

WTM/AB EFD1/ EFD1-DRA3/7449/2020-21

**SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER**

UNDER SECTIONS 11(1), 11B AND 11D OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH SECTION 73 OF COMPANIES ACT, 1956

In respect of:

Noticee no.	Noticee Name	PAN No.
1.	Neesa Technologies Limited	AABCG5430A
2.	Mr. Arvind Gupta	AERPG2839N
3.	Mr. Yogesh Ghisumal Gemawat	ADVPG4051D
4.	Mr. Girishchandra Mukundram Baluni	AAKPB5408R
5.	Mr. Nimain Charan Biswal	ACRPB3767C
6.	Mr. Sanjay Gupta	ABUPG5799B
7.	Mr. Kamendra Chunilal Joshi	ABIPJ6029P
8.	Mr. Manoj Singhal	ARFPS7604E
9.	Mr. Suresh Kumar	ADZPK2242A

(The aforesaid entities are hereinafter referred to by their respective names / Noticee numbers and collectively as "the Noticees")

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1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') issued a Show Cause Notice dated March 21, 2018 (hereinafter referred to as '**SCN**'), to Neesa Technologies Ltd. (hereinafter referred to as '**NTL**'/ '**the Company**'/ '**Noticee no. 1**') and the other Noticees, as mentioned hereinabove, calling upon them to show cause as to why appropriate directions should not be issued to them including the direction to refund the money mobilized through issue of Optionally Convertible Debentures (hereinafter referred to as '**OCD**') along with interest, as well as direction to prohibit the Company, its promoters and directors from accessing the capital market, under Sections 11 and 11B of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act, 1992**'), for the violations of the provisions of Companies Act, 1956 and SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (hereinafter referred to as '**ICDR Regulations, 2009**').

2. By the SCN, the Noticees were asked to file their reply to the SCN, if any, within 21 days of the receipt of the SCN. All the Noticees have filed their replies/written submissions. The Noticees were granted their first opportunity of hearing on May 6, 2019, on which date, Noticee no. 4, 5 and 9 were heard. Noticee no. 1, 3 and 7 requested for adjournment of hearing and accordingly, as requested, the matter was adjourned to June 4, 2019 for these Noticees. On the next date of hearing i.e. June 4, 2019, Noticee no. 1, 2, 3, 6, 7 and 8, all sought for adjournment for the reasons cited in their respective letters requesting for adjournment. Hence, the hearing was adjourned to June 12, 2019. Noticee no. 3, 7 and 8 sought for another adjournment. As a final opportunity, the matter was adjourned to June 28, 2019, on which date, Noticee no. 3 was heard. Due to heavy rains, Noticee no. 7 and 8 sought adjournment of hearing scheduled on June 28, 2019. In the interest of justice, the hearing in the matter was adjourned to July 19, 2019 for Noticee no. 7 and 8. On the next date of hearing i.e. July 19, 2019, Noticee no. 1, 2, 6, 7 and 8 were heard. I note that some of the Noticees had raised objections in their replies in respect of non-availability of the correct Annexures with the SCN, hence, in the interest of justice, vide email dated February 18, 2020 and February 20, 2020 all the Noticees/authorized representatives were once again provided with the copies of the Annexures to the SCN and they were called upon to file their additional replies, if any, within 10 days from the receipt of the said email. I note that Noticee no. 4, 5, 7, 8 and 9 have filed their additional replies pursuant to the said email.

3. The SCN contains, *inter alia*, the following allegations against the Noticees:
 - a. Vide reply dated February 2, 2015, NTL had given a list of 185 OCD holders. From the list, it is noted that an amount of ₹1.62 crores was raised by NTL through the OCD's;

 - b. As per the information available on MCA 21 Portal, it was observed that the Company had filed Return of Deposit alongwith CA Certificate and list of deposit holders in form GNL-2. As per the said form, the deposit holders (156) have been classified as 'Public Deposits- Optionally Convertible Debentures' by the Company. As per Form GNL-2, the total amount of OCD's issued was ₹1.53 crore;

- c. It is observed from Form DPT-4 (statement regarding deposits existing on the commencement of the Companies Act, 2013) that during the Financial Years 2012-13 and 2013-14, the Company had issued OCD's to a total of 156 people. As per Form DPT-4, 85 investors had opening balance as on April 1, 2013 and 71 investors had no opening balance, thus indicating that issuance to these 71 people had occurred during the financial year 2013-14;
 - d. It was observed that Noticee no. 2 to 9 were directors of the Company during the period when OCDs were issued; and
 - e. It was alleged that Noticees have violated Section 56 readwith Schedule II of the Companies Act, 1956 and Regulations 4(2), 5(7), 6, 20(1), 25, 26, 36, 37, 46 and 57 of the ICDR Regulations, 2009;
4. The brief of the contentions raised by Noticee no. 1, vide its reply dated July 19, 2019, during the hearing held on July 19, 2019 and in the additional reply dated August 8, 2019, to the allegations raised in the SCN, is as follows:
- a. NTL has already made request to CLB (now NCLT) for restricting of payment towards deposits which it has raised from the investors. These are named as OCDs/NCDs by SEBI, but NTL believes it to be Deposits and treats them like that.
 - b. The terms of the issued deposit certificates mentions the procedure which was to be adopted by the investors for redemption of the said deposit certificates. The depositors had to send a written request to NTL at least 15 days before the date of completion of the term of deposit. However, none of the depositors has sent any redemption request to NTL. Hence, it is wrong to say that NTL did not repay its liabilities towards due when in reality the depositors are responsible for the said non-payment because of non-filing of redemption claim by the depositors within the stipulated time frame.

- c. NTL has checked its records and it is found that the OCD certificates have been signed by Noticee no. 3, Noticee no. 7 and Mr. Rahulbhai Shah. Hence, these people who were part of the Board of Directors of NTL and/or KMP at the time of issue of OCDs and who themselves by their signatures have issued OCDs to the depositors are primarily liable to payback the amount to the investors.
 - d. The so called OCDs/NCDs are indeed deposits and NTL treats them to be Deposits.
5. The brief of the contentions raised by Noticee no. 2, vide its reply dated April 6, 2018, July 19, 2019 and during the hearing held on July 19, 2019, to the allegations raised in the SCN, is as follows:
 - a. I was appointed as MD in Neesa Infrastructure Ltd. on January 3, 2011. I was involved in day to day operations of Neesa Infrastructure Ltd. I was drawing my remuneration and expenses from Neesa Infrastructure Ltd. I resigned as MD from the said company from December 01, 2016.
 - b. In the meantime, I was made honorary director in NTL. I was not involved in day to day operations and financial matters of NTL.
 - c. I have never attended any meeting related to OCD and also not signed any document related to debenture certificate, to the best of my knowledge.
 - d. I have never taken any kind of incentive, commercial benefits from NTL.
6. The brief of the contentions raised by Noticee no. 3, vide its reply dated June 27, 2019, during the hearing held on June 28, 2019 and in the written submissions dated July 5, 2019, to the allegations made in the SCN, is as follows:
 - a. All documents relied upon by SEBI in the SCN have been provided to him and it is requested not to rely upon any document that has not been provided to him.

- b. Noticee no. 5 being the Managing Director of NTL at that point of time, hence, in accordance with Section 5 of the Companies Act, 1956, he is liable. SCN issued by SEBI has clubbed all the directors in the same category and made some grave and sweeping allegations against them for the acts committed by the Company. However, under law, only an officer who is in default, should be held liable for the acts of the Company.
- c. During his directorship, he has not signed any attendance register for board meetings, nor any certificates for issuing any securities. He has not received any notice of board meeting of the Company for issuance of OCDs. Further, as per the office order issued by Noticee no. 6, as Chairman of NTL, he was appointed for supervising the construction, real estate, engineering, group purchase and group insurance department of NTL and at no point he was concerned with the fundraising done by NTL.
- d. There was one Mr. Mahendra Gidwani, who was also a non-executive director in NTL for the period from November 2, 2012 to June 30, 2013. However, SEBI has not issued any SCN to him, I stand on the same pedestal as Mr. Mahendra Gidwani, hence, the same treatment must be given to me.
- e. He joined the Neesa Group as an employee in 2008 and left the employment in September, 2013. When he resigned from the post of an employee, he stopped receiving salary from the Company, even though he continued to be the director of NTL till 2014. This clearly shows that effectively he had been working in the Company only as an employee and not as a director.
- f. The e-form filed at the time of appointing him as director only shows his position as Executive Director. However, it is contended by him that the said e-form was filed by NTL and the same was not done by him. He was appointed and has always been working as non-executive director of NTL. He has not carried out any work of Executive director at NTL. He has received the same amount of money as director that he used to receive as an employee of NTL.
- g. The SCN is general and vague in nature and fails to make out any specific case against me.

- h. Mr. Rahul Shah was given the necessary authority by the person having control over the affairs of NTL i.e. Noticee no. 6, for fund raising, through fixed deposits, NCDs/OCDs and other financial products.
 - i. As per MCA Circular no. 3/57/2011/CL-II dated July 29, 2011, no director shall be held liable for any violation by the company or by any other officer of the company, if the violation occurred without his or her knowledge and without his/her consent/connivance or when he/she has acted diligently. In the present case, he had no knowledge about the fund raising activities of the Company.
7. The brief of the contentions raised by Noticee no. 4, vide its reply dated June 14, 2018, May 31, 2019, during the hearing held on May 6, 2019 and in the additional reply dated August 9, 2019, to the allegations raised in the SCN, is as follows:
- a. I was an Additional director in the Company from September 12, 2011 to December 1, 2012. I joined NTL in my second stint as non-executive director on January 21, 2014 and tendered my resignation on March 30, 2014. The Company failed to file the requisite e-form with RoC to give effect to my resignation. Further, NTL did not regularize my appointment as Additional director in its ensuing AGM on September 30, 2014. Therefore, NTL indirectly took cognizance of my resignation dated March 30, 2014.
 - b. In accordance with the annexures to the SCN, it is submitted that during my first tenure as director, allotments to only 12 persons took place. I cannot be held liable for breach of public issue norms by NTL, after my resignation from the Company. Further, in the FY 2013-14, I joined the Company on January 21, 2014 and resigned on May 27, 2015. There were no issuance and allotment of OCD's during this period as per the data given by SEBI in Annexure A of SCN.
 - c. I discharged my duty of informing the Company by sending my resignation dated March 4, 2015 by Speed Post as well as by email and also filling Form DIR 11 with MCA. However, the Company again defaulted in its duty by not filling Form DIR 12 with RoC.

- d. Resignation cannot be refused by the directors or the Board, unless the Articles of Association provides for the same. Hence, my first resignation dated March 30, 2014, ought to have been accepted and all necessary intimation and filling ought to have been done by NTL.
 - e. In the present case, the record shows that the Company had appointed Noticee no. 5 as the Managing Director of NTL on November 7, 2013. As such, I am not liable under Section 73(2) r/w Section 5 of the Companies Act, 1956 as 'Officer in Default' and for continuing liability of the Company.
 - f. SEBI cannot treat this issue of securities as OCD, when MCA has treated it as Deposit under Companies Act. In my opinion SEBI does not have jurisdiction as RoC has already launched prosecution for violation of Section 58A(1) of Companies Act, 1956.
 - g. I have never been paid any Board meeting sitting fees, remuneration, commission, etc. by NTL. I am neither the promoter, nor shareholder, nor financially interested in the Company in any manner.
 - h. The Memorandum of Understanding dated October 20, 2014, was entered by Noticee no. 6, as the Chairman and Managing Director of NTL. This clearly shows that Noticee no. 6 is the main promoter and shareholder of NTL. As such, he is the 'Officer in Default' as per Section 73(2) r/w Section 5 of the Companies Act, 1956.
 - i. Form 20B filed by NTL for the FY 2013-14 contains a Note which states that Noticee no. 3 and 5 though have tendered their resignation to RoC, but NTL has not accepted their resignation because they were in the executive role of the Company.
8. The brief of the contentions raised by Noticee no. 5 in its reply dated January 3, 2019 and during the hearing held on May 6, 2019, to the allegations raised in the SCN, is as follows:

- a. That he did not have any nexus with NTL or in any of the Neesa Group companies, in any way or any manner. He had merely appeared for an employment interview at Neesa Group, when they had taken some documents as part of a normal candidate screening process and these documents were used by NTL to fraudulently make him the director of NTL. He immediately filed necessary forms (including DIR 11) with RoC as soon as it came to his knowledge that he had been made a director of NTL.
- b. That during his short theoretical tenure as director of NTL, he had not attended any board meeting of the Company, nor participated in any decision making by the Company. Hence, his directorship in NTL automatically got vacated by virtue of the provisions of Section 283(1)(g) of the Companies Act, 1956.
- c. That he was illegally and unduly implicated by SEBI in the interim order dated June 3, 2015 and Final order dated June 2, 2016, in the NCD issue matter of NTL. After filing an appeal before SAT, vide its order dated July 14, 2016 Hon'ble SAT had quashed the impugned orders passed by SEBI qua him and directed SEBI to pass fresh orders after hearing him out. Thus, after giving him an opportunity of hearing, SEBI had passed an Order dated September 7, 2016, completely exonerating him from the matter of NCD issue by NTL.
- d. That RoC, Gujarat had filed 34 Criminal Cases under the Companies Act before the Addl. Chief Metropolitan Magistrate Court at Ahmedabad, against NTL and him. Being aggrieved, he had filed Special Criminal Application/Writ before the Hon'ble High Court at Gujarat, whereby the Hon'ble High Court vide its judgement dated December 3, 2018, had quashed all the 34 criminal cases that were instituted by RoC, Gujarat against him.
- e. That till February, 2017, even after 3 years of vacating the office of director in NTL, his name was still reflected as director on MCA 21 Portal, so he filed Civil Writ Petition No. 4497 of 2017 before Hon'ble High Court at Gujarat praying for directions to MCA and RoC to remove his name as director from records of MCA 21 Portal. Vide orders dated July 5, 2017 and April 20, 2017, the Hon'ble

High Court directed MCA and RoC to modify the records at MCA 21 Portal and fixed his period of directorship in NTL from November 7, 2013 to March 6, 2014.

- f. Out of the 34 Criminal Cases instituted by RoC, Gujarat, 11 cases related to OCDs issue by NTL. Since, all the criminal cases against him (which includes 11 criminal cases relating to OCD issue) have already been quashed by Hon'ble High Court of Gujarat, the action by SEBI to put him into further litigation on the same issue is violation of Article 20(2) of the Constitution of India.
 - g. That he cannot be held responsible for the acts done by the Company prior to his date of appointment as theoretical director in NTL i.e. November 7, 2013. The EGM approving the issues of OCDs/NCDs and subsequent board meetings held for allotment of debentures (as annexed with the SCN), were all clearly held prior to him joining the Company as director. Hence, he cannot be held liable for the issue and allotment of OCD by NTL in violation of deemed public issue norms.
9. The brief of the contentions raised by Noticee no. 6, vide its reply dated April 6, 2018, May 30, 2019, July 19, 2019, during the hearing held on July 19, 2019 and in the additional reply dated July 31, 2019, to the allegations raised in the SCN, is as follows:
- a. I was a government employee in the rank of Secretary to the Government of Gujarat. In April 2011, I got appointed as Chairman of Metro-Link Express for Gandhinagar and Ahemdabad. I held office as Chairman of MEGA from April, 2011 to August, 2013. Being very busy in my official assignment and being restricted by my service conduct rules, I did not at all get involved in the executive decision making at NTL.
 - b. I had already resigned from my directorship of NTL on April 25, 2013 and was later on associated with NTL again in July, 2013 for a very brief period upto November, 2013 as additional director only to see after my interests as minority shareholder of NTL.

- c. I was not involved in day to day affairs of NTL and was also not involved in matter of issue of OCDs. I was never part of the meeting of the Board of the Company, in which decision on the issue of OCD might have been made.
 - d. The OCD certificates have been signed by Noticee no. 3, Noticee no. 7 and Mr. Rahulbhai Shah. Hence, these people who were part of the Board of Directors of NTL and/or KMP at the time of issue of OCD"s and who themselves by their signatures have issued OCDs to the depositors are primarily liable to payback the amount to the investors.
 - e. The MoU dated October 20, 2014, handed over to you at the time of hearing by the Advocate of Noticee no. 7 and 8, is fabricated and false.
10. The brief of the contentions raised by Noticee no. 7, vide its reply dated June 24, 2019, during the hearing held on July 19, 2019 and in the additional reply dated August 7, 2019, March 03, 2020 and March 04, 2020, to the allegations raised in the SCN, is as follows:
- a. I was a non-executive director in NTL from August 06, 2012 to July 15, 2013.
 - b. The allotment of OCDs took place without my involvement. I have not attended any board meeting of the Company for any matter whatsoever and had no knowledge or information about the said OCD allotment and default.
 - c. During my tenure as director only 37 allottees were allotted OCD's. I cannot be held liable for breach of public issue norms by NTL, after my resignation from the Company.
 - d. SEBI has failed to bring on record, the relevant minutes of Board meeting /Agenda papers/ Attendance registers, relating to issuance of OCD's. The Board minutes forming part of the SCN are relating to NCD issue of NTL and they are fabricated. The Company has never called any board meeting, no minutes book is written or maintained by the Company, which is very well mentioned in the Compliance Certificate given by Company Secretary and filed by NTL with RoC, Gujarat in 2013.

- e. The minutes of the Board meeting of NTL, as furnished by NTL, are false and fabricated as far as my presence in the said meetings is concerned. I was never present in any of the board meetings as I was on tour for collection visits.
- f. I was an employee of one of the Neesa Group companies namely Neesa Venture Holdings Ltd. and by the pressure of management of Neesa Group, I was compelled to be a director of NTL.
- g. In the present case, the record shows that the Company had appointed Noticee no. 5 as the Managing Director of NTL on November 7, 2013. As such, I am not liable under Section 73(2) r/w Section 5 of the Companies Act, 1956 as 'Officer in Default' and for continuing liability of the Company.
- h. SEBI cannot treat this issue of securities as OCD, when MCA has treated it as Deposit under Companies Act. In my opinion SEBI does not have jurisdiction as RoC has already launched prosecution for violation of Section 58A(1) of Companies Act, 1956.
- i. As per Master Circular dated July 29, 2011, the MCA has clarified that no director shall be held liable for any violation by the Company, if the violation occurred without his/her knowledge and without his/her consent or connivance and when he/she has acted diligently.
- j. I submitted my first resignation on September 30, 2012 to NTL, with request to make it effective with immediate effect. However, NTL failed to take any cognizance of the same. I further submit that the second resignation dated May 3, 2013 was forcibly taken by NTL from me, under the pressure of Ministry of Information & Broadcasting since it was the requirement of the said Ministry to take their approval before appointment of any director. I further submit that the third resignation dated July 15, 2013 was fabricated by NTL and it was never given by me. In light of the above, I submit that my first resignation dated September 30, 2012 ought to have been effective from the date of resignation itself.

- k. I have never been paid any Board meeting sitting fees, remuneration, commission, etc. by NTL. I am neither the promoter nor shareholder nor financially interested in the Company, in any manner.
 - l. Form 20B filed by NTL for the FY 2013-14 contains a Note which states that Noticee no. 3 and 5 though have tendered their resignation to RoC, but NTL has not accepted their resignation because they were in the executive role of the Company.
11. The brief of the contentions raised by Noticee no. 8, vide its reply dated June 20, 2019, during the hearing held on June 4, 2019 and in the additional reply dated August 9, 2019, to the allegations raised in the SCN, is as follows:
- a. I was the non-executive independent director in NTL from January 18, 2013 to July 15, 2013. It is submitted that the allotment of OCD's took place without my involvement.
 - b. I had not attended any board meeting of the Company for any matter whatsoever.
 - c. During my tenure as director only 37 allottees were allotted OCD's. I cannot be held liable for breach of public issue norms by NTL, after my resignation from the Company.
 - d. The copy of the board resolutions annexed with the reply of NTL, relates to the NCD issue by NTL. Further, I was not present in any of the said board meetings and the minutes of the board meetings, as furnished by NTL, are fabricated and false.
 - e. I was employee of one of the Neesa Group Company namely Neesa Leisure Ltd. and by pressure of management of Neesa Group, I was compelled to be a director of NTL.
 - f. In the present case, the record shows that the Company had appointed Noticee no. 5 as the Managing Director of NTL on November 7, 2013. As such, I am not

- liable under Section 73(2) r/w Section 5 of the Companies Act, 1956 as 'Officer in Default' and for continuing liability of the Company.
- g. As per Master Circular dated July 29, 2011, the MCA has clarified that no director shall be held liable for any violation by the Company, if the violation occurred without his/her knowledge and without his/her consent or connivance and when he/she has acted diligently.
 - h. The Memorandum of Understanding dated October 20, 2014, was entered by Noticee no. 6, as the Chairman and Managing Director of NTL. This clearly shows that Noticee no. 6 is the main promoter and shareholder of NTL. As such, he is the 'Officer in Default' as per Section 73(2) r/w Section 5 of the Companies Act, 1956.
 - i. SEBI cannot treat this issue of securities as OCD, when MCA has treated it as Deposit under Companies Act. In my opinion SEBI does not have jurisdiction as RoC has already launched prosecution for violation of Section 58A(1) of Companies Act, 1956.
 - j. As per letter dated May 8, 2013 which NTL had written to Ministry of Information and Broadcasting, my appointment in NTL as Director was limited to technology division of NTL.
 - k. Form 20B filed by NTL for the FY 2013-14 contains a Note which states that Noticee no. 3 and 5 though had tendered their resignation to RoC, but NTL had not accepted their resignation because they were in the executive role of the Company.
12. The brief of the contentions raised by Noticee no. 9, vide its reply dated April 18, 2018, August 6, 2018, May 6, 2019, during the hearing held on May 6, 2019 and in the written submissions dated May 5, 2019, to the allegations raised in the SCN, is as follows:

- a. I had resigned from all Neesa Group company directorship on September 23, 2012. Post my resignation email, the e-form was filed with RoC by NTL on November 02, 2012.
 - b. I have no idea of the OCD issue as the same was not done during the period of my directorship. I neither participated in the process of approval and issue of OCDs, nor signed any letter/instrument pertaining to the issue because I was not a director in NTL during that period.
 - c. In a similar case pertaining to NCD issue, SEBI has completely exonerated me by its order dated June 02, 2016.
 - d. No monetary benefit was transferred from NTL and credited to my bank account ever.
 - e. Although I have not participated in the OCD placement process ever, however, the Companies Act, 1956 permits placement of OCD's upto 49 numbers. Only one placement of OCD was made before my resignation from directorship of Neesa Group of companies on September 23, 2012, and this allotment was made to less than 49 persons, hence, I cannot be held liable for the decisions of subsequent directors which resulted into violation of deemed public issue norms by NTL.
13. I have perused the allegations made in the SCN and considered the submissions made by all the Noticees, in their replies as well as at the time of hearing. I note that many of the Noticees have raised a fundamental question as to the jurisdiction of SEBI in this matter, in the backdrop of the action taken by RoC, Gujarat for OCDs and NCDs issued by the Company, treating them as 'Deposit' under Section 58A of the Companies Act, 1956. I note that Noticee no. 1 also claims that the OCDs issued by it are 'Deposit' as per Companies Act. Therefore, before proceeding further, an objective assessment of the nature of the instruments issued by NTL is required to be made.

14. From the copy of the Debenture Certificates, issued by the Company, as annexed with the complaint of Mr. Nikhil Girme (which was given as Annexure A to the SCN), the following is observed:

- (i) The name of the certificate is given as, "OPTIONALLY CONVERTIBLE DEBENTURE CERTIFICATE SERIES – _____"
- (ii) The certificate contains a statement as, "*Issue of optionally Convertible Redeemable unsecured Debentures of the face value of Rs. 25,000/- each, made under the authority of the Memorandum and Articles of Association of the Company and Resolution passed by the Board of Directors of the Company at the meeting held on 28/05/2012*"
- (iii) The certificate contains a statement as, "*THIS IS TO CERTIFY that the person(s) named below or the last transferee(s) whose name(s) is/are duly recorded in the Memorandum of Transfer is/are holder(s) of the within mentioned Optionally Convertible Debentures ("the Debentures") subject to the Memorandum and Article of Association of the Company.*"
- (iv) The certificate contains a statement as, "*The Debentures are issued subject to the term & conditions as contained in the debenture subscription application (reproduced verbatim on the back side of the certificate) and shall be binding on the company and the debenture holder(s) and all the persons claiming by, through or under any of them.*"
- (v) Maturity period is 36 months from the date of issue of debentures.
- (vi) Redemption instruction also mentions that for redemption debenture holders should discharge the debenture and lodge at the registered office of the company.
- (vii) Default clause mentions that in the event of default by the Company to redeem the Optionally Convertible Debentures on the maturity date, the Company shall be liable to pay penal interest, compounded on daily basis.
- (viii) It mentions that OCDs shall not carry any security or collateral and hence, shall be unsecured in nature.
- (ix) Certificate also mentions "RIGHTS OF DEBENTURE HOLDERS"

15. Thus, it shows that the instruments issued by the Company were OCDs. Further, from a perusal of the Annual Report statement of NTL for the financial year 2012-13 and 2013-14, it is also observed that the Company has mentioned OCD's as part of 'Long Term Borrowings' and the amount raised as on March 31, 2013 was ₹62,91,999/- and the amount raised as on March 31, 2014 was ₹18, 609,613/-. I

find from the FORM GNL-2 filed by NTL on MCA 21 Portal (which was annexed as Annexure C to the SCN), that a letter dated August 8, 2014 was sent to RoC, Gujarat wherein the heading itself says the list of 156 deposit holders enclosed along with the said letter is of 'Public Deposits- Optionally Convertible Debentures'. Further, I also note that in the list of OCD holders enclosed along with the said the word 'OCD' is mentioned against the name of each of these OCD holders. All the above empirical evidence points to the fact that instruments in the form of Optionally Convertible Debentures were indeed issued by NTL. However, it appears that in order to escape the regulatory purview of SEBI, Noticee no. 1 have given the issuance of OCD's by it, the colour of 'Deposit' under the Companies Act. The terms and conditions of the instruments issued by the Company against the money raised by it, as discussed above, also shows that the Company had in fact raised money through issue of OCDs and termed it as Deposit, to avoid legal compliances.

16. Now, the next question that arises for consideration is whether the issue of OCDs by NTL was in violation of the applicable provisions of Companies Act, 1956 and ICDR Regulations, 2009. As mentioned above, NTL had issued the OCDs during the financial years, 2012-13 and 2013-14, therefore, the provisions of Companies Act, 1956 were applicable to the said OCD issue of NTL. In this regard, Section 67 of the Companies Act, 1956 which provides as under:

"67. (1) Any reference in this Act or in the articles of a company to offering shares or debentures to the public shall, subject to any provision to the contrary contained in this Act and subject also to the provisions of sub-Sections (3) and (4), be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(2) any reference in this Act or in the articles of a company to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be construed as including a reference to invitations to subscribe for them extended to any section of the public, whether selected as members or debenture holders

of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(3) No offer or invitation shall be treated as made to the public by virtue of subsection (1) or sub-section (2), as the case may be, if the offer or invitation can properly be regarded, in all the circumstances-

- (a) as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation; or
- (b) otherwise as being a domestic concern of the persons making and receiving the offer or invitation.

Provided that nothing contained in this sub-section shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more:

Provided further that nothing contained in the first proviso shall apply to non-banking financial companies or public financial institutions specified in Section 4A of the Companies Act, 1956 (1 of 1956).....”

17. The following observations of the Hon'ble Supreme Court of India in **Sahara India Real Estate Corporation Limited & Ors. v. SEBI (2013) 1 SCC 1** (hereinafter referred to as the “**Sahara Case**”), on the scope of Section 67 of the Companies Act, 1956, are worth consideration: -

“Section 67(1) deals with the offer of shares and debentures to the public and Section 67(2) deals with invitation to the public to subscribe for shares and debentures and how those expressions are to be understood, when reference is made to the Act or in the articles of a company. The emphasis in Section 67(1) and (2) is on the “section of the public”. Section 67(3) states that no offer or invitation shall be treated as made to the public, by virtue of subsections (1) and (2), that is to any section of the public, if the offer or invitation is not being calculated to result, directly or indirectly, in the shares or debentures becoming

available for subscription or purchase by persons other than those receiving the offer or invitation or otherwise as being a domestic concern of the persons making and receiving the offer or invitations. Section 67(3) is, therefore, an exception to Sections 67(1) and (2). If the circumstances mentioned in clauses (a) and (b) of Section 67(3) are satisfied, then the offer/invitation would not be treated as being made to the public. The first proviso to Section 67(3) was inserted by the Companies (Amendment) Act, 2000 w.e.f. 13.12.2000, which clearly indicates, nothing contained in Sub-section (3) of Section 67 shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more. ... Resultantly, after 13.12.2000, any offer of securities by a public company to fifty persons or more will be treated as a public issue under the Companies Act, even if it is of domestic concern or it is proved that the shares or debentures are not available for subscription or purchase by persons other than those receiving the offer or invitation.”

18. Section 67(3) of the Companies Act, 1956 provides for situations when an offer or invitation is not considered as offer or invitation made to public even though it has been made to a section of public. As per the said sub section, if the offer is one which is not calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation, or, if the offer is the domestic concern of the persons making and receiving the offer, the same is not considered as public offer. Under such circumstances, in ordinary parlance, such offer or invitation is considered as private placement of shares or debentures. The scheme of Section 67(3) envisages the raising of funds by a company, privately, from informed and sophisticated investors or relatives/friends of promoters, who are capable of taking informed decisions on the basis of Letter of Offer or Information Memorandum issued by the company. The overarching intent of Section 67(3) is not to burden such private placements with regulatory supervision and compliances, since, the number of investors involved is restricted to 49 known/ pre-identified persons and the public at large is not involved. However, first proviso to Section 67(3) restricts this private placement only to 49 persons and once, the offerree or invitees exceeds 49 persons, then such a private placement is also deemed as public issue. In such case, the regulatory supervision becomes more stringent and hence, the

requirement in respect of contents of prospectus, filling of draft prospectus with SEBI, registration of prospectus with RoC, mandatory listing of securities on stock exchange etc. come into picture. Once an offer or invitation is a public offer, deemed or actual, then the provisions of Section 73 of the Companies Act, 1956 come into play and the company making such offer or invitation to public is required to make application for listing of shares or debentures offered to the public, to one or more recognized stock exchanges. Section 73 further provides that where the permission has not been applied or, such permission, having been applied for, has not been granted, the company shall forthwith repay without interest all moneys received from applicants in pursuance of the prospectus, and, if any such money is not repaid within eight days after the company becomes liable to repay it, the company and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, become jointly and severally liable to repay that money with interest. A company making a public issue of shares or debentures is also required to comply with provisions of SEBI Act, 1992 and the regulations made thereunder, in this regard.

19. In the instant matter, NTL has shown 156 OCD holders as part of the filing on MCA 21 Portal in FORM GNL-2. From the said filing, I find that NTL has mobilized an amount of at least Rs. 1.56 crores. Further, it is observed from the filing of FORM DPT-4 that the Company had filed with MCA-21 Portal, it is observed that the Company during FY 2012 to 2014 had issued OCD's to a total of 156 people. As per the said FORM DPT-4, 85 investors have opening balance as on April 1, 2013 and 71 investors have no opening balance, thus indicating that issuance to these 71 people have occurred during the financial year 2013-14. I also note that NTL itself has accepted vide its letter dated February 2, 2015 (Annexure B of SCN) and submitted the Register of OCD holders wherein it is observed that OCD's were allotted to 185 investors. The aforesaid facts lead to a reasonable inference that the issue of OCDs by NTL during the FY 2012-13 and 2013-14 was made to more than 49 persons and hence, in terms of first proviso to Section 67(3) of the Companies Act, 1956, the issue of OCDs by NTL was a deemed public issue and NTL was mandated to comply with the 'public issue' norms as prescribed under the Companies Act, 1956 and the ICDR Regulations, 2009.

20. I note that Noticee no. 7 has raised the contention that the OCD's have been issued to total number of 156 OCD holders in 2012-13 and 2013-14 under multiple different offers through private placement only. It is his case that the copies of debenture certificates as annexed to SCN show that there are different series of OCD's corresponding to different offers made through private placement with no offer being made to 50 persons or more at any point of time. Thus, according to Noticee no. 7, there is no violation of public issue norms by NTL. I note that Noticee no. 7 has made a bald claim that the offer of OCD by NTL was made as private placement, without producing any evidence in support of the same. Without prejudice to this observation, I note that the first proviso to Section 67(3) of the Companies Act, 1956 makes it amply clear that in case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more, even through private circulation, the same shall be deemed to be a public issue of securities. I find that the Hon'ble Supreme Court of India in the Sahara Case, as discussed supra, has also held the same. I note that the contention of Noticee no. 7 that NTL has not violated public issue norms since, the debentures were issued in multiple tranches and none of the offer in any of the tranches has been made to more than 49 persons, lacks merit. I note that the intent of the first proviso to Section 67(3) is very clear. It aims to prevent a proliferation of investor base of a company without complying with the public issue norms. Thus, I note that an offer of securities in multiple tranches to more than 49 persons in the aggregate, even if the offer in each tranche is made to less than 50 persons, circumvents the purpose of first proviso to Section 67(3) of the Companies Act, 1956. Similar observations were made by Hon'ble SAT in the matter of '**Neesa Technologies Limited Vs. SEBI**' in its order dated 28 April, 2017 which is reproduced hereinunder:

5.....Accordingly, in the instant matter the appellants have violated these provisions and their argument that they have issued the NCDs in multiple tranches and no tranche has exceeded 49 people has no meaning.....

21. I note that, the second proviso to Section 67(3) of Companies Act, 1956 exempts NBFCs and Public Financial Institutions (PFI's) only from the applicability of the first proviso. Therefore, NBFC's or PFI's do not have any restriction on the number

of allottees as imposed on a company which is not an NBFC or PFI. I note that, it is not the case of Noticee no. 1 that they are an NBFC or PFI, hence, the exemption provided under second proviso to Section 67(3) of Companies Act, 1956 is not available to Noticee no. 1.

22. I find that NTL has not produced any evidence to show that it had made an application seeking listing permission from a recognized stock exchange or refunded the amounts on account of such failure, in order to rebut the allegations levelled in this regard in the SCN. Therefore, I find that NTL has contravened the provisions of Section 73(1) and (2) and Regulation 4(2) of SEBI (ICDR) Regulations, 2009. NTL has not provided any records to show that the amount collected by it is kept in a separate bank account. Therefore, I find that NTL has also not complied with the provisions of Section 73(3) which mandates that the amounts received from investors shall be kept in a separate bank account.
23. Section 2(36) of the Companies Act read with Section 60 thereof, mandates a company to register its 'prospectus' with the RoC, before making a public offer/ issuing the 'prospectus'. Further, Regulation 6 of ICDR Regulations, 2009 requires the filing of draft prospectus with SEBI before registering the prospectus with RoC. As per the aforesaid Section 2(36), "prospectus" means any document described or issued as a prospectus and includes any notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any shares in, or debentures of, a body corporate. As the offer of OCD's by NTL was a deemed public issue of securities, NTL was required to file draft prospectus with SEBI under Regulation 6 of the ICDR Regulations, 2009 and register a prospectus with the RoC under Section 60 of the Companies Act, 1956. I find that NTL has not submitted any record to indicate that it has registered a prospectus with the RoC or filed the draft prospectus with SEBI in order to rebut the allegations made in this regard in the SCN. I, therefore, find that NTL has not complied with the provisions of Section 60 of the Companies Act, 1956 and Regulation 6 of ICDR Regulations, 2009.

24. As the Noticee No. 1 did not file draft prospectus with SEBI and register the final prospectus with RoC, consequently, NTL has also violated following provisions of ICDR Regulations, 2009:
- a. Reg. 5(7) - Appointment of merchant banker and other intermediaries;
 - b. Reg. 7 - Obtaining in-principal approval from the recognized stock exchanges in which specified securities are to be listed;
 - c. Reg. 20(1) - Additional requirements relating to issue of convertible instruments;
 - d. Reg. 25 & 26 - Satisfy the condition of Initial Public Offer;
 - e. Reg. 46 - Keeping the public issue open for specified period;
 - f. Reg. 57 - Manner of disclosure in the offer document.
25. In view of the above findings, I am of the view that NTL engaged in the activity of mobilizing of funds from the public, through the offer of OCD's and has contravened the provisions of Sections 73(1), 73(2), 73(3), 2(36) read with 56 and 60 of the Companies Act, 1956 and Regulations 4(2), 5(1), 5(7), 6, 7, 20(1), 25, 26, 46 and 57 of ICDR Regulations, 2009.
26. Before dealing with the contentions raised by Noticee no. 2 to 9 who have been the director of Noticee no. 1, at different times, it would be appropriate to refer to certain orders passed by Hon'ble SAT which deals with the liability of directors of a company under Section 73 of the Companies Act, 19956. First of such order is dated July 17, 2017 passed in **Appeal No. 66 of 2006 - Manoj Agarwal Vs. SEBI** wherein Hon'ble SAT directed that liability (under Section 73(2) of the Companies Act, 1956) of the appellant director therein would be restricted to refund the amount which was collected during the period of his directorship in the company, jointly and severally with the company and other directors. Another order passed by Hon'ble SAT is dated February 14, 2019 passed in **Appeal No. 291 of 2017 - Pritha Bag Vs. SEBI** wherein Hon'ble SAT, observed that if there is a managing director in the company and there is no finding that a particular director was entrusted to discharge the application referred in Section 73 of the Companies Act, 1956 then such director is not liable to make refund under Section 73 of the

Companies Act, 1956. The liability of Noticee no. 2 to 9 shall be determined in this order *inter alia* having regard to aforesaid two order passed by Hon'ble SAT.

27. I note that many of the Noticees who are/were directors of the Noticee No. 1 have raised a common contention that in accordance with MCA Circular no. 3/57/2011/CL-II dated July 29, 2011, no director shall be held liable for any violation by the company or by any other officer of the company, if the violation occurred without his or her knowledge and without his/her consent/connivance or when he/she has acted diligently. I note that the directions contained in the said circular are applicable for launch of prosecution by RoC or Regional Directors for offences under the provisions of Companies Act, 1956. The said circular has no relevance to the present proceedings, since the present proceedings are not criminal in nature, rather they are civil proceedings for determining violation of public issue norms by NTL and its directors, as provided under the Companies Act, 1956 and ICDR Regulations, 2009, at the time of issue of OCDs by it. Therefore, said MCA circular has no application to the proceedings.
28. I note that Noticee no. 2 was non- executive director in NTL in his first term from August 02, 2010 to December 21, 2011, as per MCA 21 records. Subsequently, Noticee No. 2 was once again appointed as non-executive director in his second term from January 18, 2013 to March 17, 2017, as per MCA 21 records. I note that for the purposes of this proceeding, his directorship in the second term is relevant since funds were mobilized through OCD's in the FY 2012-13 and FY 2013-14. I also note that Noticee no. 2 has claimed that since he was an MD in another Neesa Group Company (Neesa Infrastructure Ltd.), he was also called upon to be an honorary director in NTL and thus was not involved in the day to day operations and financial matters of the Company. However, from the copies of the debenture certificates enclosed with Annexure A of SCN, I find that, on some of the certificates, Noticee no. 2 was one of the signatories on these certificates, thus showing his involvement in the raising of funds through OCD's by NTL. It is also pertinent to mention that Noticee no. 2 has not denied/ disputed his signature on these debenture certificates. Further, I also note that a person cannot assume the role of a director in a company in a casual manner. The position of a 'director' in a public company comes along with responsibilities and compliances under law

associated, with such position, which have to be fulfilled by such director. Noticee no. 2 has further contended that he has not attended any board meeting relating to OCDs. In this regard, I note that the statutory liability for making refund under Section 73 is on the Company and its director who is "officer in default", as defined in Section 5 of the Companies Act, 1956. From the date of appointment of Noticee No. 2 in his second term i.e. January 18, 2013, till March 31, 2014, there was no managing director or other Executive/Whole time director in the Company, except for the period from November 7, 2013 to March 6, 2014. Therefore, in terms of Section 5(g), in the absence of Company specifying any director/directors, all the directors of the Company during the period from January 18, 2013 till March 31, 2014, including Noticee No. 2, shall be liable as "officer in default" for the purposes of Section 73, except for the period from November 7, 2013 to March 6, 2014, during which period NTL had a Managing Director who alone shall be the 'officer in default' for that period. Therefore, I find that Noticee no. 2 is in violation of the provisions of Companies Act, 1956 and ICDR Regulations, 2009, as alleged in the SCN, however, his liability for making refund under Section 73 of the Companies Act, 1956 does not extend to the period from November 7, 2013 to March 6, 2014, during which period NTL had a Managing Director.

29. I note that Noticee no. 3 was an executive director in NTL in his first term from April 8, 2010 to January 1, 2011, as per MCA 21 records. Subsequently, Noticee No. 3 was once again appointed as director, but this time he was appointed as non-executive director in his second term from April 1, 2013 to May 15, 2014, as per MCA 21 records. I note that for the purposes of this proceeding, his directorship in the second term is relevant since funds were mobilized through OCD's in the FY 2012-13 and FY 2013-14. I note that Noticee no. 3 has claimed that since Noticee no. 5 was the Managing Director in NTL, then in accordance with Section 73(2) r/w Section 5 of the Companies Act, 1956, Noticee no. 5 is the 'officer in default' and thus liable for the wrongdoings of NTL. I do not agree with such a contention of Noticee no. 3. I note that in accordance with Section 5(g) of the Companies Act 1956 r/w Section 73(2), in the absence of a managing director or executive/whole-time director and in the absence of any specific delegation by the board of the company under Section 5(f), all the directors, shall be jointly and severally liable alongwith the company. I note that, from the date of appointment of Noticee No. 3

in his second term i.e. April 1, 2013 till March 31, 2014, there was no managing director or other Executive/Whole time director in the Company, except for the period from November 7, 2013 to March 6, 2014. Therefore, in terms of Section 5(g), in the absence of Company specifying any director/directors, all the directors of the Company during the period from April 1, 2013 till March 31, 2014, including Noticee No. 3, shall be liable as “officer in default” for the purposes of Section 73, except for the period from November 7, 2013 to March 6, 2014, during which period NTL had a Managing Director who alone shall be the ‘officer in default’ for that period.

30. Noticee no. 3 has also submitted that as per the office order issued by Noticee no. 6, as Chairman of NTL, he was appointed for supervising the construction, real estate, engineering, group purchase and group insurance department of NTL and at no point he was concerned with the fundraising done by NTL. However, from the copies of the debenture certificates enclosed with Annexure A of SCN, I find that, on some of the certificates, Noticee no. 3 was one of the signatories on these certificates, thus showing his involvement in the raising of funds through OCD's by NTL. It is also pertinent to mention that Noticee no. 3 has not specifically denied/ disputed his signature on these debenture certificates. Furthermore, I also note that the statutory liability arising for refund under Section 73(2) read with Section 5 of the Companies Act, 1956 dwells down to the directors who are ‘officers in default’. Thus, a legal obligation cast on the director who is ‘officer in default’ cannot be assigned/reassigned by virtue of mutual work allocation amongst the members of the Board of Directors. Besides, as far as violation of other provisions of law, as alleged in the SCN are concerned, I note that under those provisions all directors are liable and the liability thereunder are not restricted to officer in default only. Thus, I find that Noticee no. 3 is liable for violations of the provisions of law, as alleged in the SCN, however, liability of Noticee no. 3 for making refund under Section 73 of the Companies Act, 1956 shall not extend to the period from November 7, 2013 to March 6, 2014, during which period NTL had a Managing Director who alone shall be liable for making refunds as ‘officer in default’ for that period.

31. It is pertinent to note that Noticee no. 3 had preferred an Appeal (Appeal no. 227 of 2016) before the Hon'ble SAT, assailing the final order of SEBI dated June 2, 2016, in the NCD issue by NTL, inter alia disputing his involvement as director of NTL in the illegal fund mobilizing activity by NTL. Hon'ble SAT vide its order dated April 16, 2019 was pleased to dismiss the said Appeal as lacking merit. A Review Application no. 8 of 2019 was also filed by Noticee no. 7 before the Hon'ble SAT with prayer to review the aforesaid SAT order dated April 16, 2019, however, Hon'ble SAT vide order dated February 21, 2020 has dismissed the said Review Application, without granting any relief to the appellant.

32. I note that many of the Noticees have relied upon the date of allotment of OCD's, as the one provided alongwith the complaint of Mr. Nikhil Girme i.e. Annexure A to the SCN and thus these Noticees have contended that since they were not the directors of NTL during the period when the said allotments took place, hence they cannot be held responsible for the violations committed by NTL. However, I pertinently note that Annexure A to the SCN is a copy of the complaint as received from Mr. Nikhil Girme, who had alleged that NTL had unilaterally extended the period of interest payment for OCD holders by one year. This complaint was inter alia the basis of SEBI's further inquiry into this matter. The said complaint contains an indicative list of 54 OCD holders (on whose behalf Mr. Nikhil Girme had written the said complaint) along with their respective date of allotment of OCD's. Thus, I note that the list of OCD holders as tendered with the said complaint of Mr. Nikhil Girme, cannot be regarded as the final list of all the OCD holders of NTL and therefore, the date of allotments as mentioned therein is also merely illustrative. Hence, any reliance drawn by the Noticees for fetching the date of allotment of OCD's on the basis of Annexure A of the SCN and then deciding their respective liabilities on the basis of such date of allotment, is not correct.

33. I note that, as per records available at MCA 21 Portal, in his first stint, Noticee no. 4 was a non-executive director in NTL for the period from September 12, 2011 to December 1, 2012. In his second stint, he was again appointed as non-executive director from January 21, 2014. Further, as per the 'Master Data' records available at MCA 21 Portal, he still continues to be a director of NTL. However, as claimed by Noticee no. 4 in his additional reply and also as certified by RoC Gujarat vide

letter dated April 13, 2018, Noticee no. 4 has filed FORM DIR-11 with RoC on June 3, 2015, wherein he has attached his resignation letter dated March 4, 2015 which was dispatched to the Company by Speed Post on May 28, 2015. I note that, in accordance with Section 168(2) of the Companies Act, 2013, the date of effect of resignation, shall be the date of receipt of resignation by the company or such date as specified in the letter of resignation, whichever is later. Thus, in the instant case since the letter of resignation intends to specify the date of effect of resignation to be from March 4, 2015, but the letter of resignation was dispatched by Noticee no. 4 only on May 28, 2015 by speed post, hence, by the most conservative estimate, even if it were presumed that NTL might have received the letter by the next day i.e. May 29, 2015, then the effective date of resignation of Noticee no. 4 from NTL, in his second stint as director, can only be May 29, 2015.

34. Noticee no. 4 has relied upon the date of allotments of OCD's as mentioned in the complaint letter of Mr. Nikhil Girme, to contend that during his period as director of NTL, no violation of public issue norms by NTL has taken place. However, as indicated in the earlier paras, any reliance drawn by the Noticee no. 4 for fetching the date of allotment of OCD's and then deciding his liability on the basis of such illustrative date of allotments, may be incorrect and misplaced. The liability for refund to the investors under Section 73 (2) read with Section 5 of the Companies Act, 1956 lies jointly and severally with NTL and the directors who are 'officers in default'. I note that in accordance with Section 5(g) of the Companies Act 1956 r/w Section 73(2), in the absence of a managing director or executive/whole-time director and in the absence of any specific delegation by the board of the company under Section 5(f), all the directors, shall be jointly and severally liable along with the company. I note that during the FY 2012-13, Noticee no. 4 was the non-executive director of NTL for the period from April 1, 2012 to December 1, 2012. I also note that during the said period, there was no managing director or other Executive/Whole time director in the Company. Therefore, in terms of Section 5(g), in the absence of Company specifying any director/directors, all the directors of the Company during the period from April 1, 2012 to December 1, 2012, including Noticee No. 4, shall be liable as "officer in default" for the purposes of Section 73(2) of the Companies Act, 1956. Further, I note that during the FY 2013-14, Noticee no. 4 was the non-executive director of NTL for the period from January 21, 2014

to March 31, 2014. I also note that, during the said period, there was no managing director or other Executive/Whole time director in the Company, except for the period from January 21, 2014 to March 6, 2014. Therefore, in terms of Section 5(g), in the absence of Company specifying any director/directors, all the directors of the Company during the period from January 21, 2014 till March 31, 2014, including Noticee No. 4, shall be liable as “officer in default” for the purposes of Section 73(2), except for the period from January 21, 2014 to March 6, 2014, during which period NTL had a Managing Director who alone shall be the ‘officer in default’ for that period. Therefore, I find that Noticee no. 4 is liable for violations of the provisions of the Companies Act, 1956 and ICDR Regulations, 2009, as alleged in the SCN, however, liability of Noticee no. 4 to make refund under Section 73 of the Companies Act, 1956 shall not extend to the period from January 21, 2014 to March 6, 2014, during which period NTL had a Managing Director who alone shall be the ‘officer in default’ for that period.

35. I note that, as per records available on MCA 21 Portal, Noticee no. 5 was the Managing Director of NTL for the period from November 7, 2013 to March 6, 2014. I also note that Noticee no. 5 has contended that the EGM approving the issue of OCD/NCD and subsequent board meetings held for allotment of debentures (minutes of board meeting -annexed with the SCN), were all clearly held prior to him joining the Company as director. Hence, he claims that he cannot be held liable for the issue and allotment of OCD’s by NTL in violation of deemed public issue norms. I find that the minutes of the board meeting attached with Annexure B to the SCN relates to the NCD issue by NTL. I also note that while Noticee no. 5 may not be the director at the time of allotment of NCD’s by NTL, but he shall still be liable, for allotment of OCD’s by NTL in violation of public issue norms during his tenure as Managing Director in NTL. I note that the statutory liability for making refund under Section 73(2) is on the Company and its director who is “officer in default”, as defined in Section 5 of the Companies Act, 1956. I also note that from the date of appointment of Noticee No. 5 in NTL i.e. November 7, 2013, till March 6, 2014, there was neither any Executive/Whole time director in the Company, nor the board of NTL had specified any director/directors in terms of Section 5(f) of the Companies Act, 1956. Therefore, in terms of Section 5 r/w Section 73(2) of the Companies Act, 1956, Noticee no. 5, being the Managing Director of the Company

during the period from November 7, 2013 to March 6, 2014, shall be liable as “officer in default” for the purposes of Section 73(2) for the period from November 7, 2013 to March 6, 2014.

36. Noticee no. 5 had argued that he had neither received any notice nor attended any board meeting of NTL during his tenure of 4 months and by virtue of section 283(1)(g) of the Companies Act, 1956, his directorship with NTL stood automatically vacated. I find that Hon'ble SAT while dealing with the similar contention in the Manoj Agarwal case (*supra*) observed that “.....Argument advanced on behalf of the appellant that the appellant had not attended any board meeting of BREDL and therefore, the appellant is deemed to have vacated the office under Section 283(g) of the Companies Act and consequently no action could be taken against the appellant is also without any merit. Section 283(g) of the Companies Act, 1956 applies only to a director who inspite of notice absents himself from three consecutive meetings of the Board of Directors or absents himself from all the meetings of the Board for a continuous period of three months. In the present case, it is the case of the appellant that no notice of Board meeting was issued to him. In such a case, question of the appellant remaining absent from the Board meetings does not arise and consequently question of applying Section 283(g) of the Companies Act, 1956 to the case of the appellant does not arise.....” In the present case also, Noticee has not produced notices of the board meetings called by the company which he failed to attend so as to attract Section 283(g). Therefore, the said contention of Noticee no. 5 is not tenable.
37. I note that Noticee no. 5 has contended that, in a previous action taken by SEBI against NTL in the NCD issue matter, he was completely exonerated by SEBI vide its order dated September 7, 2017. I note that the facts of NCD issue case are slightly different from the present proceedings of OCD issue by NTL. In the former, the allotment of NCD's was completed before the date of appointment of Noticee no. 5 as the Managing Director in NTL, whereas, in the present case, the OCD's appear to have been issued and allotted throughout the Financial Year 2013-14. It is argued that the list of date of allotment of OCD's is available as part of Annexure A to SCN, according to which no NCD's were issued and allotted during the tenure of Noticee no. 5 as the managing director. However, as noted in the earlier paras,

the said list is merely indicative and incomplete as it gives the date of allotment for not all but only 54 OCD holders and hence cannot be relied upon. Thus, Noticee no. 5 shall still be liable as 'officer in default' for the issue and allotment of OCD's by NTL, if any, during his tenure as Managing Director in NTL. In view of the above, I find that Noticee no. 5 is liable for violations of the provisions of the Companies Act, 1956 and ICDR Regulations, 2009, as alleged in the SCN.

38. From the records available at MCA 21 Portal, I note that Noticee no. 6 was the non- executive director in NTL for two terms from October 7, 2009 to April 25, 2013 and from July 12, 2013 to November 8, 2013. I also note that the alleged OCD's are issued by the Company in the financial years 2012-13 and 2013-14. Hence, both his terms as non-executive director of NTL are relevant for the purpose of these proceedings. I note that Noticee no. 6 has contended that he was not involved in day to day affairs of NTL and was also not involved in matter of issue of OCDs. However, from the copies of the debenture certificates enclosed with Annexure A of SCN, I find that, on some of the certificates, Noticee no. 6 was one of the signatories on these certificates, thus showing his involvement in the raising of funds through OCD's by NTL. It is also pertinent to mention that Noticee no. 6 has not denied/ disputed his signature on these debenture certificates. Further, as noted in the earlier paras, the statutory liability for refund to the investors under Section 73(2) read with Section 5 of the Companies Act, 1956 lies jointly and severally with NTL and the directors who are 'officers in default'. I also note that in accordance with Section 5(g) of the Companies Act 1956 r/w Section 73(2), in the absence of a managing director or executive/whole-time director and in the absence of any specific delegation by the board of the company under Section 5(f), all the directors, shall be jointly and severally liable along with the company. Thus, during the first term of Noticee no. 6 as non-executive director, I find that for the period from April 1, 2012 to April 25, 2013, there was no managing director or other Executive/Whole time director in the Company. Therefore, in terms of Section 5(g), in the absence of Company specifying any director/directors, all the directors of the Company during the period from April 1, 2012 to April 25, 2013, including Noticee No. 6, shall be liable as "officer in default" for the purposes of Section 73(2) of the Companies Act, 1956. Similarly, I find that during the second term as non-executive director of NTL of Noticee no. 6, for the period from July 12, 2013 to November 8,

2013, there was neither a managing director or executive/whole-time director in NTL (except for the period from November 7, 2013 to November 08, 2013, during which Noticee no. 5 was the managing director), nor there was any specific delegation by the board of the NTL in terms of Section 5(f) of Companies Act, 1956. Thus, I find that, in terms of Section 5(g), all the directors of the Company during the period from July 12, 2013 to November 6, 2013, including Noticee No. 6, shall be liable as “officer in default” for the purposes of Section 73(2) of the Companies Act, 1956. Therefore, I find that Noticee no. 6 is liable for violations of the provisions of the Companies Act, 1956 and ICDR Regulations, 2009, as alleged in the SCN, however, liability of Noticee no. 6 to make refund under Section 73 of the Companies Act, 1956 shall not extend to the period from November 7, 2013 to November 8, 2013, during which period NTL had a Managing Director who alone shall be the ‘officer in default’ for that period.

39. From the records available at MCA 21 Portal, it is seen that Noticee no. 7 was the non-executive director in NTL from August 06, 2012 to July 15, 2013. However, it is contended by Noticee no. 7 that his first resignation in the Company was tendered on September 30, 2012 itself. Hence, he cannot be held liable for the acts of the Company post his resignation. I note that the copy of the letter of resignation annexed with reply of Noticee no. 7 bears the seal of NTL, acknowledging the receipt of the letter by the Company. However, the said seal is remarkably different from the seal of the Company used in its other official records such as the financial statements for the year 2012-13 and 2013-14. Hence, the genuineness of the copy of the resignation letter dated September 30, 2012 is not beyond doubt. Further, another resignation letter dated May 30, 2013 as claimed by Noticee no. 7 to have been forcibly taken by NTL, is not relevant for determination, since Noticee no. 7 itself has denied being given free consent for the same. Another resignation letter dated July 15, 2013, which is available at the records with MCA 21 Portal has allegedly been denied by Noticee no. 7 to have been signed by him.
40. While there is no doubt on the legal proposition that a resignation of the director of a company is effective from the date of receipt of the letter by the company or a date as mentioned in the letter, whichever is later. However, in the instant case, the receipt of the first letter dated September 30, 2012 is not completely reliable

and the last letter dated July 15, 2013 is disputed to have been executed by Noticee no. 7. If it is assumed that the resignation letter dated September 30, 2012 was the effective letter of resignation, then the Noticee no. 7 should have disassociated himself from the affairs of NTL from September 30, 2012 itself. However, the material available on record proves otherwise. It is observed from the documents available on record that Noticee no. 7 was involved in the affairs of NTL even after September 30, 2012. The minutes of the board meetings (part of Annexure B of the SCN) held on April 08, 2013, April 15, 2013, April 25, 2013, April 30, 2013, May 20, 2013, June 15, 2013 and July 10, 2013, clearly indicate his presence in these meetings. Though Noticee no. 7 has merely alleged these minutes to be fabricated, but he has fallen short of proving to have taken any action in respect of such alleged fabricated minutes of the meeting. It is submitted by Noticee no. 7 that the Company has never called any board meeting, no minutes book is written or maintained by the Company, a fact, which Noticee no. 7 claims to be mentioned in the Compliance Certificate given by Company Secretary and filed by NTL with RoC Gujarat in 2013. From the Compliance Certificate for the Financial Years 2011-12 and 2012-13 filed by NTL with MCA 21 Portal in FORM 66, I find that no such observations/adverse remarks, as claimed by Noticee no. 7, have been made in these Compliance Certificates. Further, from the records available at MCA 21 Portal, it appears that a FORM 66 for the FY 2011-12, was filed by NTL on the said portal which was digitally signed by Noticee no. 7 on January 24, 2013 as a director of NTL. Furthermore, from the copies of the debenture certificates enclosed with Annexure A of SCN, I find that, on some of the certificates issued on November 30, 2012, February 25, 2013, November 15, 2012, May 30, 2013, etc., Noticee no. 7 was one of the signatories on these certificates, thus showing his involvement in the raising of funds through OCD's by NTL, even after his purported resignation on September 30, 2012. It is also pertinent to mention that Noticee no. 7 has not denied/ disputed his signature on these debenture certificates. Thus, from all the above documentary evidence, I find that Noticee no. 7 was involved in the affairs of NTL even after September 30, 2012. Hence, the resignation cannot be said to have been effective from September 30, 2012. It is pertinent to note that all the above documents relied upon are statutory documents and there is a presumption in favour of their genuineness. If Noticee no. 7 intends to dispute the genuineness of the same, then he has to supplement his contentions with adequate evidence. I

do not find any material on record that suggests that Noticee no. 7 has initiated any action in respect of the alleged fabricated minutes of the board meeting or the alleged fabricated last letter of resignation dated July 15, 2013. Neither has it been shown by Noticee no. 7 that any steps have been taken or whether a complaint has been made by him to the RoC to modify its records with respect to his effective date of resignation in NTL. I find that Noticee no. 7 has conveniently disputed the genuineness of all the documents relied upon, for the first time in these proceedings, merely to escape the consequences of the present proceedings. Thus, I note that the period of directorship of Noticee no. 7 in NTL for the purpose of these proceedings shall be the same as it appears in the records at MCA 21 Portal i.e. August 06, 2012 to July 15, 2013. Therefore, as noted in the earlier paras, the statutory liability for refund to the investors under Section 73(2) read with Section 5 of the Companies Act, 1956 lies jointly and severally with NTL and the directors who are 'officers in default'. I also note that in accordance with Section 5(g) of the Companies Act 1956 r/w Section 73(2), in the absence of a managing director or executive/whole-time director and in the absence of any specific delegation by the board of the company under Section 5(f), all the directors, shall be jointly and severally liable along with the company. Thus, during the tenure of Noticee no. 7 as non-executive director, I find that for the period from August 06, 2012 to July 15, 2013, there was no managing director or other Executive/Whole time director in the Company. Therefore, in terms of Section 5(g), in the absence of Company specifying any director/directors, all the directors of the Company during the period from August 06, 2012 to July 15, 2013, including Noticee No. 7, shall be liable as "officer in default" for the purposes of Section 73(2) of the Companies Act, 1956. Therefore, I find that Noticee no. 7 is liable for violations of the provisions of the Companies Act, 1956 and ICDR Regulations, 2009, as alleged in the SCN, however, liability of Noticee no. 7 to make refund under Section 73 of the Companies Act, 1956 shall not extend to that period of his directorship during which NTL had a Managing Director who alone shall be the 'officer in default' for that period.

41. It is pertinent to note that Noticee no. 7 had preferred an Appeal (Appeal no. 228 of 2016) before the Hon'ble SAT, assailing the final order of SEBI dated June 2, 2016, in the matter of NCD issue by NTL, inter alia disputing his involvement as

director of NTL in the illegal fund mobilizing activity by NTL. Hon'ble SAT vide its order dated April 16, 2019 was pleased to dismiss the said Appeal as lacking merit. A Review Application no. 9 of 2019 was also filed by Noticee no. 7 before the Hon'ble SAT with prayer to review the aforesaid SAT order dated April 16, 2019, however, Hon'ble SAT vide order dated February 21, 2020 has dismissed the said Review Application, without granting any relief to the appellant.

42. I note that, as per records at MCA 21 Portal, Noticee no. 8 was the non-executive director in NTL for two terms. His first term was from April 28, 2007 to May 29, 2010 and second term was from January 18, 2013 to July 15, 2013. I note that his tenure as non-executive director in NTL in the second term is relevant for the purposes of these proceedings. Noticee no. 8 has relied upon a letter dated May 8, 2013 issued by NTL to Ministry of Information and Broadcasting identifying his role in NTL as limited to the technology division of the Company. As noted in the earlier paras, the statutory liability arising for refund under Section 73(2) read with Section 5 of the Companies Act, 1956 dwells down to the directors who are 'officers in default' and the company. Thus, a legal obligation cast on the director (being member of the board of directors of company) who is 'officer in default' cannot be assigned/reassigned by virtue of mutual work allocation amongst the members of the Board of Directors. Hence, the statutory liability of Noticee no. 8, if any, arising out of Section 73(2) r/w Section 5 of the Companies Act, 1956 shall still subsist, for the OCD's issued and allotted during his tenure as director in NTL. It is the case of Noticee no. 8 that since Noticee no. 5 was the Managing Director of NTL from November 7, 2013, hence Noticee no. 5 is liable. I note that Noticee no. 5 joined NTL much after the resignation of Noticee no. 8. Hence, merely because Noticee no. 5 was the Managing Director, he cannot be held liable, for the allotment of OCD's done during such time when he was not the managing director of the Company. I also note that in accordance with Section 5(g) of the Companies Act 1956 r/w Section 73(2), in the absence of a managing director or executive/whole-time director and in the absence of any specific delegation by the board of the company under Section 5(f), all the directors, shall be jointly and severally liable along with the company. Thus, during the second term of Noticee no. 8 as non-executive director of NTL, I find that for the period from January 18, 2013 to July 15, 2013, there was no managing director or other Executive/Whole time director

in the Company. In terms of Section 5(g), in the absence of Company specifying any director/directors, all the directors of the Company during the period from January 18, 2013 to July 15, 2013, including Noticee No. 8, shall be liable as "officer in default" for the purposes of Section 73(2) of the Companies Act, 1956. Therefore, I find that Noticee no. 8 is liable for violations of the provisions of the Companies Act, 1956 and ICDR Regulations, 2009, as alleged in the SCN, however, liability of Noticee no. 8 to make refund under Section 73 of the Companies Act, 1956 shall not extend to that period of his directorship during which NTL had a Managing Director who alone shall be the 'officer in default' for that period.

43. It is submitted by Noticee no. 7 and 8 that the Memorandum of Understanding dated October 20, 2014, was entered by Noticee no. 6, as the Chairman and Managing Director of NTL. This clearly shows that Noticee no. 6 is the main promoter and shareholder of NTL. As such, he is the 'Officer in Default' as per Section 73(2) read with Section 5 of the Companies Act, 1956. However, I do not agree with such an interpretation given by Noticee no. 8 to the term 'officer in default'. Section 73 (2) is very clear that only those directors who are 'officers in default' alongwith the company shall be jointly and severally liable. Further, Section 5 of the Companies Act, 1956 explicitly defines 'officer in default' of a company. This definition does not include the term: 'promoter' or 'shareholder' of the company. Thus, the conclusion drawn by Noticee no. 8 on the basis of the status of Noticee no. 6 as promoter and shareholder of NTL and thus being an 'officer in default', is misplaced.
44. Noticee no. 7 and 8 have submitted that Form 20B filed by NTL for the FY 2013-14 contains a Note that states that Noticee no. 3 and 5 though have tendered their resignation to RoC, but NTL has not accepted their resignation because they were in the executive role of the Company. I note that the Annual Return attached with Form 20B for the FY 2013-14 as signed on October 03, 2014, contains the details of Noticee no. 3 and 5 as directors of NTL. However, it does not contain the date of cessation, thus giving credence to the fact that the Note attached with Form 20B for the Annual Return for financial year 2013-14, indeed is genuine, and that Noticee no. 3 and 5 were still treated as directors even as on October 10, 2014

(date of filling FORM 20B on MCA21 Portal) by NTL. However, it is a settled position in law, that unless otherwise stipulated in the Articles of Association of a company or in the employment contract, the effective date of resignation of a director shall be the date on which the letter of resignation has been received by the company or the date as mentioned in the letter of resignation, whichever is later. In the instant case, though NTL might not have accepted the resignation of Noticee no. 3 and 5, till October 03, 2014, however, later on, NTL has filed Form DIR 12 in respect of Noticee no. 3, thereby accepting his resignation with effect from the date of his resignation letter i.e. May 15, 2014. Further, NTL also had to accept the date of resignation of Noticee no. 5 as March 6, 2014, as he had successfully delivered his resignation letter to NTL by email as well as by speed post and also that Hon'ble High Court of Gujarat in Civil Writ Petition No. 4497 of 2017, had ordered RoC, Gujarat to modify the records of MCA 21 Portal to reflect his correct date of resignation i.e. March 6, 2014. Therefore, the impugned Note attached to said FORM 20B claiming the non-acceptance of the resignation of Noticee no. 3 and 5 is of no relevance to this proceeding, because, even if NTL may not have accepted their resignation, but Noticee no. 3 and 5 had successfully tendered their resignation, in accordance with law, which was subsequently acknowledged by NTL itself by filling e-form DIR-12 on MCA21 Portal.

45. From the records available on MCA 21 Portal, I note that Noticee no. 9 was the non-executive director in NTL for the period from January 1, 2011 to November 2, 2012. However, Noticee no. 9 claims to have tendered his resignation vide email dated September 23, 2012 itself. I have perused the copy of the said email, and I find that, this email was in the nature of a composite resignation email which was addressed to CMD – Neesa Group, expressing the intention of Noticee no. 9 to resign from the directorship of all Neesa Group of Companies. I note that the expression 'Neesa Group of Companies' is vague and does not specifically indicate the intent of Noticee no. 9 to resign from NTL. Be that as it may, I also note that the said email contained an attachment of 'Resignation Letter'. However, though Noticee no. 9 has provided copy of the said email with his replies, but he has not provided copy of the attachment to this email i.e. copy of the attached 'Resignation Letter'. Thus, in the absence of the said 'Resignation Letter', it may not be possible to determine the actual effective date of resignation of Noticee no. 9.

Notwithstanding this fact, from the records available at MCA21 Portal, I find that a resignation letter from Noticee no. 9 dated November 11, 2012, was filed by NTL with the RoC, as an attachment to FORM 32, to notify the fact that Noticee no. 9 had resigned from NTL. Thus, the effective date of resignation of Noticee no. 9 as per records of RoC is November 2, 2011. I note that, Noticee no. 9 in his reply has also accepted this date to be effective date of resignation, without contesting the fact that the resignation ought to have been effective from September 23, 2012 i.e. the date when the resignation email was sent to CMD – Neesa Group. Thus, the effective date of resignation of Noticee no. 9 from NTL, for the purpose of these proceedings shall be November 2, 2012.

46. Noticee no. 9 has further contended that in a similar case pertaining to NCD issue, SEBI has completely exonerated him by its order dated June 02, 2016. I note that the facts of the present proceedings are slightly different from the matter of NCD issue by NTL. In the instant case OCD's were issued and allotted to investors in the financial years 2012-13 and 2013-14. Noticee no. 9 was relieved from any liability in the NCD issue because he was not the director of NTL at the time when the NCD's were issued and allotted i.e. FY 2013-14. However, in the present proceedings OCD's were issued and allotted in the FY 2012-13 also, when Noticee no. 9 was the non-executive director. I also note that in accordance with Section 5(g) of the Companies Act 1956 r/w Section 73(2), in the absence of a managing director or executive/whole-time director and in the absence of any specific delegation by the board of the company under Section 5(f), all the directors, shall be jointly and severally liable along with the company. Thus, I find that for the period from April 1, 2012 to November 2, 2012, there was no managing director or other Executive/Whole time director in the Company. Therefore, in terms of Section 5(g), in the absence of Company specifying any director/directors, all the directors of the Company during the period from April 1, 2012 to November 2, 2012, including Noticee No. 9, shall be liable as "officer in default" for the purposes of Section 73(2) of the Companies Act, 1956. Therefore, I find that Noticee no. 9 is liable for violations of the provisions of the Companies Act, 1956 and ICDR Regulations, 2009, as alleged in the SCN, however, liability of Noticee no. 9 to make refund under Section 73 of the Companies Act, 1956 shall not extend to that period of his

directorship during which NTL had a Managing Director who alone shall be the 'officer in default' for that period.

47. I note that Noticee no. 9 has relied upon the date of allotments as mentioned in the complaint letter of Mr. Nikhil Girme, which is given as Annexure A to the SCN. However, as indicated in the earlier paras, reliance on such indicative list of allotments is incorrect and misplaced. Therefore, I find that Noticee no. 9 is liable for the violations as alleged in the SCN.

DIRECTIONS:

48. In view of the aforesaid findings I, in exercise of powers conferred upon me under Sections 11 and 11B of the SEBI Act, 1992 read with Section 19 thereof, hereby directs as under:

- a) Noticee no. 1, 2, 3, 4, 5, 6, 7, 8 and 9, shall jointly and severally, within a period of three months from the date of this order, refund all the money collected by NTL through the issuance and allotment of OCD's including the application money collected from investors, pending allotment of securities, if any, with an interest of 15% per annum, from the eighth day of collection of funds from the investors to the date of actual payment. It is clarified that the liability of directors viz. Noticee no. 2, 3, 4, 5, 6, 7, 8 and 9 shall be for the moneys collected during their respective period of directorship;
- b) The refund of amounts alongwith interest to investors shall be effected only through Bank Demand Draft or Pay Order both of which should be crossed as "Non-Transferable" or through other banking channels such as RTGS, NEFT or UPI, with proper Audit trails;
- c) Noticee no. 1, 2, 3, 4, 5, 6, 7, 8 and 9 are directed to provide a full inventory of all their assets and properties including details of all their bank accounts, demat accounts and holdings of mutual funds/shares/securities, if held in physical form, within 21 days from the date of receipt of this order;

- d) Noticee no. 1, 2, 3, 4, 5, 6, 7, 8 and 9 are prevented from selling any of their assets including holding of mutual funds/shares/securities held by them in demat and physical form except for the sole purpose of making the refunds as directed above;
- e) The Noticees shall ensure that an advertisement is issued in two National newspapers (including one in English and one in local language), intimating the process and modalities of refund to the investors;
- f) Noticee no. 1, 2, 3, 4, 5, 6, 7, 8 and 9 shall file a report of completion of such refund with SEBI, within a period of seven days after the expiry of three months from the date of coming into force of direction given in (a) above, certified by two independent peer reviewed Chartered Accountants who are members of the Peer Review Board of the Institute of Chartered Accountants of India at the time of issuance of such certificate;
- g) SEBI, on failure of the Noticees to effect the refunds as directed above within three months period from the date of coming into force of direction given in (a) above, shall recover such amounts, from NTL and the directors viz. Noticee no. 2, 3, 4, 5, 6, 7, 8 and 9, who are liable to refund, in accordance with Section 28A of the SEBI Act, including such other provisions contained in securities laws.
- h) Noticee no. 1 and its directors viz, Noticee no. 2, 3, 4, 5, 6, 7, 8 and 9 are directed not to directly or indirectly, access the securities market, by issuing prospectus, offer document or advertisement soliciting money from the public and are further restrained and prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in whatsoever manner, from the date of this Order, till the expiry of four years from the date of completion of refunds to investors as directed above. The aforesaid directors are also restrained from associating themselves with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI from the date

of this Order till the expiry of four years from the date of completion of refunds to investors.

49. In view of the exceptional circumstances emerging due to the outbreak of a COVID-19 and consequential lockdown in the country, the direction given in paragraph 48(a) shall come into force on April 15, 2020.
50. Copy of this Order shall be forwarded to the Noticees, recognised stock exchanges, depositories and RTA's of all Mutual Funds for information and necessary action.
51. A copy of this Order shall also be forwarded to the Ministry of Corporate Affairs/concerned Registrar of Companies, for their information and necessary action with respect to the directions/ restraint imposed above against the Company and its directors.
52. A copy of this Order shall also be forwarded to the concerned Local Police and relevant State Government for information.

Date: April 07, 2020

Place: Mumbai

Sd/-

ANANTA BARUA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA