BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[**ADJUDICATION ORDER NO. Order/SS/LD/2024-25/30374-30377]**

UNDER SECTION 15-I OF THE 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

S.No	Name of the Noticees	PAN
1.	TIL Limited	AABCT0704G
2.	Mr. Sumit Mazumdar	AEOPM4572K
3.	Mr. Shibaditya Ghosh	AFDPG0116R
4.	Mr. Ramesh Aggarwal	AGCPA0406A

In the matter of **"TIL Limited"**

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**) had conducted an investigation in the matter of TIL Limited (hereinafter referred to as the "**TIL / Company / Noticee 1"**), a company listed on Bombay Stock Exchange **("BSE")** and National Stock Exchange of India Ltd **("NSE"),** on the receipt of an email and SCORES complaint dated January 19, 2022 and January 21, 2022 *inter alia* alleging that the audited balance sheet for FY 2020-21 was fudged and fictitious trading in steel was recorded for padding up the top lines for the banks.

Similarly, sales were billed to one customer, Chennai Radha Engineering Works Pvt. Ltd. (**"CREWPL"**) and GST was paid, while the order was never received.

2. Based on the said complaint, a preliminary examination was carried out wherein TIL submitted that it had raised 12 invoices during FY 2019-20, however, it had reversed the said invoices in FY 2020-21 due to non-movement of goods and re-invoiced again. Further, with respect to steel bought and sold with one Ganesh International, TIL submitted that it had engaged in trading of steel to ensure continuity of business operations & survival. Considering the aforesaid submission, further information/ documents were sought from TIL and after analyzing the information/ documents of TIL, the matter was thereafter, taken up for detailed investigation for a period ranging from April 01, 2017 to March 31, 2022 i.e. FY 2017-18 to 2021-22 (hereinafter referred to as **"Investigation Period" / "IP"**), to ascertain the possible violation of provisions of SEBI Act, 1992**,** SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"), SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, (**LODR Regulations**). However, wherever deemed necessary, references have been made to the events/timeframes outside the IP.

3. During the course of Investigation, SEBI vide its email dated February 28, 2022 had sought information from the complainant (ex-employee of TIL), who in its reply had provided Projected Cash Flow statement of Noticee 1 for the period July 2020 to March 2021 and Cash Flow position of Noticee 1 between February 01 to February 26, 2021. However, the complainant did not categorically provide/

substantiate the basis of such allegations as to how the same was reflected in the audited books of accounts. On the basis of the same, information was sought from the Noticee 1 vide emails/ letter/ summon, for which it provided the information/ documents along with a report from Department of Revenue Intelligence & Enforcement (**“DRI”)** for the FYs 2019-20 & 2020-21. Further, a Forensic Auditor (“**FA**”), Parkash Ved & Co. was appointed by Bank of India (Lead Bank) on April 20, 2022 and was advised to conduct forensic audit for the period 01.04.2017 to 31.03.2022. The FA had submitted the Forensic Audit Report (hereinafter referred to as “**FAR**”) dated August 12, 2022 to Bank of India.

4. Similarly, Gokul Leasing & Finance Pvt. Ltd. (promoter group) had appointed V Singhi & Associates, Chartered Accountants to perform Management Audit (MA) of Noticee 1 for the FYs 2019-20 & 2020-21 who thereafter submitted the Management Audit Report (hereinafter referred to as **“MAR**”). Based on the said FAR, MAR and DRI report, Exchange Examination Report, financials of and submissions made by the Noticee 1, the findings and observations under the instant investigation was finalized and thus, it was alleged that the Noticee 1 has violated Regulations 4(1), 4(2)(f), (k) and (r) of SEBI (PFUTP) Regulations, 2003 and Regulations 4(1), 33(1)(a) & (c) and 48 of SEBI (LODR) Regulations 2015 by having done fictitious purchases & sales, which led to misrepresentation/ misstatement of the financial statements of TIL Ltd. during FY 2019-20 & FY 2020-21 which contained untrue figures of the listed company, Mr Sumit Mazumder, Chairman & Managing Director(CMD) of Noticee 1 (hereinafter referred to as the **Noticee 2)** and Mr Shibaditya Ghosh, Chief Financial Officer(CFO) of Noticee 1 (hereinafter referred to as the **Noticee 3**) have violated Regulation 4(1), 4(2)(f), (k)

& (r) of SEBI (PFUTP) Regulations, 2003 and 17(8) of SEBI (LODR) Regulations, 2015 and Regulations 4(1), 33(1)(a) & (c) and 48 of SEBI (LODR) Regulations, 2015 read with Section 27 of SEBI Act by knowingly publishing Noticee 1's financial statements which were not true, having failed to ensure that Noticee 1's financial statements presented true and fair picture of its state of financial affairs as they had approved and authenticated its financial results filed during FY 2019-20 & FY 2020-21 and also failed to discharge duties as KMP leading to misrepresentation/misstatement of financial statements and Mr Ramesh Aggarwal, Chief Executive Officer(CEO) of Noticee 1 (hereinafter referred to as the **Noticee 4**) has violated Regulations 4(1), 4(2)(f), (k) and (r) of PFUTP Regulations and Regulations 4(1), 33(1)(a) & (c) and 48 of LODR Regulations read with Section 27 of SEBI Act by knowingly publishing No1's financial statements which were not true, having failed to ensure that Noticee 1's financial statements presented true and fair picture of its state of financial affairs for the FY 2019-20 as he was its CEO and also failed to discharge duties as KMP leading to misrepresentation/ misstatement of financial statements.(hereinafter all of them together referred to as the "**Noticees**")

APPOINTMENT OF ADJUDICATING OFFICER

5. In this regard, SEBI initiated Adjudication Proceedings against the Noticees and had appointed Shri Santosh Kumar Sharma as the Adjudicating Officer (**AO**) vide order dated May 23, 2023, communicated vide communique dated May 23, 2023 under Section 15-I of the SEBI Act, 1992 read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 *(*hereinafter referred to as '**SEBI *Adjudication Rules')*** to inquire into and adjudge under Section 15HA &

Section 15HB of the SEBI Act for the aforesaid violation alleged to have been committed by the Noticees as specified in the SCN.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. A common Show Cause Notice dated June 16, 2023 (hereinafter referred to as ***SCN***) was issued to the Noticees in terms of Section 15-I of the SEBI Act, 1992 read with Rule 4 of the Adjudication Rules to show cause as to why an inquiry should not be held against them and why penalty, if any, under Section 15HA and Section 15HB of the SEBI Act, be not imposed upon the Noticees.

7. The said SCN was issued to the Noticees via SPAD and was duly delivered. The proof of service is on record. The details of delivery of the SCN and the hearing Notice are mentioned in the table 1 below:

Noticee Nos.	Name of the Noticees	SCN Delivered (Y/N)	Reply Received Y/N	Hearing Notice Date	HN Delivered (Mode of Service)	Hearing Date	Hearing Attended(Y/N)
1	TIL Limited	Y	Y	July 13, 2023, July 18, 2023 and August 02, 2023	EMAIL	July 27, 2023, August 02, 2023 and August 07, 2023	Y

2	Mr. Sumit Mazumdar	Y	Y	July 13, 2023, July 18, 2023 and August 02, 2023	EMAIL	July 27, 2023, August 02, 2023 and August 07, 2023	Y
3	Mr. Shibaditya Ghosh	Y	Y	July 13, 2023 and September 15, 2023	EMAIL	July 27, 2023 & September 25, 2023	Y
4	Mr. Ramesh Aggarwal	Y	Y	July 13, 2023, September 05, 2023, September 12, 2023, September 15, 2023	EMAIL	July 27, 2023 , September11, 2023, September 22, 2023 and September 25, 2023	Y

8. The material available on record shows that the Noticee 1 submitted its reply to the SCN vide letter dated July 24, 2023 and August 14, 2023, Noticee 2 submitted its reply to the SCN vide letter dated July 25, 2023. In respect of the Noticee 3, it is observed that vide email dated June, 27, 2023, he mentioned that the contents of the Compact Disk(CD), which was provided to him along with the SCN (The said CD was containing annexures to the SCN) was blank and requested again to provide the CD. Accordingly, vide email dated June, 30, 2023, all the Annexures to the SCN were provided again to the Noticee 3. Further, vide email dated July 01, 2023, the Noticee 3 claimed that the SCN was not in readable from and requested to be provided gain and also requested to be granted more time to reply to the

SCN. Vide email dated July 03, 2023, the Noticee 3 was granted time till July 25, 2023 to reply to the SCN. In the interest of natural justice and in order to conduct inquiry, Noticee 3 was granted an opportunity of hearing on July 27, 2023 vide hearing Notice dated July 13, 2023.The said hearing was attended by the Noticee wherein he sought time to make submission in the matter and accordingly, the Noticee was advised to make submission within ten days. Noticee also confirmed the minutes of hearing vide email dated July 28, 2023. However, vide email dated August 02, 2023, Noticee 3 requested for inspection of documents relied upon in the matter and further apprised that he has applied for Settlement in the matter under (Settlement Proceedings) Regulations, 2018. Accordingly, vide email dated August 21, 2023, the Noticee 3 was granted an opportunity for inspection of documents on September 12, 2023, which was duly availed by it and the said inspection of documents continued from September 12, 2023 to September 14, 2023. Accordingly, vide letter dated October 09, 2023, Noticee 3 submitted its reply in the matter. With respect to Noticee 4, the material available on record shows that his Authorized Representative (AR) vide his letter dated July 12, 2023 sought inspection of certain documents. Accordingly, the said request was acceded to and the Noticee was granted an opportunity to inspect the copies of documents in the matter on July 24, 2023, which was duly availed by it. Further, vide email dated July 27, 2023, the Noticee 4 claimed of having not received copies of documents despite conclusion of inspection. Vide email dated September 04, 2023, the said Noticee 4 was advised to submit reply in the matter by September 07, 2023 and in the interest of natural justice was granted an opportunity of hearing in the matter on September 08, 2023.In response, the AR of the Noticee 4 vide email dated September 05, 2023 sought adjournment of hearing on account of its said claim of not being provided certain documents. Accordingly, Noticee 4 vide email dated September 07, 2023 was advised to attend the hearing on September 11, 2023. Subsequently, vide email dated September 09, 2023, AR of the Noticee 4 requested for adjournment of hearing on September 11, 2023. Accordinlgy, vide email dated September 12, 2023, Noticee 4 was provided additional documents in the matter with an advise to submit his reply in the matter latest by September 20, 2023 along with an advise to attend the hearing scheduled on September 22, 2023. However, the hearing was rescheduled to September 25, 2023 vide email dated September 15, 2023. Again vide email dated September 16, 2023, the AR of the Noticee 4 requested to adjourn the hearing scheduled on September 25, 2023 on account of the response not being signed by Noticee 4 due to his absence from India. However, the Noticee filed its reply to the SCN vide letter dated September 22, 2023 and his AR attended the said hearing on September 25, 2023 wherein he reiterated the submissions in the matter already made vide his said letter. Further, in order to conclude the instant proceedings, the said Noticees were granted an opportunity to make additional submissions in the matter vide email dated May 08, 2024. Accordingly, vide email dated May 15, 2024, Noticee 1 and 2 made additional submissions in the matter, Noticee 3 made additional submissions in the matter vide his email dated May 14, 2024. However, Noticee 4 didn’t make any additional submission in the matter till date. The submissions made by the Noticees vide their letters and additional submissions are mentioned herein below:

8.1 (Submission of Noticee 1)

a) *The Noticee 1 submitted that grounds for allegation in the instant case arose from the complaint of the complainant wherein allegations are limited to the following :*

   1) *The Transactions in securities are being dealt with in a manner detrimental to the investors or to the securities market; or*

   2) *Any intermediary or any person associated with the securities market has violated any of the provisions of the SEBI Act or the rules or the regulations issued thereunder.*

b) *There is 1) no allegation of dealings or transactions in securities; and 2) neither the Noticee 1 nor its CMD, Noticee 2 is an intermediary or a person associated with the securities market and Adjudication proceeding on the basis of an investigation carried out under SEBI Act has to be necessarily restricted to the said two grounds only, and in the instant case the said two grounds are not even present.*

c) *It submitted that there is no whisper in the SCN, either on pricing of the securities of the Company or on its movement or dealings, or on any injury or prejudice caused to any investor in securities, nor is any alleged by any investor in securities. The said SCN makes no mention of any grievance or loss caused to any investor of securities.*

d) *It had got its financial statement for each of the financial years duly audited by independent statutory auditors who had also submitted their report thereon; and only thereafter and relying thereupon, it had published its financial results and circulated its financial statement for the respective financial years bona fide believing the same to be true and fair and SCN does not even seek to suggest that its Board of Directors had prior knowledge of the alleged fraud or malpractice or irregularity in its books of accounts of or that there was an effort by it or its Board of Directors to manipulate the price of the securities of the Company in the market.*

e) *It denied of knowingly published or cause to be published or has reported or caused to be reported its financial results and/or financial statements which is not true or which it did not believe to be true.*

f) *It submitted that upon the irregularity in the financial accounts having come to its knowledge, its Board of Directors caused immediate rectification and adjustments of Rs. 259.53 crores (as "Exceptional Items') to be forthwith carried out in its financial statement for the financial year* *ended 31 March 2022 which resulted in reporting a loss of about Rs. 403.47 crores for the said financial year and summary of the financial results for the last quarter for the said financial year was also published by it in Financial Express (all edition in English) and in Aajkaal (Kolkata edition in Bengali) in its edition dated 21st September, 2022 (Wednesday) 21st September, 2022 (Wednesday.*

g) *Despite the said disclosures and the adjustments made to offset the irregularities detected in the books of the accounts and resultant loss so reported by it, the price of the securities of the Company in the stock market which immediately prior to the said reporting was quoted at about Rs 117 (Average price for September, 2022 at both NSE and BSE) continued to remain around the said quoted price.*

h) *There is nothing in the SCN disclosing or making reference to any disproportionate gain or unfair advantage, the amount of loss caused to any investor or group of investors. There is no whisper in the said SCN of there being any market impact or loss caused to any investor or the integrity of the market in any manner being affected.*

