

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11(1), 11(2)(j), 11(4) AND 11B OF THE SEBI ACT READ WITH SECTION 12A OF THE SECURITIES CONTRACTS (REGULATION) ACT, 1956.

IN THE MATTER OF NON-COMPLIANCE WITH THE REQUIREMENT OF MINIMUM PUBLIC SHAREHOLDING BY LISTED COMPANIES

IN RESPECT OF TAPARIA TOOLS LIMITED –

BACKGROUND:

1. Taparia Tools Limited (“**Taparia Tools/Company**”) is a listed company, which was incorporated under the Companies Act, 1956 on December 31, 1965. The shares of Taparia Tools are listed on Bombay Stock Exchange Limited (“**BSE**”) (Listing date: January 20, 1968).

AD-INTERIM EX PARTE ORDER CUM SHOW CAUSE NOTICE DATED MAY 20, 2015:

2. During the period from June 30–September 30, 2010, the ‘*Promoter and Promoter Group*’ shareholding in Taparia Tools was shown as 80.49%. As a result of the aforementioned, Taparia Tools was required to comply with minimum public shareholding requirement as mandated under Rule 19(2)(b) and Rule 19A of the Securities Contracts (Regulation) Rules, 1957 (“**SCRR**”) on or before June 3, 2013.
3. Subsequently, during the period September–December 2010, Taparia Tools reclassified four of its Promoter/Promoter Group entities having a total shareholding of 12.28% as ‘*public*’ for the purpose of reducing the ‘*Promoter and Promoter Group*’ shareholding within the permissible limit of 75%. Pursuant to the aforesaid re-classification, the ‘*Promoter and Promoter Group*’ shareholding in Taparia Tools was shown to be at 68.21%.
4. Securities and Exchange Board of India (“**SEBI**”) had received a complaint on June 4, 2014 in the SEBI Complaints Redress System (“**SCORES**”) *inter alia* alleging that Taparia Tools had breached the listing norms as it had failed to comply with Rule 19A of SCRR and had ‘*moved*’ some Promoters to the ‘*public*’ category thereby cheating its shareholders.

5. After enquiring into the above mentioned complaint, SEBI vide an Order dated May 20, 2015 (“**Interim Order**”) issued the following directions *inter alia* against Taparia Tools and its Directors, Promoters and Promoter Group (Collectively referred to as “**Noticees**”), on the basis of details furnished by BSE, for having failed to meet the minimum public shareholding requirement by June 3, 2013:

“13. In view of the above facts and observations, it can be noticed that the persons/entities who have been reclassified as public shareholders continue to be associated with the ‘Promoter Group’ of the Company. The same is against the objective of having a dispersed ownership of a listed public company. If some Promoters simply reclassify and show their shareholding under the ‘public’ category and yet continue to exercise control through the others in the Promoter Group, the same would be against the letter and spirit of the requirement which mandates dispersed shareholding in a listed company.

14. Further, when the shareholding of -

Saurabh Bangur (1.86%),

Shree Kumar Bangur (1.89%),

Shree Satyanarayan Investments Company Limited (1.52%)

Veer Enterprises Limited (8.71%),

Virendraa Bangur (1.86%),

Abhimanyu Mundhra-minor (1.65%),

Anant Taparia (1.99%),

Aryaman Taparia-minor (1.66%),

Shreekanta Devi Taparia (2.67%) and

Ms. Bela Taparia (0.16%)

Satish K. Mundhra (0.05%)

are deducted from the claimed public shareholding of 30.28% in the Company, then the public shareholding stands at only 6%. The same is much below the minimum requirement of 25%.

...

16. From the foregoing discussions, it appears that the Company/its Promoters/Directors and personnel in-charge have made an attempt to evade compliance with the MPS norms and have misrepresented that the Company has achieved compliance by merely reclassifying a few Promoters as public shareholders. Therefore, the disclosures regarding the shareholding of the Promoters and persons in control and their PACs, made under the Takeover Regulations, are also wrong and misrepresented.

...

18. I am of the considered opinion that persons/entities, (i) Saurabh Bangur (1.86%), (ii) Shree Kumar Bangur (1.89%), (iii) Shree Satyanarayan Investments Company Limited (1.52%), (iv) Veer Enterprises Limited

(8.71%), (v) Virendraa Bangur (1.86%), (vi) Abhimanyu Mundhra—minor (1.65%), (vii) Anant Taparia (1.99%), (viii) Aryaman Taparia—minor (1.66%), (ix) Shreekanta Devi Taparia (2.67%), (x) Ms. Bela Taparia (0.16%) and (xi) Satish K. Mundhra (0.05%) may be considered as part of the ‘Promoter Group’ of the Company, irrespective of their re-classification/ classification as ‘public’ shareholders. Any reference, hereinafter, to the Promoter Group shall include the above persons and entities. As per the shareholding pattern for the quarter ended December 2014, the Promoter and Promoter Group hold around 69.72%. The Promoter Group actually holds 94% when the shareholding of the ‘Bangur’ group is added therein.

...

22. In view of the foregoing, I, in exercise of the powers conferred upon me by virtue of Section 19 and under Sections 11(1), 11(2)(j), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 (“**SEBI Act**”) read with Section 12A of Securities Contracts (Regulation) Act, 1956 (“**SCRA**”), pending passing of the Final Order in these cases, I hereby:

- a. Direct freezing of voting rights and corporate benefits like dividend, rights, bonus shares, split, etc. with respect to the excess of proportionate promoter/ Promoter Group shareholding (including persons allegedly shown as public shareholders) in the Company, till such time the Company complies with the minimum public shareholding requirement.

...

Based on the above, the excess shareholding of the Promoters (including persons allegedly shown as public shareholders) of the Company that should be frozen is presented in the following table:

| | NAME OF THE PROMOTER/SHAREHOLDER | SHAREHOLDING (AS ON MARCH 17, 2015) | EXCESS SHAREHOLDING TO BE FROZEN |
|-----|----------------------------------|-------------------------------------|----------------------------------|
| 1. | HARNARAYAN TAPARIA | 12.01 | 9.86 |
| 2. | HARNARAYAN TAPARIA (HUF) | 4.39 | 3.60 |
| 3. | DEVI PRASAD TAPARIA (HUF) | 2.67 | 2.19 |
| 4. | DEVI PRASAD TAPARIA | 3.35 | 2.75 |
| 5. | RAJDULARI DEVI TAPARIA | 5.96 | 4.89 |
| 6. | JAYA KRISHNA TAPARIA | 4.86 | 3.99 |
| 7. | JAYA KRISHNA TAPARIA (HUF) | 2.18 | 1.79 |
| 8. | KUSUM DEVI TAPARIA | 4.84 | 3.97 |
| 9. | MADHAV PRASAD TAPARIA | 4.73 | 3.88 |
| 10. | MADHAV PRASAD TAPARIA (HUF) | 3.82 | 3.14 |
| 11. | PREMA DEVI TAPARIA | 4.18 | 3.43 |
| 12. | SUDHA DEVI TAPARIA | 3.42 | 2.81 |
| 13. | SHASHI DEVI BANGUR | 2.28 | 1.87 |
| 14. | SHREE KUMAR BANGUR | 1.89 | 1.55 |
| 15. | HARSHA MUNDHRA | 1.65 | 1.35 |
| 16. | SUSHIL KUMAR TAPARIA (HUF) | 1.45 | 1.19 |
| 17. | SUSHIL KUMAR TAPARIA | 2.37 | 1.95 |
| 18. | BELA TAPARIA | 0.31 | 0.25 |
| 19. | BHARAT KUMAR TAPARIA (HUF) | 0.35 | 0.29 |
| 20. | BHARAT KUMAR TAPARIA | 4.39 | 3.60 |

| | | | |
|-----|--|--------------|--------------|
| 21. | BHAGWATI BINANI (55 SHARES) | 0.00 | 0.00 |
| 22. | VEER ENTERPRISES LTD. | 9.04 | 7.42 |
| 23. | SHREE SATYANARAYAN INVESTMENT Co. LTD. | 1.52 | 1.25 |
| 24. | OM SHRI YOGESHWAR MFG. & TRADING Co. PVT. LTD. | 0.83 | 0.68 |
| 25. | ABHIMANYU MUNDHRA – MINOR | 1.65 | 1.35 |
| 26. | ANANT TAPARIA | 1.99 | 1.63 |
| 27. | ARYAMAN TAPARIA – MINOR | 1.16 | 0.95 |
| 28. | SAURABH BANGUR | 1.86 | 1.53 |
| 29. | SHREEKANTA DEVI TAPARIA | 3.30 | 2.71 |
| 30. | VIRENDRAA BANGUR | 1.86 | 1.53 |
| 31. | SATISH KUMAR MUNDHRA | 0.05 | 0.04 |
| | TOTAL | 94.36 | 77.44 |

- b. *Prohibit the Promoters/Promoter Group including persons allegedly shown as public shareholders, as mentioned in the Table in sub-paragraph (a) above and Ms. Devki Devi Jhawar (who had earlier held shares in the Company) and the Directors of the Company from buying, selling or otherwise dealing in securities of Company, either directly or indirectly, in any manner whatsoever, except for the purpose of complying with minimum public shareholding requirement till such time the Company complies with the minimum public shareholding requirement.*
 - c. *Restrain the shareholders forming part of the Promoter/Promoter Group including persons allegedly shown as public shareholders, as mentioned in the Table in sub-paragraph (a) from holding any new position as a Director in any listed company, till such time the Company complies with the minimum public shareholding requirement;*
 - d. *Restrain the Directors of Company from holding any new position as a Director in any listed company, till such time the Company complies with the minimum public shareholding requirement. ...*
23. *This Order is without prejudice to the right of SEBI to take any other action, including the following against the Company, their Promoters and Directors including persons allegedly shown as public shareholders, as mentioned in the Table in paragraph 22(a) and Ms. Devki Devi Jhawar, or issuing such directions in accordance with law:*
- a. *Laying monetary penalty under adjudication proceedings;*
 - b. *initiating criminal proceedings by way of prosecution proceedings*
 - c. *moving the scrip to trade-to-trade segment;*
 - d. *excluding the scrip from F&O segment;*
 - e. *Any other action/direction as may be deemed appropriate.*
- For the above purpose, this Order shall be treated as a show cause notice and the above persons may show cause as to why such proposed action should not be initiated against them.”*

HEARING:

6. Subsequent to the Interim Order, the Noticees had filed replies dated June 9, 2015 and requested for inspection of documents relied upon in the Interim Order, which was granted by SEBI during the month of August 2015. Thereafter, the Bangur family (Shree Kumar Bangur, his wife Shashi Devi Bangur, his sons Virendraa Bangur and Saurabh Bangur, their Group Companies, viz. Veer Enterprises and Shree Satyanarayan Investment Company Limited) had filed a reply dated August 27, 2015 while the Company had filed its reply vide a letter dated October 14, 2015. An opportunity of personal hearing was granted to the Noticees on various occasions and such dates along with details of appearances/responses are listed out hereunder:
- i.* **November 8, 2016:** An opportunity of personal hearing was granted to the Noticees on November 8, 2016. However, vide an e-mail dated November 2, 2016, the Noticees requested that the proceedings be kept in abeyance since an Application dated November 2, 2016 had been filed under the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 (“**Settlement Regulations**”) and to avoid prolonged litigation in the matter. The aforementioned request was acceded to by SEBI.
 - ii.* **May 28, 2018:** The above-mentioned Application was returned by SEBI to the Company since it was found not to be in compliance with Regulation 5(2)(i) of the Settlement Regulations. Accordingly, an opportunity of personal hearing was granted to the Noticees on May 28, 2018. The Noticees requested for adjournment vide an e-mail dated May 21, 2018, which was acceded to by SEBI and thereafter, the personal hearing was rescheduled to July 25, 2018.
 - iii.* **July 25, 2018:** The Noticees had earlier vide a letter dated July 17, 2018, confirmed the appearance of its representatives for the hearing on July 25, 2018. The Noticees were subsequently informed by SEBI that the aforementioned hearing was rescheduled to August 8, 2018 on account of certain administrative exigencies.
 - iv.* **August 8, 2018:** Vide an e-mail dated July 27, 2018, the Noticees requested for adjournment, which was acceded to by SEBI and thereafter, the personal hearing was rescheduled to August 29, 2018.
 - v.* **August 29, 2018:** The Noticees had earlier vide an e-mail dated August 7, 2018, confirmed the appearance of its representatives for the aforementioned hearing. However, vide an e-

mail dated August 28, 2018, the Noticees requested for adjournment, which was acceded to by SEBI and thereafter, the personal hearing was rescheduled to September 19, 2018.

- vi.* **September 19, 2018:** The Noticees had earlier vide an e-mail dated September 4, 2018, confirmed the appearance of its representatives for the aforementioned hearing. However, vide an e-mail dated September 17, 2018, the Noticees requested for adjournment, which was acceded to by SEBI and thereafter, the personal hearing was rescheduled to October 3, 2018.
- vii.* **October 3, 2018:** The Noticees appeared for the hearing and were represented by Advocate Somasekhar Sundaresan and Advocate Ravichandra Hedge (J. Sagar). The Noticees also filed written submissions dated October 9, 2018 and submitted additional information vide e-mails dated October 11, 2018; October 29, 2018 and December 8, 2018, subsequent to the personal hearing.

REPLIES DATED JUNE 9, 2015, AUGUST 27, 2015 AND OCTOBER 14, 2015, ADDITIONAL WRITTEN SUBMISSIONS DATED OCTOBER 9, 2018 AND ADDITIONAL INFORMATION SUBMITTED VIDE E-MAILS DATED OCTOBER 11, 2018, OCTOBER 29, 2018 AND DECEMBER 8, 2018:

- 7. Vide the above-mentioned correspondences, the Noticees *inter alia* submitted as under:
 - A. *Four individuals, viz. Harnarayan Taparia, Devi Prasad Taparia, Jaya Krishna Taparia and Madhav Prasad Taparia are the only Promoters and Promoter Directors of the Company (Collectively referred to as “4 Promoters”) and are responsible for the day-to-day management, control and decision making of the Company and continue to act as Promoter Directors of the Company. The 4 Promoters are also the only authorised signatories of the Company and persons having authority to operate the bank accounts of the Company besides professional employees of the Company. None of the 11 entities mentioned at paragraph 14 of the Interim Order (“Reclassified Promoters”) have any day-to-day management, control or influence over any decision making relating to the affairs of the Company. Further, the said Reclassified Promoters were never involved in formulation of a plan or programme pursuant to which specified securities were issued to the public.*
 - B. *Even the credit facilities granted to the Company by Central Bank of India and IFCI were required to be collaterally secured by the personal guarantees of H. N. Taparia, D. P. Taparia, J. K. Taparia and M. P. Taparia. In the economic and regulatory environment prevailing at that point of time, the banks identified with the aforesaid persons as the Promoters of the Company and did not require any such personal guarantees from the Bangur family or from any other groups or entities beyond the specified members of the Taparia Family who were and continue only to be the individual Promoters of the Company. None of the Reclassified Promoters have*

provided any third party securities to any lenders of the Company in connection with the operations or borrowings of the Company.

- C. *The definition of 'Promoter' under the erstwhile SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997 ("Takeover Regulations 1997") inter alia included "a relative of the promoter within the meaning of section 6 of the Companies Act, 1956 ('Companies Act')". Section 6 of the Companies Act provided for 22 degrees of relations to be included within the meaning of 'relative' under Schedule LA of the Companies Act. This is relevant in our current matter because it was based on this elaborate definition that certain persons had to be included within the 'Promoter Group' category of the Company. Section 6, inter alia, provided that: "A person shall be deemed to be a relative of another, if, and only if ... (c) The one is related to the other in the manner indicated in Schedule LA." The Company abided by the aforementioned definition of 'Promoter', which included a boarder range of persons within its ambit as noted from Schedule LA of the Companies Act reads as follows:*

Schedule 1A: List of Relatives:

- 1) Father.*
- 2) Mother (including step-mother).*
- 3) Son (including step-son).*
- 4) Son's wife.*
- 5) Daughter (including step-daughter).*
- 6) Father's father.*
- 7) Father's mother.*
- 8) Mother's mother.*
- 9) Mother's father.*
- 10) Son's son.*
- 11) Son's wife.*
- 12) Son's daughter.*
- 13) Son's daughter's husband.*
- 14) Daughter's husband.*
- 15) Daughter's son.*
- 16) Daughter's son's wife.*
- 17) Daughter's daughter.*
- 18) Daughter's husband.*
- 19) Brother (including step-brother).*
- 20) Brother's wife.*
- 21) Sister (including step-sister).*

22) Sister's husband. ...

- D. Subsequently, a distinction was created between a 'Promoter' and 'Promoter Group' as enunciated in Explanations I and II of sub clauses (k) and (l) of Clause 6.8.3.2 of Chapter VI of the SEBI (Disclosure and Investor Protection) Guidelines 2000 as then prevalent ("**DIP Guidelines**") wherein 'Promoter Group' was specifically defined to include, inter alia, an "immediate relative of the Promoter (i.e. any spouse of that person, or any parent, brother, sister or child of the person or of the spouse)."
- E. The crucial point in these proceedings was the introduction of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 ("**ICDR Regulations 2009**") which came into effect from August 29, 2009 and provided distinct definitions for 'Promoter' and for 'Promoter Group', which are the present operative and applicable definitions, which have also been adopted in the new SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 ("**Takeover Regulations 2011**"). The definition of 'Promoter Group' under Regulation 2(zb) of the erstwhile ICDR Regulations 2009 includes, inter alia, "...an **immediate relative** of the Promoter (i.e. any spouse of that person or any parent, brother, sister or child of the person or of the spouse)." This definition under the erstwhile ICDR Regulations 2009 unambiguously restricted the scope of the term from 'relatives' to 'immediate relatives' thereby limiting the applicability of the term 'Promoter Group' to merely one degree of relation from the individual Promoters i.e. parent, sibling, spouse and child. It was pursuant to this definition that the Company undertook the re-classification which is the crux of what has been suspected to be a manner of minimum public shareholding compliance in the Interim Order. (During the hearing, it was submitted by the authorised legal representative that the aforementioned re-classification was carried out by the Company on the advice of its Auditors.)
- F. It is relevant to consider the Letter of Offer of the Company for a rights issue undertaken in the year 1994 ("**Letter of Offer**") which contained a specific section titled '**Promoters and Their Background**' and in this section, only H. N. Taparia, D.P. Taparia and M. P. Taparia were included. Therefore, a conscious call was taken to not include the Bangur family or any other persons within this representation to the public even at that point of time in 1994 when there was no minimum public shareholding requirement applicable. This demonstrates that the intention was never to include any other entities or persons within this definition.

G. Further, pursuant to the personal hearing on October 3, 2018, vide an e-mail dated October 4, 2018, SEBI has requested for certain particulars to be provided which are detailed hereunder:

- 1) ***Details of all individuals/entities disclosed under the 'Promoter and Promoter Group' category for the Quarter ended September 30, 2010 such as relationship between all the aforementioned entities, whether disclosed as Promoter or Promoter Group individual/entity, shareholding pattern of entities, etc.***

| TABLE I – INDIVIDUALS/ENTITIES DISCLOSED UNDER THE PROMOTER AND PROMOTER GROUP CATEGORY FOR THE QUARTERS ENDED SEPTEMBER 30, 2010 AND DECEMBER 31, 2010. | | | | | | |
|---|-----------------------------|--------------|--------------------|-----------------------------------|---|---|
| | NAME | SHAREHOLDING | | RELATIONSHIP | 'PROMOTER'/'PROMOTER GROUP'/'PUBLIC' CATEGORY* (PRE 2009 AMENDMENT) | 'PROMOTER'/'PROMOTER GROUP'/'PUBLIC' CATEGORY** (POST 2009 AMENDMENT) |
| | | % | NO. OF SHARES HELD | | | |
| 1. | HARNARAYAN TAPARIA | 12.45 | 377910 | INDIVIDUAL PROMOTER | PROMOTER | PROMOTER |
| 2. | HARNARAYAN TAPARIA (HUF) | 4.39 | 133129 | PROMOTER HUF | PROMOTER GROUP | PROMOTER GROUP |
| 3. | DEVI PRASAD TAPARIA (HUF) | 1.45 | 43999 | PROMOTER HUF | PROMOTER GROUP | PROMOTER GROUP |
| 4. | DEVI PRASAD TAPARIA | 2.27 | 68799 | INDIVIDUAL PROMOTER | PROMOTER | PROMOTER |
| 5. | RAJDULARI DEVI TAPARIA | 4.90 | 148737 | SPOUSE OF HARNARAYAN TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 6. | JAYA KRISHNA TAPARIA | 4.73 | 143476 | INDIVIDUAL PROMOTER | PROMOTER | PROMOTER |
| 7. | JAYA KRISHNA TAPARIA (HUF) | 2.18 | 66042 | PROMOTER HUF | PROMOTER GROUP | PROMOTER GROUP |
| 8. | KUSUM DEVI TAPARIA | 4.84 | 146848 | SPOUSE OF MADHAV PRASAD TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 9. | MADHAV PRASAD TAPARIA | 4.26 | 129265 | INDIVIDUAL PROMOTER | PROMOTER | PROMOTER |
| 10. | MADHAV PRASAD TAPARIA (HUF) | 3.82 | 115969 | PROMOTER HUF | PROMOTER GROUP | PROMOTER GROUP |
| 11. | POORVI TAPARIA | 1.22 | 36959 | DAUGHTER OF DEVI PRASAD TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 12. | PREMA DEVI TAPARIA | 4.18 | 126989 | SPOUSE OF JAYA KRISHNA TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 13. | SUDHA DEVI TAPARIA | 3.42 | 103799 | SPOUSE OF DEVI PRASAD TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 14. | SHASHI DEVI BANGUR | 2.28 | 69271 | DAUGHTER OF HARNARAYAN TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 15. | SONAM TAPARIA | 1.20 | 36299 | DAUGHTER OF DEVI PRASAD TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 16. | HARSHA MUNDHRA | 1.65 | 50000 | DAUGHTER OF MADHAV PRASAD TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 17. | SUSHIL KUMAR TAPARIA | 2.27 | 68799 | BROTHER OF DEVI PRASAD TAPARIA | PROMOTER GROUP | PROMOTER GROUP |

| | | | | | | |
|---|--|--------------|----------------|--|----------------|----------------|
| 18. | SUSHIL KUMAR TAPARIA (HUF) | 1.45 | 43999 | HUF ENTITY OF BROTHER OF DEVI PRASAD TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 19. | BHARAT KUMAR TAPARIA | 4.05 | 122894 | SON OF JAYA KRISHNA TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 20. | BHARAT KUMAR TAPARIA (HUF) | 0.35 | 10718 | HUF ENTITY OF SON OF JAYA KRISHNA TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 21. | OM SHRI YOGESHWAR MFG. & TRADING CO. PVT. LTD. | 0.83 | 25300 | BODY CORPORATE | PROMOTER GROUP | PROMOTER GROUP |
| 22. | SHREE KUMAR BANGUR | 1.89 | 57358 | SON-IN-LAW OF HARNARAYAN TAPARIA | PROMOTER GROUP | PUBLIC |
| 23. | BELA TAPARIA | 0.16 | 5000 | DAUGHTER-IN-LAW OF JAYA KRISHNA TAPARIA | PROMOTER GROUP | PUBLIC |
| 24. | VEER ENTERPRISES | 8.71 | 264288 | BODY CORPORATE | PROMOTER GROUP | PUBLIC |
| 25. | SHREE SATYANARAYAN INVESTMENT CO. LTD. | 1.52 | 46000 | BODY CORPORATE | PROMOTER GROUP | PUBLIC |
| 26. | DEVKI DEVI JHANWAR | 0.05 | 1440 | SISTER OF MADHAV PRASAD TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| 27. | BHAGWATI BINANI | 0.00 | 55 | SISTER OF HARNARAYAN TAPARIA | PROMOTER GROUP | PROMOTER GROUP |
| TOTAL | | 80.49 | 2443342 | | | |
| <p><i>* This was the classification for the shareholding belonging to the 'Promoter and Promoter Group' and 'Public' shareholding category in the shareholding pattern for the Quarter ended September 30, 2010.</i></p> <p><i>** This was the classification for the shareholding belonging to the 'Promoter and Promoter Group' and 'Public' shareholding category in the shareholding pattern for the Quarter ended December 31, 2010.</i></p> | | | | | | |

- 2) *Details of the Board of Directors of the Company for the period from 2005–2015 specifying clearly the number of Directors that a group was entitled to nominate and whether any of the Reclassified Promoters enjoyed any right to nominate Directors, etc. – It is submitted that no group was entitled to nominate any Director and none of the Reclassified Promoters enjoyed any right to nominate Directors, etc. Further, provided below are details of the Board of Directors of the Company for the fiscal year 2005–2006 along with all the subsequent changes in the composition of the Board by way of appointments and retirements up to March 31, 2015:*

TABLE II – BOARD OF DIRECTORS OF THE COMPANY

| | NAME OF THE DIRECTOR | CATEGORY | DETAILS OF CHANGE IN DIRECTORSHIP |
|-----|--------------------------|---|-----------------------------------|
| 1. | H. N. TAPARIA | CHAIRMAN & MANAGING DIRECTOR | |
| 2. | HARI BHUSHAN | NON-EXECUTIVE, INDEPENDENT | RETIRED ON JANUARY 23, 2009 |
| 3. | M. V. GORE | NON-EXECUTIVE, INDEPENDENT | EXPIRED NOVEMBER 4, 2014 |
| 4. | P. N. SHAH | NON-EXECUTIVE, INDEPENDENT | |
| 5. | D. S. MULLA | NON-EXECUTIVE, INDEPENDENT | RETIRED IN 2006 |
| 6. | J. K. TAPARIA | NON-EXECUTIVE PROMOTER | |
| 7. | M. P. TAPARIA | NON-EXECUTIVE PROMOTER | |
| 8. | D. P. TAPARIA | NON-EXECUTIVE PROMOTER | |
| 9. | R. P. IRANI | NON-EXECUTIVE, INDEPENDENT | RETIRED ON JULY 30, 2007 |
| 10. | R. N. R. MALANI | NON-EXECUTIVE, INDEPENDENT | RETIRED ON JANUARY 30, 2010 |
| 11. | M. G. NATHANI | WHOLE-TIME DIRECTOR (EXECUTIVE DIRECTOR) | EXPIRED MARCH 28, 2014 |
| 12. | B. B. LADDA | NON-EXECUTIVE, INDEPENDENT | APPOINTED ON JULY 30, 2007 |
| 13. | G. S. MANASAWALA | NON-EXECUTIVE, INDEPENDENT | APPOINTED ON JULY 30, 2007 |
| 14. | RAJEEV J. MUNDRA | NON-EXECUTIVE, INDEPENDENT | APPOINTED ON JANUARY 30, 2010 |
| 15. | SIVARAMAKRISHNAN | WHOLE-TIME DIRECTOR (DIRECTOR-OPERATIONS) | APPOINTED ON NOVEMBER 3, 2012 |
| 16. | VIRENDRAA BANGUR | NON-EXECUTIVE, INDEPENDENT | |
| 17. | CA BHAVANA S. SHAMDASANI | NON-EXECUTIVE, INDEPENDENT | APPOINTED ON NOVEMBER 10, 2014 |
| 18. | SHYAM MALPANI | NON-EXECUTIVE, INDEPENDENT | APPOINTED ON JANUARY 31, 2015 |

- 3) ***Voting pattern of the ‘Promoter and Promoter Group’ entities and also the Reclassified Promoters in Annual General Meeting/Extraordinary General Meeting held during the period from 2005–2015*** – The Company had submitted a statement showing the voting pattern (voted for/against/abstained) in percentage form for all shareholders in respect of each agenda put up before AGM/EGM held during the period from 2005–2015.
- 4) ***Copy of the Board resolution, if any, approving re-classification of the 4 entities mentioned at paragraph 4 of the Interim Order*** – At the relevant time, there was no provision laid down in any Regulation, Act or law governing the process to be followed by the Company for re-classification of the Promoter Group as referred to in the Interim Order. In the absence of any such requirement for the Board of Directors of a Company to pass a resolution

for such re-classification, no resolution was passed by the company specifically for the re-classification of the entities. The disclosures made statutorily in the Annual Report are endorsed by the Board of Directors of the Company.

- 5) **Details of relationship of the Reclassified Promoters with the entities mentioned at paragraph 7G(1) above are provided below:** As can be seen from the Table below, in each of the relations, the Reclassified Promoter is not included in the definition of 'Promoter Group' in the erstwhile ICDR Regulations 2009 which specifically restricts the definition to immediate relatives.

| TABLE III – RELATIONSHIP DETAILS | | |
|----------------------------------|--|--|
| | NAME OF THE SHAREHOLDER | RELATIONSHIP WITH THE PROMOTER/PROMOTER GROUP AS SHOWN IN THE QUARTER ENDED SEPTEMBER 30, 2018 |
| 1. | SAURABH BANGUR | SON OF SHASHI DEVI BANGUR. SHASHI DEVI BANGUR IS ACTUALLY NOT A PROMOTER OF THE COMPANY BUT HER NAME HAD TO BE INCLUDED IN THE PROMOTER GROUP OF THE COMPANY AS PER ICDR REGULATIONS DEFINITION, SHE BEING A MARRIED DAUGHTER OF MR. H. N. TAPARIA WHO IS ONE OF THE PROMOTERS OF THE COMPANY. THEREFORE, SAURABH BANGUR DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY. |
| 2. | SHREE KUMAR BANGUR | HUSBAND OF SHASHI DEVI BANGUR. HAVING REGARD TO THE EXPLANATION AT SR. NO. 1, SHREE KUMAR BANGUR DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY. |
| 3. | SHREE SATYANARAYAN INVESTMENTS COMPANY LIMITED | AN INDEPENDENT COMPANY WITH DIFFERENT SHAREHOLDERS AND DIRECTORS UNCONNECTED WITH THE COMPANY EXCEPT SHASHI DEVI BANGUR, WHO IS ACTUALLY NOT A PROMOTER OF THE COMPANY BUT BELONGS TO PROMOTER GROUP ONLY BY VIRTUE OF ICDR REGULATIONS DEFINITION, HOLDS 1.41% OF THE TOTAL SHARES OF SHREE SATYANARAYAN INVESTMENTS COMPANY LIMITED. THEREFORE, SHREE SATYANARAYAN INVESTMENTS COMPANY LIMITED DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY. |
| 4. | VEER ENTERPRISES LIMITED | AN INDEPENDENT COMPANY WITH DIFFERENT SHAREHOLDERS AND DIRECTORS UNCONNECTED WITH THE COMPANY EXCEPT SHASHI DEVI BANGUR, WHO IS ACTUALLY NOT A PROMOTER OF THE COMPANY BUT BELONGS TO PROMOTER GROUP ONLY BY VIRTUE OF ICDR REGULATIONS DEFINITION, HOLDS 6.96% OF THE TOTAL SHARES VEER ENTERPRISES LIMITED. THEREFORE, VEER ENTERPRISES LIMITED DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY. |
| 5. | VIRENDRAA BANGUR | SON OF SHASHI DEVI BANGUR. HAVING REGARD TO THE EXPLANATION AT SR. NO. 1, SHREE KUMAR BANGUR DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY. THEREFORE, VIRENDRAA BANGUR DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY. |
| 6. | ABHIMANYU MUNDHRA | SON OF HARSHA MUNDHRA. HARSHA MUNDHRA IS ACTUALLY NOT A PROMOTER OF THE COMPANY BUT HER NAME HAD TO BE INCLUDED IN THE PROMOTER GROUP OF THE COMPANY AS PER ICDR REGULATIONS DEFINITION, SHE BEING A MARRIED DAUGHTER OF M. P. TAPARIA WHO IS ONE OF THE PROMOTERS OF THE COMPANY. THEREFORE, ABHIMANYU MUNDHRA DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY. |
| 7. | ANANT TAPARIA | SON OF BROTHER (NEPHEW) OF D. P. TAPARIA. THEREFORE, ANANT TAPARIA DOES NOT FALL IN PROMOTER GROUP AS PER DEFINITION OF ICDR REGULATIONS. |
| 8. | ARYAMAN TAPARIA | GRANDSON OF J. K. TAPARIA. AS PER ICDR REGULATIONS DEFINITION, HE BEING GRANDSON OF J. K. TAPARIA, WHO IS AN INDIVIDUAL PROMOTER OF THE COMPANY. THEREFORE, ARYAMAN TAPARIA DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY. |
| 9. | SHREEKANTA DEVI TAPARIA | WIFE OF BROTHER OF D. P. TAPARIA OF THE COMPANY. AS PER ICDR REGULATIONS DEFINITION SHE DOES NOT FALL IN THE 'PROMOTER AND PROMOTER GROUP' OF THE COMPANY. |
| 10. | BELA TAPARIA | DAUGHTER-IN-LAW OF J. K. TAPARIA, WHO IS AN INDIVIDUAL PROMOTER OF THE COMPANY. THEREFORE, BELA TAPARIA DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY AS PER ICDR REGULATIONS DEFINITION. |
| 11. | SATISH K. MUNDHRA | HUSBAND OF HARSHA MUNDRA. HARSHA MUNDRA IS ACTUALLY NOT A PROMOTER OF THE COMPANY BUT HER NAME HAD TO BE INCLUDED IN THE PROMOTER GROUP OF THE COMPANY AS PER ICDR REGULATIONS DEFINITION, SHE BEING A MARRIED DAUGHTER OF M. P. TAPARIA, WHO IS ONE OF THE PROMOTERS OF THE COMPANY. THEREFORE, SATISH K. MUNDRA DOES NOT FALL IN THE PROMOTER GROUP OF THE COMPANY. |

- H. *Shashi Devi Bangur is a married daughter of just one of the Promoters of the Company viz. H. N. Taparia. She is only a shareholder and not a Promoter of the Company; however, her name had to be included in the 'Promoter Group' share list only on account of being a daughter of one of its Promoter as per the definition of the then applicable 'Promoter Group' under the erstwhile ICDR Regulations 2009. She has never had any involvement in the management or decision making in the Company nor does till date have authority to sign any document of the Company. Further, she has never had an authority to operate any bank accounts of the Company till date. Even in her capacity as a shareholder, Shashi Devi Bangur has only attended only AGM of the Company during the last 20 years. When a daughter marries outside the Promoter family and enters another business family, she becomes an integral part of the other family and cannot continue to be regarded as a continuing member of the Promoter family.*
- I. *Further, the Company did not seek to remove the names of Shashi Devi Bangur and Harsha Mundhra (Daughter of M. P. Taparia) from the 'Promoter Group' of the Company and despite their negligible shareholding in the Company, were retained in the 'Promoter Group' since a sister of a Promoter falls within the ambit of an 'immediate relative' as per the erstwhile ICDR Regulations 2009.*
- J. *The reliance placed on the Gillette case is entirely misplaced as the person who sought to be reclassified as a public shareholder was indeed a Promoter as a matter of fact and in law and the request made to SEBI to reclassify such Promoters as non-Promoters was rejected by SEBI. In the instant case, the Reclassified Promoters as discussed above are not and do not fall within the definition of 'Promoter' as demonstrated above.*
- K. *In addition to the above, in their reply dated August 27, 2015, Shree Kumar Bangur, Shashi Devi Bangur, Virendraa Bangur, Saurabh Bangur and their Group Companies, viz. Veer Enterprises and Shree Satyanarayan Investment Company Limited ("**Shree Kumar Bangur Group**"), submitted that they were not in control/management of the Company or in charge of its day-to-day affairs. Further, they submitted that Abhimanyu Mundra – Minor, Anant Taparia, Aryaman Taparia, Shreekanta Devi Taparia, Bela Taparia and Satish Kumar Mundra were not part of the Shree Kumar Bangur Group.*

BACKGROUND OF LEGAL PROVISIONS AND GENERAL OBSERVATIONS:

8. At this stage, I find it pertinent to bring out the history behind the requirement of ensuring minimum public shareholding:
- A. The SCRA was enacted w.e.f. September 4, 1956, *inter alia* to prevent undesirable transactions in securities by regulating the business of dealing therein, by providing for

certain other matters connected therewith. Section 21 of the SCRA, which provides for the conditions for listing (as amended on January 25, 1995), states that 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. The conditions required to be satisfied by companies with respect to the listing of securities on a recognised Stock Exchange were prescribed by the Central Government under the SCRR.

- B. Vide Notification dated June 4, 2010, the Ministry of Finance amended the SCRR including Rule 19A to provide for minimum and continuous public shareholding requirements in listed companies as it was felt that a dispersed shareholding structure was essential for the sustenance of a continuous market for listed securities, to provide liquidity to the investors and to discover fair prices. Further, it was felt that the larger the number of shareholders, the less was the scope for price manipulation (Press Release dated June 4, 2010, issued by the Ministry of Finance, Government of India). The Hon'ble Securities Appellate Tribunal ("SAT") in the matter of *Gillette Limited vs. SEBI (Appeal no. 65 of 2013 – Order dated July 3, 2013)* ("**Gillette Case**"), had also noted: "24. ... *In our opinion, the Appellant seems to have overlooked, whether deliberately or inadvertently, the fact that the underlying philosophy behind the requirement of a minimum public holding of 25% is prevention of concentration of shares in the hands of a few market players by ensuring a sound and healthy public float to stave off any manipulation or perpetration of other unethical activities in the securities market which would unfortunately be the irrefragable consequence of the reins of the market being in the hands of a few.*"
- C. The aforementioned Amendment to the SCRR (w.e.f. June 4, 2010) resulted in raising the minimum public shareholding requirement to 25% as a pre-requisite for any company to get listed with any recognized stock exchange. For companies which were already listed but did not meet the 25% criterion, they were required to gradually increase their public shareholding at the rate of 5% per annum. Further, it was provided that if any listed company had its public shareholding drop below the requirement of 25%, the company would be under an obligation to take it back up to 25% within a year of such drop in shareholding. The aforesaid Amendment also introduced the definitions of 'public' and 'public shareholding' in SCRR, which are reproduced as under:

"2 (d) "public" means persons other than –

- (i) The Promoter and Promoter Group;
- (ii) Subsidiaries and associates of the company.

Explanation – For the purpose of this clause the words “Promoter” and “Promoter Group” shall have the same meaning as assigned to them under the erstwhile ICDR Regulations 2009.

2 (e) *“public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.”*

- D. Thereafter, the SCRR was amended on August 9, 2010 and provided that all listed companies would need to maintain a consistent public shareholding of 25% and those listed companies whose public shareholding was below the 25% benchmark were directed to satisfy the requirement within a period of three years from June 4, 2010 i.e. the day on which the SCRR was first amended with respect to the requirement of minimum public shareholding.
- E. On December 16, 2010, SEBI issued a Circular amending Clause 40A of the Listing Agreement to provide for the manner which could be adopted by companies to increase their public shareholding to the mandatory requirement of 25%. Thereafter, SEBI issued Circulars dated February 8, 2012 and August 29, 2012 further amending Clause 40A of the Listing Agreement and enabling listed companies to attain the minimum public shareholding through additional methods including any other method as may be approved by SEBI on a case-to-case basis.
- F. Subsequent to the Notification of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**LODR Regulations 2015**”) w.e.f. September 2, 2015, SEBI issued a Circular dated November 30, 2015, rescinding the aforementioned Circulars, which had amended Clause 40A of the Listing Agreement and incorporating the requirement regarding compliance of minimum public shareholding, as prescribed under Rules 19(2) and 19A of the SCRR, in Regulation 38 of the LODR Regulations 2015. Vide the aforesaid Circular, SEBI reiterated the existing methods for listed companies to take their public shareholding up to 25%. The aforementioned Circular has since been superseded by the SEBI Circular dated February 22, 2018 (*SEBI/HO/CFD/CMD/CIR/P/43/2018*), which provided for the following methods that can be used to comply with the requirements of Rules 19(2)(b) and Rule 19A of the SCRR:
- i. *Issuance of shares to public through prospectus (earlier introduced by SEBI Circular dated December 16, 2010);*
 - ii. *Offer for sale of shares held by Promoters to public through prospectus (earlier introduced by SEBI Circular dated December 16, 2010);*

- iii. *Sale of shares held by Promoters through the secondary market in terms of SEBI circular CIR/MRD/DP/05/2012 dated February 1, 2012 (earlier introduced by SEBI Circular dated December 16, 2010 but modified through SEBI Circular dated February 8, 2012);*
- iv. *Institutional Placement Programme (IPP) in terms of Chapter VIIIA of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (earlier introduced vide SEBI Circular dated February 8, 2012);*
- v. *Rights Issue to public shareholders, with promoter/Promoter Group shareholders forgoing their entitlement to equity shares, that may arise from such issue (earlier introduced vide SEBI Circular dated August 29, 2012);*
- vi. *Bonus Issues to public shareholders, with promoter/Promoter Group shareholders forgoing their entitlement to equity shares, that may arise from such issue (earlier introduced vide SEBI Circular dated August 29, 2012);*
- vii. *Sale of shares held by Promoters/Promoter Group up to 2% of the total paid-up equity share capital of the listed entity in the open market, subject to conditions specified under the Circular dated February 22, 2018 (added vide SEBI Circular dated February 22, 2018);*
- viii. *Allotment of eligible securities under Qualified Institutions Placement in terms of Chapter VIII of Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 (added vide SEBI Circular dated February 22, 2018);*
- ix. *Any other method as may be approved by SEBI on a case to case basis. For this purpose, the listed entities may approach SEBI with appropriate details. SEBI would endeavour to communicate its decision within 30 days from the date of receipt of the proposal or the date of receipt of additional information as sought from the company. (Earlier introduced vide SEBI Circular dated August 29, 2012 and modified vide SEBI Circular dated November 30, 2015).*

9. Incidentally, as per Regulation 31A of the LODR Regulations 2015 (prior to its amendment w.e.f. November 16, 2018), re-classification of Promoter as public shareholders cannot be taken into account while computing the shareholding of a listed Company for the purpose of ensuring compliance with minimum public shareholding requirement. Subsequently, the amended Regulation 31A provided that re-classification of the status of any person as a 'Promoter' or 'public' shall be permitted by the stock exchanges only upon satisfaction of *inter alia* the condition that the listed Company shall be compliant with the requirement for minimum public shareholding as required under Regulation 38 of the LODR Regulations 2015.
10. As soon as the minimum public shareholding requirement was mandated w.e.f. June 4, 2010 along with the newly incorporated definitions of 'public' and 'public shareholding', several listed Companies started to declassify some of the Promoter Group entities, who were earlier covered under the

wider definition of '*relatives*', to the '*public*' category in order to ensure their purported compliance with the aforementioned requirement. It is relevant to note that the reclassified Promoter Group relatives even after being disclosed as shareholders under the '*public*' category, would continue to hold the same quantum of shareholding in the listed Company thereby exercising the same quantum of voting rights. Moreover, there would be no change in the factual circumstances that existed prior to and post the re-classification, which would potentially undo the presumption of them acting in concert or being jointly in control of the listed Company along with the Promoters. In such a scenario, the avowed object of minimum public shareholding requirement as explained in the preceding paragraphs, cannot be said to have been fulfilled.

FINDINGS UPON CONSIDERATION OF FACTS:

11. I have considered the Interim Order along with the replies/submissions made by the Noticees and all the relevant material on record. As per the Interim Order, the Company is alleged to have failed in ensuring compliance with the minimum public shareholding requirement on or before June 3, 2013, as stipulated *inter alia* under Rule 19A of the SCRR. Further, as per the Interim Order, it was alleged that as on March 17, 2015, the Promoter and Promoter Group shareholding was 94.36% of the total equity share capital of the Company while the public shareholding was only 5.64% when the Company was required to maintain a minimum public shareholding of at least 25% as per the provisions of Rule 19A of the SCRR.
12. In this context and in addition to the shareholding patterns reproduced at Table I, the shareholding patterns of the Company relevant for the purpose of the instant proceedings are reproduced below:

| TABLE IV – INDIVIDUALS/ENTITIES DISCLOSED UNDER THE PROMOTER AND PROMOTER GROUP CATEGORY FOR | | | | | | |
|--|-----------------------------|--------------|--------------------|----------------------------------|--------------|--------------------|
| QUARTER ENDED JUNE 30, 2009 | | | | QUARTER ENDED SEPTEMBER 30, 2009 | | |
| | NAME | SHAREHOLDING | | NAME | SHAREHOLDING | |
| | | % | NO. OF SHARES HELD | | % | NO. OF SHARES HELD |
| 1. | HARNARAYAN TAPARIA | 12.45 | 377910 | HARNARAYAN TAPARIA | 12.45 | 377910 |
| 2. | HARNARAYAN TAPARIA (HUF) | 4.39 | 133129 | HARNARAYAN TAPARIA (HUF) | 4.39 | 133129 |
| 3. | DEVI PRASAD TAPARIA (HUF) | 1.45 | 43999 | DEVI PRASAD TAPARIA (HUF) | 1.45 | 43999 |
| 4. | DEVI PRASAD TAPARIA | 2.27 | 68799 | DEVI PRASAD TAPARIA | 2.27 | 68799 |
| 5. | RAJDULARI DEVI TAPARIA | 4.90 | 148737 | RAJDULARI DEVI TAPARIA | 4.90 | 148737 |
| 6. | JAYA KRISHNA TAPARIA | 4.73 | 143476 | JAYA KRISHNA TAPARIA | 4.73 | 143476 |
| 7. | JAYA KRISHNA TAPARIA (HUF) | 2.18 | 66042 | JAYA KRISHNA TAPARIA (HUF) | 2.18 | 66042 |
| 8. | KUSUM DEVI TAPARIA | 4.84 | 146848 | KUSUM DEVI TAPARIA | 4.84 | 146848 |
| 9. | MADHAV PRASAD TAPARIA | 4.26 | 129265 | MADHAV PRASAD TAPARIA | 4.26 | 129265 |
| 10. | MADHAV PRASAD TAPARIA (HUF) | 3.82 | 115969 | MADHAV PRASAD TAPARIA (HUF) | 3.82 | 115969 |

| | | | | | | |
|----------------------|--|---------------|----------------|--|---------------|----------------|
| 11. | POORVI TAPARIA | 1.22 | 36959 | POORVI TAPARIA | 1.22 | 36959 |
| 12. | PREMA DEVI TAPARIA | 4.18 | 126989 | PREMA DEVI TAPARIA | 4.18 | 126989 |
| 13. | SUDHA DEVI TAPARIA | 3.42 | 103799 | SUDHA DEVI TAPARIA | 3.42 | 103799 |
| 14. | SHASHI DEVI BANGUR | 2.28 | 69271 | SHASHI DEVI BANGUR | 2.28 | 69271 |
| 15. | SONAM TAPARIA | 1.20 | 36299 | SONAM TAPARIA | 1.20 | 36299 |
| 16. | HARSHA MUNDHRA | 1.65 | 50000 | HARSHA MUNDHRA | 1.65 | 50000 |
| 17. | SUSHIL KUMAR TAPARIA | 2.27 | 68799 | SUSHIL KUMAR TAPARIA | 2.27 | 68799 |
| 18. | SUSHIL KUMAR TAPARIA (HUF) | 1.45 | 43999 | SUSHIL KUMAR TAPARIA (HUF) | 1.45 | 43999 |
| 19. | BHARAT KUMAR TAPARIA | 4.05 | 122894 | BHARAT KUMAR TAPARIA | 4.05 | 122894 |
| 20. | BHARAT KUMAR TAPARIA (HUF) | 0.35 | 10718 | BHARAT KUMAR TAPARIA (HUF) | 0.35 | 10718 |
| 21. | OM SHRI YOGESHWAR MFG. & TRADING CO. PVT. LTD. | 0.83 | 25300 | OM SHRI YOGESHWAR MFG. & TRADING CO. PVT. LTD. | 0.83 | 25300 |
| 22. | SHREE KUMAR BANGUR | 1.89 | 57358 | SHREE KUMAR BANGUR | 1.89 | 57358 |
| 23. | BELA TAPARIA | 0.16 | 5000 | BELA TAPARIA | 0.16 | 5000 |
| 24. | VEER ENTERPRISES | 8.71 | 264288 | VEER ENTERPRISES | 8.71 | 264288 |
| 25. | SHREE SATYANARAYAN INVESTMENT CO. LTD. | 1.52 | 46000 | SHREE SATYANARAYAN INVESTMENT CO. LTD. | 1.52 | 46000 |
| 26. | DEVKI DEVI JHANWAR | 0.05 | 1440 | DEVKI DEVI JHANWAR | 0.05 | 1440 |
| 27. | BHAGWATI BINANI | 0.00 | 55 | BHAGWATI BINANI | 0.00 | 55 |
| A. | TOTAL | 80.49 | 2443342 | | 80.49 | 2443342 |
| B. | PUBLIC SHAREHOLDING | 19.51 | 592408 | | 19.51 | 592408 |
| TOTAL (A + B) | | 100.00 | 3035750 | TOTAL (A + B) | 100.00 | 3035750 |

TABLE V – INDIVIDUALS/ENTITIES DISCLOSED UNDER THE PROMOTER AND PROMOTER GROUP CATEGORY FOR THE QUARTER ENDED MARCH 31, 2019

| | NAME | SHAREHOLDING | |
|----------------------|--|---------------|--------------------|
| | | % | NO. OF SHARES HELD |
| 1. | HARNARAYAN TAPARIA | 12.45 | 377910 |
| 2. | HARNARAYAN TAPARIA (HUF) | 4.39 | 133129 |
| 3. | DEVI PRASAD TAPARIA (HUF) | 1.45 | 43999 |
| 4. | DEVI PRASAD TAPARIA | 2.27 | 68799 |
| 5. | RAJDULARI DEVI TAPARIA | 4.90 | 148737 |
| 6. | JAYA KRISHNA TAPARIA | 4.73 | 143476 |
| 7. | JAYA KRISHNA TAPARIA (HUF) | 2.18 | 66042 |
| 8. | KUSUM DEVI TAPARIA | 4.84 | 146848 |
| 9. | MADHAV PRASAD TAPARIA | 4.26 | 129265 |
| 10. | MADHAV PRASAD TAPARIA (HUF) | 3.82 | 115969 |
| 11. | PREMA DEVI TAPARIA | 4.18 | 126989 |
| 12. | SUDHA DEVI TAPARIA | 3.42 | 103799 |
| 13. | SHASHI DEVI BANGUR | 2.28 | 69271 |
| 14. | HARSHA MUNDHRA | 1.65 | 50000 |
| 15. | SUSHIL KUMAR TAPARIA | 2.27 | 68799 |
| 16. | SUSHIL KUMAR TAPARIA (HUF) | 1.45 | 43999 |
| 17. | BHARAT KUMAR TAPARIA | 4.05 | 122894 |
| 18. | BHARAT KUMAR TAPARIA (HUF) | 0.35 | 10718 |
| 19. | OM SHRI YOGESHWAR MFG. & TRADING CO. PVT. LTD. | 0.83 | 25300 |
| 20. | BHAGWATI BINANI | 0.00 | 55 |
| A. | TOTAL | 69.72 | 2116517 |
| B. | PUBLIC SHAREHOLDING | 30.28 | 919233 |
| TOTAL (A + B) | | 100.00 | 3035750 |

13. From the aforementioned Tables IV and V read along with Table I, the following is noted:

- i.* The shareholding of the Promoter and Promoter Group was 80.49% of the total equity share capital of the Company while the public shareholding stood at 19.51% as at the end of June 2009. This was after the Company had earlier re-classified certain Promoter and Promoter Group entities as '*public*' which brought down the '*Promoter and Promoter Group*' shareholding from a level of 91.13% to 80.49%.
- ii.* The aforementioned shareholding pattern of the Company did not undergo any change prior to and immediately after the Notification of the erstwhile ICDR Regulations 2009 w.e.f. August 26, 2009 or the SCRR Amendment w.e.f. June 4, 2010 and remained at that level till the Quarter ended September 30, 2010.
- iii.* For the Quarter ended December 31, 2010 (refer to Table I), the shareholding of the Promoter and Promoter Group was shown as reduced to 68.21% of the total equity share capital of the Company while the public shareholding had increased to 31.79%. From the Interim Order, it is observed that vide an e-mail dated August 25, 2014, BSE had informed SEBI that the Company had earlier submitted details of the shareholding of '*Promoters and persons having control over the Company and persons acting in concert with them*' as on March 31, 2011, vide a letter dated April 26, 2011. The aforementioned disclosure made by the Company under Regulation 8(3) of the Takeover Regulations 1997 did not include the names of the aforementioned four entities at sr. no. 22–25 of Tables I and IV and contained a remark stating that: "*Previous year's figures have been re-grouped due to correct classification of definition of Promoter & Promoter Group as per ICDR Regulations 2009.*" Accordingly, as confirmed by the Noticees in their submissions/ correspondences to SEBI, the aforementioned change in the shareholding pattern as on December 31, 2010, was on account of the re-classification of four entities associated with the '*Promoter Group*' of the Company i.e. sr. no. 22–25 of Table IV, as shareholders under the '*public*' category.
- iv.* As per paragraph 14 of the Interim Order (See page 2), the *Reclassified Promoters* collectively held 24.02% of the total equity share capital of the Company. Further, as on March 17, 2015, the *Reclassified Promoters* collectively held 24.48% of the total equity share capital of the Company. The same was on account of a change in the shareholding of 3 *Reclassified Promoters* i.e. Veer Enterprises Limited (8.71% to 9.04%), Aryaman Taparia – minor (1.66% to 1.16%) and Shreekanta Devi Taparia (2.67% to 3.30%) (See page 2). The

aforementioned shareholding has not changed and continues to remain the same as on March 31, 2019.

14. The contention raised by the Noticees in these proceedings is that the re-classification of four entities associated with the *Promoter Group* of the Company (Shree Kumar Bangur, Shree Satyanarayan Investments Company Limited, Veer Enterprises Limited and Bela Taparia) along with the exclusion of certain members of the Taparia family (remaining 7 individuals of the *Reclassified Promoters* – Saurabh Bangur, Virendraa Bangur, Abhimanyu Mundhra, Anant Taparia, Shreekanta Devi Taparia and Satish K. Mundhra) occurred on account of the change in definition under the erstwhile ICDR Regulations 2009 limiting the applicability of the term *Promoter Group* to only *immediate relative* of the Promoter i.e. spouse, parents, brother, sister and child. In this context, the pertinent issue requiring determination in the instant proceedings is whether the individuals/entities falling within the excluded degrees of relationships, by virtue of the amended reduced definition of *immediate relative*, would qualify to be categorized as *public* for ensuring compliance with minimum public shareholding requirement. In this regard, I note the following:

- i. A perusal of the erstwhile ICDR Regulations 2009 reveals that the definition of *Promoter Group* includes the (i) *Promoter* in addition to (ii) the *immediate relative* of such Promoter; (iii) in case the Promoter is a body corporate, (a) a subsidiary/holding company of such body corporate; (b) any body corporate in which the Promoter holds 10% or more of the equity share capital or which holds 10% or more of the equity share capital of the Promoter and (c) any body corporate in which a group of individuals or companies or combinations thereof which hold 20% or more of the equity share capital in that body corporate also holds 20% or more of the equity share capital of the Issuer; (iv) in case the Promoter is an individual, (a) a body corporate in which 10% or more of the equity share capital is held by the *Promoter* /an *immediate relative* of the *Promoter* / firm /HUF in which the *Promoter* or any one or more of his *immediate relative* is a member; (b) any body corporate in which a body corporate as provided in (a) holds 10% or more, of the equity share capital; (c) any HUF/firm in which the aggregate shareholding of the Promoter and his immediate relatives is equal to or more than 10% of the total (v) all persons whose shareholding is aggregated for the purpose of disclosing in the Prospectus under the heading *shareholding of the promoter group*.
- ii. The definition of *Promoter* under the erstwhile ICDR Regulations 2009 included person(s) who (i) are in *control* of the Issuer or (ii) are instrumental in the formulation of a plan or

programme pursuant to which specified securities are offered to public or (iii) are named in the Offer document as Promoters.

- iii.* The term '*control*' under the erstwhile ICDR Regulations 2009 shall have the same meaning as assigned under the erstwhile Takeover Regulations 1997, which at the relevant time provided that '*control*' shall include the right to appoint majority of the Directors or to control the management or policy decisions exercisable by a person(s) acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner.
- iv.* A perusal of the information provided by the Noticees in light of the aforementioned provisions of the erstwhile ICDR Regulations 2009 and Takeover Regulations 1997 reveals that the *Reclassified Promoters* were not persons named in the Offer document as Promoters nor were they instrumental in formulation of a plan/programme pursuant to which specified securities were offered to the public.

15. Accordingly, for determining whether or not any of the *Reclassified Promoters* fall within the definitions of '*Promoter Group*' read with '*Promoter*' under the erstwhile ICDR Regulations 2009, it is important to determine whether or not such persons were directly or indirectly in a position to exercise '*control*' of the Company. This is relevant because it cannot be presumed that the *Reclassified Promoters* automatically cease to act in concert with the Promoters for acquisition or exercise of control, merely because they were reclassified. In other words, it is essential to establish that such entities had ceased to be in '*control*', directly or indirectly, of the Company after their re-classification as '*public*' shareholders. In the absence of such proof, the Company cannot be said to have effectively complied with the requirement of minimum public shareholding. This is all the more so because the shareholding of the Company may appear spread between '*Promoter*' / '*Promoter Group*' and '*public*' on paper, but essentially the dispersion of shares to the '*public*' does not happen. The interests of investors would be prejudiced in two ways – firstly, the Acquirers may circumvent the Open Offer obligations by taking advantage of the help of *persons acting in concert* to show that there is no threshold trigger and two, the public could be deprived of participation to the fullest extent of 25% since the relatives shown as '*public*' may clandestinely act together with other Promoters and relatives of such Promoters who qualify within the amended definition of '*immediate relative*'. This would also defeat the right of public investors to buy shares of the listed Company held by the Promoters and their relatives. In this context, the following may be noted:

- i. It is observed from Table III that the 9 individuals of the aforementioned *Reclassified Promoters* form part of the Taparia family and their relationship with the Promoters of the Company, viz. H. N. Taparia (Chairman/Managing Director), J. K. Taparia, M. P. Taparia and D. P. Taparia (Promoter Directors), are as under:

| TABLE VI | | |
|---|--|---|
| | NAME OF THE PROMOTER/PROMOTER GROUP ENTITY | RELATIONSHIP CHART |
| 1. | SHREE KUMAR BANGUR | HUSBAND OF DAUGHTER OF H. N. TAPARIA (PROMOTER) |
| 2. | SAURABH BANGUR | GRANDSON OF H. N. TAPARIA (PROMOTER) |
| 3. | VIRENDRAA BANGUR | GRANDSON OF H. N. TAPARIA (PROMOTER) |
| 4. | BELA TAPARIA | DAUGHTER-IN-LAW OF J. K. TAPARIA (PROMOTER) |
| 5. | ARYAMAN TAPARIA | GRANDSON OF J. K. TAPARIA (PROMOTER) |
| 6. | SATISH K. MUNDHRA* | HUSBAND OF DAUGHTER OF M. P. TAPARIA (PROMOTER) |
| 7. | ABHIMANYU MUNDHRA | GRANDSON OF M. P. TAPARIA (PROMOTER) |
| 8. | ANANT TAPARIA | SON OF BROTHER OF D. P. TAPARIA (PROMOTER) |
| 9. | SHREEKANTA DEVI TAPARIA | WIFE OF BROTHER OF D. P. TAPARIA (PROMOTER) |
| *FROM THE INTERIM ORDER, IT IS NOTED THAT DEVKI DEVI JHAWAR (ENTITY NO. 26 OF TABLE I) HAD TRANSFERRED HER ENTIRE SHAREHOLDING TO SATISH KUMAR MUNDHRA ON JANUARY 31, 2014. | | |

- ii. From the shareholding patterns of the remaining 2 body corporates/*Reclassified Promoters* forming part of the Company's Promoter Group as per the filing made till the quarter ended September 2010, it is observed that persons with the surname 'Bangur' hold 34.18% and 3.41% of the shareholding of Veer Enterprise Limited and Shree Satyanarayan Investments Company Limited, respectively. From the Interim Order, it is observed that as per the Annual Return (AGM held on 30.09.2014) of Shree Satyanarayan Investments Company Limited, its shareholders include Shree Kumar Bangur, Shashi Devi Bangur and Veer Enterprises Limited. It is further observed from the aforesaid Order that as per the Annual Return (AGM held on 30.09.2014) of Veer Enterprises Limited, its shareholders include Shree Kumar Bangur, Shashi Devi Bangur, Saurabh Bangur and Virendraa Bangur, Kamala Devi Bangur (mother of Shree Kumar Bangur) and Shree Satyanarayan Investments Company Limited. Further, Veer Enterprise Limited holds 20.61% in Shree Satyanarayan Investments Company Limited while the latter holds 9.49% in Veer Enterprise Limited. It is further noted that Shashi Devi Bangur is shown under the 'Promoter' category of the Company while Virendraa Bangur (son of Shree Kumar Bangur) is one of the Directors in the Company.
- iii. Vide an e-mail dated October 29, 2018 read with e-mail dated December 8, 2018, the Company had confirmed that in the AGMs/EGMs held during the period from 2005–2015, the *Reclassified Promoters* along with the 'Promoter' and 'Promoter Group' entities had always voted 'For' in favour of the Resolutions and Agenda Items proposed during such

meetings and the Company had never received any '*Against*' or '*Abstained*' in any of the Agenda items. While the Company has submitted that the *Reclassified Promoters* have not provided any third party securities to any lenders of the Company in connection with the operations or borrowings of the Company, they have not brought on record any evidence to warrant a view that such entities were not acting together with each other for the purpose of exercising '*control*' over the Company.

iv. Further, merely because the Letter of Offer for the Company's Rights Issue in 1994 included only the names of H. N. Taparia, D. P. Taparia and M. P. Taparia under the section '*Promoters and Their Background*', the same would not exclude the *Reclassified Promoters* from falling within the ambit of the definitions of '*Promoter Group*' read with '*Promoter*' under the ICDR Regulations 2009 which also includes in addition to person(s) named in the Offer document as Promoters, person(s) who are in control of the Issuer or are instrumental in formulation of a plan/programme pursuant to which specified securities are offered to the public. It also appears unclear as to whether or not the *Reclassified Promoters* were shareholders of the Company at that point in time when such disclosures were made in the Letter of Offer.

16. Accordingly, I am inclined to believe that the re-classification of the four entities associated with the '*Promoter Group*' of the Company along with the exclusion of certain members of the Taparia family on similar grounds was done to avoid compliance with the requirement of ensuring minimum public shareholding and not on account of a genuine requirement to align such individuals within the definition of '*immediate relative*' under the erstwhile ICDR Regulations 2009. It is all the more evident from the fact that although under the erstwhile DIP Guidelines 2000, '*Promoter Group*' was defined to include *inter alia* an immediate relative of the Promoter (i.e. any spouse of that person or any parent, brother, sister or child of that person or of the spouse), the Company had not taken any immediate steps to reclassify the '*Promoter Group*' then. The subsequent re-classification in December 2010 lays bare the fact that the Company's objective was solely to show compliance with minimum public shareholding requirement. Therefore, it is difficult to accept the contention that the re-classification was effected purely to align such individuals/entities/*Reclassified Promoters* within the definition of '*immediate relative*' under the erstwhile ICDR Regulations 2009.

17. In the instant proceedings, the Company had not resorted to any of the methods specified by SEBI to ensure compliance with the requirement of minimum public shareholding but rather reclassified the entities associated with the '*Promoter Group*' of the Company as '*public*'

shareholders. The re-classification of the four entities associated with the 'Promoter Group' of the Company along with the exclusion of certain members of the Taparia family on similar grounds, which did not involve any offering of shares to the public but rather ensured retention of shares held by the entities associated with the 'Promoter Group' of the Company, did not take into account one of the reasons behind the introduction of Rule 19A, viz. that of maintaining a strong participation of the general public as shareholders in listed companies and is therefore, contrary to the spirit of the aforementioned Rule. Reliance is also placed on the observations of the Hon'ble SAT in the *Gillette Case* wherein it had noted: "25. It is pertinently noted that in the proposition put forth by the Appellant, the entire idea behind having a specific percentage of 25 involving a large number of the members of the public in the shareholding of listed companies, is eclipsed by the Appellants trying their best to part with as little of the Promoters' shareholding as possible." Further, the Hon'ble SAT in the matter of ***Patwa Investment & Finance Limited vs. BSE Ltd. and SEBI (Appeal No. 191 of 2017 – Order dated January 9, 2018)*** had observed that the object of the above-mentioned SCRR, ICDR Regulations 2009 and various SEBI Circulars (as reproduced at paragraph 8) was the increasing and maintaining of 'public' shareholding and not of 'Promoters' shareholding. In view of the aforementioned, the re-classification along with the exclusion of the *Reclassified Promoters* on similar grounds cannot be accepted as valid for the purpose of ensuring compliance with the minimum public shareholding requirement. I am therefore, of the considered view that the Company still remains non-compliant with the provisions of Rule 19A of the SCRR, which prescribe minimum public shareholding of 25% as a continuous listing requirement for a listed Company.

ORDER:

18. I, in exercise of the powers conferred on me under Sections 11(1), 11(2)(j), 11(4) and 11B of the SEBI Act read with Section 12A of the Securities Contracts (Regulation) Act, 1956, hereby confirm the directions issued vide the Interim Order dated May 20, 2015, against Taparia Tools and its Directors, Promoters and Promoter Group.
19. This order is without prejudice to the right of SEBI to take any other action, including the following against the Company, their Promoters and Directors including persons shown as public shareholders and Devki Devi Jhawar (who had earlier held shares in the Company), or issuing such directions in accordance with law:
 - a. Levying monetary penalty under adjudication proceedings;
 - b. Initiating criminal proceedings by way of prosecution proceedings;

- c. Moving the scrip to trade-to-trade segment;
- d. Excluding the scrip from F&O segment;
- e. Any other action/direction as may be deemed appropriate.

20. This Order shall come into force with immediate effect.

21. A copy of this Order shall be served on the recognized Stock Exchanges and Depositories for their information and necessary action.

Place: Mumbai
Date: June 26, 2019

G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA