount for impugned preferential allotment; and allowed routing of funds through its bank account *via* other conduit entities. Considering the aforementioned fact and charge made out in the SCN, I reject such contentions of the Scan.

j) Noticee No. 18, Natraj has stated that it had purchased 26,250 shares of Nirnidhi Constructions Pvt Limited from Jai Ambe (Noticee No. 7) at Rs. 1,05,00,000/- on April 16, 2010 and payment for the same was made by it to Jai Ambe on various days from August 25, 2010 to March 17, 2011 and transaction of Rs 3 lac to Jai Ambe on March 11, 2011 was part of consideration amount towards the purchase of the aforementioned shares and the same was not a part of financing activities as alleged. As an evidence it has provided Bank A/c Statement, bills and ledger. I have perused the documents produced by Natraj before me and I note that there is no mention of any reference/ bill number on said bill, while ledger a/c refers about voucher no. 11 for date April 16, 2010. Further, as per Natraj, it had purchased shares amounting to Rs 1.05 crores from Jai Ambe, however, as per ledger it had made payment of Rs 2.05 crores to Jai Ambe during August 25, 2010 to March 17, 2011. It has also received Rs. 1.03 crores from Jai Ambe during said period, however, it had not provided any explanations or supporting documents w.r.t. amount received by it from Jai Ambe. Also, Natraj has not produced any agreement or copy of share certificate or any other documents apart from bills and ledger a/c, which can substantiate its claim of purchase of aforesaid shares of Nirnidhi Constructions Pvt Limited. Therefore, I am of the view that the documents furnished by the Natraj are insufficient to substantiate its claim of genuine share purchase transactions with Jai Ambe. It is to be noted here that, on March 11, 2011, allottee Jai Ambe had received Rs 1.75 crores from Allbright and Rs 1.97 crores from Dove, however, it was falling short by Rs 3 lakhs from subscription amount for impugned preferential allotment, and this balance amount of Rs 3 lakhs has been transferred by Natraj on same day i.e. March 11, 2011. Therafter, allottee Jai Ambe transferred subscription amount of Rs 3.75 crores to Unisys on March 11, 2011. Therefore, claim of Natraj that Jai Ambe has already received subscription amount of Rs 1.75 crores from Allbright is not found to be true, instead, Natraj has found to be funded shortfall of Rs 3 lakh in total subscription amount of Jai Ambe for impugned subscription. Considering the aforementioned facts and circumstances, I found that Natraj has acted as conduit and was a connected entity who was part of the fraudulent scheme as found in this case and therefore, I reject such contentions of Scan.

k) The Noticees have contended that the connections mentioned the SCN are exceedingly vague and devoid of any material particulars. Based on tenuous connections, the actions of other entities cannot be attributed to it. Unisys further stated that, with respect to 75% funding of subscription amount of allottees Noticees, it was not aware of the fund transactions between various third party entities and based on the same no adverse inference can be drawn against it. In this regard, I note that, in above para 23B(f), it is discussed that in a '*Preferential Allotment*' process, a specific identified group of people, who agrees on one-to-one basis with company and have prior understanding with the company are likely to be considered as allottees for an allotment on preferential basis. Further, the connection among the Noticees has been clearly brought out in para 23B(e). Also, the fund transactions among the company, conduits, and the allottees and subsequent preferential allotments, clearly demonstrate existence of a fraudulent scheme in a closed group of the Noticees. I observe that the aforesaid inferences based on the fund transactions and subsequent preferential allotments of the Noticees are sufficient in themselves to prove the charges of fraudulent activity and the mere absence of any other direct evidence cannot be a ground of exoneration, as held by Hon'ble Supreme Court in the matter of *SEBI Vs. Kishore R. Ajmera* [(2016) 6 SCC 368]. The Hon'ble Supreme Court further observed that – "*It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion.*"

l) In the instant case, I am of the opinion that attendant circumstances discussed in detail in above paras of this order exhibits an apparent motive of the Noticees to give a false expression of capital infusion in the company *via* impugned preferential allotment. Therefore, once the Noticees has been found to have indulged in such fraudulent activity in impugned preferential allotment of the company, they are liable for their acts and omissions. I have perused the judgement of *Smitaben N. Shah (Supra),* and I note that said case can easily be distinguished on the basis of facts of the case i.e. '*cornering of shares by a group of five entities from QIB through structured/ synchronized trades*'. Further, the connections in that case was based on the trading pattern of the concerned noticees, however, in the instant case, the connection is based on common directorship, common address, common e-mail and frequent fund transactions. I have further perused the judgement of *Babubhai Desai (Supra)* and I note that, the connection in that case was based on common landline number and there were no sale/purchase/ synchronisation within the connected entities. However, in this case, the Noticees have been found connected on the basis of common directorship, common address, common e-mail id, etc. Further, the fund transactions among the Unisys, allottees and conduits has been explained and discussed in details in this order. Considering the same, I reject contentions of the Noticees with regard to connections among the Noticees, instead, on the basis of connections brought out before me and attendant circumstances, I am of the opinion that the Noticees are closely connected to each other and together these Noticees have devised the fraudulent scheme in this case and therefore, I reject contention of Unisys w.r.t. not aware of 75% funding of subscription amount of allottees Noticees *via* conduits.

m) I further note that the connection among the Noticees is not only the basis on which inference of devising fraudulent scheme has been formed, instead the attendant circumstances related to fund transactions taking place among the Unisys, allottees and conduits, on same day or a day or two earlier or a day or two later from the day on which subscription amount had been transferred by the allottees w.r.t. impugned preferential allotment and the fund balance in the account of Unisys or in the account of allottees are contributing factors and circumstances, which indicate towards employment of fraudulent scheme of giving false impression of genuine capital infusion in Unisys through impugned preferential allotment.

n) The Noticees have contended that the impugned fund transactions were genuine commercial transactions undertaken in the ordinary course of business and were not a part of the alleged routing of funds in giving financial assistance to preferential allottees. In this regard, I note that, the manner in which fund transactions has taken place among conduits, allottees and Unisys and the way in which allottees has been funded for subscription amount for impugned preferential allotment, especially, under the backdrop of being connected entities, I am of a view that these Noticees were not transferring funds among themselves in the normal sense and ordinary course of business and such fund transactions among the Noticees cannot be considered as genuine one.

o) The Noticees have further contended that they have not made any gains or derived unfair advantage, as a result of falsely alleged violations. There is nothing to indicate in the SCN, that they have made any gains and also not caused any loss to the investors or group of investors. Therefore, imposition of any monetary penalty would be unjustified and unwarranted. In this regard, I note that, the investigation has not brought out the unlawful and illegal gains made by the Noticees by indulging in fraudulent acts during the investigation period, however, it has been mentioned in the SCN that by providing financial assistance to the preferential allottees to subscribe to shares of Unisys on a preferential on March 28, 2011, genuine capital infusion in Unisys has been limited *to the extent of preferential allotment made to allottees* and same has been found to be Rs. 30 crores as per Table 3. I further observe that establishment of direct quantified damage/loss to an investor *in personam* is not an essential ingredient to prove the charges of engagement in a fraudulent activity as found in this case. The very acts of giving false impression of genuine capital infusion by a company, which is being informed to large set of investors *via* disclosures on stock exchanges has all the ingredients to induce the investors *in rem*. By observing such an announcement by a company, an innocent investor has all reasons to fall prey to the temptation to invest in security of that company. Therefore, I reject such contentions of the Noticees.

p) Unisys has contended that there are no allegations that it had tried to manipulate its share prices or indulged in any fraudulent practices pertaining to volume creation etc. In this regard, I note that, though there is no such charge of manipulation of share price or volume against Unisys, however, in a proceeding concluded on January 16, 2020 vide order passed by Ld. Whole Time Member ("**WTM**") of SEBI against 11 Noticees, it has been found that the charge upon the Noticees in that case was of manipulating the price and volume while trading in the scrip of Unisys during the investigation period of January 19, 2010 to November 14, 2014. The Ld. WTM of SEBI has found those 11 Noticees liable for their fraudulent act of manipulating the price and volume on the scrip of Unisys. Interestingly, the impugned preferential allotment and investigation period of this case falls within the realm of aforesaid period of investigation. Though, in strict sense no interpretation can be made out on the basis of two separate proceedings against two separate set of entities in the matter of same company, however, it is a matter of fact that manipulative trading in the scrip of Unisys was taking place in a fraudulent manner during the relevant period of time. I also note that there is no such charge before me against Unisys, therefore, making such contentions in these proceedings is useless and thus, rejected hereby.

26. I note that in totality of the circumstances as observed in this case, it is not acceptable that the Noticees have not employed any fraudulent scheme and device in contravention of the SEBI Act or the rules and the regulations made there under. Such a fraudulent act, as found in this case had an adverse impact on the fairness, integrity and transparency in the securities market. Further, repetitively making wrong quarterly shareholding pattern disclosures to stock exchanges by Unisys, it had failed in its duty to ensure the correctness and authenticity of the information and failed to disseminate true and trusted information to the general public. In view of the above, I find as follows:

a. Unisys, Noticee No. 1 has violated Section 21 of the SCRA read with Clause 35 of erstwhile Equity Listing Agreement.

b. Noticees No. 1 – 23 have violated the provisions of Sections 12A(a), (b) and (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of the PFUTP Regulations.

Since, the allegation of violation of aforementioned SCRA, erstwhile Equity Listing Agreement, SEBI Act and PFUTP Regulations stands established against the aforementioned Noticees, I hold these Noticees liable for penalty as follows:

Noticee No. 1	Section 15HA of the SEBI Act
	Section 23H of the SCRA
Noticees No. 2 to 23	Section 15HA of the SEBI Act

27. The provisions under Section 15HA of the SEBI Act and under Section 23H of the SCRA reads as under: -

<u>Penalties and Adjudication</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 twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.*

<u>SCRA</u>

Penalty for contravention where no separate penalty has been provided.

23H. *Whoever fails to comply with any provision of this Act, the rules or articles or bye- laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.*

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

While adjudging quantum of penalty under section 15-I and section 23-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.

Explanation. *—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section;*

29. Having regard to the factors listed in Section 15J of the SEBI Act and Section 23J of the SCRA and the guiding principles laid down by the Hon'ble Supreme Court in the matter of *SEBI v/s Bhavesh Pabari (CIVIL APPEAL NO(S).11311 OF 2013)*, it is noted from the material available on record, that quantifiable gain or unfair advantage accrued to the Unisys or to the Noticees or the extent of loss suffered by the investors as a result of the default in this case cannot be computed. In the facts and circumstances of this case, I deem it worth relying the observations of Hon'ble SAT, in its order dated June 09, 2014 in the matter of *Ashok Jain v/s SEBI (Appeal No. 79 of 2014)* wherein it was held that - "*…disclosures have to be made irrespective of whether investors have suffered any loss or not on account of non-disclosure within the time stipulated under those regulations"*. The act of Unisys of making wrong quarterly disclosure to BSE and CSE on repetitive basis is blameworthy and serious in nature considering the degree of responsibility bestowed upon it by the statute and the applicable regulations.

30. I am further of a view that, failure by Unisys in making disclosure to CSE under Regulation 13(6) of the PIT Regulations read with Regulation 12 of the 2015 PIT Regulations is of technical and venial nature under the circumstances that same information was available in public domain through disclosures made on BSE. While holding so, I am not suggesting that in the strict technical sense, Unisys had not failed in its obligation. But the failure has to be seen in realistic manner. With regard to this charge, there is no blameworthy conduct nor lethargic indifference nor the needless procrastination on its part. Considering these mitigating factors, criteria under section 15J and guidance pronounced by Hon'ble Supreme Court in aforementioned *Bhavesh Pabari Case,* I am inclined to conclude that the failure on the part of Unisy is technical and venial and does not warrant imposition of monetary penalty upon it under section 15A (b) of the SEBI Act.

31. With regard to the charge of fraudulent act of giving deceptive impression of genuine capital infusion in Unisys *via* impugned preferential allotment, the company Unisys (Noticee No. 1) has played integral role in devising a fraudulent scheme, wherein, through conduits Noticees i.e. Noticees No. 8 – 23 , the allottees Noticees No. 2 – 8 have been funded for subscribing to the impugned preferential issue of Unisys and thus, perpetrated such fraud on investors by giving an impression of capital infusion through preferential allotment and therefore, limited the genuine capital infusion in the company. Accordingly, it is incumbent upon SEBI to take stern view with regard to the market abuse and fraudulent practices, particularly when the company itself along with connected entities is involved in perpetrating fraud. In my considered opinion the deliberate defiance and indulgence in fraudulent activity by the Noticees should be dealt with sternly and the penalty in such cases should serve as effective deterrence. However, while holding so, I am also mindful of the fact that the instant proceedings have been initiated in May 13, 2019 much after the preferential allotment in questions i.e. March 28, 2011. Considering the nature of violation in this case such delay in enforcing the provisions of law or such quantity of shares and their market value, in my view, would not hinder imposition of monetary penalty lest it should lead to compromising with the aforesaid purpose of effective deterrence and the perpetrator of such fraud would enjoy the benefits at the peril of the company and its shareholders. While no direction to refund such monies to the company or cancellation of shares allotted in the impugned preferential allotment are possible in the instant proceedings, the leniency to exonerate the violators merely on account of delay in initiation of these proceedings be against the very objective of provisions under Section 15HA of the SEBI Act and Section 23H of the SCRA. Although such delay could be considered as a mitigating factor while adjudging the quantum of penalty.

32. I note that, the fraudulent act as found in this case has a potential to defraud the investors and same cannot be in the interest of securities market. The law does not permit any allowance to be made for such fraudulent act as found in this case. The fraudulent act as found in this case, had clearly defeated the purposes of the SEBI Act and Regulations i.e. investor protection and orderly development of the securities markets. In my view, the default by these Noticees is grave and the gravity of this matter cannot be ignored.

33. Taking into consideration all the facts and circumstances of the case including the aforesaid 15J and 23 J factors and exercising the powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules and Section 23I of the SCRA read with Rule 5 of the SCRA Adjudication Rules, I hereby impose, following monetary penalty upon 23 Noticees under Section 15HA of the SEBI Act and upon Noticee No. 1 under Section 23H of the SCRA. In my view, the said penalty commensurate with the violation committed by these Noticees in this case:

Noticee No.	Noticee Name	Penalty Amount
1	Unisys Softwares and Holding Industries Limited	Rs. 4,00,000/- (Rupees Four Lakh Only) under Section 23H of the SCRA.
1	Unisys Softwares and Holding Industries Limited	**<u>Upon Noticees No. 1 - 23</u>** Rs. 46,00,000/- (Rupees Forty-Six Lakh Only) under Section 15HA of the SEBI Act – Jointly and Severally.
2	Madhuvan Datamatics Traders Pvt. Ltd.	
3	Matara Electrical Traders Pvt. Ltd.	
4	Everlink Distributors Pvt. Ltd.	
5	Sahayta Financial Consultancy Services India Pvt. Ltd.	
6	Neha Cassettes Pvt. Ltd.	
7	Jai Ambe Cassettes Pvt. Ltd.	
8	Brijdham Dealcom Pvt. Ltd.	
9	Gulistan Vanijya Pvt. Ltd.	
10	Vibhuti Multi Trade Pvt. Ltd.	
11	Allbright Electricals Pvt. Ltd.	
12	Grafton Merchant Pvt. Ltd.	
13	Winsher Commotrade Pvt. Ltd.	
14	Scan Infrastructure Ltd.	
15	Gaungour Suppliers Pvt. Ltd.	
16	Jasper Vintrade Pvt. Ltd.	
17	Chandramukhi Vanijya Pvt. Ltd.	
18	Natraj Vinimay Pvt. Ltd.	
19	Miracle Tradecom Pvt. Ltd.	
20	Dove Suppliers Pvt. Ltd.	
21	Silverson Dealtrade Pvt. Ltd.	
22	Honesty Goods Trader Pvt. Ltd.	
23	Bhushan Power and Steel Ltd.	

34. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order in either of the way of demand draft in favour of "*SEBI - Penalties Remittable to Government of India*", payable at Mumbai, or by following the path at SEBI website, ENFORCEMENT > Orders > Orders of AO > PAY NOW; OR by using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html. In case of any

difficulties in payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in

35. The Demand Draft or details and confirmation of e-payment made in the format as given in table below shall be sent to *"The Division Chief, EFD-DRA-V, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C- 4 A, "G" Block, BandraKurla Complex, Bandra (E), Mumbai - 400 051."* and also to e-mail id:- tad@sebi.gov.in:

1	Case Name	
2	Name of the 'Payer/Noticee'	
3	Date of Payment	
4	Amount Paid	
5	Transaction No.	
6	Bank Details in which payment is made	
7	Payment is made for(like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)	

36. 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 and Section 23JB of the SCRA for realization of the said amount of penalty along with interest thereon, *inter alia,* by attachment and sale of movable and immovable properties.

37. In terms of Rule 6 of the SEBI Adjudication Rules and Rule 6 of the SCRA Adjudication Rules, copies of this order are sent to the Noticees and also to SEBI.

Date: April 13, 2022
Place: Mumbai

Vijayant Kumar Verma
Adjudicating Officer