

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

SETTLEMENT ORDER

On Application Nos.

3326/2017 filed by Mr. Anil Gupta (PAN: AAJPG9055C)

3327/2017 filed by Mr. Sunil Gupta (PAN: AEKPG9827P)

3328/2017 filed by Ms. Archana Gupta (PAN: AAHPG2849Q)

3329/2017 filed by Mr. Pawan Bholusaria (PAN: AADPB9207H)

3330/2017 filed by Mr. Vijay Bhushan (PAN: AALPB8325J)

3331/2017 filed by Mr. Vikram Bhartia (PAN: AFXPB2730C)

3332/2017 filed by Mr. Rajeev Gupta (PAN: AEHPG4730Q)

In the matter of KEI Industries Ltd.

1. Mr. Anil Gupta, Mr. Sunil Gupta, Ms. Archana Gupta, Mr. Pawan Bholusaria, Mr. Vijay Bhushan, Mr. Vikram Bhartia and Mr. Rajeev Gupta and (hereinafter referred to as ‘applicants’) filed settlement applications in terms of the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 which is repealed and replaced with SEBI (Settlement Proceedings) Regulations, 2018 with effect from January 01, 2019 (hereinafter referred to as ‘Settlement Regulations’). The applicants, in their applications, without admitting or denying the findings of fact and conclusions of law, proposed to settle, through a settlement order, the proceedings initiated against them under Section 11B of the SEBI Act, 1992 vide a common Show Cause Notice dated June 09, 2017 for the alleged violation of Section 12A (a), (b) and (c) of SEBI Act, 1992 read with regulations 3(a), (b), (c), (d), 4(1), 4(2) (f), (k) and (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.
2. The common show cause notice dated June 09, 2017 was issued after conclusion of investigation in the GDR issue of KEI Industries Ltd. The show cause notice stated that KEI Industries Ltd. (hereinafter referred to as ‘KEI’) issued 2.173 million GDRs (amounting to US \$10 million) on September 16, 2005. The show cause notice further stated that the applicants except for Mr. Rajeev Gupta, were members of the Board of Directors of KEI. It is alleged that KEI and its Board attempted to mislead the investors in India by deliberately making false/misleading statements and misrepresenting that the said GDR issue had been subscribed by several investors when in fact the said issue was subscribed by only one entity, Fusion Investments Ltd. The subscription amount was paid by Fusion by obtaining loan (i.e. through credit agreement) from Banco Efisa, Portugal (Banco). KEI and the Board further concealed and suppressed the material

facts that KEI had provided financial assistance by means of pledge of entire GDR subscription proceeds for the purpose of ensuring the issuance and subscription of its GDRs and in turn the underlying equity shares without receiving any consideration at the time of GDR issue. Mr. Rajeev Gupta, GM (Finance) of KEI signed an account charge agreement with Banco (i.e. KEI provides security to Banco for loan availed by Fusion from Banco for subscription of GDRs of KEI). The aforesaid account charge agreement was an integral part of Credit agreement

3. Pursuant to the applications, the authorized representatives of the applicant had a meeting with the Internal Committee of SEBI on November 26, 2018 wherein the settlement terms were deliberated. Thereafter, the applicants, vide letters dated November 27, 2018, proposed the revised settlement terms to settle the defaults mentioned above.
4. The High Powered Advisory Committee ('HPAC') in its meeting held on December 19, 2018 considered the settlement terms proposed and recommended the applications for settlement upon payment of the following terms:

	Settlement Application number and Name of applicant	Settlement Terms
1.	3326/2017- Mr. Anil Gupta	₹1,36,00,000/- (Rupees One Crore Thirty Six Lakh only) as settlement amount
2.	3327/2017- Mr. Sunil Gupta	₹1,36,00,000/- (Rupees One Crore Thirty Six Lakh only) as settlement amount
3.	3328/2017- Ms. Archana Gupta	₹1,36,00,000/- (Rupees One Crore Thirty Six Lakh only) as settlement amount
4.	3329/2017- Mr. Pawan Bholusaria	₹13,60,000/- (Rupees Thirteen Lakh Sixty Thousand only) as settlement amount
5.	3330/2017- Mr. Vijay Bhushan	₹13,60,000/- (Rupees Thirteen Lakh Sixty Thousand only) as settlement amount
6.	3331/2017- Mr. Vikram Bhartia	₹13,60,000/- (Rupees Thirteen Lakh Sixty Thousand only) as settlement amount
7.	3332/2017-Mr. Rajeev Gupta	₹13,60,000/- (Rupees Thirteen Lakh Sixty Thousand only) as settlement amount

The Panel of Whole Time Members of SEBI accepted the said recommendation of the HPAC on February 08, 2019 and the same was communicated to the applicants vide e-mails dated

February 12, 2019.

5. The applicants vide respective Demand Drafts have remitted the settlement amounts, the details are as follows:

	Settlement Application number and Name of applicant	Settlement Terms	Details of Demand Draft submitted
1.	3326/2017- Mr. Anil Gupta	₹1,36,00,000/-	DD No. 131625 dated February 19, 2019 for an amount of ₹90,00,000/ (Rupees Ninety Lakh Only) and DD No. 131626 dated February 19, 2019 for an amount of ₹46,00,000- (Rupees Forty Six Lakh Only) both drawn on Dena Bank
2.	3327/2017- Mr. Sunil Gupta	₹1,36,00,000/-	DD No. 019889 dated February 19, 2019 for an amount of ₹1,36,00,000/ (Rupees One Crore Thirty Six Lakh Only) drawn on HDFC Bank
3.	3328/2017- Mr. Archana Gupta	₹1,36,00,000/-	DD No. 131624 dated February 19, 2019 for an amount of ₹90,00,000/ (Rupees Ninety Lakh Only) and DD No. 131627 dated February 19, 2019 for an amount of ₹46,00,000- (Rupees Forty Six Lakh Only) both drawn on Dena Bank
4.	3329/2017- Mr. Pawan Bholusaria	₹13,60,000/-	DD No. 044746 dated February 20, 2019 for an amount of ₹13,60,000/ (Rupees Thirteen Lakh Sixty Thousand Only) drawn on Bank of Baroda
5.	3330/2017- Mr. Vijay Bhushan	₹13,60,000/-	DD No. 587212 dated February 22, 2019 for an amount of ₹13,60,000/ (Rupees Thirteen Lakh Sixty Thousand Only) drawn on ICICI Bank
6.	3331/2017- Mr. Vikram Bhartia	₹13,60,000/-	DD No. 019269 dated February 22, 2019 for an amount of ₹13,60,000/ (Rupees Thirteen Lakh Sixty Thousand Only) drawn on HDFC Bank
7.	3332/2017- Mr. Rajeev Gupta	₹13,60,000/-	DD No. 819318 dated February 20, 2019 for an amount of ₹13,60,000/ (Rupees Thirteen Lakh Sixty Thousand Only) drawn on Punjab National Bank

6. In view of the above, in exercise of the powers conferred under Section 15JB of the Securities and Exchange Board of India Act, 1992 and in terms of Regulations 23 and 28 read with Regulation 34 of the Settlement Regulations, it is hereby ordered that:

- i. the proceedings under Section 11B of the SEBI Act, 1992 for the alleged default as discussed in paragraph 1 above, are settled *qua* the applicants as per the above terms,
 - ii. SEBI shall not initiate any enforcement action against the applicants for the said default,
 - iii. this order disposes of the said the proceedings under Section 11B of the SEBI Act, 1992 in respect of the applicants as mentioned above and;
 - iv. passing of this order is without prejudice to the right of SEBI to take enforcement actions including commencing proceedings against the applicants, if SEBI finds that:
 - a. any representation made by the applicants in the present settlement proceedings is subsequently discovered to be untrue;
 - b. the applicants have breached any of the clauses/ conditions of undertakings/ waivers filed during the present settlement proceedings.
7. This settlement order is passed on this 28th day of February, 2019 and shall come into force with immediate effect.
8. In terms of Regulation 25 of the Settlement Regulations, a copy of this order shall be sent to the applicant and shall also be published on the website of SEBI.

-Sd-

S.K. MOHANTY

WHOLE TIME MEMBER

-Sd-

ANANTA BARUA

WHOLE TIME MEMBER