National Stock Exchange of India
Circular

Department: Investigation	
Download Ref No: NSE/INVG/53455	Date: August 26, 2022
Circular Ref. No: 111/2022	

To All NSE Members

Sub: **Final Order in the matter of G.V. Films Limited**

SEBI vide its Order no. WTM/AB/IVD/ID19/18570/2022-23 dated August 26, 2022, has hereby restrained below mentioned 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 periods as mentioned against the names of corresponding entities in the below table: -

Sr No.	Name of Entity	PAN	Period
1	G V Films Limited	AAACG2118C	1 Year
2	Mr. Balakumar Vethagiri Giri	AADPG2683A	1 Year
3	Mr. Suresh Amin	ADGPA3896H	1 Year
4	Mr. S.P. Dhanraj	AACPD6781H	1 Year
5	Mr. Navalpakkam Kuppan Rajendiran	AAFPR1465F	6 Month
6	Mr. Thangavelu Pitchandi	AAEPP5258M	6 Month
7	Mr. Sudhakar Mallappa Shetty	ALPPS0603R	6 Month
8	Mr. Dinesh M. Naik	ACAPN2393M	6 Month
9	Mr. Shivkumar B Singh	AKIPS3532R	6 Month

Further, all open positions, if any, of the entities, restrained/prohibited in the present 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 this Order.

The 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-Debarred Entities".

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. Vipul Mhatre (Extension: 22404), Mr. Anand Jangir (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of

National Stock Exchange of India Limited

Anand Jangir
Manager

Annexure: - Final Order in the matter of G.V. Films Limited

WTM/AB/IVD/ID19/18570/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

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

Noticee no.	Name of Noticees	PAN
1.	G V Films Limited	AAACG2118C
2.	Mr. Ishari Kadhirvelan	AAAPI4538D
3.	Mr. Balakumar Vethagiri Giri	AADPG2683A
4.	Mr. Mahadevan Ganesh	AEAPG4537Q
5.	Mr. Navalpakkam Kuppan Rajendiran	AAFPR1465F
6.	Mr. Thangavelu Pitchandi	AAEPP5258M
7.	Mr. Suhan Sudhakar Shetty	DMOPS3041E
8.	Mr. Sushil Srinivas Shetty	CTNPS3304P
9.	Mr. Sudhakar Mallappa Shetty	ALPPS0603R
10.	Mr. Dinesh M. Naik	ACAPN2393M
11.	Mr. Shivkumar B Singh	AKIPS3532R
12.	Mr. Suresh Amin	ADGPA3896H
13	Mr. S.P. Dhanraj	AACPD6781H
14.	M/s. R. Ravindran & Associates, Chartered Accountants (CA. R. Ravindran)	AAJPR6640L

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

In the matter of G V Films Limited

1. The present order deals with two show cause notices dated August 17, 2020 issued by Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"). One

show cause notice (hereinafter referred to as "**SCN I**") was issued to Noticee no. 1 to 13 calling upon them to show cause as to why suitable directions as deemed fit under Sections 11(1), 11(4), 11(4A), 11A and 11B(1) and 11B(2) read with Sections 15A(a), 15HA and 15HB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**"), Section 12A(1) and 12A(2) of Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "**SCRA, 1956**") read with Sections 23E and Section 23H of SCRA, 1956 should not be issued against them. The second show cause notice (hereinafter referred to as "**SCN II**") was issued to Noticee no. 14 calling upon it to show cause as to why suitable directions as deemed fit under Sections 11, 11B and 11D of SEBI Act, 1992 should not be issued against it. SCN I alleges that G V Films Limited (Noticee no.1, hereinafter referred to as "**the Company**" or "**GVFL**") has violated Sections 12A(a),(b) and (c) and Section 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992, Regulations 3(b), (c) and (d) and Regulations 4(1) and 4(2) (f) and (r) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"), Regulations 4(1)(a),(b),(c),(e),(g), 4(2)(f)(ii)(6)&(7), 4(2)(f)(iii)(3),(6) and (12), Regulation 17(8) read with Part B of schedule II, Regulation 33(2)(a) and Regulation 48 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as "**LODR Regulations**") read with Section 21 of SCRA, 1956.

2. SCN I further alleges that the Company's directors, Mr. Ishari Kadhirvelan (Noticee no. 2), Mr. Balakumar Vethagiri Giri (Noticee no. 3), Mr. Mahadevan Ganesh (Noticee no.4), Mr. Navalpakkam Kuppan Rajendiran (Noticee no. 5), Mr. Thangavelu Pitchandi (Noticee no. 6) , Mr. Suhan Sudhakar Shetty (Noticee no. 7), Mr. Sushil Srinivas Shetty (Noticee no.8), Mr. Sudhakar Mallappa Shetty (Noticee no.9), Mr Dinesh M. Naik (Notice no. 10), Mr. Shivkumar B. Singh (Noticee no. 11) and its Chief Financial Officers, Mr. Suresh Amin (Noticee no. 12) and Mr. S.P. Dhanraj (Noticee no. 13) have violated Section 12A(a) (b) and (c) and Section 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992, Regulations 3(b), (c) and (d) and Regulations 4(1) and 4(2) (f) and (r) of the PFUTP Regulations, Regulations 4(1)(a),(b),(c),(e),(g), 4(2)(f)(ii)(6)&(7), 4(2)(f)(iii)(3),(6)and (12) of LODR Regulations read with Section 27

of SEBI Act, 1992, Regulation 17(8) read with Part B of schedule II, Regulation 33(2)(a) and Regulation 48 of LODR Regulations read with Section 21 of SCRA, 1956.

3. SCN II was issued to Noticee no. 14, alleging violation of Section 12A (a) (b) (c) of the SEBI Act, 1992, Regulation 3(b) (c) and (d) and Regulations 4(1) and 4(2), (a), (e), (f) and (r) of the SEBI (PFUTP) Regulations, 2003.

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

i. SEBI passed an interim order on September 04, 2017 (hereinafter referred to as "**interim order**") *inter-alia* directing the stock exchange to appoint an independent Forensic Auditor, *inter alia*, to verify:
   a) Misrepresentation including of financials and/or business of GVFL, if any;
   b) Misuse of the funds/books of accounts of GVFL, if any.

ii. The directions in the interim order were confirmed by an order dated January 17, 2018 (hereinafter referred to as "**confirmatory order**").

iii. The Forensic Audit Report (hereinafter referred to as "**FAR**") was forwarded by BSE to SEBI and the findings of the FAR for the period of April 01, 2015 till March 31, 2017 (hereinafter referred to as "**Investigation Period**") were examined by SEBI.

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

   I. Misrepresentation including of financials and misuse of funds/books of accounts in violation of LODR Regulations, 2015;
   II. Non furnishing of information to the forensic auditor;

5. The SCNs were served on the Noticees via Speed Post Acknowledgment Due (SPAD). Noticee no. 4 filed a reply dated November 11, 2020. Thereafter, the file was placed before me on November 18, 2020, for granting a date of hearing in the matter.

Accordingly, an opportunity for personal hearing was scheduled on January 11, 2021. Hearing notice dated November 20, 2020 was delivered to all Noticees by email/ SPAD. Noticee nos. 1, 2, 4, 5, 6, 13 and 14 appeared for the hearing on the scheduled dated through video conferencing and made submissions. Noticee nos. 3 and 12 appeared in person and made submissions. Representatives of Noticee nos. 1, 2, 3 and 12 also submitted that they wished to file a settlement application in terms of the SEBI (Settlement Proceedings) Regulation, 2018 (hereinafter referred to as the "**Settlement Regulations**"). Noticee nos. 7, 8, 9, 10 and 11 appeared for the hearing and sought an adjournment, which was granted and a hearing was scheduled for April 7, 2021. However, due to certain administrative exigencies, the hearing was postponed to February 18, 2021. Prior to the date of hearing, the Noticee nos.7-11 again sought an adjournment, which was once again granted. A hearing was thereafter scheduled for April 28, 2021. However, the advocate for Noticee no. 7 to 11, vide letter dated April 19, 2021 sought an adjournment of the hearing scheduled for April 28, 2021 citing the lockdown due to COVID-19 pandemic as the reason for their request. The request of the Noticee nos. 7-11 was acceded to, and a last and final opportunity was given on May 27, 2021 for personal hearing. On the scheduled date, the Noticee nos.7-11 appeared for the hearing through their advocate on video conference and made submissions in the matter. Accordingly, the hearing was concluded *qua* all Noticees.

6. Thereafter, Noticee nos. 1, 2, 3, 7, 8, 9, 10 and 11 filed applications for settlement of the proceedings against them in terms of the Settlement Regulations. Accordingly, in terms of Regulation 8 of the Settlement Regulations, the passing of the final order was a kept in abeyance till the disposal of settlement applications. The settlement applications of Noticee nos. 1, 2, 3, 7, 8, 9, 10 and 11 were rejected and intimation of the same was received on November 22 and 23, 2021. After the rejection of the settlement applications, written replies/ additional submissions in the matter were received from the Noticees. Details of the replies filed are given below:

Noticee no.	Name of Noticees	Date(s) of written submissions
1.	G V Films Limited	June 13, 2022
2.	Mr. Ishari Kadhirvelan	-
3.	Mr. Balakumar Vethagiri Giri	December 1, 2021 and April 13, 2021
4.	Mr. Mahadevan Ganesh	November 11, 2020
5.	Mr. Navalpakkam Kuppan Rajendiran	January 21, 2021
6.	Mr. Thangavelu Pitchandi	January 21, 2021
7.	Mr. Suhan Sudhakar Shetty	June 7, 2021 and January 31, 2022
8.	Mr. Sushil Srinivas Shetty	June 7, 2021 and February 28, 2022
9.	Mr. Sudhakar Mallappa Shetty	June 7, 2021 and February 25, 2022
10.	Mr. Dinesh M. Naik	June 7, 2021 and February 25, 2022
11.	Mr. Shivkumar B Singh	June 7, 2021 and February 25, 2022
12.	Mr. Suresh Amin	-
13	Mr. S.P. Dhanraj	January 21, 2021
14.	M/s. R. Ravindran & Associates, Chartered Accountants (CA. R. Ravindran)	January 11, 2021

7. Noticee no. 3 has submitted as follows:
    i. The directors and their associates invested funds in the Company as unsecured loans between 2010-2015. Later the debt was converted to equity making the directors and their friends and relatives hold around 60% of the equity of the Company.
    ii. The Noticee has been involved in several major films. He is actively involved in social service activities.
    iii. Noticee no. 3 has stated that Noticee no.2 has been awarded several honours.
    iv. The Company has not raised any funds during the period for which the forensic audit was conducted. The loans raised by the previous management have been repaid by the directors using their own funds. How can they misuse their own funds.
    v. The Noticee no. 3 has also made submissions for each allegation, which will be dealt with in the following paras.

Noticee no. 4 has submitted as follows:

i. The overseas litigation expense of Rs. 5.07 crores which was credited to the Noticee has been reversed in FY 17-18 itself.
ii. There was no misappropriation of shareholders' money.
iii. Noticee has not indulged in compromising the interest of shareholders or projection of false figures. He was not involved in any diversion of funds.
iv. The management ensured that there was full and fair disclosure of all transactions made by it.

Noticee nos. 5 and 6 have submitted as follows:

i. They were independent directors of the Company and he was not involved in taking any decisions of behalf of the Company.
ii. Noticee no. 6 was not present for any of the Board Meetings or AGM conducted in the year 2016-17. Noticee no. 5 was present only for 4 Board Meetings in 2016-17 and did not attend the AGM for the year 2016-17.
iii. Noticee no. 6's membership in the Audit Committee and Noticee no. 5's chairmanship of the Audit Committee was considered merely as that of a placeholder. He attended Audit Committee Meetings where no matters of importance were discussed. The Balance Sheet for 2016-17 was not signed by him.
iv. In the AGM conducted on December 28, 2016, the Resolution for appointing them as independent director was not passed and they left the Company as a result.
v. Their positions in all Committees was merely to ensure that statutory compliances were followed, and their directorship was hollow.

Noticee nos. 7-11 have submitted as follows:

i. They were not the promoters of the Company and were merely non-executive directors (Noticee nos. 7 and 9) / independent directors (Noticee nos. 8, 10 and 11) of the Company. Noticee no. 7 was a non-executive director of the Company for a period of only 5 months and Noticee nos. 10 and 11 were non-executive independent directors only till April 12, 2016. They were not in charge of the day to day affairs of the Company. The Show Cause Notice does not contain even a whisper about their involvement, participation in or even knowledge of these matters through Board processes or otherwise as required under Section 149(12) of the Companies Act, 2013.

ii. They had ceased to be directors prior to the commencement of these proceedings by SEBI, and Noticees and cannot be guilty of non-cooperation with the purported forensic auditor

iii. Relevant documents have not been provided to them.

iv. No independent investigation was carried out by SEBI in the matter.

v. The FAR was prepared by the auditor after they had left the Company and so they have no access to documents and records of the Company. The report has relied on some documents which have not been provided to them.

vi. PFUTP Regulations do not contemplate appointment of any private party to conduct investigations.

vii. The FAR is an inchoate document and the same is admitted in the document itself.

viii. Under Section 27 of the SEBI Act, in order to be vicariously liable, the director should have been in charge of the conduct of the business of the Company.

ix. The information that was represented to them by the executive directors and statutory auditors through Board processes showed that the Company was compliant with accounting standards. Under the LODR Regulations it is the responsibility of the Chief Executive Officer and the Chief Financial Officer to certify inter-alia that the financial statements have been prepared in accordance with accounting standards.

x. Certain allegations in the Show Cause Notice do not even make out a case of a securities law violation. These allegations, even if held to be true, can make out a case of either misrepresentation of financials or books of accounts or misuse of shareholder funds, the ostensible basis for the Show Cause Notice.

xi. The failure to generate revenue or incurring of expenses larger than the revenue or erosion of net worth, cannot amount to violation of law let alone a securities law violation.

xii. They have themselves suffered losses and made no financial gain from the alleged violations.

Noticee no. 13 has submitted as follows:

i. The Noticee was not associated with the Company in any manner during the investigation period.
ii. He was the CFO of the Company only from May 22, 2017 and resigned on February 15, 2019.
iii. Hence the allegations in the SCN cannot be attributed to him.

2. It was noted that no reply was filed by the Company. As there was reference to the stand of GV Films Ltd. on certain issues in the reply of Shri Balakumar Vethagiri Giri (Managing Director of the Company), he was asked to submit an authority letter from the Company regarding the same. In response to same, vide an email dated May 20, 2022, it was submitted that the Board of Directors of the Company had now authorized Mr. K. Ashwin Kumar, Director to file reply before SEBI in the matter, and sought 8 weeks' time to submit a reply in the matter. The Company also requested that a personal hearing may be granted thereafter. As the Company had already been granted a hearing on January 11, 2021, it was informed that no further opportunity for personal hearing in the matter would be provided. However, the Company was advised to file its reply, if any, within ten days. Vide email dated June 5, 2022 the Company once again sought an additional time of one week to file its reply. The request for extension of time was granted. Thereafter, the Company filed its reply dated June 13, 2022 vide email dated June 14, 2022 and also forwarded a hard copy of the same, which was received on July 4, 2022. The Company has detailed submissions for each allegation, which are summarised and considered in the following paras.

Consideration of submissions and findings:

3. I have considered the allegations in the SCNs, replies received, submissions made by the Noticees during the personal hearing granted to them and in the written

submissions filed by them. The relevant extract of provisions of law violation of which have been alleged in the SCNs, are as follows:

Relevant extract of the provisions of SEBI Act, 1992:

"Functions of Board.

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

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

………………………….

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

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

………………………………………..

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

12A. No person shall directly or indirectly-

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

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

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

…………………………………………………..

Offences by companies.

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

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

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

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

Relevant extract of provisions of SCRA, 1956:

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

Relevant extract of the provisions of PFUTP Regulations, 2003:

“…………3. **Prohibition of certain dealings in securities**
No person shall directly or indirectly—
(a) ……..;
(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;
(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;
(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

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

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities
(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:-
………………………………………………..
(a) indulging in an act which creates false or misleading appearance of trading in the securities market;
…………………………………………………………………………..
(e) any act or omission amounting to manipulation of the price of a security;
(f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information relating to securities, including financial results, financial statements, mergers and acquisitions, regulatory approvals, which is not true or which he does not believe to be true prior to or in the course of dealing in securities;
…..
(r) planting false or misleading news which may induce sale or purchase of securities.
…………………………………….”

Relevant extract of the provisions of LODR Regulations, 2015 as existed at the relevant time are provided as under:
“………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.
(c) Equitable treatment: The listed entity shall ensure equitable treatment of all shareholders, including minority and foreign shareholders, in the following manner:
…
(iv)The listed entity shall devise a framework to avoid insider trading and abusive self-dealing.
……
(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-

(1) Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans, setting performance objectives, monitoring implementation and corporate performance, and overseeing major capital expenditures, acquisitions and divestments.
………………………………
(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:
The board of directors shall provide strategic guidance to the listed entity, ensure effective monitoring of the management and shall be accountable to the listed entity and the shareholders.
….
(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."

…..

Compliance Officer and his Obligations.

9. The listed entity shall have a policy for preservation of documents, approved by its board of directors, classifying them in at least two categories as follows-

(a)documents whose preservation shall be permanent in nature;

(b)documents with preservation period of not less than eight years after completion of the relevant transactions:

Provided that the listed entity may keep documents specified in clauses(a) and (b) in electronic mode.

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.

…………………………………

SCHEDULE II - PART B: COMPLIANCE CERTIFICATE
[*See* **Regulation 17(8)**]

The following compliance certificate shall be furnished by chief executive officer and chief financial officer:

A. They have reviewed financial statements and the cash flow statement for the year and that to the best of their knowledge and belief:
(1) these statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading;
(2) these statements together present a true and fair view of the listed entity's affairs and are in compliance with existing accounting standards, applicable laws and regulations.

B. There are, to the best of their knowledge and belief, no transactions entered into by the listed entity during the year which are fraudulent, illegal or violative of the listed entity's code of conduct.

C. They accept responsibility for establishing and maintaining internal controls for financial reporting and that they have evaluated the effectiveness of internal control systems of the listed entity pertaining to financial reporting and they have disclosed to the auditors and the audit committee, deficiencies in the design or operation of such internal controls, if any, of which they are aware and the steps they have taken or propose to take to rectify these deficiencies.

D. They have indicated to the auditors and the Audit committee
(1) significant changes in internal control over financial reporting during the year;
(2) significant changes in accounting policies during the year and that the same have been disclosed in the notes to the financial statements; and
(3) instances of significant fraud of which they have become aware and the involvement therein, if any, of the management or an employee having a significant role in the listed entity's internal control system over financial reporting.

……………………………………………….

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.

4. Before proceeding with the merit of the matter, it will be relevant to discuss the background of the present proceedings. SEBI received a letter no. F. No. 03/73/2017-CL-II dated June 9, 2017 from the Ministry of Corporate Affairs (hereinafter referred to as **"MCA"**) vide which MCA had annexed a list of 331 shell companies for initiating necessary action as per SEBI laws and regulations. MCA had also annexed the letter of Serious Fraud Investigation Office, dated May 23, 2017 which contained the list of shell companies along with their inputs. In respect of listed shell companies including the Company, vide its letter dated August 7, 2017, SEBI advised stock exchanges to place trading restrictions on promoters/directors so that they do not exit these listed companies. SEBI vide said letter dated August 7, 2017 also advised the Exchanges to place the scrip in the trade-to-trade category with limitation on the frequency of trade and imposed a limitation on the buyer by way of 200% deposit on the trade value, so as to alert them on trading in the scrip. Thereafter, BSE vide notice dated August 7, 2017 issued to all its market participants, initiated actions envisaged in the SEBI letter dated August 7, 2017 in respect of all the listed companies, as identified by MCA and communicated by SEBI, with effect from August 8, 2017. On August 09, 2017, SEBI further advised the 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.

5. Aggrieved by the aforesaid letters/notice dated August 7, 2017 issued by SEBI and BSE, the Company filed an appeal bearing no. 195 of 2017 before the Hon'ble Securities Appellate Tribunal, Mumbai (hereinafter referred to as "SAT"). The Hon'ble SAT vide order dated August 29, 2017 directed the following:

"In view of the statement made by counsel for the Bombay Stock Exchange Ltd. ('BSE' for short) that the representation made by the appellant on August 10, 2017 would be disposed of within a period of 2 weeks from today, counsel for the appellant does not press the appeal. Accordingly, the appeal is disposed of by directing the BSE to dispose of the representation made by the appellant within a period of two weeks from today. SEBI is also directed to dispose of the representation, if any, made by the appellant as expeditiously as possible preferably within a period of 2 weeks from today."

On the basis of the decision of the Hon'ble SAT, GVFL submitted its representation dated August 16, 2017 to SEBI, and an opportunity of personal hearing was granted to it on August 24, 2017. GVFL in the said hearing was asked to submit certain necessary documents/records for consideration. Thereafter, the interim order and confirmatory order were passed.

6. Based on the direction given by the SEBI, vide interim order dated September 04, 2017, BSE appointed T R Chadha & Co LLP for conducting forensic audit of GVFL. The Forensic Audit Report **(FAR)** was received by SEBI vide BSE's letter dated August 06, 2019. On receipt of the FAR, SEBI carried out an investigation in the matter.

7. Coming to the merits of the matter, I observe that, in the SCN I & II, the allegations against the Noticee no. 2 to 14 flows from the allegations against Noticee no.1. Noticee nos. 2 to 13 have been charged in their capacity as directors/ CFO of Noticee no.1 and Noticee no. 14 has been charged as the statutory auditor of Noticee no.1. The SCN I alleges that the Noticee nos. 1 to 13 have failed to present true and fair financial statements of the Company, executed transactions which are non-genuine in nature thereby resulting in misrepresentation of the accounts/ financial statements and misuse of account/funds of the Company during the investigation period and that such acts were found to be fraudulent in nature as they induced the investors to trade in the securities of the Company and had the potential to mislead the investors. SCN I also alleged that the directors/ CFO of the Company (Noticee nos. 2 to 13) have failed to exercise duty of care, by misrepresenting the financial statements /misusing the funds of the Company. The SCN II alleges that Noticee no. 14 who was the statutory auditor of the Company for the relevant period, has been negligent in

performance of its duties as it had not carried out proper due diligence in its audit report.

8. I note that allegations made in the SCN I against the Company can be categorized as under:

   A. Misrepresentation including of financials and misuse of funds/books of accounts in violation of LODR Regulations, 2015;

   B. Non furnishing of information/Non-cooperation by the Company with the forensic auditor;

   C. Violation of PFUTP Regulations, 2003.

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

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

i. The Company is not generating any revenue but is only incurring expenses

(a) The SCN I, based on the FAR alleges that the Company had a revenue of Rs 3.52 crores in FY 2015-16 and expenses of Rs 10.49 crores in the said year thereby indicating that the Company is incurring losses as the expenses are disproportionate to the revenue being generated by the Company. The same trend is also visible in FY 2016-17 where revenue of the Company has become nil but the Company still had expenses of Rs 9.29 crores. Thus, the Company is not generating any revenue but is only incurring expenses and losses thereby not generating any returns to shareholders and leading to uncertainty as to how the Company will take care of its liabilities.

(b) In response to the same, the Company and Noticee no. 3 have *inter alia* stated that the Company had acquired valuable assets in the form of digital rights of more than 14000 films and the reported value of these was Rs.56.64 crore. They have further stated that additional funds in the form of unsecured loans had been introduced in to the Company. The abovementioned noticees have stated that the management of GVFL had undertaken an exercise to settle liabilities and assets of the Company. The Company has also stated that it was trying to revive its business by completing the films, which was hindered by the COVID 19 pandemic.

(c) I note from the above that the FAR has raised concerns that since the revenue of the Company has been below its expenses for a few years, the Company is not generating any returns for its shareholders and that there is uncertainty regarding the future of the Company. However, the fact that the Company is making a loss cannot by itself be said to be a violation of the LODR Regulations, particularly when there is no allegation that the Company is not engaged in any activity. However, it is observed that the Company has acquired digital rights of 14000 films and those films may not be generating enough profits as may be expected by the Company. Further, the FAR has also not brought out any facts that show that any specific provision of the LODR has been violated.

ii. Though the Company is generating almost negligible or nil revenues in these financial years, it is incurring huge employee cost which is not justified.

(a) The SCN alleges that despite having 0-33 employees in the FY 2015-16 and 10-20 employees in FY 2016-17, the Company has incurred huge amount of employee benefit expenses amounting to Rs 1.72 crores in FY 2015-16 and Rs 0.41 crores in FY 2016-17. This indicates that even though the Company is generating almost negligible or nil revenues in these financial years, it is incurring huge employee cost which is not justified.

(b) In this regard the Company and Noticee no.3 have stated that films and entertainment need skilled and experienced employees. To acquire and develop the rights of films and production of films, they needed to retain the employees. The Company had 50 employees during the year 2015-16. The Company expensed cost of employees in the Statement of Profit & Loss, rather than taking these to inventories (production costs). Benefits of the cost incurred would be available now when the value of rights and films shall get realized.

(c) In this regard, I note that the types of skilled employees and number employed, the salaries and benefits are purely commercial or business decisions, unless shown that the cost was exorbitant and not comparable with the prevalent entertainment industry standards. The SCN does not allege that these expenses were not actually incurred and were mere paper entries. Employment of persons and the terms and conditions of their employment are under the domain of commercial business decisions of a company. The FAR does not bring out any fact to show violation of any specific provision of the LODR Regulations. In view of the same, the Company cannot be held liable for violation of the LODR Regulations for making these business decisions.

iii. No actuarial valuation has been done by the Company thus leading to non-compliance of Accounting Standard (AS) 15- “Employee Benefits”.

(a) The above allegation in the SCN is based on the observation in the FAR that the actuarial valuation report as per Accounting Standard-15-Employee Benefit Expenses was sought from the management by an email dated February 2, 2018 and reminder emails but the same was not provided. Accordingly, the FAR has observed that the actuarial valuation had not been done, leading to violation of AS-15.

(b) In this regard, the Company and Noticee no. 3 have stated that they would obtain the actuarial valuation as on March 31, 2021. These noticees have stated that the same would be regularised during Audit for the financial year ended on March 31, 2021. The Company has denied the allegation that it has failed to comply with AS-15.

(c) I note that AS-15 is applicable to companies that have more than 50 employees. The Company in its reply has stated that had 50 employees. Hence AS-15 was applicable to GV Films. While the Company has denied violation of AS-15, it has also stated that it was in the process of obtaining the actuarial valuation. The submission of the Noticee makes it evident that the actuarial valuation was not done. Hence, I agree with the observation in the FAR.

iv. Related parties of GVFL are incurring expenses on behalf of GVCSL.

(a) The SCN alleges that the provident fund challan for FY 2016-17 is in the name of the Company but the stamp of payment is of G V Studio City Limited **(GVSCL).** Further, related parties of GVFL were making payments of salary related expenses to employees on behalf of GVFL. This indicates that related parties of GVFL are incurring expenses on behalf of GVFL.

(b) In this regard, the Company and Noticee no.3 have stated that GVSCL is a 100% subsidiary of GVFL. Payments of PF were made by GVSCL due to the said relationship of being a 100% subsidiary of GVSL.

(c) The above submission shows that the payment of PF was being made, not by the Company, but rather by its related party. The fact that the Company was not incurring its own expenses automatically means that it misrepresented its expenses. Hence, I agree with the observations of the FAR.

v. Misrepresentation with regard to Foreign Currency Convertible Bonds.

(a) Based on the observations made in the FAR, the SCN alleges that the actual interest cost on Foreign Currency Convertible Bonds **(FCCBs)** issued by GFVL, was Rs 0.39 crores for FY 2015-16 but the same is shown by the Company in its annual report as Rs 0.43 crores for the said financial year thereby misrepresenting the financial statements. Further, the Company has also violated section 196C of the Income Tax Act, 1961 by not deducting TDS on the interest paid by the Company on such FCCBs.

(b) The Company and Noticee no. 3 have stated that the difference of Rs 42.61 lacs was because of extra interest provision due to delay in payment of interest. Further, the settlement with the FCCB Bond holders was under process, and hence the Company had neither paid interest to the FCCB Bond holders nor deducted TDS. The Noticee stated that they would pass the required entries of difference in the account and also pay TDS on the same after settlement with the Bond Holder.

(c) In this regard I note that the Forensic Auditor had sought the details of calculation of interest, but the same was not provided by the Company. Even before me, the Noticee no. 3 has claimed that the difference was because of provision of extra interest due to delay in payment, but has not submitted any calculation for the same or documents in support of the same. Hence, I am inclined to agree with the observation in the FAR.

vi. Misrepresentation of litigation expenses

(a) The SCN alleges that the overseas litigation expenses booked by the Company by crediting Mr. Ganesh Mahadevan (director of the Company) on behalf of the Company and absence of actual vendor indicates that the Company has not actually incurred any overseas litigation expenses but has merely diverted funds, in the name of expenses, thereby misusing shareholders' funds. Further, the Company has not accounted for any statutory compliances like TDS, service tax etc. against overseas litigation expenses.

(b) In this regard, the Company and Noticee no. 3 have stated that the amount of overseas litigation expenses booked by the Company for settlement of FCCB dispute included stay in the Courts of London and Madras. Later on, these expenses were recovered from Mr. Ganesh Mahadevan in FY 2018 and adjusted from the unsecured loan payable to him.

(c) I note that from the FAR that the first holders of FCCB bond were Metage Special Emerging Market Fund Ltd., Metage Fund Ltd. and Pine River Capital Mgmt Ltd. On company's failure to repay the dues of bond amount, the bondholders moved the court and sought winding up of the company. To resolve the issue out of the court, the FCCB bonds were transferred to BFS Asia Research Limited (BFS) on certain terms. The FAR states that Company had not complied with the terms and conditions of transfer of FCCBs (revised FCCB bond agreement) to the new bond holder i.e BFS. The FAR states that the management had submitted that the litigation expenses amounting to Rs. 5 crores (appx.) was payable against the settlement of the FCCB dispute. The amount was credited to directors in consideration of them taking care of all legal cases in London and Chennai courts. I note that Ganesh Mahadevan (Noticee no.4), in his reply before me, has also stated that the amount was reversed in FY 17-18, *i.e.* the next financial year. Upon examining the annexures provided by Noticee no.4 (relevant pages of the annual reports of the Company) I observe that an amount of Rs.5,07,01,978 was shown as overseas litigation expense in 2016-17 and the exact amount was shown as written back expense in 2017-18. From the reply of the Company it is not clear whether any expense was at all incurred, and if it was incurred, why was the entire amount adjusted against unsecured loan payable to Noticee no.4. In view of the same, these entries appear doubtful as the Company has been unable to provide any documents or cogent explanation regarding the same. In view of the same, I agree with the observation made in the FAR.

vii. Misrepresentation of foreign exchange fluctuation loss

(a) The SCN alleges that GVFL has wrongly accounted exchange fluctuation loss of Rs 1.44 crores for FY 2016-17 where it should have actually accounted for exchange fluctuation gain of Rs 0.43 crores. Further, for FY 2015-16, the Company has shown exchange fluctuation loss of Rs 0.17 crores in its annual report, for which no working has been provided by the management of the Company. However, there has actually been an exchange fluctuation gain of Rs 0.82 crores for the said financial year, which has not been accounted by the Company thereby leading to misrepresentation of financial statements. The Company has even mapped travelling expenses incurred by it in exchange fluctuation loss shown in the annual report. Thus, at each balance sheet date, by not showing foreign currency monetary item at closing rates, the Company has not complied with AS-11- “The Effects of Changes in Foreign Exchange Rates”. Further, by accounting for cumulative exchange fluctuation losses of previous years starting from 2014-15 during FY 2016-17, the Company has violated provisions of AS-5-“Net profit or loss for the period, prior period items, and changes in Accounting Policies”, which provides that prior period items should be separately disclosed on the face of the financials.

(b) The above allegation is based on the following observation in the FAR:

*As per the Annual Report of the Company **(Refer Annexure 4)**, exchange loss is amounting to Rs. 1.44 crores in FY 2016-17 and Rs. 0.17 crores in the FY 2015-16. We have received the calculation and basis of exchange fluctuation loss from the management of the Company for the FY 2016-17**(Refer Annexure 12)**. The analysis of the calculation is provided in the below table:*

<u>FY-2016-17</u>

Date	***Amount of Loan on which Exchange Fluctuation loss is calculated***	***Exchange Rate by company***	***Foreign Exchange Value***	***Exchange Rate by RBI Circular***	***Foreign Exchange Value***
31st March 2017	*USD 29,00,000*	*64.7468*	*18,77,65,720*	*64.8386*	*18,80,31,940*
31st March 2016	*USD 29,00,000*	*59.76*	*17,33,04,000*	*66.3329*	*19,23,65,410*
Exchange Loss/(Gain)			***1,44,61,720***		***(43,33,470)***

Above details indicate that company has booked loss of Rs. 1.44 Crores whereas company should actually book gain of Rs. 0.43 Crores. Hence, the accounting entry made by the Company was not correct.

<u>FY-2015-16</u>

*Exchange fluctuation loss amounts to Rs. 0.17 crores as per the annual report of FY 2015-16 **(Refer Annexure 4)**. However, no working is provided to us by the management. As per our calculation, exchange fluctuation loss is depicted in below table, which seems not accounted by the Company indicating understatement of losses by the Company.*

Date	***Amount of Loan***	***Exchange Rate by RBI Circular***	***Exchange Loss/ (Gain) in Rs.***
31st March 2016	*USD 29,00,000*	*59.76*	*17,33,04,000*
31st March 2015	*USD 29,00,000*	*62.591*	*18,15,13,320*
Exchange Loss/(Gain)			***(82,09,320)***

Hence, the exchange fluctuation loss is not accounted by the Company, which is incorrect. On further analysis of financial in MS-excel format to us ***(Refer Annexure 4)****, we have noted that travelling expenses of Rs. 0.17 crores are mapped in exchange fluctuation loss.*

As per AS-11 "The Effects of changes in Foreign Exchange Rates", At each balance sheet date foreign currency monetary item should be reported at closing rates. Further, as per AS-5 "Net profit or loss for the period, prior period items, and changes in Accounting Policies" prior period items to be separately disclosed on the face of the financials.

In the light of the above, we can say that accounting of cumulative losses of previous years during 2016-17 is non-compliance of Accounting Standard. Further, such non-compliance has not been highlighted in the audit report of the Company.

(c) The Company and Noticee no.3 have stated that the Exchange Fluctuation loss of Rs. 1.44 crore booked during FY 2016-17 was cumulative loss over three years between FY 2015 to FY 2017. This was because of restatement of principal amount of loan. Further, Rs. 0.17 crore booked in the year 2015-16 was a typographical error and the same is expense on account of traveling.

(d) I note that the FAR observes that the calculation and basis of foreign exchange fluctuation loss was received from the management of the Company for the FY 2016-17. The FAR observed the discrepancies after taking into account the calculation provided by the management. However, no working was provided for FY- 2015-16. Even before me, while the aforesaid Noticees have stated that the loss of Rs.1.44 crore booked during FY 2016-17 was cumulative loss over three years between FY 2015 to FY 2017, no calculation has been provided for the same. Furthermore, as per AS-5, *"Net profit or loss for the period, prior period items, and changes in Accounting Policies"* items relating to any prior period have to be separately disclosed on the face of the financials. The Company did not do the same. In view of the same, I am inclined to agree with the observation made in the FAR.

viii. The Company has made incorrect provisions for rent.

(a) The SCN alleges that the Company has made incorrect provisions for the rent to be paid to United White Metal limited for FY 2015-16 (Rs 0.17 crores instead of Rs 0.06 crores) and FY 2016-17 (Rs 0.21 crores instead of Rs 0.05 crores) thereby violating provisions of AS-29 “Provisions, Contingent Liabilities and Contingent Assets”.

(b) The FAR states that the forensic auditors had asked the management of the Company to provide rent agreements to check the genuineness of expenses. On the analysis of rent agreement, it was noted that the period of the agreement is May 2015 to March 2017. As per the agreement the total amount payable was Rs.0.23 crores in FY 2015-16 and Rs. 0.26 crores in FY 2016-17. However, expenses accounted in the books amounting to Rs. 0.17 crores in the year 2015-16 and provision made Rs. 0.21 crores in FY 2016-17. No provision was made for the differential amount, leading to violation of AS- 29 “Provisions, Contingent Liabilities and Contingent Assets”.

(c) In this regard, the Company and Noticee no.3 have provided a copy of Registered Leave & License Agreement between United White Metal Limited and G V Films Limited effective from May 1, 2015. As per the Agreement, the rent payable was Rs. 2 lakh for May-2015 and Rs. 2.10 lakh per month for 11 months from June-2015 onwards. After that, the rent would be Rs.2,20,500 for the balance period from May 1, 2015 to March 31, 2017. Accordingly, the rent for FY 2015-16 works out to Rs. 23 lakhs and Rs. 26.35 lakhs for FY 2016-17. Accordingly, the Noticee no. 3 has stated that the rent reported in FAR is not correct.

(d) The Noticees named above have stated that the rent for FY 2015-16 works out to Rs. 23 lakhs and Rs. 26.35 lakhs for FY 2016-17, whereas the FAR has stated that as per the agreement the total amount payable was Rs.0.23 crores in FY 2015-16 and Rs. 0.26 crores in FY 2016-17. Hence, both the amounts stated in the FAR are akin to what is being put forth by Noticee no. 3 as well. Provision should have been made for the differential amount of Rs. 0.06 crores in 2015-16 and Rs. 0.05 crores in 2016-17. However, the aforesaid Noticees have not made any submission regarding the fact that no provision was made for the differential amount, leading to violation of AS- 29 "Provisions, Contingent Liabilities and Contingent Assets". Hence, I am inclined to agree with the observation made in the FAR.

ix. Misrepresentation of expenses

(a) The SCN alleges that the fact that the distribution share agreement was not in the name of the Company but was executed between its subsidiary i.e. GVSCL and GEE TEE Film Distributors, coupled with the fact that no service tax liability has been provided by the Company against distribution share expenses incurred by it, indicates that the Company has not incurred such expenses and has merely misused the funds of shareholders' in the name of such expenses. Further, the Company also did not take any efforts like submission of necessary documents to the forensic auditor to otherwise prove that transactions undertaken by it were done in good faith and were genuine in nature.

(b) The Company and Noticee no. 3 has stated that the activities of distribution and exhibition of Film are done in the name of 100% subsidiary GVSCL, and that is the reason the agreement was made in the name of GVSCL.

(c) The FAR notes that as per the annual report of 2015-16, an expense of Rs. 2.66 crores was made on distributor's share. However, when asked for sample agreements to verify the terms and conditions of the distribution rights acquired by the Company, the management provided agreements between its subsidiary (GVSCL) and GEE TEE Film Distributors.

(d) I note that if the expenses were being incurred by the Company, the agreements ought to have also been in the name of the Company.

Further, the fact that there was no tax liability for the same indicates that the expenses were not genuine. Hence, I agree with the observation in the FAR.

x. Erosion of net worth

(a) The SCN alleges that the net worth of the Company has eroded significantly from Rs 37.86 crores to Rs 30.9 crores in FY 2014-15 and to Rs 21.6 crores in FY 2015-16 and FY 2016-17. This indicates that the Company has not performed well and has incurred losses year after year thereby leading to a deterioration in shareholders' funds. Further, the financials of the Company are also dominated by current liabilities of Rs. 96.87 crores against which total assets of Rs. 118.73 crores are shown, which are disproportionate to the income and expenditure of the Company. The assets of the Company are overstated and outside liability of FCCB bond is overdue since long where the interest liability is increasing the burden even more.

(b) In this regard, the Company and Noticee no.3 have *inter alia* stated that the Promoters have introduced additional funds into the Company, Directors of the Company are in the process of settlement of liability of FCCB Bonds, assets are stated at cost and the market value of the films are higher. The Company expects better revenue in the future.

(c) Incurring losses by a company cannot be stated to be a violation of the LODR Regulations, particularly when there is no allegation that the Company is not engaged in any activity. As noted above, the Company had acquired digital rights of 14000 films and those films may not be generating enough profits as may be expected by the Company. Further, the FAR has also not brought out any facts that show that any specific provision of the LODR has been violated. In this regard, expenses undertaken are purely commercial or business decisions, unless shown that the cost was exorbitant and not comparable with the prevalent entertainment industry standards. A company is expected to be run in a professional manner commercially, but a situation may arise where it incurs losses. The FAR has not brought out any further facts to show that there has been any violation, or which specific provision of the LODR Regulations was violated. In view of the same, I do not agree with this observation of the FAR.

xi. GVFL has not maintained proper fixed assets documentation.

(a) The SCN alleges that the fixed assets register of the Company did not have details such as depreciation rate, depreciation amount, quantity of asset, physical verification status etc. Further, the Company failed to provide physical verification report of fixed assets, which indicates that the management did not carry out physical verification. Hence, it is alleged that the Company did not maintain proper fixed assets documentation.

(b) The Company and Noticee no. 3 have stated that the management carries out physical verification of fixed assets every year and the same is being reported to Independent Auditors of the Company. It is also stated that certain records were kept in Chennai and that may be reason why he Forensic Auditor could not verify the same. These noticees have also stated that the same may be verified any time.

(c) It is noted from the FAR that the Forensic Auditor had asked the management to provide physical verification report of fixed assets on several occasions, but the same was not provided by the Company. Even before me, the aforesaid notices stated that the documents may be verified at any time, but did not provide the same. In view of the same, the submission of the aforenamed noticees is not tenable. Hence, I am inclined to agree with the observation in the FAR.

xii. Non-disclosure in respect of the FCCB dispute.

(a) The SCN alleges that the Company has not complied with the terms and conditions of transfer of FCCBs (revised FCCB bond agreement) to the new bond holder i.e BFS Asia Research Limited (BFS). Also, non-transfer of equity shares by GVFL to BFS, as per terms of revised bond agreement, has led to non-compliance of revised FCCB agreement. Further, the Company has also not made any disclosures, regarding non-compliance of the terms of the revised FCCB agreement and its contingent liabilities (its claim in GVSCL) arising in respect of its agreement with BFS, in the annual report of the Company, thereby violating Accounting Standard 4 "Contingencies and Events occurring After Balance Sheet date".

(b) In this regard, the Company and Noticee no. 3 have stated that the arrangement of transfer of FCCB Bonds was an internal arrangement between the original Bond-holders (Metage Special Emerging Market Funds Limited) and the new Bond holder (i.e. BFS). The Company has negotiated with the new Bond holder for a settlement for USD 1.70 million, and sold one theatre at Gidiyatham. The Company has remitted USD 0.50 million and requested for further time. Now the balance outstanding as per settlement is USD 1.20 million. The Company is in the process of settlement of balance amount with the Bond holder.

(c) I note that the aforesaid allegation is based on the observation in the FAR that the first holders of FCCB bond were Metage Special Emerging Market Fund Ltd, Metage Fund Ltd and Pine River Capital Management Ltd. On the Company's failure to repay the dues, the bondholders sought winding up of the Company. To resolve the issue out of the court, FCCB bonds were transferred to BFS Asia Research limited of Geneva on certain terms, like transfer of Tanjavore Theatre to GV Studio City Limited, reconstitution of Board of GV Studio City Limited and GV Studio City Limited undertaking to not encumber the theatre without the consent of the new bondholder. The FAR observes that these conditions were not complied with. The FAR notes that the bondholders have filed a suit against the Company. The total dues of the Company towards FCCB bond including the interest accrued, amounts to Rs. 21.99 crores as on March 31, 2017 and 20.12 crores as on March 31, 2016. On analysis of the annual reports, the FAR notes that the principal and interest were overdue for more than 2 years. Since the Company violated the terms and conditions of the agreements, the same may affect its claim on investment in GV Studio City Limited. However, no contingent liability disclosure in this regard has been made in the annual report of 2015-16 and 2016-17. The Company has not complied with Accounting Standard-4 “Contingencies and Events Occurring After Balance Sheet Date”, which *inter alia* provides that the existence of a contingent loss should be disclosed in the financial statements. This resulted in misrepresentation of financial statement by the Company. I note that the aforenamed noticees have stated that the Company was in the process of settlement of the balance amount. The notices have not said anything regarding the failure to make disclosure of the aforesaid non-compliance, which may have an effect on its investment. In view of the same, I agree with the observations of the FAR.

xiii. Short-term provisions

(a) The aforesaid allegation in the SCN is based on the observation in the FAR that the majority of statutory dues like TDS, EPF, ESIC are unpaid for more than one year, which may lead to serious consequences against the Company.

(b) In this regard, the Noticee no. 3 has stated that total statutory dues, as per latest Audited Accounts of March 31, 2020, were Rs. 31 lakhs, which the Company is in the process of payment.

(c) From the above, I note that the noticees have admitted that the statutory dues are outstanding. In view of the same, I agree with the observation in the FAR.

xiv. Misrepresentation of Deferred Tax Assets (DTA).

(a) The SCN alleges that the Company has continued to recognize deferred tax assets (DTA), despite incurring losses on a continuous basis and without having any reasonable certainty of realizing these assets in future. This has led to misrepresentation of financial statements of the Company. Thus, the Company has violated Accounting Standard 22- "Accounting for Taxes on Income".

(b) In this regard, the Company and Noticee no. 3 have stated that the amount of DTA was Rs. 11.64 lacs, and that the management of the Company was confident of the growth of business activities of the Company. It has also been submitted that the Auditors reviewed the provision before finalizing the Annual Financial Statements for each year.

(c) I note that AS-22 provides that deferred tax assets should be recognised and carried forward only to the extent that there is a reasonable certainty that sufficient future taxable income will be available against which such deferred tax assets can be realised. Further, the carrying amount of deferred tax assets should be reviewed at each balance sheet date. I note from the FAR that there is no change in deferred tax asset amount since FY 2010-11. This goes against the submission of the aforementioned Noticees that the same was reviewed on a timely basis. In view of the same, I agree with the observations in the FAR.

xv. Non-genuine transactions.

(a) The SCN alleges that M/s Siddhesh Corporation Limited (SCL), which is related to GVFL as Mr. M V Balagiri is a common director in both these companies, has incurred capital expenditure amounting to Rs 9.27 crores, on behalf of GVFL, for which it has also raised a bill on the Company, raises suspicion on the genuineness of these transactions as it is not supported by any proper documentary proof such as invoices raised by third party, valuation/ technical feasibility report. Thus, it is alleged that GVFL has misused funds of the Company by diverting funds to its related party in the name of capital expenditure incurred by the Company.

(b) In this regard, the Company and Noticee no.3 have stated that the expenditure was incurred by SCL towards production of movie, and that these amounts were paid to Prabhudeva Studios, Vels Education Society and Indira Education Trust.

(c) I note that the FAR observes that while it is claimed that SCL made payments to various parties, documentary proof that these payments were actually made, were not available. Even before me, the aforenamed noticees have made the same submission. Upon examining the Statement from SCL for expenditure, as submitted before me, I note that the same is only a statement of expenses purportedly made by SCL to various parties. However, no bills/ invoices from these parties have been annexed, once again. Hence, it appears that these payments may not be genuine.

xvi. Certain transactions entered into by the Company for film rights do not appear to be genuine.

(a) Based on the FAR, the SCN alleges that the non-submission of documents such as schedule of right purchased, copy right and other documents to justify ownership of film rights raises concern over genuineness of transactions entered into by the Company. Further, non-existence of entities (M/s Ravi Kumar Chitra & Associates, Mr. Y Ravi Babu, M/s Kavitha Films International & associates, Mr. V P Mani) from whom film rights have been purchased by the Company, at the addresses mentioned in the agreements entered into with these parties, raises concerns over the genuineness of these transactions.

(b) The Company and Noticee no. 3 have stated that these rights were acquired during the year 2006-07, and that there was a possibility that the address of these parties may have changed because of which the forensic auditor could not verify the same. Noticee no. 3 has stated that these agreements relating to rights purchased are available with the Company. A list of rights held by the Company was also enclosed. Regarding the entities that could not be found at the address mentioned in the agreements,

(c) The FAR notes that as per annual report of the Company**,** its inventory is amounting to Rs. 56.64 crores in both the years 2016-17 and 2015-16. The Forensic Auditor, *inter alia,* sought evidence of payment for film rights and film under production, film rights agreement. Most of these documents were not provided by the Company. Further, from the list of rights submitted before me, I note that the same only gives names of the movies in which the Company holds rights. The documents such as schedule of right purchased, copy right and other documents to justify ownership of film rights have still not been submitted.

(d) Further regarding the non-existence of certain entities at the address mentioned in the agreements, I note that it is suspicious that most of the entities with whom these agreements were entered into are not available at the addresses mentioned in the agreements, and that there was no information regarding them in the public domain. However, the FAR does not give any definite finding that these entities do not exist, and merely states that their existence is not confirmed. In view of the same, I am of the opinion that the benefit of doubt may be accorded to the Company in this regard.

xvii. Misrepresentation of financials by showing released films as works in progress.

(a) The SCN alleges that two films that were already released have been shown as works in progress in the financial statements of the Company, and so the Company has misrepresented its financials by inflating its inventories by them as work in progress.

(b) In this regard, the Company and Noticee no.3 have stated that the two films were getting dubbed in the Tamil / Telegu. The work-in-progress is related to Dubbing.

(c) The submission of the Noticee that the films were in the process of being dubbed into another language and hence had been shown as works in progress, is plausible.

xviii. Misrepresentation of short term loans

(a) The SCN alleges that the Company has not undertaken proper due diligence while advancing short term loans to some entities as these entities have either been struck off (M/s Mindkriya Softech Pvt. Ltd, M/s Power Play Construction Pvt Ltd. and M/s Space Hospitals Ltd) or are under liquidation (M/s Weg Entertainment Pvt. Ltd). Moreover, the fact that the Company failed to provide balance confirmations obtained by itself and the exact ageing schedule of short term loans and advances, indicates that the Company did not maintain proper documentation, did not make any efforts to recover the amounts advanced to the parties or to prove otherwise that the money lent by it have been done with propriety or in interest of shareholders. Thus, it is alleged that the Company has misused shareholders' funds and has not acted in the interests of shareholders. Further, in instances, such as (M/s Geetha Enterprises and M/s Sunbeam Pictures), where the recovery of loan advanced by the Company is doubtful, no provision for such doubtful debts amounting to Rs 3.21 has been made by the Company. Hence, it is also alleged that losses were understated, thereby leading to misrepresentation of financial statements of the Company.

(b) Noticee no.3 and the Company have stated that the above loans and have been settled in the following years. There are no dues from these parties as per Audited Accounts of March 31, 2020.

(c) While the aforenamed noticees have stated that the loans have been settled in the following years, no documentary evidence of the same has been provided. These loans should have been written off at the relevant time. If subsequently any recovery was made, the same should have been accounted for appropriately. In view of the same, I agree with the finding in the FAR that the financial were misrepresented by not writing off these loans.

xix. Balance of Rs. 9.94 lakhs lying in inoperative Bank accounts

(a) The SCN alleges that Rs.9.94 lakhs were lying in inoperative bank accounts of the Company. The information regarding these bank accounts were not made available to the forensic auditor, which raises the question as to whether the balance was genuine.

(b) In this regard, the Company and Noticee no.3 have stated that there were no transactions in these accounts, hence these accounts were inactive and balances were carried forward. They are in the process of getting these accounts activated.

(c) I note here that the allegation in the SCN pertains to genuineness of the balance held in these inactive bank accounts. However, the FAR does not provide any cogent evidence as to whether these accounts actually did not exist. Whether or not an account is actually holding a particular sum is verifiable. Since this has not been done, I am inclined to give the benefit of doubt to the Company.

xx. Payment of Rs. 0.38 lakhs made to Mr. M V Balagiri but in different names

(a) The SCN alleges that as per its bank books, the Company has made payment of Rs 0.38 lakhs to Mr. MV Balagiri but names of different payees (viz Vasant Shetty, Ganesh films, Dharamraj Ramnarayan Singh, Mahesh Amritlal Shah, Satish Shetty and The Thomas Coop Bank Ltd Ac) are being reflected in its bank statements indicating that the Company has misused its funds and have diverted funds to other parties in the name of one party thereby also leading to misrepresentation of its books of accounts.

(b) The Company and Noticee no.3 have stated that these payments are related to the short-term loan taken by him for the Company for immediate operational needs, which were repaid directly to these parties.

(c) I note that the Company has not produced any agreement or documentary evidence, such as a tripartite agreement to show that the outstanding loan of the director was paid to third parties. In light of the same, I am unable to accept the submission. Hence, I find that the entries were not accurate.

xxi. Incurring revenue expenditure of an amount that is greater than the written down value of the asset.

(a) The SCN alleges that the Company has incurred an expenditure of Rs 0.32 crores in cash, towards repair and maintenance of its tangible assets in FY 2016-17, despite the written down value of these assets being Rs 0.1 crores and Rs 0.28 crores as on March 31, 2017 and March 31, 2016, respectively, indicates that the Company has misused its funds. The expenditure was incurred in cash, which does not have a trail. Supporting document such as sample invoices, underlying the expenditure, have not been provided to the forensic auditor. Floods in Chennai was cited as the reason by the Company for not providing bills to the forensic auditor, is not tenable as the Company should maintain its books of accounts at its registered office address which is Mumbai. Thus, by not maintaining its books of accounts at its registered office address, the Company has violated the provisions of the Companies Act, 2013.

(b) The Company and Noticee no.3 have stated that the cost of repair and maintenance for older assets is more. Value of assets reduced due to provision for depreciation. A conclusion that the cost of repair and maintenance on the basis of written down value of assets is not justified.

(c) Even if the explanation provided by the aforenamed noticees is accepted, it is not tenable that a genuine expenditure amounting to Rs.28 lakhs would not have any no paper trail and no invoices/ bills. In view of the same, I am of the view that these transactions appear to not be genuine.

xxii. Incorrect disclosure of cash expenses.

(a) The SCN alleges that the Company has not made correct disclosure of cash expenses incurred by it in the tax audit report for FY 2015-16 and has only made disclosure of cash expenses with respect to power and fuel amounting to Rs 26,761.

(b) In this regard, the FAR states that Section 40A(3)(a) of the Income-tax Act, 1961 stipulates that any expenditure incurred in respect of which payment is made in a sum exceeding Rs.20,000/- otherwise than by an account payee cheque drawn on a bank or by an account payee bank draft, shall not be allowed as a deduction. The total amount paid in cash by the company, individually, in excess of Rs. 20,000 aggregates to Rs.0.08 crores in the FY-2015-16 and Rs. 0.34 Crores in the year 2016-17. As per section 44AB of Income Tax Act, 1961, tax audit is applicable only for FY 2015-16. However, on verification of tax audit report provided by company for the FY 2015-16, it was noted that complete disclosure of cash expenses relevant as per the applicable section is not made and only cash expenses in regard to power and fuel amounting to Rs. 26,761/- dated April 20, 2015 is disclosed and other details were not disclosed in tax audit report.

(c) Noticee no.3 and the Company have stated that as per Section 40A (3) of Income Tax Act 1961 provides for disallowance of expenses in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on bank or account payee bank draft or use of electronic clearing system through a bank account, exceeds Rs. 20,000 will be disallowed for Income Tax purpose. Accordingly, the Company had to report cash payments of above Rs. 20,000/- to a person in a day. The Forensic Auditor has considered total cash payments during the year and reported the same, which is not the correct interpretations.

(d) In this regard, I note that the FAR does not bring out the details/ instances where payments exceeding Rs.20,000 in a day was made by the Company.

In view of the same, I am inclined to give the benefit of doubt to the Company.

xxiii. GVFL has transferred huge amount of revenue, from sale of tickets to its subsidiary company.

(a) The above allegation is based on the observation in the FAR that below mentioned cash payments were made by the Company to its subsidiary during FY 2015-16:

Rs. in crores

Month	Amount
Apr-15	0.69
May-15	0.50
Jun-16	0.34
Jul-15	0.43
Aug-15	0.50
Sep-15	0.36
Oct-15	0.26
Nov-15	0.17
Dec-15	0.00
Jan-16	0.00
Feb-16	0.01
Mar-16	0.00
Total	**3.26**

(b) The Noticee no. 3 and the Company have stated that the theatre is owned by the subsidiary and hence amount from sale of tickets were transferred to it. Further, Since GV Studio City Limited is a 100% subsidiary, there is no question of misusing funds of the Company.

(c) In this regard, the FAR notes that the Company does not own any theatres. It enters into a distribution agreement with its subsidiary to showcase its movies and earn money via ticket sales. It appears from the FAR that the entire cash revenue of the Company was transferred to its subsidiary. If, as submitted, the revenue belonged to the subsidiary, it is not clear why it was being received by the Company, and being shown as its cash revenue. In view of the same, it appears that the Company was making misrepresentations to that extent in its financials.

xxiv. The Company has misrepresented its financials by not making any provision for doubtful debts.

(a) The SCN alleges that most of the debtors/ creditors of GVFL, being individuals or firms and their credentials not being available in public domain limited the forensic auditor's capacity to undertake independent verification. Further, the fact that there has been no change in these debtor balances and they have been outstanding for long indicates that the management has neither taken efforts to realise the funds from these debtors nor has it made any provision for doubtful debts in its books of accounts. Thus, it is alleged that the Company has not only misused the funds of its shareholders but has also misrepresented its financial statements.

(b) The Noticee no.3 and the Company have submitted that the amount of each creditor is small. The creditors are mainly service providers and relating to general office expenses. The Noticee has given a list of debtors and creditors along with the Amount due to/ from them.

(c) I note from the FAR that most of the trade debtors of the Company are long overdue. As noted in the FAR, trade receivables amount to Rs.5.19 crores as on the end of both the FY 2016-17 and FY 2015-16. It was also noted that as per the working provided by the management of the Company, all the debtors were more than 3 years old. However, no documents were made available to show what recovery measures had been undertaken. I note that the Company has also not made any provision for the same in line with Accounting Standard-4 (AS-4). As per AS-4 "Contingencies and Events occurring after balance sheet date", if it is likely that a contingency will result in a loss to the enterprise, then it is prudent to provide for that loss in the financial statement. The company has thus not complied with the provision as per AS-4 as the recovery of the trade receivable is doubtful. Hence, I agree with the observation in the FAR.

xxv. GVFL has misrepresented its financial statements by inflating its trade payables.

(a) The SCN alleges that GVFL has misrepresented its financial statements by inflating its trade payables due to the fact that even the statutory auditor of the Company i.e. R Ravindran & Associates and Mr. Prakash Hedge (consultant of Mr. M V Balagiri, managing director of the Company) are appearing as trade payables in the books of the Company.

(b) Noticee no. 3 and the Company have stated that the names of Statutory Auditors and Consultants are appearing as trade payables in the books because the Company availed professional services from these parties and these creditors are related to professional fee payable.

(c) The FAR notes that trade payables, to the tune of Rs. 2.86 crores as on the end of financial years 2016-17 and Rs. 2.31 crores as on the end of the financial year 2015-16, were long overdue. The genuineness of the trade payable also could not be determined due to the fact that KYC documents and balance confirmation letters were not available. Coupled with the fact that even the statutory auditor and consultant were appearing as trade payables, I agree with the FAR that the trade payables appear to be inflated.

xxvi. Related Party Transactions (RPT)

1.1 The SCN alleges that the Company had entered into loan agreements with related parties. The loans were taken before executing the loan agreement. The SCN alleges that these agreements were not executed on stamp paper. The SCN also alleges that the Company's failure to produce loan documents raises concern over the genuineness of these loans.

1.2 The Company and Noticee no. 3 have stated that loans from related parties were properly reported in the Audited Financial Statements of the Company. It has also been stated that no interest was provided or paid on the unsecured loans and advances from related parties.

1.3 The FAR notes that some loan agreements were not executed on stamp paper and as per terms of agreements, all the loans are repayable on demand. Further, the Company did not provide all the loan agreements to the forensic auditor, due to which they were unable to verify the rate of interest, repayment terms and other terms and condition of loan prejudicial to the interest of the Company. While the noticee has stated that no interest was paid on the unsecured loans and advances, no documentary evidence has been produced, even before me, in support of the same. As a listed company, GVFL and its directors owed a duty of care to its shareholders and other stakeholders. The absence of loan documents indicates that the loan transactions may not have been proper. I am inclined to agree with the observations in the FAR.

2.1 The SCN alleges that the loans received by the Company, from its related parties, by way of cash has increased by Rs 1.06 crores, as per its bank accounts. However, loans from related parties in the books of accounts have increased by Rs 11.29 crores. This indicates that transactions amounting to Rs 10.23 crores are merely book entries and no actual transaction has taken place.

2.2 In this regard, the Company and Noticee no.3 have stated that the regular receipts and payments appearing in the Bank statements are the funds brought in by the promoters and group companies to meet the operational expenses of the Company. These funds were treated in the books as unsecured loans from related parties. Since these related parties were having facilities for business operations, certain amounts were paid by these companies and debited to the account of GVFL. Further, the unsecured loans outstanding in such related parties were meant to be converted into equity, for which approval of shareholders and BSE obtained and allotment was made to the extent of Rs. 54.60 crore.

2.3 The noticees have not provided any documents in support of its statement before me. The specific entries which represent the excess loan amount of Rs 10.23 have not been brought out to show that these were not merely journal entries. In view of the same, I agree with the observation in the FAR.

3.1 The SCN also alleges that GVFL entered into a loan agreement with Siddhesh Corporation Limited (SCL) which was signed by Mr. MV Balagiri on behalf of both SCL as well as GVFL. 90% of funds so borrowed were routed back to SCL not as a repayment, but in the garb of reimbursement of expenses incurred by SCL.

3.2 The Company and Noticee no.3 have stated that as Mr. Balagiri is a director in the both the Companies, and he had signed the agreement on behalf of both the parties. SCL incurred expenses for production of film and statement of such expenditure was enclosed with their reply. It is also stated that SCL being a related party, it has also provided loan to GVFL, which was utilized for payment towards expenses. All these transactions were properly recorded in the Books of accounts and audited. The above transactions do not result into any kind of diversion of funds and concern of forensic auditor on the above transactions is not justified. These transactions were reported in the Annual Reports under related party transactions.

3.3 From the FAR, I note that the payments to SCL majorly consist of payment on behalf of the Company to various vendors. Out of Rs. 10.28 crores, Rs. 9.26 crores are paid on account of capital work in progress. As noted above, evidence of payment and balance confirmation from these vendors were not provided for verification, despite being sought by the forensic auditor. Further, no feasibility study or technical valuation report was provided for payment on account of capital work in progress (relating to dubbing portal) which amounts to Rs. 9.26 crores, when sought by the forensic auditor. In view of the same, these appear to not be genuine.

4.1 The Company has also not disclosed closing balances individually for certain related parties in its annual report thereby not complying with the provisions of AS-18

4.2 The Company and Noticee no. 3 have stated that from the above statement, it is not clear which is the year of reporting. Management is taking care for the required disclosures in the following years.

4.3 From the Annual Reports annexed to the FAR, I note that the closing balances for certain related parties for 2016-17 is not shown individually, as required by AS-18. However, opening balance, debits and credits are shown individually. Further, as submitted by the Noticee, the FAR has not specifically stated the year for which the violation is alleged. I also note that the noticee has undertaken to take care of the same in the following years. In view of the same, I am inclined to take a lenient view regarding this allegation.

5.1 The SCN alleges that the Company failed to make disclosure of advance, amounting to Rs 11.86 crores against capital expenditure (capex), given to Siddhesh Enterprise (a related party of the Company by virtue of common director i.e M V Balagiri) in its annual reports for FY 2015-16 and 2016-17 thereby violating the provisions of Accounting Standard 18- “Related Party Disclosures” and Companies Act, 2013. Further, the Company did not make any efforts to recover the advances.

5.2 The Company and Noticee no. 3 have submitted that the above disclosure requirement has been corrected in the following years.

5.3 I note that the aforenamed noticees have admitted the violation. In view of the same, I find that the Noticee has failed to comply with AS-18 in this regard.

6.1 GVFL has mostly given advances against capex during the period 2011-12 to its related parties, M/s Trikkal Infrastructure Pvt Ltd and Trikkal Theatres & Reality India Pvt. Ltd, (earlier related parties by virtue of common director i.e. Mr M V Balagiri who was a director in these companies) and has not made any efforts to recover the money thereby raising concerns over the genuineness of these advances given.

6.2 The Company and Noticee no.3 have stated that the payments were made for the purpose of acquiring rights in a Theatre (The iconic Hindmata Theatre) at Dadar, Mumbai. This is related to the business activities of GVFL. However, the matter of acquisition of right went under litigations and the decisions are pending.

6.3 The FAR notes that the legal cases of the Company were verified, but the forensic auditor did not come across any legal cases against the capex advances. The details of the same with any documentary evidence have also not been submitted before me. The FAR notes that no effort has been made to recover these amounts. Hence, I am inclined to agree with the observations of the FAR.

7.1 The non-receipt of balance confirmation letters from the entities, to whom advance against capex has been granted by the Company, indicates that these entities may not be in operation and GVFL has thus misused the funds of its shareholders

7.2 The Company and Noticee no. 3 have stated that non receipt of independent balance confirmation cannot be concluded to mean that there was a misuse of the funds of the shareholders. GVFL has not raised any fund from public during last 15 years. Directors have contributed required funds for the Company from their own resources and associates. This appears to be a general remark by the Forensic Auditors. If the parties can be specified, management can contact the parties and request them to send confirmation of the balances.

7.3 From the FAR I note that the forensic auditors had sought details and addresses of these parties vide several emails. However, these were not provided by the Company. Hence, the submission of the abovenamed noticees is not tenable. The forensic auditor tried to search for the credentials of these parties, but could not find the same. Balance confirmation letters to M/s 21st Century Productions and M/s Kumar Perfumes Pvt. Ltd. based on information available in public domain did not evince any reply. As a listed Company, GVFL ought to have been more careful in making sure all documents are in place and should have provided the same to the auditor. These documents have not been submitted even before me. In view of the same, I am inclined to agree with the observation in the FAR.

xxvii. Assessing the genuineness of Capital Expenditure.

(a) The SCN alleges that by not providing documents with respect to capital expenditure incurred by the Company to the forensic auditor, the Company has not only failed to provide information to the forensic auditor but has also not been able to justify the nature of capital expenditure incurred by the Company.

(b) In this regard, the Company and Noticee no. 3 have stated that the management of GVFL tried to provide all the required records to the forensic auditor. It is possible that certain additional documents may not be in the format or to the extent of requirements of forensic auditors.

(c) The FAR notes that the forensic auditors had sought details pertaining to capital expenditure via several emails and reminders. However, the same were not provided. Hence the submission of the aforenamed noticees is not tenable. I agree with the observation in the FAR.

xxviii. Granting of loans to its subsidiary which was more than the net worth of the subsidiary.

(a) The SCN alleges that the Company had made a non-current investment of Rs 15.05 crores in its subsidiary, GVSCL, despite the latter incurring losses on a continuous basis and the net worth of the company being only Rs 6.10 crores for the FY 2016-17. Thus, it is alleged GVFL has not employed any due diligence and economic rationale while selecting and making investments thereby leading to misuse of shareholders' funds and a decline in their wealth.

(b) The Company and Noticee no. 3 have stated that the subsidiary, GVSCL, is holding a 5 Screen Multiplex Complex of approx. 50,000 sq.ft.,having seating capacity of 1719 seats at Temple Town Tanjavore in Tamil Nadu. The current market value of the property is around Rs. 100 Crores. The losses reported by GVSCL were due to depreciation provision.

(c) I note that the noticees as named above have not submitted any documents before me in support of its claims as made above. I note that the Company granted a loan to its subsidiary amounting to more than twice the net worth of the subsidiary, which may not be prudent.

xxix. Failure to comply with AS-13

(a) Despite a fall in the fundamentals of GVSCL and its poor performance, the Company has not accounted for any impairment in the value of investment held by it in GVSCL and has continued to show it at a cost thereby leading to misrepresentation of its financial statements. Thus, by not accounting for any diminution in the value of its investments held in GVSCL, the SCN alleges that the Company has not complied with AS-13.

(b) The Company and Noticee no. 3 have stated that in the opinion of the management, the value of investment is fully recoverable and there is no question of impairment in the value of investment.

(c) The FAR states that the Company's investment in GVSCL amounted to Rs. 15.05 crores. On the basis of annual reports of the subsidiary company provided by the company, it was noted that the net worth of GVSCL is only Rs.6.10 crores for FY-2016-17 and further as evident from the annual report for the period (2015-17), the company is incurring losses. I note that as per Accounting Standard-13, Accounting for Investment, long term investments are carried at cost. However, when there is a decline, other than temporary, the carrying amount is to be reduced to recognize the decline. I note that the FAR has stated that GVSCL was incurring losses on a continuous basis and the Company should have considered the same to arrive at the correct valuation. Continuous losses incurred by GVSCL indicates that the decline may not have been temporary, and hence I am inclined to agree with the observation in the FAR.

xxx. Litigations against the Company.

(a) The SCN alleges that the fact that one of the top ten shareholders of the Company, was Peter Beck & Partner VermogensverwaltungGmbh as on March 31, 2016 and March 31,2017, has filed a legal case against the Company in the

High Court of judicature of Madras dated December 21, 2009 raises concerns over the operations of the Company.

(b) The Company and Noticee no. 3 have stated that the shareholder was an FCCB holder. They have not informed GVFL about their current address, hence the same was not updated in the records. The Company had assets and continuing its regular operations, which is evident from value of assets and latest financial statements. There should not be any concern about operations of the Company.

(c) I note that the SCN and FAR do not make out any specific allegation against the Company in this regard. I am of the view that the fact that a shareholder has filed a case against a company cannot by itself be a violation of any law. Moreover, a view cannot be taken on the same till the same is decided by the Hon'ble High Court. The FAR also does not bring out which specific provision is violated due to the filing of such a case. In light of the same, I do not find any violation by GVFL in this regard.

xxxi. Concerns over operations of the Company.

(a) The SCN alleges that the Company is sharing its registered office with other companies which comes under "Pithawala group of companies" and Mr. Mehul Pithawala has joined the Company as additional director coupled with the fact that no employees of the Company were present at the registered office raises concerns over the operations of the Company.

(b) The Company and Noticee no. 3 have stated that the representative of the forensic auditor visited the registered office of GVFL on a holiday. The forensic auditor has submitted several observations on the operations / transactions of the Company during their visit to the office, which were properly addressed. This itself proves that the Company was operating for some time from the office owned by Pithawala Group. However, due to issues related to proof of ownership of the premises, GVFL moved its operations to the earlier office at Sagar Avenue, Andheri- West. Securities of the Company are listed on BSE since 1990 and it is submitting all required information and documents to BSE regularly.

(c) I find that the Noticee's submissions are plausible. The FAR does not set out the date of the site visit or the number of times the forensic auditor tried to visit the premises of the Company. In view of the same, I am of the view that a violation is not established in this regard.

10. From the discussions in the paras above, I find that the Company 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.

11. I note that the SCN I *inter alia* alleges that the Company has violated Regulation 4(1)(a),(b),(c),(e),(g), 4(2)(f)(ii)(6)&(7), 4(2)(f)(iii)(3),(6),&(12), Regulation 33(2)(a), Regulation 48 and Regulation 17(8) read with Part B of Schedule II of the LODR Regulations, 2015. From the discussions above, I find that since the financial statements of the Company pertaining to the investigation period were not as per the Accounting Standard, as noted in the previous paras. Therefore, the Company has violated Regulation 48 of LODR Regulations, 2015, which mandates that a 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 SCNs, 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.

12. As discussed in the para above, I find that the Company has failed to comply with Regulation 48 of the LODR Regulations, 2015. Further, its disclosures were not in accordance with the principles laid down in the aforesaid clauses of Regulation 4(1) and hence, the Company is also in violation of Regulation 4(1)(a), (b), (c), (e) and (g) of the LODR Regulations, 2015. Regarding the violations of Regulation 4(2)(f)(ii) (6) and (7) and 4(2)(f)(iii) (3), (6) and (12) of the LODR Regulations, 2015 by the Company as alleged in the SCN-I, I find that Regulation 4(2)(f) enlists the responsibilities of board of directors of listed entities. Clause (ii) of Regulation 4(2)(f) deals with key functions of the board of directors and Clause (iii) deals with other functions of the board of directors. Any liability arising out of the violation of these principles because of violation of disclosure or other obligation of the listed entity under the LODR Regulations, 2015 is of the board of directors of the listed entity. Therefore, I find that the Company cannot be said to be in violations of Regulation 4(2)(f)(ii) (6) and (7) and 4(2)(f)(iii) (3), (6) and (12) of the LODR Regulations, 2015 which pertain to obligations of the board of directors. Regarding the violations of Regulation 17(8) read with Part B of Schedule II of LODR Regulations, 2015 by Noticee no.1, as alleged in the SCN I, I find that Regulation 17(8) mandates that 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. Since the said provisions pertain to Chief Executive Officer and the Chief Financial Officer of

the Company, I find that Noticee no.1 cannot be said be in violation of Regulation 17(8) of LODR Regulations, 2015. 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, in terms of the Uniform Listing Agreement read with Section 21 of the SCRA, 1956, since the financial results were not accurate, the Company has violated Regulation 33(2)(a) of LODR Regulations, 2015. Further, since one of the condition which every issuer company, whose securities are listed on a recognised stock exchange, is required to comply with is compliance with LODR Regulations, 2015 and in the present case, the Company has been found to be in violation of the provisions of the LODR Regulations, 2015 as discussed above, therefore, the Company is in violation of the condition of the listing agreement and hence, is also in the violation of Section 21 of SCRA, 1956.

13. Non furnishing of information/Non-cooperation by the Company to the forensic auditor

i. The SCN I alleges that the Company has not furnished the information sought by the forensic auditor on various instances. The SCN alleges that the Company has failed to provide to the forensic auditor information/ documents such as:

a) Movie ticket sales register, entertainment challans, documents evidencing that the Company has rights to distribute movies;
b) Payroll register, attendance details, KYC of employees along with their academic records and actuarial valuation reports;
c) Court case submission documents/order document indicating current status of the FCCB case, copy of invoice from lawyer, underlying litigation expenses incurred by it;
d) Documents supporting payment of entertainment tax;
e) Documents supporting payment of legal and professional charges inured by the Company;
f) Sample agreements (barring one) for verification of terms and conditions and distribution rights acquired by the Company;

g) Exact details and documentation with respect to the amount payable for FCCBs;
h) Exact aging of capital work in progress;
i) Non-submission of latest valuation reports for the film rights by the Company.
j) Aging, breakup of film production expenses, evidence of payment for film rights and film under production, film rights agreements (barring few film agreements) and overall status of inventory along with reasons for not considering impairment in the value of inventory;
k) Schedule of right purchased, copy right and other documents to justify ownership of rights;
l) KYC details of parties, to whom loans and advances have been granted by it;
m) Balance confirmations and the exact ageing schedule of short term loans and advances granted by the Company;
n) Assessment year wise status of Income tax and service tax, copy of assessment order and documents suggesting current status of these assessments;
o) KYC details and balance confirmation of major parties forming part of its current assets;
p) Copy of counterfoil of tickets, copy of entertainment tax challans, service tax challans for distribution share, detailed working indicating cash revenues earned day wise and movie wise;
q) Aging of debtors, addresses and KYC of major debtors, balance confirmation of these debtors;
r) Aging of creditors, addresses of major payables, balance confirmation and KYC details of these payables;
s) Loans agreements for loans availed by it from major related parties;
t) Loan agreements, balance confirmations and last audited financial statements of major related party loan transactions with respect to loans granted by the Company;
u) Approval from board of directors, request for quote, quotations, comparative analysis of vendors, current status of these capex expenses, exact ageing of capex and technical valuation/impairment status of capex; and
v) KYC details, addresses and balance confirmations of major parties to whom capex advances have been made by the Company.

ii. I note that the Company and Noticee no. 3 have stated that most of the information, which are required to be maintained as per statutory requirements were available. However, some records, which are related to the year before 2009 may be difficult to retrieve, as these records were maintained in physical format at that time. The noticees have stated that if required, these details can be provided in a reasonable time. However, I note from the FAR that several documents sought by the forensic auditor were not provided to them, despite reminders, which has hindered the audit process.

iii. I note that the Noticees have been alleged to have violated Section 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992. On a reading of these Sections, I observe that Section 11(1) of the SEBI Act, 1992 lays down the functions of SEBI, and in carrying out the said functions, SEBI is empowered, under 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992, to call for records from intermediaries and other entities. I note that BSE was directed to appoint a forensic auditor for carrying out forensic audit of the Company vide SEBI order dated September 04, 2017. Thus, the forensic audit was being carried out pursuant to a direction of SEBI. I note that the Company failed to furnish information sought by the forensic auditor and thereby violated Sections 11(2)(i) and (ia) of SEBI Act, 1992.

14. Violations of PFUTP Regulations, 2003:

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

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

a) Examination of Suspicious transactions as mentioned in SEBI's Order
b) Examination of books of accounts and other records of the Company from 1st April 2015 to 31st March 2017.

c) *Site visit at the registered / functional office of the Company and meeting with key personnel including KMPs, company auditor, company secretary, key vendors, key customers, other key officials.*

The detailed scope of audit as per the assignment letter issued in our favour is as under:

a) *Possible misrepresentation including its financials and / or businesses and / or violation of SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015 (hereinafter referred to as "LODR Regulations") and/or*
b) *Possible misusing of books of accounts/funds of the Company including facilitation of accommodation entries and/ or entering into transaction to the detriment of minority shareholders and controlling shareholders and key management person (KMP)*
c) *Suspicious transactions/items as provided in the SEBI / Exchange Orders passed on the Company.*
d) *To examine the books of accounts and backup records of the Company for the period of two years including the year of transactions referred in SEBI / Exchange Order to:*

- *Cash flow analysis to trace source of funds and end use of funds on sample basis (as per annual report for last 2 years)*
- *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).*
- *Analysis of related party transactions.*
- *High value bank transactions to ascertain their relevance to the business of the Company and to identify the potential round-tripping of funds or accommodation transactions.*
- *Assess genuineness of expenditure (capex as well as other goods and services) and review of top vendors / suppliers / customers.*

- *Investments made by the Company in subsidiary companies along with the relevant fund flows, if any.*
- *Assess genuineness of investments both listed and unlisted with appropriateness of valuation and flow of funds.*
- *Assessment of utilization of funds lying as share premium, if any, in terms of provisions of Companies Act.*
- *Comment on the shareholding pattern.*
- *Wherever applicable, the relevant funds flow including analysis of relevant bank statements (also source and utilization of funds).*

e) Verification / discussions:

i. Independent and /or physical verification of the underlying transactions.

ii. Background / reputation checks based on public domain information related to promoters, nature/ line of business, genuineness of business activities of the Company.

iii. Discussions with key stakeholders like Promoters/ Senior Management Team / Departmental heads, vendors, customers, company auditors, entities/persons involved in day to day affairs of the Company, etc.

iv. Business history, directorship searches and litigations.

v. Assessment of size and scope of business.
Site visit as may be applicable for verifying existence of the Company functional/ registered office, assets, place of execution of services, etc. In case of doubt, site visit to be carried out at plants / factories.

iii. 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, 2015 and accordingly, the findings of the FAR are confined only to misrepresentation in the books of accounts of the Company and consequential and other violations of LODR Regulations, 2015 and the FAR does not bring out violation of PFUTP Regulations, 2003. 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 SCNs. However, the SCN I additionally states,

> *"8. From the above, it was observed that the Company (Noticee no.1), its directors and the Chief Financial Officer(s) (Noticee no. 2 to 13) have failed to present true and fair financial statements, executed transactions which are non-genuine in nature thereby resulting in misrepresentation of the accounts/financial statements and misuse of account/funds of the Company and such acts were found to be fraudulent in nature."*

iv. 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. 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.

v. 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.

15. Regarding violation of Section 11(2)(i) and 11(2)(ia) of the SEBI Act, 1992 alleged against Noticee nos. 2 to 13, I note that, the said violations have been alleged in view of the non-furnishing of information by the Company to the forensic auditor. In this regard, I note that information was sought by the forensic auditor from the Company and not from these directors or CFO in their capacity of the director/CFO of the Company. In view of the inapplicability of Section 27 of SEBI Act, 1992, Noticee no. 2 to 11, being directors and Noticee nos. 12 and 13 also being CFO, cannot be held liable for violation of Section 11(2)(i) and 11(2) (ia) of SEBI Act, 1992, as alleged in

the SCN I. Further, Section 21 of SCRA and 4(1)(a),(b),(c),(e),(g) and 48 of LODR Regulations, 2015 which deal with non-compliance with listing conditions is applicable to a listed entity and thus, cannot be invoked against the Noticee nos. 2 to 13.

16. Further, with respect to Noticee no. 13, it is noted that in his submissions, the noticee has stated that he was not associated with the Company during the period of investigation (*i.e.* April 1, 2015 to March 31, 2017). Noticee no. 13 has stated that he was appointed as the CFO of the Company only on May 22, 2017 and has attached his Form Dir-12 in support of his submission. I note from the Annual Report for 2016-17 that there too it is mentioned that the Noticee was appointed as CFO from May 22, 2017. However, while Noticee no. 13 was not the CFO of the Company during the investigation period, he has signed the Annual Report for the FY 2016-17 and given the necessary certification as the CFO.

17. I note that during the investigation period, Noticee nos. 2 to 11 were directors of the Company and Noticee no. 12 was its Chief Financial Officer (CFO). It is observed that as per the Annual Reports of the Company, the details of the Board of Directors during the investigation period are as follows:

FY 2015-16

Name	**Designation**
Mr. Ishari Kadhirvelan Ganesh	Non-Executive
Mr. Balakumar Vethagiri Giri	Executive
Mr. Mahadevan Ganesh	Non-Executive
Mr. Sudhakar Mallapa Shetty*	Non-Executive
Mr. Sushant Srinivas Shetty *	Non-Executive Independent
Mr. Sushil Shrinivas Shetty *	Non-Executive Independent
Mr. Dinesh Mohan Naik *	Non-Executive Independent
Mr. Shivkumar Bhanupratap Singh *	Non-Executive Independent
Ms. Deepthiu Chunduru **	Non-Executive
Ms. Isari Ganesh Arthi**	Non-Executive

Mr.Navalpakkam Kuppan Rajendiran	Non-Executive Independent
Mr. Gudupalle Magamal Reddy	Non-Executive Independent
Mr. Thangavelu Pitchandi	Non-Executive Independent

**Ceased to be directors wef 12.04.2016.*
*** Ceased to be a Directors wef 23.06.2016*
Source: Annual report

<u>FY 2016-17</u>

Name	**Designation**
Mr. Ishari Kadhirvelan Ganesh	Non-Executive
Mr. Balakumar Vethagiri Giri	Executive
Mr. Mahadevan Ganesh	Non-Executive
Mr. Sudhakar Mallapa Shetty	Non-Executive
Mr. Sushant Srinivas Shetty	Non-Executive Independent
Mr. Sushil Shrinivas Shetty	Non-Executive Independent
Mr. Dinesh Mohan Naik	Non-Executive Independent
Mr. Shivkumar Bhanupratap Singh	Non-Executive Independent
Ms. Deepthiu Chunduru	Non-Executive
Ms. Isari Ganesh Arthi	Non-Executive
Mr.Navalpakkam Kuppan Rajendiran	Non-Executive Independent
Mr. Gudupalle Magamal Reddy	Non-Executive Independent
Mr. Thangavelu Pitchandi	Non-Executive Independent
Mr.Suhan Sudhakar Shetty	Non–Executive
Mr. Ashwinkumar Kamala Kannan	Non–Executive

• *Mr. Sudhakar Mallapa Shetty, Mr. Susant Srinivas Shetty, Mr. Sushil Shrinivas Shetty, Mr. Shivkumar, B Singh, Mr. Dinesh M. Naik ceased to be Directors with effect from 12.04.2016. However Mr.Sudhakar Mallapa Shetty, Mr.Sushil Srinivas Shetty & Mr. Suhan Sudhakar Shetty were appointed again as Additional Directors and vacated the office of the director on the date of 27th AGM due to Non Appointment. Again Mr.Sudhakar Mallapa Shetty was re-appointed as Additonal Director post 27th AGM on 04.01.2017*
• *Mr.Ishari Kadhrivelan Ganesh, Mrs.Isari Ganesh Arthi, Mr.Gudupalle Nagamal Reddy, Mr. Thangavelu Pichandi, Mr. Navalpakkam Kuppan Rajendran vacated the office of the director due to Non Appointment at 27th AGM.*
• *Mrs. Deepthi Chandru and Mrs.Isari Ganesh Arthi resigned from the board w.e.f. 23.06.2016.*
• *Mr. Ashwinkumar Kamala Kannan Appointed as an additional directors with effect from 21.02.2017*

Source: Annual report

18. 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 (NED) and independent directors (ID) 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 through board processes. 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, NED and ID can be held liable. It is noted that Noticee no. 9 (Mr. Sudhakar Mallapa Shetty) was the Chairman of the Audit Committee in 2015-16 and Noticee nos. 10 and 11 (Mr. Dinesh Naik and Shivkumar Singh, respectively) were members of the Audit Committee. The committee was reconstituted on February 12, 2016 with Noticee no. 5 (Navalpakkam Kuppan Rajendiran) as the Chairman and Noticee nos. 3 and 6 (Balakumar Vethagiri Giri and Thangavelu Pitchandi) were the members, and remained so till the committee was reconstituted on February 21, 2017 with Ashwin Kumar Kamala Kannan as Chairman and Noticee no. 3 and 9 (Balakumar Vethagiri Giri and Mr. Sudhakar Mallapa Shetty) as members. The attendance of each audit committee member is given hereunder:

Name of the Director	**Designation**	**Number of Meetings during the year 2015-16**	
		held	**attended**
Mr. Sudhakar Mallapa Shetty	Chairman	4	3
Mr. Dinesh M. Naik	Member	4	3
Mr. Shivkumar B Singh	Member	4	3
Mr.Navalpakkam Kuppan Rajendiran	Chairman wef Feb 12, 2016	4	1
Mr. Thangavelu Pitchandi	Member	4	1
Mr. Balakumar Vethagiri Giri	Member	4	1

Name of the Director	**Designation**	**Number of Meetings during the year 2016-17**	
		held	**attended**
Mr.Navalpakkam Kuppan Rajendiran	Chairman	4	3

Mr. Thangavelu Pitchandi	Member	4	3
Mr. Balakumar Vethagiri Giri	Member	4	4
Mr. Sudhakar Mallapa Shetty	Member	4	1
Mr. Ashwinkumar Kamala Kannan	Chairman wef Feb 21, 2017	4	0

19. 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) …..."

20. 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. As discussed in previous paragraphs, the financials of the Company were placed before the Audit Committee of the Company during the investigation period were inaccurate and inadequate. In terms of Section 177 of the Companies Act, 2013 and Part C of Schedule II read with Regulation 18(3) of LODR Regulations, 2015 it was the duty of the Audit Committee of the Company to examine the financials, scrutinize inter corporate loans and investments and related party transactions etc. For the instances of misstatement and noncompliance with accounting standards in the financials of the Company 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. 5, 6, 9, 10 and 11, who were Independent Director/ Non-executive Directors of the Company, were part of the Audit Committee of the Company which reviewed and approved the financial statements of the Company, 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 the Company, as member of the Audit Committee as well as the board of directors of the Company, shows that these directors did not act diligently with respect to the provisions contained in the LODR Regulations, 2015. Noticee no. 10 and 11 have stated that their membership of the Audit Committee was only a formality. However, this submission is not tenable. As directors of a listed company, they owed a duty and responsibility and ought to have performed their functions diligently. The fact that they failed to do so cannot be a defence. On the contrary, it shows that they are responsible for the violations.

21. I observe that in the previous paras, it has been found that the financial statements of the Company for the Investigation Period contained misstatements and the same were not in line with the applicable Accounting Standards. I note that in terms of Regulation 33(2)(a) of LODR Regulations, 2015 the annual audited financial results are to be approved by the board of directors of the listed entity. As the financial of the Company were misrepresented, as discussed above, therefore, Noticee no.3, who certified the financial results of the Company for the financial years 2015-16 and 2016-17 is in violation of Regulation 33(2)(a) of LODR Regulations, 2015. Further, the directors of the Company, did not exercise due diligence in approving the financials of the Company. In view of the same, I am of the view that the Noticee nos. 3, 5, 6, 9, 10 and 11 cannot deny responsibility in the matter, and hence I find that they have violated Regulations 4(2)(f)(ii)(6)&(7), 4(2)(f)(iii)(3),(6) & (12) of LODR Regulations, 2015. However, Noticee Nos. 2, 4, 7 and 8 were non-executive/ independent directors of the Company and were not part of the audit committee. In view of the same, I find that the allegation against Noticee Nos. 2, 4, 7 and 8 of violation of Regulations 4(2)(f)(ii)(6)&(7), 4(2)(f)(iii)(3),(6) & (12) of LODR Regulations, 2015 is not established.

22. With respect to the violation of Regulation 17(8), I note that Regulation 17(8) of the LODR Regulations, 2015 provides that the CEO and CFO of a listed company shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II of the said Regulations. As per the Annual Reports of the Company for the investigation period, Mr. Suresh Amin (Noticee no. 12) was the CFO of the Company for FY 2015-16 and 2016-17 and gave annual certification in terms of Part B of Schedule II of the LODR Regulations, 2015. Noticee no. 13 was appointed as CFO on May 22, 2017 but has given the certification for FY 2016-17. Having issued untrue certificates with respect to the financial statements of the Company, Noticee nos. 12 and 13 have also violated Regulation 17(8) read with Part B of Schedule II of LODR Regulations, 2015.

23. I note that Noticee no. 14, being the statutory auditor of the Company during investigation period, has also been issued SCN-II, alleging that the statutory auditor has been negligent in performance of its duties and has not been diligent in issuance of unqualified audit opinion for the Company for the Investigation Period, thereby, violating provisions of Section 12A (a) (b) and (c) of the SEBI Act, 1992 and Regulations 3(b) (c), (d) and 4(1) and 4(2), (a), (e), (f) and (r) of the PFUTP Regulations, 2003. I observe that in the FAR there is no finding against Noticee no.14. In this regard, before dealing with the liability of the statutory auditor, it would be appropriate to refer to the judgment of Hon'ble Bombay High Court in Writ Petition No. 5249 of 2010 (filed by Price Waterhouse, Bangalore) and Writ Petition No. 5256 of 2010 (filed by 10 CA firms alongwith their partners), dated August 13, 2010, wherein Hon'ble Bombay High Court, with respect to SEBI's jurisdiction over auditors has held as follows:

> *"25.*
>
> *…. In our view, the jurisdiction of SEBI would also depend upon the evidence which is available during such inquiry. It is true, as argued by the learned counsel for the petitioners, that the SEBI cannot regulate the profession of Chartered Accountants. This proposition cannot be disputed in any manner. It is required to be noted that by taking remedial and preventive measures in the interest of investors and for regulating the securities market, if any steps are taken by the SEBI, it can never be said that it is regulating the profession of the Chartered Accountants. So far as listed Companies are concerned, the SEBI has all the powers under the Act and the Regulations to take all remedial and protective measures to safeguard the interest of investors and securities market. So far as the role of Auditors is concerned, it is a very important role*

> *under the Companies Act. As posited in Section 227 of the Companies Act, every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the Company, whether kept at the head office of the Company or elsewhere, and shall be entitled to require from the officers of the Company such information and explanations as the auditor may think necessary for the performance of his duties. The auditors in the Company are functioning as statutory auditors. They have been appointed by the shareholders by majority. They owe a duty to the shareholders and are required to give a correct picture of the financial affairs of the Company.*
>
> *…….*
>
> *With a view to safeguard the interests of such investors, in our view, it is the duty of the SEBI to see that maximum care is required to be taken to protect the interest of such investors so that they may not be subjected to any fraud or cheating in the matter of their investments in the securities market. Normally, an investor invests his money by considering the financial health of the Company and in order to find out the same, one will naturally bank upon the accounts and balance-sheets of the Company. If it is unearthed during inquiry before SEBI that a particular Chartered Accountant in connivance and in collusion with the Officers/Directors of the Company has concocted false accounts, in our view, there is no reason as to why to protect the interests of investors and regulate the securities market, such a person cannot be prevented from dealing with the auditing of such a public listed Company. In our view, the SEBI has got inherent powers to take all ancillary steps to safeguard the interest of investors and securities market. …..”*

24. From the above-mentioned judgment of Hon’ble Bombay High Court, it is observed that for SEBI to exercise jurisdiction over an auditor, it has to be shown that the case pertains to an auditor who in connivance and in collusion with the officers or directors of a company has concocted false accounts. I note that in the present matter SCN II, as issued to Noticee no. 14 only alleges that the statutory auditor was not diligent enough in the issuance of an unqualified audit opinion for the financial statements of the Company. Failure to exercise due diligence amounts to violation of code of conduct regulations by audit professionals prescribed by the conduct regulator. Violation of conduct regulations can be appropriately judged by the conduct regulator such as ICAI or NFRA. The SCN II does not allege that such failure to exercise due diligence by the statutory auditor was in connivance with the promoters/ directors / management of the Company to fudge the financial statements of the Company. Moreover, as discussed in previous paras, I note that the charges of violation of provisions of SEBI Act, 1992 and PFUTP Regulations, 2003, pertaining to fraud, have not been given against any Noticee in the FAR. Therefore, in view of the judgment of the Hon’ble Bombay High Court in PWC matter (supra) and allegation made in SCN II against Noticee no. 14, are not made out.

25. In view of the aforesaid findings and violations committed by the Company and its directors as given in paras 10, 12 and 13 for the Company and para 21 and 22 with respect to its directors/ CFO, I find that directions under Sections 11(1), 11(4), 11A and 11B (1) of the SEBI Act, 1992 and Section 12A (1) of SCRA, 1956, needs to be issued.

26. SCN I in the matter, also calls upon the Noticee no. 1 to 13 to explain as to why appropriate penalty be not imposed upon it under Section 15HA and 15HB of SEBI Act, 1992 and Section 23E and 23H of SCRA, 1956, for the violations alleged in the SCN. Extract of these penalty provisions, as existing at the relevant time is as under:

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

> **Penalty for failure to furnish information, return, etc.**
> 15A. If any person, who is required under this Act or any rules or regulations made thereunder,—
> (a) to furnish any document, return or report to the Board, fails to furnish the same he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;
>
> **Penalty for fraudulent and unfair trade practices.**
> 15HA.If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher
>
> **Penalty for contravention where no separate penalty has been provided.**
> 15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees……….."

Extract of Sections 23E of SCRA, 1956:

> **"Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.**
> **23E.** If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees…………"
>
> **Penalty for contravention where no separate penalty has been provided.**
> **23H.** Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided,

> shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

27. From the analysis of the aforesaid penalty provisions, I find that penalty under Section 15HB of the SEBI Act, 1992, is attracted and not the penalties under Section 15HA of SEBI Act, 1992 and Sections 23E of SCRA, 1956. I note that Section 15HA of the SEBI Act, 1992 provides for imposition of penalty in case of fraudulent and unfair trade practices committed by any person. As in the present case, it has been found that violations of Section 12A (a), (b) & (c) of SEBI Act, 1992 and provisions of PFUTP Regulations, 2003 have not been made out, therefore, penalty under Section 15HA of SEBI Act, 1992 is not attracted against the Noticees. I also not that Section 23E of SCRA, 1956 provides for penalty for failure to comply with, *inter alia*, listing conditions by "a company or any person managing collective investment scheme or mutual fund". In the present case, it has been found that the Company is in violation of listing conditions, however, the Company is not managing any collective investment scheme or mutual fund, so as to attract penalty under Section 23E of SCRA, 1956. I find that penalty under Section 23H of SCRA, 1956 is also not attracted in the case of Noticee no. 2 to 13, as Section 23H provides for penalty for failure to comply with any provision of SCRA, 1956, the rules or articles or bye-laws or the regulations of the recognized stock exchange or directions issued by SEBI for which no separate penalty has been provided. As the Noticee no. 3, 5, 6, 9, 10, 11, 12 and 13, being directors/CFO of the Company, have been found to be in violation of LODR Regulations, 2015 which is a regulation framed under the SEBI Act, 1992 and SCRA, 1956 by SEBI and not the "regulation" of stock exchange, as contemplated under Section 23H, and there is no violation of direction of SEBI directions alleged against these Noticees, therefore, Section 23H is not attracted in the case of Noticee no. 3, 5, 6, 9, 10, 11, 12 and 13. the Company has been found to have violated provision of Section 21 of SCRA Act, 1956, therefore, provisions of Section 23H is attracted *qua* Noticee no.1.

28. I find that for non-furnishing of information to forensic auditor, as found above, the Company is liable for imposition of penalty under Section 15A(a) of the SEBI Act,

1992 which provides penalty for failure to furnish information, *inter alia*, sought by SEBI under the provisions of SEBI Act, 1992. For the violation of provisions of LODR Regulations, 2015 the Company is liable for imposition of penalty under Section 15HB of the SEBI Act, 1992 which provides for penalty for failure to comply with any provision of SEBI Act, 1992, the rules or the regulations made or directions issued by SEBI for which no separate penalty has been provided. Since, LODR Regulations, 2015 are framed under SEBI Act, 1992 also and penalty provisions under SEBI Act, 1992 (i.e. 15A to 15HA) does not separately provide for any penalty for violation of LODR Regulations, 2015 therefore, for violation of LODR Regulations, 2015 by the Company, as found in this Order, penalty under Section 15HB is attracted against the Company. Similarly, Noticee no. 3, 5, 6, 9, 10, 11, 12 and 13 who are the directors/CFO of the Company 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.

29. 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."

30. I find that allegations made in the SCN does not mention the amount of disproportionate gain or unfair advantage made as a result of the default. I find that allegations made in the SCN do not indicate the amount of specific loss caused to investors or group of investors as a result of the default by Noticee no. 1, 3, 5, 6, 9, 10, 11, 12 and 13. I note that some of the allegations in the SCN relating to misrepresentation in financials have been found to be correct in the case of the Company. I note that the violations have occurred over a period of two financial years.

I also note that Noticee nos. 5, 6, 9, 10 and 11 were non-executive/ independent directors of the Company. I note that Noticee no. 5, 6 and 9 were part of the audit committee in both FY 2015-16 as well as 2016-17, whereas Noticee no. 10 and 11 were part of the audit committee in FY 2015-16. Noticee no. 3 was the Managing Director and part of audit committee for both financial years.

Directions and monetary penalties:

31. In view of the aforesaid findings and having regard to the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11(4A), 11A and 11B(1), 11B(2) of SEBI Act, 1992 and Section 12A(1) of SCRA, 1956 read with Section 19 and Section 11(2)(j) of SEBI Act, 1992, Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and Rule 5 of the SC(R) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005, direct as under:

    (i) The Noticee nos.1, 3, 12 and 13, 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. 5, 6, 9, 10 and 11 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 Noticee nos. 1, 3, 5, 6, 9, 10, 11, 12 and 13 are hereby imposed with, the monetary penalties, as specified hereunder:

Noticee no.	Name of Noticees	Provisions under which penalty imposed	Penalty Amount
Noticee no. 1	G V Films Limited	Section 23H of SCRA, Section 15HB and Section 15A(a) of SEBI Act, 1992	Rs. 20,00,000/- (Rupees Twenty Lakh) and Rs.10,00,000/- (Rupees Ten Lakh)
Noticee no. 3	Mr. Balakumar Vethagiri Giri	Section 15HB of SEBI Act, 1992	Rs. 10,00,000/- (Rupees Ten Lakh)
Noticee no. 5	Mr. Navalpakkam Kuppan Rajendiran	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)
Noticee no. 6	Mr. Thangavelu Pitchandi	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)
Noticee no. 9	Mr. Sudhakar Mallappa Shetty	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)
Noticee no. 10	Mr. Dinesh M. Naik	Section 15HB of SEBI Act, 1992	Rs. 1,00,000/- (Rupees One Lakh)
Noticee no. 11	Mr. Shivkumar B Singh	Section 15HB of SEBI Act, 1992	Rs. 1,00,000/- (Rupees One Lakh)
Noticee no. 12	Mr. Suresh Amin	Section 15HB of SEBI Act, 1992	Rs. 4,00,000/- (Rupees Four Lakh)
Noticee no. 13	Mr. S.P. Dhanraj	Section 15HB of SEBI Act, 1992	Rs. 2,00,000/- (Rupees Two Lakh)

(iv) The Noticees shall remit / pay the said amount of penalties within 45 days from the date of receipt of this order. The Noticees shall remit / pay the said amount of penalties through either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through online payment facility available on the website of SEBI, i.e.

www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of Chairman/ Members -> PAY NOW. In case of any difficulties in online payment of penalties, the said Noticees may contact the support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to "The Division Chief, CFID-2, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in in the format as given in table below:

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

(v) The proceedings against Noticee no. 2, 4, 7, 8 and 14 are disposed of without any adverse directions.

32. The obligation of the Noticees, restrained/ prohibited by paragraphs 31(i) and (ii) of 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.

33. This Order comes into force with immediate effect.

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

35. A copy of this Order shall also be forwarded to the Ministry of Corporate Affairs, Reserve Bank of India and Institute of Chartered Accountants of India, along with a copy of the Forensic Audit Report for their information and necessary action, if any.

ANANTA BARUA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Date: August 26, 2022
Place: Mumbai