National Stock Exchange of India
Circular

Department: Investigation	
Download Ref No: NSE/INVG/ 54884	Date: December 17, 2022
Circular Ref. No: 202/2022	

To All NSE Members

Sub: **Final Order in the matter of SecureKloud Technologies Ltd.**

This is with reference to the NSE Circular No. NSE/INVG/53222 dated August 04, 2022 in respect of SEBI Order no. WTM/AB/CFID/CFID_3/18276/2022-23 dated August 04, 2022.

SEBI now vide its order WTM/AB/CFID/CFID_3/22165/2022-23 dated December 16, 2022, has issued directions in respect of below mentioned entities.

Entity No.	Name of Entity	PAN
1	M/s. Securekloud Technologies Ltd.	AABCP6266D
2	Mr. Suresh Venkatachari	ATNPS3289H
3	Mr.R. S. Ramani	AHVPR9966J
4	Mr. Gurumurthi Jayaraman	AADPJ1767C

Entities nos. 1, 2 and 3 are restrained from accessing the securities market in any manner whatsoever, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, in any manner, whatsoever, for a period of three (3) years, from the date of coming into force of this order.

Entity no. 4 is restrained from accessing the securities market in any manner whatsoever, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, in any manner, whatsoever, for a period of one (1) year, from the date of coming into force of this order;

National Stock Exchange of India

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 the Order.

The detailed order is available on SEBI website (http://www.sebi.gov.in).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page under “Home-Regulation-Members-Action against Members-Regulatory Actions”.

Members are advised to take note of the above and ensure compliance.

In case of any further queries, members are requested to contact the following officials:

Mr. Rajkumar Jain (Extension: 23457), 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

National Stock Exchange of India

Annexure :- Final Order in the matter of SecureKloud Technologies Ltd.

WTM/AB/CFID/CFID_3/22165/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

Under Sections 11(1), 11(4), 11(4A), 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

Noticee No.	Noticees	PAN
1.	SecureKloud Technologies Ltd.	AABCP6266D
2.	Shri Suresh Venkatachari	ATNPS3289H
3.	Shri R. S. Ramani	AHVPR9966J
4.	Shri Gurumurthi Jayaraman	AADPJ1767C

*(The aforesaid entities are hereinafter referred to by their respective names/noticee numbers or collectively as "**the Noticees**".)*

In the matter of SecureKloud Technologies Limited

1. The present proceedings against SecureKloud Technologies Ltd. (hereinafter referred to as "**STL**" or "**the Company**") and three other entities emanate from an interim order-cum-show cause notice dated August 04, 2022 (hereinafter referred to as "**the SCN**") passed by the Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") against the Noticees. The Company is a public listed company and the shares of the Company are listed on BSE Ltd. (hereinafter referred to as "**BSE**") and National Stock Exchange of India Ltd. (hereinafter referred to as "**NSE**").

2. It is noted that M/s. Deloitte Haskins and Sells (hereinafter referred to as "**Deloitte**") were appointed as statutory auditors of the Company on September 30, 2017. For the FY 2018-19 Deloitte in its audit report brought out various irregularities and inconsistencies in financial statements and books of accounts of the Company and

indicated that suspected offences including fraud have been committed in the Company. Deloitte, citing various irregularities and inconsistencies in financial statements of the Company filed a report with Ministry of Corporate Affairs on September 13, 2019 under Section 143(12) of the Companies Act, 2013 (hereinafter referred to as "**Deloitte Report**") and subsequently, resigned as statutory auditors of the Company on November 15, 2019. To look into the observations on irregularities and inconsistencies in the books of accounts of the Company as pointed by Deloitte, the Company appointed PKF Sridhar & Santhanam LLP (hereinafter referred to as "**PKF**") on July 23, 2019, to conduct a forensic review of the books and accounts of the Company. The Company appointed KPSN & Associates LLP (Hereinafter referred to as "**KPSN**") on November 07 as new forensic auditors and on November 08, 2019, disengaged the services of PKF. KPSN submitted its report (hereinafter referred to as "**KPSN Report**") to the Company on January 04, 2020. It has been alleged in the SCN that PKF eventually submitted its report (hereinafter referred to as "**PKF Report**") to the Company on January 09, 2020. Pursuant to receipt of several complaints alleging *inter alia* financial misreporting/irregularities by promoters and management of the Company and the aforementioned report by Deloitte, received by SEBI on December 10, 2019, SEBI initiated an investigation in the affairs of the Company for the period covering financial years 2017-18 to 2020-21. To assist the investigating authority, SEBI appointed M/s Grant Thornton Bharat LLP (hereinafter referred to as "**GT**") on March 25, 2021 to conduct a forensic examination of the books of accounts of the Company for FYs 2017-18, 2018-19, 2019-20 and 2020-21 (till December 31, 2020). The focus of the said investigation was broadly to investigate into the manner of alleged misstatement in the books of accounts of the Company, so as to ascertain if any provision of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the "**SEBI Act, 1992**"), Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as the "**SCRA**"), SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as "**LODR Regulations**", SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**") etc., had been violated. GT submitted its Forensic Audit Report (hereinafter referred to as "**GT Report**") to SEBI on June 14, 2022.

3. In view of the observations made in the investigation report and the violations which were *prima facie* found to have been committed by the Noticees, SEBI passed the ex parte ad interim order dated August 04, 2022 against the Noticees. In the SCN, the following directions were issued against the Noticees:

> *"27………………………………..*
>
> *(a) The Noticee nos. 1 to 4 are restrained from buying, selling or dealing in securities, either directly or indirectly, in any manner whatsoever until further orders. If the said Noticees have any open position in any exchange traded derivative contracts, as on the date of the order, they can close out /square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. The said Noticees are permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.*
>
> *(b) Noticee nos. 2 to 4 are hereby restrained from associating themselves with any intermediary registered with SEBI, acting as Directors / Key Managerial Personnel of any listed public company (including Noticee No. 1) and acting as Directors/ Key Managerial Personnel / promoters of any public company which intends to raise money from the public, till further orders.*
>
> *……………………………………."*

4. The Noticees were also directed to show cause as to why suitable directions/prohibitions under Sections 11(4) and 11B of SEBI Act, 1992 should not be issued against them for the violations alleged to have been committed by them. Further, the Noticees were also called upon to show cause why inquiry should not be held against them in terms of Rule 4 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**the Rules**") and penalty be not imposed on them under Sections 11 (4A) and 11 B (2) read with Sections 15A(a), 15HA and 15HB of the SEBI Act, 1992 for the alleged violations of provisions of SEBI Act, 1992, LODR Regulations and PFUTP Regulations, 2003. The Noticees were asked to file their reply within 21 days.

5. The SCN was served upon the Noticees on August 04, 2022.

6. In the meantime, aggrieved by the SCN, two Noticees, viz: SecureKloud Technologies Ltd. (Noticee No. 1) and Shri Suresh Venkatachari (Noticee No. 2) filed an Appeal No. 539 of 2022 before the Hon'ble Securities Appellate Tribunal, Mumbai (hereinafter referred to as "**Hon'ble SAT**"). Hon'ble SAT vide its order dated September 07, 2022, *inter alia*, directed the following:

   "(a) We direct the respondents to provide inspection of the documents within a week from today after giving due notice and thereafter the appellants will file their reply to the show cause notice within three weeks thereafter.

   (b) The respondent will fix a date for hearing within two weeks thereafter and will pass an appropriate order within two months from the date of conclusion of the hearing insofar as the appellants are concerned.

   (c) Direction 27(a) is modified to the extent that appellant no. 2 who is Noticee no. 2 is allowed to enter the securities market for the limited purpose of converting the warrants into shares subject to the condition that the shares will not be sold by him during the pendency of the proceedings before the WTM.

   (d) Direction 27(b) is modified to the extent that appellant no. 2 would be allowed to continue as the Chief Executive Officer of the Company to enable him to contest the matter before the WTM but will not take any major policy decision without the approval of the Board of Directors."

7. Vide letter dated August 22, 2022 the Noticees sought inspection of documents related to the matter. Inspection of documents was provided to Noticees on September 13, 2022. The Noticees filed their replies to the SCN which were all dated October 04, 2022. In terms of the direction of Hon'ble SAT, hearing in the matter was scheduled on October 12, 2022 i.e. within two weeks of receipt of replies of the Noticees. However, vide their respective emails dated October 10, 2022, the authorised representatives of the Noticees sought adjournment of the hearing fixed, on the ground that the advocate representing them in the matter had

certain unavoidable commitments before the Hon'ble High Court. In view of the request for adjournment received from the Noticees, the hearing was adjourned to October 14, 2022. The hearing given in the matter had to be rescheduled to October 18, 2022 due to certain administrative exigencies. During the hearing held on October 18, 2022, respective authorised representatives (ARs) of the Noticees made submissions in line with their replies. The ARs of the Noticees also requested for cross examination of certain persons viz: author of GT Report, author of PKF Report and Shri Lakshmanan Kannappan whose reports/statements were claimed to be relied upon in the SCN dated August 04, 2022. The ARs of the Noticees were asked to make a representation for seeking cross-examination, which, ARs of the Noticees agreed, will be made in due course. The Noticees were given time till November 01, 2022, to file written submissions and make representation for cross examination, if any. The Noticees filed their respective written submission on November 01, 2022, however, no separate representation for cross-examination was received from the Noticees. A perusal of the written submissions showed that Noticee nos. 2, 3 and 4 reiterated the demand for cross-examination by referring to the request for cross examination made in the reply dated October 04, 2022 filed by Noticee no. 1. However, Noticee no. 1 itself, had not reiterated any such demand for cross examination. In its reply dated October 04, 2022, Noticee no. 1 had made a request for cross examination of the author of PKF report, author of GT report and Shri Lakshmanan Kannappan. Accordingly, Noticees were afforded an opportunity of cross-examination of the said persons and accordingly, hearing in the matter was scheduled for conducting cross-examination of the aforesaid person by the Noticees, on November 10, 2022. Vide email dated November 07, 2022, the ARs of the Noticees, requested that the cross-examination scheduled on November 10, 2022 may be adjourned to a date on or after November 21, 2022, as they had certain unavoidable comments (sic) at the Hon'ble SAT and other fora on the scheduled date and there was some difficulty in undertaking the cross-examination on the scheduled date. The ARs also submitted that as the material is voluminous and in view of the intervening holidays, they required suitable time for preparation for cross-examination of the entities. Thereafter, vide email dated November 09, 2022, the ARs of the Noticees informed that cross-examination of Shri Lakshmanan Kannappan was not required and they require only the statement of Shri Kannappan as was recorded by the investigating authority. It was noted that copy of said statement of Mr. Kannappan was already provided to all the Noticees along with the copy of the investigation report. In view of the request for adjournment received from the ARs of the Noticees, cross-examination of rest of the persons was scheduled for November 22, 2022. However, due to administrative exigencies, the cross-examination scheduled on November 22, 2022 could not be conducted. While a new date for the cross-examination was being scheduled, vide email dated November 25, 2022, the ARs of the Noticees, *inter alia*, submitted as under:

> *"while reserving all other rights of the noticees, we waive the right to seek cross-examination at this stage. This would, needless to say, be subject to the timeline granted by the Hon'ble SAT being complied with by SEBI."*

8. In view of the waiver of cross examination by the Noticees, SEBI vide email dated November 25, 2022, informed the Noticees they may submit their written submissions, if any, within seven days and thereafter, no further submissions shall be entertained and the matter will stand concluded. Vide email dated November 28, 2022, the company secretary of the Company stated that written submissions for all the Noticees were submitted to SEBI on November 01, 2022, and forwarded the copies of the written submissions dated November 01, 2022, filed by all the Noticees. Accordingly, the hearing in the matter was concluded on November 28, 2022.

9. Before dealing with the issues involved, it would be appropriate to refer to the provisions of law which are alleged to have been violated by the Noticees and the relevant extract thereof is reproduced hereunder:

Relevant extract of the provisions of SEBI Act, 1992:

"Section 11(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for -

(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;

Section 11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

Section 11C. (3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

Section 11C. (5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

Section 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;*

Contravention by companies.

Section 27. (1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention 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 contravention 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 contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

Section 27. (2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention 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 contravention and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section, —

(a) *"company" means anybody- 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 the provisions of the PFUTP Regulations, 2003:

"Regulation 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 or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

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

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

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

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

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

(f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

(k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities

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

Relevant extract of the provisions of the LODR Regulations:

"Principles governing disclosures and obligations

Regulation 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 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.
(g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.
(h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.
(j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.

Regulation 4. (2) (f) Responsibilities of the Board of Directors:

(i) Disclosure of information:

(2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.

(ii) Key functions of the Board of Directors –

(2) Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.

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

(7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk

management, financial and operational control, and compliance with the law and relevant standards.

(8) Overseeing the process of disclosure and communications.

(iii) Other responsibilities:

(1) 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

Board of Directors

Regulation 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.*

Audit Committee

Regulation 18. (3) *The role of the audit committee and the information to be reviewed by the audit committee shall be as specified in Part C of Schedule II.*

Part C of Schedule II: ROLE OF THE AUDIT COMMITTEE AND REVIEW OF INFORMATION BY AUDIT COMMITTEE

A. The role of the audit committee shall include the following:

(1) oversight of the listed entity's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible;

(4) reviewing, with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to:

(a) matters required to be included in the director's responsibility statement to be included in the board's report in terms of clause (c) of sub-section (3) of Section 134 of the Companies Act, 2013;

(b) changes, if any, in accounting policies and practices and reasons for the same;

(c) major accounting entries involving estimates based on the exercise of judgment by management;

(d) significant adjustments made in the financial statements arising out of audit findings;

(e) compliance with listing and other legal requirements relating to financial statements;

(f) disclosure of any related party transactions; (g)modified opinion(s) in the draft audit report

(5) reviewing, with the management, the quarterly financial statements before submission to the board for approval

(7) reviewing and monitoring the auditor's independence and performance, and effectiveness of audit process.

(11) evaluation of internal financial controls and risk management systems;

(12) reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems;

(13) reviewing the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit.

Obligations with respect to independent directors;

Regulation 25. (5) *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/ her knowledge, attributable through processes of board of directors, and with his/her consent or connivance or where he/she had not acted diligently with respect to the provisions contained in these regulations.*

Disclosure of events or information.

Regulation 30. (2) *Events specified in Para A of Part A of Schedule III are deemed to be material events and listed entities shall make disclosure of such events.*

Financial Results

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

(a) The financial results shall be prepared on the basis of accrual accounting policy and shall be in accordance with uniform accounting practices adopted for all the periods.

(c) The standalone financial results and consolidated financial results shall be prepared as per Generally Accepted Accounting Principles in India.
Provided that in addition to the above, the listed entity may also submit the financial results, as per the International Financial Reporting Standards notified by the International Accounting Standards Board.

Accounting Standards.

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

10. I have considered the allegations made in the SCN along with the findings of the investigation by SEBI stated therein, reply received in the matter, submissions made by the Noticees during the personal hearing and written submissions filed by the Noticees. Before dealing with the merits of the various allegations levelled against the Noticees, it would be appropriate to first deal with certain preliminary issues raised by some Noticees.

11. The Noticees have contended that SEBI has not undertaken any independent investigation in the matter and the allegations have been made on the basis of observations contained in reports provided by external auditors. In this regard Noticee no. 1 has submitted as under:

"58. We respectfully submit that an allegation of fraud is a serious charge and such a serious allegation of fraud is attributed to us merely on the basis of observations contained in reports provided by an external auditors. There is no independent investigation conducted by SEBI in the matter which would have clearly demonstrated our bona-fides.

59. Further, the reports of the external auditors are based entirely on selected samples and limited procedures. It is respectfully submitted that SEBI has failed to appreciate the report passed by KPSN which is extensive and detailed. As such, to draw negative inferences on our financials basis reports of external auditors and holding us liable cannot be sustainable.

60. For instance, at page 9 of the GT Report, it is stated that their assessment that the transactions are 'may not be genuine' and is basis the limited documents. The same is also evident from the paragraph 13.10 of the Notice, wherein the following has been stated:

"13.10. In view of aforesaid observations, GT concluded that in the absence of complete information regarding proof of the services rendered by the NSIT, they were unable to comment on the appropriateness/ correctness/ completeness/ genuineness of the expense and the corresponding liability recorded in the standalone financial statements."

61. Therefore, it is evident that even the reports of the external auditors are neither conclusive nor take into consideration the entire set of facts. SEBI has merely proceeded with the findings contained in these reports and has failed to apply its mind."

12. In this regard, I note that in terms of Section 11C of the SEBI Act, 1992, SEBI can direct any person to investigate. In this matter, SEBI has directed GT to carryout forensic audit of the books and accounts of the Company. GT was appointed in order to provide assistance to the investigating authority appointed by SEBI under Section 11C of SEBI Act, 1992 and thereafter investigating authority, on the basis of its own findings and on the basis of observations made in GT Report, has prepared investigation report, on the basis of which the SCN in the matter was passed. In view of this, I find that the contention made by the Noticees is legally as well as factually, untenable.

13. Noticees have contended that SEBI has relied on specific facts and proceeded to issue the SCN without providing an opportunity of hearing or cross examining the parties and that there has been violation of principles of natural justice. In this regard the Noticee has submitted that

"65. We respectfully submit that SEBI has relied on specific facts and proceeded to issue the Notice without providing an opportunity of hearing or cross-examining the parties. No fruitful end will be achieved if the opportunity of cross- examination is provided only after the filing of the response to the Notice.

66. Without prejudice, to the above, we reserve our right to cross-examine the parties, after the filing of the reply.

67. More so, the following situations demand an opportunity to cross-examine so that correct facts are presented to demonstrate our conduct:

(a) The engagement letter with PKF was signed on July 23, 2019, wherein a timeline of 30 days was committed by PKF, which would complete on August 20, 2022. 1t is submitted that the draft report of PKF, has not been received by us, as demonstrated hereinabove.

(b) GT has merely conducted the audit based on the observations and findings of Deloitte and PKF, and has entirely ignored the observations of KPSN Report.

(c) SEBI, in the Notice, under paragraphs 15.28, 15.33, 15.34, 15.41, 15.47, 15.54, 15.70, 15.87 and 15.94, has relied on the statements dated April 7, 2022 of Mr. Lakshmanan Kannappan, our erstwhile Chief Operating Officer and non-executive director. However, SEBI has not provided us with a copy of the statements.

68. Without prejudice and in alternate to the above, it is submitted that we have seen the PKF Report for the first time when it was tendered by SEBI during the SAT proceedings. In view of the observation in the Notice that we were in receipt of the PKF report on January 09, 2020, and that false submissions were made by us are clearly misplaced and therefore, an opportunity to cross examine would clearly reveal the correct factual position. None the less, we have stated in a letter that it was never in receipt of the PKF Report as contested in the Notice.

69. In Meenglas Tea Estate v Its Workmen, the Hon'ble Supreme Court held that when the opportunity of cross-examination is not given, there is a travesty of the principles of natural justice. The relevant extract has been reproduced below:

"4. There was no opportunity to the persons charged to cross-examine them and indeed they drew upon their own knowledge of the incident and instead cross-examined the persons charged. This was such a travesty of the principles of natural justice that the Tribunal was justified in rejecting the findings and asking the Company to prove the allegation against each workman de novo before it."

70. The Hon'ble Supreme Court has by its order dated January 10, 2017 in the matter of Securities and Exchange Board of India V/s. Price Waterhouse & Ors whilst *permitting cross examination in that matter expressly held that "2…The authors of such statements (recorded during investigation), which are to be relied (against the respondents), shall be offered for cross-examination to the respondents. Only thereupon, it will be permissible to rely upon the same….".*

The same proposition was also the ratio of the judgment of this Hon'ble SAT in in Rana Kapoor Vs. Securities and Exchange Board of India.

71. As such, it is respectfully submitted that the Company ought to be given an opportunity to cross-examine the author of the PKF Report, as also the GT Report, so that they may be confronted with the findings made by KPSN. Further, cross-examination of Mr. Lakshmanan Kannappan, basis the contents of his statements.

72. We respectfully submit that SEBI has manifestly ignored the well settled principle of law, as held in the case of Olga Tellis v Bombay Municipal Corporation that "that proposition over looks that justice must not only be done but must manifestly seen to be done and confuses one for the other. The appearance of injustice is the denial of justice. It is the dialogue with the person likely to be affected by the proposed action, which meets the requirement that justice must also seen to be done."

73. It is evident that SEBI has undoubtedly with a pre-determined passed the SCN cum Notice without affording any opportunity to the Appellant. It would have been equitable on part of the SEBI, if the SEBI had sought for more information from us and considered our statements before issuance of the Notice.

14. In this regard, I note that in terms of second proviso to Section 11(4) of the SEBI Act, 1992, SEBI has been empowered to pass *ex-parte* interim order with a provision for post decisional hearing, if the facts and circumstances of the case so require. The SCN lists out the reasons for passing *ex-parte ad-interim* order in the matter. One of the main reasons for passing ex-parte ad-interim order, as enunciated by Hon'ble SAT in its various decisions also, is urgency in the matter. Thus, if cross-examination is provided prior to passing of order, as contended by the Noticees, then whole purpose of passing the ex-parte order would be defeated. Further, cross-examination, if any, is to be conducted during the hearing and not before issuing the show cause notice. Therefore, the contention of the Noticees that SEBI has proceeded to issue the Notice without providing an opportunity of hearing or cross-examining the parties, is untenable. Regarding the genuineness of the contention of the Noticees with respect to cross-examination, I note that

Noticees in their replies as well as in written submissions and in the submissions made during the hearing had laid great emphasis on the need for cross-examination of authors of PKF Report and GT Report and Shri Lakshmanan Kannappan. It was submitted that if such a cross-examination is not provided, it would be travesty of justice. In support of their demand for cross-examination, Noticees have also relied upon the decisions of Hon'ble Supreme Court in Meenglas Tea Estate vs. Its Workmen (AIR 1963 SCC 1719) and Price Waterhouse & Ors vs SEBI (dated January 10, 2017) and decision of Hon'ble SAT in Rana Kapoor vs. SEBI. After examining the request for cross-examination by the Noticees, an opportunity for cross-examining respective authors of GT Report and PKF Report and Shri Lakshmanan Kannappan was provided to the Noticees, and November 10, 2022 was fixed as the date for such cross-examination. Vide their email dated November 09, 2022, the Noticees gave up the demand for cross-examination of Shri Lakshmanan Kannappan. Thereafter, at the request of the Noticees, the cross-examination of the authors of GT Report and PKF Report was postponed to November 22, 2022. However, due to administrative exigencies, the cross-examination scheduled on November 22, 2022 could not be conducted. While a new date for the cross-examination was being scheduled, vide email dated November 25, 2022, the ARs of the Noticees, *inter alia*, submitted as under:

> *"while reserving all other rights of the noticees, we waive the right to seek cross-examination at this stage. This would, needless to say, be subject to the timeline granted by the Hon'ble SAT being complied with by SEBI."*

15. In the aforesaid email the Noticees are waiving their right of cross-examination "at this stage", which at one point of time was portrayed by them as heart and soul of their defence. It is incomprehensible that if cross-examination is not availed at this stage, i.e. in proceedings before SEBI, then where would Noticees contemplate to exercise such right, because next two stages where the present order can be carried in appeal, are appellate forums only. It shows that the necessity of cross-examination portrayed by the Noticees was not genuine. Further, in this email Noticees are saying that they are waiving their right to cross examination subject to order in the matter being passed by December 18, 2022. This is again beyond

comprehension that how passing of order by December 18, 2022 would substitute the need for cross-examination. This also shows that the request for cross-examination was made by the Noticees in a cavalier manner in order to create a ground for challenging the order in case such a request is denied by the authority. Further, the contention of Noticees regarding cross-examination has resulted into violation of principle of natural justice is purely academic and not tenable, in the facts and circumstances of the present case.

16. The Noticees have also contended that SEBI has not considered the findings of the KPSN Report. In this regard, the Noticees have submitted that

> *"74. It is respectfully submitted that SEBI has failed to appreciate the true facts of the matter and has summarily rejected the KPSN Report. It is submitted that KPSN Report is an independent report. On a careful review of the KPSN report, it would appear that KPSN has actually carried out a detailed analysis while arriving at their findings.*
>
> *75. The PKF Report and GT Report are based entirely on the samples selected and limited procedures. Given this, these reports suffer from such shortcomings of understanding.*
>
> *76. The same is evident from Page No. 7 of the PKF Report, which has been received only as part of these proceedings. The same is also evident from the perusal of the GT Report. At page 9 of the GT Report, it is stated that their assessment that the transactions are 'may not be genuine' is basis the limited documents.*
>
> *77. Therefore, SEBI has cherry-picked the information and has tried to make a case against us. This demonstrates complete non-application of mind on part of SEBI, as there is no basis to accept the audit report of one auditor and reject the audit report of another auditor, without any cogent reasoning."*

17. In this regard, the Noticees have also submitted that

> ***"The report of the forensic auditor, KPSN was not managed by the promoter, Mr R S Ramani and was an independent audit report***
>
> *182. The allegation that KPSN report was managed by the promoter is absurd and erroneous. Mr. Ramani has merely followed up with KPSN, in his capacity as a*

promoter. It is submitted that such findings are based on mere surmises and conjecture and cannot be sustained.

183. On a careful review of the KPSN report, it would appear that KPSN has actually carried out a detailed analysis while arriving at their findings. To allege that the same is under influence of the promoter on the basis of whats-app chats cannot attribute to any malafide conduct. Such chats are entirely in a different context and a close-look at the same will also reveal that they are pursuant to receipt of the report from KPSN on January 04, 2020.

184. It is respectfully submitted that SEBI has failed to appreciate the true facts of the matter which arriving at such unwarranted observations."

18. I note that in the present matter fraud report was filed by Deloitte under Section 143(12) of the Companies Act, 2013, thereafter, a forensic audit report was prepared by PKF and another forensic report was prepared by KPSN. Thereafter, another forensic audit report was prepared by GT which was appointed by SEBI. An investigation in the matter was also undertaken by SEBI. The SCN in the matter has been passed after taking into account the various facts collected during the investigation. I note that observations/findings made in the KPSN Report have not been accepted in the SCN and reasons, for not accepting the said observations/findings of the said report, have also been outlined in the SCN. The main reason given in the SCN for not relying on the KPSN Report is that the audit was influenced by Shri R S Ramani and Shri Suresh Venkatachari, i.e. Noticee no. 3 and 2, respectively. In the replies filed in these proceedings, the Noticees have contended that KPSN Report is an independent report and was not managed by Shri R S Ramani, therefore, should be taken into consideration while looking into allegations made in the SCN. A perusal of the replies by the Noticees indicate that for refuting allegations which are made in respect of manipulation of books and accounts of the Company, the Noticees have extensively relied upon the observations made in the KPSN Report. It has also been submitted that the WhatsApp chats mentioned in the SCN, on the basis of which the SCN has found that the KPSN report was influenced by Shri Ramani, were in different context and were pursuant to receipt of report from KPSN. The allegations made in the SCN are to be adjudicated upon in the present proceedings in light of the submissions

made by the Noticees. It is open to the Noticees to demonstrate that findings in KPSN Report are correct and those made in the SCN are not correct. Therefore, if Noticees are contending that KPSN report is correct and PKF Report and GT Report are not correct, then Noticees are free to demonstrate that by leading evidence and it would not suffice to say that KPSN Report should be taken as correct just because it is favourable to the Noticees, without showing how it is correct. Thus, the contention of the Noticees that the facts stated in KPSN Report should be taken as correct without actually proving them as correct, is not tenable. Be that as it may, I am not rejecting KPSN Report outright but would not be taking the findings of KPSN Report on its face value. However, wherever observations of KPSN Report, which are relied upon by the Noticees, are supported by evidence produced in these proceedings by the Noticees, those observations and evidences have also been independently examined to draw my own inferences.

19. The allegations made in the SCN against each of the Noticees, submissions made by the Noticees qua the allegations made against them and my findings thereon are dealt in the following three parts of the order:

Part A – Allegations of manipulation of books of accounts or financial statements

(i) Allegations w.r.t. overstatement of revenue and receivables

(ii) Allegations w.r.t. overstatement of expenses and payables

(iii) Allegations w.r.t. overstatement of fixed assets and overstatement of consultancy charges

(iv) disclosing false and manipulated accounts

Part B – Allegation of siphoning of funds of Rs. 3.83 crore.

Part C – Other allegations

(i) non-disclosure of initiation of forensic audit

(ii) violations w.r.t. related party disclosures

(iii) false disclosures in quarterly disclosures

(iv) delay in submission of information

(v) non-co-operation by the Company in investigation

(vi) false submissions to SEBI during the course of investigation

Part D – Role of Directors of the Company

Part E – Other contentions of the Noticees

Part A

Allegation of manipulation of books of accounts or financial statements

20. Regarding the allegations of manipulation of books of accounts or financial statements, in the SCN, following observations made in the GT Report are noteworthy:

"Suspicious Transactions with customers and Vendors:

13.1. M/s Grant Thornton Bharat LLP (GT) identified that for FY 2017-18 and FY 2018-19, Nationstar IT Services Limited ('NSIT') was the largest vendor of the Company, with expenses aggregating to INR 1692.59 Lakhs (approximately 35.71% of the total standalone expenses) and INR 1462.63 Lakhs (approximately 25.97% of the total standalone expenses) respectively, charged by way of 'consultancy charges' and 'business referral charges'.

13.2. Similarly, on the revenue side, three entities: Ensys Technologies Inc. ('ETI'), Idol Solutions Inc.('ISI/Idol') and Intuit Micro Technology LLC ('IMTL'), accounted for INR 2063.69 lakhs (approximately 40.81%) and INR 2428.69 lakhs (approximately 42.64%) of the total standalone revenue of the Company, for FY 2017-18 and FY 2018-19 respectively. However, during the review period, approx. only 26% of receivables from the aforesaid three customers had been realized by the Company. While a sizable proportion i.e. approx. 37% of outstanding receivables, was set off against amount payable to NSIT, another sizable proportion i.e. approx. 37% of outstanding receivables was written off as bad debts.

13.3. The Company failed to provide Information regarding transaction deliverables (i.e., proof of the services rendered by NSIT and rendered to ETI, ISI, and IMTL). Also, during site visit at the Company's premises by GT, on seeking email correspondences between the Company and four entities: NSIT, ETI, ISI, and IMTL, the Company's representatives stated that email communications with the said entities were being handled by individual employees through their official ID *and there was no common email ID / group email ID on which emails from these entities were sent / received. As on the date of site visit, all the employees corresponding/liasoning with the said entities had left the Company's employment and all the employees' data (including their emails) were subsequently purged / deleted by the Company within 30-60 days of their leaving the organization. Accordingly, the Company did not have records of any e-mail communication with the said parties.*

13.4. Further, the aforesaid four entities, namely NSIT, ETI, ISI and IMTL appeared to be indirectly linked to the Company by virtue of common KMPs/individuals and common business premises.

13.5. In view of above-mentioned findings, GT doubted the genuineness of the transactions with these four entities. The details of the findings for each entity are mentioned below:

Suspicious Transactions with Nationstar IT Services Limited:

13.6. The largest expense head of the Company was 'Outsourced Consultants' which represented 36.83% and 27.29% of the total expenses incurred by the Company for FY 18 and FY 19, respectively. In FY 2019-20, the said expenses charged to 'Outsourced Consultants' decreased drastically by 97.95% when compared to FY 2018-19. On analysis, it was noted that out of the total expenses incurred by the Company under the said head, 96.97% and 95.16% of such expenses pertained to consultancy charges from a single entity, Nationstar IT Services Limited ('NSIT') for FY 2017-18 and FY 2018-19 respectively. For the remainder of the review period (1 April 2019 to 31 December 2020), no expenses pertaining to NSIT had been booked by the Company.

13.7. Based on the "Master Services Agreement" ('MSA') and "Certificate of Good Standing" made available by the Company to GT, it was observed that NSIT is organized under the laws of RAK Offshore Provisions, UAE and is registered under the UAE's RAK ICC Business Companies Regulations, 2016. It was observed that for a company registered under RAK ICC, the following protocols are applicable:

(i) No requirement to submit the financial statements.
(ii) Neither owner nor the director is required to visit the UAE premises in person.
(iii) Audit of the financial statements is not required to be conducted.
(iv) Further, no public record of the shareholders/directors is maintained.
(v) Personal presence by a representative is not required during the incorporation of such company.

13.8. Based on the MSA signed between NSIT and the Company, as well as sample invoices of NSIT, GT noted that authorized signatory of NSIT was Ms. Gayatri Ramaswamy Nurani Iyer. GT further noted that the Social Media account of 89.4 Tamil FM Radio (Dubai) contained the photographs of its employees and one such employee appeared to look similar to Ms. Gayatri Ramaswamy Nurani Iyer. As per a LinkedIn profile appearing in the name of Ms. Gayatri Iyer, she was employed with 89.4 Tamil FM Radio on a fulltime basis since March 2018. GT also observed that as per social media post of 89.4 Tamil FM Radio (Dubai), Mr. R. S. Ramani was its Managing Director. As per annual report of the STL for FY 2017-18 and FY 2018-19, Mr. R. S. Ramani was Promoter and shareholder of the Company, holding 7.07% (21,57,506 shares) and 1.52% (465,000 shares) of the outstanding shares of the Company as on April 01, 2017 and March 31, 2019, respectively. He was also the CFO of the Company till November 30, 2018 and Director of the Company from August 13, 2011 to November 2, 2019. Therefore, GT observed that NSIT was linked with the Company by virtue of a common individual- Ms. Gayatri Ramaswamy Nurani Iyer.

13.9. Further, the Company failed to provide to GT the supporting documents pertaining to transactions with NSIT, which included weekly reports to be shared between the vendor and the Company, delivery confirmations issued by NSIT, email/other communications between the contract coordinators representing vendor and the Company, etc. As already stated above, the Company stated that it did not have records of any e-mail communication with NSIT.

13.10. In view of aforesaid observations, GT concluded that in the absence of complete information regarding proof of the services rendered by the NSIT, they were unable to comment on the appropriateness / correctness / completeness / genuineness of the expense and the corresponding liability recorded in the standalone financial statements.

Suspicious Transactions with Ensys Technologies Inc., Idol Solutions Inc. and Intuit Micro Technology LLC:

13.11. The vendor NSIT was engaged to provide services to three customers of the Company, namely Ensys Technologies Inc. ('ETI'), Idol Solutions Inc. ('ISI'), and Intuit Micro Technology LLC ('IMTL'). It was observed that 63.98% and 40.90% of the total standalone revenue of the Company for FY 2017-18 and FY 2018-19 respectively was concentrated in the segment 'International Project Revenue', which drastically fell by 99.50% in FY 2019-20 (compared to FY 2018-19). Ensys Technologies Inc., Idol Solutions Inc., and Intuit Micro Technology LLC, which were major customers of the Company, collectively accounted for 40.81% and

42.64% of the total revenues of the Company for FY 2017- 18 and FY 2018-19 respectively. For the remainder of the review period (1 April 2019 to 31 December 2020), no income from ETI, ISI, and IMTL was booked by the Company.

Ensys Technologies Inc ("ETI"):

13.12. The address of Ensys Technologies Inc. is 19 Noa Ct, Hamilton Township, NJ 08690-3643. The said address belonged to Mr. P. K. Chandrasekher. who was a senior employee of a disclosed subsidiary of the Company, viz. Securekloud Technologies Inc. ('STI'). In the Inter-Company Services agreement signed between Securekloud Technologies Inc. ('STI') and the Company dated 14 February 2018, Mr. P K Chandrasekhar was listed as Vice President of STI. Moreover, Dun and Bradsteet (D&B) profile for STI lists Mr. P. K. Chandrasekher as its Vice President. D&B profile for 8K Miles Cloud Services Inc. lists Mr. P. K. Chandrasekher as its Office Manager. A Securities and Exchange Commission ('SEC') filing for 8K Miles Media Group mentions Mr. P. K. Shekhar and Mr. Suresh Venkatachari as its Executive Officers. Mr. Suresh Venkatachari is promoter, shareholder, Chairman as well as Managing Director of the Company. It thus appeared that ETI was indirectly linked with the Company through a common individual- Mr. P. K. Chandrasekher,

Idol Solutions Inc ("ISI"):

13.13. The address of Idol Solutions Inc. is 666 Plainsboro Rd Ste 1023 Plainsboro, NJ, 08536-3044 United States. The D&B profile of ISI mentioned the same address along with ISI's contact number as: (609) 865-4316. Further, on ZoomInfo – a website which lists a company's contact data, the same address has been mentioned as ISI's address and one Mr. Shibu Kizhakevilayil has been mentioned as its Vice President.

13.14. As per public domain searches on MyVisaJobs – a website which lists labor applications filed by U.S. employers for H1-B visa jobs, Mr. Shibu Kizhakevilayil has been mentioned as ISI's Vice President. Further, Annual Reports of the Company from FY 2017-18 to FY 2020-21 list Mr. Shibu Kizhakevilayil as its President – Global Healthcare. LinkedIn Profile of Mr. Shibu mentions him as Global Healthcare President of SecureKloud Technologies Inc. (a disclosed subsidiary of the Company) since January 2015. The LinkedIn profile further mentions him as a director and Head of M&A of Healthcare Triangle Inc., a step down subsidiary of the Company. Bloomberg profile for Mr. Shibu listed his current designation as M&A head at Healthcare Triangle Inc. and previous designation as Global Healthcare President of SecureKloud Technologies Inc. Further, the *website of Healthcare Triangle Inc. lists Mr. Shibu as its director. It thus appeared that ISI was indirectly linked with the Company by virtue of a common KMP- Mr. Shibu Kizhakevilayil.*

13.15. As per website of Idol Solutions Inc. and other public domain searches conducted on D&B website, MyVisaJobs and ImmiHelp (websites which lists labor applications filed by U.S. employers for H1-B visa jobs), another address of ISI was identified as: 2 Tower Center Blvd FL 8 East Brunswick, NJ, 08816-1100 United States. ISI also appeared to be linked with the Company through the abovementioned address in the following ways:

- *Website of the Company appears to mentions its US address as: 8th Floor, 2 Tower Center Blvd, East Brunswick, NJ 08816, USA.*
- *D&B profile for STI, lists its address as '2 Tower Center Blvd East Brunswick, NJ, 08816-1100 United States'.*
- *A Securities and Exchange Commission filing for 8K Miles Media Group Inc. lists its address as "2 TOWER CENTER BLVD., FLOOR 8, EAST BRUNSWICK, NEW JERSEY – 08816 and Mr. Suresh Venkatachari as its Executive Officer.*
- *D&B profile for 8K Miles Media Holding Inc. lists its address as '2 Tower Center Blvd FL 8 East Brunswick, NJ, 08816-1100 United States' and Mr. Suresh Venkatachari as its owner.*
- *Website for 8K Miles Health Cloud Inc. lists its US address as "2 Tower Center Blvd, 8th Flr, Suite#804, East Brunswick, NJ-08816", and Indian address as "Srinivasa Towers, New No.5, Old No. 11, Cenotaph Road, Alwarpet, Chennai – 600 018", which is the registered address of the Company.*

Intuit Micro Technology LLC ("IMTL"):

12.1 It was found that an entity, Intuit Micro Technology Private Limited ('IMTPL'), which is based out of Chennai, is connected to the Company's Dubai based customer, IMTL. As per D&B profiles of IMTL and IMTPL and IMTPL's filing with MCA, one Mr. Giri Rajan Mohan Babu was IMTL's Managing Director and Chief Executive Officer as well as Director of IMTPL. Furthermore, Agreement signed between IMTL and the Company, dated February 02, 2017, lists Mr. Giri Rajan as IMTL's authorized signatory. Further, it was found that CA J. Gurumurthi (Membership No.: 019584), who is Noticee no. 4 and was Independent Director as well as Chairman of Audit Committee of the Company during the investigation period, was also the statutory auditor of IMTPL from FY 2015-16 onwards. Thus, it appeared that IMTL was connected to the Company.

Anomalies w.r.t. customers namely Ensys Technologies Inc., Idol Solutions Inc. and Intuit Micro Technology LLC:

13.16. As already stated above, the Company did not provide to GT the supporting documents pertaining to transactions with ETI, ISI and IMTL and stated that it did not have records of any e-mail communication with the said parties.

13.17. GT also observed that old CIN of the Company was appearing on certain invoices of ETI and ISI provided by the Company. Further, inconsistencies were noted in Tripartite agreements provided by the Company, which were entered between the Company, its vendor namely NSIT and three customers, namely ETI, ISI, and IMTL. It was observed that the Company had signed two agreements with each of the three customers wherein one agreement was executed between the Company and the respective customer and subsequently, a tripartite agreement was executed between the Company, NSIT, and respective customer. On examination of these agreements, it was noted that the Scope of work as per 'Agreement executed by the Company with ETI' and 'Tripartite agreement executed between the Company, NSIT, and ETI' was different. Furthermore, scope of work as per the tripartite agreement was verbatim copied from the tripartite agreement with IMTL. Further, based on the metadata analysis of all the three tri-party agreements, it was observed that the tri-party agreements had been created by the Company in December 2021 i.e. just after SEBI had advised the Company to furnish copies of agreements, indicating that the Company was trying to mislead SEBI by submitting forged documents. The details of same are as follows:*

Customer Name	***Date of file creation***	***Date of file modification***	***File Author***
ETI	*December 02, 2021*	*December 06, 2021*	*R.S. Ramani*
IMTL	*December 02, 2021*	*December 06, 2021*	*R.S. Ramani*
ISI	*December 02, 2021*	*December 06, 2021*	*R.S. Ramani*

**Metadata analysis includes information about the document and its contents, such as the author's name, keywords, and copyright information, that can be used by search utilities. Thus the objective of this analysis is to identify document authenticity such as creation date, author etc. The metadata analysis is done online through various available tools.*

13.18. In view of aforesaid observations, GT concluded that in the absence of complete information regarding proof of the services rendered to the three customers, namely ETI, ISI and IMTL, they were unable to comment on the appropriateness / correctness / completeness / genuineness of the expense and the corresponding liability recorded in these standalone financial statements.

Inter linked financial transactions between the Company, NSIT, ETI, ISI and IMTL:

13.19. It was observed that less than 25% of the total sales made to the aforesaid three customers during the review period was realized. Credit period was 30 days, which was increased to 90 days from December 31, 2018. It is pertinent to note that despite not being able to realize sales consideration within credit period, the Company continued making further sales to these customers. Post April 01, 2019, no sales were made to any of the said three customers. Further, no amount had been recovered from any of these three customers for sales made in FY 2017-18 and FY 2018-19. Further, as on 31 March 2020, a sizeable proportion of the outstanding receivables from these three customers was written off as well as set-off against amount payable to NSIT. Further, despite receivables not being recovered from the ETI, ISI, and IMTL; payments were still being made to NSIT. The Company paid more than 60% of NSIT's dues (including business referral charges).

Anomalies with respect to salary payments made to employees mapped to Ensys Department, Idol Department, and Intuit Department:

13.20. The Company had a practice of recording "Salary" expenses in its books on a department-wise basis. The names of employees were not mentioned in the Tally backup, but salary expenses were merely recorded department-wise in tally backup. Salary expenses were charged under Ensys department, Idol Department and Intuit Department. However, on the basis of employee data provided by the Company, no employees were identified to be mapped to above mentioned three departments. Also, anomalies were noted in salary register and tally backup w.r.t. salaries recorded for the said three departments i.e. as per tally backup, salary was shown as being paid for aforesaid three departments, however, as per salary register, no actual salary was paid."

21. I note that w.r.t. allegations of manipulation of accounts, the SCN alleged violations regarding:

    21.1. Overstatement of revenue and receivables;
    21.2. Overstatement of expenses and payables;
    21.3. Overstatement of fixed assets and consultancy charges; and
    21.4. Disclosing false and manipulated financial results.

21.1.1. The manipulation of books of account of the Company through overstatement of revenue and receivables, as alleged in the SCN, is as under:

"Violations relating to overstatement of revenue and receivables:

15.9. It was observed that the Company was booking revenue for providing services to Ensys, Idol and Intuit. These services were directly rendered to these customers by the vendor, Nation Star IT Services Ltd (NSIT). The Company was making payments to NSIT in the name of "Business referral charges" and "Consultancy charges". Deloitte identified various inconsistencies in the abovementioned revenue recognition and vendor payments. PKF agreed with the findings of Deloitte and concluded that revenue from customers namely Ensys, Idol and Intuit were fictitious and payments made to NSIT was also fictitious. The same observations were found by forensic auditors appointed by SEBI i.e. Grant Thornton Bharat LLP.

15.10. In addition to the above, the Company was also booking revenue from customers, namely "Kaiser Research lab", "Medidata Solutions Inc", "Shire Lab Systems" and "Shutter Health Group" in the books of its subsidiaries, namely Securekloud Technologies Inc. (STI) and Blokedge Technologies Inc (Blockedge) (formerly known as 8K Miles Healthcloud Inc). Deloitte identified various irregularities in revenue recognition from these customers. The same is discussed in subsequent paragraphs.

Fictitious revenue and receivables recognised by the Company w.r.t. customers, namely Ensys Technologies Inc ("Ensys"), Idol Solutions Inc ("ISI/Idol") and Intuit Micro technology LLC ("IMTL")

15.11. The revenue from Ensys, Idol and IMTL were recognized by the Company in its standalone and consolidated financial statements. However, the following observations show that there were no actual sales/services to Ensys, ISI and IMTL and the revenue booked for these three customers was apparently fictitious.

15.12. On examination of email dumps, provided by the Company to PKF, it was observed that Marquette Finance (lender to subsidiaries of STL to whom receivables were given as collateral security) rendered factoring services and collected dues from customers. Marquette Finance vide email dated July 27, 2017 had raised a query to the Company regarding incorrect addresses of Ensys, Idol and Intuit and sought for the business address and customer website of said customers from the Company. In response to the same, Mr Ramani vide email dated July 28, 2017 responded to Mr. Suresh: "This is what I was telling you a year *ago to create website to all under our control. Done how we never concentrated on this and these types are bound to Come in future and there are going to be many". It is evident from the abovementioned email that the said three customers were under control of the Company and Mr. Ramani was regretting not creating the websites for these customers.*

15.13. Further, in one of the emails dated August 10, 2017, Mr. Ramani sought Logos of Idol and Ensys from Mr. Suresh with cc of email to Mr. P K Chandrasekher. The extract of email is: "if you have logos for IDOL and Ensys – please send." The same indicates that Mr. Ramani and Mr. Suresh had created various documents, such as invoices / agreements / MSAs in the name of its customers by using customer's logo.

15.14. In another email dated February 02, 2018, one of the employees of Securekloud Technologies Inc, Ms Deepa Joshi (Finance Manager - STI), asked another member of finance team i.e. Mr. Robinson Vincent (AVP Finance – STI) and Mr. P K Chandrasekher (VP Finance - STI): "Marquette Finance received $230,000 today. Do you know which client paid this". In response, Mr Robinson vide email dated February 03, 2018 replied "We paid this. I am going to send the invoice details." This shows that the liabilities of customers were discharged by STI (a subsidiary of STL), which further proves that there were no genuine sales/services to these three customers.

15.15. In fact, it was found that Idol was the step down subsidiary of the Company wherein 100% ownership was acquired by Securekloud Technologies Inc (STI). The same is evident from stock purchase agreement dated March 11, 2015 wherein 100% shareholding of Idol was acquired by STI and the said agreement was signed by Mr. Suresh on behalf of STI (Chairman and CEO of STI). Further, after acquisition of Idol, in one of the emails dated March 01, 2016, Mr. Ramani appraised Mr. Shibu (cc to Mr. Suresh) about downzise performance of Idol (ISI) after its acquisition, in response to which, Mr. Suresh stated "the reason for acquiring idol is …. for H-1B Visa". This clearly shows that Idol was a company owned by STI which is a subsidiary of the Company. However, this fact was concealed by the Company. Further, in statement dated April 06, 2022 to SEBI, Mr. Suresh made false statement and stated that he has no relationship with or control of Idol.

15.16. It was also observed that Idol is connected with the Company through one common employee, Mr. Shibu Kizhakevilayil (President – Global Healthcare of STL and Head of M&A of Healthcare Triangle Inc) also. As per explanation of Mr. Shibu Kizhakevilayil to Audit Committee (sought on the insistence of the Auditors), *he was employed with Idol as Vice President during 2013 to 2015. However, the payroll of Idol for the month of April 2018 showed that he was being paid salary from Idol even till April 2018. Therefore, Mr. Shibu's submissions to Audit Committee were false. Further, Idol and various group companies of STL and companies owned by Mr. Suresh and Mr. Ramani i.e. STI, 8K Miles Media Group Inc, 8K Miles Media Holdings Inc and 8K Miles Health Cloud Inc shared common address i.e. '2 Tower Center Blvd FL 8 East Brunswick, NJ, 08816-1100 United States', as has already been discussed above under findings made by GT.*

15.17. The Company had complete control over federal tax returns and bank accounts of Idol. The same is evident from emails dated March 22, 2017 and May 16, 2017 wherein Mr. P K Chandrasekher (VP Finance - STI) forwarded federal tax returns and bank statements of Idol to Ms. Deepa Joshi (Finance Manager - STI). Further, even payrolls of Idol were being processed by employees of STI. The same is evident from email dated April 27, 2018 wherein Ms. Deepa Joshi had sent payroll and health insurance dues of Idol to Mr. Suresh. In the payroll sheet, Mr. Shibu was shown as employee. Further, in federal tax returns also, name of Mr. Shibu was appearing as employee. This further confirms that Idol was controlled and run by the Company.

15.18. It was also observed from email dated February 23, 2016 that one Mr. Suresh Kumar of STI mentioned "after talking to the landlord and Ramani, the only available option is to have a sublease in the name of Idol ….show the 8th floor as new address. I will make arrangements to collect the mails from the 8th Floor. The address is; 2 Tower Center Blvd 8th Floor East Brunswick, NJ. Suggest that you formally name PK as authorized officer of Idol to sign documents etc in the event of a DOL/USCIS audit or visit." This shows that there was no actual office of Idol and Idol was running on paper from the premises of STI.

15.19. In email dated August 20, 2018, Mr. Suresh had sent one pdf file to Mr. Ramani, with subject "ensys" and attachment name "ensys bank details.pdf". On examination of said pdf file, it was identified that the said file is screenshot of bank account welcome page of Ensys with TD Bank (account number ending with xxxxx7047), which appears only after login and after submission of login credentials. The said page also shows available balance in account. This shows that Mr. Suresh had complete control on bank accounts of Ensys.

15.20. In one email dated September 19, 2018 addressed to Mr. Suresh, Mr. Ramani said "Suresh, when you send to intuit please don't send from 8K as 8K is vendor to intuit. Please note this". In same email conversation, Mr suresh said "Ramani, we need to talk. I cant withdraw entire credit line from Columbia". In response to *the same, Mr. Ramani responded "You may transfer partially from 8k and partially from ensys, idol". This conversation clearly indicates that Mr. Suresh and Mr. Ramani had complete control on bank accounts of Ensys and Idol.*

15.21. Later, through another email dated December 31, 2018, Mr. PK Chandrasekher had sent one PDF file to Mr. Suresh which was named "Intuit wire confirmation". It was observed that the said PDF file contained "international outgoing wire transfer form" of TD Bank showing transfer of USD 1,13,000 from Ensys' bank account to Intuit Micro Technology LLC (IMTL) and that the said form was signed by P K Chandrasekhar (VP Finance of STI). Further, the account number from which the amount was paid was the same account (account number ending with xxxxx7047), the details of which were sent by Mr. Suresh to Mr. Ramani vide email dated August 20, 2018, as discussed above. Mr. Suresh forwarded the said email dated December 31, 2018 to Mr. Ramani on January 01, 2019. This shows that round tripping of money was being done to settle fictitious revenue accounted for in the books of accounts of the Company.

15.22. It was observed that vide email dated March 06, 2019, Mr. Ramani sought confirmation of bank details of Idol from Mr. PK Chandrasekher, which was confirmed as correct by Mr. P K Chandrasekher on the same day. Further, on the same day in same email trail with CC to Mr. Suresh, Mr. Ramani wrote "I am organizing 75K to Idols now - Please ensure it is transferred to 8K India - USD account as below………..Indian Bank 6561400202". On next day (March 07, 2019), PK Chandrasekher, in an email to Mr. Ramani, shared screenshot of wire transfer from Idol to STL wherein the amount mentioned in the above-mentioned email i.e. USD 75K, was transferred to STL's Indian bank account number 6561400202. This shows that Mr. Ramani and Mr. P K Chandrasekher were arranging funds to be transferred to STL from Idol and that there was no actual payment coming from these customers and the payments being shown as received by the Company from Idol were funded by the Company itself.

15.23. It was also observed that STI transferred funds to Ensys which in turn transferred the funds to one of the vendors of STI, namely BMR Infotek (BMR). When the same was enquired about by PKF, the explanation of management was that the payment to BMR was made on the request of BMR. However, on examination of ledger of BMR, it was observed that there was no payment outstanding to BMR, and instead there was debit balance against BMR. This further shows that the Company was funding these entities and was indulging in round tripping of money.

15.24. P K Chandrasekher had sent another email dated February 01, 2019 to Mr. Suresh stating that "Suresh Sir…Wired $79,000 to 8K Ltd". The said email was *forwarded by Mr. Suresh to Mr. Ramani, Ms. Shanthi Raghuraj (employee of 8K Miles Group) and Mr. Gurumurthi Jayaraman (Audit Committee Chairman). In the said email, PNC Bank's international transfer confirmation page was provided as attachment wherein name of payer was Idol and "individual name" was mentioned as P K Chandrasekher. This shows that P K Chandrasekher (VP Finance of STI) and Mr. Suresh had complete control over bank accounts of Idol. The abovementioned email also shows that Mr. Gurumurthi Jayaraman was aware of and was involved in the abovementioned happenings/wrongdoings.*

15.25. PKF, during the forensic audit, had insisted on the Company to provide Master Services Agreement (MSA) and Statement of Accounts (SoA) directly from the customers. Pursuant to the same, email dated August 03, 2019 was sent by Mr. Robinson Vincent (AVP Finance – STI) to one Mr. Chris Alberto Daniel of Ensys, at email id chris@ensys-tech.com and to one Mr. Mark J Fischer of Idol at email id mark@idolsinc.com. On examination of domain names "enys-tech.com" and "idolsinc.com", PKF had observed that the said domain names were created on May 21, 2018 and May 29, 2018 respectively. Further, on examination of email dump of Mr. Robinson (AVP Finance – STI), it was observed that earlier also, emails were sent by Mr. Robinson to the abovementioned email ids on May 07, 2018, i.e. well before creation of the respective domain names, to portray to the statutory auditors (Deloitte) that the said email ids were in existence and the same belonged to Ensys and Idol respectively. It was further found that Mr. Robinson Vincent vide email dated May 21, 2018 to Mr. Suresh had written that "I just created the id. Email account: mark@idolsinc.com password: mark123." , which indicated that the abovementioned email Id of idol was created and operated by employees of STI. Further, as has already been pointed in foregoing paragraphs, Mr. Ramani in his email dated July 28, 2017, had regretted about not creating websites of Ensys and Idol timely.

15.26. After various inconsistencies and irregularities were pointed out by Deloitte, the Company suddenly stopped recognizing revenue from Ensys, Idol and Intuit in its books of accounts after FY 2018-19 and the outstanding amount as on March 31, 2019 was either written off as bad debts or was set off against amount payable to vendor, namely NSIT.

15.27. Apart from the above, GT, Deloitte and PKF had observed that Ensys, Idol and IMTL were connected to the Company through common addresses in the following manner:

- *The address of Ensys Technologies Inc. is 19 Noa Ct, Hamilton Township, NJ 08690-3643 is same as of address of Mr. P K Chandrasekher (VP Finance of Securekloud Technologies Inc).*

- *The address of Idol Solutions Inc is same of address of Securekloud Technologies Inc i.e. 2 Tower Center Blvd FL 8 East Brunswick, NJ, 08816-1100 United States which shows that both the companies operate from same office.*

- *Intuit Micro Technology Private Limited ('IMTPL') is a Chennai based entity. IMTL is group company of IMTPL through common director Mr. Giri Rajan Mohan Babu. Auditor of IMTPL from FY 2015-16 was Mr. Gurumurthi Jayaraman i.e. chairman of Audit committee member of Securekloud.*

15.28. Further, as has already been pointed out in foregoing paragraphs dealing with findings of GT (Forensic Auditors appointed by SEBI), the Company had failed to provide any evidence supporting transaction deliverables i.e. proof of the services rendered by NSIT to ETI, ISI, and IMTL. Further, in submissions made to GT, PKF and in statements recorded by SEBI, the Company has been changing its stance on the nature of services provided to the abovementioned customers and failed to provide any proof of services rendered to these customers. While Mr. Lakshmanan Kannappan, COO of the Company (who also happened to be a Director of the Company), in his statement to SEBI stated that he was not aware about the abovementioned customers, Mr. S. Ravichandran, VP Operations, stated that he never signed any contract with aforesaid three customers i.e. Ensys, IMTL and ISI. This further corroborates that no actual service was rendered to these customers.

15.29. As pointed out above, the Company has repeatedly been changing its stance regarding the nature of services provided to the customers. In this regard, the submissions made by the Company to PKF, GT and SEBI are as under:

- *Submissions made to PKF: The Company submitted that for the period April 2018 to December 2018, the revenue was recognized based on "server migration" to the customer. However, no email conversation was provided and it was informed that all communication happened only through telephone. There were no approved timesheets with HR team/operation team and customers.*

- *Submission to GT: The Company's representatives stated that email communications with the said customers (ETI, ISI and IMTL) were being* *handled by individual employees through their official email IDs and there was no common email ID / group email ID on which emails from these entities were sent / received. Currently, all the employees corresponding/liasoning with the said entities have left the Company's employment. Moreover, all the employee's data (including their emails) were subsequently purged / deleted by the Company within 30-60 days of them leaving the organization. Accordingly, the Company currently does not have any e-mail communication with the said parties. Further, no supporting documents pertaining to transactions with ETI, ISI and IMTL were provided by the Company. None of the transaction deliverables including weekly reports to be shared between the customer and the Company, delivery confirmations issued by ETI, ISI and IMTL, email/other communications between the representatives of the customer and the Company were provided by the Company.*

- *Submission of KMPs in SEBI statement recording: Mr. Lakshmanan Kannappan, COO & Director of the Company, submitted that he had never heard of IMTL. He also stated that Idol was a company of Mr. Shibu (director of one of the step down subsidiaries of the Company) which he had only heard about and that he had never worked with Ensys. Further, S Ravichandran, (who was VP – Operations during the investigation period), explained the customer and vendor on-boarding exercise in STL wherein being VP operations he had signed all the customer and vendor on-boarding contracts except for customers, namely Ensys, Idol and IMTL and one Vendor, namely NSIT. He submitted that no contracts were signed with the aforesaid three customers and vendor namely NSIT, and no contracts were shown to him. He further submitted that he was operations head, however, he never dealt with NSIT, Ensys, Idol and Intuit. The vendor, NSIT, was referred to him by Mr. Ramani. Except NSIT there was no vendor in the Company and he did not deal with any employee/manager in NSIT.*

15.30. From the observations, it is evident that there were no genuine sales/services made to the customers, namely Ensys, Idol and Intuit, and that these customers were merely used by the Company to overstate its revenue.

Fictitious revenue and receivables recognized by the Company w.r.t. customers namely Sutter Health Group, Kaiser Permanente or Kaiser Research Lab, Medidata Solutions Inc and Shire Pharmaceuticals LLC or Shire lab systems:

15.31. The revenue from entities, namely "Sutter Health Group", "Kaiser Permanente or Kaiser Research Lab", "Medidata Solutions Inc" and "Shire Pharmaceuticals LLC or Shire lab systems", were recognized by subsidiaries of the Company, namely

Securekloud Technologies Inc (STI) (formerly known as 8K Miles Software Services Inc) and Blokedge Technologies Inc (Blockedge) (formerly known as 8K Miles Healthcloud Inc). The following observations show that revenue w.r.t. aforesaid four entities was fictitious.

Sutter Health Group:

15.32. It was observed that Idol and "Sutter Health Group" are one and same. The same is evident from "Registration of Alternate Name" form (C-150G) downloaded from official portal (www.njportal.com) of Department of Revenue, State of New Jersey. It was observed from the aforesaid form that Idol was allowed to use alternate name i.e. Sutter Health Group from March 2018. Further, the said form was signed by Mr. P K Chandrasekher (VP Finance of STI) in capacity of VP of Idol. This shows that Sutter Health Group is nothing but Idol Solutions Inc. As discussed in foregoing paragraphs, Idol is a company owned, controlled and managed by Mr. Suresh and Mr. Ramani.

15.33. Deloitte, during the course of audit, had observed that while "Sutter Health Group" was located at New Jersey, a company named "Sutter Health" was located at Northern California. This indicated that "Sutter Health Group" and "Sutter Health" are different entities. In the statement dated April 06, 2022 to SEBI, Mr. Suresh had stated that project with "Sutter Health" was finished and in the email dated April 21, 2022 to SEBI, he had stated that revenue from "Sutter Health Group" was being recognized since 2014. Further, Mr. Lakshmanan Kannappan (COO & Director of the Company) in his statement dated April 07, 2022 stated that "Sutterhealth customer was inherited from SERJ Solutions. STI provided EPIC consulting and Audit compliance tool. But, I'm not aware of the revenue size from this customer or number of consultants engaged on this". It is important to note that Serj Solutions was a company which was acquired by STI in the year 2015 and is a step down subsidiary of the Company.

15.34. It was observed that while major revenue was booked by the Company w.r.t. "Sutter Health Group", the statement of Mr. Lakshmanan Kannappan revealed that despite being the COO, he was not aware of revenue size and number of employees engaged on this. This indicates that the revenue booked w.r.t. Sutter Heath Group was fictitious. It appears that the customer, "Sutter Health" was first serviced at the time of acquisition of Serj. However, the Company started booking fictitious revenue in the name of "Sutter Health Group", after completion of initial projects, by changing the name of "Idol Solutions Inc" to "Sutter Health Group".

15.35. It was also observed from the email dumps provided by the Company to PKF that on May 08, 2018, Mr. Suresh sent one email to Mr. Ramani wherein certain email ids and passwords were mentioned. It was observed that w.r.t. "Sutter Health Group", the email id mentioned was sarad@sutterhealthgroup.com, the password was mentioned as "8KDublin" and contact person's name was mentioned as "Sara Davis". This indicates that fake email and domain name of "Sutter Health Group" were created and managed by Mr. Suresh and Mr. Ramani.

15.36. When PKF, during the course of forensic audit, had insisted on the Company to provide MSA and SoA directly from customer, Mr. Robinson Vincent (AVP Finance, STI) had sent an email dated August 02, 2019 to one Ms. Sara Davis of Sutter Health Group, at email id sarad@sutterhg.com. PKF had found that the domain name "sutterhg.com" was created on June 06, 2018. On examination of email dump of Mr. Robinson, PKF had observed that earlier also, an email was sent by Mr. Robinson to the said email id on May 05, 2018, i.e. well before creation of the said domain name, to portray to the statutory auditors (Deloitte) that the said email id was in existence and the same belonged to "Sutter Health Group". It was noted that the actual domain name of "Sutter Health" is "sutterhealth.org".

15.37. The above observations indicate that there may be actual business with "Sutter Health" in past. However, no actual services were provided to "Sutter Health Group" and the revenue booked in the name of "Sutter Health Group" was fictitious as "Sutter Health Group" was nothing but an entity owned and managed by STL/STI.

Kaiser Permanente or Kaiser Research Lab ("Kaiser"):

15.38. It was observed that the Company was booking revenue another entity, namely "Kaiser Permanente". The official website of "Kaiser Permanente" is www.kaiserpermanente.org. Deloitte, during the audit process, observed that along with "Kaiser Permanente", the Company was also booking revenue with another entity with similar name, "Kaiser Research Lab". When Deloitte sought documents, the Company provided agreements of only "Kaiser Permanente" and not "Kaiser Research Lab", even though revenue was booked in the name of both "Kaiser Permanente" and "Kaiser Research Lab".

15.39. From the email dumps provided by the Company to PKF, it was observed that on May 08, 2018, Mr. Suresh sent one email to Mr. Ramani wherein certain email ids and passwords were mentioned. In the said email, w.r.t. "Kaiser Research Lab" the email ids mentioned were Richard.johnson@kaiserresearchlab.com and accountspayable@kaiserreserachlab.com, the Password was mentioned as

"8KDublin" and contact person's name was mentioned as Richard Johnson. This indicates that fake emails and domain name of "Kaiser Research Lab" was created and managed by Mr. Suresh and Mr. Ramani.

15.40. When PKF, during the course of forensic audit, had insisted on the Company to provide MSA and SoA directly from customer, Mr. Robinson Vincent (AVP Finance, STI) had sent an email dated August 02, 2019 to one Mr. Richard Johnson, at email ids Richard.johnson@kpresearchgroup.com and accountspayable@kpresearchgroup.com. PKF found that the domain name "kpresearchgroup.com" was created on June 06, 2018 whereas actual domain name of "Kaiser Permanente" i.e." kaiserpermanente.org" was created in the year 1996. On seeking clarifications by PKF, the Company submitted that "Kaiser Research Lab" was a group company of "Kaiser Permanente". However, on examination of website of "Kaiser Permanente" and google search, no entity in the name of "Kaiser Research Lab" was found.

15.41. Mr. Suresh in his statement dated April 06, 2022 to SEBI had stated that project with "Kaiser" was finished. Mr. Suresh, in email dated April 21, 2022 to SEBI, further stated that revenue from "Kaiser Permanente" was being recognized since 2013. Further, Mr. Lakshmanan Kannappan, COO & Director of the Company, in his statement dated April 07, 2022 stated that "SERJ Solutions provided EPIC consulting services to Kaiser". As pointed out above, Serj Solutions was a company which was acquired by STI in the year 2015 and is step down subsidiary of the Company.

15.42. In addition to aforesaid, PKF had also observed that money shown as received from "Kaiser" was questionable as the name of Kaiser was not appearing as a remitter in bank statements.

15.43. The above observations indicate that there may be actual business with "Kaiser Permanente" in the past. However, no actual services were provided to "Kaiser Research Lab" and the revenue booked w.r.t. "Kaiser Research Lab" was fictitious as "Kaiser Research Lab" was nothing but an entity managed by STL/STI.

Medidata Solutions Inc ("Medidata"):

15.44. It was observed that the Company was booking revenue in the name of another entity, namely "Medidata Solutions Inc" (Medidata). The official websites of Medidata are www.medidata.com and www.mdsol.com. Deloitte, during the audit process, was provided with copies of agreements entered into by the Company with Medidata. The said agreements were signed by Mr. Alabi Osenke (VP of Medidata, as per agreement copy). Medidata is a listed entity in USA and is *regulated by US-SEC. The details of KMPs and Vice president of Medidata were collected by Deloitte from various filings including Annual Reports of Medidata. However, no person in the name of Mr. Alabi Osenke was found to be VP or employee of Medidata. Therefore, it appears that the agreements provided by the Company to Deloitte were not genuine.*

15.45. It was also observed from the email dumps provided by the Company to PKF that on May 08, 2018, Mr. Suresh sent one email to Mr. Ramani wherein certain email ids and passwords were mentioned. It was observed that w.r.t. "Medidata", the email id mentioned was oalabi@medidatahealthservices.com, and the password was mentioned as "8KDublin". This indicates that fake email id of "Medidata" was created and managed by Mr. Suresh and Mr. Ramani.

15.46. When PKF, during the course of forensic audit, had insisted on the Company to provide MSA and SoA directly from customer, Mr. Robinson Vincent (AVP Finance, STI) had sent an email dated August 02, 2019 to one Mr. Alabi, at email id oalabi@medidatahealthsystem.com. PKF found that the domain name "medidatahealthsystem.com" was created on June 06, 2018, whereas actual domain names of "Medidata" i.e." www.medidata.com and www.mdsol.com" were created in the year 1996.

15.47. Mr. Suresh, in his statement dated April 06, 2022 to SEBI, stated that they still do business with "Medidata" and in email dated April 21, 2022 he stated that revenue from "Medidata" was being recognized since 2015. Further, Mr. Lakshmanan Kannappan, COO & Director of the Company, in his statement dated April 07, 2022, in respect of Medidata, had stated that "STI provided cloud migration and transformation services including design, architecture, implementation and managed services for this customer. Don't remember the size of the deal or the duration of this effort. The same indicated that even though major revenue was booked by the Company w.r.t. "Medidata", Mr. Lakshmanan Kannappan despite being the COO, was not aware of the details of revenue size and number of employees engaged on this project.

15.48. Vide email dated April 16, 2022 Mr. Lakshmanan Kannappan also provided copies of agreement dated March 13, 2015 (MSA) entered between STI and Medidata and two SOWs/POs. It was observed that the same were signed by one Mr. Andrew Monteverde of Medidata in capacity of Senior Manager Procurement (as per Linkedin profile of Mr. Andrew Monteverde, he was Senior Manager – Global Procurement, for Medidata during July 2007 to June 2015) and the MSA was for a duration of six months. However, there was no mention of any Alabi Osenke, VP, in the said documents and no agreements signed by any Alabi Osenke were *provided. Further, no other MSA or documentary proof was provided which could demonstrate that after completion of said project in 2015, the Company was required to continue providing services to Medidata.*

15.49. In addition to aforesaid, PKF had also observed that money shown as received from "Medidata" was questionable as the name of "Medidata" was not appearing as a remitter in bank statements.

15.50. All the above observations indicate that the Company was booking fictitious revenue w.r.t. Medidata without providing any actual service. It appears that the customer, Medidata, was first serviced in the year 2015. However, the Company kept on booking fictitious revenue in the name of Medidata, even after completion of initial project in 2015.

Shire Pharmaceuticals LLC or Shire Lab Systems ("Shire"):

15.51. The Company was booking revenue with another entity, namely "Shire Pharmaceuticals LLC". Its official website is www.shire.com. As per public search results, "Shire Pharmaceuticals LLC" was acquired by "Takeda Group" in the year 2019. "Shire Pharmaceuticals LLC and Takeda Group" are listed entities in USA. It was observed that along with "Shire Pharmaceuticals LLC", the Company was also booking revenue with an entity with similar name, "Shire Lab Systems".

15.52. It was observed from the email dumps provided by the Company to PKF that on May 08, 2018, Mr. Suresh had sent one email to Mr. Ramani wherein certain email ids and passwords were mentioned. It was observed that w.r.t. "Shire Lab Systems", the email id mentioned was ap@shirelabsystem.com, the password was mentioned as "8KDublin" and contact person's name was mentioned as "AP Group". This indicates that fake email ID and domain name of "Shire Lab Systems" were created and managed by Mr. Suresh and Mr. Ramani.

15.53. When PKF, during the course of forensic audit, had insisted on the Company to provide MSA and SoA directly from customer, Mr. Robinson Vincent (AVP Finance, STI) had sent an email dated August 02, 2019 to Shire Lab Systems, at email id ap@shirelabsystems.com. PKF found that the domain name "shirelabsystems.com" was created on June 06, 2018, whereas actual domain name of "Shire Pharmaceuticals LLP" i.e. "shire.com" was created in the year 1999.

15.54. Further, Mr. Suresh, in his statement dated April 06, 2022 to SEBI had stated that project with "Shire" was finished. Mr. Suresh in his email dated April 21, 2022 to SEBI further stated that revenue from "Shire Pharmaceuticals LLC" was being *recognized since 2014. Further, Mr. Lakshmanan Kannappan, COO & Director of the Company, in his statement dated April 07, 2022 stated that “STI built the proof of concept of cloud platform on AWS for Shire’s cloud infrastructure team. I was not involved in sales and delivery of these services”. The said statement indicated that even though major revenue was booked by the Company w.r.t. “Shire Lab Systems”, Mr. Lakshmanan Kannappan despite being the COO, was not aware of details of services provided to “Shire Lab Systems”.*

15.55. Further, PKF had also observed that money shown as received from “Shire Lab Systems” was questionable as the name of “Shire Lab Systems” was not appearing as a remitter in bank statements.

15.56. All the above indicate that there was no actual service to “Shire Lab Systems” and the revenue booked w.r.t. Shire Lab Systems was fictitious. It appears that the revenue w.r.t. “Shire Pharmaceuticals LLC” may have been booked in past. However, the Company kept on booking fictitious revenue in the name of “Shire Lab Systems”, even after completion of initial projects.”

21.1.2. In response to the above, the Noticees have made the following broad submissions:

“12. We have presence in India and even globally. Following are the list of our subsidiaries/ step down subsidiaries:

Name of company	***Relationship with STL***
8k Miles Software Services Inc – USA (now known as SecureKloud Technologies Inc)	*Subsidiary*
8k Miles Health Cloud Inc -USA (now known as Blockedge Technologies Inc.)	*Wholly owned subsidiary*
Mentor Minds Solutions and Services Inc- USA	*Wholly owned subsidiary*
Healthcare Triangle Pvt Ltd	*Wholly owned subsidiary*

<table>
<tr><th>Name of company</th><th>Holding company</th><th>Relationship with STL</th></tr>
<tr><td>SecureKloud Technologies Inc (Canada)</td><td rowspan="2">8k Miles Software Services Inc - USA (now known as SecureKloud Technologies Inc)</td><td>Step Down Subsidiary</td></tr>
<tr><td>Nexage Technologies Inc USA</td><td>Step Down Subsidiary</td></tr>
</table>

Healthcare Triangle Inc USA (incorporated on October 29, 2019 and listed on US NASDAQ since October 2021)		*Step Down Subsidiary*
Serj Solutions Inc USA	*8k Miles Health Cloud Inc - USA (now known as Blockedge Technologies Inc.)*	*Step Down Subsidiary*

a. Transactions with customers, Ensys Technologies Inc. ("Ensys"), Idol Solutions Inc ("Idol" and intuit Micro Technology LLC ("Intuit")

14. As submitted above, the Company is engaged in the business of computer application development and possesses technical expertise in designing, developing and testing software and related materials used in configuring the application on the cloud from an infrastructure perspective. With this background, as a business decision, we were working with the entities as mentioned above which can be further evidenced from the below facts.

15. On March 11, 2015, Securekloud Technologies Inc ("STI") entered into Stock purchase agreement wherein it was proposed that STI would acquire 100% shareholding of Idol. However, the same was not materialised and thus, the acquisition did not take place. Therefore, Idol is merely our customer and not a related party/ subsidiary of STI. The same is evident from the annual performance report for STL for FY 2014-15, wherein it can be noted that there is no step- down subsidiary for STL. A copy of the annual performance report for STL has been enclosed herewith as Annexure A.

16. On April 2, 2018, the Company had entered into a Master Service Agreement ("MSA") with Nationstar IT Services Limited ("NSIT"). In terms of the MSA, NSIT is our sub-contractor/ vendor, which in turn provides services to our three customers, Ensys, Idol and Intuit ("Customers"). A copy of the MSA dated April 2, 2018 has been enclosed herewith as Annexure B.

17. These Customers were referred to us by NSIT and therefore NSIT has also been rendering services in relation to cloud infrastructure and cloud security consulting with respect to health care businesses to these Customers as per the MSA. As agreed, NSIT, the vendor would raise invoices on us every month/ quarter on the *basis of the services rendered to our customers and we would in turn bill the customers, namely, Ensys, Idol and Intuit.*

18. *To this effect, the Company jointly with NSIT in our capacity as Service Providers have entered into a tri-partite agreement with each of the Customers dated February 12, 2019. In terms of this agreement, the responsibilities have been delegated between us and NSIT, in order to provide services to these Customers. In terms of the agreement, we are responsible to raise the invoices to these Customers for payment of work and deliverables. Copies of the tri-partite agreement with each of the Customers dated February 12, 2019 have been enclosed herewith as Annexure C (colly).*

b. Transactions with Sutter Health

19. *On March 30, 2016, 8K Miles health cloud Inc, USA ("8KHCI"), our Wholly Owned Subsidiary entered into a staffing agreement with Sutter Health. In terms of this agreement, 8KHCI was appointed as an independent contractor to provide supplemental staffing on a short-term basis. A copy of the staffing agreement dated March 30, 2016 has been enclosed herewith as Annexure D.*

20. *Further, the above staffing agreement was renewed vide addendum dated March 30, 2018, March 31, 2018 and July 5, 2018. Copies of the addendums dated March 30, 2018, March 31, 2018 and July 5, 2018 have been enclosed herewith as Annexure E colly.*

c. Transactions with Kaiser Research Lab

21. *On March 25, 2016, 8KHCI entered into a master professional service agreement with Kaiser Permanente to supply them with competent healthcare engineers. In terms of the same, it has been clearly stipulated that the affiliates of Kaiser Permanente, as a contracting party, may also execute a statement of work or issue a purchase order. A copy of the master professional service agreement between 8KHCI and Kaiser Permanente dated March 25,2016 has been enclosed herewith as Annexure F.*

22. *Further, 8KHCI has continued the business with Kaiser Permanente through statements of work dated February 2, 2018, February 28,2018, May 28, 2018 and June 14,2018. Copies of the statements of work dated February 2, 2018, February 28, 2018, May 28, 2018 and June 14, 2018 have been enclosed herewith as Annexure G (colly).*

d. Transactions with Medidata Solutions Inc ("Medidata ")

23. On March 22, 2016, 8KHCI entered into a master services agreement with Medidata to supply them with competent healthcare engineers. A copy of the master services agreement dated March 22, 2016 has been enclosed herewith as Annexure H.

e. Transactions with Shire Pharmaceuticals LLC

24. 8KHCI had genuine transactions with Shire Pharmaceuticals LLC. In this regard, copies of the Purchase Orders during the investigation period are enclosed herewith as Annexure I.

f. Services availed from Infinity Tech Group Inc ("Infinity")

25. On June 20, 2017, 8K Miles Software Services Inc. ("8KSSI") entered into a sub-contract agreement with Infinity. In terms of the same, Infinity was engaged to provide IT services to 8KSSI to various clients of 8KSSI. A copy of the sub- contract agreement dated June 20, 2017 has been enclosed herewith as Annexure J.

g. Services availed from Two95 International Inc (“Two95”)

26. On September 13, 2016, Two95 entered into a subcontractor agreement with 8KSSI. In terms of the same, 8KSSI was engaged by Two95 to provide services, as specified from time to time.

h. Services availed from Wunderkind LLC

27. On October 2, 2017, Wunderkind LLC entered into a master services agreement with 8KSSI. In terms of the same, 8KSSI engaged Wunderkind LLC to provide services, as specified from time to time. A copy of the master services agreement dated October 2, 2017 has been enclosed herewith as Annexure K.

i. Services availed from Pyramid technology solutions Inc. ("Pyramid")

28. On December 27, 2017, 8KSSI entered into a subcontract agreement with Pyramid. In terms of the same, 8KSSI engaged Pyramid to provide services, as specified from time to time. A copy of the subcontract agreement dated December 27, 2017 has been enclosed herewith as Annexure L.

J. Services availed from BMR Infotec Inc ("BMR")

29. On December 1, 2017, 8KSSI entered into a subcontract agreement with BMR. In terms of the same, 8KSSI engaged BMR to provide services, as specified from time to time. A copy of the subcontract agreement dated December 1, 2017 has been enclosed herewith as Annexure M.

k. Services availed from 28right Inc.

30. We respectfully submit that there was a legitimate vendor relationship and the transaction were genuine and in commercial interest.

l. Tableau Software

31. We respectfully submit that there was a legitimate vendor relationship and the transaction were genuine and in commercial interest.

m. Services availed from McBitss GmbH ("McBitss")

32. 8KSSI entered into a subcontract agreement with McBitss. In terms of the same, 8KSSI engaged McBitss to provide services, as specified from time to time……..."

21.1.3. With respect to the allegations regarding overstatement of revenues and receivable, the Noticees have submitted the following:

"A. There has been no overstatements in the revenue and receivables

a. Fictitious revenue and receivables recognised by us with customers, Ensys, Idol and Intuit

80. We respectfully submit that the allegation that we were inflating our sales since FY 2016-17 till FY 2018-19 by booking fictious revenue with the Customers is completely misplaced and devoid of merit. We submit that the transactions with these Customers were genuine and in line with the MSA/ tri-partite agreements entered into with them.

81. It is relevant to consider that we have been dealing with these Customers since the FY 2015-16 and that we were in receipt of the payment till 2017.

82. It may further be relevant to note that during the period 2016-2018, we have reported a total revenue of Rs. 3582.89 lacs and collection of Rs. 2970.08 lacs. The statement of account furnished by the customers for the transactions during the FY 2018-19 and the confirmation regarding the bills raised for the transactions were recorded and acknowledged. As such to draw any negative inferences with respect to transactions during the said period is contrary to the material on record.

83. *Moreover, KPSN while analysing the transactions have also categorically recorded that transactions with the customers were not suspicious.*

84. *It is reiterated that NSIT is merely our sub-contractor/ vendor, which in tum provides services to the Customers. The business is thus partly sub-contracted to NSIT.*

85. *On a careful perusal of the tri-partite agreements, it would be evident that the same have been stamped and signed by the Director/ CEO of the Customers. Thus, we respectfully submit that the tri-partite agreements are genuine.*

86. *The allegation that the tri-partite agreements were forged in light of the metadata analysis is clearly absurd and devoid of merit. It is relevant to note that the Company was asked to provide copies of the agreements in December 2021. During this time, the Company was in the process of shifting it's registered office and thus the original hard copies of the same could not be located. Hence, due to paucity of time and to comply with SEBI's directions, the Company converted word copies of the agreements available with them and submitted the same with SEBI.*

87. *It is a settled position that the burden of proving that a document is forged is upon the person/ party claiming that the document is forged. The same has been enunciated by the Hon'ble Supreme Court in the matter of Anil Rishi vs. Gurbaksh Singh, wherein it has been held that, "When fraud, misrepresentation or undue influence is alleged by a party in a suit, normally, the burden is on him to prove such fraud, undue influence or misrepresentation."*

88. *In view of the above, the burden of proof in this case is on the SEBI to prove that the tri-partite agreements are forged. Thus, without any evidence in respect of the same, the allegation is baseless and not tenable.*

89. *Further, the allegation that Idol is a related party and a subsidiary of STI is not tenable. As stated above, STI entered into a stock purchase agreement dated March 11, 2015, however, the acquisition did not materialise. Thus, Idol is merely our customer and not a related party. The same is evident from the annual performance report for STL for FY 2014-15, wherein it can be noted that there is no step down subsidiary for STL.*

90. *Further, the allegation that the Company had control over Idol through its bank accounts and returns is not tenable. It is submitted that the Company had no control over Idol and it was merely our customer.*

91. Without prejudice to the above, it is our policy to purge the mail back-up of erstwhile employees except for the email backup of KMP/ Directors. Thus, the email backup of the employees corresponding/ liasoning with these entities who had left the Company (including their emails) were subsequently purged within 30 days of their leaving the organization.

92. Therefore, we did not have any records of email correspondences in relation to the employees who corresponded with NSIT, Idol, Intuit and Ensys. Thus, in the absence of the information, it cannot be concluded that the transactions were suspicious.

93. In view of the foregoing, the allegation that the Company has booked fictitious revenue or expenditure merits no consideration.

b. Fictitious revenue and receivables recognised by our subsidiary with Sutter Health Group

94. It is submitted that Idol is a database administrator for Sutter Health.

95. Further, SEBI's contention that Sutter Health group and Sutter Health are two different entities is correct and we have business transactions with both the entities. It is submitted that that Sutter health was inherited as a customer from Serj Solutions, as has also been correctly stated by Mr. Lakshmanan Kannappan.

96. Therefore, the allegation that Sutter Health group is owned and managed by STI appears to be incorrect, and in any event, is not a circumstance that we are concerned with. It is submitted that it is merely our customer and all the transactions with Sutter Health group are genuine, as is evident from the staffing agreement and the addendums thereto, as annexed above.

c. Fictitious revenue and receivables recognised bv the subsidiaries with Kaiser Permanente or Kaiser Research Lab

97. The allegation that Kaiser Research Lab is not an entity is not tenable. It is respectfully submitted that SEBI has clearly failed to appreciate the material available on record and arrived at such egregious findings. SEBI's case is that all transactions with Customers are done with a fraudulent intent and more so on the basis of a forensic report which was initially filed on account of collateral reasons between us and Deloitte. This is a fit case where the matter has been escalated only because of inter-se disputes between parties where The Company is a clear victim.

98. On a perusal of the KPSN Report, it will be evident that the Kaiser Research Lab is a division within Kaiser Permanente, as has been observed under page 7 and exhibit 6E, page 135 of the KPSN Report. Thus, it is incorrect to state that Kaiser Permanente was managed by STI.

99. As stated by Mr. Lakshmanan Kannappan, Kaiser Permanente was a customer of Serj Solutions providing EPIC consulting services.

100. Further, the allegation that we created fictitious domain name and email id and thus booked fictitious expenditure in the name of Kaiser Research Lab is incorrect and misplaced and is not borne out of any cogent material or evidence.

101. In view of the above, it is submitted that the revenue with Kaiser Research Lab is not fictitious since it is a division within Kaiser Permanente. It is submitted that 8KHCI also entered into a master professional service agreement with Kaiser Permanente, as annexed above.

d. Fictitious revenue and receivables recognised by us with Medidata

102. In respect of transaction with Medidata, the Notice alleges that no person in the name of Mr. Alabi Osenke was found to be an employee of Medidata and therefore, the agreements provided by us to Deloitte were not genuine. In this regard, it is submitted that Mr. Alabi Osenke's profile is available at LinkedIn designated as Experienced Accountant at Medidata since January 2007, as has been observed by KPSN Report, under Exhibit 60, page 131.

103. Further, the allegation that we created fictitious domain name and email id and thus booked fictitious expenditure in the name of Medidata is incorrect and misplaced.

104. It is submitted that the transactions are genuine transactions and the narration of these transactions differ from transaction to transaction as per prevalent banking practice. Further, KPSN had also observed that payments were in order based on the reconciliation of the books to the bank statements. The same can be observed by Exhibit 60, page 132 of the KPSN Report.

105. Therefore, in view of the above, the allegation that there was fictitious revenue in the name of Medidata is incorrect.

e. Fictitious revenue and receivables recognised by us with Shire Pharmaceuticals LLC

106. The allegation that we created fictitious domain name and email id and thus booked fictitious expenditure in the name of Shire Pharmaceuticals LLC is incorrect and misplaced.

107. Further, the allegation that the money received from Shire Lab systems was questionable as the name was not appearing as a remitter in bank statements is incorrect. It is submitted that the transactions are genuine transactions and the narration of these transactions differ from transaction to transaction as per the prevalent banking practice.

108. In view of the above, the revenue with Shire Pharmaceuticals LLC is not fictitious."

21.1.4. In this regard, I note that the SCN has alleged that fictitious revenue and receivable were recognised by the Company during financial years 2017-18 and FY 2018-19. The SCN alleged that fictitious revenue was booked from certain entities in the books of the Company and its subsidiaries and thereby recognised in the standalone and consolidated financial statements of the Company.

Fictitious revenue and receivables recognised by the Company w.r.t. customers, namely, Ensys Technologies Inc. ("Ensys/ETI"), Idol Solutions Inc. ("ISI/Idol") and Intuit Micro Technology LLC ("Intuit/IMTL")

21.1.5. The SCN has alleged that the Company had shown revenue from the services provided to aforesaid three customer entities, which were under the control of the Company and/or its director(s). As noted above, based on, *inter alia,* email correspondences between employees/directors of the Company/subsidiaries, share purchase agreement entered into by STI, a subsidiary of the Company, common employee, common addresses, statements of the senior management employees of the Company and evidence to the fact that Company officials were having access to bank accounts of these customers, the SCN has *inter alia* alleged that there were no genuine sales/service made to these customers these entities were in fact under the control of the Company and were used by the Company to overstate its revenue. The SCN also pointed out that after the statutory auditor of the Company i.e. Deloitte, pointed out the inconsistencies and irregularities, the Company suddenly stopped recognising revenue from these customers in the books of accounts of the Company after FY 2018-19 and the outstanding amount as on March 31, 2019 was either written off as bad debt or was set off against amount payable to vendor, namely, Nation Star IT Services Limited (hereinafter referred to as "**NSIT**"). It was alleged that the Company also failed to provide any evidence supporting transaction deliverable i.e. proof of the services rendered by NSIT to Ensys, Idol and Intuit. The SCN also alleges that Shri Lakshmanan Kannappan, COO of the Company in his statement dated April 07, 2022 to SEBI stated that he was not aware about the aforementioned customers. Shri S. Ravichandran, VP Operations of the Company in his statement dated March 09, 2022 before SEBI explained the customer and vendor on-boarding exercise in the Company except for customers, namely, Idol, Ensys and Intuit. He submitted that no contracts were signed with aforesaid three customers and one vendor i.e. NSIT. The SCN also alleges that the Company mislead the statutory auditor Deloitte by sending email to non-existent email IDs of their customers. Further, the Company also tried to mislead the forensic auditor appointed by the Company i.e. PKF, by sending emails to the said purported email IDs of these customers. SCN also alleges that the email dump of Shri Robinson Vincent, AVP Finance, STI (which was provided by the Company to PKF) also showed that the email ID was created by him and the login credentials were also shared with Shri Suresh i.e. Noticee no. 2.

21.1.6. I note that in their replies, Noticees have not given any detailed response as to why the allegations made in the SCN are not correct, in respect of observations made in the SCN on: email correspondences between employees/directors of the Company/subsidiaries, common employee, common addresses, statements of the senior management employees of the Company and evidence to the fact that Company officials were having access to bank accounts of these customers. Rather, in their replies either Noticees have not given any reply or have given evasive response like the allegation is devoid of any merit/ the allegations are not tenable, etc. Therefore, I find that these observations made in the SCN, as quoted above, remain undisputed and can be used to draw inferences regarding sustainability of the allegations made in the SCN on the basis of these observations.

21.1.7. Regarding share purchase agreement entered into by STI which was one of the reason because of which SCN alleged that Idol was the subsidiary of the Company, the Noticees have submitted that STI entered into share purchase agreement to acquire Idol, however, the acquisition did not materialise. Secondly, Noticees have also relied upon the performance report for STL for FY 2014-15 to show that there is no step down subsidiary for STL. On the basis of these contention, Noticee have submitted that Idol was not a subsidiary but merely a customer. Regarding the first contention, I note that the Noticees have not provided any evidence such as any agreement for cancellation of share purchase agreement, etc. in support of their claim. I also note that the Noticees have not disputed the email correspondences between Noticee no. 3, Shri Shibu Kizhakevilayil and Noticee no. 2 where Noticee no. 3 apprised Shri Shibu Kizhakevilayil about downsize performance of Idol after its acquisition, in response to which Noticee no. 2 stated "*the reason for acquiring idol is …. For H-1B visa*". Regarding the second contention, I note that filing of annual performance report is a statutory requirement in terms provisions of Foreign Exchange Management Act, 1999 and regulations framed thereunder. A perusal of the Annual Performance Report for financial year 2015-16, as annexed by the Noticees along with the replies, the Company has not shown any subsidiary. However, correctness of such a disclosure is doubtful in view of the emails exchanges between Noticee no. 3 and Shri Shibu Kizhakevilayil. In view of the above, I am not inclined to accept the claim made by the Noticees that Idol is a customer and not a related party of the Company.

21.1.8. In addition to the above, the Noticees have made certain other independent submissions to refute the allegations made in the SCN, which have been referred hereunder along with my findings thereon:

21.1.8.1. It has been contended that KPSN while analysing the transactions has also recorded that customers were not suspicious – In this regard, the Noticees have merely referred to KPSN Report stating that the customers were genuine, however, they have not produced any evidence in the support of their claim. On the other hand, as discussed in paras 21.1.5 to 21.1.7, it has been found that either the customers were non-existent or they were in control of the Company and its directors. In view of the same, I find that the unsubstantiated contention of the Noticees, made on the basis of the KPSN Report, is not tenable.

21.1.8.2. It has been contended that as per the Company policy, the mail back-up of the employees corresponding with these entities who had left the Company were purged within 30 days of their leaving the Company – In this regard, I note that by the said contentions Noticees are trying to canvass that all the records pertaining to the services rendered by the Company to the customers through NSIT, bills raised by NSIT, payments received from three customers and the payments made to NSIT, were are all kept in soft copies that too only in the emails of the respective employees, without having system of retaining such records at the Company level. Such a contention is hard to believe for a listed company and thus, nothing but an afterthought.

21.1.8.3. It has been contended that transactions with these customers were genuine and in line with the MSA/tri-partite agreements entered into with them, which have been signed by the Director/CEO of these customers – In this regard, the Noticees have provided copies of tri-partite agreements claimed to be signed between the Company, the respective customers and the vendor, namely, NSIT in support of their claim. A perusal of these claimed agreements shows that on behalf of the Company, the tripartite agreements have been signed by Shri S Ravichandran. However, Shri S Ravichandran in his statement to SEBI has stated that he never signed any contract with the three customers i.e. Ensys, Intuit and Idol whereas he has admitted to on-boarding/signing of agreements with other customers of the Company. I have no reason to doubt the claim made by Shri S Ravichandran, nor has the Company contended that Shri S Ravichandran has made a false statement. I note that the arrangement claimed by the Noticees between the Company and the three customers and one vendor was to the effect that the NSIT i.e. the vendor would provide services to the three customers and the Company will raise its bill to the customers for services provided by NSIT and thereafter, the Company was to make payment to the vendor based on invoice raised by NSIT to the Company. A perusal of the copies of these agreements provided by the Noticees in these proceedings indicate that none of these claimed agreements are properly stamped and registered. Further, though all the parties to the agreements are the companies/ body corporate, however, none of these agreements carry the seal of any of the parties except NSIT. Therefore, these tri-partite agreements cannot be considered to substantiate the claims made by the Noticees. Further, a perusal of the copy of the claimed agreement dated April 02, 2018 (MSA) between NSIT and the Company, as provided by the Noticees in these proceedings shows that as per para 2.1 of the claimed agreement, the contract coordinator on behalf of NSIT is "Gayathri Ramasamy Nurani Iyer" whereas as per para 13.10 of the agreement, the addressee on behalf of NSIT is "Gayatri Ramasamy Nurani Iyer" and at the place of signatures in the document, the name is "Gayatri Ramasamy Nurani". Therefore, in a single document, the name of signatory on behalf of NSIT is mentioned in three different ways. Further, in the claimed tripartite agreements with respective customers i.e. Ensys, Idol and Intuit, all dated February 12, 2019, the signatory on behalf of NSIT is "Gayatri Ramasamy". I note that commercial agreements are supposed to be drafted by the parties with great care with precise name of the parties/authorised to ensure their enforceability. Such patent errors in the claimed agreements in the name of the representative of a party, is another pointer to the genuineness of these agreements besides the statement of Shri S Ravichandran to the effect that he had not signed any such agreement. In this regard, it has also been found that the signatory on behalf of NSIT in these agreements i.e. Ms Gayathri Ramasamy Nurani Iyer, was connected to Noticee no. 3 by virtue of her employment with a company owned and controlled by Noticee no. 3, as discussed in para 21.2.4 below. In view of the above and the email correspondence between employee of the subsidiary of the Company and Noticee no. 2, I find that the observations made in the SCN and the GT and PKF reports to the effect that MSA/tri-partite agreements provided by the Company with respect to aforesaid three customers and the vendor, namely NSIT are not genuine, are correct.

21.1.8.4. It has been contended that the allegation that these agreements were forged in light of metadata analysis is devoid of merit. – In this regard, the Noticees have submitted that when the Company was asked to provide copies of the agreements, the Company was in the process of shifting its registered office and thus, the original copies of the same could not be located and therefore, the Company converted word copies of the agreements and submitted the same to SEBI. In view of the findings given regarding the genuineness of these agreements, in para 21.1.8.3 above, the contention of the Noticees in this regard are not tenable.

21.1.9. In this regard, I note that the documents provided by the Company have not been able to prove genuineness of the transactions with the three customers i.e. Idol, Intuit and Ensys and the Noticees have not provided any other evidence in support of their evidence. Therefore, I find that the contentions made by the Noticees in this regard are untenable and there was no genuine sales/service made to the customers namely, Ensys, Idol and Intuit. The fictitious revenue was recognised in the books of the Company, with respect to these customers, therefore, the Company overstated its revenues.

Fictitious revenue and receivables recognized by the Company w.r.t. customers namely Sutter Health Group, Kaiser Permanente or Kaiser Research Lab, Medidata Solutions Inc and Shire Pharmaceuticals LLC or Shire lab systems:

21.1.10. The SCN has alleged that fictitious revenue was booked from the aforementioned entities i.e. Sutter Health Group, Kaiser Permanante or Kaise Research Lab, Medidate Solutions Inc and Shire Pharmaceuticals LLC or Shire

Lab Systems, by showing them as customer of the Company and/or its subsidiaries, namely, STI and Blockedge. The SCN has also listed the observations based on which the allegation has been made that the revenue shown from the aforementioned entities was fictitious. The observations and allegations made in the SCN have also been noted above. The allegations with respect to these entities are dealt in the paragraphs below.

Sutter Health Group

21.1.11. The SCN alleged that Idol and Sutter Health Group are one and same based on the form for "Registration of Alternate Name" filed with Department of Revenue, State of New Jersey. The said form was signed by Shri P K Chandrasekhar, VP Finance of STI (a subsidiary of the Company), in his capacity as VP of Idol on March 03, 2018. During investigation, Noticee no. 2 stated that revenue from "Sutter Health Group" was being recognised since 2014. Shri Lakshmanan Kannappan, COO of the Company, denied knowledge of the revenue from "Sutter Health Group" and the expenses incurred for it. The SCN also alleged that fake email and domain name of "Sutter Health Group" were created and managed by Noticee no. 2 and Noticee no. 3 and the Company misled the statutory auditor, Deloitte, by sending email to non-existent email ID of "Sutter Health Group". Further, the Company also tried to mislead the forensic auditor appointed by the Company i.e. PKF, by sending emails to fake email IDs of the "Sutter Health Group".

21.1.12. In this regard, I note that the Noticees have contended that 8K Miles Health Cloud Inc., USA (now known as Blockedge) (hereinafter referred to as "**8KHCI**"/ "Blockedge"), a subsidiary of the Company, entered into a staffing arrangement with Sutter Health on March 30, 2016 and the said agreement was renewed in 2018. The Noticees have accepted that "Sutter Health" and "Sutter Health Group" are two different entities. The Noticees have further claimed that they have business transactions with both the entities. The Noticees have merely stated that "Sutter Health Group" is not managed by STI and that the transactions with "Sutter Health Group" are genuine. I note that the Noticees in their replies have not provided any evidence to reject the allegation made in the

SCN w.r.t. “Sutter Health Group”. While the SCN has alleged that the fictitious revenue was recognised from “Sutter Health Group”, the Noticees have only provided some agreement that a subsidiary of the Company had with “Sutter Health”, which is a distinct entity from “Sutter Health Group”, as alleged in the SCN and accepted by the Noticees. There is no need to go into the veracity of the said agreement provided by the Noticees because the SCN makes allegation with respect to transactions of the Company with “Sutter Health Group” and not with “Sutter Health”. In view of the above and in absence of any evidence to the contrary, I find that the allegation made in the SCN in this regard are correct. In view of the above, I find that the revenue from “Sutter Health Group” recognised by the subsidiary of the Company, namely, STI, was fictitious.

Kaiser Research Lab

21.1.13. The SCN has alleged that the Company was booking fictitious revenue from Kaiser Research Lab. The SCN also alleged that fake email and domain name of Kaiser Research Lab were created and managed by Shri Suresh and Shri Ramani. Further, the Company also tried to mislead the forensic auditor appointed by the Company i.e. PKF, by sending emails to purported email IDs of the Kaiser Research Lab.

21.1.14. In this regard, I note that the Noticees have contended that the revenue with Kaiser Research Lab is not fictitious and that Kaiser Research Lab is a division within Kaiser Permanente as observed in page 7 and exhibit 6E, page 135 of the KPSN Report. I note that the Noticees have also submitted a copy of the master professional service agreement dated March 25, 2016 executed between Kaiser Permanente and 8KHCI. In this regard, I note that the SCN states that there may have been actual business with Kaiser Permanente in the past, however, the revenue booked w.r.t. Kaiser Research Lab is fictitious. There is no need to go into the veracity of the said agreement provided by the Noticees because the SCN has not alleged anything in this regard. Further, the Noticees in their reply have specifically made a reference to observations made on page 7 and page 135 of KPSN Report, to contend that Kaiser Research Lab is a division of Kaiser Permanente, however, no additional evidence/document has been provided in support of the contention. In this regard, I am not inclined to accept the claim made by the Noticees merely on the basis of observation made in the KPSN Report. However, I note that a specific reference has been made regarding KPSN Report. In this regard, I note that at page 7 (of Executive summary) of KPSN Report an observation has been made that Kaiser Research Lab is a division of Kaiser Permanente and a reference is made to page 135-137 of the report. On page 135 of the KPSN Report, observations regarding Kaiser Permanente has been dealt with. I note that KPSN has also noted differences in the Logo as per the website of Kaiser Permanente and the logo appearing in the agreement, which is visible from the enclosure 1 placed in the KPSN report. KPSN has concluded that Kaiser Research Lab is a division of Kaiser Permanente based on a review of statement of account received from Kaiser Permanente, however, Noticees have not provided the said statement of account. Considering the allegation in the SCN that email ID purported to be of Kaiser Research Lab were created and managed by Noticee no. 2 and Noticee no. 3, it is possible that the same email IDs were used to provide information to KPSN as well. In view of the above and in view of the fact that the Noticees have not provided any credible evidence/documents in support of the claim that Kaiser Research Lab was a division under Kaiser Permanente, I find that the contention made by the Noticees regarding genuineness of the transactions with Kaiser Research Lab, is untenable. In view of the above, I find that as alleged in the SCN, the revenue from Kaiser Research Lab recognised by the Company was fictitious.

Medidata Solutions Inc.

21.1.15. The SCN has alleged that the Company was booking fictitious revenue from Medidata Solutions Inc. (hereinafter referred to as "**Medidata**"). The SCN also alleged that non-genuine agreements were provided by the Company to statutory auditor of the Company i.e. Deloitte, during the audit process. While the agreements provided by the Company to Deloitte were signed by Shri Alabi

Osenke (VP of Medidata, as per the agreement), the name of the said signatory was not found in the statutory filings made by Medidata. A separate MSA dated March 13, 2015 entered between STI and Medidata and two SOW/POs were provided by Shri Lakshmanan Kannappan during the investigation. The said MSA was signed by a different person and the duration of the MSA was six months. The SCN also alleged that fake email and domain name of Medidata were created and managed by Shri Suresh and Shri Ramani. Further, the Company also tried to mislead the forensic auditor appointed by the Company i.e. PKF, by sending emails to purported email IDs of Medidata which is different from the official domain name of Medidata. The SCN alleged that in the past services were provided to Medidata but the Company kept on booking revenue even after the completion of the initial project.

21.1.16. In this regard, the Noticees have contended that a MSA signed with Medidata on March 22, 2016 which has been signed by one Alabi Osenke is genuine. Further, the Noticees have contended that the profile of Shri Alabi Osenke is available at LinkedIn which has also been observed by KPSN Report on page 131. The Noticees have also denied the allegation that fictitious email IDs were created and fictitious revenue was booked. The Noticees have also contended that KPSN has also observed at page 132 of the KPSN Report that payments were in order based on reconciliation of the books to the bank statements. In this regard, I note that KPSN Report has relied on a LinkedIn profile in the name of Alabi Osenke. I note that while the Noticees have used the salutation “Mr.” for Alabi Osenke, in the KPSN Report the salutation used is “Ms”. Further, from the link of her profile, mentioned in the KPSN Report, I note that Ms Alabi Osenke has mentioned Medidata Solutions in her Experience and that she has worked there since Jan 2007. I note that Medidata Solutions has 62,845 followers and 2,866 employees on LinkedIn. Ms Alabi Osenke, however, as on date, has only one connection. For any profile of an employee of a listed company, to have only one connection, raises serious doubts on the authenticity of the said profile. Especially when the company is a listed company with 2,866 employees having a profile on LinkedIn and the employee is in a senior enough position to be authorised to sign agreements on behalf of the company. Further, I note that other than the purported LinkedIn profile, the employment of Ms Alabi Osenke with Medidata has not been corroborated with any other evidence. With reference to the observation in the KPSN Report regarding reconciliation of bank statements, I note that as per the KPSN Report, the receipt of $220,000 were from Idol which was erroneous in the books of account and was subsequently corrected. In this regard, I note that while the books of account have been revised subsequent to report of Delloite to show that the funds were received from Idol, based on the discussion in paragraphs above, where it has been found that Idol was an entity controlled by the Company/its directors and the revenues recognised w.r.t. Idol were fictitious, I am inclined to accept that the said revenues being shown in the name of Idol are also fictitious. In view of the above, I find that the contentions made by the Noticees in this regard are untenable and the revenue recognised w.r.t. Medidata was fictitious.

Shire Pharmaceuticals LLC or Shire Lab Systems

21.1.17. The SCN has alleged that the Company was booking fictitious revenue w.r.t. Shire Lab Systems. The SCN also alleged that fake email and domain name of Shire Lab Systems were created and managed by Shri Suresh and Shri Ramani. Further, the Company also tried to mislead the forensic auditor appointed by the Company i.e. PKF, by sending emails to purported email IDs of the Shire Lab Systems.

21.1.18. In this regard, I note that the Noticees have contended that the transactions with Shire Lab Systems were genuine and also provided copies of purchase orders from Shire Pharmaceuticals LLC. In this regard, I note that the said purchase order also mention the email id ap@shirelabsystem.com which was created and managed by Shri Suresh and Shri Ramani, as alleged in the SCN. The Noticees have merely refuted the allegations made in the SCN and not submitted any evidence/supporting documents in supports of their assertion. In view of the above, I find that the contention made by the Noticees is untenable and the revenues booked by the Company w.r.t. Shire Pharmaceuticals LLC or Shire Lab Systems are fictitious.

21.2.1. With respect to allegations of manipulation of books of account of the Company, the allegations regarding overstatement of expenses and payables, as made in the SCN are as under:

"Violations relating to overstatement of expenses and payables:

15.57 As discussed above, various inconsistencies were identified by Deloitte w.r.t. vendor payments to NSIT by the Company. The same was confirmed by PKF which concluded that expenses booked w.r.t. the vendor, Nation Star IT Services Limited (NSIT) were fictitious. The said observations were also confirmed by forensic auditors appointed by SEBI i.e. GT. The details of the same are discussed in subsequent paragraphs.

Fictitious expenses and payables booked by the Company w.r.t. vendor namely Nation Star IT Services Limited (NSIT):

15.58. It was observed that the Company was making vendor payments to M/s Nation Star IT Services Ltd (NSIT), a Dubai based company, for providing technical and referral services for the purpose of rendering services to Ensys, Idol and Intuit. It was observed that NSIT came under the provisions of RAK Offshore Provisions, UAE (RAK ICC Business Companies Regulations, 2016) wherein no database of companies is maintained and companies are allowed to incorporate with very relaxed norms such as no financial statements are required to be submitted, no public record of shareholders/directors is maintained, audit of financial statements is not required, neither owner nor director is required to visit the premises and no personal presence of representative is required during incorporation of company. In the absence of public documents such as financial statements, incorporation documents, shareholder/director register etc. it becomes easy to hide the identity of real owners of such companies. However, from the agreements provided by the Company, it was observed that one Ms. Gayatri Ramaswamy Nurani Iyer was the only shareholder and director of NSIT.

15.59. It was observed by GT and Deloitte that Ms. Gayatri Ramaswamy Nurani Iyer was an employee of 89.4 Tamil FM Radio – Dubai, which was owned and controlled by Mr. Ramani. The same was evident from social media account of 89.4 Tamil FM Radio – Dubai and statement of Mr. Ramani dated March 09, 2022 to SEBI wherein he stated that he was director of Aaren World Media – DXB which ran 89.4 Tamil FM Radio. Further, on analysis of email dumps provided by the Company to PKF, *it was noted that in one email dated April 29, 2019, Mr. Ramani had written to one Mr. Anand Rathnala about preparation of financial projection of 89.4 FM. Therefore, it is clear that Aaren World Media DXB or 89.4 Tamil FM Radio - Dubai is an entity owned and controlled by Mr. Ramani.*

15.60. Mr. Ramani, in his abovementioned statement to SEBI also stated that Ms. Gayatri Ramaswamy Nurani Iyer was an employee of 89.4 Tamil FM Radio – Dubai and she had been working as sales and customer relations executive since 2018. He further stated that he didn't remember the exact date of Ms. Gayatri's joining. Mr. Ramani was therefore asked to provide copies of appointment letter and salary slips of Ms. Gayatri Ramaswamy Nurani Iyer, incorporation documents and director details of Aaren World Media DXB. In response, vide email dated March 16, 2022, Mr. Ramani stated that he was the single director in Aaren World Media DXB and no salary slips were generated in the said company. He did not provide any incorporation documents stating that they just had trade license and there was no incorporation documents policy in Dubai. Further, he stated that Ms. Gayatri Ramaswamy Nurani Iyer was an employee of Aaren World Media DXB since Jan/Feb 2021 and provided copy of one limited term employment contract.

15.61. It was observed from Linkedin profile of Ms. Gayatri Ramaswamy Nurani Iyer that she was full time employee of 89.4 Tamil FM Radio - Dubai since March 2018. Further, as already discussed in the foregoing paragraphs dealing with findings of GT, from one of the photos, posted in year 2018 in the Instagram account of 89.4 Tamil FM Dubai by the name of "89.4tamilfm", it appeared that Ms. Gayatri Ramaswamy Nurani Iyer was employee of 89.4 Tamil FM since year 2018. Mr. Ramani, in his statement had also stated that Ms. Gayatri was an employee since 2018. However, later on, in order to mislead SEBI, he changed his stance and stated that Ms. Gayatri is an employee since 2021. He also did not provide any salary slip and incorporation documents of company, as already stated above. Further, the employment agreement of Ms. Gayatri provided by Mr. Ramani does not mention whether it was her first employment contract with 89.4 Tamil FM – Dubai. However, to conceal the true picture, Mr. Ramani intentionally provided to SEBI employment agreement of Ms. Gayatri which was entered in 2021 and did not provide copies of any prior agreement. Deloitte also in its fraud report dated September 13, 2019 had observed that Ms. Gayatri Ramaswamy Nurani Iyer was an employee of 89.4 Tamil FM Dubai Since 2018. Therefore, it is clear that NSIT is a company managed and controlled by Mr. Ramani through his employee, namely Ms. Gayatri Ramaswamy Nurani Iyer.

15.62 As has already been discussed in foregoing paragraphs, there was no actual service being rendered to customers, namely Ensys, Idol and Intuit. Since NSIT, *as per the Company, was providing services only to Ensys, Idol and Intuit, it is inferred that actual service was not rendered by NSIT to these customers and accordingly, the expenses and payables booked by the Company for NSIT were fictitious. The same is corroborated by the fact that the Company had failed to provide the supporting documents pertaining to transactions with NSIT. The same is further corroborated by the statement of Mr. Ravichandran S (who was VP, Operations, of the Company during the investigation period) that he had never interacted with NSIT and that no vendor agreements were signed for NSIT."*

21.2.2. In response to the above, the Noticees have submitted the following:

"B. No overstatements in expenses and payables

109. The allegation that we have booked fictitious expenditure in the name of NSIT, which was managed and controlled by Mr. Ramani is misplaced and devoid of merit.

110. It is submitted that Mr. R S Ramani was our promoter and CFO. It is not denied that Ms. Gaythri is employed with 89.4 Tamil FM Radio only from December 2020 in which Mr. Ramani was the Managing Director. Ms. Gayathri was the authorized signatory for NSIT and she has signed in the capacity of the director of NSIT. However, it is to be noted the fact that Mr. Ramani is the Managing Director of 89.4 Tamil FM Radio is not relevant or material from our standpoint.

111. Further, the negative inferences being drawn basis the common link is contrary to settled provisions of law. It is respectfully submitted that the transactions were genuine and all in the ordinary course of business.

112. Reference is drawn to the order passed by the Hon'ble Bombay High Court in the matter of Biostar Pharmaceuticals Limited and Ors. v The State of Maharashtra and Ors ("Biostar's case"), wherein it has been observed that the fact that two public limited companies have common Directors does not mean that one company has an interest in the business of the other. In the Biostar's case, reliance has been placed on Union of India and Ors. v. Atic Industries Ltd. in which it was observed and concluded as under:

"7. The shareholders of a public limited company do not, by reason only of their shareholding, have an interest in the business of the company. Equally, the fact that two public limited companies have common Directors does not mean that the

> *one company has an interest in the business of the other. It is, therefore, not possible to uphold the conclusion of the Tribunal that the assessee and the chemical company were related persons. This being so, it is unnecessary to go into the alternate arguments advanced on behalf of the assessee."*

21.2.3. The SCN has alleged that actual services was not rendered by NSIT to Ensys, Intuit and Idol and accordingly, the expenses and payables booked by the Company were fictitious. The SCN has also alleged that NSIT is a company managed and controlled by Shri Ramani through his employee Ms Gayathri Ramaswamy Nurani Iyer. Shri Ramani made conflicting statements regarding the employment of Ms Iyer in an entity viz. Aaren World Media – DXB, which is Dubai based entity owned and controlled by Shri Ramani. The employment of Ms. Iyer in a company owned and controlled by Shri Ramani *inter alia* has been the basis for concluding that NSIT was an entity managed and controlled by Shri Ramani. The fact that the expenses w.r.t. NSIT, booked by the Company were fictitious has been corroborated by the statement dated March 09, 2022 of Shri S Ravichandran (VP Operations of the Company during investigation period) to the effect that he had never interacted with NSIT and no vendor agreements were signed for NSIT and the Company was also not able to produce any documents pertaining to transactions with NSIT.

21.2.4. In this regard, I note that the Noticees have contended that the allegation of booking fictitious expenditure in the name of NSIT is misplaced. I note that NSIT is a company incorporated under UAE's RAK ICC Business Companies Regulations, 2016. I note that for such companies there are no requirement to submit financial statements or to conduct audit or maintain public record of shareholders/directors. The Noticees have further contended that the agreement with NSIT was signed by Ms Iyer, in her capacity as director of NSIT and her employment since December 2020 in an entity where Shri Ramani is the managing director, is not relevant. The Noticees have also relied on the order passed by Hon'ble Bombay High Court in the matter of Biostar Pharmaceuticals Limited and Ors. v. The State of Maharashtra and Ors. where reliance has been placed on Union of India and Ors. v. Atic Industries Ltd. to contend that two public limited companies having common directors does not mean that one company has interest in the business of other. In this regard, I note that as alleged in the SCN Shri Ramani, in his statement before SEBI had stated that Ms. Iyer was an employee of Aaren World Media – DXB, the company owned and controlled by Noticee no. 3, since 2018. However, later on, in order to mislead SEBI, he changed his stance and stated that Ms. Iyer is an employee since 2021. Therefore, Shri Ramani made conflicting statements regarding the employment of Ms Iyer with Aarean World Media – DXB, which ran 89.4 Tamil FM Radio and therefore, I am not inclined to rely on the same. The employment of Ms Iyer with the said entity since 2018 has also been corroborated from a post made in 2018 on the Instagram account of 89.4 Tamil FM Dubai. Ms. Iyer also signed the agreement the Company entered into with NSIT in her capacity as director of NSIT, which has been admitted by the Noticees in their reply. Further, the Noticees have failed to provide any supporting documents pertaining to transactions with NSIT. The Noticees have also submitted a copy of the tri partite agreements purported to be signed by the Company with NSIT and the respective customers. As already held in para 21.1.8.3 above, the MSA dated April 02, 2018 between the Company and NSIT and tri-partite agreements dated February 12, 2019 amongst the Company, NSIT and the respective customers of the Company viz. Idol, Inuit and Ensys were not genuine. I also note that the judgement of Hon'ble Supreme Court relied on by the Noticees in Union of India and Ors. v. Atic Industries Ltd. In this regard, I note that those observations are made by the Hon'ble Supreme Court in respect of two Indian public companies which are required to make regular filings with Ministry of Corporate Affairs. On the other hand in the present case, one of the companies involved is a company incorporated under UAE's RAK ICC Business Companies Regulations, 2016 which are not required to submit financial statements or to conduct audit or maintain public record of shareholders/directors. Therefore, the judgment cited by the Noticees is factually distinguishable and hence not applicable Therefore, I find that the contentions made by the Noticees in this regard are untenable and no genuine service was rendered by NSIT to the three customers of the Company and the expenses and payables booked by the Company for NSIT were fictitious.

21.3.1. With respect to allegations of manipulation of books of account of the Company, the allegations regarding fixed assets and overstatement of consultancy charges, as made in the SCN are as under:

"Violations relating to overstatement of fixed assets and overstatement of consultancy charges:

15.63. The annual reports of the Company showed that the Company's 'other intangible assets' (i.e. assets other than goodwill) had suddenly increased from Rs.37.90 Crore in FY 2015-16 to Rs.499.73 Crore in FY 2018-19 i.e. increase of almost 13 times within three years. The details of the same are provided in the table below.

Particulars	*FY 2015-16**	*FY 2016-17**	*FY 2017-18*	*FY 2018-19*	*FY 2019-20*
Other Intangible Assets	*Rs.37.90Cr.*	*Rs.61.69Cr.*	*Rs.225.90Cr.*	*Rs.499.73Cr.*	*Rs.35.00Cr.*
Intangible Assets under development	*Rs.18.13Cr.*	*Rs.20.72Cr.*	*Rs.27.96Cr.*	*Nil*	*Rs.3.57Cr.*

Rs. In Crores (Source: Annual reports of the Company)

** The figures were re-stated vide annual report for FY 2017-18.*

15.64 It was observed from the annual reports of the Company that the Company was developing certain software and the same was accounted for under the head intangible assets and was appearing in consolidated balance sheet. It was further observed that the Company was booking expenditure in its profit and loss account under the head "Professional and Consultancy Charges". It was observed that both "cost towards development of software" and "Professional and Consultancy Charges" were material items which pertained to consolidated balance sheet and consolidated profit and loss account of the Company, respectively.

15.65. Deloitte in the statutory audit report for FY 2018-19 had pointed out several instances of transactions with vendors, wherein there were inconsistencies between the nature of services as mentioned in the invoices and the basis of recording the expenses in the books of account as consultancy expenses and intangible assets. The inconsistencies pointed out by Deloitte pertained to instances where same Federal Tax ID was mentioned against different vendors, different Federal Tax ID was used for same vendor, names of two vendors appearing in the same contract in different places, the contract had been signed by a signatory on behalf of 8K Miles Software Service Inc., post his resignation from the said 8K Miles Software Services Inc. etc. For the year ended March 31, *2019, the Company had recorded consultancy charges aggregating to Rs.266.89 Crore and intangible assets/assets under development of Rs.222.67 Crores.*

15.66. Deloitte also pointed out inappropriate documentation w.r.t. nature of the abovementioned intangible assets, data to demonstrate the appropriateness of the timing to commence capitalization of costs associated with such intangible assets and the basis on which the costs capitalized were associated with the intangibles being developed. Deloitte gave disclaimer of opinion w.r.t. carrying value of such intangible assets as on March 31, 2019.

15.67. PKF also agreed with the findings of Deloitte and observed that consultancy charges and intangible assets/assets under development were fictitious/questionable.

15.68. After Deloitte's observations, the Company in very next financial year i.e. in FY 2019-20 impaired Rs.464.73 Crore of Software under the head 'intangible assets' which was developed by the Company internally and stated the following reason for such impairment: "Based on recommendation of technical experts and after evaluation of the expected foreseeable economic benefits, written off internally generated software"

15.69. As already discussed in foregoing paragraphs, the Company was booking fictitious revenue and expenditure to portray good picture and better financial condition of the Company. Likewise, the Company was also capitalizing fictitious expenses towards development of software to portray a bigger balance sheet size of the Company. Consequently, the balance sheet size of the Company had increased from Rs.44.76 Crore as on March 31, 2013 to Rs.997.99 Crore as on March 31, 2019 i.e. manifold increase within a short span of time. However, in FY 2019-20 i.e. after reporting of various inconsistencies by Deloitte, the Company impaired the said software from its balance sheet and the size of balance sheet fell sharply from Rs.997.99 Crore to Rs.242.82 Crore i.e. an amount of Rs.755.17Core was wiped off from the balance sheet of the Company in a single financial year.

15.70. It was observed that the Company was booking payments to 10 vendors in the name of "Professional and Consultancy charges" and/or "payment towards development of intangible assets". Deloitte had identified various inconsistencies w.r.t. booking of expenditure for these vendors. It was observed that these 10 vendors were either fictitious entities or entities managed and controlled by Mr. Suresh/Mr. Ramani. Mr. Lakshmanan Kannappan, COO & Director of the

Company, in his statement dated April 07, 2022 to SEBI stated that he had neither heard about nor was he aware of the said vendors. It was thus observed that by booking and capitalizing fictitious expenditure, the Company manipulated its profit & loss account and balance sheet. The vendor wise details of the said 10 vendors are provided below.

"Infinity Tech Group Inc" or "Infinity Technology Group Inc":

15.71. It was observed that the Company was booking expenditure for certain services availed from "Infinity Tech Group Inc". On examination of email dumps, it was observed that on November 11, 2018, Mr. Robinson Vincent (AVP Finance, STI) had sent one email to Mr. Suresh wherein he had mentioned certain vendor payment details, including payment of USD 100,685 to Infinity Tech Group Inc. While forwarding the said email to Mr. Ramani on November 12, 2018, Mr. Suresh wrote "I am going to use one vendor as Infinity Tech Group Inc. Other one I will email separately. You can use the address here in the quickbook invoice. I will create a company or DBA with Infinity Technology Group Inc." From the abovementioned email conversation, it appears that Mr. Suresh/Mr. Ramani were using the vendor, Infinity Tech Group Inc., to book fictitious expenditure and to overstate intangible assets.

15.72. PKF, during the course of the forensic audit, had insisted on the Company to provide MSA or SoA directly from the vendors. Therefore, Ms. Deepa Joshi (Finance Manager, STI) had sent an email dated August 05, 2019 to email id accounts@infigrp.com, purportedly belonging to "Infinity Tech Group Inc". PKF found that the domain name "infigrp.com" was created only on August 03, 2019 i.e. merely two days before the aforesaid email dated August 05, 2019, to portray to PKF that the Company had actually taken services from the vendor, "Infinity Tech Group Inc". However, it was found that the actual domain name of "Infinity Tech Group Inc" is www.infigroup.com, which was created on December 26, 1999. During the course of investigation, it was found that no website with the domain name www.infigrp.com existed and the said domain was up for sale. The above indicates that the Company created fictitious domain name and email id purportedly belonging to "Infinity Tech Group Inc.", which was very similar to actual domain name of "Infinity Tech Group", in order to mislead the auditors.

15.73. The above observations indicate that the Company may have availed some actual services from "Infinity Tech Group Inc" in the past on some instances. However, considering that the Company had created email id and domain name, purportedly belonging to "Infinity Tech Group Inc.", as mentioned above, the expenditure booked in the name of "professional and consultancy charges" and "cost towards *development of intangible assets" w.r.t. "Infinity Tech Group Inc." appears to be fictitious either wholly or partly.*

"Two95 International Inc":

15.74. It was observed that the Company was booking expenditure for certain services availed from "Two95 International Inc". On examination of email dumps, it was observed that on May 15, 2019 Mr. Ramani sent one email to Mr. Robinson Vincent (AVP Finance, STI) with cc to Mr. Suresh, wherein he asked "Robin, do you have any invoice of two95 international? Please send if you have it Thanks. In response to the same, Mr. Suresh vide email dated May 16, 2019 to Mr. Ramani stated - Ramani they are not our vendor, trying to acquire them." The abovementioned email conversation shows that Mr. Suresh/Mr. Ramani were merely using the vendor, "Two95 International Inc", to book fictitious expenditure and to overstate intangible assets.

15.75. PKF, during the course of forensic audit, had insisted on the Company to provide MSA or SoA directly from the vendors. Therefore, Ms. Deepa Joshi (Finance Manager, STI) had sent an email dated August 05, 2019 to email id mahesh.m@two95intl.net purportedly belonging to "Two95 International Inc". It was found that the domain name "two95intl.net" was created on August 05, 2019 i.e. on the same day of sending the aforesaid email dated August 05, 2019, to portray to PKF that the Company had actually taken services from the vendor, "Two95 International Inc". However, it wsa found that the real domain name of "Two95 International Inc" is www.two95intl.com which was created on March 08, 2009. During the course of investigation, it was observed that no website with the domain name www.two95intl.net existed and the said domain was up for sale. The above indicates that the Company created fictitious domain name and email id purportedly belonging to "Two95 International Inc", which was very similar to actual domain name of "Two95 International Inc", in order to mislead the auditors.

"Wunderkind LLC":

15.76. It was observed that the Company was booking expenditure for certain services availed from "Wunderkind LLC". PKF, during the forensic audit, had insisted the Company to provide MSA or SoA directly from vendors. Therefore, email dated August 05, 2019 was sent by Ms. Deepa Joshi (Finance Manager, STI) to email id zakaria@wunderkindllc.us purportedly belonging to "Wunderkind LLC". It was found that the domain name "wunderkindllc.us" was created on August 03, 2019 i.e. merely two days before the aforesaid email dated August 05, 2019 was sent, to portray to PKF that the Company had actually taken services from the vendor, "Wunderkind LLC". However, it was found that the real domain name of

"Wunderkind LLC" is www.wunderkind.co which was created on June 27, 2016. During the course of investigation, it was observed that no website with the domain name www.wunderkindllc.us existed and the said domain was up for sale. It was further found by PKF that the dummy domain name i.e. www.wunderkindllc.us was created by ex-employee of the Company, namely Ms. Shanthi Raghuraj and the registrant organization for said domain name was "Hitech Recruitment and Training Services Pvt Ltd". It was further found that "Hitech Recruitment and Training Services Pvt Ltd" is a company registered at the address of Mr. Gurumurthi Jayaraman, the Audit Committee Chairman of the Company. Mr. Gurumurthi Jayaraman, in his statement to SEBI, stated that the said "Hitech Recruitment and Training Services Pvt Ltd" was run and controlled by his employee, namely Sanjay Diwakar and that the office of the said company is same as his office address i.e. 103, PS Sivaswamy Salai, Mylapore, Chennai. The above indicates that the Company created fictitious domain name / email id purportedly belonging to "Wunderkind LLC", which was very similar to actual domain name of "Wunderkind LLC", in order to mislead the auditors.

15.77. Further, PKF found three sets of SoW from email dumps of Mr. Ramani, wherein amount was varying from USD 5 Lacs to USD 25 Lacs.

"Pyramid Technology Solutions Inc":

15.78. It was observed that the Company was booking expenditure for certain services availed from "Pyramid Technology Solutions Inc". PKF, during the forensic audit, had insisted the Company to provide MSA or SoA directly from vendors. Therefore, Ms. Deepa Joshi (Finance Manager, STI) had sent an email dated August 05, 2019 to email id satya.maddipati@pyramidinc.net purportedly belonging to "Pyramid Technology Solutions Inc". It was found that the domain name "pyramidinc.net" was created on August 02, 2019 i.e. merely three days before the aforesaid email dated August 05, 2019 was sent, in order to portray to PKF that the Company had actually taken services from the vendor, "Pyramid Technology Solutions Inc". However, the real domain name of "Pyramid Technology Solutions Inc" is www.pyramidinc.com which was created on March 14, 2000. During the course of investigation, it was observed that no website with the domain name www.pyramidinc.net existed and the said domain was up for sale. The above indicates that the Company created fictitious domain name and email id purportedly belonging to "Pyramid Technology Solutions Inc", which was very similar to actual domain name of "Pyramid Technology Solutions Inc", in order to mislead the auditors.

15.79. Further, it was observed by PKF that a payment of USD 2,95,000 which was made to "Alderis Ventures Inc" was accounted as paid to Pyramid Technology Solutions Inc.

"BMR Infotek Inc":

15.80. It was observed that the Company was booking expenditure for certain services availed from "BMR Infotek Inc". PKF, during the forensic audit, had insisted the Company to provide MSA or SoA directly from vendor. Therefore, Ms. Deepa Joshi (Finance Manager, STI) had sent an email dated August 05, 2019 to email id haribabu@bmrinfotek.net purportedly belonging to "BMR Infotek Inc". It was found that the domain name "bmrinfotek.net" was created on July 31, 2019 i.e. merely five days before the aforesaid email dated August 05, 2019 was sent, in order to portray to PKF that the Company had actually taken services from the vendor, "BMR Infotek Inc". However, the real domain name of "BMR Infotek Inc" is www.bmrinfotek.com which was created on December 29, 2016. The above indicates that the Company created fictitious domain name and email id purportedly belonging to "BMR Infotek Inc", which was very similar to actual domain name of "BMR Infotek Inc", in order to mislead the auditors.

15.81. It was informed to Deloitte by the Company that there was no service agreement between "BMR Infotek Inc" and the subsidiaries of the Company, namely 8K Miles Software Services Inc. and 8K Miles Health Cloud Inc, except for the rate card. Therefore, no MSAs or agreements were produced to auditors. BMR Infotek Inc, as a vendor, was servicing directly to customers referred by the Company. It was observed by Deloitte that although the invoices from BMR Infotek Inc clearly indicated the customers served and the amounts chargeable, the Company had instead capitalized these costs towards development of intangible assets.

15.82. Further, PKF had observed that Mr. B Mohan Reddy was the owner of BMR Infotek Inc from whom 8K Miles Group had acquired one company, named "Cintel", for consideration of USD 3.75 Million. It was also found by PKF that for one service, BMR Infotek Inc provided two different set of invoices with two different service description to support the Company. One invoice was used by the Company as expenditure under the head "professional and consultancy charges" and another invoice was used for capitalization of intangible assets, indicating that the Company did dual accounting for single invoice.

15.83. Further, in one of the emails dated July 04, 2018, Mr. Suresh wrote to Mr. Robinson Vincent - "We can create one PO for each invoice and for each project. Which will have no. of people worked for few months. Just wanted to create some back up papers such as Resource involved and their cost and work done for each *client. July 2017 – Inv 1231 & 1235, Sep 2017 – Inv 1245&1249, November 2017 – Inv 1255, February 2018 - Inv 1267." The abovementioned email conversation shows that the management of the Company had indulged in creating/manipulating supporting documents for presenting to auditors.*

"RAP Engineers and Consultant PTE Ltd":

15.84. It was observed that the Company was booking expenditure for certain services availed from "RAP Engineers and Consultant PTE Ltd" (RAP Engineers). PKF, during the forensic audit, had insisted on the Company to provide MSA or SoA directly from vendor. Therefore, Ms. Deepa Joshi (Finance Manager, STI) had sent an email dated August 05, 2019 to email id raghu@rapengineers.net purportedly belonging to "RAP Engineers and Consultant PTE Ltd". It was found that the domain name "rapengineers.net" was created on August 03, 2019 i.e. merely two days before the aforesaid email dated August 05, 2019 was sent, in order to portray to PKF that the Company had actually taken services from vendor, "RAP Engineers and Consultant PTE Ltd". However, it was observed that the real domain name of "RAP Engineers and Consultant PTE Ltd" was www.rapengineers.com which was created on August 24, 2001. During the investigation, it was observed that no website with the domain name www.rapengineers.net existed and the said domain was up for sale. The above indicates that the Company created fictitious domain name and email id purportedly belonging to RAP Engineers, which was very similar to actual domain name of RAP Engineers, in order to mislead the auditors.

15.85. Further, in one email dated June 01, 2019, Mr. Ramani wrote to Mr. Suresh - Suresh: These are picked up by Deloitte. We should not have transferred to Academy of Radio - from software and it is debited to cost of goods??? Also, there are transfers to DBS Singapore without document. Like this there are many many…. I am only giving one or two entries like this - most of the chase transfers do not have any supporting and PK could not answer at all and saying you have done the transfers and for many items which he does not know he is putting in Cost of Goods Sold. Absolute shit. In response to the same, Mr. Suresh wrote to Mr. Ramani; "Will update you. PK never check anything."

15.86. It was observed that an amount of Rs. 1,20,000 USD was paid to Academy of Radio, which was first debited to cost of goods sold and later-on was reversed and debited to RAP Engineers. This shows that there was no actual payment to RAP Engineers. When auditors brought irregularities to the notice of management, they changed accounting entries to mislead them. Further, it was observed from SoA provided to PKF that amounts of USD 139500 and USD 33000 paid to an entity, *Unifina Capital, were adjusted as payment made to RAP Engineers. It was found that Unifina Capital was a company of Mr. Suresh and its financials were signed by Mr. Suresh in capacity of partner. The same is corroborated by the statement of Mr. Lakshamanan Kannappan wherein he stated - "Unifina Capital – Suresh V started a small venture capital firm before the time of acquisition of FuGen Solutions".*

"VSSI LLC Staffing Services (VSSI)":

15.87. It was observed that the Company was booking expenditure for certain services availed from "VSSI LLC Staffing Services (VSSI)". As per the statement of Mr. Lakshmanan Kannappan, VSSI was an IT consulting company based in Detroit, which was incorporated and started by sister of Mr. Suresh, namely Ms. Vedha Sampath. From the Statement of Accounts provided by the vendor, VSSI, to PKF, it was observed that the date of payment mentioned in the said statement was earlier than actual date of payment. It was further observed from email conversations of Mr. Suresh and Mr. Ramani that VSSI was a conduit for obtaining H-1B Visa on behalf of 8K Miles. It was also observed that salary of security guard of VSSI was paid/adjusted by Mr. Suresh/Mr. Ramani from the security deposit received for H1B Visa.

15.88. From the above observations, it is clear that the Company did not avail any actual service from "VSSI" as it was a company run and controlled by sister of Mr. Suresh and SoA received from VSSI were questionable. However, using VSSI's name, without availing any services, the Company booked fictitious expenditure.

"McBitts GmbH"

15.89. It was observed that the Company was booking expenditure for certain services availed from McBitts GmbH (McBitts). PKF, during the forensic audit, had insisted on the Company to provide MSA or SoA directly from vendor. Therefore, Ms. Deepa Joshi (Finance Manager, STI) had sent an email dated August 05, 2019 to email id monica@mcbitts.net purportedly belonging to McBitts. It was found that the domain name "mcbitts.net" was created on August 03, 2019 i.e. just two days before the aforesaid email dated August 05, 2019 was sent, to portray to PKF that the Company had actually taken services from McBitts. During the course of investigation, it was observed that no website with the domain name mcbitts.net existed and the said domain name was up for sale. This shows that the Company created fictitious email id and domain name to mislead auditors as there was no actual services availed from Mcbitts.

"Tableau Software"

15.90. It was observed that the Company was booking expenditure for certain services availed from "Tableau Software". PKF, during the forensic audit, had insisted on the Company's management to send confirmation email to this vendor. However, even after repeated requests, the Company did not send any confirmation email to Tableau Software. Further, no supporting proof was provided to PKF for validation of licenses being delivered to the Company, if any.

"28right Inc"

15.91. It was observed that the Company was booking expenditure for certain services availed from "28right Inc". It appeared that this company was run and operated by senior employee of the Company, namely Sudish Mogli, who is CTO of step down subsidiary of the Company, namely Healthcare Triangle Inc (the fact that Sudish Mogli is CTO in the subsidiary of the Company was also mentioned by Mr. Suresh in his statement and is also appearing in annual reports of the Company). The same is apparent from email dated December 18, 2018 sent by Mr. Robinson to Mr. Suresh wherein he has mentioned: "Sir, we have a new client, "Stay smart care "and we are doing a project for $128,000 for them. This work has been outsourced to one company called 28right Inc. for $108,000. This company doesn't have address. When we google for the address, it shows as 3943 Soutirage Lane, San Jose, CA 95135, which is similar to Sudish's home address. I am bringing to your notice because it looks like a subcontracting. I am attaching here with the SOW of smart care and 28 right Inc & Invoice from 28 right Inc."

15.92. Investigation further revealed that Mr. Sudish Mogli was a director / initial directors in 28right Inc, as evident from "Articles of Incorporation" of 28Right Inc, downloaded from official portal (https://bizfileonline.sos.ca.gov/) of California Secretary of State. The aforesaid document showed that 28right Inc was incorporated on April 29, 2013 by Ms. Archana Pandit and Mr. Sudish Mogli as initial directors. The address of the said company as per "Articles of Incorporation" is same as address of Mr. Sudish Mogli i.e. 3943 Soutirage Lane, San Jose, CA 95135. Further, in a subsequent filing dated February 21, 2021 namely "corporation-statement of information no change" it was submitted by another director of 28Right Inc, Ms. Archana Pandit, that "There has been no change in any of the information contained in the previous complete Statement of Information filed with the California Secretary of State."

15.93. The above observations show that 28right Inc is a connected entity of Securekloud as it is a company owned and controlled by senior employee viz. Mr. Sudish Mogli (CTO – Healthcare Triangle Inc). From the same, it appears that there was no *genuine service availed from 28right Inc and whatever expenditure was booked was fictitious expenditure.*

15.94. The details pertaining to the abovementioned 10 vendors mentioned in the foregoing paragraphs shows that most of the said vendors were either fictitious or were entities owned and controlled by the Company and its management / employees. In some cases, the Company had used the names of certain genuine entities and had created fictitious email ids and domain names which appeared similar to the real domain names of such genuine entities, in order to mislead the auditors and portray to them that the Company was actually taking services from those entities. In one case of Infinity Tech Group Inc, from whom the Company may have taken services in the past, the Company created fictitious email id and domain name similar to the actual domain name of the said entity, in order to mislead the auditors and give an impression that the Company was still taking services from the said entity. Further, as has been stated above, Mr. Lakshmanan Kannappan, COO & Director of the Company, in his statement dated April 07, 2022 to SEBI stated that he had neither heard about nor aware of the said vendors. All these observations coupled with other observations mentioned in the foregoing paragraphs clearly indicate that the expenditure booked in the name of "professional and consultancy charges" and "cost towards development of intangible assets" in respect of the said 10 vendors was fictitious."

21.3.2. In response to the above, the Noticees have submitted the following:

"C. Violations with respect to overstatement of fixed assets and overstatement of consultancy charges

113. At the outset, it is submitted that the Deloitte Report had observed that 8K Miles Software Services Inc. and 8K Miles Health Cloud Inc. have incurred expenditure towards various vendors i.e., BMR, Infinity, Two95, Pyramid, Rap Engineers, VSSI and Mcbitss.

114. The Notice alleges that we have booked fictitious expenditure with these entities. The Deloitte Report alleges that 8KSSI and 8KHCI incurred the expenditure towards these entities. Without prejudice to the submissions set out below that the transactions are genuine transactions with 8KSSI and 8KHCI, it is stated that there are no transaction by us with these entities which are not genuine. Therefore, SEBI's observations that we booked fictitious expenditure towards these entities is not tenable.

a. Services availed from Infinity

115. It is submitted that the services availed from Infinity are in the ordinary course of business. The same is evident from the sub-contract agreement dated June 20, 2017 between 8KSSI and Infinity, as annexed above.

116. It is further submitted that SEBI has clearly failed to take into consideration the findings of the KPSN Report which have dealt with the issue and have provided reasoned findings for denying the observation arrived at by Deloitte. KPSN had clearly observed at exhibit 9, page 187 that "the SoW invoices, time sheets and resources wise break up of work hours were available in support of the jobs worked upon under the common agreement.

117. Further, the allegation that we created fictitious domain name and email id and thus booked fictitious expenditure in the name of Infinity is incorrect and misplaced.

118. Therefore, in view of the above, it is incorrect to state that there was fictitious expenditure with Infinity.

b. Services availed from Two95

119. It is submitted that the services availed from Two95 are in the ordinary course of business. The same is evident from the subcontractor agreement dated September 13, 2016 between 8KSSI and Two95, as annexed above.

120. It is submitted that, initially we were trying to acquire Two95, however, the same did not materialise and therefore Two95 became our vendor/ service provider. Thus, SEBI has drawn negative inferences by merely relying on an email in isolation, without any cogent evidence or explanation in this regard.

121. SEBI has clearly failed to take into consideration the findings of the KPSN Report which have dealt with the issue and have provided reasoned findings for denying the observation arrived at by Deloitte. KPSN had clearly observed at exhibit 9, page 187 that "the SoW invoices, time sheets and resources wise break up of work hours were available in support of the jobs worked upon under the common agreement."

122. Further, the allegation that we created fictitious domain name and email id and thus booked fictitious expenditure in the name of Two95 is incorrect and misplaced.

123. Therefore, in view of the above, it cannot be stated that there was fictitious expenditure with Two95.

c. Services availed from Wunderkind LLC

124. It is submitted that 8KSSI had entered into a master services agreement and had availed the services from Wunderkind LLC. The same is evident from the master services agreement dated October 2, 2017 between 8KSSI and Wunderkind LLC, as annexed at above.

125. Further, the allegation that we created fictitious domain name and email id and thus booked fictitious expenditure in the name of Wunderkind LLC is incorrect and misplaced.

126. Therefore, in view of the above, it cannot be stated that there was fictitious expenditure with Wunderkind LLC.

d. Services availed from Pyramid

127. The allegation that we created fictitious domain name and email id and thus booked fictitious expenditure in the name of Pyramid is incorrect and misplaced, and is not borne out from the evidence on record.

128. It is submitted that 8KSSI had entered into a subcontract agreement and had availed the services from Pyramid. The same is evident from the subcontract agreement dated December 27, 2017 between 8KSSI and Pyramid, as annexed above.

129. SEBI has clearly failed to take into consideration the findings ofthe KPSN Report which have dealt with the issue and have provided reasoned findings for denying the observation arrived at by Deloitte. KPSN had clearly observed at exhibit 9, page 187 that "the SoW invoices, time sheets and resources wise break up of work hours were available in support of the jobs worked upon under the common agreement."

130. Therefore, in view of the above, it cannot be stated that there was fictitious expenditure with Pyramid.

e. Services availed from BMR

131. *It is submitted that 8KSSI had entered into a subcontract agreement and had availed the services from BMR. The same is evident from the subcontract agreement dated December 1, 2017 between 8KSSI and BMR, as annexed above.*

132. *The above sub-contract agreement was also provided to KPSN for their verification, as is evident from exhibit 8, page 173 of the KPSN Report.*

133. *SEBI has clearly failed to take into consideration the findings of the KPSN Report which have dealt with the issue and have provided reasoned findings for denying the observation arrived at by Deloitte. KPSN had clearly observed at exhibit 9, page 187 that "the SoW invoices, time sheets and resources wise break up of work hours were available in support of the jobs worked upon under the common agreement."*

134. *Further, the allegation that there was double accounting with single invoice of BMR is baseless. It is submitted that BMR used to raise a single invoice for the services provided and the details of resources. It is submitted that it has been practice with BMR that once BMR has issued invoice, our team would analyse and bifurcate the cost incurred against revenue and the resources used for development of platform/tools for capitalisation. Therefore, it is humbly submitted that there was no double accounting with single invoice issued by BMR.*

135. *Further, the allegation that we had indulged in creating/manipulating supporting documents with BMR for presenting to auditors is incorrect. As stated above, it is a settled position that when fraud, misrepresentation or undue influence is alleged, then there is a burden of proof is on person alleging the same. Thus, the allegation that the supporting documents with BMR are manipulated, without any evidence in this regard, is misplaced and incorrect.*

136. *In view of the aforesaid, it cannot be stated that there was fictitious expenditure with BMR.*

f. Services availed from RAP Engineers

137. *The allegation that we created fictitious domain name and email id and thus booked fictitious expenditure in the name of RAP Engineers is incorrect and misplaced.*

138. *It is alleged by SEBI that the amount paid to Unifina Capital was adjusted as payment made to RAP Engineers. It is submitted that it was an accounting error and was rectified later. In this regard, KPSN Report has also noted on page 48 that no such transaction was evident from the ledger extract of Unifina Capital.*

Therefore, even though there was an accounting error in the beginning, it was rectified as soon as it came to our knowledge.

139. Further, SEBI has clearly failed to take into consideration the findings of the KPSN Report which have dealt with the issue and have provided reasoned findings for denying the observation arrived at by Deloitte. KPSN had clearly observed at exhibit 9, page 187 that "the SoW invoices, time sheets and resources wise break up of work hours were available in support of the jobs worked upon under the common agreement."

140. In view of the aforesaid, the allegation that we booked fictitious expenditure with RAP Engineers is untenable.

g. Service availed from VSSJ

141. It is submitted that VSSI was acting as our software consulting partner to identify the appropriate candidates for the HI 8 visa processes. It is also submitted that there was no salary paid by us to the security guard of VSSI. There is no relation between salary of security guard and the services provided by VSSI to us.

142. Further, SEBI has clearly failed to take into consideration the findings of the KPSN Report which have dealt with the issue and have provided reasoned findings for denying the observation arrived at by Deloitte. KPSN had clearly observed at exhibit 9, page 187 that "the SoW invoices, time sheets and resources wise break up of work hours were available in support of the jobs worked upon under the common agreement."

143. In view of the aforesaid, the allegation that we booked fictitious expenditure with VSSI Engineers is untenable.

h. Services availed from McBitss

144. SEBI has clearly failed to take into consideration the findings of the KPSN Report which have dealt with the issue and have provided reasoned findings for denying the observation arrived at by Deloitte. KPSN had clearly observed at exhibit 9, page 187 that "the SoW invoices, time sheets and resources wise break up of work hours were available in support of the jobs worked upon under the common agreement."

145. Further, the ledger extract from McBitts was verified with the entries in the books of accounts by KPSN, as evident under KPSN Report at exhibit 1F, Page 153.

146. In addition to the above, the allegation that we created fictitious domain name and email id and thus booked fictitious expenditure in the name of McBitts is incorrect and misplaced.

147. In view of the aforesaid, it is incorrect to state that there was fictitious expenditure with McBitts.

i. Services availed from 28right Inc.

148. It is submitted that the sub-contract with 28right Inc. is a genuine and legitimate one and that there is no commercial interest for Mr. Sudish in the said transaction.

J. Tableau Software

149. It is submitted that the transaction in respect of tableau software is a legitimate and commercial transaction. The vendor of the software is a legitimate vendor. Thus, the allegation that we were booking expenditure for certain services availed from Tableau Software is incorrect and misplaced.

150. Therefore, in view of the above, the allegation that there is manipulation in the financial statements is not tenable and merits no consideration. It is also incorrect to state that we published false financial statements. Therefore, in view of the above submissions, we cannot be charged for violation of Regulations 4(l)(a), (b), (c), (g), (h) (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7), 4(2)(f)(iii) (1) (3), (6), (12) read with Regulation 33 (1) (a), (c) and 48 of the LODR Regulations and Section 27 of the SEBI Act.

D. The allegation that INR 755.17 Crore was wiped off from our balance sheet in a single financial year is not tenable

151. The observation that by booking and capitalising fictious expenditure, we manipulated our profit and loss account and balance sheet is not tenable.

*152. It is humbly submitted that subject to the compliance with law, our business is our prerogative. We being a legal entity, act through our board of directors ("**Board**"). The management acts under the supervision and directions of the Board. In this regard, we would like to emphasize that the decisions taken by us (acting through the Board and the management) during the Investigation were decisions taken in exercise of its commercial judgement and in furtherance of our business objective.*

153. SEBI is imposing its views on us on how to run our business. It is well established that the courts are not well equipped to replace the commercial sense and *decisions of a company. Therefore, absent any evidence having been adduced SEBI's attempt to interfere with the exercise of business and commercial judgement by us is writ large across the Notice.*

154. It is submitted that the we were developing the platforms and other tools. We had incurred expenditure towards the development of certain automation-driven cloud platforms.

155. According to Ind AS 38 "An internally generated intangible asset arising from development (or from the development phase of an internal project) is recognised if, and only if, all the following have been demonstrated:

156. The accounting principles under Indian Accounting Standard 38 ("Ind AS 38") provides guidance in relation to accounting for intangible assets. Based on the assessment of this criteria the management had capitalised the development cost of the internally generated intangible assets in relation to the various platforms developed by us.

157. However, during the FY 19-20, when the impairment testing for the internally generated intangible assets through an external valuer was performed, it was observed that there was no future economic benefit expected from the use or disposal of these intangibles. Accordingly, in line with the derecognition principles laid out in lnd AS 38, we had impaired these intangibles.

158. At all times, we have acted in a bona fide manner, reasonably and diligently. All accounting decisions taken by us, are in line with the relevant accounting standards and all business decisions taken have been taken in a bona fide matter and in the best interest of our stakeholders of, including the shareholders.

159. At this stage, it is relevant to refer to the judgement of the Hon 'ble SAT in the matter of Tree House Education and Accessories Ltd. v. Securities and Exchange Board of India, in terms of which, the Hon'ble SAT was considering SEBI's ability to assess and evaluate the business decisions of a listed entity (engaged in the business of operating schools) in relation to the expenditures incurred by it on furniture and fixtures for such schools. After considered the matter, the Hon'ble SAT questioned SEBI's authority to re-valuate the business decisions and audited figures of the company in the absence of any mala-fide actions. In this regard, SAT observed as under:

"18 ...Similarly, we are also unable to appreciate fully the allegations relating to the inflated expenditure on furniture and fixtures etc. particularly in the absence of any evidence on diversion of money / resources belonging to Tree House being shown. How far SEBI can reassess or reevaluate business decisions and audited figures given in financial reports of a company unless explicit proof/ evidence relating to siphoning off or manipulation of accounts is available is also a question that needs to be answered by SEBl. In the absence of such information authorities are not in a position to pass business judgments regarding what could be or what should be the cost / expenditure on a particular equipment / tool such as furniture and fixtures. These are all business decisions of the concerned entity and decisions to be taken by the authorized persons. If any malafide in terms of siphoning off of funds etc is observed in the accounts of the listed companies SEBI definitely has the power to intervene in the interest of investors and securities market."

(Emphasis supplied)

160. In addition to the above, it may be noted that while the responsibility of the preparation of the financial statements vests with the management of a company, our statutory auditors have audited the financial statements, and also issued their independent opinion as to whether the financial statements for the relevant period represent a true and fair view of the financial condition as at the relevant date. It may be noted that financial statements for the relevant period do not contain any observations/ qualifications/ modifications in this regard.

161. In conclusion, we have not indulged in any wrongdoing/ non-compliance in acting in furtherance of our business objectives and in line with our commercial judgement.

E. Payments in relation to professional and consultancy charges and/ or payment towards development of intangible assets

162. The allegation that we were booking payments to 10 vendors which are fictitious entities or managed and controlled by Mr. Suresh/Mr. Ramani is not tenable. It is respectfully submitted that the above inference which has been arrived at basis the external forensic audit reports with respect to transactions with vendors is misplaced and merit no consideration.

163. SEBI has clearly failed to take into consideration the findings of the KPSN Report which have dealt with the issue and have provided reasoned findings for denying the observation arrived at by Deloitte. KPSN had clearly observed that the *agreements entered by us is common for all services and the SoW, invoices, time sheets and resources wise break up of work hours were available in support of the jobs worked upon under the common agreement.*

164. As demonstrated in the foregoing submissions, the allegation that we were booking fictitious payments is not tenable."

21.3.3. The SCN has alleged that the Company manipulated its profit and loss account and balance sheet by booking and capitalising fictitious expenditure. As alleged in the SCN, the Company was booking payments to 10 vendors, namely, Infinity Tech group Inc., Two95 international Inc., Wunderkind LLC, Pyramid technology solutions Inc., BMR Infotec Inc. RAP Engineers and Consultants Pte Ltd., VSSI LLC Staffing Services, McBitts GmbH, 28right Inc., Tableau Software, in the name of "Professional and Consultancy charges" and/or "payment towards development of intangible assets". The statutory auditor of the Company, i.e. Deloitte had identified various inconsistencies w.r.t. booking of expenditure for these vendors. The said vendors were either fictitious or entities managed and controlled by Shri Suresh/Shri Ramani and the Company was not able to provide any supporting documents for the transactions recorded by the Company in its books of accounts. The allegations in this regard are *inter alia* based on the email correspondences by employees/KMPs of the Company and/or its subsidiaries, entries made in the books of account by the Company. With respect to the vendors namely, Infinity Tech Group Inc or Infinity Technology Group Inc, Two95 International Inc, Wunderkind LLC, Pyramid Technology Solutions Inc, BMR Infotek Inc, RAP Engineers and Consultant PTE Ltd, McBitts GmbH, the SCN also alleged that when the forensic auditor appointed by the Company, i.e. PKF insisted on getting the MSA/SoA directly from the respective vendor, the Company and its officials tried to mislead the forensic auditor by creating fictitious emails IDs and sending emails to the said email IDs portraying the said email IDs as those belonging to their vendors which corroborated the findings of the statutory auditor and other evidences mentioned in the SCN.

21.3.4. In this regard, I note that the Noticees have contended that the transactions with the said vendors were genuine and based on agreements executed with the respective vendors. The Noticees have also relied on the specific observation made in Exhibit 9 page 187 and Exhibit 1F page 153 of the KPSN Report. The Noticees have also contended that the allegations regarding creation of fictitious email IDs is incorrect and misplaced. In this regard, I note that the allegations made in the SCN on the basis of which the genuineness of the transactions with the vendors have been questioned have not been answered by the Noticees. The Noticees have merely stated that the said transactions are genuine without demonstrating how it is so. From the agreements, wherever provided, by the Noticees in support of their contention that the transactions were genuine, I note that the said agreements are on plain paper without any registration or stamp. Therefore, in absence of any credible documents in support of the existence of the vendors and in view of the doubts created on the existence of such vendors due to the fact that the Company and its officials created fictitious email IDs of the vendors, viz: mahesh.m@two95intl.net, accounts@infigrp.com, zakaria@wunderkindllc.us, satya.maddipati@pyramidinc.net, etc., these agreements cannot be relied upon to reach a conclusion that the transactions were genuine. The Noticees have also made a specific reference to the KPSN Report, wherein it mentions that *"the SOW invoices, time sheets and resources wise break up of work hours were available in support of the jobs worked upon under the common agreement".* I have perused the KPSN Report. With respect to the above, the KPSN report does not say that that the documents verified by the authors were received directly from the vendors, instead the report mentions that the authors have relied on the documents provided by the management. Therefore, the concerns regarding the genuineness of the transactions raised by PKF and as mentioned in the SCN remains. Secondly, the author of KPSN Report has relied on the statements of the management, I find it astonishing that the forensic auditor i.e. KPSN has simply relied on the statement of management or documents provided by the management without reviewing the documents/supporting evidence independently, especially when the statutory auditors raise concerns regarding those documents itself. In view of the aforesaid findings such as the vendors were fictitious, the company created fictitious email IDs to mislead the forensic auditor, etc. I find that the allegations made in the SCN are correct.

21.3.5. The Noticees have also submitted that all accounting decisions taken by the Company were in line with relevant accounting standards and were bonafide. The Noticees have also referred to the order dated November 07, 2019 of Hon'ble SAT in Tree House Education and Accessories Ltd. v. SEBI to contend that SEBI cannot revaluate the business decisions and audited figure of the Company in absence of any malafide actions. In this regard, I note that it has already been found that the Company has misrepresented its books of accounts by booking fictitious revenue and expenses. It is a matter of fact that statutory auditor of the Company i.e. Deloitte had raised concerns regarding the financials of the Company and filed a report under Section 143(12) of the Companies Act., 2013 with Central Government and subsequently resigned. The observations of the statutory auditor were confirmed by PKF and GT in their reports. Therefore, malafide in this case is writ large. Therefore, the reliance placed by the Noticee on the decision of Hon'ble SAT in Tree House matter is misplaced.

21.4.1. In view of the misrepresentation in the financials of the Company because of which the consolidated revenue of the Company rose manifold within short span of time i.e. from Rs. 271.93 Crore in FY 2015-16 to Rs. 850.39 Crore in FY 2018-19 and its balance sheet size increased manifold within a short span of time i.e. from Rs.44.76 crore as on March 31, 2013 to Rs.997.99 crore as on March 31, 2019, I note that the certification provided by CEO and CFO under Regulation 17(8) read with Part B of Schedule II of LODR Regulations was not correct. Further, the Company has violated Regulations 33 (1) (a), (c) and 48 of LODR Regulations and Regulation 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations, 2003 as misrepresented financials were disclosed to the stock exchanges. Further, the aforesaid misrepresentations were made as a part of fraudulent scheme of misrepresentation of financials of the Company.

Therefore, the Company has violated Section 12A (c) of SEBI Act, 1992 and Regulations 3(d) and 4(1) of PFUTP Regulations, 2003 also.

Part B
Allegation of siphoning of funds of Rs. 3.83 crore

22. I note that the SCN alleged violations regarding siphoning of funds to the tune of Rs. 3.83 Crore to Shri Suresh Venkatachari (Noticee no. 2) by the Company. The allegations, as made in the SCN are as under:

"Rented premises from Mr. Suresh:

15.95. It was observed by GT that the Company has rented 11,265 sq. ft. premises from its promoter Mr. Suresh Venkatachari situated at 168, Eldams Road, Alwarpet, Chennai – 600 018 at a rental of Rs. 14 Lakhs per month (i.e. at the rate of Rs. 125/- per sq. ft.). The Company also paid a security deposit of Rs. 1.40 Crore for aforesaid rent agreement. The same was leased from October 2016 onwards with a lock in period of nine years. However, on March 31st, 2019, the Company terminated the lease agreement. The abovementioned Security Deposit of Rs. 1.40 Crore and expenses on improvements of Rs. 2.43 Crore were adjusted against outstanding loan of Rs. 13.95 crore of Mr. Suresh Venkatachari to the Company.

15.96. During the course of investigation, based upon the statements of directors and KMPs, it was found that the Company never shifted to the abovementioned premises. Further, as per site visit of GT, it was found that the building was incomplete and under construction. Considering that the building was still under construction, the abovementioned adjustment of expenses on improvements and the security deposit against outstanding loans of Mr. Suresh Venkatachari did not appear to be a genuine transaction. By reducing outstanding loan by Rs. 3.83 Crore, the Company has fraudulently siphoned the said amount to promoter."

23. In response to the above, the Noticees have submitted the following:

"F. There has been no siphoning off funds to Mr. Suresh Venkatachari

165. The allegation that we siphoned off Rs. 3.83 Crore to its Promoter and Managing Director, Mr. Suresh Venkatachari by payment of security deposit and booking *improvements costs in the name of renting a building which was under construction is misplaced and devoid of merit.*

166. In this regard, it is submitted that we obtained a working capital facility with IFCI between February 27,2017 and October 1, 2018. Mr. Suresh had pledged personal assets and 25,75,000 equity shares held by him. The same is evident from the disclosure made by us dated October 1, 2018 and disclosure made by Mr. Suresh dated October 8, 2018, in this regard. Copies of the disclosure made by us dated October 1, 2018 and disclosure made by Mr. Suresh dated October 8, 2018 have been enclosed herewith as Annexure BB (colly).

167. Subsequently, between October 16, 2018 to November 2, 2018, IFCI invoked the pledge on 20,27,830 equity shares to realise the loan.

168. Pursuant to the invocation of pledge by IFCI, our loan from IFCI amounting to INR 13.95 crores in the FY 2018-19 was replaced with the Mr. Suresh's loan to us.

169. It is submitted that we paid INR 1.40 crores as security deposit and incurred expenses amounting to INR 2.43 crores for improvement of the premises. Since we did not take possession of the premises due to the fact that the renovation of the said premises took more than a year and the requirements changed due to the additional requirement of parking facilities, we intended to reverse the transaction. Hence, INR 3.83 was adjusted towards Mr. Suresh's loan to us.

170. Therefore, the Company never siphoned off the funds as alleged. We merely adjusted the money owed by Mr Suresh against the loan payable to Mr Suresh.

171. In view of the above facts to arrive at such a fallacious conclusion is absurd and the charge should be dropped."

24. In this regard, I note that the SCN has alleged that Rs. 3.83 crore were siphoned off to Noticee No. 2 under the pretext of setting off of amounts payable by the Company to Noticee No. 2. In this regard, the Company and Noticee no. 2 have merely reiterated the nature of transaction i.e. setting off of amounts payable to Noticee no. 2 by Noticee no. 1 as repayments of loan with refund of security deposit and amounts spent on improvements by Noticee no. 1. In support of their contention, the Company and Noticee no. 2 have only provided a copy of the disclosure made on stock exchanges regarding creation of pledge on shares of the

Company held by Noticee no. 2, which shows that Noticee no. 2 had pledged 6,75,000 shares of the Company towards loan taken by the Company from IFCI. No further inferences can be drawn from this document. The Company and Noticee no. 2 have not produced documents like loan agreement between the Company and IFCI, pledge agreement amongst the Company, IFCI and Noticee no. 2 to show that in the event of invocation of pledge by IFCI Noticee no. 2 will subrogate IFCI as lender, Board resolution authorising the Company to set off the amounts with Noticee no. 2, rent agreement between the Company and Noticee no. 2, etc., to demonstrate the claimed transactions. Further, the forensic auditor GT in March 2022 found that the premises at Chennai in respect of which rent agreement is claimed to have been entered into between the Company and Noticee no. 2 was under construction and not ready for occupation, therefore, the claim by the Company and Noticee no. 2 that the Company had incurred expenses on renovation of the premises, are not correct. In view of the above, on preponderance of probabilities, I find that the allegation made in the SCN that the Company has siphoned of Rs. 3.83 crore to Noticee no. 2, is correct in this regard and therefore, I find that the Company and Noticee no. 2 have violated Section 12A (c) of SEBI Act, 1992 and Regulation 3(d) and 4(1) of PFUTP Regulations, 2003.

Part C
Other allegations

25. I note that SCN alleged violations regarding delay and non-co-operation during investigation and violations of other disclosure related requirements. The allegations in this regard, made in the SCN, are dealt in the following paragraphs.

(i) Non-disclosure of initiation of forensic audit

25.1.1. The SCN alleged that the Company did not make disclosure regarding initiation of forensic audit as required under LODR Regulations. With respect to the same, the SCN alleged the following:

"14.12. As discussed above, SEBI on March 25, 2021, had appointed GT to conduct independent forensic audit of standalone financial statements of the Company for FY 2017-18, FY 2018-19, FY 2019-20 and nine months ended December 2020. The same was communicated to the Company vide letter dated March 25, 2021. The Compliance Officer of the Company vide letter dated March 29, 2021 acknowledged the receipt of SEBI's letter and replied that CFO of the Company, Mr. R Thyagarajan would be the point of contact for aforesaid audit.

14.13. In terms of Regulation 30(2) of SEBI (LODR) Regulations, 2015, the Company was required to make disclosure of initiation of the abovementioned forensic audit to the exchanges. However, instead of making disclosure to the exchanges, the Company vide letter dated April 15, 2021 made false representation to SEBI to drop the proceedings, as has already been discussed in above paragraphs. Further, the Company wrongfully cited the non-receipt of SEBI's response as an excuse for not making disclosure of aforesaid forensic audit to the exchanges. The fact of initiation of forensic audit was disclosed by exchanges on their own on March 28, 2022."

25.1.2. In response to the above, the Noticees have submitted the following:

"172. It is respectfully submitted that the allegation with respect to initiation of forensic audit is also misplaced. It is relevant to note that we were already in receipt of the KPSN report which had disagreed with the findings of Deloitte. As such, we had even made a representation dated April 15, 2021 and May 24, 2021 to drop off the forensic audit.

173. Without prejudice to the above, it is respectfully submitted that the aforesaid allegation is entirely identical to the charge levied under Show Cause Notice issued to the Company dated June 21, 2022, in respect of which an order has already been passed by the Adjudication Officer dated September 14, 2022. Therefore, it is respectfully submitted that parallel proceedings cannot be initiated against the Company for the aforesaid violation. It is relevant to also note that the Company is in the process of preferring an appeal challenging the aforesaid finding before the Hon'ble SAT."

25.1.3. In this regard, I note that Noticees have not disputed the allegation that they did not make disclosure about initiation of forensic audit by SEBI. However, the Noticees have contended that since they were already in receipt of KPSN

Report, the Company made representation before SEBI to drop off the forensic Audit. The contention of the Noticees is that the disclosure regarding forensic audit was not made as they were waiting for SEBI's reply to their representation. In this regard, I note that the forensic auditor i.e. GT was appointed by SEBI on March 25, 2021 and intimation regarding the appointment was sent to the Company on March 25, 2021. In terms of the relevant provision of LODR Regulations, the disclosure regarding initiation of forensic audit is a material event which is required to be disclosed with 24 hours from the occurrence of event or information, i.e. the disclosure regarding initiation of forensic audit was required to be done by March 26, 2021, which was not done. The contention of the Noticees that they did not make disclosure due to pendency of their representation dated April 15, 2021, is bereft of any merit as the said representation was made 21 days after such disclosure ought to have been made. Further, assuming the Noticees were awaiting response from SEBI on their representation, as contended by them, this does not mean that requirement under Regulation 30 of LODR Regulations is wiped off or kept in abeyance. I note that Regulation 30 of LODR Regulations itself does not make any exception for disclosure in case a representation is made to SEBI regarding initiation of forensic audit. In such a scenario ideal course of action for the Company would have been to make the disclosure along with the fact that the Company had made a representation to SEBI and its outcome was awaited. The Company was in no case at liberty to not make the disclosure under the garb of pending representation with SEBI. The Noticees were also well aware of this legal position as the disclosure was eventually made on March 28, 2022, without any reply on the representation being received from SEBI. Therefore, I find that the Company has violated Regulation 30(2) of the LODR Regulations.

25.1.4. I note that Noticees have referred to AO order dated September 14, 2022 wherein a penalty has already been imposed upon Noticee no. 1 for violation of Regulation 30(2) of LODR Regulations. I note that in the SCN violation of Regulation 30(2) has been alleged as part of whole fraudulent scheme of manipulation of books of accounts of the Company and any determination in respect of violation of Regulation 30(2) in this order would be taken into account for issue of regulatory directions under Sections 11(1), 11(4) and 11B (1) of the SEBI Act, 1992 and not for imposition of monetary penalty under Section 15HB of SEBI Act, 1992.

25.1.5. The SCN alleged violation of certain related party disclosures requirements. With respect to the same, the SCN alleges the following:

"15.1. PKF agreed with the findings of Deloitte and concluded inter alia that the Company incorporated subsidiaries overseas but failed to disclose these companies as subsidiaries. PKF and Deloitte also observed that directors, namely Suresh Venkatachari, R S Ramani and Gurumurthi Jayaraman, failed to disclose their interests in foreign companies. The entity-wise findings are as under:

Findings w.r.t. 8K Miles Cloud Solutions PTE Ltd, Singapore:

15.2. Deloitte and PKF observed that the Company incorporated subsidiary in Singapore in the name of 8K Miles Cloud Solutions PTE Ltd and STL was the only shareholder in that company. However, the same was not disclosed as subsidiary by STL to shareholders of the Company.

15.3. As per the annual return of 8K Miles Cloud Solutions PTE Ltd for the year 2018 filed with Accounting & Corporate Regulatory Authority of Singapore (ACRA), STL has subscribed and paid SGD 1,00,000 as share capital. However, the payment proof was not appearing in the books of accounts of STL. On being asked about the same, Mr. Suresh, in his statement dated April 06, 2022 stated that "The company was incorporated for the purpose of expanding STL business as subsidiaries however no capital was transferred to subscribe the shares of such companies hence it never become subsidiary".

15.4. Further, 8K Miles Cloud Solutions PTE Ltd also filed unaudited financial statements for FY 2017-18 with ACRA wherein loss of SGD 2,835 was shown and net worth was shown as SGD 97,165. This shows that even though the Company had filed financial statements of the company, namely 8K Miles Cloud Solutions PTE Ltd, it had failed to disclose the said company to the shareholders of the Company.

Findings w.r.t. 8K Miles Software Services UK Limited, UK and 8K Miles Software Services PTE Ltd, Singapore:

15.5. Deloitte and PKF observed that the Company also incorporated another two subsidiaries in the name of 8K Miles Software Services UK Limited, UK and 8K

Miles Software Services PTE Ltd, Singapore in which R S Ramani and Suresh Venkatachari were directors. However, the Company did not disclose them as subsidiaries. The incorporation of wholly owned subsidiaries in these countries was approved by the Board of Directors of the Company on May 30, 2018. It was observed from Annual report of the Company for FY 2018-19 that in response to auditor's observation, the management had responded that "One of the director has incorporated on behalf of the parent company two foreign subsidiary companies. Since there is no possible economic benefit arising out of these companies, the management is in the process of striking off the Company. Under the circumstances and there are no commercial transactions, these were not consolidated". Further, Mr. Suresh in his statement dated April 06, 2022 to SEBI stated that "The company was incorporated for the purpose of expanding STL business as subsidiaries however no capital was transferred to subscribe the shares of such companies hence it never become subsidiary".

15.6. The above observations show that STL incorporated subsidiaries overseas, without disclosing them as subsidiaries.

Non-disclosure of interest in foreign companies:

15.7. It was identified that directors of STL, Suresh Venkatachari, R S Ramani and Gurumurthi Jayaraman were director/shareholder in foreign companies. However, they failed to disclose their interest in these companies. Further, the Company also did not disclose these foreign companies as related parties under SEBI (LODR) Regulations, 2015 and Companies Act, 2013. The details of these companies are as follows:

SN	***Name of foreign company***	***Name of Director of STL***	***Shareholder/Director***
1	*Mentor Minds Solutions and Services PTE Ltd*	*V. Suresh*	*Director and Shareholder*
		Gurumurthi Jayaraman	*Shareholder*
2	*Netsavvy Solutions PTE Ltd*	*V. Suresh*	*Director and Shareholder*
3	*Aascar Films PTE Ltd*	*V. Suresh*	*Director and Shareholder*
4	*Vasanthanbhavan (Singapore) PTE Ltd*	*V. Suresh*	*Director and Shareholder*
5	*Madi Street PTE Ltd*	*V. Suresh*	*Director and Shareholder*
6	*8K Miles Software Services PTE Ltd*	*V. Suresh*	*Director and Shareholder*
7	*8K Miles Cloud Solutions PTE Ltd*	*V. Suresh*	*Director*
8	*8K Miles Software Services UK Limited*	*R S Ramani*	*Director and Shareholder*
9	*8K Miles Software Services FZE*	*R S Ramani*	*Manager (Interest in management control)*

15.8. Further, it was also observed that Suresh Venkatachari and R S Ramani were CEO/CFO/MD/Shareholder/Director in various group companies of 8K media including NJ Theatre, 8K Radio, 8K EBC, Unifia Capital Partners, GVMS which were not disclosed by them to the Company."

25.1.6. In response to the above, the Noticees have submitted the following:

"185. It is submitted that 8K Miles Software Services UK Limited and 8K Miles Cloud Solutions Pte. Ltd are not our subsidiaries. Also, even though Board approval was taken for investment in 8K Miles Software Services UK Limited and 8K Miles Cloud Solutions Pte. Ltd. However, this investment never materialized and there was no outflow of funds to subscribe for the shares of 8K Miles Cloud Solutions Pte Ltd.

186. Further, the Notice also alleges that we have not disclosed certain foreign companies as related parties. However, SEBI has failed to acknowledge that we have uploaded the financial statements of all its subsidiaries on our website.

187. In view of the above, it is humbly submitted that the charge under Regulation 48 of the LODR Regulations cannot be brought against us."

25.1.7. In this regard, I note that the SCN has alleged that the 8K Miles Cloud Solutions PTE Ltd, Singapore, 8K Miles Software Services UK Limited, UK and 8K Miles Software Services PTE Ltd, Singapore were not disclosed as subsidiaries by the Company. These allegations have emanated in the wake of observations made in Deloitte Report made on the basis of records of Accounting & Corporate Regulatory Authority of Singapore ("ACRA, Singapore") and disclosures made in the annual report of the Company. In response to these allegations, the Noticees have dealt with allegations in respect of only two companies and regarding the third company the reply is silent. Further, even in the response given in respect of two companies, only in respect of one company the Noticees have categorically stated that there was no outflow of funds to subscribe to the shares of 8K Miles Cloud Solutions Pte. Ltd. No such categorical statement has been made regarding their investment in 8K Miles Software Services UK Ltd. Therefore, the reply given by the Noticees in this regard is evasive. Moreover, it is noted that the submissions by the Noticees that there was no outflow of funds by the Company to subscribe to the shares of 8K Miles Cloud Solutions Pte. Ltd. stands belied in view of the documentary evidence as downloaded from website of overseas regulator i.e. ACRA, Singapore provided in Deloitte Report, which shows that 8K Miles Cloud Solutions Pte. Ltd. has a paid up capital of SGD 1,00,000 and 100% shareholding is held by the Company. Therefore, the explanation put forth by the Noticees in respect of one subsidiary is not tenable. In view of this, I find that the Company has violated Regulation 48 of LODR Regulations by not disclosing its overseas subsidiaries, as mentioned above.

(ii) Delay in submission of information, non co-operation by the Company in investigation, False submissions to SEBI during the course of investigation and False disclosure in quarterly financial statements:

25.2.1. The SCN alleged that the Company made false disclosures in quarterly financial results. Further, the SCN alleged that the false representations were made to SEBI and there was non-cooperation in SEBI's investigation. With respect to the same, the SCN alleges the following:

"14.1. The company filed its quarterly financial results for quarters ending June 2019 and September 2019 with exchanges on March 01, 2020. In the said financial results, with regard to the auditor's observation that "We are informed that as on the date of this report, the investigation report of the external firm of Chartered Accountants for the matters reported u/s 143(12) not received by the Company and hence the same has not been made available to us.", the Company made the following management response: We have received the draft report. The report, management is reviewing it and will be made available to the Audit Committee shortly and for further noting by the Board."

14.2. In respect of the above, vide email dated March 13, 2020, SEBI advised the Company to provide the draft report of PKF in respect of the forensic investigation undertaken by them on the issues raised by Deloitte. Vide emails dated March 23, 2020, April 15, 2020, May 04, 2020, May 19, 2020, June 03, 2020, June 15, 2020 and July 02, 2020, the Company sought extension of time on seven instances, on the grounds of Covid-19 lockdown and subsequently imposed restrictions. On every occasion, extension of time was granted to the Company by SEBI.

14.3. Subsequently, the Company vide email dated July 13, 2020 replied to SEBI's email dated March 13, 2020. Vide the said email, the Company did not provide any report of PKF but submitted a report of another Auditor, namely, M/s KPSN & Associates. However, the Company in its previous replies and in aforesaid seven emails had never mentioned about appointment of another auditor, namely M/s KPSN & Associates. Further, even the audit committee in its letter dated February 29, 2020 had not mentioned that in place of PKF they had appointed KPSN as "special auditors".

14.4. In this regard, vide email dated May 19, 2022, KPSN was advised to provide copies of draft reports, if any, submitted to the Company along with delivery proof. In response, KPSN vide email dated May 20, 2022 informed that they did not submit any draft report to the Company and that the final report was submitted to the Company on December 31, 2019 and the same was signed on January 04, 2020.

14.5. Further, vide email dated March 25, 2022 PKF was advised to provide copy of report submitted by them to the Company. In this regard, vide email dated March 28, 2022, PKF provided copies of email conversations with the Company and the copy of forensic audit report. On examination of same, it was noted that final forensic audit report was submitted by PKF to the Company on January 09, 2020 by addressing the same to the Chairman of the Audit Committee – Mr. Dinesh Raja Punniamurthy. It was also noted from email dated December 02, 2019 of PKF, which was sent by them to the Chairman of the Audit Committee, CEO and CFO of the Company, that PKF's report was ready on November 02, 2019 itself and this report was discussed with the management of the Company. However, vide letter dated November 08, 2019, the Company informed PKF that their services were dis-engaged, since they could not submit the report within 30 days of their engagement. In this regard, it was noted from the copies of emails provided by PKF that their report was ready well before their dis-engagement. While the Company claimed to have dis-engaged PKF on the ground that they could not submit the report within 30 days of their engagement, the records show that and the audit process was still going on even after 30 days of audit engagement as most of the data was provided by the Company to PKF almost after 30 days of audit engagement only. The same shows that the audit was delayed by company and not by auditors.

14.6. The above observations show that the Company's statement in the financial results for June 2019 and September 2019 quarters, filed with exchanges on March 01, 2020, that it had received a draft report was false as it had received the final report from auditors. Also, the Company had intentionally hidden the fact of submission *of report by PKF. In fact, at the time of disclosure of quarterly financial results, final reports from both forensic auditors, PKF and KPSN, were already available with the Company. Even then, the Company intentionally made false disclosure to shareholders in quarterly financial results. The above observations show that the disclosures made by the Company in quarterly financial results for quarters ending June 2019 and September 2019 were false.*

14.7. The Chairperson of Audit Committee, Mr. Dinesh Raja Punniamurthy, vide letter dated February 29, 2020 to SEBI has stated that "the committee noted that there was no specific violation mentioned in the summary of observations with references given by Deloitte to the company with respect to provisions of SEBI Act and Rules/Regulations made thereunder". It was also mentioned in said reply that since PKF could not complete the report within stipulated time, the Company had disengaged their services in the meeting held on November 06, 2019. However, as discussed above, it was clear from copies of emails provided by PKF that PKF had submitted forensic audit report to Mr. Dinesh Raja Punniamurthy through email on January 09, 2020 itself. This shows that Mr. Dinesh Raja Punniamurthy had made false submissions to SEBI. The aforesaid observations show that the representations made by the Company vide letters dated February 29, 2020, July 13, 2020 and April 15, 2021 to SEBI were false.

14.8. SEBI appointed GT to conduct independent forensic audit of standalone financial statements of the Company on March 25, 2021. However, the Company did not co-operate with GT. Instead, it made a representation dated April 15, 2021 to SEBI to drop the forensic audit inter-alia in light of KPSN report and again re-iterated that PKF could not submit its report on time. It was noted that GT wrote multiple emails to the Company asking it to provide the information to them. However, the Company either did not provide the information or provided incomplete information. Therefore, Summons and letters were issued by SEBI to the Company. However, again the Company did not provide complete information. As the Company did not co-operate, statements of CFO and Compliance officer were recorded on oath on December 06, 2021 and December 07, 2021, respectively. Even after that, the Company did not co-operate in SEBI's investigation and forensic audit conducted by SEBI. Further, GT vide email dated March 04, 2022 had written to CFO of the Company for the 13th time to provide the pending information. It was noted that on previous 12 occasions, the Company either did not provide the information or provided incomplete information. This shows that the Company did not co-operate in SEBI's investigation."

25.2.2. In response to the above, the Noticees have submitted the following:

H. No delay in submission of information, non-cooperation by us in investigation, and false submission to SEBI during investigation

174. It is respectfully submitted that the allegation with respect to delay in submission of information, non-cooperation by us in the investigation and false submissions to SEBI during the investigation is incorrect and merit no consideration.

175. It is respectfully submitted that we have cooperated at all times with SEBI and that there has neither been any delay nor any false statement made.

176. It is respectfully submitted that the entire premise of SEBI's allegation is unfounded and without any basis or appreciation of the entire facts of the matter. As demonstrated in the above paragraphs, we have received a copy of the PKF report only at the stage of proceedings before the Hon'ble SAT and after issuance of the Notice. It is respectfully submitted that when we did not even have copy of the PKF Report, we could not have been in a position to share the same which was duly communicated to SEBI and the external auditors.

177. We have even produced the copy of the letter dispensing away with the services of PKF and evidently produced the engagement letter with KPSN. The report of KPSN was submitted to SEBI and the external auditors also. It is relevant to note we are a listed company and believes in transparency and good governance. Such allegations on a listed company without any supporting evidence tarnishes the reputation which has been built over years.

178. Therefore, in view of the above, it is respectfully submitted that the allegation that we submitted false information to SEBI vide letters dated February 29, 2020, July 13, 2020 and April 15, 2021 is baseless and not tenable. we have not submitted any false representation to SEBI, at any point in time.

179. Thus the charge under Section 1 1 (2)(ia) of the SEBI Act cannot be made out against us.

I. No False Disclosures in the quarterly financial statements for quarters ending June 2019 and September 2019

180. The allegation that the Company made false disclosures in its quarterly financial statements is baseless and merits no consideration. We respectfully submit that the disclosures made in the financial statements for quarters ending June 2019 *and September 2019 are accurate and no fault can be observed with respect to the same.*

181. As submitted above, the PFK Report was seen by the Company only when made available by SEBI and not in January 2020 as contested by SEBI. In view thereof, the violation of Regulation 4(1) (c) of SEBI LODR Regulations cannot sustain.

25.2.3. I note that the Company in its disclosures made on March 01, 2020 with respect to financials for the quarters ending June, 2019 and September, 2019, informed that as on March 01, 2020, it had received a draft report from the forensic auditor appointed by it to look into the issues raised by Deloitte and categorically stated that it had not received any final report. However, as alleged in the SCN quoted above, the Company had received the final report of PKF on January 09, 2020 and report from KPSN on January 04, 2020. I note that Noticees in their replies have denied ever receiving report from PKF. However, the Noticees have accepted that they had received KPSN report on January 04, 2020. Therefore, as on the date of making disclosures, i.e. March 01, 2020, the Company was in possession of KPSN report despite that it made false disclosure that it had received only draft report. Further, email dated December 02, 2019 from PKF to the Chairman of Audit Committee, CEO and CFO, of the Company indicates that the draft report of PKF was ready and was discussed with the Company on November 02, 2019. Further, vide email dated March 28, 2022, PKF has informed SEBI that it had provided the final report to the Company on January 09, 2020. Thus, as on March 01, 2020 (when the company made quarterly disclosures), it final reports from KPSN as well as PKF. Therefore, the disclosure made by the Company on March 01, 2020 were false, as per their own reply as well as on the basis of the material available on record.

25.2.4. Regarding the allegation of furnishing of false information to SEBI by the Company during the investigation, I note that in response to SEBI's email dated February 12, 2020, *inter alia,* seeking the comments of the audit committee on the observations made by the Deloitte and share the findings of PKF report, Chairman of the Audit Committee of the Company vide its letter dated February

29, 2020 informed that services of the PKF have been disengaged on November 06, 2019. As found in the previous para, the Company had received in January, 2020 not only the report of PKF but also of KPSN, however, the Company neither shared the PKF report with SEBI, as was received by it on January 09, 2020 nor it informed SEBI regarding the appointment of KPSN and the report received from KPSN on January 04, 2020. I also note that despite having PKF as well as KPSN reports in its possession since January, 2020, the Company kept seeking extension of time to furnish the draft of PKF. It shows that the Company intentionally did not submit the report to SEBI and sought repeated extensions. The Company made false representations to SEBI, vide its letter dated July 13, 2020 and April 15, 2021, stating that PKF was dis-engaged as PKF could not submit the report within 30 days of its engagement. Email dated March 28, 2022 of PKF to SEBI shows that their report was ready well before their dis-engagement, and the audit process was still going even after 30 days of audit engagement as the Company was providing data to them. Noticees have not given any specific response in this regard. Therefore, I find that allegation regarding furnishing of false information by the Company is correct.

25.2.5. Regarding the allegation of non-cooperation by the Company, I note that SCN alleges that the Company did not co-operate with SEBI appointed forensic auditor i.e. GT, as the Company did not provide information to GT despite several emails and provided incomplete information. Further, SCN records that GT was not provided information by the Company despite 12 emails. SCN also records that the Company did not provide complete information to GT despite summons dated November 11, 2021 and February 23, 2022 by SEBI. In this regard, Noticees in their replies has simply asserted that they had co-operated all the time without submitting any supporting proof in this regard. Thus, I find that the Company did not furnish complete information to GT and SEBI.

25.2.6. In view of the findings given in the foregoing paras, I find that Noticee no. 1 and 2 i.e. the Company and its MD&CEO, have violated Section 11(2)(ia) of SEBI Act, 1992.

PART D
Role of Directors of the Company

26. Before dealing with the role of the directors of the Company, i.e. Noticee nos. 2, 3 and 4, I note that the allegations levelled against these Noticees are linked to the allegations levelled against the Company which have been dealt in Part A, B and C above and my findings given on those allegations apply to allegations against the Noticee nos. 2, 3 and 4, unless response of these Noticees shows otherwise. I also note that Noticee nos. 2, 3 and 4 have also adopted the reply dated October 04, 2022 of the Company and requested to treat the reply of the Company as incorporated by reference in their respective replies. Therefore, for the sake of brevity and clarity, in this part only those contentions of the Noticees, which are not there in the reply of the Company, are dealt with.

Role of Noticee no. 2:

27. With respect to the role of Noticee no. 2, the allegations made in the SCN are as under:

"19.1. During the course of investigation, the Investigating Officers have recorded statements of various persons who were at the helm of affairs of the Company during the relevant period. The statement of Mr. Suresh Venkatachari, who was the Managing Director and CEO of the Company during the relevant period was recorded on April 06, 2022. Thereafter, certain information was furnished by him vide emails dated April 21, 2021, May 17, 2022 and May 24, 2022.

19.2. As per the findings of investigation, Mr. Suresh Venkatachari is the Managing Director (MD)/Chief Executive Officer (CEO) and Chairman of Board of directors of STL during the Investigation period. He was also a member of the Stakeholder Relationship Committee during the Investigation Period. He was the Group CEO and had control of STL and all its subsidiaries. All vertical heads of STL and its subsidiaries reported to him. Besides being MD/Chairman, he is also a 'Key Managerial Personnel' in the Company by virtue of his designation as the CEO/MD, in terms of Section 2(51) of the Companies Act, 2013. Mr. Suresh Venkatachari, as the CEO, had various specific responsibilities, which included *creation of business road map, taking strategic decisions in helping business and functional leaders to meet objectives set for organization, ensuring statutory and regulatory compliances, and managing and mitigate various risks, internal and external.*

19.3. The MD and CEO of a company occupies the topmost executive position in the management of a Company and is duty bound to act in the best interests of the Company and its shareholders. In the instant matter, the investigation had revealed various transactions undertaken by STL, which were detrimental to the interest of the Company and its shareholders and were violative of various regulatory requirements, as discussed in detail in above paragraphs. Such transactions could not have taken place without the knowledge, approval and involvement of Mr. Suresh Venkatachari, who headed the corporate hierarchy of STL as the CEO and Managing Director.

19.4. Investigation has revealed that being the MD and CEO, Mr. Suresh Venkatachari, in connivance with the Company's CFO Mr. R S Ramani, abused his position and indulged in the manipulation of books of accounts of the Company and misrepresentation of its financial statements. He, along with Mr. R S Ramani, played a direct role and also used other senior employees of the Company / subsidiaries of the Company, i.e. P K Chandrasekher, Mr. Shibu Kizhakevilayi, Mr. Robinson etc. in creating a mechanism to inflate the revenue and assets of the Company and publish false and manipulated financial statements so as to present a rosy picture about the Company to the investors and to induce them to invest in the shares of the Company. It is alleged that taking advantage of the spurt in price of the scrip due to publication of inflated financial results, Mr. Suresh Venkatachari off-loaded a large part of his shareholding in the Company during the investigation period, which reduced the overall shareholding of the promoter group in the Company from 63.41% as on March 31, 2017 to 38.20% as on March 31, 2019. The details of the off-loading of shares by Mr. Suresh Venkatachari are as under:

Suresh V - CDSL & NSDL– Off market transfer

Date (A)	***No. of Shares (B)***	***Closing Share price as on the date of off market transfer (BSE) (C)***	***Value of shares (D) (B*C)***
19.03.2018	*2,50,000*	*Rs.674.80*	*Rs.16,87,00,000/-*
20.03.2018	*3,74,500*	*Rs.666.0*	*Rs.24,94,17,000/-*
26.03.2018	*3,00,000*	*Rs.669.60*	*Rs.20,08,80,000/-*
02.04.2018	*7,25,500*	*Rs.695.55*	*Rs.50,46,21,525/-*
21.05.2018	*5,00,000*	*Rs.531.00*	*Rs.26,55,00,000/-*
28.06.2018	*4,50,000*	*Rs.477.25*	*Rs.21,47,62,500/-*
06.07.2018	*90,000*	*Rs.377.55*	*Rs.3,39,79,500/-*

09.07.2018	*10,000*	*Rs.382.25*	*Rs.38,22,500/-*
01.10.2018	*12,50,000*	*Rs.182.65*	*Rs.22,83,12,500/-*
Total	***39,50,000 (12.94%)***		***Rs.1,86,99,95,525/-***

Suresh V (Creation and Invocation of Pledge) – NSDL

Creation of Pledge Date	***No. of Shares***	***Closing Share price as on the date of creation of pledge (BSE)***
27.02.2017	*10,50,000*	*Rs.579.55*
02.03.2017	*1,50,000*	*Rs.639.10*
03.04.2017	*2,50,000*	*Rs.611.40*
07.09.2017	*1,00,000*	*Rs.479.45*
15.09.2017	*3,00,000*	*Rs.406.55*
01.10.2018	*6,75,000*	*Rs.376.90 (Sep. 29, 2017)*
Total	***25,25,000***	

Invocation of Pledge

Date	***No. of Shares***	***Closing Share price as on the date of invocation of pledge (BSE)***
16.10.2018	*1,12,376*	*Rs.117.90*
17.10.2018	*9,707*	*Rs.112.05*
01.11.2018	*9,27,917*	*Rs.60.60*
01.11.2018	*1,50,000*	*Rs.60.60*
01.11.2018	*1,00,000*	*Rs.60.60*
01.11.2018	*2,29,630*	*Rs.60.60*
02.11.2018	*70,370*	*Rs.65.95*
02.11.2018	*4,27,830*	*Rs.65.95*
Total	***20,27,830 (6.64%)***	

19.5. As per the findings of investigation, Mr. Suresh Venkatachari was acting as the main point of communication between the board of directors and corporate operations of STL. As the CEO, all other Operational heads were reporting to him. However, at no point of time, he informed to the board and audit committee of the Company about the findings and report of M/s PKF Shridhar and Santhanam. In fact, he made every effort to misguide SEBI by repeatedly stating that the services of PKF were dis-engaged as they could not submit their report. In fact, he submitted a "managed" report from M/s KPSN & Associates to SEBI to mislead the investigation. He made false representations and gave false statement to SEBI including that no report was submitted by PKF. He dismissed the concerns of statutory auditors – M/s Deloitts Haskins & Sells as being without any merit and void and requested SEBI to ignore such concerns. He did not disclose incorporation of overseas subsidiaries in the Company's annual reports and also failed to disclose his interest in the subsidiaries of the Company, by way of shareholding and directorship. He also did not disclose to the exchanges the fact of initiation of forensic audit by SEBI. Further, Mr. Suresh Venkatachari had siphoned off the Company's funds to the tune of Rs.3.83 Crores, as detailed in above paragraphs.

19.6. The CEO/CFO certificate signed by Mr. Suresh Venkatachari in the Annual Reports of the Company for FY 2016-17 to FY 2019-20 stated inter-alia that "the financials of securekloud presented true and fair view of its affairs and not contained any misleading statement" and "no transactions entered into by the Company during the year which are fraudulent, illegal or violative of the Company's code of conduct". However, as discussed above, it was found that the same was grossly misleading.

19.7. Section 27(2) of SEBI Act, 1992 inter alia stipulates - "Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention 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 contravention and shall be liable to be proceeded against and punished accordingly". Thus, Mr. Suresh Venkatachari, being the MD and CEO of the Company, is responsible for the contraventions done by the Company, as alleged above.

19.8. In view of the above, it is alleged that Mr. Suresh Venkatachari, MD & CEO, being in-charge of the operations and decision making process in the Company, abused his position and manipulated the financial statements of the Company and published such false and manipulated financial statements to induce investors to invest in the shares of the Company. He is also alleged to have siphoned Rs. 3.83 Crore from the Company for his own benefits and also made personal gains by off-loading shares when the price of the scrip was high during the time of false disclosures, as detailed above. It is therefore alleged that he has violated the provisions of Section 12A(a),(b),(c) of SEBI Act, 1992 and Regulation 3(b), 3(c), 3(d), 4(1), 4(2)(f), 4(2)(k) and 4(2)(r) of the SEBI (PFUTP) Regulations, 2003 and Regulations 4(1)(a), (b), (c), (g), (h), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6),(7), 4(2)(f)(iii)(1)(3), (6), (12) read with Regulation 33 (1) (a), (c) and 48 of SEBI LODR Regulations, 2015 read with Section 27 of the SEBI Act, 1992. By not disclosing the fact of initiation of forensic audit by SEBI, he is alleged to have violated Regulation 30(2) of SEBI (LODR) Regulations, 2015. By submitting the false information to SEBI vide letters dated February 29, 2020, July 13, 2020 and April 15, 2021, he is alleged to have violated Section 11(2)(ia) of SEBI Act, 1992. By making false disclosure in quarterly financial statements for quarters ending June 2019 and September 2019, he is alleged to have violated Regulations 4(1)(c) of SEBI (LODR) Regulations, 2015. By not disclosing incorporation of foreign

> *subsidiaries and interest in other companies, he is alleged to have violated Regulation 48 of SEBI (LODR) Regulations, 2015. By making false statements to SEBI, he is alleged to have violated Section 11C(3) and 11C(5) of SEBI Act, 1992. By giving false CEO/CFO certification, he has allegedly violated Regulation 17(8) r/w Part B of Schedule II of SEBI (LODR) Regulations, 2015."*

28. In this regard, the SCN has alleged that Mr. Suresh Venkatachari was the Managing Director (MD)/Chief Executive Officer (CEO) and Chairman of Board of directors of STL during the Investigation period. He was also a member of the Stakeholder Relationship Committee during the Investigation Period. He was the Group CEO and had control of STL and all its subsidiaries. All vertical heads of STL and its subsidiaries reported to him. Besides being MD/Chairman, he was also a 'Key Managerial Personnel' in the Company by virtue of his designation as the CEO/MD, in terms of Section 2(51) of the Companies Act, 2013. Mr. Suresh Venkatachari, as the CEO, had various specific responsibilities, which included creation of business road map, taking strategic decisions in helping business and functional leaders to meet objectives set for organization, ensuring statutory and regulatory compliances, and managing and mitigation of various risks, internal and external.

29. As stated above, the violations alleged against Noticee no. 2 are connected to the violations alleged against the Company, which have already been dealt in Part A, B and C. In the following paras, specific contentions (which have not been dealt in Part A, B and C) of Noticee no. 2 with respect to each violation alleged against him are dealt.

30. I note that in the SCN, the first allegation against Noticee no. 2 is of manipulation in the financial statements of the Company and publishing the same to induce investors to invest in the shares of the Company, siphoning of Rs. 3.83 crore from the Company and making personal gains by off-loading shares of the Company when the price of the shares of the Company was high during the time of false disclosures, thereby resulting into violation of Section 12A(a), (b), (c) of SEBI Act, 1992 and Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations, 2003 and Regulations 4(1)(a), (b), (c), (g), (h), (j), 4(2)(f)(i)(2),

4(2)(f)(ii)(2), (6),(7), 4(2)(f)(iii) (1)(3), (6), (12) read with Regulation 33 (1) (a), (c) and 48 of LODR Regulations read with Section 27 of the SEBI Act, 1992.

30.1. In this regard, I note that allegations regarding misrepresentations in financial statements and siphoning of funds have already been found to be true in respect of the Company. Regarding the allegation, Noticee no. 2 has contended that he was not the promoter, shareholder or chairman of Ensys. Further, that he did not have any involvement in the appointment of KPSN nor had any correspondence with KPSN at the time of finalizing the audit report, he had no control on bank account of Ensys and Idol and did not create any domain or email ids as alleged in the SCN and that the 10 vendors were not fictitious or entities managed by the Company. I note that Noticee has made bald contentions without any supporting evidence. On the other hand, in the aforesaid paras, it has been found that Ensys and Idol were the entities controlled by the Company/Noticee no. 2. Further, it has also been found that fictitious expenses were booked by the Company against the 10 vendors and capitalised. Therefore, the contention made by the Noticee in this regard is not tenable.

30.2. By referring to the judgements of Hon'ble Supreme Court in the matter of Ravindranatha Bajpe v. Mangalore Special Economic Zones Ltd. & Ors. 2021 SCC Online SC 806 and Sunil Bharti Mittal Vs. CBI (2015) 4 SCC 609, the Noticee has contended that as MD/CEO, he cannot be held vicariously liable for the acts of the Company. I note that in the present case violations have been alleged against Noticee no. 2 not only in his capacity as MD/CEO of the Company but also because of specific acts attributed to him. The SCN alleges that being the MD and CEO, Noticee no. 2, in connivance with the Company's CFO, i.e. Noticee no. 3, abused his position and indulged in the manipulation of books of accounts of the Company and misrepresentation of its financial statements whereby the consolidated revenue of the Company rose manifold within short span of time i.e. from Rs. 271.93 Crore in FY 2015-16 to Rs. 850.39 Crore in FY 2018-19 and its balance sheet size from Rs.44.76 crore as on March 31, 2013 to Rs.997.99 crore as on March 31, 2019. He, along with

Noticee no. 3, played a direct role and also used other senior employees of the Company / subsidiaries of the Company, i.e. P K Chandrasekher, Mr. Shibu Kizhakevilayi, Mr. Robinson etc. in creating a mechanism to inflate the revenue and assets of the Company and publish false and manipulated financial statements so as to present a rosy picture about the Company to the investors and to induce them to invest in the shares of the Company. The SCN also alleges that Noticee no. 2 was acting as the main point of communication between the board of directors and corporate operations of the Company. As the CEO, all other operational heads were reporting to him. However, at no point of time, he informed to the board and audit committee of the Company about the findings and report of PKF. In fact, he made every effort to misguide SEBI by repeatedly stating that the services of PKF were dis-engaged as they could not submit their report. He made false representations and gave false statement to SEBI including that no report was submitted by PKF. He dismissed the concerns of statutory auditors i.e. Deloitte as being without any merit and void and requested SEBI to ignore such concerns. He did not disclose incorporation of overseas subsidiaries in the Company's annual reports and also failed to disclose his interest in the subsidiaries of the Company, by way of shareholding and directorship. He also did not disclose to the exchanges the fact of initiation of forensic audit by SEBI and that he siphoned off the Company's funds to the tune of Rs. 3.83 crore. The CEO/CFO certificate signed by Noticee no. 2 in the Annual Reports of the Company for FY 2016-17 to FY 2019-20 stated *inter-alia* that *"the financials of securekloud presented true and fair view of its affairs and not contained any misleading statement" and "no transactions entered into by the Company during the year which are fraudulent, illegal or violative of the Company's code of conduct"*. However, the SCN alleges, that the above statement was grossly misleading. Therefore, Noticee no. 2 has been made a noticee in the present proceedings for his individual role also which is permissible as per the judgement in Ravindranatha Bajpe (supra) and Sunil Bharati Mittal (supra). Notwithstanding above, I note that Section 27 of SEBI Act, 1992 provides for vicarious liability of every person who was in-charge of, and was responsible, to the company for the conduct of the business of the company. In the present case. Noticee no. 2 was the MD and CEO of the Company and is thus, liable in terms of Section 27 of SEBI Act, 1992 also.

30.3. Regarding the allegation of personal gain made by the Noticee by selling the shares of the Company at manipulated prices, the Noticee has contended that these shares were sold without his knowledge and consent by the custodian of his lender. In respect of which he has filed a police complaint with Commissioner of Police, Chennai on September 07, 2018, a complaint dated October 12, 2018 to SEBI and also filed an FIR on February 02, 2019, a copy of which has been enclosed with his reply. In view of this, I find that allegation in the SCN regarding sale of shares by Noticee no. 2 at manipulated prices, is not sustainable.

31. In the SCN, another allegation against Noticee no. 2 is of non-disclosure of the fact of initiation of forensic audit by SEBI which resulted into violation of Regulation 30(2) of LODR Regulations. In this regard, Noticee no. 2 has submitted that said obligation is of the listed entity and he cannot be held liable for the same. In this regard, I note that in the SCN, violation of Regulation 4(2)(f) of LODR Regulations has also been alleged which holds board of directors of the listed entity responsible for discharge of certain obligation of the listed entity under the LODR Regulations. In the previous parts of this order, the Company has been found to be in violation of Regulation 30(2) of LODR Regulations, therefore, Noticee no. 2 being part of the board of the directors of the Company, is liable for the violation of Regulation 30(2) of LODR Regulations and the contention of the Noticee in this regard, is not tenable.

32. In the SCN, other allegations against Noticee no. 2 are of submission of false information to SEBI vide letters dated February 29, 2020, July 13, 2020 and April 15, 2021, thereby violating Section 11(2)(ia) of SEBI Act, 1992, making false statements to SEBI, thereby violating Section 11C(3) and 11C(5) of SEBI Act, 1992 and false disclosure in quarterly financial statements for quarters ending June 2019 and September 2019, thereby violating Regulation 4(1)(c) of LODR Regulations. In the previous parts of this order, these allegations have been dealt in detail and

found to be correct. Now the specific contention of the Noticee no. 2 regarding these violations is that he can not be charged for violation of Section 11(2)(ia) of SEBI Act, 1992 as it applies to banks, authority, board of corporation established under any central/state Act. Since, he is none of these, therefore, Section 11(2)(ia) is not applicable to him. In this regard, I note that Section 11(2)(ia), as amended by Securities Laws (Amendment) Act, 2014, empowers SEBI to seek information from "any person" and not just banks, authority, board of corporation established under any central/state Act. In the present case, information was sought from Noticee no. 2 which he did not furnish, therefore, the contention raised by the Noticee no. 2 is not tenable.

33. In the SCN, another allegation against Noticee no. 2 is of non-disclosure of incorporation of foreign subsidiaries of the Company and interest in other companies, thereby violating Regulation 48 of LODR Regulations. In this regard, firstly, Noticee has submitted that adjudication order dated September 14, 2022 has held that 8K Miles Cloud Solutions Pte Ltd. was not a subsidiary of the Company. In this regard, I note that in para 25.1.7 above, it has been explained as to how the Company failed to disclose its foreign subsidiaries, therefore, it is not necessary to deal with contention based on adjudication order dated September 14, 2022. Regarding the allegation of non-disclosure of interest in other companies by Noticee no. 2 to the Company, I note that in the SCN Noticee no. 2 has been alleged to be director in 7 foreign companies, as quoted in para 25.1.5 above, however, Noticee no. 2 has provided its response about one company i.e. Vasanthanbhavan Singapore Pte Ltd. stating that the company has been struck off as on December 31, 2003. I note that Noticee no. 2 has not provided any documentary proof in support of his assertion. Further, Noticee no. 2 has not given any response regarding his directorship in other 6 companies. Therefore, the allegation in the SCN that Noticee no. 2 did not disclose his interest in other companies, is correct. Regarding non-disclosure of the fact that Noticee no. 2 was CEO/CFO/MD/Shareholder/ director in various group companies of 8K Media, the Noticee no. 2 has simply denied his "directorship" in NJ Theatre, 8K Radio, 8K EBC without dealing with the basis of such connection as given in the investigation and forensic audit report of PKF and GT, as provided to the Noticee no. 2. Noticee no.

2 has also contended that said obligation under Regulation 48 of LODR Regulations is of the listed entity and he cannot be held liable for the same. In this regard, I note that in the SCN, violation of Regulation 4(2)(f) of LODR Regulations has also been alleged which holds board of directors of the listed entity responsible for discharge of certain obligation of the listed entity under the LODR Regulations. In the previous parts of this order, the Company has been found to be in violation of Regulation 48 of LODR Regulations, therefore, Noticee no. 2 being part of the board of the directors of the Company, is liable for the violation of Regulation 48 of LODR Regulations and the contention of the Noticee in this regard, is not tenable.

34. In the SCN, another allegation against Noticee no. 2 is of giving false CEO/ CFO certification, thereby violating Regulation 17(8) r/w Part B of Schedule II of LODR Regulations. In this regard, Noticee no. 2 has submitted that as there is no manipulation of books of accounts, this charge is not maintainable. In this regard, I note that in previous parts of this order, it has been found that books of accounts of the Company were manipulated whereby the consolidated revenue of the Company rose manifold within short span of time i.e. from Rs. 271.93 Crore in FY 2015-16 to Rs. 850.39 Crore in FY 2018-19 and its balance sheet size from Rs.44.76 crore as on March 31, 2013 to Rs.997.99 crore as on March 31, 2019, therefore, the contention made by the Noticee no. 2 losses steam and hence, untenable.

Role of Noticee no. 3:

35. With respect to the role of Noticee no. 3, the allegations made in the SCN are as under:

> *"19.9. During the investigation by SEBI, the statement of Mr. R S Ramani was recorded on March 09, 2022 and subsequently, in pursuance of the same, certain information was furnished by Mr. R S Ramani vide his email dated March 16, 2022.*
>
> *19.10. Investigation has revealed that Mr. R S Ramani was a Whole Time Director and Chief Financial Officer (CFO) of the Company during the investigation period. By virtue of his designation as the CFO, he was also a 'key managerial personnel' in*

the Company, in terms of section 2(51) of the Companies Act 2013. As an executive director and CFO of the Company, Mr. R S Ramani was responsible for the financial affairs of the Company and he had a duty to ensure that the financial statements of the Company were true and fair and reflected the actual status of the Company. However, as has been discussed above, he allegedly played a direct role in the manipulation of the financial statements of the Company and publication of such false and manipulated statements, in order to present a rosy picture about the Company to the investors. This resulted in the increase of its share price and spurt in the daily turnover of shares. In fact, Mr. Ramani is alleged to have directly benefitted from the fraud, since he is found to have sold a total of 16,82,506 shares (5.51%) of the Company when the Company declared inflated financial statements and high profitability leading to increase in price of the scrip. The details of his sales are as under:

NSE

Date	***No. of shares***	***Trade Value***	***Avg. Sale Price***
15.05.2017	*5,75,000*	*34,23,87,003*	*Rs. 595.46/- Per Share*
16.05.2017	*2,25,000*	*13,39,88,565*	*Rs. 595.50/- Per Share*
19.05.2017	*1,50,000*	*8,81,50,000*	*Rs. 587.67/- Per Share*
22.01.2018	*6,82,506*	*51,12,92,702*	*Rs. 749.14/- Per Share*
	16,32,506		

BSE

Date	***No. of shares***	***Trade Value***	***Avg. Sale Price***
15.05.2017	*50,000*	*2,90,16,485*	*Rs. 580.33/- Per Share*
	50,000		

19.11. Mr. R S Ramani during the statement recording has submitted that he was never associated with NSIT. However, it was found that his employee was MD of NSIT and he had complete control on that entity. Thus Mr. R S Ramani has not disclosed correct information to the Investigating Authority. Further, he did not disclose incorporation of overseas subsidiaries and also failed to disclose his interest in subsidiaries.

19.12. The CEO/CFO certificate signed by Mr. R S Ramani in the Annual Reports of the Company for FY 2016-17 to FY 2019-20 stated inter-alia that "the financials of *securekloud presented true and fair view of its affairs and not contained any misleading statement" and "no transactions entered into by the Company during the year which are fraudulent, illegal or violative of the Company's code of conduct". However, as discussed above, it was found that the same was grossly misleading.*

19.13. Further, Section 27(2) of SEBI Act, 1992 makes him liable for the contraventions done by the Company.

19.14. In view of the above, it is alleged that Mr. R S Ramani, being a whole time director and CFO of the Company, abused his position and manipulated the financial statements of the Company and published such false and manipulated financial statements to give a rosy picture about the Company's financial position and to induce investors to invest in the shares of the Company. Mr. R S Ramani also made huge personal gains by selling shares when the price of the scrip was high during the time of false disclosures, as detailed above. It is therefore alleged that he has violated the provisions of Section 12A(a),(b),(c) of SEBI Act, 1992 and Regulation 3(b), 3(c), 3(d), 4(1), 4(2)(f), 4(2)(k) and 4(2)(r) of the SEBI (PFUTP) Regulations, 2003 and Regulations 4(1)(a), (b), (c), (g), (h), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6),(7), 4(2)(f)(iii) (1),(3), (6), (12) read with Regulation 33 (1) (a), (c) and 48 of SEBI LODR Regulations, 2015 read with Section 27 of the SEBI Act, 1992. By not disclosing incorporation of foreign subsidiaries and interest in other companies, he is alleged to have violated Regulation 48 of SEBI (LODR) Regulations, 2015. By making false statements to SEBI, he is alleged to have violated Section 11C(3) and 11C(5) of SEBI Act, 1992. By giving false CEO/CFO certification, he has allegedly violated Regulation 17(8) r/w Part B of Schedule II of SEBI (LODR) Regulations, 2015."

36. Noticee no. 3 was a Whole Time Director and Chief Financial Officer (CFO) of the Company during the investigation period. By virtue of his designation as the CFO, he was also a 'key managerial personnel' in the Company, in terms of section 2(51) of the Companies Act 2013. As an executive director and CFO of the Company, Mr. R S Ramani was responsible for the financial affairs of the Company and he had a duty to ensure that the financial statements of the Company were true and fair and reflected the actual status of the Company.

37. As stated above, the violations pertaining to misrepresentations in the books of accounts of the Company, non-disclosure of appointment of GT, false quarterly disclosures, etc. as alleged against Noticee no. 3 are connected to the violations alleged against the Company, which have already been dealt in Part A, B and C. I note that most of the contentions raised by the Noticee no. 3 in his reply are the same as raised by Noticee no. 2 which have been dealt above. Therefore, those contentions of Noticee no. 3 are not being dealt again separately. However, the specific contention raised by the Noticee no. 3 in respect of the allegations levelled against him have been dealt in the following paras.

37.1. Noticee no. 3 has contended that he is not a shareholder in 8K Miles Software Services UK Ltd. but only a director. In this regard, I note that the SCN alleges that Noticee no. 3 was shareholder and director in 8K Miles Software Services UK Ltd. and he has failed to disclose his interest as such. Now, Noticee no. 3 is contending that he was only director and not shareholder. In my view, being director only also amounts to having interest in the company. With respect to allegation of non-disclosure of his interest in 8K Miles Software Services FZE, the Noticee has contended that he has made a disclosure. However, the Noticee has not provided any supporting documents for his contention. Therefore, the contention of Noticee no. 3 does not affect the allegation made in the SCN. Further, Noticee no. 3 has denied directorship in other group companies of 8K Media but not provided any evidence in support of his contention in order to counter the basis of allegation in the SCN. Thus, the contention made by Noticee no. 3 in this regard are not tenable and the allegations made in the SCN are correct.

37.2. Noticee no. 3 has made certain bald assertions without any evidence in support of them like, in December 2021, he did not have any access to the files of the Company, he had not created any tri-partite agreements, he was engaged in appointment of KPSN, in the interest as a promoter of the Company, he did not have any relationship with Idol, he is neither a director nor holding any interest in STI, 8K Miles Media Group Inc., 8K Miles Media Holdings Inc. and 8K Miles Health Cloud Inc., he was not an MD of or in control of NSIT, he did not have any control over the bank accounts of Idol or Ensys, there was no round tripping of money to settle fictitious revenue accounted in the books of accounts of the Company, he did not create any fictitious email Id's or domain and that the 10 vendors were fictitious, or entities managed by him, is factually incorrect and misplaced. I note that Noticee no. 3 has not produced any evidence in support of the aforesaid contentions in order to counter the basis of allegations in the SCN. On the other hand, it is noted that Noticee no. 3 was CFO and whole time director of the Company, and as discussed above, he has been found to be complicit in misrepresentation in books of accounts of the Company by recognising fictitious revenue and expenses by the Company. Further, Noticee no. 3 has directly benefitted from the fraud, as he sold a total of 16,82,506 shares (5.51%) of the Company when the Company declared inflated financial statements and high profitability leading to increase in price of the scrip. The details of his sales are as under:

R S Ramani - NSE

Date	No. of shares	Trade Value	Avg. Sale Price
15.05.2017	5,75,000	34,23,87,003	Rs. 595.46/- Per Share
16.05.2017	2,25,000	13,39,88,565	Rs. 595.50/- Per Share
19.05.2017	1,50,000	8,81,50,000	Rs. 587.67/- Per Share
22.01.2018	6,82,506	51,12,92,702	Rs. 749.14/- Per Share
	16,32,506		

R S Ramani - BSE

Date	No. of shares	Trade Value	Avg. Sale Price
15.05.2017	50,000	2,90,16,485	Rs. 580.33/- Per Share
	50,000		

In view of this, these contentions of the Noticee are untenable.

37.3. Noticee no. 3 has contended that he sold the shares of the Company and the funds were deployed in the Company in the form of loans. I note that this contention does not take away the fact that Noticee No. 3 took advantage of the increased price because of manipulated financials of the Company. The ultimate deployment of the sale proceeds in the form of loan to the company cannot be used to portray that the sale was bonafide.

Role of Noticee no. 4:

38. With respect to the role of Noticee no. 2, the allegations made in the SCN are as under:

> *"19.15. During the investigation by SEBI, the statement of Mr. Gurumurthi Jayaraman was recorded on April 08, 2022 and in pursuance of the said statement, subsequently certain information was furnished by him vide email dated April 15, 2022.*
>
> *19.16. The Audit Committee in a listed company has a sacrosanct duty to review the financial statement of that company in a fair, independent and transparent manner and ensure that the financial statements present a true picture of the financial health of that company, which the investors can rely upon for making informed decision regarding their investments. However, in the present case, as can be seen from the details provided in above paragraphs, Mr. Gurumurthi Jayaraman, instead of discharging his duty in a fair manner, indulged in manipulation of books of accounts of the Company and aided and abetted management in mis-stating financial statements. The same has been clearly brought out by PKF Shridhar & Santhanam also in their forensic audit report.*
>
> *19.17. Moreover, the independence of Mr. Gurumurthi Jayaraman was impaired as his son was employed with one of the subsidiaries of the Company since November 16, 2015 as an employee/consultant. The same is reflecting from Annual report of the Company for FY 2018-19 wherein he was re-categorized from independent director to Non-executive – Non-independent director, on September 06, 2019, consequent to the observations made by statutory auditors. Further, his statement to SEBI show that he knew Suresh Venkatachari before his appointment as independent director, due to which Suresh Venkatachari made him director in the Company. This calls into question the independence of Gurumurthi Jayaraman.*

He is still associated with the Company as consultant and provides audit certifications to the Company as necessitated by bankers of the Company.

19.18. As discussed in aforesaid paragraphs, it was found by PKF that the dummy domain i.e. www.wunderkindllc.us was created by ex-employee of the Company, namely Ms. Shanthi Raghuraj and the registrant organization for said domain name was "Hitech Recruitment and Training Services Pvt Ltd". It was further found that "Hitech Recruitment and Training Services Pvt Ltd" is a company registered at the address of Audit Committee Chairman of the Company, Mr. Gurumurthi Jayaraman. Further, in his statement to SEBI, Mr. Gurumurthi Jayaraman stated that the said "Hitech Recruitment and Training Services Pvt Ltd" is run and controlled by his employee, namely Sanjay Diwakar and that the office of the said company is same as of his office address i.e. 103, PS Sivaswamy Salai, Mylapore, Chennai. This clearly shows that Mr. Gurumurthi Jayaraman was also involved in aiding and abetting Noticees No. 1 to 3 in all the wrongdoings.

19.19. As discussed in aforesaid paragraphs, it was identified from email dump analysis that in email dated February 01, 2019, P K Chandrasekher had sent email to Mr. Suresh stating - "Suresh Sir…Wired $79,000 to 8K Ltd". The same email was forwarded by Mr. Suresh to Mr. Ramani, Ms. Shanthi Raghuraj and Audit Committee Chairman – Mr. Gurumurthi J. It was found that PNC bank's international transfer confirmation page was attached to the said email wherein name of payer was mentioned as Idol Solutions Inc and individual name was P K Chandrasekher. This shows that Mr. Gurumurthi Jayaraman was aware of all the mal-practices happening in the Company. Mr. Gurumurthi Jayaraman, as the Audit Committee Chairman, did not discharge his duties independently but aided and abetted the Company's management in all the wrong doings.

19.20. During the statement recording, Mr. Gurumurthi was asked that since less than 25% of sales proceeds was realized from the entities, namely Ensys, Idol and Intuit, and most of the amount was written off or adjusted against NSIT, what due diligence exercise he had taken as the audit committee member. In response, he stated that "Since the amount was not recoverable as per the management, it was written off". Further, on being asked whether he asked the management about any legal action taken against aforesaid entities, he stated that "As the customers were overseas, the legal fees was high and management verbally appraised that this is why no legal action was taken against the aforesaid three customers." The above shows that instead of seeking comments from the Company, Mr. Gurumurthi blindly followed the oral submissions of the management and merely acted as an agent of management.

19.21. In view of the above, it is alleged that Mr. Gurumurthi Jayaraman, the estwhile Audit Committee Chairman, abdicated his responsibilities to act independently and aided and abetted the Company in manipulating the books of accounts and financial statements of the Company to give a rosy picture about the Company's financial position and to induce investors to invest in the shares of the Company. It is therefore alleged that he has violated provisions of Section 12A(a),(b),(c) of SEBI Act, 1992 and Regulation 3(b), 3(c), 3(d), 4(1), 4(2)(f), 4(2)(k) and 4(2)(r) of the SEBI (PFUTP) Regulations, 2003 and Regulations 4(1)(a), (b), (c), (g), (h), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6),(7), 4(2)(f)(iii) (1),(3), (6), (12), 25(5) read with Regulation 33 (1) (a), (c) and 48 of SEBI LODR Regulations, 2015. By not disclosing interest in other companies, he has allegedly violated Regulation 48 of SEBI (LODR) Regulations, 2015. Further, by making false statements to SEBI, he has allegedly violated Section 11C(3) and 11C(5) of SEBI Act, 1992. Further, it is alleged that he failed to exercise due due-diligence and discharge his duties independently and violated Regulation 18(3) read with Part C of Schedule II of SEBI (LODR) Regulations, 2015."

39. Mr. Gurumurthi Jayaraman and Mr. Dinesh Raja Punniamurthy were chairman of the audit committee during the investigation period. Mr. Gurumurthi Jayaraman was chairman of audit committee for most of his tenure (except for a very short span of time and for one audit committee meeting wherein he attended as member of audit committee) and Mr. Dinesh Raja Punniamurthy was member of audit committee before resignation of Mr. Gurumurthi Jayaraman and became chairman of audit committee for rest of the investigation period.

40. As stated above, the violations alleged against Noticee no. 4 are connected to the violations alleged against the Company, which have already been dealt in Part A, B and C. I note that most of the contentions raised by the Noticee no. 4 in his reply are the same as raised by Noticee nos. 2 and 3 which have been dealt above. Therefore, those contentions of Noticee nos. 2 and 3 are not being dealt again separately. However, the specific contention raised by the Noticee no. 4 in respect of the allegations levelled against him have been dealt in the following paras.

40.1. Noticee no. 4, by referring to adjudication order dated September 14, 2022, has contended that since he has already been visited with penalty in respect of violation of Regulation 4(2)(f)(iii)(6) of LODR Regulations, therefore, for violation of said regulation, no penalty be imposed in the present case. In this regard, I note that in the adjudication order dated September 14, 2022, violation of Regulation 4(2)(f)(iii)(6) of LODR Regulations was alleged because of violation of Regulation 16(1)(b)(v) and 16(1)(b)(vi)(A) of LODR Regulations, whereas in the present proceedings, Regulation 4(2)(f)(iii)(6) has been invoked for the alleged violation of Regulations 33(1)(a), (c) and 48 of LODR Regulations. Therefore, the contention of Noticee no. 4 is not tenable.

40.2. Noticee no. 4 has contended that independent director cannot be held liable for day-to-day affairs of the Company. In this regard, I note that regarding the role of Noticee no. 4, the SCN alleges as under:

> *"19.16 The Audit Committee in a listed company has a sacrosanct duty to review the financial statement of that company in a fair, independent and transparent manner and ensure that the financial statements present a true picture of the financial health of that company, which the investors can rely upon for making informed decision regarding their investments. However, in the present case, as can be seen from the details provided in above paragraphs, Mr. Gurumurthi Jayaraman, instead of discharging his duty in a fair manner, indulged in manipulation of books of accounts of the Company and aided and abetted management in mis-stating financial statements. The same has been clearly brought out by PKF Shridhar & Santhanam also in their forensic audit report.*
>
> *19.17. Moreover, the independence of Mr. Gurumurthi Jayaraman was impaired as his son was employed with one of the subsidiaries of the Company since November 16, 2015 as an employee/consultant. The same is reflecting from Annual report of the Company for FY 2018-19 wherein he was re-categorized from independent director to Non-executive – Non-independent director, on September 06, 2019, consequent to the observations made by statutory auditors. Further, his statement to SEBI show that he knew Suresh Venkatachari before his appointment as independent director, due to which Suresh Venkatachari made him director in the Company. This calls into question the independence of Gurumurthi Jayaraman. He is still associated with the Company as consultant and provides audit certifications to the Company as necessitated by bankers of the Company.*

19.18 As discussed in aforesaid paragraphs, it was found by PKF that the dummy domain i.e. www.wunderkindllc.us was created by ex-employee of the Company, namely Ms. Shanthi Raghuraj and the registrant organization for said domain name was "Hitech Recruitment and Training Services Pvt Ltd". It was further found that "Hitech Recruitment and Training Services Pvt Ltd" is a company registered at the address of Audit Committee Chairman of the Company, Mr. Gurumurthi Jayaraman. Further, in his statement to SEBI, Mr. Gurumurthi Jayaraman stated that the said "Hitech Recruitment and Training Services Pvt Ltd" is run and controlled by his employee, namely Sanjay Diwakar and that the office of the said company is same as of his office address i.e. 103, PS Sivaswamy Salai, Mylapore, Chennai. This clearly shows that Mr. Gurumurthi Jayaraman was also involved in aiding and abetting Noticees No. 1 to 3 in all the wrongdoings.

19.19 As discussed in aforesaid paragraphs, it was identified from email dump analysis that in email dated February 01, 2019, P K Chandrasekher had sent email to Mr. Suresh stating - "Suresh Sir…Wired $79,000 to 8K Ltd". The same email was forwarded by Mr. Suresh to Mr. Ramani, Ms. Shanthi Raghuraj and Audit Committee Chairman – Mr. Gurumurthi J. It was found that PNC bank's international transfer confirmation page was attached to the said email wherein name of payer was mentioned as Idol Solutions Inc and individual name was P K Chandrasekher. This shows that Mr. Gurumurthi Jayaraman was aware of all the mal-practices happening in the Company. Mr. Gurumurthi Jayaraman, as the Audit Committee Chairman, did not discharge his duties independently but aided and abetted the Company's management in all the wrong doings.

19.20. During the statement recording, Mr. Gurumurthi was asked that since less than 25% of sales proceeds was realized from the entities, namely Ensys, Idol and Intuit, and most of the amount was written off or adjusted against NSIT, what due diligence exercise he had taken as the audit committee member. In response, he stated that "Since the amount was not recoverable as per the management, it was written off". Further, on being asked whether he asked the management about any legal action taken against aforesaid entities, he stated that "As the customers were overseas, the legal fees was high and management verbally appraised that this is why no legal action was taken against the aforesaid three customers." The above shows that instead of seeking comments from the Company, Mr. Gurumurthi blindly followed the oral submissions of the management and merely acted as an agent of management."

40.3. A perusal of the aforesaid shows that Noticee no. 4 has been implicated in the present matter not only for his role as independent director of the Company but also because of the part taken by him in the manipulation. The aforesaid acts show that Noticee no. 4 fully aided and abetted by his acts as clear from the facts that his son was employed with one of the subsidiary company of the Company, the address of a company which was used to book fictitious expenses had the same address as a company owned by Noticee no. 3, emails depicting fictitious revenue were marked to him and he accepted decision of the management to write off Rs. 750 crore from the balance sheet without raising any concern, as alleged above, in the manipulation of the books of accounts of the Company. Therefore, the contention of the Noticee that he was not involved in the day-to-day affairs of the Company, is misplaced and not tenable. Further, the contention of the Noticee that aiding and abetting requires active role or active steps as held in the judgement of Hon'ble Supreme Court in, S.S. Chheena v. Vijay Kumar Mahajan and Anr. (2010) 12 SCC 190, is fully satisfied in the case of Noticee no. 4.

40.4. In the SCN, another allegation against Noticee no. 4 is of non-disclosure interest in other companies, thereby violating Regulation 48 of LODR Regulations. In this regard, the Noticee has submitted he had submitted form MBP-1 to the Company and enclosed the said form with his reply. Therefore, I find that allegation in this regard, in the SCN, is not made out.

<u>Part E</u>
<u>Other contentions of the Noticees</u>

41. The Noticees have contended that the Deloitte report is not tenable and is arbitrary. In this regard, I note that while making this contention, the Noticees instead of pointing out any fault in the observations made by Deloitte in its fraud report, have simply attributed malice to the report. The assertions made by the Noticees with respect to the allegations made in the SCN, which also covers the violations pointed out in the Deloitte Report, have also been found to be not tenable. On the other hand, the findings recorded above shows that the allegations made in the

report of Deloitte regarding *inter alia* misrepresentation of financials, and non-disclosure of related party interests, have been sustained in the present order. Therefore, the contention made by the Noticees in this regard is untenable.

42. The Noticees have contended that to prove fraud under the provisions alleged in the SCN, 'intention' is pre-requisite. The Noticees have also relied upon SEBI Vs. Kanaiyalal Baldevbhai Patel & Ors. (2017) 15 SCC 1 and SEBI Vs Kishore R Ajmera & Ors. (2016) 6 SCC 368 in support of their contention. In this regard, I note that the definition of fraud as given in Regulation 2(1)(c) of PFUTP Regulations, 2003 provides as under:

> *"2(1)(c) "fraud" includes any act, expression, omission or concealment committed whether in a deceitful manner or not, by a person or by any other person with his connivance or by his agent, while dealing in securities, in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include—*
>
> *(1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;*
> *(2) a suggestion as to a fact which is not true by one who does not believe it to be true;*
> *(3) an active concealment of a fact by a person having knowledge or belief of the fact;*
> *(4) a promise made without any intention of performing it;*
> *(5) are presentation made in a reckless and care less manner whether it be true or false;*
> *(6) any such act or omission as any other law specifically declares to be fraudulent,*
> *(7) deceptive behaviour by a person depriving another of informed consent or full participation,*
> *(8) a false statement made without reasonable ground for believing it to be true.*
> *(9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.*

And "fraudulent" shall be construed accordingly;

Nothing contained in this clause shall apply to any general comments made in good faith in regard to—

(a) the economic policy of the government;

(b) the economic situation of the country

(c) trends in the securities market or

(d) any other matter of a like nature whether such comments are made in public or in private;

43. A perusal of the aforesaid definition shows that act, expression, omission or concealment required for fraud need not be deceitful. Further, inducement to deal in securities, which has been held to be single most important ingredient of the definition of fraud as per the judgement of Hon'ble Supreme Court in Kanaiyalal case (supra), is evident from the allegations regarding fall in the share price of the Company on information regarding misrepresentation in financials of the Company becoming public. It shows that during the time when the financials of the Company were misrepresented, price of the shares of the Company continued to rise because of the cooked up financials of the Company which shows that misrepresentation had impact on the price of the shares of the Company which induced the investors to deal in the securities of the Company. Once price of the shares starts increasing that induces the investors to trade in the securities of the Company. In the present case, Company's financials were manipulated whereby the consolidated revenue of the Company rose manifold within short span of time i.e. from Rs. 271.93 Crore in FY 2015-16 to Rs. 850.39 Crore in FY 2018-19 and its balance sheet size from Rs.44.76 crore as on March 31, 2013 to Rs.997.99 crore as on March 31, 2019, because of which a fraud report under Section 143(12) of the Companies Act, 2013 was filed by the erstwhile statutory auditor of the Company. Therefore, the contention of the Noticees that SEBI has failed to demonstrate the manner in which their acts have led to the breach of the provisions cited in the SCN, is not tenable. I note that Kishore Ajmera case (supra) relied on by the Noticees does not deal with the requirement of intention for proving fraud under PFUTP Regulations, 2003 as contended by the Noticees. Without prejudice to the finding that the acts of the Noticees are squarely covered by definition of fraud as given under Regulation 2(1)(c) of PFUTP Regulations, 2003, I note that

act of misrepresentation in the financials and diversion /siphoning off of funds of a company is covered in the prohibition contained in Regulation 4(1) of PFUTP Regulations, 2003, whose explanation clarifies to the said effect.

44. I note that Regulation 4(1) to the PFUTP Regulations, 2003 puts prohibits manipulative, fraudulent or unfair trade practice relating to securities market. The term ‘fraud’ has been defined in Regulation 2(1)(c) of PFUTP Regulations, 2003, and as observed in the previous paragraphs, the said definition is ‘inclusive’. The terms ‘Unfair trade practices’ and ‘manipulative’ are not defined in the PFUTP Regulations, 2003. However, it is not difficult to ascertain true meaning of these terms and consequent scope and ambit of Regulation 4(1), by reading the various terms defined in and the objective of, PFUTP Regulations, 2003, as a whole. In this context, Section 11(2)(e) of SEBI Act, 1992 which enumerates prohibiting fraudulent and unfair trade practice relating to securities market, as one of the functions of SEBI which was reinforced through Section 12A of the SEBI Act, 1992 in the year 2002, may also be referred to. In discharge of said function and power, SEBI had earlier framed SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities market) Regulations, 1995 (since repealed) which were later replaced by PFUTP Regulations, 2003. The Regulation 4(1) since coming into force of PFUTP Regulations, 2003, *inter alia* seeks to prohibit any act of diversion/ misutilisation/ siphoning off, of assets of a listed company or its concealment or any scheme to manipulate the books of accounts or financial statements of such a company that would directly/ indirectly manipulate the price of securities of that company. This is for the reason that such acts are fraudulent as well as unfair trade practice relating to securities. Here, it is appropriate to refer to the judgments of Hon’ble Supreme Court wherein the expression “unfair trade practice” was touched upon. The first such judgment is SEBI Vs. Kanaiyalal Baldevbhai Patel & Ors. (2017) 15 SCC 1 wherein following observations were made:

Per N. V. Rammanna J:

"29. Although unfair trade practice has not been defined under the regulation, various other legislations[1] in India have defined the concept of unfair trade practice in different contexts. A clear cut generalized definition of the 'unfair trade practice' may not be possible to be culled out from the aforesaid definitions. Broadly trade practice is unfair if the conduct undermines the ethical standards and good faith dealings between parties engaged in business transactions. It is to be noted that unfair trade practices are not subject to a single definition; rather it requires adjudication on case to case basis. Whether an act or practice is unfair is to be determined by all the facts and circumstances surrounding the transaction. In the context of this regulation a trade practice may be unfair, if the conduct undermines the good faith dealings involved in the transaction. Moreover the concept of 'unfairness' appears to be broader than and includes the concept of 'deception' or 'fraud'…………"

Per Ranjan Gogoi J:

"………Coupled with the above, is the fact, the said conduct can also be construed to be an act of unfair trade practice, which though not a defined expression, has to be understood comprehensively to include any act beyond a fair conduct of business including the business in sale and purchase of securities…………."

45. Similarly, in SEBI Vs. Rakhi Trading and Others (2018) 13 SCC 753, while referring to its judgment in Kanaiyalal case (supra), Hon'ble Supreme Court observed as under:

Per Kurian Joseph J:

"35. Having regard to the fact that the dealings in the stock exchange are governed by the principles of fair play and transparency, one does not have to labour much on the meaning of unfair trade practices in securities. Contextually and in simple words, it means a practice which does not conform to the fair and transparent principles of trades in the stock market……..."

Per R. Banumathi J:

"38. The smooth operation of the securities market and its healthy growth and development depends upon large extent on the quality and integrity of the market.

[1] Monopolies and Restrictive Trade Practices Act, 1969, Section 36A; The Consumer Protection Act, 1986, Section 2(1)(r); The Competition Act, 2002, Section 3; The Food Security and Standards Act, 2006, Section 24(2); Specific Relief Act, 1963, Section 20; Usurious Loans Act, 1918, Section 3.

> *Unfair trade practices affect the integrity and efficiency of the securities market and the confidence of the investors. Prevention of market abuse and preservation of market integrity are the hallmark of securities law………."*

46. Thus, the acts mentioned in the explanation were already covered under Regulation 4(1) as being fraudulent as well as unfair trade practice. What was earlier implicit has now been made explicit by adding 'Explanation' to Regulation 4(1) of PFUTP Regulations, 2003 with effect from October 19, 2020. I note that the aforesaid amendment, though introduced on October 19, 2020, does not make any substantive change in the ambit of Regulation 4(1). Act of large scale diversion/ mis-utilisation/ siphoning off, of funds of a listed company or any device, scheme or artifice to manipulate the books of accounts or financial statement of such company, that would directly or indirectly manipulate the price of the securities of that company, thereby inducing the investors to deal in securities or to remain invested in the securities of that company, are undoubtedly fraudulent and unfair trade practice relating to securities market', which are covered by the rigor of Regulation 4(1) since July 17, 2003 itself i.e. the date of coming into force of PFUTP Regulations, 2003. Thus, I note that the 'Explanation' added to Regulation 4(1) merely clarifies that certain acts such as diversion of funds and/or manipulation of books of accounts or financial statements, shall be and shall always be deemed to have been manipulative, fraudulent and unfair trade practice relating to securities market and does not introduce any new prohibition.

47. Regarding the contention of the Noticees that in case of market manipulation, degree of proof must be higher, I note that in the present case, there is ample evidence in the form of reports of forensic auditors, statements of senior employees, emails, fake email Ids, bank statements, etc., which proves on higher degree of preponderance of probabilities, the fraud and manipulation of books of accounts undertaken in the present matter.

48. The Noticees have contended that in the SCN the principles of natural justice make it incumbent for SEBI to state the specific measures that are contemplated against them so that they are able to present their case on the suitability of the directions/measures proposed. In support of this contention, Noticees have relied

upon Gorkha Security Services vs. The Government (NCT of Delhi) 2014 (9) SCC 105. Regarding the Gorkha Security's case, I note that the case is factually distinguishable from the present case and not applicable to the present proceedings. This is for the reasons that in Gorkha Security case, the matter pertained to blacklisting of a contractor by a government agency, which resulted in depriving the contractor from entering into any public contracts with government, thereby violating the fundamental rights of equality of opportunity in the matter of public contract of such person. Further, in Gorkha Security's case, the contractor was blacklisted for breaching the terms of the contract. On the other hand, the present SCN has been issued for breach of provisions of securities law in relation to integrity of securities market. In Gorkha Security's case, blacklisting of the contractor was provided in the governing contract itself as a penalty to be imposed in case of breach of terms of contract, whereas, in the present matter provisions of law under which directions are contemplated to be issued, confer discretion to SEBI to take such measure as it thinks fit in the interest of investors and securities market. Keeping in view the above points that clearly distinguishes the facts and circumstances of Gorkha Security case from the facts of the present proceedings, reliance placed by the Noticees on Gorkha Security's case to contend that SCN must disclose specific penalty/action which is proposed to be taken, is misplaced. However, in the present case, on perusal of the SCN I find that the said contention has been taken up as a matter of routine. The SCN clearly mentions that direction under Section 11B (1) proposed to be issued against them is mainly of debarment. The SCN also makes it clear that penalty is proposed to be imposed under Sections 15A(a), 15HA and 15HB of SEBI Act, 1992. Therefore, the contention of the Noticees that specific measures proposed to be taken have not been provided in the SCN is not factually correct.

49. The Noticees have also contended that the facts and circumstances mentioned in the SCN do not constitute a suitable case for issuance of directions under Section 11 and 11B of the SEBI Act, 1992. In this regard, I note that the SCN lists out the reasons which called for the directions under Section 11 and 11B of SEBI Act, 1992. Further, the allegations made in the SCN, if proven may also call for issue of directions under Sections 11 and 11B of the SEBI Act, 1992. The Noticees have

merely made the said contention without demonstrating as to how the reasons cited in the SCN for issue of directions are not sustainable. In view of this contentions made by the Noticees in this regard are not tenable.

50. The Noticees have contended that the directions issued in the SCN are disproportionate and untenable, for the reason that neither their violations are repetitive nor their actions have adversely affected the interest of investors in securities market. As discussed above, the Noticees have been found to have indulged in a fraudulent scheme of manipulating the books of accounts of the Company, for three financial years and consequential publication of false and manipulated financial statements. Also, the Company did not disclose the information regarding initiation of forensic audit by SEBI and incorporation of foreign subsidiaries, to the stock exchanges thus, keeping the investors in dark about their wrongdoings. All these acts have been found to be in violation of provisions of SEBI Act, 1992, PFUTP Regulations, 2003 and LODR Regulations. Therefore, the violations committed by the Noticees are of serious nature which are not good for investors or the integrity of the securities market and the direction issued in the SCN are commensurate with the violations found to be committed. In view of the above, the contention of the Noticees in this regard is untenable.

51. I note that all the Noticees have also been called upon to show cause as to why penalty should not be imposed on them under Section 11 (4A) and 11B (2) read with Sections 15A(a), 15HA and 15HB of the SEBI Act, 1992 for the violations of provisions of SEBI Act, 1992, LODR Regulations and PFUTP Regulations, 2003 as alleged in the SCN. In the aforesaid paras it has been found that, -

51.1. Noticee no. 1 has violated Section 12A (c) of SEBI Act, 1992 and Regulations 3(d), 4(1), 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations, 2003, Regulations 30(2), 4(1)(a), (b), (c), (g), (h), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6),(7), 4(2)(f)(iii) (1)(3), (6), (12) read with Regulations 33 (1) (a), (c) and 48 LODR Regulations read with Section 27 of the SEBI Act, 1992, Section 11(2)(ia) of the SEBI Act, 1992.

51.2. Noticee no. 2 has violated the provisions of Section 12A(c) of SEBI Act, 1992 and Regulations 3(d), 4(1), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, 2003, Regulation 30(2), Regulation 17(8) r/w Part B of Schedule II, Regulations 4(1)(a), (b), (c), (g), (h), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6),(7), 4(2)(f)(iii) (1), (3), (6), (12) read with Regulation 33 (1) (a), (c) and 48 of LODR Regulations read with Section 27 of the SEBI Act, 1992, Sections 11(2)(ia), 11C(3), 11C(5) of the SEBI Act, 1992.

51.3. Noticee no. 3 has violated the provisions of Section 12A(c) of SEBI Act, 1992 and Regulations 3(d), 4(1), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, 2003, Regulation 17(8) r/w Part B of Schedule II, Regulations 4(1)(a), (b), (c), (g), (h), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6),(7), 4(2)(f)(iii) (1), (3), (6), (12) read with Regulation 33 (1) (a), (c) and 48 of LODR Regulations read with Section 27 of the SEBI Act, 1992, Sections 11C(3), 11C(5) of the SEBI Act, 1992.

51.4. Noticee no. 4 has violated the provisions of Section 12A(c) of SEBI Act, 1992 and Regulations 3(d), 4(1), 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations, 2003, Regulation 18(3) r/w Part C of Schedule II, Regulations 4(1)(a), (b), (c), (g), (h), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6),(7), 4(2)(f)(iii) (1), (3), (6), (12), 25(5) read with Regulation 33 (1) (a), (c) and 48 of LODR Regulations read with Section 27 of the SEBI Act, 1992, Sections 11C(3), 11C(5) of the SEBI Act, 1992.

52. The aforesaid violations committed by the Noticees render them liable for imposition of monetary penalties under Sections 15A(a), 15HA and 15HB of SEBI Act, 1992, relevant extract whereof is as under

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

Penalty for failure to furnish information, return, etc.

Section 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 or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, 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.

Section 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.

53. I note that violation of provisions of PFUTP Regulations, 2003 as found to have been committed by the Noticees renders them liable for imposition of monetary penalty under Section 15HA of SEBI Act, 1992. Violation of provisions of LODR Regulations, as found to have been committed by the Noticees renders them liable for imposition of monetary penalty under Section 15HB of SEBI Act, 1992. Violation of Section 11(2)(ia) by Noticee nos. 1 and 2 and violation of Sections 11C(3) and 11C(5) by Noticee nos. 2, 3 and 4, renders them liable for imposition of monetary penalty under Section 15A(a) of SEBI Act, 1992. I note that for imposition of penalty under the aforesaid provisions of 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."

54. Regarding the factors to be considered under Section 15J of SEBI Act, 1992, I note that the SCN does not indicate the amount of disproportionate gain or unfair advantage made by the Noticees, as a result of the aforesaid violations. In fact no such assessment is possible in facts of the present case. Further, the SCN also does not specify the amount of loss caused to investor or group of investors. It is practically impossible to quantify the loss caused to investors in the event of misrepresentation of financial statements. I note that there is no material in the SCN to indicate that the Noticees have been found to have committed similar violations any time in the past. I note that because of the misrepresentation of financial statements of the Company, the consolidated revenue of the Company rose manifold within short span of time i.e. from Rs. 271.93 Crore in FY 2015-16 to Rs. 850.39 Crore in FY 2018-19. Once the Company stopped booking fictitious revenue (from 2019-20 onwards), its revenue decreased to Rs. 386.43 crore during FY 2019-20. Further, the Company also inflated its balance sheet size by capitalizing fictitious expenditure towards development of software, resulting in its balance sheet size increasing manifold within a short span of time i.e. from Rs.44.76 crore as on March 31, 2013 to Rs.997.99 crore as on March 31, 2019. After impairment and other write offs, balance sheet size of the Company reduced from Rs. 997.99 crore to Rs. 242.82 crore i.e. in single financial year, Rs. 755.17 crore was wiped off from balance sheet of the Company. I also note that a fraud report under Section 143(12) of the Companies Act, 2013 was filed by the erstwhile statutory auditor of the Company. I also note that the allegation of siphoning of Rs 3.83 crore made in the SCN, could not be proved. I note that Noticee no. 2 was the Managing Director MD/ Chief Executive Officer (CEO) as well as Chairman of the Board of Directors of the Company during the relevant period. He was also a member of the Stakeholder Relationship Committee during the Investigation Period. He was the Group CEO and had control of the Company and all its subsidiaries. All vertical heads of the Company and its subsidiaries reported to him.

Besides being MD/Chairman, he was also a 'Key Managerial Personnel' in the Company by virtue of his designation as the CEO/MD, in terms of Section 2(51) of the Companies Act, 2013. Noticee no. 3 was a Whole Time Director and Chief Financial Officer (CFO) of the Company during the investigation period. By virtue of his designation as the CFO, he was also a 'key managerial personnel' in the Company, in terms of section 2(51) of the Companies Act 2013. Noticee no. 4 was an independent director and Chairman of the Audit Committee of the Company. I note that for violation of Regulations 30(2) and 48 of LODR Regulations, penalty has already been imposed on Noticee no. 1 vide adjudication order dated September 14, 2022, therefore, no penalty for these violations are warranted in this order.

55. Regarding show cause notice in the SCN for imposition of monetary penalty, Noticees have contended that imposition of monetary penalty is not called for in the present case as there has been no loss to the investors or the market by virtue of alleged misrepresentations in the books of accounts of the Company. The Noticees have also relied upon the judgement of Hon'ble Supreme Court in Siddharth Chaturvedi & Ors. v. SEBI (2016) 12 SCC 119 and Adjudicating Officer, SEBI v. Bhavesh Pabari & Ors. (2019) 5 SCC 90 and decisions of Hon'ble SAT in Piramal Enterprises Limited v. SEBI (dated May 15, 2019), to contend that penalty is not required to be imposed in all cases having regard to the factors mentioned in Section 15J of SEBI Act, 1992, which are only illustrative and not exhaustive. In this regard, I note that with respect to impact of misrepresentation by the Company on the price and volume of the shares of the Company, the SCN alleged that the Company knowingly published false and manipulated financial statements during the investigation period and the same continued even after the statutory auditors had made certain adverse observations pertaining to the audit of FY 2018-2019. It is further alleged that the facts of the case and the movement in the price of the shares of the Company indicate that the Company published manipulated financial statements showing inflated revenue in order to present a rosy picture of the financial health of the Company in order to induce gullible investors to invest in the shares of the Company. The investors appear to have been influenced by such manipulated financial statements and purchased the Company's shares, which

interfered with the normal mechanism of price discovery and integrity of securities markets and created a misleading appearance with respect to share price of the Company, thereby resulting in the manipulation of the share price of STL. Consequently, when the Company, in response to Deloitte's observation and PKF's Report attempted to cover-up the misstatements through write-offs, the Company lost significant value and the share price fell steadily. These allegations in the SCN have not been factually disputed by the Noticees with supporting evidence. In the above mentioned paras it has been proved that the Company had misrepresented its financials. As a consequence of such misrepresentation it is but natural that the interest to the investors and the securities market was imperilled. However, as mentioned above, it is not possible to quantify the exact loss which has been caused to the investors due to such misrepresentations. But there is no denial to the fact that it caused loss to the investors in the securities market. In the present case, apart from the seriousness of the manipulation, the manner in which it was conducted, the attempts made by the Noticees to create false evidence, the attempts made to stonewall the detection of misrepresentation, shows the enormity of the wrongdoings by the Noticees. Such acts by a listed company which has raised capital from the public and thus has public shareholding, impairs the rights of the investor and causes harm to the securities market. Edifice of securities market is built on disclosures. If a listed company makes misrepresentation in its financials, which are disclosed to the public at large, it undermines the integrity of the securities market. Therefore, in the present case not only the imposition of monetary penalty but also the regulatory directions under Sections 11(1), 11(4) and 11B(1) of SEBI Act, 1992, are called for. Thus, I find that imposition of monetary penalty in the present case is in consonance with the ratio laid down in the decisions of Hon'ble Supreme Court and Hon'ble SAT, relied upon by the Noticees.

<u>Directions and monetary penalties</u>:

56. In view of the aforesaid findings and having regard to the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of SEBI Act, 1992 read with Section 19 of SEBI Act, 1992 and Rule 5 of the Rules, direct as under:

(i) Noticee nos. 1, 2 and 3 are restrained from accessing the securities market in any manner whatsoever, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, in any manner, whatsoever, for a period of three (3) years, from the date of coming into force of this order;

(ii) Noticee no. 4 is restrained from accessing the securities market in any manner whatsoever, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, in any manner, whatsoever, for a period of one (1) year, from the date of coming into force of this order;

(iii) The Noticee nos. 1, 2 and 3 are prohibited from being associated with the securities market in any manner whatsoever, including as a director or Key Managerial Personnel in a listed company or an intermediary registered with SEBI, for a period of one (1) year, from the date of coming into force of this direction;

(iv) The Noticee no. 4 is prohibited from being associated with the securities market in any manner whatsoever, including as a director or Key Managerial Personnel in a listed company or an intermediary registered with SEBI, for a period of six (6) months, from the date of coming into force of this direction;

(v) Noticee no. 1 is hereby directed, to undertake the measures to bring back or recover Rs. 3.83 crore from Noticee no. 2 within a period of one year. The present directors of Noticee no. 1, shall take appropriate steps for the compliance of this direction by Noticee no. 1 and the Audit Committee of Noticee no. 1 shall report the progress of the same to the Board of Directors of Noticee no. 1.

(vi) The Noticees are hereby imposed with, the penalties, as specified hereunder:

Noticee No.	Name of Noticees	Provisions under which penalty imposed	Penalty Amount (In Rupees)
1	SecureKloud Technologies Ltd (Formerly known as 8K Miles Software Services Ltd)	Section 15A(a) of SEBI Act, 1992	Rs. 1,00,00,000/- (Rupees One Crore Only)
		Section 15HA of the SEBI Act, 1992.	Rs. 2,00,00,000/- (Rupees Two Crore Only)
		Section 15HB of the SEBI Act, 1992	Rs. 1,00,00,000/- (Rupees One Crore Only)
2	Shri Suresh Venkatachari	Section 15A(a) of SEBI Act, 1992	Rs. 1,00,00,000/- (Rupees One Crore Only)
		Section 15HA of the SEBI Act, 1992.	Rs. 1,00,00,000/- (Rupees One Crore Only)
		Section 15HB of the SEBI Act, 1992	Rs. 1,00,00,000/- (Rupees One Crore Only)
3	Shri R. S. Ramani	Section 15A(a) of SEBI Act, 1992	Rs. 25,00,000/- (Rupees Twenty Five Lakh Only)
		Section 15HA of the SEBI Act, 1992.	Rs. 1,00,00,000/- (Rupees One Crore Only)
		Section 15HB of the SEBI Act, 1992	Rs. 75,00,000/- (Rupees Seventy Five Lakh Only)
4	Shri Gurumurthi Jayaraman	Section 15A(a) of SEBI Act, 1992	Rs. 25,00,000/- (Rupees Twenty Five Lakh Only)
		Section 15HA of the SEBI Act, 1992.	Rs. 50,00,000/- (Rupees Fifty Lakh Only)
		Section 15HB of the SEBI Act, 1992	Rs. 25,00,000/- (Rupees Twenty Five Lakh Only)

(vii) The Noticees shall remit / pay the said amount of penalties within 45 days from the date of coming into force 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-SEC-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)	

57. The obligation of the Noticees, restrained/ prohibited by this Order, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange(s), as existing on the date of coming into force 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.

58. This Order comes into force with immediate effect, except for directions at para 56 (iii) and (iv), which shall come into force after one month from the date of this order.

59. 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.

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

Date: December 16, 2022
Place: Mumbai