BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/MC/DS/2020-21/8114-8141]

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

In respect of –

1. **Bajranglal B Maloo HUF (PAN: AAAHB8633E)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
2. **Bajranglal Bankatlal Maloo (PAN: ACHPM5764C)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
3. **Dinesh Maloo (PAN: APPM8140R)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
4. **Lalchand B Maloo HUF (PAN: AAAHL2224F)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
5. **Lalchand Bankatlal Maloo (PAN: ACGPM0657D)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
6. **Madhu Sunil Maloo (PAN: ACHPM5769R)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
7. **Mahesh Maloo (PAN: AFXPM4524R)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
8. **Murli S Maloo (PAN: ACGPM0665D)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
9. **Nandlal Bankatlal Maloo (PAN: ACGPM0658N)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
10. **Nandlal Maloo HUF (PAN: AAAHN6253N)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
11. **Nirmaladevi Nandlal Maloo (PAN: ACHPM5770A)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
12. **Premadevi Sobhagmal Maloo (PAN: ACVPM7333F)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
13. **Sangeetadevi Lalchand Maloo (PAN: ACHPM5773D)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
14. **Sarita M Maloo (PAN: ACVPM7332E)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.

15. **Shantidevi Bajranlal Maloo (PAN: ACHPM5772C)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
16. **Shilpa Maloo (PAN: AIBPM3182A)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
17. **Sobhagmal Maloo (PAN: ACGPM0656C)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
18. **Sunilkumar Sobhagmal Maloo (PAN: ACGPM0659P)** having address at – 1418-B, Deshpande layout, Wardhman Nagar, C A Road, Nagpur-440008.
19. **Runicha Alloys and Steel Pvt Ltd (PAN: AACCR9947E)** having address at – Plot No.42, Tulsi Nagar Colony, Shanti Nagar, Nagpur-440002.
20. **Inco Infrastructure Private Ltd (PAN: AABCI3615H)** having address at – C/O Sanjay Lute, Near Pardi Police Station, Pardi, Bhandara Road, Nagpur-440001.
21. **Ramji Agri Business Private Ltd (PAN: AACCR9946F)** having address at – c/o Vidya Amar Fulzale Ambedkar Square, By pass Road, Umrer, Nagpur-441203.
22. **Ambaji Papers Private Limited (PAN: AAFCA2276C)** having address at – 204, MBK Building, Near Indore Namkeen Central Avenue, Nagpur-440008.
23. **Kanhaiya Minning & Minerals Pvt Ltd (PAN: AACCK5740L)** having address at – Plot No.36, Hiwari Nagar, Besides Patil Flour Mill, Nagpur-440008.
24. **Krishnum Investment Pvt Ltd (PAN: AACCK5953H)** having address at – Lalit Loya, C/O Keshavrao Ingole, 1st floor, Adyalaaye layout, Nr. Gas godown, Yahsil Road, Umred, Nagpur-441203.
25. **Lakhi Packaging Private Ltd (PAN: AABCL0873C)** having address at – Annapoorna Traders Kirana, Oil Imari, Nagpur-440002.
26. **Taitan Management service Pvt Ltd (PAN: AACCT2473R)** having address at – 204, MBK Building, Near Indore Namkeen, Central Avenue, Nagpur-440008.
27. **Simple Mining & Power Private Ltd (PAN: AAJCS0291D)** having address at – Bh. Saibaba Mandir, Near Govind apartment, Civil Lines, Chandrapur, Nagpur-442401.
28. **Ramkrishna Fabrication & Machineries Pvt Ltd (PAN: AADCR0189F)** having address at – C/O Nilesh Jain, Plot No. 42, Tulsi Nagar Colony, Shanti Nagar, Nagpur-440002.

In the matter of Murli Industries Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter be referred to as, the "***SEBI***"), initiated adjudication proceedings under Section 15H(ii) and 15HB of SEBI Act,

1992 (hereinafter be referred to as, the "***SEBI Act***") against 1) Bajranglal B Maloo HUF, 2) Bajranglal Bankatlal Maloo, 3) Dinesh Maloo, 4) Lalchand B Maloo HUF, 5) Lalchand Bankatlal Maloo, 6) Madhu Sunil Maloo, 7) Mahesh Maloo, 8) Murli S Maloo, 9) Nandlal Bankatlal Maloo, 10) Nandlal Maloo HUF, 11) Nirmaladevi Nandlal Maloo, 12) Premadevi Sobhagmal Maloo, 13) Sangeetadevi Lalchand Maloo, 14) Sarita M Maloo, 15) Shantidevi Bajranlal Maloo, 16) Shilpa Maloo, 17) Sobhagmal Maloo, 18) Sunilkumar Sobhagmal Maloo, 19) Runicha Alloys and Steel Pvt Ltd, 20) Inco Infrastructure Private Ltd, 21) Ramji Agri Business Private Ltd, 22) Ambaji Papers Private Limited, 23) Kanhaiya Minning & Minerals Pvt Ltd, 24) Krishnum Investment Pvt Ltd, 25) Lakhi Packaging Private Ltd, 26) Taitan Management service Pvt Ltd, 27) Simple Mining & Power Private Ltd and 28) Ramkrishna Fabrication & Machineries Pvt Ltd (hereinafter referred to as '**the Noticee No. 1 to 28** respectively or as "**the Noticees / You**" collectively) for failure in making public announcement in alleged violation of provisions of SEBI (Substantial Acquisition of Shares And Takeovers) Regulations, 1997 (**Takeover Regulations, 1997**) and for non-compliance of the directions issued under SEBI Order bearing No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015. The Noticee No. 1 to 18 are the Promoters of M/s Murli Industries Ltd (hereinafter referred to as **"the Murli / MIL / Company"**). Noticee No. 19 to 28 are companies holding shares in MIL.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI appointed the undersigned as Adjudicating Officer (hereinafter referred to as "**AO**") vide communiqué dated June 28, 2019 to inquire into and adjudge under section 15H(ii) and 15HB of the SEBI Act, the aforesaid alleged violations and non-compliance of SEBI Order bearing No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. EAD5/MC/DPS/32536/2019 dated December 9, 2019 (hereinafter be referred to as, the "**SCN**") was served upon the Noticees under Rule 4(1) of the SEBI (Procedure for holding Inquiry and Imposing Penalties by

Adjudicating Officer) Rules, 1995 (hereinafter referred to as **'Adjudication Rules'**) to show cause as to why an inquiry should not be held and penalty be not imposed against them under section 15H(ii) and 15HB of the SEBI Act for the aforesaid alleged violations and non-compliance of SEBI Order bearing No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015.

4. The allegations levelled against the Noticees in the SCN are summarized as below:

5. The Whole Time Member of SEBI under Section 11 and 11B of the SEBI Act and Regulation 44 of the SEBI Takeover Regulations, 1997 read with Regulation 35 of the SEBI (Substantial Acquisition of Shares And Takeovers) Regulations, 2011 passed an Order bearing No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015 against the Noticees inter-alia wherein it was established that the Noticees were acting in concert while acquiring shares in MIL and were required to make public announcement under Regulation 11(2) of the Takeover Regulations, 1997 on account of acquisition of shares in MIL on December 15, 2006. It was also established that public announcement was required to be made within the time period stipulated in Regulation 14 of the Takeover Regulations, 1997, i.e. within 4 days from December 15, 2006 which they failed to make. Accordingly, the following directions were passed in the said order;

   "36. Considering the above facts and circumstances, I, in order to protect the interest of investors and the integrity of the securities market, in exercise of powers conferred upon me by virtue of section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11 and 11B thereof and regulations 44 and 45 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 read with regulation 35 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 hereby issue the following directions to the Noticees:

(i) The Noticees shall make a public announcement to acquire shares of Murli Industries Limited in accordance with the provisions of the Takeover Regulations, 1997, within a period of 45 days from the date of this order;

(ii) The Noticees shall, alongwith the consideration amount, pay interest at the rate of 10% per annum from March 22, 2007 to the date of payment of consideration, to the shareholders who were holding shares in the target company on the date of violation and whose shares are accepted in the open offer, after adjustment of dividend paid, if any, to them."

6. The said Order was served to the Noticees vide letter dated August 5, 2015 through Post at their last known addresses and no order has returned undelivered on record. The said Order was also delivered to the Noticees vide email dated August 5, 2015 at their email ids – kanhaiymining@rediffmail.com; ramjiagri@gmail.com; rkfabrimachineriespvtltd@gmail.com; runichaalloys@gmail.com; taitanmanagement@gmail.com; lakhipackaging@gmail.com; krishnuminvestments@gmail.com: simplemining@gmail.com; incoinfra@gmail.com and ambajipapers@gmail.com.

7. Even after the aforesaid order was passed, the Noticees failed to make a public announcement till date for acquiring shares as directed in the order, as confirmed by SEBI vide its email dated June 30, 2020.

8. It was therefore alleged that the Noticees failed to make the public announcement as required under Regulation 11(2) of the SEBI Takeover Regulations 1997, and as directed by SEBI Order bearing No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015 and thereby also failed to comply with the directions issued under aforesaid order.

9. It was stated in the SCN that the aforesaid alleged violations, if established, would make the Noticees liable for monetary penalty under Section 15H(ii) and 15HB of the SEBI Act.

10. SCN along with the copy of the said Order dated July 31, 2015 was served to the Noticees through Speed Post Acknowledgement Due (SPAD) at their Address. SCN was delivered to Noticee No. 1 to 20, 22, 24 to 28 through SPAD on December 13, 2019 at their Address and acknowledgement was received. However, SCN issued to Noticee No. 21 and 23 were returned undelivered by the Postal Deptt. with remarks 'Left / Not Known'. SCN was also served to the Noticee No. 21 vide email dated December 17, 2019 at email id of Noticee No. 21 – ramjiagri@gmail.com which was duly digitally signed by the undersigned and SCN was also hand delivered to Noticee No. 21 on March 7, 2020. SCN was affixed at the last known address of the Noticee No. 23 on March 7, 2020 at - Kanhaiya Minning & Minerals Pvt Ltd, Plot No.36, Hiwari Nagar, Besides Patil Flour Mill, Nagpur - 440008.

11. Vide separate letters dated January 3, 2020, Noticees No. 6, 8, 12, 14 and 17 submitted their identical relies, which are summarized below:-
    a) It is surprising to notice that without having any kind of involvement in the shares of Murli Industries Ltd why SCN is issued without having any fault.
    b) We wish to inform that we are not a promoter of the said company and we do not have connection or role in the management of the company.
    c) We do not have any information about affairs of the Company. We are just shareholder and never traded in the shares of Murli Industries Ltd and have not been allotted any shares / warrants under Promoter Category.
    d) We have already informed the above said facts to your good office vide letter dated October 15, 2018.
    e) The above said facts have been informed to NSE / BSE.
    f) Based on the above facts we sincerely request to kindly withdraw the SCN.

12. I note that out of 28 Noticees only 5 Noticees had replied to the SCN even after SCN was duly delivered to the Noticees. Further, I note that at paragraph 8 of the

SCN, the Noticees were advised to furnish their reply, if any, towards the SCN within 14 days of its receipt, failing which, it shall be presumed that the Noticees have no reply to submit and the matter will be proceeded with on the basis of the material available on record. In the said para, Noticees were also advised to indicate whether they desire personal hearing in the matter. However, Noticee No. 6, 8, 12, 14 and 17 in their replies have not indicated their desire for personal hearing.

13. The provisions of Rule 4(3) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (Adjudication Rules) read as under –

    Holding of inquiry.

    4(3) If, after considering the cause, if any, shown by such person, the adjudicating officer is of the opinion that an inquiry should be held, he shall issue a notice fixing a date for the appearance of that person either personally or through his lawyer or other authorised representative.

14. I note here that no reply has been made by the Noticees 1 – 5, 7, 9 – 11, 13, 15, 16, 18 – 28. Noticees 6, 8, 12, 14 and 17 have denied being a promoter of the company or having any connection with the company and have stated that they are merely shareholders. From the replies it is clear that no public announcement has been made by the Noticees as directed in the Order No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015.

15. I further note that in the Order No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015 (**hereinafter referred to as "2015 Order"**) it was established that the Noticees were acting in concert while acquiring shares in MIL and were required to make public announcement under Regulation 11(2) of the Takeover Regulations, 1997 on account of acquisition of shares in MIL on December 15, 2006. It was also established that public announcement was required to be made within the time period stipulated in Regulation 14 of the Takeover Regulations, 1997, i.e. within 4 days from December 15, 2006 which they failed to make.

16. In view of the above, I note that there is no cause for holding further inquiry in the matter. Therefore, I now proceed to decide the case on the basis of SCN issued, replies made by the Noticees and material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

17. The issues that arise for consideration in the instant matter are:

Issue No. I Whether the Noticees failed to make the public announcement as required under Regulation 11(2) of the SEBI Takeover Regulations 1997, and failed to comply with the directions issued under SEBI Order No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015?

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15H(ii) and 15HB of the SEBI Act?

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I **Whether the Noticees failed to make the public announcement as required under Regulation 11(2) of the SEBI Takeover Regulations 1997, and failed to comply with the directions issued under SEBI Order No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015?**

18. I note from the SCN that vide the 2015 Order, it was established that the Noticees were acting in concert while acquiring shares in MIL and were required to make public announcement under Regulation 11(2) of the Takeover Regulations, 1997 on account of acquisition of shares in MIL on December 15, 2006. It was also established that public announcement was required to be made within the time period stipulated in Regulation 14 of the Takeover Regulations, 1997, i.e. within 4 days from December 15, 2006 which they failed to make. The order was served

upon the Noticees by email and post. Copies of the order were again served upon the Noticees along with the SCN as stated above in para 10.

19. In their reply, Noticees 6, 8, 12, 14 and 17 have denied being a promoter of the company or having any connection with the company and have stated that they are merely shareholders**.** This contention by the Noticees is directly contradicted by the shareholding pattern filed by MIL with BSE as shown on BSE website wherein Noticees 1 to 18 are shown as promoters since 2006 onwards till June 2015 after which shareholding pattern is not available on BSE website. Hence, the contentions by the Noticees are not acceptable.

20. I note from the shareholding pattern of MIL for quarter ended September 2006 that the promoters i.e. Noticee No. 1 to 18 were classified as promoters and were holding 74.90% (53,01,963 shares) of the equity capital of MIL before the conversion of warrants on December 15, 2006. Upon conversion of warrants, the promoters' shareholding was 55.35% of the equity capital of MIL.

21. I note as on December 15, 2006, the shares of MIL held by each of the connected companies / Noticee No. 19 to 28 are as follows:

Noticees	**No. of Shares**	**% of equity capital**
Noticee No. 19	500000	5.22
Noticee No. 20	500000	5.22
Noticee No. 21	500000	5.22
Noticee No. 22	500000	5.22
Noticee No. 23	500000	5.22
Noticee No. 24	81004	0.85
Noticee No. 25	84968	0.89
Noticee No. 26	61523	0.64
Noticee No. 27	110951	1.16
Noticee No. 28	19100	0.2
Total	*2857546*	*29.83*

22. The combined shareholding of the promoter group and the connected companies as the PACs increased to 85.18 % of the equity capital of MIL.

23. It has been established , inter alia, in the 2015 Order that

a) Prior to the preferential allotment of share warrants by MIL to the Noticees 19 to 23, namely, Kanhaiya, Ramji, Runicha, Ambaji and Inco they had taken ICDs of Rs.4.86 Crore each from SICOM subject to the following terms and conditions: (a) Pledge of 5 Lakh shares of MIL by each of Kanhaiya, Ramji, Runicha, Ambaji andInco after conversion of share warrants; (b) Prior to the pledge of 5 lakh shares as aforesaid, the promoters of MIL were required to pledge 1.5 lakh shares each of MIL (totaling 7.5 lakh shares) with SICOM. These pledged shares were to be released after conversion of warrants and pledge of the said 5 lakh shares; (c) Post dated cheques (hereinafter referred to as "PDCs") towards principal and interest from the borrower companies; (d) Personal guarantees of promoters/directors of borrower companies; (e) Comfort letter dated December 1, 2006 of MIL (signed by company secretary of the MIL); (f) PDCs towards principal and interest from Mr. Nandlal Maloo (promoter/MD of MIL).

b) Mr. Nandlal Maloo, Mr. Bajranglal Maloo, Mr. Lalchand Maloo and Mr. Sunilkumar Maloo (the promoters of MIL) together pledged 7.5 lakh shares of MIL as per the aforesaid condition. Further, PDCs and the comfort letters dated December 01, 2006 were provided in favour of the aforesaid five connected companies by Mr. Nandlal Maloo and MIL, respectively. Subsequently, all these five connected companies repaid the ICDs to SICOM after obtaining loan from Madhulika which in turn had received funds from MIL without any collateral security.

c) Both these comfort letters are in the nature of guarantee to SICOM that in the event of failure of borrowers to pay or perform any of the terms and condition of the sanction, MIL and/or Mr. Nandlal Maloo will pay the same to SICOM together with interest, cost, charges and expenses without any objections. Both the comfort letters are unambiguous in content and provide complete comfort to SICOM in the event of failure of the borrowing entity. Both MIL and Mr. Nandlal Maloo have given the comfort letter to SICOM knowing that the borrowers (the aforesaid five connected companies) did not have any business and were not in a position to first avail the ICDs and then repay them by any means. There is a clear element of assurance and guarantee extended to SICOM in case of failure of the borrower. Without having any connection with the borrowing entities, such an unambiguous comfort letter cannot be issued to the lender by anyone. Further, the promoters have failed to explain as to why such a letter was given to SICOM when MIL as an issuer of shares need not be concerned about the finances of the subscribers.

d) MIL had given Rs. 28,27,00,000/- as a loan to Madhulika without any collateral on November 30, 2007. However, Madhulika immediately transferred Rs.28,26,25,000/- on November 30, 2007 and December 1, 2007 to five connected companies namely, Kanhaiya, Runicha, Ramji, Inco and Ambaji. The proximity and amount of fund transfer corroborates that the MIL had transferred funds to Madhulika to fund the aforesaid five connected companies rather than for procuring the plant and machinery as claimed by the promoters. Further, Madhulika never used the money towards the objectives stated by MIL and simply transferred the money to the five connected companies. In view of these facts and circumstances, Madhulika was used as a front entity to facilitate transfer of funds from MIL to the five allottees, i.e., the aforesaid five connected companies.

e) All the connected companies were being managed by one Mr. Amit Raja, Chartered Accountant and the IT Department during its survey had found various records of these connected companies in the premises of Mr. Amit Raja clearly indicating that Mr. Raja's relationship with these companies was not merely in his professional capacity as auditor and consultant. He was also maintaining consolidated details of 10 connected companies as if they were part of same group and being managed by him only. Out of these 10 connected companies, five connected companies mentioned in the preceding paragraphs were funded by MIL through Madhulika. MIL and its promoters arranged for funding to these connected companies who had subscribed to warrants of MIL by using same modus operandi, clearly show that these connected companies were acting in concert with each other while subscribing to the preferential allotment of warrants.

f) From the extracts of the bank account statements of Ramkrishna that MIL has consistently been providing funds to it. In the calendar year 2007 alone, MIL had transferred a total of Rs.1,82,50,000/- to Ramkrishna, the explanation for which have been given by neither the promoters of MIL nor Ramakrishna. Therefore, Ramkrishna is connected to the promoters of MIL.

g) The ten connected companies and the promoters of MIL have traded in the scrip of MIL during the relevant time. As discussed above, these ten connected companies are connected with each other and also with the promoters/directors of MIL. Further, it is not envisaged that the promoters of a company would try and stabilize the price of the scrip. If the promoters were trying to increase or stabilize the price of the scrip in a falling market, this would be illegal as the promoters were hampering the price discovery mechanism of the stock exchange and this act would be akin to market manipulation.

h) These connected companies were unable to produce any substantial evidence in support of their arguments that they were unaware of trading done by other connected companies in the scip of MIL. The connection of these connected companies/their promoters/directors/shareholders is already established with MIL /its promoters/directors. Five of these connected entities have used the funds provided by Madhulika for repayment of loan to SICOM. It is already established that SICOM had sanctioned the loan to the five connected entities on the basis of the comfort letter/guarantee/collateral/PDCs provided by MIL and its promoters and the loan so obtained was utilized by the five connected companies towards subscription and conversion of share warrants.

i) The IT Department during its survey recovered consolidated details of these companies from the premises of Mr. Amit Raja along with financial and various other documents. Moreover, there is a commonality in the directorship of Mr. Lalit Loya (director of Runicha, Krishnumand Ramji), Mr. Chenaram C. Rar (director of Runicha, Ambaji), Mr. Nilesh Jain (director of Runicha, Ramkrishnaand Taitan), Mr. Shivshakti B. Dhoot (director of Incoand Simple), Mr. Bhawarlal Khariya (director of Runichaand Lakhi). These connected companies and their directors have financial transactions with each other. Further, none of the connected companies, except Ramkrishnahave undertaken any major business activity and whatever activities could undertaken, were linked to MIL or its connected entities.

j) The fact that the ten connected companies have common directorship, phone number, address, email address, and fund transfers amongst them, as noted above, buttresses the conclusion that these entities are connected to each other. This is further corroborated by the fact that all these connected companies were being managed by their common auditor, Mr. Amit Raja. MIL had made preferential allotment of warrants to these connected entities and had also furnished comfort letters and PDCs so as to enable the connected companies to obtain ICDs from SICOM for subscription and conversion of warrants. Thus, the promoters acting in concert with the connected companies had cornered substantial shareholding in MIL. In view of these circumstances of the case, the said connected companies have demonstrated meeting of minds and common objective or purpose of substantial acquisition of shares, etc. of MIL. Under the facts and circumstances discussed hereinabove, it is established that the whole scheme was devised and employed by the promoters of MIL to corner/ acquire substantial shares of MIL acting in league with the connected entities. Thus, the commonality of objective and understanding of all the Noticees to acquire substantial shares of MIL is also established. Considering the facts and circumstances of this case, all the Noticees are squarely covered within the definition of “persons acting in concert" under regulation 2(1) (e) of the Takeover Regulations, 1997.

k) On December 15, 2006, when the aforesaid 5 connected entities converted the shares warrants alloted to them by MIL as aforesaid all Noticees attracted the obligation to make public announcement as mandated under regulation 11(2) of the Takeover Regulations, 1997 within the time period stipulated under Regulation 14 thereof. No such public announcement has been made by the Noticees till date. In view of these facts and circumstances, the Noticees have violated regulation 11(2) read with regulation 14 of the Takeover Regulations, 1997.

24. Thus, the connected companies and the promoters were required to make public announcement as mandated under regulation 11(2) of the Takeover Regulations, 1997 on account of acquisition of shares in MIL on December 15, 2006 within the time period stipulated in Regulation 14 of the Takeover Regulations, 1997, i.e. within 4 days from December 15, 2006 which they failed to make thereby violating Regulation 11(2) read with Regulation 14 of the Takeover Regulations, 1997.

25. Further, it was also alleged in the SCN that the Noticees failed to comply with the directions issued under Order dated July 31, 2015 i.e. to make public announcement within a period of 45 days from the date of this order. Noticee No. 6, 8, 12, 14 and 17 in their reply only submitted that they are not the promoters of

the said company and do not have any connection or role in the management of the company and have not been allotted any shares in the Promoter category. I note that these contentions have already been dealt with comprehensively in the 2015 Order. I also note from the shareholding pattern for the quarter ended September and December 2006, Noticee No. 1 to 18 are disclosed as Promoters of the Company. Hence the contention made by the Noticees cannot be accepted.

26. The Noticees have not submitted any proof of having made the public announcement as directed in the 2015 Order. It has been confirmed by SEBI that no public announcement was made by the Noticees till date pursuant to the 2015 Order. I also note that the Noticees have not appealed the 2015 Order. Hence the 2015 Order has attained finality. It is thus established that the Noticees failed to comply with the 2015 Order.

27. In view of the above, it is established that Noticees failed to make the public announcement as required under Regulation 11(2) read with Regulation 14 of the SEBI Takeover Regulations 1997, and failed to comply with the directions issued under SEBI Order No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015.

Issue No. III	**If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15H(ii) and 15HB of the SEBI Act?**

&

Issue No. IV	**If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?**

28. The failure of the Noticees in making the public announcement as required under Regulation 11(2) read with Regulation 14 of the SEBI Takeover Regulations 1997, and failure to comply with the directions issued under SEBI Order No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015 is

established. Hence, I am of the view that imposition of monetary penalty is warranted on the Noticees under Section 15H(ii) and 15HB of the SEBI Act, text of which are reproduced as under:

SEBI Act:

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. *If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—*

(i) *…………..*
(ii) *make a public announcement to acquire shares at a minimum price; or*

Penalty for contravention where no separate penalty has been provided.

15HB*. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.*

29. While determining the quantum of penalty under Section 15H(ii) and 15HB of the SEBI Act, the following factors stipulated in Section 15J of the SEBI Act, have to be given due regard:

    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.

30. The material available on record does not indicate specific quantum of unfair gain made by the Noticees or the loss caused to the investors due to not making public announcement and by failing to comply with the directions issued under SEBI orders dated July 31, 2015. In terms of Regulation 20(4) of the Takeover Regulations 1997, the open offer price should have been around Rs. 410 and the total consideration amount for making the open offer would have been around Rs.78 crores. The failure to make a public announcement enabled the Noticees to avoid

providing the aforesaid amount for the open offer and caused a commensurate opportunity loss to the investors at that time.

31. Therefore, taking into account the facts and circumstances of this matter, I am of the view that a penalty of Rs.10,00,00,000/- (Rupees Ten crore only) upon the Noticees under section 15H(ii) of the SEBI Act for failure to give open offer and Rs. 1,00,00,000/- (Rupees One Crore only) upon the Noticees, under section 15HB of SEBI Act, jointly and severally, will be commensurate with the violations committed by the Noticees.

ORDER

32. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15I(2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. Rs.10,00,00,000/- (Rupees Ten Crore only) upon the Noticees No. 1 to 28 under section 15H(ii) of the SEBI Act and Rs. 1,00,00,000/- (Rupees One Crore only) upon the Noticees No.1 to 28 , under section 15HB of SEBI Act for the violation of SEBI Order No. WTM/RKA/EFD-DRA-I/75-102/2015 dated July 31, 2015.

33. Total penalty of Rs 11,00,00,000/- (Rupees Eleven Crore only) shall be paid jointly and severally by the Noticees No. 1 to 28 (i.e. 1) Bajranglal B Maloo HUF, 2) Bajranglal Bankatlal Maloo, 3) Dinesh Maloo, 4) Lalchand B Maloo HUF, 5) Lalchand Bankatlal Maloo, 6) Madhu Sunil Maloo, 7) Mahesh Maloo, 8) Murli S Maloo, 9) Nandlal Bankatlal Maloo, 10) Nandlal Maloo HUF, 11) Nirmaladevi Nandlal Maloo, 12) Premadevi Sobhagmal Maloo, 13) Sangeetadevi Lalchand Maloo, 14) Sarita M Maloo, 15) Shantidevi Bajranlal Maloo, 16) Shilpa Maloo, 17) Sobhagmal Maloo, 18) Sunilkumar Sobhagmal Maloo, 19) Runicha Alloys and Steel Pvt Ltd, 20) Inco Infrastructure Private Ltd, 21) Ramji Agri Business Private Ltd, 22) Ambaji Papers Private Limited, 23) Kanhaiya Minning & Minerals Pvt Ltd, 24) Krishnum Investment Pvt Ltd, 25) Lakhi Packaging Private Ltd, 26) Taitan

Management service Pvt Ltd, 27) Simple Mining & Power Private Ltd and 28) Ramkrishna Fabrication & Machineries Pvt Ltd).

34. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link

ENFORCEMENT → Orders → Orders of AO → PAY NOW

35. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – I of SEBI. The Noticees shall provide the following details while forwarding DD/ payment information:

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

36. Copies of this Adjudication Order are being sent to the Noticees and also to SEBI in terms of Rule 6 of the Adjudication Rules.

DATE: JUNE 30, 2020
PLACE: MUMBAI

MANINDER CHEEMA
ADJUDICATING OFFICER