National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/56903	Date: May 31, 2023
Circular Ref. No: 138/2023	

To All NSE Members

Sub: SEBI Order in the matter of Abhishek Infraventures Limited

SEBI vide its Order no. WTM/SM/IVD/ID12/26995/2023-24 dated May 31, 2023, has hereby restrained below mentioned entities from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities (including units of mutual funds), directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 05 (five) years.

Sr. No.	Name of the Entity	PAN
1	Omprakash Kovuri	AFQPK6599B
2	Ramchandra Murthy Adiraju	ACVPA4343H
3	Shiva Kumar Komaravelli	AAYPK8925A
4	Lata Bejgam	BSMPB3068C
5	Perraju Pericharlas	AHPPP4933M
6	Joseph Polisetty	APQPP2850L
7	Balram Aerrolla	AETPA9424R
8	Swaroopa Pasupula	BFHPP9206G

This Order shall come into force with immediate effect.

The detailed order is available on SEBI website (Securities and Exchange Board of India (sebi.gov.in))

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page at the below mentioned link:

National Stock Exchange of India

https://www.nseindia.com/regulations/member-sebi-debarred-entities

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

In case of any further queries, members are requested to email us at dl-invsg-all@nse.co.in

Mr. Rishabh Goyal (Extension: 25187), Mr. Sandesh Sawant (Extension: 23335)
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For and on behalf of
National Stock Exchange of India Limited

Sandesh Sawant
Manager

ANNEXURE: - SEBI Order in the matter of Abhishek Infraventures Limited

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

UNDER SECTIONS 11(1), 11(4), 11(4A), 11B(1) AND 11B(2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 IN THE MATTER OF ABHISHEK INFRAVENTURES LIMITED

In respect of:

Noticee No.	Name of the Noticees	PAN
1.	Omprakash Kovuri	AFQPK6599B
2.	Ramchandra Murthy Adiraju	ACVPA4343H
3.	Shiva Kumar Komaravelli	AAYPK8925A
4.	Srikanth Burugu	AKNPB8331N
5.	Lata Bejgam	BSMPB3068C
6.	Perraju Pericharla	AHPPP4933M
7.	Joseph Polisetty	APQPP2850L
8.	Balram Aerrolla	AETPA9424R
9.	Swaroopa Pasupula	BFHPP9206G

(The above-mentioned entities are individually referred to by their corresponding names/numbers and collectively referred to as "*Noticees*")

Background in brief

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**'), upon receipt of a complaint, conducted an investigation into the trading activities of certain entities in the scrip of Abhishek Infraventures Limited

(hereinafter referred to as '**AIL**'/'***Company***') for the time period January 01, 2017 to March 31, 2017 (hereinafter referred to as the "**Investigation Period**"), to ascertain any violation of the provisions of securities law. However, wherever deemed necessary, SEBI has also made reference to violations outside this period and has also investigated those other violations.

2. The *Company* was incorporated on July 27, 1984 as Executive Leasing Ltd. and it got listed on Delhi Stock Exchange in 1985. Subsequently, it changed its name on two instances over the period of time and ultimately got listed on Ahmedabad Stock Exchange Limited (hereinafter referred to as '**ASE**') on January 27, 2015 and on the BSE Limited (hereinafter referred to as '**BSE**') on January 04, 2016 and at Metropolitan Stock Exchange of India Limited on August 17, 2016. At the time of listing of the shares of the *Company* on BSE, the paid up share capital of the *Company* was ₹3,24,90,000, comprised of 32,49,000 equity shares of face value of ₹10 each.

3. Prior to its listing on BSE, the *Company* was listed on ASE on January 27, 2015, with paid up share capital of INR 24,90,000, comprised of 2,49,000 equity shares of face value of INR 10 each. Immediately or to be precise two days after its listing on ASE, the *Company* made a preferential allotment of 30,00,000 shares to 11 allottees on January 29, 2015, at the price of INR 10 per share. As per claim and disclosure of the *Company* pertaining to the preferential allotment of shares, 9,00,000 shares were allotted to 2 promoter entities namely Mr. Omprakash Kovuri (hereinafter referred to as '***Noticee no. 1***') and Mr. Ramachandra Murthy Adiraju (hereinafter referred to as '***Noticee no. 2***') and the rest 21,00,000 shares were allotted to 9 non-promoter entities. The list of allottees of shares in that preferential issue and their shareholding of the *Company* prior to and after this preferential allotment are as following:

Table 1: List of preferential allottees of shares of the *Company*

Sr. No.	Name	Prior to allotment		Allotment		Post allotment	
		No. of Shares	**% shareholding**	**No. of Shares**	**% of total preferential shares**	**No. of Shares**	**% shareholding**
1	Omprakash Kovuri	20,000	8.03%	5,00,000	16.67	5,20,000	16.00
2	Ramchandra Murthy Adiraju	40,000	16.06%	4,00,000	13.33	4,40,000	13.54
3	Shiva Kumar Komaravelli	-	-	7,50,000	25	7,50,000	23.08
4	Srikanth Burugu	-	-	3,75,000	12.50	3,75,000	11.54
5	Lata Bejgam	-	-	3,75,000	12.50	3,75,000	11.54
6	Swaroopa Pasupula	-	-	1,00,000	3.33	1,00,000	3.08
7	Perraju Pericharla	-	-	1,00,000	3.33	1,00,000	3.08
8	Joseph Polisetty	-	-	1,00,000	3.33	1,00,000	3.08
9	Balram Aerrolla	-	-	1,00,000	3.33	1,00,000	3.08
10	Sarveswar Reddy Sanivarapu	-	-	1,00,000	3.33	1,00,000	3.08
11	Hima Bindu Nallapareddy	-	-	1,00,000	3.33	1,00,000	3.08
	***Company*'s share capital**	**2,49,000**	**100.00**	**32,49,000**	**100.00**	**32,49,000**	**100.00**

4. An investigation was conducted by SEBI into the aforementioned preferential allotment and during such investigation, it was noticed that the 9 preferential allottees including the 2 promoters viz. *Noticees no. 1* & *2* and *7* (out of a total 9) non-promoters mentioned at S. No. 3 to 9 at the aforementioned Table were connected to one another and the aforementioned 7 non-promoter entities had also received funds in their accounts from entities connected

directly or indirectly with *Noticees no. 1* & *2*, just prior to their payment of the consideration to meet their obligation against the preferential allotment of shares.

5. On the basis of the aforesaid findings, it was alleged that the entities mentioned at S. No. 1 to 9 in Table 1 above were Persons Acting in Concert (hereinafter referred to as "***PAC***") with one another as one common group, in terms of provisions of Regulation 2(1)(q)(2)(iv) of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as '**SAST Regulations**').

6. It is observed that, post such preferential allotment made on January 29, 2015, the shareholding of Shiva Kumar Komaravelli (hereinafter referred to as '***Noticee no. 3***') became 23.08% due to allotment of 7,50,000 shares of the *Company*. Similarly, the respective shareholding of Srikanth Burugu (hereinafter referred to as '***Noticee no. 4***') and Lata Bejgam (hereinafter referred to as '***Noticee no. 5***') became 11.54% of total shareholding due to allotment of 3,75,000 shares of the *Company* to each of them. Similarly, Perraju Pericharla (hereinafter referred to as '***Noticee no. 6***'), Joseph Polisetty (hereinafter referred to as '***Noticee no. 7***'), Balram Aerrolla (hereinafter referred to as '***Noticee no. 8***') and Swaroopa Pasupula (hereinafter referred to as '***Noticee no. 9***') were respectively allotted 1,00,000 shares of the *Company* due to which the shareholding of each one of them in the *Company* became 3.08% of total shareholding of the *Company*.

7. At the same time, *Noticee no. 1* was already holding 20,000 shares of the *Company* which amounted to 8.03% of pre-allotment shareholding of the *Company*. Subsequent to fresh allotment of 5,00,000 shares in preferential allotment, the total shareholding of *Noticee no. 1* became 5,20,000 shares which constituted

16.00% of total shareholding of the *Company* after the preferential allotment of shares. Similarly, *Noticee no. 2* was already holding 40,000 shares of the *Company* aggregating to 16.06% of pre-allotment shareholding of the *Company*. Consequent to additional allotment of 4,00,000 shares in preferential allotment, the total shareholding of *Noticee no. 2* became 4,40,000 shares constituting 13.54% of total shareholding of the *Company* after the aforesaid preferential allotment of shares.

8. Thus, the *Noticees* collectively acquired 28 lakhs shares of the AIL by way of preferential allotment of shares dated January 29, 2015. Due to all the above noted allotments, it was alleged that the shareholding of *Noticees* as a group, which was only 24.10% of total shareholding of the *Company* prior to preferential allotment of shares, increased to 88.03% of total shareholding of the *Company*. This act of acquisition of shares by the *Noticees* acting in concert as a connected group has been alleged to be in contravention of the provisions of Regulation 3(1) of SAST Regulations.

9. At the same time, it was also observed that the shareholding of the *Noticees,* as a single group, changed by more than 2% of their total shareholding in the *Company*. As a result, they were also required to make a disclosure as a group, about such change in their shareholding as a group under Regulation 29(2) of SAST Regulations within 2 trading days from the date of acquisition of shares. However, *Noticee no. 1* made only an individual disclosure under Regulation 29(2) of SAST Regulations, disclosing changes in his individual shareholding only. Similarly, *Noticees no. 2 to 5* had made their respective individual disclosures of acquisition of shares under Regulation 29(1) of SAST Regulations, disclosing themselves having acted individually in acquiring the shares of the *Company*. In view of the above noted facts discovered in the investigation, the *Noticees*, as a group, have been alleged to have failed to

disclose their correct shareholding as a connected group and the change therein pursuant to the allotment in the preferential issue, under Regulation 29(2) read with 29(3) of SAST Regulations, thereby violating the said provision of law.

10. On the basis of the aforementioned findings, an SCN dated September 17, 2021 was issued to the afore noted *9 Noticees* alleging that they have acted in violation of the aforementioned provisions of SAST Regulations, hence, the SCN called upon them to show cause as to why suitable directions should not be issued against them and appropriate penalty be not imposed upon them under the provisions of Sections 11(1), 11(4), 11B(1), 11B(2) read with Sections 15A(b) and 15H of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') for the alleged violations of the provisions of law as highlighted in the said SCN.

11. The SCN has been delivered to all the *Noticees* at their respective addresses available with SEBI. I find from the submissions available on record that *Noticee no. 4* has passed away and a duly notarized copy of his death certificate has been submitted in the present matter. All the remaining noticees have submitted their respective replies to the SCN. Subsequently, in conformity with the principles of Natural Justice, a personal hearing of the *Noticees no. 1 to 3* and *5 to 9* was scheduled in the matter on November 16, 2022. On the said date, *Noticees no 1, 2, 6, 7, 8 and 9* appeared through their common Authorized Representative and *Noticees no. 3 & 5* appeared through their common Authorized Representative. The Authorized Representatives of the aforementioned 8 noticees reiterated their contentions and arguments that were already covered in their respective submissions made vide their written replies to the SCN. During the course of personal hearing, certain queries were

raised before these 8 noticees and the *Noticees no. 1 to 3* and *5 to 9* were granted time to submit their replies. Vide their respective post-hearing submissions, the *Noticees no. 1 to 3* and *5 to 9* have submitted their respective replies to the queries so raised to them during personal hearing.

12. Thus, I can find, from the records that the *Noticees* have submitted their respective replies to the SCN and additional submissions by way of the following letters:

Table 2: List of replies of the *Noticees*

Noticee no.	Letter date
Noticee no. 1	December 07, 2021 and December 06, 2022
Noticee no. 2	December 07, 2021 and December 06, 2022
Noticee no. 3	December 30, 2021 and December 05, 2022
Noticee no. 4	October 07, 2021*
Noticee no. 5	December 30, 2021 and December 05, 2022
Noticee no. 6	December 08, 2021 and December 06, 2022
Noticee no. 7	December 08, 2021 and December 06, 2022
Noticee no. 8	December 13, 2021 and December 06, 2022
Noticee no. 9	December 08, 2021 and December 06, 2022

*- Death Certificate of *Noticee no. 4* submitted by Noticee no. 1 vide his email dated October 07, 2021.

For the ease of linking the replies and submissions made by the *Noticees* with the facts and allegations of the present matter, the relevant parts of the replies of *Noticees* have been discussed and dealt with at appropriate places in course of deliberations in the present Order.

Consideration of the Issues

13. Before moving ahead, I find it necessary to deal with a preliminary objection raised by each of the *Noticees*, except for one, i.e. *Noticee no. 4*. All these *Noticees*

have submitted that the SCN was issued after a delay of 6 years from the date of the alleged transactions. Citing certain judicial decisions, they have contended that the SCN needs to be withdrawn on this ground alone.

14. In this regard, from the background facts of the case, I find that SEBI had received a reference from BSE in December 2018 regarding issue of possible price manipulation in the scrip of the *Company* in the light of an SMS being widely circulated therein recommending purchase of scrip of the *Company*. It was also observed by BSE that all the non-promoter entities, who had received shares in the preferential allotment dated January 29, 2015, have sold their shares of the *Company* during the period from March 31, 2016 to November 11, 2018.

15. Taking cognizance of such a reference of BSE, SEBI conducted a preliminary examination and on the basis of *prima facie* evidence found during the same, initiated its investigation in the month of March 2019. During the course of such investigation, fund transactions were found out in the account of certain non-promoter entities and accordingly investigation progressed further to uncover the possibility of funding of these entities by promoters of the *Company* for the purpose of enabling them to subscribe to the preferential allotment of shares by the *Company*.

16. In the meantime, due to COVID pandemic and connected hardships, the investigation got hampered, as the pandemic adversely affected the process of collection of relevant documents and records for the purpose of completing the investigation. Given the fact that the fund transactions had taken place through layering of transfer of funds to certain connected entities, investigation into such layering of transactions was bound to take some time. Despite all the aforesaid obstacles and setbacks, I find the SCN was issued in

the matter on September 17, 2021. Therefore, I find no delay on the part of SEBI in conclusion of investigations and subsequent issuance of SCN. At the same time, I also note that, while all the *Noticees* (except *Noticee no. 4*) have contended that there has been inordinate delay in issuance of SCN, none of them has claimed or demonstrated as to how such delay, if any, has actually prejudiced them in defending their case. Therefore, I find no merit in the preliminary objection of the *Noticees.*

17. Before proceeding to deal with the allegations as recorded above against the *Noticees*, I find it appropriate that for the purposes of easy reference, relevant provisions of law which have allegedly been contravened by the *Noticees* as per the SCN, are reproduced hereunder:

SAST Regulations

Substantial acquisition of shares or voting rights.

3.*(1) No acquirer shall acquire shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, entitle them to exercise twenty-five per cent or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations.*

Disclosure of acquisition and disposal.

29*(2) Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds two per cent of total shareholding or voting rights in the target company, in such form as may be specified.*

(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within two working days of the receipt of intimation of allotment of shares, or the acquisition or the disposal of shares or voting rights in the target company to,—

(a) every stock exchange where the shares of the target company are listed; and

(b) the target company at its registered office.

18. Moving on to the matter in hand, as narrated earlier, AIL had made a preferential allotment of 30,00,000 shares to 11 preferential allottees including the promoters viz. *Noticees no. 1 & 2*. It has been alleged that 9 out of those 11 preferential allottees (mentioned at S. No. 1 to 9 in Table 1 above) were PAC. By such acquisition of shares, it is alleged that the aggregate shareholding of promoters and their PACs have increased from 24.10% (pre-acquisition) to 88.03% of the total post preferential allotment shareholding of AIL. By virtue of such acquisition of shares, it is alleged that the *Noticees* have triggered invocation of Regulation 3(1) of SAST Regulations. It is also alleged that the *Noticees* have violated the provisions of Regulations 29(2) read with 29(3) of SAST Regulations by virtue of non-disclosure of changes in their aggregate shareholding as a group in the *Company*. It is therefore alleged that the *Noticees* have collectively violated the aforementioned provisions of law.

19. To begin with the alleged failure on the part of the *Noticees* to make an open offer in terms of provisions of SAST Regulations, I find that no share of AIL was held by *Noticees no. 3 to 9* prior to the acquisition of shares by them under the preferential allotment. All of them acquired shares of AIL through preferential allotment of shares on January 29, 2015. In this respect, it is seen from the bank account statement of the *Noticees*, including that of *Noticees no. 3 to 9*, that though the *Noticees* have paid consideration to the *Company* for acquisition of shares allotted to them in preferential issue, an in-depth analysis of mode and manner of acquisition of shares by them during investigation

reveals that these *Noticees* had paid their respective monetary consideration against the preferential allotment out of the funds received from certain entities connected, directly or indirectly, with the promoters viz. *Noticees no. 1* and *2*. In view of this, it is alleged that the *Noticees no. 3 to 9* are PACs to the promoters of the *Company* viz. *Noticees no. 1* and *2* and all of these 9 *Noticees* (including the promoters) were having a common intention to acquire the shares of the *Company* which was carried out by acquiring the shares in the manner as explained earlier in the preceding paragraphs, and as a result these *Noticees* ended up contravening the provisions of Regulation 3(1) of SAST Regulations.

20. Keeping the aforesaid common intent of the *Noticees* in view, it becomes necessary at this stage to deal with the concept of 'persons acting in concert' and the standard of proof required to establish as to whether two persons or a group of persons have actually acted in concert or not. The term 'persons acting in concert has been defined under Regulation 2(1)(q) of SAST Regulations as following:

(q) "persons acting in concert" means, —

(1) persons who, ***with a common objective or purpose of acquisition of shares or voting rights in, or exercising control over a target company, pursuant to an agreement or understanding, formal or informal, directly or indirectly co-operate*** *for acquisition of shares or voting rights in, or exercise of control over the target company.*

(2) Without prejudice to the generality of the foregoing, the persons falling within the following categories shall be deemed to be persons acting in concert with other persons within the same category, unless the contrary is established, —

(i) a company, its holding company, subsidiary company and any company under the same management or control;

(ii) a company, its directors, and any person entrusted with the management of the company;

(iii) directors of companies referred to in item (i) and (ii) of this sub-clause and associates of such directors;

(iv) promoters and members of the promoter group;

(v) immediate relatives;

(vi) a mutual fund, its sponsor, trustees, trustee company, and asset management company;

(vii) a collective investment scheme and its collective investment management company, trustees and trustee company;

(viii) a venture capital fund and its sponsor, trustees, trustee company and asset management company;

(viiia) an alternative investment fund and its sponsor, trustees, trustee company and manager;

*(ix) ****

(x) a merchant banker and its client, who is an acquirer;

(xi) a portfolio manager and its client, who is an acquirer;

(xii) banks, financial advisors and stock brokers of the acquirer, or of any company which is a holding company or subsidiary of the acquirer, and where the acquirer is an individual, of the immediate relative of such individual:

Provided that this sub-clause shall not apply to a bank whose sole role is that of providing normal commercial banking services or activities in relation to an open offer under these regulations;

(xiii) an investment company or fund and any person who has an interest in such investment company or fund as a shareholder or unitholder having not less than 10 per cent of the paid-up capital of the investment company or unit

capital of the fund, and any other investment company or fund in which such person or his associate holds not less than 10 per cent of the paid-up capital of that investment company or unit capital of that fund:

Provided that nothing contained in this sub-clause shall apply to holding of units of mutual funds registered with the Board;

Explanation. — For the purposes of this clause "associate" of a person means, —

(a) any immediate relative of such person;

(b) trusts of which such person or his immediate relative is a trustee;

(c) partnership firm in which such person or his immediate relative is a partner; and

(d) members of Hindu undivided families of which such person is a coparcener;

21. In this regard, it is the submissions of the *Noticees* that, except for the *Noticees no. 1 and 2*, they were acting separately and not acting in concert. It is also their submissions that the funds received from the *Noticees no. 1* and *2* or entities connected to them were primarily loans taken for different purpose viz. loan taken to subscribe to preferential issue of shares of AIL or repayment of loans taken earlier by their respective counterparties etc. They have also submitted in their respective replies to the SCN that there is no evidence to suggest that there was any agreement amongst them or that they were acting in concert.

22. Having gone through the submissions made by these 7 non-promoter noticees therein arguing that the receipt of funds by them cannot be taken as a ground to come to a finding of sharing of common intention, it is observed that a similar issue had come up for consideration before the Hon'ble Supreme Court of India in the matter of Technip SA vs. SMS Holding (Pvt.) Ltd. & Ors. (2005) 5 SCC 465, wherein, while examining as to whether two entities were acting in concert with each other, the Hon'ble Supreme Court of India

while examining the provisions of the predecessor of the present SAST Regulations i.e. SAST Regulations, 1997 held the following:

"*54. The standard of proof required to establish such concert is one of probability and may be established*

> *"if having regard to their relation etc., their conduct, and their common interest, that it may be inferred that they must be acting together: evidence of actual concerted acting is normally difficult to obtain, and is not insisted upon". [CIT v. East Coast Commercial Co. Ltd., (1967) 1 SCR 821]. (SCR p. 829 H)*

55. While deciding whether a company was one in which the public were substantially interested within the meaning of Section 23A of the Income Tax Act, 1922 this Court said:-

> *"The test is not whether they have actually acted in concert but whether the circumstances are such that human experience tells us that it can safely be taken that they must be acting together. It is not necessary to state the kind of evidence that will prove such concerted actings. Each case must necessarily be decided on its own facts" [Commissioner of Income Tax v. Jubilee Mills Ltd., (1963) 48 ITR 9 (SC), p. 20]*

56. In Guinness PLC and Distillers Company PLC [Guinness PLC and Distillers Company PLC (Panel hearing on 25-8-1987 and 2-9-1987 at p. 10052 — Reasons for decisions of the Panel.)] the question before the Takeover Panel was whether Guinness had acted in concert with Pipetec when Pipetec purchased shares in Distillers Company PLC. Various factors were taken into consideration to conclude that Guinness had acted in concert with Pipetec to get control over Distillers Company. The Panel said :-

> *"The nature of acting in concert requires that the definition be drawn in deliberately wide terms. It covers an understanding as well as an agreement, and an informal as well as a formal arrangement, which leads to co-operation to purchase shares to acquire control of a company. This is necessary, as such arrangements are often informal, and the understanding may arise from a hint.*

The understanding may be tacit, and the definition covers situations where the parties act on the basis of a "nod or a wink"..... Unless persons declare this agreement or understanding, there is rarely direct evidence of action in concert, and the Panel must draw on its experience and common sense to determine whether those involved in any dealings have some form of understanding and are acting in co-operation with each other"" (emphasis supplied)

23. In terms of afore quoted observations, the Hon'ble Supreme Court has held that it is not possible in all the cases to have direct evidence of any agreement or understanding to record a finding as to whether any two entities or a group of entities were acting in concert to exercise control over a listed company or not. It is a trite law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as happens in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled against such persons. There is no doubt that direct evidence provides a more certain basis to come to a conclusion, however, in the absence of such direct evidence, the process of ascertaining the truth would not come to an end. The judicial scrutiny would not be helpless, rather in such circumstances, it becomes incumbent to take note of the immediate and proximate facts and circumstances surrounding the events on the basis of which the charges/allegations are levelled, and to reach to what would appear to the Court to be a reasonable conclusion therefrom. Thus, the test would always be about what inferential process a reasonable/prudent man would adopt to arrive at a reasonable conclusion.

24. Based on the above settled principle of law, the facts of the present matter deserve to be put to test to arrive at a conclusion from the perspective of a reasonable prudent person so as to determine as to whether, in the absence of

direct evidence, based on the appreciation of materials and other facts available on record, it could be held that the *Noticees* were sharing common intention while acquiring the shares of the *Company*.

25. In this context, at the outset I can state that *Noticees no. 1 & 2* are deemed to be PACs by virtue of them being promoters of the *Company*. At the same time, I find that both *Noticees no. 1* and *2* were on the Board of Directors of AIL during the period of preferential allotment of shares by AIL. I also find that the *Noticee no. 2* was the Chief Financial Officer of AIL. Therefore, it would be not an exaggeration to hold that no fund transaction from the account of AIL could have taken place during the period of allotment of preferential shares without the knowledge, consent and approval of *Noticee no. 2*. At the same time, it is crucial to examine the fund transfer made to each of the non-promoter noticees and the rationale offered by each of them to justify such receipt of funds, so as to arrive at a finding as to whether in the facts and circumstances of the matter, it is reasonable to come to a conclusion that these *Noticees* were acting together or separately, while acquiring the shares of the *Company* allotted to them in the preferential allotment.

26. As the major point of evidence against the *Noticees no. 3 to 9* being PACs with *Noticees no. 1* and *2* is the origin of funds which were ultimately used by them as consideration against shares allotted to them in preferential issue, before dealing with such fund transfers to different *Noticees* and their respective contentions one by one, I find it convenient to map out the path of fund transfers in the below table:

Table 3: Movement of Funds

Noticee No.	Originator of Funds	Transferee 1 (Date of Transfer)	Transferee 2 (Date of Transfer)	Transferee 3 (Date of Transfer)	Transferee 4 (Date of Transfer)	Transferee 5 (Date of Transfer)
3.	VPL	Noticee no. 3 (28.01.2015)	**AIL** (28.01.2015)	VPL (05.03.2015)		
4.			Noticee no. 4 (28.01.2015)	**AIL** (28.01.2015)	VPL (05.03.2015)	
5.			Noticee no. 5 (29.01.2015)	**AIL** (29.01.2015)	VPL (05.03.2015)	
6.	VPL	CCIPL (29.01.2015)	Veerraju Pericharla (29.01.2015)	Noticee no. 6 (29.01.2015)	**AIL** (29.01.2015)	VPL (05.03.2015)
7.			Yadaiah Pasupula (29.01.2015)	Noticee no. 7 (29.01.2015)	**AIL** (29.01.2015)	VPL (05.03.2015)
8.			Aladi Srinivas (29.01.2015)	Noticee no. 8 (29.01.2015)	**AIL** (29.01.2015)	VPL (05.03.2015)
			Sainath Goud Kasula (29.01.2015)	Noticee no. 8 (29.01.2015)	**AIL** (29.01.2015)	VPL (05.03.2015)
9.	Vertex Ventures Healthcare	Yadaiah Pasupula (28.01.2015) (29.01.2015)	Noticee no. 9 (28.01.2015) (29.01.2015)	**AIL** (28.01.2015) (29.01.2015)		

*- VPL-Vishwanath Projects Limited
CCIPL-Coastal Conductors and Industries Private Limited

Thus, the aforementioned table clearly shows that all the funds, used in subscription of shares of AIL in preferential issue by *Noticees no. 3 to 8* were originated from Vishwanath Projects Limited (hereinafter referred to as '**VPL**'), an entity allegedly connected with *Noticee no. 3* and which has received funds from AIL after the completion of preferential issue of shares. I also note that the funds utilized by *Noticee no. 9* to subscribe to the shares of AIL in preferential issue was originated from Vertex Venture Healthcare, an entity alleged to be connected with *Noticee no. 1*. In view of this, it has been alleged that all these *Noticees no. 3 to 9* are connected with *Noticees no. 1* and *2* and have actually acted in concert with these two promoter entities to acquire shares of AIL in its preferential issue.

27. Keeping the aforesaid fund transactions in mind, I propose to first deal with

the transactions pertaining to *Noticees no. 3, 4* and *5* together as the source of funds and the route of transfer of funds to these entities have many similarities. Subsequently, I propose to deal with the transactions involving *Noticees no. 6, 7* and *8* together based on their common source of funds and similar routing of funds in their accounts. Thereafter, I propose to deal with the transactions of *Noticees no. 1* and *9* as one group, following the aforementioned similar reasoning, and lastly, I will deal with the transactions done by *Noticee no. 2* separately. While discussing the transactions of the *Noticees*, the roles played by them in connection with their subscription to the shares in preferential issue shall also be deliberated.

Role of *Noticee no. 3.*

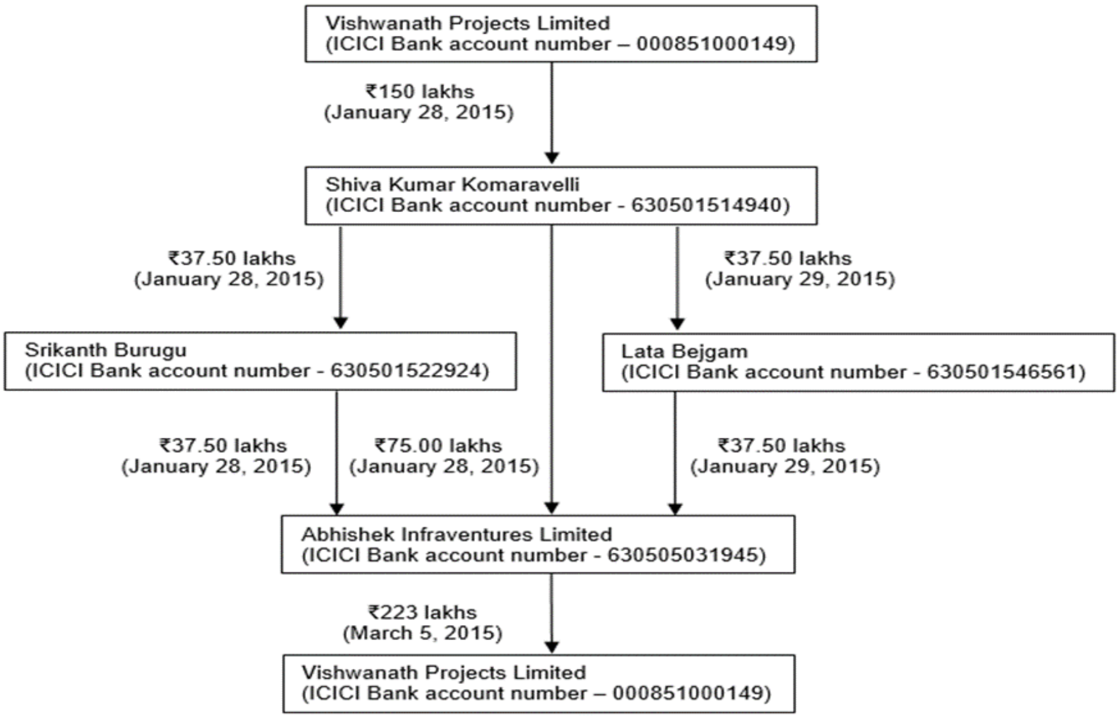
28. I find from the material available on record that *Noticee no. 3* has admitted in his email dated March 13, 2020 to SEBI that he knows *Noticee no. 1*. At the same time, a perusal of bank statement of ICICI Bank A/c No. 630501514940, which belongs to *Noticee no. 3*, shows that *Noticee no. 3* had numerous bank transactions with Rajendra Prasad Adiraju, brother of *Noticee no. 2*. I find it interesting to note here that the same Rajendra Prasad Adiraju is a partner with *Noticee no. 1* in M/s Vertex Ventures (a partnership firm in which one Mr. Sirish Dayata is the third partner). *Noticee no. 3* is also found to have had bank transactions with Mr. Sirish Dayata. I also find that Mr. Rajendra Prasad Adiraju was a director in Jay Mahesh Infraventures Limited (hereinafter referred to as '**JMIL**') from 1999 to 2011 and, coincidentally, upon his resigning from the directorship of JMIL, *Noticee no. 1* joined as a director of the said company on the same day. Subsequent to *Noticee no. 1*'s joining JMIL as Director, *Noticee no. 3* is observed to have numerous transactions with JMIL, during the period of June-September 2014. All these facts suggest that all three of them viz. *Noticee no. 1*, Rajendra Prasad Adiraju and *Noticee no. 3* were well

known to one another.

29. Moving forward to the transactions that connects *Noticees no. 3* with the promoters of the *Company*, I find that INR 1.50 crores were received by *Noticee no. 3* on January 28, 2015, in his ICICI Bank account number – 630501514940 from ICICI Bank account number – 000851000149 that belonged to one Vishwanath Projects Limited (hereinafter referred to as '**VPL**'). It is also noticed that, out of the amount received, *Noticee no. 3* had paid INR 75 lakhs to ICICI Bank account number 630505031945 of the *Company* on January 28, 2015 as a consideration against the preferential allotment of shares of AIL. It has also been noticed that *Noticee no. 3* transferred an amount of INR 37.50 lakhs each to the account of the *Noticees no. 4* and *5* on the same day, which were utilised by these two noticees in paying their respective purchase considerations against the allotment of shares to them by the *Company*.

30. It is also on record that the *Company* i.e. AIL had transferred approximately INR 2.23 crores from its ICICI Bank account having A/c no. 630505031945 to VPL in ICICI Bank A/c number 000851000149 of VPL on March 05, 2015. The abovementioned fund transactions among *Noticees no. 3, 4* and *5*, AIL and VPL are depicted in the flowchart as shown below:

Flowchart 1



31. At this stage, I find it relevant to mention that, as on March 31, 2017, *Noticee no. 3* and his family were together holding 74.97%. of total shareholding of VPL. At the same time, *Noticee no. 4* was holding 0.79% shares of the said company. *Noticee no. 3* has also been a director of VPL since February 24, 2006 and his family members viz. Mr. Vishwanath Komaravelli and Ms. Vishwani Komaravelli are directors of VPL since January 25, 2014 and October 30, 2015 respectively. Another family member, Ms. Swathi Komaravelli was holding the position of director of VPL from February 24, 2006 to January 01, 2011. The registered address of VPL, viz. H No. 3-5-874/A, R K Vipanchi Estates, Hyderguda, Hyderabad, Andhra Pradesh, Telangana - 500029 India, is also apparently the registered address of some other companies such as Sakila Estates Limited and Vishwanath Transformers Limited. The same address appears as the office cum communication address in the Account Opening

Form of *Noticee no. 1* at Kotak Securities Limited.

32. I find that *Noticee no. 3* had submitted during the course of investigation that he had invested in the shares of the *Company* in preferential allotment out of his own funds. The funds received by him from VPL are claimed to be out of his own credit with VPL and were not a loan from VPL. In support of this, he has submitted an unaudited ledger account extract of VPL. I find that the said ledger account extract is an internal document of VPL and there is no way to independently verify the details recorded in such self-made documents. Therefore, such internal document of a company without any supporting evidence cannot be a relied upon to prove the veracity of such transaction. In the absence of any independently verifiable piece of evidence, I am of the view that no sufficient evidence has been placed in support to accept his submission.

33. It is also noted that certain queries were posed to *Noticee no. 3* during the course of his personal hearing. In his replies, he has submitted the list of all the scrips wherein he had traded from FY 2014-15 to FY 2018-19. He was also asked to provide the list of companies wherein he had subscribed under the preferential allotment of shares. From his reply, I find that *Noticee no. 3* has stated that he had invested in the shares of AIL on being approached by *Noticee no. 1*, who had assured him good returns from such investments.

34. From the documents submitted by *Noticee no. 3* to show his dealings in securities market, I find that he had never invested more than 29 lakhs in securities market on a gross basis in any financial year during the period of FY 2014-15 to FY 2018-19. In fact, his highest investment in a scrip during this period was of INR 15,19,591.45 in Hindustan Zinc Limited, a well-established company whose majority shareholding is held by Vedanta Limited and

Government of India. At the same time, as per his Income Tax Returns, his gross income during FY 2014-15 was INR 27,55,617 only. In such circumstances, it doesn't make any sense for him to invest in a completely unknown company, listed on a regional stock exchanges viz. ASE, in such huge amount to the extent of INR 75 lakh. No prudent investor would invest an amount that is equivalent to almost three times of his gross annual income, in a single completely unknown company like AIL. Therefore, the action and investment decision of *Noticee no. 3* in this respect was well beyond the actions and decisions a prudent investor would take in securities market, that is fraught with risks and uncertainties.

35. I also find that no explanation, whatsoever, has been submitted by him, either during the course of investigation or during the course of present proceedings regarding receipt of INR 2.23 Crores by VPL from AIL in March 2015. During the course of investigation AIL had claimed that INR 2.23 crores were paid by it to VPL for the purchase of MS material. However, no documentary evidence was ever provided by it in support of such a claim despite repeated reminders being sent by SEBI. This clearly leads to an impelling inference that the funds which were transferred by *Noticee no. 3* to AIL against preferential allotment of shares, had returned back by AIL to him by way of transfer of such funds to his company VPL. In this way, funds have apparently circuitously travelled from VPL to AIL and back to VPL and in the process the *Company* virtually did not receive any consideration against the issuance of shares worth INR 75 Lakhs to *Noticee no. 3* by way of preferential allotment. Under the circumstances, I find sufficient factual as well as circumstantial evidences to hold that *Noticee no. 3* was acting in concert with *Noticees no. 1* and *2* in their attempt to corner majority of shares of the *Company,* while increasing the paid-up share capital of the *Company*. For this purpose, *Noticee no. 3* had

subscribed to the shares of AIL, however, the consideration paid for the said subscription of shares were reimbursed by *Noticees no. 1* and *2* by transferring back funds from the account of AIL to VPL, immediately after completion of the preferential allotment of shares and for which, no justifiable explanation with supporting evidence to hold a contrary view has been brought before me either by the *Company* or by *Noticee no. 3*.

Role of *Noticee no. 4*

36. I find that sister of *Noticee no. 4*, Mrs. Srilatha Burugu, is the wife of Mr. Sirish Dayata, who is one of the three partners in Vertex Ventures (the other two partners being *Noticee no. 1* and Rajendra Prasad Adiraju, brother of *Noticee no. 2*). Mr. Sirish Dayata is promoter director of Variman Global Enterprises Limited, a BSE listed company which was earlier known as 'Spring Field Infraventures Limited'. He has been holding directorship in the said company since October 11, 2013. I find from material available on record that Rajendra Prasad Adiraju (brother of *Noticee no. 2*) was also a director of Variman Global Enterprises Ltd. in FY 2013-14 (from October 11, 2013 to November 11, 2013). Perusal of the annual report of the said company for Financial Year 2017-18 shows that *Noticee no. 1* was appointed as a Director of the said company i.e. Variman Global Enterprises Ltd. on April 20, 2018. Besides, Mr. Sirish Dayata is also found to have multiple fund transactions with *Noticee no. 3* as well as Rajendra Prasad Adiraju. All these facts clearly show that Mr. Sirish Dayata is closely connected to *Noticee no. 1* and his connected entities and he was the brother in law of *Noticee no. 4*. At the same time, as depicted in Flow chart-1, *Noticee no. 4* had received INR 37.50 Lakh from *Noticee no. 3* and that amount was paid for subscribing to the shares of AIL in preferential issue.

37. I also note from the materials on record that, during the course of

investigation, *Noticee no. 4* had admitted in his letter dated March 11, 2020 that he knew *Noticees no. 1* and *3*. *Noticee no. 4* was further found to have received funds from Mrs. Sharada Kovuri, the wife of *Noticee no. 1*, in a separate transaction, which further strengthen his connections with the promoters of AIL.

38. Moving on to the fund transactions in question, as stated above that, out of the aforementioned INR 1.50 Crores, received by *Noticee no. 3* from VPL on January 28, 2015, an amount of INR 37.50 lakhs was transferred by him to *Noticee no. 4* on the same day viz. January 28, 2015. The said amount was immediately transferred by *Noticee no. 4* to the *Company* towards the consideration for shares received through preferential allotment.

39. Upon asking for the rationale of fund transfer to the tune of INR 37.50 lakhs so made from *Noticee no. 3* to *Noticee no. 4*, these noticees initially submitted an agreement for sale of a plot of land in support of such transactions, however, *Noticee no. 3* in his post hearing submissions, submitted another agreement for sale of the same plot of land. While the first agreement was submitted during the course of investigation; the second agreement was submitted as a part of post hearing submissions of *Noticee no. 3*. The first agreement shows *Noticee no. 4* and his family members were selling a plot of land in Saroonagar Village in Ranga Reddy district to one Mr. R Praveen Kumar for the price of INR 65 Lakh on March 15, 2016. I find from the said agreement that the purchaser Mr. R Praveen Kumar has stated to have paid INR 65,00,000 to *Noticee no. 4* and his family members in four tranches by different modes viz; cash transfer, bank account transfer to Federal Bank accounts of mother and sister of *Noticee no. 4* etc. However, none of these transactions mention any fund transfer between *Noticees no. 3* and *4*. Further, it is also very strange to observe as to why *Noticee no. 3* will pay money to *Noticee no. 4* for a land purchased by one

Mr. R Praveen Kumar, who doesn't appear to be related to *Noticee no. 3*. At the same time, *Noticee no. 3* has also not provided any rationale of transfer of funds to *Noticee no. 4* on behalf of Mr. R Praveen Kumar.

40. It is further observed that instead of answering this issue, *Noticee no. 3* has chosen to submit another agreement for sale of a land by *Noticee no. 4* to him, in his post hearing submissions, as a justification of his fund transfer to *Noticee no. 4*. I find that the said agreement is dated March 06, 2014 and was printed on a INR 100/- stamp paper which was issued on December 31, 2011 i.e. the stamp paper was more than 2 years old. Further, no signature of family members of *Noticee no. 4* is present on the said second agreement whereas the earlier agreement suggested that the said plot was jointly owned by *Noticee no. 4* and his family members. It is further observed from the perusal of the said agreement that *Noticee no. 3* had transferred INR 11,000 to *Noticee no. 4* on December 31, 2011 as an advance and after that another installment of advance of INR 7 Lakh was given by *Noticee no. 3* vide a cheque dated March 06, 2014. It has been mentioned in the said sale agreement that the rest of the amount would be paid before registration of the property and at the end of the agreement, a hand written note is found to be present that is purportedly written by *Noticee no. 4*, stating that he had received an amount of INR 37,50,000 on January 28, 2015 from *Noticee no. 3*.

41. Having gone through the submissions advanced and on perusing carefully the said agreements, it is observed that no evidence of payment of rest of the consideration of aforementioned sale of plot of land or evidence of the said piece of land having been transferred through registered mode in the name of *Noticee no. 3* has been provided despite repeatedly asking *Noticee no. 3* to submit the registered sale cum transfer deed in support of his aforesaid claim. Secondly, it has been explained vide the first agreement that the said plot of

land was sold on March 15, 2016 by *Noticee no. 4* and his family members in the name of Mr. R Praveen Kumar and the said sale deed was duly registered in the office Sub-Registrar, Saroonagar while strangely enough, at the same time, vide the second agreement dated March 06, 2014 the same plot of land was claimed to have been sold by *Noticee no. 4* to *Noticee no. 3* for which, purportedly *Noticee no. 3* had paid INR 37,50,000 to *Noticee no. 4* on January 28, 2015 and the terms of second agreement show that rest of the money would be paid by *Noticee no. 3* at the time of registration of sale deed of the said plot of land. Strangely, the first agreement is dated March 05, 2016, whereas as per the second agreement, majority of payment was made on January 28, 2015, but no evidence of rest of the payment was submitted by *Noticee no. 3* and the land also doesn't appear to have been registered in the name of the *Noticee no. 3*. Subsequently, the same piece of land was claimed to have been sold to Mr. R Praveen Kumar with whom no relation of *Noticee no. 3* of any nature was established. However, no explanation as to the return of funds transferred by *Noticee no. 3* to *Noticee no. 4* in lieu of the second agreement have been provided by *Noticee no. 3*. The entire explanation put forth by *Noticees no.3 & 4* on this issue of fund transfer by *Noticee no. 3* to *Noticee no. 4* thus appear to be contradictory, confusing and concocted and too vague to be relied upon by a rational person.

42. In fact, a perusal of the bank account statement of ICICI Bank account bearing A/c number 630501514940, belonging to *Noticee no. 3*, shows that he had various other transactions such as transfer of INR 10 lakhs during the period of March 7–11, 2014 and transfer of INR 30 lakhs on January 30, 2015 from his account to the account of *Noticee no. 4*, for which no explanation has been tendered by him nor even the said transactions have been claimed as payment towards consideration for the said plot of land. In any case, one fact that

evidently emerges out is that *Noticees no. 3* and *4* are closely related through numerous connections and are known to each other more closely than what could be possible in the normal course of business viz. land transfer. In such a scenario, funds received by *Noticee no. 4* from *Noticee no. 3*, which had ultimately originated from VPL, and the said funds were used by *Noticee no. 4* to participate in the preferential allotment of shares of AIL, is difficult to accept as a consideration received against the sale of land to *Noticee no. 3* for the reasons stated in the previous paragraph and rather the transfer of funds to *Noticee no. 4* by *Noticee no. 3*, upon immediate receipt of such funds from VPL, strongly indicates that the said fund transaction was purely a funding arrangement decided amongst them to subscribe to the preferential issue of AIL.

43. In addition to the aforesaid justifications furnished, *Notice no. 4* was asked to explain the rational for investment in the shares of AIL and reason behind the receipt of funds from the *Noticee no. 3*. However, no rationale was provided by *Noticee no. 4* in his submissions during investigation except for stating that *Noticee no. 1*, who was his acquaintance, had recommended him to invest in the preferential allotment of AIL. Under the circumstances, it is observed that no reasonable explanation has been furnished for the fund transaction between the *Noticees no. 3* and *4* and further, considering the undisputed facts that both of them were known to the *Noticee no. 1* and have invested in the preferential allotment of shares of AIL on the request of the *Noticee no. 1* who had assured good return on the investment, I find no difficulty in holding that the aforesaid two noticees i.e. *Noticees no. 3* and *4* were acting as PAC for subscribing to the shares of AIL, and the evidence on records sufficiently show that the funds used by both of them for subscribing to the shares of AIL were subsequently returned back to VPL. Therefore, upon appreciation of all the facts and

evidences placed on record, it is sufficiently established that *Noticee no. 4* was indirectly funded by the *Noticees no. 1* and *2* through VPL in their bid to corner maximum number of shares of the *Company* through the preferential allotment of shares. Thus, by being involved in the aforementioned scheme fabricated by the promoters of AIL, *Noticee no. 4* has acted as a PAC to the aforementioned two promoters of the *Company* for the said scheme.

Role of *Noticee no. 5*

44. Before moving ahead, I find it important to mention here that *Noticee no. 5* is the sister of the wife of *Noticee no. 3*. *Noticee no. 5* has admitted in her email dated August 13, 2020 that she knows *Noticee no. 3* and her account opening form at HSE Securities Limited shows her email ID as ksk@vplindia.com, which has been admitted by *Noticee no. 3* in his post hearing submissions to be his own email ID. I also find that the address given by *Noticee no. 5* in the Account Opening Form for ICICI Bank Account No. 630501546561 is the same as that is the given in Account Opening Form of *Noticee no. 3* at HSE Securities Limited.

45. I also find that *Noticee no. 5* had been a director in Vishwanath Transformers Ltd., a sister concern of VPL wherein *Noticee no. 3* is holding a majority stake. At the same time, an analysis of bank statement of ICICI Bank Account No. 630501546561 of *Noticee no. 5* shows that she had received funds in the said bank account from Mr. Rajendra Prasad Adiraju, brother of *Noticee no. 2*, and Mrs. Sharada Kovuri, wife of *Noticee no. 1*. In view of all the above description of facts, it is well established that *Noticee no. 5* is well connected with *Noticees no. 1 to 3* in one way or the other.

46. Now coming to fund transactions, I find from Flowchart-1 that, out of INR 1.50 Crores received in the account of the *Noticee no. 3* on January 28, 2015

from VPL, funds to the tune of INR 37.50 lakhs was transferred into ICICI Bank account number - 630501546561 of *Noticee no. 5* on the very next day i.e. January 29, 2015. Upon receipt of the said amount, the *Noticee no. 5* had immediately forwarded the said funds to AIL as consideration of preferential allotment of shares.

47. When enquired about the rationale behind the aforementioned fund transaction, *Noticees no. 3* had submitted during the course of investigation that the above noted fund transfer to *Noticee no. 5* represents repayment of a loan of INR 40 lakhs taken by him from *Noticee no. 5*. However, he failed to submit any documentary evidence of any such loan having been taken from her and has instead stated that *Noticee no. 5* was a family member and there were numerous monetary transactions between him and *Noticee no. 5*, her husband, Krishna Bejgam and her son, Akshay Bejgam over the years, without any specific purpose and contracts or agreements, out of mutual trust. The said submission has been reiterated by *Noticee no. 5* as well in all her submissions, either during investigation or during the present proceedings.

48. Having considered the above, I find from the bank account statement of *Noticee no. 5* maintained with ICICI Bank bearing Account no. 630501546561 that there was only one more transaction between her and *Noticee no. 3*, that too in 2018, apart from the aforementioned transfer of INR 37.50 lakh on January 29, 2015. I also find from the post hearing submissions of *Noticee no. 5* that other than AIL, she had only invested in shares of Variman Global Enterprises Limited, an entity promoted by Mr. Sirish Dayata, partner of *Noticee no. 1* in Vertex Ventures. Other than these two scrips, *Noticee no. 5* has no exposure in the equity segment of the securities market during the period from FY 2014-15 to FY 2018-19. Further, since a submission has been advanced that there were frequent fund transactions with *Noticee no. 3*, she was

asked to provide her Income Tax Return for the relevant periods to show that she indeed had frequent fund transferred with *Noticee no. 3*. In this respect, it is observed that *Noticee no. 5* has only submitted her Income Tax Returns for FY 2016-17 and 2018-19 despite being advised to submit her Income Tax Returns since FY 2013-14. Even in these two Income Tax Returns produced before me, I find no substantial income has been declared by her except for disclosing long term capital gains to the tune of INR 14.36 lakh in FY 2016-17, purportedly from the sale of immovable property (INR 14.15 lakh) and sale of other assets (INR 0.21 lakh). Further, *Noticee no. 5* has reported a long term capital loss of INR 12.50 lakh for FY 2018-19 on account of sale of shares. In these circumstances, I find that she has not brought sufficient materials in support of her claim that her investment in the shares of AIL was out of her independent decision and the funds used by her to have the exposure in the shares of AIL were out of own earning and saving. She has also not been able to place on record any tangible reasons to justify that her decision for subscribing to the shares of AIL was not influenced by her acquaintance with the *Noticee no. 3* and the promoters of the *Company*. Under the circumstances, I find no strain in recording that *Noticee no. 5* was sharing a common objective and has acted in concert with her brother in law viz. *Noticee no. 3* and the promoters of AIL who have indirectly funded her transactions in the scrip of AIL through VPL. By doing so, *Noticee no. 5* has acted in concert with *Noticees no. 1, 2* and *3* in their attempt to subscribe to the preferential allotment of shares of AIL.

Role of *Noticee no. 6*

49. Moving on to the acts of other subscribers to the preferential allotment, it is observed that *Noticee no. 6* has admitted in his letter dated March 12, 2020 to SEBI that he knows *Noticee no. 1* through a friend. Apart from the above

admission, I also find from the records that he is the brother of one Mr. Veerraju Pericharla, who in his account opened with Syndicate Bank, bearing Account no. 30042010074200, had given the address of Vertex Ventures (partnership firm of *Noticee no. 1*, Rajendra Murthy Adiraju and Sirish Dayata) as his office/business address. At the same time, the email ID vertexventures_hll@yahoo.com has been furnished in the UCC records of Veerraju Pericharla.

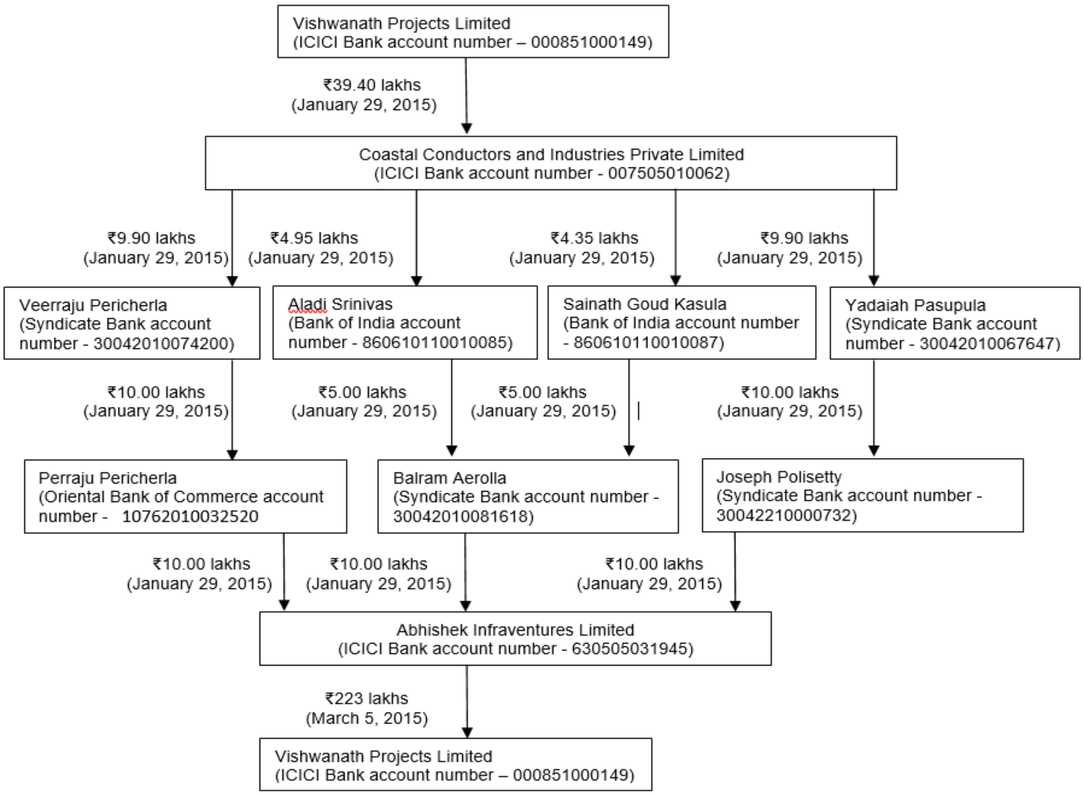
50. I also find from the account opening form of Veerraju Pericharla at Syndicate Bank that he was introduced by one Mr. Yadaiah Pasupula to open the said bank account. Further investigation revealed that the Syndicate Bank account no. 30042010067647, belonging to the said Mr. Yadaiah Pasupula, had multiple bank transactions with *Noticees no. 1, 2, 7 & 9*, Rajendra Prasad Adiraju, Vertex Ventures, Vertex Ventures Healthcare, Sirish Dayata, Straton Business Solutions Pvt. Ltd. as well as with Veerraju Pericharla. At the same time, as per the submission of *Noticee no. 2*, Yadaiah Pasupula is a friend of his brother Rajendra Prasad Adiraju. I also find from partnership deed of the firm M/s Vertex Ventures Healthcare that Mr. Yadaiah Pasupula is a partner of the said firm along with Rajendra Prasad Adiraju, Joseph Polisetty (*Noticee no. 7*) and one Mr. Sunil V Kulkarni. It is also noticed that Mr. Yadaiah Pasupula has acted as a witness in the Partnership deed of Vertex Ventures (a partnership firm of *Noticee no. 1*, Rajendra Prasad Adiraju and Sirish Dayata). At the same time, the account of Yadaiah Pasupula has also been allegedly used as a layer to transfer funds to certain other noticees, an allegation which I will deal with in later paragraphs of this Order.

51. All these facts clearly point to the fact that both Veerraju Pericharla and Yadaiah Pasupula are well connected with promoters of AIL and they were also well connected with each other. At the same time, numerous fund

transactions with promoters and their connected entities have been observed from the accounts of both Veerraju Pericharla and Yadaiah Pasupula. In view of the aforesaid, it is not difficult to accept that these two persons are connected entities of *Noticees no. 1* and *2*. Given the fact that *Noticee no. 6* is the brother of Mr. Veerraju Pericharla, it is not difficult to accept that *Noticee no. 6* is also connected to *Noticees no. 1* and *2*.

52. Having observed the above, I proceed to examine the fund transactions in the account of *Noticee no. 6* and in this regard, it is noticed from the Table 1, presented in earlier pages of this order, that *Noticee no. 6* had subscribed to 1,00,000 shares out of the preferential allotment made by the *Company* on January 29, 2015 and for the said subscription of shares, he had paid a sum of INR 10,00,000 to AIL on January 29, 2015. An analysis of bank account statements of *Noticee no. 6* was conducted during the course of its investigation from which it was observed that *Noticee no. 6* had received funds from his brother Veerraju Pericharla just prior to allotment of shares by the *Company* to him. I find that these funds had originated from VPL and had ultimately reached *Noticee no. 6* by way of a number of layered transactions. A flowchart depicting the said fund movement from VPL to *Noticee no. 6* and thereafter various layers used for the said transfer of funds to them is given below:

Flowchart 2



53. From the above flowchart of funds, it is evident that a sum to the tune of INR 10 Lakh was received in the Oriental Bank of Commerce account number 10762010032520, belonging to *Noticee no. 6* on January 29, 2015 from Veerraju Pericharla. Upon receipt of the said funds from his brother Veerraju Pericharla, who is found to be closely connected to the promoters of the *Company*, it is noticed that *Noticee no. 6* had immediately transferred the said funds to the *Company* in its ICICI Bank account number – 630505031945, as a consideration for preferential allotment of shares.

54. Further analysis of the bank account of Veerraju Pericharla to examine the source of INR 10 lakh transferred by him to *Noticee no. 6* showed that, prior to the abovementioned transfer of INR 10 lakh to *Noticee no. 6*, he had received INR 9.90 lakhs from ICICI Bank account number – 007505010062 of a

company called Coastal Conductors and Industries Private Limited (hereinafter referred to as '**CCIPL**') on January 29, 2015. At the same time, a cash deposit to the tune of INR 10,000 was made in his bank account on the same day i.e. January 29, 2015 to make such transfer of INR 10 lakh to *Noticee no. 6* possible.

55. At this stage, I find it necessary to give a brief description of CCIPL. I note that CCIPL has received funds to the tune of INR 47.90 Lakh from VPL on January 29, 2015 in two transactions. I find that, out of the above-stated amount, an amount of INR 8.50 lakh, received through one of these two transactions, had been withdrawn from the account of CCIPL in the form of cash. Out of the remaining amount of INR 39.40 Lakh, CCIPL had transferred funds to the tune of INR 9.90 lakh to Veerraju Pericharla on the same day. Ultimately the said funds reached AIL as a consideration towards of allotment of preferential shares to *Noticee no. 6*. At the same time, I find from the bank account statement of the aforementioned ICICI Bank account of CCIPL that transactions to many other promoters connected entities were made from the said account of CCIPL and such transactions *inter alia* included fund transfers to Veerraju Pericharla, Rajendra Prasad Adiraju and Yadaiah Pasupula, all of whom have been found to be connected with the promoters of AIL in one or the other way.

56. I also note that the names of certain other connected entities such as Alladi Srinivas (director of AIL and employee of Vertex Ventures) and Sainath Goud Kasula appear prominently in the bank account statement of CCIPL. In this regard, I find from the material available on record that Mr. Alladi Srinivas was a director of AIL during February 13, 2018 to March 02, 2021 and he was a director in Variman Global Enterprises Limited (a company promoted by Mr. Shirish Dayata, partner of *Noticee no. 1* in Vertex Ventures) from February 14,

2014 to February 13, 2018 i.e. he left the said company on the same day as of his appointment as whole time director of AIL. At the same time, in his account opening form at Bank of India, he had mentioned that he was an employee of Vertex Ventures. I also find that another person named in this paragraphs, Mr. Sainath Goud Kasula, had allegedly acted as a layer for transfer of funds from CCIPL to *Noticee no. 8*, an allegation I will deal with in the later part of this Order.

57. In view of all these transactions, queries were raised to CCIPL during the course of Investigation, asking it to justify the said transactions. CCIPL had submitted during the course of investigation that the said amount of INR 47.90 Lakh was received by it from VPL as payment against the work executed by it on behalf of VPL. In support of this, CCIPL provided a copy of Memorandum of Understanding (MoU) signed between it and VPL. At the same time, VPL also submitted copies of bills raised by CCIPL, purportedly against the work done by it for VPL.

58. Perusal of the said MOU shows that it was executed on a stamp paper issued on January 03, 2012. The said MOU was executed on September 10, 2012 for execution of a work supposed to have been awarded to VPL as long back as during the period 2008-09 and the second work awarded to it on July 26, 2011. Strangely, no explanation has been furnished by any of the *Noticees*, or VPL or CCIPL as to why such a long delay took place in delegation of the said project work by VPL to CCIPL. The MOU records that CCIPL had approached VPL and expressed its willingness to execute the above works, which were allotted to VPL as early as in FY 2008-09, however, nothing on record shows if VPL had ever issued any advertisement for sub-contracting of the said project works awarded to it in FY 2008-09 and thereafter. There is also nothing on record to suggest that VPL was incapable of or was not in a position to execute

the works awarded to it and therefore it had to seek expression of interest from other entities to execute the said works officially awarded to VPL. The MOU with CCIPL as produced before me also contains certain interesting clauses viz;

(a) VPL will not be responsible for any consequences of misbehavior and misconduct of sub- Contractor staff/works at site while erection OR outside;

(b) The total work has to be completed as per the time schedule/milestones given by the Contractor. Any penalties charged by APCPDCL, KPTCL and MPPKVVCL for delay in the work will be to the account of Sub-Contractor.

The incorporation of the above clauses further raise doubt on the veracity of such a MOU and it is not explained as to how VPL, being the original awardee of the contract and accountable for successful execution of the said contract, could have, under law, shifted its liability to CCIPL or any other third party, without the consent of the principal entity which had originally awarded the work to VPL. It is also observed that no payment was ever made by VPL to CCIPL towards advance or otherwise for two years after execution of the aforementioned MOU and the first transaction between CCIPL and VPL had taken place as late as in October 2014. Subsequently, it appears that VPL transferred a sum of INR 1,20,00,000 to CCIPL in tranches during the course of next six months i.e. from October 2014 to March 2015, out of which, 48,70,000 were withdrawn from the account of CCIPL in the form of cash from time to time, but always on the same day as and when funds used to be received from VPL. Adding to these peculiar transactions, I find that, funds to the tune of INR 39,00,600 were also transferred from the account of CCIPL to the entities connected to AIL and its promoters. In the end, the account of CCIPL was found to have been suddenly closed on March 27, 2015 i.e. within two months of issuance of preferential shares of AIL.

59. Notwithstanding the aforesaid, the issue under consideration here is not the adjudication of the execution of MOU but it is the examination of the rationale of receipt of fund by *Noticee no. 6* which is of vital importance. In this respect, it is observed that there is no dispute to the fact that the funds that started flowing from VPL reached the account of *Noticee no. 6* and finally the funds reached the account of AIL. In this regard, it is noticed that CCIPL had stated during the investigation, that the amounts transferred to Veerraju Pericharla, Rajendra Prasad Adiraju, Yadaiah Pasupula, Alladi Srinivas and Sainath Goud Kasula were transferred against the contract given to these individual persons/entities for executing the work taken from VPL. Having gone through the records, the aforesaid justifications advanced by these entities are found to be fraught with contradictions. Firstly, there is no supporting document available to explain as to how the above noted individuals were awarded the works which were awarded originally to VPL. Secondly, there is no evidence to support the nature of the work supposedly executed by these individual as is being claimed by them for which money was paid to them. Thirdly since, the MoU *inter alia* provided that, "Sub-letting to any other agencies/persons shall make the Sub-contractor (i.e. CCIPL) liable for termination", there is no explanation available to justify that despite the existence of the above clause, how the work was assigned or further sub-contracted to the above noted individuals. In any event, the aforesaid facts once again reinforce the fact that *Noticee no. 6* was admittedly directly known to *Noticee no. 1*, the promoter of AIL, and also well-known to Rajendra Prasad Adiraju, brother of *Noticee no. 2,* through his own brother Veerraju Pericharla.

This, along with the abovementioned numerous bank transactions cited in the preceding paragraphs, show that the *Noticee no. 6* was not only well known to the *Noticees no. 1* and *2* but was also having close ties with the entities connected to these two noticees so much so that, he was funded by VPL to invest in the preferential allotment of shares of AIL.

60. I have already held earlier that *Noticee no. 3*, who is the promoter-director of VPL, is well connected with *Noticee no. 1* as well as Rajendra Prasad Adiraju, who is the partner of *Noticee no. 1* in Vertex Ventures and is the brother of *Noticee no. 2*. At the same time, Rajendra Prasad Adiraju had a number of bank transactions with *Noticee no. 3*. It has also been well established that Veerraju Pericharla was an employee of Vertex Ventures, a partnership firm of *Noticee no. 1*, Rajendra Kumar Adiraju and Sirish Dayata and Veerraju Pericharla has used the address and email ID of Vertex Ventures as his own address and email ID at different places, all of which have been elaborately dealt with in previous paragraphs. I also find that Yadaiah Pasupula is a friend of Rajendra Prasad Adiraju. Similarly, Alladi Srinivas was a director in AIL as well as Variman Global Ventures Limited at the relevant points of time. Therefore, all these persons were well known to *Noticee no. 3* either directly or by virtue of his connections with *Noticee no. 1* and Rajendra Prasad Adiraju. In these circumstances, I find it strange that VPL gave contract for execution of a project to these persons via CCIPL and not directly. It is a given fact that involvement of any new entity in a contract job increases the cost of transaction as such new entity will also take its profit out of the total contract proceeds of such project. In these circumstances, no prudent person will hold the transactions between VPL and CCIPL as genuine transactions, especially given the fact that it has been executed by going against the terms of MOU, signed by and submitted by CCIPL and VPL themselves, indicating thereby

that CCIPL supposedly executed the MOU by sub-letting its job to individual entities already connected with/known to the promoters of VPL. This inference leads me to the only conclusion that the transactions between VPL, CCIPL and the entities connected with the promoters of VPL were nothing but sham transactions used to only layer in the fund transfers from VPL to *Noticee no. 6*.

61. As regards the receipt of funds, *Noticee no. 6* has claimed that the receipt of funds from his brother was basically a return of a loan granted by him to his brother in 2005-10 and he had no knowledge about the source of funds for his brother Veerraju Pericharla. I find no merit in the above submission as nothing has been placed before me by the *Noticee no. 6* to suggest as to how and under what circumstances, loan was extended by him to his brother. There is also nothing placed on record to explain as to why he was silent for over a decade about the so called funds advanced by him to his brother and suddenly felt the need to recover the said amount from him only to be passed on to AIL. The evidence on record and the SCN categorically narrate that upon receipt of the said funds on January 29, 2015, the same funds were transferred by *Noticee no. 6* on the same day to the bank account of AIL for subscribing to the shares of AIL. *Noticee no. 6* has also not explained in proper terms as to how he got to know about the preferential allotment of shares of AIL and why he felt the need to subscribe to the same. While he initially submitted that he had invested in the preferential allotment of shares of AIL on the recommendation of a friend, he failed to submit the name of the 'friend' who had suggested him to make such investment. Strangely, in reply to the queries raised during the course of personal hearing, *Noticee no. 6* has submitted that he was not a regular investor in securities market and during the period from 2014-15 to 2018-19, he had traded only in the scrip of AIL. He has also

submitted that during the period of FY 2014-15 to 2018-19, he had filed his Income Tax Returns for only two years viz. FY 2017-18 and 2018-19 and his investment in the scrip of AIL was in anticipation of good returns, for which no justification (for holding such an anticipation) has been furnished.

62. Having observed the aforesaid inherent contradictions in the claims put forth before me for the above noted funds transfers by CCIPL, I observe that the submissions of *Noticee no. 6* are self-contradictory on numerous counts. First of all, he is not a regular investor and admittedly has not invested in any company other than AIL in a long period of five Financial Years viz. FY 2014-15 to 2018-19. In such a situation, there doesn't appear to be any rationale for him to invest INR 10 Lakh in a completely unknown company, which was listed on a regional stock exchange. At the same time, his Income Tax Returns for the Assessment Years 2017-18 and 2018-19 show that his gross income was a mere sum of INR 2,84,525 and INR 4,91,858 respectively. In the light of the fact that he has not been filing any Income Tax Returns in the previous years, I am compelled to presume that his income during the past years could be within the threshold range of exempted income viz. less than INR 2,50,000 in each of these years, including FY 2014-15, when he actually invested INR 10 Lakh in the preferential allotment of shares of AIL. In such circumstances, I find it completely strange for *Noticee no. 6* to invest in the shares of a company such as AIL for an amount which is at least four times his annual income. In fact, the trail of fund transfers mentioned in the Flowchart 2 (presented earlier) indicate a complete opposite picture to what is being painted by *Noticee no. 6* before me.

63. In the light of all these facts and inferences drawn as above, I have to hold that *Noticee no. 6* had also subscribed to the preferential issue of AIL like other noticees only to achieve a common goal while acting in concert with the

promoters and the said observation finds further strengths when it is seen that all the above noticees i.e. *Noticees no. 3 to 6* have had a common source of fund i.e. VPL, which was ultimately reimbursed back by AIL in less than two months after completion of preferential issue of AIL.

Role of *Noticee no. 7*

64. Moving forward to *Noticee no. 7*, I find from his email dated March 12, 2020 to SEBI that he has admitted that he knew Yadaiah Pasupula, a friend of Rajendra Prasad Adiraju. *Noticee no. 7* is also one of the partners of Vertex Ventures Healthcare, along with Yadaiah Pasupula and Mr. Rajendra Prasad Adiraju. The same Mr. Yadaiah Pasupula has had bank transactions with a number of entities involved in the present matter including *Noticees no. 1, 2, 7* and *9*, Rajendra Prasad Adiraju, Vertex Ventures, Vertex Ventures Healthcare, Sirish Dayata, Straton Business Solutions Pvt. Ltd., Veerraju Pericharla as well as with CCIPL. Further, Mr. Yadaiah Pasupula has also signed as a witness in the account opening form of *Noticee no. 7* with the stock broker, Fortune Financial Services (India) Limited. At the same time, Mr. Sirish Dayata (partner of *Noticee no. 1* in Vertex Ventures) is the introducer in the said account opening form of the trading account of *Noticee no. 7*, opened with the stock broker, Fortune Financial Services (India) Limited. In the said account opening form, *Noticee no. 7* has provided the address of Vertex Ventures as his own address. In fact, the stock broker has itself identified his trading account by giving it a title called 'Sirish Group' and has written so on the first page of his account opening form.

65. An examination of the account opening form of another trading account of *Noticee no. 7* with HSE Securities Limited shows that he was introduced by one Mr. Umesh Chandra Lunkar while opening that account. The said Umesh

Chandra Lunkar was also found to be an introducer in the account opening forms of both *Noticees no. 1* and *2*. At the same time, it is also noticed that a common email ID pansecltd@yahoo.com has been mentioned in the account opening forms of all the three of them viz. *Noticees no. 1, 2* and *7*. Similarly, in his Syndicate Bank account no. 30042210000732, *Noticee no. 7* has given the address of Vertex Ventures as his own address. The same address appears also in the respective Syndicate Bank accounts of *Noticees no. 1* and *2* also.

66. I also note from the Syndicate Bank account no. 30042210000732, belonging to *Noticee no. 7*, that he has had multiple bank transactions with Rajendra Prasad Adiraju, brother of the *Noticee no. 2*, during 2015 – 2018. At the same time, throughout the period of 2014 – 2018, he had almost monthly bank transactions with Vertex Ventures Healthcare which appear to be in the nature of salary payment to him. I also find from the Unique Client Code record submitted by BSE that *Noticee no. 7* had given the address of Vertex Ventures as his own address in his trading account with Intime Equities Limited. These facts clearly indicate that *Noticee no. 7* was well connected with *Noticees no. 1 & 2* as well as with their connected entities.

67. A detailed analysis of fund transactions in the bank account of *Noticee no. 7* and the origin of such funds suggests that VPL had transferred funds to the tune of INR 39.40 Lakh to the account of CCIPL on January 29, 2015. On the same day, CCIPL had transferred funds to the tune of INR 9.90 Lakhs to the account of Yadaiah Pasupula. Subsequently, an amount of INR 10 Lakh was transferred by Yadaiah Pasupula to *Noticee no. 7* on the same day viz. January 29, 2015 which he in turn transferred to AIL on the same day towards the consideration of preferential allotment of shares. Thus, the entire series of transactions was completed in a single day during which time, the money reached the accounts of AIL after passing through 4 accounts.

68. In this context, *Noticee no. 7* had submitted during investigation that he had come to know about AIL through his friend, Yadaiah Pasupula and he had invested his own funds. However, he didn't submit any reply to the questions put to him related to receipt of funds by him from Yadaiah Pasupula nor did he explain the nature of his connections with other suspected entities despite reminders sent to him.

69. During the course of the present proceedings, *Noticee no. 7* had submitted that he had taken a loan of INR 10,00,000 from his friend Yadaiah Pasupula to subscribe to the <u>preferential allotment</u> of shares of AIL. He has also submitted that he had repaid that loan by way of two transactions of INR 7.50 lakh and INR 2.50 lakh respectively, both dated February 03, 2015. He has also submitted that he was not aware of source of funds for Yadaiah Pasupula.

70. Subsequently, in response to the queries raised during the course of personal hearing, *Noticee no. 7* has submitted his trade details and Income Tax Returns filed for the period of Assessment Years 2014-15 to 2018-19. He has submitted that he had invested in the shares of AIL assuming that <u>he would get good returns</u> on such investments.

71. In the light of all the aforesaid submissions of *Noticee no. 7*, I find from a detailed analysis of trade details of *Noticee no. 7* during the aforementioned 5 financial years that all of his transactions except for the transaction in AIL, were done on NSE platform. Further, his largest transaction, except for transaction in shares of AIL, was sale of shares of GMR Infrastructure Limited, a well-known company in Infrastructure Sector. His buy transactions in GMR amounted to INR 2,75,330 during FY 2014-15. None of his other transactions, in any scrip, was for more than INR 55,000. At the same time, I find that *Noticee no. 7* had declared his Gross Annual Income as INR 5,76,410

in his Income Tax Return for FY 2014-15 (Assessment Year 2015-16). In these circumstances, his investment to the tune of INR 10,00,000 (almost double of his annual income) in a completely unknown company called AIL, which was listed only on a regional stock exchange viz. ASE at that point of time, is completely out of normal investment for any prudent investor in securities market.

72. At the same time, the receipt of funds from VPL which were actually used for making payment to AIL via the conduits of CCIPL and Yadaiah Pasupula, shows that *Noticee no. 7* was funded for subscribing to the shares *Company* and he received those funds from VPL through layers/conduit accounts to pay for the subscription to preferential allotment of shares of AIL. The aforesaid observations have not been disputed by the *Noticee no. 7*, and on the contrary, to justify the fund transfers to his account, he has claimed that he had borrowed money to subscribe to the preferential allotment of AIL. His further submission that the subscription to the shares of AIL was made by him with an objective of getting good returns, further demonstrates the intent of the *Noticee no. 7* that his investment in AIL was not intended to be for a long run. This is contrary to the general investor behavior wherein it is normally seen that the investors invest in a company through preferential allotment of shares after they are convinced with a long term outlook and price view about the scrip of the company and get benefitted from such long-term growth of the company. However, I find from the Adjudication Order dated September 16, 2022 passed in the matter of price-volume manipulation in the scrip of *AIL* as well as the usage of funds generated from preferential issue dated January 29, 2015, the Adjudication Officer has recorded that the *Noticee no. 7* had already sold more than 65% of his holding within 14 months after the lock-in period of the shares allotted in preferential issue had ended. This fact along

with the submissions of *Noticee no. 7* clearly show that subscribing to the shares of the *Company* by him was not really on account of he being impressed by the business prospect/strategy of the *Company*, and his decision to invest in the share capital of the *Company* was rather influenced by other extraneous factors to achieve some ulterior objectives rather than to remain invested for long time in the *Company*. Under the circumstances, the investment of *Noticee no. 7* in the shares of AIL, much beyond his annual income and that too by using the supposedly borrowed money, in itself calls the bluff of *Noticee no. 7*'s claim that the objective of the said subscription to AIL's shares was a mere investment in a normal course of dealing in securities. The obvious intent of *Noticee no. 7* for subscription to the preferential allotment of shares of AIL also turns out to be more manifest when it is seen that such subscribers like *Noticee no. 7* (and *Noticees no. 3 to 6* etc.) have received funds from a common source and that common source of funding was in turn being paid by the *Company* itself for which, no acceptable explanation with verifiable evidence has been placed on record. In view of all the above findings and observations, I find that sufficient evidences have been mustered on record for me to hold that the same *modus operandi* has been used in the case of *Noticee no. 7* which has been elaborately explained while dealing with the transactions of other noticees in the preferential issue of AIL, in the preceding paragraphs of this order. I have to therefore conclude that, by using the said modus operandi, the *Noticee no. 7* has also acted as PAC with *Noticees no. 1* and *2* in subscribing to shares of the *Company* in the preferential allotment of shares on January 29, 2015.

Role of *Noticee no. 8*

73. Adverting to the *Noticee no. 8*, I find that the facts and circumstances of *Noticee no. 8* are also very much placed akin to the *Noticee no. 7*. It is noticed that he

had also admitted in his email dated June 04, 2020 to SEBI that Mr. Yadaiah Pasupula was his friend. In his email dated August 14, 2020 to SEBI, he has admitted that he knows Mr. Rajendra Prasad Adiraju, brother of *Noticee no. 2*. At the same time, I find from the bank statement of his Syndicate Bank account no. 30042010081618 that he had entered into multiple bank transactions with Rajendra Prasad Adiraju during the period of June–September 2016. He also had bank transactions with Vertex Ventures (partnership firm of *Noticee no. 1*, Rajendra Prasad Adiraju and Sirish Dayata) during the period of December 2016 – March 2018. In fact, there were certain bank transactions from the account of *Noticee no. 8* with *Noticee no. 1* in the month of August 2017.

74. I also find from the material available on record that *Noticee no. 8* has been on the Board of Directors of Variman Global Ventures Limited during the period from April 20, 2018 to February 13, 2020. It is necessary to once again note here that Mr. Sirish Dayata is the promoter director of Variman Global Enterprises Limited and *Noticee no. 1* is also a Director of Variman Global Ventures Limited since April 20, 2018 i.e. *Noticees no. 1* and *8* have been together on the Board of Directors of Variman Global Ventures Limited for almost two years. I also find that *Noticee no. 8* has been a director of AIL since April 08, 2019.

75. I find from the account opening form of trading account of *Noticee no. 8* with Fortune Financial Services (India) Limited that he was introduced by Sirish Dayata, promoter of Variman Global Ventures Limited on January 09, 2008. This shows that *Noticee no. 8* was well known to Sirish Dayata at least since 2008. It has already been well established that Sirish Dayata is a close associate of *Noticee no. 1* as both of them are partners in Vertex Ventures and *Noticee no. 1* has been appointed as director in the company of Sirish Dayata viz. Variman

Global Ventures Limited. All these facts clearly establish that *Noticee no. 8* was also connected to *Noticee no. 1* and his close associates.

76. I now deal with the fund transactions in the account of *Noticee no. 8* which happened prior to allotment of preferential shares by AIL and here also the funds used by him to subscribe to the shares of AIL in its preferential allotment are seen to be originating from the same source. In this regard, I note from the Flowchart 2 presented earlier that VPL had transferred funds to the tune of INR 39.40 to CCIPL on January 29, 2015. On the same day, CCIPL transferred INR 4.95 lakh to Alladi Srinivas and INR 4.35 to Sainath Goud Kasula. A cash deposit of INR 65,000 was made in the ICICI Bank account number – 007505010062, belonging to Sainath Goud Kasula on January 28, 2015. Immediately after that, both Alladi Srinivas and Sainath Goud Kasula transferred INR 5 lakh each to the account of *Noticee no. 8* on January 29, 2015 which he immediately transferred to AIL as a consideration towards preferential allotment of shares. Thus, the entire series of transactions when examined together, were found to have been executed completely in a single day thereby leading the requisite funds to reach the accounts of AIL after passing through 5 accounts.

77. I have already established as to how Alladi Srinivas and Sainath Goud Kasula are connected with the promoters of the *Company*. In the light of these facts and other facts mentioned in the present order, I find no difficulty in inferring that the funds transactions from VPL to CCIPL and from there to Alladi Srinivas and Sainath Goud Kasula were nothing but a smokescreen while in reality, the accounts of all these entities were used as layers for *Noticees no. 1* and *2* to indirectly transfer the funds from VPL to *Noticee no. 8*.

78. During the course of investigation, *Noticee no. 8* had submitted that, similar to

the *Noticee no. 7*, he had come to know about AIL through his friend Yadaiah Pasupula. Further, as regards to the rationale behind the fund transactions, he has submitted that he had taken loan from Alladi Srinivas and Sainath Goud Kasula and repaid the loan in cash. While he had claimed to have repaid the loan back to Alladi Srinivas and Sainath Goud Kasula in cash, I find that no evidence of such repayment of the loan could be submitted by *Noticee no. 8*. He has also submitted that he was not aware of source of funds for Alladi Srinivas and Sainath Goud Kasula.

79. I find from the post hearing submissions of *Noticee no. 8* that he had submitted his trading details during the period of FY 2014-15 to FY 2018-19. From a perusal of the said trading details, I find that, except for subscribing to the shares of AIL during preferential allotment, *Noticee no. 8* had traded only during FY 2016-17 and 2017-18. Further, he has stated that he never filed Income Tax Returns for any financial year during FY 2013-14 to 2018-19.

80. In this regard, I note from the trading details submitted by *Noticee no. 8* that, other than AIL, he had invested in only one scrip, namely, Sibar Auto Parts Limited, a BSE listed company. In the said company, *Noticee no. 8* had invested funds to the tune of INR 56202.91 and had earned a short term capital gain of INR 6998.40 by selling those shares. On the other hand, I find that *Noticee no. 8* had invested INR 10 Lakh in AIL and has earned a huge amount of short term capital gains of INR 39,74,492.26 by selling those shares in one financial year only viz. FY 2016-17. As per the details submitted by *Noticee no. 8* himself, all these transactions in both the aforementioned companies had taken place in FY 2016-17 only. However, despite earning a short term capital gain of INR 39,81,490.66 during FY 2016-17, *Noticee no. 8* did not submit his Income Tax Returns, for the said FY 2016-17 (Assessment Year 2017-18).

81. At the same time, I find that *Noticee no. 8* was not an astute investor in securities market as his first transaction during the sought out period of FY 2014-15 to FY 2018-19 had taken place only in FY 2016-17 (leaving the allotment of shares of AIL aside). This shows that he was not a regular investor. Further, I don't have any evidence to estimate the income of *Noticee no. 8* as he has not submitted his Income Tax Returns for FY 2014-15. Therefore, it is safe to presume that his income in the said financial year was below the threshold of taxable income viz. INR 2,50,000. In such circumstances, I am unable to accept that a person could have invested an amount, which is at least four times more than his estimated low annual income (so low that he did not file his I. T. Returns) in a completely unknown company, listed on a regional stock exchange. It is interesting to observe that a person, who has hardly had any experience in securities market; who was not even an Income Tax Assesse, suddenly got interested to invest in the shares of AIL by using money received from other person merely on the basis of recommendation of a friend. His conviction of earning from the investment in AIL was so strong that he even borrowed money in his desperation to subscribe to the shares of AIL in its preferential allotment. However, even if he was presumed to be convinced with the investment based on his friend's recommendation and went ahead to invest by borrowing money for the said purpose, interestingly, that conviction suddenly fizzled out and he decided to off load the shares acquired through preferential allotment immediately after one year of investment. This sudden exit from the scrip of AIL clearly gives a tell-tale indication about the true objective and intent behind the dealing of *Noticee no. 8* in the shares of AIL. It is also very interesting to observe that, though he received funds through banking channel for subscribing to the preferential allotment of shares of AIL, he preferred to pay back the same to the lenders through cash mode without

keeping any evidence of such payment. Considering the close proximity that *Noticee no. 8* as well as *Noticees no. 3 to 7* were enjoying with the promoters of the *Company* and the similarity in the mode and manner of receiving funds for making payment of the consideration for subscribing to the preferential allotment of shares, coupled with the history of lack of trading experience and unusual investment behavior witnessed in these noticees, demonstrate their entire plan of dealing in the shares of AIL under a common objective.

82. Apart from the above, one fact that can't be overlooked is that the investment made by *Noticees no. 3 to 8* in the shares of AIL was not in the normal course of dealing in shares by a normal & prudent investor as none of them has seems to have any past or subsequent exposure to the scrip of AIL. On the contrary, evidences on record shows that majority of them were not regular investors of securities market. Further, all of them have been found to have received funds from a common entity i.e. VPL (for making payment to AIL) which is ultimately found to have received funds from the *Company* (AIL) within a period of less than one and half months after completion of preferential issue of shares; and for which no tenable explanation has been offered by the *Company* so as to justify the utilization of capital raised by way of the proceeds of the preferential allotment of shares. Considering holistically the above facts where the non-promoter allottees are found to been closely known to the *Noticees no. 1* and *2* directly or indirectly and also these non-promoter allottees have been funded through the same source with whom AIL had fund transactions, I find no hesitation in holding that, like the other noticees whose transactions have been discussed in preceding paragraphs, *Noticee no. 8* has also acted in concert with the promoters of the *Company* viz. *Noticees no. 1* and *2* and has helped them in cornering the shares of the *Company* during preferential allotment of shares and for that purpose, the *Noticees no. 1* and *2* have indirectly

funded *Noticee no. 8* through VPL.

Role of *Noticee no. 1*

83. I have already mentioned that *Noticee no. 1* is the promoter of the *Company*. I also note that while *Noticee no. 1* had declared himself as Non-Executive Director of AIL during the Investigation Period, *Noticee no. 2* was acting as Whole Time Director and Chief Financial Officer of AIL.

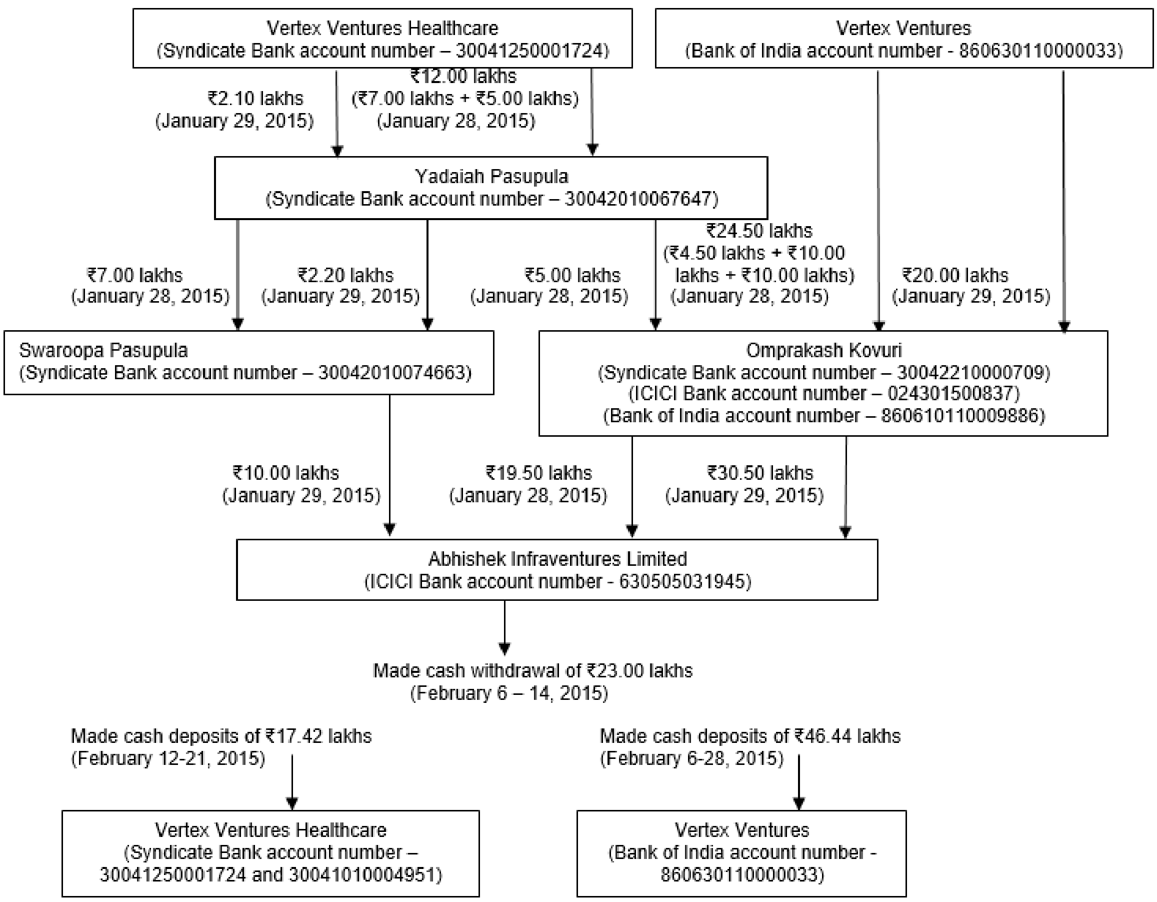
84. I further note that *Noticee no. 1* had admitted in his email dated August 06, 2020 to SEBI that he knows *Noticees no. 4*, *9,* Yadaiah Pasupula and Sirish Dayata. In his account opening form at Bank of India, Mr. Yadaiah Pasupula had acted as introducer. At the same time, I observe from the bank statement of Syndicate Bank account no. 30042210000709 of *Noticee no. 1* that there have been numerous fund transactions between *Noticee no. 1* and Yadaiah Pasupula during 2014-2018. In this regard, the connections of Yadaiah Pasupula with *Noticees no. 1, 2* and other connected persons have already been dealt with in the present Order while dealing with the roles of other noticees.

85. It has also been observed that *Noticee no. 1* has been a Director in Variman Global Ventures Limited since April 2018. Variman Global Ventures Limited is a company promoted by Sirish Dayata, who himself is the partner of *Noticee no. 1* in Vertex Ventures. Further, *Noticee no. 8* has also remained director in Variman Global Ventures Limited from April 2018 to February 2020, i.e. for a period of almost 2 years. There have been bank transactions between *Noticee no. 1* and Variman Global Ventures Limited in November 2017, i.e. even before he joined it as a Director. I also find that *Noticee no. 1* had paid INR 10 lakhs to Straton Business Solutions Private Limited from his Bank of India account having account no. 860610110009886, on February 29, 2016. It is relevant to mention here that Sirish Dayata is a director of Straton Business

Solutions Private Limited and was holding 43.33% stake in the said company. In fact, *Noticee no. 1* has himself admitted in his email dated August 06, 2020 to SEBI that Mr. Sirish Dayata is his friend and is known to him since last 32 years.

86. Now moving on to the transactions, I find that the *modus operandi* followed for transfer of funds to *Noticee no. 1* and then to AIL has been captured in the flowchart presented below:

Flowchart-3



87. A reading of this flowchart shows that Yadaiah Pasupula, a friend of *Noticee no. 1*, had received funds to the tune of INR 14.10 lakh on January 28 & 29, 2015 from Vertex Ventures Healthcare. Out of this, he transferred INR 5 lakh

to *Noticee no. 1* on January 28, 2015. At the same time, by way of two separate transactions, Vertex Ventures transferred INR 44.50 lakh to the account of *Noticee no. 1* and a cash deposit to the tune of INR 50,000 was made to the account of *Noticee no. 1*. Using these funds, *Noticee no. 1* transferred a total of INR 50 lakh to the account of AIL as consideration for subscription of shares of AIL in preferential allotment.

88. Regarding the source of these funds, *Noticee no. 1* had submitted during the course of investigation that he had given INR 5 lakhs hand loan to Yadaiah Pasupula on October 15, 2014 and the same was returned back to him on January, 28, 2015. In respect of receipt of funds from Vertex Ventures, it was submitted by *Noticee no. 1* that, being a partner in Vertex Ventures, he keeps lending money to the firm based on its requirement and the firm returned back the amount to him whenever it had surplus funds. However, at the same time, neither Vertex Ventures nor Vertex Ventures Healthcare nor even Yadaiah Pasupula has submitted any explanation to justify the fund transactions found amongst them and *Noticee no. 1*.

89. In his submission during the present proceedings, *Noticee no. 1* has reiterated his claim of lending of money to Yadaiah Pasupula in October 2014 which was supposedly returned back to him just prior to preferential allotment of shares. In support of that, he has submitted a bank statement showing transactions of INR 5,00,000 in favour of Yadaiah Pasupula, purportedly given as loan by *Noticee no. 1*. However, at the same time, a careful perusal of the said bank statement shows that there is another bank transaction of same amount in favour of Yadaiah Pasupula around the same time, for which no explanation has been submitted by *Noticee no. 1*. Therefore, in the light of the scheme of things, it appears that the explanation pertaining to INR 5 lakh as a return of loan is apparently an afterthought exercise pursuant to SEBI's investigation,

since one transaction has been explained as return of loan while completely ignoring the other transaction found from the same bank account around the same time.

90. For the funds received from Vertex Ventures, *Noticee no. 1* has contended that he is a partner in the said firm and has had regular transaction with the firm, as and when required. Thus, as and when funds were required by him, he used to withdraw money from Vertex Ventures. Therefore, the funds received by him from Vertex Ventures were his own funds.

91. In any case, I find that there is no allegation that the funds being used by him for payment of consideration towards preferential allotment of shares by AIL, belong to someone else. Rather the allegation here is that the *Noticees no. 1* and *2* had indirectly funded other noticees in their attempt to corner the shares of the *Company*, allotted during the course of preferential allotment. Therefore, it is of no significance that SCN has not made allegation with respect to the consideration paid by the *Noticee no. 1* for payment towards his dues, against the preferential allotment of shares, by the *Company*.

Role of *Noticee no. 9*

92. I note that *Noticee no. 9* is the wife of Yadaiah Pasupula. Both *Noticee no. 1* and she have admitted in their respective submissions during the course of investigation that they know each other. I also find from the bank statement of her Syndicate Bank account having account number 30042010074663 that she had multiple transactions with Straton Business Solutions Private Limited (in July 2015), Sirish Dayata (in July 2015), Vertex Ventures (in July-August 2015) and with Variman Global Ventures Limited (in June-December 2018).

93. I note from the Flowchart 3 presented earlier that Yadaiah Pasupula had received an amount of INR 12 lakhs from Vertex Ventures Healthcare, on

January 28, 2015 and INR 2.10 lakhs on January 29, 2015. I once again reiterate that Yadaiah Pasupula is a partner with *Noticee no. 7* (Joseph Polisetty) in Vertex Ventures Healthcare and Mr. Rajendra Prasad Adiraju was also a partner in the said firm. Subsequent to the aforementioned receipt of fund from Vertex Ventures Healthcare, an amount of INR 7 lakh was transferred by Yadaiah Pasupula to his wife i.e. *Noticee no. 9*, on January 28, 2015 and INR 2.20 lakh was again transferred by him to her on January 29, 2015. Using these funds, *Noticee no. 9* paid the consideration of INR 10,00,000 to AIL for preferential allotment of shares. With regard to these transactions, I note that Yadaiah Pasupula has not furnished any reply, despite emails sent to him during investigation. Similar to him, *Noticee no. 9* also didn't submit any response to the two emails dated July 30, 2020 and August 07, 2020, wherein SEBI sought reasons for such fund transfers to her during investigation.

94. However, in response to the SCN, *Noticee no. 9* has submitted that she had received funds from her husband Mr. Yadaiah Pasupula in normal course. She has also stated that Mr. Yadaiah Pasupula had received funds from Vertex Ventures Healthcare, as there are continuous fund transactions between her husband and Vertex Ventures Healthcare. In support of this, *Noticee no. 9* has submitted mere two pages of the bank statement of her husband in respect of his Canara Bank Account no. 30042010067647 to show that he had transferred funds to the tune of INR 12,00,000 and INR 10,00,000 to Vertex Ventures Healthcare on January 17 & 19, 2015 respectively as loan and had received back INR 12,00,000 from Vertex Ventures Healthcare which he had immediately given to her for the purpose of subscribing to the preferential allotment. I note that no verifiable evidence has been submitted by her in support of her statement that her husband had actually given a loan to Vertex Ventures Healthcare on January 17 & 19, 2015 to the tune of INR 22,00,000

and was repaid back INR 12,00,000 out of the said loan on January 28, 2015. At the same time as the transactions per se have not been disputed, the frequency of transactions between Yadaiah Pasupula and Vertex Ventures Healthcare proves it all the more beyond doubt that the above-mentioned entities were closely connected.

95. It is further noticed that *Noticee no. 9* in her post hearing submissions has stated that, during the period of FY 2014-15 to 2018-19, she had invested in the preferential allotment of shares of AIL and Variman Global Ventures Limited only and coincidently, both these entities were connected with the *Noticees no. 1 & 2* as well as with her husband.

96. I also note that while Yadaiah Pasupula had received funds to the tune of INR 14.10 lakh from Vertex Ventures Healthcare, for which no reason has been ascribed either by him or his wife; an amount of INR 23.00 lakh was withdrawn from the bank account of AIL during the period from February 06 to February 14, 2015 and a corresponding deposit of cash to the tune of INR 17.42 lakh has been made in the bank account of Vertex Ventures Healthcare during February 12-21, 2015. Therefore, in the facts of the present matter, the preponderance of probability suggests that the funds, given by Vertex Ventures Healthcare, to *Noticee no. 9* to subscribe to the preferential shares of AIL, were returned back by *Noticees no. 1* and *2* (instead of *Noticee no. 9*) by withdrawing cash from the account of AIL and by depositing the same to the account of Vertex Ventures Healthcare within few days of preferential allotment of shares of AIL. This effectively means that it is *Noticees no. 1 & 2* who had in fact funded *Noticee no. 9*, using the funds of AIL, for enabling her to make subscription to the shares of AIL in the preferential allotment. In addition to the same, the above stated facts also strongly suggest the sharing of common intent amongst *Noticees no. 1, 2* and *9* behind the acquisition of

shares of AIL by *Noticee no. 9* in the preferential allotment.

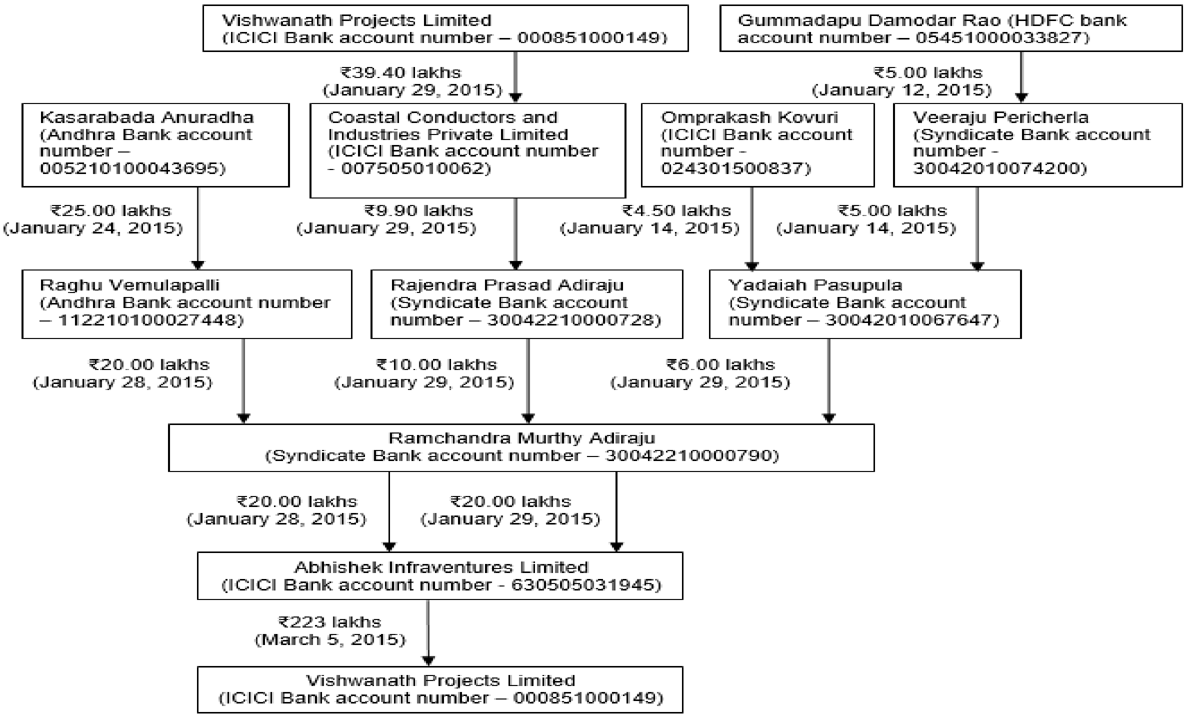
Role of *Noticee no. 2*

97. There is no dispute to the fact that *Noticee no. 2* was a promoter and whole time director *cum* Chief Financial Officer of the *Company* during the relevant point of time. I also note that his brother Rajendra Prasad Adiraju is well connected with *Noticee no. 1* through their partnership firm Vertex Ventures. Further, by virtue of being from the promoter group, *Noticees no. 1* and *2* are deemed to be PACs, a legal fiction which has not been challenged by either of *Noticee no. 1* or *2* at any stage of the present proceedings.

98. I find from the material available on record that *Noticee no. 2* had subscribed to 4,00,000 shares in the preferential allotment made by the *Company* on January 29, 2015. As a consideration for the said allotment, he had transferred funds to the tune of INR 40,00,000 to AIL in two instalments of INR 20 lakh each on January 28 & 29, 2015 respectively.

99. An investigation into origin of the funds transferred by *Noticee no. 2* to the *Company* was made by SEBI and the fund movement in the account of *Noticee no. 2* is depicted in the flowchart below:-

Flowchart-4



100. The above flow chart shows that funds have come to *Noticee no. 2* through a series of transactions after passing through three different layers of companies or persons. In this regard, I notice from the analysis of fund transactions that *Noticee no. 2* had received INR 20 lakhs in his Syndicate Bank account number – 30042210000790 from one Mr. Raghu Vemulapalli (holding Andhra Bank account number - 112210100027448) on January 28, 2015. Upon receipt of such funds, he transferred the same amount to the *Company* in its ICICI Bank account number–630505031945 on the same day as part consideration towards preferential allotment of shares.

101. Subsequently, on January 29, 2015, in his bank account at Syndicate Bank bearing account number – 30042210000790, a sum of INR 10 lakhs was received from the account of his brother Rajendra Prasad Adiraju and another additional sum of INR 6.00 lakh was received from the Syndicate Bank account number – 30042010067647 of Yadaiah Pasupula. It is also noticed that there was a cash

deposit of ₹4 lakhs made on the same day for which depositor details could not be located by Syndicate Bank. Using these funds, the *Noticee no. 2* had again transferred a sum of INR 20 lakhs to the *Company* in its ICICI Bank account number – 630505031945 on the same day, as the remaining consideration towards preferential allotment of shares.

102. It is also observed during investigation that, just prior to transfer of funds to the tune of INR 10 lakh to the account of *Noticee no. 2*, there was a transfer of INR 9.90 lakhs to the account of Rajendra Prasad Adiraju, the brother of *Noticee no. 2*. The above transfer of INR 9.90 lakh was received on January 29, 2015, from ICICI Bank account bearing A/c no. 007505010062, which belonged to CCIPL. It is also seen that, before the above transfer by CCIPL was effected, there was a credit of INR 39.40 lakh in the account of CCIPL and the said transfer was again made by none other than VPL (an entity found to have been involved in the funds transfer to the accounts of *Noticees no. 3 to 8* also). At the same time, there was a cash deposit of ₹10,000 in the bank account of Rajendra Prasad Adiraju on the same day.

103. I find that Yadaiah Pasupula had also transferred INR 6 lakhs on January 29, 2015 to *Noticee no. 2*. Upon perusal of the background of this transaction, I find that he had received funds to the tune of INR 6,00,000 from one Mr. Birampally Naresh Kumar. Going back to this transactions, I find that Birampally Naresh Kumar had received INR 10 lakh from Yadaiah Pasupula on January 14, 2015 the origin of which. can further be traced out to three transactions viz. INR 4.50 lakhs from *Noticee no. 1*, INR 5 lakhs from Veerraju Pericharla and a cash deposit of ₹50,000, all these three transactions having been made on the same day viz. January 14, 2015. I also find that Veerraju Pericharla had received funds to the tune of INR 5 lakhs on January 12, 2015 from one Gummadapu Damodar Rao

which was transferred by him to Yadaiah Pasupula, as mentioned above.

104. Having recorded my observation on the afore stated transactions involving funds received by the *Noticee no. 2*, it is observed form his submissions made during the course of investigation that Raghu Vemulapalli, who had transferred INR 20,00,000 to *Noticee no. 2* on January 28, 2015, is a friend of his brother Rajendra Prasad Adiraju. At the same time, Raghu Vemulappali has stated that he had given money to *Noticee no. 2* as a hand loan for 10 days and there was no agreement as such, for the said loan. The said funds were used as first part of consideration for subscription to the shares received in preferential allotment by of AIL.

105. Subsequently, the *Noticee no. 2* has submitted that he had invested INR 4,00,000 out of his own funds and the rest amount of INR 36,00,000 was taken as a loan from his friends out of the said INR 36 lakhs, INR 20 lakh was taken on loan from Raghu Vemulappali to whom he repaid the said loan in two transactions dated February 07 & 09, 2015. The loan of INR 10 lakh was taken from his brother Rajendra Prasad Adiraju and a loan of INR 6 lakh was taken from Yadaiah Pasupula, out of which, part repayment of INR 3.50 lakh was made to Yadaiah Pasupula on February 04, 2015.

106. However, an analysis of bank account statement of *Noticee no. 2* shows that he had in fact received cash deposit of INR 3.50 lakh in his account on February 04, 2015 which he immediately transferred to Yadaiah Pasupula. Then again, three days later, *Noticee no. 2* received INR 5 lakh from Yadaiah Pasupula along with INR 3 lakh from his brother Rajendra Prasad Adiraju and a cash deposit of INR 4 lakh, using which, he paid INR 12 lakh to Raghu Veulapalli on the same day viz. February 07, 2015. Similarly, he received an amount of INR 8,00,000 from his brother Rajendra Prasad Adiraju on February 09, 2015 which also he

immediately transferred to Raghu Vemulappali, thus completely repaying the loan taken by him from Raghu Vemulappali. In this context however, I find that he had taken more loan from his brother and Yadaiah Pasupula than what he has disclosed before me in his reply to the SCN. Further, a cash deposit to the tune of INR 7.50 lakh in his bank account in a period of 7 days' reeks of suspicion, as without the said cash deposits, it was not possible for *Noticee no. 2* to transfer funds to any one of the persons named above be it Raghu Vemulappali or Yadaiah Pasupula. Despite this finding and peculiarity noticed in such transactions, no explanation, whatsoever, has been submitted by *Noticee no. 2* to justify those large cash transactions noticed in his account.

107. I also find from the post hearing submissions made by the *Noticee no. 2* that, during the period of FY 2014-15 to 2018-19, he had invested only in two scrips and in both these cases, he had invested through preferential allotment of shares. The companies in which *Noticee no. 2* had invested funds were AIL and Variman Global Ventures Limited, both of which are companies connected to him, AIL being a company promoted and controlled by him, and Variman Global Ventures Limited being connected through his brother's partner Sirish Dayata. He himself has been connected to Sirish Dayata by virtue of his directorship in Straton Business Solutions Private Limited, a majority shares of which are held by Sirish Dayata.

108. I also find that he had claimed to have submitted his Income Tax Returns for FYs 2013-14, 2017-18 and 2018-19. For the rest of the financial years in between, admittedly *Noticee no. 2* didn't file the Income Tax Return, but he has claimed to have furnished his balance sheet for FY-2014-15. However, I note from the attachment of his email dated December 06, 2022 that he has only enclosed the copies of Income Tax Returns for FY 2017-18 and FY 2018-19. At the same time, he has submitted only a balance sheet for FY 2018-19 only. Therefore, I

have no means to find out the total income of *Noticee no. 2* during the investigation period, more specifically during FY 2014-15. However, given the fact that no Income Tax Return has been filed by *Noticee no. 2* for years prior to FY 2017-18, it is safe to presume that his income prior to FY 2017-18 had never crossed the limit of minimum exempted income viz. INR 2,50,000. Under these circumstances, I find that the investment of INR 40,00,000 in AIL, an amount which is at least 16 times of his annual income, can't be termed to be an investment made in the normal course of dealing in securities by a person of normal prudence and meagre annual income.

109. Be that as it may, the most surprising thing in connection with *Noticee no. 2* in the present matter is that he had stated in his email dated March 12, 2020 to SEBI that he didn't know AIL initially and was introduced to *Noticee no. 1* by one of his friends. Thereafter, he invested money in AIL and became a co-promoter with *Noticee no. 1*. However, *Noticee no. 2* failed to provide the name of the friend who acquainted him with *Noticee no. 1* nor has he furnished the time when he got the acquaintance with *Noticee no. 1*. At the same time, in his post hearing submissions, he has submitted that since AIL was an infrastructure company and infrastructure sector was in boom at that point of time, he got tempted to invest in the *Company*. However, no evidence is available on record to establish that he had any kind of expertise to run an infrastructure company or his investment was diversified to other infrastructure companies as well, during the relevant period of time, if he really had a bullish outlook about infrastructural companies.

110. Under the circumstances, I find that *Noticee no. 2* has failed to provide justifiable reason for his investment in the preferential allotment of shares of AIL, more so out of the money borrowed from different persons. Considering his submission that he was introduced to the *Noticee no. 1* through a friend and based on such a short acquaintance with *Noticee no. 1*, he agreed to become a promoter of AIL

and also readily agreed to subscribe to 4,00,000 shares of AIL in the preferential allotment, are grounds sufficient in themselves to reject such specious claims and also to hold that his investment was certainly impressed by the collective objective of other noticees subscribers to corner maximum quantities of shares of the *Company* by acting in concert with each other. The above observations and findings further get strengthened when it is observed that except for the *Noticee no. 1*, all other noticees had little to no prior trading experience in securities market and have also never traded in the scrip of AIL prior to their subscription to the preferential allotment, made by AIL. Further, it has also been seen that they all have received funds originating from the same source i.e. VPL and none of the funds transfers was secured through any documentation or supporting evidence or supported by any other collateral, which glaringly show that these *Noticees* are well known to each other and have indulged in such transactions to pursue a common objective of cornering the shares of the *Company* by adopting a concocted strategy of funds rotation from AIL. Therefore, I have no constrain in holding that subscription to the preferential allotment made by them were under a common ulterior objective to corner shares of AIL while increasing the paid up share capital of the *Company* at the same time.

111. The sharing of common objective by the *Noticees* becomes further evident from the fact that the funds for majority part of the investment made by these *Noticees,* at least in respect of *Noticees no. 2 to 8*, had originated from the same source i.e. VPL. Had there been no funds transfer from VPL to these 7 noticees, there was no way any of these noticees could have paid or were financially capable of paying for the subscription to the shares of AIL in the said preferential allotment made by AIL, which would have in effect resulted into the failure of such a preferential allotment. Further, it has already been established in the present order that all the *Noticees* were connected with one another by one way or another. The *Noticees*

have attempted to brush aside most of the fund transactions among them under the garb of friendly loans, which were given without any documentary evidences. Given the fact that the *Noticees* invested in the scrip of the *Company*, in quantities and values that were much beyond their respective paying capacity and by taking loans from the same source, which has also acted as a layer/conduit for the *Company* and its promoters, they have attempted to hide the real source of such funds through layered transactions. At the same time, I note from the Adjudication Order dated September 16, 2022 that all these non-promoter noticees viz. *Noticees no. 3 to 9* have sold their stakes in the *Company*, acquired through preferential allotment of shares, just after the completion of one-year lock in period. All these evidences are sufficient to establish that the investment in the shares of AIL was not meant to keep it as an investment for future growth of such investment, rather there was one common mind, in other words, meeting of minds, amongst the *Noticees* and to pursue the same common objective (i.e. to corner the shares of the *Company* by acting in concert while increasing its share capital), and for which common objective, the *Noticees* had acquired shares of AIL.

112. At the same time, VPL was repaid from the funds of the *Company* in the month of March 2015. This evidence shows the complicity of *Noticees no. 1* and *2* in the aforementioned scheme, since the control of the *Company* was in the hands of *Noticees no. 1* and *2* and *Noticee no. 2* was the Chief Financial Officer of the *Company* at that time. Considering the absence of any reasonable justification offered by the *Company* behind its funds transactions with VPL, as narrated above in detail except for one short reply made by it stating that the funds transfers to VPL was for purchase of MS material,, I strongly find that the said fund transfer to VPL could not have been done without the consent of the *Noticee no. 1* or *2*. In this respect, it has been discussed in detail in this order as to how the funds to the

tune of INR 1.90 Crores were initially taken out from the coffers of VPL to fund the subscription to the preferential allotment of shares of AIL by some of the noticees. Out of the above amount, an amount of INR 1.50 crores was transferred to the account of *Noticee no. 3* which was used by *Noticees no. 3, 4* and *5* for payment towards consideration of preferential allotment of shares made by the *Company* to them. Similarly, an amount of INR 39.40 lakh was transferred to the account of CCIPL by VPL which was later on used to fund the subscription of shares of AIL by *Noticees no. 6, 7* and *8*. It has also been found that a part of this INR 39.40 lakh was also used to partly fund the subscription of shares of AIL by *Noticee no. 2*. The investigation has also unearthed that there was a transfer of an amount of INR 2.23 crores by AIL to VPL in March 2015, and no reasonable explanation has been submitted by the *Company* to explain the nature and justification for such transfer of funds to VPL. This clearly shows that the subscription to the preferential allotment of AIL by these *Noticees* were done while sharing a common objective, in pursuance of which, it has been found that funds were arranged by the *Noticees no. 1* and *2* through VPL to the *Noticee no. 2 to 8* as discussed above, which were ultimately returned back to VPL within a period of less than one and a half months, from the account of AIL, as soon as the preferential issue of shares got over.

113. It is interesting to observe that even the promoters of the *Company* had used an amount of INR 14.10 lakh received by them from Vertex Ventures Healthcare for paying consideration against the allotment of shares made to *Noticees no. 1* and *9* by the *Company*. In this regard, *Noticee no. 9* had used INR 9.20 lakh to pay for consideration of allotment of shares and an amount of INR 5 lakh was used by *Noticee no. 1* to partly pay the consideration for allotment of shares of AIL through layered transactions. Subsequent to allotment of shares and receipt of consideration for such shares by the *Company*, an amount of INR 23 lakh was

withdrawn as cash from the bank account of AIL. Around the same time, an amount of INR 17.42 lakhs was deposited in the bank account of Vertex Ventures Healthcare by way of cash deposit for which no explanation has been submitted by any of the involved parties. In the light of the aforesaid factual revelations in the present matter, it leads to an unassailable inference that the said funds were withdrawn in cash from the account of AIL and deposited in the account of Vertex Ventures Healthcare to avoid detection of such transfer of funds.

114. All these facts and inferences as deliberated above, lead to a compelling conclusion that the *Noticees no. 3 to 9* have acted in concert with *Noticees no. 1 & 2*, the promoters of AIL, while subscribing to the shares of AIL in preferential allotment done on by AIL January 29, 2015. For the said purpose, these *Noticees* were funded with money arranged by *Noticees no. 1 & 2* through their associates and connected entities and the said money was returned back to these associate and connected entities from the account of the *Company* through one way or the other, soon after the preferential issue was completed. As *Noticees no. 1 & 2* had also invested in the preferential allotment of shares, the aforementioned fund transfers from VPL to *Noticees no. 2 to 8* and return of the said funds by AIL to VPL within one and a half months of completion of preferential allotment, without proper justification, strengthened the allegation of concert, pertaining to these fund transferred to *Noticees no 2 to 8* to enable them to subscribe to the shares of AIL. Similarly, the funds were arranged by *Noticee no. 1* and *2*, through their friend Yadaiah Pasupula, to enable the wife of Yadaiah Pasupula i.e. *Noticee no. 9*, to enable her to subscribe to the shares of AIL in the preferential allotment. Considering the above, I reiterate my above discussed findings that all these persons/allottees/*Noticees* were acting with same common objective and were apparently falling within the definition of PACs, as defined under Regulation

2(1)(q) of SAST Regulations.

115. Having held that the above *Noticees* were acting in concert for subscribing to the preferential allotment of shares by AIL, I now proceed to deal with the allegation of violation of provisions of Regulation 3(1) of SAST Regulations. I note that Regulation 3(1) mandates an acquirer to make an open offer to general public in case shares and voting rights in a target company held by him/it and by persons acting in concert with him/it entitle them to exercise twenty-five per cent or more of the voting rights in such target company.

116. In this context, I find that *Noticees no. 1* and *2* were together holding 24.10% of total shareholding of the *Company* in which *Noticees no. 1 & 2* were respectively holding 8.03% and 16.06% of total shareholding of the *Company* prior to the preferential issue of the *Company*. Rest of the noticees were not holding any shares of the *Company* prior to preferential allotment of shares on January 29, 2015. At the same time, certain other persons, declared as promoters, were holding some shares in the *Company*. However, since they were not part of the afore discussed scheme, they have not been included in the above calculations of shareholding from the point of view of SAST Regulations.

117. Subsequent to the preferential allotment of shares, the total shareholding of the *Noticees*, as a group, increased from 24.10% to 88.03% of total shareholding of the *Company*, as the *Noticees* acting in concert, were found to have acquired/cornered 28 lakhs out of total 30 lakhs shares, issued by the *Company* as part of preferential issue of shares on January 29, 2015. Due to such an increase in their aggregate shareholding from 24.10% to 88.03% of total shareholding of the *Company*, the *Noticees* have triggered the provision of Regulation 3(1) of SAST Regulations. Having crossed the threshold of 25% of total shareholding of the *Company*, it was mandatory for *Noticees no. 1 to 9*, who have been found to have

acted in concert with one another, to collective make an open offer to the existing shareholders of the *Company*. I find from the material available on record that having triggered the above mentioned regulation, no such open offer was made by these *Noticees*. Thus, by their failure to make a mandatory open offer upon increase in their aggregate shareholding in AIL beyond the threshold of 25% of total shareholding of the *Company*, these *Noticees* have violated the provisions of Regulation 3(1) of SAST Regulations and they are liable for necessary directions.

118. Moving on to the next allegation levelled in the SCN, it is observed from the requirement prescribed under the provisions of Regulation 29(2) of SAST Regulations that any person who, together with his PACs, is already holding shares or voting rights entitling them to five per cent or more of the shares or voting rights in a listed company, is required to disclose the number of shares or voting rights held and change in their shareholding or voting rights, if such change exceeds two per cent of total shareholding or voting rights in the target company, in such form as may be specified.

119. In this regard, it has been alleged that the *Noticees*, as a group, have got their shareholding in AIL increased from 24.10% of total shareholding to 88.03% by virtue of acquisition of more than 93% of the total shares of AIL, allotted in the preferential issue of shares. It has been established above that these allottees were acting in concert and were also sharing a common objective while acquiring shares of AIL in the preferential allotment and therefore, were certainly acting as a common group for the said acquisition of shares. Therefore, as a group, the *Noticees* were mandatorily required to make a disclosure under Regulation 29(2) read with 29(3) of SAST Regulations within a period of two trading days from the date of acquisition of shares of AIL to ASE.

120. In this regard, the *Noticees* have submitted that they were not PACs and

considering that the acquisition of shares of AIL was made by them as separate unconnected individuals, they were not liable to make any disclosure under Regulation 29(2) of SAST Regulations. It has further been submitted by the *Noticee no. 1* that since his acquisition brought changes of more than 2% of total shareholding of the *Company*, he had made a disclosure under Regulation 29(2) read with 29(3) of SAST Regulations. Further, *Noticees no. 3, 4* and *5* have submitted during the course of investigation that their individual shareholding had crossed 5% of total shareholding of the *Company* and therefore, in terms of provisions of Regulation 29(1) of SAST Regulations, which mandatorily require any acquirer to make disclosure of his shareholding if shareholding of such acquirer and his PAC has crossed the threshold of 5% of total shareholding of the listed company, the *Noticees no. 3, 4* and *5* had made their separate disclosures under the provisions of Regulation 29(1), within the timeline prescribed under Regulation 29(3) of SAST Regulations. It has also been stated that *Noticee no. 2* has wrongly made a disclosure under provisions of Regulation 29(1) of SAST Regulations, disclosing a change in his shareholding from 16.06% to 13.54% of total shareholding of the *Company,* post preferential allotment of shares.

121. Having gone through the aforesaid submissions made by the *Noticees* in response to the allegation of failure to make necessary discourse as a group, as required under the provision of Regulation 29(2) read with 29(3) of the SAST Regulations, I can observe here that, it has been well established that *Noticees no. 3 to 9* were acting as PACs along with *Noticees no. 1 & 2* while subscribing to the preferential issue of AIL and consequent to their acquisition of such shares, their shareholding as a group had increased from 24.10% to 88.03% of total shareholding of AIL. Therefore, they were mandatorily bound to make a disclosure under the provisions of Regulation 29(2) of SAST Regulations, disclosing change in their shareholding as a group. Such disclosure would have

served a twin purpose as follows:

- It would have intimated general public and other shareholders of AIL that *Noticees no. 1 to 9* were acting as a group.
- It would have intimated such other shareholders and general public that, by acquiring shares through preferential allotment, *Noticees no. 1 to 9*, as a group, have acquired control over 88.03% of total shareholding of AIL.

Yet, by not making the aforementioned disclosure and by only disclosing individual shareholding of *Noticees no. 1 to 5* separately in their separate disclosures, *Noticees no. 1 to 9* have deprived the general public, investors and other stakeholders of AIL of the abovementioned information. Therefore, by doing so, and by suppressing such vital information from being known to the public at large, I can hold that the *Noticees no. 1 to 9* have violated the provisions of Regulation 29(2) of SAST Regulations.

122. I further note that the SCN calls upon the *Noticees* to show cause separately, *inter alia,* as to why penalty under Sections 15H and 15A(b) read with Sections 11(4A) and 11B(2) of the SEBI Act should not be imposed for the violations of provisions of Regulations 3(1) and 29(2) of SAST Regulations respectively, as alleged in the SCN. I note that the powers vested under Sections 11(4A) and 11B(2) of SEBI Act are without prejudice to the powers to issue directions under Sections 11(1), 11(4) and 11B(1) of the SEBI Act. In this regard, I note that the provisions of Sections 15H and 15A(b) of the SEBI Act provide as under:

SEBI Act, 1992

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. *If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—*

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,

he shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.

Penalty for failure to furnish information, return, etc.

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

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, 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;

123. The aforesaid findings discussed in the preceding paragraphs of the present order clearly establish that the *Noticees* have acted in violation of provisions of Regulation 3(1) as well as Regulation 29(2) read with 29(3) of SAST Regulations.

124. In view of the detailed factual analysis and deliberations as well as my observations recorded in the foregoing paragraphs of this order with regard to wrongdoings on the part of the *Noticees*, apparently committed quite consciously,

cleverly and deliberately, as established in the present Order, I find that such a misconduct should be dealt with a firm hand and therefore hold that the aforesaid *Noticees* are liable for issuance of appropriate directions for debarment from accessing the securities market and dealing in securities under Sections 11(1), 11(4) and 11B(1) of SEBI Act, as well as for imposition of appropriate penalty under Sections 11(4A) and 11B(2) read with Sections 15H and 15A(b) of SEBI Act.

125. In this regard, I find that Section 15J of SEBI Act provide for the factors to be considered while imposing penalties under SEBI Act. The said factors have been reproduced below:

    (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.

    At the same time, it is well settled position of law that these three factors are not exhaustive in nature and the adjudicating authority, while deciding penalty in a matter, may take into account any other factor beyond the aforementioned factors.

126. In this regard, I find that while the *Noticees* have cornered in a malicious manner more than 90% of total shares of AIL that were issued in the preferential issue, there is no calculation or charge of any disproportionate gain or unfair advantage, having been made by any of the *Noticees*. At the same time, there is no mention of any loss caused to any specific investor or group of investors as a result of the default committed by the *Noticees*. Further, the aforesaid violations of the *Noticees* are found to be a one-time violations and are not repetitive in nature, as they

have failed to make open offer once and the disclosure required under Regulation 29(2) of SAST Regulations was also required to be made only once. Therefore, I have considered all these factors in deciding the penalty in the present matter.

127. At this stage, I find it necessary to mention that, vide email dated October 07, 2021, *Noticee no. 1* has intimated that *Noticee no. 4* had passed away on May 23, 2021. In support of this, *Noticee no. 1* has also submitted a duly notarized death certificate of *Noticee no. 4*, dated June 11, 2021 issued by Greater Hyderabad Municipal Corporation. In the light of this, the proceedings against the *Noticee no. 4* stands abated.

Directions

128. Having carefully considered the materials available on record and the submissions advanced by the *Noticees* and following the principles of preponderance of probabilities, I hold that the charges relating to violation of the provisions of the SAST Regulations as brought out in detail in this order are found to have been substantially established. Hence, considering the gravity of the violations found established against the *Noticees*, I am of the view that, in order to meet the ends of justice, it will be sufficient to pass the following directions, while exercising the powers conferred upon me under Section 11(1), 11(4), and 11B(1) read with Section 19 of the SEBI Act:

    128.1. *Noticees no. 1 to 9* (except *Noticee no. 4*) are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities (including units of mutual funds), directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 05 (five) years.

129. In addition to the aforementioned direction, while exercising the powers

conferred upon me under Sections 11(4A) and 11B(2) of the SEBI Act, it will be sufficient to impose the following penalties upon the *Noticees* (except for *Noticee no. 4*) due to their violation of relevant provisions of law, as mentioned below:

Provisions of law violated	Penal Provision	Quantum of penalty
Regulation 3(1) of SAST Regulations	Section 15H of SEBI Act	INR 1,00,00,000/- (Rupees One Crore Only)
Regulation 29(2) read with 29(3) of SAST Regulations	Section 15A(b) of SEBI Act	INR 25,00,000/- (Rupees Twenty Five Lakh Only)

The aforementioned penalties are required to be paid by the *Noticees no. 1 to 9* (except for *Noticee no. 4*) jointly and severally.

130. The *Noticees no. 1 to 9* (except for *Noticee no. 4*) are directed to pay the aforementioned penalty within 45 (forty five) days from the date of service of this order, by way of online payment through the following path on the SEBI website: www.sebi.gov.in/ENFORCEMENT→Orders→Orders of Chairman/Members →Click on PAY NOW or at the link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html. The *Noticees no. 1 to 9* (except for *Noticee no. 4*) shall forward the details/confirmation of penalty so paid through e-payment to "The Division Chief, Investigation Division-12 (ID-12), Investigation Department, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C -7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai- 400051" in the format given in the Table below:

Case name	
Name of payee	
Date of payment	
Amount paid	
Transaction no	
Bank details in which payment is made	
Payment is made for	Penalty

131. The Order shall come into force with the immediate effect.

132. A copy of this order shall be served upon the *Noticees no. 1 to 3* and *5 to 9* as well as the legal representatives of *Noticee no. 4*, Stock Exchanges, Depositories and Registrar and Share Transfer Agents of all Mutual Funds for ensuring compliance with the above direction.

Sd/-

Date: May 31, 2023 **S. K. MOHANTY**

Place: Mumbai **Whole Time Member**

Securities and Exchange Board of India