National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/60808	Date: February 21, 2024
Circular Ref. No: 282/2024	

To All NSE Members,

Sub: **SEBI Order in the matter of M/s. Mideast Integrated Steels Limited.**

This is with reference to in respect of SEBI Order No. QJA/KS/CFID/CFID-SEC4/30037/2023-24 dated February 21, 2024, wherein SEBI had restrained following entities from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 2 years, from the date of coming into force of this order.

Sr. no.	Name of the entity	PAN
1.	M/s. Mideast Integrated Steels Limited (MISL)	AAACM0846P
2.	Ms. Rita Sing	ABKPS4308J
3.	Ms. Natasha Sinha	AAUPS3146B
4.	Mr. VN Tiwari	ABDPT5946L

Further, SEBI has vide above order has directed that, all open positions, if any, of the above Noticees restrained/ prohibited in the above mentioned Order, in the F&O segment are permitted to be squared off, irrespective of the restraint/ prohibition imposed by this Order.

The order comes into force with immediate effect.

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

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

For and on behalf of
National Stock Exchange of India Limited

Sandesh Sawant
Senior Manager

ANNEXURE: SEBI Order in the matter of M/s. Mideast Integrated Steels Limited.

QJA/KS/CFID/CFID-SEC4/30037/2023-24

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11(4), 11(4A), 11B(1), 11B(2) read with Sections 15A(a), 15HA, 15HB of the Securities and Exchange Board of India Act, 1992 read with Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995

In respect of:

Noticee No.	Name of Noticee	Designation	PAN No.
1	M/s. Mideast Integrated Steels Limited (MISL)	Company	AAACM0846P
2	Ms. Rita Singh	Promoter, Chairperson cum Managing Director (CMD)	ABKPS4308J
3	Ms. Natasha Sinha	Joint Managing Director Jt. MD) and Chief Financial officer (CFO)	AAUPS3146B
4	Mr. VN Tiwari	Chief Executive Officer (CEO) and Executive Director	ABDPT5946L

In the matter of M/s Mideast Integrated Steels Limited.

BACKGROUND:

1. M/s. Mideast Integrated Steels Limited (hereinafter referred to as "**MISL**" or "**Noticee 1**") having registered office at H-1, Zamrudpur Community Centre, Kailash Colony New Delhi -110048, was incorporated in 1992. Shares of MISL are listed on the BSE Ltd. (hereinafter referred to as "**BSE**") and are presently under suspension due to penal reasons.

2. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had received complaints during April and May 2021 against MISL, *inter alia,* alleging accounting manipulation, diversion of funds, destroying of official records and documents etc.

3. The complaints were forwarded to BSE for examination which submitted an Examination Report through an email dated December 09, 2021. Through the said report BSE, *inter alia* submitted that despite rigorous follow ups for around 08 months, the company (Noticee 1) did not provide supporting documents/ evidences required to corroborate its findings viz. transactions amounting to Rs. 3.73 crore with Mesco Gold Cambodia Ltd., writing back of a disputed liability of Rs 38.71 crore, utilization of funds infused by MISL into Maithan Ispat Ltd. in the form of equity and loans etc.

4. Accordingly, SEBI conducted an investigation in the matter under Section 11C of SEBI Act, 1992 to ascertain whether there was a manipulation/ misrepresentation in the books of accounts of MISL and whether it involved any violation of the provisions of SEBI Act, 1992, SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**") and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as "**LODR Regulations'**).

5. SEBI vide letter dated June 29, 2022, appointed M/S SKVM & Company, Chartered Accountants (hereinafter referred to "SKVM" or "the Auditor") as the forensic auditor to assist the investigation w.r.t. the financial statements of MISL for FYs 2018-19, 2019-20 and 2020-21 (hereinafter referred to as "**Investigation Period/ IP**"). Further, SEBI vide letter June 29, 2022, informed the company about

the appointment of the Auditor and advised to cooperate during the forensic audit process. The Auditor submitted its Forensic Audit Report (hereinafter referred to as "**FAR**") in the matter to SEBI on December 14, 2022, on the basis of which SEBI completed its investigation and came up with an Investigation Report (hereinafter referred to as “**SEBI IR**”).

6. The association of Noticee 2, 3 and 4 with the company is as follows:

   6.1. Rita Singh (Noticee 2) is Promoter, Chairperson cum Managing Director ("**CMD**") on the company’s Board of Directors. She is also a member of various Committees including Stakeholders Relationship Committee, and Corporate Social Responsibility (CSR) Committee. Rita Singh is a Key Managerial Personnel ("**KMP**") of the company as per the Companies Act 2013.

   6.2. Natasha Sinha (Noticee 3) is the daughter of Noticee 2. She is a Promoter, Joint Managing Director (**Joint MD**), Chief Financial Officer (**CFO**), Executive Director and also a member of Audit Committee, Corporate Social Responsibility **(CSR)** Committee of the company. She is a **KMP** of the company as per the Companies Act, 2013.

   6.3. VN Tiwari (Noticee 4) is Executive Director of the company for FYs 2019-20 and 2020-21 and became CEO in FY 2020-21. He is a **KMP** of the company as per the Companies Act, 2013.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING:

7. On the basis of findings of the Investigation, SEBI issued a Show Cause Notice dated April 27, 2023 (**SCN**). The Key observations and allegations as mentioned in the SCN are shown in the following table: -

Table 1

S. No.	*Key Observations*	*Allegations*
1	*Failure to furnish information and non-cooperation to the investigation*	*Noticee 1 failed to comply with Summons dated September 06, September 16 and September 30, 2022, seeking information required for conducting the investigation in the matter, and thus, violated Section 11C(2) r/w Section 11C(3) of SEBI Act, 1992.*
2	*a) Mis-appropriation/ Mis-utilization/ Diversion of funds to group entities.* *b) Non-recognition of Liabilities amounting to Rs.924.75 crores.* *c) Failure in making provision for Impairment of Investment and loans.* *d) Writing off of disputed liability of Rs. 38.71 crores.* *e) Failure in making provision for receivables of Rs. 45.95 Cr.* *f) Excess Payments to/ non-receipt of payments from promoters group companies.* *g) Overstated Capital Work in Progress-Property Plant & Equipment.* *h) Failure to make adequate provision for GST liability.*	*Noticee 1 knowingly, reported wrong, false and misleading statements and information and continued to create an impression among the investors and other stakeholders that misrepresented/ misstated financial statements for FYs 2018-19, 2019-20 and 2020-21 disseminated by the company, were reflecting a true and fair view of the financial performance and position of the company. Thus, the company misled and defrauded the investors in making their investment decision in the scrip being traded in the securities market. Hence, it is alleged that MISL violated Regulation 4(1), 33, 34(3) and 48 of LODR Regulations and Regulation 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations.*

S. No.	Key Observations	Allegations
3	*Non-disclosure of material event under LODR Regulations*	*Noticee 1 failed to make necessary disclosure of GST liability and proceedings in violation of Regulation 30(2) of LODR Regulations.*
4	*Delay in submission of Financial Results to the Exchanges*	*Noticee 1 made delayed submission of financial results in seven instances during the investigation period, in violation of Regulation 33(3) of SEBI (LODR) Regulation, 2015.*
5	*Non-dematerialization of promoter shareholding*	*Noticee 1 failed to have 100% promoters shareholding in dematerialised form in violation of Regulations 31(2) and 31(3) of LODR Regulations read with SEBI Circular no. CIR/CFD/ CMD/13/2015 dated November 30, 2015.*
6	*Failure to appoint qualified person as Company Secretary cum Compliance Officer.*	*Noticee 1 failed to appoint the company Secretary cum compliance officer in violation of Regulation 6(1) of LODR Regulations.*
7	*Failure to appoint qualified persons/ directors.*	*Noticee 1 was not having adequate composition of Board of Directors, Audit Committee, Nomination & Remuneration Committee and Shareholders Relationship Committee and thus, violated Regulation 17(1)(a), 18(1)(a), 19(1)(a) & 20 (2A) of the LODR Regulations.*
8	*Role of Noticee 2, 3 and 4*	*Noticee 2, 3 and 4 were involved in falsification/ fabrication of the books of accounts of the company and thus, manipulated the company's financial statements with knowledge and intention to deceit or induce investors and shareholders for carrying out fraud. It is, therefore, alleged that Noticee 2, 3 and 4 have violated Regulation 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(ii)(8), 4(2)(f)(iii)(7), 17(8) of the LODR Regulations and Regulations 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 27(1) of the SEBI Act, 1992.*

8. I note that in response to the **SCN** issued by SEBI, Noticee 1 has submitted its reply vide letters dated May 22, 2023 and June 06, 2023. I also note that Noticee 2, 3 and 4, vide their emails dated May 05, 2023, respectively have confirmed that their submissions are in line with the replies submitted by Noticee 1.

9. Pursuant to reallocation of the captioned matter to me, an opportunity of personal hearing was granted to all the Noticees on June 21, 2023 and the same was attended by Noticee 1, 3 and 4. Noticee 1 was represented by the Ms. Priyanka Chugh, Company Secretary whereas Noticee 3 and 4 represented themselves. The submissions made by the said Noticees were in line with the written replies submitted to SEBI.

10. The Noticee 2 could not attend the personal hearing granted on June 21, 2023 and requested for adjournment of hearing on health grounds. Accordingly, another opportunity for personal hearing was granted to the said Noticee on June 26, 2023 and the same was attended by her. Submissions made by her during hearing and post hearing were in line with the written replies submitted by Noticee 1 to SEBI.

11. Further, vide an email dated December 22, 2023, the Noticees were requested to provide documents, if any, in support of their reply with respect to *"Non-dematerialization of promoter shareholding"*, on or before January 02, 2024. However, till date no reply has been received from the Noticees or their representatives. Therefore, I note that the principles of natural justice (PNJ) have been complied with.

12. As discussed elsewhere, the Noticee 1 had submitted its reply through letters dated May 22, 2023 and June 06, 2023. The relevant extract of the said replies is as follows:

"….We would like to take this opportunity to give you a background of how our operations got impacted due to external conditions so that you can appreciate the difficult circumstances that we have been facing since inception till date:

a) *MISL was incorporated on 17.09.92 and the Company came out with IPO in 1994. MISL was one of first companies that undertook the setting up of a steel plant in Odisha on assurance from the Government that raw material will be available to them. MISL was allotted the land for putting up the steel plant and in the one of the Mesco group companies, i.e., Mesco Steels Ltd. was granted the mines for captive purposes with the grant condition being clear that Mesco will put up 2 plants in the area in Dubri Region.*

b) *However, when MISL completed its construction in 1997-98, the Steel market was hit by down turn, which resulted in unsecured Creditors filing a case on MISL for winding up in 2002. The Company was subjected to provisional liquidation in September 2002. The Company was under provisional liquidation from September 2002 till winding up order was cleared in 2011. Therefore, from 2002 to 2011, MISL operated ex-directors and the Company was working under the governance of a committee appointed by the Hon'ble Delhi High Court with members Mr. B. P Singh, Ex Md NINL was appointed by High Court, Mr.J. D. Aggarwal, Indian Institute of Finance and Mr. Arvind Pandey, Ex Chairman SAIL.*

c) *The Company started its commercial production in 2005. The Company's iron ore mines also went into commercial production in April 2006. The Company reported sales of Rs. 576 crores in financial year ended March 2012. The Company was growing at that time and required the raw material i.e. iron ore in large quantities.*

d) *On other hand Mesco Steels Limited had been granted a captive iron ore mine on 17th March 1999 over an area of 1519.98 ha for a period of 30 years on the condition that Mesco will set up two steel plants in Dubri Region. Mesco Steels Limited got an order from the Hon'ble High Court Orissa and to execute the mine and extract ore on 16.05.2008. The Company was working on fulfilling the formalities for executing the mine. So MISL during the year 2011-12 entered into an agreement with Mesco Steels Ltd. so as to get regular supply at a competitive price from Mesco Steels Ltd. An advance was given to them for Rs. 205.69 crores till 2016-17. However, State Government did not execute the mine even after permission from the Hon'ble High Court Orissa was given twice. MISL was in regular talks with Mesco Steels Limited to supply the raw material and wrote letters also. Mesco Steels Ltd. showed their inability and specified that they are fighting legal battle in the Hon'ble Supreme Court for executing the mines.*

e) *Despite the various odds, MISL was consistently delivering high performance and growth to shareholder's value since 2008-09 till 2013-14. Despite 2013-14 being a difficult year for iron ore mining and pig iron industry as the mining was stopped in the year 2014. The mining was resumed in year 2015 and MISL had to further pay stamp duty for same. There were other regulatory issues related to mining leases in Odisha, MISL posted Profit before Tax of Rs.2271.51 million on a turnover from operations of Rs. 8623 million.*

f) *In FY 2015-16, a host of domestic and global factors combined in adversely impacting business performance of the companies in the steel and mining sectors. Steel Sector was badly hit due to overcapacity and slowdown in China, which led to enormous strain* *on the Indian Steel industry. Our operations were also impacted due to the lower prices of pig iron in comparison to the prices in the previous year.*

g) In FY 2016-17, the pig iron prices remained low and there was exceptional spike in the coke prices. This uncommon situation made production of pig iron unviable. Just to put things in perspective, from November 2016 to March 2017, coke prices ranged between Rs. 20,000 to Rs. 24,000 per tonne, while pig iron prices remained around Rs. 21,000 per tonne. Despite import curbs, 8.0 million tonnes of steel products were imported during the year. For preserving the shareholder value, the steel plant was kept in shutdown condition through the year. This decision enabled the company to post profit after tax of Rs 140.34 Million on a turnover of Rs.2835 Million despite the extreme stress in the industry. Due to huge non-performing assets in the steel sector, banks were averse to lending to steel companies.

h) In the year 2017, the Supreme Court levied a penalty of Rs. 924.75 crores on MISL for excess mining and approx. Rs. 30,000 crores penalty was imposed across industry for the excess mining. Thus, the mines were shut down in December 2017 which affected the business of Company although MISL had two years of mining left with the Company. In fact MISL had all the clearances with respect to mining. Since MISL had 2 years of mining, MISL approached the Government to allow them mining so that MISL could pay the alleged compensation/penalty of Rs. 924 crores from the sales of iron ore extracted during the 2 years which was not heard. MISL was under provisional liquidation and was being run by members of committee appointed by Hon'ble High Court for the time line for which penalty was levied. It is important to note that the penalty is not correct as MISL had all the permissions and further not run by the promoters so *it should not be added in our Balance Sheet. Further consent to operate was also not given to MISL which led to closure of plant of the Company in December 2019. The Company started making payment towards the Company was not being run by the promoters. The same was run by the committee appointed by Hon'ble Delhi High Court by Mr. B. P Singh, Ex Md NINL was appointed by High Court, Mr. J. D. Aggarwal, Indian Institute of Finance and Mr. Arvind Pandey, Ex Chairman SAIL as the Company was under provisional liquidation at that time.*

i) *During the FY 2018-19, the Company's standalone revenue from operations was Rs.8702.37. However, MISL's Profit before Depreciation Interest and Tax ("PBDIT") was Rs. 212.07 Million in the financial year ended 31st March, 2019. Further, during FY 2019-20, MISL's net revenue from operations was Rs. 4017.44 Million and PBDIT was negative at Rs. (414.19) Million. The operations in FY 2019-20 suffered on account of stoppage of Pig Iron plant in December 2019 due to iron ore mineral availability constraint as well as working capital shortfall which lead to decrease of sales. MISL continued to incurred a loss of Rs. 596.37 Million in FY 2019-20.*

j) *The FY 2020-21 witnessed severe downturn in operations of the company with MISL reporting net revenue from operations of Rs. 1922 Million and loss before tax of Rs. 831 million on standalone basis. Further, MISL got order from Supreme Court to sell the lying stocks only.*

k) *The above factors led to human resource retrenchment, worker's strike and resultant lack of accessibility to factory site and records maintained by the company, non-payment of statutory dues, default in payment to lenders, resource and acute fund constraints. The* *operations of MISL were impacted by external factors beyond our control….."*

13. The above submissions made by Noticee 1 are generic in nature. Further, submissions made by Noticee 1, with respect to each allegation is being discussed in the subsequent paragraphs.

CONSIDERATION OF ISSUES AND FINDINGS:

14. I note that the following issue(s) arise for consideration in the present case: -

14.1. Whether the allegations levelled against the Noticees 1, 2, 3 and 4, as mentioned at Para 7 above are correct?

14.2. If answers to above is in the affirmative, what directions to be issued and/or penalties to be levied against the said Noticees?

15. Before dealing with the merits of the matter, I would like to address a preliminary legal issue on the moratorium imposed against Noticee 1. In the matter of Silver Bank Limited vs M/s. Mideast Integrated Steels Limited, Hon'ble National Company Law Tribunal (hereinafter referred to as "**NCLT**"), vide an order dated May 24, 2023, had declared a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC) and had also appointed a Resolution Professional, thereby initiating Corporate Insolvency Resolution process (CIRP) against Mideast Integrated Steels Limited (Noticee 1). In this regard, the concerned department of SEBI has now confirmed that proceedings can be continued against Notice1 on the basis of the fact that NCLT, vide an order dated November 08, 2023, has closed the said CIRP process, *inter alia,* stating that:

“Looking to the facts and the sequence of events, especially the Affidavit filed by the Financial Creditor (Silver Bank Limited), who has realised its debt and want to withdraw Section 7 application, we are of the view that proceedings under Section 7 cannot be allowed to continue any further. We, thus, close the CIRP process.”

16. In view of above, I now proceed to refer to the provisions of law which are alleged to have been violated by the Noticees and the relevant extract thereof is reproduced hereunder:

SEBI Act 1992

Section 11C: Investigation

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

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

Section 27: Contravention by companies

(1) Where a contravention of any of the provision of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the

business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such Person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

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

Explanation: For the purposes of this section,

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a Partner in the firm."

SEBI (PFUTP) Regulations, 2003:

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

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

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

(2) Dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if It Involves any of the following: -

(e) *any act or omission amounting to manipulation of the price of a security including, influencing or manipulating the reference price or bench mark price of any securities;*

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

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

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

<u>SEBI (LODR) Regulations, 2015:</u>

<u>Regulation 4: Principles governing disclosures and obligations.</u>

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

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

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

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

(d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.

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

(f) Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by investors.

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

(h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.

(i) Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.

(j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.

Regulation 4(2)(f): Responsibilities of the board of directors:

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

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

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

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

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

(ii)(8) Overseeing the process of disclosure and communications.

(iii)(7) The board of directors shall exercise objective independent judgement on corporate affairs.

Regulation 6: Compliance Officer and his/ her Obligations:

(1) A listed entity shall appoint a qualified company secretary as the compliance officer.

Regulation 17: Board of Directors:

(1) The composition of board of directors of the listed entity shall be as follows:

(a) board of directors shall have an optimum combination of executive and nonexecutive directors with at least one-woman director and not less than fifty per cent. of the board of directors shall comprise of non-executive directors;

Regulation 18: Audit Committee:

(1) Every listed entity shall constitute a qualified and independent audit committee in accordance with the terms of reference, subject to the following:

(a) The audit committee shall have minimum three directors as members.

(b) At least two-thirds of the members of audit committee shall be independent directors and in case of a listed entity having outstanding SR equity shares, the audit committee shall only comprise of independent directors.

Regulation 19: Nomination and remuneration committee:

(1) The board of directors shall constitute the nomination and remuneration committee as follows:

(a) the committee shall comprise of at least three directors;

(b) all directors of the committee shall be non-executive directors; and

(c) at least two-thirds of the directors shall be independent directors

Regulation 20: Stakeholders Relationship Committee:

(1) The listed entity shall constitute a Stakeholders Relationship Committee to specifically look into various aspects of interest of shareholders, debenture holders and other security holders.

(2) The chairperson of this committee shall be a non-executive director.

(2A) At least three directors, with at least one being an independent director, shall be members of the Committee and in case of a listed entity having outstanding SR equity shares, at least two thirds of the Stakeholders Relationship Committee shall comprise of independent directors.

Regulation 30: Disclosure of events or information:

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

Regulation 31: Holding of specified securities and shareholding pattern.

(2) *The listed entity shall ensure that hundred percent of shareholding of promoter(s) and promoter group is in dematerialized form and the same is maintained on a continuous basis in the manner as specified by the Board.*

(3) *The listed entity shall comply with circulars or directions issued by the Board from time to time with respect to maintenance of shareholding in dematerialized form.*

Regulation 33: Financial results:

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

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

(c) The standalone financial results and consolidated financial results shall be prepared as per Generally Accepted Accounting Principles in India

(2) The approval and authentication of the financial results shall be done by listed entity in the following manner:

(b) the financial results submitted to the stock exchange shall be signed by the chairperson or managing director, or a whole time director or in the absence of all of them; it shall be signed by any other director of the listed entity who is duly authorized by the board of directors to sign the financial results.

(d) The annual audited financial results shall be approved by the board of directors of the listed entity and shall be signed in the manner specified in clause (b) of sub-regulation (2).

(3) The listed entity shall submit the financial results in the following manner:

(a) The listed entity shall submit quarterly and year-to-date standalone financial results to the stock exchange within forty-five days of end of each quarter, other than the last quarter.

(b) In case the listed entity has subsidiaries, in addition to the requirement at clause (a) of sub-regulation (3), the listed entity shall also submit quarterly/ year-to-date consolidated financial results.

(d) The listed entity shall submit annual audited standalone financial results for the financial year, within sixty days from the end of the financial year along with the audit report and Statement on Impact of

Audit Qualifications (applicable only] for audit report with modified opinion)

Regulation 34: Annual Report.

(3) The annual report shall contain any other disclosures specified in Companies Act, 2013 along with other requirements as specified in Schedule V of these regulations.

Regulation 48: Accounting Standards.

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

17. I now proceed to discuss the findings with respect to each of the allegations in the following paragraphs, taking into consideration the replies received from the Noticee(s):

17.1. **Failure to furnish information and Non-Cooperation during the investigation:**

17.1.1. I note that the sole purpose of appointment of the Forensic Auditor (FA) by SEBI on June 29, 2022 was to assist SEBI in its investigation to ascertain whether there was any manipulation/ misrepresentation in the books of accounts of Noticee 1 during FYs 2018-19, 2019-20 and 2020-21. The SCN alleges that despite lapse of a substantial time period of audit and providing number of opportunities, Noticee 1 failed to submit complete data to comply with the Summons dated September 06, September 16 and September 30, 2022. I note that the Forensic Audit Report (FAR) which was submitted to SEBI on December 14, 2022 has recorded the status of information sought from Noticee 1 at Exhibit 33. The same is given in the following table:

Table 2

S. No.	***Account Head***	***Information Requested***	***Information provided by MISL (Noticee 1) vide email dated 05.12.2022 / 06.12.2022***	***Status of Information***
1	*Sales Register*	*We have requested the company to provide sales register along with the party wise break up, GSTIN, information with regards to Quantity, rate and Grade for the period FY 2018-19 to FY 2020-21.*	*MISL has provided the information vide email dated 05.12.2022.*	*Received*
2	*Purchase Register*	*We have requested the company to provide Purchase register along with the party wise break up, GSTIN, information with regards to Quantity, rate and Grade for the period FY 2018-19 to FY 2020-21.*	*MISL has provided the information vide email dated 05.12.2022.*	*Received*
3	*Inventory Register*	*Inventory Register along with the quantity wise details of Opening Inventory, Inward, Purchases, Outward and Closing Inventory for the period FY 2018-19 to FY 2020-21.*	*MISL has provided the information vide email dated 05.12.2022.*	*Received*
4	*Long Term Borrowings*	*We have requested the Party wise breakup of the Long Term Borrowings as per AFS for the period FY 2018-19 to FY 2020-21.*	*MISL has provided the name of parties and o/s amount for the period requested. However, details of address of the parties and GSTIN are not provided.*	*Partly Received*
5	*Trade Payables*	*We have requested the company to provide Party wise break up of Trade Payables for the period FY 2018-19 to FY 2020-21 along with the details*	*MISL has provided the name of parties and o/s amount for the period requested. However, details of address of the parties and GSTIN are not provided.*	*Partly Received*

S. No.	Account Head	Information Requested	Information provided by MISL (Noticee 1) vide email dated 05.12.2022 / 06.12.2022	Status of Information
		of name / address of the parties, GSTIN of the parties.		
6	*Advance received from Customers*	*We have requested the company to provide detailed breakup of the Statutory Dues and Advance received from Customers for the period FY 2018-19 to FY 2020-21 along with the details of name / address of the parties, GSTIN of the parties.*	*MISL has provided the name of parties and o/s amount for the period requested. However, details of address of the parties and GSTIN are not provided.*	*Partly Received*
7	*Capital WIP*	*We have requested the company to provide breakup of expenses capitalized under the head Capital Work in Progress for the period FY 2018-19 to FY 2020-21.*	*MISL has provided the asset wise break up of Capital WIP for the period requested. However, the party wise break up for each expense capitalised is not provided.*	*Partly Received*
8	*Other Financial Assets*	*We have requested the company to provide party wise break up of "Other Financial Assets" for the period FY 2018-19 to FY 2020-21 along with the details such as Name and address of the parties, GSTIN, purpose of advance given, Current recovery Status of such advances, Date of payment etc.*	*MISL has provided the breakup of other financial assets containing name of the parties and amount o/s as on 31.03. However, the details of GSTIN, purpose of advance given, Current recovery Status of the same and date of payment made are not provided.*	*Partly Received*
9	*Trade Receivables*	*We have requested the company to provide party wise break up of Trade Receivables as per AFS for the period FY 2018-19 to FY 2020-21 along with the details such as Name and address of the parties, GSTIN, ageing of trade receivables o/s as on 31.03.2021, reason for long o/s of dues.*	*MISL has provided the party wise details of Trade Receivables containing name of the parties and amount. However, the details of GSTIN, address of the parties, Ageing of receivables o/s as on 31.03.2021 is not provided.*	*Partly Received*

<table>
<tr><th>S. No.</th><th>Account Head</th><th>Information Requested</th><th>Information provided by MISL (Noticee 1) vide email dated 05.12.2022 / 06.12.2022</th><th>Status of Information</th></tr>
<tr><td>10</td><td>Advances given for Raw Material Stores</td><td>We have requested the company to provide party wise break up of Advance given for Raw Materials stores as per AFS for the period FY 2018-19 to FY 2020-21 along with the details such as Name and address of the parties, GSTIN. Further, In FY 2020-21, it is observed that the Advance for raw material stores & advances have reduced from 66.78 crores in FY 2019-20 to Rs.19.78 crores. However, as per the audited financials, there are no purchases in FY 2020-21. We have requested the company to explain the underlined transaction and how the advances given reduced to Rs. 19.78 crores as on 31.03.2021.</td><td>MISL has provided the breakup of Advance given containing name of the parties and amount as on 31.03. However, the details of GSTIN, address of the parties, clarification for reduction in advances by Rs. 40 crores in-spite of being no purchases in FY 2020-21, is still awaited.</td><td>Partly Received</td></tr>
<tr><td>11</td><td>Movement in Gross Profit</td><td>Explanation for variation in gross profit percentage for the period FY 2018-19 to FY 2020-21.</td><td>MISL has provided the information vide email dated 06.12.2022.</td><td>Received</td></tr>
<tr><td>12</td><td>Other Income</td><td>We have requested the company to provide breakup of “Liabilities Written Back” grouped under the head Other Income for the period FY 2018-19 to FY 2020-21, Reasons for making the provisions in the earlier period and why it has been written back in the above period.</td><td>MISL has provided the detailed list of liabilities written back for the period 2018-19 to 2020-21. As per the break up provided by the company, there is a significant amount shown under the head “Sundry Balances Write Back”. However, party wise break of the same is not provided:
<table><tr><th>Particulars</th><th>18-19</th><th>19-20</th><th>20-21</th></tr><tr><td>Sundry Balance Write Back</td><td>4,669.38</td><td>3,887.06</td><td>5.59</td></tr></table></td><td>Awaited</td></tr>
</table>

S. No.	Account Head	Information Requested	Information provided by MISL (Noticee 1) vide email dated 05.12.2022 / 06.12.2022	Status of Information
13	Other Expenses	Detailed breakup of the expenses grouped under the head "Other Expenses" as per AFS for the period FY 2018-19 to FY 2020-21.	MISL has provided the information vide email dated 05.12.2022.	Received
14	Bank Book as per Accounting Software	Bank Book of MISL as per accounting software along with detailed narrations for the period FY 2018-19 to FY 2020-21.	--	Awaited
15	Explanation to bank suspense entries	On analysis of the bank statements of MISL provided to us for the period FY 2018-19 to FY 2020-21, there are few entries for which narrations are not clearly identifiable. The company's response for the same is awaited.	MISL has provided the information vide email dated 05.12.2022.	Received
16	Ledger Confirmations	Ledger confirmations of all the following related parties as disclosed in the annual report of MISL during each year i.e FY 2018-19, FY 2019-20 & FY 2020-21: - Maithan Ispat Limited - Mesco Steels Limited - Mesco Kalinga Steel Limited - Mesco Mining Limited - Mesco Aerospace Limited - Mesco Magic Cement Limited - Mesco Logistics Limited - Mesco Pharmaceuticals Ltd. - Mideast (India) Limited - Mesco Hotels Limited - Twenty First Century Finance Ltd - Forrester Foods Private Limited - Mesco Gold Cambodia Ltd. - Mesco Shoes Ltd - Kayaana Constructions Limited - Keonjhar Infrastructure Development Company Limited - Happy Associates Pvt Ltd.	--	Awaited

17.1.2. From the above table I note that there were at least 10 account heads with respect to which Noticee 1 has provided only partial or no reply.

17.1.3. In response to the said allegation, Noticee 1 has submitted that it was in distress since long and did not have adequate staff and resources. Noticee 1 has contended that despite various constraints, it provided all information to the FA.

17.1.4. From the submissions made by Noticee 1, I note that its registered office is located at New Delhi and pursuant to a Board Resolution dated March 01, 2005, it shifted its place of books of accounts to its steel plant located at Jajpur, Odisha. In this regard, Noticee 1 has submitted that due to labour unrest owing to shutdown of its business in December 2019, and due to lockdown and cyclone in Odisha, it could not operate the SAP system situated in the steel plant located at Jajpur because of which the system got affected and went out of order. As the labourers did not allow the officials/ management or any other person to enter the premises for repairing the SAP system, Noticee 1, with the help of police officials shifted only the SAP system from plant at Jajpur, Odisha to Mesco Tower, located at Bhubaneswar, on October 11, 2020, which was under control of Mesco Hotels Ltd. (a related entity of Noticee 1), so that system could be repaired and access to same could be made available at all locations. The Noticee 1 further claims that certain records and access to the SAP were available in the plant premises at Jajpur, Odisha. While Noticee 1 has admitted that it did not report shifting of books of accounts from its plant at Jajpur to Bhubaneswar to RoC-Delhi, I note that it has not provided any comment with respect to its failure to take Board's approval in this regard. This requirement assumes more significance as the office premise to which the SAP system was shifted belonged to one of its related entity and not to Noticee 1 itself. I further fail to understand that if the Noticee 1 was maintaining its books of account on ERP/ SAP which is an IT based system for maintaining data base, then why the access for the same was available only within the premises of its steel plant located at Jajpur, Odisha and why the access to it was not already available at all other locations. There is nothing furnished by Noticee 1 on record, to ascertain the same.

17.1.5. Noticee 1 has contended that its office premises located at Bhubaneshwar was sealed by an order of the Hon'ble District Court of Jajpur on August 24, 2022, where its main server for the ERP is located. The said premises got opened on November 07, 2022 pursuant to an order from District Court on October 31, 2022 and it arranged for the SAP to be restarted after its closure for a long period of time.

17.1.6. In this regard I note that the FAR has duly recorded that initial set of information was sought by the FA vide its email dated July 05, 2022, after which the FA had sent at least five email reminders before closure of the office premises of Noticee 1 located at Bhubaneshwar August 24, 2022, however, the Noticee 1 failed to provide the complete information to the FA on the pre-text of the distress faced by it since long and non-availability of staff and resources which I find to be unacceptable as the information/

details sought was routine in nature and a listed entity like Noticee 1 is expected to maintain the same as a good business practice.

17.1.7. With regards to difficulty in restarting SAP, I note that Noticee 1 has not furnished any documentary evidence in support of repair/ restoration of SAP/ ERP being undertaken by it. Therefore, I do not have any material on record to conclude if the SAP system was actually non-functional/ or out of order and ascertain the reasons for delay/ non submission of data, after the office premises located at Bhubaneswar was reopened on November 07, 2022.

17.1.8. The Noticee 1 has lastly furnished the following table giving details of information provided to SEBI/ FA through its emails dated December 05, 2022, January 02 and January 07, 2023: -

Table 3

S. No.	***Details sought***	***Provided on***
1	*Bank Book as per accounting software*	*Sent through mail on 02.01.2023 and 07.01.2023*
2	*Other income*	*Sent through mail on 05.12.2022 as Ann 10*
3	*Unidentified bank Transactions*	*Sent through mail on 05.12.2022 as Ann 12*
4	*Trade Payables*	*Sent through mail on 05.12.2022 as Ann 4*
5	*Advance received from customers*	*Sent through mail on 05.12.2022 as Ann 5.2*
6	*capital WIP*	*Sent through mail on 05.12.2022 as Ann 6*
7	*Other Financial Assets*	*Sent through mail on 05.12.2022 as Ann 7.2*
8	*Trade Receivables*	*Sent through mail on 05.12.2022 as Ann 8*
9	*Advances given for raw material stores*	*Sent through mail on 05.12.2022 as Ann 9.2*

In this regard, I note that the FAR which was shared with all the Noticees as an annexure to the SCN dated April 27, 2022, highlighting various account heads for which the information provided was either incomplete or nil. The Noticee 1 failed to address the reasons for providing nil/ partial reply to various account heads as shown in the Table 2 given at the preceding pages. I further note that the information pertaining to “Bank Book as per accounting software”, which Noticee 1 claims to have been submitted through emails dated January 02 and January 07, 2023, were forwarded after a delay of one month from the deadline of December 05, 2022 granted to it.

17.1.9. In view of above discussion, I find that the Noticee 1 failed to provide complete information/ details as sought by the SEBI/ Forensic Auditor thereby adversely affecting/ delaying the investigation and therefore failed to comply with Summons dated September 06, 16 and September 30, 2022 in violation of Section 11C(2) read with section 11C(3) of SEBI Act, 1992.

17.2. **<u>Misappropriation / Misutilisation / Diversion of funds to group entities:</u>**

17.2.1. The FA has analysed the Annual Financial Statements (AFS) of Noticee 1 for the Investigation Period (IP) and has recorded that it had given huge amounts of loans/ advances to its related parties of which a substantial amount was given to Mesco Steels Ltd. (MSL). The total amount of loan outstanding to all entities vis-a-vis the loan amount outstanding to MSL is shown in the following table: -

Table 4

S. No.	Loans and advances given to	Value (Rs. Cr.)		
		2018-19	2019-20	2020-21
1	All related parties (including MSL)	252.67	256.93	253.53
2	Mesco Steels Ltd. (MSL)	213.52	212.68	209.48

17.2.2. The FAR, on the basis of analysis of AFS of Noticee 1, further records that it has been granting loan to MSL at least since FY 2010-11. This fact is shown in the following table: -

Table 5

S. No.	Financial Year	Outstanding value of loans given by Noticee 1 to MSL (Rs. Cr.)
1	2020-21	209.48
2	2019-20	212.68
3	2018-19	213.52
4	2017-18	209.30
5	2016-17	204.13
6	2015-16	197.12
7	2014-15	199.40
8	2013-14	204.65
9	2012-13	168.95
10	2011-12	152.66
11	2010-11	98.37
12	2009-10	Amount not disclosed in AFS submitted at MCA
13	2008-09	

17.2.3. In this regard the FAR refers to the extracts of the special resolution through which shareholders' approval was taken by Noticee 1 for entering into a related party transaction with MSL, for purchase of iron ore or any other goods and all other types of services incidental to such sale, purchase or supply, for an amount of Rs. 200 Cr. per financial year. The FAR, also records that as per the purchase register of Noticee 1, it has not made any purchases from MSL. The FAR also records that as per the Annual Financial Statements of MSL, it has not entered into any business transaction and the inventory/ stock was not shown/ reflected in the balance sheet during the audit period.

17.2.4. I note that the FA has further analysed the movement of funds on the basis of the Annual Financial Statements of Noticee 1, MSL and other related entities and has recorded that MSL further utilized/ transferred the said funds to various Mesco group companies as loans/ advances/ investments etc. In this regard the FAR has concluded that out of the total advances amounting to Rs. 209.51 Cr. in FY 2020-21, from Noticee 1 to MSL, Rs. 122.62 Cr. has been utilized by MSL, directly indirectly for buying shares of Noticee 1, another amount of Rs. 46.47 Cr. were (directly/ indirectly) given as loans by MSL to another group entity Mesco Gold Combodia Ltd. whereas the balance of Rs. 40.39 Cr. advance given by Noticee 1 to MSL could not be ascertained due to non-availability of information/ documents.

17.2.5. In this regard, I note that FAR has recorded that out of the total loan amount of Rs. 209.51 Cr. given by Noticee 1 to MSL as on March 31, 2021, Rs. 122.62 Cr. were used for buying shares of Noticee 1, directly by MSL itself or through other group entities by giving loan, as shown in the table below: -

Table 6

S. No.	Name of related entities of Noticee 1	Value of shares of MISL purchased (Rs. Cr.)
1	Mesco Steels Ltd.	13.15
2	Mesco Kalinga Steels Ltd.	10.00
3	Mesco Minning Ltd.	17.00
4	Mesco Logistics Ltd.	12.38
5	Mideast India Ltd.	65.09
6	Mesco Hotels Ltd.	5.00
	Total	**122.62**

17.2.6. Accordingly, the SCN alleges that Noticee 1 advanced funds to the tune of Rs. 209.51 Cr. on the pretext of buying iron ore from its group company MSL which never produced/ mined iron ore during the last 20 years and that the said funds were misutilized/ diverted/ misappropriated directly/ indirectly by MSL by further, advancing/ funding to various promoter group entities.

17.2.7. In reply to the above allegation, the Noticee 1 has submitted that it started its commercial production in 2005 and reported sales of Rs. 576 Cr. in FY 2011-12. As it was a growing company at that time and required raw material, i.e., iron ore in large quantities, it gave advance to Mesco Steels Ltd. (MSL) for the purchase of iron ore as MSL had been granted an iron ore mine on March 17, 1999 for a period of 30 years. The Noticee 1 has further submitted that due to interference by State Government and other issues, mining could not commence, even though permission from Hon'ble High Court of Orissa was given twice.

17.2.8. In this regard, I note that Noticee 1 has not produced any documentary evidence like copy of agreement signed by it with MSL, or copy of order(s) issued by the State Government and/ or Hon'ble High Court of Orissa to support its arguments that MSL could not start mining for the reasons as stated above.

17.2.9. The Noticee 1 has also submitted that it requested MSL to return some money back as there was cash crunch and MSL did return some amount and the balance adjusted. Again, I find that the said statement of Noticee 1 is not supported by any documentary evidence and hence cannot be relied upon.

17.2.10. Noticee 1 has further contended that the specific allegation regarding utilization of Rs. 122.62 Cr. by MSL (out of the total advance of Rs. 209.51 Cr. given to MSL), towards buying shares of Noticee 1 and other group companies is not correct as investment in the shares of Noticee 1 and other group entities were done much before the advances were given to Mesco Steels Ltd. In support of its contention, the Noticee 1 has provided copies of balance sheets of Promoter companies for the FYs 2009-10 and 2010-11.

17.2.11. On perusal of the balance sheets of each of the related entity mentioned in Table 5 given above, I find that the said shares were purchased much before the loan amount was given by Noticee 1 to MSL. I find that as on March 31, 2021, there is no change in the outstanding value of number of shares of Noticee 1, purchased by each of its related entity since purchase. Details in this regard are given in the following table:

Table 7

S. No.	Name of related entities of Noticee 1	Value of shares of MISL purchased (Rs. Cr.)	FY during which purchased	No. of Shares
1	Mesco Steels Ltd.	13.15	2009-10	1,31,46,800
2	Mesco Kalinga Steels Ltd.	10.00	2007-08	1,00,00,000
3	Mesco Minning Ltd.	17.00	2007-08	1,70,00,000
4	Mesco Logistics Ltd.	12.38	2007-08	1,20,00,000
5	Mideast India Ltd.	65.09	2007-08	3,25,49,940
6	Mesco Hotels Ltd.	5.00	2007-08	50,00,000
	Total	**122.62**		

17.2.12. In view of above submission, I find that the shares of Noticee 1, owned by its related entities were not purchased during the investigation period and therefore the allegation of misappropriation/ misutilisation/ diversion of funds by Noticee 1 is not established to the extent of Rs. 122.62 Cr. I however note that Noticee 1 has not disputed the fact that it has been granting loans to MSL since year 2011, on the pretext of purchase of iron ore, however till date nothing has been produced and delivered by MSL and that a substantial amount received from Noticee 1 has been diverted by MSL either directly or indirectly to its other related entities as loan/ investments. To be more specific, no reply has been given by the Noticee 1 with respect to the observation of MSL advancing an amount of Rs. 46.47 Cr. to a related entity Mesco Gold Combodia Ltd. I also note that due to non-availability of information, further utilization of balance amount of Rs. 40.39 Cr. could not be ascertained.

17.2.13. At this juncture, it is pertinent to note few important observations given by Independent Auditor of Noticee 1, appearing in Annexure I to Independent Auditor's Report, forming part of the Annual Report of MISL for FY 2020-21. The said observations are given below:

" 3. According to information and explanation given to us, the company has granted unsecured loans to parties covered in the register maintained under Section 189 of the Act, however in our opinion:

- *The terms and conditions of the grant of such loans are prejudicial to the company's interest as no interest is being charged on the same upto year ended 31st March 2021.*

- *There is no schedule of repayment of principal and payment of interest that has been stipulated.*

4. *In our opinion and according to information and explanation given to us, the company has, in respect of loans, investments, guarantees and security provisions, has complied with section 186 of the Companies Act, 2013. However, in the absence of sufficient information, we cannot give our opinion if the loans are utilised by the borrowing companies for their principal business activities."*

17.2.14. While the above observations given by the Independent Auditor are serious in nature, I did not find any justification given by the management of Noticee 1 in the Annual Report for FY 2020-21 in this regard. These observations given by the Independent Auditor strengthen the allegation regarding diversion/ misappropriation and misutilization of funds by Noticee 1.

17.2.15. In view of above discussion, I conclude that there has been diversion/ misappropriation and misutilization of funds by Noticee 1 through its related entities.

17.3. **Non-recognition of liabilities amounting to Rs. 924.75 Cr.:**

17.3.1. It is noted that the Hon'ble Supreme Court, vide an order dated August 02, 2017 has imposed compensation/ penalty to the tune Rs. 924.75 Cr. on Noticee 1, for excess extraction/ mining of Iron Ore against the approved limit for extraction/ mining in violation of environmental norms. In this regard, a demand notice dated September 02, 2017, was issued by Office of Deputy Director of Mines, Joda Circle, Dist. Keonjhar and the Noticee 1 was required to make payment of said amount by December 31, 2017. As the said amount was not paid by Noticee 1 by the said timeline, there was a requirement for making provision for the same in subsequent Financial Statements in terms of IND AS 37. The SCN therefore alleges that the Noticee 1 failed to make any provision towards the said liability of Rs. 924.75 Cr. during the FYs 2018-19, 2019-20 and 2020-21.

17.3.2. In reply to the above allegation, the Noticee 1 has submitted that till date it has made payment of Rs. 381.95 Cr., to the State Government, towards the said liability. The Noticee 1 has further submitted that the penalty charged on it pertains to the period during which, it was under provisional liquidation and was run by the committee appointed by the Hon'ble Delhi High Court, hence the payment is made under protest.

17.3.3. I further note that the FAR has highlighted an observation given by Independent Auditor of Noticee 1, appearing under the section "Qualification" of Independent Auditor's Report, forming part of the Annual Report of MISL for FY 2020-21. The said observation is given below:

"In pursuance to the judgement dated 2nd August, 2017 of Honourable Supreme Court of India, in the matter of Writ Petition (Civil) No. 114 of 2014 between common Cause v/s Union of India & Others, there is a compensation imposed of Rs. 924 Cr. along

with interest on the company (Noticee 1) for excess production of Iron Ore during FY 2000-01 to FY 2010-11. The company was supposed to make the payment of this compensation on or before 31st December 2017, failing which the mines of the Company are closed down w.e.f. 1st January 2018. The company has filed a 'Curative petition' (Civil) on 28th March 2018, before the Honourable Supreme Court of India challenging the Judgement and which we have been informed is still pending. Hence, no provision has been made for the same in the books of accounts. During the year, the company has paid Rs. 164 Cr. as payment under protest.

In our opinion, this compensation has been crystalized and accordingly, a provision for this liability should have been made in the books to the extent of Rs. 924 Cr. along with interest (net of payment made under protest), up to date of the balance sheet, of Rs 489.87 Cr., making the total liability provision of Rs. 1413.87 Cr. as on 31st March 2020). In case the above provision had been made in the books, the loss would stand at Rs. 1498.75 Cr. as on 31st March 2021 (loss would be Rs 1455 Cr. as on 31st March 2020)."

17.3.4. In response to the above observation the Board of Noticee 1 has given following statement appearing under the section "Point wise Replies to Auditor's Qualifications" of the Annual Report for FY 2020-21:

"….Since the amount was not paid by the stipulated date, the Honourable Supreme Court ordered to stop mining operations with effect from 1st January 2018. The Company has however filed a

'Curative Petition' (Civil) before Honourable Supreme Court of India challenging the judgement and which is still pending. Hence provision has not been made for the same in the books of accounts……..."

17.3.5. From above, I note that while the Independent Auditors have highlighted the requirement for making provision for compensation to be paid as per directions of the Hon'ble Supreme Court of India, Noticee 1 failed to make any provision, basis the Curative Petition filed with Hon'ble Supreme Court of India, which was dismissed on September 09, 2019 (as observed from the annual report for FY 20120-21 of Noticee 1). Further, there is nothing on record to conclude that the Hon'ble Supreme Court had granted any relief in depositing the said compensation. Therefore, I do not find any bankable reason on the basis of which Noticee 1 can claim exemption from making provision for the said liability and I find that the statements given by the Board of Noticee 1, as discussed at para 16.3.5, are nothing but an attempt to mislead its investors by manipulating the loss amount of Rs. 1498.75 Cr. as highlighted by the Independent Auditors of Noticee 1.

17.3.6. I note that in its reply to the SCN, Noticee 1 has submitted that till date it has made payment of Rs. 381.95 Cr., to the State Government, towards the said liability. The Noticee 1 has further submitted that the penalty charged on it pertains to the period during which, it was under provisional liquidation and was run by the committee appointed by the Hon'ble Delhi High Court, hence the payment was made under protest. I note that necessary provisions have to be made in terms of the relevant accounting standards and reasons such as provisional liquidation cannot be adduced for non-compliance. Therefore, it is difficult to accept the arguments advanced by the Noticee 1.

17.3.7. Noticee 1 has further submitted that it treated the liability of Rs. 924.75 Cr. as a contingent liability. It has also quoted extracts of books of accounts of Mahanadi Coal Fields Ltd. and Coal India Ltd. for FY 2021-22, claiming that same accounting treatment has been given to the penalty amount by the said companies. I note that the other entities referred to by Noticee 1 are not the subject matter of the present proceedings. Hence I ignore the argument of the noticee in this regard.

17.3.8. Moreover, on perusal of the extracts of books of account of Noticee 1 for FY 2018-19, 2019-20 and 2020-21, I find that no provision was made towards the said liability. The relevant extracts are given in the following table:

S. No.	FY	Relevant Note
	2020-21	*Note 29:* *In pursuance to the Judgement dated 2nd August, 2017 of Honorable Supreme Court of India, in the matter of Writ Petition (Civil) No. 114 of 2014 (Common Cause v/s Union of India & Others), an amount of ₹924.75 crores has been imposed on the Company towards 'Compensation' as determined in the said Judgement which was to be paid by 31st December 2017, eventhough the Government Taxes and Royalty was paid on the ores extracted. Since the amount was not paid by the stipulated date, the Honorable Supreme Court ordered to stop mining operations with effect from 1st January 2018.* *The Company has however filed a 'Curative petition' (Civil) before the Honorable Supreme Court of India challenging the Judgement and which is still pending.*

		Hence provision has not been made for the same in the books of accounts. Further in the said case Company managed to get an Order dated 15th January, 2020 from Hon'ble Supreme Court, according to which Company get permission to sell 23,51,027.83 T of iron ore of different grade and sizes and which has been extracted. Further, the realization amount from said sale should be deposited with the State of Odisha towards partial satisfaction of the Compensation demand raised by Demand Notice dated 02.09.2017. The Company is in process to sell the iron ore and to comply with the norms, it is further to be noted that Company managed to get an extension of further six months vide last order dated 24th November, 2020. The Company has deposited with the Government Rs. 211 cores including GST till March 2021 under protest towards Compensation amount.
2	2019-20	*Note 30:* *In pursuance to the Judgement dated 2nd August, 2017 of Honorable Supreme Court of India, in the matter of Writ Petition (Civil) No. 114 of 2014 (Common Cause v/s Union of India & Others), an amount of 924.75 crores has been imposed on the Company towards 'Compensation' as determined in the said Judgement which was to be paid by 31st December 2017, even though the Government Taxes and Royalty was paid on the ores extracted. Since the amount was not paid by the stipulated date, the Honorable Supreme Court ordered to stop mining operations with effect from 1st January 2018. The Company has however filed a 'Curative petition' (Civil) before the Honorable Supreme Court of India challenging the Judgement and which is still pending. Hence provision has not been made for the same in the books of accounts. Further in the said case Company managed to get an Order dated 15th January, 2020 from Hon'ble Supreme Court, according to which Company get permission to sell 23,51,027.83 T of iron ore of different grade and sizes and which has been extracted. Further the realization amount from said sale should be deposited with the State of Odisha towards partial satisfaction of the Compensation demand raised by Demand Notice dated 02.09.2017. The Company is in process to sell the iron ore and to comply with the norms, it is further to be noted that Company managed to get an extension of further six months vide last order dated 24th November, 2020. The Company has deposited with the Government Rs. 55.67 cores including GST till October 2020 under protest towards Penalty amount.*

3	2018-19	*Note 30:* *In pursuance to the Judgement dated 2nd August, 2017 of Honorable Supreme Court of India, in the matter of Writ Petition (Civil) No. 114 of 2014 (Common Cause v/s Union of India & Others), an amount of 924.75 crores has been imposed on the Company towards 'Compensation' as determined in the said Judgement which was to be paid by 31st December 2017, even though the Government Taxes and Royalty was paid on the ores extracted. Since the amount was not paid by the stipulated date, the Honorable Supreme Court ordered to stop mining operations with effect from 1st January 2018. The Company has however filed a 'Curative petition' (Civil) before the Honorable Supreme Court of India challenging the Judgement and which is still pending. Hence provision has not been made for the same in the books of accounts.*

17.3.9. I note that in terms of IND AS 37, "*provision"* is defined as a liability of uncertain timing or amount and a "provision" shall be recognized if the following conditions are met:

(a) An entity has a present obligation (legal or constructive) as a result of a past event,

(b) It is probable that an outflow of resources embodying economic benefits will be required to settle the obligation,

(c) A reliable estimate can be made of the amount of the obligation

If these conditions are not met, no provision shall be recognised.

Further, as per IND AS 37, a past event is defined as:

"A past event that leads to a present obligation is called an obligating event. For an event to be an obligating event, it is necessary that the entity has no realistic alternative to settling the obligation created by the event. This is case only:

(a) where the settlement of the obligation can be enforced by law;"

17.3.10. From the above discussion, I note that excessive mining done by Noticee 1 was an obligating event (as defined in IND AS 37) leading to an obligation for Noticee 1 to pay a compensation of Rs. 924.75 Cr., as directed by the Hon'ble Supreme Court of India and appropriate provision ought to have been made towards the same by Noticee 1 during the FYs 2018-19, 2019-20 and 2020-21, as required under IND AS 37. I therefore conclude that Noticee 1 failed to provide for the obligation despite the observations made by its own Independent Auditors for making provision towards the liability arising out of compensation imposed by Hon'ble Supreme Court of India, and therefore misrepresented its financial statements for FYs 2018-19, 2019-20 and 2020-21 and mislead its investors.

17.4. **Failure in making provision for Impairment of Investment and loans:**

17.4.1. From the SEBI IR it is observed that Noticee 1 acquired Maithan Ispat Ltd. (MIL) on March 31, 2015 by infusing funds to the tune of Rs. 179.87 Cr. as equity investment during FYs 2014-15 to 2017-18. On the basis of analysis of AFS of MIL, the SEBI IR has recorded that the net worth of MIL completely eroded as it had negative net worth during the investigation period. Incidentally, during the said period, MIL had outstanding loans taken from Noticee 1. The transaction details are as below:

Table 8

S. No.	As on March 31 of Financial Year	Outstanding value of loan taken by MIL from Noticee 1 (Rs. Cr.)	Net Worth of MIL (Rs. Cr.)
1	2018-19	26.22	(66.32)
2	2019-20	26.46	(106.31)
3	2020-21	16.63	(147.50)

17.4.2. As per the balance sheet of Noticee 1, for the FYs mentioned above, the said loan amounts were classified as "unsecured considered good". It is further noted that MIL is an unlisted entity. Due to these reasons the net worth position of the subsidiary MIL becomes crucial.

17.4.3. In view of above observations, there was a requirement for making impairment provision for investments done and loan granted to MIL, by Noticee 1, as shown in the following table:

Table 9

S. No.	Financial Year	Impairment Provision that should have been made by Noticee 1 (Rs. Cr.)
1	2018-19	206.09 (179.87+26.22)
2	2019-20	206.33 (179.87+26.46)
3	2020-21	196.51 (179.87+16.63)

17.4.4. Accordingly, the SCN alleges that the Noticee 1 failed to make impairment provision for investments done in and loan given to MIL, thereby leading to overstatement of its investments and loans in its AFS for the investigation period.

17.4.5. In this regard, I note that the provisions of *"IND AS – 36: Impairment of Asset"*, inter alia, states that: -

a) *An asset is impaired when its carrying amount exceeds its recoverable amount,*

b) *An entity shall assess at the end of each reporting period whether there is any indication that an asset may be impaired. If any such indication exists, the entity shall estimate the recoverable amount of the asset.*

c) *If and only if the recoverable amount of an asset is less than its carrying amount, the carrying amount of the asset shall be reduced to its recoverable amount. That reduction is an impairment loss.*

17.4.6. In reply to the above allegation the Noticee 1 has given the Financial year wise break-up of its investment in the shares of MIL as mentioned below: -

Table 10

S. No.	Financial Year	Head	Amount (Rs. Cr.)
1	2014-15	Infusion in Shares	30.08
2	2015-16	Infusion in Shares	63.39
3	2016-17	Infusion in Shares	63.90
4	2017-18	Infusion in Shares	22.50
		Total	**179.87**

17.4.7. The Noticee 1 has further submitted that at the time of acquisition, MIL was in huge debt and the account of MIL was a Non-Performing Account in the books of Consortium of Banks. Before the acquisition of MIL, it was agreed between the Noticee 1 and the consortium of Banks that in order to service the existing debts of MIL, further capital expenditure was needed to be undertaken by MIL for which the consortium of banks agreed on an additional capex term loan of Rs. 225 Crores in the ratio of 2:1 with Rs. 170 Cr. being brought in by the consortium of Banks and Rs. 85 Cr. being brought in by Noticee 1. Later on Noticee 1 was asked for

Rs. 120 Cr. infusion over a period of 2 years so as to ensure that the consortium of Banks' existing debt was served even if MIL remain loss-making and hence the amount as indicated in the above table was infused in MIL.

Noticee 1 has further submitted that due to non-repayment of loans, the consortium of Banks took possession of the premises of MIL under the SARFAESI Act 2002 and thus it was not feasible to conduct any physical inspection of the plant and the premises due to which it could not make provisions for the impairment of assets. The Noticee 1 has attached copy of Notice for Possession issued by the consortium of Bank, in support of its contention. However, on perusal of the same, I note that the said notice was issued on February 15, 2020 which is much later than finalization of AFS for FY 2018-19 and towards the last quarter of FY 2019-20. It is evident that the Noticee 1 was having ample time to carry out inspection during FYs 2018-19 and 2019-20 and make necessary provision for impairment of assets for investments and loan with respect to MIL, which it failed to do. Therefore, the argument given by Noticee 1 in this regard lacks substance and cannot be accepted.

17.4.8. Noticee 1 has also submitted that during FY 2020-21, MIL was in discussion with the consortium of banks for a One-Time Settlement (OTS) and post sustained efforts of the stakeholders, MIL's OTS proposal was accepted. The Noticee 1 has further submitted that the net worth of MIL is now positive, and has furnished extracts of the balance sheet of MIL for FY 2021-22.

17.4.9. From above submissions, while I note that Noticee 1 was negotiating its OTS proposal for MIL with the consortium of Banks, it cannot be considered as bankable reason for not making impairment provision as the outcome of negotiation was not yet confirmed. Further, no documentary evidence has been presented by Noticee 1 which may suggest as to when the OTS proposal was first initiated and when it was actually accepted by the consortium of banks.

17.4.10. Noticee 1 has also submitted that the loan amount of Rs. 16.63 Cr. outstanding during FY 2020-21 which was given to MIL was received in the subsequent year. However, Noticee 1 has not furnished any documentary evidence like certified bank account/ ledger statements to support its submission other than a table which it claims to be a ledger extract. Irrespective of whether the outstanding loan amount has been received or not the fact remains that during the investigation period the Noticee 1 failed to make impairment provision for said amount, even though this fact was brought to the attention of Noticee 1 by its own Independent Auditor, as seen from the Independent Auditor's Report to Noticee 1 for each of the FY 2018-19, 2019-20 and 2020-21 as discussed in the subsequent paragraphs.

17.4.11. I note that the FAR has highlighted an observation given by Independent Auditor of Noticee 1, appearing under the section "Qualification" of Independent Auditor's Report, forming part of the Annual Report of MISL for FY 2020-21. The said observation is given below:

"The Company further has an investment of Rs. 179.88 Cr. in its subsidiary, Maithan Ispat Limited. Based on the financials of its subsidiary as on 31st March 2021, the net worth is completely eroded and is negative at Rs. 147.50 Cr. and the liabilities exceed the assets of the subsidiary company by Rs. 147.50 Cr. In the absence of any impairment testing done by the management, we are unable to comment on the carrying value as at the balance sheet date and the consequential impact on the loss for the year had the company performed such impairment assessment."

17.4.12. In response to the above observation the Board of Noticee 1 has given following statement appearing under the section "Point wise Replies to Auditor's Qualifications" of the Annual Report for FY 2020-21:

"Management is undertaking continuous efforts to restart very soon the plant of its subsidiary, Maithan Ispat Limited, and are hopeful of achieving this objective in the near future. Moreover, a One Time settlement (OTS) has been done with the consortium of Banks of the subsidiary, Maithan Ispat Limited. The management does not estimate that the carrying amounts of its investment in its subsidiary, Maithan Ispat Limited is less than its recoverable amounts."

17.4.13. From the above statements available in the Annual Report of Noticee 1, I note that while the Independent Auditors have highlighted the requirement for performing impairment assessment by Noticee 1 for its investments in MIL, the said observation was down played by the Board of Noticee 1, without providing any reason on the basis of which the management of the Noticee 1 did not estimate that the carrying amounts of its investment in MIL were less than their recoverable amounts.

17.4.14. I therefore conclude that the Noticee 1 failed to make impairment provision for investments done in / loan given to MIL, during FY 2018-19, 2019-20 and 2020-21, thereby violating provisions of 'IND AS 36' leading to overstatement/ misrepresentation of its assets in the Annual Financial Statements for the said FYs.

17.5. **Failure in making provision for receivables of Rs. 45.95 Cr:**

17.5.1. The FAR has recorded that – *"On perusal of audit qualifications highlighted in the Company's Independent Audit Report for the FY 2020-21, it was observed that the company was required to make provisions for doubtful debts of Rs. 45.95 Cr. against the balances of non-moving old Debtors & advances given to suppliers as these amounts were pending since three years."*

17.5.2. The observation given by Independent Auditor of Noticee 1, appearing under the section "Qualification" of Independent Auditor's Report, forming part of the Annual Report of MISL for FY 2020-21 is given below:

"In our opinion, a provision for doubtful debts of Rs. 45.95 Cr. (Rs. 41.38 Cr. as on 31st march 2020) needs to be made against the balances of non-moving old Debtors and Creditors (where

advances have been given by the Company), as on 31st March 2021. No litigation has been initiated by the Company on these balances."

In response to the above observation, the management of Noticee 1 has given following statement appearing under the section "Point wise Replies to Auditor's Qualifications" of the Annual Report for FY 2020-21:

"Management is in talks with the parties to settle the balances of non-moving old Debtors & Creditors and is much confident of getting realization. Hence, no litigation has been initiated."

17.5.3. I note that it has been further recorded in the FAR that the FA, vide an email dated August 18, 2022 and subsequent reminders, advised Noticee 1 to provide party wise list of such receivables. Noticee 1 was also advised to explain the reason as to why provisions were not made for such doubtful debts. In response to the said queries of the FA, Noticee 1, vide an email dated September 26, 2022, furnished a list of the entities/ parties as per which it was observed that out of the total of Rs. 45.95 Cr. receivables, Rs. 27.94 Cr. was pending to be received from the related parties of Noticee 1. It was further submitted by Noticee 1 to the FA that it could not undertake a review of the said amount since its operations were closed since December 2019, with the records at the plant. The details of amount receivable are given in the following table:

Table 11

S. No.	Name of Debtors	Type of entity	Amount outstanding (Rs. Cr.)	% of total amount receivable (Rs. 45.95 Cr.)
1	Maithan Ispat Ltd. (MIL)	Wholly owned Subsidiary	26.38	57.41%
2	Mesco Gold Combodia Ltd. (MGCL)	Related Party	0.87	1.89%
3	Mesco Logistics Ltd. (MLL)	Related Party	0.66	1.44%
4	D K Singh	Promoter	0.02	0.04%
5	Mesco Aerospace Ltd. (MAL)	Related Party	0.006	0.01%
6	Others	Not related	18.014	39.20%
		Total	**45.95**	**100.00%**

17.5.4. I note that the FAR has also recorded that the amount receivable (Rs. 45.95 Cr.) by Noticee 1 was pending since three years.

17.5.5. Accordingly, the SCN alleges that the Noticee 1 failed to make necessary provision for its non-moving debtors and advances given to suppliers, which resulted in misrepresentation of its financial statements for FY 2020-21.

17.5.6. From the replies submitted to SEBI, I note that Noticee 1 has given excuses like closure of its plant since December 2019, imposition of lockdowns due to outbreak of COVID-19 pandemic and weak financial condition of MIL, towards its failure in making suitable provision for the said amount receivable. I note that the only action that was required on the part of Noticee 1 was to make a provision for the said amount receivable during FY 2020-21 which could have been done even if its plant was closed. With regards to the argument of outbreak of COVID-19 and weak financial condition of MIL, I observe from Table 11 that 57.41 % (i.e., Rs. 26.38 Cr. from the total of Rs. 45.95 Cr.) amount receivable by Noticee 1, was to be received from MIL. As per the submissions made by Noticee 1, I note that the consortium of Banks had taken possession of MIL under SARFAESI Act 2002, after giving a notice on February 15, 2020, and as per the balance sheet of MIL, its net worth was negative. This shows that Noticee 1 was well aware of these events which happened much before outspread of COVID 19 pandemic and therefore I find the arguments given by Noticee 1 to be of little or no help.

17.5.7. Noticee 1 has further submitted that it has been continuously following up with various parties and has received some amount and is hopeful to receive the remaining in future. It is evident that Noticee 1 is not sure of the exact timeline by which it will recover the said amount and is merely relying on follow-ups and hoping to receive the same. Moreover, Noticee 1 has not furnished any documentary evidence before me to ascertain when it actually started following up with the concerned parties or whether it took any legal action to recover the amount receivable. In fact, Noticee 1, has admitted in its reply to the qualification of Independent Auditor, appearing in the Annual Report for FY 2020-21, that it has not initiated any litigation as it is hopeful of getting back the amount receivable. Even if Noticee 1 had managed to present such evidences, it would have not helped because here the allegation is regarding failure in making provision for amount receivable and it is irrespective of any action taken to recover the same.

17.5.8. In view of above discussion, I find that Noticee 1 failed to make provisions for the receivable amount of Rs. 45.95 Cr., more importantly when the same was brought to the attention of the Noticee 1 by its own independent auditors. I therefore find no substance in the arguments given by Noticee 1, and conclude that Noticee 1 failed to make necessary provision for its non-moving debtors and advance given to its suppliers, which resulted in misrepresentation of its financial statements for FY 2020-21.

17.6. **Writing off of disputed liability of Rs. 38.71 Cr.:**

17.6.1. The FAR, has highlighted an observation given by Independent Auditor of Noticee 1, appearing under the section "Qualification" in the Independent Auditor's Report forming part of the Annual Report of MISL for FY 2019-20. The said observation is given below:

"During the year, the Company has written back a disputed liability of Rs. 38.71 Cr. against the amounts due to a party. We have not been provided with any audit evidence in respect of such write back."

17.6.2. On perusal of the Annual Report for FY 2019-20, I do not find any response given to the aforesaid qualification brought to the attention of Noticee 1.

17.6.3. I note that the Forensic Auditor (FA) advised Noticee 1 to provide detailed party wise list of liabilities written back, along with reason(s) for reversal of such provisions. In response Noticee 1 provided breakup of liabilities written back. However, upon a detailed analysis of the information provided by Noticee 1, the FA observed that significant amount has been classified under the head "Sundry Balances Written Back" and no party wise details for the same has been provided.

17.6.4. The SCN, therefore, alleges that creating and writing back of liability amounting to Rs. 38.71 Cr. in the books of account, amounts to misrepresentation/ misreporting of the financial statement of Noticee 1 for FY 2019-20.

17.6.5. In response to above allegation, Noticee 1 has submitted that the contract for execution of work/ providing services was entered into with a company. However, the work and services provided by that company were not satisfactory and did not meet the industry standards and as a result the said amount had not been paid by it. Due to the amount being more than 10 years old and being time-barred, this disputed liability amount was written back.

17.6.6. I find that the argument given by Noticee 1 is too generic and vague in nature. Moreover, Noticee 1 failed to provide name of the company/ companies to which it granted the contract for execution of work/ providing services. It also failed to provide any documentary evidence like certified copy of agreement/ contract signed with the said company/ companies and copy of any legal notice issued to the said company/ companies regarding work/ services not found as per industry standard in support of its argument.

17.6.7. Here, I also note that before submission of FAR by Forensic Auditor to SEBI, Bombay Stock Exchange Ltd. (BSE), vide its examination report submitted to SEBI, had stated that despite rigorous follow ups for around 8 months (i.e. from May 31, 2021 to December 01, 2021), Noticee 1 failed to provide necessary documents to corroborate findings of the exchange, *inter alia*, with respect to writing back of disputed liability of Rs. 38.71 Cr. I therefore note that the Noticee 1 failed to make use of multiple opportunities given to it by various authorities to furnish documentary evidence in support of its claim and come clean on the said allegation.

17.6.8. I therefore conclude that by creating and writing back liability amounting to Rs. 38.71 Cr. in the books of account without any justified reason, Noticee 1 has misrepresented/ misreported its financial statement for FY 2019-20.

17.7. **Excess Payments to/ non-receipt of payments from promoters group companies:**

17.7.1. I note that the Forensic Auditors appointed by SEBI had sought details of purchases and sales from Noticee 1 including rate, quality and quantity for the investigation period. While Noticee 1 provided purchase register for FYs 2018-19 and 2019-20, it informed the FA that there was no purchase in FY 2020-21. Further, the Noticee 1 had provided the sales register along with other details for FYs 2018-19, 2019-20 and 2020-21.

17.7.2. I note that the FA has examined the purchase and sales register along with other details provided by Noticee 1 for the investigation period (IP) and has recorded that during the said period, the Noticee 1 had made payments to its wholly owned subsidiary Maithan Ispat Ltd. (MIL) amounting to Rs. 20.66 Cr. against the purchases of Rs. 8.17 Cr. which is an excess payment amounting to Rs. 12.48 Cr. Further, MISL has made payments to one of its related entities - Mesco Gold Cambodia Ltd. (MGCL) amounting to Rs. 1.32 Cr. without any purchases. Thus, Noticee 1 made excess total payment amounting to Rs. 13.8 Cr. to its related entities. The said discrepancies with respect to purchase transactions with related parties are shown in the following table:

Table 12

Name of Related Entity	2018-19		2019-20		2020-21		Total	
	Purchase (Rs. Cr.)	**Payment (Rs. Cr.)**	**Purchase (Rs. Cr.)**	**Payment (Rs. Cr.)**	**Purchase (Rs. Cr.)**	**Payment (Rs. Cr.)**	**Purchase (A)**	**Payment (B)**
Maithan Ispat Ltd. (MIL)	8.17	18.90	-	1.76	-	-	**8.17**	**20.66**
Mesco Gold Cambodia Ltd. (MGCL)	-	-	-	1.32	-	-	**NIL**	**1.32**
Total	**8.17**	**18.90**	**-**	**3.08**	**-**	**-**	**8.17**	**21.98**
					Excess Payment made		**(B-A) = 13.81 Cr.**	

17.7.3. The FAR has further recorded that Noticee 1 received payment from MIL amounting to Rs. 0.11 Cr. against the sales of Rs. 34.70 Cr. while no payment was received from MGCL against the sales of Rs. 0.90 Cr. during the during FYs 2018-19, 2019-20 and 2020-21. Thus, MISL received only Rs 0.11 Cr. towards the total sales of Rs 35.60 Cr. made to MIL and MGCL.

17.7.4. The aforementioned discrepancies with respect to sales by Noticee 1 with its related parties are shown in the following table:

Table 13

Name of Related Entity	2018-19		2019-20		2020-21		Total	
	Sales	Receipts	Sales	Receipts	Sales	Receipts	Sales (A)	Receipts (B)
Maithan Ispat Ltd.	34.70	-	-	0.11	-	-	**34.70**	**0.11**
Mesco Gold Cambodia Ltd.	0.75	-	0.15	-	-	-	**0.90**	**-**
Total	**35.45**	-	**0.15**	**0.11**	-	-	**35.60**	**0.11**
Payment Not received							**(A-B) = 35.49 Cr.**	

17.7.5. In view of above, it is alleged in the SCN that Noticee 1 has misutilised/ misappropriated the funds to the tune of Rs. 49.29 Cr. (i.e., Rs. 13.80 Cr. + Rs. 35.49 Cr.) on pretext of purchases from / sales to its group companies/ related entities.

17.7.6. With regards to the above allegation, Noticee 1 has submitted that it entered into sales transaction with Mesco Gold Cambodia Ltd. (MGCL) and made a sale of Rs. 90 lakhs out of which an amount of Rs. 67 lakhs has been received. However, Noticee 1 has not furnished any documentary evidence like bank account statements, bills, invoices and/ or copy of sales agreement(s) etc., in support of its claim, but for the data as below:

Table 14

DOCNO	PROFITCENT	GLACNT	GLDESC1	POST DATE	AMOUNT
1400003085	0000001103	0022030162	AXIS BANK LTD-CA-BBSR-OUT	31-10-2019	-1,401.00
1400003104	0000001103	0022030162	AXIS BANK LTD-CA-BBSR-OUT	12-10-2019	-5,714.00
1400003105	0000001103	0022030162	AXIS BANK LTD-CA-BBSR-OUT	12-10-2019	-1,028.52
1400003106	0000001103	0022030161	AXIS BANK LTD-CA-BBSR-IN-	18-10-2019	40,94,738.66
1400003107	0000001103	0022030161	AXIS BANK LTD-CA-BBSR-IN-	28-10-2019	26,01,132.81
1400003109	0000001103	0022030162	AXIS BANK LTD-CA-BBSR-OUT	28-10-2019	-1,475.00

17.7.7. Noticee 1 has further contended that it did not enter into any purchase transaction with MGCL and no payment of Rs. 1.32 Cr. has been made to MGCL as per the books of account and even as per the details given to the Forensic Auditor (FA). I however note that the FA has relied on the bank statements provided by Noticee 1 itself and highlighted that during FY 2019-20, Noticee 1 had made payments amounting to around Rs. 1.32 Cr. to MGCL (emphasis supplied). I find that Noticee 1 has plainly refuted any payment(s) being made to MGCL without providing any justification to counter the appearance of transactions amounting to Rs. 1.32 Cr. as observed in the bank account statements provided by the Noticee 1 to the FA. The summary of bank transactions against purchases, noted by the FA, in the bank account statements of Noticee 1 (as provided by Noticee 1), is given in the following table: -

Table 15 (*Rs.*)

		2018-2019		2019-2020		2020-2021		Grand Total	
Parties	**GSTIN**	**Purchase**	**Payment**	**Purchase**	**Payment**	**Purchase**	**Payment**	**Purchase**	**Payment**
D C Jena Transport	21AGQPJ3702J1ZK	10,61,43,398	9,45,82,378	11,76,40,464	8,18,74,326	-	-	22,37,83,862	17,64,56,704
Nepal Shalimar Cement Private Limited		-	-	-	2,46,740	-	-	-	2,46,740
Maithan Ispat Ltd	21AADCM7360B1Z0	8,17,71,598	18,90,00,000	-	1,76,44,996	-	-	8,17,71,598	20,66,44,996
	21ABFFS0400G2ZY	1,44,432	-	-	-	-	-	1,44,432	20,66,44,996
	21ASDPS9478F1ZF	3,59,801	-	-	-	-	-	3,59,801	20,66,44,996
Mohan Enterprises	21AAOFM5443K1Z4	-	-	-	-	-	6,400	-	6,400
Parag Vinimay Private Limited	19AAECP6651M1ZU	1,70,60,582	3,48,72,012	1,92,68,862	36,00,000	-	-	3,63,29,444	3,84,72,012
	21AAECP6651M1Z9	2,66,20,542	-	-	-	-	-	2,66,20,542	-
Auroglobal Comtrade Pvt Ltd	21AAJCA0870E1Z7	-	-	2,31,67,856	1,31,67,857	-	-	2,31,67,856	1,31,67,857
Shri Jai Baba Trading Company	22ACHPA6428P1ZJ	-	78,76,500	6,22,70,347	-	-	-	6,22,70,347	78,76,500
Singhal Business Pvt Ltd	21AAOCS9529H2ZZ	1,61,65,380	1,30,28,400	-	-	-	-	1,61,65,380	1,30,28,400
A K Steels	19AAVFA4161H1Z4	-	-	-	-	-	5,00,000	-	5,00,000
Deepak Minerals & Steels ,Odisha	21AAHFD8376K1Z6	-	-	-	-	-	3,39,78,936	-	3,39,78,936
Shark Mines & Minerals Pvt Ltd	21AAKCS2385R1ZR	2,58,20,870	50,00,000	-	1,65,72,045	-	-	2,58,20,870	2,15,72,045
Mesco Kalinga Steel Ltd	21AACCM1343H1Z2	1,14,13,24,562	86,99,22,760	2,43,47,81,298	2,31,27,69,707	-	61,17,600	3,57,61,05,859	3,18,88,10,067
Anand Carbo Pvt Ltd		1,47,114	96,00,000	-	-	-	-	1,27,65,636	96,00,000
B.N.Transport And Co.	21AGVPS4613C2ZG	17,92,62,795	15,04,00,000	7,53,44,129	6,59,62,629	-	-	25,46,06,924	21,63,62,629
Bilaspur Mining India Pvt. Ltd	22AAACB7020L1Z2	1,20,14,782	2,28,22,000	-	-	-	-	1,20,14,782	2,28,22,000
Binapani Infra & Logistics	21CYQPP0645G1ZE	24,80,563	13,00,000	-	-	-	-	24,80,563	13,00,000
Brahmanand Minerals	21AHGPB1968D1ZX	17,39,840	39,88,454	-	-	-	-	17,39,840	39,88,454
Dolphin Resources Pvt Ltd	21AADCD1450D1ZI	2,59,85,994	-	-	50,00,000	-	-	2,59,85,994	50,00,000
Excel Minerals	37AADFE5887C1ZB	8,05,810	-	41,23,352	42,00,000	-	-	49,29,162	42,00,000
FA & CAO East Coast Railway		46,77,459	1,13,48,518	-	10,21,854	-	-	46,77,459	1,23,70,372
Gandhamardan Loading Agency		78,34,287	74,31,895	35,31,617	29,48,150	-	-	1,13,65,904	1,03,80,045
Ganga Minerals	22AHMPA3920E1Z0	64,60,604	75,10,400	18,26,160	12,39,469	-	5,00,000	82,86,764	92,49,869
India Coke And Power Pvt Ltd	21AACCI2848H1ZU	2,41,67,220	-	86,65,376	47,80,315	-	-	3,28,32,596	47,80,315
Jamuda Suppliers-Visa	21AGRPJ8807B1ZK	1,17,026	1,15,856	-	-	-	-	1,17,026	1,15,856
Jindal Coke Limited	21AADCJ4179K1ZH	1,80,25,95,294	1,76,21,37,025	11,12,81,967	21,66,65,490	-	-	1,91,38,77,261	1,97,88,02,515
JKK Stone Crusher	23AANFJ8445R1ZI	22,24,284	2,81,06,755	-	-	-	-	22,24,284	2,81,06,755
	23AWLPK8673Q1ZL	44,53,552	-	-	-	-	-	44,53,552	-
JSW Techno Projects Management Limited	21AACCJ3429R1ZD	-	39,84,750	18,04,887	18,34,088	-	-	18,04,887	58,18,838
Kanak Transport	21ARKPS2114G1Z5	4,12,38,524	97,60,000	1,64,20,572	2,06,48,805	-	25,00,000	5,76,59,096	3,29,08,805
M/S. Ramesh Prasad Sao	21ALAPS8363F1Z6	-	-	3,34,85,902	-	-	-	3,34,85,902	-
Maa Hingula Transport	21AACCM1343H1Z2	11,14,23,171	4,70,31,742	-	1,93,72,748	-	-	11,14,23,171	6,64,04,490
	21AAZFM4222D2ZG	6,81,45,529	-	17,39,514	-	-	-	6,98,85,043	-
Mahalaxmi Wellman Fuel Llp	21ABIFM2569B1ZM	61,38,280	57,79,400	12,33,892	11,33,489	-	-	73,72,172	69,12,889
Mesco Gold Cambodia Limited		-	-	-	1,31,67,857	-	-	-	1,31,67,857
MMTC Limited	21AAACM1433E1ZB	10,01,87,075	8,37,37,500	-	-	-	-	10,01,87,075	8,37,37,500
Mothersons Consolidate	21AAVFM5862H1ZX	3,55,24,451	3,39,00,000	-	-	-	-	3,55,24,451	3,39,00,000
Orissa Mining Corporation(Giom)	21AAACO3324L2ZR	92,44,85,305	94,13,64,598	58,37,27,835	60,14,71,136	-	-	1,50,82,13,139	1,54,28,35,734
Patnaik Steel International Limited	21AAFCP9618P3ZV	1,02,10,105	90,51,751	-	-	-	-	1,02,10,105	90,51,751
Ripley & Co Stevedoring & Handling	21AACCR4027R1Z9	1,02,48,748	24,00,000	99,86,039	92,38,175	-	-	2,02,34,787	1,16,38,175
S S Earthmovers & Logistics	21ABLFS8682G1ZT	83,13,624	62,44,448	1,13,89,763	96,00,000	-	-	1,97,03,387	1,58,44,448
Shree Transport		1,47,05,594	1,38,29,057	12,18,918	34,41,290	-	-	1,59,24,511	1,72,70,347
Shubh Minerals Pvt Ltd	22AALCS8983L1ZK	87,10,459	42,00,000	3,51,53,279	3,03,18,348	-	-	4,38,63,738	3,45,18,348
SK Abusama	21ASDPS9478F1ZF	69,17,041	88,01,098	27,28,179	82,08,036	-	1,00,000	96,45,221	1,71,09,134
South East Central Railway	22AAAGM0289C1ZT	1,35,33,871	-	38,26,795	-	-	-	1,73,60,666	-
Sri Hanuman Agencies	37AJUPR6135N1Z7	10,49,160	11,67,445	-	-	-	-	10,49,160	11,67,445
Therapeutics Chemical Research Corp	21AABFT9053F2ZE	47,373	-	-	-	-	-	47,373	-
Thriveni Earthmovers Pvt Ltd	21AABCT6759R1ZP	-	-	52,12,839	-	-	-	52,12,839	-
Trafigura India Pvt Ltd.	21AADCT3128N1ZE	5,40,74,885	6,03,63,265	73,29,108	7,91,511	-	-	6,14,03,993	6,11,54,776
Visa Coke Limited	21AAECV1398R1ZR	1,22,52,48,752	1,07,44,02,012	2,84,21,518	3,05,73,279	-	-	1,25,36,70,270	1,10,49,75,291
Visa Minmetal Limited	21AADCV1426H1ZS	18,38,60,858	18,42,72,500	-	-	-	-	18,38,60,858	18,42,72,500
Visa Sun Coke Ltd	21AAECV1398R1ZR	23,57,32,685	35,02,60,000	-	-	-	-	23,57,32,685	35,02,60,000
Visa-Maa Tarini Transport	21BWLPB3873Q2Z4	92,215	6,78,514	-	-	-	-	92,215	6,78,514
West Central Railway		1,92,96,251	-	-	-	-	-	1,92,96,251	-
Grand Total		**6,56,95,61,744**	**6,05,51,71,033**	**3,60,55,80,466**	**3,49,40,47,344**	**-**	**4,37,02,936**	**10,18,77,60,732**	**9,39,04,61,533**

17.7.8. Noticee 1 has further submitted that it had given an advance of Rs. 20.66 Cr. to MIL against which MIL supplied/ sold pig iron and iron ore worth Rs. 8.17 Cr. to it. Thereafter, as the MIL plant got shut down, MIL was neither able to supply pig iron/ iron ore nor return the balance advance amount given by Noticee 1. Noticee 1 has further submitted that since the plant of MIL has re-commenced, MIL has returned the balance advance amount of Rs. 12.48 Cr. back to Noticee 1 by March 31, 2023.

17.7.9. Through above submission Noticee 1 has admitted that it received goods worth only Rs. 8.17 Cr. against a total of Rs. 20.66 Cr. paid to MIL. Further, it has not produced any documentary evidence indicating that the balance advance amount to MISL of Rs. 12.48 Cr. was received by it on March 31, 2023. Even if the balance amount has been returned by MIL to Noticee 1, the fact remains undisputed that during the investigation period, Noticee 1 had paid surplus amount for purchase than the goods actually received by it form MIL. Noticee 1 has also not provided any comments with respect to the observation that against sales of goods worth Rs. 34.70 Cr. to MIL during the investigation period, it received payment of only Rs. 0.11 Cr.

17.7.10. Accordingly, in totality of the above discussion, I conclude that Noticee 1 misutilised/ misappropriated the funds to the tune of Rs. 49.29 Cr. on the pretext of purchases from/ sales to its group companies/ related entities during the investigation period.

17.8. **<u>Overstated Capital Work in Progress - Property, Plant & Equipment:</u>**

17.8.1. The SEBI IR has recorded that the Capital Work in Progress (WIP) relating to Property, Plant and Equipment amounting to Rs. 24.11 Cr., Rs. 24.46 Cr. and Rs. 24.46 Cr. were shown as outstanding in the Financial statements of Noticee 1 for FYs 2018-19, 2019-20 and 2020-21 respectively. The FAR has highlighted that the said amounts were shown as outstanding since FY 2016-17.

17.8.2. The FAR has also recorded that Noticee 1 was advised through multiple emails to provide the detailed break-up of the amounts which were shown as Capital WIP in the Annual Financial Statements (AFS) for FY 2018-19, 2019-20 and 2020-21 and also explain the purpose/ nature of such capital work in progress. The Noticee 1 was also requested by the FA to explain as to why the same has not been capitalised in the AFS or why the assets were not put to use.

17.8.3. The FAR has further recorded that while Noticee 1 provided the breakup of assets grouped under the head Capital WIP, through its emails dated December 05 and December 06, 2022, the party wise details, purpose/ nature of such Capital WIP and explanation as to why the same has not been capitalised were not provided by it, despite consistent follow up by the FA.

17.8.4. Incidentally, the FAR, has highlighted an observation given by Independent Auditor of Noticee 1, appearing under the section "Qualification" in the Independent Auditor's Report forming part of the Annual Report of MISL for FY 2020-21. The said observation is given below:

"There are fixed assets under Capital work in progress for the company, amounting to Rs. 24.46 Cr. as on 31st March, 2021. They have not been capitalized since more than 5 years. In our opinion, the Company needs to review the same and capitalize the assets where applicable."

In response to the above observation, the Board of Noticee 1 has given following statement, appearing under the section "Point wise Replies to Auditor's Qualifications" of the Annual Report for FY 2020-21:

"The plant of MISL is not in operation since December 2019, compounded further by the impact of COVID 19, Company did not have the funds to complete the work on these capital assets and put them to use. Once the plant starts, Company will be able to finish the work so required to be done on these capital work in progress, put these assets to use and capitalize the same."

The above statement given by the management is too generic and vague in nature. Further, details regarding break-up of the amounts which were shown as Capital WIP in the Annual Financial Statements (AFS) for FY 2018-19, 2019-20 and 2020-21 and the purpose/ nature of such capital work in progress has not been specified.

17.8.5. Accordingly, the SCN alleges that Noticee 1 failed to recognise its Capital WIP to show the correct picture of its assets pertaining to

Property, Plant and Equipment and thus misrepresented value of these assets by Rs. 24.11 Cr., Rs. 24.46 Cr. And Rs. 24.46 Cr. in its Annual Financial Statements for FYs 2018-19, 2019-20 and 2020-21 respectively.

17.8.6. In response to the above allegation, the Noticee 1 has submitted that the capitalization could not be completed due to shut down of plant in December 2019 and after that due to COVID-19. As the work could not be completed and the assets were not available for use, the amount could not be capitalized and the same will be capitalised once the assets are ready and are available for use.

17.8.7. The Noticee 1 has further quoted provisions of IND AS 16 as per which the cost of an item of Property, Plant and Equipment shall be recognised as an asset if and only if:

a. *It is probable that future economic benefits associated with the item will flow to the entity; and*

b. *The cost of the item can be measured reliably.*

Referring to the above provisions, the Noticee 1 has contended that it could not capitalise the amount in Property, Plant and Equipment as per IND AS 16 as the flow of future economic benefit cannot be assessed currently.

17.8.8. Here, I note that Noticee 1 failed to provide the complete details as sought by the FA, including the party wise details and purpose/ nature of such Capital WIP. Therefore, I find that the argument given by Noticee 1 that it could not capitalize the said assets in terms of IND AS 16, is not supported by the information as required by the Forensic Auditors. Keeping in view the observations of Internal Auditors of Noticee 1 (which recorded its observation appearing in the Annual Report for FY 2020-21 that the Capital Work in Progress was outstanding since 5 years) and due to non-availability of the required information/ documents/ explanation, the FA has raised its concerns over the actual creation of asset/ nature of transaction which indicates overstatement of assets. I, therefore, have no hesitation to conclude that Noticee 1 misrepresented its Property, Plant and Equipment assets by Rs. 24.11 Cr., Rs. 24.46 Cr. and Rs. 24.46 Cr. in the Financial statements of Noticee 1 for FYs 2018-19, 2019-20 and 2020-21 respectively and kept the investors in dark.

17.9. **<u>Failure to make adequate provision for GST liability:</u>**

17.9.1. As per material available on record, I note that GST authorities conducted Inspection and Seizure proceedings on June 18, 2019 and the Commissionerate of CT & GST, Odisha subsequently, passed orders dated January 09, 2020 and December 02, 2020 against Noticee 1. Vide the said orders, it was mentioned that Noticee 1 had inflated Input Tax Credit (ITC) claim during the period July 2018 till Feb 2019 and it failed to discharge the basic GST liability of Rs.42.11 Cr. during the said period.

17.9.2. I further note that Noticee 1 had a liability of Rs. 62.16 Cr. towards GST including interest and penalty imposed by the GST Authorities. The detailed break-up of the said GST liability as mentioned in the orders referred above is given below:

Table 16

Particulars	Amount (Rs. Cr.)
GST liability as per the GST order dated January 09, 2020 later rectified by Order dated December 02, 2020	42.11
Interest	16.51
Penalty	04.21
Total Liability	62.83
Less: Paid via DRC-03	00.67
Total Liability payable by MISL (Noticee 1)	**62.16**

17.9.3. The SCN, accordingly, alleges that Noticee 1 made provision of only Rs. 42 Cr. during FY 2019-20 towards the GST liability, however the actual GST liability against the said Noticee was of Rs. 62.16 Cr. Hence, the Noticee 1 failed to make adequate provision for the GST liability and misrepresented its financial statements for FY 2019-20.

17.9.4. In response to the above allegation, the Noticee 1 has admitted that it made provision in the books of accounts only for Rs 42.11 Cr towards GST liability. The Noticee 1 has submitted that it did not make provision for interest and penalties because it was in discussion with the GST Authorities for the waiver of the penalty. The Noticee 1 has further submitted that in FY 2021-22, it has shown the interest and penalty amounts as contingent liabilities.

17.9.5. While the Noticee 1 has not disputed the fact that it failed to make adequate provision for GST liability, the reason cited by it that it was in discussion with the GST Authorities for the waiver of the penalty is not acceptable as until the outcome of the discussion is confirmed in form of an order, the company had no right to show an amount which is less than the actual liability. By doing so the Noticee 1 has misrepresented its Financial Statement for FY 2019-20 and 2020-21which is admittedly accepted by the Noticee 1.

17.10. **Delay in submission of financial results to the Exchanges:**

17.10.1. The SCN alleges that there was delay in filing of annual and/ or Quarterly financial results for FYs 2018-19, 2019-20 and 2020-21 by the Noticee 1.

17.10.2. In this regard, I note that in terms of sub-regulation 3 of Regulation 33 of LODR Regulations, a listed entity has to submit its quarterly and year-to-date standalone financial results to the stock exchange within forty-five days of end of each quarter, other than the last quarter. In case the listed entity has subsidiaries, the listed entity shall also submit quarterly/ year-to-end consolidated financial results. Similarly, the listed entity has to submit annual audited standalone financial results for the financial year, within sixty days from the end of the financial year along with the audit report and statement on Impact of Audit Qualifications. In case the listed entity has subsidiaries, it shall while submitting annual audited standalone financial results also submit annual audited consolidated financial results along with the audit report and statement on Impact of Audit Qualifications.

17.10.3. The delay in submission of financial results by Noticee 1 is being captured in the following table: -

Table 17

Year/ Quarter ended	Due Date	Date of Submission	Delay (in days)
Mar-19 (Annual)	30-05-2019	21-06-2019	22
Dec-19 (Quarterly)	17-02-2020	25-02-2020	8
Mar-20 (Annual)	31-07-2020	05-12-2020	127
Jun-20 (Quarterly)	15-09-2020	17-02-2021	155
Sep-20 (Quarterly)	16-11-2020	17-02-2021	93
Dec-20 (Quarterly)	15-02-2021	17-02-2021	2
Mar-21 (Annual)	30-06-2021	07-12-2021	161

17.10.4. In reply to the said allegations, the Noticee 1 has submitted that in year 2017, the Supreme Court levied a penalty of Rs. 924.75 Crores on it for excess mining and its mines were shut down in December 2017 which effected its business although it had two years of mining left with the company. It therefore approached the Government to allow them to continue mining so that it could pay the penalty imposed by the Hon'ble Supreme Court, however, it's request was not acceded to and it lead to closure of its plant in December 2019. It resulted in massive human resource retrenchment due to which finalization of accounts got delayed. For FY 2019-20 and 2020-21, the Noticee 1 has attributed the delay to the COVID 19 pandemic.

17.10.5. I note that Noticee 1 had to close its mines and later on its production plant due to penalty levied by Hon'ble Supreme Court of India. Without going in-to the merits of the circumstances, I note that it is a statutory requirement for a listed company to abide by the regulatory requirement of filing its financial results as per the prescribed timelines, which the Noticee 1 allegedly failed to comply with. During the outbreak of COVID 19 pandemic, SEBI took a sympathetic view for the Industry as a whole, thereby issuing Circulars No. SEBI/HO/CFD/CMD1/CIR/P/2020 dated March 19, 2020 and SEBI/HO/CFD/CMD1/CIR/P/2020/106 dated June 24, 2020, through which extension in the timeline were granted for filing quarterly and annual financial results. I note that the Table No. 12 has duly considered the applicable extension granted by SEBI to all the listed companies through aforesaid circulars during COVID-19 pandemic. I however note that the delay by Noticee 1 in filing of the financial results is beyond the extension granted by SEBI. Further, I do not find any prior intimation/ communication being given by the company during COVID-19/ pre-COVID 19 period, intimating SEBI/ Stock Exchanges about challenges faced by it in filing quarterly/ annual results. Taking into consideration various aspects of irregular business operations, the magnitude of misrepresentation of AFS and violations of various statutory and regulatory provisions as brought out in the FAR and SEBI IR, the submission of Noticee 1 is nothing but an afterthought. I therefore conclude that there is a delay in filing of quarterly/ annual results by the Noticee 1 which is in violation of Regulation 33 of SEBI LODR Regulations.

17.11. **<u>Non-disclosure of material event under LODR Regulations:</u>**

17.11.1. As discussed elsewhere, I note that GST Authorities conducted Inspection and Seizure proceedings on June 18, 2019 and the Commissionerate of CT & GST, Odisha subsequently, passed orders dated January 09, 2020 and December 02, 2020 against MISL, highlighting discrepancy with respect to the GST Returns filed for the period from July 2018 to February 2019. Accordingly, the **SCN** issued by SEBI alleges that Noticee 1 made no disclosure pertaining to the Inspection and Seizure proceedings carried out by the GST Authorities in the Annual Report for FY 2019-20.

17.11.2. In this regard, I note that Regulation 30 (2) of SEBI (LODR) Regulations, 2015 requires as below:

> *"Events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events."*

I further note that Para A of Part A of Schedule III, inter alia, includes following event:

> *19. Action(s) initiated or orders passed by any regulatory, statutory, enforcement authority or judicial body against the listed entity or its directors, key managerial personnel, senior management, promoter or subsidiary, in relation to the listed entity, in respect of the following:*
>
> *(a) search or seizure; or*
>
> *(b) re-opening of accounts under section 130 of the Companies Act, 2013; or*
>
> *(c) investigation under the provisions of Chapter XIV of the Companies Act, 2013; along with the following*

details pertaining to the actions(s) initiated, taken or orders passed:

i. *name of the authority;*
ii. *nature and details of the action(s) taken, initiated or order(s) passed;*
iii. *date of receipt of direction or order, including any ad-interim or*
interim orders, or any other communication from the authority;
iv. *details of the violation(s)/contravention(s) committed or alleged to be committed;*
v. *impact on financial, operation or other activities of the listed entity, quantifiable in monetary terms to the extent possible.*

17.11.3. The above suggests that Noticee 1, being a listed entity was under obligation to disclose the search and seizure carried out by the GST Authorities, which falls under the definition of material event, to the stock exchange on which its securities are listed. I note that the said information was neither disclosed in the annual financial statements of Noticee 1 nor on the website of BSE Ltd. under "Disclosures" section.

17.11.4. With regards to the said allegation, Noticee 1 has submitted that due to closure of mines and changes in the compliance officer the same could not be disclosed.

17.11.5. The above reply is too general in nature and shows a casual approach of the Noticee towards statutory requirements. Such reply is not acceptable.

17.11.6. I therefore conclude that Noticee 1 has failed to make disclosures to the stock exchange with regards to the Inspection and Seizure proceedings carried out by the GST Authorities, thereby keeping the retail investors in dark, resulting in violation of Clause 19 of Para A of Part A of Schedule III read with Regulation 30(2) of LODR Regulations.

17.12. **Impact of publication of manipulated financial figures by Noticee 1 in the Annual Financial Statements for FY 2018-19, 2019-20 and 2020-21 and non-disclosure of material information to recognised stock exchange(s):**

17.12.1. I note that the **SCN** further alleges that due to publication of manipulated financial figures and delay in disclosure/ non-disclosure of information to stock exchange(s) by Noticee 1, as discussed in the above paragraph numbers 17.1 to 17.11, the Noticee 1 continued to mislead the investors by misrepresenting its actual financial position during the twelve quarters of the investigation period, i.e. from FY 2018-19, 2019-20 and 2020-21. Had the above instances of misstatement/ misrepresentation in the financial statements of Noticee 1 been correctly reflected and published in the form of actual financials, the profit/ losses and financial position of the company would have been different from the reported financial statements.

17.12.2. I find that Noticee 1, by resorting to such misrepresentation/ manipulations, has violated regulation 4(1) of LODR Regulations including Regulation 4(1)(a) which requires a listed company to prepare and disclose all information in accordance with applicable standards of accounting and financial disclosure, regulation 4(1)(c) which requires a listed entity to refrain from misrepresentation and ensure that information provided to recognised stock exchange(s) and investors is not misleading, regulation 4(1)(g) which requires a listed entity to abide by all applicable laws, regulation 4(1)(h) which requires a listed entity to make specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders, and regulations 4(1)(i) and 4(1)(j) which requires a listed entity to ensure that all periodic filings contain relevant information that shall enable investors to track the performance of the listed entity. Noticee 1 has further violated Regulation 33 which outlines the process for preparation, approval of financial results and its disclosure to the recognised stock exchange(s), Regulation 34(3) which specifies the disclosures to be made by a listed entity and Regulation 48 of LODR Regulations which requires a listed entity to comply with all the applicable and notified Accounting Standards from time to time.

17.12.3. I further note that Regulation 4(1) of the PFUTP Regulations states that no person shall indulge in a manipulative, fraudulent or unfair trade practice. Further, Regulation 4(2)(e) of the PFUTP Regulations prohibits any act or omission amounting to manipulation of the price of security; Regulation 4(2)(f) of the

PFUTP Regulations prohibits publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true; Regulation 4(2)(k) of the PFUTP Regulations prohibits disseminating information or advice through any media which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities; and Regulation 4(2)(r) prohibits knowingly planting false or misleading news which may induce sale or purchase of securities. Here, it is pertinent to note that being a listed entity, Noticee 1 was required to adhere to the said provisions, more so when such violations were flagged multiple times by its own Internal Auditors. This goes to show that the violations as discussed above were knowingly committed by Noticee 1 and satisfies the definition of fraud as given under Regulation 2(c) of SEBI PFUTP Regulations. While material available on record are not sufficient to conclude commission of violation of Regulation 4(2)(e) by Noticee 1, however, on the basis of discussions at Para 17.1 to 17.11, it is established that Noticee 1 has violated Regulations 4(1), 4(2)(f), 4(2)(k) and 4(2) (r) of the PFUTP Regulations.

17.12.4. In view of the forgoing discussions, I conclude that Noticee 1 misled and defrauded the investors in making their investment decision (with respect to Noticee 1) by misrepresenting its AFS (as brought out in the foregoing paragraph numbers 17.1 to 17.11 above), thereby violating Regulation 4(1), 33, 34(3) and 48 of LODR Regulations along with Regulation 4(1), 4(2)(f), 4(2)(k) and 4(2)(r) of the PFUTP Regulations.

Corporate Governance Related Observations:

17.13. Non-dematerialization of promoter shareholding:

17.13.1. The SCN alleges that Noticee 1 failed to ensure that hundred percent shareholding of promoter(s) and promoter group is in dematerialized form. The SEBI IR has recorded the extent of dematerialization of the shareholding of promoter & promotor group during the investigation period as per the following table:

Table 18

Particulars/ FYs	2018-2019	2019-2020	2020-2021
Demat Shares	34.45 %	34.45 %	63.37 0/0
Non-Demat Shares	65.55 %	65.55 %	36.63 %
Total Shares	100.00	100.00	100.00

17.13.2. From the above table, I note that during FYs 2018-19 and 2019-20 around 65.55% of promoter(s) shareholding was in non-dematerialized form whereas during FY 2020-21 this figure stood at 36.63%.

17.13.3. In response to the above allegation, the Noticee 1 has submitted that non-dematerialized shares of promoters are pending adjudication of dispute before judicial/ quasi-judicial authorities and same would be demated once the dispute is resolved/ settled. The Noticee 1 has further submitted that the decrease in number of shareholder due to transfer of shares to Investor Education and Protection Fund Authority (IEPFA).

17.13.4. In this regard, I note that the Secretarial Auditors of Noticee 1 has given an observation which forms part of the Annual Report for FY 2020-21. The said observation is given below:

"In terms of Securities and Exchange Board of India Circular No. Cir/ISD/3/2011, the 100 percent Promoter's holding is to be in dematerialized form. Promoter holding is not in 100% Demat form."

In reply to the aforementioned observation, the management of Noticee 1 has made following statement, forming part of the Annual Report for FY 2020-21:

"Company is in receipt of declaration from promoters that the shares which are not in demat form are pending adjudication of dispute before judicial/ quasi-judicial authorities and same would be dematted once the dispute is resolved/ settled."

On perusal of Annual Report for FY 2019-20 and 2018-19, I note that the Secretarial Auditors had given same observation and the management had given same reply to the auditors. I therefore note that despite Secretarial Auditor's repeated observation, substantial promoter shareholding of Noticee 1 continued to be in non-dematerialised form.

17.13.5. In this regard, I further note the following exemption provisions in para 6 of SEBI Circular No. CIR/CFD/CMD/13/2015 dated November 30, 2015:

a. *Regulation 31(2) of Listing Regulations mandates the Listed Entities to ensure that 100% of shareholding of promoter(s)* *and promoter group is in dematerialized form and the same is maintained on a continuous basis in the manner specified by the Board. The listed entity shall take into consideration the following exemptions while arriving at compliance with 100% promoter(s) holding in dematerialized form: -*

- *i. promoter(s) shares which were sold in physical mode and have not been lodged for transfer with the listed entity;*

- *ii. matters that are sub-judice before any Court/Tribunal, concerning shareholding of promoters/promoter group either in part or in entirety; or*

- *iii. shares that cannot be converted into dematerialized form due to death of any promoter(s);*

b. For availing such exemption under Para 6(a) - (i) to (iii) above, Listed Entity shall approach Stock Exchange(s) along with necessary documentary evidence.

c. In case any such exemption has been granted to the Listed Entity the same must be stated in summary statement and given separately and information should be given separately in Annexure.

17.13.6. I note that through aforesaid provisions of the SEBI Circular dated November 30, 2015, ample exemptions are given to a listed company from complying with the requirements of Regulation 31(2). The said circular also provides the manner in which the said exemptions can be availed of. However, Noticee 1 has not presented any document on record on the basis of which I can conclude that the non-dematerialized promoter shares are pending adjudication before judicial/ quasi-judicial authorities, as claimed by it. Further, Noticee 1 also failed to produce any document evidencing transfer of shares to IEPFA.

17.13.7. I therefore, find Noticee 1 to be in violation of Regulations 31(2) and 31(3) of LODR Regulations read with SEBI Circular No. CIR/CFD/CMD/13/2015 dated November 30, 2015.

Failure to appoint Company Secretary/ maintain optimum number of Directors:

17.14. **Failure to appoint a Qualified Person as Company Secretary cum Compliance Officer:**

17.14.1. The SCN alleges that Noticee 1 did not appoint the Company Secretary cum Compliance Officer during the period July 28, 2019 to November 28, 2019 and again from May 12, 2020 to September 10, 2020.

17.14.2. In response to the above allegation, Noticee 1 has submitted that it took measures for appointment of new Company secretary, however it took time for the same and during that period there was no Company secretary and Compliance Officer.

I note that, in terms of Regulation 6(1) of LODR Regulations, 2015, a listed entity is required to appoint a qualified company secretary as its compliance officer. Further, any vacancy that has arisen in the office of the Compliance Officer has to be filled by the listed entity at the earliest and in any case not later than three months from the date of such vacancy.

17.14.3. Noticee 1, through its reply to the SCN has not submitted any documentary evidence to support its measures to comply with the said regulatory requirement. From the submissions made by Noticee 1 and on the basis of information available on record, I conclude that Noticee 1 failed to appoint Company Secretary cum Compliance Officer within the three months from the date of creation of vacancy thereby violating Regulation 6(1) of LODR Regulations.

17.15. **<u>Failure to maintain adequate composition of Board of Directors and various committees:</u>**

17.15.1. The SCN alleges that Noticee 1 did not fulfil the criteria of having optimum combination of executive and non-executive directors on its Board of Directors and three of its Committees, i.e., Audit Committee, Nomination & Remuneration Committee and Stakeholders Relationship Committee, during the period from December 31, 2020 to March 31, 2021. I note that the instant allegation pertains to the time period which falls under the FY 2020-21.

17.15.2. In reply to the above allegation, Noticee 1 has submitted that there were inadequate number of Independent directors on the board and it tried to induct new Independent directors but it took time for the same due to the operational difficulties. Noticee 1 has admitted that due to the said reason, the composition of the Audit Committee (AC) and the Stakeholders Relationship Committee (SRC) was not in line with the provisions of LODR Regulations. I however note that Noticee 1 has not made any comments with respect to the allegation regarding composition of the Nomination & Remuneration Committee (NRC) alleged to be not in line with the provisions of LODR Regulations.

17.15.3. On perusal of Annual Report of Noticee 1 for FY 2020-21, I note that its Board of Directors consisted of following members: -

Table 19

S. No.	Name	Designation	Type of Directorship
1	Rita Singh (DIN:00082263)	Chairperson cum Managing Director (CMD)	Executive
2	Natasha Sinha (DIN: 00812380)	Joint Managing Director (Jt. MD)	Executive
3	Mr. Vishwambhar Nath Tiwari (DIN: 08719133)	Director	Executive
4	Sanjiv Batra (DIN:00602669)	Director	Independent Non-Executive
5	Hawa Singh Chahar (DIN 01691383)	Director	Independent Non-Executive
6	G S Jawandha (DIN:00213573)	Director	Independent Non-Executive

From the above table I note that there were 3-Executive and 3-Independent Non-Executive Directors on the Board of Directors of Noticee 1. However, as mentioned in the Annual Report, due to non-reappointment of Mr. Gurjeet Singh Jawandha in the AGM held on December 30, 2020, there was non-compliance with Regulation 17(1) of LODR Regulations which requires that board of directors of a listed company should have an optimum combination of executive and nonexecutive directors with at least one-woman director and not less than fifty percent of the board of directors shall comprise of non-executive directors. Thus, I note that the allegation that Noticee 1 did not comply with the requirements Regulation 17(1) of LODR Regulations for the period from December 31, 2020 to March 31, 2021, admittedly stands established.

17.15.4. From Annual Report for FY 2020-21, I further note that the composition of Audit Committee was as follows:

Table 20

S. No.	Name	Designation	Type of Directorship
1	Hawa Singh Chahar (DIN 01691383)	Chairman	Independent Non-Executive Director
2	Sanjiv Batra (DIN:00602669)	Member	Independent Non-Executive Director
3	Natasha Sinha (DIN: 00812380)	Member	Executive

As the Audit Committee consisted of an Executive and 2 Independent - Non-Executive Directors, I find it in compliance with the provisions of Regulation 18(1) of LODR Regulations, as per which every listed entity is required to constitute a qualified and independent audit committee having a minimum of three directors as members with at least two-thirds of the members being independent directors. I, therefore, conclude that the allegation regarding non-compliance with Regulation 18(1) of LODR Regulations is not established.

17.15.5. From Annual Report for FY 2020-21, I further note that the composition of Stakeholders Relationship Committee was as follows:

Table 21

S. No.	Name	Designation	Type of Directorship
1	Hawa Singh Chahar (DIN 01691383)	Chairman	Independent Non-Executive Director
2	Sanjiv Batra (DIN:00602669)	Member	Independent Non-Executive Director
3	Rita Singh (DIN:00082263)	Member	Executive

From the above table, I note that the Stakeholders Relationship Committee consisted of 1 Executive and 2 Independent - Non-Executive Directors. I therefore find it to be in compliance with the provisions of Regulation 20 of LODR Regulations, as per which every listed entity shall constitute a Stakeholders Relationship Committee (SRC) having a minimum of three directors as members with at least one being an independent director and in case a listed entity is having outstanding SR equity shares, at least two-thirds of the members should be independent directors. I, therefore, conclude that the allegation regarding non-compliance with Regulation 20 of LODR Regulations is not established.

17.15.6. From Annual Report for FY 2020-21 Noticee 1, I note that the composition of Nomination and Remuneration Committee was as follows:

Table 22

S. No.	Name	Designation	Type of Directorship
1	Hawa Singh Chahar (DIN 01691383)	Chairman	Independent Non-Executive Director
2	Sanjiv Batra (DIN:00602669)	Member	Independent Non-Executive Director
3	G S Jawandha (DIN:00213573)	Member	Independent Non-Executive Director

I further note from the Annual Report for FY 2020-21 that due to non-reappointment of Mr. Gurjeet Singh Jawandha as an Independent Director in the AGM held on December 30, 2020, there was non-compliance with the provisions of Regulation 19(1) of LODR Regulations, as per which the board of directors shall constitute the Nomination and Remuneration Committee (NRC) which shall comprise of at least three directors with all directors in the committee being non-executive directors and at-least two-third being independent directors. I note that Noticee 1 has not complied with the minimum strength of Nomination and Remuneration Committee as required under the above said provisions of LODR Regulations.

17.15.7. In view of above discussion, I find that the composition of the Audit committee and the Stakeholders Relationship Committee by Noticee 1 was in compliance with the provisions of Regulation 18 and Regulation 20(2A) of LODR Regulations respectively and therefore allegation for violation in this regard are not established.

17.15.8. I however note that the composition of Board of Directors and Nomination and Remuneration Committee was not in compliance with Regulation 17(1) and Regulation 19(1) of LODR Regulations, respectively, thus establishing violation of the said provisions.

17.15.9. Here, I find it pertinent to note that the idea behind having mandatory requirement for composition of board of directors and various committees is to ensure that the interests of retail investors of listed company are not jeopardised. By not complying with the statutory provisions in this regard, the company (Noticee 1) had placed the interest of investors at stake. The wide spread manipulation of financial statements of the Noticee 1, as discussed elsewhere, is the direct fallout of such non compliances ultimately leading to loss of the innocent investors.

17.15.10. I therefore conclude that Noticee 1 failed to comply with the provisions of Regulation 17(1)(a), and 19(1) of the LODR Regulations by not having optimum combination of executive and non-executive directors on its Board and in the Nomination and Remuneration Committee.

17.16. **<u>Role of Noticee 2, 3 and 4:</u>**

17.16.1. On perusal of SEBI IR, I note that Noticee 2, being the Chairperson cum Managing Director (CMD), attended all the 16 meetings of the Board of Directors held during FYs 2018-19, 2019-20 and 2020-21. Noticee 2, also signed the financials of the company for FYs 2018-19, 2019-20 and 2020-21.

17.16.2. I also note that Noticee 3, being the Joint Managing Director, attended 10 meetings out of the 16 meetings of the Board of Directors held during FYs 2018-19, 2019-20 and 2020-21. Noticee 3 signed the financials for FY 2018-19 as Joint MD as well as Chief Financial Officer. At this juncture, I note that Noticee 3, in her statement given to SEBI, admitted the misrepresentation/ misstatements in the company's financials by *inter alia* stating that MISL (Noticee 1) did not make provisioning for liabilities and impairment for its investments and loans during the FYs 2018-19, 2019-20 and 2020-21 as required under the applicable and notified Accounting Standards.

17.16.3. I further note that Noticee 4, Chief Executive Officer (CEO) & Director of the Company, attended all the meetings of the Board of Directors held during FY 2020-21. Noticee 4, signed the company's financials for FYs 2019-20 and 2020-21. Noticee 4, in his statement given to SEBI, had *inter alia* submitted that:

"MD of the Company, Ms. Rita Singh used to direct me to sign and certify financial statements of the Company. Accordingly, I signed and certified financial statements of the company for the financial years 2019-20 and 2020-21."

The statement given by Noticee 4 clearly indicates that he did not perform any due diligence at his end before signing the financial statements of the Company (Noticee 1) for FYs 2019-20 and 2020-21 and failed to discharge his duties as the CEO. I note that such excuses seldom help the Noticee 4 from his liabilities.

17.16.4. Being part of the board of directors, Noticee 2, 3 and 4 approved the financial statements of MISL (Noticee 1). I note that all the violations which have been identified in the previous paragraphs took place at the time when Noticee 2, 3 and 4 were at the helm of affairs at MISL (Noticee 1).

17.16.5. Noticee 2, 3 and 4 were also the signatories to the Certificates *inter alia* stating that financial statements present a true and fair view and are in compliance with existing accounting standards, applicable laws and regulations required under Regulation 17(8) of LODR Regulations.

17.16.6. I note that Noticee 2, 3 and 4, vide their emails dated May 05, 2023, respectively, have confirmed that their submissions are in line with the replies submitted by Noticee 1. As has been mentioned elsewhere in this order, it is pertinent to cite here that, Noticee 3, in the statement given to SEBI, had admitted that Noticee 1 did not make any provision for liabilities and for impairment of its investments and loans during the FYs 2018-19, 2019-20 and 2020-21 as required under the applicable Accounting Standards.

17.16.7. In view of the foregoing discussion, I find it trite to note that any company being an artificial person and an inanimate legal entity cannot act by itself. It acts through its individual directors, who are expected to discharge their responsibilities on behalf of the company with utmost care, skill and diligence. As has been mentioned at the beginning of the order, I find that Noticees No. 2, 3 and 4 were directors of Noticee 1. As directors they are responsible for the non-compliances committed by the artificial judicial person. Also as per section 179 of the Companies Act, 2013 (corresponding to section 291/292 of the Companies Act, 1956), the Board of a company is entitled to exercise all such powers and do all such acts and things which the company is legally authorized. Also as per section 166 of the Companies Act, 2013, a director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.

The duty expected from an individual as a director of a company, has been succinctly expounded by the Hon'ble Supreme Court of India in the following findings made in the matter of N Narayanan vs Adjudicating Officer, SEBI (Order dated 26 April, 2013): -

"33. Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602 that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provide against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company even superficially."

17.16.8. Accordingly, the SCN alleges that Noticee 2, 3 and 4 were involved in the falsification/ fabrication of the books of accounts of the company and thus, manipulated financial statements of the Company (Noticee 1) with knowledge and intention to deceit or induce investors and shareholders and thus carried out fraud, thereby violating Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(ii)(8), 4(2)(f)(iii)(7), 17(8) of the

LODR Regulations and Regulations 4(1), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 27(1) of the SEBI Act, 1992.

17.16.9. Therefore, Noticee 2, 3 and 4 are liable for action owing to the principles of vicarious liability and are also none but "officers in default".in terms of section 2(60) of the Companies Act, 2013.

18. I note that the SCN, *inter alia,* calls upon all the Noticees to show cause as to why appropriate monetary penalty may not be imposed against Noticee 1 under Sections 11(1), 11(4), 11(4A), 11(B1), 11(B2) r/w Sections 15A(a), 15HA and 15HB of SEBI Act, 1992 and against Noticee 2, 3 and 4 under Sections 11(1), 11(4), 11(4A), 11(B1), 11(B2) r/w 15 HA and 15HB of SEBI Act, 1992. The relevant extract of Section 15A(a), 15HA and Section 15HB of SEBI Act, 1992 is as under:

"Penalty for failure to furnish information, return, etc.
15A*. If any person, who is required under this Act or any rules or regulations made thereunder-*
(a) *to furnish any document, return or report to the Board, fails to furnish the same or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;"*

Penalty for fraudulent and unfair trade practices
15HA.*If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.*

Penalty for contravention where no separate penalty has been provided
15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees."*

19. From the analysis of the aforesaid penalty provisions, I note that Section 15HA of the SEBI Act provides for imposition of penalty in case of fraudulent and unfair trade practices committed by any person. I find that penalty under Section 15HA of the SEBI Act is attracted for the violations of the PFUTP Regulations by Noticees 1, 2, 3 and 4. I also note that for the violation of the LODR Regulations, Noticees 1, 2, 3 and 4 are liable for imposition of penalty under Section 15HB of the SEBI Act which provides for penalty for failure to comply with any provision of SEBI Act, the rules or the regulations made or directions issued by SEBI for which no separate penalty has been provided. I further note that Section 15A(a) of the SEBI Act provides for imposition of penalty in case a person furnishes or files false, incorrect or incomplete information, return, report, books or other documents. Therefore, Noticee 1 is liable for imposition of penalty under Section 15A(a).

20. I note that Section 15J of the SEBI Act provide for factors which are required to be considered for adjudging quantum of penalty. Section 15J of the SEBI Act reads as follows: -

"Factors to be taken into account while adjudging quantum of penalty.
15J. *While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: -*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

21. Regarding the factors to be considered under Section 15J of SEBI Act, 1992, I note that the SCN does not indicate the amount of disproportionate gain or unfair advantage made by the Noticees, as a result of the aforesaid violations. In fact, no such assessment is possible in facts of the present case. Further, the SCN also does not specify the amount of loss caused to investor or group of investors. It is practically impossible to quantify the loss caused to investors in the event of misrepresentation of financial statements. I note that there is no material in the SCN to indicate that the Noticees have been found to have committed similar violations prior to the investigation period. I, however note that as discussed at para 17.1 to 17.11, financial statements of the Noticee 1 were misrepresented during the investigation period. At the cost of repetition, I would like to state that, being part of the board of directors, Noticee 2 and 3 approved the financial statements of MISL (Noticee 1) for FYs 2018-19, 2019-20 and 2020-21; while Noticee 4 approved the financial statements of MISL (Noticee 1) for FYs 2019-20 and 2020-21. Further, all the violations which have been identified in the previous paragraphs took place at the time when Noticee 2, 3 and 4 were at the helm of affairs at MISL (Noticee 1).

Directions:

22. In view of the aforesaid findings and having regard to the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 11(1), 11(4), 11(4A), 11B(1), 11B(2) read with Sections 15A(a), 15HA and 15HB of the SEBI Act, 1992 read with Section 19 of the SEBI Act, 1992 and Rule 5 of the SEBI (Procedure for holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, I hereby issue the following directions:

22.1. The Noticees 1, 2, 3 and 4 are, hereby, restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 2 years, from the date of coming into force of this order.

22.2. The Noticees 2, 3 and 4 are, hereby, restrained from holding any position of Director or Key Managerial Personnel in any listed company or any intermediary registered with SEBI, or associating themselves with any listed public company or a public company which intends to raise money from the public or any intermediary registered with SEBI for a period of 2 years, from the date of coming into force of this order;

22.3. The Noticees 1, 2, 3 and 4 are hereby imposed with monetary penalties as specified hereunder:

Table 23

Noticee No.	Name of Noticee	Provisions under which penalty imposed	Penalty Amount (Rs.)
1	Mideast Integrated Steels Limited (MISL)	Section 15HA of the SEBI Act, 1992	2,00,00,000/- (Rupees Two Cr. Only)
		Section 15HB of the SEBI Act, 1992	1,00,00,000/- (Rupees One Cr. Only)

Noticee No.	Name of Noticee	Provisions under which penalty imposed	Penalty Amount (Rs.)
		Section 15A(a) of the SEBI Act, 1992	1,00,00,000/- (Rupees One Cr. Only)
2	Rita Singh	Section 15HA of the SEBI Act, 1992	1,00,00,000/- (Rupees One Cr. Only)
		Section 15HB of the SEBI Act, 1992	50,00,000/- (Rupees Fifty Lakhs Only)
3	Natasha Sinha	Section 15HA of the SEBI Act, 1992	100,00,000/- (Rupees One Cr. Only)
		Section 15HB of the SEBI Act, 1992	50,00,000/- (Rupees Fifty Lakhs Only)
4	VN Tiwari	Section 15HA of the SEBI Act, 1992	50,00,000/- (Rupees Fifty Lakhs Only)
		Section 15HB of the SEBI Act, 1992	25,00,000/- (Rupees Twenty Five Lakhs Only)

22.4. The Noticees 1, 2, 3 and 4 shall remit / pay the said amount of penalties within 45 days from the date of coming into force of this order. The Noticees shall remit / pay the said amount of penalties either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of ED/CGM (Quasi-judicial Authorities)-> PAY NOW. In case of any difficulties in online payment of penalties, the said Noticees may contact the support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to "The Division Chief, CFID-SEC-2, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail ID:- tad@sebi.gov.in in the format as given in table below:

Case Name	
Name of Payee	

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

23. The obligation of the Noticees 1, 2, 3 and 4, restrained/ prohibited by this Order, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange(s), as existing on the date of coming into force of this Order, are allowed to be discharged irrespective of the restraint/ prohibition imposed by this Order. Further, all open positions, if any, of the Noticees restrained/ prohibited in the present Order, in the F&O segment of the recognised stock exchange(s), are permitted to be squared off, irrespective of the restraint/ prohibition imposed by this Order.

24. This Order shall come into force with immediate effect.

25. A copy of this order shall be forwarded to Noticee 1, 2, 3 and 4, Recognized Stock Exchanges, Depositories and Registrar and Share Transfer Agents to ensure necessary compliance.

Date: February 21, 2024 **K. SARAVANAN**

Place: Mumbai **CHIEF GENERAL MANAGER**

SECURITIES AND EXCHANGE BOARD OF INDIA