**IN THE SPECIAL COURT FOR CBI AT GREATER BOMBAY**

# ORDER BELOW EXH.1
# IN
# CBI SPECIAL CASE NO. 874 OF 2023

CBI CASE NO. RCBD1/2019/E/0001 ... Complainant

V/S.

Videocon International Electronics Ltd and Ors. ... Accused

**CORAM: S.P. NAIK-NIMBALKAR**
**SPECIAL JUDGE (CBI)**
**(COURT ROOM NO.51)**
**DATE : 12.7.2023.**

Appearance :-
Ld.SPP Mr. Limosin A. for DLA, CBI, BSFZ, Mumbai.

## ORAL ORDER

1. Perused charge-sheet, list of witnesses as Annexure-1, list of documents as Annexure-2 filed along with the charge-sheet, along with pursis Exh.3 and calender of evidence(documentary) filed by the prosecution.

2. Heard Ld.SPP Mr. Limosin, DLA, CBI, BSFZ, Mumbai.

3. As per charge-sheet, FIR bearing no. RCBD1/2019/E/0001 of year 2019 dated 22.1.2019 was registered by CBI,BSFB, New Delhi, for the offence u/s. 120B r/w. 409, 420 of Indian Penal Code and Sec.7,11,12 and 13(2) r/w. 13(1)(c)&(d) of Prevention of Corruption Act. As per charge-sheet, it is filed against following accused persons :-

1 M/s. Videocon International Electronics Limited (VIEL), through its director/ authorized representative.

2 M/s. Videocon Industries Limited (VIL), through its director/ authorized representative.

3 Shri Venugopal Nandlal Dhoot.

4 Ms. Chanda Kochhar

5 Shri Deepak Virendra Kochhar

6 M/s. Nupower Renewables Limited (NRL), through its director/ authorized representative

7 M/s. Supreme Energy Pvt Limited (SEPL), through its director/ authorized representative

8 Shri Saurabh Dhoot

9 Shri Dattatraya Uttamrao Kadam

4. At the outset, it is necessary to mention that, as per pursis Exh.3, it is submitted by Ld.SPP Mr. Limosin that, there is no stay by the Hon'ble Bombay High Court or by the Hon'ble Supreme Court for taking cognizance of the offence against the accused in the matter. It is further submitted that, Writ Petition No. 300/2023 is yet pending before the Hon'ble Bombay High Court. So also, Special Leave petition(SLP) (Diary No. 1676/23) is also pending before the Hon'ble Supreme Court. Hence, it is submitted that, there is no stay operative of the Higher Courts for taking cognizance and proceeding with the matter.

Brief facts which can be gathered from the charge-sheet and voluminous record can be narrated as under :

5. On 3.7.2008, M/s. Supreme Energy Private Limited (SEPL)

incorporated with total authorized capital of Rs. 1 Lakh with total 10,000 shares of Rs.10 each (V.N. Dhoot 9990 shares and Vasant Kakade 10 shares). On 19.12.2008, ICICI Bank Board approved appointment of Ms. Chanda Kochhar, Jt. MD and CFO of ICICI Bank w.e.f. 1.5.2009. On 24.12.2008, incorporation of M/s. Nupower Renewable Limited with total authorized capital of Rs.5 Lakhs with total 50,000 shares of Rs.10 each. Mr. V.N Dhoot, Mr. Saurabh Dhoot and Mr. Deepak Kochhar were initial directors. Shareholding at the time of incorporation was Mr. VN Dhoot 50% and Mr. Deepak Kochhar through Pacific Capital Services Pvt Ltd 50%. On 7.1.2009, M/s. NRL issued 19,97,500 share warrants (face value @ Rs.10 each) fully convertible into equity shares at par at the time till 31.7.2010 against which Mr. Deepak Kochhar initially paid only Re.01/- per warrant and was to pay balance Rs.9/- at the time of conversion. On 15.1.2009, Mr. V.N Dhoot and Mr. saurabh Dhoot resigned from directorship of M/s. NRL, therey giving full control to Mr. Deepak Kochhar. Mr. VN Dhoot resigned as director of M/s. SEPL and Mr. Vilas Rambhau Saluke was appointed as Addl. Director.

6. On 25.2.2009, Mr. Deepak Kochhar wrote a letter to Mr Mahesh Chandra Punglia seeking investment of Rs.64 Crores in M/s NRL. On 20.3.2009, Mr. Vilash Saluke, Director of M/s. SEPL conveyed his consent to M/s. NRL for investing Rs.64 crores in M/s. NRL by way of fully convertible debentures. On 5.6.2009, shares (24996) held by Mr V.N. Dhoot and 22500 held by Mr. Deepak Kochhar group were transferred to M/s. SEPL (now M/s. SEPL holding 95% of M/s. NRL). On 20.8.2009, cheque for Rs.64 crores was issued by Mr V.N. Dhoot, authorized signatory of M/s. SEPL favouring M/s. NuPower Renewables Ltd. The balance in the account of SEPL was only Rs.34702/- till credit

of Rs.64 crores from M/s. VIL on 8.9.2009.

