

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA  
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER**

**ORDER**

**Under Sections 11, 11(4) and 11B of the Securities and Exchange Board of India Act,  
1992**

**In Re: Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair  
Trade Practices Relating to Securities Market) Regulations, 2003 and SEBI (Research  
Analysts) Regulations, 2014**

**In respect of:**

<b>S. No.</b>	<b>Entity Name</b>	<b>PAN</b>
1	Goldleaf International Pvt. Ltd.	AABCG6705E
2	Sanjay Gupta	ABMPG6231C
3	Ajay Gupta	ABMPG0822F
4	Shikha Gupta	ABWPG3108Q
5	Gautam Gupta	AKQPG8560R
6	Kajal Rai	ALYPK6163D
7	Ram Lal Gupta	ABHPG9098E
8	Neeleshkumar Radheshyam Lahoti	ABJPL7269A
9	Future Fintrade represented by Preyesh Mehta	PAN not available; Having registered office at F-1/A, Profit Centre, Mahavir Nagar, Above Pizza Hut, Kandivali West, Mumbai - 67
10	Mohsin	PAN not available; Having ICICI Account number 657101502167

**In the matter of Supreme Tex Mart Ltd.**

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**BACKGROUND**

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) vide an *ad-interim ex-parte order* dated November 01, 2017 (hereinafter referred to as the “***interim***”

*order*”) had *prima facie* found that the acts and omissions of Goldleaf International Pvt. Ltd., Mr. Sanjay Gupta, Mr. Gautam Gupta, Ms. Shikha Gupta, Ms. Kajal Rai, Mr. Ram Lal Gupta, Mr. Ajay Gupta, Mr. Neeleshkumar Radheshyam Lahoti, Future Fintrade and Mr. Mohsin were in violation of the provisions of Regulations 3(a), (b), (c) and (d) and 4(1), 4(2)(f) and (r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”) and Sections 12A(a), (b) and (c) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”). Therefore, the said Noticees were restrained from accessing the securities market and further prohibited them from buying, selling or dealing in securities, directly or indirectly, in any manner whatsoever, till further directions and were also directed to cease and desist from disseminating messages or news in any form related to the securities market, directly or indirectly, by any means whatsoever.

2. The persons/ entities against whom the *interim order* was passed, were advised to file their objections / replies, if any, within thirty days from the date of the *interim order* and, if they so desire, to avail themselves of an opportunity of personal hearing before SEBI on a specific request, received from them in writing. In the event the said entities fail to file their objections/ replies or to request for an opportunity of personal hearing within the said 30 days, the preliminary findings of this Order and *ad-interim* directions shall stand confirmed against them automatically, without any further orders.

### **INTERIM ORDER**

3. The *interim order* was passed taking into account the facts and circumstances described therein, which are, *inter alia*, summarised as under:-
  - a) It is noted that Supreme Tex Mart Ltd. (hereinafter referred to as “**STML**”) had been a loss making company and company's accumulated losses had exceeded its entire net worth as on March 31, 2015 and it had become a sick company in accordance with the provisions of Sick Industrial Companies (Special Provisions) Act, 1985 as stated in its annual report for FY 2014-15.

- b) It is noted that during July 2016 to September 2016, the Promoters / Directors of STML offloaded more than 27% shares of STML.
- c) It is observed that within July 1, 2016 to January 31, 2017 (hereinafter referred to as “**examination period**”), during the period July 08, 2016 to October 04, 2016, many Short Message Service (hereinafter referred to as “**SMSs**”), were sent from multiple telecom service providers such as Reliance Telecommunications Ltd., MTNL and Idea Cellular relating to the scrip of STML. At least 39.3 lakh bulk SMSs were sent giving buy recommendations for the scrip of STML.
- d) On a comparison of periods prior and after sending of SMSs, it is noted that the average daily volume in the scrip of STML increased by 2653% during the SMSs period.
- e) It was *inter alia* noted that:-
- i. Prior to sending of SMSs, there was fund transfer of ₹ 50 lakh from joint account of STML with Promoters/Directors of STML to Mr. Neeleshkumar Radheshyam Lahoti (hereinafter referred to as “**Lahoti**”) between July 28, 2016 to August 3, 2016. The account of STML was jointly held by Mr. Ram Lal Gupta(Promoter), Mr. Sanjay Gupta (Promoter) and Mr. Ajay Gupta (Promoter & Director), hereinafter collectively be referred to as “**identified entities**”.
  - ii. It is also noted that Mr. Lahoti had transferred ₹ 24 lakh to Mr. Mohsin, a month before SMSs were sent i.e. from July 11, 2016 to July 28, 2016.
  - iii. On August 22, 2016, an attempt was made by holders of joint account of STML to transfer ₹ 25 lakh to Mr. Lahoti, however, Mr. Lahoti’s account was frozen on August 22, 2016. Subsequently, the very next day, an exact amount of ₹ 25 lakh was transferred from the joint account of STML to Mr. Mohsin.
  - iv. Subsequently, there were more payments from joint account of STML and Promoters/Directors of STML to Mr. Mohsin totaling to ₹ 65 lakh during August 23, 2016 to September 03, 2016.
  - v. Meanwhile, during the period August 24, 2016 to September 28, 2016, as soon as Mr. Mohsin got funds from the joint account of STML, within next few days

he transferred funds to RouteSMS towards payment for dissemination of bulk SMSs. In total, Mr. Mohsin transferred ₹ 24.53 lakh to RouteSMS.

- vi. During the period August 30, 2016 to October 04, 2016 (i.e. when SMSs were being sent through Idea Cellular), Goldleaf International Pvt. Ltd. (Promoter) whose directors were Mr. Gautam Gupta and Mr. Ajay Gupta, Mr. Sanjay Gupta (Promoter) and Mr. Gautam Gupta (Promoter & Director) sold 52,09,392 shares of STML.
  - vii. During October 05, 2016 to January 31, 2017 (i.e. the period immediately after the bulk SMSs were sent), Ms. Shikha Gupta (Promoter) and Ms. Kajal Rai (Director) sold 13,56,400 shares of STML.
- f) Following *modus operandi* was observed in the matter:
- i. Mr. Lahoti and Mr. Mohsin channelized the funds from STML to RouteSMS for the purpose of sending bulk SMSs. Mr. Lahoti also bought and sold shares of STML during the examination period thereby pumping up the volume in the scrip of STML.
  - ii. Future Fintrade was used as a front entity by Mr. Lahoti for entering into agreement with RouteSMS for sending bulk SMSs and channelizing fund transfer from STML to RouteSMS. Mr. Preyesh Mehta represented Future Fintrade to RouteSMS.
  - iii. Innocent investors were lured through fake SMSs recommending purchase of shares of STML which was deployed by the *identified entities* along with Mr. Lahoti, Future Fintrade (represented by Mr. Preyesh Mehta) and Mr. Mohsin to pump up the volume in the scrip of STML. It was done with an ultimate goal of offloading the shareholding of Promoters/Directors of STML who eventually sold a substantial portion of their shareholding in STML.
- g) Thus, it was, *prima facie*, observed that the aforesaid entities have made/caused to be made known misrepresentations by making unrealistic claims and representations in reckless and careless manner in their SMSs. By their acts and omissions they have solicited, enticed and induced investors to deal in securities on the basis of their investment advices, stock trade tips, etc. and certain

Promoters/Directors sold their shares when the volumes in the scrip of STML increased as a result of SMSs.

h) In addition to the above, it is noted that Future Fintrade (who sent bulk SMSs through RouteSMS), is not registered with SEBI as an investment advisor or as a research analyst. The characteristics and features of the role played by Future Fintrade, *prima facie*, leads to the conclusion that Future Fintrade had acted as a research analyst as defined in Regulation 2(u) of SEBI (Research Analysts) Regulations, 2014 (hereinafter referred to as “**RA Regulations**”) .

4. The allegations against the Noticees, as mentioned in the *interim order*, are that, acts and omissions of the Noticees are ‘*fraudulent*’, as defined under Regulation 2(1)(c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”) and are in contravention of the provisions of Regulations 3(a), (b), (c) and (d) and 4(1), 4(2)(f) and (r) of PFUTP Regulations and Sections 12A(a), (b) and (c) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”). Further, it is also alleged that Future Fintrade has contravened the provisions of Section 12(1) of SEBI Act read with Regulation 3(1) of RA Regulations.
5. The Noticees were advised to file their objections/replies, if any, within thirty days from the date of the *interim order* and, if they so desire, avail themselves of an opportunity of personal hearing before SEBI, on a date and time to be fixed on a specific request, received from them in writing.

### **REPLY**

6. Pursuant to the *interim order*, Noticees had filed their replies. The replies of the Noticees are summarized below:

I. **Ms. Kajal Rai** vide her letter dated November 30, 2017 submitted as follows:

- I would like to place on record that I was an Independent Director of the Company for a very short period from July 24, 2016 till March 14, 2017. As an Independent Director, I was not involved in the day to day affairs of the company.
- No where in the interim order it has been alleged that I was a joint signatory to the bank account from where the funds have been routed to Mr Nilesh Lahoti Mr Mohsin and M/s. Route SMS. This establishes that I was unaware of any such transaction.
- Further, except for making allegation with respect to my sale of 2,400 shares nothing specific has been attributed to me in the interim order in terms of as to how I was involved in the circulation of SMS or routing of funds or that the alleged activities had my approval or I was aware of it.
- All the above shares were purchased before joining as Independent Director of the company. After that, neither me nor my relatives have purchased/ acquired shares of STML till date by any means whatsoever.
- As per Para 13 of the Interim order, I have purchased 2,400 shares during the period from July 01, 2016 to July 07, 2016, whereas in reality, I have purchased 400 shares of STML on January 29, 2016 and 2,000 shares on February 01, 2016.
- Out of the total shares of 2400 held by me of STML, I have sold 1,200 shares on August 26, 2016 at a consideration of ₹ 10,761/- and 1,200 shares on October 07, 2016 at a consideration of ₹ 9,610/ totalling ₹ 20,371/- and had earned a total gain of ₹ 1,421/-
- I deny having any connections with Mr Nilesh Lahoti, Mr Mohsin and M/ s. Future Fintrade.

**II. Mr. Ajay Gupta** vide his letter dated November 27, 2017 replied on behalf of himself, Goldleaf International Pvt. Ltd., Ms. Shikha Gupta and Mr. Gautam Gupta as follows:

- Mr. Ram Lal Gupta is no more associated with STML due to his sad demise. Thus, we would request you to kindly drop the proceedings in this matter against him.

- The said interim order has been passed in gross violation of principles of natural justice since no plausible reason for such urgency in passing interim order has been spelt out to warrant such drastic and immediate action against us. Further, the said interim order has the effect of a final order since SEBI has already concluded that we are guilty and the depositories have been directed not to make any debits from our accounts without your permission.
- As on March 31, 2017, the annual turnover of STML was nearly ₹ 400 crore. As on September 30, 2017 the equity share capital of STML was ₹ 34 crore and STML was having around 13,500 retail shareholders.
- The entity further sought certain clarifications / documents in the matter.

**III. Mr. Lahoti** vide his letter dated November 25, 2017 requested for inspection and copy of certain documents in the matter.

**IV. Mr. Sanjay Gupta** vide his letter dated November 03, 2017 submitted as follows;

- On February 09, 2016, he has disinherited his son, Mr. Gautam Gupta through re-will.
- On March 19, 2016, Mr. Gautam Gupta filed a police complaint against him.
- On March 22, 2016, STML filed a civil suit of defamation against him.
- On April 26, 2017. He filed a petition of mis-management before NCLT, Chandigarh against Mr. Ajay Gupta and Mr. Gautam Gupta.
- On May 25, 2017, he has filed a complaint with SEBI, BSE and NSE against STML.

**Mr. Sanjay Gupta** vide his letter dated November 28, 2017 further submitted as follows:

- I submit that the proceedings have been decided by SEBI without service of any statutory or legal notice to me, which is in violation of due process of law and principles of natural justice and equity. On this ground alone, the SEBI ex-parte ad-interim order is liable to be dismissed against me.

- I submit that after my resignation dated 19th April 2013 from the position of Whole Time Director which was accepted by the company effective April 19, 2013, I have nothing to do with the affairs of STML.
- I submit that I am having no relationship with Goldleaf International Pvt Ltd, Promoter of the company. I had resigned from the Board of this company on April 01, 2013 and also transferred my entire shareholding in 2013.
- I submit that based on market information available at stock exchanges and share price movement on Stock Exchanges in respect of STML shares, I had sold 5,029,183 shares of the company during the period July 05, 2016 to August 30, 2016 in the ordinary course.
- Further in July 2017, I purchased 269,133 shares of the company from the market based on market information available at stock exchanges and share price movement on Stock Exchanges in the ordinary course. Therefore, closing balance of my holding is 7,173,773 shares of STML as of September 30, 2017.
- I submit that consequent on my resignation as Whole Time Director of the company from April 19, 2013, my name from the UCO Bank Account of the company was removed by the Bank effective April 19, 2013 from the list of Authorised Signatories. Similarly, the name of my father Shri Ram Lal Gupta was also removed from the UCO Bank Account of the Company effective January 28, 2010 as a result of his death on January 21, 2010. Therefore, I deny any allegation of my involvement with the alleged payment made from the company's account for the alleged conspiracy and wrongdoing of sending SMSs by the company.

### **HEARING**

7. Based on the request of Mr. Ajay Gupta, Goldleaf International Pvt. Ltd., Ms. Shikha Gupta, Mr. Gautam Gupta and Mr. Lahoti, an opportunity of inspection / documents which were



relied upon by SEBI for the purpose of *interim order* was provided to the aforesaid Noticees. Thereafter, opportunity of personal hearing was granted to the Noticees.

8. Mr. Sanjay Gupta along with Mr. Ashok Chhabra and Mr. Rakesh Puri attended the hearing which was scheduled on December 21, 2017 and made submissions in line with his reply. He further submitted that the shares of STML were sold by him because his financial condition at that point of time was not good and he needed funds for his subsistence. Subsequently, he bought the shares of STML as he wanted to consolidate his shareholding in the company.
9. Ms. Kajal Rai along with her husband Mr Vinod Kumar appeared for the hearing which was scheduled on December 21, 2017 and made the following submissions:
  - She joined STML as an Independent Director on July 24, 2016 only for gaining experience with a listed company.
  - She is a practising company secretary. In a conference, she was approached by the company secretary of STML (Ms. Manpreet Kaur) and its secretarial auditor (Mr. Rajiv Bhambri) for joining as an independent director in STML.
  - She purchased the shares of STML only for the purpose of investment on the basis of a normal stock tip.
  - Later she sold the shares of STML upon the advise of her broker, LSE Securities Ltd.
  - She attended 5 board meetings of STML wherein general matters of the company were discussed such as finalization of accounts, and operations.
  - She resigned from the board of STML on March 14, 2017.
  - She had no involvement in the scheme alleged in the interim order. Prior to joining STML as an Independent Director, she did not know any of its Directors or Promoters.
10. Mr. Ajay Gupta appeared for himself and Goldleaf International Pvt. Ltd., Ms. Shikha Gupta and Mr. Gautam Gupta on March 14, 2018. He made, *inter alia*, the following submissions:

- They do not have any information regarding the sending of SMSs as has been mentioned in the interim order.
- The shares sold by them (as noted in the interim order) were sold only for meeting the fund requirements of the company. The entire sale proceeds of the shares have been invested in the company.
- When asked if he knows Mr. Nilesh Lahoti, Mr. Ajay Gupta submitted that he only knew one Mr. Nilesh who used to supply fabrics to STML. He also submitted that the payments made from the bank account of STML to Mr. Nilesh must have been towards the payment for purchase of fabrics.
- They do not have any idea about the transactions of Mr. Nilesh with Mr. Mohsin.
- Regarding sale of shares, Mr. Nilesh told them that he could help them in selling the shares of STML at a good price. In that regard, they opened demat accounts with a broker in Mumbai with the help of Mr. Nilesh as one of the authorized person of the broker was a relative of Mr. Nilesh.

11. Mr. Chetan Shah and Ms. Unnati Upadhyay appeared on behalf of Mr. Lahoti on April 10, 2018 and made, *inter alia*, the following submissions:

- Mr. Lahoti used to regularly trade in the securities market. Other than STML, he was regularly trading in 16 scrips.
- Mr. Lahoti has been into several businesses such as cloth, plastic, import-export, trading, etc. Regarding the fund transfer with Mr. Mohsin, it was submitted that the same was made with regard to purchase of fabric from him.
- The documents provided by SEBI with regard to the recipients of SMS are not complete. Several columns in the data provided by SEBI are blank.
- The interim order gives the particulars of fund transfers from STML to Mr. Lahoti and thereafter from him to Mr. Mohsin, and ultimately to Route SMS. The amounts provided in this regard do not match.
- All the 39 lakh people, who received SMS, did not have demat accounts.
- Mr. Lahoti was not related to Future Fintrade or Route SMS. No documentary evidence was provided by SEBI in this regard. He is not aware why his phone number was

reflected in the KYC details of Future Fintrade. There is no direct connection to show how he has dealt with Route SMS.

- SEBI has failed to take any action against Route SMS.
- Regarding Ms. Madhu Lahoti, it was submitted that she is the wife of Mr. Lahoti and she used to be the authorized person of Investeria Financial Services till 2013.

#### **ADDITIONAL WRITTEN SUBMISSIONS**

12. Subsequent to the personal hearings, the Noticees who had attended the hearings made additional written submissions as follows;

- I. Mr. Sanjay Gupta vide an affidavit dated December 23, 2017 made the following submissions:
  - a. He was never a joint account holder with STML in the bank account maintained with UCO Bank. It is an impossibility as banking practice does not permit an authorised signatory to become a joint account holder.
  - b. He did not continue as a signatory to subject bank account with UCO Bank after his resignation from the directorship of STML.
  - c. If he was aware of the plan to manipulate the price of the scrip, he could have sold all his shares but he did not do so. When the price came down, he bought shares to retain more than 10% share capital to wrest back control; of STML if opportunity arises.
- II. Ms. Kajal Rai vide her letter dated December 21, 2017 reiterated her submissions made vide her letter dated November 30, 2017 and at the time of hearing. She further submitted that none of her family members have ever purchased shares of STML since opening of demat accounts. The demat accounts were opened before 2005. She submitted her details of transactions for the financial year 2015-16 and 2016-17 in the securities market.
- III. Mr. Ajay Gupta vide his letter dated March 29, 2018 submitted as follows:
  - a. It can be observed from the price volume data of the company that the volume of the shares of the company was never depressed, and there was constant trading in the shares of the company. The Promoters could have sold their shares when they wished, since the price of the shares of STML was also more or less consistent for a

long time. It is stated that the contention of SEBI that we indulged in such activity of circulation of SMS to "pump up the volume in the scrip" to sell their shares is misleading and false, since there was perpetual volume in the shares of the company. Thus there is no *mens rea* established by SEBI against us. It is reiterated that the Promoters sold shares of the company only for the benefit of the company, and no personal benefit has been derived by any of the Promoters. We submit that the funds so received by the Noticees on sale of shares was utilised for the benefit of the company. The decision was taken for the benefit of the retail shareholders of the company, so that the company could utilise the funds for its working capital.

- b. The highest volume created in the scrip during the examination period on 1st September, 2016, coincided with the highest close of BSE Sensex during the period occurring on 2nd September, 2016. Thus, there were outside economic factors that have influenced the-price of the shares.
- c. Further not only was the volume of shares in the scrip considerable but also the price of the shares at par with the price of the shares during the examination period It is brought to your kind attention that a high price of ₹ 13.23/- was observed in the scrip around six months prior to the beginning of the examination period, on 11th January, 2016, which was higher than the high price during the examination period, being ₹ 11.14/- on 6th September, 2016. Therefore there cannot be any reason for the Promoters to indulge in such miscreant activities and lower its reputation in the expectation of the minor profit that could be derived, or saving marginally from the loss expected from the sale of shares. Thus there was no motive or reason for indulging in such an act by Promoters and or Directors of the company.
- d. As per the analysis of graphical data of Price Volume chart for the examination period the price in the scrip was at its peak on 6<sup>th</sup> September, 2016 i.e. approx. ₹ 11.14/-. Concurrently, as per the SMS details given, it is clear that no SMS were sent on that day i.e. on 6th September, 2016, or even on the day prior, i.e. 5th September, 2016. The price of the scrip was at its peak even though no SMS was sent on that day and the last SMS was sent on 31st August, 2016. The above analysis belies the findings of SEBI that there was a spurt in the price pursuant to the SMS.

- e. The gross volume created in the scrip during the examination period was 12,11,24,924 shares, whereas the total trading undertaken by the Promoters of the company is 2,32,26,767 shares, which is 19.18% of the total volume. Thus the rest of 80.72% of the trading in the scrip was done by the public shareholder.
- f. It has been alleged on us that we apparently circulated SMSs from the network of IDEA- cellular for the purpose of "pumping up" the volume of shares traded in the scrip, a significant number of shares had already been sold prior to the circulation of the first SMS from the Idea Cellular network, i.e. prior to 30th August, 2016. Further, majority of the remaining shares sold during the period were sold in around October, 2016, that is after the tenure of SMSs circulated through TSP- Idea Cellular ended on 29th September, 2016. This proves that the allegations levelled by SEBI are baseless and without any grounds.
- g. There is no allegation of any false announcement made by the company, or its Directors or Promoters, regarding the financial state of the company, or any other matter that may fraudulently induce shareholders of the company to buy its shares. The shareholders and other entities in the stock market were always aware regarding the whereabouts of the company. The Company has never concealed any information regarding its working and state of affairs.
- h. We had business relations with Mr. Lahoti and Mr. Mohsin and are not aware of any other act done by them. As a normal business practice, payment for the said fabric was paid in tranches. Copies of bills in this respect are attached.
- i. With regards to the Table 4: Impact of SMS on the trading in the scrip in the *interim order*, it is stated that even though 'volume by first SMS recipients as a % of total volume' has been provided in the table, there is no information regarding what was the percentage of these entities traded in the scrip who had received the SMSs, as compared to the total number of people who had received SMSs. This would enable in understanding the impact that circulation of SMSs in fact have. This data is very much relevant, and no details regarding the same have been provided by SEBI.

- j. It is also noted that as observed by SEBI at Para no. 21, Mr. Lahoti had already transferred ₹ 24 lakh to Mr. Mohsin from, 11th July, 2016 to 28th July, 2016, prior to receiving any money from us, whereas we started paying money against fabric to Mr. Lahoti only on 28th July, 2016. We paid Mr. Mohsin ₹ 65,00,000/- (including the sum paid to Mr. Mohsin on behalf of Mr. Lahoti), which is again much more than the amount paid by Mr. Lahoti to Mr. Mohsin. Thus, the entire allegation levelled by SEBI does not make sense, and is illogical and ill founded.
  - k. It is stated that even though it is a fact that STML was a loss making company and had become a Sick Company in accordance with Sick Industrial Company (Special Provisions) Act, 1985, the said fact was in public domain for around a year prior to the beginning of the examination period. Thus, the question of alluring innocent investors does not arise. The information regarding company running into losses was in the public domain since the beginning and the company has never hidden the said fact. Thus everyone who traded in the scrip of STML, was aware, or should have been aware of the current state of the company and might have purchased its shares with the expectation of a future revival.
  - l. A certificate of independent Chartered Accountant was submitted by the Noticee to establish that the company deals with Mr. Lahoti on regular basis in the same way as the company deals with any other vendor.
  - m. We have not sold any shares through Mr. Lahoti. The account with Investeria Financial Services Ltd. was opened in our own name. As far as sale of shares is concerned, we submit that these shares were transferred from our account with HDFC Bank to our account with Investeria Financial Services Ltd., and these were later sold on the electronic and faceless trading platform of the Stock Exchange, wherein the counter party was not known. We therefore deny that we have sold shares through Mr. Lahoti.
- IV.** Mr. Lahoti, vide his letter dated April 23, 2018 submitted a reply on similar lines as Mr. Ajay Gupta did vide his letter dated March 29, 2018. Mr. Lahoti further submitted as follows:

- a. I submit that Article 21 of the Constitution of India confers 'Right to Life' to every citizen of India. It provides that "No person shall be deprived of his life or personal liberty except according to procedure established by law". With the directions to prohibit me from buying, selling or dealing in securities, I have been denied the basic right of 'Right to Life'.
- b. I have changed many business streams in the last 5-6 years. In 2016, around the examination period, I was engaged in the business of fabric trading. In addition to the other businesses I carried out, I am also a retail investor in securities market, and usually indulge in short term investment to enable me to earn some extra profit. I invest in the shares of the companies which have got enough liquidity in the market to enable me to exit whenever the opportunity arises. In tune with my trading strategy, I have invested in the scrip of STML also, somewhere in the year 2014-15, and that was also for a short period.
- c. Mr Vikram Duggal, an employee of STML, contacted me and represented me to be from the Purchase and Sales Department of STML, and after some negotiations, STML placed an order with me for its requirement for fabric. Since I never had any kind of dealings in the past with STML, I demanded an advance from STML before sending any fabric to STML. Pursuant to negotiations, it was agreed between us that I would receive a sum of ₹ 50,00,000/- in advance in the month of July, 2016, and then fabric was to be delivered to STML thereafter. Accordingly, I received a sum of ₹ 50,00,000/- from STML.
- d. In and around August - September, 2016, there was a lot of buzz in the market for the scrip of STML. There was increased activity, and I saw the same as an opportunity to trade in the shares.
- e. There is no concrete proof with SEBI that the increase in volume of shares traded in the scrip is due to the SMSs circulated. It is stated that there are other external factors that also have roles in the increased volume of shares traded in the scrip of STML during the examination period. It is brought to your kind attention that BSE Sensex close also was highest in around 19 months, a day during the period of examination. Therefore SEBI's entire case is only a figment of SEBI's

imagination, and a result of SEBI's attempt to join the remotely scattered dots that appeared on SEBI's radar.

- f. It is also brought to your kind attention that the samples of SMSs sent via Idea Cellular are given in the interim order speak regarding the price targets. The SMSs regarding price targets were being circulated in the market since beginning of July, 2018. However there was no proportionate increase in the price of the scrip. This fact has been conveniently ignored by SEBI. Therefore, the alleged SMS recipients already knew that the SMSs were fake, and not authenticated. Thus it cannot be alleged that innocent investors were tricked into investing the scrip, as it is quite likely that the investors who traded in the shares of STML were aware of the circulation of the hoax SMSs regarding the scrip, and indulged in the same only for the purpose of taking advantage of the chaotic situation that had surfaced. The traders saw the situation as an opportunity to themselves take advantage of, and earn some profit from it.
- g. SEBI has advised RouteSMS to submit KYC of Future Fintrade. However, in its return email, instead of providing the KYC as sought by SEBI, RouteSMS provided a bank statement of Future Fintrade and mentioned a contact number. It appears that Mr. Gaurav Jhunjhunwala had no reason to mention my contact details as it appears on the e-mail. As per copy of the agreement entered into between Future Fintrade and RouteSMS, the agreement has been signed by Mr. Preyesh Mehta, and it appears that he was Partner in Future Fintrade. This establishes that RouteSMS has given wrong information to SEBI, and tried to mislead the investigation.
- h. It has been alleged that ICICI Bank has confirmed that the service fees received by RouteSMS for sending bulk SMSs (via stylized CINRES) for Future Fintrade came from account number 657101502167 of ICICI Bank that belongs to one Mr. Mohsin. In this respect it is stated that no evidence has been provided to confirm that the payment received from Mr. Mohsin was in fact for SMSs from the stylized ID CINRES. ICICI Bank has only confirmed that the payment was made from Mr. Mohsin's account to RouteSMS and not the reason of making such payment. The same is only a presumption made by SEBI.



- i. It has been alleged that RouteSMS provided the contact number of Future Fintrade's person, which the phone number of one Mr. Neeleshkumar Radheshyam Lahoti. It is submitted that firstly no documentary evidence has been provided by RouteSMS in respect of its contention that the said is the contact number of Future Fintrade. It is submitted that further I am not aware regarding the reason for such statement given by RouteSMS. I do not have any control over RouteSMS nor aware of the reason as to why was my number forwarded by RouteSMS to SEBI.
- j. Mr. Mohsin was also a trader in fabric and a supplier in the market who was trading in the type of fabric which was required by me at that point in time at reasonable rates. Accordingly I placed orders with Mr. Mohsin, and made payments to him. The transactions as referred to in the said paragraph are for the fabric procured from him. Further it has been clearly mentioned in the order that the amount was transferred a month prior to the circulation of SMS through Idea Cellular. Thus there is no direct nexus established in the case. Just because Mr. Mohsin received money from me, it cannot be inferred that the same was for the purpose of sending SMSs through RouteSMSs. The same is yet again a presumption made by SEBI.
- k. I would like to inform you that Ms. Madhu Lahoti is my wife. I would like to state that she has not acted as the authorised person of Investaria Financial Services Ltd. after 2013 and the account of the Promoters was also not opened by her. Further, it is stated that during a meeting with the representatives of STML, they expressed their desire to open a broking account in Mumbai and I merely suggested them regarding Investaria Financial Services Ltd., since I was aware regarding the same. I am not aware regarding any transaction carried out by them through the broker.
- l. The Noticee submitted a list of names of companies to whom he had supplied cloth in the past.

### **FINDINGS & CONSIDERATIONS**

13. I have considered the allegations levelled against the Noticees in the *interim order*, their replies/written submissions and other material available on record. I note that in the

instant case, the directions issued against the Noticees are interim in nature and have been issued on the basis of *prima facie* findings. SEBI had issued directions vide the *interim order* in the matter in order to protect the interests of investors in the securities market. Detailed investigation in the matter is still in progress. Thus, the issue for consideration at this stage is whether the interim directions, issued against the Noticees vide the *interim order*, need to be confirmed, vacated or modified in any manner, during the pendency of investigation in the matter. Before arriving at any finding, the following issues also merit consideration:

- i. Whether *interim order* has been passed in complete disregard of the principles of natural justice as claimed by the Noticees?
- ii. Whether there was any requirement and urgency for passing such restraints as imposed by the *interim order*?

14. *Whether interim order has been passed in complete disregard of the principles of natural justice as claimed by the Noticees?*

Some of the Noticees have contended that the *interim order* has been passed in complete disregard of the principles of natural justice as the *interim order* has been passed without service of any statutory or legal notice. In this regard, I note that the *interim order* has been passed on the basis of *prima facie* findings observed during the preliminary examination/inquiry undertaken by SEBI. The facts, circumstances and the reasons necessitating issuance of directions by the *interim order* have been examined and dealt with in the said *interim order*. The *interim order* has also been issued in the nature of a show cause notice affording the Noticees a post-decisional opportunity of hearing. I also note that the power of SEBI to pass *interim orders* flows from Sections 11 and 11B of the SEBI Act which empowers SEBI to pass appropriate directions in the interests of investors or securities market, pending investigation or inquiry or on completion of such investigation or inquiry. While passing such directions, it is not always necessary for SEBI to serve the Noticees with a legal notice. The following findings of the Hon'ble Supreme

Court of India in the matter of *Liberty Oil Mills & Others Vs Union Of India & Other* (1984) 3 SCC 465 are noteworthy:-

*"There can be no tape-measure of the extent of natural justice. It may and indeed it must vary from statute to statute, situation to situation and case to case. Again, it is necessary to say that pre-decisional natural justice is not usually contemplated when the decisions taken are of an interim nature pending investigation or enquiry. Ad-interim orders may always be made ex-parte and such orders may themselves provide for an opportunity to the aggrieved party to be heard at a later stage. Even if the interim orders do not make provision for such an opportunity, an aggrieved party have, nevertheless, always the right to make appropriate representation seeking a review of the order and asking the authority to rescind or modify the order. The principles of natural justice would be satisfied if the aggrieved party is given an opportunity at the request. "*

15. Thus, considering the facts and circumstances of a particular case, an *ad-interim ex-parte* order may be passed by SEBI in the interests of investors or the securities market. It is pertinent to note that the *interim order* in the present case was passed under the provisions of Sections 11 and 11B of the SEBI Act. The second proviso to Section 11(4) of the SEBI Act clearly provides that *"Provided further that the Board shall, either before or after passing such orders, give an opportunity of hearing to such intermediaries or persons concerned"*. Further, various Courts, while considering the aforesaid sections of the SEBI Act have also held that principles of natural justice will not be violated if an interim order is passed and a post-decisional hearing is provided to the affected entity. In this regard, the Hon'ble High Court of Bombay in the matter of *Anand Rathi & Others Vs. SEBI* (2002) 2 Bom CR 403, has held as under:

*"Thus, it is a settled position that while ex parte interim orders may always be made without a pre decisional opportunity or without the order itself providing for a post decisional opportunity, the principles of natural justice which are never excluded will be satisfied if a post decisional opportunity is given, if demanded."*

16. I, therefore, do not find that the *interim order* was passed in violation of principles of natural justice.

17. *Whether there was any requirement and urgency for passing such restraints as imposed by the interim order?*

Noticees have contended that no plausible reason for such urgency in passing *interim order* has been spelt out to warrant such drastic and immediate action. In this regard, I note that the *interim order* sets out the reasons and circumstances which led to the issuance of *ex-parte ad- interim directions* including the scale and *modus operandi* involved and other attendant circumstances. Further, the *interim order* was also passed in the present matter for the following reasons:

- Final order in the matter should not be infructuous.
- There was apprehension that bulk SMSs could be again sent in future related to the scrip, since some of the Noticees were still holding shares in the company.

18. *Whether the interim directions, issued against the Noticees vide the interim order, need to be confirmed, vacated or modified in any manner, during the pendency of investigation in the matter?*

19. I may now consider the role played by individual Noticees in the plan / scheme / design employed in the extant matter in the light of specific contentions raised by them.

**A. Mr. Ajay Gupta, Goldleaf International Pvt. Ltd., Ms. Shikha Gupta and Mr. Gautam Gupta.**

- i. The aforesaid Noticees made a common representation before SEBI. They have submitted that the volume of trading in the shares of the company was never depressed and there was constant trading in the scrip. Further, the price of the shares of STML, was more or less consistent for a long time. It is stated that the contention of SEBI that the Noticees indulged in such activity of circulation of SMS to "pump up the volume in the scrip" to sell their shares is misleading and false, since there was perpetual volume in the shares of the company. In this regard, I

note that the *interim order* clearly points out at Tables 3 and 4, the impact of SMSs on the scrip's volume. The said tables are reproduced below:

**Impact of SMSs on the scrip volume**

<b>Period</b>	<b>Telecom service providers</b>	<b>Average daily volume in the scrip</b>
March 01 – July 07, 2016	No SMSs noticed	73,991
SMSs period (July 08 to Oct 04, 2016)	RELIANCE (July 08 to Sep 02, 2016)	20,37,023
	MTNL (July 24-28, 2016)	
	IDEA Cellular (Aug 30 to Oct 04, 2016)	
Oct 05- December 31, 2016	No SMSs noticed	7,81,221

**Impact of SMS on the trading in the scrip**

<b>Telecom Service Provider</b>	<b>SMSs date range</b>	<b>Period considered for volume</b>	<b>Total volume in the scrip</b>	<b>Buy Volume by first SMS recipients</b>	<b>Volume by first SMS recipients as a % of total volume</b>
IDEA Cellular	Aug 30 to Sep 29, 2016	30/8/2016-30/10/2016	8,30,05,343	90,60,720	10.92%
Reliance	July 08 to Sep 02, 2016	8/7/2016-30/09/2016	11,81,53,840	24962619	21%
MTNL	24-28 July 2016	24/7/2016-31/08/2016	7,92,11,164	56,32,452	7%

From the above tables, it is noted that the volume of trading in the stock earlier was far lower than during the SMS period. It is noted that in comparison to the period prior to the SMSs period, the average daily volume in the scrip of STML increased by 2653% during the SMSs period. Further, it is noted from the price movement data in the scrip that the weighted average price in the scrip during March 01, 2016 to July 07, 2016 was ₹ 4.13/- whereas during the SMSs period it was ₹ 7.65/-. Thus, there is significant jump in the price of the scrip also.

The aforesaid data coupled with the fact that the company was a Sick Industrial Company and Promoters / Directors were selling their shares, warranted examination in the scrip. Therefore, the submission of the Noticees with respect to volume and price of the scrip is not acceptable.

- ii. Noticees have submitted that the funds received by the Noticees on sale of shares was utilised for the benefit of the company. The decision was taken for the benefit of the retail shareholders of the company, so that the company could utilise the funds for its working capital. Banks statements have been submitted by the Noticees in support of their claim. In this regard, I note that the end utilisation of the proceeds of sale of shares are not relevant when the sellers were purportedly involved in manipulation of the scrip.
- iii. The said Noticees have submitted that when the price in the scrip was at its peak on September 06, 2016, no SMS was sent either on that day or prior to it. Therefore, the finding that there was spurt in the price of the scrip pursuant to SMS is not correct. The submission of the Noticees is not tenable as the day when the highest price was registered, may not be only attributed to the day when the SMS was sent. It may be due to the ripple effect of SMSs sent on previous days.
- iv. The Noticees have submitted that 80.72% of the trading in the scrip was done by the public shareholder. In this regard, it is noted that this is what the authors of the scheme had in mind when they had the designed the scheme. The objective of the scheme has been aptly brought out in the *interim order* which says that the scheme was orchestrated to lure innocent investors through fake SMSs recommending purchase of shares of STML which was deployed by Promoters / Directors of STML along with Mr. Lahoti, Future Fintrade (represented by Mr. Preyesh Mehta) and Mr. Mohsin, to pump up the volume in the scrip of STML and attract innocent investors with an ultimate goal of offloading the shareholding of Promoters / Directors of STML who eventually sold a substantial portion of their

shareholding in STML. Therefore, I am convinced that there is a *prima facie* case made out against the Noticees and the investigation is further examining the matter, which would bring out the roles of the Noticees in detail depending on the material.

- v. Noticees have submitted that a significant number of shares had already been sold prior to the circulation of the first SMS from the Idea Cellular network, i.e. prior to 30th August, 2016. Further, majority of the remaining shares sold during the period were sold in around October, 2016, that is after the tenure of SMSs circulated through Idea Cellular ended on September 29, 2016. This proves that the allegations levelled by SEBI are baseless and without any grounds. In this regard it is noted that during the SMSs period i.e., July 08, 2016 to October 04, 2016, at least 39.3 lakh bulk SMSs were sent giving buy recommendations for the scrip of STML. It is noted from the *interim order* that in comparison to the period prior to the SMSs period, the average daily volume in the scrip of STML increased by 2653% during the SMSs period. Further, it was observed that this period accounted for 94% of the total sell off by the Promoters of STML out of their total sell off during the examination period. During the period August 30, 2016 to October 04, 2016 (i.e. when SMSs were being sent through Idea Cellular) Goldleaf International Pvt. Ltd. and Mr. Gautam Gupta sold 46,09,392 shares of STML. Ms. Shikha Gupta, sold 13,55,200 shares immediately after the bulk SMSs were sent. In view of the same, I am unable to accept the submission of the Noticees.
- vi. Noticees have contended that they had business relationship with Mr. Lahoti and Mr. Mohsin. STML had purchased fabric from them and in support of that they have submitted copy of bills. Bank transfers as mentioned in the *interim order* are for the payment made to them in tranches for the aforesaid sale. It is observed that ₹ 50 lakh was transferred from STML to Mr. Lahoti on 2 days, July 28, 2016 and August 03, 2016 and five bills were raised in the month of October, 2016. Similarly, ₹ 65 lakh was transferred from STML to Mr. Mohsin on 3 days between

August 23, 2018 to October 03, 2016 and five bills were raised in the month of January, 2017. Thus, the bills were raised after a gap of 2-3 months. Further, I note that the bills have deficiencies for e.g., details of goods provided are absent, no VAT seems to be have paid or collected, the vehicle number mentioned on the bill is *prima facie* not registered with the authorities, as seen from the website of Ministry of Road and Transport & Highways, [www.parivahan.gov.in](http://www.parivahan.gov.in). Thus, in the absence of any third party verifiable records, the genuineness of the bills submitted by the Noticees are questionable and only a detailed investigation will bring out the veracity of the said bills. It is also noted that fund transfers from the joint account of STML to Mr. Mohsin started as soon as the fund transfer from the joint account of STML to Mr. Lahoti was unsuccessful i.e. on August 22, 2016. It is observed from Table 9 of the *interim order* that as soon as the money was transferred from the joint account of STML to Mr. Mohsin, Mr. Mohsin in turn would transfer a portion of the said received funds to RouteSMS. RouteSMS has confirmed that the payment was received by them from Mr. Mohsin on behalf of Future Fintrade and SMSs were sent through RouteSMS using stylized sender ID as IM-CINRES which contained BUY recommendations for the scrip of STML. Meanwhile, during the period August 30, 2016 to October 04, 2016 Promoters / Directors of STML had sold shares.

In view of the above, at this juncture, I am unable to accept the submissions of the Noticees that STML had business relationship with Mr. Lahoti and Mr. Mohsin.

- vii. Noticees have contended that Mr Lahoti had transferred money to Mr. Mohsin prior to the money being transferred from the joint account of STML to Mr. Lahoti. Further, the amount transferred by STML to Mr. Mohsin is much more than the amount transferred by Mr. Lahoti. Thus, the entire allegation levelled by SEBI does not make sense. In this regard, as observed in the preceding paragraph, a fund trail has been established among the Noticees, Mr Lahoti and Mr. Mohsin, pursuant to which bulk SMSs were sent with BUY recommendation in the scrip of STML resulting in spurt in the volume of the scrip and subsequently, Noticees



being Promoters / Directors offloaded their shares. On an overall evaluation of the facts of the matter, I am convinced that there is a *prima facie* case made out against the Noticees.

- viii. Noticees have contended that there is no allegation of false corporate announcement made by the company. Further, the information regarding the company running into losses was in public domain. Thus, the question of luring innocent investor does not arise. I note that the *interim order* has provided the nexus between the company and the sender of the bulk SMSs. The content of the bulk SMSs is suggestive in nature that the scrip is worth buying. This needs to be seen along with the fact that in comparison to the period prior to the SMSs period, the average daily volume in the scrip of STML increased by 2653% during the SMSs period. Moreover, as observed at para 16 of *interim order* that during the period August 30, 2016 to October 30, 2016, over 90.6 lakh shares of STML were bought by 2,303 unique entities after receiving the SMSs which were sent through Idea Cellular. Further, the allegation against the Noticees is not that the company has made false corporate announcements but that a scheme was designed to send bulk SMSs giving misleading BUY recommendations to lure innocent investors.
- ix. Noticees have submitted that they have not sold the shares through Mr. Lahoti. In this regard, I note that the Noticees have misconstrued the findings of the *interim order*. It is noted from the *interim order* that Ms. Madhu Neeleshkumar Lahoti, who is the wife of Mr. Lahoti is an Authorised Person of Investaria Financial Services Ltd. i.e. the stock broker through whom the Promoter / Director of STML i.e. Mr. Ajay Gupta and Mr. Gautam Gupta have traded in STML. Further, the said link was used to establish an additional connection of Mr. Lahoti with the Promoter / Director of STML.

#### **B. Mr. Sanjay Gupta**

The Noticee has submitted that he was never a joint holder with STML in the bank account maintained with UCO Bank. He was the authorised signatory which he

stopped being after his resignation from the directorship of the company from April 19, 2013. In support of his submission, he has submitted a letter dated January 02, 2018 from UCO Bank stating that the said account is a company account and not a joint account. Further, the letter stated that as per UCO Bank records, the Noticee has not signed any cheque after his resignation from the company. However, I note from para 23 of the *interim order* that the UCO Bank account having account number 0534200012981 (correct account no. as submitted by Noticee is 05340200012981) is a joint account with STML being the primary holder and Late Mr. Ram Lal Gupta, Mr. Sanjay Gupta and Mr. Ajay Gupta are the joint holders. To arrive at the aforesaid finding, the *interim order* has placed reliance on a bank statement obtained from the UCO Bank for the period January 01, 2016 to June 01, 2016. It has already been noted in the preceding paragraphs that *prima facie* a fund trail has been established between company and the sender of bulk SMSs. Further, Table 7 of *interim order* has brought out that Mr. Sanjay Gupta has sold shares (gross sell volume - 6,00,000 shares @ ₹ 10.36/-) during the period when SMSs were being sent through Idea Cellular.

In view of the above, at this juncture I am unable to accept the submissions of the Noticee.

### **C. Mr. Lahoti**

- i. The Noticee has submitted that he has been denied the basic right of 'Right to Life' as conferred under Article 21 of the Constitution by prohibiting him from buying, selling or dealing in securities. In this regard, I note that the fundamental right enshrined in the Constitution under the Article 21 is not an absolute right as it is subjected to reasonable restrictions in the constitutional scheme of things itself. Fundamental Right under Article 21, is subject to restriction that it can be restricted by a procedure established by law. SEBI Act is a special Act enacted by the Parliament conferring on SEBI the duty to protect the interests of investors in securities and to promote the development of and to regulate the securities market, by such measures as it thinks fit. In the present case, the restraint order

has been passed by SEBI in exercise of the powers conferred upon it by law and towards fulfilment of the duties cast under the SEBI Act. As noted in the *interim order*, the Noticee seem to be *prima facie* involved in the fraudulent scheme and the Noticee has therefore been restrained from accessing the securities market and dealing in securities till further directions.

- ii. The Noticee has submitted that he had traded in the scrip of STML based on his trading strategy. In this regard, it is noted that though the Noticee has submitted a list of scrips in which he has invested during the examination period. However he has not brought on record to demonstrate, how his investment in the scrip of STML was similar to his other investments, considering the following 03 factors:
- Whether the other companies were also declared as Sick Industrial Company?
  - Whether there was a significant drop in Promoter shareholding of those companies?
  - Whether there was astronomical increase in the average daily volume in the said scrips at the time of his investment?

Further as noted from Table 12 of the *interim order* that the Noticee was very active during the bulk SMS period. This coupled with the *prima facie* finding that he is connected to the Promoters / Directors of STML and was also involved in sending bulk SMS, casts doubt on his trading strategy. In my view, this type of investment was possible only when the entities are acting in concert / nexus for a common objective as brought out in the *interim order*. In any case, apart from his trading activity in the scrip, the primary finding against the Noticee as brought out in the *interim order* is the active role played by him in fund transfer which eventually led to the sending of 39.3 lakh bulk shares giving BUY recommendation in the scrip.

- iii. The Noticee submitted that there is no concrete proof with SEBI that the increase in volume of shares traded in the scrip is due to the SMSs circulated. Further, SMSs

were being circulated in the market since beginning of July, 2018. However there was no proportionate increase in the price of the scrip. Therefore, the alleged SMS recipients already knew that the SMSs were fake and not authenticated. Thus, it cannot be alleged that innocent investors were tricked into investing the scrip, as it is quite likely that the investors who traded in the shares of STML were aware of the circulation of the hoax SMSs regarding the scrip and indulged in the same only for the purpose of taking advantage of the chaotic situation that had surfaced. The submissions of the Noticee are not acceptable as Tables 3 and 4 of *interim order* unequivocally shows that there was a significant increase in the volume of the scrip when SMSs started circulating and that the first SMS recipients contributed significantly to aforesaid increased volume in the scrip. Therefore, irrespective of the increase in the price of the scrip, *prima facie* it appears that the investors were lured into trading in the scrip. It belies any economic rational that investors will trade knowingly based on a hoax SMS. It only indicates that they genuinely believed the SMS to be true and were lured to trade in the scrip.

- iv. The Noticee contended that RouteSMS is trying to mislead the investigation. SEBI has advised RouteSMS to submit KYC of Future Fintrade. However, in its return email, instead of providing the KYC as sought by SEBI, RouteSMS provided a bank statement of Future Fintrade and mentioned a contact number which pertains to him. As per copy of the agreement entered into between Future Fintrade and RouteSMS, the agreement has been signed by Mr. Preyesh Mehta, and it appears that he was Partner in Future Fintrade. The Noticee contended that this establishes that RouteSMS has given wrong information to SEBI. I have carefully considered the contention of the Noticee. I note that a link has already been established between Mr. Lahoti, Mr. Mohsin and RouteSMS based on fund movement. I do not consider it as a coincidence that of all the mobile numbers that could have been provided by RouteSMS, the number provided by it pertains to the Noticee. Therefore, the submission of the Noticee is not acceptable.

- v. The Noticee has submitted that no evidence has been provided to confirm that the payment received from Mr. Mohsin was in fact for SMSs from the stylized ID IM-CINRES. In this regard, I note that, ICICI Bank has confirmed that the account number 657101502167 belongs to Mr. Mohsin. RouteSMS has received money from the said account. Further, RouteSMS has confirmed that it has sent SMSs from the stylized ID IM-CINRES pursuant to an agreement with Future Fintrade. Thus, the circumstantial evidence coupled with the other facts, *prima facie* it appears that the money received by RouteSMS from Mr. Mohsin was for sending bulk SMSs. Hence, the submission of the Noticee at this juncture is untenable.
- vi. The Noticee stated that he has business relationship with Mr. Mohsin and the transactions that he had with him was for the fabric procured from him. Further, he contended that it has been clearly mentioned in the order that the amount was transferred a month prior to the circulation of SMS. Thus, there is no direct nexus established in the case. In this regard, it is noted that the Noticee has not furnished any plausible reason as to why he had paid in full to Mr. Mohsin in the month of July, 2016 when the delivery of the fabric was in October, 2016. Further, I note that the bills have deficiencies for e.g., details of goods provided are absent, no VAT seems to be have paid or collected, delivery challan / acknowledgment is absent, details about mode of transport has not been submitted by the Noticee. Thus, in the absence of any third party verifiable records, the genuineness of the bills submitted by the Noticees are questionable and only a detailed investigation will bring out the veracity of the said bills. It is also noted that the total amount paid to Mr. Mohsin is ₹ 24 lakh but the total amount of the invoice is ₹ 31,09,695/-. The *interim order* has brought out the sequence of events leading to sending of bulk SMSs including the fund trail and subsequent selling of shares by Promoters / Directors. The role played by each of the Noticees in the *modus operandi* has also been discussed in the *interim order*. I note that the *modus operandi* deployed in the instant case is such that the Noticees involved in the scheme necessarily have to act in concert, under a pre-meditated plan to achieve

the end objective of the scheme. Admittedly, the Promoter / Directors, Mr. Lahoti and Mr. Mohsin have neither denied knowing each other nor have refuted having monetary transactions amongst themselves during the examination period and when the acts and deeds of these Noticees are seen holistically with the facts and circumstances of this case, it *prima facie* appears that they are acting in nexus. Therefore, I do not accept the contention of the Noticee.

- vii. The Noticee at the time of hearing has submitted that SEBI has failed to take any action against RouteSMS. In this regard, I note that *interim order* clearly mentions that a detailed investigation in the matter is in progress. The fact that the *interim order* has been passed against the entities covered therein does not signify that other entities are outside the scope of SEBI's investigation or have been exonerated. At the stage of the *interim order*, directions were issued against the entities whose role / involvement in the entire scheme was *prima facie* observed in light of facts and circumstances at that stage. It is pertinent to clarify that appropriate action in accordance with the provisions of law will be initiated against entities who are found to have played a role in the plan / scheme employed in the extant matter.
- viii. The Noticee has submitted that his wife, Ms. Madhu Lahoti has not acted as the authorised person of Investeria Financial Services Ltd. after 2013 and the account of the Promoters was also not opened by her. In this regard, I note that the Noticee has not submitted any documentary evidence to substantiate his claim that his wife had stopped working for Investeria Financial Services Ltd. post 2013, hence the same is not acceptable. Further, the veracity of submission of the Noticee regarding account opening of Promoters / Directors of STML with Investeria Financial Services Ltd. is subject to the findings on facts on a matter under investigation, hence I do not deem it appropriate to deal with it at this juncture.
- ix. With respect to the list of names of companies to whom the Noticee has supplied cloth in past, it is noted that the Noticee has not substantiated his submission with

documentary proof. In the absence of the same, I am unable to accept the submission of the Noticee.

**D. Ms. Kajal Rai**

The Noticee has submitted that she was the Independent Director of the company and there is nothing in the *interim order* to allege that she was a joint signatory to the bank account from where the funds have been routed to Mr Lahoti, Mr Mohsin and RouteSMS. Further, she has submitted that she had bought 2,400 shares of STML before joining its Board. In this regard, I note that the Noticee was the Director of the company for the period between July 24, 2016 to March 14, 2017 and as per her own submission, had attended 3 Board meetings of the company. From the material made available on record, it is noted that a sum of ₹ 6.13 crore was transferred to the company's account in tranches during the period August, 2016 - October, 2016. Similarly a sum of ₹ 1.15 crore in tranches had been transferred by the company during the period July, 2016 - September, 2016. Considering the company was a Sick Industrial Company since the FY 2014-2015, the movement of funds, should have raised certain red flags for the Noticee and could have alerted her to raise the question on the said movement of funds. I find that *prima facie* she has abdicated her duty as a Board member. I also note from her submissions that she had sold shares of the company during the period when SMSs was sent through Idea Cellular and immediately within 3 days after it. In view of the same, at this juncture, I am unable to accept the submissions of the Noticee and only a detailed investigation in the matter will be able to bring out the role played by the Noticee.

**E. Future Fintrade**

Future Fintrade has played a vital role in sending of the bulk SMSs as it had entered into a Messaging Services agreement with RouteSMS for providing service of sending SMSs using stylized ID IM-CINRES. The *interim order* has also brought out the connection (fund trail) amongst Future Fintrade and Promoters / Directors of STML, Mr. Lahoti and Mr. Mohsin. Hence, it *prima facie* appears that Future Fintrade was

also involved in the dubious plan or artifice as alleged in the *interim order*. Further, it is noted that Future Fintrade is not registered with SEBI as an investment advisor or as a research analyst.

**F. Mr. Mohsin**

The *interim order* has brought out the connection amongst Mr. Mohsin and Promoters / Directors of STML, Mr. Lahoti and Future Fintrade. A *prima facie* fund trail has been established which indicates that Mr. Mohsin was instrumental in sending bulk SMS giving buy recommendations in the scrip of STML. Hence, it *prima facie* appears that Mr. Mohsin was acting in concert in the alleged dubious scheme which is under investigation.

**G. Mr. Ram Lal Gupta**

It is noted from the submission of Mr. Ajay Gupta that Mr. Ram Lal Gupta has died on January 21, 2010. A death certificate was submitted to corroborate the same. In view of the same, it is noted that Mr. Ram Lal Gupta has long been deceased before the fund movement started amongst Promoters / Directors of STML, Mr. Lahoti and Mr. Mohsin. Accordingly, the *prima facie* findings against him in the *interim order* are not sustainable.

20. In the instant case, the *interim order* has reasonably highlighted the *modus operandi* wherein the Promoters / Directors of STML and Mr. Lahoti, Mr. Mohsin and Future Fintrade engineered a web of transfer of funds to RouteSMS in a bid to send bulk SMS to lure innocent investors to trade in the scrip of STML when in reality the fundamentals of the company would not have evinced any interest from a rational investor and subsequently the Promoters / Directors of STML misused the stock exchange mechanism to exit the scrip. Thus, the acts and omissions of the Noticees, except Mr. Ram Lal Gupta while acting under the alleged dubious plan, device and artifice, are '*fraudulent*' as defined under Regulation 2(1)(c) of PFUTP Regulations. Therefore, the Noticees, except Mr. Ram Lal Gupta have *prima facie* acted in a fraudulent and deceitful manner in the shares of STML which is in contravention to provisions of Sections 12A (a) (b) and (c) of



the SEBI Act and Regulations 3 (a), (b), (c) and (d) and Regulations 4(1) and 4(2) (f) and (r) of the PFUTP Regulations.

21. In addition to the above, since Future Fintrade has acted as a research analyst as defined in Regulation 2(u) of RA Regulations without obtaining necessary registration from SEBI, it has also *prima facie* violated the provisions of Section 12(1) of SEBI Act read with Regulation 3(1) of RA Regulations.

22. I, therefore, find that, at this stage, the following 9 noticees have failed to give any plausible reasoning/ explanation for their acts and omissions as described in the *interim order* and have not been able to make out a *prima facie* case for revocation of the *interim order*. I, therefore, in this case, reject the prayers, if any of such Noticees for setting aside the *interim order* or for complete removal of the restraint imposed by it. I, therefore, do not see any reason to change or revoke the *ad interim* findings as against them in the *interim order*. The list of these Noticees is as under:

S. No.	Entity Name	PAN
1	Goldleaf International Pvt. Ltd.	AABCG6705E
2	Sanjay Gupta	ABMPG6231C
3	Ajay Gupta	ABMPG0822F
4	Shikha Gupta	ABWPG3108Q
5	Gautam Gupta	AKQPG8560R
6	Neeleshkumar Radheshyam Lahoti	ABJPL7269A
7	Kajal Rai	ALYPK6163D
8	Future Fintrade represented by Preyesh Mehta	PAN not available; Having registered office at F-1/A, Profit Centre, Mahavir Nagar, Above Pizza Hut, Kandivali West, Mumbai - 67
9	Mohsin	PAN not available; Having ICICI Account number 657101502167

23. Considering the above, I, in exercise of the powers conferred upon me under Section 19 of the SEBI Act, read with Sections 11(1), 11(4) and 11B thereof, hereby confirm that the directions issued vide *ad interim ex parte* order dated November 01, 2017 as against the

9 Noticees mentioned above, shall continue until further orders. Further, the restrictions imposed on Mr. Ram Lal Gupta vide *ad interim ex parte* order dated November 01, 2017 stands revoked.

24. I note that a detailed investigation in the matter is in progress which would bring out the roles of the Noticees in detail depending on the material and after considering the facts and veracity of their submissions. The findings in the extant order are *prima facie* findings in a matter under investigation.

25. A copy of this order shall be served on all recognized stock exchanges and depositories to ensure compliance with above directions.

-Sd-

**DATE: October 30, 2018**

**PLACE: Mumbai**

**MADHABI PURI BUCH**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**