WTM/AB/IVD/ID16/04/2021-22

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

Under Sections 11(1), 11(4), 11B (1) and 11B (2) of the Securities and Exchange Board of India Act, 1992 read with Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015.

Noticee No.	Name of the Noticee	PAN
1.	Shah Dhiren Mahendrakumar (HUF)	ABBHS0132B
2.	Amee Dhiren Shah	BMIPS9852B
3.	Affluence Fincon Service (P) Ltd.	AAHCA7554R

(Aforesaid entities hereinafter individually referred to as either by their respective name or the noticee number and collectively as "Noticees")

In the matter of Infibeam Avenues Limited.

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1. Present proceedings have emanated from impounding order cum show cause notice dated August 24, 2020 (hereinafter referred to as "**SCN**") issued by Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") to 4 entities viz. Infinium Motors (Gujarat) Pvt. Ltd. (hereinafter referred to as "**IMGPL**"), Noticee no. 1 i.e. Shah Dhiren Mahendrakumar (HUF) (hereinafter also referred to as "**Dhiren HUF**"), Noticee no. 2 i.e. Amee Dhiren Shah and Noticee no. 3 i.e. Affluence Fincon Service (P) Ltd (hereinafter also referred to as "**Affluence**"), *inter alia* alleging violation of provisions of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") read with the SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as **"PIT Regulations, 2015"**).

2. I note that the out of the aforesaid four entities against whom SCN cum impounding order dated August 24, 2020 was issued, the aforesaid three Noticees had filed an

appeal against the SEBI Impounding Order cum show cause notice dated August 24, 2020 and the Hon'ble Securities Appellate Tribunal, Mumbai (hereinafter referred to as "**Hon'ble SAT**") vide its Order dated September 07, 2020, had set aside the SEBI Impounding Order dated August 24, 2020 except to the extent it called upon the appellants to show cause. The Hon'ble SAT, vide its Order dated September 07, 2020, *inter alia,* issued the following directions:

> "*We further direct the Appellants to file a reply to the show cause notice on or before 7th October, 2020. The Respondent will thereafter decide the matter finally after giving an opportunity of hearing to the Appellants either through physical hearing or through video conference within 6 months thereafter. During the interim period, in order to safeguard the interest of the investors in the securities market and also to protect the integrity of the securities market, we direct the Appellants to provide a fixed deposit of Rs. 2,60,93,085.85 in the name of SEBI for a period of one year, within two weeks from today. The fixed deposit receipt will be kept in the safe custody with the respondent and will not be encashed till three months after passing of the final order by the respondent.*"

3. Further, I note that Infinium Motors (Gujarat) Pvt. Ltd., against whom the Impounding Order cum show cause notice dated August 24, 2020 was also issued, has filed an application for settlement of the proceedings under the Securities and Exchange Board of India (Settlement Regulations) 2018 (hereinafter referred to as "**Settlement Regulations**"), and the same is pending. Further, I also note that a show cause notice dated September 28, 2020 was issued to two entities viz: Vishal Mehta and Malav Mehta and a separate show cause notice dated September 28, 2020 was also issued to Hiren Padhya in the present matter of Infibeam Avenues Limited, for alleged violation of the SEBI Act, 1992 and PIT Regulations, 2015. However, I note that Vishal Mehta, Malav Mehta and Hiren Padhya have also filed for settlement of the proceedings under the Settlement Regulations and the same is pending. I note that in terms Regulation 8 of Settlement Regulations, during the pendency of the settlement application, concerned enforcement proceedings are to continue except passing of final order in the matter. In view of the above and given the aforesaid directions of the Hon'ble SAT vide its Order dated September 07, 2020, the present Order shall deal only with the show cause notice issued to aforesaid Noticees in the matter.

4. The brief facts leading to the issue of aforesaid SCN to the Noticees, as narrated in the SCN, are as under:

(i) SEBI had conducted an investigation in the scrip of Infibeam Avenues Limited (hereinafter referred to as "**IAL**" **/** "**the Company**") to ascertain whether certain persons/entities had traded in the aforesaid scrip during the period November 22, 2016 to June 26, 2017 (hereinafter referred to as "**IP**") on the basis of unpublished price sensitive information (hereinafter referred to as "**UPSI**"), in contravention of the provisions of the SEBI Act, 1992 read with the PIT Regulations, 2015.

(ii) Investigation observed that IAL made an announcement on June 26, 2017 (stock exchange holiday) on the stock exchange platform that a meeting of Board of Directors of the Company was to be held on July 13, 2017 to consider and approve (i) sub-division/split of equity shares of the Company; and (ii) Infibeam Stock Appreciation Rights Scheme, 2017. The last trading day prior to the announcement was June 23, 2017 since June 24, 25 and 26 were trading holidays. Investigation observed that the said announcement had a positive impact on the price of the scrip of IAL.

(iii) The price of the shares of IAL on June 23, 2017, i.e. the trading day prior to the date on which the announcement was made, and on June 27, 2017, i.e. the succeeding trading day were as under:

Table -1 Impact of Corporate announcement

Exchange	Date	Opening Price (₹)	High Price (₹)	Low Price (₹)	Closing Price (₹)	Number of shares traded
BSE	23/06/17	1044.75	1045.95	1024.2	1033.95	107536
	27/06/17	1039.95	1059.4	1035.6	1049.05	120135
NSE	23/06/17	1,041.00	1,049.90	1,025.00	1,036.85	620121
	27/06/17	1,032.00	1,059.90	1,032.00	1,049.85	560521

(iv) From the above table, it was observed that the Corporate Announcement made by the Company had a positive price impact and the closing price of the scrip at BSE and NSE was Rs.1049.05 and Rs.1049.85, respectively, on June 27, 2017 i.e. an increase by 1.46 % and 1.25%, respectively, from the previous trading day's closing price. There was also an increase in trading volume at BSE by 11.71% and at NSE by 9.61% on June 27, 2017, as compared to the trading volume on previous trading day i.e. June 23, 2017.

(v) The announcement made by the Company to the stock exchanges on June 26, 2017, informing that the Board will consider a stock split of its equity shares in its meeting to be held on July 13, 2017 is considered as the UPSI in the present matter in terms of Regulation 2(1)(n) of PIT Regulations, 2015.

(vi) As per the information/documents provided by the Company during the investigation, the chronology of events leading up to the aforesaid corporate announcement is as under –

Table- 2 Chronology of Events

SN	Date	Event
1.	22.11.2016	Initial introduction and understanding of stock split concept with advantages and disadvantages and with real life examples.
2.	20.03.2017	Analysed budget for next fiscal, along with sensitivity analysis to many scenarios including impact of share split. Review impact of Goods and Services Tax ("**GST**") on economy and business budget.
3.	24.06.2017	It was discussed and proposed that since the Board meeting was going to be held in July, 2017 for approval of SAR Scheme and the Scheme of Merger, it would be better to include an agenda item on split of equity shares and process to be followed for discussion of split ratios and consideration of the entire Board. Main objective was to improve the liquidity of equity shares with higher floating stocks and to make the equity shares more affordable to the investors.
4.	26.06.2017	Announcement related to split of equity shares to be discussed in Board meeting.
5.	26.06.2017	Trading window closure for directors, promoters, KMP(s), employees

		and other connected persons
6.	27.06.2017-15.07.2017	TRADING WINDOW CLOSURE
7.	28.06.2017	Sent the notice and agenda of meeting to directors of the company
8.	13.07.2017	1. Subject to the approval of the members of the Company: a) Split / Sub Division of Equity Shares of the Company from existing Face Value of Rs. 10/- (Rupees Ten Only) per Equity Share to Face Value of Rs. 1/- (Rupee One Only) per Equity Share. b) Alter the Capital Clause of Memorandum of Association, in connection with the split of shares. 2. To convene an Extra Ordinary General Meeting of the Members of the Company on Friday, August 11, 2017 at 11.30 a.m. at S – 3 & 5 Hall, Ground Floor, Ahmedabad Management Association, ATIRA Campus, Dr. Vikram Sarabhai Marg, IIM – A Road, Vastrapur, Ahmedabad – 380 015 for above referred matters.

(vii) Based on the above chronology of events, investigation observed that the UPSI came into existence on November 22, 2016 i.e. the date when there was initial introduction and understanding of stock split concept with advantages and disadvantages and real life examples were presented by CFO. In view of the same, the period of UPSI was identified as November 22, 2016 to June 26, 2017.

(viii) Investigation observed that the Noticees traded in the scrip of IAL during the period of UPSI. Noticees no. 1, 2 and 3 together are hereinafter referred to as "**Dhiren Group**".

(ix) The summary of trading activity of the Noticees (Dhiren Group) is as under:

Table – 3 Trading of Dhiren Mahendrakumar Shah HUF, Amee Dhiren Shah and Affluence Fincon Service (P) Ltd. (Dhiren Group)				
Trade date(s)	**Buy quantity**	**Weighted Average Purchase value (Rs.)**	**Sell quantity**	**Weighted Average Sell value (Rs.)**
Prior to UPSI Period (August 1, 2016 to November 21, 2016)				
No trades observed by Dhiren Mahendrakumar Shah HUF, Amee Dhiren Shah and Affluence Fincon Service (P) Ltd				

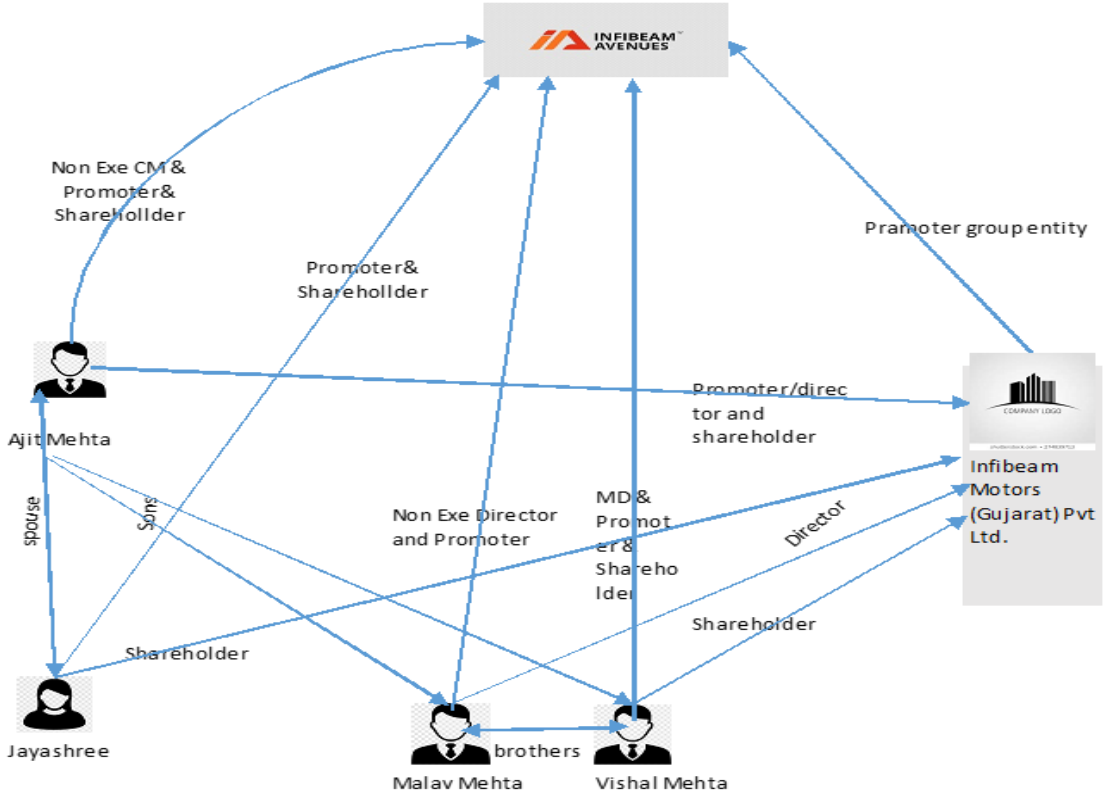
During UPSI Period (November 22 2016 to June 26, 2017)				
Dhiren Mahendrakumar Shah HUF				
01-Jun-17	40,016	3,84,13,873.55	0	0
Amee Dhiren Shah				
05-Jun-2017	50,000	4,99,94,976.45	0	0
19-Jun-2017	50,000	5,25,39,992.90	0	0
Affluence Fincon Service (P) Ltd				
03-Apr-17	3,00,000	28,05,00,000.00	0.00	0.00
04-May-17	0.00	0.00	1,00,000	10,38,94,280.50
17-May-17	0.00	0.00	2,00,000	19,80,05,585.50
07-Jun-17	2,00,000	19,70,99,995.60	0.00	0.00
09-Jun-17	42,000	4,16,45,100.00	0.00	0.00
13-Jun-17	75,000	7,48,12,500.00	0.00	0.00
15-Jun-17	25,000	2,52,74,973.20	0.00	0.00
21-Jun-17	25,000	2,63,87,500.00	0.00	0.00
22-Jun-17	25,000	2,62,75,000.00	0.00	0.00
Total (Affluence)	**6,92,000**	**67,19,95,068.80**	**3,00,000**	**30,18,99,866.00**
Total (Dhiren Group)	**8,32,016**	**81,29,43,911.70**	**3,00,000**	**30,18,99,866.00**
Post UPSI Period (June 27, 2017 to September 30, 2017)				
Nil Trading by Dhiren Mahendrakumar Shah HUF				
Amee Dhiren Shah				
14-Jul-2017	0	0	1,00,000	11,35,67,599.70
Affluence Fincon Service (P) Ltd				
03-Aug-17	0	0	1,54,996	21,62,52,913.00
Total (Dhiren Group)	**0**	**0**	**2,54,996**	**32,98,20,512.70**

(x) As seen from the tables above, during UPSI period, Investigation observed that Dhiren group had bought a total of 8,32,016 shares worth Rs.81,29,43,911.70 and sold 3,00,000 shares worth Rs.30,18,99,866/-. During post UPSI period, altogether they sold 2,54,996 shares worth of Rs.32,98,20,512/-. However, it was observed that none of these entities had traded in the scrip of IAL in pre-

UPSI period from August 1, 2016 to November 21, 2016.

(xi) On the basis of information received from IAL through its letter dated June 21, 2019 and certain other entities regarding details of persons including Promoters/Directors/Employees and/or any other persons who were having access to and/or in possession of the information pertaining to the composite scheme, investigation had identified Vishal Mehta as an "insider" as per the provisions of the PIT Regulations, 2015. Investigation observed that Vishal Mehta was the Managing Director of the Company during the investigation period and, as such, is connected to the Company and was reasonably expected to have access to the UPSI. Therefore, Investigation observed that Vishal Mehta was an 'Insider' in terms of Regulation 2(1)(g)(ii) of the PIT Regulations, 2015.

(xii) Investigation observed that Vishal Mehta, who is promoter and also the Managing Director of IAL, is the brother of Malav Mehta, who is a director of Infinium Motors (Gujarat) Pvt. Ltd. ("**IMGPL**"), a group company of IAL. Vishal Mehta and Malav Mehta are sons of Ajit Mehta, Chairman of IAL, and Jayashree Mehta, Promoter and shareholder of IAL and also shareholder of IMGPL. The connection is diagrammatically shown below:



(xiii) Investigation observed that IMGPL is a group company of IAL and Malav Mehta is a director in IMGPL, who is authorized to trade on behalf of IMGPL, is also a non-executive director of IAL and brother of Vishal Mehta, MD of IAL and a person who was privy to the UPSI. Therefore, by virtue of the said connections, it was alleged that IMGPL falls with the category of deemed to be a connected person as per Regulation 2(1)(d)(ii)(j) of the PIT Regulations, 2015 and hence, an insider as per Regulation 2(1)(g)(i) of the PIT Regulations, 2015.

(xiv) Further, Investigation observed that Amee D Shah (Noticee no. 2) is the wife of Dhiren Shah, Karta of Dhiren Mahendrakumar HUF (Noticee no. 1). Dhiren Shah was a director in Affluence (Noticee no. 3) and the person in-charge of making investment decisions on behalf of Noticee no. 3. Hence, Dhiren Shah, Noticee no. 1, Noticee no. 2 and Noticee no. 3 were connected to each other.

(xv) During investigation, Dhiren Shah stated that IMGPL is the client of their broking firm Affluence (Noticee no. 3). Further, investigation observed that Dhiren Shah and Noticee no. 3 were allotted 5,88,235 shares each by IAL @ Rs.425/- during

pre-IPO preferential allotment made in 2014 and they continue to hold significant shares of IAL in their accounts. IAL vide its reply dated March 12, 2020, stated in relation to the query on the process followed for contacting prospective allottees for the pre-IPO preferential allotment, that in certain cases, Vishal Mehta, Managing Director of the Company, on behalf of the Company, had approached the prospective allottees for making investment in the Company and in case of certain allottees, the prospective allottees had approached the Company for making the investments.

(xvi) Investigation observed that a significant amount of Rs. 49.99 Cr, had been invested by the Dhiren Group in IAL through a pre IPO preferential allotment, and this coupled with Noticee no. 3 acting as the stock broker for IMGPL's trades in IAL, leads to a *prima facie* inference that Dhiren Group was connected to the promoters / director / KMPs of IAL and had access to the UPSI. SCN alleged that this along with the trading pattern of the entities, i.e. buying significantly during the UPSI period and not trading in any other scrip during the period, leads to a reasonable presumption that the Dhiren Group had traded in the scrip during the investigation period while in possession of the UPSI.

(xvii) In view of the above, SCN alleges that Noticee no. 1, 2 and 3 are connected persons who were reasonably expected to have access to the UPSI as per Regulation 2(1)(d) of PIT Regulations, 2015 and, hence, an insider as per Regulation 2(1)(g)(i) of PIT Regulations, 2015. Therefore, by trading in the scrip of IAL during the UPSI period, it is alleged that Noticees no. 1, 2 and 3 have violated the provisions of Section 12A (d) & (e) of SEBI Act, 1992 and Regulation 4(1) of PIT Regulations, 2015 by engaging in insider trading during the UPSI period.

(xviii) It is alleged that Noticees made wrongful gains by trading in the scrip of IAL during the period of UPSI. The wrongful gains by the Noticees while trading in the scrip of IAL during the UPSI is as follows:

Table-4 Computation of notional gain by Dhiren Mahendrakumar Shah HuF, Amee Dhiren Shah and Affluence Fincon Service (P) Ltd

Name and Trade date(s)	**Buy quantity**	**Weighted Average Purchase value (Rs.)**	**Wt. Average buy price (Rs.)**	**Closing price of the scrip on June 27, 2020#**	**Wrongful gain (Rs.)@**
Dhiren Mahendrakumar Shah HuF					
01-Jun-17	40,016	3,84,13,873.55	959.96	1049.85	35,96,924.00
Amee Dhiren Shah					
05-Jun-2017 & 19-Jun-2017	1,00,000	102534969.4	1025.35	1049.85	24,50,030.65
Affluence Fincon Service (P) Ltd*					
07-Jun-17 to 22-Jun-17	392000	391495068.8	998.71	1049.85	2,00,46,131.20
Total (Dhiren Group)	**532016**	**532443911.7**	**1000.80**	**1049.85**	**2,60,93,085.85**

the following trading day of publishing UPSI

*calculated for net purchase quantity on the basis of FIFO method (Transactions of 03-Apr-17, 04-May-17 and 17- May-17 have been removed for calculation of notional/wrongful gain)

(xix) In view of the above, it is alleged that the wrongful gains made by Noticees no. 1, 2 and 3 were Rs. 35,96,924/-, Rs. 24,50,030.65 and Rs. 2,00,46,131.20, respectively. Thus, the Noticees no. 1, 2 and 3 (Dhiren group) collectively made unlawful gains of Rs. 2,60,93,085.85.

(xx) In view of the above, SCN calls upon Noticees to show cause as to why suitable directions including debarment and disgorgement be not issued under Sections 11(1), 11(4), 11B(1) and 11(5) of SEBI Act, 1992 for violations of Section 12A(d) and (e) of SEBI Act, 1992 and Regulation 4(1) read with 4(2) of PIT Regulations, 2015. The SCN also calls upon Noticees as to why appropriate directions for imposition of penalty under Section 11B(2) and 11(4A) read with Section 15G of

SEBI Act, 1992 read with SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**the Rules**") be not issued to them.

5. In view of the aforesaid, the Impounding Order cum show cause notice dated August 24, 2020, referred to in para 1 above, came to be issued to the Noticees. Thereafter, vide email dated September 10, 2020, the following documents were provided by SEBI to the Noticees:

    a. Trading details of Shah Dhiren Mahendrakumar (HUF), Amee Dhiren Shah and Affluence Fincon Service (P) Ltd.;
    b. Statement of Shri Dhiren Shah recorded during investigation; and
    c. Extract of Company's (IAL's) replies indicating chronology of events and details of pre-IPO preferential allotment.

6. Further, upon the request of the Noticees for the investigation report vide their email dated September 15, 2020, SEBI vide its email dated September 17, 2020 provided a copy of the extract of the investigation report to the Noticees. In response to the SCN, Noticees filed their common reply dated October 06, 2020. Upon consideration of the reply of the Noticees, in order to conduct further inquiry in the matter, an opportunity of personal hearing was granted to the Noticees on November 17, 2020. The advocate for the Noticees appeared on November 17, 2020 through video conferencing and made submissions.

7. Noticee no. 1, 2 and 3 in their joint reply dated October 06, 2020 and during the personal hearing held on November 17, 2020, made *inter alia* the following submissions:

    a. It is submitted that while SEBI has supplied a copy of the investigation report, several parts thereof have been redacted i.e. they have been arbitrarily blanked/whited out. It is not disclosed as to who authorised such redaction, more so since the same is contrary to the direction in Paragraph 42 of the SCN of the Ld. WTM which directed that "..SEBI shall serve upon the aforementioned persons/entities all the relevant documents including the

investigation report and the annexures therein along with this order." Similarly, the order dated 7 September 2020 of the Hon'ble Securities Appellate Tribunal directed that all documents referred to in the SCN be supplied to us within 4 days of the date thereof and did not authorise or permit any purported redaction. Therefore, it was incumbent on SEBI to furnish copies of all the relevant documents, the investigation report and the annexures thereto. It was therefore not open to SEBI to redact any parts of the Investigation Report.

b. The Noticees are not "connected persons" or "insider" within the meaning of the PIT Regulations, 2015. The Noticees have no connection with Infibeam, its promoters, KMPs or their family members. The Noticees unequivocally and categorically state that they had no knowledge or information about ay UPSI in infibeam and have never traded while in possession of UPSI as incorrectly alleged in the SCN or otherwise.

c. In fact, the investigation report (Page 22 para 11.2) categorically records that "on the basis UCC/KC details, Off-market transactions, Brokers replies and bank statement, no connection was found between Dhiren Group with the other suspected entities or with directors/promoters/insiders of the Company." The Noticees submit that in view of the said express investigation finding, it is clear beyond doubt that we are not insiders or connected entities.

d. It is therefore clear that merely because Noticee no. 2 and her husband subscribed to shares of the said company can never lead to any conclusion that Noticees are "connected" persons or "insiders" within the meaning of PIT Regulations. Further, the said allotment of shares was admittedly in 2014, i.e. much prior to the six months cut off time limit as per the PIT Regulations, 2015 as extracted even in the SCN itself. Therefore, in any event it can never be concluded that the Noticees are "connected" persons or "insiders" within the meaning of the PIT Regulations.

e. The allegation that Noticee no. 1 acted as a broker for Infinium for purchasing shares of Infibeam is factually incorrect. Noticee no. 1 is not a broker of NSE or BSE. In fact, Infinium was a client of a different company named Affluence Shares and Stocks Private Limited ("ASSPL"). Further, we are informed that Infinium carried out only 1 transaction through ASSPL

wherein it bought some shares of Infibeam on 19 October 2017, i.e. 4 months after the alleged UPSI became public on 26 June 2017.

f. It may be noted that ASSPL is a broker and has more than 4500 clients and Infinium was just one of these clients who traded only once on 19 October 2017 –i.e. 4 months after the alleged UPSI became public as aforesaid. Therefore, no question arises of alleging that we are "connected" persons or "insiders" within the meaning of the PIT Regulations, or of drawing any other adverse inference against us.

g. Since we are therefore not "connected" persons, the only other way in which any allegations can be made against us of alleged violation of the PIT Regulations, is if investigations established that we in fact had possession of the alleged UPSI. In this regard, the observation of the Hon'ble SAT in the matter of SRSR Holdings Pvt. Ltd. & Ors vs. SEBI (Order dated 11 August 2017) are most relevant. There is no material or basis to allege that we in fact had possession of the alleged UPSI. The SCN does not even allege any facts to indicate that we got possession of the alleged UPSI or as to how we got possession of the alleged UPSI. As a matter of fact, none of us even had possession of the alleged UPSI.

h. In this context, we submit that the observations of the Hon'ble Tribunal in the matter of Samir Arora vs. SEBI (SAT Appeal no. 83 of 2004) are most relevant. From the said order of the Hon'ble Tribunal, it is clear that it is obligatory on the part of SEBI to clearly show as to how according to SEBI the Noticees had "access" to the alleged UPSI, however, the SCN miserably fails to do so. There is not even a whisper as to who provided access and how. The SCN is absolutely silent on this aspect because in fact no such alleged UPSI was ever communicated to any of the Noticees. The allegation of having access to UPSI is merely on the basis of assumptions, presumptions and surmise.

i. Without prejudice to the forgoing it is submitted even if the CFO of Infibeam gave any such alleged initial introduction/understanding of the concept of stock split on November 22, 2016, the same can never amount to any UPSI at all. In fact, from the chronology allegedly supplied by Infibeam to SEBI, it would appear that there was only a discussion between the MD and CFO of Infibeam and not even the board of Directors was made aware of the same.

j. It appears from the SCN and other documents supplied that in fact at that time, an SAR scheme and an amalgamation were also being discussed. Curiously, the same are not alleged to be UPSI.

k. We submit that a stock split per se cannot be UPSI. No money is raised, no asset is acquired, only the face value is sub divided and the market price per share also is proportionately deceased. The stock split cannot even be said to be "change in capital structure". The Institute of Chartered Accountants of India defines capital structure as "Capital Structure is the combination of capitals from different sources of finance." These include combination and optimisation of Equity Capital, Preference Capital and Borrowed Capital (Debt). Stock Split does not result in change in Capital Structure or fall under any other categories of information that could amount to UPSI. Therefore, there was no UPSI and consequently there can be no question of any of us trading while being in possession of any UPSI and therefore the charge against the Noticees is liable to be completely dropped.

l. With regard to the increase in trading volume at BSE on June 27, 2017, even according to the investigation report, prior to the said announcement, the price of the scrip had moved from an opening price of 973.80 on 31 May 2017 to a closing price of Rs. 1036.85 on 23 June 2017 i.e. a net rise of 6.47%. Even according to the Investigation Report, post the said announcement the price of the scrip was observed to have moved from an opening price of Rs. 1032 on 27 June 2017 to a closing price of Rs. 1124.40 on July 17, 2017 i.e. a rise of 8.95%. Therefore, there was anyway a upward price movement before and after the said alleged UPSI was made public and therefore the particular change of price from June 23, 2017 to 27 June 2017 (June 24, 25 and 26 were non-trading days) cannot be said to be on account of the alleged announcement by the company that it was considering a stock split.

m. In any event, the said variation in prices of 1.46% on BSE and 1.25% on NSE are totally insignificant and normal price movements irrespective of any alleged UPSI. There are 48 other instances of price increases of more than 1.46% and 54 other instances of price increases of more than 1.25% during the investigation period of 22 November 2016 to 26 June 2017, which obviously have no co-relation to any alleged UPSI. Further, as stated in the

investigation report, the scrip had an upward momentum and therefore the price rise cannot be attributed to any announcement. This proves that the said price change on June 27, 2017 was not because of the stock split or any other alleged UPSI, but was just a normal change in the price of the said scrip.

n. The allegation in para 8 of the SCN that the trade volumes increased on June 27, 2017 after the disclosure of UPSI is belied by the volume details in para 7 of the SCN itself, which shows that the total volumes (BSE and NSE) reduced from 7,27,657 shares on June 23, 2017 to 6,80,656 shares on June 27, 2017. In fact, the average volume during the investigation period was around 7.95 lakh shares per day and therefore, there is no increase in volume in the scrip on June 27, 2017 after the disclosure of UPSI as incorrectly alleged in the SCN. The reduction in volume also goes on to substantiate that not even the markets had considered stock split to be price sensitive information, failing which there would have been at least some increase in volumes. Therefore, it can be construed that the information of stock split is no way a price sensitive information and therefore not a UPSI.

o. In paras 29 to 32 of the SCN it is alleged that after the price increase because of the public announcement of the said intended split of shares, the market rate was Rs. 1049.85. Yet the above table proves that even prior thereto, shares had been bought by the Noticees at higher prices on at least 3 days (1051 on 19-06-2017, 1056 on 21-06-2017 and 1051 on 22-06-2017). This also proves that the said information was not UPSI and did not affect the price. Further, the SCN itself states that Affluence in fact sold off 3 lakh shares during the UPSI period, and that the bulk of the shares are being held by the Noticees to date. The same proves that there was no insider trading at all, since otherwise, Affluence would have only sold after the said announcement and we would have sold off our entire holdings.

p. Even as per the allegations in the SCN itself, the Noticees held 2,77,020 (5,32,016-2,54,996) shares after the alleged UPSI was made public. Therefore, the said investment was not based on any alleged UPSI. Had the Noticees bought the shares to take advantage of any alleged UPSI, then obviously they would have sold the entire holding on June 27, 2017 after the said announcement/publication of the alleged UPSI. This substantiates that

our transactions were not based on any alleged UPSI as incorrectly alleged or at all. By the explanation to Section 11B, in any event, so called "notional gains" can never be disgorged and the language of the SEBI Act itself requires actual gains or loss avoided to be disgorged. The gains alleged in the SCN are "notional" and therefore there cannot be any disgorgement of "notional gains".

q. Further, no question can arise of impounding or disgorgement of any alleged "notional" gains in respect of shares that were never sold by us. The same is neither "profit made" nor "losses averted" and SEBI itself has in other matters admitted and acknowledged that no one can be directed to disgorge "notional profits" in respect of shares that were not sold and are retained.

r. As regards the standard of proof required to establish a violation under the PIT Regulations, it is pertinent to refer to the ratio of Dilip Pendse vs. SEBI (Order dated Nov 19, 2009 in SAT Appeal no. 80 of 2009). In light of abovementioned settled law, it is submitted that an allegation of insider trading requires a high standard of empirical evidence and proof and the same cannot be based on mere conjecture and surmise. There is not an iota of evidence to show that the Noticees had possession of any alleged UPSI at the time of trading. Therefore, the allegations in the SCN are mere bald assertions without any basis, material, substance or merits. The Noticees are not insiders or connected persons.

8. I have considered the allegations made in the SCN, submissions made by the Noticees in their replies and during the personal hearing. Before dealing with the merits of the allegations levelled in the SCNs, it would be appropriate to deal with a preliminary contention made by Noticees that several parts of the investigation report provided by SEBI have been arbitrarily blanked/whited out and the same is contrary to Paragraph 42 of the SEBI Impounding Order cum show cause notice dated August 24, 2020. In this regard, I note that investigation carried on by SEBI in a matter may relate to several persons and may contain confidential information referring to various records covering a variety of data pertaining to third party and personal and/or financial information of other entities who have been investigated. Investigation report may also include commercial and business interests, strategic information, investment strategies, rationale for investments and information

regarding the business affairs of the entities/persons concerned. Thus, sharing of whole investigation report may adversely affect the right of third parties and may also lead to violation of right to privacy of third parties. Moreover, investigation report is a compilation of various facts observed by the investigating authority while conducting investigation in a particular matter. Thus, this document is not any evidence in itself but is a compilation of observations of investigating authority prepared on the basis of evidence found in the form of documents collected, statements recorded, etc. Thus, whole of the investigation report may not be relevant for a particular Noticee. I find that Noticees are entitled to have all those findings of the investigation report which forms the basis the basis of the allegations made against the Noticees. In the present case, I note that the relevant findings of the investigation report containing the facts leading to allegations alleged against the Noticees has been provided to the Noticees. Only those portions of the investigation report which pertain to other entities have been redacted in the investigation report provided to the Noticees. SCN relies on the facts and documents mentioned in the investigation report and all such facts have been summarised in the SCN and the documents in support of such facts have been provided as annexure to the SCN in order to enable the Noticees to give reply to the SCN. In this regard, I note that in the matter of ***Natwar Singh vs. Director of Enforcement and Another (2010) 13 SCC 255****,* the Hon'ble Supreme Court held that "*the fundamental principle remains that nothing should be used against the person which has not been brought to his notice*". I find that the relevant portion and findings in the investigation report pertaining to the Noticees that have been relied upon in the SCN have been made available to the Noticees. I note that the Noticees have filed their detailed reply to the SCN. Further, it is not the contention of the Noticees that they have not been able to file a detailed reply because of non-availability of the complete investigation report. I find that no prejudice has been caused to the Noticees due to redaction of certain portions of the investigations report, which did not pertain to them and has not been relied upon. In view of above, the contention of the Noticees, in this regard, is not tenable.

9. Coming to the merits of the case, I note that IAL is a company having its shares listed on NSE and BSE. The brief case, as alleged against Noticees in the SCNs is that IAL had made an announcement dated June 26, 2017 that a Board of Directors

Meeting was to be held on July 13, 2017 to consider and approve (i) sub-division/split of equity shares of the Company and (ii) Infibeam Stock Appreciation Rights Scheme, 2017. The said announcement had a positive impact on the price of the scrip of IAL. The price of the scrip of IAL increased 1.46% from Rs. 1033.95/- per share (closing price on June 23, 2017) to Rs. 1049.05/- per share (closing price on June 27, 2017) on BSE and the price of the scrip of IAL increased 1.25% from Rs. 1036.85/- per share (closing price on June 23, 2017) to Rs. 1049.85/- per share (closing price on June 27, 2017) on NSE, after making of corporate announcement by IAL on June 26, 2017, which was a stock exchange holiday. In terms of Regulation 2(1)(n) of PIT Regulations, 2015, the information relating the Board of Directors meeting to be held on July 13, 2017 to consider a stock split of its equity shares was a price sensitive information which before becoming generally available through publication to the stock exchanges on June 26, 2017, was a UPSI. The said UPSI came into existence on November 22, 2016 when there was initial introduction and understanding of stock split concept with advantages and disadvantages and real life examples presented by the CFO and thus, the period of UPSI was identified as November 22, 2016 to June 26, 2017. Noticees were connected persons and thus, insiders of IAL. The Noticees had bought a total of 8,32,016 shares worth Rs. 81,29,43,911.70 and sold 3,00,000 shares worth Rs. 30,18,99,866/- during the UPSI period and during post UPSI period, altogether they sold 2,54,996 shares worth of Rs. 32,98,20,512/-. Noticees i.e. the Dhiren Group made notional unlawful gains of Rs. 2,60,93,085.85. In view of this, SCN alleges that Noticees are connected persons who were reasonably expected to have access to the UPSI as per Reg. 2(1)(d) of Insider Trading Regulations, 2015 and, hence, an insider as per Regulation 2(1)(g)(i) of Insider Trading Regulations, 2015. Therefore, by trading in the shares of the Company when in possession of UPSI, Noticees are alleged to have violated Section 12A(d) & (e) and Regulation 4(1) of PIT Regulations, 2015.

10. The Noticees have been charged with violations of Section 12A(d) and (e) of SEBI Act, 1992 and Regulation 4(1) of PIT Regulations, 2015. PIT Regulations, 2015 has been framed under Section 30 read with Section 11(2)(g) and Sections 12A(d) and (e), of the SEBI Act, 1992. Section 12A(d) and (e) of the SEBI Act, 1992 and

Regulation 4 of PIT Regulations, 2015, as it existed at the relevant time, provided as under:

Relevant extract of Section 12A of SEBI Act, 1992:

"Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—
(a)…….
(b)…….
(c)…….
(d) engage in insider trading;
(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;
……."

Relevant extract of Regulation 4 of PIT Regulations, 2015:

"Trading when in possession of unpublished price sensitive information.

4.(1) No insider shall trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished price sensitive information:

Provided that the insider may prove his innocence by demonstrating the circumstances including the following: –

(I) the transaction is an off-market inter-se transfer between promoters who were in possession of the same unpublished price sensitive information without being in breach of regulation 3 and both parties had made a conscious and informed trade decision.

(ii) in the case of non-individual insiders: –

(a) the individuals who were in possession of such unpublished price sensitive information were different from the individuals taking trading decisions and such decision-making individuals were not in possession of such unpublished price sensitive information when they took the decision to trade; and

(b) appropriate and adequate arrangements were in place to ensure that these regulations are not violated and no unpublished price sensitive information was communicated by the individuals possessing the information to the individuals taking trading decisions and there is no evidence of such arrangements having been breached;

(iii) the trades were pursuant to a trading plan set up in accordance with regulation 5.

NOTE: When a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession. The reasons for which he trades or the purposes to which he applies the proceeds of the transactions are not intended to be relevant for determining whether a person has violated the regulation. He traded when in possession of unpublished price sensitive information is what would need to be demonstrated at the outset to bring a charge. Once this is established, it would be open to the insider to prove his innocence by demonstrating the circumstances mentioned in the proviso, failing which he would have violated the prohibition.

(2) In the case of connected persons the onus of establishing, that they were not in possession of unpublished price sensitive information, shall be on such connected persons and in other cases, the onus would be on the Board.

(3) The Board may specify such standards and requirements, from time to time, as it may deem necessary for the purpose of these regulations. ……."

11. From the above, it is noted that Section 12A (d) of SEBI Act, 1992, provides that no person shall directly or indirectly indulge in insider trading. The word used indulge in this clause is of wide import. This clause seeks to prohibit any assistance/aiding of insider trading, by any person either directly or indirectly. Section 12A (e) provides that no person shall directly or indirectly deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder. As mentioned above, the regulation referred to in Section 12A (e) is PIT Regulations, 2015. Therefore, once a person is found to be in violation of PIT Regulations, 2015, it leads to violation of Regulation 12A (d) and (e) of SEBI Act, 1992, also. Regulation 4(1) provides that no insider shall trade in the securities of a company when in possession of unpublished price sensitive information. Further, Regulation

4(2) provides that if the "insider", as envisaged under Regulation 4(1), is a connected person then the onus of establishing that he was not in possession of UPSI, shall be on such connected persons and in other cases, the onus would be on the SEBI. The Note appended to Regulation 4(1) clarifies that when a person trades in securities when in possession of UPSI, his trades would be presumed to have been motivated by the knowledge and awareness of such UPSI in his possession. Proviso to Regulation 4(1) provides that despite presence of all the ingredients of Regulation 4(1) of PIT Regulation, 2015, the insider may prove his innocence by demonstrating the circumstances including those which are mentioned in the said proviso. The Note to Regulation 4(1) states that once it is established that an insider traded when in possession of UPSI, it would be open to the insider to prove his innocence by demonstrating the circumstances mentioned in the proviso, failing which he would have violated the prohibition.

12. In the following paras, I would be examining whether the ingredients of Regulation 4(1) are present in the case of the Noticees, as in the SCN, there is allegation of violation of Regulation 4(1) of PIT Regulations, 2015, by these Noticees. If it is found that Noticees have violated Regulation 4(1) of PIT Regulations, 2015, it would also lead to the violation of Section 12A (d) and (e) of the SEBI Act, 1992.

13. **Whether there was a UPSI?**

13.1 SCN alleges that IAL had made a corporate announcement dated June 26, 2017 to the BSE and NSE. The relevant extract of said corporate announcement is as under:

> *"……..Dear Sir/Madam,*
>
> *Sub: Intimation of Board Meeting*
>
> *With reference to the above, we hereby inform you that the Meeting of the Board of Directors of the Company will be held on Thursday, July 13,2017 at the registered office ofthe Company, inter alia, to consider and approve the following:*
>
> *1. Sub division/ Split of Equity Shares of the Company;*

2. Infibeam Stock Appreciation Rights Scheme 2017 through Trust route for the employees of the Company and its subsidiaries; and authorization to the said trust to acquire shares of the Company from the secondary market, subject to requisite approvals and provisions of the applicable laws, rules and regulations;

3. Any other incidental and/or ancillary matters with kind permission of the Chair.

Please note further that pursuant to the Company's Code of Conduct for Prohibition of Insider Trading and applicable SEBI Regulations, the Company has informed all the Designated Employees and Directors that the trading window for dealing in securities of the Company shall remain closed from June 27, 2017 to July 15, 2017 (both days inclusive).

Kindly take the same on your records.

Thanking you,

Yours faithfully,

For Infibeam Incorporation Limited

Shyamal Trivedi
Vice President & Company Secretary……."

13.2 As per SCN, the aforesaid announcement had a positive impact on the price of the scrip of IAL. The price of the scrip of IAL increased 1.46% from Rs. 1033.95/- per share (closing price on June 23, 2017) to Rs. 1049.05/- per share (closing price on June 27, 2017) on BSE and the price of the scrip of IAL increased 1.25% from Rs. 1036.85/- per share (closing price on June 23, 2017) to Rs. 1049.85/- per share (closing price on June 27, 2017) on NSE, after making of corporate announcement by IAL on June 26, 2017, which was a stock exchange holiday. In terms of Regulation 2(1)(n) of PIT Regulations, 2015, the information relating the Board of Directors meeting to be held on July 13, 2017 to consider a stock split of its equity shares was a price sensitive information which before becoming generally available through publication to the stock exchanges on June 26, 2017, was a UPSI. The said UPSI came into existence on November 22, 2016 when there was initial introduction and understanding of stock split concept with advantages and

disadvantages and real life examples presented by the CFO. The corporate announcement for the aforesaid Board of Directors meeting was made on the stock exchange platform on June 26, 2017, which was a stock exchange holiday. In view of the same, the period of UPSI was identified as November 22, 2016 to June 26, 2017.

13.3 I note that UPSI has been defined in Regulation 2(1)(n) of the PIT Regulations, 2015 as under:

> "……(n) "unpublished price sensitive information" means any information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities and shall, ordinarily including but not restricted to, information relating to the following: –
> (i) financial results;
> (ii) dividends;
> (iii) change in capital structure;
> (iv) mergers, de-mergers, acquisitions, delistings, disposals and expansion of business and such other transactions;
> (v) changes in key managerial personnel;
> (vi) material events in accordance with the listing agreement.
>
> **NOTE:** It is intended that information relating to a company or securities, that is not generally available would be unpublished price sensitive information if it is likely to materially affect the price upon coming into the public domain. The types of matters that would ordinarily give rise to unpublished price sensitive information have been listed above to give illustrative guidance of unpublished price sensitive information……"

13.4 A perusal of the aforesaid definition shows that for an information to be termed as UPSI, it must, -(i) be relating to the company or its securities either directly or indirectly; (ii) not be generally available; and (iii) likely to materially affect the price of the securities. The definition also enlists certain events information pertaining to which has been *per se* treated as UPSI.

13.5 The Noticees have alleged that stock split does not result in change in Capital structure or fall under any other categories of information that could amount to

UPSI. In this regard, the Noticees have further contended that the information pertaining to stock split cannot be termed as "change in capital structure" and for this purpose Noticees have relied upon the definition of "capital structure", as adopted by Institute of Chartered Accountants of India (ICAI). In this regard, I find that the definition of UPSI, as given in Regulation 2(1) (n), provides that any information pertaining to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities, is UPSI and thereafter, said definition includes certain events, information pertaining to which is considered as *per se* UPSI. The information pertaining to the stock split of the Company, till its publication to the stock exchanges on June 26, 2017, was not generally available and upon becoming generally available was likely to materially affect the price of the securities of the Company because it is only likelihood of materially affecting the price of the securities of a company which makes the information price sensitive information. I note that stock split is an important event pertaining to a company and its securities. Under Section 61 of the Companies Act, 2013, stock split requires approval of the general body of the shareholders of the company concerned. Generally, stock split exercise is undertaken by a company having high priced stocks to make the stock affordable to large base of investors. In fact, in the present case also, SCN alleges that in the internal discussions of IAL held on March 20, 2017, it was discussed to go for stock split with a view to increase the liquidity of shares with higher floating stocks and to make equity shares more affordable and therefore, to place agenda pertaining to the stock split in the next meeting of the board for its consideration. It is a matter of record that in the present case, share of company having face value of Rs. 10/- was split into 10 shares each having a face value of Rs. 1/- per share. It is but natural that due to stock split first the price comes down due to division of shares and due to its affordability for the reason of less price, demand from a large investor base generates which leads to spurt in price.

13.6 I note that the primary intention for stock split is to enhance the liquidity in the stock and also to make the stock more affordable and this is observed more when the price of a stock is very high. A stock split is usually resorted by companies that have seen their share price increase to levels that are either very high or are

beyond the price levels of peer companies. There are precedents to show that stock split of companies, where the stock price is very high, has resulted in price rise subsequent to splitting of shares of such companies. For instance, on November 28, 2018, the closing price of the stock of Britannia Industries Limited was Rs. 5961.75 on NSE. The company split the shares in a ratio of 1:2 on November 29, 2018 and stock price closed at Rs.3032.65 (post-split) and further increased to Rs. 3169.75 on the next day. Further, on September 18, 2019, the closing price of the stock of HDFC Bank Limited was Rs. 2187.75 on NSE. The company split the shares in a ratio of 1:2 on September 19, 2019 and the stock price closed at Rs.1101.05 (post-split) and further increased to Rs. 1199.60 on the next day. Also on August 21, 2020, the closing price of the stock of Eicher Motors Limited was Rs. 21,702.40. The company split the shares in a ratio of 1:10 on August 24, 2020 and the stock price closed at Rs.2176.45 (post-split) and further increased to Rs. 2217.25 on the next day. Thus, I find that the stock split is a price sensitive event and any information pertaining to it is unpublished price sensitive information, within the meaning of Regulation 2(1)(n) of the PIT Regulations, 2015, till the time it is made generally available by disclosure to stock exchanges. The said information was also treated as price sensitive information by IAL and accordingly, the trading window was closed by the IAL from June 26, 2017 to July 15, 2017 i.e. 48 hours after the proposed meeting of the board of the IAL on July 13, 2017. In fact, though not a requirement of the definition of the UPSI, as provided under Regulation 2(1)(n) of the PIT Regulations, 2015, the aforesaid information on becoming public by publication through disclosure to stock exchanges, materially impacted the price of the securities of the Company as the price of shares of IAL increased 1.25% from Rs. 1036.85/- per share (closing price on June 23, 2017) to Rs. 1049.85/- per share (closing price on June 27, 2017) on NSE, after making of corporate announcement by IAL on June 26, 2017. Thus, I find that information pertaining to the stock split was a UPSI under main part of the definition of UPSI, as given under Regulation 2(1)(n) of PIT Regulations, 2015. Therefore, the contentions of the Noticees, that the information pertaining to stock split does not fall under any of the enumerated information and particularly under clause (iii), are not tenable.

13.7 The Noticees have also contended that the scrip had an upward momentum and therefore, the price rise cannot be attributed to any announcement and this proves that the said price change on June 27, 2017 was not because of the stock split or any other alleged UPSI but was just a normal change in the price of the said scrip. Further, the Noticees have submitted that total volumes (BSE and NSE) reduced from 7,27,657 shares on June 23, 2017 to 6,80,656 shares on June 27, 2017. That this reduction in volume goes on to substantiate that not even the markets had considered stock split to be price sensitive information, failing which there would have been at least some increase in volumes and therefore, the information of stock split is not a price sensitive information and hence, not a UPSI.

13.8 Regarding the said contention, I note that in terms of the definition of UPSI given under Regulation 2(1)(n), it is the likelihood of an information materially affecting the price of the securities of a company and not the actual effect caused by it which makes it price sensitive information. Different investors may have different assessment or perception regarding the way in which such information would materially affect the price. In fact, such an information which ordinarily may materially affect the price, in some circumstances may not at all affect the price of the securities of a company on becoming public or generally available. Therefore, I find that actual impact which a particular UPSI may have on the price of the securities, is not relevant as per the definition of UPSI given under Regulation 2(1)(n). However, in order to deal with the veracity of the contention of the Noticees that there was an upward trend in the scrip of IAL and there was no impact of the corporate announcement on the price, it would be appropriate to refer to the following table depicting the trend of price of shares of IAL:

Date	Sensex	Nifty	Infibeam (NSE)	Infibeam (BSE)	Sensex	Nifty	Infibeam (NSE)	Infibeam (BSE)
01-Jun-17	31137.59	9616.1	971.4	972.05	% Change in indices and Scrip @ BSE & NSE			
02-Jun-17	31273.29	9653.5	984.5	985.1	0.44%	0.39%	1.35%	1.34%
05-Jun-17	31309.49	9675.1	990.3	989.35	0.12%	0.22%	0.59%	0.43%
06-Jun-17	31190.56	9637.15	971.05	966.75	-0.38%	-0.39%	-1.94%	-2.28%
07-Jun-17	31271.28	9663.9	987.25	987.2	0.26%	0.28%	1.67%	2.12%
08-Jun-17	31213.36	9647.25	994.1	992.1	-0.19%	-0.17%	0.69%	0.50%
09-Jun-17	31262.06	9668.25	991.85	992.5	0.16%	0.22%	-0.23%	0.04%
12-Jun-17	31095.7	9616.4	996.3	998.35	-0.53%	-0.54%	0.45%	0.59%

13-Jun-17	31103.49	9606.9	1,002.30	1001.6	0.03%	-0.10%	0.60%	0.33%
14-Jun-17	31155.91	9618.15	1,012.25	1014.05	0.17%	0.12%	0.99%	1.24%
15-Jun-17	31075.73	9578.05	1,043.80	1038.9	-0.26%	-0.42%	3.12%	2.45%
16-Jun-17	31056.4	9588.05	1,035.30	1037	-0.06%	0.10%	-0.81%	-0.18%
19-Jun-17	31311.57	9657.55	1,048.70	1043.5	0.82%	0.72%	1.29%	0.63%
20-Jun-17	31297.53	9653.5	1,054.00	1049.3	-0.04%	-0.04%	0.51%	0.56%
21-Jun-17	31283.64	9633.6	1,050.85	1048.3	-0.04%	-0.21%	-0.30%	-0.10%
22-Jun-17	31290.74	9630	1,039.50	1037.2	0.02%	-0.04%	-1.08%	-1.06%
23-Jun-17	31138.21	9574.95	1,036.85	1033.95	-0.49%	-0.57%	-0.25%	-0.31%
27-Jun-17	30958.25	9511.4	1,049.85	1049.05	-0.58%	-0.66%	1.25%	1.46%
28-Jun-17	30834.32	9491.25	1,044.65	1043.35	-0.40%	-0.21%	-0.50%	-0.54%
29-Jun-17	30857.52	9504.1	1,043.10	1043.4	0.08%	0.14%	-0.15%	0.00%
30-Jun-17	30921.61	9520.9	1,110.90	1110.7	0.21%	0.18%	6.50%	6.45%

13.9 As can be noted from the aforesaid table, the price of the scrip of IAL increased 1.46% from Rs. 1033.95/- per share (closing price on June 23, 2017) to Rs. 1049.05/- per share (closing price on June 27, 2017) on BSE and the price of the scrip of IAL increased 1.25% from Rs. 1036.85/- per share (closing price on June 23, 2017) to Rs. 1049.85/- per share (closing price on June 27, 2017) on NSE, after making of corporate announcement by IAL on June 26, 2017. The table shows that during 3 preceding trading days to June 27, 2017, the scrip of IAL closed at lesser price than the previous day's closing price, in consonance with the fall or miniscule rise, in the Sensex and Nifty, indices of BSE and NSE, respectively. However, on June 27, 2017, the price of the scrip of IAL closed with an increase of 1.25% and 1.46% on NSE and BSE, respectively, despite the fact that both Sensex and Nifty, experienced fall of .58% and .66%, respectively. In these circumstances, increase in the price cannot be said to be a trend, as contended by the Noticees. Further, regarding the contentions of the Noticees that there was a decrease in the volume of the scrip of IAL on NSE on June 27, 2017 first trading day after making of corporate announcement by IAL on June 26, 2017, I note that in terms of the definition of the UPSI, it is the likelihood of materially affecting the "price" of the securities which is the main factor to determine price sensitivity of the information. However, regarding volume also, it is observed that on NSE volume of the shares traded of IAL decreased from 6,20,121 on June 23, 2017 to 5,60, 521 on June 27, 2017 but, on BSE volume of the shares traded of IAL increased from 1,07,536 on

June 23, 2017 to 1,20,135 on June 27, 2017. Therefore, the contentions of the Noticees, as recorded in para 13.7 above, are not tenable.

13.10 Therefore, I find that corporate announcement made by IAL to the stock exchanges on June 26, 2017 was an unpublished price sensitive information pertaining to IAL and its securities, prior to its announcement, as alleged in the SCN.

13.11 Noticees have further contended that identification of UPSI period from November 22, 2016 to June 26, 2017, in the SCN, is not correct. The Noticees have submitted that the Initial introduction and understanding of stock split concept given by the CFO was only a discussion between the MD and CFO of IAL and not even the board of Directors were made aware of the same. Further, the Noticees have submitted that an SAR scheme and an amalgamation were also being discussed at that time, however, the same are not alleged to be UPSI.

13.12 In this regard, I note that it was on November 22, 2016 that an initial introduction and understanding of stock split concept with advantages and disadvantages and with real life examples was presented by the CFO of IAL. Hence, the proposal relating to stock split by IAL, first time originated on November 22, 2016 when the concept of stock split was introduced and understood and it was on the said date when for the first time, information regarding stock split came into existence. The said introduction and understanding of stock split ultimately culminated in bringing the proposal of split/sub division of Equity Shares of the Company from existing Face Value of Rs. 10/- (Rupees Ten Only) per Equity Share to Face Value of Rs. 1/- (Rupee One Only) per Equity Share, before the Board in its meeting on July 13, 2017. Therefore, corporate announcement on June 26, 2017 that a Board Meeting would be held to discuss split of equity shares was price sensitive information which first came into existence on November 22, 2016, and could likely materially affect the price of the securities of IAL. As discussed above, in fact, the said UPSI on being made public on June 26, 2017, had materially affected the price of the scrip of IAL. Further, with regard to the contention of the Noticees that an SAR scheme and an amalgamation were also being discussed at that time, I find that corporate announcement dated June 26, 2017 which has been taken as UPSI did not mention that in meeting of board of directors of IAL to be held on July 13, 2017

any scheme of amalgamation would be discussed. Therefore, SCN rightly does not make any allegation in respect of such amalgamation. Regarding SAR Scheme, corporate announcement mentioned that board of the Company would meet on July 13, 2017 to consider and approve Infibeam Stock Appreciation Rights Scheme 2017 through Trust route for the employees of the Company and its subsidiaries; and authorization to the said trust to acquire shares of the Company from the secondary market, subject to requisite approvals and provisions of the applicable laws, rules and regulations. I note that this agenda indicates that the board would be considering and approving, a SAR Scheme which was to implemented through a trust who was also to be authorize to acquire shares of IAL from the secondary market and there is nothing price sensitive about this disclosure. Therefore, I find that the SCN rightly alleges that the UPSI was pertaining to stock split which came into existence on November 22, 2016 and the contentions raised by the Noticees, in this regard, are untenable.

14. **Whether Noticees are insiders?**

14.1 Before dealing with the question as to whether the Noticees are insiders or not, it would be appropriate to refer to the relevant definitions in this regard. Relevant extract of such definitions is reproduced hereunder:

> "…….
> (g) "insider" means any person who is:
> i) a connected person; or
> ii) in possession of or having access to unpublished price sensitive information;
>
> **NOTE:** Since "generally available information" is defined, it is intended that anyone in possession of or having access to unpublished price sensitive information should be considered an "insider" regardless of how one came in possession of or had access to such information. Various circumstances are provided for such a person to demonstrate that he has not indulged in insider trading. Therefore, this definition is intended to bring within its reach any person who is in receipt of or has access to unpublished price sensitive information. The onus of showing that a certain person was in possession of or had access to unpublished price sensitive information at the time of trading would, therefore, be on the person levelling the charge after which the person who has traded when in possession of

or having access to unpublished price sensitive information may demonstrate that he was not in such possession or that he has not traded or he could not access or that his trading when in possession of such information was squarely covered by the exonerating circumstances.

14.2 In terms of aforesaid definition of insider, a person can be termed as insider if he is either (i) a connected person [Regulation 2(1)(g)(i)]; or (ii) in possession of or having access to UPSI [Regulation 2(1)(g)(ii)]. Regarding the status of Noticees, as insider, SCN observes as under:

"……

20. Amee D Shah is the wife of Dhiren Shah, Karta of Dhiren Mahendrakumar HUF. Dhiren Shah was a director in Affluence and the person in-charge of making investment decisions on behalf of Affluence. Hence, Dhiren Shah, Dhiren HUF, Amee Dhiren Shah and Affluence Fincon Service (P) Ltd. were connected to each other.

21. Dhiren Shah stated that IMGPL is the client of their broking firm Affluence. Further, it is submitted that Dhiren Shah and Amee Dhiren Shah were allotted 5,88,235 shares each by IAL @ Rs.425/- during pre-IPO preferential allotment made in 2014 and they continue to hold significant shares of IAL in their accounts.

22. IAL vide its reply dated March 12, 2020, stated in relation to the query on the process followed for contacting prospective allottees for the pre-IPO preferential allotment, that in certain cases, Mr. Vishal Mehta, Managing Director of the Company, on behalf of the Company, had approached the prospective allottees for making investment in the Company and in case of certain allottees, the prospective allottees had approached the Company for making the investments.

23. I note that a significant amount - Rs. 49.99 Cr, had been invested by the Dhiren Group in IAL through a pre IPO preferential allotment, and this coupled with Affluence acting as the stock broker for IMGPL's trades in IAL, leads to a prima facie inference that Dhiren Group was connected to the promoters / director / KMPs of IAL and had access to the UPSI. This along with the trading pattern of the entities, i.e. buying significantly during the UPSI period and not trading in any other scrip during the period, leads to a reasonable presumption that the Dhiren Group had traded in the scrip during the investigation period while in possession of the UPSI.

> 24. In view of the above, it is inferred that Dhiren Mahendrakumar Shah (HUF), Amee Dhiren Shah and Affluence Fincon Service (P) Ltd. are connected persons who were reasonably expected to have access to the UPSI as per Reg. 2(1)(d) of SEBI (PIT) Regulations., 2015 and, hence, are insiders as per Regulation 2(1)(g)(i) of SEBI (PIT) Regulations, 2015 who had traded in the scrip of IAL during the UPSI period……..."

14.3 A perusal of the observations in the SCN show that the Noticees were found to be connected to the promoters/directors/KMPs of IAL through Dhiren Shah who is the karta of Noticee no. 1, husband of Noticee no. 2 and the director of Noticee no. 3. The SCN further goes on to say that Dhiren Shah and Amee Shah (Noticee no. 2) were allotted 5,88,235 shares each by IAL @ Rs.425/- during pre-IPO preferential allotment made in 2014, which was made on the basis of the Noticees being approached by IAL as prospective allottees for making investment in the Company. Therefore, Dhiren Shah was connected to the promoters/directors/KMPs of IAL and thus, had access to UPSI and the Noticees were all insiders in terms of Regulation 2(1)(g)(i) being connected persons to IAL.

14.4 In para 24, the SCN alleges Noticees as "insider" in terms of Regulation 2(1)(g)(i) as it alleges that Noticees are connected persons in terms of Regulation 2(1)(d). However, on the basis of the factual allegations made in the SCN, I find that Noticees are insiders within the meaning of Regulation 2(1)(g)(ii) of PIT Regulations, 2015, being the persons having access to UPSI. As can be observed from the allegations made in the SCN and quoted above, the SCN proceeds on the premise that Noticees were having access to UPSI as Dhiren Shah, the person associated with the Noticees and connected to the promoters/directors/KMPs of IAL, had access to UPSI because of such connection. It means that facts narrated in the SCN treat the Noticees as "insider" under Regulation 2(1)(g)(ii) of PIT Regulations, 2015.

14.5 Noticees have contended that they have no connection with IAL, its promoters, KMPs or their family members. Noticees have submitted that merely because Noticee no. 2 and her husband (Dhiren Shah) subscribed to shares of the Company, it cannot lead to any conclusion that the Noticees are "connected"

persons or "insiders" within the meaning of PIT Regulations, 2015. Further, the Noticees have submitted that the said preferential allotment of shares was admittedly in 2014, i.e. much prior to the six months cut off time limit as per the PIT Regulations, 2015. The Noticees have also submitted that the allegation that Noticee no. 3 acted as a broker for IMGPL for purchasing shares of IAL is factually incorrect as Noticee no. 3 is not a broker of NSE or BSE and that IMGPL was in fact a client of a different company named Affluence Shares and Stocks Private Limited (hereinafter referred to as "**ASSPL**"). Further, that IMGPL carried out only one transaction through ASSPL wherein it bought some shares of IAL on October 19, 2017 i.e. 4 months after the alleged UPSI became public on June 26, 2017.

14.6 In this regard, I note that Dhiren Shah (Karta of Noticee no. 1 – HUF, husband of the Noticee no. 2 and director of Noticee no. 3) and Noticee no. 2 had subscribed to shares of IAL worth Rs. 49.99 crores through a pre IPO preferential allotment made in 2014. I note that IAL in its reply dated March 12, 2020, had stated in relation to the query on the process followed for contacting prospective allottees for the pre-IPO preferential allotment made in 2014, that in certain cases, Vishal Mehta, Managing Director of the IAL, on behalf of the Company, had approached the prospective allottees for making investment in the Company and in case of certain allottees, the prospective allottees had approached the Company for making the investments. I note that preferential allotment by IAL was made on September 30, 2014. At that time, Section 62 of the Companies Act, 2013 and Companies (Share Capital and Debenture) Rules, 2014 were applicable to such preferential allotment. In terms of Rule 13(2)(d)(ix) of the said Rules, the names of the proposed allottees and the percentage of post preferential offer capital that may be held by them, was required to be disclosed by issuer company i.e. IAL, in the explanatory statement to be annexed to the notice of the general meeting pursuant to Section 102 of the Companies Act, 2013, to be held for passing of the special resolution mandated under Section 62(1)(c) of the Companies Act, 2013, for making a preferential allotment. This disclosure requirements shows that the issuer company/its management knows the prospective preferential allottees. Hence, I find that there is a relationship that can be established between the Noticees with Vishal

Mehta (MD of IAL and who as per the information provided by IAL vide its letter dated June 21, 2019 was the person who was in possession/having access to UPSI) as Dhiren Shah and Noticee no. 2 subscribed to sizeable number of 5,88,235 shares, at a price of Rs. 425 per share for a total amount of Rs. 49.99 Crore, each, during the pre-IPO preferential allotment made by IAL, an unlisted company, in 2014. Further, association is brought out by the fact that IMGPL is a client of ASSPL. I note that Vishal Mehta, who is a promoter and also the Managing Director of IAL, is the brother of Malav Mehta, who is a director of IMGPL, a promoter group company of IAL. Further, Vishal Mehta and Malav Mehta are sons of Ajit Mehta, Chairman of IAL, and Jayashree Mehta, Promoter and shareholder of IAL and also shareholder of IMGPL. Hence, IMGPL is connected to Vishal Mehta, MD of IAL, as detailed in para 4(xii) above. I also note that even though the SCN has incorrectly alleged that IMGPL was a client of Noticee no. 3, when IMGPL was in fact a client of ASSPL. I note that ASSPL is also a company belonging to Dhiren Group and that Dhiren Shah is a director of ASSPL also. From the MCA website, I note that Noticee no. 3 and ASSPL have the same two directors i.e. Dhiren Shah and Malaybhai Shantilal Kothari, they have the same registered address and have the same email ID/website name i.e. '@affluence.ooo'. In view of the aforesaid facts and circumstances, I find that aforementioned connection of Dhiren Group with the promoters/directors/KMPs of IAL, shows that Noticees, at the time of their impugned trades were having access to UPSI.

15. **Whether Noticees have traded in the securities of IAL when in possession of the UPSI?**

15.1 SCN alleges that Noticees have traded in the shares of IAL during the period of UPSI, the details whereof are as under:

Table – 5 Trading of Dhiren Mahendrakumar Shah HuF, Amee Dhiren Shah and Affluence Fincon Service (P) Ltd (Dhiren Group)				
Trade date(s)	**Buy quantity**	**Weighted Average Purchase value (Rs.)**	**Sell quantity**	**Weighted Average Sell value (Rs.)**

Prior to UPSI Period (August 1, 2016 to November 21, 2016)				
No trades observed by Dhiren Mahendrakumar Shah HuF, Amee Dhiren Shah and Affluence Fincon Service (P) Ltd				
During UPSI Period (November 22 2016 to June 26, 2017)				
Dhiren Mahendrakumar Shah HuF				
01-Jun-17	40,016	3,84,13,873.55	0	0
Amee Dhiren Shah				
05-Jun-2017	50,000	4,99,94,976.45	0	0
19-Jun-2017	50,000	5,25,39,992.90	0	0
Affluence Fincon Service (P) Ltd				
03-Apr-17	3,00,000	28,05,00,000.00	0.00	0.00
04-May-17	0.00	0.00	1,00,000	10,38,94,280.50
17-May-17	0.00	0.00	2,00,000	19,80,05,585.50
07-Jun-17	2,00,000	19,70,99,995.60	0.00	0.00
09-Jun-17	42,000	4,16,45,100.00	0.00	0.00
13-Jun-17	75,000	7,48,12,500.00	0.00	0.00
15-Jun-17	25,000	2,52,74,973.20	0.00	0.00
21-Jun-17	25,000	2,63,87,500.00	0.00	0.00
22-Jun-17	25,000	2,62,75,000.00	0.00	0.00
Total (Affluence)	**6,92,000**	**67,19,95,068.80**	**3,00,000**	**30,18,99,866.00**
Total (Dhiren Group)	**8,32,016**	**81,29,43,911.70**	**3,00,000**	**30,18,99,866.00**
Post UPSI Period (June 27, 2017to September 30, 2017)				
Nil Trading by Dhiren Mahendrakumar Shah HuF				
Amee Dhiren Shah				
14-Jul-2017	0	0	1,00,000	11,35,67,599.70
Affluence Fincon Service (P) Ltd				
03-Aug-17	0	0	1,54,996	21,62,52,913.00
Total (Dhiren Group)	**0**	**0**	**2,54,996**	**32,98,20,512.70**

15.2 As seen from the table above, during UPSI period, the Dhiren group had bought a total of 8,32,016 shares worth Rs.81,29,43,911.70 and sold 3,00,000 shares worth Rs.30,18,99,866/-. During post UPSI period, the Dhiren Group sold 2,54,996 shares worth of Rs.32,98,20,512/-. The Noticees have not disputed the trades undertaken by them in the shares of IAL during the period of UPSI, as alleged in the SCN.

15.3 In para 14 above, it has already been found that Noticees who were connected to promoter/directors/KMPs of IAL and thus were having access to UPSI. I note that during the UPSI period, Dhiren group had bought a total of 8,32,016 shares of IAL worth Rs. 81,29,43,911.70 in the months of April, May and June 2017 and sold 3,00,000 shares of IAL worth Rs. 30,18,99,866/- in July and August 2017. During post UPSI period, the Dhiren Group sold 2,54,996 shares of IAL worth of Rs.32,98,20,512/-. However, I note that the Dhiren Group had not traded in the scrip of IAL in pre-UPSI period from August 1, 2016 to November 21, 2016. The details of these trades by the Dhiren Group have already been provided in Table-3 of para 4 above. I note that the Dhiren Group did not trade in any other scrip during UPSI period and hence, I find their trading pattern was conspicuously such that they traded only in the scrip of IAL during UPSI period and that too in significant amounts and volumes. In the facts and circumstances of the case, I find that that Noticees were in possession of UPSI at the time of impugned trades.

15.4 I note that once it is established that an insider when in possession of UPSI has traded in the securities then it is a natural inference that such trades were on the basis of the UPSI. The said understanding stands fortified by the Note to Regulation 4(1) of PIT Regulations, 2015, which provides that when a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession. I note that subsequently, effective from April 01, 2019, an explanation has also been appended to Regulation 4(1) which also provides that when a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession.

16. In view of the findings recorded in paras 13, 14 and 15, I find that the Noticees no. 1 to 3 have violated Section 12A (d) and (e) of the SEBI Act, 1992 and Regulation 4(1) of the PIT Regulations, 2015.

17. I note that SCN calls upon the Noticees to explain as to why they should not be directed to disgorge the wrongful gains made by them by violating Regulation 4(1) of the PIT Regulations, 2015, and Section 12A(d) and (e) of the SEBI Act, 1992. The calculation of wrongful gains made by the Noticees, as alleged in the SCN, are as follows:

Wrongful gains made by Noticees no. 1 to 3, as per SCN:

Table-6 Computation of notional gain by Dhiren Mahendrakumar Shah HuF, Amee Dhiren Shah and Affluence Fincon Service (P) Ltd

Name and Trade date(s)	Buy quantity	Weighted Average Purchase value (Rs.)	Wt. Average buy price (Rs.)	Closing price of the scrip on June 27, 2020#	Wrongful gain (Rs.)@
Dhiren Mahendrakumar Shah HuF					
01-Jun-17	40,016	3,84,13,873.55	959.96	1049.85	35,96,924.00
Amee Dhiren Shah					
05-Jun-2017 & 19-Jun-2017	1,00,000	102534969.4	1025.35	1049.85	24,50,030.65
Affluence Fincon Service (P) Ltd*					
07-Jun-17 to 22-Jun-17	392000	391495068.8	998.71	1049.85	2,00,46,131.20
Total (Dhiren Group)	**532016**	**532443911.7**	**1000.80**	**1049.85**	**2,60,93,085.85**

the following trading day of publishing UPSI

*calculated for net purchase quantity on the basis of FIFO method (Transactions of 03-Apr-17, 04-May-17 and 17-May-17 have been removed for calculation of notional/wrongful gain)

18. In view of the above, SCN alleges that the wrongful gains made by Noticees no. 1, 2 and 3 were Rs. 35,96,924/-, Rs. 24,50,030.65 and Rs. 2,00,46,131.20, respectively. Thus, it has been alleged that Noticees no. 1, 2 and 3 (Dhiren group) collectively made unlawful gains of Rs. 2, 60, 93,085.85.

19. In this regard, the Noticees have submitted that in terms of explanation to Section 11B of SEBi Act, 1992, the so called “notional gains” can never be disgorged and the language of the SEBI Act, 1992 itself requires actual gains or loss avoided to be disgorged. The Noticees have submitted that the gains alleged in the SCN are “notional” and therefore, there cannot be any disgorgement of “notional gains”.

20. I note that the explanation to Section 11B of the SEBI Act, 1992, provides as follows:

> “*Explanation.—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention*.”

21. In this regard, I note that the law provides for disgorgement of wrongful gains. It does not qualify wrongful gains with the word "actual". The purpose behind this explanation is that violator of securities laws should give up the amount of the profit made or loss averted as the same is treated as wrongful gain or wrongful loss aversion. Thus, wrongful gains include actual as well as notional gains. Therefore, the contention of the Noticees that the language of the SEBI Act, 1992 itself requires actual gains or loss avoided to be disgorged is not tenable.

22. As these Noticees have been already been found to be in violation Regulation 4(1) of PIT Regulations, 2015 and also have been found to have made unlawful gains by violating the provisions of securities laws, I find that Noticees are liable for disgorging the wrongful gains made by them, as alleged in the SCN.

23. I find that violations committed by the Noticees, as found above, are serious in nature and calls for regulatory directions for debarment of the Noticees from the securities market and for disgorgement of wrongful gains made by the Noticees. I find that violations committed by the Noticees also renders them liable for imposition of penalty under Section 15G of the SEBI Act, 1992 which provides as under:

> ***"Penalty for insider trading.***
>
> *15G. If any insider who,—*
>
> *(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or*
>
> *(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or*
>
> *(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information,*
>
> *shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher."*

24. I note that while imposing penalty under Section 15G of SEBI Act, 1992 the factors enumerated in Section 15J are to be taken into consideration. Section 15J of the SEBI Act, 1992 provides as under:

> ***"Factors to be taken into account while adjudging quantum of penalty.***
>
> *15J. While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —*
>
> *(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
>
> *(b) the amount of loss caused to an investor or group of investors as a result of the default;*
>
> *(c) the repetitive nature of the default.*

Explanation. — For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

25. I find that the material available on record does not indicate the amount of specific loss caused to investors or group of investors as a result of the default by the Noticees or that default by the Noticees is repetitive in nature. However, wrongful gains made by the Noticees are being directed to be disgorged by this order. I also find that the default by the Noticees is not repetitive in nature. However, in terms of Section 15G of the SEBI Act, 1992, a minimum penalty of Rupees Ten lakh has to be mandatorily imposed on the Noticees.

Directions:

26. In view of the aforesaid findings and having regard to the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Sections, 11(1), 11B and 15I of the SEBI Act, 1992 read with Section 19 of the SEBI Act, 1992 and Rule 5 of the Rules, directs as under:

(i) Shah Dhiren Mahendrakumar (HUF) (Noticee no. 1), Amee Dhiren Shah (Noticee no. 2) and Affluence Fincon Service (P) Ltd (Noticee no. 3) are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of one (1) year, from the date of this order;

(ii) Shah Dhiren Mahendrakumar (HUF) (Noticee no. 1), Amee Dhiren Shah (Noticee no. 2) and Affluence Fincon Service (P) Ltd (Noticee no. 3) are restrained from buying, selling or otherwise dealing in securities of IAL, directly or indirectly, in any manner, whatsoever, for a period of two (2) years, from the date of this order;

(iii) That the amount of Rs. 2,60,93,085.85 (Rupees two crore sixty lakh ninety-three thousand eighty five rupees and eight five paise) that has been kept as fixed deposit by the Noticees no. 1 to 3 with SEBI, pursuant to Order dated September 07, 2020 of the Hon'ble SAT, alongwith interest accrued thereon, stands disgorged and shall be remitted to Investor Protection and Education Fund (IPEF) referred to in Section 11(5) of the SEBI Act, 1992 subject to the directions issued by Hon'ble SAT vide its order dated September 07, 2020.

(iv) Shah Dhiren Mahendrakumar (HUF) (Noticee no. 1), Amee Dhiren Shah (Noticee no. 2) and Affluence Fincon Service (P) Ltd (Noticee no. 3), are hereby imposed with, under Section 15G of the SEBI Act, 1992, a penalty of Rs. Fifteen lakh (15 Lakh) each and are directed to pay their respective penalties within a period of forty-five (45) days, from the date of receipt of this order, by way of Demand Draft in favour of "SEBI -Penalties Remittable to Government of India", payable at Mumbai;

27. During the period of restraint, the existing holding of securities including units of mutual funds of the Noticees no. 1, 2 and 3 shall also remain frozen. However, the obligation of the Noticees no. 1, 2 and 3, restrained/prohibited by this Order, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange(s), as existing on the date of this Order, are allowed to be discharged, irrespective of the restraint/prohibition imposed by this Order. Further, all open positions, if any, of the Noticees no. 1, 2 and 3, restrained/prohibited in the present Order, in the F&O segment of the recognised stock exchange(s), are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

28. The Demand Draft of penalties, as imposed above, shall be sent to "The Division Chief, Investigation Department, ID-16, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051".

29. This Order comes into force with immediate effect.

30. This Order shall be served on all the Noticees, Recognized Stock Exchanges, Depositories and Registrar and Share Transfer Agents and Banks to ensure necessary compliance.

Sd/-

Place: Mumbai **ANANTA BARUA**

Date: April 27, 2021 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA