BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/SBM/KL/2022-23/16240]

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

In respect of
Anvita Trading Company Private Limited
(PAN: AAICA2158E)
A/5, Abhay Apartment, 2nd Floor, Dattatreya Road,
Santacruz West Mumbai 400054

In the matter of
Secunderabad Healthcare Limited

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) received a reference letter from the Department of Income Tax on February 10, 2015, forwarding statement recording of one Mr. Shirish C Shah, an accommodation entry provider, alleging that certain entities, through the stock exchange mechanism, generated bogus Long Term Capital Gain (LTCG) in many scrips including the scrip of Secunderabad Healthcare Limited (hereinafter referred to as '**SHL**'/**'company'**). In this regard, SEBI conducted an investigation with a focus to ascertain if there were any violations of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **'SEBI Act'**), SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (hereinafter referred to as **'ICDR Regulations'**) and SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as **'PFUTP Regulations'**) in the context of the funding of preferential allottees by SHL in the preferential allotment scheme made by the company during the year 2010. It is observed that the scrip of SHL is listed only on BSE since February 26, 2001.

2. Pursuant to the investigations, it was alleged that SHL made a preferential allotment of 8,00,00,000 warrants convertible into 8,00,00,000 equity shares of Rs. 10/- each for cash at a premium of Rs. 8.60 per share on preferential basis to 27 non-promoter entities, on October 14, 2010 and the warrants were converted into equity shares in two tranches i.e. on March 02, 2011 and March 31, 2012. Among the aforesaid 27 non-promoter entities, it is observed that one M/s Anvita Trading Company Private Limited (hereinafter referred to as **'Noticee'**) was allotted 36,25,000 warrants. Pursuant to the conversion of the aforesaid warrants to equity shares on March 02, 2011, the total consideration amount to be paid by the Noticee to SHL, for subscription of the aforesaid shares amounted to Rs. 6,74,25,000/-. In this regard, in terms of the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations, the Noticee was required to transfer the total amount of Rs. 6,74,25,000/- to SHL at the time of allotment of equity shares, pursuant to exercise of option against each such warrant i.e. on March 02, 2011. However, it is alleged in the investigation that the total funds transferred by the Noticee to SHL towards subscription of the aforesaid 36,25,000 convertible warrants amounted to only Rs. 2,48,06,250/-, which is less than the required amount of Rs. 6,74,25,000/-.

3. In view of the above, it is alleged that SHL, by issuing equity shares to the Noticee without receiving full consideration amount from it and the Noticee by receiving shares from SHL through preferential allotment without paying full consideration amount, have together violated the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations. Further, it is alleged that SHL (a listed company on BSE) gave a public impression of capital infusion through preferential allotment, whereas, in reality, SHL, inter-alia, allotted shares to the Noticee without receiving full consideration amount from it for the said allotment. In view of the above, it is alleged that SHL provided benefit to the Noticee through the preferential allotment scheme and hence, SHL along with the Noticee perpetrated fraud on other allotees/shareholders and the ordinary investing public who had transacted in the shares of SHL post preferential allotment. Therefore, it is alleged that the Noticee had also violated the provisions of Section 12A (a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d), and 4(1) of PFUTP Regulations.

4. In view of the above, SEBI initiated adjudication proceedings against the Noticee under the provisions of Section 15HA and Section 15HB of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

5. Dr Anitha Anoop was appointed as the Adjudicating Officer ('**AO**') in the matter vide communique dated July 29, 2019 under Section 19 of the SEBI Act read with Section 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**), to inquire into and adjudge under the provisions of the Section 15HA and the Section 15HB of the SEBI Act, the aforementioned alleged violation of the provisions of law by the Noticee. Pursuant to the transfer of Dr Anitha Anoop to another department, the undersigned has been appointed as the AO vide communique dated November 03, 2020.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. Show Cause Notice ref no. SEBI/EAD/AA/MKG/165/2019 dated December 31, 2019 (hereinafter referred to as **'SCN'**) was issued to the Noticee in terms of Rule 4(1) of the Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticee and why penalty be not imposed on it in terms of the provisions of the Section 15HA and the Section 15HB of the SEBI Act for the violations alleged to have been committed by the Noticee. The SCN, *inter-alia,* alleged the following: -
   a. *The Noticee 9/Anvita Trading Company Limited was allotted 36,25,000 shares pursuant to conversion of warrants. At the issue price of Rs. 18.60/- per share, the total required amount for subscription of the shares was Rs. 6,74,25,000 /-. SEBI observed that the Noticee 9 had transferred Rs. 2,68,56,250/- (from account 561011013665-Kotak Mahindra Bank) to the bank account of the Noticee 1 through multiple transactions between August 23, 2010 and July 08, 2011. However, SHL had accounted the funds amounting to Rs. 20,50,000 paid by the Noticee 9, for another allottee named Adamina Traders Pvt. Ltd. Therefore, the funds transferred by the Noticee 9, towards subscription*

of the warrants was equivalent to Rs. 2,48,06,250/- (i.e. Rs. 2,68,56,250 less Rs. 20,50,000 and not entire amount of Rs. 6,74,25,000/-.

b. *Vide various emails and summons, the Noticee 1 was advised to provide an explanation with respect to transfers of funds to the Noticee 2 to 10 however the Noticee 1 did not provide any specific detail regarding the aforesaid transfers of funds. In view of the aforesaid failure on the part of the Noticee 1, it is alleged that the Noticee 1 does not have any justification/ explanation with respect to the return of the funds to the Noticee 2 to 10. As the consideration received from the Noticee 2 to 10 was less than the required amount, it is alleged that the Noticee 1, by issuing equity shares to the Noticee 2 to 10, without receiving full consideration and the Noticee 2 to 10 by receiving shares without paying full consideration, have together violated Regulation 77(1) and 77(3) of ICDR Regulations.*

a. *It is alleged that as the Noticees 2 to 10 did not pay full consideration for the conversion of warrants to equity shares, the aforesaid Noticees 2 to 10, were benefited by the company at the loss of other shareholders of the company.*

c. *When a company raises capital through share issuance, it is a capital infusion and ordinary investor perceives such capital infusion as a measure which strengthens the company's financial fundamentals thereby attracting the investing public to transact in the shares of the company. However, in the instant matter it is alleged that although the listed company i.e. the Noticee 1, gave a public impression of such capital infusion through preferential allotment, in reality, the Noticee 1, interalia, allotted shares to nine out of the 27 allottees without receiving full consideration. In view of the above, it is alleged that by providing benefit to the Noticees 2 to 10 through the preferential allotment scheme, the Noticee 1 along with the Noticees 2 to 10 had perpetrated a fraud on the other allottees, shareholders and the ordinary investing public who had transacted in the shares post preferential allotment. Therefore, it is alleged that the Noticees have violated section 12A(a), (b), (c) of SEBI Act read with Regulations 3(a), (b), (c), (d) &) of PFUTP Regulations.*

7. Vide emails dated October 21, 2021 and December 18, 2021, the Noticee made the following major submissions in its reply to the SCN: -

   a. *At the outset we may point out that in the parallel proceedings under sec 11 B of the SEBI Act, in the same matter, the Whole Time Member has already adjudicated the very same violations/issues as have been set out in the Notice, and based on our replies/submissions, exonerated us. As a matter of judicial discipline, the findings of the Whole Time Member on the identical issues, as raised in the present Notice, is binding on* *the Adjudicating Officer. On this ground alone, the Notice needs to be withdrawn against us and/or the allegations need to be dropped and order be passed on the said lines.*

b. *The observations pertaining to us are contained in para 5.8 and our response to the same is as follows:*

c. *Allotment of 36,25,000 shares pursuant to conversion of warrants and the total amount required to be paid for subscription of 36,25,000 shares being Rs.6,74,25,000/- is a matter of record. We are not aware of the details provided by SHL regarding the receipt of consideration from us. We are surprised as to why SHL has not provided the full, complete and correct details regarding payments made by us to SHI, towards allotment, as set out hereinbefore.*

d. *The details of amounts transferred by us to SHL, from our bank account with RBS have been set out in earlier paras. Same will bear out that we have paid the full amount of consideration and strictly in consonance with the terms of allotment. We are totally shocked by the half-baked details provided by SHL, pertaining to the payments made by us, as referred to in the para. Further, we are not concerned with the internal accounting entries made by SHI, are neither aware, nor concerned with the same and based on the same no adverse inferences can be drawn against us. We reiterate that we had paid the full consideration amount of Rs 6,74,25,000/- to SHL towards allotment of shares, and not merely Rs. 2,48,06,250/- as alleged.*

e. *With reference to observations in Paras 6.10 & 7 of the Notice, it is denied that we had participated in perpetrating any fraud on other allottees or shareholders or the investing public as alleged. It is further denied that we have violated any of the provisions of Section 12 A(a), (b) and (c) of SEBI Act or Regulations 3 (a), (b), (c) and (d) and regulation 4 (l) of PFUTP Regulations or Regulation 77(1), 77(3) of ICDR Regulations as alleged. It is submitted that we have never indulged in any fraudulent and unfair trade practices relating to the securities. The whole allegation is premised on the assumption that we had not paid the full consideration amount of Rs.6,74,25,000/- to SHL towards the allotment of shares The said premise, as demonstrated in earlier paras, is totally opposed to factual position and bank statements available on record. Therefore, the whole allegation is legally untenable and unsustainable. Since we have already paid the full consideration amount of Rs.6,74,25,000/- to SHL towards the allotment of shares, no directions as proposed are warranted*

f. *With reference to observations in Paras 6.3 & 6.4 of the Notice, it is reiterated that we had paid full consideration amount of Rs 6,74,25,000/- to SHL, towards the allotment of* *shares. It is further reiterated that SHL. had not provided any benefit to us as alleged. We vehemently deny that we had perpetrated any fraud on the other allottees/ shareholders/ the ordinary investing public, as alleged .1t is denied that we have violated the provisions of Section 12 A(a), (b) and (c) of SEBI Act or Regulations 3 (a), (b), (c) and (d) and regulation 4 (l) of PFUTP Regulations as alleged.*

CONSIDERATION OF ISSUES AND FINDINGS

8. I have carefully perused the allegations levelled against the Noticee in the SCN, the replies of the Noticee and also the documents/evidence available on record.
   The issues that arise for consideration in the present case are: -
   I. Whether the Noticee has violated the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations and Section 12A (a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d), and 4(1) of PFUTP Regulations?
   II. If yes, whether the violation would attract monetary penalty on the Noticee under the provisions of the Section 15HA and the Section 15HB of the SEBI Act?
   III. If yes, what should be the quantum of monetary penalty?

9. Before moving forward, the relevant provisions of the SEBI Act, ICDR Regulations and PFUTP Regulations, allegedly violated by the Noticee are reproduced as under:

SEBI Act

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;*

ICDR Regulations

Payment of consideration.

77. (1) Full consideration of specified securities other than warrants issued under this Chapter shall be paid by the allotees at the time of allotment of such specified securities:

Provided that in case of a preferential issue of specified securities pursuant to a scheme of corporate debt restructuring as per the corporate debt restructuring framework specified by the Reserve Bank of India, the allotees may pay the consideration in terms of such scheme.

(2) ………

(3) The balance seventy five per cent. of the consideration shall be paid at the time of allotment of equity shares pursuant to exercise of option against each such warrant by the warrant holder.

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.*

ISSUE I :- Whether the Noticee has violated the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations and Section 12A (a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d), and 4(1) of PFUTP Regulations?

ISSUE II. If yes, whether the violation would attract monetary penalty on the Noticee under the provisions of the Section 15HA and the Section 15HB of the SEBI Act?

10. The Noticee in its reply dated December 17, 2021 categorically submitted that prior to the allotment of warrants on October 14, 2010, it had paid an amount of Rs. 1,68,56,250 /- to SHL during the period from August 23, 2010 to October 06, 2010. Further, it had paid the balance 75% of the consideration amount of Rs. 50,55,68,750/- to SHL during the period from November 10, 2010 to February 12, 2011. Therefore, Noticee submitted

that it had paid full consideration amount of Rs. 6,74,25,000/- to SHL towards the allotment of 36,25,000 shares. In this context, the Noticee also submitted that parallel proceedings on similar issues/allegations were initiated against it under the provisions of Section 11B of the SEBI Act, where the nature of the allegations and the violations alleged against the Noticee are identical as in the instant matter and the Whole Time Member (WTM) SEBI, after considering the replies of the Noticee, passed an order ref WTM/SM/EFD1/DRA4/19/2021-22 dated April 30, 2021 (hereinafter referred to as **'WTM order dated April 30, 2021'**). In his findings in the aforesaid order dated April 30, 2021, WTM-SEBI, inter-alia, concluded that the Noticee had paid the full consideration amount to SHL and therefore, WTM-SEBI exonerated the Noticee and disposed of the proceedings initiated against it under the provisions of Section 11B of the SEBI Act without any direction. In this regard, I note that the aforesaid WTM order dated April 30, 2021 deals with identical facts/findings/violations against the Noticee which are based on the same investigation report of SEBI as in the instant matter. Further, the SCN issued against the Noticee in the present proceedings also levelled same charges/allegations against the Noticee. The relevant observations/conclusions brought out in respect of the Noticee in the aforesaid order by WTM-SEBI are reproduce as under:

" 22) Upon analyzing the information provided by the Company regarding the funds received by it from the 15 allotees, it was observed that there were several variations (i.e. excess or shortage of figures due to refund of money made by the Company to allotees) in the funds received from certain allottees out of these 15 allotees. Further, two bank accounts of the Company i.e. A/c no. 000684000002574 with Yes Bank and A/c no. 3230011029725 with Kotak Mahindra Bank, in which funds towards preferential allotment was received by the Noticee no. 1 (the Company) from the Noticee nos. 2 to 10 were also examined. From the detail of funds transactions/transfers submitted by the Company and the analysis of the aforesaid two bank accounts of the Company as mentioned in the SCN, I note that 6 Noticees i.e., 2, 6, 7, 8, 9 and 10 have not only failed to pay the 75% consideration towards preferential allotment of equity shares post conversion of warrants but also there were lapses noticed even in their remittances of the initial payment of 25% consideration at the time of the initial allotment of warrants made to those allotees on October 14, 2010 . Nevertheless, I find that the SCN does not make any allegation qua the shortfalls in paying the initial allotment amount by the allotees, hence I would prefer to confine

my proceedings to the issues pertaining to the non-payment of consideration of remaining 75% of the purchase price as soon as the warrants were converted into equity shares and allotted to the Noticees, as alleged in the SCN. From the detail of receipt of funds submitted by the Company and the analysis of the two bank accounts of the Company, I note that the SCN narrates the details of payments received by the Company from the Noticee no. 2 to 10 as explained hereunder:

viii. Anvita Trading Co. Private Limited-Noticee no.9*: The Noticee no. 9 was required to pay INR 6,74,25,000 for subscription of 36,25,000 shares @ INR 18.60 per share. The Company only provided details regarding the receipt of 25% of the total consideration from the Noticee no. 9. Based on the transactions noticed in the bank account statements of the Company, it was noticed that the Noticee no. 9 had transferred INR 2,68,56,250 (from Account No. 561011013665-Kotak Mahindra Bank) to the bank account of the Company through multiple transactions between August 23, 2010 and July 08, 2011. However, the Company had accounted for the funds amounting to INR 20,50,000 paid by the Noticee no. 9 for another allottee named Adamina Traders Pvt. Ltd. Therefore, the funds transferred by the Noticee no. 9 towards subscription was equivalent to INR 2,48,06,250/- (i.e. INR 2,68,56,250 less INR 20,50,000) and thus full consideration towards subscription of the shares was not received by the Company from the Noticee no. 9 to that extent*.

26) In this context, I note that the Noticee no. 9 has filed a reply in rebuttal to the aforesaid allegations made in the SCN stating that the allegations made against it for getting the shares allotted without paying full consideration of INR 6,74,25,000/- to the Company is not correct as it has paid full consideration to the Company by February 26, 2011. The Noticee no. 9 has furnished the details of the payment it had made to the Company as consideration against the allotment of warrants and then towards the equity shares post conversion of warrants which are as below:

Table-4

Date	***Name of the Bank***	***Amount Paid (Rs.)***	***Mode of Payments***
23-Aug-2010	*RBS Bank Limited*	*6,765,625*	*RTGS*
23-Aug-2010	*RBS Bank Limited*	*5,000,000*	*RTGS*
23-Aug-2010	*RBS Bank Limited*	*5,000,000*	*RTGS*
**08-Oct-2010*	*RBS Bank Limited*	*90,625*	*RTGS*
10-Nov-2010	*RBS Bank Limited*	*97,25,000*	*RTGS*

10-Nov-2010	*RBS Bank Limited*	*10,160,000*	*RTGS*
10-Nov-2010	*RBS Bank Limited*	*10,115,000*	*RTGS*
12-Nov-2010	*RBS Bank Limited*	*59,75,000*	*RTGS*
12-Nov-2010	*RBS Bank Limited*	*67,50,000*	*RTGS*
12-Nov-2010	*RBS Bank Limited*	*72,75,000,*	*RTGS*
26-Feb-2011	*RBS Bank Limited*	*5,68,750*	*RTGS*
Total		***6,74,25,000***	

From a perusal of the copy of the Bank Statements of RBS bank for Financial Year 2010-2011 furnished by the Noticee no. 9 in support of its afore-stated claim of having paid the full consideration against the allotment of warrants and equity share, I find that different sums of money on different dates aggregating to INR 6,74,25,000 as indicated above in Table no.-4 have been transferred from RBS Bank account no. 1634999 of the Noticee no. 9 to the Yes Bank account of the Company during the period August 23, 2010 and February 26, 2011. The said receipt of funds gets corroboration from the amounts paid in tranches by the Noticee no. 9 as shown in the above table to have been paid from its RBS Bank account on the respective dates. Evidences furnished by the Noticee no. 9 clearly supports the claim that it had paid full consideration to the Yes Bank account of the Company by February 26, 2011 from its aforesaid RBS Bank account, which included a sum of INR 1,68,56,250 paid between August 23, 2010 and October 08, 2010 as referred to in the SCN. ***Therefore, according to me the Noticee no. 9 is successful in rebutting the allegations made against it in the SCN by establishing that it had indeed paid adequate consideration for the allotment of warrants as well as the equity shares post the conversion of those warrants. I am therefore, inclined to give exoneration to Noticee no. 9 by accepting its submission that it has paid full consideration of INR 6,74,25,000/- by February 26, 2011 to the Company from its RBS Bank account (emphasis supplied)…''***

11. It is noted that Noticee no.9 which has been mentioned in the aforesaid WTM order dated April 30, 2021, is also the Noticee in the present adjudication proceedings. Further, I note that WTM-SEBI after considering the submissions made by the Noticee and after perusing the bank statements of RBS Bank for FY 2010-2011 furnished by the Noticee, had concluded that the full consideration amount of Rs. 6,74,25,000 /- (in respect of the allotment of convertible warrants in the preferential allotment scheme

came out on October 24, 2010) has been transferred from the Noticee's RBS Bank account (acc no. 163499) to the YES Bank account of SHL during the period from August 23, 2010 and February 26, 2011. It is observed that the aforementioned transfer of funds was made by the Noticee before the required time limit of March 02, 2011 i.e. the day of exercising option against each allotted convertible warrant. Therefore, WTM-SEBI in the order dated April 30, 2021 concluded that the Noticee had paid full consideration amount to SHL towards subscription of convertible warrants and exonerated the Noticee from the allegations levelled against it. In the context of the present proceedings, I note that the Noticee has relied upon the findings of WTM order and made similar submissions in respect of the allegation made against it in the instant adjudication proceedings.

12. I have independently examined the submissions made the Noticee in respect of the allegation levelled against it and also examined the relevant bank statements submitted by the Noticee and conclude that the Noticee transferred the total required amount Rs. 6,74,25,000 /- to SHL, towards the allotment of convertible warrants in the preferential allotment scheme made by SHL. I note that the aforesaid transfer of funds was made by the Noticee to SHL by February 26, 2011 i.e. within the required time limit of March 02, 2011, as given under Regulation 77 (1) r/w Regulation 77 (3) of ICDR Regulations. Hence, I also concur with the observations/findings of WTM-SEBI, vide order dated April 30, 2021. In view of the above, I conclude that the allegations levelled against the Noticee that it had received shares from SHL through preferential allotment without paying full consideration amount and that the Noticee perpetrated fraud on other allotees/shareholders and the ordinary investing public who had transacted in the shares of the SHL post preferential allotment, do not stand established. In view of the above, the allegations levelled against the Noticee in respect of the violation of the provisions of Regulations 77 (1) and 77 (3) of ICDR Regulations and Section 12A (a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d), and 4(1) of PFUTP Regulations, is unsustainable and do not stand established.

ORDER

13. In view of the above observations/findings and in exercise of the powers conferred upon me under section 15I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby dispose of the Adjudication Proceedings against the Noticee viz. M/s Anvita Trading Company Private Limited vide SCN dated December 31, 2019.

14. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee viz. M/s Anvita Trading Company Private Limited also to the Securities and Exchange Board of India.

Date: April 28, 2022	**Suresh B Menon**
Place: Mumbai	**ADJUDICATING OFFICER**