

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER: Order/MC/VS/2021-22/15217-15228]

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

In respect of –

1. **Sumit Kumar & his Proprietorship firm viz. Vijay Bhagwandas & Co.** (ARUPK1589P) having address at Plot No. 433, 2nd Floor, Sector -1, Vaishali, Ghaziabad - 201012.
2. **Madhukar Dubey & his Proprietorship firm viz. Magnum Industrial Corporation** (AIJPD7329J) having address at Plot No. 325, 2nd Floor, Sector -3, Vaishali, Ghaziabad - 201 012.
3. **Satendra Kumar & his Proprietorship firm viz. A R Enterprise** (AWWPK8525E) having address at Plot No 3 Gali No 3 East Guru Angad Nagar Laxmi Nagar, Delhi- 110092.
4. **Goldline International Finvest Ltd** (CIN: L74899DL1992PLC050250) having address at Flat No. 116, 1st Floor, Hemkunt Chamber, 89, Nehru Place, New Delhi - 110019.
5. **LMR Green Realty Pvt. Ltd.** (CIN: U70101DL2012PTC231844) having address FFF - 50 / A, 2nd Floor, Ekta Bhavan Mangal Bazar, Laxmi Nagar, Delhi - 110092.
6. **Nikky Printing Press Pvt. Ltd.** (CIN: U22190DL2010PTC207535) having address at 106, 1st Floor Chabra Complex 8 Veer Saverkar Block Shakarpur East Delhi DI 110092.

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7. **Aavisha Credit Capital Pvt. Ltd** (PAN AAACA5715D) having address at 606 Kailash Building Kasturba Gandhi Marg New Delhi DI 110001.
8. **Nem Singh** (PAN CKIPS6770D) having address at A - 94, sector 19, Noida, UP – 201301.
9. **Channel Nine Entertainment Ltd.** (PAN AABCC8801H) having address at 3/12, Ground Floor, Asaf Ali Road, New Delhi – 110002.
10. **Gaj Raj Singh** (BEKPS1235N) having address at H.No. 62, Dhakka Village, GTB Nagar, Delhi - 110009.
11. **Kirti** (BBAPK7304P) having address at D/O. Mr. Deepak Kumar, H No. 62, Dhaka Village, GTB Nagar, New Delhi - 110 009.
12. **Neena Sood** (PAN AUGPS4373N) having address at 329, Asola Fathepur Beri, Mehrauli, Delhi – 110074.
13. **Dinesh Kumar Jindal** (PAN AAIPJ3373K) having address 1/14, Shalimar Park, Shahdara, Delhi – 110032.

In the matter of IPO of Channel Nine Entertainment Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) initiated adjudication proceedings against Sumit Kumar & his Proprietorship firm viz. Vijay Bhagwandas & Co. (“Noticee 1”), Madhukar Dubey & his Proprietorship firm viz. Magnum Industrial Corporation (“Noticee 2”), Satendra Kumar & his Proprietorship firm viz. A R Enterprise (“Noticee 3”), Goldline International Finvest Ltd (“Noticee 4”), LMR Green Realty Pvt. Ltd. (“Noticee 5”), Nikky Printing Press Pvt. Ltd. (“Noticee 6”), Aavisha Credit Capital Pvt. Ltd. (“Noticee 7”), Nem Singh (“Noticee 8”), Channel Nine Entertainment Ltd. (“Noticee 9”), Gaj Raj Singh (“Noticee 10”), Kirti (“Noticee 11”), Neena Sood (“Noticee 12”) and Dinesh Kumar Jindal (“Noticee 13”), under Sections 15HA , 15A (a) and 15 HB of the Securities

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and Exchange Board of India Act, 1992 (**“the SEBI Act”**) for alleged violations by the respective Noticees, of applicable provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (**“PFUTP Regulations”**), SEBI Act, SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (**“ICDR Regulations”**) and the Listing Agreement, pursuant to investigation into the Initial Public Offer of Channel Nine Entertainment Limited (**“Channel Nine”/ “the Company”/ “CNE”**).

APPOINTMENT OF ADJUDICATING OFFICER

2. Shri B.J. Dilip was appointed as Adjudicating Officer (AO) vide order dated June 16, 2017 to inquire into, and adjudge under Sections 15 HA, 15A (b) and 15 HB of the SEBI Act the aforesaid alleged violations of the Noticees. Subsequently, vide order dated December 29, 2020, the undersigned was appointed as Adjudicating Officer to inquire into and adjudge the alleged violations of the Noticees, under Section 15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter be referred to as the **“Adjudication Rules”**), and under Section 23-I of the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 2005 (**“SCRA Adjudication Rules”**). The appointment of the undersigned as AO was communicated vide order dated December 31, 2020.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice (**“SCN”**) No. dated 10.12.2018 were issued to Noticees 1-13, for the aforesaid alleged violations. The allegations levelled against the Noticees in the SCNs are summarized as follows:-

Background

4. SEBI passed an interim order based on the preliminary findings on 29.06.2015 restraining 254 entities from accessing the securities market and buying, selling or dealing in securities, either directly or indirectly, in any manner, till further directions in the matter of Initial Public Offer (**“IPO”**) of ECO Friendly Food

Processing Park Ltd., Esteem Bio Organic Food Processing Ltd., Channel Nine Entertainment Ltd ('CNE') and HPC Biosciences Ltd. Out of 254 entities against whom the interim order was passed, confirmatory order was passed against 235 entities as on 01.06.2017.

5. Further investigation in the matter was initiated by SEBI to ascertain if there was any violation of the provisions of SEBI Act, 1992 and/or SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 ("PFUTP Regulations") by the suspected entities *inter alia* in the trading in the scrip of CNE.
6. CNE came out with an IPO to raise Rs. 1167.00 lacs by way of issue of 46,68,000 equity shares of Rs. 10 each at an issue price of Rs. 25 which got listed at BSE- SME segment on March 12, 2013. The issue size constituted 30.10% of post issue shares, of Rs.10 each. Bidding Period of Issue opened on February 22, 2013 and closed on February 26, 2013. Registrar to the Issue was Beetal Financial & Computer Services Pvt. Ltd., (RTA) and Lead Manager was Guinness Corporate Advisors Pvt. Ltd. (BRLM).
7. Out of 254 entities debarred vide interim order dated 29.06.2015, 9 entities were part of the funding group entities. Out of 9 funding group entities, 6 entities funded the IPO applicants of CNE. In addition to the entities referred in interim order, 5 more entities were found who funded the IPO applicants. Following table shows the entities who were found to have connection with CNE directly / indirectly and funded the IPO applicants;

SN	Particulars	Connection - Fund Movement	Annexure
1	Goldline International Finvest Ltd. ('Goldline')	- Goldline received IPO proceeds of Rs. 500 lacs from CNE. - Goldline had funded money to Market Maker viz. Narayan Securities Ltd. and other HNI and RII category allottees. - Goldline having fund movement with M/s. Mayfair	Annexure – 3 contains the bank account statement.

		Infosolution Pvt. Ltd., M/s. AMS Powertronic Pvt. Ltd., LMR green Realty Pvt. Ltd., M/s. Avisha Credit Capital Pvt. Ltd. • Goldline received IPO proceeds of Rs. 239.60 lacs from ESTEEM. • ESTEEM given Rs. 245 lacs to ECO, the same was transferred by ECO to Goldline. • Goldline had fund movement with Mayfair Infosolution Pvt. Ltd., Guinness Securities Ltd and Sanjeev Agarwal. • Goldline received IPO proceeds from the ECO. Further, Goldline had huge fund movement with the ECO. • Goldline had also fund movement with the entities who had funded to IPO allottees viz. Aggrawal traders, AMS Powertronic Pvt Ltd, Bright Securities, Nisha Traders, Columbia Sales.	
2	Aavisha Credit capital Pvt. Ltd.	• It had funded to the IPO allottees of CNE. • It had received IPO proceeds of Rs. 15.50 lacs from the company. Further, it had fund movement with Eco, Goldline and Mayfair Infosolution. • Avisha had fund movement with the company i.e. Eco and Goldline.	
3	Sumit Kumar <u>Proprietorship Firm</u> • Vijay Bhagwan das & Co. • Durga Prasad & Co.	• Vijay Bhagvandas & Co. had received funds from Aavia Buildtech Pvt. Ltd. • Vijay Bhagwandas & Co. received funds from A R Enterprise and Nisha Traders. • Durga Prasad & Co. received funds from Alliance Traders, A R Enterprise and N V Sales Corporation. • Durga Prasad & Co. also had fund movement with Mayfair Infosolution Pvt. Ltd. • Address(Bank KYC): Plot No. 3, Gali No. 3, East Guru Angad Nagar, Laxmi Nagar, Delhi - 110092. • Proprietorship firm of Sumit kumar, Madhukar Dubey and Satendra Kumar having common address. (Bank KYC)	

		- Sumit kumar is the director in following companies (MCA Database); i. Core Capital Services Ltd. ii. AMS Powertronic Pvt. Ltd. iii. MAA Taluka Buildcon Pvt. Ltd.	
4	Madhukar Dubey <u>Proprietorship Firm</u> - Alliance Traders - N V Sales Corporation - A One Furniture - Magnum Industrial	- Magnum Industrial received funds from N V Sales Corporation. Further, N V Sales had received funds from HPC Bioscience Ltd. - N V Sales Corporation had fund movement with Khan Enterprises, AMS Powertronic Pvt. Ltd. - A One Furniture received funds from Magnum Industrial. - Alliance Traders received funds from Columbia Sales, AMS Powertronic Pvt. Ltd., Mayfair Infosolution Pvt. Ltd., A One Furniture. - N V Sales Corporation received funds from ECO, A R Enterprise, Durga Prasad & Co., and Alliance Traders. - A One Furniture received funds from DPRS Buildcon. Further, DPRS Buildcon received from Goldline and Deep Jyoti. - Magnum Industrial received funds from Eco and A One Furniture. - Madhukar Dubey received funds from AMS Powertronic Pvt. Ltd. for making ASBA application. - Address (Bank KYC): Plot No. 3, Gali No. 3, East Guru Angad Nagar, Laxmi Nagar, Delhi - 110092. - Proprietorship firm of Sumit kumar, Madhukar Dubey and Satendra Kumar having common address. (Bank KYC)	
5	Satendra Kumar <u>Proprietorship Firm</u> - Bright Securities - A R	- It had received funds from N V Sales Corporation. - Further, it had a fund movement with AMS Powertronic Pvt. Ltd. and Mayfair Infosolution Pvt. Ltd. - Nisha Traders received funds from Magnum Industrial and Bright Securities.	

	Enterprise • Nisha Traders	- Bright Securities received funds from Nisha Traders, Magnum Industrial and A One Furniture. - A R Enterprise received funds from ECO and Shiv Traders. - Nisha Traders received funds from ECO, Alliance Traders, N V Sales Corporation and A One Furniture. Address (Bank KYC): Plot No. 3, Gali No. 3, East Guru Angad Nagar, Laxmi Nagar, Delhi - 110092. - Proprietorship firm of Sumit kumar, Madhukar Dubey and Satendra Kumar having common address. (Bank KYC) - Satendra Kumar is the director in following companies ((MCA Database) - Core Capital Services Ltd.	
6	LMR Green Realty Pvt. Ltd.	It had received funds from Goldline International Finvest Ltd.	
7	Mayfair Infosolution Pvt. Ltd.	- It had fund movement with Goldline, Aavia Buildtech Pvt. Ltd. - It had received IPO proceeds of Rs. 81 lacs from the company. - It had fund movement with Aavia Softech Pvt. Ltd, and Gracious Software Pvt Ltd. - It had fund movement with AMS Powertronic Pvt. Ltd., Alliance Traders. Director Name (MCA Database): 1)Sumit Kumar 2) Vinay Kumar - Mayfair is connected with AMS Powertronic Pvt. Ltd., Core Capital Services Ltd., through common directors.	
8	Nikki Printing press Pvt. Ltd.	- It had received funds of Rs. 28 lacs from M/s. Nisha Traders and Rs. 7 lacs from M/s. Amsons Apparels Pvt. Ltd. - It had fund movement with Goldline, Mayfair Infosolution, AMS Powertronic and Madhukar Dubey.	

		• Director Name (MCA Database): 1)Sumit Kumar 2) Vinay Kumar • Nikky Printing press Pvt. Ltd. is connected with Mayfair Infosolution Pvt. Ltd, AMS Powertronic Pvt. Ltd., Core Capital Services Ltd., through common directors.	
9	Aavia Buildtech Pvt. Ltd.	• It had received IPO proceeds of Rs. 40 lacs from the company. • Company received funds from IPO proceeds of Eco. • Aavia Buildtech Pvt. Ltd. and Aavia Softech Pvt. Ltd. having common address : 1/2486, Gali No. 26, Ramnagar, Modern Shahdra, East Delhi - 110032. (MCA Website) • Aavia Buildtech Pvt. Ltd. and Aavia Softech Pvt. Ltd. having common Director: 1) Kamal Singhal 2) Ramprakash. (MCA Website). • Mr. Ramprakash is the proprietor of M/s. Khan Enterprise and Ms/. Aggrawal Traders.	
10	Amsons Apparels Pvt. Ltd.	• It had fund movement with AMS Poertronic Pvt. Ltd., Goldline, Madhukar Dubey and Core Capital services Pvt. Ltd..	
11	Nem Singh	• It had received Rs. 1.5 each from 3 different entities viz. 1 Mamta Bhardwaj, 2) Umed Singh Bhutoria HUF and Mr. Ajay. • Further, LMR Green Realty Pvt. Ltd. had funded to him for subscription of ECO shares, subsequently the same was sold by him and the same amount utilized for making application in CNE IPO. • Further, Ms. Mamta Bhardwaj and Mr. Ajay were also funded by the funding group entities to them for subscription of ECO shares.	

8. Entities at Sr. No. 1 to 11 above are hereinafter referred as funding group entities.

Analysis of Bidding Data and Allotment :

9. Following table shows the detail of category-wise applications received (before technical rejection & withdrawal of application):

Date of Bid	No. of Applications	No. of shares applied
MARKET MAKER	1	2,40,000
HNI	62	29,58,000
RII	274	16,44,000
Total	337	48,42,000

10. The issue received 337 applications for 48,42,000 equity shares (including market maker application for 2,40,000 shares) resulting in subscription of 1.04 times. 17 applications for 1,38,000 shares were rejected for reason for rejection as detailed below;

Reason for rejection of Application	No. of Applications	No. of shares Rejected
PAN mismatch	4	60,000
Multiple	4	24,000
Invalid DPId - Clid	6	36,000
Applied by Minor	2	12,000
Applied in wrong category	1	6,000
Total	17	1,38,000

11. Post rejection, total valid applications were 320 for 47,04,000 shares which was 1.01 times of offer size. Category wise allotment details are as under:

Date of Bid	No. of shares applied	No. of shares allotted	No. of Allottees whom shares allotted	No. of shares Application rejected
QIB/MARKET MAKER	2,40,000	2,40,000	1	-
HNI	29,58,000	28,98,000	61	42,000
RII	16,44,000	15,48,000	258	96,000
Total	48,42,000	46,86,000	320	1,38,000

12. On perusal of bank accounts of the retail investors, it was observed that out of 274 retail applicants, applications of 90 applicants were funded by the funding group entities who received the funds back from the IPO proceeds. Out of 90 such applicants, 85 applicants got allotment of 5,10,000 shares. In market maker category the application for 2,40,000 shares was also found funded by the funding group. Further, in HNI category, out of applications received from 62 applicants for 29,58,000 shares, 28,98,000 shares were allotted to 61 applicants on proportionate basis. Out of 28,98,000 shares allotted to HNI, 12,30,000 shares were found to be funded by the funding group entities. Details of the IPO allottees who received funds from funding group entities for making IPO application and Bid data were given at Annexure 4 of the SCN.

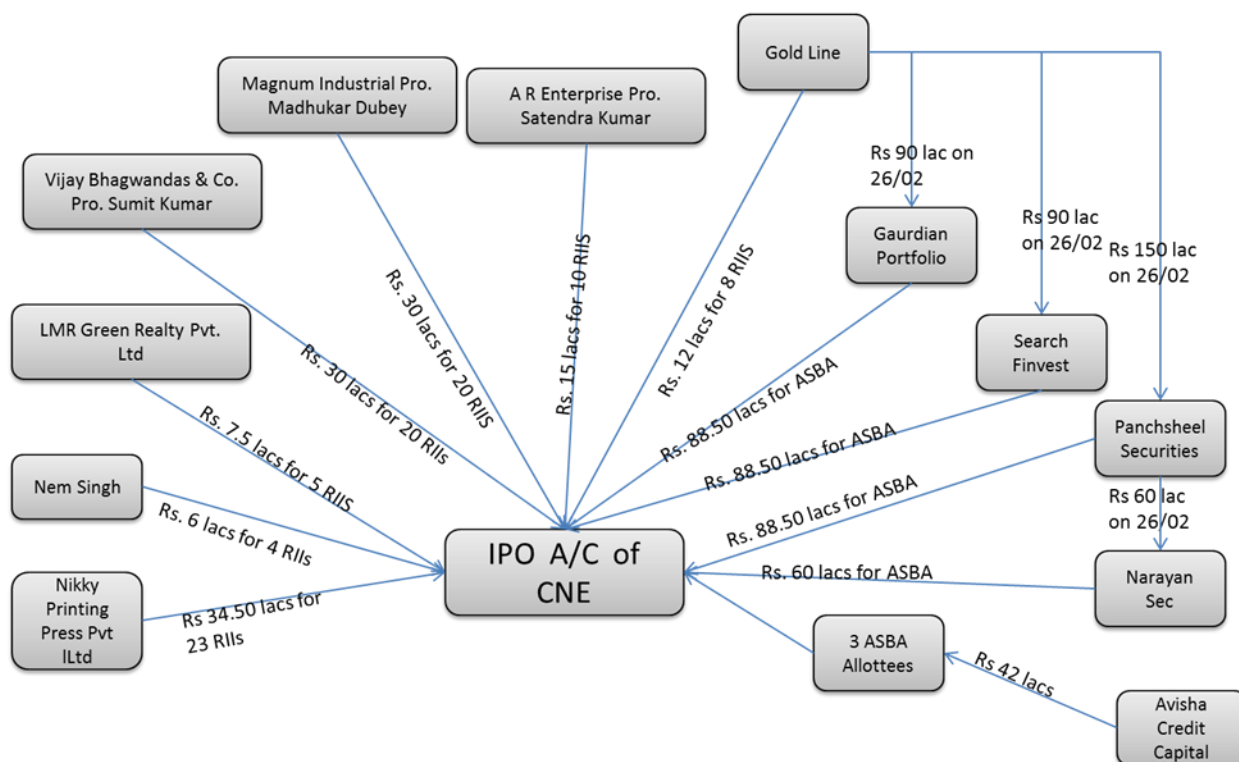
13. Out of 11 funding group entities, 8 entities had funded to the IPO of applicants of CNE. Following table shows the details of the funding by the funding group entities;

SN o	Name	Bank A/c no.	Remarks	Annexure
1	Sumit Kumar	Yes Bank - 0136839000 02337	Vijay Bhagwandas & Co. had issued 20 cheques of Rs. 1.50 lacs each on behalf of 20 Non ASBA retail investors.(20 allottees got allotment) - It had received Rs. 25 lacs from Aavia Buildtech Pvt. Ltd. and also had fund movement with Mayfair Infosolution Pvt. Ltd. - It had also issued cheques in the IPO of Eco friendly food Processing Park Ltd.	Annexure - 3 Contains bank account statement
2	Madhukar Dubey	Yes - 0136839000 02209	Magnum Industrial Corporation. had issued 20 cheques of Rs. 1.50 lacs each on behalf of 20 Non ASBA retail investors.(20 allottees got allotment) - It had received Rs. 30 lacs from N V Sales Corporation. Further, N V Sales had received Rs. 50 lacs from HPC Bioscience Ltd. - It had also issued cheques in the IPO of Eco friendly food Processing Park Ltd. and HPC Bioscience Ltd.	
3	Satendra Kumar	Yes - 0136839000 02230	A R Enterprise had issued 10 cheques of Rs. 1.50 lacs each on behalf of 20 Non ASBA retail investors.(9 allottees got allotment) - It had received Rs. 15 lacs from N V Sales Corporation. - Further, it had a fund movement with AMS Powertronic Pvt. Ltd. and Mayfair Infosolution Pvt. Ltd.	
4	Goldline	ICICI -	Goldline International Finvest Ltd had given Rs. 1.50 lacs to 8 Non	

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	International Finvest Ltd.	6630051204 49	ASBA retail investors each.(6 allottees got allotment) • Further, it had also given Rs. 360 lacs to four ASBA allottees viz. Panchsheel Securities Pvt. Ltd., Guardian Portfolio Consultants Pvt. Ltd., Serach Finvest Pvt. Ltd. and Narayan Securities Ltd. • Goldline received Rs. 500 lacs from CNE IPO proceeds. • Goldline had also funded money in the IPO of Eco friendly Food Processing Park Ltd.	
5	LMR Green Realty Pvt. Ltd.	IDBI - 0109102000 031994	• <u>LMR Green Realty Pvt. Ltd.</u> had issued 5 cheques of Rs. 1.50 lacs each on behalf of 5 Non ASBA retail investors.(5 allottees got allotment) • LMR had also funded on behalf of non ASBA allottees in the IPO of Eco Friendly Food Processing Park Ltd. • Further, it had received funds from Goldline International Finvest Ltd.	
6	Nikky Printing Press Pvt. Ltd.	Axis - 9110200341 43910	• <u>Nikky Printing Press Pvt. Ltd.</u> had issued 23 cheques of Rs. 1.50 lacs each on behalf of 23 Non ASBA retail investors. (21 allottees got allotment). • Nikky Printing press Pvt. Ltd. has also issued cheques on behalf of Non ASBA Allottees of Esteem Bio Organic Food Processing Park Ltd. • It had received funds of Rs. 28 lacs from M/s. Nisha Traders and Rs. 7 lacs from M/s. Amsons Apparels Pvt. Ltd. • Nikky Printing Press Pvt. Ltd and AMS Powertronic Pvt. Ltd. having common director viz. Sumit Kumar & Vinay Kumar.	
7	Aavisha Credit Capital Pvt. Ltd.	HDFC - 0598274000 0567	• <u>Aavisha Credit Capital Pvt. Ltd.</u> had given Rs. 30 lacs to Vijay Jindal, Rs. 6 lacs each to Rajni Aneja & Pranay Aneja for making application in the IPO. • Aavisha Credit Capital Pvt. Ltd. had received money from the Goldline International Finvest Ltd., Eco Friendly Food Processing Park Ltd and Esteem Bio Organic Food Processing Park Ltd.	
8	Nem Singh	Punjab National Bank - 1765000100 292872	• It had received Rs. 1.5 each from 3 different entities viz. 1 Mamta Bhardwaj, 2) Umed Singh Bhutoria HUF and Mr. Ajay. • Further, LMR Green Realty pvt. Ltd. had funded to him for subscription of ECO shares, subsequently the same was sold by him and the same amount utilized for making application in CNE IPO. • Further, Ms. Mamta Bhardwaj and Mr. Ajay were also funded by the funding group entities to them for subscription of ECO shares.	

14. Diagrammatic Presentation of Funding by Funding group entities to the IPO applicants:



15. Following table shows the summary of the amount funded by the funding entities and number of shares allotted:

SNo	Funding Entity	Amount funded (Rs. in lacs)	No. of allottees got allotment	No. of shares allotted
1	Goldline International Finvest Ltd.	342	10 (4 ASBA)	13,38,000
2	Sumit Kumar	30	20	1,20,000
3	Madhukar Dubey	30	20	1,20,000
4	Satendra Kumar	15	9	54,000
5	LMR Green Realty Pvt. Ltd.	7.50	5	30,000

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6	Nikky Printing Press Pvt. Ltd.	34.50	21	1,26,000
7	Aavisha Credit Capital Pvt. Ltd.	42	3	1,68,000
8	Nem Singh	6	4	24000
	Total	507	92	19,80,000

16. From above, it can be seen that out of 46,86,000 shares allotted, 19,80,000 shares i.e. 42.25% of shares were allotted to the entities who received funds to make application in IPO from entities directly/ indirectly connected with CNE. List of the ASBA / Non ASBA entities who had received funds from entities directly/ indirectly connected with CNE to make application in IPO was given in Annexure 4 of SCN.

17. Further, it was observed that the CNE transferred major IPO proceeds to the funding group entities on day on which it received from the escrow account. From the funding of IPO applicants and diversion of IPO proceeds to the funding group entities, it was alleged that CNE and its directors had planned a scheme to get sufficient IPO application to get listing on SME- exchange platform with the help of funding group entities.

18. The application money was funded by the funding group entities connected to company who received funds from company directly / indirectly, and hence the allotment of these 19,80,000 shares (5,10,000 (RII) + 240000 (Market Maker) + 12,30,000 (HNI) was allegedly not genuine.

19. Based on the above, it was observed that IPO of CNE would not have got minimum subscription had the funding group not funded the applicants. CNE i.e. Noticee 9 and its Directors i.e. Noticees 10 and 11, in connivance with the 8 funding group entities i.e. Noticees 1 to 8, employed a fraudulent scheme to get the IPO subscribed in a fraudulent manner by directly/ indirectly funding the IPO applicants. Hence, it was alleged that Noticees-1 to 11 have violated Sections

12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3 (a), (b), (c) and (d) and 4(1) of PFUTP Regulations.

IPO Proceeds Utilization:

20. As per the prospectus (Annexure 5 of the SCN), the proposed utilisation of the IPO proceeds was as under;

SN	Particulars	Amount (Rs. in lacs)
1	To Finance the estimated expenditure of production of two (2) films	700.00
2	Strengthening Distribution operations	350.00
3	Brand building	60.00
4	Issue Expenses	57.00
	Total	1167.00

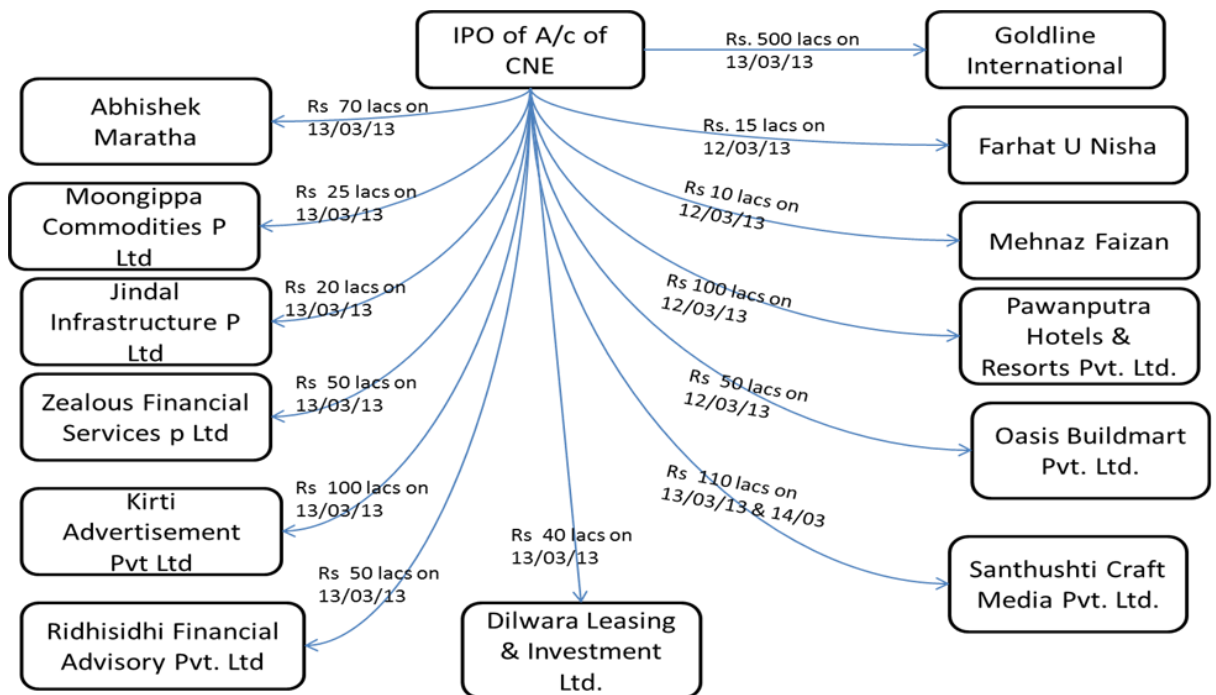
Reply of CNE w.r.t. end use of IPO proceeds:

21. CNE, vide its reply dated 24/12/2015, received by SEBI on 29/01/2016 through post and by e-mail on 18/01/2016 informed that the utilization of the IPO proceeds as on 31/03/2015 (Rs in lacs) is as under;

Particulars	As on 31/03/2015 (Rs in Lacs)
To Finance the estimated expenditure of production of two films	480.00
Strengthening Distribution operations	311.11
Brand Building	54.19
Issue Expenses	29.30
Unutilized portion	296.90
Total	1167.00

22. However, CNE did not provide any supporting documents w.r.t. the utilization of the IPO proceeds. Further, e-mail was sent on 19/01/2016 & 29/01/2016 seeking supporting documents w.r.t. the IPO proceeds utilization. No supporting documents were submitted by CNE w.r.t. the IPO proceeds utilized by them as claimed in its reply dated 24/12/2015 (Annexure 6 to SCN).

23. On perusal of the HDFC Bank account statement of CNE following fund movement was observed;



24. It was observed that company had raised Rs. 1171.50 lacs through IPO out of which Rs. 1140 lacs were transferred to the various entities, out of which Rs. 500 lacs transferred to funding group entities (Annexure 3 to SCN).

Reply of entities who received the IPO proceeds from CNE and comments of CNE

25. Summons u/s 11 (3) & 11C(3) of SEBI Act, 1992 were issued to the entities to whom the IPO proceeds were transferred by CNE. The following table shows the status of the delivery of summons and reply of the said entities and CNE;

S.N o.	Name of Entity	Amount Received (Rs in lacs)	Summons delivered (Y/N)	Reply Received (Y/N)	Reply of Entity	Comments of company (e-mail 04/05/16)
1	Kirti Advertisement	100	N	N	Summons returned undelivered	Advance given against the object disclosed in the

	nt Pvt. Ltd					prospectus.
2	Zealous Financial Services Pvt. Ltd.	50	N	N	Summons returned undelivered	Company has given loan on interest.
3	Ridhisidhi Financial Advisory Pvt. Ltd	50	N	N	Summons returned undelivered	Company has given loan without interest.
4	Moongipa Commodities Pvt. Ltd.	25	N	N	Summons returned undelivered	Company has given loan on interest.
5	Jindal Infrastructure Pvt. Ltd.	20	N	N	Summons returned undelivered.	Company has given loan on interest.
6	Dilwara Leasing & Investment Ltd.	40	Y	Y	Company replied that it had taken a loan from the CNE.	Company has given loan on interest.
7	Pawanputra Hotels & Resorts Pvt. Ltd.	100	Y	Y	Company replied that it had taken a interest bearing loan from the CNE.	Company has given loan on interest.
8	Goldline International Finvest Ltd.	500	Y	Y	Extension of time -Till date No reply received	Company has given loan without interest.
9	Mehnaz Faizan	10	Y	Y	Vide e-mail dt. 08/04/2016, he replied that he had borrowed Rs. 10 lacs on 12/03/2013 and the same were repaid on 01/04/2014.	Company has given loan without interest.
10	Farhat U Nisha	15	Y	Y	Vide e-mail dt. 08/04/2016, she replied that she had borrowed Rs. 15 lacs on 12/03/2013 and the same were repaid on 04/03/2014.	Company has given loan without interest.
11	Santushti Craft Media Pvt Ltd.	110	N	N	Summons returned undelivered	Advance given against the object disclosed in the prospectus.
12	Abhishek	70	-	-	-	Company has given loan

	Maratha					on interest.
13	Oasis Buildmart (India) Pvt. Ltd.	50	-	-	-	Repayment of Loan to the company.
		1140				

26. Vide e-mail dated 04/05/16, CNE replied w.r.t. the fund movement out of IPO proceeds but no supporting document was provided w.r.t. the fund utilized for objects, repayment of loan or loan given to entities. Further, CNE had not disclosed anything about the inter-corporate deposits taken by company and that the same shall be repaid from the IPO proceeds in the prospectus, which was subsequently repaid from the IPO proceeds, as replied by CNE. Further, it was observed that the entity at Sr. No. 8 was funding group entity / connected to the funding group entities.

27. CNE replied that company had utilized the IPO proceeds as per the objects stated in the prospectus, but no supporting documents with regard to the utilization of IPO proceeds were provided. Further, on perusal of the bank account statement of CNE, it was observed that the CNE transferred Rs. 1140 lacs to various entities including funding group entities immediately on receipt of IPO proceeds. It clearly shows that the Company planned to use funds for extending it to funding group entities. However, the same was not disclosed in the object of the issue stated in the prospectus. Further, the following was mentioned in the prospectus;

"(Prospectus Para 12, page 43) There is no Buyback, Standby or similar arrangement for the purchase of Equity Shares by our Company/ Promoters/Directors/Lead Manager for purchase of equity shares offered through the prospectus."

"(Prospectus para 29, page 44) No payment, direct, indirect in the nature of discount, commission and allowance or otherwise shall be made either by us or by our Promoters to the persons who receive allotments, if any, in this issue."

Adjudication Order in respect of 13 entities in the matter of IPO of Channel Nine Entertainment Ltd.

28. In view of the above, it was observed that CNE employed a scheme with the help of funding group entities to get listing of the securities on exchange platform and planted false news w.r.t. objects of IPO etc. Therefore, Noticees-9 to 13 were alleged to have violated Sec. 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3 (a), (b), (c), (d) and 4 (1), 4(2) (c), 4(2) (f), 4(2) (k) and 4(2) (r) of SEBI (PFUTP) Regulations, 2003.

29. Hence, CNE failed to disclose material information which is true and adequate so as to enable the applicants to take an informed investment decision, in alleged violation of Regulation 57 (1) of the ICDR Regulations. Directors of CNE viz. Noticees-10 to 13 who signed the prospectus allegedly misled the investors by giving false and misleading information w.r.t. the objects of the IPO stated in the prospectus and non-disclosure of loan taken by the company. In view of the same, it was alleged that CNE and its directors at the time of IPO, viz Noticees-9 to 13 violated regulation 57(1) of SEBI (ICDR) Regulations, 2009.

Listing Agreement Violation:

30. As per the clause 45 and 46 of listing agreement for SME, issuers have to furnish on a half yearly basis, a statement to the stock exchange indicating the variation between projected utilization of funds made by it in its prospectus.

31. BSE, vide e-mail dated 27/09/2016, informed that CNE made disclosure of IPO proceeds utilization as on March 31, 2015 where CNE claimed that it had utilized Rs. 480 lacs to finance the estimated expenditure of production of two films, Rs. 311.11 lacs for strengthening distribution operation, Rs. 54.19 lacs for brand building, Rs. 29.30 lacs for issue expenses and remaining Rs. 296.90 lacs were unutilized.

32.As mentioned in the preceding paragraphs, it was observed that CNE did not utilize the IPO proceeds as per the objects stated in prospectus. Hence, it was alleged that CNE/ Noticee-9 gave wrong disclosure w.r.t. the IPO proceeds utilization to the stock exchange in alleged violation the provisions of clause 45 and 46 of SME listing agreement r/w section 21 of SCRA, 1956.

Summons to Director of CNE:

33.Since CNE failed to provide the complete information along with supporting documents with regard to the utilization of the IPO proceeds, summons u/s 11 C(5) of SEBI Act, 1992, and reminders for personal appearance before Investigating Authority were sent to Directors of CNE for statement recording. Details of the date of issue, delivery of summons and status of appearance are as under;

Gaj Raj Singh - Promoter & Executive Director

Particulars	Issue Date	Delivery Status (Yes / No)	Date on which called for Appearance	Status of Appearance (Yes / No)
Gaj Raj Singh - Summons	17/05/2016	Y	31/05/2016	No
First Reminder of Summons	01/06/2016	Y	15/06/2016	No
Second Reminder of summons	17/06/2016	Y	29/06/2016	E- mail dt. 29/06/2016, replied that he is on vacation, so grant exemption.
Third reminder through e-mail dt. 29/06/2016	29/06/2016	Y	12/07/2016	E-mail dt. 12/07/2016, requested to given hearing at SEBI NRO office and failed to appear before IA.
As requested by him, opportunity given at SEBI NRO through e-mail 19/07/2016	19/07/2016	Y	05/08/2016	Failed to appear before IA at SEBI NRO. Further, e-mail dt. 04/08/2016 (05:32 PM, after office hours) informed that counsel was out of station, so not able to attend.

34. The aforesaid Noticee-10 failed to appear before Investigating Authority despite giving sufficient opportunities as requested i.e. on 31/05/2016, 15/06/2016, 29/06/2016, 12/07/2016 and 05/08/2016. In view of the above, it was observed that the Noticees-9 and 10 failed to comply with summons by providing incomplete and misleading information to SEBI with respect to the use of IPO proceeds, hampering the investigation process and violated the provisions of Sections 11 (3) and 11C (3) of the SEBI Act, 1992.
35. The SCN was served on Noticees 9, 10, 11 by SPAD. The SCN was served upon Noticees 4, 5, 7, 9, 10, 11 by e-mail dated 30.09.2020.
36. Noticee 13 vide letter dated 17.05.2019 stated that he had not received the SCN, but had received a Hearing Notice dated 07.05.2019, that the Noticee 13 was ill with life-threatening diseases, and that he may be provided with a copy of the SCN and previous Hearing Notices.
37. Subsequently, vide newspaper publication dated 09.10.2020, the SCN was served upon Noticees 1, 2, 3, 6, 8, 12 and 13 in terms of Rule 7 (d) of the Adjudication Rules.
38. Hearing Notices dated 21.05.21 providing opportunity of hearing by videoconferencing to Noticees 4, 5, 7 and 9 on 15.06.21, were served on the said Noticees vide e-mails dated 21.05.21. Further, Hearing Notices were served upon Noticees 1-3, 6, 8, 12 and 13 by newspaper publication in the Hindustan Times, (English – Delhi Edition) and Dainik Jagran (Hindi – Delhi Edition) on 16.06.2021 in terms of Rule 7 (d) of the Adjudication Rules, providing opportunity of hearing on 22.06.21. Hearing Notices dated 08.06.21 were served on Noticees 10 and 11 vide e-mails dated 08.06.21 providing opportunity of hearing by videoconferencing on 22.06.21.
39. During the opportunity of hearing provided to Noticee 7 through videoconferencing by WebEx on 02.12.21, Mr. Kushal Shah (Advocate) appeared

as Authorised Representative of Noticee 7 and reiterated the written submissions contained in Noticee's reply dated 01.12.2021.

40. The reply of Noticee 7 dated 01.12.21 stated the following:-

- (a) On the similar subject matter, directions have been issued by the Ld. WTM, SEBI vide Order dated 22.12.2020 and Noticee 7 was already undergoing debarment since 29.06.2015 (i.e. date of Interim Order). In view thereof, Noticee 7 submitted that it had already suffered w.r.t the subject matter and hence respectfully submitted that the SCN should be disposed of at the threshold itself.
- (b) The SCN was issued to Noticee 7 based on the fact that it had funded the IPO allottees i.e. provided Rs. 30 lakhs to Mr. Vijay Jindal, former director of Avisha, and Rs. 6 lakhs each to Ms. Rajni Aneja and Mr. Pranay Aneja for making application in the IPO.
- (c) That Noticee 7 received Rs. 15.50 lakhs of IPO proceeds from CNE is an erroneous fact mentioned in the SCN. Noticee 7 had fund movement with Goldline International Finvest Ltd. (Noticee 4), Eco Friendly Food Processing Park Ltd. ("Eco") Esteem Bio Organic Food Processing Park Ltd. ("Esteem") and Mayfair Infosolutions ("Mayfair").
- (d) Mr. Vijay was one of the director of Avisha from 08.06.1994 to 01.05. 2021. At the relevant time i.e. February and March 2013, the operation of the Avisha was handled by Mr. Vijay. Unfortunately, he passed away on 01.05.2021 after suffering from Covid-19. Pertinently, he was involved in the day to day functioning and operation of Avisha and the alleged Fund Transfers were also executed with his knowledge. Hence, the present reply was prepared on the basis of the limited information available with Noticee 7 on the subject matter. A copy of death certificate of Mr. Vijay was enclosed as Annexure- "2" of the reply.
- (e) Avisha was incorporated w.e.f. 29.09.1992 and is registered with Registrar of Companies, Delhi & Haryana. Pertinently, it is a NBFC registered *with* RBI bearing registration no. 14.01086 engaged in the

financial activities of Borrowing and lending money. The said certificate of registration was issued by RBI on 08.09.1998. A copy of certificate of Registration dated 08.09.1998 issued by RBI was enclosed as Annexure- "3" to reply.

- (f) Avisha Credit Capital Pvt. Ltd. was subsequently converted in to a public limited company and consequently name was changed to "Avisha Credit Capital Limited" vide fresh certificate of incorporation dated 13.11.1995 issued by the Registrar of Companies, Delhi & Haryana.
- (g) The Company was incorporated for the purpose of carrying out the business of loans and investments as provided in the Main Objects of the Company, which are mentioned herein below:
- I. To carry on the business of financial consultants, advisors, underwriters, and to cater to all kinds of professionalized services relating to financial control and management including arranging for loans, other financial assistance and other allied matters.
 - II. To act advisers and/or consultants on all matters relating and problems relating to administration, management, organization, storage, system and training of personnel marketing selling methods and principles to develop procedures and principles of and engage in research of all the problems relating to the administration, formation, of companies, projects, developing of computers, systems taxation, company matters, implementation of projects relating to the rendering of any services and to render the above services to any person, firm, company, trust, association, institution, society, body corporate, Government department public or local authorities, or any other organization whatsoever to render all such other services as may be ancillary or incidental to any of the forgoing matters ariid. problems in the field.

- (h) The present SCN is issued after a gap of more than 5 and half years from the date of IPO of CNEL. However, no reasons have been mentioned in the SCN for belatedly initiating present proceedings after an unexplained delay of more than 5 and half years. Hence, great prejudice is caused to Noticee 7 in defending its case at this stage and on this ground alone the SCN deserves to be dismissed.
- (i) Noticee 7 never received any funds from CNEL. Pertinently, Rs 15.50 Lakhs was received by us from Esteem on 08.02.2013, 11.02.2013 and 18.02.2013. The aforesaid fact has also been confirmed vide the Interim Order dated 29.06.2015 issued by the Ld. Whole Time Member, SEBI ("Interim Order"). In the said Interim Order the details of alleged transfer of IPO proceeds is mentioned under Table 8, Para 19 in Page No. 9 and 10. (Annexure - 2 of the SCN). Therein at Sr. No. 37 of the said Table it is mentioned that we have received Rs 15.50 Lakhs from Esteem. Pertinently, the Amount as mentioned -from CNEL is Zero (0). Further, we humbly submit that in the Interim Order the Funding and Subscription of IPOs by Funding Group is mentioned under Table 6, Para 15 on Page No. 7 and 8 of Interim Order. On perusal of unnumbered Sr. No. 9 of the table, the amount as mentioned against our name w.r. t IPO of CNEL is Zero (Unnumbered Sr. No. 9 at Unnumbered Column Nos. 8 to 10). A copy of relevant Pages of Interim Order dated 29.06.2015 was enclosed and marked as Annexure- "5" to the reply.
- (j) The funds from Esteem were received in the following manner:-

S.No.	Date	Amount
1	08.02.2013	1 lakh
2	11.02.2013	1 lakh
3	18.02.2013	13.50 lakhs
Total		15.50 lakhs

- (k) Pertinently, the amount of Rs 15.50 Lakhs as received from Esteem was the Loan granted by Noticee 7 to them and even pursuant to the receipt of the aforesaid amount of Rs 15.50 Lakhs and other Funds there was an outstanding Balance of Rs 2.75 Lakhs as on 31.03.2013. SCN did not take proper cognizance of the said facts.
- (l) Fund transfer with Mayfair - On perusal of Basis of connection of Mayfair (Ref. Table under Para 6 of the SCN, Sr. No. 7 at Page No. 6 of the SCN), it is humbly submitted that there are references of fund transfer of Mayfair with other persons/ entities and there are also various basis on which connection are alleged of Mayfair with other persons/ entities. It is humbly submitted that on the said table name of Noticee 7 is not mentioned in the same. Further, it is submitted that the Financial transactions with Mayfair are in its normal and ordinary course of business. The allegation of connection with Mayfair is not based on fact.
- (m) Fund transfer with Eco, Esteem and Goldline – Noticee 7 is an NBFC registered with RBI and engaged in the business of lending fund to persons/ corporate entities based on their fund requirements and it in turn it borrowed funds from other entities whenever it required liquidity in its operations.
- (n) The fund transfer/s financial transaction with Goldline, Eco and Esteem are on regular basis and in normal course of its business activities. A copy of Ledger Accounts of Goldline, Eco and Esteem for the period from 01.04.2012 to 31.03.2015 in the Books of Avisha Credit Capital Ltd. were enclosed hereto marked as Annexure - "6", Annexure- "6A" and Annexure- "6B" of its reply, respectively.
- (o) Apart from its alleged fund transfer with Goldline, Noticee 7 is not alleged to be connected to any of the other Co- Noticees to the SCN.

- (p) The fund transfer with Eco, Esteem and Goldline have no bearing in the present case. Pertinently, the fund transfers with them were in the normal and ordinary course of business activities.
- (q) The allegation that Noticee 7 is connected with CNEL because of the inter se fund transfer between CNEL and Goldline and the fact that Noticee 7 had transaction with Goldline is too far-fetched and not sustainable in fact and in law. It is pertinent to mention that the aforesaid fact is itself vague as Noticee cannot know the transactions executed by Goldline with any other persons/ entities.
- (r) Submissions on funds provided for alleged application in IPO –
- (s) Fund transfer with Mr. Vijay – It was alleged that Noticee 7 provided Rs 30 Lakhs to Mr. Vijay on 26.02.2013. Pertinently, during the relevant time he was the director of Avisha and as on 01.04.2012, Avisha owed Rs 1.31 crores (approx.) to Mr. Vijay.
- (t) The said amount of Rs 30 Lakhs was repayment of Loan taken by Avisha from Mr. Vijay. It is pertinent to mention that pursuant to repayment of Rs 30 Lakhs to Mr. Vijay, Noticee 7 still owed him Rs 1.03 Crores (Approx.) on 26-02-2013.
- (u) The said fund transfer of Rs 30 Lakhs was not in isolation and there were regular fund transfers between Mr. Vijay and Avisha. A copy of the Ledger account of Mr. Vijay Jindal in the Books of Avisha from the period from 01.04.2012 to 26.02.2013 was enclosed hereto marked as Annexure - "7" to the reply.
- (v) Fund transfer with Ms. Rajni and Mr. Pranay – Noticee 7 had granted short term loan of Rs 6 Lakhs each to Ms. Rajni and Mr. Pranay on 26.02.2013. It is humbly submitted that it is not possible for Noticee 7 to know as to where they used the said funds.
- (w) Noticee 7 received back the said amount from Ms. Rajni and Mr. Pranay on 05.03.2013. A copy of Ledger account of Ms. Rajni and Mr. Pranay in the books of Avisha for the period from 01.04.2012 to 31.03.2014 is enclosed hereto marked as Annexure - "8" and Annexure - "SA" respectively.

- (x) Noticee 7 had not applied for shares in the IPO of CNE hence it had not been in receipt of any gains or profits. Role, participation and involvement of Noticee 7 in SCN is completely different, distinct and separate from in comparison to the other entity/person to whom common SCN was issued. Noticee 7 was not involved in any modus operandi of the alleged scheme.
- (y) The term 'Fraud' as elucidated by the Hon'ble Supreme Court of India in State Of Maharashtra vs Dr. Budhikota Subharao (1993 SCR (2) 311, 1993 SCC (3) 339) is "false representation by one who is aware that it was untrue with an intention to mislead the other who may act upon it to his prejudice and to the advantage of the representor. It has been defined statutorily in Section 17 of the Contract Act as including certain acts committed with connivance or with intent to deceive another. In Administrative Law it has been extended to failure to disclose all relevant and material facts which one has a positive duty to disclose." Noticee 7 was unaware about the alleged scheme, if any, let alone being a part of it.
- (z) It is wholly untenable for any authority to arrive at a finding of '*fraud*' solely on the basis that Noticee 7 had fund transfer with certain entity/entities that were allegedly connected to the company
- (aa) It is well-settled law that the taint of '*fraud*' cannot be attached or charged on preponderance of probability. In fact, compelling evidence should be brought on record for a person/entity to be held liable for '*fraud*'.

41. Vide reply dated 09.07.21 Noticees 9, 10 and 11 made the following submissions:-

- (a) Noticee No. 11 viz. Ms. Kirti had resigned from the directorship of the Company w.e.f 31.05.2014, Noticee No. 12 viz. Ms. Neena Sood, had resigned from the directorship of the Company w.e.f 25.05.2018 and Noticee No. 13 viz Mr. Dinesh Kumar Jindal had resigned from the directorship of the company w.e.f 27.06.2013.

- (b) Any directions issued to the past directors of the company would be travesty of justice since presently they are not associated with the Company hence are not in a position to carry out or enforce any directions, if any, issued against the Company.
- (c) Main allegation against Noticees 9, 10 and 11 is that they ".....at the time of IPO in connivance with the funding group entities employed a fraudulent scheme to get the IPO subscribed in a fraudulent manner by directly/ indirectly funding the IPO applicant.... "(Ref. Para 16 on page no. 11 of SCN).
- (d) As statutorily required, u/ r 106P of SEBI (Issue of Capital and Disclosure Requirements) Regulation, 2009, our public issue (IPO) was hundred percent underwritten. For ready reference, a copy of underwritten agreement executed on 16.01.2013 between Channel Nine Entertainment Limited(Issuer Company) and Guinness Corporate Advisors Private Limited (Formerly known as Guinness Merchant Bankers Pvt. Ltd.) is enclosed herewith marked as Annexure).
- (e) Further, the Lead Manager to the issue carried out Due Diligence before the Public issue of the company. The Lead Manager to the issue had issued Due-Diligence certificate which has been attached as Annexure "A-I" for your ready reference.
- (f) Therefore, it is incomprehensible to make any allegation against Noticees 9, 10 and 11 for involvement in any undesirable manner for indulging into bringing any subscription for the IPO of Noticee 9.
- (g) On perusal of the SCN, Noticees 9-11 understood that the aforesaid allegations had been made on the basis of their financial dealings with the entities listed under Para 5 of the SCN. On further perusal of tabular data enumerated under Para 5 of SCN, Noticees 9-11 understood that their financial dealings with M/S. Goldline International Finvest Ltd. ("Goldline") and various persons / entities is the basis for making allegations against Noticees 9-11. Financial dealings of Noticees 9-11 with Goldline and with all other persons/ entities were purely commercial in nature and they had no control on business

activity independently carried by them. Therefore, no adverse inferences can be drawn against Noticees 9-11 for their inter se financial dealing between them.

- (h) Goldline was incorporated in 1992, as an Investment Company. It is BSE listed company and Script code is 538180. On perusal of their website, Noticees understand that main Business of Goldline is basically Investments Selling, Buying, Acquiring and holding of shares, debentures, bonds, stock, units etc., providing various Services i.e. Advancing loan against Listed shares, securities and properties, margin funding, Corporate Loans, Personal Loans, Trading in shares & Securities, Trade Financing & Bills Discounting. Besides, it also undertakes money market operations and treasury management and they are acting as administrators of various investment trust. For ready reference, a copy of corporate information downloaded from the website of BSE was enclosed. It is totally incomprehensible to make Noticees 9-11 accountable and responsible for their financial dealing with other entities, as listed in the table enumerated under Para 5 of SCN.
- (i) In due compliance of statutory provision of law, Noticee 9 had come out with an IPO to raise Rs.1171.50 lacs by way of public issue of 46,86,000 equity shares of Rs. 10 each at an issue price of Rs.25 which got listed at BSE-SME segment on 12.03.2013. At the relevant time, Noticee 9 had appointed Guinness Corporate Advisors Private Limited (Formerly known as Guinness Merchant Bankers Pvt. Ltd.) as a "Lead Managers" ("BRLM") and M/S. Cameo Corporate Services Ltd. as "Registrar to the Issue" to carry out all legal procedure and compliances for purpose of IPO.
- (j) Both aforesaid entities are responsible SEBI registered intermediaries and both have acted and ensured that the underline process of IPO was properly followed.
- (k) Besides aforesaid, BRLM and RTA, even stock exchange (BSE) has also ensured that proper compliances are carried out before granting

permission for listing. Therefore, issuance of SCN by SEBI after a gap of more than five years from the closure of the issue is really disheartening and shocking.

- (l) Reliance is placed on Order dated 06.09.2017, passed by Ld. Whole Time Member, SEBI disposing of the proceedings initiated against 216 entities, who had been *prima facie* alleged to be involved in price manipulation and IPO manipulation in four scrips including that of Noticee 9/Channel Nine. For ready reference, the relevant Para from Order dated 06.09.2017 is reproduced below:-

“Since, the prima facie findings are not observed in the investigation reports in respect to aforementioned 216 entities at paragraph 4 above, the directions issued earlier vide interim orders need not be continued and hence need to be revoked.”

- (m) Thus, SEBI has not found any irregularity on price and IPO in case of Channel Nine/Noticee 9.
- (n) Section 12A (a), (b) and (c) of SEBI Act, 1992 are with regard to indulgence in manipulation and deceptive device, insider trading and Substantial Acquisition of Securities and control. As stated herein above, Noticees 9-11 have not carried out any activity in secondary market segment of capital market. Therefore, they strongly deny indulgence into any of such activity. Since most of the adverse findings were broadly made on assumption and presumption only without having any correlation of facts and finding as elaborated in SCN hence SCN deserves to be withdrawn at the threshold itself.
- (o) As a law abiding citizen, we are complying with all securities market related laws and other vital provisions of Income Tax, Corporate laws Companies Act, 1956 and Companies Act, 2013 as applicable to us from time to time and there is no default in this regard.
- (p) The objects of the Issue are to finance our business expansion plans and achieve the benefits of listing on the SME platform of BSE Ltd. The main objects of our Memorandum of Association permit us to undertake our existing activities and the activities for which the funds

are being raised by us, through the present Issue. The fund requirement and deployment is based on internal management estimates and has not been appraised by any bank or financial institution. The Objects of the issue were to finance our business expansion plans and achieve the benefits of the listing on the SME platform of BSE Limited.

- (q) Noticee 9 started its operations in the year 2002 and Noticee 9 has successfully involved in distribution of various films in diversified territories of India. In order to expand its operations, it intends to get a footprint in production of films. Initially it would like to commence with two small budget films in order to keep the downside low in case the films not doing well. During the span of its distribution operations, it has been able to establish good relations with artists, directors, technicians etc. which it can leverage for its films.
- (r) Noticee 9 had already stated in its prospectus that in accordance with compliance of Section 61 of the Companies Act, 1956 and with the policies established by the Board, will have flexibility in deploying Issue proceeds received by us from the Issue during the interim period pending utilization for the Objects of the Issue as described above. The particular composition, timing and schedule of deployment of the Issue proceeds will be determined by Noticee 9 based upon the deployment of the projects. Pending utilization for the purposes described above, Noticee 9 intended to temporarily invest the funds from the Issue in interest bearing liquid instruments including deposits with banks and investments in mutual funds and other financial products, such as principal protected funds, derivative linked debt instruments, other fixed and variable return instruments, listed debt instruments and rated debentures.
- (s) The allegation against Noticee 9 that it mislead the investor by giving the false and misleading information w.r.t the objects of the IPO stated in the prospectus and non-disclosures of loan taken by the Company is totally baseless.

- (t) Noticee 9 would like to submit details of utilization of IPO under each head as mentioned in the prospectus at the time of IPO along with their supporting papers.
- (u) Details of Utilization of IPO Proceeds towards Production of Films:
- (v) Noticee 9 advanced Rs. 1,00,00,000/- (one crore only) to Kirti Advertisement Private Limited out of IPO Proceeds towards the pre-production of Film as stated one of the Objects of the issue in the Prospectus. Copy of Ledger Account of Kirti Advertisement Private Limited in the Books of Channel Nine Entertainment Limited and Bank Statement of Channel Nine Entertainment Limited reflecting the payment of Rs. 1,00,00,000/- (Rupees One Crores Only) made to Kirti Advertisement Private Limited has been attached as Annexure — "E".
- (w) Santushti Craft Media Private Limited had approached the company for production of Films. The Company had advanced of Rs. 1,60,00,000 (Rupees One Crores Sixty Lakhs Only) out of IPO Proceeds towards the pre-production of Films as stated one of the Objects of the issue in the Prospectus. Copy of Ledger Account of Santushti Craft Media Private Limited in the Books of Channel Nine Entertainment Limited and Bank Statement of Channel Nine Entertainment Limited reflecting the payment of Rs. 1,60,00,000 made to Santushti Craft Media Private Limited has been attached as Annexure F.
- (x) Mr. Abhishek Maratha had approached the company for production of Films. The Company had advanced of Rs. 70,00,000/- (Rupees Seventy Lakhs Only) out of IPO Proceeds towards the pre-production of Film as stated one of the Objects of the issue in the Prospectus. Copy of Ledger Account of Mr. Abhishek Maratha in the Books of Channel Nine Entertainment Limited and Bank Statement of Channel Nine Entertainment Limited reflecting the payment of Rs. 70,00,000 made to Mr. Abhishek Maratha is attached as Annexure G.
- (y) Details of utilisation of brand building - The Company had spend Rs. 15,89,817/- (Rupees Fifteen Lakhs Eighty Nine Thousand Eight Hundred Seventeen only) on Brand Building through a party organized

by the Company in The Metropolitan Hotel, Delhi. The Company had invited very famous personalities in this party to promote the Company in Film Industries. Copy of Ledger Account of The Metropolitan Hotel in the Books of Channel Nine Entertainment Limited and Bank Statement of Channel Nine Entertainment Limited reflecting the payment of Rs. 15,89,817/- (Rupees Fifteen Lakhs Eighty Nine Thousand Eight Hundred Seventeen only) made to The Metropolitan Hotel has been attached as Annexure H.

(z) Details of utilisation of issue expenses - Ledger Account of Guinness Corporate Advisors Private Limited (Lead Manager to the Issue), Invoice and Bank Statement of Channel Nine Entertainment Limited reflecting the payment of Rs. 18,09,670/- (Rupees Eighteen Lakhs Nine Thousand Six Hundred Seventy Only) made to Guinness Corporate Advisors Private Limited attached as Annexure I.

(aa) Ledger Account of SAP Print Solutions Private Limited and Bank Statement of Channel Nine Entertainment Limited reflecting the payment of Rs. 2,39,106/- (Rupees Two Lakhs Thirty Nine Thousand One Hundred Six Only) made to SAP Printer attached as Annexure-J.

(bb) Ledger Account of Innovative Communication (Advertisement Expenses) and Bank Statement of Channel Nine Entertainment Limited reflecting the payment of Rs. 1,32,654/- (Rupees One Lakhs Thirty Thousand Six Hundred Fifty Four Only) made to Innovative Communication for newspaper advertisement attached as Annexure K.

(cc) Ledger Account of Beetal Financial and Computer Services Private Limited (Registrar and share transfer agent) and Bank Statement of Channel Nine Entertainment Limited reflecting the payment of Rs. 1,00,346/- (Rupees One Lakhs Three Hundred Forty Six Only) made to Beetal Financial and Computer Services Private Limited attached as Annexure L.

(dd) Ledger Account of Bombay Stock Exchange Limited (BSE Limited) in the books of Channel Nine Entertainment Limited reflecting the payment of Rs. 2,68,334/- (Rupees Two Lakhs Sixty Eight Thousand

Three Hundred Thirty Four Only) made BSE Limited has been attached as Annexure M.

- (ee) Ledger Account of Depository expenses in the books of Channel Nine Entertainment Limited reflecting the payment of Rs. 1,27,429/- (Rupees One Lakh Twenty Seven Thousand Four Hundred Twenty Nine Only) made to depositories (NSDL & CDSL) and invoices raised by depositories has been attached as Annexure N.
- (ff) Ledger account of Gem Tours and Travels Private Limited and various miscellaneous expenses in the books of Channel Nine Entertainment Limited, Invoice and Bank statement reflecting the total payment of Rs. 2,84,565/- (Rupees Two Lakhs Eighty Four Thousand Five Hundred Sixty Five Only) has been attached as Annexure O.
- (gg) Details of utilisation towards investment in short-term advances - Short term advance of Rs. 40,00,000 was given to Dilwara Leasing & Investment Limited. Copy of Ledger Account of Dilwara Leasing & Investment Limited in the Books of Channel Nine Entertainment Limited, Copy of Bank statement of Channel Nine Entertainment Limited reflecting the amount transferred to Dilwara Leasing & Investment Limited and copy of Form 26 AS has been attached as Annexure P.
- (hh) Short term advance of Rs. 20,00,000 (twenty lakhs only) was given to Jindal Infrastructure Private Limited. Copy of Ledger Account of Jindal Infrastructure Private Limited. in the Books of Channel Nine Entertainment Limited, Copy of Bank statement of Channel Nine Entertainment Limited reflecting the amount transferred to Jindal Infrastructure Private Limited and copy of Form 26 AS has been attached as Annexure Q.
- (ii) Short term advance of Rs. 25,00,000/- (Rupees Twenty Lakhs Only) was given to Moongipa Commodities Private Limited. Copy of Ledger Account of Moongipa Commodities Private Limited in the Books of Channel Nine Entertainment Limited, Copy of Bank statement of Channel Nine Entertainment Limited reflecting the amount transferred

to Moongipa Commodities Private Limited and copy of Form 26 AS has been attached as Annexure R.

- (jj) Short term advance of Rs. 50,00,000 (fifty lakhs only) was given to Zealous Financial Services Private Limited. Copy of Ledger Account of Zealous Financial Services Private Limited in the Books of Channel Nine Entertainment Limited, Copy of Bank statement of Channel Nine Entertainment Limited reflecting the amount transferred to Zealous Financial Services Private Limited and copy of Form 26 AS has been attached as Annexure S.
- (kk) Short term advance of Rs. 1,00,00,000 (one crore only) was given to Pawanputra Hotels & Resorts Private Limited. Copy of Ledger Account of Pawanputra Hotels & Resorts Private Limited in the Books of Channel Nine Entertainment Limited, Copy of Bank statement of Channel Nine Entertainment Limited reflecting the amount transferred to Pawanputra Hotels & Resorts Private Limited and copy of Form 26 AS has been attached as Annexure —T.
- (ll) Short term advance of Rs. 15,00,000/- (fifteen lakhs only) was given to Ms. Farhat U Nisa. Copy of Ledger Account of Ms. Farhat U Nisa in the Books of Channel Nine Entertainment Limited and Copy of Bank statement of Channel Nine Entertainment Limited reflecting the amount transferred to Ms. Farhat U Nisa attached as Annexure U.
- (mm) Short term advance of Rs. 10,00,000 (Rs. Ten lakhs only) was given to Ms. Mehnaz Faizan. Copy of Ledger Account of Ms. Mehnaz Faizan in the Books of Channel Nine Entertainment Limited and Copy of Bank statement of Channel Nine Entertainment Limited reflecting the amount transferred to Ms. Mehnaz Faizan attached as Annexure – V.
- (nn) Oasis Buildmart India Private Limited was a full service infrastructure company with construction capabilities in roads & bridges, mining water sanitation, sewage, dams, irrigation, industrial, commercial and residential buildings. The Company had borrowed a total sum of Rs.70,00,000 (seventy lakhs only) from Oasis Buildmart India Private Limited as short term loan during the period from 03.10.2012 to

18.10.2012 for the purpose of strengthening distribution expenses on behalf of the Company which was one of the objects of the issue. Further, Channel Nine (the Company) had transferred the amount of Rs. 70,00,000/- (Rupees Seventy Lakh only) on 09.03.2013 & 12.03.2013 towards the repayment of short term loan taken from Oasis Build-mart India Private Limited from surplus fund of the Company. Copy of Ledger Account of Oasis Buildmart India Private Limited in the Books of Channel Nine Entertainment Limited has been attached as Annexure —W.

- (oo) With regard to rendering utmost services to shareholder and stakeholder, Noticee 9 submitted that, since inception it had taken adequate care to ensure that they remain fully satisfied. Further, there has not been any complaint against Noticee 9 of any nature whatsoever. Thus, none of the shareholders and the stakeholders have raised any grievance against Noticee 9 in any manner, whatsoever.
- (pp) Channel Nine company is listed on SME segment only wherein as per policy of government, there is leniency in comparison to company listed on main board of Stock Exchange. Being the Small and Medium Scale Enterprise, it faces large constraints of finance etc.
- (qq) True, clear and correct appreciation of its financial dealings are not completely appreciated by SEBI and only selected financial dealings of the Company are taken into consideration.
- (rr) Financial dealings of another company have largely been considered for making allegation against Channel Nine, without appreciation of its business model as well as others including Goldline.
- (ss) On non-compliance with summons - With regard to findings that Channel Nine did not provide complete information to the SEBI and misleading information to the SEBI, apparently on perusal of the detailed SCN, Channel Nine stated that there is no finding in SCN, which shows that investigation was in any way hampered due to lack of information. In fact, in course of investigation, relevant and material information was provided to SEBI such as Bank Statement etc.

Therefore, SEBI could conclude investigation in proper and discreet manner as can be seen from the contents of the SCN.

42. I note that, through the SCN and the hearing notices, the Noticees were advised to furnish their reply, if any, within stipulated time, failing which, it shall be presumed that the Noticees have no reply to submit and the matter will be proceeded on the basis of the material available on record. Since Noticees 1-6, 8, 12 and 13 have not responded to the SCN despite sufficient opportunity granted to them to submit a reply and attend hearings, I hereby proceed to adjudicate *ex parte* and on the basis of material on record in respect of the allegations levelled against them.

43. In the light of the allegations contained in the SCNs, the submissions of Noticees 7 and 9-11 in respect of the allegations made in the SCNs and relevant material available on record, I hereby proceed to decide the case on merits.

CONSIDERATION OF ISSUES AND FINDINGS

44. The issues arising for consideration in the instant proceedings are:-

- I. Whether the following legal provisions were violated by the Noticees:-
 - a) Section 12A (a), (b) and (c) of the SEBI Act and Regulations 3 (a), (b), (c) and (d) and 4 (1) of the PFUTP Regulations by Noticees 1-11 and Section 12A (a), (b) and (c) of the SEBI Act and Regulations 3 (a), (b), (c), (d) and 4 (1), 4 (2) (c), 4 (2) (f), 4 (2) (k), 4 (2) (r) of the PFUTP Regulations by Noticees 9-13
- II. Whether Noticees 9-13 have violated Regulation 57 (1) of the ICDR Regulations and whether Noticee 9 has violated Clauses 45 and 46 of the SME Listing Agreement
- III. Whether Noticees 9 and 10 have violated Section 11(3) and 11C (3) of the SEBI Act

- IV. If yes, whether the Noticees 1-11 are liable for imposition of monetary penalty under Section 15HA of the SEBI act, and whether Noticees 9-13 are liable for imposition of monetary penalty under Sections 15 HA and 15 HB of the SEBI Act, and whether Noticees 9 and 10 are liable for imposition of monetary penalty under Section 15A (a) of the SEBI Act, and whether Noticee 9 is liable for monetary penalty under Section 23E of the SCRA?
- V. If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5 (2) of the Adjudication Rules?

I. Whether Section 12A (a), (b) and (c) of the SEBI Act and Regulations 3 (a), (b), (c) and (d) and 4 (1) of the PFUTP Regulations were violated by Noticees 1-11 and Section 12A (a), (b) and (c) of the SEBI Act and Regulations 3 (a), (b), (c), (d) and 4 (1), 4 (2) (c), 4 (2) (f), 4 (2) (k), 4 (2) (r) of the PFUTP Regulations were violated by Noticees 9-13

45. Before going into the merits of the case, I take note of the preliminary submission made by Noticee 7 that it has been prejudiced due to inordinate delay of more than five and a half years in issuance of SCN.

46. In this regard I note from material on record that investigating authority in the matter was appointed in August 2015, after SEBI had passed an interim order dated 29.06.2015 directing the restraining of 238 entities including the Noticees from accessing the securities market till further directions. The investigation in the said matter was completed in June 2017. Adjudicating officer was appointed in July 2017, and SCN was issued on 10.12.2018. I also note that proceedings for the same violations had been initiated in the matter under Section 11(1), 11(4) and 11B of SEBI Act, which were concluded when order was passed on 22.12.2020. Subsequently, hearing opportunity was provided to the Noticees vide HN dated 21.05.21. Hence, it cannot be accepted that there has been inordinate delay in the proceedings which has prejudiced the Noticee. At the same time, I

also note that there is no limitation prescribed in SEBI Act or Regulations for issuance of SCN or for completion of the Adjudication proceedings.

47. I now proceed to examine the issue of violation of the PFUTP Regulations by Noticees 1-13.

48. The first set of allegations against Noticees 1 to 11 arises from the fact that subscription to the IPO of Noticee 9, which took place between 22.02.2013-26.02.2013, was largely funded by Noticees 1 to 8 who were connected to Noticee 9 through fund flows. The application money of 92 applicants was funded by the Noticees 1 to 8 who were connected to Noticee 1 and who received funds from Noticee 1 directly or indirectly, and were allotted of 19,80,000 shares (5,10,000 (RII) + 240000 (Market Maker) + 12,30,000 (HNI) was allegedly not genuine. The 92 IPO allottees, detailed at Annexure 4 to the SCN, were funded an amount of Rs. 5.07 crores, leading to allotment of 19, 80, 000 shares which amounted to 42.25% of the total of 46, 86, 000 shares allotted in the IPO of Noticee 9.

49. The details of the funding as brought in the SCN by each of the Noticees 1 to 8 of the 92 applicants are as follows:

- (a) Noticee 1 had issued 20 cheques of Rs. 1.50 lacs each on behalf of 20 Non ASBA retail investors.(20 allottees got allotment). It had received Rs. 25 lacs from Aavia Buildtech Pvt. Ltd. and also had fund movement with Mayfair Infosolution Pvt. Ltd.
- (b) Noticee 2 had issued 20 cheques of Rs. 1.50 lacs each on behalf of 20 Non ASBA retail investors.(20 allottees got allotment). It had received Rs. 30 lacs from N V Sales Corporation. Further, N V Sales had received Rs. 50 lacs from HPC Bioscience Ltd.
- (c) Noticee 3 had issued 10 cheques of Rs. 1.50 lacs each on behalf of 20 Non ASBA retail investors.(9 allottees got allotment) It had received Rs. 15

lacs from N V Sales Corporation. Further, it had a fund movement with AMS Powertronic Pvt. Ltd. and Mayfair Infosolution Pvt. Ltd.

- (d) Noticee 4 had given Rs. 1.50 lacs to 8 Non ASBA retail investors each (6 allottees got allotment). Further, it had also given Rs. 360 lacs to four ASBA allottees viz. Panchsheel Securities Pvt. Ltd., Guardian Portfolio Consultants Pvt. Ltd., Serach Finvest Pvt. Ltd. and Narayan Securities Ltd. Noticee 4 received Rs. 500 lacs from Noticee 9 IPO proceeds.
- (e) Noticee 5 had issued 5 cheques of Rs. 1.50 lacs each on behalf of 5 Non ASBA retail investors.(5 allottees got allotment). Noticee 5 had received funds from Noticee 4.
- (f) Noticee 6 had issued 23 cheques of Rs. 1.50 lacs each on behalf of 23 Non ASBA retail investors. (21 allottees got allotment). It had received funds of Rs. 28 lacs from M/s. Nisha Traders and Rs. 7 lacs from M/s. Amsons Apparels Pvt. Ltd. Noticee 6 and AMS Powertronic Pvt. Ltd. have common directors viz. Sumit Kumar & Vinay Kumar.
- (g) Noticee 7 had given Rs. 30 lacs to Vijay Jindal, Rs. 6 lacs each to Rajni Aneja & Pranay Aneja for making application in the IPO. Noticee 7 had received money from Noticee 4, Eco Friendly Food Processing Park Ltd and Esteem Bio Organic Food Processing Park Ltd.
- (h) Noticee 8 had received Rs. 1.5 each from 3 different entities viz. 1 Mamta Bhardwaj, 2) Umed Singh Bhutoria HUF and Mr. Ajay. Noticee 5 had funded to Noticee 8 for subscription of ECO shares, subsequently the same was sold by him and the same amount utilized for making application in CNE IPO.

50. Noticee 9 transferred major IPO proceeds including to Noticee 4 on the day on which it received the proceeds from the escrow account. From the funding of IPO applicants and diversion of IPO proceeds to the funding group entities, it was alleged that Noticee 9 and its directors, Noticee 10 and 11 had planned a scheme to get sufficient IPO application to get listing on SME- exchange platform with the help of funding group entities.

51. The legal provisions allegedly violated by the Noticees are reproduced below for reference: -

SEBI Act

“12A. No person shall directly or indirectly—

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

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

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;”

PFUTP Regulations

“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.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves: –

(c) advancing or agreeing to advance any money to any person thereby inducing any other person to offer to buy any security in any issue only with the intention of securing the minimum subscription to such issue;

(f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

(k) an advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors”.

(r) planting false or misleading news which may induce sale or purchase of securities.”

52. The fund transfers made by the Noticee 9 (CNE) to Noticees 4 have not been denied by Noticee 9 except for trying to explain that the said transfers were commercial in nature. Hence, I note that Noticee 9 admittedly transferred IPO proceeds to those entities who had directly or indirectly funded 92 IPO applicants as mentioned in para above.

53. I note that the Noticee 9 has not given any explanation as to why it accepted cheques from numerous third parties on behalf of the 92 IPO applicants, who were apparently not even related to such third party funding entities.

54. The total sum that was alleged to have been involved in the funding the afore-stated allottees comes to Rs.4.95 Crore. Noticee 9 had transferred Rs.5.00 Crore to account of Noticee 4 and the amount almost matches with the funding made

to the IPO allottees allegedly by the Company through different funding entities including Noticee 4.

55. I further note that Noticee 7 had received Rs.75 lakhs from Noticee 4 on 25.02.2013, and Rs.17 lakhs on 15.02.2013. Noticee 7 funded 3 IPO allottees to the extent of Rs.42 lakhs. In its reply, Noticee 7 has not denied the transactions, and has only stated that it had regular commercial transactions with Noticee 9 and other related entities.

56. Noticee 7 has tried to justify the fund transfers to Mr. Vijay, Ms. Rajni and Mr. Pranay as repayment of loans taken from Mr. Vijay as part of regular fund transfers between them, and short term loans to Ms. Rajni and Mr. Pranay. However, other than ledger accounts in the books of Noticee 7 itself, there is no evidence submitted by Noticee 7 to support the genuineness of its claim. Noticee 7 has also claimed that it did not benefit from the alleged scheme as it did not apply in the IPO and did not make any profits. However, this does not address the allegation in respect of the Noticee 7 that it acted as a conduit in the funding group during the IPO.

57. Based on the facts as stated above, and after considering the reply of Noticee 9 as well as Noticee 7, I find that their submissions have not refuted the charges made against them. The facts of the fund movement, funding of allottees and return of funds to Noticee 4 post IPO substantiate that the IPO subscription was not genuine but was orchestrated by funding various applicants and the funds so provided were returned by Noticee 9 to Noticee 4. Similarly, funding was provided by Noticees 1 to 3, 5, 6 and 8 by entities related to Noticee 9.

58. Noticees 9-11 have contended that Noticees 11, 12 and 13 had resigned from directorship of CNE w.e.f. 31.05.2014, 25.05.2018 and 27.06.2013 respectively. However, they have not denied that they were directors of Noticee 9 during the time when the prospectus dated 16.02.2013 was circulated amongst ordinary

investors, and when Noticee 9 accepted cheques from funding group entities (Noticees 1-8) connected to it on behalf of IPO applicants and allottees.

59. In view of above, it is established that the IPO of Noticee 9 was not genuinely subscribed but was funded by entities connected to Noticee 9. Noticee 10 and 11 were directors of Noticee 9 and hence liable for actions of Noticee 9. Hence, it is established that Noticee 9 and its Directors i.e. Noticees 10 and 11, in connivance with the 8 funding group entities i.e. Noticees 1 to 8, employed a fraudulent scheme to get the IPO subscribed in a fraudulent manner by directly/ indirectly funding the IPO applicants in violation of Sections 12A (a), (b) and (c) of SEBI Act, 1992 and Regulations 3 (a), (b), (c) and (d) and 4(1) of PFUTP Regulations.

60. I now proceed to deal with the allegations relating to utilisation of IPO proceeds.

61. The objects of the issue mentioned at page 45 of the prospectus were as follows:-

“The objects of the Issue are to finance our business expansion plans and achieve the benefits of listing on the SME platform of BSE Ltd as well. We believe the listing will enhance the brand image of our Company.

The objects of the Issue are as stated below:

- 1. To finance the estimated expenditure of production of two (2) films*
- 2. Strengthening Distribution operations*
- 3. Brand Building*
- 4. To meet the expenses of the Issue*

The main objects of our Memorandum of Association permits us to undertake our existing activities and the activities for which the funds are being raised by us, through the present Issue. The fund requirement and deployment is based on internal management estimates and has not been appraised by any bank or financial institution.

Our funding requirements are dependent on a number of factors which may not be in the control of our management, changes in our financial condition and current commercial conditions. Such factors may entail rescheduling and / or

Adjudication Order in respect of 13 entities in the matter of IPO of Channel Nine Entertainment Ltd.

revising the planned expenditure and funding requirement and increasing or decreasing the expenditure for a particular purpose from the planned expenditure.”

62. The details of proposed utilisation of IPO proceeds were mentioned at pages 45-49 of the prospectus. Noticees 9-11 have claimed that management of the Company retained flexibility in deployment of issue proceeds pending utilisation for objects of the issue and that the objects of the issue included achieve benefits of listing on the SME platform of BSE Ltd. This contention by the Noticees amounts to an admission that the IPO proceeds were utilised to ensure listing of the company on SME platform, which was clearly not an object of the issue which was stated to be as follows:

- 1. To finance the estimated expenditure of production of two (2) films*
- 2. Strengthening Distribution operations*
- 3. Brand Building*
- 4. To meet the expenses of the Issue*

63. As established in the preceding para, IPO proceeds were used to make payments to the tune of Rs. 5 crore for repayment to Noticee 4, an entity connected to Noticee 9, which directly and indirectly funded 42.25% of the IPO allotment of Noticee 9.

64. As per the proposed year-wise deployment of funds at page 48 of the prospectus, the IPO proceeds were supposed to be utilised over a period of 3 years from FY 2012-13 to FY 2014-15. However, Rs. 11.40 crores (almost all the IPO proceeds) was paid to the 13 entities mentioned at paragraphs 22 and 23 of the SCN, including Noticee 4, by 13.03.2013 which is the day after the shares of Noticee 1 got listed on the BSE-SME segment on 12.03.2013. The purpose of these payments was stated to be either an advance or loan on interest or repayment of loan.

65. In their reply Noticees 9-11 have attempted to prove that the utilisation of IPO proceeds was in line with the objects of the IPO. A summary of their explanation is presented below:-

S. No.	Entity name/recipient of IPO proceeds as per Noticees' reply	Amount transferred by Noticee 9/CNE	Category of utilization as per objects of issue	Nature of evidence
1	Kirti Advertisements	1,00,00,000	Pre-production of films	Copy of Ledger Account of Kirti Advertisement Private Limited and bank statement of CNE
2	Santushti Craft Media,	1,60,00,000	Pre-production of Films	Copy of Ledger Account of Santushti and bank statement of CNE
3	Abhishek Maratha	70,00,000	Pre-production of Films	Copy of Ledger Account of Abhishek Maratha and bank statement of CNE
4	The Metropolitan Hotel Delhi	15,89,817	Brand Building	Ledger account of Metropolitan Hotel and bank statement of CNE
5	Guinness Corporate Advisors Private Limited	18,09,670	Lead Manager to the Issue	Ledger Account and bank statement of CNE, invoices
6	SAP Print Solutions Private Limited	2,39,106	-	Ledger Account and bank statement of CNE
7	Innovative Communication	1,32,654	Newspaper advertisement	Ledger Account and bank statement of CNE
8	Gem Tours and Travels Private Limited	2,84,565	Miscellaneous expenses	Ledger of Gems Tours, invoice, bank statements at Annexure o
9	Beetal Financial and Computer Services Private Limited	1,00,346	RTA	Ledger Account and bank statement of CNE

10	BSE	2,68,334	Stock Exchange	Ledger Account of BSE in the books of CNE
11	NSDL and CDSL	1,27,429	Depositories	Ledger accounts and invoices of NSDL CDSL
12	Dilwara Leasing & Investment Limited	40,00,000	Investment in short-term advances	Ledger account of Dilwara Leasing, bank statement and Form 26AS of
13	Jindal Infrastructure Private Limited	20,00,000	Short term advance	Ledger account of Jindal Infrastructure, bank statement of CNE, Form 26 A of CNE at Annexure Q
14	Moongipa Commodities Private Limited	25,00,000	Short term advance	Copy of Ledger Account of Moongipa Commodities, Bank statement and Form 26 AS of CNE
15	Zealous Financial Services Private Limited	50,00,000	Short term advance	Copy of Ledger Account of Zealous, Bank statement and Form 26 AS of CNE
16	Pawanputra Hotels & Resorts Private Limited	1,00,00,000	Short term advance	Copy of Ledger Account of Pawanputra, Bank statement and Form 26 AS of CNE
17	Farhat U Nisa	15,00,000	Short term advance	Copy of Ledger Account of Farhat U Nisa, Bank statement of CNE
18	Mehnaz Faizan	10,00,000	Short term advance	Copy of Ledger Account of Farhat U Nisa, Bank statement of CNE
19	Oasis Buildmart India Private Limited	70,00,000	Repayment of amount borrowed as short term loan in 2012 for distribution expenses (from surplus fund of company?)	Copy of Ledger Account of Oasis Buildmart India Private Limited in the Books of CNE

66. The above accounts for only Rs. 7,05,51,921 out of Rs. 11.7 crores raised through the IPO. Even if the above submission is accepted on face value, I note that it has already been established in the preceding paras that Rs. 5 crore was paid to Noticee 4 which had directly and indirectly funded IPO applicants, which was clearly a deviation from objects of issue.

67. I further note Noticee 9 has not furnished any documents to substantiate the claim of expenditure/funds transfers having been done for production of films and no details with respect to the proposed film productions such as copy of contracts detailing the terms and conditions for the transaction, Board Resolutions, expenses incurred or steps taken towards production of films etc. Mere claims that the advances and loans were made for the purposes stated above are not enough to justify that the funds were utilised for stated purposes in absence of any other proof to show that any films were produced or under production, or that efforts were made for distribution of films or for brand building.

68. Noticee 9-11 have argued that they intended to temporarily invest funds from the issue in interest bearing instruments liquid instruments including deposits with banks and investments in mutual funds and other financial products, such as principal protected funds, derivative linked debt instruments, other fixed and variable return instruments, listed debt instruments and rated debentures. However, no documents have been submitted in support of this contention.

69. It is thus established that the stated objects of issue were deceptive and misleading in order to garner subscription for the IPO and that Noticee 9 intended only to obtain listing of its shares on BSE- SME platform without using the funds for stated purposes. Noticees 10 and 11, being directors of Noticee are liable for the actions of Noticee 9 in giving false and misleading information in the prospectus. Noticee 12 and 13 were independent directors as per prospectus dated 16.02.2013 and signed the prospectus. However, SCN does not bring out the role played by Noticees 12 and 13 as far as utilisation of issue proceeds is

concerned or that they were involved in the day to day affairs of the company or were aware of the utilisation of funds.

70. In view of the above, it is established that Noticees 9 to 11, by giving misleading information in the prospectus with regard to objects of issue have violated Section 12A (a), (b) and (c) of SEBI Act read with Regulations 3 (a), (b), (c), (d) and 4 (1), 4 (2) (c), (f) (k) and (r) of PFUTP Regulations.

II. Whether Noticees 9-13 violated Regulation 57 (1) of the ICDR Regulations and Noticee 9 violated Clauses 45 and 46 of the SME Listing Agreement read with Section 21 of the SCRA?

71. Regulation 57 (1) of the ICDR Regulations states –

ICDR Regulations

“Manner of Disclosure in the offer document :-

57. (1) The offer document shall contain all material disclosures which are true and adequate so as to enable the applicants to take an informed investment decision.”

72. As Noticees 9 made a misleading disclosure in the prospectus, and did not disclose loans taken from Oasis Buildmart India Pvt Ltd. which was repaid from the IPO proceeds immediately after listing of shares of CNE, Noticee 9 failed to provide true and adequate disclosures in the prospectus. Noticees 10 and 11, being directors of Noticee are liable for the actions of Noticee 9. However, SCN does not bring whether Noticees 12 and 13 were involved in the day to day affairs of the company or were aware of the loan taken from Oasis Buildmart India Pvt Ltd.

73. In view of the above, I find that Noticees 9-11 violated Regulation 57 (1) of the ICDR Regulations.

74. Further to the above, the SCN noted that clauses 45 and 46 of the SME Listing Agreement read with Section 21 of the SCRA state the following:-

SME listing agreement

Clause 45.

- a. The Issuer agrees that it will furnish on a half yearly basis a statement to the Stock Exchange indicating the variations between projected utilisation of funds made by it in its prospectus or letter of offer or object/s stated in the explanatory statement to the notice for the general meeting for considering preferential issue of securities and the actual utilisation of funds.*
- b. The statement referred to in clause (a) shall be given for each of the years for which projections are provided in its prospectus/ letter of offer/ object/s stated in the explanatory statement to the notice for considering preferential issue of securities, which shall be displayed in the website of the Issuer.*
- c. If there are material variations between the projections and the actual utilisation, the Issuer shall furnish an explanation alongwith the statement and shall also provide the same in the Directors' Report.*

Clause 46. Statement of deviations in use of issue proceeds –

- a. The Issuer agrees to furnish to the Stock Exchange on a half yearly basis, a statement indicating material deviations, if any, in the use of proceeds of a public or rights issue from the objects stated in the offer document.*
- b. Where the Issuer has appointed a monitoring agency to monitor utilization of proceeds of a public or rights issue and such monitoring agency has pointed out any deviation in the use of the proceeds of the issue from the objects stated in the offer document or has given any other reservations about the end use of funds, the Issuer agrees to intimate the same to the stock exchange, without any delay.*

- c. The information mentioned in sub-clause (a) shall be furnished to the Stock Exchange along with the interim or annual financial results submitted under clause 43 and shall also be displayed in the website of the Issuer.*
- d. The information mentioned in sub-clause (b) shall, after review by the Audit Committee, be furnished to the Stock Exchange as and when received "*

SCRA, 1956

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.

75. The SCN states that as per BSE's e-mail dated 27.09.2016 regarding disclosure made by Noticee 9 to BSE on utilisation of IPO proceeds as on 31.03.2015, Noticee 9 had claimed that it had utilised Rs. 480 lacs to finance the estimated expenditure of production of two films, Rs. 311.11 lacs for strengthening distribution operation, Rs. 54.19 lacs for brand building, Rs. 29.30 lacs for issue expenses and remaining Rs. 296.90 lacs have been unutilized. However, from the foregoing description of utilisation of IPO proceeds to repay thirteen entities including Noticee 4 for previously undisclosed purpose such as repayment of loan, and for repaying funding group entities which made payments either on behalf, or to IPO applicants for making applications in the IPO of Noticee 9, it is apparent that Noticee 9 made false disclosure to BSE under Clause 46 a. of the SME Listing Agreement, without informing the exchange of any material deviations from the statement of objects of issue in utilisation of proceeds as disclosed in the prospectus.

76. In view of the above, I note that the allegation of violation of Clause 46 a. of the SME Listing Agreement by Noticee 9 due to failure to furnish to BSE on a half yearly basis, a statement indicating material deviations, if any, in the use of proceeds of a public or rights issue from the objects stated in the offer document, stands established.

III. Whether Noticees 9 and 10 violated Section 11(2) and 11C (3) of the SEBI Act?

77. The allegation in respect of Noticee 10 is that despite service of summons dated 17.05.2016, 01.06.2016, 17.06.2016, 29.06.2016 and 19.07.2016 to Noticee 10, he failed to respond to the summons and sought exemption and extension but did not appear before the investigating authority and did not provide any information. I note from the copies of summons served on Noticee 10 at Annexure 6 of the SCN and from details at para. 39 of the SCN that Noticee 10 failed to respond to the summons duly served upon him and tried to avoid providing the information sought. Therefore, I find that on doing so, Noticee 10 violated Section 11 (2) and 11C (3) SEBI Act.

78. In respect of Noticee 9, despite service of summons dated 15.12.2015, 28.12.2015, 19.01.2016 and 29.01.2016 to it, Noticee 9, while replying to the said summons vide letter dated 24.12.2015, did not provide any supporting documents with respect to utilisation of issue proceeds. Further, Noticee 9 did not respond to SEBI's e-mails dated 19.01.2016 and 29.01.2016 seeking supporting documents with respect to IPO proceeds utilisation. I note that Noticee 9 responded to the summons. However, it is not clear from the SCN as to what information was not provided. Therefore, as Noticee 9 responded to the summons issued, it cannot be held to have violated Section 11C (2) and 11C (3) of SEBI Act.

IV. If yes –

- i. Whether the Noticees 1-11 are liable for imposition of monetary penalty under Section 15HA of the SEBI act,**
- ii. Whether Noticees 9-13 are liable for imposition of monetary penalty under Sections 15 HA and 15 HB of the SEBI Act,**
- iii. Whether Noticees 9 and 10 are liable for imposition of monetary penalty under Section 15A (a) of the SEBI Act, and**

- iv. **Whether Noticee 9 is liable for monetary penalty under Section 23E of the SCRA**
- v. **If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5 (2) of the Adjudication Rules, and in Section 23J of the SCRA read with Rule 5 (2) of the SCRA Adjudication Rules?**

79. As it has been established that Noticees 1-11 have violated the provisions of the SEBI Act, the PFUTP Regulations, the ICDR Regulations and the SME Listing Agreement as applicable, they are liable for imposition of penalty in the following manner: -

- (a) Noticees 1-11 are liable for imposition of penalty in terms Section 15 HA of the SEBI Act for violation of Section 12A (a), (b) and (c) of SEBI Act and Regulations 3 (a), (b), (c) and (d) and 4 (1) of the PFUTP Regulations for the fraudulent scheme to fund its own IPO through connected funding group entities and ensure minimum subscription.
- (b) Noticees 9-11 are additionally liable for imposition of penalty in terms Section 15 HA of the SEBI Act for violation of Section 12A (a), (b) and (c) of SEBI Act and Regulations 3 (a), (b), (c) and (d) and 4 (1), (2) (c), (f), (k), (r) of the PFUTP Regulations for planting false information with respect to the objects of the IPO in support of the fraudulent scheme to get its securities listed on the SME-BSE.
- (c) Noticees 9-11 are liable for imposition of penalty in terms of Section 15 HB of the SEBI Act for violation of Regulation 57 (1) of the ICDR Regulations
- (d) Noticee 9 is liable for imposition of monetary penalty under Section 23E of the SCRA for false disclosure under Clause 46 a. of the SME Listing Agreement
- (e) Noticee 10 is liable for imposition of penalty in terms of Section 15A (a) of the SEBI Act for violation of Section 11C (3) of the SEBI Act for non-compliance with summons

80. The relevant legal provisions read as follows:-

SEBI Act

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”.

Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.

“Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.”

SCRA, 1956

Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees”

81. While determining the quantum of penalty under Section 15A (a), Section 15 HA and Section 15 HB of the SEBI Act, and of Section 23E of the SCRA, the

following factors stipulated in Section 15J of the SEBI Act and Section 23 J of the SCRA, have to be given due regard:

- a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

82. The material on record does not bring out the quantum of disproportionate gain made by Noticees, or the amount of loss caused to other investors as a result of the violations committed. Further, I take note of the fact that on account of SEBI order dated 22.12.2020 passed in respect of the Noticees due to fraudulent scheme of funding its own IPO allotment to ensure minimum subscription and listing and misutilisation of IPO proceeds, Noticees 1-11 are, *inter alia*, undergoing periods of restraint from accessing the securities market, and a process of possible delisting of Noticee 9 following a mandatory public offer in terms of Regulation 23 of the SEBI (Delisting of Equity Shares) Regulations, 2009. In respect of Noticee 4, I further note that adjudication order no. EAD/AO/BJD/VS/399/2019-20 dated 22.03.2019 imposing a penalty of Rs. 10 lakhs on Noticee 4 was passed for violation of Sections 11(3) and 11C (3) of the SEBI Act, 1992 for non-compliance with summons in the same matter. I also note that the transactions took place in 2013 and more than 8 years have lapsed since the impugned IPO.

83. However, the seriousness of the violations committed by the respective Noticees cannot be ignored, and in order that the Noticees do not escape from their legal obligations with impunity, suitable penalty under the applicable provisions is required to be imposed for luring innocent investors into an IPO which was nothing but a pre-planned artifice to ensure minimum subscription and listing for Noticee 9, and to make payments to connected entities which are unexplained till date.

84. Accordingly, I find that the following penalties will be commensurate with the violations committed by the respective Noticees:-

- (f) Noticees 1-8 are liable for imposition of penalty of Rs. 8,00,000/- (Rs eight lakhs), payable jointly and severally, in terms Section 15 HA of the SEBI Act for violation of Section 12A (a), (b) and (c) of SEBI Act and Regulations 3 (a), (b), (c) and (d) and 4 (1) of the PFUTP Regulations for the fraudulent scheme to fund IPO of Noticee 9 through connected funding group entities and ensure minimum subscription.
- (g) Noticees 9-11 are liable for imposition of penalty of Rs. 9,00,000/- (Rs. nine lakhs), payable jointly and severally, in terms Section 15 HA of the SEBI Act for violation of Section 12A (a), (b) and (c) of SEBI Act and Regulations 3 (a), (b), (c) and (d) and 4 (1), (2) (c), (f), (k), (r) of the PFUTP Regulations for the fraudulent scheme to fund IPO of Noticee 9 through connected funding group entities and ensure minimum subscription, and for planting false information with respect to the objects of the IPO in support of the fraudulent scheme to get its securities listed on the SME-BSE.
- (h) Noticees 9-11 are liable for imposition of penalty of Rs. 3,00,000/- (Rs. three lakhs) payable jointly and severally in terms of Section 15 HB of the SEBI Act for violation of Regulation 57 (1) of the ICDR Regulations
- (i) Noticee 9 is liable for imposition of monetary penalty of Rs. 1,00,000/- (Rs. One lakh) under Section 23E of the SCRA for false disclosure under Clause 46 a. of the SME Listing Agreement
- (j) Noticee 10 is liable for imposition of penalty of Rs. 1,00,000/- (Rs. One lakh) in terms of Section 15A (a) of the SEBI Act for violation of Section 11C (3) of the SEBI Act for non-compliance with summons.

ORDER

85. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15 I of the SEBI Act read

with Rule 5 of the Adjudication Rules, I hereby impose the following penalty of Rs. 8,00,000/- (Rs eight lakhs), payable jointly and severally by Noticees 1-8 under Section 15 HA of the SEBI Act, Rs. 9,00,000 (Rs. Nine lakhs) payable jointly and severally by Noticees 9-11 under Section 15 HA of the SEBI Act, Rs. 3,00,000/- (Rs. three lakhs) payable jointly and severally by Noticees 9-11 under Section 15 HB of the SEBI Act, Rs. 1,00,000/- (Rs. one lakh) payable by Noticee 9 under Section 23E of the SCRA, and Rs. 1,00,000/- (Rs. One lakh) payable by Noticee 10 under Section 15A (a) of the SEBI Act.

86. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link –

ENFORCEMENT → Orders → Orders of AO → PAY NOW

87. Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – 2 of SEBI.

88. Noticees shall provide the following details while forwarding DD/ payment information:

- a) Name and PAN of the entity (Noticee)
- b) Name of the case / matter
- c) Purpose of Payment – Payment of penalty under AO proceedings
- d) Bank Name and Account Number
- e) Transaction Number

89. Copies of this Adjudication Order are being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

DATE: FEBRUARY 28, 2022

MANINDER CHEEMA

PLACE: MUMBAI

ADJUDICATING OFFICER