

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under sections 11, 11A, 11B and 11(4) of the SEBI Act, 1992 read with regulations 44 and 45 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 read with regulations 32 and 35 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 in the matter of Kquality Credit & Leasing Limited.

In respect of:

Sl. No.	Name of Entity	Order Number
1.	Mr. Dharmendra Kothari,	13/2015
2.	Ms. Sunita Kothari	
3.	Mr. Pradeep Kumar Kothari (since deceased)	
4.	Ms. Ichraj Devi Kothari,	
5.	Mr. Rajesh Kothari,	
6.	Mr. Hemant Kothari	
7.	Sangam Agro Agencies Pvt. Ltd.	14/2015
8.	Kalpa Mercantile Pvt. Ltd.	
9.	Apurva Commodities Pvt. Ltd.	
10.	Chirayush Agro Marketing Pvt. Ltd.	
11.	Utkarsh Agro Marketing Pvt. Ltd.	
12.	Shri Vishnu Krupa Commodities Pvt. Ltd.	
13.	Pawantar Agro Agencies Pvt. Ltd.	
14.	Paramarth Agro Marketing Pvt. Ltd.	
15.	Param Commodities Pvt. Ltd.	
16.	Miatru Agro Marketing Pvt. Ltd.	

1. Kquality Credit & Leasing Limited (Kquality Credit/Target Company) a listed company having its shares listed on Calcutta Stock Exchange (CSE), Bombay Stock Exchange (BSE) and Jaipur Stock Exchange (JSE). Securities and Exchange Board of India (SEBI) initiated investigation into the irregular transactions in the scrip of Kquality Credit during September 2010 pursuant to receipt of a large number of alerts on numerous off-market transfers in the scrip. It was noted that at the relevant time Kquality Credit was having a share capital of ₹ 3,50,00,000 of consisting of 35,00,000 equity shares of ₹ 10 each.

2. From the details received from CDSL of all the off-market transfers in the scrip between 01/09/2010 and 30/09/2010, it was observed that 13,56,446 shares of Kquality Credit were transferred from 11 accounts in CDSL to 16 accounts in NSDL on 15/09/2010, 16/09/2010, 17/09/2010, 18/09/2010 and 20/09/2010. All these accounts in CDSL were with depository participant, Ashika Stock Broking Limited (1203450) and all the accounts in NSDL were with the Depository Participant, Guinness Securities Limited (IN302898).
3. From the details received from NSDL regarding all off-market transfers in the scrip between 30/08/2010 and 08/10/2010, it was observed that 11,08,875 shares of Kquality Credit were transferred from 8 NSDL accounts to 16 NSDL accounts on 17/09/2010, 18/09/2010, 20/09/2010, 21/09/2010, 23/09/2010 and 01/10/2010. Further, majority of shares (10,19,375 shares) were transferred by the date 23/09/2010 from accounts with depository participant East India Securities Limited (IN300327) to accounts with the depository participant Guinness Securities Limited (IN302898).
4. In the above off market transfers of shares of Kquality Credit, the final recipients were following individuals:

Date	Recipients	Shares received	Cumulative Total	Total	% of total capital
18/09/2010	Rajesh Kothari	41156			
	Rajesh Kothari	7582	48738	48738	1.39%
17/09/2010	Dharmendra Kothari	50000	50000		
18/09/2010	Dharmendra Kothari	50000	100000	125876	3.59%
21/09/2010	Dharmendra Kothari	25876	125876		
18/09/2010	Alka Runthala	50000			
	Alka Runthala	50000	100000	100000	2.85%
17/09/2010	Dilip Patwari	50000	50000		
18/09/2010	Dilip Patwari	50000	100000		
21/09/2010	Dilip Patwari	44699	144699	144699	4.13%
17/09/2010	Sunita Kothari	50000	50000		
18/09/2010	Sunita Kothari	59103	109103		
21/09/2010	Sunita Kothari	50000	159103	159103	4.54%
17/09/2010	Pradeep Kumar Kothari	50000	50000		
18/09/2010	Pradeep Kumar Kothari	50000	150000		

	Pradeep Kumar Kothari	50000		150000	4.28%
17/09/2010	Ichraj Devi Kothari	50000	50000	100000	2.85%
21/09/2010	Ichraj Devi Kothari	50000	100000		
18/09/2010	Hemant Kothari	50000	50000	100000	2.85%
23/09/2010	Hemant Kothari	50000	100000		
Total				928416	26.52%

5. From the above it was observed that during September 2010, the aforesaid eight individuals viz; Mr. Dharmendra Kothari, Mr. Pradeep Kumar Kothari, Mr. Rajesh Kothari, Mr. Hemant Kothari, Mrs. Ichraj Devi Kothari, Mrs. Sunita Kothari, Ms. Alka Runthala and Mr. Dilip Patwari had together acquired 9,28,416 shares of the Target Company, constituting 26.52% of its paid-up capital. All of the above eight individuals except Mr. Dilip Patwari were registered with the broker, Guinness Securities Ltd. Mr. Rajesh Kothari, Mr. Hemant Kothari and Ms. Alka Runthala had claimed to have received the shares by funding loans but did not have any documentary proof to substantiate the loan arrangements. Further, Mr. Dharmendra Kothari, Mr. Pradeep Kumar Kothari, Mrs. Ichraj Devi Kothari, Mrs. Sunita Kothari and Mr. Dilip Patwari had acquired the shares at ₹5 per share.
6. Mr. Dharmendra Kothari, Mr. Pradeep Kumar Kothari, Mr. Rajesh Kothari and Mr. Hemant Kothari are brothers and Mrs. Ichraj Devi Kothari is their mother and Mrs. Sunita Kothari is sister-in-law of Mr. Dharmendra Kothari and Mr. Pradeep Kumar Kothari and they are related and connected with each other and covered under the definition of 'relatives', as per section 6 (c) of Companies Act, 1956. These six individuals had collectively acquired together acquired 6,83,717 shares of the Target Company constituting approximately 19.53% of the paid-up capital of the Kwaliti Credit.(Target Company). On the basis of *inter-se* relationship of these 6 acquirers and fact that they acquired large number of shares of Kwaliti Credit., it was observed during investigation that they acquired 19.53% of the total paid up share capital of Kwaliti Credit.(Target Company) with a common object, intent of substantial acquisition of shares or voting rights or gaining control over the target company.
7. Therefore, above six individuals were deemed to be persons acting in concert (PAC) in terms of the regulation 2 (e) (1) read with 2(e)(2)(iii) of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997 (hereinafter referred to as "the SAST Regulations, 1997"). These 6 individual acquirers had acquired more than 15% shares/voting rights in the Target Company without making a public announcement in terms of regulations 10 of the SAST Regulations, 1997.

8. In addition to above acquisition, it was further noted that in the same manner, 10 corporate acquirers namely, Shri Vishnu Krupa Commodities P Ltd, Sangam Agro Agencies Pvt. Ltd., Param Commodities Pvt. Ltd, Kalpa Mercantile Pvt. Ltd, Utkarsh Agro Marketing Pvt. Ltd, Paramarth Agro Marketing Pvt. Ltd, Apurva Commodities Pvt. Ltd., Pawantar Agro Agencies Pvt. Ltd, Chirayush Agro Marketing Pvt. Ltd and Miatru Agro Marketing Pvt. Ltd. had together acquired 14,47,405 shares(41.35%) of Target Company during September 2010 as detailed in following table:

Date	Recipients	Shares received	Cumulative Total	Total	% of total capital
15/09/2010	Sangam Agro Agencies Private Limited	50000	50000	165384	4.72%
16/09/2010	Sangam Agro Agencies Private Limited	15384	65384		
18/09/2010	Sangam Agro Agencies Private Limited	50000	115384		
20/09/2010	Sangam Agro Agencies Private Limited	50000	165384		
15/09/2010	Kalpa Mercantile Private Limited	50000	50000	159500	4.55%
16/09/2010	Kalpa Mercantile Private Limited	50000	100000		
20/09/2010	Kalpa Mercantile Private Limited	59500	159500		
15/09/2010	Apurva Commodities Private Limited	50000	50000	147600	4.21%
16/09/2010	Apurva Commodities Private Limited	50000	100000		
20/09/2010	Apurva Commodities Private Limited	47600	147600		
15/09/2010	Chirayush Agro Marketing Private Limited	50000	50000	131442	3.75%
16/09/2010	Chirayush Agro Marketing Private Limited	31442	81442		
20/09/2010	Chirayush Agro Marketing Private Limited	50000	131442		
15/09/2010	Utkarsh Agro Agencies Private Limited	50000	50000	150000	4.28%
16/09/2010	Utkarsh Agro Agencies Private Limited	50000	100000		
20/09/2010	Utkarsh Agro Agencies Private Limited	50000	150000		
15/09/2010	Shri Vishnu Krupa Commodities Private Limited	50000	50000		

16/09/2010	Shri Vishnu Krupa Commodities Private Limited	50000	100000	161600	4.61%
20/09/2010	Shri Vishnu Krupa Commodities Private Limited	61600	161600		
15/09/2010	Pawantar Agro Agencies Pvt Ltd	50000	50000	120900	3.45%
16/09/2010	Pawantar Agro Agencies Pvt Ltd	48200	98200		
20/09/2010	Pawantar Agro Agencies Pvt Ltd	22700	120900		
15/09/2010	Paramarth Agro Marketing Private Limited	50000	50000	130100	3.71%
16/09/2010	Paramarth Agro Marketing Private Limited	50000	100000		
20/09/2010	Paramarth Agro Marketing Private Limited	30100	130100		
15/09/2010	Param Commodities Private Limited	50000	50000	142932	4.08%
16/09/2010	Param Commodities Private Limited	42932	92932		
21/09/2010	Param Commodities Private Limited	50000	142932		
16/09/2010	Miatru Agro Marketing Private Limited	50000	50000	137947	3.94%
17/09/2010	Miatru Agro Marketing Private Limited	50000	100000		
20/09/2010	Miatru Agro Marketing Private Limited	37947	137947		
Total				14,47,405	41.35%

9. It was noted that, at relevant time, Mr. Pawan Kumar Modi was the common director in all the above 10 companies and Mr. Ram Avatar Sharma was common director in eight of the above companies except in Param Commodities Pvt. Ltd and Paramarth Agro Marketing Pvt. Ltd. wherein Mr. Murlidhar Sharma was common director. It was observed, during investigation, that these ten acquirers are under same management and control and have acquired the shares of Target Company. The investigation also revealed that all the above 10 corporate acquirers are based in Mumbai out of which 5 acquirers share common addresses at Sohan B Kumawat, C-301, Sarita Place, Opp. Gulfam Hotel, W.E. Highway, Dahisar (E), Mumbai – 400068. Further three corporate acquires share common addresses at Shop No.5, Rizvi Nagar Co-Op Hsg. Society Ltd., S. V. Road, Santacruz (W), Mumbai – 400054.
10. The investigation observed that the said 10 corporate acquirers also acquired 41.35% shares in the Target Company during September 2010 with a common object and intent of substantial

acquisition of shares or voting rights or gaining control over the Target Company. Therefore, the above ten acquirers were alleged to be PACs as per regulation 2 (e) (1) read with regulation 2(e)(2)(i) of the SAST Regulations, 1997. Thus, they, acting in concert, collectively acquired 14,47,405 shares (41.35%) of the Target Company without making a public announcement in terms of regulations 10 of the SAST Regulations, 1997.

11. Considering the above, SEBI issued two separate Show Cause Notices (SCNs) dated 03.12.2013 to above two group of acquirers calling upon them to show cause as to why action under section 11 and 11B of SEBI Act read with regulation 44 and 45 of SAST Regulations, 1997 should not be taken for the alleged violation of regulation 10 of SAST Regulations, 1997 read with regulation 32 and 35 of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011.
12. Mr. Hemant Kothari, vide his letter dated 23.12.2013, filed reply to the SCN on behalf of himself and other 5 individual acquirers wherein it is *inter alia* submitted as follows;
 - i. Mr. Pradeep Kumar Kothari has expired on 07.12.2013.
 - ii. They had intimated to CSE on 18.10.2010 vide letter dated 16.10.2010 mentioning about the acquisition of shares of Target Company with a request to inform whether any other formalities to be observed.
 - iii. Since there was no communication from CSE, they have not done any further compliance and could have inadvertently lead to violation of SAST Regulation, 1997.
 - iv. Violation if any was unintentional and due to ignorance
 - v. They have requested to condone and drop penal proceedings, if any.
13. The SCNs dated 03.12.2013 addressed to 10 corporate acquirers were returned undelivered. In view of this, copies of SCNs were sent through letters all dated 24.01.2014 to the respective directors of the above 10 companies namely, Mr. Pawan Kumar Modi, Mr. Ram Avatar Sharma and Mr. Murlidhar Sharma at their respective Kolkata addresses as available on MCA portal. The letters were delivered and duly acknowledged. However, no reply was received from any of them.
14. An opportunity of personal hearing was given to all the noticees on 05.08.2014. Vide letter dated 28.07.2014, Mr. Dharmendra Kothari on behalf of all individual noticees requested for adjournment of personal hearing . Vide email dated 05.08.2014, Mr. Pawan Kumar Modi had informed about his inability to attend the scheduled hearing and requested for an adjournment. Considered the above requests, another opportunity of personal hearing was granted on 17.09.2014. The notice with regard to date, place and time of hearing was issued by SEBI on 05.09.2014 to 15 (fifteen) entities/noticees. The notice was also sent to the common directors of

the 10 corporate acquirers. Further, the stock broker, Guinness Securities Ltd. was also advised to deliver copies of notice of hearing on its 10 corporate clients. Guinness Securities Ltd. vide letter dated 17.09.2014 confirmed the delivery of notices. However, none of the noticees appeared for the personal hearing on 17.09.2014 nor have they submitted any reply in this regard.

15. It is noted that despite giving a fair and reasonable opportunity, the noticees have chosen to keep themselves away from the proceedings. Therefore, there would not be any denial of natural justice if these proceedings against the noticees are concluded on the basis of information available on record.
16. I have carefully considered the SCNs, replies/submissions thereto and relevant material available on record. I note that the SCNs have been issued to two group of noticees who have been alleged to be acting in concert with other persons in the respective group with regard to the alleged acquisitions during the same period i.e. September 2010 in the identical manner. In view of these facts and circumstances I deem it appropriate to deal with the respective SCNs issued to all the 16 noticees herein by way of this common order.
17. Before dealing with merits of the case, I deem it appropriate to refer to the relevant provisions of the SAST Regulations, 1997 that were applicable to the facts of the case at the relevant time. Those provisions are reproduced hereunder:

"Acquisition of fifteen per cent or more of the shares or voting rights of any company.

10. No acquirer shall acquire shares or voting rights which taken together with shares or voting rights, if any, held by him or by persons acting in concert with him, entitle such acquirer to exercise fifteen per cent or more of the voting rights in a company, unless such acquirer makes a public announcement to acquire shares of such company in accordance with the regulations."

"Timing of the public announcement of offer.

*14. (1) The public announcement referred to in regulation 10 or regulation 11 shall be made by the merchant banker not later than 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 specified therein:
....."*

18. In terms of the above provisions of regulation 10, if the acquisitions of shares or voting rights by persons acting in concert breaches the threshold limit of 15%, they are jointly and severally under mandatory obligation to make public announcement to acquire shares of the Target Company in accordance with the SAST Regulations, 1997. In terms of regulation 14 of the SAST Regulations, 1997 such public announcement has to be made not later than four working days of entering into agreement for acquisition of shares or deciding to acquire shares exceeding the stipulated percentage. In this case, if the acquisitions in question by the noticees were to breach

threshold prescribed in regulation 10, the respective group of noticees had triggered the obligation to make the public announcement within four working days from the date they agreed to acquire equity shares in the off market transaction. Thus, in this case, the possible public announcement, if any, had to be made when the SAST Regulations, 1997 were in force. The SCNs, in this case, are with regard to an obligation/ liability alleged to have incurred under the SAST Regulations, 1997. In terms of provisions of regulation 35(2)(b) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 such obligation/ liability is saved and is has to be enforced under the SAST Regulations, 1997. I accordingly, proceed to deal with this case, under the SAST Regulations, 1997.

19. Coming to the merits of this case, it is noted from the SCN that between 17.09.2010 to 23.09.2010 the 6 individual acquirers, viz; Mr. Dharmendra Kothari, Ms. Sunita Kothari, Mr. Pradeep Kumar Kothari (*since deceased*), Ms. Ichraj Devi Kothari, Mr. Rajesh Kothari and Mr. Hemant Kothari collectively acquired 19.53% (6,83,717 shares) in the Target Company as detailed in the following table:

Date	Acquirers	No. of Shares	Cumulative no. of Shares Acquired	% of shares Acquired
17/09/2010	Dharmendra Kothari	50000	50000	1.428571429
17/09/2010	Sunita Kothari	50000	100000	2.857142857
17/09/2010	Pradeep Kumar Kothari	50000	150000	4.285714286
17/09/2010	Ichraj Devi Kothari	50000	200000	5.714285714
18/09/2010	Rajesh Kothari	41156	241156	6.890171429
18/09/2010	Rajesh Kothari	7582	248738	7.1068
18/09/2010	Dharmendra Kothari	50000	298738	8.535371429
18/09/2010	Sunita Kothari	59103	357841	10.22402857
18/09/2010	Pradeep Kumar Kothari	50000	407841	11.6526
18/09/2010	Pradeep Kumar Kothari	50000	457841	13.08117143
18/09/2010	Hemant Kothari	50000	507841	14.50974286
21/09/2010	Dharmendra Kothari	25876	533717	15.24905714
21/09/2010	Sunita Kothari	50000	583717	16.67762857
21/09/2010	Ichraj Devi Kothari	50000	633717	18.1062
23/09/2010	Hemant Kothari	50000	683717	19.53477143

20. I note that the individual acquirers have admitted their aforesaid acquisitions and have claimed that their acquisitions. Further, there is no dispute as to the fact that in respect of their aforesaid acquisitions these 6 individual acquirers were acting in concert with common object to acquire shares in the Target Company. Apart from this, they are also deemed to be PACs in terms of provisions of regulation 2(e)(2)(iii) of the SAST Regulations, 1997. I note, from the above, that as

on September 21, 2010 the acquisitions by these noticees breached the 15% threshold provided in regulation 10 of the SAST Regulations, 1997.

21. It is further noted that during the period 15/09/2010 to 21/09/2010 the group of 10 corporate acquirers namely Sangam Agro Agencies Pvt. Ltd, Kalpa Mercantile Pvt. Ltd, Apurva Commodities Pvt. Ltd., Chirayush Agro Marketing Pvt. Ltd., Utkarsh Agro Marketing Pvt. Ltd, Shri Vishnu Krupa Commodities Pvt. Ltd., Pawantar Agro Agencies Pvt. Ltd., Paramarth Agro Marketing Pvt. Ltd, Param Commodities Pvt. Ltd. and Miatru Agro Marketing Pvt. Ltd. had collectively acquired 41.35% (14,47,405 shares) in the Target Company as detailed in the following table:

Date	Acquirers	No. of Shares	Cumulative no. of Shares Acquired	% of shares Acquired
15/09/2010	Sangam Agro Agencies Pvt Ltd.	50000	50000	1.428571429
15/09/2010	Kalpa Mercantile Pvt Ltd.	50000	100000	2.857142857
15/09/2010	Apurva Commodities Pvt Ltd.	50000	150000	4.285714286
15/09/2010	Chirayush Agro Marketing Pvt Ltd.	50000	200000	5.714285714
15/09/2010	Utkarsh Agro Agencies Pvt Ltd.	50000	250000	7.142857143
15/09/2010	Shri Vishnu Krupa Commodities Pvt Ltd.	50000	300000	8.571428571
15/09/2010	Pawantar Agro Agencies Pvt Ltd.	50000	350000	10
15/09/2010	Paramarth Agro Marketing Pvt Ltd.	50000	400000	11.42857143
15/09/2010	Param Commodities Pvt Ltd.	50000	450000	12.85714286
16/09/2010	Sangam Agro Agencies Pvt Ltd.	15384	465384	13.29668571
16/09/2010	Kalpa Mercantile Pvt Ltd.	50000	515384	14.72525714
16/09/2010	Apurva Commodities Pvt Ltd.	50000	565384	16.15382857
16/09/2010	Chirayush Agro Marketing Pvt Ltd.	31442	596826	17.05217143
16/09/2010	Utkarsh Agro Agencies Pvt Ltd.	50000	646826	18.48074286
16/09/2010	Shri Vishnu Krupa Commodities Pvt Ltd.	50000	696826	19.90931429
16/09/2010	Pawantar Agro Agencies Pvt Ltd.	48200	745026	21.28645714
16/09/2010	Paramarth Agro Marketing Pvt Ltd.	50000	795026	22.71502857
16/09/2010	Param Commodities Pvt Ltd.	42932	837958	23.94165714
16/09/2010	Miatru Agro Marketing Pvt Ltd.	50000	887958	25.37022857
17/09/2010	Miatru Agro Marketing Pvt Ltd.	50000	937958	26.7988
18/09/2010	Sangam Agro Agencies Pvt Ltd.	50000	987958	28.22737143
20/09/2010	Sangam Agro Agencies Pvt Ltd.	50000	1037958	29.65594286
20/09/2010	Kalpa Mercantile Pvt Ltd.	59500	1097458	31.35594286

20/09/2010	Apurva Commodities Pvt Ltd.	47600	1145058	32.71594286
20/09/2010	Chirayush Agro Marketing Pvt Ltd.	50000	1195058	34.14451429
20/09/2010	Utkarsh Agro Agencies Pvt Ltd.	50000	1245058	35.57308571
20/09/2010	Shri Vishnu Krupa Commodities Pvt Ltd.	61600	1306658	37.33308571
20/09/2010	Pawantar Agro Agencies Pvt Ltd.	22700	1329358	37.98165714
20/09/2010	Paramarth Agro Marketing Pvt Ltd.	30100	1359458	38.84165714
20/09/2010	Miatru Agro Marketing Pvt Ltd.	37947	1397405	39.92585714
21/09/2010	Param Commodities Pvt Ltd.	50000	1447405	41.35442857

22. The aforesaid 10 corporate acquirers have chosen to keep themselves away from the proceedings deliberately and have not filed any reply. In view of the same, the adverse inference is drawn against them. I find that the undisputed facts and circumstances described in the respective SCNs are sufficient to hold that in respect of their aforesaid acquisitions these 10 entities were acting in concert with common object to acquire shares in the Target Company. Apart from this, they are also deemed to be PACs in terms of provisions of regulation 2(e)(2)(i) of the SAST Regulations, 1997. I note, from the above, that as on September 16, 2010 the acquisitions by these noticees breached the 15% threshold provided in regulation 10 of the SAST Regulations, 1997.
23. Regulation 10 of the SAST Regulations, 1997 stipulates that No acquirer shall acquire shares or voting rights, unless such acquirer makes a public announcement . These provisions have clothed their command in negative form which insists on compliance with their provisions as they are enacted. Thus, the provisions are mandatory and any ignorance of consequences as sought to be contended by the individual acquirers cannot be an excuse.
24. I find that both group of noticees have failed to make the requisite public announcement with regard to their respective acquisitions and have violated the provisions of regulation 10 of the SAST Regulations, 1997, separately and independently. In case of such breach the public announcement is the consequence obligated under regulation 10. Regulation 44 read with regulation 45 gives flexibility to SEBI to enforce the regulations in the interests of the investors and the securities market. In this regard, I note the Hon'ble SAT vide order dated September 08, 2011 in the matter of *Nirvana Holdings Private Limited vs. SEBI* (Appeal no. 31/2011) observed as follows:

"It must be remembered that whenever an acquirer violates Regulation 10, 11 or 12 of the takeover code by not making a public announcement, he should be directed to comply with the provision by making a public offer. The words "unless such acquirer makes a public announcement" appearing in Regulations 10 and 11(1) make these provisions mandatory and a public announcement has to be made. Similar words appear in Regulation 12 as well. These provisions make the acquisition conditional upon a public

announcement being made. The primary object of the takeover code is to provide an exit route to the public shareholders when there is substantial acquisition of shares or a takeover. This right to exit is an invaluable right and the shareholders cannot be deprived of this right lightly. It is only when larger interest of investor protection or that of the securities market demands that this right could be taken away. Therefore, as a normal rule, a direction to make a public announcement to acquire shares of the target company should issue to an acquirer who fails to do that. The Board need not give reasons as to why such a direction is being issued because that is the mandate of Regulations 10, 11 and 12. However, if the issuance of such a direction is not in the interest of the securities market or for the protection of interest of investors, the Board may deviate from the normal rule and issue any other direction as envisaged in Regulation 44 of the takeover code. In that event, the Board should record reasons for deviation. "

25. In this case, both the group of noticees have made substantial acquisitions of shares beyond the prescribed threshold. Material on record does not indicate that they held any shares prior to their respective acquisitions. The noticees made entry in the Target Company by acquiring substantial stakes without giving exit opportunity to the existing shareholders at the best offer price as stipulated in the SAST Regulations, 1997. In my view, the facts and circumstance of the case, do not suggest any reason to deviate from the normal rule of directing public announcement in accordance with the SAST Regulations, 1997 as the same would be in the interest of the public shareholders of the Target Company.
26. It is brought on record that Mr. Pradeep Kumar Kothari (*since deceased*) had died on 07/12/2013. I, therefore find that the present proceedings in respect of him is abated and is accordingly disposed of.
27. Had the individual acquirers made the public announcement in accordance with the SAST Regulations, 1997 regulations and complied with all related activities within the timelines specified under the SAST Regulations, 1997, all formalities with respect to their public announcement and the open offer would have been completed on December 26, 2010. Similarly, with regard to the requisite public announcement to be made by the corporate acquirers, all formalities could have been completed on December 21, 2010.
28. Since the noticees have failed to make the public announcement within the stipulated time and the public announcement in compliance with this order would be after delay, the noticees shall pay interest on consideration amount determined in accordance with the SAST Regulations, 1997 to the shareholders who tender their shares in the open offer and who are eligible for interest as per law.
29. I, therefore, in exercise of powers conferred upon me under sections 19, 11 and 11B of the SEBI Act, 1992 and regulations 44 and 45 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 read with regulation 32(1)(h) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, hereby issue the following directions :

- (a) Mr. Dharmendra Kothari, Ms. Sunita Kothari, Ms. Ichraj Devi Kothari, Mr. Rajesh Kothari and Mr. Hemant Kothari shall make a public announcement to acquire shares of the Target Company in terms of regulations 10 the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, within a period of 45 days from the date of this Order.
- (b) The aforesaid 5 individual noticees shall, alongwith consideration amount payable by them, pay interest at the rate of 10% per annum, from December 27, 2010 to the date of payment of consideration, to the shareholders who were holding shares in the target company on the date of violation and whose shares have been accepted in the open offer, after adjustment of dividend, if any, paid.
- (c) Sangam Agro Agencies Pvt. Ltd, Kalpa Mercantile Pvt. Ltd., Apurva Commodities Pvt. Ltd., Chirayush Agro Marketing Pvt. Ltd., Utkarsh Agro Marketing Pvt. Ltd., Shri Vishnu Krupa Commodities Pvt. Ltd., Pawantar Agro Agencies Pvt. Ltd., Paramarth Agro Marketing Pvt. Ltd., Param Commodities Pvt. Ltd. and Miatru Agro Marketing Pvt. Ltd. shall also make a public announcement to acquire shares of the Target Company in terms of regulations 10 the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, within a period of 45 days from the date of this Order.
- (d) The aforesaid 10 corporate noticees shall, alongwith consideration amount payable by them, pay interest at the rate of 10% per annum, from December 22, 2010 to the date of payment of consideration, to the shareholders who were holding shares in the target company on the date of violation and whose shares have been accepted in the open offer, after adjustment of dividend, if any, paid.

30. This Order shall come into force with immediate effect.

Sd/-

Date : March 4th, 2015

Place : Mumbai

RAJEEV KUMAR AGARWAL

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA