

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER

INTERIM ORDER

**UNDER SECTIONS 11, 11(4), 11A AND 11B OF THE SECURITIES AND EXCHANGE
BOARD OF INDIA ACT, 1992**

IN THE MATTER OF

Sl. No.	NAME	PAN
1.	M/s Parsvnath Developers Limited	AAACP0743J

Background of case:

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) was in receipt of a letter no. F. No. 03/73/2017-CL-II dated June 9, 2017 from the Ministry of Corporate Affairs (hereinafter referred to as “**MCA**”) vide which MCA has annexed a list of 331 shell companies for initiating necessary action as per SEBI laws and regulations. MCA has also annexed the letter of Serious Fraud Investigation Office (hereinafter referred to as “**SFIO**”) dated May 23, 2017 which contained the data base of companies categorized as shell companies along with their inputs.
2. SEBI as a market regulator is vested with the duty under section 11(1) of the SEBI Act, 1992 (hereinafter referred to as “**SEBI Act**”) of protecting the interests of the investors in securities and to promote the development of and regulations of securities markets by appropriate measures as deemed fit.

3. SEBI was of the view that companies whose names are included as shell companies by SFIO and MCA, were potentially involved in
 - (a) Misrepresentation including of its financials and its business and possible violation of SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015 (hereinafter referred to as “**LODR Regulations**”) and/or
 - (b) Misusing the books of accounts/funds of the company including facilitation of accommodation entries to the detriment of minority shareholders and therefore reneging on the fiduciary responsibility cast on the board, controlling shareholders and key management person (hereinafter referred to as “**KMP**”)
4. SEBI was also of the view that investors should be alerted on the possible enforcement action by various authorities leading to potentially significant impact on the price of the stock.
5. Therefore, in the interest of investors, SEBI took the pre-emptive interim measures under section 11(1) of SEBI Act, 1992, in respect of listed shell companies including M/s Parsvnath Developers Limited (hereinafter referred to as “**PDL**” / “**Company**”), vide its letter dated August 7, 2017, based on the view stated at para 3 and 4 above. SEBI placed trading restrictions, on the promoters/directors so that they do not exit the company at the cost of innocent shareholders. In view of the said objective, SEBI vide the said letter dated August 7, 2017 also placed the scrip in the trade to trade category with limitation on the frequency of trade and imposed a limitation on the buyer by way of 200% deposit on the trade value, so as to alert them trading in the scrip. The said measures were initiated by SEBI pending final determination after verification of credentials and fundamentals by the exchanges, including by way of audit and forensic audit if necessary. The measures also envisaged, on the final determination, delisting of companies from the stock exchange, if warranted. By virtue of these measure, trading in scrip was not suspended but allowed under strict monitoring so that investors could take informed investment decisions, till SEBI and Exchanges completed their detailed examination of such companies.

6. Pursuant to the same, Bombay Stock Exchange Limited (hereinafter referred to as “BSE”) vide notice dated August 7, 2017, National Stock Exchange of India Limited (hereinafter referred to as “NSE”) vide notice dated August 7, 2017 and Metropolitan Stock Exchange of India Limited (hereinafter referred to as “MSE”) vide notice dated August 07, 2017, to all its market participants, initiated actions envisaged in the SEBI letter dated August 7, 2017 in respect of all the listed securities as identified by MCA and communicated by SEBI, with effect from August 8, 2017.
7. On August 09, 2017, SEBI further advised the Exchanges to submit a report after seeking auditor's certificate, from all such listed companies, providing the status of certain aspects of the company like company's compliance requirement with Companies Act, whether company is a going concern and its business model, status of compliance with listing requirements, etc.
8. PDL vide its letter dated August 08, 2017 had made a representation to SEBI submitting *inter alia* as under:
 - (a) That company has about 2 lakh shareholders and scrip is being actively traded in NSE and BSE with average daily volume of trade in the last one month was approx. 11,03,000 shares at NSE and 2,39,000 shares at BSE. The company had complied all applicable regulations and had not received any notice of default.
 - (b) That company is one of the largest real estate development companies in Northern India and is involved in development and construction of real estate projects across several verticals in 41 cities across 15 states in India. The company has so far completed 65 projects with 14,500 satisfied customers and is presently implementing 42 projects which are in the process of being completed.
 - (c) That company came out with an Initial Public Offer in the year 2006, which was oversubscribed by more than 56 times and the company garnered about Rs. 1,100 crores approx. with a very good participation by Foreign Investors.

- (d) That company had paid dividends for the financial years 2006-07 and 2007-08 and there are no complaints pending relating to non-receipt of dividends by any of its shareholders. Further, there are no outstanding complaints pending under SCORES as on June 30, 2017.
- (e) That company has been regularly filing the requisite returns/forms under the Companies Act, 2013 with MCA.
- (f) That company has already completed several real estate projects and company has several ongoing projects.
- (g) That company has over 22,745 customers, of whom, possession has already been handed over to 14,500 customers. The projects related to the remaining customers are at different stages of completion and possession is to be handed over to them soon on completion.

9. In the meantime, aggrieved by the aforesaid letters dated August 7, 2017 issued by SEBI and Stock Exchanges, PDL filed an appeal No. 175 of 2017 before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as "SAT"). The Hon'ble SAT vide order dated August 11, 2017 directed the following:-

“

- 2. *Similar question was raised in the case of J. Kumar Infraprojects Ltd. (Appeal No. 174 of 2017) and by our order dated 10.08.2017 we have stayed direction 1(a) & (b) contained in the impugned communication of SEBI dated 07.08.2017 qua the appellant therein.*
- 3. *In view of the facts set out in the Memorandum of Appeal and other documents tendered at the time of hearing relating to annual turnover of the appellant company for last three years, which even according to SEBI prima facie appear to be correct, we extend the said stay to the case of the appellant company herein and direct the stock exchanges to reverse their decision in respect of the appellant company as expeditiously as possible.*
- 4. *Appellant company has already made a representation to SEBI against the impugned communication of SEBI dated 07.08.2017. SEBI is directed to dispose of the said representation in accordance with law.*

5. It is made clear that this order shall not come in the way of SEBI as well as the stock exchanges to investigate the case of the appellant company and initiate proceedings if deemed fit.....”

10. The Hon'ble SAT in the matter of *J. Kumar Infra Projects Limited vs. SEBI* dated August 10, 2017 held that the measures taken by SEBI vide its letter dated August 07, 2017 was in the nature of quasi-judicial order and the same has been passed without investigation. Without prejudice to the powers enumerated in section 11(1) of SEBI Act, SEBI has been granted power under section 11(4) and 11B of SEBI Act, 1992 to pass order in the interests of investors or securities market by taking any of the measures enumerated therein either pending investigation or inquiry or on completion of such investigation or inquiry. The inquiry under section 11B of the SEBI Act can also be caused to be made by SEBI.

11. SEBI vide letter dated August 16, 2017 had advised PDL to provide the following information:

(a) Details of the project-wise Turnover of the Company, since 2007. Details of sub-contracts if any in the projects involved. Details of the Turnover contribution by the Company and the contribution of the sub-contracting parties, if any. If there are multiple layers of sub-contracting, then details of all the layers. Sub-contracts of the nature of turn-key or near turn-key are to be considered for this purpose. Role of the Company in those projects which have been sub-contracted, vis-à-vis the sub-contracted parties.

(b) Details of employees on the rolls of the Company, their respective roles, remuneration received, qualifications and experience for the job. Details of Provident Fund contributions made by the Company for the aforesaid employees. For ease of furnishing the information, broad categories of roles: Blue collar, junior management, Middle management, senior management, may be given with names and corresponding details.

(c) Nature of association as per the contract with PACL. Workings of the Company in estimating the value of the contract, supported by documentary evidence. If there was any sub-contracting of the said contract with PACL then details of the role of the Company vis-à-vis the sub-contracted parties. The workings of the Company in accepting the sub-

contract and supporting documentary evidence. The profit earned out of the said project with PACL.

12. PDL vide its letter dated August 24, 2017 submitted a reply to SEBI's letter dated August 16, 2017, as under:

(a) Reply to query 1: *The Company is developing/constructing various types of projects at various locations by procuring land for Group Housing, Shopping Complex, Multiplex, Township villas, Floors etc. Most of the construction works are being executed in house by engaging Contractors/Sub-Contractors/ Petty Contractors depending upon the size, type and technicality of construction work. In some cases, construction work has been executed on turnkey basis through contractors. The company has also secured few construction contracts from various Government and other entities, out of which, some have been executed through sub-contractors. However, there are no multiple layers of sub-contracting.*

The company is having a team of professionals of various fields of expertise like Architects, Engineers, Quantity Surveyors etc. As per the requirement of the project, those are engaged in day-to-day activities during the execution of the project and as per requirement, outside Consultants are engaged for Structure, Plumbing, HVAC, Electrical work etc. In some of the cases, the projects are also being supervised by engaging Project Management Companies as per the requirement.

(b) Reply to query 2: The number of employees as on August 24, 2017 are as under:-

S/No.	Position	Number of Employees
1	Senior Management	32
2	Mid-level Management	58
3	Junior-level Management	210
4	Staff	114
4	Blue Collar	33
5	Employees on Contractual roll	112
TOTAL		559

(c) Reply to query 3: *The Company has had no association with PACL and hence the other queries mentioned above do not arise.*

13. Further, SEBI again vide letter dated September 04, 2017 had advised PDL to provide additional following information:

- (a) *Details of contracts and sub-contracts from/to M/s Bhanot Construction and Housing Ltd., M/s Aerens Goldsouk International Ltd, M/s J Kumar Infraprojects Limited, M/s Totem Infrastructure Ltd. and M/s Simplex Housing Development Pvt. Limited during the period January 2009 to December 2011. In case of above contracts/sub contracts, also specify if the same are directly or indirectly connected to Pearl Agrotech Corp Ltd (PACL) and/or Pearl Green Forests Limited (PGF). Nature of association with the above entities. Workings of the Company in estimating the value of the contract/sub-contract, supported by documentary evidence. With respect to the sub-contracts, details of the role of the Company vis-à-vis the sub-contracted parties. The workings of the Company in accepting the sub-contract and supporting documentary evidence. The profit earned out of the said projects.*
- (b) *With respect to the above contracts, you are also requested to provide the details of completion of contracts along with the work completion certificate for the same.*

14. PDL vide its letter dated September 11, 2017 had requested 2 weeks' time to submit the information sought by SEBI vide its letter dated September 04, 2017. PDL vide its letter dated September 26, 2017 submitted a reply to SEBI's letter dated September 04, 2017, as under:

“.....

It is submitted that during the years 2009-10, 2010-11 and 2011-12, our Company had got some work sub-contracted to us by various entities which we further sub-contracted to various other parties and the details of the same are enclosed, which also gives the details of works sub-contracted from/to Bhanot Construction & Housing Limited, Arch Infraprojects, Nirman Private Limited, J. Kumar Inraprojects Limited, Totem

Infrastructure Limited and Simplex Housing Development Private Limited along with profit earned by our Company from each such sub-contracts. Since these works were sub-contracted to us and we further sub-contracted the same to various other parties, the role of our Company was limited as we did not go into the minute details of the contracts since it was sub-contracted to other parties with a mark up for us and on the basis of the billing raised on us by our sub-contractors, we raised the bill to the entities who had sub-contracted the work to us.

As far as the association with Pearl Agrotech Corp Ltd. (PACL) and/or Pearl Green Forests Ltd. (PGF) either directly or indirectly is concerned, we do not have any association with them of any kind. However, in one sub-contract received from M/s J. Kumar Infraprojects Ltd., Arch Infraprojects Nirman Pvt. Ltd. and NKG Infrastructure Ltd., the name of PACL was mentioned as Principal Client However, we have never dealt with PACL or PGF in any manner whatsoever. We neither received work completion certificates from our sub-contractors nor we issued such certificates to our clients.....”

Hearing and Reply:

15. Pursuant to the decision of Hon’ble SAT that the communication of SEBI dated August 7, 2017 is in the nature of quasi-judicial order, in the interest of natural justice, SEBI vide communication dated December 19, 2017 granted an opportunity of hearing to PDL on January 17, 2018. On January 17, 2018, Mr. Abhishek Venkatraman, Advocate, Mr. Mukesh Kumar, Advocate, Mr. Vijay Nair, Advocate, Mr. Pradeep Jain, Chairman of PDL, Mr. V Mohan, Company secretary & Compliance Officer of PDL and Mr. Rajeev Kumar Jain, Vice President (Finance & Accounts) of PDL, Authorized Representatives (hereinafter referred to as “ARs”) on behalf of PDL had appeared for hearing and made oral submissions which are as under:

- (a) ARs made the oral submission in line with replies available on record.
- (b) ARs submitted the copy of power point presentation dated January 17, 2018 about the company overview, strong management bandwidth, Milestone, facts about the company etc.

It was explained to the ARs that a Government Agency categorizing a company as a Shell Company was a trigger for SEBI that these companies may possibly have misrepresented their financials or misused their books of accounts and thereby may have violated the securities laws. Therefore, in this context, to confirm the genuineness of contract/sub-contract and transactions relating to PACL, ARs are advised to submit documentary evidence of actual work done like visit report of engineer, computation of cost, site photographs, travel expenses, actual working papers etc. or/and demonstrate that actual works had been done and executed by PDL w.r.t. to contract/sub-contract and transactions relating to PACL.

ARs of PDL requested 3 weeks' time to furnish the said information. Acceding to the request, ARs were advised to submit the aforesaid information by February 07, 2018.

16. PDL vide its letter dated February 05, 2018 had requested 8 weeks' time (i.e. till April 04, 2018) to submit the information/documents sought by SEBI at the time of hearing held on January 17, 2018. SEBI vide email dated February 14, 2018, had granted time to PDL till March 15, 2018 to submit the said information alongwith documentary evidence. PDL vide its letter dated March 14, 2018 made its submissions, including *inter alia* as under:

“.....

- (a) *We enclose documents relating to said sub-contracts, like agreements and invoices.....*
- (b) *Most of these transactions are more than five years old and it is extremely difficult to trace out more detailed information in respect of these transactions and the works carried out. Further, it is submitted that since these works were sub-contracted to us and we further subcontracted the same to various other parties, the role of our Company was limited. That was an era when we even had an approach of executing and providing sub-contracted work. Similar contracts as those listed out in our letter of 26.09.2017 were received and subcontracted by other entities in the construction industry. There were no malafides involved in such sub-contracting of works and the Company has only acted as per industry norms.*
- (c) *As stated hereinbefore, construction of all major projects are done by our in-house team. The Company has very negligible business of contracting and sub-contracting as*

compared to its major business of Real Estate Development. It may be seen that contracting and subcontracting business of the Company only accounted for 8.79%, 2.79% and 10.06% of the overall turnover and 4.14%, 1.16% and 1.80% of the EBIDTA of the Company for the financial years 2009-10, 2010-11 and 2011-12 respectively. Primarily, these transactions were undertaken by the Contract Team of the Company to meet their revenue target.

(d) It is also pertinent to mention that the senior management of the company had decided to stop contracting such work particularly since we want to ensure that we are able to monitor and control execution and implementation of projects handled by us. Therefore, since the financial year 2012-13 as a matter of policy, our Company has completely stopped carrying out such transactions. To confirm the same, we are submitting an undertaking of the Managing Director & CEO of the Company.....and also, if required, we can request the Statutory Auditors to provide a report to that effect.....”

17. Meanwhile, pursuant to SEBI’s letter dated August 9, 2017, NSE submitted its report dated September 12, 2017 stating that Company is compliant with five clauses of Standard Operating Procedures. As per the Auditor Certificate, Company had complied with the provisions of Companies Act, 2013 and had filled its annual returns with Registrar of Companies for last three years, Company had filled its annual income tax returns and Company is a going concern engaged in business of real estate for promotion, construction and development of residential/commercial complex, township, shopping malls, etc.

NSE recommended that as per the compliance record and other details submitted by the company as per SEBI prescribed format, Parsvnath Developers Limited may be allowed to be traded on NSE. However, the same has been concluded on the basis of the requirement of filings to be made by the Company. It is also essential to analyse the contents and representations made in the filings to arrive at prima facie findings of any misrepresentation therein.

Consideration:

18. On perusal of the materials available on record, the following prima facie/potential issues arise for consideration.

- (a) *Whether there is prima facie suspicion / evidence of misrepresentation including of its financials and/or its business and possible violation of LODR Regulations by the company.*
- (b) *Whether there is prima facie suspicion / evidence to show that the company is misusing the books of account/funds including facilitation of accommodation entries to the detriment of minority shareholders and therefore the board, controlling shareholders and KMP are reneging on the fiduciary responsibility cast on them.*
- (c) *In view of the determination on the above issues, pursuant to SAT Appeal and the order of SAT in the said appeal, whether, in view of the representation of the Company, the action envisaged in SEBI letter dated August 7, 2017 needs reconsideration.*

19. On the basis of documents available on record, my observations on above issues are as under:

Issue No. 1. *Whether there is prima facie suspicion / evidence of misrepresentation including of its financials and/or its business and possible of violation of LODR Regulations by the company.*

Issue No. 2. *Whether there is prima facie suspicion / evidence to show that the company is misusing the books of account/funds including facilitation of accommodation entries to the detriment of minority shareholders and therefore the board, controlling shareholders and KMP are reneging on the fiduciary responsibility cast on them.*

20. Based on the replies given by the company in response to SEBI's queries, prima facie observations are as under:

(a) PDL, in its reply, had submitted the amount of sub-contracts received and given by/from various entities alongwith profit made. With respect to (w.r.t.) details of Sub-contracts received and Sub-contracts given by PDL during the financial year (FY) 2009-10, 2010-11 and 2011-12, PDL vide its reply dated September 26, 2017 has submitted the bill amount for sub-contract received and sub-contract given and the profit earned.

Further, during the course of hearing ARs of PDL was advised to submit the documentary evidence of actual work done like visit report of engineer, computation of cost, site photographs, travel expenses, actual working papers with respect to contracts/sub-contracts undertaken during the F.Y. 2009-10, 2010-11 and 2011-12 and transaction relating to PACL. In reply to it, PDL vide letter dated March 14, 2018 has submitted the invoices raised and received to/from the entities, ledger statements, agreements, for the contracts/sub-contracts undertaken during the F.Y. 2009-10, 2010-11 and 2011-12. Upon analysis of said documents following is noted:

- (i) The total amount of contracts/sub-contracts undertaken by the company are tabulated below:-

Financial Year	Contract receipt amount	Contract given amount	Income
2009-10	67,82,36,978	56,67,09,674	11,15,27,304
2010-11	19,89,96,060	17,82,17,740	2,07,78,320
2011-12	64,97,99,754	58,19,38,270	6,78,61,484
TOTAL	1,52,70,32,792	1,32,68,65,684	20,01,67,108

- (ii) On analysis of invoices, it is noted that PDL had purportedly inter alia undertaken following types of work on contract/sub-contract:

- Civil work of Dam
- Land Levelling
- Road construction
- Rock blasting, site clearing

- Excavation, laying of MM dia, MS pipes, Jointing of trenches and hydro testing

(iii) The agreements and invoices of the above contracts/sub-contracts undertaken by PDL with respect to land levelling specifies the names of the village without any reference to the identifiable land records (for e.g. khasra number/plot number, date of actual details of the commencement of work and completion of work etc.) except some kila numbers in one of the contract amounting to Rs. 6.75 crores received from AMR Construction Limited for 10.041 hectares in village Tikri Tehsil and district Gurgaon of Haryana which was further sub-contracted to Totem Infrastructure Limited for Rs. 5.62 crores in the F.Y. 2009-10.

(iv) Upon analysis of invoices on a sample basis, it is noted that the invoices raised on the clients (i.e. Advance Construction Limited, J Kumar Infraprojects Limited) was on the same date when the invoices were received from the sub-contractor (i.e. Totem Infrastructure Limited). Some of the instances are tabulated below:-

Invoices raised by PDL on client			Invoices received by PDL from Contracts / Sub-Contracts		
Invoice Date	Name of Entity	Amount of Invoices in Rs.	Invoice Date	Name of Entity	Amount of Invoices in Rs.
22/07/2009	Advance Construction Ltd	1,17,50,000	22/07/2009	Totem Infrastructure Ltd	79,50,000
22/06/2009	J Kumar Infraprojects Ltd	98,49,000	22/06/2009	Totem Infrastructure Ltd	80,85,000
23/06/2009	J Kumar Infraprojects Ltd	1,03,85,000	23/06/2009	Totem Infrastructure Ltd	85,25,000
24/06/2009	J Kumar Infraprojects Ltd	1,19,26,000	24/06/2009	Totem Infrastructure Ltd	97,90,000
25/06/2009	J Kumar Infraprojects Ltd	83,08,000	25/06/2009	Totem Infrastructure Ltd	68,20,000
26/06/2009	J Kumar Infraprojects Ltd	76,48,050	26/06/2009	Totem Infrastructure Ltd	62,78,250
27/06/2009	J Kumar Infraprojects Ltd	60,30,000	27/06/2009	Totem Infrastructure Ltd	49,50,000

- (v) It is also noted from the company's reply dated September 26, 2017 that the sub-contracts received by PDL from J. Kumar Infraprojects Ltd., Arch Infraprojects Nirman Pvt. Ltd. and NKG Infrastructure Ltd. during the FY 2009-10 where PACL was a Principal Client amounts to Rs. 26.96 crores. In this context it is to be noted that SEBI carried out investigation in the matter of PACL and during the course of investigation, it was found that PACL had mobilized funds from its customers to the tune of Rs.49,100 crores till June 15, 2014. Further, recovery proceedings and adjudication proceedings have been initiated against PACL and its directors.

It is noted that invoices are not supported by any work completion certificates, the date of invoices raised on the client by PDL and the date of invoices received from the sub-contractors were on the same date. With respect to the invoices & agreements of land levelling contracts/sub-contracts, there are insufficient details to identify the land for which sub-contract was taken/given i.e. khasra number/plot number, date of actual details of the commencement of work and completion of work etc. The fact that PDL was given a contract in respect of lands which could not be identified for performance of the contract shows that PDL was aware at the time of receiving and granting sub contract, that the same cannot be executed. This is further corroborated by the fact that PDL did not produce any work completion certificate, workings of the company in estimating/accepting the value of the contract/sub-contracts, visit report of engineer, computation of cost, site photographs, travel expenses, actual working papers with respect to contracts/sub-contracts undertaken during the F.Y. 2009-10, 2010-11 and 2011-12. I also note from the submission of the Company that these transactions were undertaken by the Contract Team of the Company to meet their revenue target. The Company has also clearly implied that the sub-contracting was not monitored when it clarified that the senior management of the Company had decided to stop contracting such work since the Company wants to ensure that it is able to monitor and control execution and implementation of projects handled by it. PDL also clarified that the financial year 2012-13 as a matter of policy, the Company has completely stopped carrying out such transactions. The fact that such contracts whose subject matter

cannot be identified for execution were knowingly entered into by the Company raises the prima facie suspicion that the company has entered into such contracts for raising its revenue figures in order to misrepresent its financials and misuse of its books of accounts for the benefits of others.

(b) PDL, in its reply dated September 26, 2017, had submitted that they did not go into the minute details of the contracts since it was sub-contracted to other parties. PDL also submitted that they have not received the work completion certificates from their sub-contractors.

Para 21 of Accounting Standard 9 – Construction contracts for Recognition of Contract Revenue and Expenses, states that “*When the outcome of a construction contract can be estimated reliably, contract revenue and contract costs associated with the construction contract should be recognised as revenue and expenses respectively by reference to **the stage of completion of the contract activity** at the reporting date. An expected loss on the construction contract should be recognised as an expense immediately in accordance with paragraph 35.*” Further as per para 2 of Guidance Note on Turnover in case of Contractors, the recognition of revenue is attributed to the proportion of work completed (referred to as percentage of completion method). The revenue from contracts are recognized as revenue in the statement of profit and loss in the accounting period in which the work is performed. The income and the expense of the contracts/sub-contracts are recognized on the basis of percentage of completion method. As stated in the previous paragraph the Company has entered into sub contracts the subject matter of which was not identifiable for execution of the contract. Consistent with this, the Company in its reply dated September 26, 2017 had submitted that they neither received work completion certificate from their sub-contractors nor they issued such certificates to their clients. In the absence of work completion certificates or percentage of completion of sub-contracts and non-identifiable nature of the subject matter of contract for execution, it raises a *prima facie* suspicion on how such income can be recognized in the books of accounts of PDL. However, it is observed that PDL booked income on such contracts in the F.Y. 2009-10, 2010-11 and 2011-12. Thus there arises a *prima facie* suspicion that its books of accounts were misused to show

revenues from contracts with entities when no such contracts are *prima facie* intended for execution. Even if there is flow of funds, the *prima facie* fact that the contract was intended to be for non-execution, it shows that the books of accounts have been misused to reflect the flow of funds in order to create an appearance of revenue creation, while no such revenue could have been created for a work not intended to be done. Therefore, it raises a strong suspicion that the company *prima facie*, has created entries of revenue in respect of the contracts, for illegal consideration, in the books of the Company thereby also misrepresenting its financials.

- (c) In response to the query raised” *If there are multiple layers of sub-contracting, then details of all the layers*”, the company in its reply dated August 24, 2017 submitted that “*the company has also secured few construction contracts from various Government and other entities, out of which, some have been executed through sub-contractors. However, there are no multiple layers of sub-contracting.*” However, company vide its letter dated September 26, 2017 submitted that “*sub-contract received from M/s J. Kumar Infraprojects Ltd., Arch Infraprojects Nirman Pvt. Ltd. and NKG Infrastructure Ltd., the name of PACL was mentioned as Principal Client.*”

Thus, the information (with respect to multiple layers of sub-contracting) submitted by the company vide its letters dated August 24, 2017 and dated September 26, 2017 are contradictory. This constitutes a false submission to SEBI by the company either vide letter dated August 24, 2017 or vide letter dated September 26, 2017. Further, company had not submitted the details of multiple layers along with the respective role of the company and its sub-contractors.

- (d) From the information submitted by the company w.r.t details of sub-contracts received and given w.r.t to the concerned entities mentioned in the SEBI’s letter dated September 4, 2017, following is observed:
- (i) For FY 2009-10, all the 10 sub-contracts were given by the company to Totem Infrastructure Ltd. for Rs.56.67 cores.

- (ii) For FY 2010-11, all the 5 sub-contracts were received by the company from Totem Infrastructure Ltd. for Rs.19.89 crores
 - (iii) For FY 2011-12, all 3 subcontracts were given by the company to Simplex Housing Development Pvt. Ltd. for Rs.58.19 crores.
- (e) I note that company vide letter dated March 14, 2018 had submitted copy of its Annual Reports for last three years for F.Y. 2014-15, 2015-16 and 2016-17, presentation about the company overview, management, milestones, facts about the company etc, information / details of completion of various projects under the sphere of Real Estate and Construction and undertaking of Managing Director and CEO of the Company stating that since F.Y. 2012-13 as a matter of policy, the Company has completely stopped carrying out such transactions i.e. business of contracting and sub-contracting. However, I note that the present enquiry is restricted only to contracts/sub-contracts under taken by PDL during the period 2009-10, 2010-11 and 2011-12.

21. From the above I note the following:

- (a) As regards the contracts/sub-contracts works undertaken by PDL, it is noted that PDL did not submit the work completion certificate for these contracts/sub-contracts nor any supporting documentary evidence of actual work carried out and PDL also did not submit details of the land to be developed. Thus, there is *prima facie* suspicion of scale of business and that the revenue of the company was overstated to this extent resulting in misrepresentation of financials of the company.
- (b) Flowing from the above that company had failed to furnish the evidence of actual completion of work thereby company permitted misuse of its books of accounts by routing non-genuine transactions and illegal gains of commission reflecting inflated revenue. Thus, there appears *prima facie* suspicion for misuse of books of accounts of the company.

- (c) The information (with respect to multiple layers of sub-contracting) submitted by the company vide its letters dated August 24, 2017 and dated September 26, 2017 are contradictory and needs verification.
- (d) Similarly, the Company has failed to provide documentary proof of execution of contracts undertaken/given from/to Bhanot Construction and Housing Limited, Aerens Goldsouk International Limited, J Kumar Infraprojects Limited, Totem Infrastructure Limited and Simplex housing Development Private Limited as sought by SEBI vide letter dated September 04, 2017.

22. Thus, there is *prima facie* suspicion of misrepresentation of business/financials as well as suspicion of misuse of books of accounts of the Company. Therefore, it is imperative that in the interest of investors, the financials of the Company be independently audited to establish their genuineness of its transactions / contracts and sub-contracts referred in paragraph 20 above including the role of KMPs, Directors and Promoters in those transactions.

Issue No. 3. *In view of the determination on the above issues, pursuant to SAT Appeal and the order of SAT in the said appeal, whether, in view of the representation of the Company, the action envisaged in SEBI letter dated August 7, 2017 needs reconsideration.*

23. I note that there is *prima facie* suspicion on misuse of books of accounts and misrepresentation of financials/business of the Company. Thus, I find that it would be appropriate that the financials of the Company be independently audited to establish their genuineness of its transactions / contracts and sub-contracts referred in paragraph 20 above including the role of KMPs, Directors and Promoters in those transactions.

24. In view of the above, I am of the view that following interim actions are required to be taken, pending further enquiry/audit.

INTERIM ORDER

25. In the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Sections 11, 11(4), 11A and 11B read with Section 19 of the Securities and Exchange Board of India Act, 1992, hereby, direct, against M/s Parsvnath Developers Limited that:

- i.* Exchange shall appoint an independent forensic auditor *interalia* to further verify:
 - a. Misrepresentation including of financials and/or business by PDL, if any, in the context of the transactions referred in paragraph 20 above including the role of KMPs, Directors and Promoters in those transactions;
 - b. Misuse of the books of accounts / funds including facilitation of accommodation entries or compromise of minority shareholder interest, if any, in the context of the transactions referred in paragraph 20 above including the role of KMPs, Directors and Promoters in those transactions.
- ii.* The other actions envisaged in SEBI's letter dated August 07, 2017 in para 1 (d), as may be applicable, and the consequential action taken by Stock Exchanges shall continue to have effect against M/s Parsvnath Developers Limited.

26. Accordingly the representation of M/s Parsvnath Developers Limited is disposed of.

27. The above directions shall take effect immediately and shall be in force until further Orders.

28. The prima facie observations contained in this Order are made on the basis of the prima facie material available on record. In this context, M/s Parsvnath Developers Limited is advised to file its reply/objections to this interim order. The company, from the date of receipt of this Order, may file its reply, if any, receivable by SEBI within 30 days from such receipt, and may also indicate in the reply whether it desires to avail an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard, if any. In the event of M/s Parsvnath Developers Limited failing to file reply or requesting for an opportunity of personal

hearing in its reply within the said 30 days, the preliminary findings of this Order and ad-interim directions at para 25 above shall stand confirmed automatically, without any further orders.

29. Copy of this Order shall be forwarded to the recognised stock exchanges & depositories for information and necessary action.

30. A copy of this Order shall also be forwarded to the Ministry of Corporate Affairs and Serious Fraud Investigation Office for their information.

-Sd-

DATE: AUGUST 08, 2018

PLACE: MUMBAI

**MADHABI PURI BUCH
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**