

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: PRASHANT SARAN, WHOLE TIME MEMBER

ORDER

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

IN THE MATTER OF IRREGULARITIES IN INITIAL PUBLIC OFFERINGS

Dealings by Jayesh P. Khandwala - HUF, proprietor of Zealous Trading Company in the Initial Public Offers of IDFC Limited, Sasken Communication Technologies Limited and Suzlon Energy Limited

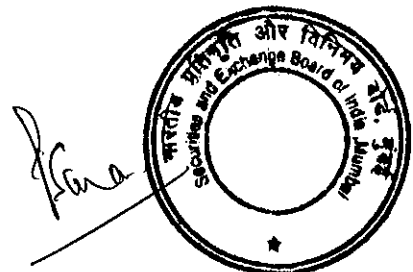
Date of Hearing: April 01, 2015 and April 28, 2015

Appearances:

For Noticee: Mr. Jayesh P. Khandwala, Karta, Jayesh P. Khandwala - HUF,
Mr. Vimal Khandwala
Mr. Somasekhar Sundaresan, Partner, J. Sagar Associates,
Mr. Paras Parekh, Senior Associate, J. Sagar Associates,
Mr. Dhaval Kothari, Associate, J. Sagar Associates and
Mr. Anish Kharidia, Practising Company Secretary.

For SEBI: Dr. Anitha Anoop, Deputy General Manager
Mr. Mohammed Rahaz P. M., Assistant General Manager
Mr. Pradeep Kumar, Assistant General Manager
Mr. Raghav Srivastava, Assistant Manager

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') had passed an order dated August 12, 2013, under Sections 11, 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act') in respect of the show cause notice dated April 08, 2009 (hereinafter referred to as 'SCN') issued to Jayesh P. Khandwala - HUF (hereinafter referred to as 'Jayesh-HUF'), proprietor of Zealous Trading Company (hereinafter referred to as 'Zealous') in the matter of irregularities in the Initial Public Offers (hereinafter referred to as 'IPOs') of IDFC Limited (hereinafter referred to as 'IDFC'), Sasken Communication Technologies Limited (hereinafter referred to as 'Sasken') and Suzlon Energy Limited (hereinafter referred to as 'Suzlon'). In the said order it was found that Jayesh-HUF had acted as the financier to the 'key operators' namely Sugandh Estates and Investments Pvt. Limited (hereinafter referred to as 'SEIPL'), Ms. Roopalben Panchal (hereinafter referred to as



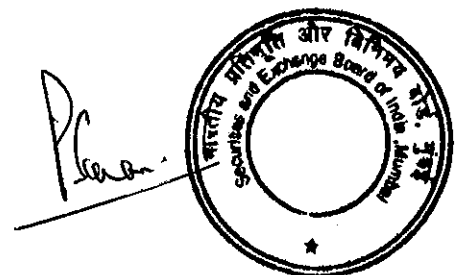
'Roopal') and Mr. Biren Kantil Shah (hereinafter referred to as 'Biren') and had cornered the shares meant for retail individual investors (hereinafter referred to as 'RIIs') in the said three IPOs. Vide said order Jayesh-HUF and Mr. Jayesh P. Khandwala were directed not to buy, sell or deal in the securities market in any manner whatsoever or access the securities market, directly or indirectly, for a period of three months, Jayesh-HUF was also directed to disgorge the unlawful gains of ₹3,88,08,783 along with ₹3,74,70,356 being the simple interest at the rate of 12% per annum for eight years (2005-2013) on the unlawful gain of ₹3,88,08,783 within 45 days from the date of the order. The order further stated that if the said amount is not paid within the specified time, Jayesh-HUF and Mr. Jayesh P. Khandwala shall be restrained for a further period of seven years from buying, selling or dealing in securities market in any manner whatsoever, accessing the securities market, directly or indirectly or associating with any securities market intermediary or listed company in any manner or capacity, without prejudice to SEBI's right to enforce disgorgement.

2. Jayesh-HUF and Mr. Jayesh P. Khandwala challenged the order of SEBI dated August 12, 2013, before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'SAT'). Hon'ble SAT, vide its order dated December 16, 2014, set aside the SEBI order dated August 12, 2013 and directed SEBI to pass fresh order on merits in accordance with law after hearing the appellants within a period of three months. Hon'ble SAT vide this order also permitted SEBI to issue supplementary show cause notice, if deemed fit in relation to the enhancement of interest rate.

Upon consideration, SEBI issued a supplementary show cause notice dated March 05, 2015, asking Jayesh-HUF and Mr. Jayesh P. Khandwala, to show cause as to why an interest at the rate of 12% per annum should not be charged on the alleged unlawful gains and an opportunity of personal hearing was granted to these on March 13, 2015.

In the meantime, as the timeline for passing of the order was expiring, SEBI approached Hon'ble SAT for seeking extension of time for issuing of the final order. Hon'ble SAT upon consideration, allowed the request of SEBI vide order dated April 13, 2015 and extended the time for passing of the final order by two months.

In reply, Jayesh-HUF vide its letter dated March 17, 2015, submitted that the supplementary show cause notice dated March 05, 2015 was received by it only on March 14, 2015 and as the

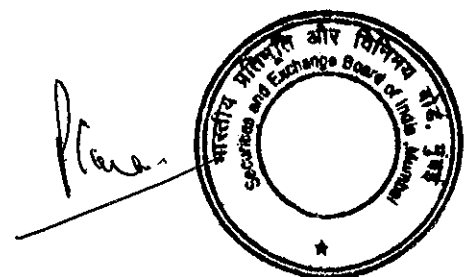


same contains certain additional allegations, it requested for reasonable time to respond. The request of Jayesh-HUF was acceded to and another opportunity of personal hearing was granted on April 01, 2015.

3. On the date fixed Jayesh-HUF appeared for the personal hearing through its authorised representatives namely Mr. Vimal Khandwala, Mr. Somasekhar Sundaresan, Mr. Paras Parekh, Mr. Dhaval Kothari and Mr. Anish Kharidia, Practising Company Secretary and made oral submissions. The authorised representatives during the course of personal hearing also requested for an opportunity to file complete set of reply/ documents and further opportunity of personal hearing. Accordingly, a further opportunity of personal hearing was granted to Jayesh-HUF on April 28, 2015. Jayesh-HUF submitted the complete compilation of reply and documents relied upon to SEBI vide letter dated April 22, 2015, which was taken on record.

On April 28, 2015, Jayesh-HUF appeared for the personal hearing through its karta, Mr. Jayesh P. Khandwala, Mr. Somasekhar Sundaresan, Mr. Paras Parekh, Mr. Dhaval Kothari and Mr. Anish Kharidia and made oral submissions based on the compilation of the documents as filed on April 22, 2015. The authorised representatives also requested time of one week for filing the written submissions, which was duly granted. I note that Jayesh-HUF has filed the written submissions vide email dated June 02, 2015, which have also been taken on record.

4. While proceeding further, I note that SEBI had earlier also passed an order dated October 26, 2010, under Sections 11, 11(4) and 11B of the SEBI Act in respect of the SCN dated April 08, 2009. Vide the said order Jayesh-HUF and Mr. Jayesh P. Khandwala were directed not to buy, sell or deal in the securities market in any manner whatsoever or access the securities market, directly or indirectly, for a period of three months and Jayesh-HUF was also directed to disgorge the unlawful gains of ₹4,04,20,658 along with ₹1,21,26,197 being the simple interest at the rate of 6% per annum for five years (2005-2010) on the unlawful gain of ₹4,04,20,658 within 45 days from the date of the order.
5. Jayesh-HUF and Jayesh P. Khandwala had challenged the said order of SEBI dated October 26, 2010, before Hon'ble SAT. On consideration, Hon'ble SAT remanded the matter back to SEBI vide order dated April 03, 2012. SEBI filed a review application in the order dated April 03, 2012, before Hon'ble SAT, however the same was rejected vide order dated June 26, 2012. Thereafter, SEBI had preferred an appeal before the Hon'ble Supreme Court of India against



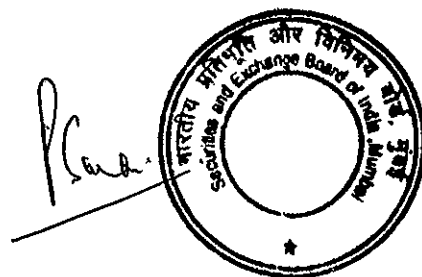
the order of Hon'ble SAT. Hon'ble Supreme Court of India vide order dated May 03, 2013, dismissed the appeal of SEBI. Pursuant to the same, SEBI afforded an opportunity of personal hearing to Jayesh-HUF and thereafter passed the order dated August 12, 2013.

6. It is important to note that the matter has been remanded back to SEBI for the second time. Before proceeding further, the facts of the case is being considered :

SEBI had conducted an investigation into the alleged irregularities in the transactions in the shares that were issued in the IPOs during the period of 2003-2005. The investigation, *inter alia* revealed that certain entities have cornered/ acquired the shares issued in the IPOs by making fictitious applications in the category reserved for the retail investors through thousands of benami/ fictitious applicants. Subsequent to the allotment of shares, these benami/ fictitious allottees had transferred the allotted shares to their principals (hereinafter referred to as 'key operators'). These key operators in turn were found to have transferred shares to certain other entities (hereinafter referred to as 'financiers'). Later on, these IPO shares, were sold by the key operators/ financiers immediately on listing and a few shares were transferred to other entities as per prior understanding, who ultimately sold the shares in the market and made unlawful profits.

Based on the findings of preliminary investigation, SEBI issued an *ex parte interim* order dated April 27, 2006 (hereinafter referred to as '*interim* order'), wherein directions were issued against various persons/ entities including Jayesh-HUF, not to buy, sell or deal in the securities market, including in the IPOs, directly or indirectly, till further directions. The said order also served as show cause notice (hereinafter referred to as 'SCN') to the persons/ entities named therein, offered opportunities of inspection and personal hearing. However, Jayesh-HUF neither replied to the SCN nor availed inspection of documents. It declined to appear for the personal hearing despite several opportunities, the last of which was offered on November 19, 2008.

While the proceedings initiated vide the *interim* order were pending, the investigation in the matter was completed and SEBI issued a SCN dated April 08, 2009, under Sections 11, 11(4) and 11B of the SEBI Act. The SCN, alleged that Jayesh-HUF had acted as financier to the key operators, namely, Ms. Roopal, SEIPL and Biren to make applications in the retail category of the IPOs of IDFC, Sasken and Suzlon. The SCN has alleged that these persons directly transferred 9,49,620 shares of IDFC, 14,275 shares of Sasken and 28,800 shares of Suzlon, in

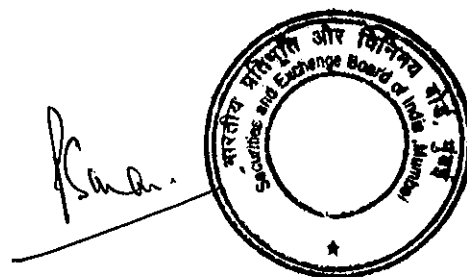


off-market to Jayesh-HUF. Another, 11,00,000 shares of IDFC were transferred to Mr. Bhanu Prasad Trivedi (hereinafter referred to as 'Bhanu') who was acting as front entity of Jayesh-HUF and the corresponding refunds were also seen as received from the issuers. Jayesh-HUF was found to have disposed off the said shares and made an unlawful gain of ₹4,04,20,658. The SCN had supported such transactions by movement of the funds in the bank account of Zealous and the movement of shares in the demat account of Jayesh-HUF. The SCN, therefore alleged that Jayesh-HUF, in collusion with the key operators employed fraudulent, deceptive and manipulative practices to corner the shares meant for RIIs in the said three IPOs. These acts of Jayesh-HUF were alleged to be in violation of Section 12A (a), (b) and (c) of the SEBI Act and Regulations 3 and 4 (1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003 (hereinafter referred to as 'PFUTP Regulations'). The SCN called upon Jayesh-HUF to show cause as to why suitable directions under Section 11(4) read with Sections 11 and 11B of the SEBI Act, including directions restraining it from buying, selling or dealing in securities in any manner for a suitable period of time, directions to disgorge ₹4,04,20,658 and any other direction(s) as deemed appropriate, not be issued.

Jayesh-HUF only forwarded a letter dated June 04, 2009 with certain objections. Thereafter, vide two letters both dated July 24, 2009, Jayesh-HUF submitted its replies to the *interim* order and the SCN dated April 08, 2009. Further, during the course of personal hearing on October 08, 2010, the authorized representative appearing for Jayesh-HUF submitted unsigned written submissions which were also taken on record. Thereafter, SEBI passed an order dated October 26, 2010, in the matter, as referred in para 4 above.

7. Having considered the above, let me now consider the submissions of Jayesh-HUF, in brief:

It is engaged in short-term financing and also in trading in shares, securities and commodities. Jayesh-HUF, as part of its routine business activities had lent and borrowed funds to SEIPL, Roopal, Bhanu, Biren on commercial terms, as per the practice prevailing in the market at the relevant time. The financing activity was being undertaken on the basis of mutual trust and faith without entering into any formal agreements. It has been said that Mr. Jayesh P. Khandwala knew the brother-in-law of Roopal i.e. Mr. Deepak Panchal since last twenty years. The transactions entered with respective entities were completely separate and independent

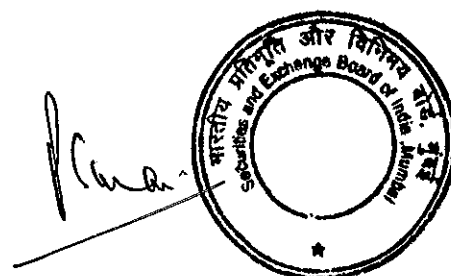


and were not advanced the amount for making subscription in the IPO or to corner the quota of RII. The utilization of funds was at the discretion of the borrower of the funds. It was not the ultimate beneficiary of any IPO allotment. Any acquisition of shares was in partial redemption of debt owed to it and such shares were immediately sold at a price close to the IPO price, at the then prevailing off-market price to recover the money value of such shares. Jayesh-HUF has argued that error of facts has to be corrected first and the disgorgement had to be taken from Bhanu.

8. I note that Jayesh-HUF during the course of personal hearing on April 28, 2015, had pointed out various discrepancies and inconsistencies in the alleged facts of the SCN. Jayesh-HUF in its submissions argued that SEBI has picked and chosen the amount from amongst various other amounts available in the bank statement around the period of IPO subscriptions and listings thereof, in order to reconcile, match and fix the same with corresponding number of application made, qua the number of shares received. I note that the earlier order of SEBI dated August 12, 2013, had proceeded on the premise of a clear nexus between Jayesh-HUF and the 'key operators' based on the movement of funds as revealed by bank account of Zealous and the securities lying in the demat account of Jayesh-HUF, itself. Further, the shares that subsequently moved mostly corresponded with the number of shares allotted in the IPO to such 'key operators'. However, the Hon'ble SAT vide its order dated December 16, 2014, set aside the order of SEBI dated August 12, 2013 and directed SEBI to pass fresh order on merits. Therefore, in order to consider the case afresh, independent of the earlier orders of SEBI dated October 26, 2010 and August 12, 2013, it is necessary that all the submissions of Jayesh-HUF pointing out the discrepancies/ inconsistencies be considered independently vis-à-vis the SCN *in seriatim*.

a. IDFC IPO:

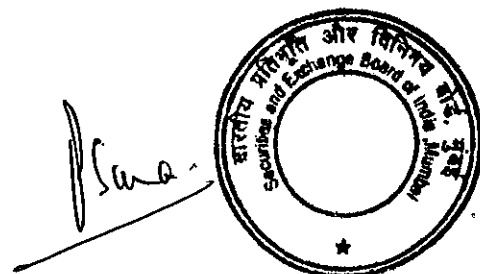
- i. Dealings with Roopal: The SCN has alleged that Jayesh-HUF had provided funds to the tune of ₹12,75,95,000 to Roopal around the closure of the IPO of IDFC i.e. July 26, 2005. This amount was allegedly used by Roopal to meet the margin requirement for the purposes of availing IPO finance from Bharat Overseas Bank/ Indian Overseas Bank. On allotment of the shares of IDFC, Jayesh-HUF was found to have received 3,45,800 IDFC shares directly from Roopal. Another set of 11 lakh shares, were found to have been routed through Bhanu by Roopal. For the same, the SCN alleges that a finance of ₹3.74



crore was provided by Jayesh-HUF to Bhanu. I note that Bhanu had later sold these 11 lakh shares through Khandwala Integrated Financial Services Pvt. Limited, broker, NSE on August 16, 2005 at the rate of ₹66.25. Bhanu, on receipt of the sale proceeds of 11,00,000 shares i.e., ₹7,28,75,000, transferred the same to Jayesh-HUF. The SCN alleged that Jayesh-HUF was the ultimate beneficiary in respect of the sale of the said 11 lakh shares by Bhanu.

The submissions of Jayesh-HUF with regard to the dealings with **Roopal**, in respect of IDFC IPO are as under:

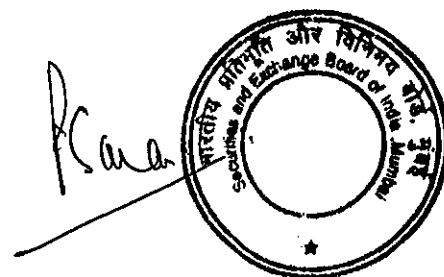
- The computation of the sum of ₹12,75,95,000 is merely a total of the first four ledger entries contained in ledger of Roopal maintained in the books of Jayesh-HUF and SEBI has not considered the two subsequent credit entries i.e. on July 27, 2005 and July 29, 2005 for ₹1,49,87,685 and ₹3,07,00,000 respectively. The three other receipts of funds from Roopal on August 10, 2005, which converted the debit balance of ₹12,75,95,000 into a credit balance of ₹45,303, have also not been considered by SEBI.
- The two entries from the said ledger i.e. of August 10, 2005, have been attributed to repayment of the financing for IDFC, whereas, the third entry of the same date i.e. for ₹1,18,29,818 has been ignored by SEBI and a balance of ₹83,15,000 is being incorrectly shown.
- SEBI has considered the transaction between July 13, 2005 to August 10, 2005, then the transaction effected on July 22, 2005, July 29, 2005 and August 10, 2005, should also have been considered and not have simply ignored.
- The entries in the ledger of Jayesh-HUF is supported by the bank statements relating to the bank account of Zealous with HDFC Bank and the demat account statement of Jayesh-HUF. The ongoing borrowings and lendings had attracted interest on net running balances, as reflected in the respective ledgers. The books of accounts and the ledgers of Roopal forms an integral and operative part of its financial statements, based on which tax returns have also been filed, assessed and completed. While relying on the orders of Hon'ble Supreme Court of India, Jayesh-HUF has argued that the books of accounts maintained in the regular course of business should not be rejected without any rebuttal or should not be discarded without any reason.



- Bharat Overseas Bank in its letter had denied providing any funding to Roopal. In view of the same, SEBI cannot attribute the amounts lent to Roopal, whether to direct applications in any IPOs or towards deposit with Bharat Overseas Bank for raising share application money towards the IDFC IPO.
- As regards the 3,45,800 shares of IDFC, it has been said that these shares were received in the demat account of Jayesh-HUF on two dates i.e. August 09, 2005 and August 16, 2005 for 3,38,000 shares and 6,000 shares respectively from Roopal.
- In relation to the movement of ₹3.74 crores, the ledger and the supporting bank statements have not been considered by SEBI. It has said that Jayesh-HUF had borrowed a sum of ₹3.74 crores from Roopal on August 13, 2005 and had repaid the same on August 16, 2005. The bank statement bears the cheque number and the account number exactly tallying with the ledger to show the receipt on August 13, 2005 and the payment of the same amount.

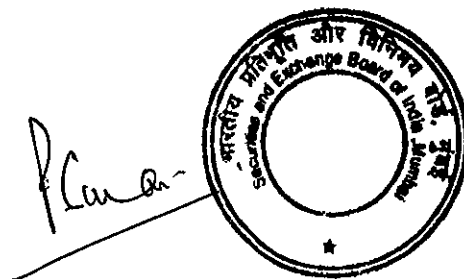
The said amount has been incorrectly computed as consideration for 11 lakh shares of IDFC, which were never received by Jayesh-HUF. On the contrary, it was Bhanu who sold the said 11 lakh shares of IDFC and paid tax on it, and used the proceeds to repay his dues to Jayesh-HUF. Jayesh-HUF has further argued with regard to the 11 lakh shares of IDFC, that the amount of ₹7,28,75,000 received by it from Bhanu was not in the consideration of sale of IDFC shares. The payment of ₹7,28,75,000 made by Bhanu on August 17, 2005, was with a view to bringing down his debit balance of ₹7,43,29,540. On payment of the amount, the debit balance of Bhanu in the books of Jayesh-HUF had come down to ₹14,54,540.

- In general course of disgorgement, SEBI takes into account the fact that the shares in question have been transferred to the account of the alleged recipient and in no case, considered the fund transfers in this regard. However, in the present matter, despite the fact that the said 11 lakhs shares of IDFC have not come to Jayesh-HUF, SEBI has alleged that the same belongs to Jayesh-HUF.
- Jayesh-HUF has submitted that the debit balance reflected in the account of Bhanu in the ledger of Jayesh-HUF as of July 27, 2005 was ₹3,69,29,540, which debit balance remained in that account as of August 13, 2005, when a further advance of ₹3,74,00,000 was made by Jayesh-HUF to Bhanu. In this regard, Jayesh-HUF has relied upon the bill/ contract note dated July 27, 2005, which records a contract to sell 6,96,500 shares of



Syndicate Bank as on July 27, 2005 at a price of ₹53.02 per share translating to a value of ₹3,69,28,430, which along with the demat charges had led to a debit entry of ₹3,69,29,540. The demat account of Jayesh-HUF shows that the shares of Syndicate Bank were indeed delivered by Jayesh-HUF to the stock broker of Bhanu. The entry in the ledger is borne out by the said bill. The contents of the said bill are borne out by the demat statement.

- Prior to advancing ₹3.74 crores as on August 13, 2005, Bhanu had already a debit balance of ₹3,69,29,540. After the advance of ₹3.74 crores, the debit balance rose to ₹7,43,29,540. On August 17, 2005, Bhanu made a substantial repayment of ₹7,28,75,000, the cash flow for which would have come from the sale of 11 lakh IDFC shares owned by him, and on which he had earned a profit. Jayesh-HUF has relied on the balance sheet of Bhanu for the financial years 2005-2006 to show the purchase of 6,96,500 shares of Syndicate Bank on July 27, 2005 at the same price. Jayesh-HUF has submitted that SEBI had issued a show cause notice to Bhanu under Sections 11 and 11B of the SEBI Act seeking to disgorge the proceeds of the 11 lakhs shares of the IDFC IPO, however, the outcome of the same remains unknown.
- The alleged amount of ₹12,75,95,000 provided by Jayesh-HUF as per the SCN has been utilized by Roopal as margin money to meet the 50% margin requirement. However, the 14,45,800 shares said to have been procured by Roopal in the IDFC IPO at its behest would have required funding of at least ₹25 crores by Jayesh-HUF. However, it had lent only an amount of ₹5.74 crores.
- SEBI order dated January 12, 2006, in the matter of IDFC had stated that the shares transferred by Roopal to Bhanu were out of her CDSL account. Further, the SEBI order dated April 27, 2006 stated that none of the financed shares of Roopal were in her CDSL account – they were only in her NSDL account.
- SEBI in an order against Roopal dated January 31, 2012, had ruled that Roopal had mainly taken finance from Bharat Overseas Bank, Indian Overseas Bank and Karvy Consultants Limited. It has also been stated in the said order that Roopal had borrowings from nine financiers, of which Jayesh-HUF had allegedly formed a part. Further, in the said order, Jayesh-HUF's lending to Roopal as attributed by SEBI to the IDFC IPO was ₹7,87,50,000. The SCN issued to Jayesh-HUF, however, alleges that the finance was to the extent of ₹12,75,95,000 towards the IDFC IPO.



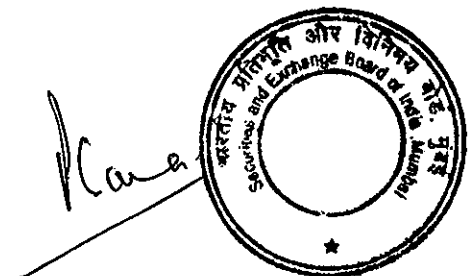
- SEBI had acknowledged the inconsistency in the amounts of finance to Roopal for the IDFC IPO. However, no reconciliation has been done and it has been alleged that Jayesh-HUF had financed Roopal to the extent of ₹12,75,95,000 without taking any effort to either demonstrate that it was meant for the IDFC IPO or to reconcile the directly contradictory position in the order against Roopal dated January 31, 2012. Neither the amount of ₹12,75,95,000 nor ₹7,87,50,000 could have led to a conclusion that Jayesh-HUF had financed Roopal in relation to the applications of IDFC.

- Dealings with SEIPL and Biren:** The SCN has alleged that Jayesh-HUF had provided ₹7,14,00,000 to SEIPL on July 26, 2005 and Jayesh-HUF had received 3,98,202 shares from SEIPL on August 09, 2005 and he further received 532 shares on September 2, 2005.

With regards to **Biren**, the SCN has alleged that Jayesh-HUF had provided ₹4,12,65,000 to Ketan Shah and Co. during July 15, 2005 to July 23, 2005. It has also been alleged that Jayesh-HUF had received 2,05,000 shares from Biren.

The submissions of Jayesh-HUF with regard to the dealings with **SEIPL and Biren**, in respect of IDFC IPO are as under:

- While computing, SEBI has ignored the amount of ₹6,56,25,000 borrowed by SEIPL as on July 15, 2005 i.e. opening date of IPO of IDFC, despite the same being borrowed around the time of the said IPO. Further, the amounts of ₹1,49,90,625 and ₹5,06,66,200 remitted to Jayesh by SEIPL on July 27, 2005 and August 01, 2005, have also been ignored by SEBI.
- SEBI has picked and chosen the transactions as the amount of ₹33,800 remitted by Jayesh to SEIPL on August 11, 2005 has not been considered by SEBI and instead the amount of ₹93,044 received on September 09, 2005, has been taken into consideration as received towards ₹7,14,00,000.
- As regards Biren, Jayesh has submitted that the allegation of Ketan Shah being a conduit for Jayesh to advance funds to Biren, is not supported by any evidence. The bank statement of Ketan Shah provided along with the SCN does not relate to the period in which Ketan Shah had allegedly funded Biren, as the same relates to the period October 01, 2005 to October 31, 2005, while the advances are alleged to have been made in July 2005.

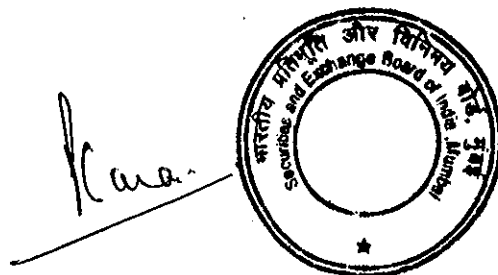


- Further, the SEBI Order against Biren dated August 11, 2010, had concluded that Biren have made 829 applications in the IPO of IDFC, while, the SCN in the present matter alleges that Jayesh-HUF had provided finance for 865 IPO applications in IDFC IPO.

b. Sasken IPO: The SCN has alleged that in **Sasken IPO**, Jayesh-HUF had received 6,500 shares from **Roopal** on September 05, 2005; 6,375 shares from **SEIPL** and 1,400 shares from **Biren** on September 06, 2005 [fund flow had happened from Jayesh-HUF to Ketan before the receipt of the shares by Jayesh-HUF from Biren, which points to certain nexus between Jayesh-HUF, Ketan and Biren]. These shares of Sasken received by Jayesh-HUF in its demat account from Roopal, SEIPL and Biren i.e., totalling to 14,275 shares were transferred by it to Bhanu during September, 2005 (i.e. 13,550 shares on September 09, 2005 and 725 shares on September 14, 2005). The SCN has also alleged that Jayesh-HUF had also received the corresponding refund amounts after adjustment of the allotment money. The shares so received were sold by Bhanu on September 09, 2005 at the rate of ₹493.54 through Khandwala Integrated Financial Services Pvt. Limited.

The submissions of Jayesh-HUF with regard to the dealings with **Roopal, SEIPL and Biren**, in respect of Sasken IPO are as under:

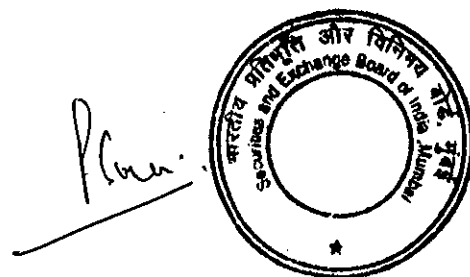
- the amounts attributed allegedly in Sasken IPO to SEIPL and Roopal widely vary i.e. ₹3.5 crore and ₹9.1 crore respectively. Yet, the shares received are shown as almost similar i.e. 6,375 shares and 6,500 shares.
- Finance was not extended to Biren, however, the same has been included for purposes of disgorgement.
- The acquisition of shares of Sasken from Biren, SEIPL and Roopal are borne out by contract notes. These three acquisitions were contracted on September 07, 2005 and the receipt of these shares are borne out in demat statement.
- The price at which these shares were contracted in different trades is also borne out, however, the SCN proceeds to attribute all the shares to Jayesh-HUF, although these were in fact sold to Bhanu at ₹ 300.40. Bhanu in turn would have sold the shares in the market and made profit/ loss. However, all of these are completely ignored in attributing the 14,275 shares of Sasken to Jayesh-HUF in order to purportedly disgorge ₹ 33,33,783.
- SEBI in its Order dated June 22, 2007, had observed that Karvy Consultants Limited had financed Roopal in Sasken IPO.



- Despite the absence of any financing being given to Biren for the Sasken IPO, and despite the absence of any allegation against Biren for manipulating applications in the Sasken IPO, 1,400 shares of Sasken received from Biren are treated as illegitimate for purposes of disgorgement. Sasken shares received from Biren are treated as illegal, however, SEBI's own order dated August 11, 2010 against Biren does not even allege that Biren acted as a key operator in the Sasken IPO.
- c. **Suzlon IPO:** The SCN has alleged that Jayesh-HUF had provided a finance of ₹4,89,60,000 to **Roopal** which corresponded with the application money for 1,000 applications in Suzlon IPO. Jayesh-HUF had received 16,000 shares on October 17, 2005 and the corresponding refunds from Roopal.

The SCN has also alleged that the funds in respect of 800 applications were provided by Jayesh-HUF to **Biren** amounting to ₹4.15 crores on October 03, 2005 and had received corresponding allotment of 12,800 shares on October 17, 2005 and refunds on October 19/20, 2005. The SCN has further alleged that the entire 28,800 shares of Suzlon received from Roopal and Biren were transferred to Ms. Sheelu on October 18, 2005 at the rate of ₹510 per share. It has been alleged that Jayesh-HUF in addition to the above, had received an additional amount of ₹4,50,000 through fund transfer on October 17, 2005. This amount has been alleged to be the charges/ commission received for cornering the shares.

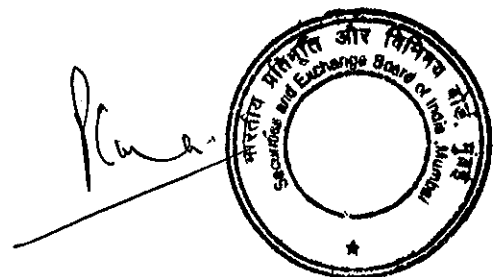
Jayesh-HUF in submissions has argued that SEBI has made bald allegation and there is nothing on record to support the allegation or to show the manner in which the payment of such sum constituted commissions. Jayesh-HUF has also argued that SEBI has sought to disgorge amounts equivalent to the alleged commissions involved in dealings with Jitendra and Ms. Sheelu. It has been said that such amounts have already been disgorged from Jitendra and Ms. Sheelu. The basis for the amounts disgorged from Jitendra and Ms. Sheelu was the difference between the selling price of shares and the alleged purchase price of such shares (for Ms. Sheelu ₹638 less ₹510 per share of Suzlon; and for Jitendra ₹66.45 less ₹34 per share of IDFC). It has been said that the effective price at which shares of Suzlon were acquired by Sheelu and shares of IDFC were acquired by Jitendra were ₹525.63 per share and ₹35.27 per share respectively – the difference between the lower acquisition price reckoned by SEBI and the effective acquisition price referred to above is treated by SEBI as commission received by



Jayesh-HUF. Since the amount disgorged from Jitendra and Ms. Sheelu is based on a lower acquisition price, the alleged profits disgorged from them are higher and includes the aforesaid alleged commission amount.

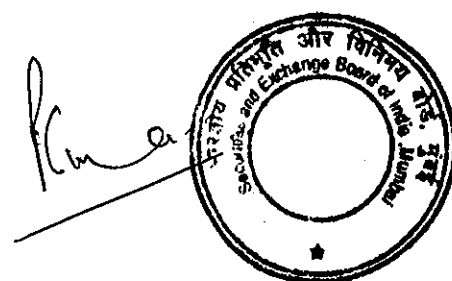
9. I have considered the above submissions of Jayesh-HUF and taken note of the inconsistencies/ discrepancies as cited. I note that Hon'ble SAT in its order dated December 16, 2014, has mentioned that SEBI has rejected the contention of Jayesh-HUF that Bhanu owed ₹7.43 crore to Jayesh-HUF while observing that SEBI has not considered the bank statements and contract notes which were submitted by Jayesh-HUF apart from the ledger in support of its argument. In this regard, I note from the compilation of document as submitted by Jayesh-HUF on April 22, 2015 that only the 'bill for settlement' have been submitted for proving the transfer of shares and the same cannot be said to be a contract note. The 'bills of settlement' appears to have been issued by Jayesh-HUF only. I note that Jayesh-HUF has also not submitted copies of any 'delivery instruction slip' (hereinafter referred to as 'DIS') in support of such transaction. Therefore, it will not be proper and reasonable to exonerate Jayesh-HUF of the charges and the unlawful gains merely on the basis of the inconsistencies/ discrepancies cited. Considering the submission of Jayesh-HUF regarding the amount of finance and the shares received, absence of finance to Biren it will be appropriate for SEBI to re-examine the claim in the light of inconsistencies pointed out.
10. I note that the SCN has not cited any reason for selectively considering the entries of the ledger of Roopal and Bhanu. I further note that the SCN is unable to address the inconsistencies as pointed out by Jayesh-HUF in respect of the IDFC IPO and Sasken IPO, relating to the amount of finance extended by Jayesh-HUF to Roopal as against the denial of Bharat Overseas Bank in providing any funding to Roopal. I note that these are the basic facts which needs to be answered before proceeding further with the matter. I note that proceeding once again with the figures as mentioned in the SCN (noticed from the bank statements of Jayesh-HUF) and ignoring the facts brought out by Jayesh-HUF may not meet the ends of justice, as Hon'ble SAT has set aside the Order of SEBI vide its order dated December 16, 2014 and has directed to pass fresh order on merits.

In view of the same, it becomes necessary for SEBI to reconcile the figures in the SCN and re-examine in detail the transactions and the relevant records including the documents



produced by Jayesh-HUF in order to correct the inconsistencies and remove the discrepancies as pointed out and proceed accordingly.

11. I note that Jayesh-HUF in its submissions has relied on the order of SEBI dated June 22, 2007 against Karvy Consultants Limited. It is relevant to note that this order was set aside by Hon'ble SAT and SEBI has passed a fresh order dated February 03, 2014, in the said matter. At this stage, I also note the business model of Jayesh of giving short term finance. It is seen that no documentation relating to the finance of such huge amounts has been placed on record by Jayesh and the same is said to be based on word of mouth. It is difficult to accept the submissions of Jayesh on the face of it, more so when he admittedly had adjusted the amounts against the shares received in the IPOs. Further, an examination of the bank statements/ ledger accounts of Jayesh-HUF makes it evident that Jayesh-HUF was intimately connected with several entities who were involved in carrying out the irregularities in IPOs. In view of the same, it will be difficult to view Jayesh-HUF, a mere by-stander. SEBI needs to examine the role of Jayesh-HUF, in detail considering the huge fund transfers and receipt of shares from the persons with whom it was not even having a long standing financial relationship.
12. Another submission of Jayesh-HUF is that SEBI had issued a show cause notice to Bhanu seeking disgorgement of the proceeds of the 11 lakh shares of IDFC and the outcome of the same is unknown, I note that Bhanu pursuant to the issuance of the show cause notice dated December 01, 2008, had filed an appeal before the Hon'ble SAT and had challenged the *ex-parte interim* order dated April 27, 2006 vide which he was debarred from accessing the securities market. The Hon'ble SAT disposed of the said appeal with a direction to SEBI to dispose of the enquiry against him in a time bound manner. On completion of examination, SEBI issued a fresh show cause notice dated June 01, 2009 to Bhanu in supersession of the earlier show cause notice dated December 01, 2008. Thereafter, SEBI passed an Order dated July 30, 2009, while observing that Bhanu was part of the fraudulent, deceptive and manipulative scheme to corner the shares meant for RIIs and facilitated Jayesh-HUF to make ill-gotten gains. Vide this order Bhanu was restrained from buying, selling or dealing in the securities market in any manner whatsoever or accessing the securities maker, directly or indirectly, for a period of one year from the date of this order. Hon'ble SAT also vide its order dated July 05, 2010, had upheld the order of SEBI while holding that Bhanu had acted as a

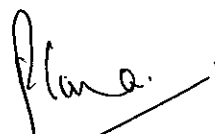


front entity for Jayesh-HUF whom he facilitated in making ill-gotten gains. Further, the appeal filed by Bhanu before the Hon'ble Supreme Court of India was disposed of as having become infructuous. In view of the above, I find no merit in the submission of the Jayesh-HUF.

13. From the above discussion, I note that the discussed objections of Jayesh-HUF regarding the inconsistencies appear to be relevant for the present matter which needs to be addressed before proceeding further with the matter. I note that earlier orders of SEBI had found Jayesh-HUF guilty and had ordered disgorgement of unlawful gains based on the available facts and records. However, Hon'ble SAT had remanded the matter back to SEBI twice for holding fresh proceedings. As the objections/ inconsistencies noted above, still remains unanswered, it is appropriate that SEBI look into these objections/ inconsistencies and relationships among various players in a fresh investigation. In view of the same, consideration of the supplementary show cause notice issued with respect to the percentage of interest to be levied on the disgorgement amount, cannot be done at this stage.
14. In view of the foregoing, I in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992, hereby direct Securities and Exchange Board of India to re-investigate the matter pertaining to Jayesh P. Khandwala - HUF, proprietor of Zealous Trading Company, its role in the Initial Public Offers of IDFC Limited, Sasken Communication Technologies Limited and Suzlon Energy Limited, its alleged direct/ indirect transactions, both financial and securities, with the entities/ persons (including Sugandh Estates and Investments Pvt. Limited, Ms. Roopalben Panchal, Mr. Biren Kantilal Shah and Mr. Bhanu Prasad Trivedi) and the alleged illegal gains made by Jayesh P. Khandwala - HUF in the said Initial Public Offers. Accordingly, the present show cause notice dated April 08, 2009, is disposed of.

DATE: June 12, 2015

PLACE: Mumbai



PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

