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 respect of –

1. **Mr. Dipak Jashvantlal Panchal and**
2. **Ms. Devangi Dipak Panchal**

In the matter of IPO irregularities.

---

1. Securities and Exchange Board of India ("**SEBI**"), vide Order dated February 25, 2011 ("the **Order**"), *inter alia* directed Dipak J. Panchal and Devangi Panchal (collectively referred to as "**noticees**") not to buy, sell or deal in the securities market in any manner whatsoever or access the securities market, directly or indirectly, for three months from the date of the Order. This Order was in respect of the SCN dated December 01, 2009 issued to the noticees including 4 other persons. These noticees were also directed to disgorge Rs.13,51,57,917/- and 10,74,97,161/- respectively. This Order directed that in case the aforesaid amounts are not received by SEBI within the specified time, they shall be restrained from buying, selling or dealing in securities market in any manner whatsoever or accessing the securities market directly or indirectly for a further period of nine years, without prejudice to SEBI's right to enforce disgorgement and that until the said amounts were realized by SEBI, the securities in the demat accounts of the noticees shall remain frozen. The Order superseded all the directions issued against noticees vide interim Ordersdated December 15, 2005, dated January 12, 2006, and dated April 27, 2006 and theconfirmatory order dated November 12, 2008 issued in the matter.

2. The noticees challenged the Order in separate appeals in Appeals nos. 12 (Dipak J. Patel vs. SEBI) and 15 (Devangi D. Panchal) of 2013 before the Hon'ble Securities and Appellate Tribunal ("Hon'ble SAT"). The Hon'ble SAT, vide Order dated October 21, 2014 disposed off the appeals with the following observations/direction:

"……

2. In view of certain discrepancies in facts/contentions are noticed in the impugned order, counsel on both sides state that without recording any reason, impugned order be quashed and set aside qua the appellants herein and the matter be remanded back for passing fresh order on merits in accordance with law. Accordingly, the impugned order is quashed and set aside qua the appellants and restored to the file of Whole Time Member of SEBI for passing fresh order on merits in accordance with law. Needless to say, Whole Time Member of SEBI would pass fresh order after considering the reply filed by appellants and also arguments that may be advanced by the counsel for appellants at the personal hearing. Whole Time Member of SEBI is directed to pass fresh order on merits as expeditiously as possible preferably within a period of six months from today.

……."

3. The noticees, vide letter dated January 17, 2015 requested the following before conducting the personal hearing:

(a) Inspection of original documents

(b) Copies of documents sought in paragraph B of their e-mail dated October 09, 2010

(c) Cross-examination of all persons whose statements, replies, letters, averments etc., are relied upon.

4. The noticees were afforded an opportunity of personal hearing on May 25, 2015 and the schedule of the same was informed vide SEBI letter dated May 07, 2015. The said letter informed the noticees that all the documents that were relied upon have already been provided and no new documents were relied upon against them in the present proceedings. The noticees were called to file further reply to the show cause notice dated December 01, 2009, if they wish, before the date of the scheduled personal hearing. The noticees were informed that if they fail to appear in the hearing, it would be presumed that they have nothing to state and that the matter would be proceeded on the basis of material available on merit.

5. In response, the noticees, vide letter dated May 20, 2015, stated that their request dated January 17, 2015 requesting inspection, other documents and cross-examination was not replied. They also referred to the statement made in the SEBI letter dated May 07, 2015 that all the relied upon documents were provided and no new documents were relied, and reiterated their request for inspection of original documents or furnish true/authenticated copies of the same. They further stated that there may be many factual mistakes in respect of the date of opening of demat accounts in the

SCN and the actual photocopy of the documents and therefore the veracity of the relied upon documents were doubted. The following submissions were also made:

(a) The noticees also referred to the charges against them and requested for various documents which according to them were vital for their defence. According to the noticees, such documents were relevant as they would prove that the noticees did not involve or participate or even had the knowledge of the irregularities in the IPO process with respect to

- opening of so many bank and demat afferent accounts,
- preparing and signing IPO application forms and IPO application form bidding,
- fabricating bank introduction letters and attaching fabricated bank letters to demat account opening forms,
- preparing, signing, introducing and verifying bank loan agreements,
- signing Delivery Instruction Slips (DIS) for transferring shares from afferent accounts,
- preparing and lodging such DIS
- issuing and receiving a single Refund Order (RO) and depositing such RO
- master minding from germination of idea paper in such manner upto allotment of shares and thereafter transfer of shares and noticees are not the key operators and kingpin in the entire process.

(b) The noticees also submitted that none of the charges against them were proved by the 896 pages of documents furnished to them by SEBI and requested SEBI to provide the exact page nos. out of the said documents for proving the charges. The noticees also stated that it was within the knowledge of SEBI that Karvy group of companies had come out with an Idea Paper. SEBI Orders dated April 27, 2006, May 26, 2006, June 22, 2007, January 28, 2014 etc have found that the alleged irregularity is committed at the end of Karvy group of companies only and that the said documentary evidences are brushed aside. The noticees contended that not a single 'relied upon document' shows that they were involved or committed any irregularity.

(c) The noticees stated that it is trite law that inspection of original documents, additional documents on which charges are alleged, cross examination etc., must precede the reply of the noticees and personal hearing. The noticees requested that in case SEBI was not agreeable for supply of additional documents as sought by them, then they should be intimated so that they could challenge the refusal before the appropriate forum.

(d) The noticees further submitted that before passing of the Order dated February 25, 2011, opportunities of inspection of documents were afforded on September 03, 2010 and October 08, 2010, however on both the occasions, not a single document was produced for inspection or authenticated copies provided to Dipak Panchal and his advocate. Though the noticees specifically requested on October 09, 2010 to provide certain documents, which were in possession of SEBI and/or could be availed by SEBI by virtue of its powers, the same was grossly ignored and not a single additional document was provided to the noticees till date.

(e) The noticees reiterated their request for inspection of original documents and additional vital documents and post such inspection and perusing additional documents, stated that they reserve their right to cross-examine persons whose statements/replies are relied upon. After completion of legal formalities, they shall file effective replies.

(f) The noticee submitted that they do not have an idea to prolong or delay the proceedings as they are also tired of such lengthy proceedings and were only pursuing their basic and legal right of inspection of documents, additional documents and cross examination.

6. Thereafter, vide letter dated June 05, 2015, the noticees *inter alia* stated that the decision of conducting personal hearing without inspection of original documents and additional documents, cross examination, and their reply was seriously flawed and not "in accordance with law" as directed by Hon'ble SAT in Order dated October 21, 2014.

7. As SEBI had already provided copies of the documents relied in the matter and was also not relying on new documents, the noticees were informed of the same vide SEBI letter dated July 22, 2015. They were also afforded a final opportunity of personal hearing on August 10, 2015. The noticees

again failed to appear in the said hearing. From the same, it becomes clear that the noticees are only prolonging the matter by making repeated request for inspection and additional documents, when they have been clearly informed that SEBI would not rely on new documents. As sufficient opportunities of hearing and for filing of further submissions have already been afforded in the matter, I find that affording further opportunities would only prolong the case. Accordingly, I proceed further in the matter based on material on record on merits.

8. I have considered the SCN issued in the matter, the submissions of the noticees and other material on record.

9. The SCN had alleged that the noticees had adopted fraudulent, deceptive and manipulative device and cornered substantial shares to the detriment of genuine RIIs in the IPOs, through a number of afferent accounts made huge illegal gains to the detriment of the RIIs by sale of these shares. The SCN had alleged that the noticees have violated the provisions of section 12A (a), (b) and (c) of the SEBI Act and regulation 3 (a), (b), (c) and (d) and 4(1) of the PFUTP Regulations, 2003. The notice also alleged that the conduct of the noticees was in violation of Guideline 1.2.2 (xxiva) read with Guideline 7.6.1.2.1 of the SEBI (Disclosure and Investor Protection) Guidelines, 2000 (as applicable) in providing specific quota for RIIs so as to achieve large participation from RIIs. The notice also alleged that the noticees have through afferent demat accounts, as narrated in the notice, manipulated the allotment of shares in retail quota of IPOs and cornered shares for more than what they were otherwise entitled to, had they applied individually.While referring to Guideline 7.6.1.2.1, the notice observed that one cannot be allowed to usurp the retail investor quota by applying in retail category through multiple applications/demat accounts. The SCN had called upon the noticees to show cause why directions under sections 11, 11(4) and 11B of the SEBI Act including but not limited to all or any of the following:

(a) Directions restraining the noticees from buying, selling or dealing in securities in any manner and/or

(b) Directions to disgorge ill-gotten gains (*Rs.8,70,72,003/- and Rs.6,82,30,549/- respectively from Dipak Panchal and Devangi Panchal*) along with interest, and/or

(c) Any other directions as deemed appropriate including directions to realize the shares, if any, in the frozen demat accounts and also be jointly and severally liable for disgorgement of ill-gotten gains of facilitated to financiers and other entities.

10. The matter has been remanded to SEBI for passing of fresh order on merits in accordance with law in view of certain discrepancies in facts/contentions noticed in the SEBI Order dated February 25, 2011, which has been set-aside by the Hon'ble SAT.

11. I have perused the SCN dated December 01, 2009 issued to the noticees. From the same, I note that the SCN alleged that the noticees in collusion with the others of the Panchal family had –

(a) Created demat accounts with various combinations of fictitious surnames using forged bank letters and had control over such accounts;
(b) Acted in concert with financiers and received finance, paid refunds and transferred cornered shares to them;
(c) Availed IPO finance on behalf of thousands of fictitious entities
(d) Applied in various IPOs through the afferent accounts and cornered shares through synchronized off-market transfer from the applicant demat accounts to demat accounts of noticees before listing date
(e) Sale of cornered shares in the market and made ill-gotten gains by noticees and financiers.

The SCN alleged that these action and conduct was in violation of section 12A (a), (b) and (c) of the SEBI Act and regulations 3 and 4(1) of the PFUTP Regulations, 2003 and the DIP guidelines. These allegations and charges were also the charges broadly in the adjudication proceedings initiated by SEBI against the noticees.

12. In this regard, I note that SEBI also initiated adjudication proceedings against the noticees in the matter and the same were decided by the AO's common order dated May 31, 2011, wherein the SEBI AO held them guilty of violating the provisions of section 12A(a), (b) and (c) of the SEBI Act and regulations 3(a), (b), (c), (d) and 4(1) of the PFUTP Regulations and a penalty of Rs. 20 crore was imposed on Dipak Panchal and a penalty of Rs.25 crore imposed on Devangi Panchal. The noticees challenged the AO Order in appeals (Appeal no. 198/2011 – Dipak Panchal vs. SEBI and Appeal no.

200/2011 – Devangi Panchal vs. SEBI) before the Hon'ble SAT. These appeals were disposed off by the Hon'ble SAT, vide Order dated November 12, 2012, whereby the findings of the AO were upheld and the penalties were reduced to Rs.2 crore on each of the noticee. I note that SEBI, vide the aforesaid adjudication orders had already found the noticees guilty of committing the violations. The said violations are the same as alleged in this proceedings before me. These finding of SEBI have already been upheld by the Hon'ble SAT, as observed above.

13. Further, it would be relevant to note the following observations and findingsof the Hon'ble SAT:

" .....

We have already noted that the findings of the Board are that some entities of Panchal group opened afferent accounts, some used them for making applications in retail category of IPOs, some helped in transfer of shares to the financiers and some disposed of the shares. We have also noted that all of them did not play the same role but they complemented one or the other in executing the game plan. ***The appellants fall in the category of those who are the beneficiaries of these shares and who made money by selling the shares which were transferred to their demat accounts by the key operators or the financiers****. The definition of fraud, as contained in regulation 2(c) of the FUTP regulations, is wide enough to encompass the activity of the appellants within its fold. Penalty under Section 15HA can be imposed on "any person" who indulges in a fraudulent activity. The provisions of this section are not confined to intermediaries alone. Therefore, this argument of learned counsel for the appellants is also rejected.*

…….

15. We are unable to accept these submissions of learned counsel for the appellants. As per the records available, the investigation was not confined to the alleged fictitious bank accounts or the demat accounts but was pertaining to the IPO scam. As discussed in the earlier part of this order, various entities have played different roles to make the whole IPO scam successful. ***The role of the appellants, as discussed above, pertains to permitting use of their bank accounts for opening fictitious demat accounts and arranging finance using these bank accounts, getting the shares allotted in the IPO to their accounts and ultimately selling these shares in the market thereby earning profit****.* ***In the facts and circumstances of the case, it cannot be said that it was a purchase simplicitor of the shares by the appellants from Roopalben Panchal who was another active member of the Panchal group in making the IPO scam successful****. We are inclined to agree with the learned counsel for the respondent Board that the confirmation*

letters submitted by Roopalben Panchal with regard to the number of shares sold, price at which they were sold and acknowledgement of consideration received from the appellants are self serving documents which were not produced at the first available opportunity. In none of these documents, amounts tally with the consideration for the shares purchased. The declaration given by Roopalben Panchal confirming dealings of the shares other than IPO and transactions in 1999 does not, in any way, mitigate the case against the appellants with regard to transactions in respect of shares under the IPO scam. On the basis of material placed on record, the transfer of shares from Roopalben Panchal to appellants is not in dispute. ***These were the shares which were purchased using fictitious demat accounts is also not in dispute. If the earnings under these shares are shown in the income tax returns that by itself, cannot be a mitigating factor if transactions are otherwise found to be violative of regulatory framework****. Learned counsel for the appellants have referred to certain judgments ……. to contend that the charge levelled against the delinquent must be precise and unambiguous. Vagueness in the show cause notice is fatal to the case. We have looked into these orders. While agreeing with the preposition that the charges in the show cause notice must be clear and unambiguous, we find that there is no such infirmity in the impugned order. When a case is to be established on the basis of circumstantial evidence, establishing the complicity of persons involved in fraudulent or unfair schemes is a challenge. There are situations where different layers of the transactions, each of which may fall within the four corners of law, but, if analysed cumulatively, may bring them within the fraudulent transactions as prescribed in the regulations. Whether a transaction or series of transactions integrally connected with each other will fall within the purview of fraudulent transactions, as defined in the regulations, will depend upon the facts brought out on record during the investigation and the connection established between the parties.* ***Examined in that perspective, the Board has placed sufficient material on record to prove that the transactions entered into by the appellants fall within the definition of 'fraud' as provided in regulation 2(c) of the FUTP regulations.***

…….

17. ***After perusing the material placed on record and after hearing learned counsel for the parties, we are convinced that the appellants are part of the Panchal group****. Some members of the Panchal group opened bank accounts with Bharat Overseas Bank and Indian Overseas Bank and these bank accounts were used to open several other afferent bank accounts and thousands of afferent demat accounts in the name of fictitious persons. These afferent demat accounts were used by members of the Panchal group to make applications in various IPOs. The applications were made on the basis of loans taken from the two banks or Karvy, the depository participant, in the name of the afferent bank account holders or other demat account holders. Loans were also raised by members of the*

Panchal group from private financiers. ***On allotment of shares, these shares were transferred from the afferent accounts to the accounts of the Panchal group who further transferred the shares either in the demat accounts of the financiers or other members of the Panchal group including the appellants. The appellants then sold these shares and made substantial profit. On the basis of material placed on record, we cannot find any fault with the findings arrived at by the adjudicating officer of the Board that the appellants have indulged in fraudulent/manipulative activities and employed deceptive devise to corner the shares reserved for retail individual investors in the IPOs to defraud the retail individual investors and such activity is not only in breach the integrity of the market, but also violative of the provisions of section 12A (a), (b) and (c) and Regulation 3 (a), (b), (c) and (d) and 4(1) of the FUTP regulations. There is a clear finding of the Board that the provisions, as noted above, stand violated and it was not necessary for the Board to give specific finding with regard to violation of each of the sub-regulation of the FUTP regulations or the sub-section of the Act.***

21. ……

…… The appellants were restrained from trading in the market for a sufficiently long period and in the order passed under Section 11 and 11B of the Act, they have been directed to disgorge an amount of more than ₹24.26 crores. Keeping in view the order passed by the whole time member of the Board against the appellants, the quantum of penalty imposed on other entities involved in the scam and also the fact that a large number of entities have been permitted to settle the matter through consent proceedings, we are of the view that ends of justice would be met by reducing the penalty in the case of the two appellants before us to ₹2 crores each.

22. ***While upholding the findings arrived at by the adjudicating officer****, we reduce the penalty to ₹ 2 crores in respect of each of the appellants.*

……..".

In view of the above observations made by the Hon'ble SAT, the allegations made in the SCN dated December 01, 2009 issued to the noticees – Dipak Panchal and Devangi Panchal have already beendecided against them. It is relevant to note that the Hon'ble SAT had reduced the penalty also taking into account the order for disgorgement passed against the noticees. It is noted that appeals filed by them against the Order of Hon'ble SAT are pending before the Hon'ble Supreme Court.

14. It is a fact that numerous afferent demat accounts were opened for the purposes of cornering the shares meant for retail investors in the IPOs. The SCN has clearly brought out the *modus operandi* employed by the noticees and others of the 'Panchal group'. The SCN has stated the noticees and other persons (i.e. Roopalben Panchal, Bhargav Panchal, Hina Bhargav Panchal and Arjav Panchal) to whom the SCN dated December 01, 2009 was issued, were closely related and had common addresses in their demat accounts. The SCN has clearly mentioned the manner in which thousands of afferent demat accounts were opened by first opening bank accounts in their names and list of fictitious names were appended to these bank accounts. I note that on allotment and credit of shares (issued in the IPOs) in such afferent accounts, the same were transferred to the accounts of the noticees, who thereafter sold the same and made undue gains. The plea that the noticees had purchased shares from Roopalben Panchal has already been rejected by the Hon'ble SAT. The SCN has stated that such demat accounts were opened with Karvy Stock Broking Limited, a depository participant. In this regard, I note that SEBI vide Order dated January 28, 2014 had found that the said depository participant had acted in concert with the key operators/financiers and others including the 'Panchal group' and facilitated the opening of demat accounts and cornering of shares. The SCN has also stated that the 'Panchal group' had made consolidated payments to the depository participant towards AMC charges and transaction charges of numerous dematerialized accounts held with the said depository participant. This would prove that the afferent accounts (used for cornering the retail portion and channeling the same to the noticees/key operators) were under the control of the 'Panchal group' including the noticees. It is also observed that in all 18 IPOs, the shares from the afferent demat accounts were transferred to Roopalben Panchal. As mentioned in the SCN, the transfer of IDFC IPO shares from the afferent accounts held in names starting from Suresh Seth till Aditi Seth (i.e. list of 50 names attached to the IOB account no.12140)would illustrate the manner in which the cornered shares in the afferent accounts were transferred to the Panchal group. Thereafter, the shares held in the account of Roopalben Panchal were transferred to the noticees, as mentioned in the SCN, and subsequently, the noticees had either off-loaded them or retained them and made undue profits, as alleged in the SCN.

15. In view of the foregoing and on consideration of the material on record and also in reliance of the findings and observations made by the Hon'ble SAT, as discussed above, I hereby find the noticees i.e. **Dipak J. Panchal and Devangi D. Panchal** indulged in fraudulent and unfair trade practices

relating to the securities market thereby violating section 12A (a), (b) and (c) of the SEBI Act and regulations 3 (a), (b), (c) and (d) and 4(1) of the PFUTP regulations, 2003, as alleged in the SCN dated December 01, 2009.

16. I also note that the Hon'ble SAT in its Order dated March 03, 2016 in Appeal no. 400/2015 (*Roopal Nareshbhai Panchal and Arjav Nareshbhai Panchal vs. SEBI*) had *inter alia* observed the following:

> *"6. Although the charge sheets filed by CBI and the Enforcement Department against Mr. Dipak Panchal do not conclusively establish that the appellants were not involved in the offence, the said charge sheets prima facie establish that Mr. Dipak Panchal had forged the signatures of 4 the appellants and consequently, support the argument of the appellants that they were not involved in the offence committed by Mr. Dipak Panchal".*

17. The noticees have made request for documents and no submissions were made as to how they are relevant. As mentioned above, the Hon'ble SAT has already upheld the findings of SEBI regarding the fraudulent acts committed by the noticees herein. Therefore, considering the above and the facts and circumstances of the case, it can be construed that such request for additional documents were made only for delaying and protracting the instant proceedings. It is noted from the memorandum of appeal of the noticees that they had raised an argument that joint bank or demat accounts cannot prove the allegation unless the fraudulent trades are proven. This contention too has no merit in view of the findings on violations made above in this Order.

18. The SCN dated December 01, 2009 issued to the noticees, has also called upon them to show cause why they should not be directed to disgorge the amounts illegally gainedby them through the violations. In their appeal memorandum, Dipak Panchal has stated that Roopal received shares from afferent demat accounts to her account and then transferred them to financiers and also sold shares to him as well as Devangi Panchal. This submission has no credence as it already observed that the noticees received the cornered shares and offloaded them and made undue profits. Further, the contentions that shares were purchased from Roopal Panchal and that the profits/consideration were accounted for in the Income Tax Returns have no relevance or bearing in the matter while deciding on

the amounts to be disgorged. The Hon'ble SAT has clearly observed the following, while disposing off the appeals filed by this noticees (when they challenged the adjudication orders), as mentioned above:

> *"15. …….. In the facts and circumstances of the case, it cannot be said that it was a purchase simplicitor of the shares by the appellants from Roopalben Panchal who was another active member of the Panchal group in making the IPO scam successful. We are inclined to agree with the learned counsel for the respondent Board that the confirmation letters submitted by Roopalben Panchal with regard to the number of shares sold, price at which they were sold and acknowledgement of consideration received from the appellants are self serving documents which were not produced at the first available opportunity. In none of these documents, amounts tally with the consideration for the shares purchased. The declaration given by Roopalben Panchal confirming dealings of the shares other than IPO and transactions in 1999 does not, in any way, mitigate the case against the appellants with regard to transactions in respect of shares under the IPO scam. On the basis of material placed on record, the transfer of shares from Roopalben Panchal to appellants is not in dispute.* ***These were the shares which were purchased using fictitious demat accounts is also not in dispute. If the earnings under these shares are shown in the income tax returns that by itself, cannot be a mitigating factor if transactions are otherwise found to be violative of regulatory framework****". {Emphasis supplied}*

19. As regards the contemplated direction for disgorgement, I note that:

(i) The SCN dated December 01, 2009 has alleged that the noticees adopted fraudulent, deceptive and manipulative device and cornered substantial shares to the detriment of genuine RIIs in the IPOs through a number of afferent accounts and made huge illegal gains by sale of those shares. The SCN alleged that Devangi Panchal made illegal gains to the tune of Rs.8,70,72,003/- and Dipak Panchal made illegal gains to the tune of Rs.6,82,30,549/-.

(ii) As per the SCN, **Devangi Panchal** received shares from Roopal Panchal, a key operator and allegedly sold the same and earned illegal gains of Rs.8,70,72,003/-. The following table in this regard is extracted below from the SCN:

Name of IPO	Key operator from	No. of shares received	Issue price Rs. (3)	Date of sale	Market/off market transaction	No. of shares sold	Sale price	Actual profit

	whom shares were received					(1)	(2)	(1)* (2-3)
Amar Remedies	Roopal Panchal	221000	28	16.09.05	Market Off-market	204000 17000	50.02 56.05	4492080 476850
TCS	Roopal Panchal	52336	850	-	Pledge	52336	987.95	7219751
NTPC	Roopal Panchal	1500000	62	05.11.04 to 24.12.04	Off-market Pledge	985918 514082	75.5 75.5	13309893 6940107
Shoppers Stop	Roopal Panchal	5775	238	13.07.05	Market	5775	372.60	777315
Nandan Exim	Roopal Panchal	43750	20	10.06.05	Off-market Balance	41000 2750	50.20 50.20	1238200 83050
Yes Bank	Roopal Panchal	257250	45	12.07.05	Market Balance	175000 82250	62.83 60.80	3120250 1299550
Nectar Life Science	Roopal Panchal	45625	240	20.07.05	Market ASE Balance	31223 10000 4402	267.95 260.1	1152183 88480
SPL Industries	Roopal Panchal	7100	70	26.07.05	Market	7100	104	241400
IL & FS	Roopal Panchal	106450	125	-	Balance	106450	185.15	6402967
IDFC	Roopal Panchal	1080169	34	12.08.05- 18.08.05	Market Off-market Balance	575586 403063 101520	67.78 69.50 69.50	19443295 14308736 3603960
Sasken	Roopal Panchal	10800	260	09.09.05	Off-market Balance	10450 350	464.55 464.55	2137547 71592
Suzlon	Roopal Panchal	1248	510		Off-market	1248	692.85	228197
Patni Computers	Arjav Panchal	113000	230	23.02.04	Off-market	113000	233.20	361600
Total								**Rs.8,70,72,003/-**

(iii) As per the SCN, **Dipak Panchal** received shares from the account of Roopal Panchal and made illegal gains to the tune of Rs.6,82,30,549/-:

Name of IPO	**Key operator from whom shares were received**	**No. of shares received**	**Issue price Rs. (3)**	**Date of sale**	**Market/off market transaction**	**No. of shares sold (1)**	**Sale price (2)**	**Actual profit (1)* (2-3)**
Dishman Pharma	Roopal Panchal	17000	175	22.04.04	ASE	17000	541.25	6226250
TCS	Roopal Panchal	10842	850	13.09.05 to 11.10.05	Off-market	10842	987.95	1495654
Datamatics	Roopal Panchal	8400	110		ASE	8400	127.20	144480
IDFC	Roopal Panchal	1710374	34	11.08.05 12.08.05	Market Balance	1180374 530000	69.20 69.50	41549165 18815000
Total								**Rs.6,82,30,549/-**

20. The noticees have not made any contention regarding discrepancy in figures as per their appeal memorandum (filed challenging the SEBI Order dated February 25, 2011). They had *inter alia* made the following averments:

a. They were not aware of the actual unlawful gains made by the financiers. They did not transfer shares to the financiers.
b. The noticees purchased shares from Roopal at the then prevailing market price.
c. Dipak made a gain of Rs.14,132/- on the sale of 17000 shares received from Roopal.
d. Dipak, through his proprietary concern, Grace Investment, had purchased Dishman shares from Roopal on various dates at the market rate. Price in the range of Rs.414/- to Rs.504/- was paid per share. Therefore, how could SEBI compute gains of Rs.62,26,250/-.
e. Figures pertaining to TV Today and Patni Computers were not there in the SCN issued by SEBI to Dipak.
f. Devangi Panchal had made payment of Rs.1,32,79,556/- to Roopal.

21. However, I am apprised that the following discrepancies were pointed out by the noticees before the Hon'ble SAT during the proceedings:

a. In the scrip of **Datamatics**, the shares were not stated to be transferred to Dipak Panchal as per Table A (page 6) of the SEBI Order dated February 25, 2011. However, in Table B of the Order, Rs.1,44,480/- had been computed as unlawful gain made by Dipak Panchal in respect of this scrip.
b. In the scrip of **Patni Computers**, Table A of the SEBI Order dated February 25, 2011 indicated that Arjav had received 1,27,050 shares and transferred 1,15,250 shares to Dipak Panchal. However, as per the SCN (Table in para 61 at page 38), it is mentioned that Devangi received 113000 shares of Patni Computers from Arjav and allegedly made profit to the tune of Rs.361600/-.
c. As per Table A (page 6) of the SEBI Order dated February 25, 2011, Devangi had cornered 86,200 shares of **TV Today**and had transferred the entire quantity to Dipak Panchal, financiers and others. However, in Table B (at page 6 of the SEBI Order), it is stated that Devangi Panchal made a gain of 33,57,620/-.

I am also apprised that the Hon'ble SAT had observed during the proceedings that amount already disgorged from the financiers and others and the balance to be disgorged from financiers and others was not provided in the SCN.

22. I also note the following:

a) With respect to receipt of shares of **Datamatics**, I note that in the SCN (at page 37/paragraph 60), it is mentioned in the table therein that Devangi Panchal had received 8,400 shares. However, while computing the disgorgement amount in the table at page 38 of the SCN, the same is not mentioned. However, the same is mentioned as received by Dipak Panchal (reference – table in paragraph 62 at page 39 of SCN).

b) As regards **Nectar Life Science**, the number of shares transferred as per the SCN (table in paragraph 60/page 37) to Devangi Panchal is **42,075** shares. However, in table at paragraph 61 of SCN, it is mentioned that Devangi Panchal received **45,625** shares from Roopal Panchal and made illegal profit of Rs.12,40,663.

c) As regards **IL&FS**, the number of shares transferred as per the SCN (table in paragraph 60/page 37) to Devangi Panchal is **1,02,200** shares. However, in table at para 61, it is mentioned that Devangi Panchal received **1,06,450** shares (from Roopal Panchal and made illegal profit of Rs.6402967/).

d) As regards **FCS Software**, the SCN (table in paragraph 60/page 38) has mentioned that Devangi Panchal received 22,015 shares. However, her demat statement indicates that she received a total of 41,386 shares and the closing balance as on October 21, 2005 was 28,415 shares.

e) Regarding shares of **Patni Computers** allegedly received by Devangi Panchal, it is noted that as per the SCN, she is said to have received 1,13,000 shares from Arjav and made off-market transfer and derived unlawful profit of Rs.3,61,600/-. As per

the demat account (no. 11933458) of Devangi Panchal, it is noted that 29,200 shares were received and transferred.

f) Further, as regards the scrip of **TV Today Network**, the SEBI Order dated February 25, 2011 had mentioned that Devangi received 86,200 shares on application and **transferred 35,500 shares to Dipak**; 6900 shares to financiers and 43,800 shares to "**others**". However, the same was not alleged in the SCN issued to the noticees. On perusal of demat account of Dipak Panchal (no. 11933474), it is noted that he had received 30,000 shares and that before such receipt already had 1,37,902 shares.

g) The SEBI Order dated February 25, 2011 had also observed that Dipak Panchal had received 1,15,250 shares of Patni Computers from Arjav Panchal and made illegal gain of Rs.3,68,800/-.

It also observed that Dipak Panchal also received 35,500 shares of TV Today from Devangi Panchal and made illegal gain of Rs.30,65,425/-.

These have not been alleged in paragraph 62 of the SCN (which mentions the amounts to be disgorged by Dipak Panchal).

23. As disgorgement is an action directing the offender to return the undue gains made by him through his fraudulent acts/transactions, it becomes necessary that correct figures of shares which were transferred and used for making gains are ascertained. The noticees have also disputed the 'price' which has been taken for computing the undue gains. Further, the undue profit made in other scrips which have not been alleged in the SCN also needs to be included. SEBI's earlier decision (i.e. the SEBI Order dated February 25, 2011) in the instant matter was set aside and was remanded in view of inconsistencies and discrepancies in facts. As the inconsistencies noted above, needs to be addressed, disgorgement on the basis of facts and figures as mentioned in the SCN dated December 01, 2009 cannot be done at this stage. In view of the above, it would be proper and in accordance with the principles of natural justice that SEBI reconciles the figures on the basis of relevant material and thereafter issue a notice to these noticees before determination of disgorgement.Needless to say, the

noticees shall co-operate with SEBI during such examination and submit all documents in their possession that may be called for by SEBI.

24. For the reasons mentioned in this Order, SEBI is directed to initiate an enquiry/investigation in order to reconcile the facts and figures with respect to the shares fraudulently received (in the IPO irregularities)and sold/off-loaded,for a proper determination of action of disgorgement and issue a show cause notice to the noticees, if necessary.

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

26. Copy of this Order shall be served on the recognized stock exchanges and depositories for information and necessary action.

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Date: March 30th, 2016
Place: Mumbai