BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SM/YK/2022-23/25037-25043]

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

In respect of:

Noticee No.	Noticee	PAN
1	Mr. Sanjiv Kavaljit Singh	AMQPS9270C
2	Mr. Neeraj Gupta	AFOPG5298R
3	Mr. Nemichandra Dhanyakumar Jain	AHMPJ1361L
4	Mr. Surjit Krishan Sharma	AUQPS5234A
5	Mr. Ajay Dogra	ALQPD5401M
6	Mr. Pulkit Bhasin	ALKPB4580B
7	Ms. Purnima Sharma	BDNPS9983D

*(The above-mentioned entities are individually referred to by their respective Noticee No. as assigned above and collectively referred to as **'Noticees'**)*

In the matter of Fedders Electric & Engineering Limited

FACTS OF THE CASE

1. Pursuant to receipt of certain complaints alleging *inter alia* financial fraud in Fedders Electric and Engineering Limited (hereinafter referred to as "**FEEL**" or "**Fedders**" or "**Company**"), Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) had initiated an investigation in the affairs of the Company for the period from April 01, 2012 to August 14, 2020. Investigation was based on the Forensic Audit Report (hereinafter referred to as **"FAR"**) dated June 29, 2020, for the period 01 April 2012 to 31 March 2018 submitted by M/s. Kansal Singla & Associates (hereinafter referred to as **"KSA"**) to State Bank of India (Lead bank with a consortium of 6 banks) which was sent to SEBI and the Transaction Audit Report (hereinafter referred to as

“TAR”) dated February 25, 2020, for the period 14 August 2014 to 14 August 2020 submitted by Grant Thornton India LLP to the Resolution Professional (**RP**) which was sent to SEBI. The focus of the said investigation was to ascertain if there were any violations of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”), Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as “**SCRA**”), SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as “**LODR Regulations**”) and erstwhile Listing Agreement.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI had appointed undersigned as the Adjudicating Officer (hereinafter referred to as ‘**AO**’) in the matter vide communique dated November 30, 2022 under Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **‘Adjudication Rules’**), to inquire into and adjudge under the provisions of the Section 15HB of the SEBI Act for the violations alleged to have been committed by the Noticees.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice ref no. SEBI/EAD-1/SM/YK/62317/2022 dated December 15, 2022 (hereinafter referred to as **‘SCN/Notice’**) was issued to the Noticees in terms of Rule 4(1) of the Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticees and why penalty be not imposed on them in terms of the provisions of the Section 15HB of the SEBI Act for the violations alleged to have been committed by the Noticees.

4. During to the course of investigation by SEBI, the following was observed and accordingly alleged in the aforementioned Show Cause Notice:

4.1 **Fictitious/ Inflated Sales and Purchases:**

4.1.1 Fedders was engaged in power projects, erection & fabrication of steel structures, and manufacturing and installation of AC division. Approx. 85% to 90% of sales and approx. 72% to 92% of purchases were concentrated among the top 22 parties as mentioned below:

Table 1: Sales to top 22 parties (Rs. in crores)

Particulars	01.07.2012 to 30.06.2013		01.07.2013 to 30.06.2014		01.07.2014 to 30.06.2015		01.07.2015 to 31.03.2016		01.04.2016 to 31.03.2017		01.04.2017 to 31.03.2018	
	Amt	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**
Sales to top 22 parties	892.85	88.04	1,049.24	91.11	1,137.10	87.47	873.9	84.39	1067.02	78.87	1094.37	88.45
Balance Sales	122.75	11.96	111.10	8.89	179.07	12.53	157.04	15.61	286.56	21.13	142.77	11.55
Total Sales	1,015.60	100	1,160.34	100	1,316.17	100	1,030.94	100	1,353.58	100	1237.14	100

Table 2: Purchases to top 22 parties (Rs. in crores)

Particulars	01.07.2012 to 30.06.2013		01.07.2013 to 30.06.2014		01.07.2014 to 30.06.2015		01.07.2015 to 31.03.2016		01.04.2016 to 31.03.2017		01.04.2017 to 31.03.2018	
	Amt	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**
Purchase from top 22 parties	633.37	71.81	901.42	86.1	1,010.36	92.37	756.25	91.42	990.07	87.63	967.65	83.17
Balance Purchase	248.58	28.19	145.56	13.90	83.50	7.63	70.98	8.58	139.75	12.37	195.70	16.83
Total Purchase	881.95	100	1,046.98	100	1,093.86	100	827.23	100	1,129.82	100	1163.35	100

4.1.2 Some of the sales were by way of two-way dealings viz both sales and purchases were made with the same party or with the parties having common partners/directors. Also. Fedders had significantly increased two-way dealings from 5.71% of total sales and 26.91% of total purchases in FY 2012-13 to 48.95% of total sales and 43.5% of total purchases in FY 2017-18. Also, parties involved in two-way dealings with Fedders, having sales and purchases greater than Rs. 1 crore are either Related Parties or potentially interlinked parties (hereinafter referred to as "PILE") or potentially non-existing third parties mentioned in Table 5 below:

Table 3: Two-way dealings - Sales (Rs. in crores)

Particulars	01.07.2012 to 30.06.2013		01.07.2013 to 30.06.2014		01.07.2014 to 30.06.2015		01.07.2015 to 31.03.2016		01.04.2016 to 31.03.2017		01.04.2017 to 31.03.2018	
	Amt	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**
Sales by two-way dealings	58.04	5.71	38.19	3.29	157.90	12.00	20.92	2.03	58.84	4.35	605.54	48.95
Other Sales	957.56	94.29	1,122.15	96.71	1,158.27	88	1,010.02	97.97	1,294.74	95.65	631.60	51.05
Total	1,015.60	100	1,160.34	100	1,316.17	100	1,030.94	100	1,353.58	100	1237.14	100

Table 4: Two-way dealings - Purchases (Rs. in crores)

Particulars	01.07.2012 to 30.06.2013		01.07.2013 to 30.06.2014		01.07.2014 to 30.06.2015		01.07.2015 to 31.03.2016		01.04.2016 to 31.03.2017		01.04.2017 to 31.03.2018	
	Amt	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**
Purchases by two-way dealings	237.35	26.91	233.88	22.34	246.08	22.5	5.64	0.68	13.01	1.15	506.45	43.53
Other Purchases	644.60	73.09	813.10	77.66	847.78	77.5	821.59	99.32	1,116.81	98.85	656.90	56.47
Total	881.95	100	1,046.98	100	1,093.86	100	827.23	100	1,129.82	100	1163.35	100

Table 5 *(Rs. in crores)*

Period	Party name		Sales	Purchase
01.07.2012 to 30.06.2013	LEEL Electricals Limited	Related Party	56.88	235.32
01.07.2013 to 30.06.2014	LEEL Electricals Limited	Related Party	36.38	232.72
01.07.2014 to 30.06.2015	LEEL Electricals Limited	Related Party	147.01	245.41
01.07.2015 to 31.03.2016	LEEL Electricals Limited	Related Party	20.92	5.64
01.04.2016 to 31.03.2017	LEEL Electricals Limited	Related Party	57.59	11.71
01.04.2017 to 31.03.2018	Punj Technology Pvt Ltd	Related Party	308.14	101.64
	Zenith Fabricators Pvt Ltd	PILE	107.99	349.7
	LEEL Electricals Limited	Related Party	60.2	2.55
	Airserco Pvt. Ltd.	Related Party	56.85	6.62
	PSL Engineering Pvt. Ltd	Related Party	56.53	14.75
	Abide Electronics Pvt. Ltd.	Third Party	14.29	30.21
Total			922.78	1236.27

4.1.3 Significant portion of the turnover (Rs. 2,530.08 crores out of Rs. 7,113.77 crores) of the Company is from non-corporate entities.

Table 6: *(Rs. in crores)*

Particulars/ F.Y.	01.07.2012 to 30.06.2013		01.07.2013 to 30.06.2014		01.07.2014 to 30.06.2015		01.07.2015 to 31.03.2016		01.04.2016 to 31.03.2017		01.04.2017 to 31.03.2018	
	Amt	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**	**Amt**	**%**
Corporates	542.94	53.46	617.92	53.25	822.62	62.50	712.51	69.11	992.55	73.32	898.07	72.42
Non–Corporates	472.65	46.53	542.42	46.74	493.55	37.49	318.43	30.88	361.03	26.67	342.00	27.58
Total	1,015.60	100	1,160.34	100	1,316.17	100	1,030.94	100	1,353.58	100	1240.07	100

4.1.4 Sale of Rs. 10.19 Crores had been done with no. of individuals namely Raj Kumar, Ram Kumar, Yusuf, Ashok Singh, Mohit Sharma, Mukash Singh, and Sham Sundar which are one-time Customers of which Rs. 2.33 Crores had been received and the balance of Rs. 7.86 crores outstanding was reversed through intercompany/ parties settlement.

4.1.5 Forensic Auditor indicated the following anomalies from the review of the sample purchase and sale transactions:

(a) No weight receipts/ delivery challans/ loading/ unloading slips/ GRN had been attached to any of the bills.

(b) Truck numbers used for transportation by MK Steel & Emtex Steel Traders (P) Limited & LM Enterprises were the same, while the transporter are different.

(c) Truck No. HR-38S-6576 is registered in the name of M/s Jyoti Strips Limited.

(d) Phone Number (9971557180) of M/s Emtex Sales (P) Limited & M/s S.K. Metals was the same as mentioned on purchase bills & Email ID (M88815@gmail.com) was the same for both parties.

(e) While the Company had purchased all its raw materials on an LC basis, goods had been sold on clean credit and that too at negligible margin/loss.

(f) In a few instances the vehicle numbers appearing on the Invoices are of Cabs/Buses/Three wheelers.

(g) No truck number available in any of the invoices of the Jaipur unit.

(h) In certain purchase invoices for the purchases made in Delhi the same truck number was mentioned in the bill of different transport service providers.

4.1.6 Transaction Auditor indicated the following anomalies from the review of the sample purchase and sale transactions:

(a) Out of the 889 sample purchase transactions aggregating to Rs. 446.16 crores and 884 sample sales transactions aggregating to Rs. 434.97 crores made by the Company for the period 14 August 2014 to 14 August 2020, the Company had provided the supporting documents for only 127 sample purchase transactions aggregating to Rs. 31.69 crores (~7% of purchase samples requested) and only 48 sample sales transactions aggregating to Rs. 6.23 crores (~1% of sales samples requested).

(b) For 2 purchase transactions (copper items weighing 41.66 MT) aggregating to Rs. 1.91 crores, the vehicle numbers mentioned on the lorry receipts pertained to two wheelers.

(c) For 5 purchase transactions aggregating to Rs. 1.51 crores, the corresponding details of vehicles mentioned on the invoices could not be traced in the public domain.

(d) For 10 purchase transactions aggregating to Rs. 2.50 crores, the TIN/GSTIN number of the vendors were invalid/ non-existent on the public domain.

(e) For all 127 sample purchase transactions aggregating to Rs. 31.69 crores, no quotations, comparative quotations, and purchase orders were provided to the Transaction Auditor.

(f) For 99 sample purchase transactions aggregating to Rs. 25.21 crores, the Transaction Auditor was not provided with the weighment slips.

(g) For 34 sample purchase transactions aggregating to Rs. 7.31 crores, the Transaction Auditor was not provided with the lorry receipt.

(h) For 3 sales transactions aggregating to Rs. 0.22 crores, the details of vehicles mentioned on the invoices could not be traced in the public domain.

(i) For 12 sale transactions aggregating to Rs. 2.26 crores, the TIN/GSTIN numbers of the customers were invalid/ non-existent in the public domain.

(j) For 34 sample transactions aggregating to Rs. 5.96 crores, no weighment slips were provided.

(k) For 16 sample transactions aggregating to Rs. 2.22 crores, no lorry receipts were provided.

4.1.7 Statutory auditor of the Company, M/s. G.K. Kedia & Co. for the FY 2017-18 had stated the following reservation in his Basis for Disclaimer of Opinion Paragraph:

"One of the location in Jaipur had reported sales amounting to Rs 545.24 Crores for which the Company does not have sufficient and satisfactory evidence. In the above location the Company had also reported purchases amounting to Rs 544.54 Crores which is also not supported by sufficient documentary evidences. Further, the above mentioned sales and purchases have been transacted between identical parties. Another location Okhla, New Delhi had reported sales amounting to Rs. 268.65 Crores which is also not supported by sufficient & satisfactory supporting evidence. Accordingly, in view of aforementioned limitations we were unable to comment on appropriate recognition of sales and purchases."

"The Company had done assignment of debt (i.e. Transfer of Debt, and all the associated rights and obligations from a creditor to a third party) during the FY 2017-

18 with regard to Related Party Transactions. It had resulted into reduction debtors and creditors by Rs. 94.87 Crores"

4.1.8 From the aforesaid paras, it was alleged that company had entered into fictitious sales and purchases, and had manipulated its Statements of Profit and Loss, and thereby manipulated the amount of profit shown in the Financial Statements during the IP.

4.2. Trading Sales and Purchases:

4.2.1. Fedders had opened letters of credit in the name of suppliers that were engaged in the trading of goods. Also, the Company had not obtained any such permission from the bank before engaging in the trading of goods which was violation of the terms and conditions of the lending arrangement.

4.2.2. Fedders had not bifurcated sales as trading and non-trading (manufacturing) transactions, in accordance with Schedule III of the Companies Act 2013.

4.2.3. On comparing the year-wise sales value of traded goods with their respective purchases, Company was incurring losses on almost every such transaction even without considering the cost of handling and transportation charges for such transactions. It was not prudent for a manufacturing entity to engage in trading of goods despite incurring continuous losses on such transactions on a year to year basis. It was further observed that Company had increased the quantum of trading transactions from 36.23% during the period ended 30.06.2013 to 65.76% during the period ending 31.03.2018.

Table 7: Details of Manufactured & Traded goods *(Rs. in crores)*

Particulars	As on 30.06.2013		As on 30.06.2014		As on 30.06.2015		As on 31.03.2016		As on 31.03.2017		As on 31.03.2018	
	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%
Manufactured Goods (A)	648	64	765	66	634	48	411	40	511	38	424	34
Traded Goods (B)	368	36	396	34	682	52	620	60	842	62	813	66
Total Sales (A + B)	1016	100	1160	100	1316	100	1031	100	1354	100	1237	100

4.2.4. Company had incurred a total net loss of Rs. 20.46 Crores from period dated 01.04.2012 to 31.03.2018 from trading of goods.

Table 8: Profit/ Loss on trading goods *(Rs. in crores)*

Particulars	Purchase Quantity (KGs)	Sale Quantity (KGs)	Sale Value (Rs)	Purchase Value (Rs)	Gross Profit (Rs)	LC Charges (Rs)	Net Profit/Loss
01.07.2012 to 30.06.2013	7.21	7.21	370.86	370.34	0.52	*	0.52
01.07.2013 to 30.06.2014	8.11	8.11	395.64	395.38	0.26	*	0.26
01.07.2014 to 30.06.2015	13.88	13.88	682.49	681.53	0.96	1.90	-0.94
01.07.2015 to 31.03.2016	13.90	13.90	619.83	618.11	1.72	3.09	-1.36
01.04.2016 to 31.03.2017	19.22	19.22	842.17	839.71	2.46	4.36	-1.89
01.04.2017 to 31.03.2018	17.14	17.80	813.49	827.41	-13.92	3.13	-17.05

* Details with respect to LCs opened during the period dated 01.07.2012 to 30.06.2014 were not provided to Forensic Auditor by the management.

4.2.5. Out of the sample invoices analyzed by Forensic Auditor, for the below mentioned value of invoices, no records including name of transporter, truck number were available with the invoices.

Table 9: **(Rs. in crores)**

Delhi Unit		Jaipur Unit	
Name	**Amount**	**Name**	**Amount**
		Abide Electronics Pvt Ltd	0.48
Airserco Pvt Ltd	0.79	Airserco Pvt Ltd	2.61
Arjun ispat india pvt ltd	0.36		
Dish india pvt ltd	0.37		
Global Technocrate pvt ltd	0.82		
Growever Infra Corp.	0.34		
Lloyd Electric and Engineering Ltd	1.03	Lloyd Electric and Engineering Ltd	1.01
Magnum Steels ltd	0.46		
Metal Techs	0.84		
PSL Engineering Pvt Ltd	0.50	PSL Engineering Pvt Ltd	2.02
		Punj Technology Pvt Ltd	2.94
Radiant Industries	0.60		

Ratna Metals	0.41		
Saurabh Buildcon pvt ltd	0.78		
Swarn Projectech pvt ltd	0.37		
		Yusuf	0.02
		Zenith Fabricators Pvt Ltd	0.45
Total	**7.68**	**Total**	**9.51**

4.2.6. Company was engaged in the trading of goods from two of its units namely – Delhi and Jaipur and Forensic Auditor indicated the following anomalies from the review of the books of account and the limited physical documents provided to them by the company with respect to the trading sales & purchases transactions:

(a) No weight receipt/ delivery challans/ loading/ unloading slips/ purchase orders were attached with the invoice or made available to the Forensic Auditor for verification.

(b) Certain vehicle numbers as provided in the Bills are that of Bus/Three wheeler.

(c) While the Company had purchased all traded goods on LC basis, the same had been sold on clean credit which is not a normal business practice.

(d) The Company had made payments to almost all the vendors of traded goods in excess of amount of purchases.

4.2.7. It was alleged that debtors amounting to Rs 46.15 Crores out of trading sale mentioned in Table 10 are fictitious as no movement of stock had happened and the same fact is substantiated by the contents of Mr. Akhter Aziz Siddiqi's (Former Chief Financial Officer (hereinafter referred to as "CFO") of Company) letter dated 24.05.2022 wherein Mr Siddiqi had accepted the fake sales to increase turnover by stating as below:

"Turnover is the manipulated turnover and being managed through steel trading division which rotates within Group Companies with two-three outside companies to maintain top line to show desired drawing power to banks and this in itself is an alarming situation"

Table 10: (Rs in Crores)

Sl. No.	Particulars	Amount
1	Ratna Metals	14.17
2	Arjun Ispat India Private Limited	9.02
3	Ferrite Alloys INC	8.60
4	Daga Trading Company Pvt Ltd	4.93
5	Radiant Industries	3.99
6	S K Metals (India)	3.02
7	MHJ Metals Techs Pvt Ltd	1.99

8	Dish India Private Limited	0.20
9	Metal Techs	0.09
10	Punj Technology Pvt. Ltd.	0.08
11	Nucon Appliances	0.06
	TOTAL	**46.15**

4.2.8. Fedders had entered into purchase transactions and sales transactions aggregating to Rs. 4,504.98 crores and Rs. 5,234.60 crores respectively. Further, approx. 83% of total purchase transactions and approx. 77% of total sale transactions constituted Trading transactions. Also, approx. 65% of total purchase transactions and approx. 58% of total sales transactions were concentrated in Steel Trading Division.

Table 11: Showing the break-up of division-wise summary of transactions:

(Rs. in crore)

S. No.	Division	Division Code	Purchase	%	Sale	%
1	Steel Trading Division	1J	2,950.09	65%	3,024.89	58%
2	Steel Structure Division	1G	380.90	8%	558.98	11%
3	Power Division	1E & 1T	311.87	7%	469.72	9%
4	Export Division	1F	296.72	7%	321.20	6%
5	Air Conditioning Division	1L	265.43	6%	332.89	6%
6	Networking Division	1T	160.97	4%	243.79	5%
7	Air System Division	C1-C2	37.54	1%	54.58	1%
8	Wind Power Division	1R	36.65	1%	90.18	2%
9	Project Services Division	1M	32.22	1%	104.87	2%
10	Scaffolding Division	B1-B2	29.40	0%	33.26	0%
11	Marketing Division	1K	3.10	0%	-	-
12	Head Office Division	1A00	0.10	0%	0.24	0%
Total			4,504.99	100%	5,234.60	100%

4.2.9. Out of the total trading transactions entered by Fedders in Steel Trading Division, trading purchases aggregating to Rs. 1,678.17 crores and trading sales aggregating to Rs. 1,937.72 crores were from Related Parties and PILE.

Table 12: (Rs. in crores)

S. No.	Name of Entity	Relation ship	Trading Purchases	% of Purchase in Steel trading division	Trading Sales	% of sale in Steel trading division
1	Zenith Fabricators Pvt. Ltd. (ZFPL)	PILE	1,317.94	45%	107.99	4%
2	Punj Technology Pvt. Ltd. (PTPL)	PILE	101.64	3%	1,150.53	38%
3	LEEL Electricals Ltd. (LEEL)	Related Party	237.22	8%	104.15	3%
4	PSL Engineering Pvt. Ltd. (PSL)	Related Party	14.75	1%	327.91	11%
5	Airserco Pvt. Ltd. (APL)	Related Party	6.62	0%	247.14	8%
	Total		1,678.17	57%	1,937.72	64%

4.2.10. Transaction Auditor indicated the following anomalies with respect to transactions with Related Parties and PILE:

Table 13:

S. No.	Name of Entity	Anomalies
1	Zenith Fabricators Pvt. Ltd. (**ZFPL**)	• Public domain searches indicated that ZFPL does not have any websites. Also, the site visits and source inquiries by the Transaction Auditor revealed that it is a potentially non-existent entity. • Also, Public domain searches indicated that Fedders and ZFPL are potentially interlinked through two directors of ZFPL i.e. Mr. Krishan Gopal Sharma and Ms. Renu Sharma, who also are the sole shareholders of ZFPL holding 5000 shares each. As per MCA, both these Directors are also holding directorship in a related party (i.e. Zenith Impex Pvt. Ltd.) and two PILE (i.e. Rajul Estate Pvt. Ltd. & Ready Sales Pvt. Ltd.) of Fedders. • Further, the status of ZFPL is strike-off and the last financial information submitted by ZFPL was for FY 2015-16. However, Fedders had entered into transactions with ZFPL during FY 2016-17 and FY 2017-18. Also, the review

S. No.	Name of Entity	Anomalies
		of financial information submitted by ZFPL on the website of MCA for FY 2014-15 and FY 2015-16, reveals that Fedders was the sole customer of ZFPL during FY 2014-15 and a major customer of ZFPL during FY 2015-16.
2	Punj Technology Pvt. Ltd. (**PTPL**)	• Public domain searches indicated that PTPL does not have any websites. Also, the site visits and source inquiries by the Transaction Auditor revealed that it is a potentially non-existent entity. • Also, Public domain searches indicated that Fedders and PTPL are potentially interlinked through the past directors of PTPL and Ms. Kamla Butola (ex-employee of Fedders). On June 29, 2016, two directors of PTPL (i.e. Mr. Brij Raj Punj & Mr. Bharat Punj) transferred their entire share-holding (5,000 shares each) in PTPL to Ms. Kamla Butola and Mr. Ravindra Kumar Chopra. Further, Ms. Kamla Butola and Mr. Ravindra Kumar Chopra were also appointed as the Directors of PTPL. At the time of transfer of shares, Ms. Kamla Butola was an employee of Fedders, working as Executive, Human Resource, and Administration till May 01, 2019. Later, she was employed with LEEL. Further, it is noted that PTPL had disclosed Fedders as a Related Party, however, Fedders had not disclosed PTPL as its Related Party. • As per MCA website, Fedders was the sole supplier of PTPL during FY 2014-15 and a major supplier of PTPL during FY 2015-16 & FY 2016-17.
3	LEEL Electricals Ltd. (**LEEL**)	• Review of the sale and purchase register indicated that the purchase/sale invoices raised by/to LEEL were in sequential order. • During FY 2016-17 and FY 2017-18, Fedders recorded adjustments transactions with the balances of seven Related Parties (PSL Engineering Ltd. ("PSL"), Punj Sons Pvt. Ltd. ("PSPL"), Punj Technology Pvt. Ltd. ("PTPL"), Perfect Radiators Pvt. Ltd. ("PFT"), Zenith Fabricators Pvt. Ltd. ("ZFPL"), Air Serco Pvt. Ltd. ("ASPL") & Ms. Renu Punj) which resulted in a net decrease in the payable balance of LEEL aggregating to Rs. 56 crores. • Further, during FY 2018-19 Fedders had recorded adjustment transactions with the balances of 88 third parties which resulted in a net increase in the payable balance of LEEL aggregating to Rs. 14.29 crores. Further, it is noted that the book adjustments with 14 third parties represented ~96% (i.e. Rs. 13.68 crores) of such book adjustments.
4	PSL Engineering Pvt. Ltd. (**PSL**)	• Public domain searches indicated that PSL does not have any websites. Also, the site visits and source inquiries by the Transaction Auditor revealed that it is a potentially non-existent entity. • As per MCA website, Fedders was the sole supplier of PSL during FY 14-15 and a major supplier of PSL during FY 15-16. • Review of the sale and purchase register indicated that the purchases/sales invoices raised by/to PSL were in sequential order.

S. No.	Name of Entity	Anomalies
		• Fedders had recorded adjustment transactions with the balances of 5 third parties which resulted in a net increase in the payable balance of PSL aggregating to Rs. 8.81 crores.
5	Airserco Pvt. Ltd. (**APL**)	• Public domain searches indicated that APL does not have any websites. Also, the site visits and source inquiries by the Transaction Auditor revealed that it is a potentially non-existent entity. • As per MCA website, Fedders was the sole supplier of APL during FY 14-15 and a major supplier of APL during FY 15-16 to FY 16-17. • Review of the sales and purchase register indicated that the purchase/sales invoices raised by/to APL were in sequential order.

4.2.11. It is further observed that the statutory auditor of the Company, M/s. G. K. Kedia & Co. for the FY 2017-18 had stated the following reservation in his Basis for Disclaimer of Opinion Paragraph:

"One of the location in Jaipur had reported sales amounting to Rs 545.24 Crores for which the Company does not have sufficient and satisfactory evidence. In the above location the Company had also reported purchases amounting to Rs 544.54 Crores which is also not supported by sufficient documentary evidences. Further, the above mentioned sales and purchases have been transacted between identical parties. Another location Okhla, New Delhi had reported sales amounting to Rs. 268.65 Crores which is also not supported by sufficient & satisfactory supporting evidence. Accordingly, in view of aforementioned limitations we were unable to comment on appropriate recognition of sales and purchases."

4.2.12. Hence from the aforesaid, it was alleged that trading operations recorded were fictitious in nature and those were sham transactions, recorded with an intent to inflate the turnover of the Company without any movement of goods, in order to avail a higher working capital limits, in turn resulting in misrepresentation of the financials. It was further alleged that, with the help of aforesaid mechanism Fedders was able to encash its non-fund based limit and meet its requirements of working capital including servicing of short-term borrowings from Bank.

4.3. **Trade Payables and Receivables:**

4.3.1. Fedders had outstanding debtors amounting to Rs. 261.70 crores from 170 customers.

Table 14: Outstanding Debtors **(Rs. in crores)**

S. No.	Particulars	Amount
1	0-90 Days	49.34
2	91-180 Days	20.28
3	181-270 Days	19.00
4	271-365 Days	19.11
5	>365 Days	153.98
	Total	261.70*

4.3.2. Forensic Auditor had sent balance confirmation letters to 32 debtors with a total outstanding of Rs. 221.16 crores (84.51% of total debtors as on 31.03.2018). Out of the 32, only 4 debtors (Rs. 20.67 crores) had confirmed and letters to 10 debtors (Rs. 49.10 crores) had returned undelivered and 18 debtors (Rs. 149.37 crores) had not responded.

4.3.3. Forensic Auditor had sent balance confirmation letters to 51 creditors with a total outstanding of Rs. 209.87 crores (65% of total creditors as on 31.03.2018). Out of the 51, only 5 creditors (Rs. 4.89 crores) had fully acknowledged the amounts payable to them. While 3 creditors (Rs. 6.25 Crores) had partially acknowledged the amounts due, letters sent to 10 creditors had been returned undelivered. The rest of the creditors had not respond.

4.3.4. During the FY ending 31.03.2017 and 31.03.2018 (provisional) the Company had written off debtors amounting to Rs. 8.04 Crores and Rs. 95.61 crores respectively. However, the Company had provided the Forensic Auditor, the details only in respect of bad debts amounting to Rs. 88.43 Crores. It was further observed that the Company had not provided to the Forensic Auditor, the basis for writing off such debtors for which the Forensic Auditor had not received any documentation from the Company.

4.3.5. As on August 14, 2019, the total trade receivables from 240 parties aggregated to Rs. 389.57 crores of which approx. 92% (Rs. 359.35 crores) pertained to trade receivables from 20 parties. Further, the receivable outstanding for more than one year aggregated to approx. 41% of total receivables (Rs. 161.09 crores). It was further observed that out of the total trade receivables, approx. 68% (Rs. 243.83 crores) were receivable from 7 entities (Zenith Fabricators Pvt. Ltd., MHJ Metals Techs Pvt Ltd, Abide Electronics Pvt. Ltd., Arjun Ispat India Private Limited, Ferrite Alloys Inc., Daga Trading Company Pvt. Ltd. & SK Metals India) pertaining to the Steel Trading Division at Jaipur and Okhla location.

4.3.6. Transaction Auditor indicated the following anomalies:

4.3.6.1. Uttrakhand Power Corporation Ltd. (hereinafter referred to as "UPCL"):

a. Fedders had provided services relating to power projects to UPCL. As on 14 August 2019, the total receivables from UPCL aggregated to Rs. 62.19 crores. Out of the above, Rs. 61.56 crores (~99%) were outstanding for more than one year. The receivable balances from UPCL aggregating to Rs. 7.41 crores were adjusted against the outstanding dues to nine parties.

b. No supporting documents such as copies of contracts/agreements, reasons/justification pertaining to book adjustments, correspondence/ instruction given to UPCL for making direct payment to third parties were provided to Transaction Auditor.

c. During the months of May and July 2019, Fedders had booked adjustment entries aggregating to Rs. 2.74 crores, between UPCL and four sub-contractors (creditors). Further, a review of the books of accounts indicated that these adjustment entries were made towards potential direct payments made by UPCL to the four sub-contractors.

d. The Transaction Auditor was informed by the company that these payments were made directly by UPCL (customer) to the sub-contractors to ensure continuity for the ongoing projects. However, the company had not provided the Transaction Auditor the critical supporting documentation pertaining to the book adjustments / potential payments, such as instruction given to UPCL to make the direct payments to sub-contractors on behalf of the Fedders, communication/ correspondence between the debtors and creditors for these transactions.

4.3.6.2. Arjun Ispat Pvt. Ltd. (hereinafter referred to as "AIPT")

a. During the period between May 2015 to Aug 2015, Fedders had entered into trading sales transactions amounting to Rs. 13.08 crores with AIPT. Further, a review of the sales register indicated that all the 140 invoices raised by Fedders to AIPT were in sequential order.

b. Long outstanding receivable balance aggregating to Rs. 9.02 crores from AIPT since May 2016.

c. Public domain searches indicated that AIPT does not have any website. Further, as per the MCA records, on June 17, 2019, the status of AIPT was under liquidation. Confirmation letter of receivable balance on the registered office address of AIPT returned undelivered.

d. No supporting documents such as copies of contract/ agreement, sample sales invoices along with underlying supporting documents and correspondences/ follow up actions taken by the company for recovery of balances were provided to the Transaction Auditor.

4.3.6.3. Ramky Infrastructure Ltd. (hereinafter referred to as "Ramky")

a. During the period between June 2015 to March 2017, Fedders had sold goods and provided erection services aggregating to Rs. 31.40 crores to Ramky. Further, as on

August 14, 2019, the receivables from Ramky aggregated to Rs. 3.91 crores which were outstanding since more than one year.

b. Even though public searches indicated that Ramky is a renowned entity and engaged in the business of infrastructure development, integrated construction and also had operational web-presence (website), no response was received regarding receivable balance confirmation.

c. Review of books of accounts indicated that during the Review Period, the company had received an amount aggregating to Rs. 24.50 cores from Ramky. However, review of bank account statements of SBI (A/c No. 61149642071), indicated that on March 17, 2017, the company had received an amount aggregating to Rs. 0.20 crores. However, the Transaction Auditor was not provided with the remaining bank account statements to verify the balance transactions.

d. Review of the books of accounts indicated that during the period FY 2015-16 to FY 2016-17, the company had recorded adjustment transactions wherein the receivable balance from Ramky aggregating to Rs. 1.29 crores were transferred to the advances to two parties.

e. The Transaction Auditor was not provided with the critical supporting documents such as a copy of contract/ agreement, sample sales invoices along with the underlying supporting documents, reason / justification pertaining to book adjustments with other parties and follow-up communications to recover the receivable balances.

4.3.6.4. Daga Trading Company Pvt. Ltd. (hereinafter referred to as “DTCPL”)

a. During FY 2016-17 and FY 2017-18, Fedders entered into trading sales transactions aggregating to Rs. 33.67 crores with DTCPL. Further, as on Aug 14, 2019, the receivables from DTCPL aggregated to Rs. 3.87 crores which were receivable for more than one year.

b. Review of the books of accounts indicated that on March 31, 2018, Fedders had recorded adjustment transactions wherein the receivable balance from DTCPL aggregating to Rs. 0.86 crores were transferred to the receivable from MHJ Metal Tech Pvt. Ltd.

c. Transaction Auditor was not provided with the critical supporting documents such as copy of contract/ agreements, sample sales invoices along with underlying supporting documents, reason / justification for book adjustments and follow-up communications for recovery of receivable balances.

4.3.7. Transaction Auditor had sent balance confirmation letters to 20 debtors. While 14 debtors had not responded, the letters sent to 6 debtors were returned undelivered due to incomplete address/ address not found.

4.3.8. During the period FY 2015-16 to FY 2018-19, the Company had written off receivable balances aggregating to Rs. 113.59 crores. Out of these, Rs. 97.81 crores (~86%) pertaining to 705 customers, were written-off during FY 2017-18. It was further observed that the top 20 customers contributed ~78% (Rs. 76.23 crores) of total write-offs.

Table 15: Debtors written off (Rs. in crores)

Particulars	**01.07.2012 to 30.06.2013**	**01.07.2013 to 30.06.2014**	**01.07.2014 to 30.06.2015**	**01.07.2015 to 31.03.2016**	**01.04.2016 to 31.03.2017**	**01.04.2017 to 31.03.2018**	**01.04.2018 to 31.03.2019**	**Total**
Bad Debts	0.05	-	-	-	8.04	97.81	2.79	113.59
Provision for Doubtful Debts	-	0.06	-	4.95	-	-		
Total	0.05	0.06	0.00	4.95	8.04	97.81	2.79	113.59

4.3.9. Statutory Auditor of Company, M/s. G. K. Kedia & Co. had qualified the Audit report for the year ended 31/3/2018 as below:

"We sought External Confirmation from the top 10 customers and vendors for the year ended 31.03.2018 which we could not conclude because of confirmations not received from most of the parties, therefore we cannot satisfy ourselves for the balances of parties appearing in the Financial Statements. In view of these, read

along with our comments mentioned in Point 1, and considering that the Company does not have process in place to perform periodical reconciliation of balances with customers and vendors we were unable to comment on recoverability of account receivable balance and advance given to suppliers and completeness of account payable balances."

"Further, the balance confirmation from one of the vendor "POSCO India Holdings Private Limited formerly known as "POSCO India Chemical Steel Processing Centre Private Limited" had been received which is showing a difference of Rs 0.25 Crores."

"The Company had done assignment of debt (i.e. Transfer of Debt, and all the associated rights and obligations from a creditor to a third party) during the FY 2017-18 with regard to Related Party Transactions. It had resulted into reduction debtors and creditors by Rs. 94.87 Crores"

4.3.10. Hence, from the aforesaid, it was alleged that the majority of the Debtors reported by the company were fictitious and non-recoverable. It was further alleged that Company had recorded fictitious debtors and creditors which in turn manipulated the net-worth shown in the Financial Statements during the IP and given a rosy picture of the financials to the stakeholders of the company.

4.4. **Advances Payable and Receivable:**

4.4.1. As on August 14, 2019, the advances receivable from 566 vendors aggregated to Rs. 22.57 crores of which approx. 68% (Rs. 15.42 crores) pertained to advances receivable from 18 vendors.

4.4.2. Transaction Auditor indicated the following anomalies in transactions with six (6) vendors with advances aggregating to Rs. 10.67 crores:

Table 16:

S. No.	Vendor Name	Nature of Transactions	Amount (Rs. in crores)	Observations
1	Vardhman Precision Profiles and Tubes Pvt. Ltd. ("VPTPL")	Unable to ascertain due to limited information	3.27	Advances long outstanding since 2011. Public domain searches indicated that the VPTPL does not have any website. Letter sent for balance confirmation on the registered office address of VPTPL

S. No.	Vendor Name	Nature of Transactions	Amount (Rs. in crores)	Observations
				returned undelivered due to incomplete address/ address not found.
2	Easykonnect	Advance for Dubai Solar Project	2.00	An amount aggregating to Rs. 2 crore paid during the period between Feb 2017 to Aug 2017 Public domain searches indicated that Easykonnect does not have any website. Further, the address of the entity was not available in the vendor master.
3	Beacon Skillvantage	Advance for Dubai Solar Project	1.90	During the period between March 2017 to Aug 2017, an amount aggregating to Rs. 1.90 crore was paid to Beacon Skillvantage for Dubai Solar Project. Public domain searches indicated that Beacon Skillvantage does not have any website. Further, the address of the entity was not available in the vendor master.
4	Laser Cables Pvt. Ltd. ("LCPL")	Unable to ascertain due to limited information	1.48	Advances long outstanding since 2012. Public domain searches indicated that the name of LCPL was changed to Laser Power & Infra Pvt. Ltd. and is situated at Kolkata. Further, the company is also having operational web-presence (website). No response with respect to the independent verification of balances on the registered office address of LCPL i.e. 4A, Pollock Street, 3Rd Floor, Kolkata, West Bengal.
5	M K Steel Traders ("M K Steel")	Purchase of trading goods	1.43	All the purchases made from M K Steel were from Jaipur and Delhi location of steel trading division All the invoices were sequential in order Potentially non-existing entity
6	V.K Sood Engineers & Contractors Pvt. Ltd. ("VKS")	Unable to ascertain due to limited information	0.59	Advance long outstanding since 2013. Independent verification of advances on the registered office address of VKS i.e. H. N. 1181, Indira Colony, Manimajara, Chandigarh, stated that

S. No.	Vendor Name	Nature of Transactions	Amount (Rs. in crores)	Observations
				the company owed an amount aggregating to Rs. 4.87 crores to VKS. Further, it was also noted VKS had submitted its claim amounting to Rs. 4.87 crores to RP, however, the same was not admitted.
Total			10.67	

4.4.3. It is further observed from TAR that Transaction Auditor had also indicated the following anomalies in respect of advances mentioned in above table:

a. Non-availability of critical supporting documentation
b. No follow-up action taken by the Company
c. Non-availability of contact details/addresses of the suppliers
d. Adverse independent balance confirmation

4.4.4. Hence, from the aforesaid, it was alleged that advances given by the company to six suppliers aggregating to Rs. 10.67 crores appear to be non-recoverable and potentially fraudulent/ wrongful trading transactions.

4.5. **<u>Inflation of Inventory:</u>**

4.5.1. It was observed from FAR that Fedders had submitted monthly stock statements on regular basis to the banks for computation of drawing power in the cash credit accounts up to the month of March 2018.

4.5.2. On comparison of the stock statements with stock register and audited balance sheets as on 30.6.2013, 30.6.2014, 30.6.2015, 31.03.2016, 31.03.2017 and provisional Balance sheet dated 31.3.2018, the value of stock as reported in the stock statements & the audited balance sheet is significantly higher than the value of stock as per the stock register shown in below table:

Table 17: (Rs in crores)

S. No.	Particulars	30.06.13	30.06.14	30.06.15	31.03.16	31.03.17	31.03.18
1	Stock Statements	*	404.30	378.54	398.56	403.09	420.28
2	Balance Sheets	287.51	404.59	416.26	393.89	379.81	82.33
3	Stock Register	103.9	92.09	122.38	117.97	105.52	82.33
4	Difference (1-3)	*	312.21	256.16	280.59	297.57	337.95
4	Difference (1-2)	*	-0.29	-37.72	4.67	23.28	337.95

* Stock Statement of June 2013 was not provided to the Forensic Auditor by the Company or the bank.

4.5.3. Company used to pass dummy journal entries in its accounting software (SAP) through Journal vouchers. These dummy entries inflated the quantity and the value of stock appearing in the Trial Balance. However, the stock register which was an automated inventory reporting tool of SAP is not affected by such dummy entries. It was further observed that the list of such Journal Vouchers were not provided to Forensic Auditor by the Company. Further, no rationale/reply had been provided by the Company to Forensic Auditor regarding the differences mentioned in above table

4.5.4. Mr. Rajeev Kumar Bansal had written a letter dated 25.10.2018 to Mr. Akhter Aziz Siddiqi (former Chief Financial Officer and Whole Time Director) inquired about discrepancies in the value of closing stock as disclosed to the banks. In response to this letter Mr. Akhter Aziz Siddiqi had accepted such manipulation in the books of accounts.

4.5.5. Closing stock was overvalued until FY 2016-17, but for FY 2017-18 Fedders disclosed the correct value of the closing stock. As a result, the Cost of Goods sold to sales ratio had increased from 84.64% in F.Y. 2016-17 to 118.17% in F.Y. 2017-18.

Table 18: (Rs in crores)

Particulars	As on 30.06.2013	As on 30.06.2014	As on 30.06.2015	As on 31.03.2016	As on 31.03.2017	As on 31.03.2018
Cost of Goods Sold	807.45	932.23	1,083.99	851.87	1145.64	1,462.03
Income from operations (Sales)	1,015.60	1,160.34	1,316.17	1,030.94	1,353.58	1,237.15
COGS to Sales Ratio (%)	79.50	80.34	82.36	82.63	84.64	118.17

4.5.6. Statutory auditor of the Company, M/s. G. K. Kedia & Co. for the FY 2017-18 had stated the following reservation in his Basis for Disclaimer of Opinion Paragraph:

"Attention is invited to Note No 27 of the Financial Statements which states the Cost of Material Consumed during the financial year. There had been a significant change in the pattern of consumption of Raw Material in the 4th quarter. As extracted and computed from the published quarterly results for the first 3 quarters, average rate of consumption of raw material is around 86% which had drastically increased to 138% in the 4th quarter. Further, management had not provided any satisfactory explanations and documentary evidences to justify the above variation in the consumption pattern. Therefore, we were unable to comment on the possible adjustment in the Cost of Material Consumed."

"We were appointed as auditor of the Company after 31.03.2018 and thus could not observe the counting of physical inventories at the beginning and end of the year. The Company had also NOT maintained proper records including reconciliation of goods purchased/sold in terms of quantity and value. We were unable to satisfy ourselves by alternative means concerning the inventory quantities held at 31.03.2018 and 31.03.2017 which are valued at Rs 82.33 Crores and Rs 379.81 Crores respectively. Therefore, we were unable to determine any possible adjustments that might have been found necessary in respect of recorded or unrecorded inventories and the elements making up the Statement of Profit and Loss."

4.5.7. Fedders had written off the inventory aggregating to Rs. 297.48 crores through multiple Journal Voucher entries recorded on 31 March 2018.

Table 19: (Rs. in crores)

Category	Closing balance of inventory as on 31 March 2017	Closing balance of inventory as on 31 March 2018	Reduction (write-off) in inventory
Work in progress	193.89	5.65	188.24
Raw Material	142.33	71.48	70.85
Finished Goods	43.13	4.92	38.21
Stock-in-transit	0.46	0.28	0.18
Total	379.81	82.33	297.48

4.5.8. Transaction Auditor had not been provided with the critical supporting documentation such as the break-up of item-wise inventory classification, basis of reduction, physical stock verification report, consumption details, etc. for the above mentioned written off of Inventory. Further, this was also highlighted by the Statutory Auditor during the audit of FY 2017-18.

4.5.9. Hence, from the aforesaid, it was alleged that these transactions are potentially fraudulent/wrongful trading transactions and the financial statements were misrepresented in this regard. It was further alleged that Company had calculated different stock statements and inventory balances for different needs. Year on year, there were differences between the stock statements given to the bank, Balance sheet and Stock register during FY 2012-13 to FY 2017-2018. The value of Stock was inflated in the Stock Statements and the Audited Balance Sheet and the company was misreporting the numbers to the detriment of all the stakeholders and the Stock of the company on which the Bankers held a first charge had been siphoned off without the knowledge of the Banks.

4.5.10. It was further alleged that by overvaluation of Closing Stock in its Statement of Profit and Loss, the Company had increased the amount of profit shown in the Financial Statements during these FYs. The higher profit shown by the Company during these FYs apparently had influenced the decision of the Bank Authorities while sanctioning credit facilities to the Company. Similarly, it had given a rosy picture of the financials there by influencing the decision of investors dealing in the shares of the Company.

4.6. Analysis of Assets and Liabilities:

4.6.1. Unexplained write-off of Fixed Asset:

a. Company had written-off fixed assets aggregating to Rs. 11.23 crores in FY 2017-18 and charged to the Profit & Loss A/c under the head “Material Consumption Account”. However, in the Audited Financial Statement for FY 2017-18, no transaction pertaining to disposal of Fixed Assets was recorded. Company had informed Transaction Auditor that write-off of fixed assets pertaining to capital work in progress lying in the books of accounts since the year 2012. However, Transaction Auditor was not provided with the critical supporting documents such as details of assets written-off, justification/ clarification for write-offs, copies of approvals, reasons for not recording the transaction in the Audited Financial Statements etc. by the company

b. Hence, from the aforesaid, it was alleged that these transactions are potentially fraudulent/ wrongful trading transactions.

4.6.2. Additions to Fixed Assets

a. Company had made additions to Plant & Machinery aggregating to Rs. 28.79 crores (~75% of the total additions), tabulated as under:

Table 20: ***(Rs. in crore)***

Asset Category	01 Jul 14 to 30 Jun 15	01 Jul 15 to 31 Mar 16	01 Apr 16 to 31 Mar 17	01 Apr 17 to 31 Mar 18	01 Apr 18 to 31 Mar 19	Total	% of Total additions
Plant & Machinery	10.14	6.78	8.34	2.40	1.13	28.79	78%
Factory Building	5.10	0.06	0.02	0.00	0.00	5.18	14%
Land	1.37	0.41	0.00	0.01	0.00	1.79	5%
Office Equipment	0.13	0.02	0.04	0.48	0.02	0.69	2%
Motor Car	0.00	0.58	0.00	0.00	0.00	0.58	1%
Total	16.74	7.85	8.40	2.89	1.15	37.03	100%

b. Additions to Plant & Machinery during FY 2018-19 aggregated to Rs. 1.13 crores pertained to transfer of balance from Capital Work-In-Progress Account. However, Transaction Auditor was not provided with the critical supporting documents such as a detailed Fixed Asset Register containing item-wise asset name and description, purchase and capitalisation dates, purchase cost, department/ location of asset, copies of approvals, comparative quotations, purchase orders, invoices for the purchase of fixed assets etc.

4.6.3. **<u>Sale of property at Sikandrabad:</u>**

a. A resolution was passed by the Board of Directors in the Board Meeting dated June 13, 2018 for sale of property situated at A11 & A12, UPSIDC Industrial Area, Sikandrabad, Bulandshahr-203 205. The Board Resolution mentioned that, Mr. Shiv Kumar Sharma, an official of the Company was authorized to execute the sale deed and represent the company before the appropriate Authorities. However, Mr. Shiv Kumar Sharma was neither an employee nor a Director of the company. Further, public domain searches indicated that Mr. Shiv Kumar Sharma was a Director in the Related Parties of Fedders.

b. Company had also received amounts from a third party for sale of property at Sikandrabad. However, no transactions pertaining to sales / disposal of Fixed Assets (Land) was recorded by the company. Further, Transaction Auditor was also not provided with the critical supporting documentation such as approval pertaining to sale of property, due diligence, valuation of property, sales agreement / deed, invoices, location-wise break up of property in the Fixed Assets Register etc. by the Company.

c. Hence, from the aforesaid, it was alleged that these transactions are potentially fraudulent/ wrongful trading transactions.

4.6.4. **Liquidated Damages (**hereinafter referred to as **"LD") recoverable**

a. As on August 14, 2019, total LD recoverable from eleven (11) customers aggregated to Rs. 91.82 crores. Out of the same, the LD recoverable from top eight (8) customers aggregated to Rs. 91.63 crores (~99%). It was further observed that these LD recoverable were long outstanding (since 2015) and pertained to works contract initiated during the period 2015 to 2016. Details tabulated as under:

Table 21: (Rs. in crore)

S. No.	Customer name	Division	Contract date	Amount
1	Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Ltd (Bhopal)	Power Division	10-Aug-2016	34.57
2	Uttrakahnd Power Corporation Ltd.	Power Division	Contract was not available	20.00
3	Nigeria Electricity and Gas Improvement Project	IPD Division	Contract was not available	18.46
4	Odisha Power Transmission Corporation Ltd.	Power Division	13-Oct-2015	15.21
5	Haryana Vidyut Prasaran Nigam Ltd.	Power Division	8-Dec-2015	1.21
6	Wonji Shoa Sugar Factory	Export Division	Contract was not available	1.01
7	Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Ltd (Indore)	Power division	Contract was not available	0.80
8	Natrip Implementation Security	Steel Structure division	Contract was not available	0.37
	Total			91.63

b. Transaction Auditor was only provided with copies of four contracts / agreements out of the above six customers. However, other critical supporting documents such as sample invoices, work completion certificate, follow-up action / arbitration proceedings initiated by the company towards recovery of the receivable balance was not provided by the Company.

4.6.5. **Retention money recoverable:**

a. As on Aug 14, 2019, total retention money receivable from 27 customers aggregated to Rs. 117.75 crores. Out of the same, the retention money receivable from top ten (10) customers aggregated to Rs. 104.56 crore (~89%). It was further observed that the entire retention money recoverable pertained to works contract initiated during the period 2013 to 2016. Refer table below for details:

Table 22: ***(Rs. in crore)***

S. No.	Customer name	Division	Terms	Contract date	Amount
1	Haryana Vidyut Prasaran Nigam Limited	Power division	As per contract	8-Dec-2015	16.32
2	Chhattisgarh State Power Generation Company (Bilaspur)	Power division	As per contract	29-Oct-2016	15.78
3	Ethiopian Electric Power Corporation	Power division	Contract was not available		14.06
4	Nigeria Electricity and Gas Improvement Project	IPD division	Contract was not available		11.79
5	Odisha Power Transmission Corporation Limited	Power division	As per contract	13-Oct-2015	10.27
6	Chhattisgarh State Power Generation Company (Durgapur)	Power division	As per contract	29-Oct-2016	9.51
7	Power Grid Corporation of India Ltd (Allahabad)	Power division	As per contract	21-May-2014	9.17
8	East Coast Railway	OHE	Contract was not available		6.12
9	Jharkhand State Electricity Board	Power division	As per contract	8-June-2013	5.88
10	Power Grid Corporation of India Ltd (Alipurduar)	Power division	As per contract	19-May-2014	5.66
Total					104.56

4.6.6. **Earnest money receivable**

a. As on August 14, 2019, the earnest money receivable from 69 customers aggregated to Rs. 14.37 crores. Out of the total earnest money receivables, Rs. 12.22 crores (~85%) pertained to earnest money receivables from 12 customers. Refer table below for the ageing details of earnest money receivable:

Table 23: (Rs. in crore)

S. No.	Customer name	Division	Relation	Less than 1 year	More than 1 year	Total Outstanding As on 14-Aug-2019
1	Sheikh Ahmad Bin Obaid Al Makhtoum	Export Division	Third Party	4.36	-	4.36

S. No.	Customer name	Division	Relation	Less than 1 year	More than 1 year	Total Outstanding As on 14-Aug-2019
2	East Coast Railway	OHE	Third Party	1.5	-	1.5
3	Central Organization for Railway Electrification Gr. 142	OHE	Third Party	-	1.12	1.12
4	South Eastern Railway	OHE	Third Party	-	1.07	1.07
5	Security deposit others			-	0.92	0.92
6	Railway Electrification Vellore	OHE	Third Party	-	0.64	0.64
7	South East Central Railway	OHE	Third Party	-	0.62	0.62
8	Railway Electrification Meerut	OHE	Third Party	-	0.53	0.53
9	Northern Railway	OHE	Third Party	-	0.51	0.51
10	Registrar General Himachal Pradesh	Scaffolding	Third Party	-	0.45	0.45
11	Brij Raj Punj	Export Division	Promoter	-	0.27	0.27
12	Natrip Implementation Society	Steel Structure Division	Third Party	-	0.23	0.23
Total				5.86	6.36	12.22

b. Transaction Auditor was only provided with the follow-up email communication with Sheikh Ahmad Bin Obaid Al Makhtoum dated Dec 23, 2019. However, no other important details provided with such as copies of contracts / agreements, sample invoices, work completion certificate, follow-up action / arbitration proceedings initiated by Fedders towards recovery of the receivables etc.

4.6.7. Hence, from the aforesaid, it is alleged that the figures with respect to fixed assets and current assets were apparently non-reliable and an inflated figure.

4.7. NON-AVAILABILITY OF SUPPORTING DOCUMENTATION PERTAINING TO EXPENSES INCURRED IN CASH

4.7.1. Company had incurred expenses in cash to the tune of Rs. 18.86 crores. Year wise breakup of such expenses are tabulated as under:

Table 24: (Rs. in crore)

Particulars	Aug 2014 to Mar 2015	FY 15-16	FY 16-17	FY 17-18	FY 2018-19	Apr 2019 to Aug 2019	Total
Cash	4.71	4.93	5.28	2.93	1.00	0.01	18.86

4.7.2. Majority of the cash expenses were incurred towards salary & wages, director's remuneration, creditor's payments and general office expenditure.

Table 25: (Rs. in crore)

S. No.	Particulars	Aug 2014 to Mar 2015	FY 15-16	FY 16-17	FY 17-18	FY 18-19	Total
1	Salaries & Wages	2.05	1.89	0.68	0.37	0.08	5.07
2	Travelling & Conveyance	0.31	0.65	0.57	0.25	0.09	1.87
3	Balance Settlement- Job Project	-	-	1.85	-	-	1.85
4	Site expenses (Scaffolding Expenses, AC Expense, Air system expense)	0.44	0.3	0.36	0.24	0.14	1.48
5	Advance to multiple vendors	0.17	0.42	0.22	0.04	0.03	0.88
6	Payment to Vendor- Daga Trading Company Pvt. Ltd.	-	-		0.30	-	0.30
7	Director Remuneration	-	0.05	0.09	0.09	-	0.23
	Total	2.97	3.31	3.77	1.29	0.34	11.68

4.7.3. Company had not provided the critical supporting documents such as policy for cash payments, approval of cash withdrawals from bank, cash payment vouchers and underlying supporting documentation etc.in support of the above mentioned expenses to the Transaction Auditor. Hence, it was alleged that these figures were apparently doubtful in nature.

4.8. **Misappropriation and Diversion of Funds**

4.8.1. Transactions with M/s Mindage Solutions Pvt. Ltd. ("MSPL") towards consultancy charges:

a. During the period April 2017 to June 2017, Fedders entered into transactions with MSPL for an amount aggregating to Rs. 5.55 crores towards consultancy charges for marketing activity. Fedders made the following payments aggregating to Rs. 5.17 crores (net of taxes) to MSPL.

Table 26: (Rs. in crore)

S. No.	Date	Bank Name	Bank Account No.	Amount
1	21-Apr-2017	SBOP	55055198033	2.07
2	8-May-2017	SBI	10277791569	2.05
3	3-Jun-2017	SBOP	55055198033	1.05
	Total			5.17

b. Public domain searches indicated that Fedders and MSPL are PILE through a common director i.e. Mr. Nipun Singhal, who was also holding directorship in LEEL Electricals Limited (Related Party) during the period May 2013 to May 2017.

c. Transaction Auditor indicated following anomalies in vendor on-boarding process and transactions with MSPL:

i. **Different line of business**: Public domain searches indicated that MSPL primarily deals in software publishing, consultancy and supply of software. However, Fedders had engaged MSPL for consultancy services pertaining to marketing activities which are not in line with nature of services/ business provided by MSPL.

ii. **No comparative quotations and price discovery:** Fedders had not obtained any quotations or comparative quotations from the vendor(s) to ascertain the market price of the services.

iii. **Significant increase in the revenue of MSPL:** As per MCA website, there was a significant increase (~37 times from average of previous two years) in the revenue of MSPL during FY 2017-18.

Table 27: ***(Rs. in crore*****)**

S. No	Period	Revenue of MSPL	Transactions with MSPL	% contribution
1	FY 2015-16	0.24	-	-
2	FY 2016-17	0.26	-	-
3	FY 2017-18	9.61	5.55	58%

iv. **Limited vendor credential available**: Critical vendor details were not maintained (i.e. PAN, Contact Details, VAT / Service Tax number, Bank details etc.)

v. **Invoice/ Payment approved by unauthorized personnel**: The Transaction Auditor was informed by the management that the invoices were approved by Ms. Anita Kakar Sharma, though she was not authorized to approve such transactions. Ms. Anita was an employee and Company Secretary of LEEL from April 2006 to December 2018.

vi. **Potential non-existence of MSPL**: Public domain searches indicated that MSPL does not have any website. Transaction Auditor had tried to establish contact with the representatives of MSPL on the contact details (i.e., 0240-2489385 and +91 9326231999) mentioned on the invoice of MSPL. However, the contact number 0240-2489385 was not existent (incorrect number) and +91 9326231999 was not reachable.

vii. **Non-availability of critical supporting documents**: Apart from the copies of invoices, the critical supporting documentation such as copy of agreement, vendor on boarding documents, quotations received from other parties for price benchmarking, supporting documents to proof of service delivered by vendor had not been provided to Transaction Auditor.

4.8.2. Hence, from the aforesaid, it was alleged that these transactions are fraudulent /wrongful trading transactions.

4.9. **INFUSION OF FUNDS**

4.9.1. Share capital and securities premium account of Fedders during the period 01.04.2012 to 31.03.2018 were as follows:

Table 28: ***(Rs. in crore)***

S. No	Particulars	As on 30.06. 2012	As on 30.06. 2013	As on 30.06. 2014	As on 30.06. 2015	As on 31.03. 2016	As on 31.03. 2017	As on 31.03. 2018
1	Share Capital	30.77	30.77	30.77	30.77	30.77	33.97	33.97
2	Share Warrants	0.00	0.00	-	-	9.37	-	
3	Securities Premium Account	25.64	25.64	25.64	25.64	25.64	46.44	46.44
4	Warrant application money forfeited	-	-	-	-	-	3.37	3.37
	Total	56.41	56.41	56.41	56.41	65.78	83.78	83.78
	Fresh Equity Infused					9.37	18.00	

4.9.2. During the FY ended 31.3.2016 (on 03.08.2015), Fedders issued 50,00,000 Share warrants to the promoters on a preferential basis @ Rs. 75/- per warrant. Accordingly, 25% of the total consideration i.e. Rs. 9.37 Crores (50,00,000 x Rs. 18.75/- per warrant) was received by the company during FY ended 31.03.2016. Further during the FY ended 31.3.2017, the promoters exercised their right to convert 32,00,000 warrants to equity shares by paying the balance 75% of total consideration of warrants, i.e. Rs. 56.25/- per warrant, amounting to Rs. 18.00 crores (32,00,000 x Rs. 56.25). The application amount on the balance 18,00,000 warrants amounting to Rs. 3.37 Crores (18,00,000 x Rs. 18.75) had been forfeited by the Company and credited to the capital reserve. A summarized account of no. of share warrants issued and money received from promoter companies shown in below tables:

Table 29: Share Warrants issued, subscribed & forfeited

S. No.	Particulars	Application of Warrants	Share Warrants Converted	Share Warrants Converted	Share Warrants Forfeited
	Date	**03.08.2015**	**30.12.2016**	**13.01.2017**	**31.03.2017**
1	Airserco Private Limited	10,00,000	4,00,000	1,00,000	5,00,000
2	Lloyds Credits Limited (Now Known as Fedders Credit Ltd)	5,00,000	4,00,000	1,00,000	-
3	Himalayan Mineral Water (P) Limited	10,00,000	4,00,000	1,00,000	5,00,000
4	Lloyd Aircon Private Limited (Now known as Fedders Aircool (P) Ltd)	10,00,000	3,00,000	2,00,000	5,00,000
5	Pandit Kanhaya Lal Punj (P) limited	10,00,000	4,00,000	3,00,000	3,00,000
6	Lloyd Stock & Investment (P) Ltd (Now known as Fedders Stock & Investment (P) Ltd)	5,00,000	1,60,000	3,40,000	-
	TOTAL	50,00,000	20,60,000	11,40,000	18,00,000

Table 30: Money received from promoter group companies

S. No	Particulars	FY 15-16	FY 16-17	Total
1	Airserco Private Limited	1,87,50,000	2,81,25,000	4,68,75,000
2	Lloyds Credits Limited (Now Known as Fedders Credit Ltd)	93,75,000	2,81,25,000	3,75,00,000
3	Himalayan Mineral Water (P) Limited	1,87,50,000	2,81,25,000	4,68,75,000
4	Lloyd Aircon Private Limited (Now known as Fedders Aircool (P) Ltd)	1,87,50,000	2,81,25,000	4,68,75,000
5	Pandit Kanhaya Lal Punj (P) limited	1,87,50,000	3,93,75,000	5,81,25,000
6	Lloyd Stock & Investment (P) Ltd (Now known as Fedders Stock & Investment (P) Ltd)	93,75,000	2,81,25,000	3,75,00,000
	Total	9,37,50,000	18,00,00,000	27,37,50,000

4.9.3. Out of Rs. 27.37 Crores infused into the company, Rs. 17.07 Crores had been funded by 2 parties namely M/s Zenith Impex Private Limited and M/s Rajul Estate Holding Private Limited. Fedders had business transactions with both these companies and its associate M/s Zenith Fabricators (P) Limited. Details of sources of such infusion are detailed in FAR.

Table 31: **(*Rs. in crore*)**

S. No	Promoter Company in which amount received	Zenith Impex Private Limited	Rajul Estate Holding Private Limited	Total
1	Airserco Private Limited	1.65	1.36	3.01
2	Lloyds Credits Limited	0.00	2.81	2.81
3	Himalayan Mineral Water (P) Limited	1.66	0.00	1.66
4	Lloyd Aircon Private Limited	0.00	2.82	2.82
5	Pandit Kanhaya Lal Punj (P) Limited	3.84	0.10	3.94
6	Lloyd Stock & Investment (P) Ltd	1.53	1.29	2.82
	Total	8.69	8.38	17.07

4.9.4. Also, connection between above mentioned companies are as under:

The directors of M/s Zenith Impex (P) Limited & M/s Rajul Estate (P) Limited i.e., Mr Krishan Gopal Sharma (01483112) & Ms Renu Sharma (02090235) are also directors in M/s Western Foods (P) Limited along with Mr. Mohan Singh Rawat (01483112) who is also a director in other group companies (M/s Himalayan Mineral Water (P) Ltd, PSL Engineering (P) Limited & Lloyd Agro seeds (P) Limited).

4.10. RELATED PARTY TRANSACTIONS AND DISCLOSURE VIOLATION

4.10.1. Relevant extracts of LODR Regulations with respect to Related Party Transactions and Disclosure violation are reproduced below:

Regulation 23(1) of LODR Regulations, 2015:
The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions including clear threshold limits duly approved by the board of directors and such policy shall be reviewed by the board of directors at least once every three years and updated accordingly:
Explanation. - A transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity."
Regulation 23(2) of LODR: *"All related party transactions shall require prior approval of the audit committee."*
Regulation 23(4) of LODR: *"All material related party transactions shall require approval of the shareholders through resolution and no related party shall vote to*

approve such resolutions whether the entity is a related party to the particular transaction or not."

4.10.2. From the aforesaid, it was observed that all related party transactions require Audit Committee (hereinafter referred to as "AC") approval as per Regulations 23(2) of LODR Regulations. However, it was observed from the deposition of the members of AC and the Company Secretary that no AC meeting had ever taken place in Fedders except for one-two times. Only the minutes of the meeting were circulated. Further, it was observed that the Company failed to provide the details of AC meetings to the Forensic Auditor and Transaction Auditor. Hence, it was alleged that there was never a prior approval of the AC for any of the related party transactions that the company had entered into and hence, the company was in violation of Regulation 23 (2) of the LODR Regulations.

4.10.3. As per Audited Balance Sheet as on 31.03.2017, the Company had two (2) Subsidiaries and eighteen (18) Associate Concerns:

Table 32:

	Subsidiaries:
1	Fedders Lloyd Trading FZE
2	Fedders Lloyd Nigeria Limited (Yet to Commence Operations)
	Associate Concerns
1	Airserco Private. Limited.
2	Perfect Radiators & Oil Coolers Private. Limited.
3	PSL Engineering Private. Limited.
4	Regal Information Technology Private. Limited.
5	Fedders Credits Limited. (Formerly known as Lloyd Credits Limited.)
6	Fedders Sales Private. Limited (Formerly known as Lloyd Sales Private. Limited.)
7	Fedders Manufacturing Private. Limited. (Formerly known as Lloyd Manufacturing Private. Limited.)
8	LEEL Electricals Limited. (Formerly known as Lloyd Electric & Engineering Limited)
9	Himalayan Mineral Waters Private. Limited.
10	Fedders Aircool Private. Limited. (Formerly known as Lloyd Aircon Private. Limited.)
11	Fedders IT Technology Private. Limited. (Formerly known as Lloyd IT Technology Private. Limited)
12	Fedders Infotech (India) Private. Limited. (Formerly known as Lloyd Infotech (India) Private. Limited)
13	Fedders Stock & Investment Private. Limited. (Formerly known as Lloyd Stock & Investment Private Limited.)

14	Punj Engineering Private. Limited.
15	Punj Services Private. Limited.
16	Pandit Kanahya Lal Punj Private. Limited.
17	Pandit Kanahya Lal Punj Trust
18	Brij Raj Punj (HUF)

4.10.4. Company had not disclosed significant Related Party transactions in its financial statements. Such transactions majorly include purchase and sale of traded goods, Payments made, Payments received and inter-party transfers. Also, neither there was any disclosure of advances given to related parties nor of advances received from Related parties in any of the Financial Statements from the period dated 30/6/2012 to 31/3/2017. Hence, it was alleged that the Company had violated the requirements of "AS 18: Related Party Disclosures" as issued by The Institute of Chartered Accountants of India.

4.10.5. Company had transferred the balances of one Related Party to another with the purpose of matching Books of Accounts with Financial Statements for the FY 31/3/2017 which had NIL disclosure of any balance due to or due from Related Parties. The Company had also created a fictitious head by the name of *Job project* to solve the aforesaid purpose and Company had not provided the Forensic Auditor the basis on which inter party adjustments were made. Hence, it was alleged that Company intended to eliminate all balance due and from its related parties in its Books of Accounts by Passing inter Party adjustment entries.

4.10.6. Statutory auditor of the Company, M/s. G. K. Kedia & Co. for the FY 2017-18 had stated the following reservation in his Basis for Disclaimer of Opinion Paragraph:

"The Company had done assignment of debt (i.e. Transfer of Debt, and all the associated rights and obligations from a creditor to a third party) during the FY 2017-18 with regard to Related Party Transactions. It had resulted into reduction debtors and creditors by Rs. 94.87 Crores"

4.10.7. Company had disclosed total purchases worth Rs 3.67 crores and Sales worth Rs. 37.04 crores during the FY ended 30.06.2013 with its Related Parties and purchases worth Rs 74.95 crores, sales worth Rs. 37.08 Crores and advance received worth Rs.

15.20 Crores during the FY ended 30.06.2014 with its Related Parties. However, there is no bifurcation of transactions with different Related Parties in these FYs. Further, sales and purchases from a single Related concern i.e. LEEL Electrical Limited, is in excess of these amount of Sales and Purchases.

