

CORPORATE LAWS

Case Law Update



CS Makarand Joshi

IBC — Case 1

In the matter of *Iskon Infra Engineering Pvt Ltd (Appellant) vs. Central Bank of India Respondent* at the National Company Law Appellant Tribunal (NCLAT) dated 1st April, 2024

Facts of the Case

- The application was filed with the National Company Law Tribunal (NCLT) by the Liquidator u/s 59 of the Insolvency and Bankruptcy Code, 2016 (Code/IBC) r/w Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 seeking dissolution of M/s Iskon Infra Engineering Private Limited (Appellant/CD).
- The NCLT directed the CD to issue a notice to the Registrar of Companies (RoC) and also to Punjab National Bank and Oriental Bank of Commerce (now merged with PNB) since the CD had given Corporate Guarantee to them.
- Pursuant to the notice issued - the RoC, PNB and Central Bank of India (Respondent) participated in the proceedings.
- The RoC filed its report against the CD towards Corporate Guarantee of more than ` 1257 Crores approximately beginning from year 2010 onwards and as on the date of report - as per MCA-21 record, no satisfaction of charge has been filed till date by the CD.
- The Respondent had also filed objections wherein it was stated that M/s Abhinav Steels and Power Limited, was granted a term loan and working capital facilities by a consortium of banks namely Oriental Bank of Commerce, Punjab National Bank and Central Bank of India in which CD was one of the Corporate Guarantors.
- The CD claimed that the Corporate Guarantee they provided was a contingent liability, as mentioned in the Financial Statements of the CD. It is pertinent to note that the Respondent had not filed any claim with the CD for the amount covered by the guarantee.
- NCLT dismissed the application on the ground that Guarantor's liability is co-extensive with that of the principal debtor.
- Aggrieved by the order of the NCLT – the appeal was filed at NCLAT.

Arguments by the Appellant

- It was contended that the guarantee had not been invoked by any of the financial creditors, nor had any claim been filed before the liquidator; hence, the NCLT committed an error in rejecting the liquidation application.
- Also, the reliance was placed on the judgment passed in the case of *“Pooja Ramesh Singh vs. State Bank of India & Anr”* which supported that liability against the Corporate Guarantor shall arise only when guarantee is invoked.

Held

- It was noted that the guarantee had not been invoked; however, this does not absolve the Corporate Guarantor from the debt. The Corporate Debtor had provided a corporate guarantee and undertaken to pay the debt, as mentioned in paragraph 10 of the executed Deed.
- The liability of the Corporate Guarantor is coextensive with that of the Lenders, and the Lenders are at liberty to require the Guarantor to fulfill its obligations. The NCLT, after considering the facts presented by the RoC and the Respondent, rightly concluded that the present case is not suitable for liquidating the Company through voluntary liquidation.
- The Appellant's submission that there is no debt since the guarantee has not been invoked cannot be accepted. The guarantee continues to bind the Corporate Guarantor to discharge its liability, and the fact that the guarantee has not been invoked to date cannot be grounds for the Appellant to be liquidated u/s 59 of the IBC.

Companies Act — Case 2

In The Matter of *Hiran Valiyakkil Lal And Others vs. Hardoll Enterprises LLP, And Others.* NCLT Kochi Bench, Order Dated 4th April 2024.

Facts of the case

- Hardoll Enterprises LLP (hereinafter called as LLP) was incorporated on 06.09.2016 with a total capital contribution of ₹ 50 lakh.
- The applicants and respondents in this case are the partners of the LLP.
- One of the partners of the LLP has filed a winding-up petition against the LLP under sections 63 and 64 of the Limited Liability Partnership Act 2008 (hereinafter called LLP Act).
- Others partners of the said LLP had challenged the maintainability of the said winding up petition on the ground that, the individual partner filing the winding up petition has been filed solitarily without backing the resolution having the approval of 3/4th of total partners and also has not filed statements of affairs of the LLP which is a requirement of rule 26(4) of LLP winding up rules 2012.

Applicant's contentions

- Applicant contended that ,petition is not maintainable as it does not meet requirements as stated under Rule 26(4) of LLP Winding up rules, 2012 i.e.:
 - the resolution having approval of 3/4th of total partners (i.e. 5 out of 7 partners)
 - Statement of affairs accompanying petition

- The main petition is filed by one of its partners solitarily without backing of the said resolution.
- Petition needs to be filed in Form 28 which mandate above documents

Respondent's contentions

- The counsel for the respondent relied on rule 26(1) and (2) to state that the petition can be filed by LLP or any of its partner
- Rule 26(4) of LLP Rules is meant only for the consideration of the statement of affairs of LLP for the purpose of admission of the petition to winding up and not as a pre-requisite for filing the petition.
- Rule 28 states that the Tribunal shall on prima facie consideration of facts can direct by order to the LLP to file the statement of affairs along with objections if any.
- In case the LLP passes 3/4th resolution and makes a statement of affairs as averred by the applicant, LLP shall go for voluntary winding up and not pursue the matter under Rule 26(1).

Held

- It is a settled position that maintainability questions need to be considered in view of the legal impediments to entertain the petition.
- In respect of the formalities imposed by Rule 26, it is clear from the sub-rule (1) (a) that a petition for winding up can be presented by any partner.
- As to the petition being hit by conditions imposed in Rule 26(4) i.e. for the production of a statement of affairs and resolution, it is necessary

to see Rule 28 which pertains to a case where any person other than LLP filing a winding up petition, in which case, this tribunal can if circumstances appear so, order LLP to file its objections along with a statement of affairs.

- In Rule 101, petition for winding up, it mentioned clearly in the proviso to sub-rule (1) that the petition in case is made by LLP shall accompany with the statement of affairs.
- In this case, the petition presented by a partner without LLP's support is as per law but need not accompany it with a statement of affairs and 3/4th resolution because it is not a case of voluntary winding up but only a winding up sought in view of the disputes alleging oppression and mismanagement.
- Hence considering the due process envisaged under the LLP Act, 2008, the court found that this petition w.r.t winding up is clearly maintainable in law.
- Therefore, we are inclined to direct the LLP, to file a Statement of affairs as on date, in the prescribed form and manner specified in Part VI (LLP Winding up rules) along with written objections to it if any, within a prescribed period in order.

Companies Act — Case 3

In the matter of *Narendra Singhania and another (Applicant), vs. Minosha India Ltd (Respondent)*, NCLAT New Delhi bench order dated 23rd April 2024.

Facts of the case

- Minosha India Ltd (hereinafter called as a respondent company) went into the Corporate Insolvency Resolution Process

(CIRP) pursuant to the admission of the Insolvency Petition by the Ld. NCLT, Mumbai Bench.

- While the company was in CIRP, the current promoters submitted a resolution plan, which got approved by the learned NCLT.
- Admittedly one of the conditions of the Resolution Plan was the delisting of the equity shares and re-organization of share capital which was implemented and accordingly, the equity shares of the Respondent company were delisted.
- Pursuant to the implementation of the resolution plan, the shareholding of the first applicant herein was reduced from 10,000 shares to 4,000 shares and that of the second applicant was reduced from 20,000 shares to 8,000 shares.
- The shareholders of the company approved the reduction of equity share capital held by the public shareholders of the company in its Annual General Meeting held on 29th September, 2022 and it was approved by the learned NCLT Mumbai vide its order dated 03.11.2022.
- The explanatory statement sent along with the notice for said general meeting stated that, since there is no trading platform available to the shareholders and the equity shares of the Company have lost its marketability. In view of this, many public shareholders have expressed their desire to tender/transfer their equity shares they hold in the Company as they are unable to dispose of the same. It was for this reason the Respondent company provided the public shareholders an exit opportunity so as to provide liquidity.
- The applicant alleged they were compelled to sell shares in the company by way of reduction of share capital and instead they wish to continue being shareholders as the company is growing. However, vide the special resolution passed in the AGM held on 29.11.2022 their shareholding was reduced to Nil.
- As a result, the applicants filed an intervention application before NCLT Mumbai which was rejected by it. Hence the applicant is before the NCLAT, New Delhi bench.

Applicant’s contentions

- The minority shareholders holding 5.86% shareholding were given no option and were forced to leave the Company by a group of approximately 94.62% shareholders belonging to the promoter’s group.
- The proposed reduction is discriminatory, unfair and mala fide and is aimed towards extinguishment of the class of public shareholders.
- It was necessary to hold a separate meeting of non-promoter public shareholders giving them a fair opportunity to assent or dissent to the reduction of the share capital.
- Objections were raised on the agenda of capital reduction by applicant shareholders through emails dated 27/09/2022, 28/09/2022 and 30/09/2022 and the request was made to the company to provide an option to those shareholders who wish to remain invested in the company but of no avail and thus were forced to quit.

- The learned counsel for the appellant referred cases¹ to press his point that the Ld. The tribunal should have considered separate voting by the class of shareholders who were to be ousted.

Respondent's contentions

No contentions were made in this behalf by the respondent company.

Held

- Admittedly, only the appellants have challenged the reduction in share capital and both these appellants collectively hold only 0.025% of the total number of shares, which is a miniscule and negligible holding as compared to other public shareholders.
- We have also examined the percentage of shareholding viz 94.62% shares held by the promoter's group and 5.38% shares held by the non-promoter group viz. public shareholders.
- The voting was done on 29.09.2022 and as per the voting 99.954% of the total valid votes voted in favor of the reduction of equity share capital and whereas only 0.0461% voted against such resolution.
- No doubt the Courts in such cited cases have examined the voting by two separate classes of shareholders viz. promoters and non-promoters viz the special class affected by the resolution but such judgements were given only on the facts, peculiar to such cases. These judgements did not lay the law as to if the special resolution ought to have been passed by such special class/ shareholders affected.
- Rather in *Sandvik Asia Ltd (Supra)* it was noted once it is established that non-promoters shareholders are being paid fair value of their shares and at no point of time it was suggested the amount paid nowhere was less and where an overwhelming majority voted in favour of resolution, the Court will not be justified in withholding its sanction.
- In the present case admittedly only 0.0461% voted against the resolution and whereas 99.954% had voted in favour of the resolution, hence there was no reason as to why the Ld. NCLT should have upset such a resolution.
- In *Piyush Dilipbhai Shah vs. Syngenta India Ltd, Company Appeal (AT) No.208/2020 decided on 05.03.2021*, the court held even though the public shareholders/non-promoter shareholders had objected to the reduction of share capital in the EGM but the majority shareholders i.e. promoter group passed the resolution in favour of the reduction of share capital, hence the Court did not upset the resolution in favour of reduction of share capital.
- Issue related to the valuation of shares was never raised before us. The only argument is non-promoters should be treated as a separate class and they only be allowed to vote on special resolution for reduction. We disagree. No separate class is permitted under Section 66 of

1. *Jayshree Damani vs. Atlas Copco (India) Ltd Company Appeal (AT) No.365 of 2019- NCLAT New Delhi*; and *Sandvik Asia Ltd vs. Bharat Kumar Padamasi Manu/MH/0237/2009*.

the Companies Act, 2013 or in any other provision of the Companies Act, 2013.

- The argument of the appellants needs to be rejected.
- The appeal thus has no merit and is accordingly dismissed.

SEBI — Case 4

Securities and Exchange Board of India's Final Order in the Matter of Leel Electricals Limited

Facts of the Order

1. Securities and Exchange Board of India ('SEBI') had received a complaint from a shareholder of LEEL Electricals Ltd. ('LEEL'/the company/'Noticee No 1') dtd November 13, 2018.
 2. The shareholder alleged that promoters and the senior management of the company had diverted funds including the funds received from the sale of a consumer durable business ('CD business') which was acquired by Havells India Ltd ('Havells') for consideration of ` 1550 crore.
 3. Thereafter SEBI had also received a letter dated February 15, 2019 from the Office of the Commissioner for Central Goods and Service tax which inter alia stated that LEEL had availed GST input tax credit of ` 40.53 crore against the reported purchase of material amounting to ` 2225.19 crore without receiving any goods and without any underlying financial transaction.
 4. The letter also mentioned that the Whole Time Director ('WTD') and Chief Financial Officer ('CFO') of LEEL had admitted in a statement filed before the High Court of Rajasthan that the company had entered such transactions
5. Given the above, SEBI then initiated an investigation into the affairs of the company and appointed Deloitte Touche Tohmatsu India LLP ('Deloitte'), vide letter dated April 12, 2019, to conduct a forensic audit of the books of the company for the financial years 2017-18 and 2018-19.
 6. On completion of the audit, Deloitte submitted a Forensic Audit Report ('FAR') to SEBI on February 25, 2020.
 7. Subsequently, SEBI, after recording the statements of the relevant people and obtaining information from the entities covered under the FAR, completed its investigation in the matter.
 8. In the meanwhile, NCLT, Allahabad Bench, vide Order dated December 09, 2019, admitted Corporate Insolvency Resolution Proceedings ('CIRP') against the company and appointed a Resolution Professional (RP).
 9. The SEBI investigation noted various violations of the provisions of the securities laws.
 10. Investigation revealed diversion of funds to related parties, misrepresentation of financial statements and misrepresentation of the profits from the sale of the consumer durable ('CD') business.
 11. A Show Cause Notice ('SCN') dated July 05, 2022, was issued to the company, its WTDs, independent directors and certain KMPs.
 12. SCN alleged that company had diverted funds to related parties in three ways: (a) by advancing funds to related parties and subsequently transferring balances

due from them to the CWIP Ledger; (b) by transferring the receivable balance from related parties to unrelated vendor accounts; and (c) by making fictitious prepaid expenses which were later written off.

13. It was also alleged in the SCN that the company misused/diverted funds to the tune of ₹ 472.11 Crore.
14. SCN was issued to the company along with Mr. Bharat Raj Punj who was promoter director of the company ('Noticee No 2'), Mr. Achin Kumar Roy who was member of audit committee and WTD ('Noticee No 3'), Mr. Nipun Singhal who was WTD during the period ('Noticee No 4'), Mrs. Mukta Behari Sharma who was WTD and CFO ('Noticee No 5'), Mr. Sushil Kabra who was group CFO ('Noticee No 6'), Mr. Surjit Krishnan Sharma who was independent director ('ID') during the period ('Noticee No 7'), Mrs. Geeta Tekchand who was ID during the period ('Noticee No 8') and Mrs. Anita Kakkar Sharma who was the compliance officer during the period ('Noticee No 9') ('Noticee No. 2 to 9 Collectively referred to as Noticees').
15. It was *prima facie* alleged that the financial statements of LEEL for the FY 2013-14 to FY 2018-19 (investigation period) were fraudulently manipulated and the figures contained therein were significantly misstated. This led to the publication of manipulated financial results of the Company from FY 2013-14 to FY 2018-19. The SCN further alleged that such publication of information in the financial statements which are not true and misleading or in a distorted manner was in contravention of the provisions of the SEBI Act, PFUTP Regulations and LODR Regulations.

Charges Levied

<i>Sr. No.</i>	<i>Noticee</i>	<i>Charges Levied</i>
1	Noticee No 1	Charges levied on the company are nowhere mentioned in the order, neither the company is penalized in this order.
2	Noticee No 2	Regulations 4(1)(a), (b), (c), (e), (g), (h), (i), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6)(7), 4(2)(f)(iii)(7), 23(4) read with 23(1), and 33(2)(a) of SEBI (LODR) Regulations, 2015 for FY 2015-16 to FY 2018-19 and Clause 41(1)(a) of the erstwhile Listing Agreement read with Section 21 of SCRA, 1956 FY 2013-14 and FY 2014-15. Regulations of 3(b), 3(c), 3(d), 4(1) of the PFUTP Regulations and Section 12A(a), (b) and (c) of the SEBI Act.
3	Noticee No 3	Regulations 4(1)(a), (b), (c), (e), (g), (h), (i), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6), (7), 4(2)(f)(iii)(7), 23(4) read with 23(1), and 33 (2) (a) of SEBI (LODR) Regulations, 2015 for FY 2015-16 to FY 2018-19 and Clause 41 (1)(a) of erstwhile Listing Agreement read with Section 21 of SCRA, 1956 FY 2013-14 and FY 2014-15. Regulations of 3(b), 3(c), 3(d), 4(1) of the PFUTP Regulations and Section 12A(a), (b) and (c) of the SEBI Act.

<i>Sr. No.</i>	<i>Noticee</i>	<i>Charges Levied</i>
4	Noticee No 4	Regulations 4(1)(a), (b), (c), (e), (g), (h), (i), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6), (7), 4(2)(f)(iii)(7), 23(4) read with 23(1), and 33(2)(a) of SEBI (LODR) Regulations, 2015 for FY 2015-16 to FY 2018-19 and Clause 41 (1)(a) of the erstwhile Listing Agreement read with Section 21 of SCRA, 1956 FY 2013-14 and FY 2014-15. Regulations of 3(b), 3(c), 3(d), 4(1) of the PFUTP Regulations and Section 12A(a),(b) and (c) of the SEBI Act.
5	Noticee No 5	Regulations 4(1) (a), (b), (c), (e), (g), (h), (i), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2),(6)(7), 4(2)(f)(iii)(7), 23(4) read with 23(1), and 33 (2) (a) of SEBI (LODR) Regulations, 2015 for FY 2015-16 to FY 2018-19, provisions of Regulation 18(3) read with Para A of Part C of Schedule II of SEBI (LODR) Regulations, 2015, and Clause 41 (1)(a) of erstwhile Listing Agreement read with Section 21 of SCRA, 1956 FY 2013-14 and FY 2014-15. Regulations of 3(b), 3(c), 3(d), 4(1) of the PFUTP Regulations and Section 12A(a),(b) and (c) of the SEBI Act.
6	Noticee No 6	Regulations 4(1)(a), (b), (c), (e), (g), (h), (i), (j), 4(2)(f)(i)(2), 4(2)(f)(ii)(2), (6), (7), 4(2)(f)(iii)(7), 23(4) read with 23(1), and 33(2)(a) of SEBI (LODR) Regulations, 2015 for FY 2015-16 to FY 2018-19 and Clause 41 (1)(a) of the erstwhile Listing Agreement read with Section 21 of SCRA, 1956 FY 2013-14 and FY 2014-15.
7	Noticee No 7	Provisions of Regulation 18(3) read with Para A of Part C of Schedule II of SEBI (LODR) Regulations, 2015,
8	Noticee No 8	Provisions of Regulation 18(3) read with Para A of Part C of Schedule II of SEBI (LODR) Regulations, 2015,
9	Noticee No 9	Provisions of Regulations 6(2)(a), (b), (c) of the SEBI (LODR) Regulations, 2015. Regulations of 3(b), 3(c), 3(d), 4(1) of the PFUTP Regulations and Section 12A(a), (b) and (c) of the SEBI Act.

Contentions by The Noticees

A. Allegation relating to diversion of funds to related parties, misrepresentation of financial statements, misrepresentation in the calculation of profit on sale of CD business along with related party transaction and disclosure violation and failure of corporate governance

1. Noticee No 2 clarified that he was not involved in LEEL's day-to-day affairs or financial functions, primarily managing overseas acquisitions while residing in the USA. He highlighted that the

company's core management team, led by his late father Brij Raj Punj, handled daily operations and financial matters. After being pressured to take on the role of Managing Director following his father's death, he maintained minimal involvement in financial transactions, which were managed by the core team. He also emphasized the challenges in defending himself due to limited access to documents amidst the company's liquidation and pointed out discrepancies and alleged forgery in company records. Finally, he asserted

that responsibility for the questioned transactions lay with Brij Raj Punj and Anita Kakar Sharma.

2. Noticee No 3 clarified that he never acted as the CEO of LEEL, a misconception arising from incorrect disclosures in the 2007 annual report, and emphasized his role was limited to Vice President until becoming a WTD in 2007, with no financial responsibilities or expertise. His signing of the CEO/CFO statements for FY17 and FY18 was done under pressure to comply with regulations while key personnel were absent, and his involvement in company affairs was minimal, limited to managing the OEM Division and attending board meetings. He also denied any knowledge or involvement in specific financial transactions and compensation issues highlighted in the SCN, asserting that his compensation was merit-based and approved by the Board.
3. Noticee No 4 clarified that he was only a WTD at LEEL for 38 days during the investigation period and had no responsibility for the company's financial and accounting functions, nor was he a compliance officer. He resigned on May 08, 2017, as part of the sale of the CD business to Havells and had no reason to doubt the accuracy of financial representations made to the Board. Additionally, consultancy charges paid to Mindage Solutions were authorized by Brij Raj Punj, and the Noticee was not involved in the decision to write off these charges from the sale proceeds.
4. Noticee No 5 argued that LEEL was professionally managed, with specific responsibilities allocated within the management hierarchy, which was headed by the CMD, Late Brij Raj Punj. He clarified that he was never tasked with acting as the Group CFO, and his designated role was limited to overseeing CSR projects, construction activities, and specific business divisions, with financial matters being managed by Anita Sharma and Sushil Kabra. He emphasized that he lacked authority over financial transactions and decision-making, as corroborated by organizational structures and communications showing others held these responsibilities. Additionally, he noted that even during significant events and meetings, he was excluded from financial discussions and decision-making processes.
5. Noticee No 6 argued that his role as CFO at LEEL was largely symbolic, intended to facilitate bank negotiations during a liquidity crisis, and that he was deliberately excluded from key financial activities and decision-making by a small group of promoters and their trusted associates. He highlighted that despite his title, he lacked formal Board confirmation and was side-lined from the company's financial oversight, as evidenced by internal communications and the fact that financial control was centralized under individuals close to the company's promoters. He emphasized that his whistle-blowing was pivotal in exposing the company's misconduct, which led to subsequent investigations.
6. Noticee No 7 being, a 78-year-old former Air Vice Marshal, contended that he was invited by the late Brij Raj Punj in 2005 to join LEEL's board as an independent director, with the understanding that his role would be limited to policy advice and strategic guidance without requiring specialized financial knowledge. He trusted that financial and compliance matters were being managed by Brij

Raj Punj and Anita Sharma. It was only in 2018 that he became aware of the alleged violations, which led him to resign in September 2018, formalized on July 30, 2019. Throughout his near-decade tenure, his sole compensation was a sitting fee totalling ₹ 6,40,000.

7. Noticee No 8 contended that she being a physical therapist by profession, joined LEEL's board around 2010 at the insistence of the late Brij Raj Punj, despite having no financial or corporate experience. She believed that financial and compliance matters were securely managed by Punj and Anita Sharma, and that her role would be limited to attending routine audit committee and board meetings. In 2018, she was shocked to learn about alleged management violations, prompting her to attempt resignation in September 2018, which was only formalized on January 24, 2019. Over nearly a decade, her sole compensation for serving on the board was a sitting fee totalling ₹ 5,85,000.
8. Noticee No 9 contended that her role in audit committee meetings was secretarial and she lacked authority to set agendas or investigate transactions, which were responsibilities of the CFO. She contended that statutory obligations related to financial statements and related party transactions were managed by the audit committee with auditors' help, and any lapses should not be attributed to her. She denied allegations of preparing fake audit committee meeting minutes and stated that decisions about meeting content and conduct were made by higher authorities, not her. She also refuted claims of receiving a ₹ 4 Crore incentive, providing evidence that she received only ₹ 1.93 Crore, as approved

by the Board. Finally, she challenged the credibility of Noticee No 5, whose statements were used against her, highlighting inconsistencies and lack of documentary support for his claims.

Counter arguments by SEBI

- A. **Allegation with diversion of funds to related parties, misrepresentation of financial statements, misrepresentation in the calculation of profit on sale of CD business along with related party transaction and disclosure violation and failure of corporate governance**
 1. SEBI stated that Noticee No 2, Bharat Raj Punj, son of Late Brij Raj Punj, served as a WTD of LEEL from 2012 to 2019, and later as Deputy Managing Director and Managing Director. Despite his claim that he was not involved in the day-to-day affairs of the company, evidence shows he signed off on financial statements in FY 2018 when significant misstatements occurred. The financial misstatements happened under his leadership as managing director. Statements from other board members corroborate that he attended meetings via video conferencing, indicating his active involvement. Thus, his defense of minimal engagement and focusing solely on overseas business is not credible.
 2. SEBI stated that with respect to Noticee No 3, who was an executive director of LEEL since 2007, attended board meetings where significant financial misstatements were approved. Despite his claim that he was incorrectly listed as CEO for the past decade and was forced to sign CEO/CFO certifications due to the absence of Bharat Punj and Brij Raj Punj, he still signed these certifications for FY 2017 and FY 2018. He was also a member of the

- Audit Committee during a period when numerous related party transactions (RPTs) were conducted. These factors indicate his complicity in fund diversion and financial misrepresentation. Consequently, there is sufficient evidence to hold him accountable for these actions.
3. SEBI stated that with respect to Noticee No 4 who served as a WTD at LEEL from 2013 to 2018, primarily overseeing the CD business which was later sold to Havells. Despite his defense of not being involved in day-to-day management and relying on auditors' expertise, the suspicion arises due to the significant payments made to a company linked to him, suggesting his potential involvement in fund diversion and fraudulent activities. Consequently, the lack of evidence and the circumstantial factors point to his complicity in the financial irregularities at LEEL.
 4. SEBI observed that with respect to Noticee No 5, who had a longstanding association with the Lloyd group and served as CFO of LEEL from 2006-07 onwards. Despite being designated as the CFO and signing financial documents, he claimed his role was largely ceremonial and focused on CSR activities. However, his defense of lacking financial background and reliance on professional advice is deemed unsubstantiated and undermines regulatory measures. Noticee 5's attempt to evade responsibility for certifying financial statements over nearly a decade, during which fund diversion occurred, is untenable. Consequently, he cannot escape liability for the financial irregularities that transpired under his watch as CFO.
 5. SEBI observed that with respect to Noticee No 6, he had the shortest tenure at LEEL, employed from October 2016 to September 2018. His termination followed an email highlighting contraventions to the Board, leading to his removal as Group CFO. His appointment was not formalized through Board approval, nor was he disclosed as a Key Managerial Personnel (KMP) or Group CFO in annual reports. Considering these factors and his short tenure, the benefit of the doubt was granted to Noticee No 6.
 6. SEBI observed that Noticees No 5, 7 and 8 had contravened the provisions of regulation 18(3) read with Para A of Part C of Schedule II of SEBI (LODR) regulations, 2015, for the failure to adequately discharge their obligations as members of the audit committee of LEEL.
 7. SEBI observed that with respect to Noticee No 9 Anita Sharma, who was appointed as Company Secretary of LEEL in April 2006, served as KMP and Vice President Finance. She was alleged to have received ₹ 4 Crore from the sale proceeds of the CD business and to have been complicit in fund diversions to related parties. Sharma's role included signing and filing quarterly compliance certificates, affirming compliance with audit committee compliances, despite the fact that audit committee meetings were not being conducted for a decade. Various evidence, including emails and bank records, indicated she benefitted from the misappropriated funds. Her involvement in fraudulent transactions and misrepresentation of financials led to significant shareholder losses, and she failed in her duties, contributing to the company's downfall.

8. SEBI finally concluded mentioning that the order reveals that since 2010, LEEL engaged in diverting funds to related parties and covering up these transactions through misstatements in financial statements. SEBI stated that audit committee members, could have prevented such misconduct. Despite several claims from audit committee members and key management personnel that they were misled or had limited roles, SEBI has held them accountable for failing to fulfill their fiduciary duties and allowing financial malfeasance. Provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations and the SEBI Act have been invoked against Noticees 2 to 6 and 9 for their involvement in fraudulent activities and misstatements. Additionally, Noticees

5, 7, and 8 were also alleged to have committed violations.

Penalty

1. Noticees 2 to 5 and Noticee 9 were restrained from accessing the securities market and further prohibited from buying, selling, or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of five (5) years from the date of this order.
2. Noticees 2 to 5 and Noticees 7 to 9 were further restrained from being associated with any listed company or a SEBI registered intermediary, in any capacity including as a director or a key managerial person, directly or indirectly, for a period of three (3) years from the date of this order.

3. Monetary Penalties imposed were as follows:

<i>Noticee No.</i>	<i>Noticee Name</i>	<i>Provisions under which penalty imposed</i>	<i>Penalty amount</i>
2	Bharat Raj Punj	Section 15HA and 15 HB of SEBI Act 1992	₹ 5 crore
3	Achin Kumar Roy	Section 15HA and 15 HB of SEBI Act 1992	₹ 2 crore
4	Mr. Nipun Singhal	Section 15HA and 15 HB of SEBI Act 1992	₹ 2 crore
5	Mukat Behari Sharma	Section 15HA and 15 HB of SEBI Act 1992	₹ 2 crore
7	Surjit Kishan Sharma	Section 15HA and 15 HB of SEBI Act 1992	₹ 10 lakhs
8	Geeta Tekchand	Section 15HA and 15 HB of SEBI Act 1992	₹ 10 lakhs
9	Anita Kakar Sharma	Section 15HA and 15 HB of SEBI Act 1992	₹ 3 crore

Link:

<https://www.sebi.gov.in/enforcement/orders/apr-2024/final-order-in-the-matter-of-leel-electricals-ltd-82934.html>

