

National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/63147	Date: July 30, 2024
Circular Ref. No.: 354/2024	

To All NSE Members,

Sub: SEBI Order in the matter of misstatement and irregularities in the financial statements of Omaxe Limited.

This is with reference to SEBI Order No. QJA/GR/CFID/CFID/30598/2024-25 dated July 30, 2024, wherein SEBI has 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 (two) years, from the date of coming into force of this order.

Sr. No.	Name	PAN
1	Omaxe Limited	AAACO0171H
2	Rohtas Goel	AAVPG9866B
3	Mohit Goel	ALYPG6203C
4	Sudhangshu S. Biswal	ADVPB3594L
5	Arun Kumar Pandey	AAGPP8547D
6	Vimal Gupta	AAGPG1293D

The above directions shall come into force with immediate effect.

The detailed order is available on SEBI website (<https://www.sebi.gov.in/enforcement.html>).

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

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

National Stock Exchange of India

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 misstatement and irregularities in the financial statements of Omaxe Limited.

BEFORE SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

UNDER SECTIONS 11(1), 11(4), 11(4A), 11B (1) and 11B (2) OF SECURITIES AND
EXCHANGE BOARD OF INDIA ACT, 1992

In respect of:

Noticee No.	Noticee's Name	PAN
1	Omaxe Limited	AAACO0171H
2	Rohtas Goel	AAVPG9866B
3	Mohit Goel	ALYPG6203C
4	Sudhangshu S. Biswal	ADVPB3594L
5	Arun Kumar Pandey	AAGPP8547D
6	Vimal Gupta	AAGPG1293D
7	Sunil Goel	AHGPG8020K
8	Nishal Jain	AFDPJ1240F
9	Gurnam Singh	AAKPS0300H
10	Devidas K. Kambale	AAPPK3187P
11	Sudip Bandyopadhyay	AEEPB0645J
12	Shruti D. Sodhi	AHAPS3426K
13	Prem Singh Rana	AAAPR2558L
14	Bhopinder Singh	ADIPS9066P
15	Navin Jain	ACQPJ8553M
16	Shubha Singh	AEJPA3682F

In the matter of misstatements/irregularities in financial statements of Omaxe Limited,

(The aforesaid entities are hereinafter referred to by their respective names/serial numbers or collectively as “the Noticees”)

Background:

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) was in receipt of complaint against Omaxe Limited (hereinafter referred to as “Omaxe”/ “Company”/ “Noticee No.1”) inter alia alleging that the company conducted

fraudulent transactions, diverted/siphoned of funds, misrepresented the financial statements, inflated turnover etc. As these allegations were serious in nature, the matter was taken up for further examination by SEBI including conducting forensic audit into the affairs of Omaxe. The Investigation Period (hereinafter referred to as '**Investigation Period/IP**') in the matter has been taken from April 01, 2018 to March 31, 2021 i.e. Financial Year (*hereinafter referred to as "FY"*) 2018-19, 2019-20 and 2020-21. Further, whenever deemed necessary, references were also made to the events/ timeframes outside this period.

2. Pursuant to the investigation, both the forensic audit report as well as the documents produced by Omaxe before the Investigating Authority were examined, thereafter a detailed Investigation Report (hereinafter referred as '**IR**') was prepared, wherein it was observed that Omaxe and its management, knowingly, reported wrong, false, manipulated financial statements to create an impression among the investors that the financial statements as published by the company, were reflecting true and fair view of the company's financial performance. Thus, it was alleged that they were knowingly involved in manipulations/ irregularities in the company's financials and thus, induced the investors for dealing in Omaxe scrip with an intention to deceit upon them in order to maintain the price of the scrip to take the advantage of their pledged shares.
3. In view of the above, the Noticees were alleged to have violated the various provisions of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred as '**LODR Regulations**'), Listing Agreement, Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred as '**PFUTP Regulations**'), and Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') as applicable, as detailed in the subsequent paragraphs.
4. Accordingly, a Show Cause Notice dated August 14, 2023 (hereinafter referred to as

“**SCN**”) was issued to the Noticees, calling upon them to show cause as to why suitable directions should not be issued against them under Sections 11(1), 11(4), 11(4A), 11B(1), 11B(2), read with Sections 15A(a), 15HA, 15HB of SEBI Act and Rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules 1995 for violations mentioned above.

5. The SCN contains the following observations and allegations against the Noticees with regard to SEBI’s examination of their activities:

- i. Misstatement / Misrepresentation in consolidated financial statements of Omaxe with respect to transactions with JBPL, Garv, Pancham
- ii. Overstatement of sale transactions with Pullback Apparels Pvt. Ltd.,
- iii. Overstatement of sale transactions between JRS Projects Pvt. Ltd. and Bamdev Builders & Developers Pvt. Ltd.,
- iv. Fictitious services i.e. Project Management Consultancy (PMC) provided to inflate the revenue,
- v. Consultancy services related to medical activities provided to inflate the revenue,
- vi. Overstatement of Sale of Flats vis-à-vis Customer Advance Outstanding,
- vii. Overstatement of sale of Property, Plant and Equipment (PPE) land,
- viii. Overstatement of Rent Expenses,
- ix. Overstatement of Interest Expenses,
- x. Overstatement of Debtors/ Trade Receivables,
- xi. Overstatement of advances recoverable,
- xii. Impairment of Goodwill,
- xiii. Overstatement/ understatement of Loans,
- xiv. Disclosure related violations,
- xv. Wrong classification of loans & advances/bad-debts in Cash Flow Statement
- xvi. Non-co-operation with the investigating team
- xvii. Other accounting irregularities
- xviii. Price impact on Omaxe scrip due to misstatements in financial statements.

6. On the basis of aforesaid observation, it was alleged that:
- i. Noticee No.1 had allegedly violated the provisions of Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a),(b),(c) of SEBI Act, Regulations 4(1), 4(2)(e), 23(3), 23(4) read with 23(1), 33(1)(a), 33(1)(c), 34(3) and 48 of LODR Regulations, Section 11C (2) read with Section 11C(3) of the SEBI Act.
 - ii. Noticee No.2 had allegedly violated the provisions of Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a),(b),(c) of SEBI Act. Further, he is also in violation of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7), 17(8) and 18(3) of LODR Regulations and Regulations 4(1), 4(2)(e), 33(1)(a),33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act.
 - iii. Noticee No.3 had allegedly violated the provisions of Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a),(b),(c) of SEBI Act. Further, he is also in violation of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7), and 17(8) of LODR Regulations and Regulations 4(1), 4(2)(e), 33(1)(a),33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act.
 - iv. Noticee No.4 had allegedly violated the provisions of Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a), (b), (c) of SEBI Act. Further, he is also in violation of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7), of LODR Regulations and Regulations 4(1), 4(2)(e), 33(1)(a),33(1)(c), 34(3) and 48 LODR Regulations read with Section 27 of SEBI Act.
 - v. Noticee No.5 had allegedly violated the provisions of Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a),(b),(c) of SEBI Act. Further, he is also in violation of Regulation 17 (8) and

Regulations 4(1), 4(2)(e), 33(1)(a),33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act.

vi. Noticee No.6 had allegedly violated the provisions of Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a),(b),(c) of SEBI Act. Further, he is also in violation of Regulation 17(8), 23(3), 4(1), 4(2)(e), 33(1)(a),33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act.

vii. Noticee No.7 had allegedly violated the provisions of Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6) 4(2)(f)(ii)(7), 4(2)(f)(iii)(7) of LODR Regulations read with Regulations 4(1), 4(2)(e), 33(1)(a), 33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act.

viii. Noticee No.8 to 14 had allegedly violated the provisions of Regulation 18(3) read with Para A of Part C of Schedule II of LODR Regulations.

ix. Noticee No.15 and 16 had allegedly violated the provisions of Regulation 6(2) (a), (b), (c), 23(4) read with 23(1) and 27(2) of LODR Regulations.

Show Cause Notice, Reply and Hearing:

7. Accordingly, a common SCN No. SEBI/HO/CFID-SEC-4/OW/P/2023/32800/1-14 dated August 14, 2023, was served to the Noticees vide through SPAD as well as through Newspaper publication, which were duly delivered. The details of which are as under;

Sr. No	Name of Noticees	SCN Delivery Mode	SCN Delivery status	Reply Received date
1	Omaxe Ltd	Speed Post as well as mail	Yes	14/09/2023 &15/05/2024
2	Rohtas Goel	Speed Post as well as mail	Yes	14/09/2023 &15/05/2024
3	Mohit Goel	Speed Post as well as mail	Yes	14/09/2023 &15/05/2024

4	Sudhangshu S. Biswal	Speed Post as well as mail	Yes	03/04/2024 & 06/05/2024
5	Arun Kumar Pandey	Speed Post as well as mail	Yes	14/09/2023
6	Vimal Gupta	Speed Post as well as mail	Yes	14/09/2023
7	Sunil Goel	Speed Post as well as mail	Yes	08/04/2024
8	Nishal Jain	Speed Post as well as mail	Yes	14/09/2023
9	Gurnam Singh	Speed Post as well as mail	Yes	11/09/2023
10	D.K. Kambale	Speed Post as well as mail	Yes	16/09/2023
11	Sudip Bandyopadhyay	Speed Post as well as mail	Yes	13/09/2023
12	Shruti Dvivedi Sodhi	Speed Post as well as mail	Yes	14/09/2023
13	Prem Singh Rana	Speed Post as well as mail	Yes	14/09/2023
14	Bhopinder Singh	Speed Post as well as mail	Yes	14/09/2023
15	Navin Jain	Speed Post as well as mail	Yes	14/09/2023 & 28/05/2024
16	Shubha Singh	Speed Post as well as mail	Yes	14.04.2024

8. Subsequently, personal hearing was scheduled in the matter, the details of mode of delivery, attendance of the Noticee for the hearing, etc., are as under;

Noticees .No	Name of Noticees	HN Date	HN Delivery Mode	HN Delivery Status	Status of attendance for hearing
1	Omaxe Ltd	15.5.2024	Speed Post as well as mail	Yes	Yes
2	Rohtas Goel	15.5.2024	Speed Post as well as mail	Yes	Yes
3	Mohit Goel	15.5.2024	Speed Post as well as mail	Yes	Yes
4	Sudhangshu S. Biswal	16.4.2024	Speed Post as well as mail	Yes	Yes
5	Arun Kumar Pandey	16.4.2024	Speed Post as well as mail	Yes	No
6	Vimal Gupta	16.4.2024	Speed Post as well as mail	Yes	No
7	Sunil Goel	16.4.2024	Speed Post as well as mail	Yes	No
8	Nishal Jain	16.4.2024	Speed Post as well as mail	No	No
9	Gurnam Singh	16.4.2024	Speed Post as well as mail	Yes	Yes
10	D.K. Kambale	16.4.2024	Speed Post as well as mail	Yes	Yes
11	Sudip Bandyopadhyay	16.4.2024	Speed Post as well as mail	Yes	No
12	Shruti Dvivedi Sodhi	16.4.2024	Speed Post as well as mail	Yes	No
13	Prem Singh Rana	16.4.2024	Speed Post as well as mail	Yes	No
14	Bhopinder Singh	16.4.2024	Speed Post as well as mail	Yes	No
15	Navin Jain	21.5.2024	Speed Post as well as mail	No	No
16	Shubha Singh	16.4.2024	Speed Post as well as mail	Yes	Yes

9. Thus, personal hearing in the matter was concluded on May 21, 2024. From the above tables, it is observed that Noticee No. 5 - 8 and 11-15 did not attended the personal hearing but have submitted their replies in the matter.
10. In this regard, I note that Noticee No.1 has submitted a reply dated September 11, 2023, received on September 14, 2023, which have been adopted by Noticee No. 2, 3, 5, 6, 8, 11, 12, 13, 14, 15 & 16, to the extent applicable to them.
11. In view of the above, as regards to the Noticee No. 5 - 8 and 11-15, despite SCN and hearing notice were duly served upon them and sufficient opportunity was also granted to them to reply to the SCN and appear for hearing, they chose not to appear for hearing. Accordingly, I am of the view that principles of natural justice have been duly complied with.

Consideration of Issues and Findings:

12. I have carefully perused the submissions made by some of the Noticees, documents available on record and the following issues require consideration:

Whether the Noticees have violated the relevant provisions of PFUTP Regulations, read with SEBI Act and LODR Regulations?

13. Before I further proceed in the matter, it is pertinent to refer to the relevant provisions of SEBI Act, LODR Regulations and PFUTP Regulations, alleged to have been violated by the Noticees, as per the SCN. The same are reproduced herein below:

SEBI Act:

Section 12A: No person shall directly or indirectly—

- (a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any*

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

Section 27: Contravention by companies.

Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

LODR Regulations:

Regulation 4: Principles governing disclosures and obligations.

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

- (a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.*
- (b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the*

annual audit is conducted by an independent, competent and qualified auditor.

- (c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.*
 - (d) 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.*
- (2) The listed entity which has listed its specified securities shall comply with the corporate governance provisions as specified in chapter IV which shall be implemented in a manner so as to achieve the objectives of the principles as mentioned below.*

(a)...

...

(e) *Disclosure and transparency: The listed entity shall ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the listed entity, in the following manner:*

(i) *Information shall be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.*

(ii) *Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by users.*

(iii) *Minutes of the meeting shall be maintained explicitly recording dissenting opinions, if any.*

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

Disclosure of information:

4(2)(f)(i) (1).....

4(2)(f)(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.”*

Key functions of the board of directors:

4(2)(f)(ii)(2) *Monitoring the effectiveness of the listed entity’s governance practices and making changes as needed.”*

4(2)(f)(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.*

4(2)(f)(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.”*

4(2)(f)(ii)(8) *Overseeing the process of disclosure and communications.*

Other responsibilities:

4(2)(f)(iii)(7) The board of directors shall exercise objective independent judgement on corporate affairs.”

Regulation 6: Compliance Officer and his/her Obligations.

(2) The compliance officer of the listed entity shall be responsible for-

a) ensuring conformity with the regulatory provisions applicable to the listed entity in letter and spirit.

(b) co-ordination with and reporting to the Board, recognised stock exchange(s) and depositories with respect to compliance with rules, regulations and other directives of these authorities in manner as specified from time to time.

(c) ensuring that the correct procedures have been followed that would result in the correctness, authenticity and comprehensiveness of the information, statements and reports filed by the listed entity under these regulations.

Regulation 17(8):

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

Regulation 18 – Audit Committee

(3) The role of the Audit Committee and the information to be reviewed by the audit committee shall be as specified in Part C of Schedule II

PART C:

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

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

(2) recommendation for appointment, remuneration and terms of appointment of auditors of the listed entity;

- (3) approval of payment to statutory auditors for any other services rendered by the statutory auditors;
- (4) reviewing, with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to:
 - (a) matters required to be included in the director's responsibility statement;
 - (b) changes in accounting policies and practices and reasons for the same;
 - (c) major accounting entries involving estimates based on the exercise of judgment by management;
 - (d) significant adjustments made in the financial statements arising out of audit findings;
 - (e) compliance with listing and other legal requirements relating to financial statements;
 - (f) disclosure of any related party transactions;
 - (g) modified opinion(s) in the draft audit report;
- (5) reviewing, with the management, the quarterly financial statements before submission to the board for approval;
- (6) reviewing and monitoring the auditor's independence and performance, and effectiveness of audit process;
- (8) approval or any subsequent modification of transactions of the listed entity with related parties;
- (9) scrutiny of inter-corporate loans and investments;
- (7) evaluation of internal financial controls and risk management systems;
- (8) reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems;
- (9) discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern;
- (10) to review the functioning of the whistle blower mechanism;
- (11) evaluation of internal financial controls and risk management systems;

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

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

(14)discussion with internal auditors of any significant findings and follow up there on;

(15)reviewing the findings of any internal investigations by the internal auditors into matters where there is suspected fraud or irregularity or a failure of internal control systems of a material nature and reporting the matter to the board;

(16)discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern;

(17)to look into the reasons for substantial defaults in the payment to the depositors, debenture holders, shareholders (in case of non-payment of declared dividends) and creditors;

(18)to review the functioning of the whistle blower mechanism;

(19)approval of appointment of chief financial officer after assessing the qualifications, experience and background, etc. of the candidate;

(20)Carrying out any other function as is mentioned in the terms of reference of the audit committee.

403[(21) reviewing the utilization of loans and/ or advances from/investment by the holding company in the subsidiary exceeding rupees 100 crore or 10% of the asset size of the subsidiary, whichever is lower including existing loans / advances / investments existing as on the date of coming into force of this provision.]

404[(22) consider and comment on rationale, cost-benefits and impact of schemes involving merger, demerger, amalgamation etc., on the listed entity and its shareholders.]

*B. The audit committee shall mandatorily review the following information:
(1)management discussion and analysis of financial condition and results of operations;*

*(2)405[***]*

(3)management letters / letters of internal control weaknesses issued by the statutory auditors;

(4)internal audit reports relating to internal control weaknesses; and

(5)the appointment, removal and terms of remuneration of the chief internal auditor shall be subject to review by the audit committee.

(6)statement of deviations:

(a)quarterly statement of deviation(s) including report of monitoring agency, if applicable, submitted to stock exchange(s) in terms of Regulation 32(1).

(b)annual statement of funds utilized for purposes other than those stated in the offer document/prospectus/notice in terms of Regulation 32(7).

Regulation 23(1):

(1) The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions:

Explanation.- A transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.

Regulation 23(3):

Audit committee may grant omnibus approval for related party transactions proposed to be entered into by the listed entity

Regulation 23(4): *All material related party transactions shall require approval of the shareholders through resolution and no related party shall vote to*

approve such resolutions whether the entity is a related party to the particular transaction or not.

Regulation 27: Other corporate governance requirements

(2) *(a) The listed entity shall submit a quarterly compliance report on corporate governance in the format as specified by the Board from time to time to the recognised stock exchange(s) within 173[twenty one] days from 174[the end of each] quarter.*

(b) Details of all material transactions with related parties shall be disclosed along with the report mentioned in clause (a) of sub-regulation (2).

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.

(b)

(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:

(a)

(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.

(c)

- (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).*

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.

PFUTP Regulations:

Regulation 3: Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a)

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

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

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

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: —

(a)

(b)

(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.

14. I now proceed to consider the matter on merits.

15. I note that Omaxe Ltd., was incorporated in 1987 and its registered office is situated

at Shop No. 19-B, First Floor, Omaxe Celebration Mall, Sohna Road, Gurugram, Haryana, 122001. The company is diversified into real estate sector and got listed on BSE and NSE stock exchanges in 2007.

16. Brief details of company's shareholding pattern, pledge pattern, list of Board of Directors, Key Managerial Personnel (hereinafter referred to as "**KMP**"), Statutory Auditors and financial overview during the investigation period is as under:

Shareholding pattern of Omaxe

Table No. 1

Shareholding (%)	2016-17	2017-18	2018-19	2019-20	2020-21
Promoters group	74.99	74.72	74.43	74.15	74.14
Non-promoter group	25.01	25.28	25.57	25.85	25.86
Total	100	100	100	100	100

Details of pledge (%) of the Promoters' shareholding:

Table No. 2

2016-17				2017-18				2018-19				2019-20				2020-21			
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
49%	48%	44%	49%	50%	51%	56%	54%	57%	57%	58%	57%	57%	51%	52%	52%	52%	66%	66%	64%

Board of Directors, Key Managerial Personnel and Statutory auditor

Table No. 3

Sl. no.	Name of the entity	PAN / DIN	Designation	Appointed on	To
1	Rohtas Goel	AAVPG9866B / 00003735	Promoter, Chairman & Managing Director (CMD) and Audit Committee Member	08/03/1989	Till date
2	Mohit Goel	ALYPG6203C / 02451363	Chief Executive Officer & Whole Time Director	12/02/2014 12/02/2018	28/05/2017 Till date
4	Sunil Goel	AHGPG8020K / 00003743	Promoter & Joint Managing Director Additional Director (Executive)	17/05/1999 01/10/2021	27/09/2017 31/01/2022
5	Sudhangshu S. Biswal	ADVPB3594L / 07580667	Whole Time Director/Executive Director (Finance)	11/08/2016	26/09/2019
6	Jai Bhagwan Goel	ACOPG6352K / 00075886	Executive Director	05/06/2006	04/08/2018

7	Nishal Jain	AFDPJ1240F / 06934656	Non-Executive & Woman Independent Director and Audit Committee Member	04/11/2019	Till date
8	Shridhar Rao	AQNPR8633B / 08600252	Non-Executive & Independent Director	04/11/2019	Till date
9	Gurnam Singh	AAKPS0300H / 08357396	Non-Executive Independent Director and Audit Committee Member	12/02/2019	Till date
10	D.K. Kambale	AAPPK3187P / 00020656	Non-Executive Independent Director and Audit Committee Member	30/07/2019	16/01/2021
11	Seema Prasad Avasarala	AIDPA6038R / 07058667	Non-Executive & Non-Independent Director	27/09/2017	26/08/2019
12	Seema Salwan	EBNPS6957J / 06944301	Non-Executive Independent Director	04/04/2019	02/08/2019
13	Sudip Bandyopadhyay	AEEP0645J / 00007382	Non-Executive Independent Director and Audit Committee Member	04/11/2015	15/07/2019
14	Shruti Dvivedi Sodhi	AHAPS3426K / 02058258	Non-Executive Independent Director and Audit Committee Member	29/05/2017	06/12/2018
15	Srinivas Kanakagiri	ADOPK7177K / 00443793	Non-Executive Independent Director and Audit Committee Member	29/07/2017	17/10/2018
16	Prem Singh Rana	AAAPR2558L / 00129300	Non-Executive Independent Director and Audit Committee Member	09/11/2011	23/10/2017
17	Lt. Gen. (Retd.) Bhopinder Singh	ADIPS9066P / 01404280	Non-Executive Independent Director and Audit Committee Member	27/03/2007	12/07/2017
18	Ms. Padmaja Ruparel	ADCPR4294G / 01383513	Independent Non-Executive Director	31/03/2015	29/05/2017
19	Arun Kumar Pandey	AAGPP8547D	Chief Finance Officer (CFO)	01/10/2019	14/11/2022
20	Vimal Gupta	AAGPG1293D	Chief Finance Officer (CFO)	2006	23/07/2019
21	Navin Jain	ACQPJ8553M	Company Secretary & Compliance Officer	05/09/2019	14/02/2023
22	Shubha Singh	AEJPA3682F	Company Secretary & Compliance Officer	11/08/2016	28/08/2019
23	Venkat Rao	-	Company Secretary & Compliance Officer	2006-07	18/07/2016
24	M.K. Doogar Doogar & Associates, CAs	(M. no. 080077), (Firm Reg. no): 000561N	Statutory Auditors from FY 2010-11 to FY 2016-17		

25	Prakash Chand Surana M/s BSD & Co., CAs	(M. no. 010276), (Firm Reg. No: 000312S)	Statutory Auditors from FY 2017-18		
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(Source: Company's Annual Reports/ BSE/NSE website)

Financial overview of Omaxe

Table no.4

(Rs. in
crore)

Details	2016-17	2017-18	2018-19	2019-20	2020-21
Revenue	1036.60	1,267.94	768.04	779.59	252.39
Other Income	42.43	46.48	160.05	143.49	31.66
Total Income	1079.03	1,314.42	928.09	923.08	284.05
Expenditure	-950.5	-1,211.93	-879.64	-827.12	-506.87
Net Profit/Loss after tax	67.83	63.51	23.14	-94.35	-210.21
Equity	182.90	182.90	182.90	182.90	182.90
EPS	3.75	3.47	1.27	-5.16	-11.49

(Source: BSE)

17. Before proceeding to deal with the specific charges levelled against the Noticees, I wish to settle first the general contentions raised by the Noticee No.1 (adopted by Noticee No. 2, 3, 5, 6, 8, 11, 12, 13, 14, 15 & 16 to the extent applicable to them) in the present matter.

General contention 1: Material facts and documents not considered

18. The Noticee No.1 has contended that the material facts and documents provided by Noticee No.1 at the time of audit/inspection were not considered by the forensic auditor/ SEBI and on considering the same SEBI could have avoided the issuance of the SCN referring to judgment in the matter ***of Religare Securities Limited v. SEBI [Appeal No. 23 of 2022 decided on June 16, 2011]***, to state that the inspection conducted was faulty and compels the courts to grant benefit of the doubt to the Appellants as the relevant queries were not asked at the time of inspection which could have avoided the initiation of the said adjudication case.

19. In this regard, I note that as claimed by the Noticee No.1 there was no mention of the specific material facts and documents that have been provided to forensic auditor/ SEBI for consideration of the same. Therefore, in the absence of any justifiable explanation with any verifiable supporting evidence, I have no reason to doubt the observation of investigation.

General contention 2: The transactions with subsidiaries were in compliance with Land Ceiling Act, 1961, Companies Act, 2013 and IND AS

20. Further, I note that the Noticee No.1 contended that the Real estate industry/company needs to comply with the Land Ceiling Act, 1961 for land acquisition for any prospective projects. And also every state in India has different rules for land ceiling Act. Therefore, as an Industry practice, all real estate developers hold land in multiple subsidiaries/ group companies under its umbrella by financing the funds to these subsidiaries / group companies for acquiring the land.

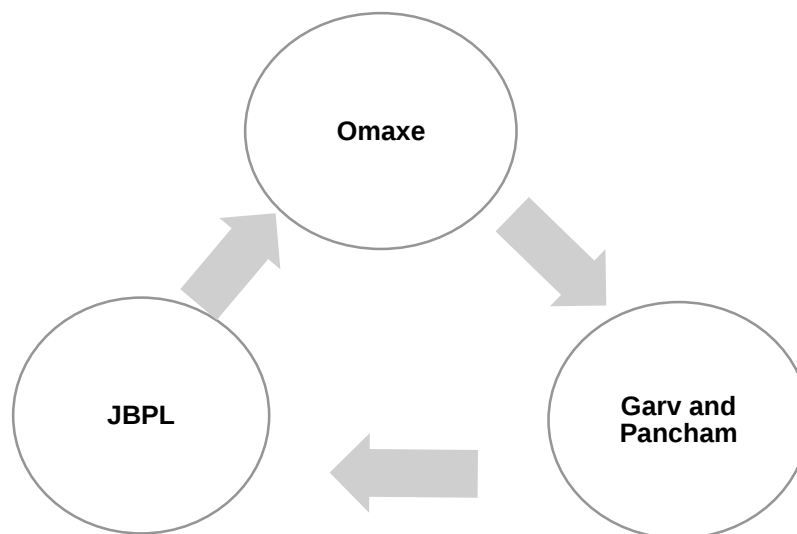
21. It was also stated that since Section 165(1) of the Companies Act, 2013 restricts holding of directorship to not more than 20 companies, including not more than 10 public limited companies/ subsidiary of the public limited companies, therefore the employees/ other persons are appointed as Directors in these LOCs. Also, since the financing of the LOCs are done by the main company, therefore the financials of these LOCs are consolidated with the financials of the main company by virtue of “control” over the LOCs as defined under IND AS 24.

22. Accordingly, these subsidiaries/group companies owning land on behalf of main developer company are called Land Owing Companies (LOCs). After the purchase of land by such LOCs, the rights/interest/possession in these land parcels are acquired by main developer company through executing MOU's without transferring the actual title to the land which remains with the LOCs and earlier advance given is adjusted against such possession acquired from LOCs. After the possession acquired of such

land parcels, main developer company along with these LOCs jointly apply for the license for development of real estate project.

23. Further, it has also been submitted that the transactions in question have been set out in the financial statements, which have been duly audited and approved by the shareholders of Omaxe over two years. It is only now in that these transactions are being questioned.

24. In respect of the said contention of the Noticee No.1, I note that the Noticee No.1 is only contending regarding transactions between Omaxe and its subsidiaries viz. Garv and Pancham. However, in the present case, I note that the aforesaid transaction between the holding company and the subsidiaries cannot be seen in isolation and the entire scheme of transactions has to be seen i.e. Omaxe extending funds to Garv and Pancham which subsequently getting transferred to JBPL and in turn JBPL transferring it back to Omaxe. It can be depicted as below:



25. In view of the above, I note that the aforesaid chain of transactions was alleged to be done for the purpose of inflating/overstating the revenues/income of Omaxe. Thus, there is no merit in the submission of Noticee No.1 in this regard.

General contention 3: Various other general contentions:

26. I note that Noticee No.1 has made the following other contentions:

- a) There is no complaint or allegation of any advantage taken by the management or promoters of Omaxe of any alleged irregularities as specified in the SCN. It is not the case that the management or promoters of Omaxe purchased or sold securities of Omaxe to take advantage of the alleged irregularities.
- b) There is no allegation or finding of any misappropriation, diversion, siphoning of fund or irregular usage of funds of Omaxe for purposes other than its business.
- c) It is apparent therefore that the fundamental aspect of market manipulation is missing in the present case.
- d) The SCN proceeds on the misconception that the transactions in question were meant to show better profitability or revenues with a view to ensuring that the share price of Omaxe is maintained. However, it is apparent from the SCN itself that the rise of the scrip of Omaxe has been in line with the BSE realty index. The Company and its management has no role to play in the movement of the Company's stock price and it is driven from the several factors like the company's performance, future prospects, prospects and external factors like economic growth, political & social conditions, sector performance, peer industry performance and better opportunities in peer companies.
- e) The price of the scrip has risen consistently between March 2016 and March 2020 but there had been hardly any impact on the financial results of the scrip of the company on or after declaration of results. However, the subsequent fall in the price of the scrip is during Covid-19 as management disputes rose between the promoters of the company.

- f) The Noticee No.1 also submits that the allegation that alleged actions of the Noticee No.1 were with a view to maintaining share price in order to facilitate the pledge of the promoters of Omaxe, which is merely an assumption or conjecture without any evidence and in this regard the Noticee No.1 has relied on several case laws to demonstrate the same.

27. In respect of the aforesaid contentions of the Noticee No.1, particularly with respect to that there was no complaint or allegation of any advantage taken by the management or promoters of Omaxe of any alleged irregularities as specified in the SCN and also not the case that the management or promoters of Omaxe purchased or sold securities of Omaxe to take advantage of the alleged irregularities, I would like to state that the present case was itself initiated based on the complaint inter alia alleging misrepresentation/ misstatement/irregularities in the financial statements of Omaxe. Further, as per the findings/observations of the Audit Report and considering the submissions made by Omaxe, it was prima facie found that the company and its management, knowingly, reported wrong, false, manipulated financial statements to create an impression among the investors that the financial statements, as published by the company, were reflecting true and fair view of the company's financial performance with a view to induce the investors for dealing in scrip of Omaxe with an intention to deceive them to maintain the price of the scrip to take the advantage on their pledged shares.

28. In this regard, the modus operandi of Omaxe in presenting a rosy picture of its profitability and showing profits during FYs 2016-17, 2017-18 and 2018-19 by inflating sales of the company through dealing with JBPL is explained in the succeeding paras.

Role of the company (Noticee No.1)

29. The specific charges levelled against the Noticee No.1, the reply of the Noticee No.1 and my findings are as under:

29.1. Misstatement/ Misrepresentation in consolidated financial statements of Omaxe with respect to transactions with JBPL, Garv, Pancham and Omaxe.

29.1.1. **SCN:** In the context of this allegation, I note that SCN state the followings:

29.1.1.1. During investigation, it was observed that Omaxe had shown outstanding receivables of Rs.292.62 crore towards *JBPL* as on April 01, 2018, however, it was observed from *JBPL*'s Annual Financial Statements (**"AFS"**) for FY 2017-18 that *JBPL* had not recorded any purchase from Omaxe either during said year or the following years. Upon examination, it was observed that the receivable transactions were pertaining to plots sold by Omaxe to *JBPL* during earlier financial years and additionally, Garv and Pancham, both Wholly Owned Subsidiaries (**"WOS"**) of Omaxe, were also involved in those transactions.

29.1.1.2. Further in this regard, it was observed from the books of Accounts of Omaxe that it had executed Memorandum of Understanding (**"MoU"**) with Garv and Pancham wherein funds were provided to them by Omaxe for purchasing raw undeveloped land in Lucknow Hitech City (**"Lucknow Project"**) and Allahabad Hitech City (**"Allahabad Projects"**) respectively. Accordingly, Omaxe extended advances amounting to Rs.91.13 crore to Garv for buying 2040 plots in Lucknow Project and Rs.137.70 crore to Pancham for 1350 plots in Allahabad Project, during FYs 2011-12/ 2012-13/ 2013-14. Hence in this regard, the total funds of Rs.228.83 crore (Rs.91.13+Rs. 137.70) was transferred by Omaxe. However, in lieu of the funds, Garv and Pancham agreed to allot certain developed plots to Omaxe but the ownership title & development right remained with Garv and Pancham, while the *allotment 'rights'* of the plots were given to Omaxe as per the MoU. Further, the funds provided by Omaxe to Garv and Pancham were accounted for as **'Advances to Subsidiaries'** by Omaxe in its BoA.

- 29.1.1.3. Pursuant to receipt of the allotment rights as mentioned above, Omaxe sold the said plots along with **‘rights/title/interest’** of the plots to JBPL by executing MoU despite that legal ownership of the said plots still being vested with Garv and Pancham. In this regard, Omaxe recorded sale/revenue amounting to Rs.436.15 crore and Rs.398.90 crore under **‘Revenue from operations’** towards JBPL (after making adjustment entries of advances to Garv and Pancham) for FYs 2016-17 & 2017-18, respectively. Further, it is pertinent to mention that the revenue booked by Omaxe comprised of the profit element from the transaction i.e., the difference between price paid by JBPL to Omaxe and the price paid by Omaxe to Omaxe Garv / Pancham, thereby not resulting in any impact on the purchases/ inventory in its books of account. Based on these transactions with JBPL, Loans & Advances to the subsidiaries i.e., Garv and Pancham, were considered to be reduced cumulatively (in FYs 2016-17 and 2017-18) to the extent of Rs.91.13 crores & Rs.137.70 crores respectively in the BoA of Omaxe without actual flow of funds and by way of adjustment.
- 29.1.1.4. It was therefore alleged that the same resulted in understatement of Advances recoverable from the subsidiaries, overstatement of revenue as well as hiding the potential loss in the absence of this revenue in the Omaxe P&L account in FY 2016-17 and FY 2017-18.
- 29.1.1.5. This apart, since, the entire sale consideration was not received by Omaxe in FYs 2016-17 and 2017-18, the company booked as debtors towards JBPL in the financial statements pertaining FY 2016-17 (Rs.476.90 crores) and FY 2017-18 (Rs.292.62 crores). From the summary of transactions and revenue booked by Omaxe given for the said years, it was observed that revenue from operation of Omaxe was Rs.1036.60 for FY2016-17 and 1267.94 for FY 2017-18 of which 42.08% and 31.46% of revenue respectively, was only from transactions with JBPL. Further, while analysing the Annual Financial Statements (**“AFS”**)

of Omaxe for the said years, it was observed that had these sales transactions with JBPL not been recognized as revenue in the company's Profit & Loss account, Omaxe would have reported losses in both the financial years.

29.1.1.6. Thereafter, it was observed that JBPL had sold the abovementioned plots to Garv and Pancham for a consideration of Rs.738.65 crore and Rs.334.50 crore in FYs 2017-18 & 2018-19. Further, the details of the said transactions were not mentioned in JBPL's books of accounts for the said year. However, subsequently, Garv recorded Purchase/inventory of Rs.270.95 crores and Rs.144.03 in FY 2017-18 and FY 2018-19 respectively, likewise, Pancham recorded purchase/inventory of Rs.309.07 crores and Rs.120.28 in FY 2017-18 and FY 2018-19 respectively, after adjusting the advances received from Omaxe. Thus, it was alleged that Garv and Pancham, despite having the ownership on the plots, acquired the rights/ title/interest on the plots from JBPL that were sold by Omaxe to JBPL with the funds provided by Omaxe. It is pertinent to mention that the same rights/title/interest was originally bought by Omaxe from Garv and Pancham in the present matter.

29.1.1.7. Next, it was observed that the said sale of plots to Garv and Pancham in FYs 2017-18 & 2018-19 for a total consideration of Rs.738.65 crore & Rs.334.50 crore in the respective years, was not recorded in the books of JBPL. Whereas, Garv recorded Purchase/inventory of Rs.270.95 crores and Rs.144.03 in FY 2017-18 and FY 2018-19, respectively, and Pancham recorded purchase/inventory of Rs.309.07 crores and Rs.120.28 in FY 2017-18 and FY 2018-19 respectively.

29.1.1.8. On further examination of funds movement in the bank statements of the parties involved in the above transactions, it revealed that Omaxe extended total funds amounting to Rs.973 crores to Garv and Pancham, which were subsequently transferred to JBPL for buying rights/ title/

interest of the plots and then these funds were transferred back by JBPL to Omaxe.

(i) Funds trails of Rs.672.96 crores transferred by the Omaxe:

Omaxe gave advances amounting to Rs.672.96 crore put together between to Garv and Pancham in FY2017-18 and FY2018-19, which were subsequently transferred to JBPL against purchase of such rights/ title/interest and then it was further transferred by JBPL to Omaxe for purchase of such rights/ title/ interest. In this regard, it is important to note that amount transferred by Omaxe to Garv/Pancham were received by Omaxe on the same day from JBPL as explained in Table below:

Table no. 5

(Rs. in crore)

Date	Omaxe to Garv	Omaxe to Pancham	Garv to JBPL	Pancham to JBPL	JBPL to Omaxe
30/03/2017	23.25	-	23.25	-	23.25
19/05/2017	200.00	150.00	200.00	148.50	331.40
22/05/2018	101.25	98.50	101.25	98.50	200.87
13/06/2018	74.50	25.47	74.50	25.47	92.21
Total	398.99	273.97	398.99	272.47	647.73

(ii) Funds trails of Rs.300.55 crore from Omaxe to Omaxe:

It was observed that Rs.300.55 crore transferred by Omaxe through its subsidiary Omaxe Chandigarh to Grav and Pancham, was in turn, transferred by Grav and Pancham to Omaxe. These transactions were appearing in bank statements of Omaxe, Garv, Pancham and Omaxe Chandigarh on a single date i.e., March 28, 2018. In this regard, on analysing JBPL's ledgers in the books of Omaxe for FY 2017-18, the funds of Rs.300.55 crores were accounted as received from JBPL. However, the said funds of Rs.300.55 Cr received by Omaxe did not reflected in JBPL's Bank account (Axis Bank- 206010200015330). Hence, it was alleged that there was an overstatement of advances receivables from Grav and

Pancham by Rs.300.55 crores in the books of Omaxe.

29.1.2. Contention:

29.1.2.1. In this regard I note that the Noticee No.1 submitted that in line with the business practice outlined in the preceding paras, Omaxe had executed MOUs with Garv and Pancham to develop mega townships in Lucknow and Allahabad. The said MOUs were towards purchase of plots from Garv and Pancham by giving full value as booking amount and vide the said MOU, Garv and Pancham have agreed to allot developed plots to Omaxe. The booking amount paid to Garv and Pancham were shown as advance to subsidiaries in the books of Omaxe and shown as advance received in the books of Garv and Pancham. Further, since the development of the plots were under progress, the registered sale deed could not be done thus the ownership rights could not be transferred to Omaxe.

29.1.2.2. In this regard it was further submitted that it is a practice in the real estate industry that when a customer books real estate by paying the booking amount, he/she has the option to sell the right at premium/par/discount or wait till possession is taken. Accordingly, Omaxe had sold its booking rights to JBPL at a premium through MOUs over a period of time. The difference between purchase consideration and sale of booking rights was recorded as revenue in the books of Omaxe while the balance amount to be received from JBPL is booked as Debtors. Thus the booking rights were transferred to JBPL. However, the booking amount paid by JBPL to Omaxe was shown as “advance paid against booking” and not accounted for purchase, as ownership was not transferred to JBPL. That’s why there was a mismatch in the balances of Omaxe and JBPL.

29.1.2.3. Further, the Noticee submitted that the transactions between JBPL-Garv and JBPL-Pancham are independent and in the ordinary course

of business. Thereafter, Garv/Pancham had settled its account with JBPL in due course by making payments or adjustment of running balances as per their books of accounts.

- 29.1.2.4. The funds provided by Omaxe to Garv and Pancham being WOS were as per the approval of Audit Committee/Board and have also been properly disclosed in the audited financials of Omaxe, Garv and Pancham as per the accounting practice and requirements of applicable Ind AS/GN of the ICAI.
- 29.1.2.5. The funds advanced by Omaxe are not earmarked/lien for particular project and usable by Garv/Pancham as per business requirements. While executing the transactions by Garv/Pancham with JBPL, funds were given to JBPL against purchase of booking rights as per normal commercial business transaction only out of the funds available with them on the date of transaction. Further, JBPL paid the amount to Omaxe against purchase of booking rights as per normal commercial business transaction. Therefore, the allegation that financing was effected by Omaxe to JBPL through its WOS i.e. Garv / Pancham is incorrect.
- 29.1.2.6. As per Section 5 of the transfer of Property Act, 1882, transfer of property can be in the future also. So, even the transfer of proposed rights in relation to a property with the proposed transfer of the entire ownership falls under this section. Therefore, the allegation of ownership not being transferred is incorrect.
- 29.1.2.7. The allegation that JBPL is related to Omaxe is incorrect as it relied upon the statements of Directors of JBPL and CMD of Omaxe, which are not reliable as they appear to be unauthentic and does not demonstrate that JBPL is accustomed to work on the directions of Omaxe. Therefore, Omaxe and JBPL are not related parties.
- 29.1.2.8. The Noticee No.1 submitted that it is observed from the statement of director Uttam Kumar that he joined Omaxe on the behest of Mr.Vinod

Kumar Goyal, a former employee of JBPL. The submissions of the CMD of Omaxe seems to be taken out of context at several instances. MOUs between Omaxe and JBPL were not signed by Mr. Rohtas Goel but by Mr. Manish Kumar Garg as authorized signatory

29.1.2.9. As regards the allegation of funding of JBPL and overstatement of revenue/debtors/understatement/ overstatement of advance receivable, it is stated that Omaxe was holding the economic beneficial rights in the plots purchased from Garv and Pancham through booking rights in the MOUs. Therefore, not classifying this right cannot mean that Omaxe does not have the right to sell those right.

29.1.2.10. Further sharing of common address with few companies under the management of JBPL does not mean there is a relation/connection or are related parties as there are no other factors such as control, joint control, significant influence which are the pre-requisite factors to be a 'Related Party' under law. Therefore, there is no merit in the said allegation.

29.1.3. Findings:

29.1.3.1. In view of the above, while considering the aforesaid facts, in the present case, as stated in the preceding paras, I would like to state that the aforesaid transaction between the holding company and the subsidiaries cannot be seen in isolation and the entire scheme of transactions has to be seen as a whole i.e. Omaxe extending funds to Garv and Pancham which subsequently getting transferred to JBPL and in turn JPBL transferring it back to Omaxe. Further, as observed by the investigation, I note that these transactions were executed only for the purpose of inflating/overstating the revenues/income of Omaxe to hide the losses to create an impression among the investors that the financial statements as published by the company, were reflecting true and fair view of the company's financial performance to ensuring that the share

price of Omaxe is maintained and to induce the investors for dealing in Omaxe scrip. Accordingly, I find no merit in the contention of the Noticee No.1 that the transaction in question were normal commercial business transactions.

- 29.1.3.2. As regards the Noticee No.1's statement that as per Section 5 of the Transfer of Property Act, 1882, transfer of property can be in the future also, upon perusal of the relevant provision of law, I note that Section 5 defines the expression "*transfer of property*" as an act by which **a living person** conveys property, in present or in future, **to one or more other living persons, or to himself, or to himself and one or more other living persons**. Thus this section is intended for transfer of property between actual living person and since Omaxe and JBPL are companies, they are classified under the category of non-living or artificial persons. Therefore, the reference to Section 5 of the Transfer of Property Act, 1882, in the above scenario, is incorrect and misplaced.
- 29.1.3.3. As regards the allegation of JBPL being a related party, the Noticee No.1 has submitted that the statements of persons relied upon in this regard, appear to be unauthentic and does not demonstrate that JBPL is accustomed to work on the directions of Omaxe. Therefore, I note from Section 2 (76) of the Companies Act, 2013 that no where there is provision to ascertain that when a full time employee of Omaxe is working in another company as a director, the company can be called a related party. Furthermore, there is no other document to prove that JBPL is a subsidiary or an associate company of Omaxe. In this regard, the statement of director Uttam Kumar that he joined Omaxe on the behest of Mr. Vinod Kumar Goyal, a former employee of JBPL, does not prove that JBPL is a subsidiary or an associate company of Omaxe. Lastly, I agree with the Noticee's submission that sharing of common

address with few companies under the management of JBPL does not mean that there is a relation/connection or they are related parties as there are no other factors such as control, joint control, significant influence which are the pre-requisite factors to be a 'Related Party' under law.

29.2. Sale transactions with Pullback Apparels Pvt. Ltd.

29.2.1. **SCN:** In this regard, I note from the SCN that Omaxe in the FY 2020-21, recorded a sale of land to Pullback Apparels Pvt. Ltd., amounting to Rs.25 crores. The deal happened based on an agreement to sell, for which, company had received the sale consideration on January 11, 2021, possession letter was given on January 15, 2021 and the registered sale deed was executed on June 25, 2021. Additionally, it was also noted that as per the AFS of Pullback Apparels Pvt. Ltd. for FY2020-21, this transaction is appearing as "**Advance given for land**" and not shown as "**purchase of land**". Since, there was only a mere execution of agreement to sell and the company did not execute registered deed with Pullback Apparels Pvt. Ltd. in FY 2020-21, sales was recorded in the books on the basis of agreement to sale and offer to possession letter was also not signed by the buyer, it was alleged that Omaxe failed to meet performance obligation criteria in terms of the ICAI Guidance Note on real estate transaction while recording the sales amounting to Rs.25 crore in FY 2020-21 and it had overstated its revenue by Rs.25 Crore in FY 2020-21.

29.2.2. **Contention:** In this regard, the Noticee No.1 submitted that the SCN incorrectly contends that the agreement to sell does not fulfil the criteria of revenue recognition as it is apparent from the above that even an agreement of sale will have the effect of transferring the property despite legal title not

being transferred or even possession not being taken. In the present case, there is nothing to demonstrate that the agreement to sell did not transfer the title or possession was not taken on that basis.

29.2.3. Findings: In this regard, it is noted that upon perusal of the agreement to sell between Omaxe Ltd. and Pullback Apparels Pvt. Ltd., dated January 11, 2021, that the total value of the land sold by Omaxe was Rs.25 Crore. As the said transaction was based on an agreement to sell and prior to registration of sale deed, the Noticee No.1 failed to follow the principle of prudence in terms of Indian Accounting Standard. Further, it is also a fact that Pullback Apparels Pvt. Ltd. had shown this transaction as "Advance given for land" and not as "purchase of land" in its books of accounts in FY 2020-21. Therefore, I do not agree with the aforesaid submission of the Noticee No.1 and find that it had overstated its revenue by Rs.25 Crore in FY 2020-21.

29.3. Sale transactions between JRS Projects Pvt. Ltd. and Bamdev Builders & Developers Pvt. Ltd.

29.3.1. SCN: As regards to the aforesaid allegation, I note that JRS Projects Pvt. Ltd. (JRS Projects), a related party of Omaxe, entered into a sale transaction of Rs.3.88 crore with Bamdev Builders & Developers Pvt. Ltd (Bamdev). In this regard, it was observed that Omaxe without being a confirming party to the sale deed and not having the land parcel in its inventory, recorded the said sale in its books of accounts. Further, Omaxe, vide letter dated November 25, 2022, inter alia submitted that it pulled back a portion of land from JRS Projects for development of a real estate project. However, in this regard, investigation observed that Omaxe failed to provide any documents in support of its claim that the said land was part of its inventories. Thus, it was alleged that the company overstated its revenue to the extent of Rs.3.88 crore in FY 2019-20.

29.3.2. **Contention:** In this regard, Noticee No.1 submitted that Omaxe was always in control of JRS Project and in turn of the land in question, therefore the land formed a part of the consolidated assets of Omaxe and was appeared in the inventory of Omaxe since the date of its possession. Further, JRS was part of the related parties of Omaxe since inception and was duly reported as related party in all Financial Statements. Therefore, there is no overstatement in the financial statements. Copies of the relevant documents in this regard have been submitted on the same.

29.3.3. **Findings:** In this regard, it is observed that JRS Project came under the control of Omaxe Ltd., by entering into an MOU with Omaxe Construction Ltd., on September 01, 2004. Nonetheless, it is observed to a related party of Omaxe Ltd., Therefore, the sale of JRS Project should have been reflected in the consolidated financials of Omaxe Ltd., and not in its own financials. Therefore, I do not find merit in the Noticee's submission that from the time JRS was part of the related parties of Omaxe, it was duly reported as related party in all Financial Statements and there is no overstatement in the financial statements. Thus, I find that, company has overstated its revenue to the extent of Rs.3.88 crore in FY 2019-20.

29.4. Project Management Consultancy (PMC):

29.4.1. SCN:

29.4.1.1. Shanvi Estate Management Services Pvt. Ltd. (Shanvi Estate):

Omaxe entered into two agreements with Shanvi Estate for the FYs 2019-20 and 2020-21 for providing PMC services to Shanvi Estate and booked revenue of 6.51 crores and 6.39 crores respectively in its books of accounts. Further, though Omaxe booked revenue of 13.86 crore for the PMC services in FY 2108-19, it did not provided agreement

pertaining to FY 2018-19. However, according to agreement for FY 2020-21, Omaxe was to receive PMC services from Shanvi Estate, i.e., Omaxe is the service receiver. On the contrary, in the books of Omaxe, Rs.6.39 crore was booked as revenue from Shanvi Estate on account of PMC service provided by Omaxe. Further, Uttam Kumar, a director of Shanvi Estate, was authorized by a Board resolution to execute the PMC agreement for FY 2019-20 on behalf of Shanvi Estate and was also on the payroll of Omaxe. Further, the authorized signatory of the bank account of Shanvi Estate, namely Saurav Kumar and Santosh Panda, were employees of Omaxe. Hence, it was alleged that Shanvi Estate was managed and controlled by Omaxe management and therefore was a related party of Omaxe and accordingly, it was alleged that the transactions were fictitious to overstate the revenue to the extent of Rs.13.86 crore in FY 2018-19, Rs.6.51 crore in FY 2019-20 and Rs.6.39 crore in FY 2020-21.

- 29.4.1.2. **Omaxe Heritage Pvt Ltd (Omaxe Heritage:** Omaxe (being service provider) also executed PMC agreement with Omaxe Heritage Pvt Ltd (Omaxe Heritage) on March 30, 2021, however, effective from April 01, 2020. The company booked revenue amounting Rs.4.05 crore towards PMC invoice raised to Omaxe Heritage during FY 2020-21. As per PMC agreement, Omaxe was to receive PMC services from Omaxe Heritage, and accordingly, Omaxe was required to pay the charges to Omaxe Heritage. On the contrary, in the books of Omaxe, an amount of Rs.4.05 Crore was booked as revenue from Omaxe Heritage. Hence, based on contrary agreement and inconsistency/contradiction in the transactions, it was alleged that the revenue recorded by the company was not genuine and the same was fictitious to overstate the company's revenue by Rs.4.05 crore in FY 2020-21.

29.4.2. **Contention:** In this regard, the Noticee No.1 submitted that Shanvi Estate is a company providing facility management services to various projects of Omaxe in various states and there is an agreement between Shanvi Estate and Omaxe for providing supervisory project management services for better facility management services to various owners of the residential/commercial properties developed by Omaxe. With regard to the agreement for FY 2020-21, there was a typing error where it was mentioned that Omaxe was service receiver and the same was corrected by entering in to addendum agreement dated December 18, 2022. Other than that it is submitted that all revenue recognized in FY 2018-19 (Rs.13.86 cr), 2019-20 (Rs.6.51 cr) and 2020-21 (Rs.6.39 cr) were correctly booked in the books of accounts of Omaxe and there is no overstatement of the revenue in Omaxe.

In this regard, I note that the Noticee submitted that with regard to the agreement for FY 2020-21, it was a typing error where it was mentioned that Omaxe was a service receiver and the same was corrected later vide addendum dated 18.12.2022. Further it also stated that the transaction amount was meagre percentage of overall revenue of Omaxe in the relevant financial year and is not significant to cause any adverse observation.

29.4.3. **Findings:** From the submission of the Noticee No.1, I note that the referred addendum with respect to the agreement for FY 2020-21, was issued on December 18, 2022 which was subsequent to the forensic audit conducted by SEBI and accordingly, this appears to be an afterthought on the part of the Noticee No.1. Further, with regards to the claim of the Noticee No.1, it has not submitted any supporting documents to establish that the alleged revenues were booked correctly.

Accordingly, upon examination of the facts and contradicting documents

available above, I find no merit in the submission of the Noticee No.1 and hold that the transactions between Omaxe and Shanvi and Omaxe Heritage were fictitious and it overstate the revenue to the extent of Rs.13.86 crore in FY 2018-19, Rs.6.51 crore in FY 2019-20 and Rs.6.39 crore in FY 2020-21 with Shanvi and Rs.4.05 crore in FY 2020-21 with Omaxe Heritage.

29.5. Consultancy services related to medical activities

29.5.1. SCN: Omaxe booked revenue of Rs.6 crores and Rs.3.6 crore towards Genes 2ME Pvt. Ltd. and Imperial Life Science Pvt. Ltd. respectively for providing consultancy services related to medical activities in FY 2020-21. These companies are engaged in the business of bio sciences and related business dealing in regents, medical equipment and other related product for Research and Development (R&D) by various agencies, mostly government. Further, it was observed that Omaxe agreed to offer its services of consultancy to these two companies upon being approached by them. However, Omaxe, vide letter dated November 25, 2022, inter alia submitted that it had entered into agreement with these 2 companies for market advisory only. In this connection, as Omaxe had failed to provide a list of employees who worked on those consulting services, consultancy reports prepared by the company, and letter or email correspondence with these two companies, as sought vide summon dated November 17, 2022, it was alleged that the total revenue of Rs.9.60 crore recorded by Omaxe for providing consultancy services related to medical activities to Genes 2ME Pvt. Ltd. (Rs.6 crore) and Imperial Life Science Pvt. Ltd. (Rs 3.6 crore) was not genuine and the same is fictitious to inflate the revenue for FY 2020-21.

29.5.2. Contention: In this regard, I note that the Noticee No.1 submitted that Omaxe provides consultancy and marketing services related to medical activities as

permitted under Clause 14 read with clause 18 of Memorandum of Association of Omaxe which permits it to work as a consultant in collaboration with other companies. During Covid-19, on the request of Govt. of India, Omaxe, entered into agreement with M/s Genes 2 ME Private Limited and also with M/s Imperial Life Science Private Limited with respect to marketing advisory for distribution of Covid Kits and other assistance to the various medical organization. Accordingly, for these services provided to Genes 2 ME and Imperial Life Science, invoices were raised and Rs.9.60 crore was recorded as revenue by Omaxe for providing consultancy and liaison of the product related to medical activities to Genes 2 ME (Rs.6.00 crore) and Imperial Life Science (Rs.3.60 crore) in the books of accounts of Omaxe during the FY 2020-21. Therefore, it is submitted by the Noticees that the Show Cause Notice proceeds on an incorrect basis that there were consultancy reports provided by Omaxe.

29.5.3. Findings: In view of the above, as the documents sought by SEBI, vide summon dated November 17, 2022, such as list of employees who worked on those consulting services, consultancy reports prepared by the company, and letter or email correspondence with these two companies, are not provided by the Noticee No.1 till date, I don't find any merit in the above submission of the said Noticee No.1. Accordingly, I find that the total revenue of Rs.9.60 crore recorded by Omaxe for providing consultancy services related to medical activities to Genes 2ME Pvt. Ltd. (Rs.6 crore) and Imperial Life Science Pvt. Ltd. (Rs 3.6 crore) was not genuine and the same is fictitious to inflate the revenue for FY 2020-21.

29.6. Overstatement of Sale of Flats vis-à-vis Customer Advance Outstanding

29.6.1. SCN:

29.6.1.1. On examination of the company's year-wise and customer wise revenue booked vis-à-vis Advances lying outstanding as on March 31, 2021

(where revenue not booked /possession not offered), it was observed that there were instances wherein revenue was already booked i.e. possession was already provided, however, customer advances were found to be outstanding for the same customer/ project.

29.6.1.2. Summarised details of such transactions are as below:

Table no. 6 (Rs. in crore)

FY	Sales of flats	Advances Outstanding
2018-019	25.55	101.48
2019-20	59.53	80.28
2020-21	49.89	50.46
Total	135	232.22

29.6.1.3. In this regard, Omaxe vide letter dated November 25, 2022 inter alia submitted that the auditor asked to provide gross amount received from the customers and accordingly, the same was furnished including the advances for which revenue was booked. Upon booking of revenue, advances are adjusted. The outstanding amount on the date of any balance sheet, is the net advances amount after adjusting advances for which revenue was booked. The company further inter alia stated that there is no mistake from their end and the advance received was adjusted when revenue was booked

29.6.1.4. In this connection, the auditor vide various e-mails dated September 05, 09 and 12, 2022 sought clarification from the company regarding the instances of overstatement of revenue as well as the updated customer wise details of customer advances of Rs.2586 crore (net advances) as on March 2021. As the company did not provide the list of such advances, Summons dated September 16, 2022 and October 21, 2022 were issued specifically seeking detailed breakup of the advances of Rs.2,586 crores (net advances). However, Omaxe failed to furnish the

details of net advances of Rs.2586 crores. Hence, the company's submissions that it was asked for providing details of the gross advances, is not correct. Thus, it was alleged that Omaxe had not adjusted the advance received from the customers against the sales which was booked by the company, resulting in overstatement of total sales amounting to Rs.135 crores i.e. Rs.25.55 crore, Rs.59.53 crore and Rs.49.89 crore for FY 2018-19, 2019-20 and 2020-21 respectively.

29.6.2. Contention: In this regard, the Noticee submitted that it has verified the instances mentioned for overstatement of revenue for each customer included in Rs.135 crores and these customers were not included in advance outstanding of Rs.2586 crore as on March 31, 2021. The Noticee further submitted that this makes clear that the advances against the sales booked has already been adjusted in the books of Omaxe and there was no duplication. Therefore, there was no overstatement of total sales amounting to Rs.135 crores i.e. 25.55 crore, Rs.59.53 crore and Rs.49.89 crore for FY 2018-19, 2019-20 and 2020-21 respectively.

29.6.3. Findings: In this regard, I note that the Noticee had submitted print outs of excel working of customer wise outstanding balance of Rs.2586 crore and excel sheet of customer wise revenue booked for Rs.135 crores as annexures in support of its submission that the advances against the sales booked had already been adjusted in the books of Omaxe. However, upon perusal of the same, it was observed that the said documents were insufficient to depict the said claims of the Noticee No.1 and further, the Noticee No.1 also did not submit additional documents to SEBI in support of the same. Therefore, the submissions of the Noticee No.1 in this regard are not acceptable and as observed from its books of accounts, I find that Omaxe had not adjusted the advance received from the customers against the sales booked by it which resulted in overstatement of total sales in the FYs FY 2018-19, 2019-20 and

2020-21.

29.7. Overstatement of sale of Property, Plant and Equipment (PPE) land.

29.7.1. **SCN:** In this regard, I note that investigation observed that when Omaxe having only the development rights on these PPE land and the ownership rights were vested with Land Owning Companies, it booked sale of Rs.2.83 crore, Rs.3.82 crore and Rs.5.83 crore in FYs 2018-19, 2019-20 and 2020-21 by selling Property, Plant and Equipment (PPE) land by executing MoUs. Further It was also observed that as per the terms of transactions in MoUs provided for sale of PPEs in FY 2018-19 and FY 2019-20, the sale of land was executed for 'sale of land and rights' without executing registered sales deed. However, these transactions were not sale of 'Developing Rights' as claimed by company. Further, all sales of PPE land in FY21 were booked on the basis of executed sales deed wherein sellers were various LOCs, which are related parties of Omaxe. Hence, it was alleged that the profit income reported by Omaxe in respect of PPE land in its books of accounts were overstated to the extent of Rs.2.83 crore, Rs.3.82 crore and Rs.5.83 crores for FY 2018-19, FY 2019-20 and FY 2020-21, respectively

29.7.2. **Contention:** In this regard, the Noticee submitted that as a real estate industry practice and compliance in terms of Indian GAAP, whenever land is acquired by developer company from LOC's by executing MOU's it is shown either under inventory or PPE (Fixed Assets) depending upon the business requirements/ use of the assets, even though the title deeds of such land are in the name of LOC's. After the amendment in Schedule III of the Companies Act, 2013 and changes in CARO 2020, such PPE's where title deeds are not in favour of reporting entity, the same are being reported by Omaxe from FY 2021-22 onwards as applicable.

29.7.3. Findings: In view of the above, it is observed that admittedly, Omaxe only had the developmental rights of the plots of land while the ownership rights vested with the Land owning companies who were related parties of Omaxe. Therefore, Omaxe neither had the right to sell the land nor the profit income from sale of PPE Land should have been accounted by Omaxe in its own books of accounts and instead should have been reflected in the consolidated books of accounts. Further, registered sale deeds were not executed for the sale of any of these alleged transactions and Omaxe was not a party to the agreement in the sale deed as beneficial owner of developing rights. As a result, without ownership rights or sale deeds, no rights, title or interest could have been transferred by Omaxe. Thus, in this regard, I do not find any merit in the Noticee No.1's submission in this regard and find that the Noticee No.1 has overstated profit income to the extent of Rs.2.83 crore, Rs.3.82 crore and Rs.5.83 crores for FY 2018-19, FY 2019-20 and FY 2020-21, respectively.

29.8. Overstatement of Rent expenses

29.8.1. SCN:

29.8.1.1. Omaxe paid the rent expenses to 3 entities as mentioned below;

Table No.7

Name of the owner/landlord	Address of Property	2018-19	2019-20	2020-21
B.D. Aggarwal Security Pvt. Ltd. (Related Party)	11, Local Shopping Complex, Kalkaji, New Delhi 110019	0.24	0.24	0.24
Buildwell Builders Pvt. Ltd. (Related Party)	12, Local Shopping Complex, Kalkaji, New Delhi 110019	0.18	0.18	0.18
Hansa Properties Pvt. Ltd. (Related Party)	7, Local Shopping Complex, Kalkaji, New Delhi 110019	0.18	0.18	0.18
Total		0.60	0.60	0.60

29.8.1.2. Upon examination of the lease agreements with the above mentioned entities, it was observed that they were all related parties of Omaxe between as declared by Omaxe, all the agreements were effective from April 01, 2015 to February 29, 2016. Further, it was observed that all

three agreements were made on the same day, July 26, 2014 and signed by the same person on behalf of the lessor.

29.8.1.3. Further, the renewal was also done by Omaxe and the stamp paper of all the lease agreements were bearing the same certificate no. "IN-DL85268728563177M". Thus, the above discrepancies indicated that the agreements were invalid and without proper documentation. It was alleged that by doing this Omaxe was showing overstatements of Rs.1.8 crore during FY 2018-19 to FY 2020-21.

29.8.2. **Contention:** In this regard, the Noticee No.1 submitted that all the companies to whom Omaxe paid rent were of its group companies and Omaxe has taken space on rent from these companies and executed legal documents post all legal compliances like Related Party approvals from Audit Committee etc., The extension agreements were executed on the letter head of property owners. Omaxe has complied with all GST and TDS requirements. Further these companies have booked the rental income in their books of accounts and reported accordingly. The Noticee No.1 also submits that these rent agreement with extension letters were valid legal document and rent paid over a period of time to the landlord were genuine expenses and there was no overstatement of expenses totaling amount to Rs.1.80 Crore during FY 2018-19 to FY 2020-21. However, Noticee No.1 also submitted that by mistake stamp paper of one document was scanned with each rent agreement and the rent agreement were executed without stamp paper. Further, as per Indian Contract Act any agreement executed (not on stamp paper) does not make it invalid.

29.8.3. **Findings:** In this regard, I note that out of the aforementioned rent arrangements with three land owners, only with Buildwell Builders Pvt. Ltd., Omaxe has submitted a rent agreement with e stamp of Rs.100/- paid for the same. However, no such e-stamps was found along with the rent agreements

with other two land owners viz. B D Aggarwal Security Pvt. Ltd. and Hansa Properties Pvt. Ltd. Further, it was also noted that extension of all the three aforesaid agreements were done only on the letter head and without any stamp duty paid for the same. In this regard, I note that in the state of Uttar Pradesh, for leasing out the property on rent less than 11 months, 4% of the annual rent is required to be paid as stamp duty and for rent agreements of more than 11 months, 8% of the annual rent is required to be paid as stamp duty. Accordingly, I cannot accept the said documents to be valid legal agreement, therefore, I do not accept the reply of the Noticee No.1 in this regard and find that the rent expenses are non-genuine and overstated for the FYs 2018-19 to 2020-21.

29.9. Overstatement of Interest Expenses

29.9.1. **SCN:** Omaxe took advance from 3 entities, i.e. Dynamic Realinfra Pvt. Ltd., Devyog Solutions, Pvt. Ltd. and Ravindra Pratap Shahi and showed interest expense incurred to be Rs.13.38 crore, Rs.4.34 crores and Rs.10.49 crore, respectively for three FYs viz. 2018-19 to 2020-21. Upon verification of the relevant agreements with each of these entities and their books of accounts given by Omaxe, it was observed that Omaxe had repaid the interest amount of only Rs.0.13 crore to Dynamic Realinfra Pvt. Ltd. and Rs.0.19 crore to Devyog Solutions, Pvt. Ltd. Therefore, it was alleged that there was an overstatement of Rs.13.38 (Rs.13.51- 0.13) crores towards Dynamic Realinfra Pvt. Ltd., Rs.4.34 (Rs.4.53-0.19) Crore towards Devyog Solutions, Pvt. Ltd. and Rs.10.49 Crores towards Ravindra Pratap Shahi, during the FYs 2018-19 to 2020-21.

29.9.2. **Contention:** The Noticee contended that the interest paid to Dynamic Realinfra Private Limited, Devyog Solutions Private Limited and Ravindra Pratap Shahi on the amount received against booking of real estate projects as per the respective agreements and there is no extra amount paid as interest

as alleged. It is further submitted that calculation done in SCN is based on sample MOU's/Agreement and lacks completeness, the amount of interest charged and accounted in Financial Statements is absolutely correct, based on MOUs/ Agreement entered. Thereafter, that the interest rate was 24% per month on the advance amount received from the entities, but then proceeds to calculate the interest component at the rate of 24% per annum. Therefore, the statements in the SCN are contrary, and in the absence of the specific clauses which are being referred to, along with copies of the agreements being referred to, Omaxe is unable to effectively understand and respond to the allegation. The Noticee confirms that all such payments were made as per the contractual obligations and there was no over payment to any entities.

29.9.3. Findings: With regard to the allegation of overstatement of interest expenses, Omaxe submitted that the calculation done in SCN is based on sample MOU's/Agreement and lacks completeness. In this regard, I note that the said submission of Omaxe is an admission to not providing all the relevant documents to SEBI, till date, which were sought during investigation and SEBI has made the charges only on the basis of the documents provided by Omaxe. Since no additional documents have been provided by Omaxe with regard to this allegation, it is safe to presume that Omaxe only had a liability Rs.0.13 crore towards Dynamic Realinfra Pvt. Ltd. and Rs.0.19 crore towards Devyog Solutions, Pvt. Ltd, which have been paid by it and the remaining amounts of Rs. 13.38 (Rs.13.51- 0.13) crores and Rs.4.34 (Rs.4.53-0.19) Crore shown an interest towards Dynamic Realinfra Pvt. Ltd. and Devyog Solutions Pvt. Ltd., respectively, are clear overstatement of its interest expenses towards those companies. Similarly, as regards Rs.10.49 crore to be paid towards Ravindra Pratap Shahi, it can be assumed that there was no such interest to be paid by Omaxe but has still showed it in its books of accounts. As, regards the Noticee's statement that the interest rate was calculated at 24% per annum, I note that the same has no impact violation of Omaxe established above. Thus,

I do not find any merit in the submissions of the Noticee in this regard and find that Omaxe has overstated its interest expenses towards three companies in the FYs 2018-19 to 2020-21.

29.10.Overstatement of Debtors/ Trade Receivables

29.10.1. SCN:

29.10.1.1. **Non-Moving Debtors:** It was observed that Omaxe showed outstanding balances of 8 Debtors as well as 8 Trade Receivables as non-moving for more than 3 years in its books of accounts. Majority of which were pertaining to sale of real estate and interest receivable. The details are as under;

Table No.8

Customer Name	Nature	2018-19	2019-20	2020-21	Submission of the company
Fantastic Buildcon (P) Ltd	Interest Receivable		10.39	11.17	The company has stated that Expected Credit Losses ("ECL") was not created in respect of Fantastic Buildcon Pvt. Ltd., as the matter is sub-judice and creating ECL when the matter is sub-judice will weaken the case before NCLT.
	Real Estate	5.01	5.01	9.71	
Kalp Buildtech Pvt Ltd	Sundry Debtors Others	19.01	19.01	19.01	Amount is recoverable from group company and will be recovered after sale of land by such group company. A copy of the MoU for purchase return was provided by the company.
Rishita Developers Pvt Ltd	Real Estate	6.78	6.78	6.78	Rs. 3.26 crore is received in Financial Year 2021-22 and balance of Rs. 3.52 crore is accounted as discount in Financial Year 2021-22. Amount recoverable was good for recovery and there was no significant credit risk, hence no ECL was made.
AIIMS – Rishikesh	Construction	3.03	3.03	3.03	Amount recoverable against construction work and Company has filed court case for recovery and hence no ECL was created.
	Retention Money	0.15	0.15	0.15	
PGF Ltd.	Real Estate	1.61	1.61	1.61	Amount is recoverable against sale of property; Court Case is pending
VRG Landcon Pvt. Ltd.	Sundry Debtors Others	0.65	0.65	0.65	Amount recoverable from VRG Landcon Private Limited is against sale of land and is good for recovery and there is no significant credit risk

Customer Name	Nature	2018-19	2019-20	2020-21	Submission of the company
					necessitating creation of ECL as per Ind AS 109, hence no ECL was created.
BnB Retail India Pvt. Ltd.	Interest Receivable	-	-	0.37	As stated by Omaxe, it will get Rs. 0.37 Lakhs against interest and Rs. 0.22 Lakhs against property dues and would be recovered at the time of registration of sale deed, as the registration of sale deed is pending.
	Real Estate	-	-	0.22	
Bamdev Builders and Developers Pvt. Ltd.	Sundry Debtors Others	-	1.28	1.28	The company submitted that the amount of Rs. 1.28 crore recoverable from Bamdev is good for recovery and there is no significant credit risk necessitating creation of ECL as per Ind AS 109, hence no ECL was created.
Total		36.23	47.90	53.97	

29.10.1.2. **Debtor-Interest Receivable from customers:** It was observed that there was an outstanding interest receivable from the company's real estate customers. These outstanding interest were more than the principal amount of the Debtors/Receivable. The details are as under;

Table No.9

(Rs. in crore)

FY	Debtors/Receivables (Principal amount)	Outstanding interest	Interest over the Principal amount of Debtors
2018-19	44.64	68.30	23.66
2019-20	35.69	73.08	37.40
2020-21	28.56	61.93	33.37

Further, from the above tables, it was observed that the company did not create any Expected Credit Loss ("ECL") for the abovementioned non-moving Debtors/Receivable, which should have been provided at each reporting date commencing from the financial year when the payment became overdue in respect of trade receivables outstanding as per the applicable provision of IND AS 109.

Omaxe claimed that in all cases, sale deed in favour of customer was

done upon receipts of full dues as per final settlement and there was no significant credit risk in recovery of the amount, and therefore no ECL was required to be created as per clause 5.5.3 and 5.5.4 of Ind AS 109. Since, Omaxe had not made ECL for FY 2018-19, 2019-20 and 2020-21, it was alleged that it resulted in overstatement of debtors.

29.10.2. Contention:

29.10.2.1. Non-Moving Debtors: The Noticee No.1 submitted various reasons in support of the argument that there is no increase in significant risk towards realization. The Noticee further submitted that in many of the instances, the debts have now been realized by Omaxe. Therefore, for the instances mentioned in the SCN, as per view of the management and the auditors, there was no increase in significant risk after the initial recognition of the assets. Since they were in accordance with the INDAS, no provision for ECL was made by Omaxe at the end of each reporting period i.e., 2018-19, 2019-20 and 2020-21. Therefore, there has been no overstatement of debtors due to non-creation of ECL in any of the financial years. The fact that some of the debts have already been recovered by Omaxe, creation of ECL was not required. Further, in cases where Omaxe has filed cases against the debtors, and there is a high likelihood of success, as per the advisors, ECL was not created, in accordance with the applicable guidelines.

29.10.2.2. Debtor-Interest Receivable from customers: Debtors are recognized for those customers for whom revenue has already been booked as per INDAS 115. While interest receivable from customer is calculated and recognized on delayed payment i.e. wherever payment is not done by the customer as per schedule payment plan given at the time of booking form/ builder buyer agreement, this interest receivable is realised when actual possession is handed to the customer upon

settlement of dues towards Omaxe, therefore there is high probability of realisation of interest from customers and management does not foresee any change in significant risk towards non-realisation of the interest receivable. Since in all cases sale deed/ possession in favour of customer is executed upon receipt of full dues as per final settlement, there is no significant credit risk in recovery of the amount, hence no ECL is required to be created as per clause 5.5.3 and 5.5.4 of INDAS 109. Hence there is no overstatement of interest receivable from customers due to non-creation of ECL in any of the financial years. Therefore, the allegation in the Show Cause Notice in this regard is misplaced and is not sustainable.

29.10.3. Findings: As regards, the Debtor-Interest Receivable from customers, I note that the Noticee No.1 has submitted that it has not foreseen any credit risk in recovery of the interest receivable, as in all cases sale deed/ possession in favour of customer is executed upon receipt of full dues and interest receivable is realised when actual possession is handed to the customer upon settlement of dues towards. However, I note that an entity is always required to measure the loss allowance at an amount equal to lifetime expected credit losses for trade receivables that result from transactions that are within the scope of INDAS 115, Revenue from Contracts with customers. Further, the loss allowance for lifetime expected credit losses on Trade receivables is required to be provided for as same is measured at amortized cost. Therefore, the Noticee No.1's submission that there was no significant increase in credit risk/ risk of default in comparison with the risk of a default occurring on the trade receivables does not hold any merit. In view of the above, I do not find any merit in the arguments of the Noticee No.1 in this regard and conclude that it has overstated the said amount for the FYs 2018-19, 2019-20 and 2020-21.

29.11. Advances recoverable

29.11.1. SCN:

29.11.1.1. **Non-moving advances outstanding:** An amount of Rs.35.50 crore pertaining to legacy advance balances migration in November 2013 with respect to the following 5 entities was observed;

Table No. 10

(Rs. in crore)

Party Name	Nature	2018-19	2019-20	2020-21
City Wing Traders Pvt. Ltd. (New Name: Energetic Vin Trade Pvt. Ltd.)	Goods /services	10.00	10.00	10.00
Max Buildcon Pvt Ltd	/others	10.00	10.00	10.00
Surya Buildhome Pvt. Ltd		10.00	10.00	10.00
U Tech Developers Ltd		5.00	5.00	5.00
RSP Architect Planners and Engineers (I) Pvt. Ltd		0.50	0.50	0.50
Total		35.50	35.50	35.50

Example - Advances of Rs.10 crores was given to City Wing, which had total liabilities of Rs.0.18 crore only and the total current assets of Rs.3.78 crore as per its AFS filed in FY 2020-21. Hence, there was complete mismatch in total liabilities reported by City Wing and also considering its current assets, City Wing does not have adequate assets to repay the advances to Omaxe.

29.11.1.2. **Entities struck off from ROC records:** Omaxe showed total recoverable of Rs.0.14 crore from the following entities, who were struck off as per ROC records **and** written off in the company's financial statements for the year ended March 31, 2022;

Table No. 11

(Rs. in crore)

Vendor Name	Observations	2018-19	2019-20	2020-21
Barbarian Power Gym Pvt. Ltd.	Last filing 2016, Strike off. No Link with Omaxe	0.11	0.11	0.11
Brij Infra Properties Pvt. Ltd.	Last filing 2016, Strike off. No Link with Omaxe	0.03	0.03	0.03
Total		0.14	0.14	0.14

29.11.1.3. Advance recoverable from PGF Ltd.: Details of advances recoverable from PGF Ltd. were observed as under:

Table No. 12

(Rs. in crore)

Vendor Name	2018-19	2019-20	2020-21	Last Filing Date	Observations	Submission made by the company
PGF Ltd	1.38	2.86	2.86	Last filing 2018; Active	Financial Statements was filed by the party up to FY 2017-18.	The amount paid to PGF Ltd (Collaboration) was paid for land acquisition and would be adjusted against land acquisition
Total	1.38	2.86	2.86			

With regard to the above illustrations of advances given to the entities, it was observed that the Noticee had failed to make provision in respect of such non-moving balances for three years i.e. FY 2018-19 to 2020-21. Further, in this regard, the Noticee No.1 failed to provide relevant documents to support the non-creation of provisioning, therefore it was alleged that there are instances of overstatement of advance recoverable in the financial statements of Omaxe.

29.11.2. Contention:

29.11.2.1. Non-moving advances outstanding- The Noticee No.1 submitted that with respect to the companies mentioned in the relevant table, except RSP Architect, advances were given for acquiring land in earlier years. Sometimes the gestation period is delayed due to inherent difficulty in acquiring the land on account of various local factors. The management of Omaxe does not foresee any significant increase of non-recovery or acquiring the land. Whereas, in case of RSP Architect, an amount of Rs.0.50 crore was given for the project, which is on hold as of now and will be settled once the project will be started or to be adjusted with other projects work. Therefore, there is no risk and no requirement of creation of ECL in this regard. Omaxe reviews the same on an annual basis, and

shall create the requisite ECL, as and when required.

29.11.2.2. **Entities struck off from ROC records:** In this regard, the Noticee No.1 submitted that Omaxe has already written off the said amount and therefore the same does not reflect in the books of Omaxe. It is also submitted that such a minute amount of Rs.14 lakhs cannot impact the financials of Omaxe. Further, there was no violation or lapse with respect to the declaration of the amounts in the books of Omaxe.

29.11.2.3. **Advance recoverable from PGF Ltd.:** In this regard, the Noticee No.1 submitted that owing to its collaboration with OGF Ltd., the amount is recoverable as per the collaboration agreement. Therefore, the company found no need to create ECL and that since unsold inventory is available in this project and the final settlement with the collaborator will be done when Omaxe sells the unsold stock of the project. Hence, there is no need to create ECL against this amount as per INDAS 109.

29.11.3. Findings:

29.11.3.1. As regards, NoticeeNo.1's submission on the non-moving advances outstanding for three FYs 2018-19, 2019-20 and 2020-21, that the delay is due to difficulty in acquiring the land for which advance was given in the first place but it does not foresee any difficulty in recovering the same, it is noted that irrespective of the Noticee No.1's ability to recover the advance in the future, it was required to show the same in the form of ECL in its financial statements. Further, the extract of its Annual report for FY 2020-21 submitted does not pertain to the above mentioned companies. Therefore, I do not find any merit in the submission of the Noticee No.1 in this regard.

29.11.3.2. Next, as regards the two entities who were struck off as per ROC records

and written off in the company's financial statements for the year ended March 31, 2022, it is observed that ECL should have been created for FYS 2018-19, 2019-20 and 2020-21, however, the Noticee No.1 admittedly wrote off the said loans only in FY 2021-22. Therefore, I find that the Noticee No.1 has created overstatement of its financials for the said years in this regard.

29.11.3.3. Lastly, as regards the advance to be recovered from PGF Ltd., Omaxe stated that owing to its collaboration with PGF Ltd., the amount is recoverable as per the collaboration agreement, because of which it did not create ECL. In this regard, I note that even if the collaboration is to happen in the future, that does not take away the loss experienced by the company during the previous years. Further, I also note that the Noticee No.1 has not provided any documents to show when the collaboration was decided and prior to that how long ECL was not done. Therefore, it is noted that ECL should have been created for three FYS 2018-19, 2019-20 and 2020-21 and I do not find merit in the claims of the Noticee No.1 in this regard.

29.11.3.4. Thus, in this regard, it is observed that as per IND AS 109, a General Approach is followed for the recognition of ECL. The entity shall apply the impairment requirements for the measurement of a loss allowance for financial assets that are measured at fair value through other comprehensive income. However, the loss allowance shall be recognized in other comprehensive income and shall not reduce the carrying amount of the financial asset in the balance sheet. Thus, the Omaxe was required to create expected credit loss in order to avoid overstatement of its financials, however, I find that Omaxe has failed to do the same.

29.12.Impairment of Goodwill

29.12.1. SCN:

29.12.1.1. It is observed that Omaxe had invested in its WOS i.e. Navratan Techbuild Pvt. Ltd. ("Navratan") which had further investment in SN Realtors Pvt. Ltd. (SN Realtors) and therefore, SN Realtors was a step down WOS of Omaxe. In this regard, it was observed that the net worth of SN Realtors turned into negative value in FYs 2019-20 and 2020-21 as follows:

Table No. 13

(Rs. in crore)

Particulars	2018-19	2019-20	2020-21
Share Capital	0.05	0.05	0.05
Other Equity	2.45	(3.68)	(6.19)
Net Worth	2.50	(3.63)	(6.14)

29.12.1.2. Since Navratan had created provision for diminishing value of investment made in SN Realtors for FY 2020-21, accordingly, Omaxe being a 100% owner of Navratan, had to impair Goodwill during the said year. However, Omaxe had not impaired its goodwill till then based on projects in the pipeline and future projections of SN Realtors, as it was certain that it would make substantial profit in coming years. Further, after March 31, 2020 due to the prevailing COVID situation, which impacted the real estate industry, some uncertainty was observed regarding the projections made by S N Realtors. Therefore, an investment of Rs.15 crores was impaired in the books of Navratan in FY 2020-21. Also, as per the financial statements of SN Realtors for FY 2019-20, which reported revenue of Rs.8.87 crores and a loss of Rs.6.13 crores, it is observed that its net worth had deteriorated and the recoverable amount of the company's investment reduced less than the carrying value. Thus, Omaxe failed to make impairment of goodwill in FY 2019-20 as required in terms of IND AS 36, and as a result, it was

alleged that the company overstated goodwill by Rs.15 crores for FY 2019-20.

29.12.2. Contention: It was submitted that the major portion of goodwill appearing in the consolidated financial statement represents real estate projects acquired in subsidiary/ step subsidiaries. Out of the goodwill consolidated as on March 31, 2020, i.e. Rs.72.98 Crore, the major amount pertains to goodwill on consolidation in respect of subsidiary i.e. Navratan which is Rs.32.47 Crore. Provision for diminution in value of investment held by Navratan in its subsidiary company was made for Rs.15 crores based on net worth and future cash flow of such subsidiary in standalone financial statement. While consolidation, provision for investment was reversed and goodwill on consolidation was charged. Therefore, there has been no overstating of goodwill for the FY 2019 - 2020, and the allegation in this regard is misplaced.

29.12.3. Findings: The Noticee No.1 has submitted that while consolidation, provision for investment was reversed and goodwill on consolidation was charged for the FY 2019 – 2020. In this regard, it is observed that whenever a company makes any investment in subsidiary/ associates and where the cost of investment is higher than the net assets acquired at the time of acquisition, the resulting difference is disclosed as goodwill on consolidation. Further, it is observed as per Para 83 of IND AS 36 that if the recoverable amount of the unit exceeds the carrying amount of the unit, the unit and the goodwill allocated to that unit shall be regarded as not impaired. If the carrying amount of the unit exceeds the recoverable amount of the unit, the entity shall recognise the impairment loss in accordance with paragraph 104 of IND AS 36. Thus, the Noticee No.1 has made a wrong claim, which is not supported by any relevant documents. Therefore, I do not find any merit in the submission of the Noticee No.1 in this regard.

29.13.Overstatement/ understatement of Loans

29.13.1. SCN:

29.13.1.1. Transactions between Satvik Hitech Builders Pvt. Ltd. (Satvik) and

Omaxe: Omaxe invested Rs.140 crores in (Satvik), comprising of 14 crore equity shares of Rs.10 each in FY 2007-08. It was observed from the financial statements of Satvik for FY 2007-08, that out of the said investment of Rs.140 crores, Rs.139 crores was transferred back as Loans & Advances to Omaxe and its Related Parties wherein KMPs had significant control. Thereafter, from the share holding pattern of Satvik filed with ROC for FY 2014-15, it was observed that, the entire shareholding of Satvik was transferred by Omaxe to its WOS-Omaxe Forest Spa and Hills Developers Pvt. Ltd. (OFSHDPL) for consideration of Rs.140 crores. Further, it was also observed that the said amount of Rs.140 crores was first transferred by Omaxe to its group/related companies namely, JBPL, Omaxe Buildwell and Omaxe India Trade Centre, then to OFSHDPL. Subsequently the funds were transferred back to Omaxe by OFSHDPL as consideration for purchase of shares of Satvik. Considering the fact that Satvik's revenue from operation was NIL, it was also not having any other expenses/ transactions and the above questionable fund movements between Omaxe and its various subsidiaries, it was alleged that the loans of Rs.139 Crores shown in financials of Omaxe with respect to Satvik are overstated to the extent of Rs.139 crores in FY 2018-19, FY 2019-20 and FY 2020-21.

29.13.1.2. Loan from Indiabulls Venture Ltd.(IVL): Omaxe issued cheques to Indiabulls Venture Limited (IVL) for repayment of loans amounting to Rs.100 crores and accordingly recorded loan repayment transactions in the month of March 2019 i.e. FY 2018-19. However, it was observed that the said cheques were actually encashed only in the month of April

2019 i.e. FY 2019-20. The same was confirmed vide Omaxe's letter dated November 25, 2022.

In this regard, it was observed that Omaxe utilised the loans received from Indiabulls Commercial Credit Limited (ICCL) to make repayment of loans to IVL. Further, loan was disbursed by ICCL in the month of April 2019 only and there was no balance in the bank account (from which the cheque was issued by Omaxe to IVL) in the month of March 2019 to pay the loan of IVL. Hence, it was alleged that there was understatement of loans amounting to Rs.100 crores towards IVL in the company's books of account for FY 2018-19.

29.13.2. Contention:

29.13.2.1. Transactions between Satvik Hitech Builders Pvt. Ltd. (Satvik) and

Omaxe: In this regard, it was submitted that Satvik was a WOS of Omaxe and was held by Omaxe since 2007, which used the surplus funds available as advance/ loan given to Omaxe on short term basis, which will be refunded back to Satvik for entering into a new project as and when required. Thus, there was no overstatement in the books of Omaxe, as these transactions are between Omaxe and its subsidiary and properly disclosed in the financial statements. Further, Omaxe has already repaid the loan amount to Satvik in the financial year 2022-23. Therefore, the allegation that Omaxe has overstated loan to the tune of Rs.139 crores in its books, is misplaced and unfounded.

29.13.2.2. Loan from Indiabulls Venture Ltd.(IVL): The Noticee No.1 submitted that by issuing the cheques to IVL in March 2019, the book balance of Axis Bank-206010200005081 got reduced by Rs.100 crores and book balance became credit balance as on March 31, 2019. This credit balance (*liability*) was shown under head other liabilities of Rs.105.87

crore in audited financials in Note 24: CURRENT OTHER FINANCIAL LIABILITIES. In this regard, the Noticee No.1 has submitted the (1) Ledger of Indiabulls Venture Ltd. in the books of Omaxe Ltd.; (2) Bank Book of Axis Bank 206010200005081 during the period 26-March-2019 to 31-March-2019; and (3) Breakup of Other liabilities of Rs.105.87 crore. Thus, by issuing cheques to IVL, the liability towards loan been reduced, however at the same time bank liability has been increased and included in other current liabilities. Therefore, there is no understatement of liability by Rs.100 crores in the books of Omaxe as on March 31, 2019. The allegation in this regard is therefore misplaced and ought to be set aside.

29.13.3. Findings: With regard to the loans given to Satvik, it is observed that despite receiving the money and the shares back in 2014-15, Omaxe showed the loan to Satvik in FYs FY 2018-19, FY 2019-20 and FY 2020-21 and has submitted that the said loan was repaid in 2022-23. However, the Noticee No.1 has not submitted any documents in support of the said claim. Therefore, I do not find any merit in the submission of the Noticee No.1 in this regard and find that it has overstated the loan of Rs.139 crores given to Satvik in its financials during FY 2018-19, FY 2019-20 and FY 2020-21. With regard to the loan from IVL, it is observed from the documents submitted by the Noticee No.1 that the credit balance (liability) of Rs.100 crores was shown under head other liabilities of Rs.105.87 crore in audited financials in Note 24: CURRENT OTHER FINANCIAL LIABILITIES. Therefore, there is no overstatement in this regard and I am inclined to give benefit of the doubt to Noticee No.1.

29.14.Disclosure related violations

29.14.1. SCN:

29.14.1.1. **Related Party Transactions (RPT):** During the investigation, it was observed that for FY 2018-19 Omaxe disclosed only those RPTs which were in excess of 10% of the total RPTs, due to which RPTs amounting to Rs.268 crores were not disclosed by Omaxe during the said year as required by provisions of IND AS 24, rather it was disclosed in comparatives of next FY 2019-20. This resulted in misrepresentation/ misstatement of the company's financial statements to the tune of Rs.268 crore for FY 2018-19, which was alleged to be in violation of Regulation 34 (3) of LODR Regulations.

29.14.1.2. **Omnibus approval for RPTs:** It was also observed that the Omnibus approval sheets of the related parties were not part of the minutes and were attached separately and maintained as part of the minutes of the Audit Committee. Further, there was no reference of annexures in the minutes of Audit Committee and the annexures were not signed by the Audit Committee members.

29.14.1.3. **RPTs without Omnibus approval and non-disclosure & Movements in Advance recoverable (Assets} & Advance outstanding (Liabilities):**

In FY 2018-19, the transactions with some of the Related Parties namely Arhan Builders Pvt. Ltd., Alpesh Builders Pvt. Ltd. and Source Developers Pvt. Ltd were not disclosed in the company's financial statements. Additionally, Loans & Advance to these parties were given without obtaining Omnibus approval from the Audit Committee. The details of the above transactions are given below:

Table no. 14

(Rs. in crore)

Name of Related Parties	Nature	As per Omnibus Approval Sheets	As per Bank Statements	
			Payments	Receipts

Source Developers Pvt. Ltd.	Purchases of Land, development & other rights	2.00	1.61	-
	Purchase of Building material	1.00	-	-
	Advance to be received	Limit not mentioned/omni bus approval has not been taken	4.85	4.85
Alpesh Builders Pvt. Ltd.	Purchase of Building material	1.00	-	-
	Advance to be given	Limit not mentioned	4.18	4.18
Arhan Builders Pvt. Ltd.	Purchase of Building material	1.00	0.00	-
	Advance to be given	Limit not mentioned	2.67	2.67

Further, it was observed that transactions with respect to movements in Advance recoverable (assets) and Advance/balance outstanding (Liabilities) were not disclosed under RPTs for FYs 2018-19, 2019-20 and 2020-21. The company disclosed only the net balances outstanding of the said items at the end of the respective financial year. Accordingly, it was alleged that the company violated the provisions of Regulation 23(3) of LODR Regulations.

29.14.1.4. **Disclosure with respect to Guarantees as per INDAS 24:** It was observed that the Corporate Guarantees given by subsidiaries on account of loan availed by Omaxe ('the Holding Company') was not captured/ disclosed in related party transactions of the Annual Financial Statements of Omaxe Limited. However, only the actual liability with regard to loan taken by the company was captured. Few of such instances are given below:

Table No. 15

(Rs. in crore)

Name of Subsidiaries	Corporate Guarantee Amount
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	2020-21	2019-20	2018-19	2017-18
Omaxe Heritage Private Limited (Formerly known as Ansh Builder Pvt Ltd)	80.67	NIL	Nil	Nil
Omaxe Housing and Developers Limited	8.84	8.84	8.84	23.84
Omaxe New Chandigarh Developers Private Limited	537.16	514.45	913.34	117.65
S N Realtors Private Limited	240.00	240.00	240.00	240.00
Omaxe Garv Buildtech Private Limited (Formerly known as Garv Buildtech Pvt. Ltd.)	301.83	260.80	NIL	NIL
Kashish Buildtech Private Limited	Given in contingent liabilities –400.00	200.00	200.00	-
Omaxe Buildwell Limited	4.85	NIL	NIL	3.50
Ashok Infrabuild Private Limited	Given in contingent liabilities –100.00	100.00	100.00	100.00
Omaxe Forest Spa and Hills Developers Ltd.	65.79	0.90	150.00	150.00
Tejpal Infra Developers Private Limited	Given in contingent liabilities – 100.00		100.00	100.00

29.14.1.5. Non-disclosure of Corporate Guarantee of Rs.226 crores in FY

2019-20: It was observed that Corporate Guarantee amounting Rs.226 crores given with respect to Related Parties (Garv – Rs.129.97 crore, Pancham – Rs.90 crores and Omaxe Housing and Developers Limited – Rs.6.50 crore) has not been disclosed in the FY 2019-20, rather it was disclosed in comparatives of next FY of 2020-21. Accordingly, it was alleged that the company has not shown these RPTs in the Annual Report in terms of Regulation 34(3) of the LODR Regulations.

29.14.1.6. Not treating and disclosing 20 companies as Related Parties: In the instant matter, it was observed from the payroll register of Omaxe

that full time employees of Omaxe are/were working as directors in the following 20 companies;

Table No. 16

Sl. No.	Name Of Companies	Sl. No.	Name Of Companies
1	Agrim Logistics Private Limited	11	Petals International Sourcing Private Limited
2	Avtar Infrabuild Private Limited	12	Reom Infrastructure And Construction Limited
3	Basant Infrabuild Private Limited	13	Shanvi Estate Management Services Private Limited
4	Chinar Promoters Private Limited	14	True Villas Developers Private Limited
5	Facility Plus Estate Management Private Limited	15	Vrg Landcon Private Limited
6	Facility Plus Management Private Limited	16	Zeenat Builders Private Limited
7	JBPL Builders Private Limited (JBPL)	17	Asg Infratech Private Limited
8	Jvm Realtech Private Limited	18	Jewel Projects Private Limited
9	Manex Hr Services Private Limited	19	Sunshine Buildtech Private Limited
10	Manor Kart Retail Private Limited	20	Taanya Buildcon Private Limited

Since the directors of these 20 companies were working under the direction and control of the management/KMPs of Omaxe and in terms of IND AS 24, they all qualify to be related parties, however, it was observed that Omaxe has not declared these companies as related parties as per IND AS 24. Therefore, it was alleged that the non-disclosure of such related parties resulted in violation of Regulation 34 (3) read with para (A) 1 of schedule V of the of LODR Regulations which inter alia states that the listed entity shall make disclosures in compliance with the accounting standard on related party transactions and LODR Regulations.

29.14.2. Contention:

29.14.2.1. Details of all RPTs: The Noticee No.1 submitted that it was an error due to understanding of the INDAS provision and there was no intentional nondisclosure regarding RPTs. Further, there was no intentional misrepresentation/ misstatement of Omaxe's financial statements for FY 2018-19.

29.14.2.2. Omnibus approval for RPTs: As regards to Omnibus approval of RPTs, the Noticee No.1 submitted that as per the practice earlier followed by Omaxe, the Omnibus Approvals were placed & approved by the Audit Committee & Board, in their respective meetings and the same has been recorded in the respective minutes. However, keeping in view of good corporate governance, henceforth Omaxe has started to authenticate the same with the signatures of Chairperson of Audit Committee. The Noticee No.1 submitted that there is no lapse or irregularity on the part of Omaxe in this regard, and the allegation in the Show Cause Notice is misplaced.

29.14.2.3. RPTs without Omnibus approval and non-disclosure & Movements in Advance recoverable (Assets} & Advance outstanding (Liabilities): In this regard, the Noticee No.1 submitted that these transactions took place by error, and the same were reversed on the same day itself, thereby nullifying the transaction on same day itself as the erstwhile Omaxe was following disclosures of RPTs of the parties having outstanding balances at the end of reporting date. However, henceforth Omaxe has adopted the process for disclosing the RPTs with all parties irrespective of transactions with full value in compliance with disclosures as per INDAS 24 and LODR Regulations.

29.14.2.4. Disclosure with respect to Guarantees as per INDAS 24: The Noticee

No.1 submitted that as regards the disclosures to be made by Omaxe in its financial statements for receiving of corporate guarantees given by subsidiaries, these have not been shown in the books of Omaxe, as these corporate guarantees are not contingent liabilities for Omaxe and therefore there is no requirement for Omaxe to show the same in its books. However, henceforth Omaxe has adopted the process to disclose the corporate liabilities given by subsidiaries as a RPT.

29.14.2.5. Non-disclosure Q/Corporate Guarantee of Rs.226 crores in FY 2019-2020: The Noticee No.1 submitted that the non-disclosure of Rs.226 crores happened during the FY 2019-20 due to oversight, not intentional and same was self-rectified in subsequent FY 2020-21.

29.14.2.6. Not treating and disclosing 20 companies as Related Parties: The Noticee No.1 submitted in reference to the allegations that 20 companies as mentioned in the table in the Show Cause Notice are "Related Parties" that merely by holding the directorship in any company by an employee, this does not construe that employee and companies in which employee are directors are related parties. Further, these 20 companies do not fall within the definition of Para 9b of INDAS 24 as these employees do not have any significant influence or hold any position as KMP in Omaxe. There are several companies owned by past employees which are not connected to Omaxe, all of them cannot be said to be RPT in accordance with IND AS 24.

29.14.3. **Findings:** With regard to the allegations mentioned at para 19.4 (i to v) above, I observe that Noticee No. 1 has admitted that some of the violations were not intentional and some were due to an error of understanding. Further, I note that Omaxe submitted that it has taken steps to rectify the said errors on account of good governance. Owing to the admission of the said Noticee

No.1 in this regard, I find that it is a clear oversight on the part of the said Noticee No.1 and accordingly has done misrepresentation/ misstatement of the company's financial statements to the tune of Rs.268 crores for FY 2018-19, which is in violation of Regulation 34(3) of LODR Regulations.

However, as regards the allegation of not treating and disclosing 20 companies as Related Parties, I note that, full time employees of Omaxe are directors in the said 20 companies. In this regard, the Noticee No.1 has submitted that since the said 20 companies do not fall within the definition of Para 9b of INDAS 24 and these employees do not have any significant influence or hold any position as KMP in Omaxe, they were not disclosed as related parties. Therefore, I note from Section 2 (76) of the Companies Act, 2013 that no where there is provision to ascertain that when a full time employee of Omaxe is working in another company as a director, the company can be called a related party. Furthermore, none of these companies are neither the subsidiaries nor associate companies of Omaxe. Therefore, I am compelled to accept the submission of the Noticee No.1 in this regard and do not find any violation to this extent.

29.15.Wrong classification of loans& advances/bad-debts in Cash Flow Statement

29.15.1. SCN:

29.15.1.1. **Loan and Advances:** It was observed that in Cash Flow Statement, "Loans and Advances" given to group companies which are shown as "recoverable in Cash" were presented by Omaxe under 'Operating activities' for FYs 2018-19 and 2019-20. Thereafter, for FY 2020-21, it was observed that loan/ advances given to Garv, Pancham and Omaxe Heritage were correctly shown under 'Finance activities' while the loans/advances of following group companies/ related companies

(recoverable in Cash) were still shown under 'Operating activities':

Table No. 17

Party Name	2019-20		2020-21	
	Bank Payment	Bank Receipt	Bank Payment	Bank Receipt
Omaxe Garv Buildtech Pvt Ltd	75.99	128.69	57.28	79.69
Omaxe Heritage Pvt Ltd	107.42	65.74	72.48	216.52
Pancham Realcon Pvt Ltd	15.89	42.94	9.66	51.94
Omaxe New Chandigarh Developers Pvt Ltd	131.62	152.39	102.67	52.77
Omaxe India Trade Centre Pvt Ltd	46.15	20.79	58.00	29.22
Omaxe World Street Pvt Ltd	19.39	45.45	82.66	83.31
Omaxe Forest Spa And Hills Developers Ltd	31.53	29.19	18.55	52.51
Jagdamba Contractors And Builders Ltd	13.16	23.68	2.87	9.53
Eden Buildcon Ltd	5.27	77.92	-	-
Bhanu Infrabuild Pvt Ltd	0.98	1.50	7.21	0.69
P P Devcon Pvt Ltd	-	-	5.48	0.17
Kashish Buildtech Pvt Ltd	-	0.54	-	2.68
Land Lord Developers Pvt Ltd	-	-	0.25	-
Anjaniputra Builders Pvt Ltd	0.03	-	-	-
Total	447.43	588.83	417.10	579.04

On the basis of review of transactions captured in the books of accounts, Loans & advances were required to be recognized under 'Financing activities' as the transaction with group companies/ related parties did not primarily constitute advances towards provision of goods or services, but are in the nature of loan. Hence, loans & advances not being of operating nature should have been disclosed under 'Financing activity' for FYs 2018-19 and 2019-20. Thus, it was alleged that wrong-disclosure of above transactions in Cash Flow Statement by the company led to false representation/misstatement in its cash flow statement for FYs 2018-19, 2019-20 and 2020-21.

29.15.1.2. **Bad Debts:** It was observed that one item of 'Operating activities' 'Interest on leased liabilities' of Rs.32.16 crore was shown as 'Bad debts' in Cash Flow Statement in FY 2019-20. Omaxe inter alia stated that it was a typo error and interest on Lease Liability of Rs.32.16 crore

is wrongly shown under Bad Debts in the Cash Flow Statement for FY 2019-20.

29.15.2. Contention:

29.15.2.1. Loan and Advances: In this regard, the Noticee No.1 submitted that the Cash Flow Statement of Omaxe is prepared in accordance with provisions of IND AS 7 and whenever there is change in classification with respect to Operating/ financing/ investing activities in terms of INDAS 7, same is/was adequately disclosed in notes to account of respective audited financials. The loans and advances given to group companies are/were shown under the head operating activity, since the advances given are/were for the purchase of land/business purpose, hence this will continue to remain under operating activity, hence there is no misrepresentation.

29.15.2.2. Bad Debts: In this regard the Noticee No.1 submitted that there was a typographical error in the Standalone Cash Flow Statement for the Financial Year 2019-20. Interest on Lease Liability of Rs.32.16 crore is wrongly shown under Bad Debts in Standalone Cash Flow Statement.

29.15.3. Findings:

29.15.3.1. Loan and Advances: In this regard, it is to be noted that an entity presents its cash flows from operating, investing and financing activities in a manner which is most appropriate to its business. Classification by activity provides information that allows users to assess the impact of those activities on the financial position of the entity and the amount of its cash and cash equivalents. This information may also be used to evaluate the relationships among those activities. Further, Paras 13 and 14 of IND AS 7 explains the purpose and types of cash flow which fall

within the category of operating activities while para 17 of IND AS 7 explains the purpose and types of financing activities. It is also to be noted that loans are long-term borrowings that are ideal for fulfilling high-value financial commitments, while, advances are short-term credit facilities that are ideal for immediate financial requirements.

In this regard, I note that the Noticee No.1 has consecutively classified the loans and advances given to the group companies under the wrong head, which provides wrong information to the people who need to assess the financial situation of the company. Therefore, I do not find any merit in the submissions of the Omaxe in this regard and find that the violation against the Noticee No.1 has been established in this regard.

29.15.3.2. Bad Debts: In this regard the Noticee No.1 itself has admitted to have wrongly shown Lease Liability of Rs.32.16 crore under Bad Debts in Standalone Cash Flow Statement owing to typographical error. Therefore, there is no need to further examine the charge and accordingly, I find that the violation against the Noticee No.1 in this regard, stands established.

29.16. Non-co-operation with the investigating team

29.16.1. **SCN**: In the present matter it was observed that forensic auditor Ravi Rajan & Co LLP was appointed on February 17, 2022 and was advised to submit the audit report within 12 weeks from the date of appointment. In this regard, pursuant to repeated correspondences with the company, the first meeting with company officials was held on March 30, 2022. Thereafter, the company started to provide information/details from April 02, 2022 in a piecemeal manner and in improper format. Further, onsite commencement of audit

started from April 21, 2022 and ERP access with only view rights was provided to the auditor on April 28, 2022. For expediting the audit in the matter, Summons dated June 16, 2022, August 05, 2022, August 23, 2022, August 26, 2022, August 29, 2022, September 07, 2022, September 08, 2022, September 16, 2022, September 27, 2022 and October 21, 2022 were issued to Omaxe advising it to furnish the information/details required for the audit. However, it had failed to comply with the said Summons by not providing complete information/details and documents as required by the Auditor. Details of such information/documents not provided by the company to SEBI/Forensic auditor and observations made by the Auditor are given below:

29.16.1.1. Valuation of inventory:

- (a) It was observed that company had provided the following project wise details of the PIP (value) at the end of FYs 2018-19, 2019-20 and 2020-21:

Table No. 18

(Rs. in crore)

Particulars	2018-19	2019-20	2020-21
Project In Progress (PIP)	1,974.79	1,804.95	1,767.38
Completed Real Estate Projects	482.51	428.04	422.29

- (b) However, the calculation of PIP value at year end was not made available to the forensic auditor. The company has provided few valuation reports along with cost for 16 projects of 2019-20, the details of which have been summarized as under:

Table No. 19

(Rs. in crore)

Particulars	PIP as per Books (A)	Cost Booked (B)	Cost to be incurred (C)	Total (A+B+C)	PIP as per Valuation Report
Total	994.09	482.61	557.63	2,034.33	4,372.48

(c) The company also provided workings of PIP for 7 projects comprising of value of Rs.599 Crores out of the total PIP inventory value Rs.1767.38 crores appearing in financials of FY 2020-21. In this connection, the complete working of valuation of inventory was sought vide summons dated September 15, 23 and 26, of 2022, however, the company failed to provide the relevant information required for the investigation.

29.16.1.2. Information on related parties:

(a) The Auditor, vide e-mail dated September 15, 2022, had sought underlying documents with regard to transaction executed by Omaxe and 6 companies as mentioned in the subsequent para. However, company failed to provide the underlying documents of the said transactions and therefore, the Auditor was unable to comment on the genuineness of these transactions.

(b) Following documents were not provided by the company:

Table No. 20

Name of the company	Documents not provided pertaining to
Zeenat Builders Pvt. Ltd.	it was noted that an amount of Rs.10 crores was paid to Zeenat Builders against opening balance as on 1 st April 2018
Agrim Logistics Pvt. Ltd.	Electricity Charges received of Rs. 73,76,500. Party Adjustment of Rs. 3,88,568.92 being amount transferred to Agrim Logistics Pvt. Ltd. on behalf of Omaxe.
Petals International Sourcing Pvt. Ltd.	• Agreement between Petals International Sourcing Pvt. Ltd. & Omaxe Ltd to support the above recurring transactions. (1-Oct

	2019 to 31-March 2020) amounting to Rs.83,33,325 and noted that the amount charged in each invoice was Rs. 5,55,555) • Document w.r.t amount of Rs. 13,16,672/- transferred to Chandigarh ITT branch of Petals International Sourcing Pvt. Ltd.
Basant Infrabuild Pvt. Ltd.	An amount of Rs. 0.62 crores was recoverable as on 1 st April 2018 as advance.
Reom Infrastructure and Construction Ltd	An amount of Rs. 0.36 crores was payable as on 1 st April 2018 to this sundry creditor.
Taanya Buildhome Pvt. Ltd.	It was noted that an amount of Rs. 0.13 crores was charged as interest by Taanya Buildhome. Further, opening balance of Rs. 0.41 crore was payable as on 1 st April 2018.

(c) Therefore, Summons dated September 16 and 27, 2022 and October 21, 2022 were issued to the company advising it to provide the aforesaid underlying documents which, the company failed to furnish.

29.16.1.3. Other Expenses:

(a) Expenses comprising of Advertisement and Publicity, Business Promotion, Commission and Brokerage on Sale, Professional & Consultancy Charges accounted for FYs 2018-19 to 2020-21 were reported by Omaxe. The details of which are as under;

Table No.21

Nature of Expense	2020-21	2019-20	2018-19	E-mails sent by the Auditor to the company
Advertisement and Publicity	0.11	1.17	0.83	08.09.2022, 09.09.2022 & 12.09.2022
Business Promotion	0.17	1.38	0.24	
Commission and Brokerage on Sale	0.50	2.01	1.80	
Professional & Consultancy charges	4.15	3.77	3.38	

(b) In order to assess the same, supporting documents including

invoice/ engagement letter/ agreements /underlying document were sought multiple times, however, company failed to provide the same. Accordingly, the following summonses were issued to Omaxe;

Table No. 22

Nature of Expense	Summons issued on
Advertisement and Publicity	August 26 & 29, 2022, September 07, 2022, November 17, 2022
Business Promotion	August 26 & 29, 2022, November 17, 2022
Commission and Brokerage on Sale	August 26 & 29, 2022, September 16, 2022, November 17, 2022
Professional & Consultancy charges	August 26 & 29, 2022, November 17, 2022

(c) However, the failure on the part of the company in making available the complete/material information/details to SEBI as well as the Forensic Auditor had not only adversely affected certain findings of the investigation viz. inventory, related companies, expenses etc., but also delayed the investigation. Accordingly, it was alleged to have violated the provisions of section 11C(2) read with 11C(3) of SEBI Act.

29.16.2. **Contention:** With regard to the above allegation, Noticee No.1 submitted that it had always cooperated during the whole audit process. Further, it stated that it has adopted all means and its resources to co-ordinate with the forensic auditor considering the size/volume/formats of information requirements and submitted a detailed timeline of its e-mail communications with forensic auditor as well as the investigating authority. Thus, it stated that the allegation of non-cooperation is not correct and that Omaxe has co-operated with forensic auditor completely. Further, the specific defense submitted by Omaxe in this regard is as under:

29.16.2.1. Valuation of inventory: During the course of audit, the desired information/ details for verifying valuation of inventories were given to

forensic auditor and it is therefore not correct to state that detailed working of cost were not made available to them. As stated in the SCN itself in para 23.3.1.3 that Omaxe has provided working of PIP for 7 projects which itself confirms that desired details were given to the FA. Further, the working sheet of cost along with NRV for 7 major projects comprising value of Rs.599 crores out of total PIP inventory value of Rs.1767.38 crore were given to FA which comes to 34%. The cost working was shared with FA as and when asked by them and therefore it is not proper to state that information as asked was not shared with FA. The NRV of the completed real estate properties is also tested with reference to market price prevalent for those projects subsequent to balance sheet date. Therefore, there is no room for any kind of overstatement / understatement of inventory

29.16.2.2. Information on related parties: As regards the monetary transactions with the 6 entities, the Noticee No.1 submitted that the amount is not material considering the scale and size of the Company and all amounts were recognised with proper supporting documents. All outstanding balances are being reviewed, followed up accordingly and in most cases the balances are Nil.

29.16.2.3. Other expenses: In this regard the Noticee No.1 submitted that it is not correct to state that inadequate/no documents were provided by Omaxe with respect to Other Expenses as all the supporting documents for these expenses as asked by FA were given to them including invoices, etc. However, with respect to every expense, there cannot be an engagement letter/ agreement other than invoices, which is a normal market practice, and was duly given. Therefore, the allegation in this regard are misplaced and unfounded for want of evidence.

29.16.3. Findings:

29.16.3.1. In respect of the afore mentioned allegations, I note that Omaxe has

provided some of the documents but not all of the documents sought by SEBI as per Section 11C(2) and Section 11C(3) of SEBI Act. It is clearly brought out that despite granting sufficient time, Omaxe had not provided the complete information as sought by FA/SEBI which has hampered and delayed the investigations resulting in the detriment to the interest of the investors of the company in specific. It is pertinent to mention here that it is the responsibility of every person from whom information is sought vide summons to fully co-operate with Investigating Authority and promptly produce all documents, records, information, etc., to the Investigating Authority as per Section 11C(2) and Section 11C(3) of SEBI Act. If persons are allowed to flout the summons issued to them during the course of the investigation, SEBI, as the watchdog of the securities market, will not be able to discharge its statutory obligations in protecting the interests of the investors and safeguarding the integrity of the securities market.

29.16.3.2. In this context, it is also important to refer to the judgment of the **Hon'ble SAT in the matter of Mr. Jalaj Batra vs. SEBI** (Appeal no. 184 of 2010, date of decision dated December 06, 2010) wherein it observed: *".....We have observed time and again that it is of utmost importance that market players like the appellant should fully cooperate with the investigations that are carried out by the Board, the watchdog of the securities market. If market players and intermediaries avoid appearing before the investigating officer or furnish the necessary information sought from them, the Board as a market regulator will not be able to carry out its statutory functions and duties of protecting the integrity of the securities market and the investigations would be grossly hampered. Non co-operation with the market regulator has to be viewed seriously. We do not know what else would have come to light if the appellant had appeared before the investigating officer or if he had*

furnished the requisite information that was sought from him.”

29.16.3.3. In view of the above, I do not find any merit in the submissions of the Noticee No.1 and find that it has violated the provisions of Section 11C(2) and Section 11C(3) of SEBI Act.

29.17. Other accounting irregularities

29.17.1. SCN:

29.17.1.1. It was informed by ICAI, vide letter dated January 04, 2023, that it has observed accounting irregularities in the General Purpose Financial Statements of Omaxe for FY 2018-19. In the first-time Adoption of Indian Accounting Standards for proper valuation of property, plant and equipment (PPE), as per Ind AS 101, if a company adopts Ind AS for the first time from previous GAAP, then they can measure items of PPE at deemed cost at the date of transition to Ind AS. The deemed cost is to be derived on the basis of Fair value/ revaluation as deemed cost or previous GAAP carrying value as deemed cost. Thus, Omaxe had elected previous GAAP carrying values as deemed cost at the date of transition for all assets except in case of land which they measured at fair value as deemed cost. Since, the option of applying this on selective basis to some of the items of property, plant and equipment and using fair value for other items (land in this case) is not available. Thus, it was alleged that there is a violation of Ind AS 101 by Omaxe.

29.17.1.2. Further, on a perusal of the abstract of the Statement of changes in equity (Page-106 of Annual Report for the FY 2018-19), investigation noted that securities premium, retained earnings, general reserve and debenture redemption reserve were disclosed under the head of Other Equity, however, nature and purpose of each reserve were not disclosed which is a requirement as per Paragraph 79(b) of Ind AS 1

and Schedule III of the Companies Act, 2013. Therefore, it was alleged that Omaxe has violated the provisions of Ind AS 101, Ind AS 1 and Division II - Ind AS Schedule III to the Companies Act, 2013.

29.17.2. Contention: In this regard, the Noticee No.1 submitted that upon implementation of IND AS, nature of land which earlier formed a part of inventory, changed to PPE considering the change in nature of usage from Real Estate to Fixed Assets. Hence, the amount was shown under the PPE as INDAS adjustment, after taking valuation report(s). Further, Para D7AA of INDAS 101 allows an entity to use previous Indian GAAP carrying amount of all its PPE as deemed cost. The Noticee No.1 further submitted on one hand that there is money spent on the said property under 'build own transfer' which is being amortized over the period of agreement as the building is to be transferred back to the owner upon vacation at the time of tenure of the agreement and on the other hand it is also submitted that there is no amortization involved in its account and therefore cannot be termed as material omission or misstatement. Thus for FY 2018-19, there was no amortization on the account of Build Own Transfer (BOT) Agreement. The policy on account of this was carried on providing consistency and has no bearing on the financial statements. Therefore, there is no violation of provisions of INDAS. Furthermore, the Noticee No.1 submitted that the nature and purpose of reserves was erroneously left out which Omaxe has since implemented.

29.17.3. Findings: With regard to the charge of electing previous GAAP carrying values as deemed cost at the date of transition for all assets except in case of land which they measured at fair value as deemed cost, the Noticee No.1 stated that the amount was shown under the PPE as INDAS adjustment, after taking valuation report(s). Further, Para D7AA of INDAS 101 allows an entity

to use previous Indian GAAP carrying amount of all its PPE as deemed cost. In this regard, upon perusal of Para D7AA of INDAS 101, it is observed that the provision provides an additional option to measure these items on the date of transition at their carrying amount in accordance with previous GAAP as to use this amount as a measure of deemed cost. In this regard, I note that the Noticee No.1 has misunderstood the same and further note that the said provision cannot be implemented selectively. Therefore, the submissions of the Noticee No.1, in this regard, cannot be accepted as it is without any merit and find that the Noticee No.1 has violated IND AS 101.

As regards the nature and purpose of reserves which has not been disclosed by the Noticee No.1 as per Paragraph 79(b) of Ind AS 1 and Schedule III of the Companies Act, 2013, it is observed that the Noticee No.1 has admitted that it was erroneously left out, therefore, I find that the Noticee No.1 has violated the Paragraph 79(b) of Ind AS 1 and Schedule III of the Companies Act, 2013.

29.18.Price impact on Omaxe scrip due to misstatements in financial statements.

29.18.1. SCN:

29.18.1.1. The scrip price of Omaxe had gone up considerably, i.e. the scrip was trading at Rs.145.40 on April 01, 2016 (first day of investigation period) which increased to Rs.234.25 on January 09, 2018 before declining to Rs.67.35 on March 31, 2021 (last day of investigation period). Upon perusal of the company's financial performance for FYs 2016-17 to 2020-21, it was observed that the company presented a rosy picture of its profitability and shown profits during FYs 2016-17, 2017-18 and 2018-19. However, in the last quarter of FY 2019-20, the company declared substantial losses to the extent of Rs.112.08 crore and

reported loss of Rs.94.35 crores in FY 2019-20, thus the scrip also saw a fall. The scrip price movement clearly indicate that the company was able to maintain the scrip price at such a high level during FYs 2016-17, 2017-18, 2018-19 and 2019-20 on account of misrepresentation and manipulation of financial statements reported to investors particularly in FYs 2016-17 and 2017-18.

29.18.1.2. In this regard, it was alleged that, based on the sales made by company to JBPL, revenue transactions were manipulated to overstate revenue of the company which were observed to be significant in last three quarters of FYs 2016-17 and 2017-18. Induced by the overstated revenue of the company, the scrip also increased from Rs.160.30 to Rs.220.70 from June 30, 2017 to March 31, 2018. It is pertinent to note that if the company would not have included the revenue pertaining to JBPL, it would have reported significant losses in last three quarters of FY 2016-17 and last three quarters FY 2017-18. A brief detail on the same are given below:

Table No. 23

FY	Transaction between Omaxe-JBPL for Allahabad Hitech City Project			Total	Transaction between Omaxe-JBPL for Lucknow Hitech City Project			Total
	Quarter	Date	Amount		Quarter	Date	Amount	
2016-17	2	27/06/2016	57.75	165	3	01/12/2016	48.425	223.5
		27/06/2016	57.75			07/12/2016	63.325	
		30/06/2016	49.50			08/12/2016	70.775	
	4	30/03/2017	110.00	170.50		09/12/2016	40.975	
		30/03/2017	60.50					
	Total			335.5	Total			223.5
2017-18	2	30/09/2017	46.75	68.75	2	30/09/2017	55.875	104.3
		30/09/2017	22.00			30/09/2017	48.425	0
	3	24/11/2017	41.25	110	3	03/11/2017	52.15	100.5
		24/11/2017	38.50			03/11/2017	48.425	7

		24/11/2017	30.25		4	31/03/2018	74.50	74.50
	4	31/03/2018	46.75	46.75				
	Total		225.5		Total		279.375	504.88
Total			561		Total		502.88	1063.88

29.18.1.3. From the above, it is observed that most of such inflated revenue transactions were booked on the last day of the quarter or 2-3 day prior to the closing of the quarter by booking multiple sales on a single day, indicating that Omaxe presented a false and misleading picture regarding its revenue/ profit. Further, the same trend continued for FYS 2018-19, FY 2019-20 and FY 2020-21, it was alleged that the company also continued to misstate/misrepresent the financial statements through its various items viz. revenue, debtors, advances, expenses, etc. Had the above instances of misstatement/ misrepresentation in the company's financial statements been correctly mentioned and published in the form of actual financials, the impact on the scrip price would have been steeper/rapid.

29.18.1.4. Further, it is observed that the promoters had pledged a significant amount of their holdings i.e. 49% in first quarter of FY 2016-17 which increased to the extent of 64% in March 2021 quarter. Quarter wise details of the same are given below:

Table No. 24

2016-17				2017-18				2018-19				2019-20				2020-21			
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
49%	48%	44%	49%	50%	51%	56%	54%	57%	57%	58%	57%	57%	51%	52%	52%	52%	66%	66%	64%

29.18.1.5. Based on the above observations on pledging of promotor's shareholding, it was alleged that the company's financials were deliberately manipulated to maintain the scrip price in a specified range suitable to the value of the collateral kept by promoters against the loan. Thus, it was observed that the activity of inflation of the company's sales and profits had interfered with the normal mechanism of price discovery and integrity of securities markets and created a misleading appearance with respect to its scrip price movement, thus effectively manipulating the company's share price. Had the correct picture of the financial position of the Company been made public, the share price of the Company would not have maintained same trajectory as it remained within a specific price band/ range. Hence, it was alleged that the company's promoters apparently were getting direct benefits from manipulating/misrepresenting the company's financials. In view of the above, it was alleged that the act/practice of deliberate misrepresentation of the company's financial statements was operated as a device/scheme to defraud the investors in the securities market resulting in violation of Regulation 3(b), 3(c), 3(d) of PFUTP Regulations read with 12A(a), (b), (c) of SEBI Act.

29.18.2. **Contention:** The Noticee No.1 submitted that upon perusal of Omaxe's share price and S&P BSE Realty index, which is an index of listed Real estate companies, it has been noted that during the period from Apr 2016 to March 2018 (investigation period), it was observed that movement of Omaxe's share price was not very unusual during the said period. Omaxe and its management has no role to play in the movement of Omaxe's stock price. Further, it was submitted that owing to management dispute that arose between the promoters of Omaxe in 2017-18 onwards, declaration by BSE and NSE vide its dissemination list dated June 2, 2002 that a handful of SMSs were found to be circulated and inclusion of Omaxe's name as an SMS stock

scrip, the price of the scrip got affected and was not solely due to its financial statements. In order to substantiate the same, Omaxe has submitted the share price movement prior and post declaration of quarterly/ half yearly financial results which shows that there is hardly any impact of the financial results on the scrip, therefore, the allegation in this regard is misplaced and unfounded. As regards the company's promoters getting directly benefitted from manipulation/ misrepresentation of the company's financials, the Noticee No.1 submitted that at all the times during this period there were enough free shares held by the promoter group for pledging to secure additional loans or to pledge shares as margin for existing loans.

29.18.3. Findings:

29.18.3.1. In view of the above allegations, it is observed that the act of booking revenue transactions with JBPL on the last day of the quarter or 2-3 day prior to the closing of the quarter in FYs 2016-17 and 2017-18, appears to be suspicious as it resulted in the inflation of the profit reported in the respective quarter. In this regard, I note that since the Noticee No.1 has not refuted the said charge, I cannot accept its contention that Omaxe had no role in the movement of its stock price between April 2016 and March 2018. Further, upon perusal of the chart with comparison of price movement of Omaxe with the movement of S&P BSE Sensex and BSE realty Index on quarterly basis, commencing from April, 2016, it is observed that the percentage of the share price of Omaxe had been on a continuous rise from March 2016 till March 2020. The scrip price movement clearly indicate that the company was able to maintain the scrip price at such a high level during FYs 2016-17, 2017-18, 2018-19 and 2019-20 which could be achieved largely on the basis of the misrepresented and manipulated financial statements particularly in FYs 2016-17 and 2017-18. Further, it is observed that the company started to report losses, only from March 2020 quarter onward, when

the scrip was consequently falling and was finally traded at Rs.67.35 as on March 31, 2021 with a 53.42% fall in comparison to its beginning level of Rs.144.6 in March 31, 2016.

29.18.3.2. As regards to the Noticee No.1's submission showing price movements prior to and post declaration of quarterly and half yearly financial results depicting insignificant or no impact, supports the allegation of maintaining the scrip price suitable to the value of the collateral kept by promoters against the loan. Thus, it is observed that by the act of large scale misrepresentation/misstatement/manipulation in financial statements by Omaxe, the scrip price was directly or indirectly manipulated to maintain the value of the collateral kept by promoter against the loan.

29.18.3.3. Further, with regards to the charge of the company's promoters getting direct benefits from manipulating/misrepresenting the company's financials, I note that the Noticee No.1 submitted that, all the times during this period there were enough free shares held by the promoter group for pledging to secure additional loans or to pledge shares as margin for existing loans. In this regard, I note that knowingly, wrong financial statements of Omaxe were reported, thereby making them false and misleading in order to create an impression among the investors and other stakeholders that the financial statements disseminated by the company during the period i.e. April 01, 2016 to March 31, 2021, were reflecting a true and fair view of the financial performance and position of the company. By the aforesaid act of the company to maintain the price of the scrip in a specified range, which was deliberately done to suit the value of the collateral kept by promoters against the loan, the company misled and defrauded the investors in making their investment decision in the scrip and causing

prejudice to them. As financial statements published by the company are relied upon by the investors in the securities markets to base their investment decisions, thus misrepresentation of the same amounts to a fraudulent act.

29.18.3.4. In view of the above, I find that the act/practice of deliberate misrepresentation of the company's financial statements and manipulation of Omaxe scrip price was operated as a device/scheme to defraud the investors in the securities market resulting in violation of Regulation 3(b),3(c),3(d) and 4(1), 4(2)(e) of PFUTP Regulations read with 12A(a), (b), (c) of SEBI Act and Regulations 4(1), 4(2)(e), 23(3), 23(4) read with 23(1), 33(1)(a), 33(1)(c), 34(3) and 48 of LODR Regulations. Further, I find that by publishing and disseminating the company's financial statements to the stock exchange, which were false and misleading, Omaxe has also violated the provisions of Regulation 4(2)(f), 4(2)(k) and 4(2)(r) of PFUTP Regulations.

Role of the company's Promoters, CMD, CEO, Directors and CFO (Noticee No.2 – 6):

30. The specific charges levelled against the Noticee No.2 - 6, their replies and my findings are as under:

30.1. SCN:

30.1.1. Rohtas Goel, Promotor and CMD (Noticee No.2):

30.1.1.1. In this regard, I note that Noticee No.2 was the Promoter and Chairman & Managing Director ("**CMD**") on the Board of Directors of Omaxe. He is associated with Omaxe since 1989. He was also a member of various Committees including Audit Committee, Nomination & Remuneration Committee, Risk Management Committee Corporate Social

Responsibility Committee and Investor Grievances Cum Stakeholders Relationship Committee. Further, he was also a Key Managerial Personnel (“KMP”) of the company as per the Companies Act 2013.

30.1.1.2. Noticee No.2 being CMD has attended all the 26 Board meetings. There were 26 out of 27 Audit Committee meetings held during the investigation period. (FY 2016-17 to FY 2020-21). Hence, he was actively involved in day to day activities of the company and was at helm of the company’s affairs. Further, being one of the signatories of the company’s financial statements for FY 2016-17 to FY 2020-21, he failed to discharge his duty in ensuring that the published financial statements were in accordance with the applicable and notified Accounting Standards and that the financial statements present a true and fair view of the company’s affairs. Further, also being CMD of the company, he certified the financial statements to the Board of Director of Omaxe for FY 2016-17, inter-alia stating that *“these results do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading”*.

30.1.1.3. It was noted that the Noticee No.2 had also signed all the MoUs on behalf of Omaxe for the sales transactions with JBPL-a Related Party which was used by the Omaxe management for inflating revenue to the extent of Rs.436.15 crore and Rs.398.90 crore for FY 2016-17 and 2017-18 respectively. Further, during statement recording in the matter, Rohtas Goel was asked particularly about the manipulated revenue transactions and huge funds transfers involving Omaxe, JBPL, Garv, Pancham etc., however, he inter alia responded as *“Being CMD of the company, I am not aware /I don’t know about the transactions”*. It was alleged that the company’s financial statements were hugely misrepresented and manipulated, Noticee No.2 being CMD is responsible for furnishing untrue fraudulent/manipulated financial statements to the Board of Directors as required under Regulation 17(8)

of the LODR Regulations. Hence, it was alleged that the certification given by him is found to be incorrect, misleading and fraudulent in nature.

30.1.2. Mohit Goel, Promoter, CEO and Whole Time Director (Noticee No.3):

30.1.2.1. Noticee No.3 was the CEO and Whole Time Director and also a member of various Committees including Finance, Legal and Administrative Committee Corporate Social Responsibility Committee and Investor Grievances Cum Stakeholders Relationship Committee of the company. He was a 'Key Managerial Personnel' ("KMP") in the company by virtue of his designation in the company in terms of the Companies Act, 2013. He attended 6 out of the 26 Board meetings held during the investigation period. Further, Noticee No.3 (son of Noticee No.2) being one of the signatories of the company's financial statements for FY 2017-18 to FY 2020-21, failed to discharge his duty in ensuring that the published financial statements were in accordance with the applicable and notified Accounting Standards and that the financial statements present a true and fair view of the company's affairs. Further, being CEO of the company, he certified the financial statements to the Board of Director of Omaxe for FY 2016-17, inter-alia stating that *"these results do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading"*.

30.1.2.2. Further, he was also advised vide Summons dated November 17, 2022 and November 25, 2022 to offer his comments against the findings/ observations in the company's financial statements. However, he did not respond and thus, failed to make any submissions against the findings. Further, during statement recording in the matter, Mohit Goel was asked particularly about the manipulated revenue transactions and huge funds transfers involving Omaxe, JBPL, Garv, Pancham etc.,

however, he *inter alia* responded that “*Being CEO of the company, I am not aware /I don’t know about the transactions*”. As the company’s financial statements were hugely misrepresented and manipulated, Noticee No.3, being CEO is responsible for furnishing untrue fraudulent/manipulated financial statements to the Board of Directors as required under Regulation 17(8) of the LODR Regulations. Hence, it was alleged that the certification given by him is found to be incorrect, misleading and fraudulent in nature.

30.1.3. Sudhangshu S. Biswal, Whole Time Director/Executive Director-Finance (Noticee No.4):

30.1.3.1. Noticee No.4 was appointed as a Whole Time Director of the company w.e.f. August 11, 2016 to September 26, 2019. He was a ‘Key Managerial Personnel’ (“KMP”) in the company by virtue of his designation in the company in terms of the Companies Act, 2013. He was member of Finance, Legal and Administrative Committee and also designated as Vice President-Finance. Thus, he was directly involved in day-to-day financial affairs and instrumental in the company’s operations.

30.1.3.2. He attended 4 Board meetings in FY 2016-17, 5 Board meetings in FY 2017-18, 5 Board meetings in FY 2018-19 and 3 Board Meetings in FY 2019-20 held during the investigation period. Therefore, Noticee No.4 was involved in day to day decision making process of the company. Further, being one of the signatories of the company’s financial statements for FY 2016-17 to FY 2018-19, he failed to discharge his duty in ensuring that the published financial statements were in accordance with the applicable and notified Accounting Standards and that the financial statements present a true and fair view of the company’s affairs.

30.1.3.3. Further, Noticee No.4 was also advised vide Summons dated November 17, 2022 and November 25, 2022 to offer his comments against the findings/ observations in the company's financial statements. However, vide e-mail dated October 19, 2022, he made generic submissions inter alia stating that he is no more working with Omaxe and requested the company's compliance officer to provide required information. Further, he also did not appear for statement recording in the matter. Thus, he failed to make any submissions against the findings/observations.

30.1.4. Vimal Gupta and Arun Kumar Pandey, Chief Financial Officer (Noticee No.5 and 6):

30.1.4.1. Noticee No. 6 was Chief Financial Officer ("CFO") of the company during the investigation period, he had resigned from the company on July 23, 2019. From October 01, 2019, Noticee No.5 became the CFO of the company. So, both of them were a KMP in the company by virtue of their designation as CFO in terms of the Companies Act, 2013.

30.1.4.2. Noticee No. 6 was one of the signatories of the company's financial statements, for FY 2017-18 to FY 2018-19 and Noticee No.5 was the signatory of company's annual accounts for FY 2019-20 and FY 2020-21. However, they failed to discharge their duty in ensuring that the published financial statements were in accordance with the applicable and notified Accounting Standards and that the financial statements present a true and fair view of the company's affairs. Further, being CFOs of the company, they certified the financial statements to the Board of Director of Omaxe, inter-alia stating that *"these results do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading"*.

- 30.1.4.3. As the company's financial statements were hugely misrepresented and manipulated, Noticee No.6 and Noticee No.5 being CFO of the company are responsible for furnishing untrue fraudulent/manipulated financial statements to the Board of Directors as required under Regulation 17(8) of the LODR Regulations. Hence, it was alleged that the certification given by them was incorrect, misleading and fraudulent in nature.
- 30.1.4.4. Further, it was alleged that that Noticee No. 6 failed to place 3 omnibus approvals before the Audit Committee for obtaining the required approval as per Regulation 23 (3) of LODR Regulations.
- 30.1.4.5. In this regard, Noticee No.6 in his statement *inter alia* stated that he was responsible for preparation and finalization of financial statement of Omaxe, Garv and Pancham for FYs 2016-17 to FY 2018-19. He had also submitted that he was aware about all the adjustment entries passed in the books of Omaxe and confirmed that IND AS 115 was followed in letter and spirit and the risks and rewards were transferred through MoU/agreements regarding transactions between Omaxe and JBPL. However, risk and rewards cannot be transferred without transferring the legal title as per IND AS 115 read with ICAI Guidance note on real estate transactions.
- 30.1.4.6. Further, Noticee No.5 also in his statement *inter alia* submitted that he did not come across any instances of manipulation/misrepresentation of books of accounts of Omaxe. Further, regarding transactions between Omaxe and the companies where Omaxe's employees were director including JBPL, he *inter alia* stated that he was not aware that full time employees of Omaxe were working as director of certain companies.

- 30.1.5. This apart, in case of a default by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- 30.1.6. In this regard, investigation observed Noticee No.2, CMD, Noticee No.3, CEO/Whole Time Director, Noticee No.4, Whole Time Director/ Executive Director-Finance, Noticee No. 6 and Noticee No.5, CFOs of a listed company have greater responsibility for taking major decisions on behalf of the company, which affects the investors as it is their duty and responsibility to ensure that proper systems and controls are in place for financial reporting and to monitor the efficacy of such systems and controls.
- 30.1.7. Investigation further noted that since they were involved in day to day decision making process of the company and have access to information such as the financial position of the company, annual accounts, etc., they were therefore, bound to exercise their powers in bona fide manner and in the interest of all stakeholders of the company. However, it was alleged that they failed to perform their duties and obligations which resulted in publication of misrepresented/ misstated and misleading financial statements of Omaxe.
- 30.1.8. Further, being signatories of the company's financial statements, it was their responsibility to ensure that the company's financial statements present true and fair picture of its financial affairs. Such misrepresentation/irregularities/ manipulation in the company's books of accounts could not have taken place without their knowledge.
- 30.1.9. Hence, it was alleged that Noticee No.2, Noticee No.3, Noticee No.4, Noticee No.5 and Noticee No.6 were very much involved in falsification/ fabrication of

books of the accounts and manipulated the company's financial statements with knowledge and intention to deceive or induce investors and shareholders for carrying out fraud. It was alleged that they are responsible for furnishing untrue and fraudulent financial statements to the Board of Directors of Omaxe which led to publication of untrue and misleading financial statements. Since, widespread misrepresentation/ manipulation/irregularities in the financial statements were there, it was alleged that true value of the scrip price was not reflected and therefore, the scrip price was induced and influenced by the misrepresented/ manipulated financial statements which impaired the decision making of the investors.

30.1.10. Accordingly, Noticee No.2 to 6 have been also alleged to have violated the provisions of Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a), (b), (c) of SEBI Act, Regulation 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7), Regulations 4(1), 4(2)(e), 33(1)(a), 33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act.

30.2. Contention of the Noticee No.2-6:

30.2.1. **Noticee No.2:** The financial statements of Omaxe for each financial year were reviewed by the Audit Committee and was approved by Board of Directors being the Chairman and MD, he was one of the signatories to the financial statement for and on behalf of BOD. Omaxe is professionally managed company and the said Noticee was not involved in the day-to-day matters but involved in taking major important policy decisions. The allegation that Noticee No.2 has given certification is incorrect, misleading and fraudulent as he had only signed the financial statements based on the belief that the same were true as it was approved by the BOD. He also stated that no MOU between Omaxe & Jeet for sale transactions were signed by him.

The allegations against the Noticee are incorrect and the SCN should be disposed of without any adverse observations against Noticee No.2.

30.2.2. **Noticee No.3:** The financial statements of Omaxe for FY 2017-18 to 2020-21 were reviewed by the Audit Committee and was approved by Board of Directors. Being the CEO and WTM, he was one of the signatories to the financial statement for and on behalf of BOD. There was no misrepresentation or manipulation in the financial statements as alleged therefore he cannot be held responsible. As a reply was given by Omaxe on his behalf vide e-mail dated November 24, 2022, he did not replied to SEBI and forensic audit. Also Omaxe replied to the summon with all relevant information and data vide its e-mail dated November 25, 2022. Further, he submitted that although he has the responsibility of taking major decisions on behalf of accounts he does not monitor each and every transaction done by Omaxe in its normal course of business, hence no violation of PFUTP Regulations. Based on Omaxe's reply there is no violation of LODR Regulations either. No investor compliant of any loss expect for Sunil Goel who has complained due to personal disputes. The allegations against the Noticee are incorrect and the SCN should be disposed of without any adverse observations against Noticee No.3.

30.2.3. **Noticee No.4:**

30.2.3.1. The Noticee submitted that he is a Chartered accountant and joined Omaxe on May 10, 2010 as Vice President – Finance, a corporate finance department solely for fund raising and dealing with lenders both existing and prospective.

30.2.3.2. During the above mentioned tenure, he reported to Chief Operating Officer (**COO**) and his primary responsibility was to raise loans for various on-going/ new projects of the Company, to maintain/manage relationship with existing /new/prospective lenders of the Company, etc. He was also entrusted to scout for new lenders for the Company.

- 30.2.3.3. Thus, he was not allowed to make any commitments or take any calls without first getting permission from the Board of the Company or the Executive Committee of the Company and his role in the Company was in fact very limited.
- 30.2.3.4. Later he was promoted to Senior Vice President on January 01, 2011, but still reported to the COO and had the same responsibilities to liason with lenders and prospective lenders with better title.
- 30.2.3.5. The company face a serious cash flow crisis in 2016 due to which salaries were delayed for several months and to tide the situation there was a need for focused approach in fund raising.
- 30.2.3.6. Thereafter, the Noticee was promoted to ED, Finance on August 11, 2016, reporting to CMD i.e. Noticee No.2 and was also made a part of the board. Still, the role of the Noticee remained unchanged. However, he started to notice systematic issues in the company like lack of accountability, lack of governance, disputes, litigation, and chaos among promoters. Further, All expenses of the projects including land acquisition, approvals, constructions, salaries and overheads, sales and marketing, Business Development, project overheads, etc. were managed by respective Project Heads/Business heads of the company under overall guidance, supervision and approval of the Promoter(s)/CEO as they were reporting directly to respective Promoters based on the area of operations like Chandigarh, Lucknow, Faridabad, Indore; Sonapat, Bhiwadi, Rohtak, Allahabad, Delhi, etc. They were the real KMP's although not defined in the Annual Report. This was one of the big issues the Noticee had with the Promoters.
- 30.2.3.7. Thus the Noticee submitted a letter of resignation dated December 14, 2018, to the CMD, which was not accepted. Thereafter, the Noticee submitted another letter dated May 23, 2019, resigning from the Board of the Company, which was accepted by the CMD and on July 01, 2020,

the Noticee resigned from the position of ED, Finance, which was also accepted by the CMD. Thus, the Noticee was relieved from the Board on August 31, 2020.

30.2.3.8. In this regard, the Noticee submitted that he was never a part of the day to day activities or on goings of the Company, he was not signatory to even a single bank account of the Company. Further, he was not a member of any board-appointed committees. He did not know about any related party transactions and he did not have any approval authority whatsoever for any kind of payments in the Company.

30.2.3.9. Noticee No. 4 submitted that Mr. Vimal Gupta, CFO of the company, has been with the company from 2006 to July 23, 2019 and along with the creator and controller of all data i.e. Monthly Information System Head Mr. Amit Mehta were reporting to the Board of the Company as well as Promoters, Mr. Jai Bhagwan Goel (WTD), Mr. Suni Goel (Jt. MD), Mr. Rohtas Goel (CMD) and Mr. Mohit Goel (CEO) about all accounting, project accounting, business plan, construction progress, new acquisition, etc. matters. Please note that Mr. Vimal Gupta is also related to the Promoters. Thus, the Noticee stated that they are all the persons responsible for the violations.

30.2.3.10. He has also submitted that the CMD and his two sons, ran the company and colluded with Noticee Nos. 5,6 & 7 and entered into fraudulent transactions/ activities.

30.2.4. **Noticee No.5:** The Noticee admits to being the CFO during the IP i.e. FY 2019-20 (w.e.f October 01, 2019) to 2020-21 and resigned as CFO on Nov 14, 2022. There was no misrepresentation or manipulation in the financial statements as alleged therefore he cannot be held responsible and accordingly, there is no violation of PFUTP and LODR Regulations. The allegations against the Noticee are incorrect and the SCN should be disposed of without any adverse observations against Noticee No.5.

30.2.5. **Noticee No.6:** The Noticee admits to being the CFO during the IP i.e. FY 2016-17 till July 23, 2019, when he resigned. There was no misrepresentation or manipulation in the financial statements as alleged therefore he cannot be held responsible and accordingly, there is no violation of PFUTP and LODR Regulations. Further, as regards the allegation that Noticee No.6 had failed in placing 3 transactions for Omnibus approvals, he submitted that they were done by mistake and the same were reversed on the same day itself nullifying the transaction. The allegations against the Noticee are incorrect and the SCN should be disposed of without any adverse observations against Noticee No.6.

30.3. Findings: As regards the allegation that Omaxe published misrepresented/manipulated financial results for FYs 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21 and the role of Noticee No.2 (Promoter, CEO & Whole Time Director), Noticee No.3 (Whole Time Director/ Executive Director-Finance), Noticee No.4 (Whole Time Director/ Executive Director-Finance), and CFOs i.e. Noticee No. 5 & 6, the following are observed:

30.3.1. In this regard, I note that Noticee No.2 and Noticee No. 3 are father and son. They are members of various committees in Omaxe and are Key Managerial Personnels ("KMPs") of the company as per the Companies Act 2013. Being the CMD, Noticee No.2 attended all 26 Board meetings and 26 out of 27 Audit Committee meetings held during the investigation period (FY 2016-17 to FY 2020-21), whereas being the CEO and WTD, Noticee No.3 attended 6 out of the 26 Board meetings held during the investigation period. Further, they were one of the signatories of the company's financial statements, for FY 2016-17 to FY 2020-21. The CMD and CEO are the highest ranking executives in any company responsible for making major corporate decisions, driving the direction of the company, supervising other executives,

and overseeing growth plans. They're accountable to the board of directors or stakeholders of the company and are often the public face of the organization. Also being at a senior position in the company, attending board meetings and audit committee meetings, they are expected to be aware of the developments relating purchase and sale of land, title interest, plots and all the related financial transactions. They cannot claim to be just signatories to the financial statements who signed on good faith, they were part of the BoDs who were involved in finalizing the financial statements for all the relevant years during the relevant board meetings, which were attended by Noticee Nos. 2 and 3. In this regard, I note that as they were actively involved in day to day activities of the company, I do not accept their submission that each and every transaction done by Omaxe in its normal course of business is not monitored by them and accordingly, I do not accept the submissions of Noticee Nos. 2 and 3 in this regard as they are without any merit.

- 30.3.2. Further, I note that Noticee No. 4, was the WTD of Omaxe with effect from August 11, 2016 to September 26, 2019 and was member of Finance, Legal and Administrative Committee and also designated as Vice President-Finance. He was a 'Key Managerial Personnel' ("KMP") in the company by virtue of his designation in the company in terms of the Companies Act, 2013 and had attended 17 Board meetings between FY 2016-17 and FY 2019-20, held during the investigation period. Therefore, I do not accept Noticee No.4's submission which says that the Promoters and CEO were the real KMPS. In this regard, I note that a Whole-time Director is a full-time executive director of a company who is appointed by the board of directors and is responsible for the overall management and administration of the company. They are typically part of the senior management team and have significant decision-making authority. Thus, he was directly involved in day-to-day financial affairs and instrumental in the company's operations. I also note that in every company, the directors have a duty and responsibility to ensure that proper

systems and controls are in place for financial reporting and has to monitor the efficacy of such systems. Further, he was also one of the signatories of the company's financial statements for FY 2016-17 to FY 2018-19. Hence, I do not accept Noticee No.4's submission that he was never a part of the day to day activities of the company.

30.3.3. I further note that Noticee No. 5 & 6 were the CFOs of the company during the IP as Noticee No. 5 resigned from the company on July 23, 2019 and Noticee No. 6 joined as CFO on October 01, 2019. I further note that Noticee No.5 was one of the signatories of the company's financial statements for FY 2017-18 to FY 2018-19 and Noticee No.6 was a signatory of company's annual accounts for FY 2019-20 and FY 2020-21. Further, being CFOs of the company, they certified the financial statements to the Board of Director of Omaxe, inter-alia stating that *"these results do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading"*. I also note that Noticee No.5 failed to place 3 omnibus approvals before the Audit Committee for obtaining the required approval as per Regulation 23(3) of LODR Regulations and in his statement admitted that he was responsible for preparation and finalization of financial statement of Omaxe, Garv and Pancham for FYs 2016-17 to FY 2018-19. He had also submitted that he was aware about all the adjustment entries passed in the books of Omaxe and they had followed IND AS 115 read with ICAI Guidance note on real estate transactions.

30.3.4. In this regard, I also note that a CFO is the senior most executive responsible for the finance of a company/organization, with the core responsibility for internal and external financial reporting. From Regulation 17(8) of LODR Regulations, I note that it mandates the CEO as well as the CFO to certify that the financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or

figures contained therein misleading, while placing the financial results before the Board of Directors. Thus, the CEO and CFO need to *inter-alia* certify that the financial statements present a true and fair view of the company's affairs as well as are in compliance with existing accounting standards, applicable laws and regulations. Further, they also need to *inter-alia* certify that there were no transactions of the listed entity during the said financial years which were fraudulent in nature. In this connection, I note that Noticee No.5 & 6 have given CFO certification in annual report of FY 2014-15 to FY 2020-21 in accordance with the Regulation 17(8) of the LODR Regulations.

- 30.3.5. Since, they were involved in day to day decision making process of the company and have access to information such as the financial position of the company, annual accounts, etc., they were therefore, bound to exercise their powers in bona fide manner and in the interest of all stakeholders of the company. However, it was alleged that they failed to perform their duties and obligations which resulted in publication of misrepresented/ misstated and misleading financial statements of Omaxe.
- 30.3.6. I note that Noticee No.5 and 6 have contended that there is no misrepresentation and misstatement in the financials of Omaxe. In this regard, I note that the misrepresentation and misstatement in the financials of Omaxe has been explained in detail and established in the preceding paragraphs. Therefore, I find no merit in the submission of the said Noticees.
- 30.3.7. With regards to the role of Noticee No.2 to 6 in the company, I note that an artificial juristic person, and the directors assume the character as “officer in default” for any violation. In this regard, it is pertinent to rely upon the provisions of Section 5 of the Companies Act, 1956 (section 2(60) of the Companies Act, 2013) read with Section 27 of the SEBI Act. Additionally, I would also like to quote the observations of the Hon’ble Supreme Court of

India in the matter of **Shri N. Narayanan vs. SEBI** decided on 26.04.2013, wherein it was observed that -"*... 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*".

Further, Hon'ble High Court of Madras in **Madhavan Nambiar vs Registrar of Companies** (2002 108 Comp Cas 1 Mad) has held that – "*... Section 5 of the Companies Act defines the expression "officer who is in default". The expression means either (a) the managing director or managing directors; (b) the whole-time director or whole-time directors ; (c) the manager ; (d) the secretary ; (e) any person in accordance with whose directions or instructions the board of directors of the company is accustomed to act; (f) any person charged by the board with the responsibility of complying with that provision; (g) any director or directors who may be specified by the board in this behalf or where no director is so specified, all the directors.*

Further, I note that Section 27 of SEBI Act also deals with offences by Companies. In the said provision, Section 27(1) says that, in case of a default by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

30.3.8. In view of the above, I find as under:

30.3.8.1. That Noticee No.2, has violated Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a),(b),(c) of SEBI Act. Further, he is also in violation of Regulation 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7) and 17(8)

of LODR Regulations and Regulations 4(1), 4(2)(e), 33(1)(a),33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act. Also, being Audit Committee member, it was alleged that he failed to play his role in violation of Regulation 18(3) of the LODR Regulations.

30.3.8.2. Noticee No.3 has violated Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a),(b),(c) of SEBI Act. Further, he is also in violation of Regulation 4(2)(f)(i)(2),4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7) and 17(8) of LODR Regulations and Regulations 4(1), 4(2)(e), 33(1)(a),33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act.

30.3.8.3. Noticee No.4 has violated Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a),(b),(c) of SEBI Act. Further, he is also in violation of Regulation 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7)) of LODR Regulations and Regulations 4(1), 4(2)(e), 33(1)(a), 33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act.

30.3.8.4. Noticee No.5, CFO (FYs 2016-17 & 2018-19) and Noticee No.6, CFO (FYs 2019-20 & 2020-21) has violated Regulations 3(b), 3(c),3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of PFUTP Regulations read with Section 12A(a),(b), (c) of SEBI Act and Regulation 4(1),4(2)(e),17(8),33(1)(a),33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act. Further, Noticee No.5 has failed to place 3 omnibus approvals before the Audit Committee for obtaining the required approval, therefore, I find that he has also violated Regulation 23 (3) of the LODR Regulations.

Role of the company's Joint Managing Director (Noticee No.7):

31. The specific charges levelled against the Noticee No.7, his replies and my findings are as under:

31.1. SCN:

31.1.1. In this regard, it was observed that Noticee No.7 is a Promoter and former Joint Managing Director ("*Joint MD*") on the company's Board of Directors. He is the brother of Promotor & CMD- Rohtas Goel. He joined Omaxe in the year of 1991 and was one of the company's KMPs as per the Companies Act 2013. During the investigation period, he was also a member of the Executive Committee of the Board of Directors and Share/ Debenture Transfer Committee during FY 2016-17. He ceased to be a director of the company w.e.f. September 27, 2017, however, reappointed as an Additional Director (Executive) on the company's Board w.e.f. October 01, 2021 for a period of 5 years, though resigned on January 31, 2022.

31.1.2. Being Joint MD, he was a member of the Board of Directors and attended 3 Board meetings in FY 2016-17 and 2 Board meetings in FY 2017-18 during the investigation period (FY 2016-17 to FY 2020-21). Further, as per the company's Annual Report for FY 2016-17 (Page no. 28), it is stated that "*Mr. Sunil Goel has over 25 years of experience and is looking after day to day affairs of the Company under the overall supervision of Chairman and Managing Director and Board of Directors.*" Further, it was observed that company had also another Whole Time Director/ Executive Director-Finance namely Sudhangshu S. Biswal to whom company's CFO reported. Hence, Noticee No.7 was involved in day to day affairs of the company but not in finance function, as same was being handled by Sudhangshu S. Biswal, Whole Time Director/ Executive Director-Finance.

31.1.3. It was further observed that Noticee No.7 was the whistle blower complainant in the instant investigation. In his complaint letters, he alleged and highlighted

various irregularities in the financial statements of Omaxe. Noticee No.7, knew about the nefarious transactions of Omaxe and its subsidiaries with JBPL, however, he brought out the irregularities only after his ouster from the company's Board. Further, despite his complaint/ grievances alleging mismanagement in the company's affairs, he re-joined the company with effect from October 01, 2021 only to resign on January 31, 2022. If he was so confident of his allegations and believed in financial misstatements of Omaxe, there was no reason for him to re-join the company. It is important to mention that major financial irregularities were carried out by Omaxe during FYs 2016-17 and 2017-18 and Sunil Goel was a Director on the company's during FY 2016-17 and around half year in FY 2017-18.

- 31.1.4. Therefore, Noticee No.7, being the Joint MD and also a Board member of the company was alleged to be responsible for the violations committed by the company during his tenure and had failed to perform his duties and obligations which resulted in publication of misrepresented/misstated and misleading financial statements of Omaxe.

31.2. Contention:

- 31.2.1. He is no longer associated with the day to day management of the company for over 6 to 7 years.
- 31.2.2. He has filed Company Petition bearing No. 184 of 2018 which was later disposed as withdrawn.
- 31.2.3. He has given his written submissions in the past along with all the relevant information and does not now have access to provide the details of the current or recent activities of omaxe.

31.3. Findings:

- 31.3.1. As regards the allegation against Noticee No. 7, I note that he is the Promoter and former Joint Managing Director ("*Joint MD*") on the company's Board of

Directors. He joined Omaxe in the year of 1991, ceased to be a director of the company with effect from September 27, 2017, however, he was reappointed as an Additional Director (Executive) on the company's Board on October 01, 2021, but he resigned on January 31, 2022. Being Joint MD, he was a member of the Board of Directors and attended 5 Board meetings in FYs 2016-17 and 2017-18. Hence, Noticee No.7 was involved in day to day affairs of the company and the assertions of irregularities in the financial statements of Omaxe in his complaint shows that he had knowledge about the nefarious transactions of Omaxe and its subsidiaries with JBPL, however, he brought to light only after his removal from the company's Board. Thereafter, it is observed that despite his complaint/ grievances alleging mismanagement in the company's affairs, he re-joined the company w.e.f. October 01, 2021 only to resign on January 31, 2022. It is important to mention that major financial irregularities were carried out by Omaxe during FYs 2016-17 and 2017-18 and he was a Director on the company's during FY 2016-17 and around half year in FY 2017-18.

31.3.2. In addition to the above, I note that, Noticee No. 7 has not denied any of the charges levelled against him the SCN. Therefore, I note that he has admitted to the aforesaid charges. Furthermore, I note from the shareholding pattern of March 2024, that he is currently a Promoter of Omaxe holding 1.82 % among the 10 individuals/HUF who totally own 5.69% of the shares of Omaxe. In this regard, I also note that being Joint MD and also a Board member of the company, he had all the powers and authorities as provided by Board of Directors from time to time, subject to their control and directions except the powers which are required to be exercised by the Board in a Meeting. Thus, I note that he is also held responsible for the violations committed by the company during his tenure.

31.3.3. In view of the above, I find that Noticee No.7 has failed to perform his duties

and obligations which resulted in publication of misrepresented/misstated and misleading financial statements of Omaxe and accordingly has violated Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7) of LODR Regulations and Regulations 4(1), 4(2)(e), 33(1)(a), 33(1)(c), 34(3) and 48 of LODR Regulations read with Section 27 of SEBI Act.

Role of the company's Audit Committee Members (Noticee No.2, 8 - 14):

32. The specific charges levelled against the company's Audit Committee Members i.e. Noticee No.2, 8 - 14, their replies and my findings are as under:

32.1. SCN:

32.1.1. In this regard, it was observed that Noticee No.2, Noticee No.8, Noticee No.9, Noticee No.10, Noticee No.11, Noticee No.12, Noticee No.13, Noticee No.14 along with Srinivas Kanakagiri, were the Audit Committee Members. They attended the company's Audit Committee meetings held during the investigation period as follows:

Table No. 25

Name of the Audit Committee Member	No. of Audit Committee meetings eligible to attend	No. of Audit Committee meetings attended	Date of Joining	To
Prem Singh Rana (Noticee No.13)	9	9	09/11/2011	23/10/2017
Rohtas Goel (Noticee No.2)	27	26	08/03/1989	Present
Bhopinder Singh (Noticee No.14)	6	6	27/03/2007	12/07/2017
Sudip Bandyopadhyay (Noticee No.11)	15	14	04/11/2015	15.07.2019
Shruti Dvivedi Sodhi (Noticee No.12)	9	5	29/05/2017	06.12.2018
Srinivas Kanakagiri	4	2	29/07/2017	17.10.2018
Devidas K. Kambale (Noticee No.10)	8	8	30/07/2019	16.01.2021
Gurnam Singh	11	11	12/02/2019	Present

(Noticee No.9)				
Nishal Jain (Noticee No.8)	4	4	04/11/2019	Present

32.1.2. With regard to misstatement/ irregularities in the company's financial statements, most of the above Audit Committee Members have *inter alia* stated that they were not aware of the transactions being executed by Omaxe and submitted that they approved the financials as presented before the Audit Committee. Thus, they disclaimed their responsibility in respect of widespread misrepresentation/ misstatement / manipulation in the financial statements of Omaxe for FYs 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21. In this regard, it is observed that, in terms of the provisions of Regulation 18(3) of the LODR Regulations, it is the duty of the Audit Committee to function independently and have reasonable suspicion on the functioning of the management in order to serve as a meaningful check on the functioning of the management rather than simply rely upon the management. However, on perusal of minutes of 27 Audit Committee meetings held during the investigation period, it was observed that 15 meetings were concluded within 10-30 minutes. A brief summary on the same is tabulated below:

Table No. 26

FY	No. of Audit Committee meetings	Duration of meetings		
		10-15 minutes	16-30 minutes	31 & above minutes
2016-17	5*	-	4	-
2017-18	6	2	3	1
2018-19	6*	-	1	4
2019-20	5	1	2	2
2020-21	5	-	2	3
Total	27	3	12	10

*For meetings held on May 24, 2016 and October 01, 2018, the duration of meeting is not ascertainable as time of conclusion of meeting is not mentioned in the minutes of the meeting.

- 32.1.3. For instance, the Audit Committee in its meeting held on May 28, 2017 which was concluded in 15 minutes, considered and recommended/ approved the following agenda items:
- 32.1.3.1. The dividend distribution policy;
 - 32.1.3.2. Draft standalone and consolidated Financial Statements of the company for FY ended March 31, 2017;
 - 32.1.3.3. Draft statutory auditor report for FY ended March 31, 2017;
 - 32.1.3.4. Proposed security/corporate guarantees etc. from/to group/related companies
 - 32.1.3.5. Related party transactions.
- 32.1.4. It was observed that all the above agenda items were discussed and completed within 15 minutes which clearly indicate that the Audit Committee did not spend enough time to go through the financial results/reports/details and relied upon the data/ details as presented by the management. It was therefore alleged that the Audit Committee members failed to independently evaluate the accuracy of the company's financial statements.
- 32.1.5. Further, investigation further noted that that there were number of red flags/ alerts pointing towards irregularities/ manipulation in the company's financial statements/ transactions executed by the company with certain entities including its group/ companies where the employee of Omaxe were director / related entities. Accordingly, the Audit Committee being a watchdog at first level, should have raised queries/ questions on the same. However, the minutes of the Audit Committee clearly indicate that the members never raise any suspicion on the company's financials which validates the fact of failure of exercising due diligence at their end while approving the financial statement of the company and simply relied upon the management submissions.

32.1.6. Detail of such red flags/ alerts indicating irregularities/ manipulation in the company's financial statements were observed as below:

32.1.6.1. There were Rs.35 crores advances were shown from November 2013 in the financial statements of Omaxe, however, the Audit Committee did not raise any question on the advance which were pending for last 9 years.

32.1.6.2. Further, JBPL was used by Omaxe as vehicle to manipulate and inflate revenue of the company to the extent of Rs.436.15 crore and Rs.398.80 crore which were observed to be 42.08% and 31.46 % of the total revenue reported by Omaxe for FY 2016-17 and 2017-18 respectively.

32.1.6.3. Omaxe reported huge Debtors towards JBPL in its financial statements for amounting to Rs.476.90 crores and Rs.292.62 crore which were observed to 78% and 38.57% of total Debtors reported by Omaxe for FY 2016-17 and 2017-18 respectively.

32.1.6.4. Omaxe executed huge number of transactions relating to its land/ plots through merely signing MoUs.

32.1.7. As per Regulation 23 (2) of LODR Regulations, every RPTs should be approved by the audit committee. On examination of minutes of audit committee, it was observed that the approval of the RPTs were not part of the minutes of the audit committee rather they were part of annexure of minutes of Audit Committee. However, there was no reference of annexure in the minutes of Audit Committee and the annexures were not signed by the audit committee members. Therefore, this raises question on authenticity of the approval of the RPTs.

32.1.8. As regards claim of the Audit Committee Members for their unawareness about the transactions of Omaxe and its group companies with JBPL, it is pertinent to mention that these inflated transactions contributed 42.08% and

31.06% of the company's revenue for FYs 2016-17 and FY 2017-18 respectively. On examination of the minutes of the Audit Committee, it was observed that these transactions despite contributing significantly in the company's revenue, were not discussed by the Audit Committee and no query/question was raised by the Audit Committee members.

32.1.9. Further, one of the important functions of the Audit Committee is to make recommendation for appointment, remuneration and terms of appointment of Auditors of the listed entity and review the functioning of the Whistle Blower Mechanism. Role of Audit Committee comprising the Members namely Rohtas Goel, Gurnam Singh and Nishal Jain in appointment of the Auditor and dealing with Whistle Blower Mechanism is brought out as under:

32.1.9.1. The complaint of Sunil Goel was discussed in the Audit Committee meeting held on February 12, 2021 wherein the Committee was informed about the concerns raised by Sunil Goel in his complaint. It was also informed that Sunil Goel had already filed petitions against the company alleging oppression and mismanagement before the Hon'ble NCLT and the matter is therefore, sub-judice. It was observed that the Audit Committee just took note of the said complaint, however, failed to looking into the allegations made by one of the Board members for taking remedial action in the matter.

32.1.9.2. Subsequently, the NSE had advised that allegations made by Sunil Goel should be placed before the company's Audit Committee and Board of Directors. In this regard, the Audit Committee recommended appointment of the company's Internal Auditor- Doogar & Associates, CA firm to look into the allegations including financial irregularities in the company's financial statements, funds siphoning off, etc., made by Sunil Goel.

32.1.9.3. As recommended by the Audit Committee, the Board assigned the task to M/s Doogar & Associates, CA for examination of the said allegations. However, it is observed that there was conflict of interest in appointment of Doogar & Associates since the CA firm worked as Statutory Auditor of Omaxe from 2009-2010 to 2016-17. Further, the said firm was presently working as an Internal Auditor of the company. Despite a conflict of interest in the appointment of Doogar & Associates, the Audit Committee failed to address the same.

32.1.9.4. Further, it is pertinent to mention that Doogar & Associates categorically mentioned in its report submitted to the NSE that the firm has not audited/ verified/ re-examined the transaction details, and only highlighted the nature of transactions based on the documents made available by the company to them. Without verification of the transactions details and simply relying upon the information provided by the company, indicate lack of due diligence, absence of neutrality and professional scepticism at the said firm's end. Surprisingly, the Audit Committee was satisfied and agreed with the report submitted by Doogar & Associates giving a clean chit to the company for the serious allegations levelled by Whistle Blower-Sunil Goel who was Promoter, Joint MD of the company and closely worked with the Omaxe management for number of years.

32.1.10. In view of the above, investigation observed that Audit Committee failed to act upon on the red flags/ alerts which were significant to have a basis idea/ assessment of the company's financials. However, the Audit Committee did not raise any query/ question and the Audit Committee Members failed to

play their role as required in terms of Regulation 18 (3) of the LODR Regulations. Hence, such negligence on the part of the Audit Committee, led to publication of misrepresented/ misstated financial results of the company to all the stakeholders.

32.1.11. The investigation further stated that the Audit Committee is expected to be independent and has duty to protect the interest of the minority shareholders of the company against the abuses of the promoters/ executives. However, in case of Omaxe, it was alleged that the Audit Committee not only failed to live up to the expectations of the minority shareholders but appears to have been reduced to a rubber-stamp Committee blindly approving the proposals presented by the management.

32.1.12. It was further noted that it is the duty of the Audit Committee to function independently and have reasonable suspicion on the functioning of the management in order to serve as a meaningful check on the functioning of the management. If the Committee waits for the management to report adverse matters without establishing mechanisms to independently detect the adverse matters concealed by the management, the Audit Committee will never be able to detect the fraud perpetrated by the management/ statutory auditors of the company and will be rendered redundant. Thus, it was alleged that the justifications provided by the Committee members are not acceptable.

32.1.13. Accordingly, considering widespread misrepresentations/ irregularities /manipulation in Omaxe's financial statements, it was alleged that the Audit Committee failed to ensure that the financial statements recommended by it to the Board for approval (which were ultimately reported to the shareholders of Omaxe) are free of misstatement/ misrepresentations despite number of red flags/red alerts. It was also alleged that the Committee also failed in

ensuring that the management puts in place adequate checks and balances in financial reporting functions.

32.1.14. Hence, it was alleged that the Audit Committee members namely Rohtas Goel, Sudip Bandyopadhyay, Prem Singh Rana, Bhopinder Singh, Shruti Dvivedi Sodhi, D K Kambali, Gurnam Singh and Nishal Jain failed in their role as an Audit Committee Member to oversee efficacy and veracity of financial reporting function in violation of Regulation 18(3) read with Para A of Part C of Schedule II of the LODR Regulations.

32.2. Contention:

32.2.1. **Noticee No.2:** He submitted that there was no failure on his part to play the role of an audit committee member and therefore there is no violation of Regulation 18(3) of LODR Regulations.

32.2.2. **Noticee No.8:** He submitted that he was associated with omaxe as an independent director since 04.11.2019 and he was not involved in the day to day management / operations of the company. Based on omaxe's reply there is no violation of LODR Regulations. The allegations against the Noticee are incorrect and the SCN should be disposed of without any adverse observations against Noticee No.8.

32.2.3. Noticee No.9:

32.2.3.1. As an Audit committee member and Independent Director, the Noticee would request for internal audit report presentations atleast 2 days in advance and RTPs to be sent atleast one day in advance in order to be able to deal all the related issues, if any. Further, owing to many agendas it was difficult to conclude the meetings in half an hour. However, the less time accounted for could be due to common agenda in board meetings and audit meetings, brief meetings could have happened in some cases where already detailed discussions had taken place or were going

to take place. Accordingly, the Noticee has provided a table wherein meetings have happened over 1 hour to more than 3 hours in most cases during his tenure and meetings that were concluded under 15 minutes do not pertain to his time period.

32.2.3.2. He also submitted that the audit committee had taken cognizance of the petition filed by Mr. Sunil Goel and was taking periodical updates on the same. Further, there was no instruction received from NSE which stated that the allegation of Mr. Sunil Grover had to be placed before the audit committee, however whatever information was sought by NSE has been provided to it. Further, he submitted that Doogar and associates were appointed only for the purpose of collecting and collating information in response to the NSE who had sought exhaustive documents. Therefore, the allegations made against omaxe in this regard are incorrect.

32.2.3.3. As regards his role, the Noticee submitted that he performed his duties to the best of the abilities despite its vastness, wherein he has given examples of the same.

32.2.3.4. Further, he has no demat account.

32.2.4. Noticee No.10:

32.2.4.1. Noticee submitted that his total tenure in the Omaxe was only for 18 months.

32.2.4.2. The non-disclosure of related party transactions in Fys 2016-17, 2017-18 and 2018-19 do not pertain to his tenure.

32.2.4.3. As regards the allegation of Audit committee meetings that were concluded in short time span, which could not evaluate the accuracy of the company's financial statements minutes, the Noticee submitted that he would insist on presentation on each agenda item, deliberate before taking a final decisions, in case of final results he used to insist on presentation by CFO with reference to physical performance, sales, cost, profit, etc.

Therefore, Audit Committee Meetings were during his tenure were not concluded in 10 to 30 mins. Further, the Noticee has executed this duty very diligently to the best of his ability. He has encouraged discussions and tried to find solutions in situations that were required. He has taken suo moto action when required and also took actions with forethought and persistence. Accordingly, he has **submitted his comments on all the agenda meetings.**

32.2.4.4. The Noticee submitted that during his tenure he had received complaint letters from Noticee No.7, which were brought to the attention of the board and advised to address as they were allegations of diversion of funds and after his resignation, the internal auditors was assigned this job at the direction of NSE.

32.2.5. **Noticee No.11:** The Noticee submitted that he was associated with the company as an independent non-executive director from 04.11.2015 to 15.07.2019, who was not involved in the day to day management of the company. Further, the Noticee submitted that he has no access to the books of accounts of the company and this is in no position to appropriately respond to the allegations. He further submitted that there is no negligence on part of the audit committee and accordingly, there is no violation of LODR Regulations. The allegations against the Noticee are incorrect and the SCN should be disposed of without any adverse observations against Noticee No.11.

32.2.6. **Noticee No.12, 13 & 14:** Submitted that they associated with the company from 29.05.2017 to 06.12.2018, 09.11.2011 to 23.10.2017 & 29.07.2008 to 12.07.2017, respectively, in the capacity of an Independent Director and were not involved in the day to day affairs of the company. They further submitted that there is no negligence on part of the audit committee and accordingly, there is no violation of LODR Regulations. The allegations against the

Noticees are incorrect and the SCN should be disposed of without any adverse observations against them.

32.3. Findings:

- 32.3.1. In this regard, upon perusal of minutes of 27 Audit Committee meetings held during the investigation period, it was observed that 15 meetings were concluded within 10-30 minutes. For instance, the Audit Committee in its meeting held on May 28, 2017, considered and recommended/ approved certain agenda in 15 minutes, which clearly indicate that the Audit Committee did not spend enough time to go through the financial results/reports/details and relied upon the data/ details as presented by the management.
- 32.3.2. I further note that as per Regulation 23 (2) of LODR Regulations, every RPTs should be approved by the audit committee. However, on examination of minutes of audit committee, it was observed that the approval of the RPTs were not part of the minutes of the audit committee rather they were part of annexure of minutes of Audit Committee and were not discussed by the Audit Committee and no query/question was raised by the Audit Committee members. Also, there was no reference of annexure in the minutes of Audit Committee and the annexures were not signed by the audit committee members, which raises question on authenticity of the approval of the RPTs. I also note that these inflated transactions contributed 42.08% and 31.06% of the company's revenue for FYs 2016-17 and FY 2017-18 respectively.
- 32.3.3. Further, as regards role of the audit committee with respect to appointment of the Auditor and dealing with Whistle Blower Mechanism, Noticee No.7, I note that the committee discussed the concerns raised by him on February 12, 2021. However, it appears that as regards petitions against the company filed by Noticee No.7 alleging oppression and mismanagement before the Hon'ble NCLT, the Audit Committee just took note of the said complaint, but, failed to take remedial action in the matter. Thereafter, based on NSE's advise to place allegations made by Noticee No.7 before the company's Audit

Committee and Board of Directors, the Audit Committee recommended appointment of the company's Internal Auditor- Doogar & Associates, despite the conflict of interest as they worked as Statutory Auditor of Omaxe from 2009-2010 to 2016-17. Thereafter, Doogar & Associates submitted to the NSE that the firm has not audited/ verified/ re-examined the transaction details, and only highlighted the nature of transactions based on the documents made available by the company to them, which was accepted by the audit committee without any verification.

32.3.4. With regard to misstatement/ irregularities in the company's financial statements, most of the above Audit Committee Members have inter alia stated that they were not aware of the transactions being executed by Omaxe and submitted that they approved the financials as presented before the Audit Committee. In this regard, it is observed that the audit committee operates as a representative of the board of directors from whom it receives its powers to perform its corporate governance responsibilities which include overseeing and monitoring the organization's financial reporting, disclosure, internal and external audit, internal control, regulatory compliance, and risk management activities; this applies to public, private, and mix sectors, as well as some non-governmental and not-for-profit organizations. Further, the audit committee provides the board of directors with necessary advices and recommendations which include ensuring that the respective organization complies with relevant regulations and ethical principles and standards, that the internal auditors are independent and competent, that the financial statements have been prepared correctly and accurately, and that the compensations paid to the organization's executives were according to fairness and professionalism. Thus, I note that they disclaimed their responsibility in respect of widespread misrepresentation/ misstatement / manipulation in the financial statements of Omaxe for FYs 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21.

32.3.5. In this regard, in terms of the provisions of Regulation 18(3) of the LODR

Regulations, I note that it is the duty of the Audit Committee to function independently and have reasonable suspicion on the functioning of the management in order to serve as a meaningful check on the functioning of the management. If the Committee waits for the management to report adverse matters without establishing mechanisms to independently detect the adverse matters concealed by the management, the Audit Committee will never be able to detect the fraud perpetrated by the management/ statutory auditors of the company and will be rendered redundant. Therefore, I do not find merit in the submission of Noticee Nos. 2, 8-14, in this regard and find that they have violated the provisions of Regulation 18(3) read with Para A of Part C of Schedule II of the LODR Regulations.

Role of the company's Compliance Officers (Noticee No.15 and 16):

33. The specific charges levelled against the company's Compliance Officers i.e. Noticee No.15 and 16, their replies and my findings are as under:

33.1. SCN:

33.1.1. Since Omaxe indulged in huge number of RPTs which resulted in misstatement and manipulation in the company's financial statements, the role of the company's Compliance Officer was examined. Accordingly, it was observed that Noticee No.16 was the Company Secretary cum Compliance Officer of Omaxe from August 11, 2016 to August 28, 2019. Thereafter, Noticee No.15 was appointed Company Secretary cum Compliance Officer from September 05, 2019. Further, it was observed that Noticee No.16 is one of the signatories of the financial statement for FYs 2016-17, 2018-19 and 2018-19 and Noticee No.15 was one of the signatories of the financial statement of FYs 2019-20 and 2020-21. In this regard, Noticee No.15 inter alia admitted in his statement recorded on October 17, 2022, that there has been lack of due diligence on his part as Secretary of the Audit Committee as well as Compliance Officer of the company.

- 33.1.2. Further, as per Regulation 23 (4) of LODR Regulations, all material RPTs shall require approval of the shareholders through resolution. A transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity
- 33.1.3. The company has submitted just one document relating to shareholder approval (approval taken on September 27, 2017) for the RPTs for FYs 2017-18, 2018-19, 2019-20 and 2020-21. Further, the approval of shareholders is for transactions with related parties for an amount which may exceed the materiality threshold by an amount not exceeding Rs. 7,500 Crore individually and/or collectively.
- 33.1.4. In this regard, Noticee No.15 vide e-mail dated October 20, 2022 inter alia submitted that *“The Resolution for approval & ratification of Related Party Transactions up to Rs. 7500 Cr. was passed by the by the Shareholders of the Company in accordance with the provisions of Companies Act, 2013 & SEBI Regulations, at 28th Annual General Meeting of the Company”*. Such blanket approval is anyway not in line with the Regulation 23 (4) read with Regulation 23 (1) of the LODR Regulations wherein shareholder approval is required for any RPT which exceeds 10% of the consolidated turnover of previous financial year.
- 33.1.5. Further, as alleged above, Omaxe failed to disclose 20 group companies/ employee director companies as Related Parties in its Annual Report. The directors of these companies were the employees of Omaxe and they were working under the direction/ influence and control of Omaxe management/ KMPs and therefore, these 20 companies were Related Parties of Omaxe.

However, Noticee No.16 and Noticee No.15 being Compliance Officer of Omaxe failed to disclose these companies as Related Parties of the company.

33.2. Contention: The Noticee have submitted that they were the secretary and compliance officer of Omaxe from 05.09.2019 to 13.02.2023 and from the inception of the company till 28.08.2019, respectively. There was no non-compliance with regard to their duties and no one except Mr. Sunil Goel, pointed out any complaints. They submitted that issues like annexure of omnibus approval not signed by audit committee etc. were procedural errors which Omaxe has taken cognizance for future compliance and further submitted that Omaxe has not entered into any RTPs without obtaining the requisite approvals. They also submitted that there is no violation of LODR Regulations. The allegations against the Noticees are incorrect and the SCN should be disposed of without any adverse observations against them.

33.3. Findings:

33.3.1. The role of the company's Compliance Officer was examined, with regard to the current proceedings and in this regard, I note that Noticee No. 16 was the Company Secretary cum Compliance Officer of Omaxe from August 11, 2016 to August 28, 2019 and subsequently, Noticee No.15 was appointed Company Secretary cum Compliance Officer from September 05, 2019. Thus, Noticee No.16 was one of the signatories of the financial statement for FYs 2016-17, 2018-19 and 2018-19 and Navin Jain was one of the signatories of the financial statement of FYs 2019-20 and 2020-21. Further, I note that in terms of Regulations 23(2) of LODR REGULATIONS, all RPTs require Audit Committee approval, however, it was observed that the approval for RPTs were not part of the Audit Committee minutes rather they were part of annexure of minutes of Audit Committee, which were not mentioned in the minutes and also the annexures to the minutes were not signed raise question on authenticity of the approval for RPTs by the Audit

Committee. Thereafter, I note that as per Regulation 23 (4) of LODR Regulations, all material RPTs shall require approval of the shareholders through resolution, when it exceeds 10% of the consolidated turnover of previous financial year, however, Omaxe has submitted just one document i.e. approval taken on September 27, 2017, whereas the violation period was for FYs 2017-18, 2018-19, 2019-20 and 2020-21.

33.3.2. The Compliance officer is inter-alia responsible for carrying out numerous core functions including co-ordination with recognised stock exchange(s) and depositories vis-a-vis compliance with rules, regulations and other directives of SEBI; monitoring e-mails received by grievance redressal division of the listed entity; maintenance of appropriate procedures to ensure correctness, authenticity and comprehensiveness in information being filed with SEBI etc. Thus, I note that there is a high degree of responsibility on compliance officers to ensure that all the rules and regulations applicable over a company are complied with. Therefore, as per the above mentioned provisions of law, there is a there was a statutory duty imposed upon Noticee Nos. 15 & 16 statutory duty to go into the crux of the said transaction undertaken by Omaxe and to guide the company and management of the company accordingly.

33.3.3. Therefore, I do not agree with the Noticee nos. 15 & 16's submissions which state that there was no non-compliance with regard to their duties and no complaints pointed out pone except by Mr. Sunil Goel, and also that there is no violation of LODR Regulations as Omaxe has not entered into any RTPs without obtaining the requisite approvals. Further, I note that Noticee Nos. 15 & 16 have admitted to the violation when they stated that issues like annexure of omnibus approval not signed by audit committee etc. were procedural errors which Omaxe has taken cognizance for future compliance. Thus, I find that Noticee Nos. 15 & 16, have violated Regulation 6(2) (a), (b), (c), Regulations 23 (4) read with Regulation 23(1), Regulation 27(2) and 34(3) of

LODR Regulations.

34. I note that Regulation 4(1) to the PFUTP Regulations imposes a complete prohibition on all manipulative, fraudulent or unfair trade practice relating to securities market. Further, I note that the 'Explanation' added to Regulation 4(1) merely clarifies that certain acts such as diversion of funds / manipulation of books of accounts, shall always be deemed to have been considered as 'manipulative, fraudulent and unfair trade practice relating to securities market'. Similarly, Regulation 4(2) of the PFUTP Regulations, prevents dealing in securities which can be deemed to be fraudulent, manipulative or unfair trade practice. Here, I find that the Noticees have acted in concert in order to execute a fraudulent scheme which they tried to portray as normal transactions for the benefit of the Company although it was experiencing loss, while also trying to portray that these as merely lending activities, thereby trying to maintain the price of the scrip of Omaxe for a period of three years. Furthermore, in the instant case, the fraud was never disclosed to the shareholders of Omaxe, which misled them to remain invested in its shares or deal in its securities. Also misrepresentation of the books and accounts of Omaxe, as discussed above, misled the investors in the securities market. Thus, I find that there was an understanding amongst the Noticees and the company which suggests that they were acting in connivance and collusion with each other in order to misrepresent the books of accounts of Omaxe.

35. I have carefully considered the facts and evidences available on record against the Noticees, the circumstances surrounding the violations committed by them and the submissions advanced by the Noticees as well as following the principles of preponderance of probabilities, I hold that the charges relating to violation of the provisions of the SEBI Act, PFUTP Regulations and LODR Regulations as brought out in detail in this order are found to have been substantially established.

36. In this regard, I place reliance on the judgment of Hon'ble Supreme Court of India the matter of Chairman, **SEBI Vs Shriram Mutual Fund** {[2006]5 SCC 361} wherein

Hon'ble Supreme Court held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention made by the defaulter with guilty intention or not."*

37. In view of the above, I find that this is a fit case to issue directions under Sections 11(1), 11(4), 11(4A), 11B (1) and 11 B (2) of the SEBI Act to Noticee No 1 to 6 and all the Noticees are liable to be imposed with of penalty under Sections 15A (a), 15HA and 15HB of the SEBI Act, to the extent applicable to them. The relevant provisions of the SEBI Act are reproduced 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, 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.”

38.I note that Section 15J of the SEBI Act provides factors which are required to be considered while adjudging the 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.”

39.I find that material available on record does not mention the amount of disproportionate gain or unfair advantage made as a result of the default. I find that the material available on record also does not indicate the amount of specific loss caused to investors or group of investors as a result of the default by the Noticees. However, it is an admitted fact that the Noticee No.1 misrepresented its financials and violated LODR Regulations and the Companies Act. I also note that at several instances rules, regulations and accounting standards have also not been followed, all resulting in the violation of PFUTP Regulations. Further, the violations have occurred over a period of ten financial years. I also note that Noticee No. 2 was the Chairman and Managing Director of Omaxe at the time of the violation and remains

to be one till date. Thereafter, I note that Noticee No.3 is the son of Noticee No.2 and was the Executive Officer and WTD of Omaxe at the time of the violation and remains to be one till date. Subsequently, I note that, Noticee No. 4 to 7 were the Whole Time Director, CFOs and Joint MD of Omaxe, respectively; Noticee No. 8 to 14 were the members of the audit committee and Noticee No. 15 & 16 were the Compliance Officers of Omaxe during the Investigation Period, and they all were responsible for full, fair and accurate, information regarding the company's financials, but they failed to do the needful. Hence the aforesaid Noticees's act/practice of deliberate misrepresentation of the company's financial statements and manipulation of Omaxe scrip price, operated as a device/scheme to defraud the investors in the securities market, resulting in violation of various provisions of PFUTP Regulations. In this regard, I would like to rely on the observation of Supreme Court in **N. Narayanan V. SEBI, (2013) 12 SCC 152**, wherein the following observations were made;

“33. Prevention of market abuse and preservation of market integrity is the hallmark of securities law. Section 12-A read with Regulations 3 and 4 of the 2003 Regulations essentially intended to preserve “market integrity” and to prevent “market abuse”. The object of the SEBI Act is to protect the interest of investors in securities and to promote the development and to regulate the securities market, so as to promote orderly, healthy growth of securities market and to promote investors' protection. Securities market is based on free and open access to information, the integrity of the market is predicated on the quality and the manner on which it is made available to market. “Market abuse” impairs economic growth and erodes investor's confidence. Market abuse refers to the use of manipulative and deceptive devices, giving out incorrect or misleading information, so as to encourage investors to jump into conclusions, on wrong premises, which is known to be wrong to the abusers. The statutory provisions mentioned earlier deal with the situations where a person, who deals in securities, takes advantage of the impact of an action, may be manipulative, on the anticipated impact on the market resulting in the “creation of artificiality”. The same can be achieved by inflating the company's revenue, profits, security deposits and receivables, resulting in price rise of the scrip of the company. Investors are then lured to make their “investment decisions” on those manipulated inflated results, using the above devices which will amount to market abuse.”

40. Similarly, the Supreme Court in the matter of **MBL and Company Limited Vs. SEBI, order dated May 26, 2022**, stated that:

“10. The WTM found the appellant guilty of violating provisions of Section 12A (a), (b), (c) of the SEBI Act read with Regulations 3 (a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), 4(2) (e) and 4(2)(g)7 of the PFUTP Regulations. It is in this backdrop that the WTM has come to the conclusion that the manipulation which was conducted by the appellant has to be analyzed not only from the narrow perspective of the gain which has been caused to the appellant, but, on the breach of the integrity of the securities market..... In the present case, the WTM, while imposing an order of debarment, has specifically applied her mind to the issue as regards the impact of such a manipulation. While dealing with this aspect, the WTM has observed that the manipulation of the price of scrips seriously impinges upon other counter parties in the securities market. In other words, the impact of a manipulation which is carried out by a participant in the securities market cannot be assessed only in terms of the gain which has been caused to the participants themselves, but in terms of the wider consequences of the action on the securities market..... The securities market deals with the wealth of investors. Any such manipulation is liable to cause serious detriment to investors’ wealth. In this backdrop, the order which has been passed by the WTM cannot be regarded as disproportionate so as to result in the interference of this Court in the exercise of its jurisdiction under Section 15Z of the SEBI Act.”

Directions:

41. In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act read with Sections 11(1), 11(4), 11 (4A), 11B(1), and 11B (2) of the SEBI Act and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, hereby issue the following directions:

- i. The Noticee No. 1 to 6, being the Company, CMD & CEO, WTD and CFOS are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of two (2) years, from the date of coming into force of this order;

- ii. The Noticee No. 2 to 6 are prohibited from holding any position as Director or Key Managerial Person of any other listed company for a period of two (2) years.
- iii. Further, the Noticee No. 1 to 16, are hereby imposed with the following penalties, as specified;

Noticee No.	Name of Noticee	Provisions under which penalty imposed	Penalties
1	Omaxe Ltd.	Sections 15A(a), 15HA & 15HB of SEBI Act	Rs.7,00,000/- (Rupees Seven Lakh Only)
2	Rohtas Goel	Sections 15HA & 15HB of SEBI Act	Rs. 6,00,000/- (Rupees Six Lakh Only)
3	Mohit Goel	Sections 15HA & 15HB of SEBI Act	Rs. 6,00,000/- (Rupees Six Lakh Only)
4	Sudhangshu S. Biswal	Sections 15HA & 15HB of SEBI Act	Rs. 6,00,000/- (Rupees Six Lakh Only)
5	Arun Kumar Pandey	Sections 15HA & 15HB of SEBI Act	Rs. 6,00,000/- (Rupees Six Lakh Only)
6	Vimal Gupta	Sections 15HA & 15HB of SEBI Act	Rs. 6,00,000/- (Rupees Six Lakh Only)
7	Sunil Goel	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
8	Nishal Jain	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
9	Gurnam Singh	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
10	D.K. Kambale	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
11	Sudip Bandyopadhyay	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
12	Shruti Dvivedi Sodhi	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
13	Prem Singh Rana	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
14	Bhopinder Singh	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
15	Navin Jain	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
16	Shubha Singh	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)

- iv. The Noticees shall remit / pay the said amount of penalty, within a period of forty-five (45) days from the date of receipt of this order, 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 EDs/CGMs

→ PAY NOW. In case of any difficulties in online payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in.

v. In case of failure of Noticee Nos. 1 - 16 to comply with the aforesaid applicable directions, SEBI, on the expiry of three months period from the date of this Order, may recover such amounts, from the aforesaid Noticees as specified in paragraph 41(iii) of this Order, in accordance with Section 28A of the SEBI Act including such other provisions contained in securities laws.

vi. For any non-compliance of this order, the Noticees shall be subject to strict action under the applicable provisions of the law, including prosecution.

42. The above directions shall come into force with immediate effect.

43. A copy of this order shall be sent to the Noticees, recognized Stock Exchanges, Depositories, Banks, Registrar and Transfer Agents for information and compliance.

Date: July 30, 2024

G RAMAR

CHIEF GENERAL MANAGER

Place: Mumbai

SECURITIES AND EXCHANGE BOARD OF INDIA