7. On 26.8.2009, RTL of Rs.300 crores sanctioned to M/s. VIEL by a committee headed by Ms Chanda Kochhar in gross violation of Bank guidelines. On 7.9.2009, Rs.283.45 crores (after deducting applicable charges) credited into account no. 000705029097 of M/s. VIEL out of RTL of Rs.300 crores sanctioned by ICICI Bank. Out of said disbursed amount, Rs.35 crores transferred to M/s. VIL CC A/c. of Central Bank of India. Rs.50 crores transferred to M/s. VIL Account of SBI. Rs.48 crores transferred to M/s VIL account of State Bank of Indore. Rs.50 crores transferred to VIL account with State Bank of Mysore. Rs.25 crores transferred to M/s. VIL account with State Bank of Patiala. Rs. 35 crores transferred to M/s. VIL account with Punjab National Bank. Rs.40 crores transferred to M/s. VIL account with IDBI Bank ltd.

8. On 8.9.2009, Rs.20 crores were transferred from M/s. VIL account of Central Bank of India and Rs.50 crores transferred from M/s/ VIL account of SBI. Rs. 19 crores transferred from M/s VIL account of Punjab National Bank i.e. sum total of Rs.89 crores to ODCC account of M/s. VIL. Besides Rs.40 crores transferred from Indian Bank CC account and Rs.33.50 crores from Allahabad Bank CC account to ODCC account of M/s. VIL maintained with Federal Bank. From ODCC account of M/s. VIL, Rs.138.75 crores transferred to M/s. VIL CA account maintained with Federal Bank. From current account of M/s VIL , Rs.64 crores transferred to M/s. SEPL account maintained with Federal Bank. From M/s. SEPL account, Rs.64 crores transferred to M/s. NRL account at DBS Bank, Mumbai. On 3.5.2010, NRL issued 64 lacs

Zero Coupon Fully Convertible debentures to M/s. SEPL towards investment of Rs.64 crores made by it in M/s. NRL. On 2.11.2010, Mr VN Dhoot transferred his 9990 shares in M/s. SEPL to Mahesh Chandra Punglia, his employee. On 5.10.2011, M/s. SEPL issued 64 OCDs of Rs.1.0 crores each to M/s. RAPL (now RCPL) convertible into equity share or to be redeemed with 60% premium after 10 years from 5.10.2011. On 12.3.2012, Mr. Deepak Kochhar allotted 18,97,500 equity shares and Mr. Sunil Buta, CFO, M/s. NRL allotted 1 lac equity shares on conversion of 19,97,500 warrants and thus became 98.56% share holder of NRL.

9. On 29.9.2012, Mr M.C. Punglia transferred his 9990 shares in M/s. SEPL to Pinnacle Energy, a family trust of Mr. Deepak Kochhar to give control of M/s. SEPL to Mr Deepak Kochhar, Managing Trust of Pinnacle Energy. On 19.3.2016, M/s. NRL converted 65,00,000 zero coupon FCDs of Rs.100 into 5,48,650 shares of Rs.1166.50 per share in favour of M/s. SEPL. In 2017, M/s. Real Cleantech Pvt Ltd was struck off from the records of ROC for not doing any business and for not filing balance sheet for two FY. On 8.12.2017, preliminary enquiry No. PEBD1/2017/E0001 registered by CBI and on 22.1.2019, instant regular case was registered by the CBI.

10. Considering the above briefly noted facts of this case, it would be desirable to note the allegations against the accused persons as spelt out in the charge-sheet and record. The allegations in brief against each accused, roles as well as complicity of each accused as submitted by CBI can be summarized as under :-

Accused no.1-M/s.Videocon International Electronics Ltd. (VIEL) : -

11. It is alleged that, in furtherance of criminal conspiracy, VIEL got sanctioned RTL of Rs.300 crores on 26.8.2009 by committee headed by Ms. Chanda Kochhar for repayment of a part of the unsecured loans and advances received from M/s VIL. On 8.9.2009, the accused company dishonestly diverted an amount of Rs.64 croes as quid pro quo of Rupee Term Loan of Rs.300 to Ms Chanda Kochhar's husband company NRL in the garb of investment through web of transactions.

Accused no.2 – Videocon Industries Limited (VIL) :-

12. It is alleged against accused no.2 that, when the Rupee Term Loan of Rs.300 crores to M/s. VIEL was under process at ICICI Bank, M/s. VIL dishonestly induced ICICI Bank by submitting a list of plant and machinery proposed to acquired/purchased, valued at Rs.30570.48 lacs. Based on the information submitted by M/s. VIL, loan proposal was prepared and it was incorporated in the sanction note that M/s. VIL would use the above proceeds for financing its capital expenditure requirements on machinery, accessories and spare parts. An amount of Rs.283.45 crores was received in the various accounts of M/s. VIL from the account of M/s. VIEL, out of which an amount of Rs.64 crores was transferred to the account of M/s. Supreme Energy Pvt Ltd and ultimately this amount was transferred to the account of M/s. NuPower Renewable Ltd as quid pro quo for sanction of Rupee Term Loan(RTL) of Rs.300 crores to VIEL and other RTL of Videocon Group. In furtherance of the criminal conspiracy, VIL also got

sanctioned RTL of Rs.750 crores from ICICI Bank. Later on, credit facilities sanctioned to six companies of Videocon Group were refinanced and a fresh loan of Rs.1730 crores was sanctioned by ICICI Bank to M/s.VIL. The said loan amount turned into NPA with an outstanding amount of Rs.1033 crores and thereby the ICICI Bank had to suffer loss.

Accused no.3- Mr. V.N. Dhoot:-

13. Accused no.3 was CMD of M/s. VIEL and M/s. VIL. In furtherance of criminal conspiracy with other accused persons to get credit facilities from ICICI Bank in favour of companies of Videocon Group, he issued a cheque dated 20.8.2009 for Rs.64 crores from the account of M/s. SEPL in favour of Ms. Chanda Kochhar's husband company M/s. NuPower Renewable Ltd when RTL for Rs.300 crores of M/s.VIEL was under process in ICICI Bank for sanction as a motive/reward. Pursuant to which, RTL of Rs.300 crores was sanctioned. He further induced ICICI Bank that VIL would use the loan proceed for capital expenditure. The amount was diverted and not utilized for capital expenditure. False CA certificate issued by Mr D.U. Kadam certifying that the amount has been utilized as advance to suppliers. He transferred the ownership of SEPL by transferring his 99.90% shares of SEPL to his employee Mr. M.C. Punglia, who sold entire share of Mr. Deepak Kochhar at face value. He transferred flat no.45, CCI Chambers, Church Road, Mumbai (valued at Rs.5.25 crores in 1996) to Quality Advisor, a family Trust of Ms Chanda Kochhar, Deepak Kochhar is managing trustee) at meager inadequate consideration of Rs.11 lacs only.

Accused no.4 – Ms Chanda Kochhar :-

14. Accused no.4 Chanda Kochhar was MD and CEO of ICICI Bank during the period May 2009 till January 2019 and in such capacity she was entrusted with the bank's funds. She conspired with other accused persons to sanction / got sanctioned credit facilities in favour of companies of Videocon Group. RTL of Rs.300 crores to VIEL was sanctioned on 26.8.2009 by the committee of directors headed by Ms. Chanda Kochhar. The loan amount was disbursed on 7.8.2009 and through a complex structure involving various companies of Videocon, Rs.64 crores was transferred under the garb of investment in M/s. NuPower Renewable Ltd of her husband Deepak Kochhar. She resided along with her husband in a flat situated at 45, CCI Chambers, Church Gate, Mumbai, owned by Videocon Group. Accused Chanda Kochhar continued to reside in the said flat owned by Videocon Group and subsequently, the flat was transferred to her family trust of which her husband was Managing Trustee, at the meager amount of Rs.11 lacs in October 2016, which she knew to be inadequate consideration. Thus, it is alleged that, accused Chanda Kochhar accepted/obtained illegal gratification other than legal remuneration of Rs.64 crores as a motive/reward and also thereby misappropriate the bank's fund for her own use.

Accused no.5- Mr Deepak Kochhar :-

15. It is alleged that, accused no.5 conspired with other accused persons to get sanctioned credit facilities by ICICI Bank in favour of companies of Videocon Group through his wife Ms Chanda Kochhar, the then MD and CEO of ICICI Bank, to get illegal gratification of Rs.64 crores in the garb of investment through web of transactions.

He was Director/ sole authorized signatory for bank operations of M/s. NuPower Renewable Ltd. In furtherance of criminal conspiracy, he accepted cheque dated 20.8.2009 for Rs.64 crores in favour of M/s. NRL from Mr. V.N. Dhoot, CMD of Videocon Group, pursuant to which RTL of Rs.300 crores to Mr. VN Dhoot company M/s. VIEL was sanctioned on 26.8.2009 by committee headed by Ms Chanda Kochhar. Deepak Kochhar in conspiracy with Mr VN Dhoot took the control of M/s. NRL, M/s. SEPL and also purchased shares of M/s. Quality Appliance Pvt Ltd, which was holding ownership of flat situated at 45 CCI Chambers, Mumbai as fixed asset valued at Rs.5.25 crores in 1996, at meager amount of Rs.11 lacs when various loan proposals of Videocon Group was under consideration in ICICI Bank.

Accused no.6 - NuPower Renewables Limited :-

16. Accused no.6 received an amount of Rs.64 crores under the garb of investment through web of transactions, as a motive/ reward for sanction of RTL of Rs.300 crores to M/s. VIEL and other companies of Videocon Group.

Accused no.7 – Supreme Energy Pvt Ltd :-

17. Through its director/ authorized representative conspired with other accused persons and facilitated the transfer of bribe amount of Rs.64 crores to the account of M/s NRL.

Accused no.8 – Mr Saurabh Dhoot :-

18. Accused no.8 was promoter/director/ authorized signatory of M/s. VIEL. In furtherance of criminal conspiracy with other accused

persons, he accepted terms and conditions of sanction letter to the effect that, facility amount repaid to M/s. VIL would be utilized by it for capital expenditure. He submitted request for disbursement of facility amount to M/s. VIEL and executed loan documents with ICICI Bank, got submitted a false CA certificate to the effect that the amount repaid to M/s. VIL by M/s. VIEL has been utilized by it as advance to supplier.

Accused no.9 – Mr D.U. Kadam :-

19. He was partner of M/s. Kadam & Company, statutory auditor of M/s. VIL during the relevant period. He dishonestly issued a false CA certificate certifying that the amount repaid to M/s. VIL by M/s. VIEL has been utilized by M/s. VIL as advance to supplier.

20. Thus, on the basis of above allegations, charge-sheet along with list of witnesses and documents is submitted.

21. It can be seen from the documents that, sanction for prosecution of Ms. Chanda Kochhar is received from the competent authority.

22. Before analyzing the evidence on record, scanning the documents and mentioning details, the role of this Court at this stage is necessary to be determined pertaining to issue process order and cognizance of the offence as to be taken u/s. 190(1)(b) of Cr.P.C. The final report has to be dealt with in accordance with the Chapters 15 and 16 of the Cr.P.C. As per Sec.204, if in the opinion of a Magistrate/ Judge

taking cognizance of the offence, there is sufficient ground for proceeding, process can be issued against accused persons. Therefore, on plain reading of Sec.204 of Cr.P.C, it is the opinion of the Magistrate/Judge which is to be formed on record pertaining to the effect that there is sufficient ground for proceeding against the accused persons.

23. On this point Ld. PP has relied on the case of **Pradeep S. Wodeyar v/s. State of Karnataka (AIR OnLine 2021 SC 1108)**. The Ld PP has relied on para 75 of the case, as under :-

> *75. The Special Judge, it must be noted, took cognizance on the basis of a report submitted under Section 173 CrPC and not on the basis of a private complaint. Therefore, the case is squarely covered by the decision in Afroz Mohammed Hasanfatta (supra). The Special Judge took note of the FIR, the witness statements, and connected documents before taking cognizance of the offence. In this backdrop, it would be far-fetched to fault the order of the Special Judge on the ground that it does not adduce detailed reasons for taking cognizance or that it does not indicate that an application of mind. In the facts of this case, therefore, the order taking cognizance is not erroneous. C.6 Authorised person" and Section 22 of MMDR Act."*

24. It would not be out of place to quote the observations of Three Judges Bench of the Hon'ble Supreme Court in the case of **Sunil Bharati Mittal v/s. CBI (AIR 2008 SC 3372)**, wherein the Hon'ble Supreme Court has laid following ratio:-

> *"Sine qua non for taking cognizance of the offence is the application of mind by the Magistrate and his satisfaction that the allegations, if proved, would constitute an offence. It is, therefore, imperative that on a complaint or on a police report, the Magistrate is bound to consider the question as to whether the same discloses*

*commission of an offence and is required to form such an opinion in this respect. When he does so and decides to issue process, he shall be said to have taken cognizance. At the stage of taking cognizance, the only consideration before the court remains to consider judiciously whether the material on which the prosecution proposes to prosecute the accused brings out a prima facie case or not."*

25. Thus, it is incumbent on this Court before reaching to any conclusion for taking cognizance and issue process, that opinion pertaining to disclosure of commission of any offence from the material on record, is to be inferred.

26. On this lines, if the witnesses examined by the CBI during investigation are seen, the list of total 78 witnesses is annexed along with charge-sheet. On going through the list of witnesses, it is seen that, the officials of ICICI Bank, Punjab National Bank, Federal Bank Ltd, State Bank of India, DBS Bank India Ltd., IDBI Bank, Allahabad Bank, IDBI Trusteeship Services Ltd., Shriram Transport Finance Company Ltd., Bapat Valuers and Consultants Pvt Ltd, State Industries Promotion Corporation of Tamil Nadu Ltd (SIPCOT), AGM , RBI Head office,, Central Bank of India, Credit Agrocole Corporate and Investment Bank, Indian Bank, SBI- Stressed Assets Management Branch-1, Bank of India, Bank of Baroda, Indian Overseas Bank, are examined and cited in the witness list.

27. The witnesses connected with M/s. SARA & Associates, Videocon Industries Ltd, EchandaUrja Pvt Ltd., M/s. Supreme Energy Pvt Ltd, Indo Star Capital Finance Ltd., Videocon Group, Company Secretary of M/s. NuPower Renewables Ltd, Chartered Accountants of various companies, M/s. Sky Appliances Ltd and M/s. Techno

Electronics Ltd., Valuers & Consultants Pvt Ltd, Sr. Manager/ Nodal Officer of SFIO, Federal Bank, Manager CCI Chambers of Co-operative Housing Society Ltd., Registrar of Companies, Income tax Officer and witnesses from CBI, have been cited.

28. Considering the scope of the allegations pertaining to the concealment of the facts, irregularities in sanction of loans, diversion of funds, misutilization of the loan amount and acceptance of motive/reward for the sanction, compass of witnesses which have been cited, is varied. Prima facie, on going through their statements, allegations levelled against accused persons in the charge-sheet are deposed by them with material particulars specifying details of the transactions.

29. On going through the documentary evidence,on the point of sanction of RTL Rs.300 crores, certified true copy of proposal dated 26.8.2009, original minutes of the meeting of the committee of directors are filed on record. Original credit arrangement letter issued by ICICI Bank to VIEL, extract of resolution passed by board of directors of VIEL, certified true copy of resolution passed by board of directors of Indian Refrigerator Company Ltd (IRCL) providing guarantee regarding the repayment/payment by VIEL, is filed on record. Extract of resolution passed by board of directors of VIL regarding 30% shareholding in VIEL as security is filed on record. Disbursement memo dated 7.9.2009 is filed on record. Annual report of VIEL 2007-08 to prove financial position of the company is filed on record. True copy of memorandum of association and article of association of both companies are filed on record. Application dated 2.4.2009 from authorized signatory, VIL, letter from authorized signatory VIEL dtd. 3.4.2009 confirming that the

share application money of Rs.300 crores has been treated as unsecured loan and requesting time of 6 months for repayment, is filed on record. Original director certificates of VIEL and VIL are filed on record. Certificate dated 11.9.2009, issued by M/s. Shashank Suvarnpathaki & Company, Ahmednagar, C.A., is filed to prove that funds advanced by ICICI Bank was utilized by VIL for repayment of loan advanced to it by VIEL. CA certificate is filed on record to prove that the amount received by VIL from VIEL has been utilized by VIL for payment of advance to suppliers towards purchase of capital goods. Original letter dated 26.4.2010, from IRCL submitting title deeds to the property at Hosur to ITSL is filed on record to prove creation of exclusive first charge towards RTL of Rs.300 crores.

30. Original Amendatory Credit Arrangement letter dated 28.9.2011 is filed to prove that, ICICI Bank waived abridgement option for the current year is filed on record. Certified copy of loan account statement of VIEL is filed to prove that loan account of VIEL was closed 22.11.2012 from the proceeds of fresh loan of Rs.1730 crores sanctioned under realignment of debt and capex programme.

31. For proving extension of time line for perfection of security and waiver of penal interest in respect of M/s. Millennium Appliances India Ltd and M/s. VIEL, several documents are filed such as, certified copy of minutes of meeting, certified copy of proposal, certified copy of extract, certified copy of minutes of meeting in this regard, certified copy of proposal put up and certified copy of extracts.

32. For proving that the proposal was processed by ICICI Bank for not exercising the abridgment option of VIEL, proposal as well as

minutes of board meeting dated 7.9.2011 is filed on record. Correspondence between IRCL and SIPCOT is filed on record. Valuation report of plant and machinery of M/s. IRCL, Unit SIPCOT Hosur given by Bapat Valuers and Consultants Pvt Ltd is filed on record. Documents of bank are filed to prove that the account of VIL became NPA with outstanding of Rs.1033 crores. Policies of ICICI Bank on sanction of loan, credit approval authorization manual also filed on record.

33. To prove appointment of accused Ms Chanda Kochhar as MD and CEO of ICICI Bank, letter dated 4.6.2019, minutes of board meeting are filed on record. Certified copies of account opening forms by NRL in DBS Bank India Ltd by accused Deepak Kochhar are filed to prove credit of Rs.64 crores on 8.9.2009 from the account of SEPL To prove transfer of Rs.35 crores in CC account of M/s. VIL from ICICI Bank, statement of account of VIL is filed on record. Account opening form of VIL with Allahabad Bank is filed on record. Statement of account of VIL with Allahabad bank is filed on record. Original cheque for transfer of Rs.33.50 crores to Federal Bank account of VIL is filed on record to prove that the said amount was transferred from this CC account to ODCC account of M/s. VIL with Federal Bank. Statement of account in the name of M/s. Quality Appliance Pvt Ltd is filed on record.

34. Pertaining to the documents of PNB account opening form of Mr VN Dhoot, certified copy of statement of account in M/s. VIL, original cheque dated 8.9.2009 of Rs.19 crores, are filed on record. Pertaining to the bank transactions of SBI, account opening form and letter of bank official is filed on record. Original cheque letter, account opening form, statement of account of M/s. VIL with Federal Bank, IDBI

Bank are filed on record. Statement of account of M/s. VIL to prove transfer of Rs.50 crores to State Bank of Mysore is filed on record. Account opening form of Mr VN Dhoot of VIL, statement of account of VIL, original cheque for Rs.40 crores dated 8.9.2009 to prove transfer of the fund is filed on record. Original cheque for Rs.1,75,00,000/- issued by M/s. Takecare India Pvt Ltd in favour of Yourself RTGS, Allahabad bank is filed on record. Original cheque for Rs.75 lacs issued by M/s. Evens Fraser and Co(India) Ltd transferred to Allahabad Bank account M/s. Quality Appliances Pvt Ltd is filed on record. Certified copy of the account statement to prove debit entry of Rs.1,75,00,000/- onwards credit to the Allahabad Bank is filed on record. Certified copy of account statement to prove debit of Rs.75,00,000/- onward credit to the Allahabad Bank is filed on record. To prove transfer of fund, certified copies of account statement of VIL with Federal Bank etc, certified copy of account statement, original cheque, letter from Bank officials, account opening form are filed on record. Original cheques regarding fund transfer are also filed on record. Documents from NRL are filed on record. To prove that FCD for Rs.64 crores was issued by NRL favouring SEPL on 3.5.2010, original minutes of SEPL are filed on record. Certified copies of Memorandum of Association and Article of Association are filed on record. The documents pertaining to credit of loan proceeds to Sky Appliance Ltd are filed on record. The documents are further collected under seizure memo from VIL. Official documents are also seized from accused Deepak Kochhar, director NRL. Said documents are filed to prove that, accused Deepak Kochhar, authorized signatory, NRL made slump sale agreement dated 25.3.2009 with Shriram Transport Finance Company Ltd and Shriram City Union Finance Ltd for transfer of wind power business division in favour of M/s. NRL. The documents pertaining to Pinnacle Energy Trust and

Quality Appliances Pvt Ltd are also seized. Certified copy of documents of Pinnacle Energy Trust with DBS Bank is filed to prove that, on 30.3.2013, DD of Rs.99,900/- and Rs.100 were issued towards purchase of 9990 shares and 10 shares of M/s. SEPL.

35. To prove complicity of the accused Deepak Kochhar, original application dated 30.3.2013 of Pinnacle Energy Trust, scanned copy of account opening form, voucher and cheques are collected. Certified copy of statement of Pacific Capital Services Pvt Ltd. is filed on record. Report of valuation of equity shares of M/s. SEPL is also filed, copy of share transfer form in respect of 9990 equity shares of SEPL from Mahesh Punglia to Pinnacle Energy Trust is filed on record.

36. The documents pertaining to Quality Appliance Pvt Ltd are collected. Documents are also collected to prove merger of B loomfield Builders & Constructions Company Ltd. with Credential Finance Ltd. Notarized copy of deed of transfer dated 19.2.1996 between Bliquis Jehan Begum (Vendor) and Deepak Virendra Kochhar (Purchaser) pertaining to purchase of flat no.45, CCI Chambers, Dinshaw Vachha Road, Mumbai , is filed on record.

37. Orders of the Hon'ble Bombay High Court in Suit No.4614/1999 along with certified copy of Consent Terms dated 8.4.2009 and resolution are filed on record. Notarized copy of deed of Trust is filed to prove that Quality Advisors Trust is a family Trust of Mr. Deepak Kochhar. Original warrant certificate dated 20.1.2009 is filed to prove M/s., NRL issued 19,97,500 warrants in favour of Deepak Kochhar. Original warrant certificate dated 2.8.2010 is filed to prove that, NRL issued 18,97,500 in favour of Deepak Kochhar. Original

warrant certificate no.3 dated 2.8.2010 is filed to prove that, NRL issued 100,00,000 warrants in favour of Sunil Bhuta. Copy of Registrar of Charge, ROC, document dated 31.8.1996, charge of SBI Home Finance Ltd over flat no.45, CCI Chambers, 5th floor, Dinshaw Vachha Road, Churchgate, Mumbai , is filed on record. Acknowledgment of charge report by CCI Chambers CO-op. Housing Society Ltd is filed on record. Original Deed of Transfer dated 4.8.2009 is also filed. The documents pertaining to suit filed by SBI Housing finance Ltd is filed. Documents to prove payment of registration charges of the flat in CCI Chambers are also filed. Document pertaining to Quality Advisors Trust is filed on record. To prove that, payment of Rs.3.25 crores to VIL by M/s. Quality Appliances Pvt Ltd , original cheque favouring M/s. VIL is filed. Document to prove financials, share holding and directorship of M/s. Quality Appliances Pvt Ltd is also brought on record by placing certified true copy of annual report. Original auditors report of M/s. Quality Techno Advisors Pvt Ltd is also filed. Certified copies of Income tax returns are also filed on record.

38. There are several documents which are seized pertaining to sanction of RTL of Rs.750 crores to M/s.VIL. Original minutes of meeting dated 31.10.2011, proposal dated 31.10.2011, letter from VIL, letter dated 29.10.2011 from M/s. VIL to Punjab National Bank regarding creation of charge, sanction letter, original credit arrangement letter, original title report to prove that title of the person does not appear to be clear and marketable, is filed on record. Request letter for disbursement of Rs.679.5 crores ,out of RTL of Rs.750 crores is filed. Copy of annual report of VIL is also filed. Certified copies of loan account statement, balance sheet, proposal, extract, minutes of meeting of M/s. VIL are filed on record. Similarly, the documents pertaining to

sanction of RTL of Rs.1730 crores are also filed on record. In this regard, original minutes of meeting, loan account statements are filed on record. The documents were collected from ICICI Bank to prove outstanding credit in the account of M/s. VIL. The documents are collected to prove outstanding credit in the account of SAL, TEL, VIL, AIL was closed by way of fresh finance of existing liability by ICICI Bank. RBI master circulars pertaining to loan and advances, statutory and other restrictions for the period July 1, 2009 are filed on record to prove that if a director is interested in any proposal he should recuse from the meeting. Letter dated 28.5.2019 is produced to prove that Ms. Chanda Kochhar did not disclose her relationship with M/s. VIL.

39. Certified true copies/ documents are collected with regard to sanction of RTL Rs.175 crores to M/s. MAIL, original sanction letter, Original power of attorney executed by VIL in favour of Parag Inamdar and Atul Galande, original minutes of the meeting dated 1.6.2009, original credit arrangement letter, original sanction memo, are filed on record. Title search report, Utilization request, original certificate, true copies of memorandum of association and article of associations, original loan account statement of M/s. MAIL with respect to RTL of Rs.175 crores, certified copy of annual report FY 2007-08 of MAIL is filed on record. Similarly, the documents with regard to Sky Appliances, TEL, SAIL and TEL also filed.

40. Through the above documents it is submitted to be proved that VIL gave undertaking, used proceeds of Rs.240 crores to be received from M/s. SAL towards repayment of its loans and ongoing capital expenditure. Original certificate of CA is also filed to prove end use of the loan proceeds. Disbursement request made by SAL and TEL

are filed on record. Creation of charge with RoC by SAL in favour of ICICI Bank is filed on record.

41. Disbursement of the amount to SAL and TEL is sought to be proved by collecting original disbursement memo and original loan account statements. The document pertaining to sanction of RTL of Rs.300 crores to Applicom India Ltd is also filed on record. Certified true copy of proposal, original minutes of meeting of committee, original credit arrangement letter, original confirmation memorandum, certified true copy of Memorandum of Association and Articles of Association of M/s. AIL, copy of form-8, creation of charge, true copy of annual report, are filed to prove disbursement of the loan. Original certified copy of CA to prove end use of the unsecured loan filed by VIL, is filed on record. Loan sanction of ICICI Bank to AIL is sought to be proved by collecting documents with regard to sanction and disbursement proceeds as well as original loan account statement are filed. Documents are also collected to prove extended timeline for abridgement option in loan account of M/s. Applicomp(India) ltd., was given, details of postings of Ms Chanda Kochhar and documents to prove that the loan account of VIL was declared NPA with outstanding amount of Rs.1033 crores are filed. Grant of permission u/s. 17A of P.C. Act in respect of accused Chanda Kochhar is filed. The documents to prove that, accused Chanda Kochhar was authorized signatory of the bank account of Pacific Capital services Pvt ltd with 50% shares of NRL., is filed on record. The documents are collected to prove forwarding list of plant and machinery valued Rs.30570.46 million, which was to be procured from the unsecured loan repaid by VEIL to VIL out of ICICI Bank finance. A letter dated 4.2.2023 is filed to prove termination of service of Ms. Chanda Kochhar. Attested true copy of

agreement to sale dated 7.9.1995 is also filed to prove value of the flat in CCI Chambers, between 1995 and 2017. Documents are also filed to prove loan of Rs.1730 crores sanctioned on 26.4.2012 to VIL became NPA with outstanding amount of Rs.1033.39 crores. Specimen signature of Ms Chanda Kochhar and questioned documents are sent for opinion of handwriting expert.

**Conclusion :-**

42. Thus, considering the entire above documents, it is crystal clear that, in the form of oral as well as documentary evidence, there is sufficient material collected during investigation to substantiate the allegations against the accused persons. On going through the oral as well as documentary evidence and allegations in the charge-sheet, it can be safely inferred, *prima facie*, there are grounds to believe that the accusation is well founded. Role and complicity of each accused is detailed, specified and substantiated with evidence. The allegation pertaining to concealment of facts, committing irregularity while sanctioning of loans, diversion of the loan amount, misutilization of funds by not using the same the purpose for which it was sanctioned, receiving part of loan as motive/reward by public servant through companies established by her husband, concealment of interest in the loan proposal and thereby violating the circulars issued by RBI in this regard as well as illegal gratification received by the public servant, are, *prima facie*, evident on record.

43. To substantiate the case, the prosecution has also detailed funds transfer. Flow charts pertaining to disbursement of amount, from various accounts have been given. On going through all these flow charts along with material on record, fund trail as well as disbursement of the amount and transfer of fund in various accounts of M/s. VIL, M/s.

SAIL and M/s. NRL is demonstrated. Roles of all the accused with regard to the transactions mentioned above can be explained and demonstrated on the basis of these documents. Therefore, at this stage, there are sufficient grounds to hold that, prima facie, a case has been made out in the investigation papers collected by CBI.

44. On going through the charge-sheet, it is seen that, the offences under IPC pertaining to criminal conspiracy, hatching of criminal conspiracy pursuant to the object of cheating, criminal breach of trust, are mentioned. It is needless to mention that, the offence of criminal breach of trust u/s. 409 of Indian Penal Code can be attributed only to the public servant or bankers, merchants or agents. The only public servant involved in this case is, accused no.4.

45. So far as offences under Prevention of Corruption Act are concerned, offence u/s.7,11,12,13(2) r/w.13(1)(c)(d) of the Prevention of Corruption Act are applied. As Sec.13(1)(c) and 13(1)(d) of the Prevention of Corruption Act are applied, it goes without saying that, the prosecution has placed into service the offences mentioned in the Prevention of Corruption Act, 1988, before amendment of 2018. On this count, Ld. PP Mr. Limosin has submitted that, the time period of the alleged commission of the offence is from 2008 to 2017. Therefore, the provisions for offence in existence at that point of time are necessary to be applied. CBI has every legal right to investigate the offence as per Prevention of Corruption Act, 1988 prior to amendment, in view of Sec.6 of General Clauses Act.

46. In the light of submissions of Ld. PP, as of now, it can be viewed that, Prevention of Corruption Act, 1988, prior to amendment, is applied, as alleged offences have been committed before amendment to

Prevention of Corruption Act was effected. In this regard, Sec.12 of the Prevention of Corruption Act, before amendment, was for abetment of offences, for Sec.7 or 11 of the Act. Therefore, it needs to be specified in the operative order. So also, provisions of Sec.13 of the Act, prior to amendment, are necessary to be taken into consideration and particularly mentioned in the operative order.

47. Resultantly, cognizance of offence u/s.409, 120B, 120B r/w. 420 of Indian Penal Code and Sec.7,11,12 and 13(2) r/w. 13(1) (c)&(d) of Prevention of Corruption Act is taken. Hence, the following order:-

**ORDER**

1. Issue process against accused nos.1,2,3,5,6,7,8 and 9, named above, for the offence punishable u/s. 420 r/w. 120B, 120B of the Indian Penal Code and Sections 7 r/w. 12 and 11 r/w. 12 of Prevention of Corruption Act,1988 and substantive offences thereof.
2. Issue process against accused no.4, named above, for the offence punishable u/s. 409, 420 r/w. 120B, 120B of the Indian Penal Code and Sections 7, 11 and 13(2) r/w. 13(1)(c) and (d) of Prevention of Corruption Act, 1988 and substantive offences thereof.
3. Process be issued in the form of summons, to appear before this Court on or before next date.

NAIKNIMBALKAR SAMARENDRA PRAKASHRAO

Digitally signed by NAIKNIMBALKAR SAMARENDRA PRAKASHRAO
Date: 2023.07.14 16:50:22 +0530

DISTRICT COURTS MAHARASHTRA
सत्यमेव जयते

Date-12.7.2023

**(S.P. NAIK-NIMBALKAR)**
**Special Judge (CBI)**
**Gr. Bombay (CR 51)**

Dictated on 12.7.2023.
Transcribed on 13.7.2023.
Signed by HHJ on 14.7.2023.

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

Date 14.7.2023 at 4.50 pm . (Nitin V. Ubale)
UPLOAD DATE AND TIME Selection Gr. Stenographer(Gr.1)

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|---|---|
| Name of the Judge (With Court room no.) | H.H.J. Shri. S. P. Naik-Nimbalkar (C.R. No. 51) |
| Date of Pronouncement of JUDGMENT/ ORDER | 12.7.2023 |
| JUDGMENT/ORDER signed by P.O. on | 14.7.2023 |
| JUDGMENT/ORDER uploaded on | 14.7.2023 |