WTM/RKA/EFD/DRA-IV/20-21/2016

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under section 11 and 11B of the SEBI Act, 1992- in respect of:

Sr. No.	Name of the noticees	PAN	Order No.
1	Somplast Leather Industries Limited	AADCS0254L	20/2016
2	Mr. N. R. Vekaria	ABOPV5260E	
3	Mr. R N Vekaria	Not available	
4.	Mr. Ramanlal Hathi	Not available	
5.	Mr. R .D Patel	Not available	
6.	Mr. Bhagawati Shah	Not available	
7.	Mr. S. N. Vekaria	Not available	
8.	Mr. Sanjay Patel	Not available	
9.	Mr. Girish Shah	Not available	
10	Ms. Yogini Vyas	ACQPV5440H	
11.	Indocare Pharmaceuticals Ltd.	Not available	
12.	Shalin Resorts Ltd.	Not available	
13	Growth Agro Ind Ltd.	Not available	
14	Gujarat Fun'n Water Park Ltd.	Not available	
15.	Sofitel Finstock	Not available	
16.	Shree Corporation	Not available	
17.	G. Bhavsar & Co.	Not available	
18.	Mr. Jayesh Mehta	Not available	
19.	Mr. Noopur Kansara	ATRPK6381J	
20.	Mr. Ashok Choksi	AE2PC2853G	
21.	Indian Shelters Ltd.	Not available	
22	Mr. Gopal Pottedar	Not available	
23	Mr. Dharmendra Barot	Not available	
24	Mr. Gaurang Joshi	AEGPJ5170G	
25	Mr. Tushar Majmudar	AFFPM7176M	
26	Mr. Amit Shah	ALWPS7903F	21/2016

IN THE MATTER OF THE SOMPLAST LEATHER INDUSTRIES LIMITED.

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted investigation into the preferential allotment of 2.40 crore equity shares of ₹ 10/- each by M/s Somplast Leather Industries Limited (hereinafter referred to as "Somplast"). It was reported by

BSE that the allotted shares by Somplast on preferential basis were dematerialized without taking in-principle approval from BSE. During the relevant period, the shares of Somplast were listed on Bombay Stock Exchange Ltd. ("BSE") and Ahmedabad Stock Exchange Ltd. ("ASE").

2. In the proceedings commenced by SEBI for violation of clause 24(a) of the Listing Agreement in this regard, noticee no. 10 namely, Ms. Yogini Vyas had submitted that she was a lower level employee of one, Mr. Amit Shah and was appointed as director of Somplast by him. She also informed that Mr. Amit Shah appoints his employees and relatives as directors of various companies controlled and managed by him and that she was not aware of the preferential allotment made by Somplast. Mr. S. N Vekaria, Mr. Sanjay Patel and Mr. Girish Shah had also submitted that they were not involved in the preferential allotment, since, they had resigned as directors of Somplast well before the preferential allotment and they had also stated that 3.2 lakh shares of Somplast were transferred to Mr. Amit Shah on the date of execution of Memorandum of Understanding (MoU) dated September 16, 1995 and that Somplast was controlled and managed by Mr. Amit Shah. Mr. Sanjay Patel and Mr. Girish Shah had also stated that they were appointed by Mr. Amit Shah and that he was in charge of Somplast that was sold to him in September 1995 and all instructions would come from Mr. Amit Shah. Ms. Yogini Vyas had also furnished a copy of MoU dated September 11, 1995 and September 16, 1995 entered into between Mr. Amit Shah and Mr. N. R. Vekaria (CMD of Somplast) which stated that Mr. Amit Shah had agreed to buy controlling stake i.e. shares, assets, etc. in Somplast from Vekarias. They had also provided payment receipts signed by Mr. N. R. Vekaria on receipt of money from Mr. Amit Shah on transfer of 3.2 lakh shares pursuant to the said MoU

3. In the meanwhile, SEBI had investigated, *inter alia,* into the preferential allotment made by Somplast, the role of noticees no. 2 to 10 (directors of Somplast) and preferential allottees including noticees no. 10 to 26 in the entire scheme of the preferential allotment. It was revealed during investigation that –

   a) At the relevant time, promoters of Somplast were Mr. Surendra Kr. Karia and Mr. Prakash Kr. Kakkad. As per the shareholding for the quarter ending December 2001, Mr. Jayesh Mehta (noticee no. 18) and Ms. Yogini Vyas (noticee no.10) were the only promoters of Somplast and they together held 9.6% (24,00,000) shares in Somplast. Remaining 90.40% (2,26,00,000) shares were shown in non- promoter holding as given in the following table:-

TABLE – 1 - Shareholding pattern of Somplast as on December 2001

Sr. No.	Name of the allottees	No of shares	% of shareholding
A	**Promoters Holding**		
	Yogini Vyas	12,00,000	4.80

	Jayesh Mehta	12,00,000	4.80
B	**Non-promoter Holding**		
	(a) Private Corporate Bodies		
	Indocare Pharmaceuticals Ltd	1,45,00,000	58.00
	Multi Media software Ltd		
	Shalin Resorts Ltd		
	Sarlee Fabric Exports Ltd.		
	Omega Avenues Ltd		
	Growth Agro Ind Ltd		
	Gujarat Fun'n Water Park Ltd		
	Sofitel Finstock		
	Manna Glass Tech Ind. Ltd.		
	G. Bhavsar & Co		
	Manna Exports		
	Shree Corporation		
	(b) Individuals	81,00,000	32.40
	Noopur Kansara (11,00,000 4.40%)		
	Ashok Chokshi (12,00,000-4.80%)		
	Total	**2,50,00,000**	**100**

b) In terms of resolution passed in its Extra Ordinary General Meeting ("EOGM") held on May 4, 2000, Somplast had made preferential allotment of its 2.40 crores equity shares at ₹10 per share on July 24, 2000 to 21 allottees as described in following table:-

TABLE - 2- List of preferential allottees

Sr. No.	Name of the allottees	Category	No of shares
1	Yogini Vyas	Promoter/director	12,00,000
2	Indocare Pharmaceuticals Ltd	Non-promoter	12,00,000
3	Multi Media software Ltd	Non-promoter	12,00,000
4.	Shalin Resorts Ltd	Non-promoter	12,00,000
5.	Sarlee Fabric Exports Ltd.	Non-promoter	12,00,000
6.	Omega Avenues Ltd	Non-promoter	12,00,000
7.	Growth Agro Ind Ltd	Non-promoter	12,00,000
8.	Gujarat Fun'n Water Park Ltd	Non-promoter	12,00,000
9.	Sofitel Finstock	Non-promoter	12,00,000
10.	Manna Glass Tech Ind. Ltd.	Non-promoter	12,00,000
11.	G. Bhavsar & Co	Non-promoter	12,00,000
12.	Manna Exports	Non-promoter	12,00,000
13.	Shree Corporation	Non-promoter	12,00,000
14.	Jayesh Mehta	Promoter	12,00,000
15.	Noopur Kansara	Non-promoter	11,00,000

16.	Ashok Chokshi	Non-promoter	12,00,000
17.	Indian Shelters Ltd	Non-promoter	12,00,000
18.	Gopal Pottedar	Non-promoter	1,00,000
19.	Dharmendra Barot	Non-promoter	12,00,000
20.	Gaurang Joshi	Non-promoter	12,00,000
21.	Tushar Majmudar	Non-promoter	12,00,000
		Total	**2,40,00,000**

c) In the aforesaid preferential allotment, ₹5 was payable on application. The main objects of the preferential allotment were to finance working capital requirements, to reduce interest burden and to implement expansion and modernization schemes. It was observed that all the shareholders of Somplast as on December 2001 as mentioned in above **Table -1** were from amongst the preferential allottees. Further, all the aforementioned 21 preferential allottees had applied in the preferential allotment out of the money received either from Somplast or from the entities connected to Mr. Amit Shah who was allegedly controlling Somplast. The preferential allottees had received funds directly from three entities namely, M/s Manapoule Machineries Pvt. Ltd., Manna Machineries Ltd. and G. Bhavsar & Co. From the bank account of these three entities with Social Co-operative Bank, Khamasa Branch, Ahmedabad it was observed that Somplast, M/s Cure Spects & Lasers Ltd. ("Cure Spects"), M/s G Bhavsar & Co. ("Bhavsar"), and M/s Indocare Pharmaceuticals ("Indocare") had transferred funds to them. The amounts were subsequently transferred by these three entities to twelve of the preferential allottees as described in the following table-

Table -3- Funding by Somplast through its related/connected entities

Sr. no.	Preferential allottees	Amount (in lakhs) (₹)
1.	Indocare Pharmaceuticals Ltd. (noticee no. 11)	60.00
2.	Multi Media Software Ltd.	20.00
3.	Omega Avenues Ltd.	50.00
4.	Growth Agro Ind Ltd. (noticee no. 13)	30.00
5	Gujarat Fun'n Water Park Ltd (noticee no. 14)	30.00
6.	Sofitel Finstock (noticee no. 15)	60.00
7.	Manna Glass Tech Ind. Ltd.	10.00
8.	G. Bhavsar & Co. (noticee no. 17)	50.00
9.	Manna Exports	60.00
10.	Shree Corporation (noticee no. 16)	60.00
11.	Mr. Noopur Kansara (noticee no. 19)	47.49
12.	Mr. Ashok Chokshi (noticee no. 20)	10.00
	Total	**487.49**

d) The ultimate source of funds of other nine allottees was Cure Spects and Bhavsar (the entities related/connected with Mr. Amit Shah). These two entities had funded the

preferential allotment to the tune of ₹485 lakhs as described in the following table-

Table -4-Funding by other related/connected entities

Sr. no.	Name of the allottees	Ultimate source	Amount (in lakhs) (₹)
1.	Yogini Vyas (noticee no. 10)	Cure Spects Laser Ltd.	60.00
2.	Shalin Resorts Ltd. (noticee no. 12)	G Bhavsar & Co.	60.00
3.	Sarlee Fabric Exports Ltd.	G Bhavsar & Co.	60.00
4.	Jayesh Mehta (noticee no. 18)	Cure Spects Laser Ltd.	60.00
5.	Indian Shelters Ltd. (noticee no. 21)	Cure Spects Laser Ltd.	60.00
6.	Gopal Pottedar (noticee no. 22)	Cure Spects Laser Ltd.	05.00
7.	Dharmendra Barot (noticee no. 23)	Cure Spects Laser Ltd.	60.00
8.	Gaurang Joshi (noticee no. 24)	Cure Spects Laser Ltd.	60.00
9.	Tushar Majmudar (noticee no. 25)	Cure Spects Laser Ltd.	60.00
		Total	**485.00**

e) As shown in above **Table-3** above**,** total ₹487.49 lakh were paid by Somplast for its own preferential allotment. Most of the allottees in that Table were not registered with Ministry of Corporate Affairs (RoC) or no records about them were available with MCA. Some of the company were under liquidation or were being struck off. The allottees did not pay for the preferential allotment made to them and their allotment was financed by Somplast and its other related entities. Thus, these allottees did not have the capacity of their own to subscribe to the preferential allotment and they acted in connivance with Somplast for its fraudulent scheme wherein it routed the funds through its connected entities to the allottees who applied in the preferential allotment thereby committing fraud upon the investors at large.

f) Out of the total funds transferred to the allottees, Somplast contributed ₹487.49 Lakhs, Cure Spects contributed ₹ 365 Lakhs and Bhavsar contributed ₹120 Lakhs. As shown in the above **Table - 4** the noticees no. 10, 12, 18, 21, 22, 23, 24 and 25 aided Somplast by lending their names and acting as front in its preferential allotment by receiving funds indirectly from the related/connected entities of Somplast. Thus, these entities had indulged in fraudulent scheme perpetrated by Somplast and its directors (noticees no. 1 to 10), where there was actually no real flow of funds from those allottees to Somplast for the purpose of payment of allotment money and the preferential allotment did not really bring additional funds to Somplast.

g) Allotment of about ₹1.79 crore was funded by Somplast along with Indocare and the ultimate source of funds for about ₹73 lakh shares (30.42%) in the preferential issue was

Cure Spects. Thus, majority of the fund for allotment of shares in the preferential allotment by Somplast had come from Somplast itself and the related/connected companies of Mr. Amit Shah who was controlling and managing Somplast. The following Table indicates entire details of the fund flow from Somplast and related/connected entities of Mr. Amit Shah to the preferential allottees-

TABLE - 5- Fund flow in the preferential allotment

Date of opening balance	**Name of entity (Preferential allottees)**	**A/c Nos. for entities in Col.2**	**Op. Bal. in A/c.**	**Name Dr. Amit Shah related entities who had paid amt. to the entities in column 6**	**Credit recd. from entities in col. 5 and paid to entities in col. 2 for pref. allotment.**	**Cheques issued by entities in col.-2 for pref. issue to Somplast**	**Cl. Bal. in A/c.**
1	2	3	4	5	6	7	8
22/5/2000	Yogini Vyas	15817	500	Cure Spects & Lasers Ltd.	Manapoule & G.Bhavsar	(₹60 lakhs)	521(as on 4/9/2001)closing bal
12/1/2000	Indo Care Pharmaceuticals Ltd	9091	1000	Somplast	Manapoule Machineries	(₹60 lakhs)	1398 (as on 13/12/2001) Closing bal
3/3/2000	Multi Media Software Ltd.	9129	1000	G Bhavsar & Co., Somplast	Manapoule Machineries	(₹60 lakhs)	1078(as on 28/9/2001)
27/3/2000 (operative since 14/6/1999)	Shalin Resorts Ltd	8992	11,63,996 (as on 1/1/2000)	G Bhavsar & Co.	Manna Machineries	(₹60 lakhs)	7255 (as on 17/3/2001)
28/5/1999	Sarlee Fabrics Ltd	8988	163420(as on 11/1/2000	G. Bhavsar	Manna Machineries & Manapoule	₹60 lakhs)	1188

			)		Machineries		
3/1/2000 (operative since 1/6/1999)	Omega Avenues	8989	1,78,172 (as on 3/1/2000)	Indocare Pharmaceutical, Somplast and G Bhavsar	Manna Machineries	(₹60 lakh)	1212 (as on 28/9/2001) Closing bal
15/1/2000 (operative since 19/5/1999)	Growth Agro Industries Ltd	8981	2,85,178 (as on 15/1/2000)	Indocare Pharmaceutical, Somplast and G Bhavsar	Manna Machineries & Manapoule Machineries	(₹60 lakh)	10216 (as on 31/12/2001) Closing bal
12/1/2000	Gujarat Fun' N Water Park	9087	1000	Indocare Pharmaceutical and Somplast	Manapoule Machineries	₹60 lakhs)	1861(as on 28/9/2001) Closing bal
20/1/2000	Sofitel Finstock	9099	1000	Somplast	Manapoule Machineries	(₹60 lakhs)	774(as on 28/9/2001) closing bal
11/1/2000	Manna Glass Tech-Ind Ltd	9085	1000	Somplast and G Bhavsar	Manapoule	(₹60 lakhs)	1150(as on 12/12/2001)closing balance
20/1/2000	G. Bhavsar & Co	9098	1000	Somplast	Manna Machineries	(₹60 lakhs)	29,00,880 (as on 1/6/2000)
11/1/2000	Manna Exports	9084	1000	Somplast	Manna Machineries)	Somplast (₹60 lakhs)	2410 (28/9/2001) Closing bal
21/1/2000 (operative since 1/6/1999)	Shree Corporation	9101	1000	Somplast	Manapoule Machineries	(₹60 lakhs)	760 (as on 28/9/2001) Closing bal

23/5/2000	Jayesh Mehta	15820	500	Cure Spects & Lasers Ltd	G. Bhavsar & Co	(₹60 lakhs)	521(as on 4/9/2001) closing bal
11/1/2000	Noopur Kansara	15671	500	Indocare Pharmaceutical and Somplast	Manna Machineries	(₹55 lakhs)	10216 (as on 31/ 12/ 2001) Closing bal
20/1/2000	Ashok Chokshi	15678	500	Indocare Pharmaceutical and Somplast	Manna Machineries	(₹60 lakhs)	412 (as on 31/8/2001) Closing bal
12/1/2000	Indian Shelters Ltd	9090	1000	Cure Spects & Laser	Manapoule Machineries	(₹60 lakhs)	860 (as on 28 /9 / 2000) Closing bal
23/5/2000	Gopal Pottedar	15819	500	Cure Spects & Lasers Ltd	Manapoule Machineries	(₹5 lakhs)	521(as on 9/11/2001) closing bal
6/3/2000	Dharmendra Barot	15730	500	Cure Spects & Lasers Ltd	Manapoule Machineries	(₹60 lakhs)	517 (as on 9/11/2001) closing bal
6/3/2000	Gaurang Joshi	15731	500	Cure Spects & Lasers Ltd	Manapoule Machineries	(₹60 lakhs)	693 (as on 5/10/2001) closing bal
11/1/2000	Tushar Majmudar	15670	500	Cure Spects & Lasers Ltd	Manapoule Machineries	(₹60 lakhs)	742 (as on 4/9/2001) closing bal

h) It was seen from the above details that all the preferential allottees had opened their account immediately prior to or within a very short period prior to the preferential allotment with the same branch of the same bank i.e. the Social Co-operative Bank Ltd., Khamasa Branch,

Ahmedabad. They all had received funds directly from Manna Machineries Pvt. Ltd., Bhavsar and Manapoule Machineries Pvt. Ltd.

i) It was further noted that similar *modus operandi* was adopted in the matter of Manna Glass Tech Industries Ltd. (Manna Glass) In that case, the preferential allottees included Mrs. Beena A. Shah (Wife of Mr. Amit Shah) and some of the allottees in this case namely, Indocare, Shailn Resorts Ltd., Growth Agro Industries Ltd., Gujarat Fun and Water park Ltd., Sofitel Finstock, Shree Corporation, G. Bhavsar & Co., Omega Avenues Ltd., Mr. Noopur Kansara, Mr. Tushar Mujumdar and Mr. Ashok Choksi. The allottees had maintained account in the same bank and most of the accounts were opened just before the preferential allotment. It was observed that there was no real flow of fund to the tune of ₹30.60 cores in Manna Glass as allotment money and there were only transfer of entries in respect of respective allottees and the company to show that company had received the said allotment money. SEBI vide order dated February 01, 2006, had debarred all the preferential allottees in Manna Glass, including the aforementioned 11 preferential allottees in the present case, from securities market for a period of 3 years.

j) The preferential allottees in the case of Manna Glass had used their account with Social Co-operative Bank, Khamasa branch, Ahmedabad for payment of consideration towards preferential allotment in that case. In the present case also, same accounts had been used by the aforesaid 11 preferential allottees in the instant case also for the payment in respect of the preferential allotment of Somplast. The connection between Somplast and Indocare is established on the basis of the fact that Mr. Noopur Kansara, an accountant with Somplast, was an authorized signatory to the bank accounts of Indocare. Further, Bhavsar was funded by Somplast and Indocare for applying in the preferential allotment. The information received from BSE revealed that Cure Spects shares common address with Somplast at "IOL House, Opp Central Bank, Near Swati Apartment, Ambawadi, Bazar, Ahmedabad – 380 006". It was also observed that Cure Spects was promoted by Mr. Amit Shah, Mrs. Beena A. Shah, Mrs. Lalitaben Shah (mother of Mr. Amit Shah).

k) As per his own submission, Mr. Amit Shah was director in Indo American Optics Limited and was a consultant doctor in Cure Spects. Also, his wife Mrs. Beena A. Shah was the director of Cure Spects along with his friend Mr. Parimal Desai (promoter/director) who was its promoter/director and that the authorised signatory in the bank account of Cure Spects was Mrs. Beena A. Shah. The address of Indo American Optics Limited was used as communication address of Somplast. As per records provided by ICICI Bank for account operation since 2006, it was observed that authorized signatory of Somplast was Mr. Amit Shah and his son Mr. Vismay Shah. Further, it is noted from the fund transfers in the bank

account of Bhavsar that the same were transferred from Cure spects, Therefore, Somplast, Cure Spects, Bhavsar and Indocare were observed to be connected to Mr. Amit Shah based on the fund transfers and common addresses. Hence, it was observed the funds to the tune of ₹ 485 lakhs for subscribing to the shares in the preferential issue of Somplast had come from entities connected with Mr. Amit Shah. It was also observed that all the preferential allottees in this case were connected/related to Mr. Amit Shah who was in control of Somplast.

l) Other factors to show connection/relation between the preferential allottees, Somplast and Mr. Amit Shah as relied upon in the SCN dated November 24, 2011 are as follows:

Table 6: Other factors to determine connection/relation

No.	Name of allottee	Basis of Connection
1.	Yogini Vyas (Director- Promoter)	1) Employee of Dr. Amit Shah, appointed as directors. 2) Funds for preferenatial allotment received from Cure Spects which has same address as Somplast as informed by BSE. 3) As per information available on the internet Cure Spects was promoted by Dr. Amit Shah and he was contact person of the company.
2.	Jayesh Mehta (Director-Promoter)	
3.	Indo Care Pharmaceuticals Ltd. (13-9-1995)	1) Name of directors – Form No. 32 of ROC
		Mr. Noopur Kansara – addl director w.e.f 13.11.1999
		2) The authorized signatory was Mr. Noopur Kansara, an employee of Somplast and was operating the Bank account no. 9091 with Socio Co-operative Bank Ltd
4.	Shalin Resorts Ltd. (date of incorporation is 13.10.1995)	1) Subscriber to Memorandum is Mr. Amit Shah & Mrs.Beena A.Shah
		2) Name of directors – as per Form No. 32 of ROC
		(i)Yogini Vyas w.e.f 18.3.2002 as addl director
		3) The Auth signatory of Socio Co-perative Bank Ltd a/c no. 9090 is Sanjay Patel and Gaurang Joshi, director and employee of Somplast, respectively
5.	Omega Avenues Ltd. (Date of incorporation is 13.10.1995)	1) Police complaint that the said company has been taken over by Dr. Amit Shah by forging signatures as per the present owner Satish Mehta is pending in Gujarat Court.
6.	Growth Agro Ind Ltd	1) As per Search Report and ROC records
		Director is Ronak Virendrabhai Patel- Director w.e.f.2.4.1999 (presently representative of Somplast)
		2) The authorized signatory with Socio Co-operative Bank Ltd is Ronak Patel, employee of Somplast and operating the Bank account no. 8981
7.	Gujarat Fun n Water Park Ltd	1)B/S as at Mar 31, 2002 is showing the name of Somplast in the Secured loan/ unsecured loans. The address of Gujarat Fun n Water Park Ltd is the same as that of Somplast

	Vidya Villa, Nr, Swati Apartment, Opp Central Bank Lane, Ambawadi, Ahmedabad (date of incorporation is 14.07.1995)	2) Signatories to the prospectus is Girish Shah (cousin of Dr. Amit Shah)
		3)Name of directors – Form No. 32 of ROC & Search Report -Yogini Vyas (addl Director w.e.f. 25.10.1996)
		3) The authorized signatory with Socio Co-operative Bank Ltd is Yogini Vyas, employee of Somplast and operating the Bank account no. 9087
8.	Sofitel Finstock	1) Funds for preferential allotment received from Somplast
9.	G Bhavsar & Co	1) Funds received from Cure Spects
10.	Shree Corporation	1) Funds for preferential allotment received from Cure Spects
11.	Noopur Kansara	1) Worked as accountant of Somplast
12.	Ashok Chokshi	Funds for preferential allotment received from Somplast
13.	Dharmednra Barot	Funds received from Somplast
14.	Gaurang joshi	Funds received from Cure Spects
15.	Tushar Majmudar	Funds received from Cure Spects
16.	Gopal Pottedar	Funds received from Cure Spects
17.	Indian Shelters Ltd.	1) Funds received from Cure Spects 2)Autrhorized signatories of its bank account with Social Cooperative Bank are Mr. Noopur Kansara and Mr. Girish Shah

m) As per the records of the RoC, following were the directors of Somplast during the period of preferential allotment in the year 2000:-

Table 7- List of directors of Somplast

No	Name	Designation	Date of appointment and ceasing (as per ROC)/ Investigation Report	
1	N R Vekaria	Chairman and director	Since Incorporation	24.4.2002
2	R N Vekaria	MD and Director	Since incorporation	24.4.2002
3	S N Vekaria	Director	Since incorporation	_____
4	R D Patel	Director	Since incorporation	24.4.2002
5	M P Shah alias Bhagwati Shah	Director	12.10.1992	_____
6	Ramanlal C Hathi	Additional Director	01.01.1993	---------
7	Girish Shah	Additional Director	19.8.1998	----------

8	Yogini Vyas	Additional Director	19.8.1998	----------
9	Sanjay Patel	Additional Director	19.8.1998	----------

4. It was noted that Somplast had disclosed its aforesaid objects of its preferential allotment and has also declared that it had received the allotment money and share certificates were dispatched. However, the investigation revealed that the allotment money did not come from allottees and instead the funds came from Somplast or its associated entities. Thus, Somplast did not get additional funds pursuant to its preferential allotment and there was no genuine demand by it for funds.

5. The investigation further revealed that the shares were dematerialized which were issued in the preferential allotments without listing the same on the stock exchanges which clearly indicated fraudulent intention of noticees no. 1 to 10 for facilitating trading of those shares in the market and for defrauding gullible investors. Further, Somplast and its Registrar and Share Transfer Agent had not credited shares in the demat form to accounts in NSDL system and the trading in the shares of Somplast was suspended by BSE with effect from February 27, 2003 due to non compliance of formalities of listing of shares allotted in the preferential allotment.

6. In view of the above, it was alleged that Somplast and its directors (noticee no. 1 to 10) had employed a fraudulent scheme in its preferential allotment by routing the funds through connected entities to the preferential allottees (noticees no. 10 to 26) who acted in connivance with noticees no. 1 to 10 by receiving funds indirectly from Somplast and its related/connected entities for applying in the preferential allotment of Somplast. Therefore, the noticees no. 10 to 26, by lending their names, acted as front in the preferential allotment of Somplast and aided the noticees no. 1 to 10 in committing fraud upon the investors at large.

7. With respect to the MoU dated September 16, 1995 signed by Mr. Amit Shah with Shri N. R. Vekaria, director of Somplast, it was noticed that Mr. Amit Shah had decided to acquire 3.2 lakh shares of Somplast (32% of the paid up capital). From the Clause 1 of the said MoU, it was noted that Mr. N. R. Vekaria had to organize to clear all the liabilities and handover the control of Somplast to Mr. Amit Shah against a total consideration of ₹91.50 lakh. The money receipts available on record evidencing the fund movement indicated that Mr. Amit Shah had paid the consideration as per the MoU for the acquisition of 3.2 lakh shares. Further, Clause 4 of the said MoU provided that Mr. Amit Shah shall be entitled to appoint directors on the board of Somplast and all the earlier and existing directors shall resign from the board. The MoU also provided that ₹ 501/- had already been paid by Mr. Amit Shah on September 07, 2005 (i.e., 9 days prior to the date of MoU) and the first installment of ₹10 lakhs had to be made through cheque in favour of Somplast. The 2nd installment of ₹ 10 Lakhs with a breakup as ₹ 50 thousand

in cash and cheques for ₹ 9.50 Lakhs (₹ 4.5 Lakhs in favour of Ramaben Patel and ₹ 5 Lakhs in favour of Rameshbhai N Vekaria) against which another 2.2 Lakhs shares was to be handed over to Mr. Amit Shah. Two more installments of₹ 15 Lakhs each were to be paid after 3 months and 6 months, respectively from the date of MoU. Besides the above, ₹ 50 Lakhs bank liability of ₹ 41.50 Lakhs was also to be taken over by Mr. Amit Shah.

8. It was observed that pursuant to the above MoU, a money receipt dated September 16, 2005 signed by Mr. N. R. Vekaria for ₹ 10 Lakhs with breakup as cash ₹ 50,000 and cheques for ₹ 4.5 Lakhs (Bank of Madura) favouring Ramaben Patel and ₹ 5 Lakhs (Nutan Nagrik Sahakari bank Ltd.) favouring Rameshbhai N Vekaria was issued by Mr. N R Vekaria. It was further observed that the aforesaid two cheques were issued from the accounts of Akash Shares & Finstock ltd and Atlantic Credit & Capital Ltd. The directors of Atlantic Credit & Capital Ltd are Girish Shah (cousin of Mr. Amit Shah and employee of Somplast). Also, the directors of Akash Shares & Finstock Ltd are Mr. Sanjay Patel (director in Somplast), Mr. Jayesh Mehta (promoter of Somplast) and Mr. Noopur Kansara (employee in Somplast). Mr. Amit Shah and his group members had entered into an MoU dated September 11, 2005 with Mr. N R Venkaria for handing over 1 lakh shares of Indo American Optics towards the liability of Somplast to the tune of ₹41.53 lakh with Bank of India, Junagadh branch. The above facts prove that Mr. Amit Shah had paid the consideration as per the MoU dated September 16, 2005 for the acquisition of 3.2 lakh shares in Somplast. Thus, the said MoU indicated Mr. Amit Shah's intention to acquire the control and management of Somplast.

9. Somplast and Indo American Optics Limited had common correspondence address. Further, three additional directors namely Ms. Yogini Vyas, Mr. Sanjay Patel and Mr. Girish Shah were appointed as directors in Somplast in 1998 as per the terms of Clause 4 of MoU dated September 16, 2005 which provided that Mr. Amit Shah and his group members shall be entitled to appoint directors on the board of Somplast and all the earlier and existing directors of Somplast will resign from the board. Mr. Amit Shah and his son Mr. Vismay Shah were appointed as the authorized signatory in the bank account of Somplast in ICICI Bank by Mr. Yogini Vyas which further corroborates the fact that Somplast was under the control of Mr. Amit Shah.

10. It was alleged in view of the MoUs dated September 11, 1995 and September 16, 1995 that Mr. Amit Shah had entered into an agreement to acquire shares which entitled him to more than 10% of the voting rights in Somplast and he had triggered the open offer obligations under regulation 9(1),(3) read with regulation 13 of SEBI (SAST) Regulation, 1994 (Takeover Regulations, 1994) and regulation 47(2)(a) of the SEBI (SAST) Regulations, 1997 (Takeover Regulations, 1997). However, he had failed to make an open offer in terms of the said regulations and thereby violated the provisions of regulations 9(1),(3) read with regulation 13 of Takeover Regulations,

1994 and savings clause under regulation 47(2)(a) of the Takeover Regulation, 1997.

11. Based on the above observations, a Show Cause Notice No. IVD/ID-1/MS/NK/SLIL/35938/2011 (SCN-1) dated November 24, 2011 was issued to the following noticees:-

Sr. No.	**Name of the noticees**
1	Somplast Leather Industries Limited
2	Mr. N R Venkaria
3	Mr. R N Venkaria
4.	Mr. Ramanlal Hathi
5.	Mr. R .D Patel
6.	Mr. Bhagawati Shah
7.	Mr. S.N Venkaria
8.	Mr. Sanjay Patel
9.	Mr. Girish Shah
10	Ms. Yogini Vyas
11.	Indocare Pharmaceuticals Ltd.
12.	Shalin Resorts Ltd.
13	Omega Avenues Ltd.
14	Growth Agro Ind Ltd.
15.	Gujarat Fun'n Water Park Ltd.
16.	Sofitel Finstock
17.	Shree Corporation
18.	G. Bhavsar & Co.
19.	Mr. Jayesh Mehta
20.	Mr. Noopur Kansara
21.	Mr. Ashok Chokshi
22	Indian Shelters Ltd
23	Mr. Gopal Pottedar
24	Mr. Dharmendra Barot
25	Mr. Gaurang Joshi
26	Mr. Tushar Majmudar

12. It was alleged in the SCN-1 that noticees no. 1 to 10 had violated the provisions of regulations 3 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market)

Regulations, 1995 ("PFUTP Regulations, 1995") read with regulation 13(2) and 3(a),(b),(c),(d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ("PFUTP Regulations 2003") read with section 12A (a), (b) and (c) of SEBI Act and noticee no. 10 to 26 have violated provisions of regulation 3 of PFUTP Regulations, 1995 read with regulation 13(2) and 3(a), (b), (c) and 4(1) of PFUTP Regulations 2003 read with section 12 (a), (b) and (c) of the SEBI Act. These notices were also called upon to show cause as to why suitable directions including the directions for debarring them from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities for an appropriate period of time or any other directions as may be deemed appropriate, should not be issued against them under section 11B of the SEBI Act.

13. Another show cause notice No. IVD/ID-1/MS/NK/SLIL/35940/2011(SCN-2) dated November 24, 2011 was issued to Mr. Amit Shah charging him for violation of regulations 9(1),(3) and 13 of Takeovers Regulations, 1994 read with regulation 47(2)(a) of Takeovers Regulations, 1997. He was called upon to show cause as to why direction under section 11, 11B of the SEBI Act read with regulation 44 of the Takeovers Regulations, 1997 should not be issued against him.

14. The following noticees had filed their replies to the respective SCN:

Sr. no.	Name of the noticee	Date of the reply
1.	Somplast Leather Limited	December 23,2011
2.	Mr. Sanjay Patel	December 19,2011
3.	Mr. Girish Shah	December 30,2011
4.	Ms. Yogini Vyas	December 26, 2011
5.	Mr. Tushar Majumdar	December 22,2011
6.	Mr. Gaurang Joshi	December, 24, 2011
7.	Omega Avenues Limited	November 26, 2011 and December 16, 2011
8.	Mr. Amit Shah	December 22, 2011 and December 18, 2013

15. The SCN dated November 24, 2011 to Mr. Bhagwati Shah, Growth Agro Ind Ltd, Sofitel Finstock, Shree Corporation, Bhavsar, Indian Shelters Limited and Mr. Gopal Potedar could not be delivered to them and the same was served through newspaper publication on May 16, 2012. However, except the above 8 noticees, other noticees did not file any reply to the SCN.

16. An opportunity of personal hearing was granted to all the entities in the matter in Ahmedabad on November 26, 2012 when Ms. Yogini Vyas, Mr. Girish Shah, Mr. Gaurang Joshi, Mr. Noopur Kansara, Mr. Ashok Choksi and Mr. Sanjay Patel appeared in person. Omega Avenues Limited was represented by its advocates on the said date. The SCN-1 *qua* Omega Avenues Limited (noticee no. 13) has already been disposed off vide an order dated July 05, 2013.

17. Mr. Amit Shah was represented by his authorised representative Mr. Ronak Patel on November 26, 2012 who sought adjournment of the date of hearing. During course of these proceedings before me it was noted that the SCN dated November 24, 2011 was not issued to Mr. Amit Shah though the SCN-1 alleged and made out *prima facie* case of his active role, involvement and complicity in the entire scheme.. Considering his active role, involvement and complicity in the alleged fraudulent preferential allotment as found during investigation and mentioned hereinabove, a supplementary Show Cause Notice (SSCN) dated April 01, 2013 was caused to be issued to Mr. Amit Shah. The SSCN charged him for violation of provisions of regulation 3 of the PFUTP Regulations, 1995 read with regulation 13(2) of PFUTP Regulations, 2003.

18. Another opportunity of personal hearing was granted Mr. Amit Shah pursuant to the SCN-2 and SSCN on January 08, 2014 which he failed to attend despite service of the notice of hearing upon him. He also failed to avail the opportunity of personal hearing granted to him on September 02, 2014 despite service of the hearing notice upon him. There was no material to prove service of the SCN-1 to all the noticees therein and the notices of hearings fixed for several dates could not be served by SEBI to many of them. Therefore, a final opportunity of personal hearing was granted to the remaining 25 noticees in SCN-1 and to Mr. Amit Shah on December 23, 2015 and the notice of hearing was served through post to them except following 13 noticees on whom the notice of hearing was served through newspaper publication on November 29, 2015 -

Sr. No.	**Name of the noticees**
1.	Somplast
2.	Mr. R N Venkaria
3.	Mr. Ramanlal Hathi
4.	Mr. Bhagawati Shah
5.	Indocare Pharmaceuticals Ltd
6.	Shalin Resorts Ltd
7.	Growth Agro Ind Ltd
8.	Gujarat Fun'n Water Park Ltd
9.	Bhavsar

10.	Indian Shelters Ltd
11.	Mr. Gopal Pottedar
12.	Mr. Dharmendra Barot
13.	Mr. Gaurang Joshi

19. On December 23, 2015, Mr. Noopur Kansara, Ms. Yogini Vyas, Mr. Gaurang Joshi, Mr. Suresh Vekaria (for himself and on behalf of Mr. R. N. Vekaria and Mr. N. R. Vekaria) and Mr. Sanjay Patel appeared and reiterated their earlier replies/submissions. Ms. Yogini Vyas again produced the copy of her affidavit dated March 18, 2007 which she had filed during investigation and requested to consider the same also as her response to the SCN. Mr. Amit Shah and Mr. Girish Shah vide their letters dated December 22, 2015 sought another date for hearing in the matter on medical grounds. The noticees who attended the hearing on December 23,2015 were also given the time till December 30, 2015 to file their written submissions pursuant to personal hearing. Except Mr. Gaurang Joshi, Mr. Sanjay Patel and Mr. Noopur Kansara, no other noticee has filed their post hearing written submissions. Along with his written submissions, Mr. Sanjay Patel produced copies of his statements recorded by the Investigating Authority on May 06, 2010 and his reply to the SCN dated November 24, 2011 and requested to take into consideration the same for deciding the case *qua* him.

20. I note that the noticees have been given sufficient opportunities to file their replies and avail the opportunity of personal hearings. While some of them have availed the opportunities, the following have neither filed any reply to the SCN-1 nor have they availed opportunities of personal hearing on any of the dates fixed in that regard-

Sr. No.	**Name of the noticees**
1.	Mr. Ramanlal Hathi
2.	Mr. R .D Patel
3.	Mr. Bhagawati Shah
4.	Indocare Pharmaceuticals Ltd.
5.	Shalin Resorts Ltd
6.	Growth Agro Ind. Ltd.
7.	Gujarat Fun'n Water Park Ltd.
8.	Sofitel Finstock
9.	Shree Corporation
10.	G. Bhavsar & Co.
11.	Mr. Jayesh Mehta

12.	Indian Shelters Ltd.
13.	Mr. Gopal Pottedar
14.	Mr. Dharmendra Barot

21. I further note that Mr. Amit Shah had not availed the opportunity of personal hearing despite 4 opportunities given to him and he had been seeking adjournment of the hearing for one or the other reasons. He had failed to appear on 3 subsequent occasions after November 26, 2012 and has sought adjournment of the hearing on his personal health ground. Considering the inordinate delay in the matter, I am of the view that he could have availed the final opportunity of personal hearing on December 23, 2015 through his authorised representative. He had ample time on every occasion to contact his counsel/advocate or to make arrangements for appearance through any authorized representative on December 23, 2015. In the facts and circumstances of the case, I find that the Mr. Amit Shah is deliberately keeping away from appearing for hearing in the matter and has been adopting dilatory tactics. Mr. Girish Shah had replied to the SCN and also availed the opportunity of personal hearing and additional opportunity of hearing wherein he had reiterated his earlier submissions. Considering these facts and circumstances and also the fact that this matter is old one, I am of the view that reasonable and sufficient opportunities have been given to all the noticees and granting any additional opportunity will be a futile exercise and will not be in the interest of justice. I, therefore, proceed to deal with the matter on the basis of the replies/submissions of noticees who have filed replies and/or availed the opportunity of hearing and in respect of other noticees *ex parte*.

22. I note that the respective SCN-1, SCN-2 and SSCN have been issued to the noticees on the basis of same facts including same set of transactions in the same scrip during the same investigation period. I further note that the charge of alleged fraudulent preferential allotment by Somplast and role, involvement and complicity of all the noticees who are alleged to be *connected/related* to each other and /or with Somplast and Mr. Amit Shah have been leveled against them on the basis of common factors and inter-linked funding amongst them. Further, the SCN-2 has been issued to Mr. Amit Shah on the same day pursuant to findings of same investigation as SCN-1 and SSCN and allegation in SCN-2 have bearing on the disposal of SCN-1 and SSCN. Considering such connections/relations, other attendant facts and circumstances of this case and to take a holistic view in this matter, I deem it appropriate to deal with the SCN-1, SCN-2 and SSCN by way of this common order.

23. I have carefully considered the SCN-1, SCN-2 and SSCN, the replies/submissions of the noticees who have filed replies and/or availed opportunity of personal hearing, and the relevant material available on record. Before dealing with the charges against the noticees and such submissions, I deem it necessary to refer to the provisions of the Regulations which are alleged to have been

violated by the noticees. or which are relied upon in the SCN-1, SCN-2 and SSCN. The said provisions are reproduced hereinafter:

PFUTP REGULATIONS, 1995

"Prohibition of certain dealings in securities

3. No person shall buy, sell or otherwise deal in securities in a fraudulent manner.

PFUTP REGULATIONS, 2003.

"3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

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

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

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

"4. Prohibition of manipulative, fraudulent and unfair trade practices

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

"Repeal and savings

13. (1) The Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 is hereby repealed.

(2) Notwithstanding repeal of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, any violation of regulations 3, 4, 5 and 6 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 shall be investigated and proceeded against in accordance with the procedure laid down in these regulations.

(3) Notwithstanding repeal of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, any investigation

pending, at the commencement of these regulations shall be continued and disposed of in accordance with the procedure laid down in these regulations."

Takeover Regulations, 1994:

9(1) Any acquirer who holds shares carrying ten percent or less of voting rights in the capital of the company shall not through negotiations acquire any further shares, which when taken together with his existing shareholdings would carry more than ten percent of the voting rights, unless the acquirer makes a public announcement to acquire shares at a minimum offer price from the other shareholders.

9(3) of SEBI (SAST) 1994: Where an acquirer acquires securities which would entitle him to more than ten percent of the voting rights together with the voting rights on shares already held by him then, such person shall make a public announcement referred to in sub-regulation (1) at the time immediately before his entitlement to obtain voting rights on such securities.

timing of the Public Announcement of Offer under Regulation 9:

13. The public announcement referred to in regulation 9 shall be made not later than four days of either the finalisation of the negotiation or entering into an agreement or memorandum of understanding to acquire shares, whichever is earlier.

Takeover Regulations, 1997

Repeal and Saving

47. (1) The Securities and Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1994 are hereby repealed.

(2) Notwithstanding such repeal :-

(a) Anything done or any action taken or purported to have been done or taken including approval of letter of offer, exemption granted, fees collected any adjudication, enquiry or investigation commenced or show cause notice issued under the said regulations shall be deemed to have been done or taken under the corresponding provisions of these regulations;

24. In order to deal with charges and allegations against the noticees who have filed replies and/or availed opportunity of personal hearing, I proceed to deal with their submissions in the following paragraphs.

25. Vide letter dated December 23, 2011 *Somplast* has submitted that the SCN is unwarranted and not maintainable as there is no violation of regulation 3 of PFUTP Regulations. Further, for application of these regulations, *'securities'* should be as defined under section 2(h) of the SCRA. Its securities under its preferential allotment that is cause of issuance of SCN-1 are not marketable securities and, therefore, regulation 3 of PFUTP Regulations,1995 cannot be invoked

as against it. The investigation is based on a frivolous complaint of Ms. Yogini Vyas who is believed to have a dubious character and the allegations made by her are not correct. The BSE has already taken penal action against the company by suspending the trading of its securities. Mr. Amit Shah vide his letters dated December 22, 2011 and December 18, 2013 has contended that the SCN is unwarranted and not maintainable as there is no violation of regulation 3 of PFUTP Regulations,1995 by him. According to him, for application of these regulations, *'securities'* should be as defined under section 2(h) of the SCRA. In this case, the *'securities'* in question are not marketable securities and, therefore, regulation 3 of PFUTP Regulations, 1995 cannot be invoked.

26. It is relevant to mention that the company in question is a listed company and at the relevant time its shares were listed on the stock exchange (BSE and ASE). Its shares were thus *'securities'* within the meaning of the term under section 2(h) of the SCRA and were *'marketable securities'* as contemplated therein. The preferential allotment by a listed company is governed by SEBI Guidelines/Regulations and shares issued thereunder are to be compulsorily listed on the concerned stock exchange as required under Listing Agreement. Any *'fraudulent'* preferential allotment is covered by the PFUTP Regulations. It is relevant to mention here that section 11(1) of the SEBI Act casts the duty on SEBI to protect the interests of the investors, promote development of and regulate the securities market, by such 'measures' as it thinks fit. One of the measures enumerated in 11(2)(e) is *"prohibiting fraudulent and unfair trade practices relating to securities markets"*. From the provisions of section 11, it is clear that the purpose of section 11(2)(e) of the SEBI Act is to prohibit all fraudulent and unfair trade practices relating to the securities market and the Board may take any *'measures'* in order to achieve the purpose of protection of interest of investors in securities and to safeguard the integrity of the securities market.

27. Regulation 3 of the PFUTP Regulations, 1995 is clothed with negative command and prohibits all fraudulent activities with regard to buying, selling or dealing in securities as it provides that "*No person shall buy, sell or otherwise deal in securities in a fraudulent manner.*" The expression '*dealing in securities'* as defined in regulation 2(b) and the terms *'fraud'* and *'fraudulently'* as defined in regulation 2(c) of the PFUTP Regulations, 1995 include in themselves any fraudulent preferential allotment by a listed company and also the fraudulent subscription by the preferential allottees in any listed company. *Somplast* has not offered any plausible explanation to the charges leveled against it in the SCN -1 and I have no reason to accept its counter allegation against Ms. Yogini Vyas.

28. In this case, *Somplast* has not disputed the facts with regard to preferential allotment and financing thereof by several entities as described in the SCN. Somplast has also not disputed the fact that it had financed its preferential allotment directly to the tune of ₹487.49 lakhs and preferential allotment to the tune of ₹365 lakhs and ₹ 120 lakh were financed by Cure Spects, a

company promoted by Mr. Amit Shah and by Bhavsar, a company connected with *Somplast* and Mr. Amit Shah. It has also not disputed the connection amongst itself, the preferential allottees, Mr. Amit Shah and other noticees who have financed or through whom the allotment money had been routed through. However, Mr. Amit Shah has contended that the investigation report and the SCNs have failed to establish the relation between him and the preferential allottees. He has also contended that he had not acquired any shares of *Somplast* and nowhere in the SCNs issued to him it is so mentioned. Further, the MoU to acquire the shares was only signed and was not executed.

29. From the SCN-2 and SSCN, I note that they clearly bring out the connection of Mr. Amit Shah with Somplast, preferential allottees and other entities who have financed or through whom the funds have been routed through towards the consideration in the preferential allotment. The SCN-2 and SSCN clearly describe the arrangement between Mr. Amit Shah and other directors of Somplast for acquiring controlling stake including 3.2 lakh shares of Somplast by Mr. Amit Shah. They further describe how he has made payments for acquiring those shares. The SCN-2 and SSCN further indicate and make out a fraudulent device, scheme and artifice orchestrated by Mr. Amit Shah in the preferential allotment by Somplast. It is noted that authorised signatory of reply of Somplast in the proceedings is the same person who represented Mr. Amit Shah during hearing held on November 26, 2012. I, therefore, do not agree with his contentions in these regards.

30. Mr. Amit Shah has not given any plausible explanation to the allegations and charges leveled against him in the SCN-2 except that he has claimed that the MoU was only signed and not executed. Thus, he has admitted the existence of signed MoUs dated September 11, 1995 and September 16, 1995 as described in the SCN-2 and SSCN issued to him. In terms of regulation 9(1) and 9(3) of the Takeover Regulations, 1994 any acquirer could acquire through negotiations shares in a listed company entitling him more than 10% voting rights in the said company only by making a public announcement. In terms of regulation 2(1)(b) of the Takeover Regulations, 1994 an "acquirer" means any person who acquires or *agrees to acquire* shares in a company either by himself or with any person acting in concert with the acquirer. Thus, for the purpose of the obligation under regulation 9 it is not necessary that the acquirer must actually acquire shares/voting rights, as contended. Mere negotiation or agreement to acquire shares beyond the threshold limit prescribed in regulation 9 would trigger the obligation to acquire additional shares. In this case, Mr. Amit Shah not only entered into and signed the MoUs on September 11, 1005 and September 16, 1995 he actually acquired shares pursuant to said MoUs and paid consideration there for as described in the SCN. I, therefore, reject all his contentions in this regard.

31. When seen holistically in the context of SSCN issued to Mr. Amit Shah, it is further observed that the MoUs contemplated a premeditated plan and device of Mr. Amit Shah pursuant to which subsequent actions have been taken by concerned parties acting in concert and league. As held by Hon'ble Supreme Court in CIVIL APPEAL NO. 4273 OF 2010- *in Reliance Natural Resources Ltd. v. Reliance Industries Ltd.* vide judgment dated May 7 2010 that technically; a MoU is though not legally binding, when a MoU forms backdrop of a plan or action, the plan or action has to be to be interpreted in the light of the MoU. It is also well settled principle that the true effect of a document depends on words used in it. In the context of the SCN-2, and SSCN issued to Mr. Amit Shah the clauses in MoUs as referred to in the SCN-2 and SSCN clearly show premeditated fraudulent plan, device and artifice orchestrated by Mr. Amit Shah when seen along with attendant facts and circumstances pursuant to the MoUs. In this regard, following facts are worth mentioning to show such device, scheme and artifice -

(a) Mr. Amit Shah entered into MoUs dated September 11, 1995 and September 16, 1995 with Mr. N. R. Vekaria to buy controlling stake in Somplast. At that time the paid up capital of Somplast was ₹ 1 crore (represented by 10 lakh shares). Pursuant to MoU Mr. Amit Shah had agreed to buy 3.2 lakh shares of Somplast from Mr. Vekaria. The SCN-2 has alleged that directors of Somplast namely Mr. S. N. Vekaria, Mr. N. R. Vekaria, Mr. R. N. Vekaria and Mr. R. D. Patel had submitted before SEBI that on the date of MoU they had transferred said 3.2 lakh shares of Somplast to Mr. Amit Shah on the date of MoU dated September 16, 1995 and that Somplast was controlled and managed by Mr. Amit Shah during the relevant time when the preferential allotment was made by Somplast. Mr. Amit Shah has not contested any of their statements despite copy thereof being provided to him.

(b) Pursuant to the MoU dated September 16, 1995, Mr. Amit Shah had appointed Mr. Sanjay Patel, Mr. Girish Shah and Ms. Yogini Vyas as directors of Somplast on August 19, 1998. These directors in their statements have admitted their association with Mr. Amit Shah as their employers and have claimed that Mr. Amit Shah had misused their names, signatures and accounts for the purpose of fraudulent preferential allotment in this case. They had also stated that all the instructions to them were coming from Mr. Amit Shah and it was Mr. Amit Shah who was in exclusive control of Somplast. The statements/affidavits of these directors had been provided to Mr. Amit Shah and he has not contested any of their statements.

(c) Undisputed connections amongst Mr. Amit Shah, Somplast, its directors, preferential allottees and the entities financing the preferential allotment as described in the SCNs.

(d) Preferential allottees who all were connected with Mr. Amit Shah did not pay any consideration for the preferential allotment made by them as substantial part of the consideration was financed by Somplast itself directly or through its connected entity (Indocare) and by Cure Spects and Bhavsar, the entities controlled and managed by Mr. Amit Shah and connected with him.

(e) Preferential allotment though made with misleading disclosure of utilizing the proceeds for genuine fund requirements but the funds towards substantial part of consideration in the preferential allotment were actually not received as the same was financed by Somplast itself.

32. Vide her letter dated December 26, 2011 Ms. Yogini Vyas sought 60 days time for replying to the SCN. However, she did not file any reply to the SCN. During hearings, she submitted that she had no role to play in the matter. She also submitted that Mr. Amit Shah had formed many companies for carrying out his fraudulent activities and all the wrongdoings were done by him only in the matter. She was only a manager and used to sign regular papers of excise and sales tax department. She has claimed that her signature was forged by Mr. Amit Shah. She also relied upon her affidavit dated March 18, 2007 filed during investigation wherein she had stated on oath, *inter alia*, as under:-

i. She was appointed as additional director in Somplast by Mr. Amit Shah on August 01, 1998, however, she had not been going to office and she had not attended any AGMs or Board Meetings.
ii. Mr. Amit shah used to designate staff working in the office as directors in various companies controlled by him.
iii. She was directed by Mr. Amit shah to sign on blank papers and documents which were used by him for his illegal activities.
iv. Mr. Amit Shah had formed many companies for carrying out his illegal activates and made her a bogus director in many of his companies.
v. The entire control and management of the company was in the hands of Mr. Amit Shah. She had not derived any personal benefit out of such activities except the salary which he used to give as his employee for doing clerical work.
vi. He had forged signatures of many of the poor employees of the company and had made several ill-gotten gains.
vii. Mr. Amit Shah had taken a general power of attorney from her in his favour and carried out all the activity by using the same.
viii. She had never accepted the post of director in any of his companies and had worked only as a clerical employee by drawing a salary of ₹ 5000/- per month.

ix. If any illegality is found in her name then the same is not done by her but had been done by Mr. Amit Shah.

33. I note that Ms Yogini Vyas was an employee of Somplast and was also disclosed as one of its directors. She was also signatory to various other documents on behalf of Somplast such as banking transactions, sales tax, ROC etc as director of Somplast. It is noted that, admittedly, she was a director of Somplast at the time of preferential allotment but she has claimed her innocence in the matter on the basis of her submissions during investigations that she was not attending office and her name, designation and signature was misused by Mr. Amit Shah. However, she has not been able to substantiate her claims on the basis of any evidence including a copy of the power of attorney that was given by her to Mr. Amit Shah. She has also not taken any legal recourse till date for misuse of her name, designation and signature by Mr. Amit Shah as claimed. I further note that Ms. Yogini Vyas continued to be director of Somplast for longer period even after the preferential allotment and also at the time of recording her statement during investigation on May 06, 2010. I further note that she was also one of the preferential allottees and was, thus, party to the entire scheme. Even if her all claims were to be accepted she cannot be absolved from the liability in this case.

34. Mr. Girish Shah is a cousin of Mr. Amit Shah. He has submitted that he was appointed as a director in four companies of Mr. Amit Shah. He was only a non-executive director in Somplast and had resigned in 1999 and was not the director at the relevant time. He had never acquired any shares in Somplast and had severed all the relations with Mr. Amit Shah. He has claimed the bank accounts were opened without his signature. The persons who opened the account were Ms. Yogini Vyas and Mr. Jayesh Mehta. He had claimed to have informed CBI and the Police about the false documents which were submitted for opening of account. I note that Mr. Girish Shah was shown as director of Somplast at the time of preferential allotment. As per material brought on record (i.e. Form No. 32 filed by Somplast with ROC on April 20, 2002) he had resigned with effect from April 20, 2002. Mr. Girish Shah has not given any evidence in support of his claims and has failed to give any plausible explanation to the charges and allegations as mentioned in SCN-1. I, therefore, do not accept his submissions.

35. Mr. Tushar Majmudar has denied all the charges and sought more time to file reply. However, no reply to the SCN-1 has been received from him. He has also not availed the opportunity of hearings in the matter. I note that except for general denial, he has not given any plausible explanation to the charges and allegations against him. I, therefore, have no reasons to disagree with the charges against him in the SCN-1.

36. Mr. Sanjay Patel has submitted that Mr. Amit Shah was his employer. Mr. Amit Shah had formed

many companies for carrying out his activities and all the wrongdoings are done by him only in the matter. He has submitted that he was working with Somplast as manager till the year 1999 then he moved to various other companies controlled and managed by Mr. Amit Shah. He has further submitted that on August 01, 1998, Mr. Girish Shah (director of Somplast and cousin of Mr. Amit Shah) appointed him as a manager in Somplast. In support of this claim he has filed a copy of letter dated October 01, 1999 issued by Somplast (signed by Ms. Yogini Vyas as director) certifying that he has worked as manager in Somplast from August 01, 1998 to August 31, 1999. He has further submitted that Mr. Amit Shah used his name in directorship of Somplast with fake signatures which were done by Mr. Noopur Kansara and Mr. Ronak Patel. Mr. Noopur Kansara was arrested by Ahmedabad police on the complaint of Omega Avenue Ltd. on account of cheating in this matter. Mr. Noopur Kansara was jailed for 4 to 5 months and then left on bail. Mr. Amit Shah was arrested by Satellite Police Station and was surrendered to Naranpura police station in June 2010. He was also arrested by CBI, New Mumbai on account of fraud committed by him in the matter of Indo American Credit Corporation. He has further submitted that he was not in India during January 22, 2006 and June 30, 2006 during which period the bank account of Somplast was opened with ICICI bank. He had left the job of Mr. Amit Shah and thus it was impossible for him to sign the ICICI Bank papers in May 2006. When the application form for opening account with ICICI Bank was signed on May 13, 2006 he was in London (during January 22, 2006 and June 30, 2006). In the account opening form his name was used as a director by Ms. Yogini Vyas and Mr. Jayesh Mehta.

37. I note from the copy of his passport furnished by Mr. Sanjay Patel that he had come back to India on June 30, 2006 whereas the account with ICICI Bank was opened in May 2006. Thus, Mr. Sanjay Patel has made out a *prima facie* case that his name was misused by Ms. Yogini Vyas and Mr. Jayesh Mehta. He has also made out a case that he was appointed on August 01, 1998 as manager in Somplast by Mr. Girish Shah. However, the fact remains to be examined as to whether he became director on August 19, 1998 and remained as such at the time of preferential allotment on July 24, 2000. I note that as per the RoC filings under the Companies Act, 1956 Mr. Sanjay Patel had been appointed as director of Somplast on August 19, 1998. The letter dated October 01, 1999 though confirms his employment in the company as manager till August 31, 1999 it does not disprove the fact that he was the director with effect from August 19, 1998 and continued to be so as on the date of preferential allotment. It is also seen from filing with BSE that he was as a director of Somplast in the year 2000-2001. It is also relevant to mention here that Mr. Sanjay Patel has not taken any legal recourse for misuse, as claimed, of his name as director of Somplast as claimed by him till date. Even when his statement was recorded on May 06, 2010 he was aware that he was shown as director of Somplast during relevant time but he has not taken any legal recourse till date. These facts indicate that he was party to the entire plan of Mr. Amit Shah at the time of preferential allotment.

38. Mr. Gaurang Joshi has submitted that he is into business of color paints and he knew Mr. Amit Shah as he was his employer. He has claimed that he was no way connected with Somplast. He had never applied in the preferential allotment by Somplast and never dealt in its shares. He had never opened a demat account and a bank account with Social Cooperative Bank. I note that Mr. Gaurang Joshi has also not been able to substantiate his submissions and claims on the basis of any evidence. He has also not taken any legal recourse for misuse of his name/signatures/bank account/demat account, etc., as claimed. I, therefore, find that he has not been able to give any plausible explanation.

39. Mr. Noopur Kansara has submitted that he was only an employee in Somplast and was getting monthly salary. He worked in the company from December 1994 to August 2004. He has claimed that all the bank and demat accounts were opened by Mr. Amit Shah by using his signatures. He had a salaried account with Social Cooperative Bank which was used by Mr. Amit Shah for the purpose of share allotment by Somplast. He was nominated as the director of Somplast by Mr. Amit Shah as all the employees in the company were forced to follow his instructions. I note that Mr. Noopur Kansara has accepted his association with Mr. Amit Shah, however, denied all the charges against him. However, he has failed to produce any supporting document.

40. Mr. Ashok Choksi has submitted that he had never heard about Somplast. He was an accountant in Manna Glass Tech Ind. Ltd. and used to visit the office of Mr. Amit Shah but never met him in person. He has also submitted that he had never opened any bank account with Social Cooperative Bank and someone else has forged his signature for the same. He has claimed that he had made a complaint to the said bank. He was also not aware of the shares allotment in his demat account. I note that Mr. Ashok Choksi has also not been able to substantiate his submissions and claims on the basis of any evidence. He has also not taken any legal recourse for claimed misuse of his name/signatures/bank account/demat account, etc. I, therefore, reject his claims and submissions.

41. I find that, other than the *ipse dixit* denials and submissions as mentioned above, none of the noticees (except Omega Avenues Ltd. in respect of whom the orders have already been passed on July 05, 2013) have offered any plausible explanation to the charges leveled against them. I further find that several noticees have not responded to the SCN-1 and hearing notices at all despite repeated opportunities granted to them. I, therefore, find that they have no explanations to offer in the matter and draw adverse inference as against them.

42. In this case, it is established on the basis of facts that in the preferential allotment, total 2.40 crore new shares were created and issued by Somplast to connected/related entities of Mr. Amit

Shah and Somplast. Prior to the preferential allotment, paid up share capital of Somplast was merely ₹1 crore (represented by 10 lakh equity shares of ₹10 each). Its total share capital, as on December 2001, comprised of 2.50 crore shares. Thus, the preferential allotment had astronomically increased the share capital of Somplast. The said 10 lakhs equity shares existing prior to the preferential allotment were held by Mr. N R Vekaria and persons acting in concert with him (i.e. Mr. R. N. Vekaria, Mr. S. N. Vekaria, Mr. Ramaben Patel and Mr. Apurva Hathi & Associates). Pursuant to the aforesaid MoUs, 3.2 lakh equity shares along with control in Somplast were acquired by Mr. Amit Shah. Out of said 10 lakh equity shares, 5 lakh equity shares held by Mr. Apurva Hathi & Associates were seized by the Income Tax Department. Thus, almost entire share capital of Somplast, pre and post preferential allotment, remained with the entities connected /related with Somplast and Mr. Amit Shah.

43. From the facts described in SCN-1, SCN-2 and SSCN, I find that the allotment of shares to the preferential allottees to the tune of ₹ 487.49 lakh was financed by Somplast itself directly or along with its connected entity Indocare using Manapoule Machineries and Manna Machineries as conduit. Thus, a significant part of the consideration towards the subscription to the preferential allotment of shares paid by the preferential allottees was financed by Somplast or its connected/related entities. I, therefore, find that the allotment of such large number of equity shares by Somplast to the preferential allottees (noticees no. 10 to 26) was without getting actual consideration to the extent of ₹ 487.49 lakh and as such was sham and fraudulent. In addition, the preferential allotment of Somplast was financed by other connected/related entities (of *Somplast* and Mr. Amit Shah) namely, Cure Spects and Bhavsar to the tune of ₹ 485 lakh (₹ 365 lakh and ₹120 lakh, respectively). Considering these facts and circumstances, I am of the view that Somplast and its directors acting in connivance with Mr. Amit Shah had, in a clever subterfuge, used connected/related entities for orchestrating a fraudulent preferential allotment.

44. In this regard, it is relevant to mention that regulation 3 of the PFUTP Regulations, 1995 are *pari materia* with the provisions of regulations 3 and 4 of the PFUTP Regulations, 2003 and the provisions of section 12A(a), (b) and (c) of the SEBI Act. Therefore, the observations of the Hon'ble Securities Appellate Tribunal (SAT) in the matter of *Gammon India Limited vs. SEBI* (Order dated June 20, 2008) wherein it has held that providing funds to entities by the company for the purpose of buying/subscribing its own shares amounts to violation of the PFUTP Regulations, are worth mentioning. The following rulings of the Hon'ble SAT in matter of *V. Natarajan vs. SEBI (Order dated June 29, 2011 in Appeal no. 104 of 2011)* would also be relevant in the context of this case:-

> *"… 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, and 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."

45. It is also a matter of common knowledge that a preferential allotment is made to the persons/entities on a one-to-one basis who are acquainted/familiar with the company and/or its promoters/directors. A preferential allotment is always for the purposes of meeting fund requirements of the concerned company and involves a covert, manifested and planned actions by the concerned parties, i.e.,-

    (a) the company to identify select persons/group of persons who are known to it or its promoters/directors for investing in its share capital,
    (b) select persons/ group of persons (preferential allottees) exercise due diligence and then finance the fund requirements of the company and subscribe to its shares issued on preferential basis;
    (c) the company allots shares to the preferential allottees.

46. In this case, substantial part of the consideration payable to huge number of shares issued to the connected entities without receipt of actual consideration was without consideration. Further, the *Somplast* had disclosed the object of preferential allotment as to finance the working capital requirement, to reduce interest burden and implement expansion and modernisation schemes. Since substantial number of shares were allotted without actually receiving any consideration, such disclosure was clearly without any intention to utilise the proceeds of preferential allotment for disclosed purposes. These disclosures and declaration suggested false facts and were misleading and preferential allotment and disclosures connected therewith were without intention to perform. Further, Somplast had also declared that it had received the allotment money and had dispatched the share certificates. These statements were false and misleading. Such acts and omissions are squarely covered within definition of "fraud' given in then applicable regulation 2(c) of the PFUTP Regulations, 1995.

47. I also note that Somplast had dematerialized the shares issued under preferential allotment without taking in principle approval of listing of those shares from BSE and therefore, BSE had refused listing thereof on account of non compliance of Listing Agreement. Further, the trading in the shares of Somplast has been suspended by BSE with effect from February 27, 2003 and suspension continues till date. These facts and circumstances further corroborate the fraud perpetrated by Somplast, Mr. Amit Shah and other noticees (except Omega Avenues Limited) as described in the SCN-1 and SSCN. The action of suspension of trading, if any, by BSE as claimed by Somplast has no bearing on the instant proceedings as the same has been

contemplated with regard to the fraud committed in this case. The facts and circumstances described in the SCN-1 and SSCN clearly establish fraudulent, unfair and manipulative acts and omissions on the part of these noticees which are in contravention of provisions of regulation 3 (a), (b), (c) and (d) and 4(1) of the PFUTP Regulations read with sections 12A(a), (b) and (c) of the SEBI Act.

48. I further find that role, involvement of Mr. Amit Shah is established on the basis of his connections/relations with Somplast, its directors, preferential allottees and the entities who have financed the preferential allotment and the statements of three directors. It is further corroborated by MoUs he had entered into with the directors of Somplast in 1995 and statements and submissions of other noticees. I find that Mr. Amit Shah was the mastermind of the entire fraudulent plan, device and artifice in this case. Such fraudulent acts, omissions as found in this case should be dealt with sternly to give as strong message. However, in this case, though the fraud had consummated in July 2000 but the SCN had been issued belatedly in the year 2011. Though, such delay cannot be a ground to exonerate the delinquents in such fraudulent activities the same could be a mitigating factor. In this case, there is no allegation and material on records do not suggest trading in the shares allotted to the preferential allotters from the date of allotment i.e. July 24, 2000 till the date of suspension of trading in the scrip on February 27, 2003.

49. As regards the obligation of Mr. Amit Shah under regulation 9 of the Takeover Regulations, 1994, it is noted that the same was triggered on September 16, 1995 and more than 20 years have lapsed since then. The trading in the scrip in question has been suspended with effect from February 27, 2003 and in effect there is no public shareholder other than some of the noticees who are found to be guilty of fraud and they, accordingly, cannot be given remedy of exit on account of this obligation of Mr. Amit Shah. The noticees who had acquired shares without consideration cannot be allowed to make unjust enrichment by way of tendering those shares in the open offer. In view of the same, the directions to Mr. Amit Shah for making public announcement under regulation 9 of the Takeover Regulations, 1994 would not be desirable. However, other directions under regulation 9 and 13 of the Takeover Regulations, 1994 read with regulation 44, 47(2)(a) of the Takeover Regulations, 1997 and sections 11 and 11B of the SEBI Act need to be issued for this violation along with his other contraventions as found herein above. In this case, it is needless to mention that the MoUs / agreements which triggered the Takeover Regulations, 1994 were also a part of the fraudulent device, scheme and artifice in this case and thus it would be just and reasonable to consider this violation as relevant factor for issuance of appropriate as against him.

50. It is established that the large number of shares were allotted to *preferential allottees* in this case

without receipt of full consideration/allotment money as discussed hereinabove. In this case, the allotment was made in the year 2000, i.e., 15 years ago. At present, it is not brought on record as to what numbers of such shares are still within the hands of noticees. At the same time, they cannot be permitted to get unjust enrichment on account of holding any such shares of which they acquired without paying consideration. Therefore, they should face the consequences of such fraudulent acquisition and shares held by them, if any, in Somplast to the extent of the number of shares acquired by them without paying consideration should be frozen.

51. Considering the above, I, in order to protect the interest of investors and the integrity of the securities market, in exercise of the powers conferred upon me under section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11 and 11B thereof and regulation 11 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 hereby:

(a) restrain the following entities from raising capital from public and further prohibit them from buying, selling or otherwise dealing in securities, directly or indirectly, in any manner, whatsoever, for the period as mentioned in the following table:-

Sl. No.	Name of the entities	PAN	Period
1.	Somplast Leather Industries Limited	AADCS0254L	Three years
2.	Mr. N R Vekaria	ABOPV5260E	Three years
3.	Mr. R N Vekaria	Not available	Three years
4.	Mr. Ramanlal Hathi	Not available	Three years
5.	Mr. R .D Patel	Not available	Three years
6.	Mr. Bhagawati Shah	Not available	Three years
7.	Mr. S.N Vekaria	Not available	Three years
8.	Mr. Sanjay Patel	Not available	Three years
9.	Mr. Girish Shah	Not available	Three years
10.	Ms. Yogini Vyas	ACQPV5440H	Three years
11.	Indocare Pharmaceuticals Ltd.	Not available	One year
12.	Shalin Resorts Ltd.	Not available	One year
13.	Growth Agro Ind Ltd.	Not available	One year
14.	Gujarat Fun'n Water Park Ltd.	Not available	One year
15.	Sofitel Finstock	Not available	One year
16.	Shree Corporation	Not available	One year
17.	G. Bhavsar & Co.	Not available	One year
18.	Mr. Jayesh Mehta	Not available	One year
19.	Mr. Noopur Kansara	ATRPK6381J	One year
20.	Mr. Ashok Choksi	AE2PC2853G	One year
21.	Indian Shelters Ltd.	Not available	One year
22.	Mr. Gopal Pottedar	Not available	One year
23.	Mr. Dharmendra Barot	Not available	One year

24.	Mr. Gaurang Joshi	AEGPJ5170G	One year
25.	Mr. Tushar Majmudar	AFFPM7176M	One year
26.	Mr. Amit Shah	ALWPS7903F	Five years

(b) direct that the shares of *Somplast* allotted pursuant to the preferential allotment dated July 2000 and lying in the demat accounts of the concerned noticee shall remain frozen;

(c) direct Somplast not to give effect to transfer of any shares acquired and held by the concerned noticees in the preferential allotment dated July 2000;

(d) restrain the noticee no. 10 to 25 from exercising any voting rights (including through nominee or proxy) or other rights attached to the shares acquired and held by them in the preferential allotment dated July 2000.

52. This order shall come into force with immediate effect. A copy of this order shall also be served upon the depositories and stock exchanges for necessary action on their part.

Sd/-

Rajeev Kumar Agarwal

Whole Time Member

Securities and Exchange Board of India

Date: January 25th, 2016

Place: Mumbai