

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER

FINAL ORDER

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

In the matter of Tower Infotech Ltd

In re: Deemed Public Issue Norms

In respect of:

S.No.	Name of the Entity	PAN	CIN/DIN
1.	Tower Infotech Ltd	AACCT2471P	U72900WB2005PLC102454
2.	Shri Ramendu Chattopadhyay	AFMPC2809L	00596380
3.	Shri Ranjit Kumar Basumullick	AAJPB5985A	00662604
4.	Shri Udayan Banerjee	ADLPB4942L	01564231
5.	Shri Tapash Kumar Dhar	AKCPD2328J	01671735
6.	Shambhu N. De & Co. (Debenture Trustee) represented by its Partner, Shri Pradip Majumdar.	Address of Shanbhu N. De & Co: Emeral House, 3 rd Floor, 1B Old post office street, Kolkata, West Bengal-700 001. PAN of Shri Pradip Majumdar: AANPM9074H	

1. Tower Infotech Ltd (hereinafter referred to as “**TIL**”/ “**the Company**”) is a Public company incorporated on March 24, 2005 and registered with Registrar of Companies– Kolkata with CIN: U72900WB2005PLC102454. Its registered office is at 1/20, Juktanagar, Princegulam MD Shah Road, Kolkatta 70045.
2. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) received a letter from the Registrar of Companies, West Bengal (“**RoC**”) referring a complaint

against TIL in respect of issue of Cumulative Participating Redeemable Preference Shares (“hereinafter referred to as **RPS**”) and Secured Redeemable Non-Convertible Debentures (hereinafter referred to as “**NCDs**”) and undertook an enquiry to ascertain whether TIL had made any public issue of securities without complying with the provisions of the Companies Act, 1956; Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) and the Rules and Regulations framed thereunder including the Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 (hereinafter referred to as “**DIP Guidelines**”) and the Securities and Exchange Board of India (Issue and Listing of Debt Securities), Regulations, 2008 (hereinafter referred to as “**ILDS Regulations**”).

3. On enquiry by SEBI, it was observed that TIL had made an offer of RPS in the financial years 2005-2006, 2006-2007 and 2007-2008 (hereinafter referred to as “**Offer of RPS**”) and raised an amount of Rs. 8,48,74,080 from 8,270 allottees. Further, TIL had also made an offer of NCDs in the financial years 2007-2008, 2008-2009, 2009-2010 and 2010-2011 (hereinafter referred to as “**Offer of NCDs**”) and raised an amount of Rs. 37,50,97,400 from 41,219 allottees. The number of allottees and funds mobilized has been collated from the documents submitted by the Company. It was also observed that TIL created a charge for an amount of Rs. 5 Crores on September 15, 2007 and Rs. 5 Crores on December 15, 2007 and appointed *Shambhu N. De & Co. (represented by its Partner Shri Pradip Majumdar)* as Debenture Trustee for the Offer of NCDs by the company.
4. As the above said *Offer of RPS and Offer of NCDs* was found *prima facie* in violation of respective provisions of the SEBI Act, 1992, the Companies Act, 1956, DIP Guidelines and the ILDS Regulations, SEBI issued a Show Cause Notice dated December 13, 2017 (hereinafter referred to as “**SCN**”) against TIL and its Directors and viz., Shri Ramendu Chattopadhyay, Shri Ranjit Kumar Basumullick, Shri Udayan Banerjee, Shri Tapash Kumar Dhar and its Debenture Trustee *Shambhu N. De & Co. (represented by its Partner, viz. Shri Pradip Majumdar)* (hereinafter collectively referred to as “**Noticees**”).

5. *Allegations in the SCN:* In the said SCN, the following were alleged:

5.1 TIL had made an *Offer of RPS* during the financial years 2005-2006, 2006-2007 and 2007-2008 and raised an amount of Rs. 8,48,74,080 as shown below:

Sl. No.	Date of Board Meeting	Securities issued	No of shares to be issued	Amount Raised	Number of Allottees
1	March 15, 2006	RPS	5,71,120	57,11,200	576
2	November 15, 2006		18,87,003	1,88,70,030	1,544
3	March 30, 2007		17,65,230	1,76,52,300	2,058
4	December 15, 2007		42,64,055	4,26,40,550	4,092
Total				8,48,74,080	8,270

5.2 TIL had also made an *Offer of NCDs* during the financial years 2007-2008, 2008-2009, 2009-2010 and 2010-2011 and raised an amount of Rs. 37,50,97,400 as shown below:

Year of Issue	Security Issued	Amount raised (Rs.)	Number of allottees
2007-2008	NCDs	4,34,43,200	6,492
2008-2009		15,38,80,900	15,951
2009-2010		8,51,15,200	9,815
2010-2011		9,26,58,100	8,961
Total		37,50,97,400	41,219

*^ No. of allottees and funds mobilized has been collated from the documents submitted by the Company.

6. As per the Form 10 filed with RoC, TIL created a charge for an amount of Rs. 5 Crores on September 15, 2007 and Rs. 5 Crores on December 15, 2007. The details of the same are as under:

Sl. No.	Date of Creation of charge	Type of Securities to be issued	Amount to be raised	Details of Security
1	September 15, 2007	NCDs	Not exceeding Rs.5 crores	Securing land located at Ramnagar and Contai
2	December 15, 2007	NCDs	Not exceeding Rs.5 crores	Securing land located at Adarshnagar Mouza, Kakdwip 24 Parganas (South)

7. Further, TIL appointed Shambhu N. De & Co. (represented by its Partner viz., Shri Pradip Majumdar) as Debenture Trustee for the Offer of NCDs by the company. *Shambhu N. De & Co. (represented by its Partner, viz. Shri Pradip Majumdar)* was not registered as debenture trustee for the offer of NCDs by that company.
8. The above *Offer of RPS and NCDs* and pursuant allotment were deemed public issue of securities under the first proviso to section 67(3) of the Companies Act, 1956. Accordingly, the resultant requirement under section 60 read with section 2(36), section 56, sections 73(1), 73(2) and 73(3) and sections 117B and 117C of the Companies Act, 1956 read with section 27(2) of the SEBI Act and the relevant provisions of the DIP Guidelines and ILDS Regulations were not complied with by TIL in respect of the *Offer of RPS and NCDs*. Further, the Debenture Trustee *Shambhu N. De & Co. (represented by its Partner, viz. Shri Pradip Majumdar)* has *prima facie* violated section 12(1) of the SEBI Act.
9. In view of the *aforesaid* the violations, the Noticees are called upon to show cause as to why suitable directions including the following under Section 11(4), and 11B of SEBI Act, 1992 should not be passed against them:

- i. *“directing them not to issue prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, for an appropriate period;*
- ii. *directions restraining them from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities for an appropriate period;*
- iii. *directing them and other companies in which they are directors/promoters holding substantial or controlling interest to not access the capital market for an appropriate period.”*

10. The Noticees were given the opportunity to file their replies, within 15 days from the date of receipt of the SCN. The SCN further stated that in case the Noticees fail to reply, it would be presumed that they had no explanation to offer and that the matter would be proceeded on the basis of the evidence available on record. The Noticees were further advised to indicate if they would like to avail themselves an opportunity of personal hearing before SEBI.

11. *Service of SCN:* The SCN was sent to the Noticees through Speed Post with acknowledgment. The SCNs sent to Shri Ramendu Chattopadhyay, Shri Udayan Banerjee, Shri Tapash Kumar Dhar and Shri Pradip Majumdar were delivered. However, the SCN sent to the Company and Shri Ranjit Kumar Basumullick were returned undelivered. Subsequently, the SCN to the Company was served through affixture. During the service of SCN through affixture for the Noticee Shri Ranjit Kumar Basumullick at his last known address, one of the relative of the said Noticee residing at the address informed that Shri Ranjit Kumar Basumullick had expired on May 12, 2013 and provided a copy of the Death Certificate.

12. *Replies:* In response to the SCN, vide letter dated January 11, 2018, Shri Pradip Majumdar, Partner, Shambu N. De & Co (Noticee No.6) *inter alia* submitted the

following:

12.1 “.. at the outset it is stated that the entire Notice is directed against the Noticee No.1. The entire facts stated in the Notice including those with reference to the conviction in the criminal proceeding owing to admission of guilt is referable to Noticee No.1 and its directors (Noticee No.2 to 5).

12.2 Since there is no culpability alleged against the Noticee No.6 and no amount of mens rea has been alleged against the Noticee No.6, the Notice may kindly be not proceeded against him

12.3 The facts and incidents mentioned in the Notice relate back to more than 10 years and evidently all records referable to the Notice under reply are in the custody and possession of the Noticee No.1. Incidentally, they do not have any connection with the Company for the last 10 years”.

13. Thereafter, vide hearing Notice dated March 5, 2018, an opportunity of personal hearing was granted to the Noticees on April 25, 2018. The hearing Notices were sent to the Noticees vide speed post with acknowledgment and also through e-mail.

14. *Hearing and submissions:* Shri Pradip Majumdar, Partner Shambu N. De & Co along with Authorised Representative (“AR”) Shri Probal Das appeared before me for the hearing through video conference at Eastern Regional Office of SEBI, Kolkata. The AR *inter alia*, submitted the following:

- i. He had agreed to sign at the behest of two senior CAs and didn’t have much knowledge. He was not in touch with the Company after that and has no papers with him.
- ii. He had also told the Company to comply with the formalities.
- iii. He had signed as a partner of the firm and not in his individual capacity.
- iv. It was unintentional and due to lack of knowledge.

No one appeared on behalf of the remaining Noticees nor filed any reply to the SCN till date.

15. I have considered the allegations and materials available on record such as reference of RoC, investor complaints, various court orders, SCN and the documents contained therein, MCA records, etc. On perusal of the same, the following issues arise for consideration. Each question is dealt with separately under different headings.

(1) Whether the company came out with the Offer of RPS and NCDs as alleged in the SCN.

(2) If so, whether the said issues are in violation of Section 56, Section 60 read with section 2(36), Section 73 and section 117C of the Companies Act, 1956 read with DIP Guidelines and the ILDS Regulations.

(3) By virtue of appointment of Shambhu N. De & Co. (represented by its Partner, viz. Shri Pradip Majumdar), as the Debenture Trustee by TIL whether Shambhu N. De & Co. and its Partner Shri Pradip Majumdar violated Section 12(1) of SEBI Act.

(4) If the findings on Issue No.2 and 3 are found in the affirmative, who are liable for the violation committed?

ISSUE No. 1- Whether the company came out with the Offer of RPS and NCDs as alleged in the SCN.

16. I have perused the SCN dated December 13, 2017 for the allegation of *Offer of RPS and NCDs*.

17. I have also perused the documents/ information obtained from the 'MCA 21 Portal' and the documents submitted by the Company available on records. It is noted, from the same that TIL had issued and allotted RPS to the investors during the financial years 2005-2006, 2006-2007 and 2007-2008 and raised an amount of Rs. 8,48,74,080 from 8,270 allottees. Further, TIL had also issued and allotted NCDs to the investors during the financial years 2007-2008, 2008-2009, 2009-2010 and 2010-2011 and raised an amount of Rs. 37,50,97,400 from 41,219 allottees.

18. Further, I also note that the Company and its Director Shri Ramendu Chattopadhyay admittedly pleaded guilty of the offence under Section 73(3) in a Complaint filed by RoC against the Company wherein the Hon'ble Chief Metropolitan Magistrate, Kolkata observed that *"TIL had issued preference shares and debentures on several occasions to more than 49 persons..."*.
19. *All things considered, I, conclude that TIL came out with an offer of RPS and NCDs as outlined above.*

ISSUE No. 2- *If so, whether the said issues are in violation of Section 56, Section 60 read with section 2(36), Section 73 and section 117C of the Companies Act, 1956 read with the DIP Guidelines and ILDS Regulations.*

20. The provisions alleged to have been violated and mentioned in Issue No. 2 are applicable to the *Offer of RPS and NCDs* made to the public. Therefore the primary question that arises for consideration is whether the issue of RPS and NCDs is 'public issue'. At this juncture, reference may be made to sections 67(1) and 67(3) of the Companies Act, 1956:

"67. (1) Any reference in this Act or in the articles of a company to offering shares or debentures to the public shall, subject to any provision to the contrary contained in this Act and subject also to the provisions of sub-sections (3) and (4), be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(2) any reference in this Act or in the articles of a company to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be construed as including a reference to invitations to subscribe for them extended to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(3) No offer or invitation shall be treated as made to the public by virtue of sub-section (1) or sub-section (2), as the case may be, if the offer or invitation can properly be regarded, in all the circumstances-

(a) as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation; or

(b) otherwise as being a domestic concern of the persons making and receiving the offer or invitation ...

Provided that nothing contained in this sub-section shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more:

Provided further that nothing contained in the first proviso shall apply to non-banking financial companies or public financial institutions specified in section 4A of the Companies Act, 1956 (1 of 1956).”

21. The following observations of the Hon'ble Supreme Court of India in *Sahara India Real Estate Corporation Limited & Ors. v. SEBI (Civil Appeal no. 9813 and 9833 of 2011)* (hereinafter referred to as the “***Sahara Case***”), while examining the scope of Section 67 of the Companies Act, 1956, are worth consideration:-

“Section 67(1) deals with the offer of shares and debentures to the public and Section 67(2) deals with invitation to the public to subscribe for shares and debentures and how those expressions are to be understood, when reference is made to the Act or in the articles of a company. The emphasis in Section 67(1) and (2) is on the “section of the public”. Section 67(3) states that no offer or invitation shall be treated as made to the public, by virtue of subsections (1) and (2), that is to any section of the public, if the offer or invitation is not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the

offer or invitation or otherwise as being a domestic concern of the persons making and receiving the offer or invitations. Section 67(3) is, therefore, an exception to Sections 67(1) and (2). If the circumstances mentioned in clauses (1) and (b) of Section 67(3) are satisfied, then the offer/invitation would not be treated as being made to the public.

The first proviso to Section 67(3) was inserted by the Companies (Amendment) Act, 2000 w.e.f. 13.12.2000, which clearly indicates, nothing contained in Sub-section (3) of Section 67 shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more. ... Resultantly, after 13.12.2000, any offer of securities by a public company to fifty persons or more will be treated as a public issue under the Companies Act, even if it is of domestic concern or it is proved that the shares or debentures are not available for subscription or purchase by persons other than those receiving the offer or invitation.”

22. Section 67(3) of Companies Act, 1956 provides for situations when an offer is not considered as offer to public. As per the said sub section, if the offer is one which is not calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation, or, if the offer is the domestic concern of the persons making and receiving the offer, the same are not considered as public offer. Under such circumstances, they are considered as private placement of shares and debentures. It is noted that as per the *first proviso* to Section 67(3) Companies Act, 1956, the public offer and listing requirements contained in that Act would become automatically applicable to a company making the offer to fifty or more persons. However, the *second proviso* to Section 67(3) of Companies Act, 1956 exempts NBFCs and Public Financial Institutions from the applicability of the *first proviso*.

23. I find that TIL has not claimed as a Non-banking financial company or public financial institution within the meaning of Section 4A of the Companies Act, 1956. In view of the

aforesaid, I, therefore, find that there is no case that TIL is covered under the second proviso to Section 67(3) of the Companies Act, 1956.

24. In the instant matter, I find that RPS were issued by TIL to 8,270 investors in the financial years 2005-2006, 2006-2007 and 2007-2008 and mobilized an amount of Rs. 8,48,74,080. Further, I find that NCDs were issued by TIL to 41,219 investors in the financial years 2007-2008, 2008-2009, 2009-2010 and 2010-2011 and mobilized an amount of Rs. 37,50,97,400. Further, I find that TIL created a charge for an amount of Rs. 5 Crores on September 15, 2007 and Rs. 5 Crores on December 15, 2007. The above findings lead to a reasonable conclusion that the *Offer of NCDs* by TIL was a “public issue” within the meaning of the first proviso to section 67(3) of the Companies Act, 1956.
25. I note that the Company vide its letter dated December 27, 2011 contended that they offered NCDs on private placement basis and at no point of time it had offered NCDs to 50 or more persons per offer. I note that the aggregate number of allottees of NCDs in each financial year (i.e. from 2007 to 2011) exceeded more than 49. The observation of the Hon’ble Securities Appellate Tribunal in *Neesa Technologies Limited vs. SEBI (Appeal No. 311 of 2016 order dated April 28, 2017)* is noteworthy in this aspect which lays down that *“In terms of Section 67(3) of the Companies Act any issue to ‘50 persons or more’ is a public issue and all public issues have to comply with the provisions of Section 56 of Companies Act and ILDS Regulations. Accordingly, in the instant matter the appellant have violated these provisions and their argument that they have issued the NCDs in multiple tranches and no tranche has exceeded 49 people has no meaning”*. The Hon’bl SAT has clearly laid down the law that such issuances are deemed public issues and such methods of allotments (making allotments through multiple tranches) cannot be used to circumvent the provisions of the Companies Act, 1956. Further, even in cases where the allotments are considered separately, reference may be made to Sahara Case, wherein it was held that under Section 67(3) of the Companies Act, 1956, the *“Burden of proof is entirely on Saharas to show that the investors are/were their*

employees/workers or associated with them in any other capacity which they have not discharged." In respect of those issuances, the directors have not placed any material that the allotment was in satisfaction of section 67(3)(a) or 67(3)(b) of Companies Act, 1956 i.e., it was made to the known associated persons or domestic concern. Therefore, I find that the said issuance cannot be considered as private placement.

26. Therefore, in view of the material available on record, I find that the *Offer of RPS and NCDs* by TIL falls within the first proviso of section 67(3) of Companies Act, 1956. Hence, the *Offer of RPS and NCDs* are deemed to be public issues and TIL was mandated to comply with the 'public issue' norms as prescribed under the Companies Act, 1956.
27. Further, since the offer of RPS and NCDs are public issues of securities, such securities shall also have to be listed on a recognized stock exchange, as mandated under section 73 of the Companies Act, 1956. As per section 73(1) and (2) of the Companies Act, 1956, a company is required to make an application to one or more recognized stock exchanges for permission for the shares or debentures to be offered to be dealt with in the stock exchange and if permission has not been applied for or not granted, the company is required to forthwith repay with interest all moneys received from the applicants.
28. The allegations of non-compliance of the above provisions were not denied by TIL or its directors. I also find that no records have been submitted to indicate that it has made an application seeking listing permission from stock exchange or refunded the amounts on account of such failure. Therefore, I find that TIL has contravened the said provisions. TIL has not provided any records to show that the amount collected by it is kept in a separate bank account. Therefore, I find that TIL has also not complied with the provisions of section 73(3) which mandates that the amounts received from investors shall be kept in a separate bank account. Therefore, I find, that section 73(2) of the Companies Act, 1956 has not been complied with.
29. I also note that the aforesaid facts and circumstances were also considered by the

Hon'ble Chief Metropolitan Magistrate, Kolkata in a Complaint filed by RoC, West Bengal under section 73 (3) of the Companies Act, 1956, against TIL and its Director Shri Ramendu Chattopadhyay. I note that in the said matter TIL and Shri Ramendu Chattopadhyay pleaded guilty of the said offence and the Hon'ble Court vide Order dated December 31, 2010 sentenced them with a fine of Rs.4,000/- each. Vide the said Order the Hon'ble Magistrate observed *"TIL had issued preference shares and debentures on several occasions to more than 49 persons on each occasion without getting the securities so issued listed on the Stock Exchanges and the TIL did not keep monies received from the applicants for the preference shares and debentures in separate Bank account maintained with scheduled bank until permission has been granted to it for listing shares or debentures on Stock Exchange violating of Section 73(3) of the Companies Act"*. The said order was also upheld by Hon'ble High Court of Calcutta vide order dated April 8, 2013. I also concur with the findings of the Hon'ble Court.

30. Section 2(36) of the Companies Act read with section 60 thereof, mandates a company to register its 'prospectus' with the RoC, before making a public offer/ issuing the 'prospectus'. As per the aforesaid Section 2(36), "prospectus" means any document described or issued as a prospectus and includes any notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any shares in, or debentures of, a body corporate. As the offer of NCDs was a deemed public issue of securities, TIL was required to register a prospectus with the RoC under Section 60 of the Companies Act, 1956. I find that TIL has not submitted any record to indicate that it has registered a prospectus with the RoC, in respect of the offer of NCDs. Further, I note that RoC vide letter dated July 29, 2010 to SEBI stated that TIL issued advertisements in respect of the offers of securities, but copy of the advertisement (which shall be deemed as prospectus in terms of provisions of section 2(36) of the Companies Act, 1956) was not filed with them violating the

provisions of Section 60 of the Companies Act 1956. I, therefore, find that TIL has not complied with the provisions of section 60 of the Companies Act, 1956.

31. In terms of section 56(1) of the Companies Act, 1956, every prospectus issued by or on behalf of a company, shall state the matters specified in Part I and set out the reports specified in Part II of Schedule II of that Act. Further, as per section 56(3) of the Companies Act, 1956, no one shall issue any form of application for shares in a company, unless the form is accompanied by abridged prospectus, containing disclosures as specified. Neither TIL nor its directors produced any record to show that it has issued Prospectus containing the disclosures mentioned in section 56(1) of the Companies Act, 1956, or issued application forms accompanying the abridged prospectus. Therefore, I find that, TIL has not complied with sections 56(1) and 56(3) of the Companies Act, 1956.
32. As regards the allegation of section 117C of the Companies Act, 1956, it may be seen that the said provision mandates the company to create a debenture redemption reserve for the redemption of such debentures, to which every year, adequate amounts should be credited out of its profits, until such debentures are redeemed. I note that the Company vide letter dated December 27, 2011 submitted that it had created Debenture Redemption Reserve in respect of debentures issued and had shown in the balance sheet. From the perusal of the Balance sheets for the financial years 2007 to 2010 submitted by the Company, I note that TIL had created a Debenture Redemption Reserve for an amount of Rs.9,54,530/- during the financial year 2007-2008. However, TIL failed to create any additional debenture redemption reserve for the debenture issued in the subsequent financial years i.e. during financial years 2008-2009 for the amount of Rs.15,38,80,900. Similarly, no debenture redemption reserve was created for the debentures issued for the amount of Rs.8,51,15,200/- during 2009-2010. Further, there is no material available on record to show that such debenture reserve was created for the financial year 2010-2011. Considering these facts I am not inclined to accept the contention of the Company that they created debenture redemption reserve for all the debentures issued by TIL and I,

therefore, hold that the company has violated Section 117C of the Companies Act, 1956.

33. The Company was also required to comply with the following provisions of the DIP Guidelines in respect of the offer and allotments of RPS made by the Company:

Clause 2.1.1. – (Filing of offer document);

a. Clause 2.1.4 – (Application for listing);

b. Clause 2.1.5 – (Issue of securities in dematerialized form),

c. Clause 2.8 – (Means of finance),

d. Clause 4.1 – (Promoters contribution in a public issue by unlisted companies),

e. Clause 4.11 – (Lock-in of minimum specified promoters contribution in public issues),

f. Clause 4.14 – (Lock-In of pre-issue share capital of an unlisted company)

g. Clause 5.3.1 – (Memorandum of understanding),

h. Clause 5.3.3 – (Due Diligence Certificate)

i. Clause 5.3.5 – (Undertaking),

j. Clause 5.3.6 – (List Of Promoters Group And Other Details),

k. Clause 5.4 – (Appointment of intermediaries),

l. Clause 5.6 – (Offer document to be made public),

m. Clause 5.6A – (Pre-issue Advertisement),

n. Clause 5.7 – (Despatch of issue material),

o. Clause 5.8 – (No complaints certificate),

p. Clause 5.9 – [Mandatory collection centres including Clause 5.9.1 (Minimum number of collection centres)],

q. Clause 5.10 – (Authorised Collection Agents),

r. Clause 5.12.1 – (Appointment of compliance officer),

s. Clause 5.13 – (Abridged prospectus),

t. Clause 6.0 – (Contents of offer documents),

u. Clause 8.3 – (Rule 19(2)(b) of SC(R) Rules, 1957),

v. Clause 8.8.1 – (Opening & closing date of subscription of securities),

w. Clause 9 – (Guidelines on advertisements by Issuer Company),

- x. Clause 10.1 – (Requirement of credit rating),
- y. Clause 10.5 – (Redemption).

34. Further, ILDS Regulations are applicable to the public issue and listing of debt securities. Regulation 2(e) of the ILDS Regulations defines debt securities to mean non-convertible debt securities which create or acknowledge indebtedness, and include debentures. In view of the finding that TIL has made a public issue of debt securities, the ILDS Regulations is also applicable to the instant offer of NCDs. Therefore, I find that the Company has violated the following provisions of the aforesaid ILDS Regulations for the issues made subsequent to the date of coming into force of ILDS Regulations, which contain *inter alia* conditions for public issue and listing of debt securities, viz.

- i. Regulation 4(2)(a) – Application for listing of debt securities
- ii. Regulation 4(2)(b) – In-principle approval for listing of debt securities
- iii. Regulation 4(2)(c) – Credit rating has been obtained
- iv. Regulation 4(2)(d) – Dematerialization of debt securities
- v. Regulation 4(4) – Appointment of Debenture Trustees
- vi. Regulation 5(2)(b) – Disclosure requirements in the Offer Document
- vii. Regulation 6 – Filing of draft Offer Document
- viii. Regulation 7 – Mode of disclosure of Offer Document
- ix. Regulation 8 – Advertisements for Public Issues
- x. Regulation 9 – Abridged Prospectus and application forms
- xi. Regulation 12 – Minimum subscription
- xii. Regulation 14 – Prohibition of mis-statements in the Offer Document
- xiii. Regulation 15 – Trust Deed
- xiv. Regulation 17 – Creation of security
- xv. Regulation 19 – Mandatory Listing
- xvi. Regulation 26 – Obligations of the Issuer, etc.

35. Further, I note that the jurisdiction of SEBI over various provisions of the Companies Act, 1956 including the above mentioned, in the case of public companies, whether

listed or unlisted, when they issue and transfer securities, flows from the provisions of Section 55A of the Companies Act, 1956. While examining the scope of Section 55A of the Companies Act, 1956, the Hon'ble Supreme Court of India in *Sahara Case*, had observed that:

"We, therefore, hold that, so far as the provisions enumerated in the opening portion of Section 55A of the Companies Act, so far as they relate to issue and transfer of securities and non-payment of dividend is concerned, SEBI has the power to administer in the case of listed public companies and in the case of those public companies which intend to get their securities listed on a recognized stock exchange in India."

"SEBI can exercise its jurisdiction under Sections 11(1), 11(4), 11A(1)(b) and 11B of SEBI Act and Regulation 107 of ICDR 2009 over public companies who have issued shares or debentures to fifty or more, but not complied with the provisions of Section 73(1) by not listing its securities on a recognized stock exchange"

36. In this regard, it is pertinent to note that by virtue of Section 55A of the Companies Act, 1956, SEBI has to administer Section 67 of that Act, so far as it relates to issue and transfer of securities, in the case of companies who intend to get their securities listed. While interpreting the phrase “intend to get listed” in the context of deemed public issue the Hon’ble Supreme Court in *Sahara Case* observed-

“...But then, there is also one simple fundamental of law, i.e. that no-one can be presumed or deemed to be intending something, which is contrary to law. Obviously therefore, “intent” has its limitations also, confining it within the confines of lawfulness...”

“...Listing of securities depends not upon one’s volition, but on statutory mandate...”

“...The appellant-companies must be deemed to have “intended” to get their

securities listed on a recognized stock exchange, because they could only then be considered to have proceeded legally. That being the mandate of law, it cannot be presumed that the appellant companies could have “intended”, what was contrary to the mandatory requirement of law...”

37. In view of the above findings, I am of the view that TIL was engaged in fund mobilizing activity from the public, through the offer of RPS and NCDs and has contravened the provisions of section 56(1), 56(3), 2(36) read with 60, 73(1), 73(2), 73(3), and 117C of the Companies Act, 1956, and above mentioned provisions pertaining to DIP Guidelines and the ILDS Regulations.

ISSUE No. 3- *By virtue of appointment of Shambhu N. De & Co. (represented by its Partner viz., Shri Pradip Majumdar), as the Debenture Trustee by TIL whether Shri Pradip Majumdar and Shambhu N. De & Co. have violated Section 12(1) of SEBI Act?*

38. I have perused the copy of the Debenture Trust Deed, MCA records and information submitted by TIL. I find that TIL created a charge for an amount of Rs. 5 Crores on September 15, 2007 and Rs. 5 Crores on December 15, 2007 and appointed *Shambhu N. De & Co. (represented by its Partner Shri Pradip Majumdar)* as Debenture Trustee for the Offer of NCDs by the company.
39. Shri Pradip Majumdar vide his written and oral submissions made before me contended that he had agreed to sign at the behest of two senior Chartered Accountants and didn't have much knowledge. He was not in touch with the Company after that and has no papers with him. He had signed as a partner of the firm and not in his individual capacity. It was unintentional and due to lack of knowledge. I note that the liability of a debenture trustee arises when they deal with the NCDs as an unregistered trustee. In the instant case, he has dealt with the NCDs by way of standing as debenture trustee to the NCDs through the debenture trust deed. Though Shri Pradip Majumdar claims that he had signed the contract on behalf of the firm at the behest of seniors, I find that after

accepting the role of a debenture trustee he cannot wriggle out of his responsibility and he ought to be responsible while signing the trust deed. Having signed the Trust deed as a debenture trustee, he cannot plead ignorance of law which fastens liability upon him. All things considered, I am not inclined to accept his contentions.

40. Section 12(1) of the SEBI Act states that: "*No... trustee of trust deed ... shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act*". Regulation 7 of the SEBI (Debenture Trustees) Regulations, 1993, states that only *a scheduled bank carrying on commercial activity or, a public financial institution within the meaning of section 4A of the Companies Act, 1956 or, an insurance company or, a body corporate alone are eligible to get a certificate of registration as Debenture Trustee.*
41. *Shambhu N. De & Co. (represented by its Partner viz., Shri Pradip Majumdar.)* are not eligible to obtain a certificate of registration since it does not satisfy the eligibility criteria mentioned in Regulation 7 of the SEBI (Debenture Trustees) Regulations, 1993. None of the Noticees claimed that they had received certificate of registration as per section 12(1) of the SEBI Act. In view of the above, I find that Shambhu N. De & Co. and Shri Pradip Majumdar have dealt in the impugned Offer of NCDs as debenture trustees, without having a certificate of registration as Debenture Trustee in violation of Section 12(1) of the SEBI Act, 1992.
42. As per Clause 10.2 of the DIP Guidelines, no company shall issue a prospectus or a letter of offer to the public for subscription of its debentures, unless the company has appointed one or more debenture trustees for such debentures in accordance with the provisions of the Companies Act, 1956, and the names of the debenture trustees shall be stated in the Offer documents and also in all the subsequent periodical communications sent to the debenture holders. I find that TIL has appointed *Shambhu N. De & Co. (represented by its Partner viz., Shri Pradip Majumdar)* who do not have a certificate of registration.

In view of the above, I find that Shambhu N. De & Co. and Shri Pradip Majumdar have dealt in the impugned Offer of NCDs as debenture trustees, without having a certificate of registration as Debenture Trustee in violation of Section 12(1) of the SEBI Act, 1992.

ISSUE No. 4- If the findings on Issue No.2 and 3 are found in the affirmative, who are liable for the violation committed?

43. It is noted from the material available on record that during the time of service of SCN, relative of Shri Ranjit Kumar Basumullick informed SEBI that Shri Ranjit Kumar Basumullick had deceased during the year 2013 and submitted a copy of the death certificate. I have perused the death certificate dated May 13, 2013 issued by the Kolkata Municipal Corporation. The issue for consideration here is that whether the present proceedings will continue against Shri Ranjit Kumar Basumullick on account of his death or not. In this regard, I place reliance on the following observations of Hon'ble Supreme Court in the matter of *Melepurath Sankunni Ezhuthassan Vs Thekittil Gopalankutty Nair*, (1986 AIR 411):

“.....So far as this country is concerned, which causes of action survive and which abate is laid down in section 306 of the Indian Succession Act, 1925, which provides as follows :

306. Demands and rights of action of or against deceased survive to and against executor or administrator. -

All demands whatsoever and all rights to prosecute or defend any action or special processing existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed or granting it would be nugatory.....

.....Section 306 further speaks only of executors and administrators but on principle

the same position must necessarily prevail in the case of other legal representatives, for such legal representatives cannot in law be in better or worse position than executors and administrators and what applies to executors and administrators will apply to other legal representatives also.”

The observations of the Hon’ble Supreme Court in the matter of Smt. Yallawwa Vs. Smt. Shantavva on October 08, 1996, (MANU/SC/0016/1997) is also noteworthy: “.....*Save and except the personal cause of action which dies with the deceased on the principal of ‘actio personal is moritur cum persona,’ i.e. a personal cause of action dies with the person, all the rest of causes of action which have impact on proprietary rights and socio legal status of the parties cannot be said to have died with such a person.....”*

I also note that the Hon’ble Supreme Court in the matter Prabhakara Adiga Vs. Gowri and others (Civil Appeal Nos. 3007-3008 of 2017, decided on February 20, 2017) has reiterated their stand taken in an earlier judgment in the matter of Girijanandini Devi v. Bijendra Narain Choudhary (AIR 1967 SC 1124) and observed that “*Normally personal action dies with person but this principle has application to limited kinds of causes of actions. In Girijanandini Devi v. Bijendra Narain Choudhary AIR 1967 SC 1124, this Court while considering the question whether the decree for account can be passed against the estates, also considered the maxim “actio personalis moritur cum persona” and observed that the postulation that personal action dies with the person, has a limited application. It operates in a limited class of actions, such as actions for damages, assault or other personal injuries not causing the death of the party and in other actions where after the death of the party the relief granted could not be enjoyed or granting it would be nugatory. Death of the person liable to render the account for property received by him does not therefore affect the liability of his estate”.*

44. Since the consequences of aforesaid violations have resulted in the liability to repay the investors forthwith and the same becomes the part of the estate of the deceased, I am of

the view that such cause of action survives the death of Shri Ranjit Kumar Basumullick. Therefore, I am not inclined to abate the proceedings against Shri Ranjit Kumar Basumullick.

45. From the documents available on record, I find that the present Directors in TIL are Shri Ramendu Chattopadhyay and Shri Tapash Kumar Dhar. I also note that, Shri Udayan Banerjee, who was earlier Director in TIL, has since resigned. The details of the appointment and resignation of the directors are as following:

Name of the directors	Date of appointment	Date of cessation
Shri Ramendu Chattopadhyay	March 24, 2005	Continuing
Shri Ranjit Kumar Basumullick	June 08, 2006	May 12, 2013*
Shri Udayan Banerjee	June 29, 2004	May 15, 2014
Shri Tapash Kumar Dhar	June 08, 2006	Continuing

** Since information as regards date of cessation not available, the date mentioned in the death certificate has been taken into record.*

46. Section 56(1) and 56(3) read with section 56(4) of the Companies Act, 1956 imposes the liability on the company, every director, and other persons responsible for the prospectus for the compliance of the said provisions. The liability for non-compliance of Section 60 of the Companies Act, 1956 is on the company, and every person who is a party to the non-compliance of issuing the prospectus as per the said provision. Therefore, TIL and its directors are held liable for the violation of sections 56(1), 56(3) and 60 of the Companies Act, 1956.
47. As far as the liability for non-compliance of section 73 of Companies Act, 1956 is concerned, as stipulated in section 73(2) of the said Act, the company and every director of the company who is an officer in default shall, from the eighth day when the company

becomes liable to repay, be jointly and severally liable to repay that money with interest at such rate, not less than four per cent and not more than fifteen per cent if the money is not repaid forthwith. With regard to liability to pay interest, I note that as per section 73 (2) of the Companies Act, 1956, the company and every director of the company who is an officer in default is jointly and severally liable, to repay all the money with interest at prescribed rate. In this regard, I note that in terms of rule 4D of the Companies (Central Governments) General Rules and Forms, 1956, the rate of interest prescribed in this regard is 15%.

48. From the material available on record and the details of the appointment and resignation of the directors of TIL as reproduced in paragraph 45 of this Order, it is noted that Shri Udayan Banerjee, Shri Ramendu Chattopadhyay, legal representatives of Late Shri Ranjit Kumar Basumullick and Shri Tapash Kumar Dhar were directors at the time of the issuance of RPS and NCDs. Since these persons were acting as directors during the period of issuance of RPS and NCDs, they are officers in default as per Section 5(g) of Companies Act, 1956. Further, in the present case, no material is brought on record to show that any of the officers set out in clauses (a) to (c) of Section 5 of Companies Act, 1956 or any specified director of TIL was entrusted to discharge the obligation contained in Section 73 of the Companies Act, 1956. Therefore, as per Section 5(g) of the Companies Act, 1956 all the past and present directors of TIL, as officers in default, are liable to make refund, jointly and severally, along with interest at the rate of 15 % per annum, under section 73(2) of the Companies Act, 1956 for the non-compliance of the above mentioned provisions. None of the Noticees disputed this legal liability by way of any written or oral submissions. Since, the liability of the company to repay under section 73(2) is continuing and such liability continues till all the repayments are made, the above said directors are co-extensively responsible along with the Company for making refunds along with interest under section 73(2) of the Companies Act, 1956 read with rule 4D of the Companies (Central Government's) General Rules and Forms, 1956, and section 27(2) of the SEBI Act. Therefore, I find that TIL and its Directors, viz., Shri

Udayan Banerjee, Shri Ramendu Chattopadhyay, Shri Ranjit Kumar Basumullick and Shri Tapash Kumar Dhar are jointly and severally liable to refund the amounts collected from the investors with interest at the rate of 15 % per annum, for the non-compliance of the above mentioned provisions.

49. I note that during the financial years 2005-2006, 2006-2007 and 2007-2008, TIL through Offer of RPS, had collected an amount of Rs. 8,48,74,080 from various allottees. Further, during the financial years 2007-2008, 2008-2009, 2009-2010 and 2010-2011, TIL through Offer of NCDs, had collected an amount of Rs. 37,50,97,400 from various allottees. I note that Shri Ramendu Chattopadhyay has been director of TIL since financial years 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011 till present date. I note that Shri Ranjit Kumar Basumullick was a director of TIL since financial years 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011 till 2013-2014. I note that Shri Udayan Banerjee was director of TIL during financial years 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010 and 2010-2011. I note that Shri Tapash Kumar Dhar has been director of TIL since financial years, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011 till present date. Therefore, in view of Hon'ble Securities Appellate Tribunal (SAT) Order dated July 14, 2017 in the matter of *Manoj Agarwal vs. SEBI*, I am of the view that the obligation of the director to refund the amount with interest jointly and severally with TIL and other directors are limited to the extent of amount collected during his/her tenure as director of TIL.
50. As far as the liability under sections 117B of the Companies Act, 1956, is concerned, the liability is on the company to comply with the said provisions. Therefore, TIL is liable for the violation of sections 117B of the SEBI Act. In respect of the liability under section 12(1) of the SEBI Act, the liability is on the Trustee who act as the debenture trustee without the Certificate of Registration from SEBI as debenture trustee. In view of the above, I find that both *Shambhu N. De & Co. and Shri Pradip Majumdar* are liable for the violation of section 12(1) of the SEBI Act read with regulation 7 of the Debenture Trustee Regulations.

51. With respect to the provisions of the DIP Guidelines and respective regulations of the ILDS Regulations enumerated on paragraph 33 and 34 of this order, the liability is on the Company to comply with the requirements therein.
52. On perusal of the SCN I find that SCN mentions that the Noticees have failed to make the refund and the SCN also alleges in paragraph 10(ix) that “in view of the failure to refund the investors the Noticees have also violated section 73(2) of the Companies Act, 1956”. Further paragraph 11 of the SCN provides that why suitable directions cannot be passed by SEBI for violation of Section 73 of the Companies Act, 1956. Therefore, I hold that the Noticees have been informed about their liability to refund and suitable and consequential directions for violation of their liability to refund under section 73(2). Therefore, in my considered view the Noticees have been put to notice enabling them to contest on their liability to repay and the consequential directions which can flow from failure to repay. In view of the foregoing, the natural consequence of not adhering to the norms governing the issue of securities to the public and making repayments as directed under section 73(2) of the Companies Act, 1956, is to direct TIL and its Directors, viz., Shri Udayan Banerjee, Shri Ramendu Chattopadhyay, Shri Ranjit Kumar Basumullick and Shri Tapash Kumar Dhar to refund the monies collected, with interest to such investors. Further, in view of the violations committed by the Company and its Directors, to safeguard the interest of the investors who had subscribed to such RPS and NCDs issued by the Company, to safeguard their investments, and to further ensure orderly development of securities market, it also becomes necessary for SEBI to issue appropriate directions against the Company and the other Noticees.
53. In view of the discussion above, appropriate action in accordance with law needs to be initiated against TIL and its Directors and debenture trustee, viz. Shri Ramendu Chattopadhyay, Shri Ranjit Kumar Basumullick, Shri Udayan Banerjee, Shri Tapash Kumar Dhar, *Shambhu N. De & Co.* (represented by its Partner viz., Shri Pradip Majumdar) .
54. In view of the aforesaid observations and findings, I, in exercise of the powers conferred

under section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11, 11(4), 11A and 11B of the SEBI Act, hereby issue the following directions:

- (a) TIL, Shri Udayan Banerjee, Shri Ramendu Chattopadhyay, Shri Tapash Kumar Dhar and legal representatives of Late Ranjit Kumar Basumullick as per applicable law shall jointly and severally, forthwith refund the money collected by the Company (TIL for moneys collected till date and directors for the moneys collected during their respective period of directorship) through the issuance of RPS and NCDs including the application money collected from investors, pending allotment of securities, if any, with an interest of 15% per annum, from the eighth day of collection of funds, to the investors till the date of actual payment.
- (b) The repayments and interest payments to investors shall be effected only through Bank Demand Draft or Pay Order both of which should be crossed as “Non-Transferable”.
- (c) Shri Udayan Banerjee and legal representatives of Late Ranjit Kumar Basumullick are directed to provide a full inventory of all their assets and properties and details of all their bank accounts, demat accounts and holdings of mutual funds/shares/securities, if held in physical form and demat form.
- (d) TIL and Shri Ramendu Chattopadhyay and Shri Tapash Kumar Dhar are directed to provide a full inventory of all the assets and properties and details of all the bank accounts, demat accounts and holdings of mutual funds/shares/securities, if held in physical form and demat form, of the company and their own.
- (e) TIL, Shri Ramendu Chattopadhyay and Shri Tapash Kumar Dhar are permitted to sell the assets of the Company for the sole purpose of making the refunds as directed above and deposit the proceeds in an Escrow Account opened with a nationalized Bank. Such proceeds shall be utilized for the sole purpose of making refund/repayment to the investors till the full refund/repayment as directed above is made.

- (f) TIL, Shri Udayan Banerjee, Shri Ramendu Chattopadhyay, Shri Tapash Kumar Dhar are prevented from selling their assets, properties and holding of mutual funds/shares/securities held by them in demat and physical form except for the sole purpose of making the refunds as directed above and deposit the proceeds in an Escrow Account opened with a nationalized Bank. Such proceeds shall be utilized for the sole purpose of making refund/repayment to the investors till the full refund/repayment as directed above is made.
- (g) TIL and, Shri Udayan Banerjee, Shri Ramendu Chattopadhyay, Shri Tapash Kumar Dhar and legal representatives of Late Ranjit Kumar Basumullick, in their personal capacity to make refund, shall issue public notice, in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact persons such as names, addresses and contact details, within 15 days of this Order coming into effect.
- (h) After completing the aforesaid repayments, TIL, Shri Udayan Banerjee, Shri Ramendu Chattopadhyay, Shri Tapash Kumar Dhar and legal representatives of Late Ranjit Kumar Basumullick, shall file a report of such completion with SEBI, within a period of three months from the date of this order, certified by two independent peer reviewed Chartered Accountants who are in the panel of any public authority or public institution. For the purpose of this Order, a peer reviewed Chartered Accountant shall mean a Chartered Accountant, who has been categorized so by the Institute of Chartered Accountants of India ("ICAI") holding such certificate.
- (i) In case of failure of TIL, Shri Udayan Banerjee, Shri Ramendu Chattopadhyay, Shri Tapash Kumar Dhar and legal representatives of Late Ranjit Kumar Basumullick to comply with the aforesaid applicable directions, SEBI, on the expiry of three months period from the date of this Order may recover such amounts, from the company and the directors liable to refund as specified in paragraph 54(a) of this Order, in accordance with section 28A of the SEBI Act including such other provisions contained in securities laws.

(j) TIL, Shri Udayan Banerjee, Shri Ramendu Chattopadhyay and Shri Tapash Kumar Dhar are directed not to, directly or indirectly, access the securities market, by issuing prospectus, offer document or advertisement soliciting money from the public and are further restrained and prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in whatsoever manner, from the date of this Order, till the expiry of 4 (four) years from the date of completion of refunds to investors as directed above. The above said directors are also restrained from associating themselves with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI from the date of this Order till the expiry of 4 (four) years from the date of completion of refunds to investors. Further, the above said directors and any other companies in which they are directors/promoters holding substantial or controlling interest are also restrained from accessing the capital market till the expiry of 4 (four) years from the date of completion of refunds to investors.”

(k) Shambhu N. De & Co. and Shri Pradip Majumdar restrained from accessing the securities market and are further restrained from buying, selling or dealing in securities, in any manner whatsoever, for a period of 4 (four) years from the date of this order.

The above directions shall come into force with immediate effect subject to paragraph 55 and 56.

55. It is pertinent to mention here that the Hon’ble High Court at Calcutta in the W.P. 5437 (W) of 2014 Tandra Mukherjee & ors. Vs. SEBI & ors. with W.P.18229 (W) of 2014 Amal Kr. Nandy & ors. Vs. SEBI & ors. With W.P.16534 (W) of 2013 Tower Infotech Ltd. & anr. Vs. UOI & ors. with C.A.N. 7278 of 2014, C.A.N. 7496 of 2016, C.A.N.11671 of 2016, vide Order dated December 15, 2016 has, *inter alia*, directed as under:

“In connection with Tower Group of companies, as per our direction certain properties have already been sold upon publication of advertisement inviting claims. Mr. Mitra, learned Senior Counsel appearing for S.E.B.I. apprises us that his clients have got a list of claimants on the basis of advertisements published in different newspapers. He, however, also brought to the notice to the Court that the authenticity of the individual claims has not been verified as yet. We are of the view that the Committee appointed by us in connection with similar issues concerning M.P.S. Group should also deal with the issue of verifying claims of individual claimants. Thereafter, the modalities for disbursal of sums of money also have to be worked out in consultation with State and other stake holders including the individual investors”.

Therefore, the effect and implementation of the aforesaid directions stated in paragraph 54 excluding 54 (c),(d),(j) and (k) shall be subject to the directions passed by the Hon’ble High Court in its Order dated December 15, 2016 or any further orders passed therein or any orders/decisions of the Hon’ble Justice (Retd) S. P. Talukdar Commission appointed in this regard.

56. It is noted that Shri Ranjit Kumar Basumullick is deceased and his legal representatives have not been brought on record. Therefore, the directions against legal representatives of Late Ranjit Kumar Basumullick are made contingent on SEBI serving this order to his legal representatives. Therefore, this order will take effect as final order against legal heirs of Shri Ranjit Kumar Basumullick only on the expiry of 60 days from the date of service of this order to the legal representatives of Late Shri Ranjit Kumar Basumullick, unless legal representatives of Late Shri Ranjit Kumar Basumullick, file reply or written request for personal hearing receivable by SEBI within such period of 60 days from the date of service of this order. If reply/request for personal hearing is filed by legal representatives of Late Shri Ranjit Kumar Basumullick, the directions passed herein against legal representatives of Late Shri Ranjit Kumar Basumullick shall be made applicable subject to the determination on the objections/reply. In the meantime, the legal representatives of Late Shri Ranjit

Kumar Basumullick shall not buy, sell or otherwise deal in securities for creation of any third party rights, from the date of this order till the disposal of the objections/reply, if such objections or reply are filed, or till the date of discharge of the liability of refund, if no objections/reply are filed.

57. Copy of this Order shall be forwarded to the recognised Stock Exchanges and Depositories and Registrar and Transfer Agents for information and necessary action.

58. A copy of this Order shall also be forwarded to the Ministry of Corporate Affairs/concerned Registrar of Companies, for their information and necessary action with respect to the directions/ restraint imposed above against the Company and the individuals.

59. A copy of this Order shall also be forwarded to the Local Police/State Government for information.

DATE: July 27, 2018

PLACE: Mumbai

MADHABI PURI BUCH

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA