

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: S. K. MOHANTY, WHOLE TIME MEMBER
ORDER

Under Sections 11 and 11B of the Securities and Exchange Board of India Act, 1992

In respect of:

Noticee No.	Names of the Noticee	PAN
1.	M/s. Chromatic India Limited	AAACC6220B
2.	Mr. Vinod Kumar Kaushik	AMAPK7964P
3.	Mr. Vipin Sharma	ABHPS7947N
4.	Mr. Ajay Sethi	AIDPS3802K

In the matter of M/s. Chromatic India Limited

(The aforesaid entities are hereinafter individually referred to by their respective names/Noticee nos. and collectively as “Noticees”, unless the context specifies otherwise)

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) conducted an investigation into the issue of Global Depository Receipts (hereinafter referred to as “**GDR**”) by M/s. Chromatic India Limited (hereinafter referred to as “**Chromatic /Company/Noticee no. 1**”). The relevant period of investigation was from October 01, 2010 to October 31, 2010.

2. It was observed that Chromatic had issued 4.2 million GDR for US\$ 35.78 million on October 22, 2010. Details of the GDR issue as provided by the Company is tabulated below:

Table no. 1

GDR issue date	No. of GDR issued (mn.)	Capital raised (USD mn.)	Local custodian	No. of equity shares underlying GDRs	Global Depository Bank	Lead Manager	Bank where GDR proceeds deposited	GDRs listed on

22-Oct-2010	4.20	35.784	DBS Bank, Mumbai	3,78,00,000 (9 share each for 1 GDR)	The Bank of New York Mellon	Prospect Capital Ltd., London	EURAM Bank, Austria	Luxembourg Stock Exchange
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3. It was further observed that Chromatic vide letter dated June 19, 2013 has inter-alia provided list of subscribers to its GDR issue and the same are as under:

S.N	Name of the subscriber	Country of subscriber
1	Nigella Ltd.	Bahrain
2	Mediterranean Capital Holdings Corp	Saudi Arabia
3	Uranus Global Ltd.	Philippines
4	Scholari Investments Ltd.	Singapore
5	Fort Tropical Ltd.	Kuwait
6	Kingsly Holdings Ltd.	New Zealand
7	Cromwell Capital Corp	Qatar

4. SEBI wrote to the respective foreign regulators to seek details about the above mentioned seven subscribers. From the replies received, it was observed that either no such companies/entities were in existence at the respective jurisdictions or their status/existence was unascertainable. It was therefore clear to the Investigation that Chromatic had furnished incorrect information to SEBI by providing, a false list of GDR subscribers.

5. The investigation revealed that European American Investment Bank AG (hereinafter referred to as **“EURAM Bank/Bank”**) had granted loan to Vintage FZE (hereinafter referred to as **“Vintage”**) by way of a Loan Agreement dated October 12, 2010 (hereinafter referred to as the **“Loan Agreement”**) for making payment towards subscription to the GDR issued by Chromatic and the entire 4.20 million GDR were subscribed by only one entity, i.e. Vintage.

6. Investigation further revealed that the Company pledged its entire GDR proceeds as a security for the loan availed by Vintage from EURAM Bank for subscribing to GDR of Chromatic, by entering into a Pledge Agreement dated October 12, 2010 with EURAM Bank (hereinafter referred to as the **“Pledge Agreement”**). It was further observed that the GDR were subsequently converted into equity shares and sold in the Indian Securities Market. During the course of investigation, it was also found that the Company had not disclosed to the investors about the arrangement so made by it to ensure the successful issuance/subscription/allotment of the GDR by facilitating a loan to Vintage. It was further concealed from the public that the proceeds of GDR would be kept as security with the EURAM Bank and thereby misled the Shareholders/investors at large by providing partial and distorted information.

7. On the backdrop of the above stated facts, the Company (Noticee no. 1) and its Directors, Noticees no. 2 to 4 have been alleged to have violated provisions of SEBI Act, 1992 (hereinafter referred to as “**SEBI Act**”) and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”).

SHOW CAUSE NOTICE, REPLY AND HEARING:

8. Under the aforesaid facts and circumstances, a common Show Cause Notice (hereinafter referred to as “**SCN**”) dated June 28, 2017 was issued to all the Noticees, calling upon them to show cause as to why suitable directions shall not be issued against them under Sections 11, 11B and 11(4) of the SEBI Act. Noticees no. 1 (Company) has vide letter dated November 13, 2017 filed on behalf of all the Noticees, sought copies of documents relied upon by SEBI in the present proceedings. I note from the records that SEBI has provided the copies of relevant documents relied upon in the SCN to the Company vide letter dated December 15, 2017. In the interest of principles of natural justice, Noticees have been subsequently provided with an opportunity of personal hearing on November 14, 2018, however, none appeared for and on behalf of any of the Noticees on the date of hearing. I note that Noticee no. 1 has subsequently requested for another date of hearing vide letter dated November 12, 2018. The request of the Noticees was duly considered and as the Noticees were provided with one more hearing opportunity on March 12, 2019. In response, Noticee no. 1 (Company), Noticee no. 2 (Mr. Vinod Kumar Kaushik) and Noticee no. 4 (Mr. Ajay Sethi) have submitted separate written replies, each dated March 7, 2019. Noticees no. 1, 2 and 4 were also represented by a common Authorized Representative who appeared for the hearing on March 12, 2019 on their behalf and made detailed submissions. The authorised representative was also asked to provide responses to some of the queries raised during the hearing. Noticee no. 1 (Company) and Noticee no. 4 (Mr. Ajay Sethi) have submitted additional written replies, each dated April 5, 2019 and May 13, 2019 respectively. I note that no reply on merits has been submitted on behalf of Noticee no.3 (Mr. Vipin Sharma) nor anyone appeared before me for personal hearing.

9. I have perused the written replies dated March 7, 2019, April 5, 2019 and May 13, 2019 submitted by Noticee no. 1, 2 and 4 after having heard them personally through their authorised representatives, I summarise their contentions / submission as below:

Noticee No 1:

- a) Adjudication Proceedings have also been initiated against it for the same set of allegations as the present proceedings, amounting to double jeopardy which is in

violation of Article 20(2) of the Constitution of India. This results in causing agony and increasing legal cost.

- b) It is not allowed to inspect the original documents in violation of principles of natural justice.
- c) Their's is a law-abiding company and their regulatory compliances are excellent and have no investors complaints pending against them. They have gone for the GDR issue after seeking requisite approvals and after making proper disclosures and no regulatory authority/stock exchanges have pointed out violations on their part.
- d) GDR were issued to expand their business and with the issue of GDR, the Company got the benefit of flow of foreign capital and listing at a global stock exchange. The GDR proceeds were utilized as per the purposes mentioned in the Offering Circular which were, (a) capital expenditures, (b) long term working capital requirement and (c) investment in proposed overseas subsidiary companies at suitable location.
- e) They have provided the list of seven subscribers to their GDR issue based on the information provided to them by their Lead Manager, which they believed to be true to the best of their knowledge. Further, as per secrecy laws in other jurisdictions, it was not possible for them to know the subscribers. They were shocked to know that the GDR was subscribed by only one entity (Vintage).
- f) The Board Resolution dated August 13, 2010 merely states that GDR proceeds deposited in the bank account can be used as security if and when so required. Nowhere in the Resolution, it has been specifically permitted that the proceeds can be used as security for enabling subscription of the GDR issue of Chromatic. Therefore, it was never the intention of the Company and its directors to get the GDR issue subscribed by pledging the GDR proceeds as security against the loan given to the subscriber to the GDR issue.
- g) They are not signatories to the Loan Agreement and unaware of the said agreement, hence, cannot be held liable for any averments in the said agreement.
- h) The Pledge Agreement was signed between the Company and EURAM Bank in the routine course of business relying upon the expertise of Prospect Capital Ltd., London (hereinafter referred to as "**Prospect**"), Lead Manager to the GDR issue of Chromatic who were reputed globally and assumed to be well aware of policies in the foreign jurisdiction where GDR was being listed. The Managing Director and other officials of the Company were not aware of the procedures involved in the GDR issue.
- i) Mr. Arun Panchariya has signed the Loan Agreement on behalf of Vintage as its Managing Director and he also appears to be controlling the operations of Prospect as revealed during the investigation conducted by SEBI in other GDR matters and was the mastermind of all these operations. Yet, he has been merely debarred by SEBI for

10 years and no other actions/penalty has been imposed on him. Instead, the Noticees are being subjected to multiple proceedings.

- j) As regards GDR proceeds getting transferred back to the Company after repayment of loan by Vintage, Noticee no. 1 has submitted that they have utilized the GDR proceeds according to the prevailing market conditions and the Company's requirement. The repayment of loan is a separate transaction between Vintage and EURAM Bank in terms of the Loan Agreement entered into between them.
- k) They have given details of the nature of directorship of all the Noticees and confirmed that no separate GDR committee had been constituted.
- l) The Noticees have tried to contact the Lead Manager, however, it could not be contacted and no action has been taken by the Company against the Lead Manager. Considering these entities are foreign based, the cost of initiating proceedings against them would be very high and result in foreign exchange outflow, adversely affecting the Indian Shareholders. The Noticee no. 1 has relied upon the judgement of *SEBI v. PAN Asia Advisors Ltd & anr.*, (2015) 14 SCC 71 rendered by Hon'ble Supreme Court to state that despite having the judicial backing, SEBI has not taken action against these entities like 'Prospect' operating outside India .
- m) The Pledge Agreement was signed between the Company and EURAM Bank, however, the conditions of the agreement will not get activated till the time subscription money is received in the account opened for receiving GDR proceeds. Therefore, the Company would be able to provide security against subscription proceeds only when subscription is received and not before that. The Company or any other person cannot create pledge against assets which are not in existence. Hence, the agreement is void and SEBI's allegation that they have secured the rights of EURAM Bank against loan given by EURAM Bank to Vintage is devoid of merit.
- n) The Noticee has denied violation of provisions of PFUTP Regulations and has relied on case laws to state that a high degree of evidence is required to prove the charge of fraud/manipulation in a quasi-judicial proceeding and the charge should not be based on mere surmises.
- o) Claimed to be victim rather than the offender in the matter, as Lead Manager has not only manipulated Indian investors but manipulated the Noticees by providing incorrect and false information.
- p) The SCN has not brought out any concrete figure of loss to the Indian investors due to the announcements made by the Company.

Noticee no. 2 (Mr. Vinod Kumar Kaushik):

- a) The Noticee has denied violation of provisions of PFUTP Regulations. He was the director of the Company from September 29, 2009 and has an impeccable track record in terms of regulatory compliances.
- b) He has admitted being authorized by the Board of Directors in the meeting dated August 13, 2010 to execute agreements, applications etc., with respect to GDR issue by the Company, however has denied being party to any fraudulent scheme of GDR issue of the Company.
- c) The Noticee denies having complete knowledge about the subscriber to the GDR issue. The task of carrying out the GDR process was carried out by the Lead Manager, Prospect and he relied on the expertise of Prospect and considering the cross-border nature of transactions and he has signed documents based on good faith. The legal due diligence was also carried out by reputed law firms in India and United Kingdom.
- d) Not derived any unfair advantage as a result of the alleged violations.

Noticee no. 4 (Mr. Mr. Ajay Sethi):

- a) The Noticee has denied violation of provisions of PFUTP Regulations. He was director of the Company from May 29, 2010 and has an impeccable track record in terms of regulatory compliances.
- b) The Noticee has adopted the contents of the detailed reply dated March 7, 2019 submitted by Noticee no. 1 (Company) to support his submission that he has acted bona-fide in compliance with the provisions of law.
- c) He has not derived any unfair advantage as a result of the alleged violations.
- d) He was an Independent Director of the Company. He merely attended the Board Meetings of the Company but was not involved in the day to day affairs of the Company and is not related to promoters or directors of the Company. As an Independent Director, he endeavoured to ensure that decisions taken at the Board meetings are transparent and fair, however, the actual implementation was done by the Whole Time Directors along with the employees.
- e) He denies being party to any fraudulent scheme by approving the Board Resolution permitting the Whole Time Director to execute the Pledge Agreement.
- f) Opening of bank account with EURAM Bank was part of the proposal to issue GDR by the Company, and prima facie, there was nothing on record to establish it as suspicious. By virtue of attending the Board Meeting, SEBI has concluded that he, along with other directors have approved the Board Resolution and authorized EURAM Bank to use the Company's GDR proceeds as security for loan. Other than the allegation of attending the Board meeting, nothing specific has been attributed to

him in the SCN as to how he was involved in the day to day activities or how the alleged activities had his approval and he was aware of them.

- g) Further, the Board Resolution does not give specific authority to EURAM Bank to extend loan for subscription of GDR. He cannot be made liable for making misleading disclosures to stock exchanges as that was looked after by a separate department in the Company. The announcements may have been approved by the Whole Time Director but he did not have a role to play in these corporate announcements.
- h) He was appointed as the Non-Executive Independent Director of the Company on May 29, 2010. During his tenure, he was part of the Audit Committee, Investors/Shareholders Committee and Remuneration Committee but not part of any other committee wherein any decision relating to GDR issue of the Company was taken.

ISSUES FOR CONSIDERATION AND FINDINGS:

10. After carefully examining the SCN dated June 28, 2017 including all the annexures as referred to in the SCN, replies received from Noticees to the aforesaid SCN and all other relevant material available on record, I find that the pertinent issues that require consideration in this matter are as under:

- (i) Whether the Company i.e. Noticee no. 1 has violated Section 12A(a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d) and 4(1), 4(2) (f), (k), (r) of PFUTP Regulations?*
- (ii) Whether the Noticees no. 2 to 4 have violated Section 12A(a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d) and 4(1) of PFUTP Regulations?*

ISSUE NO. 1: *Whether the Company i.e. Noticee no. 1 has violated Section 12A(a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d) and 4(1), 4(2) (f), (k), (r) of PFUTP Regulations?*

11. Before I proceed to examine the afore stated issues and decide as to whether on the facts of the matter, the aforesaid violations alleged in SCN stand established or not, it would be proper to reproduce hereunder, the relevant provisions of SEBI Act and PFUTP Regulations alleged to have been violated by the Noticees in the instant matter. The same are as under:

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;*

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.*

4. Prohibition of manipulative, fraudulent and unfair trade practices-

- (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.*
- (2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:-*
 - (a)*
 - (b)*
 -*
 - (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.*

12. I note that the Company had issued 4.2 million GDR on October 22, 2010 for raising 35.78 million US\$. The table no. 1 presented on page no. 2 shows that the number of underlying shares issued by the Company against the said 4.2 million GDR issue, were 3,78, 00,000. Thus the ratio of number of GDR issued to equity shares of the Company was 1:9.

13. The Board of Chromatic had passed a Resolution in its Meeting on August 13, 2010, wherein *inter alia*, a decision was taken to open an account with EURAM Bank and also to authorize EURAM Bank to use the GDR proceeds as security against loan. Relevant extracts of the Board Resolution are as under:

“RESOLVED THAT a bank account be opened with Euram Bank (“the Bank”) or any branch of Euram Bank, including the Offshore Branch, outside India for the purpose of receiving subscription money in respect of the Global Depository Receipt issue of the Company.

.....RESOLVED FURTHER THAT Mr. Vinod Kumar Kaushik, Whole Time Director of the Company, be and is hereby authorized to sign, execute, any application, agreement, escrow agreement, document, undertaking, confirmation, declaration and other paper(s) from time to time, as may be required by the Bank and to carry and affix, Common Seal of the Company thereon, if and when so required..”

.....

.....RESOLVED FURTHER THAT the bank be and is hereby authorized to use the funds so deposited in the aforesaid bank account as security in connection with loans if any as well as to enter into any Escrow Agreement or similar arrangements if and when so required.” (emphasis supplied)

14. On a perusal of the aforesaid Board Resolution (copy enclosed as annexure -4 of the SCN), I note that the said Resolutions were approved by the Board on August 13, 2010 for inter alia, opening of a bank account with EURAM Bank for the purpose of receiving subscription money in respect of the GDR issue of the Company. According to the Resolution, the Noticee no. 2, Mr. Vinod Kumar Kaushik was authorized to sign, execute any application, agreement, etc. as may be required by the EURAM Bank. Accordingly, the Company had opened an account no. 580029 in its name in EURAM Bank. It was further resolved by the Board to authorize the EURAM Bank to use the funds so deposited in the said bank account as security in connection with loans, if any. A comprehensive reading of all the above said Board Resolution indicates that a decision was taken as on August 13, 2010, about the proposed issuance of GDR and at that very stage to open a bank account with EURAM Bank. Further, the Board had also contemplated on the date of passing of the said Resolution itself, that the funds/proceeds of the proposed GDR to be received in their EURAM Bank account would be used as a security for loans. Passing of such a Resolution by the Board involving the future use of the GDR proceeds as a

security against a loan indicates that the Company did not intend to utilize the GDR proceeds immediately for the objects for which the GDR were to be issued. In this regard, I note that the information with regard to the aforesaid Board Resolution, particularly keeping the GDR proceeds as security, was not disclosed to the Shareholders and the Company had misled the investors by concealing such an important disclosure from them.

15. I further note that Vintage had signed a Loan Agreement dated October 12, 2010 with EURAM Bank for availing a loan of up to 35.78 million US\$ so as to subscribe to the full amount of the GDR issue of Chromatic worth of US\$ 35.78 million. In this regard some of the relevant clauses of the said Loan Agreement, which are worth quoting, are cited as under:

"1. Currency and Amount of Facility

USD 35,784,000

2. Nature and Purpose of Facility

To provide funding enabling Vintage FZE to take down GDR issue of 4,200,000 Luxembourg public offering and may only be transferred to EURAM account no. 580029, Chromatic India Limited.

3. Draw down

The Bank makes the Facility available to the Borrower subject to the fulfillment of the conditions precedent as set out in section 9 of this Loan Agreement and solely for the purpose as set forth above.

.....

6. Security

6.1 In order to secure all and any of the Bank's claims and entitlements against the Borrower, arising now or in the future out of or in connection with the Loan or any other obligation or liability of the Borrower to the Bank, including without limitation other loans granted in the future, it is hereby irrevocably agreed that the following securities and any other securities which may be required by the Bank from time to time shall be given to the Bank as provided herein or in any other form or manner as may be demanded by the Bank:

- Pledge of certain securities held from time to time in the Borrower's account no. 540012 at the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement.*
- Pledge of the account no. 580029 held with the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement.*

....."

16. I also note that apparently on the strength of afore-stated authorization given by the Board to “use the funds so deposited in the aforesaid bank account as security in connection with loans if any” the Noticee no. 2, Mr. Vinod Kumar Kaushik had signed a Pledge Agreement with EURAM Bank dated October 12, 2010 whereby it was agreed to pledge the GDR proceeds as security against loan availed by Vintage from EURAM Bank for subscribing to GDR of Chromatic. Some of the relevant clauses of the Pledge Agreement signed by the Company with EURAM Bank are quoted as under:

“1. Preamble

By Loan Agreement K111010-001 (hereinafter referred to as the “Loan Agreement”) dated 12 October 2010, the Bank granted a loan (hereinafter referred to as the “Loan”) to Vintage FZE, AAH-213, Al Ahmadi House, Jebel Ali Free Trade Zone, Jebel Ali, Dubai, United Arab Emirates (the “Borrower”) in the amount of USD 35,784,000. The Pledgor has received a copy of the Loan Agreement no. K111010-001 and acknowledges and agrees to its terms and conditions.”

2. Pledge

2.1 In order to secure any and all obligations, present and future, whether conditional or unconditional of the Borrower towards the Bank under the Loan Agreement and any and all respective amendments thereto and for any and all other current or future claims which the Bank may have against the Borrower in connection with the Loan Agreement including those limited as to condition or time or not yet due-irrespective of whether such claims have originated from the account relationship, from bills of exchange, guarantees and liabilities assumed by the Borrower or by the Bank, or have otherwise resulted from business relations, or have been assigned in connection therewith to the Bank (“the Obligations”) the Pledgor hereby pledges to the Bank the following assets as collateral to the Bank:

2.1.1 all of its rights, title and interest in and to the securities deposited from time to time at present or hereafter (hereinafter referred to as the “Pledged Securities”) and the balance of funds up to the amount USD 35,784,000 existing from time to time at present or hereafter on the securities account(s) no. 580029 held with the Bank (hereinafter referred to as the “Pledged Securities Account”) and all amounts credited at any particular time therein.

2.1.2 all of its right, title and interest in and to, and the balance of funds existing from time to time at present or hereafter on the account(s) no. 580029 kept by the Bank (hereinafter referred to as the “Pledged Time Deposit Account”) and all amounts credited at any particular time therein....

(The Pledged Securities Account and the Pledged Time Deposit Account hereinafter referred to as the “Pledged Accounts”, the Pledged Securities and the Pledged Accounts hereinafter collectively referred to as “Collateral”)

.....
6. Realisation of the Pledge

- 6.1 *In the case that the Borrower fails to make payment on any due amount, or defaults in accordance with the Loan Agreement, the Pledgor herewith grants its express consent and the Bank is entitled to apply the funds in the Pledged Accounts to settle the Obligations. In such case the Bank shall transfer the funds on the Pledged Accounts, even repeatedly, to an account specified by the Bank.*
- 6.2 *Notwithstanding the foregoing, in the case that the Borrower fails to make payment on any due amount, or defaults in providing or increasing security, the Pledgor herewith grants its express consent and the Bank is entitled to realize the Pledged Securities (i) at a public auction for those items of Pledged Securities for which no market price is quoted or which are not listed on a recognized stock exchange or (ii) in a private sale pursuant to the provisions of Section 376 Austrian Commercial Code unless the Bank decides to exercise its rights through court proceedings. The Pledgor and the Bank agree to realize those items of the Pledged Securities for which a market price is quoted or which are listed on a stock exchange through sale by a broker publicly authorized for such transaction, a selected by the Bank.*
- 6.3 *The Bank may realize the pledge rather than accepting payments from the Borrower after maturity of the claim if the Bank has reason to believe that the Borrower's payments may be contestable."*

17. On a careful and combined examination of the contents of clauses of the "Loan Agreement" and the "Pledge Agreement", following observations are made: -

- a) The Pledge Agreement was executed mainly to secure the obligations of the borrower i.e. Vintage, which was granted a loan for USD 35.78 million by EURAM Bank. The Pledge Agreement mentions that the Pledgor received a copy of the Loan Agreement and acknowledges the terms of the Loan Agreement. Further, the Pledge Agreement also mentions that the Pledgor (Chromatic) pledges to EURAM Bank, all the rights, title and interest in the securities deposited and balance of funds up to 35.78 million USD in the A/C no. 580029 maintained with EURAM Bank (hereinafter referred to as "Pledged Accounts"). I note that account no. 580029 was the escrow account of the Company where the GDR proceeds of Chromatic were to be deposited and the same was pledged by Chromatic as security for the loan taken by Vintage, vide Pledge Agreement dated October 12, 2010 executed by Chromatic much before the actual GDR issue that took place on October 22, 2010.
- b) In terms of the clause 6 of the Pledge Agreement (pertaining to Realization of the Pledge), Chromatic had given consent to the EURAM Bank to apply the funds in the Pledged Accounts in case of default of repayment by the borrower, i.e. Vintage for settling their obligations as the borrower.
- c) As a consequence, to such pledge terms, I note that even after the GDR issue, Chromatic could not get the GDR proceeds at its disposal for utilization until repayment of the loan by Vintage.

d) Further, on a perusal of the Bank statement of Chromatic's A/C no. 580029 and Vintage's Loan A/C no. 540012 enclosed as Annexure -7 to the SCN, I note that Vintage repaid its loan in several instalments from January 04, 2011 to October 14, 2011. It is also noticed that immediately after repayment of each loan instalment by Vintage, almost identical sum of money was transferred from Chromatic's EURAM Bank A/C to the account of its subsidiary company which indicates that the utilisation of GDR proceeds by the Company was conditionally attached to the repayments made by Vintage. Details of transfer of funds from the EURAM Bank account of Chromatic immediately after receipt of loan instalments by the Bank from Vintage, are presented in the table hereunder.

Table-2

Date	Loan amount repaid by Vintage (USD)	Date	Transfer of funds from Chromatic's EURAM Bank a/c to CIL's UAE a/c (USD)	Chromatic's UAE a/c
04.01.2011	2,000,000.00			
		05.01.2011	2,000,000.00	UAE a/c
13.01.2011	3,000,000.00	13.01.2011	3,000,000.00	UAE a/c
20.01.2011	3,000,000.00	20.01.2011	3,000,000.00	UAE a/c
08.02.2011	2,000,000.00	08.02.2011	2,050,000.00	UAE a/c
01.03.2011	2,000,000.00	01.03.2011	2,000,000.00	UAE a/c
07.03.2011	2,000,000.00	07.03.2011	2,000,000.00	UAE a/c
11.03.2011	2,000,000.00	11.03.2011	2,000,000.00	UAE a/c
16.03.2011	2,000,000.00	16.03.2011	2,000,000.00	UAE a/c
23.03.2011	2,000,000.00	23.03.2011	2,000,000.00	UAE a/c
		26.04.2011	150,000.00	UAE a/c
05.07.2011	500,000.00	05.07.2011	500,000.00	UAE a/c
07.07.2011	4,250,000.00	07.07.2011	4,250,000.00	UAE a/c
11.07.2011	2,900,000.00	11.07.2011	2,900,000.00	UAE a/c
14.07.2011	1,500,000.00	14.07.2011	1,500,000.00	UAE a/c
15.07.2011	1,500,000.00	15.07.2011	1,500,000.00	UAE a/c
28.07.2011	1,500,000.00	28.07.2011	1,500,000.00	UAE a/c
19.08.2011	2,000,000.00	19.08.2011	2,000,000.00	UAE a/c
23.08.2011.	1,000,000.00	23.08.2011.	1,000,000.00	UAE a/c
14.10.2011	634,000.00	14.10.2011	676,260.28	UAE a/c
Total	35,784,000.00		36,026,260.28	

- e) It is noted that both the agreements are dated October 12, 2010. The Pledge Agreement was incorporated in the Loan Agreement and was annexed to the Loan Agreement.
- f) As per clause 2 and 3 of the Loan Agreement the said loan was sanctioned for the purpose of subscribing to the GDR issue and the sanctioned amount could only be transferred only to the escrow account of Chromatic with EURAM Bank bearing

Account No. 580029. However, clause 6 of the Pledge Agreement authorized the EURAM Bank to realize the proceeds lying in the account of Chromatic to settle the loan liability of Vintage in case of default by the borrower. The clause further authorized the EURAM Bank to realize the said GDR proceeds lying as security even in the event when Bank has a reason to believe that the payment by borrower/subscriber is contestable. Thus, the Noticee Company has authorized vide the Pledge Agreement that in all eventuality, in case of any default by the borrower, the security including proceeds of GDR to be deposited in its escrow account would be realizable by EURAM Bank. The Loan Agreement and Pledge Agreement were inextricably connected in a manner that clearly points out that the Noticee Company, Chromatic (the Pledgor) had consciously facilitated the loan to Vintage so as to ensure success of issuance of GDR and to create a good market impact about the stock of the Company, knowing well that the GDR proceeds cannot be used for its business, until the repayment is made by the borrower.

18. In its submissions, the first preliminary submission made by the Noticee no. 1 (Company) is that Adjudication Proceedings have also been initiated against them for the same set of allegations as the present proceedings which amount to double jeopardy and is in violation of Article 20(2) of the Constitution of India. It is to be noted here that Adjudication Proceedings and the instant proceedings under Section 11B are two different quasi-judicial proceedings/actions envisaged under the provisions of SEBI Act. It is a trite law that provisions under SEBI Act, permits for initiation of multiple proceedings under different provisions of the SEBI Act, and there is no bar initiation of multiple proceedings. I further note that the two proceedings referred to above are aimed to achieve distinct and different objective/outcome. In this regard, I further note that the Hon'ble SAT in the matter of *Sunita Gupta vs SEBI (DoD-21.04.2017)* has held that "*SEBI Act itself contemplates that where a person violates SEBI Act and the regulations made thereunder, then apart from imposing penalty under Chapter VIA, it would be open to the Board to issue such directions at it deems fit under Chapter IV of SEBI Act.*" Moreover, the instant proceedings is civil in nature and the doctrine of double jeopardy is related to criminal proceedings and Article 20 of the Constitution provides protection that a persons can't be prosecuted and punished for the same offence more than once. Hence, the contention raised by the Noticee is misplaced.

19. The next preliminary contention of the Noticee no. 1 is that they have not been allowed to inspect the original documents and the same results in violation of principles of natural justice. I find that copies of all the relevant documents relied upon in the SCN have been duly given to the Noticees. I further note that majority of documents annexed to the SCN pertains to the

Noticee Company. Documents referred to and relied upon in the SCN were collected by SEBI during the course of investigation. The originals of the two agreements i.e Loan Agreement and Pledge Agreement have to be either in the possession of the Noticee Company or of the EURAM Bank and SEBI has received only copies of these agreements during investigation. I note that SEBI has obtained most of these documents through the office of overseas regulatory authorities. Accordingly, copies of the documents as collected by SEBI in the course of investigation, have been duly provided to the Noticees. Under the circumstances the Noticee's claim that it has not been provided with inspection of original documents is frivolous and without any basis and demanding something which cannot be in the possession of SEBI. The contentions of the Noticee has no force as the Noticee has not disputed the contents, and clauses of the agreement. In the absence of disputing the same, the contentions of not providing the original documents has no substance. The Noticee could have cross-checked the copies of the agreement furnished to it with the original version which must be in the custody of EURAM Bank or in its own custody being a party to the agreement. The Noticees has not brought on record any documents in their support to doubt the credential of the copies of the agreements furnished along with the SCN to them.

20. It has been submitted by Noticee no. 1 that the Board Resolution dated August 13, 2010 merely states that GDR proceeds deposited in the bank account can be used as security, if and when so required. According to the Noticee, the Resolution does not provide specifically that the proceeds can be used as security for enabling subscription to the GDR issue of Chromatic. Hence, intention can't be attributed to pledging of GDR proceeds as security against the loan given to the subscriber to the GDR issue. The Company had no knowledge about the Loan Agreement and therefore, cannot be held liable for any averments in the said agreement. Moreover, the conditions of the agreement will not get activated till the time subscription money is received in the account of the Company opened for receiving GDR proceeds. Therefore, the Noticee Company would not be in a position to provide security unless the amount is received in the accounts. Hence, the Company or any other person cannot create pledge against assets which are not in existence. Thus, according to the Noticee, the agreement is void and SEBI's allegation that they have secured the rights of EURAM Bank against loan given by EURAM Bank to Vintage is devoid of merit. In view of this, they are not in violation of provisions of PFUTP Regulations and are rather victims of fraud and are not offenders.

21. I don't find any substance in the submissions advanced by the Noticee. It is a fact that by opening an account with EURAM Bank and by executing the Pledge Agreement, the Noticee had basically facilitated financing the subscription to its own GDR. Further, the fraudulent and unfair method resorted by the Company to make the subscription successful, exposes, a scheme

that was initiated by the Company with the passing of Board Resolution to open a bank account with EURAM Bank for depositing the GDR subscription amount and further the same was acted upon by authorizing its Directors to execute the Pledge Agreement dated October 12, 2010 to ensure that the GDR subscription amount of USD 35.78 million could be fully subscribed. The intention is evident from the fact that based on the Resolution dated August 13, 2010, an account with EURAM Bank was in fact opened in the name of the Company for depositing the GDR proceeds. Subsequently, as per the plan, on issuance of GDR, the GDR subscription amount was deposited in the said account of Chromatic with the EURAM Bank. The allotment of GDR was made on October 22, 2010, however, the proceeds of the GDR were not available for utilization by the Company as the same was dependent on the repayment of loan by the borrower i.e Vintage, which was the lone subscriber to the GDR issued by the Company. The GDR subscription amount deposited in the said bank account with EURAM Bank had to be withdrawn by Chromatic in instalments from time to time, which was in consonance with the Pledge Agreement executed by the Company. Without opening a bank account, the Company could not have opened its GDR issue. The very fact that the Company operated the account opened with EURAM Bank on the basis of Resolution dated August 13, 2010, clearly falsifies the submission of the Noticee that the Resolution was not for pledging the GDR proceeds to secure the subscription of the GDR and also belies the claim that there was no authorization to anyone to open an account with EURAM Bank and pledge the deposited GDR proceeds to facilitate the subscription by the borrower. It is observed that the Noticee no. 2, who was authorized in terms of the Resolutions to open bank account with EURAM Bank and was further authorized for execution of documents for creation of security, has neither denied the opening of the bank account nor the execution of the Pledge Agreement or the covenants of the said Pledge Agreement. Further, strangely, the Noticee Company or its Directors other than the Noticee no. 2 have till date neither inquired from the Noticee no. 2 about the details of execution of the documents or have ever contemplated for initiating any action against him for executing such documents, claimed to be beyond the scope of authority conferred on him by the said Resolution, if indeed, he has exceeded his terms of authorisation by the Board

22. The submissions advanced by the Noticee that GDR proceeds could be pledged only after receiving of the said proceeds and since, no amount was received, any charge of pledging, the GDR proceeds was not possible, hence the allegation of pledging the GDR proceeds as security against loan to Vintage is erroneous. In this regards, I find that it is not disputed that GDR was issued and allotted on October 22, 2010. In that case, the Noticee Company has not advanced any explanations as to why then the proceeds of GDR were not credited and allowed to be used, as soon as the allotment was done, despite the facts that the success of its GDR issue was declared to the exchange for the consumption of the investors at large and for its shareholders

in particular. It is also interesting to observe that it was only during the period from January 04, 2011 to October 14, 2011 the Company withdrew the GDR subscription amount that for, in several instalments and transferred the funds in instalments to its UAE Subsidiary's account. The withdrawals made by the Company in instalments were found to be proportionate to the instalments of loan repayment made by Vintage to EURAM Bank under the Loan Agreement from time to time. The one-to-one nexus between loan repayments and withdrawals allowed to the Company by EURAM Bank in matching instalments clearly shows that the GDR subscription amounts were allowed to be withdrawn by Chromatic in terms of the provisions of Pledge Agreement signed by the Company through the Noticee no. 2.

23. It is submitted by the Noticee no 1 that the Pledge Agreement was signed in the routine course of business relying upon the expertise of Prospect, the Lead Manager to the GDR issue of Chromatic, who was a globally reputed Firm and assumed to be well aware of policies in the foreign jurisdictions where GDR was being listed and no liability can be fastened on them for acting on the advice of the Lead Manager, Prospect. As per the Noticees, the list of seven subscribers to their GDR issue was informed by the Company based on the information received by them from their Lead Manager, which they believed to be true to the best of their knowledge and were later on shocked to know that the GDR was subscribed by only one entity (Vintage). The Lead Manager could not be contacted despite several attempts made by them and any action against entity located outside India would be highly expensive, resulting in foreign exchange outflow, thereby adversely affecting the Indian Shareholders.

24. I find the aforesaid submissions made by Noticee no. 1 to be far away from truth and are not supported by the materials available on record. The submission that the Noticee could not trace/ contact the Lead Manager despite making attempts does not convince me. The submissions of the Noticee are full of contradictions, as on the one hand the Company certifies that the Lead Manager is one of the best globally reputed Firm with expertise in the field of GDR issue and its listing in overseas jurisdictions, whereas on the other hand it pleads that the said globally reputed Firm is beyond their contact and is not traceable. There is nothing before me to lend credence to its submission pertaining to non-traceability of the Lead Manager. It is not disputed that the Company had made the GDR issue on the basis of approval by its Board by passing a Resolution and the proceeds of the GDR were received in its account opened with EURAM Bank as per the directives in the said Resolution. The choice and decision to have a bank account and a Lead Manager was of the Company itself. For any default, in executing the wish of the Board, statutorily it is the Company that is liable and it can't escape from its responsibility on the ground of acting in the good faith on the advice of the Lead Manager. The Company has not submitted any documents to substantiate its claim as to how it got persuaded

by the Lead Manager to open the account with the EURAM Bank only and under what circumstance, they thought it fit and proper to execute the Pledge Agreement, which inter alia, fastens the liabilities of the borrower (Vintage) in terms of its Loan Agreement with EURAM Bank, on the issuer Company, in case, default is committed by the borrower of the Loan Agreement. If the Noticee is so convinced that it was never been made aware of the existence of loan agreement between Vintage and EURAM Bank and that the Lead Manager has misled it into signing the pledge agreement, then it was duty bound to take stringent legal action against the Lead Manager for such criminal breach of trust. The Noticee cited high cost of litigation for not initiating any action against the Lead Manager which is not acceptable, rather, in my view, instead of projecting itself as a victim of fraud, it is expected that it should have taken strong action against the Lead Manager to show its bonafide as the Lead Manager has deceptively fastened a huge liability on it by subjecting its GDR proceeds as securities against the loan taken by a third party, with which the Noticee claims to have no connection. However, to my surprise, no action has been initiated by the Company against the Lead Manager so far. Thus, the explanation furnished by the Company by shifting its culpability on to the Lead Manager to avoid any the likely enforcement actions against it for wrongful disclosure to the public at large and for resorting to fraudulent acts, against its shareholders would not be tenable. It is the responsibility of the issuer Company to verify the genuineness of the information before dissemination to the public at large and it is not permissible for it to take shelter under the excuse that the disclosures made by it was based on the information received from a third person i.e Lead Manager in this case.

25. I also note that the Noticee no. 1 has not disputed the execution and contents of the Pledge Agreement but has merely contended that the Pledge Agreement was executed in normal course of business, relying on the expertise of the Lead Manager. For the reasons stated by me above, which is an improbable explanation, lacking rational and accordingly the submissions are not acceptable. Though ignorance has been pleaded about the Loan Agreement executed between EURAM Bank and the Vintage, no explanation has been furnished as to how and why the Pledge Agreement was executed primarily to safeguard the interest of the EURAM Bank in the Loan Agreement. As pointed out earlier, the Pledge Agreement makes specific references to the Loan Agreement entered into between EURAM Bank and the Vintage. Therefore, ignorance of these stipulations in the Pledge Agreement duly entered into by the Company with EURAM Bank smacks of an evasive response which is far from the reality with no substance to rely on. I would rather believe that these submissions of the Company are merely an afterthought exercise only to evade the consequences of the present proceedings. Therefore, the contention of the Noticee that it was blissfully unaware as to how EURAM Bank has used its GDR proceeds for securing the loan given to the Vintage is undeniably a lame excuse, bereft of any credence and therefore

deserves to be rejected. Under no circumstances, it is conceivable that the Company was not aware of the Pledge Agreement entered into by its own Whole Time Director, duly authorized by the Board, especially when the Noticee Company is not even contesting the execution of such Pledge Agreement. A listed Company should be very cautious while conducting its business towards its objects and the Board should act diligently and responsibly for the reason that shareholders have posed faith on them and they are supposed to act as custodian of the hard earned money of the thousands of the innocent investors. Further, even if one is to accept the submissions of the Noticee no. 1 that it executed the Pledge Agreement relying on the advice of the Lead Manager and was unaware of the pledge of its GDR proceeds with EURAM Bank, I find that Noticee no. 1 has provided no explanation as to why then the GDR proceeds which was expected to be realized immediately after the allotment, remained un-available for use by the Company and was made available to be used by the Company subject to the repayment of respective loan instalments by Vintage. No explanations have been provided in this respect as to why no inquiry was made to ascertain the details of amount received in the Bank accounts against the issuance of GDR. It has also been noted earlier that the GDR proceeds have been made available for the use by the Company in tranches and no query was ever raised by the Company to the Bank for the actual crediting of the usable proceeds in tranches. As noted earlier from the records that the proceeds against the issuance of GDR were made available in instalments and the amounts so credited in its account were approximately identical to the amounts repaid by the borrower (Vintage) in instalments. It has also been pointed out that the amounts raised by the Company through GDR were identically the same amount of loan financed by the EURAM Bank to the Vintage for subscribing to the GDR of the Company.

26. Be that as it may be, I find that the information furnished by the Company regarding the seven (07) subscribers to its GDR is blatantly false, because, the subscription amount received by Chromatic was actually from the Vintage and not from the alleged seven (07) initial subscribers, as claimed by the Company. If the initial subscribers to the GDR were persons other than the Vintage, then the Company would have received GDR subscription amount from those seven (07) foreign investors and not from the Vintage. The undisputed fact that the Company received USD 35.78 million towards GDR proceeds from the said loan account of the Vintage with EURAM Bank and Chromatic had secured the loan of USD 35.78 million taken by the Vintage from EURAM Bank by entering into a Pledge Agreement with the same Bank, clearly shows that Chromatic made a false statement that the GDR have been subscribed successfully as such an announcement would certainly make the investors in India to believe that the foreign investor had shown great interest in the GDR of Chromatic and that the GDR of Chromatic have generated great interest amongst the investor abroad. In these circumstances, allegation

pertaining to the Company furnishing false and misleading information that the GDR have been fully subscribed by seven foreign (07) investors have been found established.

27. Considering the aforesaid facts, I find it absolutely impossible to accept the claim made by the Company that it did not enter into the said Pledge Agreement. Further, I do not find any merits in the submission of Noticee no. 1 that the repayment of loan is a separate transaction between Vintage and EURAM Bank for Loan Agreement. There is no force in the submission of the Noticee Company that it could not have known that Vintage would be the only subscriber to GDR issue. From a comprehensive reading of the Board Resolution of Company dated August 13, 2010 authorizing its Whole Time Director to sign and execute any application, agreement, escrow agreement, undertaking etc, followed by a reading of the terms of Loan Agreement and Pledge Agreement stipulating utilization of GDR proceeds only to the extent of repayment made by the Vintage and then, the Company not raising any objection when EURAM Bank did not make available the GDR proceeds for its utilization, it clearly emerges that the Noticee Company was very much seized of the fact that the entire GDR would be subscribed by Vintage only. The preponderance of evidence as highlighted above is so overwhelming that it cannot persuade me to accept the submission of the Noticee, pleading its ignorance or innocence about the matter. I am unable to accept the submissions of the Noticee no. 1 that the Board Resolution dated August 13, 2010 merely states that GDR proceeds deposited in the bank account can be used as security if and when so required and it was never the intention of the Company and its Directors to get the GDR issue subscribed by pledging the GDR proceeds as security against the loan given to the subscriber to the GDR issue. In view thereof, I find that the Noticee no. 1 has knowingly furnished an incorrect list of seven (07) subscribers to the GDR issue, when the execution and contents of the Pledge Agreement clearly shows that the Vintage would be the only subscriber to the GDR issue, and the same was very much known to the Noticee Company.

28. In such a scenario, the Company's claim that Mr. Arun Panchariya was the mastermind of all the operations, yet, he has been merely debarred by SEBI for 10 years and no other actions/penalty has been imposed either on him or the Prospect and instead, the Noticees are being subjected to multiple proceedings, seems to be an attempt to misdirect the attention from present proceedings to others. In any case, one who seeks equity must come with clean hands and it is not permissible to the Noticee to shift burden of defending itself against the allegations levelled in the SCN by claiming that violation committed by certain others have not been appropriately acted upon. In this respect, the scope of the instant proceedings is to determine as to whether or not based on the evidences available on record and having considered the reply furnished by the Noticees, the allegations made under the SCN would sustain against the

Noticees. Accordingly, my findings should be confined to the issue involved in the instant proceeding against the Noticees only. Therefore making any observation *qua* the person or entity mentioned by the Noticee, would not be fair as the person or the entity concerned is not a part of the present proceedings. Nonetheless, assuming without admitting the submission of the Noticee as true, the mere fact that proportionate action has not been initiated against some of the entities, cannot be taken as a ground for the Noticee to escape its own liability for the fraud committed by it on the investors in India. In this regard, to address the aforesaid grievance of the Noticee, I rely on the findings of Hon'ble SAT in the case of *Systematix Shares & Stocks India Limited v. SEBI* (2012) in which the Hon'ble SAT also had the occasion to deal with a similar argument of the appellant contending that the Board should have proceeded against all wrong doers and the action against the appellant and a few entities alone was discriminatory. The Hon'ble SAT observed that *"We cannot subscribe to this view since the Board has set its own benchmark in selecting cases for action and, in any case, the appellant cannot plead himself innocent or his trades as lawful."* The Noticee no. 1 being a listed company in India, owes its shareholders and other investors in the Indian Securities market, an onerous duty to conduct its functioning in a transparent manner and to ensure that the money being raised from the public is protected against all perils. Instead of answering as to how the Noticee no. 1 has been performing the said duty and instead of trying to come clean on the allegations levelled against it in the SCN, the Noticee no. 1 is raising other extraneous issues to the present proceedings.

29. I note that Noticee no. 1 has denied having committed any violation of provisions of PFUTP Regulations and has relied on case laws to state that a high degree of evidence is required to prove the charge of fraud/manipulation in a quasi-judicial proceeding and the charges should not be based on mere surmises. In this regard, I note that the SCN has clearly spelt out the allegations, the device, artifice, scheme engaged or practiced by the Company for facilitating financing the subscription and allotment of its GDR issue, without disclosing the true and correct facts to the investors hence, the Noticee has allegedly committed fraud upon the investors. The allegations made in the SCN are further supported by adequate evidence available in the form of Board Resolution, non-disclosures of the relevant specific Board Resolution and other information to the Exchange and other corroborative materials available on record. Hence, the assertions made by the Company by citing case laws are unfounded on facts and lack merit. In this regard, I find it apt to refer to and rely on the views of the Hon'ble Supreme Court in the case of *SEBI v. Kishore Ajmera* (2016) 6 SCC 368, wherein the apex court has made the following observations about the nature of evidence to be used while adjudicating a quasi-judicial proceeding:-

".....It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the

Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion...

.....Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned.....”

30. I further find the observations of the Hon’ble Supreme Court in the case of *SEBI v. Rakhi Trading Pvt. Ltd.*, (2018) 13 SCC 753 is relevant to relied on, wherein it was held that Regulation 4(1) of PFUTP Regulations in clear and unmistakable terms has provided that “no person shall indulge in a fraudulent or an unfair trade practice in securities” and while referring to its own judgment in the case of *SEBI v. Shri Kanhaiyalal Baldevbhai Patel and Ors* (2017) 15 SCC 1 have held that;

“31 Although unfair trade practice has not been defined under the regulation, various other legislations in India have defined the concept of unfair trade practice in different contexts. A clear cut generalized definition of the ‘unfair trade practice’ may not be possible to be culled out from the aforesaid definitions. Broadly trade practice is unfair if the conduct undermines the ethical standards and good faith dealings between parties engaged in business transactions. It is to be noted that unfair trade practices are not subject to a single definition; rather it requires adjudication on case to case basis. Whether an act or practice is unfair is to be determined by all the facts and circumstances surrounding the transaction. In the context of this regulation a trade practice may be unfair, if the conduct undermines the good faith dealings involved in the transaction. Moreover the concept of ‘unfairness’ appears to be broader than and includes the concept of ‘deception’ or ‘fraud’.....

.....Having regard to the fact that the dealings in the stock exchange are governed by the principles of fair play and transparency, one does not have to labour much on the meaning of unfair trade practices in securities. Contextually and in simple words, it means a practice which does not conform to the fair and transparent principles of trades in the stock market.”

31. As regards the submissions of the Company that the SCN has not brought out any concrete figure of loss to the Indian investors due to false announcements made by the Company, I would like to rely on the following observation made by Hon’ble Supreme Court in the case of *Rakhi Trading Pvt. Ltd. (Supra)*

“According to SAT, only if there is market impact on account of sham transactions, could there be violation of the PFUTP Regulations. We find it extremely difficult to agree with the proposition. As already noted above, SAT has missed the crucial factors affecting the market integrity, which may be direct or indirect. The stock market is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors. By synchronization and rapid reverse trade, as has been carried out by the traders in the instant case, the price discovery system itself is affected. Except the parties who have pre-fixed the price nobody

is in the position to participate in the trade. It also has an adverse impact on the fairness, integrity and transparency of the stock market.”

32. The scheme or artifice to facilitate the subscription of GDR by Vintage is evident with the execution of Loan Agreement and Pledge dated October 12, 2010, whereby it can be logically inferred that before the issuance of GDR on October 22, 2010 Vintage was already pre decided to be the sole subscriber to the GDR issue and the Company was aware about it's would be subscriber before the actual issuance of GDR. The Company was also aware that the proceeds to be realized against the issuance of GDR would be kept as security towards the loan amount availed by Vintage and by executing the Pledge Agreement, Company had consciously restrained itself from using the proceeds of the issuance of GDR.

33. Further, I also notice that the Company, despite having identified a prospective single subscriber to its proposed GDR in favour of whom it undertook to pledge the proceeds of GDR so as to secure the subscription by the said single subscriber, deliberately suppressed these vital and material facts from the knowledge of the investors. The Company deliberately misled its shareholders and investors by disseminating information in a selective and distorted manner, leading them to believe such a pre-arranged GDR issue to be a genuinely successful issue of its securities in overseas market.

34. The Company had informed BSE that *“the meeting of the Board of Directors was held on October 22, 2010 and successfully concluded placement of 42,00,000 Global Depository Receipts at US\$ 8.52 per Global Depository Receipt...”* However, despite being aware about the specific entity who would be subscribing to whole of its GDR issue as per its premeditated arrangement with the Vintage and EURAM Bank, the crucial material facts surrounding the Loan and Pledge Agreements and also about the single subscriber were concealed from the investors. The investors were never allowed to know that the GDR proceeds would be kept as a security towards the loan taken by the subscriber and in case of default by the subscriber, the proceeds would be eventually utilized by Bank to settle the loan obligations of the borrower/subscriber.

35. The afore mentioned declaration made by the Company on October 22, 2010 on the platform of the Stock Exchange about the successful subscription of GDR issue without disclosing the advance arrangement undertaken by it with the Vintage to ensure full subscription to its GDR, has given an ostensible impression to the investors and the market about the strong potential of the Company. The above acts of the Company represent a serious fraudulent and unfair trade practice, inflicted on the Shareholders and also on the innocent investors in the Securities Market at large. The investors including its own Shareholders were made to believe

that the shares of the Company have a good market abroad and have been very well received by investors abroad, hence, the Company has a great value for investment in India as well. Such misleading inferences and false positive expectations about the shares of the Company were caused by the Company's own acts by devising and arranging a scheme through which it ensured a successful issuance of GDR beyond the knowledge of its Shareholders. The investors were not aware about the artifice created by the Company through which it enforced the successful subscription to its GDR.

36. In this context, I further find proper to refer to observation of Hon'ble Supreme Court of India dated July 6, 2015 in *SEBI v. PAN Asia Advisors Ltd & anr.*, (2015) 14 SCC 71 wherein Hon'ble Supreme Court, while dealing with issue of GDR by way of a similar arrangement of Loan and Pledge Agreement, has observed the following

*“the most relevant fact which is to be borne in mind is that the existence of GDRs is always dependent upon the extent of underlying ordinary shares lying with the Domestic Custodian Bank.....
....that for creation of GDRs which can be traded only at the global level, the issuing company should have developed a reputation at a level where the marketability of its investment creation potential will have a demand at the hands of the foreign investors. Simultaneously, having regard to the development of the issuing company in the market and the confidence built up with the investors both internally as well as at global level, the issuing company's desire to raise foreign funds by creating GDRs should have the appreciation of investors for them to develop a keen interest to invest in such GDRs. Mere desire to raise foreign investments without any scope for the issuing company to develop a market demand for its GDRs by increasing the share capital for that purpose is not the underlying basis for creation of GDRs.....
To put it differently, by artificial creation of global level investment operation, either the issuing company on its own or with the aid of its lead Manager cannot attempt to make it appear as though there is scope for trading GDRs at the global level while in reality there is none....”*

37. I also find it appropriate to refer to a decision by the Hon'ble Securities Appellate Tribunal (DOD 25.10.2016) in the case of *PAN Asia Advisors Ltd. & anr. v. SEBI*, wherein the Hon'ble Tribunal have observed the following:

*“The expression 'fraud' is defined under the PFUTP Regulations.....
.....from the aforesaid definition it is absolutely clear that if a person by his act either directly or indirectly causes the investors in the securities market in India to believe in something which is not true and thereby induces the investors in India to deal in securities, then that person is said to have committed fraud on the investors in India. In such a case, action can be taken under the PFUTP Regulations against the person committing the fraud, irrespective of the fact any investor has actually become a victim of such fraud or not.....*

.....Thus, the investors in India were made to believe that in the global market the issuer companies have acquired high reputation in terms of investment potential and hence the foreign investors have fully subscribed to the GDRs, when in fact, the GDRs were subscribed by AP through Vintage which was wholly owned by AP. In other words, PAN Asia as a Lead Manager and AP as Managing Director of PAN Asia attempted to mislead the investors in India that the GDRs have been subscribed by foreign investors when in fact the GDRs were subscribed by AP through Vintage. Any attempt to mislead the investors in India constitutes fraud on the investors under the PFUTP Regulations”.

38. In view of the discussions and observations made in the preceding paragraphs, I find that the entire scheme created by the Company (Chromatic) starting with passing of Board Resolution, followed by entering into the Pledge Agreement to permit use of the funds deposited in its account with EURAM Bank as a security against a loan, making an announcement on October 22, 2010 that the GDR have been successfully allotted and then not disclosing the relevant Board Resolutions and details of Pledge Agreement and its arrangement with the sole subscriber to secure the obligation of its loan liability, to the public, have cumulatively resulted in misleading the investors at large. Such a scheme and arrangement has in it, all the ingredients that comprise a fraudulent activity in the Securities Market. In view of the above, I hold that by its acts of concealing and suppressing vital material facts about the arrangement of the Pledge and Loan Agreements, the Noticee Company has committed a fraudulent act upon its own existing Shareholders and also upon all the investors of the Securities Market who might have been induced to deal in the shares of the Company due to the artificially created positive outlook about the Company’s performance. Under the circumstances, the acts of engaging in such practices, scheme and concealing material information from Shareholder are held to be in violation of provisions of Section 12A(a),(b),(c) of the SEBI Act and Regulations 3(a),(b),(c),(d), 4(1),4(2)(f),(k),(r) of PFUTP Regulations.

ISSUE NO. 2: *Whether the Noticees no. 2 to 4 have violated Section 12A(a), (b), (c) of the SEBI Act read with Regulations 3 (a), (b), (c), (d) and 4(1) of PFUTP Regulations?*

39. From the minutes of Board Meeting dated August 13, 2010 provided by Chromatic vide email dated February 7, 2017 (copy enclosed as annexure-5 to the SCN), I find that the Directors of the Company, viz:- the Noticees no. 2, 3 and 4, Mr. Vinod Kumar Kaushik, Mr. Vipin Sharma and Mr. Ajay Sethi attended the Board Meeting held on August 13, 2010. Accordingly, on the basis of such authorization given by the Board, the Noticee no. 2 has signed the Pledge Agreement on behalf of the Company, which provided *inter alia*, for GDR proceeds to be kept as a security towards the loan availed by Vintage for subscription to the GDR of Chromatic.

40. I note that Directors of the Company i.e., the Noticee no. 2 (Mr. Vinod Kumar Kaushik) has submitted written reply dated March 7, 2019 and the Noticee no. 4 (Mr. Ajay Sethi) has submitted his written replies dated March 7, 2019 and May 13, 2019. However, no written reply has been received from the Noticee no. 3. I also note from the written reply dated April 5, 2019 submitted by the Noticee no. 1 (Company) that Noticee no. 2 was the Whole-Time Executive, Non-independent Director while the Noticees no. 3 and 4 were functioning as Non-Executive Independent Director. It is further stated in the Company's reply that the Noticee no. 3 has resigned from his directorship on September 9, 2010 and Noticee no. 4 was appointed in as a Director of the Company from May 29, 2010.

41. I find that the Noticees no. 2 and 4 have made their submissions as similar to the submissions of the Noticee no.1 (Chromatic) and therefore, the observations made by me above while dealing with the submissions of the Noticee Company to the extent they are applicable to the Noticees no 2 & 4, are adopted herein also to deal with submissions of these two Noticee Directors. The Noticee no. 2 has stated that he had acted as a Whole Time Director of the Company from September 29, 2009 with an impeccable track record in terms of regulatory compliances. He has admitted being authorized by the Board of Directors in the meeting dated August 13, 2010 to execute agreements, applications with respect to GDR issue by the Company, however has denied being party to any fraudulent scheme in the GDR issue of the Company as he relied on the Lead Manager, Prospect while discharging the task for which he was authorised. He has denied having any knowledge about the subscribers to the GDR issue and has submitted that the task of carrying out the GDR process was carried out by their Lead Manager, Prospect and he relied on the expertise of Prospect, considering the cross border nature of transactions and signed on the documents based on good faith. However, I find no merit in the above contentions of the Noticee no 2 for the reasons recorded hereunder;

- (i) Admittedly, the Noticee no. 2 was a Whole Time Director of the Noticee Company and was in-charge of the day to day management of the affairs of the Company. As per the Board Resolution of Chromatic dated August 13, 2010, the GDR proceeds were authorized/permitted to be kept as a security against the loans, if any. I find that an amount of USD 35.78 million, which were raised through GDR as per the objects of the issue. Therefore, in the absence of any other contingency, I don't find that there could be any other reason to keep the GDR proceeds as a security for any loan that may be taken.
- (ii) The Noticee no. 2 being the Whole Time Director of the Company has not brought any documents or reason to substantiate that as on August 13, 2010, there was other proposal as well on part of the Company warranting to take any loan outside India for that very purpose. Therefore, in the facts of present case, it is

abundantly clear that at least as on October 12, 2010, when the Loan and Pledge agreement were signed, if not on August 13, 2010, the Noticee no. 2 at least being in charge of the day to day affairs of the company as well as signatory to the Pledge Agreement, knew that the GDR subscription amount was liable to be kept as security for the loan taken by the Vintage.

- (iii) The fact that EURAM Bank under the Loan Agreement dated October 12, 2010 agreed to give loan of USD 35.78 million to Vintage for subscribing to the GDR of Chromatic and on the same day i.e. on October 12, 2010 itself Chromatic through the Noticee no. 2, executed a Pledge Agreement thereby agreeing to keep the GDR subscription amount of USD 35.78 million as a security against for the loan of USD 35.78 million availed by the Vintage from EURAM Bank.
- (iv) The Pledge Agreement signed and executed by the Noticee no. 2 also incorporates the provisions of the Loan Agreement and accordingly the clauses of the Pledge Agreement, have made provisions, whereby the Noticee Company undertook to discharge the liability, in case of default by the borrower i.e Vintage.

42. The aforesaid observations leaves no iota of doubt that the Noticee no. 2 was very much seized of the intent behind the Resolution passed on August 13, 2010 pursuant to which he has signed the Pledge Agreement to secure the loan taken by the Vintage for subscribing to the GDR of Chromatic. Therefore, the argument of the Noticee no. 2 that he did not know anything about the Pledge Agreement or about any the fraudulent scheme are nothing but far from truth to be relied on. Undoubtedly, the Noticee no. 2 was the Whole Time Director and was responsible for the day to day affairs of the Company and it was certainly his primary duty to come out completely clean before the Board with all the facts, strategy, steps to be followed and compliances to be made with respect to the proposed GDR issue, before moving a Resolution before the Board. He being in the driving seat of the Company knew how to steer the proposed issuance and therefore ought to have clarified to the Board Members about the arrangement with the Vintage and EURAM Bank and the proposed Pledge Agreement that was devised to be executed with the Bank. Therefore, he can't be permitted to plead ignorance of the facts of implications and consequence of the Board Resolution dated August 13, 2010 and cannot take shelter under the plea that he signed the documents including the Pledge Agreement blindly on good faith and under influence of the Lead Manager to the issue. It is rather the Noticee no. 2 who is answerable to the Board for keeping the Board member in the dark about the true implications behind moving the aforesaid Board Resolution and signed the Pledge Agreement without disclosing the same to the Company or to the Public.

43. Having held that the Noticee Company had resorted to a fraudulent scheme and had made false disclosure to the investors, it would be inconceivable to think that the person who was instrumental in passing the Resolution and further executed the desired agreement to enable Vintage to successfully subscribe to the GDR, without paying any consideration at the time of subscription, was not aware of the consequences of the Resolution and execution of the Pledge Agreement. In the facts of the matter, it becomes clear that the sole subscriber to the GDR of Chromatic was Vintage and no one else. In these circumstances, the argument advanced by the Noticee no. 2 that he was unaware of the scheme and that the information disclosed regarding the successful subscription to the GDR of Chromatic was on the basis of information received from the Merchant Banker/Lead Manager, lacks any persuasive value and rather shows that it was all done to mislead the investors in India. Having opened an account on behalf of Chromatic with EURAM Bank for depositing the GDR subscription amount of USD 35.78 million and having executed the Pledge Agreement so as to secure the loan taken by the Vintage for subscribing to the GDR of Chromatic, the Noticee no. 2 cannot afford to contend that he honestly believed that seven foreign (07) investors and not Vintage had subscribed the GDR of Chromatic and further that he was not aware of any security having been created by the EURAM Bank to ensure subscription to the GDR by the Vintage. I would rather believe that the Noticee no 2, being the executive in charge of the Company, was involved in the fraud perpetrated in relation to the GDR issue of Chromatic and was very much aware of the execution of Pledge and Loan agreement with EURAM Bank. Thus, despite being aware of the transaction between Chromatic and Vintage, the Noticee no. 2 has grossly failed to take steps to disclose the same to the investors and Shareholders of the Company.

44. The Noticee no. 4 (Mr Ajay Sethi) has also denied having committed any violation of provisions of PFUTP Regulations. He has stated that he was a Director of the Company from May 29, 2010. He has denied being party to any fraudulent scheme by approving the Board Resolution pertaining to the issue of GDR and stated that he has not derived any unfair advantage as a result of the alleged violations. In addition, the Noticee no. 4 vide his written replies has submitted that as an Independent Director of the Company he has attended Board Meetings of the Company but was not involved in the day to day affairs of the Company and was not related to Promoters or Directors of the Company. As an Independent Director, he endeavoured to ensure that decisions taken at the Board meetings are transparent and fair, however, the actual implementation was done by the Whole Time Director/s along with the employees. He was appointed as the Non-Executive Independent Director of the Company on May 29, 2010. During his tenure, he was part of the Audit Committee, Investors/Shareholders Committee and Remuneration Committee but not part of any other committee wherein any decision relating to GDR issue of the Company was taken. He has also submitted that opening

of bank account with EURAM Bank was part of the proposal to issue GDR by the Company, and prima facie, there was nothing on record to establish it as suspicious. By virtue his attendance in the Board Meeting, it has been assumed that he, along with other directors has approved the Board Resolution in a manner to authorize EURAM Bank to use the Company's GDR proceeds as security for loan. Other than the allegation of attending the Board meeting, there is nothing specific attributed to him in the SCN so as to prove his involvement in the day to day activities of the Company or that the alleged activities had his approval or he was aware of it . Further, the Board Resolution does not give specific authority to EURAM Bank to give loan against subscription to GDR of the Company. He cannot be made liable for making misleading disclosures to stock exchanges as that was being looked after by a separate department in the Company. The announcements may have been approved by the Whole Time Director but he did not have a role to play in those corporate announcements.

45. I note that the Noticee no. 4 has not disputed his directorship during the relevant period when the Noticee Company had issued GDR. He has also not disputed that he had attended the Board Meeting dated August 13, 2010. It is also clear that he remained Director during the period when the Company made those incomplete, selective and misleading disclosures to the BSE and suppressed vital information from its Shareholders. Needless to state that issuance of GDR was a very crucial decision of the Company and it is expected from the Board member to be careful and cautious while deliberating and deciding the course of action. Undoubtedly, the Whole Time Director (Noticee no 2) was in charge of the day to day affairs of the Company and it was certainly his primary duty to come clean before the Board with all the facts, strategy, steps to be followed and compliances to be made with respect to any proposed issue, before moving a Resolution before the Board. The Noticee no. 4 attempts to project that he became victim of the fraud and had not contributed to the commission of the fraud as alleged in the SCN. Even assuming for a moment that the Whole Time Director has acted fraudulently by keeping the Board Members in dark about the proposed Pledge Agreement and the arrangement with the Vintage, it is noted that he (Noticee no. 4) being a part of the Audit Committee, has not raised any red flag about the delay in receipt of the GDR proceeds in the account of the Company for utilisation. The Noticee no. 4 has not brought any evidence to show that he had acted diligently and performed his role as an Independent Director. Even, subsequent to the issue and allotment of GDR, steps or actions by the Noticee no. 4, (who was part of the Audit Committee), shows that he had not acted diligently and by not raising concern over non receipt of the GDR proceeds for utilisation immediately after the issues, further raises strong suspicion about his active or passive collusions with the Company and other Directors. In my considered view, the Directors cannot absolve themselves from their onerous duty to look after the best interests of the Company and cannot escape from their fiduciary duties by taking the plea that they have relied

on expertise of the Lead Manager. Therefore, apart from the Whole Time Director who certainly acted fraudulently, the other Non-Executive Independent Directors have also not acted in the interest of Shareholders of Noticee no. 1 Company and investors of Securities Market, and rather appears to have acted in collusion, albeit passively, with other Noticees.

46. I note that no reply on merits has so far been received from the Noticee no. 3. However, my aforesaid observations made while dealing with the reply of the Noticee no. 4 would equally apply to the other Non-Executive Independent Director on the Board of the Company, viz. the Noticee no. 3, who also actively participated in the said Board Meeting and ensured the passing of the Resolutions on August 13, 2010 thereby facilitating the issuance of GDR by the Company in a fraudulent manner. The Noticee no. 3 has not filed any reply and preferred not to appear for personal hearing before me and has made no attempt to rebut the allegations made on him in the SCN. Accordingly, in the absence of any rebuttal by the Noticee no. 3 and also considering the observations made by me above while dealing with the submissions of the Noticee no. 4, I see no reason to find the Noticee no. 4, not guilty of the violation alleged in the SCN.

47. As held by me that the Company has used the GDR mechanism to mislead and induce the Indian investors. The Company has not divulged its fraudulent arrangement of the Loan Agreement and Pledge Agreement in its disclosure made in the Indian securities market and by merely informing that the GDR were successfully placed, has presented a misleading appearance and a false promise of great value and potential about the stock of the Company in the domestic markets. Such a misleading disclosure tantamount to fraud on the investors with a motive to further its interest as opposed to the interests of investors of Securities Market who may easily fall prey to the artificially created successful GDR issue and get induced to invest in its shares expecting better returns. The Noticees no. 3 and 4 being Non-Executive Independent Directors of the Company, ought to either have taken due precautions and diligence before agreeing on the Resolutions of the Board that sowed the seeds of the Pledge Agreement against a loan taken by an unrelated third party as part of a collusive scheme, to mislead and defraud the investors or should have acted diligently even subsequently by questioning the management of the Company, in order to establish their bonafide as being victim of the fraud and not part of the fraud. I note that both the Noticees no. 3 and 4 have not shown diligence on their part as Independent Directors in the entire GDR issue or even otherwise, in the functioning of the Company. Moreover, both of them were also part of the Audit Committee during the relevant period as per the written reply of Noticee no.1 Company as well as from the Annual Report for the year 2010-11, hence they were expected to play an active role in safeguarding the interest of the Shareholders with alacrity by preventing the management or Whole Time Director from committing any fraud on the Shareholder.

48. The Hon'ble Supreme Court, in the matter of *Rakhi Trading (supra)* above case have appreciated that fairness, integrity and transparency are the hallmarks of the stock market in India and the stock market is not a platform for any fraudulent or unfair trade practice. The Hon'ble Court has further observed that *"The SEBI Act, 1992 was enacted to protect the interest of the investors in securities. Protection of interest of investors should necessarily include prevention of misuse of the market."*

49. To sum up the preceding discussions, I find that the Loan Agreement was inseparably linked to the Pledge Agreement and vice versa, and both were executed consecutively. The Pledge Agreement was signed by Mr. Vinod Kaushik (Noticee No. 2) on behalf of the Pledgor i.e., Chromatic. The Noticee Directors facilitated the execution of the Pledge Agreement by passing a suitable Board Resolution. The Loan Agreement and Pledge Agreement enabled Vintage to avail loan from EURAM Bank for subscription of GDR of Chromatic. This was made possible by Chromatic by providing its GDR proceeds as security for the loan extended by EURAM Bank to Vintage. The GDR issue would not have been subscribed, if Chromatic had not given such a security against the loan taken by Vintage. By entering into such an arrangement, the Noticees no. 2 to 4 have led the investors in India to believe that the issuer Company i.e. Chromatic has got a good reputation in terms of investment potential because of which, foreign investors have successfully subscribed to its GDR, whereas in reality, the GDR were subscribed by Vintage with the help of the Company (Chromatic) itself. Therefore, in effect, the Directors of the Company have facilitated the subscription of GDR by Vintage through a loan obtained by it from EURAM Bank against which, the GDR proceeds of Chromatic were kept as security on the basis of the authorization given by the Board of Directors of Chromatic through the Resolution passed by them on the August 13, 2010 and all these transactions and activities were undertaken behind the back of the Shareholders and other investors of the Securities Market. It is only when Vintage repaid the loan, presumably by liquidating the underlying shares in the Securities Market, that the Company could get back its GDR proceeds from EURAM Bank for its utilisation. In my view, apart from the Issuer Company (Chromatic) i.e. Noticee no. 1 and its Whole Time Executive Director i.e. Noticee no. 2 who have undoubtedly concealed the above information from the Shareholders, all other Non-Executive Independent Directors (Noticee no. 3 and Noticee no. 4), have also failed to advance any credible explanation supported by any evidence to prove their innocence, hence, it constrains me to hold that they too have acted fraudulently along with Noticee no 1 and 2, in breach of the provisions of Sections 12A (a) to (c) of the SEBI Act read with Regulations 3 (a) to (d) and 4 (1) of the PFUTP Regulations.

DIRECTIONS:

50. In view of the above discussions and my concluding observations with respect to the two issues that were considered by me in the matter, in exercise of powers conferred upon me under Sections 11, 11B read with Section 19 of the Securities and Exchange Board of India Act, 1992, in order to protect the interest of investors and the integrity of the Securities Market and considering the facts of the case as well as the specific role played by the respective Noticees and to meet the ends of justice, I hereby issue the following directions:

- a) Noticee no. 1, the Company is restrained from accessing the Securities Market including by issuing prospectus, offer document or advertisement soliciting money from the public and is further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly in any manner, for a period of five years (05) from the date of this order.
- b) The following Noticees are restrained from accessing the Securities Market and are further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly in any manner, from the date of this order, for the period as directed below:

S.No.	Names of the Noticee	PAN	(Period In Year)
1.	Mr. Vinod Kumar Kaushik	AMAPK7964P	Three(03)
2.	Mr. Vipin Sharma	ABHPS7947N	One(01)
3.	Mr. Ajay Sethi, Director	AIDPS3802K	One(01)

51. It is clarified that during the period of restraint, the existing holding of securities of the Noticees including units of mutual funds, shall remain frozen.

52. The Order shall come into force with the immediate effect.

53. A copy of this order shall be forwarded to the Noticees, all the recognized Stock Exchange, depositories and registrar and transfer agents for ensuring compliance with the above directions.

-Sd-

DATE: SEPTEMBER 30, 2019

PLACE: MUMBAI

**S. K. MOHANTY
WHOLE TIME MEMBER**