

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11(4), 11A and 11B of Securities and Exchange Board of India Act, 1992

In the Matter of Initial Public Offer of Sudar Industries Limited

In respect of:

Sl. No.	Noticee	PAN
1	Sudar Industries Limited	AAGCS4668D
2	Murugan M Thevar	AADPT6163E
3	Deepak Shenoy	AWJPS4461L
4	Gopi Chellappan Nair	AAZPN6829R
5	Shridhar Shetty	AACPS2665R
6	Venkatraman Gopal Nadar	ABPPN9892B
7	M S Anand [117, First Floor,	N.A.

	<i>Vardhaman Market, Sector- 17, Vashi, Navi Mumbai- 400086]</i>	
8	Sapna Karmokar	ATBPK1115G
9	Suresh Hegde	AAAPH4848P
10	Suresh Hegde and Co.	N.A.
11	Ramesh Andy Thevar	ACPPT5650G
12	Edwin Joseph	AASPE7328P
13	Reena Nadar	AIJPN8995N
14	Santosh Vishnu Ingle	AAHPI9852P
15	Valliammal Murugan M Thevar	AAGPT5653G
16	Kamlesh Muthappa Nadar	AEEP4399F
17	Stalin Muthappa	APSPM5576N
18	B Ravishankar Pai	BKSPP5971Q

1. Background

- 1.1. The matter emanates from an investigation carried out by SEBI with respect to the Initial Public Offer (IPO) of Sudar Industries Limited (“**SIL**” / “**Sudar**” / the “**Company**”) for issue of 90,88,000 equity shares of face value Rs. 10 each, through 100% book-building process.
- 1.2. Pursuant to the investigation, it was *inter alia* found that SIL had deviated from the Objects of the Issue mentioned in the Prospectus of the Company dated March 03, 2011 and siphoned off Rs. 64.43 Cr (approx.) from the IPO proceeds. Further, it was also found that Noticee No.9, proprietor of Noticee No.10, was the Statutory Auditor of SIL and being personally related to SIL, had connived and colluded with SIL and/or its related entities concocting sales figures of SIL for the FY 2008-19 and 2009-10, which was also mis-stated in the Prospectus of SIL and had also certified the mis-stated financial statements of SIL for the FY 2010-11.
- 1.3. Additionally, it was also observed that the Noticees at S.Nos. 11 to 18 were party to the scheme of siphoning off of Rs. 64.43 Cr (approx.) from the IPO proceeds of SIL.

2. Summary of Show-cause Notice- (i) The Scheme (ii) The Modus Operandi and Fund Flow

2.1. Consequent to the conclusion of the abovementioned investigation, a common Show-cause Notice dated March 24, 2017 (“**SCN**”) was issued calling upon —

- Noticee No.1 to show cause as to why suitable directions under Sections 11 (1), 11(4), 11A and 11B of the SEBI Act should not be passed against it;
- Noticee Nos. 2 to 8 to show cause as to why suitable directions under Sections 11 (1), 11(4) and 11B of the SEBI Act should not be passed against them;
- Noticee Nos. 9 and 10 to show cause as to why suitable directions under Section 11B of the SEBI Act should not be passed against them; and
- Noticee Nos. 11 to 18 to show cause as to why suitable directions under Sections 11 (1), 11(4) and 11B of the SEBI Act should not be passed against them.

2.2. In this regard, the SCN relying on the Investigation Report has alleged that the Noticee Nos. 1 to 8 have deviated from the objects of the issue as per the prospectus of SIL and have siphoned off the funds, and in this endeavor, the Noticees have received assistance and support from Noticee Nos. 9 to 18.

2.2 (I) - *The Scheme*

- A. The Company came out with an Initial Public Offer (IPO) for the issue of 90,88,000 equity shares of face value Rs. 10 each through 100% book building process. SIL was listed on the BSE and the NSE, on March 11, 2011. The scrip opened at Rs. 80.05 on NSE and touched a high of Rs. 117.35, registering a rise of 47%.
- B. The Company by way of the said IPO raised an amount of Rs. 69.97 crore. The said amount was transferred to three bank accounts, the details of which are provided hereunder:

Table- 1

Date	Bank	Branch	Account Number	Amount (in Rs.)
05/03/2011	HDFC Bank	Fort, Mumbai	00600350092062	20,11,80,903.00
05/03/2011	Dhanlaxmi Bank	Fort, Mumbai	014406800000140	25,24,20,938.00
10/03/2011	Axis Bank	New Panvel	911020013567782	24,61,74,159.00
Total				69,97,76,000.00

C. The said amount had been raised by the Company from the public on the basis of the objects of the issue, as provided in the Red Herring Prospectus/ Prospectus.

D. In this regard, the SCN based on the investigation carried out by SEBI has alleged that the Company has deviated from the objects of the issue as per the prospectus of SIL and has siphoned off the funds. A comparative table showing the funds earmarked for deployment, as stated in the prospectus, and actual deployment of the said funds is provided hereunder:

Table-2

Objects of the issue	As per the Prospectus dated March 03, 2011	Utilization disclosed to exchanges	Utilization details provided to SEBI	Actual Utilization
Expansion of the existing apparel manufacturing unit	26.28	24.38	28.75	0
Meeting Working Capital Requirements	27.30	27.30	27.30	1.67
Setting up Retail Outlets and Brand Building	5.90	0.00	0.00	0
Meeting General Corporate Expenses	9.11	6.00	6.00	2.06
Meeting the Issue Expenses	6.16	6.16	6.16	1.81

Total	74.76	63.84	68.21	5.54
Means Of Finance				
Proceeds from initial Public Offer	69.97			
Internal Accruals	4.78			
Amount Siphoned off	64.43			

2.2 (II) - *The Modus Operandi and Fund Flow*

E. The Company informed that the IPO proceeds were transferred to the following persons and entities:

Table-3

Sl. No.	Name of the entity /Purpose	Particulars	Amount (in ₹)
1	Elim Traders	Working Capital	11,34,06,148
2	R J Traders	Working Capital	7,79,32,122
3	A.R Fabrics	Working Capital	8,06,17,117
4	Shree Vinayaga Distributors	New Project and Expansion	12,53,09,339
5	Mahalaxmi Distributors	New Project and Expansion	5,61,79,520
		General Corporate Purpose	1,37,77,955
6	Sudharshan Enterprises	New Project and	4,63,98,813

		Expansion	
7	Sarvesh Enterprise	New Project and Expansion	2,47,39,473
8	S. M Construction	New Project and Expansion	3,10,80,280
		General Corporate Purpose	1,30,00,000
9	Bhawana Interiors	General Corporate Purpose	2,08,01,824
10	Mruga Engineering	General Corporate Purpose	70,00,000
11	Aryan Construction	New Project and Expansion	39,00,000
12	Balaji Enterprises	Working Capital	4,22,207
13	Rahul Packaging	Working Capital	1,86,227
14	Panchshil Packaging Industries	Working Capital	1,57,093
15	Angoor Silk Mill Pvt Ltd	Working Capital	3,00,000
16	Land Purchased	General Corporate Expenses	54,50,000
17	Issue Expenses	-	6,16,11,733
Total			68,22,69,851

F. In this regard it has been alleged in the SCN that the persons/entities were related to the company/promoters and the money had been given under false claims. The details of the said allegations are as under:

- Rs. 23.5 crore of the IPO proceeds were transferred to **Regent Capital Private Limited (“Regent Capital”)** in five tranches under the false

claim of inter corporate deposits (ICDs). These amounts were not deployed by the Company for the IPO objects and the funds were siphoned off.

- Rs. 19.50 crore under the false claim of repayment of ICDs taken prior to IPO to **Premier Fiscal Services Pvt. Ltd. (“Premier Fiscal”)** However, as per prospectus dated March 03, 2011 in respect of IPO of SIL, repayment of ICDs was not indicated as one of the objects of the issue.
- Rs. 6 crore from IPO proceeds was transferred by SIL to **B Ravishankar Pai** under the false claim of land deal. The said amount was further transferred from B Ravishankar Pai’s account to other entities, viz., **Ailish Traders Pvt. Ltd.** (Rs. 1.5 crore), **Galaxy Corporation** (Rs. 50 lakh), **Mehta Trading Co.** (Rs. 75 lakh), **Montaex Trading Co.** (Rs. 75 lakh), and **Classic Trading Co.** (Rs. 1 crore). SIL claimed that the land deal did not go through, so B Ravishankar Pai returned the money to SIL. However, subsequently the money that was transferred to SIL was received from entities other than to whom the funds were earlier transferred from the account of B Ravishankar Pai.
- Rs. 2.04 crore to **Manan Trading Co.** and Rs. 2 crore to **Girish Kumar Ramanlal Choksi**, under the false claim of repayment of ICDs and payment to suppliers. SIL had previously contended that the amount transferred to MTC & GKRC was repayment of earlier ICDs. Upon seeking documentary evidence regarding the receipt of the claimed ICD

amount, SIL vide letter dated February 11, 2016 claimed that the same was an error and the transfer was towards supply of raw materials. Neither Manan Trading Co. nor Girish Kumar Ramanl Choksi (“GKRC”) figured in the list of suppliers provided by SIL. No prior loan had been received by SIL.

- Amounts of Rs. 1,01,24,274 /-, Rs. 1,01,00,603 /-, Rs. 1,01,12,439 /- and Rs. 1,01,24,274 /- were transferred on March 10, 2011 to **Fulford Sales P Ltd., SM Mercantiles P Ltd., Deeksha Marketing P Ltd.** and **Navsari Commodities P Ltd.** respectively. SIL claimed that these payments were made towards repayment of ICDs availed by SIL prior to the IPO for arranging funds required for meeting the expenses related to the IPO. However, the list of entities from whom SIL had taken ICDs during the relevant period did not include Fulford, SM Mercantiles, Deeksha and Navsari.
- An amount of Rs. 1 crore was transferred to SM Construction from the IPO proceeds of SIL. SM Construction is a proprietary concern of Santosh Vishnu Ingle, who was connected to SIL. SIL had submitted bills, claiming to have been provided by S M Constructions in favour of SIL for work done. Santosh Vishnu Ingle in his statement stated that he was not aware of the same and that it was not raised by him nor pertained to him. The amount of Rs. 1 crore transferred by SIL to SM Construction was not for any construction activity.

- An amount of Rs. 0.84 crore was transferred by SIL to Elim Traders from the IPO proceeds. Reena Nadar, employee of SIL was the proprietor of Elim Traders (Elim). SIL stated that the payments to Elim have been made against supply of raw materials by Elim to SIL. Reena Nadar, in her statement dated November 03, 2015 has stated that Elim Traders had no operations/activities, whatsoever since its formation and that the firm existed only on paper and that too only in bank records. A sum of Rs. 0.84 crore was further transferred by Elim to two connected entities viz., Shree Bhagwati International & Shalom Fashion (claimed by SIL to be its customers), who in turn transferred the said funds to SIL on the same day, viz. March 28, 2011. All these entities did not have any business and/or commercial activities and existed only on paper. The indicated purpose for transfer of funds to these entities was a farce.
- An amount of Rs. Rs. 0.61crore was transferred by SIL to RJ Traders (“RJ”) from the IPO proceeds. Edwin Joseph, employee of SIL-Manager Corporate Planning and husband of Reena Nadar, was the proprietor of RJ Traders. SIL stated that the payments to RJ had been made against supply of raw materials by RJ Traders to SIL. However, Edwin Joseph, in his recorded statement has stated that he was not aware of the activities of RJ Traders and that it was opened as per the instruction of Shri Murugan M Thevar and Deepak Shenoy. It was observed that the referred amount of Rs. 0.61 crore transferred by SIL to RJ was further transferred by RJ to

two connected entities viz., Addon Exports (“Addon”) & Shalom Fashion (claimed by SIL to be its customers) who in turn transferred the said funds to SIL on the same day, viz. March 28, 2011.

- AR Fabrics was the proprietary firm of Ramesh Andy Thevar. He was part of Promoter group of SIL and the Brother-in-law of Murugan M Thevar, MD of SIL. Ramesh Andy Thevar in his statement has said that AR Fabrics existed only on paper with no operational activities since 2006. AR Fabrics was started as per the instructions of Murugan M Thevar, and the bank account of AR Fabrics was operated by Murugan M Thevar to whom he used to handover signed blank cheques. AR Fabrics, which was controlled by SIL did not have any genuine commercial activity and was used by it for the purpose of routing funds.
- George Street London was a proprietorship firm of Stalin Muthappa who is an Employee of SIL. Late Kashi Muthappa, father of Stalin Muthappa, was a friend of Shri Paul Murugan, son of Murugan M Thevar, MD of SIL. Stalin Muthappa used to sign blank cheque books which were handed over to SIL. George Street London, which was controlled by SIL did not have any genuine commercial activity and was used by it for the purpose of routing funds.
- Shree Bhagwati International was a proprietorship firm of Kamlesh Muthappa Nadar, Brother of Stalin Muthappa, the proprietor of George Street London. Paul Murugan, son of Murugan M Thevar, had told him to

start a firm in the name of Shree Bhagwati International. Kamlesh Muthappa Nadar signed blank cheques which were handed over to SIL, without knowing the commercial activities of Shree Bhagwati International or the transactions in its accounts. Shree Bhagwati International had major transactions only with SIL and its suppliers/customers. Shree Bhagwati International, which was controlled by SIL did not have any genuine commercial activity and was used by it for the purpose of routing funds.

- Addon Exports was a proprietorship firm of Valliammal Murugan M Thevar, wife of Murugan M Thevar, MD of SIL and part of promoter group of SIL. In her recorded statement, she has stated that she was not aware of the activities of Addon Exports as the activities were handled by her husband, Murugan M Thevar, MD of SIL. Addon Exports had major transactions only with SIL and entities related to SIL, viz. Elim Traders, Shalom Fashion & RJ Traders, during the period January 01, 2011 to December 31, 2011. Addon Exports, which was controlled by SIL did not have any genuine commercial activity and was used by it for the purpose of routing funds.
- Shalom Fashion was a proprietorship firm of Shri Santosh Vishnu Ingle (pre-IPO allottee of 1,87,500 shares of SIL as well as Proprietor of S M Construction - Supplier to SIL). In his statement, he stated that he had signed blank cheques in the name of Shalom Fashion which were handed over to Murugan M Thevar and that he was neither a supplier/buyer

to/from SIL. Shalom Fashion had major transactions only with SIL and entities related to SIL, viz. Elim, Addon & RJ, during the period January 01, 2011 to December 31, 2011. Shalom Fashion, which was controlled by SIL did not have any genuine commercial activity and was used by it for the purpose of routing funds.

G. The details as stated herein above are tabulated hereunder:

Table- 4

Proprietorship Concern	Proprietor
Addon Exports	Valliamal Murugan M Thevar
Shalom Fashion/SM Construction	Santosh Vishnu Ingle
AR Fabrics	Ramesh Andy Thevar
Elim Traders	E Reena Nadar
RJ Traders	Y Edwin Joseph
Shree Bhagwati International	Kamlesh Muthappa Nadar
George Street London	Stalin Muthappa

3. Inspection, Personal Hearing, Cross-examination and Replies of the Noticees

3.1. The SCN was served on all the Noticees. Pursuant to the SCN, some of the Noticees filed their replies. Some of the Noticees also sought inspection of documents. Based upon the request of the Noticees, an opportunity of inspection of the records/ documents (which were relied upon by SEBI for the purpose of the SCN) was provided to the Noticees. Details with respect to the same are provided hereunder:

Table-5

Sl. No.	Noticee	Date of Inspection of Documents	Inspection Conducted By
1	Sudar Industries Limited	November 08, 2017 and November 17, 2017	Suvan Law Advisors, Advocates
2	Murugan M Thevar	November 08, 2017 and November 17, 2017	Suvan Law Advisors (Regstreet Law Advisors), Advocates
3	Deepak Shenoy		
4	Gopi Chellappan Nair	-	-
5	Shridhar Shetty	November 08, 2017 and November 17, 2017	Suvan Law Advisors (Regstreet Law Advisors), Advocates
6	Venkatraman Gopal Nadar		
7	M S Anand	—	—
8	Sapna Karmokar	—	—

9	Suresh Hegde	October 26, 2017 and October 27, 2017	Mr. Abishek Adke, Advocate
10	Suresh Hegde and Co.		
11	Ramesh Andy Thevar	November 02, 2017 and November 09, 2017	Mr. Jaikishan Lakhwani, Advocate
12	Edwin Joseph		
13	Reena Nadar		
14	Santosh Vishnu Ingle		
15	Valliammal Murugan M Thevar		
16	Kamlesh Muthappa Nadar		
17	Stalin Muthappa		
18	B Ravishankar Pai		

3.2. The details of the personal hearings in the matter are tabulated below:

Table- 6

Sl. No.	Noticee	Date of Hearing	Represented by
1	Sudar Industries Limited*	-	-

2	Murugan M Thevar	February 05, 2020 and December 21, 2020	Regstreet Law Advisors, Advocates
3	Deepak Shenoy		
4	Gopi Chellappan Nair	-	-
5	Shridhar Shetty	February 05, 2020 and December 21, 2020	Regstreet Law Advisors, Advocates
6	Venkatraman Gopal Nadar		
7	M S Anand	-	-
8	Sapna Karmokar	-	-
9	Suresh Hegde	September 16, 2020 and December 21, 2020	Mr. Abhishek Adke, Advocate
10	Suresh Hegde and Co.		
11	Ramesh Andy Thevar	February 05, 2020 and December 21, 2020	Mr. Jaikishan Lakhwani, Advocate
12	Edwin Joseph		
13	Reena Nadar		
14	Santosh Vishnu Ingle		
15	Valliammal Murugan M Thevar		
16	Kamlesh Muthappa Nadar		
17	Stalin Muthappa		

18	B Ravishankar Pai		
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**At the initiation of the current proceedings, Sudar Industries Limited was first represented by Suvan Law Advisors, later known as Regstreet Law Advisors. However, before the hearings in the matter could ensue, the Company had gone into liquidation, and as such, the lawyers appearing for the Company informed that they would not be representing the Company any further.*

3.3. Noticees Nos. 4, 7 and 8 neither availed the opportunity of personal hearing nor filed any reply in response to the SCN. The details with respect to the service of the SCN and Hearing Notices to the said Noticee are provided hereunder:

Table- 7

Sl. No.	Noticee	Details
1.	Gopi Chellappan Nair (Noticee No. 4)	<ul style="list-style-type: none"> ▪ SCN dated March 24, 2017 was sent by Speed Post to the said Noticee at the address: Room No. B-302, Building No. 74, Royal CHA, Tilak Nagar, Chembur, Mumbai - 400089. As per the acknowledgement, the same was received. ▪ Hearing Notice dated September 3, 2020 for hearing on September 16, 2020 was sent by Speed Post to the said Noticee at the address: Room No. B-302, Building No. 74, Royal CHA, Tilak Nagar, Chembur, Mumbai - 400089. As per the acknowledgement, the same was received.

2.	M S Anand (Noticee No. 7)	<ul style="list-style-type: none"> ▪ SCN dated March 24, 2017 was sent by Speed Post to the said Noticee at the address: 117, First Floor, Vardhaman Market, Sector-17, Vashi, Navi Mumbai - 400703. As per the acknowledgement, the same was not delivered. ▪ A copy of the SCN was affixed at the address of the said Noticee. ▪ Hearing Notice dated September 3, 2020 for hearing on September 16, 2020 was sent by Speed Post to the said Noticee at the address: 117, First Floor, Vardhaman Market, Sector-17, Vashi, Navi Mumbai - 400703. As per the acknowledgement, the same was not delivered. ▪ Newspaper publication was carried out on November 11, 2020 intimating the personal hearing scheduled for December 11, 2020 in the Mumbai editions of the Hindustan Times (English daily) and Maharashtra Times (Marathi daily).
3.	Sapna Karmokar (Noticee No. 8)	<ul style="list-style-type: none"> ▪ SCN dated March 24, 2017 was sent by Speed Post to the said Noticee at the address: 117, First Floor, Vardhaman Market, Sector-17, Vashi, Navi Mumbai - 400703. As per the acknowledgement, the same was not delivered. ▪ A copy of the SCN was affixed at the address of the said Noticee. ▪ Hearing Notice dated September 3, 2020 for

		<p>hearing on September 16, 2020 was sent by Speed Post to the said Noticee at the address: 117, First Floor, Vardhaman Market, Sector-17, Vashi, Navi Mumbai - 400703. As per the acknowledgement, the same was not delivered.</p> <ul style="list-style-type: none"> ▪ Newspaper publication was carried out on November 11, 2020 intimating the personal hearing scheduled for December 11, 2020 in the Mumbai editions of the Hindustan Times (English daily) and Maharashtra Times (Marathi daily).
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3.4. A summary of the replies as submitted by the Noticees is provided hereunder:

Noticee No.1 (Sudar Industries Limited)

3.4.1. The Noticee in its replies has *inter alia* submitted the following:

- a. The Company has utilized the amount raised through IPO for fulfilling the objects mentioned in the Prospectus issued by it. The utilisation was done in the following manner:

Table- 8

Sl. No.	Particulars	Amount (in lakhs)
A.	Expansion of the existing apparel manufacturing unit:	-

I.	Site Development, Miscellaneous Civil Work and Building Construction Cost	-
1.	Site Development, Miscellaneous Civil Work	857.57
2.	Building Construction Cost	-
a.	Construction of Second Floor (Factory Building)	1,733.98
b.	Construction of Staff quarters	488.63
	Sub-total (A I)	3,080.18
II.	Purchase of Plant and Machinery	864.56
III.	Miscellaneous Assets	24.54
	Sub-total (A II + A III)	889.10
B.	Meeting Working Capital Requirement	2,731.23
C.	Meeting General Corporate Expenses	50.16
D.	Meeting the Issue Expenses	-
1.	Fees of BRLM/Syndicate Member(s) Registrar/Legal Advisor	274.00
2.	Underwriting commission, brokerage and selling expense	113.94
3.	IPO Grading Fees, Advertising and Marketing Expenses, printing and stationery, distribution, postage, etc.	97.72
4.	Filing Fees paid to SEBI and Stock Exchanges including processing and bidding terminals	27.25

5.	SCSB's commission	50.74
6.	Other expenses (Auditor's fees, Research Report etc.)	6.39
	Sub-total (D)	570.04
	TOTAL (A +B+C+D)	7,320.71
	Proceeds of the Issue	6,997.97
	Internal Accruals	478.97
	TOTAL	7,476.94
	Total Utilized	7,320.71
	Balance Retained	156.23

- b. *Transfer of Rs.23.5 crore of the IPO proceeds to Regent Capital Private Limited in five tranches*— In the year 2011. ADS Finance, the financial advisor to the Company, approached the Company with an offer to invest the surplus funds, if any, in Regent Capital as an inter-corporate deposit. The Company had surplus funds available out of the funds raised from the initial public offering and in order to utilize such unutilized funds, in the interim period, the Company vide its board resolution dated March 05, 2011 resolved to grant the inter corporate deposit of Rs. Rs. 24,00,00,000/- to Regent Capital. The Company granted the inter corporate deposit of Rs. 24,00,00,000/- to Regent Capital vide an inter Corporate Deposit Agreement dated March 08, 2011 for a period of 10

months from the date of execution at a cost of 15% per annum to be utilized exclusively for the purpose of the business of Regent Capital. The said ICD was to be repaid on or before December 11, 2011. An amount of Rs. 11,13,12,500 (approximately 50 % of the ICD amount) was paid by Regent Capital. The Company did not initiate any legal proceedings against the Regent Capital for recovery of outstanding amount as Regent Capital had assured the Company about repayment of principal as well as interest and initiation of legal proceedings would have resulted in incurring of additional legal expenses without any positive outcome as no one knows when the court will deliver its judgment in the concerned matter.

- c. *Payment of Rs.19.50 cr to Premier Fiscal Services Pvt. Ltd. towards ICDs taken prior to the IPO* – The Company had availed ICD for meeting expenses related to public issue and for meeting its working capital requirements. Ashika Capital Limited, which was acting as a Book Running Lead Manager (“BRLM”) had arranged some ICDs for the Company for meeting issue related expenses and working capital requirements. So, on transfer of the IPO proceeds in bank account maintained with Shamrao Vithal Co-Operative Bank Limited (SVCB), the Company approached the bank for utilizing the said proceeds towards direct repayment of said ICD availed by it prior to the IPO. However, due to the financial year ending, the bank advised the Company to open a

Fixed Deposit for a specified amount and avail a loan against the said Fixed Deposit which in turn can be utilized towards repayment of ICD amount. The Company had an authority to invest the funds raised through IPO pending utilization, temporarily in interest or dividend bearing liquid instruments including deposits with banks and investment in mutual funds and other financial products. The Board of Directors of the Company in their meeting held on March 09, 2011 resolved to open a Fixed Deposit for an amount of Rs. 23,40,00,000/- with SVCB. On the said fixed deposit of 23,40,00,000/, a loan against it for an amount of Rs. 22,23,00,000/- was availed by it, which in turn was utilized towards repayment of ICD. Meeting working capital requirement and meeting the Issue Expenses were in the objects of the Issue. Hence, utilization of issue proceeds for repayment of ICD availed for meeting issue expenses and working capital requirements conform to the objects of IPO as mentioned in Prospectus.

- d. *Transfer of an amount of Rs.6 crore from IPO proceeds to B Ravishankar Pai for effecting purchase of land* – Ravishankar Pai was a field executive officer with the Company. He had the ability to communicate and, if need be, to get on with all different types of people under all kinds of circumstances. As one of the objects of the IPO, the Company was contemplating expansion of its existing apparel manufacturing unit by constructing second floor on the existing factory premise. Due to

certain unforeseen situations including permissions from the statutory authorities, the expansion plan got delayed. Since the monies to be utilized by the Company towards the expansion on the existing factory premises was kept unused, the Company vide board resolution dated 14.03.2011 resolved that such monies be used for purchase of land in the vicinity of the existing factory premises and if need be to build workers quarter in such premises. The Company, due to Ravishankar Pai's abilities, authorized him to negotiate and deal with all levels of people in relation to the said purchase. After the authorization of Ravishankar Pai, the Company had identified a piece of land situated in Village Madap, Taluka Khalapur, District Raigad, Maharashtra for which Ravishankar Pai started the negotiations and discussions with the third parties. During the period of such negotiations, Ravishankar Pai requested the Company to transfer an amount of Rs. 6 Cr. to his Axis Bank account bearing no. 910020033000592 for the purposes of finalizing the deal in relation to the said Land. The Company after the permission of its Board of Directors vide board resolution dated 22.03.2011 transferred a sum of Rs. 6 Cr. in the bank account of Ravishankar Pai. Just when Ravishankar Pai was at the final stage of negotiation and was about to transfer Rs. 6 Cr. to the dealer, due to unforeseen circumstances the deal could not be completed and therefore Ravishankar Pai was instructed to transfer the monies back to the account of the Company. The Company did not deal directly with

the Land Dealers in order to save the brokerage amount. Whenever a corporate entity is involved in a transaction, a broker tries to charge comparatively higher amount of brokerage than is otherwise chargeable. Since, land dealers were demanding for advance payment before proceeding further with land deal, the Company instructed Ravishankar Pai to transfer the amount lying in his account to the said land dealers. Since, the funds transferred to Ravishankar Pai were transferred back to the Company and the same was further utilized as per the objects of the IPO, we deny your allegation that the funds are not utilized as per the objects of issue and are siphoned off.

- e. *Transfer of an amount of Rs. 2.04 crores to Manan Trading Co (MTC) and Rs. 2 crore to Girish Kumar Ramanlal Choksi (GKRC), for repayment of ICDs and payment to suppliers* – The Company was engaged in the business of manufacturing readymade garments and fabrics supplied by these entities is raw material for the Company. Since, meeting working capital requirement was one of the object of the IPO, the Company utilized part of the issue proceeds towards payment to these entities against their invoices raised for supply of fabric to the Company. The payment to these entities against supply of fabric falls under the category of meeting working capital requirements. During the search procedure conducted by Sales Tax Authorities, certain files of the Company were seized by them, hence they were not in a position to provide the copies

of invoices raised by Manan Trading Co. and Girishkumar Ramanlal Choksi as the same are lying with the Sales Tax authorities.

f. *Amounts of Rs. 1,01,24,274/-, Rs. 1,01,00,603/-, Rs. 1,01,12,439/- and Rs. 1,01,24,274/- transferred to Fulford Sales P Ltd., SM Mercantiles P Ltd., Deeksha Marketing P Ltd. and Naysari Commodities P Ltd. respectively* – The Company had availed ICDs from Fulford, SM Mercantiles, Deeksha and Naysari for meeting issue related expenses. Ashika Capital Limited was acting as a Merchant Banker of the Company for the IPO. Ashika Capital Limited introduced the abovementioned parties to the Company and arranged for ICDs from them for meeting expenses related to IPO.

g. *Transfer of an amount of Rs. 1.00 crore to SM Construction from the IPO proceeds of SIL* – One of the objects of the IPO was the expansion of the existing apparel manufacturing unit. The Company, out of the proceeds of the issue had constructed second floor on the existing factory premises and S.M. Construction, having its place of business at B-201, B Wing, Building No.44, Tilak Nagar, Chembur. Mumbai — 400089, was one of the constructors for the Company, whose services were utilized by the Company. S.M. Construction had raised an invoice in the name of the Company for an approximate amount of Rs. 7.57 Crore. The Company transferred the said amount to S M. Construction in tranches under the head “Expansion of the existing apparel

manufacturing unit”. Further, the Company had also transferred in tranches an approximate amount of Rs. 493 lacs to the account of M/s. S. M. Construction as an advance towards the work to be carried out. Since, certain work allotted to S. M. Construction was not carried out the said amount was transferred back in tranches to the account of the Company by S. M. Construction. As regards the allegation that bank accounts for firms SM Construction and Shalom Fashion were opened by MD/KMP of SIL, under no circumstances MD/KMPs were involved in the opening of bank accounts for SM Construction and/or utilization of firm of Santosh Ingale. The statement of Santosh Ingale that he had handed over signed cheques to Mr. Murugan M Thevar and Mr. Deepak Shenoy is denied. It is quite surprising as to how a person of adult age and of sound mind could hand over the signed cheques to any other person without even thinking about its effects.

- h. *Transfer of Rs. 0.84 crore to Elim Traders, which was further transferred by Elim to two entities viz., Shree Bhagwati International & Shalom Fashion, who in turn transferred the said funds to SIL on the same day, viz. March 28, 2011* – The Company is engaged in the manufacturing of garments for men’s wear, women’s wear and kids’ wear. SIL for the purposes of its business procures raw material directly from fabric manufacturers Elim Traders have supplied a range of fabrics to the Company in the normal course of business. Elim Traders, was incorporated in the year 2010, prior to

the IPO. In the months of December 2010 and June 2011, the Company had placed a number of orders with Elim Traders for supply of range of fabrics. The Company had effected the payment to Elim Traders only against the invoices raised and for no other purpose. Neither Deepak Shenoy nor Murugan M Thevar in the capacity of directors of the Company or any of the other officials of the Company were involved in the preparation of the invoices of Elim Traders.

- i. *Transfer of Rs. 0.61 crore on March 28, 2011 to RJ Traders* – R. J. Traders, is a proprietary concern of Y. Edwin Joseph, since the year 2010. It is engaged in the supply of fabrics. SIL has been transacting with R. J. Traders since the year 2010, i.e. even prior to the IPO. Further, the proprietor of R. J. Traders, Mr. Y. Edwin Joseph was also in-charge for corporate planning of the Company. The Company has utilized funds under its head working capital out of the proceeds of the Issue and has made payments to R.J Traders towards the supply of fabrics to the Company. Since, meeting Working Capital Requirement was one of the objects of the issue, the monies transferred by the Company to R. J. Traders falls under the category of Meeting Working Capital Requirement. Further, any transaction amongst R.J. Traders and other entities is in their respective personal capacities and nowhere the Company is involved in any such transaction.

- j. *AR Fabrics, the proprietary concern of Ramesh Andy Thevar, the brother-in-law of Murugan M Thevar, existed only on paper with no operational activities and was used for the purpose of routing funds—* A.R. Fabrics was engaged in the supply of fabrics. A.R. Fabrics used to supply raw material i.e. fabrics required by the Company in the normal course of business. Accordingly, since 2005 SIL has been placing number of orders with A.R.Fabrics for supply of range of fabrics. It is denied that AR Fabrics was started as per the instructions of Murugan M Thevar, MD of SIL and that bank account of AR Fabrics was operated by Murugan M Thevar to whom Ramesh Andy Thevar used to handover signed blank cheques. Any transaction amongst A. R. Fabrics and Suresh Hegde, Statutory Auditor of the Company, is in their respective personal capacities and nowhere the Company is involved in any such transaction.
- k. *George Street London , a proprietorship of Stalin Muthappa, an Employee of SIL had no genuine commercial activities and was used for the purpose of routing funds—* The allegation that George Street London was controlled by SIL for the purpose of routing of funds and did not have any genuine commercial activity is denied. The allegation that Stalin Muthappa used to sign blank cheques and hand it over to SIL is denied. It was quite unusual that a person of adult age and of sound mind will sign blank cheques blindly and hand it over to any person without any valid reason.

- l. *Shree Bhagwati International, a proprietorship of Kamlesh Muthappa Nadar, brother of Stalin Muthappa, was started at the instance of Paul Murugan, son of Murugan M Thevar, had no genuine commercial activities and was used for the purpose of routing funds* – The allegation that Shree Bhagwati International was started by Kamlesh Muthappa Nadar, at the instance of Paul Murugan, son of Murugan M Thevar is denied. The allegation that Kamlesh Muthappa Nadar signed blank cheques and handed them over to SIL, without knowing the commercial activities of SB or the transactions in its accounts is denied. It was quite unusual that a person of adult age and of sound mind will sign blank cheques blindly and hand it over to any person without any valid reason.
- m. *Addon Exports was a proprietorship of Valliammal Murugan M Thevar (w/o Murugan M Thevar-MD of SIL), part of promoter group of SIL, had no genuine commercial activities and was used for the purpose of routing funds*– Addon Exports was a proprietorship of Valliammal Thevar, w/o Mr. Murugan M Thevar — MD of SIL. Addon Exports was one of the major customer of SIL for the FY 2008-09 and 2009-10 contributing 28.54% and 30.86% respectively to total sales of the Company. SIL used to sell readymade garments manufactured by it to Addon Exports and then Addon Exports used to make payment against the invoices raised by SIL for supply of readymade garments. Transactions between SIL and Addon Exports were genuine sale and purchase transactions which

were also verified by the auditor during the statutory audit conducted by them for the FY 2008-09 & 2009-10. Ashika Capital Limited was acting as the BRLM for the Issue. During the preparation of the Prospectus and during due diligence carried out by them, the Company had disclosed each and every detail pertaining to the activities of the Company. It was the duty of the Ashika Capital Limited to mention the names of the major customers/related parties in the prospectus which they did not perform diligently. The Company is not involved in any manner with respect to issue of certificate by Suresh Hegde & Co, Statutory Auditors of SIL to Addon Exports for the purpose of opening of bank account in Federal Bank. The said transaction is in their respective personal capacities and nowhere the Company is involved in any such transactions.

- n. *Shalom Fashion, a proprietorship firm of Shri Santosh Vishnu Ingle (pre-IPO allottee of 1,87,500 shares of SIL as well as Proprietor of S M Construction) had no commercial dealings with SIL and was used for the purpose of routing funds –*
- Shalom Fashion is an agent of readymade garments, and it buys readymade garments from many manufacturers, one of them being Sudar Industries Limited. Shalom Fashion was one of the major customers of SIL for the FY 2008-09 and 2009-10 contributing 23.19% and 33.66% respectively, to the total sales of the Company. The transactions between SIL and Shalom Fashion were genuine which

were also verified by our auditor during the statutory audit conducted by them for the FYs 2008-09 & 2009-10. The relationship between Shalom Fashion and SIL is that of a purchaser and a seller and SIL has no control over the activities of Shalom Fashion.

- o. The Merchant Banker, Ashika Capital Limited was provided with all the material and relevant information including the names of major customers and suppliers. It is the responsibility of the Merchant Banker to ensure adequate disclosure in the offer documents. The Merchant Banker had examined and verified all the documents with a view to comply with securities laws. The relevant information of the Company had been disclosed to the Merchant Banker, whose role and responsibility it was to ensure proper compliance with the various regulations.

Noticee Nos.2 (Murugan Muthai Thevar), Noticee No. 3 (Deepak Shenoy), Noticee No. 5 (Shridhar Shetty), Noticee No. 6 (Venkatraman Gopal Nadar)

3.4.2. The said Noticees have by way of their replies addressed three essential aspects:

- a. Preliminary objections to the present proceedings.
- b. Justification in respect of the utilization of the IPO proceeds by the Company.

- c. Specific defences by the said Noticees with respect to their individual roles.

3.4.3. The said Noticees have *inter alia* raised the following preliminary objections to the present proceedings:

- a. Inordinate Delay in issuing the SCN and failure to consider ongoing parallel adjudication proceedings - IPO in 2011, SCN in 2017, hearing in 2020.
- b. Sudar Industries Limited has already been wound up by Hon'ble Bombay High Court and all assets of the Company and its Chairman and Managing Director identified, attached, auctioned/sold.
- c. No opportunity of Cross Examination provided despite multiple requests, thereby violating principles of natural justice.
- d. Crucial documents not provided and inspection proceedings were a mere formality, thereby violating principles of natural justice.
- e. Faulty and illegal investigation and refusal to take statement on oath on record (retraction) without providing an opportunity of hearing on it.
- f. No Notice to Merchant Banker who is the statutory gate keeper and no opportunity to deal with their stand -which is crucial for the inquiry.

- g. No personal gain accrued to anyone and more specifically the independent directors.
- h. The funds from the IPO have been utilized as per the objects and/or for the Company itself and there is no proof to the contrary by independent verification by SEBI or from official liquidator or through any forensic audit.
- i. Allegations in the SCN are levied merely on surmises and conjectures.
- j. No specific averment / allegation is made against Noticee No. 2, 3, 5 and 6 in the SCN and independent directors (Noticee No. 3, 5 and 6) cannot be held liable in view of Section 5 and 149(12) of Companies Act, 2013 and Section 27 of SEBI Act.

3.4.4. The said Noticees have placed similar justifications on the use of the IPO proceeds by SIL, as have been submitted by the Company. Accordingly, the submissions made in this regard are not reiterated herein.

3.4.5. The said Noticees have *inter alia* submitted the following specific defences with respect to their individual roles:

- a. In view of the critical health condition of Murugan M Thevar, and all his assets having been attached and auctioned off, a lenient view may be adopted by SEBI.

- b. Deepak Shenoy, Shridhar Shetty and Venkatraman Gopal Nadar, being independent directors need to be discharged as any adverse order against them will be in violation of law and will also cause a bad precedent in the corporate sector, in addition to being perverse in facts as well as in law in view of Section 5 and Section 149 of Companies Act, 2013 and Section 27 of SEBI Act.

Noticee No.9 (Suresh Hegde & Co.) and Noticee No. 10 (Suresh Hegde)

3.4.6. The said Noticees have by way of their replies addressed three essential aspects:

- a. Preliminary objections to the present proceedings.
- b. Responsibility of the Merchant Banker.
- c. Specific defences by the said Noticees with respect to their role.

3.4.7. The said Noticees have *inter alia* raised the following preliminary objections to the present proceedings:

- a. The SCN is perverse in facts as well as in law. No ingredients of the provisions which are alleged to have been violated are attracted in respect of the said Noticees.
- b. Inordinate Delay in issuing the SCN. The IPO was held in 2011 and the SCN was issued in 2017.

3.4.8. The said Noticees have also *inter alia* submitted the following specific defences with respect to their roles:

- a. The allegation in the SCN that the above-mentioned Noticees purportedly enjoyed “a personal relationship” with certain suppliers of the Company, is without any details of the nature of the relationship. Assuming and not admitting that a professional auditor has few clients who may know each other, can this be considered for alleging knowledge and connivance on the part of such auditor with respect to dealings between such clients.
- b. The SCN merely on the basis of a purported personal relationship of the above-named Noticees with certain suppliers, has alleged the said Noticees of concocting false sales figures which has been misstated in the prospectus of SIL. This is absolutely false and vehemently denied.
- c. There is not a shred of evidence that the Noticee Nos. 9 ad 10, in performing their roles as duly appointed Statutory Auditors played any part in the alleged inflation of figures in the financials.
- d. Noticee Nos. 9 and 10 performed their role as statutory auditor and based on the material and data made available to them, and certified the financials on the bona fide belief and had no reason to question the data made available to them in view of the due diligence undertaken by the merchant banker to the issue.

- e. Reliance is placed on the order of SAT in the matter of Price Waterhouse and Co. v. SEBI 2019 SCC OnLine SAT 165 wherein the following was held:

"Whether the auditor has performed an audit or not in accordance with auditing standards generally accepted in India is determined by the adequacy of the audit procedures performed in the circumstances and the suitability of the auditor's report based on the result of these procedures. However, unless the audit reveals evidence to the contrary, the auditor is entitled to accept records and documents as genuine. Accordingly, an audit performed in accordance with auditing standards generally accepted in India rarely contemplate authentication of documentation, nor are auditors trained as, or expected to be, experts in such authentication."

- f. The SCN has nowhere alleged any personal gain made by Noticee Nos. 9 and 10 and any directions against them to refund proceeds of the IPO would amount to a grave miscarriage of justice.
- g. Any question of connivance and collusion cannot be loosely alleged and must be backed with cogent evidence. Also, Noticee Nos. 9 and 10, with respect, question the authority and jurisdiction of SEBI to initiate such proceedings, that too after a decade, when SEBI registered merchant banker, who is responsible for bringing out the IPO has not

been roped in but an unregistered (with SEBI) professional auditor is being harassed.

- h. SEBI in many of its orders has not passed direction against the auditors. Following are a few such instances where no directions have been passed against auditors, despite findings in investigations of incorrect accounts / financial statements:

Table-9

S. No.	Date	Particulars of Order	Action	Authority
1)	18.02.2020	Order In the matter of Midvalley Entertainment Limited — Statutory auditor not	None against statutory	WTM — Ms. Madhabi Puri Buch
2)	16.02.2020	Order in the matter of Paramount Printpackaging Limited — Case exactly similar to SIL, however no directions were passed against statutory auditor.	None against statutory auditor	WTM — Ms. Madhabi Puri Buch
3)	13.09.2019	Order in the matter of Datsons Labs Ltd. (formerly known as Aanjaneya Lifecare Limited) — dealing with misuse of IPO funds where all the allegations are against the director(s) despite certificate of auditor. Auditors not even questioned.	None against statutory auditor	WTM — Mr. S K Mohanty

4)	26.04.2019	Order in the matter of IPO of Shilpi Cables Limited	None against statutory auditor	WTM — Ms. Madhabi Puri Buch
5)	06.08.2018	Order in the matter of Inventure Growth and Securities Ltd. — dealing with misuse of IPO proceeds for bridge loan or advancing money against loans, however, no liability has been questioned from auditor perspective	None against statutory auditor	WTM — Mr. GMahalingam
6)	11.07.2011	Order in the matter of Issuance of Shares by Vaswani Industries Limited similar to SIL, however no directions were passed against statutory auditor.	None against statutory auditor	WTM — Mr. KM Abraham

Noticee No. 11 (Ramesh Andy Thevar), Noticee No. 12 (Edwin Joseph), Noticee No. 13 (Reena Nadar), Noticee No. 14 (Santosh Vishnu Ingle), Noticee No. 15 (Valliammal M. Thevar), Noticee No. 16 (Kamlesh M. Nadar), Noticee No. 17 (Stallin Muthappa), Noticee No. 18 (B Ravishankar Pai)

3.4.9. The said Noticees have by way of their replies made the following common submissions:

- a. Sudar always had an identified Managing Director and none of the Noticees from Noticee No. 11 to Noticee No. 18 was the Managing Director or CEO or Officer-in-Default.
- b. Noticees No. 12 and No. 13 who were purportedly key managerial personnel were also not “related” to the Promoters or Directors of Sudar within the meaning of Section 6 of the Companies Act, 1956. As disclosed specifically by Sudar itself in the prospectus and relied upon by SEBI, Ms. E Reena Nadar (Noticee No. 13) aged 26 years and Mr. Y Edwin Joseph (Noticee No. 12) aged 29 years were drawing a compensation of INR 1,20,000/- p.a. each (merely INR 10,000 a month).
- c. None of the Noticees from No. 11 to No.18 mentioned above are on the board of directors of Sudar.
- d. None of the Noticees from Noticee No. 11 to Noticee No.18 were signatories to the prospectus.
- e. None of the Noticees from Noticee No. 11 to Noticee No. 18 were signatories to financial results of Sudar.
- f. Noticee No. 11 to Noticee No.18 can never be considered to be in control or the directing mind behind driving the IPO or using the IPO funds for any purpose. More so, when there is an identified board and

SEBI has not provided any documentation or proof for their indulgence, if any.

- g. There has been considerable delay in issuance of SCN to the Noticees. The IPO was in 2011 and the SCN has been issued only in 2017 i.e. after a period of almost 6 years. In the matter of Ashlesh Gunvantbhai Shah v. SEBI the Hon'ble Securities Appellate Tribunal passed an order dated January 31, 2020 stating that:

“Having considered the matter we are of the view that there has been an inordinate delay on the part of the respondent in initiating proceedings against the appellants for the alleged violations without going into the merits of the case we find that on account of the inordinate delay in the initiation of proceedings by issuance of a show cause notice, the penalty order cannot be sustained....”

On the ground of inordinate delay the said SCN should be dropped immediately.

- h. Considering SEBI has failed to establish any violation by Sudar, it cannot impute any liability on its board of directors. Considering that SEBI has failed to establish any liability on the board of directors, it cannot impute any liability on any person who is in charge of the affairs of the company. In any case, Noticees No. 11 to 18 can never be imputed of any liability in absence of any cogent evidence against the company itself, its board of directors, or any persons in-charge of

affairs of the company. Even if such a liability is sought to be imputed, an opportunity needs to be provided to Noticees No. 11 to 18 to controvert their alleged role / knowledge in the purported violations.

- i. The SCN as far as it relates to Noticees No. 11 to 18, is purely based on surmises and conjectures. The SCN is perverse on facts as well as in law inasmuch as it is vague, non-specific and contradicts itself at various places. It conveniently shifts from the allegations from committing a securities fraud to name-lender to being relative of some other Noticees.
- j. There has been complete failure in observing principles of natural justice and fair process including in conducting complete and fair investigation, painting everyone with the same broad brush, lacunae in the SCN, time consumed, providing inspection of certain documents, right of cross-examination of everyone including Co-Noticees, etc. This has been pleaded in various communications from the date of SCN and is a matter of record with SEBI which are not being repeated again herein.
- k. The entire process and the object sought to be achieved as far as it relates to Noticees No. 11 to 18 is against SEBI's own decisions taken by other Whole-Time Members as well as various decisions of Hon'ble Securities Appellate Tribunal. It is incumbent on SEBI to be uniform and consider the specific facts, evidences and the process adopted.

Ramesh Andy Thevar

3.4.10. The said Noticee by way of the replies stated that :

- a. Noticee No. 11 was in control of the proprietorship concern and was looking into the day to day affairs. All transaction that were done by the proprietorship were in due accordance of law and there was no irregularity of any kind whatsoever. Infact, SEBI has only relied upon the coerced statements and not made any independent investigation / verification nor has SEBI provided any evidence in support of their allegation.
- b. Payment received by A R Fabrics was towards the raw material supplied for which invoices were issued by the Noticee No. 11. Copies of the invoices were submitted to SEBI by the Noticee No. 11 and the same form part of the record of SEBI.
- c. A R Fabrics started its operations around 2005 / 2006 which was much before the IPO. It is also submitted that A R Fabrics was disclosed as one of the suppliers of raw materials in the prospectus. Further it is also submitted that A R Fabrics had a continuous relation with Sudar even prior to the IPO. The same can also be seen from the banking transactions of A R Fabrics with Sudar.
- d. A R Fabrics has stopped all its operations and as it was a proprietorship concern it did not maintain any separate books of accounts. Please note

that income tax returns were filed by Noticee No. 11 in his individual capacity (Copies of the same have been submitted to SEBI and form part of the record available with SEBI).

- e. Noticee No.11 has not received any personal benefit, nor is there any allegation of SEBI against Noticee No. 11 of any personal gain.
- f. The allegations against the Noticee No. 11 are merely surmises and conjectures and the proceedings against the Noticee No.11 should be dropped immediately as there is no cause of action.

Edwin Joseph

3.4.11. The said Noticee by way of the replies stated that :

- a. Noticee No. 12 was in control of the proprietorship concern named R J Traders and was looking into its day to day affairs. All transactions that were done by the proprietorship were in due accordance of law and there was no irregularity of any kind whatsoever. Infact SEBI has only relied upon the coerced statements and not made any independent investigation / verification nor has SEBI provided any evidence in support of their allegation.
- b. Payment received by R J Traders was towards the raw material supplied for which bill were issued. Copies of the invoices were submitted by the Noticee No. 12 and the same form part of the record of SEBI.

There is no dispute that the raw material was not supplied by the Noticee No. 12 nor is there any evidence to state to the contrary produced by SEBI or Sudar.

- c. R J Traders was disclosed as one of the suppliers of raw materials in the prospectus. R J Traders had a continuous relation with SIL from on or around June 2010 which was much before the IPO.
- d. R J Traders has stopped all its operations around December 2015 /January 2016. As it was a proprietorship concern, it did not maintain any separate books of accounts. Income tax returns were filed by the Noticee No. 12 in his individual capacity (Copies of the same have been submitted to SEBI and are part of the record with SEBI).
- e. Noticee No.12 has neither received any personal benefit, nor is there any allegation of SEBI against Noticee No. 12 of any personal gain.
- f. All the allegations against the Noticee No.12 are merely surmises and conjectures and the proceedings against the Noticee No. 12 should be dropped immediately as there is no cause of action.

Reena Nadar

3.4.12. The said Noticee by way of the replies stated that :

- a. Noticee No. 13 was in control of the proprietorship concern and was looking into the day to day affairs. All transaction that were done by the proprietorship were in due accordance of law and there was no

irregularity of any kind whatsoever. Infact, SEBI has only relied upon the coerced statements and not made any independent investigation / verification nor has SEBI provided any evidence in support of their allegation.

- b. The payment received by Elim Traders was towards the raw material supplied for which bills were issued and the same are part of the record of SEBI. Infact, Elim Traders wasalso shown as one of the suppliers in the prospectus. There is no dispute that the raw material was not supplied by the Noticee No. 13 nor is there any evidence to state to the contrary produced by SEBI or Sudar.
- c. Elim Traders was disclosed as one of the suppliers of raw materials in the prospectus. Elim Traders had a continuous relation with Sudar from on or around June 2010 which was much before the IPO.
- d. Elim Traders has stopped all operations and as it was a proprietorship concern it did not maintain any separate books of accounts. Income tax returns were filed by the Noticee No. 13 in her individual capacity (Copies of the same have been submitted to SEBI and are part of the record with SEBI).
- e. Noticee No.13 has not received any personal benefit and nor is there any allegation against Noticee No. 13 of any personal gain.

Santosh Vishnu Ingle

3.4.13. The said Noticee by way of the replies stated that :

- a. Noticee No. 14 was in control of the proprietorship concerns and was looking into the day to day affairs. All transactions that were done by the proprietorship concerns were in due accordance of law and there was no irregularity of any kind whatsoever. Infact, SEBI has only relied upon the coerced statements and not made any independent investigation / verification nor has SEBI provided any evidence in support of their allegation.
- b. Allegation against Mr. Santosh Vishnu Ingle is that his proprietor concern namely SM Construction received a sum of Rs. 1,00,00,000/- from the IPO funds. SM Construction has received the sum of Rs. 1,00,00,000/-towards the material supplied for construction i.e. the expansion of the manufacturing unit located on Survey No. 30A Sr 30A4, Village Paud and Survery No. 27B, Village Madap, Mazgaon Road, Khalapur, Taluka Raigad District, Maharashtra.
- c. Invoices of the same have been provided by the Noticee No. 14. There has been no dispute on the receipt of material supplied nor has there been any evidence to the contrary provided by SEBI or Sudar. Infact photographs of extension of the building have been provided and form part of the record of SEBI proceedings.

- d. Noticee No.14 has not received any personal benefit and nor is there any allegation against Noticee No. 14 of any personal gain.
- e. Shalom Fashion was an agent of readymade garments and used to procure readymade garments from SIL even before the IPO. Infact Shalom Fashion was also shown as one of the major customers of Sudar in their IPO document.
- f. No allegation of siphoning off of funds on Shalom Fashions.
- g. The allegation against SM Constructions and Shalom Fashion is that the transactions of SIL with these entities were not shown as related party transactions by SIL. It is not the responsibility under any law that required Noticee No. 14 to disclose himself or his proprietorship firms as related party in the IPO document.
- h. S M Constructions and Shalom Fashion have stopped all operations and as it was a proprietorship concern it did not maintain any separate books of accounts. Income tax returns were filed by the Noticee No. 14 in his individual capacity (Copies of the same have been submitted to SEBI and are part of the record with SEBI)
- i. All the allegations against the Noticee No.14 are merely surmises and conjectures and the proceedings against the Noticee No. 14 should be dropped immediately as there is no cause of action.

Valliammal Murugan M Thevar

3.4.14. The said Noticee by way of the replies stated that :

- a. It is denied that Addon was “controlled” by Sudar ‘for the purposes of routing funds and did not have any genuine commercial activity’. This is belied by the records and on the contrary, the show cause notice in its para 15 contradicts itself by stating that ‘she was not aware of the activities of Addon’.
- b. Merely because Noticee No. 15 is the spouse of Noticee No. 2, Murugan M Thevar, SEBI has incorrectly presumed all her genuine commercial activity to be in violation while ignoring the fact that by SEBI’s own admission her activities in Addon Exports were prior to IPO (dated March 11, 2011) and continued for a substantial amount of time even after the IPO.
- c. The allegation against Noticee No. 15 without any evidence other than being a spouse of Noticee No. 2, is entirely flimsy and without any basis for alleging a serious offence.
- d. The allegation against the Noticee No.15 are merely surmises and conjectures and the proceedings against the Noticee No.15 needs to be dropped with no cause of action.

Kamlesh Nadar

3.4.15. The said Noticee by way of the replies stated that :

- a. Noticee No. 16 was in control of the proprietorship concern named Shree Bhagwati International and was looking into the said proprietorship concern's day to day affairs. All transactions that were done by the proprietorship were in due accordance of law and there was no irregularity of any kind whatsoever. Infact, SEBI has only relied upon the coerced statements and not made any independent investigation / verification nor has SEBI provided any evidence in support of their allegation.
- b. Shree Bhagwati International has stopped all operation and as it was a proprietorship concern it did not maintain any separate books of accounts. Income tax returns were filed by the Noticee No.16 in his individual capacity (Copies of the same have been submitted to SEBI and are part of the record with SEBI).
- c. No allegation of siphoning of funds against Noticee No. 16. In fact SEBI records in the SCN that Shree Bhagwati International had other business transactions also, however majority of the transactions were with SIL.
- d. The allegation against Noticee No. 16 is that they were not shown as related party transactions by Sudar. It is not the responsibility under any

law that required Noticee No.16 to disclose himself or his proprietorship firms as related party in the IPO document. Hence this allegation has been wrongly placed upon the Noticee No. 16.

- e. Noticee No.16 has not received any personal benefit and nor is there any allegation against Noticee No. 16 of any personal gain.
- f. The allegation against the Noticee No.16 are merely surmises and conjectures and the proceedings against the Noticee No.16 needs to be dropped with no cause of action.

Stalin Muthappa

3.4.16. The said Noticee by way of the replies stated that :

- a. Noticee No. 17 was in control of the proprietorship concern named George Street London and was looking into the day to day affairs. All transaction that were done by the proprietorship were in due accordance of law and there was no irregularity of any kind whatsoever. Infact, SEBI has only relied upon the coerced statements and not made any independent investigation / verification nor has SEBI provided any evidence in support of their allegation.
- b. George Street London has stopped all operation and as it was a proprietorship concern it did not maintain any separate books of accounts. Income tax returns were filed by the Noticee No. 17 in his

individual capacity (Copies of the same have been submitted to SEBI and are part of the record with SEBI).

- c. There is no allegation of siphoning off of funds against Noticee No. 17.
- d. The allegation against Noticee No. 17 is that they were not shown as related party transactions by SIL. It is not the responsibility under any law that required Noticee No.17 to disclose himself or his proprietorship firms as related party in the IPO document. Hence this allegation has been wrongly placed upon the Noticee No. 17.
- e. Noticee No.17 has not received any personal benefit and nor is there any allegation against Noticee No. 17 of any personal gain.
- f. The allegation against the Noticee No.17 are merely surmises and conjectures and the proceedings against the Noticee No.17 needs to be dropped with no cause of action.

B Ravishankar Pai

3.4.17. The said Noticee by way of the replies stated that :

- a. A sum of Rs. 6 Crores was transferred from the receipts of IPO funds into the account of Noticee No. 18. The said funds were received towards proposed purchase of land for expansion of manufacturing unit which was one of the objects of the IPO.

- b. The said sum of Rs. 6 crores was transferred into the account of the Noticee No. 18 on or around March 23, 2011. As the proposed land deal failed to culminate into a transaction, the said sum of Rs. 6 crore was returned by Noticee No. 18 to SIL by way of bank transfers of Rs. 2 Crore on March 31, 2011 and Rs. 4.25 Crore on April 5, 2011. The entire amount of Rs. 6 crore was transferred back into the account of SIL within 13 days of receipt of funds. The entire funds were returned much before any investigation was initiated by SEBI and that itself demonstrates the legitimacy of the transaction. The bank accounts statements of the Noticee. No. 18 are on record of SEBI and the same can be verified by your Honor.
- c. It is blatantly incorrect to state that the funds were diverted out of the IPO proceeds as the funds were received back by SIL.
- d. The said transactions were banking transactions and were done much before SEBI investigation. Hence the presumption of SEBI that the transaction of land deal was an afterthought is absolutely incorrect.
- e. Noticee No.18 has not received any personal benefit and nor is there any allegation against Noticee No. 18 of any personal gain.
- f. The allegations against the Noticee No.18 are merely surmises and conjectures and the proceeding against Noticee No. 18 needs to be dropped as there is no cause of action

4. Relevant Provisions

4.1. Provisions of the SEBI Act

Section 12 A (a), (b), (c)

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

“12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder”

4.2. Provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003

Regulation 3(a), (b), (c) and (d)

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

- (a) buy, sell or otherwise deal in securities in a fraudulent manner;
- (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;
- (c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;
- (d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

Regulation 4 (1) and 4(2)

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

(2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following:—

(a) indulging in an act which creates false or misleading appearance of trading in the securities market;

(b) ...

(e) any act or omission amounting to manipulation of the price of a security;

(f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

(k) an advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors;

(r) planting false or misleading news which may induce sale or purchase of securities.

4.3. Provisions of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009

Regulation 57

Manner of disclosures in the offer document.

57. (1) The offer document shall contain all material disclosures which are true and adequate so as to enable the applicants to take an informed investment decision.

(2) Without prejudice to the generality of sub-regulation (1):

(a) the red-herring prospectus, shelf prospectus and prospectus shall contain:

(i) the disclosures specified in Schedule II of the Companies Act, 1956; and

(ii) the disclosures specified in Part A of Schedule VIII.

(b) the letter of offer shall contain disclosures as specified in Part E of Schedule VIII

Regulation 60 (7) (a)

Public communications, publicity materials, advertisements and research reports.

60. (1)...

(7) Any advertisement or research report issued or caused to be issued by an issuer, any intermediary concerned with the issue or their associates shall comply with the following:

(a) it shall be truthful, fair and shall not be manipulative or deceptive or distorted and it shall not contain any statement, promise or forecast which is untrue or misleading;

Regulation 57 (2) (a) read with Cl. 2 (VII) (G), Cl. 2 (VIII) (D) (5) and Cl. 2 (XVI) (B) (2) of Part A of Schedule VIII

Cl. 2 (VII) (G)

Sources of Financing of Funds Already Deployed: The means and source of financing, including details of bridge loan or other financial arrangement, which may be repaid from the proceeds of the issue.

Cl. 2 (VIII) (D) (5)

(5) Other Agreements:

(a) The dates, parties to, and general nature of every other material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the issuer or a contract entered into more than two years before the date of the offer document.

(b) All such agreements shall be included in the list of material contracts required under sub-item (A) of Item (XII).

Cl. 2 (XVI) (B) (2)

(B) Declaration:

(1)

(2)The signatories shall further certify that all disclosures made in the offer document are true and correct.

5. ISSUES

I. Whether Noticee No.1 and its Directors, namely Noticee Nos. 2 to 8 deviated from the Objects of the issue by siphoning off the IPO proceeds?

II. Whether Noticee Nos. 11 to 18 assisted or provided support to Noticee Nos. 1 to 8 in the scheme of deviating from the Objects of the issue by siphoning off the IPO proceeds?

III. Whether Noticee Nos. 9 and 10 also assisted or provided support to Noticee Nos. 1 to 8 in the scheme of deviating from the Objects of the issue by siphoning off the IPO proceeds?

5.1. Evidence Appreciation

5.1.1.SEBI during the investigation had recorded the statements of certain Noticees. These statements were recorded in November, 2015. Consequent to

the recording of these statements, affidavits were received from Ramesh Andy Thevar (Noticee No. 11); Edwin Joseph (Noticee No. 12); Reena Nadar (Noticee No. 13); Santosh Vishnu Ingle (Noticee No. 14); Kamlesh Muthappa Nadar (Noticee No. 16); Stalin Muthappa (Noticee No. 17) and Deepak Shenoy (Noticee No. 3) dated December 20, 2017 retracting their statements given previously to SEBI. In this regard, at the hearing and cross examination scheduled on February 05, 2020 the above-mentioned Noticees drew attention to their affidavits, whereby they had 'revoked' their respective statement given to SEBI at the time of investigation. It was indicated to the counsels appearing for the above-mentioned Noticees during the personal hearing that retraction, in view of the facts and circumstances of the matter, could not be accepted. The reasons for non-acceptance are elaborated in the subsequent portions of this Order. However, they were informed that their requests for cross-examination shall be considered. The details of the requests for cross-examination as received from the Noticees are provided hereunder:

Table-10

Group	Noticee seeking cross examination	Letter of communication	Entity to be cross examined
Group 1	Noticee No.1, Sudar Industries Limited	December 21, 2017	i. Ramesh Andy Thevar ii. Edwin Joseph iii. Reena Nadar iv. Santosh Vishnu Ingle v. Valliammal Murugan M Thevar vi. Kamlesh Muthappa Nadar vii. Stalin Muthappa viii. B Ravishankar Pai
Group 2	Noticee No. 2, Murugan M Thevar Noticee No.3, Deepak Shenoy Noticee No.5, Shridhar Shetty Noticee No.6, Venkatraman Gopal Nadar	December 21, 2017 and July 29, 2019	i. Ramesh Andy Thevar ii. Edwin Joseph iii. Reena Nadar iv. Santosh Vishnu Ingle v. Valliammal Murugan M Thevar vi. Kamlesh Muthappa Nadar vii. Stalin Muthappa viii. B Ravishankar Pai ix. Ashika Capital

			Limited x. Suresh Hegde & Co.
Group 3	<p>Noticee No. 9, Suresh Hegde</p> <p>Noticee No. 10, Suresh Hegde & Co.</p>	September 14, 2020	<p>i. Ashika Capital Limited</p> <p>ii. Murugan M Thevar</p> <p>iii. Deepak Shenoy</p> <p>iv. Gopi Chellappan Nair</p> <p>v. Shridhar Shetty</p> <p>vi. Valliammal Murugan M Thevar</p> <p>vii. Venkatraman Gopal Nadar</p> <p>viii. M S Anand</p> <p>ix. Sapna Karmokar</p> <p>x. Ramesh Andy Thevar</p> <p>xi. Edwin Joseph</p> <p>xii. Reena Nadar</p> <p>xiii. Santosh Vishnu Ingle</p> <p>xiv. Valliammal Murugan M Thevar</p> <p>xv. Kamlesh Muthappa Nadar</p> <p>xvi. Stalin Muthappa</p> <p>xvii. B Ravishankar Pai</p>

Group 4	Noticee No. 11, Ramesh Andy Thevar Noticee No. 12 , Edwin Joseph Noticee No. 13, Reena Nadar Noticee No. 14 , Santosh Vishnu Ingle Noticee No. 15, Valliammal Murugan M Thevar Noticee No. 16, Kamlesh Muthappa Nadar Noticee No. 17, Stalin Muthappa Noticee No. 18, B. Ravi Shankar Pai	January 31, 2018	i. Deepak Shenoy ii. Murugan M Thevar
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5.1.2. In consideration of the above requests, Cross-examination was allowed for the following Noticees:

Table- 11

Group	Noticee/s seeking cross examination	Entity to be cross examined
Group 2	Noticee No. 2, Murugan M Thevar Noticee No.3, Deepak Shenoy Noticee No.5, Shridhar Shetty Noticee No.6, Venkatraman Gopal	Ramesh Andy Thevar Edwin Joseph Reena Nadar Santosh Vishnu Ingle Valliammal Murugan M Thevar Kamlesh Muthappa Nadar

	Nadar	Stalin Muthappa B Ravishankar Pai
Group 3	Noticee No. 9, Suresh Hegde Noticee No. 10, Suresh Hegde & Co.	Ramesh Andy Thevar Edwin Joseph Reena Nadar
Group 4	Noticee No. 11, Ramesh Andy Thevar Noticee No. 12 , Edwin Joseph Noticee No. 13, Reena Nadar Noticee No. 14 , Santosh Vishnu Ingle Noticee No. 15, Valliammal Murugan M Thevar Noticee No. 16, Kamlesh Muthappa Nadar Noticee No. 17, Stalin Muthappa Noticee No. 18, B. Ravi Shankar Pai	Deepak Shenoy Murugan M Thevar

5.1.3.The Cross-examinations for the above Noticees were provided on the following dates, as tabulated hereunder:

Table- 12

Date	Noticees to whom Cross-Examination Granted	Reason for Non-appearance/Details
February 05, 2020	A. Group 1* and 2 to cross-examine Noticee No. 15	<i>Valliammal Murugan M Thevar,</i>

	<p>B. Group 4 to cross-examine Noticee No.2</p> <p><i>*As already stated, at the initiation of the current proceedings, Sudar Industries Limited was being represented by Suvan Law Advisors, later known as Regstreet Law Advisors, and as such a request had been made by the Company through their counsel to cross-examine. However, before the cross-examination in the matter could ensue, the Company had gone into liquidation, and as such, the lawyers appearing for the Company informed that they would not be representing the Company any further. Accordingly, no cross-examination could be undertaken by the Company.</i></p>	<p>Noticee No. 15: By way of an email dated February 04, 2020, the counsel representing Valliammal Murugan M Thevar informed her inability to be present for the cross-examination, as her husband, Murugan M Thevar was in a very serious medical condition, and as such required her continuous assistance.</p> <p>Murugan M Thevar, Noticee No.2: By way of letter dated February 04, 2020 the counsel representing Murugan M Thevar informed the Noticee's inability to be present for the cross-examination till his recovery as he had a serious medical condition and required continuous assistance given his chronic condition. It was also informed that the Noticee was under heavy medication because of which he was unstable physically and "through his mental faculty".</p>
September 04, 2019	<p>A. Group 2 to cross-examine Noticee No. 15</p> <p>B. Group 4 to cross-examine Noticee No.2</p>	<p>Valliammal Murugan M Thevar, Noticee No. 15: By way of letter dated August 30, 2019, the Noticee informed her inability to be present for the cross-examination as she had to take care of her husband, Murugan M Thevar, Noticee No.2 who was undergoing treatment for "severe illnesses and does not</p>

		<p><i>have a good mental state” and was supposed to go to Madhurai for his treatment. Prescriptions were provided with the said letter, which stated that Murugan M Thevar was suffering from “Anxiety Depression Syndrome”.</i></p> <p><i>Murugan M Thevar, Noticee No.2:</i> No reason provided.</p>
July 30, 2019	<p>A. Group 2 to cross-examine Noticee No. 15</p> <p>B. Group 4 to cross-examine Noticee No.2</p>	<p><i>Valliammal Murugan M Thevar, Noticee No. 15:</i> By way of letter dated July 25, 2019, the Noticee informed her inability to be present for the cross-examination as she had to take care of her husband, Murugan M Thevar, Noticee No.2 who was undergoing treatment for “severe illnesses and does not have a good mental state” . Prescriptions were provided with the said letter, which stated that Murugan M Thevar was suffering from “Anxiety Depression Syndrome”.</p> <p><i>Murugan M Thevar, Noticee No.2:</i> Letter from the counsel representing the Noticee stating non-receipt of instructions from Murugan M Thevar.</p>
December 11, 2020	A. Group 2 (except Murugan M Thevar, Noticee No. 2) to cross-examine Group 4 (except Valliammal Murugan M Thevar, Noticee No. 15)	<p><i>Group 4:</i> The Counsel for these Noticees informed by way of an email dated December 10, 2020 that he had communicated the intimation of cross-examination received from SEBI to his clients but he was yet to receive</p>

	<p>B. Group 4 (except Valliammal Murugan M Thevar, Noticee No. 15) to cross-examine Noticee No.3</p> <p>C. Group 3 to cross-examine Ramesh Andy Thevar, Edwin Joseph and Reena Nadar</p>	<p>instructions from them. A request to adjourn the Cross examination to any date after 2 weeks was made.</p> <p>Group 2: The Counsel for these Noticees informed by way of an email dated December 11, 2020 that for its clients to cross-examine they should be provided with the statements of the entities they had been allowed to cross-examine.</p> <p>Consequent to this, the Noticees were provided statements of the entities, whom they had been allowed to cross-examine.</p>
December 21, 2020	<p>A. Group 2 (except Murugan M Thevar, Noticee No. 2) to cross-examine Group 4 (except Valliammal Murugan M Thevar, Noticee No. 15)</p> <p>B. Group 4 (except Valliammal Murugan M Thevar, Noticee No. 15) to cross-examine Noticee No.3</p> <p>C. Group 3 to cross-examine Ramesh Andy Thevar, Edwin Joseph and Reena Nadar</p>	<p>Group 2: The Counsel appearing for Group 2 submitted that they can undertake the cross-examination of the entities namely, Ramesh Andy Thevar, Edwin Joseph, Reena Nadar, Santosh Vishnu Ingle, Kamlesh Muthappa Nadar</p> <p>Stalin Muthappa, B Ravishankar Pai only if they were provided the replies and submissions made by the said entities.</p> <p>Group 3: The Counsel appearing for Group 3 pressed that he wanted to cross-examine Reena Nadar and accordingly would seek her presence for the same.</p> <p>Group 4: The Counsel appearing for</p>

		Group 4 communicated that he shall be exchanging replies with the Counsel of Group 2 so that the cross-examination could take place, and assured the presence of his clients for cross-examination by Group 2 and 3.
January 11, 2021	<p>A. Group 2 (except Murugan M Thevar, Noticee No. 2) to cross-examine Group 4 (except Valliammal Murugan M Thevar, Noticee No. 15)</p> <p>B. Group 4 (except Valliammal Murugan M Thevar, Noticee No. 15) to cross-examine Noticee No.3</p> <p>C. Group 3 to cross-examine Reena Nadar</p>	<p>Group 2:</p> <p>Reena Nadar was present and was cross-examined by Group3. Since, Group 2 did not take the opportunity to cross-examine Group 4 (except Valliammal Murugan M Thevar, Noticee No. 15), Deepak Shenoy also could not be cross-examined by Group 4.</p>

5.1.4. It is evident from the above that adequate opportunities were provided to the Noticees to cross-examine which they did not avail. Now coming to the question of retraction, it is reiterated that affidavits from seven Noticees namely, Ramesh Andy Thevar (Noticee No. 11); Edwin Joseph (Noticee No. 12); Reena Nadar (Noticee No. 13); Santosh Vishnu Ingle (Noticee No. 14); Kamlesh Muthappa Nadar (Noticee No. 16); Stalin Muthappa (Noticee No. 17) and Deepak Shenoy (Noticee No. 3) dated December 20, 2017 retracting their statements were given previously to SEBI.

5.1.5. In this regard, attention is drawn to Section 11 C (5) of the SEBI Act, which provides that “*Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.*” Further, Section 11 C (7) of the SEBI Act provides that “*Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.*”

5.1.6. It may be stated that the SEBI Act confers upon SEBI the same powers of a civil court to summon and enforce the attendance of persons and examine them on oath, during an investigation. As would be evident from above, the Investigating Authority under Section 11 C (5) is authorised to examine a person on oath and record the statement. Also, it may be noted that as per Section 11 C (7), a statement made on oath and recorded, and thereafter signed by the person examined is admissible as evidence, including against the person examined.

5.1.7. In the present matter, the affidavits submitted by the seven Noticees, retracting their respective statements were submitted after the lapse of two years from the date of recording of those statements under oath. Further, the said Noticees have alleged coercion, duress and disturbed mental state at the time of recording of the statement. It is to be noted that the retractions were made after the investigation was completed and Show-cause Notice was issued to the

Noticees. Also, the retractions are not supported by any evidence of coercion or duress. The collective retractions at more or less the same time by the seven Noticees, shows that it was a pre-planned arrangement arrived at by them, after receipt of the SCN, merely with the idea of jointly opposing the enforcement action of SEBI.

5.1.8. In this regard, reference is drawn to the decision of the Hon'ble Chhattisgarh High Court in the matter of *ACIT V. Hukumchad Jain*, [2011] 337 ITR 238 (Chhattisgarh). In the matter it was *inter alia* held that when addition was based on confessional statement of the Assessee and the Assessee did not retract his statement immediately after the search and seizure operations under Section 132 (4) of the Income Tax Act, 1961 it could be said that the Assessee had failed to discharge the onus on proving that confession made by him under Section 132 (4) was as a result of intimidation, duress, coercion or the same was made a result of mistaken belief of law or fact. Therefore, the Assessing Officer was fully justified in assessing income of the Assessee on the basis of search on undisclosed income made under Section 132 (4). Further, in the case of *Hotel Kiran V. Assistant Commissioner of Income Tax*, [2002] 82 ITD 453 (Pune) decided on February 20, 1998, the Pune bench of the Income Tax Tribunal *inter alia* observed that where statement under Section 132 (4) of the Income Tax Act was voluntarily made and there was no coercion or threat whatsoever and the contents of the statement were clear and unambiguous, the same would be binding on the Assessee, even if it was subsequently retracted. Lastly, in the

matter of *Kantilal C. Shah V. ACIT Circle-3, Ahmedabad(2011)142TTJ(Abd)233*, it has been *inter alia* held that retraction being general and vague, deserved to be ignored.

5.1.9. In view of the above, I find that the affidavits submitted by the seven Noticees, after more than two years of the recording of those statements are vague and general in nature and backed with no evidence of coercion or intimidation. Accordingly, the retractions are ignored and the statements given by the said seven Noticees to SEBI would be considered in the adjudication of the issues in the matter as may be found necessary.

5.2. I also observe that the Noticees have taken the defence that the Merchant Banker had to be made a Noticee in the SCN, and the Merchant Banker, who is responsible for bringing out the IPO, had been provided with all relevant information and was required to make appropriate disclosures in the Offer Document. It is not in doubt that there is a responsibility on the Merchant banker to ensure that information with respect to sellers, customers etc. is disclosed properly in the Offer Document. Action in respect of the said Merchant Banker has been initiated in a separate proceeding for lack of due diligence. However, it is to be noted that the present proceeding relates to the allegation that the Company deviated from the objects of issue stated in the prospectus by siphoning off the IPO proceeds. So, the examination of issues in the present matter are specifically on the usage of funds upon the IPO being completed.

6. Issue- I: Whether Noticee No.1 and its Directors, namely Noticee Nos. 2 to 8 deviated from the Objects of the issue by siphoning off the IPO proceeds?

A. Whether the Company has deviated from the Objects of the issue by siphoning off the IPO proceeds?

6.1. It has been alleged in the SCN that SIL had only deployed Rs. 5.54 crore (approx.), as per its stated objects, out of the Rs. 69.97 crore that it had collected by way of IPO proceeds. Further, it has been alleged that SIL had also suppressed key material facts pertaining to its key management persons, customers, etc. in the offer documents. Therefore, SIL had deviated from the Objects of the Issue as per the Prospectus of SIL and has siphoned off an amount of Rs. 64.43 crore (approx.) from the IPO proceeds.

6.2. In view of the above, the SCN has alleged that the Company and its directors, viz., Murugan M Thevar, Deepak Shenoy, Gopi Chellappan Nair, Shridhar Shetty, Venkatraman Gopal Nadar, M S Anand (V P Finance) and Ms. Sapna Karmokar (Company Secretary) have allegedly violated Regulations 57 (1) and 60(7)(a) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (“**ICDR Regulations**”) and Cl. 2(VII)(G), 2(VIII)(D)(5) and 2(XVI)(B)(2) of Part A of Schedule VIII r/w regulation 57(2)(a) of the ICDR Regulations.

6.3. The relevant provisions in this regard are provided hereunder:

SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009

Regulation 57

Manner of disclosures in the offer document.

57. (1) The offer document shall contain all material disclosures which are true and adequate so as to enable the applicants to take an informed investment decision.

(2) Without prejudice to the generality of sub-regulation (1):

(a) the red-herring prospectus, shelf prospectus and prospectus shall contain:

(i) the disclosures specified in Schedule II of the Companies Act, 1956;

and

(ii) the disclosures specified in Part A of Schedule VIII, subject to the provisions of Parts B and C thereof.

Regulation 60(7)(a)

Public communications, publicity materials, advertisements and research reports.

60.(1) Any public communication including advertisement and publicity material issued by the issuer or research report made by the issuer or any intermediary concerned with the issue or their associates shall contain only factual information and shall not contain projections, estimates, conjectures, etc. or any matter extraneous to the contents of the offer document.

(2)...

(7) Any advertisement or research report issued or caused to be issued by an issuer, any intermediary concerned with the issue or their associates shall comply with the following:

(a) it shall be truthful, fair and shall not be manipulative or deceptive or distorted and it shall not contain any statement, promise or forecast which is untrue or misleading;

Part A of Schedule VIII [See regulations 14(3), 37(a), 44, 45(1)(f), 57(2)(a) and 57(2)(b)]

DISCLOSURES IN RED HERRING PROSPECTUS, SHELF PROSPECTUS AND PROSPECTUS

(1)...

(2) An issuer making a public issue of specified securities shall make the following disclosures in the offer document. However, an issuer making a fast track issue of specified securities may not make the disclosures specified in Part B of this Schedule in the offer document. Further, an issuer making a further public offer of specified securities may not make the disclosures specified in Part C of this Schedule, in the offer document, if it satisfies the conditions specified in para 2 of that Part:

(I)...

(VII) Particulars of the Issue:

(A)Objects of the Issue:

(G) **Sources of Financing of Funds Already Deployed:** The means and source of financing, including details of bridge loan or other financial arrangement, which may be repaid from the proceeds of the issue.

(VIII)About the Issuer:

(A)Objects of the Issue:

(D) History and Corporate Structure of the issuer:

(1)...

(5) **Other agreements:**

(a)The dates, parties to, and general nature of every other material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the issuer or a contract entered into more than two years before the date of the offer document.

(b)All such agreements shall be included in the list of material contracts required under sub-item (A) of Item (XII)

(XVI)Offering Information:

(A) ...

(B)Declaration:

(1)The draft offer document (in case of issues other than fast track issues) and offer document shall be approved by the Board of Directors ofthe issuer and shall be signed by all directors, the Chief Executive Officer, i.e., the Managing Director or Manager within the meaning of the Companies Act, 1956 and the Chief Financial Officer, i.e., the whole-time finance director or any other person heading the finance function and discharging that function.

(2)The signatories shall further certify that all disclosures made in the offer document are true and correct.

6.4. Upon a conjoint reading of the above provisions, it is seen that the above provisions of the ICDR Regulations cast the following obligations:

6.4.1.Regulation 57 (1) – The offer document is required to make all material disclosures.

6.4.2.Regulation 60(7)(a) – The issuer, in any advertisement issued by it, should provide truthful and fair information and refrain from including any information that is manipulative or deceptive or distorted, or a promise or forecast which is untrue or misleading.

6.4.3.Clause 2(VII)(G) of Part A of Schedule VII – The details of loans or any financial arrangement, which may be repaid from the proceeds of the issue.

6.4.4. Clause 2(VIII)(D)(5) of Part A of Schedule VII – The details of contracts that are material and not in the ordinary course of business are required to be disclosed by the issuer company.

6.4.5. Clause 2(XVI)(B)(2) of Part A of Schedule VII – The signatories to an offer document shall further certify that all disclosures made in the offer document are true and correct.

6.5. Thus, the offer document, which means the red herring prospectus, prospectus or shelf prospectus and information memorandum in terms of section 60A of the Companies Act, 1956 in case of a public issue and letter of offer in case of a rights issue, has to make all material disclosures. Further, the offer document has to provide the details of the loans or financial arrangement, which would draw on the proceeds of the issue as well as the details of material contracts.

6.6. In the present case, the Company, has claimed that Rs. 19.50 crore was used for the repayment of ICDs taken prior to IPO to Premier Fiscal. Similarly, it has been stated by the Company vide its letter dated December 09, 2015 that amounts of Rs. 1,01,24,274, Rs. 1,01,00,603, Rs. 1,01,12,439 and Rs. 1,01,24,274 were transferred on March 10, 2011 to Fulford Sales P Ltd., SM Mercantiles P Ltd., Deeksha Marketing P Ltd. and Navsari Commodities P Ltd. respectively towards repayment of ICDs availed by SIL prior to the IPO for arranging funds required for meeting the expenses related to the IPO. Clause 2(VII)(G) of Part A of Schedule VII is quite explicit that the offer document should disclose the details of loans or any financial arrangement, which may be repaid from the

proceeds of the issue. It is to be noted that the list of entities from whom SIL had taken ICDs during the relevant period did not include Fulford, SM Mercantiles, Deeksha and Navsari and the same should have been stated in the offer document. Similarly, it has been stated that Rs. 2.04 crore was transferred to Manan Trading Co. (MTC) and Rs. 2 crore to Girish Kumar Ramanlal Choksi for repayment of ICDs and payment to suppliers. While all along, SIL had been contending that the amount transferred to MTC & GKRC was repayment of earlier ICDs, upon seeking documentary evidence regarding the receipt of the claimed ICD amount, SIL vide letter dated February 11, 2016 claimed that the same was an error and the transfer was towards supply of raw materials. Thus, even though the Company had paid considerable amounts from the issue proceeds towards purported repayment of ICDs received prior to the IPO, it is clear that proper disclosures were not made, thereby violating the obligation cast on it under Clause 2(VII)(G) of Part A of Schedule VII.

6.7. The Company has in its reply dated May 15, 2017 has stated that *“in the year 2011, ADS Finance, the financial advisor to the Company then, approached the Company with an offer to invest the surplus funds, if any, in Regent Capital Private Limited as an inter- corporate deposit in order for the Company to earn interests on the principal amounts being so invested by the Company. At such times, the Company had surplus funds available out of the funds raised from the initial public offering and in order to utilize such unutilized funds, in the interim period, the Company vide its board resolution dated March 05, 2011 resolved to grant the inter corporate deposit of Rs.*

2400 Lacs to Regent Capital Private Limited.” (emphasis supplied) Further, the Company in its reply has stated that it granted the inter corporate deposit pursuant to an agreement dated March 08, 2011. The said agreement was for a period of 10 months from the date of execution at a cost of 15% per annum. The said amount was to be repaid on or before December 11, 2011. Furthermore, the Company has informed in its reply that Rs. 11,13,12,500 could only be recovered from the Rs. 24 crore as Regent Capital started facing financial difficulties. Also, the Company has informed (as on May 17, 2017) that it did not initiate any legal proceedings against Regent Capital for recovery of the outstanding amount as Regent Capital had assured the Company of repayment, and initiation of legal proceedings would have resulted in legal expenses without any positive outcome.

6.8. It would be relevant to consider the following dates:

Table- 13

Sl. No.	Date	Event
1.	January 22, 2011	Red Herring Prospectus filed with the ROC.
2.	February 21, 2011	Issue opens.
3.	February 24, 2011	Issue closes.
4.	March 03, 2011	Prospectus filed with the ROC.

6.9. Further, the Prospectus filed by the Company in the “Funds Requirement” part states that –

“Funds Requirement

The requirement of Funds, as estimated by the management is as under:

Sr. No	Particulars	Amount (Rs. In lacs)
A.	Expansion of the existing apparel manufacturing unit	2,628.93
B.	Working Capital Requirement	2,730.00
C.	Setting up Retail Outlets and Brand Building	590.00
D.	Meeting General Corporate Expenses	911.77
E.	Meeting the Issue Expenses	616.03
	TOTAL	7476.73

Similarly, in the “Means of Finance” part it states that –

“Means of Finance

Sr. No	Particulars	Amount (Rs. In lacs)

A.	Proceeds from Initial Public Offer	6,997.76
B.	Internal Accruals	478.97
	TOTAL	7,476.73

6.10. So, it is seen from the above that the Company in the Prospectus dated March 03, 2011 has stated that it required the funds for five purposes namely, Expansion of the existing apparel manufacturing unit; Working Capital Requirement; Setting up Retail Outlets and Brand Building; Meeting General Corporate Expenses; Meeting the Issue Expenses. However, the Company on March 05, 2011, two days from the filing of the prospectus stating the above purposes as the reasons for fund requirements, passed a Board Resolution to lend Rs. 24 crore as ICDs to Regent Capital. The Company in its reply has stated that in the year 2011, ADS Finance, the financial advisor to the Company then, approached the Company with an offer to invest the surplus funds, if any, in Regent Capital as an inter- corporate deposit in order for the Company to earn interest. I find it quite strange that the Company had already, even before the IPO had opened, determined that it would have a long standing surplus from the IPO proceeds so as to deploy in ICDs. This makes it clear that the decision to grant ICDs to the tune of Rs. 24 crore to Regent Capital had already been made by the Company/directors prior to the filing of the prospectus. The board resolution two days after the filing of the prospectus was a ploy to avoid disclosure in the offer document about the proposed grant of ICDs to Regent

Capital. Further, the realization of only Rs. 11,13,12,500 out of the Rs. 24 crore granted as ICDs, and the deliberate avoidance of any legal action by the Company for recovery of the balance amount from Regent Capital clearly establishes the *mala fide* intent of the Company and its directors.

6.11. It has also been alleged in the SCN that Rs. 19.50 crore was paid to Premier Fiscal under the false claim of repayment of ICDs taken prior to the IPO. In this regard, it has been stated by the Company in its reply that the Company had availed the ICDs for meeting the expenses related to public issue and meeting its working capital requirements. Also, it has been stated that as meeting working capital requirement and meeting the issue expenses were in the objects of the issue, the utilization of issue proceeds for repayment of ICDs availed for meeting issue expenses and working capital requirements conform to the objects of the IPO as mentioned in the prospectus. Further, it has been submitted by the Company that it had banking relations with the Shamrao Vithal Co-operative Bank Limited and, as such, on March 09, 2011 passed a resolution to keep an amount of Rs. 23,40,00,000 as Fixed Deposit. The Company availed a loan of Rs. 22,23,00,000 on the Fixed Deposit and the said loan was used to repay the ICDs.

6.12. The Company in the prospectus dated March 03, 2011 has stated that it required the funds for the four purposes named above. However, it is again seen from the above that within 6 days of filing the prospectus, the Company put an amount of Rs. 22,23,00,000 as a Fixed Deposit. Based on this Fixed Deposit, the Company

availed a loan and paid Rs. 19.50 crore to Premier Fiscal. The Company has defended its action by stating that as meeting working capital requirement and meeting the issue expenses were in the objects of the issue, the utilization of issue proceeds for repayment of ICDs availed for meeting issue expenses and working capital requirements conform to the objects of the IPO. I do not find this reasoning convincing at all. In this regard, reference is drawn to Clause 2(VII)(G) of Part A of Schedule VII of the ICDR Regulations. The said clause states that the issuer should provide specific details of existing loans or any financial arrangement, which may be repaid from the proceeds of the issue. So, if the Company had taken ICDs for working capital requirement and issue expenses then the same should have been specifically mentioned in the Offer Document, which the Company has not done. It must be noted that the objects of the issue, as provided in the offer document, denote the areas on which money raised by way of the issue shall be utilized. The Company cannot start utilising the proceeds for paying off debt taken for expenses already incurred, unless specific disclosure of the same is provided as per the abovementioned clause. Therefore, the defence of the Company that as meeting working capital requirement and meeting the issue expenses were in the objects of the issue, the utilization of issue proceeds for repayment of ICDs availed for meeting issue expenses and working capital requirements conform to the objects of the IPO is devoid of any merit.

6.13. The SCN has alleged that an amount of Rs. 6 crore from the IPO proceeds was transferred to B Ravishankar Pai under the false claim of land deal. In this regard,

it has been submitted by the Company in its reply that Ravi Shankar Pai was a field executive officer of SIL and had joined in the year 2010. One of the objects of the issue was to raise funds for the expansion of existing apparel manufacturing unit by construction of a second floor on the existing factory premises. It has been submitted by the Company that the money to be utilized towards building of the second floor on the existing factory premises was kept unused, the Company vide board resolution dated March 14, 2011 resolved that the money be used for purchase of land in the vicinity of the existing factory premises. Further, the Company has submitted that due to the communication skills of Mr. B Ravishankar Pai in dealing with the third parties and intermediaries, the Company authorized him to negotiate and deal with all levels of people in relation to the said purchase. Also, the Company did not directly deal with land dealers ostensibly because whenever a corporate entity is involved, the broker tries to charge comparatively higher amount of brokerage than is normally chargeable. By way of a board resolution dated March 22, 2011, a sum of Rs. 6 crore was transferred to the bank account of B Ravishankar Pai, when the negotiation was at the final stages and he was about to transfer the money to the dealer. It has been further submitted that land dealers were demanding for advance payment before proceeding further with the land deal, and therefore, the Company instructed B Ravishankar Pai to transfer the amount lying in his account to the said land dealers.

6.14. Before proceeding with the consideration of the submissions made by the Company, it is relevant to place herewith certain findings of the investigation. SEBI vide summons dated April 27, 2012 asked SIL to provide copies of the agenda and minutes of all board meetings/audit committee meetings since April 01, 2010. SIL vide letter dated June 12, 2012 provided details of the same including index of dates of all meetings of its board of directors in chronological order. No mention of any meeting dated March 22, 2011 was observed in the index or copies of documents relating to any board meeting held on March 22, 2011. Further, there is no mention of any such board meeting in its Annual Report of 2010-11. Also, there is no mention of such board meeting on the website of the exchange.

6.15. A perusal of the bank account statement (Axis Bank, Bank Account No. 833438270) of B Ravishankar Pai shows that a total amount of Rs. 6 crore was transferred to B Ravishankar Pai in three tranches of Rs 2 crore on March 23, 2011. Thereafter, it is seen that the money received by B Ravishankar Pai was transferred the very next day i.e., March 24, 2011 to entities namely Ailish Traders Pvt. Ltd (Rs. 1.5 crore), Galaxy Corporation (Rs. 50 lakh), Mehta Trading Co (Rs. 75 lakh), Montaex Trading Co (Rs. 75 lakh) and on March 25, 2011 to Classic Trading Co (Rs. 1 crore). The Company has claimed that these amounts constituted the advance for the land. Subsequent to the above transactions, it is seen that a total of Rs. 6.5 crore was received from SM Constructions in three tranches of Rs. 2 crore, Rs. 3 crore and Rs. 1.25 crore on

March 31, 2011; April 06, 2011 and April 06, 2011 respectively. The above amounts received were transferred to SIL in two tranches of Rs. 2 crore and Rs. 4.25 crore on March 31, 2011 and April 06, 2011 respectively. It is thus seen from the above that while B Ravishankar Pai had paid out Rs. 4.25 crore to five entities, which has been claimed by the Company as advance for purchase of land, upon receipt of Rs. 6 crore from SIL. Subsequent to this, 6.25 crore was received from SM Construction, which was transferred to SIL. This transfer has been shown by the Company to claim that Rs. 6 crore originally transferred to B Ravishankar Pai for purchase of land has been returned to the Company. This is, however, not the case. It is so because the five entities to whom Rs. 4.25 core had been transferred, which has been claimed by the Company as advance for land, did not return that money. The bank statement of B Ravishankar Pai starting from January 01, 2011 till February 18, 2012, when the account was closed, shows no entry denoting any transfer of money by the above-mentioned five entities to B Ravishakar Pai. The amount of Rs. 6.25 crore that was transferred to SIL came from SM Constructions. Therefore, the submission of the Company that Rs. 6 core was for purchase of land and the same was returned to the Company as the transaction did not fructify, is not borne out by the facts. Further, it does not seem credible that the Company by way of a board resolution dated March 14, 2011 resolved that the money be used for purchase of land, and by March 22, 2011 it had found suitable land and decided to transfer money for the purchase of the land. The speed of this so-called transaction raises doubts about its authenticity. In addition to the above, the Company has not provided

any details in respect of the land viz., name of the seller(s), details of the land, location, area, rate etc. It has merely stated that the deal could not go through due to some 'unforeseen circumstances', which is very generic in nature. Accordingly, I find that the claim that Rs. 6 crore was transferred to B Ravi Shankar Pai for the purpose of buying of land is devoid of merit. Further, the fact that the five entities to whom the money was transferred, were not suppliers of the Company show that the money has not been utilised as per the objects of the IPO.

6.16. The SCN has also alleged that the Company, by transferring an amount of Rs. 2.04 crore to Manan Trading Co. and Rs. 2 crore to Girish Kumar Ramanlal Choksi has deviated from the objects of the issue as disclosed in the prospectus, and as such siphoned off the funds. The Company in its reply has submitted that the payment to the above entities was made in furtherance of their invoices raised for supply of fabric to the Company. It has been thus asserted by the Company that as meeting working capital requirement was one of the objects of the IPO, the Company has utilised the proceeds as per the objects.

6.17. It is revealed from the bank statements of the Company that on March 12, 2011, an amount of Rs. 2.04 crore (approx) was transferred to the account of one Manan Trading Co. and amount of Rs. 1 crore was transferred to Girishkumar Ramanlal Choksi from the bank account of SIL maintained with Axis Bank bearing number 910020010977754. Similarly, on March 14, 2011 an amount of Rs. 1 crore was further transferred to Girishkumar Ramanlal Choksi from another bank account of SIL maintained with Axis Bank bearing number

911020013667782. So, there is no doubt that money was transferred to the above entities by SIL out of the IPO proceeds. The Company has held the defence that since the payment to the above Noticees was for the supply of fabric to the Company, the proceeds had been used as per the objects of the IPO. In this regard, it is seen from the investigation report that SIL had all along contended that the amount transferred to Manan Trading Co. and Girishkumar Ramanlal Choksi was for repayment of ICDs received prior to the IPO. However, upon seeking documentary evidence regarding the receipt of the claimed ICD amount, SIL vide letter dated February 11, 2016 claimed that the same was an error and the transfer of money was actually towards supply of raw materials. It is to be noted that SIL by way of its letter dated June 12, 2012 had provided SEBI a list of its suppliers. The said list did not feature either Manan Trading Co. or Girishkumar Ramanlal Choksi. Further, I also note that no invoices have been submitted by SIL to SEBI, based on which the above-mentioned payments were made to Manan Trading Co. and Girishkumar Ramanlal Choksi. The Company has taken the defence that as certain files were seized by the Sales Tax Authorities, they were not in a position to provide the copies of the invoices. I find the justification of the Company quite nebulous and inconsistent. Accordingly, I find the same unacceptable and hence conclude that the money has been used for objects not provided in the IPO.

6.18. The SCN has alleged that proceeds of the IPO were transferred on March 10, 2011 to Fulford Sales P Ltd. (**Fulford**), SM Mercantiles P Ltd. (**SM**

Mercantiles), Deeksha Marketing P Ltd. (**Deeksha**) and Navsari Commodities P Ltd. (**Navsari**) to the tune of Rs.1,01,24,274 ; Rs.1,01,00,603 ; Rs.1,01,12,439 ; and Rs.1,01,24,274 respectively as part of the scheme to siphon off the IPO proceeds. The Company in its reply has submitted that these payments were made towards repayment of ICDs availed by SIL prior to the IPO for arranging funds required for meeting the expenses related to the IPO.

6.19. Upon an examination of the prospectus dated March 03, 2011 filed by the Company, it is seen that repayment of ICDs taken prior to the IPO was not a part of the Objects of the Issue. Also, as already pointed out in the previous part of this order, clause Cl. 2 (VII) (G) mandates that any financial arrangement or loan taken prior to the IPO, which is to be repaid from the IPO proceeds has to be disclosed in the offer document/prospectus. No such disclosure is found in the prospectus filed by the Company. Further, it is seen from the documents that vide summons dated October 10, 2013, SIL was asked to provide detailed terms & conditions of ICDs taken/given by it during the year 2010-11. Pursuant to it, SIL by way of letter dated November 13, 2013, provided the details of ICDs received by it during the said period. It is to be noted that the list of entities from whom SIL had taken ICDs during the relevant period, as provided by way of the said letter, did not include Fulford, SM Mercantiles, Deeksha and Naysari. The submission of SIL that the payments made to Fulford, SM Mercantiles, Deeksha and Naysari were in respect of the ICDs received by it appears to be an

afterthought and without merit. It therefore stands established that the said payments to the above entities were made to siphon off the IPO proceeds.

6.20. The SCN has alleged that an amount of Rs. 1.00 crore was transferred to SM Construction by SIL from the proceeds of the IPO. SIL had submitted bills, claiming that they had been provided by S M Constructions for work undertaken. Santosh Vishnu Ingle, the proprietor of SM Construction, stated that he was not aware of the same and that same was not raised by him nor pertained to him. Accordingly, it was alleged that the amount of Rs. 1.0 crore transferred by SIL to SM Construction was not for any construction activity and that SIL had deviated from the Objects of the Issue and siphoned off the funds.

6.21. It is noted that vide letter dated January 05, 2016, it has been stated by SIL that the said funds were transferred to SM Construction as advance for undertaking the construction work awarded by the Company. Further, upon perusal of the statement of Santosh Vishnu Ingle dated November 05, 2015, it is seen that the bills submitted by SIL to SEBI, claiming to have been provided by S M Construction in favour of SIL were shown to Santosh Vishnu Ingle. On this, he stated that he was not aware of those bills and that he had not raised those bills. Also, it is gathered from his statement that he was not aware of the transactions running into crores in the bank accounts maintained in his name. Also, he has stated that he had handed over signed cheques to Murugan M Thevar / Deepak Shenoy of SIL. Further, it has been stated by Santosh Vishnu Ingle that no work was ever done by him through SM Construction.

6.22.It is relevant to note that SM Construction was purportedly involved in the construction business. Naturally, any entity involved in construction related activities, would be required to make payments towards supplies of construction namely, sand, cement, bricks, iron bars; and expenditure towards labour, architect, supervisors etc. However, the examination of the statement of the bank account of SM Construction maintained with Axis Bank (A/c No. 652010200002523) shows that the receipts/payments did not pertain to construction related activities and most of the entries appear to be related to SIL and/or entities related/connected to promoters/directors of SIL. Furthermore, the following facts emerge regarding the close relationship between SIL and its promoter directors and Santosh Vishnu Ingle:

6.22.1.Santosh Vishnu Ingle started working under Murugan M Thevar, the MD of SIL, from 1993-94 on cash payment basis;

6.22.2.Santosh Vishnu Ingle was a witness for Murugan M Thevar in the agreement for sale dated July 27, 2007 for purchase of land by then Sudar Garments Pvt. Ltd. from one Nandlal T Gumani;

6.22.3.the address of Santosh Vishnu Ingle was the same as that of SIL as per its Memorandum and Articles of Association: Bldg. no. 44, Flat no. 1552, Tilak Nagar, Chembur (East), Mumbai, 400089;

6.22.4.Santosh Vishnu Ingle was also the proprietor of Shalom Fashion, which was stated to be one of the top customers of SIL in its Prospectus

6.22.5.The account of SM Construction was opened in the same branch where SIL also held a bank account (A/c No. 911020013567782, Axis Bank, New Panvel Branch).

6.22.6.Santosh Vishnu Ingle was the introducer with respect to the bank accounts of Reena Nadar and Edwin Y Joseph, the other suppliers/customers related to SIL; and

6.22.7.Santosh Vishnu Ingle was one of the allottees of 1,87,500 shares prior to IPO of SIL (appearing as one of the Top 7 shareholders holding 1.98% of total shares, as on date of filing of prospectus).

6.23.In view of the above, I find that Santosh Vishnu Ingle was closely related to SIL.

I also find that SM Construction did not have any visible business activities, its name appeared only in the bank account and it was run and used by promoter/director of SIL and as per the arrangement, the proprietor Santosh Vishnu Ingle used to hand over signed blank cheques to the promoter/director of SIL.Thus, having regard to the statement of proprietor of SM, and the above mentioned facts, it is established that SM Construction was not into any construction activity and the claim of SIL that Rs. 1.0 crore was transferred to SM Construction as advance for undertaking the construction work awarded by the Company appears to be dubious. The statements of Santosh Vishnu Ingle and the Company are mutually contradictory and do not invoke any credence. Accordingly, I conclude that the amount of Rs. 1.0 crore transferred by SIL to SM Construction was not for any construction activity but purely on the basis of

the long personal relationship that Santosh Vishnu Ingle shared with the Company, and that SIL has deviated from the Objects of the Issue and siphoned off the funds.

6.24. The SCN has also alleged that the transfers made by SIL to the following entities was in deviation from the objects of the issue:

6.24.1. ***Elim Traders***– Reena Nadar, employed with SIL was the proprietor of Elim Traders. An amount of Rs. 0.84 crore was transferred by SIL to Elim Traders on March 28, 2011 purportedly for the supply of raw materials by Elim Traders.

6.24.2. ***RJ Traders*** – Edwin Joseph, employed with SIL as Manager Corporate Planning was the proprietor of RJ Traders. An amount of Rs. 0.61 crore was transferred by SIL on March 28, 2011 purportedly for the supply of raw materials by RJ Traders.

6.25. In this regard, it has been stated by the Company that it is engaged in the manufacturing of garments for men, women and kids and functions as an integrated apparel manufacturer. For this purpose, it procures raw material directly from fabric manufacturers and authorised distributors and makes payment. Elim Traders had provided a range of fabrics to the Company in normal course as and when demanded by the Company. Similarly, in respect of RJ Traders it has been stated that RJ Traders was engaged in the supply of cotton polyester lining fabric, poplin cotton fabric etc. and that SIL had been transacting

with RJ Traders since 2010, prior to the IPO. Furthermore, the payment to RJ Traders had been effected against the invoices raised by RJ Traders.

6.26. It is seen that Reena Nadar, in her statement dated November 03, 2015 given to SEBI has stated that Elim Traders had no operations/activities since its formation and that it existed only on paper, and had a bank account maintained with Federal Bank, Chembur Branch. She has also stated that Elim Traders had no registration with any authority/body including registration under the Shops and Establishment Act. With respect to the copies of several bills/invoices etc., submitted by Elim earlier, Reena Nadar in her statement dated November 03, 2015 has stated that the cited invoices etc., were not prepared by her and were given to her and that she had signed all invoices etc., as she was told to do so by Deepak Shenoy / Murugan M Thevar. Further, investigation has brought out that Rs. 84.73 lakh (approx. Rs. 0.84 crore) transferred by SIL to Elim Traders for the purported supply of raw materials was further transferred by Elim Traders to two connected entities viz., Shree Bhagwati International and Shalom Fashion. These two entities then in turn transferred the money back to SIL. In this respect, the details of the entries from the bank statement of Shree Bhagwati International are provided hereunder:

Table - 14

Date	Particulars	Chq. No.	Withdrawals	Deposits	Balance	
28-Mar-11	ELIM TRADERS			1,23,00,000.00	1,24,33,772.00	Cr

28-Mar-11	RTGS:SUDAR GARMENTS LTD:FDRL	10022527	1,22,83,622.00		1,50,150.00	Cr
28-Mar-11	RTGS:SUDAR GARMENTS LTD:FDRL		56		1,50,094.00	Cr

Further, the details of the entries from the bank statement of Shalom Fashion are provided hereunder:

Table -15

Date	Particulars	Chq. No.	Withdrawals	Deposits	Balance	
28-Mar-11	ELIM T RADERS			45,00,000.00	1,35,07,456.00	Cr
28-Mar-11	RTGS:SUDAR GARMENTS LTD:FDRL	10025887	1,27,49,248.00		7,58,208.00	Cr

Thus, considering the statements of the proprietor of Elim Traders and relying upon the entries of Shalom Fashion and Shree Bhagwati International, I find that all these entities did not have any genuine business and/or commercial activities and existed only on paper. Further, the stated purpose for transfer of funds to these entities was false and hence, the amount of Rs. 84.73 .lakhs transferred from the IPO proceeds of SIL to Elim Traders has not been used as per the Objects of the Issue mentioned in the Prospectus of SIL dated March 03, 2011 and siphoned off.

6.27.As regards the transfer of funds to RJ Traders, it is seen that Edwin Joseph, in his statement dated November 09, 2015 stated that he was not aware of the

activities of RJ Traders and that it was opened as per the instruction of Murugan M Thevarand Deepak Shenoy. Also, it was stated by him that RJ Traders did not have any registration with any government agency like Municipal Corporation etc. He further stated that he used to sign blank cheques and handover the same to Deepak Shenoy and Murugan M Thevar. With respect to the copies of several bills / invoices etc., submitted by RJ Traders earlier, it was stated by Shri Edwin Joseph that invoices, the seal of RJ Traders, were provided to him by Deepak Shenoy and Murugan M Thevar, and he was asked to sign which he did. He was not aware of the details of the invoices submitted earlier to SEBI. Further, it has been brought out by investigation that the referred Rs. 61.27 lakh (approx. Rs. 0.61 crore) transferred by SIL to RJ Traders for purported supply of raw materials was further transferred to two connected entities viz., Addon Exports & Shalom Fashion, who in turn transferred the said funds to SIL on the same day, viz. March 28, 2011. In this respect, the details of the entries from the bank statement of Addon Exports are provided hereunder:

Table-16

Date	Particulars	Chq. No.	Withdrawals	Deposits	Balance	
28-Mar-11	R J TRADERS			80,00,000.00	80,99,944.00	Cr
28-Mar-11	RTGS:SUDAR GARMENTS LTD:FDRL	10018653	78,96,488.00		2,03,456.00	Cr
28-Mar-11	RTGS:SUDAR GARMENTS LTD:FDRL		56.00		2,03,400.00	Cr

Further, the details of the entries from the bank statement of Shalom Fashion are provided hereunder:

Table- 17

Date	Particulars	Chq. No.	Withdrawals	Deposits	Balance	
28-Mar-11	R J TRADERS			60,00,000.00	90,07,456.00	Cr
28-Mar-11	ELIM T RADERS			45,00,000.00	1,35,07,456.00	Cr
28-Mar-11	RTGS:SUDAR GARMENTS LTD:FDRL	10025887	1,27,49,248.00		7,58,208.00	Cr

Furthermore, Deepak Shenoy, Independent Director in SIL, in his statement dated November 30, 2015 has *interalia* stated that entities like RJ Traders were used to generate bills and route funds in respect of transactions with SIL were concerned. Thus, considering the statements of the proprietor of RJ Traders and relying upon the entries of Addon Exports and Shalom Fashion, I find that all these entities did not have any genuine business and/or commercial activities and existed only on paper. Also, the stated purpose for transfer of funds to these entities was false and hence, the amount of Rs. 0.60 crore transferred from the IPO proceeds of SIL to RJ Traders has not been used as per the Objects of the Issue mentioned in the Prospectus of SIL dated March 03, 2011 and siphoned off.

6.28. The SCN has further alleged that the following entities, which did not have any genuine commercial activity, were set up and controlled by SIL :

6.28.1.**AR Fabrics** – Ramesh Andy Thevar, part of the promoter group of SIL, was the proprietor of AR Fabrics. Ramesh Andy Thevar is also the brother-in-law of Murugan M Thevar, MD of SIL. AR Fabrics existed only on paper with no operational activities since 2006.

6.28.2.**George Street London** – Stalin Muthappa employed with SIL was the proprietor of George Street London. Late Kashi Muthappa, father of Stalin Muthappa, was a friend of Paul Murugan, son of Murugan M Thevar.

6.28.3.**Shree Bhagwati International** – Kamlesh Muthappa Nadar, brother of Stalin Muthappa was the proprietor of Shree Bhagwati International. Paul Murugan, son of Murugan M Thevar, had told him to start a firm in the name of Shree Bhagwati International.

6.28.4.**Addon Exports** – Valliammal Murugan M Thevar was the proprietor of Addon Exports. She is the wife of Murugan M Thevar, MD of SIL, and was part of promoter group of SIL.

6.28.5.**Shalom Fashion** – Santosh Vishnu Ingle was the proprietor of Shalom Fashion. He was also the proprietor of S M Construction, a purported supplier to SIL. He had also received a total of 1,87,500 shares of SIL prior to the IPO.

6.29. The Company in its reply has submitted that—

6.29.1. A.R. Fabrics was a proprietary concern of Ramesh Andy Thevar who was engaged in the supply of fabrics including cotton stripe fabric, cotton check

fabric, cotton polyester mix fabric, poplin cotton fabric etc to Sudar Industries Limited since 2005 i.e. even prior to the IPO. Also, it has been submitted by SIL that they deny the allegation that AR Fabrics was controlled by SIL for the purpose of routing funds and did not have any genuine commercial activity.

6.29.2. With respect to George Street London, the Company has submitted that it strongly denies any allegation that the entity was controlled by SIL for the purpose of routing of funds and did not have any genuine commercial activity. Further, as regards the statement of Stalin Muthappa that he used to sign blank cheque books and hand it over to SIL, the Company has submitted that it denies the said allegation. Also, the Company has submitted that it was quite unusual for a person of adult age and sound mind to sign blank cheques blindly and hand it over to any person without any valid reason.

6.29.3. The Company has denied the statement made by Kamlesh Muthappa Nadar that Paul Murugan, son of Mr. Murugan M Thevar, MD of SIL, had told him to start a firm in the name of Shree Bhagwati International and that he signed blank cheques and handed over it to SIL. The Company has also denied that Kamlesh Muthappa Nadar was unaware of commercial activities of Shree Bhagwati International or transactions in its accounts. Also, the Company has submitted that it was quite unusual for a person of adult age and sound mind to sign blank cheques blindly and hand it over to any person without any valid reason.

6.29.4. With respect to Addon Exports, the Company has submitted that it was a proprietorship of Valliammal Murugan M Thevar, wife of Murugan M Thevar —

MD of SIL. Addon Exports was one of the major customers of SIL for the FY 2008-09 and 2009-10 contributing 28.54% and 30.86% respectively to total sales of the Company. Further the Company has submitted that it being a separate legal entity, it was not involved in any manner with respect to issue of certificate by M/s. Suresh Hegde & Co, Statutory Auditors of SIL to Addon Exports for the purpose of opening of bank account in Federal Bank.

6.29.5. The Company has submitted that Shalom Fashion is a proprietorship of Santosh Vishnu Ingale. Shalom Fashion is an agent of readymade garments which are supplied to it by certain manufacturers of readymade garments, one of them being SIL. Shalom Fashion was one of the major customers of SIL for the FY 2008-09 and 2009-10 contributing 23.19% and 33.66% respectively, to the total sales of the Company. The Company in its reply has denied the allegation that Shalom Fashion did not have any commercial dealings and was controlled by SIL for the purpose of routing funds.

6.30. An analysis of the bank statements of the above mentioned entities was carried out. The analysis of the bank statements is as under:

6.30.1. *AR Fabrics* – During the period March 03, 2011 and March 31, 2011, the bank account statement of AR Fabrics shows 3 instances where deposits came into the account. The particulars show that in all the 3 instances money had been transferred by SIL. Similarly, during the said period, the bank account statement of AR Fabrics shows 8 instances when withdrawals were made from the account. The particulars show that out of the 8 instances at least on 6 instances money

had been transferred to Narayan Hegde, Suresh Hegde, Shalom Fashion, Bhaskar Shenoy and MTV Exports; being entities related to SIL.

6.30.2.*George Street London* – During the period March 03, 2011 and March 31, 2011, the bank account statement of George Street London shows 4 instances where deposits came into the account. The particulars show that in all the 4 instances money had been transferred by R J Traders, Shalom Fashion and Elim Traders; entities that are related to SIL. Similarly, during the said period, the bank account statement of George Street London shows 5 instances when withdrawals were made from the account. The particulars show that on all the 5 instances money had been transferred to SIL.

6.30.3.*Shree Bhagwati International* – During the period March 03, 2011 and March 31, 2011, the bank account statement of Shree Bhagwati International shows 5 instances where deposits came into the account. The particulars show that in all the 5 instances money had been transferred by R J Traders and Elim Traders; entities that are related to SIL. Similarly, during the said period, the bank account statement of Shree Bhagwati International shows 9 instances when withdrawals were made from the account. The particulars show that on all the 9 instances money had been transferred to SIL.

6.30.4.*Addon Exports* – During the period March 03, 2011 and March 31, 2011, the bank account statement of Addon Exports shows 7 instances where deposits came into the account. The particulars show that in all the 7 money had been transferred by R J Traders, Elim Traders and Shalom Fashion ; entities that are

related to SIL. Similarly, during the said period, the bank account statement of Addon Exports shows 10 instances when withdrawals were made from the account. The particulars show that on all the 10 instances money had been transferred to SIL.

6.30.5. *Shalom Fashion* – During the period March 03, 2011 and March 31, 2011, the bank account statement of Shalom fashion shows 12 instances where deposits came into the account. The particulars show that out of the 12 instances mentioned, on at least 8 instances money had been transferred by R J Traders, Elim Traders, S M Construction and A R Fabrics; entities that are related to SIL. Similarly, during the said period, the bank account statement of Shalom fashion shows 21 instances when withdrawals were made from the account. The particulars show that out of the 21 instances mentioned above, on at least 20 instances money had been transferred in favour of V Vallimmal Thevar, Addon Exports, George Street London and SIL; entities that are related to SIL.

6.31. It is seen from the analysis of the bank statements of these entities that the transfer of the IPO proceeds, except for AR Fabrics, was not directly made by SIL to these entities. However, it has been seen that these entities acted as links for the routing of the IPO proceeds once they were transferred from SIL to the entities described in the previous part of this order. It is seen from the details brought out by the investigation that AR Fabrics was the proprietary concern of Ramesh Andy Thevar, who was the brother-in-law of Murugan M Thevar, MD of SIL. He had been allotted 1,87,500 shares of SIL prior to the IPO and was shown

as part of Promoter group of SIL as per Prospectus of SIL dated March 03, 2011. Furthermore, the address of Ramesh Andy Thevar was the same as that of Sudar Garments Pvt Ltd., viz. Bldg No.44, Flat No. 1552, Tilak Nagar, Chembur(east), Mumbai- 400 089 (as per Memorandum and Articles of Association of SIL). In addition to the above, Ramesh Andy Thevar in his statement dated November 03, 2015, has stated that AR Fabrics was started as per the instructions of Murugan M Thevar and that the bank account was operated by Murugan M Thevar to whom he used to handover signed blank cheques. Also, it has been stated by Ramesh Andy Thevar that AR Fabrics existed only on paper with no operational activities since 2006. Further, the transactions with A R Fabrics was not disclosed in related party transactions of SIL in the Prospectus of SIL dated March 03, 2011. The multiple chains of connection as brought out above between Ramesh Andy Thevar and Murugan M Thevar/SIL make it clear that AR Fabrics was controlled by SIL for the purpose of routing funds and did not have any genuine commercial activity.

6.32. The proprietor of George Street London was Stalin Muthappa, who was an employee of SIL. It is seen from the details brought by investigation that George Street London was mentioned under the head Trade Receivable in the Balance Sheet of SIL for the FY 2010-11. Further, it has been brought out that Santosh Vishnu Ingle, who also happened to be the proprietor of Shalom Fashion (claimed as a customer by SIL) and SM Construction (claimed as a supplier of SIL), was the introducer for the opening of the account of George Street London

maintained with Federal Bank(A/c No. 13990200005251). It is observed from the bank account statement of George Street London that the said proprietorship firm had major transactions only with SIL and its suppliers/customers. Furthermore, in his statement dated November 27, 2015, Stalin Muthappahas stated that his father, late Kashi Muthappa was a friend of Paul Murugan, son of Murugan M Thevar. He has also stated that he was only aware that a firm named George Street London existed in his name. He used to sign blank cheques, which were handed over to SIL and that he was unaware of the transactions of George Street London. Therefore, the multiple chains of connection as brought out above between Stalin Muthappa and Murugan M Thevar/SIL make it clear that George Street London was controlled by SIL for the purpose of routing funds and did not have any genuine commercial activity.

6.33.The proprietor of Shree Bhagwati International was Kamlesh Muthappa Nadar, brother of Stalin Muthappa, who was the proprietor of George Street London. It has been brought out by investigation that Santosh Vishnu Ingle, the proprietor of Shalom Fashion (claimed as a customer by SIL) and SM Construction (claimed as a supplier of SIL), was the introducer for the opening of the account of Shree Bhagwati International maintained with Federal Bank (A/c No. 13990200005244). Further, investigation has also brought out that Suresh Hegde & Co, statutory auditor of SIL during the IPO, had issued a certificate dated May 23, 2011, stating that Sree Bhagwati International was in the business of wholesale selling of fabrics, for the purpose of opening of Bank Account in

Federal Bank. Also, Shree Bhagwati International was mentioned under the head 'Trade Receivable' in the balance sheet of SIL for the FY 2010-11. In his statement dated November 27, 2015, Kamlesh Muthappa Nadar stated that Paul Murugan, son of Murugan M Thevar, had told him to start a firm in the name of Shree Bhagwati International. He further stated that he signed blank cheques which were handed over to SIL and was unaware of the commercial activities of Shree Bhagwati International or the transactions in its accounts. Further, it is also observed from the bank account statement of Shree Bhagwati International that it had major transactions only with SIL and its suppliers/customers. Therefore, the multiple chains of connection as brought out above between Kamlesh Muthappa Nadar and Murugan M Thevar/SIL make it clear that Shree Bhagwati International was controlled by SIL for the purpose of routing funds and did not have any genuine commercial activity.

6.34. The proprietor of Addon Exports was Valliammal Murugan M Thevar, the wife of Murugan M Thevar, MD of SIL. It is noted that she was part of the promoter group of SIL and had been allotted 3,69,000 shares of SIL prior to the IPO of SIL. In its prospectus dated March 03, 2011, Addon Exports had been indicated as top customer for SIL during the FY 2008-09. However, SIL had not made related party disclosures as per Clause 32 of Listing Agreement with respect to the transactions with Addon Exports in the said Prospectus. Also, SIL had falsely stated in its Prospectus that none of its major customers (which included Addon Exports) were in any way connected directly/indirectly with the

Promoter/Promoter group, even though the proprietor of Addon, Valliammal Murugan M Thevar, was shown to be a part of the Promoter group in the same Prospectus. Further, Suresh Hegde & Co, the Statutory Auditor of SIL during the IPO, issued a certificate dated May 23, 2011, stating that Addon was in the business of wholesale selling of fabrics, for the purpose of opening of a bank account (A/c No. 13990200003843) in Federal Bank. In her statement to SEBI dated November 09, 2015, Valliammal Murugan M Thevar has stated that she was not aware of the activities of Addon Exports and that her husband had told her that Addon Exports was in her name and that details regarding Addon would be provided by her husband. Further, it is also observed from the bank account statement of Addon Exports that it had major transactions only with SIL and entities related to SIL, viz. Elim Traders, Shalom Fashion and RJ Traders, during the period January 01, 2011 to December 31, 2011. Therefore, the multiple chains of connection as brought out above between Valliammal Murugan M Thevar and Murugan M Thevar/SIL make it clear that Addon Exports was controlled by SIL for the purpose of routing funds and did not have any genuine commercial activity.

6.35. The proprietor of Shalom Fashion was Santosh Vishnu Ingle. As stated above, Santosh Vishnu Ingle had been allotted 1,87,500 shares of SIL prior to the IPO and was also the Proprietor of SM Construction. In its prospectus dated March 03, 2011, Shalom Fashion had been indicated as a top customer for SIL during the FY 2008-09. However, the Company's transactions with Shalom Fashion

were not disclosed in the related party transactions of SIL in the Prospectus dated March 03, 2011. Santosh Vishnu Ingle, in his statement dated November 05, 2015, stated that he had signed blank cheques in the name of Shalom Fashion which were handed over to Murugan M Thevar and that he was neither a supplier/buyer to/from SIL, though he had a License in the name of Shalom Fashion under Maharashtra Shops and Establishments Act, 1948. Further, it has been also observed from the bank account statement of Shalom Fashion (A/c No. 13990200002217, Federal Bank) that it had major transactions only with SIL and entities related to SIL, viz. Elim Traders, Addon Exports and RJ Traders, during the period January 01, 2011 to December 31, 2011. Therefore, the multiple chains of connection as brought out above between Santosh Vishnu Ingle and Murugan M Thevar/SIL make it clear that Shalom Fashion was controlled by SIL for the purpose of routing funds and did not have any genuine commercial activity.

B. Whether the Directors of the Company are liable for the above violations of the Company?

6.36. The SCN has alleged that the Company and its directors namely, Murugan M Thevar, Deepak Shenoy, Gopi Chellappan Nair, Shridhar Shetty, Venkatraman Gopal Nadar, M S Anand (V P Finance) and Sapna Karmokar (Company Secretary) have violated the provisions as stated in the SCN.

6.37. In this regard, it is stated that a company works through its directors.

Accordingly, in view of aforesaid finding in respect of the Company, the role of the above-mentioned directors warrants an examination.

6.38. The Investigation Period determined for the matter was March 11, 2011 to March 18, 2011. In this regard, it would be relevant to see the details of the directorship of the above-named Noticees. An examination of the Company's Annual Report dated August 12, 2011 for the financial year 2010-2011 shows that at the relevant time, the Company had five directors. The details of the directors, as provided in the said Annual Report, are as follows:

Table - 18

Name of Director	Category
Murugan M Thevar	Managing Director
Gopi Chellapan Nair	Executive Non Independent
Deepak Shenoy	Non-Executive Independent
Shridhar Shetty	Non-Executive Independent
Venkatraman Nadar	Non-Executive Independent

Also, it is seen from the said Annual Report that a total of twenty board meeting were held on the following dates during the financial year 2010-2011: April 16, 2010; May 06, 2010; May 15, 2010; May 20, 2010; June 01, 2010; July 08, 2010; July 10, 2010; July 14, 2010; July 15, 2010; July 16, 2010; July 19, 2010; September

02, 2010; September 27, 2010; September 29, 2010; November 18, 2010; January 22, 2011; February 28, 2011; March 03, 2011; March 05, 2011; and March 09, 2011. The details regarding the attendance of the directors in the board meetings is provided hereunder:

Table -19

Name of Director	Category	Number of Board Meetings Attended
Murugan M Thevar	Managing Director	20
Gopi Chellapan Nair	Executive Non Independent	18
Deepak Shenoy	Non-Executive Independent	20
Shridhar Shetty	Non-Executive Independent	15
Venkatraman Nadar	Non-Executive Independent	11

6.39. In respect of Murugan M Thevar, it has been stated in the replies that the Noticee was “*not in charge and responsible for the day to day affairs of the Company*” and therefore cannot be held vicariously liable for the violations, if any, committed by the SIL. It is noted that the said Noticee attended all the twenty board meetings that the Company had during the financial year 2010-2011, as reported in the Company’s Annual Report. The said Noticee in its reply has stated that the Company vide its board resolution dated March 05, 2011 resolved to grant an inter-corporate deposit of Rs. 2400 Lacs to Regent Capital. Also, it has been stated by the Noticee that the Company vide board resolution dated March 14,

2011, resolved that such monies be used for purchase of land in the vicinity of the existing factory premises and if need be to build workers quarter in such premises. It has been stated by the Noticee that further to the decision of purchasing land, the Company vide board resolution dated March 22, 2011, transferred a sum of Rs. 6 Cr. in the bank account of B Ravishankar Pai for effecting the purchase of land. Lastly, it has been submitted by the Noticee that on March 09, 2011 the Board passed a resolution to keep an amount of Rs. 23,40,00,000 as Fixed Deposit Company with the Shamrao Vithal Co-operative Bank Limited and thereafter, availed a loan of Rs. 22,23,00,000 on the Fixed Deposit and the said loan was used to repay the ICDs received from Premier Fiscal. The above facts, gathered from the Noticee's own submissions, clearly demonstrate that the decisions to use the proceeds of the IPO for various purposes was done subsequent to board resolutions granting authorisation for such use of the IPO proceeds. I, therefore, find the claim of the Noticee, who was the Managing Director and Chairman of the Company, and was present in all the twenty board meetings that took place in the Financial Year 2010-2011, that he was not in charge and responsible for the day to day affairs of the Company is without any basis.

6.40. It is seen from the Annual Report that the rest of the directors, apart from Noticee No. 2, namely, Deepak Shenoy (Noticee No. 3), Gopi Chellapan Nair (Noticee No. 4), Shridhar Shetty (Noticee No. 5) and Venkatraman Nadar (Noticee No. 6) were Non-Executive Independent Directors. It is seen that

no reply has been received from Gopi Chellapan Nair (Noticee No. 4). It is noted that since the above-named Noticees were categorised as Non-executive Independent Directors, it would be necessary to specifically examine their actions to ascribe liability for the actions of the Company. Reference is drawn to the Order dated November 27, 2019 of the Hon'ble SAT in *G. Unnikrishnan Nair and Others V. SEBI* (Appeal No. 05 of 2018) wherein it was held that “*an independent director shall be held liable only in respect of such acts of omission or commission by a company which had occurred with his knowledge, consent or connivance or where the independent director had not acted diligently.*” The said principle was reiterated by the Hon'ble SAT in its Order dated February 07, 2020 in *Dr. Venkadasamy Venkataramanujan V. SEBI* (Appeal No. 254 of 2019).

6.41. It is seen from the Annual Report that during the financial year 2010-2011, the Company had twenty board meetings, and out of the said twenty meetings, Deepak Shenoy attended all those meetings. Also, with respect to the role of Deepak Shenoy, the CRISIL grading report of the IPO of SIL dated January 21, 2011, stated that—

“One of the independent directors is closely involved in business activities and plays a major role in guiding the promoter in taking business and financial decisions. We believe this will limit his ability to act in the best interest of minority shareholders. Also, we believe the other independent directors have limited understanding of their roles and responsibilities. They are not adequately equipped to provide guidance and exercise oversight to ensure that the interests of minority

shareholders are protected. In the past, the company has made unrelated financial investments which could have otherwise been invested in the operations of the company.”

Further, it has been brought out in the investigation report that Deepak Shenoy was concurrently holding two positions viz., one as an employee of FASIPL, which was acting as a financial consultant to SIL and other as an independent director of Sudar (to which the consultancy was being given). Deepak Shenoy being the key person representing FASIPL on the one hand and concurrently being one of the Independent Directors of SIL, was playing a key role in the IPO of SIL. This indicates that the role of Deepak Shenoy as a consultant was in direct conflict with his role as an Independent Director. Furthermore, the statements given by many of the employees point to the pre-eminent role played by Deepak Shenoy in the management of the Company. Thus, considering the principle laid down by the Hon’ble SAT, it is clear that the violations of the Company happened with the knowledge, consent and connivance of Deepak Shenoy, and he had failed to act diligently.

6.42. Coming to the other Non-executive Directors, namely, Gopi Chellapan Nair (Noticee No. 4), Shridhar Shetty (Noticee No. 5) and Venkatraman Nadar (Noticee No. 6). It is seen from the Annual Report that out of the 20 board meeting held during the 2010-2011 financial year, Gopi Chellapan Nair attended eighteen meetings, Shridhar Shetty attended fifteen meetings and Venkatraman Nadar attended eleven meetings. In this regard, reference is made to Cl. 2 (XVI) (B) (1) of Part A of Schedule – VIII to the ICDR Regulations, 2009 which deals

with Declaration by the issuer with respect to the disclosures made in the offer document. The said clause reads, “The *draft offer document (in case of issues other than fast track issues) and offer document shall be approved by the Board of Directors of the issuer and shall be signed by all directors, the Chief Executive Officer, i.e., the Managing Director or Manager within the meaning of the Companies Act, 1956 and the Chief Financial Officer, i.e., the whole time finance director or any other person heading the finance function and discharging that function.*” Further reference is made to Cl. 2 (XVI) (B) (2) of Part A of Schedule – VIII. The said clause reads, “*The signatories shall further certify that all disclosures made in the offer document are true and correct.*” A conjoint reading of the above mentioned clauses brings out three essential things a) the offer document should have been approved by the Board of Directors; b) it should necessarily be signed by all the members of the Board; and c) the signatories should certify that all disclosures made in the offer document are true and correct.

6.43. It must be emphasized here that there is a deliberate legislative intent in requiring that not only should the offer document be approved by the board of directors but should be signed by all the directors on the board. And that all signatories satisfy that all disclosures made in the offer document are true and correct. This is to ensure that any offer document placed in the public domain has passed through the scrutiny of each director on the board of that Company. In the present case, it has been clearly established that the disclosures made in the offer document were in fact untrue, and the proceeds of the IPO was used for purposes distinct from those mentioned in the offer document. So, the above

mentioned directors cannot claim that because they were independent directors they cannot be held liable. The duty cast by way of the above-mentioned provisions is on all the directors on the board of a company, irrespective of their individual status as independent or executive. I, therefore, find that the violations of the Company happened with the knowledge, consent and connivance of the directors namely, Gopi Chellapan Nair (Noticee No. 4), Shridhar Shetty (Noticee No. 5) and Venkatraman Nadar (Noticee No. 6), and they had failed to act diligently making them liable for the acts of the Company.

6.44. Further, the SCN has named M S Anand (Noticee No. 7) and Sapna Karmokar (Noticee No. 8) as directors of the Company. However, as provided herein above, the Annual Report of the Company for the financial year 2010-2011 does not list the above-named Noticees in the list of its directors. Further, in the Prospectus dated March 11, 2011 filed by the Company, M S Anand and Sapna Karmokar are not shown as directors, but as part of the Key Management Personnel. M S Anand holding the position of VP (Finance) is shown as “In charge for Finance” and Sapna Karmokar holding the position of Company Secretary is shown as “In charge for Secretarial and Compliance”. Thus, it can be concluded that the above two Noticees were not directors in the Company during the relevant time, even though they were the Key Management Personnel. Regulation 2 (1) (s) of the SEBI (Issue of Capital And Disclosure Requirements) Regulations, 2009 defines Key Management Personnel as “*the officers vested with executive powers and the officers at the level immediately below the board of directors of the issuer*”

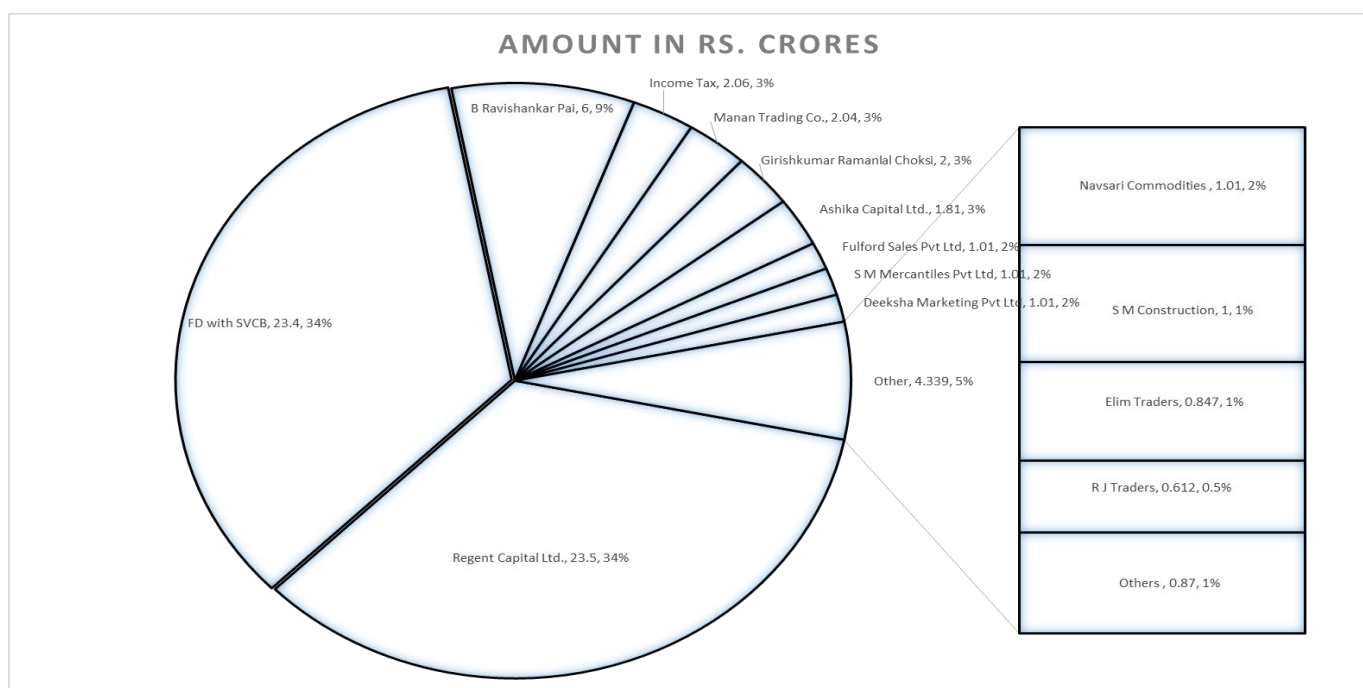
and includes any other person whom the issuer may declare as a key management personnel”. In this regard, reference is again made to Cl. 2 (XVI) (B) (2) of Part A of Schedule – VIII, which provides that signatories shall certify that all disclosures made in the offer document are true and correct. It is noted that M S Anand (Noticee No. 7) and Sapna Karmokar (Noticee No. 8) were both signatories to the offer document. Thus, there is a duty cast on the signatories of the offer document to ensure that the disclosures made are true and correct. In the present case, it has been clearly established that the disclosures made in the offer document were in fact untrue, and the proceeds of the IPO were used for purposes distinct from those mentioned in the offer document. The above-named Noticees having failed to ensure that the disclosures made in the offer document were true and correct have facilitated and connived with the Company in using the proceeds of the IPO for purposes distinct from those mentioned in the offer document and siphoning off the funds.

6.45. In view of the above, I find the Company and its directors, viz., Murugan M Thevar, Deepak Shenoy, Gopi Chellappan Nair, Shridhar Shetty, and Venkatraman Gopal Nadar have violated Regulations 57 (1) and 60(7)(a) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 and Cl. 2(VII)(G), 2(VIII)(D)(5) and 2(XVI)(B)(2) of Part A of Schedule VIII r/w regulation 57(2)(a) of the ICDR Regulations. I also find that M S Anand (V P Finance) and Ms. Sapna Karmokar (Company Secretary), signatories to the offer document have violated Regulations 57 (1) and 60(7)(a) of SEBI (Issue of Capital

and Disclosure Requirements) Regulations, 2009 and Cl. 2(VII)(G), 2(VIII)(D)(5) and 2(XVI)(B)(2) of Part A of Schedule VIII r/w regulation 57(2)(a) of the ICDR Regulations.

7. Issue –II : Whether Noticee Nos. 11 to 18 assisted or provided support to Noticee Nos. 1 to 8 in the scheme of deviating from the Objects of the issue by siphoning off the IPO proceeds?

7.1. It has been established in the previous part of this Order that the Company used the proprietorship firms of Noticee Nos. 11 to 18 to deviate from the objects of the issue by siphoning off the IPO proceeds. In this regard, the utilisation of the proceeds of the IPO is provided hereunder:



Further to the above, the roles of Noticee Nos. 11 to 18 in providing assistance to the Company and its directors to deviate from the objects of the issue by

siphoning off the IPO proceeds is hereby examined. It has already been elaborated at paragraph 5.1 of this order that the collective filing of retraction affidavits by seven of the Noticees, in respect of their statements given to SEBI, was an afterthought with the intent of subverting the enforcement actions contemplated in the SCN. Accordingly, I have found the said retraction affidavits to be unacceptable. In view of the same, reliance is being placed on the statements of the Noticees, wherever found appropriate, to establish the violations alleged in the SCN.

Ramesh Andy Thevar (Noticee No. 11)

7.2. As already stated Ramesh Andy Thevar was the proprietor of A R Fabrics and is also the brother-in-law of the CMD of SIL, Murugan M Thevar, Noticee No.1. A R Fabrics was shown as one of the suppliers of fabric to the Company. It has already been established in the previous part of this Order that A R Fabrics had been used merely as a front for the diversion of the IPO proceeds and existed only on paper with no operational activities.

7.3. In his statement dated November 03, 2015, Ramesh Andy Thevar has stated that AR Fabrics was started as per the instructions of Murugan M Thevar. It has also been stated by him that the bank account of AR Fabrics was operated by Murugan M Thevar, the CMD of SIL. In his statement, with the respect to the operation of bank account of AR Fabrics, it has been stated by the above-named Noticee “*I used to sign all the cheque books and give it to my brother-in-law, Murugan M Thevar.*” Further, the Noticee, with respect to the transactions of AR fabrics has

stated , “ *I used to sign blank cheques and gave it to my brother in law. I don't know the details of dealing relating to AR Fabrics.*”

7.4. The said Noticee, by way of his reply filed with SEBI has taken a stand similar to the stand taken by the Company and stated that the control of the proprietorship concern and its day to day affairs was in his hands. Also, all transactions that were done by the proprietorship were in accordance with law and there was no irregularity of any kind whatsoever. Further, that the payments were made in respect of legitimate commercial transactions.

7.5. Upon a holistic consideration of the facts that have emerged in the matter and the examination of transactions between the said Noticee and SIL, it is evident that the said transactions were at the initiation of the Company. Thus, it is clear that the Noticee by starting the proprietorship firm, AR Fabrics; opening a bank account in its name; signing blank cheques for use by the Company has provided active assistance and support to the Company to deviate from the objects of the issue by siphoning off the IPO proceeds. Accordingly, I find that said Noticee has become a party to the scheme of deviating from the objects of the issue by siphoning off the IPO proceeds, thereby violating Sections 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3(b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

Edwin Joseph (Noticee No. 12)

7.6. As already stated Edwin Joseph was the proprietor of R J Traders and was an employee in SIL, holding the position of Manager, Corporate Planning. R J Traders was shown as one of the suppliers of the Company. It has already been established in the previous part of this Order that RJ Traders had been used merely as a front for the diversion of the IPO proceeds and existed only on paper with no operational activities.

7.7. In his statement dated November 30, 2015, Edwin Joseph has stated that RJ Traders was started as per the instructions of Murugan M Thevar and Deepak Shenoy. It has also been stated by him that the bank account of RJ Traders was operated by Murugan M Thevar and Deepak Shenoy. In his statement, with respect to the operation of RJ Traders, it has been stated by the above-named Noticee, *“I was not aware of the activities of R J Traders....I used to sign blank cheques in the name of RJ Traders and handover the same to Deepak Shenoy & Murugan M Thevar.”* Further, the Noticee, with respect to the transactions made through RJ Traders’ bank account, has stated , *“ I am not aware of these fund movement. I used to sign the blank cheques (which were in the name of RJ Traders) and give to Shri Deepak Shenoy or Murugan M Thevar.”*

7.8. The said Noticee, by way of his reply filed with SEBI has taken a stand similar to the stand taken by the Company and stated that the control of the proprietorship concern and its day to day affairs was in his hands. Also, all transactions that were done by the proprietorship were in accordance with law and there was no

irregularity of any kind whatsoever. Further, that the payments were made in respect of legitimate commercial transactions.

7.9. Upon a holistic consideration of the facts that have emerged in the matter and the examination of transactions between the said Noticee and SIL, it is evident that the said transactions were at the initiation of the Company. Thus, it is clear that the Noticee by starting the proprietorship firm, RJ Traders; opening a bank account in its name; signing blank cheques for use by the Company has provided active assistance and support to the Company to deviate from the objects of the issue by siphoning off the IPO proceeds. Accordingly, I find that said Noticee by providing assistance and support has become a party to the scheme of deviating from the objects of the issue by siphoning off the IPO proceeds, thereby violating Sections 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3(b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

Reena Nadar (Noticee No. 13)

7.10. As already stated, Reena Nadar was the proprietor of Elim Traders and was an employee in SIL, holding the position of General Manager. Elim Traders was shown as one of the suppliers of the Company. It has already been established in the previous part of this Order that Elim Traders had been used merely as a front for the diversion of the IPO proceeds and existed only on paper with no operational activities.

7.11. With respect to the starting of Elim Traders, Reena Nadar in her statement dated November 30, 2015, has stated that “*Sometime during June-July 2010 I was told by Mr Murugan M Thevar and Mr Deepak B. Shenoy that they wanted me to open current account in federal bank, chembur branch in the name of Elim Traders.*” was started as per the instructions of Murugan M Thevar and Deepak Shenoy. It has also been stated by her that the bank account of RJ Traders was operated by Murugan M Thevar and Deepak Shenoy. In this regard, it has been stated by her that “*the cheque book (containing about 25 leaves) was signed and handed over to Mr. Deepak Shenoy in presence of Mr Murugan M Thevar. This continued till 2013 as after that the said bank account is not being used.*” Further, the Noticee, with respect to the transactions made through Elim Traders’ bank account, has stated that “*This account was used for doing and routing transactions. In this account the money used to come from Sudar and then same used to be routed to bank account of either of the three entities viz., Shalom Fashions/ Shree Bhagwati / George Street. All these three entities also had bank account in Federal Bank Chembur Branch. Thereafter the amount used to go back to bank accounts of Sudar Industries Ltd. This way the money was routed and ELIM Traders and its bank account was used for this purpose only.*”

7.12. The said Noticee, by way of her reply filed with SEBI has taken a stand similar to the stand taken by the Company and stated that the control of the proprietorship concern and its day to day affairs was in her hands. Also, all transactions that were done by the proprietorship were in accordance with law

and there was no irregularity of any kind whatsoever. Further, that the payments were made in respect of legitimate commercial transactions.

7.13. Upon a holistic consideration of the facts that have emerged in the matter and the examination of transactions between the said Noticee and SIL, it is evident that the said transactions were at the initiation of the Company. Thus, it is clear that the Noticee by starting the proprietorship firm, Elim Traders ; opening a bank account in its name; and allowing the directors of the Company to operate the said bank account, knowing fully well that the account would be used to route funds, has provided active assistance and support to the Company to deviate from the objects of the issue by siphoning off the IPO proceeds. Accordingly, I find that said Noticee by providing assistance and support has become a party to the scheme of deviating from the objects of the issue by siphoning off the IPO proceeds, thereby violating Sections 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3(b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

Santosh Vishnu Ingle(Noticee No. 14)

7.14. As already stated Santosh Vishnu Ingle was the proprietor of Shalom Fashions and SM Construction. Shalom Fashion was shown as one of the customers of the Company. SM Construction was shown as a supplier of the Company. It has already been established in the previous part of this Order that Shalom Fashion and SM Construction had been used merely as a front for the diversion of the IPO proceeds.

7.15. In his statement dated November 05, 2015, Santosh Vishnu Ingle has stated that he started working with Murugan M Thevar in 1993-94 when he was about 15-16 years old. His mother knew one Andy Thevar, who was their neighbor and the father-in-law of Murugan M Thevar. He has stated that Shalom Fashion was started as per the instructions of Murugan M Thevar for which a bank account was opened in the Chembur branch of Federal Bank. He has further stated that Shalom fashion was “ *run by Murugan M Thevar. As regards the cheques etc., the cheque books containing about 25 to 50 cheque leaves were signed and handed over to Murugan M Thevar/ Deepak Shenoy.*” Further elaborating on the way Shalom Fashion was run, the said Noticee has stated that “*all cheques received in the name of Shalom Fashion for job work done by me were handed over to office of Sudar Industries Ltd. to Murugan M Thevar/Deepak Shenoy or to one of Sushant (in account dept)...*” Similarly, with respect to SM Construction, it has been stated by Santosh Vishnu Ingle that he thought of doing “labour work” and entering the construction business for which he started SM Construction. A bank account in this regard was also opened with the Panvel branch of Axis Bank. It has been stated by the Noticee that due to his inability to manage labour etc. on contract for supplying to the construction works, he decided to continue to work as he was doing earlier and expressed the same to Murugan M Thevar. Pursuant to this, the Noticee has stated that “*Murugan M Thevar and Deepak Shenoy asked me to hand over the cheque book after signing the cheques citing they would be able to use the firm as their construction work was also on.*” Elaborating further on the functioning of SM Construction, it has been stated by the Noticee that “*Mr Murugan/Mr Deepak said that as construction work was already on*

for Sudar Garments factory so the firm could be used by them. I handed all documents to them including blank signed cheques/cheque book as was being done in case of Shalom Fashion. I never did any job or work whatsoever ever nor did I do any banking transaction in the said bank account, however I used to sign the entire cheque book and hand over to office of Sudar Garments Ltd (Mr Murugan M Thevar/Mr Deepak Shenoy).”

7.16. The said Noticee, by way of his reply filed with SEBI has taken a stand similar to the stand taken by the Company and stated that the control of the proprietorship concerns and its day to day affairs were in his hands. Also, all transactions that were done by the proprietorship were in accordance with law and there was no irregularity of any kind whatsoever. Further, that the payments were made in respect of legitimate commercial transactions.

7.17. Upon a holistic consideration of the facts that have emerged in the matter and the examination of transactions between the said Noticee and SIL, it is evident that the said transactions were at the initiation of the Company. Thus, it is clear that the Noticee by starting the proprietorship firms, Shalom Fashion and SM Construction; opening bank accounts in the name of the said proprietorship firms; signing blank cheques for use by the Company has provided active assistance and support to the Company to deviate from the objects of the issue by siphoning off the IPO proceeds. Accordingly, I find that said Noticee by providing assistance and support has become a party to the scheme of deviating from the objects of the issue by siphoning off the IPO proceeds, thereby violating Sections 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3(b),

(c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

Valliammal Murugan M Thevar(Noticee No. 15)

7.18. Valliammal Murugan M Thevar was the proprietor of Addon Exports and is also the wife of the CMD of SIL, Murugan M Thevar, Noticee No.1. Addon Exports was shown as one of the customers of the Company. It has already been established in the previous part of this Order that Addon Exports had been used merely as a front for the diversion of the IPO proceeds and existed only on paper with no operational activities.

7.19. In her statement dated November 09, 2015, Valliammal Murugan M Thevar has stated that she was informed by her husband that Addon Exports was in her name, though she was not aware of the activities, as they were being handled by her husband. It has also been stated by her that the bank account of Addon Exports was operated by Murugan M Thevar, the CMD of SIL. In her statement, with the respect to the operation of bank account of Addon Exports, it has been stated by the above-named Noticee *“I am not aware of details of transactions in my account. I used to sign blank cheques and hand it over to my husband, Murugan M Thevar.”* Further, the Noticee, with respect to the transactions of Addon Exports has stated, *“As stated earlier, I am not aware of details of transactions in my account. My husband Murugan M Thevar would be able to give details”*

7.20. The said Noticee, by way of her reply filed with SEBI has taken a stand similar to the stand taken by the Company and stated that the control of the

proprietorship concern and its day to day affairs were in her hands. Also, all transactions that were done by the proprietorship were in accordance with law and there was no irregularity of any kind whatsoever. Further, that the payments were made in respect of legitimate commercial transactions.

7.21. Upon a holistic consideration of the facts that have emerged in the matter and the examination of transactions between the said Noticee and SIL, it is evident that the said transactions were at the initiation of the Company. Thus, it is clear that the Noticee by acceding to the formation of a proprietorship firm, Addon Exports; allowing Noticee No. 1 to operate the bank account of the proprietorship firm; signing blank cheques for use by the Company has provided active assistance and support to the Company to deviate from the objects of the issue by siphoning off the IPO proceeds. Accordingly, I find that said Noticee by providing assistance and support has become a party to the scheme of deviating from the objects of the issue by siphoning off the IPO proceeds, thereby violating Sections 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3(b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

Kamlesh Muthappa Nadar (Noticee No. 16)

7.22. As already stated Kamlesh Muthappa Nadar was the proprietor of Shree Bhagwati International. Shree Bhagwati International was shown as one of the customers of the Company. It has already been established in the previous part of

this Order that RJ Traders had been used merely as a front for the diversion of the IPO proceeds and existed only on paper with no operational activities.

7.23. In his statement dated November 15, 2015, Kamlesh Muthappa Nadar has stated that Shree Bhagwati International was started on the instance of Paul Murugan, son of Murugan M Thevar. In this regard, he has stated that *“Paul Murugan told me that they had plans to start a firm in the name of Shree Bhagwati International in my name around 2010. I remember that I signed some documents pertaining to Shree Bhagwati International though I don't remember the exact details.”* In his statement, with respect to the operation of Shree Bhagwati International, it has been stated by the above-named Noticee, *“I am not aware of the business activities of Shree Bhagwati International. I am only aware that a firm in the name of Shree Bhagwati International was opened in my name & I signed blank cheque books in the name of Shree Bhagwati International on the instructions of Ms. Reena who used to call me from the office telephone number and I used to visit the office of Sudar and sign the blank cheque books from there.”* Further, the Noticee, with respect to the transactions made through the bank account of Shree Bhagwati International, has stated, *“I am not aware of these transactions.”*

7.24. The said Noticee, by way of his reply filed with SEBI has taken a stand similar to the stand taken by the Company and stated that the control of the proprietorship concern and its day to day affairs were in his hands. Also, all transactions that were done by the proprietorship were in accordance with law and there was no irregularity of any kind whatsoever. Further, that the payments were made in respect of legitimate commercial transactions.

7.25. Upon a holistic consideration of the facts that have emerged in the matter and the examination of transactions between the said Noticee and SIL, it is evident that the said transactions were at the initiation of the Company. Thus, it is clear that the Noticee by starting the proprietorship firm, Shree Bhagwati International; opening a bank account in its name; signing blank cheques for use by the Company has provided active assistance and support to the Company to deviate from the objects of the issue by siphoning off the IPO proceeds. Accordingly, I find that said Noticee by providing assistance and support has become a party to the scheme of deviating from the objects of the issue by siphoning off the IPO proceeds, thereby violating Sections 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3(b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

Stalin Muthappa (Noticee No. 17)

7.26. As already stated Stalin Muthappa was the proprietor of George Street London. George Street London was shown as one of the customers of the Company. It has already been established in the previous part of this Order that George Street London had been used merely as a front for the diversion of the IPO proceeds and existed only on paper with no operational activities.

7.27. In his statement dated November 27, 2015, Stalin Muthappa has stated that George Street London was started on the instance of Paul Murugan, son of Murugan M Thevar. In this regard, he has stated that “*Paul Murugan told me that*

they were planning to start a firm in the name of George Street London in my name somewhere during 2010. I vaguely remember that I signed some documents pertaining to George Street London. However, I do not remember any detail in this regard.” In his statement, with the respect to the operation of George Street London, it has been stated by the above-named Noticee, *“I do not know any of the business activities of George Street London. I am only aware that a firm in the name of George Street London was opened in my name & I used to sign blank cheque books in the name of George Street London on the instructions of Sudar who used to call me from the office telephone number and I used to visit the office of Sudar and sign the blank cheque books from there.”* Further, the Noticee, with respect to the transactions made through the bank account of George Street London, has stated, *“ I am not aware of these transactions.”*

7.28.The said Noticee, by way of his reply filed with SEBI has taken a stand similar to the stand taken by the Company and stated that the control of the proprietorship concern and its day to day affairs were in his hands. Also, all transactions that were done by the proprietorship were in accordance with law and there was no irregularity of any kind whatsoever. Further, that the payments were made in respect of legitimate commercial transactions.

7.29.Upon a holistic consideration of the facts that have emerged in the matter and the examination of transactions between the said Noticee and SIL, it is evident that the said transactions were at the initiation of the Company. Thus, it is clear that the Noticee by starting the proprietorship firm, George Street London; opening a bank account in its name; signing blank cheques for use by the

Company has provided active assistance and support to the Company to deviate from the objects of the issue by siphoning off the IPO proceeds. Accordingly, I find that said Noticee by providing assistance and support has become a party to the scheme of deviating from the objects of the issue by siphoning off the IPO proceeds, thereby violating Sections 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3(b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

B Ravishankar Pai (Noticee No. 18)

7.30. As already stated, a total amount of Rs. 6 crore was transferred to the bank account (Axis Bank, Bank Account No. 833438270) of B Ravishankar Pai in three tranches of Rs 2 crore on March 23, 2011 for a supposed sale of land. It has already been established that the transfer of the above-mentioned funds was used merely as a front for the diversion of the IPO proceeds and there was in fact no land to be bought.

7.31. In this regard, B Ravishankar Pai in his statement dated November 02, 2015, upon being questioned on the receipt of Rs. 6 crore from SIL, has stated, *“I did not deal with anybody and do not have any details. I only issued cheques to entities as per instructions of Mr Murugan M Thevar.”* Further to this, a question was posed to the Noticee as to why he did not object or resist or ask for reasons for receiving such a large amount, and then not returning but making payments to others. To this Noticee has stated, *“I did not use my judgment. So I did not ask for any details or resist or object to all that. I did not do so as he was my MD of Sudar Garments.”* Furthermore,

when he was asked to explain the credit and debit entries appearing in his bank account statement, he stated that *“I do not know any details about all these and as already told earlier I had done all that on instructions of MD of the company viz., Mr Murugan M Thevar.”*

7.32. The said Noticee, by way of his reply filed with SEBI has taken a stand similar to the stand taken by the Company and stated that the control of the proprietorship concern and its day to day affairs were in his hands. Also, all transactions that were done by the proprietorship were in accordance with law and there was no irregularity of any kind whatsoever. Further, that the payments were made in respect of legitimate commercial transactions.

7.33. Upon a holistic consideration of the facts that have emerged in the matter and the examination of transactions between the said Noticee and SIL, it is evident that the said transactions were at the initiation of the Company. Thus, it is clear that the Noticee by effecting debit and credit transactions from his bank account on the instructions of Murugan M Thevar has provided active assistance and support to the Company to deviate from the objects of the issue by siphoning off the IPO proceeds. Accordingly, I find that said Noticee by providing assistance and support has become a party to the scheme of deviating from the objects of the issue by siphoning off the IPO proceeds, thereby violating Sections 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3(b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

8. Issue III – Whether Noticee Nos. 9 and 10 also assisted or provided support to Noticee Nos. 1 to 8 in the scheme of deviating from the Objects of the issue by siphoning off the IPO proceeds?

8.1. The SCN has alleged that Suresh Hegde enjoyed a personal relationship with SIL and/or its related entities and that the Statutory Auditor of SIL, Shri Suresh Hegde, in connivance and in collusion with the entities related to SIL/ its promoters/directors has concocted false sales figures for the Financial Years 2008-09 and 2009-10, which has been misstated in the Prospectus of SIL dated March 03, 2011. In view of the above, the SCN has alleged that the said Noticees have violated Section 12A(a), (b) & (c) of SEBI Act, 1992 and Regulations 3(b), (c), (d) and 4(1), 4(2)(k) & (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

8.2. The said Noticees in their reply have stated that the SCN has not provided any details of the nature of the relationship while asserting that said Noticees enjoy ‘a personal relationship’ with certain suppliers of the Company. In this respect, the Noticees have stated that merely owing to the purported personal relationship of the Noticees with certain suppliers, the charge of concocting sales figures and misstating the same in the prospectus of SIL cannot be made out. Further, it has been submitted by the Noticees that a professional auditor may have a few clients who may know each other, however, the same cannot be the basis for alleging knowledge and connivance on the part of such auditor with respect to dealings between such clients. Furthermore, it has been submitted by the Noticees that

they performed their role as the statutory auditors based on the material and data made available to them, certified the financials on the bona fide belief, and had no reason to question the data made available to them in view of the due diligence undertaken by the merchant banker to the issue.

8.3. The statements of the proprietors of the proprietorship firms, which have been shown as suppliers/customers of the Company, were examined. It is observed that reference to the above-mentioned Noticees has been made by the following Noticees:

Table-20

Sl. No.	Noticee	Details of Reference
1.	Deepak Bhaskar Shenoy, Noticee No. 3	Q-23 Were / are you related to Suresh Hedge, who is the CA of Sudar? <i>A-23 I am not related to him, however I know him as he is CA for Sudar and for my company DBS Tradelink.</i>
2.	Santosh Vishnu Ingle, Noticee No. 14	Q-24 Do you know Suresh Hegde. If yes, please provide details <i>A-24 Yes I know. He is CA of Sudar Industries Ltd. I know him as sometimes I have been asked by Murugan M Thevar/Deepak Shenoy to hand over papers to him which I did. His office is at Vidya Vihar.</i>
3.	B. Ravi Shankar Pai, Noticee No. 18	Q. 12 Please state details about any person(s) whom you knew/know and who were/are working and/or related in any capacity (directly and/or indirectly) to Sudar Garments and/or any of its promoters/directors/key management personnel or anyone connected with Sudar Garments Ltd., including its buyers/suppliers/contractors/ etc.

		<p><i>Prior to my joining Sudar Garments Ltd., I did not know any person/entity, related/connected (directly/indirectly) in any capacity with Sudar Garments Ltd.</i></p> <p><i>However, after I joined Sudar Garments P Ltd., I came to know that Mr Deepak Shenoy, whom I knew since 2007, was Independent Director of the company Sudar Garments Ltd. Mr Deepak Shenoy who belongs to Mangalore is my distant cousin. He stays in Sector 17 Vashi. I know him prior to my joining Sudar Garments Ltd., however I came to know about him being director in Sudar only after my joining in Sudar when he had visited the factory of Sudar at Paud.</i></p> <p><i>After my joining I am also related/connected with following two persons as per details as follows:</i></p> <p><i>a. I also know Mr Ganesh Bhat, my brother-in-law, who was employed with Sudar Garments Ltd., as manager since after about two months from the time of my employment during Jan-Mar 2009. He joined Sudar Garments Ltd., after my joining.</i></p> <p><i>b. I also know Mr Suresh Hegde, CA who was auditor of Sudar Garments Ltd., and also the CA handling my returns. Mr. Suresh Hegde belongs to Karnataka. I know him only after joining Sudar.</i></p>
4.	Reena Nadar, Noticee No. 13	<p>Q.21 You have stated that there are no operation of Elim and it is only on paper. Please explain how Income Is shown for its operations.</p> <p><i>Ans. 21 As the firm is created and also transactions are shown hence we need to show some profit. Accordingly, returns are filed Showing some profit in range of about Rs. 40,000 - 50,000 under head profit from operations. .</i></p>

		<i>My CA Mr Suresh Hegde, who is also CA of Sudar helps me in preparing and filing returns.</i>
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8.4. Further, it is also observed from the investigation report that Suresh Hegde, the Auditor of SIL during the IPO, was the introducer to the bank account of AR Fabrics (A/c No. /01/00078-F, Corporation Bank). Similarly, Suresh Hegde & Co, Statutory Auditor of SIL during the IPO, issued certificate dated May 23, 2011, stating that Shree Bhagwati International was in the business of wholesale selling of Fabrics, for the purpose of opening of Bank Account in Federal Bank. Also, Suresh Hegde & Co, Statutory Auditor of SIL during the IPO, issued certificate dated May 23, 2011, stating that Addon Exports was in the business of wholesale selling of Fabrics, for the purpose of opening of Bank Account in Federal Bank. Suresh Hegde & Co, Statutory Auditor of SIL also issued a certificate to RJ Traders for the purpose of opening of Bank Account in Federal Bank. Mrs. Nayanambika Suresh Hegde, w/o Shri Suresh N Hegde, was the witness to the Memorandum & Article of Association of SIL dated January 25, 2002. IT Returns filed in the names of the proprietors of RJ Traders, Elim Traders & Addon Exports for the A.Y's 2011-12, 2012-13, 2013-14 & 2014-15 share a common email id, viz. sureshhegdeandco@gmail.com. Suresh Hegde is also the CA for DBS Tradelink & Advisors Pvt Ltd, firm in which Deepak Shenoy is the Director (as stated by Deepak in his statement dated November 30, 2015). Suresh Hegde, in his personal capacity, in the year 2011 had taken a loan from Elim Traders and A R Fabrics for an amount of Rs. 9,00,000 each. His

father, late Narayana Hegde had taken a loan for an amount of Rs. 30,00,000 from A R Fabrics.

8.5. From the above, it is seen that Noticee No. 9 was personally acquainted with Y Edwin Joseph, E Reena Nadar and Valliamal Murugan M Thevar, for whom he filed the income tax returns for the Financial Years 2011-12, 2012-13, 2013-14 and 2014-15. The returns also show that there was a common email id, viz. sureshhegdeandco@gmail.com. So, it is clear that Noticee No. 9 and his CA firm, Noticee No.10 had a clear view of the financial status/ condition of these individuals. These very individuals, through their respective proprietorship firms namely, RJ Traders, Elim Traders and AR Fabrics were transacting in crores of rupees, as suppliers/customers of SIL. It is to be noted that the CA firm, Suresh Hegde & Co. (Noticee No.9) was the statutory auditor of the Company. So, it is evident that the auditor had a holistic view of the transactions that were taking place between the purported suppliers/customers namely, RJ Traders, Elim Traders and Addon Exports, and SIL. It has already been established in the previous part of the Order that the operations of the above-mentioned firms was only happening through circular banking transactions, and that these firms were non-functioning entities existing merely on paper. Since, the auditor had information with respect to both sides of the transactions, it is but natural that the auditor had the knowledge that the above-mentioned firms were only on paper without any real operations. Having been privy to the said information, the auditor provided sales figures for the Financial Years 2008-09 and 2009-10 which

did not reflect the actuals and the same has been misstated in the Prospectus of SIL dated March 03, 2011. It is to be noted that Further, Suresh Hegde, had taken a loan from Elim Traders and A R Fabrics for an amount of Rs. 9,00,000 each. His father, late Narayana Hegde had taken a loan for an amount of Rs. 30,00,000 from A R Fabrics. This appears to be a form of quid pro quo. It is to be noted that on January 11, 2021, Reena Nadar, the proprietor of Elim Traders was cross-examined by Noticee Nos. 9 and 10 with respect to question 21 of her pre-recorded statement, in response to which she had stated that “*My CA Mr Suresh Hegde, who is also CA of Sudar helps me in preparing and filing returns.*” During the cross-examination she reiterated the claim made in her retraction affidavit. Further to it, a query was raised that if Suresh Hegde was not her Chartered Accountant, then who did the filings for her? She replied that she would have to check the name as she did not remember it, and that she had already submitted the copies of her returns to SEBI. She was accordingly, directed to submit the copies of the Income Tax Returns earlier submitted to SEBI. The same is yet to be received by SEBI. The assertion, therefore, that there was someone else who had filed the returns for her is not made out. I find that Suresh Hegde had a close nexus with the Company and its employees and having borrowed substantial sums of money from related proprietorship concerns of SIL, viz. A R Fabrics of Ramesh Andy Thevar and Elim Traders of Reena Nadar, he was indebted too. Thus, I find that his role in the IPO was not as an independent Chartered Accountant; it was rather aiding the Company, its promoters, directors, employees to perpetuate the fraudulent scheme.

8.6. In view of the above, I find that Noticee Nos. 9 and 10 have violated Section 12A(a), (b) & (c) of SEBI Act, 1992 and Regulations 3(b), (c), (d) and 4(1), 4(2)(k) & (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

9. Conclusion

9.1. Upon a total evaluation of the facts of the case, the scheme devised for the deviation from the Objects of the issue by siphoning off the IPO proceeds clearly emerges. Deepak Shenoy, who was a consultant for giving advice to Murugan M Thevar and SIL for the IPO, simultaneously was inducted to the board of SIL, as an independent director. This provided greater leeway to Deepak Shenoy to steer the activities of the Company, even though technically he was an independent director. The substantial role played by Deepak Shenoy in the IPO has been clearly brought out in the credit rating report of CRISIL. The report states, *“One of the independent directors is closely involved in business activities and plays a major role in guiding the promoter in taking business and financial decisions. We believe this will limit his ability to act in the best interest of minority shareholders. Also, we believe the other independent directors have limited understanding of their roles and responsibilities. They are not adequately equipped to provide guidance and exercise oversight to ensure that the interests of minority shareholders are protected. In the past, the company has made unrelated financial investments which could have otherwise been invested in the operations of the company.”* It appears that during this time, the scheme was plotted by the Noticees with an idea to come out with an IPO to siphon off the IPO proceeds. Pursuant to it,

several proprietorship firms or paper concerns, namely Addon Exports, Shalom Fashion, SM Construction, AR Fabrics, Elim Traders, RJ Traders, Shree Bhagwati International, and George Street London were set up at the instance of Murugan M Thevar and Deepak Shenoy, with the employees/related parties of SIL(Noticee Nos. 11 to 18) shown as the proprietors. As part of this scheme, money was transferred to these firms back and forth by SIL claiming to be payments for supply of goods and receipt from customers. These circular fund movements on one hand between SIL and the so-called suppliers and on the other, between SIL and the so-called customers, was created to give the impression that SIL had good business with multiple suppliers and customers. With this background, the auditors (Noticee Nos. 9 and 10) of the Company (Noticee No. 1) projected that the accounts were proper and the books presented a picture of a sound and well-run business. The Company and its directors came out with a dubious IPO scheme, and subsequently, deviated from the objects of the issue by siphoning off the IPO proceeds. Thus, Noticee Nos. 1 to 8 by making improper and misleading disclosures in the Offer Document and by using personal relationships to form proprietorship concerns in the names of Noticee Nos. 11 to 18 and Noticee Nos. 11 to 18 by lending their names to these firms and by receiving/ transferring money from the bank accounts of these firms have jointly played a fraud on the market using the IPO route. Noticee Nos. 9 and 10, who were statutory auditors, with their mandate to state true and correct financials, being in conflict owing to the loan transactions, have miserably failed to do the job of an independent auditor.

9.2. Further as Noticee No.1 is under liquidation, I am not inclined to pass any direction in respect of Noticee No.1.

10. Directions

10.1. In view of the above, I, in exercise of the powers conferred upon me under Section 19, read with sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992, hereby direct as below:

10.1.1. The SCN in respect of Noticee No.1 (Sudar Industries Limited) is disposed of considering the liquidation status of the said Company;

10.1.2. Noticee No. 2 (Murugan Muthiah Thevar) and Noticee No. 3 (Deepak Shenoy) shall be restrained from accessing the securities market, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, and associating with the securities market in any manner, whatsoever, for a period of 7 years ;

10.1.3. Noticee Nos. 2 and 3 shall also be restrained for a period of 7 years from holding any position of Director or key managerial personnel in any listed company or any intermediary registered with SEBI, and during the said period shall be restrained from associating themselves with any listed public company or a public company which intends to raise money from the public or any intermediary registered with SEBI;

10.1.4. Noticee No. 4 (Gopi Chellappan Nair), Noticee No. 5 (Sridhar Shetty), Noticee No. 6 (Venkatraman Gopal Nadar), Noticee No. 7 (M S Anand) and

Noticee No. 8 (Sapna Karmokar) shall be restrained from accessing the securities market, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, and associating with the securities market in any manner, whatsoever, for a period of 5 years ;

10.1.5. Noticee Nos. 4 to 8 shall also be restrained for a period of 5 years from holding any position of Director or key managerial personnel in any listed company or any intermediary registered with SEBI, and during the said period shall be restrained from associating themselves with any listed public company or a public company which intends to raise money from the public or any intermediary registered with SEBI;

10.1.6. Noticee No. 11 (Ramesh Andy Thevar), Noticee No. 12 (Edwin Joseph), Noticee No. 13 (Reena Nadar), Noticee No. 14 (Santosh Ingle), Noticee No. 15 (Valliammal Murugan Thevar), Noticee No. 16 (Kamlesh Muthappa Nadar), Noticee No. 17 (Stalin Muthappa) and Noticee No. 18 (B Ravishankar Pai) shall be restrained from accessing the securities market, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, and associating with the securities market in any manner, whatsoever, for a period of 4 years ; and

10.1.7. Noticee Nos. 11 to 18 shall also be restrained for a period of 4 years from holding any position of Director or key managerial personnel in any listed company or any intermediary registered with SEBI, and during the said period shall be restrained from associating themselves with any listed public company or a public

company which intends to raise money from the public or any intermediary registered with SEBI.

10.2.Further, I, in exercise of the powers conferred upon me under Section 19, read with Section 11B of the Securities and Exchange Board of India Act, 1992, hereby direct as below:

10.2.1.Noticee No. 9 (Suresh Hegde) and Noticee No. 10 (Suresh Hegde and Co.) shall not directly or indirectly issue any certificate of audit of listed companies, compliance of obligations of listed companies or intermediaries registered with SEBI, and the requirements under the SEBI Act, 1992, the SCRA 1956, the Depositories Act, 1996, those provisions of the Companies Act 2013 which are administered by SEBI under section 24 thereof, the Rules, Regulations and Guidelines made under those Acts which are administered by SEBI for a period of 3 years.

10.2.2. Intermediaries registered with SEBI and listed companies shall not engage Noticee Nos. 9 and 10, for issuing any certificate with respect to compliance of statutory obligations which SEBI is competent to administer and enforce, under various laws for a period of 3 years; and

10.2.3.Noticee Nos. 9 and 10 shall be restrained from accessing the securities market, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, and associating with the securities market in any manner, whatsoever, for a period of 3 years.

10.3. The above directions shall come into force with immediate effect.

10.4. A copy of this order shall be served upon the Noticees immediately. A copy shall be served on the recognised Stock Exchanges and the Depositories for necessary action. A copy shall also be served on the Institute of Chartered Accountants of India.

Date: April 20, 2021

G. MAHALINGAM

Place: Mumbai

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA