**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI**
**CORAM: S. RAMAN, WHOLE TIME MEMBER**

**ORDER**

**Under Sections 11(1), 11B, 11A and 11(4) of the Securities and Exchange Board of India Act, 1992 read with Regulation 11(1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, in the matter of P G Electroplast Limited and its Promoter Directors – Mr. Promod Gupta (PAN No. AAHPG5646F), Mr. Anurag Gupta (PAN No. AAHPG5647E), Mr. Vishal Gupta (PAN AAHPG5643A) and Mr. Vikas Gupta (PAN No. AAHPG5644H).**

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1. PG Electroplast Limited ("**PGEL**"), a company incorporated under the Companies Act, 1956, came out with an Initial Public Offering ("**IPO**") of 57,45,000 equity shares of ₹10 each for cash at a price of ₹210 per equity share. The Issue opened on September 7, 2011 and closed on September 12, 2011. The shares of PGEL, issued in its IPO, were listed on the Bombay Stock Exchange of India Limited ("**BSE**") and the National Stock Exchange of India Limited ("**NSE**") on September 26, 2011.

2. The Red Herring Prospectus ("**RHP**") filed by PGEL was dated August 17, 2011 and its Prospectus ("**Prospectus**") was dated September 14, 2011. The objects of the Issue as disclosed in the Prospectus were as follows –

| Sr. No. | Particulars | Amount (₹ in Crores) |
|---|---|---|
| 1 | Prepayment of the portion of term loan and line of credit facility proposed to be availed by our Company for the expansion under Phase I | 24.10 |
| 2 | Expansion of manufacturing facility at Unit III, Greater Noida under Phase II | 13.84 |
| 3 | Expansion of manufacturing facility at Unit IV, Ahmednagar under Phase II | 37.31 |
| 4 | Meeting long – term working capital requirements | 15.00 |
| 5 | General corporate purposes | 21.39 |
| 6 | Issue Expenses | 9.00 |
| **Total** | | **120.64** |

3. Upon noticing fluctuations in the share price of PGEL on the days immediately following its listing, Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an investigation in the IPO of the aforesaid company. The preliminary findings of the investigation *prima facie* revealed suppression of material facts in the RHP and Prospectus of PGEL; siphoning off and diversion of IPO proceeds by the company for the purpose of purchase of its own shares.

4. As manipulative practices were *prima facie* observed in the IPO of PGEL, SEBI vide an *ad-interim ex-parte* Order dated December 28, 2011 (hereinafter referred to as "**Interim Order**") *inter alia* issued directions against the following entities in view of the *prima facie* violations of Section 12A(a), (b) and (c) of SEBI Act, 1992 ("**SEBI Act**") read with Regulations 3(a)–(d), 4(1) ,4 (2)(a), (d), (e), (f) and (k) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ("**PFUTP Regulations**"); Regulations 57(1), 60(4)(a) and 60(7)(a); Clauses 2(VII)(G); 2(VIII)(B)(5)(b) and (6); and Clause 2(XVI)(B)(2) of Part A of Schedule VIII read with Regulation 57(2)(a) of SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2009 ("**ICDR Regulations**"), viz. –

i. PGEL was prohibited from raising any further capital from the securities market, in any manner whatsoever, till further directions.

ii. PGEL and its Promoter Directors i.e. Mr. Promod Gupta, Mr. Anurag Gupta, Mr. Vishal Gupta and Mr. Vikas Gupta ("**Promoter Directors**"), were prohibited from buying, selling or dealing in the securities market, in any manner whatsoever, till further directions.

iii. PGEL was directed to:

   a. Call back ₹32 Crores (₹15 Crores from Saptrishi Suppliers Pvt. Ltd. ("**Saptrishi**"), ₹7 Crores from Raw Gold Securities Pvt. Ltd. ("**Raw Gold**") and ₹10 Crores from Wattkins Commerce Pvt. Ltd. ("**Wattkins**"), which were given as ICDs, and keep the amount in a separate interest bearing Escrow Account with a Scheduled Commercial Bank, till further directions; and

   b. Deposit the proceeds of the IPO still lying with PGEL in the Escrow Account created as per the abovementioned direction, till further directions.

iv. Give confirmation of the above (iii)(a) and (b) to NSE and BSE within 7 days of the Interim Order.

5. The Interim Order was confirmed as against PGEL and its Promoter Directors on October 31, 2012 (hereinafter referred to as "**Confirmatory Order**"), subsequent to completion of the investigation in the matter, wherein it was *inter alia* held: *"... no intervention is called for to either vacate the interim directions or modify the Interim Order".*

6. Thereafter, a Show Cause Notice ("**SCN**") dated January 16, 2013, was issued to PGEL and its abovementioned Promoter Directors under Sections 11(1), 11(4), 11B and Section11A (applicable only to PGEL) of the SEBI Act, 1992, calling upon them to show cause as to why appropriate action including a direction to debar them from accessing the securities market and prohibit them from buying, selling or dealing in securities for a particular duration, should not be issued for the violations alleged in the SCN, viz. Section 12A(a), (b) and (c) of SEBI Act read with Regulations 3(a)–(d), 4(1) ,4 (2)(a), (d), (e), (f) and (k) of PFUTP Regulations; Regulations 57(1), 60(4)(a) and 60(7)(a); Clauses 2(VII)(G); 2(VIII)(B)(5)(b) and (6); and Clause 2(XVI)(B)(2) of Part A of Schedule VIII read with Regulation 57(2)(a) of ICDR Regulations. As per the SCN, PGEL and its abovementioned Promoter Directors were alleged to have:

i. Failed to make disclosures of material facts in the Prospectus such as –
   a. Non–disclosure of funds raised by PGEL through Inter Corporate Deposits ("**ICDs**"), which were in the nature of a bridge loan.
   b. Non–disclosure of Board Resolution dated August 17, 2011, to invest in ICDs of other companies.
   c. Non–disclosure of purchase orders placed for plant and machinery.
   d. Non–disclosure of names of certain companies in the list of suppliers provided by PGEL.
   e. Non–disclosure of Agreements and Memorandum of Understandings entered into by PGEL with certain entities for purchase of land.
ii. Diverted IPO proceeds –
   a. through repayment of ICDs.
   b. through investment in ICDs by PGEL.
iii. Siphoned and diverted funds through purchase orders.
iv. Made contradictory disclosures regarding amount of term–loan availed.
v. Siphoned off and diverted IPO proceeds alongwith other funds through payment of consideration for land deals.

vi. Failed to comply with certain directions contained in the Interim Order (applicable only to PGEL).

7. Subsequently, an opportunity for inspection of documents relied upon in the SCN was granted to PGEL and its Promoter Directors on March 12, 2013, in response to a request made by them vide separate letters each dated January 31, 2013. Thereafter, PGEL and its Promoter Directors filed their individual reply to the SCN vide separate letters each dated April 8, 2013. PGEL and its Promoter Directors had earlier (vide separate letters each dated March 25, 2013), sought copies of certain documents, etc. which were provided to them vide SEBI's letter dated April 25, 2013.

8. Pursuant to receipt by SEBI of the aforesaid replies to the SCN, an opportunity of personal hearing was granted to PGEL and its Promoter Directors on July 11, 2013. During the aforesaid hearing, the authorised representative of PGEL and its Promoter Directors had reiterated the submissions made in their replies to the SCN dated April 8, 2013. In addition, a request was made by the aforementioned authorised representative that the company may be allowed to utilize the money lying in the Escrow Account on account of the directions contained in the Interim Order, in order to make repayment of bank loans since that was one of the disclosed objects of the IPO of PGEL. PGEL and its Promoter Directors were granted time till July 19, 2013, to file additional written submissions, if any, and the same were submitted by the said entities vide letters dated July 19, 2013.

9. During the intervening period preceding the abovementioned personal hearing, individual consent applications in terms of the SEBI Circular No. CIR/EFD/1/2012 dated May 25, 2012, were filed by PGEL (Application dated February 26, 2013) and its Promoter Directors, viz. Promod Gupta, Anurag Gupta, Vishal Gupta (Individual Applications each dated February 16, 2013) and Vikas Gupta (Application dated Feb 19, 2013). However, the aforementioned applications were rejected by SEBI in accordance with the said Circular. In view of the same, I shall now proceed to pass the Final Order in the matter.

**Consideration of Issues and Findings –**

10. I have considered the SCN issued to PGEL and its Promoter Directors alongwith the documents provided therein, their replies to the SCN alongwith the submissions made

during the personal hearing before me and all other relevant material available on record. In light of the same, I shall now proceed to deal with the charges levelled in the SCN against PGEL and its Promoter Directors.

**11. Non-disclosure in the Prospectus of funds raised by PGEL through ICDs, which were in the nature of a bridge loan.**

11.1 As per the SCN, PGEL and its Promoter Directors were alleged to have failed in making material disclosures regarding funds raised through ICDs, which were in the nature of a bridge loan.

11.2 In their replies to the SCN, PGEL and its Promoter Directors *inter alia* submitted that since ICDs were short term borrowings availed of by the company in the ordinary course of business, the same were not required to be specifically disclosed in the Prospectus. They also submitted that the funds raised through the ICDs were to be utilized exclusively for the implementation of the objects of the IPO itself. They submitted that the company was compelled to borrow money by way of ICDs for meeting their working capital requirements and also an *'extremely urgent financial requirement'* in respect of financing completion of Phase II work. As regards the bridge loan alongwith related non-disclosure of liability amounting to ₹46.40 Crores in respect of repayment of ICDs from the IPO proceeds, PGEL and its Promoter Directors submitted that the respective ICD Agreements *'were not made conditional upon or secured against the IPO or the proceeds thereof...'*.

11.3 In this regard, I note that –

i. PGEL had raised funds through ICDs aggregating to approximately ₹52.02 Crores (i.e. approximately 43% of the IPO size) from 7 entities, viz. Jainex Securities Pvt. Ltd. ("**Jainex**"), Prraneta Industries Ltd. ("**Prraneta**"), Agarwal Holdings Ltd. ("**Agarwal Holdings**"), JRI Industries and Infrastructure Ltd. ("**JRI Industries**"), Vineet Capital Services Pvt. Ltd. ("**Vineet Capital**"), Jay Poly Chem (India) Ltd. ("**Jay Poly**") and Urmi Computers Pvt. Ltd. ("**Urmi**") vide various Agreements, details of which are provided below:

| Entity | Date of Agreement | Amount agreed as per Agreement (₹ Crores) | Interest Rate (Per Annum) | Tenure of ICD | Actual amount received by PGEL (₹ Crores) | Nature of ICD - Secured/ Unsecured | Date of repayment of ICD (PGEL's reply dated April 8, 2013) | Amount repaid from IPO proceeds (₹ Crores) |
|---|---|---|---|---|---|---|---|---|
| Jainex Securities Pvt. Ltd. | 22.08.2011 | 30 | 13.5% | 31 days - 22.09.2011 | 28.75 | Unsecured | 22.09.2011 | 28.75 |
| Prraneta Industries Ltd. | 10.09.2011 | 16 | 13.5% | 31 days - 11.10.2011 | 15.65 | Unsecured | 22.09.2011 | 15.65 |
| Agarwal Holdings Ltd. (Now known as Wagend Infra Venture Ltd.) | 29.08.2011 | 2 | 13.5% | 31 days - 29.09.2011 | 2 | Unsecured | 22.09.2011 | 2 |
| JRI Industries & Infrastructure Ltd. | 24.08.2011 | 1 | 10.5% | 6 months - 24.02.2012 | 0.92 | Unsecured | 15.09.2011 | Payment made after the closure of Issue but before receipt of IPO proceeds |
| Vineet Capital Services Pvt. Ltd. | 29.08.2011 | 2 | 10.5% | 21 days - 19.09.2011 | 2 | Unsecured | 20.09.2011 | Payment made after the closure of Issue but before receipt of IPO proceeds |
| Jay Poly Chem (India) Ltd. | 29.08.2011 | 2.5 | 10.5% | 6 months - 29.02.2012 | 2.5 | Unsecured | 20.09.2011 | Payment made after the closure of Issue but before receipt of IPO proceeds |
| Urmi Computers Pvt. Ltd. | 31.08.2011 | 0.20 | 13.5% | 21 days - 21.09.2011 | 0.20 | Unsecured | 20.09.2011 | Payment made after the closure of Issue but before receipt of IPO proceeds |
| **Total** | | **53.07** | | | **52.02** | | | **46.40** |

ii. It is pertinent to note that funds amounting to ₹52.02 Crores were raised by PGEL through issuance of ICDs just a few days prior to and during the IPO (Issue opened on September 7, 2011 and closed on September 12, 2011) and constituted 43% of the IPO size. Such material disclosures pertaining to the aforesaid ICDs, which would have enabled applicants to the IPO to take an informed investment decision, were not made by PGEL in its Prospectus dated September 14, 2011, which was mandated as per Regulations 57(1), 57(2)(a), 60(4)(a) and 60(7)(a) of the ICDR Regulations.

iii. Further, as regards the abovementioned ICDs, a sum of ₹46.40 Crores was repaid from the IPO proceeds (an amount of ₹104.41 Crores was received as IPO proceeds on September 22, 2011) towards Jainex, Prraneta and Agarwal Holdings on the very date of receipt of such proceeds. In its Prospectus dated September 14, 2011 (Point No. 15 on page 27), PGEL stated that: *'Our Company has not raised any bridge loan against the proceeds of the present Issue ... No other circumstances have arisen, since the date of the last financial statement until the date of filing of this Prospectus with SEBI, which materially and adversely affect or is likely to affect the operations or profitability of our Company, or value of its assets, or its ability to pay its liability within twelve months.'* In its reply to the SCN dated April 8, 2013, PGEL admitted that: *'All the ... ICDs were for duration of about one month since at that time we had expected to receive the IPO proceeds in time to repay the ICDs together with the interest thereon'*, thereby indicating that the ICDs were clearly in the nature of a bridge loan. However, the aforementioned statements in PGEL's Prospectus clearly reveal that the liability arising from the repayment of ICDs towards Jainex, Prraneta and Agarwal Holdings (i.e. ₹46.40 Crores - amount paid from the IPO proceeds), which was effectively tagged to the IPO proceeds, was not disclosed in accordance with Clause 2(VII)(G) of Part A of Schedule VIII of the ICDR Regulations.

iv. In this context, I also find that the material on record clearly indicates that the raising of funds through ICDs by PGEL was not in its ordinary course of business. For example, from the minutes of the meeting of the Board of Directors of PGEL on November 14, 2011, the Chairman of PGEL had informed its BOD that the ICDs taken by the company had been fully repaid. It is noted from the bank account statements of the entities that the principal amounts taken as ICDs were refunded and no interest was paid to Jainex, Prraneta or Agarwal Holdings for the ICDs till November 14, 2011. PGEL and its Promoter Directors have contended that the

interest amount was paid separately to Jainex, Prraneta and Agarwal Holdings on January 10, 2012, *'after deducting TDS amount'* on November 19, 2011. The subsequent payment of interest on ICDs i.e. on January 10, 2012, almost four months after repayment of the principal, appears strange since the payment of the principal amounts to such entities had occurred on September 22, 2011 and the deduction of TDS amount on November 19, 2011. Ordinarily, repayments of ICDs i.e. principal and interest, are made together without an interval between repayment of principal and interest. In this case, the TDS was done two months before the actual payment of interest and two months after payment of principal. In view of these facts, I find that the submissions made by PGEL and its Promoter Directors (in their replies to the SCN dated April 8, 2013) that the funds raised through ICDs were in the ordinary course of business of the company appear to be entirely untrue.

v. In light of the above, I am of the considered view that the PGEL and its Promoter Directors had failed to disclose material information in PGEL's Prospectus, in respect of funds raised through ICDs, which were in the nature of a bridge loan. In view of the same, I find that the charge vis-à-vis PGEL and its Promoter Directors relating to the concealment of material information in the Prospectus and consequent violation of Regulations 57(1), 57(2)(a), 60(4)(a), 60(7)(a) and Clause 2(VII)(G) of Part A of Schedule VIII of the ICDR Regulations, stands established.

vi. While the abovementioned violation stands established, it is also interesting to note that repayment of ICDs aggregating to an amount of ₹5.62 Crores i.e. to JRI Industries (0.92 Crores), Vineet Capital (2 Crores), Jay Poly (2.5 Crores) and Urmi (0.20 Crores), was made after closure of the IPO but prior to receipt of IPO proceeds even though the due-date for repayment of ICDs amounting to ₹3.42 Crores (JRI Industries and Jay Poly) was to occur only after a period of 6 months i.e. February24, 2012 and February 29, 2012.

## 12. Diverted IPO proceeds through repayment of ICDs.

12.1 As per the SCN, PGEL is alleged to have diverted IPO proceeds through repayment of ICDS to Jainex and Prraneta, who subsequently transferred such proceeds to certain entities for enabling them to purchase shares of PGEL on the first day of listing.

12.2 In their replies to the SCN, PGEL and its Promoter Directors *inter alia* submitted that –

i. While the repayment made by PGEL to Jainex towards ICDs was ₹28.75 Crores, the SCN alleged that only ₹2.7 Crores was diverted towards purchase of shares of PGEL on the first day of listing. Similarly, in respect of Prraneta, the SCN alleged that out of ₹15.65 Crores, which was the repayment made by PGEL towards ICDs, only ₹8 Crores was the amount diverted towards purchase of shares of PGEL on the first day of listing.

ii. The ICDs obtained by PGEL from Jainex and Prraneta were utilized only in accordance with the objects of the Issue, as disclosed in the Prospectus.

12.3 In this regard, I note that –

i. PGEL had raised funds through ICDs aggregating to approximately ₹52.02 Crores (i.e. approximately 43% of the IPO size) from 7 entities, viz. Jainex, Prraneta, Agarwal Holdings, JRI Industries, Vineet Capital, Jay Poly and Urmi vide various Agreements entered into during the period between August – September, 2011 i.e. just a few days prior to and during PGEL's IPO. An amount of ₹46.40 Crores was repaid from the IPO proceeds, to Jainex, Prraneta and Agarwal Holdings (details provided on page 6 of this Order).

ii. Prior to and during PGEL's IPO (between August 23 - 29, 2011 and September 14 - 15, 2011), money received by Jainex in its bank account from entities, viz. Prraneta, M/s. Specialty Papers Ltd. ("**Specialty Papers**"), Emporis Projects Ltd. ("**Emporis Projects**"), Cosmos Dealcom Pvt. Ltd. ("**Cosmos**"), Shivbhumi Tradelink Pvt. Ltd. ("**Shivbhumi Tradelink**"), etc. was transferred to PGEL almost immediately. Of the entities which transferred funds to Jainex (which in turn transferred the said funds to PGEL), many were connected through common e-mail ids, addresses, etc. as detailed below:

| Entity | Date of Incorporation | Address | List of Directors | E-mail ID as per MCA database | Nature of relationship/association/ connection |
|---|---|---|---|---|---|
| Cosmos Dealcom Pvt. Ltd. | 19.04.2010 | 28, Armenian Street, Kolkata | • Rajesh Kumar Khanna<br>• Vivek Jain | ofc_filing@ rediffmail.com | All-time, Shivbhumi and Frontier have the same address. Further, Risewell and Time Dealcom also have the same address.<br>The directors of Cosmos, All-time and Fantasy are same viz. Rajesh Kumar Khanna and Vivek Jain.<br>The Directors of Shivbhumi and Frontier are the same viz. Dipankar Sarkar and Vivek Jain.<br>Vivek Jain is also the Director of Time Dealcom and Risewell.<br>Further, Sanjib Kumar Mondal is the common Director of Risewell and Strongwell. Thus, Vivek Jain is the common Director for first 7 companies mentioned in this table.<br>The e-mail IDs of Shivbhumi, Fantasy, Time Dealcom, Risewell, Strongwell and Frontier were ko_kolkata@rediffmail.com.<br>After the Interim Order dated Dec 28, 2011, the e-mail IDs of the above companies have been changed. The e-mail IDs (as on March 19, 2012) of the said 6 companies is the same i.e. indianstar111@gmail.com which is also the e-mail ID of All-time.<br>Cosmos, Fantasy and Time Dealcom were incorporated on the same day i.e. April 19, 2010 whereas Shivbhumi, Risewell and Frontier were incorporated on May 11, 2010 (within time gap of 1 month) and Strongwell was incorporated on May 08, 2010. |
| All-time Distributors Pvt. Ltd. | 07.10.2009 | 47, Shiv Thakur Lane, Ground Floor, Kolkata | • Rajesh Kumar Khanna<br>• Vivek Jain | indianstar111@ gmail.com | |
| Fantasy Dealcom Pvt. Ltd. | 19.04.2010 | 40/4, Banerjee Para Road, Kolkata | • Rajesh Kumar Khanna<br>• Vivek Jain | ko_kolkata@ rediffmail.com indianstar111@ gmail.com | |
| Shivbhumi Tradelink Pvt. Ltd. | 11.05.2010 | 47, Shiv Thakur Lane, Ground Floor, Kolkata | • Dipankar Sarkar<br>• Vivek Jain | ko_kolkata@ rediffmail.com indianstar111@ gmail.com | |
| Frontier Tradecom Pvt. Ltd. | 11.05.2010 | 47, Shiv Thakur Lane, Ground Floor, Kolkata | • Dipankar Sarkar<br>• Vivek Jain | ko_kolkata@ rediffmail.com indianstar111@ gmail.com | |
| Time Dealcom Pvt. Ltd. | 19.04.2010 | 3A, Mangoe Lane, 4th Floor, Kolkata | • Lipi Laha Singh<br>• Vivek Jain | ko_kolkata@ rediffmail.com indianstar111@ gmail.com | |
| Risewell Tradelink Pvt. Ltd. | 11.05.2010 | 3A, Mangoe Lane, 4th Floor, Kolkata | • Sanjib Kumar Mondal<br>• Vivek Jain | ko_kolkata@ rediffmail.com indianstar111@ gmail.com | |
| Strongwell Commodeal Pvt. Ltd | 08.05.2010 | 255, Canal Street, Sreebhumi, Kolkata | • Rana Pratap Singh<br>• Sanjib Kumar Mondal | ko_kolkata@ rediffmail.com indianstar111@ gmail.com | |

iii. As per the SCN, PGEL is alleged to have diverted IPO proceeds amounting to ₹9.47 Crores to ETL Infrastructure Finance Ltd. ("**ETL**") *[a net-buyer of shares of PGEL on the day of listing]*, by routing them through Jainex (₹28.75 Crores towards repayment of ICDs) in order to enable certain entities to purchase its shares on the day of listing. The diversion of funds is explained below:

a. *22.09.2011* – Repayment of ICDs by PGEL to Jainex (₹28.75 Crores). Out of the aforementioned amount, Jainex transferred ₹10 Crores to Kanishka Merchants Pvt. Ltd. ("**Kanishka**").

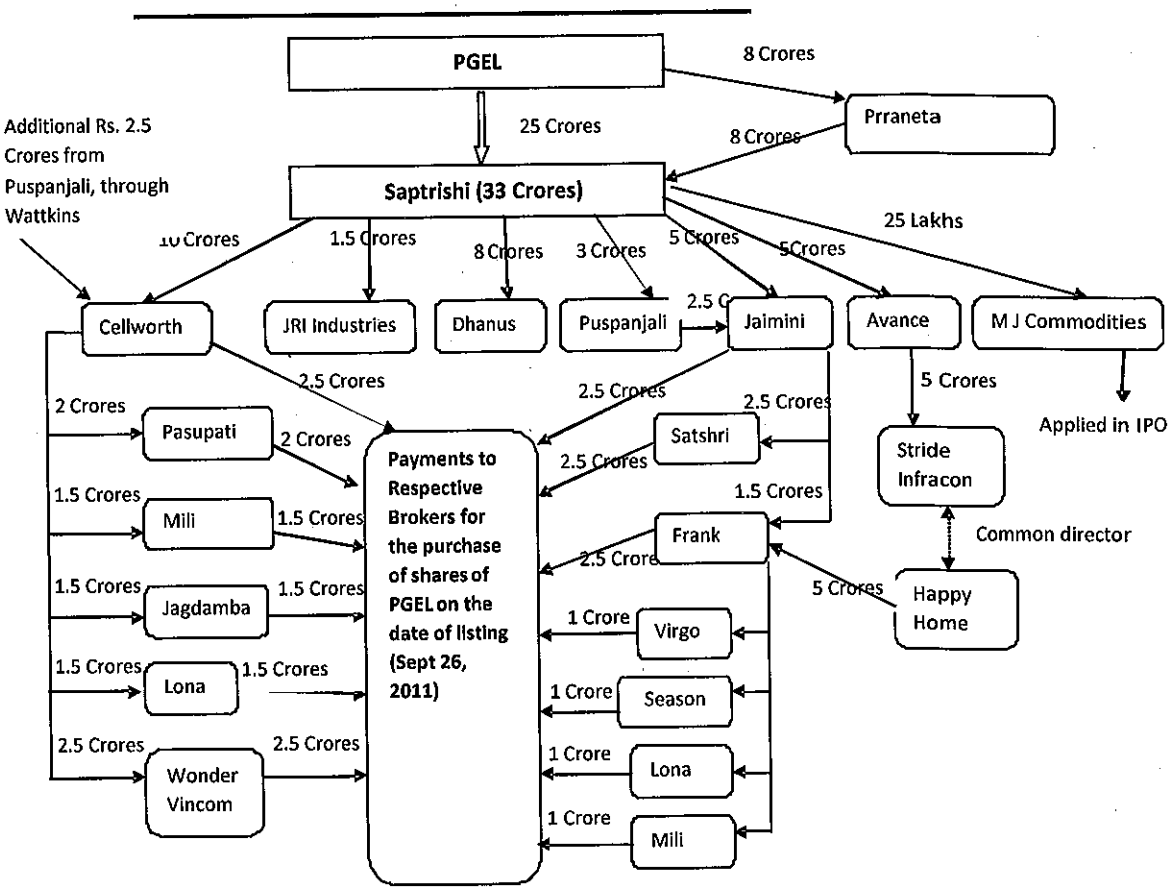
b. *23.09.2011* – Kanishka transferred ₹9.47 Crores to Anand Projects Ltd., and Anand Projects Ltd. in turn transferred that exact amount of ₹9.47 Crores to ETL.

c. *24.09.2011* – ETL made payments of ₹1.5 Crores to its broker, Destiny Securities Ltd.

d. ETL transferred ₹70 Lakhs to Paradise Tradecom Pvt. Ltd. ("**Paradise**") and ₹50 Lakhs to Jasmine Dealcom Pvt. Ltd. ("**Jasmine**"), who individually purchased 100000 shares and 50000 shares respectively of PGEL on the day of listing. Jasmine and Paradise were entities connected through common e-mails, identical addresses, identical date of incorporation and common directors.

iv. As per the SCN, PGEL is also alleged to have diverted part of its IPO proceeds i.e. ₹8 Crores, to Saptrishi Suppliers Pvt. Ltd. ("**Saptrishi**") on September 22, 2011, by routing them through Prraneta (₹15.65 Crores towards repayment of ICDs). In addition, Saptrishi received ₹25 Crores directly from PGEL. An amount of ₹23 Crores from the aforesaid amount of ₹33 Crores was diverted to certain entities (net-buyer of shares of PGEL), in order to enable them to purchase such shares on the day of listing.

v. The above amount of ₹8 Crores, was diverted by PGEL through Prraneta and Saptrishi to entities viz. Cellworth Mercantile Pvt. Ltd. ("**Cellworth**"), Pasupati Enclave Pvt. Ltd. ("**Pasupati**"), Mili Commodities Pvt. Ltd. ("**Mili**"), Jagdamba Complex Pvt. Ltd. ("**Jagdamba**"), Lona Mercantile Pvt. Ltd. ("**Lona**"), Wonder Vincom Pvt. Ltd. ("**Wonder Vincom**"), Frank Mercantile Pvt. Ltd. ("**Frank**"), Virgo Mercantile Pvt. Ltd. ("**Virgo**"), Season Multitrade Pvt. Ltd. ("**Season**"), etc. These entities ultimately purchased shares of PGEL on the day of listing. The diversion of funds is explained below:




vi. The aforementioned entities to whom the IPO proceeds were diverted through Prraneta and Saptrishi, were connected through common directors, addresses, etc. as detailed below:

| Entity | Date of Incorporation | Address | List of Directors | E-mail ID as per MCA database | Nature of relationship/association/ connection |
|---|---|---|---|---|---|
| Cellworth Mercantile Pvt. Ltd. | 28.05.2010 | B-209, New Nandanvan Apt., Navghar Road, Bhayander East | • Amar Nath Singh<br>• Bablu Shaw<br>• Jai Prakash Agarwal (resigned on 17.11.2011)<br>• Manju Agarwal | vssharma44 @ gmail.com | Cellworth, Jaimini and Satshri have the same registered office address. Further, Cellworth and Jaimini were incorporated on the same day. Cellworth, Jaimini and Satshri have the same Directors.<br><br>Cellworth, Jaimini, Satshri, Frank, |

| | | | | | |
|---|---|---|---|---|---|
| | | | (resigned on 17.11.2011) | | Virgo, Season and Lona have the same e-mail ID as per the MCA database.<br><br>Frank, Virgo and Season have the same registered office address.<br><br>Lona and Mili have the same registered address. Further, Nihal is also having the same address.<br><br>Further, both the companies viz. Lona and Mili were incorporated within the time gap of 5 days. Further, Lona and Mili have common Directors, viz. Devendra Kumar Lakhotia and Avinash Jajoo.<br><br>Avinash Jajoo (Director of Lona and Mili is also the Director of Frank, Virgo and Season.<br><br>Devendra Kumar Lakhotia, Director of Lona, Mili, is also the Director of Wonder Vincom.<br><br>Bablu Shaw, Director of Cellworth, Jaimini and Satshri, is also a Director of Safeco. |
| Jaimini Trading Pvt. Ltd. | 28.05.2010 | B-209, New Nandanvan Apt., Navghar Road, Bhayander East | • Amar Nath Singh<br>• Bablu Shaw<br>• Jai Prakash Agarwal (resigned on 17.11.2011)<br>• Manju Agarwal (resigned on 17.11.2011) | vssharma44 @ gmail.com | |
| Satshri Multitrade Pvt. Ltd. | 13.05.2010 | B-209, New Nandanvan Apt., Navghar Road, Bhayander East | • Amar Nath Singh (appointed on Nov 10, 2011)<br>• Bablu Shaw (appointed on 10.11.2011)<br>• Jai Prakash Agarwal (resigned on 17.11.2011)<br>• Manju Agarwal (resigned on 17.11.2011) | vssharma44 @ gmail.com | |
| Frank Mercantile Pvt. Ltd. | 27.04.2007 | 545, Kalbadevi Road, Bharat Photo House, 3rd floor, Office No. - 311, Mumbai | • Kunal Gupta<br>• Avinash Jajoo | vssharma44 @ gmail.com | |
| Virgo Mercantile Pvt. Ltd. | 01.05.2007 | 545, Kalbadevi Road, Bharat Photo House, 3rd Floor, Office No. - 311, Mumbai | • Tushar Sharma<br>• Avinash Jajoo | vssharma44 @ gmail.com | |
| Season Multitrade Pvt. Ltd. | 27.04.2007 | 545, Kalbadevi Road, Bharat | • Mukesh Kumar Jajoo<br>• Avinash | vssharma44 @ gmail.com | |

| | | | | | |
|---|---|---|---|---|---|
| | | Photo House, 3rd Floor, Office No. - 311, Mumbai | Jajoo | | |
| Lona Mercantile Pvt. Ltd. | 18.08.2008 | 3-25, Zahera Mansion, 260/268, V. M. Road, Mumbai | • Devendra Kumar Lakhotia<br>• Avinash Jajoo<br>• Manoj Pachlangia (resigned on Nov 26, 2011)<br>• Rakesh Parik (resigned on 26.11.2011) | vssharma44 @ gmail.com | |
| Mili Commodities Pvt. Ltd. | 12.08.2008 | 3-25, Zahera Mansion, 260/268, V. M. Road, Mumbai | • Devendra Kumar Lakhotia<br>• Avinash Jajoo<br>• Rohit Chintamani Dubey (resigned on Nov 26, 2011)<br>• Dilip Ziledar Singh (resigned on 26.11.2011) | rakesh@ mnrd.in | |
| Saptrishi Suppliers Pvt. Ltd. | 27.03.1996 | 205, Rabindra Sarani, 4th Floor, Room no. 149A, Kolkata | • Ram Awtar Sharma<br>• Manjit T. Jajoo | vijaysharma44@ ymail.com | Saptrishi, Pasupati and Jagdamba have the same e-mail ID.<br><br>Pasupati and Jagdamba have the same address. Further, both the companies were incorporated within the time gap of 10 days. Pasupati and Jagdamba have the same Directors.<br><br>Sanjib Kumar Mondal (Director of Pasupati and Jagdamba) is also the Director of Risewell and Strongwell. Vivek Jain (Director of Pasupati and Jagdamba) is also Director of Cosmos, Time Dealcom, Risewell, Shivbhumi, All-time, Frontier and Fantasy. It has already been noted in the preceding table that the said entities Cosmos, Time Dealcom, |
| Pasupati Enclave Pvt. Ltd. | 16.10.2007 | 75, Laxmi Insurance Building, 4th Floor, Sir P.M. Road, Fort, Mumbai | • Sanjib Kumar Mondal<br>• Vivek Jain | vijaysharma44@ gmail.com | |
| Jagdamba Complex Pvt. Ltd. | 8.10.2007 | 75, Laxmi Insurance Building, 4th Floor, Sir | • Sanjib Kumar Mondal<br>• Vivek Jain | vijaysharma44@ gmail.com | |

| | | | | | |
|---|---|---|---|---|---|
| | | P.M. Road, Fort, Mumbai | | | Risewell, Shivbhumi, All-time, Frontier, Fantasy and Strongwell had made payments/fund transfers to Jainex and Jainex had then given ICDs to PGEL. Further, Vivek Jain is also Director of Wattkins. |

vii. The ICD Agreements with Jainex, Prraneta and Agarwal Holdings stipulated payment of interest by PGEL on completion of the financial year or on maturity, whichever was earlier. The maturities for the moneys raised through ICDs by PGEL from these entities were during the period between September 22, 2011 and October 11, 2011. As stated in the preceding paragraph 11(iv) of this Order, the payment of interest in respect of ICDs had occurred much later after repayment of the principal. In the circumstances of this case, where funds were seen to have been transferred from PGEL to Jainex, Prraneta and Agarwal Holdings and further to entities which purchased shares of PGEL, the delayed interest payment appears to be an afterthought, paid only to cover up the earlier acts and to make the availing of ICDs appear as a genuine transaction. The submissions made by PGEL and its Promoter Directors (in their replies to the SCN dated April 8, 2013) that while the ICD repayments to Jainex and Prraneta were to the extent of ₹28.75 Crores and ₹15.65 Crores respectively, only ₹2.7 Crores and ₹8 Crores were the amounts allegedly flowing towards purchase of shares on the first day of listing, is tantamount to admission of the charge of diversion of IPO proceeds vis-à-vis PGEL and its Promoter Directors.

viii. In view of the above, I find that PGEL diverted ₹10.70 (₹2.7 Crores + ₹8 Crores) through repayment of ICDs to Jainex and Prraneta, who in turn transferred the money to entities like ETL, Paradise and Jasmine, etc. as detailed in sub-paragraph 12.3(ii)–(vi) above, for purchase of shares by them of PGEL on the date of listing. Thus, funds were transferred in the form of repayment of ICDs from entities connected with PGEL, which in turn transferred such funds to entities which purchased shares of PGEL on the date of listing thereby generating artificial demand for the shares of PGEL.

ix. In light of the above, I am of the considered view that PGEL had diverted IPO proceeds to certain entities to enable them to purchase its shares on the day of listing

by routing such proceeds through Jainex and Prraneta. In view of the same, I find that the charge vis-à-vis PGEL in respect of violation of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a)–(d), 4(1), 4(2)(a), (d)–(e) of the FUTP Regulations, stands established.

**13. Non–disclosure in the Prospectus of Board Resolution dated August 17, 2011, to invest in ICDs of other companies.**

13.1 As per the SCN, PGEL and its Promoter Directors were alleged to have –

i. Failed to make disclosure of the Board Resolution dated August 17, 2011, in the RHP and Prospectus.
ii. Made investment in unsecured ICDs, which was not in accordance with the aforementioned Board Resolution, which stated that the ICDs had to be secured by the personal guarantee of director of the borrowing company.
iii. ICDs with Saptrishi were not of *"high quality"* as stated on page 49 of the Prospectus under the head of *'Interim use of proceeds'*.

13.2 In their replies to the SCN, PGEL and its Promoter Directors *inter alia* submitted that –

i. PGEL invested in ICDs because it perceived an opportunity to get higher interest rates in respect of the unutilized IPO proceeds.
ii. The Board Resolution dated August 17, 2011, regarding *'Interim use of proceeds'* through ICDs was not required to be disclosed in the Offer Documents, as the statements contained in the RHP/Prospectus sufficiently covered the right of the company to invest the unutilized IPO proceeds even in ICDs.
iii. The ICDs obtained by PGEL from Jainex and Prraneta were utilized only in accordance with the objects of the Issue, as disclosed in the Prospectus.

13.3 In this regard, I note that –

i. The Board Resolution to invest in ICDs was dated August 17, 2011, and the relevant paragraph is reproduced below:-

*"Item No. 19 - 'pending utilization of Issue proceeds out of the Issue, we may temporarily invest the funds in interest bearing liquid instruments including money market mutual funds, deposits with the bank and Inter Corporate Deposits with the companies which would be secured by the personal guarantee of director of the borrowing company."*

ii. The decision to make investments in ICDs or the contents of the above-mentioned Board Resolution dated August 17, 2011, were not disclosed in the RHP or the Prospectus. Page 49 of the Prospectus, under the head *'Interim Use of proceeds'*, stated that –

*"Pending utilization of the proceeds of the Issue for the purpose described above, we intend to temporarily invest the funds in high quality interest bearing liquid instruments including money market mutual funds and deposits with banks. Such investments would be in accordance with the investment policies approved by the Board from time to time. We confirm that pending utilization of Issue proceeds, we shall not use the funds for any investments in the Equity markets." [Emphasis supplied]*

iii. I note that PGEL entered into Agreements for investment in ICDs with companies on the ground that it wanted to invest in *"high quality interest bearing liquid instruments"*. However, the facts on record indicate that PGEL invested in ICDs with companies from which it has been unable to recover its dues in respect of such ICDs. One of the companies in which PGEL had invested in ICDs, namely, Saptrishi, made losses in the Assessment Year 2010-11. It is noted that an examination of Income Tax Returns filed by Saptrishi indicated that it had incurred *'Current Year Loss'* of ₹30,117 for the assessment year 2010-11. Further, the SCN mentions that the financial statements for the year 2009-10 of Saptrishi showed interest income as *"nil"*, total income of approximately ₹4.5 Lakhs and loss before taxation of ₹33,405.64. Thus, the ICDs with Saptrishi could by no stretch of imagination be regarded as *"high quality"* or *"liquid instruments"* as described in the RHP/Prospectus. Vide SEBI's Interim Order dated December 28, 2011, PGEL was directed to recall the ICDs and deposit the proceeds in an Escrow Account. Further, the ICDs were for a tenure of 7 months and the same are now long overdue. It is noted that although as per the ICD Agreements, PGEL had the right to recall the ICDs by giving 7 days' notice and the borrowers had the obligation to re-pay the amount with interest, PGEL was not able to recover the ICDs. PGEL, in its letter dated July 19, 2013, submitted that

till date only ₹4.84 Crores of dues with respect to the said ICDs has been received. This clearly calls into question the quality and liquidity of the ICDs. In view of the aforesaid, I note that the ICDs invested in by PGEL were of a highly debatable and dubious quality rather than what can be described as *"high quality"*. I find that PGEL did not disclose material information with respect to investment in ICDs in its Prospectus, and also made incorrect statements with respect to the intent to invest in high-quality investments.

iv. All this points to the unclean hands of the promoters of PGEL who deliberately chose certain companies to park their temporary surpluses, first with the motive to fund some of the purchasers of shares of PGEL in the initial days of the public Issue, and secondly, siphon off such surpluses beyond the reach of the company. The key fact that a huge portion of the investment in ICDs is yet to be recovered after more than two years tells the story in its own compelling manner.

v. In view of the above, the charge vis-à-vis PGEL and its Promoter Directors regarding non-disclosure of material information in the Prospectus alongwith the investment in ICDs which were unsecured, and consequent violation of Regulations 57(1), 57 (2) (a), 60(4) (a) and 60(7)(a) and Clauses 2(VII)(G) of Part A of Schedule VIII of ICDR Regulations, stands established.

**14. Diverted IPO proceeds through investment in ICDs by PGEL.**

14.1 As per the SCN, PGEL and its Promoter Directors were alleged to have diverted IPO proceeds through investment in ICDs amounting to ₹32 Crores i.e. ₹15 Crores with Saptrishi, ₹7 Crores with Raw Gold and ₹10 Crores with Wattkins. In this regard, I note that –

i. PGEL invested in ICDs amounting to ₹15 Crores with Saptrishi, pursuant to Agreement dated September 20, 2011. Thus, during the period from September 22 – 27, 2011, Saptrishi received the aforesaid amount from the proceeds of the IPO of PGEL. Investigation revealed that Saptrishi transferred funds to entities which were allotted shares of PGEL during its IPO, or which were net–buyers of shares of PGEL on the date of listing and immediately thereafter. For instance, Saptrishi received ₹10 Crores from PGEL on September 27, 2011 and then transferred ₹5

Crores on the same day to Cellworth, a net-buyer of the shares of PGEL on the date of listing.

ii. PGEL invested in ICDs amounting to ₹7 Crores with Raw Gold, out of the proceeds of the IPO. The bank account statements of Raw Gold reveal that PGEL transferred the aforesaid amount to Raw Gold on September 22, 2011. Subsequently, Raw Gold transferred ₹2.5 Crores each to one Padamprabhu Project Pvt. Ltd. ("**Padamprabhu**") and M.J. Commodities Pvt. Ltd. ("**MJ Commodities**") on September 23, 2011 and September 24, 2011 respectively. Padamprabhu and M.J. Commodities then transferred the funds to their brokers. Thus, I note that, M. J. Commodities, which was one of the allottees in the IPO of PGEL, received a net sum of ₹2.5 Crores from Raw Gold, which was routed to its broker for purchase of shares of PGEL on the date of listing. Further, ₹61 Lakhs was earlier paid by Raw Gold on Sept 09, 2011 to M. J. Commodities Pvt. Ltd., which had applied in the IPO. It is observed that M.J. Commodities and Padamprabhu had a common address and common directors. Raw Gold, M.J. Commodities and Padamprabhu also have a common director, namely, one Mr. Sawankumar Jajoo.

iii. PGEL invested in ICDs amounting to ₹10 Crores with Wattkins on September 22, 2011. An analysis of the bank account statements of Wattkins during investigation revealed that Wattkins transferred ₹9.5 Crores on September 23, 2011 to entities like Pratibha D. Shah, Jaya Sunderji Shah, Shaili D. Shah and Adcon Capital Services Pvt. Ltd., which, in turn, either themselves purchased shares of PGEL on September 26, 2011, or transferred the money further to other entities like Cellworth and Jaimini Trading Pvt. Ltd. ("**Jaimini**"), which purchased shares of PGEL after its IPO. This generated artificial demand for the shares of PGEL in the secondary market and misled genuine investors. The promoters of PGEL also deliberately chose certain companies to park their temporary surpluses, first with the motive to fund some of the purchases of the shares of PGEL in the initial days of the public Issue, and secondly thereafter to siphon away the moneys beyond the reach of the company. As mentioned earlier in this Order, the key fact that a huge portion of the investment in ICDs is yet to be recovered even after more than two years tells the story in its own compelling manner.

iv. Therefore, the charge vis-à-vis PGEL and its Promoter Directors with respect to violation of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a)–(d), 4(1), 4(2)(a), (d)–(e) of the FUTP Regulations, stands established.

## 15. Non–disclosure in the Prospectus of purchase orders placed for plant & machineries and utilities.

15.1 I note that –

i. At page 43 of its Prospectus under the heading *'Objects of the Issue', PGEL* had stated: *"We have not yet placed any orders for purchase of plant & machineries and utilities for our proposed expansion project under Phase II."*

ii. Purchase orders worth ₹52.23 Crores (approximately) were placed by PGEL during the period between August 30, 2011 and September 5, 2011 with several suppliers of machinery, equipment and utilities, including Modi Alloys Pvt. Ltd. ("**Modi Alloys**") and Aggarwal Steel Rolling Mills and Metal Industries ("**Aggarwal Steel**").

iii. During the investigation conducted by SEBI, PGEL produced copies of purchase orders placed between August 30, 2011 to September 05, 2011, for a total value of approximately ₹52.23 Crores, claimed to have been placed by it with several suppliers including Modi Alloys and Aggarwal Steel for the expansion of Unit III and Unit IV. PGEL has admitted that non-disclosure of details of purchase orders in the Prospectus was on account of *"inadvertence"*.

iv. It is pertinent to note that the total value of the purchase orders is about approximately 43% of the size of the IPO. The said information about purchase orders is important material information which should have been disclosed in the Prospectus. Further, the fact that such large purchase orders were placed just before the IPO indicates that the omission from the Prospectus was not by inadvertence but rather a deliberate exclusion with a clear intention to mislead the investors.

v. In view of the admission by PGEL and its Promoter Directors and the material available on record, I find that the charge of concealment of material information in the Prospectus, and consequent violation of Regulations 57(1), 57 (2) (a), 60(4)(a),

60(7)(a) of ICDR Regulations, stands established on account of non-disclosure of purchase orders placed for plant & machineries and utilities.

**16. Non-disclosure in the Prospectus of names of certain companies in the list of suppliers.**

16.1 As per the SCN, PGEL and its Promoter Directors were alleged to have failed in making complete and material disclosures in the RHP and Prospectus as regards the list of suppliers of raw materials since they had not disclosed the names of two companies viz. Nimbus Industries Ltd. ("**Nimbus**") and Supreme Communication Ltd. ("**SCL**").

16.2 In their replies to the SCN, PGEL and its Promoter Directors *inter alia* submitted the names of Nimbus and SCL were not disclosed in the Prospectus (in the list of suppliers of raw material) as they were not manufacturers but rather trading companies. Further, it was contended that the aforesaid list of suppliers was not exhaustive. In addition, PGEL and its Promoter Directors contended that Nimbus and SCL were not even suppliers of PGEL at the time of filing the RHP.

16.3 In this regard, I note that –

i. During the investigation conducted by SEBI, PGEL provided a copy of the following additional Agreements, which reveal the existence of additional suppliers of raw materials to the company, viz. –

   a. Agreement dated August 31, 2011 with Nimbus Industries Ltd. ("**Nimbus**"), for purchase of plastic granules valued upto ₹3.50 Crores.
   b. Agreement dated August 31, 2011 with Supreme Communications Ltd. ("**SCL**") for purchase of plastic granules valued upto ₹5 Crores.

ii. The list of suppliers, as disclosed by PGEL at page 76 of the Prospectus, contained the names of LG Polymers, BASF, Supreme Petrochem, etc. However, the names of Nimbus and SCL do not appear in the said list of suppliers. Considering that the combined value of the above Agreements dated August 31, 2011, with Nimbus and SCL was ₹8.50 Crores, the same was undoubtedly material information which was required to have been disclosed in the Prospectus.

iii. Therefore, I find that the charge vis-à-vis PGEL and its Promoter Directors with respect to concealment of material information in the form of names of suppliers in the Prospectus and consequent violation of Regulations 57(1), 57 (2) (a), 60(4)(a), 60(7)(a) of ICDR Regulations, stands established.

iv. It is interesting to note that the aforementioned Agreements for supply of raw materials, were entered into by the parties i.e. PGEL, Nimbus and SCL, after the date of the RHP but before the finalization of the Prospectus. That the aforesaid Agreements were entered into during the aforesaid period cannot be seen as a mere coincidence since the same had aided in the subsequent diversion and siphoning off funds by PGEL.

**17. Siphoned and diverted funds through purchase orders.**

17.1 As per the SCN, PGEL and its Promoter Directors were alleged to have diverted approximately ₹12.95 crores to Wonder Vincom through purchase orders placed during the period between August 31, 2011 and September 5, 2011, with Modi Alloys and Aggarwal Steel. Wonder Vincom had funded ₹94 lakhs to the IPO allottee, viz. Chin Info Tech Pvt. Ltd. ("**Chin Info**") and had also made payments of ₹3.99 Crores to 2 entities, viz. Safford Mercantile Pvt. Ltd. ("**Safford**") and Nihal Mercantile Pvt. Ltd. ("**Nihal**") for purchasing shares of PGEL.

17.2 As per the SCN, PGEL had siphoned off approximately ₹7.25 Crores through Nimbus and SCL in the form of advance for purchase of *'plastic granules'* from them, out of which ₹40 Lakhs have been diverted to Sunlight Financial Advisory Pvt. Ltd., which had applied in the IPO of PGEL. After the investigation was initiated and Interim Order was passed, Nimbus and SCL have refunded ₹2.38 Crores and ₹73 Lakhs respectively to PGEL.

17.3 In their replies to the SCN, PGEL and its Promoter Directors *inter alia* submitted:

a. PGEL was compelled to borrow money from NBFCs and corporates by way of short term ICDs in order to meet the extremely urgent financial requirement to finance the completion of Phase II work and working capital requirements.

b. The amounts raised through ICDs were immediately used for completion of construction of plant and to make advance payments for purchase of plant and machinery.

c. PGEL had paid the money to Modi Alloys and Aggarwal Steel only for the purchase of the requisite machinery, almost all of which has already been supplied and delivered to PGEL. Advances paid to them were for 4 to 5 months. The SCN implies that whereas PGEL paid ₹19.65 Crores to Modi Alloys, only ₹94 Lakhs in the alleged fund flow allegedly went to Chin Info and only ₹3.99 Crores allegedly went to two buyers on the date of listing.

d. With respect to the advance paid to Nimbus and SCL for supply of *'plastic granules'*, PGEL submitted that it was to make advance payments to Nimbus and SCL against which PGEL received a discount of at least 7.5% and assurance of timely supply, failing which they had to pay PGEL a penalty of 2% per month. Upon cancellation of Agreement, out of total advance of ₹7.25 Crores, Nimbus and SCL had refunded ₹2.38 Crores and ₹73 Lakhs to PGEL.

e. I also note that in their submissions dated July 19, 2013, PGEL have claimed that ₹3.36 Crores out of the ₹7.25 Crores has been refunded to PGEL.

17.4 From the SCN, I note that –

i. Purchase orders of approximately ₹52.23 Crores, were placed by PGEL with several suppliers of plant & machineries and utilities, including Modi Alloys and Aggarwal Steel. From the bank account statements of Modi Alloys and Aggarwal (as referred to in the SCN), it is observed that PGEL made the following payments –

   a. ₹7.85 Crores to Modi Alloys between August 20, 2011 and August 29, 2011 and ₹1 Crore to Aggarwal Steel on August 23, 2011 i.e. before the purchase orders were placed with it during the period between August 31 to September 5, 2011.

ii. Modi Alloys received ₹19.65 Crores from PGEL during the period between August 20, 2011 to September 19, 2011. A total of ₹11.95 Crores was diverted, directly and indirectly, by PGEL to Wonder Vincom through Modi Alloys and one Rakesh Industries.

iii. I note that Wonder Vincom had made transfers/payments to the following entities, viz. –

a. ₹94 Lakhs to an IPO allottee, viz. Chin Info, on September 07, 2011;

b. ₹2 Crores to Safford and ₹1.99 Crores to Nihal on September 26, 2011. Safford and Nihal used the funds transferred to them by PGEL for purchasing shares of PGEL on September 26, 2011, September 27, 2011 and September 29, 2011.

iv. In addition to the above, Wonder Vincom had received ₹2.5 Crores from PGEL through Saptrishi and Cellworth on September 24, 2011, after the IPO, which was transferred to broker Indianivesh Securities Pvt. Ltd. on the same day, for purchase of shares of PGEL on the date of listing i.e. September 26, 2011. Cellworth is one of the entities which had received approximately ₹12.5 Crores of the IPO proceeds of PGEL, through entities like Saptrishi and Wattkins, to whom PGEL had made advance payments for purchase of land or with whom PGEL had invested in ICDs. For example, Cellworth received ₹5 Crores from Saptrishi on September 23, 2011. On September 24, 2011, Cellworth paid ₹2.5 Crores to its broker Indianivesh Securities Pvt. Ltd. for purchase of shares of PGEL on the date of listing i.e. September 26, 2011. On September 24, 2011, Cellworth also transferred ₹2.5 Crores to Wonder Vincom, which in turn used this amount to buy shares of PGEL on the date of listing.

v. Aggarwal Steel received a total of ₹5.98 Crores from PGEL on August 23, 2011 (₹1 Crore), September 16, 2011 (₹2.5 Crores), September 19, 2011 (₹2 Crores) and September 22, 2011 (₹48 Lakhs), out of which ₹1 Crore was diverted to Wonder Vincom as well as ₹1.9 Crores to Prraneta through Rakesh Industries and Puspanjali Trading Pvt. Ltd.

vi. It is pertinent to note that Modi Alloys and Aggarwal Steel have a common Promoter Director/Partner, viz. Mr. Rohit Modi, and a common address. Therefore, Modi Alloys and Aggarwal Steel are related entities which received funds from PGEL and together are alleged to have diverted a portion of the said funds for the

purpose of application for allotment of shares of PGEL in its IPO and for the purchase of shares of PGEL after it was listed, by entities like Chin Info, Safford and Nihal.

vii. In addition to the payments made to suppliers of machinery and equipment, PGEL siphoned off approximately ₹7.25 Crores through advance payments made in September 2011 for purchase of *'plastic granules'* to Nimbus and SCL (₹2.75 Crores to Nimbus and ₹4.5 Crores to SCL). Out of this sum of ₹7.25 Crores, ₹40 Lakhs was diverted to Sunlight Financial Advisory Private Ltd. ("**Sunlight**") by Nimbus. PGEL transferred ₹40 Lakhs to Nimbus on September 08, 2011, and the same amount was transferred by Nimbus to Scanpoint Infoware Pvt. Ltd. ("**Scanpoint**") on the next day i.e. September 09, 2011. Scanpoint further transferred the same amount to one Pearl Dealers Pvt. Ltd. ("**Pearl**") on the same day i.e. September 09, 2011, and Pearl transferred ₹40 Lakhs to Sunlight on September 10, 2011. Sunlight had applied in the IPO of PGEL, and together with Chin Info and M. J. Commodities Pvt. Ltd., was allotted 1,55,505 share of PGEL. After the investigation was initiated and the Interim Order was passed by SEBI, it was observed that Nimbus and SCL refunded ₹2.38 Crores and ₹73 Lakhs respectively to PGEL. As per the additional submissions of PGEL dated July 19, 2013, more than ₹3.36 Crores have been refunded by Nimbus and SCL.

17.5 In this regard, I note that –

i. With respect to delivery of plant & machineries and utilities, I observe that PGEL vide its letter dated February 29, 2012, informed SEBI that certain equipments and parts had been delivered, and the pending equipments would be delivered within the next two months and not later than June 2012. Further vide its letter dated April 08, 2013, PGEL has informed that the machineries started coming in from February 2012 onwards. It is also noted that an amount of ₹28.38 Crores was paid by PGEL as advance to Modi Alloys and Aggarwal Steel during the months of August - September 2011, almost a year before the expected date of delivery of the machinery i.e. June 2012. This has to be viewed in the context of the claim of PGEL and its Promoter Directors that funds were raised through ICDs in order to meet urgent financial requirements to complete Phase II work and working capital requirements.

Thus, the submissions of PGEL and its Promoter Directors lack credibility when viewed in the context of facts and circumstances of the case as narrated above. Further, the contention raised by PGEL and its Promoter Directors in their replies to the SCN that out of ₹19.65 Crores transferred to Modi Alloys by PGEL, only ₹94 Lakhs in the fund flow allegedly went to Chin Info and only ₹3.99 Crores allegedly went to two buyers, does not in any way dilute the charge of diversion of funds levelled against PGEL and its Promoter Directors. This in fact amounts to an admission of that charge, albeit not for the full amount.

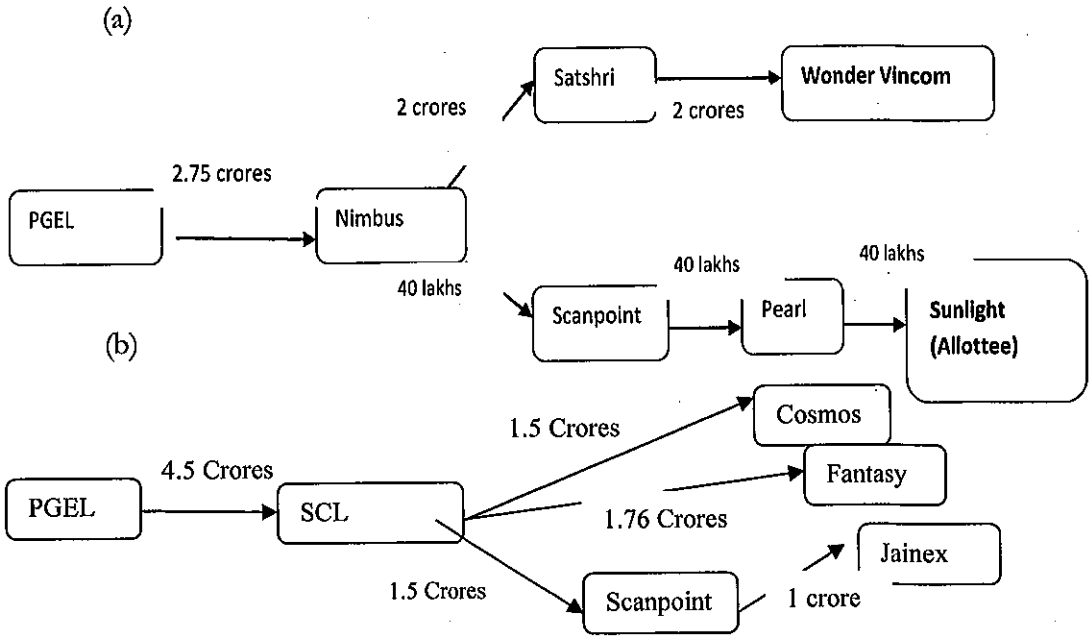
ii. With respect to the advance payments made to Nimbus and SCL for purchase of plastic granules, I note that vide letter dated December 03, 2011, PGEL had submitted that *'There are no sale/purchase Agreements with our customers and suppliers'*. PGEL during the course of investigation provided copies of the Agreements dated August 31, 2011 with Nimbus and SCL valued upto ₹3.50 Crores and ₹5 Crores respectively, for purchase of plastic granules. Thus, it is evident that PGEL has made contradictory submissions during investigation. Further, it has been observed that the Agreements for purchase of plastic granules from Nimbus and SCL do not provide a specific description of the plastic granules to be supplied, the quantity to be delivered, or the total value of the Agreement. Therefore, the submissions of PGEL and its Promoter Directors with respect to the genuineness of the payments made to Nimbus and SCL, or of the Agreements entered into with Nimbus and SCL for purchase of *'plastic granules'*, appear to be untrue.

iii. I also note that in its replies to the SCN, PGEL submitted that the supplies were scheduled to commence from December 2011, the same were deferred because of delay of Phase II work, construction and installation of machinery, and because *'the consumer markets were also weak'*. In the said replies, PGEL mentioned that no plastic granules were supplied to it by Nimbus or SCL. In its earlier letter dated February 29, 2012, to SEBI, PGEL submitted that the delivery of plastic granules was expected to start from March 2012 onwards. I observe that PGEL mentioned during investigation that it had borrowed money *'from banks and other entities at substantial interest rates'*. I also observe that PGEL had raised funds through ICDs at rates ranging from 10.5% to 13.5% per *annum. In this context, the fact that* PGEL made payments totaling ₹ 7.25 Crores almost six months in advance for raw materials i.e. plastic granules, calls into question the genuineness of the Agreements for purchase

of plastic granules from Nimbus and SCL, especially when viewed in the context of omission on the part of PGEL to make necessary disclosures in the Prospectus. As discussed earlier, PGEL had failed to disclose the names of Nimbus and SCL in its list of suppliers in the RHP and Prospectus.

iv. Further, as detailed in paragraphs 17 and 18 of the SCN, the bank account details of Nimbus and SCL have revealed that they routed the money received by them from PGEL between September 5, 2011 and September 16, 2011, to entities including Wonder Vincom (₹2 Crores) through Satshri, Sunlight (₹40 Lakhs) which was an allottee in the IPO of PGEL, Jainex (₹1 Crore), Cosmos (₹1.5 Crore) which in turn had provided funds to Jainex, and Fantasy Dealcom Pvt. Ltd. ("**Fantasy**") (₹1.76 Crore), which in turn also provided funds to Jainex.

v. The flow of funds from PGEL to (a) Nimbus and (b) SCL, and the subsequent diversion of funds through Sunlight, Wonder Vincom, Cosmos, Fantasy and Jainex, have been diagrammatically represented in the SCN and reproduced for reference:




vi. It is also observed that the Agreements with Nimbus and SCL were cancelled in March 2012 and PGEL has only received partial repayment of the amounts due from Nimbus and SCL. It is noted from the additional submissions made by PGEL

vide their letter dated July 19, 2013, that they had received approximately ₹3.36 Crores (out of ₹7.25 Crores) from Nimbus and SCL. This too indicates that funds have been siphoned off by PGEL through Nimbus and SCL.

vii. I also note that the explanations given by PGEL and its Promoter Directors regarding the reason for delay in execution and subsequent cancellation of the Agreements with Nimbus and SCL lack credibility when considered in the light of the role of Nimbus and SCL in aiding PGEL to transfer funds to entities like Sunlight, which were allotted shares in the IPO of PGEL.

viii. In view of the aforesaid, I find that -

a. PGEL diverted ₹12.95 Crores from the IPO proceeds to Wonder Vincom through entities like Modi Alloys and Aggarwal Steel by utilizing purchase orders for the supply of machinery. Wonder Vincom in turn transferred funds to Chin Info, Safford and Nihal. It is observed that Safford and Nihal in turn used the funds transferred to them by PGEL for purchasing shares of PGEL on September 26, 2011, September 27, 2011 and September 29, 2011. Further, Chin Info was an allottee in the IPO of PGEL.

b. PGEL siphoned off ₹7.25 Crores through Nimbus and SCL, who in turn transferred money to entities like Wonder Vincom, Sunlight and Jainex, which either themselves applied for shares of PGEL in its IPO, or purchased shares of PGEL after listing, or funded other entities (though layered transactions) which purchased shares of PGEL after listing. This generated artificial demand for the shares of PGEL and may also have influenced the price of the scrip of PGEL on the date of listing i.e. September 26, 2011. On the date of listing, the scrip of PGEL opened at ₹215 at NSE, increased to intra-day high of ₹484.4 on the NSE and closed at ₹415.3 i.e. almost two times the Issue price of ₹210. The facts and circumstances of this case indicate that the rise in the price of the scrip of PGEL appears to have been supported by entities which bought shares of PGEL with the funds diverted to them by PGEL. Additionally, the diversion of funds by PGEL to connected entities.

c. In view of the above, the charge vis-à-vis PGEL and its Promoter Directors with respect to violation of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a)–(d), 4(1), 4(2)(a), (d)–(e) of the FUTP Regulations, stands established.

**18. Non-disclosure of Agreements and Memorandum of Understandings entered into by PGEL with certain entities for purchase of land.**

18.1 As per the SCN, PGEL and its Promoter Directors were alleged to have failed to disclose in the RHP and Prospectus, Agreements/ Memorandum of Understandings ("**MOUs**") for purchase of land.

18.2 In this regard note that –

i. PGEL and its Promoter Directors were alleged to have entered into Agreements/MOUs for purchase of land with Saptrishi, Safeco Projects Pvt. Ltd. ("**Safeco**"), Realnet Infraprojects Pvt. Ltd. ("**Realnet**") and Eastern Resorts Pvt. Ltd. ("**Eastern Resorts**") for a total consideration value of approximately ₹80 Crores, which is almost 66% of the Issue size of ₹120.65 Crores.

ii. The details of the Agreements/MOUs entered into by PGEL for purchase of land are as follows:

| Name of entity | Date of MOU | Location of land | Details/ specification of land | Total consideration value (₹ Crores) | Advance as per MOU (₹ Crores) | Status (As on 10.04.2012) |
|---|---|---|---|---|---|---|
| Saptrishi | 21.09.2011 | Tamil Nadu | Not mentioned in MOU | 18 | 10 | No progress. |
| Safeco | 27.08.2011 | Karnataka | Not mentioned in MOU | 25 | 15<br><br>(Out of ₹15 Crores, ₹10 crores already paid prior to the date of MOU) | Cancelled |
| Realnet | 2.09.2011 | As per MOU, Realnet would locate and procure land on behalf of PGEL in Greater Noida | As per MOU, around 5 acres. | 12 – 15<br><br>The amount was not mentioned in the MOU. Amount indicated is as per PGEL's letter dated 10.04.2012. | 2 | Cancelled |
| Eastern Resorts Pvt. Ltd. | 26.08.2011 | As per MOU, Eastern Resorts has 80 acres in Virat Nagar (Jaipur) and is in process of acquiring 45 acres. Further, as per MOU, PGEL would purchase entire 2nd Floor of the proposed building. | 80 acres and 45 acres (not in possession on the date of MOU) and 2nd Floor of PROPOSED BUILDING. | 25 | 10.30<br><br>(₹2 Crores was paid prior to the date of MOU and ₹8.30 Crores before September 27, 2011.) | Cancelled |

18.3 I note that –

i. As per the requirements of Clause (2)(VIII)(B)(6)(a) of Part A of Schedule VIII of ICDR Regulations, the names of the entities from whom the land has been acquired/proposed to be acquired pursuant to the abovementioned Agreements/MOUs were required to have been disclosed by PGEL in its Prospectus. The Agreements/MOUs themselves should also have been disclosed in the Prospectus as material information. However, neither the names of the entities as mentioned above, nor the Agreements/MOUs were disclosed in the Prospectus.

ii. Further, no disclosures regarding approvals obtained or required to be obtained in relation to acquisition of land have been made by PGEL and its Promoter Directors in the RHP and Prospectus. This is despite the fact that, in one of the instances in which Agreements/MOUs for purchase of land were entered into by PGEL, Saptrishi was required to arrange for conversion of the land–use from agricultural use to industrial use. As per the Agreement/MOU between PGEL and Saptrishi for purchase of the said land, if Saptrishi were to fail to get the land–use converted from agricultural use to industrial use, it would have to return the advance received from PGEL with interest. Therefore, it is observed that, in contravention of the requirement of Clause (2)(VIII)(B)(6)(c) of Part A of Schedule VIII of the ICDR Regulations, an important disclosure with respect to approvals required to be obtained pertaining to land being purchased by PGEL, was not made in the RHP and Prospectus.

iii. PGEL and its Promoter Directors have contended that the land deals were covered under the *'general corporate purposes'* as indicated in the RHP and Prospectus. I note that the following disclosure has been made in the Prospectus –

*"We, in accordance with the policies set up by the Board will have flexibility in applying the net proceeds of the Issue, after the aforesaid objects are met, for general corporate purposes including, but not restricted to offsetting secured loan borrowings, meeting contingencies for any cost overrun in the expansion project, strategic initiatives, expanding into new geographies, brand building exercise, strengthening of market capabilities, future projects and meeting exigencies which we in the ordinary course may not foresee. As on the date of this Prospectus, we have not entered into any commitment for any strategic initiatives. Our management, in accordance with the policies of our Board, will have flexibility in utilizing the proceeds earmarked for general corporate purposes." [Emphasis supplied]*

iv. I note that PGEL had the flexibility to use the funds allocated to *"general corporate purposes"* only after the objects of the Issue as stated in the offer documents had been met. The land deals were for a consideration value of more than ₹80 Crores, and the provision made for *"general corporate purposes"* as disclosed in the Prospectus was for a total of only ₹21.40 Crores. Therefore, the abovementioned Agreements for purchases of land cannot be considered to be a part of *"general corporate purposes"* and were required to be disclosed specifically as stipulated in Clause (2)(VIII)(B)(6)(c) of Part A of Schedule VIII of the ICDR Regulations.

v. I also note that as on the date of the Prospectus, PGEL had already entered into Agreements/MOUs with Safeco, Eastern Resorts and Realnet i.e. during the period between August 26, 2011– September 2, 2011. The same is contrary to the disclosure made by PGEL on page 46 of its Prospectus wherein it was stated: *"... As on the date of this Prospectus, we have not entered into any commitment for any strategic initiatives ..."*.

vi. In their replies to the SCN , PGEL and its Promoter Directors have submitted that since the Agreements/MOUs for purchase of land were dated September 21, 2011; August 27, 2011, August 26, 2011 and September 02, 2011, and the RHP was dated August 17, 2011, the said MOUs could not have been disclosed. However, I note that Regulations 57, 60(4) and 60(7), and Part A of Schedule VIII of the ICDR Regulations apply to the RHP as well as the Prospectus of the Issuer. In this case, the Prospectus of PGEL was dated September 14, 2011, which was after the aforementioned Agreements/MOUs were executed except for the Agreements/MOUs dated September 21, 2011. Therefore, the contention that it was not possible to disclose the Agreements/MOUs in the Prospectus is not acceptable.

vii. I find that PGEL and its Promoter Directors concealed material information in its Prospectus about Agreements/MOUs for purchase of land worth more than ₹80 Crores, which amounted to approximately 66% of the Issue size of ₹120.65 Crores. Further, due to the reasons discussed in sub-paragraph (iv) and (v) above, PGEL cannot take shelter under the clause of *'general corporate purposes'* mentioned in the Prospectus.

viii. In view of the aforesaid, I find that PGEL and its Promoter Directors violated Regulations 57(1), 57(2)(a), 60(4)(a) and 60(7)(a) and Clause(2)(VIII)(B)(6) of Part A of Schedule VIII of ICDR Regulations.

**19. Siphoned off and diverted IPO proceeds alongwith other funds through payment of consideration for land deals.**

19.1 As per the SCN, PGEL is alleged to have siphoned off ₹29.5 Crores through Saptrishi (₹12.5 Crores), Safeco (₹15 Crores) and Realnet (₹2 Crores), as advance for purchase of

land. The payment of funds was made in accordance with the Agreements/MOUs, details of which is produced at paragraph 18.1(ii) above.

19.2 After the investigation was initiated, the abovementioned entities have refunded approximately ₹9.27 Crores (₹1 Crore from Saptrishi, ₹6.25 Crores from Safeco and approximately ₹2.02 Crores from Realnet). However, in its submissions dated July 19, 2013, PGEL and its Promoter Directors have claimed that with the exception of Saptrishi, all payments made to Safeco, Realnet and Eastern Resorts have been refunded.

19.3 In this regard, I note that –

i. The land which PGEL bought from Saptrishi on September 21, 2011, for ₹18 Crores had been purchased by Saptrishi on June 23, 2011, for ₹75 Lakhs. PGEL has mentioned that the actual value of the said lands after conversion of the same from agricultural use to industrial use would be about ₹7.5 Crores. The MoU with Saptrishi was for a total consideration of ₹18 Crores. However, PGEL had admittedly paid ₹13.5 Crores (i.e. complete cost of land with converted use, complete cost of land development and partial cost of construction of factory) as advance to Saptrishi even before the land-use being converted from agricultural use to industrial use. It is further noted that PGEL has not received refund of the consideration value of ₹13.5 Crores paid to Saptrishi. During the course of investigation PGEL had received a refund of ₹1 Crore from Saptrishi. However, in its submissions dated July 19, 2013, PGEL and its Promoter Directors had submitted that the MOU with Saptrishi had not been terminated and that PGEL is *"actively pursuing Saptrishi to conclude the transaction and convey the property"* to PGEL. Thus, the material on record clearly indicates that substantial payments were made to Saptrishi for purchase of land in advance, even before the stipulated conversion of land-use, without any justification. The current status of the land deals for which these payments were made by PGEL are also not very clear, and PGEL has simply stated that it is pursuing Saptrishi for concluding the transaction and conveying the property. These facts strongly indicate that the payments made to Saptrishi pursuant to the MOU dated September 21, 2011, for purchase of land, were nothing but a charade designed to disguise the fraudulent siphoning and diversion of funds by PGEL through land deals.

ii. Further, it is noted from contentions of PGEL and its Promoter Directors that the company agreed to pay additional advance of ₹3.5 Crores to Saptrishi, over and above the initial advance of ₹10 Crores because Saptrishi claimed that the funds were required for change of land use, land development and construction of the factory and that PGEL did not want to jeopardize the transaction. This contention is not credible when viewed in the context of the transfer of funds amounting to ₹33 Crores (including ₹8 Crores transferred to Saptrishi indirectly through Prraneta) from PGEL to Saptrishi during the period between September 22, 2011 and September 27, 2011, from the IPO proceeds. It is pertinent to note that the funds transferred to Saptrishi were partly siphoned off and partly diverted to entities like M.J. Commodities (₹25 Lakhs during September 8-17, 2011) and Wonder Vincom (₹2. 5 Crores on September 24, 2011 through Cellworth), which either applied for allotment of shares of PGEL or purchased shares of PGEL on the date of listing. The manner in which large sums of money raised through the IPO were transferred to Saptrishi as advance towards purchase of land without making relevant disclosures in the RHP and Prospectus of PGEL, and the callous attitude of PGEL in not seeking refund of the said money despite evident lapses on the part of Saptrishi in conversion of land-use, clearly indicates that the amount paid by PGEL to Saptrishi as advance for purchase and development of land has been siphoned off by PGEL in collusion with Saptrishi. This conclusion is further strengthened by the fact that ₹33 Crores was transferred by PGEL, directly as well as indirectly through Prraneta, to Saptrishi from the IPO proceeds.

iii. In respect of the MOU dated August 27, 2011, entered into between PGEL and Safeco, the total consideration value for the land deal with Safeco was ₹25 Crores. PGEL had mentioned during investigation that it paid a total sum of ₹15 Crores including ₹7 Crores from the ICDs which had been taken by it prior to the IPO, as advance to Safeco for purchase of land. PGEL vide its reply dated April 08, 2013 has submitted that pursuant to cancellation of the MOU, they have received ₹14.35 Crores from Safeco, out of the total advance of ₹15 Crores paid to it. Vide its letter dated July 19, 2013, PGEL has submitted that they have received a complete refund from Safeco. However, no documentary evidence has been provided by PGEL in this regard.

iv. In respect of the MOU dated September 02, 2011, entered into between PGEL and Realnet, PGEL made advance payment of ₹2 Crores to Realnet towards acquisition of land at Greater Noida, for PGEL. It is observed that Realnet is stated to be a Mumbai-based company and that PGEL, despite having an office at Greater Noida, asked Realnet to arrange for the acquisition of land at Greater Noida. Further, the bank account statements of Realnet revealed that it received ₹1 Crore from Chin Info on September 7, 2011. Chin Info had received ₹94 Lakhs from PGEL through Wonder Vincom on the same day. It is noted that Chin Info was allotted shares of PGEL in its IPO. Therefore, there is material on record to indicate that Realnet received funds from an entity which facilitated the siphoning off and diversion of funds by PGEL for purchase of its own shares during its IPO. Investigation has also revealed that:

a. MOU did not mention the total consideration to be paid for purchase of the land, which is quite irregular, and
b. MOU stipulated that after arranging the acquisition of land, Realnet would apply for change of land use from agricultural to industrial use.

v. From the facts discussed above, it becomes clear that PGEL had siphoned off funds as advance for purchase of land, through MOUs which were nothing but smokescreens for siphoning off funds. No documentary evidence has been submitted by PGEL and its Promoter Directors to substantiate the claims made in their submissions dated July 19, 2013, that payments of advance made to Safeco have been refunded to PGEL. The material on record indicates a manipulative plan on the part of PGEL and its Promoter Directors while dealing with money raised through a public offer. The non-disclosure of MOUs for purchase of land in the RHP and Prospectus of PGEL, when viewed in the context of the large sums of money to the tune of ₹29.5 crores paid as advance by PGEL to Saptrishi, Realnet and Safeco, clearly indicate the manipulative intent of PGEL and its Promoter Directors to siphon off and divert funds through dubious land deals.

vi. As stated in the preceding paragraphs, a substantial portion of the IPO proceeds were also siphoned off and diverted to certain entities, viz. Cellworth, Wonder Vincom, Pasupati, etc. by PGEL, for purchase of its own shares on September 26, 26, 2011. The aforesaid fact is in complete contradiction with the statement in the

RHP and Prospectus of PGEL at page 49, under the head *'Interim Use of proceeds'* that PGEL would invest, in the interim, the proceeds of the IPO in high quality instruments and would not use it for any investments in the equity markets. Further, by funding the purchase of its own shares, PGEL directly contributed to the generation of buy orders which were not genuine, and which manipulated the price of the scrip of PGEL. This generated artificial demand for the shares of PGEL in the secondary market, and misled genuine investors. I find that such conduct of the PGEL and its Promoter Directors constitutes fraudulent and manipulative activity in the securities market, disturbing the market equilibrium.

vii. In view of the above, I find that the charge vis-à-vis PGEL and its Promoter Directors with respect to violation of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a)–(d), 4(1), 4(2)(a), (d)–(e) of the FUTP Regulations, stands established.

**20. Contradictory disclosures regarding amount of term–loan availed.**

20.1 As per the SCN, PGEL and its Promoter Directors are alleged to have made contradictory disclosures in the RHP and Prospectus regarding the amount of term-loan availed by the company.

20.2 In this regard, I note that –

i. It has been mentioned in the RHP and the Prospectus under the head of *"Objects of the Issue"* that PGEL had raised ₹24.10 Crores for *'Prepayment of the portion of term loan and line of credit facility proposed to be availed by our company for the expansion under Phase I.'* Further, Page 29 of the RHP and Prospectus states: *"For part financing the expansion under Phase I, our Company has received the sanction for availing ₹2,350 Lakhs as term loan and of US$ 3 million (₹1,410 Lakhs based on conversion rate of 1US$ = ₹47/-) as Line of Credit from Standard Chartered Bank vide its sanction letter dated September 14, 2010. We have already availed disbursement of the entire sum sanctioned to us"*. However, in the table on Page 30 of the RHP as well as Prospectus, with respect to the term loan and letter of credit, PGEL have stated - *'Amount availed as on the date of this RHP – NIL.'* Therefore, the aforesaid statements in the RHP and Prospectus were contradictory and offered no clarity on the prevailing position of the term-loan.

ii. In its submission, PGEL has stated that the contradictory figures of the amount of term loan availed were on account of a typographical error. The aforesaid statement amounts to an admission of error by PGEL regarding the contradictory disclosures made by it regarding the amount of term loan availed.

iii. In view of the above, I find that the charge with respect to incorrect and misleading disclosures in the RHP and Prospectus and consequent violation of Regulations 57(1), 57(2)(a), 60(4)(a) and 60(7)(a) and Clause 2(VII)(G) of Part A of Schedule VIII of ICDR Regulations, stands established.

**21. Failed to comply with certain directions contained in the Interim Order.**

21.1 It is also pertinent to note that vide Interim Order dated December 28, 2011, SEBI had directed PGEL to call back ₹32 Crores, given as ICDs to Saptrishi, Raw Gold and Wattkins, and deposit the same along with unutilized IPO proceeds in a separate interest-bearing Escrow Account. However, from the letters dated April 08, 2013 and July 19, 2013 received from PGEL, it is observed that only ₹4.84 Crores have been deposited in the said Escrow Account. I therefore note that PGEL has failed to comply with SEBI's Interim Order.

**22. Conclusion.**

22.1 The facts of this case make it abundantly clear that non-disclosures of material information in the Prospectus were deliberate acts done to conceal the deeper underlying fraudulent activity of PGEL and its Promoter Directors. It cannot be a coincidence that such fraudulent activity had its origin prior to the IPO of PGEL and resulted in the siphoning off and diversion of proceeds of that IPO. This is clearly evident from the following:

i. Funds raised by PGEL through ICDs during the period between August – September, 2011 i.e. prior to and during the IPO of PGEL, were not disclosed in the Prospectus despite the liability for repayment of such ICDs being attached to the proceeds of IPO. A portion of these funds, which were repaid from the proceeds of

IPO, were subsequently diverted by PGEL, through layered transactions, to entities who had purchased its shares on the first day of listing.

ii. The decision to make investment in ICDs as approved by the Board Resolution dated August 17, 2011 i.e. prior to the IPO of PGEL, was not disclosed in the Prospectus. As a result of such investment, made after the IPO, PGEL alongwith its Promoter Directors were able to divert the proceeds of the IPO.

iii. Purchase orders worth ₹52.23 Crores, which were placed by PGEL during the period between August 30, 2011 and September 5, 2011 i.e. prior to the IPO of PGEL, *inter alia* for plant & machineries and utilities were not disclosed in the Prospectus. Further, Agreements which were entered into by PGEL with certain companies on August 31, 2011, for supply of raw materials i.e. plastic granules, were not disclosed in the Prospectus. Payments towards the aforesaid purchase orders were made before the scheduled supply of such plant & machineries and utilities. Similarly, payments for supply of plastic granules were also made in advance and before such Agreements were subsequently cancelled. The entities to whom such payments were made, further transferred the same to other entities who either applied for shares of PGEL in its IPO, purchased shares of PGEL on the first day of listing and thereafter. As a result of such payments, PGEL alongwith its Promoter Directors were able to divert and siphon off funds available with the company prior to the IPO alongwith the proceeds of the IPO.

iv. Agreements and MOUs entered into by PGEL with certain entities for purchase of land during the period between August–September 2011, were not disclosed in the Prospectus. In furtherance of such Agreements and MOUs, advance payments were made by PGEL prior to and after the IPO. For example, advance payment of upto ₹13.5 Crores (which constituted a major portion of the purchase value of the land i.e. ₹18 Crores) were made by PGEL to Saptrishi even before the stipulated conversion of land-use by Saptrishi. As a result, PGEL and its Promoter Directors were able to siphon off and divert funds available with the company prior to the IPO alongwith the proceeds of the IPO.

22.2 The abovementioned fraudulent activity reflect the opaqueness with which the entire IPO has been carried out by PGEL and its Promoter Directors and clearly exhibit the

web of deceit and conspiracy hatched by the aforesaid entities. SEBI cannot remain a passive spectator when a company raises capital from the public without making proper disclosures and then siphons off such funds through dishonest and manipulative methods flouting the Rules and Regulations issued by it.

23.1 With respect to the misleading disclosures in this regard made by PGEL to disguise its manipulative intent, it is pertinent to note that it has been held by the Hon'ble Securities Appellate Tribunal in the matter of *HSBC Securities and Capital Markets (India) Private Ltd. v. SEBI, SAT Appeal No. 99 of 2007*, that *"an incorrect or wrong information in a letter of offer or other similar documents issued for the benefit of investors in general could lead to serious consequences including loss of credibility for the market operators and for the regulatory system. This kind of failure has to be taken very seriously by the market regulator"*.

23.2 It is also pertinent to refer to the judgment of the Hon'ble Securities Appellate Tribunal in the matter of *V. Natarajan vs. SEBI, SAT Appeal No.104 of 2011*, wherein it was held as follows:-

*"... we are satisfied that the provisions of Regulations 3 and 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, were violated. These regulations, among others, prohibit any person from employing 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 an exchange. They also prohibit persons from engaging 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 that are listed on stock exchanges. These regulations also prohibit persons from indulging in a fraudulent or unfair trade practice in securities which includes publishing any information which is not true or which he does not believe to be true. Any advertisement that is misleading or contains information in a distorted manner which may influence the decision of the investors is also an unfair trade practice in securities which is prohibited. The regulations also make it clear that planting false or misleading news which may induce the public for selling or purchasing securities would also come within the ambit of unfair trade practice in securities...*

*... A basic premise that underlies the integrity of securities market is that persons connected with securities market conform to standards of transparency, good governance and ethical behaviour prescribed in securities laws and do not resort to fraudulent activities."*

23.3 While dealing with a matter of this nature, it would be worthwhile to refer to the following observations made by the Hon'ble Supreme Court in its judgment dated April 26, 2013, in *N. Narayanan v. Adjudicating Officer SEBI (Civil Appeal Nos.4112-4113 of 2013)* held that *"SEBI, the market regulator, has to deal sternly with companies and their Directors indulging in manipulative and deceptive devices, insider trading etc. or else they will be failing in their duty to promote orderly and healthy growth of the Securities market. Economic offence, people of this country should know, is a serious crime which, if not properly dealt with, as it should be, will affect not only country's economic growth, but also slow the inflow of foreign investment by genuine investors and also casts a slur on India's securities market. Message should go that our country will not tolerate "market abuse" and that we are governed by the "Rule of Law". Fraud, deceit, artificiality, SEBI should ensure, have no place in the securities market of this country and 'market security' is our motto."*

24. In the present case, PGEL and its Promoter Directors had acted in a manner highly detrimental to the interests of the securities market and the investors therein. The rulings of the Hon'ble Supreme Court and Securities Appellate Tribunal discussed in the preceding paragraph 23 apply directly and fully to the facts of the instant case. The development of a strong, transparent and credible securities market is an important pre-requisite for the economic development of our country. The fraudulent activities such as what have been observed in the instant case pose a real threat to the integrity of our securities market. If such activities are allowed to continue, they will jeopardize and tarnish the image of the securities market as a transparent and efficient way of raising capital, shaking the very foundations of capital raising in India. The violations of law observed with respect to PGEL and its Promoter Directors, if not dealt with sternly, could give rise to a situation where raising of capital would become extremely difficult even for honest companies.

25. For reasons detailed in the preceding paragraphs, I find that PGEL and its Promoter Directors have indulged in fraudulent activities and have violated the provisions of Section 12A(a), (b) and (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), (d), (e), (f) and (k) of the FUTP Regulations.

26. In addition, PGEL and its Promoter Directors have been found to have violated Regulations 57(1), 57 (2) (a), 60(4) (a) and 60 (7) (a) and Clauses 2(VII)(G);

2(VIII)(B)(5)(b) and (6); and 2 (XVI)(B)(2) of Part A of Schedule VIII of the ICDR Regulations, by failing to disclose material information in the Prospectus, viz. –

i. Funds raised through ICDs, which were in the nature of a bridge loan;
ii. Board Resolution dated August 17, 2011, to invest in ICDs of other companies;
iii. Purchase orders placed for plant and machinery;
iv. Names of certain companies in the list of suppliers;
v. Agreements and MOUs entered into by PGEL with certain entities for purchase of land;
vi. Repayment of ICDs, raised just prior to the IPO, to be made from the proceeds of the IPO;
vii. In addition, PGEL and its Promoter Directors made contradictory disclosures regarding amount of term–loan availed.

27. I observe that PGEL and its Promoter Directors vide their reply dated July 19, 2013, have requested that the proceeds lying the in the Escrow Account comprising unutilized proceeds of the IPO i.e. ₹1.77 Lakhs and the proceeds of the repayment of the ICDs i.e. ₹4.84 Crores as on date, may be allowed to be used for repayment of loans taken from banks. However, in view of the fact that the said proceeds were obtained as a result of, and were inextricably connected with, the violation of the SEBI Act, the ICDR Regulations and the FUTP Regulations by PGEL and its Promoter Directors, I do not find any reason to accede to such request in this regard.

**Order –**

28. In view of the foregoing, I, therefore, in exercise of the powers conferred upon me by virtue of Section19 read with Sections 11(1), 11(4), 11(A) and 11B of the SEBI Act read with Regulation 11(1) of the PFUTP Regulations and the ICDR Regulations, 2009, hereby direct as follows –

i. P. G. Electroplast Limited and its Promoter Directors, viz. Mr. Promod Gupta (PAN No. AAHPG5646F), Mr. Anurag Gupta (PAN No. AAHPG5647E), Mr. Vishal Gupta (PAN No. AAHPG5643A) and Mr. Vikas Gupta (PAN No. AAHPG5644H) are prohibited from raising any further capital from the securities market, in any manner whatsoever, for a period of **ten years**.

ii. P. G. Electroplast Limited and its abovementioned Promoter Directors, viz. Mr. Promod Gupta, Mr. Anurag Gupta, Mr. Vishal Gupta and Mr. Vikas Gupta are prohibited from buying, selling or dealing in the securities market, in any manner whatsoever, for a period of **ten years**.

iii. The period of prohibition already undergone by P. G. Electroplast Limited and its Promoter Directors pursuant to the Interim Order dated December 28, 2011, shall be taken into account for the purpose of computing the period of prohibition imposed in this Order.

iv. P. G. Electroplast Limited is also directed to take urgent and effective measures to recover all the moneys recoverable on account of investments in ICDs, contracts for purchase of land which have not fructified till now, etc. Progress in this regard shall be reported to SEBI on or before May 10, 2014, on the basis of which further directions shall be considered.

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

**Place: Mumbai**
**Date: March 11, 2014**

**S. RAMAN**
**WHOLE TIME MEMBER**
**SECURITIES AND EXCHANGE BOARD OF INDIA**