

WTM/AB/IVD/ID19/13689/2021-22

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

Under Sections 11(1), 11(4), 11(4A), 11A, 11B(1), 11B(2) and 15I of the Securities and Exchange Board of India Act, 1992 read with Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and Sections 12A(1), 12A(2) and 23I of Securities Contracts (Regulations) Act, 1956 read with Rule 5 of the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005.

Noticee No.	Name of Noticees	PAN
1.	M/s. Svam Software Limited	AAACS0292B
2.	Mr. Virender Gupta	AEXPG9500L
3.	Mr. Sudhir Kumar Agarwal	AAOPA3900H
4.	Mr. Harshwardhan Koshal	AAVPK1615L
5.	Mr. Rajeev Garg	AGDPG7304E
6.	Mrs. Manisha Agarwal	ABKPA0056B

(Aforesaid entities are hereinafter individually referred to by their respective name or noticee number and collectively as “the Noticees”.)

In the matter of Svam Software Ltd.

1. The present order deals with show cause notice bearing no. IVD/ID19/SPU/DJ/SCN/8521/3/2020 dated March 6, 2020 (hereinafter referred to as ‘**SCN**’) issued by Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) to Noticee no. 1 to 6. The SCN calls upon Noticee no. 1 to 6 to show cause as to why suitable directions should not be issued and/or penalty not be imposed, as deemed fit under Section 11(1), 11(4), 11(4A), 11A and 11B(1), 11B(2) read with

Section 15HA and 15HB of SEBI Act, 1992 and Section 12A, 23E and 23H of Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as “**SCRA, 1956**”), against them for violations of Sections 12A(a), (b) & (c) of the SEBI Act, 1992 and Regulations 3(b), (c) and (d), 4(1), 4(2) (f) & (r) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulation, 2003**”). Svam Software Ltd. (hereinafter referred to as ‘**SSL**’/ ‘**the Company**’) is also called upon to show cause as to why it should not be held liable for violation of Regulations 4(1) (c), (e) and (g), 4(2)(f)(i)(2), 4(2)(f)(ii)(6) & (7), 4(2)(f)(iii)(1), (3), (6) & (12), Clause B(2) of Schedule III read with Regulation 30, Regulation 33(2)(a) and Regulation 48 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as “**LODR Regulations**”), and Section 21 of SCRA Act, 1956. Noticee no. 2 to 6 are also called upon to show cause as to why they should not be held liable for violation of Reg. 4(1)(a),(b),(c), (e) and (g), 4(2)(f)(i)(2), 4(2)(f)(ii)(6) & (7), 4(2)(f)(iii)(1), (3), (6) & (12), Regulation 17(8) read with Schedule II and Regulation 33(2)(a) of LODR Regulations and Section 21 of SCRA Act, 1956.

2. The brief facts of the case, the brief findings of the investigation and the allegations levelled against the Noticees, as mentioned in the SCN are as follows:

2.1. SEBI passed an interim order on November 27, 2017 *inter-alia* directing the promoters and the directors (Noticee no. 2 to 6) of SSL to only buy the securities of SSL and shares held by them in the Company shall not be allowed to be transferred for sale by depositories. Further, vide the said interim order, the stock exchange was directed to appoint an independent forensic auditor to, *inter-alia*, further verify:

2.1.1. Misrepresentation including of financials and/or business of SSL, if any;

2.1.2. Misuse of the funds/books of accounts of SSL, if any.

2.2. The forensic audit report (hereinafter referred to as '**FAR**') was submitted to SEBI by the stock exchange and the findings of the FAR from the period April 01, 2015 till December 31, 2017 were examined.

2.3. The investigation by SEBI, *inter-alia*, revealed the following:

I. **Misrepresentation including of financials and misuse of funds/ books of accounts:**

2.3.1. Proper disclosures have not been made in financial statements of Company in accordance with applicable accounting standard of Related Party Disclosure – the company has not made complete disclosure of related entities as required by the accounting standards.

2.3.2. Inventory has not been valued as per the provisions of Accounting Standards – the company has sold the goods at a huge loss, which points towards the fact that proper valuation as required under Accounting standard has not been done by the Company.

2.3.3. Funds have been rotated through various parties, although no sales / purchase transactions have been undertaken by the Company related to main business of the SSL, which is Software and IT related products – the Company has made and received payments to various parties, however, no business transactions have been undertaken with them. Only rotation of money has taken place without any justification for the same.

2.3.4. Out of total loans and advances of INR 9.65 crores, INR 5.24 crores has been outstanding since 01.04.2015 and no interest / transactions have been undertaken with such parties. Confirmation letters sent to many of parties have not been replied back by them – the Company has given loans and advances to various parties which have been outstanding for long. Also, no interest has been taken from many of the parties.

- 2.3.5. Interest income to the tune of INR 28,35,400/- has been received in cash which is prohibited as per the provisions of Income Tax Act, 1961 – the company has received interest income in cash, which is in violation of provisions of Income Tax Act, 1961.
- 2.3.6. Payments and receipts have been made in cash by SSL, which is in violation of provisions of Income Tax Act, 1961 – the Company has undertaken many transactions in cash above the limit specified in Income Tax Act, 1961 and violated the provisions of the act.
- 2.3.7. SSL is at default in advancing more than 50% of total asset base in form of loans and advances without taking approval from RBI – the Company was not allowed to undertake such activities without approval from Reserve Bank of India as the total financial asset and financial income is more than 50% of their respective base.
- 2.3.8. SSL is at default for non-deduction of TDS on payments made to IITL Nimbus amounting to INR 8.22 crores for purchase of flats – the Company made payments to IITL Nimbus for purchase of flats, but was in violation of provisions of Income Tax Act, 1961 for non-deduction of TDS on such payments.
- 2.3.9. It appears that SSL has along with the main business of Software and IT related products as specified in MOA and AOA of the Company, it has been carrying out business of providing loans and advances to various entities and carrying on the business of an NBFC, which it was not allowed to undertake without approval of Reserve Bank of India (“RBI”). Also, funds have also been invested in purchase of flats as stated above which is not the main business of the Company.
- 2.3.10. It is noted that Income from Operations for the FY 16-17 has been shown as INR 33.05 Lakhs and Other Income is INR 36.92 lakhs. The difference in other income for FY 16-17 reported in annual report and quarterly results is

of INR 36.72 lakhs which is approx. 99% of reported figure of other income for FY2016-17 in quarterly results. As seen from the above observation, the Annual figures for FY 2016-17 as reported in Annual Report for FY 16-17 are less than figures as reported in quarterly results of March 2017. As books of accounts and quarterly results do not tally with each other, this tantamounts to misrepresentation of financials by SSL.

These irregularities tantamount to misrepresentation of financials/misuse of funds/books of accounts of the Company during the investigation period and has misled existing and prospective investors.

3. I note that Noticee no.1 has filed its merit based reply dated December 28, 2020. I also note that Noticee no. 2 to 6 have chosen to adopt the reply filed by Noticee no. 1. The personal hearing for Noticee no. 1 to 6 was scheduled to be held on March 2, 2021 and March 22, 2021, however the hearings were adjourned on the said dates on the basis of request of the Advocate appearing for the Noticees. Finally, the hearing for the Noticees was held on March 23, 2021, on which date the Ld. Advocate representing all the Noticees was heard.

Consideration of submissions and findings:

4. I have considered the allegations in the SCN, replies received, and submissions made by the Noticees during the personal hearing granted to them. The SCN alleges the violation of the following provisions of law by the Noticees.

Relevant extract of the provisions of SEBI Act, 1992:

"Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measurements referred to therein may provide for-

.....
(i) calling for information from, undertaking inspection, conducting inquiries and audits of the stock exchanges, mutual funds, other persons associated with the securities market, intermediaries and self-regulatory organisations in the securities market;

(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;

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

12A. No person shall directly or indirectly-

- (a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;
- (b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;
- (c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

.....
Offences by companies.

27. (1) Where an offence has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be

deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,- (a) “company” means any body corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.....”

Relevant extract of provisions of SCRA, 1956:

“Conditions for listing.

21. Where securities are listed on the application of any person in any recognized stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.”

Relevant extract of the provisions of PFUTP Regulations, 2003:

“3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

.....

- (f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information relating to securities, including financial results, financial

statements, mergers and acquisitions, regulatory approvals, which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

.....

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

.....”

Relevant extract of the provisions of LODR Regulations:

“Principles governing disclosures and obligations.

4. (1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:

(a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.

(b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.

(c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.

(d)

(e) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.

(f)

(g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.

(2) The listed entity which has listed its specified securities shall comply with the corporate governance provisions as specified in chapter IV which shall be implemented in a manner so as to achieve the objectives of the principles as mentioned below.

.....

(f) Responsibilities of the board of directors:

The board of directors of the listed entity shall have the following responsibilities:

.....

(ii) Key functions of the board of directors-

.....

- (6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.
- (7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.

...

- (iii) Other responsibilities:

....

- (3) Members of the board of directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders.

.....

- (6) The board of directors shall maintain high ethical standards and shall take into account the interests of stakeholders.

.....

- (12) Members of the board of directors shall be able to commit themselves effectively to their responsibilities.

.....

17.

- (8) The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II.

Financial results.

- 33.(1) While preparing financial results, the listed entity shall comply with the following:

.....

- (d) The listed entity shall ensure that the limited review or audit reports submitted to the stock exchange(s) on a quarterly or annual basis are to be given only by an auditor who has subjected himself to the peer review process of Institute of Chartered Accountants of India and holds a valid certificate issued by the Peer Review Board of the Institute of Chartered Accountants of India.

.....

- (2) The approval and authentication of the financial results shall be done by listed entity in the following manner:
 - (a) The quarterly financial results submitted shall be approved by the board of directors:

Provided that while placing the financial results before the board of directors, the chief executive officer and chief financial officer of the listed entity shall certify that the financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading

- (3) The listed entity shall submit the financial results in the following manner:
 - (a) The listed entity shall submit quarterly and year-to-date standalone financial results to the stock exchange within forty-five days of end of each quarter, other than the last quarter.
- (4)
- (5) For the purpose of this regulation, any reference to “quarterly/quarter” in case of listed entity which has listed their specified securities on SME Exchange shall be respectively read as “half yearly/half year” and the requirement of submitting ‘year-to-date’ financial results shall not be applicable for a listed entity which has listed their specified securities on SME Exchange.

Accounting Standards.

48. The listed entity shall comply with all the applicable and notified Accounting Standards from time to time.....”

- 5. Before proceeding on the merit of the matter, it will be relevant to discuss the background of the present proceedings. SEBI received a letter no. F. No. 03/73/2017-CL-II dated June 9, 2017 from the Ministry of Corporate Affairs (hereinafter referred to as “MCA”) vide which MCA had annexed a list of 331 shell companies for initiating necessary action as per SEBI laws and regulations. MCA had also annexed the letter of Serious Fraud Investigation Office, dated May 23, 2017 which contained the list of shell companies along with their inputs. In respect of listed shell companies including SSL, vide its letter dated August 7, 2017, SEBI advised the stock exchanges to place trading restrictions on promoters/directors so that they do not exit these listed companies. SEBI vide the said letter dated August 7, 2017 also advised the stock exchanges to place the scrip of such companies in the trade-to-trade category with limitation on the frequency of trade and imposed a limitation on the buyer by way of 200% deposit on the trade value, so as to alert them on trading in the scrip. Thereafter, BSE vide notice dated August 7, 2017, issued to all its market participants, initiated actions envisaged in the SEBI letter dated August 7, 2017 in respect of all the listed companies, as identified by MCA and communicated by SEBI, with effect from August

8, 2017. On August 09, 2017, SEBI further advised the Stock Exchanges to submit a report after seeking auditor's certificate, from all such listed companies, providing the status of certain aspects of these companies like compliance with Companies Act, whether company is a going concern and its business model, status of compliance with listing requirements, etc.

6. Vide its letter dated September 1, 2017, SSL made a representation to SEBI, *inter alia*, submitting as under:

- 6.1. That SSL is a public limited company and listed at BSE.
- 6.2. SSL had approximately 42,000 shareholders.
- 6.3. That Company has always complied with all the regulatory compliances and Listing agreements.
- 6.4. SSL was a leading company in software development and also covered a vast market of software development, sale and purchase of software, hardware and all accessories related to computers. SSL dealt in all computer related works like its hardware and software and accessories.
- 6.5. SEBI has inadvertently classified company as Shell Company.

7. In the meantime, aggrieved by the aforesaid letters/notice dated August 7, 2017 issued by SEBI and BSE, SSL filed an appeal No. 271 of 2017 before Hon'ble Securities Appellate Tribunal, Mumbai (hereinafter referred to as "**SAT**"). Hon'ble SAT vide order dated October 16, 2017 directed the following:

"2. As the appellant has already made a representation to BSE against the said ex-parte order dated August 07, 2017, with a copy to SEBI, Counsel for the appellant on instruction seeks to withdraw the appeal with liberty to pursue the representation filed before SEBI. Accordingly, we permit the appellant to withdraw the appeal with liberty to pursue the representation pending before SEBI.

3. SEBI is directed to dispose of the representation made by the appellant as expeditiously as possible and in any event within a period of four weeks from today. It is made clear that passing of any order on the representation made by the appellant would not preclude SEBI from further investigating the matter and initiate appropriate proceedings if deemed fit....."

8. Pursuant to above mentioned order passed by Hon'ble SAT, SEBI had granted an opportunity of personal hearing to SSL, and subsequently an interim order dated November 27, 2017 (hereinafter referred to as '**the interim order**') came to be passed by Whole Time Member, SEBI, directing the following:

“26.....

- i. The trading in securities of SSL shall be reverted to the status as it stood prior to issuance of letter dated August 7, 2017 by SEBI.
- ii. Stock Exchange shall appoint an independent forensic auditor, inter alia, to further verify:
 - a) Misrepresentation including of financials and/or business of SSL, if any;
 - b) Misuse of the funds/books of accounts of SSL, if any.
- iii. The promoters and directors in SSL are permitted only to buy the securities of SSL. The shares held by the promoters and directors in SSL shall not be allowed to be transferred for sale by depositories.
- iv. The other actions envisaged in SEBI's letter dated August 07, 2017 in para 1 (d) as may be applicable, and the consequential action taken by Stock Exchanges shall continue to have effect against SSL.”

9. I note that in terms of the interim order, SSL was provided time of 30 days to file its reply/ objections to the interim order, if any, failing which, preliminary findings of the interim order and ad-interim directions contained therein were stipulated to stand confirmed against SSL automatically, without any further orders. SSL did not file its reply/objections to the interim order to SEBI within 30 days from the date of the interim order. Accordingly, the preliminary findings of the interim order and ad-interim directions at paragraph 26 of the interim order stood confirmed automatically, without any further orders.
10. BSE had appointed M/s. PVRN & Co., as the Forensic Auditor and the Forensic Audit Report (hereinafter also referred to as “**FAR**”) was submitted to BSE by M/s. PVRN & Co on January 23, 2018. Thereafter, based on the FAR which was forwarded by BSE to SEBI on September 24, 2018. SEBI carried out an investigation in the matter. Based on the findings of investigation, the matter was placed before me on July 7, 2020 for approval of issuance of show cause notice and then was again placed before me on October 15, 2020 for granting a date for opportunity of hearing to the Noticees and passing a final order in the matter.
11. I shall now proceed to examine the allegations in the SCN and the contentions raised by the Noticees thereon. I note that allegations made in the SCN can be categorized as under:
 - A. Violations of provisions of LODR Regulations due to misrepresentation including of financials and misuse of funds/books of accounts;

B. Violation of provisions of PFUTP Regulations, 2003.

In the following paras, all these have been dealt with my findings thereon.

A. Violations of provisions of LODR Regulations due to misrepresentation including financials and misuse of funds/books of accounts:

12. **Re:** Disclosure of Related Party Transaction.

12.1. In this regard, the SCN has alleged as follows:

“Proper disclosures have not been made in financial statements of company in accordance with applicable accounting standard of Related Party Disclosure – the company has not made complete disclosure of related entities as required by the accounting standards.”

12.2. The FAR has made the following observations on this subject:

Part A - Observations relating to SEBI Order.

a) With respect to Para 20 (a) of the SEBI order regarding Related Party Transactions undertaken by the Company.

The company has not made disclosure of related party transactions entered into during FY 2015-16 and 2016-17 in the annual report and quarterly results. As per the information available with us, following are related parties of SSL during FY 2015-16 and 2016-17.

FY 2015-16

Name of the Related Party	Nature of Relation	Opening	Debit	Credit	Closing
Aglow Financial Services Private Limited	Relative of director are director and holds more than 2% in SSL	0	2,42,03,359	1,00,000	2,41,03,359
Apron Estates Limited	Subsidiary	40,00,000	0	40,00,000	0
Chrismatic Developers Private Limited	Common Directors	0	20,00,000	20,00,000	0
Derby Exim Limited	Subsidiary	47,50,000	0	0	47,50,000

Echelon Estate Limited	Subsidiary	0	10,00,000	0	10,00,000
MIDAS GLOBAL SECURITIES LTD.	Relative of director are director and holds more than 2% in SSL	0	9,50,000	9,50,000	0
Phobe Infotech Limited	Subsidiary	20,00,000	0	20,00,000	0
SALORA CAPITAL LIMITED	Relative of director are director and holds more than 2% in SSL	0	1,28,00,000	1,28,00,000	0
Shri Dhar Financial Services Ltd	Common Directors	0	3,17,00,000	2,42,00,000	75,00,000
Sudhir Kumar Agarwal	Director	0	19,60,000	19,60,000	0
Ubiquites Limited	Subsidiary	0	10,00,000	0	10,00,000

Transactions with Subsidiary are in nature of Investment in equity shares of company. Rest of the transactions with the above related parties are in the nature of Loans and advances.

However, as per the annual report of 2015-16, no related parties transactions have been reported by the company.

Copy of ledger of above related parties is attached at **Annexure A**.

FY 2016-17

Name of the Related Party	Nature of Relation	Opening	Debit	Credit	Closing
ABHINAV LEASING FINANCE LIMITED	Relative of director are director and holds more than 2% in SSL	0	35,00,000	35,00,000	0
Aglow Financial Services Private Limited	Relative of director are director and holds more than 2% in SSL	2,41,03,359	1,53,50,000	3,91,53,359	3,00,000
Chrismatic Developers Private Limited	Common Directors	0	5,00,000	5,00,000	0
Derby Exim Limited	Subsidiary	47,50,000	0	47,50,000	0
Echelon Estate Limited	Subsidiary	10,00,000	0	10,00,000	0

MIDAS GLOBAL SECURITIES LTD.	Relative of director are director and holds more than 2% in SSL	0	70,00,000	70,00,000	0
Niragi Real Estate Limited	Subsidiary	0	20,00,000	0	20,00,000
Rishabh Shoes Private Limited	Subsidiary of subsidiary (W.e.f 30.03.2017)	0	2,00,00,000	2,00,00,000	0
SALORA CAPITAL LIMITED	Relative of director are director and holds more than 2% in SSL	0	15,00,000	15,00,000	0
Sarnimal Investment Limited	Common Directors	0	1,06,52,500	1,06,52,500	0
Shri Dhar Financial Services Ltd	Common Directors	75,00,000	0	78,00,000	-3,00,000
Sudhir Kumar Agarwal	Director	0	3,60,000	3,60,000	0
Ubiquites Limited	Subsidiary	10,00,000	0	10,00,000	0
Vivid Herbs Limited	Subsidiary	0	2,10,00,000	0	2,10,00,000
Zalika Real Estate Limited	Subsidiary	0	20,00,000	0	20,00,000

Transactions with Subsidiary are in nature of Investment in equity shares of company. Rest of the transactions with the above related parties are in the nature of Loans and advances.

However, as per the annual report of 2016-17, no related parties transactions have been reported by the company.

9M FY 2017-18

Name of the Related Party	Nature of Relation	Open ing	Debit	Credit	Closing
Abhinav Leasing Finance Limited	Relative of director are director and holds more than 2% in SSL	0	35,00,000	35,00,000	0
Aglow Financial Services Private Limited	Relative of director are director and holds more than 2% in SSL	3,00,000	2,28,00,000	2,24,00,000	7,00,000
Chrishmatic Developers Private Limited	Common Directors	0	16,00,000	16,00,000	0

Midas Global Securities Ltd.	Relative of director are director and holds more than 2% in SSL	0	3,07,00,000	3,07,00,000	0
Salora Capital Limited	Relative of director are director and holds more than 2% in SSL	0	3,33,00,000	3,33,00,000	0
Shri Dhar Financial Services Ltd	Common Directors	- 3,00,000	1,25,50,000	20,50,000	1,02,00,000
Sudhir Kumar Agarwal	Director	0	82,800	82,800	0
Vivid Herbs Limited	Subsidiary	2,10,00,000	0	2,10,00,000	0
Zalika Real Estate Limited	Subsidiary	20,00,000	0	15,00,000	5,00,000

As per AS – 18 (Related Party Disclosures) and Regulation 23 – Related Party Transactions (Listing Obligations and Disclosure Requirements, Regulations, 2015), SSL was required to make disclosure of related party transactions in its financial statements and quarterly results. However, the company is in default in following such guidelines and accounting standards.

12.3. On this allegation, the Noticees have submitted as follows:

“.....it may kindly be seen that there is no rise and fall of shares during the FY 2016-17 and there was no movement. At the same time, during this period, the management has neither sold nor purchased its shares. The members from the public may have bought or sold the shares of the Company through the platform of the stock exchange. It may also kindly be seen that, in the previous years as well as subsequent years there have been proper disclosures in the Financial Statement of the Company. However, as far as this year i.e. FY 2016-17 is concerned, there is a bona fide mistake on part of the Company and the Company is willing on compounding of the alleged offences., which is permissible under the provisions of the Companies Act, 2013.”

12.4. I note that the Noticees have not disputed the identification of ‘related party’ by the forensic auditor in the FAR for the FY 2015-16, 2016-17 and 2017-18. I note that in accordance with AS 18 and Ind AS 24, SSL was required to disclose the aforesaid transactions with related parties (except transaction of investment in shares of subsidiary) in the ‘notes to accounts’ section of the financial statements in the Annual Report for 2015-16 and 2016-17. I also note that SSL was also required to report the transaction with Midas Global Securities Ltd, in the ‘notes to accounts’ section of the Annual Report for FY 2017-18. However, I find that no such disclosure have been made by SSL. I note that the Noticees have accepted the non-disclosure for the FY 2016-17, however, from the observations of the

FAR and a perusal of the Annual Report of FY 2015-16 and 2017-18, it is amply clear that SSL was required to disclose the reference transactions with related parties in the 'notes to accounts' section of the financial statements, which SSL has failed to do so. Thus, by not complying with the disclosure requirements of AS 18/ Ind AS 24, I find that SSL has violated Regulation 48 and Regulation 33(1)(c) of LODR Regulations.

13. **Re:** Wrong valuation of inventory.

13.1. The SCN alleges that:

"Inventory has not been valued as per the provisions of Accounting Standards – the company has sold the goods at a huge loss, which points towards the fact that proper valuation as required under Accounting standard has not been done by the company."

13.2. The FAR has observed as under:

"As per the annual report of SSL, the closing stock as on 31.03.2015 was Rs 50,47,912. The closing stock was Rs 5,50,159 as on 31.03.2016, however, SSL has shown sale of product of Rs 2,59,350 during FY 2015-16. The cost of goods sold was Rs 44,97,753 and the goods were sold at a loss of Rs 42,38,403.

As per management, the stock was old and obsolete and the realisable value of same was very low.

Similarly, the closing stock amounting to Rs 5,50,159 as on 31.03.2016 was completely written off during FY 2016-17.

As per the records, it seems that stock have not been valued as per the provisions of AS-2 and goods have been sold at such a low price / written off in order to book loss on such sale.

Also, the sales of Rs 2,59,350 have been made in cash, but no bills / vouchers of the same have been provided to us by the Company."

13.3. The Noticees have contended the following:

"In the Accounting Standard it may be kindly be appreciated that the inventory can be valued at cost or net realizable value, whichever is less. In this regard, the Company is in the trading of computer hardware and software where the shelf life of the computer software/ hardware is extremely short in terms of period and the computer software/hardware to get obsolete / out of date in terms of technology, either with the passage of time or with the use and therefore it does not fetch any value.the Company has made proper disclosure and realized the value whatever be available in its best manner. Due and proper disclosure have been made in the financial statement for the relevant period."

13.4. The SCN alleges that the inventories as shown in the Balance Sheet of SSL as on March 31, 2015 was overvalued. It is the case of the SCN that if the inventory were sold at such a huge loss of Rs 42,38,403/- owing to obsolescence, then why was the obsolescence not factored in while valuing inventory in the Balance Sheet of SSL as on March 31, 2015. In their submissions, the Noticees have contended that the nature of inventory that SSL was dealing in, were prone to rapid technological changes and hence, immediate obsolescence. I note that, while one may agree that products like computer hardware and software are prone to higher depreciation in value as compared to other merchandise, but to say that they are prone to almost 100% depreciation in a span of one year may be too far fetched. The Noticees have not elaborated the specific product which was sold at a loss of Rs 42,38,403/-, neither have they provided any rational for such a loss making sale except for a general statement that computer hardware/software are prone to huge depreciation due to change in technology. In fact, from the FAR, I find that SSL has failed to even produce any document in support of the purported sale. Even the standard diminution in value that is considered by Income Tax Department for such assets like computer software/hardware is 40%. I note that in accordance with AS-2, inventory is valued at cost or net realisable value, whichever is less. In the instant case, it is apparent that the inventory worth Rs. 44,97,753/- was overvalued which subsequently was sold by SSL at a loss of Rs. 42,38,403/-. Thus, I find that the value of inventory in the balance sheet of SSL as on March 31, 2015 was overstated. By the aforesaid misrepresentation in the financial statement of the Company, SSL has failed to comply with the mandate contained in para 15 of IndAS 1 and para 16 of AS 1 and thereby violated provisions of Regulation 33(1)(c) and Regulation 48 of LODR Regulations.

14. **Re:** Transactions in Cash.

14.1. The SCN has alleged the following in this regard:

“Interest income to the tune of INR 28,35,400/- has been received in cash which is prohibited as per the provisions of Income Tax Act, 1961 – the company has received interest income in cash, which is in violation of provisions of Income Tax Act, 1961.

Payments and receipts have been made in cash by SSL, which is in violation of provisions of Income Tax Act, 1961 – the company has undertaken many transactions in cash above the limit specified in Income Tax Act, 1961 and violated the provisions of the act.”

14.2. The FAR has made the following observations in this regard:

“Interest Income of Rs 32,34,000 has been booked in Interest Receivable head. Interest receivable to the tune of Rs 28,35,400 has been received in cash during FY 2016-17 which is a violation of provisions of Income Tax Act, 1961. The details regarding the parties from whom such cash has been received has not been provided to us. However, the date-wise breakup has been provided at point No 9 below.”

“AGM / EGM expenses have been booked in cash to the tune of Rs 5,12,350 during FY 2015-16 and Rs 4,26,800 during FY 2016-17.

General Expenses to the tune of Rs 14,40,206 have been booked during 9M FY 2017-18. Out of such expense, Rs 9,87,426 has been booked in cash and balance is payable as on 31.12.2017. The nature and purpose of such expenses have not been mentioned in books of account by the company.”

“9) Cash Entries

As per the cash book available, following transactions have been undertaken in cash by the company which are above the limit as specified by the provisions of Income Tax Act, 1961:-

- Cash received from M/s Alibion Infotel Limited amounting to Rs 1,42,858 on 15/06/2015
- Cash paid for AGM Expenses amounting to Rs 5,12,350 on 30/09/2015
- Cash paid for AGM Expenses amounting to Rs 4,26,800 on 01/09/2016
- Cash received from MS Associates amounting to Rs 2,00,000 on 06/04/2015
- Cash received from Miscellaneous Party amounting to Rs 54,292 on 06/04/2015.
- Cash received from Cash Sales amounting to Rs 39,000 on 15/01/2016 and Rs 2,20,350 on 01/03/2016
- Cash paid for Software Development Charges amounting to Rs 1,20,000 on 17/06/2015 and Rs 1,10,000 on 30/09/2015
- Cash received from Software Development Income amounting to Rs 1,85,000 on 30/06/2015, Rs 1,55,000 on 30/09/2015 and Rs 3,25,000 on 30/09/2015.
- Cash received for Interest receivable amounting to Rs 2,50,000 on 15/04/2016, Rs 2,00,000 on 30/04/2016, Rs 2,50,000 on 15/05/2016, Rs 1,50,400 on 31/05/2016, Rs 2,00,000 on 15/06/2016, Rs 3,00,000 on 30/06/2016, Rs 2,00,000 on 15/07/2016, Rs 2,50,000 on 31/07/2016, Rs 2,00,000 on 15/08/2016, Rs 1,50,000 on 31/08/2016, Rs 2,00,000 on 15/09/2016, Rs 1,00,000 on 30/09/2016, Rs 2,00,000 on 15/10/2016 and Rs 1,85,000 on 31/10/2016.
- Cash paid for General Expenses amounting to Rs 5,35,000 on 30/06/2017, Rs 1,52,426 on 30/09/2017 and Rs 3,00,000 on 15/12/2017.
- Cash has been received from Mr Harvinder Singh Bhasin for loan outstanding amounting to Rs 4,93,100 during 01.04.2017 – 31.12.2017.
- Cash has been received from Mr M S Associate for outstanding amounting to Rs 2,00,000 during 01.04.2017 – 31.12.2017.
- Cash has been received from Mr Angel Ultra Home Private Limited for loan outstanding amounting to Rs 3,88,800 during 01.04.2017 – 31.12.2017. “

14.3. The Noticees have contended the following:

“It may kindly be seen that as per the provisions of the Income Tax Act, 1961, there is no legal bar in receiving income in cash. However, the bar is with respect to the expenses to be incurred beyond Rs. 20,000/- as per Section 40(A)(3) of the Income Tax Act. Therefore, there is no violation of the provisions of any Income Tax Act, 1961. As usual, the SCN is vague.

As regards allegation of interest income to the tune of Rs. 28,35,400/- received in cash is concerned, it is submitted that this is not the income of the current year but this is an old outstanding as shown as interest receivable in the previous year balance sheet also from the persons who are not paying the loans/ advances regularly and from those persons the Company was able to recover Rs. 28,35,400/- as interest receivable income.

It is submitted that it has been alleged that the payments have been made in cash by the Noticee Company in violation of the provisions of the Income Tax Act, 1961 without specifying the Section or sub-section of the Income Tax Act, 1961. Notwithstanding the above, it is submitted that all expenses have been incurred within the prescribed limit under Section 40(a)(3) of the Income Tax Act, 1961, the detailed month-wise expenditure is attached hereto and marked as ANNEXURE-X. It is further clarified that a sum of Rs. 3,80,000/- was paid in cash to the Indian Postal Department for dispatch of notices of AGM. It is submitted that as far as income is concerned, there is absolutely no prohibition on receipt of income under the Income Tax Act, 1961 and therefore there is absolutely no violation of any provision of law. “

14.4. I note that in terms of Section 40A(3) of the Income Tax Act, 1961, such expenses which are incurred in cash for a value of Rs. 10,000/- or more shall not be eligible for deduction as expenses while calculating income from business or profession. I note that this provision does not prohibit the transactions in cash per se, rather it only discourages the payment of expenses in cash. Therefore, no adverse inference can be drawn against SSL on this front.

14.5. I note that Section 269ST of the Income Tax Act, 1961, which came into force from April 1, 2017, prohibits receipt of an amount of Rs. 2,00,000/- or more in cash by a person: (a) In aggregate from a person in a day; (b) in respect of a single transaction; (c) In respect of transactions relating to one event or occasion from a person. I find that the majority of the transactions identified by the FAR to be allegedly done in cash by SSL, were for the period prior to April 1, 2017. Thus, no violation of the provisions of Income Tax Act, 1961 is made out in respect of those transactions. However, with respect to the following transactions which took place after April 1, 2017 and identified by the FAR, I find that these transactions of SSL were not in accordance with Section 269ST of the Income Tax Act, 1961:

- Cash paid for General Expenses amounting to Rs 5,35,000 on 30/06/2017, Rs 1,52,426 on 30/09/2017 and Rs 3,00,000 on 15/12/2017. (the Noticees

have not contented that these expenses were an aggregate of multiple transactions).

- Cash has been received from Mr Harvinder Singh Bhasin for loan outstanding amounting to Rs 4,93,100 during 01.04.2017 – 31.12.2017.
- Cash has been received from Mr M S Associate for outstanding amounting to Rs 2,00,000 during 01.04.2017 – 31.12.2017.
- Cash has been received from Mr Angel Ultra Home Private Limited for loan outstanding amounting to Rs 3,88,800 during 01.04.2017 – 31.12.2017.

14.6. By not complying with the provisions of Section 269ST of the Income Tax Act, 1961, I find that SSL has violated Regulation 4(1)(g) of LODR Regulations.

15. **Re:** Inconsistent disclosure in Annual Report vis-à-vis Quarterly Financials.

15.1. The SCN alleges the following in this regard:

“It is noted that Income from Operations for the FY 16-17 has been shown as INR 33.05 Lakhs and Other Income is INR 36.92 lakhs. The difference in other income for FY 16-17 reported in annual report and quarterly results is of INR 36.72 lakhs which is approx. 99% of reported figure of other income for FY2016-17 in quarterly results. As seen from the above observation, the Annual figures for FY 2016-17 as reported in Annual Report for FY 16-17 are less than figures as reported in quarterly results of March 2017. As books of accounts and quarterly results do not tally with each other, this tantamounts to misrepresentation of financials by SSL.”

15.2. The FAR has observed the following, in this regard:

“As per annual report for FY 2016-17, Sale of product income is Rs 20.75 lakhs, Other Income is Rs 0.20 lakhs and Interest income is Rs 49.03 lakhs. However, as per quarterly results of March 2017, Income from Operations has been shown as Rs 33.05 Lakhs and Other Income is Rs 36.92 lakhs. It seems that books of accounts and quarterly results do not tally with each other.”

15.3. The Noticees have submitted as follows:

“.....it is denied that the books of accounts and the quarterly results do not tally with each other and this tantamount to mis-representation of financials by the Noticee Company.It may kindly be appreciated that there is no difference in income and it is merely a genuine and bona fide error of wrong classification of income in the unaudited results published during the year 2016-17, and that was correctly disclosed in the audited financial results.....To clarify the above, it is informed that the other income as shown in the unaudited results is Rs. 36.92 lacs is comprised of interest income of Rs. 36.72 lacs which was merged in the audited financial results as income from operations on the instruction of the statutory auditor.”

15.4. I note that the total income for the FY 2016-17, according to the Audited Annual Financial Results declared by SSL on May 29, 2017 on the stock exchange in pursuance of its obligation under Regulation 33 of LODR Regulations is Rs. 69.97 Lakhs and the total income as shown in the Annual Return of SSL for FY 2016-17 is Rs. 69.97 Lakhs, which turns out to be the same. Thus, no adverse inference can be drawn on the apparent difference in sub-classification of Total Income in Annual Financial Results vis-à-vis the Annual Return, as the Total revenue remained the same.

16. **Re:** Approval from RBI.

16.1. The SCN has alleged the following:

“SSL is at default in advancing more than 50% of total asset base in form of loans and advances without taking approval from RBI – the company was not allowed to undertake such activities without approval from Reserve Bank of India as the total financial asset and financial income is more than 50% of their respective base.

.....
It appears that SSL has along with the main business of Software and IT related products as specified in MOA and AOA of the Company, it has been carrying out business of providing loans and advances to various entities and carrying on the business of an NBFC, which it was not allowed to undertake without approval of Reserve Bank of India (“RBI”). Also, funds have also been invested in purchase of flats as stated above which is not the main business of the company.”

16.2. The FAR has made the following observations in this regard:

“As per RBI guidelines, a company having financial assets and financial income more than 50% of total base is required to obtain NBFC certificate from RBI and cannot undertake such activities without their permission.

As per RBI guidelines:-

“Financial activity as principal business is when a company’s financial assets constitute more than 50 per cent of the total assets and income from financial assets constitute more than 50 per cent of the gross income. A company which fulfils both these criteria will be registered as NBFC by RBI

If companies that are required to be registered with the Reserve Bank as NBFCs, are found to be conducting non-banking financial activity, such as, lending, investment or deposit acceptance as their principal business, without seeking registration, the Reserve Bank can impose penalty or fine on them or can even prosecute them in a court of law. If members of public come across any entity which does non-banking financial activity but does not figure in the list of authorized NBFC on RBI website, they should inform the nearest Regional Office of the Reserve Bank, for appropriate action to be taken for contravention of the provisions of the RBI Act, 1934.”

SSL had advanced Loans amounting to Rs 14.58 crore as on 31.03.2016, which was 72% of total asset base. Also, interest income booked during FY 2015-16 was Rs 78.67 lakhs, which was 89% of total revenue booked by the company.

Also, SSL has advanced Loans amounting to Rs 11.55 crore as on 31.12.2017, which is 54% of total asset base. Also, interest income booked during 9M FY 2017-18 is Rs 33.08 lakhs, which is 59% of total revenue booked by the company.

As the total financial asset and financial income is more than 50% of their respective base, the company was not allowed to undertake such activities without approval from Reserve Bank of India.”

16.3. The Noticees have made the following submissions in this regard:

“As per the Accounting Standard 26, as notified by Ministry of Corporate Affairs, the definition of financial assets is as follows:

A. Cash

B A contractual right to receive cash or another financial assistance from another enterprise;

C The contractual; rights to exchange financial instrument with another enterprise under condition that are potentially favourable; or

D The ownership interest in another enterprise.

As per the explanation given by the management during the course of audit, sales and advances classifying as financial assets are not more than 50% of the total asset of the Company.....The Statutory Auditor has also sent their clarification vide their letter dated February 24, 2020.

.....
It is denied that Noticee Company alongwith their main business of Software and IT related products (as permitted under the Main Objects, Incidental Objects and Other Objects) has also been carrying out business of providing loans and advances to various entities and carrying on the business of providing loans and advances to various entities and carrying on the business of an NBFC. It is submitted that the funds which are lying surplus at any point of time have been invested in purchase of flats as stated above for the purpose of capital appreciation instead of lying in the current account of the company. it is specifically submitted that any company could also undertake other activities by utilizing surplus funds which may not be required.”

16.4. From the Annual Report of SSL for the FY 2015-16, I find that SSL had advanced Loans amounting to Rs. 14.58 crore as on 31.03.2016, which was 72% of total asset base and SSL had booked interest income of Rs. 78.67 lakhs, which was 89% of total revenue of SSL for FY 2015-16. From the aforesaid, it appears that SSL had materially shifted its business operations to lending activities during the FY 2016-17. I note that the alleged deviation in the business activities of SSL was a material event which was required to be disclosed to the stock exchanges in accordance with. Reg. 30(6) r/w. para C of Part A of Schedule III r/w of LODR Regulations. I note that SSL has failed to make any such disclosure and thereby violated Reg. 30(6) r/w. para C of Part A of Schedule III of LODR Regulations. As

far as the allegation of functioning as an unregistered NBFC are concerned, the matter may be referred to the appropriate regulator.

17. **Re:** Loans and Advances.

17.1. The SCN alleges the following:

“Out of total loans and advances of INR 9.65 crores, INR 5.24 crores has been outstanding since 01.04.2015 and no interest / transactions have been undertaken with such parties. Confirmation letters sent to many of parties have not been replied back by them – the Company has given loans and advances to various parties which have been outstanding for long. Also, no interest has been taken from many of the parties.”

17.2. The FAR makes the following observations in this regard:

“SSL had provided Loans and advances to the tune of Rs 14.55 crore as on 31.03.2016 and Rs 9.65 crore as on 31.03.2017. On reviewing the books of account, it was observed that interest on such loans had not been charged by SSL and have been provided interest free. Also, many of the loans have been outstanding since 01.04.2015 without any further movement in their balances. Loans and advances to the tune of Rs 5.24 crore have been outstanding since 01.04.2015, without any further movement in their balances.

The details of Loans and advances for FY 2016-17 and 2015-16 is as follows:-

Loans & Advances (Asset) - 2015-16					
Particulars	Opening	Debit	Credit	Closing	Interest Charged
Aglow Financial Services Pvt Ltd.		24,203,359	100,000	24,103,359	902,000
Chrismatic Developers Private Limited*	200,000		200,000		0
Manisha Agarwal *		5,000	5,000		0
Midas Global Securities Ltd.		950,000	950,000		0
Salora Capital Limited		12,800,000	12,800,000		0
Shri Dhar Financial Services Ltd		31,700,000	24,200,000	7,500,000	0
Sudhir K Agarwal		1,960,000	1,960,000		0
A & A Publication Private Limited *	10,000,000		10,000,000		0
Abha Maheshwari	400,000	66,909	466,909		66,909
Abhishek Jain		1,500,000		1,500,000	0
Alok Kastia	2,000,000			2,000,000	0
Angel Ultra Home Private Limited	5,188,800		4,800,000	388,800	0
Anil Kumar Agarwal		15,000,000	15,000,000		0

Anupriya Fincap Private Ltd	1,000,000			1,000,000	0
Bhupinder Kumar Bansal	3,629,537			3,629,537	0
Century Commodity	1,500,000			1,500,000	0
Chand Prakash	5,500,000			5,500,000	0
Cosmic Associated Private Limited	1,000,000			1,000,000	0
Deepak Gupta	2,000,000			2,000,000	0
Delhi Housing Development Limited		5,000,000	5,000,000		0
Dipankur Ceroils Private Limited *		5,000,000	5,000,000		0
Divine Spirit *		7,000,000	7,000,000		0
Divya Mohan	4,000,000		4,000,000		0
Eg Communication Private Limited	8,458,493	853,200	558,493	8,753,200	948,000
Excellent Fincap Pvt Ltd		2,360,920		2,360,920	67,689
Fastech Project Pvt		4,019,475		4,019,475	21,639
Fortune Infraseight	6,000,000			6,000,000	0
Goodluck Traders *		1,500,000	1,500,000		0
Harvinder Singh Bhasin	493,118			493,118	0
Hemlata Gupta	1,000,000			1,000,000	0
Kayess Enterprises		4,500,000		4,500,000	0
Midas Infra-Trade Limited *		3,800,000	3,800,000		0
Nachiketa Finvest Pvt		2,029,736		2,029,736	33,040
Neelkanth Steel Alloys	5,846,010	473,527		6,319,537	526,141
Nitin Gupta C/O Gupta Goodluck	1,500,000		1,500,000		0
Norvik Design Pvt Ltd	5,000,000	541,479		5,541,479	601,644
Parmod Kumar Singhla(Ind)	3,026,455			3,026,455	0
Pradeep Dayal	2,300,000			2,300,000	0
Praveen Grover	5,000,000	6,000,000	10,000,000	1,000,000	0
Radha Chain Co	500,000	4,767	504,767		4,767
Rahjeet Mal Johri Mal	2,600,000			2,600,000	0
Rajesh Bohra	2,000,000		1,000,000	1,000,000	0
Rajiv Kumar Gupta	4,500,000			4,500,000	0
Ranu Gupta	5,400,000			5,400,000	0
Ritu Corp.	500,000	34,357	534,357		34,357
Samir Kumar Agarwal	7,500,000		7,500,000		0
Sangeeta Bohra	2,000,000		1,000,000	1,000,000	0
Sarita Sagar	3,500,000			3,500,000	0
Saurabh Gupta Huf		4,000,000	4,000,000		0
Smc Power Generation Ltd.	15,000,000		15,000,000		0
Sunbal Kumari	5,500,000			5,500,000	0
Surya Meditech P Ltd *		1,610,000	1,610,000		0
Sushma Agarwal	1,000,000			1,000,000	0

Svc Associates	11,372,178	921,146		12,293,324	1,023,496
Tanu Medico Ltd.		945,000	945,000		0
Tej Prakash Jai	1,000,000			1,000,000	0
Unicare Fire Safety Ltd	5,000,000	363,083	2,500,000	2,863,083	403,425
Unnati Fortune Holding Ld	3,000,000			3,000,000	0
Venus Insec (P) Limited *		1,050,000	1,050,000		0
Verma Economic Consultant	2,000,000		2,000,000		0
Vian Reality And Consultant Pvt Ltd	5,000,000			5,000,000	0
Vipul Kumar Maheshwari		2,500,000		2,500,000	0
V K Rajoria	600,000			600,000	0
Worldwide Horti	500,000		500,000		0
Interest Receivable					3,234,000
Total	153,514,591	142,691,958	146,984,526	149,222,023	7,867,107
Add - Difference Due To Interest Receivable And Sundry Debtors Balances	1,421,616			330,000	
Less - Fast Project Pvt Limited Not Considered Under Loans And Advances And Shown In Fixed Assets Ledger				-4,019,475	
Balance As Per Balance Sheet	154,936,207	142,691,958	146,984,526	145,532,548	7,867,107

* In case above 9 parties, funds were received prior to payment, hence, there was no need to charge interest. For rest of the parties, no interest has been charged by SSL for funds so provided to them.

SSL has provided us with partywise breakup of Interest receivable of Rs 32,34,000 booked during FY 2015-16. However, party wise bifurcation of same have not been made in books of accounts.

S.no	Party Name	Interest Receivable
1	Alok Kastia	2,10,000
2	Harvinder Singh Bhasin	50,000
3	Praveen Grover	5,25,000
4	Rahjeet Mahal Johri Mal	2,73,000
5	Rajesh Bohra	2,10,000
6	Sangeeta Bohra	2,10,000
7	Sarita Sagar	3,67,500

8	Tej Prakash Jai	1,05,000
9	V K Rajoria	63,000
10	Shridhar Financial Services limited	6,70,000
11	Aglow Financial Services Pvt Limited	5,50,000
	Total	32,34,000

Loans & Advances (Asset) - 2016-17					
Particulars	Opening	Debit	Credit	Closing	Interest Charged
Aglow Financial Services Pvt Ltd.	24,103,359	15,350,000	39,153,359	300,000	0
Chrismatic Developers Private Limited*		500,000	500,000		0
Midas Global Securities Ltd. *		7,000,000	7,000,000		0
Sarnimal Investment Limited		10,652,500	10,652,500		725,000
Shri Dhar Financial Services Ltd	7,500,000		7,800,000	-300,000	0
Sudhir K Agarwal		360,000	360,000		0
Abhinav Leasing Finance Limited		3,500,000	3,500,000		0
Abhishek Jain	1,500,000			1,500,000	0
Alok Kastia	2,000,000			2,000,000	0
Angel Ultra Home Private Limited	388,800			388,800	0
Anupriya Fincap Private Ltd	1,000,000	90,000		1,090,000	100,000
Bhupinder Kumar Bansal	3,629,537	326,658		3,956,195	326,658
Century Business		21,300,000	21,300,000		0
Century Commodity	1,500,000	3,500,000	5,000,000		0
Chand Prakash	5,500,000			5,500,000	0
Cosmic Associated Private Limited	1,000,000			1,000,000	0
Deepak Gupta	2,000,000			2,000,000	0
Divine Spirit		2,000,000	2,000,000		0
Eg Communication Private Limited	8,753,200	510,411	9,263,611		567,123
Excellent Fincap Pvt Ltd	2,360,920		2,360,920		0
Fastech Project Pvt	4,019,475	324,976		4,344,451	360,976
Fortune Infraseight	6,000,000			6,000,000	0
Harvinder Singh Bhasin	493,118			493,118	0
Hemlata Gupta	1,000,000			1,000,000	0
Jolly Plastic Industries Limited *		1,000,000	1,000,000		0

Kayess Enterprises	4,500,000			4,500,000	0
Maxflow Pumps		2,750,000	2,750,000		0
Midas Infra-Trade Limited		1,900,000	1,900,000		0
Nachiketa Finvest Pvt	2,029,736	182,676	18,268	2,194,144	182,676
Neelkanth Steel Alloys	6,319,537	511,882		6,831,419	568,758
Norvik Design Pvt Ltd	5,541,479	450,000		5,991,479	500,000
Pallavi Mittal		2,500,000	2,500,000		0
Parmod Kumar Singhla(Ind)	3,026,455	272,380		3,298,835	272,380
Pradeep Dayal	2,300,000			2,300,000	0
Praveen Grover	1,000,000			1,000,000	0
Rahjeet Mal Johri Mal	2,600,000			2,600,000	0
Rajesh Bohra	1,000,000			1,000,000	0
Rajiv Kumar Gupta	4,500,000			4,500,000	0
Ranu Gupta	5,400,000			5,400,000	0
Sadit Infotech Private Limited *			12,500,000	- 12,500,000	0
Sahil Verma		1,585,000		1,585,000	0
Salora Capital Limited		1,500,000	1,500,000		0
Sangeeta Bohra	1,000,000			1,000,000	0
Sarita Sagar	3,500,000			3,500,000	0
Shubham Agarwal		1,585,000		1,585,000	0
Sunbal Kumari	5,500,000			5,500,000	0
Surya Meditech P Ltd		1,100,000	1,100,000		0
Sushma Agarwal	1,000,000			1,000,000	0
Svc Associates	12,293,324	1,106,399		13,399,723	1,106,399
Tej Prakash Jai	1,000,000			1,000,000	0
Tridev Infra Estates Limited		50,000	50,000		0
Unicare Fire Safety Ltd	2,863,083	63,536	2,926,619		70,596
Unnati Fortune Holding Ld	3,000,000			3,000,000	0
Vian Reality And Consultant Pvt Ltd	5,000,000			5,000,000	0
Vipul Kumar Maheshwari	2,500,000			2,500,000	0
V K Rajoria	600,000			600,000	0
Tds					122,943
Total	149,222,023	81,971,418	135,135,277	96,058,164	4,903,509
Add - Difference Due To Interest Receivable And Sundry Debtors Balances	330,000			410,000	
Less - Fast Project Pvt Limited Not Considered Under Loans And Advances And Shown In Fixed Assets Ledger	-4,019,475			-	

Balance as per Balance sheet	145,532,548	81,971,418	135,135,277	96,468,164	4,903,509
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* In case above 4 parties, funds were received prior to payment to them, hence, there was no need to charge interest.

For rest of the parties, no interest has been charged by SSL for funds so provided to them.

Loans & Advances (Asset) – 9M 2017-18					
Particulars	Opening	Debit	Credit	Closing	Interest Charged
ABHINAV LEASING FINANCE LIMITED	0	3,500,000	3,500,000	0	0
Abhishek Jain	1,500,000	0	0	1,500,000	0
Ace Infracity Developers Private Limited	0	21,000,000	21,000,000	0	0
Aglow Financial Services Pvt Ltd.	300,000	22,800,000	22,400,000	700,000	0
ALOK KASTIA	2,000,000	0	0	2,000,000	0
Angel Ultra Home Private Limited	388,800	0	388,800	0	0
ANUPRIYA FINCAP PRIVATE LTD	1,090,000	0	0	1,090,000	0
Bhupinder Kumar Bansal	3,956,195	0	0	3,956,195	0
CHAND PRAKASH	5,500,000	0	0	5,500,000	0
Chrish Matic Devlopers Private Ltd	0	1,600,000	1,600,000	0	0
Cosmic Associated Private Limited	1,000,000	0	1,000,000	0	0
Deepak Gupta	2,000,000	0	0	2,000,000	0
Fastech Project Pvt	4,344,451	0	161,556	4,182,895	0
FORTUNE INFRAEIGHT	6,000,000	0	0	6,000,000	0
Harvinder Singh Bhasin	493,118	0	493,118	0	0
Hemlata Gupta	1,000,000	0	0	1,000,000	0
Kayess Enterprises	4,500,000	0	4,500,000	0	0
MIDAS GLOBAL SECURITIES LTD. *	0	30,700,000	30,700,000	0	0
M.S.ASSOCIATES	200,000	0	200,000	0	0
Nachiketa Finvest Pvt	2,194,144	0	2,194,144	0	0
Naveen Kumar Agarwal	0	2,000,000	2,000,000	0	0
Neelkanth Steel Alloys	6,831,419	0	0	6,831,419	0
Norvik Design Pvt Ltd	5,991,479	1,436,055	7,427,534	0	550,000

Parmod Kumar Singhla(Ind)	3,298,835	0	0	3,298,835	0
PRADEEP DAYAL	2,300,000	0	0	2,300,000	0
Prasidh Fincap Pvt Ltd	0	1,392,500	1,392,500	0	0
Praveen Grover	1,000,000	0	0	1,000,000	0
Rahjeet Mal Johri Mal	2,600,000	0	0	2,600,000	0
Rajesh Bohra	1,000,000	0	0	1,000,000	0
RAJIV KUMAR GUPTA	4,500,000	0	0	4,500,000	0
Ranu Gupta	5,400,000	0	0	5,400,000	0
Reurja Solutions P.Ltd.	0	72,000	72,000	0	0
Sadit Infotech Private Limited	- 12,500,000	12,600,000	100,000	0	0
Saga Sales Corporation	0	7,000,000	0	7,000,000	0
SAHIL VERMA	1,585,000	0	0	1,585,000	0
Salora Capital Limited	0	33,300,000	33,300,000	0	0
Sangeeta Bohra	1,000,000	0	0	1,000,000	0
Sarita Sagar	3,500,000	0	1,500,000	2,000,000	0
Shri Dhar Financial Services Ltd	-300,000	12,550,000	2,050,000	10,200,000	0
SHUBHAM AGARWAL	1,585,000	0	0	1,585,000	0
SUDHIR K AGARWAL	0	82,800	82,800	0	0
SUNBAL KUMARI	5,500,000	0	0	5,500,000	0
Sushma Agarwal	1,000,000	0	0	1,000,000	0
Svam International	10,000	0	10,000	0	0
SVC Associates	13,399,723	0	925,000	12,474,723	0
Tajpal Singh S/o Laxman Singh	200,000	0	0	200,000	0
Tarun Enterprises P.Ltd.	0	5,000,000	0	5,000,000	0
Tej Prakash Jai	1,000,000	0	0	1,000,000	0
Unique Decore	0	1,000,000	0	1,000,000	0
UNNATI FORTUNE HOLDING LD	3,000,000	0	0	3,000,000	0
VIAN REALITY AND CONSULTANT PVT LTD	5,000,000	0	0	5,000,000	0
Vipul Kumar Maheshwari	2,500,000	0	0	2,500,000	0
V K RAJORIA	600,000	0	0	600,000	0
Waira Printers and	0	30,000	30,000	0	0
Interest Receivable					2,758,000
Total	96,468,164	156,063,355	137,027,452	115,504,067	3,308,000

Also, SSL has provided us the agreements entered into with Aglow Financial Services Pvt Ltd (AFSPL), Nachiketa Finvest Pvt. Ltd (NFPL) and Sarnimal Investment Limited (SIL). The agreements so submitted are not on stamp paper and are on plain pages. The authenticity of same cannot be verified by us. No confirmation letters have been received from these parties.

Copy of agreements with above 3 parties is attached herewith at **Annexure N**.

Confirmation letters sent to most of the parties have not been replied with. Confirmation letters were sent to 28 parties, however, only 2 parties replied back. Letters sent have not been returned back but no reply has been received from the parties.

As can be seen, no interest has been charged by SSL in most of the parties above during FY 2015-16, 2016-17 and 9M 2017-18.”

17.3. The Noticees have submitted as follows:

“.....from time to time, Company has given routine business advances to various parties aggregating to Rs. 9.65 Crores, outstanding as on March 31, 2017.....Out of the aforesaid sum, a sum of Rs. 4,11,06,246/- are interest bearing.....Out of the five parties some of them have deducted TDS since the interest paid was in excess of the limit prescribed under the Income Tax Act and payment of interest clearly visible on the website of the Income Tax Dept. – impliedly payment of interest also confirms and acknowledges the liability by party for the principal sum.....The amount (Rs.5,53,61,918/-) was paid to various parties for executing various business assignments and there were some differences about the work executed by them and some of which have already been resolved and out of a sum of Rs. 5,53,61,918/-, a sum of Rs. 3,93,61,918/-, has been received back by the Company and the balance sum of Rs.1,60,00,000/- remains to be received as on December 25, 2020.In all likelihood, the amount would be received/ adjusted against the work to be done.”

17.4. From the submissions of the Noticees, it is deciphered that SSL claims to have given Rs.5,53,61,918/- as advance to parties in relation to business of the Company. However, I note that SSL has failed to provide any supporting document like copy of MoU, Contract, Purchase order, etc. to substantiate that these sums were transferred for the purpose for which it is so claimed by SSL. I also note that the Noticees have submitted that out of Rs. Rs.5,53,61,918/-, a sum of Rs. 3,93,61,918/- has already been repaid by various parties, however, no proof has been furnished for this claim as well. In the absence of any credible evidence to substantiate the claims, I find that the Loans and Advances to the extent of Rs. Rs.5,53,61,918/- as being shown in the Balance Sheet of SSL for 2015-16, 2016-17 and 2017-18 is overstated. By the aforesaid overstatement in the financial statement of the Company, SSL has failed to comply with the mandate contained in para 15 of IndAS 1 and para 16 of AS 1 and thereby

violated provisions of Regulation 33(1)(c) and Regulation 48 of LODR Regulations.

B. Violations of PFUTP Regulations, 2003:

18. I note that the scope of work, as was assigned to the forensic auditor by BSE, as stated in the Forensic Audit Report, was as follows:

“The scope identified vide As per aforesaid appointment letter and email dated December 13, 2017 of BSE Ltd. is as under:

1. Possible misrepresentation including its financials and / or businesses and / or violation of SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015 (hereinafter referred to as “LODR Regulations”) and/or
2. Possible misusing of Books of Account/funds of the Company including facilitation of accommodation entries and/ or entering into transaction to the detriment of minority shareholders and controlling shareholders and key management person (KMP)

For the aforesaid reasons, the audit inter alia should cover the following:

- a. Suspicious transactions/items as provided in the SEBI / Exchange Orders passed on the Company
- b. To examine the Books of Accounts and backup records of the company for the period of two years including the year of transactions referred in SEBI / Exchange Order to:
 - I. Cash flow analysis to trace source of funds and end use of funds on sample basis (as per Annual Report for last 2 years)
 - II. Assess genuineness of the debtors/ receivables and creditors / payables,
 - III. Reconciliation of debtors / creditors as stated by the Company vis-à-vis the actual position and the prospects of recovery (focus on top debtors)
 - IV. Analysis of Related party transactions
 - V. High value bank transactions to ascertain their relevance to the business of the company and to identify the potential round-tripping of funds or accommodation transactions
 - VI. Assess genuineness of expenditure (capex as well as other goods and services) and review of top vendors / suppliers / customers
 - VII. Investments made by the company in subsidiary companies along with the relevant fund flows, if any
 - VIII. Assess genuineness of investments both listed and unlisted with appropriateness of valuation and flow of funds
 - IX. Assessment of utilization of funds lying as share premium, if any, in terms of provisions of Companies Act
 - X. Comment on the shareholding pattern
 - XI. Wherever applicable, the relevant funds flow including analysis of relevant bank statements (also source and utilization of funds).
- c. Verification / discussions:
 - I. Independent and /or physical verification of the underlying transactions
 - II. Background / reputation checks based on public domain information related to promoters, nature/ line of business, genuineness of business activities of the company
 - III. Discussions with key stakeholders like Promoters/ Senior Management Team / Departmental heads, vendors, customers, company auditors, entities/persons involved in day to day affairs of the company, etc.

- IV. Business history, directorship searches and litigations
- V. Assessment of size and scope of business
- VI. Site visit as may be applicable for verifying existence of the company functional/ registered office, assets, place of execution of services, etc. In case of doubt, site visit to be carried out at plants / factories.”

19. I note that conclusion of the forensic audit, as mentioned in the FAR, is as under:

- “
- a) “SSL is at default in advancing more than 50% of total asset base in form of loans and advances without taking approval from RBI – As stated in Point No 8 above, the company was not allowed to undertake such activities without approval from Reserve Bank of India as the total financial asset and financial income is more than 50% of their respective base.
 - b) Payments and receipts have been made in cash by SSL, which is in violation of provisions of Income Tax Act, 1961. – As stated in Point No 4, the company has undertaken many transactions in cash above the limit specified in Income Tax Act, 1961 and violated the provisions of the act.
 - c) Interest income to the tune of Rs 28,35,400 has been received in cash which is prohibited as per the provisions of Income Tax Act, 1961. - As stated in Point No 1, the company has received interest income in cash, which is in violation of provisions of Income Tax Act, 1961.
 - d) SSL is at default for non deduction of TDS on payments made to IITL Nimbus amounting to Rs 8.22 crore for purchase of flats - As stated in Point No 9, the company made payments to IITL Nimbus for purchase of flats, but was in violation of provisions of Income Tax Act, 1961 for non deduction of TDS on such payments.
 - e) Proper disclosures have not been made in financial statements of company in accordance with applicable accounting standard of Related Party Disclosure - As stated in Point No 3, the company has not made complete disclosure of related entities as required by the accounting standards.
 - f) Inventory has not been valued as per the provisions of Accounting Standards – As stated in Point No 7, the company has sold the goods at a huge loss, which points towards the fact that proper valuation as required under Accounting standard has not been done by the company.
 - g) Funds have been rotated through various parties as stated above, although no sales / purchase transactions have been undertaken by the company related to main business of the SSL, which is Software and IT related products - As stated in Point No 9, the company has made and received payments to various parties, however, no business transactions have been undertaken with them. Only rotation of money has taken place without any justification for the same.
 - h) Out of total loans and advances of Rs 9.65 crore, Rs 5.24 crore has been outstanding since 01.04.2015 and no interest / transactions have been undertaken with such parties. Confirmation letters sent to many of parties have not been replied back by them - As stated in Point No 5, the company has given loans and advances to various parties which have been outstanding for long. Also, no interest has been taken from many of the parties.

On the basis of above, it appears that SSL has along with the main business of Software and IT related products as specified in MOA and AOA of the Company, it has been carrying out business of providing loans and advances to various entities and carrying on the business of an NBFC, which it was not allowed to undertake without approval of RBI. Also, funds have also been invested in purchase of flats as stated above which is not the main business of the

company. Also, SSL is in default of many of the provisions of Income Tax Act by making and receiving payments in cash and non-deduction of TDS on payments made for purchase of flats. The company is also in violation of Accounting standards and SEBI (LODR) regulations as have been specified above in the report.

20. As can be noted from the above terms of reference of the auditor, scope of audit was to examine possible violations of LODR Regulations and not violations of PFUTP Regulations, 2003 and accordingly, the findings of the FAR are confined only to misrepresentation in the books of accounts of SSL and consequential and other violations of LODR Regulations. It is observed that the Investigating Authority, after examining the FAR, incorporated the findings of FAR as part of investigation report, and consequently, the same was reproduced in the SCN. However, the SCN additionally states, “.....5 .It was observed during investigation that the company (Noticee no. 1) had failed to present true and fair financial statements and had executed transactions which are non-genuine in nature tantamounting to misrepresentation of the accounts/ financials statement and misuse of account/ funds of the company. It was further observed that SSL had misused funds/ misrepresented books of accounts which are detrimental to the interests of genuine investors”. Consequently, the SCN, *inter alia*, additionally, includes allegation of violation of provisions of Section 12A(a), (b) & (c) of the SEBI Act, 1992 and Regulations 3(b), (c) & (d), 4(1) and 4(2)(f) & (r) of PFUTP Regulations, 2003. I observe that while including the above violations in the findings of the stated SEBI investigation and consequently, in the SCN, there is no additional facts or findings provided, which is not in the FAR. It is observed that Noticee no. 1 to 6 have been charged with the violation of Section 12A(a), (b) & (c) of the SEBI Act, 1992 and Regulations 3(b), (c) & (d) of PFUTP Regulations, 2003 which can be in relation to dealing in securities. However, no details of trading viz: volume of shares traded, price impact, % increase or decrease in price, etc. have been provided. Nor is there any analysis as to how each of the finding of FAR has impacted the persons dealing in securities.
21. I note that Section 12A(a), (b), (c) of the SEBI Act, 1992 deals with fraud related to securities market and the provisions of Regulations 3(b), (c) & (d), 4(1) and 4(2)(f) & (r) of PFUTP Regulations, 2003 are also related to securities market

fraud/manipulation/ unfair trade practices. Section 12A (a), (b) & (c) of the SEBI Act, 1992 may be invoked in cases where there exists any manipulative or deceptive device or contrivance, any device, scheme or artifice to defraud or any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, purchase or sale of any securities. In the SCN, there are no trading or order data or details of any purchase, sale or price impact analysis that would impact the investors.

22. It is further observed that Regulation 4(1) of PFUTP Regulations, 2003, at the relevant time, dealt with fraudulent and unfair trade practices relating to securities while Regulation 4(2) is nothing but an enumeration of specific instances of fraudulent and unfair trade practices relating to securities. The common thread through these provisions is that the ingredients of fraud/ manipulation/ unfair trade practices must be satisfied. In this regard, I note that the Explanation inserted to Regulation 4(1) of PFUTP Regulations, 2003 with effect from October 19, 2020 clarifies as follows:

“Explanation.—For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.”

Thus, as per the aforesaid explanation also any device, scheme or artifice to manipulate the books of accounts or financial statement of a company, in order to be termed as manipulative, fraudulent and an unfair trade practice in the securities market should have directly or indirectly result into manipulation of the price of securities of that company. In the present case, there is no allegation of manipulation of price shares of SSL. I note that FAR does not allege any diversion/ mis-utilisation of funds which as per the aforesaid explanation can be termed as manipulative, fraudulent and an unfair trade practice in the securities market without there being any direct or indirect manipulation of the price of the securities of the Company. I note

that there is no bar on taking action by SEBI on the basis of a FAR, invoking provisions of PFUTP Regulations, 2003 and other similar provision of SEBI Act, 1992 related to fraud, if, after examination of the matter, including the FAR, SEBI finds that there was impact on the securities market or the price of the scrip, which are ingredients to prove violations of PFUTP Regulations, 2003. I further observe that the definition of fraud as given under Regulation 2(1) (c) and as interpreted by the Hon'ble Supreme Court of India in Securities and Exchange Board of India and Ors v. Kanaiyalal Baldevbhai Patel and Ors. (2017) 15 SCC 753, makes it clear that 'inducement' is required to constitute 'fraud' under PFUTP Regulations 2003 and must be made while 'dealing in securities' and must be made for the purpose 'to induce others to deal in securities'. The allegations made in the SCN does not bring out findings or any facts relating to impact on trading in securities or these essential ingredients of 'fraud' such as 'manipulation in securities', 'dealing in securities', 'inducement', etc.

23. Therefore, I find that violations of PFUTP Regulations, 2003, as alleged in the SCN, are very general and vague in nature without making out any specific case containing necessary ingredients required to constitute these violations. In my view, due to the aforesaid reasons, under the facts and circumstances of the present case, I find that the allegations of violation of Section 12A(a), (b & (c) of the SEBI Act, 1992 and provisions of PFUTP Regulations, 2003 is not tenable against Noticee no. 1 to 6. However, SEBI is at liberty to issue fresh SCN to pursue violations of PFUTP Regulations, 2003 by bringing out specific case/ingredients under PFUTP Regulations, 2003.

24. SCN, also alleges that SSL has violated Regulation 4(1)(a),(b),(c),(e) & (g), 4(2)(f)(i)(2), 4(2)(f)(ii)(6) & (7) and 4(2)(f)(iii)(1),(3),(6) & (12) of the LODR Regulations. In this regard, I note that Regulation 4 of LODR Regulations, lays down principles governing disclosures and obligations of the listed entity under the LODR Regulations. Specific clauses of Regulation 4(1), the violation of which has been alleged in the SCN, provide that the listed entity which has listed securities shall make

disclosures and abide by its obligations under these regulations, in accordance with the following principles:

- (a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.
- (b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.
- (c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.
- (d) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.
- (g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.

25. As discussed above, SSL has been found to be in violation of Regulation 30(6), 33(1)(c) and Reg. 48 of the LODR Regulations, therefore, SSL was not in compliance of the principles laid down in the aforesaid clauses of Regulation 4(1) and hence, SSL is in violation of 4(1)(a), (b), (c), (e) and (g) of LODR Regulations.

26. Regarding the violations of Regulations 4(2) (f) (ii) (6) & (7) and 4(2)(f)(iii) (1), (3), (6) & (12) of the LODR Regulations by SSL, as alleged in the SCN, I find that Regulation 4(2)(f) enlists the responsibilities of board of directors of listed entities. Clause (ii) of Regulation 4(2)(f) deals with key functions of the board of directors and Clause (iii) deals with other functions of the board of directors. Any liability arising out of the violation of these principles because of violation of disclosure or other obligation

of the listed entity under the LODR Regulations, is of the board of directors of the listed entity. Therefore, I find that SSL cannot be said to be in violations of Regulation 4(2)(f)(ii) (6) & (7) and 4(2)(f)(iii) (1), (3), (6) & (12) of the LODR Regulations which pertain to obligations of the board of directors.

27. SCN further alleges that **SSL** has violated Section 21 of SCRA, 1956. In this regard, I note that Section 21 of SCRA, 1956 provides that where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange. I note that securities of SSL are listed on BSE. The relevant extract of the two of the conditions, as contained in uniform listing agreement, as mandated by SEBI Circular No. CIR/CFD/CMD/6/2015 dated October 13, 2015, is as under:

“.....1. That the Issuer shall comply with the extant provisions of all the applicable statutory enactments governing the issuance, listing and continued listing of securities.
2. That without prejudice to the above clause, the Issuer hereby covenants and agrees that it shall comply with the following:—
i. the SEBI (Listing Obligations And Disclosure Requirements) Regulations, 2015 and other applicable regulations /guidelines/ circulars as may be issued by SEBI from time to time.
ii. the relevant byelaws / regulations / circulars / notices / guidelines as may be issued by the Exchange from time to time.
iii. such other directions, requirements and conditions as may be imposed by SEBI/Exchange from time to time.....”

28. Above two are the conditions of listing agreement which every issuer company, whose securities are listed on a recognised stock exchange, is required to comply. As can be seen from the above-quoted conditions, one of the condition is compliance with LODR Regulations. In the present case, SSL is a company whose securities are listed on BSE Ltd. which is a recognised stock exchange. SSL being a company having its securities listed on BSE was also required to sign the said uniform listing agreement with BSE and in view of the provisions of Section 21 of SCRA, 1956, SSL was bound to comply with the conditions of the uniform listing agreement, as extracted above. SSL has been found to be in violation of the provisions of the LODR Regulations, as discussed above, therefore, SSL is in violation of the

condition of the listing agreement and hence, is also in the violation of Section 21 of SCRA, 1956.

29. SCN further alleges that by virtue of the provision of Section 27 of the SEBI Act, 1992, Noticee no. 2 to 6, who were the directors/CFO of SSL at the relevant time, are liable for the violations alleged to be committed by SSL viz: Section 12A (a), (b) and (c) of the SEBI Act, 1992, Regulations 3(b), (c) & (d) and 4(1) and 4(2) (f) & (r) of the PFUTP Regulations, 2003, 4(1) (a), (b), (c), (e) & (g), Regulations 4(2)(f)(ii)(6) & (7), 4(2)(f)(iii)(1), (3), (6) & (12), Regulation 17(8) read with Part B of Schedule II, Clause B(2) of Schedule III read with Regulation 30, Regulation 33(2)(a) and Regulation 48 of LODR Regulations and Section 21 of SCRA, 1956. Thus, SCN imputes all the allegations which are levelled against SSL, automatically, on the directors /CFO of SSL. As already discussed in the forgoing paras, as regards the violations of Section 12A (a), (b) and (c) of the SEBI Act, 1992, Regulations 3(b), (c) & (d) and 4(1) and 4(2) (f) & (r) of the PFUTP Regulations, 2003, as alleged in the SCN, liberty has been given to SEBI to further investigate and proceed with the matter and the role of directors *qua* these violations may also be examined by SEBI. In the previous paras, it has been found that SSL was in violation Regulations 34(3), 33(1)(c) and Regulation 48 of the LODR Regulations and Section 21 of SCRA, 1956. Therefore, in the context of Noticee no. 2 to 6, it has to be determined whether these Noticees are liable for those violations for which SSL has been found to be in violation, either by virtue of Section 27 of the SEBI Act, 1992 or otherwise. Regarding applicability of the Section 27 of the SEBI Act, 1992, I note that during the relevant period (i.e. Financial Years 2015-16 to 2017-18), Section 27 provided for the vicarious liability of certain persons who were in charge of and was responsible to the company where an offence is committed by a company. Section 27 at that time did not provide for the vicarious liability in respect of the civil liability of the company arising out of the violations committed by such company. However, after amendments made to Section 27 with effect from March 08, 2019, by the Finance Act, 2018, vicarious liability for civil liability of the company has been introduced by replacing the word “offence” with the word “contravention” in Section

27 of the SEBI Act, 1992. Therefore, Section 27 of the SEBI Act, 1992, at the relevant time, did not create any vicarious liability of these Noticees for the violations committed by SSL, with reference to LODR Regulations for which proceedings under Section 11, 11A, 11B and monetary penalty has been proposed, which are civil in nature. Now, the question remains whether these Noticees can be held independently liable for the violations alleged against them without any reference to vicarious liability under Section 27 of the SEBI Act, 1992. I note that Regulations 4(2)(f)(ii)(6) & (7), 4(2)(f)(iii) (1), (3), (6) & (12) and 33(2)(a) of LODR Regulations, the violations of which have been alleged against Noticee no. 2 to 6, create specific and direct liability of the board of directors. As discussed above, Clause (ii) deals with key functions of the board of directors and Clause (iii) deals with other functions of the board of directors. Thus, board of directors is responsible for complying with these principles. Any liability arising out of the violation of these principles because of violation of disclosure or other obligation of the listed entity under the LODR Regulations or otherwise, is fastened on the board of directors of the listed entity. In the previous paras, it has been found that SSL was in violation of Regulations 30(6), 33(1)c) and 48 of the LODR Regulations and Section 21 of SCRA, 1956. In view of these violations found to have been committed by SSL, the principles contained in Regulation 4(2)(f)(ii)(6) & (7) and 4(2)(f)(iii)(1),(3), (6) & (12) are also violated for which Noticee no. 2, 3, 4, 5 and 6, being part of the board of directors of SSL are liable. Further, Regulation 33(2)(a) creates primary liability of board of directors and CEO/CFO, for certification and approval of financial results. Therefore, Noticee no. 2 to 6 are liable for violation of Regulation 33(2)(a) of LODR Regulations, also. Additionally, Noticee no. 2, 3, 4, 5 and 6, having issued untrue certificates with respect to the financial statements of SSL, have also violated Regulation 17(8) read Part B of Schedule II of LODR Regulations.

30. I note that Noticee no. 2 to 6 were the directors of the Company, during the period of violations alleged in the SCN, i.e. April 01, 2015 to December 31, 2017. I note that Noticee no. 2 was the Non-executive independent director of SSL for the FY 2015-16, 2016-17 and 2017-18. I also note that Noticee no. 2 was also the Chief Financial

Officer of SSL for FY 2016-17 and 2017-18. I note that Noticee no. 3 was the non-executive director of SSL for FY 2015-16, 2016-17 and 2017-18. I note that Noticee no. 4 was the non-executive independent director and Chairman of SSL for FY 2015-16, 2016-17 and non-executive independent director of SSL for FY 2017-18. I note that Noticee no. 5 was the Managing Director of SSL for 2015-16, 2016-17 and 2017-18 (upto August 1, 2017). I also note that Noticee no. 6 was the non-executive director of SSL for the FY 2015-16, 2016-17 and 2017-18 (Managing Director from January 15, 2018 onwards). I note that the Certificate for compliance in accordance with Regulation 17(8) r/w. Part B of Schedule II of LODR Regulations was signed by Noticee no. 3 and 5 for FY 2015-16, Noticee no. 2 and 3 for FY 2016-17 and Noticee no. 4 and 6 for FY 2017-18. I note that Regulation 4(2)(f) refers to board of directors of company, it does not make any distinction between independent director or other directors. I further note that during the financial years 2015-16 to 2017-18, the details of audit committee members of SSL, number of audit committee meetings held and the meeting attended by the concerned directors, are as under:

Financial Year FY 2015-16

Name of the Director	Designation	Number of Meetings held during the year	Number of Meetings attended during the year
Mr. Harshwardhan Koshal (Noticee no. 4)	Chairman	4	4
Mr. Rajeev Garg (Noticee no. 5)	Member	4	4
Mr. Virender Gupta (Noticee no. 2)	Member	4	4

Financial Year FY 2016-17

Name of the Members	Designation Category	Number of Meetings	Number of Meetings attended during the year
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		held during the year	
Mr. Harshwardhan Koshal (Noticee no. 4)	Chairman	4	4
Mr. Rajeev Garg (Noticee no. 5)	Member	4	4
Mr. Virender Gupta (Noticee no. 2)	Member	4	4

Financial Year FY 2017-18

Name of the Members	Designation	Number of Meetings held during the year	Number of Meetings attended during the year
Mr. Harshwardhan Koshal (Noticee no. 4)	Chairman	4	4
Mr. Rajeev Garg (Noticee no. 5)	Member	4	1
Mr. Virender Gupta (Noticee no. 2)	Member	4	4
Mr. Sudhir Kumar Agarwal*	Member	4	3

**Member from August 1, 2017 after Noticee 5 resigned.*

31. Regarding the liability of the independent directors for the acts of commission and omission of a company reference may be made to Regulation 25(5) of the LODR Regulations which provides that an independent director shall be held liable, only in respect of such acts of omission or commission by the listed entity which had occurred with his knowledge, attributable through processes of board of directors, and with his consent or connivance or where he had not acted diligently with respect to the provisions contained in these regulations. As discussed in previous paragraphs, the Company has been found to be in violation of Regulations 33(1)(c), 30(6) and Regulation 48 of LODR Regulations and Section 21 of SCRA, 1956. In respect of the aforesaid violations by the Company, I note that Noticee no. 2 to 6 have already been found to have violated Regulation 4(2)(f)(ii)(6)

& (7) and 4(2)(f)(iii)(1), (3), (6) & (12) of LODR Regulations. I note that Noticee nos. 2 and 4, being the independent Directors of SSL and being part of the audit committee of SSL reviewed the financial statements of SSL, and approved the financials of SSL as part of the board of directors of SSL. Failure to raise any concern regarding the financials of SSL, as member of the audit committee as well as the board of directors of SSL, shows that these directors did not act diligently with respect to the provisions contained in the LODR Regulations.

32. In view of the aforesaid violations committed by SSL and its directors/CFO, I find that directions under Sections 11(1), 11(4), 11A and 11B (1) of the SEBI Act, 1992 and Section 12A (1) of SCRA, 1956, needs to be issued.

33. SCN in the matter, also calls upon the Noticee no. 1 to 6 to explain as to why appropriate penalty be not imposed upon it under Sections 15HA and 15HB of SEBI Act, 1992 and Section 23E and 23H of SCRA, 1956, for the violations alleged in the SCN. Extract of these penalty provisions, as existing at the relevant time is as under:

Extract of Section 15HA and 15HB of SEBI Act, 1992:

Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher

Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

Extract of Sections 23E and 23H of SCRA, 1956:

Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees.

Penalty for contravention where no separate penalty has been provided.

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

34. From the analysis of the aforesaid penalty provisions, I find that penalty under Section 15HB of the SEBI Act, 1992, is attracted and not the penalties under Section 15HA of SEBI Act, 1992 and Sections 23E of SCRA, 1956. I note that Section 15HA of the SEBI Act, 1992 provides for imposition of penalty in case of fraudulent and unfair trade practices committed by any person. As in the present case, it has been found that violations of Section 12A(a), (b) & (c) of SEBI Act, 1992 and provisions of PFUTP Regulations, 2003 have not been made out, therefore, penalty under Section 15HA of SEBI Act, 1992 is not attracted against the Noticees. I also note that Section 23E of SCRA, 1956 provides for penalty for failure to comply with, *inter alia*, listing conditions by “a company or any person managing collective investment scheme or mutual fund”. In the present case, it has been found that SSL is in violation of listing conditions, however, SSL is not managing any collective investment scheme or mutual fund, so as to attract penalty under Section 23E of SCRA, 1956. I find that penalty under Section 23H of SCRA, 1956 is also not attracted in the case of Noticee no. 2 to 6, as Section 23H provides for penalty for failure to comply with any provision of SCRA, 1956, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by SEBI for which no separate penalty has been provided. As the Noticee no. 2 to 6, being directors/CFO of SSL, have been found to be in violation of LODR Regulations, which is a regulation framed under the SEBI Act, 1992 and SCRA, 1956 by SEBI and not the “regulation” of stock exchange, as contemplated under Section 23H, and there

is no violation of direction of SEBI directions alleged against these Noticees, therefore, Section 23H is not attracted in the case of Noticee no. 2 to 6. SSL has been found to have violated provision of Section 21 of SCRA Act, 1956, therefore, provisions of Section 23H is attracted qua Noticee no. 1.

35. I find that for the violation of LODR Regulations, SSL is liable for imposition of penalty under Section 15HB of the SEBI Act, 1992 which provides for penalty for failure to comply with any provision of SEBI Act, 1992, the rules or the regulations made or directions issued by SEBI for which no separate penalty has been provided. Since, LODR Regulations are framed under SEBI Act, 1992 also and penalty provisions under SEBI Act, 1992 (i.e. 15A to 15HA) does not separately provide for any penalty for violation of LODR Regulations, therefore, for violation of LODR Regulations by SSL, as found in this order, penalty under Section 15HB is attracted against SSL. Similarly, Noticee no. 2 to 6 who are the directors/CFO of SSL are liable for imposition of penalty, for the violations of LODR Regulations which are found to be committed by them, under Section 15HB of the SEBI Act, 1992.

36. For imposition of penalty under the provisions of the SEBI Act, 1992, Section 15J of the SEBI Act, 1992 provides as follows:

“Factors to be taken into account while adjudging quantum of penalty.15J.

While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.”

37. I find that material available on record does not mention the amount of disproportionate gain or unfair advantage made as a result of the default. I find that the material available on record does not indicate the amount of specific loss caused to investors or group of investors as a result of the default by Noticee no. 1 to 6. However, I note that the violations have occurred over a period of three financial years.

Directions and monetary penalties:

38. In view of the aforesaid findings and having regard to the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 11(1), 11(4), 11(4A), 11A and 11B(1), 11B(2) of SEBI Act, 1992 and Section 12A(1) of SCRA, 1956 read with Section 19 of SEBI Act, 1992 and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, direct as under:

- (i) The Noticee no. 1, 2, 3, 4, 5 and 6, are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of one (1) year, from the date of coming into force of this order;
- (ii) The Noticee no. 1 to 6, are hereby imposed with, the penalties, as specified hereunder:

Noticee No.	Name of Noticees	Provisions under which penalty imposed	Penalty Amount (In Rupees)
Noticee no. 1	Svam Software Ltd.	Section 15HB of SEBI Act, 1992 and Section 23H of SCRA, 1956.	30 Lakh (Thirty Lakh),
Noticee no. 2	Mr. Virender Gupta	Section 15HB of SEBI Act, 1992	5 Lakh (Five Lakh)

Noticee no. 3	Mr. Sudhir Kumar Agarwal	Section 15HB of SEBI Act, 1992	5 Lakh (Five Lakh)
Noticee no. 4	Mr. Harshwardhan Koshal	Section 15HB of SEBI Act, 1992	4 Lakh (Four Lakh)
Noticee no. 5	Mr. Rajeev Garg	Section 15HB of SEBI Act, 1992	15 Lakh (Fifteen Lakh)
Noticee no. 6	Mrs. Manisha Agarwal	Section 15HB of SEBI Act, 1992	4 Lakh (Four Lakh)

(iii) The Noticees shall remit / pay the said amount of penalties within 45 days from the date of receipt of this order. The Noticees shall remit / pay the said amount of penalties through either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of Chairman/ Members -> PAY NOW. In case of any difficulties in online payment of penalties, the said Noticees may contact the support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to "The Division Chief, CFID-2, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in in the format as given in table below:

Case Name	
Name of Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount/ legal charges along with order details)	

39. The obligation of the Noticees, restrained/ prohibited by this Order, in respect of settlement of securities, if any, purchased or sold in the cash segment of the **recognized** stock exchange(s), as existing on the date of this Order, are allowed to be discharged irrespective of the restraint/prohibition imposed by this Order. Further, all open positions, if any, of the Noticees, restrained/prohibited in the present Order, in the F & O segment of the recognised stock exchange(s), are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.
40. This Order comes into force with immediate effect.
41. This Order shall be served on all the Noticees, Recognized Stock Exchanges, Depositories and Registrar and Share Transfer Agents of mutual funds to ensure necessary compliance.
42. A copy of this Order shall also be forwarded to the Ministry of Corporate Affairs, Reserve Bank of India, along with a copy of the Forensic Audit Report for their information.

Date: October 07, 2021
Place: Mumbai

Sd/-
ANANTA BARUA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA