

WTM/AB/IVD/ID19/14495/2021-22

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.	K Lifestyle & Industries Limited	AABCS1364B
2.	Narayan Ghumatkar	AKKPG0652L
3.	Jaiprakash Mishra	ALZPM1786B
4.	P. S. Pritam	APZPP0353H
5.	Pravin Kumar	ASIPP2546G
6.	Manasi Indrajit Wadkar	AAQPW9443B
7.	Rajendra Pathak	AQBPP0893P
8.	M/s Rishi Sekri and Associates Chartered Accountants	BLXPS6226F
9.	M/s A F Khasgiwala Chartered Accountants	AABPK7712J

In the matter of K-Lifestyle & Industries Limited

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

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1. The present proceeding emanates from three show cause notices, all dated August 18, 2020 (hereinafter collectively referred to as “**the SCNs**”), issued to the

Noticees by the Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"), details whereof are as given hereunder:

- i. The first show cause notice (hereinafter referred to as "**SCN 1**") was issued to Noticee nos. 1 to 7 asking them to show cause as to why suitable directions not be issued and/or penalty be not imposed, as deemed fit under Sections 11(1), 11(4), 11(4 A), 11A and 11B(1) and 11B(2) read with Sections 15A(a), 15HA and 15HB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and Section 12A(1) and 12A(2) read with Section 23E and Section 23H of Securities Contracts (Regulations) Act, 1956 (hereinafter referred to as "**SCRA, 1956**") against them. The SCN 1 alleged that the Noticee nos. 1 to 7 have failed to present true and fair financial statements of the company K-Lifestyle and Industries Limited (Noticee no.1, hereinafter referred to as "**the company**" or "**K-Lifestyle**"), executed transactions which are non-genuine in nature thereby resulting in misrepresentation of the accounts/ financial statements and misuse of account/ funds of the company during the period April 01, 2015 till December 31, 2017 (hereinafter referred to as the "**investigation period**"). Such acts were further alleged to be fraudulent in nature as they induced the investors to trade in the securities of the company and had the potential to mislead the investors. The SCN 1 also alleged that the directors and the Chief Financial Officer of the company (Noticee nos. 2 to 7) have failed to exercise duty of care by misrepresenting the financial statements/misusing the funds of the company. Based on the same, the SCN 1 alleged that the company (Noticee no.1) has violated Section 12A(a),(b) and (c) and Section 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992 and Regulation 3(b), (c) and (d) and Regulation 4(1) and 4(2) (f) and (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**”), Regulations 4(1)(a), (b), (c), (e), (g), (h), (i) and (j), 4(2) (f)(ii)(6), (7), (8), 4(2)(f)(iii)(3), (6) and (12), 30(3), 33(2)(a) and 48 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as “**LODR Regulations**”) read with Section 21 of SCRA, 1956. The SCN 1 further alleged that the company’s directors, (ii) Mr. Narayan Ghumatkar (noticee no. 2), (iii) Mr. Jaiprakash Mishra (noticee no. 3), (iv) Mr. P. S. Pritam (noticee no.4), (v) Mr. Pravin Kumar Parekh (noticee no. 5), (vi) Ms. Manasi Indrajit Wadkar (noticee no. 6) , and chief financial officer (vii) Mr. Rajendra Pathak (noticee no. 7) have violated Section 12A(a) (b) and (c) and Section 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992 and Regulations 3(b), (c) and (d) and Regulations 4(1) and 4(2) (f) and (r) of the SEBI (PFUTP) Regulations, 2003, Regulations 4(1)(a),(b),(c),(e),(g),(h),(i) and (j), 4(2)(f)(ii) (6), (7), (8), 4(2)(f)(iii)(3),(6) and (12) of SEBI LODR Regulations read with Section 27 of SEBI Act, 1992, Regulation 30(3), Regulations 33(2)(a) and Regulation 48 of SEBI (LODR) Regulations read with Section 21 of SCRA, 1956.

- ii. The second show cause notice (hereinafter referred to as “**SCN 2**”) was issued to Noticee no. 8 asking it to show cause as to why suitable directions be issued as deemed fit under Sections 11, 11B(1) and 11D of the SEBI Act, 1992. The SCN 2 alleged that Noticee no. 8 who was the statutory auditor of the company for the financial years 2017-18, has been negligent in performance of its duties as it has not carried out proper due diligence in its audit report. Further, the SCN 2 alleged that since the company has not complied with AS-9, AS-18, AS-12, AS-13 and such non-compliance have not been pointed out in the audit report of the company, therefore, the books of accounts and financial statements of the company are incorrect, irregular and misleading. The SCN 2 further states that an unqualified audit opinion

stating *that financial statements give the information required by the Companies Act, 2013 in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India*, has been given by the statutory auditor in the audit report of the company and that such certification of financial statements by the statutory auditor has resulted in not only the shareholders but also the public being misled about the financial health of the company. Based on the same, the SCN 2 has alleged that Noticee no. 8 has violated Section 12A (a), (b) and (c) of the SEBI Act, 1992 and Regulation 3(b) (c) and (d) and Regulation 4(1) and 4(2), (a), (e), (f) and (r) of the PFUTP Regulations, 2003.

- iii. The third show cause notice (hereinafter referred to as “**SCN 3**”) was issued to Noticee no. 9 asking it to show cause as to why suitable directions be issued as deemed fit under Sections 11, 11B(1) and 11D of the SEBI Act, 1992. The SCN 3 alleged that Noticee no. 9 who was the statutory auditor of the company for the financial years 2015-16 and 2016-17, has been negligent in performance of its duties as it has not carried out proper due diligence and has not reported these findings in its audit report. Further, the SCN 3 alleged that since the company has not complied with AS-9, AS-18, AS-12, AS-13 and such non-compliance have not been pointed out in the audit report of the company, therefore, the books of accounts and financial statements of the company are incorrect, irregular and misleading. The SCN 3 further states that an unqualified audit opinion stating *that financial statements give the information required by the Companies Act, 2013 in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India*, has been given by the statutory auditor in the audit report of the company and that such certification of financial statements by the statutory auditor has resulted in not only the shareholders but also the public being misled about the

financial health of the company. Based on the same, the SCN 3 has alleged that Noticee no. 9 has violated Section 12A (a), (b) and (c), of the SEBI Act, 1992 and Regulation 3(b) (c) and (d) and Regulation 4(1) and 4(2), (a), (e), (f) and (r) of the PFUTP Regulations, 2003.

2. The brief facts of the case, as mentioned in the SCN are as follows:

2.1. SEBI passed an interim order on November 21, 2017 (hereinafter referred to as “**interim order**”), *inter alia*, directing that the promoters and the directors (Noticee no. 2 to 7) of K-Lifestyle were permitted to only buy the securities of the company and that the 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:

- a) Misrepresentation including of financials and/or business of K-Lifestyle, if any;
- b) Misuse of the funds/books of accounts of K-Lifestyle, if any.

2.2. The company was advised to file its reply/objections within 30 days from the date of the interim order and also indicate whether it desired to avail an opportunity of personal hearing. K-Lifestyle did not file its reply/objections to the interim order of SEBI, within 30 days from the date of the interim order. Accordingly, the preliminary findings of the interim order and ad-interim directions of the interim order stood confirmed.

2.3. As directed in the interim order, a forensic auditor, C. P. Jain & Co., Chartered Accountants, was appointed by BSE vide letter dated December 22, 2017 to conduct forensic audit of K-Lifestyle. On May 31, 2019, the forensic auditor

appointed by BSE submitted a Forensic Audit Report (hereinafter referred to as “**FAR**”) to BSE. Thereafter, the FAR was forwarded by BSE to SEBI on June 3, 2019. The findings of the FAR from the period April 01, 2015 till December 31, 2017 (hereinafter referred to as “**Investigation period**”) were examined by SEBI.

2.4. The investigation by SEBI, *inter alia*, mainly revealed the following, which is discussed in detail in later paragraphs:

- I. Misrepresentation including of financials and misuse of funds/books of accounts:
 - a. Misrepresentation of sales, purchases and expenses of Kausar Textile Private Limited (hereafter referred as KTPL) were recorded in the books of K-Lifestyle leading to violation of Accounting Standard (AS) 9- Revenue Recognition;
 - b. Non-disclosure of related party transactions in annual report leading to violation of AS 18- Related party disclosure;
 - c. Subsidy receivable (but not yet eligible) shown as assets leading to overvaluation of assets by Rs. 20 crores;
 - d. Provision not made for diminution in the value of investment leading to violation of AS 13;
 - e. Non-disclosure of material information to exchange;
 - f. Misutilization of funds by grant of interest free loans and advances.
 - g. Misrepresentation of its books of accounts by understatement of debtors and creditors.
- II. Non furnishing of information by the company in response to forensic auditor and SEBI interim order queries.

2.5. Thus, the SCNs alleged that the company had failed to present true and fair financial statements and had executed transactions which are non-genuine in

nature which tantamount to misrepresentation of the accounts/ financial statements and misuse of account/ funds of the company. It was further observed that K-Lifestyle had misused funds/ misrepresented books of accounts which are detrimental to the interests of genuine investors and are fraudulent in nature. Based on the same, the violations against the Noticees in the three SCNs, as mentioned in para 1 were alleged.

3. SCN 1, SCN 2 and SCN 3 contained the same annexure, which were the following:

Annexure no.	Particulars
Annexure 1	Interim Order
Annexure 2	Forensic Audit Report

4. The SCN was delivered to the Noticees. None of the Noticees except Noticee no. 9 filed any reply to the SCN. Noticee no. 9 submitted its reply vide letter dated September 9, 2020 stating as follows:
- 4.1. The approach to statutory audit and forensic audit are very different. In case of statutory audit, the company prepares its final accounts and presents it to the auditor for checking and verification while in forensic audit there would be specific observations with respect to the company which has to be investigated deeply. Thus the two cannot be equated.
- 4.2. They had carried out their audit as per law and applicable accounting standards and are yet to receive their audit fees for the audit of K- Lifestyle.
- 4.3. Regarding allegation related to non- reporting of related party transactions, Noticee no. 9 has submitted that the transactions mentioned in the SCN 3 does not qualify under the definition of related party transactions and thus was not reported accordingly.

- 4.4. Regarding reporting of subsidy receivable for which K-Lifestyle was actually not eligible, Noticee no. 9 has stated that the management of K-Lifestyle was very sure that the subsidy would be received and thus it was reported.
- 4.5. Regarding diminution in the value of investment, Noticee no. 9 stated that this issue had been raised during audit by them and the management of the company stated that the investments would at least fetch its cost price and thus the same was reported accordingly.
5. Vide separate letters dated October 17, 2020, Noticee nos. 1, 2, 3, 5, 6 and 7 sought inspection of documents. Vide email dated November 2, 2020 the advocate of the aforementioned noticees was informed that all documents which have been relied upon in the matter had been provided to them. An email dated December 16, 2020 was received from one Ms. Usha Venugopal stating that Noticee no. 4, Dr. P.S. Pritam had died on August 30, 2020. Thereafter, a personal hearing was scheduled for the Noticees for February 10, 2021. Vide separate letters dated February 8, 2021, Mindspright Legal, the Authorised Representative (AR) of Noticee nos. 2, 3, 5, 6 and 7 sought an adjournment and again requested for an opportunity for inspection of documents. Noticee no. 1, vide a letter of the same date also reiterated its request for inspection of documents and sought adjournment of hearing. Noticee nos. 8 and 9 neither appeared for the hearing nor sought an adjournment. In view of their request, Noticee nos. 1, 2, 3, 5, 6 and 7 were granted an opportunity for inspection of documents, but the same was not availed by them. Another personal hearing was scheduled for April 30, 2021 for all the Noticees. Noticee nos. 1, 8 and 9 failed to appear for the hearing or seek adjournment thereof. Accordingly, hearing for Noticee no. 1, 8 and 9 was closed. The AR of Noticee nos. 2, 3, 5, 6 and 7 requested that the hearing be adjourned as their clients were not in a position to issue necessary instructions for the hearing in view of the mobility restrictions due to the COVID-19 pandemic. The request was acceded to and Noticee nos. 2, 3, 5, 6 and 7 were granted a last and final

opportunity for personal hearing on June 10, 2021. However, vide email dated May 3, 2021 the AR stated that they had not received any instructions from their clients regarding representing them in the matter, and in view of the same they were constrained from representing them. Accordingly, the details of the hearing were communicated to the email addresses of the Noticee nos. 2, 3, 5, 6 and 7 as obtained from the AR. On the scheduled date, neither did the aforementioned noticees appear for the hearing, nor did they seek any adjournment. Since, sufficient opportunities had been provided to all Noticees, which were not availed by them on the one pretext or other, thus, the hearing *qua* these Noticees was also closed.

Consideration of submissions and findings:

6. I have considered the SCN and replies received. 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 measures 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:-
 - (a) indulging in an act which creates false or misleading appearance of trading in the securities market;
....
 - (e) any act or omission amounting to manipulation of the price of a security;
.....
 - (f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information 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.

- (h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.
 - (i) Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.
 - (j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.
- (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.

(8) Overseeing the process of disclosure and communications.

...

(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.

.....

Disclosure of events or information.

30.

(3) The listed entity shall make disclosure of events specified in Para B of Part A of Schedule III, based on application of the guidelines for materiality, as specified in sub-regulation

.....

Financial results.

33.

(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.

.....

Accounting Standards.

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

7. Before proceeding on the merit of the matter, it will be relevant to discuss the background of the present proceedings.
8. 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 K-Lifestyle, 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 in the trade-to-trade category with limitation on

the frequency of trade and to impose a limitation on the buyer by way of 200% deposit on the trade value. 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 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.

9. In the meantime, aggrieved by the aforesaid letters dated August 7, 2017 issued by SEBI and BSE, K-Lifestyle filed an appeal No. 266 of 2017 before the Hon'ble Securities Appellate Tribunal, Mumbai (hereinafter referred to as "**Hon'ble SAT**"). The Hon'ble SAT vide order dated October 06, 2017, directed the following:

“.....

2.Counsel for the appellants state that the WTM of SEBI has agreed to give a personal hearing to the appellants on October 11, 2017 and on that day appellants would appear and submit a representation to the WTM, setting out the reasons as to why the order passed against the appellants deserve to be quashed.

3. In these circumstances, we dispose of both the appeals by directing SEBI to pass appropriate order on the representation to be filed by the appellants within a period of four weeks from the date of receiving the representation.....”

10. Pursuant to SEBI's letter dated August 9, 2017, BSE submitted its report dated October 09, 2017 stating that the company has submitted the auditor certificate from A. F. Khasgiwala & Company, Chartered Accountants. As per the Auditor

Certificate, the company had filed annual income tax returns for the last 3 years, the company had complied with Companies Act and LODR Regulations and the company is a going concern and is engaged in the business of textile industries and manufacturing of yarn. The company has made default to bank amounting to Rs. 207.22 crores. The bank account of the company was declared as NPA in the year 2013. Thereafter, the banking facility had been stopped and then the company started working on barter system. Net worth of the company was eroded, thereafter, reference was filed before BIFR, and company was registered as sick industrial unit. However, no specific recommendation was made by BSE.

11. Thereafter, in compliance with the aforesaid order dated October 06, 2017 passed by Hon'ble SAT, after hearing K-Lifestyle, SEBI passed an interim order dated November 21, 2017 (hereinafter referred to as "**interim order**") wherein following directions were issued:

"

- i. The trading in securities of KLIL shall be reverted to the status as it stood prior to issuance of letter dated August 7, 2017 by SEBI.
- ii. Exchange shall appoint an independent forensic auditor *inter alia* to further verify:
 - a. Misrepresentation including of financials and/or business by KLIL, if any;
 - b. Misuse of the books of accounts / funds including facilitation of accommodation entries or compromise of minority shareholder interest, if any.
- iii. The promoters and directors in KLIL are permitted only to buy the securities of KLIL. The shares held by the promoters and directors in KLIL 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 para1 (d), as may be applicable, and the consequential action taken by Stock Exchanges shall continue to have effect against K Lifestyle & Industries Limited.

.....”

12. The interim order also clarified that the 'directors' for the purpose of direction issued in the interim order shall mean and include:
- (a) the persons who are acting as directors on the date of the interim order, or
 - (b) the persons who are acting as directors of the company as on August 07, 2017, who cease to be director, by way of disqualification by any other authority, or by way of resignation or by any other means, on or after August 07, 2017.
13. The interim order also advised K-Lifestyle to file its reply/objections to the interim order within 30 days from the date of receipt of the said order. K-Lifestyle was also advised to indicate in the reply whether it desired to avail an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard, if any. The interim order also stated that in the event of K-Lifestyle failing to file reply or requesting for an opportunity of personal hearing in its reply within the said 30 days, the preliminary findings of the interim order and ad-interim directions shall stand confirmed automatically, without any further orders. Since, the Noticee did not file any reply to the interim order, the directions contained in the interim order were confirmed against the Noticee.

14. As noted above, upon submission of the FAR to SEBI and based on the findings of investigation, SCNs were issued on August 18, 2020 and thereafter, after receipt of reply from Noticees, it was decided to proceed further in the matter.
15. In their letters dated October 17, 2020, Noticee nos. 1, 2, 3, 5, 6 and 7 have submitted that certain documents were not furnished to them. In this regard, I note that a Noticee is entitled to all the documents relied upon in the SCN. In the present case, I note that SCN 1 states that SEBI conducted an investigation in the matter. However, SCN 1 also states that the said investigation is based on the findings of FAR. I note that the copy of said FAR, along with annexure thereof, has been provided to the Noticees, as Annexure to the SCN. Therefore, in my view, the Noticees have been provided with the relevant material based on which the allegations in the SCN have been leveled against them. Moreover, the aforementioned noticees were granted an opportunity for inspection which was not availed by them. Thus, I find that no prejudice has been caused to the abovementioned Noticees in putting up an effective defense in the matter.
16. I observe that, in the SCNs, the allegations against the Noticee no. 2 to 9 flows from the allegations against Noticee no.1. Noticee nos. 2 to 7 have been charged in their capacity as directors/ CFO of Noticee no.1 and Noticee nos. 8 and 9 have been charged as the statutory auditors of Noticee no.1. The SCN 1 alleges that the Noticee nos. 1 to 7 have failed to present true and fair financial statements of the company, executed transactions which are non-genuine in nature thereby resulting in misrepresentation of the accounts/financial statements and misuse of account/funds of the company during the investigation period and that such acts were found to be fraudulent in nature as they induced the investors to trade in the securities of the company and had the potential to mislead the investors. The SCN 1 also alleged that the directors/ CFO of the company (Noticee nos. 2 to 7) have failed to exercise duty of care by misrepresenting the financial statements

/misusing the funds of the company. The SCN 2 and 3 allege that Noticee no. 8 and 9 who were the statutory auditors of the company for the FY 2017-18 and FYs 2015 -17, respectively, have been negligent in performance of their duties as they had not carried out proper due diligence in their audit report.

17. The allegations as contained in the SCNs, are discussed in the following paragraphs.

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

18. Sales, purchases and expenses of Kausar Textile Private Limited (KTPL) recorded in the books of K-Lifestyle leading to violation of Accounting Standard 9- Revenue Recognition.

18.1. With respect to the above, the SCNs allege as follows (based on the findings of FAR):

- i) K-Lifestyle had leased out plants at Dombivali, Piperia and Bhilad partially to KTPL.
- ii) As per the lease agreements and management response, it was agreed between the two parties that the payment of expenditure of K-Lifestyle will be made by KTPL. Despite that, the cost of material consumed, manufacturing expenses were reported in the Profit & Loss account of K-Lifestyle, which was not the expense of K-Lifestyle but of KTPL.
- iii) The cost of material consumed, manufacturing expenses reported in the Profit & Loss account of K-Lifestyle were not actually its expense but rather that of KTPL. K-Lifestyle reported sales, purchase, all expenses etc. in their books which is not in accordance with lease agreements. Thus K-Lifestyle over stated expense to the extent of Rs. 24.14 Crores

during the period April 1, 2015 to December 31, 2017 leading to misrepresentation of the financials.

- 18.2. In addition to what is stated in the SCN, I note from the FAR that vide an email dated April 22, 2019 the company had submitted to the forensic auditor that, they could not run the plants due to financial crunch and hence the plants were leased out partially. K-Lifestyle had entered into an agreement with KTPL *inter alia* permitting KTPL to run specific mills on the various terms and conditions contained in the said agreements. KTPL was allowed to run plant and machineries of all such allocated Mills of K-Lifestyle for a period of 5 years with an understanding that the said term would be renewed further for a period of 5 years on completion of initial term. The FAR mentions that the cost of material consumed, manufacturing expenses, which were been reported in the Profit & Loss account of K-Lifestyle are not the expenses of K-Lifestyle but of KTPL. Thus, K-Lifestyle over stated expense to the extent of Rs. 24.14 Crores during the investigation period.
- 18.3. I note from the details provided in the FAR that K-Lifestyle was related to KTPL through multiple relationships i.e. as lessee (K-Lifestyle had leased out plants at Dombivali, Piperia and Bhilad partially to KTPL), as customer (KTPL was buyer of Fabric/Yarn from K-Lifestyle), supplier (KTPL had provided Cotton/Raw material for Textile to K-Lifestyle) and as lender (given unsecured loan of Rs, 11.90 Crores to K-Lifestyle). KTPL had taken on lease plants from K-Lifestyle which were being used by KTPL for manufacturing yarn. I note that K-Lifestyle also received security deposit of Rs. 1,35,00,000 from KTPL in the year 2015-16, as per books of accounts of K-Lifestyle for such lease. I also note from the FAR that the monthly lease rental from KTPL was reported as "Business Conducting Charges" in Profit & Loss account of K-Lifestyle amounting to Rs. 0.46 Crores for the period April 01, 2015 to December 31,

2017 (2015-16: Rs. 19,19,323; 2016-17: Rs. 14,25,000; 1.4.2017 to 31.12.2017: Rs. 13,50,000). The lease rental credited as per books of K-Lifestyle is far below than the amount specified in lease agreements (Rs. 0.76 Crores during the period April 01, 2015 to December 31, 2017). I note that the FAR has rightly observed that expenses of KTPL was being wrongly reported as the expenses of K-Lifestyle in the Profit & Loss account of K-Lifestyle. Moreover, the sales and purchases of KTPL (who was the lessor of the plants of K-Lifestyle) were also being wrongly reported as the sales and purchase of K-Lifestyle. In view of the same, I find merit in the observations made in the FAR that K-Lifestyle has reported the sales, purchase and expenses of another company, *i.e.* KTPL in its own Profit & Loss account pertaining to the investigation period as its own sales, purchase and expenses, without a reasonable basis and that proper books of account as required by law have not been kept by the company and this amounts to misstatements in the financials of K-Lifestyle to that extent.

19. Analysis of loans and advances and non-disclosure of related party transactions in annual report leading to violation of Accounting Standard 18.

19.1. With respect to this allegation, I note that the allegations in the SCN, which refers to the findings in the FAR, are as follows:

- i) The direct/indirect expenses of the company (K-Lifestyle) are borne directly by Asahi Industries Limited (hereafter referred as AIL). However, no legal agreement was executed by K-Lifestyle for doing such transactions.
- ii) Jaybharat Textiles and Real Estate Ltd (hereafter referred as JTREL) and AIL are related concerns of K-Lifestyle. AIL is an associate company of JTREL. JTREL holds 48.5% shares of AIL. Ms. Manasi

Indrajit Wadkar, Mr. Pravinkumar Mohanlal Parekh and Mr. Jaiprakash Atmaram Mishra, directors of JRETL were also holding directorship in K-Lifestyle. Further, Mr. Narayan Ghumatkar (director of K-Lifestyle) was a director in AIL till November 27, 2015. Therefore, it was alleged that JTREL is connected to K-Lifestyle through common directors and AIL is connected to K-Lifestyle through JTREL.

- iii) There are multiple relationships with AIL and its directors with other entities dealing with K-Lifestyle and therefore they are related to each other.
- iv) AIL sold cotton worth Rs. 2.05 Crores (2017-18 upto December 2017) to K-Lifestyle and paid expenses of electricity power and salary on behalf of K-Lifestyle amounting to Rs 14.01 Crores (Rs. 10.21 crores in 2015-16, Rs. 2.41 crores in 2016-17, Rs. 1.39 Crores in 2017-18 upto December 2017) during the period April 1, 2015 to December 31, 2017. The transactions involving money are replaced by goods or services. These transactions done are mentioned as “Barter System” and the same is also confirmed by the management vide letter dated April 22, 2019. During the period April 1, 2015 to December 31, 2017 such transactions amounted to a total of Rs 16.06 Crores (i.e. JV entries Rs. 14.01 Crores and Purchase of Rs. 2.05 Crores). The transactions involving money were replaced by goods or services without any proper legal documentation.
- v) AIL was not disclosed as related party in the annual reports for the financial year 2015-16 and 2016-17. Therefore, it was alleged that AS-18, “Related party Disclosures” was violated.

19.2. In this regard, I note that Regulation 2(1)(zb) and 2(1)(zc) of the LODR Regulations, at the relevant time stated as follows:

(zb)“related party” means a related party as defined under sub-section (76) of section 2 of the Companies Act, 2013 or under the applicable accounting standards:

Provided that this definition shall not be applicable for the units issued by mutual funds which are listed on a recognised stock exchange(s);

(zc)“related party transaction” means a transfer of resources, services or obligations between a listed entity and a related party, regardless of whether a price is charged and a "transaction" with a related party shall be construed to include a single transaction or a group of transactions in a contract:

Provided that this definition shall not be applicable for the units issued by mutual funds which are listed on a recognised stock exchange(s);

19.3. Section 2(76) of the Companies Act, 2013 defines ‘related party’ as follows:

“(76) "related party", with reference to a company, means—

- (i) a director or his relative;
- (ii) a key managerial personnel or his relative;
- (iii) a firm, in which a director, manager or his relative is a partner;
- (iv) a private company in which a director or manager or his relative is a member or director;
- (v) a public company in which a director or manager is a director and holds along with his relatives, more than two per cent of its paid-up share capital;
- (vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;

(vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:

Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

(viii) any company which is-

(A) a holding, subsidiary or an associate company of such company; or

(B) a subsidiary of a holding company to which it is also a subsidiary;

(ix) such other person as may be prescribed;"

Accounting Standard (AS) 18 defines related party as:

10.1 Related party - parties are considered to be related if at any time during the reporting period one party has the ability to control the other party or exercise significant influence over the other party in making financial and/or operating decisions.

- 19.4. I note that Mr. Narayan Ghumatkar (director of K-Lifestyle) was a director in AIL till November 27, 2015. Further, from the Annexures to the FAR I also note that Shivprasad Shrivastav was a director in AIL till December 17, 2015 and in K-Lifestyle till December 8, 2015. It has been alleged that AIL was not disclosed as related party in the annual reports for the financial year 2015-16 and 2016-17.
- 19.5. I further note that the FAR does not give any particular facts with regard to whether any other director, manager or Key Managerial Person of K-Lifestyle or his relative were directors in AIL as required under Section 2(76) of the Companies Act, 2013, or if the Board of Directors, Managing Director or manager or Key Managerial Person of AIL were accustomed to act in

accordance with the advice, directions or instructions of a director or Manager of K-Lifestyle, as required under Section 2(76) of the Companies Act, 2013.

- 19.6. Further, as per the “Scope” of AS 18, the same applies only to the following related party relationships as described below:

3. This Standard deals only with related party relationships described in (a) to (e) below:

(a) enterprises that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the reporting enterprise (this includes holding companies, subsidiaries and fellow subsidiaries);

(b) associates and joint ventures of the reporting enterprise and the investing party or venturer in respect of which the reporting enterprise is an associate or a joint venture;

(c) individuals owning, directly or indirectly, an interest in the voting power of the reporting enterprise that gives them control or significant influence over the enterprise, and relatives of any such individual;

(d) key management personnel and relatives of such personnel; and

(e) enterprises over which any person described in (c) or (d) is able to exercise significant influence. This includes enterprises owned by directors or major shareholders of the reporting enterprise and enterprises that have a member of key management in common with the reporting enterprise

- 19.7. I note that AIL can only be said to be a related party of K-Lifestyle till December 2015, when both the companies had a common director. Therefore, the question of applicability of Accounting Standard -18 which deals with related party transactions may not arise with respect to transactions of K-Lifestyle with

AIL in 2016-17. However, for a substantial part of 2015-16, AIL and K-Lifestyle were related parties, but the same was not disclosed in the Annual Report of K-Lifestyle for the said financial year. Hence, I am of the view that the violation of AS-18 for FY 2015-16 stands established.

20. Subsidy receivable (but not yet eligible) shown as assets leading to overvaluation of assets by 20 crores.

20.1. In this regard the SCN by referring to FAR observations alleges as follows:

- i) K-Lifestyle has recognized subsidy receivable of Rs. 20.80 crores in its financial statements. During the personal hearing before passing of the interim order, clarification and details with respect to “Subsidy Receivable” amount of Rs. 20.80 crores in the Short Term Loans and Advances were sought from K-Lifestyle for the financial year 2015-2016. However, K-Lifestyle did not submit any documents showing calculation of subsidy receivable amount, documents pertaining to the term loan or any other documents showing that the company is eligible for the subsidy and the benchmark production.
- ii) Since the entity was classified as NPA in year 2013 itself, the conditions did not exist where it was reasonably certain that the grants will be receivable. Despite the same, the company recognized subsidy receivable in its financial statements leading to overvaluation of assets by Rs. 20.80 Crores.
- iii) Thus, it was alleged that the company has violated Accounting Standard 12 as well as misrepresented its financial statements by overvaluation of assets by Rs. 20.80 Crores.

- 20.2. I note that para 6.1 of Accounting Standard -12 states as follows:
“Accounting for government grants: Government grants available to the enterprise are considered for inclusion in accounts:
(i) where there is reasonable assurance that the enterprise will comply with the conditions attached to them; and
(ii) where such benefits have been earned by the enterprise and it is reasonably certain that the ultimate collection will be made.”
- 20.3. I note that during the forensic audit, K-Lifestyle submitted that while other banks in consortium claimed subsidy on such term loans under Technology Upgradation Fund Scheme (TUFS), Dena Bank did not claim any amount of the subsidy from the Government of India and thus said amount of unclaimed subsidy since inception of loan works out to Rs. 20.80 crore.
- 20.4. I note from the interim order that, a preliminary reading of the TUFS, as per Ministry of Textiles Resolution No. 6/19/2013-TUFS dated October 04, 2013 reveals as follows:
“Subsidy under TUFS is in the form of Reimbursement of Interest paid by the unit concerned to the Lending agencies for the loan disbursed and therefore the units are eligible for subsidy only in cases where loan has been disbursed and interest has been paid by the unit to the Lending Agency. Lending agencies shall submit the claims based on actual claims received from their branches.”
- 20.5. From the TUFS, mentioned above, I note that a pre-condition for the receipt of the subsidy under TUFs (which is in the form of reimbursement of interest paid by the company to the banks on the loans taken by the company) are that: i) the loan should have been disbursed and ii) interest on the loan should have

been paid by the company. Since, K-Lifestyle was classified as NPA in year 2013, I agree with the observation in the FAR that the conditions did not exist as K-Lifestyle did not pay interest on the loan it had taken from the banks (Dena Bank in this case). Since K-Lifestyle did not pay interest thus, the loan would not qualify under the TUFS scheme and therefore, K-Lifestyle was not eligible to claim subsidy on the said loan. I note that no documents have been submitted by K-Lifestyle during these proceedings to show that interest was paid to Dena Bank. Therefore, I note that by showing Rs.20.08 crore as subsidy receivable, K-Lifestyle failed to comply with Para 6.1 of Accounting Standard-12 which states that government grants available to the enterprise are considered for inclusion in accounts under certain conditions, one of which is that where there is reasonable assurance that the enterprise will comply with the conditions attached to them. Further, I note that K-Lifestyle did not submit the documents supporting the eligibility of the receipt of subsidy by it and benchmark production in support of calculation sheet provided by it. Thus, I agree with the observation of FAR that, the Rs. 20.80 crores, shown as "Subsidy Receivable" in the short term loans and advances for the financial year 2015-2016 by K-Lifestyle in its financial statements, was not disclosed in accordance with Accounting Standard 12 and the said subsidy was represented merely by book entries and amounts to a misstatement in the financial statements of K-Lifestyle to that extent.

21. Provision not made for diminution in the value of investment, leading to violation of AS-13, in related party companies.

21.1. In this regard, the SCN alleges as follows (based on the findings of the FAR):

- i) K-Lifestyle was asked to provide details of non-current investments of Rs. 69.29 Cr. along with documentary evidence and the basis of its

valuation. K-Lifestyle provided the details of Investment and also the share certificate of Krishna Knitwear Technology Ltd but did not provide the share certificate of Actif Corporation Ltd.

Krishna Knitwear Technology Ltd

- ii) The forensic auditor noted that the company had invested Rs. 69.298 crores in equity shares of Krishna Knitwear Technology Ltd (KKTL) as on March 31, 2016 and March 31, 2017. As per ROC records the value of shares of KKTL as on March 31, 2016 is Rs. -27.48 per share (negative). However, the company disclosed the investments in its books at Rs. 69.298 crores.
- iii) KKTL is also shareholder of K-Lifestyle holding 2,23,32,930 shares (2.18%) worth Rs. 12.99 Crores. Both the companies have invested in each other's shares. Directors of KKTL i.e. Mr. Narayan Ghumatkar and Ms. Mansi Wadekarare, Mr. Jaiprakash Atmaram Mishra, Mr. Pravinkumar Mohanlal Parekh also holding directorship in K-Lifestyle. Similarly, shareholders of K-Lifestyle i.e. M/s Archana Syntex Pvt. Ltd (holding 3.66% of K-Lifestyle) and M/s. Shree Ganesh hosiery mills Pvt. Ltd. (3.58% of K-Lifestyle) are also shareholders of KKTL. KKTL is related party, as confirmed by the management vide their letter dated April 22, 2019.

Actif Corporation Ltd

- iv) K-Lifestyle had invested Rs. 22.19 crores in preference shares of Actif Corporation Ltd as on March 31, 2016 and March 31, 2017. As per ROC records the value of shares of Actif Corporation Ltd. as on March 31,

2016 is Rs. -83.68 per share (negative). However, the company has disclosed its investments in its books at Rs. 22.19 crores.

- v) Directors of Actif Corporation Ltd. i.e. Mr. Narayan Ghumatkar and Ms. Mansi Wadekar are also holding directorship in K-Lifestyle. Actif Corporation Ltd. is related party, as confirmed by the management vide their letter dated April 22, 2019
- vi) No revenue was generated from these investments in Krishna Knitwear Technology Ltd and M/s. Actif Corporation Ltd.
- vii) The SCN alleged that by having no provision for diminution for valuation of investments and inflated representation of investments, K-Lifestyle has violated Accounting Standard 13 and also it has led to misrepresentation of books of the company.
- viii) Further, it was alleged that non-disclosure of related party transactions in financial statement has led to violation of Accounting Standard 18.
- ix) The SCN also alleges that by investing in companies with no returns over a period of more than two years, K-Lifestyle and its directors have made improper use of the funds of the company as the investments are not generating any revenue and also misrepresented the books of accounts by not providing for diminution in the value of investment.

21.2. I note that the FAR states that Krishna Knitwear Technology Ltd. and Actif Corporation Ltd. were 'related parties' of K-Lifestyle in terms of Section 2(76) of the Companies Act, 2013. The same has also been accepted by the company in its letter dated April 22, 2019. In this regard, I note that para 23 of Accounting Standard 18- Related Party Disclosures, states as follows:

"If there have been transactions between related parties, during the existence of a related party relationship, the reporting

enterprise should disclose the following: (i) the name of the transacting related party; (ii) a description of the relationship between the parties; (iii) a description of the nature of transactions; (iv) volume of the transactions either as an amount or as an appropriate proportion; (v) any other elements of the related party transactions necessary for an understanding of the financial statements; (vi) the amounts or appropriate proportions of outstanding items pertaining to related parties at the balance sheet date and provisions for doubtful debts due from such parties at that date; and (vii) amounts written off or written back in the period in respect of debts due from or to related parties”.

Further, para 24 of Accounting Standard 18 specifically mentions that financing in a related party enterprise has to be disclosed, which includes investment in equity. From a perusal of the financial statements of K-Lifestyle, I note that these related party transactions, i.e. investments in shares of Actif Corporation Ltd. and Krishna Knitwear Technology Ltd. were not disclosed in the financial statements of K-Lifestyle in a manner as given in the Accounting Standard 18.

21.3. I further note that para 32 of Accounting Standard 13- Accounting for Investments, states as follows:

“Investments classified as long term investments should be carried in the financial statements at cost. However, provision for diminution shall be made to recognise a decline, other than temporary, in the value of the investments, such reduction being determined and made for each investment individually.”

As per the financial statement of K-Lifestyle for the year 2015-16 and 2016-17, the total non-current investment was Rs. 69.29 Crores, which was invested in Krishna Knitwear Technology Ltd. Further, as per the Annual Report 2015-2016, K-Lifestyle's investment in preference shares of Actif Corporation Ltd. amounted to Rs. 22.19 crores. I note from the FAR that the value of these investments of K-Lifestyle had depleted considerably. The book value of shares of Krishna Knitwear Technology Ltd. as on March 31, 2016 was Rs. -27.48 per share (negative) and the book value of shares of Actif Corporation Ltd as on March 31, 2017 was Rs. -83.68 (negative) per shares as on March 31, 2016. From the findings of FAR, I note that as per the books of K- Lifestyle, it has reported investment in equity shares and preference shares in the aforesaid companies as on March 31, 2016 and March 31, 2017 as under:-

Amount in Crores		
Name of company	2015-16	2016-17
Krishna Knitwear Technology Ltd (Equity Share)(KKTL)	69.298	69.298
Actif Corporation Ltd. (Preference Share)	22.19	22.19

The investment in KKTL comprises of 3,62,98,756 shares at Rs.19.09 per share. The investment in Actif Corporation Ltd crores comprises of 22,19,000 shares of Rs. 100 each. However, the value of these shares was NIL. Thus, I agree with the observation of the FAR that the depletion in value of these shares have not been updated in the books of accounts of K-Lifestyle, as required under Accounting Standard 13.

22. Non-disclosure of material information to exchange

22.1. In this regard, the SCN which is based on the findings of FAR, states as follows:

- i) During the course of hearing dated October 13, 2017 held prior to passing of interim order in the matter, and vide email dated October 16, 2017, SEBI had advised K-Lifestyle to submit the details of any Notice/proceeding pending/initiated with any Government Agency/Regulatory body/investigating authority with respect to the company/directors of the company/promoters of the company, including any search proceedings initiated by the Income Tax Department. It is noted that the company in its reply dated October 30, 2017 stated that there is investigation pending before CBI Banking Security and Fraud Cell, Mumbai on the complaint made by UCO Bank against the Company and Directors of the Company.
- ii) Investigation pending before CBI may be considered as a material event and should have been disclosed to the exchange as well as in annual report. The entity has not disclosed it to the exchange as well as not disclosed in annual report of FY 2015-16, FY 2016-17 and FY 2017-18.
- iii) Also, as per Regulation 30(5) of LODR 2015 *"The board of directors of the listed entity shall authorize one or more Key Managerial Personnel for the purpose of determining materiality of an event or information and for the purpose of making disclosures to stock exchange(s) under this regulation and the contact details of such personnel shall be also disclosed to the stock exchange(s) and as well as on the listed entity's website."*
- iv) As informed by BSE the company has appointed Ms. Manasi Indrajit Wadkar and Mr. Jaiprakash Mishra (Noticee Nos. 6 and 3, respectively)

for determining materiality of events for the purpose of making disclosure to the stock exchange. However, they did not disclose the same to the exchange.

22.2. The FAR observes that K-Lifestyle, vide emails dated November 02, 2017 and November 09, 2017, was asked to furnish the details of the investigation and the nature of complaint made by UCO Bank. Vide email dated April 22, 2019, the company stated that the matters are still pending against the company before CBI Court– Kolkata and DRT- Kolkata. However, the company has failed to provide any supporting documents regarding the same. Further, SEBI vide email dated November 16, 2017 had requested to BSE to confirm whether K-Lifestyle had disclosed the information pertaining to the said investigation being carried out by CBI BS and FC, Mumbai. BSE vide mail dated November 17, 2017 confirmed that it had not received any disclosure pertaining to investigation being carried out by CBI from K-Lifestyle.

22.3. Regulation 30(3) of LODR Regulations states as follows:

“The listed entity shall make disclosure of events specified in Para B of Part A of Schedule III, based on application of the guidelines for materiality, as specified in sub-regulation (4).”

As per Para B of Part A of Schedule III of LODR Regulations, “*Litigation(s) / dispute(s) / regulatory action(s) with impact*” is considered as material event.

Regulation 30(4) of LODR Regulations states as follows:

“(i) The listed entity shall consider the following criteria for determination of materiality of events/ information: (a) the omission of an event or information, which is likely to result in discontinuity or alteration of event or information already

available publicly; or (b) the omission of an event or information is likely to result in significant market reaction if the said omission came to light at a later date; (c) In case where the criteria specified in sub-clauses (a) and (b) are not applicable, an event/information may be treated as being material if in the opinion of the board of directors of listed entity, the event / information is considered material”.

22.4. I note that information of such ongoing proceedings related to action by an enforcement agency would fall under “*Litigation(s)/dispute(s)/regulatory action(s) with impact*” as mentioned in Para B of Part A of Schedule III of LODR Regulations read with Regulation 30(3) of LODR Regulations, and was likely to result in significant market reaction if the said omission came to light at a later date and was required to be disclosed to the market at large. I note that K-Lifestyle in its email dated April 22, 2019 has accepted that cases against it were pending before the CBI Court- Kolkata and DRT-Kolkata. In view of the same, K-Lifestyle was obliged to disclose information related to investigation / filing of chargesheet by CBI in the matter pursuant to complaint(s) filed by bank(s) and cases pending before DRT- Kolkata against K-Lifestyle before CBI. I note that K-Lifestyle neither disclosed this information to the stock exchange nor disclosed it in its Annual Reports during the investigation period, attracting violation of Regulation 30(3) of LODR Regulations by K-Lifestyle.

23. Improper utilization of funds by grant of interest free loans and advances.

23.1. In this regard, the SCN on the basis of observations made in FAR alleges as follows:

- i. K-Lifestyle had outstanding loans and advances given to corporates to the tune of Rs.7.8 crores and Rs. 9.2 crores in FY 2015-16 and FY 2016-17,

respectively. No interest income was received on such loans. Further, there was no board resolution/ special resolution passed for granting loan as per the knowledge of forensic auditor and register was also not maintained.

- ii. K-Lifestyle had given unsecured loan of Rs 1.75 Crores to Dhruvi Properties Pvt Ltd. ("Dhruvi"), which was outstanding prior to April 1, 2015. No interest income was earned on the loan given. Dhruvi was seen to be connected with K-Lifestyle due to the following:

- 1) Mr. Rajendra Nagpal, director of Dhruvi, was also a director of Akash Fabrics Pvt Ltd. which held 7% stake in K-Lifestyle (i.e. 5967420 Shares).
- 2) Mr. Chanchal Singh, director of Dhruvi, was also a director of Shanti Synthetic and Processors Pvt. Ltd. which held 8.17% stake in K-Lifestyle.
- 3) K-Lifestyle had taken loans of Rs. 12 Crores and Rs. 6 Crores from Conart Conpro Pvt Ltd and Elpro Properties Pvt. Ltd., respectively, which are also related companies of M/s Dhruvi Properties Pvt. Ltd. (common directors).

- iii. K-Lifestyle had taken loan of Rs. 10 crores from Madhu Crimpers Pvt Ltd. K-Lifestyle reported Loans and advances of Rs 0.26 crores to Madhu Crimpers (P) Ltd. Madhu Crimpers Pvt Ltd is connected with K-Lifestyle as Sunilkumar Kushwaha, director of Madhu Crimpers Pvt Ltd is also a director in Gopala Holding Pvt Ltd, which held 57,94,940 shares in K-Lifestyle.

- iv. It is alleged that these were related party transactions and were not recorded in the financial statements. Further, the submission of K-Lifestyle that no loans and advances were provided to related parties were alleged to be false submission as M/s Dhruvi Properties Pvt. Ltd and M/s. Madhu Crimpers Pvt Ltd. are connected to K-Lifestyle. Non availability of loan agreements, repayment schedules raise suspicion over the loans and advances granted by the company. The company and its directors are also alleged to have not used funds of the company properly by giving interest free loans and advances.

23.2. I note that the FAR provides the details of Loans and Advances as under:

Particular	2015-16	2016-17
Advance Salary	7,757.00	7,757.00
Prepaid Insurance	1,39,988.00	-
TDS	63,23,713.00	63,23,713.00
TDS (A.T 2012-13)	1,28,512.00	1,28,512.00
TDS (AY2013-14)	47,310.00	47,310.00
TDS (AY2014-15)	43,710.00	43,710.00
TDS (A.Y.2015-16)	35,840.00	35,840.00
TDS Receivable	22,548.00	22,548.00
TDS Receivable (A.Y.2017-18)	0	27,794.00
Total (A)	67,49,378.00	66,37,184.00
Balaji Textile	(2,17,201.00)	(2,17,201.00)
Bridge Infra Pvt Ltd	3,25,75,000.00	3,25,75,000.00
Clemmatis Trading Private Limited#	1,75,25,000.00	-
Dhruvi Properties Pvt. Ltd.#	-	1,75,25,000.00
Kanishka Infracture Pvt Ltd	2,17,15,028.00	2,17,15,028.00
Kaushal Logestic Pvt Ltd	35,14,275.00	25,37,062.00
Madhu Crimpers Pvt. Ltd	26,25,771.00	26,25,771.00
Giriganga Investment	0	40,000.00
Indus Towers Ltd	0	69,588.00
Sukh Suvidha Real Estate Ltd (Ad)	0	1,48,60,000.00
Total (B)	7,77,37,873.00	9,17,30,248.00
Subsidy Receivable TUFF	20,80,47,000.00	20,80,47,000.00
Total (C)	20,80,47,000.00	20,80,47,000.00
Total Loans and Advances (A+B+C)	29,25,34,251.00	30,64,14,432.00

#As per the trial balance for the year 2015-16 provided by K-Lifestyle, showed Opening & Closing balance of Rs. 1,75,25,000/- in the name of Clemmatis Trading Private limited. However, trial balance for the year 2016-17, the name of Clemmatis Trading Private limited is replaced with Dhruvi Properties Pvt. Ltd.

- 23.3. As noted above, the company has outstanding loan and advances to the tune of Rs.7.8 crores (appx.) and Rs. 9.2 crores (appx.) in FY 2015-16 and FY 2016-17, respectively, to corporates. No Interest income was received on such loans. Further, the company did not produce any evidence to show that a board resolution/special resolution was passed for granting the loan. Further, no Register was maintained, despite the same being required by Section 186 of the Companies Act, 2013. I also note that no interest was being charged and there was no fixed period for payment. Further, agreements were not executed while granting such loans, and these loans have remained unpaid over long periods of time. Hence the company had given loan and advances to the tune of Rs.7.8 crore (appx.) and Rs.9.2 crore (appx.) in FY 2015-16 and FY 2016-17, respectively, without board approvals and also failed to disclose these transactions in Annual Reports and financial statements.
- 23.4. However, I note that these companies do not fall within definition of 'related party' as per Section 2(76) of the Companies Act, 2013 and under AS18. With respect to Dhruvi Properties Pvt. Ltd., I note the said company had common directors with promoter entities of/ entities holding stake in K-Lifestyle. However, this does not fall within the definition of related parties as stated above. Further, loans taken by K-Lifestyle from companies that are related to Dhruvi Properties Pvt. Ltd. does not make Dhruvi Properties Pvt. Ltd. a related party of K-Lifestyle. Similarly, the fact that Madhu Crimpers Pvt Ltd. had a common director with a company that held shares of K-Lifestyle does not make the two companies related parties. I further note that the FAR does not give any particular facts with regard to whether any other director, manager or Key Managerial Person of K-Lifestyle or his relative were directors in these companies as required under Section 2(76) of the Companies Act, 2013 or if

their Board of Directors, managing director or manager or Key Managerial Person were accustomed to act in accordance with the advice, directions or instructions of a director or manager of K-Lifestyle as required under. Section 2(76) of the Companies Act, 2013. Therefore, the question of applicability of Accounting Standard -18 which deals with related party transactions may not arise.

24. Misrepresented its books of accounts by understatement of debtors and creditors

24.1. In this regard, the SCN on the basis of observations in the FAR alleges as follows:

- i) While examining the banking transactions of Corporation Bank from April 2015 to December 2017, it was noticed that substantial banking transactions were recorded in the books of K-Lifestyle during the month of March 2017. It was observed that the company has shown receipt of payments from various parties to the tune of **Rs. 50,34,80,760** as cheques received but not cleared. On the other side, it has issued cheques to the various parties of **Rs. 50,24,97,914** which were not presented during the period March 1, 2017 to March 31, 2017. as given in table 1 below:

Table 1

Particulars	As per Books (Amt. in Rs.)	
	Receipt	Payment
Aaban Apparels Pvt Ltd.	-	5,00,02,700
Ambica Chemicals And Synthetics Pvt Ltd	-	5,00,00,750
Amex Infrastructure Pvt.Ltd.	10,00,00,000	-
Asahi Industries Ltd	45,000	-
Conart Conpro Pvt. Ltd.	10,00,00,000	-
Coral Conpro Pvt.Ltd.	-	6,25,00,000
Crance Real Estate Pvt.Ltd.	10,00,00,000	-
Devika Trading Pvt Ltd.	1,60,000	5,00,00,000
Dnh Power Distribution Cor.Ltd	-	40,000
Express Suitings Pv Ltd	9,14,420	-
Itgi Vapi Collection	-	58,064
Kanha Textiles Pvt. Ltd.	-	5,00,00,000
Ksl And Industries Ltd.	-	35,800
Madhu Crimpers P.Ltd.	10,00,00,000	-
Reward Real Estate	23,61,340	-
Ritu Multitrade Services Pvt Ltd	-	5,00,00,000
Sukh Suvidha Real Estate Ltd	-	3,98,60,000
Taban Real Estate Pvt.Ltd.	10,00,00,000	-
Vervain Trade and Merchandise Pvt. Ltd	-	5,00,00,800
Vignahartha Corrugators P Ltd	-	5,00,00,100
Wellworth Apparels Pvt Ltd	-	4,99,99,700
Grand Total	50,34,80,760	50,24,97,914

- ii) These cheques were realized between months of April 2017 to June 2017. This has led to understatement of creditors by Rs. 50,34,80,760 and understatement of debtors by Rs. 50,24,97,914/-.
- iii) In some cases, cheques issued in March 2017 were reversed in April 2017, which meant that creditors were understated in the books of accounts by Rs. 1,76,77,840 as on March 31, 2017. Details of the same are given below:

Date	Particulars	Voucher No.	Receipt (Amt in Rs.)	Payment (Amt in Rs.)
30/03/2017	Coral Conpro Pvt. Ltd	23123		1,25,00,000
03/04/2017	Coral Conpro Pvt. Ltd	23123	1,25,00,000	
31/03/2017	Fixed Deposits	599041		4,21,500
04/01/2017	Fixed Deposits		4,21,500	
31/03/2017	Ksl And Industries Ltd.	967125		35,800
04/05/2017	Ksl And Industries Ltd.	967125	35,000	
25/03/2017	Reward Real Estate(Exp)		23,61,340	
04/05/2017	Reward Real Estate(Exp)			23,60,540
31/03/2017	Sukh Suvidha Real Estate Ltd (Ad)	599050		23,60,000
03/04/2017	Sukh Suvidha Real Estate Ltd (Ad)	599050	23,60,000	
	Total		1,76,77,840	1,76,77,840

- iv) Thus, the company misrepresented its books of accounts by understatement of debtors by Rs. 50,24,97,914/- and creditors by Rs. 52,11,58,600.(Rs 50,34,80,760 + Rs 1,76,77,840/-).
- v) The company had accounted for a receipt of Rs. 50 crores from creditors in FY 2016-17 however the actual payment was received in

the next financial year (2017-18). This has led to understatement of creditors by Rs. 50 crores and overstatement of unsecured loans by Rs. 50 crores; resulting in misrepresentation of the books of accounts by the company.

- 24.2. In its letter dated April 22, 2019, the company stated that it had taken certain loans on March 31, 2018 from five lender companies after seeking permission from the Board of Directors and executing loan documents. However, the lender companies paid the said amount in installments and within a period of two months, depending upon their cash flow and therefore at the instructions of the lenders the cheques were not deposited instantly, remaining outstanding in the bank reconciliation account. The Company further stated that certain cheques were issued in anticipation of the funds from the five lending companies, however the amount was not received and therefore the company called back the cheques issued and reversed the entries in April, 2018. However, the company has not provided any documents pertaining to taking permission from the Board of Directors and executing loan documents. In view of the same, I find that K-Lifestyle misrepresented its books of accounts by understatement of debtors and creditors.

II. Non furnishing of information by the company in response to forensic auditor and SEBI interim.

25. In respect of the allegation that the Noticees failed to furnish information I note as follows:
- 25.1. SCN alleged that K-Lifestyle had failed to provide details/ documents to the forensic auditor including, information sought by SEBI and the forensic auditor such as share certificate of Actif corporation, supporting documents for loans

raised, ledger account of Dhruvi Properties Pvt Ltd. and Clemantis Trading Pvt Ltd, documentary evidence for long term and short term borrowings except some ledger accounts, detailed terms of unsecured loans and relation with entities, documents pertaining to taking permission from the Board of Directors and executing loan documents.

- 25.2. I note that the Noticees have been alleged to have violated Section 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992. On a reading of these Sections, I observe that Section 11(1) of the SEBI Act, 1992 lays down the functions of SEBI, and in carrying out the said functions, SEBI is empowered, under 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992, to call for records from intermediaries and other entities. I note that BSE was directed to appoint a forensic auditor for carrying out forensic audit of K-Lifestyle vide SEBI order dated November 21, 2017. Thus, the forensic audit was being carried out pursuant to a direction of SEBI. I note that K-Lifestyle failed to furnish information sought by the forensic auditor as well as by SEBI interim order dated November 21, 2017 and thereby violated Sections 11(2)(i) and (ia) of SEBI Act, 1992.
26. I note that the SCN alleges that K-Lifestyle has violated 4(1)(a),(b),(c),(e),(g),(h),(i) and (j), 4(2)(f)(ii)(6),(7)(8), 4(2)(f)(iii)(3),(6) and (12), Regulation 30(3), Regulations 33(2)(a) and Regulation 48 of the LODR Regulations. From the discussions above, I find that K-Lifestyle has failed to comply with Clause B(8) of Schedule III read with Regulations 30(3) of the LODR Regulations. Moreover, since the financial statements of K-Lifestyle pertaining to the investigation period was not as per the Accounting Standard as discussed in the previous paras, therefore K-Lifestyle has also violated Regulation 48 of LODR Regulations, which mandates that the listed entity shall comply with all the applicable and notified Accounting Standards from time to time. Regarding the violations of Regulation 4, 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, provides 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.
- (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.
- (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.
- (h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.
- (i) The filings, reports, statements, documents and information reports of the listed entity shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.
- (j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a

listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.

27. As discussed in para above, I find that K-Lifestyle has *inter alia* failed to comply with Regulations 30(3) and 48 of the LODR Regulations and therefore, its disclosures were not in accordance with the principles laid down in the aforesaid clauses of Regulation 4(1) and hence, K-Lifestyle is also in violation of 4(1)(a), (b), (c), (e), (g), (h), (i) and (j) of LODR Regulations. Regarding the violations of Regulations 4(2)(f)(ii) (6) and (7) and 4(2)(f)(iii) (3), (6) and (12) of the LODR Regulations, 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 K-Lifestyle cannot be said to be in violations of Regulation 4(2)(f)(ii) (6) and (7) and 4(2)(f)(iii) (3), (6) and (12) of the LODR Regulations which pertain to obligations of the board of directors. I also note that Regulation 33(2)(a) provides that the CEO and CFO of the listed company shall certify that the financial results do not contain any false or misleading statement or figures or omit any material fact. Since this was not complied with, K-Lifestyle has violated Regulation 33(2)(a). Further, since one of the condition which every issuer company, whose securities are listed on a recognised stock exchange, is required to comply with is compliance with LODR Regulations, and in the present case, K-Lifestyle has been found to be in violation of the provisions of the LODR Regulations, as discussed above, therefore, K-Lifestyle is in violation of the condition of the listing agreement and hence, is also in the violation of Section 21 of SCRA, 1956.

III. Violations of PFUTP Regulations, 2003:

28. With regard to the allegation of violation of provisions of PFUTP Regulations, 2003 and Section 12A(a), (b) and (c) of the SEBI Act, 1992 , I note that the scope of work, as was assigned to the forensic auditor by BSE, as stated in the FAR, was as follows:

- I. 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
- II. 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)

The FAR states that for the aforesaid reasons, the audit, *inter alia* will 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)

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
29. From a reading of the scope of work of the FAR, I note that it was mainly limited to examination of possible violation of LODR Regulations by K-Lifestyle and the misuse of books of accounts/ funds by it. I find that the conclusion of the FAR are also on the same lines and gives conclusions regarding violation 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 mainly reproduced in the SCN. However, the SCN additionally states as follows:
- “From the above, it was observed that the company (Noticee no.1), its directors and the Chief Financial Officer (Noticee no. 2 to 7) have failed to present true and fair financial statements, executed transactions which are non-genuine in nature thereby resulting in misrepresentation of the accounts/financial statements and misuse of account/funds of the company and such acts were found to be fraudulent in nature as they induced the investors to trade in the securities of the company and had the potential to misled the investors.”

Consequently, the SCN, *inter alia*, additionally, includes allegation of violation of provisions of Section 12A(a), (b) and (c) of the SEBI Act, 1992 and Regulations 3(b), (c) and (d), 4(1) and 4(2)(f) and (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 these Noticees have been charged with the violation of Section 12A(a), (b) and (c) of the SEBI Act, 1992 and Regulations 3(b), (c) and (d) of PFUTP Regulations, 2003 which can be in relation to dealing in securities. However, no details of trading by these Noticees viz: name of the scrip traded, number of shares traded, price at which shares were traded, date of the trading, have been provided. Nor is there any analysis as to how each of the finding of FAR such as non-compliance with provisions of LODR Regulations or related party transactions without approval or misrepresentation such as of loans, attract each of the PFUTP Regulations, 2003, as alleged.

30. 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) and (d), 4(1) and 4(2)(f) and (r) of PFUTP Regulations, 2003 are also related to securities market fraud/manipulation/ unfair trade practices. Section 12A (a), (b) and (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 issue of securities by any of the Noticees.
31. 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 must 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 K-Lifestyle. I note that FAR does not allege any diversion/misutilisation 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 trading in securities by Noticees or these essential ingredients of 'fraud' such as 'manipulation in securities', 'dealing in securities', 'inducement', etc.

32. 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 nor were the Noticees given opportunity to inspect or furnished any finding of examination relating to PFUTP Regulations 2003 violations which was additionally included while issuing the SCN. 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 and (c) of the SEBI Act, 1992 and provisions of PFUTP Regulations, 2003 is not tenable against the Noticees. However, SEBI is at liberty to issue fresh SCN, if deemed fit, to pursue violations of PFUTP Regulations, 2003 by bringing out specific case/ingredients under PFUTP Regulations, 2003.
33. I find that, based on the defaults by K-Lifestyle discussed in the previous paras, the SCN1 has *inter alia* alleged that by virtue of the provision of Section 27 of the SEBI Act, 1992, Noticee no. 2 to 7, who were the directors/ CFO of K-Lifestyle at the relevant time, including independent directors are also liable for the violations alleged to be committed by K-Lifestyle viz: Sections 12A(a),(b) and (c) , 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992 and Regulations 3(b), (c) and (d) and 4(1) and

4(2) (f) and (r) of the PFUTP Regulation, 2003, Regulations 4(1)(a), (b), (c), (e), (g), (h), (i) and (j), 4(2) (f)(ii)(6), (7) and (8), 4(2)(f)(iii)(3), (6) and (12), 6(1), 30(3), 33(2)(a) and 48 of LODR Regulations read with Section 21 of SCRA, 1956.

34. In this regard, as noted above, Noticee no. 4, Dr. P.S. Pritam had died on August 30, 2020. Further, Noticee no. 6 (Manasi Indrajit Wadkar) passed away on May 02, 2021. Thus, the proceedings against Noticee nos. 4 and 6 abate. Regarding applicability of the Section 27 of the SEBI Act, 1992, I note that during the relevant period (i.e. investigation period), Section 27 provided for the vicarious liability of certain persons who were in charge of and was responsible to the company where the 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 does not create any vicarious liability of Noticee nos. 2, 3, 5 and 7 for the alleged violations committed by K-Lifestyle during the investigation period, with reference to PFUTP Regulation, 2003 or LODR Regulations for which proceedings under Sections 11, 11(4), 11A, 11B(1) and Section 12 A(1) of SCRA, 1956 or monetary penalty has been proposed, which are civil in nature.
35. Now, the question remains whether Noticee nos. 2, 3, 5 and 7 can be held independently liable for the violations as alleged in SCN 1 without any reference to vicarious liability under Section 27 of the SEBI Act, 1992. I note that, with reference to the allegations of violation of fraud provisions, i.e. Section 12A(a), (b) and (c) of the SEBI Act, 1992 and Regulations 3(b), (c) and (d) of PFUTP Regulations, 2003 against these Noticees, as already discussed in the forgoing

paras, liberty has been given to SEBI to further investigate and proceed with the matter and the role of directors/ CFO *qua* these violations may also be examined by SEBI. In my view, due to the aforesaid reasons, under the facts and circumstances of the present case, the allegations of violation of Section 12A(a), (b and (c) of the SEBI Act, 1992 and provisions of PFUTP Regulations, 2003 is not tenable against the Noticee nos. 2 to 7.

36. SCN also alleges violation of Section 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992 by the Noticee no. 2 to 7. The said violations have been alleged in view of the non-furnishing of information by K-Lifestyle to the forensic auditor. In this regard, I note that information was sought by the forensic auditor from K-Lifestyle and not from these directors or CFO in their capacity of the director/CFO of K-Lifestyle. In view of the inapplicability of Section 27 of SEBI Act, 1992, Noticee no. 2 to 6, being directors and Noticee no. 7 being CFO, cannot be held liable for violation of Section 11(2)(i) and 11(2) (ia) of SEBI Act, 1992, as alleged in the SCN. Further, Section 21 of SCRA which deals with non-compliance with listing conditions is applicable to a listed entity and thus, cannot be invoked against the Noticee nos. 2 to 7.
37. With respect to violation of provisions of LODR Regulations invoked against Noticee nos. 2 to 7 in the SCN 1, I note that Regulations 4(2)(f)(ii)(6), (7) and (8), 4(2)(f)(iii) (3), (6) and (12) and 33 of LODR Regulations create specific and direct liability of the board of directors of an issuer company. 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. 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, is fastened on the board of directors of the listed entity.

38. It is observed that as per the Annual Reports of K-Lifestyle, the details of the Board of Directors during the investigation period are as follows:

FY 2015-16

Name	Designation
Mr. Jaiprakash Mishra	Managing Director
Mr. Narayan Ghumatkar	Non Executive Independent Director
Mr. Pritam Singh Pritam	Non Executive Independent Director
*Mr. Deepak Mathur	Non Executive Non - Independent Director
Mrs. Manasi Wadkar	Non Executive Non - Independent Director
Mr. Pravinkumar Parekh	Non Executive Independent Director
*Mr. Pushpendra Pratap Singh	Non Executive Independent Director
**Mr. Shivprasad Shrivastav	Non Executive Independent Director

* Mr. Deepak Mathur and Mr. Pushpendra Pratap Singh were appointed on November 7, 2015.

** Mr. Shivprasad Shrivastav resigned as Director of the Company w.e.f. December 8, 2015.

FY 2016-17

Name	Designation
Mr. Jaiprakash Mishra	Managing Director
Mr. Narayan Ghumatkar	Non Executive Independent Director
Mr. Pritam Singh Pritam	Non Executive Independent Director
*Mr. Deepak Mathur	Non Executive Non – Independent Director
Mrs. Manasi Wadkar	Non Executive Non - Independent Director
Mr. Pravinkumar Parekh	Non Executive Independent Director
*Mr. Pushpendra Pratap Singh	Non Executive Independent Director

*resigned as Director of the Company w.e.f. August 12, 2016

FY 2017-18

Name	Designation
Mr. Jaiprakash Mishra	Managing Director
Mr. Narayan Ghumatkar	Non Executive Independent Director
*Mr. Pritam Singh Pritam	Non Executive Independent Director
Mrs. Manasi Wadkar	Non Executive Non - Independent Director
Mr. Pravinkumar Parekh	Non Executive Independent Director

*resigned as Director of the Company w.e.f 08th February 2018

39. I note that Regulations 4(2)(f) and Regulation 33 creates specific duty on the board of directors without making any distinction with independent directors. Moreover, the following are the details of noticee directors who were members of Audit Committee and the meetings attended by them during the investigation period:

Name of directors	Category	2017-18		2016-17		2015-16	
		Held	Attended	Held	Attended	Held	Attended
Mr. Jaiprakash Mishra	Managing Director	4	4	4	4	4	4
Mr. Pravinkumar Parekh	Independent Director	4	3	4	4	4	4
Narayan Ghumatkar	Independent Director	4	4	4	2		

40. In this regard Section 177 (4) of the Companies Act, 2013 lays down as follows:

“Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, *inter alia*, include, -

- (i)
- (ii) examination of the financial statement and the auditors' report thereon;
- (iii) approval or any subsequent modification of transactions of the company with related parties;
- (iv) scrutiny of inter-corporate loans and investments;
- (v) valuation of undertakings or assets of the company, wherever it is necessary;
- (vi) evaluation of internal financial controls and risk management systems;
- (vii)"

41. 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 financials of K-Lifestyle were placed before the Audit Committee of K-Lifestyle during the investigation period were inaccurate and inadequate. In terms of Section 177 of the Companies Act, 2013 and Part C of Schedule II read with Regulation 18(3) of LODR Regulations, it was the duty of the Audit Committee of K-Lifestyle to examine the financials, scrutinize inter corporate loans and investments and related party transactions etc. For the instances of misstatement and noncompliance with accounting standards in the financials of K-Lifestyle pertaining to the investigation period, the Audit Committee was required to act in accordance with its terms of reference, as enlisted in Section 176 of the

Companies Act, 2013. In view of the same, I find that failure to raise any concern regarding the financials of K-Lifestyle, as member of the audit committee as well as the board of directors of K-Lifestyle, shows that these directors did not act diligently with respect to the provisions contained in the LODR Regulations.

42. I observe that in the previous paras, it has been found that the financial statements of K-Lifestyle for the investigation period contained misstatements and the same were not in line with the applicable accounting standards. I note that in terms of Regulation 33(2)(a) of LODR Regulations, the annual audited financial results are to be approved by the board of directors of the listed entity. As the financial of K-Lifestyle were misrepresented, as discussed above, therefore, Noticee no. 2, 3 and 5, along with Noticee no.7 as the CFO, who approved the financial results of K-Lifestyle for the financial years 2015-16, 2016-17 and 2017-18 are in violation of Regulation 33(2)(a) of LODR Regulations. Further, since, the directors of K-Lifestyle, i.e. Noticee nos. 2, 3 and 5 did not exercise due diligence in approving the financials of K-Lifestyle they have violated Regulations 4(2)(f)(ii)(6), (7) and (8), 4(2)(f)(iii) (3), (6) and (12) of LODR Regulations. I also note that the Annual Reports of 2015-16, 2016-17 and 2017-18 were certified by Noticee no. 3. Therefore, Noticee no. 3 has violated Regulation 33(2)(a) of LODR Regulations. As noted above, Noticee no. 4 and 6 have expired and so the proceedings against them abate.
43. I note that Noticee no. 8 and 9, being the statutory auditors of K-Lifestyle during investigation period, have also been issued separate show cause notices i.e. SCN 2 and SCN 3, respectively, alleging that the statutory auditors have been negligent in performance of their duties and have not been diligent in issuance of unqualified audit opinion for K-Lifestyle for the FY 2015-16, 2016-17 and 2017-18, thereby, violating provisions of Section 12A (a) (b) and (c), 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992 and Regulations 3(b) (c), (d) and 4(1) and 4(2), (a), (e), (f) and (r) of the

SEBI (PFUTP) Regulations, 2003. In this regard, before dealing with the liability of the statutory auditors, it would be appropriate to refer to the judgment of Hon'ble Bombay High Court in Writ Petition No. 5249 of 2010 (filed by Price Waterhouse, Bangalore) and Writ Petition No. 5256 of 2010 (filed by 10 CA firms alongwith their partners), dated August 13, 2010, wherein Hon'ble Bombay High Court, with respect to SEBI's jurisdiction over auditors has held as follows:

“25.

.... In our view, the jurisdiction of SEBI would also depend upon the evidence which is available during such inquiry. It is true, as argued by the learned counsel for the petitioners, that the SEBI cannot regulate the profession of Chartered Accountants. This proposition cannot be disputed in any manner. It is required to be noted that by taking remedial and preventive measures in the interest of investors and for regulating the securities market, if any steps are taken by the SEBI, it can never be said that it is regulating the profession of the Chartered Accountants. So far as listed Companies are concerned, the SEBI has all the powers under the Act and the Regulations to take all remedial and protective measures to safeguard the interest of investors and securities market. So far as the role of Auditors is concerned, it is a very important role under the Companies Act. As posited in Section 227 of the Companies Act, every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the Company, whether kept at the head office of the company or elsewhere, and shall be entitled to require from the officers of the Company such information and explanations as the auditor may think necessary for the performance of his duties. The auditors in the Company are functioning as statutory auditors. They have been appointed by the

shareholders by majority. They owe a duty to the shareholders and are required to give a correct picture of the financial affairs of the Company.

.....

With a view to safeguard the interests of such investors, in our view, it is the duty of the SEBI to see that maximum care is required to be taken to protect the interest of such investors so that they may not be subjected to any fraud or cheating in the matter of their investments in the securities market. Normally, an investor invests his money by considering the financial health of the Company and in order to find out the same, one will naturally bank upon the accounts and balance-sheets of the Company. If it is unearthed during inquiry before SEBI that a particular Chartered Accountant in connivance and in collusion with the Officers/Directors of the Company has concocted false accounts, in our view, there is no reason as to why to protect the interests of investors and regulate the securities market, such a person cannot be prevented from dealing with the auditing of such a public listed Company. In our view, the SEBI has got inherent powers to take all ancillary steps to safeguard the interest of investors and securities market.”

From the above-mentioned judgment of Hon’ble Bombay High Court, it is observed that for SEBI to exercise jurisdiction over an auditor, it has to be shown that the case pertains to an auditor who in connivance and in collusion with the officers or directors of a company has concocted false accounts. I note that in the present matter SCN 2 and SCN 3, as issued to Noticee no. 8 and 9, respectively, only allege that the statutory auditors were not diligent enough in the issuance of an unqualified audit opinion for the financial statements of K-Lifestyle. The SCN 2 and

SCN 3 do not allege that the statutory auditors were in connivance with the promoters/ directors / management of K-Lifestyle to fudge the financial statements of K-Lifestyle. Moreover, as discussed in previous paras, I note that the charges of violation of provisions of SEBI Act, 1992 and PFUTP Regulations, 2003, pertaining to fraud, have not been made out even against the Noticee no. 1 to 7. Therefore, in view of the judgment of the Hon'ble Bombay High Court in PWC matter (supra) and allegation made in SCN 2 and SCN 3 against Noticee no. 8 and Noticee no. 9, are not made out.

44. I note that, in case of listed companies, the continuous compliance of LODR Regulations is important, to enable the investors to take timely investment and disinvestment decisions. In view of the aforesaid violations committed by K-Lifetsyle (which includes violations of misrepresentation in the financials), 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, need to be issued. I further note that vide its order dated March 17, 2020 in the matter of Oasis Securities Limited & Ors vs. SEBI in Appeal no. 316 of 2018, Hon'ble SAT has upheld the jurisdiction of SEBI in ensuring that Accounting Standards are complied with by the listed entities, in compliance with their listing obligations.
45. The Noticees have been called upon to explain as to why penalty should not be imposed upon them under Sections 15A(a), 15HA and 15HB of SEBI Act, 1992 and Section 23E and 23H of SCRA, 1956, for the violations alleged in the SCN. Relevant extract of these penalty provisions, as existing at the time of violations, is reproduced, hereunder:

Relevant extract of Section 15A (a), 15HA and 15HB of SEBI Act, 1992:

“Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;

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.”

Relevant 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.

46. From the analysis of the aforesaid penalty provisions, I find that penalty under Sections 15A(a) and 15HB of the SEBI Act, 1992, only, 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) and (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.e. Noticee no. 1 to 9). 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 K-Lifestyle is in violation of listing conditions, however, K-Lifestyle is not managing any collective investment scheme or mutual fund, so as to attract penalty under Section 23E of SCRA. I find that penalty under Section 23H of SCRA, 1956 is not attracted in the case of Noticee no. 2 to 7, 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 the Securities and Exchange Board of India for which no separate penalty has been provided. As the Noticee no. 2 to 7, being directors of K-Lifestyle, 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 alleged against these Noticees, therefore, Section 23H is not attracted in the case of Noticee no. 2 to 7. K-Lifestyle has been found to have violated provisions of Section 21 of SCRA Act, 1956, therefore, provisions of Section 23H is attracted qua Noticee no. 1.

47. I find that for non-furnishing of information to forensic auditor, as found above, K-Lifestyle is liable for imposition of penalty under Section 15A(a) of the SEBI Act, 1992 which provides penalty for failure to furnish information, *inter alia*, sought by SEBI under the provisions of SEBI Act, 1992. For the violation of LODR Regulations, K-Lifestyle 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 the Board thereunder 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 15HB) does not separately provide for any penalty for violation of LODR Regulations, therefore, for violation of LODR Regulations by K-Lifestyle, as found in this order, penalty under Section 15HB is

attracted against K-Lifestyle. Similarly, Noticee no. 2 to 7 who are the directors/ CFO of K-Lifestyle 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.

48. 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.”

49. 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 the Noticees.

However, I note that the violations have occurred over a period of three financial years. I also note that all the 8 observations made in the FAR have been sustained in this order. I also note that Noticee no. 2 and 5 were the independent directors of K-Lifestyle. Noticee no. 3 was the Managing Director of K-Lifestyle for the FYs 2015-16, 2016-17 and 2017-18. I also note that Noticee No.7 was the CFO of the company during the period of violations alleged in the SCN, i.e. April 01, 2015 to December 31, 2017.

50. I also note that on perusal of the website of K-Lifestyle (<http://www.klifestyleindustries.com>) it was observed that the company was under Corporate Insolvency Resolution Process (CIRP) under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC), and the insolvency commencement date was mentioned as February 5, 2020. From the website of the Insolvency and Bankruptcy Board of India (IBBI), it was observed that vide order dated February 5, 2020, a moratorium as per the provisions of Section 13 and 14 of the IBC had been declared. In this regard, I note that dealing with a similar case of enforcement action by SEBI against a company in CIRP, the Hon'ble SAT, vide its order dated October 09, 2020 in Dewan Housing Finance Corporation Ltd. Vs. SEBI (Appeal No. 206 of 2020) held that enforcement action/ proceedings against a company under CIRP cannot be initiated/ continued. The said order passed by the Hon'ble SAT in the DHFL matter has been challenged by SEBI before the Hon'ble Supreme Court (CA 3963/2020) and the same is pending. The limited purpose of these proceedings is to determine if the noticee company has violated any of the provisions of securities laws and if so, to assess and determine the penalty in order to enable SEBI to crystallise its claim. The directions issued/ penalty imposed after consummation of these proceedings will be given effect to depending on outcome of aforesaid appeal before the Hon'ble Supreme Court in the DHFL matter. Further, subject to outcome of the aforesaid appeal before the Hon'ble Supreme Court in the DHFL matter, the monetary penalty imposed (or consequent demand notice or

recovery, etc.) will stand crystalized and will enable lodging of claim before the liquidator in the eventuality of failing of resolution plan and consequent initiation of liquidation proceedings.

Directions:

51. 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 Sections 11(1), 11(4), 11(4A), 11A and 11B(1), 11B(2) and Section 12A(1) of SCRA, 1956 read with Section 19 and 11(2)(j) of the SEBI Act, 1992 and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, direct as under:
- (i) For the violations committed by Noticee no. 1, as discussed in the previous paras of this order, Noticee no. 1 is liable to be restrained from accessing the securities market and further liable to be 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 this direction becoming effective against Noticee no.1, in accordance with observations made in para 50 of this order;
 - (ii) The Noticee no. 3 and 7 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;
 - (iii) The Noticee no. 2 and 5, 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 six (6) months, from the date of coming into force of this order;

- (iv) The proceedings against Noticee no. 4 and 6 abate due to their death as noted in para 34 above. In view of the same, the show cause notice issued against Noticee no. 4 and 6 is accordingly disposed of without any further directions.
- (v) The Noticee no. 1, 2, 3, 5 and 7 are hereby imposed with, the following penalties as specified:

Notice e No.	Name of Noticee	Provisions under which penalty imposed	Penalties
1	K Lifestyle and Industries Limited	Section 23H of SCRA, Section 15HB and Section 15A(a) of SEBI Act, 1992	Rs. 30,00,000/- (Rupees Thirty Lakh) and Rs. 10,00,000/- (Rupees Ten Lakh)
2	Mr. Narayan Ghumatkar	Section 15HB of SEBI Act, 1992	Rs. 3,00,000/- (Rupees Three Lakh)
3	Mr. Jaiprakash Mishra	Section 15HB of SEBI Act, 1992	Rs. 15,00,000/- (Rupees Fifteen Lakh)
5	Mr. Pravin Kumar	Section 15HB of SEBI Act, 1992	Rs. 3,00,000/- (Rupees Three Lakh)
7	Mr. Rajendra Pathak	Section 15HB of SEBI Act, 1992	Rs. 6,00,000/- (Rupees Six Lakh)

* The said penalty shall stand payable by Noticee no. 1 as per observations mentioned in para 50 of this order.

- (vi) The Noticees, except Noticee no. 1 are directed to pay their respective penalties within a period of forty-five (45) days, from the date of receipt of this order, 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)	

- (vii) Noticee no.1 shall pay the penalty determined with respect to it within a period of forty-five (45) days, from the date the penalty becomes payable by Noticee no. 1.

52. During the period of restraint, as directed in para 51 above, the existing holding of securities including the units of mutual funds, of the concerned Noticees, shall remain under freeze.
53. 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.
54. This Order comes into force with immediate effect.
55. This Order shall be served on all the Noticees, Resolution Professional of Noticee no. 1, Recognized Stock Exchanges, Depositories and Registrar and Share Transfer Agents and Banks to ensure necessary compliance. A copy of this order shall also be forwarded to ICAI for necessary action.

Place: Mumbai

Date: December 21, 2021

ANANTA BARUA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA