

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA****CORAM: S.K. MOHANTY, WHOLE TIME MEMBER****ORDER****UNDER SECTIONS 11(1), 11(4) AND 11B (1) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992.****In respect of:**

| <b>Noticee no.</b> | <b>Name of the Noticees</b>        | <b>PAN</b> |
|--------------------|------------------------------------|------------|
| 1.                 | Prem Lata Nahar                    | AFAPN8764M |
| 2.                 | Shyam Kanheyala Vyas               | ACTPV2787Q |
| 3.                 | Raj Kumar Sharma                   | BMIPS9482B |
| 4.                 | SaritaPradipBissa                  | BGLPB8816M |
| 5.                 | Puspal Chandra                     | ACRPC1647G |
| 6.                 | Ravishankar Mishra                 | BAFPM9504H |
| 7.                 | Mina Chandra                       | AEMPC2501C |
| 8.                 | Sanjoy Kumar Chandra               | AHSPC1661N |
| 9.                 | Pushpa Asoolal Bissa               | BGXPB6906Q |
| 10.                | Dilip Kumar Mandal                 | BQCPM7585H |
| 11.                | Priti Kothari                      | AQVPK7342Q |
| 12.                | Greencrest Financial Services Ltd  | AACCM1906E |
| 13.                | Sunil Parakh                       | ABWPP8624N |
| 14.                | Aditya Parakh                      | AKIPP7524Q |
| 15.                | GulistanVanijya Pvt. Ltd.          | AACCG5385R |
| 16.                | PS IT Infrastructure Services Ltd. | AAACP6501C |
| 17.                | JMD Sounds Ltd                     | AABCJ1907H |
| 18.                | Ravindra Kumar Grover              | ACDPG9740J |
| 19.                | Udayan Grover                      | ACLPG0572G |
| 20.                | Anoop Jain (HUF)                   | AAAHA6321A |

**IN THE MATTER OF GREENCREST FINANCIAL SERVICES LIMITED**

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

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) conducted an investigation into the trading in the scrip of Greencrest Financial

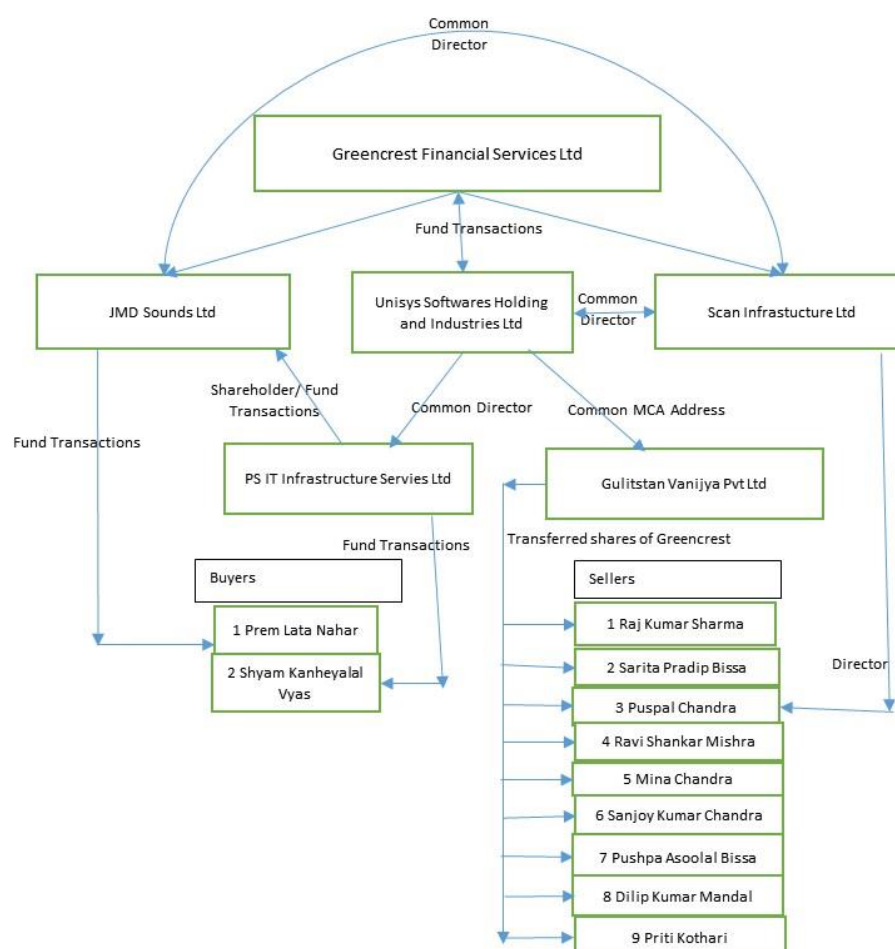
Services Ltd. (hereinafter referred to as “**Greencrest**” or “**the Company**”) and other attendant issues, for the period of March 01, 2012 to July 31, 2015, to ascertain any possible violation of the provisions of Securities and Exchange Board of India Act (hereinafter referred to as “**SEBI Act**”) and rules and regulations made thereunder.

2. During the course of investigation, it was observed that:

- i. The scrip of the Company is listed on BSE Ltd. (hereinafter referred to as “**BSE**”). The Company had made two preferential allotments during the investigation period. Under the first preferential allotment made on September 14, 2012, the Company had allotted 1,92,50,000 shares on preferential basis at Rs.12 per share, aggregating to a value of Rs. 23.10 Crore to 43 non-promoters. During the second preferential allotment on February 11, 2013, the Company allotted 1,23,00,000 shares on preferential basis again at Rs.12 per share aggregating to a value of Rs. 14.76 Crore to 45 non-promoters.
- ii. The last traded price of the scrip of the Company was Rs. 6.92 at the time of both the preferential allotments.
- iii. During the entire investigation period there were two sub-periods/patches, i.e. Patch 1- from May 10, 2013 to June 04, 2014 and Patch 2 –from June 05, 2014 to December 04, 2014 in which rapid price rise in the scrip was noticed. Further, during the Patch-1 it was noted that there were only 16 buyers and 15 sellers trading in the scrip of Greencrest.
- iv. The scrip opened at Rs.7.26 on May 10, 2013 (Patch – 1) and thereafter only in 132 trades, price of the scrip increased to Rs.264.3 on June 04, 2014. The Company has done stock split in 10:1 ratio on June 05, 2014 (i.e. first day of Patch – 2), which was followed by a huge increase in trading volumes of the scrip of the Company. It was also revealed that before stock split, only 1336 shares were traded in 133 trades, between May 10, 2013 and June 04, 2014, whereas after the stock split on June 05, 2014 between June 6, 2014 and July 31, 2015, shares to the volume of 5,41,48,981 were traded in 53,590 trades. Price of the scrip also increased from Rs. 26.90 (post-split) on June 06, 2014 to a high of Rs. 69.85 (unadjusted split price was Rs. 698.50/- per share) on December 04, 2014. After December 04, 2014 the price of the scrip remained stable.

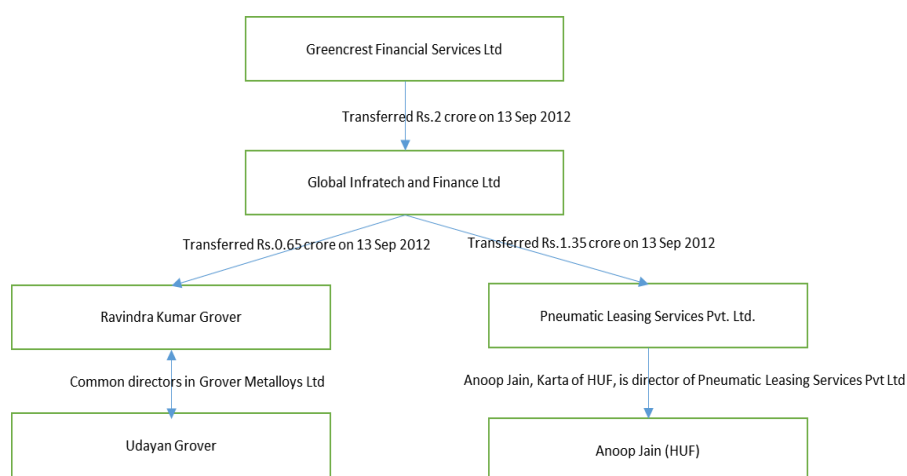
- v. As stated above, during the Patch -1 and Patch – 2, the price of the scrip went upto Rs. 69.85 (unadjusted split price was Rs. 698.50/- per share) on December 04, 2014 and closed at that price. It was discovered in the course of investigation that the Company had disclosed its annual revenue of only Rs.08.38 Crore and Rs.10.30 Crore in FY 2013-14 and 2014-15, respectively. Accordingly, the net Profits were Rs. 0.7 Crore and Rs. 1.16 Crore only in FY 2013-14 and 2014-15, respectively. Nevertheless, the scrip traded at the highest price of Rs. 69.85 (unadjusted split price of Rs. 698.50) and at that price its market capitalization value stood at Rs. 2553.07 Crore. The steep rise in the price of the scrip, the sudden increase in its trading volume and in the market capitalized value of the Company was found to be not supported by the financials of the Company and therefore was not backed by any market fundamentals.
- vi. The Company had not made any major corporate announcements during the investigation period, except for the declaration of financial results, split announcement etc.
- vii. During the course of investigation, it was revealed that Noticee nos. 1 and 2 had traded repeatedly as buyers during Patch 1 and contributed 35.45% to market positive Last Traded Price Variation (hereinafter referred to as “**LTP**”) and Noticee nos. 3 to 11 were major selling counterparties to the trades executed by the aforesaid two entities. The trading amongst the aforesaid entities i.e. Noticee nos. 1 to 11 (hereinafter refer as “**group entities**”), with Noticee no. 1 & 2 on buying side and Noticee nos. 3 to 11 on the other side, effectively contributed 29.98% to the market positive LTP by placing repeatedly their buy and sell orders above the last traded price (LTP) in the scrip amongst themselves.
- viii. Facts collected in the course of investigation further showed that Noticee nos. 1 & 2, received funds from JMD Sounds Ltd. (Noticee no. 17) and PS IT Infrastructure Services Ltd (Noticee no. 16) respectively, whereas Noticee nos. 3 to 11, who were major selling counterparties to the trades executed by Noticee nos. 1 & 2, received their shares from Gulistan Vanijya Pvt. Ltd. (Noticee no. 15) through off-market transfers. It was found that the Noticee nos. 1 to 11, who were responsible in increasing the price of the scrip by repeatedly trading amongst themselves and Noticee nos. 15 to 17

who practically sponsored these trades by providing shares, through off-market deals or by providing funds, were all connected directly or indirectly to the Company (Noticee no. 12). The inter-se connections amongst the above noted Noticees is reflected in the form of the following chart:-



- ix. The investigation further revealed transfer of funds from the Company to certain entities. It was observed that the Company, after having received the allotment proceeds against the preferential allotments, had transferred some funds to certain entities including Noticee nos. 18 to 20 either directly or indirectly through layering of transactions and some of such entities which received funds from the Company out of the proceeds of preferential allotment, were connected directly or indirectly with the group entities. In this connection it was found in the investigation that the Company had transferred Rs. 2.00 Crore to Global Infratech and Finance Ltd. (hereinafter referred to as “**Global**”) (HDFC A/C no.- 12842000000973) on September 13, 2012 out of the proceeds received from the first preferential allotment. It was noticed that Global had a bank balance of only Rs.216,624 before

receiving the funds from the Company and after receiving the above noted amount from the Company, Global made onward transfer of Rs. 65.00 Lakh to Noticee no. 18 and Rs. 1.35 Crore to Pneumatic Leasing Services Pvt. Ltd. (hereinafter referred to as “**Pneumatic**”) out of the said funds, on the same day it received it from the Company. Noticee nos. 18 and 19 were connected to each other being common Directors of the M/s Grover Metalloys Ltd. Shri Anoop Jain, Karta of Noticee no. 20 was the Director of Pneumatic Leasing Services Pvt. Ltd, which received funds of Rs. 1.35 Crore allegedly from Greencrest through Global Infratech and Finance Ltd. Noticee no. 18 to 20 being preferential allottees of Greencrest, are alleged to be connected to the Company because of the aforesaid transfer of funds to them allegedly made by Greencrest through Global Infratech and it is alleged that Greencrest has in effect, returned the preferential allotment application money to these three allottees, indirectly via Global Infratech. The aforesaid funds transfer on the basis of which *prima facie* connection between the Company and Noticee nos. 18 to 20 are observed, are depicted as below:-



3. Based on the outcome of the aforesaid facts in the investigation, allegations have been made against the Company that it had allotted shares to certain preferential allottees without receiving actual consideration and that the Company related entities have provided funds and shares to the group entities who manipulated the price of the scrip so as to facilitate Noticee nos. 18 to 20 to sell their shares at a highly inflated and manipulated price. Mr. Sunil Parakh and Aditya Parakh (Noticee no. 13 & 14), who were Executive Directors of the Company (Noticee no. 12) and were managing

the affairs of the Company at the time of preferential allotment, have also been alleged to be part of this manipulative scheme of issuing shares under preferential allotments and in manipulating the price of scrip so as to enable *inter alia*, the aforesaid three connected preferential allottees to sell their shares at a manipulated higher price. Taking cognizance of the above discussed manipulative and fraudulent trade practices allegedly adopted by the Noticees, a common Show Cause Notice dated December 26, 2017 (hereinafter referred to as “SCN”) was issued to the Noticees alleging that the above noted acts of Noticees are in violations of provisions of Securities and Exchange Board of India Act (Prohibition of Fraudulent and Unfair Trade Practices Relating To Securities Market) Regulations, 2003 (hereinafter referred to as “PFUTP Regulations”). It has been alleged in the SCN that:

(a) Noticee nos. 1 to 11 have manipulated the price of the scrip by repeatedly trading amongst them at prices higher than the last traded price (LTP), and the acts of Noticee nos. 1 to 11 are in violation of Regulation 3(a),(b),(c),(d) and Regulation 4(1), 4(2) (a) and (e) of PFUTP Regulations.

(b) Noticee no.12, the Company, Noticee nos. 13 and 14, the two Executive Directors of the Company (Sunil Parakh and Aditya Parakh) and the connected preferential allottees Noticee nos. 18 to 20 viz:- Ravindra Grover, Udayan Grover and Anoop Jain HUF were part of the manipulative scheme and have violated Regulation 3 (a),(b),(c) and (d) and Regulation 4(1) of PFUTP Regulations.

(c) Noticee no. 15 by transferring shares through off market deals and Noticee nos. 16 and 17, by funding the LTP contributors (viz. Noticee no. 1 to 11) who manipulated the price of the scrip of the Company through repeated trades amongst themselves, also have become part of the scheme and the acts of the above Noticees are in violation of Regulation 3 (a), (b), (c) and (d) and Regulation 4(1) and 4(2) (d) of PFUTP Regulations.

4. The SCN so issued has been delivered to all the Noticees by post or by affixation at their last known addresses. I note from the record that the Noticee nos. 4 to 11 vide their separate but identical letters dated January 10, 2018 have denied in general the allegations made against them in the SCN and have sought more time to file their

written replies. Similarly, the Noticee nos. 12 to 14 vide their identical letters dated January 17, 2018, have also sought more time to file their replies, while denying the allegations made in the SCN against them.

5. After receipt of the SCN, many of the Noticees had requested for inspection of the documents which was duly provided to them. It is noted that after conducting inspection of the documents, few Noticees like Noticee nos.1, 18 etc., had made requests seeking copies of more documents like copy of investigation report, copy of complaints received in the matter etc. In this regard, I note that copies of all the relevant documents which have been relied upon in the SCN to impute allegations of various violations against the respective Noticees have already been annexed to the SCN. Furthermore, the SCN along with its annexures clearly spells out the alleged role played by each of the Noticees and the factual basis of making such allegations has also been articulated therein. It was therefore observed that the additional documents/information sought by some of the Noticees are not relevant for the purpose of adjudication of the issues involved in the instant proceedings as the contents of those documents were neither referred to nor relied upon for the purpose of levelling the allegations in the SCN. For instance the investigation report, apart from containing the factual findings with respect to the role of Noticees which have already been furnished to the Noticees in form of the SCN, may have some other facts / information with reference to unrelated entities or matter which have no relevance with the issue pertaining to the Noticees. Similarly, after the investigation is completed and a report was prepared, the copy of complaint if any, on the basis of which investigation was conducted, ceases to have any relevance. In this connection, I prefer to rely on the observation of Hon'ble Securities Appellate Tribunal (hereinafter referred to as "SAT") made in the matter of *Reliance Commodities Ltd. Vs. National Commodity & Derivatives Exchange Ltd. (Appeal No 173 of 2019- Date of Decision - 23.07.2019)*, wherein the Hon'ble SAT, while dealing with issue of providing/furnishing documents to the Notices, has observed that:

*"2. Having heard the learned counsel for the parties and having perused the list of documents so required for inspection we are of the opinion that the documents sought for is nothing but a roving and fishing enquiry. We accordingly do not find any merit in the submission of the learned counsel for the appellant that these documents are essential for the purpose of filing an appropriate reply.*

*3. However, we are of the opinion that if any document is relied by the respondent while disposing of the matter such document should be made available to the appellant.....”*

6. Having provided with inspection of relevant documents and information and after furnishing the Noticees with all the relevant documents that have been relied upon in the SCN, the Noticees were provided with an opportunity of personal hearing and accordingly the hearing in the matter was fixed for October 30, 2018. On the said date only Noticee no. 20 appeared before me through his counsel and presented his case. Since, some of the Noticees had sought adjournment, another opportunity of personal hearing was granted. The hearing was fixed for April 25, 2019 but the same had to be rescheduled to August 27, 2019. On the said date, an authorized representative for Noticee no.1; a common counsel for Noticee nos. 12 to 14 and a common counsel for Noticee nos. 18 and 19 appeared before me and made oral submissions on behalf of their respective Noticees. I further note that Noticee nos. 2, 4, 9 and 10 were served with the notice for personal hearing through newspaper publications. However, none appeared on their behalf nor any written reply or representation was received from any of these Noticees. It is also noted that Noticee nos. 2 to 4, 9 to 11, 15 and 17 have neither filed any reply to the SCN nor have they appeared before me for the personal hearing. Under the circumstances I have to conclude the proceedings on the basis of whatever written replies/ submissions received from the Noticees and the arguments and explanations offered before me by those Noticees who attended personal hearing.

**Replies of the Noticees:**

7. Noticee no. 1 vide letters dated January 01, 2018, and April 19, 2019 has filed her written replies to the SCN. The submissions made by the Noticee no.1 are summarized as under:

- i. She is a 70 year old house-wife suffering from various ailments and with almost no educational background.
- ii. She is not aware of the technicalities of the stock market and her husband, Mr. Naxtramal Nahar used to manage the investments on her behalf. Her husband had made a well-diversified portfolio. Her husband has expired on August 22, 2017. As she is not completely aware of the transactions executed in the scrip of Greencrest, therefore charges levelled against her should be dropped.
- iii. Her husband had traded in around 176 stocks during the period from April 1,

2009 to December 13, 2014, and she was holding more than 50 stocks as on December 31, 2014. The investments were made in various blue chip companies, large cap and mid cap companies along with a small proportion of only 3 penny stocks or small cap companies.

- iv. The investments in Greencrest was made, since apart from being a NBFC, it was also involved in other services like Private Placement, Term Loans, Debt Syndications and other non-fund based activities like due diligence, technical feasibility study etc.
- v. The trading done in the scrip of Greencrest was in normal course of business activity as a *bonafide* investor and within her financial capacity. The investment decisions of individuals are made on the basis of news, rumor, price movement etc.
- vi. The violations as alleged in the SCN have been denied.
- vii. The shares of Greencrest were purchased at the best available price in the market. In total, 5,700 shares of Greencrest were purchased on 32 days during the period of 6 months. Out of said 5,700 shares, SCN has levelled allegation with respect to purchase of only 145 shares which is 2.54% of the total shares purchased during 23 days out of 406 days of investigation period. The said trades were small enough to influence the price/volume of the scrip. The total turnover in Greencrest was mere 0.03% of her total turnover for the period of April 01, 2012 to December 31, 2012.
- viii. She is not aware of the counter-party of her trades as the same were executed on price-time priority on the platform of stock exchange which does not disclose identity of the parties to the trade. She has also sold the shares of Greencrest, for which no allegation has been made in the SCN and therefore the charges of price manipulation are not sustainable.
- ix. Her husband would have wanted to gain with first mover advantage, therefore, orders were placed at the upper circuit limits to be able to get shares. The perusal of trade log/order log will reflect that the transaction in scrip of Greencrest was based on some rationale.
- x. The allegation of connection levelled in the SCN has been denied as she has no common address, email etc., with other Noticees.
- xi. She is not aware about details of receipt of Rs. 17.50 lakh from JMD Sounds Ltd., as her financial transactions were looked into by her husband, who has

since deceased.

- xii. She has also claimed that allegations similar to the ones made in the SCN, were made against her in the interim orders passed in the matter of *Radford Global* and *Kamalakshi Finance Corporation Limited* by SEBI. Subsequently, the charges levelled against her in those cases were dropped as no adverse evidence was found by SEBI.
- xiii. The Noticee has also placed reliance in a few of the SEBI's orders, wherein directions passed by SEBI against LTP contributors were revoked.
- xiv. Her trading in Greencrest has not caused any harm to any investor in securities market. No disproportionate gain has been derived by her due to the trading in Greencrest. The lapses, if any are not repetitive.
- xv. Strict proof is required for a serious charge of 'fraud' and in this connection reliance has been placed on the decisions in the cases of *R.K. Global Vs. SEBI- Appeal no. 158/2008- Securities Appellate Tribunal*; *Narendra Ganatra vs. SEBI- Appeal no. 47/2011- Securities Appellate Tribunal* etc. The judgment in the matter of *Ram Sharan Yadav vs. Thakur Muneshwar Nath Singh [(1984) 4 SCC 649 (AIR 1985 SC 24)]* has been relied on to support that fraud cannot be alleged based on preponderance of probabilities.

#### **Noticee nos. 5, 7 and 8**

8. Noticee no. 5, 7 and 8 vide their separate letters dated August 16, 2019, have filed their replies to the allegations levelled in the SCN, which are identical in their contents, hence are summarized together as follows:

- i. The Noticee no. 5 is the husband of Noticee no. 7 and brother of the Noticee no. 8. The Noticee no. 7 is a house –wife and Noticee no. 8 is unemployed. The Noticee no. 5 is working as an office clerk in a private company. The Noticee no. 5 used to manage all the works related to share trading for the Noticee nos. 7 and 8 as well. The Noticee no. 5 is facing certain medical issues for which he has been prescribed bed rest by the Doctor. Photocopy of medical record has also been filed.
- ii. They are not related with any person of the Company. They have traded in various scrips without any manipulative intent. The transactions in the scrip of Greencrest are genuine transactions executed by them in the capacity of

- individual traders. They have no role to play in increasing the price of the scrip of Greencrest nor have they benefitted from such increase in the price of the scrip.
- iii. They have purchased small quantities of shares and have sold such shares in delivery based trades when the price of the scrip of Greencrest was going up. The shares have been sold in small quantities on different dates to book profits and there is no prohibition in law to sell small quantities of shares. As the price of the scrip was facing bullish trend, a broker will never sell all shares in one go.
  - iv. The said Noticees have given details of number of shares purchased by them as well as the purchase price. The total number of shares purchased by them were in the range of 37 shares to 87 shares on the basis of which they have stated that the total individual investment by the aforesaid Noticees in the shares of Greencrest was in the range of Rs. 795.00 to Rs. 2808 and the total sale proceeds ranged from Rs. 4200 (approx.) to Rs. 8900 (approx.).

**Noticee nos. 6 and 16**

9. Noticee no. 6 as well as Noticee no. 16 vide their separate letters dated August 21, 2019, have annexed a copy of their respective replies dated July 25, 2018 filed before the Adjudicating Officer (AO), SEBI, in the same matter of Greencrest, and have submitted that the said replies (filed before the AO) be taken as their final submissions in the present matter also. The contentions of Noticee nos. 6 and 16, as noted from the said replies dated July 25, 2018 are identical in nature which are briefly stated as under:

- i. The Noticees are investing in securities market since long. They invested in the scrip of Greencrest in the capacity of individual investors (Noticee no.6) and corporate investor (Noticee no.16), respectively in the ordinary course of their business without any manipulative intent. All the requirements of law have been complied with while dealing in the shares and all the obligations of payout/delivery have been met by them.
- ii. Based on mere trading in the scrip of Greencrest, they cannot be said to be

connected to it (Greencrest). There are no means to suggest that they were connected to Greencrest or traded on its instructions.

iii. The allegation of violations as alleged in the SCN have been denied.

#### **Noticee no. 12, 13 and 14**

10. The Noticee no. 12 (the Company) filed its written reply dated July 11, 2018. Thereafter additional submissions have been made vide letter dated August 26, 2019 and further, a post personal hearing submission dated August 30, 2019 has also been filed by the Noticee. The contentions of the Noticee no. 12 expressed through the aforesaid submissions are summarized as under:

- i. The Company is registered as a NBFC with Reserve Bank of India. Copy of certificate has been furnished.
- ii. The preferential allotments were done by the Company as it proposed to expand its operations. The said allotments and stock split were done in compliance with applicable laws and disclosures were also made thereon.
- iii. They have no role to play either in the trading done by other entities in the scrip of the Company or in the impact on price/volume of the scrip.
- iv. The Company was making higher profits from year ending 2012-13 to year ending March 2014-15 and other corporate announcement of preferential allotment, stock split etc., were also made, which may have impacted the price/volume of the scrip of the Company.
- v. Based on off-market transfers, fund transfers, common directors etc., adverse inference cannot be drawn against them.
- vi. The allegation of connection with other entities is based on surmises and conjectures.
- vii. They have no connection with any of the entities except for the Noticee no. 17 viz., Unisys Softwares Holdings and Industries Ltd. (hereinafter referred to as “**Unisys**”) and Scan Infrastructure Pvt. Ltd. (hereinafter referred to as “**Scan**”). All the transactions entered by them are genuine commercial transactions. There is nothing on record that demonstrates that the alleged trades and/or the alleged fund transfers were made at their behest.

- viii. They are not aware of fund transactions between Noticee no. 17 (JMD Sounds) and Noticee no.1 (Prem Lata Nahar). Being a shareholder of Noticee no. 17, no adverse inference can be drawn against the Company. The Company had transactions with Noticee no. 17 in ordinary course during the period of April 01, 2012 to March, 2013. Further, 115000 shares of Sargam Vinitrade Pvt. Ltd. @ Rs. 200 per share, were sold by the Company to Noticee no. 17 during the said year and the sale consideration amount was adjusted against the money already received from the Noticee no. 17. At the closing of the financial year, an amount of Rs. 50.00 Lakh was outstanding and the same was paid to Noticee no. 17 on March 21, 2013. Copy of Bill, ledger statements has been filed.
- ix. The transfer of Rs. 9.35 Crore to Unisys was towards purchase of shares of various companies from it viz., Lakshya Energy Pvt. Ltd, Brijwashi Distributors Pvt. Ltd, Sargam Vinitrade Pvt. Ltd. and Concord Vincom Pvt. Ltd. The said shareholding has been disclosed in the Annual Report of the Company. SCN has not been issued to Unisys which shows that the transactions with Unisys were *bonafide*. Copy of ledger statement and bill issued by Unisys has been submitted.
- x. They were not aware that Anil Kumar Purohit was a director of Blue Circle Services Ltd.(hereinafter referred to as “**Blue Circle**”).The amount of Rs. 2.25 Crore was transferred to Scan towards purchase of shares of Megacity Enclave Pvt. Ltd. The said purchase transaction was disclosed in the Annual Report of the Company.
- xi. No inference can be drawn against them from the fact that Mr. Kashi Prasad Bajaj is a common director between the Noticee no. 16 and Blue Circle.
- xii. The transfer of funds from Unisys during the period of April 02, 2013 to March 24, 2014 was towards sale of shares of various companies, as a regular business of the Company. Copy of bills, ledger accounts has been furnished.
- xiii. The transfer of amount of Rs. 2.00 Crore to Global was done in the course of business as a NBFC. Out of the proceeds of first preferential allotment, an amount of Rs. 7.5 Crore was given to Global as ICD @10.5%. Further, out of the proceeds of second preferential allotment, an amount of Rs. 1.3 Crore was given to Global as ICD @ 10.5%. Interest was received after deduction of TDS. Only one transaction has been picked up and other transactions executed with Global have been ignored. Copy of loan confirmation letter and ledger statement

has been given.

- xiv. It is not aware about utilization of the said amount by Global and nothing has been brought out on record to show that the said funds were transferred by Global to the preferential allottees on behalf of Greencrest. SCN has not been issued to Global.
- xv. The transactions with 3 preferential allottees were done in the ordinary course of their business. Rs. 24 Lakh each was received from Ravindra Kumar Grover (Noticee no. 18) and Udayan Grover (Noticee no. 19), whereas Rs. 30.00 Lakh was received from Anoop Jain-HUF (Noticee no. 20), as application money. The total amount received from the said three preferential allottees is Rs. 78.00 Lakh, whereas an amount of Rs. 2.00 Crore was transferred to Global. The same shows that there is no correlation in the amount allegedly indirectly transferred to the said three allottees and the application money received from them.
- xvi. There is no allegation of profit making by the Company by way of sale of its shares.
- xvii. The SCN has not demonstrated any connection with the three preferential allottees to support the allegation of returning money to the said allottees. There is no allegation in the SCN that the amounts allegedly received by the three preferential allottees through Global has been funneled for trading in the scrip of the Company.
- xviii. There is no allegation with respect to the price manipulation against the Company and such an allegation has been made against the alleged Company related entities.
- xix. It has been denied that they are concerned with the off-market transfers done between Noticee no. 15 (Gulistan Vanijya Pvt. Ltd.) and Noticee no. 3 to 11.
- xx. They are not aware about fund transactions between Gulistan and Unisys and nothing has been brought on record to show their involvement in the said transactions.
- xxi. Based on the fact that Dhruv Narayan Jha and Sushil Parakh are directors of Sekhar Commerce Pvt. Ltd., they cannot be connected to Dhruv Narayan Jha.
- xxii. They were not aware that Kailash Prasad Purohit was a common director in JMD Sounds Ltd, Global Infratech and in Scan Infrastructure Limited. They have no connection with Kailash Prasad Purohit.
- xxiii. They were not aware that Jagdish Prasad Purohit was a common Director with

Scan and Unisys. The transaction with Unisys was in ordinary course of their business and they are not connected with Unisys. Rs. 45.00 Lakh was received from Unisys against sale of shares. Copy of ledger has been submitted.

- xxiv. There is no allegation against them that they have funded the buyers. Noticee no. 17 (JMD Sounds) has transferred funds to Noticee no.1 and Noticee no. 16 (PS IT Infrastructure) had transferred funds to Noticee no.2. The Company is alleged to have fund transactions with Unisys and Scan. There is no allegation of funding the buyers directly by the Company and merely based on the alleged connection of the Company with Noticee no. 17 and Noticee no. 16, the funding to the buyers cannot be attributed to them.
- xxv. They are not aware that Unisys is having common address with Noticee no. 15(Gulistan Vanijya) and common director with Noticee no. 16. They have no role in the affairs of Unisys or in the affairs of Noticee no. 15 or Noticee no. 16. The fund transfer to Unisys was in ordinary course of business and the same had no link with the alleged connection of Unisys with Noticee no. 15 or Noticee no. 16 or with the alleged transfer of shares by Noticee no. 15 to the alleged nine sellers (Noticee nos.3 to 11). The transaction with 'Scan' was also made in the ordinary course of business and has no connection with the Director of 'Scan' being one of the sellers of the shares of the Company. The sellers and the buyers were not acting on their behalf therefore, they cannot be held liable for the said act of manipulation.
- xxvi. They have denied being part of any scheme of manipulation in the scrip of the Company for the benefit of the three preferential allottees. Neither the Company nor any of the Directors has traded in the shares of the Company. There is nothing on record to show that the Company was part of the alleged scheme.
- xxvii. The connections that have been alleged are farfetched and acts of other entities are being attributed to them, which cannot be sustained. Orders of Hon'ble SAT in the matters of *Smitaben N. Shah Vs. SEBI (Date of Decision: 30.07.2010)* and *Mr. Babulal Desai Vs. SEBI (Date of Decision; 15.02.2016)* have been replied upon in this connection.
- xxviii. It has also been contended that to prove the serious charges of violation of PFUTP Regulations, strong evidence is required as held by Hon'ble SAT in the matter of *ESS ESS Intermediaries Vs. SEBI (Date of decision : June 19, 2013)*. Further, judgment of Hon'ble Supreme Court in the matter of *Gulab D Chand*

*Vs. Kudilal (AIR 1966 SC 1734)* has also been relied upon.

11. The Noticee no. 13 and 14 have vide their separate yet identical letters dated July 11, 2018 have adopted the submissions made on behalf of the Noticee no. 12 (Greencrest). They have also denied the allegation of violations as have been levelled against them in the SCN and have submitted that the Board of Directors of Greencrest have acted in a *boanfide* manner in the best interests of the Company and its shareholders. It has further been submitted that they have not traded in the scrip of Greencrest during the relevant period and have not made any kind of gains.

**Noticee nos. 18, 19 and 20**

12. The Noticee nos. 18, 19 and 20 have been confronted with similar allegations in the SCN. The respective replies filed by the said Noticees also contain common legal arguments. Noticee nos. 18 and 19 have filed their written replies vide their separate letters dated January 06, 2018 and April 22, 2019, respectively. The Noticee no. 18 has also filed a post-personal hearing written submission dated September 12, 2019. The summary of the submissions made by the Noticees nos.18 and 19 are as under:

- i. Noticee no. 18 is the uncle of Noticee no. 19 and both of them are Promoters/Directors of Grover Metalloys Ltd. (hereinafter referred to as “**Grover**”).
- ii. The SCN alleges receipt of Rs. 65.00 Lakh from Global by Noticee no. 18. The said loan was taken to infuse funds into Grover, wherein Noticee no. 18 is a founder/Director. The alleged transaction had no connection with the preferential allotment of shares by Greencrest. The said transaction was not an isolated one and Noticee no. 18 had also other transactions with Global whereby he had borrowed Rs. 4.15 Crore from Global over a period of time. The above said loan amount has been repaid to Global in 19 installments and an interest amounting to Rs. 1,14,62,37 has also been paid to Global against the said loan. A copy of confirmation of accounts for F.Y. 2012-13 and 2015-16 has been filed in support of his submissions.
- iii. The Noticee no. 19 has contended that he has no connection with the alleged

transaction between Global and the Noticee no. 18, hence, no adverse inference can be drawn against him. It has also been contended that there is no evidence furnished to him with respect to his alleged connection with any of the entities, as alleged in the SCN.

- iv. The Noticee no. 18 is acting as Promoter-Director in a group of MSME companies in which, funds have been required for working capital on regular basis. For such requirements, loans are taken by him in personal capacity after coordinating with financiers. The pooling of funds in individual names helps in proper utilization of funds by the companies and also reduces number of transactions with outsiders. As Noticee no. 18 is a large borrower, he can negotiate with financiers. Such financiers consider lending of funds to him more secured due to net worth and credentials of Noticee no. 18.
- v. The investment in the preferential allotment by Greencrest was made by both of them (Noticee nos. 18 and 19) based on the presentation given by Greencrest and on recommendation of one Mr. Rajendra Singh Bhatia, friend of the Noticee no. 18. The investment was made out of their respective own funds and investment was within their risk bearing capacity.
- vi. SEBI has not taken any action with respect to the other preferential allottees who had also sold the shares during the relevant time.
- vii. A total of 2,00,000 shares were allotted under the preferential allotment to each of the aforesaid two Noticees during September, 2012, which by virtue of split of shares became 20, 00,000 shares with each of them.
- viii. After allotment, the share price and other details were monitored by them. As the price of the scrip rose to a reasonable level, a total of 18,56,000 shares were sold by Noticee no. 18 and a total of 17,42,500 shares were sold by Noticee no. 19, on the market platform through a registered broker. The shares were sold over a period of 51 days by Noticee no. 18 and over 44 days by Noticee no. 19, out of 406 trading days covered in the investigation period. During the investigation period, volume in the scrip of Greencrest was to the tune of 5,41,51,017 shares. Noticee no. 18 is still holding 1,44,000 shares and the Noticee no. 19 is holding 2,57,500 shares of Greencrest.
- ix. The investment made in the preferential allotment was not substantial in comparison to their net-worth.

13. Coming to Noticee no.20, I note that Anoop Jain (HUF) vide its reply dated 08.01.2018 and vide a post hearing written submission dated 26.02.2019 has submitted as under:

- i. The Noticee had made investment in the preferential allotment of the Company on the advice of one Mr. Sanjib Khetry. A copy of corporate presentation given by the Company has also been furnished. It was represented to them that Greencrest is an NBFC and is involved in various other financial services like private placements, Debt Syndications, Term Loans and Working Capital Limits etc.
- ii. SEBI has not taken any action with respect to other preferential allottees who had also sold the shares during the relevant time.
- iii. A total of 2,50,000 shares were allotted under the preferential allotment to the Noticee during September, 2012, which, by virtue of split of shares became 25,00,000 shares at the disposal of the Noticee.
- iv. After allotment, the share price and other details were checked by them. As the price rose to a reasonable level, a total of 3,00,000 shares were sold by them at an average price of Rs. 68.63, on the market platform through a registered broker. The shares were sold only on two days (1,50,000 shares each on 11.12.2014 and 12.12.2014) out of 406 trading days covered during the investigation period. During the investigation period, volume in the scrip of Greencrest was to the tune of 5,41,51,017 shares.
- v. The fund transfer from Global to Pneumatic was purely a business transaction. Directors of Pneumatic, in the Board meeting held on July 23, 2012 had decided to borrow Rs. 1.35 Crore from Global. The said amount of loan was received by Pneumatic on 13.09.2012. A copy of Board Resolution has been furnished.
- vi. The said loan amount was repaid to Global in two installments, i.e., Rs. 1.00 Crore on October 23, 2013 and Rs. 35.00 Lakh on December 31, 2014. An amount of Rs. 17,13,329/- was also paid as interest on the aforesaid loan. Pneumatic had also deposited TDS with respect to interest amount on the said loan. Copies of confirmation of accounts as well as Form no. 16A have also been furnished.
- vii. The investment made in the preferential allotment was not substantial in comparison to their net-worth.

14. The Noticee nos. 18 to 20 have also made the following common contentions in their replies:-

- i. Shares were sold at market rate and had no impact on market equilibrium. The percentage of shares sold was insignificant to be capable of disturbing the market so as to create artificial price/volume or to create any misleading appearance of trading in said scrip. As volume/price of the scrip was not affected by their trades, manipulation cannot be attributed to them. The shares have been sold on market platform which maintains anonymity of counter party hence, they are not aware of the counter party to their trades.
- ii. No reference/inquiry has been received by them before the issuance of SCN with respect to their trading of shares in Greencrest. The transactions entered by them are in isolation from the transactions entered by others and thus issuance of a common SCN to them has caused great prejudice to them. The SCN has been issued after passage of 5 years and is thus required to be set aside.
- iii. The order dated April 02, 2018 passed by SEBI in the matter of *First Financial Services Limited* has been relied upon, wherein a reference to the decision of SEBI Board in its meeting held in December 2016 has been made.
- iv. The Noticees have contended that strict proof is required for a serious charge of fraud. The following decisions have been relied upon to support the said contention:
  - *R. K. Global vs. SEBI (Appeal no. 158/2008 decided on 16.09.2010) – Hon’ble Securities Appellate Tribunal;*
  - *Narendra Ganatra vs. SEBI (Appeal No 47 of 2011 decided on 29.07.2011)- Hon’ble Securities Appellate Tribunal;*
  - *Sterlite Industries (India) Ltd. vs. SEBI (2001) 34 SCL 485 (SAT);*
  - *Parsoli Corporation vs. SEBI (Appeal No 146/2011 decided on 12.08.2011)- Hon’ble Securities Appellate Tribunal; and*
  - *Ram Sharan Yadav vs. Thakur Muneshwar Nath Singh [(1984) 4 SCC 649 (AIR 1985 SC 24)].*
- v. The Noticees have also contended that SEBI ought to have specified in the SCN about the measure that it contemplates to take against them so that the Noticees can defend their case properly. The judgment of Hon’ble Supreme Court of India in the matter of *Gorkha Security Services vs. Govt. of NCT of Delhi & Ors., (decided on August 4, 2014)* and the order passed by Hon’ble SAT in the matter of *Royal Twinkle Star Club Private Ltd vs. SEBI, (decided on February 3, 2016),*

have been relied upon.

### **Consideration**

15. Before I proceed to deal with the replies filed by the Noticees to consider various violations as alleged in the SCN, it is relevant to reproduce the provisions of laws which have been attracted and invoked in the SCN and the same are quoted here under:

#### ***SEBI PFUTP Regulations, 2003***

##### ***“3. Prohibition of certain dealings in securities***

*No person shall directly or indirectly—*

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

##### ***Regulation 4. 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) including in an act which creates false or misleading appearance of trading in the securities market*

*.....*

*(c) advancing or agreeing to advance any money to any person thereby inducing any other person to offer to buy any security in any issue only with the intention of securing the minimum subscription to such issue;*

*(d) paying, offering or agreeing to pay or offer, directly or indirectly, to any person any money or money's worth for inducing such person for dealing in any*

*security with the object of inflating, depressing, maintaining or causing fluctuation in the price of such security;*  
*(e) any act or omission amounting to manipulation of the price of a security;”*

16. As stated in the beginning, the investigation period is divided into two patches. While Patch-1 pertains to the period from May 10, 2013 to June 04, 2014; and Patch-2 is related to the period from June 05, 2014 to December 04, 2014. As narrated earlier, the price of the scrip of Greencrest witnessed rapid increase during Patch-1. It is noted from the SCN that the price of the scrip of Greencrest opened at Rs. 7.26 on May 10, 2013 and it reached a high of Rs. 264.30 on June 04, 2014 in only 132 trades. The volume in the scrip of the Company witnessed huge rise after split of its shares in the ratio of 10:1 on June 05, 2014. During investigation period the Company has not come out with any major corporate announcements nor did the fundamentals of the Company have any potential to promise for such abnormal rise in the price of the scrip.

17. It has been alleged in the SCN that after the Noticee no.12 made preferential allotments, certain entities related to the Company provided funds and shares to another set of entities who manipulated the price of the scrip of the Company. Further the Noticee nos. 12, 13 and 14 were allegedly part of a manipulative scheme that was aimed at making preferential allotment of the scrip of the Company followed by manipulating the price of the scrip so as to enable the connected entities like Noticee nos. 18 to 20 to sell their shares at such manipulated price and earn huge profits. Under this scheme, it has been alleged that Noticee nos. 1 to 11 and Noticee nos. 15 to 17 were connected with Company. The SCN alleges their connection to the Company *inter alia*, on the basis of funds transfer, common KYC, common Directorship and also on the basis of transfer of shares. It is noted that Noticee nos. 1 & 2 have allegedly received funds through entities who in turn had financial transactions with the Company, whereas Noticee nos. 3 to 11 had received shares in off-market transactions from a common person, i.e., Noticee no. 15, which in turn had a common address with an entity which had received funds from the Company. Similarly, Noticee nos. 15 to 17 have also been alleged to be connected with each other based on their fund transfers with the Company, common director(s) etc.

18. I note from the aforementioned details and the contents of the SCN that the Company (Noticee no.12) has been allegedly in the centre of a web of connected

transactions that have been noticed *inter-se* amongst various Noticees during the Investigation.

19. Noticee no. 12 (the Company) has attempted to distance itself from the fund transaction between Noticee no. 17 and Noticee no. 1 by claiming that the Company had paid Rs. 50 Lakh to Noticee no. 17 in March 2013 as a part of its repayment obligation and has nothing to do with the transfer of funds by Noticee no. 17 to the Noticee no. 1 (Ms. Prem Lata Nahar) in February, 2014. According to the Company the funds transfer by Noticee no.17 to Noticee no.1 could not lead to any adverse inference *qua* it.

20. The Company in its reply has submitted that it had a number of running transactions with respect to transfer of funds as well transfer of shares of other companies with the Noticee no. 17 (JMD Sounds Ltd.) during the relevant period and out of the said transactions, an amount of Rs. 50 Lakh was payable to the Noticee no. 17, which was paid by it to Noticee no. 17. In this regard, the Company has furnished a copy of ledger account of JMD Sounds Ltd (Noticee no.17) as it appears in its Books of accounts. In this regard some of the transaction executed between Noticee no. 12 and Noticee no. 17 during the relevant period are extracted from the aforesaid ledger account herein under:

**JMD Sounds Ltd.  
Ledger Account**

| Sr. No. | Date       | Particulars       | Vch Type | Debit          | Credit         | Balance            |
|---------|------------|-------------------|----------|----------------|----------------|--------------------|
| 1       | 01.10.2012 | By ICICI Bank     | Receipt  |                | 50,00,000.00   | 50,00,000.00 Cr.   |
| 2       | 03.10.2012 | By ICICI Bank     | Receipt  |                | 1,00,00,000.00 | 1,50,00,000.00 Cr. |
| 3       | 11.10.2012 | By ICICI Bank     | Receipt  |                | 30,00,000.00   | 1,80,00,000.00 Cr. |
| 4       | 18.03.2013 | To Sale of Shares | Journal  | 2,30,00,000.00 |                | 50,00,000.00 Dr.   |
|         |            | By HDFC Bank      | Receipt  |                | 1,00,00,000.00 | 50,00,000.00 Cr.   |
| 5       | 21.03.2013 | To HDFC Bank      | Payment  | 50,00,000.00   |                |                    |

21. From the submissions advanced on behalf of the Noticee no. 12 and its above mentioned transactions with Noticee no.17, it is evident that Noticee no. 12 has not disputed its connection as far as the transfer of funds and securities with Noticee no. 17 is concerned. It is noted that Noticee no. 17 has not filed any written reply, nor did

it prefer to avail the opportunity of personal hearing granted to it in the matter. Further, I find that in her reply, while admitting the receipt of fund from Noticee no. 17, Noticee no. 1 has chosen to remain silent on the nature and purpose of her transaction of funds with Noticee no. 17 and has not furnished any rationale behind the receipt of Rs. 17.50 Lakh from Noticee no. 17. Having considered the submissions of Noticee no. 1 and 12, I am of the view that the objections raised by the Noticee no. 12 with respect to its alleged connection with Noticee no. 17 do not hold any merit. Further, Notice no. 1 has not disputed the fact of receipt of Rs. 17.50 Lakh from Noticee no. 17, and that the said amount was remitted by Noticee no. 17 to Noticee no. 1. The preponderance of the facts and circumstances in which the funds transfers between Noticee no. 12 and Noticee no. 17 and between Noticee no. 17 and Noticee no. 1 have taken place, lead to a conclusion that, Noticee no. 17 has transferred funds to Noticee no. 1 out of the funds received by it from Noticee no. 12 (the Company). Thus, the Noticee nos. 1, 12 & 17 are apparently tied through a common thread of fund transactions. Therefore, the submissions of Noticee no. 12 that no adverse inference should be drawn based on the aforesaid transactions do not hold any ground.

22. Similarly, with respect to the Noticee no. 2, it is noted that allegations against the Noticee no. 2 are akin to what have been alleged against the Noticee no. 1 in the SCN. The allegations are two fold, firstly he has received funds from an entity having connection with the Company and secondly, by executing abnormal and manipulative trades he has contributed to LTP of the scrip and thereby has created misleading appearance as far as dealing in scrip of Greencrest is concerned. In this regard, it has already been observed that Noticee no. 2 had received funds to the tune of Rs. 25.00 Lakh from an entity, namely PS IT Infrastructure Services Ltd. (Noticee no. 16) which has an established connection with the Company, Greencrest. Further, it is also noted from the SCN that as soon as Noticee no. 2 received the aforesaid amount from Noticee no. 16, almost the entire funds (Rs. 24.92 Lakh out of Rs. 25.00 Lakh) were utilised by him to clear his debit balance with his broker. The connection of Noticee no. 2 with the Company and the role played by the Noticee in manipulating the price of the scrip of the Company has been further discussed in detail in the subsequent paragraphs.

23. As regards the role of Noticee nos. 3 to 11, the SCN alleges that they have received shares of the Company through off-market transfers from Noticee no. 15. In

this respect, it is observed that Noticee no. 3, 4, 9, 10, 11 and 15 have so far not filed any reply while Noticee nos. 5, 6, 7 and 8 have not disputed to the fact of receipt of shares of the Company in physical mode from Noticee no.15 through off market transfers. Further, the details with respect to off-market transfer of shares, such as dates of purchase, mode of payment of consideration, if any, paid to Noticee no.15 etc. have not been furnished. Thus, no explanations have been provided by Noticee nos. 3 to 11 justifying their act of receiving of physical shares of the Company through off market transactions.

24. It is also revealed during the investigation that Noticee no.11 shared her address with one Mr. Rajendra Kumar Kothari, who is one of the Directors of the Noticee no. 15. Noticee no.15 had transferred 1000 shares of Greencrest to Premsagar Vinimay Pvt. Ltd, which is a Promoter entity of Greencrest and with whom Noticee no. 3 had an off- market transfer in the scrip of Noticee no.16 (PS IT Infrastructure Ltd.). Further Noticee no.16 had fund transaction with Noticee no. 2. I also note that Noticee no. 2 has not filed any written submission, whereas Noticee no. 16, in its short reply has not disputed its funds transaction with Noticee no. 2. It is further observed that Noticee no. 15 shared common address with 'Unisys' and had also received Rs.25 Lakh from 'Unisys' on February 19, 2011. Further, there were several fund transactions between the Company and Unisys. The Investigation further finds that 'Unisys' and 'Scan' had a common director (Mr. Jagdish Purohit) and on February 08, 2013, Noticee no. 12 had transferred a sum of Rs. 2.25 Crore to 'Scan'. Similarly, Scan and Noticee no. 17 (JMD Sounds Ltd) were also connected through common Director (Mr. Kailash Purohit). Noticee no. 16 and Unisys shared common Director (Mr. Johar Pal Singh) and further Noticee nos. 16 and 17 are connected through fund transactions and holding of shares. Noticee no. 16 had invested Rs. 71 Lakh in 'Scan' in the year 2013-14. Besides, Noticee no. 3 is connected with 'Scan' as he (Noticee no. 3) was a Director of a Company viz; Denim Developer Ltd. along with one Mr. Dhruv Narayan Jha. Mr. Jha was also a Director of 'Scan' as well as in Sekhar Commerce Pvt. Ltd. It is noted that one Mr. Sushil Parekh is a common Director of Greencrest and Sekhar Commerce Pvt. Ltd. In addition to above, the investigation also reveals transaction and connection amongst different other Noticees. In this respect, it is noticed that Noticee no. 5 is the husband of Noticee no. 7 and brother of Noticee no. 8. Noticee no. 5 is a Director of 'Scan' as well. Further, the Noticee no. 5 had off-market transactions with the Noticee no. 3 in the scrip of PS IT Infrastructure Ltd. (Noticee

no. 16). Noticee nos. 4 and 9 shared common phone number as per their KYC details while Noticee no. 4 had received Rs. 50 Lakh from Brijdham Dealcom Pvt. Ltd., a promoter entity of the Noticee no. 16. The aforesaid narratives clearly bring out the maze of connections and cross relationships that the Noticees named above shared with each other and their interconnections also stretched upto the Company through the companies such as 'Unisys' and 'Scan' who had directly received funds from the Company (i.e. Noticee no.12).

25. I further note that the Noticee no. 12 has contended that it had various fund transactions with Global as part of its NBFC activities. The transfer of amount of Rs. 2.00 Crore to Global has been claimed to have been lent as an ICD to Global with interest at the rate of 10.5%. It has also been claimed that the said amount has been repaid by Global with interest after deduction of requisite TDS. However, except for providing copy of ledger statements which is a self-created evidence, no other independently verifiable document like loan agreement, TDS certificate, income tax returns etc., has been produced to satisfy me about the genuineness of its claim of having given any ICD to Global. Therefore, in absence of any such document which could have corroborated the said claim giving advancing ICD, I find that the submissions advanced by the Noticee no. 12 do not carry any weight for acceptance.

26. Without prejudice to the aforesaid, based on the materials available on record and for the reasons recorded above, I find that off-market transfer of shares of a listed company is in itself an implicit proof of evidence that the transferor-transferee are connected to each other, and the said observation is further reinforced by absence of any argument controverting the said allegation of connection between the Company and the Noticees who received shares of the Company in off-market deals through Gulistan (Noticee no. 15). Further transfer of funds sans any supporting documents to justify the object and purpose of such transfer of funds and finding of other connecting points such as common address, phone numbers and common director(s) etc. between various Noticees further cement the nexus found amongst different Noticees during the investigation.

27. Having found that the Noticees have had *inter se* connections amongst themselves and also connection with the Company, it is further noticed from the SCN that the trades in the scrip of Greencrest executed by the Noticee no. 1 to 11 were

manipulative in nature and the Company was allegedly in the centre of a scheme for manipulating the price of its own scrip.

28. As noted above, there were no major corporate announcements made by the Company during the investigation period. Another interesting and relevant fact to note is that there were only few entities trading in the scrip of Greencrest during Patch-1. The trade analysis in the scrip of Greencrest reflects that the Noticee nos. 1 and 2 were trading as buyer in the scrip of Greencrest and have together contributed to 35.45% of the market positive Last Traded Price Variation (LTP) in the scrip while Noticee nos. 3 to 11 were allegedly the major selling counter parties to the buy trades of the Noticee nos. 1 and 2. The trading that took place between Noticee nos. 1 and 2 as buyers and Noticee nos. 3 to 11 as sellers have resulted in contribution of 29.98% of the market positive LTP. The details of contribution to positive LTP of the scrip caused by the trades executed by the Noticee nos. 1 and 2 and further details with respect to such trades between Noticee nos. 1 and 2 on one side and Noticee nos. 3 to 11 on the other are reflected in the tables below:

**Table A**

**LTP contribution as a buyer**

|       |                                      | All trades    |              |             | LTP Diff. >0  |            |             | LTP Diff. < 0 |          |             | LTP Diff. =0 |              | % of + LTP to Total Market + LTP |
|-------|--------------------------------------|---------------|--------------|-------------|---------------|------------|-------------|---------------|----------|-------------|--------------|--------------|----------------------------------|
| S. No | Entity Name                          | Net LTP       | Sum of Qty   | No of trade | LTP           | QTY traded | No of trade | LT P          | QT Y     | No of trade | QT Y         | No of trades |                                  |
| 1     | PremLata Nahar (Noticee no.1)        | 50.93         | 161          | 26          | 50.93         | 145        | 23          | 0             | 0        | 0           | 16           | 3            | 19.79%                           |
| 2     | ShyamKanhayaLal Vyas (Noticee no. 2) | 40.30         | 91           | 19          | 40.30         | 91         | 19          | 0             | 0        | 0           | 0            | 0            | 15.66%                           |
|       | <b>Among Group</b>                   | <b>77.15</b>  | <b>170</b>   | <b>36</b>   | <b>77.15</b>  | <b>170</b> | <b>36</b>   | <b>0.00</b>   | <b>0</b> | <b>0</b>    | <b>0</b>     | <b>0</b>     | <b>29.98%</b>                    |
|       | <b>Group</b>                         | <b>91.23</b>  | <b>252</b>   | <b>45</b>   | <b>91.23</b>  | <b>236</b> | <b>42</b>   | <b>0</b>      | <b>0</b> | <b>0</b>    | <b>16</b>    | <b>3</b>     | <b>35.45%</b>                    |
|       | <b>Market Total</b>                  | <b>257.38</b> | <b>1,336</b> | <b>133</b>  | <b>257.38</b> | <b>932</b> | <b>126</b>  | <b>0</b>      | <b>0</b> | <b>0</b>    | <b>404</b>   | <b>7</b>     | <b>100%</b>                      |

**Table B**

### **LTP Contribution among group**

| Seller Name<br>→<br>Buyer Name<br>↓                       | Raj<br>Kuma<br>r<br>Shar<br>ma | SaritaPradipB<br>issa | Puspal<br>Chand<br>ra | Ravishan<br>kar<br>Mishra | Mina<br>Chand<br>ra | Sanjo<br>y<br>Kuma<br>r<br>Chand<br>ra | PushpaAsoolalB<br>issa | Dilip<br>Kuma<br>r<br>Mand<br>al | Priti<br>Kotha<br>ri | Total<br>LTP as<br>Buyer<br>(Numb<br>er of<br>Trades<br>) |
|-----------------------------------------------------------|--------------------------------|-----------------------|-----------------------|---------------------------|---------------------|----------------------------------------|------------------------|----------------------------------|----------------------|-----------------------------------------------------------|
| PremLataNah<br>ar                                         | 6.75<br>(3)                    | 2.75 (1)              | 14.3<br>(5)           | 7.25 (3)                  | 4.6 (2)             | 4 (2)                                  | 0 (0)                  | 2.23<br>(4)                      | 0(0)                 | 41.88<br>(20)                                             |
| ShyamKanhey<br>alal Vyas                                  | 3.55<br>(1)                    | 3.9 (2)               | 3.4 (1)               | 7.25 (2)                  | 8.2 (2)             | 0 (0)                                  | 5.6 (4)                | 0.82<br>(2)                      | 2.55(2)              | 35.27*<br>(16)                                            |
| <b>Total LTP as<br/>seller<br/>(Number of<br/>Trades)</b> | <b>10.3<br/>(4)</b>            | <b>6.65 (3)</b>       | <b>17.7<br/>(6)</b>   | <b>14.5 (5)</b>           | <b>12.8<br/>(4)</b> | <b>4 (2)</b>                           | <b>5.6 (4)</b>         | <b>3.05<br/>(6)</b>              | <b>2.55(2)</b>       | <b>77.15<br/>(36)</b>                                     |

\*Inadvertently mentioned as Rs. 33.27 in the SCN

### **Role of Noticees:**

29. In the aforesaid paragraphs, I have considered the connectedness and *inter-se* relationships that were apparently existing amongst the Noticees, particularly, the connectedness between the Noticee nos. 1 to 11 who traded in the scrip of the Company on the one side and the Company (Noticee no. 12) on the other side, through different related parties/connected entities of the Company such as Noticee nos. 15, 16 and 17. Since Noticee nos. 13 and 14 are the Executive Directors of the Noticee no. 12 (Company), for the purpose of dealing with the instant case and the allegation made in the SCN, I would consider the Noticee no. 12 to Noticee no. 17 to be inter related with each other on one side and also connected with the traders who have allegedly manipulated the price of the scrip of the Company while dealing with the said scrip through different connected entities of the Company as pointed out above. I would now move on to discuss in detail, the role played by each Noticee in his/her dealing with the scrip of the Company.

### **Noticee no.1**

30. I find that while praying for exoneration from the charges levelled against her in the SCN, Noticee no. 1 has submitted that her husband, who has since expired, used to manage all her financial dealing and used to trade in her account. The Noticee no.1 has also submitted that she is a house-wife with almost no educational background. The reply filed on behalf of the Noticee no.1 however explains the detailed technical intricacies not only with respect to the fundamentals of the Company Greencrest, but

also with respect to the portfolio of shares that was built by her husband in her name. It has been submitted that she has dealt in other large cap shares as well and her investment in penny stocks was a miniscule percentage of her share portfolio. I find that the reasoning given by the Noticee no. 1 by attributing the acts of trading/financial dealing in her demat account to her late husband, is only an after- thought exercise by her. I observe various inconsistencies in the submissions made on behalf of Noticee no. 1, who, on the one hand has pleaded to be not educated enough and all trades in her demat account were executed by her late husband and that she does not possess any knowledge pertaining to securities market, whereas on the other hand the reply filed by her contains details of her share trading activities with all technical finesse, which are normally not known to a person who claims to be ignorant about the securities market. Notwithstanding the above, I do not find any reason to drop the proceedings *qua* her merely on the ground that it was her husband who used to trade in her account and that, for the fault committed by her husband, liability should not be fastened on her.

31. As noted above, that there was funds movement between Noticee no. 12 and Noticee no. 17, which in turn had transferred funds to Noticee no. 1. Noticee no. 1 in her reply has not denied the receipt of fund to the tune of Rs 17.50 Lakh from Noticee no. 17. The two Noticees, i.e., Noticee no. 1 and Noticee no. 17 have not furnished any reason or assigned any purpose to the aforesaid fund transaction of Rs 17.50 Lakh between them. Although the Noticee no. 1 has claimed to be not educated enough to understand the nuances of securities market and has also claimed that she is a house wife, whereas from her bank statement, it has been noted that there have been frequent deposit entries in to her bank account and such deposit/credits were shown as ‘Salary’. Noticee no. 1 has also not brought any justification or rational behind receipt of Rs. 17.50 Lakh from Noticee no. 17 when her income from salary was merely Rs. 25,000/- (approx.). I also note that the Noticee no. 1 transferred the said amount of Rs 17.50 Lakh to the account of her Broker as soon as she received the said amount from Noticee no. 17. Under such circumstances, based on the materials available on record, I am constrained to conclude that the above noted fund of Rs. 17.50 Lakh, received by Noticee no. 1 which had its origin from the Company, i.e., Noticee no. 12, was used by Noticee no. 1 for purposes *inter-alia*, trading in the scrip of the Company. Given the nexus that emerges between Noticee no. 1 and the Company through the funds transfer via Noticee no. 17 and the fact that the said fund so received was

immediately used to clear her debit balances with her Broker, I find that the SCN has successfully brought home the charge that the trading done by Noticee no.1 in the scrip of the Company was sponsored by an entity (Noticee no. 17) which is connected with the Company itself.

32. Now, I move on discuss the trades executed by Noticee no. 1 in the scrip of Greencrest so as to find out whether her trades in the scrip which has undeniably contributed to positive LTP in the scrip can be held as genuine trades that are executed in the normal course of trading by an investor in securities market or her trades contained abnormalities and possessed unusual characteristics for being held as manipulative trades. So far as her trades in the scrip of Greencrest are concerned, the SCN makes two-fold allegations, i.e., that her trades contributed to positive LTP in the scrip and most of her trades were matching with the counter party orders of Noticee nos. 3 to 10. In this respect, from the Trade and Order Log (Annexure 5 to the SCN), an analysis of the trades executed by Noticee no.1 which contributed to LTP in the scrip and which also matched with Noticee nos. 3 to 10 during Patch-1, is presented as below:-

**Table C**

**Noticee no. 1 as buyer:**

| TRADE_DATE | CP_CLIENTNAME        | ORDER_TIME | CP_ORDER_TIME | CP_ORDER_QTY | ORDER_QTY | LTP_RATE<br>(in Rs.) |
|------------|----------------------|------------|---------------|--------------|-----------|----------------------|
| 10/05/2013 | DILIP KUMAR MANDAL   | 14:30:00   | 14:54:24      | 2            | 10000     | 0.34                 |
| 03/07/2013 | DILIP KUMAR MANDAL   | 13:30:00   | 13:52:33      | 2            | 10000     | 0.56                 |
| 09/07/2013 | DILIP KUMAR MANDAL   | 13:30:00   | 13:53:00      | 2            | 10000     | 0.65                 |
| 11/07/2013 | DILIP KUMAR MANDAL   | 14:30:00   | 15:05:26      | 4            | 10000     | 0.68                 |
| 19/02/2014 | SANJOY KUMAR CHANDRA | 09:00:00   | 15:18:23      | 5            | 1000      | 1.7                  |
| 21/02/2014 | PUSPAL CHANDRA       | 09:00:00   | 15:23:51      | 5            | 1000      | 1.75                 |
| 24/02/2014 | RAJ KUMAR SHARMA     | 09:00:00   | 15:07:56      | 6            | 1000      | 1.8                  |
| 06/03/2014 | MINA CHANDRA         | 09:00:00   | 15:15:07      | 6            | 1000      | 2.05                 |
| 10/03/2014 | RAVISHANKAR MISHRA   | 09:00:00   | 15:07:31      | 6            | 1000      | 2.15                 |
| 12/03/2014 | PUSPAL CHANDRA       | 09:00:00   | 15:21:46      | 6            | 1000      | 2.25                 |
| 13/03/2014 | SANJOY KUMAR CHANDRA | 09:00:00   | 15:13:21      | 5            | 1000      | 2.3                  |

|              |                     |          |          |    |       |       |
|--------------|---------------------|----------|----------|----|-------|-------|
| 18/03/2014   | RAJ KUMAR SHARMA    | 09:00:00 | 15:22:38 | 5  | 1000  | 2.35  |
| 19/03/2014   | RAVISHANKA R MISHRA | 09:00:00 | 15:06:36 | 5  | 1000  | 2.4   |
| 21/03/2014   | PUSPAL CHANDRA      | 09:00:00 | 15:15:47 | 5  | 1000  | 2.5   |
| 22/03/2014   | MINA CHANDRA        | 11:00:00 | 12:41:45 | 6  | 1000  | 2.55  |
| 24/03/2014   | RAJ KUMAR SHARMA    | 09:00:00 | 15:11:33 | 4  | 1000  | 2.6   |
| 25/03/2014   | PUSPAL CHANDRA      | 09:00:00 | 15:20:33 | 5  | 1000  | 2.65  |
| 26/03/2014   | RAVISHANKA R MISHRA | 09:00:00 | 15:20:05 | 5  | 1000  | 2.7   |
| 27/03/2014   | SARITA PRADIP BISSA | 09:00:02 | 15:13:00 | 4  | 500   | 2.75  |
| 04/06/2014   | PUSPAL CHANDRA      | 09:00:00 | 15:14:29 | 5  | 1000  | 5.15  |
| <b>Total</b> |                     |          |          | 93 | 55500 | 41.88 |

ORDER\_QTY    connotes    order    quantity    of    buyer    and    CP    connotes    Counter  
Party

33. From the details of trades executed by Noticee no. 1 as summarised in the Table-A, it is noted that, through 26 trades, she had dealt in 161 shares in the scrip of Greencrest. Out of the 26 trades, 23 trades were alleged to be executed contributing to positive LTP of Rs. 50.93, which is 19.79 % of the total market positive LTP in the scrip during the Patch -1. Thus, Table -A reveals that around 90% of trades of Noticee no. 1 have resulted in contributing to market positive LTP. Similarly, from the trades details as enumerated under the Table B, it is observed that out of 26 trades (as mentioned in Table A), 20 trades of Noticee no. 1 got matched with Noticee nos. 3 to 10. Thus, almost 75% of trades of Noticee no.1 were alleged to be synchronised trades wherein the counter parties were always from the group of Noticee nos. 3 to 10 and through these synchronised trades, the contribution to the positive LTP by Noticee no. 1 was to the tune of Rs 41.88. From the above, it is evident that a substantial portion of trades of Noticee no. 1 have resulted in contribution to the market positive LTP and majority of such trades were executed wherein Noticee nos. 3 to 10 traded as the counter parties. With regard to Table-C above, as can be noted that 20 trades of Noticee no.1 got synchronised and matched with the trades of Noticee no. 3 to 10 as counter party. It is also observed from the trade details that Noticee no.1 had on most of the occasions (15 out of 20 trades) placed buy orders for relatively larger quantities exactly at the opening of the market i.e., at 09:00 am and the buy orders so placed by her remained pending for execution till one of the counter parties placed sell order around the closing of the market hours only to ensure that the order placed by the

Noticee no.1 gets executed so that the said trade contributes to the LTP of the price in the scrip.

34. It is also noted that the buy quantities in the orders placed by the Noticee no.1 ranged from 500 to 10,000 shares with most of the orders being for 1000 shares. As observed above, the Company had no fundamentals to support the abnormal spurt in the price of the scrip and in such circumstances, placing orders for quantities as high as 500 to 10000 would not be viewed as normal dealing. It has been observed that Noticee no.1 in majority of her trades, first placed buy orders in the opening time of the market. The exuberance to buy the shares of a company which did not have enjoy a good business profile to evoke any positive sentiment about its scrip in the market and placing buy orders in such large quantities knowing well about the volume of shares traded during the period, suggest the illicit intention of Noticee no. 1. I note that in majority of the occasions, Noticee no.1 had not even waited to observe the market reaction before placing buy orders and rather, as noted above, she placed orders in the opening time of the market and each of her buy orders was placed above the LTP. Considering the fact that the selling counter parties to her trades were also having connection with the Company and had got their shares in off market transfers from a common entity, i.e., Noticee no. 15, the trades executed by Noticee no. 1 are clearly suggestive of collusion with the counter parties who, as the sellers to Noticee no. 1, have exactly matched the buy price put by the Noticee no.1 in her orders and have sold limited number of shares in the range of 2 to 6 shares per trade in response to those buy orders of more than 500 shares placed by Noticee no. 1, apparently for the sole motive of contributing to the LTP in the scrip and not for executing any genuine trades.

35. As noted above in Table – A, during Patch-1 (May 10, 2013 to June 04, 2014), Noticee no.1 had purchased a total of 161 shares of Greencrest in 26 trades. It is noted from the trade log details that the number of shares purchased by Noticee no.1 in each of her trades largely remained in the range of 1 to 50. Infact most of her trades constituted of single digit number of shares and only in 2 such trades, Noticee no.1 had purchased 11 and 50 shares, respectively. It has been submitted by Noticee no. 1 that her husband had placed the buy orders at upper circuit limits/higher LTPs to gain first mover advantage in order to ensure purchase of the said shares by placing such orders. I find her submission to be quite inconsistent and incoherent too. On the one

hand, she submits that trades were executed by her husband and being a house wife, she had little knowledge about the securities market, while on the other hand an attempt is being made by her to justify her trades and her strategy to place buy orders in the opening hours in such manner so as to gain a first mover advantage. Even the aforesaid argument put forth by the Noticee no. 1 under the plea of gaining first mover advantage lacks justification as the Company itself did not have good financial records hence the question of gaining first mover advantage to buy the scrip did not arise. In fact most of her buy orders placed at the opening time of the market got matched only at the closing hours of the market due to the sell orders at matching prices placed by the connected counterparties as explained above.

36. There is nothing on record to explain the excitement shown by Noticee no. 1 in dealing with the scrip whereby she was so induced to buy the scrip at a higher price that she placed her buy orders above LTP. As noted above, out of the 26 trades executed by Noticee no. 1 during Patch-1 (including those 20 trades where Noticee no. 3 to 10 acted as sellers), on majority of the days, she used to place only one order for a large quantity of shares and after the said order got executed for a small number of shares (in the range of 2 to 6), no further order was placed by her on the same day. Furthermore, even after her failed attempt to buy large quantity of shares of Greencrest on a particular day, Noticee no.1 turned up again for buying the same scrip in large quantity after a gap of several days. For example, after executing a trade on May 10, 2013, next trade executed by Noticee no.1 was only executed on July 03, 2013 and then, Noticee no. 1 executed her next trade on July 09, 2013 and July 11, 2013. After placing such orders for large quantities of Greencrest shares on the aforesaid days, Noticee no. 1 is again seen entering the market as buyer of the scrip only on February 19, 2014. Similar such gaps are seen in the other trades executed by the Noticee no. 1 when, after March 27, 2014 she placed order only on May 27, 2014. The aforesaid trading pattern as adopted by the Noticee appears quite strange and unusual and it does not explain as to why the Noticee who wanted to buy large quantities of shares in each of her buy orders but was getting only 2-3 shares from the sellers, was disappearing from the market taking long gaps, and was returning to market every time with another LTP contributing buy order.

37. Further, based on the analysis of the trade log for the 20 different trading days on which Noticee no. 1 had executed her buy trades, I observe that on the said 20

days, only 22 trades were executed in the scrip of the Company and in all such trades Noticee no. 1 was the only buyer. Thus, no other person was interested to buy the shares of the Company and the buy orders for large quantities were placed only by Noticee no.1 on a recurrent basis and with each of her buy orders, Noticee no.1 was willing to buy the scrip above LTP. The eagerness to buy large quantities of shares of the Company expressed by Noticee no.1 (when there was no demand from any other buyer) , was seemingly limited to placing of orders only and is not at all corroborated/supported by the actual trading behaviour exhibited by her. It is observed that out of the 20 trades executed by the Noticee no.1, as mentioned in the table above, only 93 shares were purchased by her out of a cumulative buy orders for 55500 shares placed by her. It shows that Noticee No.1 had no genuine interest in buying the shares of the company as a normal investor, and instead, her interest was confined to only placing buy orders in large quantities so as to create an artificial demand for the scrip in the market and to execute trades at higher LTPs to manipulate upwards the market price of the shares of the company.

38. In view of the above, I find that trades executed by Noticee no. 1 in the scrip of Greencrest can, by no standard be termed as trades placed and executed in the ordinary course of dealing in securities. Placing orders in a scrip having no sound financial base coupled with the fact of placing orders always above LTP on a regular basis without any plausible justification and the fact that she continued to place buy orders for large quantities of shares despite not being able to get sell offers for those quantities from the sellers, are sufficient in themselves to conclude that the trades executed by the Noticee no.1 had all the element to create a misleading appearance of trading in large volumes thereby causing inducement to the other investors to trades in the scrip. I find it apt here to refer to the observations made by the Hon'ble SAT in the matter of *Saumil Bhavnagari Vs. SEBI (Date of decision: March 21, 2014)* wherein Hon'ble SAT while dealing with a similar issue of contribution to LTP and its impact on market, had observed *inter alia* that: "... by purchasing shares at the higher price in LTP in most of the trades, the Noticee had given a wrong impression about the liquidity of the scrip in the market. It must not be forgotten that every trade establishes the price of the scrip and the Noticee's trading at higher than LTP resulted in the price of the scrip going up and were done with a view to set the price at a desired level and thereby influencing the innocent/gullible investors. By purchasing at a higher

*price in most of his trades, the Noticee had given the wrong impression about the price of the scrip in the market.”*

39. The submissions advanced by Noticee no. 1 and documents furnished in support of her submissions do not support her trading behaviour in the scrip. The intention of Noticee no.1 to trade in the scrip further gets an illicit colour when the charge of contribution to LTP by indulging in manipulative trades are coupled with her receipt of funds from Noticee no. 17, an entity connected with the Company, which point out a strong preponderance of probability that the trading of Noticee no.1 was not normal trading done by a prudent investor, but was done as part of a pre-conceived design to manipulate the price of the scrip of Greencrest with financial assistance from the company itself. Thus, based on the evidence available on record, I find that Noticee no.1 has not been able to make out a case in her favour for dropping of charges against her. Further, the defense sought to be put forth by her stating that she has also sold the shares of Greencrest, with respect to which no allegation has been made, is rejected being *ex-facie* baseless and devoid of merit as the allegation of manipulating the price of the scrip through successive contributions to LTP remains unassailable on the face of the strong evidence inherent in the trades executed by her with Noticee nos. 3 to 10.

40. It is noted that the Noticee no.1 has placed reliance on a few judgments to contend that to bring a charge of fraud against her, stricter proof is required. I have perused the said judgments and observe that none of the said judgments is factually aligned to the facts & circumstances of the present case hence, will be of any help to the Noticee no.1. In this regard, I prefer to refer to the observations made by the Hon’ble Supreme Court of India in the matter of *Kanaiyalal Baldev Bhai Patel v. SEBI* [2017] 143 SCL 124 (SC) wherein Hon’ble Court while dealing with the definition of “fraud” as defined under SEBI (PFUTP) Regulations, 2003, observed that:

*“...The difference between inducement in criminal law and the wider meaning thereof as in the present case, is that to make inducement an offence the intention behind the representation or misrepresentation of facts must be dishonest whereas in the latter category of cases like the present the element of dishonesty need not be present or proved and established to be present. In the latter category of cases, a mere inference, rather than proof, that the person induced would not have acted in the manner that*

*he did but for the inducement is sufficient. No element of dishonesty or bad faith in the making of the inducement would be required....”*

The Hon’ble Supreme Court further observed that: “...14. To attract the rigor of Regulations 3 and 4 of the 2003 Regulations, *mens rea* is not an indispensable requirement and the correct test is one of preponderance of probabilities. Merely because the operation of the aforesaid two provisions of the 2003 Regulations invite penal consequences on the defaulters, proof beyond reasonable doubt as held by this Court in *Securities and Exchange Board of India Vs. Kishore R. Ajmera(supra)* is not an indispensable requirement. The inferential conclusion from the proved and admitted facts, so long the same are reasonable and can be legitimately arrived at on a consideration of the totality of the materials, would be permissible and legally justified...”

41. Further, in a recent judgment passed by Hon’ble Delhi High Court in the matter of *SEBI Vs. CRB Capital Markets Limited (Co. Pet. no. 379/2009; date of judgment December 05, 2019)*, Hon’ble Delhi High Court while dealing with the issues under Section 542 of Companies Act, 1956, observed *inter alia* as: “27. Clearly, given the manner in which fraudulent acts are undertaken under deceit and camouflage, if done with the affairs of a company/trust etc., the standard of proof required to prove such fraudulent conduct would necessarily be less stringent.”

42. I have already recorded above that the trades of Noticee no. 1 were not trades executed in the normal course of trading by an ordinary investor. By placing buy orders in the beginning of the trading hours frequently and that too in the large quantities knowing well that there is no market volume in the scrip, the Noticee no.1 has acted in a manner only to induce the innocent investors to trade in the scrip by creating artificial demands for the same in the market, hence, the trading behavior of Noticee no.1 squarely falls within the four corners of the observations and findings recorded by the Hon’ble Supreme Court of India in their decision referred to above. Thus, the trades executed by the Noticee no. 1 were in the nature of manipulative and fraudulent trades.

43. It has also been submitted on behalf of the Noticee no.1 that vide interim orders passed by SEBI in the matters of *Radford Global* and *Kamalakshi Finance Corporation Limited*, she was restrained from dealing in securities, however, subsequently in the orders passed by SEBI, the directions passed against were

revoked. It has been further contended that the charges made against her were similar to what have been made in the present case.

44. After perusal of the said submission of the Noticee no.1, I deem it relevant to mention here that in the an order dated April 02, 2018 passed by SEBI in the matter of *First Financial Services Limited*, the Noticee no.1 has been found to have violated the provisions of PFUTP Regulations by her trading and thus has rightly been debarred from accessing securities market for a period of three years. It is thus noted that although the Noticee no.1 has been exonerated in two cases, in another case as cited above, she has been held guilty and has been debarred due to the violations committed by her. I observe that all the cases are factually different from each other and action to be taken against a delinquent depends on the facts and circumstances of the respective case. Thus, none of those cases referred to by her can have any relevance to her culpability in the present case which has to be adjudicated only on the basis of the facts of this case and would not be affected by any other previous order/proceedings involving the Noticee no. 1.

#### **Noticee no. 2**

45. It has already been pointed out how Noticee no. 2 had received funds from Noticee no. 16 which was connected to the Company and it has also been seen that the Noticee no. 2 has utilised almost the entire amount of Rs. 25 Lakh received from Noticee no. 16 to meet his obligation towards his broker. The connection between Noticee no. 2 and the Company can be deciphered on a closer scrutiny of the annexures to the SCN which suggest that PS IT (Noticee no. 16) and Unisys (another connected entity of the Company) had a common director viz., Mr. Johar Pal Singh and further, Noticee no. 16 and Unisys, had numerous *inter se* fund transactions with the Company. The proximity of Noticee no. 16 to the Company can be further found from the fact that Noticee no. 16 is a shareholder of Noticee no. 17 (JMD Sounds Ltd.) and it had invested Rs. 9.5 Crore in Noticee no. 17. As noted in the earlier paragraphs, Noticee no. 17 had regular and frequent fund transactions with Noticee no. 12 (Company) during the investigation period which clearly indicated that Noticee no. 17 and Noticee no. 12 had been sharing a close financial nexus with each other.

46. As pointed out above, Noticee no. 16 was linked with Unisys (a connected entity of Company) by virtue of common directorship and, again was connected with Noticee no. 17 by way of shareholding/fund movements. Therefore, the connection of the Company with the Noticee no. 17 and Unisys, convincingly suggest that Noticee no. 16 was also connected to the Company (Noticee no.12). Further, with respect to the aspect of the fund transaction between Noticee no. 16 and Noticee no. 2, I note that neither the transferor of funds (Noticee no. 16) nor the transferee (Noticee no. 2) has made any submissions to justify or to explain the rationale behind the said transaction. Moreover, the fact that the amount received by Noticee no. 2 from the Noticee no. 16 was straightway utilised for clearing his debit balances with the broker, I have no hesitation to hold that by remitting the aforesaid amount (to Noticee No.2), Noticee no. 16 an entity connected to the Company, had facilitated the trades of Noticee no. 2 executed in the scrip of Noticee no. 12.

47. Without prejudice to the aforesaid observation, I proceed now to examine the allegations made against Noticee no. 2 with respect to the manipulative trades executed by him. The relevant details of the orders placed during Patch-1 by Noticee no. 2 which matched with the orders placed by the Noticee nos. 3 to 7 and Noticee nos. 9 to 11, as culled out from the Trade and Order Log (Annexure 5 to the SCN ), are as under:

**Table D**

**Noticee no. 2 as buyer:**

| TRADE DATE | CP_CLIENTNAME        | ORDER TIME | CP_ORDER TIME | CP_ORDER_QTY | ORDER_QTY | LTP_RATE (in Rs.) |
|------------|----------------------|------------|---------------|--------------|-----------|-------------------|
| 13/05/2013 | DILIP KUMAR MANDAL   | 14:30:00   | 14:47:15      | 2            | 5000      | 0.36              |
| 20/05/2013 | DILIP KUMAR MANDAL   | 14:30:00   | 14:58:23      | 2            | 5000      | 0.46              |
| 10/12/2013 | PRITI KOTHARI        | 14:30:00   | 15:09:54      | 5            | 5000      | 1.1               |
| 12/12/2013 | PUSHPA ASOOLAL BISSA | 13:30:00   | 13:59:14      | 8            | 5000      | 1.15              |
| 16/12/2013 | PUSHPA ASOOLAL BISSA | 14:30:00   | 14:59:26      | 8            | 5000      | 1.25              |
| 23/12/2013 | PRITI KOTHARI        | 14:30:00   | 15:03:22      | 5            | 5000      | 1.45              |
| 24/12/2013 | PUSHPA ASOOLAL BISSA | 14:30:00   | 15:10:07      | 8            | 5000      | 1.5               |
| 27/12/2013 | PUSHPA ASOOLAL BISSA | 14:30:00   | 14:58:20      | 6            | 5000      | 1.7               |
| 10/01/2014 | SARITA PRADIP BISSA  | 14:30:00   | 14:49:32      | 8            | 5000      | 1                 |
| 02/04/2014 | SARITA PRADIP BISSA  | 09:00:01   | 15:26:54      | 6            | 5000      | 2.9               |

|              |                       |          |          |           |              |               |
|--------------|-----------------------|----------|----------|-----------|--------------|---------------|
| 11/04/2014   | RAVISHANKAR<br>MISHRA | 09:00:00 | 14:53:54 | 5         | 5000         | 3.25          |
| 16/04/2014   | PUSPAL CHANDRA        | 09:00:00 | 15:11:16 | 2         | 5000         | 3.4           |
| 21/04/2014   | RAJ KUMAR SHARMA      | 09:00:00 | 15:15:21 | 6         | 5000         | 3.55          |
| 08/05/2014   | RAVISHANKAR<br>MISHRA | 09:00:00 | 15:11:48 | 2         | 5000         | 4             |
| 09/05/2014   | MINA CHANDRA          | 09:00:00 | 15:23:08 | 1         | 5000         | 4.05          |
| 14/05/2014   | MINA CHANDRA          | 09:00:00 | 15:13:22 | 3         | 5000         | 4.15          |
| <b>Total</b> |                       |          |          | <b>77</b> | <b>80000</b> | <b>35.27*</b> |

ORDER\_QTY      connotes      order      quantity      of      buyer      and      CP      connotes      Counter  
Party .

*\*inadvertently written as Rs. 33.27 in SCN*

48. It is noted from the Table-A that Noticee no. 2 had purchased a total no. of 91 shares in 19 trades. Out of the said 19 trades, Noticee nos. 3 to 7 and Noticee nos. 9 to 11 acted as counter party seller in as many as 16 trades. The quantity of shares purchased by Noticee no. 2 in each of the trades (including the ones executed with the sell orders of the Noticee nos. 3 to 7 and Noticee nos. 9 to 11 as counter parties) remained in the range of 1 to 8 shares only.

49. As can be easily deciphered from the above mentioned table, the buying pattern of Noticee no. 2 is quite similar to the buying pattern of Noticee no.1. Noticee no. 2 had also placed buy orders of large quantity of shares and each of his buy orders was placed for of 5000 shares. Like Noticee no.1, Noticee no. 2 had also placed buy orders at exactly 09:00 am, i.e., at the opening time of the market on 7 different occasions. Further, 8 buy orders (out of 16 trades referred to above) were placed by Noticee no. 2 at exactly 02:30 pm while one buy order was placed at 01:30 pm. Thus, the demand created by every such buy order of Noticee no. 2 was for 5000 shares. I note that Noticee nos. 3 to 7 and Noticee nos. 9 to 11 placed their counter sell orders after the buy order of Noticee no. 2 was found pending in the system of the stock exchange. It is observed that some of the buy orders placed in the beginning of the market remained pending for many hours (approx. 6 hours) and it was only towards the closure of the market that the seller Noticees placed sell orders in the range of 1 to 6 shares only, matching the buy price of Noticee no. 2. As in the case of Noticee no. 1, Noticee no. 2 had also placed his buy orders for larger quantities in the scrip of the Company despite the obvious fact that the Company had no fundamental financial strength to support such excessive interest shown by Noticee no. 2. It is further observed that Noticee no. 2 had been uniformly placing buy orders for 5000 shares in each of his orders despite knowing that there is no volume in the market and sellers are offering

shares only in the miniscule range of 1 to 6 shares in response to his buy orders for 5000 shares. Such an abnormal practice of placing large buy orders on a continuous basis lacked any rationale nor has the same been substantiated by any explanation by the Noticee. He has also not furnished any evidence to prove his *bonafide* and to convince me that having failed to buy the desired quantities of shares, he had taken any steps to buy the remaining number of shares (as per his desire) as the sellers were offering very small number of shares. It is noted that in 16 trades, the Noticee no.2 could purchase only 77 shares of the Company whereas the cumulative demand for such shares created by him through his orders was for 80000 shares. Further, like Noticee no.1, for no explicable reasons, he had also placed his orders each time above the LTP and in the process, both of them have together contributed significantly to the LTP by Rs. 77.15 in 36 trades.

50. Since, the allegations as well the trading behaviour/pattern/conduct of the Noticee no. 2 is almost identical to Noticee no. 1, I reiterate my findings as recorded while dealing with the submissions of Noticee no. 1 and the same are not repeated herein for the sake of brevity.

51. I find that Noticee no. 2 has not filed any written submission/reply nor has he appeared before me for personal hearing to defend any of the allegations levelled against him in the SCN. Under the circumstances, I am left with no option but to draw a conclusion with respect to his role on the basis of my aforesaid analysis of his trades in the scrip of the Company and also his apparent nexus with the Company that is clearly discernable from his financial/fund transactions with the connected entities of the Company as discussed in detail by me in the aforesaid paragraphs. While his strong connection with the Company is quite evident from the *inter-se* transactions that have been pointed out in the SCN, even without considering those connections for a moment if one considers only the trading pattern of Noticee no. 2 in the scrip of the Company independent of his connection with the Company, the trading behaviour of the Noticee would still be found to be profoundly malicious with a conclusion that he has traded in the scrip of the Company not as a genuine trader but with some dubious intent only to manipulate the price of the scrip so as to distort the integrity of the trade in the scrip of the Company. In this regard, I also rely on the observation of the Hon'ble SAT made in the matter of *Sanjay Kumar Tayal & Others vs. SEBI (Appeal*

no. 68 of 2013; date of decision: February 11, 2014), wherein it was observed inter alia as:

*“29. We see no merit in above contentions. As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges Levelled against them in the show cause notices...”*

### **Noticee nos. 3 to 11**

52. Having discussed the allegations in the SCN against the Noticees 1 & 2 who have dealt in the scrip of Greencrest as buyers, I proceed to deal with the role allegedly played by the sellers in the same scrip viz:- Noticee nos. 3 to 11.

53. In this respect, as mentioned earlier in this order, Noticee nos. 3 to 11 had received the shares of the Company in off-market transactions from Noticee no. 15. The details of the shares received by the above noted Noticees (as noted from Annexure 2-E of the SCN) are stated in the following table:

**Table E**

| Sr. no. | Noticee              | Dates of receipt of shares – No. of shares       |
|---------|----------------------|--------------------------------------------------|
| 1.      | Raj Kumar Sharma     | 31.12.2013 – 50 shares<br>13.03.2014 – 50 shares |
| 2.      | Sarita Pradip Bissa  | 27.04.2013 – 1000 shares                         |
| 3.      | Puspal Chandra       | 10.12.2013 – 50 shares<br>22.05.2014- 75 shares  |
| 4.      | Ravishankar Mishra   | 29.01.2014 – 50 shares                           |
| 5.      | Mina Chandra         | 10.12.2013- 100 shares                           |
| 6.      | Sanjoy Kumar Chandra | 10.12.2013- 50 shares<br>22.05.2014 – 50 shares  |
| 7.      | Pushpa Asoola IBissa | 27.04.2013 – 1000 shares                         |
| 8.      | Dilip Kumar Mandal   | 27.04.2013 – 1000 shares                         |
| 9.      | Priti Kothari        | 11.12.2013 – 5 shares<br>24.12.2013 -45 shares   |

54. It is noted that out of the 9 sellers who have been alleged to have received shares of the Company through off market deals, only 4 Noticees viz., Noticee no. 5 to 8

have filed their replies to the SCN. The entity who allegedly transferred the shares of the Company to Noticee nos. 3 to 11 viz., Gulistan (Noticee no.15) has not filed any reply to the SCN. It is also noted that none of the aforesaid entities, i.e., Noticee nos. 3 to 11 and Noticee no. 15 has appeared before me for the personal hearing.

55. I note that even in the replies filed on behalf of Noticee nos. 5 to 8, no justification to negate or refute the allegations made in the SCN that the Noticee no. 15 sponsored their trades by providing shares to them, has been furnished. I note that the Noticee nos. 5,7 and 8 have provided the details of purchase rate at which they bought the shares as well as the price at which those shares were sold by them. The details of purchase price as noted from the replies of the aforesaid entities are tabulated as below:

**Table F**

| <b>Sr. No.</b> | <b>Noticee</b>                       | <b>No. of shares</b> | <b>Purchase Rate</b> |
|----------------|--------------------------------------|----------------------|----------------------|
| 1.             | Mina Chandra (Noticee no. 7)         | 37                   | 21.50                |
| 2.             | Sanjoy Kumar Chandra (Noticee no. 8) | 50                   | 21.50                |
|                |                                      | 5                    | 209                  |
| 3.             | Puspal Chandra (Noticee no. 5)       | 46                   | 21.50                |
|                |                                      | 5                    | 209                  |
|                |                                      | 36                   | 21.50                |

56. Although the Noticee no. 5, 7 and 8 have provided the purchase price of their shares, they have not enclosed any documentary evidence in support of their claim that they had purchased the shares from Noticee no. 15 at those rates. Further, it is also not clear from the replies as to what motivated the aforesaid Noticees to purchase the shares of a listed company in off-market transfers/deals. I find that the Noticees have not defended the allegation that the trades executed by them were sponsored by the Noticee no. 15.

57. Another factor that merits consideration is that Noticee no. 5 (Mr. Puspal Chandra) was a Director of 'Scan'(as depicted in graphic representation under paragraph 15 of the SCN) and 'Scan' had fund transactions with the Company.

Noticee no. 5 in his reply submitted that he is working in a private company as a clerk. However, the said submission of Noticee no. 5 turns out to be false and evasive as the records enclosed as Annexure 2-C to the SCN (i.e. records from MCA) clearly show that the Noticee no. 5 was a Director of ‘Scan’ since March 17, 1996. It is further noted from the said Annexure that as on August 31, 2016, apart from ‘Scan’, Noticee no. 5 was also the Director on the Boards of 17 other companies. Thus, it is clear that Noticee no. 5 is connected to the Company through ‘Scan’ and Noticee nos. 7 and 8 being family members of Noticee no. 5 are also connected to the Company. Further, as noted in the beginning of the order, Noticee no. 11 shared her address with one Mr. Rajendra Kumar Kothari, who was the Director of Noticee no. 15.

58. As noted earlier, the SCN alleges that the Noticee no. 3 to 11 have acted as major counter parties to the buy trades executed by Noticee nos. 1 and 2 and therefore were in collusion with them in contributing to LTP of the scrip of Greencrest. In this connection, Noticee nos. 5 to 8 have contended that the said trades in the scrip of the company were executed in the normal course of business to earn profits and have also claimed that they have not played any role in increasing the price of the scrip. To test the strength of the said defence, I refer to the relevant details of trades executed by the Noticee nos. 3 to 11 as counterparty sellers to the buy orders placed by the Noticee nos. 1 and 2, as culled out from the Trade Log:

**Table G**

| Sr. No. | TRADE_DATE | CLIENTNAME          | CP_CLIENT NAME     | LTP_RATE | TRADED_QTY | ORDER_QTY | CP_ORDER_QTY |
|---------|------------|---------------------|--------------------|----------|------------|-----------|--------------|
| 1.      | 10/05/2013 | PREM LATA NAHAR     | DILIP KUMAR MANDAL | 0.34     | 2          | 10000     | 2            |
| 2.      | 13/05/2013 | SHYAM KANHEYAL VYAS | DILIP KUMAR MANDAL | 0.36     | 2          | 5000      | 2            |
| 3.      | 20/05/2013 | SHYAM KANHEYAL VYAS | DILIP KUMAR MANDAL | 0.46     | 2          | 5000      | 2            |
| 4.      | 03/07/2013 | PREM LATA NAHAR     | DILIP KUMAR MANDAL | 0.56     | 2          | 10000     | 2            |
| 5.      | 09/07/2013 | PREM LATA NAHAR     | DILIP KUMAR MANDAL | 0.65     | 2          | 10000     | 2            |

|     |            |                        |                      |      |   |       |   |
|-----|------------|------------------------|----------------------|------|---|-------|---|
| 6.  | 11/07/2013 | PREM LATA NAHAR        | DILIP KUMAR MANDAL   | 0.68 | 4 | 10000 | 4 |
| 7.  | 10/12/2013 | SHYAM KANHEYAL AL VYAS | PRITI KOTHARI        | 1.1  | 5 | 5000  | 5 |
| 8.  | 12/12/2013 | SHYAM KANHEYAL AL VYAS | PUSHPA ASOOLAL BISSA | 1.15 | 8 | 5000  | 8 |
| 9.  | 16/12/2013 | SHYAM KANHEYAL AL VYAS | PUSHPA ASOOLAL BISSA | 1.25 | 8 | 5000  | 8 |
| 10. | 23/12/2013 | SHYAM KANHEYAL AL VYAS | PRITI KOTHARI        | 1.45 | 5 | 5000  | 5 |
| 11. | 24/12/2013 | SHYAM KANHEYAL AL VYAS | PUSHPA ASOOLAL BISSA | 1.5  | 8 | 5000  | 8 |
| 12. | 27/12/2013 | SHYAM KANHEYAL AL VYAS | PUSHPA ASOOLAL BISSA | 1.7  | 6 | 5000  | 6 |
| 13. | 10/01/2014 | SHYAM KANHEYAL AL VYAS | SARITA PRADIP BISSA  | 1    | 8 | 5000  | 8 |
| 14. | 19/02/2014 | PREM LATA NAHAR        | SANJOY KUMAR CHANDRA | 1.7  | 5 | 1000  | 5 |
| 15. | 21/02/2014 | PREM LATA NAHAR        | PUSPAL CHANDRA       | 1.75 | 5 | 1000  | 5 |
| 16. | 24/02/2014 | PREM LATA NAHAR        | RAJ KUMAR SHARMA     | 1.8  | 6 | 1000  | 6 |
| 17. | 06/03/2014 | PREM LATA NAHAR        | MINA CHANDRA         | 2.05 | 6 | 1000  | 6 |
| 18. | 10/03/2014 | PREM LATA NAHAR        | RAVISHANKAR MISHRA   | 2.15 | 6 | 1000  | 6 |
| 19. | 12/03/2014 | PREM LATA NAHAR        | PUSPAL CHANDRA       | 2.25 | 6 | 1000  | 6 |
| 20. | 13/03/2014 | PREM LATA NAHAR        | SANJOY KUMAR CHANDRA | 2.3  | 5 | 1000  | 5 |
| 21. | 18/03/2014 | PREM LATA NAHAR        | RAJ KUMAR SHARMA     | 2.35 | 5 | 1000  | 5 |
| 22. | 19/03/2014 | PREM LATA NAHAR        | RAVISHANKAR MISHRA   | 2.4  | 5 | 1000  | 5 |
| 23. | 21/03/2014 | PREM LATA NAHAR        | PUSPAL CHANDRA       | 2.5  | 5 | 1000  | 5 |
| 24. | 22/03/2014 | PREM LATA NAHAR        | MINA CHANDRA         | 2.55 | 6 | 1000  | 6 |
| 25. | 24/03/2014 | PREM LATA NAHAR        | RAJ KUMAR SHARMA     | 2.6  | 4 | 1000  | 4 |
| 26. | 25/03/2014 | PREM LATA NAHAR        | PUSPAL CHANDRA       | 2.65 | 5 | 1000  | 5 |

|    |            |                        |                     |      |   |      |   |
|----|------------|------------------------|---------------------|------|---|------|---|
| 27 | 26/03/2014 | PREM LATA NAHAR        | RAVISHANKAR MISHRA  | 2.7  | 5 | 1000 | 5 |
| 28 | 27/03/2014 | PREM LATA NAHAR        | SARITA PRADIP BISSA | 2.75 | 4 | 500  | 4 |
| 29 | 02/04/2014 | SHYAM KANHEYAL AL VYAS | SARITA PRADIP BISSA | 2.9  | 6 | 5000 | 6 |
| 30 | 11/04/2014 | SHYAM KANHEYAL AL VYAS | RAVISHANKAR MISHRA  | 3.25 | 5 | 5000 | 5 |
| 31 | 16/04/2014 | SHYAM KANHEYAL AL VYAS | PUSPAL CHANDRA      | 3.4  | 2 | 5000 | 2 |
| 32 | 21/04/2014 | SHYAM KANHEYAL AL VYAS | RAJ KUMAR SHARMA    | 3.55 | 6 | 5000 | 6 |
| 33 | 08/05/2014 | SHYAM KANHEYAL AL VYAS | RAVISHANKAR MISHRA  | 4    | 2 | 5000 | 2 |
| 34 | 09/05/2014 | SHYAM KANHEYAL AL VYAS | MINA CHANDRA        | 4.05 | 1 | 5000 | 1 |
| 35 | 14/05/2014 | SHYAM KANHEYAL AL VYAS | MINA CHANDRA        | 4.15 | 3 | 5000 | 3 |
| 36 | 04/06/2014 | PREM LATA NAHAR        | PUSPAL CHANDRA      | 5.15 | 5 | 1000 | 5 |

59. It can be observed from the above table that on 36 different trading days, Noticee nos. 3 to 11 executed a total no. of 36 trades wherein the Noticee nos. 1 and 2 acted as buyers. It is easily discernible from the aforesaid table that on an average one trade per trading day had been executed by at least one of those 9 Noticees (from No. 3 to 11) as sellers. Out of the said 36 trades, the Noticee nos. 3, 7 and 9 have executed 4 trades each; Noticee no. 4 has executed 3 trades; Noticee nos. 5 and 10 have executed 6 trades each; Noticee nos. 8 and 11 have executed 2 trades each; and the Noticee no. 6 has executed 5 trades.

60. From the afore mentioned details, it is further noted that there is not a single instance where, on any given trading day, more than one trade has been executed by any of the aforesaid 9 Noticees(nos. 3 to 11). All of them have seemingly taken turns one after another, to sell shares of Greencrest in smaller quantities to either Noticee no. 1 or 2 and thereby have added price to LTP of the scrip.

61. In their replies, the Noticee nos. 5 to 8 have claimed that their sale transactions, are in the nature of *bonafide* transactions as genuine investors. However, I do not find the said contention of the Noticees to be acceptable as their claim of genuine trades is not supported by the peculiar trading pattern adopted by them. It is interesting to observe that whenever one Noticee is selling shares, none of the other 8 Noticees from the group of sellers is seen to have placed any sale orders to sell his shares. On any given day only one seller from the group has placed sale orders to match with the price of buy orders placed by Noticee no. 1 or 2. Such a trading pattern displayed by each of the said Noticees individually as well as collectively, which has led to artificial inflation in the market price of the scrip over a prolonged period, does not inspire any credibility to suggest that the trades executed by the Noticees were *bonafide* transactions. I have already noted while dealing with the trading of Noticee nos. 1 & 2 that buy orders placed by them remained pending for hours in majority of instances and it was around the closing hours of the market, that the counter parties (sellers), i.e., Noticee nos. 3 to 11 placed their sell orders matching the buying prices quoted by Noticee nos. 1 & 2. It is also noted that in most of the cases, the buyers (Noticee nos. 1 & 2) placed their buy orders early in the morning for larger quantities and the said buy orders remain unexecuted for long and got executed only when one of the selling group, viz: Noticee nos. 3 to 11, appeared in the market and placed sell orders in an apparently pre-conceived manner by which, the pending buy orders got matched with the sell orders thereby escalating the LTP of the scrip to higher levels. The SCN alleges that these entities had connection with the Company and in the light of my aforesaid observation about their unique style of placing buy & sale orders which resulted in series of LTP contributing trades over a long period of time, it becomes clear that such trades were executed for an oblique extraneous reason and were not executed as genuine trades conducted by an ordinary investor in the normal course of trading. It is strange and a matter of surprise that a company, which had no fundamentals to back the market price of its scrip and which had hardly shown profit in the past, suddenly found extra-ordinary favour from Noticee nos. 1 & 2 who were ready to buy large quantities of the scrip at any cost and in their over enthusiasm they did not have any patience even to observe for some time, the price movement in the scrip and placed their orders right at the opening of the trading hours. The two buyer Noticees came early in the morning and placed buy orders for quantities highly disproportionate to the volumes being traded in the entire day (even for weeks) over

a long period of time and in doing so, they placed almost all their alleged buy orders above LTP. The orders so placed by these buyer Noticees remained pending for hours till the fag end of the closing hours of the market, when one member from the Noticee nos. 3 to 11 appears and places sell order only to match the pending buy orders of Noticee nos. 1 & 2. Interestingly, all the seller Noticees (Noticee nos. 3 to 11), despite noticing demands for larger quantities from Noticee no. 1 and Noticee no. 2, decide to release shares in very small quantities ranging between 1 to 8 shares only, which gives a clear indication that they were very much hand in gloves with Noticee no. 1 and Noticee no.2 and were placing their sell orders only to increase the LTP and create higher LTP in the scrip of the Company without having any honest intent to sell their shares in the market. These seller Noticees were possessing relatively adequate quantities of shares, however, they released only miniscule quantities of shares on successive trading days so as to sustain their mission to contribute maximum LTP to the price of the scrip over a longer period of time. Furthermore, a careful perusal of the trade log for the 36 trading days as mentioned in Table G reflects that only 38 trades were executed during those 36 days, out of which 36 trades have been executed by the group of Noticees 1 to 11 only. Thus, almost all the trades were executed between the aforesaid Noticees only on those 36 days.

62. The Noticee nos. 5, 7 and 8 have contended that as the price of the shares of Greencrest was going up, they sold the shares in small quantities on different dates to earn profits. It has also been argued that there is no prohibition to sell shares in smaller quantities and the owner will not sell all the shares at one go if the price of the scrip is increasing. I find such a contention of the Noticees is self-contradictory in nature. While they have attempted to justify their acts of releasing shares in smaller quantities by stating that they wanted to earn more profit as the price was going up continuously, on the basis of same very logic however, none of these three seller Noticees ever thought of buying the scrip so as to earn profit by selling at higher prices subsequently as the price of the scrip was on the rise. Further, their act of releasing shares in smaller quantities reinforces the allegations of collusions, as no evidence has been furnished to demonstrate on what basis the Noticees had knowledge that the price of the scrip would go up continuously and would further fetch profit to them due to which they thought that releasing in smaller quantities would be beneficial. The submissions made by the Noticees are contrary to the fundamentals of the Company and are not supported by the actual trading in the scrip, as there were hardly any volume in the

scrip on the exchange platform during the relevant time when the Noticees carried out their manipulative trades. Therefore, in the absence of any justifiable explanation, the submissions of Noticees do not inspire any confidence to accept the explanations of the Noticees.

63. I note that the Noticee nos. 7 and 8 have unanimously stated in their replies that all the acts with respect to share trading was being done by the Noticee no. 5 on their behalf. In this connection, I find it relevant to mention here that an analysis of the trade log of all trades executed by Noticee nos. 3 to 11 (including those of the Noticee nos. 5, 7 and 8) as sellers (including the ones where Noticee no. 1 and 2 were counterparty buyers) reflect that a total number of 133 trades were executed by them in which, one does not find more than one Noticee trading on any given day. It goes without saying that such trades were executed when Noticee nos. 1 and 2 were acting as buyers, and such trades have already been held by me to manipulative in nature. Therefore, the submissions of Noticee nos. 7 & 8 that trades on their behalf were managed and executed by Noticee no. 5 further strengthens my observations that the sellers Noticees have taken turns one after another to sell shares in smaller quantities only for matching the price of the two buyers so as to contribute to the LTP of the scrip of the Company.

64. Further, with respect to the argument that there is no prohibition to sell smaller number of shares, I have to put things straight that the securities laws prohibit fraudulent and unfair trade practices, which apparently has been committed by the Noticees by selling shares in small tranches at higher LTP over a period of time, hence such selling acts on their part have all the potential to create misleading inducement to other investors. Noticee nos. 1 & 2, by placing buy orders for larger quantities and Noticee nos. 3 to 11 by matching the price of those long pending buy orders by way of placing sale orders of smaller quantities over the period, have misled the investors to trade in the scrip.

65. After having considered all the factors associated with the trading activities of Noticees nos. 3 to 11 comprehensively, which starts from receiving shares in off market deals from an entity related to the Company and ends with the artificial trades in the shares of the Company in small quantities over a period of time thereby causing inducement to the ordinary investors, I can well understand that the same was done as a part of a pre-determined scheme to manipulate the price of the scrip of the Company.

66. It is also observed that all the trades arising out of sale of small quantities of shares of Greencrest by the Noticee nos. 3 to 11 have contributed to the LTP in the scrip. As noted from the SCN, the 36 trades executed between the aforesaid 11 Noticees, viz., Noticee nos. 1 and 2 as buyers and the Noticee nos. 3 to 11 as sellers have contributed Rs.77.15 (29.98%) to market positive LTP in the scrip of Greencrest.

67. To sum up, I am strongly persuaded by the facts and circumstances of the case that the Noticee nos. 3 to 11 were being driven by a common cause as they received the shares of the Company through off-market transfers during the period from December 10, 2013 to May 22, 2014, from an entity related to the Company itself. Further, the sale of such shares in the manner as discussed above, drives home a strong preponderance of probabilities that the said Noticees were connected to the Company and have continuously manipulated the prices of the share of the Company by their LTP contributing trades. I note that Hon'ble SAT in the matter of *Jayprakash Bohra Vs. SEBI* (Date of decision: 05.11.2019) while dealing with the appeal filed a person who was confronted by SEBI with similar allegations of receiving shares in off-market transactions and selling such shares at higher LTP in small tranches, observed *inter alia* as: "...There are off-market transaction between Gromo and the appellant in other shares and the off-market purchase of the shares of Gromo by the appellant is clouded in mystery as the appellant is not disclosing any facts relating to the same....The submission that all the holdings of the appellant are in normal course of business has no merit as the entire issue in the matter is not normal course of business...Moreover, out of 1,050 shares of Gromo obtained off-market in an inexplicable way by the appellant more than half of it was sold in small tranches; most of the time placing sell order at far away prices than LTP. The said trading pattern and the other connections as explained above is sufficient enough to prove that the appellant was part of the group that created the artifice/scheme..."

68. Thus, in view of the reasons recorded above, I have no hesitation in holding that the trades executed by the Noticee nos. 1 to 11 had all the ingredients to manipulate the price of the scrip of Greencrest and therefore, the act of placing and executing trades by the Noticee nos. 1 to 11 has to be held as an act in violation of Regulation 3(a), (b), (c), (d) and Regulation 4(1), 4(2) (a) and (e) of PFUTP Regulations.

**Noticee no. 15 to 17:**

69. As noted earlier, the Noticee nos. 15 to 17 have been found to be connected to the Noticee no. 12 (the Company), in the following manner:- :

- a) The Company had fund transactions with Unisys (an entity connected with the Company).
- b) Unisys and the Noticee no. 15 shared common address, as per the MCA database.
- c) Mr. Johar Pal Singh is common director between Unisys and the Noticee no. 16.
- d) The Company had fund transactions with the Noticee no. 17.

70. I observe that the Noticee nos. 15 and 17 have neither filed a reply to the SCN nor have appeared before me for the personal hearing. Further, Noticee no. 16 also did not appear before me for the personal hearing, however, has submitted a copy of his reply filed before the Adjudicating Officer stating that the same may be taken as its reply to the SCN issued to it in the present proceedings. In the said reply, I find that the Noticee no. 16 has denied its connection with Greencrest and further has submitted that the trading done by it in the scrip of Greencrest cannot lead to a conclusion that it is connected with Greencrest. It has also been contended that there is nothing on record to suggest that Noticee no. 16 has traded at the instance of Greencrest.

71. It is not a case in the SCN that Noticee no. 15 to 17 have traded in the scrip of Greencrest or have played any direct role in manipulating the traded price of the scrip. However, as has been discussed and observed with supporting evidence in the preceding paragraphs, these 3 Noticees were having strong nexus with the Company (Greencrest) on the one hand and also had connection with Noticee nos. 1 to 11 either by way of fund transfers to Noticee no. 1 and 2 or by way of off-market transfer of shares of Greencrest to Noticee no. 3 to 11, so as to facilitate their manipulative trades in the scrip of Greencrest. It is pertinent to note that none of the fund transactions nor the fact of off-market transfer of shares has been disputed by any of the aforesaid three Noticees nor even any explanation has been offered by the aforesaid three Noticees to satisfy me with respect to the rationale or business necessities for effecting those transactions/transfers. Therefore, keeping in view the observations of Hon'ble SAT in the case of *Sanjay Tayal Vs SEBI (supra)*, the allegations against the aforesaid three Noticees made in the SCN with regard to their role in facilitating the other Noticees

(Noticee nos. 1 to 11) for manipulating the trading in the scrip of Greencrest remains uncontroverted. Under the circumstances, the market misconduct and fraudulent transaction in the scrip of Greencrest indulged in by Noticee nos. 1 and 2 as buyers on the one side and Noticee no. 3 to 11 as sellers on the other side have also to be attributed to the Noticee no. 15 to 17 but for whose financial assistance and share transfers, the manipulative trades executed by the Noticee nos. 1 to 11 could not have been facilitated. Therefore, there cannot be two opinions that Noticees nos. 1 to 11 and Noticee nos. 15 to 17 were part of the same group of entities acting in concert to deal in the securities of the Company in a manner that was grossly violative of the market integrity and also in breach of relevant provisions of SEBI Act and regulations thereunder as have been alleged in the SCN.

**Noticee nos. 18 to 20:**

72. I note that the Noticee nos. 18 to 20 are the entities who got the shares under the preferential allotment from the Company and who allegedly got the application money refunded back by the Company. It has further been alleged in the SCN that the Company related entities (Noticee nos. 1 to 11) manipulated the price of the scrip of Greencrest and the Noticee nos. 18 to 20 sold the shares so allotted under the preferential allotment at those manipulated prices to benefit themselves. Thus, the allegations against the Noticee nos. 18 to 20 are two fold, viz.:-

- a) That they were refunded back their share application money by the Company indirectly through other connected entities of the Company; and
- b) That they have sold their shares received through preferential allotment at high prices.

73. As regards the first allegation, from the SCN it is understood that primarily because of the fact that a *prima facie* connection was found between these three entities with the Company in the form of certain fund transfers, it became the basis on which the allegation with respect to refund of application money has been made in the SCN. Apparently, the other preferential allottees were not made Noticees as no allegation of any fund transaction are found between them from the Company or its related entities.

74. With respect to the fund transfers to the aforesaid three preferential allottees, it may be stated that the Company had received Rs. 23.10 Crore through the preferential allotment of its shares in the month of September 2012. On September 13, 2012, out of the said proceeds of allotment, an amount of Rs. 2.00 Crore was transferred by the Company to an entity named Global. On the same date, i.e., September 13, 2012, Rs. 65.00 Lakh was transferred by Global to the Noticee no. 18. Similarly, on the even date, another amount of Rs. 1.35 Crore was transferred by Global to an entity named Pneumatic. The Noticee no. 19 is alleged to be connected to the Noticee no. 18 as both of them were Directors in 'Grover'. The Karta of Noticee no. 20 [Anoop Jain (HUF)] Mr. Anoop Jain was also found to be one of the Director of Pneumatic Leasing Services Pvt. Ltd.

75. Now I would deal with the alleged receipt of funds by Noticee nos. 18 to 20 from the Company through Global, Noticee wise as follows:

#### **Noticee no. 18**

76. From the SCN, I find a graphical representation of fund movements which is presented at para no. 24 gives an indication about the fund that has allegedly been received by Noticee no. 18 from the Company through another company called Global Infratech and Finance Limited (Global). I have also incorporated this graphical presentation at paragraph no. 2 (viii) in this order.

77. From the said fund transactions illustrated in the SCN, it is noted that the Company (Greencrest) had transferred Rs. 2.00 Crore to Global on September 13, 2012 and on the same date, Global has transferred Rs. 65.00 Lakh to Mr. Ravindra Kumar Grover (Noticee no. 18). From the records, I find that Noticee no. 18 has acquired 2,00,000 shares by way of preferential allotment from Greencrest for a total amount of Rs. 24 Lakh. In the same month in which the Noticee acquired his shares under preferential allotment, it is observed that a sum of Rs. 65.00 Lakh, which is far more than the amount paid by the Noticee no. 18 to acquire those shares under preferential allotment, have been transferred to him through a back to back fund transfer from Greencrest to Global and from Global to him (Noticee no. 18). These transactions are too glaring to be ignored or undermined given the fact that the month in which the Noticee has acquired the shares under preferential allotment, the

Company has chosen to transfer such a huge amount to him in the same month for no acceptable reasons and justification as to why a substantial portion of money transferred by the Company to Global was immediately passed on to the Noticee no. 18.

78. In his explanation the Noticee no. 18 has vehemently argued that he had been transacting with Global on a regular basis and the transaction of Rs. 65.00 Lakh that has been imputed to him is not the lone transaction that he had entered into with Global. A copy of confirmation of accounts with Global has also been filed to support that he had been borrowing money on a regular basis from Global and has also paid interest on such amounts. It has also been claimed that the said amount of Rs. 65.00 Lakh was infused by Noticee no. 18 in the company viz:- Grover Metalloys Ltd., where he was a Promoter-Director. It has been submitted that loans were being taken by him in his individual capacity for the working capital requirement of his various companies as such a practice was beneficial and convenient as well. The Noticee has also argued that there were other preferential allottees who were similarly placed like him with regard to their dealing in the scrip of Greencrest, however, such other preferential shareholders have not been made Noticees in the instant proceedings. I find that the Company (Greencrest) in its reply had also contended that it has advanced the aforementioned sum of Rs. 2.00 Crore to Global as part of its normal NBFC transactions and not to refund any money to any preferential shareholder through Global, as alleged in the SCN.

79. The explanations offered by Noticee no. 18 and the documentary evidence submitted by him to support his contentions have been perused. There is no dispute that the Noticee has received the amount of Rs. 65.00 Lakh from Global on September 13, 2012. The Noticee has contended that the said amount was received by him in his personal capacity as a loan in support of which, he has submitted a loan confirmation statement from Global. However, the corresponding entries in the books of Global or the financial statements of Global to show that the Noticee was actually presented in its accounts as a borrower, has not been produced before me for cross verifying the claim made by the Noticee. Thus, the said submission of Noticee that the funds were received by him as a loan from Global is not substantiated by any cogent proof/independently verifiable document, like a loan agreement, or a TDS certificate, or an income-tax return etc. Further, a self-made document in the form of a loan

confirmation of accounts from an entity (Global) which has itself allegedly acted as conduit for refunding of the preferential allotment proceeds to the Noticee does not hold any strength on its own to support the explanation of the Noticee.

80. Moreover, the claim put forth by the Noticee that he had taken the loan on behalf of his company, Grover Metalloys remains unsubstantiated till date. The Noticee has not produced any confirmation from his own company nor has he produced before me the books of accounts/financial statement of Grover Metalloys to substantiate his claim that the money received by him in his personal capacity as a loan on behalf of his company was actually infused into the balance sheet of the said company. Therefore, the claim of having taken a loan for the business purpose of his company remains unverified and unsubstantiated. Since the money was received by the Noticee in his personal capacity and the shares were acquired by him under preferential allotment in his personal capacity too and his claim that it was a loan advanced by Global to him remains unsubstantiated, the explanations so offered by the Noticee that the nature and purpose of money received by him from Global was actually different from what has been alleged in the SCN do not inspire confidence. Under the circumstances, I am left with no option but to conclude that Noticee no. 18 had a very close nexus with the Company and the money received by him through Global was in his personal capacity and the preponderance of probabilities under such facts leads one to believe that the said receipt of money from Global amounted to indirect return of the money that he had paid while making his application under preferential allotment to Greencrest.

81. I note that the Noticee no. 18 has argued that the SCN has been issued after a gap of more than 5 years from the transactions executed in the scrip of Greencrest and therefore the SCN is not sustainable due to the said delay. I note that the said argument of the Noticee is factually erroneous and not sustainable. As can be noted from the records, the Noticee no. 18 has traded in the scrip till July 29, 2015 and the SCN has been issued on December 26, 2017. The SCN was issued after completion of investigation into the matter which required detailed analysis of the various documents viz., trade log, bank account statement etc. that would certainly take a considerable period of time. Thus, in my view, there is no delay in initiation of the proceedings against the Noticees in the present matter. In this connection, I refer to the findings of Hon'ble SAT in the matter of *Metex Marketing Pvt. Ltd. vs. SEBI (Date of decision:*

June 04, 2019) wherein it was held *inter alia* that: “*This Tribunal has consistently held that in the absence of any specific provision in the SEBI Act or in the Takeover Regulations, the fact that there was a delay on the part of SEBI in initiating proceedings for violation of any provision of the Act cannot be a ground to quash the penalty imposed for such violation.*” Further, in a recent order dated January 29, 2020, passed in the matter of *Labhu Gohil Vs. SEBI & connected cases*, Hon’ble SAT, while dealing with the argument of the appellants that there is delay in the proceedings as the investigation period ended in December 2011 and the SCN has been issued in May, 2016, observed that : “*Given the facts of the matter we do not find merit in the submissions of an inordinate delay in the proceedings since we note that SEBI was doing investigation during the interim and some delay though has happened on account of change in the AO.*”

82. The Noticee no. 18 has further relied upon various judgment in order to buttress the point that strict proof is required for a serious charge of fraud. Further, reference has also been made to the judgment of Hon’ble Supreme Court passed in the matter of *Gorkha Security Services vs. Govt, of NCT of Delhi & Ors., (supra)* and the order passed by Hon’ble SAT in the matter of *Royal Twinkle Star Club Private Ltd vs. SEBI, (supra)*, to submit that SCN ought to specify the action that it contemplates to take. In this regard, I note that the issue of degree of proof required in cases like the one in hand has already been discussed by me while dealing with similar contentions raised by the Noticee no. 1.

83. Further, the judgment of Hon’ble Supreme Court in the matter of *Gorkha Security* will also be of no help to the case of the Noticee no. 18. I find that the judgment of Hon’ble Supreme Court in the case of *Gorkha Security*, being factually distinguishable on several counts, is not applicable to the present case. The decision in *Gorkha Security* pertained to blacklisting of a contractor by a government agency, which resulted into depriving the contractor from entering into any public contracts, thus violating the fundamental rights of such entity. Further, in *Gorkha Security* case, the contractor was blacklisted for breaching the terms of the contract, whereas the present SCN has been issued for breach of statutory provisions. Also, in *Gorkha Security* case, blacklisting of the contractor was imposed by way of penalty whereas the instant proceedings propose to issue directions, if found necessary, which are preventive and remedial in nature. Further, in *Gorkha Security* case, provision for

blacklisting of the contractor was available in the underlying contract itself as a penalty to be imposed in case of breach of terms of contract, whereas in the present matter provisions of law under which directions are contemplated to be issued, confer statutory discretion in SEBI to take such measure as it thinks fit in the interest of investors of the securities market. The SCN has already stated the provisions of law under which the directions proposed to be issued and the specific directions that may be issued by the competent authority can be determined only after the competent authority examines the submissions and explanations of the Noticee. In my view, the reliance upon the judgment of the Hon'ble Supreme Court, in the case of *Gorkha Security* (supra), by the Noticee is unfounded on facts and is devoid of merit.

84. The aforesaid discussions and the fact and circumstances pertaining to this Noticee strongly point to the fact that the Noticee no. 18 has received back his application money from the Company through Global hence, can be held to be part of the fraudulent scheme to manipulate the market price of the scrip of the company as alleged in the SCN. The said acts on part of the Noticee no. 18 has resulted in violation of Regulation 3(a), (b), (c) and (d) and Regulation 4(1) of PFUTP Regulations.

#### **Noticee no.19**

85. Moving on to the alleged violations committed by the Noticee no. 19, I note that the allegations levelled in the SCN against the Noticee no. 19 are identical to those levelled against the Noticee no. 18. Further, the SCN alleges that the Noticee nos. 18 and 19 are connected with each other being for Directors of Grover Metalloys. With respect to the connection, it is noted from the reply of the Noticee no. 19 that Noticee no. 18 is the uncle of Noticee no. 19.

86. In his defence, Noticee no. 19, apart from making the submissions similar to Noticee no. 18, has also contended that he has no connection with the alleged receipt of funds by Noticee no.18 from Global. In this connection, I note that the SCN alleges that after receipt of Rs. 2.00 Crore from the Company, Global transferred an amount of Rs. 65.00 Lakh to Noticee no.18 who is connected with Noticee no. 19. While there is no dispute that it is Noticee no.18 who received Rs. 65.00 Lakh from Global in his personal capacity, it is also not the case in the SCN that Noticee no.19 has received any amount in his personal capacity from any of the entities connected with the Company during the investigation period. The Noticee no. 19 by the fact of his family

relationships with Noticee no.18 and common directorship in a company, i.e., Grover Metalloys has been linked to the receipt of the said amount of Rs. 65.00 Lakh in a manner to suggest that the Company has refunded the money which the Noticee no. 19 had paid towards his application money for allotment under preferential issue.

87. I find that neither the SCN nor the materials available on record reveal any monetary transactions or fund transfers between Noticee no. 18 and Noticee no. 19, either directly or even through the company in which Noticee no. 19 shared directorship with Noticee no.18. Therefore, it would be factually erroneous to state that the money which Noticee no.18 received from Global was either passed on to Noticee no.19 or was meant to refund the preferential application money paid by Noticee no.19 to Greencrest. In my view just by being on the Board of the same company where Noticee no.18 is also a Director, any presumption cannot be made about monetary transactions or fund transfers between Noticee no.18 and 19 in the absence of any evidence whatsoever to support the same. As pointed out earlier, Noticee no.18 has already asserted that he had received Rs. 65.00 Lakh from Global in his personal capacity and has not indicated in his reply having transferred/parted any portion of the said amount with Noticee no.19. According to me, the allegations made against Noticee no.19 based on his family relationship with Noticee no.18 and directorship on Grover Metalloys do not have any factual support to sustain them under law. Since in the light of the facts of the present case, it cannot be established that Noticee no.19 has actually received any money either directly or indirectly from Global or Noticee no.18, the allegation of refund of share application money attributed to Noticee no.19 becomes infructuous. Under the circumstances, as the foundation on which the allegation made in the SCN against Noticee no.19 ceases to exist, it is not possible to hold the allegations and the violations as have been alleged in the SCN against Noticee no. 19.

#### **Noticee no. 20**

88. As noted earlier, the Noticee no.20 has also been alleged to have played a role identical to the Noticee nos. 18 and 19 in the SCN. It has been alleged in the SCN that Noticee no. 20 is a HUF and Mr. Anoop Jain is the Karta of the Noticee no. 20. Further, Mr. Anoop Jain is a Director in a company viz., Pneumatic Leasing Services Pvt. Ltd (Pneumatic), which had received funds to the tune of Rs. 1.35 Crore from Global.

Noticee no. 20 is also one of the 43 preferential shareholders, however, because of the alleged fund transfers made by Greencrest to Pneumatic through Global, the Noticee no.20 has been alleged to have received back its share application money from Greencrest and therefore has been alleged to have colluded with the Company and its connected entities in the scheme of market manipulation of the price of the scrip of Greencrest thereby violating provisions of SEBI Act and regulations made thereunder as have been alleged in the SCN.

89. The Noticee however, has strongly refuted and contested the charges made against it in the SCN mainly on the ground that the amount of Rs. 1.35 Crore was received by Pneumatic as a loan and the said amount was repaid to Global in two instalments along with interest amount of Rs. 17,13,329. In support of its contentions, copies of confirmation of accounts as well as Form no. 16A with respect to deduction of tax towards payment of interest on the said amount have also been furnished by Noticee no. 20.

90. I have perused the submissions made on behalf of Noticee no. 20 and have considered the supporting documents made available before me by the Noticee. The SCN alleges transfer of funds from Global to Pneumatic and on that basis, creates a presumptive fund transfer between Pneumatic and Noticee no.20 apparently due to the fact that Mr. Anoop Jain was the Karta of Noticee no. 20 and also was a Director of Pneumatic. It is not the case that Pneumatic was one of the allottees of the preferential allotment made by the Company. The SCN also does not bring any evidence alleging further onward transfer of funds from Pneumatic to Noticee no. 20. The SCN has also not made out any case against Mr. Anoop Jain having played any role as a Director of Pneumatic so as to bring any monetary benefit to his HUF, i.e., Noticee no. 20. Thus, no fund transfers nor any monetary transactions has been pointed out in the SCN between Pneumatic and Noticee no. 20 directly or indirectly though the Karta who was a Director of Pneumatic so as to indicate any financial nexus between Pneumatic and Noticee no. 20 and ultimately between the company and Noticee no.20.

91. I find that the Noticee no.20 has furnished various documentary evidences before me viz., Board Resolution, Ledger account and the most importantly the copy of Form 16A to show the deduction and payment of TDS with respect to the interest payment made by Pneumatic to Global. These documents adequately demonstrate that

Pneumatic had obtained loan from Global with prior approval of its Board and has also duly paid interest thereon to Global on which TDS has been deducted by Pneumatic. Under the circumstances, mere receipt of a fund of Rs. 1.35 Crore by Pneumatic from Global cannot be stretched to the extent of ascribing any motive to Noticee no.20 having received back its share application money from Greencrest through Global or through Pneumatic or by any other means. Therefore, the charge made in the SCN would not sustain in the facts and circumstances of the case qua Noticee no. 20.

92. Coming back to the allegations made against the Company (Noticee no. 12) and its Executive Directors (Noticee nos. 13 and 14), I note that the SCN narrates that the Company had not made any major corporate announcements during the investigation period, except for the declaration of the financial results, split of shares and meeting of Board of Directors of the Company. In this connection, the financials of the Company as mentioned in the SCN are tabulated as below:

**Table H**

(Rs. in Crore)

| Particulars            | Year Ended |         |         |
|------------------------|------------|---------|---------|
|                        | 2012-13    | 2013-14 | 2014-15 |
| Sales                  | 2.30       | 8.38    | 10.30   |
| Other Income           | 0.88       | 0.00    | 0.35    |
| Total Sales            | 3.18       | 8.38    | 10.65   |
| Profit /Loss after Tax | 0.31       | 0.70    | 1.16    |

93. It is noted that the profit of the Company for the Financial Year 2013-14 stood at Rs. 70 Lakh as compared to Rs. 31 Lakh for the Financial Year 2012-13. It is further noted that the market price of the scrip as on May 10, 2013 was only Rs. 7.26 whereas it reached to a level of Rs. 264.30 in the next year, i.e., on June 04, 2014. Thus, it can be seen that the profit of the Company was merely Rs. 31 Lakh for the Financial Year 2012-13 and it rose to Rs. 70 Lakh in the next year's annual accounts, however, the price of the scrip, which should normally move commensurate with the financial results/performance and the corporate announcements etc. of the Company, surprisingly witnessed multi-fold increase to reach a level of Rs. 264.30 from Rs. 7.26 within a span of 1 year.

94. The Company has filed its written reply in which it has stated that SEBI has acknowledged in its SCN that the Company was registering profit for 2-3 years and has also made some corporate announcements which had positive impact on the market. Besides, the issuance of shares under preferential allotment has also been a positive reason for the price rise of its scrip. The explanation of the Company is not found to be grounded on realities or based on actual facts pertaining to the trading in scrip of the Company. Increase of profit of the Company by Rs. 30 Lakh in the first year and by similar amount in succeeding year can have a positive impact on the market sentiments and may lead to a better price view of its scrip but under no circumstances can these increases in profit lead to such rapid dramatic rise in the price of the scrip within a year so much so that the market capitalisation of the Company went up multi fold to an abnormal extent of Rs. 2500 Crore (approx.) as on December 04, 2014. Further, the so called corporate announcements made by the Company were of routine nature such as split of shares, meeting of Board of Directors, financial results etc., which indicated no substantive or remarkable development in the affairs of the Company so as to be able to trigger such skyrocketing in the price of its scrip. Similarly, issue of shares under preferential allotment cannot by itself be a market booster for raising the price of the scrip of the Company unless the same is exhibited to the public by way of utilisation of the proceeds in noteworthy projects so as to boost the sentiment of the investors. Under the circumstances, I would conclude that the arguments advanced by the Noticee Company to ascribe reasons for such sudden and rapid increase in the share price of the Company witnessed during the investigation period are not based on facts, moreso when the SCN has so succinctly brought out the manipulative role allegedly played by Noticee nos. 1 to 11 in pumping up the price of the scrip through fraudulent trades executed by them.

95. The Company has also contended that it had no role to play in the trading activities in its scrip done by other entities. However, as observed in the beginning of this order, at the time of discussing the nexus of various entities, especially the nexus of the Noticee nos. 15 to 17 with the Company, it has already been found that the Company shared close connections with Noticee no. 15 to 17, who in turn have directly indulged themselves with Noticee nos. 1 to 11 by way of transaction of funds/shares. Further, it has already been established that Noticee nos. 1 to 11 have played a major role in trading in the scrip of the Company in a fraudulent manner and by way of contribution to LTPs consistently over a period of time, have artificially

increased the price of the scrip to an exorbitant level. I have already held Noticee no. 18 liable for the allegations made against him in the SCN since, on the facts of the matter, he has been found to be closely connected with a beneficiary of the Company by virtue of funds received by him from the connected entity of the Company. Although the other two preferential allottees viz., Noticee nos. 19 and 20 have not been held liable for the allegations made against them in the SCN, since the alleged fund transfers to them from the Company through its connected entities could not be substantiated based on the materials on record, the fact remains undeniable that the price of the scrip of the Company which was manipulated to a very high level by the Noticee nos. 1 to 11 offered them an opportunity to sell their shares at highly remunerative price like any other shareholders of the Company. However, the charges against the Noticee nos. 19 and 20 cannot be pursued just because they sold their shares with high profits since the evidence mustered in the SCN was not sufficient enough to implicate them for receiving any refunds from the company or for any connection with the Company. Therefore, the exoneration of Noticee nos. 19 and 20 would not *suo motto* render infructuous the allegation of manipulation of price of the scrip of the Company by Noticee nos. 1 to 11 with active collusion and support from Noticee no. 15 to 17, who were closely connected to the Company.

96. The sequence of events based on the connection that the Company enjoyed with various entities, who in turn have provided funds / shares to Noticee nos.1 to 11 and the deliberate act of the Noticee nos. 1 to 11 to manipulate the price of the scrip of the Greencrest by indulging repeatedly in an abnormal / artificial trading pattern, indicate that the Company was the source of a dubious scheme of manipulation of the price of the scrip of Greencrest. The Noticee no. 12 (Company) has contended that, to prove the charges of violation of PFUTP Regulations against it, serious proof is required. To emphasize on this argument, the Company has relied upon certain orders/judgements in the matter such as the case of *Smitaben N. Shah Vs. SEBI; ESS ESS Intermediaries Vs. SEBI ; and Gulab D Chand Vs. Kudilal (AIR 1966 SC 1734)*. In response to this argument, I note that the degree of proof required to prove the alleged violation of securities law under the instant proceedings will be adequately met by the preponderance of probabilities emanating out of the facts of the case. As regards the degree of proof is concerned, the issue had come up for consideration before the Hon'ble Supreme Court of India in the matter of *SEBI Vs. Rakhi Trading and Others (SCC online SC 101)*, wherein Hon'ble Court have observed that: "...The question

*whether there was fictitious transactions creating illegal synchronization has to be gathered from the facts and circumstances and intention of the parties. Acting in concert is something about which it is difficult to obtain direct evidence. Proof of manipulation might depend upon inferences drawn from factual details. Such inferences could be gathered from pattern of trading data and the nature of the transactions etc.”*

97. Applying the above test in the instant matter, it is noted that certain entities (Noticee nos. 1 & 2) have placed buy orders on a continuous basis in the beginning of the trading hours and each such buy order was always placed above the LTP. These buyer Noticees placed such orders for larger quantities knowing well that there is no volume in the scrip and there was no noteworthy positive information available in the public domain in favour of the financial affairs of the Company which could have inspired them to buy the shares of the company in large quantities at any cost. The fact that these two buyer entities had received funds from certain entities connected to the Company have been found established. Similarly, the 9 seller Noticees, i.e., Noticee nos. 3 to 11 have undeniably received shares through off-market transfers from Noticee no.15, which had connection with the Company and these 9 seller Noticees are also found to have indulged in unfair and manipulative trades and have provided the counter parties to the inflated buy orders placed by Noticee nos. 1 & 2. The trading pattern adopted by all these 11 entities together, clearly demonstrates their ill-intentioned design to inflate the price of the scrip through their artificial and manipulative trades, wherein the buyer Noticees kept placing orders in larger quantities in the early hours of the market and the seller Noticees matched those price offered by buyer Noticees around the closing of the market but released their shares in smaller quantities for executing their trades thereby extending an active helping hand to the buyers to contribute to the LTP of the price of the scrip with each of their trades. With respect to Noticee nos. 13 and 14, it is noted that they were Executive Directors of the Company, therefore, were undoubtedly at the helm of the affairs of the Company during the relevant period. The Company being a legal entity cannot function / act on its own and can act only as a result of the control exercised over it by the Directors appointed on its Board. There is no two opinion that the acts of a juristic person like a company are the outcome of the acts of the Directors. In this connection, I refer to the observation of the Hon'ble Supreme Court made in the matter of *N. Narayanan Vs. Adjudicating Officer, SEBI (2013) 12 SCC 152*, wherein Hon'ble

Supreme Court of India while discussing the duties of Directors has held *inter alia* that :

*“33. Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602 that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provide against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company even superficially.”*

98. In view of the aforesaid and in the given facts and circumstances, Noticee nos. 13 and 14 being Directors of the Noticee no. 12 (the Company) have to be held responsible for the acts of the Company which have resulted into violation of provisions of law. Further, in the present case, Noticee nos. 13 and 14 have not made any submission to demonstrate to the contrary or to suggest that the acts attributed to the Company were without their any involvement, consent or indulgence.

99. Under the circumstances, I hold that Noticee nos. 13 and 14 were also part of the pre-mediated scheme or artifice along with the Company whose affairs they managed at the relevant point in time that was skilfully executed through other Noticees in the trading of the scrip of Greencrest during the investigation period.

100. Therefore, the Noticee nos. 12 to 14 are also to be treated as part of the manipulative scheme and have to be held to have violated Regulation 3 (a), (b), (c), and (d) and Regulation 4(1) of the PFUTP Regulations.

### **Directions**

101. Keeping in view of the aforesaid discussions, in exercise of powers conferred upon me under Sections 11(1), 11 (4) and 11B(1) 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, the Noticee nos. 1 to 18 are hereby debarred for a period of 3 years from accessing the securities market and are further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner.

102. It is further clarified that during the period of the aforesaid restraint, the existing holding of securities, including the units of mutual funds shall remain under freeze.

103. The charges against the Noticee nos. 19 and 20 have been dropped as the same have not been established in the light of the evidence available on record and thus the proceedings with respect to the said Noticees are disposed of without any directions.

104. A copy of this order shall also be served upon the Depositories, Stock Exchanges and Registrars and Transfer Agents for necessary action on their part.

**-Sd-**

**Date: June 05, 2020**

**S. K. MOHANTY**

**Place: Mumbai**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**