

## BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S. K. MOHANTY, WHOLE TIME MEMBER

## ORDER

Under Sections 11(1), 11(4) and 11B (1) of the Securities and Exchange Board of India Act, 1992

In respect of:

Sr. No.	Name of Entity	PAN
1.	Eco Friendly Food Processing Park Ltd.	AACCE0416B
2.	Amar Singh Bisht	AKOPB4144J
3.	Brij Kishore Sabharwal	AAXPS6830P
4.	Goldline International Finvest Ltd.	AACCG6377M
5.	Madhukar Dubey & his proprietorship firm viz. Alliance Traders, N V Sales Corporation, A One Furniture, Magnum Industrial	AIJPD7329J
6.	Satendra Kumar & his proprietorship firm viz. Bright Securities, A R Enterprise, Nisha Traders	AWWPK8525E
7.	Sumit Kumar & his proprietorship firm viz. Vijay Bhagwandas & Co., Durga Prasad & Co.	ARUPK1589P
8.	Columbia Sales	DAIPS9917R
9.	Mohan Garg & his proprietorship firm viz. Garg Traders & Suppliers	AVHPG5782H
10.	Ram Prakash & his proprietorship firm viz. Khan Enterprise, Aggarwal Traders	AXFPR4439L
11.	Avisha Credit Capital Pvt. Ltd.	AAACA5715D
12.	AMS Powertronic Pvt. Ltd.	AAECA8718H
13.	Core Capital Services Ltd.	AAACC2840D
14.	Prakash Gupta & his proprietorship firm viz. Shri trading Co.	ARVPG7849R
15.	LMR Green Realty Pvt. Ltd.	AACCL1899B
16.	Lithmus Capital Consultance Ltd.	AACCL0866A
17.	Ace Consultant	ABGPK4707P

*(The entities mentioned above are individually known by their respective name or Noticee no. and collectively referred to as "Noticees")*

## In the matter of Eco Friendly Food Processing Limited

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### **Background:**

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) conducted an investigation into the Initial Public Offer (hereinafter referred to as “IPO”) of equity shares of Eco Friendly Food Processing Limited (hereinafter referred to as “ECO/the *Company*”). Facts unearthed during the said investigation pertaining to the IPO of the *Company* and a scheme allegedly deployed by the *Notices* are as under:

- i. The *Company* came out with an IPO to raise INR 7.51 Crore by way of issue of 30,06,000 equity shares (30.04% of the post issue size), at the price of INR 25 per share. The equity shares of the *Company* got listed on SME segment of BSE Limited (hereinafter referred to as “BSE”) on January 14, 2013.
- ii. The Prospectus of the *Company* had disclosed the following as the proposed utilization of IPO:

**Table 1: Proposed Utilisation**

Sr. No.	Particulars	Amount (INR in Lakh)
1	Development of Farm land for transition to Organic Farming	506.00
2	Construction of storage sheds	114.00
3	Solar Fencing	65.50
4	Brand Building and General Corporate purposes	60.00
5	Issue Expenses	60.00
	<b>Total</b>	<b>805.50</b>

- iii. In order to achieve the afore stated objects, INR 54 Lakh was proposed to be used by the *Company* from its internal accruals and rest of the amount viz., 7.51 Crore was to be raised under the IPO.
- iv. The *Company*, vide its letter dated December 25, 2015, provided the following break up of IPO proceeds utilization:

**Table 2: Utilization of IPO proceeds as submitted by *Company***

Sr. No.	Objects as stated in the Prospectus	Utilized (INR in Lakh)
1)	Development of Farm Land for transition to organic Farming	570.40
2)	Constructions of storage sheds	40.80

3)	Solar Fencing	21.50
4)	Brand Building and General Corporate Expenses	25.50
5)	Issue Expenses	33.16
6)	Investment in short term advances	64.64
	<b>Total</b>	<b>756.00</b>

- v. The claim of the *Company* about utilization of the IPO proceeds was not supported by documents, hence, vide emails dated January 18, 2016 and January 29, 2016, the *Company* was asked to provide documents to substantiate the utilization of the IPO proceeds as per its claim. The *Company* had furnished only copy of its bank account statements in support thereof.
- vi. In the IPO, the *Company* received applications for 38,28,000 shares, and out of same, applications for 30,000 shares were withdrawn and finally the *Company* received 384 applications for 37,98,000 shares, which was 1.26 times the offer size. The *Company*, out of such valid applications, allotted 30,24,000 shares to 294 applicants, as per the following details:

**Table 3: Break up of applications**

Category	No. of applicants (no. of applicants who withdrew)	No. of shares applied (Excluding the withdrawn applications)	No. of shares allotted	No. of entities who got allotment
Market Maker	1 (0)	5,04,000	5,04,000	1
HNI	7 (0)	10,38,000	8,04,000	7
RII	381 (5)	22,56,000	17,16,000	286
<b>Total</b>		37,98,000	30,24,000	294

*HNI: High Networth Individual*

*RII: Retail Individual investor*

- vii. The analysis of the bank account statements revealed that out of 376 applications of RIIs (381 were filed and 5 were withdrawn), applications of as many as 298 applicants were funded by certain third party entities (hereinafter referred to as '**funding group entities**'). Out of the said number of 298 applicants, the *Company* had allotted shares to 221 applicants. Similarly, the application for 5,04,000 shares filed under Market Maker Category was also noticed to be funded by the funding group entities. In HNI category, allotment of a total number of 7,62,000 shares was further noticed to have been done

based on the funds provided by the funding group entities. In some cases, it was also noticed that the funding group entities have themselves been the applicants of the IPO, apart from providing funds to the *Company* on behalf of other applicants. The said funding group entities were also noticed to be connected directly/indirectly to the *Company*, based on various linkages like fund transfers, common addresses of proprietorship firms, common directorship of individuals in other companies, etc.

- viii. The *Company* had also allotted 11,52,000 shares in physical form (out of total 30,24,000 shares) and out of the said physical shares so allotted, 10,86,000 shares were allotted to such applicants who had received funds from the funding group entities and subsequently such funding group entities had in-turn received amounts from the *Company*, out of the IPO proceeds.
- ix. The details of the funding provided by the funding group entities, and *inter se* fund transactions amongst such entities are narrated below:

**Table 4: Details of fund transfers**

Sr. No.	Funding Group Entity	Bank A/c no.	Details of funding	Details of fund received
1)	GoldLine International Finvest Ltd.  (Notice no. 4)	ICICI Bank - 663005120449	<ul style="list-style-type: none"> <li>It had given INR 126 Lakh to Guinness Securities Ltd for making ASBA application in IPO of ECO (<i>the Company</i>) and 11 Non ASBA retail investor, who had received INR 1.50 Lakh each for making IPO application in ECO. (9 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>ECO transferred INR 3.4 Crore from <b>IPO money</b> to Goldline.</li> <li>It had fund movement with Bright Securities, Avisha Credit Capital (Notice no. 11), AMS Powertronic (Notice no. 12), ECO (<i>the Company</i>).</li> </ul>
2)	Madhukar Dubey <b><u>Proprietorship Firm</u></b> <ul style="list-style-type: none"> <li>Alliance Traders</li> <li>N V Sales Corporation</li> <li>A One Furniture</li> <li>Magnum Industrial</li> </ul> (Notice no. 5)	Yes Bank- 013683900002 242	<ul style="list-style-type: none"> <li>Alliance Traders has issued 10 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 10 Non ASBA retail investors. (4 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 62.08 Lakh from Columbia Sales (Notice no. 8), INR 5 Lakh from AMS Powertronic (Notice no. 12), INR 5 Lakh from Mayfair Infosolution and INR 15 Lakh from A One Furniture (prop. Firm of Notice no. 5).</li> </ul>
		Yes Bank- 013683900002 171	<ul style="list-style-type: none"> <li>N V Sales Corporation has issued 8 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 8 Non ASBA retail investors. (5 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 40 Lakh from ECO (pre-IPO), INR 12 Lakh from A R Enterprise (prop. Firm of Notice no. 6), INR 35 Lakh from Durga Prasad &amp; Co. (prop. Firm of Notice no. 7) and INR 10.10 Lakh from Alliance Traders (prop. Firm of Notice no. 5).</li> </ul>

		Yes Bank-013683900002 266	<ul style="list-style-type: none"> <li>A One Furniture had issued 11 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 11 Non ASBA retail investors. (7 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 60 Lakh from DPRS Buildcon (DPRS has received INR 40 Lakh from Gold Line &amp; INR 20 Lakh from Deep Jyoti &amp; Shiv Traders).</li> </ul>
		Yes Bank - 013683900002 209	<ul style="list-style-type: none"> <li>Magnum Industrial had issued 7 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 7 Non ASBA retail investors. (4 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 45 Lakh from ECO (pre-IPO) and INR 9 Lakh from A One Furniture (prop. Firm of <i>Noticee no. 5</i>).</li> </ul>
		Axis Bank-9120100258759 70	<ul style="list-style-type: none"> <li>Madhukar Dubey had received INR 60 Lakh from AMS Powertronic for making ASBA application money.</li> </ul>	
3)	Satendra Kumar <b><u>Proprietorship Firm</u></b> <ul style="list-style-type: none"> <li>Bright Securities</li> <li>A R Enterprise</li> <li>Nisha Traders</li> </ul> (Noticee no. 6)	Yes Bank-013683900002 195	<ul style="list-style-type: none"> <li>Bright Sec had issued 9 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 9 Non ASBA retail investors (6 allottees got allotment) and INR 51 Lakh for ASBA Allottees (Mr. Satendra Kumar).</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 32.50 Lakh from Nisha Traders (prop. Firm of <i>Noticee no. 6</i>), INR 32.50 Lakh from Magnum Industrial (prop. Firm of <i>Noticee no. 5</i>) and INR 13.50 Lakh from A One Furniture (another prop. Firm of <i>Noticee no. 5</i>).</li> </ul>
		Yes Bank - 013683900002 230	<ul style="list-style-type: none"> <li>A R Enterprise had issued 6 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 6 Non ASBA retail investors. (2 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 40 Lakh from ECO (pre-IPO) and INR 58 Lakh from Shiv Traders.</li> </ul>
		Yes Bank-013683900002 254	<ul style="list-style-type: none"> <li>Nisha Traders Enterprise had issued 9 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 9 Non ASBA retail investors. (7 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 25 Lakh from ECO (pre-IPO), INR 3.90 Lakh from Alliance Traders (prop. Firm of <i>Noticee no. 5</i>), INR 3 Lakh from N V Sales (another prop. Firm of <i>Noticee no. 5</i>) and INR 6 Lakh from A One Furniture (prop. Firm of <i>Noticee no. 5</i>).</li> </ul>
4)	Sumit Kumar <b><u>Proprietorship Firm</u></b> <ul style="list-style-type: none"> <li>Vijay Bhagwandas &amp; Co.</li> <li>Durga Prasad &amp; Co.</li> </ul> (Noticee no. 7)	Yes Bank - 013683900002 337	<ul style="list-style-type: none"> <li>Vijay Bhagwandas &amp; Co. has issued 8 cheques INR 1.50 Lakh each to the <i>Company</i> on behalf of 8 Non ASBA retail investors. (4 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 12 Lakh from A R Enterprise and INR 30 Lakh from Nisha Traders.</li> </ul>
		Yes - 013683900002 325	<ul style="list-style-type: none"> <li>Durga Prasad &amp; Co. has issued 12 cheques INR 1.50 Lakh each to the <i>Company</i> on behalf of 12 Non ASBA retail investors and INR 46.50 Lakh were paid to</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 72 Lakh from Alliance Traders, INR 68 Lakh from A R Enterprise (prop. Firm of <i>Noticee no. 6</i>), and INR 55 Lakh from N V Sales Corporation (prop. Firm</li> </ul>

			ASBA Allottee (Mr. Sumit Kumar.). (11 allottees got allotment)	of <i>Noticee no. 5</i> ). Further it had transferred funds to Mayfair Infosolution.
5)	Columbia Sales (Noticee no. 8)	Tamilnad Mercantile Bank - 211150050800 271	<ul style="list-style-type: none"> <li>Columbia Sales had issued 23 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 23 Non ASBA retail investors. (17 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received fund of INR 70 Lakh from Gold Line, INR 11 Lakh from Aggrawal Traders and INR 13.75 Lakh from Garg Traders &amp; Suppliers (prop. Firm of <i>Noticee no. 9</i>) on December 2012.</li> <li>It had also received INR 15 Lakh from ECO on October 17, 2012 (pre-IPO).</li> </ul>
6)	Mohan Garg <b><u>Proprietorship Firm</u></b> <ul style="list-style-type: none"> <li>Garg Traders &amp; Suppliers</li> </ul> (Noticee no. 9)	Tamilnad Mercantile Bank – 211150050800 296	<ul style="list-style-type: none"> <li>Garg Traders &amp; Suppliers had issued 3 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 3 Non ASBA retail investors. (3 allottees got allotment)</li> </ul>	It had received INR 60 Lakh from HPC Bioscience Ltd. and INR 100 Lakh from ECO.
7)	Mr. Ram Prakash <b><u>Proprietorship Firm</u></b> <ul style="list-style-type: none"> <li>Khan Enterprise</li> <li>Aggarwal Traders</li> </ul> (Noticee no. 10)	Tamilnad Mercantile Bank – 211150050800 272	<ul style="list-style-type: none"> <li>Khan Enterprise has issued 32 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 32 Non ASBA retail Investors. (24 allottees got allotment).</li> </ul>	<ul style="list-style-type: none"> <li>It had received funds of INR 92.74 Lakh from Shiv Traders, INR 8.58 Lakh from Garg Traders &amp; Suppliers (prop. Firm of <i>Noticee no. 9</i>) and INR 4.50 Lakh from Columbia Sales (<i>Noticee no. 8</i>). It had also received INR 25 Lakh from ECO on October 16, 2012 (pre-IPO).</li> </ul>
		Tamilnad Mercantile Bank – 211150050800 213	<ul style="list-style-type: none"> <li>Aggrawal Traders has issued 6 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 6 Non ASBA retail investors. (5 allottees got allotment)</li> </ul> It had received INR 40 Lakh from Gold Line.	
8)	Avisha Credit Capital Ltd. (Noticee no. 11)	HDFC Bank - 059827400005 67	<ul style="list-style-type: none"> <li>Avisha Credit Capital had provided funds to 43 RIIs for making application of Rs. 1.50 Lakh each in the IPO of ECO. (33 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>Avisha received INR 2. 63 Crore from ECO during July 2012 to December 2012 (pre-IPO). Further Avisha had also fund movement with Goldline.</li> </ul>
9)	AMS Powertronic Pvt. Ltd. (Noticee no. 12)	Axis Bank – 912020004151 524	<ul style="list-style-type: none"> <li>AMS Powertronic had provided INR 60 Lakh each to 2 ASBA Applicants.</li> </ul>	
10)	Core Capital Services Ltd. (Noticee no. 13)	Axis Bank- <b>9110200418138 84</b>	<ul style="list-style-type: none"> <li>Core Capital Services Ltd had received INR 1.01 Crore from AMS Powertronic and further it had paid INR 60 Lakh for its ASBA application.</li> </ul>	

			<ul style="list-style-type: none"> <li>It had given fund of INR 1.50 Lakh each to 2 retail allottees for making application in IPO of ECO. (2 allottees got allotment)</li> </ul>	
11)	Prakash Gupta <b><u>Proprietorship Firm</u></b> <ul style="list-style-type: none"> <li>Shri Trading Co.</li> <li>Shiv Traders</li> </ul> (Noticee no. 14)	Dhanalakshmi Bank – 019106700000 110  Tamilnad Mercantile Bank – 211150050800 237	<ul style="list-style-type: none"> <li>Shri Trading Co. has issued 41 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 41 Non ASBA retail investors. (34 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 11.43 Lakh from N V Sales (prop. firm of <i>Noticee no. 5</i>) and INR 51.58 Lakh from Shiv Traders.</li> <li>Shiv traders had received INR 81.50 Lakh from ECO (pre-IPO), INR 67 Lakh from Esteem Bio Organics Food Processing Limited, and INR 60 Lakh from HPC Bioscience Ltd. in October and December, 2012.</li> </ul>
12)	LMR Green Realty Pvt. Ltd.  (Noticee no. 15)	IDBI Bank – <b>0109102000031 994</b>	<ul style="list-style-type: none"> <li>LMR Green had issued 25 cheques of INR 1.50 Lakh each to the <i>Company</i> on behalf of 25 Non ASBA retail investors and further INR 1.50 Lakh each given to 12 RIIs for making application in IPO of ECO. (21 allottees got allotment)</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 32 Lakh from Goldline and INR 28 Lakh from HPC Bioscience Ltd.</li> </ul>
13)	Lithmus Capital Consultance Ltd.  (Noticee no. 16)	Axis Bank- <b>9110200425249 81</b>	<ul style="list-style-type: none"> <li><b><u>Lithmus Capital</u></b> had issued 19 cheques of INR 1.50 Lakh each on behalf of 19 Non ASBA retail investors. (17 allottees got allotment).</li> </ul>	<ul style="list-style-type: none"> <li>It had received INR 30 Lakh from AMS Powertronic (<i>Noticee no. 12</i>).</li> </ul>
14)	Ace Consultant  (Noticee no. 17)	HDFC Bank - 031420000007 40	<ul style="list-style-type: none"> <li>Ace Consultant had received funds on various transactions and same were transferred to ISF Securities. Ace Consultant &amp; ISF Securities were having same address.</li> </ul>	<ul style="list-style-type: none"> <li>Ace Consultant had funded INR 1.5 Lakh each to 2 Non ASBA entities. (1 allottees got allotment)</li> </ul>

- x. The *Noticee nos. 4 to 17*, who have formed the part of the funding group, were noticed to be connected directly.
- xi. The details of allotment of shares which was made by the *Company* to allottees who were noticed to have either received funds from the funding group entities to apply for shares under the IPO or whose applications under the IPO were funded by those funding group entities, are captured in the following table:

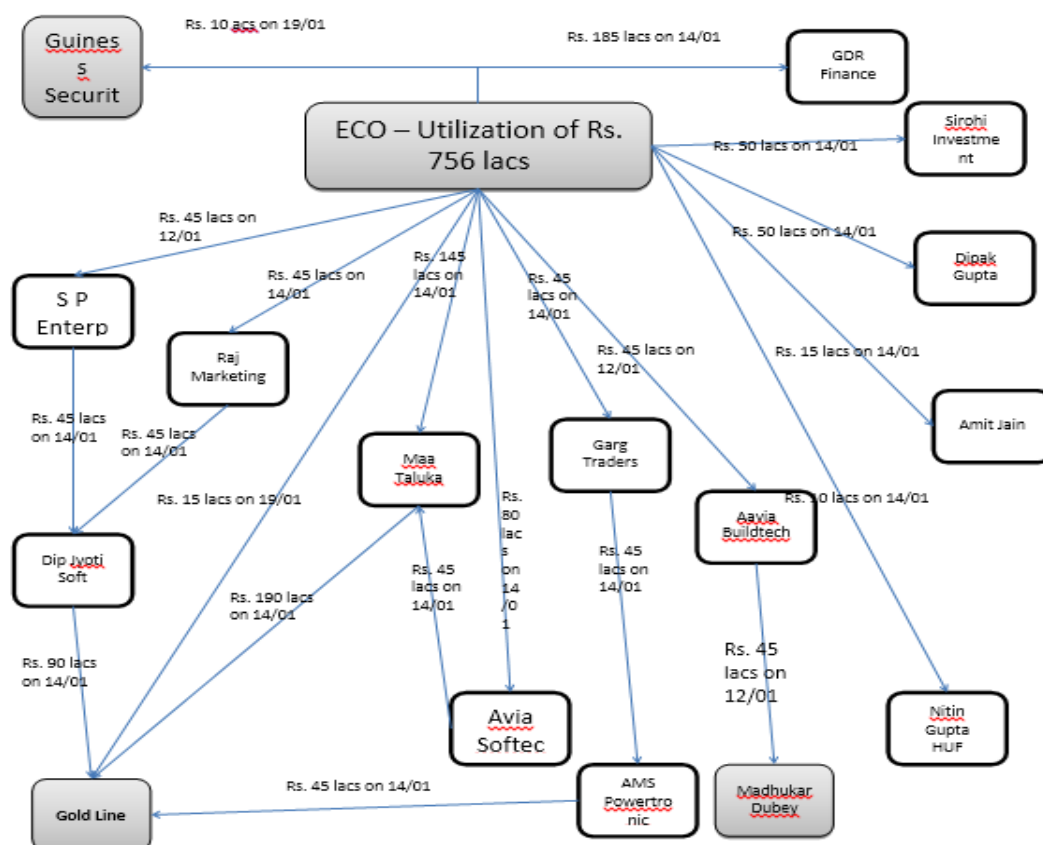
**Table 5: Details of allotment of shares funded by funding group entities**

Sr. No.	Funding Entity	Amount funded (INR in Lakh)	No. of allottees got allotment	No. of shares allotted
1	Gold Line International Finvest Ltd. (Notice no. 4)	139.50	10 (1 ASBA)	(54000 + 504000) = 5,58,000
2	Madhukar Dubey & Proprietorship firm (Notice no. 5)	54	20	1,20,000
3	Satendra Kumar & Proprietorship firm (Notice no. 6)	87	16 (1 ASBA)	(90000 + 204000) = 2,94,000
4	Sumit Kumar & Proprietorship Firm (Notice no. 7)	76.50	16 (1 ASBA)	(90000 + 186000) = 2,76,000
5	Columbia Sales (Notice no. 8)	34.50	17	1,02,000
6	Garg Traders & Suppliers (Notice no. 9)	4.50	3	18,000
7	Ram Prakash & Proprietorship firm (Notice no. 10)	57	29	1,74,000
8	Avisha Credit Capital (Notice no. 11)	61.50	33	1,98,000
9	AMS Powertronic (Notice no. 12)	120	2 (2 ASBA)	3,72,000
10	Core Capital (Notice no. 13)	3	2	12,000
11	Prakash Gupta Proprietorship firm (Notice no. 14)	61.50	34	2,04,000
12	LMR Green Realty Pvt. Ltd. (Notice no. 15)	55.50	21	1,56,000
13	Lithmus Capital Consultancy Pvt. Ltd. (Notice no. 16)	28.50	17	1,02,000
14	Ace Consultant (Notice no. 17)	3	1	6,000
	<b>Total</b>	<b>785.00</b>	<b>221</b>	<b>25,92,000</b>

- xii. Thus, as per the records, out of the total number of 30,24,000 shares allotted by the *Company* in its IPO, a total allotment of 25,92,000 shares allotted to 221 allottees were financially backed by the funding group entities, which were directly/indirectly connected to the *Company* itself. The aforesaid calculation of the allotment of shares by the *Company* shows that applications for as much as 85.71% of the shares allotted under the IPO were actually funded by the funded group entities.
- xiii. Further, the *Company* was also alleged to have transferred large amounts of funds from the IPO proceeds to certain entities who had funded the applicants of the IPO. The said transfers included an amount of INR 3.40 Crore transferred by the *Company* to the



Noticee no. 4 (Goldline) and INR 45 Lakh transferred to the Noticee no. 5, and both of these entities were involved in funding the applicants of the IPO, along with various other funding group entities. The details of transfer of funds out of the IPO proceeds by the *Company* are illustrated in the following diagram:



2. Based on the afore stated factual matrix revealed during the investigation, a common show cause notice dated June 30, 2017 (hereinafter referred to as “the SCN”) was issued to the Noticees alleging that the *Company* and its Directors, while acting in connivance with the funding group entities, had employed a fraudulent scheme so as to ensure full subscriptions to the IPO of the *Company* by way of funding the IPO applications to the extent of 85.71% of the shares allotted under the said IPO, and have subsequently transferred the proceeds of IPO to various entities including to a few of the funding group entities (after the successful completion of the IPO), either directly or indirectly and under some pretext or the other, as a result of which, the proceeds of IPO were not utilized to achieve the objects as stated and disclosed in the Prospectus of the IPO. It has further been alleged that the said scheme was devised to achieve

the mandatory threshold of minimum public subscription of 90% of the shares offered, as required in terms of Regulation 14 (1) of SEBI (Issue of Capital and Disclosure Requirement) Regulations, 2009, (ICDR Regulations) (hereinafter referred to as “**ICDR Regulations**”). Since 85.71% of the shares that were allotted under the IPO, were alleged to have been funded by the *Company* itself indirectly through the funding group entities, the compliance with the statutory requirement in terms of Regulation 14 (1) of ICDR, was actually achieved by the *Company* in a fraudulent manner through the aforesaid scheme allegedly employed by the *Company* and its Directors. The SCN alleged that by the aforesaid acts, the *Notices* have violated Section 12A (a), (b) and (c) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act, 1992**”) read with regulation 3 (a), (b), (c) and (d) and 4(1) of SEBI (Prohibition of Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”).

3. I note that the issuance of the aforesaid SCN was preceded by an *interim* order dated June 29, 2015, which was issued against the *Company* and also against three other companies, who were found to have followed common *modus operandi* in deploying a fraudulent scheme with respect to their respective IPOs. By virtue of the said order, certain entities including *Noticee nos. 1 to 7, Noticee nos. 10 to 14*, were put under restraint from accessing securities market till further directions.

4. It is noted from the records that the SCN was delivered to the *Noticee nos. 1, 4, 11, 15 and 17* through SPAD, whereas for the rest of the *Notices*, viz., *Noticee nos. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14 and 16*, the SCN was delivered through email. Further, *Noticee nos. 4 and 11* had sought inspection of the documents, and it was informed to the said *Notices* that all the documents in the present matter are common with other connected matters as well, and since as per the records, the said *Notices* had already inspected those records in connection with the other connected matters (in which they are also *Notices*), the inspection of the same material may not be warranted again during the present proceedings and can be dispensed with.

5. Accordingly, the personal hearing in the instant matter was fixed on January 31, 2019 which was informed to the *Notices*. On the said date, only *Noticee no. 3* appeared on his behalf as well as on behalf of the *Company* while a request for adjournment was received from *Noticee no. 11*. Thereafter, another opportunity of hearing was granted to all the remaining *Notices* viz:- *Noticee nos. 4 to 15* on August 06, 2019. The details of service of hearing notices to various

entities for the personal hearing scheduled on August 06, 2019 by way of newspaper publication are tabulated below:

**Table 6: Details of servicing of Hearing Notices**

Sr. No.	Name of Entity	Hearing on 06.08.2019
1.	Goldline International Finvest Ltd.	Hindustan Times and Nav Bharat Times Delhi Edition – 31.07.2019
2.	Madhukar Dubey & his proprietorship firm viz. Alliance Traders, N V Sales Corporation, A One Furniture, Magnum Industrial	Hindustan Times and Nav Bharat Times Delhi Edition – 31.07.2019  Times Day/Hindustan Times and Nav Bharat Times Ghazaibad Edition – 31.07.2019
3.	Satendra Kumar & his proprietorship firm viz. Bright Securities, A R Enterprise, Nisha Traders	Hindustan Times and Nav Bharat Times Delhi Edition – 31.07.2019
4.	Sumit Kumar & his proprietorship firm viz. Vijay Bhagwandandas & Co., Durga Prasad & Co.	Times Day/Hindustan Times and Nav Bharat Times Ghazaibad Edition – 31.07.2019
5.	Columbia Sales	Hindustan Times and Nav Bharat Times Delhi Edition – 31.07.2019
6.	Mohan Garg & his proprietorship firm viz. Garg Traders & Suppliers	-do-
7.	Ram Prakash & his proprietorship firm viz. Khan Enterprise, Aggarwal Traders	-do-
8.	Avisha Credit Capital Pvt. Ltd.	-do-
9.	AMS Powertronic Pvt. Ltd.	-do-
10.	Core Capital Services Ltd.	-do-
11.	Prakash Gupta & his proprietorship firm viz. Shri trading Co.	-do-
12.	LMR Green Realty Pvt. Ltd.	-do-
13.	Lithmus Capital Consultance Ltd.	-do-
14.	Ace Consultant	-do-

6. On August 06, 2019, *Noticee no. 15* appeared through its authorized representative, whereas, a request for adjournment was received on behalf of *Noticee no. 17*. Finally, another opportunity of hearing was also provided to *Noticee nos. 4, 11 and 17* on November 14, 2019 during which, again a request for adjournment was received on behalf of *Noticee no. 17* but the rest of the two *Noticees* did not appear before me. Nevertheless, the request for adjournment of *Noticee no. 17* was acceded to and accordingly the hearing was re-fixed on January 17, 2020. *Noticee no. 17* appeared on the aforesaid date and was heard.

7. The *Company*, *Noticee no. 1*, vide its letter dated October 06, 2017 has sought copy of investigation report and other materials collected by SEBI during the investigation and to support their request for such documents, reliance has been placed on the judgment of the Hon'ble Supreme Court of India in the matter of *SEBI Vs. Price Waterhouse (Civil Appeal no. 6003-6004/2012)*. Further, vide a common letter dated February 06, 2019, the *Noticee nos. 1, 2 and 3* have filed a common written reply. Subsequently, the *Company Noticee* has also filed a written submission vide letters dated November 18, 2019 and March 05, 2020. The submissions made by the *Noticee nos. 1, 2 and 3* through the aforesaid letters are summarised as under:

- i. The IPO of the *Company* was underwritten 100% in terms of the provisions of regulation 106P of ICDR Regulations, 2009. Based on same, the charges of having arranged funds for subscription to the IPO would not be established. Copy of underwriting agreement has been filed in support thereof.
- ii. The transactions executed with various entities, as have been imputed in the SCN, were purely of commercial nature and no adverse inference should be drawn against the *Company* based on the transactions entered into by it with third parties.
- iii. The IPO of the *Company* was in complete compliance with applicable regulatory provisions. The SCN has been issued after gap of 4 years of the closure of the issue and accordingly, the charges should be dropped.
- iv. Due to certain reasons, the *Company* could not furnish complete documents during the investigation. Had the *Company* been provided with sufficient opportunity to file all documents, the findings in the investigation would have been different, hence, in the interest of justice, a re-investigation may be conducted in the matter which would bring true and clear picture on record. In other similar cases like Confidence Finance and

Trading Limited, SEBI has disposed of the proceedings against the *Company* and its Directors by directing reinvestigation.

- v. The *Company* has spent an amount of 5.11 Crore (approx.) towards one of the objects stated in the Prospectus viz., Development of farm land for transition into organic farming by executing agreements with various parties. The agreements were executed by the *Company* for development of land, which was one of the stated objects of the IPO. As the agreements were executed with the mutual consent of both the parties and they were internal agreements between the respective parties, the same were not registered.
  - vi. Both the parties to the respective agreements have fulfilled their respective obligations, and there is no requirement for providing a project completion certificate in the business model of the *Company*.
  - vii. As per the details furnished by the *Company*, the *Company* has not spent any amount towards other objects mentioned in the Prospectus viz., Construction of storage sheds, Solar fencing, Brand Building and General Corporate expenses etc., except a payment of INR 45 Lakh to Aviva Builtech Pvt. Ltd. towards the purpose of building storage sheds, however, admittedly, the said work was not completed and money has been repaid by Aviva Builtech Pvt. Ltd. However, reportedly an amount of INR 33.16 Lakh has been spent towards issue expenses like payment to merchant banker, BSE Ltd. etc.
  - viii. As per the records, the *Company*, in order to earn some interest income, had extended different short term advances out of its IPO Proceeds to various parties and has also utilized certain portion of the IPO proceeds towards repayment of its existing loans.
8. As regards the transactions of funds involving various funding group entities as demonstrated in the diagrammatic presentation on page 3 of the SCN, some of the funding entities have explained their transactions taking various defences against the allegations made in the SCN. *Noticee no. 4* (Goldline International Finvest Ltd.), vide its letter dated September 16, 2017, has claimed itself to be in the business of financial activities (NBFC) and has submitted *inter alia* that it had received some amount from the *Company* which was an outstanding due from the *Company*, arising out of certain business transactions. Further, with respect to financial transactions with certain other entities viz., AMS Powertronic etc., it has been submitted that Goldline had extended the said amounts as advances for the business purposes of those respective entities and all of them have repaid those amounts to Goldline in the same financial

year. Similarly, the transaction executed with Guinness Securities Limited has been claimed to be a loan transaction which was repaid by Guinness Securities along with interest to Goldline.

9. *Noticee no. 11* (Avisha Credit Capital Limited), vide its letter dated September 11, 2017 and September 14, 2017, has submitted that:

- i. That it is a Non-Banking Financial Company (“**NBFC**”), registered with RBI and in pursuance of its NBFC activity, it had extended advances to certain entities including ECO and Goldline.
- ii. That an amount of INR 3.42 Crore was due from ECO towards the *Noticee no. 11* as on April 01, 2012. There is no other relationship with ECO.
- iii. That the recipients of the funds have discretion to utilize such funds and the *Noticee no. 11* was not aware of deployment of such funds to subscribe to shares in the IPO. More than 90% of the funds so extended were repaid to the *Noticee no. 11* in the same financial year.

10. *Noticee no. 15*, vide its letter dated August 28, 2017, has made certain submissions in response to the SCN the highlights of which, are as under:

- i. The *Noticee no. 15* is a real estate broking company and it has no connection with the *Noticee no. 4* (Goldline).
- ii. The *Noticee no. 4* had approached it with some enquiry pertaining to a building at Noida and in pursuance thereof, 10% of the deal amount being INR 32 Lakh was received from the *Noticee no. 4*. The same was not connected with the IPO of ECO and the timing of the two transactions was purely coincidental.
- iii. The *Noticee no. 15* frequently makes investment in securities market to make some gains in short term. *However, it cant be denied that some sort of futuristic prospects might have been discussed through “Goldline” officials at that point of time, taking reference of which but based upon self-analysis such investment decision was taken.*
- iv. The allegation of funding can only sustain if the amount allegedly funded is equal to amount received.
- v. The SCN is vague *qua Noticee no. 15* and no act of *Noticee no. 15* can be termed as fraudulent or unfair.

- vi. There is no bar to make multiple applications, which were made in the present case through the family and close friends.
11. *Noticee no. 17* (Ace Consultants) has vide its letters dated September 04, 2019 has filed a written reply in response to the SCN and further vide letter dated January 30, 2020, it has also filed a post hearing written submission in which it has advanced the following arguments:
- i. There was no connection between management of ECO and Ms. Sunita Khemka or her husband.
  - ii. Ms. Sunita Khemka is the proprietor of the firm M/s Ace Consultants and Ms. Sunita is also a Designated Director of ISF Securities Ltd. (a stock broker registered with SEBI) (hereinafter referred to as “**ISF**”).
  - iii. The control and management of ISF was acquired by Ms. Sunita and her family members from the erstwhile promoters, in the year 2011. Ms. Sunita, along with her family owns majority of the shareholding in ISF.
  - iv. *Noticee no. 3* (Mr. Brij Kishore Sabharwal) was a Nominee Director of erstwhile promoters of ISF and was in management of ISF till 2011. He was allowed to continue his directorship till March, 2014 to ensure for proper handing over of business operations. There was no relationship or financial transaction executed between Ms. Sunita and *Noticee no. 3*.
  - v. *Noticee no. 17* had received INR 3.00 Lakh from ISF in normal course of business. Out of the said amount, INR 1.50 Lakh was given to Mr. Sunil Khemka.
  - vi. *Noticee no. 17* had borrowed INR 50 Lakh from *Noticee no. 4* (Goldline, a NBFC) in January, 2013. The said loan was repaid with interest amounting to INR 5.81 Lakh (approx.). The said loan had no connection with the IPO. Copy of bank account statements, Income Tax Returns, ledger etc., have been filed.
  - vii. The funding of the IPO applicant, as alleged in the SCN was provided to Mr. Sunil Khemka, husband of Ms. Sunita Khemka. Ace Consultant had received INR 3.00 Lakh from ISF and the said amount was further transferred by Ace Consultant to Ms. Sunita and Mr. Sunil, INR 1.50 Lakh each.
  - viii. Mr. Sunil Khekma (husband of Ms. Sunita Khemka) had applied for subscription of only 6000 shares of the *Company* under its IPO by paying a small amount of INR 1.50 Lakh.

The IPO would have achieved the minimum subscription of 90% of the shares offered, even if Mr. Sunil Khemka had not applied.

- ix. Advancing small amount of loan to family member cannot be construed to be part of any scheme.

### **Consideration of Issues and findings**

12. As mentioned earlier, a few of the *Notices* have made a request to be provided with all the documents collected during the investigation and have also sought a copy of the entire investigation report, in spite of the fact that the *Notices* have been provided with all the documents and materials that have been relied upon in the SCN against them and the *Notices* also very well knowing that the SCN has incorporated all the relevant findings from the investigation report on the basis of which the allegations have been levelled against them. Therefore, the insistence by these *Notices* on having a copy of the entire investigation report amounts to unwarranted roving enquiry about various other unconnected entities whose details are also available in the said investigation report. I note that the issue of providing a full copy of investigation report and the non-compliance of principles of natural justice as alleged by the *Notices* are settled by Hon'ble SAT in the case of *Reliance Commodities Ltd vs. National Commodity & Derivatives Exchange Ltd.* (Date of decision: July 23, 2019) in which the Hon'ble Tribunal has *inter alia* observed that:

*"2. Having heard the learned counsel for the parties and having perused the list of documents so required for inspection we are of the opinion that the documents sought for is nothing but a roving and fishing enquiry. We accordingly do not find any merit in the submission of the learned counsel for the appellant that these documents are essential for the purpose of filing an appropriate reply.*

*3. However, we are of the opinion that if any document is relied by the respondent while disposing of the matter such document should be made available to the appellant....."*

13. Further, in another matter of *Shruti Vora Vs. SEBI* (Date of decision: February 12, 2020), the appellant had challenged the rejection of her request to inspect all the documents collected during the investigation. Hon'ble SAT, while dismissing the said challenge have *inter alia* held that: *"...A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO."* (emphasis supplied). In view of the aforesaid observations, the above stated demand of the *Notices* in this present case is also liable



to be rejected being *sans* any merit and not maintainable in the facts and circumstances of the present case.

14. From the records, it is seen that out of the 17 *Notices*, *Noticee nos. 5-10, 12-14 and 16* have not filed any reply to the SCN. Further the *Noticee nos. 2, 4-14 and 16* did not avail the opportunities of the personal hearing granted to them. In the light of the aforesaid factual position, I proceed to adjudicate the matter, based on materials available on record and the written replies and submissions filed by a few of the *Notices* the contents of which have already been highlighted in the preceding paragraphs.

15. After carefully pondering on the charges made in the SCN, the annexures enclosed to the SCN and the submissions made by various *Notices*, it is observed that in the instant case, the following issues need to be first decided in order to adjudge the charges levelled against the *Notices* in the SCN:

*Issue I: Whether the Noticee nos. 4 to 17 enjoy connection with the Company and the Company through its connected entities/ Noticees devised a scheme to ensure the successful subscription of its IPO?*

*Issue II: Whether the proceeds of IPO have been utilized by the Company in terms of the Objects stated in the Prospectus?*

16. In order to evaluate the charges made against the *Notices* on merit, it is relevant to first refer to the provisions of SEBI Act, 1992 and the relevant regulations, that have been either allegedly violated by the *Notices* or are otherwise relevant for the present proceedings. The said provisions are reproduced hereunder for ready reference:

**SEBI Act, 1992**

**Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control**

**Section 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.*

***SEBI (PFUTP) Regulations, 2003***

***Prohibition of certain dealings in securities***

***Regulation 3.*** 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 thereunder;*

*(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 thereunder.*

***Prohibition of manipulative, fraudulent and unfair trade practices***

***Regulation 4 (1)***

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

***SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009***

***Minimum Subscription***

*14. (1) the minimum subscription to be received in an issue shall not be less than ninety percent of the offer through offer document:*

*Provided that in the case of an initial public offer, the minimum subscription to be received shall be subject to allotment of minimum number of specified securities, as prescribed in sub-clause (b) of clause (2) of rule 19 of Securities Contracts (Regulation) Rules, 1957.*

17. As noted in the beginning of the present order, the SCN alleges that the Noticee nos. 4 to 17 enjoy connection directly/indirectly with the *Company*. It is noted that fund transfers from the *Company* to the funding entities, both directly and indirectly, forms the primary basis for

establishing connections amongst majority of the entities, apart from other attending factors like common address, common directorship in companies etc., to corroborate such connections amongst the *Notices*. The details of connections amongst various *Notices*, as have been mentioned in the SCN as well as my observations thereon, are captured herein below:

**Table 7: Details of connections**

Sr. No.	Particulars of funding	Connection - Fund Movement
1.	Goldline International Finvest Ltd. (Goldline)  (Noticee no. 4)	<ul style="list-style-type: none"> <li>Goldline received <b>IPO proceeds</b> from ECO (<i>Company</i>). Further, Goldline had huge fund movement with ECO (<i>Company</i>).</li> <li>Goldline had also fund movement with other entities who had funded IPO allottees viz. Aggrawal Traders (prop. Firm of Noticee no. 10), AMS Powertronic Pvt. Ltd. (Noticee no. 12), Bright Securities (prop. Firm of Noticee no. 6), Nisha Traders (another prop. Firm of Noticee no. 6), Columbia Sales (Noticee no. 8).</li> </ul> <p><b>Observations:</b> The numerous fund transactions between <i>Noticee no. 4</i>, ECO (<i>Company</i>) and other entities, as aforesaid, have not been clarified successfully by either of the involved entities. Further, out of the IPO proceeds, directly and indirectly, a total amount of INR 3.40 Crore was transferred by ECO (<i>Company</i>) to Goldline, details of which shall be discussed at appropriate place in the order. Accordingly, in view of absence of any justifiable explanation and documents, I observe that Noticee no. 4 was enjoying collusive nexus with ECO (<i>Company</i>) as well as other entities mentioned above.</p>
2.	Madhukar Dubey (PAN: AIJPD7329J)  <b><u>Proprietorship Firm:</u></b> <ul style="list-style-type: none"> <li>Alliance Traders</li> <li>N V Sales Corporation</li> <li>A One Furniture</li> <li>Magnum Industrial</li> </ul> (Noticee no. 5)	<ul style="list-style-type: none"> <li>Alliance Traders (prop. Firm of Noticee no. 5) had received funds from Columbia Sales (Noticee no. 8), AMS Powertronic Pvt. Ltd. (Noticee no. 12), Mayfair Infosolution Pvt. Ltd., A One Furniture (prop. Firm of Noticee no. 5).</li> <li>N V Sales Corporation (prop. Firm of Noticee no. 5) had received funds from ECO (<i>Company</i>) (pre-IPO), A R Enterprise (prop. Firm of Noticee no. 6), Durga Prasad &amp; Co. (prop. Firm of Noticee no. 7), and Alliance Traders (prop. Firm of Noticee no. 5).</li> <li>A One Furniture (prop. Firm of Noticee no. 5) had received funds from DPRS Buildcon. Further, DPRS Buildcon had received from Goldline (Noticee no.4) and Deep Jyoti.</li> <li>Magnum Industrial (prop. Firm of Noticee no. 5) had received funds from ECO (<i>Company</i>) and A One Furniture (another prop. Firm of Noticee no. 5).</li> <li>Madhukar Dubey (Noticee no. 5) had received funds from AMS Powertronic (Noticee no. 12) for making ASBA application.</li> <li>Address: Plot No. 3, Gali No. 3, East Guru Angad Nagar, Laxmi Nagar, Delhi - 110092.</li> <li>Proprietorship firm of Sumit Kumar (Noticee no. 7), Madhukar Dubey (Noticee no. 5) and Satendra Kumar (Noticee no. 6) were having common address.</li> </ul>

		<p><b>Observations:</b> Noticee no. 5 is connected with various other entities, based on the fund movements, for which no explanation whatsoever has been submitted. The funds received by the Noticee no. 5 from the Noticee no. 12, were used by it to support its applications of shares under ASBA mode. Further, proprietorship of Noticee no. 5 was having a common address with proprietorship of other individuals (Noticee no. 6 and 7) and such a factor when viewed in the backdrop of allegations and absence of any explanation from the concerned <i>Noticees</i>, is a reason strong enough to decipher connection amongst the said three <i>Noticees</i> viz., Noticee nos. 5, 6 and 7.</p>
3.	<p>Satendra Kumar (PAN: AWWPK8525E) <b><u>Proprietorship Firm:</u></b>  <ul style="list-style-type: none"> <li>• Bright Securities</li> <li>• A R Enterprise</li> <li>• Nisha Traders</li> </ul>  (Noticee no. 6)</p>	<ul style="list-style-type: none"> <li>• Bright Securities (prop. Firm of Noticee no. 6) had received funds from Nisha Traders (another prop. Firm of Noticee no. 6), Magnum Industrial (prop. Firm of Noticee no. 5) and A One Furniture (another prop. Firm of Noticee no. 5).</li> <li>• A R Enterprise (prop. Firm of Noticee no. 6) had received funds from ECO (pre-IPO) and Shiv Traders (prop. Firm of Noticee no. 14).</li> <li>• Nisha Traders (prop. Firm of Noticee no. 6) had received funds from ECO (<i>Company</i>), Alliance Traders (prop. Firm of Noticee no. 5), N V Sales Corporation (another prop. Firm of Noticee no. 5) and A One Furniture (another prop. Firm of Noticee no. 5).</li> <li>• Address: Plot No. 3, Gali No. 3, East Guru Angad Nagar, Laxmi Nagar, Delhi - 110092.</li> <li>• Proprietorship firm of Sumit Kumar (Noticee no. 7), Madhukar Dubey (Noticee no. 5) and Satendra Kumar (Noticee no. 6) were having common address.</li> <li>• Satendra Kumar (Noticee no. 6) is one of the Directors in Core Capital Services Ltd. (Noticee no. 13)</li> </ul> <p><b>Observations:</b> Noticee no. 6 is connected with various entities due to the fund transactions alleged in the SCN and for which no explanation has been filed. Besides having proprietorship firms operating from the same address from which proprietorship firms of other individual <i>Noticees</i> were operating, the Noticee no. 6 is also connected to the Noticee no. 13 (Core Capital Services Limited), being its Director.</p>
4.	<p>Sumit Kumar (PAN: ARUPK1589P) <b><u>Proprietorship Firm:</u></b>  <ul style="list-style-type: none"> <li>• Vijay Bhagwandas &amp; Co.</li> <li>• Durga Prasad &amp; Co.</li> </ul>  (Noticee no. 7)</p>	<ul style="list-style-type: none"> <li>• Vijay Bhagwandas &amp; Co. had received funds from A R Enterprise (prop. Firm of Noticee no. 6) and Nisha Traders (another prop. Firm of Noticee no. 6).</li> <li>• Durga Prasad &amp; Co. had received funds from Alliance Traders (prop. Firm of Noticee no. 5), A R Enterprise (prop. Firm of Noticee no. 6) and N V Sales Corporation (another prop. Firm of Noticee no. 5).</li> <li>• Durga Prasad &amp; Co. also had fund movement with Mayfair Infosolution Pvt. Ltd.</li> <li>• Address: Plot No. 3, Gali No. 3, East Guru Angad Nagar, Laxmi Nagar, Delhi - 110092.</li> <li>• Proprietorship firm of Sumit Kumar, Madhukar Dubey (Noticee no. 5) and Satendra Kumar (Noticee no. 6) having common address.</li> <li>• Sumit Kumar is one of the Directors in following companies: <ul style="list-style-type: none"> <li>i. Core Capital Services ltd. (Noticee no. 13)</li> <li>ii. AMS Powertronic Pvt. Ltd. (Noticee no. 12)</li> </ul> </li> </ul>

		<p>iii. MAA Taluka Buildcon Pvt. Ltd.</p> <p><b>Observations:</b> Apart from having factors of common address for proprietorship firms of other individual <i>Notices</i> and unexplained fund transactions, the Noticee no. 7 was a Director of Noticee no. 12 (AMS Powertronics Ltd.) and Noticee no. 13 (Core Capital Services Ltd.) as well as another company viz., MAA Taluka Buildcon Pvt. Ltd., with which ECO (<i>Company</i>) had fund transactions.</p>
5.	Columbia Sales (Noticee no. 8)	<ul style="list-style-type: none"> <li>• Columbia Sales had received funds from ECO, Goldline (Noticee no. 4), Aggrawal Traders (prop. Firm of Noticee no. 10) and Garg Traders &amp; Suppliers (prop. Firm of Noticee no. 9).</li> <li>• Columbia Sales had also fund movement with AMS Powertronic Pvt. Ltd. (Noticee no. 12), Alliance Traders (prop. Firm of Noticee no. 5) and N V Sales Corporation (another prop. Firm of Noticee no. 5).</li> </ul> <p><b>Observations:</b> I observe that the Noticee no. 8 is also having nexus with the other <i>Notices</i>, as stated above, based on the fund movements. As the Noticee no. 8 has not filed any explanation addressing the fund movements, the allegation of connection arising out of fund transactions with numerous entities stands established.</p>
6.	<p>Mohan Garg</p> <p><b><u>Proprietorship Firm:</u></b></p> <p>Garg Traders &amp; Suppliers</p> <p>(Noticee no. 9)</p>	<ul style="list-style-type: none"> <li>• It had fund movement with ECO (<i>Company</i>).</li> </ul> <p><b>Observations:</b> <i>Noticee no. 9</i>, through his proprietorship firm had received funds to the tune of INR 1.00 Crore from ECO (<i>Company</i>). Even for allegation of such a huge transaction, the Noticee no. 9 has abstained itself from indulging in the proceedings in the present matter. Thus, <i>Noticee no. 9</i> is also connected to the ECO (<i>Company</i>), the Noticee no. 1.</p>
7.	<p>Mr. Ram Prakash</p> <p>(PAN: AXFPR4439L)</p> <p><b><u>Proprietorship Firm:</u></b></p> <ul style="list-style-type: none"> <li>• Khan Enterprises</li> <li>• Aggrawal Traders (Noticee no. 10)</li> </ul>	<ul style="list-style-type: none"> <li>• Aggrawal Traders (prop. Firm of <i>Noticee no. 10</i>) had received funds from Goldline (<i>Noticee no. 4</i>).</li> <li>• Khan Enterprise (prop. Firm of Noticee no. 10) had received funds from Shiv Traders (prop. Firm of Noticee no. 14), Garg Traders &amp; Suppliers (prop. Firm of Noticee no. 9) and Columbia Sales (Noticee no. 8).</li> <li>• RamPrakash (Noticee no. 10) is one of the Directors in following companies: <ul style="list-style-type: none"> <li>i. Aavia Buildtech Pvt. Ltd.</li> <li>ii. Aavia Softech Pvt. Ltd.</li> </ul> </li> </ul> <p><b>Observations:</b> The proprietorship firm of the Noticee no. 10 viz., Aggrawal Traders had allegedly received funds from the Noticee no. 4 and the Noticee no. 4 has already been held to be connected to the <i>Company</i>. For such a fund transaction between Noticee no. 4 and 10, no plausible justification supported by documentary evidence has been filed in the present proceedings. Further, the other firm owned by the <i>Noticee no. 7</i> viz., Khan Enterprises had received funds from other entities and no explanation to such fund transfers has been filed. Furthermore, Noticee no. 10 was Director in two companies: Aavia Buildtech Pvt. Ltd and Aavia Softech Pvt. Ltd., both of which had received the IPO proceeds of the <i>Company</i>.</p>

		I observe that based on such inter-connectedness, all the aforesaid entities were connected to the <i>Company</i> through Goldline.
8.	Avisha Credit Capital Pvt. Ltd. (Avisha) (Noticee no. 11)	<ul style="list-style-type: none"> <li>Avisha had fund movement with ECO (<i>Company</i>) and Goldline (Noticee no. 4).</li> </ul> <p><b>Observation:</b> It had received INR 2.63 Crore from the <i>Company</i>, which had stated to be settlement of some past liability. Similar such statement has been made for the fund transaction executed with Goldline that it had extended loan to Goldline. I observe that except a bald statement, no other details like the term of loan, rate of interest etc., or documentary proof like loan agreement, TDS Certificate etc., have been furnished. Thus, the Noticee has failed to sufficiently explain the said allegation of connection with the <i>Company</i> and Goldline.</p>
9.	AMS Powertronic Pvt. Ltd. (Noticee no. 12)	<ul style="list-style-type: none"> <li>It had fund movement with ECO, Goldline (Noticee no. 4), Shiv Traders (prop. Firm of Noticee no. 14), Garg Traders &amp; Suppliers (prop. Firm of Noticee no. 9), Columbia Sales (Noticee no. 8), Madhukar Dubey (Noticee no. 5), Core Capital Services Pvt. Ltd. (Noticee no. 13), Mayfair Infosolution Pvt. Ltd., Lithmus Capital Consultance Ltd. (Noticee no. 16)</li> <li>Director Name: 1) Sumit Kumar 2) Vinay Kumar</li> <li>Sumit Kumar is the common Director in Core Capital Services Ltd. (Noticee no. 13) &amp; Mayfair Infosolution Pvt. Ltd.</li> </ul> <p><b>Observations:</b> I observe that the Noticee has been alleged to be involved in fund transactions with numerous entities/<i>Noticees</i>, for which no justification has been put forth. It had transferred funds as huge as 1.01 Crore to Noticee no. 13.</p> <p>In absence of any justification for fund transfers, I find that the Noticee no. 12 is connected to the <i>Company</i> and other entities named above. Further, Noticee no. 12 had a common Director with the Noticee no. 13 and Mayfair Infosolutions Pvt. Ltd., which being a factual aspect, corroborates connection with these two entities also.</p>
10	Core Capital Services Ltd. (PAN: AAACC2840D) (Noticee no. 13)	<ul style="list-style-type: none"> <li>It had received funds from AMS Powertronic Pvt. Ltd. (Noticee no. 12)</li> <li>Director Name: 1) Satendra Kumar 2) Sumit kumar 3) Ajay Narwaria</li> <li>Address: Plot No. 3, Gali No.3, East Guru Angad Nagar, Laxmi Nagar, Delhi (East) - 110092.</li> <li>The address of Core Capital Services Ltd. is the same of the proprietorship firms of Noticee no. 5, 6, and 7.</li> </ul> <p><b>Observations:</b> I have already held that the Noticee no. 13 was connected to the Noticee no. 12, based on common Director and fund transfers. Further, having its office at the same address as of the proprietorship firms of Noticee nos. 5, 6 and 7, further connects it with those <i>Noticees</i>.</p>
11	Prakash Gupta <b><u>Proprietorship Firm:</u></b> <ul style="list-style-type: none"> <li>Shri Trading Co.</li> <li>Shiv Traders</li> </ul>	<ul style="list-style-type: none"> <li>Shiv Traders had received funds from ECO.</li> <li>Shri Trading Co. received funds from N V Sales (prop. Firm of Noticee no. 5) and Shiv Traders.</li> </ul> <p><b>Observations:</b> The firm viz., Shiv Traders had received INR 81.50</p>

	(Noticee no. 14)	<p>Lakh from ECO (<i>Company</i>) whereas the other firm Shri Trading Co. had received INR 11.43 Lakh from N V Sales, proprietorship firm of the Noticee no. 5.</p> <p>Thus, all these entities are connected to each other based on the fund movements.</p>
12	LMR Green Realty Pvt. Ltd. (Noticee no. 15)	<ul style="list-style-type: none"> <li>It had fund movement with Goldline (Noticee no. 4).</li> </ul> <p><b>Observations:</b> Noticee no. 15 had received INR 32 Lakh from Goldline. The detailed findings shall be recorded in the later part of the order, while dealing with the role of the Noticee no. 15.</p>
13	Lithmus Capital Consultance Ltd. (Noticee no. 16)	<p>It had fund movement with AMS Powertronic Pvt. Ltd. (Noticee no. 12).</p> <p><b>Observations:</b> Noticee no. 16 had received INR 30 Lakh from the Noticee no. 12, which I have already held to be connected to the <i>Company</i>. Thus, Noticee no. 16 was also connected to the <i>Company</i>, as no justification with respect to said fund transfer has been filed.</p>
14	Ace Consultant (Noticee no. 17)	<ul style="list-style-type: none"> <li>It had fund movement with the ISF Securities Ltd. and Goldline (Noticee no. 4).</li> <li>Common Address with ISF Securities Ltd.</li> <li>Till March 2014, Brij Kishore Sabharwal (Director of ECO/Noticee no. 3) was the director in ISF Securities Ltd.</li> <li>ISF Securities received funds from Ace Consultant which were received from Goldline (Noticee no 4).</li> </ul> <p><b>Observations:</b> The connection of the Noticee no. 17 shall be dealt with at subsequent part of the order.</p>
15	Mayfair Infosolution Pvt. Ltd.	<ul style="list-style-type: none"> <li>It had fund movement with AMS Powertronic Pvt. Ltd. (Noticee no. 12), Alliance Traders (prop. Firm of Noticee no. 5).</li> <li>Director Name: 1) Sumit Kumar 2) Vinay Kumar</li> <li>Mayfair is connected with AMS Powertronic Pvt. Ltd. (Noticee no. 12), Core Capital Services Ltd. (Noticee no. 13), through common Directors.</li> </ul> <p><b>Observations:</b> I have already held Mayfair Infosolution Pvt. Ltd. to be connected to the Noticee nos. 12 and 13, which does not require further reiteration.</p>
16	Aavia Buildtech Pvt. Ltd. (Aviva)	<ul style="list-style-type: none"> <li>Aviva had funds from IPO proceeds of ECO (<i>Company</i>).</li> <li>Aavia Buildtech Pvt. Ltd. and Aavia Softech Pvt. Ltd. having common address: 1/2486, Gali No. 26, Ramnagar, Modern Shahdra, East Delhi - 110032.</li> <li>Aavia Buildtech Pvt. Ltd. and Aavia Softech Pvt. Ltd. having common Director: 1) Kamal Singhal 2) Ramprakash (Noticee no. 10).</li> <li>Mr. Ramprakash (Noticee no. 10) is the proprietor of M/s. Khan Enterprise and M/s Aggrawal Traders.</li> </ul> <p><b>Observations:</b> The company, Aavia Buildtech Pvt. Ltd., not only had</p>

		received IPO proceeds from the <i>Company</i> , but also shares common address with another company viz., Aviva Softech Pvt. Ltd. The Noticee no. 10 is one of the Directors in both the Companies. Thus, the said company is also connected to ECO and Noticee no. 10.
17	Aavia Softech Pvt. Ltd.	<ul style="list-style-type: none"> <li>• This company received funds from IPO proceeds of ECO.</li> <li>• It was connected to Aviva Buildtech, as stated in previous column.</li> </ul> <p><b>Observations:</b> Apart from the fact that the Aviva Softech Pvt. Ltd. is connected to Aviva Buildtech Pvt. Ltd., it had also received the IPO proceeds of ECO.</p>

18. As can be noted from the tabular representation above, as far as the IPO subscription are concerned, the majority of the connections amongst the funding entities have been premised on the fund transactions exchanged between *Noticees* or their proprietorship firms and in a few cases, the connections emanate from common directorship in companies and common addresses of proprietorship firms of different individual *Noticees*. For illustration, *Noticee no. 4* had fund transactions with the *Noticee no. 1 Company*, and with other entities viz., proprietorship firms of *Noticee no. 6* and *Noticee no. 10*, as well as with the *Noticee no. 8*. Further, proprietorship firms of *Noticee no. 5, 6 and 7 and Noticee no. 13* (Core Capital Services Ltd.), were operating from the same address, i.e., *Plot No. 3, Gali No. 3, East Guru Angad Nagar, Laxmi Nagar, Delhi – 110092*. Furthermore, Sumit Kumar (*Noticee no. 7*) is one of the Directors in *Noticee nos. 12 and 13* as well as in another company viz., MAA Taluka Buildcon Limited, with which the ECO (*Company*) had fund transactions.

19. It is noted from the replies of the various *Noticees* that majority of them have failed to make any satisfactory submissions to dispel the allegations of connections imputed in the SCN. Further, even for those *Noticees* who participated in the proceedings, I observe that none of them has been able to persuade me so as to justify their stand to refute the allegations made against them in the SCN.

20. *Noticee no. 4* has claimed to have advanced some amounts to various entities in pursuance of its general business transactions. With respect to its fund transactions with the *Company*, at one place *Noticee no. 4* admits having received large amounts of funds from ECO and has tried to explain it as repayment of outstanding dues received from the *Company*, however, at the same time while responding to the specific allegation that it has received the said funds soon after the IPO of the *Company*, *Noticee no. 4* has straightway denied having received any such amounts, which includes both direct and indirect fund transfers. Thus I observe that the *Noticee no. 4*, has



taken contradictory stands in its reply and has neither filed any details with respect to the purported business transaction for which it has transferred money to various entities nor has it produced the details of the amount supposedly due for recovery from the *Company* nor even has it been able to produce any documentary evidence in support of such claims to adequately explain the reasons for receiving funds from the *Company*.

21. In this respect, it is pertinent to mention here that although the *Noticee no. 4* has claimed that the funds received by it from ECO (*Company*) were towards repayment of outstanding loans, however, ECO (*Company*), which is the *Noticee no. 1* in the present proceedings, has merely claimed that the said transactions were entered out of business dealings. The *Company* has not claimed that the payment of such high amount of INR 3.40 Crore (directly as well as through conduits, details of which have been discussed in later part of the order) to the *Noticee no.4* immediately after the IPO was towards repayment of any outstanding loan. I observe that in order to prove the genuineness of a financial transaction, it is imperative to expect identical replies from both/all the counterparties to the said transaction, which is further required to be supported by verifiable documents. However, as noted above, both the parties in this matter, have submitted evasive and divergent responses to explain the transactions between them and neither of them has been in a position to produce any evidence like copy of balance sheets, Income Tax Returns, loan agreement, TDS Certificate, etc., so as to demonstrate the true nature & intent behind those transactions between them. It becomes all the more imperative, considering the fact that the *Noticee no. 4*, supposed to be a company engaged in various financial activities, was expected to enter into those financial transactions with proper audit trail and documentation to justify its transactions with the *Company*. On the other hand, it also shows that the *Noticee no. 1*, i.e., the *Company*, which had mobilized funds from the shareholders under the IPO did not even bother to execute any enforceable documents before parting with such large sums of shareholders' money, which were required to protect the interest of the hard-earned money of the shareholders, and to deal with an eventuality of default by the counterparty (*Noticee no.4*) to such transactions. There is no dispute that the *Noticee Company* had not disclosed in the offer document or other supporting documents acknowledging any dues to be repaid to the *Noticee no. 4* out of the proceeds of IPO. The objects of IPO as were disclosed in the Prospectus of the *Company* did not mention any possibility of repayment of any outstanding loan/dues as one of the objects of IPO. On the contrary, the information furnished by the *Company* vide its letter dated December 25, 2015 states that it had surplus funds out of which an

amount to the tune of INR 64.64 Lakh was utilized towards extending short term loans to entities. Contrary to the said claim it is now clear that the *Company* did not have any sufficient surplus funds prior to the IPO and only after it had garnered funds of INR 7.56 Crore from IPO, it has extended those short terms loans as well as transferred an amount to the tune of INR 3.40 Crore (including direct transfer of INR 15.00 Lakh) to the *Noticee no. 4* purportedly towards repayment of outstanding dues to *Noticee no.4*. Thus, in the absence of any justifiable explanations furnished by the two *Noticees* and further looking at the contradictory claims put forth by the two parties, I am constrained to observe that the funds out of the IPO proceeds were not transferred by the *Company* to *Noticee no.4* in the ordinary course of any business dealing. It is also noticed from the records that the *Noticee no. 4* has been engaged in funding activities in respect of some other entities too, which enjoyed connections with the *Noticee no. 1 Company*. Therefore, the submissions of *Noticees* to justify their inter se transactions are without any merit and supporting evidence, hence, deserve outright rejection. Such financial transactions are strongly indicative of the fact that those fund transactions by the *Company* were targeted towards repayment of the amounts funded to the IPO applicants, which will further unfold in detail in the subsequent paragraphs of this Order.

22. I further note that even the *Noticee no. 11* has made claims similar to the *Noticee no. 4*. It (*Noticee no. 11*) has also claimed to be in the business of NBFC and has stated that an amount of INR 3.42 Crore was due and receivable from ECO (*Company*). With respect to other transactions alleged in the SCN, i.e., that it has transferred INR 1.5 Lakh each to 43 RIIs (Retail Individual Investors) which was used by them to submit their applications under the IPO of the *Company*, the *Noticee* claims to be unaware of the end usage of such funds by those recipients to whom it had transferred such sums or amount. Further, like other connected *Noticees*, *Noticee no. 11* has also made various bald assertions and has also denied having any connection with the other entities but such a claim again has not been backed by any credible documents or any other tangible support which could have lent strength to such a claim. It is so unusual for an entity which is a registered NBFC, to extend similar amounts of loans to 43 individuals without possessing with it any documents to substantiate its claims of having extended such loans to those individuals. As a result, the submissions made by the *Noticee no. 11* about extending loans without any supporting documents, and that it was not aware about the usage of those loans for applying for shares under the IPO of the *Company*, do not impress me at all and are not convincing enough to deserve any consideration, hence rejected.

23. *Noticee no. 15* is one of those *Noticees*, which has preferred to file a written reply, wherein it has not disputed to the receipt of INR 32 Lakh from Goldline but has contended that the said amount was received towards 10% advance of the total sale consideration receivable from Goldline. I note that the *Noticee no. 15* has claimed to be in the business of real estate broking and has tried to justify the transaction executed with Goldline, emanating from some real estate deal. Surprisingly, apart from the aforesaid claim, the *Noticee no. 15* has not been able to provide any supporting detail or documents like agreement for sale, or details of the property, etc., which could have put some force to its arguments. The authorized representative of the *Noticee no. 15* was categorically asked during the personal hearing to provide supporting documents, however, despite having granted sufficient time, the *Noticee no. 15* has not been able to furnish any documentary evidence to justify the above stated fund transaction with Goldline. Interestingly, even the *Noticee no. 4* (Goldline) has not furnished any supporting details or documentary evidence about the above noted transaction with the *Noticee no. 15*. Under the above circumstances, the contentions of *Noticee no. 15* about its transactions with *Noticee no. 4* remain mere a specious assertion without any substance or any verifiable documents to rely upon to give any credence to such a claim, hence, the arguments advanced by the *Noticee no. 15* and *Noticee no. 4* on their *inter se* funds transaction are also liable to be rejected.

24. Insofar as *Noticee no. 1* is concerned, I find that the onus with respect to its connections with other entities as alleged in the SCN was to be discharged by *Noticee no. 1* by filing strong evidence, documentary or otherwise, to substantiate its claim that it has no connections with those entities/*Noticees* as alleged in the SCN and that it has executed financial transactions with those entities purely in due course of its business. However, the *Noticee no. 1* has not furnished any supporting details with respect to the transaction entered into with Goldline to explain the actual nature & purpose of its financial dealings with Goldline. For the rest of the entities with whom also the *Noticee no. 1* has been allegedly found to be involved in financial transactions, the *Noticee no. 1*, has offered myriad explanations in support of such transactions, however, the said explanations and the documents so furnished by it do not provide any credence to the claims made by the *Noticee no. 1* in its explanations the details of which would be dealt with while discussing the issue of utilization of IPO proceeds in the following paragraphs of this order.

25. I find from the records that the *Noticee no. 17* has provided certain relevant documents like copy of income tax returns, balance sheets, bank account statements etc., to contend that a

loan of INR 50.00 Lakh was received by it from *Noticee no. 4* (Goldline) on January 15/17, 2013 and the said loan was repaid to *Notice no.4* along with interest @ 9%. In this respect, from the copy of bank account statements furnished by the *Noticee no.17*, it is noted that a total amount of INR 55,81,917 has been repaid to the *Noticee no. 4* by the *Noticee no. 17* during the period of March, 2014 to July, 2014. It is further noted from the copy of Income Tax Returns of Ms. Sunita Khemka (proprietor of Ace Consultant) that not only the said documents contain appropriate entries with respect to Ace Consultant being the proprietorship firm, but also the relevant years' balance sheets mention about the details of the loans taken by Ace Consultant from the *Noticee no. 4*. It is also noted that the loan entry from Goldline got reduced from INR 50, 92, 465 to INR 25, 22, 492 from the balance sheet of financial year ending on March 31, 2013 to the financial year ending on March 31, 2014, as the *Noticee no. 17* had made repayment of certain amount to the *Noticee no. 4* (Goldline) during the said period. A careful scrutiny of the documents, as detailed above, satisfies that the said financial transaction between the *Noticee no. 4* (Goldline) and *Noticee no. 17* were in the nature of a loan transactions, as have been corroborated by verifiable documentary evidence produced by the *Noticee no. 17* before me. However, it is pertinent to observe that although the allegation of dubious fund transactions with the *Noticee no. 4* has substantially been clarified by the *Noticee no. 17* from its end, such a finding would not *ipso facto* dissociate it from the fact the two *Notices* enjoyed close connection with each other but for which, such unsecured financial transaction of large amount of funds would not have taken place between the said two *Notices*. Accordingly, the charges made in the SCN against the *Noticee no. 17* and its role in the alleged scheme of having provided funds to the IPO applicant, will be analyzed appropriately at relevant part of this order.

26. The SCN has also alleged connection of *Noticee no. 17* with ISF Securities on the basis of common address & fund transfers and its further connection with the *Noticee no. 3* (Mr. Brij Kishore Sabharwal), as he (*Noticee no.3*) was also a Director on the Board of ISF Securities. In this connection, it has been submitted that mere fund transfers with ISF Securities and common address is not a material issue as Ms. Sunita Khemka is the proprietor of *Noticee no. 17* and she was admittedly on the Board of ISF Securities as a Designated Director and further she also held majority of the shareholding of ISF Securities along with her family members.

27. As regards the common directorship of Ms. Sunita Khemka and *Noticee no. 3* is concerned, it has been contended before me that the *Noticee no. 3* was already a Director of ISF Securities before Ms. Sunita Khemka and her family members took over its management from

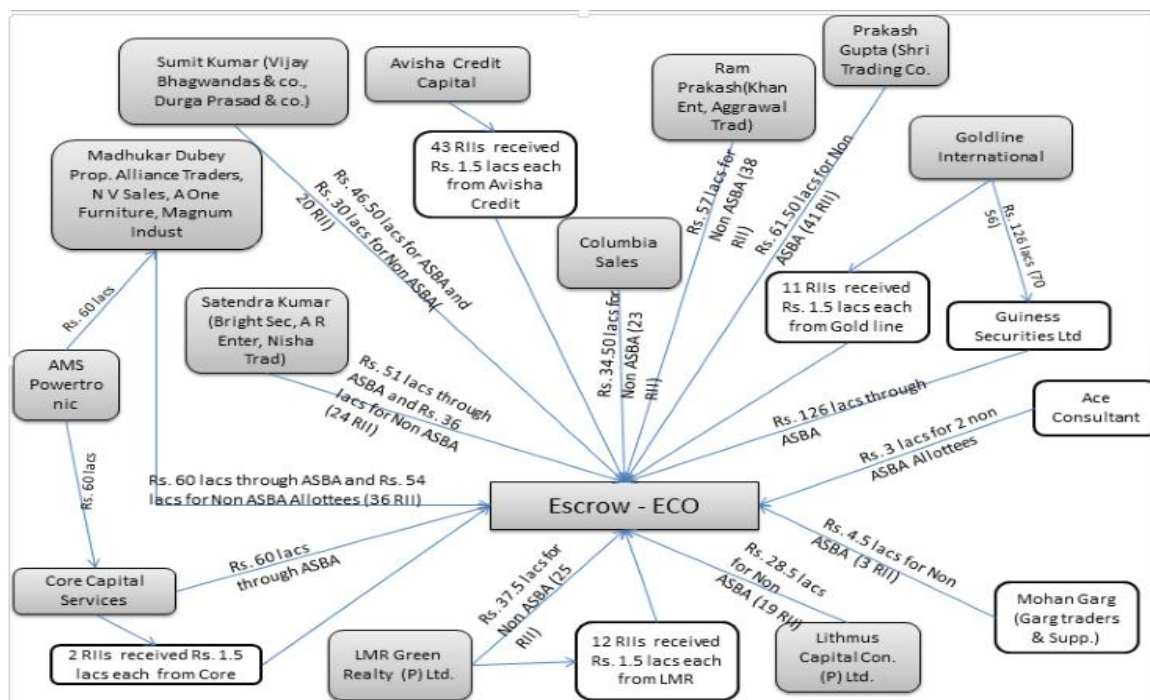
the erstwhile promoters. It has further been contended that the *Noticee no. 3* was permitted to continue as a Director of ISF Securities till March 21, 2014 only for the purposes of smooth handover and for the purpose of retaining retail clients of ISF. I have given a careful consideration to the aforesaid submissions and I find the said explanation to be completely baseless, offering no acceptable justification for continuation of the *Noticee no. 3* as a Director of a company (ISF), which was acquired by the proprietor of *Noticee no. 17*. I observe that had the purpose of allowing *Noticee no. 3* to be associated with ISF Securities been retention of retail clients, the same could have been achieved by keeping the *Noticee no. 3* (Mr. Brij Kishore Sabharwal) associated in any other capacity, instead of retaining him as a Director on the Board of the said company. Thus, the *Noticee no. 17* has not been able to advance any argument of persuasive value on this count and rather it renders the alleged connection between the *Noticee no. 17* and the *Noticee no. 3* inevitably more clear and settled beyond doubt.

28. With respect to the connection alleged to be present amongst the remaining *Noticees*, I observe that none of them has been able to controvert the connection that has been alleged in the SCN, *prima facie* based on concrete details like common addresses, common directorship etc. In view of the same, I am constrained to conclude that allegation that these entities were enjoying a close connection amongst themselves stands vindicated, particularly due to the reason that such alleged connections have been deduced from the tangible factual supports like fund movements, common addresses, common directorship etc., as have been observed during the investigation to be existing amongst these *Noticees*. Having found that the *Noticees* enjoyed inter-se connections amongst themselves as alleged in the SCN, I proceed to deal with the second leg of allegation pertaining to funding the applications of IPO applicants by the funding group entities and their direct and indirect fund movements with the *Company*, which is evident apparently from the huge amounts of money transferred to many of the funding group entities, out of the IPO proceeds of the *Company*.

29. It is noted that during the relevant period there were two ways to apply for the equity shares under the IPO: One was to file application along with payment of consideration by cheques and the other was making an application under the facility of ASBA, i.e., - Application Supported by Blocked Amount, wherein appropriate amount is blocked in the account of the applicant to support the application.

30. One of the main charges in the SCN is that the funding group entities have funded applications of various applicants. The alleged funding of the applicants of the IPO, as have

been narrated in the earlier part of this order, is also represented in a diagrammatic manner, as follows:



31. As can be easily deciphered from the aforesaid representation, the funding group entities, in majority of such cases have issued cheques directly to the *Company* for non ASBA applicants, based on which, payment went directly from the funding group entities' accounts to the IPO account of the *Company*. Further, there are other cases also, where the funding group entity has provided funds directly to the applicants and the applicants have used such funds to make application under the ASBA option. It can be seen from the illustration, where *Noticee no. 8* had given INR 34.50 Lakh to the *Company's* account, on behalf of 23 RIIs (IPO applicants) towards their IPO application money. Similarly, LMR Green Realty Pvt. Ltd. (*Noticee no. 15*) has paid INR 37.50 Lakh to the *Company* on behalf of 25 RIIs and additionally has also provided INR 1.50 Lakh to 12 RIIs, who have made IPO applications after receiving such funds from the *Noticee no. 15*.

32. Curiously, I observe that the ultimate recipient of those IPO application money, i.e., the *Company*, has not been able to provide even an *iota* of explanation as to why it accepted such payments from the funding group entities (third party accounts), on behalf of IPO applicants who were apparently not even related to those third party funding entities. Further, after receiving the payments from the funding entities, the *Company* allotted shares to the other

entities (the IPO applicants on behalf of whom application money was paid directly by the Funding entities). It means that shares were allotted to entities other than those who made the actual payment for those IPO applications, which was grossly against the extant norms and law governing the issue of shares under IPO. The *Company* has made a general submission that the transactions executed by third parties should not form the basis of any allegations against it. I note that such a ground taken by the *Company* is casual, evasive and irresponsible as, the *Company* was on the other side of those transactions and it has also consciously and deliberately allotted shares on the basis of such transactions, to entities other than those, who actually paid for the application money. The *Company* ought to have explained such misconduct with justifications so as to satisfy that these transactions were *bonafide*, but it has not been able to put forth any rationale behind such transactions. Further, *Notices* like *Noticee no. 4* and *Noticee no. 11*, who paid money on behalf of various IPO applicants, have claimed that such transactions were made out of their general business activities in the nature of NBFC. However, the said *Notices* have neither provided the particulars of those transactions like rate of interest, tenure of loan/advances, terms and conditions, details of collaterals nor have been able to file any kind of document like loan agreement, TDS certificate etc. to substantiate that those fund transfers made by them were indeed in course of their normal lending activities as NBFCs. Further, *Noticee no. 11* has made a bald and superfluous statement that it had provided loans to some needy people who had the ultimate discretion to utilise such funds. I observe that the said stand of having extended loans to needy people also is not supported by any documents like applications made by such persons seeking financial support, purposes of such advances, details of recoveries of such advances, interest charged thereon etc., so as to enable SEBI to verify the said explanations offered by *Noticee no. 11*. I observe that had such transactions been actually entered into in due course of its genuine NBFC business transactions, the *Noticee no. 11* would have certainly been able to substantiate its claim through records, but it has failed to do so. I have therefore, no hesitation in rejecting the submissions of the *Noticee no. 11* as it has failed to controvert the allegations of its connection with other *Notices* including the *Noticee no. 1 (Company)* and also has failed to justify its imputed financial transactions.

33. The *Noticee no. 15* has claimed that there is no bar in making multiple applications in an IPO and admittedly it has made multiple applications through friends and family members of the promoter. However, the *Noticee no. 15*, despite being specifically asked during the personal hearing to provide specific information pertaining to its connection with the 25 applicants for

whom it has paid application money to the *Company* it has not been able to furnish any details of repayment of the application money made by such 25 applicants if any nor any other information to justify its multiple application under the IPO of the *Company* etc. I note that the *Noticee no. 15* in its written reply has *inter alia* made a candid admission which states as: *However, it can't be denied that some sort of futuristic prospects might have been discussed through "Goldline" officials at that point of time, taking reference of which but based upon self-analysis such investment decision was taken.*

34. All the aforesaid factual details of transactions indulged into by the above mentioned entities for funding the IPO applications of a large number of applicants, coupled with the financial transactions that were unearthed during the investigation between the *Company* and the above noted funding group entities for which no justifiable explanations have been furnished, either by the *Company* or by the recipient entities of such funds (transferred from the accounts of the *Company*) constrain me to conclude that the *Company* has not been able to repudiate the charges made in the SCN against it for having indulged in a scheme to fraudulently ensure the minimum statutory subscription to the IPO so as to ensure successful listing of the scrip on the Stock Exchange platform. It now looks apparent that the *Company*, in collusion with the funding group entities have orchestrated a device to fund large number of IPO applicants through the help of funding group entities in a manner that would guarantee the minimum statutory threshold of subscriptions to make the IPO successful at least in the eyes of law.

35. The SCN makes allegation that the *Noticee no. 17* had funded INR 1.50 Lakh each to two RIIs and in terms of the Annexure 1 to the SCN, the said two applicants were Ms. Sunita Khemka and Mr. Sunil Khemka. Out of the said two applicants, only Mr. Sunil was able to get the shares of the *Company* under its IPO and the application of Ms. Sunita was rejected. It is noted that the *Noticee no. 17*, in its reply filed through its proprietor, Ms. Sunita Khemka has not disputed the factual position that the funds utilised to make the applications, were sourced by the *Noticee no. 17* i.e., M/s Ace Consultant, which is her sole proprietorship firm. It is however contended that in view of the inseparable connection of Proprietor-Proprietorship between Ace Consultant and her, and further due to the family ties, between her and Mr. Sunil Khemka as husband and wife, the charges of funding do not stand legal scrutiny as no illegality can be attributed to such fund transfer. It has further been contended that both Ms. Sunita and Mr. Sunil Khemka together hold 51% shareholding of ISF Securities and are Designated Directors of ISF Securities.



36. There is no doubt that the *Noticee no. 17* (M/s Ace Consultant) was the proprietorship firm of the Ms. Sunita Khemka, and both the alleged entities are husband and wife. Therefore, when the proprietorship firm and the proprietor are treated as one and the same in the eyes of law and further, the other individual being the husband of the proprietor of the firm which transferred the funds, I am persuaded that the charges made in the SCN are not established, due to such highly close relationship between the two persons. As the allegations against the *Noticee no. 17* are limited to funding the IPO applications of its own proprietor (Ms. Sunita Khemka) and of the husband of the proprietor (Mr. Sunil Khemka), such charges cannot sustain given the relevant factual matrix or the legal framework, as discussed above. Thus, I observe that the *Noticee no. 17* has been successfully able to vindicate itself from the charges made in the SCN.

37. Coming back to the charges made against the *Company*, based on the aforesaid discussion, it is clear that the *Company*, while acting in connivance with the other funding group *Notices*, was able to act on the scheme to fund its own IPO applicants and make allotments to such entities on the backing of funds provided by the funding group entities. The SCN records that as many as 25, 92,000 shares out of the total allotted shares were backed by the funds provided by the funding group entities, which comes to 85.71% of the total shares allotted, i.e., 30,24,000.

38. It is now beyond doubt that had the *Notices* not provided funds to the IPO applicants by playing their respective roles in the scheme that involved concerted efforts by all the connected entities, the *Company* could not have succeeded in complying with the requirement of achieving the minimum threshold applications of 90% of the shares offered under its IPO and such non-compliance would have resulted into the IPO becoming a failure and the scrip of the *Company* would not have been listed on the SME segment of BSE.

39. I note the *Company* has contended that the aforesaid allegation against it is not substantiated with sufficient evidence as the *Company* had executed an Underwriting Agreement, based on which the IPO was 100% underwritten. It has further been argued that the charge of ensuring minimum subscription, through fraudulent scheme, would not sustain as the in any event the IPO of the *Company* was protected by the Underwriters and the scrip would have got listed in all eventualities. However, the said argument of the *Company* having secured the subscription through the Underwriter is found to be a fallacious claim as the same is fraught with contradictions as well as not supported by any verifiable piece of evidence. Without prejudice to the above, I proceed to examine the said Underwriting Agreement, a copy of which

has been filed by the *Company*. The relevant clauses of the said agreement are reproduced herein below:

***“2. Underwriting***

*On the basis of representations and warranties contained in this Agreement and subject to its terms and conditions, the Underwriter hereby agrees to underwrite and/or procure subscription for the Equity Shares in the manner and on the terms and conditions contained in Section 5 of this Agreement.*

.....

***5. Issue***

*5.1 Notwithstanding anything contained elsewhere or otherwise in this Agreement, the Company agrees that the maximum number of Equity Shares in the Issue that the Underwriter have to underwrite is 30,06,000 Equity Shares, which is allocated as under:*

<i>Name of the Underwriter</i>	<i>No. of Shares Underwritten</i>
<i>GMPBL</i>	<i>25,02,000</i>
<i>GSL</i>	<i>5,04,000</i>

*5.2 In the issue, Underwriter shall only be responsible for ensuring completion of the subscription in respect of such applicants, including ensuring full payment of the issue Price in respect of the Equity Shares for which such applications are made, in the manner set forth in this Section.*

*5.2.1 The default in full and timely payment of the Issue Price in respect of the Equity Shares for which the applicant has placed a application and received allocation in respect of such application; or*

*5.2.2 The withdrawal of a applicant, in respect of which an allocation of Equity Shares has been made, by the applicant prior to allotment of the Equity Shares subscribed by such applicant;*

*5.3 The Underwriter shall be liable to discharge its underwriting obligations as follow:*

*The Underwriter will be required for themselves, to the extent of applications procured by them, to make good any default by such applicants.” (underlines supplied)*

40. It is observed from the clauses of the Underwriting Agreement, as reproduced above, that the obligation of the Underwriter was limited only to those applications, where the applicant either defaults in the payment or withdraws his application. From a careful perusal of the agreement, it is further observed that there was no contractual obligation cast on the Underwriter to subscribe to the entire unsubscribed portion of the IPO, as has been claimed by the *Company* in its submissions. Therefore, the argument advanced by the *Company* that the issue of the *Company* would have succeeded on account of the above noted Underwriting Agreement is found to be without merit. The *Company* has made a feeble attempt to take shelter under the Underwriting Agreement, which evidently, does not support the stand of the *Company*. The *Company* has failed to demonstrate any absolute *prima facie* presumption to suggest that there was

no requirement on the part of the *Company* to conceive any scheme to arrange funding for its IPO applicants as alleged in the SCN so as to absolve it from the charges of arranging funds in connivance with other entities. Even after considering the aforesaid clauses of the Underwriting Agreement, I observe that the same do not lend any comfort to the *Company* with respect to the subscription by the Underwriter against any payment defaults by some of the IPO applicants. Thus, the unassailable fact remains that the *Company*, acting in collusion with others, was the force behind funding the IPO applications and subsequent allotment to the extent of 87% of the shares, which renders the compliance made by it with the prescribed minimum threshold application of 90% of the offer size as an achievement by way of fraudulent means, irrespective of the Underwriting Agreement being in place.

41. To sum it up, on a holistic assessment of the financial transactions that were executed between the *Company* and various funding group entities, which have neither been disputed nor could be substantiated with any tangible justifiable reasons by the *Notices*, and the fact that a large number of *Notices* remained non-responsive to the entire proceedings, by not even filing any reply to the SCN, a strong preponderance of probabilities has emerged to prove that the *Company* along with other funding group *Notices* has acted on a pre-conceived scheme with the motive of achieving the requisite minimum number of applications so as to secure listing of equity shares of the *Company*. Thus, based on the forgoing discussion, I am clear that the first issue taken up by me for consideration has to be answered affirmatively against the *Notices* and in favor of the allegations levelled in the SCN.

*Issue II: Whether the proceeds of IPO have been utilized by the Company in terms of the Objects stated in the Prospectus?*

42. At the outset, it is important to highlight here that the Noticee Company has been grossly inconsistent with respect to the explanations pertaining to the utilization of IPO proceeds. While it has given an item wise break up of expenditure incurred towards different objects of IPO during SEBI's investigation without any supporting documents/material to corroborate the said expenditure, in the course of present proceedings, the *Noticee Company* has filed written submissions vide letters dated November 18, 2019 and March 03, 2020, therein giving revised details of expenditure made out of the IPO proceeds, and all such submissions viz., the one furnished during investigation and the submissions furnished during the present proceedings are totally at variance with each other. Such an inconsistent approach and evasive

explanations offered by the *Noticee Company* are self-evident from the following tabular presentations:

**Table 8**

Sr. No.	Details	Proposed utilisation of IPO as per prospectus	Utilisation of IPO proceeds as claimed during investigation	Utilisation of IPO proceeds as per first reply (November 18, 2019) submitted during the present proceedings	Utilisation of IPO proceeds as per another written submissions (March 03, 2020) submitted during the present proceedings
1)	Development of farm land for transition to organic farming	506.00	570.40	511.50	511.50
2)	Construction of storage sheds	114.00	40.80	0	0
3)	Solar Fencing	65.50	21.50	0	0
4)	Brand Building and General Corporate purposes	60.00	25.50	0	0
5)	Issue Expenses	60.00	33.16	33.16	33.16
6)	Investment in short term advances	NA	64.64	235.00	310.00
7)	Repayment of short term loan	NA	0	0	225.00
8)	Any other	-	0	0	45.00
	<b>Total</b>	<b>805.50*</b>	<b>756.00</b>	<b>779.66</b>	<b>1124.66</b>

\*Company had proposed to invest INR 54 Lakh from internal accruals and INR 7.51 Crore were proposed to be raised to utilize the same towards the objects of the IPO. However, the Company had finally raised INR 7.56 Crore

43. It may be seen from the above table, in its latest submissions dated March 05, 2020, apart from claiming to have spent INR 5.11 Crore towards development of farm land for transition to organic farming (which is separately discussed in the following paragraphs of the order), the *Company* has also claimed to have deployed the IPO proceeds to the tune of INR 3.10 Crore towards investment in short term advances (in contrast to the claim of having advanced INR 2.35 Crore as per previous submissions dated November 18, 2019) and has also claimed to have

utilized INR 2.25 Crore towards repayment of its loan which was pre-existing at the time of IPO (for which no details were provided in previous submission dated November 18, 2019). Further, in the latest submission dated March 05, 2020, the *Noticee Company* also submitted that it had paid INR 45.00 Lakh to Aviva Buildtech Pvt. Ltd. as short-term advance for construction of storage sheds, however, as the said entity could not complete the said assignment, the said amount of INR 45.00 Lakh has been recovered by the *Company*. The breakup of INR 3.10 Crore, claimed to have extended as short term advances by the *Company* is as under:

**Table 9: Details of loans**

Sr. no.	Name of the Party	Amount (in INR)	Documents
1.	Deepak Gupta*	50 Lakh	Copy of confirmation of statement of account. Copy of bank account statement
2.	GDR Finance and Leasing*	1.85 Crore	Copy of bank account statement. Copy of Form 26 AS
3.	Sirohi Investment Limited	50 Lakh	Copy of ledger account
4.	Nitin Gupta HUF (repaid on 06.06.2013)	10 Lakh	Copy of ledger account
5.	Amit Jain (repaid on 26.12.2014 and 02.01.2015)	15 Lakh	Copy of ledger account
	<b>Total</b>	<b>3.10 Crore</b>	

\* In letter dated November 18, 2019, only serial no. 1 and 2 were mentioned by the Company

#In letter dated March 05, 2020, the information with respect to Serial no. 3-5 has also been provided (apart from sr. no. 1 and 2).

44. Further, the *Company* has also provided certain details with respect to some other financial transactions (apart from the aforesaid short term advances), which are tabulated as under:

**Table 10**

Sr. No.	Name of the party	Amount (in INR)	Explanation
i.	Aviva Buildtech Pvt. Ltd.	45 Lakh transferred on January 12, 2013	Aviva had given a proposal to build Storage Sheds to the Company, which was one of the objects of the IPO. The amount was transferred as short-term advance for construction of storage sheds. As Aviva could not perform the said work, it repaid the amount of 45 Lakh on July 15, 2013. Copy of ledger account has been filed.
ii.	Aviva Softech Pvt.	80 Lakh on January 14,	A short-term loan of INR 80 Lakh was taken by the <i>Company</i> from Aviva Softech on December 28, 2012 and

	Ltd.	2013	the same was repaid from surplus funds. Copy of ledger account and bank account statement has been filed in support.
iii.	Maa Taluka Buildocn Pvt. Ltd.	1.45 Crore on January 14, 2013	The <i>Company</i> had borrowed INR 1.45 Crore during December 15, 2012 to December 20, 2012. Out of said funds, an amount of INR 11.50 Lakh was used to finance the IPO and remaining amount was given by the <i>Company</i> to various entities as interest bearing loans. The said amount was repaid to Maa Taluka on January 14, 2013.

45. Interestingly, it may be observed from the Table no. 8, that as against the plan of the *Company* to raise funds to the tune of INR 7.51 Crore and a plan to add INR 0.54 Crore from its own funds, to the said funds proposed to be raised through IPO so as to achieve the stated Objects of the IPO, the *Company* is now claiming to have spent a total sum of around INR 11.24 Crore. Even accepting the submissions of the *Company* on their face value regarding receipt of refund of INR 70 Lakh (INR 45 Lakh from Aviva Buildtech; INR 10 Lakh from Nitin Gupta HUF; and INR 15 Lakh from Amit Jain), the said amount of claimed expenses of INR 11.24 Crore can only be adjusted downwards to INR 10.54 Crore. Moreover, even after claiming to have utilised an amount for the objects of IPO which is clearly exceeding the amount of IPO proceeds, admittedly in the explanations offered by the *Company*, there has been no mention about deployment of funds on any of the other Objects like construction of storage sheds, solar fencing etc. Moreover, the deployment of funds for investment in short term advances and repayment of any existing loans were never part of the IPO disclosures.

46. Therefore, the Table no. 9 and 10 *prima facie* not only establish the fact that the *Company* grossly failed to utilise the IPO proceeds for the Objects for which IPO was issued but also indicates that the *Company* has diverted funds towards other transactions executed with various sundry parties which are again unsubstantiated and uncorroborated by the *Noticee Company*.

47. Reverting to the merits of the *Company's* explanations, it is noted that the *Company* while claiming to justify all its transactions as commercial business transactions, has furnished the copies of agreements which it had executed with various parties for development of land, for a total consideration of INR 5.11 Crore. At the outset, without going into the details of such agreements, it is observed that the said explanation is visibly deficit by INR 59 Lakh as the *Company* had claimed to have spent INR 5.70 Crore towards this object as on March 31, 2015. Therefore, on this count too, the explanations provided by the *Company* is clearly at variance

from its own claim and accordingly, the explanations and documents filed by the *Company* shall need to be scrutinized in detail to find the veracity of the claims made by the *Company*.

48. Moving on further, it is noted that the *Company* has filed copies of agreements claimed to have been executed towards the aforesaid objects of land development and further has filed, copies of relevant bank account statements to support the claims. The detailed break up of expenses incurred towards the aforesaid purpose viz., Development of farm land for transition into organic farming, with party wise details of agreements executed and payments made by the *Company* are as follows:

**Table 11: Details of agreements executed**

Sr. No.	Name of the party	Amount paid (in INR)	Documents	Dates of transactions
1)	Garg Traders and Suppliers.	55 Lakh	Copy of agreement dated October 01, 2012. Copy of bank account statements.	55 Lakh on 17.12.2012
2)	Khan Enterprises	25 Lakh	Copy of agreement dated October 01, 2012. Copy of bank account statements	25 Lakh on 16.10.2012
3)	Raj Marketing India	35 Lakh	Copy of agreement dated September 28, 2012. Copy of bank account statements	40 Lakh on 03.10.2012
4)	S P Enterprises	1.10 Crore	Copy of agreement dated September 25, 2012. Copy of bank account statements	65 Lakh on 14.12.2012 45 Lakh on 12.01.2013
5)	Nisha Traders	2.25 Crore	Copy of agreement dated October 01, 2012. Copy of bank account statements	25 Lakh on 16.10.2012 1 Crore each on 25.02.2013 and 26.02.2013
6)	Shiv Traders	31.50 Lakh	Copy of agreement dated October 01, 2012. Copy of bank account statements	37.50 Lakh on 18.10.2012
7)	Columbia Sales	15 Lakh	Copy of agreement dated October 01, 2012. Copy of bank account statements	15 Lakh on 17.10.2012

8)	Miscellaneous expenses paid in cash for soil bed installation, soil levelling charges etc.	15 Lakh	Copy of ledger account	
	Total	511.50 Lakh		

49. Further, the *Company*, in its reply to the allegations made in the SCN has claimed to have incurred an amount of INR 15 Lakh in cash, towards soil bed installation etc., however, in support of such a claim it has filed only an internal ledger account which shows various payouts in the range of INR 77,000 to INR 2.5 Lakh. The *Noticee Company* has not been able to support the said claim by providing even basic minimum information such as specifics of the counter party to such transactions in the said ledger account and documents like vouchers, receipts, TDS certificate etc. pertaining to these payouts, which would have been generated in course of such transactions, had the transactions were genuine and *bonafide* as claimed by the *Company*. Since, the *Company* has not furnished any documents to inspire confidence on the claim so advanced, in my view the said claim of utilizations of IPO proceeds are nothing but specious statement, having no substance.

50. As regards, the merits of the agreements referred to above purportedly executed by the *Company* towards utilisation of IPO proceeds for land development, they have been evaluated in detail and it is seen that the copies of aforesaid agreements furnished in support of the said claim would not come to help the *Company*, for the following reasons:

**Analysis of structure of agreements:**

- i. The aforesaid agreements were executed merely on the letter head of the *Company* and are neither registered nor notarised. On being specifically asked the reason for not getting the documents registered, the *Company* has stated that the agreements are internal and confidential documents to both the parties and therefore the same were not required to be registered. Such an explanation of the *Company* does not inspire any credibility as it was the prime duty of the *Company* to protect its rights by getting the agreement duly registered and executed in a court of law/office of Registrar. An agreement written on a letter head in such a fashion without even getting notarised, renders such a document *ab initio* unenforceable in law



- ii. Further, the said agreements are not backed by any kind of document of Board processes, like Board resolution, approval by Board of Directors, Board resolution authorising the Director to execute them on the behalf of the *Company* nor have they been executed in the presence of any witness. Further, from those agreements, the names/details of the person who has signed on behalf of counter parties (the vendor entities) are also not discernible, meaning thereby these agreements do not possess any qualities to be called as valid and legally enforceable documents.
- iii. Notwithstanding the fact that the so called agreements have been signed by the *Company* on its letter head and each of these identically worded documents has been signed to assign to the counterparty the responsibility for the development of a certain size of land out of the entire piece of land admeasuring 187.14 Acres situated at Pragna Rudrapur, Uttarakhand, it is interesting to note that these agreements only mention that a small portion of land in the broad range of 5.4 Acres to 82 Acres are being entrusted to each of those counterparties to develop, however, the agreements do not capture basic identification details of either the whole piece of land or the smaller pieces, which were entrusted to different parties for development. Certain crucial details such as identification of the land or the portion of the land under consideration, the relevant survey numbers and other minor but important information pertaining to time period prescribed for completion of such project involving development of vast tracts of land, obligation and duties of the parties and rights and claims in case of default etc. are conspicuously missing from these agreements, rendering these agreements to be too vague and ambiguous document to be relied on. Therefore, the claim of the *Notivee Company* on this count alone deserves rejection.
- iv. The *Company* has in its reply claimed that all contractual obligations have been fulfilled, but has failed to produce any concrete evidence like entries of such amounts in the books of accounts or consequential reflection of the profit/loss arising out of the aforesaid investments in the balance sheets, TDS certificates with respect to payments made, statutory documents like application filed with any local state body for plan approval, completion certificate, photographs of the land showing status of development, etc., to lay any credence on the submissions so advanced by the *Company*.
- v. Further, several gaps/discrepancies/inconsistencies are noticed in the claims made by the *Company*. For illustration, in one of those invalid and unenforceable agreements dated

September 28, 2012, executed with Raj Marketing India, there is a clause whereby, the *Company* had agreed to pay a total amount of INR 35 Lakh to Raj Marketing India, for the land development to be carried out by them, whereas the copy of bank account statement filed by the *Company* in support of the same reflects that on January 14, 2013, the *Company* had transferred an amount of INR 45 Lakh to the said entity. This instance of discrepancy in the explanation of the *Company* shows how unreliable is the claim of the *Company* about proper utilisation of the IPO proceeds, as none of its explanations find any support from documents furnished by it to justify the utilisation and transfer of funds to entities and instead most of its contentions are evasive, misleading and also inconsistent apart from the sans evidence and merit.

### **Timing of the Agreements**

- i. It is noted that all the agreements referred to above have been executed during the period of September 25, 2012 to October 01, 2012, with majority of the agreements being executed on the same day i.e. on October 01, 2012. It may be recalled that the IPO of the *Company* was open from the period of December 27, 2012 to December 31, 2012 and the scrip finally got listed on the BSE on January 14, 2013. As per the justification furnished by the *Company* although the above noted agreements were executed before the IPO of the *Company*, the proceeds of IPO were subsequently utilised towards payment to those entities in pursuance of those executed agreements. However, surprisingly the offer document or the IPO Prospectus as filed by the *Company* which was supposed to disclose the true and correct status of the affairs of the *Company*, did not mention anything about execution of these agreements, prior to IPO.
- ii. The dates of the agreements assume greater significance as the Prospectus dated December 18, 2012, which governed the IPO, *inter alia* mentioned that:

*"We are yet to place orders for proposed soil etc. for the Project, as specified in the "Objects of the Issue" on page 41 of this Prospectus. Any delay in procurement of soil bed, solar fencing may delay the implementation schedule. We may also be subject to risks on account of inflation in the price. Hence our Project could face time and cost over-run which could have an adverse effect on the operations of our Company. Negotiations in respect of specification with suppliers have been commenced and the agreements will be entered in due course once the negotiations are completed and Issue proceeds are procured."* (Underline supplied).

- iii. The aforesaid disclosure in the offer document clearly establishes the fact that the agreements which are pre-dated from the Prospectus are not in existence in the declaration/disclosures made by the *Company* itself to the public at large through its offer document. The aforesaid observation assumes crucial significance in calling the *Company's* bluff as the purpose behind presenting such invalid agreements appears to be only to mislead the proceedings with its false claim of having achieved one of the major object disclosed in the Prospectus.
- iv. Further, from the dates of the transactions mentioned in the table no. 11 above, it is observed that except for two transactions of 1 Crore each with Nisha Traders (Serial no. 5), all other transactions have been entered with the 7 entities for the purported object of utilisation of the IPO proceeds towards development of farm land, during a period prior to the IPO. It is thus noted that from a total amount of INR 5.11 Crores claimed to have been incurred towards this object, the said transactions belonging to pre-IPO period amount to INR 3 Crore (approx.). It appears that the *Company* has clearly tried to masquerade its pre-IPO transactions as post IPO transactions which in reality have been executed before the proceeds from IPO were received.

#### **Parties to the agreements**

- i. Insofar as the parties to the afore discussed land development agreements are concerned, it is noted that many of these parties with whom the agreements have been signed have already been named as funding entities in the present proceedings. I note that Nisha Traders, with which the *Company* has claimed to have executed a land development agreement for a consideration of INR 2.25 Crore, is *Noticee no. 6* in the present proceedings, as it had issued 9 cheques of INR 1.50 Lakh each on behalf of 9 non ASBA IPO applicants. Similar is the case of other entities viz., Columbia Sales/*Noticee no. 8*, which had issued cheques of INR 1.50 Lakh each for 23 non ASBA applicants; Khan Enterprises/*Noticee no. 10*, which had issued cheques of INR 1.50 Lakh each for 32 non ASBA applicants and so on. It now becomes amply clear that the *Company* has tried in vain to create an illusion of achievement of the object of the IPO by producing the above stated invalid land development agreements which was nothing but an attempt to justify the transfer of funds to the funding group entities for which, the *Noticee Company* had to indulge in creation of such false and non- genuine documents.

51. To sum it up, it can be safely concluded that the *Company* has not been successful in furnishing any documents worthy of acceptance in support of its claim of having utilized the amount of INR 5.11 Crore towards land development for transition to organic farming, that constituted more than 60% of the IPO proceeds. The *Company* has produced certain unregistered self- created agreements which have no legal sanctity nor are they enforceable in a court of law. The unregistered agreements furnished to justify the transfer of funds to the funding group entities are glaringly deficient in having the basic minimum and even elementary information that a normal land development agreement would possess as have been pointed out at length in the preceding paragraphs of this order, which belies the claims of the *Company* and do not generate even a mince of reliability on the submissions of the *Company*.

52. In view of the observations recorded above, such fabricated legally invalid agreements cannot help the *Company* in defending the charges made in SCN about non-utilization or rather wrongful utilization of IPO proceeds in deviation from the stated objects as per the prospectus of IPO. The agreements supposedly executed by the *Company* on its letter heads which are neither registered nor notarised, suffer from patent infirmities, hence do not appear to be genuine enough to justify the claim of having paid INR 5.11 Crore out of IPO proceeds, for the purpose of land development as claimed by the *Company*.

53. The *Company* has claimed that it has extended short term advances from its surplus funds, to 5 entities and out of those 5 parties, 2 entities have repaid the said loan. As pointed out earlier, advancing short terms loans was never disclosed as an object to utilize the money raised by the *Company* in the IPO. Moreover, the *Company* has not mentioned any details about the loans advanced to the remaining 3 entities, which involved loan outstanding to the tune of INR 1.85 Crore. The *Company*, even 7 years after its IPO and transfer of funds to various entities has not been able to submit a true and verifiable account of the utilization of IPO proceeds including extending the aforesaid short term advances and ironically, the said loans are still being termed as 'short term'. The *Company* has not furnished any documents indicating approval of the shareholders permitting the utilization of IPO proceeds for such inter corporate deposit/short term advances and has even failed to demonstrate if the said advances have been received with interest from such entities, till date. Therefore, the said act of advancing short term loans certainly constitutes an act done by the *Company* outside the stated objects of IPO and behind the back of its shareholders. I am therefore constrained to conclude that such transactions cannot be accepted as short term loans, and the funds so extended as loan cannot

be termed as ‘surplus’ when the *Company* has not been able to spent any money on its other stated objects viz., ‘construction of storage sheds’, ‘solar fencing’ and ‘Brand Building and General Corporate expenses’.

54. I now proceed to discuss the allegation in the SCN that the *Company* has transferred funds from the IPO proceeds to certain funding group entities. It is noted from the SCN, that out of the IPO proceeds, the *Company* has effected the following transactions with finding group entities:

- i. Transfer of INR 45 Lakh to Madhukar Dubey (via Aviva Buildtech); and
- ii. Transfer of INR 3.40 Crore to Goldline in following manner:

**Table 12: Fund transfers to Goldline**

Sr. No.	Name of the entities involved to route the funds	Amount of funds (INR in Lakh)	Dates
1.	From ECO to Goldline	15	January 19, 2013
2.	From ECO to SP Enterprises	45	January 12, 2013
3.	From SP Enterprises to Dip Jyoti Soft	45	January 14, 2013
4.	From ECO to Raj Marketing	45	January 14, 2013
5.	From Raj Marketing to Dip Jyoti Soft	45	January 14, 2013
6.	<b>From Dip Jyoti Soft to Goldline</b>	<b>90</b>	<b>January 14, 2013</b>
7.	From ECO to Maa Taluka	145	January 14, 2013
8.	From ECO to Aviva Softech	80	January 14, 2013
9.	From Aviva Softech to Maa Taluka	45	January 14, 2013
10.	<b>From Maa Taluka to Goldline</b>	<b>190</b>	<b>January 14, 2013</b>
11.	From ECO to Garg Traders	45	January 14, 2013
12.	From Garg Traders to AMS Powertronics	45	January 14, 2013
13.	<b>From AMS Powertronics to Goldline</b>	<b>45</b>	<b>January 14, 2013</b>

55. I observe from the above fund movements that the transfer of funds in quick succession from the accounts of the *Company* to the accounts of various conduit entities so as to ultimately push those funds to Goldline on the same day itself clearly suggests that such transfers were deliberately effected through the intervening entities only to escape the eyes of law or any suspicion. It is seen that many of those entities who have acted as conduits to transfer money from the *Company* to Goldline, like Garg Traders, AMS Powertronics etc., were also enjoying connection with the *Company*. Further, to justify the fund transfers to the conduit entities like Garg Traders, S P Enterprises, Raj Marketing, etc., the *Company* appears to have fabricated those legally untenable land development agreements, which in my above findings, have been found to be only paper agreements without any legal sanctity. As far as transactions with Maa Taluka Pvt. Ltd. and Aviva Softech are concerned, it is noted that both of the said entities are connected to the *Company*, as Sumit Kumar (*Noticee no. 7*) is one of the Director of Maa Taluka Pvt. Ltd. and *Noticee no. 10* is the Director of Aviva Softech. In the table placed in the earlier of this Order elaborating connection amongst entities, the basis of connection of all the entities have already been discussed, and thus the same needs no further reiteration. The *Company* has claimed that the transfer of funds to the said two entities was towards repayment of loans, however, since no document like loan agreement has been produced to support its claim of having obtained loan from these entities, the repayment of those unsubstantiated loans, from the IPO proceeds cannot be a justifiable explanation in the facts and circumstances of the present case. Moreover, the other counterparty *Noticees* involved in the aforesaid transactions have either provided some generic reasons for the aforesaid transactions without any supporting documents or have completely abstained themselves from participating in the present proceedings. Thus, the inability of the *Company* to furnish any verifiable documents and acceptable explanation to substantiate the transfer of funds to various entities coupled with the evasive & misleading explanations offered by it from time to time as pointed out in previous paragraphs speak volumes of the unscrupulous conduct of the *Company* and does not inspire confidence in any of the submissions made by the *Company*.

56. To sum it up, I observe that the *Company* has not been able to provide any credible and acceptable justifications so as to defend itself from the charges made in the SCN that the funds raised in the IPO have not been utilised for the objects disclosed under the Prospectus. Also, the explanations with respect to transfer of funds to various parties who were involved as funding group entities, carries no strength so as to dilute the charges in the SCN.

57. It has been submitted by the *Company* that it could not provide all necessary details during SEBI's investigation and had it been provided with adequate opportunities to furnish the requisite details during the investigation, the outcome of the investigation would have been different. The *Company* has neither explained as to what were the constraining factors that prevented it from submitting all the information during the investigation nor has it explained as to what further details or information it wants to furnish now (which it could not furnish earlier), which according to its argument, will mitigate all its hardships and exonerate it from the allegations made in the SCN. I am conscious of the fact that the proceedings before me is a quasi-judicial proceedings and the *Company* is free to furnish any additional information or evidence to defend its case against the allegations levelled in the SCN, for which there is no need for having another fresh round of investigation by SEBI. Nevertheless, in view of the request so made by the *Company*, the *Company* was given liberty to furnish all details, which it had failed to furnish during the investigation. The *Company*, vide its letter of dated March 05, 2020, has also filed various information and documents, the merits of which have already been discussed at length in the preceding part of the order. Under the circumstances, I note that the *Company* has been provided with fair amount of opportunity to defend itself effectively and it has also availed those opportunities to furnish whatever documents it wished to furnish with respect to utilisation of the IPO proceeds. Therefore, the aforesaid grievance of having not been given a fair trial do not exist anymore. However, as discussed above in detail, even after affording the *Company* with the sufficient opportunities to file documents and explanations to rebut the allegations pertaining to transfer of funds to the funding group entities (to ensure the successful subscription to the IPO) and alleged mutualisation of the IPO proceeds in deviation from the objects stated in the Prospectus, I find that the *Company* has completely failed to rebut the allegations made against it in the SCN. The aforesaid findings and my well-considered observations thereon recorded in this order are not based only on the allegations made in the SCN but after taking into cognizance, all the submissions, both oral & written made by the *Notices* alongwith various documentary evidences including copies of banks statements furnished by the *Company*. In my considerate view, the *Company* and the other *Notices* (whoever have responded to the SCN), have provided all the information that they wanted to furnish out of their own volition during the present proceedings, and none of the *Notices* has expressed any constraint or handicaps for furnishing information to me. Under the circumstances, no *bonafide* reason for permitting a re-investigation into the matter subsists. In view of the above, the *Company's* grievance of bias or prejudice, if any, has been adequately addressed to ensure a free

and fair trial of the proceedings. However, the fact remains that despite affording adequate opportunities to all the *Notices*, and in spite of various factual submissions and documents submitted by the *Notices* in their defense, neither the *Company* nor any other *Notices* could come up with any tangible material or evidence (which they were deprived of furnishing during the investigation) to justify the huge sums of fund transfers made out of IPO proceeds in flagrant violation of the stated objects of the IPO as per the prospectus.

58. I find that a high degree of preponderance of probabilities has emerged from the factual conspectus and the conduct of the *Notices*, so as to bring home the charges made in the SCN. I further find it relevant to refer and rely upon the observations of the Hon'ble Delhi High Court that: "*Clearly, given the manner in which fraudulent acts are undertaken under deceit and camouflage, if done with the affairs of a company/trust etc., the standards of proof required to prove such fraudulent conduct would necessarily be less stringent.*" [SEBI Vs. CRB Capital Markets Ltd. (date of decision: December 05, 2019)]

59. In conclusion, I observe that the SCN has been successful in establishing the charge that the *Company* acting in coalition with other *Notices*, through an intricate artifice has financially backed the applications of 221 applicants for its own IPO that resulted in allotment of 25,92,000 shares, which comes to 85.71% of the total number shares allotted under the IPO. By playing such a subterfuge, the *Company* was able to clear the compliance burden of gaining applications for more than 90% of the offer size as mandated under the relevant regulations. Further, the *Company* had transferred the entire amount of INR 7.56 Crore raised under the IPO to various entities which included an amount of INR 3.85 Crore (INR 3.40 to Goldline and INR 45 Lakh to Madhukar Dubey) transferred by the *Company* immediately after the IPO, for which no plausible explanation has been filed.

60. The scheme that was the resultant outcome of the coordinated efforts of the *Company* and other *Notices*, especially the funding group *Notices* were denied to fraudulently ensure success of its IPO programme, and the scheme itself explains the reasons for transfer of bulk of IPO proceed by the *Company* to certain funding group entities, immediately after completion of the IPO and also explains as to why the *Company* failed to deploy the IPO proceeds towards the objects of IPO thereby betraying the faith and trust of those genuine investors, who had subscribed to its shares under the IPO trusting those misleading disclosures made in the IPO documents by the *Company*. The scheme of events also amply explains precisely as to why the *Company* and other *Notices* have failed to produce any concrete reasons or any tangible evidence to justify the transfers of such huge sums of money out of IPO proceeds to a number of entities



including to the funding group *Notices*. The scheme also demonstrates as to how superfluous and patently erroneous are the claim of the *Company* about utilization of the IPO proceeds towards one of the stated objects (land development) of IPO. There is also a candid admission by the *Company* about not being able to spend any amount on the other objects of IPO like construction of storage sheds etc. Clearly, the specious claims made by the *Company* about the utilization of IPO proceeds remained far away from the actual utilization of those IPO proceeds, which was never made known to the shareholders and till date, the objects of IPO have still remained as unfulfilled promises to the innocent public shareholders who whole heartedly supported the *Company's* SME listing with the expectation of a good performance from the *Company*.

61. In view of the above said findings based on factual analysis, I observe that the *Noticee no. 1* and *Noticee nos. 4 to 16* have, while acting on a pre mediated fraudulent scheme, violated Section 12 A(a), (b) and (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations, 2003.

62. After deciding the role of the *Company*, it is noted that the *Noticee nos. 2 and 3* have also been held to be equally liable for the deeds of the *Company* by virtue of their directorship with the *Company*, which is not a disputed fact nor any other specific plea has been taken by the said *Notices* so as to escape the liability of the violation committed in the name of the *Company*.

63. It is a settled fact that all the acts which are executed in the name of an incorporated entity, are actually done by the natural persons who by their own minds and wisdom, are controlling the artificial juristic person (company) in the capacity of its Directors. The *Company*, being an artificial entity, cannot function on its own and will walk only in such direction, as may be desired by the Directors who are controlling the overall functioning of the *Company*. It has already been established in the present case, by funding the applications of huge number of IPO applicants to the extent of 85.71% of the total allotted shares, the *Company* and its connected entities have successfully complied with the Regulation 14 (1) of ICDR and eventually, the IPO funds, which were meant to be used for the purposes of the objects stated in offer document, were transferred through a chain of transactions to various entities, which had acted as conduit to fund the IPO applicant to ensure the successful listing of the scrip of the *Company*, thereby rendering the objects of the IPO as infructuous. Such an intricate arrangement by the *Company* with its connected entities devised to circumvent the strict regulatory framework can only be said to be the brainchild of the Directors of the *Company*, who were controlling its affairs during

the relevant period by virtue of their directorships. I find that various courts have upheld the liability of the Directors of a company for the violations committed by such company. In one such case, Hon'ble Supreme Court held that: "33. *Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602 that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provide against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company even superficially.*" [N. Narayanan Vs. Adjudicating Officer, SEBI (2013) 12 SCC 152]

64. In my considerate view, the facts and circumstances governing the present case clearly indicate that the dubious scheme based on which the *Company* was able to mobilize the minimum required applications as mandated under the ICDR Regulations, the subscription to such shares in IPO, listing of its shares and ultimately diversion of IPO proceeds for purposes other than the stated objects, was the handiwork of the *Noticee nos. 2 and 3*, being Directors (who are also promoters of the *Company*) of the *Company*. Therefore, *Noticee nos. 2 and 3* are also to be held responsible and liable for the scheme and the said arrangement devised to fraudulently fund the applications under the IPO of the *Company*, with the active help of other *Noticees*, so as to secure listing of the securities of the *Company* on the BSE-SME segment and also for the eventual transfer of IPO proceeds to the entities including the funding group entities but for whose support the IPO listing would not have become possible. In view of the above said discussion, I hold that the *Noticee nos. 2 and 3* have also violated Section 12 A(a), (b) and (c) of SEBI Act, 1992 read with Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations, 2003.

65. It is pertinent to discuss here the purpose of prescribing a minimum subscription of 90% of shares being offered under IPO, which appears to be to restrain such companies out of the arena of stock exchange, which do not carry adequate financial strength and competence to attract sufficient number of applications for their shares. Despite keeping such a stringent statutory condition, the miscreants like the *Noticees* in the present proceedings, sometimes, by their intricately designed scheme, are successful in circumventing such rigid regulatory requirement and project to the world an artificial compliance so as to fulfil their nefarious

objectives. It cannot be ruled out that such a device as employed by the *Notices* in this case has in all possibility, caused collective inducement to the general public, who would have assumed listing of securities by the *Company* to be a successful milestone, which in reality was nothing but the outcome of the concreted efforts of the *Notices*, to somehow make the IPO successful at the cost of interest of the investors.

66. As I have held that the *Notice Company* was not fair in its approach and it has resorted to fraudulent means to achieve the statutory threshold of subscription to its IPO to ensure listing of its equity on the exchange platform, it now becomes incumbent upon the Promoters of the *Company* to provide an exit opportunity to the shareholders.

**Directions:**

67. In view of the foregoing, I, in exercise of the powers conferred upon me under Section 11(1), 11(4), and 11 B read with Section 19 of the Securities and Exchange Board of India Act, 1992, pass the following directions:

- i. *Notice nos. 2 and 3*, being Promoters are directed to make a public offer through a merchant banker to acquire shares of the *Company* from public shareholders by paying them the value determined by the valuer in the manner prescribed in Regulation 23 of the SEBI (Delisting of Equity Shares) Regulations, 2009 and acquire the shares offered in response to the public offer, within three months from the date of this Order.
- ii. BSE is directed to facilitate valuation of shares to be purchased as directed at (i) above, and compulsorily delist the *Company*, if the public shareholding reduces below the minimum level in view of aforesaid purchase.
- iii. The *Notice no. 1* is hereby restrained from accessing the securities market by issuing any prospectus, offer document or advertisement soliciting money from the public in any manner for a period of 8 years.
- iv. *Notice no. 2 and 3* are hereby restrained from holding post of director, any managerial position or associating themselves in any capacity with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI for a period of 3 years.

- v. The *Notices*, as mentioned below are hereby restrained and prohibited from buying, selling or *otherwise* dealing in the securities market, directly or indirectly in any manner whatsoever manner, for the period specified in their respective columns:

Sr. No.	Name of Entity	Debarred vide interim order	Period of debarment
1.	Eco Friendly Food Processing Park Ltd.	Yes	Till date of this order
2.	Amar Singh Bisht	Yes	Till date of this order
3.	Brij Kishore Sabharwal	Yes	Till date of this order
4.	M/s. Goldline International Finvest Ltd.	Yes	Till date of this order
5.	Madhukar Dubey & his proprietorship firm viz. Alliance Traders, N V Sales Corporation, A One Furniture, Magnum Industrial	Yes	Till date of this order
6.	Satendra Kumar & his proprietorship firm viz. Bright Securities, A R Enterprise, Nisha Traders	Yes	Till date of this order
7.	Sumit Kumar & his proprietorship firm viz. Vijay Bhagwandas & Co., Durga Prasad & Co.	Yes	Till date of this order
8.	Columbia Sales	No	1 Year
9.	Mohan Garg & his proprietorship firm viz. Garg Traders & Suppliers	No	1 Year
10	Ram Prakash & his proprietorship firm viz. Khan Enterprise, Aggarwal Traders	Yes	Till date of this order
11	Avisha Credit Capital Pvt. Ltd.	Yes	Till date of this order
12	AMS Powertronic Pvt. Ltd.	Yes	Till date of this order
13	Core Capital Services Ltd.	Yes	Till date of this order
14	Prakash Gupta & his proprietorship firm viz. Shri trading Co.	Yes	Till date of this order
15	LMR Green Realty Pvt. Ltd.	No	1 Year
16	Lithmus Capital Consultance Ltd.	No	1 Year

- vi. The proceedings against *Noticee no. 17* are dropped without any directions.
- vii. Obligation of the debarred *Notices*, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange(s), as existing on the date of this Order, can take place irrespective of the restraint/prohibition

imposed by this Order in respect of pending transactions, if any. Further, all open positions, if any, of the aforesaid debarred *Notices* in the F&O segment of the stock exchange, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

viii. It is further clarified that during the period of the aforesaid restraint, the existing holding of securities, including the units of mutual funds shall remain under freeze.

68. The Order shall come into force with the immediate effect.

69. A copy of this order shall be forwarded to the *Notices*, all the recognized stock exchange, depositories and registrar and transfer agents for ensuring compliance with the above directions.

-Sd-

**Date: December 22, 2020**

**Place: Mumbai**

**S. K. MOHANTY**

**WHOLE TIME MEMBER**