

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI  
CORAM: S. RAMAN, WHOLE TIME MEMBER

ORDER

UNDER SECTIONS 11(1), 11(4) AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992.

IN THE MATTER OF ARVIND REMEDIES LIMITED –

IN RESPECT OF –

	NAME	PAN
1.	ARVIND REMEDIES LIMITED	AACCA7407Q
DIRECTOR/PROMOTER –		
2.	DR. ARVIND KUMAR BABHUTMALJI SHAH	AAVPS8498K
STATUTORY AUDITORS –		
3.	DOSHI, CHATTERJEE, BAGRI & CO.	
4.	SHRI R K BAGRI	ADAPB9341A

**Background –**

- 1.1 Arvind Remedies Limited (“**ARL**”) is a company incorporated under the Companies Act, 1956, on June 17, 1998. ARL is engaged in the business of manufacturing of allopathic and ayurvedic pharmaceutical formulations. ARL operates primarily in the hospital marketing segment comprising Central/State Government institutions, etc. The Registered Office of ARL is at 190, Poonamallee High Road, Chennai, 600084. The shares of ARL are listed on **BSE** and the National Stock Exchange of India Limited (“**NSE**”).

**Forensic Audit of ARL –**

- 1.2 SEBI received a reference dated September 18, 2015, from Punjab National Bank (“**PNB**”) informing that a consortium of banks led by PNB had a Forensic Audit of ARL conducted by M/s. Maharaj N. R. Suresh and Co. A copy of the Forensic Audit Report dated May 23, 2015, was also forwarded to SEBI, which revealed large scale irregularities including falsification of books of accounts and statements; maintenance of multiple databases, etc.

1.3 The observations contained in the aforementioned Report were as under –

- i. *A lot of time was taken by ARL to produce records for the Audit.*
- ii. *ARL's accounts were maintained in software called Focus 6.2, which lacked security control, access control and data base control.*
- iii. *ARL maintained different sets of database – one for books of accounts and the other for the purpose of excise, sales tax and internal control purpose. Checks/controls in data entry and processing were absent as a result of which, wrong/erroneous data were also keyed in and processed.*
- iv. *The financial database modules were frequently changed but the overall financial figures were balanced with published accounts. The internal deletions/additions were made to satisfy various inspection agencies like Stock Auditors, Internal Auditors, Cost Auditors, etc.*
- v. *ARL prepared different Profit And Loss Account and Balance Sheet for the purpose of Excise Department where actual turnover was reported. In case of returns filed with the Tamil Nadu Sales Tax authorities, ARL updated the returns. ARL purchased majority of stocks from certain “Controlled Parties/Entities” and sold the same to them. This was to avoid/minimize extra outflow of VAT and to maintain revenue neutrality. The aforesaid parties were –*
  - i. *Preventive Pharmaceuticals Private Limited;*
  - ii. *Aroma Remedies Private Limited;*
  - iii. *Holy Remedies Private Limited;*
  - iv. *Zurich Bio Tech Pharma;*
  - v. *Venus International Private Limited;*
  - vi. *Cosmic Remedies Private Limited;*
  - vii. *Avathar Pharmaceuticals Private Limited;*
  - viii. *Bright Drug Industry;*
  - ix. *Bright Medicure Private Limited.*
- vi. *Sales to the aforementioned parties were not exhibited in the actual books of accounts. However sales to Government agencies and Government hospitals across India and to a particular hospital at Lahore, Pakistan, were shown. Such sales shown in books did not tally with the sales tax returns including Inter–State sales.*
- vii. *Major differences were observed in Inter–State purchases and Inter–State sales and exports.*
- viii. *ARL was regularly inflating sales and purchases, which indicates that it had not manufactured goods shown as manufactured in the Annual Accounts, relied upon by bankers. ARL adopted certain practices to show these transactions, which were primarily records of non–existent movement of goods such as fake bills generated on customers who did not requisition such purchases. In many cases, ARL only passed book entries under Parties' Control Account or Journal Control Account (Collections from debtors were shown as debited to this account and payments*

to the customer's account were made by crediting the said account). For example, the purchase account was debited for an amount and the supplier account was credited simultaneously. Later, the goods were shown to have been sold and the customer's account was accordingly debited.

- ix. While the original Stores Ledger (which matched with Financial Books) was produced to the Forensic Auditors on March 5, 2015, another Stock Ledger was produced on March 7, 2015 (which was reconciled with the original Excise Return).
- x. Two sets of sales register were produced, one on February 17, 2015, that matched with books of accounts and another on March 14, 2015, which was reconciled with the Excise Return.
- xi. In March 2014, the Deputy Commissioner of Income Tax confirmed that multiple accounts were maintained by ARL. Further, Central Sales Tax for the Financial Years 2011–12 and 2012–13 were paid through the abovementioned Control Accounts.
- xii. No Central Sales Tax as exhibited in books was paid nor were original challans produced.
- xiii. Transactions were only book entries where tax paid amount were adjusted through the Control Accounts.

#### Investigation conducted by SEBI –

- 2.1 Pursuant to receipt of the Forensic Audit Report, SEBI conducted an investigation of ARL to ascertain whether its books of accounts were manipulated during the Financial Years 2011–12, 2012–13, 2013–14 and 2014–15 (“Investigation Period”) and whether there were any other related violations.
- 2.2 As per information obtained by SEBI from BSE and NSE websites and Annual Reports of ARL, the details pertaining to the Board of Directors of ARL for the period from April 1, 2010 to March 31, 2015, is as under –

**TABLE A – BOARD OF DIRECTORS OF ARL DURING THE PERIOD FROM APRIL 1, 2010– MARCH 31, 2015**

SR. NO.	NAME	DESIGNATION	APPOINTMENT	RESIGNATION
1.	DR. ARVIND KUMAR B. SHAH	MANAGING DIRECTOR	17.06.1988	Not Applicable
2.	DR. CHANDRA RAVINDRAN	WHOLE TIME DIRECTOR	09.12.1995	05.11.2015
3.	SHRI K.V. NARAYAN	DIRECTOR	11.03.2002	23.07.2013
4.	DR. C.M.K. REDDY	DIRECTOR	30.09.1995	03.10.2015
5.	SHRI R. RAJA MOHAN	DIRECTOR	13.11.2010	07.11.2014
6.	SHRI V. R. MEHTA	DIRECTOR	05.01.2011	21.03.2015
7.	SHRI SUDHIR CHANDRA	DIRECTOR	18.12.2012	05.11.2015
8.	SHRI V. SANTHANA RAMAN	DIRECTOR	12.12.2012	24.07.2013
9.	SHRI ANKUR AGARWAL	EXECUTIVE DIRECTOR	18.04.2012	11.11.2014
10.	DR. RAGHUVEER	EXECUTIVE DIRECTOR	28.04.2012	03.12.2012

2.3 The shareholding pattern in ARL during the period of Investigation (as obtained from the BSE website), is as under –

TABLE B – SHAREHOLDING PATTERN IN ARL								
CATEGORY	YEAR ENDED 31.03.2012		YEAR ENDED 31.03.2013		YEAR ENDED 31.03.2014		YEAR ENDED 31.03.2015	
	NO. OF SHARES	% TO TOTAL SHARE HOLDING	NO. OF SHARES	% TO TOTAL SHARE HOLDING	NO. OF SHARES	% TO TOTAL SHARE HOLDING	NO. OF SHARES	% TO TOTAL SHARE HOLDING
PROMOTER HOLDING	213381742	44.24	22591312	46.84	24627812	36.15	2435556	**3.58
NON-PROMOTER HOLDING	268918258	55.76	25638688	53.16	43498188	63.85	65690444	96.42
TOTAL SHARE HOLDING	482300000	100	48230000	100.00	68126000	100.00	68126000	100.00
**During the Financial Year 2014–15, Promoter's shareholding reduced to 3.58% as on 31.03.2015 as compared to their holding of 46.84% as on 31.03.2013 and 36.15% as on 31.03.2014.								

2.4 As per information obtained by SEBI from BSE and NSE website, the details pertaining to the Promoters of ARL, is as under –

TABLE C – PROMOTERS OF ARL	
1.	ARVIND KUMAR B SHAH HUF
2.	NIKITA SHAH
3.	BABY RANI
4.	ANAND KUMAR A SHAH
5.	DEEPTHI KUMARI
6.	SANKESHWARA CREDIT & INV LIMITED
7.	SHREYANCE FINANCE LIMITED
8.	ARVIND HEALTHCARE PRIVATE LIMITED
9.	NARIT TRADECOM PRIVATE LIMITED

2.5 The shareholding of Promoters of ARL for the quarters ended September 2014 to March 2015 is as follows:

TABLE D – PROMOTER SHAREHOLDING IN ARL						
NAME	QUARTER ENDED SEPTEMBER 2014		QUARTER ENDED DECEMBER 2014		QUARTER ENDED MARCH 2015	
	NO. OF SHARES HELD	% OF SHAREHOLDING	NO. OF SHARES HELD	% OF SHAREHOLDING	NO. OF SHARES HELD	% OF SHAREHOLDING
DR. ARVIND KUMAR B. SHAH	1,06,01,868	15.56	35,58,868	5.22	4,88,368	0.72
ARVIND KUMAR B SHAH HUF	35,35,188	5.19	14,188	0.02	14,188	0.02
NIKITA SHAH	4,90,100	0.72	4,80,000	0.7	4,80,000	0.70
BABY RANI	66,61,174	9.78	4,80,056	0.7	4,80,056	0.71
ANAND KUMAR A SHAH	19,02,031	2.79	4,83,031	0.71	4,83,031	0.71
DEEPTHI KUMARI	6,44,519	0.95	4,84,519	0.71	4,84,519	0.71
SANKESHWARA CREDIT & INV LIMITED	1,93,955	0.28	3,955	0.01	3,955	0.01
SHREYANCE FINANCE LIMITED	2,67,584	0.39	584	0	584	0
ARVIND HEALTHCARE PRIVATE LIMITED	1,63,855	0.24	855	0	855	0
NARIT TRADECOM PRIVATE LIMITED	3,38,038	0.50	0	0	0	0
	<b>2,47,98,312</b>	<b>36.40</b>	<b>55,06,056</b>	<b>8.07</b>	<b>24,35,556</b>	<b>3.58</b>

2.6 The Promoters of ARL offloaded 28.33% of their shareholding during the quarter ended December 2014. During the next quarter i.e. March 2015, they offloaded an additional 4.49% of their shareholding in ARL. Dr. Arvind Kumar Babhutmalji Shah, the Managing Director of ARL held only 0.72% shareholding as at the end of the quarter ended March 31, 2015, while the entire Promoter shareholding was reduced to only 3.58%. The aforesaid offloading occurred through –

- a. Direct sales in the market;
- b. Off–market transfers to connected entities and their subsequent sale in the market;
- c. Pledge of shares and sale of such shares by the lenders after invocation of the pledge.

2.7 The financial performance of ARL during the Investigation Period (as obtained from the BSE website), is as under –

TABLE E – FINANCIAL PERFORMANCE OF ARL					
INCOME STATEMENT	FOR THE YEAR ENDED				
	31.03.2012	31.03.2013	31.03.2014	30.06.2015	31.03.2016
REVENUE	467.66	664.26	911.10	787.06	10.79
OTHER INCOME	0.06	0.59	0.46	5.86	3.53
TOTAL INCOME	467.72	723.26	911.56	792.92	14.32
EXPENDITURE	399.07	530.52	734.17	1017.67	105.64
NET PROFIT	21.69	40.61	58.89	320.03	111.31
EQUITY	48.20	48.23	68.12	68.12	68.12

ARL showed significant increase in its revenue from ₹467 Crores for the Financial Year 31.03.2012 to ₹911 Crores for the Financial Year 31.03.2014, a jump of around 95% in a period of 2 years. Consequently, the net profit was shown to have increased from ₹21.69 Crores for the Financial Year 31.03.2012 to ₹58.89 Crores for the Financial Year 31.03.2014.

Subsequently, however, ARL showed that its turnover had significantly reduced from ₹787.06 Crores for the 15 months period ended 30.06.2015 and to ₹10.79 Crores for the 9 months period ended 31.03.2016.

2.8 As per the Balance Sheet of ARL as on March 31, 2014, the total assets were ₹1091.58 Crores. However, as on March 31, 2016, the total assets were reduced to ₹559.07 Crores, a reduction by ₹532.51 Crores.

TABLE F – BALANCE SHEETS OF ARL			
PARTICULARS	AS ON MARCH 31, 2014 (CRORES)	AS ON MARCH 31, 2016 (CRORES)	DIFFERENCE AMOUNT (CRORES)
TANGIBLE ASSETS	349.25	256.00	93.25
EXPENDITURE ON NEW PROJECTS (PENDING ALLOCATION)	66.58	0	66.58
INVENTORIES	194.43	1.24	193.19
TRADE RECEIVABLES	332.90	285.49	47.41
SHORT TERM LOANS AND ADVANCES	131.99	7.24	124.75
OTHERS	16.43	9.10	7.33
TOTAL	1091.58	559.07	532.51

2.9 The reduction in the assets was primarily due to the following –

- a. With regard to tangible assets, ARL was shown to have returned machinery worth around ₹103 Crores to the suppliers in the Financial Year 2014–15.
- b. ARL was shown to have destroyed raw materials, stock in progress and finished goods of value ₹197 Crores in the Financial Year 2014–15 under self-certification and no external agencies including Drug Control Authorities, Central Excise and Pollution Control Board were involved, as

is the requirement for destruction of chemicals and hazardous goods under the Drugs and Cosmetics Act and Rules.

2.10 ARL showed steady growth in Revenue and Profits till the quarter ended September 2014, whereafter, ARL started disclosing significant losses as under –

- a. In the quarterly results for December 2014, under exceptional item, ARL showed a loss on account of stock destroyed for ₹126.17 Crores, which was increased to around ₹197 Crores in subsequent disclosures made by the company in the Financial Year 2014–15.
- b. In January 2015, ARL made a disclosure about a strike in its factory, viz. Unit No. 1 at Kakkalur. ARL also disclosed that major part of machineries (worth around ₹103 Crores) of Unit No. 2 at Kakkalur were dismantled and sent back to the suppliers. There is no evidence recorded in the books of any money being returned by the suppliers.

2.11 The price of the scrip of ARL increased from the opening price of ₹43.95 on April 1, 2014, to reach a high of ₹66.05 as on September 8, 2014. Thereafter, the scrip witnessed significant fall and closed at ₹14.7 on March 31, 2015. The price chart of the scrip of ARL for the period April 1, 2014 to March 31, 2015, as obtained from the BSE website, is as under –



2.12 ARL was found to have used the following entities (which were mostly incorporated during the Financial Years 2010–11 and 2011–12) to show fictitious purchase and sale transactions, viz. –

- a. Preventive Pharmaceuticals Private Limited;
- b. Aroma Remedies Private Limited;
- c. Holy Remedies Private Limited;

- d. Zurich Bio Tech Pharma;
- e. Venus International Private Limited;
- f. Cosmic Remedies Private Limited;
- g. Avathar Pharmaceuticals Private Limited;
- h. Bright Drug Industry;
- i. Bright Medicure Private Limited;
- j. Maximus Wellnus Drugs Private Limited;
- k. Marina Dealcom Private Limited;
- l. Elixir Life Science Private Limited;
- m. Mascot Machines Private Limited;
- n. Matrix Device and Mechanism Private Limited;
- o. Zeal Hi-Tech Engineers Private Limited.

2.13 The entities at paragraph 2.12(a) to (i) were referred to as **Controlled Parties/Entities** in the Forensic Audit of ARL conducted by M/s. Maharaj N. R. Suresh and Co. [refer to paragraph 1.2(v) at page 2]. In the Statutory Auditors' Report of ARL for the 15 months period ended June 30, 2015, M/s. Vivekanandan and Associates (who were appointed subsequent to cessation of M/s Doshi, Chatterjee, Bagri & Co., as the Statutory Auditors of ARL) identified a similar pattern in transactions of ARL with several other entities. I note that the investigation carried out so far collectively refers to all such entities, including entities mentioned at paragraph 2.12(j) to (o), which ARL used for showing fictitious purchase and sale transactions. In view of the aforesaid, all the entities at paragraph 2.12(a) to (o) are hereinafter collectively referred to as "**Controlled Entities**".

2.14 The details of Directors of the Controlled Entities, as obtained from the MCA website, is as under:

SR. NO.	ENTITY	DIRECTOR
a.	PREVENTIVE PHARMACEUTICALS PRIVATE LIMITED	INDIRA KANAGARAJ ARUNA RAJASEKAR
b.	AROMA REMEDIES PRIVATE LIMITED	RAJASEKAR PARTHASARATHY SHEM SUDHAKAR RAJA
c.	HOLY REMEDIES PRIVATE LIMITED	SHANKAR AYYANAR DR. PREMA TILAK DR. P. KUBENDRAN
d.	ZURICH BIO TECH PHARMA LIMITED	DR. PREMA TILAK INDIRA KANAGARAJ VARALAKSHMI PELLAKURI DR. P. KUBENDRAN
e.	VENUS INTERNATIONAL ENTERPRISES PRIVATE LIMITED	SHWETA SURESH JAIN VARADHARAJULU KALIYAN
f.	COSMIC REMEDIES PRIVATE LIMITED	JAYAPALAN PARAMESWARI CHITRA CHINNA KANAYAN INDIRA KANAGARAJ



<b>g.</b>	AVATHAR PHARMACEUTICALS PRIVATE LIMITED	PINTU KUMAR CAROLINE PETER INDIRA KANAGARAJ
<b>h.</b>	BRIGHT DRUG INDUSTRIES LIMITED	MANOJ GARG RITESH SHARMA DHARMESH GOYAL
<b>i.</b>	BRIGHT MEDICURE PRIVATE LIMITED	SURESHKUMAR MUNUSAMY ARUL AROKIYA JOSHILA SEBASTIAN
<b>j.</b>	MAXIMUS WELLNESS DRUGS PRIVATE LIMITED	MATHIVANAN KALIYAN SUMATHI NALLATHAMBI
<b>k.</b>	MARINA DEALCOM PRIVATE LIMITED	RAJASEKAR PARTHASARATHY MAHESWARI RADHAKRISHNAN
<b>l.</b>	ELIXIR LIFE SCIENCE PRIVATE LIMITED	KABILAN JAGADEESAN VIJAYA LAKSHMI KABILAN
<b>m.</b>	MASCOT MACHINES PRIVATE LIMITED	ARUL AROKIYA JOSHILA SEBASTIAN PELLUKURI NANDAKUMAR
<b>n.</b>	MATRIX DEVICE AND MECHANISM PRIVATE LIMITED	CHINNA KANNAIYAN SENTHIL KUMARAN SOLOMON YOVEL
<b>o.</b>	ZEAL HI-TECH ENGINEERS PRIVATE LIMITED	MATHIVANAN KALIYAN MERCY GUNASEKARI SEBASTIN

2.15 From the abovementioned Table, the following common Directors are noted –

- i. Indira Kanagaraj –
  - Preventive Pharmaceuticals Private Limited;
  - Zurich Bio-Tech Pharma Limited;
  - Cosmic Remedies Private Limited;
  - Avathar Pharmaceuticals Private Limited.
  
- ii. Dr. Prema Tilak –
  - Holy Remedies Private Limited;
  - Zurich Biotech Pharma Limited.
  
- iii. Rajasekar Parthasarathy –
  - Aroma Remedies Private Limited;
  - Marina Dealcom Private Limited.
  
- iv. Arul Arokiya Joshila Sebastian –
  - Mascot Machines Private Limited;
  - Bright Medicure Private Limited.
  
- v. Mathivanan Kaliyan –
  - Zeal Hi-Tech Engineers Private Limited;
  - Maximus Wellness Drugs Private Limited.

2.16 In addition to the above, as per information obtained from the MCA website, certain Directors of the Controlled Entities were the Directors of other Promoter Companies/Group Companies of ARL –

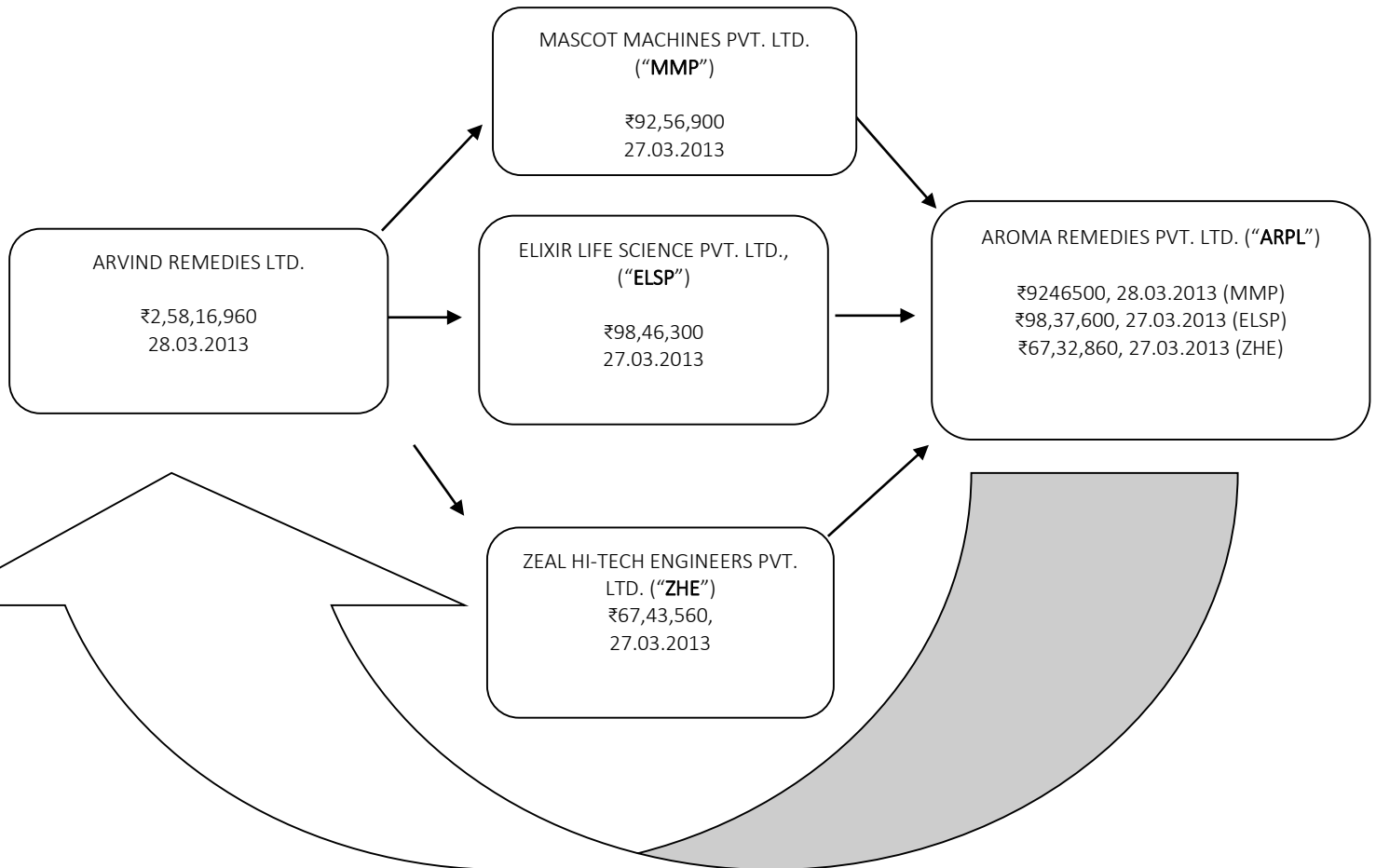
- Mr. Shankar Ayyanar and Mr. Varadharajulu Kaliyan are the Directors of Arvind Healthcare Private Limited, the Promoter of ARL;
- Ms. Aruna Rajasekar and Ms. Caroline Peter are Directors of Arvind Biowellness Limited.

2.17 Analysis of the bank statements of the *Controlled Entities* was carried out, which revealed the following *modus operandi* –

- a. In case of several Controlled Entities, *Reversal Transactions* were observed i.e. Entity received a credit from ARL and on that same day, such entity transferred back almost the same amount to ARL. For example –

TABLE G – REVERSAL TRANSACTIONS					
<b>I – NAME OF THE CONTROLLED ENTITY: ELIXIR LIFE SCIENCE PRIVATE LIMITED.</b> <b>ACCOUNT NO.669011000304</b> <b>BANK NAME–KOTAK MAHINDRA BANK LIMITED.</b>					
DATE	CREDIT AMOUNT	RECEIVED FROM	DATE	DEBIT AMOUNT	PAID TO
25-11-2011	80,14,300	ARL	25-11-2011	79,05,150	ARL
28-11-2011	70,14,500	ARL	28-11-2011	70,59,150	ARL
01-12-2011	36,40,300	ARL	01-12-2011	36,50,100	ARL
15-12-2011	75,66,200	ARL	15-12-2011	75,50,060	ARL
19-12-2011	75,65,100	ARL	19-12-2011	75,70,600	ARL
21-12-2011	68,54,800	ARL	21-12-2011	56,55,100	ARL
	56,45,874	ARL		68,55,300	ARL
<b>II – NAME OF THE CONTROLLED ENTITY: MASCOT MACHINES PRIVATE LIMITED.</b> <b>ACCOUNT NO. 669011000312</b> <b>BANK NAME–KOTAK MAHINDRA BANK LIMITED.</b>					
DATE	CREDIT AMOUNT	RECEIVED FROM	DATE	DEBIT AMOUNT	PAID TO
25-11-2011	70,45,500	ARL	25-11-2011	69,25,850	ARL
28-11-2011	68,48,300	ARL	28-11-2011	68,96,250	ARL
29-11-2011	45,12,300	ARL	29-11-2011	45,05,150	ARL
01-12-2011	49,49,500	ARL	01-12-2011	4,950,600	ARL
15-12-2011	54,65,800	ARL	15-12-2011	54,50,950	ARL
21-12-2011	68,54,557	ARL	21-12-2011	68,65,850	ARL
<b>III – NAME OF THE CONTROLLED ENTITY: MATRIX DEVICE AND MECHANISM PRIVATE LIMITED.</b> <b>ACCOUNT NO. 6311134717</b> <b>BANK NAME–KOTAK MAHINDRA BANK PRIVATE LIMITED.</b>					
DATE	CREDIT AMOUNT	RECEIVED FROM	DATE	DEBIT AMOUNT	PAID TO
28-11-2011	65,57,500	ARL	28-11-2011	64,25,100	ARL
01-12-2011	42,12,700	ARL	01-12-2011	42,10,650	ARL
15-12-2011	64,78,600	ARL	15-12-2011	64,75,100	ARL
19-12-2011	82,45,600	ARL	19-12-2011	82,50,100	ARL

- b. In other cases, *Circular Transactions* were observed i.e. funds received from ARL by a Controlled Entity (A) was transferred to another Controlled Entity (B) on the same day; thereafter, Controlled Entity (B) transferred the funds back to ARL on that same day. Although both purchase and sale transactions were shown in the books of accounts of ARL through such *circular transactions*, no real sale or purchase transactions were made. An illustration of one of the transactions is depicted below –



- c. For all these Controlled Entities, the bank accounts were opened only for the purpose of showing fictitious transactions with ARL and not for any actual business purpose. Further, significant cash withdrawals were observed in the said bank accounts.

2.18 An analysis of the Balance Sheets of Controlled Entities (where available) was made, which revealed the following –

TABLE H – BALANCE SHEETS OF CONTROLLED ENTITIES (AMOUNT IN ₹ CRORES)					
ENTITY	PARTICULARS	2010–11	2011–12	2012–13	2013–14
ZURICH BIOTECH	REVENUE	20.84	71.16	63.86	82.82
	PROFIT	0.88	0.05	0.04	0.05
VENUS INTERNATIONAL	REVENUE	12.31	81.46	62.45	–
	PROFIT	0.58	0.04	0.03	–
PREVENTIVE PHARMACEUTICALS	REVENUE	101.68	109.33	111.13	–
	PROFIT	0.03	0.07	0.08	–
MAXIMUS WELLNESS	REVENUE	–	3.79	-	–
	PROFIT	–	0.03	-	–
HOLY REMEDIES	REVENUE	101.44	122.82	115.50	–
	PROFIT	0.04	0.06	0.06	–
COSMIC REMEDIES	REVENUE	66.00	62.19	75.80	116.92
	PROFIT	0.03	0.03	0.05	0.05
AVATHAR PHARMACEUTICALS	REVENUE	89.81	81.48	67.00	–
	PROFIT	0.04	0.04	0.04	–
AROMA REMEDIES	REVENUE	99.61	111.30	111.50	–
	PROFIT	0.05	0.06	0.06	–

While the revenue of the abovementioned Controlled Entities was very significant (ranging from around ₹60 Crores to more than ₹120 Crores, profits were very negligible (ranging from around ₹3–6 Lakhs). The Statutory Auditors for the abovementioned Controlled Entities were associated with ARL in the capacity of tax/internal Auditors.

2.19 As stated earlier, M/s Doshi, Chatterjee, Bagri & Co., were the Statutory Auditors of ARL for the period from 2002 till December 2014. Subsequent to their cessation as Statutory Auditors of ARL, the company appointed M/s. Vivekanandan and Associates. In the Statutory Auditors' Report for the 15 months period ended June 30, 2015, the following observations were noted –

- a. Many sales and purchase transactions were carried out with the same business entities and receivables and payables thereon were set-off against each other with minimum bank/ cash transactions.
- b. In several debtors' accounts (including ostensibly State Owned Enterprises), receivables were netted with transfer entries to other parties or accounts. ARL used the Controlled Entities for showing debits and credits. The credits received from the Controlled Entities were used to net-off the receivable of several debtors including State Owned Enterprises since those sales were fictitious.
- c. For the Financial Year 2013–14, tax liability was reported on book profit of ₹18.47 Crores as against ₹86.39 Crores though tax provisioning in the books of accounts was made for book profit of ₹86.39 Crores.
- d. ARL submitted Interim Financial Reports to the Stock Exchanges till the Quarter ended December 31, 2014. Though accounting for return of capital assets of ₹103.14 Crores was made from April 2014 to December 2014, the same was not featured in the Limited Review for the Quarter ended June 30, 2014 and September 30, 2014.
- e. Accumulated losses at the end of the 15 months period ended June 30, 2015, completely eroded ARL's net-worth. ARL incurred cash losses amounting to ₹295.81 Crores during the period under Audit. No cash losses were reported in the Financial Year immediately preceding the period under Audit.
- f. Term Loans raised were not applied for the purpose of which such loans were obtained in Financial Year 2013–14. Assets which were part-financed by banks were returned to the vendors and the amount receivables from such vendors was appropriated against such parties' ledger account balances. These amounts were not repaid to the bank upon return of assets.

2.20 Further, in the Independent Auditors' Report for the 9 months period ended March 2016, the following observations were noted –

- a. *Letters seeking confirmation of balances were sent to various debtors. However, no confirmations were received. ARL made provision for bad and doubtful debts aggregating to ₹65.65 Crores on an estimated basis on dues receivable from a few debtors, which were part financed by the banks.*

- b. *ARL adjusted debtors' Ledger Balance for ₹106.07 Crores with certain unsecured loan accounts and other parties after making inter-party transfers.*

2.21 Summons were issued by SEBI to the following persons/entities –

TABLE I – DETAILS OF SUMMONS ISSUED				
SR. NO.	NAME	DESIGNATION	DATE	STATUS
1.	DR. ARVIND KUMAR B. SHAH	MANAGING DIRECTOR	13.10.2016 and 21.10.2016	DELIVERED
2.	DR. CHANDRA RAVINDRAN	WHOLE TIME DIRECTOR	21.10.2016	NOT DELIVERED
3.	SHRI P R KRISHNAN	COMPANY SECRETARY	13.10.2016 and 21.10.2016	NOT DELIVERED
4.	MS. KAVITHA SURANA	COMPANY SECRETARY	13.10.2016 and 21.10.2016	DELIVERED
5.	DOSHI, CHATTERJEE, BAGRI AND CO.	STATUTORY AUDITORS	13.10.2016	DELIVERED

2.22 Statements as given to SEBI by three of the abovementioned persons/entities, during the Investigation, are as under –

**A. Dr. Arvind Kumar Babhutmalji Shah –**

- i. As regards the Controlled Entities with whom ARL had significant business relationship, he stated that he did not have a say in their appointment as dealers / distributors.
- ii. As regards the destruction of inventory amounting to around ₹126.17 Crores (subsequently noted as ₹197.3 Crore by M/s Vivekanandan Associates, Auditors), he stated that since the material was declared as not of standard quality as per the norms of Drugs and Cosmetics Act, the same was sent back to the suppliers for destruction.
- iii. ARL stated that an amount of around ₹100 Crore due from the debtors i.e. the Controlled Entities, was adjusted towards unsecured loans, apparently given by Promoters to ARL. Dr. Arvind Kumar Babhutmalji Shah, who is one of the promoters as well as the Managing Director of the company, stated that he did not have any role in the appointment of the Controlled Entities as distributors and was not acquainted with any of the Promoters/Directors of such entities.
- iv. Dr. Arvind Kumar Babhutmalji Shah stated that since the products were under the Drug Price Control Order, the Board took a decision to obtain US FDA approval, which necessitated additional investment and machinery needed to be upgraded. The machinery was returned back to suppliers for the upgrade and ARL requested the bank for additional funding. Later, since the bank refused to provide additional funding, the machinery was

apparently sold to the suppliers; however, Dr. Arvind Kumar Babhutmalji Shah did not provide details of the suppliers as well as the funds received from such sale.

- v. Dr. Arvind Kumar Babhutmalji Shah denied any association with Surana Industries and also Ms. Kavitha Surana. Further, Dr. Arvind Kumar Babhutmalji Shah denied any association with the Promoters/Directors of the Controlled Entities and submitted that he had no role in the appointment of the Controlled Entities as dealers/distributors for ARL's products.

**B. Ms. Kavitha Surana –**

- i. Ms. Kavitha Surana is a practicing company secretary, who was involved in the incorporation and filing of forms for the Controlled Entities. In her statement dated November 4, 2016, she stated that two persons viz. Shri Shivkumar and Shri Shankar, approached her firm for incorporation of the Controlled Entities. She did the same as well as the secretarial filings for the Controlled Entities in subsequent years though her firm was not associated with them for the previous 2–3 years. Ms. Kavitha Surana, admitted to knowing Dr. Arvind Kumar Babhutmalji Shah (Promoter and Managing Director of ARL) and also stated that the Promoter of Surana Industries i.e. Shri G. R. Surana, who incidentally is her father-in-law, was acquainted with Dr. Arvind Kumar Babhutmalji Shah.

**C. Doshi, Chatterjee, Bagri and Co. –**

The Statutory Auditors (who resigned from the assignment after the Audit for the quarter ended December 31, 2014) stated the following –

- i. Until the Audit for the Financial Year ended March 31, 2014, they never came across anything amiss except for loan repayment to bankers and some delay in statutory payments, mainly on account of income tax, which were qualified in Companies (Auditor's Report) Order ("CARO") Report.
- ii. During the limited review of September 2014 quarter, they came across assignment of some book debts (earlier assigned to bankers) to some parties, which was reported as a note in the result. The debt already assigned to the bank was reassigned to some private parties with instruction to collect the debt and pay to creditors.
- iii. During the limited review of December 2014 quarter, for the first time, they came across a lot of unusual adjustments and transactions and they recorded all of them in their Report and it was heavily qualified. The major qualifications were destruction of stocks of ₹126 Crores without intimation to Government and other authorities, non-realization of overdue debts of substantial amount, sending back machines of a new project of

substantial value without supporting documents / obtaining prior approval of lenders and non-payment of statutory dues of ₹21.39 Crores.

- iv. On being asked about the circular/reversal transactions as per the bank account statements, which happened mostly on the same day, Shri R K Bagri (Proprietor of Doshi, Chatterjee, Bagri and Co.) replied that they never came across such type of transactions based on the books, records and documents provided to them.
- v. When Shri R K Bagri was shown the bank statements of some of the supplier vendors to show the reversal/ circular transactions, he stated that based on the glance of the statements it appeared to be circular transactions. However, the same could be established only upon a Forensic Audit.
- vi. As regards the verification done by the Auditors of sales to Army hospitals where the purchases were centralized, Shri R K Bagri stated that their checking of sales was to verify the bill with the order/agreement and transportation procedures.
- vii. As regards the verification of debtor balances, Shri R K Bagri stated that debtor's ageing analysis was checked with reference to the ageing. Shri R K Bagri stated that *"since the balance confirmation certificates were negligible, they used to check the subsequent realization of the overdue debtors"*.
- viii. As regards stock audit, Shri R K Bagri said that the same was outsourced to a Chennai based audit firm.
- ix. As regards verification of sales to Government hospitals with the bank statements, Shri R K Bagri stated that they were not checked from the same.



2.23 As per the preliminary findings of the Investigation Report, the persons/entities named therein were *prima facie* alleged to have violated the following provisions of law –

<b>TABLE J</b>	
<b>ENTITY/PERSON</b>	<b>VIOLATIONS</b>
<p>1. ARVIND REMEDIES LIMITED</p> <p><b>DIRECTOR –</b></p> <p>2. DR. ARVIND KUMAR BABHUTMALJI SHAH – MANAGING DIRECTOR;</p>	<p>For –</p> <ul style="list-style-type: none"> <li>a. Misstatement of accounts;</li> <li>b. Adoption of dubious and inconsistent practices in drawing up accounts;</li> <li>c. Employing devices to defraud the investors.</li> </ul> <p>ARL and its Director were <i>prima facie</i> alleged to have violated –</p> <ul style="list-style-type: none"> <li>ii. Section 12A(a), (b) and (c) of the SEBI Act, 1992 (“<b>SEBI Act</b>”) and</li> <li>iii. Regulation 3(b), (c) and (d) and Regulation 4(1) and 4(2)(a), (e), (f), (k) and (r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (“<b>PFUTP Regulations</b>”);</li> </ul> <p>The Director was <i>prima facie</i> also alleged to have violated –</p> <ul style="list-style-type: none"> <li>iv. Regulation 4(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“<b>Listing Regulations</b>”).</li> </ul>
<p><b>STATUTORY AUDITORS –</b></p> <p>3. DOSHI, CHATTERJEE, BAGRI &amp; CO. STATUTORY AUDITORS</p> <p>4. SHRI R K BAGRI, CHARTERED ACCOUNTANT</p>	<p>For negligence in certification of accounts of listed company, failure to maintain professional standards in Audit, the Statutory Auditor and its proprietor were <i>prima facie</i> alleged to have violated –</p> <ul style="list-style-type: none"> <li>i. Section 12A(a), (b) and (c) of the SEBI Act and Regulation 3(b), (c) and (d) and Regulation 4(1) and 4(2)(a), (e), (f), (k) and (r) of the PFUTP Regulations.</li> </ul>

**Consideration of Issues and Findings –**

3.1 I have considered the preliminary findings of the Investigation Report alongwith the documents contained therein and all other relevant material available on record.

3.2 Before I proceed to deal with the charges contained in the Investigation Report (refer to Table J above), the relevant legal provisions, the contravention of which have been alleged therein, are reproduced below –

<p><b><u>SEBI ACT</u></b></p> <p><b>Sections 12A(a), (b), (c), (d) and (e)</b></p>	<p><b>12A. No person shall directly or indirectly—</b></p> <ul style="list-style-type: none"> <li>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;</li> </ul>
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	<ul style="list-style-type: none"> <li>b. <i>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;</i></li> <li>c. <i>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;</i></li> <li>d. <i>Engage in insider trading;</i></li> <li>e. <i>Deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;</i></li> </ul>
<p><b><i>PFUTP Regulations</i></b></p> <p><b><i>Regulations 3(b), (c) and (d)</i></b></p> <p><b><i>Regulations 4(1) and 4(2)(a), (e), (f), (k) and (r)</i></b></p>	<p><b><i>3. Prohibition of certain dealings in securities.</i></b></p> <p><i>No person shall directly or indirectly—</i></p> <ul style="list-style-type: none"> <li>a. <i>...</i></li> <li>b. <i>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;</i></li> <li>c. <i>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;</i></li> <li>d. <i>Engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.</i></li> </ul> <p><b><i>4. Prohibition of manipulative, fraudulent and unfair trade practices.</i></b></p> <p><i>(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.</i></p> <p><i>(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—</i></p> <ul style="list-style-type: none"> <li>a. <i>Indulging in an act which creates false or misleading appearance of trading in the securities market;</i></li> <li><i>...</i></li> <li>e. <i>Any act or omission amounting to manipulation of the price of a security;</i></li> <li>f. <i>Publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities;</i></li> <li><i>...</i></li> <li>k. <i>An advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors;</i></li> <li><i>...</i></li> <li>r. <i>Planting false or misleading news which may induce sale or purchase of securities.</i></li> </ul>

<u>Listing Regulations</u>	<b>Principles governing disclosures and obligations.</b>
<b>Regulation 4(1)</b>	<p>4. (1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:</p> <ol style="list-style-type: none"> <li>a. Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.</li> <li>b. The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.</li> <li>c. The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.</li> <li>d. The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.</li> <li>e. The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.</li> <li>f. Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by investors.</li> <li>g. The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.</li> <li>h. The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.</li> <li>i. Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.</li> <li>j. Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.</li> </ol>

3.3 In light of the aforementioned, I shall now proceed to deal with the charges levelled in the Investigation Report, on the basis of the preliminary findings, –

**A. Violation of Sections 12A(a), (b) and (c) of the SEBI Act; Regulations 3(b), (c) and (d) read with Regulations 4(1) and 4(2)(a), (e), (f), (k) and (r) of the PFUTP Regulations, by ARL, its Director and its Statutory Auditor alongwith violation of Regulation 4(1) of the Listing Regulations by ARL’s Director –**

On the basis of the preliminary findings contained in the Investigation Report, ARL, its Director i.e. Dr. Arvind Kumar Babhutmalji Shah and ARL’s Statutory Auditor, were alleged to have *prima facie* violated the aforementioned provisions of the SEBI Act and the PFUTP Regulations, etc.

In this context, the following is observed from the Investigation Report –

*I. Transactions between ARL and the Controlled Entities –*

- i. In its Annual Reports, ARL posted inflated figures of sales and purchases of goods. As observed from the Forensic Audit commissioned by a consortium of banks led by PNB (refer to paragraph 1.2 at page 2), goods shown as being purchased were actually not purchased by ARL. Further, sales shown to have been made by ARL were without actual delivery of goods.
- ii. The aforesaid sales/purchases of goods were disclosed by ARL as having been made with the following Controlled Entities, viz.
  - a. *Preventive Pharmaceuticals Private Limited;*
  - b. *Aroma Remedies Private Limited;*
  - c. *Holy Remedies Private Limited;*
  - d. *Zurich Bio Tech Pharma;*
  - e. *Venus International Private Limited;*
  - f. *Cosmic Remedies Private Limited;*
  - g. *Avathar Pharmaceuticals Private Limited;*
  - h. *Bright Drug Industry;*
  - i. *Bright Medicare Private Limited;*
  - j. *Maximus Wellnus Drugs Private Limited;*
  - k. *Marina Dealcom Private Limited;*
  - l. *Elixir Life Science Private Limited;*
  - m. *Mascot Machines Private Limited;*
  - n. *Matrix Device and Mechanism Private Limited;*
  - o. *Zeal Hi-Tech Engineers Private Limited.*
- iii. As detailed at paragraph 2.17 of pages 10 and 11, the following *modus operandi* was adopted by ARL –
  - a. In case of several Controlled Entities, *Reversal Transactions* were observed i.e. Entity received a credit from ARL and on that same day, such entity transferred back almost the same amount to ARL.
  - b. In other cases, *Circular Transactions* were observed i.e. funds received from ARL by a Controlled Entity (A) was transferred to another Controlled Entity (B) on the same day; thereafter, Controlled Entity (B) transferred the funds back to ARL on that same day.

Although both purchase and sale transactions were shown in the books of accounts of ARL through such *Circular Transactions*, no real sale or purchase transactions were made.

- iv. For all these Controlled Entities, who were incorporated during the Financial Years 2010–11 and 2011–12, the bank accounts were opened only for the purpose of showing fictitious transactions with ARL and not for any actual business purpose. Further, significant cash withdrawals were observed in the said bank accounts. The Statutory Auditors failed to detect the aforesaid multiple Reversal/Circular transactions.
  - v. As observed from the Balance Sheets of the Controlled Entities, while their revenue was significant (ranging from around ₹60 Crores to more than ₹120 Crores), profits were negligible (ranging from around ₹3–6 Lakhs).
- II. *Destruction of raw materials through Self-Certification and Return of machinery to suppliers –*
- i. As per ARL's Balance Sheet as on March 31, 2014, the total assets were ₹1091.58 Crores. However, as on March 31, 2016, the total assets were reduced to ₹559.07 Crores, a reduction of ₹532.51 Crores. As stated earlier, the reduction in the assets was primarily due to the following –
    - a. Destruction of raw materials, stock in progress and finished goods worth ₹197 Crores under Self-Certification without approval from external agencies such as Drug Control Authorities, Central Excise and Pollution Control Board, as required under the Drugs and Cosmetics Act and Rules, etc.
    - b. Machinery worth ₹103 Crores being returned by ARL to its suppliers.
  - ii. In his statement to SEBI, Dr. Arvind Kumar Babhutmalji Shah stated –
    - a. As regards the loss of account of raw materials destroyed – Since the materials were declared as sub-standard quality as per the norms of Drugs and Cosmetics Act, the same were sent for destruction.
    - b. As regards machinery worth ₹103 Crores being returned – Since the products were under the Drug Price Control Order, ARL's Board took a decision to obtain US FDA approval, which necessitated additional investment and upgradation of machinery. The machinery was returned back to suppliers for the upgrade and the company requested PNB Bank for additional funding. Later, since the said Bank refused to provide additional funding, the machinery was sold to the suppliers. However, details relating to the

suppliers and funds received from such sales were not provided by Dr. Arvind Kumar Babhutmalji Shah, to SEBI. Further, no entry in the books of accounts of receipts on account of sales of such assets was made. In addition, no confirmations acknowledging receipt by the suppliers, of the returned machinery, were available with ARL.

iii. ARL disclosed significant losses as under –

- a. In the quarterly results for December 2014, under exceptional item, ARL showed loss on account of stock destroyed for ₹126.17 Crores, which was increased to around ₹197 Crores in subsequent disclosures made by the company in the Financial Year 2014–15. As noted above, the raw materials were destroyed without obtaining appropriate approval from Government agencies.
  - b. In January 2015, ARL made a disclosure about a strike in its factory, viz. Unit No. 1 at Kakkalur. ARL also disclosed that a major part of machineries (worth around ₹103 Crores) of Unit No. 2 at Kakkalur were dismantled and sent back to the suppliers. There is no evidence recorded in the books of any money being returned by the suppliers. Therefore, the assets shown by ARL were significantly inflated.
- iv. As per the Annual Reports of ARL, its Managing Director—Dr. Arvind Kumar Babhutmalji Shah, was paid commission on sales to the extent of ₹1.56 Crores for Financial Year 2011–12; ₹2.8 Crores for Financial Year 2012–13 and ₹3.75 Crores for Financial Year 2013–14 [For ARL’s yearly revenue, refer to Table E at paragraph 2.7 of page 6]. Since fictitious sales were shown by ARL, the commission on account of such sales should not have arisen. In light of the same, Dr. Arvind Kumar Babhutmalji Shah wrongfully earned commission from non-existent sales.

III. Sales to Government Hospitals and Agencies –

- i. ARL showed that a major part of its sales were to Government hospitals and agencies, which were in reality, false. For example, purchases by Army hospitals, which were centralized, were shown to have been made by regional units.
- ii. Collections from Government hospitals were shown as received from the Controlled Entities.
- iii. Further, SEBI was also in receipt of a copy of the letter dated November 7, 2014, forwarded by ESI hospital Salem to Canbank Factors Limited (“CFL”), wherein the said hospital confirmed that the invoices mentioned in CFL’s letters dated October 1, 2014 and October 15, 2015, were not related to the said hospital.
- iv. The Statutory Auditors failed to examine the veracity of such sales to Government Hospitals and Agencies including realisation/recovery in terms of cash/cheque deposits/electronic

transfers in ARL's bank statements. Further, while the transactions with the army/government hospitals were shown to have been realised through third party '*controlled accounts*', the Statutory Auditors failed to detect such unusual accounting entries.

IV. Other irregularities observed in respect of the earlier Statutory Auditor of ARL i.e. M/s Doshi, Chatterjee, Bagri & Co. and also ARL –

- i. In the Statutory Auditor's Report for the Financial Year ended March 31, 2016, M/s Vivekanandan Associates, the present Statutory Auditors of ARL, stated:
  - a. No confirmations were received in respect of the confirmation letters sent to the debtors i.e. Controlled Entities, which indicate that such entities were only paper entities, who had no genuine transactions with ARL. If similar confirmations had been sent earlier by M/s Doshi, Chatterjee, Bagri & Co., during the course of their Audit, the aforesaid facts concerning the Controlled Entities would have been discovered.
  - b. For the Financial Year 2013–14, the tax liability was reported on a book profit of ₹18.48 Crores as against ₹86.39 Crores, though the tax provisioning in the books of accounts was made for a book profit of ₹86.39 Crores.
  - c. Till the quarter ended December 31, 2014, interim financial reports were submitted by ARL to NSE and BSE. Though accounting for return of capital assets of ₹103.14 Crores were accounted for, from April 2014 to December 2014, the same were not featured in the Limited Review by M/s Doshi, Chatterjee, Bagri & Co., conducted for the quarter ended June 30, 2014 and September 30, 2014.
  - d. The accumulated losses for the Financial Year ended March 31, 2016, including cash losses amounting to ₹295.81 Crores during the period under audit, completely eroded ARL's networth. However, no cash losses were reported by M/s Doshi, Chatterjee, Bagri & Co. in the immediately preceding Financial Year.
- ii. Different set of financial statements were prepared by ARL for the Excise Department and Sales Tax Authorities.

3.4 The irregularities perpetrated by ARL, its Director and Statutory Auditor, discussed hereinabove are *prima facie* in violation of Sections 12A(a), (b) and (c) of the SEBI Act; Regulations 3(b), (c) and (d) read with Regulations 4(1) and 4(2)(a), (e), (f), (k) and (r) of the PFUTP Regulations. Further, the failure of ARL's Director *inter alia* to make genuine and accurate disclosures is *prima facie* in violation of Regulation 4(1) of the Listing Regulations.

3.5 While dealing with a matter of this nature, it would be worthwhile to place reliance on the following judicial pronouncements made by –

- A. The Hon'ble Securities Appellate Tribunal in the matter of *V. Natarajan vs. SEBI, SAT Appeal No.104 of 2011*, wherein it observed –

*"... We are satisfied that the provisions of Regulations 3 and 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, were violated. These regulations, among others ... prohibit persons from engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities that are listed on stock exchanges.*

*... A basic premise that underlies the integrity of securities market is that persons connected with securities market conform to standards of transparency, good governance and ethical behaviour prescribed in securities laws and do not resort to fraudulent activities."*

- B. The Hon'ble Supreme Court in its Judgment dated April 26, 2013, in *N. Narayanan vs. Adjudicating Officer SEBI (Civil Appeal Nos.4112-4113 of 2013)*, wherein it observed –

*"40. The appellant has taken the stand, as already stated, that even though he was a Whole Time Director he was not conversant with the accounts and finance and was only dealing with the human resource management of the company, hence, he had no fraudulent intention to deceive the investors. We find it difficult to accept the contention. The appellant, admittedly, was a whole time Director of the company, as regards the preparation of the annual accounts, the balance-sheet and financial statement and laying of the same before the company at the Annual General Meeting and filing the same before the Registrar of the Companies as well as before SEBI, the Directors of the company have greater responsibility, especially when the company is a registered company. Directors of the companies, especially of the listed companies, have access to inside knowledge, such as, financial position of the company, dividend rates, annual accounts etc. Directors are expected to exercise the powers for the purposes for which they are conferred. Sometimes they may misuse their powers for their personal gain and makes false representations to the public for unlawful gain.*

*41. We have indicated, so far as this case is concerned, the subsequent conduct of pledging their shares at artificially inflated prices, based on inflated financial results and raising loan on them would indicate that they had deliberately and with full knowledge committed the illegality and hence the principle of 'acta exteriora indicant interiora secreta' (meaning external actions reveals inner secrets) applies with all force,*



...

43. SEBI, the market regulator, has to deal sternly with companies and their Directors indulging in manipulative and deceptive devices, insider trading etc. or else they will be failing in their duty to promote orderly and healthy growth of the Securities market. Economic offence, people of this country should know, is a serious crime which, if not properly dealt with, as it should be, will affect not only country's economic growth, but also slow the inflow of foreign investment by genuine investors and also casts a slur on India's securities market. Message should go that our country will not tolerate "market abuse" and that we are governed by the 'Rule of Law'. Fraud, deceit, artificiality, SEBI should ensure, have no place in the securities market of this country and 'market security' is our motto. People with power and money and in management of the companies, unfortunately often command more respect in our society than the subscribers and investors in their companies. Companies are thriving with investors' contributions but they are a divided lot. SEBI has, therefore, a duty to protect investors, individual and collective, against opportunistic behavior of Directors and Insiders of the listed companies so as to safeguard market's integrity. ..."

- C. The Hon'ble Bombay High Court in its Judgment dated August 13, 2010, in *Price Waterhouse & Co. vs. SEBI (Writ Petition No. 5249 of 2010)*, wherein it observed –

"25. ... The powers available to the SEBI under the Act are to be exercised in the interest of investors and interest of securities market. In order to safeguard the interest of investors or interest of securities market, SEBI is entitled to take all ancillary steps and measures to see that the interest of the investors is protected. Looking to the provisions of the SEBI Act and the Regulations framed thereunder, in our view, it cannot be said that in a given case if there is material against any Chartered Accountant to the effect that he was instrumental in preparing false and fabricated accounts, the SEBI has absolutely no power to take any remedial or preventive measures in such a case. It cannot be said that the SEBI cannot give appropriate directions in safeguarding the interest of the investors of a listed Company. Whether such directions and orders are required to be issued or not is a matter of inquiry. In our view, the jurisdiction of SEBI would also depend upon the evidence which is available during such inquiry. It is true, as argued by the learned counsel for the petitioners, that the SEBI cannot regulate the profession of Chartered Accountants. This proposition cannot be disputed in any manner. It is required to be noted that by taking remedial and preventive measures in the interest of investors and for regulating the securities market, if any steps are taken by the SEBI, it can never be said that it is regulating the profession of the Chartered Accountants.

...

*With a view to safeguard the interests of such investors, in our view, it is the duty of the SEBI to see that maximum care is required to be taken to protect the interest of such investors so that they may not be subjected to any fraud or cheating in the matter of their investments in the securities market. In our view, the SEBI has got inherent powers to take all ancillary steps to safeguard the interest of investors and securities market.”*

3.6 The following may be noted from the preliminary findings contained in the Investigation Report –

- i. Various irregularities concerning ARL’s financial performance, assets, liabilities, etc., were observed in its Annual Reports, Balance Sheets, etc. which were *inter alia* on account of misstatement of accounts; adoption of dubious and inconsistent practices in drawing up accounts. Such irregularities *prima facie* appeared to have been made with the intention of manipulating/defrauding genuine investors in the securities market.
- ii. As ARL’s Managing Director, Dr. Arvind Kumar Babhutmalji Shah was primarily responsible for the falsification of *inter alia* ARL’s Annual Reports, Balance Sheet, etc.
- iii. ARL’s Statutory Auditor i.e. M/s Doshi, Chatterjee, Bagri & Co., was negligent in certifying accounts of ARL and failed to maintain professional standards in Audit. The Statutory Auditor therefore, enabled ARL and its Director to perpetrate manipulation/fraud on genuine investors in the securities market.

3.7 Considering the aforementioned facts and circumstances, I am convinced that this is a case where suitable and immediate action is required to be taken against ARL and its Director, for safeguarding the interests of investors and protecting the integrity of the securities market. The conduct of the aforementioned entities in perpetrating the manipulation/fraud *prima facie* is clearly to the detriment of the interests of investors and the securities market. Therefore, any action taken by SEBI should not only be to prevent any further harm to investors but also to send a stern message to prevent any person/entity from indulging in acts as observed in these proceedings. In light of the aforesaid, effective and expeditious preventive and remedial action by way of an *Interim Ex-Parte Order* is required to be taken against the aforementioned entities.

## FURTHER ISSUES UNDER INVESTIGATION BY SEBI –

- 4.1 As per the findings discussed in detail in the preceding paragraphs, ARL's Managing Director, Dr. Arvind Kumar Babhutmalji Shah was primarily responsible for the falsification of *inter alia* ARL's Annual Reports, Balance Sheet, etc. In this context, it is noted that SEBI is also investigating the involvement, if any, of ARL's other Directors [refer to Table A at page 3] in the aforesaid falsification of Annual Reports, Balance Sheet, etc.
- 4.2 **Violation of Sections 12A(d) and (e) of the SEBI Act; Regulation 3(i) read with Regulation 4 of the SEBI (Prohibition of Insider Trading) Regulations, 1992 ("Insider Trading Regulations") –**
- A. As per the preliminary findings contained in the Investigation Report, ARL's Promoters [refer to Table C at page 4] were alleged to have *prima facie* violated the aforementioned provisions of the SEBI Act and the Insider Trading Regulations. In this context, –
- i. As noted from Table B at page 4, the Promoters' shareholding in ARL as on March 31, 2013, was 46.84%. The Promoters of ARL offloaded 28.33% of their shareholding during the quarter ended December 2014. During the next quarter i.e. March 2015, they offloaded an additional 4.49% of their shareholding in ARL. Dr. Arvind Kumar Babhutmalji Shah, the Managing Director of ARL held only 0.72% shareholding as at the end of the quarter ended March 31, 2015, while the entire Promoter shareholding was reduced to only 3.58%.
- ii. ARL's Promoters were aware of the actual financial position of ARL including the huge manipulations in the books of accounts over a period of time, which were not published and thus unknown to other investors. They offloaded almost their entire shareholding by the end of 2014 at a higher price prior to disclosure by ARL of significant losses during the quarterly results for December 2014 and January 2015 (refer to paragraph 2.10 of page 7).
- iii. The price of the scrip of ARL increased from the opening price of ₹43.95 on April 1, 2014, to reach a high of ₹66.05 as on September 8, 2014. Thereafter, the scrip witnessed significant fall and closed at ₹14.7 on March 31, 2015.
- B. The manner of trading, price at which the shareholding was offloaded by ARL's Promoters, etc. which form the basis of *prima facie* insider trading violations by them, is being investigated by SEBI.
- 4.3 SEBI shall endeavour to complete the aforementioned investigation expeditiously.

**ORDER –**

5.1 In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Section 19 read with Sections 11(1), 11(4) and 11B of the SEBI Act, issue the following directions –

- i. The following persons/entities are restrained from accessing the securities market and are further prohibited from buying, selling or otherwise dealing in securities in any manner whatsoever, either directly or indirectly, –

	<b>NAME</b>	<b>PAN</b>
1.	ARVIND REMEDIES LIMITED	AACCA7407Q
2.	DR. ARVIND KUMAR BABHUTMALJI SHAH [DIRECTOR/ PROMOTER]	AAVPS8498K

- ii. The concerned stock exchanges are permitted to allow the aforementioned persons/entities at paragraph 5.1(i) to square off their existing open positions in the Futures and Options Segment, if any, immediately. The aforementioned persons/entities shall not be allowed to take fresh positions or increase their open positions or execute trades. Further, the concerned stock exchanges shall ensure that no fresh positions are created for the aforementioned persons/entities.
- iii. Dr. Arvind Kumar Babhutmalji Shah is restrained from holding any position as Director or Key Managerial Person of any other listed company.
- iv. The Statutory Auditors i.e. M/s Doshi, Chatterjee, Bagri & Co. and Shri R K Bagri, are advised to show cause as to why suitable directions/prohibitions under Sections 11(1), 11(4) and 11B of the SEBI Act including the following, should not be taken/imposed against them:
- a. Directing them to restrain from, directly or indirectly, issuing any certificate required under securities laws i.e. SEBI Act; Securities Contract (Regulations) Act, 1956; Depositories Act, 1996; Rules, Regulations, Guidelines made thereunder; Listing Agreement alongwith the applicable provision of the Companies Act, 2013; Rules, Regulations, Guidelines made thereunder, which are administered by SEBI, with respect to –
- Listed entities;
  - Intermediaries and
  - Initial Public Offer(s).

- 5.2.1 As noted at paragraph 3.3(A)(II)(iv) of page 22, during the period 2011–14, Dr. Arvind Kumar Babhutmalji Shah wrongfully earned commission on non-existent sales amounting to ₹8.11 Crores.
- 5.2.2 In light of the above, I also hereby impound the aforesaid unlawful earnings of ₹8.11 Crores, as paid by ARL to Dr. Arvind Kumar Babhutmalji Shah.
- 5.2.3 Dr. Arvind Kumar Babhutmalji Shah is also directed not to dispose of or alienate any of his assets/properties/securities, till such time the aforementioned amount of ₹8.11 Crores is credited to an escrow account [**“Escrow Account in Compliance with SEBI Order dated February 16, 2017 – A/c (in the name of the respective person/entity)”**] created specifically for the purpose in a Nationalized Bank. The escrow account/s shall create a lien in favour of SEBI and the monies kept therein shall not be released without permission from SEBI. On production of proof by Dr. Arvind Kumar Babhutmalji Shah that the said amount is deposited in the escrow account, SEBI shall communicate to the Banks and Depositories to defreeze his accounts.
- 5.2.4 Dr. Arvind Kumar Babhutmalji Shah is directed to provide, within 7 days of this Order, a full inventory of all his assets and properties and details of all his bank accounts, demat accounts and holdings of shares/securities, if held in physical form and details of companies in which he holds substantial or controlling interest.
- 5.2.5 The Banks are directed that no debits shall be made, without permission of SEBI, in respect of the bank accounts held by Dr. Arvind Kumar Babhutmalji Shah, except for the purposes of transfer of funds to the escrow account. Further, the Depositories are also directed that no debit shall be made, without permission of SEBI, in respect of the demat accounts held by Dr. Arvind Kumar Babhutmalji Shah. However, credits, if any, into the accounts maybe allowed. The Banks and the Depositories are directed to ensure that all the aforesaid directions are strictly enforced. Further, debits may also be allowed for amounts available in the account in excess of the amount to be impounded. Banks are allowed to debit the accounts for the purpose of complying with this Order.
- 5.3 The aforementioned persons/entities mentioned in paragraph 5.1 may file their replies to SEBI within 21 days from the date of receipt of this Order. They may also indicate in their replies whether they wish to avail an opportunity of personal hearing in the matter.
- 5.4 The above directions shall come into force with immediate effect and shall be in force till further directions.

5.5 This Order is without prejudice to the right of SEBI to take any other action that may be initiated against the persons/entities covered under this Order, in accordance with law.

Place: Mumbai  
Date: February 16, 2017

S. RAMAN  
WHOLE TIME MEMBER  
SECURITIES AND EXCHANGE BOARD OF INDIA