

WTM/AB/CFID/24/2021-22

**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**MISCELLANEOUS ORDER**

**On the representation of Avantha Holdings Ltd. (PAN: AABC6134E) – In respect of *ex parte ad interim* order dated September 17, 2019 passed in the matter of CG Power and Industrial Solutions Ltd.**

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1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) has passed an *ex parte ad interim* order on September 17, 2019 (hereinafter referred to as “**ex parte order**”) in the matter of CG Power and Industrial Solutions Ltd. against 8 entities including Avantha Holdings Ltd. (hereinafter referred to as “**the Applicant**”) wherein *inter alia* following directions was issued:

*“.....(iv) Noticees no. 6–8 i.e. Avantha Holdings Limited, Acton Global Private Limited and Solaris Industrial Chemicals Limited are directed to retain funds/other assets to the extent of receivables shown as outstanding to CG Power and Industrial Solutions Limited, as per Table X at paragraph 4.4. B. To the extent of their liability, the aforesaid Noticees are restrained from disposing, selling or alienating, in any other manner, their assets or divert funds, till further orders.....”*

2. After passing of the *ex parte* order by SEBI, the Applicant vide letter dated October 07, 2019, made request for permitting expenses in the ordinary course of business. Vide letter dated October 16, 2019, SEBI allowed following towards necessary expenses by the Applicant:
  - (i) Payments towards dues to statutory authorities;
  - (ii) Expenses towards provident fund, pension, gratuity, insurance and other similar expenses;
  - (iii) Payments/wages to employees/retainer/staff/security guards etc.

The Applicant was also informed that the decision on allowing other payments shall be taken by the competent authority based on the consideration of its submissions before SEBI during the personal hearing to be slated in the matter.

3. After hearing the noticees to the ex parte order, SEBI passed a confirmatory order dated March 11, 2020, *inter alia* directing as under:

*“.....(iv) Noticees no. 6–8 i.e. Avantha Holdings Limited, Acton Global Private Limited and Solaris Industrial Chemicals Limited, are directed to retain funds/other assets to the extent of receivables shown as outstanding to CG Power and Industrial Solutions Limited, as mentioned at Table XII of paragraph 30A. To the extent of their liability, the aforesaid Noticees are restrained from disposing, selling or alienating, in any other manner, their assets or divert funds, till further orders. Noticee 8 shall however, be permitted (a) to make payments towards dues to statutory authorities; (b) incur expenses towards provident fund, pension and gratuity, insurance and similar other expenses; (c) to make payments/wages to employees/retainer/staff/security guards, etc. and (d) to make payments towards legal expenses. Further, Noticee 6 shall continue to abide by the directions issued vide SEBI letter dated October 16, 2019. Additionally, Noticee 6 shall be permitted to make payments towards legal expenses.....”*

4. The noticees to ex parte order filed various appeals impugning the ex parte order, before Hon’ble Securities Appellate Tribunal, Mumbai (hereinafter referred to as “SAT”). Hon’ble SAT vide its order dated August 14, 2020, passed in Appeal (Lodging) No. 220 of 2020 and 227 of 2020, *inter alia* directed as under:

*“.....7. Considering the aforesaid, we are of the opinion that at this stage no interim order can be passed considering the fact that the impugned order was passed in March 2020. In any event, it is open to the appellants to move an appropriate application for release of additional funds towards necessary expenses for running their manufacturing activities, payment of utility bills and for release of the mutual funds. If such an application is filed and cogent reasons are given, the authority will consider and pass an appropriate order within two weeks thereafter.....”*

5. Vide letter dated July 23, 2021, the Applicant has requested to permit payments towards rent and incidental operating cost amounting to Rs. 46,834/- per month and Rs. 73,300/- per month, respectively, i.e. total amount of Rs. 1,20,134/- per month.

SEBI vide letter dated August 03, 2021 sought certain information/clarification from the Applicant in respect of its request. The said letter dated August 03, 2021 of SEBI responded to by the Applicant vide its letter dated September 20, 2021 wherein the Applicant submitted that approximately Rs. 1,18,000/- (Rupees One Lakh Eighteen Thousand Only) per month is required to meet expenses incurred due to rent and other incidental expenses as detailed below:

<b>Nature of Expense</b>	<b>Provider of service</b>	<b>Amount (in Rs. per month)</b>
Rent	Vatika Hotels Private Limited - Rent for office Premises	19,824
	Vatika Hotels Private Limited - Rent. For storage facility	20,060
	Vatika Hotels Private Limited – Property Management services	6,500
Incidental Expenses	Payments towards photocopier machine	8,000
	Payment towards paper for photocopying machine	6,000
	Tally - Payment towards cloud based services	9,500
	Tally - Payment towards annual subscription	1,500
	Tally - Payment towards annual maintenance charges (AMC)	2,500
	Tata Communications - Payments towards telecommunication lines	12,200
	Airtel - Land Line	1,800
Misc. Expenses	Out of pocket expenses relating to purchase of stationery, conveyance expenses, courier charges among others	30,000
	<b>Total</b>	<b>1,17,884/-</b>

6. The Applicant has also submitted supporting documents for the above expenses. In addition to the above, the Applicant has also sought permission to make a payment of Rs. 65,884/- (Rupees Sixty Five Thousand Eight Hundred and Eighty Four Only) towards payment of rent for the months of June 2021 to September 2021.

7. Thereafter, vide email dated September 30, 2021, SEBI sought various other clarifications from the Applicant including a certificate of Chartered Accountant with respect to amount withdrawn towards expenses which were allowed vide SEBI's letter dated October 16, 2019 and Confirmatory Order dated March 11, 2020 certifying and verifying head wise utilization of amount withdrawn from bank account of the Applicant till date. Further, the Applicant was also asked to provide certificate of Chartered Accountant with respect to verification of expenses for which permission is being sought by the Applicant vide letters dated July 23, 2021 and September 20, 2021.
8. Vide email dated December 29, 2021, the Applicant has provided copies of 2 certificates of B G N A & Associates, Chartered Accountants dated December 27, 2021 and December 28, 2021, certifying and verifying head wise utilization of amount withdrawn from bank account of the Applicant for the period September 20, 2019 to November 30, 2021. The Chartered Accountant in its certificate dated December 27, 2021 has *inter alia* highlighted that the following expenses paid by the Applicant are other than the payments / expenses which are allowed by SEBI:

Particulars	Amount (Rs. in lakh)
Professional fees for Statutory Audit and compliances	121.63 (78.37 + 43.26)
Bank Charges debited by the banks	1.1 (0.68 + 0.42)
Payment relating to manufacturing and administration of the unit	4019.49

9. The Chartered Account in its certificate dated December 28, 2021 has certified that nothing has come to their attention that causes them to believe that the estimated expenses which is to be incurred towards payment of rent and incidental operational cost for Corporate Office has not been accurately prepared.
10. Since, it was observed that the Applicant had incurred expenditure which were not allowed, SEBI vide email dated January 06, 2022, requested the Applicant to provide

comments/detailed reasons for incurring expenses other than payments/expenses which were allowed by SEBI and also to clarify how the same is in compliance with the directions of SEBI Confirmatory Order dated March 11, 2020 and SEBI's letter dated October 16, 2019.

11. In response to the SEBI's letter dated January 06, 2022, the Applicant vide email dated February 14, 2021, *inter-alia*, submitted the following:

- (i) Payments made towards professional fees for statutory audit and compliance are towards ensuring that the Applicant makes payments to the statutory authorities as mandated by law.
- (ii) Bank charges were debited directly by the banks without any intimation / notice / knowledge / approval of the Applicant.
- (iii) Payments made towards the manufacturing and administration of the unit at Ashti, Gadchiroli, Maharashtra (manufacturing unit) are in the ordinary course of business towards purchase of raw materials and operational expenses of the unit to remain compliant with extant regulatory framework.

12. I note that as per the certificate of Chartered Accountant, dated December 27, 2021, furnished by the Applicant, as mentioned in para 7 above, the Applicant has withdrawn money from its bank accounts for certain expenses which are not allowed by ex parte order, SEBI letter dated October 16, 2019 and the confirmatory, but incurred by AHL. With respect to the payments towards professional fees to statutory auditors (Rs. 121.63 Lakh) and bank charges (Rs. 1.1 Lakh) directly debited by the bank considering the explanation given by the entity, as mentioned in para 10(i) and (ii) above, being statutory fees and charges may not be considered as violation. With regards, to expenses incurred towards payment relating to manufacturing and administration of the unit during September 20, 2019 to November 30, 2021, I note that in terms of SEBI's ex parte order and confirmatory order read with Hon'ble SAT order dated August 14, 2020, the Applicant was required to file an appropriate application before SEBI for release of additional funds towards necessary expenses for running their manufacturing activities, payment of utility bills and for release of the mutual funds. Therefore, for such expenses, particularly those incurred after August 14, 2020 till November 30, 2021, the Applicant was required to make an application

before SEBI in terms of the order dated August 14, 2020 passed by Hon'ble SAT. I find that no application for allowing such expenses was made by the Applicant. Therefore, I find that these expenses of Rs. 4,019.49 Lakh towards payment relating to manufacturing and administration of the unit for the period September 20, 2019 to November 30, 2021, were not in accordance with SEBI's ex parte order and confirmatory order readwith Hon'ble SAT order dated August 14, 2020.

13. Now in deference to the order dated August 14, 2021 passed by Hon'ble SAT, I proceed to examine the request made by the Applicant in its representation dated July 23, 2021 and in its subsequent letters/clarifications, as discussed above, I note that the Applicant has sought for the following expenses from October 2021:

<b>Nature of Expense</b>	<b>Provider of service</b>	<b>Amount (in Rs. per month)</b>
Rent	Vatika Hotels Private Limited - Rent for office Premises	19,824
	Vatika Hotels Private Limited - Rent. For storage facility	20,060
	Vatika Hotels Private Limited – Property Management services	6,500
Incidental Expenses	Payments towards photocopier machine	8,000
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	Tally - Payment towards cloud based services	9,500
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	Tata Communications - Payments towards telecommunication lines	12,200
	Airtel - Land Line	1,800
Misc. Expenses	Out of pocket expenses relating to purchase of stationery, conveyance expenses, courier charges among others	30,000
	<b>Total</b>	<b>1,17,884/-</b>

14. In addition to the above, the Applicant has also made request for payment of rent from June 2021 to September 2021 amounting to Rs. 65,884/- as one time expenditure. I

note that the Applicant has submitted reasonable explanation and supporting documents for the aforesaid expenses. I note that the Applicant has also furnished a certificate dated December 28, 2021, from the chartered accountant to the effect that nothing has come to their attention that causes them to believe that the estimated expenses which is to be incurred towards payment of rent and incidental operational cost for Corporate Office has not been accurately prepared.

15. In view of the above and order dated August 14, 2020 passed by Hon'ble SAT and taking into consideration representation dated July 23, 2021 of the Applicant and subsequent clarifications and certificate dated December 28, 2021 of chartered accountant, etc., I, hereby allow the expenses, as mentioned in paras 13 and 14 above. These expenses are allowed without prejudice to the direction to the Applicant to retain fund/other assets, as given in the ex parte order.
16. The representation dated July 23, 2021 of the Applicant is disposed of accordingly.
17. This order comes into force with immediate effect.
18. A copy of this order shall be forwarded to the Applicant and recognized stock exchanges to ensure that the direction given above is strictly complied with.

**Date: February 23, 2022**

**Place: Mumbai**

**ANANTA BARUA**  
**WHOLE TIME MEMBER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**