i) *For its financial compliances, it had engaged and relied upon experts possessing requisite qualification prescribed by law and accordingly, had bona fide accepted the accounts and the financial statement prepared by the experts, being its Chief Financial Officer responsible for finance and accounts and also its statutory auditors. It also relied upon the Forensic Audit Report submitted by M/s Ved Prakash & Co, Chartered Accountants to Lead Bank, Bank of India dated 12.08.2022. The said Forensic Audit Report at several places in the report, and in particular in paragraph 20) on "Identifying the Fraudster(s) involved" at internal page 83 of the report, clearly holds the Company's then CFO, Mr Shibaditya Ghosh as the person responsible on whom the Company and its Board of Directors had relied upon in relation to financial statement and books of accounts.*

j) *That the complaint from the ex-employee, Mr Anil Bhatia, is on alleged "Flouting of all norms of corporate governance by a listed Company – TIL Limited" and is not a complain relating to transactions in securities or an intermediary or a person associated with securities market. The matters therein complained of at the very highest, if true, would pertain to accounting manipulation and cannot be carried out against it which is a juridic person, and unlike an* *individual the Company is not capable of taking decisions by itself and has to necessarily act through a human agency, which under the Companies Act, 2013 is its Board of Directors.*

k) *It further submitted that its promoters forthwith upon coming to know of the manipulation in the financial accounts, caused M/s V. Singhi & Associates, Chartered Accountants to be immediately appointed to perform Management Audit and present their report; and based on such report, its Board of Directors had taken immediate steps to rectify and reverse the financial irregularities pointed out by the said M/s V Singhi & Associations with the view to forthwith render true and fair view of its assets and liabilities and its state of affairs in the immediate next financial statement made as on 31 March 2023. The matter initiated by the Department of Revenue Intelligence & Enforcement is being contested by it and the same at present is sub-judice and ought not to be taken into account at this stage. The Exchange Examination Report referred to in the notice does not conclusively prove anything and is a mere conjecture suggesting a possibility without any finding.*

l) *As regards the source of the entries which have been since rectified, Noticee 1 submitted that the original entries made were not based on any paper trail but directly fed into the system by the then Chief Financial Officer of the Noticee 1 by way of journal entries; which have since been reversed and rectified on the basis of the management audit carried out at the instance of the promoters of the Noticee 1.*

8.2 (Submission of Noticee 2)

a) *The complainant is neither an investor nor a person claiming to have been deceived or misled into dealing in the securities of the Company, or in any manner having suffered a loss in dealing in the securities of the Company. The complainant is a disgruntled ex-employee of the Company.*

b) *There is no whisper in the Notice of any injury or prejudice caused to the securities market, or to any investor in securities, or to any person connected with the securities market. No person (not even the complainant) claims to have been deceived or suffered any loss in connection with the securities of the Company. Thus, the very basis for invoking PFUTP Regulations, 2003 is absent in the facts of the instant case.*

c) *The accounting impropriety upon coming to the knowledge of the Board of Directors of the Company were reversed and/or regularized in the financial statement of the Company in the immediate succeeding financial year ending on 31 March 2023 and requisite reporting were made public. The market price of the shares of the Company despite the reporting of loss continued to be buoyant, and thus, confirming the faith of the investors in the shares of the Company.*

d) *The matters complained of in the Notice mostly relate to accounting impropriety which in terms of Section 24 of the Companies Act, 2013 is a matter to be administered only by the Central Government.*

e) *Noticee 2 submitted that no allegation has been made in the Notice that he had made personal gain or profit, or that he had personally benefited in any manner, out of 1 matters complained of in the Notice. On the contrary, the Forensic Audit Report reveals that he himself was the victim of the financial impropriety carried out in the books of accounts of the Noticee 1 and the personal funds brought by the Promoters through him into the Noticee 1 were even adjusted against the inventories and not shown as liability to gross prejudice and detriment of the Promoters including himself.*

f) *The books of accounts of the Noticee 1 have all along been maintained by Noticee 3 (CFO), a designated expert possessing the prescribed qualification and requisite expertise in finance and accounting, who was specifically entrusted with the job of finance & accounting and is a designated KMP for the finance and accounting in Noticee 1 and being a non-finance & non-accounting person not having training or background in either of the said two functions do not understand the same and had naturally trusted and reposed confidence and reliance on the designated KMP, which on hindsight now he should not have done.*

g) *The he was misled by the fact that the financial statement of the Noticee 1 every financial year are audited by eminent independent firm of auditors, who are recognised experts in the field of finance & accounting and even they could not unearth the alleged financial impropriety.*

h) *He denied having knowingly published or cause to be published or having reported or caused to be reported the financial results and/or financial statements of the Noticee 1 that he knew not to be true.*

i) That he had all along proceeded on the basis that the financial statement and the financial results emanating therefrom are true and fair relying upon the CFO of the Noticee 1 as also the report submitted by the statutory auditors, both of whom are experts in the field of both finance and accounting, of which he possess little or no knowledge.

j) That upon the irregularity in the financial accounts having brought to his knowledge, he caused management audit to be conducted by an independent firm of chartered accountants, and based on their audit report, the Noticee No1 had since reversed and rectified the misplaced accounting entries in the accounts for the financial year ended 31 March 2022. The revised accounts for the said financial year carried out on the basis of the report of the management audit has resulted in reporting a loss of about Rs. 403.47 crores for the financial year 2021-22. Significantly, despite such reporting of loss both in the quarterly results and in the financial statement for the said financial year 2022-23, the share prices of the Company in the stock market which immediately prior to such reporting was quoted at about Rs 120 & continued to remain around the said quoted price only

k) To substantiate the claim stated in the aforesaid paragraph, the Noticee 2 provided with a chart showing month-wise movement in the share price of the Company starting from 1 April 2017 until 30 June 2023.

l) That the allegations contained in the SCN are all on account of financial irregularities which upon discovery and knowledge have been rectified forthwith upon receiving the Management Audit Report, which exercise was caused to be conducted at his instance only.

m) That as the Promoter of the Company, he had personally together with his wife and associate companies infused around Rs. 150 crores into the Noticee No1 during the period under investigation, from 1 April 2017 until 31 March 2022. Thus, if his intention at all was to act in a fraudulent or manipulative manner so as to play fraud on the investors in the securities of the Noticee No1 then he would not have brought in his own moneys into the Noticee No1.

n) The allegations made against him defy logic since it is not the case made out that he had made personal gain or profit at the expense of the stock market or any investor in the stock market and the purported invocation of the provisions of SEBI Act and the rules/regulations thereunder against him is misplaced and misconceived.

o) He had also relied upon the Forensic audit Report submitted by M/S Ved Prakash & Co, Chartered Accountants to the Lead Bank, viz., Bank of India dated 12.08.2022. The said Forensic Audit Report at several places in the report, and in particular, paragraph 20) on "Identifying the Fraudster(s) involved" at internal page 83 of the report, clearly holds the Company's then CFO, Mr Shibaditya Ghosh as the person responsible on whom the Company and its Board of Directors had relied upon in relation to financial statement and books of accounts.

p) That Mr Vibhor Agarwal was introduced to him by the said Noticee No3(CFO) only whom he met believing him to be one of the suppliers, and the discussion with him were quite general and mere exchange of courtesies and the inference drawn in sub-paragraph (v) of the said paragraph 12.2 is mere surmise and conjecture not borne out of the facts mentioned therein, and he denies that Noticee Nos 3 and 4 as alleged in the said paragraphs had informed him anything with regard to any of the transactions between the Noticee No1 and any of the concerns mentioned therein. He further denied having agreed to any alleged fictitious purchase or sales having happened during Covid.

q) He has been the victim of the alleged accounting manipulation.

r) He further relied upon excerpts from FAR such as "Though in terms of the Company Act, Mr. Sumit Mazumder, Chairman & Managing Director of the company cannot overlook his responsibility but keeping in view the fact that he relied completely on Director Finance, Chief Financial Officer and sales & marketing heads and also taking in cognizance the funds inducted by him in the business during the review period of audit for the revival of the company, as loan from Directors/Associate companies to the extent of Rs.147.69 cr approximately besides deposit of Rs. 40.00 cr with the bank from the sale proceeds of one of the properties, we are of the opinion that he was not involved and not having knowledge of aforesaid method adopted by the key persons of the company. In addition to this, the statutory auditors have not disclosed the material information regarding issuance of credit note as a part of disclosure in their independent auditors' report."

8.3 (Submission of Noticee 3)

a) *He had joined the Noticee 1 on June 1, 2017 as General Manager Finance, and reported to Mr. Aloke Banerjee ("Aloke") who was the then Director & CFO. As the General Manager Finance, I was responsible for managing the Treasury function, Accounts Payable and Internal Audit coordination with Internal Auditors and in course of his duties, he had no way of becoming aware of the alleged manipulative transactions.*

b) *That on January 10, 2020 his predecessor CFO, i.e. Aloke Banerjee ('Aloke'), resigned. Since no CFO was appointed, and he was General Manager Finance, in February 2020, Mr. Ramesh Aggarwal (Noticee 4)l, i.e. Ex-Chief Executive Officer of TIL ("Ramesh") and Mr. Sumit Mazumder (Noticee 2), i.e. Chairman & Managing Director of TIL ("Sumit" or "CMD") gave him some of the tasks of the CFO.*

c) *After that he took on these tasks, and discovered some ongoing wrongful practices in the accounts. He promptly informed Noticee 4 about these wrongful practices and thereafter on instructions of Noticee 4, he informed the CMD as well and in fact, Noticee No4 left TIL on June 20, 2020, inter alia, due to this reason. Thereafter, since there was no CEO and no other candidate was found to be appointed as the CFO, in an extreme crisis situation during the peak of covid period, he was appointed as the CFO vide letter dated July 30, 2020 w.e.f. June 29, 2020 and had resigned vide email dated April 12, 2021 w.e.f. May 31, 2021 and therefore, he was the CFO only in FY 2020-21 and not in FY 2019-20.*

d) *He had advised the CMD to rectify the wrongful practices in accounts and with his permission, he tried to rectify these inherited problems to the best extent possible, inter alia, by reversing the wrongful advance billing and showing the loans from Promoter and Promoter Group in the correct account, etc. However, due to the Covid pandemic situation, he could not fully implement the rectifications. For all the 9 months that he was CFO in Noticee 1, he tried his best to correct the erroneous practices and kept raising the issues with the CMD who asked him to keep things going as is. However, since the CMD was still insistent on continuing the said practices, as soon as he could he finally resigned from this position and he had not made any financial gains from any such transactions.*

e) Noticee 2 had falsely denied knowledge of the transactions referred to in the SCN. In fact, he not only had knowledge, he was also involved in day to day operations of the Noticee 1 and all the decisions including that of the transactions referred to in the SCN which were undertaken by him or on his instructions. Noticee submitted that this fact is not just confirmed by him but also has been stated and confirmed by all other persons who have been examined by SEBI.

f) He relied upon the statements of Mr Abhijit Bandhopadhyay of Deloitte Haskins & Sells, Noticee No4, Mr Anil Bhatia, Head Sales & Marketing, Mr Rajiv Kumar Soni, Dex-CEO to substantiate his claim as mentioned at point e above.

g) It is well settled principle of law that a subordinate who acts on instructions of his senior cannot be visited with a punishment equal to that of the senior or person in charge. Thus, it is pertinent to note here that the CMD had specifically prevented me from carrying on rectifications relating to advance billing on the grounds of impact of Covid on the business and in addition instructed me to carry out fictitious purchases and sales to further misrepresent the financials of Noticee no1.

h) He further submitted that the facts and evidence in this matter clearly show that he acted only on the instructions and directions of Noticee 2, who was in complete control and in charge of Noticee 1 and he was fully aware of all of the transactions referred to in the SCN. This in the light of the fact that the CMD was in charge and took all the decisions and made him undertake wrongful practices is wholly misleading and false.

i) He submitted that throughout his tenure as General Manager Finance, he acted as a responsible professional. And as for hsi brief role as the CFO, he inherited the wrongful practices which he attempted to rectify and some wrongful transactions happened in his tenure which were only done on the instructions of the CMD and so as to not loose his job in peak Covid when the job market was very poor.

8.4 (Submission of Noticee 4)

a) *He denied all the allegations.*

b) *That he had not been provided relevant documents referred to and relied in SCN and thus, there has been violation of Principles of Natural Justice and he has been denied from submitting effective reply to deal with the allegation made in the SCN.*

c) *He submitted that he had joined TIL Limited on 25.05.2019 as CEO and was given the responsibility to handle Purchases of Capital Goods from Domesüc and Overseas Vendors, Production, Sales and HR in consultation with Noticee 2 (Chairman and Managing Director) Aloke Banerjee (CFO), Shibaditya Ghosh (Noticee 3) (CFO - appointed after resignation of Aloke Banerjee), Ms. Bipasha Sanyal, Technical Team like Mr. Pinaki Niyogi and others and Production head. However, Ms. Bipasha Sanyal was the Head of Purchases and Mr. Anil Bhatia was the Head of Sales and that on 08.06.2019, he had a Heart attack and was immobilized for a period of two months.*

d) *He had tendered his resignation on March 20, 2020 and that his effective period of association with Noticee No1 as the CEO was only 8 months which is also inclusive of the period wherein he was completely immobilized.*

e) *That during his employment with the Noticee 1, he had never handled banking transactions and had not signed Unaudited Quarterly Financial Results/ Audited Financial Results of the Noticee 1. He had not issued Certificate under Regulation 17(8) of SEBI (Listing Obligation and Disclosure Requirement) Regulation, 2015 (LODR).*

f) *That the Certificates under Regulation 17(8) of LODR Regulations were issued by the Noticee 2, 3 and Mr Aloke Banerjee for the financial years FY 2018-19 and FY 20-21 and by Noticee No 2 and Mr Aloke Banerjee for the FY 2018-19.*

g) *That the Audited Financial Results were signed by the Noticee 2, Mr Aloke Banerjee and Mr Shekhar Bhattacharjee (Company Secretary) for the financial years FY 2018-19, Noticee 2, 3 and Mr Shekhar Bhattacharjee for FY 2019-20 and FY 20-21.*

h) *He submitted that he was not Key Managerial Personnel under Section 203 of Companies Act, 2013 and Mr. Sumit Mazumder (Noticee 2) who was Managing Director of Noticee 1 in his* *capacity as CEO and Mr. Aloke Banerjee CFO and Mr. Shibaditva Ghosh CFO had issued Certificates under Regulation 17(8) of SEBI LODR Regulation, 2015.*

i) *He was not responsible for compliance of SEBI (LODR) Regulation, 2015. Hence, he had not violated Regulation 33(1)(a) & (c) and 48 of SEBI (LODR) Regulation, 2015 read with Section 27 of SEBI Act.*

j) *He further submitted that the Noticee No1 was facing acute liquidity crunch and there was imminent threat of making default of statutory payments and LC's already opened were also due for payment. In such dire situation, he had recommended only one transaction with Ganesh International which enabled the Noticee 1 to Purchase Steel from Ganesh International on Credit whereas the Noticee 1 had received payments against Sales by utilizing its unutilized LC credit Limit.*

k) *That the Noticee 1 had opened LC in the name of Ganesh International / Group Companies and purchased Steel from one of the Entities of Ganesh International and then sold the said Steel to other entities of Ganesh International. This arrangement was discussed and approved by Mr. Sumit Mazumder (Noticee 2) and Mr. Shibaditya Ghosh (Noticee 3) who had come up with the idea of buying goods on credit and selling goods against cash payment to solve the liquidity crunch.*

l) *He further submitted that Mr. Sumit Mazumder (Noticee 2) had personally met Mr. Vibhor Aggarwal in the presence of Noticee 3 before the transactions were executed. Since, he had recommended only one transaction he cannot be held liable for continuation of any such transactions. Thereafter Noticee 3 continued the said transactions with the approval Noticee 2.*

m) *He refuted that his recommendation of one transaction with Ganesh International shows that such alleged fictitious transaction with Ganesh International and its group Companies were carried out by him along with other KMPs who were all involved in wrong accounting practices. He further refuted that this had resulted in fictitious purchases and sales for the FYs 2019-2020 & FY 2020-2021, which in turn led to misstatement / misrepresentation of Financial Statement of the FY 20192020 and 2020-2021.*

n) *That such inference drawn from only one transaction with Ganesh International recommended by him to bail out the Noticee no1 from acute liquidity crisis is totally perverse, untenable and is devoid of any merit or substance.*

o) As CEO of the Noticee No1 he never looked into functions such as accounts, finance, taxation, etc and therefore, the allegation against him that he had attended the Audit Committee and Board Meetings of the Noticee No1 during his tenure 25.05.2019-20.06.2020 and presented wrong Financial Results of the Noticee No1 to the Board, is totally incorrect.

p) The Directorate of Revenue Intelligence & Enforcement, Government of West Bengal in its Report dated 20.07.2022 on Investigation into ITC Claims and issue of supply invoices/credit notes by the Noticee 1 has nowhere alleged that he had any role in the transactions carried out by Noticee 1 with Ganesh International and its five other Group Companies namely 1) Maa Tara Electricals, 2) BPS Foundation, 3) Roshni Enterprise, 4) Dutta Associates and 5) Upgrade Tracom during the FY 2019-20 and FY 2020-21.

q) That the FAR dated 12.08.2022, given by Prakash Ved and Co, Chartered Accountant does not contain any adverse allegation qua him.

r) Management Audit Report dated 12.09.2022 was conducted by V Singhi & Associates at the instance of Mr. Sumit Mazumder (Noticee 2) through Gokul Leasing and Finance Limited, a Promotor Company. In the said Management Audit Report it has been stated that ”it is important to note that all decisions with regards to Sales and related Receivables during review period were taken by Mr. Aloke Banerjee, Mr. Shibaditya Ghosh, Mr. Ramesh Aggarwal (CEO), Mr. R K Soni (CEO) and Mr. Anil Bhatia (Vice President Sales) during their respective tenure in the organization. “. In this regard, he submitted that the Noticee 2 took all decisions with regard to sales and related receivables and that the Management Audit Report shields Noticee 2 as the said Management Audit Report was conducted at his instance Chairman and Managing Director through promoter group company. Hence, no reliance can be placed on the said Management Audit Report

s) That the Principles Governing Disclosures and Obligations under Regulation 4 (1) of SEBI (LODR) Regulation, 2015 are on the Listed Entity. Hence, the allegation of violation of Regulation 4 (1) of SEBI LODR Regulation, 2015 Governing Disclosures and Obligations cannot be fastened on him.

9. Taking into account the aforesaid facts, I am of the view that principles of natural justice have been followed in the matter by granting the Noticees ample opportunities for replying to the SCN and of being heard. Therefore, I deem it appropriate to decide the matter on the basis of facts/material available on record and reply submitted by the Noticees.

CONSIDERATION OF ISSUES AND FINDINGS

10. I have carefully perused the submissions made by the Noticees and documents available on record, and the issues that arise for consideration in the present case are:

(a) Whether

1. ***Noticee 1 has violated Regulation 4(1), 4(2)(f), (k) & (r) of PFUTP Regulations and Regulation 4(1), 33(1)(a) & (c) and 48 of the LODR Regulations?***
2. ***Noticee 2 and 3 have violated Regulation 4(1), 4(2)(f), (k) & (r) of PFUTP Regulations and Regulation 17(8) of LODR Regulations and Regulation 4(1), 33(1)(a) & (c) and 48 of LODR Regulations read with Section 27 of the SEBI Act? &***
3. ***Noticee 4 has violated Regulations 4(1), 4(2)(f), (k) and (r) of PFUTP Regulations, 2003 and Regulations 4(1), 33(1)(a) & (c) and 48 of LODR Regulations read with Section 27 of SEBI Act.***

(b) Does the violation, if any, on the part of the Noticees attract penalty under Section 15HA & Section 15HB of the SEBI Act?

(c) If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

11. Before I proceed further with the matter, it is pertinent to mention the relevant provisions of the SEBI (LODR) Regulations alleged to have been violated by the Noticees. The same are reproduced below:

Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003

4. ***Prohibition of manipulative, fraudulent and unfair trade practices***
(1) *Without prejudice to the provisions of regulation 3, no person shall indulge in a [manipulative,] fraudulent or an unfair trade practice in securities[markets].*

[Explanation.–For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.

(2) *Dealing in securities shall be deemed to be a [manipulative] fraudulent or an unfair trade practice if it involves any of the following*
(a) ….

(b) ….

(c) ….

(d) ….

(e) ….

(f) [*knowingly] publishing or causing to publish or reporting or causing to report by a person dealing in securities any information [relating to securities, including financial results, financial statements, mergers and acquisitions, regulatory approvals,] which is not true or which he does not believe to be true prior to or in the course of dealing in securities;*
(g) ..
(h)….
(i) …
(j)....
(k) *disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities*;
(r) *) [knowingly] planting false or misleading news which may induce sale or purchase of securities.*

Regulation 4: Principles governing disclosures and obligations.

4.(1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:

- *(a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.*
- *(b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.*
- *(c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.*
- *(d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.*
- *(e) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.*
- *(f) Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by investors.*
- *(g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.*
- *(h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.*
- *(i) Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.*
- *(j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.*

Regulation 17 (8) *The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II*

Regulation 33*: Financial results.*

(1) While preparing financial results, the listed entity shall comply with the following:

(a) The financial results shall be prepared on the basis of accrual accounting policy and shall be in accordance with uniform accounting practices adopted for all the periods.

(b) ……..

(c) The standalone financial results and consolidated financial results shall be prepared as per Generally Accepted Accounting Principles in India

Regulation 48: Accounting Standards.

The listed entity shall comply with all the applicable and notified Accounting Standards from time to time.

<u>SEBI Act, 1992 :</u>

27. (1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Preliminary Issue

12. Noticee 4 in his submission has contended that he had not been provided relevant documents referred to and relied in SCN and thus, there has been violation of Principles of Natural Justice as he has been denied from submitting effective reply to deal with the allegation made in the SCN.

13. In respect of the above contention of the Noticee 4 that the relevant and relied upon document had not been provided to him, I note that a copy of Investigation Report along with the relevant Annexures of the present case was provided to the Noticee 4 during the course of inspection of documents, which was conducted by its AR to its satisfaction and also the SCN was duly served upon him. Further, I note that the aforesaid Investigation Report also contains the relevant admitted facts made by the Noticee while making submission/given (Recorded) statement during the investigation to the Investigating Authority. It is therefore, the said facts of receipt of Investigation report and other relevant documents such as Recorded Statement cannot be denied by the Noticee. Hence, I note that the principle laid by Hon'ble Supreme Court in *T. Takano i.e. "all information that is relevant to the proceedings must be disclosed in adjudication proceedings"* was duly followed.

14. Further, I note that the Noticee 4 in his reply has merely made a bald statement that "that he had not been provided relevant documents referred to and relied in SCN". However, in this regard, nothing specific has been brought out by him in support of the said claim and he has also not sufficiently demonstrated how this ground of non-availability of such document has caused prejudice to him. Hence, the instant contention raised by the said Noticee 4 is not tenable and is accordingly rejected.

(d) ***Issue a: Whether***

1. ***Noticee 1 has violated Regulation 4(1), 4(2)(f), (k) & (r) of PFUTP Regulations and Regulation 4(1), 33(1)(a) & (c) and 48 of the LODR Regulations?***
2. ***Noticee Nos 2, 3 and 4 have violated Regulation 4(1), 4(2)(f), (k) & (r) of PFUTP Regulations and Regulation 17(8) of LODR Regulations and Regulation 4(1), 33(1)(a) & (c) and 48 of LODR Regulations read with Section 27 of the SEBI Act?***
3. ***Noticee 4 has violated Regulations 4(1), 4(2)(f), (k) and (r) of PFUTP Regulations, 2003 and Regulations 4(1), 33(1)(a) & (c) and 48 of LODR Regulations read with Section 27 of SEBI Act.***

15. In this regard, I note from the IR that there were observations with regard to the financial irregularities such as misrepresentation of financials by fictitious sales/purchase transactions, overstatement of trade receivables/debtors, Unreasonable write off of advances given to suppliers, misrepresentation of financials w.r.t the loans from Promoters/promoter’s group companies, exceptional items recorded in Consolidated Financial Statements for the FY 2021-22, etc. Further, I note that the aforesaid irregularities are financial in nature and the details of the said irregularities mentioned below were observed during the tenure of Noticee 2, who was CMD, Noticee 3, who was CFO and Noticee 4, who was CEO of the Noticee 1 and therefore, the Noticees have been alleged to have violated the provisions of PFUTP Regulations and LODR Regulations.

Misrepresentation of financials by fictitious sales transactions:

Fictitious sales transactions with Chennai Radha Engineering Works Pvt. Ltd("CREWPL"):

16. The complainant had alleged that sales was billed to CREWPL and GST was paid, while the order was never received. The amount was shown as receivables from the said customer. Accordingly, vide letter dated 25.04.2022, with respect to the sales to CREWPL, Noticee 1 had submitted that the 12 invoices raised during the period January to March 2020 were based on the instruction given by then Head of Sales & Marketing – Mr. Anil Bhatia ("Complainant"). Further, the said invoices were reversed in September 2020 for reversal of GST due to non-movement of goods and re-invoiced again for completion of the supply and again GST was paid accordingly. Upon becoming aware that the order was not placed on Noticee 1, the concerned Head of Sales & Marketing was asked to leave instantly, and the invoices were written off in the FY 2021-22.

17. Further, vide Summons dated 22.12.2022, SEBI had *inter alia* sought information pertaining to sales and purchases of CREWPL, Ganesh International, Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Dutta & Associates, Roshni Enterprises. In this regard, vide letter dated 09.01.2023, Noticee 1 had made submissions to SEBI. From the analysis of the said submissions made by the Noticee 1 for the sales transactions carried out with CREWPL, it was observed that the Noticee 1 had sold goods between 25.01.2020 to 16.03.2020 worth Rs. 29.88 Crores. The said invoices were reversed through Credit Notes to CREWPL worth Rs29.80 Crores. in FY 2020-21 between 12.09.2020 to 21.09.2020. Further,

during the said period i.e., from 12.09.2020 to 21.09.2020, the Noticee 1 had re-invoiced goods worth Rs.29.80 Crores to CREWPL. The said invoices worth Rs. 29.80 Crores. were written off in FY 2021-22 on 31.08.2021. The Noticee 1 had not provided any justifiable reason for issuing Credit Notes & for re-invoicing and not provided any supporting documents/ information pertaining to the aforementioned invoices and Credit Notes. Sales done by the Noticee 1 with CREWPL was as under:

(Rs. in Crore)

Sr. No.	Name of the entity	2018-19 Sales	2019-20 Sales*	2020-21 Sales*	2021-22 Sales
1	Chennai Radha Engineering Works Pvt. Ltd.	-	25.07	25.07	-

**Sales are net of reversals and GST thereon (Source: TIL's submission vide letter dated January 09, 2023)*

18. The aforesaid sales transactions as part of overall sales of traded goods as per the financial statements for the FYs 2019-20 & 2020-21 was as below:

(Rs. in Crores)

Particulars	**2019-20**	**2020-21**
As per Annual Report of TIL (Page no. 170-171 of Annual of the FY 2019-20)		
-Sale of traded goods (A)	116.74	128.20
Total of sales done by TIL with CREWPL as mentioned in no. 4 (B)	25.07	25.07
% of sales with total sales (B/A*100)	**21.48%**	**19.56%**

19. Further, relevant extract from the submissions made during statement on oath before the Investigating Authority ("IA") by a KMP (Noticee 3) is reproduced below:

<u>Submission made during Statement on Oath by Mr. Shibaditya Ghosh (Noticee 3), Chief Financial Officer (29.06.2020 to 31.05.2021) before the IA:</u>

"During my tenure, I have issued credit notes when I realized that the sales invoices raised were not against genuine sales. Based on the instructions of Mr. Sumit Mazumder, fresh sales invoices were raised to keep the company afloat.

The company practiced issuance of such credit notes and raising of fresh invoices with few government and private customers to keep the company afloat based on the instructions of Mr. Sumit Mazumder. If this was not done, then the bank would have recalled the loan which was given to the company."

20. With respect to the aforesaid sales, it was observed that CREWPL vide letter dated 27.11.2020 to Noticee 1 had stated that as per its GSTR-2A, Noticee 1's invoices for the total value of Rs 29.80 Crores got reflected in its GSTR-2A for the month of September 2020 and it was auto populated from Noticee 1's GSTR-1 for September 2020 which was filed by the Noticee 1 on 02.11.2020. Further, CREWPL had stated that there is no contract with the Noticee 1 and its invoices reflected in their GSTR-2A create unnecessary problem to them.

21. In view of the above, it is alleged that Noticee 1 in its letter dated 25.04.2022 had agreed that CREWPL had never placed an order for purchases in its letter dated 25.04.2022. Further, the said sales transactions were fictitious as CREWPL had stated that it had no contract with Noticee 1. Further, Noticee 1 had written off the entire sales transactions of CREWPL worth Rs. 29.80 Crores in the FY 2021-22. Hence, it is alleged that the Noticee 1 had indulged in raising fictitious sales invoices, credit notes and re-invoicing them again which had led to overstated sales, trade receivables/ debtors & revenue by Rs. 29.88 Crores & Rs. 29.80 Crores for the FYs 2019-20 & 2020-21, respectively and accordingly, it is alleged that Noticee 1 knowingly published such financial statements which were not true, due to which its true financial position was not reflected to its shareholders and had misstated/ misrepresented the financial statements for the FYs 2019-20 & 2020-21 and thus, Noticee 1 has allegedly violated Regulation 4(1), 4(2)(f), (k) &

(r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of the SEBI (LODR) Regulations, 2015.

Fictitious sales transactions with Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Dutta & Associates & Roshni Enterprises:

22. Noticee 1 had provided ledger extract pertaining to the sales done with aforesaid 5 entities for the FY 2018-19 to 2021-22 as under:

(Rs. in Crores)

Sr. No.	Name of the entity	2018-19	2019-20	2020-21	2021-22
		Sales	Sales*	Sales*	Sales
1	S Foundations	-	4.22	29.24	-
2	ta & Associates	-	6.04	28.23	-
3	a Tara Electricals	-	4.07	28.55	-
4	shini Enterprises	-	3.76	-	-
5	grade Tracom	-	5.19	-	-
	TOTAL		**23.28**	**86.02**	

(Source: TIL's submission vide letter dated January 09, 2023)
**Sales are net of reversals and GST thereon*

23. The aforesaid sales transactions as part of overall sales of traded goods as per the financial statements for the FYs 2019-20 & 2020-21 is as below:

(Rs. in Crores)

Particulars	2019-20	2020-21
	Sales	Sales
As per Annual Report of TIL (Page no. 170-171 of Annual report of the FY 2019-20 & 2020-21, respectively)		
-Sale of traded goods (A)	116.74	128.20
Total of sales done by TIL with the aforesaid five entities as mentioned in Table no. 6 (B)	23.28	86.02
% of sales with total sales (B/A*100)	**19.94%**	**67.10%**

24. In view of the above table, it was observed that the percentage of sales done with the aforementioned entities with total sales of Noticee 1 was 19.94% & 67.10% for FY 2019-20 & 2020-21, respectively, which amounts to significant portion of sale.

25. Further, with respect to trade receivables of Noticee 1, Annexure F-I of FAR (sample tax invoices issued by Noticee 1 to Upgrade Tracom, BPS Foundations,

Maa Tara Electricals, Dutta & Associates, Roshni Enterprises were examined and it was observed that the sample of tax invoices issued by Noticee 1 to Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Dutta & Associates, Roshni Enterprises did not contain EWB No., Mode of Transport, Net weight, Gross weight nor a copy of e-way bill was enclosed with it. Further, the said tax invoices were not signed by the authorised signatory and the seal of the Noticee 1 was absent and appeared to be merely computer generated.

26. In addition to the above observations, the said tax invoices issued to Upgrade Tracom, Roshni Enterprises mentioned in "Freight: arranged by TIL" and tax invoices issued to BPS Foundations, Maa Tara Electricals, Dutta & Associates mentioned in "Freight: AS IS WHERE IS".

27. Further, it was observed from MAR that Noticee 1 had undertaken significant trading sales of MS plate E350C from February 2020 till March 2021. These MS Plates were sold to the following parties:

(Rs. in Crores)

Name of the Party	**Details of Sale of Trading Goods**			
	2019-20	**2020-21**	**2021-22**	**Total**
BPS Foundations	4.98	34.51	-	39.49
Dutta & Associates	7.13	33.31	-	40.44
Maa Tara Electricals	4.80	33.69	-	38.49
Roshini Enterprises	4.44	-	-	4.44
Upgrade Tracom	6.12	-	-	6.12
	27.47	**101.51**	-	**128.98**

(Source: Management Audit Report)

28. It was also submitted that the Noticee 1 had accepted the observations made in the MAR and had stated that *the Company officials had raised certain wrong sales invoices in earlier years.*

29. Further, it was observed from the DRI report that DRI had sent notices to the aforesaid 5 entities for cross-verification of their trading transactions with Noticee 1. In this regard, Mr Vibhor Agrawal, Partner in all the six companies (Ganesh International, BPS Foundations, Dutta & Associates, Maa Tara Electricals, Roshini Enterprises and Upgrade Tracom) appeared along with his authorised advocates before the DRI. Examination by DRI of invoices exchanged between Noticee 1 and the six companies owned by Mr. Vibhor Agrawal, revealed that the *first transaction started from TIL and last transaction ended with TIL*.

30. Vide submission dated 25.05.2022 by Noticee 1 to DRI (as mentioned in DRI report), Noticee 1 had stated that –

    a) *".trading of goods were done on **"as is where is basis"**. As there was no actual movement of goods, the requisition of documents in support of actual movement of goods was **"Not applicable".***
    b) *"The company is **not aware of location of goods** before the first transaction and after the last trading transaction".*

31. Mr Vibhor Agrawal had submitted to the DRI that all trading transactions with Noticee 1 were mere paper transactions, without actual existence of goods mentioned in the invoices. Further, the invoices moved from Noticee 1 to various companies owned by Mr. Vibhor Agrawal and went back to Noticee 1 in a circular fashion.

32. In view of the above, it is alleged that the above sales transactions with the entities BPS Foundations, Dutta & Associates, Maa Tara Electricals, Roshini Enterprises and Upgrade Tracom were fictitious sales transactions, which resulted in overstatement of sales, trade receivables & revenue by Rs. 23.28 Crores & Rs.

86.02 Crores for the FYs 2019-20 & 2020-21, respectively and is alleged that the Noticee 1 knowingly published such financial statements which were not true, due to which its true financial position was not reflected to its shareholders. Thus, Noticee 1 has allegedly misstated/ misrepresented the financial statements for the FYs 2019-20 & 2020-21 and therefore has violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of the SEBI (LODR) Regulations, 2015.

Overstatement of trade receivables/ debtors:

33. With respect to sales of the Noticee 1, it was observed that FA had stated that the Noticee 1 had issued credit note of huge amount during the FYs 2017-18 to 2021-22. Noticee 1 had issued 252 credit notes during the IP, out of which summary of top 10 customers along with other customers to whom credit note were issued vis-à-vis receivable outstanding in books of accounts was as under:

(Rs. in Crores)

Company	**2017-18**	**2018-19**	**2019-20**	**2020-21**	**2021-22**
Container Corporation of India	2.55	0.44	8.62	23.25	0.11
Singareni Collieries Co. Ltd	0.05	-	0.36	29.82	11.66
JSW Steel Ltd.	-	-	1.30	5.49	0.02
Kailash Shipping Service P Ltd.	-	-	1.00	3.16	-
Bharat Heavy Elec.	-	-	0.10	12.36	-
Indian Oil Corpn.	-	0.22	1.30	2.10	-
Northern Cold Field Ltd.	-	-	8.95	17.22	2.66
Ekta Enterprises	-	-	3.84	1.92	8.20
Eastern Coal Field	-	-	2.68	13.28	12.29
Lift & Shift Services	-	-	9.60	1.92	-
Others	12.98	46.37	99.61	131.49	40.08
Total	**15.58**	**47.03**	**137.36**	**242.01**	**75.02**

(Source: Forensic Audit Report)

34. It was also observed that the FA had further stated that Noticee 1 had issued invoices in the past, which were subsequently cancelled within a period of 180 to 270 days by issuance of credit note and reissued on the same day without proper

documents to justify the sanctioned Maximum Permissible Bank Finance (**"**MPBF**"**). The FA had also stated that invoicing was being generated at the level of Director Finance/ Chief Financial Officer operational during the IP.

35. Further, with respect to trade receivables, it was observed from MAR that certain invoices amounting to Rs 143.93 Crores against which payments were yet to be received, were not supported with proper documents. The MA had summarized the trade receivables as on 31.03.2022, which were considered doubtful are as under :

(Rs. in Crores)

Particulars	**Amount**
Debtors for which proper documents are not in records Annexure 1(A)	143.93
Other Debtors whose recovery is considered doubtful by the management	29.23
Total	**173.16**

(Source: Management Audit Report)

36. The management of Noticee 1 had explained to the MA that all decisions with regard to sales and related receivables during the audit period were taken by the following managerial persons:

a) Mr Aloke Banerjee who had been the CFO upto 13.01.2020.
b) Mr Shibaditya Ghosh (Noticee 3) who served as the CFO of the Company from 29.06.2020 to 31.05.2021.
c) Mr Ramesh Aggarwal (Noticee 4) who was the CEO (from 25.05.2019 to 29.06.2020.
d) Mr R. K. Soni who was the CEO from 01.04.2021 to 9.11.2021
e) Mr. Anil Bhatia who was the Vice President Sales from 01.09.2015 to 17.06.2021.

37. Further, based on the analysis of Noticee 1's submissions, it was observed that -

- Outstanding trade receivables/ debtors as on 31.03.2021 was Rs. 218.48 Crores

- Top 10 debtors (select debtors whose outstanding amount was Rs. 10 Crores or more) as on 31.03.2021 is as under:

Name of the debtor	Amount outstanding as on 31.03.2021	Amount received	Amount (written off)/ adjusted	Amount outstanding as on 31.03.2022
The Singareni Collieries Co. Ltd.	42.21	16.12	-	26.09
Container Corporation of India Ltd.	29.94	4.92	-	25.02
CREWPL	29.80	-	29.80	-
Eastern Coalfields Ltd.	21.48	12.83	-	8.65
Northern Coal Fields Ltd.	18.96	2.76	-	16.20
Bharat Heavy Electricals Ltd.	11.88	5.92	-	5.96
Ekta Enterprises	7.35	-	0.08*	7.43
BPS Foundations	7.03	1.98	-	5.04
GE T&D India Ltd.	6.70	0.04	-	6.66
Bharat Dynamics Ltd.	5.92	2.14	-	3.78
T	**181.27**	**51.32**	**29.88**	**100.23**

(Rs. in Crore)

**Advance received for FY 2021-22 had been wrongly adjusted with the customer for invoices pertaining to FY 2020-21 which was subsequently rectified as a result of which the balance of the debtor increased.*

38. However, from the table above, it was observed that the total of top 10 outstanding debtors as on 31.03.2021 amounted to Rs 181.27 Crores. Further, the amount written off/ adjusted against CREWPL was Rs 29.80 Crores, which was the total amount due from CREWPL as on 31.03.2021.

39. From the Annual Report for the FY 2020-21 & 2021-22, it was observed that the total trade receivables/ debtors was Rs 238.23 Crores & Rs 26.10 Crores, respectively. The trade receivables written off during the FY 2021-22 was Rs. 212.13 Crores for which the Noticee 1 had not provided any justifiable reasons except agreeing that it had raised wrong sales invoices in earlier years.

40. Further, from the examination of Annexure B of FAR (sample copies of invoices issued by Noticee 1), it was observed that the tax invoices issued by it to the

entities viz. The Singareni Collieries Co. Ltd, Indian Oil Corporation Ltd., Northern Coal Fields Ltd., Kailash Shipping Services Pvt. Ltd. did not contain EWB No., Net weight, Gross Weight, Freight nor e-Way bill was enclosed. Further, the tax invoices of Noticee 1 were not signed by the authorized signatory nor contained seal of it. This indicates that the said invoices were merely computer generated and not issued as e-invoices.

41. As per Note no. 32: Exceptional items, of the Consolidated Financial Statements for the FY 2021-22 (Page no. 188 of the Annual report), it was observed that the Noticee 1 had stated as under-

"The Parent Company had raised certain wrong sales invoices in earlier years. Trade receivables amounting to Rs.14,394 lakhs against such invoices as identified by the management auditors and further Rs. 2,980 lakhs as identified by the management have been classified as irrecoverable. Further based on management's internal assessment on the recoverability of other trade receivables, additional balances amounting to Rs. 2,923 lakhs have also been identified as irrecoverable. Hence a sum of Rs. 8,347 lakhs (net of Rs. 5,830 lakhs of further provision during the year and utilisation of Rs. 6,119 lakhs out of provision made in earlier years) have been written off and shown as exceptional item."

Further, the management had provided its comments with respect to aforesaid observation, wherein it had stated that d*ue to restriction imposed by Covid protocols, many of the sales could not be affected for the invoices raised by it, and as such were needed to be adjusted in accounts. All decisions with regard to sales and related receivables during FY 2019-20 to 2020-21 were taken by the following Managerial persons who have since left the services of the Company:*

- *Mr Aloke Banerjee had been the Chief Financial Officer (CFO) upto 13.01.2020.*
- *Mr Shibaditya Ghosh served as the CFO of the Company from 29.06.2020 to 31.05.2021.*
- *Mr Ramesh Aggarwal was the Chief Executive Officer (CEO) from 25.05.2019 to 29.06.2020.*

- *Mr R. K. Soni was the CEO from 01.04.2021 to 9.11.2021. Mr. Anil Bhatia was the Vice President Sales from 01.09.2015 to 17.06.2021.*

Due to above changes in Managerial Persons and the functional heads and other executives, the relevant documents/ correspondences were not traceable by the Company.

The management confirms that the adjustments have been made on the basis of the Management Audit Report of the Parent Company & is confident of recovery of outstanding trade receivable shown in the balance sheet as at March 31st, 2022. Adjustment for accounting mistakes as stated herein have been carried out in the current year based on the Report of the Audit initiated by the Promoters of the Company(here in after called the Management Audit) based on complaints received from SEBI and other agencies.

Based on the Management Audit Report of the company which was approved by the Audit committee and the Board of Directors, the company have reinstated its assets and liabilities to state the realistic and a true and fair view of the Financial Statements. However sufficient and appropriate audit evidences with respect to the above adjustments for accounting mistakes/misstatements occurred in earlier years could not be provided to the statutory auditors for the reasons given herein above.

42. In view of the above, it was evident that the modus operandi followed by Noticee 1 was - it had issued fictitious invoices in the past financial years, which were subsequently cancelled in the next financial years by issuance of credit notes and re-invoiced on the same day without proper documents to increase the sales turnover/ trade receivables so as to maintain the credit facilities availed from the banks. This had resulted in the overstatement of sales/ trade receivables in the FYs 2019-20 & 2020-21. Accordingly, in view of the above, it is alleged that the Noticee 1 knowingly published such financial statements which were not true, due to which its true financial position was not reflected to its shareholders and has misstated/ misrepresented the financial statements for the FYs 2019-20 & 2020-21

and is therefore, alleged to have violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of the SEBI (LODR) Regulations, 2015.

Misrepresentation of financials by fictitious purchase transactions:

Fictitious purchase transactions with Ganesh International & Upgrade Tracom:

43. The complainant had also alleged that fictitious trading in steel was recorded for padding up the top lines for the banks.

44. Vide letter dated April 25, 2022, with respect to steel bought and sold with Ganesh International, Noticee 1 had stated that during the pandemic situation, normal operations were severely disrupted due to lockdown declared by the Govt. Hence, it had engaged in the trading business of steel to ensure continuity of business operations and survival and had carried out the transactions with full compliance of the provisions of GST Act. Incidentally, DRI had served an enquiry notice on Ganesh International in March 2021 & had also called it in June 2021, for response. Noticee 1 had also submitted that it had paid GST of Rs19.68 Crores on purchase of steel and had claimed Input Tax Credit (**"**ITC**"**) of Rs18.16 Crores on sale of the said steel. There was no loss of GST revenue for the Govt. (in fact, GST payment was more than the ITC availed by it). In this regard, following was observed with respect to the transactions with Ganesh International –

i) On checking sample tax invoices issued by Ganesh International & Upgrade Tracom, it was observed that the Terms of Delivery mentioned in the tax invoice was **"**AS IS WHERE IS BASIS**",** there was no Company seal and signature of the authorized signatory of Ganesh International & Upgrade Tracom. Further, the tax invoice did not mention delivery note, supplier reference, buyer order no., dispatch through, destination, bill of lading/ LR No., Motor Vehicle No. and the same appeared to be issued as a computer copy without any signature and not as an e-invoice. With respect to the said goods, stores copy of Noticee 1 (Annexure H of FAR) were examined and it is found that there is no signature of the person who received the said goods and it did not mention carrier name, RR/GC/can number. From this, it was evident that the said store copies are merely computer generated by Noticee 1.

ii) On examination of Annexure I of FAR (sample pertaining to tax invoice and store copy with respect to other vendors), it was observed that the tax invoices provided by the said other vendors were signed and sealed and a copy of e-Way bill was also attached. Further, the stores copy at Noticee 1 was signed by the authorized person who received the goods at Noticee1.

iii) Further, from the examination of sample documents enclosed in Annexure F of FAR, it was found that HDFC Bank had noticed discrepancies in the sample (FA had only annexed sample documents to FAR and no number count of the sample checked is mentioned) Bill of Exchange generated by Ganesh International & Upgrade Tracom. HDFC Bank had made correspondence to Noticee 1 with respect to the said sample.

iv) Observations pertaining to 2 samples each of Ganesh International & Upgrade Tracom is mentioned below:

It was observed that HDFC Bank vide correspondence dated February 05, 2021 to TIL (Noticee 1), had noticed following discrepancies in the Bill of Exchange dated February 03, 2021 worth Rs1.68 Crores and relative documents submitted by Ganesh International to HDFC Bank.

a) Description of merchandise in invoice does not exactly match with LC terms.

b) Incoterms is not evidenced in invoice as per LC terms.

c) Carrier is not identified in LR.

v) Similarly, HDFC Bank vide correspondence dated January 29, 2021 to Noticee No1, noticed following discrepancies in the Bill of Exchange dated January 28, 2021 worth Rs 2.18 Crores and relative documents submitted by Ganesh International to HDFC Bank.

a) Carrier is not identified in LR.

b) Incoterms as per LC not evidenced in invoice.

c) Description of goods in invoice does not exactly match with LC terms.

d) Proforma invoice and date is not evidenced in invoice.

vi) As per the analysis of sample documents with respect to the transactions with Upgrade Tracom, it was submitted that HDFC Bank vide correspondence dated April 30, 2021 to Noticee 1, had noticed following discrepancies in the two Bill of Exchange dated April 27, 2021 worth Rs. 1.13 Crores & 1.53 Crores and relative documents submitted by Upgrade Tracom to HDFC Bank.

a) Carrier is not identified in LR.

b) LR not consigned to HDFC Bank Ltd.

c) Incoterm mismatched between invoice and LC term.

d) Description of goods are not exactly matched with LC term.

vii) Vide letter dated 09.01.2023, Noticee 1 had provided the purchase details pertaining to the entities, Ganesh International & Upgrade Tracom for the FY 2018-19 to 2021-22 as under:

(Rs. in Crores)

Sr. No.	**Name of the entity**	**2018-19**	**2019-20**	**2020-21**	**2021-22**
		Purchases	**Purchases**	**Purchases**	**Purchases**
1	Ganesh International	-	20.91	53.63	-
2	Upgrade Tracom	-	-	26.20	-
	TOTAL	-	**20.91**	**79.83**	-

(Source: TIL's submission vide letter dated January 09, 2023)

45. The aforesaid purchase transactions as part of overall purchase of traded goods as per the financial statements for the FYs 2019-20 & 2020-21 was as below:

(Rs. in Crores)

Particulars	2019-20	2020-21
	Purchases	**Purchases**
As per Annual Report of TIL (Page no. 172-173 & 169 of Annual report of the FY 2019-20 & 2020-21, respectively)		
-Purchase of traded goods (A)	58.05	104.88
Total of purchases done by TIL with the aforesaid two entities as mentioned in Table no. 12 (B)	20.91	79.83
% of purchases with total purchases (B/A*100)	**36.02%**	**76.12%**

46. Further, relevant extract from the submissions made during statement on oath before the IA by few KMPs is reproduced below:

a) <u>Submission made during Statement on Oath by Mr. Sumit Mazumder (Noticee 2) Chairman & Managing Director before the IA:</u>

"Mr. Shibaditya Ghosh did these transactions without my knowledge. Mr. Ramesh Aggarwal was aware of these transactions and told me that required amount of GST is paid, so it shouldn't be a problem. However, I told him that these are not legal sales."

b) <u>Submission made during Statement on Oath by Mr. Shibaditya Ghosh (Noticee 3) Chief Financial Officer (29.06.2020 to 31.05.2021) before the IA:</u>

"Purpose of entering into transactions with the aforesaid entities was for showing higher purchases and sales so as to avail working capital. These were done after discussion with Mr. Sumit Mazumder, Mr. Ramesh Aggarwal, Ms. Bipasha Sanyal, Ms, Sarita Surana and myself. These transactions were carried out only on the instructions given by Mr. Sumit Mazumder as the company got benefitted from these. The said transactions were in the nature purchase and sale of steel. No actual movement of goods took place."

c) <u>Submission made during Statement on Oath by Mr. Ramesh Aggarwal (Noticee 4) Chief Executive Officer (25.05.2019 to 20.06.2020) before the IA:</u>

"… Only one transaction was done with Ganesh International under my recommendation for resolving the liquidity crunch which was required to make statutory payments and LC payments for the month of March. Later on other such transactions were also done with Ganesh International during my notice period with the approval of Mr. Sumit Mazumder. Such transactions were done by the finance head, Mr. Shibaditya Ghosh. They continued to do such transactions due to cash crunch situation."

47. In view of the above, it was alleged that the purchase transactions with Ganesh International & Upgrade Tracom were fictitious as Noticee 1 was not able to provide any supporting documents/ information, the Terms of Delivery mentioned in the tax invoice is "AS IS WHERE IS BASIS", there was no Company seal and signature of the authorised signatory of Ganesh International & Upgrade Tracom, there were discrepancies in Bill of Exchange and relative documents submitted by Ganesh International & Upgrade Tracom to HDFC Bank and correspondence sent to Noticee 1 by HDFC Bank for their approval. This showed that Noticee 1 had approved the Bill of Exchange submitted by Ganesh International & Upgrade Tracom to HDFC Bank and utilised the Letters of Credit (LCs) and that the Noticee 1 was engaged in fictitious purchases transactions which resulted in inflation in the value of inventory by Rs 20.91 Crores & Rs 79.83 Crores for the FYs 2019-20 & 2020-21, respectively. Accordingly, it is alleged that the Noticee 1 had knowingly published such financial statements which were not true, due to which its true financial position was not reflected to its shareholders. Thus, Noticee 1 has allegedly misstated/ misrepresented the financial statements for the FYs 2019-20 & 2020-21 and is alleged to have violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of the SEBI (LODR) Regulations, 2015.

48. Also from the Consolidated Financial Statements for the FY 2021-22, it was observed that loans amounting to Rs 32.76 Crores & Rs 12.00 Crores were received from the promoters/ promoter's group of companies and other lenders respectively in earlier years which were wrongly credited to Inventories account

instead of respective loans account (Note no. 32: Exceptional Items, Page no. 188 of the Annual Report). Further, a difference of Rs 111.09 Crores had been identified by the Management between the Inventory as shown in the books of accounts and the inventory appearing in Material module in the ERP system as on March 31, 2022. Such difference comprised of Rs 44.76 Crores (32.76+12.00) as aforementioned and further difference of Rs 66.33 Crores owing to certain wrong accounting carried out. The difference of Rs 111.09 Crores had been written off during the quarter/ year end to reflect the correct position of Inventory as on the Balance Sheet date. Further, on the basis of the stock audit assessment of 59% stock, Noticee 1 had also written off Rs 32.99 Crores.

49. In view of the above, it was alleged that Noticee 1 had indulged in the practice of inflating the value of inventory by recording fictitious purchases. Such value of inventory was utilized for availing sanctioned facilities by submitting inventory as per terms of sanction. Further, the total inventory written off during the FY 2021-22 was Rs 144.08 Crores, for which the Noticee 1 had not given any justifiable reasons and had agreed of wrong accounting practice by it. This shows that Noticee 1 had overstated the value of inventory which had resulted in the misstatement/ misrepresentation of the financial statements. Thus, Noticee 1 is alleged to have knowingly published such financial statements which were not true, due to which its true financial position was not reflected to its shareholders. and had misstated/ misrepresented the financial statements for the FYs 2019-20 & 2020-21 and therefore is alleged to have violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of the SEBI (LODR) Regulations, 2015.

Unreasonable write off of Advances given to Suppliers:

50. It was observed that Noticee 1 was sanctioned fund based working capital facilities of Rs 190 Crores and non-fund based facilities of Rs 160 Crores along with review of working capital demand loan sanctioned by different banks on various occasions as COVID facility. The enhanced working capital requirements, secured/ unsecured facilities from financial institutions/ promoters and related parties had been absorbed to compensate inherent losses in the business on account of shortage in inventory, higher level of receivables and reduction in retention from income from the business because of losses incurred by certain divisions of the Noticee 1.

51. It was observed that during the pandemic, the then Noticee 1's CFO adopted another method to utilize non-fund based facilities to increase the level of sale as well as purchase by issuance of Letter of Credit ("LC") in favour of vendors.

52. It was observed that LCs were issued in favour of Ganesh International during the span from 17.04.2021 to 06.05.2021 amounting to Rs 31.13 Crores approximately, mentioning as an advance payment against procurement of goods (Annexure-J of FAR). Similarly, LCs amounting to Rs 6.68 Crores was issued in favour of M/s Upgrade Tracom during the period 05.06.2021 to 05.07.2021 mentioning as advance payment for procurement of goods (Annexure-K of FAR).

53. As observed at para 44-45 above, it is evident that the purchase transactions with Ganesh International & Upgrade Tracom were fictitious and LCs were settled in

favour of the aforesaid vendors in spite of the following discrepancies pointed out by the respective bankers:

- *Carrier not identified in LR.*
- *Incoterm as per LC not evidenced in invoice.*
- *Description of goods in invoice does not exactly match with LC terms.*
- *Proforma invoice and date is not evidenced in invoice.*

54. The goods so purchased from above mentioned vendors i.e., Ganesh International & Upgrade Tracom were sold to following customers:

- Upgrade Tracom
- BPS Foundations
- Maa Tara Electricals
- Dutta & Associates
- Roshni Enterprises

55. It was further observed that the above mentioned entities viz. Ganesh International, Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Dutta & Associates and Roshni Enterprises were being managed by same partners i.e., Mr. Vibhor Agrawal and Mrs. Rachita Agrawal.

56. In addition to the aforesaid, it was observed that FA had stated that the then CFO, Mr.Shibaditya Ghosh (Noticee 3), of the Noticee 1 utilized above method to increase purchase/ sales turnover to justify the enhanced sanctioned MPBF. Further, from the DRI report, it is observed that Noticee 1 had entered into circular trading with Ganesh International and Upgrade Tracom and availed ITC of Rs. 6.56 Crores and Rs 2.46 Crores, respectively.In this regard, it was observed that Noticee 1 had carried out fictitious purchase transactions with Ganesh International & Upgrade Tracom as mentioned in para 44-45 above.

57. Further, it is noted from the Consolidated Financial Statements for the FY 2021-22 (Note no. 32: Exceptional Items, Point no. E on Page no. 189 of the Annual Report) that Noticee 1 had stated that *certain bills of exchange were accepted by certain employees without receipt of supplies and the banks later recovered the money from the Parent Company which has been debited to suppliers' accounts and shown as advances. Consequently, such advances to the tune of Rs 3,232 lakhs could not be recovered and hence a sum of Rs. 1,400 lakhs has been written off and balance amount of Rs 1,832 lakhs has been provided for as an abundant precaution and shown as exceptional item.*

58. In this regard, Noticee 1 had submitted that it had not received goods against which amount had been paid and had sent several notices for the recovery of such payments and was in the process of initiating legal course of action. In view of the above, it was alleged that Noticee 1 had not provided any justifiable reason for providing advances worth Rs 32.32 Crores and had already written off the amount Rs 14 Crores and its claim that it was in the process of initiating legal course of action was unsubstantiated.

59. Following table shows Advance to Suppliers for the FYs 2017-18 to 2021-22:

(Rs. in Crores)

Particulars	2017-18	2018-19	2019-20	2020-21	2021-22
Other Assets					
A. Non-Current					
B. Current					
Advance to Suppliers	4.41	6.37	4.57	8.97	28.48
Less: Provision	-	-	-	-	18.32

(Source: Annual Report of TIL)

60. Thus, in view of the above, it was observed that Noticee 1 had utilized the LCs in favour of fictitious purchases made by it with Ganesh International & Upgrade Tracom in the FYs 2019-20 & 2020-21. Further, Noticee 1 had not provided details about the bills of exchange given to certain employees' and moreover goods were not received by it from the said employees. However, the Banks had recovered the payment from Noticee 1 for the said bills of exchange. Hence, the total amount written off/ provided in the books of accounts was Rs 32.32 Crores with respect to advance to Suppliers. Accordingly, Noticee 1 is alleged to have knowingly published financial statements which were not true, due to which its true financial position was not reflected to its shareholders. Thus, Noticee 1 has allegedly misstated/ misrepresented the financial statements for the FYs 2019-20 & 2020-21 and therefore, it is alleged to have violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of the SEBI (LODR) Regulations, 2015.

Misrepresentation of financials with respect to the Loans from promoters/ promoter's group companies:

61. It was observed that in many cases amounts received from/ paid to the respective promoters/ related parties were not credited/ debited to loan account of the promoters/ related parties and had been credited/ debited to General Ledger named "Claims Receivable Clearing" having GL code 103957, Line of Business-31 (Corporate). The aforesaid transactions amounting to Rs 32.42 Crores were wrongly accounted for in the said account.

62. It was also observed that adjustments of Net Receipts from Promoters, Related Party and Inter-Corporate Deposits had been made for Rs. 44.76 Crores (including Rs 32.76 Crores as promoter contribution and Rs 3.00 Crores as Inter Corporate Deposit) in the Inventory by debiting Inter-unit Reconciliation account namely "Claim Receivable Clearing" having GL code 103957.

63. In this regard, SEBI had sought response/ comments of the management, wherein Noticee 1 had accepted the observations of the Management audit and based on the said observations, it had made necessary rectifications and adjustments in the FY 2021-22. Further, it had not provided any justifiable reason pertaining to wrong accounting for the loans received from the promoters/ promoter's group companies.

64. Further, it is noted from the Consolidated Financial Statements for the FY 2021-22 (Note no. 32: Exceptional Items**,** Point no. A on Page no. 188 of the Annual Report) that Noticee 1 had stated that *loans amounting to Rs3,276 lakhs &*

Rs1,200 lakhs were received from the promoters/ promoters group of companies and other lenders respectively which was wrongly credited to Inventories account instead of respective loan accounts. The same has been rectified by reinstating the respective loan accounts and inventory. The amount of inventory as reinstated above has been written off subsequently and shown as the exceptional item. Further certain loans amounting to Rs35 lakhs as reinstated above has also been written back and grouped under exceptional item.

65. In view of the above, it is alleged that Noticee 1 has indulged in accounting practice which had resulted in understatement of loans from promoters/ promoter's group companies and is alleged to have knowingly published such financial statements which were not true, due to which the true financial position of the Company was not reflected to its shareholders. Thus, Noticee 1 has allegedly misstated/ misrepresented the financial statements for the FYs 2019-20 & 2020-21 and is alleged to have violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of the SEBI (LODR) Regulations, 2015.

Other observations:

66. With respect to revenue, trade receivables and inventory, a comparative analysis of the financial statements of FY 2020-21 & 2021-22 is given as under:

(Rs. in Crores)

Particulars	2020-21 (A)	2021-22 (B)	Difference (C=A-B)	Percentage (D=C/A*100)
Total asset size as per Balance	**738.60**	**379.77**	**358.83**	**48.58%**
Total revenue	320.21	77.13	243.08	75.91%
Net profit/ (Loss)	(71.41)	(418.16)	(346.75)	485.58%
Inventories	217.07	164.30	52.77	24.31%
Trade receivables/ Debtors	238.23	26.10	212.13	89.04%

(*Source: Annual Report of TIL)*

67. From the table above, the following was observed about the Noticee 1's financial position for the year ended March 31, 2022 –

    i) Noticee 1's asset size had been reduced to 48.58% for the FY 2021-22 i.e., from Rs. 738.60 Crores for FY 2020-21 to Rs. 379.77 Crores for FY 2021-22.
    ii) Revenue had decreased by 75.91% for the FY 2021-22 i.e., from Rs. 320.21 Crores for FY 2020-21 to Rs. 77.13 Crores for FY 2021-22.
    iii) Net loss had increased by 485.58% i.e., Rs. 418.16 Crores for FY 2021-22 when compared to loss of Rs. 71.41 Crores for the FY 2020-21.
    iv) Value of inventory had been reduced to Rs. 164.30 Crores for FY 2021-22. There was a decline of 24.31%.
    v) Trade receivables had been decreased by 89.04% for FY 2021-22 when compared to FY 2020-21. Trade receivables for FY 2020-21 was Rs. 238.23 Crores whereas for FY 2021-22, it was Rs. 26.10 Crores

<u>Exceptional items recorded in Consolidated Financial Statements for the FY 2021-22:</u>

(Rs. in Crores)

Sr. No.	Particulars	Amount
1	Loans wrongly credited to inventories account instead of respective loan accounts	44.76
2	Inventory owing to certain wrong accounting	66.33
3	Inventory written off after assessment of 59% of stock	32.99
4	Trade receivables written off	83.48
5	Advances to suppliers written off	14.00
6	Provision for Advance to suppliers	18.32
	TOTAL	**259.88**

(*Source: Annual Report of TIL)*

68. From the table above, it is observed that Noticee1 had recorded exceptional items worth Rs 259.88 Crores and had charged the same to Consolidated Statement of Profit & Loss for the FY 2021-22. Further, it was observed from the Consolidated Financial Statements for the FY 2021-22 that it had incurred a loss of Rs 430.88 Crores and its net worth had become negative as on the Balance Sheet date. It was further observed from the Independent Auditors Report on the Consolidated Financial Statements for the FY 2021-22 (Point no. 7 on page no. 132 of the Annual Report) Noticee 1's current liabilities exceeded its current assets by Rs 178.35 Crores as at the balance sheet date. Noticee 1's lenders have declared the loan facilities granted to it as Non-Performing Asset ("NPA") and Noticee 1 had also received advance notice for application under the Insolvency and Bankruptcy Code 2016 from one of the lender on August 12, 2022.

69. From the submissions made by Noticee 1 pertaining to creditors, it was observed that the amount payable to Ganesh International as on 31.03.2021 was Rs 12.32 Crores., however, Noticee 1 had paid the full amount of Rs 12.32 Crores to Ganesh International as the amount outstanding for the same on 31.03.2022 was NIL. In this regard, it was submitted that Noticee 1 had utilised the LCs for making payments to Ganesh International for the fictitious purchase transactions. This mechanism of utilizing LCs had facilitated Noticee 1 in availing credit facilities from the banks.

70. It was observed from the Independent Auditor's Report on the Consolidated Financial Statements for the FYs 2017-18 to 2020-21 that the Statutory Auditors, Deloitte Haskins & Sells, Chartered Accountants, had given a clean report and

noted Key Audit Matters for the FY 2018-19 & 2019-20 pertaining to trade receivables and inventory.

71. From the examination of the Audit Committee and Board Meeting minutes provided by Noticee 1 vide email dated 17.03.2023 following was observed:

For FY 2016-17, the following write-offs were carried out as a one-time transaction

- Non-moving/ obsolete inventory aggregating to around Rs 88 Crores; and
- Unrealised profit on spares amounting to Rs 33.50 Crores.

72. In view of the above, it was observed that in the Consolidated Financial Statements of the FY 2021-22, Noticee 1 had written off inventory worth Rs 144.08 Crores. This showed that Noticee 1 had been indulging in fictitious purchases which is against the provisions of various securities laws.

73. The Statutory Auditors, Deloitte Haskins & Sells, Chartered Accountants, had cautioned the Noticee 1 about the high level of debtors/ trade receivables and inventory and advised to take necessary action in this regard. However, they have provided a clean report for the FYs 2017-18 to 2020-21.

74. From the Directors' Report to the shareholders for the FY 2021-22 (Page no. 4 of Annual Report)-

a) Some of the lenders of Noticee 1 had declared the loan facilities granted to it as Non-Performing asset (**"NPA"**).
b) Noticee 1 had also received a letter dated August 12, 2022 from the advocates of Bank of India enclosing an advance copy of an application to be filed before NCLT under the Insolvency and Bankruptcy Code, 2016.

75. Further, Noticee 1 had provided its response/ comments for Management Audit observations and Statutory Audit Qualifications for the FY 2021-22. From the analysis of the said response, it was observed that Noticee 1 had accepted the observations of the Management audit and based on the said observations, it had made necessary rectifications and adjustments in the FY 2021-22. Further, it had not provided any valid/ justifiable reasons for the aforesaid observations/ qualifications of the auditor's. It had also stated that due to Covid, many of the sales could not be affected for the invoices raised by it, and as such were needed to be adjusted in accounts.

76. The Company had also stated that *the audited Consolidated Financial Results of TIL Limited ('the Parent Company') for the financial year ended 31st March, 2022 have been reviewed by the Audit Committee and approved by the Board of Directors on 19th September 2022.*

> *Adjustment for accounting mistakes as stated herein have been carried out in the current year based on the Report of the Audit initiated by the Promoters of the Company (here in after called the Management Audit Report) based on complaints received from SEBI and other agencies.*
> *As informed earlier that during the pandemic situation normal operations were severely disrupted. Key officers of the company resigned or were asked to leave for their unauthorised actions. Lot of correspondences documents/files in their possession could not be traced. Based on the Management Audit Report of the company which was approved by the Audit committee and the Board of Directors, the company have reinstated its assets and liabilities to state the realistic and a true and fair view of the Financial Statements. However sufficient and appropriate audit evidences with respect to the above adjustments for accounting mistakes/misstatements occurred in earlier years could not be provided to the statutory auditors for the reasons given herein above.*

77. In this regard, it was observed that Covid pandemic began only in March 2020 and the corresponding trade receivables for FY 2019-20 was Rs 211.16 Crores, for FY 2020-21 it was Rs 238.23 Crores. This showed that Noticee 1 had indulged in the accounting practice of raising fictitious sales invoices, due to which the said sales, trade receivables/ debtors & revenue were overstated for the aforesaid FYs. The trade receivables reflected in the Annual Report of FY 2021-22 was Rs 26.10 Crores, wherein Noticee 1 had written off Trade Receivables worth Rs 212.13 Crores in FY 2021-22.

78. In view of all the above findings, it is thus, alleged that the purchases and sales done by Noticee 1 with CREWPL, Ganesh International, Roshini Enterprises, Maa Tara Electricals, Upgrade Tracom, BPS Foundations and Dutta Associates were fictitious as is depicted in the table below:

(Rs. in Crores)

Sr No	**Name of the entity**	**2018-19**		**2019-20**		**2020-21**		**2021-22**	
		Purchases	Sales	Purchases	Sales*	Purchases	Sales*	Purchases	Sales
1	Chennai Radha Engineering Works Pvt. Ltd.	-	-	-	25.07	-	25.07	-	-
2	Ganesh International	-	-	20.91	-	53.63	-	-	-
3	Roshini Enterprises	-	-	-	3.76	-	-	-	-
4	Maa Tara Electricals	-	-	-	4.07	-	28.55	-	-
5	Upgrade Tracom	-	-	-	5.19	26.20	-	-	-
6	BPS Foundations	-	-	-	4.22	-	29.24	-	-
7	Dutta & Associates	-	-	-	6.04	-	28.23	-	-
	TOTAL			**20.91**	**48.35**	**79.83**	**111.09**		

(Source: TIL's submission vide letter dated January 09, 2023)
**Sales are net of reversals and GST thereon*

79. The aforesaid fictitious purchases & sales transactions as part of overall purchases and sales of traded goods as per the financial statements for the FYs 2019-20 & 2020-21 is as below:

(Rs. in Crore)

Particulars	**2019-20**		**2020-21**	
	Purchases	Sales	Purchases	Sales
As per Annual Report of TIL				
-Purchase of traded goods (A)	58.05		104.88	
-Sale of traded goods (B)		116.74		128.20
Total of purchase and sales done by TIL with the aforesaid 7 entities as mentioned in Table no. 17 (C)	20.91	48.35	79.83	111.09
% of purchase with total purchase (C/A*100)	36.02%		76.12%	
% of sales with total sales (C/B*100)		41.42%		86.65%

80. From the table above, it was observed that out of total purchases made by Noticee 1 for the FY 2019-20 & 2020-21, it had accounted for 36.02% (Rs 20.91 Crores) & 76.12% (Rs 79.83 Crores) of fictitious purchases for the FY 2019-20 & 2020-21, respectively, with two entities i.e., Ganesh International & Upgrade Tracom, which amounted to more than 1/3rd and 3/4th of purchases for the FYs 2019-20 & 2020-21, respectively.

81. Further, it was observed that out of the total sales made by Noticee 1 for the FY 2019-20 & 2020-21, it had accounted for 41.42% (Rs 48.35 Crores) & 86.65% (Rs 111.09 Crores) of fictitious sales transactions for the FY 2019-20 & 2020-21, respectively, with the entities CREWPL, Roshini Enterprises, Maa Tara Electricals, Upgrade Tracom, BPS Foundations and Dutta & Associates, which amounted to more than 1/3rd and 3/4th of sales for the FYs 2019-20 & 2020-21, respectively.

82. Thus, Noticee 1 had allegedly carried out fictitious purchase and sales transactions with Ganesh International, Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Dutta & Associates & Roshni Enterprises and CREWPL, which resulted in overstatement of sales, revenue, purchases and inventory for the FYs 2019-20 & 2020-21 as depicted in the table below:

Misstatement of financial statements for the FY 2019-20 & 2020-21:

(Rs. in Crores)

Misstatement in the audited financial statements of TIL								
Nature of Impact	**FY 2019-20**				**FY 2020-21**			
	Actual	**Fictitious**	**Overstatement**	**% of actual**	**Actual**	**Fictitious**	**Overstatement**	**% of actual**
Revenue operations	377.03	48.35	48.35	12.82 %	313.23	111.09	111.09	35.47%
Trade Receivables	211.16	48.35	48.35	22.90 %	238.23	111.09	111.09	46.63%
Purchases	58.05	20.91	20.91	36.02 %	104.88	79.83	79.83	76.12%
Inventory	234.93	20.91	20.91	8.90%	217.07	79.83	79.83	36.78%

83. Further, Noticee1 failed to implement the prescribed provisions of Ind AS 18, the provisions of which are reproduced below:

Ind AS 18 – Revenue

Sale of goods

Paragraph 14. *Revenue from the sale of goods shall be recognised when all the following conditions have been satisfied:*

(a) the entity has transferred to the buyer the significant risks and rewards of ownership of the goods;

(b) the entity retains neither continuing managerial involvement to the degree usually associated with ownership nor effective control over the goods sold;

(c) the amount of revenue can be measured reliably;

(d) it is probable that the economic benefits associated with the transaction will flow to the entity; and

(e) the costs incurred or to be incurred in respect of the transaction can be measured reliably.

***Paragraph 15**. The assessment of when an entity has transferred the significant risks and rewards of ownership to the buyer requires an examination of the circumstances of the transaction. In most cases, the transfer of the risks and rewards of ownership coincides with the transfer of the legal title or the passing of possession to the buyer. This is the case for most retail sales. …*

***Paragraph 16**. If the entity retains significant risks of ownership, the transaction is not a sale and revenue is not recognised.*

84. Failure to implement the prescribed provisions of Ind AS 18 by Noticee 1 allegedly resulted in misrepresentation / misstatement of its financial statements and it is alleged to have knowingly published such financial statements which were not true, due to which the true financial position of the Noticee 1 was not reflected to its shareholders of and hence it is alleged to have violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of the SEBI (LODR) Regulations, 2015.

85. Accordingly, in view of the aforesaid alleged irregularities mentioned hereinabove, it is alleged that the Noticee 1 has violated violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c), and 48 of the SEBI (LODR) Regulations, 2015 by having done fictitious purchases & sales, which led to misrepresentation/ misstatement of the financial statements of TIL Ltd during FY 2019-20 & FY 2020-21 which contained untrue figures of the listed company.

Submissions of Noticees 2, 3 & 4:

Submissions made by Mr. Sumit Mazumder (Noticee 2), Chairman & Managing Director (June 01, 2014 to till date) during statement on oath before the Investigating Authority ("IA"), had *inter alia* submitted that –

a) He had trusted Mr. Aloke Banerjee with all the operations of the Company along with the banking facilities.
b) He had met Mr. Vibhor Agrawal only once. Mr. Shibaditya Ghosh (Noticee 3) introduced Mr. Vibhor Agrawal to him.
c) He came to know about the transactions with respect to M/s Golden Enterprise and M/s Kumavat Traders, when Mr. Shibaditya Ghosh (Noticee 3) told him about such transactions. Mr. Ramesh Aggarwal (Noticee 4) said that these transactions are good as we were paying GST, however, he said that these were not legal transactions.
d) Mr. Shibaditya Ghosh (Noticee 3) did the transactions with Ganesh International, Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Roshni Enterprises and Dutta & Associates, without his knowledge. Mr. Ramesh Aggarwal (Noticee 4) was aware of these transactions and told him that required amount of GST is paid, so it should not be a problem. However, he told Mr. Ramesh Aggarwal (Noticee 4) that these are not legal sales.
e) He had signed the Annual Reports and the Certificates on the trust & had relied on the CEO, CFO, Company Secretary, internal and external auditors.

86. In view of the above, it is observed that Noticee 2 had accepted that he had met Mr. Vibhor Aggarwal (partner of the firms – Ganesh International, Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Roshni Enterprises and Dutta & Associates) which clearly indicated that he was part of the transactions carried out with the aforesaid entities and he was fully aware of the same. When Mr. Shibaditya Ghosh (Noticee 3) and Mr. Ramesh Aggarwal (Noticee 4) informed him about the said transactions, he had not taken any corrective measures for the same. Noticee 2 had agreed that such fictitious purchase & sales transactions had

partly happened during Covid, as Covid had affected Noticee 1’s operations. This showed that (Noticee 2) had failed to exercise due care and diligence in ensuring that all the transactions and events in the Noticee 1 had requisite approvals and that they were in the best interests of the Noticee 1, including the minority shareholders of the Noticee 1.

87. Hence, it is alleged that Noticee 2 had not carried out due diligence while performing his role as CMD. Further, Noticee 2 had stated that he had signed Annual Reports and the Certificates based on the trust he had on the KMPs and auditors. This clearly shows that he had failed to exercise independent professional judgement while being a CMD, signatory to the Annual Reports & Certificates and member of Stakeholders Relationship Committee and Corporate Social Responsibility Committee.

88. Accordingly, in view of the above, it is alleged that Noticee 2 has violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 17(8) of SEBI (LODR) Regulations, 2015 and Regulation 4(1), 33(1)(a) & (c) and 48 of SEBI (LODR) Regulations, 2015 read with Section 27 of the SEBI Act, 1992 by knowingly publishing Noticee No1’s financial statements which were not true, having failed to ensure that Noticee No1’s financial statements presented true and fair picture of its state of financial affairs as he had approved and authenticated its financial results filed during FY 2019-20 & FY 2020-21 and also failed to discharge duties as KMP leading to misrepresentation/ misstatement of financial statements.

Submissions made by Mr. Shibaditya Ghosh (Noticee 3), Chief Financial Officer (June 29, 2020 to May 31, 2021) during statement on oath before the IA had *inter alia* submitted that -

a) During his tenure as CFO, he came to know about certain adjustments which were not as per Ind AS and were not giving a correct picture of financial position. The Company practiced issuance of such credit notes and raising of fresh invoices with few Govt. and private customers to keep the Company afloat based on the instructions of Mr. Sumit Mazumder (Noticee 2) . If this was not done, then the bank would have recalled the loan which was given to the Company.

b) He also came to understand that he was inducted into a preexisting mechanism which was years old and formulated by his predecessors with consultation instruction from CMD. He was instructed to follow instructions and keep the Company afloat. He also tried to take corrective actions during his tenure which he did but could not do fully because of Covid situation.

c) After January 2020, the decision pertaining to purchase of raw material was taken by one Ms. Bipasha Banerjea, sales by one Mr. Anil Bhatia & Mr. Sumit Mazumder (Noticee 2), for Finances by him with instruction from CMD (Noticee 2)

d) He was responsible for the financials of TIL. He reported to Mr. Sumit Mazumder (Noticee 2).

e) There were laid down SOPs for purchases, sales, finance and every area SOPs were there, however, sometimes bypass was done. SOPs were prepared by Deloitte Haskins. Respective persons were responsible for monitoring SOPs (like Ms. Bipasha Banerjea for purchases, himself for finance, etc.).

f) After becoming CFO, he used to attend the Board meeting.

g) Purpose of entering into transactions with Ganesh International, Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Roshni Enterprises and Dutta & Associates was for showing higher purchases and sales so as to avail working capital. These were done after discussion with Mr. Sumit Mazumder (Noticee 2) , Mr. Ramesh Aggarwal (Noticee 4) , Ms. Bipasha Sanyal, one Ms. Sarita Surana and himself. These transactions were carried out only on the instructions given by Mr. Sumit Mazumder (Noticee 2) as the Company got benefitted from these. The said transactions were in the nature purchase and sale of steel. No actual movement of goods took place.

h) He came to know about the Management Audit from Noticee 1's website. He was one of the members responsible along with other KMPs.

89. In view of the above, it is observed that Noticee 3 had accepted that he was responsible along with other KMPs, for fictitious purchases and sales carried out by the Noticee 1 with Ganesh International, Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Dutta & Associates, Roshni Enterprises and CREWPL. He had also accepted that the said fictitious purchases and sales were done to keep availing the credit facilities from the banks.

90. Accordingly, in view of the above, it iss alleged that Noticee 3 has violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 17(8) of SEBI (LODR) Regulations, 2015 and Regulation 4(1), 33(1)(a) & (c) and 48 of SEBI (LODR) Regulations, 2015 read with Section 27 of the SEBI Act, 1992 by knowingly publishing Noticee No1's financial statements which were not true, having failed to ensure that Noticee No1's financial statements presented true and fair picture of its state of financial affairs as he had approved and authenticated its financial results filed during FY 2019-20 & FY 2020-21 and also failed to discharge duties as KMP leading to misrepresentation/ misstatement of financial statements.

Submissions made by Mr. Ramesh Aggarwal (Noticee 4), Chief Executive Officer (May 25, 2019 to June 29, 2020) during statement on oath before the IA had *inter alia* submitted that –

a) Mr. Sumit Mazumder (Noticee 2) & Mr. Aloke Banerjee were handling all the operations of the Company. He resigned due to 2 things – he was not able to add much value due to the liquidity crunch and he came to know about some adjustments in the books which was informed to him by Mr. Shibaditya Ghosh (Noticee 3) in the month of February 2020.

b) Because of liquidity crunch, the management decided to utilize the unutilised LC limit by entering into transactions with Ganesh International. These transactions were done to make statutory payments and to honour LCs.

c) LC was opened in the name of Ganesh International/ group companies. TIL purchased steel from one of the entities of Ganesh International and then sold the said steel to other entities of Ganesh International. This arrangement was discussed and approved by Mr. Sumit Mazumder (Noticee 2) and Mr. Shibaditya Ghosh (Noticee 3) (came up with this idea of buying and selling goods to solve the liquidity crunch). Mr. Sumit Mazumder (Noticee 2) personally met Mr. Vibhor Aggarwal in the presence of him and Mr. Shibaditya Ghosh (Noticee 3) before the transactions were executed.

d) As the CEO of TIL, his responsibility was to increase the production, how to cut cost on manpower and inventory. Though his designation was CEO, he was practically involved in the operations of the company.

e) Only one transaction was done with Ganesh International under his recommendation for resolving the liquidity crunch which was required to make statutory payments and LC payments for the month of March. Later on other such transactions were also done with Ganesh International during his notice period with the approval of Mr. Sumit Mazumder (Noticee 2) . Such transactions were done by the finance head, Mr. Shibaditya Ghosh (Noticee 3). They continued to do such transactions due to cash crunch situation.

91. In view of the above, it was observed that Noticee 4 was a part of the team which executed transactions with Ganesh International and its related entities as mentioned above. Noticee 4 had accepted that *“Only one transaction was done with Ganesh International under his recommendation for …”* This shows that such fictitious transactions with Ganesh International and it group companies were carried out by him along with other KMPs who were all involved in wrong accounting practices. This had resulted in fictitious purchases and sales for the

FYs 2019-20 & FY 2020-21, which in turn led to misstatement/ misrepresentation of financial statements of the FYs 2019-20 & 2020-21.

92. Accordingly, in view of the above, it iss alleged that Noticee 4 has violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of SEBI (LODR) Regulations, 2015 read with Section 27 of the SEBI Act, 1992 by knowingly publishing No1's financial statements which were not true, having failed to ensure that Noticee No1's financial statements presented true and fair picture of its state of financial affairs for the FY 2019-20 as he was its CEO and also failed to discharge duties as KMP leading to misrepresentation/ misstatement of financial statements.

<u>TIL Limited (Noticee 1)</u>

93. With regard to the alleged violations Noticee 1 submitted as mentioned at para (8 .1) above and for the sake of brevity, the same is not being repeated. Accordingly, I note that Noticee 1 being a company is a legal entity and is duty bound to protect the interest of the stakeholders at all times. The irregularities and entire gamut of fictitious sale and purchase transactions with various entities as also ostensibly brought out here in the preceding paragraphs clearly demonstrates the fraudulent transactions carried out by the Noticee 1 which is further corroborated by the statements/submissions of the Noticee 2, 3 and 4. Thus, the submission of the Noticee 1 is bereft of merits.

94. In view of the above, it stands established that the Noticee 1 has violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c), and 48 of the SEBI (LODR) Regulations, 2015 by by having done fictitious purchases & sales, which led to misrepresentation/ misstatement of the financial statements of TIL Ltd during FY 2019-20 & FY 2020-21 which contained untrue figures of the listed company.

Roles of Noticee 2, 3 and 4

95. Before discussing the roles of the Noticee 2,3 and 4, it is pertinent to note that Noticee 1 being a legal entity acts through the human mind represented by the Board of Directors who are responsible for all the acts of omission and commission by the Company/Noticee1. The directors are expected to take utmost care in dealing with the affairs of the Company and to ensure that all applicable laws are being complied with. In terms of Regulation 4(2)(f)(i)(2), Regulation 4(2)(f)(ii) (6) and (7) of LODR Regulations, 2015, the Board of Directors are required to conduct themselves as to meet the expectations of operational transparency to stakeholders, managing potential conflict of interest in related party transactions and to ensure the integrity of the listed company's accounting and financial systems. As per Regulation 4(2)(f)(ii)(2) and 4(2)(f)(iii)(7) of LODR Regulations, 2015, the Board of Directors are required to monitor the effectiveness of the listed entity's governance practices and make changes as needed and exercise objective independent judgement on corporate affairs. In terms of Regulations 17 (8) of LODR Regulations, 2015, the Chief Executive Officer and the Chief Financial Officer shall provide compliance certificate to the board of

directors as specified in Part B of Schedule II, thereby certifying that the financial statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading. Further, the statements together present a true and fair view of the listed entity's affairs and are in compliance.

96. In this respect, I note that the Hon'ble Supreme Court, in the matter of N Narayanan v. Adjudicating Officer, SEBI (Civil Appeals No. 4112-4113 of 2013) has observed as under:

"*33. Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in* ***Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602*** *that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provided against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company even superficially."*

Role of Mr. Sumit Mazumder (Noticee 2) Promoter, Chairman & Managing Director (CMD)**:**

97. As regards allegation, Noticee 2 submitted as mentioned at para (8.2) above and the same is not being repeated here for the sake of brevity. With regard to his submissions, I note that Noticee 2 was the Promoter, Chairman & Managing Director of TIL(Noticee1) throughout the IP. He had been the Company'/TIL's CMD since June 01, 2014. He was a 'Key Managerial Personnel' in the Company/TIL by virtue of

his designation as the CMD. CMD comes under the definition of ‘key managerial personnel’ in Section 2(51) of the Companies Act 2013.

98. As per Section 2(54) of the Companies Act, 2013, “Managing Director” means a director who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called. Therefore, Noticee 2 was expected to exercise the powers in bona fide manner and in the interest of all stakeholders of the Noticee 1.

99. Further, I note that a Chairman and Managing Director is expected to exercise due care and diligence in ensuring that all the transactions and events in the Noticee 1 have requisite approvals and that they are in the best interests of the Noticee 1 including the minority shareholders of the Noticee 1.

100. In his submissions during statement on oath before the IA, Noticee 2 had accepted that he had met Mr. Vibhor Aggarwal (partner of the firms – Ganesh International, Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Roshni Enterprises and Dutta & Associates) which clearly indicated that he was part of the transactions carried out with the aforesaid entities and he was fully aware of the same. When Mr. Shibaditya Ghosh (Noticee 3) and Mr. Ramesh Aggarwal (Noticee 4) informed him about the said transactions, he had not taken any corrective measures for the same. Noticee 2 had agreed that such fictitious purchase & sales transactions had partly happened during Covid, as Covid had affected Noticee 1’s operations. This showed that Noticee 2 had failed to exercise due care and diligence in ensuring that all the

transactions and events in the Noticee 1 had requisite approvals and that they were in the best interests of the Noticee 1, including the minority shareholders of the Noticee 1.

101. Noticee 2 was also a member of the Stakeholders Relationship Committee and Corporate Social Responsibility Committee. As per the Annual Reports, he had attended all the Board, Stakeholders Relationship Committee and Corporate Social Responsibility Committee meetings held during the FY 2019-20 & 2020-21. Apart from being one of the signatories of Noticee 1's financial statements, also signed and furnished the Certificate to the Board for FY 2019-20 & 2020-21 in terms of Regulation 17(8) of SEBI (LODR) Regulations, 2015 which inter alia states that the statements present a true and fair view of /TIL (Noticee 1)'s affairs and are in compliance with existing Indian accounting standards, applicable laws and regulations. Therefore, submission of the Noticee 2 are bereft of merits.

102. Noticee 2, being CMD failed to perform his duties and obligations which resulted in publication of misrepresented/ misstated financial statements of Noticee 1 for FYs 2019-20 & 2020-21. He knowingly furnished wrong, false and misleading certification of the Company's financial statements to the Board.

103. Accordingly, in view of the aforesaid, it stands established that Noticee 2 has violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 17(8) of SEBI (LODR) Regulations, 2015 and Regulation 4(1), 33(1)(a) & (c) and 48 of SEBI (LODR) Regulations, 2015 read with Section 27 of the SEBI Act, 1992 by knowingly publishing Noticee No1's financial statements which were not true, having

failed to ensure that Noticee No1’s financial statements presented true and fair picture of its state of financial affairs as he had approved and authenticated its financial results filed during FY 2019-20 & FY 2020-21 and also failed to discharge duties as KMP leading to misrepresentation/ misstatement of financial statements.

Role of Mr. Shibaditya Ghosh (Noticee 3), Chief Financial Officer (June 29, 2020 to May 31, 2021):

104. With regard to Noticee 3, his submissions are mentioned at para (8.3) above and for the sake of brevity, the same is not being repeated. In this regard, I note that Noticee 3 was Chief Financial Officer (CFO) of TIL (Noticee 1) during FYs 2019-20 and 2020-21. A CFO is a person heading and discharging the finance function of the listed entity and expected to exercise due care and diligence in ensuring that the transactions are genuine and that they are in the best interests of the company, including its minority shareholders. In addition to being one of the signatories to Noticee1’s financial statements for FYs 2019-20 and 2020-21, he also signed the Certificate as required under Regulation 17(8) of the SEBI (LODR) Regulations, 2015 stating that the financial statements present a true and fair view of the Noticee 1’s affairs and are in compliance with existing accounting standards, applicable laws and regulations.

105. In his submissions during statement on oath before the IA, Noticee 3 had accepted that he was responsible along with other KMPs, for fictitious purchases and sales carried out by the Company with Ganesh International, Upgrade Tracom, BPS Foundations, Maa Tara Electricals, Dutta & Associates, Roshni Enterprises and CREWPL. He had also accepted that the said fictitious purchases and sales were

done to keep availing the credit facilities from the banks. This had resulted in fictitious purchases and sales for the FYs 2019-20 & FY 2020-21, which in turn led to overstatement of inventory and revenue for the FYs 2019-20 & 2020-21.

106. Further, I note that Noticee 3 had attended the Audit Committee and Board meetings of the Noticee 1 during his tenure 29.06.2020 to 31.05.2021 and presented wrong financial results of the Noticee 1 to the Board. Hence, Noticee 3 being in charge of finance of the Noticee 1 failed to perform his duty as CFO which resulted in publication of misrepresented/ misstated financial statements. As CFO of the Company/TIL, he knowingly furnished wrong, false and misleading certification of the Company's financial statements to the Board. Thus, submission of the Noticee 3 are bereft of merits.

107. Accordingly in view of the aforesaid, it stands established that Noticee 3 has violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 17(8) of the SEBI (LODR) Regulations, 2015 read with Regulation 4(1), 33(1)(a) & (c) and 48 of SEBI (LODR) Regulations, 2015 read with Section 27 of the SEBI Act, 1992 by knowingly publishing Noticee No1's financial statements which were not true, having failed to ensure that Noticee No1's financial statements presented true and fair picture of its state of financial affairs as he had approved and authenticated its financial results filed during FY 2019-20 & FY 2020-21 and also failed to discharge duties as KMP leading to misrepresentation/ misstatement of financial statements.

Role of Mr. Ramesh Aggarwal, (Noticee 4) Chief Executive Officer (May 25, 2019 to June 29, 2020):

108. With respect to the allegations levelled against the Noticee 4, he has submitted as mentioned at para (8.4) above and the same is not being repeated for the sake of brevity. In this regard, I note that the Noticee 4 was a Chief Executive Officer of the Noticee 1 during FYs 2019-20 and 2020-21. A CEO is a person heading and discharging the operations of the listed entity and expected to exercise due care and diligence in ensuring that the transactions are genuine and that they are in the best interests of the Company, including the minority shareholders of the company.

109. In his submissions during statement on oath before the IA, Noticee 4 had accepted that he was part of the team which executed transactions with Ganesh International and its related entities as mentioned above. Noticee 4 had also accepted that *"Only one transaction was done with Ganesh International under his recommendation for …"* This shows that such fictitious transactions with Ganesh International and it group companies were carried out by him along with other KMPs who were all involved in wrong accounting practices. This had resulted in fictitious purchases and sales for the FYs 2019-20 & FY 2020-21, which in turn led to misstatement/ misrepresentation of financial statements of the FYs 2019-20 & 2020-21.

110. Further, I note that Noticee 4 had attended the Audit Committee and Board meetings of the Noticee 1 during his tenure 25.05.2019 to 29.06.2020 and presented wrong financial results of the Company to the Board.

111. Hence, Noticee 4 being in charge of the day to day operations of the company, failed to perform his duty as CEO of the Company which resulted in publication of misrepresented/ misstated financial statements. As CEO of the Company, he knowingly furnished wrong, false and misleading information of the Company's financial statements to the Board. Therefore, the submissions of the Noticee 4 are devoid of merits.

112. Accordingly, in view of the above, it stands established that Noticee 4 has violated Regulation 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 and Regulation 4(1), 33(1)(a) & (c) and 48 of SEBI (LODR) Regulations, 2015 read with Section 27 of the SEBI Act, 1992 by knowingly publishing No1's financial statements which were not true, having failed to ensure that Noticee No1's financial statements presented true and fair picture of its state of financial affairs for the FY 2019-20 as he was its CEO and also failed to discharge duties as KMP leading to misrepresentation/ misstatement of financial statements.

Issue (b) - Does the violation, if any, attract penalty under Section 15HA and 15HB of the SEBI Act, 1992?

113. As it has been established in the paragraphs above that the Noticees have violated the provisions of PFUTP Regulations and LODR Regulations. Accordingly, I note that the Hon'ble Supreme Court of India in the matter of ***SEBI v/s Shri Ram Mutual Fund*** [2006] 68 SCL 216 (SC) held that "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant………. Hence, we are of the*

view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary."

114. In view of the foregoing and aforesaid order of the Hon'ble Apex Court, I am convinced that the Noticees are liable for monetary penalty under Section 15HA and 15HB of SEBI Act for violation of the above mentioned SEBI PFUTP Regulations and SEBI (LODR) Regulations. The relevant provisions are mentioned as under:

SEBI Act, 1992

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 102[which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher].*

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 shall not be less than one lakh rupees but which may extend to one crore rupees.*

Issue (c) - If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act, 1992?

115. While determining the quantum of penalty under Section 15HA and 15HB of the SEBI Act, 1992, it is important to consider the factors stipulated in Section 15J of the SEBI Act, 1992 read with Rule 5(2) of the Adjudication Rules, 1995 which reads as under:

SEBI Act, 1992

Factors to be taken into account by the adjudicating officer

15J While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely

(a)the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.

116. The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticees and the loss, if any, suffered by the investors as a result of their failure. However, I note that securities market is based on free and open access to information, and that protection of the interests of the investors is the prime objective of SEBI. Bringing about true and fair picture of the financials is essential whereas misrepresentation of financials in respect of the vital information of any company forfeits the purpose of dissemination of information to the investors and acts detrimental to the interest of the investors thereby hampering their ability to take suitable informed investment decisions. The objective behind such requirement is that the investing public shall not be deprived of any vital information in respect of their investments in the securities market. If any person/company who is required to oversee/present true and fair picture of financials and is not able to do so and engages in manipulating/misrepresenting (directly or indirectly) financials of a company then such person is depriving the investing public the statutory rights available to them, then SEBI is duty bound to ensure that the investing public are not

deprived of any statutory rights available to them. Thus, in the present matter the facts of the case clearly bring out the default made by the Noticees and their failure in fulfilling their responsibility endowed upon them by virtue of them CMD, CFO and CEO of the Noticee 1. Hence, I note that the Noticees failed to present true and fair picture of financials of the company and thereby have violated the relevant provisions of SEBI PFUTP Regulations and LODR Regulations, as mentioned above.

ORDER

117. Having considered all these facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and also taking into account judgment of the Hon'ble Supreme Court in ***SEBI vs. Bhavesh Pabari*** (2019) 5 SCC 90 and in exercise of power conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, 1995, I hereby impose the following penalties under Section 15HA and Section 15HB of SEBI Act, 1992, on the Noticees for the violations as specified in this order:

Name of the Noticees	**Penal provisions**	**Penalty(Rs)**
TIL Limited	Section 15HA of the SEBI Act	Rs 50,00,000/- (Rupees Fifty Lakhs Only)
	Section 15HB of the SEBI Act	Rs 50,00,000/- (Rupees Fifty Lakhs Only)
Sumit Mazumdar	Section 15HA of the SEBI Act	Rs 50,00,000/- (Rupees Fifty Lakhs Only)

	Section 15HB of the SEBI Act	Rs 50,00,000/- (Rupees Fifty Lakhs Only)
Shibaditya Ghosh	Section 15HA of the SEBI Act	Rs 12,50,000/- (Rupees Twelve Lakhs Fifty Thousand Only)
	Section 15HB of the SEBI Act	Rs 12,50,000/- (Rupees Twelve Lakhs Fifty Thousand Only)
Ramesh Aggarwal	Section 15HA of the SEBI Act	Rs 12,50,000/- (Rupees Twelve Lakhs Fifty Thousand Only)
	Section 15HB of the SEBI Act	Rs 12,50,000/- (Rupees Twelve Lakhs Fifty Thousand Only)

118. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, Noticees may contact the support at portalhelp@sebi.gov.in.

119. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD-I DRA -IV, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051" and also to e-mail id:-tad@sebi.gov.in

1. Case Name:	
2. Name of payee:	
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)	

120. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under Section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia,* by attachment and sale of movable and immovable properties.

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

Date: May 30, 2024 **SANTOSH KUMAR SHARMA**

Place: Mumbai **ADJUDICATING OFFICER**