BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

Under Sections 11, 11 (4) and 11B of the Securities and Exchange Board of India Act, 1992 read with Section 73 of Companies Act, 1956 and Section 42 of the Companies Act, 2013.
In the Matter of Sitaram Maharaj Sakhar Karkhana (Khardi) Limited
In respect of –

Sr. No.	Noticee	CIN/DIN	PAN
1.	Sitaram Maharaj Sakhar Karkhana (Khardi) Limited	U1542PN1999PLC013656	AAOCS0492B
2.	Vilas Vasantrao Kale	02373942	ALQPK2357M
3.	Dilip Prahlad Kale	02496057	AIFPK3164N
4.	Nana Narayan Kale	02495898	AGAPK8515C
5.	Shankar Kisan Bagal	02529528	NA
6.	Baban Sadashiv Sonawale	02484205	APGPS2196N
7.	Gorakh Narhari Tad	03144254	AAIPT4907F
8.	Shobha Rupesh Pawar	02484233	APPPP2546K
9.	Mahadev Mallikarjun Dethe	03092257	AUZPD4131A

10.	Shahaji Namdeo Shendge	03103151	CUWPS2796B
11.	Ganesh Mohanrao Thigale	03103084	ACKPT7370A
12.	Uttam Ramchandra Naiknavare	03144279	AKPPN7345E
13.	Jayashree Vilasrao Kale	03198678	BRPPK7489C

*(The aforesaid entities are hereinafter referred to by their respective names /numbers and collectively as the "**Noticees**")*

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1. Background –

1.1. The present matter emanates from a reference dated March 11, 2019 received by SEBI, wherein it was stated that certain sugar companies including Sitaram Maharaj Sakhar Karkhana (Khardi) Limited (the "**Company**"/ "**SMSKL**") allotted shares to more than 49 persons in the financial year 2013-14. Pursuant to the above, an examination was carried out by SEBI into the Non-convertible Redeemable Preference Shares ("**NCRPS**") issued by SMSKL between the FY 2009-10 and FY 2014-15 to ascertain possible violations, if any, of the provisions of the Companies Act, 1956 and the Companies Act, 2013, and Rules and Regulations made thereunder.

1.2. During the examination, it was found that the Company had allotted NCRPS to more than 49 persons in certain financial years. In this respect, information was sought from the Company and also the Registrar of Companies, Pune ("**ROC-Pune**"). The information as provided by the Company is as under:

Table – 1

Financial Year	No of Allottees	Amount Raised (in crore)
2002-03	7	0.03
2010-11	201	1.18
2011-12	280	0.59
2012-13	1412	4.25
2013-14	3051	9.66
2014-15	0	0.00
2015-16	1	8.72
Total	**4952**	**24.41**

1.3. The information as provided by the ROC-Pune is as under:

Table – 2

Financial Year	No of Allottees	Amount Raised (in crore)
2009-10	43	0.86
2010-11	158	0.31
2011-12	280	0.59
2012-13	1648	4.95
2013-14	2303	7.75
2014-15	516	0.73
Total	**4948**	**15.20**

1.4. The comparison of the information received from the ROC-Pune and the Company indicated difference in the data pertaining to the number of allottees and the amount raised. Specifically, in 2014-15, the Company claimed that it had not raised any capital through the issuance of NCRPS. However, the data from the ROC-Pune indicated that the Company had raised INR 0.73 crore from 516 allottees.

1.5. At the conclusion of the said examination, considering SMSKL was the ultimate source for both the aforesaid two sets of data (i.e. the one received from the RoC-Pune and the Company), the following number of investors and amount raised during the financial years were arrived at:

Table – 3

Financial Year	**No of Allottees**	**Amount Raised (in INR crore)**
2010-11	201	1.18
2011-12	280	0.59
2012-13	1648	4.95
2013-14	3051	9.66
2014-15	516	0.73
Total	**5696**	**17.10**

2. Summary of Interim Order cum SCN –

2.1. Consequent to the findings of the examination by SEBI, an ex-parte ad interim order dated March 31, 2021 ("**Interim Order cum SCN**"), was passed in respect of the Noticees for the alleged violation of the provisions of the Companies Act, 1956 and Companies Act, 2013, with the following directions:

"*17. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11(4) and 11B of the SEBI Act, 1992 hereby issue, with immediate effect, the following directions, which shall remain in force until further orders:*

i) SMSKL i.e. Noticee no. 1, shall cease to mobilize fresh funds from investors through the offer and allotment of any securities, to the public and/or invite subscription, in any manner whatsoever, either directly or indirectly;

ii) SMSKL and its directors i.e. Noticee no. 2 to 13, shall not buy, sell or otherwise deal in the securities (including units of mutual funds), either directly or indirectly, or associate themselves with securities market, any listed company or company intending to raise money from the public in any manner whatsoever;

iii) SMSKL and its directors i.e. Noticee no. 2 to 13shall not dispose of, alienate or encumber any of its/their assets or divert any funds raised from public either through the offer and allotment of NCRPS;

iv) *SMSKL and its directors i.e. Noticee no. 2 to 13, shall co-operate with SEBI and shall furnish all information/documents in connection with the offer and allotment of NCRPS.*"

2.2. The Noticees by way of the Interim Order cum SCN were also called upon to show-cause as to why suitable directions/ prohibitions under Sections 11, 11(4) and 11B of the SEBI Act should not be issued / imposed against them for the alleged violation of the provisions of the Companies Act, 1956 and Companies Act, 2013, namely:

a. directions to refund money collected through the offer and allotment of NCRPS, including the application money collected from investors with applicable rate of interest;

b. restraint /prohibition on Noticee Nos. 1 to 13 from accessing the securities market and from buying, selling or otherwise dealing in securities (including units of mutual funds) in any manner for a period which may extend to three years from the date of completion of refund; and

c. restraint /prohibition on Noticee Nos. 2 to 13 from associating with any listed public company and any public company which intended to raise money from the public, or any intermediary registered with SEBI for a period which may extend to three years from the date of completion of refund.

3. Replies, Inspection of Documents and Personal Hearing in respect of the Noticees –

3.1. I note from the record that Noticee No.1 and Noticee No. 3 have filed their replies in response to the Interim Order cum SCN. Noticee No. 1 also sought inspection of the documents relied upon by SEBI. Based upon the request of the said Noticee, opportunity for inspection of the records/ documents was provided on January 05, 2022. On the appointed date, inspection of the documents was carried out by Mr. Atit Soni., Advocate on behalf of the Company.

3.2. The Noticees were also provided opportunities of personal hearing on July 06, 2022 and October 06, 2022. On the hearing held on July 06, 2022, Mr. Atit Soni of ALT Juris, Advocates, appeared on behalf of Noticee Nos. 1, 2 and 4 to 13. No appearance was entered by Noticee No. 3. Similarly, on the hearing held on October 06, 2022, Mr. Atit Soni of ALT Juris, Advocates appeared on behalf of the Noticees mentioned above and Mr. Deepak Pawar, Advocate appeared on behalf Noticee No.3. It has also been informed by Mr. Soni that Noticee No.7 (Gorakh Narhari Tad) and Noticee No. 10 (Sahahji Namdeo Shendge) had passed away. I note from the documents presented that Noticee No.7 (Gorakh Narhari Tad) passed away on May 30, 2018 and Noticee No. 10 (Sahahji Namdeo Shendge) passed away on October 26, 2019.

3.3. As mentioned in the aforesaid paragraphs, Noticee No.1 and Noticee No. 3, in response to the Interim Order cum SCN, have filed their replies. In this respect, a brief of the submissions made by the Noticees before me and through their replies appears in the following paragraphs.

3.4. The Company by way of its replies dated April 26, 2021 and June 15, 2021 responded to the allegations made in the Interim Order cum SCN. Also, emails dated September 09, 2022, November 24, 2022 and November 23, 2022 have been received from the authorised representative with respect to the company. A summary of the submissions contained in the above-mentioned replies are as under:

a. The Company was an unlisted public company involved in the business of sugar manufacturing and ancillary activities. The Company was registered on May 24, 1999 as Shrimantrao Kale Sakhar Karkhana Limited, and thereafter on January 10, 2007, the name of the Company was changed to its present name: Sitaram Maharaj Sakhar Karkhana (Khardi) Limited.

b. The Company had issued equity shares and redeemable preference shares in compliance with the provisions of the Companies Act, 1956 and the Companies Act, 2013.

c. The Company had made no allotment to the public and the allotment as arrived at in the Interim Order cum SCN was erroneous. The Interim Order cum SCN had relied heavily on incorrect facts and data.

d. The existing management/promoters of the Company had been trying to mobilise resources/funds to redeem the NCRPS in terms of the directions of SEBI. The Company had witnessed losses due to the cyclical nature of its business, the sugar-growing region being hit by drought for the last couple of seasons and COVID 19.

e. The Company intended to infuse capital by effecting change in control by transfer of shares held by the existing promoters in favour of new incoming investors.

f. The Company intended to redeem the NCRPS issued in the following manner:

Table – 4

Srl No.	Description of Activities	Indicative Timelines
1.	Issuance and allotment of New Shares to Incoming Investor- Infusion of Capital- to be brought in one or more tranches	By July 30, 2021
2.	Refund of Principal Amount of NCRPS	By November 30, 2021
3.	Refund of Interest Amount under the NCRPS	By March 31, 2022

3.5. As brought out before, subsequent to the receipt of the above-mentioned replies, opportunities of personal hearing were also provided to the Noticees. In this regard, submissions made by Noticee No. 1 along with Noticee Nos. 2, 4, 5, 6, 8, 9, 11, 12 and 13 during the personal hearings are summarised hereunder:

a. The Company had already redeemed certain NCRPS and refunded an amount of INR 3,50,00,000 collected through the offer and allotment of the aforesaid securities, and that the Company had issued newspaper advertisements for seeking claims from the investors for the said refund.

b. The Company intended to redeem the securities and refund the remaining amount raised through issuance of NCRPS and submit a certificate from a peer reviewed chartered accountant regarding the refund of money as per SEBI Order dated March 31, 2021 issued in the matter, on or before August 15, 2022.

c. In the hearing held on October 06, 2022, the Company submitted that it had refunded an amount of INR 13,49,99,990 as on the said date, and sought another three months to complete the refund process.

Noticee No. 3

3.6. Noticee No. 3 by way of his reply received on October 20, 2021 and subsequent reply received on October 06, 2022 has responded to the allegations made in the Interim Order cum SCN. The Noticee also appeared for the personal hearing held on October 06, 2022

and made submissions in the matter. In this respect, a summary of the submissions made by the said Noticee through its replies and during the personal hearing is as under:

a. The Noticee was only a Non-executive director and was not actively involved in the running of the Company. Also, the Noticee had not attended the Board meetings of the Company.

b. Kalyanrao Vasant Rao Kale was carrying out all activities of the Company, and when the Company had raised loans he had given personal guarantee for the same.

c. No meetings were held by the Company even though directors were shown to have attended the same.

d. The Company had not filed proper documents with the ROC and had not provided full and complete list of allottees.

e. Kalyan Kale and his family members held the majority of the shares in the Company and controlled the affairs of the Company. He intended to sell the entire shareholding of the Company to the management of Dhanashri Multistate Cooperative Credit Society.

f. The Company had manipulated its books of accounts and was yet to file the financial statements for the FYs 2018-19, 2019-20 and 2020-21.

4. Issues –

4.1. Upon an examination of the allegations made in the Interim Order cum SCN and the submissions made by the Noticees, I find that the following issues require consideration:

I. Whether the Company has –

a) made allotments of Non-Convertible Redeemable Preference Shares to investors in excess of the threshold/s contained in the provisions of the Companies Act, 1956 and Companies Act, 2013 resulting in a deemed public issue; and

b) conformed to the relevant provisions applicable to a public issue?

II. If the answer to Issue No. I is in the affirmative, then whether the directors of the Company at the relevant point i.e., Noticee Nos. 2 to 13 can be held responsible for the acts of the Company?

III. If the answer to Issue No. I is in the affirmative, then whether the Company has made any refund to the investors who have invested in the NCRPS issued by the Company?

5. Consideration and findings –

5.1. I have examined the *prima facie* facts brought out in the Interim Order cum SCN to frame the issues mentioned above. However, I find it relevant to place certain facts that have emerged subsequent to the issuance of the Interim Order cum SCN, before proceeding further with the consideration of the issues framed.

5.2. At the hearing held on July 06, 2022, the Company submitted that it had already redeemed certain NCRPS and refunded an amount of around INR 3.5 crore to the investors and sought time till August 15, 2022 to make the complete refund. The said request was acceded to and directions to that effect were communicated to the Company by way of an email dated July 07, 2022. Subsequently, a personal hearing was scheduled on October 06, 2022 to examine the progress in the refund process. It was found that full refund had not been made by the Company, and also the interest was yet to be paid to the investors. Accordingly, upon the request of the Company, additional time of three months from October 06, 2022 was granted to the Company to complete the refunds in terms of the conditions stipulated in the Interim Order cum SCN.

5.3. Having cognisance of the above facts, I shall now proceed with the consideration of the issues framed.

***Issue I (a)* - Whether the Company has made allotments of Non-Convertible Redeemable Preference Shares to investors in excess of the threshold/s contained in the provisions of the Companies Act, 1956 and Companies Act, 2013 resulting in a deemed public issue?**

5.4. The Interim Order cum SCN has, *prima facie*, held that the Company has breached the threshold of 49 persons as stipulated in the Companies Act, 1956 and the threshold of 200 persons as stipulated in the Companies Act, 2013 by issuing NCRPS to at least 201, 280, 1648, 3051 and 516 persons during the financial years 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 respectively, and raising INR 17.10 crore.

5.5. In this regard, reference is made to Section 67 of the Companies Act, 1956 and Section 42 of the Companies Act, 2013. The said provisions are reproduced hereunder:

Companies Act, 1956

67. Construction of reference to offering shares or debentures to the public, etc.

(1) Any reference in this Act or in the articles of a company to offering shares or debentures to the public shall, subject to any provision to the contrary contained in this Act and subject also to the provisions of sub-sections (3) and (4), be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(2) Any reference in this Act or in the articles of a company to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be construed as including a reference to invitations to subscribe for them extended to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(3) No offer or invitation shall be treated as made to the public by virtue of sub-section (1) or sub-section (2), as the case may be, if the offer or invitation can properly be regarded, in all the circumstances – (a) as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation; or (b) otherwise as being a domestic concern of the persons making and receiving the offer or invitation:

Provided that nothing contained in this sub-section shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more:

Provided further that nothing contained in the first proviso shall apply to the non-banking financial companies or public financial institutions specified in section 4A of the Companies Act, 1956 (1 of 1956).

Companies Act, 2013

Offer or Invitation for Subscription of Securities on Private Placement.

42. (1) Without prejudice to the provisions of section 26, a company may, subject to the provisions of this section, make private placement through issue of a private placement offer letter.

(2) Subject to sub-section (1), the offer of securities or invitation to subscribe securities, shall be made to such number of persons not exceeding fifty or such higher number as may be prescribed, (excluding qualified institutional buyers, and employees of the company being offered securities under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of section 62), in a financial year and on such conditions (including the form and manner of private placement) as may be prescribed. Explanation I.—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter.] Explanation II.—For the purposes of this section, the expression— (i) "qualified institutional buyer" means the "qualified institutional buyer" as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirments) Regulations, 2009 as amended from time to time. (ii) "private placement" means any offer of securities or invitation to subscribe securities to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer letter and which satisfies the conditions specified in this section.

(3) No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company.

(4) Any offer or invitation not in compliance with the provisions of this section shall be treated as a public offer and all provisions of this Act, and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall be required to be complied with.

(5) All monies payable towards subscription of securities under this section shall be paid through cheque or demand draft or other banking channels but not by cash.]

(6) A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the date of completion of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per cent per annum from the expiry of the sixty day:

Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—

(a) for adjustment against allotment of securities; or

(b) for the repayment of monies where the company is unable to allot securities.

(7) All offers covered under this section shall be made only to such persons whose names are recorded by the company prior to the invitation to subscribe, and that such persons shall receive the offer by name, and that a complete record of such offers shall be kept by the company in such manner as may be prescribed and complete information about such offer shall be filed with the Registrar within a period of thirty days of circulation of relevant private placement offer letter.]

(8) No company offering securities under this section shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an offer.

(9) Whenever a company makes any allotment of securities under this section, it shall file with the Registrar a return of allotment in such manner as may be prescribed, including the complete list of all security-holders, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.

(10) If a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount involved in the offer or invitation or two crore rupees, whichever is higher, and the company shall also refund all monies to subscribers within a period of thirty days of the order imposing the penalty.

Rule 14(2) of Companies (Prospectus and Allotment of Securities) Rules, 2014

(2) For the purpose of sub-section (2) of section 42, an offer or invitation to subscribe securities under private placement shall not be made to persons more than two hundred in the aggregate in a financial year:

Provided that any offer or invitation made to qualified institutional buyers, or to employees of the company under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of section 62 shall not be considered while calculating the limit of two hundred persons.

Explanation.- For the purposes of this sub-rule it is hereby clarified that the restrictions aforesaid would be reckoned individually for each kind of security that is equity share, preference share or debenture.

5.6. It is stated that under the company law regime in India, a company may issue securities in the following manner:

a. through issuance of prospectus; or

b. through private placement; or

c. through rights issue or bonus issue to pre-existing shareholders.

5.7. Of the above-mentioned methods, issuance of securities through a prospectus is an offer to the public at large to subscribe to the securities being offered. It is commonly referred to as a public issue/offer. A rights issue is the issuance of right shares to its existing shareholders in proportion to their shareholdings in order to raise subscribed capital where the company offers the shares at a price lower than the prevailing market price of its shares. Bonus issue refers to an issuance of shares by a company to its existing shareholders without receipt of any consideration. Lastly, private placement is the mode of raising capital by way of an offer or invitation to a select group of persons by a company to subscribe to the securities being offered through a private placement offer-cum-application.

5.8. Private placement is one of the common methods of raising capital. However, in some circumstances a private placement can be considered as a public issue/offer. It has been the primary defence of the Company that it had raised capital only through private placement and not a public issue. In this regard, reference is made to Section 67(3) of the Companies Act, 1956.

5.9. From a reading of Section 67 (3), which has been reproduced in the aforesaid paragraphs, it is clear that a) an offer/invitation to a select group of persons to subscribe or purchase the securities of a company or b) the offer/ invitation being a domestic concern of the persons making it and the persons receiving it would not be considered as a public issue. However, as per the first proviso of Section 67(3), if such offer/invitation to subscribe or purchase the securities of a company is made to more than 49 persons, then such an offer shall be deemed to be a public issue.

5.10. This interpretation has found affirmation in the judgement of the Supreme Court in the matter of ***Sahara Real Estate Corporation and Others V. SEBI***. The Supreme Court while elaborating upon the scope of Section 67(3) has stated the following:

"85. *The first proviso to Section 67 (3) was inserted by the Companies (Amendment) Act, 2000 w.e.f. 13.12.2000, which clearly indicates, nothing contained in Sub-section (3) of Section 67 shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more.*

86. Resultantly, after 13.12.2000, any offer of securities by a public company to fifty persons or more will be treated as a public issue under the Companies Act, even if it is of domestic concern or it is proved that the shares or debentures are not available for subscription or purchase by persons other than those receiving the offer or invitation.

90. I may, therefore, indicate, subject to what has been stated above, in India that any share or debenture issue beyond forty nine persons, would be a public issue attracting all the relevant provisions of the SEBI Act, regulations framed thereunder, the Companies Act, pertaining to the public issue."

5.11. It is, therefore, clear that any allotment of securities by a company to more than 49 persons in a financial year would amount to a deemed public issue.

5.12. It has been the stance of the Company that the allotment of NCRPS was made to less than 49 persons. In support of the same, the Company has provided annexures in its

replies detailing the allotments made. In this regard, it is relevant to extract some of the details of the said annexures hereunder:

Table – 5

Financial Year	**Date of Allotment**	**No of Allottees**	**Amount Raised (INR)**
2010-11	December 2, 2010	43	1,17,50,000
	December 6, 2010	47	
	December 10, 2010	46	
	December 14, 2010	48	
	December 23, 2010	17	
Total		**201**	
2011-12	March 26, 2012	41	59,14,000
	March 27, 2012	48	
	March 28, 2012	48	
	March 29, 2012	48	
	March 30, 2012	47	
	March 31, 2012	48	
Total		**280**	
2012-13	September 13, 2012	48	3,77,62,000
	September 16, 2012	47	
	September 19, 2012	48	
	September 22, 2012	46	

	September 25,2012	48	
	September 30, 2012	47	
	October 2, 2012	46	
	October 5, 2012	48	
	October 8, 2012	47	
	October 11, 2012	48	
	October 14, 2012	46	
	October 17, 2012	47	
	October 20, 2012	48	
	October 23, 2012	46	
	October 26, 2012	47	
	December 9, 2012	48	
	December 12, 2012	46	
	December 15, 2012	47	
	December 18, 2012	48	
	December 21, 2012	46	
	December 24, 2012	47	
	December 27, 2012	48	
	December 30, 2012	46	
	January 2, 2013	47	
	January 5, 2013	48	

	March 19, 2013	46	
	March 21, 2013	47	
	March 24, 2013	48	
	March 27, 2013	46	
	March 30, 2013	47	
Total		**1412**	

5.13. Thus, even going by the submissions made by the Company to SEBI, it is evident that the Company did in fact allot NCRPS to more than 49 persons in the FYs 2010-11, 2011-12 and 2012-13. Having allotted to more than 49 persons in each of these Financial Years, the Company has clearly violated the limit set in Section 67 (3). That being the case, I find that the issuance of NCRPS in the above-mentioned financial years to more than 49 persons, were deemed public issues.

5.14. It is necessary to mention that the Companies Act, 1956 was replaced by the Companies Act, 2013. However, Section 42 of Companies Act, 2013 which replaced Section 67 of the Companies Act, 1956 came in to force only on April 01, 2014. Thus, the applicable law with respect to issuance of NCRPS by the Company during the FY 2013-14 was still Section 67 of the Companies Act, 1956 and, as such, the threshold on the number of allottees was 49 in FY 2013-14.

5.15. In this respect, I again make reference to the reply dated April 26, 2021 filed by SMSKL, wherein the Company has provided annexures in its replies detailing the NCRPS allotments made. In this regard, an extract of some of the details of the annexures for the FY 2013-14 is provided hereunder:

Table – 6

Financial Year	Date of Allotment	No of Allottees	Amount Raised (INR)
2013-14	April 2, 2013	48	9,65,55,700
	April 5, 2013	46	
	April 8, 2013	47	
	April 11, 2013	48	
	April 14, 2013	46	
	June 1, 2013	47	
	June 3, 2013	48	
	June 6, 2013	46	
	June 10, 2013	47	
	June 13, 2013	48	
	June 16, 2013	46	
	June 19, 2013	47	
	June 22, 2013	48	
	June 25, 2013	46	
	June 28, 2013	47	
	July 4, 2013	48	
	July 6, 2013	46	
	July 8, 2013	47	
	July 11, 2013	48	

	July 14, 2013	46	
	July 28, 2013	47	
	July 30, 2013	48	
	August 1, 2013	46	
	August 3, 2013	47	
	August 5, 2013	48	
	August 29, 2013	46	
	August 31, 2013	47	
	September 2, 2013	48	
	September 4, 2013	46	
	September 6, 2013	47	
	September 8, 2013	48	
	September 10, 2013	46	
	September 12, 2013	47	
	September 14, 2013	48	
	September 16, 2013	46	
	October 2, 2013	47	
	October 4, 2013	48	
	October 6, 2013	46	
	October 8, 2013	47	
	October 10, 2013	48	

	October 12, 2013	46	
	October 14, 2013	47	
	October 16,2013	48	
	October 18, 2013	46	
	October 20,2013	46	
	December 8, 2013	48	
	December 10, 2013	46	
	December 12, 2013	47	
	December 14, 2013	48	
	December 16, 2013	46	
	January 3, 2014	47	
	January 5, 2014	48	
	January 8, 2014	46	
	January 10, 2014	46	
	January 13,2014	46	
	March 1, 2014	46	
	March 2, 2014	47	
	March 3, 2014	48	
	March 4, 2014	46	
	March 5, 2014	47	
	March 6, 2014	48	

	March 7, 2014	46	
	March 8, 2014	47	
	March 9, 2014	48	
	March 10, 2014	46	
Total		**3051**	

5.16. Thus, even going by the submissions made by the Company, as reproduced above, it is evident that the Company did in fact allot NCRPS to more than 49 persons in the FY 2013-14, thereby effectively coming out with a public issue.

5.17. With respect to the FY 2014-15, the Company in its submissions has also taken the defence that the details regarding the allotment of NCRPS to investors had been wrongly captured in the Interim Order cum SCN. Specifically, the Company has claimed that in 2014-15, no capital was raised through issue of NCRPS. In this regard, it is reiterated that a comparison of the data received from the ROC-Pune and the Company was carried out. Upon comparison, it was found that there was difference in the details pertaining to the number of allottees and the amount raised in the two sets of data. Considering that the Company was the ultimate source for both the sets of data, I see that the finding in the Interim Order to take the highest number from each of the data-sets to be appropriate. It has already been brought out in paragraph 5.14 that Section 42 of Companies Act, 2013, which replaced Section 67 of the Companies Act, 1956, came in to force on April 01, 2014. Similarly, the Companies (Prospectus and Allotment of Securities) Rules, 2014 was also promulgated which *inter alia* detailed the manner and process of coming out with a private placement as envisaged in Section 42, came into force on April 01, 2014. Thus, the said provisions were applicable to the issuance of NCRPS by the Company in the FY 2014-15. Section 42 and Rule 14 have been reproduced in Paragraph 5.5 of this Order for reference.

5.18. I note from a con-joint reading of Explanation 1 to sub-section (2) of Section 42 of the Companies Act, 2013, as it then existed, and Rule 14(2)(b) of Companies (Prospectus and Allotment of Securities) Rules, 2014, that if an offer or allotment of securities is made to more than 200 persons in a financial year, then the same shall be construed as a deemed public issue. It has already been brought out in the Interim Order cum SCN that NCRPS were issued to 516 persons during the FY 2014-15. Nothing has been provided by the Company to repudiate the said finding, except the assertion that no capital was raised in the FY 2014-15. I do not find any merit in the said assertion. Accordingly, I find that the issuance of NCRPS in FY 2014-15, having exceeded the limit of 200 persons, was a deemed public issue.

Issue I (b) **- Whether the Company has conformed to the necessary provisions for coming out with a public issue?**

5.19. As already brought out, the Company issued NCRPS to at least 201, 280, 1648, 3051 and 516 persons during the financial years 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 respectively, and raised INR 17.10 crore.

5.20. In this respect reference is made to the Order of the Hon'ble Securities Appellate Tribunal dated April 28, 2017 in the matter of Neesa Technologies Limited vs. SEBI (Appeal No. 311 of 2016). The Hon'ble SAT in the said Order has stated that "*in terms of Section 67(3) of the Companies Act any issue to '50 persons or more' is a public issue and all public issues have to comply with the provisions of Section 56 of Companies Act and ILDS Regulations.*" Thus, the Company was required to comply with the requirements for coming out with a public issue as contained in the Companies Act, 1956 and, subsequent to it, Companies Act, 2013.

5.21. With respect to the Companies Act, 1956, I observe that –

a. under Section 60 (1), a company is required to register its prospectus with the RoC before making a public offer or issuing the prospectus;

b. under Section 56 (1), a company is required to provide in its prospectus all matters specified in Part I of Schedule II and set out reports as specified in Part II of Schedule II;

c. under Section 56 (3), a company is required to not issue any form for application of shares, unless such form is accompanied by an abridged prospectus containing the specified disclosures;

d. under Section 73 (1), a company is required to seek permission from at least one stock exchange to get its shares listed;

e. under Section 73(2), a company is required to repay the money collected from investors within eighty days, if the permission of a stock exchange has not been sought for listing of its securities or the permission has been denied; and

f. under Section 73(3), a company is required to keep all the money collected by way of a public issue in a separate account till the permission is granted by the stock exchange.

5.22. With respect to the Companies Act, 2013, I observe that –

a. under Section 26 (4) of the Companies Act, 2013 a company is required to register its prospectus with the ROC before making a public offer or issuing the prospectus;

b. the Company is required under Section 26(1) of the Companies Act, 2013 to provide in its prospectus such details as stated in the said provision;

c. under Section 40 (1) a company is required to seek permission from at least one stock exchange to get its securities listed;

d. under Section 40 (2) a company is required to keep all the money collected by it in a separate bank account in a scheduled bank and not use it for any other purpose than for adjustment against allotment of securities and for repayment of monies in case the company is unable to allot securities.

5.23. Lastly, I also observe that SEBI has issued the SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 ("**SEBI NCRPS Regulations**") which govern the public issue of NCRPS. I note that, in addition to the obligations stipulated in the Companies Act, 2013, SEBI by way of the above regulations has mandated specific compliances that a company, coming out with a public issue of NCRPS, would have to adhere. The relevant provisions of SEBI NCRPS Regulations are provided hereunder:

a. Regulation 4(2)(a) – Application for listing of NCRPS;

b. Regulation 4(2)(b) – In-principle approval for listing of NCRPS;

c. Regulation 4(2)(c) – Credit rating has been obtained;

d. Regulation 4(2)(d) – Dematerialization of NCRPS;

e. Regulation 4(5) – Appointment of Merchant Banker;

f. Regulation 5 – Disclosure requirements in the Offer Document;

g. Regulation 6 – Filing of draft Offer Document;

h. Regulation 7 – Mode of disclosure of Offer Document;

i. Regulation 8 – Advertisements for Public Issues;

j. Regulation 9 – Abridged Prospectus and application forms;

k. Regulation 13 – Minimum subscription;

l. Regulation 15– Prohibition of mis-statements in the Offer Document;

m. Regulation 16– Mandatory Listing;

n. Regulation 16B.(1) – Security Deposit; and

o. Regulation 22 – Obligations of the Issuer, etc.

5.24. In this regard, I also note from the record that vide its previous reply dated September 07, 2019, the Company has stated that since it did not make any public issue of NCRPS, the Company was not required to file prospectus under the Companies Act 1956. Thus, no prospectus has been brought out by the Company with respect to the NCRPS issues of 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15. Since, the first step in a public issue i.e., the preparation of a prospectus has not been carried out by the Company, it follows that the additional compliances, as brought out in the preceding paragraphs, have not be conformed to.

5.25. Thus, I find that the Company has also violated Sections 56, 60 and 73 of the Companies Act, 1956 and Sections 26 and 40 of the Companies Act, 2013 along with the relevant provisions of the SEBI NCRPS Regulations.

Issue- II - If the answer to Issue No. I is in the affirmative, then whether the directors of the Company at the relevant point i.e., Noticee Nos. 2 to 13 can be held responsible for the acts of the Company?

5.26. As already brought out Section 73(2) of the Companies Act, 1956, requires the Company to keep all the money collected by it in a separate account till the permission is granted by the stock exchange, and where the permission has not been applied for or has not been granted, the money collected be repaid within the time and in the manner specified in sub-section (2). Any default in the compliance of the repayment within eighty days would result in fine for the company, and every officer of the company who is in default.

5.27. Thus, responsibility is cast upon the directors and the company for the adherence of obligations under Section 73(2). In this regard, reference is made to Section 5 of the Companies Act, 1956. As per the said provision,

" 5. Meaning of "officer who is in default". For the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any punishment or penalty, whether by way of imprisonment, fine or otherwise, the expression" officer who is in default" means all the following officers of the company, namely:-

(a) the managing director or managing directors;

(b) the whole- time director or whole- time directors;

(c) the manager;

(d) the secretary;

(e) any person in accordance with whose directions or instructions the Board of directors of the company is accustomed to act;

(f) any person charged by the Board with the responsibility of complying with that provision: Provided that the person so charged has given his consent in this behalf to the Board;

(g) where any company does not have any of the officers specified in clauses (a) to (c), any director or directors who may be specified by the Board in this behalf or where no director is so specified, all the directors: Provided that where the Board exercises any power under clause (f) or clause (g), it shall, within thirty days of the exercise of such powers, file with the Registrar a return in the prescribed form."

5.28. I note from the record that barring the FY 2014-15, the Company did not have any Managing Director or Whole Time Director for the FY 2010-11, FY 2011-12, FY 2012-13 and FY 2013-14. I also observe from the record that in the aforesaid FYs, the Company's board had not assigned any director with the specific responsibility of compliance with Section 73 of the Companies Act, 1956. Accordingly, for the acts of the Company, the directors are 'officers in default' in terms of Section 5 of the Companies Act, 1956.

5.29. It is an established principle of law that directors of a company have a fiduciary relationship with the company. It is on this principle that the duties and responsibilities of a director have evolved which are crystallised in Section 166 of the Companies Act, 2013. One of the foremost duties of a director is due diligence and care. Further, directors have a duty cast upon them to attend the board meetings. This principle finds mention in Section 167 (1) (b) of the Companies Act, 2013 which states that the failure to attend Board Meetings for a continuous period of one year would be a ground for the vacation of office by the concerned director, regardless of leave of absence being given by the Board for the meetings held during the year.

5.30. In this regard, reliance is placed on the case of *Re. City Equitable Fire Equitable Fire Insuarnce Co. (1925)*, which states, "*If directors act within their powers, if they act with such care as is reasonable expected of them having regard to their knowledge and experience and if they act honestly for the benefit of the company they represent, they discharge both their equitable as well as legal duty to the company.*" Thus, for a director to discharge his duty towards the company he must a) act with such care as is reasonably expected considering his knowledge and experience and b) act honestly for the benefit of the company. In the present case, Noticee No.3 has simply stated that he did not attend any board meetings or receive any Notice for attending the board meeting. I find that no document has been presented by the said Noticee to show that he had enquired with the Company regarding non-receipt of notices intimating board meetings.

5.31. So, as brought out above, there is a clear duty cast upon directors to attend the board meetings. The above-named Noticee has clearly failed on that count too. The Noticee having failed to carry out the duties cast upon him, has now claimed benefit of such failure of duties by stating that he did not have any knowledge of the affairs of the Company and was ignorant about its activities. This defence, therefore, cannot be accepted.

5.32. As regards Noticee Nos. 2, 4,5,6,7,8,9,10,11,12 and 13, specific submissions have not been made denying or refuting, with supporting evidence, the knowledge of the acts and omissions committed by the Company. That being the case, the principle of directors' liability as enunciated above squarely falls on the above-named Noticees also.

5.33. In view of the above, all the directors of the board are liable for the money raised through the issuance of NCRPS during FYs 2010-11, 2011-12 and 2012-13.

5.34. Further, with respect to the issuances of NCRPS made in FY 2014-15, reference is made to Section 2 (60) of the Companies Act, 2013, which defines an "Officer who is in default". As per the said provision,

" '*Officer who is in default', for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following officers of a company, namely:—*

(i) whole-time director;

(ii) key managerial personnel;

(iii) where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified;

(iv) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default;

(v) any person in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity;

(vi) every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;

(vii) in respect of the issue or transfer of any shares of a company, the share transfer agents, registrars and merchant bankers to the issue or transfer"

5.35. I note from the Companies (Specification of definitions details) Rules, 2014 that an Executive Director is a whole time director as defined in clause (94) of section 2 of the Companies Act, 2013. I also note from Section 2 (51) that Key managerial personnel include the following: Chief executive officer, manager or managing director; Company Secretary; Whole-time director; Chief financial officer; Such other officers, designated by the Board as KMP but are not more than one level below the directors in whole-time employment; and such other officer as may be prescribed.

5.36. I note from the record that during the financial year there were only Non-executive directors so there were no whole time directors. Also, there were no designated key managerial personnel. In this respect, I place reliance on Section 2 (60) (iii) wherein it has been stated that where there is no key managerial personnel, such director or directors as

specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified. Since no director has been specified, the liability for the issuance of NCRPS FY 2013-14 shall lie on all the directors on the board at that moment.

5.37. As already brought out, the Company got a Managing Director only in the FY 2014-15. Thus, placing reliance on Section 2 (60) read with Section 2 (51), I find that the Managing Director shall be liable for the issuance of NCRPS for the FY 2014-15.

Issue-III – What is the refund liability of the Company and its directors and whether the Company/directors have made any refund to the investors who have invested in the NCRPS issued by the Company?

5.38. The Interim Order cum SCN has brought out the prima facie refund liability with respect to the Company and its directors. The same is reproduced hereunder:

Table – 7

Sr No.	**Name of the promoter and/or Director**	**Designation**	**Duration of directorship**	**Fund raised during the tenure of the directors by allotting NCRPS to more than 49/ 200 persons**					**Total Liability**
				2010-11	**2011-12**	**2012-13**	**2013-14**	**2014-15**	
Amt. of funds raised by Sitaram during the FY (INR in Crore)				**1.18**	**0.59**	**4.95**	**9.66**	**0.73**	**17.10**
No. of Investors (during the yr.)				**201**	**280**	**1648**	**3051**	**516**	**5696**
Tenure of Directors				**Whether the Director is liable for the refund along with Company?**					
1	Vilas Vasantrao Kale	Managing Director	05/06/2014 to 31/07/2017	No	No	no	No	Yes	0.73
2	Dilip Pralhad Kale	Non-Executive Director	01/02/2000 to 15/03/2014	Yes	Yes	Yes	Yes	No	16.37

3	Nana Narayan Kale	Non-Executive Director	01/02/2006 to 15/03/2014	Yes	Yes	Yes	Yes	No	16.37
4	Shankar Kisan Bagal	Non-Executive Director	01/02/2006 to 18/03/2011	Yes	No	No	No	No	1.18
5	Baban Sadashiv Sonawale	Non-Executive Director	01/02/2006 to 05/03/2015	Yes	Yes	Yes	Yes	No	16.37
6	Shobha Rupesh Pawar	Non-Executive Director	01/02/2006 to till date	Yes	Yes	Yes	Yes	No	16.37
7	Mahadev Mallikarjun Dethe	Non-Executive Director	18/03/2011 to till date	No	Yes	Yes	Yes	No	15.20
8	Shahaji Namdeo Shendge #	Non-Executive Director	18/03/2011 to till date	No	Yes	Yes	Yes	No	15.20
9	Ganesh Mohanrao Thigale	Non-Executive Director	18/03/2011 to till date	No	Yes	Yes	Yes	No	15.20
10	Uttam Ramchandra Naiknavare	Non-Executive Director	18/03/2011 to till date	No	Yes	Yes	Yes	No	15.20
11	Gorakh Narhari €	Non-Executive Director	18/03/2011 to 15/03/2014	No	Yes	Yes	Yes	No	15.20
12	Jayashree Vilasrao Kale	Non-Executive Director	18/03/2011 to till date	No	Yes	Yes	Yes	No	15.20
Note: Directors mentioned at Sr. no. 1 to 12 are jointly and severally liable along with SMSKL for the issue of NCRPS. Their liability is restricted to the issuance and allotment of NCRPS that took place during their respective tenure.									

Passed away on October 26, 2019 € Passed away on May 30, 2018

5.39. The Interim Order cum SCN has recorded the finding of the Hon'ble SAT in its order dated July 17, 2017 passed in Appeal No. 66 of 2006 -Manoj Agarwal Vs. SEBI whereby it has been held that the liability under Section 73(2) of the Companies Act, 1956 of the director would be restricted to refund the amount which was collected during the period of his directorship in the company, jointly and severally with the company and other directors during his tenure.

5.40. In view of the findings of this Order, the refund liability as reproduced above in Table-7 stands crystallised. I note from the letter dated August 19, 2022 issued by Dileep Phadnis & Co., Chartered Accountants certifying that, as on August 19, 2022, a total amount of INR 13,49,99,990 had been redeemed in respect of the NCRPS issued by the Company. The same is taken on record. I note that Noticee No.7 (Gorakh Narhari Tad) and Noticee No. 10 (Sahahji Namdeo Shendge) have passed away.

5.41. In this regard, reference is made to Section 28 B of the SEBI Act, which deals with continuance of proceedings. The same is reproduced hereunder:

" ***Continuance of proceedings.***

28B. *(1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay, if he had not died, in the like manner and to the same extent as the deceased:*

Provided that, in case of any penalty payable under this Act, a legal representative shall be liable only in case the penalty has been imposed before the death of the deceased person. (2) For the purposes of sub-section (1),—

(a) any proceeding for disgorgement, refund or an action for recovery before the Recovery Officer under this Act, except a proceeding for levy of penalty, initiated against the deceased before his death, shall be deemed to have been initiated against the legal representative, and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased and all the provisions of this Act shall apply accordingly;

(b) any proceeding for disgorgement, refund or an action for recovery before the Recovery Officer under this Act, except a proceeding for levy of penalty, which could have been initiated against the deceased if he had survived, may be initiated against the legal representative and all the provisions of this Act shall apply accordingly.

(3) Every legal representative shall be personally liable for any sum payable by him in his capacity as legal representative if, while his liability for such sum remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with.

(4) The liability of a legal representative under this section shall be limited to the extent to which the estate of the deceased is capable of meeting the liability.

Explanation.—For the purposes of this section "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character, the person on whom the estate devolves on the death of the party so suing or sued."

5.42. Considering the provisions contained in Section 28 B, I find that the estates of Noticee No.7 (Gorakh Narhari Tad) and Noticee No. 10 (Sahahji Namdeo Shendge) shall remain amendable for any refund liability.

5.43. I note from the submissions that no interest has been paid to the investors. Further, during the hearing held on July 06, 2022 the Company had sought a period of three months for effecting refunds. The said request was granted through oral directions and the same were communicated to the Company by way of email dated July 07, 2022. Subsequently, at the hearing held on October 06, 2022 the Company again sought time of three months for making full refunds and the same was granted through oral directions. Accordingly, the last date for effecting refunds is January 05, 2023.

6. Directions –

6.1. I, in exercise of powers conferred upon me under Sections 11, 11 (4) and 11B of the Securities and Exchange Board of India Act, 1992 read with Section 73 of Companies Act, 1956 and Section 42 of the Companies Act, 2013 and in the interest of investors do hereby pass the following directions: –

a. Sitaram Maharaj Sakhar Karkhana (Khardi) Limited; Vilas Vasantrao Kale; Dilip Prahlad Kale; Nana Narayan Kale; Shankar Kisan Bagal; Baban Sadashiv Sonawale; Shobha Rupesh Pawar; Mahadev Mallikarjun Dethe; Ganesh Mohanrao Thigale; Uttam Ramchandra Naiknavare and Jayashree Vilasrao Kale shall refund the money collected through issuance of NCRPS as crystallised at Table -7 of this Order, with an interest of 15% per annum to the investors, from the date of collection of funds till the date of actual payment, latest by January 05, 2023.

b. Sitaram Maharaj Sakhar Karkhana (Khardi) Limited; Vilas Vasantrao Kale; Dilip Prahlad Kale; Nana Narayan Kale; Shankar Kisan Bagal; Baban Sadashiv Sonawale; Shobha Rupesh Pawar; Mahadev Mallikarjun Dethe; Ganesh Mohanrao Thigale; Uttam Ramchandra Naiknavare and Jayashree Vilasrao Kale are directed to provide a full inventory of their assets and properties; bank accounts; demat accounts and holdings of mutual funds/shares/securities, if held in physical form and demat form.

c. Sitaram Maharaj Sakhar Karkhana (Khardi) Limited; Vilas Vasantrao Kale; Dilip Prahlad Kale; Nana Narayan Kale; Shankar Kisan Bagal; Baban Sadashiv Sonawale; Shobha Rupesh Pawar; Mahadev Mallikarjun Dethe; Ganesh Mohanrao Thigale; Uttam Ramchandra Naiknavare and Jayashree Vilasrao Kale are permitted to sell their assets for the sole purpose of making the refunds as directed above and deposit the proceeds in an Escrow Account opened with a nationalised Bank. Such proceeds shall be utilised for the sole purpose of making refund to the investors till full refund as directed above is made.

d. Sitaram Maharaj Sakhar Karkhana (Khardi) Limited and its present directors shall cause a public notice to be issued, in all editions of two National Dailies (one English and one Hindi) and in one vernacular daily with wide circulation, detailing the modalities for refund, including the details of contact persons such as names, addresses and contact details, within 15 days of this Order.

e. After completing the aforesaid repayments, Sitaram Maharaj Sakhar Karkhana (Khardi) Limited and its present directors shall file a report of such completion with SEBI, within fifteen days from the date of refund as mentioned at paragraph 6.1 (a), certified by two independent peer reviewed Chartered Accountants. Additionally, SMSKL shall issue a public notice in two National Dailies (one English and one Hindi) and in one vernacular daily with wide circulation notifying the completion of all refunds with interest, as specified in this Order in terms of the direction at paragraph 6.1 (a).

f. Sitaram Maharaj Sakhar Karkhana (Khardi) Limited; Vilas Vasantrao Kale; Dilip Prahlad Kale; Nana Narayan Kale; Shankar Kisan Bagal; Baban Sadashiv Sonawale; Shobha Rupesh Pawar; Mahadev Mallikarjun Dethe; Ganesh Mohanrao Thigale; Uttam Ramchandra Naiknavare and Jayashree Vilasrao Kale are directed not to, directly or indirectly, access the securities market, by issuing prospectus, offer document or advertisement soliciting money from the public and are further restrained and prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in whatsoever manner, from the date of this Order, till the expiry of 3 (three) years from the date of completion of refunds to investors as directed above. The above said directors are also restrained from associating themselves with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI from the date of this Order till the expiry of 3 (three) years from the date of completion of refunds to investors.

g. In case of failure of Sitaram Maharaj Sakhar Karkhana (Khardi) Limited; Vilas Vasantrao Kale; Dilip Prahlad Kale; Nana Narayan Kale; Shankar Kisan Bagal; Baban Sadashiv Sonawale; Shobha Rupesh Pawar; Mahadev Mallikarjun Dethe; Ganesh Mohanrao Thigale; Uttam Ramchandra Naiknavare and Jayashree Vilasrao Kale to comply with the aforesaid applicable directions, SEBI, may recover such amounts, from the said Noticees in accordance with section 28A of the SEBI Act including such other provisions contained in securities laws. SEBI, may be at liberty to proceed against the estates of the deceased Noticees, namely, Gorakh Narhari Tad and Shahaji Namdeo Shendge in line with the provisions of the SEBI Act.

6.2. This Order is without prejudice to any other action that SEBI may initiate.

6.3. The above directions shall come into force with immediate effect.

6.4. A copy of this Order shall be forwarded to the Ministry of Corporate Affairs.

Place: Mumbai
Date: November 30, 2022

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA