BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/GR/KG/2021-22/13092]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES,1995.

In respect of

Mr. Rashim Tandon,

(Partner, Deloitte Haskins & Sells LLP)

(Membership No. - 095540)

Background:

1. An article dated February 09, 2018 had appeared on Bloomberg.com which had *inter-alia* mentioned that the promoters of Fortis Healthcare Limited (hereinafter referred to as '**FHL'** or "the **company**") have taken at least Rs.5 billion rupees out of FHL. The said article had also pointed out that Deloitte Haskins & Sells LLP, the

Statutory Auditor of FHL had refused to sign off on the company's second quarter results until the funds were accounted for.

2. On the basis of the abovementioned Bloomberg article and further discussion with auditors, an investigation was initiated in the matter of Fortis Healthcare Limited to *inter-alia* examine possible violation of the provisions of the SEBI Act, 1992 and SEBI (PFUTP) Regulations, 2003.

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed to act as an Adjudicating Officer under Section 19 of the SEBI Act, read with Sub-section (1) of Section 15 I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules vide Order dated January 07, 2021, conveyed vide communique dated January 19, 2021, to adjudicate upon the violations as alleged in the subsequent paragraphs by Mr. Rashim Tandon, partner, Deloitte Haskins & Sells LLP ("**Noticee**") and if satisfied that the Noticee has become liable to penalty, may impose such penalty, as is found to be fit, in terms of Rule 5 of SEBI Adjudication Rules and the provisions of Section 15HA and 15HB of the SEBI Act, 1992.

FACTS OF THE CASE:

4. Pursuant to an article published in the media, in February 2018, SEBI had initiated investigation into the matter of grant of Inter-Corporate Deposits (hereinafter also referred to as "ICDs") to three borrower companies viz, Best Healthcare Private

Limited ("**Best**"), Fern Healthcare Private Limited ("**Fern**") and Modland Wears Private Limited ("**Modland**") during the period from FY 2011-2012 till 2017-2018.

5. Considering the large number of entities, transactions as well as voluminous data to be analysed, it was decided to appoint a forensic auditor in the matter and accordingly, MSA Probe Consulting Pvt. Ltd (hereinafter referred to as "**MSA / Forensic Auditor**") was appointed to examine the alleged diversion of funds from FHL / its subsidiaries for the benefit of promoter / promoter connected entities. MSA had submitted a Forensic Audit Report, wherein the following was observed:

   a. The ICDs amounts that were given by FHsL to 3 borrower companies was diverted to erstwhile promoter related entities viz RHC Holding Pvt. Ltd and Religare Finvest Limited and ultimately benefitted Mr Shivinder Mohan Singh ("**SMS**") and Mr Malvinder Mohan Singh("**MMS**"), the erstwhile Managing Director and Executive Director of FHL. The outstanding principal amount (excluding interest) that is owed by the 3 borrowers companies to FHsL was Rs. 403 crore (approx.).

   b. Misrepresentations were observed in the financial statements of FHL and FHsL for quarter ending June 30, 2016 to quarter ending June 30, 2017.

6. The observations/findings of the investigation are as under:

a. **Initial loans by FHL** - A land was first acquired indirectly by FHL through its subsidiary EHIRCL and another entity (**Lowe**) in May 2011, which was transferred in December 2011 to RHC Holding Pvt Ltd ("**RHC Holding/RHC**") without any consideration. Only a structured rotation of 200 Crores was carried out three times to give a false picture that the initial payments by FHL for the purchase of land have been received with interest. The money received by FHL was immediately transferred back to RHC through the three Borrower Companies. Thus, the actual payment for the purchase of land by RHC Holding was made by FHL and though RHC ultimately paid the consideration for land, it was after a period of more than 3 years. In other words, ICDs/loans that FHL provided to Best, Fern and Modland through FHsL had actually been utilized by RHC Holding for a period of 3-4 years.

   In this regard, considering the connection of the borrower entities and the promoter group as well as the pattern of funds clearly showing the ultimate beneficiary as RHC Holding Pvt Ltd, the routing of the loans as has been demonstrated above circumvented the provisions of related party transactions as applicable to FHL.

b. **Subsequent short term ICDs** - During December 2012 to March 2016, FHsL had given numerous short term loans / ICDs to Best, Fern and Modland, which ultimately benefitted RHC Holding. It is concluded that the routing of funds through short term ICDs during the aforesaid period December 2012 till March

2016 was to circumvent the provisions of related party transactions and thus material information was not disclosed in the consolidated financials of FHL.

c. **Misrepresentation of the financial statements** - The consolidated financial statements of FHL for the period from quarter ending June 2016 to quarter ending June 2017 were misrepresented and material information was not disclosed in the said financial statements.

d. **Diversion of funds**–The funds to the tune of Rs. 397.12 Crore (approx.), excluding interest, were diverted from FHL through FHsL by way of loans/ICDs to Best, Fern and Modland for the ultimate benefit of RHC Holding Pvt Ltd.

7. In view of the above, it was *prima facie* observed that Deloitte Haskins & Sells LLP ("**Deloitte**") were the Statutory Auditors of the company during the period when misrepresentation of financial statements of FY 2016-17 and first quarter of 2017-18 took place and their signatory to the financial statements viz, the Noticee, had failed to comply with Code of Ethics issued by ICAI and conduct the audit in accordance with the auditing standards generally accepted in India. Also, the Noticee had certified that the audited financial statements of FHL for the FY 2016-17 (audited financials for FY 2017-18 were qualified) were free of material misstatement and gave an unqualified opinion that the said financial statements were giving a true and fair view, without having reasonable basis for the opinion. Thus, he was *prima facie* observed to not have complied with standards of audit as prescribed by ICAI in SA 200, SA 240 as well as Guidance notes of Loans &

advances and Guidance notes on cash and bank balances. In view of above, it was alleged that the Noticee had indirectly aided in misrepresentation and non-disclosure of material information in consolidated financials of FHL during relevant period and thus, violated the provisions of Sections 12A(a), (b), (c) of the SEBI Act, 1992 and Regulations 3(b),(c) & (d), 4(1) and 4(2)(f) & (r) of SEBI (PFUTP) Regulations, 2003.

SHOW CAUSE NOTICE, REPLY AND HEARING

8. A show cause notice dated April 9, 2021 ("**SCN**"), was issued to several entities including the Noticee, detailing the role played by each one of them in the scheme of siphoning off funds from FHL and its wholly owned subsidiary FHsL for the ultimate benefit of certain entities related to the erstwhile promoters of FHL. The entities were inter alia asked to show cause why appropriate action should not be taken against them for such alleged violations.

9. The Noticee had responded to the SCN vide its reply dated June 14, 2021 and additional written submissions (including a brief note on the queries that arose during the hearing) submitted vide email dated June 27, 2021 and oral submissions made during the personal hearing held on June 15 and 16, 2021. The submissions of the Noticee is summarized as follows:

   a) A plain reading of paragraph 17 of the SCN shows that the only allegation made against this Respondent is that of negligence and non-adherence to

SAs as prescribed by The Institute of Chartered Accountants of India ("**ICAI**") in SA 200, SA 240, Guidance Note of Loans and Advances and the Guidance Note on Cash and Bank Balances. This Respondent submits that the inquiry and redressal of these allegations fall solely within the purview of the Chartered Accountants Act, 1949, and therefore, SEBI (and consequently the Adjudicating Officer) lack jurisdiction to go into these questions.

b) SEBI, having commissioned MSA Probe Consulting Private Limited ("MSA") for conducting a forensic audit of FHL / FHsL, appears to have substantially/entirely relied upon this forensic audit report in the SCN. It is pertinent to note that SEBI has commissioned a third-party entity, which to my knowledge is not registered with the ICAI, and is not professionally qualified or competent to judge the professional work of a statutory auditor to comment on the audit procedures followed, or to comment on compliance with auditing standards, or to comment on what the auditors should have done or even appreciate the difference between an audit carried out annually and a limited review of unaudited financial information carried out on a quarterly basis.

c) There are no facts cited either in the SCN or in any of the supporting documents that even remotely suggest that this Respondent has, as alleged, indirectly aided in misrepresentation and nondisclosure of material information in the consolidated financials of FHL during relevant period of

the investigation by SEBI. Additionally, SEBI has not evaluated the procedures followed by this Respondent against the relevant SAs and guidance notes to evaluate the work of this Respondent before sending the SCN alleging violation of the same against this Respondent. Further, SEBI has not provided any facts suggesting that this Respondent was aware of any matters that could have impacted his audit opinion pursuant to the statutory audit or limited review report(s) for the relevant quarters, (i.e., matters that have been unearthed by the investigation in connection with the inter-corporate deposits ("ICDs") and that this Respondent chose to suppress such facts.

d) SEBI has failed to appreciate that it is applying hindsight and relying on various sources of information available to it using various powers in its capacity as a regulator during the process of investigation, which could not have been and were not available to this Respondent during the audit period as a part of a statutory audit/ limited review process. These include the bank statements of the Borrowers and the alleged ultimate beneficiaries. It is submitted that the fraud, if any, appears to have occurred only at the point when sums of money have been diverted from the Borrowers to the alleged ultimate beneficiaries. This could not have been detected by the auditor of the lender, in the ordinary course.

e) From the records, it is observed that the practice of FHsL placing ICDs with Best Healthcare Private Limited, Fern Healthcare Private Limited and

Modland Wears Private Limited ("Borrowers") started in 2011. There was no concern regarding these ICDs raised by the previous auditor who was the auditor of FHL and FHsL commencing from the financial year 2010-2011 up to the quarter ended June 30, 2015. It is pertinent to note that this Respondent, in accordance with the professional standards on the audit acceptance process, sought certain clarifications from the previous auditor inrelation to FHL and FHsL. Analysis of the information received from the previous auditor in this regard, such as the financial statements or the audit committee presentations, did not give rise to any reason for suspicion by this Respondent regarding the ICDs. This Respondent and his team also had a meeting with the previous auditors in September 2015, where the agenda was to discuss main challenges they used to face in the audit process and the areas of focus – and this Respondent was not informed of any concerns in relation to the ICDs granted by FHL / FHsL. The loan outstanding as on June 2015 from the Borrowers was signed off by the previous auditor and subsequently repaid duly in the next quarter, which again did not contribute to any reason for suspicion by this Respondent. The closing balances for the quarters of the financial year 2016-17 were also nil, indicating that all ICDs had been realised duly, along with interest. Thus, there was no reason for this Respondent to be suspicious of any transactions of FHL / FHsL which were carried on from the past and those which continued thereafter. From the work, basis the review of the financial information as a part of the audit process and / or limited review, the following facts were available: (i) the Borrowers had a long credit history

with FHL / FHsL (in fact, in the audit committee presentation of June 2015, the previous auditor included a slide on ICDs which stated that ICDs were advanced to the Borrowers from 2012, thereby affirming that these were the parties who were dealt with by FHsL); (ii) requisite approvals from shareholders for the limit of lending, approval of the Board of Directors authorising the lending of ICDs to these parties were in place; (iii) inter-corporate loan agreements had been duly executed and other internal approvals had been received for the issue of ICDs; and (iv) the ICDs were duly realized with interest thereon as per balances in the ledger account, which were paid by the Borrowers, till the quarter ended June 30, 2017. In accordance with the procedures in relation to grant of ICDs, approvals and authorisations were duly granted by the board, audit committee as well as the treasury committee, and subsequently these ICDs were realised with interest, periodically. By virtue of these conditionalities, there were no reasons to this Respondent's knowledge that could have raised suspicion. This Respondent craves leave to refer to and rely on the above-referred approvals and other documents during the proceedings.

f) With regard to these ICDs, this Respondent had observed that during the financial year 2016-17 and in the quarter ended June 30 2017, the ICDs would be repaid by each of the Borrowers at the end of each quarter along with payable monthly interests thereon and consequently there was no outstanding balance at the end of any quarter. Subsequently, fresh ICDs were placed at the start of the succeeding quarter, under separately

executed ICD agreements. Thus, at the close of each quarter during financial year 2016-17 and quarter ended June 30, 2017, there were no ICDs outstanding in the books of accounts. The first quarter where ICDs were not repaid was the quarter ended September 30, 2017 – which was noted by the engagement team headed by this Respondent, and queries were raised by the said engagement team with the management of FHL / FHsL regarding the recoverability of the outstanding ICDs. This Respondent and the engagement team were not satisfied with the responses of the management of FHL / FHsL as regards recoverability of the outstanding ICDs. Therefore, considering the uncertainty as to the recoverability of the outstanding loans, the engagement team performed a number of additional procedures with respect to the quarter ended September 30, 2017. It is in fact the refusal of this Respondent and his engagement team to issue unqualified limited review reports and the insistence on additional procedures for the quarters ended September 30, 2017 and December 31, 2017 (and certain media coverage on the issue) that resulted in the issues concerning these ICDs coming to the knowledge of the public and regulators such as SEBI, and the Audit and Risk Management Committee of FHL ordering an investigation. This Respondent also disclaimed his conclusion in the limited review reports for the quarters ended September 30, 2017 and December 31, 2017.

g) At the insistence of this Respondent, an external law firm, was commissioned by the Audit and Risk Management Committee of FHL, to

conduct an investigation into the alleged issues concerning the ICDs. While the external law firm had access to more information that was privy to this investigation only, compared to the information received in the capacity of a statutory auditor, the report issued by it could not conclude that a fraud had been committed by the management. Even an independent law firm after a detailed investigation (which is well beyond the scope of a statutory audit) could not unravel the alleged scheme(s) of the management, as set out in the SCN, which were subsequently unearthed only upon completion of a separate and substantially detailed forensic audit conducted at the behest of SEBI. In fact, the investigation report issued by the external law firm was submitted to the re-constituted board of directors of FHL on June 08, 2018. The reconstituted board of directors of FHL, in the annual financial statements for the year ended March 31, 2018 stated as follows:

"The regulatory authorities are currently undertaking their own investigation, and it is likely that they may make a determination on whether any fraud or any other non-compliance/ illegalities have occurred in relation to the matters addressed in the Investigation Report (L&L report) on the basis of facts, including those facts that the independent investigator would not have had access to, given their limited role and limitations stated in the Investigation Report. Accordingly, in light of the foregoing, the Board of Directors at this juncture is unable to make a determination on whether a fraud has occurred."

h) After the receipt of the report of the external law firm, this Respondent wrote to the Ministry of Corporate Affairs on August 13, 2018 wherein this Respondent had included the particulars of the investigation, to the extent determined till date, in a manner similar to those required in Form ADT-4 issued in terms of Rule 13(2)(f) of the Companies (Audit and Auditors) Rules, 2014 (as amended) read with Section 143(12) of the Companies Act, 2013 (in relation to the auditor's duty to report fraud/suspected fraud under the Companies Act, 2013 to the government). It is hence inconceivable that this Respondent had anything to do with the irregularities and alleged fraud perpetrated by the management of FHL / FHsL as alleged under the SCN.

i) From the SCN, it becomes evident that the alleged facts on which the SCN is premised relate to matters and certain documents that a statutory auditor is not required to examine as a part of the audit/limited review process – and documents of third party borrowers referred to in the SCN were not part of the books of account of FHL and FHsL and were not available to the auditors in the course of their audit or limited review. Certain findings with respect to the alleged transactions have come to light only through: (i) the investigation by an external law firm, as referred in the SCN, which was appointed by the Audit and Risk Management Committee of FHL, whose scope of work included suggestions of this Respondent pursuant to the email received from Bloomberg, on account of concerns raised in the audit procedures for the second and third quarters of the financial year 2017-18; and (ii) the forensic audit conducted by MSA, upon which you have relied

upon in the SCN. Examples of these documents relied upon during the forensic audit / regulatory investigations by MSA are below:

(a) Access to bank statements and books of the Borrowers and the alleged ultimate beneficiaries;

(b) Information from other entities (forming part of the SCN), on which the investigation was carried out by SEBI;

(c) Interviews conducted with the executives and other people (past and present) (including directors of the Borrowers) during the forensic review after the acts and omissions in question were in public domain;

(d) Response from the bankers on the systemic cheque payments; and,

(e) E-mail backups of employees for understanding the alleged intentional misrepresentation / structured fund movement.

j) Further, the documents relied upon by the external law firm during their investigation, which were not available to us/ are not required to be covered as part of audit process of this Respondent are as follows:

(a) Emails of the employees

(b) Interviews with former employees of FHL / FHsL

(c) Internal correspondence between FHL, FHsL and the Borrowers.

Thus, SEBI has relied on facts that were never available to this Respondent at the time when it had conducted the audit of FHL/FHsL. Nor were there any circumstances that would have required or justified this Respondent asking for the information cited in the paragraph above, in course of a statutory audit and limited review exercise on a quarterly basis.

k) It is to be noted that in any forensic audit, the forensic auditor is acting on the

scope of unearthing the fraud by way of forensic audit, unlike what a statutory

audit is supposed to be – the two can never be equated and expected to deliver same results. A forensic audit, as relevant in this context, is specifically designed for the detection of frauds, whereas a statutory audit is only meant to express opinion as to 'true and fair' presentation of the accounts based on information inter alia provided by the management of the company concerned by performing the prescribed audit procedures. A statutory audit is not performed with the objective of detecting fraud. In the absence of contradictory evidence or information that brings into question the reliability of documents and responses to inquiries, statutory auditors would rely on the management and their statements / representations, along with the audit trail and the numbers provided to the statutory auditors. On the other hand, forensic auditors having a much focused investigative / fact-finding outlook start with a position of suspicion and will look at the events and activities beyond the documents in order to determine the rationale for

the numbers. For ascertaining the accuracy of the current assets and the liabilities, a statutory auditor relies on *inter alia* the documents reviewed as part of the audit procedures referred to in paragraph 21 and the management

representations, whereas the forensic auditors are required to carry out independent verification of suspected select items without placing reliance on

management representations and use various forensic tools and methods which are way beyond the scope, reach and expertise of a statutory auditor. Further, the purview of a statutory audit is very different – and the purpose is to express an opinion on the company's financial statements taken as a whole. On the other hand, a forensic audit is typically narrow in its purview and limited to the specific terms of reference as to its scope – by way of examples, specific transactions or a series of transactions, specific account balances, etc.

l) The limitation of a statutory audit is the fact that much of the audit evidence is

persuasive, rather than conclusive in nature and hence, it is more difficult for the auditor to detect a fraud than an error, because fraud usually involves acts designed to conceal it, such as collusion, forgery or intentional misrepresentations to the auditor by the management and those charged with

governance. the role of the statutory auditor is to provide reasonable assurance, and cannot eliminate risk of material misstatements, especially due to fraud, management deliberately providing incomplete / false information (specifically not classifying the Borrowers as related parties) and statutory auditor's ability to detect fraud is limited (especially if it involves a carefully constructed scheme involving top management). The issue/scheme in question was allegedly perpetrated by promoters and top management, which the SA 240 itself recognizes as being an inherent limitation in fraud detection.

m) Following are the audit procedures conducted by the engagement team and this Respondent from an audit standpoint (for the year ended March 31, 2017), *inter alia*, to test the ICDs granted by FHsL:

(i) Obtained the necessary statutory and governance approvals in relation to the grant of ICDs;

(ii) Obtained the aggregate quarterly movement schedule of the ICDs from the client.

(iii) Verified the aggregate amount of ICD repayment by each borrower, as stated in the schedule of ICDs provided by the management, with the bank statement.

(iv) Verified the aggregate amount of new ICDs granted, as stated in the schedule of ICDs provided by the management, with the bank statement.

(v) Verified the rate of interest from loan agreement (memorandum of agreement) between FHsL and each of the Borrowers.

(vi) Re-computed the interest amount.

(vii) Verified deposits slips of total principal repayment (for the cheques received towards the repayment of ICDs) before the year-end and verified the

subsequent realisation of such cheques which were deposited but not realized as at the year end.

(viii) Obtained list of related parties of the Company.

(ix) Reviewed the ICD agreements with the Borrowers.

(x) Obtained independent confirmations for the bank accounts (including HDFC bank account) for the year ended March 31, 2017.

(xi) Obtained requisite management representations and had discussions with the management; and

(xii) Obtained director's declaration of companies in which directors were interested on an annual basis, including certified list of related parties.

(xiii) also verified: **(i)** approval of shareholders under Section 186(2) of the Companies Act, 2013; and **(ii)** the approvals granted in the meetings of the board of directors, Audit and Risk Management Committee by reviewing the minutes of all such meetings, and approvals of the treasury committee with respect to the grant of ICDs by FHsL to each of the Borrowers. It may be noted from the minutes of these meetings / approvals stated that the ICDs were advanced for general corporate purpose, wherein FHsL and each of the Borrowers' also executed secured inter-corporate loan agreements, for each grant of ICDs.

n) Additionally, as a part of limited review process conducted by this Respondent, on FHL and FHsL, in addition to the inquiries from the management and other analytical procedures in accordance with the provisions of SRE 2410, Engagement Team, *inter-alia,* obtained aggregate quarterly movement schedule of the ICDs and interest income from the management of FHsL, reviewed the calculation of interest, as per terms of agreement(s), verified the aggregate amount of ICD repayment by each borrower, as stated in such schedule of ICDs provided by the management the bank statement and obtained requisite management representations and had discussions with the management.

o) The ICDs that are the subject matter of the SCN, were advanced by FHsL, a wholly owned unlisted subsidiary of FHL and not by FHL. As per the FHL group's internal control and approval process, the grant of the ICDs was approved by a treasury committee every time they were granted. In addition to the approval of the treasury committee, the movements in the ICDs were also placed as a matter of record before the Audit and Risk Management Committee of FHsL.

p) This Respondent not only complied with (and indeed, exceeded) the requirements to be complied for a statutory audit and a limited review, but was given a cogent and believable explanation (i.e., interest arbitrage, and not losing interest even for a day) for the ICDs provided to the Borrowers (who were long standing borrowers of FHsL).

CONSIDERATION OF ISSUES AND FINDINGS

10. I have perused the replies/ written submissions filed by the Noticee. I note that the Noticee has made detailed and extensive submissions on the role/responsibility/ duty of a statutory auditor and has strenuously sought to defend his action in the course of conducting audit of FHL/FHsL. I note that the Noticee has made a preliminary submission the SCN fails to concretize the charges against it. I cannot accept this submission. The SCN brings out in details the alleged fraudulent scheme that was executed to utilize the funds of the company in order to benefit its erstwhile promoters. The SCN also brings out the alleged roles played by each of the entities named therein in the alleged fraudulent scheme. Thus, the Noticee had a clear understanding of the charges being leveled against him in the SCN. The same is also borne out from the extensive and detailed submissions made by the Noticee in response to the said charge(s).

11. There is another preliminary submission made by the Noticee which needs to be first dealt with before proceeding to consider the case on its merits. It has been *inter alia* submitted by the Noticee that SEBI, as a regulator of the securities market lacks the jurisdiction as well as the expertise on questions of negligence and non-compliance of the standards of auditing. In this regard, I note that there is an expert regulator, viz. the Institute of Chartered Accountants of India ("**ICAI**"), established by an Act of Parliament, viz. The Chartered Accountants Act, 1949 (Act No.XXXVIII of 1949) cretaed for regulating the profession of Chartered Accountancy in the

country. The said institution is *inter alia* mandated for formulation of Accounting Standards and prescription of Standard Auditing procedures. ICAI is also empowered to lay down ethical standards that need to be followed *inter alia* in the course of an audit and also exercises Disciplinary Jurisdiction over its members. Therefore, ordinarily, any act of non-compliance of accounting or auditing standards by a member of ICAI shall be amenable to the disciplinary jurisdiction of ICAI.

12. However, it is possible that there could be cases where an action or omission on the part of an auditor may lead to such non-compliance which may well come under the jurisdiction of a regulator in addition to the ICAI. The SEBI Act, 1992 empowers SEBI to take any such measure as it deems fit for regulation, protection and development of the securities market in India. The legislative, executive and quasi-judicial powers of SEBI under the SEBI Act are all aimed towards the fulfillment of the aforementioned mandate of SEBI. The disciplinary jurisdiction of SEBI under the statue extends to all the intermediaries in the securities market and to any person associated with the securities market. There are judicial rulings to the effect that the phrase person associated with the securities market in ordinary meaning, the persons associated with the securities market would include all and sundry those have something to do with the securities market [*Karnavati Fincap Ltd. And Anr. Vs SEBI*, (1996) 87 Comp Cas 186 Guj].

The Hon'ble Bombay High Court in W.P. Nos. 5249 & 5256 of 2010 [*Price Waterhouse & Co. & Ors. Vs. SEBI & Ors.]* had held as under:

"27. In so far as the submission of Mr. Dwarkadas that the petitioners are not directly associated by the securities market is concerned, it is true that the petitioners may not have any direct association with the securities market since they were performing their duties as Auditors of the Company and were associated with the preparation of the balance-sheets of the Company. It is however required to be noted that normally an investor would like to invest his money in the shares of a Company on the basis of reflection of Company's financial health as disclosed in the balance-sheet of the Company and he may consider that it is safe to invest money in a particular company, if the balancesheets have been certified by reputed Chartered Accountants and it reflects that the financial position of the Company is sound. An investor is likely to be guided by the audited balance-sheet of the Company and would presume that the facts incorporated in the balance-sheet are true and correct. Considering the said aspect, even though the petitioners may not have direct association in the share market activities, yet the statutory duty regarding auditing the accounts of the Company and preparation of balance-sheets may have a direct bearing in connection with the interest of the investors and the stability of the securities market. In our view, the petitioners in their capacity as auditors of the Company Satyam, which was at one point of time considered to be a blue chip company who had a defining influence on the securities market, can be said to be persons associated with the securities market within the meaning of the provisions of the said Act." [emphasis supplied]

13. From the judicial observations cited above, it becomes clear that any action or omission of any person which has a direct and substantive relation to the securities market and can reasonably be expected to have an impact on the securities market, would come under the disciplinary jurisdiction of SEBI, besides being amenable to the jurisdiction of any other sectoral regulator. In the present case, the question is whether the action/omission on the part of the Noticee, in his capacity as an auditor/ signatory of the auditor, shall be amenable to the jurisdiction of SEBI. In this regard, I note that the Hon'ble Securities Appellate Tribunal ("SAT") in the matter of *Price Waterhouse & Co vs. SEBI* (2019), held as follows, in line with the judgment of the Bombay High Court in *Price Waterhouse & Co. and Ors. vs. SEBI* [2010 (103) SCL 96 (Bom)]:

> *44. From the aforesaid, it becomes apparently clear that Regulation 3 and 4 of PFUTP Regulations applies only on persons dealing in securities. The applicability can be extended to persons who are associated with the securities directly or indirectly. Admittedly, the appellants are not dealing in the securities either directly or indirectly. They are auditors of listed companies. In order to bring them culpable within the four corners of Section 12A and Regulation 3 and 4 of PFUTP Regulations, fraud has to be proved on the basis of evidence.*

The aforesaid judgment lays down the rule that even an auditor of a company can be brought under the ambit of the SEBI (PFUTP) Regulations, if the fraud committed by it can be established from the evidence. Therefore, in the present

case, it cannot be held that only because the Noticee was an auditor, he shall not come under the disciplinary/penal jurisdiction of SEBI. Rather, the correct position would be that if it can be established from the available evidence that the Noticee had indeed aided the alleged fraudulent scheme of utilization of the funds of FHL for the benefit of its erstwhile promoters, then he shall be amenable to the disciplinary/ penal jurisdiction of SEBI as a person directly or indirectly associated with the securities market. Thus, this preliminary issue in the present case is involved with the merits of the case and cannot be adjudicated independent of the merits of the case.

14. Whether the Noticee had acted fraudulently or had willfully aided a fraudulent act (through action or omission) perpetrated by some other entities, needs to be ascertained in the present case. In this context, the question which needs to be answered is, does it need to be ascertained if the Noticee had appropriately discharged his obligations as an auditor or is it sufficient for the purposes of the present adjudication, to ascertain if there is any evidence of fraud being committed or aided by the Noticee? In this context I tend to agree with the submissions of the Noticee that SEBI is not the authority statutorily mandated or equipped to evaluate the role of an auditor in the ordinary course of the latter's business. Even if there be any non-compliance of any standards of auditing by an auditor, the same shall squarely fall under the regulatory domain of ICAI, an institution created under a statute of the Parliament exclusively for the purpose of regulating the practice of charted accountancy and auditing in India. However, an allegation of a fraud related to the securities market is for the SEBI to ascertain and act upon. Therefore,

I proceed first to ascertain if there is a *prima facie* case of fraud/ fraudulent behavior established against the Noticee in the investigation conducted by SEBI and whether the Noticee has been able to adequately defend itself against such a *prima facie* case. If after this exercise, the case against the Noticee gets established, it shall automatically amount to a non-compliance of auditing standards by the Noticee, because a 'fraud' shall always involve an active intention/ will/ premeditation (which distinguishes a 'fraud' from an act of 'negligence') which would run counter to any accounting/ auditing standards and codes of conduct of any professional.

15. I note that an act of fraud must be borne out from the activities of a person. From a reading of the events as brought out in the investigation of SEBI, I note the following:

Year	**Event**
2011	Fortis Healthcare Limited, through its subsidiary Fortis Hospitals Limited, had given inter-corporate deposits ("ICDs"), to Best Healthcare Private Limited, Fern Healthcare Private Limited and Modland Wears Private Limited (collectively, "Borrowers"). Such ICDs were provided regularly to the borrowers from December 2011 till July 2017.
September 23, 2015	Delloitte was appointed as the Statutory Auditor of Fortis Healthcare Limited ("FHL") and its subsidiary, FHsL on September 23, 2015 and September 22, 2015 respectively, for a period of five years.

July 1, 2017	FHL, through FHsL, granted ICDs worth around INR 494.14 crores to the Borrowers.
Post September 30, 2017 – February 2018	The Noticee did not agree to sign unqualified unaudited financial information of FHL Group (which included FHsL) pending clarity on recoverability of the ICDs, which were not repaid as contracted on September 30, 2017
February 15, 2018	At the insistence of the Noticee, an external law firm, was commissioned by the then Audit and Risk Management Committee of FHL, to conduct an investigation, inter alia, into the alleged issues concerning the ICDs. The report issued by the law firm could not conclude that a fraud had been committed by the management.
May 10, 2018	SEBI appointed Forensic Auditor, MSA Probe Consulting Pvt. Ltd. ("MSA"), under section 11(2)(i) of the Securities and Exchange Board of India Act, to examine the alleged diversion of funds from FHL/its subsidiaries, for the benefit of the promoter/promoter connected entities.
August 13, 2018	The Noticee had reported the issue relating to the outstanding ICDs to the Ministry of Corporate Affairs, similar to reporting under section 143(12) of the Companies Act, 2013, though a fraud had not been established till then.

August 16, 2018	MSA issued a forensic audit report on the findings in relation to the alleged diversion of funds from FHL / its subsidiaries, for the benefit of the promoter / promoter entities.
October 10, 2018	MSA issued a revised forensic audit report in furtherance of the report issued on August 16, 2018 containing findings in relation to the alleged diversion of funds from FHL / its subsidiaries, for the benefit of the promoter / promoter entities.

16. I note that nowhere in the investigation report it has been alleged that the Noticee had colluded or connived with the management of FHL/FHsL in any manner to willfully misrepresent the financial status of the said companies. It has been noted in the investigation report that till December 2015, the ICDs were being regularly repaid by the borrowers. Thus, the Noticee is correct in his submissions that at the point in time when he/his firm had started the auditing exercise for FHL/FHsL, there was no reason for an auditor to be alarmed with respect to the grant of the ICDs.

17. Investigation has recorded that it was from June 2016 to June 2017 quarter (i.e., over 5 quarters) that Best / Fern / Modland did not make any actual repayment of loan / ICDs to FHsL and despite the same receipts of repayment was shown by FHL/FHsL. FHsL was observed to have artificially inflated its profits by Rs. 473 Crore over a period of 5 quarters. It has also been observed in the investigation that the structured rotation of funds and the rollover of loans were employed by FHsL to hide its real financial position. Thus, even for the alleged act of suppression of material facts and creation of an elaborate scheme to conceal the actual financial

status of the company, it is FHsL that has been *prima facie* held to be responsible in the investigation of SEBI and no allegation has been leveled against the Noticee for arranging/ aiding the said structured transactions and/or rotation of funds or rollover of loans. The only allegation against the Noticee is that it could have found out this elaborate fraudulent scheme of FHL/FHsL had it applied due diligence. Further, there is no allegation against the Noticee to have made any unjust gains from aiding the aforesaid fraudulent scheme.

18. I note that the Noticee has replied to the aforesaid charge of not acting diligently during the audit of FHsL and FHL, in details. In a nutshell, the case of the Noticee is that it could not have detected the aforesaid rotation of funds without *inter alia* having access to the bank account statements of the borrowers in order to understand that there were insufficient funds with the borrowers, which was never available to him as he was not auditing the borrowers. It is also not the case of SEBI that the Noticee had access to the bank account statements of the borrowers. An important issue which needs to be addressed in this context is about the level of diligence that a statutory auditor needs to employ in the course of his/its duty as stipulated under various standards of auditing, guidance notes and other rules/regulations framed by the ICAI. The same shall be discussed in the subsequent paragraphs of this order.

19. The SA 200 lays down "*Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing*". Relevant paragraphs from the Standard of Auditing is reproduced herein below:

"5. As the basis for the auditor's opinion, SAs require the auditor to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. …..reasonable assurance is not an absolute level of assurance, because there are inherent limitations of an audit which result in most of the audit evidence on which the auditor draws conclusions and bases the auditor's opinion being persuasive rather than conclusive."

"11. In conducting an audit of financial statements, the overall objectives of the auditor are:

(a) To obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, thereby enabling the auditor to express an opinion on whether the financial statements are prepared, in all material respects, in accordance with an applicable financial reporting framework; and

(b) To report on the financial statements, and communicate as required by the SAs, in accordance with the auditor's findings."

"12. In all cases when reasonable assurance cannot be obtained and a qualified opinion in the auditor's report is insufficient in the circumstances for purposes of reporting to the intended users of the financial statements, the

SAs require that the auditor disclaim an opinion or withdraw from the engagement, where withdrawal is legally permitted."

Professional Judgment

16. The auditor shall exercise professional judgment in planning and performing an audit of financial statements. (Ref: Para. A23-A27)

A25. The exercise of professional judgment in any particular case is based on the facts and circumstances that are known by the auditor. Consultation on difficult or contentious matters during the course of the audit, both within the engagement teamand between the engagement team and others at the appropriate level within or outside the firm, such as that required by SA 220, assist the auditor in making informed and reasonable judgments.

A26. Professional judgment can be evaluated based on whether the judgment reached reflects a competent application of auditing and accounting principles and is appropriate in the light of, and consistent with, the facts and circumstances that were known to the auditor up to the date of the auditor's report.

"A39. … internal control, no matter how well designed and operated, can only reduce, but not eliminate, risks of material misstatement in the financial statements, because of the inherent limitations of internal

control. These include, for example, the possibility of human errors or mistakes, or of controls being circumvented by collusion or inappropriate management override. Accordingly, some control risk will always exist."

"A44... Detection risk, however, can only be reduced, not eliminated, because of the inherent limitations of an audit."

"A45. The auditor is not expected to, and cannot, reduce audit risk to zero and cannot therefore obtain absolute assurance that the financial statements are free from material misstatement due to fraud or error. This is because there are inherent limitations of an audit…"

A47. There are practical and legal limitations on the auditor's ability to obtain audit evidence. For example:

• There is the possibility that management or others may not provide, intentionally or unintentionally, the complete information that is relevant to the preparation and presentation of the financial statements or that has been requested by the auditor. Accordingly, the auditor cannot be certain of the completeness of information, even though the auditor has performed audit procedures to obtain assurance that all relevant information has been

obtained.

• Fraud may involve sophisticated and carefully organised schemes designed to conceal it. Therefore, audit procedures used to gather audit evidence may be ineffective for detecting an intentional misstatement that

involves, for example, collusion to falsify documentation which may cause the auditor to believe that audit evidence is valid when it is not. The auditor is neither trained as nor expected to be an expert in the authentication of documents.

An audit is not an official investigation into alleged wrongdoing. Accordingly, the auditor is not given specific legal powers, such as the power of search, which may be necessary for such an investigation.

"A51. In the case of certain assertions or subject matters, the potential effects of the inherent limitations on the auditor's ability to detect material misstatements are particularly significant. Such assertions or subject matters include:

• Fraud, particularly fraud involving senior management or collusion. {See SA 240 for further discussion}

• The existence and completeness of related party relationships and transactions. {See SA 550 for further discussion}."

"A52. Because of the inherent limitations of an audit, there is an unavoidable risk that some material misstatements of the financial statements may not be detected, even though the audit is properly planned and performed in accordance with SAs. Accordingly, the subsequent discovery of a material misstatement of the financial

statements resulting from fraud or error does not by itself indicate a failure to conduct an audit in accordance with SAs." [emphasis supplied]

20. The regulatory mandate for an auditor as discussed in the preceding paragraphs clearly establishes that it is possible in a case that despite reasonable efforts put in by an auditor in compliance with the extant standards of auditing; a material misstatement might remain undetected in the financial statement of an entity which is being audited. In this regard, it is important to note the following judicial observations of the Hon'ble Bombay High Court in *Tri-Sure India Ltd. vs A.F. Ferguson and Co. and Others* [1985 SCC OnLine Bom 342 : (1987) 61 Comp Cas 548], held as under:-

> *"25. In "Statement on Auditing Practices" published by the Institute of Chartered Accountants of India in the year 1968, it is pointed out that it is the directors of a company who are primarily responsible for the preparation of the annual accounts and for the information contained in it. The duty of safeguarding the assets of a company is primarily that of the management and the auditor is entitled to rely upon the safeguards and internal controls instituted by the management, although he will, of course, take into account any deficiencies he may note therein while drafting the audit programme. The auditor does not conduct the audit with the objective of discovering all frauds, because in the first place it would take a considerable amount of time and it would not be possible to complete the audit within the time-limit prescribed by law for the presentation of accounts to the shareholders. Further, such an*

audit would have to involve a detailed and minute examination of all the books, records and other documents of the company, and the cost of doing so would be prohibitive and disproportionate to the benefits which may be derived by the shareholders. Finally, even if such examinations were to be conducted, there will be no assurance that all types of frauds, omissions and forgery, etc., would be discovered. The auditor, while conducting the audit, bears in mind the possibility of existence of fraud and irregularities in the accounts of the company."

37. The decision was approved in the next case reported in [1896] 2 Ch 279 (Kingston Cotton Mill Co., In re (No. 2) where an order under section 10 of the Companies (Winding-up) Act, 1890, was passed against the auditors of the company ordering them to pay to the liquidator certain sums of money being the amounts of dividends improperly declared and paid out of the assets of the company on the faith of certain balance-sheets prepared and signed by the auditors. In appeal, one of the questions considered was "what was the duty of auditors" and Lord Justice Lindley reiterated the view taken in the earlier case of London and General Bank, In re (No. 2) [1895] 2 Ch 673. Lord Justice Lindley made it clear that the auditors should not be suspicious but only reasonably careful. The learned judge further noted that the auditors relied on the manager who was a man of high character and of unquestioned competence and who was trusted by everyone who knew him, and observed that it is not sufficient to say that the frauds must have been detected if the entries in the books had been put together in a way which

never occurred to any one before suspicion was aroused. Lord Justice Lopes, in a concurring judgment, observed (at page 288) :

"But in determining whether any misfeasance or breach of duty has been committed, it is essential to consider what the duties of an auditor are. They are very fully described in In re London and General Bank [1895] 2 Ch 673 to which judgment I was a party. Shortly they may be stated thus : It is the duty of an auditor to bring to bear on the work he has to perform that skill, care and caution which is reasonably competent, careful and cautious auditor would use. What is reasonable skill, care and caution must depend on the particular circumstances of each case. An auditor is not bound to be a detective, or, as was said, to approach his work with suspicion or with a foregone conclusion that there is something wrong. He is a watch-dog, but not a bloodhound. He is justified in believing tried servants of the company in whom confidence is placed by the company. He is entitled to assume that they are honest, and to rely upon their representations, provided he takes reasonable care. If there is anything calculated to excite suspicion he should probe it to the bottom; but in the absence of anything of that kind he is only bound to be reasonably cautious and careful."

38. The learned judge further observed : (at page 290) "The duties of auditors must not be rendered too onerous. Their work is responsible and laborious, and the remuneration moderate ..... auditors must not be made liable for not tracking out ingenious and carefully laid schemes of fraud when there is

nothing to arouse their suspicion, and when those frauds are perpetrated by tried servants of the company and are undetected for years by the directors. So to hold would make the position of an auditor intolerable." [emphasis supplied]

21. From the discussions of the Standards of Auditing and judicial observations relevant to the subject, it can be concluded that if it is established that an auditor had no '*mens rea'* and did not connive and collude with the management of a company for falsification of financial statements, it cannot be held liable under the SEBI Act or any Regulations framed there under on the charges of 'fraud' pertaining to the securities market, only because it had *prima facie* failed to detect an act of misstatement in the financial statement(s) of a company by the management of the said company. Even if there had been a breach of Standards of Auditing by the concerned auditor leading to a failure in detection of a fraud perpetrated by the management, in the absence of evidence establishing collusion of the auditor with the management of the said company in the commission of the fraud or any other active role played by the auditor in the perpetration of the fraud, the auditor shall not come under the disciplinary/penal jurisdiction of SEBI and ICAI shall be the competent authority to adjudicate upon that. In other words the *mens rea*, i.e, the 'intent' to commit an act knowing the same to be false, untrue or illegal , needs to be established qua the auditor in order to bring him/ it under the disciplinary/penal jurisdiction of SEBI under the category of 'fraud'. In this context, I note that the Hon'ble Bombay High Court vide order dated August 13, 2010, in

Writ Petitions No. 5249 and 5256 of 2010 has held on the subject as reproduced herein below:

> *"Looking to the provisions of the SEBI Act and the Regulations framed thereunder, in our view, it cannot be said that in a given case if there is material against any Chartered Accountant to the effect that he was instrumental in preparing false and fabricated accounts, the SEBI has absolutely no power to take any remedial or preventive measures in such a case."*
>
> *"As regards the professional norms are concerned, it is true, as submitted by Mr. Dwarkadas, that it is only the Institute which is the regulating body to deal with the same. However, in a given case, if there is prima facie evidence in connection with the conduct of a Chartered Accountant such as fabricating the books of accounts, etc., the SEBI can certainly give appropriate direction not to utilize the services of such a Chartered Accountant in the matter of audit of a listed Company.*
>
> *In a given case, if ultimately it is found that there was only some omission without any mens rea or connivance with anyone in any manner, naturally on the basis of such evidence the SEBI cannot give any further directions. If there is available evidence, SEBI can proceed further in the matter of giving directions against a particular Chartered Accountant as envisaged by Sections 11 and 12 of the SEBI Act and Regulations in this behalf.*

22. Thus, on a reading of the judicial dicta referred to in the preceding paragraphs, it becomes abundantly clear that in order to hold an auditor guilty of aiding/abetting a fraudulent scheme pertaining to the securities market, his/its active connivance/collusion with the management of the said company must be established from the evidence available on record. From the discussions in the preceding paragraphs, I note that the at the time when the Noticee had started the auditing of FHL/FHsL, there was no reason for an auditor to be alarmed with respect to the issue of the ICDs, since the same were being already provided over a long period of time as a regular business practice of FHL/FHsL and there was no default in regular repayment of them. Subsequently, over the period of 5 quarters staring from June 2016 and till June 2017 that there were cases of false representation of timely receipt of the repayment of ICDs, perpetrated allegedly by the then management of FHL/FHsL. The investigation of SEBI does not allege the Noticee to be an active participant in any manner in the said fraudulent scheme of misrepresentation of the repayments of ICDs. The investigation of SEBI does not also allege or establish that the Noticee was even aware of the said fraudulent scheme.

23. On the contrary, it is observed from the investigation of SEBI that the Noticee had refused to sign unqualified unaudited financial information of FHL Group (which included FHsL) pending clarity on recoverability of the ICDs, which were not repaid as contracted on September 30, 2017. Subsequently on February 6, 2018, the Noticee vide an email to the then Audit and Risk Management Committee of FHL,

requested to conduct an investigation on the matters pertaining to the issue and repayment of the ICDs. It is important to note that these actions were taken by the Noticee even *prior* to February 9, 2018, the date on which Bloomberg had published an article *inter alia* alleging that the promoters of FHL, had siphoned off around USD 78 million from the company, and stated that the Noticee (and his firm) refused to sign off on the company's second-quarter results until the funds were accounted for or returned. This article published by Bloomberg reportedly brought the allegedly fraudulent scheme orchestrated by the then management of FHL/FHsL to the notice of SEBI leading to the initiation of its investigation in the matter.

24. Thereafter, on the request of the Noticee, the then Audit and Risk Management Committee of FHL appointed an external independent law firm to conduct an investigation, *inter alia*, into the alleged issues concerning the ICDs. Subsequently, on February 28, 2018, the Noticee had issued a disclaimer of conclusion reports for the quarters ended September 30, 2017 and December 31, 2017. The report of the Noticee issued for the financial year ended March 31, 2018 was qualified with requisite disclosures in relation to the ICDs. Thereafter, on August 13, 2018, reported the issue relating to the outstanding ICDs to the Ministry of Corporate Affairs, similar to reporting under section 143(12) of the Companies Act, 2013. I note that all these steps were taken by the Noticee even prior to the publication of the Forensic Audit Report commissioned by SEBI. These conducts of the Noticee as detailed in this paragraph and the immediately preceding paragraph, do not indicate any *mala fide* with respect to its engagement with FHL/FHsL.

25. The investigation of SEBI has not alleged breach of any statutory obligation on the part of the Noticee for any period prior to the June 2016 quarter. Further, it is on record that the Noticee had objected to sign unqualified unaudited financial information of FHL Group for the June 2017 quarter, much prior to even the initiation of investigation by SEBI in the matter. The only allegation against the Noticee is that it had failed to unearth the allegedly fraudulent scheme of the then management of FHL/FHsL over a period of 5 quarters. As already discussed in details in the preceding paragraphs, the statutory provisions as well as the relevant judicial dicta on the subject recognizes the inherent limitation of an audit process in case senior management of the company willfully suppresses material facts from the auditor and/or employs a cleverly devised fraud with respect to the financial status of the company. The relevant standards of auditing and the relevant judicial pronouncements do not hold the auditors liable or responsible for a fraud perpetrated by the management of a company if it can be established that the auditor(s) had not colluded/connived with the management in the perpetration of the fraud. It is already seen that the investigation of SEBI does not anywhere indicate that the Noticee had participated in the alleged fraudulent scheme and/or even had knowledge of such a scheme. Further, the chain of events with respect to the conduct of the Noticee as an auditor as detailed immediately herein above, also runs contrary to any assumption of knowledge/ collusion/ connivance of the Noticee about the alleged fraudulent scheme of siphoning of funds of FHL/FHsL for the benefit of its erstwhile promoters.

26. The investigation also does not indicate how the Noticee had failed to act reasonably and with diligence except the alleged failure to understand that the funds being received by FHL/FHsL in the way of repayment by the borrowers were actually an act of rotating/ recycling of funds and not actual repayment of the ICDs. To this, the Noticee has provided its detailed reply as to how such an ascertainment was not possible without having access to the bank account statements of the three borrowers. It was prima facie observed in the investigation of SEBI that the Noticee had failed to reconcile ledger and bank statements which would have shown that there was recycling/rotation of funds through the bank accounts of FHL/FHsL and the borrowers. To this the Noticee has responded by stating that it had actually taken such measures but in the absence of access to the bank account statements of the borrowers it was not possible to understand the acts of rotation/ recycling of funds related to the ICDs and their falsified representation on the financial statements. Even if it is assumed that there has been a breach of a particular standard of accounting by the Noticee in this case as alleged, in the absence of any material to establish knowledge/collusion/connivance of the Noticee with such fraudulent scheme, the Noticee cannot be brought under the disciplinary/ penal jurisdiction of SEBI.

27. I therefore conclude that the charges of fraud and market manipulation leading to violation of the provisions of Sections 12A(a), (b), (c) of the SEBI Act, 1992 and Regulations 3(b), (c) & (d), 4(1) and 4(2)(f) & (r) of SEBI (PFUTP) Regulations, 2003, as leveled against the Noticee in the SCN dated April 9, 2021, cannot be

sustained and therefore the Noticee is not liable for monetary penalty under section 15HA or 15HB of the SEBI Act.

ORDER

28. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15-I of the SEBI Act, 1992 read with Rule 5 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, I hereby dispose of the Adjudication Proceedings initiated against Mr. Rashim Tandon, vide Show Cause Notice dated April 9, 2021.

29. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee and also to the Securities and Exchange Board of India.

Date: August 26, 2021 **G RAMAR**

Place: Mumbai **ADJUDICATING OFFICER**