

Mukand Ltd.

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CIN : L99999MH1937PLC002726

March 22, 2017

Ms. Komal Bais,
Manager,
Division of Issues and Listing, Corporation Finance Department,
Securities and Exchange Board of India,
C-4A, "G" Block, SEBI Bhavan,
Bandra Kurla Complex,
Bandra (East),
Mumbai- 400051.
e-mail: komalb@sebi.gov.in

Sub: Application under Regulation 37 of the SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015 – Submission of reply to queries.

Re: Your e-mail dated March 21, 2017

Scrip Code – MUKANDLTD

Dear Madam,

This is with reference to your aforementioned e-mail to us wherein you have requested us to provide certain information in response to the queries raised. Towards the same, please see below our itemized response:

1. Name of Rahul Bajaj appearing in the Prosecution database

Reply:

- 1.1. We would like to reiterate that Mr. Rahul Bajaj (son of Late Shri Kamalnayan Jamnalal Bajaj) holding PAN AABPB4242J one of the promoters of Mukand Ltd. is not the same person as Mr. Rahul Bajaj referred to in the Prosecution List in the case relating to Amaraja Batteries Ltd. This is clear from the case papers of Amaraja Batteries Ltd. where he is clearly mentioned as son of Mr. Harinarayan Bajaj. Copy of the order of SEBI clearly mentioning Rahul Bajaj as son of Mr. Harinarayan Bajaj is attached herewith as **Annexure – 1**. Copy of PAN of Mr. Rahul Bajaj, promoter of Mukand Ltd showing his father's name as Mr. Kamalnayan Jamnalal Bajaj is attached herewith as **Annexure – 2**.



2. **Order in the matter of BOR, regarding Naresh Chandra sharma.**

Reply:

- 1.2. As regards name of Mr. Naresh Chandra Sharma, Independent Director of Mukand Ltd., appearing in the SEBI Action Taken Report relating to the case of Bank of Rajasthan Limited, it may be noted that Mr. Naresh Chandra Sharma is an Independent Director of Eskay K 'N' IT (INDIA) Ltd. ("Eskay"), a company connected / related to Pravin Kumar Tayal who are the promoters of Bank of Rajasthan. Adjudication Officer has observed that Mr. Sharma was appointed as an Independent director of Eskay and he was not involved in the day to day affairs of Eskay. AO after taking into consideration all the facts and circumstances of the case and material on record did not find it a fit case to impose any monetary penalty. Copy of the order of SEBI dated 20th Feb, 2013 is attached herewith as **Annexure – 3**.

Hope, the above clarifies the issue and in case you require any additional information, document or details or clarification on any matter in this regard, we will be pleased to provide the same upon hearing from you.

Thanking You,

Yours faithfully,

For **Mukand Limited**,



K. J. Mallya

Company Secretary

(kjmallya@mukand.com)

Encl : As stated above

ORDER

UNDER REGULATION 29 (3) OF SEBI (STOCK BROKERS & SUB BROKERS) REGULATIONS, 1992 AGAINST SHRI PRAKASH K SHAH , MEMBER , THE STOCK EXCHANGE MUMBAI .

M/s Amara Raja Batteries Ltd. (hereinafter referred to as 'ARBL') , which was initially incorporated as a private limited company in 1985 and the same was subsequently converted into a public limited company in the year 1990. 'ARBL' came out with a public issue in the year 1991 and the shares of 'ARBL' got listed on The Stock Exchange, Mumbai (BSE) , National Stock Exchange (NSE) , Hyderabad Stock Exchange Ltd. (HSE) and Calcutta Stock Exchange Association Ltd. (CSE). The price of the scrip of 'ARBL' at BSE was Rs.91/- in the first week of October, 2000 and went up to Rs.205/- on January 1, 2001 and further touched a high of Rs.320/- on March 8, 2001.

On March 9, 2001, BSE closed the normal trading at 2 p.m. to facilitate the Badla session and the price at that time was Rs.308.40/-. On that date, NSE was functioning till 4.30 p.m. and the price of the scrip fell to Rs.266.75/- and therefore on March 12, 2001, BSE adjusted the price of various scrips to that of NSE including that of 'ARBL'. The price of 'ARBL' further fell down and thereafter touched a low of Rs.78.50/- on March 19, 2001. It is also found that the volumes in the scrip of 'ARBL' were approximately 50,000-60,000 shares per day in October , 2000 and went up to around 8-15 lakhs shares per day in the month of February and first week of March, 2001 at both BSE & NSE. The average trading in the scrip of 'ARBL' from January to March 2001 went to the extent of 10-15 lakhs shares per day and this constituted approximately 30% of the free floating stock of 'ARBL' .

Securities and Exchange Board of India (SEBI) received complaints regarding the market manipulations / irregularities in the trading in the scrip of 'ARBL' and therefore, SEBI ordered a detailed investigations in the matter to enquire into the alleged violations of the provisions of SEBI Act, 1992 , SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 and SEBI (Stock Brokers & Sub Brokers) Regulations, 1992 and other Regulations and the role played by various persons / intermediaries including Shri. Prakash K Shah , Member, The Stock Exchange Mumbai (hereinafter referred to as "the broker member").

The investigations prima facie revealed that Shri Harinarayan Bajaj and his son, Shri Rahul Bajaj were the predominant traders in the scrip of 'ARBL' during the period August 2000 to March 2001 (hereinafter referred to as "the relevant period"). Their trading has accounted for approximately 30% of the total trading on BSE & NSE and they had absorbed most of the deliveries in the scrip by purchasing and carrying forward their position on BSE. During the relevant period, Shri Bajaj started making use of the different trading cycles of BSE & NSE to shift his position from one exchange to another. It was also found that Shri Harinarayan Bajaj and his son, Shri Rahul Bajaj were shifting positions of approximately 5.5 lakhs shares of 'ARBL' between BSE & NSE in settlement No.1 of NSE and the same was increased approximately to 11 lakhs shares in Settlement No. 9 of NSE. Further, it was found that Shri Bajaj was not having the requisite funds to pay for the deliveries and also for the margins. The investigation also found that when the price of the scrip of 'ARBL' fell down, Shri Bajaj could not purchase any further shares due to lack of funds.

The investigations further revealed that various members of BSE & NSE had aided and abetted Shri Harinarayan Bajaj in creating a false market in the scrip of 'ARBL' and they have failed to exercise due care and skill in their dealings. The broker member had started dealing in the scrip of 'ARBL' since October 2000 and was transacting through M/s Khandwala Shah & Associates . The broker member submitted before the investigating authority that average trading in the scrip of ARBL in each settlement was in the range of 60,000 to 80,000 shares. He further stated that normally the purchases were made on the first two days of the settlement and the sales were executed towards the end of the settlement. The settlement wise trading of the broker member for Shri Harinarayan Bajaj through M/s. Khandwala Shah & Associates, its sub broker are as follows :

Trading, Delivery & Carry Forward (Badla) Position

Of

Amara Raja Batteries Ltd. From Aug 00 to March 01

Settl. No.	Purchase	Sales	C/f	Delivery
A-30	13,740	Nil	13,740	Nil

A-31	20,250	14,107	19,883	Nil
A-32	61,257	81,200	(60)	Nil
A-33	23,268	23,208	Nil	Nil
A-34	10,000	10,000	Nil	Nil
A-35	62,150	62,150	Nil	Nil
A-36	1,07,926	1,07,926	Nil	Nil
A-37	1,02,401	1,02,401	Nil	Nil
A-38	1,20,065	1,08,403	11,662	Nil
A-39	1,37,762	1,11,662	37,762	Nil
A-40	1,55,000	1,47,762	45,000	Nil
A-41	62,075	91,075	5,010	10,990
A-42	2,05,273	2,05,273	5,000	10
A-43	1,60,000	1,60,000	Nil	5,000
A-44	1,18,993	1,00,000	18,993	Nil
A-45	1,25,000	1,38,293	Nil	5,700
A-46	1,00,000	1,00,000	Nil	Nil
A-47	75,000	75,000	Nil	Nil
A-48	75,000	75,000	Nil	Nil
A-49	95,000	95,000	Nil	Nil
A-50				
05-03-01	1,20,000	Nil		
07-03-01	Nil	50,000		
08-03-01		23,135		
09-03-01	Nil	40,000	30,000	Nil
TOTAL	19,50,160	18,98,460		21,700

It was admitted by the broker member before the investigating authority that on enquiry with his sub broker and other market participants in the last week of February, they came to know that Shri Shailesh Bajaj, a defaulter member of BSE was involved in the trading of the scrip. However, after few days the broker member submitted an affidavit stating that in fact Shri Harinarayan Bajaj was trading in the scrip and that he had wrongly mentioned the name of Shri Shailesh Bajaj.

SEBI, therefore, in view of the above facts, vide its order dated June 18, 2001 appointed an Enquiry Officer to enquire into the affairs of the broker member in his dealings in the scrip of 'ARBL' and for the possible violations of the provisions of rules, Bye Laws & Regulations of BSE, provisions of SEBI Act, 1992, SEBI(Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 and SEBI (Stock brokers and sub brokers) Regulations, 1992.

Accordingly the Enquiry Officer issued a notice dated July 6, 2001 along with the findings of the investigations related to the broker member's alleged involvement in the price manipulation in the scrip of 'ARBL'. The alleged charges leveled by the Enquiry Officer against the broker member is as under :

A "The broker member had aided and abetted Shri Harinarayan Bajaj and his family members in creating a false and misleading market in the scrip of 'ARBL' and therefore violated the provisions of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995.

B(1) The broker member by virtue of his trading in 'ARBL' on behalf of Shri Harinarayan Bajaj had failed to exercise due skill and care in its dealings.

B(2) The broker member had allowed the client to take position which is beyond his financial position

B(3) The broker member had traded in the scrip of ARBL beyond his sub broker's financial capacity"

and thereby violated Regulation 7, Schedule II of SEBI (Stock brokers & sub brokers) Regulations, 1992 (hereinafter referred to as the 'said Regulations') .

The broker member vide his letter dated August 11, 2001 had submitted the reply to the show cause notice dated July 6, 2001 before the Enquiry Officer and interalia stated that there was no complaint of any nature and all the payments were paid by the sub broker, M/s. Khandwala Shah & Associates in time. The broker member further stated that 90% of the trades in the scrip of ARBL were effected by M/s. Khandwala Shah & Associates.

An opportunity of personal hearing was granted by the Enquiry Officer to the broker member on October 12, 2001 . The Enquiry Officer after conducting the enquiry and after perusing the reply of the broker member and the submissions made on behalf of the broker member found that the broker member is not guilty of violating the provisions of SEBI(Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995. However, the Enquiry Officer found that the broker member had given high exposure in one single scrip to his sub broker . Ultimately they were forced to take delivery of shares at the end of the final settlement of his trading with the sub broker, M/s Khandwala Shah & Associates and the same shows that the broker member traded in the scrip of ARBL beyond his sub broker's financial capability . By executing transaction , as mentioned above , for his sub broker in the scrip of ARBL , the broker member failed to exercise due care and skill as mandated by Clause A(2) of the Code of Conduct prescribed under the said Regulation and recommended that the certificate of registration granted to the broker member may be suspended for a period of 3 months.

SEBI issued a notice dated March 13, 2002 under regulations 29 (1) of the said regulations asking him to show cause why the penalty as recommended by the Enquiry Officer not be imposed against him . A copy of the Enquiry Report was also forwarded to the broker member along with the show cause notice . The broker member vide his letter dated April 8, 2002 requested extension of time upto April 30, 2002 for filing his reply and subsequently the broker member filed his reply vide letter dated April 25, 2002. The broker member stated that M/s. Khandwala Shah & Associates are their registered sub brokers since 1997 and they had entered into the concerned agreement for the registration of the sub broker. As per the said agreement the registered sub broker is supposed to take individual client registration form and also to enter into an agreement with the clients.

The broker member also stated that till February 2001 the working of the sub broker with respect to the margins, deliveries, payments etc. have been always regular and that they have given no opportunity for any complaint or dispute. Further the broker member stated that as per the agreement with the sub broker it is the duty of the sub broker to monitor scrip level and client level. Further, the broker member stated that they made enquiries with the sub broker and they were informed in late February 2001 by Shri Sanjay Shah, partner of the sub broker that they were trading for and on behalf of their client Shri Bajaj and in the process the sub broker also informed them that they collected required margin from their client before executing any transaction. The broker member also stated that they had warned the sub broker to clear the position without any delay of any nature and accordingly in Valan Nos.50 & 51 the sub broker cleared the position.

The broker member further stated that due to the financial strength, family background and market reputation of the sub broker they used to allow the sub broker the daily volume of Rs.1 crore in the ordinary course of business and they had collected margin in the range of Rs. 35 to 80 lakhs from the sub broker and the same was deposited with BSE. The broker member stated that they had given the required information as sought by BSE without any delay and BSE did not inform the broker member about the probable malpractices suspected by it. The broker member vide its reply referred above agreed to undertake and / or indemnity as may be considered by SEBI.

An opportunity of personal hearing was granted to the broker member on July 3, 2002 and the broker member along with its representative and the accountant appeared before me and made their submissions. The representative reiterated the same submissions which they made vide their reply dated 25th April, 2002 and admitted that by executing the aforesaid transaction for its sub broker in their dealings in the scrip of ARBL , the broker member failed to exercise due skill and care, as mandated under the provisions of the said Regulations. The broker member also requested to take a lenient view. Subsequent to the aforesaid personal hearing the broker member vide its letter dated July 11, 2002 admitted that their activities attracts the fiduciary responsibility as they are the principal for their sub broker, M/s Kahndwala Shah & Associates .

I have perused the extracts of the investigation report , the Enquiry Report, the reply filed by the broker member and the submissions made on behalf of the broker member at the time of the personal hearing. It is observed that due to the transactions of Shri Harinarayan Bajaj and his son Rahul Bajaj, the volumes in the scrip of ARBL went up to around 8-15 lakhs shares per day in the month of February & first week of March 2001 from 50,000 -60,000 shares per day in Oct, 2000. It is also observed that the broker member had started dealing in the scrip of ARBL since October 2000.

It is observed that the broker member transacted in the scrip of ARBL through its sub broker M/s Khandwala Shah &

Associates. The broker member had executed trades in the scrip of ARBL and purchased 19,50,160 shares and sold 18,98,460 shares from Settlement No. A 30 to A-50 .

In this regard I feel that , by executing such a huge transactions especially when the price of the scrip of ARBL which was ruling at very high price during the said period, the broker member had failed to exercise due skill and care in the conduct of his business .The broker should not have given such a huge exposure when the market price of the scrip of ARBL was very high. The broker member had taken delivery of 21,700 shares during the relevant period. It is pertinent to note that the broker member had given such huge exposure to his sub broker particularly in the scrip of ARBL at a time when the market price of the scrip was ruling very high. It is observed that the broker member had executed trades with buy position ranging from 13,742 to 2,05,273 shares per settlement. Such a big exposure to the sub broker is not indicative of any prudential risk management norms adopted by broker member .

The above mentioned acts of the broker member clearly indicates that he had traded in the scrip beyond his sub broker's financial capability and thereby the broker member violated Clause A (2) of the Code of Conduct prescribed under regulation 7 of the said regulation which state as follows:

Schedule II

A General

1)

2) Exercise of due skill and care : A stock Broker , shall act with due skill , care and diligence in the conduct of all his business.

.....

It is concluded that the broker member failed to exercise due skill and care and was not diligent in the conduct of his business by giving high exposure to his sub broker in one scrip, i.e. in ARBL and by executing trades with buy position ranging from 13,742 to 2,05,273 shares per settlement at a time when the market price of the scrip of ARBL was ruling very high.

In view of the above circumstances, it is concluded that the broker member had failed to exercise due care and skill in his dealing with his sub broker, M/s. Khandwala Shah & Associates and thereby violated Clause A(2) of the Code of Conduct prescribed regulation 7 of SEBI (Stock brokers & sub brokers) Regulations, 1992.

Therefore by considering the above facts and circumstances , I agree with the recommendations given by the Enquiry Officer and therefore under the provisions conferred upon me under Section 4 (3) of SEBI Act, 1992 and under Regulation 29(3) of SEBI (Stock Brokers & Sub Brokers) Regulations, 1992, I, hereby suspend the certificate of registration granted to Shri. Prakash K. Shah, Member, Mumbai Stock Exchange for a period of 3 months w.e.f August 1, 2002

G.N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

स्थायी लेखा संख्या /PERMANENT ACCOUNT NUMBER

AABPB4242J



नाम /NAME

RAHULKUMAR KAMALNAYAN BAJAJ

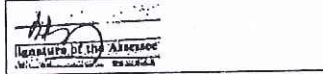
पिता का नाम /FATHER'S NAME

KAMALNAYAN JAMNALAL BAJAJ

जन्म तिथि /DATE OF BIRTH

10-06-1938

हस्ताक्षर /SIGNATURE



आयकर निदेशक (पद्धति)

DIRECTOR OF INCOME TAX (SYSTEMS)

R. Singh

R. Singh

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. BM/AO-132 /2013]

**UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT,
1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND
IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995**

In respect of

Naresh Chandra Sharma

(PAN: ADWPS6154J)

In the matter of Bank of Rajasthan Ltd.

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') conducted an investigation into the affairs of Bank of Rajasthan Ltd. (hereinafter referred to as '**BoR**') during the period June 2007 to December 2009 (hereinafter referred to as the '**investigation period**'). Investigations revealed that the promoters of BoR led by Mr. Pravin Kumar Tayal, along with some companies that were connected to Mr. Pravin Kumar Tayal and/ or his relatives, by way of their continuous disclosure, publicly announced that their stake had come down from 44.18% as on quarter ending June 2007 to 28.61% as on quarter ending December 2009. However, it was alleged, though as per disclosure their holding seemed to have reduced, but in reality the holding of the promoters actually increased with the active collusion of front entities. It was alleged that the promoter companies of BoR and some companies that were connected to Mr. Pravin Kumar Tayal and/ or his relatives transferred shares of BoR in the off market and funds to other connected/ related companies and also made third party payments to certain brokers as consideration for purchase of shares of BoR by related/ connected companies from the market. Thus, it was alleged that the shareholding of the promoters of BoR with persons acting in concert (PACs) had increased from 46.80% in June 2007 to 63.15% in December 2009. It was alleged that while the promoters conveyed the impression that they were reducing their shareholding, they did not dilute their controlling

stake in BOR. On the contrary they had actually increased their holding in a deceptive manner with the active collusion of their front entities and allegedly made wrong disclosures to the exchange.

2. In view of the above it was alleged that **Naresh Chandra Sharma** (hereinafter referred to as **'the Noticee'**), as a director of Eskay K'n'it (India) Ltd. (hereinafter referred to as **'Eskay'**) a company connected/ related to Pravin Kumar Tayal and/ or his relatives, through the above actions violated Section 12 A (a), (b) and (c) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **'SEBI Act'**) and Regulation 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(f) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulation, 2003 (hereinafter referred to as **'PFUTP Regulations'**). The above violations make the Noticee liable for monetary penalty under Section 15 HA of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

3. I was appointed as the Adjudicating Officer, vide order dated January 25, 2012, under Section 15 I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the **'Rules'**) to inquire into and adjudge under Section 15 HA of the SEBI Act for the alleged violation committed by the Noticee.

SHOW CAUSE NOTICE, HEARING AND REPLY

4. Vide common Show Cause Notice dated June 20, 2012, July 5, 2012 and July 9, 2012 (hereinafter referred to as **'SCN'**) issued under Rule 4 of the Rules, the Noticee was asked to show cause as to why an inquiry should not be held against him and penalty not be imposed under Section 15 HA of the SEBI Act for the alleged violations specified in the SCN.
5. The Noticee replied to the SCN vide his letter dated July 25, 2012 stating therein that he was a non executive independent director in Eskay, a listed company, during the investigation period. Vide hearing notice dated December 17, 2012, the Noticee was granted an opportunity of personal hearing before me on January 11, 2013. Subsequently, the hearing was preponed to January 4, 2013, and on the scheduled date, Dr. SK Jain, the authorized representative of the Noticee, appeared for the hearing, and made submissions before me on

behalf of the Noticee, reiterating the earlier written submissions. Thereafter, the Noticee was advised to submit the evidence in support of his submission that he was an independent director in Eskay. In this regard, Eskay submitted the Annual Report of the company for 2008-2009 and 2009-2010. I note that under the corporate governance report, the Noticee is named as an independent director. Further, a confirmation was sought from Eskay with regard to the role of the Noticee in the company. In reply to the same, Eskay has submitted that during the investigation period the Noticee was an independent director in the company.

CONSIDERATION OF ISSUES AND FINDINGS

6. I have examined the SCN, the reply of the Noticee and the documents available on record. I observe that the allegation in the SCN is that the promoters of BoR and their PACs, by their act of concealment of correct disclosure, defrauded the investors of BoR and the market at large. Eskay was alleged to be a PAC and the Noticee was a director of Eskay. Through the above actions, the Noticee, as a director of the above named company, was alleged to have violated Section 12 A (a), (b) and (c) of the SEBI Act and Regulation 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(f) of the PFUTP Regulations.
7. Now the issues that arise for consideration in the present case are :
 - a. Whether the Noticee violated Section 12 A (a), (b) and (c) of the SEBI Act and Regulation 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(f) of the PFUTP Regulations?
 - b. Does the violation, if any, on the part of the Noticee attract monetary penalty under Section 15 HA of the SEBI Act?
 - c. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of the SEBI Act?
8. Before moving forward, it will be appropriate to refer to the relevant provisions of the SEBI Act and PFUTP Regulations, which read as under:

PFUTP Regulations

Prohibition of certain dealings in securities

3. No person shall directly or indirectly—

- (a) buy, sell or otherwise deal in securities in a fraudulent manner;
- (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 thereunder;
- (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 thereunder.

4. Prohibition of manipulative, fraudulent and unfair trade practices

- (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.
- (2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely :—
 - (f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities.

SEBI Act

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

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 recognized 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 recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

- 9. On perusal of Form 32 submitted by the Noticee, I observe that he was appointed as the director of the company Eskay on October 21, 2008. I note from the submissions made by the Noticee, Annual Report of 2008-2009 and 2009-2010 of Eskay and the letter submitted by

Eskay that the Noticee was an independent director of Eskay during the investigation period and was not involved in the day today affairs of the company. I observe that investigation has not brought out any specific role of the Noticee in the day to day management of the company.

10. The Hon'ble Securities Appellate Tribunal (SAT) in the matter of *Vijay Remedies Ltd. Vs. SEBI* (February 11, 2005) while considering the role of two directors pleading that they were independent directors and not associated with the day to day management and control of the company, held that there must be some element of lack of due diligence on the part of the appellants to hold that they were in violation of regulations. Since the two independent directors had nothing to do with the day to day affairs of the company, the Hon'ble SAT held that they cannot be fastened with any liability.
11. In view of the above I give the benefit of doubt to the Noticee and do not hold the Noticee guilty of the charges of violation of the provisions of Section 12 A (a), (b) and (c) of the SEBI Act and Regulation 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(f) of the PFUTP Regulations.

ORDER

12. After taking into consideration all the facts and circumstances of the case and material available on record, I do not find it a fit case to impose any monetary penalty. The case is accordingly disposed of.
13. In terms of Rule 6 of the Rules, copy of this order is sent to the Noticee also to the Securities and Exchange Board of India.

Date: **February 20, 2013**

Place: **Mumbai**

BARNALI MUKHERJEE
ADJUDICATING OFFICER