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National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/ 52264	**Date: May 11, 2022**
Circular Ref. No: 54/2022	

To All NSE Members

Sub: **Final Order in the matter of Jalan Cement Works Limited (now known as Aashrit Capital Limited)**

SEBI vide its order no. WTM/AB/IVD/ID19/16347/2022-23 dated May 11, 2022, has restrained the below entities 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 the period(s) mentioned below.

Sr. No.	Name of entities	PAN	Period
1	Jalan Cement Works Limited (now known as Aashrit Capital Limited)	AAACJ6788R	One (1) year
2	Mr. Prateek Arora	ANQPA0647J	One (1) year
3	Mr. Nimish Arora	AEDPA9743D	One (1) year
4	Ms. Roli Gupta	AJBPG3165G	Six (6) months
5	Ms. Heena Khurana	BSUPK1333H	Six (6) months
6	Mr. Shalabh Gaur	ANTPG8746R	One (1) year
7	Mr. Satish Kumar Gupta	AACPG7419H	Six (6) months
8	Mr. Dilip Kumar Pipalwa	AFUPP1788H	One (1) year
9	Ms. Richa Pipalwa	BBIPP1664H	Six (6) months
10	Mr. Suresh Kumar Moonka	AENPM6317F	Six (6) months
11	Mr. Raj Kumar Agarwal	ACGPA0363G	Six (6) months

National Stock Exchange of India

In respect of settlement of securities by any of the above entities, if any, purchased or sold in the cash segment of the recognized stock exchange(s), as existing on the date of the SEBI Order, can take place irrespective of the restraint/prohibition imposed by the SEBI Order, in respect of pending transactions, if any.

Further, all open positions, if any, of the above entities, restrained/prohibited in the present SEBI Order, in the F&O segment of the recognized stock exchange(s), are permitted to be squared off, irrespective of the restraint/prohibition imposed by the SEBI Order.

This Order shall come into force with immediate effect.

The detailed order is available on SEBI website (http://www.sebi.gov.in). Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page under “Home-Regulation-Members-Action against Members-Regulatory Actions”.

Members are advised to take note of the above and ensure compliance.
In case of any further queries, members are requested to contact the following officials:

Mr. Ojas Murudkar (Extension: 22378), Mr. Atish Agarwal (Extension: 26026)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of
National Stock Exchange of India Limited

Atish Agarwal
Manager

National Stock Exchange of India

ANNEXURE – Final Order in the Matter Of Jalan Cement Works Limited (now known as Aashrit Capital Limited)

WTM/AB/IVD/ID19/16347/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

Under Sections 11(1), 11(4), 11(4A), 11A, 11B (1) and 11B(2) read with Section 15HA and 15HB 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) and (2) read with Sections 23E and 23H 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.	Jalan Cement Works Limited (now known as Aashrit Capital Limited)	AAACJ6788R
2.	Mr. Prateek Arora	ANQPA0647J
3.	Mr. Nimish Arora	AEDPA9743D
4.	Ms. Roli Gupta	AJBPG3165G
5.	Ms. Heena Khurana	BSUPK1333H
6.	Mr. Shalabh Gaur	ANTPG8746R
7.	Mr. Satish Kumar Gupta	AACPG7419H
8.	Mr. Suresh Kumar Sharma	ALQPS1770E
9.	Mr. Dilip Kumar Pipalwa	AFUPP1788H
10.	Mr. Parmanand Drolia	ADSPD5139Q

11.	Ms. Richa Pipalwa	BBIPP1664H
12.	Mr. Suresh Kumar Moonka	AENPM6317F
13.	Mr. Raj Kumar Agarwal	ACGPA0363G

In the matter of Jalan Cement Works Limited (now known as Aashrit Capital 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 show cause notice dated August 18, 2020 (hereinafter referred to as "**SCN**") issued to the Noticees by the Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"). The SCN was issued to the Noticees asking them to show cause as to why suitable directions be issued and/or penalty be not imposed, as deemed fit under Sections 11(1), 11(4), 11(4A), 11A and 11B(1), 11B(2) read with Sections 15HA and 15HB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**"), Sections 12A(1) and (2) read with Sections 23E and 23H of Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "**SCRA, 1956**") against them. The SCN, *inter alia,* alleged that Jalan Cement Works Limited (hereinafter also referred to as "**JCWL**" / "**the Company**") had failed to present true and fair financial statements and had executed transactions which are non-genuine in nature tantamounting to misrepresentation of the accounts/ financials statement and misuse of account/ funds of the Company. It was further alleged that JCWL had misused funds/ misrepresented books of accounts which are detrimental to the interests of genuine investors and are fraudulent in nature. It was also alleged that the directors and the Chief Financial Officer (hereinafter referred to as "**CFO**") (i.e. Noticee nos. 2 to 13) of Noticee no. 1 had failed to exercise duty of care, by misrepresenting the financials/misusing the funds. It was observed that the

directors and the CFO of Noticee no. 1 had failed to discharge their fiduciary responsibility. The SCN also alleged that Noticee no.1 and its directors and the CFO (Noticees no. 2 to 13) failed to present true and fair financial statements, executed transactions which are non-genuine in nature resulting in misrepresentation of the accounts/ financials statement 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 mislead the investors.

2. The SCN alleged that the Company has violated Section 12A (a) (b) & (c) of the SEBI Act,1992 and Regulations 3(b), (c) & (d), 4(1) and 4(2) (f) & (r) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulation, 2003**"), Regulations 4(1) (a), (b), (c), (e) & (g), 4(2)(f)(ii)(6) & (7), 4(2)(f)(iii)(3),(6) & (12), 33(2)(a) and 48 of SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015 (hereinafter referred to as "**LODR Regulations, 2015**") read with Section 21 of SCRA, 1956. The SCN further alleged that the directors of the Company i.e., (ii) Mr. Prateek Arora (Noticee no. 2), (iii) Mr. Nimish Arora (Noticee no. 3), (iv) Ms. Roli Gupta (Noticee no. 4), (v) Ms. Heena Khurana (Noticee no. 5), (vi) Mr. Satish Kumar Gupta (Noticee no. 7), (vii) Mr. Dilip Kumar Piplwa (Noticee no. 9), (viii) Mr. Parmanand Drolia (Noticee no. 10), (ix) Ms. Richa Pipalwa (Noticee no. 11), (x) Mr. Suresh Kumar Moonka (Noticee no. 12) and (xi) Mr. Raj Kumar Agarwal (Noticee no. 13) and CFO's of the Company i.e. (i) Mr. Shalabh Gaur (Noticee no. 6) and (ii) Mr. Suresh Kumar Sharma (Noticee no. 8) have violated Section 12A (a), (b) and (c) of the SEBI Act, Regulations 3(b), (c) and (d) and 4(1) and 4(2) (f) and (r) of the PFUTP Regulations, 2003, Regulations 4(1) (a), (b), (c), (e) & (g), 4(2)(f)(ii)(6)&(7), 4(2)(f)(iii)(3),(6) & (12), 17(8) read with Part B of Schedule II, 33(2)(a) and 48 of the LODR Regulations, 2015, read with Section 27 of SEBI Act, 1992 and Section 21 of SCRA, 1956.

3. The following annexures were provided with the SCN:

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

4. In reply to the SCN, the Noticee no. 1 has filed detailed response to the allegations vide letters dated September 18, 2020, October 27, 2021 and November 30, 2021 also on behalf of Noticees no. 2 to 7. Further, Noticee no. 2 has filed written submissions vide letter dated January 18, 2022, Noticee no. 3 vide letter dated January 18, 2022, Noticee no. 4 vide letter dated January 19, 2022, Noticee no. 5 vide letter dated January 13, 2022 and Noticee no. 7 vide letter dated September 16, 2020. Noticees no. 8 to 13 have also filed replies to the SCN vide their respective letters dated November 18, 2021, which are discussed in the subsequent paras.

Consideration of submissions and findings:

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

Relevant extract of the provisions of SEBI Act, 1992:

*"**Functions of Board.***

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

(2) Without prejudice to the generality of the foregoing provisions, the 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;

…………………………………………………..

Relevant extract of provisions of SCRA, 1956:

"Conditions for listing.

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

Relevant extract of the provisions of PFUTP Regulations, 2003:

"3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) ……..;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:-

…..

(f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information relating to securities, including financial results, financial statements, mergers and acquisitions, regulatory approvals, which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

…..

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

…………………………………..”

<u>Relevant extract of the provisions of LODR Regulations:</u>

*“**Principles governing disclosures and obligations.***

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

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

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

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

(d) …...

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

(f) …

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

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

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(f) Responsibilities of the board of directors:

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

…….

(ii) Key functions of the board of directors-

……

(6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.

(7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.

…

(iii) Other responsibilities:

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

….

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

…..

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

…..

Board of Directors.

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

Financial results.

33. (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.

6. Before proceeding on the merits of the matter, it will be relevant to discuss the background of the present proceedings.

7. 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. SEBI, vide its letter dated August 07, 2017, had advised stock exchanges i.e. BSE, NSE and MSEI to identify the companies listed on their respective exchanges from the said list and initiate the surveillance action/measures stated in the letter.

8. Thereafter, MSEI vide notice dated August 07, 2017 issued to all its market participants, initiated actions envisaged in the SEBI letter dated August 07, 2017 in respect of all the listed companies, as identified by MCA and communicated by SEBI, with effect from August 08, 2017. On August 09, 2017, SEBI further advised the Stock Exchanges to submit a report after seeking auditor's certificate, from all such listed companies, providing the status of certain aspects of these companies like compliance with Companies Act, whether company is a going concern and its business model, status of compliance with listing requirements, etc. In the meantime, aggrieved by the aforesaid letters/notice dated August 07, 2017 issued by SEBI and stock exchange, JCWL filed an appeal before Hon'ble Securities Appellate Tribunal, Mumbai (hereinafter referred to as "**SAT**"). Upon JCWL withdrawing its appeal to pursue its representation before SEBI, the Hon'ble SAT vide order dated September 15, 2017 directed SEBI to dispose of the representation made by JCWL within a period of four weeks from the date of the order.

9. Pursuant to the decision of Hon'ble SAT, SEBI vide letter dated September 21, 2017, granted an opportunity of hearing to JCWL on September 27, 2017. Thereafter, SEBI passed an interim order in the matter on October 13, 2017 (hereinafter referred to as "**interim order**") wherein *inter alia* following directions were issued:

"26…

i. The trading in securities of JCWL 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 interalia to further verify:

a. Misrepresentation including of financials and/or business of JCWL, if any;

b. Misuse of the books of accounts / funds including facilitation of accommodation entries, if any.

iii. The limitation on the transfer of shares held by the Promoters and Directors of JCWL as mentioned in para 1(b) of SEBI's letter dated August 07, 2017 is removed.

iv. The other actions envisaged in SEBI's letter dated August 07, 2017 in para 1 (d), as may be applicable, and the consequential action taken by Stock Exchanges shall continue to have effect against M/s Jalan Cement Works Limited.

It was further directed that:

"29. The prima facie observations contained in this Order are made on the basis of the prima facie material available on record. In this context, M/s Jalan Cement Works Limited is advised to file its reply/objections to this interim order, if any, within 30 days from the date of receipt of this Order and may also indicate in the reply whether it desires 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. In the event of M/s Jalan Cement Works Limited fails to file reply or request for an opportunity of personal hearing within the said 30 days, the preliminary findings of this Order and ad-interim directions at para 26 above shall stand confirmed automatically, without any further orders.

10. JCWL did not file any reply/objections to the interim order with SEBI within 30 days from the date of the interim order. Accordingly, the preliminary findings of the interim order and ad-interim directions at paragraph 26 of the interim order stood confirmed automatically, without any further orders. Based on the directions given in the interim order, a forensic auditor Shah & Ramaiya Chartered Accountants (hereinafter referred to as "**S&R**" or "**forensic auditor**"), was appointed by MSEI vide letter dated January 10, 2018 to conduct forensic audit of JCWL for the period of April 2015 till December 31, 2017 (hereinafter referred to as the "**investigation period**"). On November 14, 2018, forensic auditor appointed by MSEI submitted a

Forensic Audit Report (hereinafter referred to as "**FAR**") to MSEI. Thereafter, based on the FAR which was forwarded by MSEI to SEBI vide letter dated November 19, 2018, SEBI carried out an investigation in the matter.

11. Based on the findings of investigation, SCN was issued on August 18, 2020 and was delivered to all the Noticees by speed post. Thereafter, the matter was placed before me on January 04, 2021 for giving an opportunity of hearing and passing a final order in the matter. Accordingly, an opportunity of personal hearing was granted to all the Noticees on March 04, 2021. The advocates representing the Noticees no. 1 to 6, Noticee no. 7 and Noticees no. 8 to 13 appeared via videoconferencing and sought for an adjournment. Accordingly, another opportunity was granted to all the Noticees on March 30, 2021. The Company vide letter dated March 30, 2021 sought adjournment for the hearing scheduled on March 30, 2021. Further, the advocates for Noticees no. 8 to 13 through joint email dated March 30, 2021 sought for an adjournment for the hearing scheduled for March 30, 2021 citing reasons that the advocates family has been infected with Covid-19. Noticees no. 2 to 7 did not appear for the hearing or seek any adjournment of the hearing scheduled on March 30, 2021. Nonetheless, another opportunity of personal hearing was granted to all the Noticees on May 31, 2021. On May 31, 2021, the advocates for Noticees no. 1, 2, 3 and 6 appeared via videoconferencing and sought for adjournment as the advocates and Noticees were suffering from Covid-19. Further, the advocates for Noticees no. 8 to 13 vide email dated May 28, 2021 sought for an adjournment as the advocate was still recovering from Covid-19. Noticees no. 4, 5 and 7 did not appear for the hearing or seek adjournment for the hearing on May 31, 2021. A last and final opportunity of personal hearing was granted to all the Noticees on October 28, 2021. On October 28, 2021 the advocate representing Noticees no. 1, 2, 3 and 6 appeared via videoconferencing and made submissions and sought 2 weeks' time to file written submissions, which was granted. I note that The advocate for Noticees no. 8 to 13 appeared via

videoconferencing and made submissions and sought 3 weeks' time to file written submissions, which was granted. Noticees no. 4, 5 and 7 did not appear for the hearing on October 28, 2021 and neither did they file any letter/email seeking adjournment. I note that Noticee no. 1 has filed reply on behalf of Noticees no. 2 to 7 and during the hearing on March 04, 2021, there was a common representative who appeared on behalf of Noticees no. 1 to 6. However, thereafter, the advocate, as conveyed during the hearing, has appeared only on behalf of Noticees no. 1, 2, 3 and 6. In view of this, hearing qua Noticees no. 4, 5 and 7 was concluded. Thereafter, Noticee no. 1 vide letter dated November 16, 2021 sought additional time to file its written submissions. The Noticee no. 1 then vide letter dated November 11, 2021, also on behalf of Noticees no. 2 to 7, filed its written submissions. The Noticees no. 8 to 13, vide their respective letters dated November 18, 2021, filed their written submissions. Subsequently, Noticee no. 5 filed her written submissions vide letter dated January 13, 2022, Noticee no. 2 and 3 filed their written submissions vide respective letters dated January 18, 2022 and Noticee no. 4 filed his written submissions vide letter dated January 19, 2022.

12. I observe that in the SCN, the allegations against the Noticee no. 2 to 13 flows from the allegations against Noticee no.1. Noticees no. 2 to 5 and 7 to 13 have been charged in their capacity as directors of Noticee no.1 and Noticee no. 6 has been charged as the CFO of Noticee no.1. Therefore, in the following paras, various allegations made against Noticee no. 1 in the SCN have been examined to find out as to whether the violations alleged in the SCN against Noticee no. 1 have been made out so as to determine liabilities of Noticees no. 2 to 13 also, which is flowing from violations alleged against Noticee no. 1.

13. At the outset, before dealing with the allegations in the SCN against the Company, it is relevant and appropriate to first deal with one of the preliminary contentions of the Noticees that SEBI has dealt only with the Forensic Audit report dated

November 14, 2018 and has ignored the Forensic Audit report dated March 16, 2018 and this is in gross violation of basic principles of equity, fair play, transparency, and natural justice. In this regard, I note that the forensic auditor was engaged by MSEI based on the directions given in the interim order and MSEI was to submit the forensic audit report to SEBI. I note that MSEI has submitted only one report i.e. report dated November 14, 2018 to SEBI. Therefore, on record, the forensic audit report dated November 14, 2018 is the only report on the basis of which the investigation was conducted by SEBI and SCN issued thereafter. However, on perusal of the reply dated November 30, 2021 filed by the Company, I note that the report dated March 16, 2018, is a interim report submitted by the Forensic Auditor to MSEI, which is more than evident from the cover letter dated March 16, 2018 by the Forensic Auditor to MSEI stating that "*With reference to caption subject and further to our discussion, we have conducted Forensic Audit of M/s Jalan Cement Works Limited. Detailed scope of assignment along with observation and pending requirements is annexed herewith*." It is clear from the same that the Forensic Auditor has pending requirements and therefore, the said report is not the final report and is irrelevant to the proceedings. Further, from the cover letter dated November 14, 2018 by the Forensic Auditor to MSEI, it has been *inter alia* stated that they are enclosing the "Final Forensic Audit Report". In view of the above, there is no question or doubt that the Forensic Audit Report dated November 14, 2018, which has been submitted to SEBI by MSEI, is the final Forensic Audit Report to be considered in the matter and hence, the contention of the Company that the Forensic Audit report dated March 16, 2018 has not been considered by SEBI is flawed and untenable. I note that to substantiate its replies to the various observations in the FAR, the Company has referred to the observations of the interim report dated March 16, 2018. In view of the observations in this para on the interim report dated March 16, 2018, the replies with reference to the observations of the interim report are extraneous and not being considered.

14. The main allegations against the Company as contained in the SCN, are discussed below:

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

15. The allegations made in the SCN with respect to misrepresentation of financials and misuse of funds/books of accounts and my findings therein are given in the following sub-paras.

15.1 Dealing and accounting of non-genuine transactions in immovable properties:

15.1.1 It is alleged in the SCN that the Company had entered into non-genuine transactions in immovable properties. Details of properties purchased during the FY 2015-16 of Rs. 3.5 crores (which is 70% of the total purchases for the year), as observed in the FAR, is as under:

Table - 1

S. No.	Date	Property	Seller Name	Value (in INR Cr.)	Relationship
1	30/07/15	5000 sqft in Evergreen Tower A. 2nd Floor @ Rs. 3200 psf	Cyberwalk Tech Park Pvt. Ltd.	1.60	Nimesh Arora is the common director of JCWL and Seller and is the authorised signatory to the Agreement
2	08/03/16	300 sq. yard at Dharuhera at Rs. 18000 per sq. yard	Select Synergies & Services Pvt. Ltd.	0.54	Could not be identified
3	28/03/16	800 sqft in Evergreen Tower A. 5th Floor @ Rs. 6000 psf	Gyan Marketing Associates Pvt. Ltd. ("Gyan")	0.48	Mr. Naresh Kumar (Din 05150357) is a director of Gyan. He is also a director in Webpulse Consulting India Pvt. Ltd. ("Webpulse") Mr. Rajiv Manchanda (Din 00637812) is also one of the directors of Webpulse and also a director in Astral Premier Exports Pvt. Ltd. (subsidiary of JCWL) and is also a director in
4	30/03/16	800 sqft in Evergreen Tower A. 5th Floor @ Rs. 6000 psf	Gyan Marketing Associates Pvt. Ltd.	0.48	

					Prerana International Pvt. Ltd. (Associate of JCWL)
5	31/03/16	1250 sqft in Evergreen Tower A. @ Rs. 3200 psf	Sarika Bhalla	0.40	Could not be identified Agreement not provided so floor, etc. is not known.
	TOTAL			**3.50**	

15.1.2 Details of properties sold by the Company during FY 2016-17 of Rs. 4.18 Crores (which is 17% of the total sales for the year), as observed in the FAR, is as under:

Table – 2

S. no	**Date**	**Property**	**Buyer Name**	**Value (in INR Cr.)**	**Relationship**
1	26/10/16	600 sqft office space at Manesar @ Rs. 8000 psf	Gurav Sales Corportion (Sachin Bhatia)	0.48	Could not be identified
2	05/12/16	800 sqft in Evergreen Tower A. @ Rs. 3200 psf	Gyan Marketing Associates Pvt. Ltd.	0.40	As mentioned in the table above.
3	06/03/17	200 sqyd at Dharuhera at Rs. 18000 per sq. yard	S N Jee Buildwell Pvt. Ltd.	0.36	Mr. Nimish Arora is the common director of S N Jee Buildwell Pvt. Ltd. and JCWL
4	07/03/17	100 sqyd at Dharuhera at Rs. 18000 per sq. yard	S N Jee Buildwell Pvt. Ltd.	0.18	
5	09/03/17	1600 sqft in Evergreen Tower A. 5th Floor @ Rs. 6000 psf	Prerana International Pvt. Ltd.	0.96	Associate of JCWL as per financials
6	09/03/17	500 sqft office space at Manesar Eco Tower 1 @ Rs. 6000 psf	Prerana International Pvt. Ltd.	0.30	Associate of JCWL as per financials.
7	10/03/17	2500 sqft retail space at Manesar Eco Tower 1 @ Rs. 6000 psf	Prerana International Pvt. Ltd.	1.50	Associate of JCWL as per financials.
	TOTAL			**4.18**	

15.1.3 With regard to the aforesaid, the FAR has made the following observations:

(i) All the purchase and sale transaction of properties are executed on agreements stamped with Rs. 100 and ad-valoram stamp duty is not paid. This is in gross violation of relevant stamp act applicable to that location.

(ii) The transactions do not identify the exact property but only record a small lump sum area of a big property without any premises number, unit number or any other identification and the schedule of property records a heading "Floor Plans with area marked to be attached" which has never been attached.

(iii) The agreements for purchase and sale of properties are not registered with the local sub-registrar in violation of section 17 of the Registration Act, 1908. The Registration is mandatory as it results in constructive notice of the transaction and acts as an evidence of ownership of property while carrying out search. Multiple documents for the same property can be executed if the registration is not done. As the transfers are not registered, presence of several such agreements of Rs. 100 between several entities of Jalan Group is possible.

(iv) Properties of same area are transacted at absurdly different rates per square feet. Eg: Property at Manesar was transacted at Rs. 6000 on March 31, 2016 as well as March 10, 2017, but is transacted at Rs. 8000 on October 26, 2016.

(v) 10 of the 13 transactions of properties resulting in 83% of the transactions are carried out between parties who are related to JCWL and there appears to be no rational in these transactions as the property has simply moved from one entity to another entity of the same group or related entities without payment of adequate stamp duty, registration of transaction etc.

(vi) Though the scope of audit was confined to 2 financial years, but it was felt necessary to check the source of opening stock and therefore the entries of the FY 2014-15 were scrutinised.

(vii) It was observed that opening stock of 16.97 Crores at the beginning of FY 14-15 was reduced to Rs. 3.72 by passing rectification entries worth 13.25 Crores. This has impacted 78% of the opening stock being removed from the balance sheet and it is absurd that 78% of the stock was erroneous. Further

the rectification entries are booked as a sale in the "Tally" accounting system but commensurate effect is not given in audited financials. Relevant entries are given as Annexure 5.

(viii) Of the total property transactions of Rs. 8.4 Crores in FY 15-16 and 16-17 transactions worth Rs. 5.92 Crores have taken place in March month of the financial year. It means that 70.42% of the total transactions take place only in the month of March i.e. at the fag end of the financial years. It is absurd that the company remembers to transact mostly in the last month of the Financial Year that too predominantly with related entities and hardly does any business during the rest of the year.

(ix) *From all the above it can be construed that the transactions are merely book entries carried out to facilitate the movement of funds between entities or generating loan entries in the books of accounts. This has also resulted in booking of profits or losses at the cost of counter parties thus substantiating that the profits / losses reflected in the financials are non-genuine*.

15.1.4 The FAR has observed that the Company had entered into agreements to purchase and sell immovable property with connected/related parties without identifying the exact property but only recording a small lump sum area of a big property without any premises number, unit number or any other identification, and without payment of adequate stamp duty or registration. Further, FAR observes that the transactions mentioned in aforesaid Tables no. 1 and 2 shows that transactions were carried out between parties who are related to JCWL and there appears to be no rational in these transactions as the property has simply moved from one entity to another entity of the same group or related entities without payment of adequate stamp duty or registration of agreements.

15.1.5 With regard to the observations on the relationship of the Company with the purchasers and sellers, as given in the Tables no. 1 and 2 above, the Company has submitted that with respect to the observations in the FAR on the transaction with Cyberwalk Tech Park Pvt. Ltd., Mr. Nimish Arora (Noticee no. 3) was never a director in Cyberwalk Tech Park Pvt. Ltd and has submitted a copy of details of directorship held by Noticee no. 3. In this regard, I note that Ms. Asha Arora, who is the mother of Noticee no. 3 and Prateek Arora (Noticee no. 2) is the director of Cyberwalk Tech Park Pvt. Ltd. since February 01, 2015. Further, I note from the MCA website that Noticee no. 3 became a director of JCWL on September 30, 2015 and Noticee no. 2 became a director of JCWL on August 13, 2016 and that the aforesaid transaction with Cyberwalk Tech Park Pvt. Ltd. was on July 30, 2015. Hence, the observation in the FAR that Noticee no. 3 is the common director of JCWL and Cyberwalk Tech Park Pvt. Ltd. is incorrect as Noticee no. 3 was not a director of JCWL when the aforesaid transaction with Cyberwalk Tech Park Pvt. Ltd. took place. Further, I note that there are no further observations in the FAR with regard to the relationship of JCWL with Cyberwalk Tech Park Pvt. Ltd. Therefore, since the transaction with Cyberwalk Tech Park Ltd. took place before Noticee no. 3 became a director of JCWL, I agree with the submission of the Company that the said transaction cannot be said to be a related party transaction of JCWL, as observed in the FAR.

15.1.6 With regard to the transactions at Sr. no. 3 and 4 at Table no. 1 and at Sr. no. 1 and 2 at Table no. 2 in the aforesaid paras, with Gyan Marketing Associates Pvt. Ltd. (hereinafter referred to as "**Gyan**"), the Company has submitted that Mr. Naresh Kumar is a director of Gyan and he is also a director in Webpulse Consulting India Pvt. Ltd. It was submitted that the observation in the FAR that Mr. Rajiv Manchanda being one of the directors of Webpulse Consulting India Pvt. Ltd (where Naresh Kumar is a director) and also a director in Astral Premier Exports Pvt. Ltd. (subsidiary of JCWL) and Prerana International Pvt. Ltd. (Associate of

JCWL), does not make Jalan and Gyan related parties as per Section 2(76) of the Companies Act, 2013 and/or Accounting Standard – 18 and hence, the said transaction is not a related party transaction. In this regard, from the evidence available before me and for the reasons given above, I am inclined to agree with the submission of the Company that Gyan is not a related party of the Company under Section 2(76) of the Companies Act, 2013. I also note from the observations of the FAR as given in Table-1 above that the relationship of JCWL with Select Synergies & Services Pvt. Ltd. and Sarika Bhalla could not be identified. In view of the above, I find that the observations of FAR that JCWL is related to Cyberwalk Tech Park Pvt. Ltd. and Gyan Marketing Associates Pvt. Ltd. cannot be sustained and agree with the submissions of the Company that the aforesaid transactions in Table no. 1 with regard to the purchase of properties by JCWL during the investigation period, was not with related entities.

15.1.7 Further, with regard to the transaction of sale of immovable property as given in Table no. 2 above, the Company has submitted that the observation in the FAR that sale of properties worth Rs 3.70 crores are to related parties is factually incorrect as transaction to the worth of Rs 0.40 crores pertains to Gyan. In this regard, I note that the Company in its reply dated October 27, 2021, has submitted a copy of the extract of the financial statement for the FY 2015-16 and 2016-17 along with the details of the related parties and volume of the transaction with related parties (as Annexure 3 and 3A to the reply) to contend that related parties have been duly disclosed. However, from the aforesaid Annexures submitted vide the Company's reply dated October 27, 2021, I note that among the entities listed in the Table-2 above, only Prerana International Pvt. Ltd. has been listed as an associate company of JCWL, but only for the FY

2015-16, as given in Annexure 3 to the reply. I note that the company S N Jee Buildwell Pvt. Ltd., where Noticee no. 3 is a common director, has not been listed as a related party. Therefore, I note that S N Jee Buildwell Pvt. Ltd. has not been disclosed as related party in the financial statements for the F.Y. 2016-17. Further, I note that there are some discrepancies in the financial statement for the FY 2015-16 and 2016-17 submitted and marked as Annexures 3 and 3A in the Company's reply. I note that in the financial statement for the FY 2016-17 marked as Annexure 3A to the Company's reply dated October 27, 2021, the related party transactions of Rs. 0.54 crores on sale of property to S N Jee Buildwell Pvt. Ltd and transactions of Rs. 2.76 crores of Prerana International Pvt. Ltd. have not been provided. Further, I note that the company Prerana International Pvt. Ltd. has not been listed as an associate, subsidiary or related company for the FY 2016-17 in the Annexure 3A submitted by the Company. Hence, I agree with the observations of the FAR that JCWL has failed to disclose related parties in its financial statements for the FY 2016-17, and that the related party transactions with S N Jee Buildwell Pvt. Ltd and Prerana International Pvt. Ltd. in the FY 2016-17 have not been disclosed in the financial statements of the Company for FY 2016-17, and is in non-compliance of Accounting standard 18.

15.1.8 I note that the forensic auditor has observed that the aforesaid transactions in terms of purchase and sale of immovable property, as detailed in Table no. 1 and 2, do not identify the exact property but only record a small lump sum area of a big property without any premises number, unit number or any other identification and the schedule of property records a heading "*Floor Plans with area marked to be attached*" which has never been attached. The Company has submitted that the properties being sought to be purchased or sold by the Company either in commercial office space in Cyberwalk, Manesar or the plot in Countywalk, Dharuhera could not be exactly identified at the time of entering into the agreements as in Cyberwalk Manesar, the commercial space was being offered as a part of a floor and not a lockable unit with an intention to cater to big Multinational Corporations seeking larger undivided office space. Further, in units purchased in Countywalk, Dharuhera, the final layout plan of the township was not yet ready and the booking pertained to an under construction colony. In this regard, I note that the Company itself admits that the properties could not be exactly identified at the time of entering into agreements. The Company has submitted that the area and floor was always mentioned in the agreement. However, the Company has failed to explain why in the same “Evergreen Tower”, some of the properties have the floor number provided while some don’t. Therefore, I note that the submissions of the Company are vague and also does not explain how an under construction colony cannot have any details of the locality or area. I also note that the “*Floor Plans with area marked to be attached*” that were never attached to the schedule of property and provided to the forensic auditor, as observed in the FAR, has still not been provided. Furthermore, the contention of the Company that the agreements identifying the property were verified by the Forensic Auditor as recorded in Annexure-1 to the FAR is erroneous and hence, untenable, as the said verification is only with regard to the existence of the agreement/documents and not certifying the authenticity of the documents. In view of the above, I agree with the observations of the FAR that the agreements do not identify the exact property and are therefore, non-genuine transactions.

15.1.9 I note that the FAR also observes that the aforesaid agreements pertaining to transactions in Table 1 and 2 above for purchase and sale of properties are not registered with the local sub-registrar in violation of Section 17 of the Registration Act, 1908. In this regard, the Company has submitted that the aforesaid transfer deeds (agreements) are only agreements to sale /purchase which as per Section 54 of Transfer of Property Act, 1882, do not, by themselves, create any interest or charge the property. Further, the Company has submitted that Section 17(2)(v) of the Registration Act, 1908 excludes documents which do not itself create, declare, assign, limit, or extinguish any right, title or interest of the value of Rs. 100 and upwards in immovable property, but which merely create a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest. Further, it is submitted that the aforesaid transfer agreements were to be followed up with a registered conveyance deed which would once executed create title in the property. Further, the Company has submitted that the Conveyance Deed could not be executed because part performance was pending on the part of the seller. I note that the FAR observes that agreements for purchase and sale of properties are not registered with the local sub-registrar in violation of Section 17 of the Registration Act, 1908. In this regard, as submitted by the Company, I note that the aforesaid agreements to sell/purchase, entered into by the Company, itself does not create any rights or interest in the property, as contended by the Company. In view of the above, I do not agree with the observations of the FAR that registration was mandatory for the aforesaid agreements to sale/purchase of the Company.

15.1.10 I note that the FAR observes that that opening stock of Rs.16.97 Crores at the beginning of FY 2014-15 was reduced to Rs. 3.72 by passing rectification entries worth Rs. 13.25 Crores. This has impacted 78% of the opening stock being removed from the balance sheet and it is absurd that 78% of the stock was erroneous. Further, the rectification entries are booked as a sale in the “Tally” accounting system but commensurate effect is not given in audited financials. The Company has submitted that the scope of the Audit Report was Financial Years 2015 - 16 and 2016 - 17 and unaudited period of April 2017 to December 2017, hence, the said entries are outside the purview of Audit. Further, the Company has submitted that the said entries were done by the previous management and the said transactions were also disclosed in the Balance sheet and the Annual Report of the Financial Year 2014 - 15. The Company has submitted a copy of the Independent Statutory Auditor's report dated May 30, 2015, wherein, disclosure regarding the same has been given under internal page No. 20 of the Independent Auditor's report. In this regard, I note from the observations of the FAR that the rectification entries were booked as a sale in the “Tally” accounting system but commensurate effect was not given in the audited financials. However, I note that the Company has submitted the independent statutory auditors report dated May 30, 2015, wherein, the said entries have been disclosed. Accordingly, I find that the aforesaid observations of the FAR do not yield any adverse findings.

15.1.11 I note that the FAR has observed that properties of same area are transacted at absurdly different rates per square feet. For example, the property at Manesar, details of which are given in Tables no. 1 and 2 above, was transacted at Rs. 6,000/- on March 31, 2016 as well as March 10, 2017, but is transacted at Rs. 8,000/- on October 26, 2016. With regard to the aforesaid observations, the Company has submitted that the amount of gains may vary from transaction to transaction and considering only 1 transaction in isolation to make a general observation is quite unfair and misleading. Further, that there were different types of spaces in the project Cyberwalk being retail, office space and residential having different price points and transacted with different parties, which cannot be compared just because they are part of the same project. In this regard, I note that the observation on properties of the same area being transacted at different values, is only with respect to one transaction. Since there is no other observation in the FAR on the said transaction, in the facts and circumstances, I find that the sole transaction cannot be seen adversely.

15.2 Dealing and accounting of non-genuine transactions in unquoted shares:

15.2.1 It is observed in the FAR that during the investigation period, 83% of the value of transactions in securities by JCWL was with connected / related parties. Further, 75% of the securities traded by JCWL were of the companies connected to JCWL. This translates into a total of 71% of transactions by value being undertaken with connected / related parties in related securities. Considering that transactions in securities constituted 69% of total revenues in FY 2016-17 and 55% of total revenues in FY 2015-16, such a significant share of transactions with connected / related parties in the securities of private related / connected companies have been alleged to be non-genuine. The FAR has made the following observations in this regard:

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A. *During the period covered under Forensic Audit i.e. April 2015 to December 31, 2017, it is observed that majority of securities transactions are carried out with related parties. A summary of such transactions with related parties is as under:*

Related?	Buy	Buy %	Sell	Sell %	Total	Total %
Yes	432170250	92%	210487850	69%	642658100	83%

No	35937200	8%	94105000	31%	130042200	17%
Total	468107450	100%	304592850	100%	772700300	100%

Further the securities whose shares were dealt were also related to JCWL. A summary of transactions of shares of related entities and other entities is as under:

Related?	Buy	Buy %	Sell	Sell %	Total	Total %
Yes	439365250	94%	142485750	47%	581851000	75%
No	28742200	6%	162107100	53%	190849300	25%
Total	**468107450**	**100%**	**304592850**	**100%**	**772700300**	**100%**

Of the above transactions in securities of related companies with related counter parties was also very high. A summary of transactions where the company whose shares were dealt with and the counter party of JCWL both are related to JCWL is as under:

Related?	Buy	Buy %	Sell	Sell %	Grand	Total %
Yes	411170250	88%	135485750	44%	546656000	71%
No	56937200	12%	169107100	56%	226044300	29%
Total	**468107450**	**100%**	**304592850**	**100%**	**772700300**	**100%**

From the above it can be observed that in most cases related parties have transacted amongst themselves in the shares of companies related to JCWL.

Summary of Observations in securities transactions:

1. *As observed from the above tables, in most cases the shares of related companies have been traded by related entities.*
2. *Transactions have been carried out at absurd prices where huge variations are observed. For Example:*

a. Transactions in Aarone Buildtech P. Ltd. (Associate of JCWL):

Date	Security	Qty	Rate	B/S	Value Rs
22-Mar-2016	Aarone Buildtech P Ltd	2250	2100	Buy	4725000
14-Mar-2017	Aarone Buildtech P Ltd	5000	300	Buy	1500000
30-Mar-2017	Aarone Buildtech P Ltd	28000	400	Buy	11200000

- *It can be observed that the rate of shares has reduced to Rs. 300 from Rs. 2100 in a span of 1 year and immediately increased by Rs. 100 in another 15 days.*
- *Valuation report reflects a value of Rs. 2330 per shares as on March 31, 2016 and subsequent valuation reports are not provided in spite of being requested.*
- *All transactions except the last 1 are carried out with related parties.*

b. Transactions in Aarone Developers P Ltd (Associate of JCWL):

Date	Security	Qty	Rate	B/S	Value Rs
6-Jun-2016	Aarone Developers P Ltd	22160	2500	Buy	55400000
8-Nov-2016	Aarone Developers P Ltd	-1000	3042	Sell	-3042000
4-Mar-2017	Aarone Developers P Ltd	48840	2500	Buy	122100000

8-Mar-2017	Aarone Developers P Ltd	-4500	3050	Sell	-13725000
14-Mar-2017	Aarone Developers P Ltd	5000	300	Buy	1500000
15-Mar-2017	Aarone Developers P Ltd	2000	1500	Buy	3000000
29-Sep-2017	Aarone Developers P Ltd	-6625	4000	Sell	-26500000
30-Nov-2017	Aarone Developers P Ltd	-6525	4000	Sell	-26100000
22-Dec-2017	Aarone Developers P Ltd	-1000	4000	Sell	-4000000

- *From the above it can be observed that JCWL has been buying shares of related company from related parties at lower price and selling the same at higher price to other related parties. Purchases are between Rs. 300 to Rs. 2500 and sales are between Rs. 3042 to Rs. 4000. There seems to be no business rational in executing transactions at absurd price fluctuations where the company invariably earns profits by dealing shares of a related company with related entities.*
- *Valuation reports reflects a value of Rs. 3008 and Rs. 3161 per share as on March 31, 2016 and March 31, 2017 respectively.*
- *All transactions except the transaction dated March 15, 2017 are with related entities.*

c. Transactions in Aarone Holding Pvt Ltd (Subsidiary of JCWL):

Date	Security	Qty	Rate	B/S	Value Rs
22-Mar-2016	Aarone Holding Pvt Ltd	2215	3300	Buy	7309500
29-Mar-2017	Aarone Holding Pvt Ltd	36493	1100	Buy	40142300
29-Mar-2017	Aarone Holding Pvt Ltd	26165	1100	Buy	28781500
29-Mar-2017	Aarone Holding Pvt Ltd	1325	1100	Buy	1457500
29-Mar-2017	Aarone Holding Pvt Ltd	1545	1100	Buy	1699500
31-Mar-2017	Aarone Holding Pvt Ltd	24105	1100	Buy	26515500

- *It can be observed that the rate of shares has reduced to Rs. 1100 from Rs. 3300 in a span of 1 year.*
- *Valuation report reflects a value of Rs. 3140 and Rs. 3141 per share as on March 31, 2015 and March 31, 2017 respectively. Valuation report as on March 2016 is not provided in spite of being requested.*
- *Surprisingly the valuation of Aarone Holding Pvt Ltd is Rs. 3141 per share as on March 31, 2017, but related parties sold shares to JCWL at almost 1/3rd of the value.*
- *All transactions are with related entities.*

d. Transactions in Astral Premier P Ltd (Subsidiary of JCWL)

Date	Security	Qty	Rate	B/S	Value Rs
30-Jul-2016	Astral Premier P Ltd	1500	300	Buy	450000
28-Mar-2017	Astral Premier P Ltd	700	100	Buy	70000
29-Mar-2017	Astral Premier P Ltd	6490	100	Buy	649000

- *It can be observed that the rate of shares has reduced to Rs. 100 from Rs. 300 in a span of 1 year.*
- *Valuation report reflects a value of Rs. 2240 per share as on March 31, 2015 and subsequent valuation reports are not provided in spite of being requested.*
- *All transactions are with related entities.*

e. Transactions in Bestech India Pvt. Ltd. (could not identify relationship)

Date	Security	Qty	Rate	B/S	Value Rs
5-Apr-2015	Bestech India Pvt. Ltd.	-10000	1020	Sell	-10200000
21-Sep-2015	Bestech India Pvt. Ltd.	-1800	1000	Sell	-1800000
5-Mar-2016	Bestech India Pvt. Ltd.	-15000	1000	Sell	-15000000
8-Mar-2016	Bestech India Pvt. Ltd.	-4000	1000	Sell	-4000000
31-Mar-2016	Bestech India Pvt. Ltd.	-3000	1000	Sell	-3000000
31-Mar-2016	Bestech India Pvt. Ltd.	-6000	1000	Sell	-6000000
6-Jun-2016	Bestech India Pvt. Ltd.	-1205	1000	Sell	-1205000
12-Jul-2016	Bestech India Pvt. Ltd.	-10000	900	Sell	-9000000
18-Jul-2016	Bestech India Pvt. Ltd.	-10000	900	Sell	-9000000
29-Oct-2016	Bestech India Pvt. Ltd.	-6560	900	Sell	-5904000
1-Mar-2017	Bestech India Pvt. Ltd.	-28000	900	Sell	-25200000
3-Mar-2017	Bestech India Pvt. Ltd.	-28590	890	Sell	-25445100
31-Mar-2017	Bestech India Pvt. Ltd.	-2000	890	Sell	-1780000
31-May-2017	Bestech India Pvt. Ltd.	-5500	900	Sell	-4950000
1-Sep-2017	Bestech India Pvt. Ltd.	-29500	900	Sell	-26550000
					-149034100

- *Company had converted investment in shares of Bestech at Rs. 1250 on April 01, 2014.*
- *Huge losses have been booked in these transactions.*
- *50% of the total sale of about Rs. 15 Crores is with related entities.*
- *Valuation report is not provided in spite of being requested.*
- *It is interesting to understand that on March 30, 2017 JCWL has purchased shares of one of the associate of JCWL viz. Aarone Buildtech P Ltd @ Rs. 400 per share from Bestech whereas the value of the share of this company was Rs. 2330 as on March 31, 2016.*
- *Therefore though we could not identify the relationship of JCWL with Bestech, a detailed probe of promoters and related entities may reveal relationship.*

f. Transactions in Prerana International P Ltd. (Subsidiary of JCWL)

Date	Security	Qty	Rate	B/S	Value Rs
20-Mar-2017	Prerana International P Ltd.	12000	240	Buy	2880000
20-Mar-2017	Prerana International P Ltd.	10	240	Buy	2400
20-Mar-2017	Prerana International P Ltd.	24510	240	Buy	5882400

Date	Security	Qty	Rate	B/S	Value Rs
20-Mar-2017	Prerana International P Ltd.	9240	240	Buy	2217600
20-Mar-2017	Prerana International P Ltd.	670	240	Buy	160800
29-Mar-2017	Prerana International P Ltd.	12000	240	Buy	2880000
1-Sep-2017	Prerana International P Ltd.	1282	2000	Buy	2564000
1-Sep-2017	Prerana International P Ltd.	2000	2000	Buy	4000000

- *Suddenly the value of shares increased from Rs. 240 as on March 29, 2017 to Rs. 2000 on September 1, 2017.*
- *Valuation report reflects a value of Rs. 1793 per share as on March 31, 2014 and Rs. 1836 as on March 31, 2016. Subsequent valuation reports are not provided in spite of being requested.*
- *All transactions except the one on March 29, 2017 are with related parties.*

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3. An analysis of transactions with regards to the month of execution was carried out and a summary thereof is given hereunder:

Period	Buy	Buy %	Sell	Sell %	Total	Total %
March 2016 & March 2017	324278450	69%	168341850	55%	492620300	64%
Other Months	143829000	31%	136251000	45%	280080000	36%
Total	468107450	100%	304592850	100%	772700300	100%

- *From the above it can be observed that 64% of the transactions are executed during the month of March and only 36% of the transactions are carried out in rest of the 11 months of the year.*
- *It is common knowledge that most adjustment entries take place at the financial year end.*
- *It is surprising that incidentally JCWL remembers to carry out transactions in shares of private limited companies (most of which are related to JCWL) with counter parties, most of whom are again related to JCWL and sleeps over the rest of the year.*

4. The details of valuation reports submitted are as under:

S#	Company	Valuation as on	Valuation Report Date	CA Firm	Difference between calculation date and report date	Value per share
1	Aarone Buildtech P. L.	31-Mar-16	08-May-18	1	768	2330
2	Aarone Buildtech P. L.	31-Mar-15	28-Feb-17	2	700	1980*
3	Aarone Developers P. L.	31-Mar-17	08-May-18	1	403	3161*
4	Aarone Developers P.	31-Mar-16	28-Feb-17	2	334	3008

	L.					
5	Aarone Holdings P. L.	31-Mar-17	08-May-18	1	403	3141
6	Aarone Holdings P. L.	31-Mar-15	28-Feb-17	2	700	3140
7	Aarone Infrastructure P. L.	31-Mar-17	08-May-18	1	403	1034
8	Aarone Infrastructure P. L.	31-Mar-15	28-Feb-17	2	700	910
9	Aarone Promoters P. L.	31-Mar-16	08-May-18	1	768	725
10	Aarone Promoters P. L.	31-Mar-15	28-Feb-17	2	700	725
11	Amelia Tie-up P. L.	31-Mar-15	28-Feb-17	2	700	340
12	Amelia Tie-up P. L.	31-Mar-17	08-May-18	1	403	340
13	Astral Premier Exports P. L.	31-Mar-15	28-Feb-17	2	700	2240
14	Devashish Capitals P. L.	31-Mar-16	03-Apr-18	1	733	42
15	Durga Construction Co. P. L.	31-Mar-16	03-Apr-18	1	733	672
16	Garner Finance & Securities P.L.	31-Mar-14	09-Dec-17	2	1349	72
17	Garner Finance & Securities P.L.	31-Mar-16	08-May-18	1	768	73
18	M2 Hospitalities P. L.	31-Mar-15	28-Feb-18	3	1065	40
19	Prerana International P. L.	31-Mar-14	09-Dec-17	2	1349	1793
20	Prerana International P. L.	31-Mar-16	08-May-18	1	768	1836
21	Ritika Finance & Investments P. L.	31-Mar-16	03-Apr-18	1	733	49
22	Select Infinlease P.L.	31-Mar-15	28-Feb-17*	2	1065	530
23	Sindhwani Metal Engineering P. L.	31-Mar-14	09-Dec-17	2	1349	1757
24	Trehan Promoters and Builders P. L.	31-Mar-16	03-Apr-18	1	733	43

**1= Sandeep Arora & Associates, 2 = Sanjay & Deepak, 3 = Yogi Associates*

From the above details of valuation reports, it can be observed as under:

- *Transactions should have been done as per the valuation reports but the valuation reports are dated after the transaction in most of the cases.*
- *There is huge time gap between the date of valuation report and the date for which the valuation is carried out.*
- *Several valuations reports for transactions executed much before the commencement of this forensic audit i.e. January 2018 and are dated after the date of appointment of forensic auditor.*

5. Even though the Valuation Reports mention that Valuation is based on provisions of Rule 11UA of the Income Tax Act, it is not so. The relevant part of IT Act quotes as under:

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It can be observed that many companies related to JCWL hold shares of other companies. Clause "C" requires the valuation of these shares to be at "fair market value of shares and securities as determined in the manner provided in this rule". Similarly clause "D" requires valuation of properties to be done after considering "the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of the immovable property" details of which are not annexed with the valuation reports. However it is observed that all assets are taken merely at book value and the working of fair value of shares held by companies is not provided along with the valuation reports.

6. In light of all the above, it can be construed that the transactions in shares carried out by JCWL are sham transactions or merely book entries supported by some transactions in the nature of purchase and sale of shares."

15.2.2 The FAR observes that JCWL has been buying shares of related company from related parties at lower price and selling the same at higher price to other related parties. Further, that 64% of the transactions are executed during the month of March and only 36% of the transactions are carried out in rest of the 11 months of the year and that the transactions have not been done as per the valuation reports. FAR observes that the valuation reports are dated after the transaction in most of the cases and there are huge time gaps between the date of valuation report and the date for which the valuation is carried out. With regard to the aforesaid observations, the Company has submitted that Company is a NBFC company and investing and trading in stocks/securities was one of the main objects of the Company. Further, that the value of investment in scrips of private limited company has grown multifold over the years and has benefited the Company and its shareholders. That on comparison of purchase value and value as on March 31, 2020 of Aarone Buildtech Private Limited, Aarone Developers Pvt. Ltd, Aarone Holdings Pvt. Ltd, Aarone Infrastructure Pvt. Ltd, Aarone Promoters Pvt. Ltd, Amella Tie-Up Pvt. Ltd., Astral Premier Exports (P) Ltd, Garner Finance And Securities Pvt. Ltd., Prerana

International P Ltd, Sindhwani Metal Engineering Pvt. Ltd, Dev-Ashish Capital Private Ltd., M 2 Hospitality Pvt. Ltd, Millennials Consulting Private Limited, Niketan Buildcon Private Limited, Ritika Finance and Investments Private Limited, Select Infinlease P Ltd., it can be seen that their investment in the aforesaid companies was around Rs 46.56 crores and as on March 31, 2020 its value is approximately around Rs 239 crores. The above referred scrips are the ones which were purchased between April 01, 2015 to December 31, 2017. The Company has submitted that there has been a value appreciation of approximately Rs 193 crores in comparison to the Purchase price and the Fair Market Value as on March 31, 2020 and therefore, the observation that purchase and sale of shares are sham transactions or merely book entries is erroneous on fact and in law.

15.2.3 In this regard, I note that JCWL has submitted that the Company is a NBFC company and investing and trading in stocks and securities was one of the main objects of the Company and that there has been a value appreciation in the securities purchased by the Company. However, from the aforesaid transactions, I note the following observations made in the FAR:

a) In the scrip of Aarone Buildtech P. Ltd., an associate company of JCWL, JCWL bought shares at Rs. 300 per share after about one year of buying the same shares at Rs. 2100 per share. Within around 15 days of buying the shares at Rs. 300 per share, JCWL again purchased the shares at Rs. 400 per share. I note from the FAR that the valuation as on March 31, 2016 was Rs. 2330 per share, however the valuation report for the same was dated as May 08, 2018. Therefore, there is a huge time gap between the date of valuation report and the date for which the valuation is carried out. The FAR has observed that the Company has failed to provide the valuation report for March 2016 and since the Company has still not provided the same, I agree with the observations of the FAR.

Further, considering that most of the transactions are with connected parties and have been done at arbitrary prices without any valuation report, I agree with the FAR that the premise that the transactions were conducted as per the valuation reports is not tenable.

b) In the scrip of Aarone Developers P Ltd, an associate company of JCWL, JCWL conducted multiple buy and sell transactions during 18 month period. Further, the transactions values were starkly different ranging from Rs. 300 (in March 2017) to Rs. 4000 (in September 2017). From the facts available on records, for valuation to multiply by around 13 times within 6 months, the fundamentals of any private company would have to change drastically in such a short period which does not appear to be probable. I note from the FAR that the valuation as on March 31, 2016 was Rs. 3008 per share, however the valuation report for the same was dated as February 28, 2017. Further, the valuation as on March 31, 2017 was by a valuation report dated May 08, 2018. Therefore, there is a huge time gap between the date of valuation report and the date for which the valuation is carried out. The FAR has also observed that the Company has failed to provide the valuation report for March 2017 and since the Company has still not provided the same, I agree with the observations of the FAR. Further, considering that most of the transactions are with connected parties and have been done at arbitrary prices without any valuation report, I agree with the FAR that the premise that the transactions were conducted as per the valuation reports is not tenable.

c) In the scrip of Aarone Holding Pvt Ltd, JCWL, a subsidiary of JCWL, the Company bought shares at Rs. 1100 after about one year of buying the same shares at Rs. 3300. I note from the FAR that the valuation as on March 31, 2017 was Rs. 3008 per share, however the valuation report for the same was dated as May 08, 2018. Further, the valuation as on

March 31, 2015 was by a valuation report dated February 28, 2017. Therefore, there is a huge time gap between the date of valuation report and the date for which the valuation is carried out. The FAR has also observed that the Company has failed to provide the valuation report of Aarone Holding Pvt Ltd for March 2017 and since the Company has still not provided the same, I agree with the observations of the FAR.

d) In the scrip of Astral Premier P Ltd, a subsidiary of JCWL, JCWL bought shares at Rs. 100 after about nine months of buying the same shares at Rs. 300. I note that the shares have been valued at Rs. 2240 per share on March 31, 2015 and then valued at Rs. 400 per share in July 2016. Further, I note from the FAR that the valuation as on March 31, 2015 was Rs. 2240 per share, however the valuation report for the same was dated as February 28, 2017. Therefore, there is a huge time gap between the date of valuation report and the date for which the valuation is carried out. The FAR has also observed that the Company has failed to provide the valuation report for March 2016 and 2017 and since the Company has still not provided the same, I agree with the observations of the FAR.

e) In the scrip of Prerana International P Ltd., a subsidiary of JCWL, JCWL conducted buy transactions at Rs. 240 (in March 2017) and at Rs. 2000 (in September 2017). From the facts available on records, for valuation to multiply by around 8 times within 6 months, the fundamentals of any private company would have to change drastically in such a short period which may not be probable. I note from the FAR that the valuation as on March 31, 2014 was Rs. 1793 per share, however the valuation report for the same was dated as December 09, 2017. Further, the valuation as on March 31, 2016 was by a valuation report dated May 08, 2018. Therefore, there is a huge time gap between the date of valuation report and the date for which the valuation is carried out. The FAR has also observed that the Company has failed to provide the valuation report for March 2015, 2016 and 2017 since the Company has still not provided the same, I agree with the observations of the FAR. Further, considering that most of the transactions are with connected parties and have been done at arbitrary prices without any valuation report, I agree with the FAR that the premise that the transactions were conducted as per the valuation reports is not tenable.

15.2.4 From the aforesaid observations of the FAR of the various companies connected to JCWL, I note that a total 64% of the transactions by value were conducted by JCWL in the months of March alone. Considering that trading in securities is not a seasonal business, such a high concentration of trades at the far end of the financial year indicates non-genuineness of the trades. Further, when viewed from the perspective of the fact that most of these trades were in connected securities with connected parties, the non-genuineness of the trades stands established. Further, from the aforesaid observations of the FAR on the details of the valuation reports submitted by the Company in support of these transactions, it is observed that the dates of transactions executed are far away from the dates of valuations (ranging from 334 days to 1349 days). Therefore, considering that JCWL has conducted trades at prices significantly different from the valuation report prices, I agree with the observations of the FAR that the premise that the transactions were conducted as per the valuation reports is not tenable. In view of the above, I agree with the observations of the FAR and find that various transactions undertaken by JCWL in shares of private limited companies were not backed by any valuation reports and were done at fag end of financial year with connected parties in the scrip of connected private companies with intent of misusing/ misrepresenting the books of accounts. Further, due to conduct of transactions at arbitrary valuations and subsequent retention of such assets at book value in the books of accounts of JCWL, I agree with the observations of the FAR that there has been misrepresentation/misuse of books of accounts of the company.

15.3 Principle of substance over form

15.3.1 The SCN alleges that the Company has not followed the principle of substance over form. The FAR has made the following observations in this regard:

The company recorded sales of Rs. 21.13 Crores in FY 2016-17 and Rs. 4.72 Crores in FY 2015-16. Of this Rs. 17.33 Crores for FY 2016-17 was recorded in March 2017 and Rs. 3.52 Crores for FY 2015-16 was recorded in March 2016. So more than 75% of the sales in every year is recorded in the month of March.

The company recorded purchases of Rs. 40.44 Crores in FY 2016-17 and Rs. 5.00 Crores in FY 2015-16. Of this, Rs. 31.13 Crores for FY 2016-17 was recorded in March 2017 and Rs. 3.19 Crores for FY 2015-16 was recorded in March 2016. So more than 75% of the purchases in FY 2016 - 17 and 64% in FY 2015 – 16 are recorded in the month of March.

…………………..

More than 75% of the sales in every year is recorded in the month of March (mostly with related parties).

No satisfactory response was provided for such transactions.

…………..

It is extremely absurd that all related parties remember to carry out transactions in the last month of the financial year and sleep over the business for the rest of the year.

……………..

All these transactions are sham as shares and properties have moved from one entity of the same group to another and there is no substance in these transactions.

………………..

Though some documentary evidences are placed on record in the form of un-registered agreements executed on Rs. 100 Stamp Paper for property transfer and valuation reports of distant dates from transaction dates for share transferred at book value, it is submitted that these are sham documents only to support the entries in the books of accounts and there is no substance to them."

15.3.2 Substance over form is the concept that the financial statements and accompanying disclosures of a business should reflect the underlying realities and economic substance of accounting transactions rather than merely complying with the legal form. The principle is that record of a transaction should not hide its true intent, which would mislead the readers of a company's financial statements.

15.3.3 With regard to the aforesaid observations, the Company has *inter* alia submitted that JCWL was taken over by the new management in 2015 and the new management worked hard to improve the compliance levels of the Company and arranged and even signed documents with parties for transactions executed by past management in order to safeguard the interest of the Company going forward. The Company has submitted that the original transactions were executed prior to the period of Forensic Audit and hence beyond the scope in terms of period. Further, that just for the reason that the agreements were executed after transactions does not prove that the transactions in itself were non genuine. Further, the Company submitted that no document is brought on record to prove that the said transaction were itself non-genuine in nature.

15.3.4 With regard to the submissions made by the Company, I note that the Company itself has admitted that the Company has arranged and signed documents with parties for transactions executed by past management and further, submitted that agreements were executed after conclusion of transactions. In this regard, FAR observed that all these transactions are not genuine as shares and properties have moved from one entity of the same group to another and there is no substance in these transactions. FAR further observes that the properties are never marked or identified and maps etc. are not annexed with the agreements even though it is recorded in the agreements that the maps are to be attached. The FAR has observed that in several cases the loans are remitted long before executing loan agreements and it appears that loan agreements are executed as an afterthought to justify the transactions and meet regulatory requirements. Further, the FAR has observed that stamp duty is not paid on any of the loan agreements as evident from the loan agreements submitted by the Company vide its reply October 27, 2021, wherein, the loan agreements with M/s Arone Resorts Pvt. Ltd. for Rs. 2 crores, with M/s Best Portfolios Pvt. Ltd. for Rs. 6 crores, with M/s Lok Nath Farms Pvt. Ltd. for Rs. 2 Crores and with M/s Metro Valley Business Park Pvt. Ltd. for Rs. 7 crores, have all been done on plain paper with no stamp duty. The FAR has also observed that there has been no trading in the scrip of JCWL from the date of its listing till the end of the investigation period. Further, the FAR has observed that the Company is mainly involved in transactions with associated companies and the majority of such transactions happen in the fag end of the financial year i.e. March. Thus, looking at all the aforesaid observations, the FAR has observed that when principle of substance over form is applied to some of the transactions of the Company, the transactions are misleading in substance even if they may not appear so in form. This tantamount to non-compliance with the fundamental principles of accounting and hence, of Accounting Standard 1 (AS1). In view of the above, I agree with the observations of the FAR that the transactions are devoid of any business sense or rational and the Company has not followed the principle of substance over form and is in non-compliance of Accounting Standard 1 (AS1).

15.4 Misleading valuation of closing stock.

15.4.1 The SCN has alleged that the Company has made misleading valuation of closing stock. The FAR has made the following observations on this subject:

> *"As on March 31, 2017, total assets of the company is Rs 104.75 Crores of which Rs. 63.26 Crores is in the form of unquoted shares of companies connected to JCWL or its promoters and directors. In absence of satisfactory justification for dealing in unquoted shares and valuation report based on book value method at different dates far away from transaction dates, these transactions have been conducted to create artificial value in the books and financial statement.*
>
> *E. g. Shares of Aarone Buildtech Pvt. Ltd. were purchased 3 times during audit period. On 22/03/2016 @ Rs 2100, on 14/03/2017 @ Rs 300 and later on 30/03/2017 @ Rs 400. Valuation report as of 31/03/2015 is provided to us where the book value is arrived at Rs 1980 per share. Valuation reports as on March 2016 and as on March 2017 are not provided to us for verification in spite of repeated reminders. We fail to understand as to how did the company lose its value from Rs. 2100 to Rs. 300 in a short span of 1 year and if so what was the reason behind it?*
>
> *It can therefore be construed that the shares are traded at valuations that are devoid of merits as there is huge variance in valuation of shares in short period of time."*

15.4.2 The Company has submitted that being a listed company, they were not required to get the valuation certificate as per Section 56 (2) of the Income Tax Act, 1961 up to March 31, 2017 for trading in any securities. Since the Company falls within the definition of the "company in which public are substantially interested" as given in Section 2(18)(b) of the Income Tax Act, 1961, as it is not a private company as per companies Act, 1956 and its shares are listed on a recognized stock exchange, therefore, provision of Section 56(2)(viia) of the Income Tax Act, 1961 were not applicable to the Company up to March 31, 2017. Hence, valuation under Section 11 UA was not required before March 31, 2017 for investing in shares of other companies. In view thereof, the Company has submitted that valuation under Section 11 UA is required only after

April 01, 2017. In this regard, I note that the aforesaid provisions of the Income Tax Act, 1961 is for the purpose of determining income from other sources and is irrelevant to the observation of the FAR that the Company has not provided the valuation reports as on March 2016 and as on March 2017 of M/s Aarone Buildtech Pvt. Ltd. for verification, in spite of repeated reminders. From the list of valuation reports provided to the Forensic Auditor, as submitted by the Company vide Annexure-15 in its reply dated October 27, 2021, I note that the Company has claimed to have provided the valuation report as of March 31, 2014 to March 31, 2017 of certain other private companies and therefore, the contention that they were not required to get valuation certificate prior to March 31, 2017 is untenable. In this regard, I note that the FAR has observed that valuation report for the following companies for the specific period have not been provided:

(i) Aarone Infrastructure for March 2017.
(ii) Prerana International required for March 2015, 2016 and 2017.
(iii) Aarone Holdings for March 2017
(iv) Aarone promoter for March 2016
(v) Garner Finance & Securities for March 2016
(vi) Aarone Buildtech Pvt Ltd for March 2016
(vii) Aarone Developers for June 2016
(viii) Select Infinlease for February 2017
(ix) Aarone Developers for March 2017
(x) Amelia tie up for March 2017

15.4.3 I note that the Company has submitted that the aforesaid valuation reports have been provided and have submitted a list marked as Annexure-15 to its reply dated October 27, 2021, containing the list of valuation reports submitted to the forensic auditor. However, I note that the said Annexure-15 is only a list of reports that the Company claims to have given to the forensic auditor and I note that the Company has not provided a single copy of any of the valuation reports that are mentioned in its list, along with its replies filed before me. Hence, the said list of reports in the said Annexure-15 of the Company is unreliable and untenable and I agree with the observations of the FAR that the aforesaid valuation reports have not been provided to the forensic auditor. Further, I also note that the Company has still not provided the valuation report of M/s Aarone Buildtech Pvt. Ltd, for March 2016 and for March 2017 but has only provided the valuation report of M/s Aarone Buildtech Pvt. Ltd. for March 2020, which is irrelevant to the observations made in the FAR that the relevant valuation reports for the year 2016 and 2017 were not provided. In view of the above, I agree with the observation of the FAR that in absence of satisfactory justification for dealing in unquoted shares and valuation report based on book value method at different dates far away from transaction dates, the transactions of the Company have been conducted to create artificial value in the books and financial statement.

15.5 Issuing loans without valid documentation

15.5.1 The FAR has made the following observations on this subject:

"*3. Interest Income – Company is registered with RBI as NBFC and providing unsecured funding to corporate entities. A sum of Rs 1,58,40,000 is booked as interest from various parties in the FY2015-2016 and Rs 1,49,86,800 for the FY 2016-2017. On our sample verification of Loan Agreement we observed that:*

a. Sum of Rs 50 lakhs paid to Aarone Resorts Pvt Ltd on 19th March 2015, while loan agreement is made on 30th May 2015. Disbursement of loan was done before executing loan agreement. Further the rate of interest as per Loan Agreement is 9.5% while same is 10% as per Tally Accounting System (attach copy of loan agreement & highlight in tally). Even the Loan Agreement is executed on a plain paper and stamp *duty thereon is not paid thus making it worthless in case of a suit for recovery thus risking the capital of the Company.*

b. *Sum of Rs 6 Crores is sanctioned to Best Portfolio Pvt Ltd vide Agreement dated 30th May 2015. The said entity had a debit balance of Rs 3,26,67,670 as on 1st April 2014 and Rs 1 Crore is financed on 31st December 2014 and another Rs 50 Lakhs is financed on 12th February 2015. The agreement is executed after several years of disbursement of loan.*

c. *Similarly in case of Lok Nath Farms Pvt. Ltd, sum of Rs 2 Crores is sanctioned on 30th May 2015, to a sum of Rs 1.25 Crores is already paid on 27th March 2015. The agreement is executed after several years of disbursement of loan.*

d. *Rs 7 Crores is sanctioned vide Loan Agreement dated 30th May 2015, while Metro Valley Business Pvt Ltd, whereas it already had Debit Balance of Rs 2,02,21,922 since 1st April 2014 and another sum of Rs 2 Crores was financed on 7th May 2014. The agreement is executed after several years of disbursement of loan.*

e. *The safety, security and interest of the company is compromised by financing parties without documentation and loan agreements and the loan documents are prepared after several years of disbursement to merely cover up the default.*

15.5.2 With regard to the aforesaid observations of the FAR, the Company has made the following submissions:

15.5.2.1 With regards to the loan given to Aarone Resorts Pvt. Ltd. (hereinafter referred to as "**ARPL**"), sum of Rs 50 lakhs was paid to ARPL on March 19, 2015 and proper interest has been booked and received. The same can be verified from the account confirmation for the FY 2014 -15. Further, it is submitted that the loan agreement was made on May 30, 2015 i.e. after the disbursement of the loan amount. That the loan of Rs 50 lakhs has been repaid by ARPL in full along with interest on August 17, 2015. The same can be verified from the account confirmation for the FY 2015 -16.

15.5.2.2 That with regard to the loan to Best Portfolio Pvt. Ltd. (hereinafter referred to as "**Best**") the report is factually incorrect that as on

April 01, 2014 the debit balance was Rs 3,26,67,670 as the debit balance as on April 01, 2014 was Rs 3,01,67,670 and Rs. 25 Lakhs was sanctioned on April 02, 2014. It is submitted that w.r.t sanction of loans demand promissory note February 13, 2017 and March 06, 2018 were obtained from Best.

15.5.2.3 That with regard to the loan given to Lok Nath Farms Pvt. Ltd. (hereinafter referred to as "**Lok**") it is submitted that sum of Rs 1.25 crores was paid to Lok on March 27, 2015 and proper Interest has been booked and received and the same can be verified by means of account confirmation received for the FY 2014 -2015 to FY 2017 – 2018. It is submitted that the loan agreement was made on May 30, 2015 i.e. after the disbursement of the loan amount and the loan has been repaid by Lok in full along with interest on February 27, 2018.

15.5.2.4 That with regard to the loan given to Metro Valley Business Pvt. Ltd. (hereinafter referred to as "**Metro**") promissory notes February 08, 2018 and January 02, 2018 were obtained from Metro and on perusal of the account confirmation from FY 2014-15 to 2017-18, proper interest has been received on the loan.

15.5.3 The Company has submitted that merely for the reason that loan agreement was made after disbursement of the loan amount does not make the transactions devoid of business rationale. In this regard, I note from the above submissions of the Company itself, that agreements were executed after the disbursement of the loan amount and in some cases, even 3 to 4 years after the disbursement of loan. Therefore, there was no timeline or security for recovering such loans when the loans were disbursed, thereby putting the Company at great risk. Further, I note that the FAR has observed that some of the loan agreements were executed on a plain paper and stamp paper thereon is not paid. This is evident from the loan agreements submitted by the Company vide its reply October 27, 2021, wherein, the loan agreements with M/s Arone Resorts Pvt. Ltd. for Rs. 2 crores, with M/s Best Portfolios Pvt. Ltd. for Rs. 6 crores, with M/s Lok Nath Farms Pvt. Ltd. for Rs. 2 Crores and with M/s Metro Valley Business Park Pvt. Ltd. for Rs. 7 crores, have all been done on plain paper with no stamp duty. I note that for a listed company, which is registered with RBI as NBFC, to disburse unsecured loans of crores of rupees without executing any agreement for such loans even after a period of 3 to 4 years and without proper documentation, is highly irregular. In view of the above, I agree with the observations of the FAR that the safety, security and interest of the Company is compromised by financing parties without documentation and loan agreements and the loan documents are prepared after several years of disbursement to merely cover up the default.

15.6 Fraudulent interest income

15.6.1 The FAR has made the following observations on this subject:

"The 3rd component of revenue is interest on loans, where in several cases it is observed that loans are remitted long before executing loan agreements and it appears that loan agreements are executed as an afterthought to justify the transactions and meet regulatory requirements.

A sum of Rs 1,58,40,000 is booked as interest from various parties in the FY2015-2016 and Rs 1,49,86,800 for the FY 2016-2017.

……………..

Upon scrutiny of the supporting documents, it was observed that the loan agreements are executed after several years of disbursement of loan, stamp duty is not paid, and agreements are not registered.

………………..

Issuing loans without entering agreements at the time of disbursement and executing loan agreements on plain paper making it inadmissible in court of law for recovery of amount."

15.6.2 The Company has submitted that JCWL was taken over by the new management in 2015 and the new management had tried to arrange documents which were observed to be missing at the time of takeover with respect to the loans in order to safe guard the interest of the company. In this regard, as discussed in the aforesaid paras, I note that it is observed by the forensic auditor that the loans were remitted even before the agreements were executed. Further, I note that the Company has also admitted to the same and submitted that the Company has even signed documents with parties for transactions executed by the past management. Such practice by a listed company which registered with RBI as an NBFC is highly irregular. Further, the conduct of the Company in such transactions viewed along with the presence of unenforceable agreements, mismatch in data records, etc. shows that the said transactions are non-genuine and accommodative entries. As observed in the FAR, I note that a sum of Rs 1,58,40,000 is booked as interest from various parties in the FY2015-2016 and Rs 1,49,86,800 for the FY 2016-2017. Given that loans have been remitted long before executing loan agreements and that loan agreements have been executed by the Company afterwards raises doubts on the validity of the interest income from such non-genuine loans. Hence, I agree with the observations of the FAR, that the safety, security and interest of the company has been compromised by financing parties without documentation and loan agreements and the loan documents are prepared after several years of disbursement.

16. I note that the Company has contended that since they got listing approval on MSEI w.e.f. January 24, 2017, therefore, the LODR Regulations, 2015 would not be applicable to them prior to January 24, 2017, probably for the reason that as at that time, it was listed on Calcutta Stock Exchange (hereinafter referred to as "**CSE**"), only. In this regard, I note that the LODR Regulations were notified on September 02, 2015 and came into force from December 2015. In terms of Regulation 3 of the LODR Regulations, 2015, the Regulations applies to listed entities who has listed its securities, as enumerated therein, on recognized stock exchange(s). I note that the Company has vide its written submission dated November 30, 2021 submitted that it was listed on the CSE. I note that the Company got listed on MSEI on January 24, 2017 and accordingly, while pointing out the violations in FY 2015-16 (that is the time JCWL was listed on CSE), has referred to MSEI. In this regard, I find that this is only seems to be an oversight on the part of forensic auditor not affecting the substance of the allegation. In substance and on merit, the fact is that JCWL was to comply with the LODR Regulations, 2015, irrespective of whether it was listed on CSE or MSEI, as both are recognized stock exchanges. In addition to this, I note that the Company has also vide its written submission dated November 30, 2021 submitted that it was listed on the CSE and has complied with all the listing agreement requirements of the CSE and provided them with all the records required on timely basis and have attached letters dated October 21, 2015 and July 05, 2016 of the Company to CSE with respect to its compliance of the listing agreement. Further, the Company has submitted that as per requirement of Regulation 31(1)(b) of the LODR Regulations, 2015, the Company had by their letters dated January 21, 2016 and April 21, 2016 submitted their shareholding pattern to CSE for quarter ended December 31, 2015 and March 31, 2016 respective. The Company has also attached a copy of certificate dated September 24, 2016 by M/s Harpreet Parashar, Practicing Company Secretary, certifying that the Company has complied with provisions of the LODR Regulations, 2015. In view of the above, I find the aforesaid contention of the Company that LODR

Regulations, 2015 was not applicable to the Company prior to January 24, 2017 is untenable.

17. Further, I note that the Company has contended that the audit period in the matter is April 2015 to December 31, 2017 and that the FAR has observed various transactions pertaining to the period April 2015 to November 2015 and therefore, any adverse observation in the said period is not sustainable in law as the provisions of the LODR Regulations were not applicable to it since the Regulations came into force from December 2015. In this regard, from the discussions in para 15 above, I note that almost all the transactions of the Company, in respect of which observations have been made in the FAR have taken place post December 2015. I also note that with regard to loans that were disbursed in the year 2015, the same were continued to be shown in the financial of the Company even post December, 2015. Hence, the contention of the Company is untenable.

18. From the discussion in para 15 above, I find that JCWL:

a) Failed to disclose related parties and their transactions and misrepresented financials on account of sale and purchase of properties
b) Misrepresented financials on account of conducting non-genuine transactions at arbitrary valuations and subsequent retention of such assets at book value in the books of accounts
c) Misrepresented financials on account of loans being remitted long before executing loan agreements by arranging and signing documents with parties for transactions executed by past management and entered into loan agreements ranging from Rs. 2 crores to Rs. 7 crores on plain paper without any payment of stamp duty.
d) Purchased unquoted shares without any valuation or rationale/merit.

e) More than 75% of the sales in every year took place in the month of March and mostly with related parties which indicates that they were only done to support the entries in the books of accounts

f) The transactions were not genuine as shares and properties have moved from one entity of the same group to another and there is no substance in these transactions.

Thus, I find that JCWL failed to represent a true and fair view of the state of affairs of the Company in compliance with the mandate contained in Accounting Standards and thereby violated provisions of Regulation 48 of LODR Regulations.

19. I note that the SCN *inter alia* alleges that JCWL has violated Regulations 4(1)(a),(b),(c),(e),(g), 4(2)(f)(ii)(6)&(7), 4(2)(f)(iii)(3),(6)&(12), 33(2)(a) and 48 of the LODR Regulations, 2015. From the discussions above, I find that since the financial statements of JCWL pertaining to the investigation period were not as per the Accounting Standard as discussed in the previous paras, therefore, the Company has violated Regulation 48 of LODR Regulations, 2015 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, 2015, lays down principles governing disclosures and obligations of the listed entity under the LODR Regulations, 2015. 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.

20. As discussed in the paras above, I find that the disclosures of The Company were not in accordance with the principles laid down in the aforesaid clauses of Regulation 4(1) and hence, JCWL is in violation of 4(1)(a), (b), (c), (e) and (g) of LODR Regulations. Regarding the violations of Regulations 4(2)(f)(ii)(6)&(7), 4(2)(f)(iii)(3),(6) & (12) of the LODR Regulations, 2015 by JCWL, as alleged in the SCN, I find that Regulation 4(2)(f) enlists the responsibilities of board of directors of listed entities. Clause (i) of Regulation 4(2)(f) deals with disclosure of information, 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, 2015, is of the board of directors of the listed entity. Therefore, I find that JCWL cannot be said to be in violations of Regulation 4(2)(f)(ii)(6)&(7) and 4(2)(f)(iii)(3),(6) & (12) of the LODR Regulations, 2015 which pertain to obligations of the board of directors. I also note that Regulation 33(2)(a) provides that a listed company shall authenticate its financial results by approval of the Board of Directors. While placing the financial

results before the board of directors, the CFO and CEO of the listed entity have to 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. However, since the financial results were not accurate, JCWL has violated Regulation 33(2)(a).

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

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

22. Above two are the conditions of listing agreement which every issuer company, whose securities are listed on a recognised stock exchange, is required to comply. As can be seen from the above-quoted conditions, one of the conditions is compliance with LODR Regulations, 2015. In the present case, JCWL is a company

whose securities are listed on MSEI, which is a recognised stock exchange. JCWL being a company having its securities listed on MSEI was also required to sign the said uniform listing agreement with MSEI and in view of the provisions of Section 21 of SCRA, 1956, JCWL was bound to comply with the conditions of the uniform listing agreement, as extracted above. JCWL has been found to be in violation of the provisions of the LODR Regulations, as discussed above, therefore, JCWL is in violation of the condition of the listing agreement and hence, is also in violation of Section 21 of SCRA, 1956.

II. Violations of PFUTP Regulations, 2003:

23. The SCN also alleges of violation of provisions of PFUTP Regulations, 2003 and Section 12A (a), (b) and (c) of the SEBI Act, 1992.

24. In this regard, I note that the scope of work, as was assigned to the forensic auditor by NSE, as stated in the FAR, was as follows:

1. *Suspicious transactions/items as provided in the SEBI / Exchange Order: both in the "Queries" vide letters/emails and "Consideration".*
2. *To seek specific inputs as may be shared by SEBI, if any.*
3. *Wherever applicable, the cash flow analysis to trace source of funds and end use of funds.*
4. *Independent verification of the underlying transactions.*
5. *In addition, 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:*
    - *Assess genuineness of Revenue, expenditure, assets / liabilities for the period of two years which shall also include the ageing analysis of loans and advances / borrowings/ investments etc.*
    - *Assess genuineness of the debtors/ receivables and creditors / payables, reconciliation of debtors / creditors as stated by the Company vis-à-vis the actual position and the prospects of recovery (focus on top debtors) / payment.*
    - *Analysis of related party transactions.*

- *High value bank transactions to ascertain their relevance to the business of the company.*
- *Assess genuineness of expenditure (capex as well as other goods and services) and review of top vendors / suppliers / customers*
- *Analysis of the bank accounts of the company (and its subsidiaries if any) to identify the potential round-tripping of funds or accommodation transactions.*
- *The nature of business alongwith the investments made by the company in its subsidiary companies alongwith the relevant fund flows, if any.*
- *Assess genuineness of investments both listed and unlisted with appropriateness of valuation and flow of funds. If investment in listed companies then reconciliation to be done with independently sourced statements from NSDL / CDSL.*
- *Assessment of share application money including the share premium amount received by the company including the reversals, if any. For share premium assessment of utilization of funds, if any, in terms of provisions of Companies Act.*
- *Comment on the shareholding pattern for the period under consideration.- promoter holding, public shareholding, no. of such shareholders and their relationship with promoter and promoter group, if any, whether the company is promoter driven / professionally managed.*

6. *Wherever applicable, the relevant funds flow including analysis of relevant bank statements (also source and utilization of funds).*
7. *In addition to the above, the scope of work shall include the background checks, site visits, assessment of company's business model and meetings with key stakeholders including company auditors and directors. Background checks may include:*
    - *Background / reputation checks based on public domain information related to antecedents of promoters, nature/ line of business, genuineness of business activities of the company*
    - *Discussions with key stakeholders like Promoters/ Senior Management Team / Departmental heads, vendors, customers, company auditors, etc.*
    - *Business history, directorship searches and litigations*
    - *Assessment of size and scope of business*
    - *Site visit for verifying existence of the company premises, assets, place of execution of services, etc.*
    - *Interactions with the entities/persons involved in day to day affairs of the company.*
8. *Further, following documents from the companies for the purpose of verification of credentials/ fundamentals of the company-*

- *Status of filing its annual income tax return for last three years and status of any pending disputes with Income Tax Department*
- *Status of company's compliance with all the requirements of Companies Act and annual returns filing during last three years*
- *Whether Company is a going concern and description of its business model. Bank statement of last one year with active/dormant status*
- *Status of company with respect of default to any bank/financial institution*

25. As can be noted from the above terms of reference of the auditor, the scope of audit was to examine possible violations of LODR Regulations and not violations of PFUTP Regulations, 2003 and accordingly, the findings of the FAR are confined only to misrepresentation in the books of accounts of JCWL and consequential and other violations of LODR Regulations. It is observed that the Investigating Authority, after examining the FAR, incorporated the findings of FAR as part of investigation report, and consequently, the same was reproduced in the SCN. However, the SCN additionally states,

"*It was observed during investigation that the company (noticee no. 1) had failed to present true and fair financial statements and had executed transactions which are non-genuine in nature tantamounting to misrepresentation of the accounts/ financials statement and misuse of account/ funds of the company. It was further observed that JCWL had misused funds/ misrepresented books of accounts which are detrimental to the interests of genuine investors and are fraudulent in nature."*

26. Consequently, the SCNs *inter alia*, additionally, includes allegation of violation of provisions of Section 12A(a), (b) & (c) of the SEBI Act, 1992 and Regulations 3(b), (c) and (d), 4(1) and 4(2)(f) and (r) of PFUTP Regulations, 2003. It is observed that Noticees no. 1 to 13 have been additionally charged with the violation of Section 12A(a), (b) & (c) of the SEBI Act, 1992 and Regulations 3(b), (c) & (d) of PFUTP Regulations, 2003 in the SCN however, it has not been alleged or finding given in the SCN whether violation of the LODR Regulations, 2015 as found in the FAR has directly or indirectly resulted in the manipulation of the price of the scrip.

27. 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 such violation of LODR Regulations, 2015 etc. led to direct/ indirect manipulation of the price of the scrip. Therefore, SEBI is at liberty to issue fresh SCN, if so deemed fit, to pursue violations of PFUTP Regulations, 2003, against the Noticees.

28. The SCN alleges that Noticee no. 6 who was the CFO of JCWL during FY 2016-17 and 2017-18 and Noticee no. 8 who was the CFO of JCWL during FY 2015-16, have also violated all those provisions which have been violated by the directors of JCWL. SCN further alleged that Noticee no. 6 who was the CFO of JCWL during FY 2016-17 and 2017-18 and Noticee no. 8 who was the CFO of JCWL during FY 2015-16, issued certificates with respect to the financial statements of JCWL, which as discussed above, did not represent true and fair view of the state of affairs of JCWL, in violation of Regulation 17(8) read with Part B of Schedule II of LODR Regulations. Further, as the financials of JCWL were misrepresented, as discussed above, therefore, SCN alleged that Noticees no. 6 and 8, as CFO's of JCWL, are also in violation of Regulation 33(2)(a) of LODR Regulations. In this regard, I note that out of the violations alleged against the Noticees no. 6 and 8, only the violation of Regulation 17(8) and 33 of LODR Regulations, 2015 is attributable to the CFO, as amongst the alleged violated provisions only Regulation 17(8) and 33 of LODR Regulations creates a liability on the CFO. I note that Regulation 17(8) of the LODR Regulations, 2015 pertains to the responsibility of the chief executive officer and the chief financial officer to provide the compliance certificate to the board of directors as specified in Part B of Schedule II. I note that proviso to Regulation 33(2)(a) provides 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. In this regard, I note that Noticee no. 6 has not made any specific submissions on his role and liability as CFO of JCWL during FY 2016-17 and 2017-18. Noticee no. 8 has submitted that he has not issued any such certificate during FY 2015-16 and 2016-17 under Regulation 17(8) read with Part B of Schedule II and Regulation 33(2)(a) and 48 of the LODR Regulations, 2015. In this regard, from the documents and material available before me, I note that there is no compliance certificate signed by Noticee no. 8 before me, which is required to be provided by the CFO to the board of directors, as specified in Part B of Schedule II. In fact, I note that it is Noticee no. 6 who has signed the compliance certificate, as required under Regulation 17(8) of the LODR Regulations, 2015, for the FY 2015-16. Further, I note that in the Annual Report for the FY 2015-16, in the Corporate Information, the name of Noticee no. 6 has been given as the CFO of JCWL. In view of the above facts and circumstances and the documents available before me, I find that the alleged violation of Regulation 17(8) and 33 of LODR Regulations, 2015 against Noticee no. 8 in the SCN, is not sustainable. Further, given that it is Noticee no. 6 who has signed the Compliance Certificate as CFO of JCWL during FY 2015-16, 2016-17 and 2017-18, I find that Noticee no. 6 has issued certificates with respect to the financial statements of JCWL, which as discussed above, did not represent true and fair view of the state of affairs of JCWL and has therefore, violated Regulation 17(8) read with Part B of Schedule II of LODR Regulations. Further, as the financials of JCWL were misrepresented, as discussed above, therefore, Noticees no. 6, is also in violation of Regulation 33(2)(a) of LODR Regulations, 2015.

29. With regard to the directors of the Company, it is observed that as per the Annual Report 2015-16 and 2016-17 of JCWL, the details of the Board of Directors of JCWL during the investigation period are as follows:

FY 2015-16

Name	**Designation**
Mr. Prateek Arora	Managing Director
Mr. Nimish Arora	Executive Director
Mrs. Roli Gupta	Independent Director
Mrs. Heena Khurana	Independent Director
Mr. Satish Gupta	Non-Executive Director
Mr. Dilip Kumar Piplwa	Whole Time Director
Mr. Raj Kumar Aggarwal	Non-Executive Director
Mr. Suresh Kumar Moonka	Non-Executive Director
Ms. Richa Piplwa	Non-Executive Director

FY 2016-17

Name	**Designation**
Mr. Prateek Arora	Managing Director
Mr. Nimish Arora	Non-Executive Director
Mrs. Roli Gupta	Non-Executive Independent Director
Mrs. Heena Khurana	Non-Executive Director
Mr. Satish Kumar Gupta	Non-Executive Director

30. Noticees no. 2, 3, 4 and 5 have filed similar replies, submitting that on perusal of the SCN and the annexure, they have not come across any findings/observation as to how and in what manner, they have failed to exercise duty of care and that they have failed to discharge their fiduciary responsibility. Further, that they have exercised duty of care and have discharged their fiduciary responsibility in proper and complete manner and there has been no lapse on their part in any manner whatsoever. Noticee no. 4 and 5 have also submitted that they were not involved in the day to day affairs of the Company let alone being a part of any business affairs/business decision of the Company. Further, that they were never the signatory to any bank accounts or demat accounts of the Company and therefore, issuance of SCN to them without specifying any act or omission on their part has caused great prejudice to their clear and unblemished career. Noticee no. 5 has also submitted that she was appointed only as an independent director w.e.f. April 01, 2016 of the Company just to fulfil the requirement of having an independent

director in the Company, hence, she has not played any role in any manner whatsoever in any affairs of the Company.

31. Noticee no. 7 has submitted that he was appointed as a non-executive director of the Company w.e.f. April 20, 2015 and he was not involved in the day to day operations, management, control and functioning of the Company and did not participate in any decision making. That during his tenure of directorship i.e. April 30, 2015 to July 29, 2016, he has not received any amount as remuneration or sitting fee from the Company. Further, that during his tenure of directorship, he was not involved in any of the transactions referred in the Order dated October 13, 2017 and the FAR w.r.t sale/purchase of shares and immovable properties of the Company during the period April 30, 2015 to July 29, 2016. Noticee no. 7 has also submitted that no such direct allegations were made against him in the interim order and FAR.

32. Noticee no. 9 has submitted that he was appointed as Whole Time Member of JCWL w.e.f August 13, 2014 and was not involved in the day to day affairs of the company. That there are no adverse findings against the Noticee nor any findings on the Noticee being connected to the said allegations of the Company. Further, that with regard to the allegations on related party transactions, none of these parties were related to the Noticees but to the other KMPs who had not disclosed the same to the Board. Further, that these transactions were not even discussed or mentioned at the Board Meetings of the Company and that the Noticee was not even part of the Audit Committee. Noticee has submitted that all the purchase and sale of immovable properties was carried out by Mr. Nimesh Arora and the fact that these transactions were executed between related parties was never brought up before the Board. Noticee no. 9 has submitted that certain directors of the Company were part of the audit committee and hence, all the financial records were vetted by them in FY 2015-16 and 2016-17. The fact that so many related party transactions

took place without the audit committee raising any red flags shows that these alleged transactions were concealed by the said directors. Further, that the turnover of the Company took a huge jump to Rs. 24.43 crores in FY 2016-17, as compared to only Rs. 7.31 crores in 2015-16, which is clear indicator that the new management of the Company undertook such alleged non-genuine transactions in high volume in 2016-17.

33. The Noticee no. 10 has submitted that he was appointed as a Non-Executive Director of JCWL and resigned on April 30, 2015. That he did not hold any shares in the Company and had waived off all the sitting fees till March 31, 2015. That there are no adverse findings against the Noticee nor any findings on the Noticee being connected to the said allegations of the Company. The Noticee has submitted that with respect to the alleged transaction, the first alleged non-genuine purchase of property took place on July 20, 2015 and the first alleged non-genuine sale of property took place on October 16, 2015, both after the resignation of the Noticee from the Company. Further, that these transactions were not discussed or mentioned at the Board Meetings of the Company and that the Noticee was also not part of the Audit Committee.

34. The Noticees no. 11, 12 and 13 have submitted that they were appointed as a Non-Executive Director of JCWL and resigned on April 01, 2016. That they did not hold any shares in the Company and Noticee no. 11 has only received remuneration from the Company to the tune of Rs. 1.2 lakhs per annum and Noticee no. 12 and 13 have never had any other pecuniary interest in the Company. Further, that there are no adverse findings against them nor any findings on them being connected to the said allegations of the Company. The Noticees have submitted that that they were not involved in any of the alleged transactions and did not have any knowledge of these transactions. Further, that these transactions were not discussed or mentioned at the Board Meetings of the Company and that the

Noticees were also not part of the Audit Committee in FY 2015-16. The Noticees have also submitted that as independent non-executive Directors, they were not part of the day to day affairs of the Company.

35. In this regard, as discussed above, I note that Regulations 4(2)(f) and Regulation 33 of the LODR Regulations creates a specific duty on the board of directors. I note that during the investigation period, Noticees nos. 2 to 5, 7 and 9 to 13 were directors of the Company. It is observed that as per the Annual Reports of JCWL, the details of the Board of Directors during the investigation period are as follows:

Name of the Director	**Attendance Particulars**			
	FY 2015-16		FY 2016-17	
	Held	Present	Held	Present
Mr. Prateek Arora	NA	NA	8	4
Mr. Nimish Arora	7	1	8	8
Mrs. Roli Gupta	NA	NA	8	8
Mrs. Heena Khurana	NA	NA	8	7
Mr. Satish Gupta	7	6	8	2
Mr. Dilip Kumar Piplwa	7	7	NA	NA
Mr. Raj Kumar Aggarwal	7	7	NA	NA
Mr. Suresh Kumar Moonka	7	7	NA	NA
Ms. Richa Piplwa	7	7	NA	NA

36. I note that Noticees no. 2, 3 and 9 were Executive Directors of the Company during the investigation period. I note that Noticees no. 2 and 3 are brothers and all the purchase and sale of immovable properties was carried out and their agreements signed by Notice no. 2 and these transactions were executed between related parties, whose directors were related to Noticees no. 2 and 3. Hence, the contention of Noticees no. 2 and 3 that they have exercised duty of care and have discharged their fiduciary responsibility in proper and complete manner and there has been no lapse on their part in any manner whatsoever is untenable, as they have played an important part in executing the aforesaid transactions by the

Company with related parties that were not disclosed in the financial statements of the Company. Further, I note that Noticee no. 9 was a Whole Time Director during the FY 2015-16, who chaired the Board Meetings and also signed the Directors Report dated August 14, 2015.

37. The Noticees nos. 4, 5, 7, 11, 12 and 13 have stated that they were not in charge of the day to day affairs of the Company and were additional/ independent/ non-executive directors. I note that Regulations 4(2)(f) and Regulation 33 creates specific duty on the whole board of directors without making any distinction on the basis of designation of the directors, viz: independent/ non-executive/ additional directors. Further, it is true that non-executive directors and independent directors cannot be held liable for those acts that form part of day to day activities. However, these directors can be held liable for those acts which come to their knowledge. In the present case, the main allegation is misrepresentation of financials. In terms of LODR Regulations, 2015, the financials are approved by the board of directors. Therefore the contention of non-executive directors and independent directors to the effect that they cannot be held liable as they were not involved in the day to day functions, is not tenable. 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 the Director	**Attendance Particulars**			
	2015-16		2016-17	
	Held	Present	Held	Present
Mr. Nimish Arora	5	5	5	5
Mrs. Heena Khurana	NA	NA	5	5
Mrs. Roli Gupta	NA	NA	5	5
Mr. Raj Kumar Aggarwal	5	5	NA	NA
Mr. Suresh Kumar Moonka	5	5	NA	NA
Mr. Satish Kumar Gupta	NA	NA	5	1

38. By being part of Audit Committee meetings, the independent directors namely Mr. Raj Kumar Agarwal (Noticee no. 13), Mr, Suresh Kumar Moonka (Noticee no. 12), Ms. Roli Gupta (Noticee no. 4), Ms. Heena Khurana (Noticee no. 5) and Mr. Satish Kumar Gupta (Noticee no. 7) had considered and adopted the agenda being discussed in the meeting. In this regard, I note that 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) *…...*"

39. Thus, members of the audit committee are responsible to look into the aforesaid financial aspects of a company. 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, 2015, 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. In terms of Section 177 of the Companies Act, 2013 and Part C of Schedule II read with Regulation 18(3) of LODR Regulations, 2015, it was the duty

of the Audit Committee of JCWL to examine the financials, scrutinize inter corporate loans and investments and related party transactions etc. For the instances of misrepresentation of the financials and misuse of funds of JCWL 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. I note that Noticee nos. 4, 5, 7, 12, and 13, who were independent directors of JCWL, were part of the audit committee of the Company. They reviewed and approved the financial statements of JCWL, as part of the board of directors of the Company. In view of the same, I find that failure to raise any concern regarding the financials of JCWL, as members of the audit committee as well as the board of directors of JCWL, shows that these directors did not act diligently with respect to the provisions contained in the LODR Regulations, 2015.

40. I note that Noticee no. 10 was a Non-Executive director that resigned on April 30, 2015 and has not been shown as part of the Board of JCWL during the investigation period i.e. for the FY 2015-16 and 2016-17. Further, as submitted by the Noticee no. 10, I note that with respect to the alleged transactions in the SCN, the first alleged non-genuine purchase of property took place on July 20, 2015 and the first alleged non-genuine sale of property took place on October 16, 2015, both after the resignation of the Noticee from the Company. In view of the above and that there are no adverse findings against the Noticee no. 10, nor any findings on the Noticee being connected to the said allegations of the Company, I find that the allegations against Noticee no. 10 cannot be sustained.

41. As discussed in the aforesaid paras, the financials of JCWL were misrepresented during the investigation period. I note that Noticees no. 2 to 5, 7, 9 and 11 to 13, being directors of JCWL and Noticees no. 4, 5, 7, 12, and 13 being part of the audit committee of JCWL, approved the financials of JCWL, as part of the board of directors of JCWL. Failure to raise any concern regarding the financials of JCWL,

as member of the audit committee and/or the board of directors of JCWL, shows that these directors did not act diligently with respect to the provisions contained in the LODR Regulations. Therefore, the contention raised by Noticees no. 4, 5, 7, 11, 12 and 13 that they were independent directors and the allegations in the SCN pertain to the operational aspects of JCWL and not aspects that are attributable to the board process, is not tenable.

42. I note that order dated February 14, 2019 of the Hon'ble SAT in the matter of *Pritha Bag Vs. SEBI* (in SAT Appeal No. 291 of 2017) has been cited by the Noticees to contend that only the person who is "officer in default" is liable for the acts of company. In this regard, I note that "officer in default" is responsible for only those acts of company regarding which liability has been fastened on "officer in default" by the provisions of the Companies Act, 1956/2013. Thus, in the case of Pritha Bag, Hon'ble SAT held that liability under Section 73 under the Companies Act, 1956 is not on all the directors of company but is only on those directors of company who are "officer in default". In the present case, liability of the Noticees has to be determined in the context of violation of the provisions of the securities laws as alleged in the SCN. In such case, the concept of "officer in default" has no application and therefore, the reliance placed by the Noticees on the order passed by Hon'ble SAT in *Pritha Bag* case is misplaced. Similarly, the Noticees have also relied on certain other orders of the Hon'ble SAT, like *Prafull Anubhai Shah vs. SEBI* (Order dated 28.06.2021 in Appeal No. 389/2021), *Sayanti Sen vs SEBI (*Order dated 09.08.2019), *P.G. Electroplast Ltd. v. SEBI (*Order dated 02.08.2019 in Appeal No. 281 of 2017) and also Orders of the Hon'ble Supreme Court in *State of Haryana vs. Brij Lal Mittal & Ors* (Order dated 30.04.1998) and *Municipal Corporation of Delhi vs. Ram Kishan Rohatgi & Ors* (Order dated 01.12.1982) on the role of independent directors and their liability. However, these matters do not pertain to violations of the LODR Regulations, 2015. As noted above, I note that Regulations 4(2)(f) and Regulation 33(2)(a) of the LODR Regulations, 2015 creates

specific duty on the board of directors without making any distinction with independent/ additional/ non-executive directors.

43. In view of the same, I am of the view that Noticees no. 2, 3, 4, 5, 7, 9, 11, 12 and 13 cannot deny responsibility in the matter, and hence I find that they have violated Regulations 4(2)(f)(ii)(6) & (7) and 4(2)(f)(iii)(2), (3), (6), (12) and 33(2)(a) of the LODR Regulations, 2015.

44. In view of the aforesaid violations committed by JCWL and its directors and CFO i.e. Noticees no. 2 to 7, 9, 11 to 13, I find that directions under Sections 11(1), 11(4), 11A and 11B (1) of the SEBI Act, 1992 and Section 12A (1) of SCRA, 1956, needs to be issued.

45. SCN in the matter, also calls upon the Noticees no. 1 to 13 to explain as to why appropriate penalty be not imposed upon them under Sections 15HA and 15HB of SEBI Act, 1992, for the violations alleged in the SCN. Relevant extract of these penalty provisions, as existing at the time of violations, is reproduced, hereunder:

<u>Relevant extract of Section 15A (a) and 15HB of SEBI Act, 1992:</u>

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."

46. From the analysis of the aforesaid penalty provisions, I find that penalty under Section 15HB of the SEBI Act, 1992, only, is attracted and not the penalties under Section 15HA of SEBI Act, 1992. I note that Section 15HA of the SEBI Act, 1992 provides for imposition of penalty in case of fraudulent and unfair trade practices committed by any person. As in the present case, it has been found that violations of Section 12A (a), (b) & (c) of SEBI Act, 1992 and provisions of PFUTP Regulations, 2003 have not been made out, therefore, penalty under Section 15HA of SEBI Act, 1992 is not attracted against the Noticees (i.e. Noticees no. 1 to 7, 9 and 11 to 13).

47. I find that for the violation of LODR Regulations, 2015 JCWL 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, 2015 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, 2015, therefore, for violation of LODR Regulations, 2015 by JCWL, as found in this order, penalty under Section 15HB is attracted against JCWL. Similarly, Noticees no. 2 to 7, 9 and 11 to 13, who are the directors and CFO of JCWL are liable for imposition of penalty, for the violations of LODR Regulations, 2015 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 two financial years. I also note that Noticees no. 4, 5, 7, 11, 12 and 13 were the Independent directors/Non-executive directors and Noticee no. 6 was the CFO of the Company.

Directions:

50. In view of the aforesaid findings and having regard to the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 11(1), 11(4), 11(4A), 11A and 11B(1), 11B(2) of SEBI Act, 1992 and Section 12A(1) of SCRA, 1956 read with Section 19 and Section 11(2)(j) of SEBI Act, 1992 and Rule

5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, direct as under:

(i) The Noticee no. 1 (Jalan Cement Works Limited, now known as Aashrit Capital Limited), Noticee no. 2 (Mr. Prateek Arora), Noticee no. 3 (Mr. Nimish Arora), Noticee no. 6 (Mr. Shalabh Gaur) and Noticee no. 9 (Mr. Dilip Kumar Pipalwa), are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of one (1) year, from the date of coming into force of this order;

(ii) The Noticee no. 4 (Ms. Roli Gupta), Noticee no. 5 (Ms. Heena Gupta), Noticee no. 7 (Mr. Satish Kumar Gupta), Noticee no. 11 (Ms. Richa Pipalwa), Noticee no. 12 (Mr. Suresh Kumar Moonka) and Noticee no. 13 (Mr. Raj Kumar Agarwal) 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;

(iii) The Noticees no. 1 to 7, 9 and 11 to 13, are hereby imposed with, the following penalties as specified:

Noticee No.	**Name of Noticees**	**Provisions under which penalty imposed**	**Penalties**
1.	Jalan Cement Works Limited (now known as Aashrit Capital Limited)	Section 15HB of SEBI Act, 1992.	Rs. 20,00,000/- (Rupees Twenty Lakh).
2.	Mr. Prateek Arora	Section 15HB of SEBI	Rs. 10,00,000/- (Rupees Ten

		Act, 1992	Lakh)
3.	Mr. Nimish Arora	Section 15HB of SEBI Act, 1992	Rs. 10,00,000/- (Rupees Ten Lakh)
4.	Ms. Roli Gupta	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)
5.	Ms. Heena Khurana	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)
6.	Mr. Shalabh Gaur	Section 15HB of SEBI Act, 1992	Rs. 4,00,000/- (Rupees Four Lakh)
7.	Mr. Satish Kumar Gupta	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)
9.	Mr. Dilip Kumar Pipalwa	Section 15HB of SEBI Act, 1992	Rs. 10,00,000/- (Rupees Ten Lakh)
11.	Ms. Richa Pipalwa	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)
12.	Mr. Suresh Kumar Moonka	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)
13.	Mr. Raj Kumar Agarwal	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)

(iv) The aforesaid Noticees 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 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, Investigation Department, ID-9, 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)	

(v) The proceedings against Noticee no. 8 is disposed of for reasons stated in paras 28 above and the proceedings against Noticee no. 10 is disposed of for reasons stated in para 40 above.

51. During the period of restraint, as directed in para 50 above, the existing holding of securities including the units of mutual funds, of the concerned Noticees, shall remain under freeze.

52. 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.

53. This Order comes into force with immediate effect.

54. This Order shall be served on all the Noticees, Recognized Stock Exchanges, Depositories and Registrar and Share Transfer Agents and Banks to ensure necessary compliance.

Sd/-

Place: Mumbai **ANANTA BARUA**

Date: May 11, 2022 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA