Order no. QJA/MN/IVD-1/ID10/32730/2026-27

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11(1), 11(4), 11(4A), 11B(1), 11B(2) AND 11(2)(j) READ WITH SECTION 12A(1)(a) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995.

In respect of :

Noticee no.	Name of Noticee	PAN
1	Omaxe Limited	AAACO0171H
2	Rohtas Goel	AAVPG9866B
3	Sunil Goel	AHGPG8020K
4	Jai Bhagwan Goel	ACOPG6352K
5	Sushma Goel	AHLPG5105E
6	Seema Goel	AHLPG3121G
7	Dream Home Developers Pvt Ltd	AACCD0572F
8	Guild Builders Pvt Ltd	AACCG2350E

(The aforesaid entities are referred to by their corresponding names/numbers and collectively referred to as "Noticees")

In the matter of Non-Compliance of Minimum Public Shareholding in Omaxe Limited

Background

1. Omaxe Limited (***Noticee no.1***/"***Omaxe***"/"***the Company***) is a real estate development and construction company focused on commercial and residential projects. The company got listed in NSE and BSE on August 09, 2007.

2. Securities and Exchange Board of India ("***SEBI***") conducted investigation to ascertain compliance of minimum public shareholding ("***MPS***") norms by Omaxe Limited. The scope of investigation was to ascertain violation of the provisions of : Securities and Exchange Board of India Act, 1992 ('SEBI Act'), Securities Contracts (Regulation) Act, 1956 ('SCR Act'), Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations), SEBI (Substantial Acquisition and

Takeovers) Regulations 2011, and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (PFUTP Regulations).

Show Cause Notice

3. The summary of allegations made in the SCN is given in following paragraphs :

4. It is alleged that Omaxe Limited used funds of Omaxe Limited to finance acquisition of Omaxe shares offered by the promoters in the OFS conducted for achieving the prescribed minimum public shareholding ("MPS"). The shares so acquired were nevertheless treated as public shareholding and counted towards MPS compliance.

5. Omaxe Limited transferred ₹33.50 crore to DVM Realtors Pvt. Ltd. ("DRPL") and ₹13 crore to Garv Buildtech Pvt. Ltd. ("Garv"), aggregating to ₹46.50 crore. DRPL was an entity over which key managerial personnel or their relatives exercised significant influence. Garv was a wholly-owned subsidiary of Guild Builders Pvt. Ltd., a promoter of Omaxe Limited. DRPL and Garv thereafter transferred the ₹46.50 crore to Jeet Builders Pvt. Ltd. ("JBPL").

6. JBPL thereafter transferred an aggregate of ₹46.50 crore to seven first-level recipient entities as set out below:

Sr. No.	First-level recipient	Amount
1	Altruistic Trading Pvt. Ltd.	₹5.00 crore
2	Moongipa Infosystem Ltd.	₹7.00 crore
3	Panchsheel Securities Pvt. Ltd.	₹7.00 crore
4	Rapid Credit & Holdings Pvt. Ltd. ("RCHPL")	₹10.00 crore
5	Savasthi Investments Ltd.	₹1.50 crore
6	Wellindia Consultants Pvt. Ltd.	₹10.00 crore
7	Modex International Securities Ltd.	₹6.00 crore
		₹46.50 crore

7. The funds thereafter moved, either directly to stock-broking accounts or through connected entities, and were ultimately used for acquisition of Omaxe shares in the June 3, 2013 and October 29, 2013 OFS.

8. The entity wise fund flow leading to the OFS subscription as alleged in the SCN is mentioned below: -

9. In the case of Altruistic Trading Pvt. Ltd., JBPL transferred ₹5 crore on October 28, 2013. On October 29, 2013, Altruistic transferred the amount to Kumar Share Brokers Ltd./KSBL

Securities Ltd. and, through KSBL, applied for 3,77,890 Omaxe shares in the OFS held on the same date. Altruistic and KSBL had Ms. Suman Arora as a common director. Mr. Diwakar Khare, director and initial subscriber of Altruistic, also stated that its operations, finances and accounts were under the control of Mr. Ramesh Arora. The fund trail is, therefore, alleged to connect the ₹5 crore received from JBPL with the acquisition of Omaxe shares through KSBL.

10. In the case of the Moongipa entities, JBPL transferred ₹7 crore to Moongipa Infosystem Ltd. The amount thereafter moved to Moongipa Commodities Pvt. Ltd. and Moongipa Investment Ltd., to which ₹4 crore and ₹3 crore respectively are attributed. Moongipa Commodities acquired 2,81,500 shares and Moongipa Investment acquired 2,10,300 shares in the June 3, 2013 OFS. Thus, the ₹7 crore routed through Moongipa Infosystem is alleged to have resulted in acquisition of 4,91,800 Omaxe shares.

11. JBPL also transferred ₹7 crore to Panchsheel Securities Pvt. Ltd. Panchsheel retained ₹2 crore and transferred ₹2 crore each to Guardian Portfolio Consultants Pvt. Ltd. and Search Finvest Pvt. Ltd. and ₹1 crore to Surya Shakti Resources Pvt. Ltd. Panchsheel stated that these entities, together with Ridhisidhi Financial Advisory Pvt. Ltd., were connected through common directors/promoters. In the June 3, 2013 OFS, Panchsheel acquired 71,000 shares, Guardian 1,40,000 shares, Search Finvest 1,40,000 shares and Surya Shakti 70,000 shares. The material also records acquisition of 70,000 shares by Ridhisidhi, though the specific fund trail to Ridhisidhi is not clear.

12. In the case of Invictus Stock Research Pvt. Ltd. ("ISRPL"), JBPL transferred ₹10 crore to RCHPL on June 1, 2013. The funds thereafter moved from RCHPL to ISRPL and further to R.K. Stock Holding Pvt. Ltd. ("RKSHPL"), the stock broker through which 7,00,200 Omaxe shares were acquired in the June 3, 2013 OFS. RCHPL, ISRPL and RKSHPL were connected through common directors, promoters and shareholding. The ₹10 crore transfer was used for the OFS acquisition.

13. JBPL transferred ₹1.50 crore to Savasthi Investments Ltd. immediately preceding the October 29, 2013 OFS. Savasthi transferred the amount to Sumpoorna Portfolio Ltd., its broker, and acquired 1,14,420 Omaxe shares on October 29, 2013.

14. Similarly, JBPL transferred ₹10 crore to Well India Consultants Pvt. Ltd. on June 3, 2013. On the same date, Well India Consultants transferred ₹9.90 crore to Well India Securities Ltd. The two entities were under the same management, and Stock Brain Net Ltd. was identified as the own trading account of Well India Securities. Stock Brain Net thereafter applied for 7,45,000 Omaxe shares in the June 3, 2013 OFS.

15. JBPL also transferred ₹6 crore to Modex International Securities Ltd (“Modex”) on June 3, 2013. The entire amount was transferred on the same date to the Modex client account, and Modex applied for 4,22,000 Omaxe shares in the June 3, 2013 OFS.

16. In the June 3, 2013 OFS, the identified entities were allotted 28,50,000 shares out of 59,02,454 shares subscribed, representing 48.29% of the subscription in that OFS. In the October 29, 2013 OFS, the identified entities were allotted 4,92,310 shares out of 40,27,993 shares subscribed, representing 12.22%. In aggregate, the identified entities acquired 33,42,310 shares in these two OFS tranches.

17. Omaxe conducted four OFS tranches in the year 2013 on May 21, June 3, September 27 and October 29. The alleged funded entities did not participate in the May 21 and September 27 tranches; their acquisitions were concentrated in the June 3 and October 29 tranches, corresponding with the identified fund movements. The allegation is therefore that, when the normal off-loading of promoter shares did not achieve the required MPS, funds originating from Omaxe were used through JBPL and other entities to support subscription in the OFS.

18. The shares acquired through these entities were shown under the public shareholding category. After the June 3, 2013 OFS, the reported public shareholding was 16.21%. Excluding the 28,50,000 shares allotted to the identified entities, the remaining public shareholding is stated to be approximately 14.57%. After the October 29, 2013 OFS, the reported public shareholding was 20.97%. Excluding the aggregate 33,42,310 shares allotted to the identified entities, the remaining public shareholding is stated to be approximately 19.04%.

19. Even after completion of the four OFS tranches, Omaxe had not achieved the prescribed 25% MPS. After the October 29, 2013 OFS, promoter and promoter-group holding stood at 79.03% and reported public shareholding at 20.97%. Omaxe thereafter issued 93,33,540 bonus shares exclusively to public shareholders in the ratio of 31:10 (*10 new shares for every 39 existing shares*) for achieving MPS compliance. The entities which had acquired shares through the alleged funding arrangement were treated as public shareholders and consequently also participated in the bonus issue.

20. The allegation, therefore, is that the Noticees used a funding arrangement as a device to place promoter-offered shares in the names of entities shown as public shareholders, while the funds for acquiring those shares originated from Omaxe Limited itself. The arrangement allegedly enabled such holdings to be counted towards public shareholding and thereafter to participate in the bonus issue undertaken to bridge the remaining MPS shortfall.

21. It is also alleged that Omaxe directly and indirectly, funded these entities for the acquisition and holding of its own equity shares, while retaining effective control over such entities. These entities, despite being funded and controlled by the promoter group, were wrongfully classified as public shareholders and were not disclosed as promoters, thereby misrepresenting the true promoter shareholding structure of the Company.

22. It is alleged further that, from 2015 onwards, Omaxe Limited and its group entities funded Mr. Vimal Kumar Gupta and his family for acquisition, trading and continued holding of shares of Omaxe Limited, while such holdings continued to be shown under the public category and counted towards MPS.

23. The SCN relies upon the close connection of Mr. Vimal Kumar Gupta with Omaxe Limited and its promoter group. Mr. Vimal Kumar Gupta was the CFO of Omaxe Limited till July 23, 2019. He was also a director in several Omaxe-group companies, including promoter entities such as Constellation Capital Ltd., Guild Builders Pvt. Ltd., Green Tech Tower Builders Pvt. Ltd., J B Realcon Pvt. Ltd., Kautilya Monetary Services Pvt. Ltd., Naj Builders Pvt. Ltd., S A Finvest Ltd., NJS Developers Pvt. Ltd. and VSG Builders Pvt. Ltd. Kamna Gupta and Shivish Gupta, whose Omaxe shareholding is also relied upon in the SCN, are his wife and son respectively.

24. The SCN further relies upon the financial relationship between Vimal Kumar Gupta/family and JBPL/Omaxe-related entities. As reflected in Table 36 of the SCN, JBPL transferred an aggregate of ₹2.27 crore in 2017, comprising ₹90 lakh to Vimal Kumar Gupta on August 24, 2017, ₹87 lakh to Kamna Gupta on October 30, 2017 and ₹25 lakh each to Shivish Gupta and Sushil Gupta on November 6, 2017.

25. Further, Table 38 of the SCN records fund movements between Vimal Kumar Gupta/family and Omaxe-group entities. On the yearly figures, credits from Omaxe-group entities aggregate to approximately ₹5.05 crore. Together with the ₹2.27 crore received from JBPL, the SCN alleges that approximately ₹7.32 crore was made available to Vimal Kumar Gupta and his family for arranging acquisition and trading in Omaxe shares.

26. The SCN also relies upon the financial connection of Vimal Kumar Gupta/family with the Rajesh-group entities. Table 38 of the SCN records approximately ₹3.74 crore flowing from Vimal Kumar Gupta/family to Rajesh-group entities and approximately ₹4.03 crore flowing in the reverse direction. The Rajesh-group entities were themselves are allegedly connected through common directors/promoters and certain entities in that group also held Omaxe shares. This fund movement is relied upon to allege that part of the funds received

from JBPL/Omaxe-related entities was also channelled through entities which acquired and held Omaxe shares.

27. The allegation is further based on the build-up of Omaxe shareholding in the names of Vimal Kumar Gupta and his family, as reflected in Table 42 of the SCN. Vimal Kumar Gupta held 32 shares from 2016 to 2020, which increased to 2,78,081 shares in 2021, 1,62,409 shares in 2022 and 5,12,057 shares in 2023. Kamna Gupta held 99,296 shares in 2018, 1,68,112 shares in 2019, 1,86,494 shares in 2020 and 2,79,257 shares in 2021. Shivish Gupta held 63,300 shares in 2018, 1,01,913 shares in 2019 and 2,98,129 shares in 2021. V.K. Gupta HUF also acquired and held Omaxe shares during the relevant period. The SCN also notes that Kamna Gupta had earlier subscribed to 7,500 Omaxe shares in the October 29, 2013 OFS.

28. Thus, the SCN relies cumulatively upon Vimal Kumar Gupta's position as CFO and director in Omaxe/promoter-group entities, the family relationship amongst the recipients and shareholders, receipt of ₹7.32 crore from JBPL/Omaxe-related entities, substantial financial dealings with Rajesh-group entities, and the subsequent acquisition and holding of Omaxe shares by members of the family.

29. Accordingly, it is alleged that the Noticees used Vimal Kumar Gupta and his family as a route for acquisition, trading and continued holding of Omaxe shares with funds originating from JBPL/Omaxe-related entities, while such holdings continued to be treated as public shareholding and counted towards the MPS requirement.

30. It is also alleged that apart from Vimal Kumar Gupta family, Omaxe has also funded Rajesh group of companies for acquisition of shares in Omaxe. Table 35 of the SCN identifies Uninav Developers Pvt Ltd ("*UDPL*"), Usha Financial Services Pvt Ltd ("*UFSL*"), Nupur Recyclers Pvt Ltd and Vertex Buildwell Pvt Ltd as Rajesh group of companies. The SCN states that the said four companies have common directors i.e. Rajesh Gupta and one Anoop Garg.

31. Table 38 of the SCN states that Rajesh Group has received 3.74 crores from Vimal Kumar Gupta and family over the years from 2013 to 2022. The said table also shows payments made to Vimal Kumar Gupta and family of 4.02 crores over the years from 2015 to 2022.

32. The SCN also relies on fund transactions between Omaxe group of companies and Rajesh group of companies. It is stated that UDPL has received funds from Omaxe Ltd. SCN also mentions loan transaction under which Omaxe availed loan of Rs.1 crore from UFSL. SCN further states that on Omaxe Group company namely Omaxe New Chandigarh Developers Pvt Ltd had fund transaction with UFSL of Rs.3.3 crores.

33. It is alleged that Rajesh group of companies started investing in the Omaxe Limited from year 2015-16, when the fund transactions with Mr. Vimal Kumar Gupta and family started. Thus, it is alleged that funds received from JBPL and Omaxe related entities by Vimal Gupta and family, are being utilised for trading in Omaxe Ltd as well as the same diverted to Rajesh group of companies for acquiring shares of Omaxe Limited.

34. It is also alleged in the SCN that apart from the 12 entities who were allegedly funded to subscribe the OFS of Omaxe, 5 entities namely Rapid Credit and Holdings Pvt Ltd, R. K. Stock Holding Pvt Ltd, Sumpoorna Portfolio Ltd, Narayan Securities Ltd and Narayan Commodity Brokers Pvt Ltd have also acquired shares of Omaxe from year 2013 to 2024. The said 5 entities are alleged to be connected to the 12 entities in whose name OFS was allegedly subscribed by funds received from Omaxe. It is alleged that these 5 entities are also controlled by promoters of Omaxe and, therefore, they are considered to be promoters of Omaxe Limited (Non-disclosed promoters).

35. As per the Companies Act, there is restriction on company to directly or indirectly fund or provide financial assistance to any person for purchase of its shares. It is alleged Omaxe Limited funded entities to apply in its OFS to the tune of Rs. 46.5 crores and also funded Mr. Vimal Kumar Gupta and family to the tune of Rs. 7.32 crores for arranging to trade in its shares directly or indirectly. Omaxe Limited and its promoter (Noticee no.1 to 8) are, therefore, alleged to be in violation of **section 77 of Companies Act,1956 / Section 67 of Companies Act, 2013.**

36. It is alleged that 25 entities (12 entities who subscribed in the OFS, 8 entities from Vimal Gupta and Rajesh Group and 5 entities connected to the 12 entities) continued being shareholders of Omaxe Limited and gradually exited through secondary market, over the years. Overview of the shareholding as on March 31 of each year is as follows:

Date	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**
% holding by 25 entities	2.32%	2.38%	2.18%	1.92%	2.11%	1.64%	0.80%	1.94%	1.61%	2.13%	1.37%
Promoter group holding	74.99 %	74.99 %	74.99 %	74.99 %	74.72 %	74.43 %	74.15 %	74.14 %	74.14 %	74.14%	74.14%
% of total Public Shareholding without 25 entities shareholding	22.69 %	22.63 %	22.83 %	23.09 %	23.17 %	23.93 %	25.05 %	23.92 %	24.25 %	23.73%	24.49%

37. It is alleged that during the period from March 31, 2014 to March 31, 2024, Omaxe Ltd showed the compliance of MPS norms through the shareholding of the non-disclosed

promoter entities. These non-disclosed promoter entities were disclosed as part of public shareholders instead of part of promoter group.

38. It is, therefore, alleged that Noticee no.1 company Omaxe Limited along with the Promoters Noticee no.2 to 8 had not complied with the requirement of achieving minimum public shareholding of 25%. Noticee no.1 to 8 are, accordingly, alleged to be in violation of Rule **19A(1) of SCRR 1957 read with Regulation 38 of SEBI(LODR) Regulations 2015, and the provision of 2(II) on "Amendments to Clause 40A – Minimum Public Shareholding" of SEBI circular no. CIR/CFD/DIL/10/2010 dated December 16, 2010 and circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015**.

39. It is further alleged that Omaxe along with its promoters and non-disclosed promoters, devised and executed a fraudulent and deceptive scheme with the intent to artificially portray compliance with Minimum Public Shareholding norms, conceal the true promoter control exceeding 75% and mislead the public shareholders and the securities regulator into believing that the Company had public shareholding of 25%, whereas effective control remained overwhelmingly with the promoters.

40. Further, the alleged funding, classification of the resulting holdings as public shareholding and mis-representation of MPS compliance are alleged to constitute a fraudulent and deceptive scheme, attracting **Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(b), 3(c) and 4(1) of the PFUTP Regulations, 2003.**

41. As per Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements ("***LODR***")) Regulations, 2015, the listed company is required to disclose to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of securities, in the format specified by SEBI on a quarterly basis. It is alleged that, majority of shareholding of Omaxe Limited had been structured in a manner to camouflage the actual shareholding of Promoter group and that the said shareholding pattern reflects a deliberate attempt on the part of the company/promoters of Omaxe Limited, to mislead the non-promoter investors of Omaxe Limited as well as misleading SEBI with respect to the public shareholding. The disclosure of promoter shareholding being false, misleading and concealing material facts, allegedly, violated the requirement under LODR Regulations and Listing agreement, which mandate listed entities to disclose accurate and complete details of promoters and public shareholding.

42. Therefore, Omaxe Limited (Noticee no.1) along with the Promoter entities Noticee no.2 to 8 are alleged to be in violation of **Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) 2015 read with circular no. CIR/CFD/CMD/13/2015**

dated November 30, 2015 read with Regulation 2(zb) of SEBI (ICDR) Regulations 2009 and Regulation 2 (pp) of SEBI (ICDR) Regulations 2018 and for period (2013-2015) and Clause 35 of the Listing Agreement.

43. Further, on the basis of connection of the said 25 entities with Omaxe, the alleged funding received from Omaxe to acquire shares of Omaxe and voting pattern favouring Omaxe and its promoters, it is alleged that that the said entities are Persons acting in concert.

44. It is alleged that the said entities being persons acting in concert, should have been included in promoter shareholding while making disclosures. It is alleged that that Promoter entities have not included the said 25 entities acting in concert under promoter group during the years 2013-2024. Therefore, for wrong disclosures made by Promoter and Promoter group for the respective years, it is alleged that Noticee no.2 to 8 are in violation **Regulation 30(2) of SEBI (SAST) Regulations 2011.**

Service of SCN, Inspection and Hearing

45. Show Cause Notice ("*SCN*") dated January 21, 2026 to the Noticees via SPAD. Further, digitally signed copy of the SCN was also served to the Noticees via email.

46. Noticee no.3 and 6 have submitted reply dated February 25, 2026 vide email of the same date. Hearing for Noticee no.3 and 6 concluded on March 25, 2026. Noticee no.4 has submitted reply dated March 25, 2026 vide email of the same date. Hearing for Noticee no.4 concluded on April 17, 2026.

47. Noticee no.1,2,5, 7 and 8 sought inspection of documents vide letter dated March 04, 2026. The said Noticees were provided opportunity of inspection on March 12, 2026 which was rescheduled to March 17, 2026 upon their request, which was further rescheduled to March 25, 2026 upon their request. Inspection of documents completed on March 25, 2026. Vide letter dated April 14, 2026, the said Noticees sought further documents pursuant to inspection. The said documents were provided to the said Noticees vide email dated May 14, 2026. No reply to the SCN was received from the Noticees, accordingly, vide email dated June 03, 2026, Notice of hearing was sent to the said Noticees scheduling hearing for June 18, 2026. Vide email dated June 17, 2026, Noticees sought time of 4 weeks to submit reply to the SCN and requested adjournment of hearing. Vide email dated June 17, 2026, Noticees were granted extension of 4 weeks to file reply to the SCN and the hearing was adjourned. Vide email dated July 15, 2026, the said Noticees again sought extension of 4 weeks to submit reply. Noticees were granted time of 2 weeks to file reply and hearing was rescheduled to August 4, 2026 vide email dated July 16, 2026. Vide email dated July

29, 2026, the said Noticees again sought time of 3 weeks to file reply to the SCN and requested adjournment of hearing. The said request of the Noticees was also granted and hearing was adjourned to August 17, 2026. Vide email dated August 13, 2026 Noticees again sought time of 1 week to file reply which was granted. Further, the hearing scheduled for August 17, 2026 was rescheduled to September 3, 2026 due to administrative exigency. Reply to the SCN from the said Noticees was received on August 21, 2026. Vide email dated September 02, 2026 Noticees again sought adjournment of hearing scheduled for September 03, 2026. Noticees were granted September 08, 2026 as the new date of hearing vide email dated September 02, 2026. Noticees requested that hearing be scheduled to October 8, 2026 or to September 18, 2026. In view of the sufficient time and opportunities already provided, the said request was not accepted and Noticees were informed to appear for hearing on September 08, 2026. On the said date, Authorized Representative of the Noticees appeared before the Undersigned and requested adjournment of hearing to September 18, 2026. The said request was granted and hearing was rescheduled to September 18, 2026. The Authorized representative of the Noticees appeared for hearing on September 18, 2026 and hearing was concluded on the said date for Noticee no. 1, 2, 5, 7 and 8. Additional submissions were received from the said Noticees on September 23, 2026.

Reply of Noticees to the SCN

48. Key submissions made by Noticee No. 1, 2, 5, 7 and 8 vide their reply to the SCN are summarised below:

Proceedings are vitiated due to delay and laches

48.1) The present proceedings are vitiated on account of substantial, inordinate and unexplained delay. The SCN concerns transactions primarily pertaining to 2013, including the OFS transactions dated June 03, 2013 and October 29, 2013 and the bonus issue of November 2013, whereas the SCN has been issued after more than a decade. Such delay has caused serious prejudice to the Noticees in effectively defending the proceedings.

48.2) The Noticees submit that where no limitation period is prescribed, statutory and regulatory powers must nevertheless be exercised within a reasonable period. Reliance has been placed on *Adjudicating Officer, SEBI v. Bhavesh Pabari*, *Government of India v. Citedal Fine Pharmaceuticals*, *Ashlesh Gunvantbhai Shah v. SEBI* and *HB Stockholdings Limited v. SEBI* in support of the submission that unexplained delay in initiating proceedings is impermissible.

48.3) The delay has caused further prejudice as certain transactions now being questioned date back to 2008, while the statutory record-retention period under Section 128(5) of the Companies Act, 2013 is eight financial years. Records beyond the prescribed retention period may therefore no longer be available, impairing the Noticees' ability to respond to the allegations.

48.4) SEBI had, on June 04, 2013, passed an Interim Order against the Company concerning non-compliance with MPS norms and, after considering the Company's submissions and the steps taken through four tranches of OFS and a bonus issue, subsequently revoked the Interim Order upon recording that the Company had achieved compliance and that public shareholders held 25.01%.

48.5) The Noticees submit that SEBI was therefore already aware of the material facts concerning the 2013 OFS transactions and the entities subscribing thereto. The present SCN, issued more than twelve years thereafter, effectively seeks to re-litigate matters which had already been examined and resolved by SEBI, contrary to fairness, legitimate expectations and finality of regulatory action.

SCN seeks to re-examine matters already examined by SEBI

48.6) The affairs, books, transactions and fund movements of Noticee No. 1, including its relationship and transactions with JBPL and other entities, had already been subjected to a detailed forensic audit and investigation at the instance of SEBI, culminating in the Final Order dated July 30, 2024.

48.7) The Noticees submit that the present SCN does not disclose any fresh material, document or evidence which was not already available to or considered by SEBI. Re-examination of the same transactions in successive proceedings and under different regulatory provisions is therefore impermissible and subjects the Noticees to a continuing and open-ended enquiry into the same conduct.

SCN suffers from non-joinder of necessary parties

48.8) The Noticees submit that the alleged scheme is founded upon the transactions, conduct, knowledge and intent attributed to various third-party and Funded/Suspected Entities, none of whom have been impleaded as Noticees or afforded an opportunity to explain their records, transactions and commercial rationale. Their presence is necessary for a fair and complete adjudication of the alleged scheme and concerted action. In the absence of these entities being made parties, SEBI cannot conclusively determine the existence of any alleged scheme, arrangement or concerted action. Accordingly, the SCN suffers from a fundamental defect of non-joinder of necessary parties and is liable to be withdrawn on this ground alone.

SCN is arbitrary and bad in law

48.9) It is submitted that SEBI cannot allege fraud by a set of entities and thereafter selectively penalise some of them while excluding others whose alleged conduct forms part of the same scheme. Such selective treatment is alleged to be arbitrary and contrary to Article 14 of the Constitution of India. Noticees rely on judgment of Hon'ble Supreme Court E.P. Royappa v. State of Tamil Nadu and Ors. (1974) 4 SCC 3 to contend that State action must be based on equivalent relevant principles applicable alike to all similarly situate and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality.

Transactions with JBPL were bona fide commercial transactions

48.10) The Noticees submit that the SCN erroneously treats the transfer of INR 46.50 crores from DRPL and Garv to JBPL as the starting point of the alleged scheme. In respect of the INR 33.50 crores advanced by DRPL, it is submitted that the amount was paid pursuant to an MoU for land aggregation towards development of a residential township project in Mullanpur, Mohali and Chandigarh, Punjab. The amount was advanced in two tranches, i.e. INR 27 crores on 01.06.2013 and INR 6.50 crores on 28.10.2013, as part of bona fide real-estate dealings, with JBPL being required to arrange the necessary land aggregation under the MoU. In respect of the INR 13 crores advanced by Garv, it is submitted that the amount was advanced to JBPL on 01.06.2013 pursuant to an MoU for land aggregation towards development of a Hi-Tech City in Uttar Pradesh. The Noticees state that there was no earmarking, lien, restriction or stipulation concerning the funds and that JBPL was required to undertake the necessary land aggregation contemplated under the MoU.

48.11) It is submitted that the transactions between DRPL/Garv and JBPL constituted standalone and independent commercial transactions undertaken in the ordinary course of business and had no connection whatsoever with the acquisition of Omaxe shares or participation in the OFS. The Noticees therefore submit that the SCN has failed to appreciate the bona fide commercial nature of these transactions and has erroneously alleged that the funds were utilised to facilitate compliance with MPS requirements.

48.12) The Noticees further submit that the respective MoUs were subsequently cancelled and, consequently, the amounts advanced to JBPL were returned. The INR 33.50 crores advanced by DRPL was returned by JBPL to DRPL by way of refund/adjustment by 16.02.2015, while the INR 13 crores advanced by Garv was returned by JBPL to Garv on 31.01.2015.

48.13) It is submitted that, despite bona fide and diligent efforts, Noticee No. 1 has been unable to trace or obtain from DRPL and Garv the relevant MoUs and documents relating to their subsequent cancellation, as the transactions were undertaken more than a decade ago and there have been changes in the concerned officials. Noticee No. 1 continues to make efforts to locate the documents and has stated that the same would be submitted upon being traced. In the meantime, the relevant ledgers evidencing the refund/adjustment have been enclosed with the reply.

48.14) The Noticees submit that cancellation of the respective MoUs was based on ordinary commercial judgment and had no bearing on the alleged OFS transaction. The land aggregation contemplated under the MoUs could not be achieved within the prescribed timelines and on the contemplated terms and, accordingly, the parties decided to cancel the arrangements and unwind the advances. It is further submitted that neither DRPL nor Garv derived or retained any benefit from the arrangements and the entirety of the advances was refunded or adjusted. According to the Noticees, the repayment itself evidences the genuine commercial character of the transactions and negates the allegation that the funds were intended to facilitate compliance with MPS norms.

48.16) It is further submitted that, by treating the fund transfer as being oriented towards the alleged scheme, the SCN disregards the principle of post hoc ergo propter hoc, which cautions against assuming that because one event follows another, the earlier event must necessarily have caused the later event. Noticees rely on the judgment of the judgment of Special Judge Rouse Avenue Court, New Delhi *Central Bureau of Investigation v. Kuldeep Singh and Others*, in support of their contention.

48.17) The Noticees submit that the OFS funding allegation is premised entirely on a chain of assumptions: first, that Noticee No. 1 transferred funds to JBPL; second, that JBPL transferred those funds to seven entities on 01.06.2013 and 28.10.2013; and third, that twelve entities subsequently subscribed to the OFS on 03.06.2013 and

29.10.2013. It is submitted that, merely from this sequence of transactions, the SCN erroneously concludes that the funds transferred to JBPL were intended for OFS subscription rather than for the bona fide commercial purposes explained by the Noticees.

48.18) In support of the above, the Noticees submit that the SCN does not refer to any agreement, board resolution, email, internal memorandum or other documentary evidence establishing that the funds transferred to JBPL were subject to any condition, stipulation or understanding that they would be deployed for OFS subscription. It is submitted that the entire causal nexus sought to be established between the funding and the OFS is based on temporal proximity alone, which, according to the Noticees, is insufficient to establish that the impugned transactions were fictitious or not genuine.

No control of the Noticees over JBPL has been established

48.19) The Noticees submit that the SCN relies upon certain attendant circumstances, such as common employees and bank transactions, to allege that JBPL was formed by the Noticees through their employees and directors and that such persons were accustomed to act on the instructions of the promoters. The Noticees deny that Omaxe or any of the other Noticees exercised control over JBPL and submit that, in the absence of establishing such control, the allegation concerning the existence of the alleged scheme cannot be sustained.

48.20) The Noticees submit that the SCN is directly contrary to the findings recorded by SEBI in its Final Order dated July 30, 2024 wherein SEBI found that JBPL was not a related party of Omaxe, was not accustomed to act on Omaxe's directions, and that the prerequisites of control, joint control and significant influence were absent. The Noticees further submit that, having categorically held that JBPL was not a related party of Omaxe and that control, joint control and significant influence were absent, SEBI cannot now arrive at a contrary conclusion on the same material. They state that the present SCN discloses no fresh material, document or evidence that was unavailable to SEBI when the earlier finding was rendered, nor does it identify any change in circumstances warranting a departure from that finding.

48.21) The Noticees submit that the allegations in the SCN are based on conjecture rather than evidence. They contend that the SCN fails to establish any of the recognised ingredients of control, including the right to appoint a majority of directors, the ability to influence management or policy decisions, ownership or other evidence of control by the Noticees over JBPL. Accordingly, any act undertaken by JBPL, including any onward transfer of funds to other entities for any purpose, cannot be attributed to the Noticees.

48.22) Without prejudice to the above, the Noticees submit that the existence of a normal business relationship between Omaxe/the Noticees and JBPL does not imply that they were acting in tandem for purposes of a fraudulent scheme. They state that, owing to land-ceiling restrictions, Omaxe engages with several land-aggregators/land-related entities for business purposes and that such dealings, by themselves, cannot establish the alleged connection or fraudulent arrangement. Noticees rely on Order of the Hon'blee SAT in *HB Stockholdings v. SEBI*, Appeal No. 114 of 2012, to contend that common addresses or past promoter relationships, without sufficient evidence establishing connivance with the counterparty, are insufficient to sustain such a charge.

48.23) The Noticees further rely upon order of the Hon'ble SAT in *Babubhai Desai v. SEBI*, Appeal to contend that there has to be unambiguous and clear evidence in respect of the connection sought to be established.

48.24) The Noticees submit that, although there was a business relationship between Omaxe/the Noticees and JBPL, such relationship does not justify presuming that they acted together pursuant to a fraudulent scheme. They state that the SCN, in an attempt to support its allegations, has set out various fund transfers from Omaxe and its related entities to JBPL in Table 32 of the SCN. According to the Noticees, these transactions were routine and bona fide commercial transactions undertaken for legitimate business purposes and were not carried out in furtherance of the alleged scheme.

48.25) In respect of the transfers of INR 2 crores on November 13, 2013 and INR 2.50 crores on November 20, 2013 from Omaxe to JBPL, the Noticees submit that these amounts were advanced against land pursuant to a transaction between Omaxe and JBPL and that the transactions were duly recorded in Omaxe's financial statements.

48.26) In respect of the transfers of INR 64 lakhs and INR 50 lakhs from Omaxe to JBPL on March 28, 2015, the Noticees submit that these amounts were advanced towards purchase of plots/land aggregation for development of a Hi-Tech City in Uttar Pradesh.

48.27) In respect of the transfer of INR 1.62 crores from Omaxe to JBPL on July 14, 2016, it is submitted that the amount was also an advance payment towards plots/land aggregation for development of the Hi-Tech City in Uttar Pradesh. Similarly, the transfers of INR 1 crore on August 10, 2016 and INR 1.45 crores on August 26, 2016 were advances for plot/land aggregation towards the same Hi-Tech City project and were classified as "Advance granted for goods & services".

48.28) In respect of the transfers of INR 1 crore on November 22, 2016, INR 1 crore on November 28, 2016 and INR 1 crore on April 04, 2017, the Noticees submit that these amounts were returned by JBPL to Omaxe on account of balances lying in JBPL's ledger account.

48.29) With respect to the INR 30 lakhs transaction with Robust Buildwell Private Limited, which is a wholly-owned subsidiary of Omaxe, and the transfers of INR 50 lakhs on September 05, 2019 and INR 25 lakhs on January 29, 2020 involving Omaxe New Chandigarh Developers Private Limited, the Noticees submit that these payments were made pursuant to purchase orders issued in the ordinary course of the real-estate business and related to bona fide real-estate transactions.

48.30) The Noticees further submit that Omaxe had transferred INR 10 lakhs to JBPL on October 14, 2008 as a running payment towards construction services rendered by JBPL. This transaction, along with other transactions between Omaxe and JBPL on the same date, was duly reflected in JBPL's ledger account maintained in Omaxe's books, a relevant extract of which was enclosed as Annexure III. The Noticees therefore reiterate that the INR 10 lakhs payment was not the only initial amount transferred to JBPL, contrary to the SCN's statement. The transaction demonstrates that monies were being transferred to JBPL for bona fide business purposes, and consequently the Noticees cannot be held responsible for any act subsequently undertaken by JBPL.

No control over the Funded Entities has been established

48.31) The Noticees submit that SEBI would have to establish that the Noticees controlled JBPL, the seven entities which received funds from JBPL and the twelve Funded Entities which allegedly subscribed to the OFS. The SCN has not established any of the above, and accordingly, the assertion in the SCN as to the promoters of Omaxe controlling the entities allegedly funded by Omaxe does not stand established. On this ground alone, the SCN is liable to be withdrawn

The SCN fails to establish any connection between the Noticees and the Funded Entities:

48.32) The SCN does not even allege, let alone establish by cogent proof, that the Noticees were in any manner connected to the 12 Funded Entities. All the SCN does, is show the fund flows between JBPL and these 12 entities as a connecting factor between JBPL and them. In the absence of any such connection being brought out between the Noticees and these 12 entities, it cannot be sustained that they were all a part of the alleged scheme. Noticees rely on order of the Hon'ble SAT in Indivar Traders Pvt Ltd v. SEBI wherein it was held that '*In the absence of any connection being found between the buyer and the seller and between the appellant and other entities the finding of a trading pattern being premeditated to manipulate the price is patently erroneous*'.

The SCN fails to establish the ingredients of 'collusion' required to establish a charge of fraud

48.33) To establish that the Noticees were a party to the purported fraudulent scheme, it would have to be proved with cogent evidence that they were aware of the alleged scheme and actively conspired with the other entities named in the SCN. SEBI in its order in the matter of *NSE and Others (Co-location) [dated September 13, 2024]* held that '<u>*to call an act as act of collusion, there must be an agreement between two or more persons to defraud. Conspiracy is also an important ingredient of collusion*</u>.'

48.34) In the matter of *Richard D. Chema dated August 24, 1995*, the United States Securities and Exchange Commision held that '*In order to establish liability for aiding and abetting, the Division must establish (1) the existence of a primary violation, (2) a "knowledge" requirement, i.e., that the aider and a better had general awareness that his role was part of an overall activity that was improper, and (3) that the aider and abetter substantially assisted the principal violation......In applying these elements, all three should be examined collectively, and no single element should be considered in isolation*'

48.35) Noticees quoted the order of Hon'ble SAT in Immix Trade Pvt Ltd y. SEBI [Appeal No. 406 of 2021] wherein it was held that '*In the absence of any material or any finding of any collusion, then merely based on connection, a sweeping finding that noticee nos. 6 and 7 were part of an artifice to manipulate the price is unwarranted and is absurd. There is no evidence to demonstrate that the noticee nos. 6 and 7 were aware of any scheme or were connected in furtherance of the scheme or were part of the artifice to manipulate the price. This finding, in our opinion, is based on surmises and conjuncture*' .

PFUTP allegations are unsustainable in the absence of foundational facts

48.36) The Noticees submit that a charge of fraud requires cogent evidence establishing knowledge, participation, collusion and the foundational facts underlying the alleged scheme. The SCN has not established that the Noticees had prior knowledge that funds transferred for bona fide purposes would ultimately be used for acquisition of Omaxe shares.

48.37) The Noticees rely upon the judgment of Hon'ble Supreme Court in *Balram Garg v. SEBI* and the order of the Hon'ble SAT in *Punit Goenka v. SEBI* to submit that foundational facts must first be established before any presumption can be drawn. The SCN proceeds on assumptions regarding relationships and control and builds the allegation of fraud through a chain of inferences rather than established facts. In particular, the alleged control of Noticee No. | over JBPL has not been established, rendering the consequential allegations untenable. Similarly, control of the Noticee No. 1's promoters over the entities allegedly funded by the Noticee No. | has also not been established. In the absence of any such foundational evidence, the purported fund flow from Noticee No. 1 to DRPL / Garv and thereafter to JBPL and the Funded Entities cannot, in law or in fact, be characterised as a scheme orchestrated or executed by the Notices.

PFUTP Regulations do not apply to bona fide commercial dealings

48.38) It is submitted that Section 12A of the SEBI Act and the PFUTP Regulations are directed towards fraudulent, manipulative or deceptive conduct connected with dealings in securities and are not intended to regulate bona fide commercial transactions merely because such transactions may subsequently or remotely be linked to securities transactions.

The SCN fails to satisfy the standard of preponderance of probabilities to establish the charge qua the Noticees

48.39) The Noticees submit that the SCN fails to satisfy the applicable standard of preponderance of probabilities for establishing fraud. Reliance is placed on following judgments/order :- (1) Hon'ble Supreme Court of India in SEBI v. Shri Kanaiyalal Baldevbhai Patel, (2) Hon'ble SAT in KSL & Industries Ltd. v. Chairman, SEBI, (3) Hon'ble SAT in DLF Limited v. SEBI, (4) the Hon'ble SAT in Dilip Pendse v. SEBI.

48.40) The Noticees submit that the SCN fails to present cogent and credible evidence to sustain the charge it contains. The core evidentiary weakness of the SCN is that it treats the fund flow as both the means and the evidence of the scheme. The fund flow is the fact from which SEBI infers that the entities were funded by the Company and immediately thereafter, that very inference is then used as the basis to characterise them as promoter-controlled entities. It is respectfully submitted that this circularity of reasoning does not satisfy the preponderance of probabilities standard applicable to sustain a charge of fraud.

48.41) Noticees submit that that an OFS underperformed and that a bonus issue followed is a chronology of Noticee No. 1's compliance efforts to meet the MPS requirements. By no stretch can such fact amount to evidence to suggest that the OFS subscriptions were funded by Noticee No. 1. The fact is equally consistent with a genuine offer for sale that did not attract sufficient public demand which led Noticee No. 1 to resort to a bonus issue of shares, under SEBI's oversight, to ensure compliance. Thus, the reasoning contained in paragraph(s) 79-80 of the SCN carries no probative value qua the Noticees and does not aid the SCN in meeting the standard of preponderance of probabilities.

48.42) SCN merely places reliance on factors such as cross-directorship, common employees etc. to establish connection and proceed to frame the broader allegation of fraud. Noticees rely on orders of the Hon'ble SAT in *Shruti Vora vs SEBI* and *HB Stockholdings vs SEBI.*

48.43) Noticees submit that the Hon'ble Supreme Court of India has recently delineated the standard of proof applicable to a charge of fraud and manipulation under the PFUTP Regulations, in Reliance Industries Limited and Others v. Securities and Exchange Board of India [Civil Appeal No. 4015 of 2020]. The Hon'ble Court held that whilst the test for establishing the factum of manipulation is ordinarily that of preponderance of probabilities, that test "is not exercisable as a straitjacket formula" but "includes within itself varying degrees of probability", and that the "degree of probability should be proportionate to the subject matter'. Critically for the present matter, the Hon'ble Court proceeded to hold that where inducement is absent, the regulator must discharge a higher degree of that standard.

48.44) The SCN neither pleads nor establishes that any third party was induced to deal in the securities of Noticee No. 1 as a consequence of the conduct alleged, nor does it identify any injury occasioned to any investor. The heightened burden articulated in Reliance Industries is therefore squarely attracted, and it was incumbent upon SEBI to establish the alleged scheme to a higher degree of the preponderance of probabilities, such that the transactions relied upon admit of "no other explanation but that of fraud"

SCN fails to establish control over five other entities

48.45) The SCN also alleges that Rapid Credit and Holdings Private Limited, R.K. Stock Holding Private Limited, Sumpoorna Portfolio Limited, Narayan Securities Limited and Narayan Commodity Brokers Private Limited were controlled by the Noticees. The Noticees submit that the SCN does not establish any direct link, communication, agreement, understanding, control, shareholding relationship, common management or collusive arrangement between these entities and Omaxe or its promoters. The SCN offers no explanation as to how these entities were controlled by Omaxe/its promoters. The SCN fails to establish any direct link, communication, agreement, understanding, control, shareholding relationship, common management, or collusive arrangement between the Omaxe/its promoters and these five entities. Mere acquisition of shares of Omaxe by these entities during 2013-2024, without cogent evidence connecting such acquisition to any instruction, funding, arrangement or common design with the Noticees, cannot form the basis for treating them as connected entities or non-disclosed promoters. It is pertinent to note, that the SCN has at best, only displayed connection of JBPL with these entities and not that of Omaxe/its promoters

No specific role alleged against Noticee Nos. 2, 5, 7 and 8.

48.46) The Noticees submit that Noticee Nos. 2, 5, 7 and 8 have been implicated merely on the basis of their status as promoters or members of the promoter group, without any specific allegation or evidence regarding their intent, knowledge, role or active involvement in the alleged fraud. SEBI itself, in the Adjudication Order in respect of *Inventure Growth & Securities Limited* in the matter of MIC Electronics Ltd. dated March 16, 2017, acknowledged the necessity of "intent" to make a charge of "fraud" under Regulations 3 and 4 of the PFUTP Regulations.

No violation of PFUTP Regulations, MPS norms, Companies Act or LODR Regulations

48.47) In view of the submissions that no alleged scheme has been established, the Noticees submit that the consequential allegations also do not stand established, including the allegations concerning funding of acquisition of Omaxe shares, wrongful disclosure of promoter/promoter group shareholding, non-compliance with MPS norms and violation of the LODR Regulations.

48.48) Noticees submit that the Hon'ble SAT in *Shree Kumar Bangur v. SEBI* carefully examined the definitions of "promoter" and "promoter group" under the ICDR Regulations 2009, and held that once the restrictive statutory meaning is applied, entities that do not fall within the defined categories "automatically come under the category of public." The Hon'ble Tribunal in the said decision rejected the imputation of promoter group status on the basis of presumed control or PAC. It is respectfully submitted that the present SCN seeks to present an analogous presumptive fictional rationale by framing the allegedly Suspected Entities as "non-disclosed promoters" in a broad brush to sustain its narrative.

48.49) Noticees submit that none of the 25 Suspected Entities, Mr. Vimal Kumar Gupta and his family members, or the entities described as the Rajesh Group of Companies can legally be classified as promoters or promoter-group entities of Omaxe. None of them was named as a promoter in Omaxe's offer documents or annual returns, exercised direct or indirect control over Omaxe, or had a board of directors accustomed to act on their advice, directions or instructions. They also do not fall within any prescribed category of the promoter-group definition. Further, none of these entities held Omaxe shares beneficially for or on behalf of the Noticees, nor possessed any special, veto, affirmative-vote or board-nomination rights relevant to determining promoter status. Their shareholding was disclosed to the stock exchanges in accordance with the applicable SEBI Regulations, and therefore there is no factual or legal basis for reclassifying their shareholding as promoter or promoter-group shareholding.

The SCN fails to establish the PAC status amongst the Noticees

48.50) The Noticees submit that the SCN seeks to characterise the twenty-five entities as persons acting in concert with the promoters. The statutory requirements of a common objective or purpose, an agreement or understanding and cooperation for acquisition or exercise of control must all be independently established. Reliance is placed on judgment of Hon'ble Supreme Court in *Daiichi Sankyo Co. Ltd. v. Jayaram Chigurupati* in support of their contention.

48.51) None of the ingredients required to establish that the entities were PACs stand established. Being so, the allegation of violation of Regulation 30(2) of the SAST Regulations is not tenable. It is submitted that the fact of receiving funds does not by itself establish a "common objective or purpose" under the PAC definition, much less an "agreement or understanding." An entity that receives funds from a related party and uses those funds for investment is not, without more, acting in concert with the funder for the purpose of acquiring control over or exercising voting rights in the target company. The SCN does not produce any agreement, communication, or other document between any of the Funded Entities and the Noticees which indicates a shared purpose or an understanding. The "agreement or understanding" element is entirely missing from the record.

48.52) The voting-pattern analysis relied upon in the SCN is also disputed as selective and incomplete. It relies upon only two voting events in 2021 and 2024, while the remaining alleged PAC entities largely did not participate in such voting. The Noticees submit that voting in favour of ordinary resolutions cannot, by itself, establish coordination, control or an agreement to acquire shares or exercise control.

Allegations with respect to Mr. Vimal Kumar Gupta and his family

48.53) The Noticees submit that the transactions involving Mr. Vimal Kumar Gupta and his family were bona fide commercial transactions, principally relating to purchase, acquisition and booking of properties and investments in debentures. The amounts received from JBPL were stated to be property advances which were returned when the transactions did not materialise.

48.54) In respect of Uninav Developers Private Limited, Mr. Vimal Kumar Gupta explained that said transactions represented an advance of INR 24.25 lakhs towards flat booking in 2013-2014 in the company's Raj Nagar Extension project, which flat was surrendered/re-purchased by the company in September 2015, and a further sum of INR 22.42 lakhs paid in October 2017 towards flat booking, which was likewise surrendered to the company in March 2018. These were bona fide real-estate/property transactions and, to the extent they related to land aggregation or development activities, the funds were utilised for land aggregation/development-related purposes.

48.55) Further, as recorded at paragraph 84 of the SCN, Mr. Vimal Kumar Gupta invested INR 37 lakhs in 14% non-convertible debentures of Usha Financial Services Limited (a Non- Banking Financial Company) in August/September 2018 (which matured in September 2021 with monthly interest), and a further INR 50 lakhs in the company's 12% non- convertible debenture issue in May 2022. These investments were arm's-length subscriptions to debentures issued by a regulated NBFC through multiple series of NCDs, all of which were regularly serviced in the ordinary course of business. Accordingly, the transactions cannot be characterised as funding by, or funding for the benefit of Omaxe. Further, any investment made by Mr. Vimal Kumar Gupta in the NBFC was purely a matter of his personal and independent commercial judgment, undertaken in his individual capacity. Noticee No. 1 neither had any knowledge of, nor exercised any control or influence over, such investment decision and, therefore, cannot be held responsible or liable for actions undertaken by Mr. Vimal Kumar Gupta in his personal capacity.

48.56) It is further submitted that Mr. Vimal Kumar Gupta further explained that he applied, in the ordinary course, for the shares of Nupur Recyclers Limited (an NSE-listed entity) in its SME IPO in December 2021, and that he had booked a flat in the Faridabad project of Omaxe Forest Spa and Hills Developers Limited in 2017, for which full payment was made. None of these transactions bears any indicia of a funding arrangement designed to fraudulently maintain MPS norms of Notice No. 1.

48.57) The SCN states that the amounts considered are 'over and above' the salary received by Mr. Vimal Kumar Gupta from Omaxe Limited. In this regard, it is submitted that the mere fact that Mr. Vimal Kumar Gupta, an employee or former employee of Omaxe Limited, independently engaged in transactions relating to properties and securities using connection between the Rajesh Group of Companies and the Noticees, still less control by the Noticees over them. For the reasons already set out in the preceding submissions on merit, mere connecting factors do not establish that parties were acting in concert, or in collusion, in furtherance of any fraudulent scheme. The fact that none of directors or promoters of Noticee No. 1 had been director or shareholder Rajesh Group entities itself proves that Notice No. | has no control over Rajesh Group entities.

48.58) Figures in table 38 do not reconcile and result in an alleged overstatement of approximately INR 330 lakhs. It is submitted that an allegation of such gravity cannot rest upon an unreconciled financial summary.

Allegations with respect to the Rajesh Group of Companies

48.59) The Noticees submit that commonality of directors among the five entities constituting the alleged Rajesh Group does not establish any connection or control by the Noticees over those entities. The fact that none of the directors or promoters of Omaxe was a director or shareholder shareholder Rajesh Group entities itself proves that Noticee No. 1 has no control over Rajesh Group entities.

48.60) The transactions between Omaxe Limited and Uninav Developers Private Limited were bona fide commercial financing arrangements: The SCN records that Noticee No. 1 had a business arrangement with Uninav Developers Private Limited ('UDPL") for the provision of financial assistance by way of an Inter-Corporate Deposit ("ICD"). It is submitted that the extension of an ICD is a legitimate and commonplace commercial transaction. The ICD, and each renewal thereof, was granted on interest-bearing commercial terms, in accordance with the applicable provisions of the Companies Act, 2013, and pursuant to the requisite corporate authorizations and approvals, and was duly recorded in the books of Noticee No. 1. The SCN's observation that the ICD was for a tenure of four years and was renewed twice (in April 2016 and April 2019), with the amount enhanced from Rs. 45 crores to Rs. 62 crores, merely describes the commercial terms of a financing arrangement and does not evidence any funding of share acquisition. A renewal, on commercial terms and with due corporate authorization, of a subsisting inter-corporate financing arrangement is an ordinary incident of such an arrangement and is not, and cannot be, evidence of any scheme. Any attempt to retrospectively re- characterize a legitimate inter-corporate financing transaction as a device for manipulating the shareholding in, or the market for, the shares of Noticee No. 1, in the absence of cogent evidence establishing such a nexus, cannot stand. The financing arrangement between Noticee No. 1 and UDPL was in ordinary course of business and duly reflected in audited financial statements. The copies of ICD agreement dated April 01, 2012 and the renewal agreements dated April 01, 2016 and April 01, 2019 are enclosed herewith as Annexure — IV Colly.

48.61) The allegation that the ICD is "unaccounted" is capable of full explanation and reconciliation: The SCN relying on Table 41 alleges that, whereas the ledger of UDPL reflects a debit of INR 40.57 crores (as on April 01, 2016) rising to INR 61.81 crores (as on April 01, 2019), the Company's audited financial statements for FY 2012 to FY 2016 (Schedule 15 — Loans & Advances) reflect a balance of only INR 19.44 crores as on March 31, 2016, and that accordingly the fund transfers to UDPL are "unaccounted and unexplained". In this regard, it is submitted that the aforementioned amount was duly disclosed in the Financial Statements of Notice No. 1 for in respective years under Loan & Advances column in accordance with applicable accounting standards.

7.62) It is respectfully submitted that the classification and presentation of loans and advances in audited financial statements is governed by the applicable accounting standards and the audited books of the Company, and that any apparent difference between a party- wise ledger and a schedule to the financial statements is a matter of ledger grouping and can be traced to respective party, and cannot be equated with concealment or with funding for share acquisition.

48.63) The SCN further records that Omaxe Limited had availed a term loan of INR 1 crore from Usha Financial Services Limited (*UFSL"), a regulated NBFC, and that Omaxe New Chandigarh Developers Private Limited had fund transactions with UFSL of approximately INR 3,30,40,961. Availing a term loan from, and transacting with, a regulated NBFC is an ordinary commercial activity and is, if anything, the converse of "funding" by Omaxe; it does not advance the allegation that Omaxe funded the Rajesh Group for the acquisition of Omaxe's shares.

Mitigating factors

48.64) Without prejudice, the Noticees submit that the mitigating factors under Section 15-J of the SEBI Act, namely the amount of disproportionate gain or unfair advantage, loss caused to investors and repetitive nature of the default, are required to be considered while determining the quantum of penalty. The Noticees submit that the SCN does not identify any disproportionate gain or unfair advantage accruing to them, nor does it identify any demonstrable investor harm arising from the alleged MPS misrepresentation. Accordingly, in the event any penalty is imposed, it is submitted that the same ought to be minimal. Noticees rely on the judgment of Hon'ble Supreme Court in *Adjudicating Officer, SEBI v. Bhavesh Pabari* and the order of the Hon'ble SAT in *National Highway Authority of India v. SEBI* in support of their contention.

49. Key submissions made by Noticee No. 3 and 6 vide their reply to the SCN are summarised below:

Limited involvement in Omaxe and cessation from the Company

49.1) The Noticees state that Mr. Sunil Goel was appointed as Joint Managing Director of Omaxe on 17.08.1992 and was one of the promoters and a shareholder holding 0.01% of the Company. His association with Omaxe effectively ceased on 27.09.2017 when he was removed as Joint Managing Director by the shareholders at the AGM.

49.2) It is submitted that after his removal, he had no role in the management, operations or decision-making of Omaxe. The alleged acts of MPS non-compliance and fraudulent conduct primarily relate to 2013–2024, during which his involvement was limited during 2013–2017 and absent thereafter.

49.3) It is stated that during 2013–2017, the day-to-day affairs, strategic decisions and finances of Omaxe were controlled by Mr. Rohtas Goel, while Mr. Sunil Goel's role was limited to overseeing construction and development at the Company's project sites. He had no control or authority over finance and funding arrangements, OFS transactions or the schemes referred to in the SCN.

Complaints to SEBI/NCLT

49.4) The Noticees submit that Mr. Sunil Goel was not a perpetrator of the alleged violations but was a sufferer of inter se disputes among shareholders and had sought to maintain transparency and adherence to law. It is stated that these disputes resulted in his removal from Omaxe.

49.5) It is submitted that Mr. Sunil Goel had brought irregularities in the Company to SEBI's attention and had filed petitions before the NCLT, Chandigarh alleging oppression and mismanagement in Omaxe and Guild Builders Private Limited on 19.09.2018. The petitions were subsequently withdrawn.

49.6) The Noticees state that SEBI was a respondent in the NCLT proceedings and that Mr. Sunil Goel's actions demonstrate that he had been pursuing remedies against the controlling promoters and had remained outside Omaxe since 2017.

49.7) It is further stated that Mr. Sunil Goel complained to SEBI on 23.02.2019 regarding alleged non-disclosure violations under Regulation 31 of the SAST Regulations by Guild Builders, including contradictory statements concerning pledging of Omaxe shares.

49.8) On this basis, the Noticees submit that Mr. Sunil Goel's conduct demonstrates that he was not a willing participant in any violation but was an aggrieved party seeking redressal against the alleged wrongdoers.

Earlier proceedings and consistent denial of involvement

49.9) The Noticees state that SEBI had earlier issued an SCN dated 14.08.2023 and letters dated 11.03.2024 and 03.04.2024 concerning Omaxe, to which Mr. Sunil Goel responded on 09.04.2024 and 15.04.2024, denying the allegations. It is submitted that Mr. Sunil Goel had informed SEBI that he had not been associated with the Company's day-to-day management for more than 6–7 years, had no access to the Company's records, had cooperated with SEBI's investigation to the extent of his knowledge, and had requested SEBI to obtain information directly from Omaxe and exclude him from the investigation.

49.10) The Noticees submit that the present SCN proceeds on incorrect factual assumptions and attributes liability without identifying any specific act, omission, role or involvement of Mr. Sunil Goel. It is stated that the SCN does not demonstrate any new evidence or material implicating him and appears to continue the same investigation in which he had already denied involvement.

Allegation of involvement in funding arrangements through JBPL

49.11) It is admitted that Mr. Sunil Goel was an authorised signatory to JBPL's Axis Bank account until 2008. However, it is submitted that this fact cannot implicate him in funding arrangements occurring in 2013 and thereafter, as he had ceased to be an authorised signatory five years earlier and had no involvement in JBPL's day-to-day affairs after 2008.

49.12) Although JBPL is stated to have been an associate company of Omaxe, the Noticees submit that Mr. Sunil Goel's involvement was administrative and had ceased in 2008. Thereafter, JBPL's operations, funding decisions and bank-account utilisation were under the control of Mr. Rohtas Goel and other key managerial personnel. The Noticees deny any involvement, participation or knowledge of fund transfers from JBPL to entities subscribing to the June 2013 and October 2013 OFS. It is submitted that the bank statements show Omaxe as the primary beneficiary and that the funding arrangements were controlled by Mr. Rohtas Goel.

Alleged directorship in DHDPL and Guild Builders

49.13) It is submitted that although he was initially appointed as a director of these entities, his role was nominal and he ceased to be involved in their management long before the alleged violations. As per Table 9 of the SCN, he ceased to be a director of both DHDPL and Guild Builders on 15.09.2013. The Noticees submit that the cessation dates demonstrate that Mr. Sunil Goel had no involvement during the critical period of the alleged funding and fraudulent arrangements, particularly from October 2013 onwards. It is further stated that even during his nominal directorship, actual control and management rested with Mr. Rohtas Goel.

Allegation non-disclosure and false declarations

49.14) It is submitted that during his tenure as Joint Managing Director, disclosures concerning shareholding pattern and MPS compliance were made in accordance with the applicable provisions, based on information available in the Company's statutory records. The Noticees state that, to the best of Mr. Sunil Goel's knowledge, information and belief and based on the records and representations available at the relevant time, disclosures filed with stock exchanges and/or SEBI were true, correct and complete in all material respects.

49.15) It is further submitted that after cessation from office in September 2017, Mr. Sunil Goel had no involvement in Omaxe's management, affairs or statutory compliances, and therefore liability for alleged non-compliance occurring thereafter is stated to be legally and factually untenable.

Allegation of violation of SEBI PFUTP Regulations

49.16) It is submitted that allegations of fraud require establishing mens rea, including an intention to defraud. According to the Noticees, the SCN fails to establish any direct involvement, knowledge or intention on the part of Mr. Sunil Goel. The Noticees reiterate that Mr. Sunil Goel was not involved in the alleged funding arrangements, did not participate in decisions relating to the OFS and did not derive any benefit from the alleged fraudulent scheme.

Allegation of violation of MPS requirements under SCRR/LODR

49.17) It is submitted that the obligation to achieve MPS compliance is primarily upon the Company and, accordingly, the allegation is stated to be factually incorrect and legally unsustainable insofar as Mr. Sunil Goel is concerned.

Allegation of violation of SAST Regulations regarding PAC disclosures

49.18) It is submitted that, to the best of Mr. Sunil Goel's knowledge, information and belief, all disclosures required under Regulation 30(2) were duly and correctly made within the prescribed timelines based on the information available to him at the relevant time. There was no deliberate omission, suppression or misstatement on his part.

Voting pattern and alleged coordination

49.19) It is submitted that voting is an independent statutory right attached to shareholding and is exercised at the sole discretion of each shareholder. It is further submitted that similarity in voting patterns, in the absence of cogent evidence of a prior arrangement or common objective, cannot by itself establish control, influence, agreement or acting in concert.

Other submissions

49.20) The Noticees invoke principles of natural justice and fair play and submit that a person should not be penalised for acts he did not commit, did not know of, or had no control over. Since Mr. Sunil Goel ceased to be actively involved in Omaxe from September 2017, the alleged arrangements were outside his control and knowledge.

49.21) The Noticees state that Mr. Sunil Goel did not receive any monetary benefit, did not participate in any funded entities and did not acquire any shares through the alleged fraudulent arrangements.

49.22) The Noticees submit that Mr. Sunil Goel should receive protection as a person who had raised concerns regarding corporate wrongdoing and sought to strengthen corporate governance. It is stated that penalising him despite his alleged role as a whistleblower and victim of the alleged fraud would discourage persons from reporting corporate misconduct.

49.23) It is further submitted that the SCN contains omnibus and generic allegations against promoters collectively and does not specify the exact role, acts or omissions attributable to Mr. Sunil Goel. The SCN fails to establish with particularity what specific acts have Sunil Goel allegedly committed, and how such acts constitute violations of law. In the absence of specific allegations with supporting evidence, the proceedings are vague, arbitrary, and liable to be quashed.

50. Key submissions made by Noticee No. 3 and 6 vide their reply to the SCN are summarised below:

50.1) The Noticee denies the contents of the SCN insofar as they concern him and submits that he has been implicated merely because he was a promoter and director of Omaxe. It is stated that a promoter or director can be held liable only for something actually done by him or with his knowledge or connivance. The Noticee submits that the entire financial and day-to-day affairs of Omaxe were controlled by the Chairman & Managing Director/Majority Shareholder, Mr. Rohtas Goel. During the relevant period, the Noticee states that he held only 1.79% of Omaxe in 2013, 1.69% in 2014 and 0.55% presently, and had been regularly oppressed since inception.

50.2) It is further submitted that majority policy decisions and day-to-day affairs were conducted by the CMD without his knowledge. His dissenting notes against resolutions were not properly incorporated in the final minutes, and he was allegedly not supplied notices/materials for meetings. He states that his personal shares were pledged without his knowledge or consent and that he was restrained from active participation in Board and Executive Committee meetings.

50.3) That the majority policy decisions as well as day to day affairs were being conducted by CMD of OMAXE Ltd without my knowledge. The information & documents concerning the Company have been specifically denied in written to supply me. My dissent notes against the resolutions passed in the meetings have not been incorporated in the final minutes. Lot of times, the advance notice for the meetings have not been supplied to me. Many other times, the notice for the meetings were supplied without supplying its agenda. My personal shares were continuously pledged without my knowledge and consent under influence of CMD by IFCI Bank, even after completion of its term since October 2012. I have been unlawfully refrained from active participation in the Board Meeting and the meetings of Working Committees. Various operations & mismanagement practices have been done against me since 2012. My retirement by rotation was placed in the agenda, one year before expiry of my term as 'director'. Under compelling circumstances, I had to resign from 'directorship' of the Company vide by resignation letter dated 04.08.2018; which is self- explanatory. Whatsoever the documents I may have signed as director or authorized signatory or in any other capacity at any time in this tenure, had been done under instruction of CMD on basis of confined information. I have absolutely no role in any capacity in framing policy regarding maintainability of minimum shareholding as per SEBI rules, as such crucial decisions in OMAXE Ltd. has always been taken up by CMD in discussion with other majority shareholders, Compliance office cum Company Secretary and CFO.

50.4) The Noticee states that, as the SCN itself records, he ceased to be a director of Guild Builders Private Limited, the holding company of Omaxe, on 15.09.2013. He submits that this demonstrates his lack of involvement in the entities during the critical period when the alleged funding and fraudulent arrangements were being executed. The Noticee states that, because of the above circumstances, he is unable to collect data or factual information from Omaxe and is therefore unable to comment on each allegation in the SCN. He nevertheless submits that, after considering his reply and annexures, the SCN against him should be discharged.

50.5) The Noticee states that his personal shares of Omaxe were pledged with IFCI for three years from 08.10.2009 to procure a loan for the Company, pursuant to a loan agreement. He submits that although the loan was ultimately released on 08.10.2012, IFCI did not release his personal shares and continued to retain them without his knowledge and consent. It is further stated that his shares were again pledged by IFCI for another loan without his knowledge or consent. The Noticee states that he repeatedly corresponded with IFCI and sought release of his shares, which were eventually released in February 2018 after more than five years.

50.6) It is stated that he complained to the CMD, Company Secretary, Executive Director and CFO on 27.12.2017 regarding non-release of his personal shares despite expiry of the loan and sought copies of Board and Executive Committee minutes and other documents. According to the Noticee, none of these were provided to him.

50.7) The Noticee submits that the Board Meeting dated 28.09.2017 was convened without fulfilling the mandatory quorum requirement and that a resolution was nevertheless passed to reduce his managerial remuneration.

50.8) It is further stated that meetings of the Executive Committee dealing with the day-to-day affairs of the Company were convened without his knowledge or notice and decisions were taken without his consent. He submits that his letter dated 27.12.2017 evidences this position.

50.9) The Noticee states that his official email account was unlawfully misused/deleted by the Company's IT department in connivance with the CMD and that important emails were posted from his account or deleted. He therefore requested the Company to use his personal email address for future correspondence.

50.10) He further states that the minutes of the Board Meeting dated 14.11.2017 did not reflect the true and complete picture of the business transacted and that he sent dissent notes regarding the same.

Further objections and Company's alleged failure to provide information

50.11) The Noticee states that through his letter dated 28.02.2018 he again brought to the attention of the CMD, Company Secretary and Executive Director various acts of oppression and mismanagement and requested certain documents. He submits that the requested information/documents were not incorporated into the minutes despite his specific requests.

50.12) It is stated that the then Company Secretary, in a letter dated 17.03.2018, informed him that there was no direction for her to show the desired documents despite his appointment as Director. The Noticee states that he consequently complained to the Disciplinary Committee of the Institute of Company Secretaries of India, where the Company Secretary allegedly admitted that she had been instructed not to provide documents to him.

50.13) The Noticee states that through his letter dated 23.03.2018 he specifically pointed out that the minutes should present the true and complete picture of Board proceedings and that a minority shareholder/director should not be compelled to obey majority directions where wrongs are involved. He requested that dissent notes and the true position be reflected in the minutes.

50.14) It is submitted that he received an unsatisfactory reply from the Company Secretary dated 27.04.2018 and that the Board of the Company did not act despite his complaint.

50.15) The Noticee states that the draft minutes of the Board Meeting dated 23.05.2018, circulated to him on 06.06.2018, incorrectly marked the presence of the Chairman & Managing Director and Chief Executive Officer as "PRESENT" despite their alleged absence during the entire meeting. He submits that this raised concerns regarding the authenticity of the minutes.

50.16) Through his letter dated 11.06.2018, the Noticee states that he raised further objections concerning incorporation of his dissent notes, correctness of financial statements, discrimination in distribution of dividend among shareholders of the same class, distribution of 1% of net profits to Non-Executive Directors as commission, and retirement of CMD by rotation.

50.17) He further states that through his letter dated 29.06.2018 he demanded inspection of CCTV footage for the entire day of the Board Meeting dated 23.05.2018 and sought supply of affidavits of the CMD and CEO authenticating their physical presence at the meeting.

50.18) The Noticee submits that the minutes of the Board Meeting dated 23.05.2018 did not reflect the true and complete picture of the business transacted and that his objections concerning financial statements and other matters were not incorporated.

50.20) It is stated that despite his retirement as Director by rotation on 30.09.2019, his appointment was shown in the Annual Report as Director for five years from 01.10.2014 to 30.09.2019. He states that he ultimately tendered his resignation from the directorship of Omaxe on 04.08.2018 due to recurring acts of oppression and mismanagement.

50.21) The Noticee submits that the series of events demonstrates that he had been aggrieved by acts of oppression and mismanagement since October 2012. He states that the CMD/majority shareholder stopped providing information/documents, prevented active participation in meetings and that dissent notes were not incorporated in the minutes.

50.22) It is further submitted that the Company did not provide information, documents or CDs despite written requests and that his shares remained unauthorisedly pledged by IFCI. He states that his retirement was falsely shown before the Board and that he resigned from directorship on 04.08.2018 under compelling circumstances.

50.23) The Noticee states that he has had no role whatsoever in any affair or decision concerning the Company at any point of time and that the entire agenda was placed by the Company under instructions of the CMD and finalised with the concurrence of independent directors appointed by the CMD.

50.24) The Noticee states that, since he held only 0.55% shares of Omaxe and had absolutely no role in the Company, he submitted an application dated 31.03.2024 under Regulation 31A of the LODR Regulations for reclassification from promoter to public category, along with the required documents. It is submitted that the Board, at its meeting dated 28.05.2024, declined/rejected his application, allegedly under the influence of the CMD. The Noticee states that he thereafter submitted a representation dated 30.07.2024 under Regulation 31A to SEBI, along with supporting documents.

50.25) The Noticee further states that he submitted complaints to SEBI on 30.07.2024, 25.09.2024 and 05.12.2024 and subsequently complained regarding the Company's unsatisfactory response.

50.26) It is also stated that Mr. Sunil Goel, described as promoter and real brother of Mr. Rohtas Goel, applied for reclassification from promoter to public category, which was initially accepted and approved by the Board and thereafter rejected upon a second application. The Noticee relies on these events as further evidence of the differing treatment of him and other promoter-related persons.

Response to alleged role and inability to provide information

50.27) The Noticee submits that the SCN proceeds on incorrect factual assumptions without establishing any specific act, omission, role or involvement attributable to him under the applicable securities laws.

50.28) With reference to the SCN's observation regarding his alleged role as an authorised signatory of the Axis Bank account of JBPL with Mr. Sunil Goel till 2008, the Noticee states that he was unable to recall whether he was an authorised signatory. He states that he is 67 years old, is undergoing cancer treatment and has no information, documents or data concerning the Company's affairs because the Company has retained custody of its records.

50.29) The Noticee submits that, since inception, CMD Mr. Rohtas Goel took each and every decision in Omaxe and that the Noticee had no knowledge of any siphoning of funds from Omaxe to any other company. He states that during his tenure as director he signed documents under the instructions of the CMD on the basis of very limited information supplied to him.

50.30) It is submitted that, to the best of his knowledge, information and belief, he filed all required disclosures and reports before the statutory authorities and immediately objected to anything illogical or unjustifiable coming to his knowledge. He further states that any discussions concerning funding from Omaxe to another company, or the circumstances referred to in the SCN, were never brought to his knowledge. The Noticee states that after his resignation from directorship on 04.08.2018, no activity or day-to-day affairs were ever discussed with him. He submits that the control and supervision of Omaxe's affairs were never in his hands and that he has no access to the Company's books and records.

Issues for Consideration

51. On perusal of the allegations levelled against the Noticees in the SCN along with its annexures, the reply of the Noticees, oral submissions made during the hearing and other material available on record, the following issues arise for consideration in the present proceedings :

   i) **Whether Noticee no.1 to 8 have violated Section 77 of Companies Act, 1956 / Section 67 of Companies Act, 2013 ?**

   ii) **Whether Noticee no.1 to 8 have violated Rule 19A(1) of SCRR 1957 read with Regulation 38 of SEBI(LODR) Regulations 2015, and the provision of 2(II) on "Amendments to Clause 40A – Minimum Public Shareholding" of SEBI circular no. CIR/CFD/DIL/10/2010 dated December 16, 2010 and circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015.**

   iii) **Whether Noticee no.1 to 8 have violated Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) 2015 read with circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 read with Regulation 2(zb) of SEBI (ICDR) Regulations 2009 and Regulation 2 (pp) of SEBI (ICDR) Regulations 2018 and Clause 35 of the Listing Agreement for 2013-2015 ?**

   iv) **Whether Noticee no.1 to 8 have violated Section 12A(a), (b) and (c) of SEBI Act 1992 read with Regulation 3(b) and (c) and 4(1) of SEBI (PFUTP) Regulations 2003.**

   v) **Whether Noticee no. 2 to 8 have violated Regulation 30(2) of SEBI (SAST) Regulations 2011.**

   vi) **If the above issues are determined in the affirmative what directions, if any, including the amount of monetary penalty, is required to be imposed on the Noticees ?**

52. Before dealing with the issues, it would be appropriate to refer to the relevant provisions of law which are alleged to have been violated by the Noticees and relevant extract thereof is reproduced hereunder:

Section 77 (Companies Act,1956). Restrictions on purchase by company, or loans by company for purchase, of its own or its holding company's shares

(1) No company limited by shares, and no company limited by guarantee and having a share capital, shall have power to buy its own shares, unless the consequent reduction of capital is effected and sanctioned in pursuance of sections 100 to 104 or of section 402.

(2) No public company, and no private company which is a subsidiary of a public company, shall give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person of or for any shares in the company or in its holding company

Since 01-04-2014 the provision changed as below:

Section 67 (Companies Act, 2013). Restrictions on purchase by company or giving of loans by it for purchase of its shares.

(1) No company limited by shares or by guarantee and having a share capital shall have power to buy its own shares unless the consequent reduction of share capital is effected under the provisions of this Act.

(2) No public company shall give, whether directly or indirectly and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase or subscription made or to be made, by any person of or for any shares in the company or in its holding company.

SEBI (LODR) Regulations, 2015

Regulation 31(1) (b)

"Holding of specified securities and shareholding pattern.

31. (1) The listed entity shall submit to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of securities, in the format specified by the Board from time to time within the following timelines -

(a) ….

(b) on a quarterly basis, within twenty-one days from the end of each quarter; and…"

SEBI circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015

Manner of representation of holding of specified securities

"a. The holding of specified securities shall be divided into the following 3 categories viz.

Promoter and Promoter Group, Public and Non Promoter Non Public

***Formats**: The format for disclosure of holding of specified securities is placed at Annexure I.*

b. Statement showing holding of specified securities of the Promoter and Promoter Group is given as per Table-I…"

Listing Agreement

Clause 35 b

"The company agrees to file with the exchange the following details, separately for each class of equity shares/security in the formats specified in this clause, in compliance with the following timelines, namely:-

a……
b. On a quarterly basis, within 21 days from the end of each quarter…
(I)(a) ***Statement showing Shareholding Pattern****….”*

SEBI (ICDR) Regulations 2009

2 (1) …
*(zb) “**promoter group**” includes*
.
(v) all persons whose shareholding is aggregated for the purpose of disclosing in the prospectus under the heading "shareholding of the promoter group":

SEBI (ICDR) Regulations 2018

2 (1) ….

*(pp) “**promoter group**” includes:*
.
v. all persons whose shareholding is aggregated under the heading shareholding of the promoter group

Rule 19A(1) of SCRR 1957 specifies the requirement for achieving the **Minimum Public Shareholding** as under –
19A. *Continuous Listing Requirement*
(1) Every listed company [other than public sector company] shall maintain public shareholding of at least twenty-five per cent.

Provided that every listed public sector company which has public shareholding below twenty-five per cent.on the commencement of the Securities Contracts (Regulation)(Second Amendment) Rules, 2018, shall increase its public shareholding to at least twenty-five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Regulation 38 of SEBI (LODR) 2015 specified the following –

The listed entity shall comply with the minimum public shareholding requirements specified in Rule 19(2) and Rule 19A of the Securities Contracts (Regulation) Rules, 1957 in the manner as specified by the Board from time to time:

Provided that provisions of this regulation shall not apply to entities listed on institutional trading platform without making a public issue.

Point 2(II) on “**Amendments to Clause 40A** – Minimum Public Shareholding” of SEBI circular no CIR/CFD/DIL/10/2010 dated December 16, 2010 read with circular. No CIR/CFD/CMD/14/2015 dated November 30, 2015, provides the manner of achieving the minimum public shareholding through the following ways –

a) issuance of shares to public through prospectus; or
b) offer for sale of shares held by promoters to public through prospectus;
c) sale of shares held by promoters through the secondary market.
d) Institutional Placement Programme (IPP) in terms of Chapter VIIIA of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009.

e) Rights Issue to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares, that may arise from such issue;
f) Bonus Issues to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares, that may arise from such issue;
g) Any other method as may be approved by SEBI on a case to case basis. For this purpose, the listed entities may approach SEBI with appropriate details. SEBI would endeavor to communicate its decision within 30 days from the date of receipt of the proposal or the date of receipt of additional information as sought from the company.

SEBI (PFUTP) Regulations, 2003

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) ……

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.

SEBI Act, 1992
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;

SEBI (SAST) Regulations, 2011

30 Continual disclosures.
(1) ……………..

(2) The promoter of every target company shall together with persons acting in concert with him, disclose their aggregate shareholding and voting rights as of the thirty-first day of March, in such target company in such form as may be specified.

Consideration of Issues

53. Before considering the issues in the matter, I find it appropriate to deal with the preliminary objections raised by the Noticee as follows:

Proceedings are vitiated due to delay and laches

54. The Noticees have submitted that the present proceedings are vitiated on account of substantial, inordinate and unexplained delay. The SCN concerns transactions primarily pertaining to 2013, including the OFS transactions dated June 03, 2013 and October 29, 2013 and the bonus issue of November 2013, whereas the SCN has been issued after more than a decade. Such delay has caused serious prejudice to the Noticees in effectively defending the proceedings. The delay has caused further prejudice as certain transactions now being questioned date back to 2008, while the statutory record-retention period under Section 128(5) of the Companies Act, 2013 is eight financial years. Records beyond the prescribed retention period may therefore no longer be available, impairing the Noticees' ability to respond to the allegations. Reliance has been placed on Adjudicating Officer, SEBI v. Bhavesh Pabari, Government of India v. Citedal Fine Pharmaceuticals, Ashlesh Gunvantbhai Shah v. SEBI and HB Stockholdings Limited v. SEBI in support of the submission that unexplained delay in initiating proceedings is impermissible.

55. With regard to the submission on delay, I note that as per Section 11C of the SEBI Act, 1992, no timeline has been prescribed for SEBI to initiate investigation for any period of alleged violation. As held by the Hon'ble Supreme Court in various orders referred by the Noticees and also in *Adjudicating Officer, Securities and Exchange Board of India vs. Bhavesh Pabari (2019) SCC Online SC 294* that when period of limitation is not prescribed, such power must be exercised within a reasonable time. I note that though the allegations being adjudicated in the instant proceedings have its genesis in in the OFS in 2013 the said observation itself is not the basis of allegations made in the SCN.

56. SEBI conducted an investigation into the misrepresentation in the financial statements of Omaxe Ltd pursuant to which SCN dated August 14, 2023 was issued which culminated into final order dated July 30, 2024. During the said investigation, SEBI also came across material which raised doubts regarding whether the company had indeed complied with MPS norms as submitted by it to SEBI in 2013. Thereafter, SEBI initiated investigation in

the year 2023 into violation of MPS norms by Omaxe Ltd which has resulted in the present proceedings. During the investigation, SEBI sought and examined various documents from third parties and various entities were summoned in this regard and on the basis of the responses received from various entities the findings were made in the Investigation Report. I also note that the Noticees have referred to Section 128(5) of the Companies Act, 2013. While the said provision requires companies to preserve their books of account and relevant vouchers in good order for at least eight financial years immediately preceding the current financial year, the present proceedings are related to MPS norms and the Noticees have not substantiated which documents it has not been able to produce on account of Section 128(5) of the Companies Act, 2013.

57. In view of the same, I find that the Noticees have made a bald submission regarding delay and failed to substantiate the prejudice caused. In view of the same, I am unable to accept the Noticees' submissions in this regard.

SCN suffers from non-joinder of necessary parties

58. The Noticees have contended that the SCN is arbitrary on the ground that, while alleging a common fraudulent scheme involving several entities, SEBI has proceeded only against some of them and has excluded others whose conduct allegedly formed part of the same scheme. According to the Noticees, such selective action is discriminatory and violative of Article 14 of the Constitution of India.

59. I note the present SCN contains specific allegations against the Noticees and they have been called upon to answer those allegations. The issue before me is, therefore, whether the allegations made against the Noticees are established on the basis of the material on record. Whether proceedings ought also to have been initiated against any other entity does not determine the liability of the Noticees under the present SCN.

60. In this regard, the *Hon'ble Bombay High Court in Drishti Adventures Sports Pvt. Ltd. v. State of Maharashtra (W.P. No. 2158 of 2005)*, while dealing with a plea of discrimination under Article 14 on the ground that similarly placed operators had not been subjected to entertainment duty, rejected the contention that relief could be granted merely because similar action had not been taken against others. The Court observed that such a claim would amount to seeking "negative equality" and reiterated that equality cannot be claimed on the basis of an illegality or irregularity committed in another case. The same principle has also been recognised by the Hon'ble Supreme Court in *Secretary, Jaipur Development Authority v. Daulat Mal Jain, (1997) 1 SCC 35*, wherein it was held that Article 14 cannot be invoked to legitimise an illegal or illegitimate action merely because a similar benefit or treatment had been extended elsewhere. Further, in *Union of India & Anr. v. International*

Trading Co. & Anr., AIR 2003 SC 3983, the Hon'ble Supreme Court observed that the concept of equal treatment under Article 14 presupposes a similar legal footing and does not require repetition of an erroneous action in the name of equality.

61. Thus, even assuming that action has not been initiated against certain other entities allegedly forming part of the same facts, such circumstance by itself does not constitute a defence to the allegations made against the Noticees. The Noticees have to meet the allegations against them on their own merits and cannot seek discharge merely on the ground that similar proceedings have not been initiated against others.

62. Further, the contention that SEBI ought to have proceeded against other entities essentially questions the administrative decision regarding the persons against whom enforcement action was initiated. The scope of the present quasi-judicial proceedings is to adjudicate the allegations contained in the SCN against the Noticees. This forum is not competent with examining the legality or propriety of SEBI's administrative decision as to whether proceedings should also have been initiated against any other person. Accordingly, I find no merit in the contention of the Noticees that the present proceedings are liable to fail on the ground of alleged discrimination or alleged selective action.

SCN seeks to re-examine matters already examined by SEBI

63. The Noticees have contended that the present SCN seeks to re-examine matters already considered by SEBI and that the affairs, books, transactions and fund movements of Noticee No. 1, including its dealings with JBPL and other entities, had already been subjected to forensic audit and investigation culminating in the Final Order dated July 30, 2024. It is further contended that the present SCN does not rely upon any fresh material which was unavailable to or not considered by SEBI in the earlier proceedings.

64. In this regard, I note the earlier proceedings culminating in the order dated July 30, 2024 arose in the context of alleged violations of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the Listing Agreement and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, including allegations concerning misrepresentation in the financial statements of Omaxe. In the course of those proceedings, the relationship between Omaxe and JBPL was examined, inter alia, from the perspective of whether JBPL satisfied the statutory requirements for being treated as a related party. The expression "control", for such purpose, is governed by the applicable statutory framework and carries a specific legal meaning.

65. The present proceedings, however, proceeds on a different footing. The issue here is whether the Noticees circumvented the Minimum Public Shareholding requirements through an alleged arrangement involving funding of entities which acquired shares of Omaxe, and whether such conduct attracts the provisions of the PFUTP Regulations. For determination of such allegation, the enquiry cannot be confined to whether Omaxe possessed statutory "control" over JBPL. Absence of control sufficient to satisfy the statutory test for related-party status does not necessarily establish absence of factual influence, operational direction or coordinated conduct between the entities. These are distinct examinations undertaken for different legal purposes.

66. The relevant question in the present proceedings is whether the evidence, viewed as a whole, indicates that Omaxe exercised factual or operational influence over JBPL, or that JBPL acted at its instance or was otherwise used as part of the alleged arrangement for funding acquisition of Omaxe shares. Such inference, if any, has to be drawn from the cumulative effect of the evidence, including common personnel, the manner in which the entities functioned, the nature and movement of funds, the timing and sequencing of transactions and other connecting circumstances.

67. Accordingly, the finding in the earlier proceedings that JBPL did not satisfy the statutory test of a related party cannot be read as a determination that Omaxe and JBPL were entirely independent of each other for every regulatory purpose. Nor does such finding foreclose an examination of their factual relationship for determining the current allegations. The present allegation must therefore be tested independently with reference to the evidence relevant to the alleged scheme.

68. Be that as it may, in *Globalworth Securities Ltd. v. SEBI, Appeal No. 554 of 2022*, decided on December 20, 2022, the Hon'ble Securities Appellate Tribunal recognised that separate proceedings may be initiated in respect of distinct violations arising from the same or a similar set of facts. Therefore, the fact that certain transactions, entities or fund movements had formed part of an earlier examination does not, by itself, preclude SEBI from examining the same factual material from the perspective of a separate and distinct regulatory violation.

69. In view of the above, I find that the earlier proceedings and the findings rendered therein do not bar examination of the present allegation, and the contention of the Noticees in this regard is accordingly rejected.

70. I shall now address the issues in this matter.

Issue no. (i), (ii), (iii), (iv) and (v) – Whether the Noticees have violated the provisions as alleged against them in the SCN ?

Connection/control of Omaxe with Garv and DRPL

71. The first question is whether Garv and DRPL were independent entities through which Omaxe's funds happened to pass in the ordinary course, or whether their relationship with Omaxe is relevant in understanding the fund trail.

72. I have considered the movement of funds from Omaxe Limited to JBPL through Garv Buildtech Pvt. Ltd. ("Garv") and DVM Realtors Pvt. Ltd. ("DRPL"). The material shows that an aggregate amount of ₹46.50 crore originating from Omaxe reached JBPL through these two entities. Of this, ₹13 crore moved through Garv on June 1, 2013, while ₹33.50 crore moved through DRPL, comprising ₹27 crore on June 1, 2013 and ₹6.50 crore on October 28, 2013. The ₹13 crore received by Garv from Omaxe on June 1, 2013 was transferred onward to JBPL on the same day. The ₹27 crore routed through DRPL preceded the June 3, 2013 OFS by two days, while the ₹6.50 crore transfer preceded the October 29, 2013 OFS by one day.

73. In the case of Garv, the relationship is direct. Garv was a wholly-owned subsidiary of Guild Builders Pvt. Ltd. ("GBPL"), which was itself a promoter of Omaxe Limited. Further, during the relevant period, Rohtas Goel, Sunil Goel and Jai Bhagwan Goel, individual promoters of Omaxe, continued as directors of GBPL till September 15, 2013. Vimal Kumar Gupta, then Vice President of Omaxe, had also become a director of GBPL on April 4, 2013. Thus, when ₹13 crore moved from Omaxe through Garv to JBPL on June 1, 2013, Garv was not merely part of the same corporate group. Its holding company was itself under the management of Omaxe's promoters and senior personnel.

74. The position of DRPL, needs to be seen now. Omaxe's Annual Report for FY 2013-14 identifies DRPL as an entity over which key managerial personnel of Omaxe or their relatives exercised significant influence. Therefore, although DRPL was not a wholly-owned promoter subsidiary like Garv, persons connected with Omaxe's management were in a position to exercise significant influence over it.

75. The recipient, JBPL, was also not wholly disconnected from the Omaxe group. In 2013, Radhey Krishna Goyal, an employee of Omaxe/group entities and also a director in an Omaxe-group company, was a director and 50% promoter/shareholder of JBPL. Its historical management also shows participation of persons associated with GBPL and other Omaxe-group entities.

76. Viewed together, therefore, the fund movement was not between Omaxe and unrelated independent entities. The sequence was Omaxe to Garv/DRPL to JBPL, where Garv was a controlled promoter-group entity, DRPL was an entity under significant influence of Omaxe's key managerial personnel or their relatives, and JBPL itself had management/shareholding links with persons associated with the Omaxe group.

77. I, therefore, find that, insofar as the source and route of the ₹46.50 crore are concerned, the funds originated from Omaxe and reached JBPL through entities having close corporate, managerial or influential links with Omaxe. The interposition of Garv and DRPL does not break the fund trail or convert the movement into transactions between wholly independent parties.

Connection/Control of Omaxe with JBPL

78. The next issue for consideration is whether JBPL was an entity functioning independently of Omaxe Limited or whether, notwithstanding the names in which its shares and directorships stood, its affairs were controlled by Omaxe Limited and its management.

79. The Noticees submit that the SCN has failed to establish that Omaxe exercised control over JBPL and merely relies on common employees/directors, shared addresses and fund movements. They also rely on SEBI’s order dated July 30, 2024, wherein JBPL was held not to be a related party of Omaxe and the elements of control, joint control and significant influence were found absent. However, the said finding has to be seen in the context in which the issue arose in the earlier proceedings.

80. The enquiry there was whether JBPL satisfied the statutory requirements of being a related party, for which “control” carries a specific and technical meaning. The absence of such statutory control for determining related-party status does not necessarily conclude the examination under the PFUTP Regulations.

81. For PFUTP purposes, the relevant question is whether, on the facts and surrounding circumstances, Omaxe exercised actual operational influence or direction over JBPL or used it in furtherance of the alleged scheme. Such enquiry may arise from the cumulative effect of common personnel, manner of functioning, fund flows, timing of transactions and other connecting circumstances. Therefore, the earlier finding that JBPL was not a related party does not by itself preclude examination of its factual relationship with Omaxe for the purposes of the present allegation. Accordingly, the present allegation has to be tested independently on the evidence showing the actual role of Omaxe and JBPL in the alleged scheme.

82. In this regard I proceed to consider firstly, the Origin and initial constitution of JBPL.

Origin and initial constitution of JBPL

83. The details furnished by JBPL in its replies dated July 12, 2023 and July 20, 2023 show that JBPL was incorporated with Mr. Naveen Aggarwal and Mr. Sandeep Aggarwal as its initial subscribers, each holding 50% of its equity shares from March 18, 2004.

84. I note from the the aforesaid replies that they were directors in Guild Builders Private Limited ("GBPL"), which was a promoter entity of Omaxe Limited, and were also associated with various group companies of Omaxe Limited. Therefore, right from its incorporation, the entire shareholding of JBPL was held by persons who were already associated with the Omaxe group. There was no outside shareholder or independent promoter having an shareholding interest in JBPL at this stage.

85. The subsequent change in shareholding is equally relevant. As reflected in JBPL's replies dated July 12, 2023 and July 20, 2023, Mr. Naveen Aggarwal and Mr. Sandeep Aggarwal ceased to hold their shares on July 1, 2008. Thereafter, the entire shareholding came to be held by Mr. Vinod Kumar Goyal and Mr. Radhey Krishna Goyal, each holding 50%.

86. It needs to be seen whether the persons replacing the original shareholders were independent third parties. The material on record, including the aforesaid replies of JBPL and the submission of Omaxe Limited dated July 10, 2023, however, shows that Mr. Vinod Kumar Goyal and Mr. Radhey Krishna Goyal were employees of Omaxe Limited/group entities and were also directors in group companies of Omaxe Limited.

87. Thus, I note, there was a change in the names of the persons holding the shares, but no corresponding severance of JBPL from the Omaxe organisational structure. The entire shareholding moved from persons connected with an Omaxe promoter/group entity to persons employed within the Omaxe group itself.

88. While the above were the findings on shareholding, I proceed to consider composition of the Board of JBPL :

Composition of the Board of JBPL

89. The composition of the Board of JBPL as disclosed in JBPL's replies dated July 12, 2023 and July 20, 2023 is relevant in this regard. Mr. Naveen Aggarwal and Mr. Sandeep Aggarwal were directors from March 18, 2004. Both were associated with GBPL and other Omaxe group companies.

90. They were followed by Mr. Neeraj Kumar Jain, who was a director from July 28, 2007 to March 6, 2012, and Mr. Kamal Kishore Gupta, who was a director from July 1, 2008 to March 6, 2012. The material on record shows that these persons were also directors in GBPL, the promoter entity of Omaxe Limited.

91. Thereafter, Mr. Vinod Kumar Goyal became a director from March 5, 2012 to July 1, 2012, and Mr. Radhey Krishna Goyal became a director from March 5, 2012 to July 21, 2022. Both were employees/persons associated with Omaxe Limited and its group companies. When Mr. Radhey Krishna Goyal and Mr. Uttam Kumar ceased to be directors on July 21, 2022, Mr. Harsh Choudhary and Mr. Deepak Swami were appointed from the same date. Mr. Deepak Swami is again shown as an employee of Omaxe Limited. Mr. Uttam Kumar, another employee/person associated with the Omaxe group, became a director on July 1, 2017 and continued until July 21, 2022.

92. The continuing presence of Omaxe connected persons in the JBPL is presented below in tabulated format :

Year	Director / person connected with JBPL	Relationship with Omaxe Limited / Omaxe Group	Position in JBPL
2004	Naveen Aggarwal (from 18.03.2004)	Director in Guild Builders Pvt. Ltd. (GBPL), promoter entity of Omaxe Limited, and various Omaxe group companies	Director; 50% promoter/shareholder
2004	Sandeep Aggarwal (from 18.03.2004)	Director in GBPL, promoter entity of Omaxe Limited, and various Omaxe group companies	Director; 50% promoter/shareholder
2005	Naveen Aggarwal	Director in GBPL and various Omaxe group companies	Director; 50% promoter/shareholder
2005	Sandeep Aggarwal	Director in GBPL and various Omaxe group companies	Director; 50% promoter/shareholder
2006	Naveen Aggarwal	Director in GBPL and various Omaxe group companies	Director; 50% promoter/shareholder
2006	Sandeep Aggarwal	Director in GBPL and various Omaxe group companies	Director; 50% promoter/shareholder
2007	Naveen Aggarwal (till 28.07.2007)	Director in GBPL and various Omaxe group companies	Director; promoter/shareholder
2007	Sandeep Aggarwal	Director in GBPL and various Omaxe group companies	Director; promoter/shareholder
2007	Neeraj Kumar Jain (from 28.07.2007)	Director in GBPL, promoter entity of Omaxe Limited	Director
2008	Sandeep Aggarwal (till 01.07.2008)	Director in GBPL and various Omaxe group companies	Director; promoter/shareholder till 01.07.2008
2008	Neeraj Kumar Jain	Director in GBPL, promoter entity of Omaxe Limited	Director
2008	Kamal Kishore Gupta (from 01.07.2008)	Director in GBPL, promoter entity of Omaxe Limited	Director
2008	Vinod Kumar Goyal (promoter/shareholder from 01.07.2008)	Employee of Omaxe Limited / its group entities and director in an Omaxe group company; specific group company not named in the supplied material	50% promoter/shareholder

Year	Director / person connected with JBPL	Relationship with Omaxe Limited / Omaxe Group	Position in JBPL
2008	Radhey Krishna Goyal (promoter/shareholder from 01.07.2008)	Employee of Omaxe Limited / its group entities and director in an Omaxe group company; specific group company not named	50% promoter/shareholder
2009	Neeraj Kumar Jain	Director in GBPL, promoter entity of Omaxe Limited	Director
2009	Kamal Kishore Gupta	Director in GBPL, promoter entity of Omaxe Limited	Director
2009	Vinod Kumar Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	50% promoter/shareholder
2009	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	50% promoter/shareholder
2010	Neeraj Kumar Jain	Director in GBPL, promoter entity of Omaxe Limited	Director
2010	Kamal Kishore Gupta	Director in GBPL, promoter entity of Omaxe Limited	Director
2010	Vinod Kumar Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	50% promoter/shareholder
2010	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	50% promoter/shareholder
2011	Neeraj Kumar Jain	Director in GBPL, promoter entity of Omaxe Limited	Director
2011	Kamal Kishore Gupta	Director in GBPL, promoter entity of Omaxe Limited	Director
2011	Vinod Kumar Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	50% promoter/shareholder
2011	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	50% promoter/shareholder
2012	Neeraj Kumar Jain (till 06.03.2012)	Director in GBPL, promoter entity of Omaxe Limited	Director
2012	Kamal Kishore Gupta (till 06.03.2012)	Director in GBPL, promoter entity of Omaxe Limited	Director
2012	Vinod Kumar Goyal (Director: 05.03.2012-01.07.2012)	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2012	Radhey Krishna Goyal (Director from 05.03.2012)	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2013	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder

Year	Director / person connected with JBPL	Relationship with Omaxe Limited / Omaxe Group	Position in JBPL
2014	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2015	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2016	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2017	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2017	Uttam Kumar (from 01.07.2017)	In employment with Omaxe Limited / its group entities	Director
2018	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2018	Uttam Kumar	In employment with Omaxe Limited / its group entities	Director
2019	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2019	Uttam Kumar	In employment with Omaxe Limited / its group entities	Director
2020	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2020	Uttam Kumar	In employment with Omaxe Limited / its group entities	Director
2021	Radhey Krishna Goyal	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2021	Uttam Kumar	In employment with Omaxe Limited / its group entities	Director
2022	Radhey Krishna Goyal (till 21.07.2022)	Employee of Omaxe Limited / its group entities and director in an Omaxe group company	Director; 50% promoter/shareholder
2022	Uttam Kumar (till 21.07.2022)	In employment with Omaxe Limited / its group entities	Director
2022	Harsh Choudhary (from 21.07.2022)	Relationship with Omaxe not specified in the supplied material	Director
2022	Deepak Swami (from 21.07.2022)	Employee of Omaxe Limited	Director
2023	Harsh Choudhary	Relationship with Omaxe not specified in the supplied material	Director
2023	Deepak Swami	Employee of Omaxe Limited	Director
2024 onwards / till date	Harsh Choudhary	Relationship with Omaxe not specified in the supplied material	Director

Year	Director / person connected with JBPL	Relationship with Omaxe Limited / Omaxe Group	Position in JBPL
2024 onwards / till date	Deepak Swami	Employee of Omaxe Limited	Director

93. I note from the above facts, that the chronology therefore shows a continuing pattern. Different persons occupied the positions of director at different points in time, but the persons occupying such positions continued to have an employment, directorial or organisational connection with Omaxe and its group entities. This is of relevance because the organisational connection was not dependent upon the presence of one particular person. The individuals changed, but persons belonging to or associated with the Omaxe organisational structure continued to occupy the Board of JBPL.

Cumulative analysis of Shareholding and management

94. On cumulative analysis, I note, the initial shareholders, Mr. Naveen Aggarwal and Mr. Sandeep Aggarwal, were persons connected with the Omaxe promoter entity. When they exited on July 1, 2008, the entire shareholding was taken over by Mr. Vinod Kumar Goyal and Mr. Radhey Krishna Goyal, who were themselves employees/persons associated with Omaxe Limited and its group entities.

95. These very persons also came to occupy positions as directors of JBPL. Thus, the persons in whose names the ownership of JBPL stood were simultaneously persons situated within the Omaxe organisational structure. It is relevant to note that the evidence therefore does not disclose a situation where one or two employees of Omaxe happened to occupy isolated board positions in an otherwise independently owned company. Both the shareholding and the management of JBPL came to be vested in persons having an existing organisational relationship with Omaxe. This shows that the operational control of JBPL was with Omaxe during the relevant period of time.

Analysis of Statements

96. The factum of operational control is further corroborated by the statements recorded during investigation. In his statement recorded on October 17, 2022 Mr. Rohtas Goel, promoter and Managing Director of Omaxe Limited, explained the manner in which entities had been formed by Omaxe Limited in connection with restrictions relating to land ceiling and the role assigned to employees in such entities. The evidence relating to the purpose for which such entities were formed is also supported by the statement of Mr. Sunil Goel recorded on June 20, 2024.

97. It is further relevant in this context to refer to the statement dated October 17, 2022, wherein Mr. Rohtas Goel stated, in substance, that where an employee of Omaxe Limited was designated as a director of such a company, such employee would be working and complying with the directions of the management of Omaxe Limited. The importance of this statement lies in the fact that the inference concerning the relationship between the employee-directors and Omaxe does not arise merely from their employment status. The promoter and Managing Director of Omaxe himself explained the manner in which such employee-directors were expected to function.

98. These statements further corroborate the fact that the appointment of employees as promoters/directors is therefore not being considered merely as an unexplained coincidence. The persons managing Omaxe themselves have explained that employees were placed as promoters/directors in entities formed in connection with Omaxe's business requirements. It goes without saying such business purpose cannot be carried out without operational control of affairs of JBPL by Omaxe.

Statements of JBPL's own promoters/directors

99. The above position is further corroborated by the statements of the persons who themselves stood as promoters/shareholders and directors of JBPL.

100. I note that Mr. Vinod Kumar Goyal, in his statement recorded on September 22, 2022 and Mr. Radhey Krishna Goyal, in his statement recorded on June 10, 2024 explained the manner in which the affairs of JBPL were conducted. These statements are relevant because Mr. Vinod Kumar Goyal and Mr. Radhey Krishna Goyal were the persons in whose names the entire shareholding of JBPL stood after July 1, 2008. They submitted that the management of Omaxe Limited used to run the day-to-day affairs of JBPL, that major decisions concerning JBPL were taken by the management of Omaxe Limited and that Omaxe Limited used to operate JBPL.

101. These statements materially further corroborate the documentary evidence. If the persons in whose names the shares and directorships stood themselves state that the day-to-day affairs and major decisions of JBPL were handled by Omaxe management, the mere fact that the shares formally stood in their individual names cannot establish that JBPL functioned independently of Omaxe.

JBPL's bank account Analysis

102. Now, I proceed to analyse the evidence relating to JBPL's bank account. In his statement recorded on June 20, 2024 Mr. Sunil Goel, promoter and Joint Managing Director of Omaxe Limited, stated that he was an authorised signatory to the Axis Bank account of JBPL till

2008. This statement is independently corroborated by the KYC documents relating to Axis Bank account no. 206010200015330 of JBPL. The said records show that the initial authorised signatories to the account were Mr. Sunil Goel and Mr. Jai Bhagwan Goel, persons belonging to the promoter/management structure of Omaxe Limited.

103. I note this circumstance is important because the operation of the bank account was not left exclusively with the persons whose names appeared as shareholders of JBPL. At the initial stage, persons belonging to the Omaxe promoter family had authority to operate the financial account of JBPL. The above discussion further corroborates the operational control of JBPL by Omaxe.

Analysis of Financial dealings with Omaxe/group entities

104. Now, I proceed to analyse Axis Bank account of JBPL. The KYC and bank-statement analysis of Axis Bank account no. 206010200015330 shows credits aggregating approximately ₹2,406 crore from Omaxe and its group entities, constituting 95.03% of the total credits in the account. Similarly, debits aggregating approximately ₹2,170 crore to Omaxe and its group entities constituted 85.70% of the total debits in the account. Further, the first funding reflected in the account was an amount of ₹10 lakh received from Omaxe Limited on October 14, 2008.

105. These circumstances are important not merely because JBPL transacted with Omaxe, what emerges is the degree of concentration of the relationship. Almost the entire inflow into the account and a substantial majority of the outflow were with Omaxe and its group entities.

106. Thus, it shows that JBPL's financial dealings were overwhelmingly centred around Omaxe and its group entities. When this financial concentration is considered together with the KYC evidence showing the initial Omaxe promoter-family signatories and the statements dated September 22, 2022 and June 10, 2024 stating that Omaxe management operated JBPL, the bank-account evidence independently corroborates the conclusion concerning operational control.

Cumulative effect of the evidence

107. In summary I note that the evidence therefore operates at different levels and leads towards the same conclusion:

a) At the ownership level, the replies of JBPL dated July 12, 2023 and July 20, 2023 show that its entire shareholding was initially held by persons connected with the Omaxe promoter/group structure and thereafter passed entirely to persons employed in or associated with the Omaxe group.

b) At the Board level, the same replies show that different persons connected with Omaxe successively occupied the Board of JBPL. The persons changed, but the Omaxe connection continued.

c) The submission of Omaxe Limited dated July 10, 2023, together with the statements of Mr. Rohtas Goel dated October 17, 2022 and Mr. Sunil Goel dated June 20, 2024, explains why employees of Omaxe came to occupy promoter/director positions in such entities.

d) At the managerial level, the statements of Mr. Vinod Kumar Goyal dated September 22, 2022 and Mr. Radhey Krishna Goyal dated June 10, 2024 state that the day-to-day affairs and major decisions of JBPL were handled by Omaxe management.

e) At the banking level, the KYC documents of the Axis Bank account show that Mr. Sunil Goel and Mr. Jai Bhagwan Goel were the initial authorised signatories, which is also consistent with the statement of Mr. Sunil Goel dated June 20, 2024.

f) At the financial level, analysis of the same bank account shows that 95.03% of the credits and 85.70% of the debits were with Omaxe and its group entities, with the first identified funding of ₹10 lakh coming from Omaxe Limited itself on October 14, 2008.

108. Accordingly, the material on record leads to the conclusion that JBPL did not function as an entity independent of Omaxe Limited. It was operated and had operational control through persons who were employees/directors or otherwise connected with Omaxe and its promoter group.

Contented purpose of money trail from Garv and DRPL to JBPL

109. As regards Garv, the Noticees contend that the ₹13 crore transferred to JBPL on June 1, 2013 represented an advance under an MoU for aggregation of land for development of a Hi-Tech City in Uttar Pradesh, and that the amount was returned by JBPL to Garv on January 31, 2015 when the proposed transaction did not materialise.

110. As regards DRPL, it is contended that the ₹33.50 crore was advanced pursuant to an MoU with JBPL for aggregation of land for development of a residential township in Mullanpur, Mohali and Chandigarh, Punjab. The Noticees rely upon the DVM–JBPL and Garv–JBPL MoUs, both dated June 1, 2013, together with their respective cancellation deeds, to contend that the transfers to JBPL represented bona fide advances for land aggregation and that the amounts were subsequently returned when the arrangements failed

111. <u>The enquiry therefore has move to the central</u> question of purpose: whether the material supporting these land-aggregation arrangements, including the MoUs, project particulars,

land requirements, subsequent cancellation and repayment, satisfactorily explains why substantial amounts were placed with JBPL at the relevant times; or whether the timing and subsequent deployment of the funds by JBPL support the purpose alleged in the SCN. The same in following paragraphs.

112. At the outset, I note, these documents were not produced along with the replies to the SCN, even though the Noticees had already set out the specific defence that the transfers represented commercial advances for land aggregation and were subsequently refunded upon cancellation. The MoUs and cancellation deeds, which are now relied upon that explanation, were furnished only subsequently during the hearing. This assumes significance because these are not secondary records. If the impugned transfers had genuinely been made pursuant to written contractual arrangements, the MoUs and cancellation deeds would constitute the primary documents evidencing that explanation and would ordinarily have been available when the defence was first advanced.

113. The subsequent production of documents bearing the relevant dates does not, by itself, establish either their reliability or the stated commercial purpose. What requires examination is whether there is independent material demonstrating that the arrangements reflected in them existed at the relevant time, were actually acted upon and generated the commercial activity which the documents themselves describe.

114. On this aspect, both sets of documents suffer from the same fundamental deficiency. It is relevant to note that the MoUs do not merely state that JBPL would attempt to identify land in future. They proceed on the express basis that substantial work had already been undertaken. In the DVM transaction, JBPL is stated to have already negotiated/made arrangements with landowners for approximately 50 acres. In the Garv transaction, JBPL is similarly stated to have already entered into arrangements and negotiations for approximately 100 acres.

115. If those assertions were correct, there should have existed, as on June 1, 2013 itself, identifiable landowners, identifiable parcels and some record of the negotiations or arrangements already made. However, no copy of agreement to sell, token-money receipt, payment acknowledgement or correspondence with any landowner has been shown.

116. The absence of such records is more relevant still greater significance because the MoUs themselves expressly required them. JBPL was required to account for the advances through acknowledgements, agreements and receipts relating to payments made to landowners. The arrangements further contemplated production of title and revenue

records, jamabandis, mutations, sijra plans, non-encumbrance certificates, NOCs, ownership records and other documents required for due diligence and conveyance.

117. Thus, the difficulty is not merely that additional corroboration has not been produced. The very documents relied upon by the Noticees presuppose the existence and creation of an extensive documentary trail. If these land-aggregation transactions were actually pursued for several months involving advances running into tens of crores, at least some part of that trail ought ordinarily to exist. Instead, there are documents explaining why money was allegedly paid and documents explaining why it was subsequently returned, but practically no material showing the commercial activity which is said to have occurred between those two events.

118. The Garv transaction becomes more important when examined against the publicly available history of the underlying Hi-Tech Township project. Public domain records state that an MoU between the Lucknow Development Authority and Garv Buildtech for development of the Hi-Tech Township had already been executed on September 10, 2009, and environmental clearance for the project, covering 2,700 acres, had been granted on June 2, 2011.

119. Thus, by June 1, 2013, when Garv is stated to have entrusted JBPL with aggregation of approximately 100 acres, the township project had already been in existence for several years and had received environmental clearance approximately two years earlier. This does not mean that additional land could not thereafter have been acquired. However, it makes it necessary to explain why this particular land-aggregation exercise arose at that stage approximately 20 months' latter.

120. If the 100 acres were genuinely required as part of the already identified 2,700-acre Hi-Tech Township, there should ordinarily be material showing how much land had already been assembled by June 2013, what balance remained to be acquired, why these particular 100 acres were required, what project requirement necessitated an advance of ₹13 crore at that stage. No such explanation has been demonstrated.

121. The stated basis for engaging JBPL is also unsupported. The MoUs describe JBPL as being engaged in land procurement and proceed on the basis that it had already undertaken negotiations with landowners. However, no details of JBPL's earlier land-aggregation work have been identified in the reply. In particular, there is no evidence that JBPL had previously carried out land aggregation for the Garv Hi-Tech Township, no identified earlier acreage procured by it, no earlier landowner transactions and no material showing what experience justified entrusting it with an advance of ₹13 crore and an assignment involving

approximately 100 acres. A recital regarding the nature of JBPL's business cannot substitute for proof of the prior experience now relied upon as part of the commercial explanation.

122. The same issue arises from the alleged prior negotiations. If JBPL had already negotiated with landowners before June 1, 2013, the transaction should have reached a stage where the immediate financial requirement could be identified. Yet the Noticees have not shown any details of amounts payable to any of the land owners, the parcels involved or how the figure of ₹13 crore was arrived at. The ₹13 crore is described as an advance for land procurement, but no deployment of even a part of that amount has been demonstrated.

123. The duration of the Garv arrangement makes this absence more difficult to explain. The cancellation deed proceeds on the basis that the transaction remained alive for approximately 19 months, including an extension beyond the original period. Yet no request for extension, record granting the extension, progress report or correspondence explaining why additional time was justified has been produced. At the end of this period, the cancellation deed does not identify even one parcel actually procured or one landowner paid. It merely attributes the failure to “some unavoidable reasons”, without stating what those reasons were.

124. The DVM transaction raises an additional and particularly significant issue regarding successive funding. The MoU records an initial advance of ₹27 crore. Thereafter, a further ₹6.50 crore was transferred on October 28, 2013. If the further ₹6.50 crore was genuinely required for continuation of the same land-aggregation exercise, the requirement for additional funds would ordinarily indicate that the earlier ₹27 crore had already been spent, committed or substantially utilised. That proposition should have been capable of direct verification.

125. There should have been evidence showing how the original ₹27 crore had been deployed: which landowners had received advances, the amounts paid, the agreements executed, the acreage secured or committed and the outstanding acquisition requirements which necessitated a further ₹6.50 crore. No such evidence has been shown.

126. If the original ₹27 crore remained substantially unutilised, there is no apparent reason why a further ₹6.50 crore was required. Conversely, if the ₹27 crore had already been spent or committed, the corresponding agreements, receipts and payment records should exist. On either hypothesis, the requirement for the additional ₹6.50 crore remains unsupported by the underlying transaction records.

127. Nor has any land-related event been identified on October 28, 2013 which required exactly ₹6.50 crore. No particular landowner payment, agreement, acreage milestone or other obligation has been shown to have fallen due on that date. This takes up greater significance because the additional ₹6.50 crore was transferred immediately before the second OFS on October 29, 2013.

128. The DVM cancellation deed introduces a further unexplained difference. While the Noticees rely upon ₹33.50 crore as the relevant amount advanced, the cancellation deed records that DVM had paid an aggregate amount of ₹35,64,70,952 to JBPL in multiple tranches. The deed does not identify the dates or amounts of those tranches or explain how the figure of ₹35.64 crore is to be reconciled with the ₹33.50 crore relied upon in the proceedings.

129. The significance of this discrepancy goes beyond arithmetic. If successive releases were genuinely made to meet increasing requirements of an ongoing land-acquisition exercise, one would expect the additional funding to be accompanied by corresponding evidence of increasing acquisition activity. Yet there is no landowner-wise utilisation, acreage acquired, agreement executed or other progress shown which explains why the funding increased first from ₹27 crore to ₹33.50 crore and, on the cancellation deed's own showing, to ₹35.64 crore.

130. By the date of cancellation on March 15, 2014, the relevant period had substantially expired, but the cancellation deed does not identify even one parcel successfully acquired or explain what work had actually been carried out during the intervening period.

131. The cancellation deeds therefore do not cure the deficiencies in the underlying transactions. In both cases, after substantial advances and prolonged periods for performance, the failure is reduced to the generic expression "some unavoidable reasons". There is no case of title problem, unwilling landowner, regulatory difficulty, price escalation, litigation or other obstacle. There is no correspondence showing demands for performance, complaints regarding delay, requests for additional time, discussion of landowner difficulties or any project-specific reason why the arrangements failed.

132. The physical features and execution of the documents also require consideration in this overall circumstance. Both sets of documents contain recitals that they were executed in the presence of witnesses, yet the witness columns are blank. No stamp-duty/franking particulars are visible on the copies presently produced. No board resolution or other corporate authorisation for transactions involving such substantial amounts and acreage has been identified. Nor has there been shown any accompanying correspondence forwarding executed copies, internal approvals, payment requisitions referring to the MoUs.

133. There is also a notable similarity between the two arrangements. Both MoUs are dated June 1, 2013 and both involve JBPL as land aggregator. Both contain substantially similar provisions concerning landowners, agreements to sell, title records and due diligence; both involve substantial advances and both ultimately terminate on the broadly worded ground of “some unavoidable reasons”. In both sets of documents, the witness columns also remain blank. These similarities do not independently establish that the documents are not genuine, but when viewed with their delayed production and the absence of project-specific performance records, they reinforce the need for independent evidence that each transaction actually operated in the manner asserted. It is also relevant to note two stated land aggregation arrangement on in Chandigarh and Lucknow entered on the same date failed in the gap of two and half months for the same unavoidable reasons which was not on record even as on this date.

134. The subsequent refunds also do not establish the bona fide character of the original transfers. Repayment proves that money subsequently moved back to the transferor; it does not establish why the money was originally transferred or how it was used while it remained with JBPL.

135. Indeed, the refund itself requires tracing. If the original advances had genuinely been paid onward to landowners, there should be evidence showing recovery of those amounts or another commercial source from which JBPL obtained the funds required for refund. If, on the other hand, the original advances had never been substantially deployed and remained available with JBPL, that circumstance would make the requirement for further advances particularly the additional ₹6.50 crore in the DVM transaction more difficult to explain.

136. The timing of the original transfers therefore assumes substantial evidentiary significance. DVM transferred ₹27 crore on June 1, 2013, immediately before the OFS of June 3, 2013. Garv's MoU similarly records payment of ₹13 crore on June 1, 2013. A further ₹6.50 crore relating to DVM was transferred on October 28, 2013, immediately before the OFS of October 29, 2013. JBPL is thereafter stated to have made onward transfers to entities which acquired Omaxe shares in the respective OFS.

137. The significance lies not merely in the proximity of dates. Had there been identifiable land-related obligations corresponding to these dates and amounts, the timing could have been explained on that basis. No such commercial event has been shown. There is no identified landowner awaiting payment of ₹27 crore or ₹13 crore on June 1, 2013, nor any identified acquisition obligation requiring ₹6.50 crore on October 28, 2013.

138. Against this background, the immediate onward movement of funds assumes significance in determining the actual character of the transfers. The enquiry cannot stop with what the MoUs describe the funds as being intended for. It must examine what JBPL actually did with the money.

139. The fundamental flaws in the Noticees' explanation is therefore twofold but interconnected. First, the circumstances surrounding the late production, execution and internal terms of the documents create serious doubt regarding the weight that can safely be attached to them as records of transactions actually undertaken in the manner asserted. Secondly, even assuming that the documents were genuinely executed, their contents are not supported by evidence establishing actual implementation of the stated land-aggregation activity.

140. The documents show what the funds were said to be for. They do not show what the funds were actually used for.

141. In the Garv transaction, the underlying township had been tied to LDA since 2009 and had received environmental clearance for 2,700 acres in 2011, yet no satisfactory material explains why a 100-acre aggregation through JBPL became necessary in June 2013, how those 100 acres related to the existing project or what JBPL actually achieved during the ensuing 19 months.

142. In the DVM transaction, further money was advanced after the original ₹27 crore, yet no evidence shows that the original amount had first been spent or committed. If it had been utilised, the utilisation records should exist; if it had not, the commercial necessity for further funding remains unexplained. The eventual cancellation deed then records an even higher aggregate amount of ₹35.64 crore without identifying the commercial basis for the additional tranches.

143. In these circumstances, the MoUs and cancellation deeds cannot safely be accepted at face value as establishing the stated commercial purpose. The possibility that they represent a subsequent reconstruction of an explanation for the transfers cannot be excluded merely on the basis of the documents themselves. Even assuming their execution to be genuine, the absence of evidence showing actual deployment of the funds, progress of land acquisition, necessity for additional advances and source of the eventual refunds means that the bona fide character of the transfers has not been established. Their true character therefore has to be determined from the actual movement and utilisation of the funds rather than from the description attributed to them in the documents.

OFS Funding

144. Now I proceed to examine the issue of funding of entities by Omaxe for subscription in the OFS in 2013.

145. It is alleged that JBPL transferred an aggregate of ₹46.50 crore to seven first-level recipient entities. The funds thereafter moved, either directly to stock-broking accounts or through connected entities, and were ultimately used for acquisition of Omaxe shares in the June 3, 2013 and October 29, 2013 OFS by 12 entities.

S. No.	7 first level recipients of funds from JBPL	S.No.	12 entities in whose name OFS is subscribed
1	Rapid Credit & Holdings Private Limited	1	Invictus Stock Research Private Limited
2	Panchsheel Securities Pvt Ltd	2	Guardian Portfolio Consultants P Ltd
		3	Search Finvest Pvt Ltd
		4	Panchsheel Securities Pvt Ltd
		5	Ridhisidhi Financial Advisory Private Limited
		6	Surya Shakti Resources Private Limited
3	Modex International Securities Limited	7	Modex International Securities Limited
4	Moongipa Infosystems Ltd	8	Moongipa Commodities Private Limited
		9	Moongipa Investment
5	Wellindia Consultants Private Limited	10	Stock Brain Net Ltd
6	Altruistic Trading Private Limited	11	Altruistic Trading Private Limited
7	Savasthi Investments Limited	12	Savasthi Investments Ltd.

146. The fund trail from JBPL to seven first-level recipients and ending in subscription of OFS is discussed entity-wise as under :-

Rapid Credit & Holdings Pvt Ltd

147. Omaxe has funded through intermediate entities JPBL an amount of Rs.46.5 crores. Out of the said funds, JPBL transferred ₹10 crore to Rapid Credit & Holdings Pvt. Ltd. ("RCHPL") on June 1, 2013. RCHPL thereafter transferred the funds to Invictus Stock Research Pvt. Ltd. ("ISRPL"), which transferred them to its stock broker, R.K. Stock Holding Pvt. Ltd. RCHPL, ISRPL and R.K. Stock Holding were connected through common directors, common promoters and shareholding. The said funds were used for purchase of 7,00,200 shares of Omaxe Limited in the OFS dated June 03, 2013.

148. I proceed to consider the connection between RCHPL, ISRPL and R.K. Stock Holding Pvt. Ltd. The material on record shows overlapping directors, promoters and shareholding among them. Mr. Sundeep Chadha and Mr. Navdeep Varshneya were directors in both RCHPL and ISRPL. Further, Mr. Rajendra Kumar Gupta, Mr. Navdeep Varshneya, Ms.

Divya Varshneya and Ms. Neeru Gupta had controlling stake in R.K. Stock Holding and were also connected with the promoter structure of ISRPL. I note that RCHPL, ISRPL and R.K. Stock Holding Pvt. Ltd. were not independent entities.

149. Thus, the connection among RCHPL, ISRPL and R.K. Stock Holding is supported by corporate connection and not merely by the movement of funds. These common directorship and promoter/shareholding links are relevant because the ₹10 crore received by RCHPL from JBPL moved through ISRPL and ultimately to R.K. Stock Holding, the broker through which the Omaxe shares were allegedly acquired.

150. Accordingly, the fund movement took place through entities which were already connected through common management and ownership links. This strengthens the inference that the movement from RCHPL to ISRPL and, thereafter, to R.K. Stock Holding formed part of one connected transaction rather than independent dealings between unrelated entities.

151. The connection of JBPL with RCHPL, ISRPL and RKSHPL is established by the fund trail reflected in the simultaneous bank and trading records. JBPL transferred ₹10 crore to RCHPL on June 1, 2013. The significance of this transfer is apparent from the financial position of the recipient entities immediately before the transaction. RCHPL had an opening balance of only ₹2,270.29, while ISRPL had an opening balance of only ₹14,758.65. These balances demonstrate that neither entity possessed funds remotely comparable to ₹10 crore from its own resources. The receipt from JBPL therefore supplied the financial capacity for the subsequent movement of funds.

152. The same ₹10 crore was, thereafter, transferred from RCHPL to ISRPL and then from ISRPL to RKSHPL, the stock broker through which the Omaxe shares were acquired in the June 3, 2013 OFS. This sequence is substantial because it is not a series of unrelated or isolated transactions. It is a continuous movement of the same amount through connected entities, culminating in payment to the broker immediately before the acquisition. The circumstantial chain therefore connects the source of the funds, the intermediary entities and the ultimate application of the funds in a single, traceable transaction.

153. At this juncture the importance of the timing further needs further consideration. JBPL's transfer occurred on June 1, 2013, and the acquisition of Omaxe shares took place on June 3, 2013. The intervening transfers through RCHPL and ISRPL occurred within the same short period and culminated in the remittance to RKSHPL. The proximity between the receipt of funds from JBPL, their onward transmission through the two entities and their use through the broker is inconsistent with the suggestion that the transactions were

independent, ordinary or unconnected financial dealings. The sequence instead shows that the funds were introduced for a specific and identifiable end use.

154. The financial capacity of RCHPL and ISRPL further supports this inference. Their opening balances ₹2,270.29 and ₹14,758.65 respectively were negligible when compared with the ₹10 crore transferred. In the absence of any material showing that either entity had an independent source of funds of that magnitude immediately before the transaction, the natural and factually supported inference is that the amount received from JBPL constituted the source of the funds subsequently routed to the broker. Further, I note that the fund transfers between ISRPL and RCHPL was below 4 crores before the date of the said transfer in question. The fact that the amount was substantially larger than the usual fund movements between RCHPL and ISRPL also demonstrates that this was not a routine transfer arising from their ordinary financial dealings.

155. The circumstantial evidence here has clear links; common directors, common shareholders or common management. Corporate control may be one method of establishing a connection, but it is not the only method. In this instance, the material on record show that a specific amount was transferred by JBPL to an entity with negligible funds, passed onward through another entity with similarly negligible funds, and then remitted to the stock broker for the acquisition of the relevant shares, the connection is established through the movement and application of the money itself within a few days.

156. The end use of the funds is also important. The money did not merely remain with RCHPL or ISRPL. It moved through a defined chain and reached RKSHPL, the broker involved in the OFS dated June 3, 2013. The destination of the funds corresponds directly with the acquisition of Omaxe shares. Thus, the fund trail identifies both the source and the purpose: JBPL was the originating source, RCHPL and ISRPL functioned as the conduit, and RKSHPL was the point through which the funds were applied to the purchase of the shares.

157. The subsequent return of ₹10 crore to JBPL over several years does not alter this connection. The relevant question is the purpose for which the funds were provided and the manner in which they were used after receipt on June 1, 2013. Once it is shown that the amount received from JBPL was immediately passed through RCHPL and ISRPL to the broker and used in connection with the acquisition of Omaxe shares, later repayment is relevant only to the question of repayment or settlement of the funding even assuming that the purpose return money transaction is repayment. It does not retrospectively change the original source, the intervening transfers or the end use of the money. However, there is no case that the transactions were loan.

158. RCHPL relies upon the subsequent return of ₹10 crore to JBPL to support its case that the amount originally received on June 1, 2013 was only an advance against sale of property. In my view, the subsequent repayment does not establish the character of the original transaction.

159. The first question that remains to be answered is why ₹10 crore was transferred at all. The property was reflected in the books at approximately ₹1.96 crore and the available purchase documents showed a value of about ₹1.60 crore, apart from stamp duty. No material has been shown explaining an agreed sale consideration of ₹10 crore. Nor has the agreement for sale, valuation, terms of payment or material showing that ₹10 crore was payable towards the property been brought out. Immediately after receipt from JBPL, the funds were transferred onwards to ISRPL and thereafter to RKSHPL. Therefore, the defence of property transaction is not acceptable.

160. Once this is so, the subsequent return of the amount cannot retrospectively convert the original transfer into a property advance. Repayment merely establishes that the amount was ultimately returned to JBPL. It does not establish why the money was originally provided or for what purpose it was used during the intervening period.

161. The chronology is also relevant. JBPL transferred ₹10 crore on June 1, 2013. The first repayment was made only in August 2016, more than three years later. Thereafter, the amount was returned in instalments extending through 2019, 2020 and January 2021. If the property transaction had failed after due diligence and the agreement had been cancelled, the prolonged retention of the entire amount belies the repayment was due to property transaction. Further, no penal interest was paid for this prolonged retention. RCHPL states that this was based on a mutual understanding. However, no material showing such understanding has been referred to. Therefore, the repayment cannot be treated as corroboration of the property explanation.

162. Accordingly, when the source of funds, financial capacity of the recipient entities, size and timing of the transaction, connected nature of the intermediaries, destination of the money and unacceptability of property explanation are considered together, the only reasonable conclusion emerging from the material is that the ₹10 crore transferred by JBPL on June 1, 2013 was sent for acquisition of Omaxe shares in the June 3, 2013 OFS and was utilised for that purpose.

Panchsheel Securities Pvt Ltd

163. I note that JBPL transferred ₹7 crore to Panchsheel Securities Pvt. Ltd. in June 2013. Out of this amount, Panchsheel retained ₹2 crore and transferred ₹2 crore each to Guardian

Portfolio Consultants Pvt. Ltd. and Search Finvest Pvt. Ltd. and ₹1 crore to Surya Shakti Resources Pvt. Ltd.

164. I further note that Panchsheel, Guardian, Search Finvest, Ridhisidhi Financial Advisory Pvt. Ltd. and Surya Shakti Resources Pvt. Ltd. were not unrelated entities. Panchsheel itself, in its emails dated August 22, 2023, April 19, 2024 and July 19, 2024, stated that these entities had common directors/promoters. It also stated that its directors held positions of director in Narayan Securities Ltd. and Narayan Commodity Brokers Pvt. Ltd. through which the relevant transactions were undertaken.

165. In the June 3, 2013 OFS, Guardian acquired 1,40,000 shares of Omaxe Limited, Panchsheel acquired 71,000 shares, Ridhisidhi acquired 70,000 shares, Search Finvest acquired 1,40,000 shares and Surya Shakti acquired 70,000 shares. Thus, these five connected entities together acquired 4,91,000 shares of Omaxe Limited.

166. The contract notes furnished by Panchsheel show the corresponding purchase values as follows: ₹1.981 crore in the case of Guardian, ₹1.00749 crore in the case of Panchsheel, ₹0.9912 crore in the case of Ridhisidhi, ₹1.981 crore in the case of Search Finvest and ₹0.9926 crore in the case of Surya Shakti. The aggregate purchase consideration was therefore approximately ₹6.95 crore.

167. The movement of funds and the corresponding acquisition of Omaxe shares may be seen as under:

Entity	Date of fund transfer	Amount routed/retained out of ₹7 crore	Omaxe shares acquired	Date of purchase	Purchase value
Guardian Portfolio Consultants Pvt. Ltd.	03/06/2013	₹2.00 crore	1,40,000	03/06/2013	₹1.981 crore
Panchsheel Securities Pvt. Ltd.	03/06/2013	₹2.00 crore retained	71,000	03/06/2013	₹1.00749 crore
Search Finvest Pvt. Ltd.	03/06/2013	₹2.00 crore	1,40,000	03/06/2013	₹1.981 crore
Surya Shakti Resources Pvt. Ltd.	03/06/2013	₹1.00 crore	70,000	03/06/2013	₹0.9926 crore
Ridhisidhi Financial Advisory Pvt. Ltd.	-	Separate direct routing not shown	70,000	03/06/2013	₹0.9912 crore
Total		**₹7.00 crore**	**4,91,000**		**approx. ₹6.95 crore**

168. Thus, against ₹7 crore received from JBPL, Omaxe shares worth approximately ₹6.95 crore were acquired in the names of the five connected entities. The amount received from JBPL was therefore substantially deployed in acquiring Omaxe shares.

169. Further, in the present case Panchsheel itself has stated that in 2013 it had undertaken transactions in Omaxe shares on behalf of JBPL. It has further stated that it bought shares of Omaxe Limited on behalf of JBPL with the funds received and furnished the corresponding contract notes identifying the entities in whose names the shares were purchased.

170. I note that Panchsheel has also stated that neither Panchsheel nor its directors/promoters had any association or connection with the directors/promoters of JBPL. This submission does not affect the above transaction. Absence of a common director or promoter between Panchsheel and JBPL is different from the question whether Panchsheel acted for JBPL in the particular transaction. On this aspect, Panchsheel's own submission is categorical that the transactions in Omaxe shares were undertaken on behalf of JBPL with the funds received from JBPL.

171. The two parts of Panchsheel's submission therefore have to be read separately. It may not have had a structural relationship with the directors/promoters of JBPL. However, in relation to the impugned acquisition, it has expressly acknowledged acting on behalf of JBPL.

172. I further note that the manner in which the ₹7 crore was distributed also supports this position. The money did not remain with Panchsheel. It was divided among entities having common directors/promoters, and Omaxe shares were thereafter acquired in their respective names. The shares were acquired through the broking arrangement with which Panchsheel's directors were also connected.

173. In the case of Ridhisidhi, a separate direct transfer of a specified amount from Panchsheel is not shown. However, this does not take its acquisition outside the transaction under examination. Panchsheel itself included Ridhisidhi among the entities in whose names Omaxe shares were purchased on behalf of JBPL and furnished the corresponding contract note showing acquisition of 70,000 shares for ₹99.12 lakh.

174. These facts also have to be viewed with the larger fund trail under which funds originating from Omaxe/group entities reached JBPL immediately before the June 2013 OFS and were thereafter transferred to entities which acquired Omaxe shares. On consideration of the ₹7 crore fund transfer, its distribution amongst connected entities, the acquisition of Omaxe shares worth approximately ₹6.95 crore, the common management amongst the entities and, above all, Panchsheel's express statement that the shares were purchased on behalf

of JBPL with the funds received from JBPL, I find that the ₹7 crore transferred by JBPL was used for acquisition of Omaxe shares through Panchsheel, Guardian, Search Finvest, Ridhisidhi and Surya Shakti.

175. The 4,91,000 shares acquired in the names of these entities were treated as part of the public shareholding of Omaxe Limited. The funds routed through JBPL therefore resulted in acquisition of shares which formed part of the public shareholding relied upon by Omaxe for compliance with the minimum public shareholding requirement.

Modex International Securities Limited

176. I note that JBPL transferred Rs.6 crore to Modex International Securities Ltd ("Modex") on June 03, 2013. The said amount of Rs.6 crore was transferred on the same day by Modex to its client account.

177. On June 03, 2013, Modex applied for 4,22,000 shares of Omaxe in the OFS. At the OFS price of approximately ₹141.27 per share, the value of 4,22,000 shares works out to approximately ₹5.96 crore. Thus, against the ₹6 crore received from JBPL, shares worth about ₹5.96 crore were acquired by Modex.

178. The events taking place on the same day i.e. the receipt of amount on June 03, the transfer of the same amount to its client account and purchase of shares in OFS demonstrate a definite picture.

179. When this transaction is considered with the larger fund trail under which funds originating from Omaxe/group entities reached JBPL and were thereafter routed to entities subscribing to the OFS, I find that the ₹6 crore transferred by JBPL to Modex was substantially used for acquisition of 4,22,000 shares of Omaxe Limited.

180. The shares so acquired were treated as part of the public shareholding of Omaxe Limited and consequently formed part of the shareholding relied upon for compliance with the minimum public shareholding requirement.

Moongipa Infosystems Ltd

181. I note that JBPL transferred ₹7 crore to Moongipa Infosystem Ltd. on June 1, 2013, immediately preceding the June 3, 2013 OFS of Omaxe Limited. The funds were thereafter transferred through Moongipa Infosystem to Moongipa Commodities Pvt. Ltd. and Moongipa Investment Ltd., to the extent of ₹4 crore and ₹3 crore respectively.

182. At the OFS price of about ₹141.27 per share, acquisition of 2,81,500 shares by Moongipa Commodities required approximately ₹3.98 crore, while acquisition of 2,10,300 shares by

Moongipa Investment required approximately ₹2.97 crore. Thus, the ₹4 crore and ₹3 crore routed to the two entities are the funds required for their respective acquisition of Omaxe shares in the OFS.

183. Mr. Madhur Aggarwal, director of Moongipa Infosystem, has not provided any independent commercial purpose for receipt of ₹7 crore from JBPL. His submission principally is that he ceased to be associated with Moongipa Infosystem from 2015-16 and that Moongipa Infosystem was a trading constituent of Moongipa Investment. But these submissions does not explain why ₹7 crore was received from JBPL on June 1, 2013 or why the money was thereafter routed to the two entities which acquired Omaxe shares in the OFS.

184. The material on record further shows that amounts aggregating about ₹5.79 crore subsequently moved from Moongipa Infosystem to JBPL during March to July 2015. However, the mere movement of money in the reverse direction cannot, by itself, be characterised as repayment of the June 2013 amount. It only establishes subsequent financial transactions between Moongipa Infosystem and JBPL. There is no material on record showing the terms on which the original ₹7 crore was given, any agreed tenure, interest, security, repayment schedule or any underlying commercial transaction to establish that these subsequent transfers were repayment of a genuine borrowing.

185. I note even such subsequent reverse fund movement does not alter the demonstrated utilisation of the ₹7 crore in June 2013. The money received from JBPL was routed to Moongipa Commodities and Moongipa Investment and was used for acquisition of Omaxe shares in the OFS.

186. The statement of Mr. Madhur Aggarwal is also relevant. He identified Mr. Abhishek Mishra and Mr. Navneet Jain as persons who came into contact during 2012-13 and described them as persons operating in the Omaxe scrip. Both were directors/promoters of Investmax Realty Pvt. Ltd. The material on record further shows fund transactions between JBPL and Investmax Realty. This only demonstrates a further financial connection between JBPL and persons identified by Mr. Madhur Aggarwal in relation to dealings in the Omaxe scrip.

187. Viewed together with the larger fund trail under which funds originating from Omaxe/group entities reached JBPL and were thereafter routed to entities subscribing to Omaxe's OFS, I find that the ₹7 crore transferred by JBPL to Moongipa Infosystem was used for acquisition of Omaxe shares through Moongipa Commodities and Moongipa Investment. The 4,91,800 shares so acquired were treated as public shareholding of Omaxe and thereby formed part of the shareholding relied upon for compliance with the minimum public shareholding requirement.

Wellindia Consultants Pvt Ltd

188. I note that JBPL transferred ₹10 crore to Well India Consultants Pvt. Ltd. on June 3, 2013, which was the date of the relevant OFS of Omaxe Limited. On the same day, Well India Consultants transferred ₹9.90 crore, i.e. substantially the entire amount received from JBPL, to the business account of Well India Securities Ltd. The counter-party information obtained from ICICI Bank identifies the recipient account as "Wellindia Securities Ltd.-Business A/C".

189. The movement of funds is therefore direct and immediate also. Well India Consultants received ₹10 crore from JBPL and, without any intervening deployment, transferred ₹9.90 crore to Well India Securities on the very same day. The sequence of transactions is relevant. The ₹10 crore was not retained with Well India Consultants for any demonstrated business requirement. ₹9.90 crore, representing 99% of the amount received, moved on the same day to Well India Securities, and the proprietary account of Well India Securities acquired 7,45,000 Omaxe shares in the OFS held on that very date.

190. The material on record does not identify any independent commercial transaction between JBPL and Well India Consultants which explains why ₹10 crore was provided on June 3, 2013. Nor is any separate commercial purpose shown for the immediate transfer of ₹9.90 crore to Well India Securities on the same date.

191. The material on record further shows that Well India Consultants and Well India Securities were under the same management. The MCA records also show that Well India Securities Ltd. subsequently changed its name to Brain Strong Consulting Ltd. The UCC information obtained from BSE is also relevant in this regard. It identifies Stock Brain Net Ltd. as the own trading account of Well India Securities Ltd. Thus, Stock Brain Net was not an independent third-party client unrelated to the entity which received the ₹9.90 crore. It was the proprietary/own trading account of Well India Securities itself.

192. On June 3, 2013, Stock Brain Net applied for 7,45,000 shares of Omaxe Limited in the OFS. At the OFS price of approximately ₹141.27 per share, the value of 7,45,000 shares works out to approximately ₹10.52 crore. Thus, against the ₹10 crore received from JBPL, shares worth about ₹10.52 crore were acquired through the own trading account of the connected broking entity.

193. I also note that subsequent amounts moved from Well India Consultants to JBPL, namely ₹1 crore and ₹25 lakh on September 24, 2013, ₹1 crore on November 14, 2013 and ₹2.50 crore on November 19, 2013, aggregating to ₹4.75 crore. These subsequent movements establish further financial transactions between the entities. However, in the absence of

material on record identifying the terms of any loan, tenure, interest, security or repayment schedule, these reverse fund movements cannot, merely from their direction, be characterised as repayment of the ₹10 crore received on June 3, 2013. In any event, they do not alter the manner in which the original ₹10 crore was deployed on the date of the OFS.

194. When this transaction is considered with the larger fund trail under which funds originating from Omaxe/group entities reached JBPL and were thereafter routed to entities subscribing to the OFS, I find that the ₹10 crore transferred by JBPL to Well India Consultants was substantially used for acquisition of 7,45,000 shares of Omaxe Limited through Stock Brain Net Ltd.

195. The shares so acquired were treated as part of the public shareholding of Omaxe Limited and consequently formed part of the shareholding relied upon for compliance with the minimum public shareholding requirement.

Altruistic Trading Pvt Ltd

196. I note that JBPL transferred ₹5 crore to Altruistic Trading Pvt. Ltd. on October 28, 2013. On the very next day, i.e. October 29, 2013, Altruistic transferred the amount to Kumar Share Brokers Limited/KSBL Securities Ltd. and, through KSBL, applied for 3,77,890 shares of Omaxe Limited in the OFS conducted on the same date.

197. Altruistic submitted that it was engaged in self-investment and trading through various brokers and that it had no connection with Omaxe or its promoters. The absence of a direct corporate or management relationship with Omaxe, however, does not answer the issue under examination. The relevant question is the purpose for which ₹5 crore was received from JBPL and the manner in which those funds were actually utilised.

198. In this regard, although the amount was subsequently reflected in the financial statements of Altruistic as a borrowing, no specific commercial reason for obtaining ₹5 crore from JBPL has been stated in the material available on record. There is no identified underlying business transaction between JBPL and Altruistic which explains why JBPL was required to provide such funds to this entity

199. The borrowing explanation also does not stand supported merely because the amount was subsequently described as a borrowing in the financial statements. The ₹5 crore received on October 28, 2013 was not reflected in the financial statements for the year ended March 31, 2014. It appeared as a long-term borrowing only in subsequent financial statements and was thereafter reclassified as a short-term borrowing. Thus, even the accounting treatment of the transaction was neither immediate nor consistent.

200. Further, no material is available on record which demonstrates the normal commercial attributes of the alleged borrowing, such as the purpose of the loan, agreed tenure, rate of interest, security, repayment schedule or other terms on which JBPL agreed to make ₹5 crore available to Altruistic. This is important because the material on record indicates that Altruistic had no earlier fund transaction with JBPL prior to the impugned transfer.

201. More importantly, irrespective of the nomenclature subsequently given to the transaction, the actual use of the funds is evident from the transfer of funds. The amount was received from JBPL on October 28, 2013, transferred to KSBL on October 29, 2013 and, on that very date, Altruistic applied through KSBL for 3,77,890 shares of Omaxe Limited.

202. The relationship between Altruistic and KSBL further strengthens this inference. Ms. Suman Arora was a common director of Altruistic and KSBL and shared an address with Mr. Ramesh Arora. Mr. Diwakar Khare, a director and initial subscriber of Altruistic, stated that he had no effective role in Altruistic and that its operations, finances and accounts were under the direct control of Mr. Ramesh Arora of KSBL. KSBL was therefore not merely an unrelated broker through whom an independently financed investment was executed.

203. The subsequent repayment pattern also does not explain the original purpose of the transaction. Out of ₹5 crore, ₹1 crore each was returned only on August 9 and August 23, 2016, ₹50 lakh on September 3, 2016 and another ₹50 lakh on September 7, 2017, leaving ₹2 crore outstanding. The commencement of repayments nearly three years after the transaction, and the continued outstanding amount, do not displace the fact that the entire ₹5 crore was made available immediately before the OFS and was placed with the connected broker for acquisition of Omaxe shares.

204. Therefore, the characterisation of the ₹5 crore as a borrowing cannot, by itself, explain the transaction. When this transaction is viewed together with the larger fund trail under which funds originating from Omaxe/group entities reached JBPL and were thereafter distributed to entities subscribing to the OFS, the receipt by Altruistic cannot be viewed as an isolated borrowing unrelated to the OFS. I therefore find that the ₹5 crore transferred by JBPL to Altruistic was used for acquisition of shares of Omaxe Limited in the October 29, 2013 OFS. The shares so acquired were treated as part of the public shareholding of Omaxe and consequently contributed towards the shareholding relied upon for MPS compliance.

Savasthi Investment Limited

205. I note that Savasthi Investments Limited ("SIL") received ₹1.50 crore from JBPL in October 2013. SIL, in its email dated August 10, 2023, has stated that the amount was received on

October 24, 2013 as an inter-corporate borrowing. The broker ledger forming part of the material on record reflects a credit of ₹1.50 crore on October 28, 2013. On October 29, 2013, SIL acquired 1,14,420 shares of Omaxe Limited through Sumpoorna Portfolio Limited for ₹1,49,61,991.96, at an average price of ₹130.76 per share.

206. The amount placed with the broker immediately before the OFS and the consideration paid for the Omaxe shares are therefore almost identical. Against the ₹1.50 crore received from JBPL, Omaxe shares worth ₹1.496 crore were acquired on October 29, 2013, leaving a difference of only about ₹38,000.

207. SIL has contended that it had no association or connection with JBPL, its directors or promoters and that the only transaction between them was an inter-corporate borrowing. It has similarly denied any association with Omaxe or its promoters and stated that its directors/promoters did not know Mr. Uttam Kumar, Mr. Pardeep Singhal, Mr. Radhey Krishna Goyal or Mr. Vinod Kumar Goyal.

208. The absence of a common director, promoter or other structural relationship between SIL and JBPL/Omaxe does not, however, explain the purpose and actual deployment of the ₹1.50 crore. The question in the present context is not merely whether SIL was corporately connected with JBPL, but why JBPL provided ₹1.50 crore immediately before the OFS and what happened to that amount thereafter.

209. SIL has characterised the receipt as an inter-corporate borrowing for general working-capital requirements. It has further stated that the amount was transferred to Sumpoorna Portfolio Limited for trading in general. However, no specific business requirement for which ₹1.50 crore was required from JBPL has been identified in the material on record. There is also no material showing the terms of the alleged borrowing, including its tenure, rate of interest, security, repayment schedule or other commercial terms.

210. SIL has relied upon subsequent payments to JBPL and has described them as part repayment of the borrowing. The material shows movements of ₹20 lakh, ₹30 lakh and ₹15 lakh to JBPL in September 2019 and ₹20 lakh, ₹10 lakh and ₹25 lakh in February 2020, leaving ₹30 lakh outstanding according to SIL. These transactions occurred nearly six years after the original receipt. In the absence of the underlying terms of the alleged inter-corporate borrowing, the mere movement of funds in the reverse direction does not, by itself, establish that the original ₹1.50 crore was an ordinary commercial borrowing. It establishes subsequent financial transactions between SIL and JBPL. Further, such subsequent transactions do not alter the manner in which the ₹1.50 crore was deployed in October 2013.

211. SIL has also contended that the funds received from JBPL cannot be treated as having been used for Omaxe shares because it maintained a substantial credit balance with Sumpoorna Portfolio Limited. It has pointed out that after purchase of 1,14,420 Omaxe shares on October 29, 2013, its account continued to reflect a credit balance of ₹2,62,94,534.

212. I have considered this contention. The existence of an existing credit balance means that the purchase need not be viewed as a mechanical tracing of the very same rupees received from JBPL. However, it does not explain why an additional ₹1.50 crore was obtained from JBPL and placed with the broker immediately before an Omaxe purchase of ₹1.496 crore. If the existing broker balance was itself sufficient for the proposed investment, the receipt and placement of an additional ₹1.50 crore immediately before a purchase of almost the same amount assumes greater significance rather than explaining the transaction.

213. The trading history of SIL provides further corroboration. The material on record shows that during FY 2013-14 the October 29, 2013 Omaxe transaction of ₹1,49,61,991.96 was its largest single purchase. Before this transaction, SIL had not undertaken any purchase exceeding ₹1 crore. Among the other trades identified in the material on record, only the Jaiprakash Associates transaction of about ₹73.53 lakh and the Unitech transaction of about ₹55 lakh exceeded ₹50 lakh.

214. SIL had earlier purchased 28,100 Omaxe shares on July 17, 2013 for approximately ₹39.91 lakh and subsequently purchased another 16,000 Omaxe shares on February 26, 2014 for approximately ₹20.03 lakh. The October 29, 2013 purchase of ₹1.496 crore was therefore substantially larger not only than its other trades but also than its other purchases in Omaxe during the same financial year.

215. The ₹1.50 crore received from JBPL was also itself unusual in the context of SIL's fund receipts. The broker ledger shows only five credits exceeding ₹50 lakh during 2013. Apart from the ₹1.50 crore credited on October 28, 2013, the other such credits were ₹75 lakh, ₹50 lakh, ₹81.43 lakh and ₹50 lakh. The bank statement analysis for 2012-2014 similarly shows that the ₹1.50 crore received from JBPL was the largest such credit.

216. The circumstances, therefore, have to be considered cumulatively. SIL received an unusually large amount of ₹1.50 crore from JBPL immediately before the October 29, 2013 OFS and thereafter the amount was placed with its broker. On the next trading day, it acquired Omaxe shares for ₹1.496 crore. This was its largest trade during FY 2013-14 and no independent business requirement or terms of the alleged inter-corporate borrowing have been placed on record explaining the transfer.

217. The submission that the funds were intended for “trading in general” is also difficult to reconcile with their actual deployment. The transaction immediately following the ₹1.50 crore credit was the acquisition of Omaxe shares for substantially the entire amount. There is no other trades in other shares or other deployment demonstrated on record which explains use of this ₹1.50 crore for any other trading purpose.

218. Therefore, given the larger fund trail under which funds originating from Omaxe/group entities reached JBPL and were thereafter provided to entities acquiring Omaxe shares in the OFS, the timing, amount and actual deployment of the ₹1.50 crore cannot be treated as an unrelated inter-corporate borrowing used merely for general trading.

219. I therefore find that the ₹1.50 crore received by SIL from JBPL was deployed for acquisition of 1,14,420 shares of Omaxe Limited in the October 29, 2013 OFS. These shares were treated as part of the public shareholding of Omaxe and consequently formed part of the shareholding relied upon for compliance with the minimum public shareholding requirement.

Finding on OFS funding

220. The material on record shows that during 2013 JBPL transferred an aggregate amount of ₹46.50 crore to seven first-level recipient entities, namely Altruistic Trading Pvt. Ltd. (₹5 crore), Moongipa Infosystem Ltd. (₹7 crore), Panchsheel Securities Pvt. Ltd. (₹7 crore), Rapid Credit & Holdings Pvt. Ltd. (₹10 crore), Savasthi Investments Ltd. (₹1.50 crore), Well India Consultants Pvt. Ltd. (₹10 crore) and Modex International Securities Ltd. (₹6 crore).

221. The entity-wise finding rendered above shows that these funds thereafter moved, either directly or through connected entities, to the accounts through which shares of Omaxe Limited were acquired in the OFS of June 3, 2013 and October 29, 2013. The ultimate subscribers included Invictus Stock Research Pvt. Ltd., Altruistic Trading Pvt. Ltd., Moongipa Commodities Pvt. Ltd., Moongipa Investment Ltd., Guardian Portfolio Consultants Pvt. Ltd., Search Finvest Pvt. Ltd., Panchsheel Securities Pvt. Ltd., Ridhisidhi Financial Advisory Pvt. Ltd., Surya Shakti Resources Pvt. Ltd., Savasthi Investments Ltd., Modex International Securities Ltd. and Stock Brain Net Ltd.

222. The manner in which the funds moved differs from entity to entity. In some instances, the first-level recipient itself acquired the shares, while in others the money moved to entities having common directors/promoters, common management, operational control or a proprietary trading relationship with the stock-broking entity.

223. The chronology of events from receipt of funds from JBPL to purchasing of shares in OFS is summarised in tabular form below :-

Amount received by JBPL from DVM and Garv And Date	7 entities who Received funds from JBPL	12 entities/Applied in OFS from	Date of receipt of amount from JBPL by 7 entities	Date OFS subs-cribed	Amount received from JBPL (Cr.)	Value of OFS subscription (Cr.)	No. of shares purchased
Rs.27 Cr From DVM & Rs.13 Cr From Garv Total **Rs.40 Cr** On **01/06/2013**	Rapid	Invictus	01/06/13	03/06/13	10.00	9.89	7,00,200
	Panchsheel	Guardian	01/06/13	03/06/13	7.00	1.97	1,40,000
		Search Finvest		03/06/13		1.97	1,40,000
		Panchsheel		03/06/13		1.00	71,000
		Ridhisidhi		03/06/13		0.98	70,000
		Surya Shakti		03/06/13		0.98	70,000
	Modex	Modex	03/06/13	03/06/13	6.00	5.96	4,22,000
	Moongipa Infosystems	Moongipa Commodities	01/06/13	03/06/13	4.00	3.97	2,81,500
		Moongipa Investment		03/06/13	3.00	2.97	2,10,300
	Wellindia	Stock Brain Net Ltd	03/06/13	03/06/13	10.00	10.52	7,45,000
Rs. 6.5 Cr From DVM on **28-10-2013**	Altruistic	Altruistic	28/10/13	29/10/13	5.00	5.12	3,77,890
	Savasthi	Savasthi	28/10/13	29/10/13	1.50	1.50	1,14,420
Rs.46.5 Cr	**Total**				**46.50 Cr**	**46.83 Cr**	**33,42,310**

224. For the June 3, 2013 OFS, the attributed 28,50,000 shares to the funded entities out of a total subscription of 59,02,454 shares, representing 48.29%. For the October 29, 2013 OFS, the attributed 4,92,310 shares out of a total subscription of 40,27,993 shares, representing 12.22%.

225. Across the four OFS tranches dated May 21, June 3, September 27 and October 29, 2013, an aggregate of 1,75,58,132 shares were subscribed. The quantity of 33,42,310 shares represented approximately 19.04% of such aggregate subscription.

226. It is also relevant that the acquisitions of these entities were concentrated in the June 3 and October 29, 2013 OFSs. As elaborated in the previous portions of this order, I therefore find that the 33,42,310 Omaxe shares acquired by the 12 entities who cannot be considered as independent public shareholders in the June 3 and October 29, 2013 OFSs were acquired through funds from Omaxe.

227. Thereafter, Omaxe issued 93,33,540 bonus shares exclusively to public shareholders. After the bonus issue, promoter and promoter group holding was reported at 74.99% and public shareholding at 25.01%. The 12 entities were treated as public shareholders and their OFS holdings consequently carried the corresponding bonus entitlement. Their original 33,42,310 shares together with the consequential bonus entitlement represented approximately 2.30% of the post-bonus equity capital.

228. Accordingly, the holdings attributable to these 12 entities from public shareholding needs to be reduced. If so reduced the reported public shareholding reduces from 25.01% to approximately 22.71%.

Allegations with respect to Vimal Kumar Gupta and family

229. It is alleged that, from 2015 onwards, Omaxe Limited and its group entities funded Mr. Vimal Kumar Gupta and his family (VK Gupta group) for acquisition, trading and continued holding of shares of Omaxe Limited, while such holdings continued to be shown under the public category and counted towards MPS.

230. Noticees have contended that transactions involving Vimal Kumar Gupta and his family were bonafide commercial transaction mainly relating to dealing in properties and investments in debentures. Noticees, while referring to the SCN, state that the amount received from JBPL by VK Gupta group were stated in the SCN to be property advances which were returned when the transactions did not materialise. Noticees also contend that mere connecting factors do not establish that parties were acting in concert, or in collusion, in furtherance of any fraudulent scheme.

231. I have considered the allegation that, from 2015 onwards, Vimal Kumar Gupta and his family received approximately ₹7.32 crore from JBPL and Omaxe-related entities for acquisition and trading in shares of Omaxe Limited and that the resulting holdings continued to be shown as public shareholding for MPS purposes. The allegation is based on circumstantial evidence comprising the fund receipts, Vimal Kumar Gupta's position in Omaxe and its group entities, subsequent fund movements and the Omaxe shareholding standing in the names of members of his family.

232. As regards the quantum of ₹7.32 crore, Table 38 of the SCN contains an arithmetic error in showing ₹834.89 lakh as the total credit from Omaxe-group entities. The yearly figures aggregate to approximately ₹504.89 lakh. However, when this amount is taken together with ₹227 lakh received from JBPL, the aggregate is approximately ₹731.89 lakh, i.e. ₹7.32 crore. Thus, the error in the total column does not by itself displace the aggregate fund-flow allegation. The relevant question is whether these receipts are for the acquisition or trading in Omaxe shares as alleged.

233. In respect of the ₹2.27 crore received from JBPL, Table 36 of the SCN identifies the recipients and dates. Vimal Kumar Gupta received ₹90 lakh on August 24, 2017. Kamna Gupta received ₹87 lakh on October 30, 2017. Shivish Gupta received ₹25 lakh on November 6, 2017 and Sushil Gupta received ₹25 lakh on November 6, 2017. The amounts were subsequently returned during November 2018. Noticees' case is that these receipts

as advances against property which were returned when the transactions did not materialise.

234. It is important to note that the shareholding position, however, is different for each recipient. Table 42 of the SCN shows that Vimal Kumar Gupta himself continued to hold only 32 Omaxe shares from March 2016 through March 2020. Thus, despite his receipt of ₹90 lakh from JBPL in August 2017, there was no increase in his own Omaxe shareholding during this period. The identified receipt therefore cannot be said to be the basis of any increase in the Omaxe shares standing in his name.

235. I now proceed to consider the position of Sushil Gupta. He received ₹25 lakh from JBPL on November 6, 2017, as reflected in Table 36 of the SCN, but Table 42 of the SCN does not show any Omaxe shareholding in his name. In the absence of a further fund trail showing that this ₹25 lakh was transferred to another member of the family or used for acquisition of Omaxe shares in another account, this receipt cannot be treated as funding for Omaxe share acquisition.

236. As regards Kamna Gupta, she received ₹87 lakh from JBPL on October 30, 2017. Table 42 of the SCN shows no Omaxe shareholding in her name in March 2017, but shows 99,296 shares in March 2018, which thereafter increased to 1,68,112 shares in March 2019 and 1,86,494 shares in March 2020. The receipt and the appearance of the shareholding therefore fall within the same broad period. This is a relevant circumstance. However, Table 42 is only a year-end holding statement. It does not show the date on which the 99,296 shares were acquired, whether the acquisition occurred before or after October 30, 2017. In view of the lack of information on this score, it is difficult to hold this allegation.

237. I note a similar situation arises in respect of Shivish Gupta. He received ₹25 lakh from JBPL on November 6, 2017. Table 42 of the SCN shows no holding in March 2017 and 63,300 Omaxe shares in March 2018, increasing to 1,01,913 shares in March 2019. Again, the receipt and the appearance of the shareholding occur within the same broad period, but the SCN does not identify the purchase date for the 63,300 shares. It therefore remains unestablished whether the shares were acquired after receipt of the ₹25 lakh and whether that amount was actually used for the purchase.

238. The property advance explanation in respect of the ₹2.27 crore also has to be considered in this context. The fact that the amounts were repaid in November 2018 is relevant to the stated explanation. However, since the funds remained with the recipients for approximately one year, repayment alone does not establish how the money was used during the intervening period. Equally, the allegation cannot infer such use merely because Kamna

Gupta and Shivish Gupta subsequently appear as shareholders. The actual dates and consideration of their share purchases are necessary to determine whether the property explanation is displaced by the trading dates.

239. The position of V.K. Gupta HUF also is fraught with similar situation. Table 42 of the SCN shows its holding increasing from 21 shares in March 2017 to 79,521 shares in March 2018 and 1,78,396 shares in March 2019. However, Table 36 of the SCN does not identify V.K. Gupta HUF as a recipient of any part of the ₹2.27 crore from JBPL. Thus, substantial shareholding appears in the HUF, but the identified JBPL funding is not shown to have been received by that shareholder.

240. The remaining approximately ₹5.05 crore forming part of the ₹7.32 crore allegation arises from credits from Omaxe-group entities reflected in Table 38 of the SCN. However, Table 38 provides the figures for Vimal Kumar Gupta and his family on an aggregate basis. It does not identify which particular family member received each component of the ₹5.05 crore. This becomes important because Table 42 of the SCN shows different shareholding patterns for Vimal Kumar Gupta, Kamna Gupta, Shivish Gupta and V.K. Gupta HUF. Without identifying the actual recipient of each transfer, it is not possible to test that receipt with the subsequent acquisition standing in the name of the same person.

241. It is also relevant to note that the year-wise data also does not show one consistent pattern. Vimal Kumar Gupta's own holding remained at 32 shares through March 2020 despite the substantial alleged funding during 2017-2020. Kamna Gupta and Shivish Gupta built up holdings during 2018-2019, but Shivish Gupta's holding became nil in March 2020. V.K. Gupta HUF's holding similarly fell from 1,78,396 shares in March 2019 to only 70 shares in March 2020. Thus, in some instances the shareholding increased during the period of fund receipts, while in others it reduced substantially despite the continuing financial relationship.

242. There is a further circumstance which requires attention. Table 42 of the SCN shows a sharp increase in the family holdings at later points. Vimal Kumar Gupta's holding increased to 2,78,081 shares in March 2021 and 5,12,057 shares in March 2023; Shivish Gupta held 2,98,129 shares in March 2021 and 2,45,453 shares in March 2023; and V.K. Gupta HUF held 1,42,351 shares in March 2023. However, the SCN does not identify, against these later acquisitions, a corresponding recipient-wise fund receipt from JBPL/Omaxe-related entities. Therefore, given the existing material on record, it is difficult to conclude that the existence of earlier financial transactions without an intervening trail, be treated as the source of later acquisitions.

243. The aggregate figure of ₹7.32 crore therefore establishes that substantial financial transactions occurred between JBPL/Omaxe-related entities and Vimal Kumar Gupta/family. Table 42 of the SCN separately establishes that members of the family acquired and held Omaxe shares.

244. The circumstantial evidence is therefore not uniform even within the family. In the case of Vimal Kumar Gupta, the identified ₹90 lakh receipt was not accompanied by any increase in his own holding until several years later. Sushil Gupta received ₹25 lakh but is not shown as an Omaxe shareholder. Kamna Gupta and Shivish Gupta did acquire Omaxe shares during the broad period following the identified receipts, but the precise chronology and consideration required to connect those receipts to their purchases are absent. V.K. Gupta HUF acquired substantial shares without being identified as a recipient of the ₹2.27 crore JBPL funding.

245. Thus, the material on record gives rise to circumstances warranting doubt, particularly in respect of Kamna Gupta and Shivish Gupta, but does not complete the evidential chain. The ₹7.32 crore is an aggregate family-level figure, whereas the acquisition of shares occurred in separate names and at different times. Without recipient-wise and transaction-wise matching, the aggregate funding cannot automatically be attributed to the individual share acquisitions.

246. Accordingly, I do not find the circumstantial evidence sufficient to establish that the ₹7.32 crore received by Vimal Kumar Gupta and his family from JBPL/Omaxe-related entities was provided for the purpose of acquisition or trading in Omaxe shares. Consequently, the further allegation that these holdings were maintained through such funding and used as a device for MPS purposes also cannot be sustained on the material presently relied upon in the SCN.

Allegations with respect to Rajesh group of companies

247. With respect to four entities i.e. Rajesh group of companies (‘*Rajesh group*’), it is alleged in the SCN that Rajesh group of companies started investing in the Omaxe Limited from year 2015-16, after beginning of receipt of funds from receiving funds from VK Gupta group and Omaxe. Therefore, it is alleged that funds so received by Rajesh group from VK Gupta Group and Omaxe are being utilised for acquiring shares of Omaxe Ltd.

248. The Noticees have contended that commonality of directors among the five entities constituting the alleged Rajesh Group does not establish any connection or control by the Noticees over those entities. They further contend that none of the directors or promoters of Omaxe was a director or shareholder of Rajesh Group entities. Noticees contend that

transaction between Omaxe and UDPL was was an inter-corporate deposit ('*ICD*'). Further, Noticees have contended that loan of Rs.3.3 crore availed by Omaxe from UFSL was in the normal course of commercial activity.

249. I have considered the allegation that the Rajesh-group entities were funded, directly or indirectly, for acquisition and continued holding of shares of Omaxe Limited so that such shares could be treated as public shareholding for MPS purposes. The allegation is based on circumstantial evidence comprising fund movements, connections amongst the entities and their holding of Omaxe shares.

250. In the case of Uninav Developers Pvt. Ltd. ("UDPL"), there is identified receipt of substantial funds from Omaxe Limited. The alleged ICD vide agreement dated April 01, 2012 was initially for ₹45 crore and was subsequently increased to ₹62 crore vide agreement dated April 01, 2016. However, Table 42 of the SCN shows that UDPL held 37,000 Omaxe shares in March 2016, 80,403 shares in March 2017 and 1,73,275 shares in March 2018, but its holding became nil in March 2019. At the same time, the ICD exposure continued and the ledger balance increased to approximately ₹61.81 crore by April 1, 2019. Thus, substantial funding continued even when UDPL had no Omaxe shareholding. The alledged ICD establishes a financial relationship, but this circumstance by itself does not establish that the ICD was provided for acquisition or maintenance of Omaxe shares.

251. UDPL also received identified funds from Vimal Kumar Gupta/family. Table 39 of the SCN records fund movements during 2017 and 2018. However, UDPL's Omaxe shareholding thereafter became nil in March 2019, as reflected in Table 42 of the SCN. The receipt of funds is therefore established, but the material does not show that any particular receipt was applied towards a corresponding purchase of Omaxe shares. The circumstantial evidence remains incomplete on the issue of end use.

252. In the case of Usha Financial Services Ltd. ("UFSL"), identified funds were received from Vimal Kumar Gupta/family. Table 40 of the SCN records debits towards UFSL in 2017, 2018, 2021 and 2022. However, Table 42 of the SCN shows that UFSL held no Omaxe shares from 2016 to 2020. Its first reported holding of 1,35,678 shares appears only in March 2021. Thus, the ₹5 lakh transferred in 2017 and ₹37 lakh transferred in 2018 preceded the appearance of any Omaxe shareholding by several years. In the absence of any further trail showing that these funds remained available and were ultimately used for the 2021 acquisition, these transfers cannot by themselves support the alleged inference.

253. The subsequent fund movements needs to be seen now. Table 40 of the SCN records ₹50 lakh debit in 2021 and ₹90 lakh in 2022, whereas Table 42 of the SCN shows that UFSL's

Omaxe holding remained exactly 1,35,678 shares in both March 2021 and March 2022 and became nil thereafter. Thus, further fund movements were not accompanied by any increase in Omaxe shareholding. This circumstance also does not support a consistent inference that the funds were provided for acquisition or maintenance of Omaxe shares.

254. In the case of Nupur Recyclers Ltd., no specific receipt from Omaxe, JBPL or Vimal Kumar Gupta/family for acquisition of Omaxe shares is identified in the material . Vimal Kumar Gupta states that he applied in the Nupur Recyclers IPO in December 2021. However, Table 42 of the SCN shows that Nupur Recyclers already held 14,67,417 Omaxe shares as of March 2021. Thus, this transaction involving Vimal Kumar Gupta occurred after Nupur Recyclers had already acquired the substantial Omaxe holding relied upon in the allegation and cannot constitute the source of funds for that earlier acquisition.

255. Further, Table 42 of the SCN shows that Nupur Recyclers continued to hold approximately 14.16 lakh Omaxe shares during 2022, 2023 and 2024. However, no corresponding receipt of funds from Omaxe, JBPL or Vimal Kumar Gupta/family preceding the original acquisition of these shares has been identified. Thus, in respect of the Rajesh-group entity having the largest Omaxe shareholding, the circumstance of an identified preceding fund flow is absent.

256. In the case of Vertex Buildwell Pvt. Ltd., no specific receipt of funds from Omaxe, JBPL or Vimal Kumar Gupta/family is identified in the SCN . Nevertheless, Table 42 of the SCN shows that Vertex held 70,000 Omaxe shares in March 2016, which increased to 2,63,494 shares in March 2017 and thereafter to more than 3.25 lakh shares. The shareholding is therefore established, but the corresponding funding for acquisition of such shareholding is not identified.

257. In the case of Nupur Metals, no specific receipt relevant to acquisition of Omaxe shares is identified, and Table 42 of the SCN does not show any separate Omaxe shareholding in its name. Its connection with the other Rajesh-group entities may establish an inter se relationship, but does not by itself establish funding for acquisition of Omaxe shares.

258. The aggregate figure of approximately ₹3.74 crore flowing from Vimal Kumar Gupta/family to Rajesh-group entities, as reflected in Table 38 of the SCN, also does not alter the circumstances. The aggregate figure establishes financial dealings. However, unless the individual transfers are linked with the dates, consideration and acquisition of specific Omaxe shares, the purpose of such transfers cannot be inferred merely from the aggregate amount.

259. Similarly, the ₹45 crore ICD, subsequently increased to ₹62 crore, is a relevant circumstance showing a substantial financial relationship between Omaxe and UDPL. However, when considered with Table 42 of the SCN, which shows UDPL's shareholding becoming nil in March 2019 even while the ICD balance increased to approximately ₹61.81 crore, the circumstance does not support a consistent inference that the ICD was intended for maintaining Omaxe shareholding.

260. Thus, the circumstantial evidence does not form one complete chain. UDPL and UFSL received identified funds, but their Omaxe shareholding does not consistently move with those receipts. Nupur Recyclers and Vertex Buildwell held substantial Omaxe shares, but no corresponding identified funding preceding those holdings is shown. Nupur Metals has neither an identified relevant receipt nor separate Omaxe shareholding in Table 42 of the SCN.

261. For an allegation based on circumstantial evidence, in the facts and circumstances of this case, should connect the source of funds, the recipient, the timing of receipt, the subsequent acquisition of Omaxe shares and the consideration paid for such acquisition. The present material establishes some of these circumstances in respect of different entities, but does not establish all of them in respect of any common pattern across the Rajesh group.

262. Accordingly, I do not find the circumstantial evidence sufficient to establish that the Rajesh-group entities were funded by Omaxe/JBPL or through Vimal Kumar Gupta/family for the purpose of acquiring or maintaining Omaxe shares. The financial relationships and the Omaxe shareholding are separately demonstrated in certain cases, but the material does not complete the evidential chain connecting the two. Consequently, the further allegation that such funding was used as a device to maintain these holdings as public shareholding for MPS purposes also cannot be sustained on the material relied upon in the SCN.

Allegation with respect to 5 entities connected with 12 OFS subscribing entities

263. It is also alleged in the SCN 5 entities namely Rapid Credit and Holdings Pvt Ltd ("*Rapid*"), R. K. Stock Holding Pvt Ltd ("*RK Stock*"), Sumpoorna Portfolio Ltd "Sumpoorna"), Narayan Securities Ltd and Narayan Commodity Brokers Pvt Ltd have also acquired shares of Omaxe from year 2013 to 2024. It is alleged that these 5 entities are also controlled by promoters of Omaxe and, therefore, they are considered to be promoters of Omaxe Limited (Non-disclosed promoters).

264. I have considered the allegation with respect to the aforesaid entities.

265. As far as **Rapid** and **RK Stock** is concerned, the SCN states that Rs.10 crores received by Rapid from JBPL were transferred to Invictus, which were then transferred by Invictus RK Stock and shares worth Rs.9.89 crores were bought in the name of Invictus in OFS.

266. For **Narayan Securities Ltd**, it is stated in the SCN that Rs.7 crore received by Panchsheel were ultimately transferred to Narayan Securities Ltd for buying shares in OFS for 5 entities namely Panchsheel itself and Guardian, Search Finvest, Suryashakti and Ridhisidhi. Omaxe shares worth Rs.6.9 crores were purchased in the name of the aforesaid 5 entities. **Narayan Commodities** is stated to be an entity having common directors with Narayan Securities Ltd and Panchsheel.

267. Further, it is stated for **Sumpoorna** that it had received amount of Rs.1.5 crore from Savasthi for purchase of shares in OFS of Omaxe, which resulted in Savasthi purchasing Omaxe shares worth Rs.1.49 crores.

268. I note that unlike other entities, there is no allegation with respect to these entities using funds received from Omaxe to acquire shares of Omaxe. I note that in absence of funding of acquisition of shares or any other sufficient evidence, the said 5 entities cannot be considered being controlled by promoters of Omaxe and, accordingly, they cannot be considered to be non-public shareholders/promoters of Omaxe Limited. Therefore, the allegation does not stand in respect of the aforesaid 5 entities.

Finding related to Minimum Public Shareholding

269. In view of the consolidated finding given in in para 220 to 228, the shares acquired by the 12 entities through the established fund trail cannot be treated as representing independent public shareholding for determining compliance with the prescribed MPS requirement.

270. After the June 3, 2013 OFS, exclusion of the funded holdings would reduce the public shareholding from 16.21% to approximately 14.57%. After the October 29, 2013 OFS, it would reduce from 20.97% to approximately 19.04%. Even after the subsequent bonus issue, exclusion of the funded holdings and the consequential bonus entitlement would reduce the reported public shareholding from 25.01% to approximately 22.71%.

271. I therefore find that Omaxe did not achieve the prescribed 25% minimum public shareholding through independent public shareholders. Accordingly**,** the allegation of non-compliance with the applicable MPS requirement is established against Omaxe Limited. Therefore, **Omaxe has violated Rule 19A(1) of Securities Contracts (Regulation) Rules, 1957 read with Regulation 38 of SEBI (Listing Obligations and Disclosure**

Requirements) Regulations 2015, and the provision of 2(II) on "Amendments to Clause 40A – Minimum Public Shareholding" of SEBI circular no. CIR/CFD/DIL/10/2010 dated December 16, 2010 and circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015.

Finding on funding of acquisition of its own shares by company

272. The consolidated finding establishes that ₹46.50 crore originating from Omaxe/group entities was routed through DRPL/Garv and JBPL and ultimately used for acquisition of Omaxe shares. Section 77(2) of the Companies Act, 1956 prohibited a public company from providing, directly or indirectly, financial assistance for the purpose of or in connection with purchase or subscription of its own shares.

273. Since the impugned transactions took place in 2013, I find that Omaxe indirectly provided financial assistance for acquisition of its own shares in contravention of Section 77(2) of the Companies Act, 1956. Accordingly, **Noticee no.1 Omaxe Limited has violated section 77(2) of the Companies Act, 1956.**

Finding under Regulation 31(1)(b) of the SEBI (LODR) Regulations, 2015

274. I note here that the issue under this allegation is limited to whether the holdings of the aforesaid 12 entities could correctly have been disclosed as public shareholding. In view of the finding that their acquisition of Omaxe shares was funded, such holdings cannot be regarded as representing independent public shareholding. Accordingly, to the extent Omaxe disclosed the holdings of the said 12 entities, including the consequential bonus shares attributable thereto, as part of its public shareholding, the disclosures for respective quarters did not correctly reflect the public shareholding of the company.

275. Therefore, I hold that **Noticee no.1 Omaxe Limited has violated Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) 2015 read with circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 read with Regulation 2(zb) of SEBI (ICDR) Regulations 2009 and Regulation 2 (pp) of SEBI (ICDR) Regulations 2018 and Clause 35 of the Listing Agreement for 2013-2015.**

Finding under Section 12A of the SEBI Act, 1992 and SEBI (PFUTP) Regulations, 2003.

276. The discussion in the previous portions of the order show a sequence in which funds originating from Omaxe/group entities were routed through intermediary entities, used for

acquisition of Omaxe shares in the names of entities shown as public shareholders, and such holdings were thereafter relied upon for demonstrating compliance with the prescribed MPS requirement.

277. These transactions cannot, therefore, be viewed as isolated fund transfers or independent share acquisitions. The scheme and artifice lay in creating the appearance of independent public shareholding through entities whose acquisition of Omaxe shares had been financed through funds originating from Omaxe/group entities and thereafter using such holdings for representing regulatory compliance.

278. The interposition of different entities and layers of fund movement gave the transactions the form of independent public investment, whereas the underlying fund movement established otherwise. The resulting holdings, together with the consequential bonus entitlement, were thereafter counted as public shareholding for MPS purposes.

279. I, therefore, find that the aforesaid arrangement constituted a fraudulent and deceptive scheme and artifice in connection with dealing in securities. Accordingly, the allegation under Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(b), 3(c) and 4(1) of the PFUTP Regulations, 2003 stands established against Omaxe Limited.

Finding under Regulation 30(2) of the SAST Regulations, 2011

280. The allegation under Regulation 30(2) proceeds on the basis that the aforesaid 12 entities ought to have been treated as promoters/persons acting in concert and their holdings aggregated with those of Noticee Nos. 2 to 8.

281. However, the 12 entities have not been made parties to the present proceedings. A finding that they were promoters/persons acting in concert would amount to an adverse determination regarding their status without affording them an opportunity of being heard.

282. I, therefore, do not render any finding regarding their status as promoters/persons acting in concert. The contention of the Noticees regarding non-joinder is accepted to this extent. **Consequently, the allegation of violation of Regulation 30(2) of the SAST Regulations against Noticee Nos. 2 to 8 is not established.**

283. I now proceed to examine role of the Noticees other than Omaxe with respect to the established violations.

284. The Promoter Noticees contend that they have been arrayed only by reason of their promoter status and that no specific act, direction, control or knowledge is established against them. I have considered this contention.

285. I note here the MPS consequence is equally clear. Excluding the funded holdings reduces reported public shareholding from 16.21% to approximately 14.57% after the June OFS, from 20.97% to approximately 19.04% after the October OFS, and from 25.01% to approximately 22.71% after the bonus issue. The funds therefore reached Omaxe shares that were counted as public shareholding and materially affected the reported MPS position.

286. It is relevant to note that Noticee No. 2 was a director of Guild Builders from October 22, 2003 and of Dream Home Developers (Noticee No. 7) from September 15, 2009. He was also Omaxe's Chairman and Managing Director during the relevant period.

287. Vinit Goyal, Omaxe General Manager, became a director of Dream Home Developers on December 24, 2011. Manish Kumar, Omaxe Senior General Manager, became its director on December 3, 2012. Both were directors during 2013. At Guild Builders, Vimal Gupta, an Omaxe Vice President, became a director on April 4, 2013. Vinit Goyal became a director on September 15, 2013. At JBPL, Radhey Krishna Goyal, identified as an Omaxe/group employee, became a director on March 5, 2012 and was a 50% promoter/shareholder. He remained a director during the 2013 transfers and OFSs.

288. These dates matter. Noticee No. 2 held positions in both promoter entities while Omaxe funds moved through DRPL and Garv to JBPL. Omaxe employees sat on the boards of Dream Home Developers and Guild Builders; an Omaxe-linked employee was also a director and 50% promoter/shareholder of JBPL. This was the management structure through which the funds moved.

289. The statements recorded on September 22, 2022 from Vinod Kumar Goyal, October 17, 2022 from Noticee No. 2, June 10, 2024 from Radhey Krishna Goyal and June 20, 2024 from Sunil Goel must be considered with that structure. Read together, they describe Omaxe's use of group entities, the appointment of Omaxe employees to their boards, and the role of Omaxe management in directing or managing the affairs of such entities, including JBPL. The resulting inference is supported not by a corporate relationship alone, but by the overlap of management, the dated fund movements and the immediate use of those funds for OFS purchases.

Role of Noticee no.2

290. Noticee No. 2 headed Omaxe as Chairman and Managing Director when Omaxe funds entered the route. He is an officer in default in Omaxe during the relevant period. He was also a director of both Guild Builders and Dream Home Developers during the relevant period. His connection to the route is therefore direct. He held senior positions in the source

company and in the promoter entities linked to the companies through which the funds moved.

291. The statements concerning the operation of JBPL and other group entities explain how Omaxe management and Omaxe-linked personnel were connected to those entities. The downstream transfers on June 1 and June 3, 2013, followed by the June 3 OFS acquisitions, and the October 28–29 transfers followed by the October 29 OFS acquisitions, complete the sequence.

292. I do not infer Noticee No. 2's role merely from his designation alone. His position at the head of Omaxe, his concurrent directorships in Guild Builders and Dream Home Developers, the links between Omaxe personnel and JBPL, the fund transfers and their use within days for the OFS acquisitions, and the resulting MPS benefit form a connected body of evidence. Considered cumulatively, these facts establish that Noticee No. 2 participated in the arrangement through which Omaxe/group funds were used to acquire Omaxe shares in the names of entities shown as public shareholders.

293. I, therefore, find Noticee no.2 liable under the following provisions :

(a) Rule 19A(1) of SCRR 1957 read with Regulation 38 of SEBI(LODR) Regulations 2015, and the provision of 2(II) on "Amendments to Clause 40A – Minimum Public Shareholding" of SEBI circular no. CIR/CFD/DIL/10/2010 dated December 16, 2010 and circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015.

(b) Section 77 of Companies Act, 1956.

(c) Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) 2015 read with circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 read with Regulation 2(zb) of SEBI (ICDR) Regulations 2009 and Regulation 2 (pp) of SEBI (ICDR) Regulations 2018 and Clause 35 of the Listing Agreement for 2013-2015,

(d) Section 12A(a), (b) and (c) of SEBI Act 1992 read with Regulation 3(b) and (c) and 4(1) of SEBI (PFUTP) Regulations 2003.

Role of Noticee no.7

294. There is a continuing overlap between Noticee No. 7's board and Omaxe's management during the relevant period. As noted above Vinit Goyal, Omaxe General Manager, became a director on December 24, 2011; Manish Kumar, Omaxe Senior General Manager, became a director on December 3, 2012. Both remained directors during the June and

October 2013 OFSs. Noticee No. 2 was also a director of Dream Home Developers from September 15, 2009, while serving as Omaxe's Chairman and Managing Director.

295. That overlap must be read with the statements concerning the role of Omaxe management and employee-directors in the connected entities. It demonstrates that Dream Home Developers was part of the management structure through which Omaxe-linked entities operated. Its connection is not based solely on its description as a promoter. Its directors included two senior Omaxe employees at the precise time when Omaxe/group funds were routed through connected entities and used to acquire Omaxe shares that were counted towards MPS.

296. Although the identified ₹46.50 crore did not pass through an account of Dream Home Developers, the absence of a direct transfer does not sever the management link. The overlapping directorships, Noticee No. 2's concurrent role in Omaxe and Dream Home Developers, the evidence concerning management direction of the connected entities, and the fund trail's close timing and MPS effect, considered together, establish Noticee No. 7's participation in the arrangement through the Omaxe management structure.

297. I, therefore, find Noticee no.7 liable for violation under the following provisions :

(a) Rule 19A(1) of SCRR 1957 read with Regulation 38 of SEBI(LODR) Regulations 2015, and the provision of 2(II) on "Amendments to Clause 40A – Minimum Public Shareholding" of SEBI circular no. CIR/CFD/DIL/10/2010 dated December 16, 2010 and circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015.

(b) Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) 2015 read with circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 read with Regulation 2(zb) of SEBI (ICDR) Regulations 2009 and Regulation 2 (pp) of SEBI (ICDR) Regulations 2018 and Clause 35 of the Listing Agreement for 2013-2015,

(c) Section 12A(a), (b) and (c) of SEBI Act 1992 read with Regulation 3(b) and (c) and 4(1) of SEBI (PFUTP) Regulations 2003.

Role of Noticee no.8

298. The link between Noticee No. 8 and the funding route is established through Garv. Garv was wholly owned by Guild Builders; it received ₹13 crore originating from Omaxe and transferred the amount to JBPL. The route did not end there. JBPL transferred funds to entities whose funds reached OFS subscribers, and the acquired shares were counted towards Omaxe's public shareholding.

299. The directorship dates reinforce this connection. Noticee No. 2 was a director of Guild Builders from October 22, 2003. As already noted Vimal Gupta, an Omaxe Vice President, joined its board on April 4, 2013, and Vinit Goyal, an Omaxe General Manager, joined on September 15, 2013. These positions place Guild Builders within the same Omaxe-linked management structure as Garv and JBPL during the relevant period. The transfer through a wholly owned subsidiary, followed by the onward transfer to JBPL and the OFS-related use of the funds, gives that structural connection a specific transactional consequence.

300. I therefore find that Guild Builders' role is established through Garv's participation in the funding route, considered with the overlapping management links and the use of the routed funds for the OFS acquisitions.

301. I, therefore, find Noticee no.8 liable for the violations under the following provisions :

(a) Rule 19A(1) of SCRR 1957 read with Regulation 38 of SEBI(LODR) Regulations 2015, and the provision of 2(II) on "Amendments to Clause 40A – Minimum Public Shareholding" of SEBI circular no. CIR/CFD/DIL/10/2010 dated December 16, 2010 and circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015.

(b) Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) 2015 read with circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 read with Regulation 2(zb) of SEBI (ICDR) Regulations 2009 and Regulation 2 (pp) of SEBI (ICDR) Regulations 2018 and Clause 35 of the Listing Agreement for 2013-2015,

(c) Section 12A(a), (b) and (c) of SEBI Act 1992 read with Regulation 3(b) and (c) and 4(1) of SEBI (PFUTP) Regulations 2003.

Role of Noticee no.3

302. I have considered the submission of Noticee No. 3 that although he was a promoter and Joint Managing Director of Omaxe, his role was confined to construction and development activities, while the financial affairs and funding decisions of the Company were controlled by Noticee No. 2. He has further relied upon his removal as Joint Managing Director on September 27, 2017, subsequent disputes with the other promoters, proceedings instituted before the NCLT in 2018 and complaints subsequently made to SEBI to contend that he was not a participant in the impugned arrangement.

303. I note that the reliance upon his removal from Omaxe on September 27, 2017 does not answer his position during the period when the MPS arrangement under consideration was

implemented. The transactions presently under consideration were the OFSs dated June 3 and October 29, 2013 and the subsequent steps taken for achieving MPS. Noticee No. 3 admittedly continued as Joint Managing Director of Omaxe throughout this period. His subsequent removal four years later may be relevant for examining transactions occurring after September 2017, but cannot retrospectively establish absence of involvement in transactions undertaken while he was admittedly part of the executive management of the Company.

304. The submission that his functions were confined only to construction and development is also not sufficient by itself. The office held by him was not that of an employee assigned merely to a particular project. He was the Joint Managing Director, apart from being a promoter of Omaxe. The submission, as made, does not identify any contemporaneous Board resolution, delegation of powers, organisational document or other material showing that notwithstanding such executive position, he was excluded from matters concerning capital structure, promoter dilution or regulatory compliance with MPS.

305. Furthermore, knowledge of Noticee no.3 with respect to the alleged MPS arrangement is also evident from his statement dated June 20, 2024 wherein he stated that funds of Omaxe were transferred to JBPL and subsequently transferred to Panchsheel, Moongipa Infosystems and Rapid Credit & Holding Ltd for manipulating the shares of Omaxe Ltd. Adding further to that, the stated that funds transferred to JBPL were not for genuine business activity as JBPL was not having any construction activity.

306. The contention that Noticee No. 2 exercised predominant control over finance also does not lead to the conclusion that Noticee No. 3 had no role or knowledge. The fact that one Managing Director may have exercised greater control over financial matters does not, without further material, establish that another Joint Managing Director stood completely excluded from a significant corporate exercise involving dilution of promoter shareholding and compliance with a mandatory securities-law requirement.

307. This assumes greater significance having regard to the magnitude of the MPS exercise. In the June 3, 2013 OFS, entities whose acquisitions have been traced to the impugned fund trail acquired 28,50,000 shares, constituting 48.29% of the total subscription in that OFS. Across the June and October OFSs, the 12 identified entities acquired omaxe shares. These were therefore not insignificant transactions occurring at a remote operational level.

308. Further, Noticee No. 3's connection during the relevant period was not confined to his position in Omaxe. He admittedly continued as a director of Dream Home Developers Pvt. Ltd. and Guild Builders Pvt. Ltd. until September 15, 2013. Therefore, on the date of the

June 3, 2013 OFS, he simultaneously occupied an executive position in Omaxe and directorial positions in its promoter entities.

309. This circumstance becomes further important because Garv Buildtech Pvt. Ltd., through which ₹13 crore forming part of the impugned funding chain was routed to JBPL, was a wholly-owned subsidiary of Guild Builders, itself a promoter entity of Omaxe. Thus, at the time of the June 2013 leg, Noticee No. 3 was not merely a promoter shareholder of Omaxe; he was a director of the promoter entity which stood immediately above one of the companies used in the fund trail.

310. His reliance upon cessation from Guild Builders and DHDPL on September 15, 2013 therefore does not assist him in relation to the June 3, 2013 transactions. On the contrary, it confirms that he held those directorships when the first and quantitatively much larger part of the funded acquisition occurred. Even in relation to the subsequent October 2013 OFS and bonus exercise, the cessation of his directorship in the promoter entities does not by itself establish dissociation. Noticee No. 3 admittedly remained Joint Managing Director of Omaxe until September 2017. Thus, while the promoter-entity connection is particularly relevant to the June leg, his executive position in Omaxe continued during the subsequent MPS measures.

311. I have also considered his submission regarding JBPL. Noticee No. 3 states that he ceased to be an authorised signatory of JBPL's Axis Bank account in 2008. I do not consider his former status as bank signatory, by itself, sufficient to establish his participation in transactions occurring five years later. However, this is also not the basis on which his role is being determined. The more relevant fact is that JBPL itself continued to have an Omaxe-group nexus during 2013. Radhey Krishna Goyal, who was associated with Omaxe/group entities and was a director in an Omaxe group company, was during 2013 a director and 50% promoter/shareholder of JBPL. Accordingly, cessation of Noticee No. 3's bank-signing authority in 2008 does not establish that JBPL had become an unrelated third party by 2013 or that the subsequent fund movements were outside the Omaxe/promoter ecosystem.

312. The actual use of the funds is also material. JBPL transferred ₹46.50 crore to seven first-level recipients. These funds thereafter reached, directly or through connected entities, the accounts through which Omaxe shares were acquired in the June 3 and October 29 OFSs. Certain transfers were made immediately proximate to the relevant OFSs, including transfers on June 3 itself and the ₹5 crore transfer to Altruistic on October 28 immediately preceding its October 29 acquisition.

313. Thus, the question is not whether Noticee No. 3 personally signed each bank instruction. The relevant circumstances are that, during the principal June 2013 transaction, he was simultaneously: a promoter of Omaxe; Joint Managing Director of Omaxe, a director of Guild Builders, a director of DHDPL and situated within the promoter structure in which Guild Builders' wholly-owned subsidiary Garv formed an actual part of the funding chain. He is also an officer in default in Omaxe being a JMD during the relevant period.

314. The subsequent NCLT proceedings instituted in September 2018 and his complaint to SEBI in February 2019 also do not establish absence of participation in 2013. They arose several years after the impugned OFSs and after his removal from Omaxe. They may demonstrate that disputes subsequently developed between him and the other promoters, but a later breakdown in relationship does not establish that he stood dissociated from the management and actions of the Company five years earlier.

315. This distinction is particularly relevant because the complaint relied upon by him pertains to subsequent pledging/disclosure issues concerning Omaxe shares. It does not constitute evidence that, during June 2013, he had objected to or dissociated himself from the OFS, the relevant funding arrangements or the treatment of the resulting holdings as public shareholding.

316. Similarly, his communications to SEBI in 2024 reiterating that he had not been associated with the Company for six or seven years establish his position after 2017. They do not answer the separate question of his role during 2013 when he was admittedly Joint Managing Director and a director of the relevant promoter entities.

317. I also note that no circumstance has been pointed out in the submissions showing that, during 2013, Noticee No. 3 objected to the MPS exercise, recorded dissent in relation to the relevant transactions, informed the Board or regulator of any irregularity concerning the OFS funding, or otherwise dissociated himself from the relevant corporate actions. I do not treat absence of such material as independent proof of liability. It is, however, relevant when considered with his admitted executive and directorial positions and the magnitude and nature of the transactions.

318. Accordingly, the defence cannot be accepted merely on the assertion that Noticee No. 2 exercised predominant control over finance or that Noticee No. 3 subsequently developed disputes with the controlling promoters.

319. I therefore find that the material establishes a sufficient nexus between Noticee No. 3 and the 2013 MPS arrangement. His subsequent removal in 2017 and the disputes arising

thereafter do not efface the role attributable to him during the period when the funded OFS acquisitions were undertaken. Therefore, I hold him liable for the following violations:

(a) Rule 19A(1) of SCRR 1957 read with Regulation 38 of SEBI(LODR) Regulations 2015, and the provision of 2(II) on "Amendments to Clause 40A – Minimum Public Shareholding" of SEBI circular no. CIR/CFD/DIL/10/2010 dated December 16, 2010 and circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015.

(b) Section 77 of Companies Act, 1956.

(c) Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) 2015 read with circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 read with Regulation 2(zb) of SEBI (ICDR) Regulations 2009 and Regulation 2 (pp) of SEBI (ICDR) Regulations 2018 and Clause 35 of the Listing Agreement for 2013-2015,

(d) Section 12A(a), (b) and (c) of SEBI Act 1992 read with Regulation 3(b) and (c) and 4(1) of SEBI (PFUTP) Regulations 2003.

Role of Noticee no.4

320. Noticee No. 4 submits that he has been implicated only because he was a promoter and director of Omaxe. He states that he held 1.79% of Omaxe's shares in 2013 and 1.69% in 2014, that the CMD controlled the company's financial and policy decisions, and that he was denied access to records and excluded from meaningful participation in board and committee meetings. He denies knowledge of the alleged funding and share acquisitions.

321. He also relies on his resignation from Omaxe on August 4, 2018, and states that he ceased to be a director of Guild Builders Private Limited ("GBPL") on September 15, 2013. He refers to his objections to company decisions, his efforts to obtain records, the pledge and later release of his personal shares, and his applications for reclassification from the promoter group to the public category. He states that the SCN's reference to him as a possible Axis Bank authorised signatory with Mr. Sunil Goel relates to a period ending in 2008.

322. I have considered these submissions against Noticee No. 4's year-wise positions and the fund trail. In 2013, he was a Whole-Time Director and promoter of Omaxe, and a director of GBPL until September 15, 2013. GBPL held Garv, an Omaxe promoter-group subsidiary. Noticee No. 4's directorship in GBPL therefore overlapped with the June 3, 2013 OFS and the transactions leading to it.

323. On June 1, 2013, Omaxe transferred ₹13 crore to Garv, which transferred the same amount to JBPL that day. During this period, Noticee No. 4, Mr. Rohtas Goel and Mr. Sunil Goel

were directors of GBPL. The funds transferred by Garv formed part of the ₹46.50 crore routed through Garv and DRPL to JBPL.

324. This sequence is material to Noticee No. 4's role. The relevant connection is not simply that he was an Omaxe director or held shares in Omaxe. He was a senior Omaxe officer and, at the same time, a director of the company that held Garv, through which ₹13 crore moved from Omaxe to JBPL on the very day it was received. The close timing, the ownership and management links, and the subsequent use of funds to acquire Omaxe shares provide a basis to infer his awareness of, and association with, the June 2013 arrangement. The inference arises from the combined circumstances and the fund trail, not from his title alone.

325. Noticee No. 4 as an initial authorised signatory of JBPL's Axis Bank account, account number 206010200015330, along with Mr. Sunil Goel. I note his submission that he does not recall this role and that it ended in 2008. I therefore do not treat the historical bank mandate, by itself, as proof of his participation in the 2013 transactions. It is, however, consistent with the earlier association between Noticee No. 4 and JBPL and must be considered with his positions in Omaxe and GBPL and the June 2013 fund movement.

326. Noticee No. 4's GBPL directorship ended on September 15, 2013. I therefore do not attribute the October 29, 2013 OFS transactions to him on the basis of his GBPL position. The October leg must be assessed separately. Omaxe transferred ₹6.50 crore to DRPL on October 28, 2013, and the funds moved onward through JBPL before the October OFS. By then, Noticee No. 4 remained a Whole-Time Director and promoter of Omaxe. His position at Omaxe is relevant to that later transaction, but his former GBPL directorship does not, on its own, establish his involvement in the October leg. He is also an officer in default in Omaxe being the Whole Time Director during the relevant period.

327. Noticee No. 4's later correspondence about exclusion from meetings, withheld documents, disputed minutes and the pledge of his personal shares largely concerns events in 2017 and 2018. That material may show disagreement with the CMD and the company's management at that time. It does not, without more, disprove his association with the June 2013 funding route, when he held concurrent positions at Omaxe and GBPL. His 2018 resignation and 2024–25 reclassification applications also post-date the transactions and do not determine his role when they occurred. His relatively small personal shareholding likewise does not answer whether funds were routed through companies connected with the promoter group to acquire shares that were reported as public shareholding.

328. I have also considered that no personal transfer to Noticee No. 4, personal acquisition of the OFS shares, or specific instruction from him has been identified in the material referred

to above. They do not, however, negate the circumstantial evidence of his simultaneous position in Omaxe and GBPL, the same-day movement of ₹13 crore through Garv to JBPL, and the subsequent use of JBPL funds for the June OFS. His assertion that the CMD controlled the company does not, by itself, explain his own role in the promoter-group structure through which that funding moved.

329. On a cumulative assessment, I do not accept Noticee No. 4's contention that the case against him rests only on his designation or on the historical Axis Bank reference. His overlapping positions and the June 2013 fund movement connect him to the arrangement by which Omaxe-origin funds reached JBPL and were used for share acquisitions later counted as public shareholding. His GBPL role is confined to the period ending September 15, 2013. However, by then, Noticee No. 4 acted as a Whole-Time Director and promoter of Omaxe.

330. Therefore, the material supports a finding of Noticee No. 4's association OFS issues found to be in violation. His denial of knowledge and reliance on later events do not displace that inference.

331. Therefore, I hold Noticee no.4 liable for the following violations:

(a) Rule 19A(1) of SCRR 1957 read with Regulation 38 of SEBI(LODR) Regulations 2015, and the provision of 2(II) on "Amendments to Clause 40A – Minimum Public Shareholding" of SEBI circular no. CIR/CFD/DIL/10/2010 dated December 16, 2010 and circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015.

(b) Section 77 of Companies Act, 1956.

(c) Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) 2015 read with circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 read with Regulation 2(zb) of SEBI (ICDR) Regulations 2009 and Regulation 2 (pp) of SEBI (ICDR) Regulations 2018 and Clause 35 of the Listing Agreement for 2013-2015,

(d) Section 12A(a), (b) and (c) of SEBI Act 1992 read with Regulation 3(b) and (c) and 4(1) of SEBI (PFUTP) Regulations 2003.

Role of Noticee no.5 and 6

332. I have considered the role of Noticee No. 5 and 6 in the context of the findings recorded above regarding the MPS arrangement.

333. Noticee No. 5 and 6 were part of the promoter/promoter group of Omaxe during the relevant period. The issue, however, is whether the material establishes any specific role on their

part in the implementation of the arrangement through which the impugned public shareholding was created and thereafter relied upon for MPS compliance.

334. On examination of the material, I do not find any material on the role attributable to Noticee No. 5 and 6 in relation to the ₹46.50 crore fund trail. The funds have been traced from Omaxe/group entities through DRPL and Garv to JBPL and thereafter to the entities/accounts through which the Omaxe shares were acquired. However, no part of this fund movement has been shown to have passed through any account or entity controlled or managed by Noticee No. 5 and 6. Similarly, no evidence has been identified showing their involvement in the June 3 or October 29, 2013 OFSs.

335. The material also does not establish that Noticee No. 5 and 6 occupied an executive or managerial position in Omaxe from which responsibility for the company's financial affairs, could be inferred. I note that the arrangement found above ultimately operated to reduce the reported promoter shareholding and, therefore, produced a regulatory benefit for the promoter group. However, the consequence of a transaction for a group cannot by itself establish participation of every member of that group in allegation of fraud. No such additional connecting circumstance has been established against Noticee No. 5 and 6.

336. I, therefore, find that the evidence is insufficient to attribute the violations individually to Noticee No. 5 and 6.

Issue no.(vi) - If the issue no.(i) to (v) are determined in the affirmative what directions, if any, including the amount of monetary penalty, is required to be imposed on the Noticees?

337. Now, I proceed to deal with the sixth issue i.e. what directions, if any, including the amount of monetary penalty, is required to be imposed on the Noticees.

338. I note that all the above issues have been determined in the affirmative, except Issue no.(v). The penal provisions as applicable at the time of violations which are established against the Noticees no.1, 2, 3, 4 7 and 8, as discussed in the preceding paragraphs, are discussed in subsequent paragraphs.

> ***15A(b).*** *If any person, who is required under this Act or any rules or regulations made thereunder to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.*

__15HA.__ If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.

__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 may extend to one crore rupees.

339. While determining the quantum of penalty under the SEBI Act, it is important to consider the factors stipulated in section 15J of the SEBI Act which are as follows:

(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.

340. I have considered the provisions of Section 15J of the SEBI Act,1992, which mandate that while adjudging the quantum of penalty under Section 15-I or 11B(2), due regard shall be had to the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default; the amount of loss caused to investors; and the repetitive nature of the default

341. With regard to the first factor under Section 15J of the SEBI Act, 1992, the SCN does not set out any specific material demonstrating the amount of disproportionate gain or unfair advantage, if any, made by the Noticees as a result of the alleged default.

342. With regard to the second factor under Section 15J of the SEBI Act, 1992, though no material is available on record to establish a directly quantifiable loss caused to any specific investor or class of investors, the violation cannot be treated as inconsequential. The Noticee/Company attained minimum public shareholding by funding certain entities to acquire its own shares and thereafter disclosing such funded entities as public shareholders. Such disclosures gave a misleading picture of the shareholding pattern and the extent of genuine public shareholding in the Company. As a result, investors dealing in the securities of the Company were deprived of accurate information regarding its ownership structure and regulatory compliance. While the loss caused to investors may not be capable of precise monetary computation in the absence of cogent material, the dissemination of incorrect shareholding information is inherently prejudicial to investor

interest. Accordingly, the factor under Section 15J(b) is attracted, though not in precise monetary terms.

343. With regard to third factor i.e. repetitive nature of default, I note that SEBI order dated July 30, 2024 has been passed against Noticee no.1, 2 and 3 in the matter of misstatements/irregularities in financial statements of Omaxe Limited whereby Noticee no.1 and 2 are restrained from accessing the securities market for 2 years from the date of the said order. Further, vide the said order, penalty of Rs.7 Lacs, 6 Lacs and 1 Lac have been imposed on Noticee no. 1, 2 and 3 respectively. Further, I note that Adjudication Order dated January 31, 2022 has been passed in the matter of Omaxe Ltd wherein penalty of Rs.2 Lacs has been imposed on Noticee no.4.

344. Given the grave nature of the violations established in this Order, whereby minimum public shareholding requirements were artificially met through funding of certain entities to acquire shares of the Company and such entities were thereafter disclosed as public shareholders, I find that the misconduct goes to the root of market integrity, transparency, and investor protection. The resultant misrepresentation of the shareholding pattern misled investors and the market at large regarding the true ownership structure and the Company's compliance status. In view of the fraudulent and deceptive nature of the aforesaid acts and omissions, and considering their adverse impact on investor interest and the fairness of disclosures in the securities market, I am of the view that Noticee Nos. 1, 2, 3, 4, 7 and 8 ought to be visited with an appropriate period of debarment.

345. The violations committed by the Noticees are liable for penalty under the sections as under:-

Violations	Penalty under section
Regulation 31(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) 2015 read with circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 read with Regulation 2(zb) of SEBI (ICDR) Regulations 2009 and Regulation 2 (pp) of SEBI (ICDR) Regulations 2018 and Clause 35 of the Listing Agreement for 2013-2015,	15A(b) of SEBI Act, 1992
Section 12A(a), (b) and (c) of SEBI Act 1992 read with Regulation 3(b) and (c) and 4(1) of SEBI (PFUTP) Regulations 2003.	15HA of SEBI Act, 1992
Rule 19A(1) of SCRR 1957 read with Regulation 38 of SEBI(LODR) Regulations 2015, and the provision of 2(II) on "Amendments to Clause 40A – Minimum Public Shareholding" of SEBI circular no. CIR/CFD/DIL/10/2010 dated December 16, 2010 and circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015.	15HB of SEBI Act, 1992

Directions

346. In exercise of powers conferred upon me under Sections 11(1), 11(4), 11(4A),11B(1), 11B(2) and 11(2)(j) read with Section 19 of SEBI Act and Rule 5 of the SEBI(Procedure for Holding Inquiry and Imposing Penalties) Rules,1995 do hereby pass the following directions, in the interest of investors and market integrity:

a) The Noticees are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities (including units of mutual funds), directly or indirectly, or being associated with the securities market in any manner, whatsoever, for the following period, from the date of this order:

Noticee no.	Name of Noticee	PAN	Period of debarment
1	Omaxe Limited	AAACO0171H	3 months
2	Rohtas Goel	AAVPG9866B	1 year
3	Sunil Goel	AHGPG8020K	1 year
4	Jai Bhagwan Goel	ACOPG6352K	1 year
7	Dream Home Developers Pvt Ltd	AACCD0572F	1 year
8	Guild Builders Pvt Ltd	AACCG2350E	1 year

b) If the Noticees have any open position in any exchange traded derivative contracts, as on the date of the order, they can close out /square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. The Noticees are permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.

347. In addition, in exercise of powers conferred upon me under sections 11(4A) and 11B(2), the Noticee no. 1, 2, 3, 4, 7 and 8 are hereby imposed with the following monetary penalties:

Noticee no.	Name of Noticee	Penalty under section of SEBI Act, 1992	Penalty amount (Rs.)
1	Omaxe Limited	15A(b)	2 Lacs
		15HA	15 Lacs
		15HB	10 Lacs
2	Rohtas Goel	15A(b)	2 Lacs
		15HA	25 Lacs
		15HB	10 Lacs
3	Sunil Goel	15A(b)	2 Lacs
		15HA	25 Lacs
		15HB	10 Lacs

Noticee no.	Name of Noticee	Penalty under section of SEBI Act, 1992	Penalty amount (Rs.)
4	Jai Bhagwan Goel	15A(b)	2 Lacs
		15HA	25 Lacs
		15HB	10 Lacs
7	Dream Home Developers Pvt Ltd	15A(b)	2 Lacs
		15HA	15 Lacs
		15HB	10 Lacs
8	Guild Builders Pvt Ltd	15A(b)	2 Lacs
		15HA	15 Lacs
		15HB	10 Lacs

348. The Noticees shall remit / pay the said amount of penalty, within a period of forty-five (45) days from the date of receipt of this order, 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 EDs/CGMs -> PAY NOW. In case of any difficulty in online payment of penalty, the Noticee(s) may contact the support at portalhelp@sebi.gov.in.

349. The Noticee(s) shall forward details of the online payment made in compliance with the directions contained in this Order to the Division Chief, IVD-ID-13, SEBI, 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:

Case Name	
Name of the Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Bank details in which payment is made	
Payment is made for: Penalty or Disgorgement	

350. This order shall come into force with immediate effect.

351. A copy of this order shall be sent to the Noticees, all the recognized Stock Exchanges, Depositories, and Registrar & Transfer Agents of Mutual Funds to ensure that the directions given above are strictly complied with.

N. MURUGAN Digitally signed by N. MURUGAN Date: 2026.09.24 21:10:42 +05'30'

Date : September 24, 2026
Place : Mumbai

N MURUGAN
QUASI-JUDICIAL AUTHORITY
SECURITIES AND EXCHANGE BOARD OF INDIA