

QJA/AA/CFID/CFID/29836/2023-24

SECURITIES AND EXCHANGE BOARD OF INDIA
ORDER

Under 11(1), 11(4), 11(4A), 11B(1), 11B(2) read with Sections 15HA and 15HB of the SEBI Act, 1992

In respect of

Sr. No.	Name of Noticees	PAN
1.	Mr. Gulabchand Agrawal	ABBPA9209K
2.	Mr. Ashok Kumar Agrawal	ABBPA9215H
3.	Mr. Satish Kumar Agrawal	ABBPA9216E
4.	Mr. Anil Kumar Vishwakarma	AFEPV4470N

In the matter of M/s Sanwaria Consumer Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as SEBI), pursuant to receipt of complaints and Fraud Monitoring Reports (hereinafter referred to as FMRs) from Central Economic Intelligence Bureau (hereinafter referred to as CEIB), had conducted an investigation in the matter of Sanwaria Consumer Limited (hereinafter referred to as company or Sanwaria). The main allegations in the complaints were with respect to misrepresentation /misstatement/manipulation of financials of Sanwaria through fictitious sales and non-existent debtors, etc. The FMRs alleged that the company had committed a fraud through cheating and forgery via diversion of funds. Further, the FMRs indicated that Punjab National Bank (hereinafter referred to as PNB) had conducted forensic audit of the company for the period April 01, 2013 to September 30, 2019 and the report of the forensic auditor (hereinafter referred to as the Forensic Audit Report) was also received by SEBI. In this regard, further information / details / annexures and documents pertaining to the findings of the

Audit report conducted by M. K Aggarwal & Co., Chartered Accountants (hereinafter referred to as forensic auditor) were also obtained by SEBI. Sanwaria was incorporated in 1991 and its shares are listed on BSE and NSE since December 1993.

2. The investigation was conducted to ascertain the veracity of the allegations made in the complaints and FMRs and to determine whether there has been any violation of the provisions of SEBI Act, 1992 (hereinafter, referred to as the SEBI Act), the SEBI (Prohibition of Fraudulent and Unfair Trading Practices in Securities Market) Regulations, 2003 (hereinafter, referred to as the PFUTP Regulations), the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter, referred to as the LODR Regulations) and any other Rules or Regulations made thereunder by the Noticees. The investigation period (hereinafter referred to as IP) was April 01, 2017 to September 30, 2019.
3. Consequent to the completion of investigation in the matter, a common Show Cause Notice (SCN) dated May 08, 2023 was issued to the 4 Noticees, i.e., Mr. Gulabchand Agarwal (hereinafter referred to as Noticee 1), Mr. Ashok Kumar Agrawal (hereinafter referred to as Noticee 2), Mr. Satish Kumar Agrawal (hereinafter referred to as Noticee 3) and Mr. Anil Kumar Vishwakarma (hereinafter referred to as Noticee 4). Noticee 1 was the Promoter, Chairman and Managing Director (CMD) of the company, Noticee 2 and 3 were the Promoters and Whole Time Directors of the company and Noticee 4 was Chief Financial Officer of the Company during the IP.

SHOW CAUSE NOTICE

4. As stated above, the SCN was issued to the Noticees based on the findings of the investigation carried out by SEBI. The SCN has brought out, inter alia, the following key facts with respect to the conduct of the Noticees and the company:
 - 4.1. Sanwaria had not complied with the provisions of IND AS 24 with regard to Related Party Transactions (RPTs) for the FY 2017-18 and 2018-19.
 - 4.2. Provision for Gratuity was not made by the Company for the FY 2017-18. Further, it is observed that company failed to provide Actuarial Valuation

Report as the Actuarial Valuation was not done for Employee Benefits as required under IND AS 19 for FY 2017-18.

- 4.3. The company did not comply with the provisions of AS-11/IND AS 21 with regard to exchange rates fluctuation on foreign debtors for the FY 2018-19.
- 4.4. Sanwaria failed to prepare Consolidated Financial Statements and disclose the same in its Annual Report for FY 2017-18 and to the stock exchanges as well which is not in accordance with IND AS 110 and led to misrepresentation of the company's net profit/losses for the said year.
- 4.5. The company had not complied with the provision of IND AS 02 with regard to the valuation of stock for FYs 2017-18 (Rs.6.21 crore) and 2018-19 (Rs.5.48 crore) which requires the company to value inventory at cost or market value, whichever is lower.
- 4.6. Sanwaria overstated its revenue in FY 2019-20 to the tune of Rs. 108.25 crore which includes the interest amount of Rs. 50.75 crore and overstated its debtors by Rs. 108.25 crore for FY 2019-20.
- 4.7. Sanwaria overstated the revenue from operations to the extent of Rs. 68.80 crore and Rs. 33.67 crore for FY 2017-18 and 2018-19, respectively thereby making a misrepresentation/misstatement of financials by reporting inflated transactions pertaining to revenue and debtors.
- 4.8. Sanwaria overstated/inflated its advances to the tune of Rs. 6.08 crore during FY 2019-20.
- 4.9. The company overstated the debtors by Rs. 350 crore in FY 2017-18, 2018-19 and 2019-20.
- 4.10. The company indulged in fictitious and fraudulent sales transactions resulting in overstatement of revenue and debtors of the company to the tune of Rs. 941.43 crore leading to misstatement/misrepresentation in the books of account of Sanwaria.
- 4.11. The above cited misrepresentation of financials of the company interfered with the normal mechanism of price discovery of the Sanwaria scrip.
- 4.12. Noticee 1 and 3 offloaded shares to avert a notional loss of Rs. 42.04 crore and Rs. 21.37 crore, respectively, by reporting misrepresented/misstated /manipulated financials during April 2017 to

September 2019.

4.13. Noticees 1 to 4 are liable for the alleged misrepresentation/misstatement of financials of Sanwaria and the resultant price manipulation.

5. Based on the above, the following violations are alleged against the Noticees:

Table 1

Noticee 1 (Promoter, CMD)	Noticee 2 and 3 (Promoters and Whole Time Directors)	Noticee 4 (Chief Financial Officer)
Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of the PFUTP Regulations read with Section 12A(a), (b), (c) of the SEBI Act and regulations 4(1), 4(2)(e), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7), 17(8), 33(1)(a), 33(1)(c), 33(3)(b), 34(2)(b), 34(3) and 48 of the LODR Regulations read with Section 27 of the SEBI Act.	Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of the PFUTP Regulations read with Section 12A(a), (b), (c) of the SEBI Act and regulations 4(1), 4(2)(e), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7), 4(2)(f)(iii)(7), 33(1)(a), 33(1)(c), 33(3)(b), 34(2)(b), 34(3) and 48 of the LODR Regulations 2015 read with Section 27 of SEBI Act, 1992.	Regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of the PFUTP Regulations, 2003 read with Section 12A(a), (b), (c) of the SEBI Act and regulations 4(1), 4(2)(e), 17(8), 23(2), 33(1)(a), 33(1)(c), 33(3)(b), 34(2)(b), 34(3) and 48 of the LODR Regulations read with Section 27 of SEBI Act.

6. In view of the allegations made, the Noticees were called upon to show cause as to why appropriate directions under Sections 11(4), 11(4A), 11B(1) and 11B(2) read with Section 11(1) of the SEBI Act, 1992 including directions to prohibit them from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for a particular period and directions not to be associated with any registered intermediary/ listed company and any public

company which intends to raise money from public in the securities market, in any manner whatsoever should not be issued against them and why monetary penalty under Section 15HA and 15HB of the SEBI Act, 1992 should not be imposed for the alleged violations.

SERVICE OF SCN, INSPECTION OF DOCUMENTS, PERSONAL HEARING, REPLIES AND WRITTEN SUBMISSIONS FROM THE NOTICEES

7. The SCN dated May 08, 2023 was sent to the Noticees on the addresses available on record. Pursuant to the issuance of SCN, replies were received from the Noticees. The details with respect to the replies received from the Noticees are as under:

Table 2

Noticee	Noticee Name	Date of Replies
1.	Mr. Gulabchand Agrawal	June 05, 2023, June 21, 2023, June 22, 2023, July 15, 2023, August 03, 2023, September 02, 2023, October 17, 2023, October 18, 2023, November 04, 2023
2.	Mr. Ashok Kumar Agrawal	June 05, 2023, June 21, 2023, June 22, 2023, July 15, 2023, August 03, 2023, September 02, 2023, October 17, 2023, October 18, 2023, November 04, 2023
3.	Mr. Satish Kumar Agrawal	June 05, 2023, June 21, 2023, June 22, 2023, July 15, 2023, August 03, 2023, September 02, 2023, October 17, 2023, October 18, 2023, November 04, 2023
4.	Mr. Anil Kumar Vishwakarma	June 05, 2023, June 21, 2023, June 22, 2023, July 15, 2023, August 03, 2023, September 02, 2023, October 17, 2023, October 18, 2023, November 04, 2023

8. All the Noticees also sought inspection of documents. Based on the request of the Noticees, an opportunity of inspection of the records/documents (which were relied upon by SEBI while issuing the SCN) was provided to the said Noticees

on June 19, 2023.

9. The Noticees were also provided opportunities of personal hearing on September 21, 2023 and October 19, 2023 wherein Noticee 4 represented all the Noticees. The submissions made by the Noticees are detailed in the following relevant paragraphs where each issue is considered to determine whether the Noticees have violated the alleged provisions of law.
10. Subsequent to the issuance of the SCN, the Noticees applied for settlement of the present proceedings on June 29, 2023 under Regulation 3(1) of SEBI (Settlement Proceedings) Regulations, 2018. However, their applications for settlement were rejected by SEBI on October 16, 2023.

CONSIDERATION OF ISSUES AND FINDINGS

11. Having carefully examined all the information available on record, viz., the SCN and written and oral submissions put forth by the Noticees/their Authorized Representative during the course of personal hearing, the issues under consideration before me are as under:
 - 11.1. Whether Sanwaria complied with the provisions of IND AS 24 with regard to Related Party Transactions (RPTs) for the FY 2017-18 and 2018-19?
 - 11.2. Whether provision for Gratuity was made by the Company for the FY 2017-18 and whether the company failed to provide Actuarial Valuation Report as actuarial valuation was not done for Employee Benefits as required under IND AS 19 for FY 2017-18?
 - 11.3. Whether the company has failed to recognise the exchange rates fluctuations on foreign debtors as required under AS-11/IND AS 21 for FY 2018-19?
 - 11.4. Whether, in FY 2017-18, Sanwaria failed to prepare Consolidated Financial Statements and accordingly, has not given the same in the Annual Report leading to misrepresentation of the company's net profit/losses for the said year?
 - 11.5. Whether the company had not complied with the provision of IND AS 02 with regard to the valuation of stock for FYs 2017-18 (Rs.6.21 crore) and

- 2018-19 (Rs.5.48 crore) which requires the company to value inventory at cost or market value, whichever is lower?
- 11.6. Whether Sanwaria overstated its revenue in FY 2019-20 to the tune of Rs. 108.25 crore which includes the interest amount of Rs. 50.75 crore and overstated its debtors by Rs. 108.25 crore for FY 2019-20?
- 11.7. Whether Sanwaria overstated the revenue from operations to the extent of Rs. 68.80 crore and Rs. 33.67 crore for FY 2017-18 and 2018-19, respectively, thereby making a misrepresentation/misstatement of financials by reporting inflated transactions pertaining to revenue and debtors?
- 11.8. Whether Sanwaria overstated/inflated its advances to the tune of Rs. 6.08 crore during FY 2019-20?
- 11.9. Whether the company overstated the debtors by Rs. 350 crore in FY 2017-18, 2018-19 and 2019-20?
- 11.10. Whether the company indulged in fictitious and fraudulent sales transactions resulting in overstatement of revenue and debtors of the company to the tune of Rs. 941.43 crore leading to misstatement/misrepresentation in the books of account of Sanwaria?
- 11.11. Whether the above cited misrepresentation of financials of the company interfered with the normal mechanism of price discovery of the Sanwaria scrip?
- 11.12. Whether Noticee 1 and 3 offloaded shares to avert a notional loss of Rs. 42.04 crore and Rs. 21.37 crore, respectively, by reporting misrepresented / misstated / manipulated financials during April 2017 to September 2019?
- 11.13. Whether Noticees 1 to 4 are liable for the alleged misrepresentation /misstatement of financials of Sanwaria and the resultant price manipulation?
12. Before dealing with the issues at hand, I deem it apposite to refer to the relevant provisions of law alleged to have been violated in the matter, extracts whereof are reproduced below:

“SEBI Act, 1992

Section 12A: No person shall directly or indirectly

- (a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;*
- (b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;*
- (c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;*

Section 27 of the SEBI Act, 1992

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Explanation : For the purposes of this section,—

- (a) —company means anybody corporate and includes a firm or other association of individuals; and*
- (b) —director, in relation to a firm, means a partner in the firm.*

SEBI (PFUTP) Regulations, 2015

Regulation 3: Prohibition of certain dealings in securities

No person shall directly or indirectly—

- (a)*
- (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*

- (c) *employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*
- (d) *engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

Regulation 4: Prohibition of manipulative, fraudulent and unfair trade practices

- (1) *Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.*

Explanation.— For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.

- (2) *Dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves any of the following: —*

(a)

- (e) *any act or omission amounting to manipulation of the price of a security including, influencing or manipulating the reference price or bench mark price of any securities;*

- (f) *knowingly publishing or causing to publish or reporting or causing to report by a person dealing in securities any information relating to securities, including financial results, financial statements, mergers and acquisitions, regulatory approvals, which is not true or which he does not believe to be true prior to or in the course of dealing in securities;*

- (k) *disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities;*

- (r) *knowingly planting false or misleading news which may induce sale or purchase of securities.*

SEBI (LODR) Regulations, 2015

Further, SEBI (LODR) Regulations, 2015 makes the company and its Board of Directors responsible for various important aspects of the corporate governance so as to protect the interest of the stakeholders as under:

Principles governing disclosures and obligations.

4. (1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:

- (a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.
- (b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.
- (c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.
- (d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.
- (e) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, and timely and presented in a simple language.
- (f) Channels for disseminating information shall provide for equal, timely and cost-efficient access to relevant information by investors.
- (g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.
- (h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.
- (i) Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.
- (j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.

Regulation 4. (2)

(e) Disclosure and transparency: The listed entity shall ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the listed entity, in the following manner:

- (i) Information shall be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.
- (ii) Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by users.
- (iii) Minutes of the meeting shall be maintained explicitly recording dissenting opinions, if any.

(f) Responsibilities of the board of directors: The board of directors of the listed entity shall have the following responsibilities

(i) Disclosure of information:

(1)

(2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.

(ii) Key functions of the board of directors-

(1)

(2) Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.

(6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.

(7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.

(iii) Other responsibilities:

(7) The board of directors shall exercise objective independent judgement on corporate affairs

Regulation 17 of LODR- Board of Directors

(8) The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II.

Regulation 23(2) of LODR: *All related party transactions shall require prior approval of the Audit Committee.*

Regulation 33 of LODR

(1) While preparing financial results, the listed entity shall comply with the following:

(a) The financial results shall be prepared on the basis of accrual accounting policy and shall be in accordance with uniform accounting practices adopted for all the periods

(c) The standalone financial results and consolidated financial results shall be prepared as per Generally Accepted Accounting Principles in India: Provided that in addition to the above, the listed entity may also submit the financial results, as per the International Financial Reporting Standards notified by the International Accounting Standards Board.

(3) (b) *In case the listed entity has subsidiaries, in addition to the requirement at clause (a) of sub-regulation (3), the listed entity may also submit quarterly/year-to-date consolidated financial results subject to following:*

(i) The listed entity shall intimate to the stock exchange, whether or not listed entity opts to additionally submit quarterly/year-to-date consolidated financial results in the first quarter of the financial year and this option shall not be changed during the financial year. Provided that this option shall also be applicable to listed entity that is required to prepare consolidated financial results for the first time at the end of a financial year in respect of the quarter during the financial year in which the listed entity first acquires the subsidiary.

(ii) In case the listed entity changes its option in any subsequent year, it shall furnish comparable figures for the previous year in accordance with the option exercised for the current financial year.

Regulation 34 of LODR

(2) The annual report shall contain the following:

(b) consolidated financial statements audited by its statutory auditors;

(3) The annual report shall contain any other disclosures specified in Companies Act, 2013 along with other requirements as specified in Schedule V of these regulations.

Regulation 48 of LODR

The listed entity shall comply with all the applicable and notified Accounting Standards from time to time.”

13. I now proceed to deal with all the issues one by one.

Issue 1: Whether Sanwaria complied with the provisions of IND AS 24 with regard to Related Party Transactions (RPTs) for the FY 2017-18 and 2018-19?

Allegations in the SCN

Sanwaria indulged in Related Party Transactions (RPTs) for the FY 2017-18 and 2018-19 which were shown on gross basis in the annual accounts of the company instead of party wise details in terms of the IND AS 24.

Contentions of the Noticees

The Noticees have contended that the finalization of accounts was done by Mr. Anil Agrawal (since deceased) who was the Professional Director/Principal Advisor/Mentor and was aware about the disclosure required in respect of the same. Further, the Noticees have stated that at the relevant time there was no

query and/or qualification raised in respect of the same by the Auditor. Further, it has been stated that the compliance to the provisions of IND AS 24 with respect to the RPTs for the FY 2017-18 and 2018-19 pertains to the company and not Director/CFO of the company.

Consideration of issues

IND AS 24, inter alia, states that *“If an entity has had related party transactions during the periods covered by the financial statements, it shall disclose the nature of the related party relationship as well as information about those transactions and outstanding balances, including commitments, necessary for users to understand the potential effect of the relationship on the financial statements.”* Thus, in my opinion, party-wise disclosure of RPTs is required for the shareholders and investors to understand the impact of each RPT.

It is alleged that Sanwaria did not make party-wise disclosure of RPTs in FY 2017-18 and FY 2018-19. In this regard, I note that the Noticees have not contended either in their replies or in their hearings the fact that party-wise details of RPTs in terms of the IND AS 24 for the FY 2017-18 and 2018-19 were not disclosed in the annual accounts. Rather, the Noticees have stated that the finalization of books of accounts of Sanwaria was done by Mr. Anil Agrawal, who has since deceased and hence it is him who is responsible for the said non-compliance with AS 24.

However, upon perusal of annual reports of the company for the FY 2018-19 submitted by the Noticees, I note that Mr. Anil Agrawal was a non-Executive Director while Noticees 1 to 4 held the position of Chairman (Noticee 1), Whole Time Director (Noticee 2 and 3) and CFO (Noticee 4). Noticee 1 certified the company's annual accounts for FY 2017-18 and 2018-19 stating that financial statements present a true and fair view and are in compliance with existing accounting standards, applicable laws and regulations. Noticee 2 was part of the Board of directors of Sanwaria, had attended all the Board meetings held during the investigation period, was one of the signatories of the financial statements and had certified the company's annual accounts for FY 2017-18 stating that financial statements present a true and fair view and are in compliance with existing accounting standards, applicable laws.

In view of the above, the contention that a non-Executive Director was responsible for finalization of books of accounts is only a bald statement and possibly an afterthought. Accordingly, I find that the company has violated regulation 4(1)(a) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with applicable standards of accounting and financial disclosure. Further, the company has violated regulation 4(1)(b) of the LODR Regulations, which requires that a listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders. Additionally, regulation 4(1)(d), 4(1)(g), 4(1)(h) and 4(1)(i) which require listed entities to provide adequate information to investors, to abide by all applicable laws, make disclosures and follow its obligations in letter and spirit and file reports that contain relevant information, respectively. Hence, I find that Sanwaria has violated regulation 4(1)(d), 4(1)(g), 4(1)(h) and 4(1)(i) of the LODR Regulations. Further, regulation 4(1)(e) of the LODR Regulations requires a listed entity to ensure that disseminations made are adequate and accurate and regulation 4(1)(j) requires a listed entity to ensure that periodic filings and reports shall contain information that shall enable investors to track performance of a listed entity and provide sufficient information to enable investors to assess the current status of a listed entity. Hence, I find that Sanwaria has violated regulation 4(1)(e) and 4(1)(j) of the LODR Regulations. Also, I find that Sanwaria has violated regulation 4(2)(e)(i) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with the prescribed standards of accounting and financial disclosure. Additionally, Sanwaria has violated regulation 33(1)(a), 33(1)(c) and 34(3) of the LODR Regulations which require a listed entity to prepare its standalone and consolidated financial results as per Generally Accepted Accounting Principles in India and regulation 48 of the LODR Regulations which require a listed entity to comply with all the applicable and notified Accounting Standards from time to time.

Issue 2 - Whether provision for Gratuity was made by the Company for the FY 2017-18 and whether the company failed to provide Actuarial Valuation

Report as actuarial valuation was not done for Employee Benefits as required under IND AS 19 for FY 2017-18?

Allegations in the SCN

Provision for Gratuity was not made by the Company for the FY 2017-18. Further, it is observed that company failed to provide Actuarial Valuation Report as the Actuarial Valuation was not done for Employee Benefits as required under IND AS 19 for FY 2017-18.

It is observed that the statutory auditor also qualified in the auditor report forming part of annual report that *“the Company has provided the liability towards Employee’s Gratuity on estimated basis as on 31st March 2018 instead of based on valuation determined by the Actuarial as required under IND-AS19- “Employee Benefits”.*

Contentions of the Noticees

The Noticees have contended that in the Annual Report for the FY 2017-18, it is mentioned that there is a provision for gratuity and bonus of Rs. 17,45,522 as on March 31, 2018. Pertinently, the statutory Auditor had raised qualification in respect of the non-determination of value towards Employees gratuity as determined by Actuarial as required under IND – AS 19. Hence, the Noticees have contended that it cannot be inferred that the Provision of Gratuity was not created by the company for FY 2017-18.

Further, the Noticees have stated that since the amount of liability was not subject to major variation the company took an estimate of Employee benefit figure as in the previous years. Pertinently, in the year next year, i.e., FY 2018-19, Sanwaria had taken Actuarial Valuation Report as required under Ind-AS 19 - “Gratuity Benefits”. In fact, under Note No. 37 of the Annual Report for the FY 2018-19, it is mentioned that “The company has to comply with the Indian Accounting Standard - 19 on “Employee Benefits”. The retirement benefit costs (Gratuity Provision) as per actuarial Valuation Report for March 2019 of company of Rs. 60.51 lakh as Gratuity Expenses charged top statement of profit and loss during the year 2018-19.”

Consideration of the Issue and Findings

Para 67 of Indian Accounting Standard (Ind AS) 19 – Employee Benefits, inter alia, states that “*an entity shall use the projected unit credit method to determine the present value of its defined benefit obligations and the related current service cost and, where applicable, past service cost*”. Therefore, employee benefits should be provided for based on valuation determined by Actuarial so as to present a true and fair view of a company’s financials.

It has been alleged that provision for Gratuity was not made by the company for the FY 2017-18 and the company failed to provide Actuarial Valuation Report as the Actuarial Valuation was not done for Employee Benefits as required under IND AS 19 for FY 2017-18.

In this regard, upon perusal of the Annual report for FY 2017-18, it is observed that provision for gratuity and bonus of Rs. 17,45,522 as on March 31, 2018 has been made by the Company. With respect to the auditor qualification regarding provision of the liability towards Employee’s Gratuity on estimated basis as on March 31, 2018 instead of based on valuation determined by the Actuarial as required under IND-AS19, Noticee 1 has submitted that in FY 2018-19, Sanwaria had taken Actuarial Valuation Report as required under Ind-AS 19 - “Gratuity Benefits”. Further, as per note number 37 of the Annual Report, the retirement benefit costs (Gratuity Provision) as per actuarial Valuation Report for March 2019 of company of Rs. 60.51 lakh as Gratuity Expenses charged top statement of profit and loss during the year 2018-19. Considering that auditor qualification forms part of the Annual Report for 2017-18 and corrective action for auditor qualification has been taken and disclosed in annual report of subsequent year, I am inclined to take a lenient view with respect to this allegation.

Issue 3 - Whether the company has failed to recognise the exchange rates fluctuations on foreign debtors as required under AS-11/IND AS 21 for FY 2018-19?

Allegations in the SCN

Despite having foreign debtors as on March 31, 2019, the company has failed to recognise the exchange rates fluctuations on foreign debtors as required under AS-11/IND AS 21.

Contentions of the Noticees

The Noticees have contended that in the Annual Report for the FY 2018-19, there is a separate reporting of the Foreign Currency Risk. A copy of relevant pages of Annual Report of FY 2018-19 with respect to Foreign Currency Risk has been provided by the Noticees.

Consideration of the Issue and Findings

IND AS 21 requires each entity to determine its functional currency and translate foreign currency items into functional currency and report effects of such translation in the financial statements. In this regard, it has been alleged that despite having foreign debtors, Sanwaria failed to recognise the exchange rate fluctuations on foreign debtors. In this regard, upon perusal of the Annual report of Sanwaria for FY 2018-19 provided by the Noticees, it is observed that the company has recognized a loss of Rs. 11.1 lakh on account of exchange fluctuation and has made disclosures with respect to foreign currency risk exposure on trade and other receivables.

In view of the above, I am unable to find violation with regard to not recognising the exchange rates fluctuations on foreign debtors as required under AS-11/IND AS 21 for FY 2018-19 against Sanwaria.

Issue 4 - Whether, in FY 2017-18, Sanwaria failed to prepare Consolidated Financial Statements and accordingly, has not given the same in the Annual Report leading to misrepresentation of the company's net profit/losses for the said year?

Allegation in the SCN

During FY 2017-18, Sanwaria had two subsidiary companies namely, Sanwaria Singapore Pvt. Ltd. and Sanwaria Energy Ltd. It was observed that there was no

business activity by Sanwaria Singapore Pvt. Ltd. (Singapore)- a foreign subsidiary of the Company in FY 2017-18. As regards another subsidiary Sanwaria Energy Ltd., it had reported losses of Rs. 0.582 crore during FY 2017-18. As per provisions of IND AS 28 and/or IND AS 110 the annual accounts of these two subsidiary companies were required to be consolidated with the holding company, i.e., Sanwaria Consumers Ltd. However, it is observed that Sanwaria has not prepared Consolidated Financial Statements and accordingly, has not given the same in the Annual Report. Non-consolidation of financials of Sanwaria Energy Ltd. by Sanwaria led to misrepresentation of the company's net profit/losses for FY 2017-18 by Rs. 0.582 crore. The standalone profit without consolidation for FY 2017-18 was Rs. 84.69 crore and after consolidation was Rs. 84.11 crore.

Contentions of the Noticees

The Noticees have stated that the company had provided all the details of its subsidiary and the same was even duly reported in the Annual Report. In the FY 2018-19, there was consolidation of books of account done. The Noticees have stated that they were unaware of the consolidation of the books of accounts as the same was handled by the financial team and the Chartered Accountants of the company.

Consideration of the Issue and Findings

IND AS 110 deals with consolidated financial statements. It defines consolidated financial statements as '*the financial statements of a group, in which the assets, liabilities, equity, income, expenses and cash flows of the parent and its subsidiaries are presented as those of a single economic entity*'. Further, it requires that where an entity controls one or more other entities, the controlling entity is required to present consolidated financial statements. Thus, a company is required to present consolidated financial statements and it has been alleged in the SCN that Sanwaria misrepresented its financials by not consolidating them.

In this regard, upon perusal of the Annual Report of Sanwaria for FY 2017-18, it is observed that as stated by the Noticees, details with respect to the financials of the two subsidiary companies and their details are provided in the Annual Report

but the financial statements have not been consolidated. Hence, I find that the company has violated regulation 4(1)(a) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with applicable standards of accounting and financial disclosure. Further, the company has violated regulation 4(1)(b) and 4(1)(g) of the LODR Regulations, which requires that a listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and comply with all applicable laws, respectively. Also, I find that Sanwaria has violated regulation 4(2)(e)(i) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with the prescribed standards of accounting and financial disclosure. Additionally, Sanwaria has violated regulation 33(1)(a), 33(1)(c) and 34(3) of the LODR Regulations which require a listed entity to prepare its standalone and consolidated financial results as per Generally Accepted Accounting Principles in India and regulation 48 of the LODR Regulations which require a listed entity to comply with all the applicable and notified Accounting Standards from time to time. Further, regulation 33(3)(b) of the LODR Regulations states that in case listed entity has subsidiaries, the listed entity shall also submit quarterly/year to date consolidated financial results and as per regulation 34(2)(b) of the LODR Regulations, annual report shall contain consolidated financial statements audited by its statutory auditors. Hence, I find that Sanwaria has violated regulation 33(3)(b) and 34(2)(b) of the LODR Regulations.

However, considering that the change in profit on account of non-consolidation was miniscule (the standalone profit without consolidation for FY 2017-18 was Rs. 84.69 crore and after consolidation was Rs. 84.11 crore), I am inclined to take a lenient view with respect to misrepresentation of accounts and consider it apt to grant benefit of doubt to the Noticees with respect to the said allegation of misrepresentation in this regard.

Issue 5 - Whether the company had not complied with the provision of IND AS 02 with regard to the valuation of stock for FYs 2017-18 (Rs.6.21 crore) and 2018-19 (Rs.5.48 crore) which requires the company to value inventory at cost or market value, whichever is lower?

Allegations in the SCN

The rates taken by the company for valuing the Soya DOC at Balance Sheet dates was higher as compared to the buying and selling rate. The excess valuation taken by the company is given as under:

Table 3

Particulars	2017-18		2018-19	
	Mandideep	Itarsi	Mandideep	Itarsi
Amount as Per Audited Balance sheet	154,574,350	70,163,450	232,646,225	243,092,500
Qty. As Per Audited Balance Sheet	4,416	2,005	6,647	6,946
Rate taken by the company	35,000	35,000	35,000	35,000
Rate as Per Purchase Register	24,540	27,047	31,975	30,012
Difference in Rate	10,460	7,953	3,025	4,988
Difference in amount	4,61,91,360	1,59,45,765	2,01,07,175	3,46,46,648

On the basis of documents provided by Sanwaria related to the valuation, it was observed that purchase price taken for valuation is different from the purchase price observed in the purchase register.

Further, it is observed that Rs. 5,000 per ton was added as transportation cost which was very high (approx. 15-20% of total purchase price) and the same was not found to be reasonable considering the prevalent market rates of the grain transportation cost and taking into account the fact that the company failed to furnish any documentation on the said transportation cost. Further, it was observed that in the valuation, market price was taken, as decided by the management without submission of any supporting document.

Thus, the company had not complied with the provision of IND AS 02 with regard to the valuation of stock for FYs 2017-18 (Rs.6.21 crore) and 2018-19 (Rs.5.48 crore) which requires the company to value inventory at cost or market value, whichever is lower.

Contentions of the Noticees

The Noticees have stated that as per the company practice, the valuation has been done in the following manner with regards to inventory:

- Raw materials are valued at cost (on FIFO basis) or net realizable value whichever is lower.
- Work in Process at cost including related overheads.
- Finished Goods and Stock in Trade are valued at cost or estimated realizable value whichever is lower. Cost comprises material, labour and applicable overhead expenses. Cost of inventories comprises of cost of purchase, cost of conversion and other costs including manufacturing overheads in bringing them to their respective present location and condition.

Additionally, as per the Forensic Audit Report “price as taken in purchase register for Soya DOC” by Forensic Auditor is wrong/erroneous since Sanwaria is manufacturers of Soya DOC and normally trading of Soya DOC is done/required whenever Sanwaria have shortage of stock to fulfil sale contract in time. Normally, Sanwaria had no Balance of trading stock in hand of Soya DOC. At the end of financial years 2017-18 and 2018-19, the stock in hand available/balance available with Sanwaria pertained to the manufactured stock in Sanwaria’s manufacturing units. The revised working for costing of Manufactured Soya DOC along with details of “Other Expenses” to bring it to Manufacturing location” as well as the Soya seed rates for 2013-14 to 2021-22 from the website of www.sopa.org have been provided by Noticees.

Consideration of the Issue and Findings

Paragraphs 9 & 10 of Indian Accounting Standard (Ind AS) 2 – Inventories are reproduced as under:

“Measurement of inventories

9. Inventories shall be measured at the lower of cost and net realisable value.

Cost of inventories

10. The cost of inventories shall comprise all costs of purchase, costs of conversion and other costs incurred in bringing the inventories to their present location and condition.”

In this regard, the allegation is that the purchase price taken for valuation of Soya DOC by Sanwaria was higher than the purchase price in purchase register. The allegation has been made after perusal of documents received from Sanwaria itself vide email dated November 21, 2022. A summary of the valuation details provided by Sanwaria vide the said email are reproduced below:

Table 4

Particulars	2017-18		2018-19	
	Mandideep	Itarsi	Mandideep	Itarsi
Seed cost per ton	34,436	30,546	34,436	33,437
Other expenses to bring seeds to present location	5,000	5,000	5,000	5,000
Total cost (A)	39,436	35,546	39,436	38,437
Market Price (MP) as per management decision (B)	41,500	41,500	41,500	41,500
Lower of A or B	39,436	35,546	39,436	38,437
Other direct expenses	3,534	2,271	3,534	2,856
Total cost of crushing (C)	42,970	37,817	42,970	41,293
MP of Soya DOC as on March 31	35,000	35,000	35,000	29,050
Cost – 0.83 of (C)	31,803	27,396	31,803	30,562
Market Price Realisation per ton	29,050	29,050	29,050	29,050
Valuation price	29,050	27,396	29,050	29,050

Based on the details provided, it was alleged in the SCN that Rs. 5,000 per ton was added as transportation cost which was very high (approx. 15-20% of total purchase price) and the same was not found to be reasonable considering the prevalent market rates of the grain transportation cost and taking into account the fact that the company failed to furnish any documentation on the said transportation cost. Further, it was observed that in the valuation, market price was taken, as decided by the management without submission of any supporting document.

Additionally, I note that the calculation of 0.83 of cost allocated to Soya DOC cost is also wrong. The amount should have been as follows:

Table 5

Particulars	2017-18		2018-19	
	Mandideep	Itarsi	Mandideep	Itarsi
Total cost of crushing (C)	42,970	37,817	42,970	41,293

MP of Soya DOC as on March 31	35,000	35,000	35,000	29,050
Cost – 0.83 of (C)	35,665	31,388	35,665	34,273
Market Price Realisation per ton	29,050	29,050	29,050	29,050
Valuation price	29,050	29,050	29,050	29,050

Subsequently, after issuance of SCN, the Noticees submitted revised costing for Soya DOC as follows:

Table 6

Particulars	2017-18		2018-19	
	Mandideep	Itarsi	Mandideep	Itarsi
Seed cost per ton	31,647	30,546	34,436	33,437
Other expenses to bring seeds to present location	2,250	2,220	2,327	2,300
Total cost (A)	33,897	32,766	36,763	35,736
Market Price (MP) as per management decision (B)	No data provided	No data provided	No data provided	No data provided
Lower of A or B	33,897 in absence of B	32,766 in absence of B	36,763 in absence of B	35,736 in absence of B
Other direct expenses	3,717	2,271	3,534	2,856
Total cost of crushing (C)	37,614	35,037	40,297	38,592
MP of Soya DOC as on March 31	35,000	No data provided	No data provided	No data provided
Cost – 0.83 of (C)	27,839	No data provided	No data provided	No data provided
Market Price Realisation per ton	29,050	No data provided	No data provided	No data provided
Valuation price	27,839	No data provided	No data provided	No data provided

Hence, I observe that the Noticees have submitted different data sets at the stage of investigation and after issuance of SCN. Further, the submissions made after issuance of SCN have not been accompanied with any document to suggest as to how the change in transportation cost has been accounted for. Additionally, details with respect to market price as per management decision have neither been provided nor explained in its replies. Thus, the revised submissions only appear to be afterthoughts to cover up the misrepresentations alleged in the SCN without any supporting document. Additionally, even in the revised submission, the calculation for cost of Soya DOC at 83% of total cost is incorrect. The amount

should be Rs. 31,220 and not Rs. 27,839. Hence, I note that even in the course of this proceeding, the Noticees have not exercised sufficient care in providing details with respect to stock valuation. Further, the extract of prices of Soybean culled from the website www.sopa.org submitted by Noticees cannot serve as a substitute for valuing stock as it provides monthly values but purchase price on any given day in month can vary significantly from monthly averages. Thus, I find that the Noticees have been unable to provide any reasonable ground for valuing the Soya DOC at Rs. 35,000 at the end of FY 2017-18 and 2018-19 at Mandideep and Itarsi units. Therefore, I find that Accounting Standard 2, which requires the company to value inventory at cost or market value, whichever is lower, has not been adhered to. Further, in the absence of any supporting document to the contrary, I find that the stock of Sanwaria for FYs 2017-18 and 2018-19 was overvalued by Rs.6.21 crore and Rs.5.48 crore, respectively. Accordingly, I find that the company has violated regulation 4(1)(a) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with applicable standards of accounting and financial disclosure. Further, the company has violated regulation 4(1)(b) of the LODR Regulations, which requires that a listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders. Additionally, regulation 4(1)(d) requires a listed entity to provide adequate and timely information to stock exchanges and investors, regulation 4(1)(e) of the LODR Regulations requires a listed entity to ensure that disseminations made are adequate and accurate, and regulation 4(1)(j) requires a listed entity to ensure that periodic filings and reports shall contain information that shall enable investors to track performance of a listed entity and provide sufficient information to enable investors to assess the current status of a listed entity. Hence, I find that Sanwaria has violated regulation 4(1)(d), 4(1)(e) and 4(1)(j) of the LODR Regulations. Also, I find that Sanwaria has violated regulation 4(2)(e)(i) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with the prescribed standards of accounting and financial disclosure. Additionally, Sanwaria has violated regulation 33(1)(a), 33(1)(c) and 34(3) of the LODR Regulations which require a listed entity to prepare its standalone and consolidated financial results as per Generally Accepted

Accounting Principles in India and regulation 48 of the LODR Regulations which require a listed entity to comply with all the applicable and notified Accounting Standards from time to time.

Additionally, the inflated transportation costs stated by the company/Noticees during the investigation period earlier and then change in revised submission post issuance of SCN only reveal that the purpose of company in overvaluing its stock was to perpetrate fraud on investors. The conclusion is strengthened considering that the forensic auditor has observed the following in its report: 1. No stock records have been made in ERP Oracle system in the plants where the company is using ERP. 2. There is no proper stock register which is maintained by the company. 3. Further, the plants where tally is being used by the company, no proper stock records have been maintained and manual valuation entry has been passed for the purposes of preparing the Audited Balance Sheets. Thus, the observations by the forensic auditor regarding absence of proper systems, resorting to manual valuation entry and different submissions at different times that do not add up numerically only strengthens the conclusion that there was intentional manipulation of stock valuation to mislead investors. I find that the company/Noticees, by resorting to such manipulation, have violated regulation 4(1)(c) of the LODR Regulations which requires a listed entity to refrain from misrepresentation and regulation 4(1)(g), 4(1)(h) and 4(1)(i) which require listed entities to abide by all applicable laws, make disclosures and follow its obligations in letter and spirit and file reports that contain relevant information, respectively. I note that Regulations 3(b), (c) and (d) of the PFUTP Regulations, inter alia, prohibit employment of any manipulative/deceptive device, scheme or artifice to defraud in connection with dealing in securities; engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with dealing in securities. Regulation 4 (1) of the PFUTP Regulations states that no person shall indulge in a manipulative or unfair trade practice. Further, under the PFUTP Regulations, regulation 4(2)(e) prohibits any act or omission amounting to manipulation of the price of security; regulation 4(2)(f) prohibits publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true; regulation 4(2)(k) prohibits disseminating information or advice through any media which the

disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities; and regulation 4(2)(r) prohibits knowingly planting false or misleading news which may induce sale or purchase of securities. Thus, by publishing misleading financial statements by overvaluation of its stock, I find that Sanwaria violated Regulations 3(b), (c) and (d), regulations 4(1) and 4(2)(e), (f), (k) and (r) of the PFUTP Regulations read with Sections 12A (a), (b), (c) of the SEBI Act.

Issue 6 - Whether Sanwaria overstated its revenue in FY 2019-20 to the tune of Rs. 108.25 crore which includes the interest amount of Rs. 50.75 crore and overstated its debtors by Rs. 108.25 crore for FY 2019-20?

Allegations in the SCN

The company booked a loss of Rs.18.42 crore and Rs. 39.18 crore in FY 2015-16 and 2017-18, respectively, due to fire occurrence at the C&F Godown at Kandla Port of Soya DOC. Based on the Surveyor's report, the Insurance company rejected the claim and the company accordingly, booked total loss of Rs. 57.60 crore.

Subsequently, the company filed a complaint before the Consumer Dispute Redressal Commission, New Delhi against the insurance company - United India Insurance Co. Ltd. The company submitted that they have lodged a complaint with the Central Government, Banking and Insurance Department and asked for appointment of a fresh Surveyor in the matter to assess their genuine claim of loss. Further, the company also filed a complaint before the National Consumer Disputes Redressal Commission (NHCDRC), New Delhi and matter is pending before them. On the basis of the same, Sanwaria wrote back the amount of insurance claim for Rs.108.25 crore against the write off amount of Rs.57.60 crore by charging interest thereon in FY 2019-20 and booked claim amount plus interest thereof as Income in the books of accounts for the year 2019-20. It was also observed that the insurance claim amount of Rs. 108.25 crore was included in the company's debtors for FY 2019-20.

Thus, it is alleged that Sanwaria overstated its revenue in FY 2019-20 to the tune of Rs. 108.25 crore which includes the interest amount of Rs. 50.75 crore and overstated its debtors by Rs. 108.25 crore for FY 2019-20.

Contentions of the Noticees

The Noticees have stated the company has booked a loss of Rs. 18.42 crore and Rs. 39.18 crore in FY 2015- 2016 and FY 2017- 2018, respectively, due to fire occurrence at the C&F Godown at Kandla Port of Soya DOC. The fire claim has been lodged with insurance company, however based on report of surveyor the insurance company has rejected the claim and the company has booked a total loss of Rs.57.60 crore on prudent basis as per accounting norms which is also affirmed by the statutory auditor of the entity. Further, the company filed a complaint before the Consumer Dispute Redressal Commission, New Delhi against United India Insurance Company Ltd. and therefore has written back the amount of insurance claim for Rs.108.25 crore against the write off of the amount of Rs.57.60 crore by charging interest thereon as per the plaint filed before Consumer Dispute Redressal Commission, by crediting the said amount to the profit and loss account and the company is rigorously fighting for the claim. The decision to take the income is based on the general accepted accounting principles as the amount to be received was in the arbitration and such amount has to be outstanding in the books to claim the same from authorities. The auditor had qualified the audit report with respect to the insurance claim of Rs.108.25 crore written back. A copy of the Statement of Impact of Audit Qualifications dated August 07, 2020 submitted along with Annual Audited Financial Results has been submitted to SEBI. The Noticees have stated that in the Annual Report of the FY 2019–2020, it is mentioned in the Independent Auditor's Report that the Company was under dispute with United India Assurance Co. Ltd., the Case is still pending with the Court. Even company has shown claim Income under miscellaneous income of Rs. 10,825.50 lakh which was not allowed as per Indian Accounting Standard IND AS – 18. Hence, it should not be considered as income of current financial period. A copy of relevant pages of the Annual Report of the FY 2019 – 2020 with respect to qualification for insurance claim has been submitted to SEBI. Hence, the Noticees have submitted that the company has made the relevant disclosures to the shareholders.

Consideration of the Issue and Findings

As per IND AS 37, *“a contingent asset is a possible asset that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity.”* Further, IND AS 37 states that *“an entity shall not recognise a contingent asset.”* Hence, a claim that a company is pursuing through legal process whose outcome is uncertain is a contingent asset and should not be recognised in financial statements as such income may never be realised.

In this regard, it has been alleged in the SCN that the company has not complied with IND AS 37 by overstating its revenue in FY 2019-20 by Rs. 108.25 crore which includes the interest amount of Rs. 50.75 crore and by overstating its debtors by Rs. 108.25 crore by recognising the insurance claim of Rs. 108.25 which is under a legal process whose outcome was uncertain.

The Noticees, in their response, have drawn reference to the Statement of Impact of Audit Qualification disclosed with the annual audited financial results on August 07, 2020. Upon perusal of the documents submitted by the Noticees and the audit qualification report available on the BSE website, I note that it has been disclosed to the investors that the auditors have, inter alia, stated that Rs. 108.25 crore included as miscellaneous income should not be considered as income of FY 2019-20. To this, the management has disclosed that their case is very strong and court will allow interest till the date of final decision.

I note that the Noticees have stated that the amount to be received from the insurance company was in the arbitration and such amount has to be outstanding in the books to claim the same from authorities. However, the Noticees have not provided any information with respect to which accounting standard states so and if there was such an accounting principle, the Noticees have not explained as to why did their auditor state that such insurance claim should not be recognised as income. Thus, I find the Noticees' contention to be mere statements without any evidence. Accordingly, I find that the company has violated regulation 4(1)(a) of

the LODR Regulations, which requires a listed entity to prepare and disclose information in accordance with applicable standards of accounting and financial disclosure. Further, the company has violated regulation 4(1)(b) and 4(1)(g) of the LODR Regulations, which requires that a listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and compliance with all applicable laws, respectively. Also, I find that Sanwaria has violated regulation 4(2)(e)(i) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with the prescribed standards of accounting and financial disclosure. Additionally, Sanwaria has violated regulation 33(1)(a), 33(1)(c) and 34(3) of the LODR Regulations which require a listed entity to prepare its standalone and consolidated financial results as per Generally Accepted Accounting Principles in India and regulation 48 of the LODR Regulations which requires a listed entity to comply with all the applicable and notified Accounting Standards from time to time.

However, considering that the Statement of Impact of Audit Qualifications (which stated that such insurance claim should not be included in income) was submitted along with Annual Audited Financial Results and disclosed on Exchange website on August 07, 2020, I find that the investors were aware of the fact that such amount should not have been included as income. Hence, I find that the charges of misrepresentation in this regard under PFUTP are not substantiated.

Issue 7 - Whether Sanwaria overstated the revenue from operations to the extent of Rs. 68.80 crore and Rs. 33.67 crore for FY 2017-18 and 2018-19, respectively, thereby making a misrepresentation/misstatement of financials by reporting inflated transactions pertaining to revenue and debtors?

Allegations in the SCN

Sanwaria showed inter-unit/plant sales in the revenue from operations in its Audited Financial Statements. The inter-unit sales clubbed in the revenue from operations in FYs 2017-18 (Rs.68.80 crore) and 2018-19 (Rs.33.67 crore) and breakup of same was not given in the notes to accounts.

Sanwaria overstated the revenue from operations to the extent of Rs. 68.80 crore and Rs. 33.67 crore for FY 2017-18 and 2018-19, respectively thereby it made a misrepresentation / misstatement of financials by reporting inflated transactions pertaining to revenue and debtors. This act amounts to wilfully making false entries and false representation of accounts in ledgers and books of Sanwaria.

Contentions of the Noticees

In respect of the clubbing of Inter Unit Sales in Revenue from Operations, the Noticees have submitted that in the Annual Report, RPTs are also mentioned in which there is also a bifurcation with respect to the Sales. Hence, there is no intention of the company to inflate the turnover.

Consideration of the Issue and Findings

IND AS 115 establishes *“the principles that an entity shall apply to report useful information to users of financial statements about the nature, amount, timing and uncertainty of revenue and cash flows arising from a contract with a customer.”* It, inter alia, states that *“a counterparty to the contract would not be a customer if, for example, the counterparty has contracted with the entity to participate in an activity or process in which the parties to the contract share in the risks and benefits that result from the activity or process (such as developing an asset in a collaboration arrangement) rather than to obtain the output of the entity’s ordinary activities.”* Therefore, as per IND AS 115, inter unit sales should not be clubbed with revenue from operations.

It has been alleged in the SCN that Sanwaria inflated its revenue by clubbing inter-unit sales. In this regard, the Noticees have contended that in the Annual Report, RPTs are also mentioned in which there is a bifurcation with respect to the Sales and hence, there is no intention of the company to inflate the turnover.

Upon perusal of the Annual Report of Sanwaria for FY 2017-18 and 2018-19, I find that RPTs for the FY 2017-18 and 2018-19 were disclosed on gross basis in the annual accounts of the company instead of party wise details in terms of the IND AS 24. Further, the Noticees’ contention that RPTs are also mentioned in which there is also a bifurcation with respect to the Sales does not take into

account the objective of accounting standards, which is to ensure transparency, reliability, consistency and comparability of the financial statements across different companies and different periods. This has been discussed in detail during the discussion of Issue 1 above. Hence, considering that the accounting principles are in place so that there is uniformity and ease of comparability in financial statements of companies, I find that Sanwaria has overstated the revenue from operations to the extent Rs. 68.80 crore and Rs. 33.67 crore for FY 2017-18 and 2018-19, respectively. Accordingly, I find that the company has violated regulation 4(1)(a) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with applicable standards of accounting and financial disclosure. Further, the company has violated regulation 4(1)(b) of the LODR Regulations, which requires that a listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders. Further, regulation 4(1)(e) of the LODR Regulations requires a listed entity to ensure that disseminations made are adequate and accurate, regulation 4(1)(c) requires a listed entity to ensure that information provided to stock exchange and investors is not misleading and regulation 4(1)(j) requires a listed entity to ensure that periodic filings and reports shall contain information that shall enable investors to track performance of a listed entity and provide sufficient information to enable investors to assess the current status of a listed entity. Hence, I find that Sanwaria has violated regulation 4(1)(c), 4(1)(e) and 4(1)(j) of the LODR Regulations. Additionally, regulation 4(1)(d), 4(1)(g), 4(1)(h) and 4(1)(i) which require listed entities to provide adequate information to investors, to abide by all applicable laws, make disclosures and follow its obligations in letter and spirit and file reports that contain relevant information, respectively. Hence, I find that Sanwaria has violated regulation 4(1)(d), 4(1)(g), 4(1)(h) and 4(1)(i) of the LODR Regulations. Also, I find that Sanwaria has violated regulation 4(2)(e)(i) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with the prescribed standards of accounting and financial disclosure. Additionally, Sanwaria has violated regulation 33(1)(a), 33(1)(c) and 34(3) of the LODR Regulations which require a listed entity to prepare its standalone and consolidated financial results as per Generally Accepted Accounting Principles in

India and regulation 48 of the LODR Regulations which require a listed entity to comply with all the applicable and notified Accounting Standards from time to time.

Issue 8 - Whether Sanwaria overstated/inflated its advances to the tune of Rs. 6.08 crore during FY 2019-20?

Allegations in the SCN

The following advances amounting to Rs. 6.08 crore are outstanding for last three years:

Table 7

Party Name	Amount (In Rs.)
Gurudeo Corporation, Indore	2,12,75,358
Gurudeo Export Corporation Pvt. Ltd., Indore	1,42,65,838
Narmda Ginning & Pressing Factory, Khirkiya	96,85,485
Imf Agro, Jaipur	50,37,020
Advantage Overseas Pvt. Ltd.	21,99,467
Ramesh Nathmal Chitarka	20,00,000
Nitin Goyal Khandawa	1,908,502
Satguru Agro Oil	1,267,136
Shree Basant Oils Limited	1,092,998
Allana Private Limited Mumbai	1,000,000
Ardent Commodities Pvt Ltd., Ahmedabad	2,49,985
Shri Nath Roto Pack Pvt Ltd	197,097
Aditya Enterprises, Itarsi	119,300
Geo -Chem Laboratories Pvt	100,257
Balaji Traders, Harsood	67,500
Balaji Coal Pvt. Ltd., Indore	62,995
Parker Agrochem Exports Ltd	52,200
Vks Forex Services	51,149
Gujarat Export Company,	38,946
Shikhar Agro, Indore	35,650
Shri Riddhi Traders Salam	34,981
Jethabhai Gopal Ji'S	21,147
Jain Canvassing Co	13,184
Jain Traders Itarsi	8,266
Total	6,07,84,461

The company, vide email dated November 28, 2022, *inter-alia* submitted that these are regular business parties and advances arising due to i) advances for the supply of material was given but full value of supply not received, ii) Material sold to party but full payment not received, iii) Party accounts are not fully settled, etc.

However, it is observed that goods sold and the amount not received was also included in advances, however same should have been recorded as debtors and not as an advance. Further, it is also observed that these advances are outstanding for three years and till date no amount has been received against these advances and the company has not made any provision against these advances, as required under the provision of para 5.2 and 5.5 of IND AS 109. Thus, considering advances are outstanding for more than three years, no payment has been received against these advances and no provision made by company, it is alleged that Sanwaria overstated/inflated its advances to the tune of Rs. 6.08 crore.

Contentions of the Noticees

The Noticees have stated that the parties to whom the advances have been made are regular parties from whom sale and purchases have been made to reap the benefit of difference in prices on day-to-day basis. Detailed clarification in this regard was also given to the Forensic Auditor and they have also observed/mentioned/taken cognizance of the same stating that they have noticed that there are parties with whom only sale and purchase transactions has been entered and no routing of payment and receipt through consortium banks has been done except set off of debtors and creditors. Further, the Forensic Auditor has also, inter alia, mentioned that while verifying the loans and advances, they noticed that Sanwaria has given advance to different suppliers during the period covered under forensic audit period and included the same under Trade Receivables as per Audited Balance Sheet and some advances have been adjusted against the invoices given by the suppliers.

Consideration of the Issue and Findings

The allegation that Sanwaria overstated/inflated its advances to the tune of Rs. 6.08 crore stems from the fact that even though the advances are outstanding for more than three years, no payment has been received against these advances and no provision has been made. The Noticees, in their reply, have still not confirmed whether any amount has been received from the

counterparties. It has only been stated that the advances were made to regular parties. If that were the case, it is difficult to fathom the circumstances under which the amount due from them can remain outstanding for three years. Further, the Noticees have not explained in their reply the reason as to why this amount has remained outstanding for 3 years. Also, I note that the forensic auditor has mentioned in its report that the transactions might have been done to inflate purchase and sales. Additionally, Noticees have not provided any information regarding any provision that may have been created against such advances by Sanwaria as required under para 5.2 and 5.5 of IND AS 109, which requires financial assets to be measured at fair value and recognition of expected credit losses. Hence, I find that the Noticees' contentions are mere statements devoid of any evidence. Further, based on the reply by Sanwaria during investigation that this amount of Rs. 6.08 crore included material sold to party but full payment not received, it was alleged in the SCN that goods sold and the amount not received was included in advances even though it should have been recorded as debtors. In this regard, I note that the forensic auditor has stated that they have noticed that there are parties with whom only sale and purchase transactions have been entered and no routing of payment and receipt through consortium banks has been done except set off of debtors and creditors. The factors such as no routing of payment through banks, amount remaining outstanding for 3 years and no provisioning for expected losses indicate that these transactions could merely be book entries and perhaps, there were no advances/debtors at all. Thus, I am of the opinion that Sanwaria has inflated its advances to the tune of Rs. 6.08 crore resulting in manipulation of its financial statements during FY 2020-21 to FY 2022-23 that operated as fraud on investors. I note that regulations 3(b), (c) and (d) of the PFUTP Regulations, inter alia, prohibit employment of any manipulative/deceptive device, scheme or artifice to defraud in connection with dealing in securities; engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with dealing in securities. Regulation 4(1) of the PFUTP Regulations states that no person shall indulge in a manipulative or unfair trade practice. Further, under the PFUTP Regulations, regulation 4(2)(e) prohibits any act or omission amounting

to manipulation of the price of security; regulation 4(2)(f) prohibits publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true; regulation 4(2)(k) prohibits disseminating information or advice through any media which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities; and regulation 4(2)(r) prohibits knowingly planting false or misleading news which may induce sale or purchase of securities. Thus, by publishing misleading financial statements by overvaluation of its stock, I find that Sanwaria violated regulations 3(b), (c) and (d), regulations 4(1) and 4(2)(e), (f), (k) and (r) of the PFUTP Regulations read with Sections 12A (a), (b), (c) of the SEBI Act.

Further, I find that Sanwaria has violated regulation 4(1)(a) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with applicable standards of accounting and financial disclosure. Also, the company has violated regulation 4(1)(b) of the LODR Regulations, which requires that a listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders. Further, regulation 4(1)(e) of the LODR Regulations requires a listed entity to ensure that disseminations made are adequate and accurate, regulation 4(1)(c) requires a listed entity to ensure that information provided to stock exchange and investors is not misleading and regulation 4(1)(j) requires a listed entity to ensure that periodic filings and reports shall contain information that shall enable investors to track performance of a listed entity and provide sufficient information to enable investors to assess the current status of a listed entity. Hence, I find that Sanwaria has violated regulation 4(1)(c), 4(1)(e) and 4(1)(j) of the LODR Regulations. Sanwaria has also violated regulation 4(1)(g), 4(1)(h) and 4(1)(i) which require listed entities to abide by all applicable laws, make disclosures and follow its obligations in letter and spirit and file reports that contain relevant information, respectively. Also, I find that Sanwaria has violated regulation 4(2)(e)(i) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with the prescribed standards of accounting and financial disclosure. Additionally, Sanwaria has violated regulation

33(1)(a), 33(1)(c) and 34(3) of the LODR Regulations which require a listed entity to prepare its standalone and consolidated financial results as per Generally Accepted Accounting Principles in India and regulation 48 of the LODR Regulations which require a listed entity to comply with all the applicable and notified Accounting Standards from time to time.

Issue 9 - Whether the company overstated the debtors by Rs. 350 crore in FY 2017-18, 2018-19 and 2019-20?

Allegations in the SCN

On an average, Rs. 350 crore towards advances to Suppliers were included in the Trade Receivables reported by the company in the audited financial statement for FYs 2017-18, 2018-19 and 2019-20. It should have been shown as advance to supplier in the advances list. The details of the same are given below:

Table 8

Particulars	2017-18	2018-19	30.06.2019 (Unaudited)	30.09.2019 (Unaudited)
Net Sales (A)	5,054.73	5,303.79	1,274.23	2,239.43
Trade Receivables as on Balance Sheet Date (B)	916.03	1,176.81	1,231.61	1,348.00
Less: Other Advances	350.00	350.00	350.00	350.00
Net Debtors	566.03	826.81	881.61	998.92
Net debtors/sales	11%	15%	69%	44%

Thus, it is alleged that the company overstated the debtors by Rs. 350 crore in FY 2017-18, 2018-19 and 2019-20.

Contentions of the Noticees

Sanwaria has not misled any investor by such a practice of recording advances to suppliers in trade receivable. In fact, the same would have been mentioned in the sundry creditors, it would have reduced the amount of creditors. Pertinently, the said practice was done since Sanwaria was regularly dealing with those parties and sale and purchase with them was done to reap the benefits on day-to-day basis.

Consideration of the Issue and Findings

The objective of accounting standards is to ensure transparency, reliability, consistency and comparability of the financial statements across different companies and different periods. In this context, the replies of the Noticees contending that there was no misleading done by recording advances in trade receivables raises questions about the seriousness with which financials of Sanwaria were prepared. If different companies were to employ their own ways to record similar transactions, investors would be set up for the challenging task of minutely studying all the financial details of each company. A higher amount of trade receivables gives an impression of higher sales by an entity as against inclusion of the same amount in advances to suppliers and to that extent such a practice of including advances in trade receivables would operate as fraud on investors. It is for this precise reason that Accounting Standards provide guidelines on recording assets, liabilities, revenues and expenses. Hence, I find that Sanwaria has overstated its debtors by Rs. 350 crore in FY 2017-18, 2018-19 and 2019-20 by including advances in trade receivables. Regulations 3(b), (c) and (d) of the PFUTP Regulations, inter alia, prohibit employment of any manipulative/deceptive device or any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with dealing in securities. Regulation 4(1) of the PFUTP Regulations states that no person shall indulge in a manipulative or unfair trade practice. Further, under the PFUTP Regulations, regulation 4(2)(e) prohibits any act or omission amounting to manipulation of the price of security; regulation 4(2)(f) prohibits publishing any information which is not true; regulation 4(2)(k) prohibits disseminating information known to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities; and regulation 4(2)(r) prohibits knowingly planting false or misleading news which may induce sale or purchase of securities. Thus, by publishing misleading financial statements by overvaluation of its debtors, I find that Sanwaria violated regulations 3(b), (c) and (d), regulations 4(1) and 4(2)(e), (f), (k) and (r) of the PFUTP Regulations read with Sections 12A (a), (b), (c) of the SEBI Act.

Further, I find that Sanwaria has violated regulation 4(1)(a) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with applicable standards of accounting and financial disclosure. Also, the company has violated regulation 4(1)(b) of the LODR Regulations, which requires that a listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders. Further, regulation 4(1)(e) of the LODR Regulations requires a listed entity to ensure that disseminations made are adequate and accurate, regulation 4(1)(c) requires a listed entity to ensure that information provided to stock exchange and investors is not misleading and regulation 4(1)(j) requires a listed entity to ensure that periodic filings and reports shall contain information that shall enable investors to track performance of a listed entity and provide sufficient information to enable investors to assess the current status of a listed entity. Hence, I find that Sanwaria has violated regulation 4(1)(c), 4(1)(e) and 4(1)(j) of the LODR Regulations. Sanwaria has also violated regulation 4(1)(g), 4(1)(h) and 4(1)(i) which require listed entities to abide by all applicable laws, make disclosures and follow its obligations in letter and spirit and file reports that contain relevant information, respectively. Also, I find that Sanwaria has violated regulation 4(2)(e)(i) of the LODR Regulations which requires a listed entity to prepare and disclose information in accordance with the prescribed standards of accounting and financial disclosure. Additionally, Sanwaria has violated regulation 33(1)(a), 33(1)(c) and 34(3) of the LODR Regulations which require a listed entity to prepare its standalone and consolidated financial results as per Generally Accepted Accounting Principles in India and regulation 48 of the LODR Regulations which require a listed entity to comply with all the applicable and notified Accounting Standards from time to time.

Issue 10 - Whether the company indulged in fictitious and fraudulent sales transactions resulting in overstatement of revenue and debtors of the company to the tune of Rs. 941.43 crore leading to misstatement /misrepresentation in the books of account of Sanwaria?

Allegation in the SCN

The company had provided the debtors statement amounting to Rs.883.12 crore as on June 30, 2019 to Punjab National Bank and the bank took up the top 25 parties of the list from the aforesaid statement and sent balance confirmation letters/emails to these parties. The list of debtors provided by Noticees to the bank and the bank's observations with respect to balance confirmation letters/emails sent are as follows:

Table 9

Sl. No.	Name of the Party	Amount in Rs.	Bank Observation/ Comment
1	Samruddhi Farm Pune	4,381,625.00	Returned
2	Jay Mata Di Traders	2,840,771.00	Returned
3	Agri Impex Commtrade, Mumbai	404,360,112.64	Returned
4	Suraj Impex	21,184,142.00	Returned
5	D D International Pvt Ltd	48,485,880.00	Returned
6	East Gulf Trading Pvt Ltd.	408,593,023.00	Returned
7	Sunguna Foods Pvt Ltd.	6,118,513.00	Not Received
8	T.F. Agri Trade Commodities, Mumbai	396,274,238.36	Not Received
9	Vippy Industries Ltd	1,343,323.00	Not Received
10	Balaji Production Mandideep	10,924,404.00	Not Received
11	W.R. Agro Tech Commodities, Mumbai	399,139,529.73	Not Received
12	Narayandas & Co.	2,028,453.00	Not Received
13	D.M. Agro Farms Lucknow	970,918.00	Not Received
14	ATC Foods Pvt Ltd	15,178,472.00	Not Received
15	ABID Poultry Feedshahdol	6,645,661.00	Not Received
16	N.K. Protiens, Ahemdabad	185,652,442.00	Not Received
17	Bansal Fine Foods Pvt, Karnal	3,000,000.00	Not Received
18	K.S. Commodities Pvt Ltd	361,977,977.50	No Dealing
19	Sagar Overseas Delhi	339,244,530.70	No Dealing
20	H R Exports Pvt Ltd.	424,702,509.30	No Dealing
21	Meenakshi Agro and Flour Mill Pvt Ltd	435,075,963.00	No Dealing
22	Venkatrama Poultries Pvt. Ltd.	14,801,374.00	Showing credit balance Rs. 756.24 only
23	AL Gyas Export Pvt Ltd	276,738,610.93	Showing only book debt of Rs. 638780

24	W.E. Agri Comm, Aurangabad	414,852,138.86	Confirmations Received but not relied
25	R Comm Foods and Feed Ahmedabad	434,048,412.94	Confirmations Received but not relied
	Total	4,618,563,024.96	

Of these 25 parties, confirmation letters were returned by six parties, not received by 11 parties, four parties refused any dealing with the company, two parties showed credit balance and confirmation received by remaining two entities but not relied upon by the bank. Inconsistencies/irregularities were noticed with respect to the 25 entities. Letters seeking third party confirmation were also sent by the forensic auditor to 51 debtors. However, no confirmation was received from these 51 debtors also.

Further, the list of gross debtors amounting to Rs. 1,049.68 crores as on September 30, 2019 submitted by the company to the Forensic Auditor is as under:

Table 10

Particulars	As on September 30, 2019
Insurance claim included in debtors	108.25
Other debtors	941.43
Total	1,049.68

Company had made provision of Rs. 200 crore by September 30, 2019. Further, debtors were written off by the company in FY 2019-20 for Rs. 946.65 crore.

It is observed from the forensic audit report that the company sold goods to the customers through brokers and the invoice/s were issued by the brokers to customers. In that case, company should have accounted the sales to the brokers instead of sales to the said debtors/ parties.

It is observed that the contract to sale is not approved by the seller (company) and customer (debtors), and therefore, neither the seller (company) nor customers (debtors) can identify each other. Further, the invoice is issued by the brokers, therefore, payment terms are between the broker and customers. It is alleged that recording the sale transactions to customers (debtors) were not in compliance of IND AS 115 since performance obligation of transferring risk and rewards of goods were not completed by the company. The company

had transferred goods to broker/s instead of customers and the broker/s in turn supplied to customers on behalf of the company.

The company also submitted action taken by the company with regard to pending debtors which includes recovery letter, list of court cases, legal notices etc. In this regard, it was observed that legal notices and recovery letters were served to the debtors of the company. This is contradictory to the statement given by the company to the forensic auditors wherein the company has stated that debtors don't know the company as sales were made through brokers. The company should have issued the letters to the brokers instead of the debtors.

Legal notice was issued during FYs 2015 to 2020. Further, company issued the recovery letter in FY 2018-19. In normal case, reference of the earlier issued legal notice/s should have been mentioned in the recovery letter/s, however, company has not mentioned any reference of the legal notice/s in the recovery letter/s. Further, the company also has failed to provide the details of communication in respect of the legal notices and recovery letters. Recovery letters don't have details of broker/s from whom the debtors (customers) had purchased goods, details of goods, etc. Even the letters don't have full signature. It is also observed that the said recovery letters and the legal notices were not found to be issued to the abovementioned 25 debtors.

The company failed to provide the basic details of brokers through whom goods were sold to customers (debtors). Further, it also failed to provide the basic details of debtors including the invoice/s issued to them by broker/s.

The company was also asked to provide the details of legal action taken by it against the debtors. However, it submitted only details of court case pertaining to certain cheque bounce cases. It was observed that no legal action is taken by the company against the major debtors (top 25 debtors parties).

All the events explained above, coupled with the fact that company had written off all the debtors in FY 2019-20 clearly indicate that the company had overstated the debtors through overstatement of sales.

Based on the aforesaid observations and considering i) absence of underlying documents relating to sales; ii) unusual credit period and high outstanding

receivable; iii) failure to provide complete details of debtors and brokers; iv) absence of documents with regard to recovery efforts made by the company; v) Negative/no confirmation by the debtors/customers to PNB and forensic auditor; vi) Non-compliance of IND AS 115; vii) failure to provide third party confirmation; viii) debtors to the tune of Rs. 946.65 crore were written off by the company in FY 2019-20, it is alleged that the sales transactions with the aforesaid debtors are fictitious and fraudulent in nature and the same had resulted in overstatement of revenue and also debtors of Sanwaria to the tune of Rs. 941.43 crore. Thus, it is alleged that these acts lead to misstatement/misrepresentation in the books of account of Sanwaria.

Contentions of the Noticees

The Noticees have stated that there were inconsistencies/irregularities observed with respect to balance confirmation of the 25 parties. In this regard, observations have been made by the Forensic Auditor that they have examined in detail from the books of accounts the details of the 25 parties and it is noticed that the transactions took place with some of these parties. Further, they have examined the ledgers and found that some of the payments have also been received in the banks prior to June 2019. These payments were not reconciled from inter-unit accounts and the gross figures have been taken for the purpose of stock statement submitted to the bank. However, the balance outstanding in the books of these parties were not matching as on June 30, 2019 date of stock statement but the parties were existing and it appears that the genuine trades were executed and the receipts from these parties in the bank accounts confirms their genuineness. They also verified these parties from the search engine of the GST Portal regarding VAT/GST numbers, if any, issued to these parties by the government department. The forensic auditors opined that it seems these parties are existing and seems to be genuine parties who are existing in the business and the possibility of trade with these parties cannot be ruled out and it is possible that the borrower might have dealt with these parties through memoranda invoices just to avoid transactions in books. In this regard, discussion was also made with the Management of the company. To recover the amount/sum of Debtors various reminder letters, legal notice and court case was also filed against some parties by the company. The details of the said

recovery attempts have been shared by the Noticees during the course of SEBI investigation.

Consideration of the Issue and Findings

It has been alleged that Sanwaria had engaged in fictitious and fraudulent sales transactions with debtors which resulted in overstatement of revenue and debtors of Sanwaria to the tune of Rs. 941.43 crore. In this regard, the Noticees have reproduced certain selective extracts from the forensic audit report to contend that the possibility of trade with the parties cannot be ruled out. However, I note that with respect to the realization from debtors, the forensic audit report also states as follows:

- The figures of June 2019 have been shown without any reconciliation and do not tally with the books. Thus, the figure of debtors in the stock statement seem to be estimated figures and do not match with the books of accounts.
- Company might have dealt with these parties through memoranda invoices just to avoid transactions in books.
- No justifiable explanation was offered for non-realization of the debtors.
- No documents were made available to show persuasion of realization of money, and therefore diversion of funds may not be ruled out.
- The possibility of incorrect reporting in the stock statement cannot be ruled out and the quantum of mis-reporting could not be ascertained/estimated.

Further, several specific allegations made in the SCN post investigation based on the forensic audit report and other documents, including replies provided by the Noticees, have not been addressed by the Noticees in their reply.

A few major allegations left unaddressed by the Noticees are as follows:

- Company had made provision of Rs. 200 crore by September 30, 2019 and debtors were written off by the company in FY 2019-20 for Rs. 946.65 crore.
- The company sold goods to the customers through brokers but accounted the sales to said debtors/parties instead of the brokers.
- Recording the sale transactions to customers (debtors) were not in compliance of IND AS 115 as performance obligation of transferring risk and rewards of goods were not completed by the company.

- Legal notices and recovery letters were served to the debtors of the company even though the Noticees had stated that debtors did not know the company.
- Legal notice was issued during FYs 2015 to 2020. Further, company issued the recovery letter in FY 2018-19. In normal case, reference of the earlier issued legal notice/s should have been mentioned in the recovery letter/s, however, company has not mentioned any reference of the legal notice/s in the recovery letter/s.
- The company has failed to provide the details of communication in respect of the legal notices and recovery letters. Recovery letters don't have details of broker/s from whom the debtors (customers) had purchased goods, details of goods, etc. Even the letters don't have full signature. It is also observed that the said recovery letters and the legal notices were not found to be issued to the abovementioned 25 debtors.

Further, IND AS 115, inter alia, states that an entity shall account for a contract with a customer only when all of the following criteria are met:

- *“The parties to the contract have approved the contract (in writing, orally or in accordance with other customary business practices) and are committed to perform their respective obligations;*
- *The entity can identify each party's rights regarding the goods or services to be transferred;*
- *The entity can identify the payment terms for the goods or services to be transferred;*
- *The contract has commercial substance (i.e. the risk, timing or amount of the entity's future cash flows is expected to change as a result of the contract)*
- *It is probable that the entity will collect the consideration to which it will be entitled in exchange for the goods or services that will be transferred to the customer.”*

However, in the present case, the buyers and sellers are unable to identify each other and terms of payments are between brokers and customers. Hence, I find that IND AS 115 has not been complied with. Accordingly, I find that Sanwaria

has violated regulation 4(1)(a)(information to be prepared and disclosed in accordance with applicable accounting standards), 4(1)(b) (implementation of prescribed accounting standards in letter and spirit), 4(1)(c) (information provided to investors and exchanges is not misleading), 4(1)(e) (dissemination made are adequate and accurate), 4(1)(g) (listed entity shall abide by all applicable laws), 4(1)(h) (listed entity shall follow its obligations in letter and spirit), 4(1)(i)(periodic reports shall contain relevant information), 4(1)(j) (reports shall contain information that enable investors to track performance and assess current status of an entity), 4(2)(e)(i) (information to be disclosed in accordance with prescribed standards of accounting), 33(1)(a), 33(1)(c) and 34(3) (financial results to be prepared as per Generally Accepted Accounting Principles and uniform accounting practices) and 48 (compliance with applicable Accounting Standards) of the LODR Regulations.

Additionally, considering other factors, such as absence of underlying documents relating to sales (possibility of dealing with parties through memoranda invoices just to avoid transactions in books), absence of appropriate documents with regard to recovery efforts made by the company, high outstanding receivable amount, writing off of debtors to the tune of Rs. 946.65 crore in FY 2019-20, the sales transactions appear fictitious and fraudulent in nature that have resulted in overstatement of revenue and debtors of Sanwaria. Regulations 3(b), (c) and (d) of the PFUTP Regulations, inter alia, prohibit employment of any manipulative/deceptive device, scheme or artifice to defraud in connection with dealing in securities; engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with dealing in securities. Regulation 4 (1) of the PFUTP Regulations states that no person shall indulge in a manipulative or unfair trade practice. Regulation 4(2)(e) prohibits any act or omission amounting to manipulation of the price of security; regulation 4(2)(f) prohibits publishing any information which is not true; regulation 4(2)(k) prohibits disseminating information known to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities; and regulation 4(2)(r) prohibits knowingly planting false or misleading news which may induce sale or purchase of securities. Accordingly, I find that

Sanwaria has violated regulation 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of SEBI (PFUTP) Regulations, 2003 read with section 12A(a), (b) and (c) of the SEBI Act.

Issue 11 – Whether the above cited misrepresentation of financials of the company interfered with the normal mechanism of price discovery of the Sanwaria scrip?

Allegations in the SCN

It was observed that, as the financial statements of Sanwaria were allegedly manipulated and the figures contained therein were allegedly significantly misstated/misrepresented, the same has led to publication of untrue and misleading financial results of the company during FY 2017-18, 2018-19 and 2019-20. The same were allegedly false and misleading and operated as deceit not only to the company's shareholders but also on the public being misled about the financial health of the company.

The price of the scrip of Sanwaria had gone up considerably carrying an impression of good financial status of the company among the investors, on account of large-scale misstatements in the accounts. The scrip was trading at Rs. 3.95 (adjusted) on April 03, 2017 (First trading day of investigation period), touched a high of Rs. 34.75 on January 08, 2018, which declined to Rs. 2.16 (95% fall) on September 30, 2019 (Last day of investigation period). There was bonus issue in the ratio of 1:1 on July 01, 2017.

The comparison of price movement of Sanwaria with the movement of BSE Sectoral Indices - Fast Moving Consumer Goods (FMCG) and Sensex on quarterly basis, commencing from June, 2017 quarter is analysed as under:

Table 11

Quarter ending	Closing price of Sanwaria on last day of the quarter (Rs.)	% Rise/fall compare to the base value of the share price level as on Mar-17	BSE Sectoral Indices FMCG on last day of the quarter	% Rise/fall compare to the base value of the Sectoral Index level as on Mar-17	Sensex on last day of the quarter	% Rise/fall compare to the base value of Sensex level as on Mar-17
Mar-17	4.01	100 (base value)	9,270.25	100 (base value)	29,620.5	100 (base value)
Jun-17	6.96	73.56 (rise)	10,428.17	12.49 (rise)	30,921.61	04.39(rise)
Sep-17	7.39	84.29(rise)	9,772.71	05.42 (rise)	31,283.72	05.62(rise)
Dec-17	26.3	555.86 (rise)	10,695.18	15.37(rise)	34,056.83	14.98(rise)
Mar-18	19.95	397.50 (rise)	10,290.14	11.00(rise)	32,968.68	11.30(rise)
Jun-18	11.05	175.56 (rise)	11,213.28	20.96(rise)	35,423.48	19.59(rise)
Sep-18	11.72	192.27 (rise)	11,502.75	24.08(rise)	36,227.14	22.30(rise)
Dec-18	11.32	182.29 (rise)	11,829.07	27.60(rise)	36,068.33	21.77(rise)
Mar-19	9.10	126.93 (rise)	11,741.51	26.66 (rise)	38,672.91	30.56(rise)
Jun-19	5.70	42.14 (rise)	11,361.92	22.56(rise)	39,394.64	33.00 (rise)
Sep-19	2.16	46.13 (fall)	11,766.98	26.93(rise)	38,667.33	30.54 (rise)

Company's quarterly financial performance during the IP is depicted below:

Table 12

Particulars	FY 2017-18				FY 2018-19				FY 2019-20	
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Total revenue (A)	1,154.04	1,221.46	1,273.48	1,407.67	1,200.14	1,292.78	1,301.38	1,511.48	1,274.3	965.2
Expenditure (B)	1,135.43	1,200.41	1,248.4	1,387.73	1,167.97	1,249.7	1,258.59	1,471.39	1,231.43	1349.92
Net Profit (A-B)	18.61	21.045	25.08	19.94	32.17	43.08	42.79	40.09	42.87	384.72
% Rise/fall		13.08	19.17	20.49	61.33	33.91	0.67	6.31	6.93	997.41

It may be seen from the above that since March 2017, Sensex consistently moved upwards and maintained a higher level. The BSE Sectoral Indices-FMCG also remained in the stable range of 100-127% compared to March 2017. On the contrary, the Sanwaria scrip was trading at low price till September, 2017 quarter. Thereafter, the scrip price rose significantly up to the level of Rs. 26.3 and then started falling which continued to Rs. 2.16 level when the company reported huge losses in September 2019 quarter.

As regards the company's financial performance, it is alleged that the company presented a rosy picture of its profitability and showed steady profits during FY 2017-18, 2018-19 and first quarter 2019-20. However, in the second quarter of FY 2019-20, the company declared substantial losses (997.41% decline) from June quarter level of FY 2019-20 and therefore, the scrip was rapidly falling. It was observed that company has made provision of Rs. 200 crores on debtors in September 2019. Further, on September 24, 2019 one of the directors and Audit Committee member – Shilpi Jain abruptly resigned. Further, on the same date, statutory auditors of the company - M/s. SPJV & Co also resigned. All these adverse events, in addition to its dismal financial performance in September 2019 quarter, made huge impact on the company's future prospects/scenario and accordingly, the market/ investors' reaction came in the form of huge decline in the scrip price.

Inflation of sales and profits by the company impacts the market price of its scrip and has a direct bearing on the investment decision of an investor. Thus, it is observed that the activity of inflation of the company's sales and profits had interfered with the normal mechanism of price discovery and integrity of securities markets and created a misleading appearance with respect to its scrip price movement. Financial statements published by the company are relied upon by the investors in the securities markets to base their investment decisions and misrepresentation of the same is fraudulent activity.

It is observed that the company concealed the true and correct picture of its financial from its stakeholders. Through above concealment, it knowingly, reported the wrong, false and misleading statements and continued to create

an impression among the investors that the disclosed misreported statements were reflecting the true and fair view of its financials. Had the above instances of misstatement/ misrepresentation in the company's financial statements been correctly mentioned and published in the form of actual financials, the scrip price would have been on declining trend instead of price rise of the scrip.

Contentions of the Noticees

The Noticees have stated that they are totally unaware of the said alleged misrepresentation in the books of accounts, if any. Shilpi Jain resigned due to her preoccupancy and personal reasons. A copy of intimation to the Stock Exchange dated September 21, 2019 with respect to resignation of Shilpi Jain is enclosed. In fact, she again joined the company as an Independent director with effect from May 20, 2020. M/s SPJV & Co., statutory auditor resigned since the father of CA Manoj Jain, one of the partners of M/s SPJV & Co. has serious health issues and he was not able to provide time to conduct the Audit. Hence, the resignation of the director and the statutory auditor was not under any adverse circumstances prevailing of the company at the relevant point of time.

Consideration of the Issue and Findings

It has been alleged that misrepresentation of financials of Sanwaria impacted the market price of its scrip and in the absence of true and fair view of the company affairs, the scrip price touched a high of Rs. 34.75 on January 08, 2018. Subsequently, the scrip price declined to Rs. 2.16 on September 30, 2019 when the company reported huge losses in September 2019 quarter. Further, instance of resignation of one director, Ms. Shilpi Jain and the statutory auditor M/s SPJV & Co. have also been cited as adverse instances. In this regard, the Noticees have contended that they were unaware of alleged misrepresentation of company accounts and that the resignations of independent director and statutory auditor were for personal reasons.

The fact that the financials of Sanwaria were inflated during the investigation period has been established during the discussion of Issues 5-10 above. Also, it is well known that financial statements published by the company are relied upon by the investors in the securities markets to base their investment

decisions and misrepresentation of the same is fraudulent activity. Hence, while I grant benefit of doubt in favour of Noticees with respect to the resignation of a director and statutory auditor due to personal reasons as contended by Noticees, the decline in the scrip to Rs. 2.16 on September 30, 2019 when the company reported huge losses in September 2019 indicates that the misstatement of company financials had significant bearing on the scrip price of Sanwaria. Had the correct picture of the financial position of Sanwaria been made public, the share price of Sanwaria would not have maintained same trajectory as it did for the period from FY 2017-18, FY 2018-19 and first quarter of 2019-20. In view of the above, I find that by engaging in the act and practice of deliberate misrepresentation of financial statements, which operated as a fraud upon investors in the securities market, company has violated the provisions of Section 12A(a), (b) and (c) of the SEBI Act, 1992 and regulation 3(b), (c), (d) of the PFUTP Regulations. I also note that the act of deliberate misrepresentation of financial statements was also fraudulent and unfair trade practice in securities, thus, I find that, the company has also violated the provisions of regulation 4(1) of PFUTP Regulations. By recording inflated sales and debtors, Sanwaria was able to present a rosy picture of a thriving business and thus maintain a higher share price for the period 2017-18, 2018-19 and first quarter of 2019-20. I note that this amounted to manipulation of the price of the scrip of Sanwaria and thus I find that the company has violated the provisions of regulation 4(2)(e) of PFUTP Regulations. I note that by publishing and reporting the financial statements of Sanwaria to the stock exchange on quarterly and annual basis, which were misrepresented, I find that the company has violated the provisions of regulation 4(2)(f) of PFUTP Regulations. I note that the reporting of the misrepresented financial results of Sanwaria on quarterly and annual basis to the stock exchange under Regulation 30 of SEBI (LODR) Regulations, 2015, tantamounts to an act of 'planting misleading news which may induce sale/ purchase of securities', thereby resulting into the violation of Regulation 4 (2)(k) and 4(2)(r) of PFUTP Regulations by the company. Accordingly, I find that the company has violated regulation 3 (b), (c), (d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k) and 4(2)(r) of SEBI (PFUTP) Regulations, 2003 read with section 12A (a), (b), (c) of the SEBI Act.

Issue 12 – Whether Noticee 1 and 3 offloaded shares to avert a notional loss of Rs. 42.04 crore and Rs. 21.37 crore, respectively, by reporting misrepresented/ misstated/manipulated financials during April 2017 to September 2019?

Allegations in the SCN

During the investigation period, it was also observed that promoters of the company offloaded 12.92 crore shares as tabulated below:

Table 13

Name of promoters	Number of Share Offloaded (in crores)	% number of shareholding offloaded during IP	Remarks	Market price at the time of off market transfer/pledge invocation (Rs.)
Sanwaria Globfin Pvt Ltd	7.32	9.94	Pledge invoked	Rs. 2.18
Geeta Devi Agrawal	0.97	1.32	Off market Transfer	Approximately Average price Rs. 20
Satish Agrawal	1.32	1.79	Off market Transfer	
Gulab Chand Agrawal	2.35	3.19	Off market Transfer	
Dagdoolal Goyal	0.04	0.06	On market	Sold average market price Rs. 13.28
Beenu Garg	0.93	1.26	On market	Sold average market price Rs. 18.48
Total	12.92	17.56		

The shares held by the promoter company - Sanwaria Globfin Pvt. Ltd. were pledged with the lender. The pledge of shares was made by the Sanwaria Globfin Pvt. Ltd. in December 2015 (before the start of investigation period) and the pledge was invoked by the lender in September 20, 2019 when scrip price was Rs. 2.18. Further, it was observed that three promoters namely, Gulab

Chand Agrawal, Geeta Devi Agarwal and Satish Agrawal have also transferred their shares through off market route in late 2017 when approximately the average market price of the share was Rs. 20. It was also observed that two promoters namely Beenu Garg and Dagdoolal Goyal also sold shares on average market price at Rs. 13.28 and Rs. 18.48.

The 2 promoters/director, i.e., Gulab Chand Agarwal and Satish Agarwal, had transferred 2.35 crore and 1.32 crore shares, respectively, through off market route when price of the scrip was impacted and influenced by the misrepresented / misstated financials disseminated by the company. After the investigation period, company went in to CIRP process and price of the scrip had reduced drastically.

Since shares were transferred through off market route, actual sale consideration could not be ascertained during the investigation period. Therefore, closing market price on the day of off market transfer has been taken as transferred share value. The scrip price on the date of announcement of CIRP on June 03, 2020 was Rs. 3.10, which could be real worth of the share. Calculation of notional avoidance of loss is as under:

Table 14

Promoter name	Date in 2017	No. of shares transferred through off market route	Closing market price on the day of off market transfer	Transferred shares value (shares* price)	Transferred shares value on the date of CIRP (no. of shares *3.10)	Notional Avoidance of loss
Gulab Chand Agarwal	09/11	5,00,000	28	1,39,50,000	15,50,000	1,24,00,000
	15/11	20,00,000	23	4,56,00,000	62,00,000	3,94,00,000
	17/11	50,00,000	23	11,37,50,000	1,55,00,000	9,82,50,000
	23/11	50,00,000	19	9,55,00,000	1,55,00,000	8,00,00,000
	01/12	30,00,000	23	6,94,50,000	93,00,000	6,01,50,000
	08/12	20,00,000	21	4,10,00,000	62,00,000	3,48,00,000
	14/12	60,20,000	19	11,40,79,000	1,86,62,000	9,54,17,000

	Total	2,35,20,000		49,33,29,000	7,29,12,000	42,04,17,000
Satish Kumar Agarwal	11/12	50,00,000	19.85	9,92,50,000	1,55,00,000	8,37,50,000
	14/12	82,00,000	18.95	15,53,90,000	2,54,20,000	12,99,70,000
	Total	1,32,00,000		25,46,40,000	4,09,20,000	21,37,20,000

Thus, it is alleged that the notional loss averted by Gulab Chand Agarwal and Satish Agarwal has been estimated as Rs. 42.04 crore and Rs. 21.37 crore, respectively, by reporting misrepresented/ misstated/manipulated during the period April 01, 2017 to September 30, 2019.

Contentions of the Noticees

Noticee 1:

The details of the shares transferred in off market are as under:

Table 15

Trade Date	Counter Party Name, PAN and Address	Shares transferred
09.11.2017	Sanwaria Agro Oils Ltd. Sanwaria Agro Oils Ltd further transferred 5,00,000 to N.S. Agrawal Trading Corporation Ltd. on 10.11.2017	5,00,000
15.11.2017	N.S. Agrawal Trading Corporation Ltd. ("N.S. Agrawal Trading")	20,00,000
17.11.2017	N.S. Agrawal Trading	50,00,000
23.11.2017	N.S. Agrawal Trading	50,00,000
01.12.2017	N.S. Agrawal Trading	30,00,000
08.12.2017	N.S. Agrawal Trading	20,00,000
14.12.2017	Ashok Dall and Oil Mills	60,20,000

As on September 28, 2017, Noticee 1 was holding 8,12,38,972 shares (i.e.11.04% of total shareholding of Sanwaria) and he had disposed of

2,35,20,000 shares of Sanwaria. On various dates during November 09, 2017 to December 14, 2017, he had transferred shares in off market to N S Agrawal Trading and Ashok Dal Oil Mills (both being partnership firms of which I am the Partner) and Sanwaria Agro Oils Ltd. Ashok Dal Oil Mills was holding 1,96,000 shares of Sanwaria, allotted during the IPO in the year 1992, which increased to 2,35,20,000 shares on account of split/bonus shares issued by the Company. Since the shares could not be held in the name of a partnership firm, as per law, the same were held in the name of the Partner Mr. Gulab Chand Agrawal. When this was noticed in the year 2017, the said number of 2,35,20,000 shares were transferred by Mr. Gulab Chand Agrawal to Ashok Dal Oil Mills (through Ashok Dal Oil Mills, N S Agrawal Trading and Sanwaria Agro Oils Ltd). In fact, even on the Summary statement holding of specified securities on the BSE website with respect to Shareholding pattern as on Quarter ending December 2017 it is *inter alia* mentioned in the Notes that “1) Please note that Promoter Gulab Chand Agrawal was holding 23520000 no. of Equity Shares on behalf of M/s Ashok Dal & Oils Mills (As Partnership firm cannot hold shares in the firm’s name) and as per the disclosure received from him dated 01.02.2018; 23520000 shares were already transferred to M/s Ashok Dal & Oils Mills.” A copy of the Summary statement holding of specified securities on the BSE website with respect to Shareholding pattern as on Quarter ending December 2017 of Sanwaria is enclosed. In fact, relevant disclosure was made under SEBI (PIT) Regulations, 2015. A copy of disclosure made under the SEBI (PIT) Regulations, 2015 is enclosed.

SEBI has already passed an order dated November 29, 2021 passed by Ld. Adjudicating Officer, SEBI with respect to Gulab Chand Agrawal in the matter of Sanwaria. The said order was in context of disclosure and a penalty of Rs 10 lakh was imposed on him. Aggrieved by the said Order, Noticee 1 had filed an appeal before the Hon’ble Tribunal and by Order dated June 13, 2022, the Hon’ble Tribunal has opined that alleged violations is technical as the Noticee and the other Appellants thereto had transferred the shares of the company in the name of the partners for which no loss was caused to the investors. Considering the aforesaid, that it was only a technical violation, the penalty was reduced to Rs 1 lakh. A copy of Order dated June 13, 2022 passed by the

Hon'ble Tribunal in the matter of *Ashok Dal & Oil Mills Vs SEBI* (Appeal No. 254 of 2022) and other connected matters has been submitted to SEBI.

The transfer was in November 2017 and December 2017 and the alleged notional loss avoided is calculated comparing November 2017 and December 2017 with the value of shares as on CIRP (June 03, 2020) without any basis. In fact, the investigation period is April 01, 2017 to September 30, 2019 and the first Annual Report in respect of the deficiencies in reporting, if any for the Financial Year 2017-2018 was reported only on October 2018. Hence, it is untenable to compare the same to allege adverse inference against the Noticees. In fact, the rationale for the said off market is mentioned herein above and the same has also been accepted by SEBI in the order dated November 29, 2021 passed by Ld. Adjudicating Officer, SEBI with respect to Gulab Chand Agrawal in the matter of Sanwaria.

Noticee 3:

The details of shares transferred by Noticee 3 in off market are as under:

Table 16

Trade Date	Counter Party Name, PAN and Address	Sell/Transfer Quantity
11.12.2017	Shrinathji Dall Mills	50,00,000
14.12.2017	Shrinathji Dall Mills	82,00,000

Noticee 3 is partner of Shrinathji Dal Mill, a partnership firm. The shares which belonged to Shrinathji Dal Mill were held in the name of the partner as a partnership firm could not hold shares in its name. Hence, as a part of the correction of the anomaly, 1,32,00,000 shares which actually belonged to the partnership firm Shrinathji Dal Mill, but wrongly shown as belonging to Mr. Satish Kumar Agarwal was transferred by him to the Partnership Firm on December 11, 2017 and December 14, 2017 by way of an off-market transfer. In fact, even on the Summary statement holding of specified securities on the BSE website with respect to shareholding pattern as on Quarter ending December 2017, it is, *inter alia*, mentioned in the Notes that “2)Further; Promoter Satish Agrawal

was holding 13200000 no. of Equity Shares on behalf of M/s Shrinathji Dal Mills (As Partnership firm cannot hold shares in the firm's name) and as per the disclosure received from him dated 01.02.2018; 1,32,00,000 shares were already transferred to M/s Shrinathji Dal Mills." A copy of the Summary statement holding of specified securities on the BSE website with respect to Shareholding pattern as on Quarter ending December 2017 of Sanwaria has been submitted to SEBI. Relevant disclosure was made under SEBI (PIT) Regulations, 2015.

SEBI, in its AO order dated December 24, 2021 with respect to Noticee 3 imposed a penalty of Rs. 4 lakh. The penalty was reduced to Rs. 1 lakh by Hon'ble SAT.

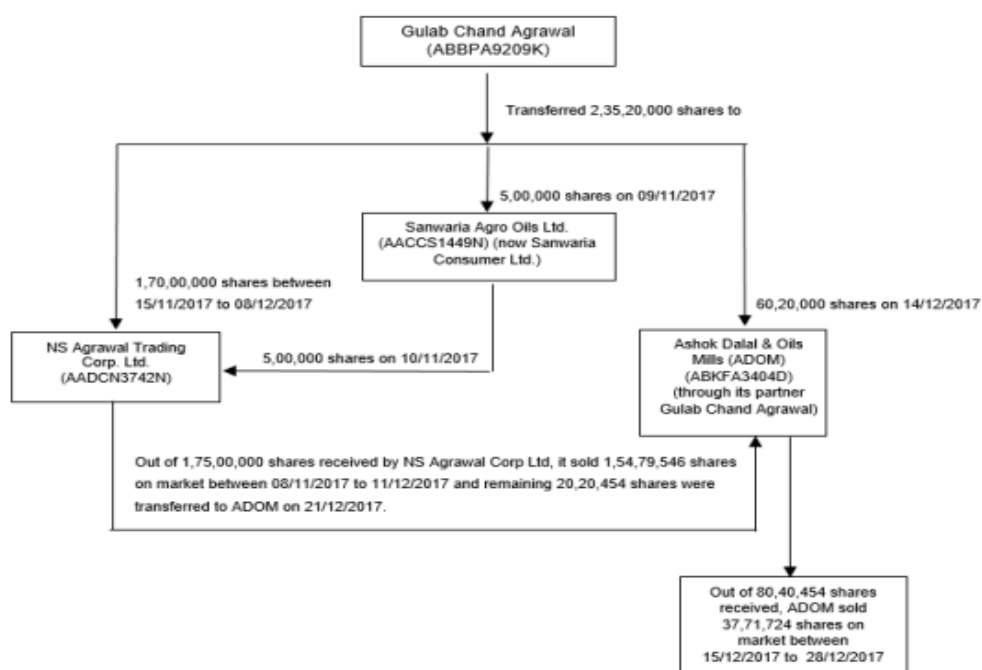
Further, the transfer of shares was in December 2017 and the alleged notional loss avoided is calculated comparing December 2017 with the value of shares as on CIRP (June 03, 2020) without any basis. The investigation period is April 01, 2017 to September 30, 2019 and the first Annual Report in respect of the deficiencies in reporting, if any, for the Financial Year 2017-2018 was reported only on October 2018. Hence, it is untenable to compare the same to allege adverse inference against the Noticees. In fact, the rationale for the said off market is mentioned herein above and the same has also been accepted by SEBI in the order dated December 24, 2021 passed by Ld. Adjudicating Officer, SEBI with respect to Satish Kumar Agrawal in the matter of Sanwaria.

Consideration of the Issue and Findings

It has been alleged that Noticee 1 and 3 off loaded shares of Sanwaria through off market route to avert notional loss of around Rs. 42.04 crore and Rs. 21.37 crore, respectively. In this regard, the Noticees have alleged that the shares were transferred to partnership firms where the Noticees were partners and there was no loss to investors. Noticees have also referred to adjudication orders dated November 29, 2021 and December 24, 2021 by SEBI to contend that the violations was in context of disclosure and SEBI has already imposed penalty on Noticee 1 and 3 in this regard. I have perused the SEBI Adjudication orders dated November 29, 2021 and December 24, 2021 and I note that the

orders are with respect to delay in submitting disclosures and for not obtaining pre-clearance for the transactions executed as required under the PIT Regulations. Further, I note that the orders are with respect to the first leg of transactions wherein the shares were transferred from Noticee 1 and 3 to the partnership firms wherein they were partners. The second leg of transactions wherein the partnerships sold the shares, if any, in the market to investors to avoid loss is not covered in the investigation. However, on perusal of the adjudication order dated November 29, 2021 referred to by Noticee 1 in his reply, I have observed that it has been noted in the said order that out of the 2,35,20,000 shares transferred to Sanwaria Agro Oils Limited, NS Agrawal Trading Corp. Limited and Ashok Dalal & Oils Mills, 1,92,51,270 shares (i.e. around 82% of total shares transferred) were sold in the market. The pictorial representation of transfer of shares as available in adjudication order dated November 29, 2021 is reproduced below for reference:

Figure 1



These 1,92,51,270 shares were sold in the market between November 08, 2017 to December 11, 2017 (when the median of weighted average price was Rs.

21.375) and from December 15, 2017 to December 28, 2017 (when the median of weighted average price was Rs. 23.03). Thus, I find that the Noticee 1 has chosen not to refer to this data captured in the adjudication order dated November 29, 2021, which proves that loss was averted by transfer of shares to general investors and partnership firms were only used as conduits for such offloading of shares.

Further, on perusal of adjudication order dated December 24, 2021 referred to by Noticee 3, I find that no data with respect to further selling of shares by Shrinathji Dall Mills has been mentioned. However, I observe that another Adjudication Order dated December 24, 2021 in the matter of Shrinathji Dall Mills, which is available on SEBI website, mentions details of shares sold by Shrinathji Dall Mills during December 2017. I have observed from the Adjudication Order in the matter of Shrinathji Dall Mills that out of the 1,32,00,000 shares transferred to Shrinathji Dall Mills by Noticee 3, 1,09,95,774 (i.e., 83.3% of all shares received) were sold in the market. The table of sale of shares by Shrinathji Dall Mills in the said Adjudication Order dated December 24, 2021 is reproduced below for reference:

Table 17

Sl. No.	Date	Number of shares received/ bought	No. of shares sold (both stock exchanges)	Buy Value (Rs) in lakhs*	Sell Value (Rs) in lakhs*
1	11/12/2017	50,00,000	0	992.50	0
2	12/12/2017	0	6,19,795	0	117.48
3	13/12/2017	0	9,73,000	0	185.38
4	14/12/2017	82,00,000	6,81,851	1,553.90	130.25
5	15/12/2017	0	11,00,000	0	218.04
6	18/12/2017	0	15,00,000	0	311.20
7	19/12/2017	0	6,00,000	0	130.80
8	20/12/2017	0	14,00,000	0	318.19
9	21/12/2017	0	5,60,000	0	129.45
10	22/12/2017	0	4,20,000	0	97.16
11	26/12/2017	0	5,00,000	0	120.00
12	27/12/2017	0	13,29,926	0	335.00
13	28/12/2017	0	13,11,202	0	330.08
	Total	1,32,00,000	1,09,95,774		

*Value = No. of shares x closing price of BSE Limited on the date of transfer.

Thus, I find that the Noticee 3 has chosen not to refer to this data captured in the adjudication order dated December 24, 2021 in the matter of Shrinathji Dall

Mills (where Noticee 3 is a partner and hence, is aware of the said Adjudication Order), which proves that loss was averted by transfer of shares to general investors and partnership firm was only used as conduit for such offloading of shares.

Having established that 1,92,51,270 shares were off loaded to general investors by Noticee 1 and 1,32,00,000 shares were off loaded to general investors by Noticee 3, I proceed towards discussing the contentions of Noticees with respect to calculation of loss averted by the two Noticees.

In this regard, Noticees 1 and 3 have contended that for calculation of notional loss the value of shares during November 2017 and December 2017 has been compared with value of shares as on CIRP (June 03, 2020) while the investigation period is from April 2017 to September 2019 and the first Annual Report in respect of the deficiencies in reporting, if any, for the Financial Year 2017-2018 was reported on October 2018. In this regard, in the discussion of Issue 11 above, it has been noted that the scrip of Sanwaria opened at a price of Rs. 3.95 (adjusted) on April 03, 2017 (First trading day of investigation period), touched a high of Rs. 34.75 on January 08, 2018, which declined to Rs. 2.16 (95% fall) on September 30, 2019 (Last day of investigation period) and there was bonus issue in the ratio of 1:1 on July 01, 2017. It has also been noted that the company presented a rosy picture of its profitability and showed steady profits during FY 2017-18, 2018-19 and first quarter 2019-20. However, in the second quarter of FY 2019-20, the company declared substantial losses to the extent of 997.41% declined from June quarter level of FY 2019-20 and therefore, the scrip was rapidly falling. Hence, I find that for the calculation of loss averted, the price during the November–December 2017 (when the shares were off loaded in the market) must be compared with the price prevailing at the end of investigation period, i.e. Rs. 2.16, which is even lower than Rs. 3.10 at the time the company went in to CIRP. Accordingly, I find that Noticees 1 and 3 have averted significant losses by off-loading of shares.

I note that Regulations 3(b), (c) and (d) of the PFUTP Regulations, inter alia, prohibit employment of any manipulative/deceptive device, scheme or artifice to defraud in connection with dealing in securities; engaging in any act, practice,

course of business which operates or would operate as fraud or deceit upon any person in connection with dealing in securities. Regulation 4(1) of the PFUTP Regulations states that no person shall indulge in a manipulative or unfair trade practice. Thus, I find that Noticee 1 and 3 have violated regulations 3(b), (c) and (d) and regulations 4(1) of the PFUTP Regulations read with Sections 12A (a), (b), (c) of the SEBI Act.

Issue 13 - Whether Noticees 1 to 4 are liable for the alleged misrepresentation/misstatement of financials of Sanwaria and the resultant price manipulation?

Allegations in the SCN

Noticee 1 being CMD of Sanwaria, was involved in the company's widespread financial misstatements. Further, it is alleged that he is also responsible for furnishing untrue and fraudulent financial statements to the Board of Directors of Sanwaria which led to publication of untrue and misleading financials of the company. It is further alleged that Noticee 1, being the CMD of the Company, used a dubious plan, device and artifice to defraud the investor/shareholders by misrepresenting the financial statements of Sanwaria, a listed company. Thus, Noticee 1 is alleged to have failed to perform his duties and obligations which resulted in publication of misrepresented/misstated and misleading financial statements of the Company.

Noticees 2 and 3 had joined the Company in 1991 and being Whole Time Directors, were part of Board of Directors of Sanwaria. They had attended all the Board meetings held during the investigation period. They had been at the forefront of the company's growth and playing a vital role in the business development. They were directly involved and responsible for the day-to-day management. Further, it is noted that Noticee 2, being the Whole Time Director and one of the signatories of the financial statements, had certified the company's annual accounts for FY 2017-18 stating that financial statements present a true and fair view and are in compliance with existing accounting standards, applicable laws. They were involved and responsible for company's financial misstatements during the investigation period with knowledge and

intention to deceive or induce investors and shareholders for carrying out fraud. Further, Noticee 2 is also responsible for furnishing untrue and fraudulent financial statements to the company's Board of Directors which led to publication of untrue and misleading financials of the company.

It is alleged that Noticee 3 - promoter & Whole Time Director had transferred 1.32 crore shares through off market in FY 2017-18 when scrip price was impacted and influenced by the misrepresented/misstated financials disseminated by the company.

It is also alleged that Noticees 2 and 3, being in the position of whole time directors of the Company, implemented a dubious plan, device and artifice to defraud the investor/shareholders by misrepresenting the financial statements of Sanwaria, a listed company. Thus, it is alleged that they failed to perform their duties and obligations which resulted in publication of misrepresented/misstated and misleading financial statements of Sanwaria.

Noticee 4 was the CFO of the company throughout the investigation period. He was a KMP in the company by virtue of his designation as the CFO in terms of the Companies Act, 2013. It is noted that Noticee 4 had certified the company's annual accounts FY 2017-18 and 2018-19 that the financial statements present a true and fair view of the Company's affairs and are in compliance with existing accounting standards, applicable laws and regulations. As the financial statements of Sanwaria were found to be misstated at very large scale which includes non-consolidation of accounts, fictitious debtors and sales, overstatement of revenue and stock, Noticee 4, being CFO of the company, is responsible for furnishing untrue fraudulent/manipulated financial statements to the company's Board of directors. Also the certification given by him is incorrect and fraudulent in nature.

The abovementioned irregularities/ manipulation in the company's books of accounts during the investigation period could not have taken place without approval (either written or oral) or knowledge of the CFO, who heads the

finance function of Sanwaria. It therefore appears that he was involved in the falsification/ fabrication of books of the accounts of the company and thus, is alleged to have manipulated the company's financial statements with knowledge and intention to deceive or induce investors and shareholders for carrying out fraud.

Further, it is also the responsibility of the company's CFO to place the RPTs in the Audit Committee, however, it is alleged that he failed to place the same before the Audit Committee for obtaining the approval in violation of Regulation 23 (2) of the LODR Regulations.

Thus, it is alleged that Noticee 4, being the CFO of the Company, implemented a dubious plan, device and artifice to defraud the investor/shareholders by misrepresenting the financial statements of Sanwaria, a listed company. Being CFO of the company, he was in charge of financial functions/operations and decision making process and therefore, responsible for the violation committed by the company. Accordingly, it alleged that Noticee 4 failed to perform his duties and obligations which resulted in publication of misrepresented/misstated and misleading financial statements of Sanwaria.

Contention of the Noticees

Noticees 1 to 4 have stated the following:

- Regulation 4(1) of the LODR Regulations deals with the company and not directors. Hence the same is not applicable to them. Regulation 4(2)(e) of the (LODR) Regulations 2015 pertains to the timely and accurate disclosure on all material matters including the financial situation, performance, ownership and governance by the Listed Entity. In view thereof, it is submitted that the said clause deals with the company and not directors. Hence, the same is not applicable to them.
- Regulation 33 (1)(a), 33(1)(c), 33(3)(b) of SEBI (LODR) Regulations 2015 deal with preparation, approval and authentication and submission of financial results by the listed entity. In view thereof, it is submitted that the said clause

deals with the company and not directors. Hence the same is not applicable to them.

- Regulation 34(2)(b) and 34(3) of SEBI (LODR) Regulations 2015 deals with the submissions by listed entity to the Stock exchange. In view thereof, it is submitted that the said clause deals with the company and not directors. Hence the same is not applicable to them.
- Section 48 of SEBI (LODR) Regulation pertains only to the company and not directors. Hence, the said regulation is not applicable to them.
- In the case of proceedings initiated against the Company, Section 27 of SEBI Act, 1992 has stipulated the role of person to be held responsible for the alleged offence. Prior to the amendment made vide the Finance Act, 2018 with effect from March 08, 2019, it was only the offence by the Company for which the proceedings ought to have been initiated against the persons. The word 'offence' has been substituted with the word 'contravention' with effect from March 08, 2019. The present case is only about contravention, if any, by the company. They had not been negligent in performing their duties in any manner.

Additionally, Noticees 2 to 4 have submitted as follows:

- Regulation 17(8) of SEBI (LODR) Regulations pertains to the CFO and not directors. Hence the same is not applicable to them.
- They have not come across any findings/observation as to how and in what manner, Noticees 2 to 4 have failed to exercise duty of care and that they have failed to discharge their fiduciary responsibility. They have exercised duty of care and have discharged their fiduciary responsibility in proper and complete manner and there has been no lapse on their part in any manner whatsoever.
- During the relevant time, they were not even aware of the day to day functioning of the company. Noticee 1 was the MD of the company and used to manage the overall operations of the company.
- They have performed their duties and obligations as the Directors and the CFO of the company in an efficient, effective and rule compliant manner.

Further, the Noticee 1, in his reply, has relied on the following case laws:

- *R. K. Global v/s SEBI* to contend that fraud is a serious charge and cannot be established on mere suspicion and should have firmer ground to stand upon.
- *Narendra Ganatra v/s SEBI* to contend that higher degree of probability is required for the charge of creating false and misleading appearance of trading.
- *Sterlite Industries (India) Ltd. V. SEBI* to contend that mere conjectures and surmises are not adequate to hold a person guilty of price manipulation.
- *Videocon International v/s SEBI* to contend that Regulation 4(a) of the PFUTP Regulations attracts only if the transaction is made so as to induce any other person to sell or purchase securities.
- *Parsoli Corporation v/s SEBI* that charge of fraud cannot be pressed against an individual on random allegations based on surmises and conjectures.
- *Ram Sharan Yadav v/s Thakur Muneshwar Nath Singh* to contend that charge of corrupt practice has to be proved by convincing evidence and not merely by preponderance of probabilities.

Additionally, Noticee 1 has made following broader submissions with respect to the allegations raised against him in the SCN.

- Sections 11 and 11B of the Act have been used by SEBI variously to issue an extremely wide range of directions, purporting to act in the interests of the investors and the securities market. It is incumbent for SEBI to provide notice of what specific measure SEBI is contemplating, so that we are able to present my case on the suitability / appropriateness or otherwise of the specific measure proposed. For this, the Noticee has relied upon the case of *Gorkha Security Services v. Govt. of NCT of Delhi & Ors.* and *Royal Twinkle Star Club Private Ltd v. SEBI*, to contend that it would be incumbent for a show cause notice to contain the exact nature of the measure that it proposes to take, failing which, the order passed would be violative of the principles of natural justice and would be liable to be set aside.

Also, the Noticees 2 to 4 have relied on the following case laws:

- Hon'ble Supreme Court order in the matter of *Nand Kishore Prasad Vs. State of Bihar* and others to contend that tribunal should arrive at its conclusion on the basis of some evidence, i.e., evidential material which with some degree

of definiteness points to the guilt of the delinquent in respect to the charges against them.

- Hon'ble Supreme Court order in the matter of *L.D. Jaisinghani Vs. Naraindas N. Punjabi* to contend that the evidence should be of a character which should leave no reasonable doubt about guilt.
- Hon'ble Supreme Court order in the matter of *State of Haryana Vs. Brij Lal Mittal and Others*, *Municipal Corporation of Delhi Vs. Ram Kishan Rohtagi* and others, Hon'ble SAT order in the matter of *Sayanti Sen Vs. SEBI*, SEBI order in the matter of *Aamazan Capital Limited*, SEBI order in the matter of *Shri Harish Nandkishor Surekha*, SEBI AO order in the matter of *Shri Bakul Ramniklal Parekh and Others*, *P.G. Electroplast Ltd. and Others Vs. SEBI* to contend that the vicarious liability of a person for being prosecuted for an offence committed under the Act by a company arises if at the material time he was in charge of and was also responsible to the company for the conduct of its business. Simply because a person is a director of the company it does not necessarily mean that he fulfils both the above requirements so as to make him liable.

Consideration of the Issue and Findings

I note that the company is in CIRP and upon perusal of the case laws cited by the Noticees, I note that the main contention of the Noticees is with respect to the role played by directors and CFO in the alleged misrepresentations of financials of Sanwaria. Thus, I proceed to discuss the role played by the Noticees in the misrepresentation of financials of Sanwaria. To ascertain the liability of the director or other officer associated with the obligations cast on the listed entity, reference is drawn to Section 27(2) of the SEBI Act, which states that where a contravention under the SEBI Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

In this regard, I note that the hierarchy in a Corporate Structure is designed in such a way that adequate checks and balances are available to ensure proper preparation and true and fair reporting of its financial position to the public and Chairman/Whole Time Director/CFO are key persons for such a hierarchy to work properly in the interest of the company and its shareholders.

Further, in *N Narayanan vs Adjudicating Officer*, Sebi on April 26, 2013, Hon'ble Supreme Court of India held at para 33 that *"Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602 that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provide against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company even superficially."* Further, in *SEBI vs. Gaurav Varshney* (2016) 14 SCC 430 at para 52 it has been held that *"officers of a company who are responsible for acts done in the name of the company are sought to be made personally liable for acts which result in criminal action being taken against the company. It makes every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of business of the company, as well as the company, liable for the offence."* Having noted this, I proceed to elaborate on the role played by each Noticee in misrepresentation/manipulation /misstatement of financials of Sanwaria.

Role of Noticee 1

I note that Noticee 1 was the Chairman of Sanwaria during the IP and he certified the company's annual accounts for FY 2017-18 and 2018-19 stating that financial statements present a true and fair view and are in compliance with existing accounting standards, applicable laws and regulations. Further, positive financial statements lead to increase in investor confidence that results

in higher demand for a company's scrip leading to higher share price. Therefore, I find that Noticee 1 is responsible for the violation of regulation 33(1)(a) and 33(1)(c) that require financial statements to be prepared as per Generally Accepted Accounting Principles and uniform accounting practices for all periods. Noticee 1 is also responsible for violation of regulation 34(2)(b) and 33(3)(b) which require listed entities to submit consolidated financial results. Noticee 1 has violated regulations that require financial results to be prepared in accordance with accounting standards and devoid of misrepresentation, i.e., regulation 34(3) and 48 read with Regulation 4(1)(a), 4(1)(b), 4(1)(c), 4(1)(d), 4(1)(e), 4(1)(g), 4(1)(h), 4(1)(i) and 4(1)(j) of the LODR Regulations, 2015. Further, I note that Noticee 1 has falsely certified that the financial statements of the Company for the IP, present a true and fair view of the Company's affairs and are in compliance with existing accounting standards, applicable laws and regulations. Thus, I find that Noticee 1 has violated the provision of regulation 17(8) of the LODR Regulations, 2015. I note that, considering the financial statements of Sanwaria have been found to be misrepresented and manipulated, Noticee 1 being the Chairman of Sanwaria, deliberately chose to furnish untrue and fraudulent compliance certificate under Regulation 17(8) of the LODR Regulations. Therefore, I find that Noticee 1 has also violated the provisions of Section 12A(a), (b), (c) of SEBI Act and regulation 3(b), 3(c), 3(d), regulation 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) read with regulation 4(1) of the PFUTP Regulations. For failing to ensure the integrity of the listed entity's accounting and financial reporting systems, I find that Noticee 1 has also violated Regulation 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7) and 4(2)(f)(iii)(7) of the LODR Regulations.

Role of Noticees 2 and 3

Noticee 2 was Whole Time Director and part of the Board of directors of Sanwaria. He had attended all the Board meetings held during the investigation period, was one of the signatories of the financial statements and had certified the company's annual accounts for FY 2017-18 stating that financial statements present a true and fair view and are in compliance with existing accounting standards, applicable laws. Noticee 3 was part of the Board of directors of Sanwaria and had attended all the Board meetings held during the investigation

period. As stated earlier, positive financial statements lead to increase in investor confidence that results in higher demand for a company's scrip leading to higher share price. Noticee 2 and 3 have claimed that they have not come across any findings/observation as to how and in what manner they have failed to exercise duty of care and that they have failed to discharge their fiduciary responsibility. Further, Noticee 2 and 3 have stated that during the relevant time, they were not even aware of the day to day functioning of the company. However, I find this claim by the said Noticees to be a mere bald assertion without any supporting documents only to escape from the consequences of the present proceedings. The Noticees have not stated the functions/portfolios that they were handling. Additionally, irrespective of the departments being looked after by them at Sanwaria, the obligation to authenticate and approve the financial statements under Regulation 33(2)(a) and 33(2)(d) of the LODR Regulations by board of directors is direct and definite. Thus, the Noticees 2 and 3 cannot abdicate their accountability of approving the company financials. In view of the above, I find that Noticee 2 and 3 are responsible for the violation of regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of the PFUTP Regulations read with Section 12A(a), (b), (c) of the SEBI Act for causing to publish misleading financials that operated as fraud on investors. Additionally, for not ensuring that the financial statements of Sanwaria are as per prescribed Accounting Standards and devoid of misrepresentation, I find that Noticee 2 and 3 have violated regulations 4(1), 4(2)(e), 33(1)(a), 33(1)(c), 33(3)(b), 34(2)(b), 34(3) and 48 of the LODR Regulations read with Section 27 of SEBI Act. For failing to ensure the integrity of the listed entity's accounting and financial reporting systems, I find that Noticees 2 and 3 have also violated regulation 4(2)(f)(i)(2), 4(2)(f)(ii)(2), 4(2)(f)(ii)(6), 4(2)(f)(ii)(7) and 4(2)(f)(iii)(7) of the LODR Regulations.

Role of Noticee 4

Noticee 4 was the CFO of the company during the IP and had certified the company's annual accounts for FY 2017-18 and 2018-19 that the financial statements present a true and fair view of the Company's affairs and are in compliance with existing accounting standards, applicable laws and

regulations. In view of the same, I find that the certificates issued by Noticee 4 under Regulation 17(8) of the LODR Regulations, certifying that the financial statements of Sanwaria for the IP do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading, turns out to be false. I note that being the CFO of Sanwaria, Noticee 4 deliberately chose to furnish such false certificates to facilitate the scheme of fraudulent disclosure carved out by Noticees 1, 2 and 3. Further, positive financial statements lead to increase in investor confidence that results in higher demand for a company's scrip leading to higher share price. In view of the above, I note that Noticee 4 has violated the provisions of regulations 3(b), 3(c), 3(d), 4(1), 4(2)(e), 4(2)(f), 4(2)(k), 4(2)(r) of the PFUTP Regulations read with Section 12A(a), (b), (c) of the SEBI Act for causing to publish misleading financials that operated as fraud on investors. Additionally, I find that Noticee 4 has violated regulations 4(1), 4(2)(e), 17(8), 33(1)(a), 33(1)(c), 33(3)(b), 34(2)(b), 34(3) and 48 of the LODR Regulations read with Section 27 of SEBI Act for not ensuring that Sanwaria's financials are prepared as per the prescribed accounting standards are devoid of any misrepresentation. However, I find that there is no material on record to establish that Noticee 4 violated regulation 23(2) of the LODR Regulations, which requires that all RPTs shall require approval of the audit committee.

14. Further, the Noticees have contended that the SCN must contain the exact nature of the measure that it proposes to take, failing which, the order passed would be violative of the principles of natural justice and would be liable to be set aside. In this regard, upon perusal of the SCN I note that the SCN, inter alia, states as follows:

"Noticee Nos. 1 to 4 are hereby called upon to show cause as to why appropriate directions under Sections 11(4), 11(4A), 11B(1) and 11B(2) read with Section 11(1) of the SEBI Act, 1992 including directions to prohibit them from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for a particular period and directions not to be associated with any registered intermediary/ listed company and any public company which intends to raise money from public in the securities market, in

any manner whatsoever should not be issued against them and why monetary penalty under Section 15HA and 15HB of the SEBI Act, 1992 should not be imposed for the alleged violation of the provisions...”

Thus, I find that the SCN clearly states the actions being contemplated by SEBI against the Noticees for the alleged violations by specifically stating that the directions include those to prohibit them from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for a particular period and directions not to be associated with any registered intermediary/listed company and any public company which intends to raise money from public in the securities market, in any manner whatsoever and imposition of monetary penalty.

15. Additionally, with respect to the FMRs as filed by the banks and the orders passed in respect of the same, the Noticees have stated that they and the company had filed Writ Petitions before the Hon'ble High Court of Madhya Pradesh. The details in respect of the same are mentioned herein under:

Table 18

S. No.	Name of the Bank	WP No. filed with Hon'ble High Court	Present Status	Order
1	Punjab National Bank	14653/2021	Disposed of	Vide Order dated August 04, 2023, the matter was set aside, and liberty was given to Bank to proceed afresh after providing an opportunity for hearing.
2	Union Bank of India			
3	State Bank of India	8828/2022	Disposed of	Vide Order dated July 07, 2023, the matter was set aside, and liberty was given to Bank to proceed afresh after

				providing an opportunity for hearing.
4	Central Bank of India	5197/2023	Disposed of	Vide Order dated July 25, 2023, the matter was set aside, and liberty was given to Bank to proceed afresh after providing an opportunity for hearing.
5	Bank of India	10416/2020	Disposed of	Vide Order dated July 25, 2023, the matter was set aside, and liberty was given to Bank to proceed afresh after providing an opportunity for hearing.
6	Canara Bank	15578/2022	Stay	Vide Order dated August 25, 2022 it is inter alia mentioned that no coercive action shall be taken against the petitioner in pursuance to the entry made in Annexure P/19 declaring the petitioner company as fraud.

Hence, the Noticees have stated that in respect of the FMRs the proceedings are either disposed of by the Hon'ble Court/Stay has been granted. The banks had declared Sanwaria as fraud and reported FMR to RBI without Noticees' knowledge and information to the company. Hence, Noticees had not provided any response to bank in respect of FMR.

Further, the Noticees have informed that the matters in respect of Punjab National Bank, Union Bank of India, State Bank of India and Bank of India were set aside, and liberty was given to Banks to proceed afresh after providing an opportunity for hearing. In this regard, the Noticees have informed that they have received the Notice from the Banks to provide the clarification in respect of the

Audit Report and the Noticees are in the process of replying to the same. Further, in respect of the Central Bank of India the matter was set aside, and liberty was given to Bank to proceed afresh after providing an opportunity for hearing. However, no communication has been received by the Noticees from Central Bank of India in this regard. Additionally, in respect of the case of Canara Bank filed with Hon'ble High Court, vide Order dated August 25, 2022, it is inter alia, mentioned that no coercive action shall be taken against the Noticees in pursuance to the entry declaring company as fraud.

16. In this regard, it is pertinent to mention here that the FMRs and Forensic Audit Report was only the initial trigger point based on which SEBI initiated the investigation in the present matter, during which further information was called for and gathered from the company and as well as other sources. After the examination of the all the materials that were collected during the investigation from various sources and submissions by Noticees, the SCN alleging inter alia, the afore noted manipulation of books of accounts and inflation of sales/ debtors by the company, etc., was issued to the Noticees. SEBI's investigation is an independent fact finding exercise which was concluded after ascertaining and examining various documents including the Forensic Audit Report and FMRs. Thus, the writ petition with respect to FMRs before the Hon'ble High Court, in my view cannot help the Noticees escape from the directions in this order.
17. Further, the Noticees have been called upon in the SCN to show cause as to why penalty under Section 15HA and 15HB of the SEBI Act, 1992 should not be imposed on them, for the violations alleged to have been committed by the Noticees. The relevant extract of Section 15HA and Section 15HB of SEBI Act, 1992 is as under:

“Penalty for fraudulent and unfair trade practices

15HA.If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

Penalty for contravention where no separate penalty has been provided

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.”

I find that as in the present case, violations of Section 12A (a), (b), (c) of SEBI Act and provisions of the PFUTP Regulations have been made out against the Noticees in the foregoing paras, therefore, penalty under Section 15HA of SEBI Act is attracted against the Noticees. Regarding the allegation of violation of Section 15HB of SEBI Act as alleged against the Noticees, I note that for the violation of the LODR Regulations, Noticees are liable for imposition of penalty under Section 15HB of the SEBI Act which provides for penalty for failure to comply with any provision of SEBI Act, the rules or the regulations made or directions issued by SEBI for which no separate penalty has been provided. As the LODR Regulations are framed under the SEBI Act also and penalty provisions under SEBI Act (i.e. 15A to 15HAA) do not separately provide for any penalty for violation of the LODR Regulations, therefore, for violation of the LODR Regulations by Noticees, as found in this order, penalty under Section 15HB is attracted against the Noticees.

18. For imposition of penalty under the provisions of the SEBI Act, Section 15J of the SEBI Act provides as follows:

“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.”

19. In the above mentioned paras, it has been found that Sanwaria had misrepresented its financials. Such acts by a listed entity impair the operation of market forces of demand and supply of securities based and encourage information asymmetry, thus adversely affecting the rights of the investors and causing harm to the securities market. Disclosures are the foundation of the securities market. The irreversibility of the damage caused due to misrepresentation and non-disclosures underscores the preventive role of compliance with the LODR Regulations regarding timely and adequate disclosure of Company financials in a transparent manner. The integrity of the securities market is compromised when a listed company presents false financial information that is made available to the general public. In the light of the preceding elaboration of fraud-on-the-market, it is practically impossible to quantify the loss caused to investors who acted on the basis of the misrepresentation of financial statements.
20. However, I note that it has been found that there has been misrepresentation in the books of accounts of Sanwaria through recording of fictitious and fraudulent transactions, overvaluation of stock, inflation of debtors, sales and revenue and such misrepresentation interfered with the normal mechanism of price discovery. However, I observe that the SCN does not specify the amount of disproportionate gain or unfair advantage realized by the Noticees as a result of the aforementioned violations except the notional loss averted by Noticees 1 and 3 by offloading of shares in the market to general investors as discussed in preceding paragraphs.
21. I note that Sanwaria is now in Corporate Insolvency Resolution process (CIRP) and there is limited scope for pursuing enforcement actions against Sanwaria in view of it undergoing CIRP under the Insolvency and Bankruptcy Code. I note that Noticee 1 was Chairman of Sanwaria during the IP. Noticee 2 and 3 were the whole time directors of Sanwaria during the same period. Being part of the board of directors, Noticee 2 and 3 approved the financial statements of Sanwaria. I note that all the violations which have been identified in the previous

paragraphs took place at the time when Noticees 1, 2 and 3 were at the helm of affairs at Sanwaria. I note that Noticee 4 was the CFO of Sanwaria during the IP. Further, Noticee 1 and 3 averted loss by off-loading of shares amongst other violations including that of misrepresentation of the financials tantamounting to fraud and hence, deserve to be imposed with higher penalty and longer debarment period. Further, as the misrepresentation was done repeatedly during the investigation period, I find that the violations are serious in nature.

22. As a result, in view of the aforesaid findings of violation of the LODR Regulations and PFUTP Regulations, I find that it is a fit case to impose monetary penalty on all the Noticees under section 15HA and 15HB of the SEBI Act.
23. In consideration of the above, I shall now proceed with the directions and imposition of monetary penalties.

ORDER AND DIRECTIONS:

24. In exercise of the powers conferred upon me under Section 11(1), 11(4), 11(4A), 11B(1), 11B(2) read with Sections 15HA and 15HB of the SEBI Act, 1992 read with Section 19 of SEBI Act and Rule 5 of the SEBI (Procedure for holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, I hereby issue the following directions:

24.1 The Noticees 1 to 4 are hereby restrained from accessing the securities market and further prohibited from buying, selling or dealing in securities, either directly or indirectly, in any manner whatsoever, for the periods as indicated against the names of the corresponding Noticees in the table below:

Table 19

Noticee	Noticee Name	Period of debarment
1	Mr. Gulabchand Agrawal	3 years
2	Mr. Ashok Kumar Agrawal	1 year
3	Mr. Satish Kumar Agrawal	2 years
4	Mr. Anil Kumar Vishwakarma	1 year

24.2 During the period of restraint, the existing holding of securities including the holding of units of mutual funds of the Noticees shall remain frozen.

24.3 The obligation of the Noticees, 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 coming into force 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 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.

24.4 Noticee 1, is hereby restrained from holding any position of Director or Key Managerial Personnel in any listed company or any intermediary registered with SEBI, or associating himself with any listed public company or a public company which intends to raise money from the public or any intermediary registered with SEBI for a period of 2 years.

24.5 Noticees 1 to 4 are imposed with monetary penalties as specified hereunder:

Table 20

Noticee	Noticee Name	Provisions under which penalty imposed	Penalty Amount (Rs.)
1.	Mr. Gulabchand Agrawal	Section 15HA of the SEBI Act, 1992	1 crore
		Section 15HB of the SEBI Act, 1992	5 lakh
2.	Mr. Ashok Kumar Agrawal	Section 15HA of the SEBI Act, 1992	20 lakh
		Section 15HB of the SEBI Act, 1992	5 lakh
3.	Mr. Satish Kumar Agrawal	Section 15HA of the SEBI Act, 1992	1 crore
		Section 15HB of the SEBI Act, 1992	5 lakh

4.	Mr. Anil Kumar Vishwakarma	Section 15HA of the SEBI Act, 1992	20 lakh
		Section 15HB of the SEBI Act, 1992	5 lakh

24.6 The Noticees shall remit/pay the said amount of penalties within 45 days from the date of receipt of this order. The Noticees shall remit / pay the said amount of penalties either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of ED/CGM (Quasi-judicial Authorities) -> PAY NOW. In case of any difficulty in online payment of penalties, the said Noticees may contact the support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to "The Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051" and also to e-mail id:- tad@sebi.gov.in in the format as given in table below:

Table 21

Case Name	
Name of Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Payment is made for: (like penalties/disgorgement/recovery/settlement amount/legal charges along with order details)	

25. This Order except direction at para 24.4 above, comes into force with immediate effect. The direction at para 24.4 shall come into effect after expiry of 45 days from the date of this order.

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

Date: November 30, 2023

Place: Mumbai

Dr. Anitha Anoop

Chief General Manager

Securities and Exchange Board of India