

## SECURITIES AND EXCHANGE BOARD OF INDIA

## INTERIM ORDER CUM SHOW CAUSE NOTICE

Under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of the Securities and Exchange Board of India Act, 1992 and Section 12A(2) of Securities Contracts (Regulation) Act, 1956 read with Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and Rule 4(1) of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005

In respect of:

SL. No.	NOTICEE(S)	PAN
1	Brightcom Group Ltd.	AAACL5827B
2	Mr. M. Suresh Kumar Reddy	AOOPM8696J
3	Mr. Vijay Kancharla	ATNPK0320K
4	Mr. Yerradoddi Ramesh Reddy	AAHPY4543K
5	Mr. Y. Srinivasa Rao	AAEPY9390B

*(The aforesaid entities are hereinafter individually referred to by their respective names / Noticee no. and collectively as "Noticees", unless the context specifies otherwise)*

**In the matter of Brightcom Group Ltd.**

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**Background:**

1. Pursuant to receipt of certain complaints during the period October 2020 to March 2021 *inter alia* alleging misstatements/ irregularities in the Financial Statements of Brightcom Group Ltd. ("**BGL**" / "**Brightcom**" / "**the Company**"), a listed company, Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") initiated an investigation into the affairs of the Company for the period covering financial years (FYs) from 2014-15 to 2019-20, with a special focus on impairment of assets, so as to ascertain possible violations,

if any, of the provisions of the SEBI Act, 1992 and regulations thereunder and the Securities Contracts (Regulations) Act, 1956 (“**SCRA, 1956**”).

2. Brightcom is in the business of Ad-Tech, New Media and digital advertising and has subsidiaries and operations in various geographies including in the US, Israel, Latin America, Western Europe and Asia Pacific regions. The Company is headquartered in Hyderabad. As per the Company’s Annual Report for the FY 2019-20, it has two Indian subsidiaries and 14 overseas subsidiaries. The present promoters of the Company had taken over the erstwhile listed company, Lanco Global Systems Ltd., and amalgamated it with an unlisted company, Ybrant Digital Ltd., through a scheme of amalgamation approved by the Hon’ble High Court of Andhra Pradesh dated April 11, 2012. Pursuant to the same, the Company’s name was changed from "LGS Global Ltd." to "Ybrant Digital Ltd." with effect from June 14, 2012. Later, the Company’s name was changed to “Lycos Internet Ltd.” with effect from October 07, 2014 and to “Brightcom Group Ltd.” with effect from September 05, 2018.
3. The Company claims to be a leading global provider of comprehensive online or digital marketing services to direct marketers, brand advertisers, and marketing agencies. The Company’s operations are divided into three major divisions: (i) Media (Ad-Tech and digital marketing), (ii) Software services, and (iii) Future technologies. The Company claims to have 25 office locations with 1700 employees and consultants worldwide, including in the US, Israel, Latin America, Western Europe and Asia Pacific regions. The reported Promoter Shareholding in the Company during the FYs 2015 to 2019-20 has ranged between 39.83% to 39.05%. It stood at 39.14% at the end of March 2020.
4. An overview of the audited annual financial results of BGL, as taken from its Annual Reports, is provided below:

Consolidated figures for the financial year ended (Rs. Lakhs)							
Particulars	Mar-14	Mar-15	Mar-16	Mar-17	Mar-18	Mar-19	Mar-20
Total Income	1,67,487	1,97,117	2,26,079	2,45,200	2,42,028	2,57,772	2,70,646
Profit before Tax	27,287	52,199	60,013	61,901	59,035	60,855	61,714
Net Profit/(Loss)	22,096	34,222	40,505	42,924	40,700	44,397	44,010
Total Assets/Liabilities	1,80,289	2,08,494	2,39,670	3,26,257	2,85,248	3,46,430	3,27,000
Cash Flow From Operations	21,097	27,559	24,370	15,143	31,480	50,981	8,905

Particulars (Annual Standalone INR Lakhs.)	Mar-14	Mar-15	Mar-16	Mar-17	Mar-18	Mar-19	Mar-20
Total Income	61,007	50,282	46,433	46,623	45,482	45,672	48,029
Profit before Tax	1,375	12	34	(323)	(361)	(213)	(113)
Net Profit/(Loss)	916	174	34	(281)	(294)	(321)	(143)
Total Assets/Liabilities	1,08,244	9,60,92	88,435	86,950	87,699	87,733	85,010
Cash Flow From Operations	(2,563)	6,472	852	(16)	(24)	(883)	(792)

### Findings of the Investigation:

5. During investigation, in response to various summonses issued to the Company seeking information and documents, the Company submitted information in multiple tranches, which were incomplete in many aspects. Further, the bulk of the documents and information sought, viz. accounting data of BGL and its subsidiaries, ledgers of assets impaired, bank statements of subsidiaries and other information remained pending. Even after providing sufficient time i.e. almost a year to furnish the sought information, the same was not forthcoming. Based on the information available on record, *prima-facie* findings and observations were made in the matter, which were communicated to BGL vide summons dated October 04, 2022. BGL was advised to provide its detailed comments along with supporting documents. Further, summons dated October 06, 2022 was also issued to the Chairman and Managing Director of BGL, Mr. Suresh Reddy, to appear before the Investigating Authority and provide comments to the *prima facie* findings / observations of investigation.
6. BGL vide email dated October 12, 2022, furnished its detailed response along with supporting documents. Further, Board of Directors of BGL, through its representative Mr. S.L. Narayana Raju, appeared before the Investigating Authority on October 13, 2022, and his statement was recorded. Subsequently, Mr. Raju furnished further information and documents vide emails dated October 17, 2022 and October 19, 2022, as undertaken by him during the statement recording.
7. The final findings of investigation, after considering the replies of BGL and its CFO in response to interim findings, are discussed in the subsequent paragraphs under appropriate headings.

**A. Deficiencies in Books of Accounts of Foreign Subsidiaries of BGL:**

8. A number of deficiencies in the Books of Accounts and other information pertaining to the Company's foreign subsidiaries, as furnished by BGL to SEBI, were observed. The same mainly pertained to assets impaired in FY 2019-20 to the tune of Rs.868.30 Crores. It was observed that ledger accounts/ transactions recorded were not maintained product-wise, expenses were capitalized as a single journal entry at the end of the year and detailed breakup of expenses incurred, invoices raised, and respective payments were not furnished. As these details were not available, it could not be ascertained as to which year's assets were impaired and which year's assets were continuing in the balance sheet. Further, payments made for corresponding expenses could not be ascertained. In order to confirm the payments to vendors/employees, the bank account statements were sought from the Company but the same were partially provided, from which, only on an aggregate basis it could be verified whether payments were made to vendors. The subsidiary wise impairment amounts are tabulated below:

Name of the Subsidiary	Online Media	DA- Mexico	Max Interactive	YDL Brasil	Dyomo Corp	Intl Expressions	DA- Argentina	DA-Chile	DA-Panama	Frontier Data	Total
Format in which the data was furnished	Tally	Tally	Tally	Tally	Excel	Excel	Tally	Tally	Tally	Excel	
(Amount in USD)											
Impaired OCA	1,67,54,380	42,24,536	40,09,691	1,08,52,785	45,32,714	28,49,946	51,81,880	68,63,842	25,20,188	1,33,86,267	7,11,76,229
Impaired Loans & adv	1,29,52,800	9,48,388	42,07,412	38,26,076	38,80,439	72,26,869	61,82,124	21,12,046	38,91,972	60,99,232	5,13,27,358
<b>Total impairment</b>	<b>2,97,07,180</b>	<b>51,72,923</b>	<b>82,17,103</b>	<b>1,46,78,861</b>	<b>84,13,153</b>	<b>1,00,76,815</b>	<b>1,13,64,004</b>	<b>89,75,887</b>	<b>64,12,160</b>	<b>1,94,85,499</b>	<b>12,25,03,586</b>
(Amount in INR)											
Other current assets	1,18,75,50,467	29,94,35,096	28,42,06,886	76,92,45,390	32,12,78,789	20,20,04,200	36,72,91,651	48,65,09,089	17,86,30,936	94,88,18,591	<b>5,04,49,71,095</b>
Loans & adv	91,80,94,462	6,72,21,719	29,82,21,392	27,11,92,297	27,50,45,497	51,22,40,449	43,81,88,944	14,97,01,790	27,58,62,982	43,23,13,582	<b>3,63,80,83,114</b>
<b>Total impairment in INR</b>	<b>2,10,56,44,929</b>	<b>36,66,56,815</b>	<b>58,24,28,278</b>	<b>1,04,04,37,687</b>	<b>59,63,24,286</b>	<b>71,42,44,649</b>	<b>80,54,80,595</b>	<b>63,62,10,879</b>	<b>45,44,93,918</b>	<b>1,38,11,32,173</b>	<b>8,68,30,54,209</b>
<b>Note: Exchange rate of 1 USD = 70.88 INR is used in the above table which is arrived at BGL' note on impairment of assets for the FY 2019-20 published on exchanges website on July 01, 2020.</b>											

	Subsidiary Name	Online Media	DA- Mexico	Max Interactive	YDL Brasil	Dyomo Corp	Intl Expressions	DA- Argentina	DA-Chile	DA-Panama	Frontier Data	Total (in USD)
	<b>OTHER CURRENT ASSETS</b>											
1	Unable to ascertain which year's assets were impaired and which year's assets are continuing in the balance sheet As the expenses for which the payments were made could not be ascertained, party-wise ledger accounts were not maintained for aforesaid expenses. Further, in absence of detailed break-up of the expenses, unable to verify the date of actual payments to the vendors/ employees.											
	Impaired OCA	1,67,54,380	42,24,536	40,09,691	1,08,52,785	45,32,714	28,49,946	51,81,880	68,63,842	25,20,188	1,33,86,267	7,11,76,229
2	<b>Expenses (Salaries, tools, hardware, software) capitalized through a single journal entry into 'Other current assets' on the last day of every financial year</b>											
	Expenses capitalized during Review Period	1,97,66,444	43,90,544	68,89,221	1,09,74,726			71,02,881	91,06,389	27,60,115		6,09,90,320
	Impaired OCA	1,67,54,380	42,24,536	40,09,691	1,08,52,785			51,81,880	68,63,842	25,20,188		5,04,07,301
3	<b>Amounts impaired in the ledger, resulting in credit balance at the end of FY2019-20</b>											
	Impaired OCA										1,33,86,267	1,33,86,267
4	<b>Difference in the amount of impairment entry found in the ledgers</b>											
	Impaired OCA										1000	1,000
	<b>LOANS AND ADVANCES</b>											
1	<b>No advance payments were recorded in ledgers of vendors and only impairment entries and expenses adjustment entries were recorded</b>											
	Impaired Loans & adv								21,12,046			21,12,046
2	<b>Fresh advances were made to vendors in subsequent financial years, while the previous financial year's advance was still outstanding</b>											
	Impaired Loans & adv	92,62,222	9,48,388	42,07,412	38,26,076			61,82,124		38,91,973		2,83,18,195
3	<b>Advances impaired in FY 2019-20 without any expense utilisation during Review Period</b>											
	Impaired Loans & adv	34,42,661			14,90,114							49,32,775
4	<b>In absence of a detailed break-up, unable to ascertain which period's assets were impaired and which period's assets continued in the books</b>											
	Impaired Loans & adv	42,20,561	1,78,230	33,90,182				37,38,741	21,12,045	38,91,973		1,75,31,732
5	<b>Amounts impaired in the ledgers having no balance</b>											
	Impaired Loans & adv					37,32,957	40,03,842					77,36,799
6	<b>Advances to parties impaired where same parties are appearing as creditors</b>											
	Impaired Loans & adv	1,14,37,925	7,70,158	13,71,560	14,90,114							1,50,69,757
7	<b>Difference in the amount of impairment entry found in the ledgers</b>											
	Impaired Loans & adv					1,47,482						1,47,482

9. From the above, it was observed that the books of account and other relevant books, documents, minutes, etc. prepared and maintained by BGL & its foreign subsidiaries including that of its branch office and foreign subsidiaries, were are not sufficient to explain the transactions effected both by BGL and its foreign subsidiaries.
10. It was thus observed that the financial statements of BGL did not conform to the provisions of Section 129 of the Companies Act, 2013 which *inter alia* provides that “*The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III.*”
11. Further, considering the requirements specified under Para B87 of Accounting Standard ‘*Ind AS 110 - Consolidated Financial Statements*’ and Para 20 & 21 of ‘*Accounting Standard (AS) 21 Consolidated Financial Statements*’, it was observed that in case of an Indian company having overseas subsidiaries, irrespective of the statutory requirement w.r.t maintenance of books of account and audit of the standalone financial statements in the jurisdiction of their incorporation, in order to achieve the uniform accounting policies as required under AS-21/Ind AS 110, the parent company has to ensure that the books of accounts of such subsidiaries are maintained in such manner to assist the management in the preparation of consolidated financial statements as per Indian GAAP.
12. As far as the parent company BGL was concerned, the requirement to maintain books of accounts and the period for which the same had to be maintained is prescribed in Section 128(1) of the Companies Act 2013. In case of BGL, the investment in the subsidiaries was shown as investments in the standalone financials statements of the parent company. In view of the same, the Company was not only required to maintain the books of accounts and records in respect of transactions entered into with its subsidiaries but was also required to maintain the books of account of all its subsidiaries to assist the management in the preparation of consolidated financial statements as per Indian GAAP. As BGL failed to maintain the books of accounts of its subsidiaries in the abovementioned required manner, the

same led to the consolidated financial statements of BGL not giving a true and fair view of the financial position/ performance of the Company.

**B. Impairment of assets in FY 2019-20 amounting to Rs.868.30 Crore**

13. BGL had recorded an impairment of Rs.863.80 Crore in the consolidated financial statement for the FY 2019-20. However, on examining the Standalone Financial Statements of BGL, no impairment of assets in FY 2019-20 was observed. This indicated that the said impairment was on account of subsidiaries.
14. The breakup of the assets impaired by subsidiaries of BGL during FY 2019-20 is given below:

#	Particulars	Amount (INR Crore)
A	<b>Loans and Advances:</b>	<b>363.80</b>
	Long-term loans given to service providers	26.89
	Short-term loans given to publishers/agencies	336.91
B	<b>Other Current assets:</b>	<b>504.50</b>
	Tools	218.12
	Software	148.76
	Hardware	98.77
	Salaries	38.85
	<b>Total</b>	<b>868.30</b>

15. Following is the subsidiary-wise break up of assets impaired with amount in Crores:

	Subsidiary	Country	(INR Crore)		
			Loans given (A)	Other current assets (B)	Total (A+B)
1	Online Media Solutions Ltd.	Israel	91.81	118.76	<b>210.56</b>
2	Frontier Data Management Inc	USA	43.23	94.88	<b>138.11</b>
3	YDL brant Digital Services De Publicidade	Brazil	27.12	76.92	<b>104.04</b>
4	DreamAd -Argentina	Argentina	43.82	36.73	<b>80.55</b>
5	International Expressions Inc	USA	51.22	20.20	<b>71.42</b>
6	DreamAd -Chile	Chile	14.97	48.65	<b>63.62</b>
7	Dyomo Corporation	USA	27.50	32.13	<b>59.63</b>
8	Max Interactive Pty Ltd.	Australia	29.82	28.42	<b>58.24</b>
9	DreamAd -Panama	Panama	27.59	17.86	<b>45.45</b>
10	DreamAd -Mexico	Mexico	6.72	29.94	<b>36.67</b>
	<b>Total</b>		<b>363.81</b>	<b>504.50</b>	<b>868.30</b>



16. Following is the subsidiary-wise break up of assets impaired with amount in USD:

(In USD)					
#	Subsidiary	Country	Loans given (A)	Other current assets (B)	Total (A+B)
1	Online Media Solutions Ltd.	Israel	16,754,380	12,952,800	<b>29,707,180</b>
2	Frontier Data Management Inc	USA	13,386,267	6,099,232	<b>19,485,499</b>
3	YDL Brant Digital Services De Publicidade	Brazil	10,852,785	3,826,076	<b>14,678,861</b>
4	DreamAd -Argentina	Argentina	5,181,880	6,182,124	<b>11,364,004</b>
5	International Expressions Inc	USA	2,849,946	7,226,869	<b>10,076,815</b>
6	DreamAd -Chile	Chile	6,863,842	2,112,046	<b>8,975,887</b>
7	Dyomo Corporation	USA	4,532,714	3,880,439	<b>8,413,153</b>
8	Max Interactive Pty Ltd.	Australia	4,009,691	4,207,412	<b>8,217,103</b>
9	DreamAd -Panama	Panama	2,520,188	3,891,972	<b>6,412,160</b>
10	DreamAd -Mexico	Mexico	4,224,536	948,388	<b>5,172,923</b>
	<b>Total</b>		<b>71,176,229</b>	<b>51,327,358</b>	<b>122,503,586</b>

17. BGL provided the books of accounts of the following 10 subsidiaries (in which impairment had occurred in FY 2019-20) for the Investigation period:

#	Subsidiary	Format of Data provided	Whether subsidiary's financials are audited
1	Online Media Solutions Ltd. ('OMS')	Books of accounts provided in Tally ERP	Yes
2	DreamAd Mexico ('DA Mexico')		No
3	Max Interactive Pty Ltd. ('Max Int')		No
4	YDL Brant Digital Services De Publicidade ('YDB')		No
5	DreamAd Argentina ('DA Argentina')		No
6	DreamAd Panama ('DA Panama')		No
7	DreamAd Chile ('DA Chile')		No
8	Dyomo Corporation ('Dyomo')	Ledger extracts provided in Excel Spreadsheet (narration was not found in most entries)	Yes
9	International Expressions Inc ('IE')		Yes
10	Frontier Data Management Inc ('FDM')		Yes

*The books of accounts of subsidiaries were maintained in USD, while the books of account of BGL were maintained in Indian Rupees.*

### C. Accounting Policy in respect of Intangible Assets:

18. The impaired products/platforms of Rs. 504.50 Crore were classified under the head 'Other current assets' in the Consolidated Balance Sheet of BGL. Further, on examination of the audited Consolidated Financial Statements of

BGL, separate heads such as 'Other Intangible Assets' and 'Intangible Assets Under Development' were noted in the in the Balance Sheet, as shown below:

Brightcom Group Limited			
Consolidated Balance Sheet as at 31st March 2020			
Particulars	Note	As at 31st March 2020	As at 31st March 2019
		Rupees	Rupees
<b>ASSETS</b>			
<b>Non-current assets</b>			
Property, plant and equipment	4	222,715,234	243,113,410
Capital work in Progress	4	1,357,820,039	1,477,838,147
Investment property	5	2,195,210	2,195,210
Other intangible assets	4	6,727,197,811	4,998,488,399
Intangible assets under development	4	1,318,937,951	1,368,317,482
<b>Financial assets</b>			
- Investments	6	2,511,464,733	2,254,582,790
- Loans	7	1,000,726,064	1,651,251,125
- Others financial assets	8	166,005,017	137,444,396
Deferred tax assets (net)	9	38,315,105	35,068,888
Non- Current tax assets (net)	10	6,836,507	6,269,388
Other non-current assets	11	307,419,850	298,277,651
<b>Total Non-current assets</b>		<b>13,659,633,521</b>	<b>12,472,846,886</b>
<b>Current assets</b>			
<b>Financial assets</b>			
- Trade receivables	12	9,747,115,394	8,897,768,596
- Cash and cash equivalents	13	1,189,426,542	1,025,790,311
- Other bank balances	14	556,659	556,659
- Loans	15	6,525,993,631	6,836,029,959
- Other Financial Assets	16	3,256,938	4,243,808
Other current assets	17	1,574,046,727	5,405,782,643
<b>Total Current assets</b>		<b>19,040,395,891</b>	<b>22,170,171,976</b>
<b>Total assets</b>		<b>32,700,029,412</b>	<b>34,643,018,862</b>

19. Vide summons dated February 23, 2022, BGL was asked to provide bifurcation of impaired current assets in two categories, viz. Assets Created/Owned by the Company and Third Party Assets, and their usage terms. The Company was further asked whether the discontinued products were being developed for customers, and if so, to provide the respective contracts with customers. Further, the Company was also asked why Impaired products formed a part of Current Assets under the head 'Other Receivables' in the Balance Sheet, instead of Intangible assets/CWIP.
20. The Company replied vide letter dated March 02, 2022 and submitted that all impaired current assets were under the category "created/owned" and were used for internal purposes only. The part which was under the head "current assets", which were related to products under development, remained in that category. The finished products move into intangible assets.
21. Further, the past CFO of BGL, Mr. Yepuri Srinivasa Rao, in his statement recorded before the Investigating Authority, SEBI ("IA") on June 01, 2022

*stated, "As per my knowledge, expenditure incurred on products developed for internal use is shown as "Other Current assets" and expenditure incurred on products which results in patents etc., are recorded as "Intangible under development".*

22. CFO of BGL, Mr. Narayana Raju S. L., during his statement recording before the IA on October 13, 2022 was asked about the accounting policy followed by BGL and its subsidiaries in recognizing its intangible assets. The CFO responded by referring to BGL's letter dated October 11, 2022, wherein it was stated:

*"At BCG, we keep investing on our products on a continuous basis. This will help us to stay up to date with changing market / statutory compliance related requirements and to provide robust and holistic solutions to our customers that meets regulatory requirements as well.*

*For example, if we launch the Content Optimization product in 2014, we keep upgrading it on an annual basis and the relevant expenditure is recognized as addition to Other Current Assets / Intangible Assets Under Development / Other Intangible Assets based on the product development status of each product. A brief note explaining the process and nomenclature is given below:*

*Other Current Assets: All the expenses incurred towards Salaries, Software, Tools and Hardware during the Concept, Design and prototype building stage are classified as Other current assets*

*Intangible Assets Under Development and Capital Work in Progress: Once the prototype is build is complete, the product / component will then move to testing and soft launch stage. The soft launch is required to test for bugs and customer-level testing. The bug fixing is also part of this stage.*

*In addition to the expenses related to this activity, portion of "Other Current Assets" relevant to each product / component for which testing and soft launch is completed will be moved to this head of account.*

*Other Fixed Assets/Intangible Assets: Once the product/component is commercially launched all the expenses related to the product/component are then classified / recognised as:*

1. *Fixed Assets: Expenditure related to Computer Equipment, Furniture & Fixtures, Software Licenses, Tools etc., will be recognized under this head.*
2. *Other Intangible Assets: All the expenditure towards Salaries, Cost of Outsourced Services and similar costs will be recognized under this head.”*

23. Further, BGL had also furnished its Accounting Policy for Classification of Product Development Expenditure vide its response dated October 11, 2022, which is given below:

***Accounting Policy for Classification of Product Development Expenditure***

*Brightcom group keeps investing in Product Development activities viz., upgrading existing products and developing new products on a continuous basis. The relevant expenditure is recognized as addition to Other Current Assets / Intangible Assets Under Development / Other Intangible Assets based on the product development status of each product.*

***Other Current Assets:*** *All the expenses incurred towards Salaries, Software, Tools and Hardware during the Concept, Design and prototype building stage are classified as Other current assets*

***Intangible Assets Under Development and Capital Work in Progress:*** *Once the prototype is build is complete, the product / component will then move to testing and soft launch stage. The soft launch is required to test for bugs and customer-level testing. The bug fixing is also part of this stage.*

*In addition to the expenses related to this activity, portion of “Other Current Assets” relevant to each product / component for which testing and soft launch is completed will be moved to this head of account.*

***Other Intangible Assets / Fixed Assets:*** *Once the product / component is commercially launched all the expenses related to the product / component are then classified / recognized as:*

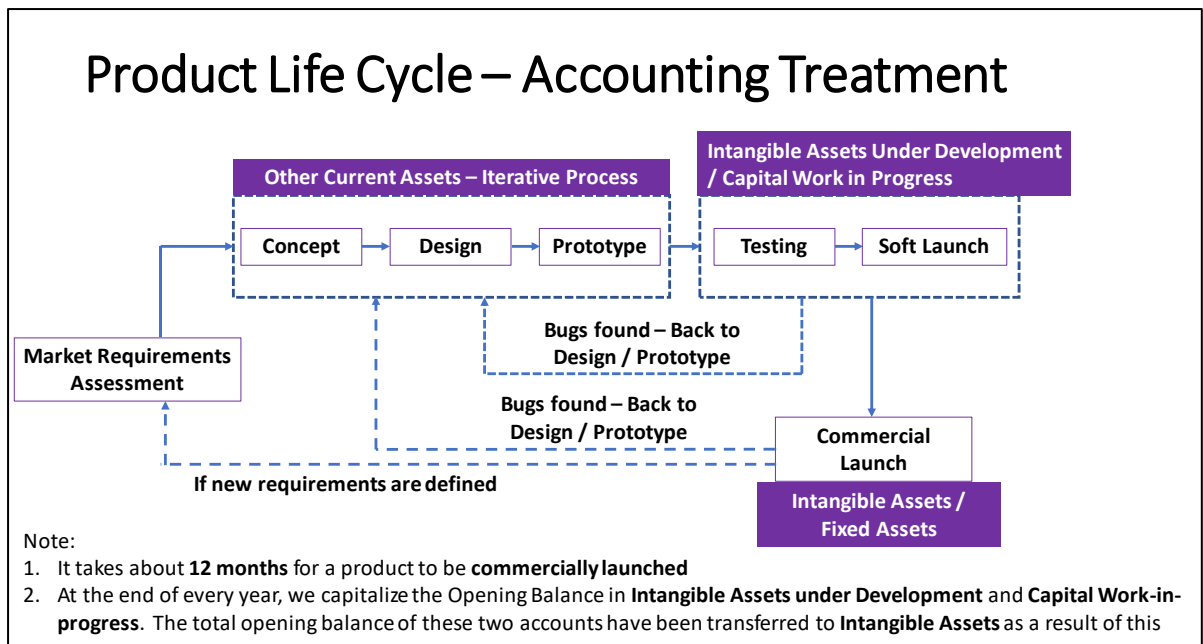
***1.Fixed Assets:*** *Expenditure related to Computer Equipment, Furniture & Fixtures, Software Licenses, Tools etc., will be recognized under this head*

***2. Other Intangible Assets:*** *All the expenditure towards Salaries, Cost of Outsourced Services and other similar costs will be recognized under this head*

*The monthly expenses incurred are maintained separately in Excel workbooks for Operational convenience. At the end of a given financial year each product / component will be in a different stage of development. At the year end, the status of each product / component is assessed, and the*

expenditure is classified into different heads of account by passing one single entry. This process is adopted consistently since inception.

24. Mr. S L Narayana Raju, the CFO of the Company, during his statement recording before IA, provided his responses on the accounting policies followed by the Company. Vide email dated October 17, 2022, he also provided a flow chart explaining the accounting treatment followed for recognition of Intangible Assets, which is as under:



25. After analyzing the responses provided by the Company and its CFO, the following observations were made in respect of the accounting policy of BGL vis-à-vis the applicable accounting standards:
- (a) BGL doesn't classify the asset generation life-cycle into Research Stage and Development Stage, as required under Accounting Standard 26 and IND AS 38 for accounting purpose.
  - (b) All the expenses incurred towards Salaries, Software, Tools and Hardware during the Concept, Design and prototype building stage were classified as '*Other current assets*'. These stages could not be clearly distinguished into the research and development phase and hence, should have been treated as if they were incurred in the research phase only and, hence, treated as expenses when they are incurred.

- (c) Once the prototype was complete, the product/component then had to move to testing and soft launch stage which would fall into Development phase. However, in addition to the expenses related to this development phase, portion of “*Other Current Assets*” (i.e. expenses incurred during research phase which should have been treated as expenses) relevant to each product/component for which testing and soft launch was completed, also got recognized as Intangible Assets Under Development and Capital Work in Progress. The same was not in accordance with Accounting Standard 26 and IND AS 38.
- (d) Though BGL’s product development involved research and development phases, expenditure incurred did not get recognized as expense when it was incurred. The expenditures may either get capitalized directly or get recognized as current assets initially and then get reclassified as Intangible assets under development or intangible asset.
26. In view of the above, it was observed that the accounting policy followed by BGL led to overcapitalization of the Intangible assets which resultantly led to inflation of profits.

**D. Inconsistencies in the data provided with respect to initial recognition of impairment:**

27. Investigation revealed that assets recorded in books of accounts (prior to and during the Investigation Period) were partially impaired. However, the time when these assets were initially recognized and the period for which they continued to be recognized could not be ascertained. BGL furnished four different responses with respect to initial recognition of the impaired assets in the books of accounts of its subsidiaries and consolidated financial statements. The details of these sets are given below:

Data Set 1 – As per BGL’s response vide letter dated 23 Feb 2022, the ‘*Other Current Assets*’ impaired by the subsidiaries of BGL in FY 2019-20, aggregating to Rs.504.28 Crore (USD 7.12 Crore) were initially recorded in FY 2018-19.

Data Set 2- From BGL’s email dated June 24, 2022, it was observed that the above-mentioned assets of Rs.504.28 Crore were recorded during the period FY 2016-17, FY 2017-18 and FY 2018-19.

Data Set 3 - On review of books of accounts, it was noted that ‘Other current assets’ had started getting initially recorded even prior to April 2014 and continued till FY 2019-20. However, from the ledger account, individual mapping of the impaired asset could not be carried out with the recognized assets and hence it could not be ascertained in which year the impaired assets were initially recognized.

Data Set 4 – As per the product-wise and year-wise breakup of impaired expenses provided by BGL vide letter dated Oct 11, 2022, the other current assets had started getting initially recorded even prior to April 2014 and continued till FY 2019-20.

28. An example of inconsistencies in four data sets, as regards the accounting records of YDB, in the ledger “Salaries -OCA”, is provided below:

Amount in USD

Period	As per books of accounts (Data set 3)			Impaired asset recorded as per <u>Data set 1</u>	Impaired asset breakup as per <u>Data set 2</u>	Impaired asset breakup as per <u>Data set 4</u>
	Ledger	Transaction Amount	Balance amount			
	Opening bal.	127,025	127,025	-	-	127,025
<b>FY 2014-15</b>	Salaries for OCA	472,934	599,959	-	-	456,046
<b>FY 2015-16</b>	Salaries for OCA	23,372	623,331	-	-	21,354
<b>FY 2016-17</b>	Salaries for OCA	97,982	721,313	-	344,706	97,982
<b>FY 2017-18</b>	Salaries for OCA	16,150	737,463	-	239,930	16,150
<b>FY 2018-19</b>	Salaries for OCA	180,402	917,865	8,98,961	314,325	180,402
<b>FY 2019-20</b>	Salaries for OCA	208,431	1,126,296	-	-	
<b>FY 2019-20</b>	<b>Impairment</b>	<b>(898,961)</b>	227,335	-	-	
			<b>Total</b>	<b>898,961</b>	<b>898,961</b>	<b>898,961</b>

29. As a result of wrong classification of expenditure during the research phase (and/or during the phase which cannot be clearly distinguished into research and development phases) and wrongful capitalization of subsequent expenditure on intangible assets, the financial statements of BGL were found to be misstated. However, it was not possible to clearly pinpoint as to which years’ financial statements are misstated as the same would be dependent

on which data set is correct. All the four possibilities are given in the Table below:

Annual Consolidated figures for the financial years (INR Lakhs.)								Total
Particulars	Prior to 2014-15	Investigation Period						
		2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	
Reported Profit Before Tax		52,199	60,013	61,901	59,035	60,855	61,714	
Reported Profit After Tax		34,222	40,505	42,924	40,700	44,397	44,010	
<u>The FY wise break up of expenditure wrongly recognised as "Other Current Assets":</u>								
As per data Set 1	-	-	-	-	-	50,449.71	-	50,450
As per data Set 2	-	-	-	11,533.79	14,003.37	25,015.87	-	50,553
As per data Set 3	In absence of detailed breakup, individual mapping of the impaired asset could not be carried with the recognised assets and hence it could not be ascertained in which year the impaired assets were initially recognised.							
As per data Set 4	1,964.74	11,399.78	7,010.24	12,208.81	8,037.69	9,007.69	1,065.93	50,695
<u>Profit Before Tax if correct accounting treatment was followed:</u>								
Data set 1		52,199.00	60,013.00	61,901.00	59,035.00	10,405.29	61,714.00	
Data set 2		52,199.00	60,013.00	50,367.21	45,031.63	35,839.13	61,714.00	
Data set 3	Not Ascertainable							
Data set 4		40,799.22	53,002.76	49,692.19	50,997.31	51,847.31	60,648.07	
<u>Profit After Tax if correct (Ignoring Taxation impact) accounting treatment was followed:</u>								
Data set 1		34,222.00	40,505.00	42,924.00	40,700.00	-6,052.71	44,010.00	
Data set 2		34,222.00	40,505.00	31,390.21	26,696.63	19,381.13	44,010.00	
Data set 3	Not Ascertainable							
Data set 4		22,822.22	33,494.76	30,715.19	32,662.31	35,389.31	42,944.07	

30. Notwithstanding which data set is correct, it was inferred that BGL had wrongly classified the expenditure incurred during the research phase and research-cum-development phase (the phase in which BGL could not distinguish the research phase from the development phase) of the creation of intangible assets to the tune of 504.49 crores as current assets. However, this expenditure should have been recognized as expenses in Profit & Loss Account, in conformity with the Accounting Standard 26 (FY 2014-15 & 2015-16) and IND AS 38 (FY 2016-17 to FY 2019-20). However, the Company failed to do so.
31. The non-compliance by BGL with Accounting Standard AS 26 in preparation and presentation of the financial statements for the FY 2014-15 was in violation of Clauses 49 (I)(C)(1)(a) and 50 of the erstwhile Listing Agreement. Further, the non-compliance by BGL with Accounting Standard 26 (for FY



2015-16) & Indian Accounting Standards (“**Ind AS**”) 38 (FY 2016-17 to FY 2019-20) was in violation of Regulation 4(1)(a), (b), (c), (d) (e), (g), (h), (i), (j), 4(2)(e)(i), 33(1)(c) & 48 of SEBI (LODR) Regulations 2015.

**E. Accounting treatment of impaired assets:**

32. As per Auditor’s report, the consolidated financial statements of BGL for FY 2019-20 were prepared in accordance with Ind AS, as prescribed under Section 133 of the Companies Act, 2013 and the rules therein.
33. Para 60 of the Ind AS 36 which deals with the recognition of impairment loss, provides that *“An impairment loss shall be recognised immediately in profit or loss, unless the asset is carried at revalued amount in accordance with another Standard (for example, in accordance with the revaluation model in Ind AS 16). Any impairment loss of a revalued asset shall be treated as a revaluation decrease in accordance with that other Standard.”*
34. Further, para 61 of the said Ind AS 36 provides that *“An impairment loss on a non-revalued asset is recognised in profit or loss. However, an impairment loss on a revalued asset is recognised in other comprehensive income to the extent that the impairment loss does not exceed the amount in the revaluation surplus for that same asset. Such an impairment loss on a revalued asset reduces the revaluation surplus for that asset.”*
35. From the above, it was observed that in the absence of any revaluation of assets, as per Ind AS 36, the Company was required to give effect of the impairments in the Profit or Loss in the same financial year.
36. On examining the Audited Financial Statements of FYs 2014-15 to 2019-20, it was observed that there were no disclosures pertaining to revaluation surplus in relation to any asset during the aforesaid financial years. However, on examining the Audited Consolidated Financial Statements of BGL for FY 2019-20, it was observed that the impairment of assets of Rs.868.30 Crore was disclosed under ‘*Other Comprehensive Income*’ (“**OCI**”).
37. In respect of the above, BGL vide response dated March 03, 2022 stated, *“The impairment loss incurred for the year ending 31-3-2020 is extraordinary in nature. The Impairment of assets was to be done due to regulatory*

changes i.e. introduction of the General Data Protection Regulation (GDPR) laws. This Impairment was included under the other comprehensive income because the expenditure incurred was yet to be realized as of 31-3-2020 but was impaired due to the change in GDPR laws.”

38. Further, the statutory audit firm of BGL for FY2019-20 vide email dated 15 June 2022, stated that the impairment of assets was extra-ordinary item and not a direct expenditure of Indian Parent and hence did not have direct bearing on the profitability of the Company, because of which it was recognized under Other Comprehensive Income. As regards compliance with Ind AS 36, the Audit Firm stated that the treatment of impairment of assets, as mentioned in the para 60 & 61 of the Ind AS 36, was applicable to the Parent Company only. In the instant case, the assets impaired pertained to subsidiaries and hence the treatment followed by the Company was correct for comprehensive presentation of the financial statements.
39. In the instant matter, as the assets impaired were in the nature of ‘trade advances’, ‘capital work in progress’ and ‘intangible assets under development’, none of which was revalued, the Company was required to give effect of their impairment in Profit or Loss, as required under Ind AS 36. Thus, the recognition of impairment losses of these assets under OCI was not in compliance with Ind AS 36. Had the impairment losses of these assets been recognized in Profit or Loss, the loss for the FY 2019-20 would have been Rs.428.20 Crore (ignoring impact of taxation due to additional expenditure) as against reported profit of Rs.440.10 Crore.

<b>In Rupees</b>		
<b>Particulars</b>	<b>Reported Figures</b>	<b>Figures after correct accounting treatment (Ignoring Taxation impact)</b>
Total Revenue	26,92,31,83,759	26,92,31,83,759
Total Expenditure	20,89,32,25,648	29,57,62,79,913
Profit before tax	6,17,14,25,776	(2,65,30,96,154 )
Profit after Tax	4,40,10,47,305	(4,28,20,06,960 )

40. The non-compliance by BGL with Ind AS 36 in the preparation and presentation of the financial statements was in violation of Regulation 4(1)(a), (b), (c), (d) (e), (g), (h), (i), (j), 4(2)(e)(i), 33(1)(c) & 48 of SEBI (LODR) Regulations, 2015.

**F. Disclosure as per Ind AS 36 - Impairment of Assets:**

41. On examining the audited financial statements of BGL for FY 2019-20, it was observed that though there was impairment loss of Rs.868.30 Crore, no disclosure of the events and circumstances that led to the recognition of such impairment losses was made, as required under Para 130 of “Ind AS 36 – Impairment of Assets”.
42. Further, Mr. Suresh Kumar Reddy, CMD of BGL, during his statement recording before the IA on March 17, 2022, agreed with SEBI’s observations that the disclosures required under Para 130 of Ind AS 36 were not made by the Company.
43. From the above, it is evident that BGL did not make the disclosures w.r.t the events and circumstances that led to the recognition of the impairment loss in the preparation and presentation of the financial statements for the FY 2019-20, as required under Ind AS 36. The same was in violation of Regulation 4(1)(a), (b), (c), (d) (e), (g), (h), (i), (j), 4(2)(e)(i), 33(1)(c) & 48 of SEBI (LODR) Regulations, 2015.

**G. Review of Impairment Assessment for the assets carried out by BGL**

44. The following sequence of events were observed based on BGL’s reply dated September 27, 2021 and February 23 2022:

Period	Event
April 2016	GDPR was introduced
Prior to April 2014 to March 2020	Recording the ‘Loans and advances’ of INR 364 Crore and ‘Other Current Assets’ of INR 504 Crore <i>(based on the ledger extracts and books of accounts of respective subsidiaries)</i>
May 2018	GDPR became effective; BGL declared itself as GDPR compliant
March 2020	Impairment of INR 868 Crore <i>(Loans and Advances - INR 364 Crore and Other Current Assets - INR 504 Crore)</i>
March 2020 onwards	Covid-19 pandemic

45. Para 9 of Ind AS 36 states *“An entity shall assess at the end of each reporting period whether there is any indication that an asset may be impaired.”* Further, paragraph 12 of the said standard states that in assessing whether there is any indication that an asset may be impaired, an entity shall consider, as a minimum, various indications, including significant changes with an adverse effect on the entity that have taken place during the period, or will take place in the near future, in the technological, market, economic or legal environment in which the entity operates or in the market to which an asset is dedicated.
46. From the Official Journal of the European Union dated May 04, 2016, it was observed that GDPR was enacted by European Parliament in April 2016 and became applicable w.e.f May 25, 2018. The Company had claimed that the introduction of GDPR had an adverse impact which led to impairment of assets in FY 2019-20.
47. It was noted from BGL’s Minutes of the Board meeting dated 29 May 2018 that BGL had declared itself as GDPR compliant in May 2018. Further, BGL also made a similar announcement dated 25 May 2018 on its website as well as in its Annual Report for FY 2019-20. Further, BGL in its letter dated October 11, 2022, to SEBI, had stated:
- “GDPR was originally proposed on April 14, 2016 with a primary aim of providing the individuals control and rights over their personal data and applies to any enterprise—regardless of its location and the data subjects’ citizenship or residence—that is processing the personal information of individuals inside the EU.*
- For Digital Marketing Industry, in which BCG operates, personal data forms the core of business. The personal data gathered is used for different purposes like assessing the consumer behavioral patterns, providing relevant advertisements based on customer’s age group, income group, gender, geographic location, interests, habits / hobbies, seasonality of purchases and so on.*
- Going by general perception, it is this huge increase in collection and usage of data for personalized marketing which has triggered introduction of GDPR. The GDPR is a sweeping attempt to put the individual back in control of their personal data, which means marketers need to work harder for their access to and use of it.*

*Once GDPR regulations came into effect, BCG has started reviewing all the products components for compliance and to understand the changes that need to be made to each of them to ensure that the consumer data is collected in a way that meets the GDPR requirements.*

*During the course of review there were several products / components which were identified as non-compliant and some of the products / components needed tweaks to make them meet the requirements. Please find attached the entire Product List in Exhibit 5.”*

48. The Board minutes of BGL dated June 25, 2020 highlighted that *“The management with the advice of the competent technical teams had taken decision of impairing the assets.”*
49. With respect to non-impairment of assets due to introduction of GDPR, BGL vide its response dated March 03, 2022 had stated as follows:  
  
*“The official implementation date was 21 May 2018 and we were compliant as per our internal testing and load testing prior to going to production on that said date. However, its company’s practice to observe the functionality of the compliance for an additional 6 months to make sure no bugs or glitches would surface. In that context by the time it was all said and done, to be thinking of the lightened assets and their impaired value, we entered into FY2019-20”.*
50. From the above, it was observed that impairment due to introduction of GDPR had to be done latest by November 2018, whereas it was done in FY 2019-20 and there was a delay of more than a year in observing the functionality and the actual impairment date (i.e. Nov 2018 to Mar 2020).
51. BGL’s in its response dated October 11, 2022 had stated that the Company was still in the process of upgrading the products to meet GDPR requirements by tweaking, testing and observing functionality both for compliance and stability. Hence, because of this exhaustive testing, identifying bugs and assessing if such bugs could be fixed for each product and its components, the decision to impair was taken in FY 2019-20.
52. BGL was asked to furnish the reports of the testing performed in 2018 and 2020 by the technical team of the Company. However, BGL failed to provide the same.

53. Further, BGL vide response dated March 03, 2022 stated that it did *not test the assets for impairment during FY 2016-17 and FY 2018-19*. Also, BGL in its response dated October 11, 2022 stated: *“While testing of products and components is an ongoing activity, we did not test any assets during FY 2016-17 and 2018-19 with a view to impair them. There was no intention to Impair the assets. We were continuously trying to upgrade our products / components to meet GDPR requirements. The assets to impair was only taken after an extensive effort and after confirming that those assets will not be useful in future.”*
54. However, it was observed that the note forming part of consolidated financial statements of BGL for FY 2018-19, stated *“Impairment of Non-financial assets”- “The carrying amounts of assets are reviewed at each balance sheet date if there is any indication of impairment based on internal/external factors. An impairment loss is recognized wherever the carrying amount of an asset exceeds its recoverable amount. The recoverable amount is the greater of the asset’s net selling price and value in use. In assessing value in use, the estimated future cash flows are discounted to their present value at the weighted average cost of capital. After impairment, depreciation is provided on the revised carrying amount of the asset over its remaining useful life”*.
55. As observed above, the GDPR was introduced in April 2016 and the same became effective two years later in May 2018, which was indicative of significant changes with an adverse effect on BGL in the technological, market, economic or legal environment in which the Company operated or in the market to which its assets were dedicated. However, it was found that the Company had not followed its own declared accounting policies pertaining to review of assets for impairment.
56. Had BGL tested the assets that were impaired in 2019-20 for impairment in 2016-17 to 2018-19, the impairment of these assets would have been taken place in earlier years itself. Even after declaring itself compliant with GDPR in April 2018, BGL continued to show these assets at their carrying amounts, without recognizing impairment loss.

57. The argument of the Company that impairment loss was not recorded in the earlier years as it was observing the functionality of the compliance for an additional six months was unacceptable as the Ind AS 36 required an entity to assess at the end of each reporting period whether there was any indication that an asset might be impaired. If any such indication existed, the Company was required to estimate the recoverable amount of the asset. If, and only if the recoverable amount of an asset was less than its carrying amount, then the carrying amount of the asset was required to be reduced to its recoverable amount and such reduction was to be taken as an impairment loss. An impairment loss was required to be recognized immediately in profit or loss.
58. Further, the Company's contention was also untenable for the fact that after recognizing the impairment loss, at a later date, if the asset that was impaired due to GDPR was upgraded to meet the GDPR requirements, then it was open to BGL to reverse the impairment loss in accordance with para 110 & 111 of Ind AS 36.
59. The abovementioned non-compliance by BGL with requirements of Ind AS 36 w.r.t not carrying out annual impairment testing in the preparation and presentation of the financial statements for the FYs 2016-17 to 2018-19 resulted in violation of Regulation 4(1)(a), (b), (c), (d) (e), (g), (h), (i), (j), 4(2)(e)(i), 33(1)(c) & 48 of SEBI (LODR) Regulations, 2015.

**H. Observations in respect of Impairment of Investment/ loans to subsidiaries amounting to of INR 411.76 Crore in FY 2018-19:**

60. On examining the Audit Report of Consolidated Financial Statements of BGL for FY 2018-19, it was observed that BGL's subsidiary, Ybrant Media Acquisition Inc. recorded an impairment of assets of INR 411.76 Crore in FY 2018-19. The details, as mentioned in the Audit Report, are as under:

*"f) The Subsidiary company M/s. Ybrant Media Acquisition Inc. has acquired M/s. Lycos Inc. M/s. Ybrant Media Acquisition Inc. has failed to pay part consideration of USD 16 Million for acquisition of M/s. Lycos Inc., to Daum Global Holdings Corporation and the district court of New York has given judgment to handover back 56 % equity in M/s. Lycos Inc. to M/s. Daum*

*Global Holdings Corporation. In the current financial year M/s. Ybrant Media Acquisition Inc. has written off its investment in M/s. Lycos Inc., an amount of USD 38 Million in the statement of profit & loss under the head other comprehensive income and the outstanding liability of USD 16 Million is continuing in the financials as the dispute still going on. Also the Reserves which are in existence as at 1st April 2018 in respect of previous financial year consolidation of Lycos Inc., into Ybrant Media Acquisition Inc. has been written off in the current financial year 2018-2019 amounting to Rs. 244.06 crores.”*

61. BGL in its response to SEBI dated 11 November 2021 stated: *“We wish to inform you that the subsidiary (Ybrant Media Acquisition Inc., USA) has failed to pay part consideration due to Daum Global Holding Corporation in respect of acquisition of Lycos Inc., considering which the district court of New York has granted receivership of 56% shares of the Lycos Inc. back to Daum Global Holding Corporation. In the view of the same, the profits earned after acquisition and initial goodwill both put together came to \$ 63,102,165. This amount is written off and after conversion in INR it came to INR 411.76 Crore”.*
62. On review of the Standalone Financial Statements of BGL for FY 2018-19, it was observed that BGL, it had reported an investment of INR 126.52 Crore in its wholly owned subsidiary, Ybrant Media Acquisition Inc. (“YMA”). Further, as per the Consolidated Financial Statements for FY 2018-19, there was a write-off of Rs. 411.76 Crore pertaining to YMA.
63. On examination of the Financial Statements of YMA for FY 2018-19, it was observed that it had written off INR 411.76 Crore in its balance sheet and there was a corresponding write-off in the P&L in FY 2018-19. Further, its revenue from operations, expenses and profit/Loss for FY 2018-19 and FY 2019-20 was NIL and following balances were noted as on 31 March 2020:
- Total Assets – Rs. 61.46 Crore (Loans)
  - Other current liabilities – Rs. 165.56 Crore
  - Negative Equity – (Rs. 104.10 Crore)



64. On conducting public domain searches, it was further observed that YMA had filed for bankruptcy in 2016. This was further confirmed by Statutory auditors in their report on Audited Financial Statements for FY2016-17.
65. YMA had negative equity in FY2018-19 of –Rs.95.51 Crore and in FY2019-20 of -Rs.104.10 Crore). Further, it was noted that BGL had neither created any provision against the investment in its subsidiary (YMA) of INR 126.52 Crore nor written off its investment in its subsidiary, YMA.
66. BGL vide response to SEBI dated March 03, 2022 stated the following rationale for not writing off the investment:
- “This amount of approximately \$20 million was invested into YMA in 2010 to be used as the first payment in the acquisition of Lycos Inc. from the sellers Daum Global Holding Corporation. The total value of acquisition was supposed to be \$36 million subject to certain clauses of performance. However, a dispute arose in this regard and we went to arbitration in Singapore and subsequent to that Daum filed the arbitration judgment in US court to reclaim Lycos back or have us pay a higher amount to complete the transaction. In this context as your good self is well aware that US laws allows for a Chapter 11 protection which is primarily to give the buyer time to come up with a payment plan and not close down the company. It is in effect similar to a stay order to stop them from taking the asset back and rework a payment settlement.*
- We are now in the process / negotiating a final settlement amount and working on putting it down into a settlement agreement which will bring the asset “Lycos INC” back to the fold of Brightcom group.*
- This is the reason we did not write off the investment”.*
67. Shri M. Suresh Kumar Reddy, CEO and MD of BGL, during his statement recording before IA on March 17, 2022, was asked about the expected date to complete the transaction i.e. acquisition of "Lycos Inc.". He was also asked on what basis was the Management certain of executing the above transaction, and if not, why the Management had not created any provision for the same. He was further asked whether there was any agreement for a refund of \$20m (initial investment in Ybrant Media Acquisition) if the deal did

not come through. In response, Mr. Reddy stated that the Management was expected to close the transaction in coming few quarters and the approximate date was October/November 2022. Regarding the issue of provisioning, Mr. Reddy stated that the Management was in the final stages of settling the final payment for the said acquisition and they strongly believed that the said asset would return to the Group's (Company's) control. Hence, they thought that the investment was still valid and valuable. Regarding the issue of refund, Mr. Reddy replied that *No refund was to be made on the investment.*

68. BGL did not furnish any documentation such as Board resolutions, internal discussions, legal assessment from the Counsel, or other supporting documents of the plans for execution of the settlement deal with the sellers Daum Global Holding Corporation which were sought vide summons dated July 21, 2022. The Draft settlement agreement, which was shared, was neither dated nor signed.
69. BGL in its reply dated October 11, 2022 submitted that since Chapter 11 Bankruptcy case was filed which provided BGL with the breathing room necessary to complete settlement discussions with Daum and complete a capital raise through debt and/or equity financing with the assistance of Ybrant Digital, there was no need to create a provision.
70. As per para 12 of Ind AS 36: Impairment of assets, *"In assessing whether there is any indication that an asset may be impaired, an entity shall consider, as a minimum, the following indications for an investment in a subsidiary, jointly controlled entity or associate, the investor recognises a dividend from the investment and evidence is available that - the carrying amount of the investment in the separate financial statements exceeds the carrying amounts in the consolidated financial statements of the investee's net assets, including associated goodwill"*.
71. In the instant case, the carrying amount of BGL's investment in YMA, as disclosed in the separate financial statements, and the Net assets of YMA, as disclosed in the Annual Report for FY 2018-19 and 2-19-20 are as below:

(INR Crore)		
Particulars	As at March 31, 2019	As at March 31, 2020
Investment in YMA in the separate financial statements BGL	126.52*	126.52#
Net assets of YMA	(95.51)**	(104.10)##
Source	*Note No.6 at page 63 of Annual Report for the FY 2018-19  **Annexure-B at page 112 of Annual Report for the FY 2018-19	#Note No.6 at page 128 of Annual Report for the FY 2019-20  ##Annexure-B at page 207 of Annual Report for the FY 2019-20

72. As the carrying amount of the investment in the separate financial statements exceeded the carrying amounts of the investee's net assets in the consolidated financial statements, BGL should have impaired its investment in the subsidiary YMA in the FY 2018-19 in its standalone financial results, which it should have continued to maintain in the financial statements for the FY 2019-20 also, since the asset value continued to be negative in FY 2019-20 also.
73. The non-compliance by BGL with requirements of Ind AS 36 in not recognizing impairment loss w.r.t. its investment in the subsidiary despite indication of impairment in the preparation and presentation of the financial statements for the FYs 2018-19 & 2019-20 has resulted in violation of Regulation 4(1)(a), (b), (c), (d) (e), (g), (h), (i), (j), 4(2)(e)(i), 33(1)(c) & 48 of SEBI (LODR) Regulations, 2015.
74. Further, as already mentioned above, as per Para 130 of "Ind AS 36 – Impairment of Assets", a company has to disclose the events and circumstances that lead to the recognition of impairment losses. Accordingly, BGL was required to disclose the events which led to impairment of Rs.411.76 Crores in the financial statements for the FY 2018-19. However, from the audited financial statements of BGL for FY 2018-19, but it was observed that no such disclosure was made by BGL.

75. It was further observed from the Audited Consolidated Financial Statements of BGL for FY 2018-19 that the impairment of assets of Rs. 411.76 Crore was disclosed under OCI in the Consolidated Profit and Loss statement.
76. As per the Notes forming part of Consolidated financial statements for the year ended March 31, 2019 (Note No.2 at Page 88 of the Annual Report for the FY 2018-19), the consolidated financial statements of BGL for FY 2018-19 were prepared in accordance with Indian Accounting Standards (Ind AS) as prescribed under section 133 of the Companies Act, 2013 and the rules therein.
77. As already stated above, Para 60 of the Ind AS 36 which deals with the recognition of impairment loss, provides that *“An impairment loss shall be recognised immediately in profit or loss, unless the asset is carried at revalued amount in accordance with another Standard (for example, in accordance with the revaluation model in Ind AS 16). Any impairment loss of a revalued asset shall be treated as a revaluation decrease in accordance with that other Standard.”*
78. Further, para 61 of the said Ind AS 36 provides that *“An impairment loss on a non-revalued asset is recognised in profit or loss. However, an impairment loss on a revalued asset is recognised in other comprehensive income to the extent that the impairment loss does not exceed the amount in the revaluation surplus for that same asset. Such an impairment loss on a revalued asset reduces the revaluation surplus for that asset.”*
79. On examining the Audited Financial statements from FY 2014-15 till FY 2018-19, there were no disclosures pertaining to revaluation surplus in relation to any asset during the aforesaid financial years, implying that the assets which were impaired in FY 2018-19 were not revalued in the past during FYs 2014-15 to 2018-19. Further, as per note at page 93 of the Annual Report for the FY 2018-19, the Investment in subsidiaries were measured at cost less impairment.
80. In view of the above, BGL should have recognized the impairment loss of amounting to Rs. 411.76 Crore in profit or loss instead of Other Comprehensive Income. Had the impairment losses of these assets been

recognized in profit or loss, the profit for the year would have been Rs.32.21 Crore (ignoring impact of taxation due to additional expenditure) as against reported profit of Rs.443.98 Crore.

Particulars	Reported Figures	In Rupees
		Figures after correct accounting treatment (Ignoring Taxation impact)
<b>Total Revenue</b>	25,77,72,73,762	25,77,72,73,762
<b>Total Expenditure</b>	19,69,17,63,113	23,80,94,24,603
<b>Profit before tax</b>	6,08,55,10,649	1,96,78,49,159
<b>Profit after Tax</b>	4,43,97,61,048	32,20,99,558

81. The above non-compliance by BGL with Ind AS 36 in the preparation and presentation of the financial statements for the FY 2018-19 was in violation of Regulation 4(1)(a), (b), (c), (d) (e), (g), (h), (i), (j), 4(2)(e)(i), 33(1)(c) & 48 of SEBI (LODR) Regulations, 2015.

**I. The non-disclosure of impact of GDPR on the Company:**

82. The Company, vide its letter dated 27 Sept 2021 to SEBI, provided the following rationale for recording the impairment of assets worth INR 868.30 Crore in FY 2019-20:

*“The company has done impairment for the financial year 2019-20 due to the regulatory changes, i.e., introduction of GDPR and also due to the slowdown of business operations due to the COVID-19 pandemic and our future plans for the coming fiscal year in this environment. From time to time the company reviews the recoverability of advances. As per the IND AS, if there is any uncertainty about the timing of recoverability of assets, the same is to be impaired. As a prudent accounting practice, the management had taken decision to impair the advances”.*

83. The Company further stated that: *“The primary reason for impairment, especially on the OCA (Other current Assets) and current assets were due to the introduction of new cyber law in 2018 across the EU and various parts of the world called the GDPR”.*

84. As already stated earlier, GDPR was enacted by European Parliament in April 2016 and it became applicable w.e.f May 25, 2018. As per BGL’s Board

minutes dated June 25, 2020, GDPR was the primary reason for impairment of 'Other current assets' and 'current assets' in FY2019-20.

85. It was noted that if the reason for impairment of assets was the introduction of GDPR, as stated by the company, considering the value of assets impaired, the company should have made a disclosure to Stock Exchanges under Regulation 30 r/w clause 7 of para B of Part A of Schedule III of SEBI (LODR) Regulations, 2015.
86. SEBI had issued summonses dated February 23, 2022 and July 21, 2022 to the Company asking it to furnish copies of all the disclosures made by BGL in respect of introduction of GDPR. In response to the same, Mr. Suresh Kumar Reddy vide email dated August 02, 2022 submitted a copy of Press Release titled "*Brightcom Group -Ready for GDPR*" dated May 25, 2018 which was submitted to the stock exchanges on May 25, 2018. The relevant extracts that talks about GDPR is reproduced below:

*"The Brightcom Group, a global technology company that specializes in Internet-related services and products, which include Ad-tech, New Media and lot based businesses across the globe, primarily in the digital ecosystem, today announced its measures and readiness to the GDPR.*

*The GDPR, which takes effect this Friday, May 25, 2018, is data privacy and protection regulation defined and enforced by the European Union. The GDPR imposes new rules regarding the processing of Personal Data of data subjects' located in the EU. Key points about GDPR compliance are:*

*Key points about GDPR compliance which Brightcom has already worked upon are respecting data privacy, gathering consent & keeping proof of it, securing the digital infrastructure and training and preparing the teams to handle the customer's data, as mandated by GDPR Regulations.*

*Brightcom is well aligned with the underlying philosophy of GDPR and we see this as a great opportunity for firms, which are socially responsible towards integrity of private data of consumers, to actually surge ahead in deploying solutions that matter. We have established robust access controls and profile management to ensure that processes are in place", said Suresh Reddy, Chairman & CEO of the Brightcom Group."*

87. From the above press release, it was seen that Brightcom had stated that it had already established controls to ensure the compliance with GDPR. However, BGL did not make any specific disclosure in respect of financial impact of GDPR on the business of the Company in the FY 2018-19.
88. As per Section 134(3) of the Company's Act 2013, the report by Board of Director's which is part of Annual report of the company shall *inter alia* include "material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report". As noted earlier, GDPR was enacted by European Parliament in April 2016 and became applicable w.e.f. May 25, 2018. The Director's report for the Financial Years ended on March 31, 2016 and March 31, 2018 were dated November 21, 2016 and October 16, 2018, respectively. It was noted that even though the enactment of GDPR in April 2016 and applicability of GDPR w.e.f. May 2018, had material impact on the financial statements of the Company, there was no mention of these events in the Directors' Report of the company dated November 21, 2016 and October 16, 2018. Instead, both the reports stated "There are no Material Changes and Commitments affecting the financial position of the Company which occurred between the end of the financial year to which the financial statements relate and the date of this Report."
89. Regulation 34(2) of the SEBI (LODR) Regulations, 2015 provides that the annual report shall contain the Management Discussion and Analysis Report - either as a part of the Directors' Report or addition thereto. According to Schedule V of SEBI (LODR) Regulations, 2015, the Management Discussion and Analysis should *inter alia* include discussion on certain matters, viz. Industry structure and developments, Opportunities and Threats, Outlook, Risks and concerns. The Management Discussion and Analysis reports of the Company for the financial years ending March 31, 2017 to March 31, 2020 (i.e. all the financial years starting from the year in which GDPR was enacted in the European Parliament till the financial year in which the impairment of assets purportedly due to introduction of GDPR) were

examined and it was noticed that the Company had merely made the following disclosure in the said years:

*“Business can be affected by privacy legislations and other regulations. The Company discloses all its collection statements and dissemination practices in a published privacy statement in its website.”*

90. The above statement was found to be generic in nature and could not be said to be pertaining to GDPR and its impact on the Company due to following reasons:
- (a) The Company had made similar disclosures in the Management Discussion and Analysis Reports of Financial years ending March 31, 2013 to March 31, 2016 i.e. even prior to introduction of GDPR.
  - (b) The compliance requirements under GDPR were not just restricted to disclosure of published privacy statement on the Company’s website but also included other requirements.
91. In view of the above, it was observed that BGL had allegedly violated Regulation 30 r/w clause 7 of para B of Part A of Schedule III of SEBI (LODR) Regulations, 2015 for not making disclosure in respect of impact of introduction of GDPR on the functioning of the company. BGR had also allegedly violated Regulation 34(2) of the SEBI (LODR) Regulations, 2015 for not disclosing introduction of GDPR as Threats, Outlook, Risks or concerns in Management Discussion and Analysis statement in the Annual Reports for the financial years ending March 31, 2017 to March 31, 2020 (i.e. all the financial years starting from the year in which GDPR was enacted in the European Parliament till the financial year in which the impairment of assets purportedly due to introduction of GDPR).

**J. Observations on Transfer to Intangible Assets:**

92. On examination of the Consolidated Financial statements of BGL, it was noted that the note, *“Property, Plant & Equipment and Intangible assets”* included three categories: Intangible assets, Capital Work-in-Progress and Intangible Assets Under Development.



93. The examination revealed a trend wherein each year, the additions to the “Intangible Assets under Development” and “Capital Work-in Progress” were entirely transferred to “Intangible Assets” in the subsequent year. Further, the additions to “Intangible Assets under Development” and “Capital Work-in Progress” during each year, showed the closing balances under the said heads at the end of the said year. The same is shown in the table below:

Intangibles Under Development (Amount in INR, Crore)	FY2014-15	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20
<b>Opening balance</b>	19	165	102	71	176	137
<b>Add: Additions</b>	<b>165</b>	<b>102</b>	<b>71</b>	<b>176</b>	<b>137</b>	<b>132</b>
<b>Less: Sale/deletion</b>	(19)	(165)	(102)	(71)	(176)	(137)
<b>Closing balance</b>	165	102	71	176	137	132

Capital Work-In-Progress (Amount in INR, Crore)	FY2014-15	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20
<b>Opening balance</b>	22	105	70	(0)	125	148
<b>Add: Additions</b>	<b>105</b>	<b>70</b>	<b>0</b>	<b>125</b>	<b>148</b>	<b>136</b>
<b>Less: Sale/deletion</b>	(22)	(105)	(70)	0	(125)	(148)
<b>Closing balance</b>	105	70	(0)	125	148	136

Intangible assets (Amount in INR, Crore)	FY2014-15	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20
<b>Opening balance</b>	219	243	466	548	518	500
<b>Add: Additions</b>	42	281	172	71	301	285
<b>Less: Sale/deletion</b>					(238)	
<b>Less: Depreciation</b>	(17)	(58)	(90)	(102)	(82)	(112)
<b>Closing balance</b>	243	466	548	518	499	673

94. In this regard, BGL vide email dated October 17, 2022 had replied “*The average cycle time from the Concept design stage till commercial launch is about 12 months. Hence, at the end of every year, we capitalize the opening balances in Intangible Assets under Development and Capital Work in Progress. Any new additions during the year will continue to appear as closing balance.*”

95. The above explanation was found to be untenable, since it was unlikely that entire expenditure on concept stage was incurred on the very last day of the financial year which required BGL to transfer entire opening balance in CWIP/Intangible assets under development to Intangible assets at the end of subsequent financial. Further, Mr. Narayana Raju, the CFO of BGL, in his statement recorded before the IA on October 13, 2022 had admitted that it was difficult to generalize the time to commercially launch a product and that

each product / service offering would have its own level of complexity. He further submitted that while some of the products might take anywhere between 90 to 180 days to meet GDPR regulations, some product development activities might take more than a year or two.

96. Further, BGL vide letter dated October 11, 2022 stated that “*At BGL, we keep investing on our products on a **continuous** basis. This will help us to stay up to date with changing market / statutory compliance related requirements and to provide robust and holistic solutions to our customers that meets regulatory requirements as well.*”
97. From the above, it was clear that the generation cycle of every intangible asset not necessarily coincided with the start and the end of a financial year. Thus, the asset recognition practice at BGL was not in accordance with Accounting Standard 26 & Ind AS 38 which *inter alia* state that an intangible asset shall be recognized if, and only if it is probable that the expected future economic benefits that are attributable to the asset will flow to the entity.
98. The non-compliance by BGL with Accounting Standard 26 in preparation and presentation of the financial statements for the FY 2014-15 was allegedly in violation of Clauses 49 (I)(C)(1)(a) and 50 of the listing agreement. Further, the non-compliance by BGL with Accounting Standard 26 (for FY 2015-16) & Ind AS 38 (FY 2016-17 to FY 2019-20) in the preparation and presentation of the financial statements was in violation of Regulation 4(1)(a), (b), (c), (d) (e), (g), (h), (i), (j), 4(2)(e)(i), 33(1)(c) & 48 of SEBI (LODR) Regulations, 2015.

#### **K. Non-Disclosure of initiation of Forensic Audit:**

99. SEBI vide its letter dated September 16, 2021, had appointed the forensic auditor in the matter of BGL. The scope was to conduct forensic audit of the consolidated financial statements of the Company for the FYs 2014-15 to 2019-20 with a special focus on impairment of assets and expected to verify any manipulation in the Books of Accounts of the Company & its subsidiaries, misrepresentation and diversion/siphoning of Company funds, etc. The initiation of Forensic Audit was a material development in terms of Regulation 30 (1) (2) (6) read with Clause 17 of A of Part A of Schedule III of the SEBI (LODR) Regulations, 2015, which mandates that the fact of the initiation of

the forensic audit ought to be disseminated to the stock exchanges within 24 hours. However, the Company failed to do so.

100. SEBI vide email dated October 12, 2021 inter alia asked the Company the reasons for abovementioned non-disclosure of details pertaining to forensic audit initiation, till date. In response, the Company vide letter dated October 13, 2021 inter-alia submitted that vide letter dated October 1, 2021 it had already requested SEBI to withdraw the external audit. It further stated that the said audit was regarding the impairment of assets done for the financial year 2019-20 for which the company had submitted exhaustive list of information and clarifications to SEBI, due to which it was awaiting a positive response resulting in withdrawal of such audit.
101. It was observed that though the Company had made a request for withdrawal of audit, SEBI vide letter dated February 17, 2022 had informed BGL that its request for withdrawal of forensic audit was not acceded to. However, even after the said communication, no disclosure was made on the stock exchange in terms of Regulation 30 of SEBI (LODR) Regulations, 2015. Accordingly, the reason for non-disclosure was again sought from BGL vide email dated February 22, 2022. BGL vide its letter dated February 23, 2022 replied that all the details and documents required by SEBI had been submitted and no details were pending. It further stated that filing of the requisite disclosures should not be insisted upon.
102. From the above, it was observed that the Company had no intention to make the disclosure regarding initiation of forensic audit, despite repeated reminders. Accordingly, vide email dated February 28, 2022, NSE and BSE were directed to disseminate the SEBI letter dated September 16, 2021 captioned '*Forensic Audit Assignment in the matter of BGL*', pursuant to which, both the stock exchanges disseminated the aforementioned information on February 28, 2022, post trading hours on the stock exchange's website.
103. BGL, in response to the above, on February 28, 2022 after the disclosures by the exchanges, *inter-alia* submitted the following clarifications to the exchanges:

- a) 'On September 16, 2021, approximately five months ago, we received a letter from the Securities & Exchange Board of India, dated September 16, 2021, wherein they appointed a forensic auditor.
- b) The company represented to SEBI that the said audit was unnecessary because several internet companies had to take such charges globally, owing to the GDPR norms. However, SEBI on 25th February 2022 (Friday) intimated the company that this audit would be necessary. Accordingly, we are notifying the Exchanges.
- c) The Company is committed to extending its total cooperation in this regard, to the Regulator and Auditor.
- d) The Company shall inform the exchanges of any further developments in the matter.'

104. The above observations show that there was a substantial delay of 165 days in making the disclosure and that the Company had provided clarifications to the exchanges on February 28, 2022 only after disclosures were made by the exchanges pursuant to directions issued by SEBI. Accordingly, it was observed that the Company had failed to comply with Regulation 30 (1), (2) and (6) read with Clause 17 Schedule III Para A of Part A of SEBI (LODR) Regulations, 2015.

#### L. Inconsistent Disclosure of Shareholding Pattern (SHP)

105. During investigation, it was observed that there were differences between the shareholding patterns filed by the Company with the stock exchange and the shareholding pattern available with RTA. The shareholding data of Depositories was consistent with RTA data. A summary of inconsistencies is given below:

Details of Promoter Shareholding						
Quarter Ending	Reported to Stock Exchanges (A)		As Per RTA Data (B)		Difference (A-B)	
	No. of Shares	% of PUC	No. of Shares	% of PUC	No. of Shares	% of PUC
31-Mar-14	19,26,59,506	40.45	19,26,59,506	40.45	-	-
30-Jun-14	18,96,67,506	39.83	18,96,67,506	39.83	-	-
30-Sep-14	18,59,47,398	39.04	18,59,47,398	39.04	-	-
31-Dec-14	18,63,58,271	39.13	18,17,35,164	38.17	46,23,107	0.96
31-Mar-15	18,66,68,224	39.20	18,25,72,635	38.35	40,95,589	0.85
30-Jun-15	18,67,37,270	39.21	18,18,71,164	38.19	48,66,106	1.02
30-Sep-15	18,67,37,270	39.21	17,09,97,201	35.91	1,57,40,069	3.30
31-Dec-15	18,59,73,307	39.05	16,47,40,701	34.60	2,12,32,606	4.45
31-Mar-16	18,62,02,065	39.10	16,37,39,459	34.39	2,24,62,606	4.71
30-Jun-16	18,62,44,525	39.11	15,63,86,289	32.84	2,98,58,236	6.27
30-Sep-16	18,62,44,525	39.11	13,98,86,289	29.37	4,63,58,236	9.74
31-Dec-16	18,62,44,525	39.11	13,82,06,289	29.02	4,80,38,236	10.09
31-Mar-17	18,62,54,525	39.11	13,16,04,409	27.63	5,46,50,116	11.48
30-Jun-17	18,62,67,525	39.11	12,98,32,991	27.25	5,64,34,534	11.86

Details of Promoter Shareholding						
Quarter Ending	Reported to Stock Exchanges (A)		As Per RTA Data (B)		Difference (A-B)	
	No. of Shares	% of PUC	No. of Shares	% of PUC	No. of Shares	% of PUC
30-Sep-17	18,62,67,525	39.11	11,78,93,337	24.75	6,83,74,188	14.36
31-Dec-17	18,62,67,525	39.11	10,52,84,480	22.09	8,09,83,045	17.02
31-Mar-18	18,62,67,525	39.11	9,52,78,209	19.99	9,09,89,316	19.12
30-Jun-18	18,63,77,685	39.13	9,17,00,851	19.24	9,46,76,834	19.89
30-Sep-18	18,63,87,685	39.14	9,15,10,851	19.20	9,48,76,834	19.94
31-Dec-18	18,64,27,685	39.14	8,81,50,397	18.50	9,82,77,288	20.64
31-Mar-19	18,64,27,685	39.14	8,72,39,703	18.31	9,91,87,982	20.83
30-Jun-19	18,64,27,685	39.14	8,55,79,139	17.96	10,08,48,546	21.18
30-Sep-19	18,64,27,685	39.14	8,32,71,522	17.48	10,31,56,163	21.66
31-Dec-19	18,64,27,685	39.14	7,21,00,911	15.13	11,43,26,774	24.01
31-Mar-20	18,64,27,685	39.14	6,65,32,378	13.96	11,98,95,307	25.18
30-Jun-20	18,64,27,685	36.72	6,05,14,136	11.90	12,59,13,549	24.82
30-Sep-20	18,66,27,685	36.76	5,63,03,372	11.07	13,03,24,313	25.69
31-Dec-20	18,66,27,685	36.76	5,23,70,400	10.30	13,42,57,285	26.46
31-Mar-21	18,66,27,685	36.76	3,67,97,633	7.24	14,98,30,052	29.52
30-Jun-21	18,66,27,685	36.76	3,57,88,133	7.04	15,08,39,552	29.72
30-Sep-21	23,32,84,604	22.40	4,36,85,916	4.19	18,95,98,688	18.21
31-Dec-21	23,32,84,604	22.40	4,29,24,541	4.12	19,03,60,063	18.28
31-Mar-22	22,36,81,791	18.47	4,24,31,791	3.51	18,12,50,000	14.96
30-Jun-22	37,27,82,652	18.47	7,06,99,321	3.51	30,20,83,331	14.96

106. Vide email dated March 16, 2022, a response was sought from BGL on the significant differences in the promoter/public shareholding disclosed on the stock exchange website vis-à-vis the holding statement as per RTA and depositories for the period March 2020 to Sep 2020. In response, BGL vide letter dated March 21, 2022 had submitted the following-

*'the difference is due to shares of the promoters being pledged. One of the condition of pledging shares was that the shares would be transferred to the account of pledgor, however, the beneficial ownership and the voting rights of the shares were with the promoters of the Company. Since the promoters were the beneficial owners of the pledged shares, therefore, the same was being shown in the shareholding pattern in the name of the respective promoters.'*

107. Subsequent to the above, information was also sought from depositories vide email dated March 23, 2022 regarding encumbrances marked against the shares held by promoters of BGL. In response, the depositories submitted that except for 4 demat accounts, none of the demat accounts had any encumbrance. Further, on the said 4 demat accounts, the encumbrance was in the form of suspension (Debit)/account freeze, pursuant to SEBI directions issued in 2019 for violating PIT Regulations.

108. From the above, it was observed that the promoters had referred to the off market transfers done from their Demat accounts as *pledge of shares*. However, as per SEBI master circular for Depositories dated October 25, 2019, ‘...**an off-market transfer of shares leads to change in ownership and cannot be treated as pledge**’. Accordingly, the submissions of the Company were found to be untenable. In fact, there appeared to be a deliberate attempt to disclose incorrect shareholding pattern. It was also noted that neither BGL nor promoters had made any disclosures under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Prohibition of Insider Trading) Regulations, 2015 (“**PIT Regulations, 2015**”) in respect of shares pledged/invoked/transferred.
109. With regard to the above, NSE had also sought clarifications from the Company. However, the Company provided incomplete and unsatisfactory to the NSE. Further, it also failed to provide further clarifications sought by NSE. Subsequently, NSE disseminated the following information to the market vide on December 16, 2022 in the Corporate Announcements section of its website:  
*“The Exchange has been seeking various clarifications from Brightcom Group Ltd. ('Company') against a complaint from investor and response received from Company was unsatisfactory and incomplete. On the basis of aforesaid, the Company is required to provide satisfactory and complete response. The response from the Company is awaited.”*
110. As per section 10(1)(3) of the Depositories Act, 1996, a beneficial owner is entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository. Considering the same, the claim of the Company that despite promoters transferring the shares to lenders, the promoters remained beneficial owners and held the voting rights of the shares was found to be untenable. This also casts doubt on the voting results of the various general meetings (including postal ballot) published under clause 35A of the erstwhile Listing Agreement and Regulation 44(3) of the SEBI(LODR) Regulations, 2015 and the scrutinizers report under Section 109

of the Companies Act, 2013 and Rule 21(2) of the Companies (Management and Administration) Rules, 2014.

111. The RTA of a company acts as an agent of that company and is entrusted with the responsibility of maintaining records on behalf of that company, which include list of holders of securities of such company. RTAs compile all the information related to shares held in physical as well as in dematerialized form. The shareholding pattern filed by BGL under clause 35 of the erstwhile Listing Agreement (up to November 30, 2015) and Regulation 31 of SEBI (LODR) Regulations, 2015 (w.e.f. December 01, 2015) should have been sourced from the data maintained by RTA. However, even though the shareholding data of RTA was consistent with that of Depositories, it appeared that Company had deliberately misrepresented its shareholders' data. The company intentionally concealed the material information i.e., the actual shareholding pattern and the quantity of shares encumbered, from the public shareholders to mislead & deceive the public/shareholders of the Company at large. The same was in violation of Clause 35 of the erstwhile Listing Agreement (up to November 30, 2015) and Regulation 4(1) (c), (h), 31(1)(b) of SEBI (LODR) Regulations, 2015 read with SEBI circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 (w.e.f December 01, 2015).

**M. Observations on the internal Audit:**

112. BGL published a press release dated 10 April 2018 on exchanges' platform announcing the appointment of Ernst & Young as its internal auditor. Vide Summons dated May 20, 2022, SEBI asked BGL to confirm whether it had carried out its Internal Audit for the period April 1, 2014 to March 31, 2020. BGL vide letter dated June 23, 2022 replied that *"We did not appoint external firm to do the internal audit; rather, as permitted under Rule 13 of the Companies (Account) Rules, 2014, an internal audit team was constituted from amongst our employees in the accounts department and they conducted the internal audit."* BGL further informed that *"In view of the circumstances that have now evolved, we have decided to appoint an Internal Auditor for the Company and the proposal for the same will be placed before the Board of Directors in their next meeting in July 2022."*

113. BGL also furnished its quarterly internal audit reports from which it was noted that the reports were not signed by the internal auditor. Also, the name of the auditor was not mentioned. Thus, it could not be ascertained if it was external consultant who had issued the internal audit report. Further, Mr. Narayana Raju, the CFO of BGL, during his statement recording on 13 Oct 2022, stated that he was not aware of engagement of Ernst & Young as the Company's internal auditor.
114. In view of the above, it was found that BGL had made a wrong and misleading corporate announcement, thereby violating Regulation 4(1)(c) & (h) of SEBI (LODR) Regulations, 2015.

#### **N. Observations on the Quarterly Financial Results of FY 2019-20:**

115. As per Regulation 33(3)(h) of SEBI (LODR) Regulations, 2015 which was inserted and became applicable w.e.f. 1.4.2019, "*The listed entity shall ensure that, for the purposes of quarterly consolidated financial results, at least eighty percent of each of the consolidated revenue, assets and profits, respectively, shall have been subject to audit or in case of unaudited results, subjected to Ltd. review.*"
116. However, it was observed that the quarterly consolidated results for the FY 2019-20 reviewed by the statutory auditors and the details of results were not subjected to audit/Ltd. review, as required under the abovementioned provision. A summary of such results is provided below:

<b>All Figures in Rs. Crores</b>					
<b>I. Quarterly Results Reported by BGL</b>					
<b>Particulars</b>	<b>Reference</b>	<b>Jun-19</b>	<b>Sep-19</b>	<b>Dec-19</b>	<b>Mar-20</b>
<b>Type of Audit</b>		<b>Ltd. Review</b>			<b>Audit</b>
Consolidated Revenue	A	574.98	629.57	859.52	628.25
Consolidated Profit After Tax	B	83.16	105.47	143.84	107.65
Consolidated Assets	C	3,465.54	3,712.96	3,755.96	3,270.00
<b>II. Details obtained from Auditor's report</b>					
No of Subsidiaries not reviewed/audited	D	14	14	16	14
Revenue of Subsidiaries not reviewed/audited	E	459.92	513.02	747.34	Not Specified
PAT of Subsidiaries not reviewed/audited	F	107.82	106.22	126.33	Not Specified
Assets of Subsidiaries not reviewed/audited	G	Not Specified	3,524.70	Not Specified	3,058.99
<b>III. Observations based on II &amp; III above</b>					
% Revenue not reviewed/audited	H=E/A	<b>79.99%</b>	<b>81.49%</b>	<b>86.95%</b>	Not Ascertainable
% PAT not reviewed/audited	I=F/G	<b>129.65%</b>	<b>100.71%</b>	<b>87.83%</b>	Not Ascertainable



% Total Assets not reviewed /audited	J=G/C	Not Ascertainable	94.93%	Not Ascertainable	93.55%
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117. It was therefore found that BGL had violated Regulation 33(3)(h) of SEBI (LODR) Regulations, 2015.

**O. Non-independence of Raghunath Allamsetty as an Independent Director:**

118. The Board of Directors had appointed Mr. Raghunath Allamsetty as Additional Director (Independent) of BGL (known as LGS Global at that time) with effect from June 26, 2012 under Section 260 of the Companies Act, 1956 and he held the office till December 26, 2012 (AGM for FY 2011-12). He was re-appointed as Director by way of Ordinary Resolution in AGM dated December 26, 2012. He ceased to be director of the Company on completion of his tenure on September 29, 2015 (Annual report 2015-16).

119. Subsequently, the Board of Directors of the Company at its meeting held on December 27, 2016 appointed Mr. Raghunath Allamsetty as Additional Director (Non-Executive-Independent) w.e.f December 27, 2016 till the conclusion of the forthcoming Annual General Meeting of the Company. Thereafter, he was appointed as independent Director at AGM held on September 27, 2017 till December 26, 2021.

120. The Company made a disclosure under Regulation 30 of SEBI (LODR) Regulations, 2015 on December 27, 2021, stating “... *this is to inform that Mr.Allam Raghuanth (DIN: 00060018) an Independent Director of the Company has completed the second term of office on December 26, 2021 thereby completing two terms as an Independent Director and consequently he also ceased to be a Director of the Company with effect from close of business hours of December 26, 2021.*”

121. Based on the above material, the tenure of Mr. Raghunath Allamsetty, as Director of the Company, is tabulated below:

Sl.No	From	To	Category	Appointed by
1	26-June-2012	26-Dec-2012	Independent	Board of Directors as Additional Director under Section 260 of the Companies Act 1956
2	26-Dec-2012	29- Sep-2015	Independent	Shareholders by way of Ordinary Resolution in AGM dated December 26, 2012.

3	27-Dec-2016	27- Sep-2017	Independent	Board of Directors as Additional Director under Section 165(1) of the Companies Act 2013
4	27- Sep-2017	26- Dec-2021	Independent	Shareholders at by way of Special Resolution in AGM dated September 27, 2017

122. Section 150(2) of the Companies Act, 2013 provides that *“the appointment of independent director shall be **approved by the company in general meeting** as provided in sub-section (2) of section 152”*. Section 152(2) of the Act mandates that *“save as otherwise expressly provided in the Act, every director **shall be appointed by the company in general meeting**.”* Further, Schedule IV of the Companies Act, 2013 provides that *“appointment process of independent Directors shall be **independent of the company management**”* and *“The appointment of independent director(s) of the company **shall be approved at the meeting of the shareholders.**”*
123. From the disclosure made in explanatory statement of in the notice to 18<sup>th</sup> AGM of the Company, it was observed that Mr. Raghunath Allamsetty was appointed by Board as an additional director (independent) and his appointment was approved by the shareholders at the next AGM for a period of five years w.e.f the date on which he was appointed as such in the Board meeting. Hence, the entire period starting from the effective date of appointment of independent director by the Board (I.e. December 27, 2016) and the subsequent date of approval by the shareholders (i.e. September 27, 2017) had to be considered as part of single term of Mr. Raghunath Allamsetty, which came to end on December 26, 2021. Further since the disclosure made by the Company on December 27, 2021 stated that Mr. Raghunath had completed two terms as independent director, it could be inferred that his appointment in the board meeting on December 27, 2016 was a re-appointment for the second term and the term starting from June 26, 2012 to September 29, 2015 was his first term. The same was also evident from the fact that the resolution passed at AGM dated September 27, 2017 was a special resolution which was applicable in case of re-appointment of the Independent Director as against Ordinary resolution in case of appointment for the first time.

124. In this context, it is imperative to note that an Independent Director cannot be reappointed by the Board of Directors of a company for a second term once his first term is over, unless a special resolution was passed by the Company and a disclosure of such appointment was made in the Board's report, as required by Section 149(10) of the Companies Act, 2013 which provides that *“Subject to the provisions of section 152, an independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for reappointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.”*
125. Since in the instant case, the shareholders' approval by special resolution for re-appointment for second term was not taken as on the last date of the first term ending on September 29, 2015, the re-appointment of Mr. Raghunath by the board as an additional director for the second term was not in accordance with the law. Accordingly, the Allamsetty Raghunath could not be considered as independent director for the period between December 27, 2016 to September 26, 2017.
126. Further, as per Regulation 16(1)(b) of the SEBI (LODR) Regulations, 2015, one of the conditions for appointment as independent director is that such person's relatives should not be an employee of the listed entity or its holding, subsidiary or associate company. A similar provision existed in Clause 49IIB of the erstwhile Listing Agreement w.e.f. October 1, 2014 till SEBI (LODR) Regulations, 2015 came into force from December 1, 2015.
127. During the recording of statement of Mr. Allamsetty Raghunath on April 27, 2022, he had stated that Ms. Aishwarya Allamsetty was his daughter. From her LinkedIn profile, it was noted that she was employed in Ybrant Digital Ltd as intern from April 2013 to May 2013 and Lycos as Business Analyst from Sep 2014 to May 2016 and was currently working as Lead-Corporate Communication of Brightcom Group Ltd. since Sep 2018. In this context it may be noted that Brightcom Group Ltd. was formerly named as Ybrant Digital Ltd. from June 14, 2012 to October 07, 2014, which was changed to Lycos Internet Ltd. w.e.f October 07, 2014 and to Brightcom Group Ltd. w.e.f September 05, 2018.

128. Further, Ms. Aishwarya vide email dated April 27, 2022 shared with SEBI her employment certificate dated May 24, 2019 issued by M/s. LIL Projects Private Ltd., as per which she was employed as Lead-Corporate Communications with that company from September 11, 2018 to May 24, 2019. It was found that M/s. LIL Projects Private Ltd. was a subsidiary of Brightcom Group Ltd..
129. In view of the above irregularities in appointment of Allamsetty Raghunath and his daughter's employment with the Company and its subsidiary, he did not qualify to be an Independent Director of the BGL from October 01, 2014. Thus, BGL had violated Regulation 17(1) of SEBI(LODR) Regulations 2015. Further, BGL had also violated 18(1)(b) of SEBI (LODR) Regulations, 2015 as the constitution of Audit committee of BGL, during the period for which Allamsetty Raghunath did not qualify to be an independent director, was also not in accordance with requirement specified in the said regulation.

**P. Corporate governance requirements with respect to subsidiary of listed entity.**

130. Clause 49(III)(i) of the erstwhile listing agreement and Regulation 24(i) of SEBI (LODR) Regulations, 2015 specify corporate governance requirements with respect to unlisted material subsidiaries of a listed entity.
131. The Company vide letter dated August 02, 2022 had furnished the list of its material subsidiaries for each of the Financial Years during the investigation period, which is given below:

<b>Material Subsidiaries</b>						
<b>Sl. No.</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
1	Online Media Solutions	Online Media Solutions	Online Media Solutions	Online Media Solutions	Online Media Solutions	Online Media Solutions
2	Frontier Data Management	Frontier Data Management	Frontier Data Management	Frontier Data Management	Frontier Data Management	Frontier Data Management
3	International Expressions Inc.	International Expressions Inc.	International Expressions Inc.	International Expressions Inc.	International Expressions Inc.	International Expressions Inc.

132. From the page no.3 of annual report of BGL for the FY 2019-20 where the list of subsidiaries was given, it was seen that Online Media Solutions Ltd. was an Israeli Company and two companies, viz. Frontier Data Management and

International Expressions Inc., were based out USA. It was thus seen that during the entire period, the Company had only overseas subsidiaries as material subsidiaries. With effect from April 01, 2019, the requirement of having an independent director on the board of directors of the listed entity on the board of directors of an unlisted material overseas subsidiary was introduced in Regulation 24(i) of the SEBI (LODR) Regulations, 2015. In this regard, the Company had provided the following list of directors of its material overseas subsidiaries.

<b>Subsidiary</b>	<b>Directors &amp; Key Management</b>
Frontier Data Management Inc., USA	Brad Cohen, Vijay Kancharla
International Expressions Inc., USA	Ori Elraviv, Vijay Kancharla
Online Media Solutions Ltd., Israel	Jacob Nizri, Etai Eitany

133. However, it was found that none of the abovementioned directors of the overseas subsidiaries was an Independent Director on the Board of BGL. Accordingly, BGL had violated the Regulation 24(1) of SEBI (LODR) Regulations, 2015.

**Q. Non-disclosure of Standalone financial statements of subsidiaries on the Website of the company:**

134. As per the requirements of Regulation 46(2) of SEBI (LODR) Regulations, 2015, the Company was required to publish the Standalone financial statements of subsidiaries on its Website. However, on perusal of the website of the Company viz., <https://www.brightcomgroup.com/>, it was observed that the Company had not published the separate financials of its subsidiaries for any of the years. Despite various summonses issued by SEBI requiring the Company to furnish the link of its website where separate audited accounts in respect of each of its subsidiary (including foreign subsidiaries) were published, the Company failed to provide the same.

135. Mr. Suresh Kumar Reddy, in his statement dated March 17, 2022 to SEBI, when asked to give reasons for the above non-compliance, stated that *“There was a legal matter in the Lycos acquisition case, where in the detailed breakup of the financials was causing difficulty in negotiation with the other party. That was the reasons we did not put forth detailed subsidiary*

*financials*". Mr. Suresh Kumar Reddy further confirmed that the Company had not sought exemption from SEBI from the applicability of Regulation 46 of SEBI (LODR) Regulations, 2015 in respect of the above.

136. In view of the above, BGL had violated of 4(1)(d),(g),(h),(i),(j) & 46(2) SEBI (LODR) Regulations 2015 and the same is continuing till date.

**R. Non-Maintenance of Structured Digital Database:**

137. During the statement recording on May 31, 2022, M. Suresh Kumar Reddy, CMD of the Company, was asked to furnish the copy of the Structured Digital Database ("**SDD**") maintained by the Company in accordance with Regulation 3(5) of the PIT Regulations. In response, Mr. M. Suresh Kumar Reddy, vide email dated June 07, 2022, merely furnished an excel sheet containing a list of insiders. On further asking by SEBI, Mr. Suresh Kumar Reddy stated the following:

*"We would like to submit that in order to create and maintain the Structured Digital Database, a separate software is needed and the Registrar and Transfer Agent of the Company who maintains the details of shareholding including the BENPOS files is required to input data into the software. Due to certain unavoidable circumstances, the software for this purpose could not be procured and the server could not be installed at our Registered Office. We were also not able to identify third party providers to create and maintain the Structured Digital Database at Hyderabad.*

*We have now arranged to procure the necessary software and to input data and to set up and maintain servers at our registered office.*

*It may be noted that Brightcom Group is a Multinational Company with business and operations in 25 countries and a market leader in ad tech space with clients who include Fortune 50 companies such as Sony, Viacom, Samsung, British Airways; since various jurisdictions have different compliance requirements and need separate software, the delay in setting up the Structured Digital Database is only on account of the complexity in our overall compliance requirements. "*

138. From the above response of the Company, it was clear that the board of directors of the Company had not ensured the implementation of maintenance of SDD containing the names of such persons or entities with whom UPSI was shared, which was a legal requirement w.e.f April 1, 2019. The reasons provided by the company for non-maintaining such SDD were not tenable as the obligation to maintain such a database was on the Board of Directors of the Company. The Company's contention that RTA was required to input data was without any merit. Further, the Company's explanation that it was not able to identify third-party providers to create and maintain the Structured Digital Database at Hyderabad was also untenable for the reason that as per Regulation 3(5) of the PIT Regulations, 2015, such database cannot be outsourced and has to be maintained internally. Further, it was immaterial whether the Company was functioning within India or an MNC operating across the globe, as the compliance requirements are same for all the listed entities in India in respect of maintenance of SDD.
139. In view of the above, the board of directors of the Company had failed to comply with Regulation 3(5) of SEBI (PIT) Regulations 2015.

**S. Summary of Findings:**

140. A summary of the abovementioned findings of investigation is as follows:

***Noncompliance with Accounting Standards:***

- (a) BGL wrongly capitalized expenditure incurred during the research phase and research-cum-development phase (the phase in which BGL could not distinguish the research phase from the development phase) of the creation of intangible assets which resulted in non-compliance with Accounting Standard 26 (FY 2014-15 & 2015-16) and Ind AS 38 (FY 2016-17 to FY 2019-20). This led to an understatement of expenditure and overstatement of Profit before Tax and Profit After Tax during the respective financial years.
- (b) BGL did not recognize the impairment loss w.r.t. its investment in its subsidiary, despite indication of impairment during the FYs 2018-19 & 2019-20, which resulted in non-compliance with requirements of Ind AS 36. This led

to an understatement of expenditure and overstatement of Profit before Tax and Profit After Tax during the FYs 2018-19 & 2019-20.

- (c) BGL recognized impairment of assets of Rs. 411.76 Crore and Rs. 868.30 Crores under Other Comprehensive Income instead of recognizing the same in profit or loss in the financial statements for the FYs 2018-19 and 2019-20 respectively, which resulted in non-compliance with Ind AS 36 leading to an understatement of expenditure and overstatement of Profit before Tax and Profit After Tax. Further, BGL in its financial statements for the FYs 2018-19 and 2019-20 did not disclose the events and circumstances that had led to the recognition of said impairment losses, which resulted in non-compliance with Ind AS 36.
- (d) The practice of BGL transferring “*Intangible Assets Under Development*” and “*Capital Work-in-Progress*” to Intangible Assets once in a year instead of as and when the asset recognition criteria was met, resulted in non-compliance with Accounting Standard 26 (FY 2014-15 & 2015-16) and Ind AS 38 (FY 2016-17 to FY 2019-20).
- (e) The above non-compliances with Accounting Standard 26 during the FY 2014-15 and FY 2015-16 and non-compliances with Ind AS 36 and Ind AS 38 during the FY 2016-17 to FY 2019-20 resulted in violation of Clauses 49 (I)(C)(1)(a) and 50 of the erstwhile Listing Agreement for the FY 2014-15) and Regulation 4(1)(a), (b), (c), (d) (e), (g), (h), (i), (j), 4(2)(e)(i), 33(1)(c) & 48 of SEBI (LODR) Regulations 2015 for the FYs 2015-16 to FY 2019-20.

***Violations of other LODR Regulations:***

- (f) BGL did not disclose the fact of the initiation of forensic audit to stock exchanges and hence, violated Regulation 30 (1), (2) and (6) read with Clause 17 Schedule III Para A of Part A SEBI (LODR) Regulations 2015.
- (g) BGL submitted incorrect and misleading quarterly shareholding pattern to the stock exchanges for 31 out of 34 quarters during March 31, 2014 to June 30, 2022 and hence, violated Clause 35 of the erstwhile Listing Agreement (up to November 30, 2015) and Regulation 4(1) (c), (h), 31(1)(b) of SEBI LODR

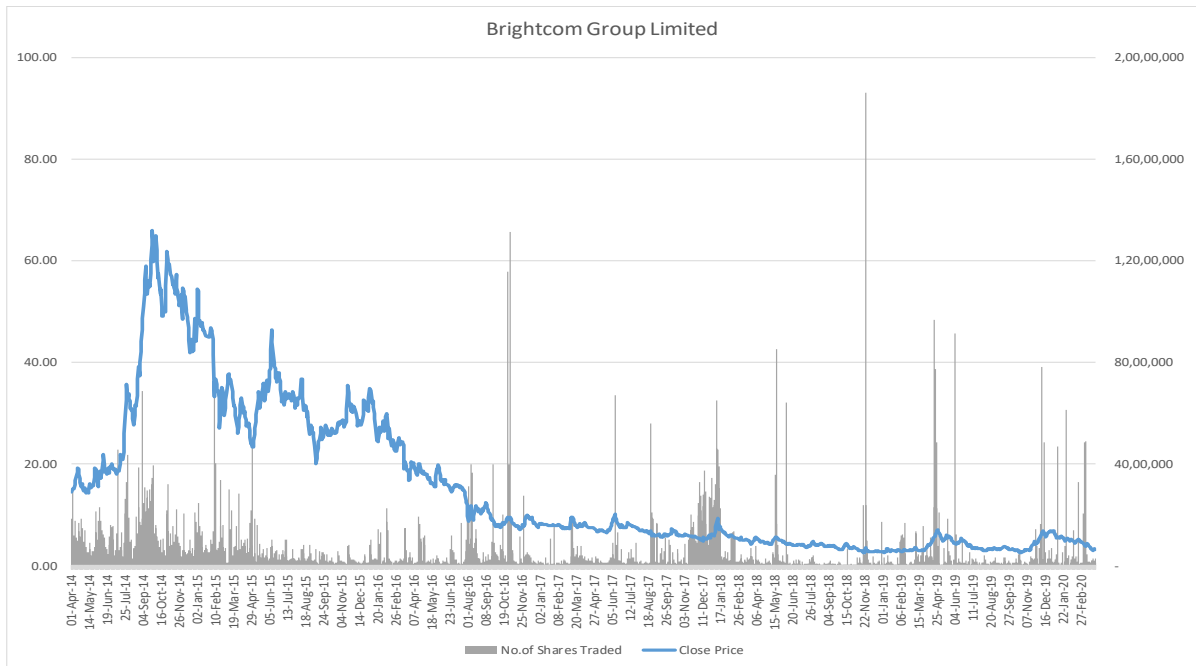


Regulations, 2015 read with SEBI circular no. CIR/CFD/CMD/13/2015 dated November 30, 2015 (w.e.f. December 01, 2015).

- (h) BGL issued a false and misleading press release on April 10, 2018 w.r.t appointment of internal auditor and hence violated Regulation 4(1)(c) & (h) of SEBI (LODR) Regulations 2015.
- (i) BGL did not ensure that, for the purposes of quarterly consolidated financial results, at least eighty percent of each of the consolidated revenue, assets and profits, respectively, were subjected to audit or in case of unaudited results, subjected to Ltd. review for the quarters ending June 30, 2019, September 30, 2019, December 31, 2019 and March 31, 2020 and hence, violated Regulation 33(3)(h) of SEBI (LODR) Regulations 2015.
- (j) BGL did not ensure that the constitution of its Audit Committee w.e.f. October 01, 2014 was in accordance with the regulatory requirements and hence violated Regulation 18(1)(b) of SEBI (LODR) Regulations 2015.
- (k) BGL did not appoint at least one independent director from its board as a director on the board of directors of its three unlisted material subsidiaries and hence, violated Regulation 24(1) of SEBI (LODR) Regulations 2015.
- (l) BGL did not publish the standalone financial statements of its subsidiaries on its website and hence violated of 4(1)(d),(g),(h),(i),(j) & 46(2) SEBI (LODR) Regulations, 2015.
- (m) BGL did not make disclosures in respect of the impact of introduction of GDPR on the functioning of the Company and hence, violated Regulation 30 r/w Clause 7 of Para B of Part A of Schedule III of SEBI (LODR) Regulations 2015.
- (n) BGL did not make disclosure in respect of introduction of GDPR as Threats, Outlook, Risks or Concerns in Management Discussion and Analysis and hence violated Regulation 34(2)(3) & Schedule V SEBI (LODR) Regulations 2015.
- (o) The aforesaid violations of various Clauses / provisions of the erstwhile Listing Agreement and SEBI (LODR) Regulations 2015 also led to violations of Section 21 of Securities Contracts (Regulation) Act, 1956.

## T. Impact on the price of the scrip

141. The price-volume chart of the scrip of BGL at BSE during the investigation period is given below:



142. From the above chart, it is apparent that from September 30, 2014, the share price of BGL had generally declined over a period of time. Had the Company not resorted to accounting irregularities, as detailed above, the Company's actual profits would have been significantly lesser from the reported profits. Further, the assets and reserves would also be significantly different from what were disclosed in the balance sheet. The same would have led to a much steeper decline in the share prices. The accounting irregularities, due to which the Company could paint a rosy picture of its financials, can be said to have impacted the decision-making process for all stakeholders including public shareholders of BGL who were oblivious to such accounting irregularities. It is also worth noting that during the investigation period, the promoters' shareholding in BGL decreased from 40.45% on March 31, 2014 to 13.96% on March 31, 2020 and further to 3.51% as on June 30, 2022. The promoters thus offloaded shares at prices which were artificially propped up by showing higher profits through accounting irregularities.

143. The abovementioned acts operated as a device/scheme to defraud the investors in the securities market resulting in violation of Regulation 3(c), 3(d),

4(1) and 4(2)(f), (k) & (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 [**SEBI (PFUTP) Regulations, 2003**] read with 12A (b) & (c) of SEBI Act, 1992.

**U. Role of Mr. M. Suresh Kumar Reddy, Chairman and Managing Director & Promoter and Mr. Vijay Kancharla, Whole Time Director & Promoter**

144. Mr. M. Suresh Kumar Reddy is associated with BGL as Chairman and Managing Director since June 26, 2012. Further, he is one of the promoters of the Company. He had also signed the financial statements and CEO/CFO Certification for all the financial years during the investigation period. He was also a Key Managerial Personnel (“**KMP**”) of the Company, as per the Companies Act, 2013. Mr. M. Suresh Kumar Reddy has also attended all the board meetings of BGL during the investigation period. Further, all the board meetings of 7 out of 10 subsidiaries of the Company, which recorded impairment in FY 2019-20, were attended by Mr. M. Suresh Kumar Reddy. (Minutes of the remaining three subsidiaries were not provided)
145. Mr. Vijay Kancharla is associated with BGL as a Whole Time Director since June 26, 2012. He is also one of the promoters of the Company. He had also signed the financial statements during the investigation period. He was also a KMP of the Company as per the Companies Act, 2013. Mr. Vijay Kancharla was also a member of Audit Committee during the investigation period. He had attended many of the board meetings and audit committee meetings of BGL during the investigation period. Further, he was also one of the directors on board of all the subsidiaries that recorded impairment during the investigation period and attended all the board meetings of 7 out of 10 subsidiaries during the investigation period that recorded impairment in FY 2019-20. (Minutes of the remaining three subsidiaries were not provided)
146. The role of the Board of directors of any company is very crucial as any company acts through its Board of Directors. As envisaged under Regulation 4(2) (f) of SEBI (LODR) Regulations, 2015, the board of directors is *inter alia* required to ensure integrity of the listed entity’s accounting and financial reporting systems and oversee the process of disclosure and communications. Being the Chairman and Managing Director of BGL &

Executive Director, Mr. M. Suresh Kumar Reddy and Mr. Vijay Kancharla were in charge of, and were responsible to, the Company for the conduct of its business. It was their responsibility to ensure that the Company's financial statements presented a true and fair picture of the Company's state of financial affairs as they were involved in day-to-day affairs of BGL and its subsidiaries and they had approved and authenticated all the financial results of the listed entity filed during the investigation period. Accordingly, they are liable under Section 27(1) of SEBI Act, 1992, for the contraventions done by the Company.

147. Further, these directors had failed to ensure the implementation and of maintenance of SDD containing the names of such persons or entities with whom UPSI was shared, as required w.e.f April 01, 2019, thereby violating Regulation 3(5) of SEBI (PIT) Regulations 2015.
148. In view of the above, these directors are responsible for the all the violations committed by BGL during the investigation period, in terms of Section 27 of SEBI Act, 1992 and Section 24 of SCRA, 1956. Further, they also failed to perform the duties and obligations required to perform as Executive Directors under clauses 49 (I)(C)(1)(a), 49(I)(D)(1)(b), (2)(b)(h) and 50 of the erstwhile listing agreement (For the FY 2014-15) and Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(7)(8), 4(2)(f)(iii)(1)(2)(3)(6)(7)(12) of SEBI (LODR) Regulations, 2015 (For the FYs 2015-16 to FY 2019-20).
149. Further, M. Suresh Kumar Reddy, being signatory to CEO/CFO Certification, violated Clause 49(IX) of the erstwhile Listing Agreement (For the FY 2014-15) & Regulation 17(8) of SEBI (LODR) Regulations, 2015 (For the FYs 2015-16 to FY 2019-20).
150. Mr. Vijay Kancharla, as a member of the audit committee during the investigation period, had failed to ensure that the published financial statements were in accordance with the applicable accounting standards and presented a true and fair view of the Company's affairs, and hence failed to discharge his duties, as required under Regulation 18(3) read with Part C of Schedule II of the SEBI (LODR) Regulations, 2015.

**V. Role of Mr. Y Ramesh Reddy, Independent Director, Member of Audit Committee, Group CFO and Executive Director:**

151. Mr. Y Ramesh Reddy was associated with BGL in multiple roles, as given below:

Role	From	To
Independent Director & Audit Committee Member	26/06/2012	09/05/2016
Executive Director	09/05/2016	20/04/2017
Group CFO	09/05/2016	08/05/2021

152. He was also a signatory to the Financial Statements for the FY 2015-16. He had attended 19 out of 20 board meetings and all the eight audit committee meetings held during his tenure, covered by the investigation period. He was also a KMP of the Company, as per the disclosure made in Annual Report of BGL for the FY 2016-17. As disclosed in the Annual Report of BGL for the FY 2015-16, his responsibilities included corporate finance, mergers and acquisitions, corporate planning, risk management and investor relations. Accordingly, as an executive director and KMP, he was responsible for the all the violations committed by BGL during his tenure, in terms of Section 27 of SEBI Act, 1992 and Section 24 of SCRA, 1956. Further, he also failed to perform the duties and obligations required to perform as Executive Directors under Regulations 4(2)(f)(i)(2), 4(2)(f)(ii)(2)(7)(8), 4(2)(f)(iii)(1)(2)(3)(6)(7)(12) of SEBI (LODR) Regulations, 2015.

153. Mr. Y. Ramesh Reddy, as a member of the audit committee during the investigation period, had failed to ensure that the published financial statements were in accordance with the applicable accounting standards and presented a true and fair view of the Company's affairs, and hence failed to discharge his duties, as required under Clause 49 III D of the erstwhile Listing Agreement and Regulation 18(3) read with Part C of Schedule II of the SEBI (LODR) Regulations, 2015.

154. Mr. Y. Ramesh Reddy was also the Group CFO of the Company from May 09, 2016 to May 08, 2021. A CFO, as a person heading and discharging the finance function of the listed entity, is expected to exercise due care and diligence in ensuring that the transactions are genuine and that they are in the best interests of a company, including the minority shareholders of that

company. Therefore, Mr. Y Ramesh Reddy was expected to exercise the powers in bona fide manner and in the interest of all stakeholders of the Company. However, he failed to discharge the responsibilities required under Regulations 4(2)(f)(i)(2) of SEBI (LODR) Regulations, 2015. Accordingly, he was liable for the contraventions done by the Company, in terms of Section 27 (2) of the SEBI Act 1992 and Section 24 of SCRA, 1956.

**W. Role of Mr. Y. Srinivasa Rao, CFO of BGL:**

155. Mr. Y Srinivasa Rao was associated with BGL as CFO, throughout the investigation period. He was also signatory to the Financial Statements and CEO/CFO certification for all the financial years during the investigation period. He was also a KMP of the Company, as per the Companies Act, 2013. As CFO, he was expected to exercise the powers in bona fide manner and in the interest of all stakeholders of the Company. However, he failed to discharge the responsibilities required under Regulations 4(2)(f)(i)(2) of SEBI (LODR) Regulations, 2015. Accordingly, he was liable for all the contraventions done by the Company, in terms of Section 27 of the SEBI Act 1992 and Section 24 of SCRA, 1956.
156. Further, being a signatory to CEO/CFO Certification, Mr. Y. Srinivasa Rao violated clause 49 (IX) of the erstwhile Listing Agreement (For the FY 2014-15) & Regulation 17(8) of SEBI (LODR) Regulations, 2015 (For the FYs 2015-16 to FY 2019-20).

**X. Role of Statutory Auditors:**

157. The following were the statutory auditors of the Company during the investigation period:

FY	Statutory Audit Firm	Signing Partner ICAI Membership No.	Type of Audit Report	
			Standalone	Consolidated
2014-15	P Murali & Co	P.Murali Mohana Rao (023412)	Unqualified	Unqualified
2015-16	P Murali & Co	M.V Joshi (024784)	Unqualified	Unqualified

2016-17	P Murali & Co	P.Murali Mohana Rao (023412)	Unqualified	Unqualified
2017-18	PCN Associates	& Chandra Babu M (227849)	Unqualified	Unqualified
2018-19	PCN Associates	& Chandra Babu M (227849)	Unqualified	Unqualified
2019-20	PCN Associates	& K Gopala Krishna (203605)	Unqualified	Unqualified

158. As already observed above, the financial statements of BGL during the Investigation period were not prepared and presented in accordance with various prescribed accounting standards. However, it was observed that the auditors for various years did not issuing a qualified / adverse / disclaimer of opinion on the financial statements of BGL in accordance with *Standard on Auditing (SA) 700(Revised), "Forming an Opinion and Reporting on Financial Statements"*.
159. Further, as per the Auditor's Report for the FYs 2018-19 & 2019-20, the Company was having branch operations at USA. In terms of Section 143 (3)(b), (c) & (d) of the Companies Act, 2013, the Auditor's Report had to provide certain statements / disclosures in respect of books of account and audit of such branch. However, on perusal of the Statutory Auditor's reports for the FY 2018-19 & 2019-20, it was observed no such disclosures were made about the audit of the branches.
160. Further, it was observed that Auditor's Reports for FY 2018-19 and 2019-20 were silent on whether the subsidiaries and branches not audited by the auditor were audited by other auditors or unaudited, though the auditors were required to do so under SA700. Further, whether such branches and subsidiaries were material to the financial statements of the entity/ consolidated financial statements of the Group was not brought out in the Auditor's Reports.
161. As per the provisions related to the rotation of statutory auditors under Rule 6(3) of the Companies (Audit and Auditors) Rules, 2014 read with Section 139 of Companies Act, 2013, the incoming auditor or audit firm shall not be eligible for appointment if such auditor or audit firm is associated with the outgoing auditor or is an audit firm under the same network of audit firms.

However, it was observed that PCN & Associates, the auditor for FY 2017-18 to 2019-20 was associated with P Murali & Co, the previous auditor. The details of such association are as under:

- (a) As per the statement of Chandra Babu M, Partner of PCN & Associates, recorded before IA, he was associated with P Murali & Co as a consultant during 2011-2015.
- (b) As per the website of PCN & Associates, two of its partners, viz. CA Naveen Madivada and CA Lakshmi Prasanthi, did their CA articleship in M/s.P.Murali & Co.

162. As per Section 141(3)(e) of the Companies Act, 2013 which deals with the eligibility, qualifications and disqualifications of auditors, a person or a firm who, whether directly or indirectly, has business relationship (any transaction entered into for a commercial purpose) with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company, shall not be eligible for appointment as an auditor of a company.

163. In the instant case, it was observed from the annual reports of the Company that M/s. Aarthi Consultants Private Limited, the Registrar and Share Transfer Agent (RTA) of the Company since 2000-2001, was associated with Potukuchi Murali Mohan Rao, the partner of P Murali & Co. in the following ways:

- (a) Potukuchi Naga Nandini, wife of P Murali Mohan Rao is one of the subscribers to Memorandum of Association of M/s.Aarthi Consultants Private Limited and also one of its promoters.
- (b) Ram Lakshmi Potukuchi and Vasantha Petasubba, the directors of M/s.Aarthi Consultants Private Limited during the years 1992 to 2018, had registered [pmurali.cs@gmail.com](mailto:pmurali.cs@gmail.com) as their email ID with MCA, which was same as the email ID of Pluto Mines And Minerals LLP where Potukuchi Murali Mohan Rao is a designated partner.
- (c) The registered address of M/s.Aarthi Consultants Private Limited, viz. 1-2-285, Domalguda Hyderabad – 500 029, was same as address of



Pluto Mines And Minerals LLP, Palace Heights Avenues LLP and A M N Hotels LLP where Potukuchi Murali Mohan Rao is a designated partner.

- (d) Vasantha Petasubba was one of the Directors of P Murali Consultants Private Limited which is a consultancy firm in which Potukuchi Murali Mohan Rao is also a director.
  - (e) The shareholders of M/s. Aarthi Consultants Private Limited were found to be related to P Murali Mohana Rao.
164. Further, it was also observed that BGL had allotted 45,00,000 shares of Face Value of Rs. 2 each at Rs.7.7 per share in preferential issue to M/s. Palace Heights Avenues LLP, on July 23, 2021. From the LLP Agreement dated June 2020, it was seen that 100% of the Capital of the LLP was contributed by P Murali Mohana Rao and his wife P Naganandini. The same was in violation of Section 141(3)(d) of the Companies Act, 2013, which prohibits a relative of an auditor from holding securities in the company of face value exceeding rupees one lakh.
165. In view of the above observations, P Murali & Co *prima facie* appeared to be ineligible to be appointed as Statutory Auditors of BGL for period under investigation. However, M/s.P Murali & Co. was not only appointed as auditor of BGL till FY2016-17, it was reappointed as the Statutory Auditors of the Company for a term of five consecutive years commencing from the conclusion of the 23rd Annual General Meeting held on September 30, 2022 up to the conclusion of the 28th Annual General Meeting.

**Extract of the legal provisions allegedly violated:**

166. The relevant provisions of SEBI Act, 1992, and SEBI (PFUTP) Regulations, 2003, SEBI (LODR) Regulations, 2015, SEBI (PIT) Regulations, 2015, Listing Agreement and SCRA, 1956 are reproduced hereunder for ready reference:

**SEBI Act, 1992**

***Sec 12A. No person shall directly or indirectly—***

*(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;*

*(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;*

**Sec 15A. If any person, who is required under this Act or any rules or regulations made thereunder, —**

*(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.*

*(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.*

**Sec 15HA. Penalty for fraudulent and unfair trade practices.**

*If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.*

**Sec 15HB. Penalty for contravention where no separate penalty has been provided.**

*Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

**Contravention by companies:**

**Sec. 27(1):** *Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished*

accordingly: *Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention*

**Sec 27(2):** *Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.*

*Explanation: For the purposes of this section, — (a) “company” means any body-corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.*

### **Securities Contracts (Regulation) Act, 1956:**

**21.** *Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange*

**23H.** *Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

### **SEBI (PFUTP) Regulations, 2003**

#### **3. Prohibition of certain dealings in securities**

##### **No person shall directly or indirectly –**

*(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*

*(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

#### **4. Prohibition of manipulative, fraudulent and unfair trade practices**

*(1) Without prejudice to the provisions of Regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.*

*Explanation – For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose*

securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.

(2) Dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves any of the following: —

(f) knowingly publishing or causing to publish or reporting or causing to report by a person dealing in securities any information relating to securities, including financial results, financial statements, mergers and acquisitions, regulatory approvals, which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

(k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities;

(r) knowingly planting false or misleading news which may induce sale or purchase of securities

**Clauses of erstwhile Listing Agreement:**

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

a. One day prior to listing of its securities on the stock exchanges.

b. On a quarterly basis, within 21 days from the end of each quarter.

c. Within 10 days of any capital restructuring of the company resulting in a change exceeding +/-2%

of the total paid-up share capital”

(l)(a) **Statement showing Shareholding Pattern**

**49. CORPORATE GOVERNANCE**

**I.** The company agrees to comply with the provisions of Clause 49 which shall be implemented in a manner so as to achieve the objectives of the principles as mentioned below. In case of any ambiguity, the said provisions shall be interpreted and applied in alignment with the principles.

**C. Disclosure and transparency**

1. The company should ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the company.

a. Information should be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.

## **D. Responsibilities of the Board**

### *1. Disclosure of Information*

*b. The Board and top management should conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture for good decision-making.*

### *2. Key functions of the Board*

*The board should fulfill certain key functions, including:*

*b. Monitoring the effectiveness of the company's governance practices and making changes as needed.*

*h. Overseeing the process of disclosure and communications.*

## **III. Audit Committee**

### **D. Role of Audit Committee**

*The role of the Audit Committee shall include the following:*

*1. Oversight of the company's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible;*

*4. Reviewing, with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to:*

*a. Matters required to be included in the Director's Responsibility Statement to be included in the Board's report in terms of clause (c) of sub-section 3 of section 134 of the Companies Act, 2013*

*b. Changes, if any, in accounting policies and practices and reasons for the same.*

*c. Major accounting entries involving estimates based on the exercise of judgment by management*

*e. Compliance with listing and other legal requirements relating to financial statements.*

*11. Evaluation of internal financial controls and risk management systems;*

*12. Reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems;*

*13. Reviewing the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit;*

### **IX. CEO/CFO certification:**

*The CEO or the Managing Director or manager or in their absence, a Whole Time Director appointed in*

*terms of Companies Act, 2013 and the CFO shall certify to the Board that:*

*A. They have reviewed financial statements and the cash flow statement for the year and that to the best of their knowledge and belief :*

*1. these statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading;*

*2. these statements together present a true and fair view of the company's affairs and are in compliance with existing accounting standards, applicable laws and regulations.*

*B. There are, to the best of their knowledge and belief, no transactions entered into by the company during the year which are fraudulent, illegal or violative of the company's code of conduct.*

*C. They accept responsibility for establishing and maintaining internal controls for financial reporting and that they have evaluated the effectiveness of internal control systems of the company pertaining to financial reporting and they have disclosed to the auditors and the Audit Committee, deficiencies in the design or operation of such internal controls, if any, of which they are aware and the steps they have taken or propose to take to rectify these deficiencies.*

*D. They have indicated to the auditors and the Audit committee:*

*1. significant changes in internal control over financial reporting during the year;*

*2. significant changes in accounting policies during the year and that the same have been disclosed in the notes to the financial statements; and*

*3. instances of significant fraud of which they have become aware and the involvement therein, if any, of the management or an employee having a significant role in the company's internal control system over financial reporting.*

*50. The company will mandatorily comply with all the Accounting Standards issued by Institute of Chartered Accountants of India (ICAI) from time to time."*

### **SEBI (LODR) Regulations, 2015**

#### ***Principles governing disclosures and obligations***

**4. (1)** *The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:*

*(a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.*

*(b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.*

*(c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.*

*(d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.*

*(e) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.*

*(g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.*

*(h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.*

*(i) Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.*

*(j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.*

*(2) The listed entity which has listed its specified securities shall comply with the corporate governance provisions as specified in chapter IV which shall be implemented in a manner so as to achieve the objectives of the principles as mentioned below.*

**(e) Disclosure and transparency:** *The listed entity shall ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the listed entity, in the following manner:*

*(i) Information shall be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.*

#### **4. (2) (f) Responsibilities of the Board of Directors:**

*(i) Disclosure of information:*

*(2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.*

*(ii) Key functions of the Board of Directors –*

*(2) Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.*

*(7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.*

*(8) Overseeing the process of disclosure and communications.*

*(iii) Other responsibilities:*

*(1) The board of directors shall provide strategic guidance to the listed entity, ensure effective monitoring of the management and shall be accountable to the listed entity and the shareholders.*

*(2) The board of directors shall set a corporate culture and the values by which executives throughout a group shall behave.*

*(3) Members of the board of directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders.*

*(6) The board of directors shall maintain high ethical standards and shall take into account the interests of stakeholders*

*(7) The board of directors shall exercise objective independent judgement on corporate affairs.*

*(12) Members of the board of directors shall be able to commit themselves effectively to their responsibilities.*

#### **Board of Directors – Regulation 17**

*(1) The composition of board of directors of the listed entity shall be as follows:*

*(a) board of directors shall have an optimum combination of executive and non-executive directors with at least one woman director and not less than fifty per cent. of the board of directors shall comprise of non-executive directors;*



*(b) where the chairperson of the board of directors is a non-executive director, at least one-third of the board of directors shall comprise of independent directors and where the listed entity does not have a regular non-executive chairperson, at least half of the board of directors shall comprise of independent directors:*

**(8)** *The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II.*

### **Audit Committee – Regulation 18**

*(1) Every listed entity shall constitute a qualified and independent audit committee in accordance with the terms of reference, subject to the following:*

*(b) Two-thirds of the members of audit committee shall be independent directors*

**(3)** *The role of the audit committee and the information to be reviewed by the audit committee shall be as specified in Part C of Schedule II.*

### **Part C of Schedule II: ROLE OF THE AUDIT COMMITTEE AND REVIEW OF INFORMATION BY AUDIT COMMITTEE**

*A. The role of the audit committee shall include the following:*

*(1) oversight of the listed entity's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible;*

...

*(4) reviewing, with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to:*

- (a) matters required to be included in the director's responsibility statement to be included in the board's report in terms of clause (c) of sub-section (3) of Section 134 of the Companies Act, 2013;*
- (b) changes, if any, in accounting policies and practices and reasons for the same;*
- (c) major accounting entries involving estimates based on the exercise of judgment by management;*
- (d) significant adjustments made in the financial statements arising out of audit findings;*
- (e) compliance with listing and other legal requirements relating to financial statements;*

(f) disclosure of any related party transactions; (g) modified opinion(s) in the draft audit report

(5) reviewing, with the management, the quarterly financial statements before submission to the board for approval

(7) reviewing and monitoring the auditor's independence and performance, and effectiveness of audit process.

(11) evaluation of internal financial controls and risk management systems;

(12) reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems;

(13) reviewing the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit.

**Corporate governance requirements with respect to subsidiary of listed entity. - Regulation 24:**

(1) At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not.

*Explanation - For the purposes of this provision, notwithstanding anything to the contrary contained in regulation 16, the term "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.*

**Disclosure of events or information. - Regulation 30:**

(1) Every listed entity shall make disclosures of any events or information which, in the opinion of the board of directors of the listed company, is material.

(2) Events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.

(3) The listed entity shall make disclosure of events specified in Para B of Part A of Schedule III, based on application of the guidelines for materiality, as specified in sub-regulation (4).

(4) (i) The listed entity shall consider the following criteria for determination of materiality of events/ information:

(a) the omission of an event or information, which is likely to result in discontinuity or alteration of event or information already available publicly; or

*(b) the omission of an event or information is likely to result in significant market reaction if the said omission came to light at a later date;*

*(c) In case where the criteria specified in sub-clauses (a) and (b) are not applicable, an event/information may be treated as being material if in the opinion of the board of directors of listed entity, the event / information is considered material.*

*(ii) The listed entity shall frame a policy for determination of materiality, based on criteria specified in this sub-regulation, duly approved by its board of directors, which shall be disclosed on its website.*

*(6) The listed entity shall first disclose to stock exchange(s) of all events, as specified in Part A of Schedule III, or information as soon as reasonably possible and not later than twenty four hours from the occurrence of event or information:*

*Provided that in case the disclosure is made after twenty four hours of occurrence of the event or information, the listed entity shall, along with such disclosures provide explanation for delay.*

**SCHEDULE III**  
**PART A: DISCLOSURES OF EVENTS OR INFORMATION: SPECIFIED**  
**SECURITIES**

**[See Regulation 30]**

*The following shall be events/information, upon occurrence of which listed entity shall make disclosure to stock exchange(s):*

**A. Events which shall be disclosed without any application of the guidelines for materiality as specified in sub-regulation (4) of regulation (30):**

*17. Initiation of Forensic audit: In case of initiation of forensic audit, (by whatever name called), the following disclosures shall be made to the stock exchanges by listed entities:*

*a) The fact of initiation of forensic audit along-with name of entity initiating the audit and reasons for the same, if available;*

**B. Events which shall be disclosed upon application of the guidelines for materiality referred sub-regulation (4) of regulation (30):**

*7. Effect(s) arising out of change in the regulatory framework applicable to the listed entity*

**Holding of specified securities and shareholding pattern. – Regulation 31**

**31. (1)** *The listed entity shall submit to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of*

securities, in the format specified by the Board from time to time within the following timelines -

- (a) one day prior to listing of its securities on the stock exchange(s);
- (b) on a quarterly basis, within twenty-one days from the end of each quarter; and,
- (c) within ten days of any capital restructuring of the listed entity resulting in a change exceeding two per cent of the total paid-up share capital:

**Financial Results. – Regulation 33:**

33. (1) While preparing financial results, the listed entity shall comply with the following:

(c) The standalone financial results and consolidated financial results shall be prepared as per Generally Accepted Accounting Principles in India

(3) The listed entity shall submit the financial results in the following manner:

(h) The listed entity shall ensure that, for the purposes of quarterly consolidated financial results, at least eighty percent of each of the consolidated revenue, assets and profits, respectively, shall have been subject to audit or in case of unaudited results, subjected to limited review.

**Annual Report – Regulation 34(2):**

The annual report shall contain the following:

(e) management discussion and analysis report - either as a part of directors report or addition thereto;

**Website - Regulation 46:**

(2) The listed entity shall disseminate the following information under a separate section on its website:

(s) separate audited financial statements of each subsidiary of the listed entity in respect of a relevant financial year, uploaded at least 21 days prior to the date of the annual general meeting which has been called to inter alia consider accounts of that financial year:

Provided that a listed entity, which has a subsidiary incorporated outside India—

(a) where such subsidiary is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, the requirement of this proviso shall be met if consolidated financial statement of such subsidiary is placed on the website of the listed entity;

*(b) where such subsidiary is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the holding Indian listed entity may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website;*

**Accounting Standards. – Regulation 48:**

*The listed entity shall comply with all the applicable and notified Accounting Standards from time to time.*

**SEBI (PIT) Regulations, 2015**

**Communication or procurement of unpublished price sensitive information. – Regulation 3**

**w.e.f. July 17, 2020:**

*(5) The board of directors or head(s) of the organisation of every person required to handle unpublished price sensitive information shall ensure that a structured digital database is maintained containing the nature of unpublished price sensitive information and the names of such persons who have shared the information and also the names of such persons with whom information is shared under this regulation along with the Permanent Account Number or any other identifier authorized by law where Permanent Account Number is not available. Such database shall not be outsourced and shall be maintained internally with adequate internal controls and checks such as time stamping and audit trails to ensure non-tampering of the database.*

**April 01, 2019 to July 16, 2020:**

*(5) The board of directors shall ensure that a structured digital database is maintained containing the names of such persons or entities as the case may be with whom information is shared under this regulation along with the Permanent Account Number or any other identifier authorized by law where Permanent Account Number is not available. Such databases shall be maintained with adequate internal controls and checks such as time stamping and audit trails to ensure non-tampering of the database.*

**Need for SEBI's Intervention:**

167. The non-compliances with accounting standards by a listed company can have a significant impact on the interests of investors in the securities market. They not only result in misrepresentation of a company's financial position,

but also result in incorrect disclosure of material information. In the instant case, these non-compliances have resulted in understatement of expenditure and hence, overstatement of profits during each of the financial years during the investigation period. The scale of fraud is indeed large. The Noticees attempted to camouflage accounting entries in excess of Rs.1280 Crore during FYs 2018-19 and 2019-20 to give a distorted picture of the Company's financial position. By all yardsticks, the accounting shenanigans and dubious accounting practices, which the Noticees resorted to, were to mislead investors.

168. The published financial statements of a listed company, a publicly available document, are expected to present a true picture about the financial health of that company which are relied upon by the investors to make an informed decision regarding investment in that company. As observed in some earlier cases of similar nature, while all companies are mandated to ensure that their books of accounts and financial statements present a true and fair picture under the provisions of the Companies Act, 2013, the listed companies are additionally required to adhere to the same under Regulation 4 (1) of the SEBI (LODR) Regulations, 2015. Any mis-statement or mis-representation in the financial statements adversely impairs an investor's ability to make an informed decision about investment.
169. Further, the Hon'ble Supreme Court of India in the matter of *N. Narayanan Vs. Adjudicating Officer, Securities and exchange Board of India (Civil Appeal Nos 4112-12 of 2012- Date of Decision- April 26, 2013)* , while emphasizing on the adverse impact of incorrect information, has observed: "*The object of the SEBI Act is to protect the interest of investors in securities and to promote the development and to regulate the securities market, so as to promote orderly, healthy growth of securities market and to promote investors protection. Securities market is based on free and open access to information, the integrity of the market is predicated on the quality and the manner on which it is made available to market. 'Market abuse' impairs economic growth and erodes investor's confidence. Market abuse refers to the use of manipulative and deceptive devices, giving out incorrect or misleading information, so as to encourage investors to jump into*

*conclusions, on wrong premises, which is known to be wrong to the abusers. The statutory provisions mentioned earlier deal with the situations where a person, who deals in securities, takes advantage of the impact of an action, may be manipulative, on the anticipated impact on the market resulting in the “creation of artificiality”. The same can be achieved by inflating the company’s revenue, profits, security deposits and receivables, resulting in price rise of scrip of the company. Investors are then lured to make their “investment decisions” on those manipulated inflated results, using the above devices which will amount to market abuse.”*

170. Further, Hon’ble SAT in the matter of *V. Natarajan vs. SEBI*, in Appeal No.104 of 2011 (order dated June 29, 2011), while holding the publication of false and misleading financial statements as amounting to unfair trade practice, has held that “... we are satisfied that the provisions of Regulations 3 and 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, were violated. These regulations, among others, prohibit any person from employing any device, scheme or artifice to defraud in connection with dealing in or Issue of securities which are listed or proposed to be listed on an exchange. They also prohibit persons from engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities that are listed on stock exchanges. These regulations also prohibit persons from indulging in a fraudulent or unfair trade practice in securities which includes publishing any information which is not true or which he does not believe to be true. Any advertisement that is misleading or contains information in a distorted manner which may influence the decision of the investors is also an unfair trade practice in securities which is prohibited. The regulations also make it clear that planting false or misleading news which may induce the public for selling or purchasing securities would also come within the ambit of unfair trade practice in securities”
171. It is further observed that *prima facie* certain non-compliances / violations continue to take place, as on date. The widespread non-compliances with / violations of various Clauses of Listing Agreements and Regulations framed

by SEBI, many of which are continuing in nature, erode the confidence of investors in a disclosure-based regime. These are detrimental to the interests of investors and impinge on the integrity of the securities market.

172. Further, as mentioned in above paragraphs, certain adverse observations have also been found against M/s. P Murali & Co., who audited the financial statements of BGL between FYs 2014-15 to 2016-17 and did not qualify the audit report in respect of the non-compliances. However, the said firm has been once again appointed as the Statutory Auditor of the Company in FY 2021-22 for a term of 5 (Five) consecutive years, commencing from the conclusion of the 23rd Annual General Meeting held on September 30, 2022 up to the conclusion of the 28<sup>th</sup> Annual General Meeting.
173. Apart from the above, it is also noted that the Promoter Group of the Company has directly benefitted as a result of manipulation of financial statements by the Company. In this regard, it is noted that during FY 2021-22, BGL had made preferential allotment of equity shares to 79 allottees and raised Rs.836.38 Crores. Such allottees included 4 entities which subsequently became part of Promoter Group. By virtue of the same, the shareholding of the promoters and promoter group of the Company now stands at 18.47%, as on December 31, 2022. The abovementioned preferential allotment was done at Rs.7.70 per share (face value of each share was Rs.2). Subsequently, there were two bonus issues in the ratio of 1:4 and 2:3 during FY 2021-22, as a result of which the effective allotment for the preferential allottees came to Rs.3.70 (approx.) per share. However, prior to the abovementioned preferential allotment, the promoter group had sold shares when the average price of the scrip was much higher than the effective allotment price. Considering the same, it is apparent that the abovementioned increase in shareholding by the promoters was achieved at price far below the prices at which the promoters had offloaded a large percentage of their shareholding through a purported pledge.
174. Having observed *prima facie* that Noticees have resorted to various accounting irregularities and other violations, as already detailed above, it is clear that the promoter group entities, by offloading their shares in BGL throughout the investigation period and increasing their shareholding after



the investigation period at a much lower price, have directly benefitted themselves from the said violations. However, the quantification of the unlawful gains made by the promoter group entities cannot be made on account of non – submission of information sought from the Company including date of purported pledge, copies of loans and pledge agreements and DIS slips in respect of the shares offloaded by them.

175. It is also apparent from the facts of the case that the Company concealed the correct shareholding pattern during the investigation period, when the promoters were off-loading shares, thereby keeping public shareholders in the dark about reduction in their shareholding. Thus, the picture that emerges is that of a corporate entity that does not hesitate to bend rules and give a rosy and distorted picture of its true self to investors to benefit its promoters. The fact that the promoters gave themselves preferential allotment of shares which led to them increasing their shareholding from 3.51 % to over 18.47 % after start of the SEBI investigation speaks volumes of their intent to mislead and their brazen approach towards self-enrichment. This acted as a scheme against ordinary investors who were induced/ influenced into making their investment decisions based on inflated profits reported by the Company and the incorrect shareholding pattern of promoters filed by the Company with the stock exchanges. On top of that, the Company, from the very start, resorted to delaying tactics, so that the investigation process got stalled.
176. In view of the abovementioned observations and findings, I find that it is a fit case for issuing appropriate directions in the form of a Show Cause Notice cum Interim Order. Further, considering that the scrip of BGL is currently trading at around Rs.16.23 (closing price at BSE on April 12, 2023), there is a real risk that the Promoters may off-load their shares and exit the Company. It is thus imperative that the Promoters be restrained/ prohibited from off-loading/ disposing their shareholding in the Company having regard to their conduct in these proceedings as detailed in the preceding paragraphs.

## Directions:

177. Keeping in view the foregoing factual deliberations involving financial misstatements of BGL and the observations thereon recorded in the preceding paragraphs and after being cognizant of the fraudulent manner in which the Noticees have conducted their affairs to manipulate financial statements in flagrant violations of all canons of corporate governance, in order to protect the interests of shareholders of the said company and that of other investors and the integrity of the securities market, I, in exercise of the powers conferred upon me under Sections 11, 11(4) and 11B(1) read with Section 19 of the SEBI Act, 1992 hereby issue by way of this interim order cum show cause notice, the following directions, which shall be in force until further orders: -

- (a) *Noticees 2 to 5* are hereby directed not to sell/ dispose of/ dilute their shareholding in the Company, held directly or indirectly through their family members or through companies/ LLP in which they or their family members are Directors/ Partners until further orders.
- (b) *Noticee 1* (i.e. BGL) shall place the copy of this order before its Audit Committee and also undertake the examination of its consolidated financial statements for the period 2014-15 to 2021-22 to ensure that the same are in compliance with all the applicable accounting standards and submit the statement of impact of all the non-compliances noted including those observed in the order for each of the financial years within three months from the date of the order. The accounting impact of rectification of above-noted non-compliances shall be carried out as per the applicable accounting standards in the consolidated financial statements of the financial year 2022-23. BGL shall ensure that the said statement of impact of non-compliances is in the format specified in SEBI Circular no. CIR/CFD/CMD/56/2016 dated May 27, 2016 (BGL may use the term “*non-compliances*” instead the term “*audit qualification*” for this purpose). BGL shall further ensure that the said statement of impact of non-compliances is certified by a peer-reviewed

Chartered Accountant, other than the Statutory Auditor, who had audited at least one company forming part of NIFTY 100 or S&P BSE 100 indices during the past three years.

- (c) *Noticee 1* (i.e. BGL) shall publish on the stock exchanges platform, within seven days from the date of this order, the statement showing correct shareholding pattern, as required under regulation 31 of SEBI (LODR) Regulations 2015 for all the quarters in which incorrect shareholding pattern has been observed above.
- (d) *Noticee 1* (i.e. BGL) shall appoint at least one independent director on its board of directors as a director on the board of directors of each of its material subsidiaries, as required under Regulation 24(1) of SEBI (LODR) Regulations, 2015, within fifteen days of the date of this order.
- (e) *Noticee 1* (i.e. BGL) shall disseminate the standalone financial statements of each of its subsidiaries on its website, for the period between FY 2014-15 and FY 2021-22, as required under Regulation 46 of SEBI (LODR) Regulations, 2015, within fifteen days from the date of this order.
- (f) *Noticee 1* (i.e. BGL) shall ensure that, for the purposes of quarterly consolidated financial results, at least eighty percent of each of the consolidated revenue, assets and profits, respectively, is subjected to audit or in case of unaudited results, subjected to limited review starting from Quarter ending March 31, 2023, in accordance with the requirements specified in Regulation 33(1)(h) of SEBI (LODR) Regulations, 2015.
- (g) The Audit Committee of BGL shall comply with the following directions, within three months from the date of this order, and file its report on the same with stock exchanges where the shares of BGL are listed:
  - i. Review and monitor the statutory auditor's independence, performance, and effectiveness of the audit process and take suitable corrective action, including but not limited to the removal of the auditor, if necessary, in accordance with the due process

prescribed under the Companies Act, 2013, in view of the adverse observations on statutory auditors.

- ii. Review the adequacy of internal audit function of BGL and take suitable corrective action.
  - iii. Enhance the oversight of the BGL's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient, and credible.
- (h) NSE shall monitor the compliances with the above directions and file a detailed report to SEBI periodically.
- (i) With regard to the shares of BGL disposed of / transferred / offloaded by the promoter group entities in any manner during the period from the start of investigation period till date, the *Noticees* shall submit details regarding the date of purported pledges, off-market transfers, copies of loans and pledge agreements, if any, DIS slips, prices at which shares were disposed of and all other relevant documents / details to SEBI within 15 days from the date of this Order.

178. The foregoing *prima facie* observations, contained in this Order, are made on the basis of the material available on record. The said *prima facie* findings shall also be considered as a show cause notice and the afore-said *Noticees* are directed to show cause as to why suitable directions / prohibitions under Section 11(4) and 11B of the SEBI Act, 1992, including the directions restraining them from accessing the securities market; prohibiting them from buying, selling or otherwise dealing in securities in any manner whatsoever, directly or indirectly, for a specified period and further restraining them from being associating with any listed company and any registered intermediary, should not be issued against them, for the abovementioned violations allegedly committed by them.

179. Further, the *Noticees 1 to 5* are also called upon to show cause as to why inquiry should not be held against them in terms of Rule 4(1) of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and Rule 4(1) of Securities Contracts (Regulation)

(Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 and penalty be not imposed on them under Section 11(4A), 11B(2) read with Section 15A(b), 15A(c), 15HA and 15HB of the SEBI Act, 1992 and Section 12A(2) read with Section 23H of Securities Contracts (Regulation) Act, 1956 for the above alleged violations of provisions of SEBI Act, 1992, SEBI (LODR) Regulations, 2015, SEBI (PFUTP) Regulations, 2003, SEBI (PIT) Regulations, 2015, Listing Agreement read with provisions of SCRA, 1956.

180. In this context, the concerned *Noticees* may, within 21 days from the date of receipt of this Order, file their reply/objections, if any, to this Order and may also indicate whether they desire to avail an opportunity of personal hearing on a date and time to be fixed in that regard.
181. The above directions shall take effect immediately and shall be in force until further orders.
182. A copy of this order shall be served upon Noticees, Stock Exchanges, Registrar and Transfer Agents and Depositories for necessary action and compliance with the above directions.

**DATE: APRIL 13, 2023**

**PLACE: MUMBAI**

**ASHWANI BHATIA**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**