

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: DR. T. C. NAIR, WHOLE-TIME MEMBER

Name of the noticees: Krishna Filaments Ltd.

Shri Om Prakash Agarwal

Shri Krishna Kumar Agarwal

Shri Sharad Kumar Agarwal

Krishna Vinyl Ltd.

Date of hearing : March 24, 2008

Appearance of parties

For the Noticee : Shri Pesi Modi, Counsel
Shri Joby Mathew, Counsel
Shri K. K. Agarwal, Director
Shri Sanjay Kabra

For SEBI: Shri P. K. Bindlish, Chief General Manager
Shri Pradip Bhowmick, Manager
Smt. Kshama Wagherkar, Legal Officer

ORDER

DIRECTIONS UNDER SECTION 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 11 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 AND REGULATION 44 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 1997 AGAINST KRISHNA FILAMENTS LTD., SHRI OM PRAKASH AGARWAL, SHRI KRISHNA KUMAR AGARWAL, SHRI SHARAD KUMAR AGARWAL AND KRISHNA VINYL LIMITED IN THE MATTER OF KRISHNA FILAMENTS LIMITED

1. The Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted investigations to look into the affairs relating to the buying, selling and dealing in the scrip of Krishna Filaments Ltd. (hereinafter referred to as 'KFL') for

the period from May to June 1998 as it was noticed that the price of the scrip of KFL had increased from Rs.153/- at the Bombay Stock Exchange (hereinafter referred to as 'BSE') and Rs.154/- at the National Stock Exchange (hereinafter referred to as 'NSE') on May 15, 1998 to Rs.311/- on June 9, 1998 in BSE and Rs. 313/- on June 4, 1998 in NSE. Investigations revealed that KFL came out with a public issue of 33,45,000 Optionally Fully Convertible Discounted Debentures (hereinafter referred to as 'OFCDDs') during April - May 1997 of Rs. 200/- each for cash at a discounted price of Rs. 160/- aggregating to Rs. 5,352/- lac. These OFCDDs were convertible into equity share of Rs. 10/- each at the end of 17 months from the date of allotment at a discount of 33 $\frac{1}{3}$ % to the average daily closing prices for the previous six months at the BSE subject to a maximum conversion price of Rs. 200/- per share and a minimum of Rs. 10/- per share. In case the conversion price was below Rs. 200/- per share, the balance had to be carried forward as 19% Non-Convertible Debentures, to be redeemed in three equal installments each at the end of 36, 48 and 60 months from the date of allotment. The other option with the debenture holders was to convert them into Non-Convertible Debentures of Rs. 200/- carrying interest at the rate of 19% and these could be redeemed in three equal installments each at the end of 36, 48 and 60 months from the date of allotment.

2. The investigations had alleged that the share price of KFL was rigged to fix the conversion price at Rs. 154/- per share for non-promoters/ other shareholders and Rs. 200/- for promoters and collaborators by cornering the already low floating stock in the scrip. It was observed that the cornering of shares started much earlier (1997) and that too with the funds transferred by the promoters/ Directors of KFL.
3. After considering the reply to the show cause notice dated July 16, 2001 issued to various entities/persons who had dealt in the scrip and after giving an opportunity of hearing, SEBI passed an order dated September 10, 2004 against various entities including the noticees. The said order of SEBI was challenged by the aggrieved person/ entities namely Shri O.P. Agarwal (in Appeal no. 277/2004), Shri K.K. Agarwal (in Appeal no. 278/2004), Shri S. K. Agarwal (in Appeal no. 280/2004), KFL (in Appeal no. 279/2004), Krishna Vinyls Ltd. (hereinafter referred to as 'KVL') (in Appeal no. 30/2005), Shri Sunil R. Nair (in Appeal no. 355/2004), Siji Nair (in

Appeal no. 356/2004), Jiten Mehta (in Appeal no. 357/2004), Rajshri Mehta (in Appeal no. 358/2004), Pramila Mehta (in Appeal no. 359/2004), Dharamshi Capital Services (in Appeal no. 89/2005) before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'SAT'). However, S/ Shri Sunil R. Nair, Siji Nair, Jiten Mehta, Rajshree Mehta and Pramila Mehta preferred to withdraw their appeals which were pending before SAT. After considering the submissions of the appellants in the above said appeals, the Hon'ble SAT, vide its order dated March 01, 2007, set aside the order of SEBI on the ground that principles of natural justice were not adhered to and remanded the case back to SEBI for passing a fresh order in accordance with law against KFL, S/Shri Om Prakash Agarwal, Shri Krishna Kumar Agarwal, Shri Sharad Kumar Agarwal and KVL. Further, the said order had clarified that the impugned order is being set aside only against KFL, S/Shri O. P. Agarwal, K. K. Agarwal, S. K. Agarwal and KVL. The impugned order will stand final for S/Shri Sunil R. Nair, Siji Nair, Jatin Mehta, Pramila Mehra. However, the Hon'ble SAT had upheld the order with respect to M/s Dharamshi Capital Services vide order dated 01-03-2007 in Appeal No. 89 of 2005. The Hon'ble SAT in its order dated 01-03-2007 in Appeal No. 277 of 2004 had further directed SEBI as under:

"The Board is directed to decide the matter expeditiously preferably within six months and it will be open to it to issue a fresh or supplementary show cause notice, if so advised. It will also be open to the parties to place further documents, if necessary, before the Board. The learned counsel for the appellant states that all the appellants in this bunch of appeals could be served on the address of the appellant company."

4. In compliance with the abovesaid directions of the Hon'ble SAT, a Show Cause Notice dated May 29, 2007 was issued to KFL, S/Shri O. P. Agarwal, K. K. Agarwal, S. K. Agarwal and KVL. The said Show Cause Notice alleged the following.

- a. Alankar Finance Pvt. Ltd. (hereinafter referred to as 'Alankar'), Agnikamal Finance Pvt. Ltd. (hereinafter referred to as 'Agnikamal'), Adhikash Finance Pvt. Ltd. (hereinafter referred to as 'Adhikash'), Kalpit Trading Pvt. Ltd. (hereinafter referred to as 'Kalpit'), Renold Finance Pvt. Ltd. (hereinafter referred to as 'Renold'), and Satyanand Prasad Finance Pvt. Ltd. (hereinafter referred to as

‘Satyanand’) bought the shares of KFL from the market to the tune of 6,39,500 shares on gross and 4,37,800 on net using the funds provided by KFL and its Directors. Besides dealing in shares of KFL, these companies also purchased shares of KVL an unlisted associate concern of KFL using the funds provided by KFL and its Directors. Details of purchase on gross are as follows:

Name of the Company	Qty	Amt. (Rs.)
Alankar	215500	24168198
Agnikamal	77000	8758095
Adhikash	54450	6044705
Kalpiti	65100	6884366
Satyanand	161500	16350840
Renold	65950	7044578
Total	639500	69250782

b. It was alleged that KFL and its directors had transferred huge amount of money running into several crores of rupees by obtaining bills of machinery and machinery spare parts from Alankar, Agnikamal, Adhikash, Kalpiti, Renold and Satyanand. Moreover, it was observed that these companies being financial companies had entered into sham transactions in order to facilitate transfer of funds to itself for purchase of shares of KFL and KVL.

c. It was further alleged that:

i. These companies even though had low equity share capital did not claim Rs.17.50 crore, net debit balance as shown in their balance sheets, owed to them by KFL. The details of equity share capital of these companies are given below.

Name of the Company	Equity Share Capital of the company as on 31/3/97 and as on 31/3/98 (In Rs.)	Name of the Directors
Alankar Finance	100000	N R Dalal & Madhukar Shetty
Agnikamal Finance	50000	N R Dalal & Madhukar Shetty
Adhikash Finance	50000	Anantnarayan Iyer & Atul Sant.
Kalpiti Trading	200	Mahendra B Joshi & Smt. Joshi

Satyanand Prasad Finance	100	Mahendra B Joshi & Smt. Prerna N Dalal
Renold Finance	1,00,000	Anantnarayan Iyer & Atul Sant.

ii. The rates mentioned on the debit notes were markedly different than the prevalent market rates. The same is observed from the following table:

Date	Price at BSE				Debit Note	Price Difference
	Open	High	Low	Close		
31/03/1998	131.50	131.50	125.00	125.00	For 41,900 shares @ 100.00 (raised by Adhikash to Competent)	25.00
31/03/1998	131.50	131.50	125.00	125.00	For 1,23,00 shares @ 162.91 (raised by Alankar to Dominance)	37.91
31/03/1998	131.50	131.50	125.00	125.00	For 37,500 shares @ 100.00 (raised by Agnikamal to Competent)	25.00
31/03/1998	131.50	131.50	125.00	125.00	For 48,700 shares @ 168.37 (raised by Renold to Competent)	43.37

iii. It was observed that two sets of debit notes each raised by Renold (2 notes bearing same number), Adhikash (2 notes bearing same number) and Alankar (2 notes bearing same number) on March 31, 1998, incidentally having the same numbers and issued on the same date but having different quantity and different rates.

iv. Alankar , Agnikamal, Satyanand, Sanvy Trading Pvt. Ltd. (Sanvy), Navrang Trading Pvt. Ltd. (Navrang), Repute Trading Pvt. Ltd. (Repute), and Aganit Trading Pvt. Ltd. (Agnit), were controlled by Shri Nalinesh R. Dalal (hereinafter referred to as 'Dalal') a Chartered Accountant and a lecturer at M. D. Shah Mahila College, Liberty Garden, Malad (West), Mumbai. Adhikash, Dharmesh Trading Pvt. Ltd. (Dharmesh), Renold Trading, Renold Finance, Suraj Trading (Suraj) and Dharamraj Trading Pvt. Ltd. (Dharamraj) were controlled by Shri Anantnarayan Iyer (hereinafter referred to as 'Iyer'), a Financial Consultant. Further, the

investigations with respect to the directors revealed that Shri Dalal was the director of Alankar, Agnikamal, Sanvy, Navrang, Repute and Aganit. It was also revealed that Shri Dalal's wife Smt. Prerna N. Dalal was a director in Satyanand for namesake only and for all her decisions Dalal was the responsible person. In all the companies in which Dalal was director, the other director was Shri Madhukar Shetty. Shri Iyer was director of Adhikash, Dharmesh, Renold, Renold Trading, Suraj Trading, Dharamraj. In all the companies in which Shri Iyer was a director, the other director was Shri Atul Sant. It is noted that Shri Madhukar Shetty, who was a director in Alankar and Agnikamal, used to run a canteen at the college where Shri Dalal was a lecturer. It seems that Shri Madhukar Shetty was appointed as a director in Alankar and Agnikamal for namesake only. He signed the documents/ Balance Sheets of the companies as directed by Shri Dalal.

v. It was also observed that as long as the shares were in physical form, the shares purchased in the name of Alankar, Agnikamal, Adhikash, Kalpit, Renold and Satyanand were collected by KFL/ its authorized representatives from the RTA after getting it transferred in the name of these companies. After dematerialization of shares the control over them was still kept with KFL through demat accounts which were opened in the name of the nominees of KFL by Alankar, Agnikamal, Renold, Satyanand with Action Financial Services (India) Ltd. (hereinafter referred to as 'Action'), Depository Participant (DP) of National Securities Depository Ltd. The other two companies had not converted their shares into dematerialized form. From the account opening forms of these companies some important facts have come into picture like out of these four accounts were opened with the same DP and on the same date i.e November 27, 1997, the correspondence address was given as that of KFL, i.e. Eucharistic Congress Building No. II, 5 Convent Street, Colaba, Mumbai. Further in all these four accounts the address of the first shareholders was mentioned as that of KFL, even the telephone numbers and fax numbers mentioned in all the account opening forms were that of KFL.

vi. The details provided by IDBI, vide letter dated September 21, 2000 October 04, 2000, observed that the shares held in the name of Agnikamal (24,400 shares) and Renold (24,900 shares) were pledged with IDBI by KFL for availing foreign currency loan. The pledged shares of KFL were returned by IDBI to Shri G. S. Krishnan, Finance Controller of KFL, at the instance of Agnikamal and Renold.

d. Through an off market deal the Competent Trading Pvt. Ltd. (hereinafter referred to as 'Competent'), Dominance Trade and Investment Pvt. Ltd. (hereinafter referred to as 'Dominance'), Precise Exports Pvt. Ltd. (hereinafter referred to as 'Precise'), Marvellous Trading Pvt. Ltd. (hereinafter referred to as 'Marvellous'), Lyric Investments and Trading Pvt. Ltd. (hereinafter referred to as 'Lyric'), Responsive Plastics Pvt. Ltd. (hereinafter referred to as 'Responsive') and Gainful Exports Pvt. Ltd. (hereinafter referred to as 'Gainful') had purchased shares of KFL and KVL from Alankar, Agnikamal, Adhikash, Kalpit, Renold and Satyanand during 1998 through debit notes raised by sellers. It was found that the funds for purchase of the shares of KFL and KVL were provided by KFL and KVL by way of opting preferential shares of the buyers to the tune of Rs. 27.03 crore. The summary of equity share capital of each of the seven companies and investment by way of preferential shares by KFL and KVL is as under:

Name of the Company	Equity Share Capital of the company as on 31/3/99 (In Rs.)	Investment by way of Pref. shares by KFL as on 31.03.99 (Rs.)
Gainful Exports	200	320,00,000
Lyric Investment	2000	307,00,000
Marvelous Trading	200	539,00,000
Precise Exports	3052000	470,00,000
Competent Trading	1402000	500,00,000
Dominance Trade	2502000	500,00,000
Responsive Plastic	2000	67,00,000
Total		27,03,00,000

e. It was alleged that apart from the aforementioned investments of Rs. 10.50 crore by way of preference shares in Competent, Dominance and Precise as on March 31, 1998, funds over Rs. 16.50 crore were transferred to these three

companies by KFL and KVL during the financial year 1998-99. It may be noted that all these entities were unlisted companies. Further, no justification was given for investment by KFL & KVL to the tune of Rs. 27.03 crore by way of preference shares in these companies. It was observed that investment in these unlisted companies did not yield any interest or dividend to KFL. The preference shares were also not redeemed and considering the financial health of these companies it is highly unlikely that the same would be redeemed in near future. Orders for these purchases were given to brokers by Shri Sunil Nair/ Shri Jatin Mehta and deliveries were also given to them. Further, it appears that Shri Sunil Nair was working for KFL and was given salary under the grab of consultation fee.

f. The Balance Sheet of KFL as on March 31, 1998, reveals that Rs. 19,75,25,000 was appearing as share application money under the head "Loans and Advances" on the assets side of the Balance Sheet. No adjustment has been made by KFL for allotment of preference shares, which have all been shown as allotted before March 31, 1998. The Balance Sheet of KFL for 1997-1998 has been signed on June 26, 1998 and therefore adjustment should have been made by transferring all the share application money into investments. These adjustments showing allotment/ purchase of preference shares of the seven entities by KFL appear to be an after thought to explain movement of funds from KFL group to the seven front companies namely Competent, Dominance, Precise, Responsive, Marvellous, Gainful and Lyric to Income Tax (IT) authorities, during the course of IT search.

g. The authority to invest in preferential shares of Competent, Dominance, Precise, Responsive, Marvellous, Gainful and Lyric was given to Shri K. K. Agarwal on March 20, 1998. However, the funds have been transferred much before on several occasions even though the allotment of shares was made on a single date i.e., March 25, 1998. The same was reported to Registrar of Company (ROC) only on September 03, 1998. An illusion was created by KFL and its Directors to show that it was paying money to these companies for investment in preference shares of Competent, Dominance, Precise,

Responsive, Marvellous, Gainful and Lyric, but in reality the funds were provided to these entities for purchase of shares of KFL only. Out of these seven companies namely, Competent, Dominance, Precise, Responsive, Marvellous, Gainful and Lyric, four were incurring losses running into several lacs/ crores of rupees at the time of investment. While other three were having negligible profits.

h. Shri K. K. Agarwal was further enquired about the fact that the Balance Sheet of KFL as on March 31, 1998, revealed that Rs. 19,75,25,000/- had been given towards share application money. Out of this, preference shares of Competent, Dominance and Precise worth Rs.10,05,00,000/- was allotted to KFL before March 31, 1998. The share application money shown as on March 31, 1998 along with additional investment in preference shares of Rs. 13,03,00,000/- in the financial year 1998-99 did not figure in investments in the annual account for the year 1998-99. With regard to the disclosure of investments by company in the preference shares of the seven companies in the annual audited accounts of the company for the financial year 1998-99, KFL had submitted that it had assigned/ sold the aforesaid shares to the vendor of capital goods in lieu of supply of various machineries. As such the same were reflected as advance made to the vendor towards supply of capital goods in the Balance Sheet as on March 31, 1999. However, due to non-receipt of requisite permission from the concerned authority for the aforesaid sale of shares in lieu of purchase of machinery, this deal was cancelled subsequently by the vendor of the machinery. However, it has been found that no such disclosure of assignment of preference shares to the vendors of capital goods has been made in the Annual Account for the year 1998-99. In view of the same it can be inferred that KFL, had either falsified its published annual audited accounts to give a misleading picture of its affairs of business as on March 31, 1998 and as on March 31, 1999 and the same cannot be relied upon by the investors or had deliberately made false submission before SEBI.

i. All the DP accounts of Competent, Dominance, Precise, Responsive, Marvellous, Gainful except that of Lyric, the correspondence address was

mentioned as that of KFL, i.e. Eucharistic Bldg., No. II, 5 Convent Street, Colaba, Mumbai – 400 039. Further, in all these seven accounts the address of the first shareholders was given as that of KFL and the telephone numbers mentioned in the account opening form of all the seven companies except Responsive was that of KFL's telephone number. In the case of Responsive no telephone number had been mentioned. The fax number mentioned in the account opening form of Competent, Dominance and Precise was same as that of KFL's fax number. For all the seven companies except for Lyric, Shri Lunkaran Kayal, brother-in-law of Shri O. P. Agarwal, was appointed as authorized signatory. The resolution for appointing him as authorized signatory was passed in each of the companies on September 17, 1998. From the resolutions passed by the entities shows their registered address as C-42, Milan Apartments, Ramchandra Lane, Malad (West), Mumbai - 400 064. The intimation of this change in authorized signatory was made to their DP Account on October 20, 1998. In case of Lyric, Shri Lunkaran Kayal was an authorised signatory from the date of opening of demat account. Significantly, in the case of Lyric the name of the introducer mentioned in the demat account opening form is KFL.

j. Competent, Dominance, Precise, Responsive, Marvellous, Gainful and Lyric had common Directors. The details of the directors along with their relationship with the KFL group are presented in the following table:

Name of Directors and tenure	Competent	Dominance	Precise	Gainful	Marvellous	Responsive	Lyric	Relation with KFL group
R.C. Jain	19.02.97 to 2.01.98		07.04.97 to 30.07.97	16.06.97 to 05.05.98	15.04.98 to 05.05.98	16.06.97 to 05.05.98	27.06.96 to 02.07.98	
Reena Jain	19.02.97 to 02.01.98		07.04.97 to 30.07.97	16.06.97 to 05.05.98	15.04.98 to 05.05.98	16.06.97 to 05.05.98		
Sunil Nair	14.07.98 to	13.07.98 to	17.07.98 to 26.10.98	04.05.98 to	04.05.98 to	20.07.98 to		Financial

	26.10.98	26.10.98		26.10.98	26.10.98 13.11.98 to 21.12.98	26.10.98		Consultant of KFL
Jiten Mehta				04.05.98 to 20.07.98		04.05.98 to 23.07.98		Financial Consultant of KFL
Murugan Pillai	14.07.98 to 23.07.98	01.01.98 to 23.07.98	29.07.97 to 23.07.98	15.07.98 to 23.07.98	09.07.98 to 23.07.98	20.07.98 to 23.07.98	01.07.98 to 27.10.98 06.11.98 to 22.12.98	Employee of KFL
Murari Poddar	22.07.98 to 17.09.98 11.11.98 to	22.07.98 to 17.09.98	22.07.98 to 17.09.98	22.07.98 to 17.09.98	22.07.98 to 17.09.98	22.07.98 to 17.09.98		Relative
Lunkaran Kayal	16.09.98 to 14.11.98	16.09.98 to 21.11.98	16.09.98 to	16.09.98 to 19.11.98	16.09.98 to 17.11.98	16.09.98 to 18.11.98	28.09.98 to 16.11.98 21.12.98 to	Relative (brother-in-law of O. P. Agarwal)
Vijaylaxmi Poddar	23.10.98 to	23.10.98 to 21.11.98	23.10.98 to 10.11.98	23.10.98 to 19.11.98	23.10.98 to 17.11.98	23.10.98 to 18.11.98	20.10.98 to 16.11.98	Relative (sister-in-law of O. P. Agarwal)
Rajshree Mehta				16.11.98 to				Sister of Jiten Mehta
Pramila Mehta				16.11.98 to				Mother of Jiten Mehta
Renuka Motwani	01.01.98 to 16.07.98		29.07.97 to 20.07.98					Employee of KFL

Bhavana Mehta	01.01.98 to 16.07.98	01.01.98 to 16.07.98						Employee of KFL
Draupadi Kayal			09.11.98 to					Mother of Lunkaran Kayal
Bharti Jain		01.01.98 to 02.01.98						
Kavita Jain		15.07.96 to 02.01.98						
Subbalaxmi Pillai		10.11.98 to						Share same address with Murugan Pillai
Vishwanathan Pillai		10.11.98 to						Share same address with Murugan Pillai
Nitin Deshpande					04.05.98 to 13.07.98			Employee of KFL
Sushil Kumar Agarwal						14.11.98 to		
Babita Agarwal						14.11.98 to		
Siji Nair					13.11.98 to 21.12.98			Wife of Sunil Nair
Sundeep Kabra					18.12.98 to			Brother of Sanjay Kabra
Meenakshi Kbara					18.12.98 to			Wife of Sanja

								y Kabra
Sanjay Kbara							01.07. 98 to 30.09. 98	Comp any Secre tary of KFL
Mahendra Patole							27.06. 96 to 02.07. 98	
Mahalaxmi Pillai							06.11. 98 to	

k. The equity share capital of Competent, Dominance and Precise was increased in the year 1997-1998 from 200 shares each of Rs.10/- each aggregating to a nominal amount of Rs.2000/- and the allottees were Shri Pankaj Gupta, his family members and associate concerns. The reason for investment by Shri Pankaj Gupta in Competent, Dominance and Precise was that he had issued loan to Shri Sunil Nair in the name of the Competent, Dominance and Precise from their firms K. K. Traders, K. L. Traders, Swarn Corporate Services and other firms from Sept 1997 to March 1998 and it was considered as an application for shares in the Competent, Dominance and Precise. From the submission made by KFL, it had been gathered that Shri Pankaj Gupta/ his family members and associated concerns namely, Shatul K. Gupta; Rajen K. Gupta; Kavita Gupta; Kamal Gupta; Swarn Corporate and Swarn Data System Pvt. Ltd, had a shareholding of 22,000 shares of KFL under the category of promoters of KFL (as on July 28, 2000). Thus, an inference can be made that KFL used its own funds to increase equity of Competent, Dominance and Precise. Further, it is controlling the entire equity capital of these companies in the name of Shri Lunkaran Kayal. Thus, it was concluded that a smoke screen of these front entities had been created by the Directors of KFL to hide their identity in rigging of price of KFL shares.

l. During the course of investigation, information was called for from Intime Spectrum Registry Pvt. Ltd., (hereinafter referred to as 'Intime'), RTA to KFL. The dividend register submitted by Intime revealed that the following companies

had mentioned the registered office address of KFL as their correspondence address for various purposes.

For the purpose of Interim Dividend for the year 1996-97:

- a) Agnikamal Finance & Trading Pvt. Ltd.
- b) Renold Finance & Investment Pvt. Ltd.

For the purpose of Final Dividend for the year 1996-97:

- a) Agnikamal Finance & Trading Pvt. Ltd.
- b) Renold Finance & Investment Pvt. Ltd.

For the purpose of Interim Dividend for the year 1997-98:

- a) Agnikamal Finance & Trading Pvt. Ltd.
- b) Alankar Finance Investment Pvt. Ltd.
- c) Kalpit Trading Pvt. Ltd.
- d) Satyanand Prasad Finance Pvt. Ltd.

For the purpose of Final Dividend for the year 1997-98:

- a) Precise Exports Pvt. Ltd.
- b) Satyanand Prasad Finance Pvt. Ltd.

m. Details submitted by Intime further revealed that Shri Lunkaran Kayal was the authorised signatory and contact person in 11 concerns and Smt. Bhavna Mehta in three concerns as given below.

Name of the share holder	Name of authorised signatories
1. Competent Trading Pvt. Ltd.	Lunkaran Kayal & Renuka Motwani
2. Dominance Trade Investment Pvt. Ltd.	Murugan Pillai & Bhavna Mehta
3. Precise Exports Pvt. Ltd.	Lunkaran Kayal
4. Marvellous Trading Pvt. Ltd.	Lunkaran Kayal
5. Responsive Plastics Pvt. Ltd.	Lunkaran Kayal
6. Gainful Exports Pvt. Ltd.	Lunkaran Kayal
7. Lyric Investments Trading Pvt.	Lunkaran Kayal

Ltd.	
8. Alankar Finance & Investment Pvt. Ltd.	Lunkaran Kayal
9. Renold Finance & Trading Pvt. Ltd.	Lunkaran Kayal
10. Adhikash Finance & Trading Pvt. Ltd.	Bhavna S Mehta
11. Agnikamal Finance & Trading Pvt. Ltd.	Bhavna S Mehta
12. Kalpit Trading Pvt. Ltd.	Lunkaran Kayal
13. Pristine Marketing Pvt. Ltd.	Lunkaran Kayal
14. Satyanand Prasad Finance Pvt. Ltd.	Lunkaran Kayal

n. Significantly, Shri Lunkaran Kayal, who is/ was an authorised signatory in eleven out of fourteen companies, is also brother-in-law of Shri O P Aggarwal, Chairman of KFL. In rest of the three companies Smt. Bhavna Mehta, who was an employee of KFL Group, was appointed as authorised signatory. For the under mentioned companies, share certificates after signing by the respective authorised signatory were retained by KFL for delivering at their end.

- (i) Responsive Plastics Pvt. Ltd.
- (ii) Lyric Investments Pvt. Ltd.
- (iii) Adhikash Finance Pvt. Ltd.
- (iv) Kalpit Trading Pvt. Ltd.
- (v) Satyanand Prasad Finance Pvt. Ltd.
- (vi) Renold Finance & Investment Pvt. Ltd.
- (vii) Norton Traders Pvt. Ltd.
- (viii) Alankar Finance & Investment Pvt. Ltd.
- (ix) Pristine Marketing Pvt. Ltd.
- (x) Precise Exports Pvt. Ltd.
- (xi) Gainful Exports Pvt. Ltd.
- (xii) Marvellous Trading Pvt. Ltd.
- (xiii) Dominance Trade & Investment Pvt. Ltd.
- (xiv) Competent Trading Pvt. Ltd.

o. The shares of KFL purchased in the name of all the above-mentioned companies were retained by KFL after endorsement by Intime as it was observed that in two covering letters dated July 01, 1997 and November 23, 1998, written by KFL and addressed to intime, KFL had specifically mentioned that they were returning only share transfer register in respect of the above transfers.

p. Investigations with brokers and sub-brokers brought out that orders for purchases of shares of KFL and KVL in the name of these six companies (Alankar, Agnikamal, Adhikash, Kalpit, Renold and Satyanand), were given by Shri Jiten Mehta. Likewise payment for these purchases was also received from Jiten Mehta and delivery of these shares (purchased in the name of these said six companies) were given by the brokers & sub-brokers to Shri Jiten Mehta (sometimes at his office at KFL).

q. The funds for the purchase of shares of KFL, in some instances were given directly to sub-brokers Dharamshi Capital Services (hereinafter referred to as 'DCS') by KFL itself. The analysis of bank account of the DCS revealed that payments for purchase of shares by Competent and Dominance had been made directly by KFL to the DCS. It was observed that DCS had purchased 42,200 shares of KFL for Rs. 108.71 lac for Competent, payment of which was received by it from KFL. Indeed, DCS received a sum of Rs. 136 lac from KFL towards the payment of the shares of KFL purchased by it on behalf of Competent and Dominance. The sub-broker also received another sum of Rs. 30 lac from H.D. Fire Protect Company on the instructions of KFL towards the purchase of shares of KFL on behalf of Competent and Dominance. It appears that H.D. Fire Protect Company owed a sum of Rs. 30 lac to KFL which it paid to DCS on the instructions of KFL. In other words, DCS as a sub-broker purchased shares of KFL from the market on behalf of Competent and Dominance and received the purchase amount from KFL. The details of payments received by DCS on behalf of Dominance and Competent from KFL are tabled below:

Date	Cheque No.	Cheque Amount	Name of the bank
June 26, 1998	108223	5,00,000	Canara Bank
June 29, 1998		5,00,000	
June 29, 1998	108226	10,00,000	Canara Bank
July 01, 1998	108227	5,00,000	Canara Bank
July 02, 1998	108231	10,00,000	Canara Bank
July 05, 1998		10,00,000	
July 08, 1998	108238	5,00,000	Canara Bank
July 13, 1998	108243	5,00,000	Canara Bank
July 14, 1998	108245	5,00,000	Canara Bank
July 16, 1998	108249	20,00,000	Canara Bank
July 18, 1998	108257	10,00,000	Canara Bank
July 21, 1998	108265	6,00,000	Canara Bank
July 24, 1998	108273	10,00,000	Canara Bank
July 27, 1998	108279	10,00,000	Canara Bank
July 28, 1998		20,00,000	
Total		1,36,00,000	

r. It was observed that the promoters were having large chunk of shares with them and whatever little floating stock was there, same were cornered by the entities related/ connected/ associated to/with the company and its Directors. As on May 10, 1999 holding of the promoters, Directors and entities related/ connected/ associated with/ to KFL was 68,23,200, accounting for 87.63% of the share capital of the company. This cornering of shares by the promoters/ Directors of KFL through various mechanism detailed earlier jacked up the price of shares of KFL as a small percentage of shares were left for trading in the market, so that a higher conversion price of its OFCDD could be fixed. For want of liquidity, the price artificially rose from Rs. 153/- to Rs. 311/- and this rigging enabled KFL to fix the conversion price of its OFCDD at Rs.154/- per share.

S.No	Particulars	No. of shares	% of total No. of shares
1.	Promoters holding under physical segment as disclosed under Reg. 6(3) of Takeover Regulation	1177700	15.1253
2.	Promoters holding under demat segment as disclosed under Reg. 6(3) of Takeover Regulation	2547500	32.72
3.	Holding by foreign collaborator Daewoo Corporation	1750000	22.48
4.	Holding by 7 corporates Competent Trading,	1348000	17.31

	Dominance Trade , Precise Exports, Marvellous Trading, Responsive Plastics , Gainful Exports and Lyric Investments		
	Total of 1, 2, 3, 4	6823200	87.6353
	Total Equity share capital of KFL as on May 10, 1999	7786300	

Thus, presently the promoters alongwith their foreign collaborators are holding around 88% of the paid up equity share capital. It also appears from the copy of the share distribution schedule filed by the company with BSE that as on September 17, 1999, 2,44,447 equity shares constituting 3.14% of the equity share capital was held by UTI and GIC. Thus, the stock available in the market for trading was only 7,18,653 i.e. approximately only 9.23 % of the equity share capital. Further, from this the acquisition by promoters of KFL group holding increased in KFL from 67.48% to 87.63% without making a public announcement to acquire shares of KFL in contravention of Regulation 11 (2) of SEBI (Substantial Acquisition of Shares and Takeover) Regulation, 1997.

s. Nexus between promoters/ Directors of KFL and the entities controlled by S/ Shri Dalal and Iyer namely, Alankar, Agnikamal, Adhikash, Kalpit, Renold and Satyanand and the seven font entities of KFL namely, Competent, Dominance, Precise, Responsive, Marvellous, Gainful and Lyric is further evident from following. Funds transferred from KFL or its Directors to Alankar and Renold were used to buy shares of associate/ group company of KFL namely KVL. Sale proceeds of these shares were used for purchase of KFL shares. Investigations revealed that these two entities purchased shares of KVL from Birla Global Finance Ltd. (BGFL). Inquires were made with BGFL as to the nature of transaction in shares of KVL, the counter party involved, person with whom negotiation had taken place and mode of payment. BGFL, vide letter dated September 30, 2000 and November 21, 2000, submitted that 3,78,200 shares of KVL were allotted to them in a 'bought out deal'. This deal was lead managed by IDBI, which had appraised the project of KVL (formerly Anita Chemical Industries Ltd.) to produce vinyl material sometime in 1995. IDBI funded the project by way of term debt and equity organized through a bought out deal. The balance portion was invested by BGFL and a set of investors. The

understanding was that whenever any portion of the bought out deal is offered for sale it would be made at a substantially higher price than the subscription price. The subscription was made in Anita Chemicals (now KVL) on the assumption that the company would list its shares on the stock exchange within next 12 to 18 months by coming out with fresh issue of equity shares along with the offer for sale by investors in the bought out deal. When the envisaged public-cum-offer for sale did not come through even after one year, the management of KVL was requested to provide an exit route to the investors in the bought out deal. As such, the management organised for buying the shares of BGFL to provide an exit route to it. These shares were sold to Dharmesh Trading Pvt. Ltd. for a total consideration of Rs.317.775 lac. However, the consideration for this was received by BGFL from Alankar Finance (Rs.200 lac) and Dharmesh Trading Pvt. Ltd. (Rs.117.775 lac).

t. Out of 3,78,200 shares sold by BGFL, 3,10,100 shares were transferred in the name of Alankar and 68,100 shares were transferred in the name of Renold Finance. Later, the shares held by Alankar were transferred to Precise and those held by Renold Finance were transferred to Dominance. As already detailed earlier Alankar, Renold, Finance, Dominance and Precise were in control of KFL and/ or promoters/ Directors.

5. Since no reply was received from the noticees, reminder letters dated June 22, 2007 and June 25, 2007 were issued to them. Further, as no reply was forthcoming, an opportunity of hearing was given to the noticees on July 20, 2007, vide letter dated July 5, 2001.
6. The noticees, vide letter dated July 03, 2007 received on July 05, 2007, inter alia, submitted the following:
 - a. The SEBI has not quoted the entire order of SAT and has sought to reply only on part of the order.
 - b. The documents sought by the notice vide their letter dated May 20, 2002 have not been furnished to them, and in the absence of these the noticees are unable

to file a complete and comprehensive reply to the show cause notice in order to defend their rights and interests in a proper form.

c. A list of documents was requested in the letter.

7. Moreover, the noticees, vide letter dated July 19, 2007, had requested for adjournment of the hearing to a date after the details and documents sought for by them are furnished. Further, they had intimated that they would opt for the consent order on or before July 30, 2007. SEBI, vide letter dated August 6, 2007, provided remarks with regard to the queries raised by the noticees, vide their letter dated July 03, 2007, and also extended the opportunity for inspection of documents to August 13, 2007. It was also expressed that the noticees were not co-operating with the directions issued to them. KFL had wrote to SEBI on August 13, 2007 informing their inability to inspect the documents on the scheduled date and requested for fixing the date for inspection of documents on August 16, 2007 and time of 10 days thereafter to file their reply to the SEBI show cause notice dated May 29, 2007. Accordingly, the opportunity to inspect documents was rescheduled on August 16, 2007, and the same was communicated to them by a letter dated August 13, 2007. In the mean time in response to the query raised by the noticees regarding the process of consent order, vide letter dated July 19, 2007, a letter dated July 24, 2007 was sent by SEBI to the noticees informing them about the availability of the process of consent order in accordance with the EFD/ED/Cir.-1/2007 dated April 20, 2007. The noticees, vide letter dated August 21, 2007, communicated that they had filed applications for consent order and requested that the opportunity to inspect documents and the personal hearing before the Whole-time Member of SEBI scheduled to be held on August 23, 2007, be adjourned till a decision on the said consent applications was taken. Accordingly, the pending proceedings were kept in abeyance.
8. The High Powered Advisory Committee [HPAC] on consent and compounding orders, recommended to SEBI that the case was not a fit case to proceed with under the consent process. A letter dated January 21, 2008, was sent to the

noticees informing them about the rejection of the consent applications and the proceedings kept in abeyance would commence with immediate effect. The information regarding rejection of the consent applications and commencement of the proceedings kept in abeyance was reiterated through another letter dated January 24, 2008. Moreover, in continuation of the pending proceedings, an opportunity to inspect the documents was fixed on February 12, 2008. It was further informed that since inspection of documents would not create any additional charge against them, they were directed to make submission to the SEBI Show Cause Notice dated May 29, 2007 on or before February 19, 2008. Shri Sanjay Kabra and Shri Deepak Dhane, authorized representatives of KFL, inspected the documents on February 12, 2008, February 18, 2008 and February 22, 2008.

9. From the inspection of documents the following issues were noted/ pointed out:

i) Documentary evidence of relationship with KFL group as detailed in 2.27 of the SCN was not provided.

(ii) In para 2.16 of the SCN it has been mentioned that Alankar purchased 2,15,500 shares whereas the record showed that the actual figure was 2,18,000 shares. On the other hand on the same para it has been shown that Alankar has sold 1,62,900 shares to related entities, whereas the record indicated that Alankar sold only 41,900 shares to related entities. Further, purchase of shares by Dominance of 1,86,300 KVL shares from Renold was wrongly shown as KFL shares.

(iii) Inspection of documents was carried out with respect to point 4.0 of Krishna Filaments Ltd.'s letter dated July 03, 2007.

10. An opportunity of hearing was fixed on March 13, 2008 and the notices were accordingly issued vide letter dated March 5, 2008. In reply to the same, the noticees by letter dated March 11, 2008, expressed their counsel's inability to attend the hearing on March 13, 2008, and requested for extension of the date for personal hearing to any date after March 24, 2008. Therefore, vide letter dated March 12,

2008, the noticees were intimated that a final opportunity of personal hearing was granted to them on March 24, 2008, to make their submission before the Whole-time Member, SEBI. In their reply dated March 19, 2008, the noticees, inter alia, submitted that:

- a. almost all of the allegations and findings contained in the Show Cause Notice dated May 29, 2007 were the same allegations and findings as seen in the previous show cause notice dated November 19, 2001 and requested for inspection of documents. They further submitted that till such time a detailed reply is filed, their reply dated November 19, 2001 to the show cause notice dated July 16, 2001 and their Appeal no. 30 of 2005 before the Hon'ble SAT be treated as partial reply to the present show cause notice dated May 29, 2007.
 - b. they reiterated their request to cross examine S/Shri N. R. Dalal, Anant Narayan Iyer, Hiten Dharamshi and Narendra Dharmashi.
 - c. their request for inspection of all documents relied upon by SEBI was not acceded to and inspection of the documents listed therein were not given.
11. I have heard the noticees on March 24, 2008 wherein they made their oral submissions. During the personal hearing, the noticees were directed to file their detailed reply to the show cause notice / written submissions in the matter within a period of 15 days. The noticees also undertook to file the same within the stipulated period. I find that KFL by a letter dated April 15, 2008 informed SEBI that they have been facing difficulty in finalizing the reply to the show cause notice since a key official who is conversant with the facts has been unable to attend to the matter for personal reasons and requested that the time be extended till April 30, 2008 for filing the written submissions and the reply. I find that the noticees were granted many opportunities for filing their reply. I also note that the Hon'ble Securities Appellate Tribunal has directed SEBI to pass the orders expeditiously in the matter. Since the noticees did not afford any reply to the show cause notice despite reasonable opportunities given, affording another opportunity would only delay the

proceedings. Therefore, in view of the above reasons, a letter dated April 16, 2008 was issued to KFL informing that its request for extension of time for submission of its reply has not been granted. Subsequently, I note that the noticees (M/s. KFL, O P Agarwal, K K Agarwal, S K Agarwal and KVL) submitted their reply dated 30-04-2008 (received in the office of SEBI on 02-05-2008) wherein they made their detailed submissions. Since this order is being passed after the receipt of their submissions, I find that in the interest of justice, the said reply of the noticees should be considered which has been done in this order in the later part.

12. I have perused the show cause notice, replies and all the correspondence had with the noticees and their oral submissions made during the hearing before me. On perusing the material available on record, I find that the following issues arise for my consideration in the instant case –
 - a. Whether the noticees have violated Regulation 4(a), (c), (d), and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.
 - b. Whether the noticees have violated Regulation 11(2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulation, 1997.
13. I observe from the price volume data that spurt in the price of KFL scrips in the month June, 1998 followed issuance of OFCDD by KFL in the month of April- May of year, 1997. The fund flow data, attached to Show Cause Notice as Annexure B shows that the funds were transferred by the directors of KFL during 1997-1998 to the companies Alankar, Agnikamal, Adhikash which had transferred the said funds to Dharmesh Trading, Sanvy, Repute, Navarang, Penguin enterprises and Suraj, in-turn the said funds were transferred mainly to KFL and KOCL and also to M/s Iccon, M/s Virendra & Co., M/s Laxmi Steel, M/s Intel, M/s Vimal Sales, M/s Jalan Iron, M/s Balaji Wine and M/s Fenil Informaiton.
14. The balances of KFL group in the books of Adhikash, Dharmesh, Dharamraj, Renold Finance, Renold, Suraj, Aganit, Agnikamal, Alankar, Navrang, Repute and

Sanvy given as Annexure C to the Show Cause Notice reveal net credit balance of huge amounts against KFL and its group companies. The sundry accounts of Alankar and Agnikamal for the period April 1, 1997 to March 31, 1998 shows credit entries against the name of KFL and group companies.

15. The fund flow data provided as Annexure E to the Show Cause Notice depicts that funds have been transferred from the KFL and its group companies to Precise, Competent, Aganit and Dominance and has flown back to the KFL and its group companies through Adhikash, Dharmraj, Navrang, Sanvy, Repute and Renold Trading.
16. The demat account opening forms annexed to Show Cause Notice as Annexure F shows that the Alankar, Agnikamal, Renold and Satyanand had opened four accounts with the same Depository Participant namely, Action Financial Services (India) Ltd., on the same date i.e. November 27, 1997. The correspondence addresses of all these entities were given as that of KFL, i.e. Eucharistic Congress Building No.11, 5 Convent Street, Colaba, Mumbai and in all these accounts the address of the first shareholders was mentioned as that of KFL.
17. From the details provided by IDBI, vide letter dated September 21, 2000 and October 04, 2000 attached as Annexure G to Show Cause Notice, I observe that the shares held in the name of Agnikamal and Renold were pledged with IDBI for obtaining corporate foreign currency loan in favour of KFL. Subsequently, the said shares were handed over to Shri G. S. Krishnan, Finance Controller of KFL, only at the instance of Agnikamal and Renold.
18. The transfer of shares to Competent, Precise and Dominance is supported by two sets of Debit Notes each raised by Renold (2 notes bearing same number), Adhikash (2 notes bearing same number) and Alankar (2 notes bearing same number) on March 31, 1998. All these notes issued on the same date but have different quantity and rates which can be seen from Annexure H enclosed with the Show Cause Notice. I find that the shares held in the name of Alankar, Agnikamal, Adhikash, Kalpit, Renold and Satyanand were later transferred to a set of front companies namely Competent, Dominant and Precise directly under the control of

KFL and its Directors. The shares of KFL and KVL were transferred to Competent, Dominant and Precise by raising debit notes i.e. off-market deals which were not routed through any broker or any recognized stock exchange. Such transfers were made by raising debit notes for which there was no consideration. The said debit notes could have been ante-dated in order to justify the possession of shares done after the search conducted by Income Tax Department (hereinafter referred to as 'IT') at the premises of KFL group companies and their Directors and their related/ associated entities. This is further substantiated from the two set of debit notes each raised by Renold (2 notes bearing same number), Adhikash (2 notes bearing same number) and Alankar (2 notes bearing same number) on March 31, 1998, incidentally having the same numbers and issued on the same date but having different quantity and different rates as mentioned above. This shows that these debit notes were created to justify the possession of shares, which were found during the course of IT search. These shares were shown to have been sold at prices, which were markedly different from the existing market price, the possible reason for this was that after IT searches they were trying to justify the possession of shares of KFL at their hand without giving much thought about the price.

19. The demat account opening forms of Competent, Dominance, Precise, Gainful, Marvellous, Responsive, Lyric annexed to Show Cause Notice as Annexure J, reveal that all these entities had given their correspondence address as that of KFL ie. Eucharistic Bldg., No.II, 5 Convent Street, Colaba, Mumbai - 400039 and the address of the first shareholder was given as that of KFL. All the seven entities except Lyric had appointed Shri Lunkaran Kayal as their authorized signatory by resolutions of each of the applicants on September 17, 1998 having their registered office at C-42, Milan Apartments, Ramchandra Lane, Malad (West), Mumbai-400064. The same was intimated to the depository participant on October 20, 1998. In case of Lyric, Shri Lunkaran Kayal was its authorized signatory from the date of opening of the account. I find that Lyric was introduced by KFL. I find from the copy of the dividend register submitted by Intime Spectrum Registry Pvt. Ltd. (Intime), RTA of KFL, that Agnikamal, Alankar, Kalpit, Satyanand, Renold and Precise had mentioned the registered office address of KFL as their correspondence address for

various purposes. I also find that Shri Lunkaran Kayal was the authorized signatory and contact person of 11 entities and Smt. Bhavna Mehta of 3 entities. KFL submitted that it was not aware at any point in time that the said companies had given their correspondence address as that of it. But I find that this argument would also not hold good as the authorized signatory in all the above said entities is Shri Lunkaran Kayal who is none other than the brother-in-law of Shri O P Agarwal, Chairman of KFL and Smt. Bhavan Mehta who was an employee of KFL. It may also be noted that Lyric was introduced to the DP by KFL itself. Moreover, I note that KFL has submitted that at times its registrar would send the transferred shares to the company for onward dispatch to the transferees and that it was not aware as to what happened to the shares purchased by the said entities. I find that shares belonging to the said entities were delivered to KFL or its authorized representatives by its registrar. Hence, the submission made by the noticees that they were not aware that the entities had given the address of KFL in the demat account opening forms as their correspondence address sounds hollow.

20. I find that Annexure L attached to the Show Cause Notice reveals that Shri Pankaj Gupta, his family members and associates were also the promoters of KFL along with S/Shri K. K. Agarwal, S. K. Agarwal, O. P. Agarwal and others. Further, I note that Shri Pankaj K Gupta and his family members were major share holders in Competent, Dominance and Precise.
21. Further, from the submission made by Intime, I observe that KFL had retained the share certificates for Responsive, Lyric, Adhikash, Kalpit, Satyanand, Renold Finance, Norton Traders Pvt. Ltd., Alankar, Pristine Marketing Pvt. Ltd., Precise, Gainful Exports Pvt. Ltd., Marvellous Trading Pvt. Ltd., Dominance and Competent.
22. I find that the share certificates in respect of transfer of 3,56,600 shares in the name of Competent, Dominance, Precise, Responsive, Marvellous and Gainful were retained by KFL and only transfer register was returned back to Intime for the records. Similarly, for transfer of 1,31,600 shares pertaining to Alankar and Satyanand only transfer register were returned back to Intime and share certificates

were retained by KFL/ Shri K. K. Agarwal. In the said register, whenever the shares had been despatched to the transferee or to the lodgers of the certificates by post the date of despatch had been mentioned. In the despatch details pertaining to the above mentioned companies, the words "HD" or "Hand delivery" to the company was mentioned. From the inward share register of Intime, it is evident that the shares in respect of the above mentioned companies after endorsement by Intime were retained by KFL. The same has also been observed from the two letters dated July 01, 1997 and November 23, 1998, written by KFL which were addressed to Intime. KFL had specifically mentioned that they were returning only the share transfer register in respect of the above transfers. Thus, it can be inferred that the shares of KFL purchased in the name of all the above mentioned companies were retained by KFL after endorsement by Intime and were at all time under the possession and control of KFL and its Directors.

23. Thus, on perusal of the above mentioned documents and Minutes of the inspection of documents given to the noticees, it becomes evident that Alankar, Agnikamal, Kalpit, Renold and Satyanand made gross purchase of shares to the tune of 6,42,000 shares and on net purchases to the tune of 4,36,800. These shares were acquired by raising huge money from the directors of KFL by obtaining bills of machinery and machinery spare parts from purchasers. KFL vide its reply dated November 19, 2001 and July 3, 2007 had denied cornering of shares and further denied that money was siphoned off from the company. It further denied that fictitious bills were obtained from any of the 12 companies during the relevant period. It also stated that the said 12 companies are independent companies and that KFL or any of its directors or any member of the Agarwal family were neither directors nor shareholders in them. It submitted that Dharmesh, Suraj, Dharamraj had sold fabricated/assembled machines and spare parts worth Rs.27.87 crores to KFL and that bills raised for such purchases were genuine. It further denied that funds have been transferred back from the said 12 companies and that the said companies had made the payments to KFL for the goods supplied to KFL. As no documentary evidence for the claim made by the noticees that the bills were genuine with respect to the purchase of machinery were provided, SEBI, vide letter

dated August 06, 2007 required the noticees to provide certified copies of all bills relating to purchase of machinery and machinery spare parts during the period January 1997 to December 2000. However, no such bills were submitted by the noticees till date. I note that the noticees have submitted that the High Court of Bombay had appointed a Court Receiver as the receiver of KFL's factory including the plant and machinery were in the possession of the court receiver. They have also submitted that the Court Receiver, High Court of Bombay had made two inventories of the machinery and copies of the same have been forwarded to SEBI. Assuming for a while that the submission of the noticees is correct, I find that for the purchase of machinery for the company (KFL), the consideration has been paid by its directors. This raises a serious doubt as to the genuineness of the claim of the noticees. Why should the directors pay the consideration from their personal accounts for the capital expenditure of the company, which fact would thus add more weight to substantiate the charges leveled against the noticees.

24. I find that the shares purchased by Alankar, Agnikamal, Kalpit, Renold and Satyanand were then transferred to Competent, Dominance, Precise, Marvellous, Lyric, Responsive and Gainful by an off market transaction by raising debit notes (which are found to be at a rate different from that of the then prevalent market price and found to be in duplicate). Further, the funds for purchase of shares were transferred from the directors of KFL to Precise, Competent, Aganit and Dominance and the same has flown back to KFL and its group companies as shown in the annexure B and E to SCN.
25. I find that the content in the annexures to the show cause notice at Annexures F, G, J and N as discussed above further strengthens the case that KFL and its directors, Alankar, Agnikamal, Adhikash, Kalpit, Renold & Satyanand and Competent, Dominance, Precise, Responsive, Marvellous, Gainful & Lyric were hand in glove and had fraudulently / artificially raised the price of the shares of KFL. The nexus between these companies is further established by the fact that the dividend register shows the correspondence address of KFL, common authorized signatory as Lunkaran Kayal and the fact that the share certificates belonging to Alankar,

Pristine Precise, Gainful, Marvelous, Dominance, Competent, Responsive, Lyric, Adhikash, Kalpit, Satyanand, Renold Finance and Norton were retained by KFL.

26. I also observe that the KFL had transferred funds to Competent, Dominance and Precise as against the allotment of preference shares. Interestingly, some of these companies had very insignificant capital base when such huge investments by KFL were made.
27. It is observed from Balance Sheet of KFL as on March 31, 1998 that Rs. 19,75,25,000 was appearing as share application money under the head "Loans and Advances" on the assets side of the Balance Sheet. No adjustment has been made by KFL for allotment of preference shares to them before March 31, 1998. The Balance Sheet of KFL for 1997-1998 has been signed on June 26, 1998 and therefore adjustment should have been made by transferring all the share application money into investments. Further, I find that the authority to invest in preference shares of Competent, Dominance, Precise, Responsive, Marvellous, Gainful and Lyric were given to Shri K. K. Agarwal on March 20, 1998. However, the funds had been transferred much before on several occasions even though the allotments of shares were made on a single date i.e., March 25, 1998. The same were reported to the Registrar of Companies only on September 03, 1998.
28. I find that Shri K.K. Agarwal, Managing Director of KFL stated that the investment in Competent, Dominance, Precise, Responsive, Marvellous, Gainful, and Lyric was made by them to have consistent dividend from the surplus money of the company. This statement appears to be contrary to the fact that the KFL's balance sheets for the year 1997-1998 and 1998-1999 showed increase in the loan liability of the company and the investee companies were unlisted and had low equity capital. Moreover, I find that the explanation of KFL that it invested in the preference shares of the above mentioned 7 companies to have consistent dividend every year wanted regular income is not tenable because of the fund flow as shown above between KFL and other associate entities and also the trading by them and rigging the price of the scrip of KFL. I also note that the noticees have merely denied the allegation and have submitted that the fact that their investments in the aforesaid companies

did not yield interest or dividend is irrelevant and meaningless. Thus, I find that the statement of Shri K. K. Agarwal is far from truth as the transfer of funds for preference shares is seen to have been made only in order to achieve their ulterior motive to rig the price of the shares of KFL. Further, I also find that the Balance Sheets of KFL for the year 1997-98 and 1998-99 also show an increase in loan liability with no surplus funds. The above adjustments by showing allotment / purchase of preference shares of the seven companies by KFL seem to be an afterthought to explain the reason of movement of funds from KFL group to the seven front companies to Income Tax authorities. I also find that during the period September 01, 1997 to December 31, 1998, KFL transferred funds to Competent, Dominance and Precise which in turn transferred these funds to a set of other four front companies of KFL namely Responsive, Marvellous, Gainful and Lyric. The funds so transferred to these seven front companies by KFL were used by these companies to corner the floating stock of KFL from the market through various brokers / sub-brokers. I also find that Shri K. K. Agarwal, Shri S. K. Agarwal, Shri R. K. Agarwal and Shri O. P. Agarwal paid money to the entities controlled by S/Shri Dalal and Iyer in order to buy KFL shares with the intention of cornering and rigging the price of the shares of KFL. One such intermediary was Dharamshi Capital Services (a sub-broker) which facilitated the purchase of shares of KFL in its attempt to corner the floating stock. The said sub-broker had aided and abetted KFL in the purchase of its shares, which was also admitted by them during the proceedings before the Hon'ble SAT wherein based on such admission, the Tribunal was pleased to dismiss the appeal filed by it. I further find strength to the said fact that the KFL had transferred funds to Dharamshi for purchase of shares of KFL in name of Competent and Dominance. The sub-broker also received another sum of Rs. 30 lacs from H.D. Fire Protect Company on the instructions of KFL towards the purchase of shares of KFL on behalf of Competent and Dominance. It appears that H.D. Fire Protect Company owed a sum of Rs. 30 lacs to KFL which it paid to DCS on the instructions of KFL. The Hon'ble SAT in the Appeal No.89/2005 vide its order dated March 1, 2007 has observed thus:

"We have heard the learned counsel for the parties. In view of the admission made by the appellant in the grounds of appeal and also by his learned counsel at the time

of hearing as referred to above, the charge of aiding and abetting KFL to purchase its own shares from the market stands established. The trades executed by the appellant as a sub-broker also violated Regulation 4 of the aforesaid Regulations. He has also violated the code of conduct. The violation committed is rather serious and, therefore, the Board was justified in debarring him from accessing the capital market for a period of five years. No fault can, thus, be found with this part of the order.” [Emphasis provided]

29. With regard to the role of KVL, I note that the details obtained from KVL revealed that out of 3,78,200 shares of KVL sold by Birla Global Finance Ltd. (BGFL), 3,10,100 shares were transferred in the name of Alankar and 68,100 shares were transferred in the name of Renold Finance. Later, the shares held by Alankar were transferred to Precise and those held by Renold Finance were transferred to Dominance. It was further observed that there was a transfer of Rs.76 lakhs from KFL to KVL, which was subsequently used to subscribe to preference shares of Competent. Similarly, in another instance Rs.34.41 lakhs were transferred from KFL to KVL, which was subsequently used to subscribe to the preference shares of Dominance. Competent and Dominance used the said funds to purchase the shares of KFL and KVL.
30. At this juncture, I note that there was an inadvertent typographical mistake in the figures (%-age) with respect to the number of shares held by associate concerns of KFL & holdings of Shri S. N. Agarwal, in the 2nd row of the Table at para no. 4.1 of the show cause notice, which was 13.98% of the total number of shares instead of 25.24% as mentioned in the show cause notice. Consequently, 82.76 % and not 94% of the equity was with the promoters group before conversion of OFCDDs. The revised table is given below:

	Particulars	No. of shares	% of total No. of shares
1.	Directors and their relatives	1943000	42.24
2.	Associates concerns of KFL and holding of S. N. Agarwal not included in (1) above.	643100*	13.98*

3.	Holding by seven corporates – Competent, Dominance, Precise, Gainful, Responsive, Marvellous and Lyric all controlled by KFL	1160700	25.24
4.	Shares purchased by Competent, Dominance, Precise, Gainful, Marvellous but not transferred	59800	1.30
	Total of 1,2,3,4	3663600*	82.76*
	Total Equity share capital of KFL as on August 28, 1998	4599400	

The changes in the figures have been shown with (*) mark. However, the change in the figures will not make any material difference so far as the violation by promoters of KFL and allegations made in the show cause notice against them are concerned. Thus, I find that the acquisition by promoters of KFL, which increased their holding in KFL from 56.22% to 82.76% without making a public announcement to acquire shares of KFL, was in contravention of Regulation 11(2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

31. I further note that the promoters had large chunk of shares with them and whatever little floating stock was there, same was cornered by the entities related/ connected/ associated to/with KFL and its directors. As on May 10, 1999 holding of the promoters, directors and entities related/ connected/ associated with KFL was 68,23,200 shares accounting for 87.63% of the share capital of the company. This cornering of shares by the promoters/ Directors of KFL through various mechanism detailed earlier jacked up the price of shares of KFL as a small percentage of shares were left for trading in the market, so that a higher conversion price of its OFCDD could be fixed. I note that the noticees have submitted that there was no unusual spurt in the price and volume of the scrip. They further submitted that only 8.87% of the OFCCD holders have converted them into shares, whereas the balance remained as debentures only. I also note that the noticees have submitted that the conversions of the OFCDDs were in November 1998 and the alleged market rigging took place during May-June 1998. They also submitted that from June till November, the prices were falling which resulted in the debenture holders deciding not to go for conversion to equity of the company. I note that only 8.87% of the OFCCD holders had applied for conversion into equity shares, itself would show that there was otherwise little interest in the scrip. Even the higher price of Rs.154/-

fixed for conversion did not attract the debenture holders. Further, it has come to my notice that at that point in time there was news that the scrip was being manipulated for the purpose of fixing a higher conversion price. This would have dissuaded the debenture holders from approaching the company for conversion. For want of liquidity, the price artificially rose from Rs. 153/- to Rs. 311/- and this rigging enabled KFL to fix the conversion price of its OFCDD at Rs.154/- per share. This is in clear violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities) Regulations, 1995, as applicable at that time.

The distribution schedule of KFL filed with the stock exchange post conversion (as on May 10, 1999) is as follows:

S.No	Particulars	No. of shares	% of total No. of shares
1	Promoters holding under physical segment as disclosed under Reg. 6(3) of Takeover Regulation	1177700	15.12
2	Promoters holding under demat segment as disclosed under Reg. 6(3) of Takeover Regulation	2547500	32.72
3	Holding by foreign collaborator Daewoo Corporation	1750000	22.48
4	Holding by 7 corporates Competent Trading, Dominance Trade , Precise Exports, Marvellous Trading, Responsive Plastics , Gainful Exports and Lyric Investments	1348000	17.31
	Total of 1, 2, 3, 4	6823200	87.63
	Total Equity share capital of KFL as on May 10, 1999	7786300	

32. I have considered the allegations made in the show cause notice which suggest that large quantities of shares of KFL were purchased / acquired from the market and also through off-market deals during relevant period by a set of seven companies, namely Competent, Dominant, Precise, Marvellous, Lyric, Responsive and Gainful. As per the records, the promoter groups of KFL/associates of KFL were already holding more than 51% stake in the company. The records also indicated that the above mentioned seven companies acted as “Front Companies” to the promoters of KFL and were “persons acting in concert” with the promoters within the meaning of

Regulation 2(e) of the said Regulations. The promoters of KFL group increased their shareholding from 56.22% to 82.76%, which subsequently went upto 87.63%, without making public announcement to acquire shares of KFL which was in contravention of sub-regulation (2) of regulation 11 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. In view of the above, I find that the promoters / directors of KFL through their front entities have violated the provisions of regulation 11(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 which requires that no acquirer who, together with persons acting in concert with him has acquired, in accordance with the provisions of law 75% of the shares of voting rights in a company, shall acquire either by himself or through persons acting-in-concert with him any additional shares or voting rights, unless such acquirer makes a public announcement to acquire shares in accordance with the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. Further, in terms of sub-regulation (1) of regulation 14 of the above said Regulations, the public announcement is required to be made by the acquirer not later than 4 (four) working days of entering into an agreement for acquisition of shares or voting rights or deciding to acquire shares or voting rights exceeding the respective percentage.

33. I note that the noticees have submitted that all the allegations are belied by the fact that the said companies to date hold the said shares which were purchased by them and that it was obvious that the said companies purchased the same as a long term investment and not as a means to manipulate the market. In this connection, I have referred to the stock price of KFL for the period from 1996 – 2008 from the website of BSE, which is reproduced herein below:

Date	Open (Rs.)	High (Rs.)	Low (Rs.)	Close (Rs.)	No. of	No. of
					Shares	Trades
Year 1996	121.00	175.50	100.00	102.25	974800	4317
Year 1997	107.50	187.50	98.00	123.50	902000	3531

Year 1998	124.00	328.70	118.00	180.00	1154700	3677
Year 1999	194.30	233.90	130.00	160.90	196973	1881
Year 2000	128.80	145.00	27.50	41.00	14797	260
Year 2001	38.15	43.05	6.40	8.00	41699	478
Year 2002	7.40	15.25	2.75	5.00	208402	1661
Year 2003	4.45	19.65	2.10	12.81	800738	4371
Year 2004	12.50	12.90	2.76	8.46	2072476	9949
Year 2005	9.00	15.90	5.15	5.85	1833328	6356
Year 2006	5.85	8.25	4.27	5.29	600010	1938
Year 2007	5.81	29.25	4.83	29.25	752946	2139
Year 2008	30.70	60.40	11.15	18.90	649488	1728

On perusal of the above table, it is evident that the price and volumes were high during the period 1997-98, during which the alleged manipulation happened. Since 1999 the price of the scrip and the volumes had fallen drastically. I also note that during 1999 – 2001, the total traded volume in the market was also very low. Moreover, the entities were debarred vide order dated 10-09-2004 passed by SEBI and by reason of which they could have not have sold their shares in the market. Even otherwise, the low price of the stock would have not appealed the companies from selling the shares of KFL. I note that the modus operandi of the manipulation of price by the concerned entities was by cornering the floating stock of the shares of the company, thereby creating shortage in the liquidity of the shares in the market. For the reasons stated above, the entities could not have off-loaded the shares in the subsequent period. Therefore, I find no logic in the argument put forward by the noticees that the said shares were acquired by the companies as a long term investment.

34. I also note that the noticees have submitted that the conversion date of the OFCDDs was November 13, 1998, whereas the alleged market manipulation was in May-June 1998. They have also submitted that during the period June – November 1998, the market price of KFL shares was falling and therefore, the entire foundation and basis of the allegations that the alleged market manipulation was indirectly funded by KFL so as to push up the conversion price of the OFCCDs, is totally misconceived and incorrect. In this regard, I note that as per the prospectus of issue of OFCCDs, the conversion price was to be fixed at a discount of 33 $\frac{1}{3}$ % to the average daily closing prices for the previous six months, at BSE subject to a maximum conversion price of Rs. 200/- per share and a minimum of Rs. 10/- per share. If November 13, 1998 is taken as the conversion date, the said previous 6 months would start from May 1998. Therefore, the allegation made against the entities that they were cornering the shares to push up the conversion price during the period is logical. Further, I note that although the day end price dropped to some extent in the month of August, 1998, it went higher subsequently and remained high till November, 1998.
35. I note that during the hearing and in their reply, the noticees had submitted that they were not granted an opportunity to cross examine the persons who had deposed in the matter. They also brought to my notice the observations of the Hon'ble Securities Appellate Tribunal in its order dated March 01, 2007 while remanding the case back to SEBI for fresh consideration in accordance with law. As to the submission of the noticees that SEBI has not provided an opportunity of cross examination of S/Shri N.R. Dalal, Anant Narayan Iyer, Hiten Dharamshi and Narendra Dharamshi, I find that the documents relied upon in the current proceedings by itself would substantiate the allegations leveled against the noticees. The statements of the above mentioned persons have not been relied in the case. I find that since the statements of those persons are not relied on, they need not be made available for cross examination by the noticees. In this connection, I would like to place reliance on the observations of the the Hon'ble

Securities Appellate Tribunal in Mega Corporation Ltd. vs. SEBI¹, wherein it was observed thus:

"I agree with the learned Counsel for the Respondent that cross-examination of a witness is required only if his statement is made use of in the proceedings. Since the statements of those persons are not relied on, those persons need not be made available for cross-examination." [Emphasis provided]

Taking into account the facts and circumstances of the case, I find that the statements have not been relied upon in the instant proceedings. I find that though the noticees have requested for an opportunity of cross examining the deponents, I find that there is no need to provide an opportunity of cross examine to the noticees as the testimonies of the deponents have not been relied upon. Moreover, the right to cross examine would not ensue in all circumstances but would depend on the facts, circumstances of each and every case. Therefore, by not affording the opportunity to cross examine the deponents when their statements have not been relied upon would not in any way be against the principles of natural justice.

36. Thus, for the above reasons, I find that the noticees have entered into transactions in the securities of KFL, with the intention of artificially raising or depressing the prices of securities and thereby inducing the entities to purchase the same. Further, the prices of securities are based on transactions that are not genuine trade transactions and thereby the noticees have operated only as a devise to cause fluctuations in the market price. It is observed that the promoters were having large chunk of shares with them and whatever little was available; the same were cornered by the company and its directors through continuous purchases settlement after settlement through their front entities/persons acting in concert. This cornering was responsible for ramping up the price of the securities of KFL which in turn enabled the promoters to fix a higher conversion price for its OFCDD. I find that the prices artificially rose from Rs. 153/- to Rs. 311/- and this artificial price rise enabled the company to fix the OFCDD price at Rs. 144/- per share. Thus, this creation of

¹ Appeal No. 49 of 2001 decided by the Hon'ble SAT on 19-03-2002

artificial price for the scrip by the promoters/noticees were in violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities market) Regulations, 1995. In view of the above said acts, I find that the noticees have violated the provisions of Regulation 4 (a), (c), (d) and (e) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.

37. I further find that the noticees have funded the purchase of shares of KFL with the sole object of fixing the price for exit of OFCCDs. Thereby, the noticees along with their related entities have raised their holdings in the KFL without making public announcement. I find that by the above said commissions and omissions, the promoters (noticees except KFL) of KFL have increased their stockholding from 67.48% to 94.02% without making any public announcement as required under Regulation 11 of SEBI (Substantial Acquisition of Shares and Takeover) Regulation, 1997. Thus, I find the noticees (except KFL) of having violated the above said provision. I also find that vide SEBI order dated 10-09-2004 passed against the other entities (associate entities of KFI) 1) viz., M/s. Marvellous Trading Pvt. Ltd. and its Directors namely; Ratnesh Chand Jain, Reena Jain, Nitin Deshpande, Sunil Radhakrishnan Nair, Murugan Pillai, Murari Poddar, Lunkaran Kayal, Vijayalakshmi Poddar, Siji Nair, Sundeep Kabra and Meenakshi Kabra; 2) M/s. Precise Exports Ltd. and its Directors namely; Ratnesh Chand Jain, Reena Jain, Renuka Motwani, Murugan Pillai, Sunil Nair, Murari Poddar, Lunkaran Kayal, Vijayalaxmi Poddar and Draupadi Kayal; 3) M/s. Competent Trading Pvt. Ltd. and its Directors namely; Ratnesh Chand Jain, Reena Jain, Renuka Motwani, Bhavna Mehta, Sunil Nair, Murugan Pillai, Murari Poddar, Lunkaran Kayal and Vijayalaxmi Poddar; 4) M/s. Gainful Exports Pvt. Ltd. and its Directors namely; R.C. Jain, Reena Jain, Sunil Nair, Jiten Mehta, Murugal Pillai, Murari Poddar, Lunkaran Kayal, Vijayalaxmi Poddar, Rajashree Mehta, Pramila Mehta; 5) M/s. Responsive Plastics Pvt. Ltd. and its Directors namely; Ratnesh Chand Jain, Reena Jain, Jiten Mehta, Nitin Deshpande, Sunil Nair, Murugan Pillai, Murari Poddar, Lunkaran Kayal, Vijayalaxmi Poddar, Sushilkumar Agarwal and Babita Agarwal; 6) M/s. Dominance Trade And Investments Ltd. and its Directors namely; Kavita Jain, Bharti Jain, Bhavna Mehta,

Murugan Pillai, Sunil Nair, Murari Poddar, Lunkaran Kayal, Vijayalaxmi Poddar, Subhalaxmi Pillai and Vishwanathan Pillai; 7) M/s. Lyric Investment And Trading Pvt.Ltd. and its Directors namely; Ratnesh Chand Jain, Mahendra Patole, Sanjay Kabra, Murugan Pillai, Lunkaran Kayal, Vijayalaxmi Poddar and Malalaxmi Pillai; 8) Shri Jiten Mehta; 9) Shri Sunil Nair; 10) Shri Lunkaran Kayal and 11) Smt. M. B. Joshi, were found to have violated regulation 11(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and directions were passed directing them to make public announcement, which order stays till date.

38. Therefore, taking into consideration all the facts and circumstances of the case, and the findings arrived with regard to the violations, I in exercise of the powers conferred upon me under Section 19 of the SEBI Act and read with Sections 11, 11B of the SEBI Act read with Regulation 11 and 13 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and Regulation 44 of the Take Over Regulations, hereby pass the following directions:

- a. M/s. Krishna Filaments and its directors Shri/S K.K.Agarwal, O.P.Agarwal, S.K. Agarwal and M/s. Krishna Vinyl Limited are restrained from accessing the securities market and also prohibited from buying, selling or otherwise dealing or associating with the securities market for a further period of 2 years in addition to the period of debarment already undergone.
- b. Further, S/Shri K K Agarwal, O.P.Agarwal, S.K. Agarwal and M/s. Krishna Vinyl Limited are directed to make public announcements as required under Chapter III of the said Regulations in terms of sub-regulation (2) of regulation 11 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 by taking March 31, 1998 as the reference date for calculation of the offer price. The public announcement shall be made within 45 (forty five) days of passing of this Order. Further, in terms of sub-regulation (12) of regulation 22 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, the payment of consideration to the shareholders of the KFL to be paid within 30 (thirty) days of the date of

closure of the offer. The maximum time period provided in the said Regulations for completing the offer formalities in respect of an open offer is 120 days from the date of public announcement. The public announcement in the instant case ought to have been made taking March 31, 1998 as a reference date and thus the entire offer process would have been completed latest by July 29, 1998. Since no public announcement for acquisition of shares of KFL has been made, which has adversely affected the interests of shareholders of KFL, it would be just and equitable to direct the acquirer to pay interest @ 10% per annum on the offer price. The acquirer viz., KFL is hereby directed to pay interest @ 10% (ten per cent) per annum to the shareholders for the loss of interest caused to them from July 30, 1998 till the date of actual payment of consideration for the shares to be tendered in the offer directed to be made by the Acquirer.

- c. The above said directions shall come into force with immediate effect.

DATE: 05-06-2008

T. C. NAIR

PLACE: MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA