SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: M. S. SAHOO, WHOLE TIME MEMBER

SHOW CAUSE NOTICES and SUPPLEMENTARY SHOW CAUSE NOTICES dated

1. **February 14, 2009 to M/s. Price Waterhouse & Ors.**
2. **August 26, 2009 to M/s. Lovelock & Lewes & Ors.**
3. **February 19, 2010 to M/s. Price Waterhouse & Ors.**
4. **February 19, 2010 to M/s. Dalal & Shah & Anr.**

under Sections 11, 11B and 11(4) of the SEBI Act, 1992 and Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market), Regulations, 2003 in the matter of Satyam Computer Services Ltd. (SCSL).

Dates of Hearing: March 30, May 7, June 4, June 11, July 9, November 3, and November 27, 2010

Appearances:

Parties	Represented by
Noticees 1. M/s. Price Waterhouse, Bangalore (Reg. No.007568S) 2. M/s. Price Waterhouse & Co., Bangalore (Reg. No.007567S) 3. M/s. Price Waterhouse & Co., Kolkata (Reg. No.304026E) 4. M/s. Lovelock and Lewes, Hyderabad (Reg. No.301056E) 5. M/s. Lovelock and Lewes, Mumbai (Reg. No.116150W) 6. M/s. Price Waterhouse, Kolkata (Reg. No.301112E) 7. M/s. Price Waterhouse, New Delhi (Reg. No.12754N) 8. M/s. Price Waterhouse & Co., Chennai (Reg. No.50032S) 9. M/s. Price Waterhouse & Co., New Delhi (Reg. No.16844N) 10. M/s. Dalal & Shah, Ahmedabad, (Reg. No.102020W) 11. M/s. Dalal & Shah, Mumbai (Reg. No.102021W)	Mr. Janak D. Dwarkadas, Senior Counsel Mr. Navroz H. Seervai, Senior Counsel Ms. Sharmila A. Karve, Partner, Price Waterhouse Mr. M. S. Gupta, General Counsel, Price Waterhouse Mr. Shyam Mehta, Senior Advocate, Mr. Somesekhar Sundaresan, Partner, J. Sagar Mr. Farhad Sorebjee, Partner, J. Sagar Mr. Zerick Dastur, Sr. Associate, J. Sagar Mr. Ranbir Singh, Advocate / Counsel Mr. Khursheed Vajifdar., Associate, J. Sagar Ms. Prerna Arora, Associate, J. Sagar, and Ms. Anuradha Tuli, Partner, Price Waterhouse
SEBI	Mr. Shiraz Rustomjee, Advocate Mr. J. R. Ranganayakulu, Executive Director Dr. Pradnya Saravade, Executive Director Mr. S. V. Krishnamohan, Legal Adviser Mr. A. Sunil Kumar, General Manager Ms. Geetha G., Deputy Legal Adviser Mr. Pradeep Ramakrishnan, Asstt. General Manager Ms. Kshama Wagherkar, Asstt. Legal Adviser Ms. Sakkeena P V, Asstt. Legal Adviser Mr. Amitesh Kumar, Asstt. Legal Adviser Mr. Viplove Kumar Thakur, Legal Officer, and Mr. Jai Prakash, Legal Officer.

RULING ON THE APPLICATION DATED NOVEMBER 22, 2010 OF NOTICEE (1) AND THE APPLICATION DATED NOVEMBER 22, 2010 OF NOTICEES (2) to (11) FOR CROSS-EXAMINATION OF CERTAIN PERSONS

1. Before dealing with the applications for cross-examination, let me give the background in brief leading to these applications. The hearing of the show cause notices (SCNs) commenced on March 30, 2010, when the learned Advocates for the Noticees sought an adjournment for inspection of documents and stated that the Noticees would file their replies to the SCNs by April 26, 2010. Accordingly, the hearing of the matter was adjourned to May 3, 2010, which was

postponed at the Noticees' request to May 7, 2010. Price Waterhouse, Bangalore (Reg. No. 007568S) (Noticee 1/ PW) filed a comprehensive reply raising a number of preliminary objections and also dealing with the SCNs on merits. The other firms of the PW network (Noticees 2 to 11) filed replies contending that SEBI had no jurisdiction to take the proposed actions against them.

2. At the hearing on May 7, 2010, the learned Counsels for the Noticees submitted two identical applications wherein it was contended that the issue of jurisdiction should be decided separately at the threshold as a preliminary issue. Arguments on the applications on behalf of the Noticees and SEBI were heard by me on May 7, 2010, June 4, 2010 and June 11, 2010. It is not necessary at this stage to go into the facts relating to those applications in detail. In essence, it was contended on behalf of the Noticees that SEBI had no jurisdiction to take the action proposed in the SCNs as it would amount to regulating the profession of Chartered Accountants, which was the exclusive domain of the Institute of Chartered Accountants of India. It was also contended that this issue should be decided separately at the threshold and not along with the other issues. The Noticees also argued that I should give a written ruling as to whether I would decide the jurisdiction issue separately at the threshold. On the other hand, it was contended on behalf of SEBI that the issue of jurisdiction should be determined along with the other issues in a common order. It was also submitted that the determination of this issue would require an examination of the facts and evidence and that it was, therefore, not appropriate to determine it separately. It was also pointed out that though the Noticees claimed that they were proceeding on a demurrer while arguing the issue of jurisdiction, they were, in fact, disputing the key factual position and were, therefore, not proceeding on the basis of a demurrer at all.

3. At the conclusion of hearing on June 11, 2010, I had indicated that I would determine the issue of jurisdiction in a common order along with the other issues and that a written order to that effect would be passed. However, at the hearing on July 9, 2010, after hearing the learned Advocates for the Noticees, I informed that having carefully considered the matter and bearing in mind the role of SEBI and the nature of the proceedings, I was not inclined to pass a written order at that stage. I, however, clarified that reasons for not deciding the jurisdiction issue in isolation at the threshold would be given in my final order. I then requested the learned Advocates to proceed with the merits of the matter and stated that if they were not ready to do so, a fresh date could be granted for that purpose. The learned Advocates indicated that they were not in a position to proceed with the merits in the absence of a reasoned order. I then stated that a fresh date would be fixed for the hearing of the matter on merits, which would be intimated to the Noticees.

4. In the meantime, the Noticees had filed two Writ Petitions (Writ Petition Nos. 5249 of 2010 and 5256 of 2010) before the Hon'ble Bombay High Court for quashing the proceedings before SEBI on the ground that SEBI lacked jurisdiction in the matter. These two Writ Petitions were dismissed by the judgment dated August 13, 2010 of the Hon'ble High Court wherein it was held that the SCNs had not been issued in excess of jurisdiction. SEBI was directed to proceed with the matter and adjudicate on the same in accordance with law as under:

"The SEBI shall now proceed with the matter as indicated above in accordance with law and pass appropriate orders after conclusion of the inquiry. At the time of passing the ultimate order, the SEBI shall consider the aspect as to whether any directions can be issued by SEBI on the basis of evidence available on record as per the provisions of Section 11 and 12 of the SEBI Act. The ultimate jurisdiction of SEBI for giving any such direction will depend upon the evidence which may be available during the course of inquiry. By this judgment, we have only indicated that on the face of it, it cannot be said that SEBI has absolutely no jurisdiction to issue show cause notices against the petitioners simply because they are professionals and whether the facts stated in the show cause notice are correct or not may be adjudicated as per the evidence available, after affording reasonable opportunity of hearing to the petitioners."

5. It was submitted on behalf of the Noticees before the Hon'ble High Court that they wished to approach the Hon'ble Supreme Court against the judgement of the Hon'ble High Court. Accordingly, it was directed that SEBI should not proceed with the inquiry for a period of four weeks in order to enable them to do so. On August 27, 2010, the Noticees sought an extension of the stay granted by the Hon'ble High Court for a further period of four weeks on the basis that the judgement was available to the Noticees twelve days after it was delivered. Accordingly, the stay was extended till September 24, 2010. No appeal was, however, filed by the Noticees before the Hon'ble Supreme Court within the time granted by the Hon'ble High Court.

6. SEBI, therefore, fixed a hearing in the matter on October 15, 2010. However, by their letter dated October 8, 2010, the Noticees requested that the hearing be adjourned by at least two weeks on the ground that their Counsels were not available. SEBI acceded to this request and fixed the next hearing on November 3, 2010. However, at the hearing on November 3, 2010, the learned Advocates for the Noticees again sought an adjournment of the matter by a further period of three weeks on the same ground that their Counsels were not available. This request was also acceded to and the next hearing in the matter was fixed on November 27, 2010.

7. On November 22, 2010, the Noticees filed two applications seeking cross examination of various persons. One Application (Application I) was filed by Noticee 1 seeking cross-examination of two sets of persons on the ground that the statements of such persons formed

the basis of allegations against it. The first set of persons mentioned in Paragraph 2 of the Application I is as under:

a. Shri Ramalinga Raju, former Chairman, Satyam
b. Shri Rama Raju, former Managing Director, Satyam
c. Shri Vadlamani Srinivas, former Senior Vice President & CFO, Satyam
d. Shri G. Ramakrishna, former Vice President (Finance), Satyam, and
e. "undisclosed persons" whose statements have been relied upon in Paragraphs 3.1.3.1, 3.1.3.2, 3.1.4.9, 3.1.4.10, 3.2.2 and 3.3.1 of the SCN dated February 14, 2009 (wrongly mentioned as 2010 in the Application I).

The second set of persons mentioned in Paragraph 4 of the Application I is as under:

a. Shri Srinivas Talluri, PW Partner
b. Shri C. H. Ravindranath, PW engagement team
c. Shri P. Siva Prasad, PW engagement team
d. Shri P. S. Sudhakar, PW engagement team
e. Smt. Madduri N. V. Gayatri, PW engagement team
f. Shri Samvit Durga, PW engagement team
g. Shri Girish B. K. Tallam, PW engagement team
h. Shri N. Ramu, PW engagement team
i. Shri V. V. K. Raju, Senior Vice President (Finance) Satyam, and
j. Shri Srinivas K. Anapu, Head of Internal Information Systems, Satyam.

In the other application (Application II) filed by the Noticees 2 to 11, it was stated that they wished to cross examine the persons mentioned in the Application I in order to establish that they were never the statutory auditors of SCSL.

8. Arguments on the applications were heard by me on November 27, 2010. At the outset, it was submitted on behalf of SEBI that cross-examination of witnesses should not be granted routinely or for the asking, and that the Noticees were required to make out a case as to why cross-examination of the persons named was required. It was necessary for the Noticees to show that they were prejudiced by the statement made by each person and that they were disputing what had been stated therein. It was pointed out in this regard that most of the witnesses sought to be cross-examined were PW's own employees/partner. Reliance was placed on the following observation of the Hon'ble Supreme Court in the matter of *Transmission Corpn of A. P. Ltd. and others vs. Shri Rama Krishnan Rice Mill (2006) 3 SCC 74* ("Tranco case") in support of the submissions:

"In order to establish that the cross-examination is necessary, the consumer has to make out a case for the same. Merely stating that the statement of an officer is being utilised for the purpose of adjudication would not be sufficient in all cases. If an application is made requesting for grant of an opportunity to cross-examine any official, the same has to be considered by the adjudicating authority who shall have to either grant the request or pass a reasoned order if he chooses to reject the application. In that event an adjudication being concluded, it shall be certainly open to the consumer to establish before the Appellate Authority as to how he has been prejudiced by the refusal to grant an opportunity to cross-examine any official. As has been rightly noted by the High court in the

impugned judgment where the reliance is only on accounts prepared by a person, cross-examination is not necessary. But where it is based on reports alleging tampering or pilferage, the fact situation may be different. Before asking for cross-examination the consumer may be granted an opportunity to look into the documents on which the adjudication is proposed. In that event, he will be in a position to know as to the author of which statement is necessary to be cross-examined. The applications for cross-examination are not to be filed in a routine manner and equally also not to be disposed of by an adjudicator in casual or routine manner. There has to be application of mind by him. Similarly, as noted above, the consumer has to show as to why cross-examination is necessary."

It was pointed out that some persons whose cross examination has been sought were in judicial custody in Hyderabad and that the criminal trial against them and the other personnel of Satyam was in progress on a day-to-day basis. It would, therefore, have to be examined as to whether they would be available for cross-examination.

9. I requested the learned Counsels for the Noticees to make out a case as to why cross-examination was required of each person named in the Application I. The learned Counsel for the Noticees refused to do so. However, he stated that the SCNs relied on the statements of all the persons mentioned in the Application I, and that this was sufficient to claim their cross-examination. He cited several case laws (*Meenglas Tea Estate vs. The Workmen, AIR 1963 SC 1719; M/s. Bareilly Electricity Supply Co. Ltd. vs. The Workmen and others, AIR 1972 SC 330; M/s. Kishinchand Chellaram vs. The Commissioner of Income Tax, AIR 1980 SC 2117; A. K. Roy vs. Union of India and another, AIR 1982 SC 710; K. L. Tripathi vs. State Bank of India and others, AIR 1984 SC 273; New India Assurance Co. Ltd. Vs. Nusli Neville Wadia & another with New India Assurance Co. Ltd. vs. KLM Engineering Co. Pvt. Ltd. & Ors, AIR 2008 SC 876 and Noor Aga vs. State of Punjab and another (2008)16 SCC 417)* in support of his proposition. He referred to certain portions of the judgment dated August 13, 2010 of the Hon'ble High Court in the present case and submitted that the Hon'ble High Court had made it clear that the matter would be decided by SEBI after full examination of all evidence, which would include cross-examination of witnesses whose statements are being relied in support of the allegations. He also stated that cross-examination is a part of fair trial which is a fundamental right guaranteed under Article 21 of the Constitution of India. He submitted: *"In case such as the present one where admittedly and undisputedly there is a lis between the parties, where the facts which have been relied upon are in dispute between the parties and where the statements of witnesses have been relied upon by one side to the lis, the parties against whom those statements are being used have the right, without mur, to cross-examine those witnesses. This right is asserted as a concomitant of the most basic fundamental and elementary principles of natural justice and is in furtherance of a fair trial and fair play in action and is, therefore, a part of the fundamental right as guaranteed under Article 21 of the Constitution of India. A denial of cross-examination without mur in the facts of the present case would constitute a gross and*

flagrant violation of these principles of natural justice and would vitiate the enquiry and would render void ab initio any order that may be passed consequent thereon."

10. While maintaining that he would not explain the need for cross-examination of the persons, the learned Counsel for the Noticees stated that without prejudice to this submission and just to satisfy the conscience of the competent authority, he would explain the need, not by way of concession, but by way of 'illustration' only, which he did in case of some persons. To a query if the Noticees would like to cross-examine their own employees listed at (a) to (h) in Para 4 of the application I, the learned Counsel stated that these persons were no longer in the employment of the Noticees. To another query about the availability of persons, who were in judicial custody, for cross-examination, he stated that he was not aware of the procedure and would find out the same. He reiterated that the cross-examination of the persons listed in Application I was required to establish that the Noticees 2 to 11 were not the auditors of Satyam.

11. In reply, the learned Counsel for SEBI submitted that while he did not dispute that cross-examination may, under certain circumstances, be required as a facet of natural justice, it was well-settled law that this was not an inflexible rule and that whether cross-examination was required had to be decided in the facts and circumstances of each case. It needs to be examined if statement of a person is actually being used, is the statement being relied upon, do the Noticees dispute such statement, would they be prejudiced if cross-examination is not granted, etc. He also submitted that none of the judgments cited by the Noticees say that the party has inherent right of cross-examination in each and every case; rather the principle is that the party seeking cross-examination has to make out a case for cross-examination for each person. The decision in the *Transco case* clearly established that the Noticee had to make out a case for cross-examination and that it was not sufficient to merely state that reliance has been placed on a statement in the SCNs. He emphasized that it was not sufficient for the Noticees to merely give what they described as 'illustrations' and that whatever they chose to put forward would have to be regarded as the only case they were able to make out. He responded on each of the 'illustrations', but submitted that even where cross-examination was granted, it should be restricted to the issues raised by the Noticees. It was also submitted that the application for cross-examination of the large number of persons, most of whom were PW's own employees/partner, appeared to be a dilatory tactic. It was necessary and in the public interest to conclude the proceedings within a reasonable period of time.

12. I cannot accept the Noticees' proposition that whenever a statement is referred to or relied upon in a SCN, the Noticee is automatically entitled to cross-examination, regardless of whether it is prejudiced by the statement or is disputing its correctness. None of the judgments cited by

the Noticees supports their case for automatic cross-examination. On the contrary, the cases cited by the Noticees make it clear that there is no absolute right to cross-examine. Whether cross-examination is to be granted or not is to be determined in the light of the facts and circumstances of the case, the nature of the inquiry, and the statutory provisions under which it is being conducted. In the *K. L. Tripathi case* cited by the Noticees, Hon'ble Supreme Court emphasized that in order to claim cross-examination, the statement in question must be prejudicial to the party seeking cross-examination and that the version put forward by the witness should be disputed by him. In the *Transco case* cited on behalf of SEBI, Hon'ble Supreme Court held that a reasonable opportunity of a hearing would not always include the right to cross-examine witness and that it cannot be laid down as a rule of universal application that whenever a statement is used for the purposes of adjudication, a right of cross-examination is in-built. It clearly held that the party in question had to show why cross-examination was necessary and that it was not enough to simply state that a statement was being utilized for the purpose of the adjudication. I, therefore, hold that it is necessary for the Noticees to make out a case for cross-examination of each one of the large number of persons mentioned in their applications.

13. In view of the persistent refusal of the learned Counsel for the Noticees to explain the need for cross-examination of the persons listed in their applications and the explanation of the need by 'illustration' only, and taking into account the 'illustration' of the learned Counsel for the Noticees and the response of the learned Counsel for SEBI on each such 'illustration' and the replies of the Noticees to SCNs, I deem it fit to consider the following criteria to determine if cross-examination of the persons sought by the Noticees in their two applications is warranted:

a. Whether the statement(s) of the persons have been relied upon in the SCNs to level the charges against the Noticees;

b. Whether the Noticees are disputing the correctness of the such statement(s); and

c. Whether any prejudice would be caused to the Noticees if any of such persons is not cross examined.

14. Application I: With the above perspective, I proceed to decide the case for cross-examination of each person sought by Noticee 1 in Application I as under:

a. Shri Ramalinga Raju, former Chairman, SCSL: The learned Counsel for the Noticees contended that cross-examination was required since the investigations, as stated in Para 1 of the SCN dated February 14, 2009, emanated from the email dated January 7, 2009 of Shri Raju. I find that no recorded statement of Shri Raju has been relied upon in the SCNs. Further, the email dated January 7, 2009 of Shri Raju is only the starting point for the SEBI to launch its investigation into the affairs of SCSL. The email itself has not been relied upon as primary

material implicating the Noticees. It may at best be regarded as corroborative of the results of the SEBI investigation to which detailed reference has been made in the SCNs and which the Noticee has the opportunity to dispute. I, therefore, do not find that a case has been made out for cross-examination of Shri Ramalinga Raju.

b. Shri Rama Raju, former MD, SCSL and Shri Vadlamani Srinivas, former CFO, SCSL: Though the learned Counsel for the Noticees initially contended that all the persons mentioned in their applications had made statements which were being relied upon in the SCNs, when these two persons were taken up for consideration, he admitted that no statement of these persons had been referred to or relied upon in the SCNs. It was then submitted that cross-examination of these two persons should be permitted because they were co-accused with Shri Ramalinga Raju in a criminal case filed by CBI. I find that even if this is so, it is no reason to grant cross-examination of these persons. Merely because a person is a co-accused in a criminal trial does not, *ipso facto*, mean that he should be produced for cross examination in the present proceedings.

c. Shri G. Ramakrishna, former Vice President (Finance), SCSL: The learned Counsel for the Noticees stated that while no specific reference had been made in the SCNs, the Noticee had been informed that the statement *("it was stated to SEBI that the auditors, PW, also had cognizance of such data pertaining to reversal of entries")* referred to in Para 3.1.3.4 of the SCN had been made by Shri Ramakrishna and PW has disputed the position regarding reversal of entries. I, therefore, find that a case has been made out for cross-examination of Shri Ramakrishna.