4.10.8. Following anomalies with respect to related party transactions/disclosures were observed:

Table 33:

Sl. No.	Related party	KMPs	Shareholders	Observations
1	Fedders Lloyd Trading FZE (FLTF)	Mr. Brij Raj Punj (Director) Mr. Mukat Behari Sharma (Director)	Fedders Lloyd Corporation Limited - 100%	• In the books of FLTF, Revenue from operations were recorded for FY 2014-15 only • Also, during the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 Fedders had not disclosed any transactions with FLTF. However, in books of FEEL, sales of Rs. 0.43 crores were recorded in FY 2012-13. Advances of Rs. 0.43 & Rs. 1.48 crores were received in FY 2012-13 & FY 2013-14 respectively. Also inter-company/party settlement of Rs. 0.01 crores & Rs. (0.02) crores were noted in FY 2012-13 & FY 2016-17 respectively • Further, the Statutory Auditor in its Audit Report for FY 2017-18 had stated that: *"In relation to the "subsidiary financial statement", the Entity had not carried out any commercial activity during the last 3 years and incurred a net loss of Rs. 1.76 crores (AED 993,133) during the year ended March 31, 2018 and had accumulated a net loss of Rs. 4.75 crores (AED 2,681,980) as of that date. The entity had also an equity deficit and negative working capital of Rs. 1.93 Crores (AED 1,086,456). The commercial license of the entity had expired on March 05, 2018 and had not been renewed till date. The Subsidiary's auditor had not been provided with sufficient appropriate evidence to satisfy themselves about the nature and recoverability of a deposit balance of Rs 11.30 crores (AED 733,102)."*

Sl. No.	Related party	KMPs	Shareholders	Observations
2	Airserco Private Limited (APL)	Mr. Shiv Kumar Sharma (Director) Ms. Rita Joshi (Director) Ms. Madhvi Sharma (Company Secretary)	Fedders sales Private Limited - 39.78% Zenith Impex Pvt Ltd - 20.00% Bharat Raj Punj - 14.00% Brij Raj Punj - 21.59%	• Public domain searches indicated that APL do not have any website. Also, the site visits and source inquiries by TA revealed that it is a potentially non-existent entity. Also, the purchase/sales invoices raised by/to APL were in sequential order. • Further, as per MCA website, Fedders was the sole supplier of APL during FY 2014-15 and a major supplier of APL during FY 2015-16 to FY 16-17. • During the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 Fedders had not disclosed any transactions with APL. However, in the books of FEEL, Sales of Rs. 443.16 crores and Purchases of Rs. 7.81 crores were recorded with no corresponding receipts or payments. Also, advances worth Rs. 400.4 crores were received & Rs. 64.44 crores were paid. • Intercompany/party settlement of Rs. 31.97 crores & Rs. (96.23) crores were noted during the IP
3	Perfect Radiators & Oil Coolers Pvt. Ltd. (PROC)	Mrs. Priya Pandey (Company Secretary) Mrs. Madhu Bhaskar (Director) Mr. Ashok Kumar Sharma (Director)	Fedders sales Private Limited - 40.00% Fedders Manufacturing Private Limited - 25.00% Airserco Private Limited - 12.50% Bharat Raj Punj - 8.75% Brij Raj Punj - 7.56% Renu Punj - 6.19%	• During the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 Fedders had not disclosed any transactions with PROC. • However, in the books of FEEL, Sales of Rs. 6.01 crores and Purchases of Rs. 85.5 crores were recorded with corresponding receipts of Rs. 6.45 crores and payments of Rs. 95.23 crores. Advances worth Rs. 308.1 crores were received & Rs. 60.31 crores were paid. • Also intercompany/party settlement of Rs. 173.62 crores & Rs. (5.02) crores were noted during the IP

Sl. No.	Related party	KMPs	Shareholders	Observations
4	Psl Engineering Pvt. Ltd (PSL)	Mr. Mohan Singh Rawat (Director) Mrs. Rita Joshi (Director) Mr. Shagun Bajpai (KMP)	Fedders sales Private Limited (Formerly Lloyd Sales Pvt Ltd) - 40.00% Fedders Manufacturing Private Limited (Formerly Lloyd Manufacturing Pvt Ltd) - 25.00% Airserco Private Limited - 12.50% Bharat Raj Punj - 8.75% Brij Raj Punj - 7.56% Renu Punj - 6.19%	• Public domain searches indicated that PSL do not have any website. Also, the site visits and source inquiries by the TA revealed that it is a potentially non-existent entity. • Also the purchases/sales invoices raised by/to PSL were in sequential order. • Further, as per MCA website, Fedders was the sole supplier of PSL during FY 14-15 and a major supplier of PSL during FY 15-16. • During the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017, the company had disclosed only 0.4 crores, 2.43 crores and 5.12 crores sales & only 0.71 crores, 0.09 crores & 0.02 crores purchases with PSL as related party transactions. • However, in the books of FEEL, Sales of Rs. 582.16 crores and Purchases of Rs. 23.49 crores were recorded with corresponding receipts of Rs. 472.81 crores and payments of Rs. 12.5 crores. Also, advances worth Rs. 27.71 crores were received & Rs. 72.3 crores were paid. Also inter-company/party settlement of Rs. 214.74 crores & Rs. (291.82) crores were noted during the IP
5	LEEL Electricals Limited (LEEL)	Mr. Surjit Krishan Sharma (Director) Mr. Bharat Raj Punj (Managing Director) Mr. Archin Kumar	Fedders sales Private Limited (Formerly Lloyd Sales Pvt Ltd) - 8.22% Fedders Manufacturing Private	• The purchase/sale invoices raised by/to LEEL were in sequential order. • During the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017, the company had disclosed only 45.54 crores, 21.52 crores and 59.72 crores sales and only 9.36 crores, 6.58 crores & 13.26 crores purchases with LEEL as related party transactions. Also, Fedders had disclosed Rs. 16.91 crores as security deposits for FY ended 30.06.2015 • However, in the books of FEEL, Sales of Rs. 425.25 crores and Purchases of Rs. 790.37 crores

Sl. No.	Related party	KMPs	Shareholders	Observations
		Roy (Director) Mr. Ajay Dogra (Director) Mrs. Geeta Ajit Tekchand (Director) Mr. Mukat Behari Sharma (Director) Mr. Ramesh Kumar Vasudeva (Director) Mrs. Deepti Sahaj (Director) Mrs. Anita Kakkar (VP Finance & CS)	Limited (Formerly Lloyd Manufacturing Pvt Ltd) - 5.59% Airserco Private Limited - 8.20% PSL Engineering Private Limited - 9.21%	were recorded with corresponding receipts of Rs. 425.25 crores and payments of Rs. 785.64 crores. Also, advances worth Rs. 1193.64 crores were received & Rs. 632.74 crores were paid. • Also inter-company/party settlement of Rs. 423.65 crores & Rs. (9.38) crores were noted during the IP
6	Regal Information Technology Pvt. Ltd. (RITPL)	Mrs. Rita Joshi (Director) Mr. Shiv Kumar Sharma (Director)	Mr. Brij Raj Punj - 59.28% Mrs. Renu Punj - 35.68 % Mr. Bharat Raj Punj - 5.04%	• Public domain searches indicated that RITPL does not have any website. Also, the site visits and source inquiries by the Transaction Auditor revealed that it is a potentially non-existent entity. • During the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 Fedders had not disclosed any transactions with RITPL. However, in the books of FEEL, Purchases of Rs. 0.08 crores were recorded with corresponding payments of Rs. 0.08 crores.

Sl. No.	Related party	KMPs	Shareholders	Observations
				Also, advances worth Rs. 2.86 crores were received & Rs. 6.29 crores were paid. • Inter-company/party settlement of Rs. 2.21 crores & Rs. (2.62) crores which involves "Job Project" were also noted during the IP.
7	Fedders Credits Limited (Formerly Lloyd Credit Limited)	Mr. Bharat Raj Punj (Director) Mrs. Rita Joshi (Director) Mr. Shiv Kumar Sharma (Director)	Fedders sales Private Limited - 17.00% Himalayan Minerals Waters Pvt Ltd - 17.00% Fedders Manufacturing Private Limited - 13.00% Fedders Electric & Engineering Ltd - 10.00% Renu Punj - 16.00% Brij Raj Punj- 7.00% Perfect Radiators and Oil Coolers Pvt Ltd - 17.00%	• During the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 Fedders had not disclosed any transactions with Fedders Credit Limited. • However, in the books of FEEL, advances worth Rs. 1.94 crores were received & Rs. 2.33 crores were paid. • Also intercompany/party settlement of Rs. 1.05 crores & Rs. (0.77) crores were noted during the IP.
8	Fedders Sales Private Limited (Formerly Lloyd Sales	Mr. Shiv Kumar Sharma (Director) Mrs. Rita	Mr. Brij Raj Punj - 33.47% Mrs. Renu Punj - 16.72% Mr. Bharat Raj	• Public domain searches indicated that FSPL do not have any website. Also, the site visits and source inquiries by the TA revealed that it is a potentially non-existent entity.

Sl. No.	Related party	KMPs	Shareholders	Observations
	Private Limited) (FSPL)	Joshi (Director)	Punj - 16.57% Mrs. Maya Rani Punj - 16.57% Ms. Bhavana Sareen - 7.46% Ms. Brinda Jajoo - 7.46%	• As per MCA records, FSPL was non-complaint and the date of last Financial Statements submitted was March 31, 2017. • During the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 the company had not disclosed any transactions with Fedders Sales Private Limited. • However, in the books of FEEL, advances worth Rs. 7.89 crores were received & Rs. 0.28 crores were paid. Also inter-company/party settlement of Rs. 17.69 crores & Rs. (10.73) crores which involves "Job Project" is noted in IP.
9	Himalayan Minerals Waters Pvt. Ltd. (HMWPL)	Mr. Mohan Singh Rawat (Director) Mr. Kamla Butola (Director)	Brij Raj Punj (HUF) - 15.00% Fedders Manufacturing Pvt. Ltd.- 17.00% Fedders Aircool Pvt Ltd- 17.00% Airserco Pvt Ltd - 17.00% Renu Punj - 19.00% Pandit Kanahaya Lal Punj Pvt Ltd - 17.00%	• Public domain searches indicated that HMWPL do not have any website. Also, the site visits and source inquiries by the TA revealed that it is a potentially non-existent entity. • It is noted that HMWPL is engaged in the business of manufacturing of beverages. However, one of the KMPs, in his deposition to SEBI stated that HMWPL was not doing any water business but was only holding lands in its name. • Further, employee master indicated that the directors of HMWPL were ex-employees of Fedders. • As per MCA records, FSPL was non-complaint and the date of last Financial Statements submitted was March 31, 2017. The revenue from operations of HMWPL was solely from lease rental and did not have any other business income. Further, it is noted that the total lease rental income of HMWPL for FY 15-16 and FY 16-17 was solely contributed by Fedders. • Fedders, in its books, had disclosed only Rs. 0.2 crores, 0.19 crores and 0.18 crores rent paid as related party transactions with HMWPL during the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 respectively. However, in books of

Sl. No.	Related party	KMPs	Shareholders	Observations
				FEEL, lease of Rs. 1.09 crores were recorded with a corresponding payment of 3.9 crores. Advances of Rs. 20.26 crores were received and Rs. 11.37 crores were paid. • Also intercompany/party settlement of Rs. 12.46 crores which involves "Job Project" is noted in IP.
10	Fedders Aircool Private Limited (Formerly Lloyd Aircon Private Limited)	Mr. Shiv Kumar Sharma (Director) Mrs. Rita Joshi (Director)	Bharat Raj Punj - 16.00% Fedders Sales Pvt. Ltd. (Formerly Known as Lloyd Sales Pvt. Ltd.) - 17.00% Fedders Credits Pvt Ltd(Formerly Known as Lloyd Credits Pvt Ltd) - 17.00% Airserco Pvt Ltd - 17.00% Renu Punj - 13.00% Perfect Radiators and Oil Coolers Pvt Ltd - 17.00%	• During the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 the company had not disclosed any transactions with Fedders Aircool Private Limited. However, in the books of FEEL, advances worth Rs. 54,000 were received & Rs. 68,000 were paid.
11	Fedders IT Technology Pvt. Ltd (Formerly Lloyd It	Mr. Shiv Kumar Sharma (Director) Mr. SS	Fedders Sales Pvt. Ltd. (Formerly Known as Lloyd Sales	• During the 3 FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 the company had not disclosed any transactions with Fedders IT Technology Private Limited. • However, in books of FEEL, Advances of Rs. 9,000 were received and Rs. 1.328 crores were paid.

Sl. No.	Related party	KMPs	Shareholders	Observations
	Technology Private Limited)	Dhawan (Director) Mr. Manohar Tharani (Director) Anil Kumar Vaswani (Director)	Pvt. Ltd.) - 30.00% Fedders Infotech Pvt Ltd - 10.00% Regal Information Technology Pvt Ltd - 10.00% Mrs. Renu Punj - 50.00%	• Also intercompany/party settlement of Rs. 7.22 crores & Rs. (7.22) crores which involves "Job Project" is noted in IP.
12	Fedders Infotech India Pvt Ltd (Formerly Lloyd Infotech India Private Limited)	Mr. Shiv Kumar Sharma (Director) Mrs. Rita Joshi (Director)	Mr. Brij Raj Punj - 50.00% Mrs. Renu Punj - 50.00%	• During the 3 FYs viz 30.06.2015, 31.03.2016 and 31.03.2017 the company had not disclosed any transactions with Fedders Infotech Private Limited. However, in books of FEEL, purchases of Rs. 1.07 crores were recorded with a corresponding payment of 0.9 crores. Advances of Rs. 0.44 crores were received and Rs. 0.22 crores were paid. • Also intercompany/party settlement of Rs. (1.07) crores which involves "Job Project" is noted in IP.
13	Fedders Stock & Investment Pvt Ltd (Lloyd Stock And Investment Private Limited)	Mr. Shiv Kumar Sharma (Director) Mrs. Rita Joshi (Director)	Brij Raj Punj - 16.67% Lloyd Manufacturing Pvt Ltd - 16.67% Perfect Radiators & Oil Coolers Pvt Ltd - 16.67% Mrs. Renu Punj - 16.67% Lloyd Aircon Pvt Ltd - 16.67%	• During the 3 FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 the company had not disclosed any transactions with Fedders Stock & Investment Private Limited. However, in books of FEEL, payment of expenses Rs. 30,000, Advances of Rs. 1.2 crores were received and Rs. 46,000 were paid.

Sl. No.	Related party	KMPs	Shareholders	Observations
			Himalayan Mineral waters Pvt Ltd - 16.67%	
14	Punj Engineering Pvt. Ltd.	Mr. Shiv Kumar Sharma (Director) Mrs. Rita Joshi (Director)	Brij Raj Punj - 50.00% Mrs. Renu Punj - 50.00%	• During the 3 FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 under the scope of audit the company had not disclosed any transactions with Punj Engineering Private Limited. However, in books of FEEL, Advances of Rs. 0.01 crores were paid and intercompany/party settlement of Rs. (0.01) crores is noted in IP
15	Punj Services Private Limited	Mr. Shiv Kumar Sharma (Director) Mrs. Rita Joshi (Director	Mr. Brij Raj Punj - 74.38% Mrs. Renu Punj - 25.62%	• During the 3 FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 under the scope of audit the company had not disclosed any transactions with Punj Services Private Limited. However, in books of FEEL, intercompany/party settlement of Rs. (77.71) crores which involves "Job Project" is noted in IP
16	Pandit Kanahya Lal Punj Pvt. Ltd (PKLPPL).	Mr. Brij Raj Punj (Director) Mr. Bharat Punj (Director)	Lloyd Sales Pvt Ltd -17% Mrs. Renu Punj - 16% Fedders Credits Ltd (Formerly known as Lloyd Credits Ltd) - 17 % Perfect Radiators and Oil Coolers Pvt Ltd - 17 % Fedders Aircool Pvt Ltd	• Public domain searches indicated that PKLPPL do not have any website. Also, the site visits and source inquiries by the TA revealed that it is a potentially non-existent entity. Also, as per MCA records, the status of PKLPPL was non-complaint and the date of last Financial Statements submitted was March 31, 2017. • During the 3 FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 the company had not disclosed transactions with Pandit Kanahya Lal Punj Private Limited. However, in books of FEEL, intercompany/party settlement of Rs. 3.69 crores, Advances of Rs. 0.32 crores were received and Rs. 1.96 crores were paid during the IP

Sl. No.	Related party	KMPs	Shareholders	Observations
			(Formerly Known as Lloyd Aircon Pvt Ltd)- 17 % Fedders Stock & Investment Pvt Ltd (Formerly known as Lloyd Stock & Investment Pvt Ltd) - 17%	
17	Pandit Kanahya Lal Punj Trust (PKLPT)			• During the IP, donations worth Rs. 1.98 Cr was made to PKLPT and no prior audit committee approvals were taken and no documents including donation receipts, details of end use of donations were provided to the Transaction Auditor. • Fedders, in its books, had disclosed only Rs. 0.56 crores, 0.08 crores and 0.33 crores donation given as related party transactions with PKLPT during the FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 respectively. However, in books of FEEL, purchases of Rs. 0.01 crores were recorded with a corresponding payment of Rs. 30,000. Also, Advances of Rs. 0.18 crores were received and Rs. 0.18 crores were paid in IP
18	Brij Raj Punj (HUF)			• During the 3 FYs viz 30.06.2015, 31.03.2016 and 31.03.2017 under the scope of audit the company had not disclosed any transactions with Brij Raj Punj (HUF). However, in books of FEEL, purchases/other services of Rs. 1.07 crores were recorded with a corresponding payment of Rs. 0.59 crores in IP
22	Fedders Manufacturing Private Limited (Formerly	Mr. Shiv Kumar Sharma (Director) Mrs. Rita	Fedders Sales Pvt Ltd (Formerly Known as Lloyd Sales	• During the 3 FYs ended 30.06.2015, 31.03.2016 and 31.03.2017 under the scope of audit the company had not disclosed any transactions with the Related party. However, in books of FEEL, Advances of Rs. 11.51 crores were received and Rs. 2.15 crores were paid. Also inter-

Sl. No.	Related party	KMPs	Shareholders	Observations
	Lloyd Manufacturing Private Limited	Joshi (Director)	Pvt Ltd) -17% Mrs. Renu Punj - 17% Fedders Aircool Pvt Ltd (Formerly Known as Lloyd Aircon Pvt Ltd)- 17 % Pandit Kanhaiya Lal Punj Pvt Ltd - 17% Airserco Pvt Ltd - 17% Perfect Radiators and Oil Coolers Pvt Ltd - 17 %	company/party settlement of Rs. 4.8 crores & Rs. (7.62) crores which involves "Job Project" is noted in IP.
20	Punj Technology Private Limited (PTPL)			• This party had not been disclosed as Related Parties by the Company in its Financial Statements. However as explained below, this party is a Related concerns of the Company as per the definition given in Section 2 of the Companies Act 2013. • Mr. Brij Raj Punj was director of this company till 30.03.2015 • Public domain searches indicated that Fedders and PTPL are potentially interlinked through the past directors of PTPL and Ms. Kamla Butola (ex-employee of Fedders). On June 29, 2016, two directors of PTPL (i.e. Mr. Brij Raj Punj & Mr. Bharat Punj) transferred their entire share-holding (5,000 shares each) in PTPL to Ms. Kamla Butola and Mr. Ravindra Kumar Chopra. Further, Ms. Kamla Butola and Mr. Ravindra Kumar Chopra were also appointed as the Directors of PTPL. At the time of transfer of shares, Ms. Kamla Butola

Sl. No.	Related party	KMPs	Shareholders	Observations
				was an employee of Fedders, working as Executive, Human Resource, and Administration till May 01, 2019. Later, she was employed with LEEL. Further, it is noted that PTPL had disclosed Fedders as a Related Party, however, Fedders had not disclosed PTPL as its Related Party. • As per MCA website, Fedders was the sole supplier of PTPL during FY 2014-15 and a major supplier of PTPL during FY 2015-16 & FY 2016-17.

4.10.9. Hence, from the aforesaid, it was alleged that the Company had either not disclosed all the related party transactions or wrongly disclosed the transactions by showing lesser amount of transactions. Also, for most of the transactions necessary approvals, as required under the relevant laws, had not been taken. It was further alleged that majority of the transactions are fraudulent/wrongful trading transactions and the payments had been made to the related parties in disguise of normal business transactions with a purpose of misappropriating and diverting funds and to defraud the investors and the banks.

4.11. **Failure of Corporate Governance**

4.11.1. From the aforesaid observations, it was alleged that Fedders and the Key Managerial Personnel (KMPs) of Fedders, by providing misstated financial statements, passing fictitious book entries, making misleading disclosures in the related party transactions in the annual report and diverting funds from the company for the benefit of the promoter group companies, had consciously committed fraudulent, unfair and manipulative transactions which had led to inducing the shareholders to deal at an unrealistic price. This also indicates gross misconduct and unprofessional approach on the part of the KMPs as well as the audit committee members who were part of the approval of those misstated financial statements and also who were supposed to review and approve those related party transactions which lead to erosion of the wealth of public shareholders.

4.11.2. It was further alleged that the audit committee failed to discharge its duties assigned to it by LODR Regulations in spirit. It was alleged that audit committee and other sub-committees as specified by LODR Regulations were only on paper and the meetings never used to take place actually which was also admitted by Fedders Officials in their deposition before SEBI. Further, Mr. Vansh Vardhan Joshi, Chairperson of AC in his deposition had submitted that he is a part of the distant family of Lt. Mr. Brij Raj Punj (Promoter and Managing Director of Fedders) and had joined the company only on his recommendation. Hence, it was alleged that there was serious lapse of corporate governance practice at the end of the company/Noticees for over the years.

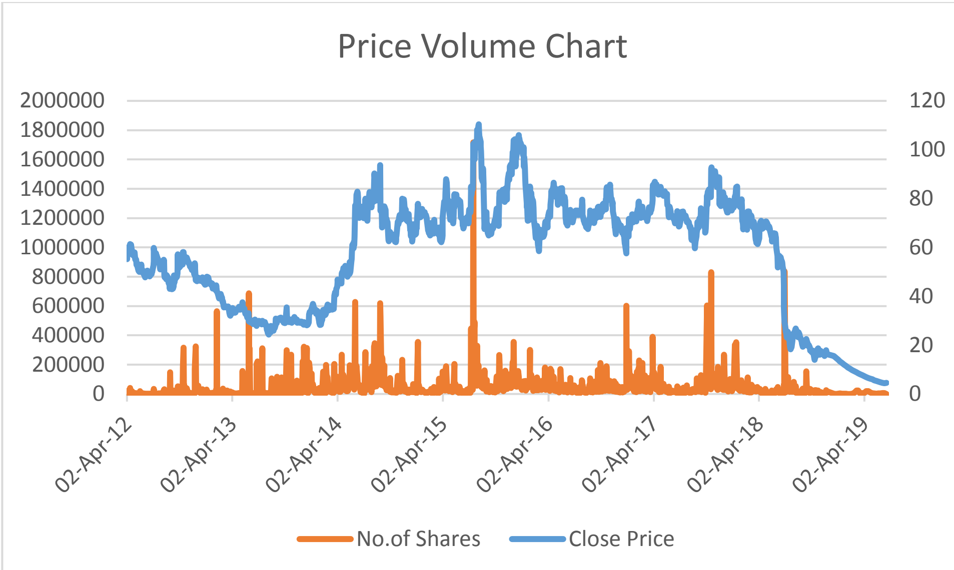
4.11.3. It was further alleged that there had been failure on part of the Company and Noticees who are instrumental to the affairs of the company, to comply with the governance requirements, so as to achieve the objectives of the governance principles in spirit, with respect to the financial disclosure, timely information to recognised stock exchange(s) and investors, adequacy of disclosures, and following its obligations in letter and spirit taking into consideration the interest of all stakeholders.

4.11.4. It was further alleged that the financial statements/certification of Fedders was false and misleading and did not reflect the true & fair picture of the financial affairs of the company in transgression of corporate governance as well as contraventions of various provisions of securities laws.

4.12. **<u>Price Volume Movement during Investigation Period</u>**

4.12.1. From the aforesaid observations, it was alleged that the financial statements of Fedders were fraudulently manipulated and the figures contained therein were significantly misstated/misrepresented which led to the publication of untrue and misleading financial results of the company during IP, the same was false and misleading and operated as deceit not only to the company's shareholders but also to the public being misled about the financial health of the company. Publication of such manipulated financial figures by Fedders had a significant impact on the scrip price. It is observed that the price movement in the scrip of Fedders during the IP was as under:

Table 34:



4.12.2. From the above chart, it was observed that the share price of the Company, which was trading in the range of Rs. 24.25 to Rs. 61.35 during FY 2012-13 to FY 2013-14 subsequently traded in the range of Rs. 45.30 to Rs. 110.40 during the FY 2014-15 to FY 2017-18. Hence, it was alleged that the said price movement had been correlated to the fact that the Company had misrepresented the financial statements as detailed in the aforesaid paragraphs during the IP.

4.12.3. From the above chart, it was observed that the share price reached its peak of Rs. 110.40 /- on August 04, 2015 with high volume and then declined to a low of Rs. 4.40 /- on June 17, 2019 after Company vide BSE's corporate announcement dated June 27, 2018, intimated the revision in credit rating from BB to D for Long-term bank facilities & from A4 to D for Short-term Bank facilities. Hence, it was alleged that investors were misled by the supposedly healthy financials shown as a result of misrepresentation done by the company/Noticees. It was further alleged that pursuant to the said misrepresentation, the share price of the Company was maintained as is evident from the above graph and the downgrade in credit rating caused a decline in the share prices to as low as Rs. 4.40.

4.12.4. It was further observed from Investigation Report that during IP, the full market capitalisation of the Company, at its peak, was Rs. 339.69 crores (free float market capitalisation is Rs. 179.78 crores) and full market capitalisation of the Company at its lowest was Rs. 14.94 crores (free-float market capitalisation Rs. 7.18 crores). Hence, it was alleged that a loss of Rs. 172.60 crores were caused to the public shareholder's wealth.

Table 35:

Date	Share price (Rs.)	Type	Full market capitalisation (Rs. in crores)	Free-float market capitalisation (Rs. in crores)
August 04, 2015	110.40	Peak	339.69	179.78
June 17, 2019	4.40	Lowest	14.94	7.18
Loss to Public shareholder's wealth				172.60

4.12.5. Hence, from the aforesaid, it was alleged that the Company/Noticees had manipulated and misrepresented the financial statements during the Investigation period and the act of publishing fraudulently manipulated financial statements of Fedders operated as a device/ scheme/ artifice to deceit and defraud the investors/ shareholders dealing in the equity shares of Fedders.

5. Role of Noticees

5.1. <u>Role of Noticee No. 1:</u>

5.1.1. Noticee No. 1 was appointed as an Independent Director of the Company on November 08, 2018. Later, he was designated as the Whole-time Director (hereinafter referred to as **"WTD"**) & Chief Executive Officer (hereinafter referred to as **"CEO"**) of the Company with effect from June 04, 2019. He was a KMP in the company by virtue of his designation as the WTD. During his tenure as WTD & CEO, he had attended two Board Meetings. He was also inducted as a member of the Audit Committee and had attended one Audit Committee meeting on June 20, 2019. He resigned from the Company on October 18, 2019. He had also signed the CEO/CFO certification in the capacity of CEO of the Company for the year FY 2017-18 on June 20, 2019.

5.1.2. It was further observed that considering the widespread misrepresentations in the financial statements of Fedders, diversion of funds to related parties and the lapses in related party disclosure and approvals, During Investigation by SEBI, Noticee No. 1 was provided an opportunity by way of summoning for personal appearance to explain his role with respect to the same. In his deposition, he inter-alia submitted that:

a. *He was not a part of AC & the AC meetings were just for name sake.*

b. *Even though Mr. Bharat Raj Punj was not on Board, he used to be one of the decision maker. Noticee No. 1 used to have meetings with him every week and update on the affairs of the company*.

5.1.3. From the aforesaid, it was alleged that Noticee No. 1 being WTD and member of the Board of Directors of Fedders, was involved and responsible for the company's widespread financial misstatements with knowledge and intention to deceit or induce investors and shareholders. He was also responsible for furnishing untrue and fraudulent CEO Certificate to the Board of Directors of Fedders which led to publication of untrue and misleading financials of the company.

5.1.4. It was further alleged that the company failed to obtain shareholder approval with regard to related party transactions, thereby resulting into violation of Regulation 23 (4) of LODR Regulations and being WTD and part of board of directors, Noticee No. 1 was responsible to ensure compliance of the aforesaid regulations.

5.1.5. Hence, from the aforesaid, Noticee No. 1 being a WTD and CEO had failed to perform his duties and obligations required as per Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii)(7), Regulation 18(3) read with Para A of Part C of

Schedule II of LODR Regulations and Regulation 33 (2) (a) of LODR Regulations, read with 17(8) of the said regulation and Section 21 of SCRA read with Section 27 of the SEBI Act.

5.2. **<u>Role of Noticee No. 2:</u>**

5.2.1. Noticee No. 2 was appointed as Chief Financial Officer (CFO) of the Company with effect from November 29, 2018. During his tenure as CFO, he had signed the financials of the Company and CEO/CFO certification for the FY 2017-18. Since he had signed the CEO/CFO certification for the FY 2017-18, which was found to be untrue and misleading, it was alleged that Noticee No. 2 had given a false certification.

5.2.2. From the aforesaid, it was alleged that Noticee No. 2 being the CFO, had failed to perform his duties and obligations required to be performed under Regulation 33 (2) (a) of LODR Regulations read with 17(8) of the said regulation and Section 21 of SCRA.

5.3. **<u>Role of Noticee No. 3:</u>**

5.3.1. Noticee No. 3 was appointed as WTD of the Company with effect from May 06, 2013. He was disclosed as KMP in the Annual Reports of the company for the FY 2012-13, FY 2013-14 and FY 2014-15. During his tenure as WTD, he had attended 7 Board Meetings.

5.3.2. From the aforesaid, it was alleged that since Noticee No. 3 was part of the Board of Directors of the Company, which had not acted in the interest of the investors, Noticee No. 3 had failed to perform his duties and obligations required to be performed under Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii)(7) of LODR Regulations and Section 21 of SCRA read with Section 27 of the SEBI Act.

5.4. **<u>Role of Noticee No. 4 and 5:</u>**

5.4.1. In any listed company, the Audit Committee is expected to play a vital role as far as ensuring compliance with existing accounting standards, true and fair presentation of the financial statement, approving related party transactions, monitoring the financial health of the company, apart from ensuring compliances with applicable laws and regulations, are concerned. Also, under LODR Regulations, the Audit Committee is entrusted with oversight of the company's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient, and credible. Further, AC members are also mandated for approving as well as reviewing the disclosure of any related party transaction. They have to review the major accounting entries involving estimates based on the exercise of judgment by management. They are expected to be independent, vigilant, and cautious against any fraudulent acts committed by the company and raise their concerns. Hence, being members of AC, Noticee No. 4 and Noticee No. 5 were responsible for reviewing and approving the financial statements before they are placed before the Board for approval.

5.4.2. Noticee No. 4 and 5 were part of the AC during FY 2012-13 and had resigned from the Company with effect from November 11, 2013 & May 06, 2013 respectively. It was further observed that they had attended 5 & 4 AC meetings respectively during FY 2012-13 and they had not attended any of the audit committee meetings in 2013-14.

5.4.3. As part of the Audit Committee, the independent directors had an important role to play in ensuring compliance with existing accounting standards, true and fair presentation of the financial statement, approving related party transactions and monitoring the financial health of the company.

5.4.4. From the aforesaid, it was alleged that Noticee No. 4 and 5 being independent directors and members of Audit Committee had failed in their duties. Hence, it was alleged that Noticee No. 4 and 5 had violated Regulation 18(3) read with Para A of Part C of Schedule II of LODR Regulations and Section 21 of SCRA read with Clause 49(II)(D)(E) and Clause 49(IV)(A) of SEBI Circular dated October 29, 2004 read with Regulation 103 of LODR Regulations.

5.5. **Role of Noticee No. 6:**

5.5.1. Noticee No. 6 was appointed as the Company Secretary and Compliance Officer of Fedders with effect from May 30, 2016. He signed the financials of the company for FY 2015-16 and FY 2016-17. He was disclosed as KMP in the Annual Reports of the company for the FY 2015-16, FY 2016-17 & FY 2017-18. He was a KMP in the company by virtue of his designation as the Company Secretary in terms of the Companies Act, 2013. During his tenure, he was acted as secretary to the Audit Committee, Nomination & Remuneration Committee, and Sub-Committee of the Board of Directors.

5.5.2. Considering the widespread misrepresentations in the financial statements of Fedders, diversion of funds to related parties and the lapses in related party disclosure and approvals and considering that he was Compliance Officer of the Company, during investigations, SEBI had given him an opportunity by way of summoning for personal appearance, to explain his role with respect to the same and the observations of Corporate Governance failure. In his deposition, he inter-alia submitted that:

a. *The Audit Committee meetings were not conducted but he used to circulate the agenda of the audit committee to the audit committee members. The minutes of the meeting which were never held were signed by the audit committee members.*

b. *He used to sign the compliance certificates with respect to LODR Regulations & the Companies Act*.

c. *Mr. Arun Kumar Joshi was related to Mr. Brij Raj Punj*.

d. *Mr. Akhter Aziz Siddiqi used to make presentations with respect to financials of the Company in the Board meetings. Mr. Akhter Aziz Siddiqi used to finalize the books of account*.

e. *The Statutory auditors, M/s Suresh C Mathur & Co. was hands in glove with the management of the company.*

f. *After Mr. Brij Raj Punj expired, Mr. Bharat raj Punj took over. Mr. Bharat Raj Punj was involved in the Board Meetings of Fedders. Mr. Sham Sunder Dhawan & Mr. Akhter Aziz Siddiqi used to go to Mr. Bharat raj Punj for discussing ongoing project businesses and the financials of Fedders.*

g. *Ms. Kamala Batola, the receptionist, was a Director in one of the group companies.*

5.5.3. Noticee No. 6 had been signing and filing the quarterly compliance certificate of Fedders with the Stock Exchanges in terms of Regulation 27 of LODR Regulations wherein he had been affirming compliance with respect to prior approval of Audit Committee for related party transactions every quarter, compliance with respect to composition and meetings of the Audit Committee and other sub-committees. Further, in the annual affirmations filed with Stock Exchange, he had affirmed compliance with Regulation 16(1)(b) & 25(6), 17(5), 18 (1), 23(4), 23(2)(3), etc. of LODR Regulations.

5.5.4. From the aforesaid, it was alleged that Noticee No. 6 had deliberately hidden the fact of the non-compliance of the Corporate governance requirements in spirit by the Company, which has led to wrong disclosure and mislead the investors trading in the scrip since in his deposition, he had admitted that the Audit Committee meetings had never taken place in Fedders and these were only paper compliances by the company. It was further alleged that Noticee No. 6 had shown professional misbehaviour and gross misconduct being the company secretary/compliance officer of the company.

5.5.5. It was further alleged that Noticee No. 6 by deliberately hiding the non-compliance of corporate governance requirements of SEBI, had failed in his duties as a KMP of Fedders and his actions had been detrimental to the interest of the minority shareholders of Fedders. Hence, it was alleged that Noticee No. 6 had failed to perform his duties and obligations required to be performed under Regulations 6(2) (a), (c) and 27(2) of LODR Regulations read with Section 21 of SCRA.

5.6. **Role of Noticee No. 7:**

5.6.1. Noticee No. 7 was the Company Secretary and Compliance Officer of Fedders for the period FY 2005-06 to FY 2014-15. She signed the financials of the company for FY 2005-06 to FY 2014-15. She was disclosed as KMP in the Annual Reports from FY 2005-06 to FY 2014-15. She was a KMP in the company by virtue of her designation as the Company Secretary in terms of the Companies Act, 2013. During her tenure, she acted as secretary to the Audit Committee, Nomination & Remuneration Committee, and Sub-Committee of the Board of Directors.

5.6.2. Considering the widespread misrepresentations in the financial statements of Fedders, diversion of funds to related parties and the lapses in related party disclosure and approvals and considering that she is Compliance Officer of the Company, during investigations by SEBI she was provided an opportunity to explain her role with respect to the same and the observations of Corporate Governance failure. In her reply, she had inter-alia submitted that during her tenure, the Audit Committee meetings were duly held, mostly on the same date and venue as that of the board meetings. However, the KMPs in their deposition, stated that the Audit Committee meetings were mostly not conducted. Hence, it was alleged that the meetings held during the tenure of Noticee No. 7 were mostly only Board meetings and not Audit Committee meetings and as submitted by the KMPs in their statement recording, the member of Audit Committee were signing the minutes of the meeting as circulated to them on a later date.

5.6.3. It was further observed that Ms. Ritushri Sharma and Ms. Bindu Dogra, (Spouses of Noticee 4 and 5 who have become Independent Director & Audit Committee Member of Fedders after the resignation of their respective spouse) in their replies to SEBI's letter dated September 24, 2022 stated that:

"As suggested by the Company Secretaries of Fedders who were coordinating and managing the conducting of the meetings, they, as members of AC had signed on the dotted lines in the meetings which were conducted only on papers."

5.6.4. It was further observed that Noticee No. 7 had been signing and filing the quarterly compliance certificate of Fedders with the Stock Exchanges in terms of Regulation 27 of LODR Regulations wherein she had been affirming every quarter of compliance with respect to prior approval of Audit Committee for related party transactions, compliance with respect to composition and meetings of the Audit Committee and other sub-committees. Further, in the annual affirmations filed with Stock Exchange, she had affirmed the compliance with Regulation 16(1)(b) & 25(6), 17(5), 18 (1), 23(4), 23(2)(3), etc. of LODR Regulations.

5.6.5. From the aforesaid, it was alleged that Noticee No. 7 had deliberately hidden the fact of the non-compliance of the Corporate governance requirements in spirit by the Company, which has led to wrong disclosure and misleading the investors trading in the scrip since Audit Committee meetings had never taken place in Fedders and those were only paper compliances by the company. It was further alleged that Noticee No. 7 had shown professional misbehaviour and gross misconduct being the compliance officer of the company.

5.6.6. It was further alleged that Noticee No. 7 by deliberately hiding the non-compliance of corporate governance requirements of SEBI, had failed in her duties as a KMP of Fedders and her actions had been detrimental to the interest of the minority shareholders of Fedders. Hence, it was alleged that Noticee No. 7 had failed to perform his duties and obligations required to be performed under Regulations 6(2) (a), (c) and 27(2) of LODR Regulations read with Section 21 of SCRA.

REPLIES OF THE NOTICEES

6. Noticee 1 had responded to the Hearing Notice and requested for the adjournment, however neither submitted any reply to SCN nor attended the personal hearing granted in the matter which was rescheduled as per his request

7. Noticees No. 2-7 in their respective written replies have *inter alia* submitted as follows:

<u>Noticee No. 2 (reply dated February 14, 2023 and February 21, 2023)</u>

7.1. It is stated that our Client had joined the Company in November 2018, which was after the FY 2017-18 ended and financial statements were already prepared. Our Client did not attend any board meeting for the FY 2017-18 as he had only joined in November and till then all the board meetings had already taken place.

7.2. Important to note that at the time when our Client joined the Company, the financial statements of the Company were already prepared by the predecessor CFO of the Company. It is submitted therefore that it was the responsibility of the predecessor CFO to report any irregular conduct of affairs of the company as well as reporting any red flags in the financials of the company at the board meetings, which is evident from the correspondences exchanged between then CFO, Mr. Bansal and erstwhile

CFO, Mr. Akhtar. It is submitted that at the time our Client joined the Company, the financial statements were already prepared. Even then, our Client conducted proper due diligence and showcased bona-fide responsibility by adding the notes/remarks to the financial statements.

7.3. *It is further stated by our Client that forensic audit was also completed before our Client joined the company and the forensic audit report was already submitted to SBI by the Forensic Auditor by that time. Also, the stock trading was suspended before our Client joined the Company due to non-compliance by the earlier management.*

7.4. *It is further stated by our Client that with respect to the Sales and Purchase, all Sales and Purchases was recorded for FY 2017-18 by then management and an Investigation by GST team was carried out in Rajasthan from 15.01.2019 to 18.01.2019, and after that only we came to know that the all transaction routed through the Rajasthan was bogus and there are no proper records of such sale. The management present during Y 2017-18 was accountable and responsible for verification of the transactions recorded in the balance sheet. As soon as, our Client was made aware about the state of affairs of the company, our Client exercising his functions as Group CFO diligently properly disclosed any discrepancies in annual report of FY 2017-18, and reversed such transaction in FY 2018-19.*

7.5. *Our Client had made all the necessary disclosures in the Annual Report of FY 2017-18 which is evident by Notes to account No. 49 in Annual Report of 2017-18, where our Client had clearly informed that "The total turnover includes sales from Steel Trading Business of Rs. 813.89 Crore. There was no record of Sales amounting to Rs. 414.54 Crores, which has been reversed in 2018-19." Also, the Note to accounts No. 50 also read as "Moreover the consumption includes the purchases for steel Trading business for which documents could not be verified and Rs. 416.88 Crores has been reversed in the Financial Year 2018-19." Our Client made sure that all the stakeholders are fully informed about the transactions and the discrepancies and* *our Client made the necessary disclosures in the Annual Report of FY 2017-18 to that effect.*

7.6. *It is further stated that the statutory auditor had qualified the Sales of Rs. 268.65 Crore for Delhi location. Our Client could not ascertain the reason for the qualification as the said sales were routed through bank Letter of Credits. The Sales and Purchase bills were shown to the Auditor on which bank had relied upon and processed the Letter of Credit. It is pertinent to highlight that the Forensic auditor or any other department did not raise any objection against such transactions, and only relied on the available documents.*

7.7. *It is stated at the time of appointment of our Client as CFO on 29.11.2018, the TRA (Trust and Retention Account) was already operative by State Bank of India and all operation and projects were in stand still position. The SBI had taken control over the operations of the company and our client had no involvement in the financials and operations of the company. The financial statements for FY 2017-18 were already prepared and due to disputes at project sites and with contractors, relevant information and documents were not made available to our Client to make necessary disclosures pertaining to stock in the financial statements. Our client with a bona fide belief verified and issued CEO/CFO certificate in the financial statements of FY 2017-18.*

7.8. *It is further stated by our Client that the Company was involved in Turnkey Contracts (Engineering, Procurement and Construction) of various projects, and there was no proper record of material at site as well consumption and closing stock. Our Client had joined the company in November 2018 and thereof could not verify the stock for FY 2017-18. In this regard, our Client had reported Note to accounts No. 50 in the Annual Report of FY 2017-18 for abnormal consumption of Rs.314.18 crore.*

7.9. *Our Client further states that our Client had also engaged an audit agency in 2019 to carry out stock audit to ascertain actual provisions required and on the basis of report submitted by the agency, we provided the actual provisions in FY 2018-19.*

7.10. *It is stated that the investigation report states that there was assignment of debt to third parties for FY 2017-18 with regard to related party transactions. Our Client had made the necessary entry related to assignment of debts of Rs. 98.87 crores in Note to Accounts No. 48 in the Annual Report for FY 2017-18.*

7.11. *Our Client humbly submits that no material fact or information has been concealed by our client and our client with the bona fide belief had issued CFO certification in the Annual Report of FY 2017-18 and tried his best efforts to disclose all material facts best to his knowledge. Our Client had exercised his functions and duties as Group CFO of the Company with full integrity to the company and its stakeholders.*

7.12. *Our Client repeats, reiterates and submit that our Client has not issued any deliberate false and misleading certificates in the Annual Report of the company for FY 2017-18. He has exercised due diligence and carried out his duties as CFO of the company in accordance with the standards laid down by law and per prevalent practice.*

Noticee No. 3 (reply dated February 04, 2023)

7.13. *The delay in issuance of the Show Cause Notice causes significant prejudice to me as I am deprived of contemporaneous records which would have been available had the Show Cause Notice been issued promptly or at least within a reasonable time and certainly not after a prolonged delay of several years. The allegations in the Show Cause Notice issued in 2022 are apropos events that took place between 1st April 2012 to 14th August 2020. In the interregnum I have resigned from the Directorship on 28th December 2015 and have no access to the records of the Company.*

7.14. *Whenever I had the occasion to be in New Delhi and whenever such occasions coincided with the Board Meetings. I would be present for the same. At these board meetings, I would present the performance reports of all the plants and projects that was assigned to me. My role was also to discuss about operational problems and to* *seek financial support whenever required. I never had the opportunity of reviewing the financial statements of the Company since the other directors consisting of a team of the CMD, the CFO and the whole time director Mr. S. S. Dhawan who were engaged with the Company for more than 25 Years would review the financials and allocate the funds accordingly.*

7.15. As regards misrepresentation of financial statements of the Company the SEBI Notice does not attribute any role whatsoever against me. The SEBI Notice does not disclose my name in activities such as inflation of Inventory, unexplained writing-off of fixed assets, creation of fictitious debtors, manipulation of profits, manipulation and inflation of turnover and purchases etc.

7.16. Further, as regards misappropriation and diversion of funds the SEBI Notice does not even allege that I was in any manner involved in the same or that I was in any manner the beneficiary of the same.

7.17. Directors of a Company are not vicariously liable, unless the statute so provides and even then various elements are required to be established for vicarious liability. (Shiv Kumar Jatia v/s State of NCT of Delhi, Securities and Exchange Board of India V/s Gaurav Varshney & Anr. And Sunil Bharti Mittal V/s Central Bureau of Investigation.)

7.18. Noticee No. 3 Mr. Nemichandra Jain is said to have been present for 7 board meetings during his tenure as a Director from 6th May 2013 to 28th December 2015. The mere presence of a Director at board meeting is not sufficient to make the directors personally liable. (Pooja Ravinder Devidasani V/s. State of Maharashtra & Anr.)

7.19. Noticee No. 3 had also relied on the Judgement of Chintalapati Srinivasa Raju v/s Securities and Exchange Board of India.

<u>Noticee No. 4 (reply dated January 22, 2023) & Noticee No. 5 (reply dated January 23, 2023)</u>

7.20. It is submitted that the allegations made in the present notice under reply relate to the alleged transactions which purportedly took place in 2012-13 and 13-14. Thus, it is respectfully submitted that the notice under reply is highly belated (almost 10 years) and is beyond reasonable time.

7.21. I was approached by Late Mr. Brij Raj Punj, CMD of FEEL with an offer to become an Independent Director on the board of this Company. I had humbly denied the offer of Mr. Punj as I had resolved to spare rest of the life peacefully with my children and family.

Behind such denial to the offer, also there was a reason that I had no experience at all of the corporate functioning and financial activities. Also, my educational qualification was not in sync with the offer I was made with. I was never inclined to be a director. However, it was only due to the persistent request of Late Mr. Brij Raj Punj, his image in the Corporate World and also a comfort which was given to me by him that all the affairs shall be conducted in strict compliance of the Rules, had made me change my mind and accept his offer.

7.22. I had never been associated with any of the Company in any manner, I was fairly unaware about the nitty-gritty of the corporate world, including the corporate laws, finance and accounts, its compliances under different laws and other routine activities. In fact, I had never actively dealt with any of the Company in managing its affairs, before joining this group. Though in case of any doubt, I had always relied on the advice and suggestions of the professional experts on the board of FEEL working in different capacities.

7.23. With regard to financial matters/transactions etc. I was given to understand that since the functioning of the management is upon board and financial functions of the company were being personally looked into and monitored by Late Mr. Brij Raj

Punj along with the experts in the field which were his trusted aides, e.g., Ms. Purnima Sharma, the designated Company Secretary, and Mr. Akhtar Aziz Siddiqui CFO of the Company, they were actually controlling the whole finance and compliance function of the company, in this scenario I did not find any reasons to doubt their intentions. Further, I was advised and given to understand that the Audit Committee meetings are general requirements of the law, and such meetings are a routine affair however actual decisions etc. would be taken by the whole board in its meetings itself.

7.24. At the relevant time, I had nothing to suspect or disbelieve Late Mr. Brij Raj Punj, & other professionals, e.g., Ms. Purnima Sharma and Mr. Akhter Aziz Siddiqui. Now, after becoming aware of the findings of the investigation, in retrospect, I realize that it was a gross error of judgement on my part and I was too naive, in terms of relying on the assurances and advice of Late Mr. Brij Raj Punj & the professional team.

7.25. It may be noted that, admittedly, I am not the beneficiary of the alleged fraud in any manner. Not even a single penny has come to me in any manner, either directly or indirectly, from FEEL or its Promoters or Promoter group companies. Significantly, the Notice also does not allege me that I was beneficiary of the alleged fraud in any manner.

7.26. Let me reiterate the background as stated herein above about my induction in the Board as an Independent Director of the Company and also as a member of the Audit Committee. I may kindly submit again that I was made a member to the Audit Committee merely to fulfil the composition of the Committee, the management, and the professionals, responsible for ensuring requisite compliance while appointing me as a member of the Audit Committee completely ignored my background, qualifications and experience (which was well known to them), mandatory to be so appointed in the Audit Committee. Also, they never made me aware about such requirements of the Law. To my surprise, I became aware about such requirements only when I received your Notice mentioning about the violation of the relevant laws.

Therefore, I was always kept in dark about my position, roles. and responsibilities as an Audit Committee Member.

7.27. *Also, regarding Related Party Transactions, as an Independent member on the Board, I shall always be unaware about such relation of the Company with the other party, if the nature of relationship is not disclosed to the Board. I remember, the management had never disclosed such nature of relations with the other party with whom transactions were taking place and hence, monitoring such transactions was not possible on my part, especially in a situation where information was disclosed to the Independent Directors on need to know basis.*

7.28. *It was under these circumstances, as suggested by the Company Secretary, who was coordinating, managing, and conducting the meetings etc. I had as one of the Audit Committee members signed on the dotted fines, in the meetings which were allegedly conducted only on papers.*

7.29. *Admittedly, I was not the promoter or key managerial personnel of FEEL. I was only an Independent Director. The alleged fraud, if any had taken place without my knowledge. I had at no point of time consented to the alleged fund diversion and misuse of funds or connived in any manner with the executives, for the same. Further, given the constraints of my knowledge/awareness, I had always acted diligently. In the Board meeting etc. I had placed reliance on the fellow directors and executives of the Company, who had assured that everything was taking place in rightful manner.*

Noticee No. 6 (reply dated December 28, 2022, January 13, 2023 and January 23, 2023)

7.30. *I humbly submit with your good office that the Noticee was appointed as the Company Secretary of Fedders on May 30, 2016 ("Appointment Date") and on Appointment Date itself, the Board Meeting for the consideration and approval of Audited Financial Results for the quarter and nine months ended March 31, 2016* *was scheduled. The Appointment Date also occurred to be Fedders' company secretary last working day till which the erstwhile company secretary served. The Board of Directors of Fedders authorised Late Mr. Brij Raj Punj, CMD, Mr. Arun Kumar Joshi, Independent Director, Mr. Akhter Aziz Sidiqqi, CFO, Mr. Sham Sunder Dhawan, Whole-time Director and Mr. Pulkit Bhasin, Company Secretary to sign the audited Financial Statements for the FY 2015-16. The Noticee had signed the said financial statements merely upon the authorisation of the Board of Directors of Fedders and CEO & CFO certification, whereas the Noticee was not associated with the Company in any manner during the FY 2015-16 and it was the Appointment Date on which the Noticee took charge. Furthermore, it was observed by SEBI that, the Noticee signed the financials of the company for FY 2016-17. In this regard, we crave to rely on the matter of V. Shankar v. SEBI (Appeal No. 283 of 2022) (Date of Decision: 01.11.2022), the Securities Appellate Tribunal held that:*

"13. Thus, a perusal of Section 215 clearly indicates that there is a fiduciary responsibility upon the Board of Directors of the Company to verify the contents of the balance sheet before approving it. Once the balance sheet and the profit and loss is approved by the Board of Directors then the ministerial task falls upon the secretary and two of the directors to sign the balance sheet under Clause (1) of Section 215.

14. In our opinion, this finding is totally perverse. Once the offer document and the balance sheet is approved by the Board of Directors the Company Secretary, as part of his duty and responsibility, is only to authenticate the contents indicated in the balance sheet or in the offer document and is not required to go into the veracity of the buyback offer document and its legal compliances before authenticating such document.

15. The AO has found that the Board of Directors were involved in the understatement of the financial in the annual report and in the offer document relating to buyback. It is these Board of Directors who had violated Section 68 knowingly and recklessly inducing investors by inflating the profits of the company. The appellant as a Company Secretary had no role to play except comply with the resolution made by the Board of Directors."

7.31. *The Noticee humbly submits to your good office that after joining Fedders, the Noticee had written an e-mail to Late Mr. Brij Raj Punj on July 04,2016, for seeking the date for convening of the AC and Board Meetings for the consideration and approval of the unaudited financial results for the quarter ended June 30,2016. It is categorically to be noted that the Noticee received a response from Late Mr. Brij Raj Punj on July 07, 2016, directing him to convene only the Board Meeting on July 28, 2016 and not any meeting of the committees. It is apparent from above submissions that the concern for non-compliances of the LODR Regulations and the Companies Act, 2013 ("2013 Act") were advised to Late Mr. Brij Raj Punj ("Late CMD") and other Executive Directors but no heed was paid to it by the BOD as evident from the email.*

7.32. *The Noticee further submits with your good office that another e-mail was sent to Late CMD on October 13, 2016, seeking the date for convening of the AC and BOD's meeting for consideration and approval of the unaudited financial results for the quarter and half year ended September 30, 2016, which, inter alia, also included the request to convene AC, NRC and CSR Committee Meetings separately from time to time pursuant to the LODR Regulations. Pursuant to the aforesaid request, Late CMD responded that there is no requirement to conduct AC and other committee meetings.*

7.33. *Furthermore, the Noticee hereby submits to your esteemed office that the Noticee requested the details pertaining to the related party transactions from Mr. Akhter Aziz Siddiqi ("CFO") vide e-mail dated July 06, 2016. In the said email, the Noticee requested him to send the details of the related party transactions which Fedders proposed to undertake during remaining part of the FY 2016-17 as the same were required to be placed before the AC and BOD of the Company for approval. The Noticee tried fair and square his best to make compliance of related party transactions, as given under Section 188 of the Companies Act, 2013 read with Rule 15 of the Companies (Meetings of the Board and its powers) Rules, 2014 and Regulation 23 of the LODR Regulations. Despite various reminders, the CFO did not share the data with the Noticee. It is noteworthy to mention here that in* *continuous pursuit to seek details for the related party transactions from Fedders, the Noticee had written another e-mail to the CFO on October 17, 2016, requesting to send him the said details for requisite approvals. The CFO vide his e-mail dated November 03, 2016, confirmed that there were no such transactions which were required to be placed at the meeting scheduled to be held on November 11, 2016.*

7.34. Further, I humbly submit to your esteemed office that the composition of the AC and other committees of the BOD was in accordance with the provisions of the LODR Regulations during the Noticee's tenure as the Company Secretary and Compliance Officer of Fedders. The independent directors were already holding their offices before the Noticee's association with Fedders. The Noticee became aware of the fact that the Late Mr. Arun Kumar Joshi was indirectly related (distant relative) to Late CMD after his resignation from Fedders and this is already stated in the Noticee's deposition with the SEBI. Except as stated above, the Noticee was completely unaware of the relationship of Late Mr. Joshi with Late CMD as Late Mr. Joshi along with other Independent Directors used to sign and submit the declaration of independence periodically and which was also noted by the BOD in their meetings. The Noticee cannot deep dive and identify the relationship of every other independent director with the executive directors.

7.35. It is further stated that the Independent Directors were fully aware of their rights, duties, obligations etc. by virtue of them signing and acknowledging their appointment letters which also included the Code of Conduct for Independent Directors as prescribed in Schedule IV of the Companies Act, 2013. The said appointment letter of Independent Directors was also available on the website of the Fedders as required under the provisions of applicable laws.

7.36. I further submit with your good office that it was me who submitted intimation pertaining to downward ratings with the stock exchanges, despite various hindrances by the officials of the Company, in order to ensure the timely information to the shareholders for them to make the informed decision. This substantiates that *the Noticee performed his duties rightfully and diligently in ensuring timely disclosure with the stock exchanges in the interest of investors.*

7.37. During the Noticee's tenure as the Company Secretary and Compliance Officer, all shareholders' queries were duly and promptly resolved in their best interest and the same is also stated in the investigation Report submitted by the SEBI. Therefore, as a Company Secretary and Compliance Officer, the Noticee has always worked towards the best interests of various stakeholders and never shown any negligence or misconduct while dealing with any affairs of the Company.

7.38. It is pertinent to reiterate here that the Noticee was appointed as the Company Secretary by the Board of Directors of Fedders vide resolution passed at its meeting and such appointment of company secretary is not required to be approved by the shareholders of the company as per provisions of applicable statutes. Accordingly, the Noticee was merely acting as the secretary of the board of directors and not as the secretary of the shareholders. Therefore, the Noticee was acting under the instructions and coercion of the Chairman and Board of Directors and any action against the Noticee will completely finish his career.

7.39. In this regard, we crave to rely on the judgement in the matter of Technology Frontiers (India) (P) Ltd. v. Global Sports Commerce Pte. Ltd., 2022 SCC Online NCLT 223, wherein it was held by Hon'ble NCLT, Chennai that:

"16. The Company Secretary is the Secretary of the Company; the Secretary of the Company is the Secretary of the Company; he is not the Secretary of shareholders. He is appointed under the Companies Act pursuant to a Board Resolution in respect of which the appointment is given effect by filing the prescribed form with the Registrar of Companies, so as to ensure statutory compliance failing which he is the only Officer who receives the Show cause notice from the Registrar of Companies ......Needless to mention that he is the Watchdog of protecting the Principles of Corporate Governance as well as the

collective interest of all the stakeholders so also the Company; of course he is not a blood hound ... ".

*7.40. I crave to rely on the findings of the Hon'ble SAT in the matter of **Piramal Enterprises Limited vs. SEBI (Appeal No. 466 of 2016)** wherein the Hon'ble SAT held, inter alia, as follows:*

"24. The object of the Act is not only to protect the investors but also the securities market. The appellant is part of the securities market and its existence is required tor the healthy growth of the securities market. SEBI is the watchdog and not a bulldog. If there is an infraction of a rule, remedial measures should be taken in the first instance and not punitive measures

27. Consequently, the imposition of penalty is converted into one of warning with a further direction that if any such incident occurs in future, it would be open to SEBI to proceed in accordance with law."

7.41. This was also observed in Sandeep Batra vs. SEBI, (Appeal No. 520 of 2019). The Hon'ble SAT has left the Appellant with warning, so that his career would not be impacted in longer run. The reasoning given by the Appellate tribunal was that for a one-time lapse of delayed disclosure, the Appellant should not be suffering during his entire career like a life term; such an approach would be far from doing justice to the Appellant. In the facts and circumstances of the matter, the Hon'ble SAT converted the monetary penalty of Rs.2 lakhs imposed on the Appellant to that of a warning.

*7.42. I would also like to bring to your kind notice the findings and observations of the Hon'ble SAT in the matter of **M/s New Delhi Television Limited vs SEBI {Appeal No. 358 of 2015)** and the same is reproduced herein below:*

"42. We are thus of the view, that the imposition of Rs.2 lakh upon the Compliance Officer for violation of Clause 36 of the Listing Agreement was unjustified. The Compliance Officer works under the direction of the Board of Directors of the Company. At the end of the day,

the Compliance Officer is only an employee of the Company and works on the dictates and directions of the management of the Company. Thus, when the entire management is being penalized, it was not open to the AO to also book the Compliance Officer for the said fault. We accordingly, hold that the imposition of penalty of Rs. 2 lakhs on the Compliance Officer cannot be sustained and, to that extent, the order cannot be sustained."

7.43. *I would also like to bring your kind attention to the findings of the Hon'ble SAT in the matter of Pritha Bag vs SEBI on 14 February, 2019 and the relevant extract of the same is reproduced for your ready reference:*

"12. Having heard the learned counsel for the parties, we are of the view that the WTM has failed to consider the provisions of Section 5 of the Companies Act and has mechanically held that the appellant was responsible jointly and severally for making the refund alongwith interest under Section 73(2) of the Companies Act. Unless and until a finding is given that the appellant is an officer in default, the mandate provided under Section 73(2) cannot be invoked against the appellant.

In the instant case, the appellant has annexed documents to indicate that the company had a managing director, namely, Mr. lndranath Dow and, therefore, as per the provisions of Section 5 the managing director would be an officer in default. We also find that there is no finding given by the WTM that the appellant was the managing director or whole time director or was a person charged by the Board with the responsibility of compliance with the provisions of the Companies Act and consequently, could not be made responsible for refunding the amount under Section 73(2)."

Noticee No. 7 (reply dated January 16, 2023)

7.44. *I hereby furnish my submissions with respect to Investigation Observations mentioned under point nos. 3 to 7 of the SCN as under in seriatim:*

7.45. **Investigation observation – paragraph no. 3 (Misrepresentation of Financial Statements) -** *The aforesaid matters had not been informed to me during my tenure nor they had been reported in the Financial Statements/Reports whether audited/*

unaudited as per my knowledge. I was never a part of accounts, finance, bank or audit function of the Company or any group company.

*7.46. **Investigation observation – paragraph no. 3 (Misappropriation and diversion of Funds)***

*7.46.1. **Transactions with M/s Mindage Solutions Pvt. Ltd. towards consultancy charges – 4.1:** These transactions are mentioned to be from April 2017 to June 2017, which is after my resignation from the Company. Moreover, I was never a part of Accounts and Finance function of the Company or any group company.*

*7.46.2. **Infusion of funds – 4.2**: From 01.04.2012 till 30.05.2016, the warrants were issued on 03.08,2015, however the conversion took after my tenure had ended. Further, the details of sources of such infusions as per "FAR" had not been disclosed to me during my tenure.*

*7.46.3. **Related Party Transactions and Disclosure Violation – 4.3:***

*a. **Related Party Transactions and Disclosure violation – 4.3.1 and 4.3.2:** The new SEBI (LODR) Regulations were notified on September 02, 2015.*

Please see the following steps taken by the undersigned to follow the said regulations till the undersigned left the Company on May 30, 2016:

Step taken: Regarding taking of prior approval of audit committee and the Board of Directors for all Related Party Transactions, the undersigned had informed to the then CFO and the Managing Director of the Company. However, no information on any related party transactions taking place were received by the undersigned. I held the position as Company Secretary of the Company till my resignation with effect from May 30, 2016.

Step taken: Further, pursuant to the old revised Clause 49(VII) of the Listing Agreement with the Stock Exchanges ("Revised Clause 49") effective from October 01, 2014, approval of the Shareholders through Special Resolution was *required for all material Related Party Transactions (RPT) even if they are entered into in the ordinary course of business on arm's length basis. Therefore, as it was informed to me that there could be transactions with Lloyd Electric and Engineering Limited, a group entity during the FY 2014-15 that may or may not exceed the stipulated threshold of ten percent of the annual consolidated turnover of the Company as per the last audited financial statements of the Company. Therefore, approval of shareholders dated July 17, 2015 was obtained through Postal Ballot process, Notice Resolution no. 2 and the said fact was disclosed to the Stock Exchanges vide intimation dated July 17, 2015.*

During my tenure, the audit committee and board meetings duly held and fact about the same had regularly been informed to the Stock Exchanges, noted in the Board meetings of the Company.

b. ***Reply for 4.3.3 and 4.3.4*** *– Disclosure as per "AS 18: Related Party Disclosures", issued by the Institute of Chartered Accountants of India in the Financial Statements, had never been part of my role in the Company. I was never a part of accounts, finance, or audit function of the Company or any group company. I had never dealt with the preparation, presentation of accounts books, accounting standards, auditing, banking during my tenure in the Company.*

c. ***Reply for point nos. 4.3.7, 4.3.8, 4.3.9*** *–These investigation observations relate to the accounting disclosures. As alleged, the fraudulent/ wrongful trading transactions, misappropriating, diversion of funds had neither been informed to me nor to the Board / Audit Committee of the Company nor disclosed in the Board / Audit Committee as agenda/non-agenda item during my tenure. They had not been presented in any audited/unaudited financial statements of the Company, as per my knowledge.*

7.46.4. ***<u>Investigation observation on failure of Corporate Governance – 4.4:</u>*** *The alleged misstated financial statements, fictitious book entries, misleading related party transactions had never brought to the knowledge of the undersigned. Rather, the Managing Director, various divisions of the Company reported about continuous growth of the Company and bagging big orders from prestigious companies in India and abroad. As per information received from Managing Director, Divisional heads of various divisions of the Company, the Company had various certifications in its name from independent organisations.*

Mr. Vansh Vardhan Joshi was not a director of the Company / audit committee member during my tenure. During my tenure, audit committee meetings used to be held. It is important to note that in the Audit Committee, there was Mr. Krishan Lall, a very senior fellow member of the ICSI and ICMAI (Cost Accountant) and designated as the Chairman of the Audit Committee. Mr. Sham Sunder Kumar, Non-executive Independent Director, was also a member of the Audit Committee during my tenure. He was a senior Advocate in practice, who had a very profound insight into various aspects of Indian corporate laws being an advocate. After retirement of Mr. Krishan Lall, Mr. Arun Kumar Joshi was inducted as the Chairman of the Audit Committee. He was a post graduate diploma holder in management and had business acumen with relevant experience. Further, the Chairperson of the Audit Committee used to be always present in the Annual General Meetings of the Company to answer the queries of the Shareholders at the AGM.

The Chairmen of the Audit Committee used to regularly meet with the Senior VP Strategy and Finance – Mr. Sushil Vij and the Managing Director – Mr. Bruj Raj Punj. Further, as per point no. 6.4.2 of the Investigation Report, it is mentioned that noticee no. 4 and 5 namely Mr. Surjit Krishan Sharma and Mr. Ajay Dogra, had attended 5 & 4 Audit Committee Meetings respectively during 2012-13. The said directors are validating the fact of holding of the Audit Committee Meetings during my tenure.

HEARING

8. After receipt of the written reply and in compliance with the principle of natural justice, an opportunity of personal hearing was also granted to the Noticees on January 16, 2023 which was communicated to the Noticees vide hearing notice dated January 03, 2023. Submissions made by Noticees on Personal Hearing were as follows:

Noticees	**Submissions**
Noticee No. 1	Noticee sought adjournment of hearing to January 17, 2023 vide e-mail dated January 11, 2023. In view of the request for adjournment, hearing was adjourned to January 17, 2023. However, Noticee had not appeared on adjourned date also.
Noticee No. 2	Noticee had not appeared on the hearing scheduled on January 16, 2023. In the interest of natural justice, one more opportunity of Personal hearing was granted to Noticee and the hearing had again scheduled on February 06, 2023 which is communicated to Noticee vide hearing notice dated January 16, 2023. AR of the Noticee vide e-mail dated February 03, 2023 sought adjournment of hearing. In view of the request for adjournment, hearing was adjourned to February 15, 2023. Noticee appeared himself on February 15, 2023 and reiterated the written reply filed with SEBI dated February 14, 2023. Further, Noticee also undertaken to file additional reply which had been filed on February 22, 2023.
Noticee No. 3	Authorised Representative (AR) of the Noticee sought adjournment of hearing. In view of the request for adjournment, hearing was adjourned to February 06, 2023. Appeared through AR on February 06, 2023 and reiterated the written reply filed with SEBI dated February 04, 2023.
Noticee No. 4	Noticee sought adjournment of hearing vide e-mail dated January 04, 2023, January 07, 2023 and January 12, 2023. In view of the request for adjournment, hearing was adjourned to February 06, 2023. Noticee again sought adjournment of hearing to February 07, 2023 vide e-mail dated February 06, 2023. In view of the

	request for adjournment, hearing was adjourned to February 07, 2023. Noticee appeared himself on February 07, 2023 and reiterated the written reply filed with SEBI dated January 22, 2023.
Noticee No. 5	Noticee had not appeared on the hearing scheduled on January 16, 2023. In the interest of natural justice, one more opportunity of Personal hearing was granted to Noticee and the hearing had again scheduled on February 06, 2023 which is communicated to Noticee vide hearing notice dated January 16, 2023. Noticee appeared himself on February 06, 2023 and reiterated the written reply filed with SEBI dated January 23, 2023.
Noticee No. 6	Appeared through AR on January 16, 2023 and reiterated the written reply filed with SEBI dated December 28, 2022 and January 13, 2023. Further, AR has undertaken to file additional reply which had been filed on January 23, 2023.
Noticee No. 7	Appeared herself on January 16, 2023 and reiterated the written reply filed with SEBI dated January 16, 2023.

CONSIDERATION OF ISSUES AND EVIDENCE

9. I have carefully perused the charges levelled against the Noticees in the SCN, their replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination: -

I. **Whether Noticee No. 1 and Noticee No. 3 had violated Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii)(7) of LODR Regulations and Section 21 of SCRA read with Section 27 of the SEBI Act and Noticee No. 1 had also violated Regulation 18(3) read with Para A of Part C of Schedule II, and Regulation 33(2)(a) of LODR Regulations read with 17(8) of the said regulation.**

II. **Whether Noticee No. 2 had violated Regulation 33(2)(a) of LODR Regulations read with 17(8) of the said regulation and Section 21 of SCRA.**

III. **Whether Noticees No. 4 and 5 had violated Regulation 18(3) read with Para A of Part C of Schedule II of LODR Regulations and Section 21 of SCRA read with Clause 49(II)(D)(E) and Clause 49(IV)(A) of SEBI Circular dated October 29, 2004 read with Regulation 103 of LODR Regulations.**

IV. **Whether Noticees No. 6 and 7 had violated Regulations 6(2)(a), (c) and 27(2) of LODR Regulations read with Section 21 of SCRA.**

V. **Do the violations, if any, on the part of the Noticees attract monetary penalty under section 15HB of SEBI Act.**

VI. **If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act.**

10. Before proceeding with the matter on merits, I would first deal with the contention of delay in issuance of SCN as raised by the Noticee No. 3, 4 and 5 aforementioned in para 7.13 and 7.20.

11. I find that there is no unreasonable delay in the present adjudication proceedings. The Investigation Period of the matter is April 01, 2012 to August 14, 2020. The alleged violations by Noticee No. 4 and 5 pertains to transactions which took place in FY 2012-13 and 2013-14. Investigation was carried out in the instant case wherein correspondences were exchanged and summons were issued to various entities during 2021-22. The investigation was completed in October 2022. Thereafter, SEBI recommended adjudication proceedings in the matter. The undersigned was appointed AO in the matter on November 30, 2022 and SCN was issued on December 15, 2022.

12. In this regard, it is pertinent to refer to observations of the Hon'ble SAT in the matter of Bipin R Vora vs SEBI dated March 22, 2006, "*As regards the plea of delay and latches and submission that the show cause notice is barred by limitation, I do not*

find any merit in these contentions as the time and efforts involved in an investigation though may vary from case to case, generally investigations per-se is a time consuming process which invariably involve collection, scrutiny and careful examination of voluminous records/ order-trade details of all the concerned including the exchanges/recording of statements etc. and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market".

13. In this context, I would also like to refer the observations of Hon'ble Supreme Court of India in the matter of *State vs. R. Vasanthi Stanley* reported in AIR 2015 SC 3691 wherein the Apex Court has held that "…*serious economic offence or for that matter the offence that has the potentiality to create a dent in the financial health of the institutions, is not to be quashed on the ground that there is delay in trial*…".

14. Therefore, in light of the above chronology I conclude that matter was open for long as it was being investigated for the likely violations of different regulations and SEBI has already initiated action pursuant to the findings of the investigation. Hence, I conclude that there is no merit in the objections raised by the Noticee No. 3, 4 and 5 regarding the delay in issuance of SCN.

Issue I. Whether Noticee No. 1 and Noticee No. 3 (being whole time Director) had violated Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii)(7) of LODR Regulations and Section 21 of SCRA read with Section 27 of the SEBI Act and Noticee No. 1 had also violated Regulation 18(3) read with Para A of Part C of Schedule II, and Regulation 33(2)(a) of LODR Regulations read with 17(8) of the said regulation.

15. Before adverting to the factual conspectus of the case, I note that the Noticee No. 1 & 3 had been alleged to had violated applicable provisions of SCRA, LODR Regulations and SEBI Act. Therefore, the said provisions are reproduced hereunder for ease of reference and better appreciation:

Relevant provisions of SCRA:

"Conditions for listing

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

Relevant provisions of LODR Regulations:

"Principles governing disclosures and obligations.

4.

(2) The listed entity which has listed its specified securities shall comply with the corporate governance provisions as specified in chapter IV which shall be implemented in a manner so as to achieve the objectives of the principles as mentioned below.

(f) ***Responsibilities of the board of directors:*** *The board of directors of the listed entity shall have the following responsibilities:*

(i) Disclosure of information:

(2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.

(ii) Key functions of the board of directors-

(2) Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.

(6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.

(7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.

(iii) Other responsibilities:

(7) The board of directors shall exercise objective independent judgement on corporate affairs.

Audit Committee.

18.

(3) The role of the audit committee and the information to be reviewed by the audit committee shall be as specified in Part C of Schedule II.

SCHEDULE II: CORPORATE GOVERNANCE

PART C: ROLE OF THE AUDIT COMMITTEE AND REVIEW OF INFORMATION BY AUDIT COMMITTEE

A. The role of the audit committee shall include the following:

(1) oversight of the listed entity's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible;

(2) recommendation for appointment, remuneration and terms of appointment of auditors of the listed entity;

(3) approval of payment to statutory auditors for any other services rendered by the statutory auditors;

(4) reviewing, with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to:

(a) matters required to be included in the director's responsibility statement to be included in the board's report in terms of clause (c) of sub-section (3) of Section 134 of the Companies Act, 2013;

(b) changes, if any, in accounting policies and practices and reasons for the same;

(c) major accounting entries involving estimates based on the exercise of judgment by management;

(d) significant adjustments made in the financial statements arising out of audit findings;

(e) compliance with listing and other legal requirements relating to financial statements;

(f) disclosure of any related party transactions;

(g) modified opinion(s) in the draft audit report;

(5) reviewing, with the management, the quarterly financial statements before submission to the board for approval;

(6) reviewing, with the management, the statement of uses / application of funds raised through an issue (public issue, rights issue, preferential issue, etc.), the statement of funds utilized for purposes other than those stated in the offer document / prospectus / notice and the report submitted by the monitoring agency monitoring the utilisation of proceeds of a public issue or rights issue or preferential issue or qualified institutions placement, and making appropriate recommendations to the board to take up steps in this matter;

(7) reviewing and monitoring the auditor's independence and performance, and effectiveness of audit process;

(8) approval or any subsequent modification of transactions of the listed entity with related parties;

(9) scrutiny of inter-corporate loans and investments;

(10) valuation of undertakings or assets of the listed entity, wherever it is necessary;

(11) evaluation of internal financial controls and risk management systems;

(12) reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems;

(13) reviewing the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit;

(14) discussion with internal auditors of any significant findings and follow up there on;

(15) reviewing the findings of any internal investigations by the internal auditors into matters where there is suspected fraud or irregularity or a failure of internal control systems of a material nature and reporting the matter to the board;

(16) discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern;

(17) to look into the reasons for substantial defaults in the payment to the depositors, debenture holders, shareholders (in case of non-payment of declared dividends) and creditors;

(18) to review the functioning of the whistle blower mechanism;

(19) approval of appointment of chief financial officer after assessing the qualifications, experience and background, etc. of the candidate;

(20) Carrying out any other function as is mentioned in the terms of reference of the audit committee.

(21) reviewing the utilization of loans and/ or advances from/investment by the holding company in the subsidiary exceeding rupees 100 crore or 10% of the asset size of the subsidiary, whichever is lower including existing loans / advances / investments existing as on the date of coming into force of this provision.

(22) consider and comment on rationale, cost-benefits and impact of schemes involving merger, demerger, amalgamation etc., on the listed entity and its shareholders.

Financial results.

33.

(2) The approval and authentication of the financial results shall be done by listed entity in the following manner:

(a) The quarterly financial results submitted shall be approved by the board of directors:

Provided that while placing the financial results before the board of directors, the chief executive officer and chief financial officer of the listed entity shall certify that the financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading.

Board of Directors.

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.

Relevant provisions of SEBI Act:

"Contravention by companies

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.

Explanation : For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm."

Noticee No. 1

16. From the material available on record, I note that SCN alleges that Noticee No. 1 was appointed as Independent Director of the Company from November 08, 2018. Later, with effect from June 04, 2019, he was designated as WTD & CEO of the Company which he resigned on October 18, 2019. He had attended two Board Meetings and also inducted as a member of the Audit Committee and had attended one Audit Committee also. SCN further alleges that Noticee No. 1 had signed the CEO/CFO certification of the Company for the FY 2017-18 on June 20, 2019. SCN

further alleges that Noticee No. 1 failed to ensure compliance of Regulation 23(4) of LODR Regulations as the Company had failed to obtain shareholder approval with regard to Related Party Transactions.

17. I further note that SCN dated December 15, 2022 had been delivered to Noticee 1 via E-mail (sksingh@yahoo.com, sksinghsk@yahoo.com) on December 15, 2022 and via SPAD (E-104, Malcha Marg, Chanakya Puri, New Delhi – 110 021) on December 20, 2022. Thereafter, Hearing Notice dated January 03, 2023 for the hearing scheduled on January 16, 2023 had been delivered to him via E-mail on January 03, 2023 and via SPAD on January 07, 2023. Thereafter, Noticee sought adjournment of hearing to January 17, 2023 vide e-mail dated January 11, 2023. In view of the request for adjournment, hearing was adjourned to January 17, 2023. However, Noticee had not appeared on adjourned date also.

18. From the aforementioned, I note that although sufficient opportunities were given to the Noticee, he has failed to respond to the SCN and Hearing Notice. In this regard, I would like to rely upon the findings of the Hon'ble SAT in the matter of Sanjay Kumar Tayal vs. SEBI (Appeal No. 68 of 2013 order dated February 11, 2014), regarding the significance of filing the reply to the SCN, in which it stated that "*appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notice."* In the absence of any defense by the noticee 1 the allegations levelled against him stands established.

Notice No. 3

19. From the material available on record, I note that SCN alleges that Noticee No. 3 was appointed as WTD of the Company w.e.f May 06, 2013 and disclosed as KMP in the Annual Reports for the FY 2012-13, FY 2013-14 and FY 2014-15. During his tenure as WTD, he had attended 7 Board Meetings. Hence, it was alleged that since Noticee No. 3 was part of the Board of Directors of the Company, which had not

acted in the interest of the investors, Noticee No. 3 had failed to perform his duties and obligations required to be performed under aforementioned provisions.

20. I note that Noticee No. 3 had rebutted the allegations levelled against him vide his submission dated February 04, 2023.

21. In respect of contention by Noticee No. 3 in aforementioned paras 7.14. to 7.19., I note that in view of the aforesaid provisions of Section 27 of the SEBI Act, Noticee No. 1 being the whole time director was involved in day to day affairs of the Company and thus, was duty bound and responsible for the affairs of the Company. I further note that aforementioned provisions of Regulation 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii)(7) of LODR Regulations casts specific responsibilities on the board of directors of the Company to monitor the effectiveness of the Company governance practices, Monitoring and managing potential conflicts of interest in related party transactions, ensure that financial reporting depicts true and fair view, ensure operational transparency to stakeholders, exercise independent judgement on corporate affairs etc. Contention of the Noticee that he never had the opportunity of reviewing the financial statements of the Company does not relieve him from his responsibilities. He is responsible for the contraventions alleged to have been committed by the Company aforementioned in para 4. He has attended majority of Board Meetings conducted during his tenure as the Director of the company and Company's financial results were discussed and approved in those meetings.

22. I note that in his written submissions, Noticee No. 3 had also referred and quoted extracts from various orders passed by the Hon'ble Supreme Court and Hon'ble SAT. These orders have been dealt hereunder:

22.1. In respect of order of Hon'ble Supreme Court *in the matter of SEBI vs Gaurav Varshney and Ors. and Pooja Ravinder Devidasani vs State of Maharashtra and another,* I note that the facts in the present case differs from the quoted case since Noticee No. 3 was Whole time director of the

Company at the time of Contravention by Company while in the quoted case, director had already resigned from the company before the contravention occurs and therefore, the reliance placed by the Noticee in this case is misplaced.

22.2. In respect of order of Hon'ble Supreme Court *in the matter of Shiv Kumar Jatia Vs State of NCT of Delhi and Sunil Bharti Mittal V/s Central Bureau of Investigation,* I note that the facts in the present case differs since in the quoted case vicarious liability on part of the Directors of the Company arises when accused Company is determined in the context of Penal Code/Criminal Liability. However, in the present case, liability of the Noticee has to be determined in the context of violation of the provisions of the securities laws as alleged in the SCN and therefore, the reliance placed by the Noticee in this case is misplaced.

22.3. In respect of order of Hon'ble Supreme Court in the matter of *Chintalapati Srinivasa Raju v/s Securities and Exchange Board of India, I* note that the facts in the present case differs since quoted case pertains to violation of SEBI (Prohibition of Insider Trading) Regulations, 1992. However, in the present case, liability of the Noticee has to be determined in the context of violation of the provisions of the LODR Regulations & SEBI Act as alleged in the SCN and therefore, the reliance placed by the Noticee in this case is misplaced.

Noticee No. 1 & 3

23. In this regard, I would also like to rely upon the findings of the Hon'ble SAT in the matter of V Natarajan v/s. SEBI wherein the Hon'ble SAT held, inter alia as follows:

"........... It is by now well understood that unaudited financial results that are required to be published by every listed company on a quarterly basis do form the basis for the investing public to take informed decisions. Any false information or false accounts depicting inflated revenues and profits by fictitious

entries in accounts is, indeed, a very serious wrong doing which directly impacts the securities market and the investors. Since the appellant was a part of the board of directors which approved the financial results of the company which were actually false and untrue, we are satisfied that the appellant is guilty of the charges levelled against him."

24. In this regard, I would like to further rely upon the findings of the Hon'ble Supreme Court in the matter of N. Narayanan v/s. SEBI wherein the Hon'ble Supreme Court held, inter alia as follows:

"32. Responsibility is cast on the Directors to prepare the annual records and reports and those accounts should reflect 'a true and fair view'. The over-riding obligation of the Directors is to approve the accounts only if they are satisfied that they give true and fair view of the profits or loss for the relevant period and the correct financial position of the company.

40. The appellant has taken the stand, as already stated, that even though he was a whole time Director he was not conversant with the accounts and finance and was only dealing with the human resource management of the company, hence, he had no fraudulent intention to deceive the investors. We find it difficult to accept the contention. The appellant, admittedly, was a whole time Director of the company, as regards the preparation of the annual accounts, the balance-sheet and financial statement and laying of the same before the company at the Annual General Meeting and filing the same before the Registrar of the Companies as well as before SEBI, the Directors of the company have greater responsibility, especially when the company is a registered company. Directors of the companies, especially of the listed companies, have access to inside knowledge, such as, financial position of the company, dividend rates, annual accounts etc. Directors are expected to exercise the powers for the purposes for which they are conferred. Sometimes they may misuse their powers for their personal gain and makes false representations to the public for unlawful gain."

25. In this regard, I would like to also refer to the order of the Hon'ble Supreme Court of India in the matter of *Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602* wherein Hon'ble Supreme Court of India held that "*A Director may be shown to be so 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 the business of a Company even though no specific act of dishonesty is proved against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the Company even superficially*".

26. In view of the above, I conclude that Noticee No. 1 had violated the provisions of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii)(7), Regulation 18(3) read with Para A of Part C of Schedule II of LODR Regulations and Regulation 33 (2)(a) of LODR Regulations, read with 17(8) of the said regulation and Section 21 of SCRA read with Section 27 of the SEBI Act.

27. In view of the above, I note that Noticee No. 3 had failed in providing any reasonable explanation to the allegation levelled against him in the SCN. I hold that the allegations levelled against him are proved, and accordingly, I conclude that Noticee no. 3 being WTD failed to perform his duties and obligations and thereby, violated Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii)(7) of LODR Regulations and Section 21 of SCRA read with Section 27 of the SEBI Act.

Issue II. Whether Noticee No. 2 had violated Regulation 33(2)(a) of LODR Regulations read with 17(8) of the said regulation and Section 21 of SCRA.

28. Before adverting to the factual conspectus of the case, I note that the Noticee No. 2 had been alleged to have violated applicable provisions of LODR Regulations and SCRA. Therefore, the said provisions are reproduced hereunder for ease of reference and better appreciation:

Relevant provisions of LODR Regulations:

"Financial results.

33.

(2) The approval and authentication of the financial results shall be done by listed entity in the following manner:
(a) The quarterly financial results submitted shall be approved by the board of directors:
Provided that while placing the financial results before the board of directors, the chief executive officer and chief financial officer of the listed entity shall certify that the financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading.

Board of Directors.

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."

Relevant provisions of SCRA:

"Conditions for listing

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

29. From the material available on record, I note that SCN alleges Noticee No. 2 was CFO of the Company and had signed the CEO/CFO certification for the FY 2017-18 which found to be untrue and misleading.

30. I note that Noticee No. 2 had rebutted the allegations levelled against him vide his submission dated February 14, 2023 and February 21, 2023.

31. In respect of contention by Noticee No. 2 in aforementioned paras 7.1. to 7.3 and 7.11 to 7.12., I note that a perusal of the aforesaid provisions goes to show that the CEO and CFO of the Company are required to give the certificate declaring that they have reviewed financial statements and the cash flow statement for the year and that the statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading and also that the said

statements together present a true and fair view of the listed entity's affairs and are in compliance with existing accounting standards, applicable laws and regulations. Even, Section 129 of the Companies Act, 2013 also cast responsibility on MD/WTD in charge of Finance/CFO to ensure that "*The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III".* The Regulations pose responsibility on the CEO and CFO to independently verify the truthfulness of financial statements and the said responsibility is not to be exercised in a cursory manner. In view of the same, the contention of the Noticees is not acceptable and thus, rejected summarily hereby.

32. In respect of contention by Noticee No. 2 in aforementioned paras 7.4. to 7.10., I note that FAR/TAR and investigation of SEBI have unearthed a series of serious irregularities and violations in respect of the Company as mentioned in paragraph 4 of this order. Even, the Noticee No. 2 is admitting in his contention that all the transactions routed through the Rajasthan were bogus and there are no proper records of such sale which he came to know in January 2019 when an investigation by GST Team was carried out post which discrepancy was disclosed in annual report of FY 2017-18 and transactions were reversed in FY 2018-19. **I further note that Audited financials of the Company for the FY 2017-18 has been signed on June 2019. Hence, the fact that financials of the Company not showing True and Fair view was known to Noticee No. 2 before certifying financial statement. Therefore, the contention of the Noticee is untenable.**

33. I would like to rely upon the findings of Hon'ble SAT in the matter of V. Srinivas vs. SEBI wherein the Hon'ble SAT held that, "*As CFO of Satyam, V. Srinivas had signed CFO Certification as required under Clause 49 of the Listing Agreement to the effect that the books of Satyam were maintained in accordance with law. Since it is established that the books of Satyam were inflated/ manipulated for several years, it is apparent that the CFO certification given by V. Srinivas were totally false."*

34. In view of the above, I conclude that Noticees No. 2 had violated the provisions of Regulation 33(2)(a) of LODR Regulations read with 17(8) of the said regulation and Section 21 of SCRA.

Issue III. Whether Noticees No. 4 and 5 had violated Regulation 18(3) read with Para A of Part C of Schedule II of LODR Regulations and Section 21 of SCRA read with Clause 49(II)(D)(E) and Clause 49(IV)(A) of SEBI Circular dated October 29, 2004 read with Regulation 103 of LODR Regulations.

35. Before adverting to the factual conspectus of the case, I note that the Noticees No. 4 and 5 had been alleged to have violated applicable provisions of LODR Regulations, SCRA and SEBI circular. Therefore, the said provisions are reproduced hereunder for ease of reference and better appreciation:

Relevant provisions of LODR Regulations:

Audit Committee.

18.

…....

(3) The role of the audit committee and the information to be reviewed by the audit committee shall be as specified in Part C of Schedule II.

SCHEDULE II: CORPORATE GOVERNANCE

…....

PART C: ROLE OF THE AUDIT COMMITTEE AND REVIEW OF INFORMATION BY AUDIT COMMITTEE

A. The role of the audit committee shall include the following:
(1) oversight of the listed entity's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible;
(2) recommendation for appointment, remuneration and terms of appointment of auditors of the listed entity;
(3) approval of payment to statutory auditors for any other services rendered by the statutory auditors;

(4) reviewing, with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to:

(a) matters required to be included in the director's responsibility statement to be included in the board's report in terms of clause (c) of sub-section (3) of Section 134 of the Companies Act, 2013;

(b) changes, if any, in accounting policies and practices and reasons for the same;

(c) major accounting entries involving estimates based on the exercise of judgment by management;

(d) significant adjustments made in the financial statements arising out of audit findings;

(e) compliance with listing and other legal requirements relating to financial statements;

(f) disclosure of any related party transactions;

(g) modified opinion(s) in the draft audit report;

(5) reviewing, with the management, the quarterly financial statements before submission to the board for approval;

(6) reviewing, with the management, the statement of uses / application of funds raised through an issue (public issue, rights issue, preferential issue, etc.), the statement of funds utilized for purposes other than those stated in the offer document / prospectus / notice and the report submitted by the monitoring agency monitoring the utilisation of proceeds of a public issue or rights issue or preferential issue or qualified institutions placement, and making appropriate recommendations to the board to take up steps in this matter;

(7) reviewing and monitoring the auditor's independence and performance, and effectiveness of audit process;

(8) approval or any subsequent modification of transactions of the listed entity with related parties;

(9) scrutiny of inter-corporate loans and investments;

(10) valuation of undertakings or assets of the listed entity, wherever it is necessary;

(11) evaluation of internal financial controls and risk management systems;

(12) reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems;

(13) reviewing the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit;

(14) discussion with internal auditors of any significant findings and follow up there on;

(15) reviewing the findings of any internal investigations by the internal auditors into matters where there is suspected fraud or irregularity or a failure of internal control systems of a material nature and reporting the matter to the board;

(16) discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern;

(17) to look into the reasons for substantial defaults in the payment to the depositors, debenture holders, shareholders (in case of non-payment of declared dividends) and creditors;

(*18) to review the functioning of the whistle blower mechanism;*

(19) approval of appointment of chief financial officer after assessing the qualifications, experience and background, etc. of the candidate;

(20) Carrying out any other function as is mentioned in the terms of reference of the audit committee.
(21) reviewing the utilization of loans and/ or advances from/investment by the holding company in the subsidiary exceeding rupees 100 crore or 10% of the asset size of the subsidiary, whichever is lower including existing loans / advances / investments existing as on the date of coming into force of this provision.
(22) consider and comment on rationale, cost-benefits and impact of schemes involving merger, demerger, amalgamation etc., on the listed entity and its shareholders.

Repeal and Savings

103. *(1) On and from the commencement of these regulations, all circulars stipulating or modifying the provisions of the listing agreements including those specified in Schedule X, shall stand rescinded.*
(2) Notwithstanding such rescission, anything done or any action taken or purported to have been done or taken including any enquiry or investigation commenced or show cause notice issued in respect of the circulars specified in sub-regulation (1) or the Listing Agreements, entered into between stock exchange(s) and listed entity, in force prior to the commencement of these regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations."

Relevant provisions of erstwhile Listing Agreement:

"Clause 49 - Corporate Governance

The company agrees to comply with the following provisions:

…....

II Audit Committee

…....

(D) Role of Audit Committee

The role of the audit committee shall include the following:
1. Oversight of the company's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible.
2. Recommending to the Board, the appointment, re-appointment and, if required, the replacement or removal of the statutory auditor and the fixation of audit fees.
3. Approval of payment to statutory auditors for any other services rendered by the statutory auditors.
4. Reviewing, with the management, the annual financial statements before submission to the board for approval, with particular reference to:
a. Matters required to be included in the Director's Responsibility Statement to be included in the Board's report in terms of clause (2AA) of section 217 of the Companies Act, 1956
b. Changes, if any, in accounting policies and practices and reasons for the same
c. Major accounting entries involving estimates based on the exercise of judgment by

management
d. Significant adjustments made in the financial statements arising out of audit findings
e. Compliance with listing and other legal requirements relating to financial statements
f. Disclosure of any related party transactions
g. Qualifications in the draft audit report.
5. Reviewing, with the management, the quarterly financial statements before submission to the board for approval
6. Reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems.
7. Reviewing the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit.
8. Discussion with internal auditors any significant findings and follow up there on.
9. Reviewing the findings of any internal investigations by the internal auditors into matters where there is suspected fraud or irregularity or a failure of internal control systems of a material nature and reporting the matter to the board.
10. Discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern.
11. To look into the reasons for substantial defaults in the payment to the depositors, debenture holders, shareholders (in case of non-payment of declared dividends) and creditors.
12. To review the functioning of the Whistle Blower mechanism, in case the same is existing.
13. Carrying out any other function as is mentioned in the terms of reference of the Audit Committee.
Explanation (i): The term "related party transactions" shall have the same meaning as contained in the Accounting Standard 18, Related Party Transactions, issued by The Institute of Chartered Accountants of India.
Explanation (ii): If the company has set up an audit committee pursuant to provision of the Companies Act, the said audit committee shall have such additional functions / features as is contained in this clause.
(E) Review of information by Audit Committee
The Audit Committee shall mandatorily review the following information:
1. Management discussion and analysis of financial condition and results of operations;
2. Statement of significant related party transactions (as defined by the audit committee), submitted by management;
3. Management letters / letters of internal control weaknesses issued by the statutory auditors;
4. Internal audit reports relating to internal control weaknesses; and
5. The appointment, removal and terms of remuneration of the Chief internal auditor shall be subject to review by the Audit Committee
…....
IV. Disclosures
(A) Basis of related party transactions
(i) A statement in summary form of transactions with related parties in the ordinary course of business shall be placed periodically before the audit committee.
(ii) Details of material individual transactions with related parties which are not in the normal course of business shall be placed before the audit committee.
(iii) Details of material individual transactions with related parties or others, which are not on an arm's length basis should be placed before the audit committee, together with Management's justification for the same."

<u>Relevant provisions of SCRA:</u>

"Conditions for listing

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

36. From the material available on record, I note that SCN alleges Noticees No. 4 and 5 was Independent Director of the Company and member of Audit Committee (AC) for the period of ~ 5 Years (April'2008 to November'2013 for Noticee No. 4 and November'2008 to May'2013 for Noticee No. 5). They had attended 5 & 4 AC meetings respectively during FY 2012-13. Being member of AC, Noticee No. 4 & 5 had an important role to play in ensuring compliance with existing accounting standards, true and fair presentation of the financial statement, approving related party transactions and monitoring the financial health of the Company. Hence, it was alleged that Noticee No. 4 & 5 being part of AC failed in performing their duties.

37. I note that Noticee No. 4 & 5 had rebutted the allegations levelled against them vide their submission dated January 22, 2023 and January 23, 2023 respectively.

38. I note that Noticee No. 4 & 5 were "Co-brothers" of Late Mr. Brij Raj Punj who was Promoter and Chairman cum Managing Director of the Company. It is also an interesting fact that upon resignation of noticee 4 & 5 their respective wives were inducted in their place in the Board and AC of the Company. In respect of contention by Noticee No. 4 and 5 in aforementioned paras 7.21 to 7.29, I note from the aforesaid provisions that Clause 49(II)(D)(E) and Clause 49(IV)(A) of SEBI Circular dated October 29, 2004 casts specific responsibilities on the Audit Committee. It is clear from Regulations that AC is expected to play a vital role as far as ensuring compliance with existing accounting standards, true and fair presentation of the financial statement, approving related party transactions, monitoring the financial health of the company, apart from ensuring compliances with applicable laws and regulations, are concerned. Further, AC is also entrusted with oversight of the company's financial reporting process and the disclosure of its financial information

to ensure that the financial statement is correct, sufficient, and credible. Further, AC members are also mandated for approving as well as reviewing the disclosure of any related party transaction. They have to review the major accounting entries involving estimates based on the exercise of judgment by management. They are expected to be independent, vigilant, and cautious against any fraudulent acts committed by the company and raise their concerns. Therefore, the contention of the Noticee No. 4 & 5 that they were not involved in affairs of the Company and unaware about the roles/responsibilities of AC member is misplaced and not tenable.

39. In this context, I would like to refer to the order of Hon'ble SAT in the matter of N. Narayanan vs. SEBI, wherein SAT held that, *"The members of the audit committee are expected to exercise due oversight of the company's financial reporting process and to ensure that the financial statement is correct, sufficient and credible. It is also expected to conduct a meaningful review with special emphasis on major accounting entries and significant adjustments made in the accounts before putting up the statements for the approval of the Board. The board of directors of the company has entrusted the audit committee with an onerous duty to see that the financial statements are correct and complete in every respect. In this background, the members of the audit committee cannot take shelter under the verifications made by the internal auditor and other professionals. The details extracted in the show cause notice and the impugned order illustrate that there were several prominent irregularities which should have alerted the directors. The appellant's learned counsel submitted that abnormal profits, mismatch in receivables, insufficient security deposit in the bank did not act as an alert when the accounts have been certified by qualified professionals. We cannot accept the stand of the learned counsel for the appellants. The whole time director attending to the affairs of the company on a full time basis and the directors being members of the audit committee could not have ignored the "red flag" while considering the accounts of the company."*

40. In view of the above, I note that Noticee No. 4 and 5 have failed in providing any reasonable explanation to the allegation levelled against them in the SCN. I hold that the allegations levelled against them are proved, and accordingly, I conclude that Noticee no. 4 and 5 being members of the Audit Committee failed to carry out adequate due diligence, acted like an agents of the company and also failed to exercise independent judgment as members of the Audit Committee of a listed Company. Noticee 4 & 5 were aware that Audit Committee meetings were held only on papers and they were signing on the dotted lines as reportedly instructed by the compliance officer clearly indicates that they were not serious about their role as Audit Committee members. Noticee 4 & 5, being Independent Directors also did not raised any objection to such arrangements and did not reported such gross non – compliances by the management to Stock Exchanges/ SEBI or Shareholders and thereby, violated Regulation 18(3) read with Para A of Part C of Schedule II of LODR Regulations and Section 21 of SCRA read with Clause 49(II)(D)(E) and Clause 49(IV)(A) of SEBI Circular dated October 29, 2004 read with Regulation 103 of LODR Regulations.

Issue IV. Whether Noticees No. 6 and 7 had violated Regulations 6(2)(a), (c) and 27(2) of LODR Regulations read with Section 21 of SCRA.

41. Before adverting to the factual conspectus of the case, I note that the Noticees No. 6 and 7 have been alleged to have violated applicable provisions of LODR Regulations and SCRA. Therefore, the said provisions are reproduced hereunder for ease of reference and better appreciation:

<u>Relevant provisions of LODR Regulations:</u>

***Compliance Officer and his/her Obligations**.*
6.
…....
(2) The compliance officer of the listed entity shall be responsible for-
(a) ensuring conformity with the regulatory provisions applicable to the listed entity in letter and spirit.
…....

(c) ensuring that the correct procedures have been followed that would result in the correctness, authenticity and comprehensiveness of the information, statements and reports filed by the listed entity under these regulations.

Other corporate governance requirements.
27.
…....
(2) (a) The listed entity shall submit a quarterly compliance report on corporate governance in the format as specified by the Board from time to time to the recognised stock exchange(s) within twenty one days from the end of each quarter.

(b) Details of all material transactions with related parties shall be disclosed along with the report mentioned in clause (a) of sub-regulation (2).

(c) The report mentioned in clause (a) of sub-regulation (2) shall be signed either by the compliance officer or the chief executive officer of the listed entity.

Relevant provisions of SCRA:

"Conditions for listing

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

Noticee No. 6

42. From the material available on record, I note that SCN alleges Noticees No. 6 was appointed as the Company Secretary and Compliance Officer of Fedders w.e.f May 30, 2016 and signed the financials of the Company for FY 2015-16 and FY 2016-17. He had also signed and filed the quarterly compliance certificate of Company with the Stock Exchanges in terms of Regulation 27 of LODR Regulations wherein he had been affirming compliance of every quarter with respect to prior approval of Audit Committee for related party transactions, compliance with respect to composition and meetings of the Audit Committee and other sub-committee. Hence, it was alleged that Noticee No. 6 had deliberately hidden the fact of the non-compliance of the Corporate governance requirements in totality by the Company, which has led to wrong disclosure and mislead the investors trading in the scrip since in his deposition, he had admitted that the Audit Committee meetings had never taken place in Fedders and these were only paper compliances by the company. SCN further alleges that Noticee No. 6 had shown professional

misbehaviour and gross misconduct being the company secretary/compliance officer of the company and by deliberately hiding the non-compliance of corporate governance requirements of SEBI, had failed in his duties as a KMP of Fedders and his actions had been detrimental to the interest of the minority shareholders of Fedders.

43. I note that Noticee No. 6 had rebutted the allegations levelled against him vide his submission dated December 28, 2022, January 13, 2023 and January 23, 2023.

44. I note that in its written submissions, Noticee No. 6 had also referred and quoted extracts from various orders passed by the Hon'ble SAT and Hon'ble NCLT. These orders have been dealt hereunder:

44.1. In respect of order of Hon'ble SAT *in the matter of V. Shankar V. SEBI,* I note that Hon'ble Supreme Court of India had set aside the order of the Hon'ble SAT vide its order dated February 08, 2023. Hence, I find that contention of Noticee to rely upon this order is not tenable.

44.2. In respect of order of Hon'ble NCLT in *Technology Frontiers (India) (P) Ltd. v. Global Sports Commerce Pte. Ltd., 2022 SCC Online NCLT 223* relied upon by Noticee, I note that in this Judgement, Hon'ble NCLT also held that, *"he has to ensure the mandatory compliances by moving the Competent Authority, if not such compliances were failed at the behest of the Board or in the event of a lapse from the Board of Directors."* In the Quoted case, Company Secretary had moved to Hon'ble NCLT to ensure compliances. However, in the instant case, no material had been placed on record which depicts that Noticee had moved to Competent Authority against the lapses in compliances by Board of Directors and therefore, the reliance placed by the Noticee in this order is misplaced.

44.3. In respect of order of Hon'ble SAT *in the matter of Pritha Bag vs SEBI,* I note that, in the present case, Noticee was Company Secretary and Compliance

Officer of the Company who is an “Officer who is in default” as per Companies Act. However, in the quoted case, appellant was an additional director and had not charged with the responsibility of compliance with the provisions of the Companies Act and thereby exonerated by Hon’ble SAT. Therefore, the reliance placed by the Noticee on the order passed by Hon’ble SAT in Pritha Bag case is misplaced.

44.4. In respect of order of Hon’ble SAT *in the matter of M/s New Delhi Television Limited vs SEBI,* I note that in the order cited, the Compliance Officer was exonerated from monetary penalty only for alleged disclosure violation under the Listing Agreement while establishment of other violations had been upheld. The facts in the instant case differs and therefore, the reliance placed by the Noticee in this case is misplaced.

44.5. In respect of order of Hon’ble SAT *in the matter of Piramal Enterprises Limited vs. SEBI* & Sandeep Batra vs. SEBI as cited by Noticee aforementioned in Para 7.40 & 7.41. I note that Hon’ble Supreme Court in the matter of *Adjudicating Officer, Securities and Exchange Board of India v. Bhavesh Paba*ri held that, *“35. This Court, in the exercise of its jurisdiction Under Section 15-Z of the SEBI Act, cannot go into the proportionality and quantum of the penalty imposed, unless the same is distinctly disproportionate to the nature of the violation which makes it offensive, tyrannous or intolerable. Penalty by the very nature of the provision is penal. We can interfere only where the quantum is wholly arbitrary and harsh which no reasonable man would award. In the instant case, the factual findings are not denied and, thus, we are not inclined to intermeddle with the quantum of penalty. The penalty imposed is just, fair and reasonable and, thus, upheld.”* Therefore, in view of the aforesaid, reliance placed by the Noticee in this case is misplaced.

45. I note from the aforesaid provisions of LODR Regulations that Regulation 6 and 27 casts specific responsibilities on the Compliance Officer. Under the circumstances, as a Company Secretary and Compliance Officer, Noticee No. 6 cannot plead innocence by stating that he was merely acting under the instructions and coercion of the Chairman and Board of Directors. I further note that, in his submissions/depositions he is admitting that Audit Committee (AC) and Other Committee meetings were not conducted and these were only paper compliances by the Company. Despite that, he had hidden the fact of the non-compliance of the Corporate governance requirements in spirit by the Company and signed the Compliance certificate. Attesting the Compliance Certificate cannot be undermined as a mere routine job but has to be taken up as a serious responsible job of affirming compliance with respect to prior approval of Audit Committee for related party transactions, compliance with respect to composition and meetings of the Audit Committee and other sub-committee.

46. I would like to refer to the Government Clarification vide Circular No. 7/72 dated May 12, 1972 whereby it was clarified that the Department (erstwhile Department of Company Affairs) is of the view that as the authentication by the Secretary is **"on behalf of the board of directors" and not in his personal capacity, secretary can be held responsible regarding errors as an "officer" of the company within the meaning of section 628 of the Companies Act, 1956 and not because of authentication by him under section 215 as such. Where, however, the secretary is charged with the responsibility of maintaining the accounts and also assisting the auditor at the time of auditing, he cannot conceivably escape the consequence of any wrong statement in the accounts.**

47. In this context, I would like to also refer to the order of the Hon'ble SAT in the matter of Mr. Bhuwaneshwar Mishra vs SEBI (Appeal no. 7 of 2014 – Date of decision – July 31, 2014) in which Hon'ble SAT held that

"19. Therefore, the company, the Company Secretary and the Chairman of the company have a greater responsibility on their shoulders to ensure, in a free and fearless manner, that the promoters make timely and absolutely true disclosures as regards their respective shareholding in the company in consonance with various regulations prescribed by SEBI and the Listing Agreement. In fact, the companies are required to maintain a register in this respect and if a vast variation is noted by the company, the Company Secretary and the Chairman, in the shareholding pattern of the promoters they are duty bound to inform to the stock exchange or even to SEBI accordingly. Such acts of wrong disclosures are condemned as fraudulent and unfair trade practices.

………………………...

……………………….

23. In this connection, it is pertinent to note that the Company, the Company Secretary and the Chairman are not mere conduit to pass-on whatever details they receive from the promoters to the Stock Exchanges irrespective of the records maintained by the Company in respect of the shares which may be held by a promoter at given point of time. The Appellants should have acted more diligently and responsibly and should not have been guided by mere legal opinions. It is settled law that legal opinions are only advisory in nature and not binding on anyone. Therefore, no legal infirmity can be attributed to the impugned order which holds all the appellants guilty of violating the PFUTP Regulations, 2003 and imposes monetary penalties on them."

48. In view of the above, I conclude that Noticee No. 6 had failed to act diligently and responsibly while acting as the Compliance officer of the Company. He failed to perform his duties and obligations and thereby, violated Regulations 6(2)(a), (c) and 27(2) of LODR Regulations read with Section 21 of SCRA.

Noticee No. 7

49. From the material available on record, I note that SCN alleges Noticees No. 7 was appointed as the Company Secretary and Compliance Officer of Fedders for the period FY 2005-06 to FY 2014-15 and signed the financials of the Company for these periods. She had also signed and filed the quarterly compliance certificate of Company with the Stock Exchanges in terms of Regulation 27 of LODR Regulations wherein she had been affirming every quarter of compliance with respect to prior approval of Audit Committee for related party transactions, compliance with respect to composition and meetings of the Audit Committee and other sub-committee. Hence, it was alleged that Noticee No. 7 had deliberately hidden the fact of the non-compliance of the Corporate governance requirements in spirit by the Company, which has led to wrong disclosure and misleading the investors trading in the scrip Audit Committee meetings had never taken place in Fedders and these were only paper compliances by the company. SCN further alleges that Noticee No. 7 had shown professional misbehaviour and gross misconduct being the company secretary/compliance officer of the company and by deliberately hiding the non-compliance of corporate governance requirements of SEBI, had failed in her duties as a KMP of Fedders and her actions had been detrimental to the interest of the minority shareholders of Fedders.

50. I note that Noticee No. 7 had rebutted the allegations levelled against her vide submission dated January 16, 2023.

51. I note that Noticee No. 7 contended that during her tenure as Compliance Officer, AC meetings were duly held and she is referring to Point No. 6.4.2 of the Investigation Report wherein it is mentioned that Noticee No. 4 and 5 namely Mr. Surjit Krishan Sharma and Mr. Ajay Dogra, had attended 5 and 4 Audit Committee Meetings respectively during 2012-13 stating that the said directors are validating the fact of holding of the Audit Committee Meeting during her tenure. However, I further note that the said directors in their submissions had stated that on the

suggestion of Company secretary of Fedders, they as members of AC had signed on the dotted lines in the meetings which were conducted only on papers. In the interest of natural justice, copy of the aforesaid reply dated January 22, 2023 and January 23, 2023 received from Mr. Surjit Krishan Sharma and Mr. Ajay Dogra had been provided to Noticee No. 7 for her additional submissions, if any. Further, other Key Managerial Persons of Fedders in their deposition have also stated that AC meetings were mostly not conducted and members of AC were just merely signing the minutes. However, no response received from Noticee No. 7 in this regard.

52. In this context, I would like to also refer to the Government Clarification vide Circular No. 7/72 dated May 12, 1972 and order of the Hon'ble SAT in the matter of *Mr. Bhuwaneshwar Mishra vs SEBI (Appeal no. 7 of 2014 – Date of decision – July 31, 2014*) aforementioned in para 46 and 47.

53. In view of the above, I find that Noticee No. 7 has not substantiated her contention that AC meetings were conducted with concrete and conclusive evidence and conclude that Noticee No. 7 had failed to act diligently and responsibly while acting as the Compliance officer of the Company since attesting the Compliance Certificate cannot be undermined as a mere routine job but has to be taken up as a serious responsible job of affirming compliance with respect to prior approval of Audit Committee for related party transactions, compliance with respect to composition and meetings of the Audit Committee and other sub-committee. She failed to perform her duties and obligations and thereby, violated Regulations 6(2)(a), (c) and 27(2) of LODR Regulations read with Section 21 of SCRA.

Issue V. Do the violations, if any, on the part of the Noticees attract monetary penalty under section 15HB of SEBI Act.

54. In the instant case, the following violations have been established against the Noticees: -

Noticee No.	Violations established
1	Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii)(7), Regulation 18(3) read with Para A of Part C of Schedule II, Regulation 33(2)(a), of LODR Regulations read with 17(8) of the said regulation and Section 21 of SCRA read with Section 27 of the SEBI Act.
2	Regulation 33(2)(a) of LODR Regulations read with 17(8) of the said regulation and Section 21 of SCRA.
3	Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii)(7) of LODR Regulations and Section 21 of SCRA read with Section 27 of the SEBI Act.
4 5	Regulation 18(3) read with Para A of Part C of Schedule II of LODR Regulations and Section 21 of SCRA read with Clause 49(II)(D)(E) and Clause 49(IV)(A) of SEBI Circular dated October 29, 2004 read with Regulation 103 of LODR Regulations.
6 7	Regulations 6(2)(a), (c) and 27(2) of LODR Regulations read with Section 21 of SCRA

55. In this context, I would also like to also refer to the order of the Hon'ble Supreme Court of India in the matter of *Chairman, SEBI Vs Shriram Mutual Fund {[2006]5 SCC 361}*, Hon'ble Supreme Court of India 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 A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not."*

56. As the violation of above mentioned provisions has been established, I hold that Noticees are liable for monetary penalty under section 15HB of SEBI Act.

57. The aforesaid provisions read as under:

"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 VI. If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act?

58. While determining the quantum of penalty under section 15HB, it is important to consider the factors stipulated in section 15J of SEBI Act, which reads as under:

"Factors to be taken into account while adjudging quantum of penalty.

15J. While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or 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."

59. A company acts through its board of directors. The directors are responsible for all the acts of omission and commission by the company. It is the duty and responsibility of the directors to ensure that proper systems and controls are in place for financial reporting and to monitor the efficacy of such systems and controls. While the extent of responsibility of an independent director may differ from that of an executive director, an independent director has the duty of independent judgment which may reasonably be expected of a director in his position and any additional knowledge, skill and experience which he may possess. Also, the compliance officer of the listed entity shall be responsible for ensuring conformity with the regulatory

provisions applicable to the listed entity in letter and spirit, ensuring that the correct procedures have been followed that would result in the correctness, authenticity and comprehensiveness of the information, statements and reports filed by the listed entity under the regulations prescribed by SEBI.

60. I note that the material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticees and the loss suffered by the investors as a result of the Noticees default. Also there is no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by the Noticees as a result of default. However, it is pertinent to mention here that financial statements are the yardstick that numerous stakeholders use to assess the financial health of a company. Falsified financial statements may lead to wrong assessments and flawed investment decisions. Further, the persons in charge of affairs of management of a company are entrusted with fiduciary duty to act in the interest of the shareholders, as such, they are trustees of the shareholder's interests. These persons, particularly those holding the position of Directors, CFO, Compliance Officer etc. have access to confidential data and information relating to the company and are in position to exploit this access to the detriment of the investors, yet the investors repose faith in them and trust that they will work in their best interest. If the financial and securities related frauds are perpetrated by such persons it would breach the trust and deal a huge blow to the confidence of not only the investors / stakeholders of the relevant company but also the whole market. Such incidences have ripple effect and adversely affect the sentiment and the confidence of the whole securities market. KMPs of the listed companies had greater responsibilities and they take major decisions on behalf of the company, which affects the investors. They are expected to exercise the powers in a bona fide manner and in the interest of all stakeholders of the company. Hence, the violations committed by the Noticees has to be viewed seriously and attract penalty under Section 15HB of the SEBI Act.

61. In this context, I would like to refer to the order of Hon'ble Supreme Court in the matter of *N. Narayanan Vs. Adjudicating Officer, SEBI* wherein Hon’ble Supreme Court made the following observation with a word of caution to SEBI: -

"word of caution:

SEBI, the market regulator, has to deal sternly with companies and their Directors indulging in manipulative and deceptive devices, insider trading etc. or else they will be failing in their duty to promote orderly and healthy growth of the Securities market. Economic offence, people of this country should know, is a serious crime which, if not properly dealt with, as it should be, will affect not only country’s economic growth, but also slow the inflow of foreign investment by genuine investors and also casts a slur on India’s securities market. Message should go that our country will not tolerate “market abuse” and that we are governed by the “Rule of Law”. Fraud, deceit, artificiality, SEBI should ensure, have no place in the securities market of this country and „market security‟ is our motto. People with power and money and in management of the companies, unfortunately often command more respect in our society than the subscribers and investors in their companies. Companies are thriving with investors‟ contributions but they are a divided lot. SEBI has, therefore, a duty to protect investors, individual and collective, against opportunistic behaviour of Directors and Insiders of the listed companies so as to safeguard market’s integrity."

62. In the facts and circumstances of this case, the quantum of penalty has to be adjudged taking into account the conduct of the Noticees as found in this case and the principle of proportionality. It is pertinent to mention that for companies whose securities are traded on an exchange platform, it is trite law that the disclosure of information about the company is crucial for the correct and accurate pricing of the company’s securities and for the efficient operation of the market. SEBI Act read with the relevant provisions of LODR Regulations as found to be violated in this case would clearly indicate that the obligations of the KMPs in listed companies are particularly onerous especially when the KMPs makes itself accountable for the performance of the company to shareholders and also for the production of its

accounts and financial statements especially when the company is a listed company. The facts in this case clearly reveal that the KMPs of the Company in question had failed in their duty to exercise due care and diligence and allowed the company to fabricate the figures and making false disclosures in the form of misrepresenting the books of accounts of the company. Given the vital function of protecting investors and safeguarding the integrity of the securities market vested in SEBI and the commensurate powers given to it under the securities laws, it is necessary for SEBI to exercise these powers firmly and effectively to insulate the market and its investors from the fraudulent actions of the participants in the securities market. One of the basic premises that underlines the integrity of securities market is that the participants conform to standards of transparency, good governance and ethical behaviour prescribed in securities laws and do not resort to manipulative, deceptive and fraudulent activities. In this case, the acts, omissions and conduct of the noticees, as brought out in the SCNs have been in violation of this basic premise. The financial frauds as found in this case are inimical to the interests of the investors in securities and endanger the market integrity. Therefore, no lenient view should be taken in this matter and the case deserves imposition of monetary penalty proportionate to the default as found in this case.

ORDER

63. In view of the above observations/findings, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under Section 15-I of the Act and Rule 5 of AO Rules, I hereby impose the following monetary penalty on the Noticees;

Noticee No.	Penalty under Section of SEBI Act	Penalty Amount (in ₹)
1	Section 15 HB of SEBI Act	5,00,000
2		5,00,000
3		5,00,000
4		2,00,000
5		2,00,000
6		5,00,000
7		5,00,000

I am of the view that the said penalty is commensurate with the violations committed by the Noticees in this case.

64. 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, Noticee may contact the support at portalhelp@sebi.gov.in.

65. The Noticees shall forward the details/ confirmation of payment made in the format as given in table below to "The Division Chief, EFD – DRA - II, 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)	

66. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees and also to the Securities and Exchange Board of India.

Date : March 28, 2023
Place : Mumbai

Sahil Malik
Adjudicating Officer