

## SECURITIES AND EXCHANGE BOARD OF INDIA

## FINAL ORDER

Under Sections 11(1), 11(4), 11(4A), 11B (1) and 11B(2) of the Securities and Exchange Board of India Act, 1992 read with Rule 4 (1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995

In respect of:

Sl. No.	Name of the Noticee(s)	PAN
1.	Seya Industries Limited	AABCS4522R
2.	Mr. Ashok Ghanshyamdas Rajani	AFBPR5891J
3.	Mr. Asit Kumar Bhowmik	ABUPB8276C
4.	Mr. Sivaprasada Rao Buddi	ABIPB0047K
5.	Mr. Amrit Ashok Rajani	AESPR7990G

(Noticee Nos. 2-5 hereinafter collectively referred to as Noticees)

In the matter of **Seya Industries Limited**

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## A. BACKGROUND

1. This Order is passed pursuant to the Interim Order cum Show Cause Notice dated March 20, 2023. Essentially the allegations made in the Show Cause Notice are three fold – **firstly**, with respect to fraud through diversion of the listed company’s funds to promoter owned/ managed private companies and related financial mis-statements; **secondly**, with respect to fraud by way of fictitious transactions with fictitious entities resulting in overstated profits and understated expenditures; and **thirdly**, with respect to associated violations of non-disclosure of related party transactions, failure to make material disclosures, failure to reply to/ cooperate with SEBI’s inquiries and investigation process etc. The listed company, its promoters and promoter owned/

managed companies are separately under investigation and enforcement action by GST authorities as well.

2. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) was in receipt of multiple complaints (dated June 08, 2020, July 21, 2020, March 25, 2021 and April 16, 2021) from SC India Fund Manager Pvt. Ltd. (**the Complainant**) against Seya Industries Limited (hereinafter referred to as “**Seya/ Company/ Noticee 1**”) *inter alia* alleging private placement of NCDs and Compulsory Convertible Preference Shares on the basis of inflated books of accounts which showed inflated sales and profits created through circuitous web of transactions. The complainant also alleged that material information in the form of an arbitration award against the Company wherein the Sole Arbitrator vide interim Award dated March 24, 2021 *inter-alia* directed the Company to pay the Complainant a sum of INR 72.07 crores along with interest was not disclosed by the Company to the stock exchanges.
3. The complaints were forwarded to National Stock Exchange of India Limited (**NSE**) for its independent examination. NSE informed SEBI that Seya was not co-operating in providing information with respect to the complaints. Pursuant to the same, SEBI sent multiple emails advising the Company to co-operate with the NSE examination. However, the Company did not co-operate with NSE. NSE, vide email dated November 18, 2020, submitted its Examination Report to SEBI, wherein it concluded as under:

*“The Company has not responded appropriately to the queries raised by the Exchange as mentioned in the complaint. There have been multiple communications with the Company asking them to respond, however the Company has failed to do so and they have further stated that the present complaint on the scores platform is not maintainable. In view of the above, no analysis was carried out in respect of the said complaint.”*
4. Considering the non-cooperation of the Company and considering the seriousness of allegations levelled against the Company, SEBI initiated an investigation in the affairs of the Company. Accordingly, SEBI appointed Ernst & Young LLP as forensic auditor on September 09, 2021 with respect to the financial statements of SEYA for the financial years ending March 31 2019, March 31, 2020 and March 31, 2021 to assist the Investigating Authority (**IA**). The same was communicated to the Company vide

letter and email dated September 09, 2021. Further, since the Company was reported to be under Corporate Insolvency Resolution Process (CIRP), the appointment of forensic auditors was also communicated to the Interim Resolution Professional (IRP) vide email dated September 20, 2021.

5. The focus of SEBI's investigation was to ascertain *inter alia* whether the published financial statements of the Company were prepared in accordance with the applicable and notified accounting standards, whether the books and accounts of the Company were inflated using artificial sales through a circuitous web of transactions thereby misrepresenting sales and profits and whether there were violations, if any, of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the "**SEBI Act, 1992**"), SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("**LODR Regulations/SEBI (LODR) Regulations, 2015**") and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 ("**PFUTP Regulations/ SEBI (PFUTP) Regulations, 2003**").
6. The period of investigation was financial years ending March 31, 2019, March 31, 2020 and March 31, 2021. However, wherever deemed necessary, references were made to events / timeframes outside this period.
7. Corporate Insolvency Resolution Process against Company during investigation:
  - (i) The Company vide letter dated August 20, 2021 *inter-alia* informed the exchanges that a petition was filed against the Company before the Hon'ble National Company Law Tribunal ("NCLT"), Mumbai, for initiation of Corporate Insolvency Resolution Process ('CIRP') u/s 7 of the IBC, 2016. However subsequently, the promoters and the counterparties arrived at mutual settlement and accordingly, the counterparties agreed to withdraw the said petition in accordance with the terms of the settlement agreement. However, despite the Company and the counter parties informing the Hon'ble NCLT of the impending settlement, the said petition u/s 7 was admitted on 3rd August 2021 (order received on 12th August 2021) by NCLT, Mumbai. An appeal was preferred by the promoters against the said NCLT order before the Hon'ble National Company Law Appellate Tribunal ("NCLAT"), wherein, vide its orders dated August 10, 2021 and August 18, 2021, the Hon'ble NCLAT was pleased to stay the constitution of the Committee of

Creditors. The Hon'ble NCLAT had also directed the parties to file a formal application under Sec 12A of the IBC, 2016 for withdrawal of petition u/s 7 of IBC, 2016, and the same had been filed before the Hon'ble NCLT. The Hon'ble NCLT has also been requested by the Hon'ble NCLAT to take up the application u/s 12 A of the IBC, 2016 at the earliest.

- (ii) Mr. Anuj Bajpai had been appointed as IRP by Hon'ble NCLT and IRP has issued public announcement of the fact of initiation of CIRP process on August 19, 2021. Mr. Anuj Bajpai, IRP, vide email dated July 28, 2022 intimated exchanges and SEBI that "*the affairs of the Corporate Debtor are being carried out without any prior intimation and / or consent of the undersigned Interim Resolution Professional ("IRP") which is in violation of the orders of Hon'ble NCLAT and Hon'ble NCLT. Pursuant to this non-cooperation by the Directors and management, application/s have been filed by the undersigned before Hon'ble NCLT and adjudication on the same is pending*".
- (iii) In its annual report for the FY 2021-22, the Company after providing details of CIRP had inter-alia stated that "In view of the above and no control being taken-over by the Interim Resolution Professional appointed by the Hon'ble NCLT, the Management of the Company, on basis of legal advice, has prepared and submitted this report as per obligations of the Company under the Companies Act, 2013".
- (iv) The said Petition was dismissed as withdrawn by Hon'ble NCLT's Order dated April 18, 2023.

8. During the pendency of the investigation, the Company, vide e-mail dated October 18, 2021, informed the Forensic Auditor appointed by SEBI that Mr. Ashok Ghanshyamdas Rajani ("**Noticee No. 2**"), Promoter of the Company, had filed an appeal before the Hon'ble Securities Appellate Tribunal ("**SAT**") *inter alia* challenging the appointment of Forensic Auditor. Further, the Company requested the Forensic Auditor to withhold any further discussion till the disposal of the said appeal, since the matter was sub-judice. The appeal before Hon'ble SAT was listed for admission hearing on November 24, 2021. However, the solicitors for the Appellant vide letter dated November 22, 2021, moved a *praecipe* to withdraw the appeal. The Hon'ble SAT, vide order dated November 24, 2021, disposed of the appeal as withdrawn.

9. Subsequently, SEBI had received a letter dated December 04, 2021 from M/s. Alliance Law Advocates & Legal Advisors, attaching copy of Writ Petition filed by Noticee No. 2 before the Hon'ble Bombay High Court challenging the appointment of Forensic Auditor by SEBI. During the course of hearing on October 09, 2024, Advocate for the Petitioner submitted that Petitioner was not pressing the said petition but he reserved the liberty to raise all contentions before SEBI. Accordingly, the Hon'ble High Court disposed of the petition vide Order dated October 09, 2024.
10. A brief of the findings of investigation are discussed in the following paragraphs.
11. As per Seya's website, the Company specializes in manufacture of Chlorination and Nitration processed Benzene based Products. The shares of the Company were listed at BSE Limited (BSE) in FY 1993-94 and at NSE in FY 2019-20.
12. The shareholding of the Company during at the end of financial years 2018-19, 2019-20, 2020-21 and 2021-22 and at the quarters ending June 2022 and September 2022 is provided below:

**Table – 1**

Category	% of Shareholding					
	31-Mar-19	31-Mar-20	31-Mar-21	31-Mar-22	30-Jun-22	30-Sep-22
Promoter & Promoter Group	74.53	63.72	64.97	64.50	64.50	64.50
Public	25.47	36.28	35.03	35.50	35.50	35.50
Total No. of Shares	2,46,00,000		2,65,70,540			

(Source: BSE Website)

13. The details of the directors and KMPs of Company during the FY 2018-19 to 2021-22 are as under:

**Table – 2**

S. No.	Name of the Director/ KMP	Designation	Appointment Date	Cessation Date
1	Ashok Ghanshyamdas Rajani	Chairman and Managing Director	24/09/2009	-
2	Asit Kumar Bhowmik	Executive Director	02/04/2011	-
3	Sivaprasada Rao Buddi	Director	24/09/2020	-
4	Amrit Ashok Rajani	Chief Financial Officer	19/04/2019	-
5	Ronen Joshi Rajeshkumar	Independent Director	06/02/2020	14/04/2022
6	Ronen Joshi Rajeshkumar	Independent Director	30/04/2022	-
7	Anand Devidas Taggarsari	Independent Director	27/08/2014	01/07/2020
8	Kalpana Nasikrao Tirpude	Independent Director	23/04/2015	20/01/2020
9	Amit Chandrakant Pandya	Independent Director	15/09/2020	-
10	Monisha Kishore Bhavnani	Independent Director	01/04/2021	-
11	Manisha Babubhai Solanki	Company Secretary	01/02/2013	-

14. The details of Board Meetings attended by the members of Board of Directors during FY 2018-19 to 2021-22 are provided below:

**Table – 3**

Name of the Director	Designation	Particulars of Attendance of Board Meeting			
		FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Ashok Ghanshyamdas Rajani	Chairman and Managing Director	10	7	4	3
Asit Kumar Bhowmik	Executive Director	10	7	4	3
Sivaprasad Rao Buddi	Executive Director	-	-	2	2
Ronen Joshi Rajeshkumar	Independent Director	-	1	4	2
Anand Devidas Taggarsa	Independent Director	10	7	-	-
Kalpana Nasikrao Tirpude	Independent Director	10	6	2	-
Amit Chandrakant Pandya	Independent Director	-	-	3	2
Monisha Kishore Bhavnani	Independent Director	-	-	-	2

15. The details of Audit Committee meetings attended during FY 2018-19 to 2021-22 are provided below:

**Table – 4**

Name of the Director	Designation	Particulars of Attendance of Audit Committee Meeting			
		FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Ashok Ghanshyamdas Rajani	Chairman and Managing Director	4	4	4	2
Asit Kumar Bhowmik	Executive Director	-	-	2	-
Ronen Joshi Rajeshkumar	Independent Director	-	-	4	2
Anand Devidas Taggarsai	Independent Director	4	4	-	-
Kalpana Nasikrao Tirpude	Independent Director	4	4	3	-
Amit Chandrakant Pandya	Independent Director	-	-	3	2

16. The published financial results of the company for FYs 2018-19 to 2021-22 are provided below:

**Table – 5**

(INR in crore)

Particulars (Annual Consolidated)	Mar-19	Mar-20	Mar-21	Mar-22
Revenue from operations	412.78	258.20	44.01	65.65
Other Income	2.16	8.78	8.34	7.66
Total Income	414.94	266.98	52.36	73.31
Net Profit/(Loss)	88.49	47.02	(109.58)	(6.28)

(Source: Annual Reports of Seya and BSE Website)

17. During the course of investigation, Seya failed to provide the information regarding its top ten sellers and purchasers for the FY 2018-19 and FY 2019-20 by claiming data loss due to server and backup data crash. Since the information was not forthcoming

from Seya, detailed GST filings by Seya and its major buyers and sellers were obtained from the CBIC (GST Department) directly.

**18.** On the basis of the available information, the following was observed during the investigation:

18.1 Noticees had undertaken fictitious sales and purchases in FY 2018-19, 2019-20 and 2020-21 with certain name lending entities and thereby misrepresented its published financial statements.

18.2 Noticees failed to comply with LODR Regulations with respect to disclosures of related party transactions.

18.3 Noticees siphoned off the funds/ assets to the tune of INR 45.20 crores in FY 2018-19, INR 24 crores in FY 2019-20 and INR 12.06 crore in FY 2020-21 to promoter group companies/ companies related to promoters on the pretext of purchases/ sales from/ to them and/ or through undisclosed fund transfers.

18.4 Noticees failed to make disclosures of material events and information to the stock exchanges viz. declaration of company' bank accounts as Non-Performing Asset (**NPA**) by banks and financial institutions; appointment of forensic auditor by SEBI and banks; GST searches made on the premises of Seya; demands raised by GST for CENVAT credit amounting to INR 10.07 crores & fraudulent GST Input Tax Credit amounting to INR 131.45 crores; and Interim Award dated March 24, 2021 passed by Sole Arbitrator directing Seya to pay INR 72 crores with interest (when total revenue of the Company for FY 2020-21 was INR 44.01 crores).

18.5 Wrong disclosures of attendance in the Board Meetings and Audit Committee meetings.

18.6 Non-provisioning of interest due to banks/ financial institutions and consequent over reporting of profit and under reporting of loss by Noticees.

18.7 Failure to provide information sought by SEBI and submitting wrong and misleading information to SEBI.

18.8 Noticees failed to comply with LODR Regulations as none of the statutory auditors of Company for FY 2018-19 to 2021-22 held a valid peer review certificate issued by ICAI.

## **B. SCN, REPLIES AND HEARING**

19. Based on the conclusions arrived at pursuant to the investigation, an Interim Order cum Show Cause Notice dated March 20, 2023 (hereinafter referred to as the “**Interim Order**”/ “**SCN**”) was passed in the matter. The Interim Order *inter alia* directed that

–

- Noticees shall jointly or severally file public disclosure to stock exchanges as well as publish on Company’s website the contents of the Interim Order, within 3 days from the date of receipt of the Interim Order, to ensure transparency.
- Noticees shall disclose the update status of all undisclosed material events/ information mentioned in Interim Order, to the stock exchanges, within 15 days from the date of receipt of the Interim Order.
- Noticee Nos. 2-5 directed not to sell/ dispose of/ dilute their shareholding in the company, held directly or indirectly through family members or through companies in which they or their family members are directors, till further orders.

Also, Noticees were called upon to show cause why suitable directions should not be issued against them and why penalty should not be imposed on them in accordance with the relevant provisions of SEBI Act. Noticee No. 5 was also called upon to show cause why penalty should not be imposed on him for making false statement during the investigation. Noticees were granted 21 days to file their replies from the date of receipt of Interim Order.

20. Interim Order cum SCN was duly served on all the Noticees. Noticee No. 1 filed an appeal before Hon’ble SAT challenging the Interim Order. Vide its Order dated June 07, 2023, Hon’ble SAT declined to interfere in the Interim Order at that stage. However, it directed Noticee No. 1 to file an appropriate reply within three weeks seeking vacation of Interim Order and if such a reply was filed, SEBI was directed to consider and pass appropriate orders after granting an opportunity of hearing. Further, the direction of Interim Order pertaining to disclosure of update status of all undisclosed material events/ information to the stock exchanges was directed to be kept in abeyance.

21. The Noticees undertook inspection of documents and filed their replies to the Interim Order cum SCN on the dates mentioned below:

**Table – 6**

Noticee No.	Name of Noticee	Date(s) of Inspection	Date(s) of replies/ representation	Date(s) of Hearing
1	Seya Industries Limited	August 10, 2023	June 28, 2023, September 12, 2023, November 17, 2023	-
2*	Ashok Ghanshyamdas Rajani	September 06, 2023	January 31, 2024, November 11, 2024, November 24, 2024	December 06, 2023, January 10, 2024, February 07, 2024, November 12, 2024
3*	Asit Kumar Bhowmik	September 06, 2023	January 31, 2024, November 11, 2024, November 24, 2024	December 06, 2023, January 10, 2024, February 07, 2024, November 12, 2024
4*	Sivaprasada Rao Buddi	September 06, 2023	January 31, 2024, November 11, 2024, November 24, 2024	December 06, 2023, January 10, 2024, February 07, 2024, November 12, 2024
5*	Amrit Ashok Rajani	October 18, 2023	January 31, 2024, November 11, 2024, November 24, 2024	January 10, 2024, February 07, 2024, November 12, 2024

*\*Cross-examination of witnesses was conducted by Advocate for Noticee Nos. 2-5 between February 2024 and August 2024. Pursuant to the completion of cross-examination, Noticees were granted an opportunity of personal hearing as per their request.*

22. The submissions made by the Noticees in reply to the SCN are summarized in the following paragraphs.

**23. Noticee No. 1 (Seya Industries Limited)**

23.1 SEBI was aware that Company Petition against the Company under the Insolvency and Bankruptcy Code (“**IBC**”) was admitted by Hon’ble NCLT, Mumbai and the moratorium had been declared under Section 14, IBC which

prohibited SEBI continuing its proceedings. However, SEBI, contrary to the moratorium, proceeded to issue Interim Order against the Company. The moratorium came to an end on April 18, 2023 and the Company was brought out of CIRP. The Interim Order is therefore a nullity and ought to be recalled and set aside forthwith.

23.2 There was no urgency to pass the Interim Order and it was passed in derogation of principles of natural justice.

23.3 In the matter of Think Hard India Private Limited v. Seya Industries Limited, the Hon'ble NCLT, Mumbai vide its order dated November 02, 2023 ordered initiation of Corporate Insolvency Resolution Process (“CIRP”) under IBC and prohibited continuation of pending suits and proceedings against the Company. Accordingly, in view of Hon'ble SAT's order dated October 09, 2020 in the matter of Dewan Housing Finance Corporation Ltd. v. SEBI, the instant proceedings against Seya Industries Ltd. should not be continued in view of the moratorium applicable in the matter.

#### 24. Common Replies/ Submissions of Noticee Nos. 2 – 5

24.1. The data of Noticee No. 1 available on its server/ backup devices was deleted/ damaged/ corrupted on account of a cyber-attack/ hacking attack by ex-employee of the Company i.e. Mr. Jagmohan Jaiswal. Company has filed police complaint/ FIR against the said ex-employee. In view of the cyber-attack, Noticee No. 1 was unable to give the data within the timelines as expected by SEBI.

24.2. The hard copies of various important documents have been seized by Central Excise/ GST authorities and the same have not been returned.

24.3. Most of the documents provided during the inspection were in softcopy. In terms of Section 65B of the Evidence Act, the said documents cannot be relied upon until certificate is provided in respect of the softcopy documents.

24.4. Some of the documents, though referred, have not been offered for inspection.

24.5. Noticee has not been provided with a copy of Delegation Order authorising Executive Director of SEBI to appoint Investigating Authority (“IA”).

Thus, the appointment of IA is without authority of law, illegal, bad in law and unsustainable.

24.6. Hon'ble NCLT vide an order dated August 03, 2021 declared moratorium for prohibiting institution of suits or continuation of pending suits against the Company. However, despite the moratorium being in existence, SEBI passed the Interim Order which is bad in law and perverse. In view of the stay of proceedings against Noticee No. 1, proceedings against all the Noticees must be stayed.

24.7. A company petition under Section 95(1) of IBC has been filed against Noticee No. 2 and in view of the provisions of Section 96 of the IBC, there is an interim moratorium in force due to which present proceedings are liable to be stayed. This preliminary objection needs to be decided before deciding the matter on merits.

24.8. SEBI has failed to decide the representation of the Company dated June 28, 2023 made in pursuance of Hon'ble SAT's order dated June 07, 2023.

24.9. SEBI has initiated the instant proceedings on the basis of complaints filed by the Complainant. However, it has failed to act on the complaints filed by Noticee No. 1 against the said complainant at a prior point in time.

24.10. The Complainant has withdrawn the complaint filed against the Noticee No. 1 and the allegations made therein also stand withdrawn.

24.11. IA failed to appreciate that the entire world was facing Covid pandemic due to which there were delays in submitting response to the communications. However, delay in communication cannot be labelled as non-cooperation. Further, Noticee No. 1 was under a bona fide belief that SEBI and NSE did not have jurisdiction to investigate the complaint. Without prejudice to the rights and contentions of Noticee No. 1, information and documents were in fact submitted to SEBI.

24.12. The appointment of Ernst & Young as Forensic Auditor by SEBI is completely illegal and bad in law. Noticee No. 2 filed a Writ Petition No. 3273/2021 in the Hon'ble High Court of Bombay *inter alia* challenging the legality and validity of the provisions of law empowering SEBI to appoint

Forensic Auditor. Noticee reiterates and adopts all that is stated in the said Writ Petition.

24.13. In absence of any focus points/ period of investigation being set out in orders appointing IA, IA could not have suo moto decided on the focus points or the period.

24.14. Noticee objects to selective extracts taken from the email dated July 28, 2022 of the IRP and submits that the application of IRP has been disposed of.

24.15. It is denied that information sought by SEBI was not provided by Noticees.

24.16. SEBI has not provided details/ workings on the basis of which figures set out in the Investigation Report have been arrived at.

24.17. IA has failed to appreciate that each transaction of purchase and sale was duly supported by a valid tax invoice, e-way bill, lorry receipt, etc. which proved that transaction took place and was a genuine transaction.

24.18. With respect to the allegation of mismatch between the sales and purchases as recorded by Noticee No. 1 in its GST returns and that reported by Noticee No. 1 in its Annual Report, it is submitted that the same is incorrect, misconceived and unsustainable. IA failed to analyse the information contained in Annual GST Returns (GSTR9) which provided that there was in fact no difference between the figures presented in GST Returns and Annual Reports with respect to sales and purchases as well as Capital Work in Progress.

24.19. The allegations made by SEBI pertaining to circuitous transactions are based on assumptions and presumptions and without any material supporting the same.

24.20. Without prejudice thereto, even assuming for arguments sake that there were certain transactions between other related companies and firms on one hand and Noticee No. 1 and the firms, the same is neither barred under law nor can any adverse inference be drawn from the same.

- 24.21. With respect to circuitous structure of transactions, it is submitted that transactions of Noticee No. 1 were with various firms/ entities and it is not possible for Noticee No. 1 to know who is the actual owner of a firm/ entity.
- 24.22. It is denied that Khushboo Ompal Singh (Proprietor of Metco Enterprises, one of the firms with which Noticee No. 1 traded) was an employee of Seya Industries Limited.
- 24.23. Noticee is not aware about the various relations of Narendra Pandya with the proprietors of various firms/ entities.
- 24.24. A perusal of the income tax returns belonging to alleged owners of firms/ entities, forming part of Annexure 13 to Investigation Report, confirms that they substantial income of approximately INR 50 lakhs per annum. Further, the said persons have incurred expenses under various heads which confirms that the transactions were genuine.
- 24.25. SEBI has failed to provide information obtained from a legal and valid source such as mobile service operator in support of its various findings such as billing name/ mobile number of Narendra Pandya as alleged in Table 7 of SCN. SEBI has stated that they do not have any such information.
- 24.26. With respect to SCNs issued by GST authorities, it is submitted that legality and validity of the same has been challenged before the Hon'ble High Court of Bombay. Further, in view of the CIRP proceedings against Noticee No. 1, the said GST proceedings cannot be proceeded further and are yet to be adjudicated upon. Therefore, no adverse inference can be drawn on the basis of the said GST proceedings.
- 24.27. With respect to allegation of decline in sales to firms/ entities in FY 2019-20 and decline in Seya's revenues, it is submitted that Noticee had obtained loans from consortium of banks to carry out its project related work. Due to various reasons including delay by banks in releasing funds, the project could not be completed and company had to divert resources from operating activities of the company to the project which in turn resulted in reduction in purchase and sales.

- 24.28. With respect to allegation that company had impaired/ written off 80.27% of its trade receivables in FY 2020-21, it is submitted that SEBI has failed to appreciate that due to Covid there were huge losses which led to various persons being unable to make payment of the amounts due and payable.
- 24.29. It is denied that Company used fictitious financial information to solicit investments.
- 24.30. Company has not entered into any fictitious transactions with any alleged name lenders. IA has wrongly assumed that the firms/ entities did not have financial capacity to do the transactions and the bank statements of the said entities have not been examined by the IA.
- 24.31. With respect to allegation of non-disclosure of Related Party Transactions, it submitted that Noticee No. 1 was advised that the three entities i.e. Whiz Enterprise Private Limited (“**Whiz**”), Aneeka Universal Private Limited (“**Aneeka**”) and Shri Balaji Entertainments Private Limited (“**Shree Balaji**”) were not ‘Related Party’ of Noticee No. 1 within the meaning of Companies Act, 2013 and applicable accounting standards.
- 24.32. With respect to allegation of siphoning off funds to promoter group companies, it is submitted that the alleged transactions were legitimate transactions entered into by Noticee No. 1 in relation to its business and have been appropriately accounted in Noticee No. 1’s financial statements.
- 24.33. The net transfer of funds between Noticee No. 1 and Whiz is attributable to redemption proceeds for Non-Convertible Redeemable Preference Shares (“**NCRPS**”), interest on Unsecured Loans and/ or payment of dividend. Noticee No. 1 had issued NCRPS to Whiz in 2015 which were subject to redemption at any time within a period of 12 years from date of issuance. Accordingly, Whiz exercised its right to redeem the NCRPS in part and a sum of INR 32.69 crores and INR 9.79 crore have been accounted in the financial statements of Noticee No. 1 towards redemption proceeds for FY 2018-19 and 2019-20 respectively.
- 24.34. The Director’s Report for FY 2018-19 states that the Company has not redeemed any shares or debentures because NCRPS is a quasi-equity not falling within the ambit of the term securities, NCRPS was unlisted and it was only partially redeemed in FY 2018-19. Since NCRPS was fully redeemed in

FY 2019-20, the Directors Report for the said FY states that it was fully redeemed. The amount of INR 32.69 crores was forming part of the head unsecured loans in the Balance Sheet and thus, the position as far as liability/ debts of the Company in FY 2018-19 did not change.

24.35. There was no requirement under law for disclosing the partial or complete redemption of the NCRPS in the Directors Report.

24.36. On the allegation that Noticee No. 1 had transactions with Shree Balaji, it is submitted that Noticee No. 5 has verified the available documents and it is found that there is no sale/ purchase transaction between Shree Balaji and Noticee No. 1. Further, from the records as available with Noticee No. 5, it is submitted that payments reflected in the bank account statements do not pertain to any sale/ purchase transaction but pertains to journal transactions.

24.37. With respect to non-disclosure of material events and information, it is submitted that Company has formulated its materiality policy in accordance with law and the information is classified as material in terms of the said policy and advice obtained from professionals. Further, during the period August 03, 2021 to April 18, 2023, Noticee No. 1 was undergoing CIRP and IRP appointed by NCLT was responsible for the affairs of the Company including disclosures, if any, to be made to the stock exchanges.

24.38. On the allegation of non-disclosure of declaration of company's accounts as NPA by banks and financial institutions, the allegation is denied and no document/ evidence has been pointed out by SEBI in support of the allegations made in the SCN. Further, it is submitted that the alleged events do not fall within the materiality policy of the company and had not been disclosed to stock exchange based on the professional advice. The declaration of accounts as NPA was bad in law and incorrect and the same was duly challenged before the Hon'ble High Court by way of Writ Petition which is pending as on date. The relevant facts were duly declared in the Annual Reports of the Noticee No. 1 along with necessary remarks which are disclosed on the stock exchanges and available in public domain. Thus, no prejudice is caused to any stakeholder/ investor/ public.

- 24.39. On the allegation of non-disclosure of appointment of Forensic Auditor by SEBI and banks, it is submitted that the alleged events do not fall within the materiality policy of the company and had not been disclosed to stock exchange based on the professional advice. Further, there was no proper and legal appointment of any Forensic Auditor and accordingly, it cannot be said that any purported appointed of forensic auditor was not disclosed to the stock exchange.
- 24.40. On the allegation of non-disclosure of GST searches made on the premises of Seya, demands raised by GST for CENVAT credit amounting to INR 10.07 crores and fraudulent GST Input Tax Credit amounting to INR 131.45 crores, it is submitted that the alleged events do not fall within the materiality policy of the company and had not been disclosed to stock exchange based on the professional advice.
- 24.41. On the allegation of non-disclosure of Interim Award dated March 24, 2021 passed by Sole Arbitrator directing Seya to pay INR 72 crores with interest, it is submitted that the alleged events do not fall within the materiality policy of the company and had not been disclosed to stock exchange based on the professional advice. Further, the award was an interim award which was only declaratory in nature in that the existence of the said debt was already forming part of Annual Report and financial statements and thus, could not be said to be new and/ or material event. The said award was challenged before the Hon'ble High Court and ultimately a settlement was arrived between the parties which was duly disclosed to the stock exchanges.
- 24.42. On the allegation of wrong disclosures of attendance in Board Meetings and Audit Committee meetings, it is submitted that Ms. Kalpana Tirpude did not inform the company about her resignation and directly filed the same with MCA. She was asked to submit the reasons for her resignation but no reasons were provided and hence, the Company did not accept her resignation. Notwithstanding the resignation, she did attend the Board meetings and thus, the attendance is correctly recorded.
- 24.43. On the allegation of non-provisioning of interest due to Bank/ financial institutions, it is submitted that Company had obtained legal advice and on the basis of the same, it did not provide for the interest alleged to be due to bank/

financial institutions. The company had made appropriate notes with respect to non-provisioning of interest due to banks/ financial institutions, in its published financial statements and thus, public was made aware of the necessary facts to take informed decisions. Further, the issue relating to non-provisioning of interest was subject to some confusion and thus, NFRA had issued a Circular dated October 20, 2022 to clarify the confusion. Thus, it is a case where there was an interpretation issue and the fact that IA had to obtain opinion of expert advisory committee of ICAI and MCA confirms that there was some doubt and benefit of doubt must be extended to the Noticee.

24.44. On the allegation of non-submission/ wrong submission of information, it is submitted that SEBI has failed to appreciate that there are inherent contradictions in testimony of Mr. Sahil Joshi (proprietor Vidhi Data Recovery Lab) vis-à-vis the letters addressed by him. In view of the false testimony given by Mr. Joshi, company has filed a criminal complaint before the appropriate court. Further, there is no documentary evidence whatsoever to suggest/ corroborate the allegation made by Sahil Joshi and no statement of any person belonging to Fincom Infocare Pvt. Ltd. (who was dealing with Sahil Joshi) has been recorded to corroborate any of the statements made by Sahil Joshi.

24.45. With respect to draft letter purportedly sent by Fincom Infocare Pvt. Ltd. to Sahil Joshi through e-mail, it is submitted that the said email and its attachment being electronic evidence ought to have been supported by certificate under Section 65B of the Evidence Act and in absence thereof, the same cannot be relied upon. Without prejudice thereto, the attachment of the e-mail cannot be said to have been prepared by Noticee No. 1 or issued by Noticee No. 1.

24.46. On the allegation of statutory auditors being non-eligible, it is submitted that the Company was informed by the auditors that they were qualified to be the auditors of the Company and accordingly, the Company relied on their representation.

24.47. The allegation pertaining to impact of non-disclosure/ wrong disclosure on the movement of price of the scrip is based on surmises and conjectures.

24.48. It is submitted that all the information/ documents as sought and available with Noticee No. 1 have been provided. Also, wherever some information/ document was not available and could not be provided, the reasons for the same have been duly submitted.

24.49. As per documents on record, Noticee No. 1 had entered into various trading transactions with third party firms. The proprietors of the said firms had opened bank accounts in the name of the said firms and obtained GST registration numbers as well. These firms had purchased/ sold the goods under the cover of tax invoices, lorry receipts, etc. and payments were done through banking channels while also reflecting the transactions in their respective GST Returns, books of accounts and Income Tax Returns.

24.50. The persons whose statements have been recorded by the IA cannot be said to be persons falling within the ambits of Section 11C(5) of SEBI Act, 1992. Thus, IA did not have the power to record their statements. Further, as per Section 11C(7) of SEBI Act, the persons whose statements have been recorded by the IA may be used as evidence only against such person and not any other person.

24.51. It is submitted that while recording statement of some of the proprietors of the firms, SEBI has recorded a joint statement of two persons, instead of recording separate independent statements of each person, as is the established procedure and practice. In view of the above, statement of such persons cannot be relied upon for any purpose whatsoever.

24.52. It is further submitted that in course of adjudication proceedings, if SEBI seeks to rely upon deposition/ statements made by such persons before the IA and rely upon them as witness, then such person must be examined in chief before Noticees and thereafter be offered for cross-examination. However, the established procedure has not been followed in the present case and as such, the statements of the said persons cannot be relied upon for any purpose whatsoever.

24.53. All the proprietors of the firms have stated that one Mr. Narendra Pandya was looking after and handling the affairs of their firms and they were not the ones who filed the GST Returns or Income Tax Returns. Thus, they were not

able to comment on the correctness or otherwise of the documents. It was incumbent on SEBI to summon and record the statement of Narendra Pandya if SEBI sought to allege that the transactions were fictitious or that the documents did not reflect the correct position and/ or to corroborate the deposition made by said persons in their statements to SEBI. Admittedly, SEBI has not recorded the statement of Narendra Pandya and has placed no evidence on record to show that mobile number/ e-mail alleged to be of Mr. Narendra Pandya was in fact his mobile number/ e-mail ID.

24.54. None of the persons whose statements were recorded have produced a single document in support of the statements made by them before SEBI. For instance, proprietors alleged that Narendra Pandya was an employee of Noticee No. 1 but during their cross-examination, they confirmed that they did not see any document and did not produce any document to show the same. It is reiterated that Narendra Pandya was not an employee of Noticee No. 1.

24.55. The proprietors have not submitted any documentary evidence to support their statements that Narendra Pandya was giving them cash or they met Noticee No. 2 (Ashok G. Rajani).

24.56. As per cross-examination notes, it appears that GST authorities had given some sort of assurance to the proprietors of the firms and thus, their statements cannot be taken at face value without any evidence to corroborate the same.

24.57. The said persons whose statements were recorded by SEBI have stated that they were not well versed with English. However, their statements nowhere states that the statement given by them was in a language in which they were well versed and/ or that the statement was translated and explained to them in a language they were well versed in.

24.58. SEBI cannot rely on the statements of the aforesaid proprietors to contend that the transactions were fictitious and said statements must be corroborated with other reliable, admissible corroboratory evidence.

## **25. Reply of Noticee No. 2 (Ashok Ghanshyamdas Rajani) on his role**

25.1. It is denied that Noticee was in charge of operations and the decision making process. Noticee has not benefitted from the alleged violations in any manner. Noticee being of senior age and having health issues, was not taking active part / role in the affairs of the Company and was relying upon the representation of the Companies' personnel and expert/ professional advisors of the Company. SEBI has not brought on record any documentary evidence to how the individual involvement/ role of the Noticee.

25.2. SEBI was duly informed during the course of investigation that Noticees No. 5 was authorised to take necessary actions/ decisions in the best interest of the Company. It is settled position in law that Directors of the Company cannot be made vicariously liable for the alleged wrongdoing of the Company.

## **26. Reply of Noticee No. 3 (Asit Kumar Bhowmik) on his role**

26.1. It is denied that Noticee was in charge of operation and the decision making process. Noticee was on the Board of the Company on account of his technical knowledge/ expertise in relation to manufacturing activity of the Company and did not have much knowledge in the financial or other aspect of the business.

26.2. Noticee was not taking active part/ role in day to day management/ running of the company as the Company was being managed by persons who were appointed for this purpose. The Company and particularly the Noticee was relying upon the representation of the companies' personnel and expert/ professional advisors of the Company.

26.3. Noticee was on the Audit Committee for only one quarter of the Financial Year in question and even at that point, Noticee relied upon the representations of the Companies personnel/ auditors/ advisors of the Company.

26.4. Noticee was not aware of other companies which are being alleged as being related parties. Further, whether any transaction was a related party transaction or not was required to be ascertained by the companies' personnel and advisors and in facts and circumstances of the present case, could not have been ascertained by Noticee.

26.5. No documentary evidence has been brought on record to show the individual involvement/ role of the Noticee. It is submitted that no action can be taken against Noticee for failing to discharge his duties unless it is first established that information on the basis of which such discharge of duties was to be done is known to the Noticee and which has not been done in the facts of the present case. It is settled position in law that Directors of the Company cannot be made vicariously liable for the alleged wrongdoing of the Company.

**27. Reply of Noticee No. 4 (Sivaprasada Rao Buddi) on his role**

27.1. It is denied that Noticee was in charge of operation and the decision making process. Noticee was on the Board of the Company on account of his technical knowledge/ expertise in relation to manufacturing activity of the Company and did not have much knowledge in the financial or other aspect of the business.

27.2. Noticee was not taking active part/ role in day to day management/ running of the company as the Company was being managed by persons who were appointed for this purpose. The Company and particularly the Noticee was relying upon the representation of the companies' personnel and expert/ professional advisors of the Company.

27.3. Noticee was not aware of other companies which are being alleged as being related parties. Further, whether any transaction was a related party transaction or not was required to be ascertained by the companies' personnel and advisors and in facts and circumstances of the present case, could not have been ascertained by Noticee.

27.4. No documentary evidence has been brought on record to show the individual involvement/ role of the Noticee. It is submitted that no action can be taken against Noticee for failing to discharge his duties unless it is first established that information on the basis of which such discharge of duties was to be done is known to the Noticee and which has not been done in the facts of the present case. It is settled position in law that Directors of the Company cannot be made vicariously liable for the alleged wrongdoing of the Company.

**28. Reply of Noticee No. 5 (Amrit Ashok Rajani) on his role**

28.1. Noticee has not benefitted from the alleged violations in any manner.

28.2. It is pertinent to note that no documentary evidence has been brought on record to show the individual involvement/ role of the Noticee.

29. The relevant provisions of SEBI Act, LODR Regulations, PFUTP Regulations and SEBI (PIT) Regulations, 2015, are reproduced hereunder for ready reference:

**SEBI Act, 1992**

**11(2)(ia)** : *calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities*

**11C. (2)** *Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.*

**11C. (3)** *The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.*

**Sec 11 C (5)** *Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.*

**Sec 12A. No person shall directly or indirectly—**

*(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;*

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

*(a) to furnish any document, return or report to the Board, fails to furnish the same or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;*

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

**Sec 15HA. Penalty for fraudulent and unfair trade practices.**

If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

**Sec 15HB. Penalty for contravention where no separate penalty has been provided.**

Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

**Contravention by companies:**

**Sec. 27(1):** Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention

**Sec 27(2):** Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

*Explanation:* For the purposes of this section, — (a) “company” means anybody- corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.

**SEBI (PFUTP) Regulations, 2003**

**3. Prohibition of certain dealings in securities**

**No person shall directly or indirectly –**

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

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities

which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

#### **4. Prohibition of manipulative, fraudulent and unfair trade practices**

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

*Explanation – For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.*

(2) Dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves any of the following: —

(f) knowingly publishing or causing to publish or reporting or causing to report by a person dealing in securities any information relating to securities, including financial results, financial statements, mergers and acquisitions, regulatory approvals, which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

(k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities;

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

### **SEBI (LODR) Regulations, 2015**

#### **Principles governing disclosures and obligations**

4. (1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:

(a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.

(b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.

(c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.

(d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.

(e) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.

(f) Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by investors.

(g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.

(h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.

(i) Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.

(j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.

(2) The listed entity which has listed its specified securities shall comply with the corporate governance provisions as specified in chapter IV which shall be implemented in a manner so as to achieve the objectives of the principles as mentioned below.

(e) **Disclosure and transparency:** The listed entity shall ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the listed entity, in the following manner:

(i) Information shall be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.

#### **4. (2) (f) Responsibilities of the Board of Directors:**

(i) Disclosure of information:

(2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.

(ii) Key functions of the Board of Directors –

(2) Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.

(6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.

(7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.

(8) Overseeing the process of disclosure and communications.

(iii) Other responsibilities:

(1) The board of directors shall provide strategic guidance to the listed entity, ensure effective monitoring of the management and shall be accountable to the listed entity and the shareholders.

(3) *Members of the board of directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders.*

(6) *The board of directors shall maintain high ethical standards and shall take into account the interests of stakeholders*

(12) *Members of the board of directors shall be able to commit themselves effectively to their responsibilities*

### **Board of Directors**

**17 (8)** *The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II.*

### **Audit Committee**

**18 (3)** *The role of the audit committee and the information to be reviewed by the audit committee shall be as specified in Part C of Schedule II.*

### **Part C of Schedule II: ROLE OF THE AUDIT COMMITTEE AND REVIEW OF INFORMATION BY AUDIT COMMITTEE**

A. *The role of the audit committee shall include the following:*

(1) *oversight of the listed entity's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible;*

...

(4) *reviewing, with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to:*

(a) *matters required to be included in the director's responsibility statement to be included in the board's report in terms of clause (c) of sub-section (3) of Section 134 of the Companies Act, 2013;*

(b) *changes, if any, in accounting policies and practices and reasons for the same;*

(c) *major accounting entries involving estimates based on the exercise of judgment by management;*

(d) *significant adjustments made in the financial statements arising out of audit findings;*

(e) *compliance with listing and other legal requirements relating to financial statements;*

(f) *disclosure of any related party transactions; (g) modified opinion(s) in the draft audit report*

(5) *reviewing, with the management, the quarterly financial statements before submission to the board for approval*

(7) *reviewing and monitoring the auditor's independence and performance, and effectiveness of audit process.*

(11) *evaluation of internal financial controls and risk management systems;*

(12) reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems;

(13) reviewing the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit.

**Related party transactions. - Regulation 23:**

(2) All related party transactions shall require prior approval of the audit committee.

(4) All material related party transactions shall require approval of the shareholders through resolution and no related party shall vote to approve such resolutions whether the entity is a related party to the particular transaction or not:

*Provided that the requirements specified under this sub-regulation shall not apply in respect of a resolution plan approved under section 31 of the Insolvency Code, subject to the event being disclosed to the recognized stock exchanges within one day of the resolution plan being approved.*

(9) The listed entity shall submit within 30 days from the date of publication of its standalone and consolidated financial results for the half year, disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website.

**Disclosure of events or information. - Regulation 30:**

2) Events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.

(3) The listed entity shall make disclosure of events specified in Para B of Part A of Schedule III, based on application of the guidelines for materiality, as specified in sub-regulation (4).

**Financial Results. – Regulation 33:**

(1) While preparing financial results, the listed entity shall comply with the following:

(c) The standalone financial results and consolidated financial results shall be prepared as per Generally Accepted Accounting Principles in India.

(d) The listed entity shall ensure that the limited review or audit reports submitted to the stock exchange(s) on a quarterly or annual basis are to be given only by an auditor who has subjected himself to the peer review process of Institute of Chartered Accountants of India and holds a valid certificate issued by the Peer Review Board of the Institute of Chartered Accountants of India.

(2) The approval and authentication of the financial results shall be done by listed entity in the following manner:

(a) The quarterly financial results submitted shall be approved by the board of directors: *Provided that while placing the financial results before the board of directors, the chief executive officer and chief financial officer of the listed entity shall certify that the financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading.*

**Annual Report. - Regulation 34:**

(3) The annual report shall contain any other disclosures specified in Companies Act, 2013 along with other requirements as specified in Schedule V of these regulations.

**Part A of Schedule V:**

The annual report shall contain the following additional disclosures:

**A. Related Party Disclosure:**

1. The listed entity shall make disclosures in compliance with the Accounting Standard on "Related Party Disclosures".

**Part C of Schedule V:**

**C. Corporate Governance Report:** The following disclosures shall be made in the section on the corporate governance of the annual report.

.....

(2) Board of directors:

(b) attendance of each director at the meeting of the board of directors and the last annual general meeting;

(3) Audit committee:

(c) meetings and attendance during the year.

**Accounting Standards.**

**48.** The listed entity shall comply with all the applicable and notified Accounting Standards from time to time.

**SEBI (PIT) Regulations, 2015**

Code of Fair Disclosure.

8. (1) The board of directors of every company, whose securities are listed on a stock exchange, shall formulate and publish on its official website, a code of practices and procedures for fair disclosure of unpublished price sensitive information that it would follow in order to adhere to each of the principles set out in Schedule A to these regulations, without diluting the provisions of these regulations in any manner.

NOTE: This provision intends to require every company whose securities are listed on stock exchanges to formulate a stated framework and policy for fair disclosure of events and occurrences that could impact price discovery in the market for its securities. Principles such as, equality of access to information, publication of policies such as those on dividend, inorganic growth pursuits, calls and meetings with analysts, publication of transcripts of such calls and meetings, and the like are set out in the schedule.

Schedule A:

Principles of Fair Disclosure for purposes of Code of Practices and Procedures for Fair Disclosure of Unpublished Price Sensitive Information

1. Prompt public disclosure of unpublished price sensitive information that would impact price discovery no sooner than credible and concrete information comes into being in order to make such information generally available.

## C. ISSUES FOR CONSIDERATION

30. After considering the SCN and the replies/ submissions filed by Noticees, the following issues arise for consideration:

### PART I – PRELIMINARY OBJECTIONS

31. **Whether SEBI could have passed the Interim Order cum SCN dated March 20, 2023 during the pendency of proceedings under IBC?**

31.1 Noticees have submitted that at the time of passing of Interim Order, the Company was undergoing CIRP, pursuant to an Order dated August 03, 2021 passed by Hon'ble NCLT, Mumbai in CP No. 606/ 2020, and a moratorium under Section 14 of IBC was in place which prohibited institution/ continuation of suits against Noticee No. 1. Noticee No. 1 was out of CIRP pursuant to an Order dated April 18, 2023 passed by Hon'ble NCLT. Therefore, the Interim Order being contrary to the law and in breach of the moratorium ought to be vacated.

31.2 It is further argued that in view of the moratorium under Section 14 of IBC for Noticee No. 1, the proceedings against all remaining Noticees must be stayed.

31.3 I have considered the above submissions of Noticees and note as follows:

- (i) The timeline of the IBC proceedings against Noticee No. 1 during the passing of the Interim Order, as per information submitted by Noticees and Orders passed by Hon'ble Supreme Court of India and quasi-judicial forums, is provided in the Table below:

**Table – 7**

<b>S. No.</b>	<b>Details of Event</b>	<b>Date of Event</b>
1.	Hon'ble NCLT, Mumbai admits the petition (being C.P. (IB) 606/MB/2020) filed by financial creditors against Noticee No. 1	August 03, 2021

S. No.	Details of Event	Date of Event
2.	<p>Appeal filed by Noticee No. 1 before Hon'ble NCLAT (being C.A. (AT) (Insolvency) No. 598/2021) against the order passed by Hon'ble NCLT.</p> <p>As per the Order, Noticee No. 2 submitted that Corporate Debtor (Noticee No. 1) and Financial Creditors had entered into settlement talks before the petition was admitted by Hon'ble NCLT and they had requested Hon'ble NCLT to hold back on passing the Order relating to admission. Further, after the passing of the Order dated August 03, 2021, formal settlement was entered into between the parties on August 08, 2021.</p>	August 10, 2021
3.	<p>Appeal Listed before Hon'ble NCLAT.</p> <p>In view of the settlement arrived at between the parties, the Hon'ble NCLAT <i>inter-alia</i> ordered that IRP may proceed further with CIRP but may not constitute Committee of Creditors till next date of hearing. Further, the parties were given an opportunity to settle their disputes before Hon'ble NCLT in terms of Section 12A of the IBC (withdrawal of application admitted under Section 7, 9 or 10 of IBC).</p>	August 18, 2021
4.	Hon'ble NCLAT Orders directing that Committee of Creditors may not be constituted till the application under Section	October 19, 2022 and January 05, 2023

S. No.	Details of Event	Date of Event
	12A of the IBC is finally decided by Hon'ble NCLT	
5.	Noticee No. 2 filed an appeal against the NCLAT Order before Hon'ble Supreme Court. The said appeal was disposed with a direction to Hon'ble NCLT to take up the settlement application filed by parties	September 22, 2022
6	Annual Report for FY 2021-22, the Company had <i>inter alia</i> stated that in terms of status quo order passed by Hon'ble Supreme Court, further proceedings in CIRP were stayed and that IRP had not taken over the control of the company.	-
7	Application filed by IRP alleging that affairs of the Company were being carried out without any prior intimation and/ or consent of the IRP.	E-mail dated July 28, 2022
8	IRP submitted that the affairs of the Company were being carried out without any intimation to him or his consent	
9	Company Petition was dismissed as withdrawn by Hon'ble NCLT	April 18, 2023

(ii) In its Annual Report for FY 2021-22, the Company had *inter alia* stated that in terms of status quo order passed by Hon'ble Supreme Court, further proceedings in CIRP were stayed and that IRP had not taken over the control of the company. This is further established from the application filed by IRP alleging that affairs of the Company were being carried out without any prior

intimation and/ or consent of the IRP. The relevant extracts of the Annual Report are reproduced below:

(xi) A petition was filed against the company before the Hon'ble National Company Law Tribunal ("NCLT"), Mumbai, for initiation of Corporate Insolvency Resolution Process ("CIRP") u/s 7 of the IBC, 2016, by SC Credit Fund, SC India Manager Private Limited and Beacon Trusteeship Limited (acting for and behalf of SC Credit Fund) (collectively, "Counter parties"). Subsequent to hearing, but pending order in the said petition by the Hon'ble NCLT, the promoters of the company and the counter parties arrived at mutual settlement and accordingly the counter parties agreed to withdraw the said petition in accordance with the terms of the settlement. However, despite the Company and the counter parties informing the Hon'ble NCLT of the impending settlement, the said petition was admitted by the Hon'ble NCLT vide its order dated August 3, 2021. An appeal was preferred by the promoters against the said order dated August 3, 2021 before the Hon'ble National Company Law Appellate Tribunal ("NCLAT"), wherein, vide its orders dated August 10, 2021 and August 18, 2021, the Hon'ble NCLAT noticed the settlement deed filed before it and was pleased to stay the constitution of the Committee of Creditors. The Hon'ble NCLAT also directed the parties to file a formal application under Sec 12A of the IBC, 2016 for withdrawal of petition u/s 7 of IBC, 2016, which was also filed before the Hon'ble NCLT. The said orders dated August 10, 2021 and August 18, 2021 passed by the Hon'ble NCLAT were challenged by the promoters before the Hon'ble Supreme Court by way of a Civil Appeal, wherein vide its interim order dated August 31, 2021 the Hon'ble Supreme Court directed to maintain status quo, which order has been continued by the Hon'ble Supreme Court from time to time and remains in force. In view of the status quo order passed by the Hon'ble Supreme Court, further proceedings in the CIRP are stayed. Likewise, the proceedings in the Company Appeal before the NCLAT and the proceedings in application filed u/s 12A of IBC, 2016 before the NCLT, is kept in abeyance. In view of the above and no control being taken-over by the Interim Resolution Professional appointed by the Hon'ble NCLT, the Management of the Company, on basis of legal advice, has prepared and submitted this report as per obligations of the Company under the Companies Act, 2013.

As per our report attached  
For S S Patwardhan & Co.  
Chartered Accountants  
Firm Registration No.: 0119155W

Mukesh Sonavane  
Partner  
Membership No. 143622  
Mumbai, May 30, 2022

For and on behalf of Board of Directors

Ashok G Rajani  
Chairman & Managing Director  
DIN: 01839535

Amrit Rajani  
Chief Financial Officer

Ronen Joshi  
Director  
DIN: 08167071

Manisha Solanki  
Company Secretary

(iii) Therefore, as per the chronology of events and submissions of the Noticees, it is noted that the control of the company was never handed over to the Interim Resolution Professional for the purposes of CIRP and Noticees continued to have control over the affairs of the Company.

(iv) As per the Report of Insolvency Law Committee (February 2020)<sup>1</sup>, *"The moratorium under Section 14 is intended to keep "the corporate debtor's assets together during the insolvency resolution process and facilitating orderly completion of the processes envisaged during the insolvency resolution process and ensuring that the company may continue as a going concern while the creditors take a view on resolution of default.""* Therefore, such a moratorium is envisaged in instances where the dispute between Corporate Debtor and Creditors is ongoing and till such resolution, the assets

<sup>1</sup> <https://ibbi.gov.in/uploads/resources/c6cb71c9f69f66858830630da08e45b4.pdf>

of Corporate Debtor needs to be protected wherein IRP takes over the charge of business to ensure continuity.

- (v) However, it is explicitly admitted by Noticees that a settlement had been arrived between the parties and the management of the company was still under their control. Further, the Admission Order was instantly challenged and stay obtained on formation of Committee of Creditors. Therefore, in the instant matter, the dispute between the parties had already come to an end and there was no involvement of IRP in the matters of the Company. In view of the status quo order of Hon'ble Supreme Court, there appears to be no step taken under IBC pursuant to publication of Notice by IRP. Even the Hon'ble Supreme Court in its judgment dated September 22, 2022 had *inter alia* observed that "*settlement cannot be stified before the constitution of the Committee of Creditors in anticipation of claims against the Corporate Debtor from third persons.*"
- (vi) It was a peculiar instance wherein though the petition was admitted by adjudicating authority, the parties were already discussing a settlement before the said admission and eventually settled their disputes and proceeded to take steps for withdrawal/ dismissal of petition. From the material available on record, it appears that Corporate Debtor as well as financial creditors did not take any further steps in the IBC proceedings.
- (vii) Also, I note that the IRP appointed in the matter was kept informed about the proceedings and he did not file any objection to the instant proceedings, instead he submitted to SEBI vide e-mail dated July 28, 2022 that the affairs of the Company were being carried out without any intimation to him or his consent. Therefore, in such a case, Noticee cannot approbate and reprobate by not complying with IBC provisions while also taking a defence that it was protected by moratorium under IBC.
- (viii) Further, no directions were passed in the Interim Order which would have affected Noticee No. 1 as a going concern and IRP was kept informed about SEBI proceedings. I note that Noticees had challenged the Interim Order before Hon'ble SAT *inter alia* challenging the validity of the Order in view of the pending CIRP proceedings. However, I note that Hon'ble SAT did

not grant any relief to Noticees on this ground and instead agreed with the findings in the Interim Order.

- (ix) Nonetheless, it is pertinent to note that the moratorium was applicable only against Noticee No. 1 Company and had no impact on the proceedings against Noticee Nos. 2-5. As the Company is again under CIRP and the proceedings against the Company are not being taken further in this Order as discussed in subsequent paragraphs, the discussion on the issue is only academic. In any case, there was no moratorium on proceedings against Noticee Nos. 2-5.
- (x) Accordingly, I do not find merit in the submissions of the Noticees and the same are rejected.

**32. Whether SEBI can continue its proceedings against Noticee No. 1 in view of the moratorium under IBC? Whether SEBI has failed to comply with the direction of Hon'ble SAT with respect to the representation filed by Noticee No. 1?**

32.1 Noticee Nos. 2-5 have submitted that by an Order dated June 07, 2023, Hon'ble SAT permitted Noticee No. 1 to submit its application for vacation of Interim Order and SEBI was directed to pass appropriate Order on such application after granting an opportunity of hearing. However, Noticees have submitted that SEBI failed to decide the said application till date and as such, SEBI has violated the directions of Hon'ble SAT.

32.2 In this regard, I note the following:

- (i) A representation was received from the Authorised Representative ("AR") of Noticee No. 1 on June 28, 2023. Subsequently, an inspection of documents was undertaken by Noticee No. 1 in August 2023.
- (ii) Upon completion of inspection proceedings of all the Noticees by October 2023, an opportunity of personal hearing was granted to all the Noticees on December 06, 2023.
- (iii) However, vide its letter dated November 17, 2023, AR of Noticee No. 1 informed SEBI that Hon'ble NCLT, Mumbai vide its order dated

November 02, 2023 in the matter of Think Hard India Private Limited v. Seya Industries Limited<sup>2</sup> has ordered initiation of CIRP under IBC and prohibited continuation of pending suits and proceedings against Noticee No. 1.

- (iv) Subsequently, a link for attending the hearing was sent to Noticee No. 1 and its AR vide e-mail dated December 01, 2023. In response to the same, Bhavesh M. Rathod (IRP appointed in the matter) vide e-mail dated December 04, 2023 informed that he has received the hearing notice from the AR of Noticee No. 1. IRP informed that Public Announcement was issued on November 11, 2023 and requested for adjournment of the matter to a subsequent date.
- (v) In view of the above, I note that SEBI complied with the directions of Hon'ble SAT and provided an opportunity of hearing to Noticee No. 1. However, in view of the CIRP against Noticee No. 1, the representation of Noticee No. 1 cannot be decided at this stage.
- (vi) However, existence of CIRP against Noticee No. 1 does not bar SEBI to proceed against the remaining Noticees 2-5, as the protection of moratorium is granted only to Noticee No. 1.

32.3 Considering the above pendency of CIRP, I find that it would be appropriate for the interim order cum SCN qua Noticee No. 1 to be decided/ disposed of through separate order by SEBI.

### **33. Whether SEBI can proceed against Noticee Nos. 2 & 5 in view of the Interim Moratorium under Section 96 of the IBC?**

33.1. The AR of Noticee No. 1 vide his letter dated January 10, 2024 submitted that IFCI Ltd. has filed a Company Petition<sup>3</sup> before Hon'ble NCLT, Mumbai under Section 95 of IBC. In terms of the provisions of Section 96 of IBC, an interim moratorium commences from the date of filing of the petition under Section 95 of IBC and ceases to have effect on the date of admission of

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<sup>2</sup> CP(IB) 446 MB 2023

<sup>3</sup> IFCI Limited v. Ashok Rajani C.P.(IB)/ 211 (MB)/2022

petition. It was further submitted that an interim moratorium is in force on February 16, 2022 and Resolution Professional appointed in the case has filed a report recommending admission of the Petition and hearing on the same is pending. Accordingly, it was submitted that the instant proceedings are liable to be stayed on this ground.

33.2. The AR of Noticee No. 5 vide her e-mail dated January 10, 2024 submitted that IFCI Ltd. has filed a Company Petition<sup>4</sup> before Hon'ble NCLT, Mumbai under Section 95 of IBC and the same is pending. It was further submitted that AR has been informed by Noticee No. 5 that IFCI Limited has succeeded in making out a case against Noticee No. 5.

33.3. I note that interim moratorium under Section 96 of IBC commences from the date of application filed under Section 95 of IBC and ceases to have effect on the date of admission of the said application. It is pertinent to mention that Hon'ble NCLAT, New Delhi in the matter of Ashok Mahindru & Anr. v. Vivek Parti<sup>5</sup> has inter alia clarified that interim moratorium under Section 96(1)(b) of IBC would not extend to future liability or obligation. The instant proceedings were pending at the time of filing of application by IFCI and as per the status of the application filed by IFCI as available on the website of Hon'ble NCLT, the application is still pending and interim moratorium is still in place. The relevant extracts of Hon'ble NCLAT's Order are reproduced below:

*"6. Section 96 of the I&B Code which deals with interim moratorium provides:*

*"96. Interim-moratorium. — (1) When an application is filed under section 94 or section 95—*

*(a) an interim-moratorium shall commence on the date of the application in relation to all the debts and shall cease to have effect on the date of admission of such application; and*

*(b) during the interim-moratorium period—*

*(i) any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed; and*

*(ii) the creditors of the debtor shall not initiate any legal action or proceedings in respect of any debt."*

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<sup>4</sup> IFCI Limited v. Ashok Rajani C.P.(IB)/ 209 (MB)/2022

<sup>5</sup> NCLAT Order dated November 29, 2022 in the matter of Ashok Mahindru & Anr. v. Vivek Parti (Company Appeal (AT) (Insolvency) No. 1324 of 2022)

7. The expression used in Section 96(1)(b)(i) is “any legal action or proceeding pending in respect of any debt shall be deemed to have been stayed”.

8. The term ‘debt’ has been defined in the I&B Code in Section 3(11), which is to the following effect:

“3(11). “debt” means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;”

**9. When we read Section 96(1)(b) with the definition of ‘debt’ in Section 3(11), what is contemplated to be stayed is the proceeding relating to debt, which means a liability or obligation in respect of a claim which is due from any person. Interim moratorium shall be for such proceedings which relate to a liability or obligation due i.e. due on date when interim moratorium has been declared. Section 96(1)(b) cannot be read to mean that any future liability or obligation is contemplated to be stayed.**

(emphasis supplied).

33.4. In the matter of Dilip B Jiwrajka v. Union of India<sup>6</sup>, I note that Hon’ble Supreme Court has differentiated between the moratorium provided under Section 14 and interim moratorium under Section 96 of IBC. The Hon’ble Supreme Court has held that the moratorium under Section 14 is with respect to the debtor whereas interim moratorium under Section 96 is with respect to ‘the debt’. The relevant extracts of decision of Hon’ble Court are reproduced below:

*“57. Section 96, as its marginal note indicates, deals with an “interim-moratorium”. In terms of Section 96, the interim moratorium takes effect on the date of the application. In other words, the very submission of an application under Section 94 or Section 95 triggers the interim moratorium which then ceases to have effect on the date of the admission of the application (under Section 100). The consequences which flow from an interim moratorium are specified in clause (b) of sub-section (1) of Section 96. The impact of the interim-moratorium under Section 96 is that a legal action or proceeding pending in respect of any debt is deemed to have been stayed and the creditors or the debtors shall not initiate any legal action or proceedings in respect of any debt. **The crucial words which are used both in clause (b)(i) and clause (b)(ii) of sub-section (1) of Section 96 are “in respect of any debt”. These words indicate that the interim moratorium which is intended to***

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<sup>6</sup> (2024) 242 Comp Cas 358

***operate by the legislature is primarily in respect of a debt as opposed to a debtor. Clause (b) of sub-section (1) indicates that the purpose of the interim-moratorium is to restrain the initiation or the continuation of legal action or proceedings against the debt.***

*58. This must be contra-distinguished from the provisions for moratorium which are contained in Section 14 in relation to the CIRP under Part II. Section 14(1)(a) provides that on the insolvency commencement date, the institution of suits or continuation of pending suits or proceedings against the corporate debtor, including proceedings in execution shall stand prohibited by an order of the adjudicating authority. Clause (b) of sub-section (1) of Section 14 empowers the adjudicating authority to declare a moratorium restraining the transfer, encumbrance, alienation or disposal by the corporate debtor of any of its assets or any legal right or beneficial interest therein. Significantly, the moratorium under Section 14 operates on the order passed by an adjudicating authority. The purpose of the moratorium under Section 96 is protective. The object of the moratorium is to insulate the corporate debtor from the institution of legal actions or the continuation of legal actions or proceedings in respect of the debt.”*

(emphasis supplied).

33.5. As per records and submissions of Noticees, it appears that the proceedings were initiated by IFCI against them in their capacity as personal guarantors. As per the information of the proceedings available on the website of Hon'ble NCLT, the report submitted by IRP in Noticee No. 2's matter is yet to be taken up for consideration; and IRP is yet to be appointed in the proceedings against Noticee No. 5 which have been adjourned *sine die*. In view of the decision of Hon'ble NCLAT in Ashok Mahindru and decision of Hon'ble Supreme Court in Dilip B Jiwrajka, it can be concluded that debt referred to in Section 96 of the IBC is the debt existing against the Noticees at the time of initiation of interim moratorium and cannot be considered to be applicable for any future liability. Any penalty imposed in the extant proceedings would be in the nature of a future liability as far as the interim moratorium under Section 96 of IBC is concerned. In any case, non-monetary directions under section 11B of the SEBI Act, are also outside of the ambit of Section 96 of IBC. Accordingly, the preliminary objection raised by the Noticees is devoid of any merit and cannot be accepted.

#### **34. Whether Noticee has been granted inspection of all the documents?**

34.1 In their separate replies dated January 31, 2024, Noticee Nos. 2-5 have submitted that some documents, though referred, have not been offered for inspection and that such documents cannot be relied upon as also the contents of such documents.

34.2 In this regard, I have seen the replies of the Noticees on this issue. I note that Noticees have not listed out details of the documents which were not offered to them for inspection. It is pertinent to mention that during the course of hearing on January 10, 2024, AR for Noticee Nos. 3 and 4 (who is also the AR for Noticee Nos. 2 and 5) had submitted that all the documents available with SEBI have been provided to him. Further, I note that in their subsequent replies, Noticees have not provided details of documents which were purportedly not provided to them, aside from making bland assertions. Therefore, as per material available on record, I am of the view that Noticees have been provided all the relevant documents in the instant matter and no prejudice can be said to have been caused to their ability to make their submissions.

#### **35. Whether the Certificate under Section 65B of the Indian Evidence Act is necessary in order to rely on the documents in the instant proceedings?**

35.1 Noticee Nos. 2-5 have submitted that most of the documents offered for inspection were in softcopy format/ electronic evidence and as such, in terms of Section 65B of the Indian Evidence Act, the said documents cannot be relied upon until certificate is provided in respect of the softcopy documents. As no certificate under Section 65B of the Indian Evidence Act has been provided by SEBI in these proceedings, no reliance can be placed on such documents.

35.2 In this regard, I note that the present proceedings have been initiated under sections 11(1), 11(4), 11B and 11D of SEBI Act and hence are quasi-judicial in nature, as held by the Hon'ble Supreme Court in the matter of NSDL vs. SEBI<sup>7</sup>. Here it would be appropriate to refer to the judgment of the Hon'ble

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<sup>7</sup> SC Judgment dated March 07, 2017 in National Securities Depository Limited v. SEBI (C.A. No. 5173/2006)

Supreme Court of India in the matter of *Tata Consultancy Services Limited vs. Cyrus Investments Pvt. Ltd.*<sup>8</sup> dated March 26, 2021 wherein it was held as follows: “It is true that rigors of CPC and the Evidence Act are not applicable to Tribunals/ Quasi-Judicial Authorities...”. Quasi-Judicial proceedings are guided by the principles of Indian Evidence Act. They are not strictly subject to rules of evidence. Hence, I find the aforesaid submission of the Noticees to be untenable.

## PART II – ISSUES ON MERITS

### **36. Whether funds of the Company were siphoned off to promoter group company/ companies related to promoters?**

- 36.1 On the analysis of the GST Returns of Seya for the FYs 2018-19, 2019-20 and 2020-21, as obtained from the GST department, it was observed that Seya had transactions with Whiz Enterprises Private Limited, Aneeka Universal Private Limited and Shri Balaji Entertainments Private Limited.
- 36.2 The relationship details of the abovementioned companies with Seya are as under:

**Table – 8**

Sl. No.	Name of the company	Relation with Seya
1	Whiz Enterprises Private Limited	Promoter group company holding more than 25% of Company shareholding as per Annual Reports [Relatives of CMD of SEYA, viz. Narendra Ashok Rajani (Son of CMD), Pooja Ashok Rajani (daughter of CMD) and Amrit Ashok Rajani (Son of CMD and also CFO of Seya) are directors.] Shareholding of Whiz as on March 31, 2019: Narendra Rajani – 90% Amrit Rajani – 5% Pooja Rajani – 5%
2	Aneeka Universal Private Limited	Relatives of CMD of Seya, viz. Pooja Ashok Rajani and Amrit Ashok Rajani (also CFO of Seya), are directors
3	Shri Balaji Entertainments Private Limited	

<sup>8</sup> C.A. No. 440-441/2020

Sl. No.	Name of the company	Relation with Seya
		Shareholding of Aneeka as on March 31, 2019: Amrit Rajani – 82% Whiz Enterprise Private Limited – 18%
		Shareholding of Shri Balaji as on March 31, 2019: Amrit Rajani – 50% Pooja Rajani – 50%

36.3 As discussed in subsequent paragraphs of this Order, no related party transactions were disclosed in the published financial statements during the FYs 2018-19 or subsequently in connection with Whiz, Aneeka and Shri Balaji. A summary of undisclosed transactions involving net outflow from the Company to the aforesaid 3 companies is provided in the Table below.

**Table – 9**

*INR in crores*

FY	Related parties	Undisclosed payment <sup>#</sup>	Undisclosed Receipts <sup>^</sup>	Undisclosed fund transfer (net) <sup>*</sup>	Undisclosed net Sale (Purchases) <sup>@</sup>	Net siphoning off <sup>\$</sup>
2018-19	Whiz	54.63	9.47	<b>45.16</b>	(0.66)	44.50
	Shri Balaji	1.09	-	<b>1.09</b>	(0.39)	0.70
	<b>Total</b>					<b>45.20</b>
2019-20	Whiz	28.02	11.79	<b>16.23</b>	7.52	23.75
	Shri Balaji	0.25	-	<b>0.25</b>	-	0.25
	<b>Total</b>					<b>24.00</b>
2020-21	Whiz	-	-	-	5.50	5.50
	Aneeka	-	-	-	6.56	6.56
	<b>Total</b>					<b>12.06</b>
	<b>Grand total for FY 18-19 to 20-21</b>					<b>81.26</b>

<sup>#</sup>Undisclosed payment refers to the payments made by Seya to these companies as per the bank statements of Seya and not disclosed as related party transaction.

<sup>^</sup> Undisclosed receipts refers to the payments received by Seya from these companies as per the bank statements of Seya and not disclosed as related party transaction.

<sup>\*</sup>Undisclosed fund transfer(net) refers to the final amount received in bank accounts after subtracting the undisclosed receipts from undisclosed payment.

<sup>@</sup>Undisclosed Net Sale (Purchases) refers to the sale/ purchases reported by Seya in its GST filings.

<sup>\$</sup>Net siphoning off is the amount left after adding/ deducting Undisclosed Net Sale (Purchases) from Undisclosed fund transfer(net) as per the findings of IR.

36.4 In the Interim Order, it is observed that during FY 2018-19 and 2019-20, Seya had siphoned off an amount of INR 45.20 crore and INR 24 crore respectively in its dealings with Whiz and Shri Balaji as per the available bank account transactions and GST Returns. Further, during FY 2020-21, it was observed that there were no bank transactions between Seya and Whiz/ Aneeka. However, during the said period, Seya had filed its GST returns wherein it was

shown that it had sold goods worth more than INR 12 crore to these entities. In absence of any receipt of amount by Seya for the said GST filings, it appears that Seya had siphoned off its assets to promoter group companies/ companies related to promoters. Therefore, during these three financial years, Seya is alleged to have siphoned off funds as well as its assets to promoter group companies/ companies related to promoters.

- 36.5 With respect to fund transfers to Whiz, Noticees have sought to justify the same claiming that these transfers were for redemption of Non-Convertible Redeemable Preference Shares (“**NCRPS**”), interest on unsecured loans and dividend on equity shares. It has been further submitted that it had issued NCRPS to Whiz in 2015 which were subject to redemption at any time within 12 years from the date of issuance. Accordingly, it was submitted that Whiz exercised its right to redeem the NCRPS in part and pursuant to part redemption, a sum of INR 32.69 Crore and INR 9.79 Crore have been accounted for in financial statements of Noticee No. 1 towards redemption proceeds for FY 2018-19 and 2019-20 respectively.
- 36.6 On the issue of NCRPS redemption, Noticees have failed to provide any documentary evidence to substantiate the issue/ redemption of NCRPS viz. Board approval for issuing NCRPS, AGM resolution, copies of NCRPS certificate, etc. It is pertinent to note that during the course of hearing on February 07, 2024, it was pointed out to AR of Noticees that Annual Report of Noticee No. 1 for FY 2018-19 (at Pag-26) stated that *“The Company has not redeemed any shares or debentures.”* In response, AR sought time to reconcile the same with the Noticees and respond. Vide reply dated November 11, 2024, Noticees have submitted that the aforesaid statement in Annual Report for FY 2018-19 was given because *“i) NCRPS is a type of quasi-equity and not falling within the ambit of the terms securities, ii) the NCRPS was unlisted, iii) the NCRPS was partly/ partially redeemed in FY 2018-19 and not fully redeemed in FY 2018-19.”* Noticees further submitted that amount of INR 32.69 Crore formed part of the “unsecured loans” in the Balance Sheet and since NCRPS was fully redeemed in FY 2019-20, the Directors Report for the said FY 2019-20 states that it was fully redeemed. Also, Noticees argued that there was no requirement under law for disclosing partial or complete redemption of the NCRPS in the Directors Report.

- 36.7 With respect to Shri Balaji, Noticees submitted that that there was no sale/ purchase transaction between Shri Balaji and Noticee No. 1.
- 36.8 With respect to transactions with Aneeka, Noticees have made no submissions.
- 36.9 I have considered the aforesaid submissions of the Noticees with respect to Whiz and my findings on the same are as provided below:
- (i) Section 2(h) of Securities Contracts (Regulation) Act, 1956 (“**SCRA**”) defines securities to *inter-alia* include shares, stocks, debentures or other marketable securities of like nature in or of any incorporate company. Further, Regulation 2(w) of SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021, which deals with non-convertible securities, defines NCRPS as a preference share which is redeemable in accordance with the relevant provisions of the Companies Act, 2013. Therefore, a bare perusal of the aforesaid definitions makes it clear that NCRPS is covered within the definition of securities.
  - (ii) LODR Regulations places on the listed entity the obligation to make timely and proper disclosures. Regulation 30 read with Schedule III of LODR Regulations provides for disclosures to be made by the listed entity *inter alia* including redemption, in whole or in part, of non-convertible securities. Therefore, Noticee No. 1 was under an obligation to disclose even part redemption of NCRPS.
  - (iii) With respect to the Noticees submissions that partly redeemed amount formed part of “unsecured loans” in the Balance Sheet, I have perused the Annual Report for FY 2018-19. I note that in Notes to Financial Statements (at page-62 of Annual Report), it is stated that NCRPS which under IGAAP was classified in Share Capital now as per Ind AS forms part of the non-current liabilities under Long Terms Borrowings from Related Parties. Also, the disclosure in non-current borrowing (at page-71 of Annual Report) and Related Party Transaction (including NCRPS) shows different amounts (at page-77 of Annual Report). In the details of related parties, names of Whiz/ Shri Balaji are not mentioned by the Company in its Annual Report. Further, NCRPS and unsecured borrowings are separately mentioned in the Annual Report (ref. Net Worth graph at Page- 13 Para 30.16 at Page-78). Screenshots of the said statements in Annual Report are provided below:

**Image - 1 (at page-62 of Seya's Annual Report for FY 2018-19)**

Whenever the Company changes the presentation or classification of items in its financial statements materially, the company reclassifies comparative amounts, unless impracticable. Non-Convertible Redeemable Preference Shares which under IGAAP was classified in Share Capital now as per Ind AS forms part of the Non-Current Liabilities under Long Term Borrowings from Related Parties.

**Image – 2 (at page-71 of Seya's Annual Report for FY 2018-19)**

**16. NON-CURRENT BORROWING**

₹ in Lakhs

	As at March 31, 2019	As at March 31, 2018
<b>Secured</b>		
Term Loans from Banks	46,555.68	22,102.32
<b>Unsecured</b>		
Loans and Advance from Promoters & Related Parties	-	8,280.93
Net Present Value of Preference Shares (of Promoters and Related Parties) as per Ind AS	15,126.17	15,126.17
<b>TOTAL</b>	<b>61,681.85</b>	<b>45,509.42</b>

**Image – 3 (at page-77 of Seya's Annual Report for FY 2018-19)**

**30.12. Disclosures under IND AS-24: Related Party Disclosures**

**30.12.1. Details of Related Parties:**

Description of Relationship	Name of the Parties
Key Management Personnel (KMP)	Mr. Ashok G Rajani – Chairman & Managing Director Mr. A. K. Bhowmik – Director
Relatives of Key Managerial Personnel	Ms. Manisha Solanki – Company Secretary
Entities in which either of KMP or their Relatives can exercise significant influence	Mr. Amrit Rajani – Son of Mr. Ashok Rajani

**30.12.2. Related Party Transactions during the year ended March 31, 2019 and Balances Outstanding as on that day**

₹ in Lakhs

Nature of Transaction	KMP		Entities in which KMP/ Relatives of KMP have significant influence	
	2018-19	2017-18	2018-19	2017-18
Remuneration to Directors & KMP	138.31	73.65	-	-
Leasing arrangements	-	-	28.32	31.80
Unsecured Loans Taken / (Repaid)	-	(0.59)	-	-
<b>Balances outstanding at the end of the year:</b>				
Long Term Borrowings (unsecured) [Including NCRPS]	-	59.98	-	8,220.95

**Key Managerial Personnel Compensation**

₹ in Lakhs

	2018-19	2017-18
Short Term Employee Benefits	138.31	73.65
Long-Term Employee Benefits	-	-

**Image – 4 (at page-78 of Seya’s Annual Report for FY 2018-19)**

30.16. Financial Instruments

(A) The carrying value of Financial Instruments by Categories as at March 31, is as follows ₹ in Lakhs

	Amortised Cost	
	As at March 31, 2019	As at March 31, 2018
<b>Financial Assets</b>		
Trade Receivables	10,155.42	10,352.87
Loans	10.86	9.17
Cash & Cash Equivalents	79.93	1,381.53
Bank Balance other than Cash & Cash Equivalents	222.32	209.72
Other Financial Assets	67.53	62.43
<b>Total Financial Assets</b>	<b>10,536.06</b>	<b>12,015.71</b>
<b>Financial Liabilities</b>		
Borrowings <sup>1</sup>	66,902.36	54,763.95
Trade Payables	855.25	1,012.68
Other Financial Liabilities	298.83	339.36
<b>Total Financial Liabilities</b>	<b>68,056.44</b>	<b>56,116.00</b>

**Footnote**

1. Including Non-Convertible Redeemable Preference shares (₹15,126.17 Lakhs) and Unsecured Borrowings (₹8,280.93 Lakhs for FY 18) from Promoter and Related Parties.
2. The management assessed that cash and cash equivalents, trade receivables, trade payables, bank overdrafts and other current liabilities approximate their carrying amounts largely due to the short-term maturities of these instruments

- (iv) It is observed from the Annual Report of Seya for FY 2019-20 that Company has stated that it has fully redeemed the NCRPS of INR 151.26 Crore and there has been transfer from the Other Reserves to Capital Redemption Reserve on account of redemption. It is relevant to mention that any such payment towards redemption of NCRPS should appear in Cash Flow Statement under the ‘Cash Flow from Financing Activities’. However, upon perusal of the Cash Flow statement of the Company for FY 2019-20 (at page-55), it is observed that there is no mention of payment of such amount of INR 151.26 crore by the Company towards redemption of NCRPS as provided in the Image below:

**Image – 5 (at page - 55 of Seya’s Annual Report for FY  
2019-20)**

<b>B:</b>	<b>CASH FLOW FROM INVESTING ACTIVITIES:</b>		
	Capital Expenditure on Property, Plant & Equipment, including Capital Advances & Payable for Capital Expenditure	(2,615.14)	
	Increase in Capital Work in Progress	(10,434.98)	
	Other Non-Current Financial Liability	974.26	
	Other Non-Current Financial Assets	-	
	Other Non-Current Assets	0.97	
	Other Non-Current Provisions	3.72	
	Other Non-Operating Income	865.92	
	Interest Received	12.02	
	Other Bank Balances	83.86	
			(11,109.48)
	<b>Net Cash Flow from / (used in) Investing Activities (B)</b>		<b>(11,109.48)</b>
<b>C:</b>	<b>CASH FLOW FROM FINANCING ACTIVITIES:</b>		
	Proceeds from Long-term Borrowings (Net-off repayment)	7,472.76	
	Proceeds from Short-term Borrowings (Net-off repayment)	4,710.99	
	Finance Cost	(791.98)	
	Dividend Paid on Preference Shares	-	
	Dividend Paid on Equity Shares	(432.85)	
	Proceeds from Share Application Money	-	
	<b>Net Cash Flow From / (used in) Financing Activities (C)</b>		<b>10,958.92</b>
	<b>Net Increase / (Decrease) In Cash and Cash Equivalent (A + B + C)</b>		<b>22.41</b>
	<b>Cash and Cash Equivalents at the Beginning of the Year</b>		<b>79.93</b>
	<b>Cash and Cash Equivalents at the End of the Year (Refer Note No. 10)</b>		<b>102.34</b>
	<b>Reconciliation of Cash &amp; Cash Equivalents</b>		
	Balance with Bank:		
	In Current Accounts		101.98
	Cash on Hand		0.36
	<b>Cash and Cash Equivalents at the End of the Year (Refer Note No. 10)</b>		<b>102.34</b>

(v) Therefore, it is observed that NCRPS or its redemption were never considered as part of unsecured loan by Noticee No. 1 and this argument of Noticees appears to be an afterthought to shield themselves as it is clear from the findings of SEBI investigation that funds were transferred to Whiz, Aneeka and Shri Balaji.

36.10 On the findings of SEBI with respect to siphoning off of funds to Shri Balaji, Noticees have submitted that there were no sale/ purchase transactions between the Company and Shri Balaji and the payments reflected in bank account statements pertain to “journal transactions”. Noticees have not elaborated on what they mean by “journal transactions”. However, I note that the Company in its own GST filings (GSTR2A) have disclosed the transactions with Shri Balaji and now it cannot submit that it had no transactions with Shri Balaji unless it is admitting that GST filings were false. Further, the bank transactions with Shri Balaji were done from the Company’s account with IndusInd Bank and the details of transactions are provided in the Table below (as per Bank Account Statement received from IndusInd Bank):

**Table – 10**

<b>S. No.</b>	<b>Account Details</b>	<b>Transaction Date(s)</b>	<b>Transaction Particulars (as recorded in Bank Statements)</b>	<b>Debit Amount (in INR)</b>
1	Seya Industries Limited – IndusInd Bank	August 27, 2018	TRF TO SHRI BALAJI ENTERTAINMENTS PVT LTD	18,09,600
2	Account No. 200003322196	September 21, 2018	TO SHRI BALAJI ENTERTAINMENT	18,09,600
3		October 26, 2018	TRF TO SHRI BALAJI ENTERTAINMENTS PVT LTD	18,09,600
4		November 28, 2018	TRF TO SHRI BALAJI ENTERTAINMENTS PVT LTD	18,09,600
5		December 27, 2018	TRF TO SHRI BALAJI ENTERTAINMENTS PVT LTD	18,09,600
6		March 25, 2019	TO SHRI BALAJI ENTERTAINMENTS PVT LTD	18,09,600
7		April 30, 2019	TRF TO SHRI BALAJI ENTERTAINMENTS PVT LTD	18,09,600
8		August 29, 2019	TRF TO HRI BALAJI ENTERTAINMENTS PVT LTD	7,00,000

In view of the above transactions and GST filings of the Company, the argument of Noticees that there were no sale/ purchase transactions with Shri Balaji cannot be accepted.

36.11 Since Noticees have not made any submissions on the transactions with Aneeka and therefore, it is understood that Noticees have accepted the findings of SEBI with respect to siphoning off of assets to Aneeka amounting to INR 6.56 crore.

36.12 I note that while arriving at the siphoned off amount, Interim Order has netted the sales/ purchases made by Seya with Whiz and Shri Balaji in FYs 2018-19

and 2019-20. It is pertinent to mention that undisclosed payments and receipts were taken from analysis of bank statements whereas undisclosed sale/ purchases were taken from the GST filings of Seya. It is understood that such sale/ purchase amount has to be considered as part of the amount received/ paid from the bank accounts of Seya to Whiz and Shri Balaji for the purported transactions. Further, in the case of Whiz & Aneeka, while there are no bank transactions to support money movement from Seya during FY 2020-21, the GST filings suggest that goods/ assets had moved to these companies without consideration being paid to Seya.

- 36.13 Accordingly, the abovementioned siphoning off funds / assets by Seya to the tune of INR 81.26 crore (INR 45.20 crore in FY 2018-19, INR 24 crore in FY 2019-20 and INR 12.06 crore in FY 2020-21) to promoter group companies/ companies related to promoters on the pretext of purchases/ sales from/ to them and/ or through undisclosed fund transfers operated as a device/ scheme/ artifice to deceive and defraud the investors/ shareholders dealing in the shares of Seya. I note from the aforesaid discussion that Noticees devised this scheme to defraud the investors as a significant chunk of money/ assets of the Company were siphoned off to promoter related entities without any disclosure over a period of three financial years.
- 36.14 During this period, Ashok Ghanshyamdas Rajani, Asit Kumar Bhowmik and Sivaprasada Rao Buddi were directors of Seya as can be seen from Table – 2 of this Order. The recipients of the siphoned off monies/ assets namely Whiz, Shri Balaji and Aneeka were owned and managed by the KMP/ relatives of promoters of Seya, i.e. Amrit Rajani (Noticee No. 5, CFO & Son of CMD of Seya) and his siblings (Narendra Rajani and Pooja Rajani).
- 36.15 Regulation 3(c) and (d) of PFUTP Regulations mandates that no person shall employ or engage in any act or device or scheme which would operate as a fraud in connection with purchase, sale or dealing in securities. It is therefore clear that these provisions are not only applicable to those entities that have directly dealt in securities, but also to entities undertaking any act designed to influence the decision of investors in securities, and to those providing assistance to the fraudulent scheme. Therefore, even though Noticees may not have directly dealt in the securities of the Company, the detailed discussion

in this Order make it amply clear that all the Noticees have played different roles in the elaborate and nefarious device to siphon out funds from the Company, while concealing such acts from investors thereby lulling them into believing that the financial health of Seya was far better than it actually was.

36.16 I further note that to prove a violation of Section 12A (b) and (c) of the SEBI Act, or Regulation 3(c) and (d) of PFUTP, the test is to determine whether the device or scheme would operate as a fraud or deceit on investors dealing in such securities. The scheme of fraudulently diverting large quantum of funds from a listed entity without disclosure, by its very nature, is bound to induce investors (who are oblivious to the true state of affairs of the company) to continue to deal in the company's securities. Inevitably, this would result in artificially inflated prices because of such concealment of the ongoing fraudulent siphoning of funds. As discussed in the subsequent paragraphs of this Order, the non-disclosure of the fraud had a direct impact on the price of the scrip of Seya.

36.17 The Explanation to Regulation 4(1) of the PFUTP Regulations, which was inserted on October 19, 2020, as a clarification (*i.e. something which was earlier implicit has now been made explicit by adding the aforesaid Explanation*)<sup>9</sup> also effectively reiterates the prohibitions stated in the Section 12A of the SEBI Act and regulation 3 of the PFUTP Regulations. The Explanation which was inserted "for the removal of doubts" clarifies that diversion, siphoning off of assets etc., concealment of such acts or manipulation of financial statements that would directly or indirectly manipulate price of the company's securities would be deemed to have always been considered as manipulative, fraudulent or unfair trade practice in the securities market.

36.18 Regulation 4(2) of PFUTP Regulations lists specific instances wherein dealing in securities are deemed to be manipulative, fraudulent or unfair. In the present

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<sup>9</sup> In this regard, I refer to the Report of Committee on Fair Market Conduct, submitted on August 08, 2018, which examined the provisions of PFUTP Regulations and observed at para 1.3 at page-24 that "*In order to **provide more clarity that the conduct/ practices relate to entire securities market**, as well as for consistency with Section 11(2)(e) of the SEBI Act, including **activities such as giving advice, unauthorized trading, mis-selling, diversion of funds** etc., which may impact the eco-system of securities market, it would be prudent that the regulation refers to the securities market rather than just securities.*" (emphasis supplied).

matter, the acts of Noticees (being part of the management/ Board of Directors/ KMPs of the Company) in misreporting of Seya's financials and its books of accounts for FYs 2018-19, 2019-20 and 2020-21, when they were clearly aware of the false nature of the financial reports, have resulted in violation of Regulation 4(2)(f), (k) and (r) of PFUTP Regulations.

36.19 In any case, under Section 27 of the SEBI Act, directors/ Noticees also become vicariously liable for Seya's liability with respect to siphoning off of funds/ assets as well as misrepresentation of financial statements. In view of the above, I am of the view that Noticees violated Regulations 3(c) & (d), 4(1), 4(2)(f), (k) and (r) of SEBI (PFUTP) Regulations, 2003 read with Section 12A (b) and (c) of the SEBI Act, 1992.

**37. Whether there were fictitious sales and purchases with inter-connected entities/ firms?**

37.1. As per the complaint received from the complainant, *inter alia*, Seya had undertaken private placement of NCDs and Compulsory Convertible Preference Shares on the basis of inflated books of accounts which showed inflated sales and profits created through circuitous web of transactions. As noted earlier in this Order, SEBI had commenced its investigation pursuant to the aforesaid complaint.

37.2. Separately, SEBI sought information from Central GST, Directorate General of GST Intelligence (DGGI), State GST and Income Tax Department with respect to returns filed by Seya, proprietorship firms, details of enquiry/ investigation initiated against Seya and/ or any other entity related to Seya. Directorate General of GST Intelligence (DGGI) vide letter dated October 07, 2022 informed SEBI that their office had initiated investigation against Seya and Aneeka Universal Pvt. Ltd., which concluded that the said entities had floated various shell companies/ entities and carried out fake/ paper transactions with them to inflate their turnover and avail/pass on fraudulent CENVAT and GST Input Tax credit in contravention of Central Excise Act, 1944 and CGST/MGST Act, 2017. DGGI also informed SEBI of the Show Cause Notices issued to the aforesaid entities – (i) SCN dated 30.12.2020 to the said entities to *inter alia* to show cause as to why CENVAT credit amounting to INR 10,07,21,008/- (from Seya

*Industries Limited*) should not be disallowed and recovered , INR 5,48,00,676/- ( *from Aneeka Universal Pvt. Ltd.*) of CENVAT credit should not be disallowed and penalty be imposed on other Noticees; and, (ii) SCN dated 23.09.2022 issued to the said entities *inter alia* to show cause as to why GST Input Tax credit amounting to INR 131,45,44,486/- (*from Seya Industries Limited*) and INR 11,98,39,676/- (*Aneeka Universal Pvt. Ltd.*) should not be disallowed and recover and penalty be imposed on other Noticees. Further, GST Department had arrested the following persons (*who as discussed later in this Order were proprietors of firms with which Seya purportedly had purchase/sale transactions*), viz. Surekha Sudhir Joshi, Sudhir Kantilal Joshi, Meena Pinakin Joshi, Pinakin Kantilal Joshi, Tejas Kanaiyalal Soni and Khushbu Ompal Singh in connection with a GST input credit fraud matter involving Seya Industries Limited. The details are as under:

**Table – 11**

<b>Sl. No.</b>	<b>Name</b>	<b>Date of arrest</b>	<b>Release order date/ Bail date</b>
1	Surekha Sudhir Joshi	March 22, 2021	August 27, 2021
2	Sudhir Kantilal Joshi	March 22, 2021	June 25, 2021
3	Meena Pinakin Joshi	March 22, 2021	August 27, 2021
4	Pinakin Kantilal Joshi	March 22, 2021	June 25, 2021
5	Tejas Kanaiyalal Soni	March 23, 2021	May 25, 2021
6	Khushbu Ompal Singh	March 25, 2021	May 25, 2021

- 37.3. Later, Maharashtra Goods & Services Tax department (State GST) has also informed SEBI vide letter dated 23.11.2022 that Seya had purchased goods from non-genuine/ bogus suppliers and had claimed incorrect/bogus Input Tax Credits from the department.
- 37.4. As part of SEBI's investigation, NSE and Forensic Auditor were directed/ appointed to look into the allegations and financials of the Company. However, despite repeated communications, Seya did not co-operate with NSE/ Forensic Auditor. Therefore, SEBI sought information from Seya directly. However, yet again, Seya failed to provide the information sought from it by SEBI. Even as on date, Noticees have failed to provide any information relating to the nature of goods produced/ purchased by them from various entities or the nature of such transactions. Due to non-cooperation from Noticees, information was

sought from GST authorities with respect to the Company. The information received from GST authorities revealed that Seya had entered into high value transactions with select proprietorship firms during the investigation period. As no information was received from Seya about the nature of goods sold or purchased by it, SEBI examined the relationship of these proprietorship firms with Noticees and their ownership/ control.

37.5. As mentioned in the preceding paragraphs, detailed information from Noticees about the nature of goods and transactions entered into by the Company was not forthcoming from the Company. Therefore, whether the sale/ purchase transactions were fictitious or not warrants an analysis of the circumstances surrounding these transactions. SEBI's *prima facie* conclusion of the existence of fictitious transactions is based on the following, each of which are discussed in detail along with my observations and conclusions thereof in subsequent paragraphs.

**(A) Discrepancies in Reporting of Transactions by Seya**

**(B) High value of sale/ purchase by Seya with select Proprietorship Firms**

**(C) Owners of Proprietorship Firms**

**(D) Financial Capacity of Proprietors**

**(E) Common Auditors and Common IP Address for filings**

**(F) Transactions of Proprietorship Firms**

**(G) Persons who setup Proprietorship Firms and Managed them**

**(H) Circuitous Transactions**

37.6. **Discrepancies in Reporting Transactions by Seya**

37.6.1. During the course of Investigation, it was observed that there were differences between Sales and Purchases as per the GST returns of Seya and Sales and Purchases reported by Seya in its monthly GST filings and Annual Reports (ARs) for the FY 2018-19, 2019-20 and 2020-21. The details of the said differences are as under:

**Table – 12**

(INR in crore)

<b>Financial Year</b>	<b>FY 2018-19</b>		<b>FY 2019-20</b>		<b>FY 2020-21</b>	
<b>Particulars</b>	<b>Sales</b>	<b>Purchases</b>	<b>Sales</b>	<b>Purchases</b>	<b>Sales</b>	<b>Purchases</b>
Company Total sales and purchases as per GST returns	454.19	552.37	180.98	185.77	30.06	17.14
Company Total sales and purchases as reported in Annual Reports of respective FY	412.78	205.77	258.20	143.18	44.01	20.90
Differences in sales and purchases as reported in ARs as compared to the sales and purchases as per the GST returns	(41.41)	(346.6)	77.22	(42.59)	13.95	3.76

37.6.2. I note that SEBI analysed the GSTR 1 (sales) and GSTR 2A (purchases) monthly filings of Seya and then proceeded to collate the said monthly filings to arrive at the annual figure. The said figure arrived after collation has been compared with the financial statements in Seya's Annual Reports. Noticees have submitted that there is no difference between sales and purchases recorded by Noticee No. 1 in its GST Returns and that reported by it in its Annual Reports. Noticees have submitted that Investigation Authority has failed to look at GSTR 9 filings of Seya which provide the annual GST Returns of Seya and considers all the income/ purchases of Seya. Noticees have further submitted that upon the analysis of the figures provided under GSTR9, it can be seen that there is no difference between the GST filings and Annual Report statements and that all the mismatch in the figures has been duly reported in the Annual Reports. The submission of Noticees on reconciliation are reproduced in the Table below:

**Table – 13**

(INR in Crores)

<b>Financial Year</b>	<b>FY 2018-19</b>		<b>FY 2019-20</b>		<b>FY 2020-21</b>	
<b>Particulars</b>	<b>Sales</b>	<b>Purchases</b>	<b>Sales</b>	<b>Purchases</b>	<b>Sales</b>	<b>Purchases</b>
Company Total Sales and Purchases as per GST Returns	413.49	475.61	256.52	168.63	48.99	27.65
Company Total Sales and Purchases as reported in Annual Reports of respective FY	412.78	205.87	258.2	144.02	44.01	21.01
Differences in sales and purchases as reported in ARs as compared to the sales and purchases as per GST Return	<b>0.72</b>	<b>269.74</b>	<b>(1.68)</b>	<b>24.61</b>	<b>4.98</b>	<b>6.63</b>

37.6.3. It is observed from aforesaid submissions that Noticees have admitted that there was a difference in the amounts reported in Annual Reports and GST Returns. Upon perusal of the GSTR9 filings as provided by Noticees and the corresponding financial statements in Annual Reports, it is understood that GSTR9 filings allow for adjustments to be made in the monthly filings which is not the case for GSTR1 and GSTR2A. Therefore, it may appear that GSTR9 provides the final tally of sales and purchases of the Company. Further, it is understood that SEBI considered GSTR 1 and GSTR2A for its examination as it provides breakup of transactions done with each counterparty along with its details whereas GSTR9 filings only provide a consolidated view of the transactions and it is not possible to know the breakup of such transactions vis-à-vis each counterparty. Noticees have failed to provide explanation for the difference in the Monthly and Annual GST Returns of the Company viz. the details of adjustments made in the

Annual GST Returns which were at variance with the monthly filings of the Company. More importantly, the names of the parties/entities for whom adjustments were made have not been provided. Without providing such an explanation, the submissions of the Noticees cannot be considered. Further, with respect to difference in 'sales' in GSTR9 and Annual Report, Noticees have provided the following:

**Table – 14**

**(INR in Crores)**

<b>Reconciliation of Sales under various heads of AR</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
Sale return, event after BS date but before GSTR date	-	(9.68)	-
Other Income	0.72	8	4.98
<b>Total</b>	<b>0.72</b>	<b>(1.68)</b>	<b>4.98</b>

It is observed from the aforesaid Table that Noticees have *inter alia* submitted that the difference in sales is accounted for in Other Income for the respective financial years. I have seen the Annual Reports of the Company for the said Financial Years and I note that under the Head "Income", Company has listed two constituents viz. 'Revenue from Operations' and 'Other Income'. Noticees have not provided details of sales which were considered as other income and also not provided the name of the entity/entities against whom the sales were considered as Other Income. Also, for FY 2019-20, Noticees have submitted that there was 'Sale Return, event after BS date but before GSTR date' which accounted for a loss of INR 9.68 Crore. However, in the corresponding GST Return, no such amount of INR 9.68 crore is reflected and no details thereof have been provided. Further, they have also not provided the name of entity/entities for which such sales return they are claiming. On a preponderance of probability, it is reasonable to infer that Noticees have

resorted to providing such numbers without providing any explanation for such differences. Accordingly, the submissions of Noticees in this regard cannot be accepted.

37.6.4. I note that Noticees have shown an amount of INR 9.68 Crore during FY 2019-20 as 'Purchase return, event after BS date but before GSTR date' to justify the differences. However, no corresponding break up/ details of such purchase return has been provided by the Noticees for such returns. I have seen the corresponding GSTR9 provided by Noticees and there is no mention of such amount in the said return. Further, they have also not provided the name of entity/entities for which such purchase return they are claiming. Further, it is peculiar that Noticees have shown the exact same amount of INR 9.68 Crore as sale return for the same financial year also. Therefore, it appears that Noticees have resorted to this amount to adjust for any remaining difference after adjusting amount in other heads.

37.6.5. On the allegation of difference in purchases shown in GST Returns and Annual Reports, Noticees have submitted that the differences have been appropriately recorded and disclosed in Noticee No. 1's Annual Reports as provided below:

**Table – 15**

(INR in Crores)

<b>Reconciliation of Purchases under various heads of Annual Report</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
Reported under Other Expenses	47.14	23.91	5.26
Purchases of Capital Goods and Plant & Machinery Capitalised – Reported under CWIP & Fixed Assets Schedule, respectively	222.70	11.23	1.48
Diff of Opening and Closing Stock – Reported in P&L under Changes in Inventory of FG & MIP	(0.10)	(0.85)	(0.11)

<b>Reconciliation of Purchases under various heads of Annual Report</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
Purchase return, event after BS date but before GSTR date	-	(9.68)	-
<b>Total</b>	<b>269.74</b>	<b>24.61</b>	<b>6.63</b>

37.6.6. During the course of investigation, SEBI had observed that there was a substantial difference in purchases shown in Annual Reports of the Company and purchases as per GST Returns of the Company and that similar increase was shown in the Capital Work in Progress in the Annual Report. It is seen from the aforesaid submissions of the Noticees that they have also admitted that significant difference in the amount was due to amount allocated under Capital Work in Progress in the Annual Reports.

37.6.7. On perusal of the aforesaid submission of Noticees and Annual Reports of Noticee No. 1, I note that Noticees have not provided details of purchases which were considered as 'Other Expenses' or 'CWIP' and also not provided the name of the entity/entities against whom the purchases were considered as 'Other Expenses' or 'CWIP'.

37.6.8. Noticees have failed to provide details of 'goods' being transacted by the Company, names of counterparties of such transactions wherein adjustments were made or details of 'goods' assets being transacted and considered for Capital Work in Progress. In view of the discussions above, I find that Noticees have failed to justify the differences in amount of sales/purchases in GST Returns and Annual Reports and appear to have resorted to relying on heads having large amounts to cover up such differences.

### **37.7. High Value Sale/ Purchase Transactions with Select Proprietorship Firms**

37.7.1. Upon analysis of GST returns of Seya, it was observed that it had entered into sale/ purchase transactions with a select number of

proprietorship firms. A summary of the transactions of Seya with the said firms is provided in the Table below:

**Table – 16**

(INR in crore)

Financial Year				FY 2018-19		FY 2019-20		FY 2020-21	
Sl. No.	Firm Name/ Trade Name	Proprietor / Partner	GSTIN	Total Sales as per GSTR	Total Purcha ses as per GSTR	Total Sales as per GSTR	Total Purcha ses as per GSTR	Total Sales as per GSTR	Total Purch ases as per GSTR
<b>Joshi Family</b>									
1	Avon Engineering/ Aravalli Marketing	Surekha Sudhir Joshi	27AEJ PJ2816 C1ZT	-	18.88	-	-	-	-
2	Godavari Fab Tech/ Kadambari Chemical Corporation/ Padmavati Traders	Sudhir Kantilal Joshi	27ADL PJ5376 J1Z1	84.96	0.03	-	-	-	-
3	Sterling Project Engineers/ Bluezone Trading Company	Meena Pinakin Joshi	27AJE PJ7044 A1ZL	-	24.18	-	-	-	-
4	Fenix Process Technologies	Pinakin Kantilal Joshi	27ADL PJ8489 N1ZH	-	35.91	-	-	-	-
<b>Ail Family</b>									
5	Sambhav Fab Tech/ Siddhi Sales Corporation/ Kaveri Enterprises	Sujaya Shailesh Ail	27AKN PB364 8L2ZS	0.21	119.11	1.07	44.64	-	-
6	Supreme Technologies, Sahyadri Trading Company & Sigma trading Company	Sandeep Beerappa Ail	27AJX PA075 6D2Z7	77.91	4.35	1.09	17.35	-	-
<b>Soni Family</b>									
7	J P Engineering & Elite Trading Company	Kanaiyalal Ganpatlal Soni	27BTP PS975 3K1ZJ	80.74	4.63	0.67	37.59	-	-
8	Karnavati Dye Chem/ Zentech Engineering Systems & Solutions/ Synergy Sales	Tejas Kanaiyalal Soni	27BIYP S9025 C1ZO	3.92	110.49	0.67	-	-	-
<b>Total Transactions of Company with Firms at S. Nos. 1 - 8</b>				<b>247.74</b>	<b>317.58</b>	<b>3.50</b>	<b>99.58</b>	<b>-</b>	<b>-</b>
<b>Company Total Sales and Purchases as per GST returns</b>				<b>454.19</b>	<b>552.37</b>	<b>180.98</b>	<b>185.77</b>	<b>30.06</b>	<b>17.14</b>

Financial Year				FY 2018-19		FY 2019-20		FY 2020-21	
Sl. No.	Firm Name/ Trade Name	Proprietor / Partner	GSTIN	Total Sales as per GSTR	Total Purcha ses as per GSTR	Total Sales as per GSTR	Total Purcha ses as per GSTR	Total Sales as per GSTR	Total Purch ases as per GSTR
<b>Transactions of Company with the aforementioned entities at S. Nos. 1-8 as percentage to total sales/purchases of the company as per the GST returns for the relevant FY</b>				54.54 %	57.49%	1.93%	53.60%	-	-
<b>Other Partnership firms</b>									
9	Meghmani Organics	Khushbu Ompal Singh and Vinay Suresh Dasa	27ABIF M9723 H1ZW	8.71	0.03	36.78	-	0.23	-
10	Metco Enterprises	Khushbu Ompal Singh and Sujaya Ail	27ABIF M9722 G1ZZ	-	7.58	-	10.39	0.22	-
<b>Total Transactions of company with the aforementioned entities at S. Nos. 1-10</b>				256.45	325.19	40.28	109.97	0.45	-
<b>Company Total Sales and Purchases as per GST returns</b>				454.19	552.37	180.98	185.77	30.06	17.14
<b>Transactions of company with the aforementioned entities (at S. Nos. 1-10) as percentage to total sales/purchases of the company as per the GST returns for the relevant FY</b>				56.46 %	58.87%	22.26%	59.20%	1.50%	-

*Basis: GST filings of Seya Industries Ltd. as obtained from GST department*

37.7.2. From the above Table, the following was observed:

- (i) Seya had entered into transactions with the firms registered in the names of family members of the Joshis, the Sonis, the Ails; and Ms. Khushbu (collectively hereinafter referred to as “the Proprietorship Firms”). The sale transactions of Seya with the firms of Joshis, Ails and Sonis accounted for 54.54% and 1.93 % of the total sales of Seya for the FYs 2018-19 and 2019-20 respectively, as per the GST returns. Further, Seya’s purchase transactions with these firms accounted for 57.49% and 53.60% of Seya’s total purchases for the FYs 2018-19 and 2019-20 respectively, as per the GST returns.

37.7.3. I have considered the submissions made by Noticees on the aforesaid findings of the Interim Order and my observations on the same are as follows:

- (a) Noticees have submitted that SEBI has not provided any work sheet to show it had arrived at the said figures. Further, it is submitted

that Investigation Report is completely silent on the nature of goods that were purchased and sold by the firms and that all the transactions were supported by valid tax invoice, e-way bill, lorry receipt and various documents which proved that they were genuine transactions. As already noted in this Order, there was no co-operation from Noticees and they failed to provide information sought by SEBI. I note that it is due to this non-cooperation that GST/ Income Tax authorities had to be contacted for obtaining the information. Noticees have failed to mention the name/ nature of goods purchased/ sold by them from/ to these entities and have resorted to making vague statements without any evidence. Further, no e-way bill, lorry receipts, etc. were submitted by them in these proceedings to substantiate/ corroborate their submissions. Therefore, the information provided by GST/ Income Tax authorities along with other documents had to be analysed to enable SEBI to arrive at conclusions in the investigation. The criteria for arriving at the said figures has been clearly spelt out by SEBI. The absence of details with respect to the goods involved in the impugned transactions does not vitiate the inference of fictitious purchases or sales, particularly when there is other circumstantial evidence of non-genuine transactions. I note that apart from making bland and vague statements on the said findings, Noticees have failed to highlight any discrepancy in the figures mentioned in Table – 16 above.

(b) In view of the above, the submissions of the Noticees cannot be accepted.

### **37.8. Owners of Proprietorship Firms**

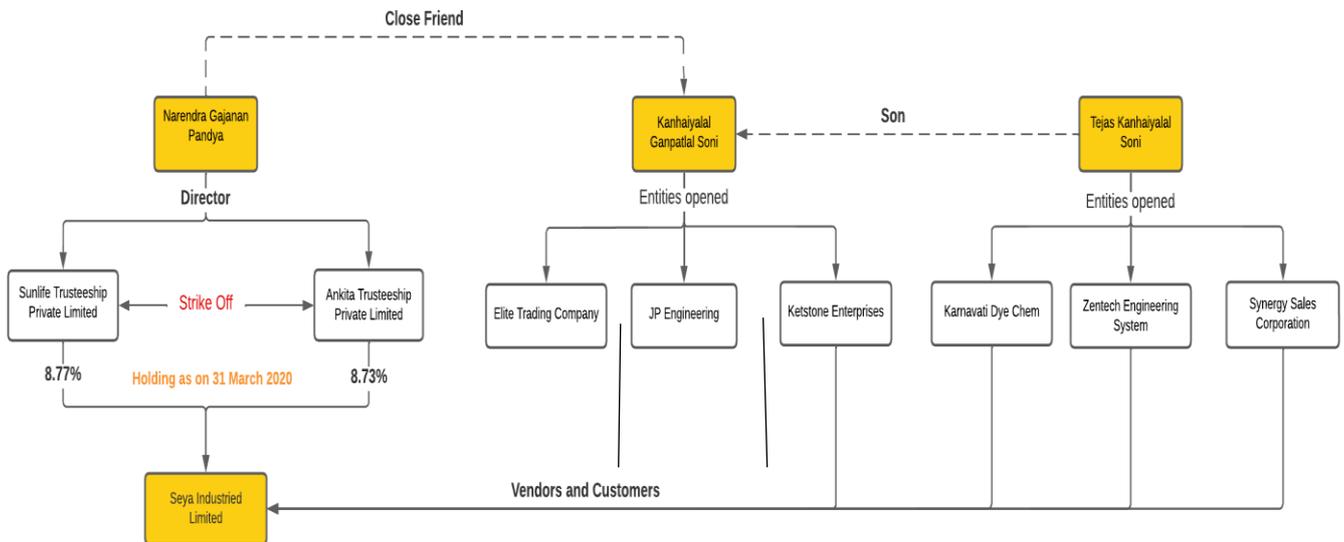
37.8.1. As per the findings of the investigation, the relationship of the proprietors of the impugned firms are as follows:

**Table – 17**

<b>Sl. No.</b>	<b>Entity Name</b>	<b>PAN</b>	<b>Inter relationship</b>	<b>Common Family</b>
1	Surekha Sudhir Joshi	AEJPPJ2816C	Wife of Sudhir Kantilal Joshi	Joshi Family
2	Sudhir Kantilal Joshi	ADLPJ5376J	Brother of Pinakin Kantilal Joshi and husband of Surekha Sudhir Joshi	
3	Meena Pinakin Joshi	AJEPJ7044A	Wife of Pinakin Kantilal Joshi	
4	Pinakin Kantilal Joshi	ADLPJ8489N	Brother of Sudhir Kantilal Joshi and husband of Meena Pinakin Joshi	
5	Sujaya Shailesh Ail	AKNPB3648L	Sister of Sandeep Beerappa Ail	Ail Family
6	Sandeep Beerappa Ail	AJXPA0756D	Brother of Sujaya Shailesh Ail	
7	Kanaiyalal Ganpatlal Soni	BTPPS9753K	Father of Tejas Kanaiyalal Soni	Soni Family
8	Tejas Kanaiyalal Soni	BIYPS9025C	Son of Kanaiyalal Ganpatlal Soni	
9	Khushbu Ompal Singh	DLAPS0986R	Employee of Seya Industries Limited	-----

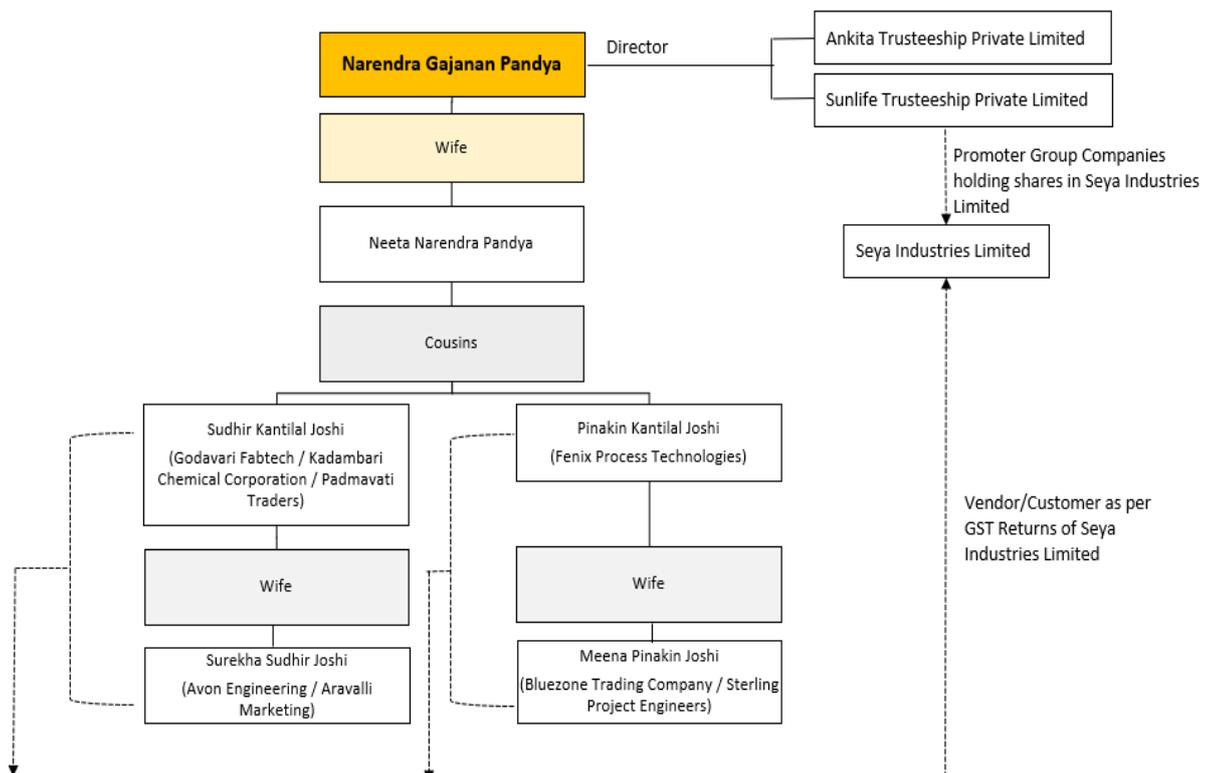
37.8.2. **Seya and Soni Family:** The investigations revealed that the Joshis and Sonis were introduced to Seya by one Narendra Gajanan Pandya, who was a friend of Shri Kanaiyalal Ganpatlal Soni. Narendra Pandya is identified to be a director in some of the promoter companies of Seya wherein he holds 50% of the shareholding of such promoter companies. The chart below highlights the alleged relationship between Narendra Gajanan Pandya, Kanaiyalal Ganpatlal Soni, Tejas Kanaiyalal Soni and Seya.

**Image – 6**



**37.8.3. Seya and Joshi Family:** The Joshis are related to Narendra Gajanan Pandya. Narendra Gajanan Pandya is married to Neeta Narendra Pandya, who is the cousin of Sudhir Kantilal Joshi and Pinakin Kantilal Joshi. The chart below highlights the relationship between Narendra Gajanan Pandya, Sudhir Kantilal Joshi, Surekha Sudhir Joshi, Pinakin Kantilal Joshi, Meena Pinakin Joshi and Seya.

**Image – 7**



37.8.4. Noticees have denied that Ms. Khushbu Ompal Singh was an employee of Seya Industries Limited. In this regard, I have perused the submissions made by Ms. Khushbu during her meeting dated October 17, 2022 wherein she has stated that she joined Seya as an accountant around January 2016 and Narendra Pandya approached her for creating two firms (M/s Meghmani Organics and M/s Metco Enterprises). However, she has further stated that she was not in the employees list of Seya and always received salary in cash. As per material available on record, there is no documentary evidence to prove her regular employment with Seya. In any case, it is pertinent to mention that SEBI has not analysed the transactions of the aforesaid firms in the name of Ms. Khushbu and therefore, conclusion with respect to her regular employment in Seya has no bearing on the findings in these proceedings.

### 37.9. Financial Capacity of Proprietors

37.9.1. It was observed that though the above-mentioned entities had transactions in tens of crores of rupees, their taxable incomes, as seen from their ITRs, were negligible. Details as available from their ITRs are as under:

**Table – 18**

INR in crores

Particulars	Tejas Kanhaiyalal Soni	Sudhir Kantilal Joshi	Meena Pinakin Joshi	Kanhaiyalal Ganpatlal Soni	Sujaya Shailesh Ail	Surekha Sudhir Joshi	Sandeep Beerappa Ail
Sale of Goods	109.48	80.04	128.28	80.81	112.56	126.71	71.79
Purchase	109.20	79.85	128.05	80.67	112.27	126.39	71.61
Gross Total Income	0.08	0.06	0.06	0.05	0.05	0.05	0.05
Debtors	32.30	23.61	37.84	23.84	33.2	40.07	21.17
Creditors	34.85	25.72	40.57	25.5	34.85	37.38	23.13
Rupee Loans from Banks	-	0.79	-	-	-	-	-
Loans and Advances given and recoverable	-	0.77	-	-	-	-	0.69
Cash/Bank Balance	0.01	0.01	0.02	0.01	0.38	0.01	0.01

37.9.2. From the above table, I note that though the abovementioned entities have sales and purchase transactions amounting to tens of crores of Rupees, their Cash/ Bank balances were minimal and they had Nil/ minimal Loans from Banks and had also Nil/minimal Loans and Advances given. This

leads to a clear inference that the proprietors did not have the financial wherewithal to engage in the high value of transactions that they were purportedly engaged in. This by itself questions the genuineness of the purported transactions that the proprietors had with Seya as per the GST filings.

### 37.10. Common Auditors and Common IP Address for filings

37.10.1. The Income Tax filings of the abovementioned named lending entities, as obtained from the CBDT, were examined. From the details of emails and mobile numbers mentioned therein, the following were observed:

**Table – 19**

SI No	PAN	Name Of Assessee	Mobile No	Email address	Name Against Mobile Number as per public domain searches	Email ID belonged to*
1	ADLPJ5376J	Sudhir Kantilal Joshi	9967992104	niyunisu@gmail.com	Narendra Pandya	Narendra Pandya
2	ADLPJ8489N	Pinakin Kantilal Joshi	9967992104	niyunisu@gmail.com	Narendra Pandya	Narendra Pandya
3	AEJPJ2816C	Surekha Sudhir Joshi	7058712051	akansha.goyal412@gmail.com	Not Available	-
4	AJEPJ7044A	Meena Pinakin Joshi	9833508446	niyunisu@gmail.com	CA Nilesh Jagiwala	Narendra Pandya
5	AJXPA0756D	Sandeep Beerappa Ail	9833508446	niyunisu@gmail.com	CA Nilesh Jagiwala	Narendra Pandya
6	AKNPB3648L	Sujaya Shailesh Ail	9967992104	niyunisu@gmail.com	Narendra Pandya	Narendra Pandya
7	BIYPS9025C	Tejas Kanhaiya Lal Soni	9967992104	niyunisu@gmail.com	Narendra Pandya	Narendra Pandya
8	BTPPS9753K	Kanhaiyalal Ganpatlal Soni	9967992104	niyunisu@gmail.com	Narendra Pandya	Narendra Pandya

\*Source: A reply from Narendra Pandya was received by SEBI from this e-mail

37.10.2. From the above Table, it is observed that the income tax registrations and/or filings of abovementioned entities were handled either by Mr. Narendra Pandya or by CA Nilesh Jagiwala, who is a partner of Jagiwala & Co., past statutory auditors of Seya.

37.10.3. I note from the IR that SEBI obtained the Income Tax Returns (ITRs) of Tejas Kanhaiyalal Soni, Sudhir Kantilal Joshi, Meena Pinakin Joshi, Kanhaiyalal Ganpatlal Soni, Sujaya Shailesh Ail, Surekha Sudhir Joshi and Sandeep Beerappa Ail for the FY 2018-19 from CBDT. From the same, it was observed that the tax audit for all the said entities was conducted by the same auditor, viz. N P Rajput and Co as provided in the Table below. The said auditor did not respond to SEBI Summons seeking further information from him.

**Table – 20**

Sl. No.	Proprietors	Entities/Firms	Tax Auditor/Filed by
1	Tejas Kanhaiyalal Soni	Karnavati Dye Chem / Zentech Engineering Systems / Synergy Sales Corporation	N P Rajput and Co.
2	Sudhir Kantilal Joshi	Godavari Fabtech/ Kadambari Chemical Corporation /Padmavati Traders	N P Rajput and Co.
3	Meena Pinakin Joshi	Sterling Project engineers/Bluezone Trading Company	N P Rajput and Co.
4	Kanhaiyalal Ganpatlal Soni	J P Engineering & Elite Trading Company / Keystone Enterprise	N P Rajput and Co.
5	Sujaya Sailesh Ail	Sambhav Fabtech / Kaveri Enterprise / Siddhi Sales Corporation	N P Rajput and Co.
6	Surekha Sudhir Joshi	Avon Engineering/Aravalli Marketing	N P Rajput and Co.
7	Sandeep Beerappa Ail	Supreme Technologies / Sahyadri Trading Company / Sigma Trading Company	N P Rajput and Co.

37.10.4. It was further observed that the income tax filings for the FY 2018-19 of Surekha Sudhir Joshi, Pinakin Kantilal Joshi, Sudhir Kantilal Joshi, Meena Pinakin Joshi, Sujaya Shailesh Ail, Sandeep Beerappa Ail, Kanaiyalal Ganpatlal Soni and Tejas Kanaiyalal Soni were all made from the same IP Address No. 27.106.83.138.

37.10.5. From all the above, I note that a reasonable inference can be drawn that these proprietorships were infact being run/ managed or orchestrated by a common entity or set of entities. It does not appear to seem that the entities were being run separately or of their own accord.

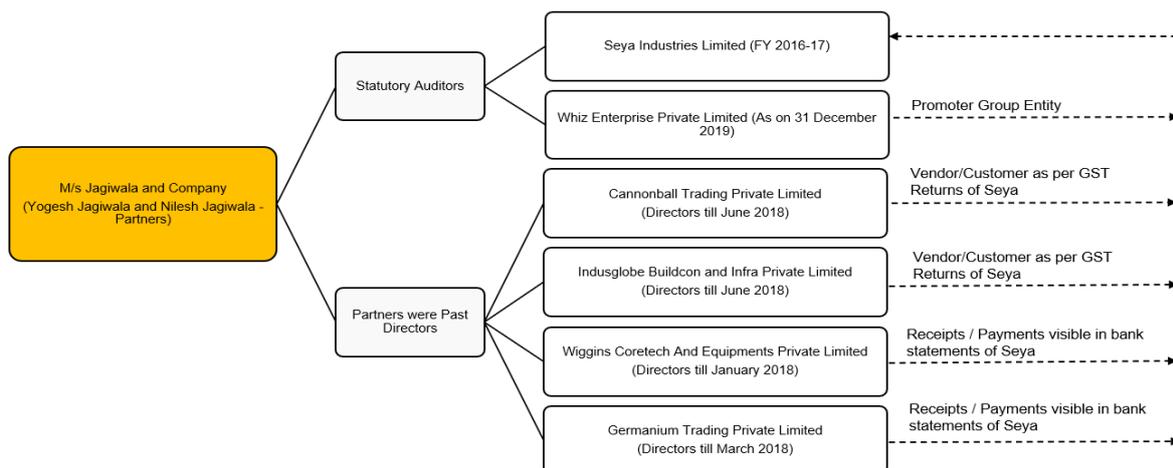
**37.11. Transactions of Proprietorship Firms**

37.11.1. During investigation, SEBI had received the GST Returns of the firms/entities mentioned at S. No. 1-8 of Table- 16 above from GST authorities and I note the following upon analysis of the said Returns:

(a) In addition to Seya, these firms had dealt with Whiz Enterprises Private Limited, Aneeka Universal Private Limited and Shri Balaji Entertainments Pvt. Ltd., all of which are owned and managed by promoters/ relatives of promoters of Seya. Details of relations between Seya and these companies have been discussed in preceding paragraphs of this Order.

(b) The proprietorship firms had also traded with some other companies namely, Indus Globe Buildcon Private Limited, Cannonball Trading Private Limited, Wiggins Coretech and Equipments Private Limited and Germanium Trading Private Limited during FY 2018-19 and 2019-20. It was observed that these companies were connected to M/s Jagiwala & Co. M/s Jagiwala & Co. were the statutory auditors of Seya for FY 2015-16 & 2016-17. Further, M/s Jagiwala & Co. were also statutory auditors of a promoter group company of Seya i.e. Whiz Enterprise Private Limited. Therefore, M/s Jagiwala & Co. had long standing and continuing relationship with Seya. The connection with M/s Jagiwala & Co. with Seya and with the aforementioned companies, is depicted in the following chart:

**Image – 8**



(c) A summary of the transactions of the Proprietorship firms with Seya, its related companies, companies connected to Jagiwalas and among themselves, as percentage of their total transactions for the FYs 2018-19 and 2019-20, is provided in the table below:

**Table – 21**

SI No.	Name of the entity	2018-19		2019-20	
		Sales (%)	Purchases (%)	Sales (%)	Purchases (%)
1	Surekha Sudhir Joshi (27AEJPJ2816C1ZT)	92%	91%	-	-
2	Sudhir Kantilal Joshi (27ADLPJ5376J1Z1)	99%	100%	-	-
3	Meena Pinakin Joshi (27AJEPJ7044A1ZL)	95%	89%	-	-
4	Pinakin Kantilal Joshi (27ADLPJ8489N1ZH)	100%	90%	-	-
5	Sujaya Shailesh Ail (27AKNPB3648L2ZS)	97%	96%	100%	78%
6	Sandeep Beerappa Ail (27AJXPA0756D2Z7)	97%	95%	85%	48%
7	Kanaiyalal Ganpatlal Soni (27BTPPS9753K1ZJ)	95%	99%	100%	71%
8	Tejas Kanaiyalal Soni (27BIYPS9025C1ZO)	95%	97%	63%	39%

(d) The above Table indicates that the buy and sell transactions of the aforementioned entities were mostly limited to Seya, companies connected to Seya and Jagiwalas, and among themselves. This further bolsters the inference that the said firms of aforementioned entities were created for, *inter alia*, inflating the sales and purchases of Seya, resulting in manipulation of books of accounts of Seya.

(e) A breakup of the aforesaid sale/ purchase transactions for these proprietorship firms is provided in the paragraphs below:

- (i) On analysis of the GST Returns of **Kanhaiyalal Soni** for the investigation period, it was noted that 60% of the total purchases of Kanhaiyalal Soni were from Seya and 17% were from Aneeka (a related company of Seya). Further, out of total sales of Kanhaiyalal Soni, 31% of the total sales of Kanhaiyalal Soni were to Seya, 27% amounting to INR 37.29 crores were made to Surekha Sudhir Joshi and 27% amounting to INR 37 crores were made to Meena Pinakin Joshi.
- (ii) On analysis of the GST Returns of **Sudhir Joshi**, it was identified that 88% of the total purchases amounting to INR 84.96 crores of Sudhir Joshi were from Seya and 11% amounting to 10.98 crores were from Aneeka. Further, out of total sales, 42% amounting to INR 41.47 crores were made to Surekha Sudhir Joshi and 43% amounting to INR 42.58 crores were made to Meena Pinakin Joshi. Further, 12% of the total

sales of Sudhir Joshi were to Indusglobe Buildcon and Infra Private Limited, which are companies connected to Jagiwalas, the former auditor of Seya.

- (iii) On analysis of the GST Returns of **Sandeep Beerappa Ail**, it was observed that 61% of the total purchases amounting to INR 78.99 crores of Sandeep Ail were from Seya and 13% amounting to INR 16.78 crores were from Aneeka. Further, out of the total sales of Sandeep Ail, 25% amounting to INR 35.16 crores were made to Surekha Sudhir Joshi and 22% amounting to INR 30.81 crores were made to Meena Pinakin Joshi. Further, 8% of the total sales of Sandeep Ail were to Indusglobe Buildcon and Infra Private Limited and 16% were to Sujaya Ail.
- (iv) On analysis of the GST returns of **Surekha Joshi**, it was observed that 24%, 27% and 23% of her total purchases were from Kanhaiyalal Soni, Sudhir Joshi and Sandeep Ail, respectively. Further, 78% of her total sales amounting to INR 118.56 crores were to Sujaya Ail (39% - INR 59.40 crores) and Tejas Soni (39% - INR 59.16 crores).
- (v) On reviewing the GST returns of **Meena Joshi**, it was observed that 23%, 27% and 19% of her total purchases were from Kanhaiyalal Soni, Sudhir Joshi and Sandeep Ail, respectively. Further, 78% of her total sales amounting to INR 117.07 crores were to Sujaya Ail (40% - INR 60.07 crores) and Tejas Soni (38% - INR 57 crores).
- (vi) On reviewing the GST returns of **Tejas Soni**, it was observed that 78% of his total purchases were from Meena Joshi and Surekha Joshi. Further, 74% of his total sales amounting to INR 110.49 crores were to Seya.
- (vii) On reviewing the GST returns of **Sujaya Ail**, it was observed that 67% of her total purchases were from Meena Joshi and Surekha Joshi. Further, 92% of her total sales amounting to INR 163.76 crores were to Seya.
- (viii) On reviewing the GST returns of **Pinakin Joshi**, it was observed that 99% of the total sales amounting to INR 35.91 crores were to Seya.
- (f) Analysis of sales and purchases transactions as per GST returns of Sudhir Kantilal Joshi, Kanaiyalal Ganpatlal Soni, Sandeep Beerappa Ail, Sujaya

Shailesh Ail and Tejas Kanaiyalal Soni vis-à-vis the sales and purchases reported in their ITRs revealed the following:

- (i) As per the GST returns, Seya had shown INR 84.96 crores sales with the firm of **Sudhir Kantital Joshi** in FY 2018-19 whereas as per the ITR of Sudhir Joshi, his total purchases were for INR 79.85 crores in FY 2018-19, which means he had made purchases only from Seya.
- (ii) As per the GST returns, Seya had shown INR 80.74 crores sales with the firm of **Kanaiyalal Ganpatlal Soni** in FY 2018-19 whereas as per the ITR of Kanaiyalal Ganpatlal Soni, his total purchases were for is INR 80.67 crores in FY 2018-19, which means he had made purchases only from Seya
- (iii) As per the GST returns, Seya had shown INR 77.91 crores sales with the firm of **Sandeep Beerappa Ail** in FY 2018-19 whereas as per the ITR of Sandeep Beerappa Ail, his total purchases were for INR 71.79 crores in FY 2018-19, which means he had made purchases only from Seya.
- (iv) As per the GST returns, Seya had purchases of INR 108.47 crores with the firm of **Sujaya Shailesh Ail** in FY 2018-19 whereas as per the ITR of Sujaya Shailesh Ail, her total sales were for INR 112.56 crores in FY 2018-19, which means 96.37% of her total sales was with Seya.
- (v) As per the GST returns, Seya had purchases of INR 100.37 crores with the firm of **Tejas Kanaiyalal Soni** in FY 2018-19 whereas as per the ITR of Tejas Kanaiyalal Soni, his total sales were for INR 109.48 crores in FY 2018-19, which means 91.68% of his total sales was with Seya.
- (vi) From the above, it is observed that the purchase transactions as reported in ITRs of **Sudhir Kantital Joshi, Kanaiyalal Ganpatlal Soni and Sandeep Beerappa Ail** were only with Seya and more than 90% of sales transactions reported in ITRs of **Sujaya Shailesh Ail and Tejas Kanaiyalal Soni** were with Seya.

37.11.2. Noticees have submitted that SEBI has based its findings on assumptions and presumptions by stating that since all

transactions of these firms were fictitious, the transactions with Jagiwalas companies would also fall into the same category. I note that the said finding is arrived at on the basis of the detailed analysis of the transactions done by the firms with Seya and other Seya related entities along with the financial health of the proprietors of these firms as seen from their IT Returns and the statements of these proprietors to SEBI. All these material adds to the inference that these firms were not engaged in any genuine business and were just used by Seya to misrepresent its financials. Further, in view of the relationship of Jagiwalas with Seya (*being its statutory auditors for two preceding financial years and being statutory auditors of its promoter group company, Whiz*) and the aforesaid findings w.r.t. firms on their dealings with Seya and as mentioned in Table – 21 of this Order that almost all their transactions were with Seya, its related companies, Jagiwalas companies and among themselves, it is reasonable to infer that the dealings of these firms with Jagiwala Companies were questionable.

#### 37.12. **Persons who set up and managed the Proprietorship Firms**

37.12.1. Surekha Sudhir Joshi, Pinakin Kantilal Joshi, Sudhir Kantilal Joshi, Meena Pinakin Joshi and Tejas Kanaiyalal Soni in their statements dated August 23, 2022 and Kanaiyalal Ganpatlal Soni in his statement dated August 26, 2022 admitted that:

- (a) Seya had used their names and documents to create firms and shown transactions with these created firms. They signed and provided their documents to Seya.
- (b) The arrangement with Seya was reached during 2012.
- (c) They used to receive INR 4,000 to INR 7,000/- per firm per month (in cash) for lending their names during the period 2012-13 to December 2018.
- (d) Bank accounts were opened in the names of firms and signed cheque leaves were taken by the Company's representative, Narendra Pandya, with whom they were associated (as explained earlier in this Order).

- (e) They were unaware of the transactions carried out by the firms opened in their names.
- (f) They admitted that they signed entire cheque books, RTGS forms etc. and handed over to one Mr. Narendra Pandya who they believed to be a representative of Seya.
- (g) They did not have any financial capacity to have such huge transactions entered in the names of their firms.
- (h) When they received summons from GST authorities, they did not respond to initial summons as instructed by Seya Industries Ltd. and Narendra Pandya.
- (i) When they were questioned by GST authorities, they met Noticee No. 2 (Ashok G. Rajani) three to four times in 2019 who assured them that he will take care of the issue and advised them to follow his instructions.
- (j) They had made admissions to this effect to the Central GST Department (Nasik).
- (k) They were arrested by GST Authorities on March 22, 2021 and March 23, 2021 and got bail on June 2021 and July 2021.

37.12.2. The Noticees have made a bland contention that SEBI's Investigating Authority could not have recorded the statements of the aforementioned proprietors, and that their statements could only be used against them and not against the Noticees. This is clearly without merit. In the absence of any other sound defence, this contention appears to be a feeble attempt to discredit a well-established legal position and process.

37.12.3. It is seen from the above statements and circumstances that Mr. Narendra Pandya was the common link between Seya and the Joshis and the Sonis. Mr. Narendra Pandya was a relative of Joshis and had been an acquaintance of Mr. Kanhaiyalal Soni as already stated in this Order. Further, as mentioned in the preceding paragraphs, in the Income Tax Filings of these proprietorship firms, the e-mail of Narendra Pandya and mobile numbers of

Narendra Pandya and Jagiwalas were mentioned. In spite of several summons issued for his appearance, Mr. Narendra Pandya failed to appear before the IA. Mr. Narendra Pandya has been identified to have held directorship in some of the promoter group companies of Seya, viz. Ankita Trusteeship Pvt. Ltd. and Sunlife Trusteeship Pvt. Ltd. who were reportedly holding shares of Seya on behalf of various trusts.

37.12.4. Joshis and Sonis had admitted before SEBI that they were not paying any income tax prior to lending their name as they did not have any taxable income. They expressed the assumption that after the firms were started in their names, income tax could have been paid by Seya or Mr. Narendra Pandya, who used to take the signed cheque books and RTGS forms from them.

37.12.5. I have considered the submissions made by Noticees on the aforesaid findings of the Interim Order and my observations on the same are as follows:

- (a) Noticees have objected to joint statement of two persons, instead of recording independent statements of each person as per the established procedure and practice. I note that Indian Evidence Act primarily governs judicial proceedings in Courts. Quasi-judicial proceedings are not bound by the strict rules of the evidence and procedure outlined in the Indian Evidence Act. However, even if these proceedings are not bound by the Evidence Act, quasi-judicial authorities have to adhere to the principles of natural justice. I note that statements of witnesses were recorded by SEBI during the course of investigation and the same were made part of the Investigation Report in the instant matter. As the said proprietors were husband and wife (see Table – 17 of this Order) who lived together and have stated that the firms were opened by Narendra Pandya in their names, their joint statements were recorded by IA. Further, in compliance with principles of natural justice, the statements of these proprietors were provided to Noticees and an opportunity of cross-examination of such proprietors was granted to Noticees. Therefore, I am of the view that there was no prejudice caused to Noticees by such joint statements. Accordingly, the submissions of Noticees cannot be accepted.

- (b) Noticees have submitted that proprietors have made submissions that Narendra Pandya was handling the affairs of their firms who also filed the returns and they were not able to comment on the correctness or otherwise of the documents. However, SEBI has not recorded the statement of Narendra Pandya and failed to provide any evidence that mobile number/ email alleged to be of Narendra Pandya were actually his mobile number/ e-mail ID.

In this regard, I note that statements of these proprietors have to be seen together with the GST filings of their firms and the stark contrast seen in their Income Tax Returns vis-à-vis their personal incomes as already discussed in this Order. Also, income tax filings of these entities for FY 2018-19 were made from the same IP address which shows that these firms/ their returns were being handled from a single place and possibly a single entity/ set of entities. Even though the statements of these proprietors were recorded independently, they all have given similar statements vis-à-vis role of Seya and Narendra Pandya in the setting up of these firms and subsequent transactions. The statements were tested for their veracity, through cross-examination and I find no reason to suspect the credibility of the witnesses or their statements. In fact, the statements corroborate each other. Further, as already discussed in this Order, the majority of their transactions have been with Seya/ firms related to Seya or its connected companies which further corroborates that all these transactions were undertaken at the behest of Seya. I am of the view that on preponderance of probability in these facts and circumstances, it is reasonable to infer that the transactions of their firms could not have been carried out by these proprietors and instead are most likely to have been executed at the behest of Seya and its promoters/ directors.

- (c) On the submission of Noticees that SEBI failed to record the statement of Narendra Pandya, it is observed from material available on record that during the course of investigations, multiple summons were issued to Narendra Pandya by the IA seeking his appearance. However, he failed to appear before the IA. Further, in response to one of the summons, Narendra Pandya replied from the e-mail ID – [niyunisu@gmail.com](mailto:niyunisu@gmail.com) on

September 15, 2022 (screenshot of e-mail reproduced below). Further, the mobile number ownership is proven from the public domain searches which shows that Narendra Pandya was the registered owner of the number.

**Image – 9**



- (d) Noticees have submitted that Narendra Pandya was not an employee of Noticee No. 1. I note that during the course of investigation, SEBI found that Narendra Pandya was identified to be a director in some of the promoter group companies (Sunlife Trusteeship Private Limited and Ankita Trusteeship Private Limited) of Seya and holding 50% shares of each of these promoter group companies. Upon perusal of the MCA records for the said promoter companies of Seya, it is observed that the registered address of these promoter companies was same as the residential address of Narendra Pandya. This establishes that Narendra Pandya had a long standing relationship with Seya/ Noticees. Further, one of the proprietors during his cross-examination stated that Narendra Pandya took him to Seya's office in Andheri (West) and showed his cabin in the said office of Seya Industries Ltd. Also, all the proprietors have submitted in their statements that they had met Ashok G. Rajani (Noticee No. 2) three-four times. Also, during the course of cross-examination (also

attended by Narendra Rajani, Son of Noticee No. 2 for assisting the AR), Tejas Kanaiyalal Soni submitted in response to a question that he was assisted in his bail in GST proceedings by Narendra Rajani (son of Noticee No. 2) and identified Narendra Rajani who was physically present before me during the cross-examination proceedings. He further mentioned that he saw Narendra Rajani at the wedding of Narendra Pandya's daughter. Therefore, it appears that Narendra Pandya was known to the Noticees both professionally and personally. As already discussed, the statements have been given by proprietors independently. Cross-examination were also conducted separately. Narendra Pandya is the only common link between them as well as Seya. Noticees have not made any submissions on merits w.r.t. the positions held by Narendra Pandya in the promoter group companies of Seya. Also, Noticees have not provided details of its employees during the relevant period and just made a bland statement that Narendra Pandya was not their employee. Clearly basis all of the circumstances narrated above, the Noticees cannot now attempt to distance themselves from Narendra Pandya.

- (e) Noticees have made their submissions w.r.t. GST proceedings against them. In this regard, I note that the said proceedings are conducted independent of the instant matter which are still pending and it will not be appropriate for SEBI to make comments on the said proceedings, which are before other administrative or quasi-judicial authorities.
- (f) Noticees have submitted that statements of proprietors were recorded in English language which they were not comfortable in and that there was no mention that statements were explained to them in language they were well versed in. As per material available on record, the proprietors have not filed any objection to their statements recorded by SEBI. Further, during the course of cross-examination, proprietors have stood by their statements and the statements of each of the cross-examination witnesses corroborate the statements of the other witnesses. Also, as can be seen from the record of proceedings of cross-examination, proprietors agreed to recording of the questions and answers in English *inter alia* stating that they do understand English. Therefore, the submissions of Noticees are without merit.

**Image – 10 (from cross-examination of Kanaiyalal Ganpatlal Soni)**

Q1	Which language are you comfortable with for the present cross-examination?
A1	Hindi
	In view of the witnesses' answer above, the questions will be recorded in English, explained to him in Hindi, his answer would be in Hindi and translated to and then recorded in English and read and confirmed by the witness.
Q3	Would it be correct to state that you are not proficient in English Language?
A3	I am not proficient in English but I can manage to read and write and speak a little English. Where I don't understand, I will ask such as the word 'proficient' above.

37.12.6. In view of the above discussions and relationship of Narendra Pandya with proprietors as well as with Seya, on preponderance of probability it is reasonable to infer that these firms were controlled/ managed by Narendra Pandya on behalf of Seya.

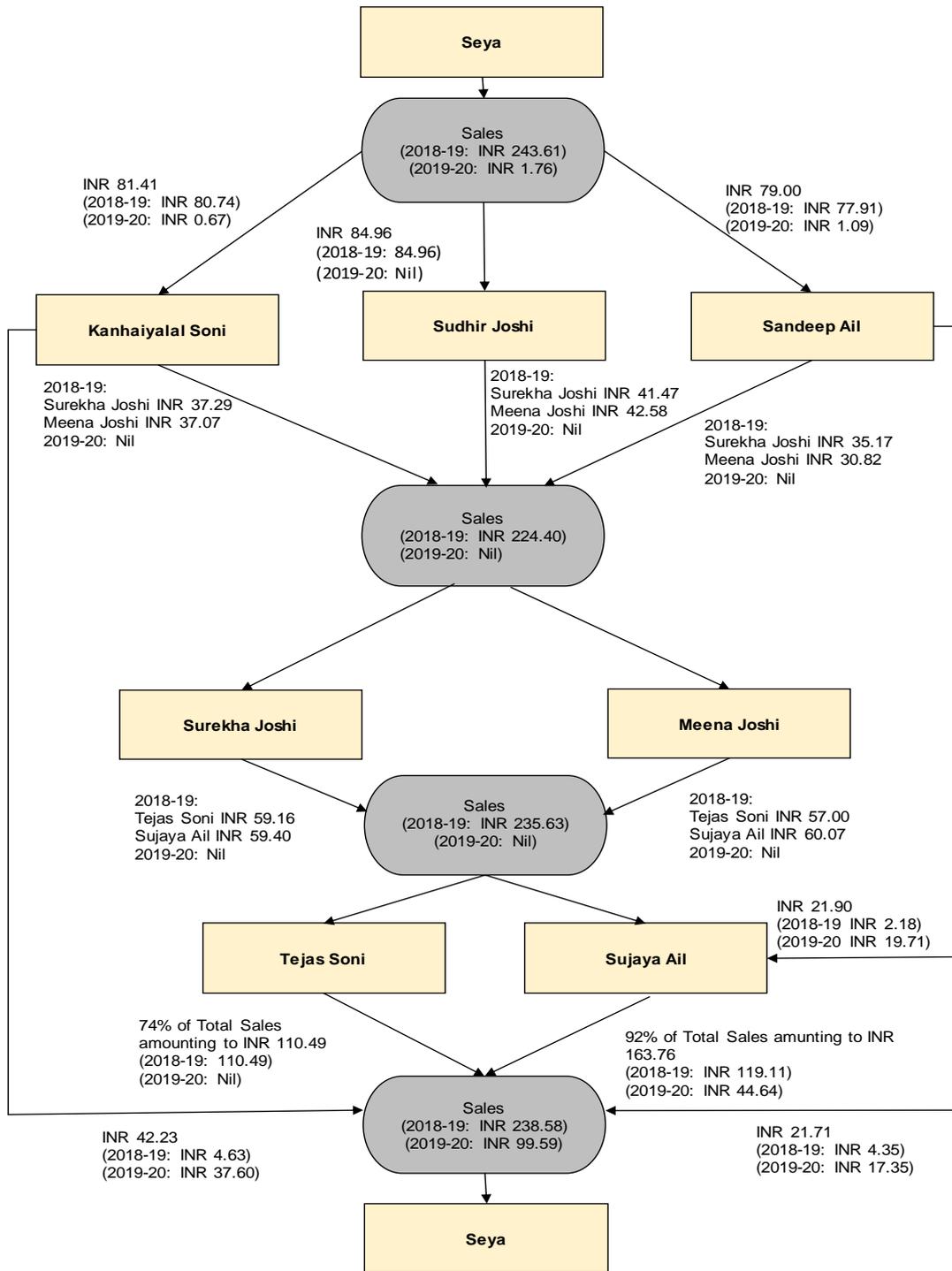
**37.13. Circuitous Transactions**

37.13.1. Analysis of the transactions in the instant matter shows that the transactions were executed in a circuitous manner which had the effect of inflating the sales and purchases of Seya and rendering the said transactions fictitious.

37.13.2. Seya sold goods to the firms of Kanaiyalal Soni, Sudhir Joshi and Sandeep Ail among others. These entities further sold goods to firms of Surekha Joshi and Meena Joshi which were further sold to firms of Tejas Soni and Sujaya Ail. From the firms of Tejas Soni and Sujaya Ail, Seya had purchased the goods back. A summarised and indicative flow chart showing the abovementioned transactions is placed below:

Image – 11

INR in Crores



**Table – 22**

<b>S. No.</b>	<b>Firm Name(s)</b>	<b>Proprietor Name</b>
1.	Avon Engineering & Aravalli Marketing	Surekha Sudhir Joshi
2.	Godavari Fab Tech, Kadambari Chemical Corporation & Padmavati Traders	Sudhir Kantilal Joshi
3.	Sterling Project Engineers & Bluezone Trading Company	Meena Pinakin Joshi
4.	Fenix Process Technologies	Pinakin Kantilal Joshi
5.	Sambhav Fab Tech, Siddhi Sales Corporation & Kaveri Enterprises	Sujaya Shailesh Ail
6.	Supreme Technologies, Sahyadri Trading Company & Sigma trading Company	Sandeep Beerappa Ail
7.	J P Engineering & Elite Trading Company	Kanaiyalal Ganpatlal Soni
8.	Karnavati Dye Chem, Zentech Engineering Systems & Solutions and Synergy Sales	Tejas Kanaiyalal Soni

**37.14. Summary of Non-genuine/ Fictitious Transactions undertaken by Seya and whether it has resulted in violation of securities laws**

37.14.1. Upon perusal of the GST returns of the Company, it was observed that it had high value of sale/ purchase with select proprietorship firms.

37.14.2. It was noted that the proprietors of the firms did not have the financial capacity to enter into such high value transactions and they had common auditors with filings being done from a common IP address. It was also observed that most of the transactions of these proprietorship firms were with Seya, promoter group entities of Seya, companies connected with Seya, companies having connection with former statutory auditors of Seya and amongst themselves. It was also found that these firms were setup and managed by Narendra Pandya who had a long standing relationship with Seya. Upon a comprehensive view of the transactions between these firms and Seya, the transactions appear to be circuitous in nature wherein Seya appeared to sell the 'goods' to some of these proprietorship firms and then subsequently purchased these 'goods' from these proprietorship firms through a web of transactions between these firms. In view of all of

the above, it can be inferred on a preponderance of probability that these transactions were non-genuine/ fictitious which were undertaken at the behest of Seya to misrepresent its financials.

37.14.3. In FY 2018-19 Seya had reported sales of INR 412.78 crores which declined to INR 258.20 crores in FY 2019-20 and to INR 44.01 crores in FY 2020-21. After the searches conducted by GST department in January 2019 in the premises of the firms/ proprietors and statement recording of proprietors, Seya had stopped reporting transactions with the firms of Joshis and showed lower transactions with the firms of Ails and Sonis in FY 2019-20. Further, Seya has not shown any transactions with the firms of Joshis, Sonis and Ails in FY 2020-21. With respect to the decline of sales of Noticee No. 1 from FY 2018-19 to FY 2020-21, Noticees have submitted that the same were due to diversion of its resources from operating activities to completing a project which resulted in reduction in sales and purchase. However, no details of the said project work/ scale of diversion or any documentary proof of the same has been provided to substantiate their submission.

37.14.4. With respect to decline in the Trade receivables; and impairment / write-off of receivables, Noticees have submitted that the Company was affected by Covid and various persons were not able to make payments of the amount due and payable. I note that every industry was impacted by Covid and they had to account for the losses during the said period. However, what is also relevant to be considered in this matter is that pursuant to search and seizure operations carried out by GST authorities in January 2019, Noticees had cut down significantly on its transactions with name lender entities as well as its connected companies. From its sales of INR 247.74 Crore in FY 2018-19 to these entities, it drastically came down to INR 3.50 Crore in FY 2019-20 and then nil in FY 2020-21. As already observed from the discussions in preceding paragraphs, these transactions were non-genuine/ fictitious. Faced with increased scrutiny from GST authorities, it appears that Company stopped showing such trades in its financials which impacted its trade receivables as well as sales/ purchases. Therefore, such drastic decline in trade receivables

appears to have been a direct consequence of reduction in 'trades' with these name lender entities and it started from FY 2019-20 itself i.e. well before impact of Covid. Further, Noticees have not provided the breakup of Trade Receivables along with details of counterparties or the calculation of Expected Credit Loss/ impairment/ write-off of receivables carried out by them. Accordingly, the aforesaid submissions of Noticees are without merit.

37.14.5. Noticees have submitted that the transactions were not fictitious and hence, there was no mis-statement/ misrepresentation in any of the published financial statements. It is further argued that IA has failed to examine any of the bank account statements of the alleged name lender entities which would show that there were actual transactions. I note that in the instant proceedings, there was no co-operation from the Company during the investigation and SEBI had to seek assistance from GST authorities to obtain the documents relating to the Company and its transactions. The GST and ITR filings of the Company, name lender firms, etc. were a common metric considered by SEBI to examine the transactions shown by these entities and provided a comprehensive picture of the value of their transactions reported by them. As already discussed in preceding paragraphs of this Order, Noticees never made *(either in the course of investigation or quasi-judicial proceedings)* any submissions about the nature of goods transacted between these entities. As the proprietors had stated that they were not aware of all the bank accounts of their firms and Company had failed to assist the IA, the submission of Noticees that bank account statements of name lending firms/ related companies should also have been examined by the IA, is a mischievous and mala fide one, and not worthy of consideration.

37.14.6. In view of the discussions in the forgoing paragraphs of this Order and the submissions of Noticees, it is evident that the Company had used name-lenders to create multiple firms, in the name of the individuals, who had no financial capacity to do such transactions. It leads to an inference that Seya had undertaken fictitious sales and purchases in FY 2018-19 and 2019-20 with the entities mentioned earlier in this Order and thereby

misrepresented its published financial statements. The said misrepresentations covered sales, purchases and Capital Work in Progress reported in ARs of the company. Thus, the Company failed to comply with the provisions of Accounting Standard IND AS 1 which require presentation of a true and fair view of the financial position, financial performance and cash flows of the Company. The relevant clause of IND AS 1 is reproduced below:

*Financial statements shall present a true and fair view of the financial position, financial performance and cash flows of an entity. Presentation of true and fair view requires the faithful representation of the effects of transactions, other events and conditions in accordance with the definitions and recognition criteria for assets, liabilities, income and expenses set out in the Framework. The application of Ind ASs, with additional disclosure when necessary, is presumed to result in financial statements that present a true and fair view.*

37.14.7. The investors and other stake holders of the Company remained unaware of the misrepresentations in the financial statements of the Company, while making the investment decision. The abovementioned misrepresentations in the financial statements of the company appears to have operated as a device/ scheme/ artifice to deceive and defraud the investors/ shareholders dealing in the shares of Seya. In view of the same, I find that Seya has violated Regulations 3(c)&(d), 4(1), 4(2)(f), (k)&(r) of SEBI (PFUTP) Regulations, 2003 read with Section 12A(b)&(c) of the SEBI Act, 1992 and Regulations 4(1)(a), (b), (c), (e), (g), (j), 4(2)(e)(i), 33(1)(c), 48 of SEBI (LODR) Regulations, 2015.

37.14.8. Further, it can be concluded that the Company and its directors who are instrumental in making these transactions and were responsible for running the day-to-day affairs of the company, failed to comply with the governance requirements, so as to achieve the objectives of the governance principles, with respect to the financial disclosure, genuineness of financial statements, and failed to meet their obligations taking into consideration the interest of all stakeholders.

### **38. Whether there was failure to disclose Related Party Transactions?**

38.1. As discussed earlier in this Order, the GST returns of Seya for the FYs 2018-19, 2019-20 and 2020-21 reveal that Seya had transactions with Whiz Enterprises Private Limited, Aneeka Universal Private Limited and Shri Balaji Entertainments Private Limited. The SCN alleges that the entities were 'Related Parties' as defined in LODR Regulations. The details of impugned transactions are provided in the Table below:

**Table – 23**

**INR in crores**

Financial Year			FY 2018-19		FY 2019-20		FY 2020-21	
Sl. No.	Firm Name/ Trade Name	GSTIN	Total Sales as per GSTR	Total Purchases as per GSTR Amount (% to total purchases)	Total Sales as per GSTR Amount (% to total sales)	Total Purchases as per GSTR	Total Sales as per GSTR-Amount (% to total sales)	Total Purchases as per GSTR
1	Whiz Enterprises Private Limited	27AAACW5132A1ZT	-	0.66 (0.32%)	7.52 (2.91%)	-	5.50 (12.5%)	-
2	Aneeka Universal Private Limited	27AAJCA9423H1ZI	-	-	-	-	6.56 (14.91%)	-
3	Shri Balaji Entertainments Private Limited	27AAGCS3065C1ZJ	-	0.39 (0.19%)	-	-	-	-
<b>Total</b>			-	<b>1.05 (0.51%)</b>	<b>7.52 (2.91%)</b>	-	<b>12.06 (27.40%)</b>	-

*Note: Sales/purchases as % to the respective total sales/purchases of the Company reported in AR for the relevant FY*

38.2. Further, from the bank accounts' statements of the Seya, directly obtained from the banks, it was observed that Seya had transactions with Whiz Enterprises Pvt. Ltd. and Shri Balaji Entertainments Pvt. Ltd. in FYs 2018-19 and 2019-20. The details of Seya's transactions with the said entities are as under:

**Table – 24**

**INR in crores**

Financial Year		2018-19			2019-20			Total		
Sl. No.	Name of company	Payments	Receipts	Net payment	Payments	Receipts	Net payment	Payments	Receipts	Net payment
1	Whiz Enterprise	54.63	9.47	45.16	28.02	11.79	16.23	82.65	21.26	61.39

Financial Year		2018-19			2019-20			Total		
Sl. No.	Name of company	Payments	Receipts	Net payment	Payments	Receipts	Net payment	Payments	Receipts	Net payment
	s Private Limited									
2	Shri Balaji Entertainments Private Limited	1.09	-	1.09	0.25	-	0.25	1.34	-	1.34
<b>Total</b>		55.72	9.47	46.25	28.27	11.79	16.48	83.99	21.26	62.73

38.3. Table – 8 of this Order details the basis of relationship between the aforementioned companies and Seya. It *inter-alia* states that Noticee No. 5/ immediate relatives of promoter group of Seya were directors of the aforementioned companies in addition to holding all shares of the said companies. Also, Whiz was a promoter group entity holding more than 25% of Seya’s shareholding.

38.4. As per Regulation 2(1) (zb) of SEBI (LODR) Regulations, 2015, “*related party*” means a related party as defined under sub-section (76) of section 2 of the Companies Act, 2013 or under the applicable accounting standards:.....”

38.5. Further, Section 2(76) (iv) of the Companies Act, 2013 defines related party as: “*related party*”, with reference to a company, means a private company in which a director or manager or his relative is a member or director.”

38.6. In view of the aforesaid definition of related party, the said three companies are the related parties of Seya as detailed in the Table below:

**Table – 25**

S. No.	Name of Company	Relationship with Seya (as per Regulation 2(1)(zb) of LODR Regulations read with Section 2(76) of Companies Act, 2013)
1.	Whiz Enterprises Private Limited	It is declared as a promoter group company by Seya. All the directors and shareholders of Whiz are relatives of Noticee No. 2 (CMD of Seya), being his sons and daughter. Further,

S. No.	Name of Company	Relationship with Seya (as per Regulation 2(1)(zb) of LODR Regulations read with Section 2(76) of Companies Act, 2013)
		Noticee No. 5 (CFO of Seya and son of Noticee No. 2) is one of these shareholders (5%) and directors.
2.	Aneeka Universal Private Limited	All the directors of Aneeka are relatives of Noticee No. 2 (CMD of Seya), being his son and daughter. Further, Noticee No. 5 (CFO of Seya and son of Noticee No. 2) holds 82% of Aneeka's shares and the remaining 18% shares are held by Whiz, a promoter group company.
3.	Shri Balaji Entertainments Private Limited	All the directors and shareholders of Whiz are relatives of Noticee No. 2 (CMD of Seya), being his son and daughter. Further, Noticee No. 5 (CFO of Seya and son of Noticee No. 2) is one of these shareholders (50%) and directors.

38.7. Regulation 2(1) (zc) of SEBI (LODR) Regulations, 2015, as applicable then, defined related party transaction as: *“related party transaction” means a transfer of resources, services or obligations between a listed entity and a related party, regardless of whether a price is charged and a “transaction” with a related party shall be construed to include a single transaction or a group of transactions in a contract:....”*

38.8. Considering relationship mentioned in the Tables – 8 & 25 above, I find that Whiz Enterprises Pvt. Ltd., Aneeka Universal Pvt. Ltd. and Shri Balaji Entertainments Pvt. Ltd. are in fact related parties of Seya, in terms of Regulation 2(1) (zb) of SEBI (LODR) Regulations, 2015. The sale/ purchase/ fund transfer transactions

of Seya with these companies are therefore “related party transactions” as per Regulation 2(1) (zc) of SEBI (LODR) Regulations, 2015.

38.9. As per Regulations 4(1)(a), 4(1)(b), 33(1)(c), 34(3) and 48 of the SEBI (LODR) Regulations, 2015, a listed company is required to comply with all the applicable and notified Accounting Standards. Further, as per clause A.1. of Schedule V read with Regulation 34(3) of the SEBI (LODR) Regulations, 2015, “*The listed entity shall make disclosures in compliance with the Accounting Standard on “Related Party Disclosures”.*”

38.10. I note that Ind AS 24 deals with Related Party Disclosures. The relevant extracts of IND AS 24 are reproduced below:

*“18. If an entity has had related party transactions during the periods covered by the financial statements, it shall disclose the nature of the related party relationship as well as information about those transactions and outstanding balances, including commitments, necessary for users to understand the potential effect of the relationship on the financial statements. These disclosure requirements are in addition to those in paragraph 17. At a minimum, disclosures shall include:*

*(a) the amount of the transactions;*

*(b) the amount of outstanding balances, including commitments, and:*

*(i) their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlement; and*

*(ii) details of any guarantees given or received;*

*(c) provisions for doubtful debts related to the amount of outstanding balances; and*

*(d) the expense recognised during the period in respect of bad or doubtful debts due from related parties.”*

38.11. In response to non-disclosure of related party transactions, Noticees have stated that Noticee No. 1 was advised that Whiz, Aneeka and Shri Balaji were not related parties of Noticee No. 1 within the meaning of Companies Act, 2013 and that transactions entered into with them did not fall within related party transactions. However, no documentary evidence of such advice or the reasoning behind such advice has been provided by Noticees. Eventually, Whiz, Aneeka and Balaji are related parties and the Company had not disclosed the related party transactions in its annual report and financial statements, in terms of the IND AS 24 and the provisions of the LODR Regulations.

38.12. The company vide its letter dated February 12, 2021 had stated that no related party transactions for sale or purchase was carried out, as defined under LODR regulations. However, examination of the GST returns filed by the company and bank statements indicates that there were undisclosed related party transactions between Seya and its related parties viz., Whiz, Aneeka and Shri Balaji during FYs 2018-19, 2019-20 and 2020-21. Further, the CFO of the Company (Noticee No. 5), who is also the son of the CMD and Promoter of the Company, falsely stated in his deposition before SEBI, recorded on November 11, 2021, that disclosures with respect to business of Seya with entities wherein he is a director were made in the Annual Reports. Upon perusal of the Annual Report of Seya, it is observed that no disclosures were made with respect to transactions of Seya with Whiz, Aneeka and Shri Balaji. By failing to make the required disclosures and misrepresenting financial statements and other disclosures in the published financial statements, the Company failed to comply with the provisions of Regulations 4(1)(a), 4(1)(b), 4(2)(e)(i), 23(9), 33(1)(c), 34(3) read with Part A of Schedule V and 48 of SEBI (LODR) Regulations, 2015.

38.13. Noticees have denied that they had solicited investments by using fictitious financial information and have denied the allegation of significant portion of bank loans having been disbursed in 2019-20. However, Noticees have failed to provide the breakup of loans availed by them from the banks to support their denial. The details of disbursement of loans as per material on record is provided below:

**Table – 26**

Name of the Bank/Financial Institution	2018-19	2019-20	2020-21	Total (amount disbursed by Banks/ Financial Institution)
IFCI	50.33	5.52	-	<b>55.85</b>
Canara Bank	13.60	0.92	-	<b>14.52</b>
Central Bank of India	78.34	5.41	-	<b>83.75</b>
Bank of Baroda	50.26	0.96	-	<b>51.22</b>
Karur Vysya Bank	40.00	-	-	<b>40.00</b>
<b>Total Amount (in a Financial Year)</b>	<b>232.53</b>	<b>12.81</b>	-	-

38.14. Regulation 4(2) of PFUTP Regulations *inter-alia* provides that dealing in securities shall be deemed to be manipulative, fraudulent or an unfair trade practice if it involves knowingly publishing any information relating to securities including financial statements which is not true; dissemination of false or misleading information which is likely to influence the decisions of investors in securities and planting false news which may induce sale or purchase of securities. In the instant matter, it can be seen that there were significant related party transactions which were not reported by the Company, funds/ assets to the tune of more than INR 70 crore were transferred to related parties which was a significant amount looking at the financials of the Company. If such information was disseminated/ disclosed correctly by the Company, investors would have an opportunity to make an informed decision. However, by failing to disclose these transactions and misrepresenting the financials, investors were induced to trade in the Company by presenting an incorrect picture of the financials of the Company. Thus, I find that the abovementioned misrepresentations in financial statements and other disclosures have resulted in violation of provisions of Regulation 4(2) (f), (k) & (r) of SEBI (PFUTP) Regulations, 2003.

38.15. Since the Company had denied the existence of related party transactions themselves, it is inferred that the requirements of LODR Regulations were also not followed while entering into the said related party transactions viz. audit committee approval and/ or shareholders' approval for the related party transactions were not taken and the related party transactions were not disclosed in the Company's financial statements. I, therefore, find the Company to have

violated provisions of Regulations 23(2) and 23(4) of SEBI (LODR) Regulations, 2015, as well.

### **39. Whether there was failure to provision for the interest due to Banks/ Financial institutions?**

39.1. During the course of investigation, SEBI analysed the Annual Reports of the Company for FYs 2019-20, 2020-21 and 2021-22 and the quarterly results for quarters ended June 30, 2022, September 30, 2022 and December 31, 2022. The observations from the said analysis are as follows:

- (i) In the Annual Report for FY 2019-20 (page no. 70) it was mentioned in the Footnote under contingent liabilities that *“.....Due to ongoing dispute with the lenders in relation to their failure to comply with committed lending obligations and outstanding, the Company has, on basis of legal advice, not provided for interest costs on certain loans outstanding, amounting to INR 807.98 Lacs in respect of Operating Assets and INR 2884.00 Lacs in respect of Project Assets”*.
- (ii) It was observed that the Company had disclosed a net profit after tax (before Other Comprehensive Income) of INR 47.02 crore in its Annual Report for FY 2019-20. However, had the interest amounting to INR 36.92 crore been recognized as an expense; the profit would have been INR 10.09 Crore only (excluding the tax effect). This would have significantly altered the perception of public investors and materially affected their investment decisions.
- (iii) Further, on examination of the Annual Reports for subsequent years, SEBI observed that the Company had followed the above accounting practice of non-recognition of interest as an expenses due on NPA account for FYs 2020-21 and 2021-22 as well. In this regard, the statutory auditors had stated the following under “emphasis of matter”:

FY 2020-21 (page no.33 of AR)

*“.....The total interest not provided for in respect of Operational Assets is INR 1,632.96 lacs and in respect Project Assets is INR 4,776.15 Lacs, the same is, however subject to confirmation by the Lenders”*.

FY2021-22 (page no.37 of AR)

“..... The total interest not provided for in respect of Operational Assets is INR 1,840.06 lacs and in respect Project Assets is INR 5,329.85 Lacs, the same is, however subject to confirmation by the Lenders”.

- (iv) As per the Annual Reports for FYs 2019-20 to 2021-22 and the quarterly results for quarters ended June 30, 2022, September 30, 2022 and December 31, 2022, the details of amount of non-provisioning of interest on loans are as follows:

**Table – 27**

**INR in crores**

Period	Non-provisioning of interest	As observed from
FY 2019-20	36.92	As per the annual report of the company for the FY 2019-20
FY 2020-21	64.09	As per the annual report of the company for the FY 2020-21
FY 2021-22	71.70	As per the annual report of the company for the FY 2021-22
Quarter ending June 30, 2022	19.20	As per the quarterly result for quarter ended June 30, 2022
Quarter ending Sep 30, 2022	19.79	As per the quarterly result for quarter ended September 30, 2022
Quarter ending Dec 31, 2022	20.36	As per the quarterly result for quarter ended December 31, 2022

- (v) It was observed that Seya had overstated its profit during FY 2019-20 and understated the expenses and losses during FYs 2020-21 and 2021-22 and quarters ended June 30, 2022, September 30, 2022 and December 31, 2022, by not recording interest on loans as an expense. The details of such understatement of expenses and losses/ overstatement of profit (excluding the tax impact) are as under:

**Table – 28**

**INR in crores**

Particulars	FY 2019-20	FY 2020-21	FY 2021-22	Quarter ended June 30, 2022	Quarter ended Sep 30, 2022	Quarter ended Dec 31, 2022
Interest on the loans not provided (A)	36.92	64.09	71.70	19.20	19.79	20.36
Net Profit / (loss) after Tax (B)	47.01	(109.58)	(6.28)	0.64	(4.75)	(10.48)
Net Profit/ (loss) after Tax after adjustment of Interest on loans: (C=B-A)	10.09	(173.67)	(77.98)	(18.56)	(24.54)	(30.84)

Particulars	FY 2019-20	FY 2020-21	FY 2021-22	Quarter ended June 30, 2022	Quarter ended Sep 30, 2022	Quarter ended Dec 31, 2022
Percentage of understating of loss/ overstating of profit {(B-C)/C}x100	366%	37%	92%	103%	81%	66%

39.2. Noticees have submitted that they had obtained legal advice based on which it did not provide for the interest alleged to be due to the Banks/ Financial Institutions and that Company had made appropriate notes with respect to non-provisioning of interest in published financial statements, through which investors/ public were made aware of the necessary facts. Further, this issue relating to non-provisioning of interest was subject to some confusion which required NFRA to clarify the same vide its Circular dated October 20, 2022.

39.3. I have considered the submissions of Noticees and my findings on the same are provided below:

- (i) The reclassification of a company as NPA by lenders/ banks does not result in extinguishing the liability of the Company and does not absolve the company's contractual obligation of payment of interest against the loans taken.
- (ii) The interest on loans taken, which is a borrowing cost for the borrower, is required to be recognised as expense under Ind AS 23 and Ind AS 32. As per definition of Financial Liability under Ind AS 32, the loans taken and the interest payable to banks would qualify as a financial liability of the Company.
- (iii) Ind AS 109 deals with classification, recognition, de-recognition and measurement requirement for all the financial assets and liabilities. As per Para 3.3 of Chapter-3 of Ind AS 109, financial liability can be removed from the balance sheet when, and only when, it is extinguished i.e. when the obligation specified in the contract is discharged or cancelled or expires. Further, Para B3.3.1 *inter alia* provides that a financial liability is extinguished when the debtor is legally released from primary responsibility for the liability either by process of law or by the creditor. As per the submissions of the Noticees and statements in the Annual Reports, there was an ongoing dispute between the Company and its lenders and there is no mention of the

financial liability liable to being extinguished either by law or by the act of creditors. Therefore, the financial liability of the Company for the interest component continued to exist when the impugned financial statements were published and it had to be accounted for in the books of accounts and disclosed in the financial statements of the Company.

(iv) Classification of an account as NPA by a bank is for accounting purposes whereby interest due is not shown in the loan account declared NPA. Instead, the details are maintained in a separate account. Mere classification of the loan account as NPA does not absolve the contractual obligation of the Company to pay interest as per the loan agreement.

(v) I have perused the Circular dated October 20, 2022 issued by NFRA wherein it is stated that all companies are advised not to discontinue recognition of the principal or interest merely because of the borrowings being declared NPA. I note that the said Circular merely clarifies the position mentioned under Ind AS 109 and in fact the said Circular infers that the language of Ind AS 109 is clear and unambiguous. The relevant extracts of the said Circular are reproduced below:

*“5. ....Simply discontinuing interest expense accrual, that too unilaterally by the borrower company, is non-compliance with these specific prescriptions of Ind AS 109 resulting in erroneous measurement and presentation of Amortised Cost of a financial liability and related interest expense in the Balance Sheet and Statement of Profit and Loss, respectively.*

*6. In view of the above reasons, discontinuation of interest expense recognition on financial liability solely based on the borrowing company’s expectations of loan/ interest waiver/ concession without evidence of the legally enforceable contractual documents results in major non-compliance with the applicable accounting standards, compliance with which is mandated by the Act. In this regard, all concerned may also note the use of word “shall” in the language of the Ind AS, emphasizing their mandatory nature.”*

The aforesaid Circular only reiterates the clear and unambiguous language of Ind AS 109 and advises the companies to comply with the provisions of

Ind AS. Therefore, the NFRA Circular does not come to the aid of the Noticees. Instead, it further bolsters SEBI's allegation in this regard.

This understanding of Ind AS 109 has also been reiterated by the Expert Advisory Committee of Institute of Chartered Accountants of India ("ICAI") as well as MCA *inter alia* stating that borrower cannot avoid its contractual liability in respect of interest payable on credit facilities availed by it, that financial liability of the company continues and it cannot be reversed.

39.4. In view of the above discussion, it is clear that the practice of the Company to not include interest on loans (which were classified as NPAs) in its financials was not in accordance with the applicable and notified Accounting Standards. Therefore, I find that the Company has violated Regulations 4(1)(a), 4(1)(b), 4(2)(e)(i), 33(1)(c) and 48 of SEBI (LODR) Regulations, 2015.

39.5. Further, the non-recognition of interest due to banks in the financial statements has significantly altered the declared profit and loss position of the company in a significant way as mentioned in the preceding paragraphs of this Order. After excluding the tax effects, the over-reporting of profit was to the extent of INR 36.92 crores in FY 2019-20 and underreporting of loss was to the extent of INR 64.09 crores in FY 2020-21, INR 71.70 crores in FY 2021-22, INR 19.20 crores in quarter ended June 30, 2022, INR 19.79 crores in quarter ended September 30, 2022 and INR 20.36 in quarter ended December 31, 2022. In light of the financial position of the Company at the relevant time, if the Company had recognised the interest due in the profit and loss accounts in the respective years, the profits/ losses of the Company would have been significantly different from reported profits and losses and would have had a huge impact on the decision-making process for all stakeholders including minority shareholders of the Company. Consequently, I find that the published financial statements / results of the company did not give a true and fair view of the financial performance and position of the Company. In view of the same, I find that the Company has also violated the provisions of Sections 12A (b), (c) of the SEBI Act, 1992 read with regulations 3(c) & (d), 4(1), 4(2)(f), (k) & (r) of SEBI (PFUTP) Regulations, 2003 (the applicability of these provisions has been discussed in the preceding paragraphs of this Order).

#### **40. Whether there was failure to make disclosure of material events/ information to the stock exchanges?**

40.1. As per Regulation 30(2) and 30(3) of SEBI (LODR) Regulations, 2015, every listed company has to make disclosure of material events / information. During the course of investigation, SEBI observed that Noticees had not made the disclosures of certain material events / information to the stock exchanges. These are discussed in the following paragraphs.

#### **40.2. Declaration of Company's accounts as NPA by the Banks and financial institutions**

40.2.1 It was observed that Central Bank of India, Bank of Baroda, Indian Bank, Canara Bank, Karur Vysya Bank and IFCI Limited had declared the accounts of the Company as NPA. The details are as under:

**Table – 29**

<b>Sl. No.</b>	<b>Name of the Bank/ Financial Institution</b>	<b>Date of declaration of the accounts of the company as NPA</b>	<b>Amount of NPA as on date of declaration as NPA</b>
1	Central Bank of India	30.10.2019	180.52 crores
2	Bank of Baroda	29.10.2019	126.03 crores
3	Indian Bank	28.11.2019	25.62 crores
4	Canara Bank	30.12.2019	26.02 crores
5	IFCI Limited	31.12.2019	151.15 crores
6	Karur Vysya Bank	03.01.2020	41.11 crores

40.2.2 However, the Company had not made any disclosures of the above to the stock exchanges.

40.2.3 Noticees have submitted that the said event did not fall within the materiality policy of the Company and had not been disclosed on the Stock Exchanges based on professional advice. Further, Noticees have contended that the declaration of accounts as NPA was challenged before Hon'ble High Court of Bombay and the same is pending. Also, the relevant facts were duly declared in the Annual Reports along with necessary remarks and thus, no prejudice was caused to investors/ public.

40.2.4 I have considered the submissions of the Noticees and my observations are discussed below:

- (i) I note that Regulation 30(2) of LODR Regulations provides that events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.
- (ii) Para A(6) of Part A of Schedule III provides that defaults by a listed entity have to be disclosed and default shall mean non-payment of interest or principal amount in full as on the date when the debt has become due and payable.
- (iii) Declaration of an account as NPA by banks means default on the part of the listed entity to make payments due towards banks.
- (iv) Noticees have not submitted that any stay was granted on the said NPA declaration by banks and financial institutions. Therefore, a mere challenge to the declaration cannot absolve the Noticee from their obligation to disclose the same to stock exchanges.
- (v) Therefore, irrespective of the materiality policy (*which has not been provided by Noticees to SEBI*) or professional advice (*no evidence of which was provided by Noticee*), Noticees had to disclose the said event on stock exchanges which they have admittedly not done. Further, this event needed to be disclosed immediately and disclosure, if any made in Annual Report, would have anyways been a delayed disclosure and Noticees would be in violation of Regulation 30 of LODR Regulations.

#### 40.3. Appointment of forensic auditor by SEBI and Banks

40.3.1 SEBI appointed Ernst & Young LLP as the forensic auditor with respect to the financial statements of Seya for the FYs ending March 31 2019, March 31, 2020 and March 31, 2021 to *inter-alia* verify the misrepresentation including of the financials, siphoning of company funds by promoters/ directors, etc. The same was communicated to the Company vide letter and email dated September 09, 2021 and vide email dated September 20, 2021 to IRP. Compliance Officer of the Company vide email dated September 22, 2021 and September 30, 2021 had asked SEBI for clarification and copy of order

appointing IA, which were provided to the Company with a copy marked IRP and Forensic Auditor, vide letter dated October 04, 2021. IRP vide email dated September 22, 2021 requested the Compliance Officer of the Company to disclose the appointment of forensic auditor to stock exchanges as the logins, password and necessary access to the Stock Exchanges were available with the Compliance Officer. As already discussed in preceding paragraphs of this Order, the Company had disclosed in its Annual Report that the control of the Company was not handed over to the IRP. Despite all of the above, the appointment of forensic auditor by SEBI was not disclosed to the stock exchanges by the Company. Thereafter, IRP vide email dated September 24, 2021 informed the stock exchanges about the appointment of Forensic Auditor by SEBI.

40.3.2 Further, the Central Bank of India had *inter-alia* informed SEBI vide email dated June 15, 2022 that it had appointed R. Kabra & Co. on 21.12.2020 for conducting forensic audit of Seya's account, however, the forensic auditor did not submit the Audit Report due to non-cooperation of the Company. SEBI observed that the Noticees failed to disclose the said information to the stock exchanges.

40.3.3 Noticees have submitted that the alleged events do not fall within the materiality policy of the Company (copy of such policy not provided by Noticees) and had not been disclosed to stock exchanges based on the professional advice (no evidence of such advice provided). Further, it is submitted that there was no proper and legal document shown to the Company to support the factum of purported appointment of Forensic Auditor.

40.3.4 I have considered the submissions of the Noticees and my observations are discussed below:

- (i) I note that Regulation 30(2) of LODR Regulations provides that events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.
- (ii) Para A(17) of Part A of Schedule III provides that listed entity shall make disclosures to stock exchanges about initiation of forensic audits.

(iii) Irrespective of the purported clarifications sought by Company in regard to the appointment of Forensic Auditors, it was under an obligation to inform the stock exchanges about initiation of forensic audit.

(iv) Therefore, irrespective of the materiality policy, Noticees were required to disclose the said event on stock exchanges which they have admittedly not done.

#### 40.4. GST search on the premises of Seya and demands issued by GST Department

40.4.1 As per the SCN dated September 23, 2022 issued by the GST Department to Seya and others, searches were made by the GST Department on the factory and office premises of Seya on January 16, 2019. The Company did not make any disclosure of the same to the stock exchanges in this regard.

40.4.2 Further, GST Department had demanded repayment of CENVAT credit amounting to INR 10.07 crores vide SCN dated December 30, 2020 and GST Input Tax credit amounting to INR 131.45 crores vide SCN dated September 23, 2022 from Seya. The demands raised by the GST Department were material considering that the Revenue of the company for the FYs 2020-21 and 2021-22 stood at INR 44.01 crores and INR 65.65 crores, respectively. However, the Company failed to make disclosures of the same to the stock exchanges.

40.4.3 Noticees have submitted that the alleged events do not fall within the materiality policy of the Company (copy of such policy not provided by Noticees) and had not been disclosed to stock exchanges based on the professional advice (no evidence of such advice provided).

40.4.4 I have considered the submissions of the Noticees and my observations are discussed below:

(i) I note that under Regulation 30(2) of LODR Regulations provides that events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.

(ii) Para A(19) of Part A of Schedule III provides that listed entity shall make disclosures to stock exchanges about actions initiated or orders

passed by any regulatory, statutory, enforcement authority or judicial body against the listed entity or its directors, key managerial personnel, etc. The action initiated by GST authorities against Noticees was therefore covered in Para A(19) of Part A of Schedule III.

- (iii) Therefore, irrespective of the materiality policy, Noticees had to disclose the said event on stock exchanges which they have admittedly not done.

#### 40.5. Arbitration Award against Seya

40.5.1 Interim Award dated March 24, 2021 passed by Sole Arbitrator directed Seya to pay INR 72 crores with interest, was material considering the total revenue of the Company for FY 2020-21 (INR 44.01 crores). However, the Company did not make disclosures of the same to the stock exchanges.

40.5.2 Noticees have submitted that the alleged events do not fall within the materiality policy of the Company (*copy of such policy not provided by Noticees*) and had not been disclosed to stock exchanges based on the professional advice (*no evidence of such advice provided*). It is further submitted that the award was only declaratory in nature in that the existence of the said debt was already forming part of the Annual Reports and thus, could not be said to be a new and/ or material event. Also, a settlement was arrived at between the parties which was duly disclosed to the stock exchanges.

40.5.3 I have considered the submissions of the Noticees and my observations are discussed below:

- (i) I note that under Regulation 30(3) of LODR Regulations provides that listed entity shall make disclosure of events specified in Para B of Part A of Schedule III based on application of the guidelines for materiality as specified in sub-regulation (4). Regulation 30 also provides that materiality policy of the company shall not dilute any requirement specified under the provisions of LODR Regulations. As per Regulation 30(4), the listed entity shall *inter alia* consider an event/ information as material if it exceeds the lower of two percent of turnover as per last audited consolidated financial statements, two percent of networth as per last audited consolidated financial statements and five percent of

average of absolute value of profit or loss after tax, as per last three audited consolidated financial statements.

- (ii) As can be noted from Table – 5 above, the average profit was less than INR 9 Crore whereas the award directed Seya to pay INR 72 Crore, even larger than the revenue of company for FY 2020-21.
- (iii) I note that Noticees have not provided the criteria under the purported materiality policy considered by them for declaring the event as not material. Further, the pendency of proceedings is not a factor to be considered while determining the obligation to disclose an event. Therefore, the submissions of the Noticees in this regard cannot be accepted.

40.6. In view of aforesaid, I find that by not disclosing the above-mentioned material events/ information to stock exchanges i.e. declaration of Company's bank accounts as NPA, appointment of auditor by SEBI & Banks, GST proceedings against Noticees and arbitration award against Seya, the Company violated the provisions of Regulations 4(1)(d),(e),(f),(g),(h),(i),(j) and Regulation 30(2)&(3) of SEBI (LODR) Regulations, 2015.

40.7. Regulation 8(1) read with clause 1 of Schedule A of SEBI (Prohibition of Insider Trading) Regulations, 2015 ("**PIT Regulations, 2015**") provides that Board of Directors of a listed company shall formulate a code of practices and procedures for fair disclosure of unpublished price sensitive information and that there shall be a prompt disclosure of unpublished price sensitive information that would impact price discovery. As per Regulation 2(1)(n)(xiv), unpublished price sensitive information ordinarily includes information relating to outcome of any dispute which may have an impact on the company. As already discussed, the Interm Award amount was substantial to have an impact on the Company. Therefore, by failing to disclose the same, I find that the Board of Directors of the Company violated Regulation 8(1) read with clause 1 of Schedule A of PIT Regulations.

**41. Whether there were wrong disclosures of attendance in Board Meetings and Audit Committee Meetings?**

41.1. As per her MCA filings, Ms. Kalpana Tirpude, an independent director of Seya, had resigned on January 20, 2020, i.e. during FY 2019-20 and had attached a copy of her resignation letter along with dispatch proof of the same.

41.2. Despite the resignation, the Company had mentioned in its annual report for the FY 2020-21 (page no. 25 and 26) that Ms. Kalpana Tirpude had attended two board meetings and three Audit & Risk Management Committee meetings during FY 2020-21. Therefore, it was alleged that the Company published wrong details of attendees of board meetings and Audit & Risk Management Committee meetings in the Annual Report for FY 2020-21.

41.3. Noticees have submitted that Ms. Kalpana did not inform the company about her resignation and she had directly filed the same with MCA. Further, it is submitted that she was asked to provide her reasons for resignation but the same were not provided. Accordingly, the company did not accept her resignation. In any case, she did attend the Board Meeting and thus, the attendance is correctly recorded.

41.4. I have perused the resignation filed by Ms. Kalpana with MCA. In the said filing, she has enclosed the resignation letter addressed to Noticee No. 1 and has also enclosed dispatch proof of the same. On the other hand, Noticees have not provided any documentary evidence supporting their claim of having rejected her resignation or the correspondence with Ms. Kalpana regarding her resignation. I am of the view that a regulatory filing by a person has to be given credence over a bland statement of Noticees without any evidence to corroborate it.

41.5. Thus, I find that the Company has violated provisions of Regulations 4(1)(c) and 34(3) read with Clause (2)(b) and (3)(c) of Part C of Schedule V of the SEBI (LODR) regulations, 2015.

**42. Whether there was failure to provide information/ wrong information was submitted to SEBI?**

42.1. The conduct of the Company to various summons issued by the IA is summarized in table below:

**Table – 30**

<b>Date of Summons</b>	<b>Issued to</b>	<b>Comments on submission of information</b>
January 28, 2021	Summons to Seya	Provided partial information vide email and letter dated February 12, 2021, failed to provide any details of top 10 buyers and sellers. Company also submitted wrong information that no related party transaction for sale or purchase was carried out and Indusglobe Buildcon and Infra Private Limited and Cannonball Trading Private Limited were neither vendors nor customers at any point of time (This was proved wrong from the analysis of GST Returns and thus the Company submitted wrong and misleading information to SEBI).
March 10, 2021, March 18, 2021 and March 31, 2021	Summons and reminder summons to Seya	Sought additional information and reminded to submit details of top 10 buyers and sellers of the Company. No reply received from the Company.
June 10, 2021	Summons to Seya	Seya Replied vide letter dated July 05, 2021: Again failed to provide details of sellers, purchasers, debtors and creditors for the financial year 2017-2020 as sought. Further, the Company submitted that data assimilation done by it during the months of February-March, 2021 (i.e. prior to lockdown due to second wave of Covid-19), has been completely lost due to its server hard disks crashing in the month of April 2021. Company submitted crash report of server hard disks as well as its backup hard disk. Company did not submit other relevant information asked in the summons including specific details of buyers and sellers PAN, Address, details of material purchased and details of default to lender Company did not provide the relevant information and rather submitted crash report to cover itself.

42.2. As can be seen in the Table above, Seya, vide letter dated July 05, 2021 (signed by Noticee No. 5) claimed that the Company had lost the data due to server hard disks and back up hard disks, both crashing. On this ground, the Company claimed that it did not have the details of top ten buyers and sellers for the FYs 2018-19 and 2019-20, thereby did not share crucial information about the transactions entered into with the name lending entities.

42.3. Subsequently, statement of Mr. Sahil Joshi (proprietor Vidhi Data Recovery Lab), who provided a report confirming non-recoverability of data, to Seya, was recorded. He admitted in his statements dated November 16, 2021 and November

18, 2021 that he had provided a predated certificate in the format emailed by his client Fincom Infocare (P) Limited, at the insistence of the said client, and no attempts were made to recover the data as the Fincom Infocare did not want to recover the data. He also submitted the aforementioned three hard disks in original to SEBI and claimed that two of those hard disks were surveillance hard disks and not server hard disks. It was alleged that this showed the Company's malafide conduct and intent to conceal the information sought by SEBI. Subsequently, vide email dated November 23, 2021 Mr. Sahil Joshi informed that he had revoked the report issued to Seya and also forwarded a copy of his letter dated November 17, 2021 addressed to Seya, whereby he had revoked his report, mentioning that the report was issued at the request of Company without attempting data recovery on the drive solely for internal management purpose.

42.4. In response to the said allegation, Noticees have submitted the following:

- (i) Noticee provided the information as they could collate within limited span of time except list of top 10 purchasers and sellers for last 4 years along with value and quantity sold or purchased and the reasons for the same were provided vide letter dated July 05, 2021.
- (ii) From the cross-examination of Sahil Joshi, it is established that his statement cannot be relied upon and/ or taken at face values as he made various false and incorrect statements.
- (iii) Noticee No. 1 was dealing with Fincom Infocare Pvt. Ltd. and not directly dealing with Sahil Joshi or Vidhi Data Recovery Lab. No statement of any person belonging to Fincom Infocare Pvt. Ltd. has been recorded to corroborate any of the statements made by Sahil Joshi.
- (iv) As per goods received receipt dated June 28, 2021 purportedly for receipt of HDDs, there was only a single signature on the receipt at a place where concerned person of Vidhi puts his signature and there was no signature of customer on the said receipt. In absence of a signature of the customer, it cannot be conclusively stated that HDDs were given on June 28, 2021 and not earlier.

- (v) The e-mail enclosing draft certificate was purportedly sent by Fincom Infocare Pvt. Ltd. and it cannot be said to have been prepared or issued at the instance of Noticee No. 1.

42.5. I have considered the submissions of Noticees and my observations are provided below:

- (i) I note that in the summons issued to the Company, SEBI had specifically sought details of top 10 sellers and purchasers for last 4 financial years along with value and quantity sold or purchased. However, initially Company (reply from Noticee No. 5) sought time for submitting information and subsequently, expressed its inability to submit the information citing the purported cyber-attack and loss of data. Accordingly, the said information was never provided by Noticees.
- (ii) I note that even assuming that the Company did in fact lose data due to its systems crashing, the fact remains that the said details about purchasers/ sellers could have been extracted from original records and sources, including from the GST filings done by the Company. The said GST filings are accessible to the Noticees through their GST portal login credentials which were independently available irrespective of the cyber-attack/ loss of data. However, citing the crashed hard disk, Noticees did not provide this information which was crucial to the investigation in the instant proceedings. Eventually, SEBI was constrained to separately seek the information from GST authorities, thereby causing delay in the conclusion of the investigation. Thus, I find that by not providing the information as sought, the Company has violated the provisions of Section 11(2)(ia), 11C(2)&(3) of SEBI Act, 1992.
- (iii) With respect to the statements of Sahil Joshi and his cross-examination, I note that there does not appear to be any direct communication/ instruction between Sahil Joshi and Noticee No. 1. However, I have seen the certificate dated April 26, 2021 issued by Vidhi to Seya and the sample format of such certificate sent by Fincom Infocare Pvt. Ltd. to Sahil Joshi vide e-mail dated July 02, 2021. I note that the said certificates are identical in nature. However, in absence of any examination of the employees of Fincom Infocare Pvt. Ltd., it is not possible to corroborate the statements of Sahil Joshi that the certificates

were issued as per the request of Seya and they did not want any data to be recovered. Accordingly, in absence of adequate material on record, I find that evidence is insufficient to establish the aforesaid specific allegation.

#### **43. Whether ineligible statutory auditors were appointed?**

- 43.1. M/s. S S Patwardhan & Co. (FRN 0119155W) was the statutory auditor of Seya for the FYs 2020-21 and 2021-22, M/s. Anil Chauhan & Associates (FRN 0140786W) was the statutory auditor for the FYs 2017-18, 2018-19 and 2019-20 and M/s. Jagiwala & Co. (FRN 131184W) was the statutory auditor for the FYs 2015-16 and 2016-17. SS Patwardhan admitted in his statements dated September 05, 2022 that his firm did not have peer review certificate. Further, ICAI Peer Review Board informed SEBI vide email dated December 12, 2022 that Anil Chauhan & Associates and Jagiwala & Co. did not hold valid peer review certificate issued by ICAI. From the above, it is observed that none of the statutory auditors of Seya from FY 2015-16 to FY 2021-22 held a valid peer review certificate issued by Institute of Chartered Accountants of India (“ICAI”).
- 43.2. In this regard, Noticees have submitted that company was informed by the auditors that they were qualified to be auditors of the company and accordingly, it relied on their representations.
- 43.3. I note that Regulation 33(1)(d) of LODR Regulations provides that listed entity shall ensure that the audit reports submitted to the stock exchanges are given only by an auditor who subjected himself to the peer review process of ICAI and holds a valid certificate issued by the Peer Review Board of the ICAI. In terms of Regulation 33(1)(d) of LODR, it was the responsibility of the Company to ensure that its auditors are peer reviewed and hold a valid certificate. In their response, Noticees have admitted that they just relied on the representation of the auditors (appointed over a period of 7 years) without checking/ confirming their status and appointed 3 different auditors over this period, none of whom were eligible to audit the accounts of the Company. Therefore, I find that the Company has violated Regulation 33(1)(d) of SEBI (LODR) Regulations, 2015.

## PART III – ROLE OF NOTICEES

44.A summary of the observations and findings against the Company/ Noticee No. 1 detailed earlier in this Order is provided below:

44.1. Company had siphoned off the funds/ assets to promoter group company/ companies related to promoters (viz. Whiz Enterprises Private Limited, Aneeka Universal Private Limited and Shri Balaji Entertainments Private Limited) on the pretext of purchases/sales from/to them and/or through undisclosed fund transfers during FY 2018-19, 2019-20 and 2020-21. The Company has therefore violated Regulations 3(c)&(d), 4(1), 4(2)(f), (k)&(r) of SEBI (PFUTP) Regulations, 2003 read with Section 12A(b)&(c) of the SEBI Act, 1992.

44.2. Company had misrepresented its financials for the FY 2018-19 and 2019-20 through fictitious sales and purchases. The accounting treatment of interest in FY 2019-20 2020-21, 2021-22 and Quarter ended June 30, 2022, September 2022 and December 31, 2022 was not in accordance with the applicable and notified Accounting Standards viz. IND AS 23, IND 32 and IND AS 109. The published financial statements / results of Seya did not give a true and fair view of the financial performance and position of the Company. Thus, the Company has violated provisions of Regulations 3(c)&(d), 4(1), 4(2)(f), (k)&(r) of SEBI (PFUTP) Regulations, 2003 read with Section 12A(b)&(c) of the SEBI Act, 1992 and Regulations 4(1)(a),(b),(c),(e),(g),(j), 4(2)(e)(i), 33(1)(c) and 48 of SEBI (LODR) Regulations, 2015.

44.3. The non-disclosures of Related Party Transactions by the Company with promoter group company/ companies related to promoters viz. Whiz Enterprises Private Limited, Aneeka Universal Private Limited and Shri Balaji Entertainments Private Limited during FY 2018-19, 2019-20 and 2020-21 were not in accordance with IND AS 24 (Related Party Disclosures). Further, the Company also failed to take audit committee approval and/or shareholders' approval for the undisclosed related party transactions. Therefore, the Company has violated Regulations 4(1)(a)&(b), 4(2)(e)(i), 23(2), 23(4), 23(9), 33(1)(c) and 34(3) read with Part A of Schedule V and Regulation 4(2)(f), (k) and (r) of SEBI (PFUTP) Regulations, 2003.

44.4. Company had not provisioned for interest due to Banks/ Financial Institutions and violated provisions of Regulation 4(1)(a), 4(1)(b), 4(2)(e)(i), 33(1)(c) and 48 of SEBI (LODR) Regulations, 2015 and Regulation 3(c) & (d), 4(1), 4(2) (f), (k) & (r)

of SEBI (PFUTP) Regulations, 2003 read with Section 12A(b) & (c) of SEBI Act, 1992.

44.5. Company had not disclosed the material events/ information to stock exchanges and violated provisions of Regulation 4(1)(d),(e),(f),(g),(h),(i),(j) and 30(2)&(3) of SEBI (LODR) Regulations, 2015. Further, the Company also violated Regulation 8(1) read with clause 1 of Schedule A of SEBI (PIT) Regulations 2015.

44.6. Company had shown wrong details of attendees of board meetings and Audit & Risk Management Committee meetings in the annual report for the FY 2020-21. The Company has violated Regulations 4(1)(c) and 34(3) read with clause (2)(b) and (3)(c) of part C of Schedule V of the SEBI (LODR) regulations, 2015.

44.7. Company did not provide the information as sought and has therefore violated Section 11(2)(ia) and 11C(2)&(3) of SEBI Act, 1992.

44.8. Company had appointed auditors who did not have valid peer review certificate issued by ICAI, as the statutory auditor of the Company. Therefore, the Company has violated Regulation 33(1)(d) the SEBI (LODR) Regulations, 2015.

45. However, in view of the pending CIRP proceedings against the Company and prevailing moratorium under Section 14 of the IBC, no orders are being passed against the Company at this stage and the proceedings against the Company will be decided/ disposed of through a separate order by SEBI.

46. It was observed that the persons mentioned in the Table below were the Directors / Promoters / KMPs, who were at the helm of affairs of the Company during the relevant times.

**Table – 31**

<b>Name of the Director</b>	<b>Designation</b>
Ashok Ghanshyamdas Rajani	Chairman & Managing Director
Asit Kumar Bhowmik	Executive Director
Sivaprasada Rao Buddi	Executive Director

*Particulars of their attendance during Board and Audit Committee Meetings are provided at Table – 3 and 4 respectively of this Order*

*(Source: Annual Report)*

**47.** A company, being a non-natural person, acts through its Board of Directors. The directors are responsible for all the acts of omission and commission by the Company. It is the duty and responsibility of the directors to act in good faith, exercise due care, skill and diligence while ensuring that proper systems and controls are in place for financial reporting and to monitor the efficacy of such systems and controls and are responsible for overseeing the Company's financial reporting process. The directors of the listed companies have greater responsibility as they are entrusted to the position to take care of the interests of the Company and its shareholders. Therefore, they are expected to exercise the powers in a bona fide manner and in the interest of all stakeholders of the company.

**48.** Section 27 of the SEBI Act deals with the instances of contravention by the companies and fastens responsibilities on people for such contraventions. Section 27 of the SEBI Act is reproduced below:

*“Contravention by companies*

*27. (1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder] has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.*

*(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.”*

**49.** Further, I note that Noticee Nos. 2 & 3 were holding positions of CMD and Executive Director since 2009 and 2011 respectively and were continuing in these positions at

the time of passing of Interim Order cum SCN. As can be seen from Tables – 3 & 4 of this Order, Noticee Nos. 2-5 had attended the board meetings of the Company as well as Audit Committee meetings wherein the misrepresented financial statements were put up and approved along with non-disclosure of RPTs, material event/information, etc. LODR Regulations invoked in this Order also place direct responsibility for infraction on the Directors/ KMPs. Therefore, not only are Noticee Nos. 2-5 vicariously liable for the acts of the Company but they had in fact directly/ actively participated and concealed the fraud perpetrated in the matter and are directly responsible for the securities laws violations as discussed in the subsequent paragraphs.

**50. Role of Noticee No. 2 (Ashok Ghanshyamdas Rajani, CMD of the Company)**

50.1. Ashok Ghanshyamdas Rajani, being the Chairman and Managing Director (CMD) of the Company (he is also a Promoter), was in-charge of operations and decision making process. It is noted that all the Directors report were signed by Noticee No. 2 on behalf of all the Board of Directors. From the details of manipulation and fraud discussed above, it is inferred that Mr. Ashok Rajani could not have been unaware of the majority of the transactions entered into by the Company over multiple financial years which were fictitious and non-genuine as held in this Order. Further, given his position in the Company, he cannot feign ignorance with respect to non-compliance/ violation of regulatory provisions relating to disclosure, auditor appointment, etc. Further, as already observed above, the Company had not disclosed the transactions with the promoter group company/ companies related to promoters, where relatives (sons/ daughter) of Ashok Rajani are the only directors and shareholders. Further, the Company has siphoned off the funds/assets to the promoter group company/ companies related to promoters, where Ashok Rajani's relatives are directors.

50.2. Under regulation 17(8) of SEBI (LODR) Regulations, 2015, the Chief Executive Officer ('CEO') and the Chief Financial Officer ('CFO') has to provide a compliance certificate to the board of directors. Further, under regulation 33(2)(a) of SEBI (LODR) Regulations, 2015, it is the duty of the CEO and CFO of a listed entity to certify that the published financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading while placing the financial results. I note that Mr. Ashok Rajani, as CMD & CEO and Mr. Amrit

Ashok Rajani, as CFO of the Company (who is also the son of the CMD) and shareholder of another promoter group company (Whiz) and thereby supposed to be part of the promoter group in terms of Regulation 31(4) of LODR Regulations read with Regulation 2(1)(pp) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018), had signed the CEO/ CFO certifications with respect to financial statements for the FY 2018-19 to 2021-22. Mr. Ashok Rajani is also a signatory to the Financial statements for the FY 2018-19 to 2021-22 that are misstated and wherein expenses/losses are under reported. As the financial statements have been found to be false and misleading, Mr. Ashok Rajani failed to comply with Regulation 17(8) read with part B of Schedule II and Regulation 33(2)(a) of SEBI (LODR) Regulations, 2015.

50.3. Mr. Ashok Rajani had attended all the board meetings held during FY 2018-19 to 2021-22. Further, he was also a member of Audit Committee and attended its meetings, as seen from the Annual Reports of the Company. Mr. Ashok Rajani did not comply with regulation 18(3) read with Part C of Schedule II of the SEBI (LODR) Regulations, 2015 read with Section 27 of SEBI Act, 1992 which deals the role of the Audit Committee.

50.4. Noticee No. 2 has submitted that he relied on the representation of the Companies' personnel and expert/ professional advisors of the Company. Further, he has submitted that Noticee No. 5 (his son and CFO of the Company) was authorised to take necessary actions/ directions in the best interest of the Company.

50.5. I note that Noticee held the position of CMD of the Company and was actually involved in the day to day affairs of the Company, attended Board Meetings where resolutions were approved as well as Audit Committee meetings. He cannot escape from his responsibility by placing the onus on Company employees and his son – Noticee No. 5, though employees of the company/ professionals do assist the CMD/ CEO of the Company in the decision making process. Irrespective of Noticee No. 5's role in managing day-to-day affairs of the Company (as claimed by Noticee No. 2), Ashok Rajani cannot distance himself from his responsibilities as MD of the Company. The Noticee has not provided any evidence to support his claim that he was not responsible/ involved in the decision making process of the Company. Facts on record, on the contrary, demonstrate that he was completely in charge of the company's affairs.

50.6. Therefore, I find that Ashok Ghanshyamdas Rajani, CMD of Seya, has violated Regulations 3(c)&(d), 4(1), 4(2)(f),(k)&(r) of SEBI (PFUTP) Regulations, 2003 read with Section 12A(b)&(c) of the SEBI Act, 1992, Regulations 4(1)(a),(b),(c),(d),(e),(f)(g),(h),(i),(j), 4(2)(e)(i), 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6),(7),(8), 4(2)(f)(iii)(1)(3),(6),(12), 23(2), 23(4), 23(9), 30(2), 30(3), 33(1)(c), 33(1)(d), 34(3) read with Part A of Schedule V, 34(3) read with clause (2)(b) and (3)(c) of part C of Schedule V and 48 of SEBI (LODR) Regulations, 2015 and Sections 11(2)(ia) and 11C(2)&(3) of SEBI Act, 1992 read with Section 27(1) of SEBI Act, 1992, Regulations 17(8) read with Part B of Schedule II and 33(2)(a) of SEBI (LODR) Regulations, 2015 and Regulation 8(1) read with clause 1 of Schedule A of SEBI (PIT) Regulations 2015.

**51. Role of Noticee Nos. 3 (Mr. Asit Kumar Bhowmik) and Noticee Nos. 4 (Sivaprasada Rao Buddi) - Non-Independent Executive Directors**

51.1. Mr. Asit Bhowmik and Mr. Sivaprasada Rao Buddi, being the executive directors of Seya at the relevant time, were in-charge of operations and decision making process within the Company.

51.2. Mr. Asit Bhowmik attended board meetings held during FY 2018-19 to 2021-22 and Mr. Sivaprasada Rao Buddi attended board meetings held during FY 2020-21 and 2021-22. Accordingly, they are responsible for the violations committed by the Company.

51.3. Noticees have submitted that they were not in charge of operation and the decision making process, did not take active part/ role in day to day running of the Company and that they had relied on the representations by company's personnel/ professional advisors.

51.4. I note that Noticee Nos. 3 & 4 were Executive Directors on the Board of the Company. They were *inter alia* responsible to ensure that Company was in compliance with all applicable laws and the financials of the Company were being represented in true and fair manner in accordance with the applicable accounting standards. However, as already discussed in this Order, the Company indulged in violations relating to misrepresentation of financial statements, siphoning off funds, non-disclosure of material events/ information, etc. which has resulted in eroding the investors' confidence in the sanctity of the securities market.

51.5. In view of the above, I find that Mr. Asit Kumar Bhowmik and Mr. Sivaprasada Rao Buddi, executive directors, violated Regulations 3(c)&(d), 4(1), 4(2)(f),(k)&(r) of SEBI (PFUTP) Regulations, 2003 read with Section 12A(b)&(c) of the SEBI Act, 1992, Regulations 4(1)(a),(b),(c),(d),(e),(f)(g),(h),(i),(j), 4(2)(e)(i), 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6), (7),(8), 4(2)(f)(iii)(1)(3),(6),(12), 23(2), 23(4), 23(9), 30(2), 30(3), 33(1)(c), 33(1)(d), 34(3) read with Part A of Schedule V, 34(3) read with clause (2)(b) and (3)(c) of part C of Schedule V and 48 of SEBI (LODR) Regulations, 2015 and Sections 11(2)(ia) and 11C(2)&(3) of SEBI Act, 1992 read with Section 27(1) of SEBI Act, 1992 and Regulation 8(1) read with clause 1 of Schedule A of SEBI (PIT) Regulations 2015

51.6. Mr. Asit Kumar Bhowmik, being a member of Audit Committee meeting, attended its meetings during the FY 2020-21, as seen from the Annual Reports of the Company. Considering the violations listed above, I also find that Asit Kumar Bhowmik has failed to discharge his duties as required under regulation 18(3) read with Part C of Schedule II of the SEBI (LODR) Regulations, 2015 read with Section 27 of SEBI Act, 1992.

## **52. Role of Noticee No. 5 (Mr. Amrit Rajani, CFO of the Company)**

52.1. Mr. Amrit Rajani, the CFO of the Company, is the son of Company's CMD and promoter, Mr. Ashok Rajani. In his submissions to SEBI, the CMD *inter-alia* informed that Noticee No. 5 has been looking after the day-to-day affairs of the Company.

52.2. I note that Mr. Amrit Rajani, being CFO of the Company and looking after the day-to-day affairs of the Company, was a Key Managerial Person (KMP) of the Company at the relevant time and thus, is responsible for the violations committed by the Company.

52.3. It was observed that the transactions of Seya with companies where Mr. Amrit Rajani and his relatives were the only directors/ shareholders, viz. Whiz Enterprise Pvt. Ltd., Aneeka Universal Pvt. Ltd. and Shri Balaji Entertainments Pvt. Ltd., were not reported as Related Party Transactions (RPTs), even though Mr. Amrit Rajani was the CFO of Seya. His role/ shareholding in these companies is provided in the Table below:

**Table – 32**

<b>S. No.</b>	<b>Name of the Company</b>	<b>Amrit Rajani's Designation</b>	<b>Amrit Rajani's Shareholding (in %)</b>
1.	Whiz Enterprise Pvt. Ltd.	Director  (Other Directors are his siblings – Narendra and Pooja Rajani)	5% (90% held by Narendra Rajani, brother of Amrit and rest 5% held by Pooja Rajani, sister of Amrit)
2.	Aneeka Universal Pvt. Ltd.	Director  (His sister Pooja Rajani is the Nominee Director)	82% (rest is held by Whiz Enterprise Pvt. Ltd.)
3.	Shri Balaji Entertainments Pvt. Ltd.	Director  (Other Director is his sister, Pooja Rajani)	50% (rest is held by Pooja Rajani, sister of Amrit)

52.4. Further, the Company has siphoned off the funds/ assets to the companies viz. Whiz Enterprises Pvt. Ltd. (INR 73.75 Crore), Aneeka Universal Pvt. Ltd. (INR 6.56 Crore) and Shri Balaji Entertainments Pvt. Ltd. (INR 0.95 Crore) where Mr. Amrit Rajani was a director as well as shareholder as mentioned in the Table above. These transactions were also not reported as RPTs.

52.5. Further, an entity in which Mr. Amrit Rajani was a director, viz. Aneeka Universal Pvt. Ltd., had also traded with the firms that were involved in fictitious transactions with Seya (i.e. firms opened in the names of name lenders mentioned in the foregoing paragraphs of this Order). The same clearly demonstrates that Amrit Rajani was aware of such transactions and was hand in glove with the directors of the Company in entering the fictitious transactions that acted as a scheme to artificially inflate the purchases and sales of the Company. It is also seen that GST

department has issued SCNs, along with Seya, to Mr. Amrit Rajani and Aneeka Universal Private Limited, where he is a director.

52.6. Mr. Amrit Rajani gave false and misleading submission to SEBI on behalf of the Company vide letters dated February 12, 2021 and July 05, 2021 and also gave false statements to SEBI in statement recorded on November 11, 2021 with respect to the queries regarding related party transactions and default made by the Company in repayment of loans as discussed in preceding paragraphs of this Order. He has not made any submissions on merits with respect to the allegations in this regard and has just made bland statements denying the allegations without any corroborating evidence.

52.7. Under regulation 17(8) of SEBI (LODR) Regulations, 2015, the Chief Executive Officer ('CEO') and the Chief Financial Officer ('CFO') has to provide a compliance certificate to the board of directors. Further, under regulation 33(2)(a) of SEBI (LODR) Regulations, 2015, it is the duty of the CEO and CFO of the listed entity to certify that the published financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading while placing the financial results. It was noted that Mr. Amrit Rajani, as CFO of the Company (who is also part of promoter group through shareholding in Whiz and son of the CMD/ Promoter of the Company), had signed CEO/CFO certification with respect to financial statements for the FY 2018-19 to 2021-22. Mr. Amrit Rajani is also a signatory to the Financial statements for the FY 2018-19 to 2021-22 that are misstated and wherein expenses/losses are under reported. The financial statements have been found to be false and misleading.

52.8. In view of the above, I find that Mr. Amrit Rajani, CFO of the Company, has violated Regulations 3(c)&(d), 4(1), 4(2)(f),(k)&(r) of SEBI (PFUTP) Regulations, 2003 read with Section 12A(b)&(c) of the SEBI Act, 1992, Regulations 4(1)(a),(b),(c),(d),(e),(f)(g),(h),(i),(j), 4(2)(e)(i), 23(2), 23(4), 23(9), 30(2), 30(3), 33(1)(c), 34(3) read with Part A of Schedule V, 34(3) read with clause (2)(b) and (3)(c) of part C of Schedule V and 48 of SEBI (LODR) Regulations, 2015 and Sections 11(2)(ia), 11C(2)&(3) of SEBI Act, 1992 read with Section 27(2) of SEBI Act, 1992; Regulations 17(8) read with Part B of Schedule II and 33(2)(a) of SEBI (LODR) Regulations, 2015 and Sections 11C(2), (3)&(5) of SEBI Act, 1992.

## **CONCLUSION**

**53.** It is apparent that the Company's turnover and business were significantly less than portrayed during the examination period. By preponderance of probability, it appears that the Company and its promoters/ management used the services of one Narendra Pandya to engage unsuspecting, financially weak individuals, most of whom were related to him, to lend their names and set up shell proprietorship firms. Artificial transactions were then recorded between Seya and these shell firms to create the illusion of healthy and significant business activity at Seya, thereby misleading key stakeholders of this listed company. In addition, money/ assets worth INR 81.26 crore were siphoned off from Seya to Whiz, Aneeka and Balaji - privately held companies owned/ managed by promoters or immediate relatives of Seya's promoters (*who curiously should have been but are not named as part of the promoter group in Seya's filings or records*).

**54.** In addition, the company, its directors and the Audit committee, adopted financial statements that significantly under reported the losses/ overstated the profits. The company failed to make material disclosures and report related party transactions and failed to follow the relevant procedure prescribed in SEBI (LODR) Regulations, 2015 with respect to related party transactions. Even the statutory auditors of the company were not qualified to be auditors of the listed company. The published financial statements of a listed company are expected to present a true picture about the financial health of that company so that the investors can make an informed decision regarding investment in that company. A listed company is mandated by the Companies Act, 2013 as well as under Regulation 4 (1) of the SEBI (LODR) Regulations, 2015 to ensure that its books of accounts and financial statements present a true and fair picture. Any mis-statement or mis-representation in the financial statements adversely impairs an investor's ability to make informed decisions.

**55.** The Hon'ble Supreme Court of India in the matter of *N. Narayanan Vs. Adjudicating Officer, Securities and exchange Board of India (Civil Appeal Nos 4112-12 of 2012)*, while emphasizing on the adverse impact of incorrect information, has observed: "*Securities market is based on free and open access to information, the integrity of the*

*market is predicated on the quality and the manner on which it is made available to market. 'Market abuse' impairs economic growth and erodes investor's confidence. Market abuse refers to the use of manipulative and deceptive devices, giving out incorrect or misleading information, so as to encourage investors to jump into conclusions, on wrong premises, which is known to be wrong to the abusers. The statutory provisions mentioned earlier deal with the situations where a person, who deals in securities, takes advantage of the impact of an action, may be manipulative, on the anticipated impact on the market resulting in the "creation of artificiality'. The same can be achieved by inflating the company's revenue, profits, security deposits and receivables, resulting in price rise of scrip of the company. Investors are then lured to make their "investment decisions" on those manipulated inflated results, using the above devices which will amount to market abuse."*

**56.** At every stage, the company has failed to cooperate with SEBI/ NSE/ forensic auditors, particularly in providing explanations to the many legitimate questions that were raised. The Company has tried to delay the process of investigation by stone walling the efforts of the stock exchange (NSE) and the forensic auditors appointed by SEBI. Seya refused to share information about its top ten purchasers and sellers with SEBI's IA, on the pretext of a supposed crash of their hard disk. This information could well have been accessed or recreated from other documents and sources including from the GST portal. Noticee 5 – the CFO and son of Seya's promoter & CMD - gave false information to the Investigating Authority about the related party dealings/ business relation of companies on which he is a director with Seya, in yet another attempt at misleading SEBI's investigation process. During the quasi-judicial proceedings, the Noticees have failed to even attempt to provide an explanation on merits with respect to the impugned transactions and disclosures, beyond making bland and perfunctory assertions. The Noticees' disdain for the law, and absence of any legitimate defence, is also evident from the manner in which they have given patently wrong statements. For example, with respect to the allegation of fund/ asset diversion to Shri Balaji, Noticees claimed that there were no sale/ purchase transactions at all with Shri Balaji. In fact, GST filings by Seya as well as its bank

transactions clearly record that there were sale/ purchase transactions and fund transfers to/ from Shri Balaji.

57. In any case their attempt at defending the allegations against them can at best be described as being feeble. For instance, Noticees have not made any submissions with respect to siphoning off of assets to Aneeka to the tune of INR 6.56 Crore. With respect to most of the allegations Noticees have resorted to making bland statements without any corroborating evidence (*for example, on the issue of RPTs with Whiz, Aneeka and Shri Balaji where there is ample evidence of them being related parties and with respect to appointment of ineligible statutory auditors*). On the allegation of non-disclosure of material events, Noticees have merely submitted that they did not disclose the same on account of 'materiality policy' and 'professional advice', without either providing a copy of the materiality policy or details/ copy of such professional advice received. Given the sheer significance of the allegations, this conduct only strengthens the case that by preponderance of probability, the lack of disclosure was wanton, indefensible, and calculated to keep crucial stakeholders in the dark about their nefarious activities.

58. The wide-ranging nature of fraud at Seya, has adversely impacted the interest of investors and other stakeholders such as banking companies. As noted earlier in detail in this Order (at Table-26), the Company has availed of loans from Bank of Baroda, Central Bank of India, Karur Vysya Bank, Canara Bank, Indian Bank and IFCI Ltd. amounting to INR 245.34 crore most of which were obtained during FY 2018-19 (i.e. during the period when much of the sales recorded were fictitious and when much of the diversion of funds took place). Several loan accounts of the Company have since then been classified as NPA.

59. Basis the disclosures on BSE, the number and percentage of retail investors in Seya during the relevant period is noted as follows:

**Table - 33**

<b>FY (as on March 31)</b>	<b>Total No. of Shares</b>	<b>Total Public Shareholding (% of overall shareholding)</b>	<b>No. of Individual Public Shareholders</b>	<b>Individual Public Shareholding (% of overall shareholding)</b>
2017-18	2,46,00,000	62,65,000 (25.47%)	10,511	34,72,330 (14.11%)

FY (as on March 31)	Total No. of Shares	Total Public Shareholding (% of overall shareholding)	No. of Individual Public Shareholders	Individual Public Shareholding (% of overall shareholding)
2018-19	2,46,00,000	62,64,500 (25.47%)	10,417	32,70,561 (13.29%)
2019-20	2,46,00,000	89,24,532 (36.28%)	10,974	39,09,256 (15.89%)
2020-21	2,65,70,540	93,07,034 (35.03%)	14,018	56,19,738 (21.14%)
2021-22	2,65,70,540	94,32,034 (35.50%)	15,062	69,93,243 (26.32%)

As can be seen from the Table above, the period during which fraud was perpetrated saw a significant increase in individual public shareholders and shareholding as well. Clearly, a public listed company - Seya has done tremendous damage to several unsuspecting retail investors, which warrant stringent penalties and remedial measures.

60. To reiterate, Noticee No. 2 was a promoter and MD of the company and Noticee No. 5 is the son of the promoter (*and yet not disclosed as a member of the promoter group*) and a CFO of the company. The funds/ assets which were diverted/siphoned moved to privately held companies in which Noticee No. 5 personally held significant number of shares and was on their Board of directors. These companies were also co-owned/ co-managed by other immediate relatives of Noticee Nos. 2 and 5. The fictitious proprietorships, evidently, were orchestrated at the behest of the promoters, through Narendra Pandya. Therefore, Noticee Nos. 2 and 5 are clearly liable to the highest possible penalties under securities law for their active role in perpetrating the fraud. The other two Noticee directors are executive in nature/ function. However, aside from their participation in board meetings and audit committee meetings, there is no material on record that specifically delves into their role in the violations in this Order. Further, between Noticee No. 3 and 4, a distinction must be made in their liabilities, owing to the significantly longer tenure of Noticee No. 3 – Asit Bhowmik, on the Board of Seya and since the former was also an Audit Committee member unlike the latter.

61. With respect to the allegations of submitting false information on behalf of the Company, I note that all such impugned submissions were made by Noticee 5 on behalf of the Company. He along with Noticee 2 are liable for higher penalties in this regard given the nature of their responsibilities in the Company as CFO and MD/ promoter, respectively.

62. As highlighted earlier, money/ assets worth INR 81.26 crore were siphoned off from the Company to Whiz, Aneeka and Balaji. As already observed in the preceding paragraphs, Noticee No. 5 (CFO of the Company) was a director and shareholder in all the three aforesaid companies and even held 50% or more shares of Aneeka and Balaji. The other directors/ shareholders of these three companies were his siblings i.e. Narendra Rajani and Pooja Rajani. Accordingly, it is reasonable to infer that he was in control of these three companies. Further, being a CFO and KMP of Seya, he was in a peculiar position to benefit these three companies. Therefore, in view of the above discussion, I note that he was particularly responsible for siphoning off funds/ assets to companies related to him. His conduct necessitates remedial directions in the interest of investors to ensure return of diverted/ siphoned off funds/ assets to Seya (*which is currently under CIRP*).

#### **DIRECTIONS:**

63. In view of the aforesaid findings and having regard to the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) read with Section 15A(a), 15HA and 15HB and Section 19 of the SEBI Act, 1992 and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, direct as under:

- (i) Noticee Nos. 2 - 5 are restrained from accessing the securities market and prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 5 years, from the date of coming into force of this order.
- (ii) Noticee Nos. 2-5 are restrained from being associated with the securities market including as a director or Key Managerial Personnel in any listed company, or any intermediary registered with SEBI, for a period of 5 years, from the date of coming into force of this direction.
- (iii) Noticee No. 5 is directed to ensure that funds/ value of assets siphoned off by Whiz Enterprises Pvt. Ltd., Aneeka Universal Pvt. Ltd. and Shri Balaji Entertainments Pvt. Ltd., amounting to INR 81.26 Crore (*as discussed in Para 36.13 above*), are brought back to Seya Industries Ltd. along with interest at the rate of 12 % per annum from the date of transfer of funds/ assets as per

the bank account transactions/ GST returns till the date of bringing back the funds, within a period of six months from the date of this order.

(iv) The present proceedings initiated against Noticee No. 1 (Seya Industries Limited) shall be decided by separate order for the reasons mentioned at paragraphs above.

(v) Noticees are hereby imposed with the penalties as specified hereunder:

**Table – 34**

<b>Noticee No.</b>	<b>Name of Noticee</b>	<b>Provisions under which penalty imposed</b>	<b>Penalty Amount (in Rupees)</b>
2	Ashok Ghanshyamdas Rajani	Section 15A(a) of the SEBI Act Section 15A(b) of the SEBI Act Section 15HA of the SEBI Act Section 15HB of the SEBI Act	1,00,00,000 1,00,00,000 25,00,00,000 1,00,00,000
3	Asit Kumar Bhowmik	Section 15A(a) of the SEBI Act Section 15A(b) of the SEBI Act Section 15HA of the SEBI Act Section 15HB of the SEBI Act	25,00,000 25,00,000 1,00,00,000 50,00,000
4	Sivaprasada Rao Buddi	Section 15A(a) of the SEBI Act Section 15A(b) of the SEBI Act Section 15HA of the SEBI Act Section 15HB of the SEBI Act	10,00,000 10,00,000 20,00,000 10,00,000
5	Amrit Ashok Rajani	Section 15A(a) of the SEBI Act Section 15A(b) of the SEBI Act Section 15HA of the SEBI Act Section 15HB of the SEBI Act	1,00,00,000 1,00,00,000 25,00,00,000 1,00,00,000

- (vi) Noticees shall pay the respective penalty imposed on them within a period of forty-five (45) days from the date of receipt of this order.
- (vii) Noticees shall pay the monetary penalty by online payment through following path on the SEBI website: [www.sebi.gov.in/ENFORCEMENT](http://www.sebi.gov.in/ENFORCEMENT) → Orders → Orders of Chairman/ Members → Click on PAY NOW. In case of any difficulties in payment of penalties, the Noticee may contact the support at [portalhelp@sebi.gov.in](mailto:portalhelp@sebi.gov.in).
- (viii) Noticees shall forward details of the online payment made in compliance with the directions contained in this Order to the “Division Chief, CFID, SEBI, SEBI Bhavan II, Plot no. C-7, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai-400 051” and also to e-mail id:- [tad@sebi.gov.in](mailto:tad@sebi.gov.in) in the format as given in table below:

Case Name	
Name of the Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Bank Details in which payment is made	
Payment is made for:	Penalty

**64.** This Order shall come into force with immediate effect.

**65.** A copy of this Order shall be served on the Noticees. A copy of this Order shall be forwarded to the Stock Exchanges, Depositories, Registrar and Share Transfer Agents and Banks to ensure necessary compliance.

-Sd-

**PLACE: MUMBAI**

**ANANTH NARAYAN G.**

**DATE: MAY 02, 2025**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**