d. "undisclosed persons" whose statements have been relied upon and referred to in Paragraphs 3.1.3.1, 3.1.3.2, 3.1.4.9, 3.1.4.10, 3.2.2 and 3.3.1 of the SCN dated February 14, 2009: The learned Counsel for the Noticees contended that the factual position asserted by these persons was disputed by the Noticee and cross-examination was, therefore, required. Each reference is dealt with below:

i. **Paragraph 3.1.3.1:** The learned Counsel for the Noticees referred to the table in the Paragraph. I find that the table merely contains a comparison of the bank balances of Satyam with Bank of Baroda, New York Account as per the books of the company with the actual balances obtained from the bank. The balances as per the books are, in fact, the same figures audited by PW and have not been disputed by the Noticee. Further, there is no 'undisclosed person' or any 'statement' of any such 'undisclosed person' referred to / relied on in this Paragraph. No question of cross-examination, therefore, arises as far as this Paragraph is concerned.

ii. **Paragraph 3.1.3.2:** I find that the Noticee has not contested the existence of two sets (monthly and daily) of statements for the Bank of Baroda current account. Cross-

examination would, therefore, not be warranted on the basis of this Paragraph. SEBI has, however, clarified that this information was provided by Shri G. Ramakrishna whose cross-examination I have allowed above.

iii. **Paragraph 3.1.4.9:** The Paragraph refers to Fixed Deposit Receipts (FDRs) being maintained in the office of the Chairman of Satyam and being shown to the auditors by an official of the accounts wing when requested. PW does not dispute the position that such FDRs existed and were provided to it for verification by officials from the accounts wing. It has disputed only the period up to which it checked FDRs, which could be prejudicial to it if cross-examination is not allowed. SEBI has clarified that this information was provided by Shri Venkatapathi Raju Dhanthuluri. Hence I allow cross-examination of Shri Dhanthuluri.

iv. **Paragraph 3.1.4.10:** This Paragraph draws certain inferences regarding fabrication of FDRs and confirmation letters, and is not based on the statement of any person. Hence the demand for cross-examination is misplaced.

v. **Paragraph 3.2.2:** This Paragraph refers to payments of Rs.1,230 crore which do not appear in the books of Satyam. This has been confirmed by a company official. The factual position set out in this Paragraph has not been disputed by PW and the confirmation by the company official is at best corroborative. Further details of this payment have been provided in Paragraph 44 of the SCN dated February 19, 2010. No case is, therefore, made out for cross-examination as far as this Paragraph is concerned.

vi. **Paragraph 3.3.1:** This Paragraph reiterates the position regarding the monthly and daily bank statements mentioned in Paragraph 3.1.3.2 above and the discrepancies between the two. I find that PW has not disputed this position, except for minor insignificant details. No cross-examination is warranted in respect of this Paragraph.

e. Shri Srinivas Talluri, Shri C. H. Ravindranath, Shri P. S. Sudhakar, Smt. Madduri N. V. Gayatri, Shri Samvit Durga, Shri Girish B. K. Tallam: It was submitted by the learned Counsel for the Noticees that the same question had been put to these persons (all of whom were their own personnel at the time the statements were recorded) regarding confirmation of balances by BNP Paribas, and that the answers that had been given were incorrect and were disputed by PW. I find that the questions put to these persons while recording their statements related to the receipt of confirmation letters for bank balances held by Satyam with BNP Paribas. PW received two sets of confirmation letters, one directly from BNP Paribas and the other which was claimed to have been issued by BNP Paribas, which was received by PW through Satyam. The two confirmations contained conflicting balances, the direct confirmation showing

a much lower balance than the confirmation received through Satyam. The balances in the direct confirmation also did not match with the inflated balances in the books of Satyam. The question put to the PW personnel related to the mismatch between the two confirmations and between the direct confirmations and the books, as also the fact that PW chose to go by the confirmations received from Satyam ignoring the direct confirmation from the bank. I find, however, that the learned Counsel's contention that the very same question has been put to all these persons regarding this matter is incorrect. Different answers have also been given by different persons. It is, therefore, necessary to deal with each person separately.

i. **Shri Srinivas Talluri, PW Partner:** The learned Counsel for the Noticees referred to Q & A No. 5 in the statement dated January 15, 2009 of Shri Talluri and his letter of the same date. In Q No. 5, Shri Talluri was asked why PW ignored the direct confirmation letters received from BNP Paribas and relied on the confirmations received through Satyam although there was a mismatch between the two. He answered this question in his letter dated January 15, 2009 in which he stated that the direct confirmations related only to margin money deposits with the Hyderabad Branch, while the books of Satyam showed that it also had fixed deposits with the Mumbai branch which were validated with the confirmations received from Satyam. I find that the PW has not contested Shri Talluri's version and is, in fact, maintaining the same position in Paragraph 112 of its reply dated August 10, 2009. No case, therefore, has been made out for cross-examination of Shri Talluri.

ii. **Shri C. H. Ravindranath, PW Engagement Team:** The learned Counsel for the Noticees referred to Q & A No. 7 in the statement dated January 15, 2009 of Shri Ravindranath and his letter of the same date. The question put to Shri Ravindranath was identical to that put to Shri Talluri and his response in his letter dated January 15, 2009 was to the same effect as that of Shri Talluri. What has been stated above with regard to Shri Talluri would, therefore, also apply to Shri Ravindranath.

iii. **Shri P. S. Sudhakar, PW Engagement Team:** The learned Counsel for the Noticees referred to Q & A No. 7 (wrongly stated as Q 6 in the statement) in Shri Sudhakar's statement dated January 23, 2009, which is reproduced below:

> *"Q7. Have you gone by the balances directly received and stated by BNP Paribas when comparing the balances in books of company?*
>
> *A7. The total of the deposits shown under BNP Paribas received directly from the bank do not agree with the total deposit shown in the books of accounts of the company for the balances with BNP Paribas."*

Since Shri Sudhakar's answer may be prejudicial, if cross-examination is not allowed, to PW and it has stated that it disputes its correctness, I accept the request for his cross-examination.

iv. **Smt. Madduri N. V. Gayatri, PW Engagement Team:** The learned Counsel for the Noticees referred to Q & A No. 14 in Smt. Gayatri's statement dated January 23, 2009, which is reproduced below:

> *"Q14. For BNP Paribas were the total of FDRs in the books of the company different for the FD amount indicated in the external confirmation statement; was it more or less?*
>
> *A 14. The balance in the external confirmation statement as received from bank were less than the FDR total as per the books of the company."*

Since Smt. Gayatri's answer may be prejudicial, if cross-examination is not allowed, to PW and it has stated that it disputes its correctness, I accept the request for her cross-examination.

v. **Shri Samvit Durga, PW Engagement Team:** The learned Counsel for the Noticees referred to Q & A No. 11 in Shri Durga's statement dated January 24, 2009, which is reproduced below:

> *Q 11. Is there a difference in the balance for FDRs in the external confirmation of balances in prescribed format received from BNP and HSBC and that which is not in the prescribed format, for the quarter stated by you.*
>
> *A 11. Yes. The total of the fixed deposits shown under BNP Paribas and HSBC received directly from the bank in the prescribed format is Rs.8.64 cr and 'NIL', respectively. This is less than the total fixed deposit shown in the books of accounts of the company for the balances with BNP Paribas and HSBC."*

Since Shri Durga's answer may be prejudicial, if cross-examination is not allowed, to PW and it has stated that it disputes its correctness, I accept the request for his cross-examination.

vi. **Shri Girish B. K. Tallam, PW Engagement Team:** The learned Counsel for the Noticees referred to Q & A No. 7 in Shri Tallam's statement dated January 23, 2009, which is reproduced below:

> *"Q7. Have you only or strictly gone by the balances directly received and stated by BNP Paribas when comparing the balances in books of company? What is the balance for FDRs in the external confirmation of balances received from BNP for the quarter stated by you.*

A 7. No. The total of the fixed deposits shown under BNP Paribas received directly from the bank is 'NIL' and do not agree with the fixed deposit shown in the books of the accounts of the company for the balances with BNP Paribas."

Since Shri Tallam's answer may be prejudicial, if cross-examination is not allowed, to PW and it has stated that it disputes its correctness, I accept the request for his cross examination

f. Shri P. Siva Prasad, PW Engagement Team: The learned Counsel for the Noticees referred to Q & A No. 23 in the statement of Shri Siva Prasad which is Annexure 10 to the SCN dated February 19, 2010. The question related to the discrepancies between certain confirmations of deposits and an electronic working paper file. Shri Siva Prasad has merely stated in his answer that he would explain the same in an email and nothing further. There is no answer by Shri Siva Prasad which is prejudicial to the Noticee. I, therefore, reject the request for cross-examination.

g. Shri N. Ramu, PW Engagement Team: No submission was made by the learned Counsel for the Noticees with regard to Shri Ramu at all, and I, therefore, reject the request for his cross-examination.

h. Shri V. V. K. Raju, Senior Vice President (Finance), SCSL: The learned Counsel for the Noticees referred to Paragraph 8 of the SCN dated February 19, 2010 and stated that Shri Raju has given details of a large number of invoices which are fictitious and fake. I find that the details provided by Shri Raju regarding the invoices in question may be prejudicial, if cross-examination is not allowed, to PW and that it has disputed the correctness of the same in its reply. I, therefore, grant cross-examination of Shri V. V. K. Raju.

i. Shri Srinivas K. Anapu, Head of Internal Information System, SCSL: The learned Counsel for the Noticees pointed out that Shri Anapu has stated in his statement dated March 3, 2009 that PW had an Admin ID. The SCN alleges that by using this ID, PW could view the invoices in the IMS, including the fictitious ones. I find that the statement of Shri Anapu to this effect may be prejudicial to PW, if cross-examination is not allowed, and that though it has not actually denied that it had such an Admin ID, it appears to be questioning the correctness of his statement to that effect in its reply. I, therefore, grant cross-examination of Shri Anapu.

15. Application II: The Noticees 2 to 11 have sought cross-examination of the persons listed in Application 1 to enable them to establish that they were never statutory auditors of SCSL. I do not find in the SCNs any reference to any statement(s) of any of these persons which is being relied upon in support that the Noticees were statutory auditors of SCSL. I, therefore, reject this application.

16. While the request for cross-examination of some of the persons mentioned above is justified and has been granted, I must say that the Noticees appear to be using the request for cross-examination of a large number of persons, most of whom were their own employees/partner with a view to delay matters and render the proceedings ineffective. As pointed out above, the Noticees have sought repeated adjournments in the matter. Even after the Writ Petitions were dismissed by the Hon'ble High Court, they sought and obtained a stay of the proceedings for six weeks on the basis that they wished to appeal to the Supreme Court. When the proceedings resumed after the expiry of six weeks, they sought adjournment twice before me on the ground that their Counsels were not available. Although they initially contended that statements of all persons mentioned in their applications had been relied upon in the SCNs, when each person was taken up separately for consideration (an exercise which they resisted), it became clear that this was incorrect. They wanted a ruling on their applications for cross-examination, but refused to make out a case for cross-examination of each of the persons listed in their applications. They sought cross-examination of as many as eight of their own personnel, all of whom are curiously now stated not to be in their employment any longer. Vide e-mail dated November 30, 2010, they were called upon to provide the details of cessation of employment of those eight persons with the Noticees and their permanent / last known addresses. Strangely, the Advocates for the Noticees responded: *"We shall deal with the contents of your mail once the order (on the applications for cross-examination) is passed, depending on the outcome."*

17. There is no doubt that principles of natural justice are required to be followed in these proceedings. However, the Noticees cannot be permitted to unnecessarily delay the proceedings to render them ineffective in the guise of observance of principles of natural justice. I have to keep in mind that the public interest is served by a speedy completion of these proceedings without, however, compromising on the requirements of adherence to principles of natural justice and that a long delay would rob them of much of their purpose. In the present case, it is already eight months since the hearing commenced, and hardly any progress has been made in the matter.

18. In view of the above, I direct as under:

a. Cross-examination on behalf of PW / Noticee 1 is permitted of Shri G. Ramakrishna, Shri Venkatapathi Raju Dhanthuluri, Shri P. S. Sudhakar, Smt. Madduri N. V. Gayatri, Shri Samvit Durga, Shri Girish B. K. Tallam, Shri V. V. K. Raju and Shri Srinivas K. Anapu. The cross-examination of all other persons sought in Application I is rejected for the reasons stated above.

b. The PW shall be notified of the date, time and venue for cross-examination. The cross-examination shall proceed on the given dates and no adjournment shall be granted. The cross-examination shall be restricted to those portions of the statements which are prejudicial to PW and which have been disputed by it. After the cross-examination of each person is completed, SEBI shall be entitled to re-examine them, if considered necessary.

c. The Application II of the Noticees 2 to 11 for cross-examination is rejected for the reasons stated above.

(M. S. Sahoo)
Whole Time Member
Securities and Exchange Board of India

Date: December 15, 2010
Place: Mumbai