



Dated: 9th November, 2022

Manager Listing Department BSE Limited Phiroze Jeejeebhoy Towers, Dalal Street, Mumbai- 400001 Scrip Code : 533344	Manager Listing Department National Stock Exchange of India Limited Exchange Plaza, C-1, Block G, Bandra- Kurla Complex, Bandra (East), Mumbai- 51 Scrip Code : PFS
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Sir/ Madam,

Sub: Press Release

Please find enclosed the press release for PTC India Financial Services Limited.

Yours faithfully,

For PTC India Financial Services Limited

(Mohit Seth)
Company Secretary

Enclosed: as above

PTC India Financial Services Ltd. (CIN: L65999DL2006PLC153373)

(A subsidiary of PTC India Limited)

Registered Office: 7th Floor, Telephone Exchange Building, 8 Bhikaji Cama Place, New Delhi - 110 066, India

Board: +91 11 26737300 / 26737400 Fax: 26737373 / 26737374, Website: www.ptcfinancial.com, E-mail: info@ptcfinancial.com



Press Release

New Delhi, 09th November 2022

PTC India Financial Services Limited (PFS): Independent Opinions on Forensic Audit

This is in continuation of our communication to exchange today; PFS has taken independent remark / report from leading firm Ernst & Young LLP on forensic audit report, which has stated:

- No financial impact on accounts of PFS.
- No indication of suspected fraud in observations made by forensic auditor

Further PFS has taken a legal opinion from Former Chief Justice of India on Forensic Audit (enclosed herewith) who has opined that forensic audit report

- Doesn't identify and quantify any "material impact" in relation of Loan Account
- Doesn't identify a single instance of "Fraud" or "Diversion of Fund"

About PFS

PFS is a non-banking finance company promoted by PTC India Limited. PFS has been granted the status of an Infrastructure Finance Company ("IFC") by the Reserve Bank of India. The Company offers an array of financial products to infrastructure companies in the entire energy value chain and other sustainable infrastructure development projects. PFS also provides fee based services viz loan syndication and underwriting etc.

For more updates and information on the Company, please log on to www.ptcfinancial.com

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Disclaimer:

Certain matters discussed in this document may contain statements regarding the Company's market opportunity and business prospects that are individually and collectively forward-looking statements. Such forward-looking statements are not guarantees of future performance and are subject to known and unknown risks, uncertainties and assumptions that are difficult to predict. These risks and uncertainties include, but are not limited to: the performance of the Indian economy and of the economies of various international markets, the performance of the power industry in India and world-wide, competition, the company's ability to successfully implement its strategy, the Company's future levels of growth and expansion, technological implementation, changes and advancements, changes in revenue, income or cash flows, the Company's market preferences and its exposure to market risks, as well as other risks. The Company's actual results, levels of activity, performance or achievements could differ materially and adversely from results expressed in or implied by this document. The Company assumes no obligation to update any forward-looking information contained in this document. Any forward-looking statements and projections made by third parties included in this document are not adopted by the Company and the Company is not responsible for such third party statements and projections.

LEGAL OPINION

Querist: PTC India Financial Services Ltd.

**In re: Opinion on the findings of the Forensic Audit conducted by
M/s. CNK & Associates LLP**

1. I have gone through the brief for opinion prepared in the matter and have held a conference with the team of M/s. Manocha & Ghosh Law Associates representing the querist. Before I take up the queries presented to me, I deem it appropriate to set out the brief facts leading to the present opinion.

Brief Facts

- i) The Querist is a listed Non-Banking Financial Company registered with and regulated by the Reserve Bank of India, which has 35.01% public shareholding. The balance shareholding rests with PTC India Ltd. PTC India Ltd. itself is a listed company, which was promoted by NTPC Ltd., PFC Ltd., NHPC Ltd. and Powergrid Corporation of India Ltd.
- ii) On 19.01.2022, [REDACTED] Sh. [REDACTED] and Sh. [REDACTED] (DIN: [REDACTED]), then Independent Directors of the Querist, resigned from its board. A copy of the Resignation Letter has been shared with me. I understand that the Resignation Letters issued by these Independent Directors were identical in their language and content.
- iii) Thereafter, at a meeting of its Audit Committee, the Statutory Auditor of the Querist had requested that a forensic audit of the allegations levelled in the resignation letters be undertaken to evaluate if there is any material financial impact of the same on the accounts of the Querist. The Statutory Auditor had indicated that in the absence of such evaluation, it would be constrained to issue a "Disclaimer" in its Audit Report.
- iv) Accordingly, CNK & Associates LLP (hereinafter referred to as the "CNK") was appointed to undertake the Forensic Audit. The scope of the Forensic Audit, the timelines for completion thereof and the manner in which the audit was to be undertaken was set out in the Engagement Letter dated 19.07.2022 (hereinafter referred to as "Engagement Letter") issued to CNK. A copy of the Engagement Letter dated 19.07.2022 has been shared with me.

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- v) CNK has issued a Final Forensic Audit Report on 04.11.2022 (hereinafter referred to as the "Report"). The Report is stated to have been issued after taking into account management comments received on the preliminary observations and draft report issued earlier by CNK.
2. The Querist has shared a copy of the Report and in this backdrop, posed the following queries for my consideration:
- (a) What is the scope of "forensic audit" under the applicable laws and whether the Report is in conformity with the same?
 - (b) Whether the findings in the Report are beyond the scope defined in the Engagement Letter?
 - (c) What is the meaning of "evergreening of loan"?
 - (d) Whether the Report, in Section VI (pertaining to evaluation of Loan Accounts) has (i) identified and quantified the "material impact" of the same on the financials of the Querist; (ii) identified any instance of "fraud" or "diversion of funds" by the Querist and (iii) identified operational issues which could have a "material impact" on the financials of the Querist or otherwise represent an instance of "fraud" or "diversion of funds"?
 - (e) Whether the findings in the Report in Section VII (pertaining to the appointment of [REDACTED]) are substantiated by facts and documentary evidence?
 - (f) Whether the Report, in Section VIII (pertaining to Corporate Governance) has (i) identified and quantified the "material impact" of the same on the financials of the Querist; (ii) identified any instance of "fraud" or "diversion of funds" by the Querist and (iii) identified operational issues which could have a "material impact" on the financials of the Querist or otherwise represent an instance of "fraud" or "diversion of funds"?

Re: Query (a) and (b)

3. Queries A and B are interrelated and therefore being taken up together. At the outset, I note that the term "forensic audit" is not defined under any statute enacted by the Indian parliament. Further, such audit has no statutory backing under the laws of India and the findings of such audit are not binding under law. There is no presumption under law as to the correctness of any findings under a Forensic Audit and the same also do



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not hold any additional weightage with respect to their admissibility in evidence.

4. I note that some guidance as to the scope of a Forensic Audit is available from the regulatory definitions of "forensic accounting", which includes "forensic audit" as an activity.
5. I further note that the Institute of Chartered Accountants of India has issued standards on Forensic Accounting and Investigation in consultation with *inter alia* Reserve Bank of India and Securities and Exchange Board of India, which define "Forensic Accounting" as:

"...discovery and evaluation of evidence by a professional to interpret and communicate findings suitable for a Court of law. The overriding objective of Forensic Accounting is to discover facts and evidence, especially in the area of financial transactions and operational arrangements, to help the Professional report findings, to reach a conclusion (but not to express an opinion) and support a legal case in a Court of law."

6. Further, the guide on "Study on Forensic Accounting and Fraud Detection" this concept is explained as below:

"Forensic Accounting and Fraud Detection (FAFD) involves practice of utilizing accounting, auditing, CAATs/ Data Mining Tools and investigative skills to detect frauds/ mistakes. Forensic accountants usually investigate and analyze financial evidence, develop computerized applications to assist in the presentation and analysis of the evidence presented, communicate their findings in the form of various reports and assist in the legal proceedings in court as an expert witness. The integration of accounting, auditing and investigative skills yields the specialty known as Forensic Accounting. It is the study and interpretation of accounting evidence. It is the application of accounting methods to the tracking and collection of forensic evidence, usually for investigation and prosecution of criminal acts such as embezzlement or fraud."

7. Insofar as the scope of the forensic audit is concerned, I note from the Engagement Letter that the Objective and Scope of engagement of CNK is well defined in Clause 3 read with Annexure I thereof.
8. However, upon having gone through the Report, I have found and elaborated below, that on multiple occasions the Report travels well beyond the clearly defined Scope. For instance, in the context of review



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of the Loan Accounts, out of the fifteen accounts identified by CNK, eleven accounts fall outside the scope of the review. Equally, as I have opined below, in the evaluation of the veracity of the claims in the Resignation Letters of the erstwhile Independent Directors, CNK has gone ahead and opined on the correctness of the legal opinions and other audit/review reports.

9. In this view of the matter, in my opinion the Report is, firstly, well beyond the defined scope which is crystallized in the Engagement Letter and secondly, also beyond the definition of Forensic Accounting which clearly states that the overriding objective of Forensic Accounting is to discover facts and evidence rather than expressing views on other professional opinions.

Re: Query (c)

10. I note that the definition of "evergreening of loans" is not available in any Indian statute.
11. However, from the applicable literature it can be garnered that "evergreening of loans" involves sanctioning of additional/fresh loan to existing borrower to repay their earlier existing loan in order to prevent them turning into NPA therefore postponing the recognition of loss.

Re: Query (d)

12. I have gone through Section VI of the Forensic Audit Report including annexures referred by CNK. I note that CNK has identified 15 Loan Accounts in connection with which it has sought to highlight discrepancies. CNK claims that there are 20 instances of discrepancies which are variably applicable to the aforesaid Loan Accounts. The details of the said Loan Accounts, list of alleged discrepancies and a matrix showing the alleged discrepancies have been set out by CNK at pages 2 to 5 of this section.
13. I note from the scope of work set out in the Engagement Letter that CNK was required to review stressed assets i.e. Stage 2 assets which are overdue and Stage 3 Loan Accounts including those which had been written off during the period of review. Therefore, Stage 1 assets would not fall within the purview of review.
14. Further notice that CNK was required to "...on a sample basis review sample of minimum 10% of total sanctions /disbursements that took place during the Review Period". The review period appears to be from 01.04.2019 to 31.03.2022. Therefore, CNK was clearly required to



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review and identify stressed assets where sanctions /disbursements have taken place during the review period only.

15. In the report, CNK has noted that the following Loan Accounts are Stage 1 assets:

- a) [REDACTED] (See: Table at Page 25)
- b) [REDACTED] (See: Table at Page 29)
- c) [REDACTED] (See: Table at Page 76)
- d) [REDACTED] (See: Table at Page 86)

This being the case, CNK's observations pertaining to these loan accounts are outside the scope of the audit.

16. Additionally, as I have stated above, CNK was specifically appointed to undertake review of sanctioned disbursements that took place during the review period and not otherwise. Yet I note that the following accounts appear to have been included in the report despite no disbursement /sanction having taken place during the review/audit period:

- a) [REDACTED] (See: Page 37)
- b) [REDACTED] (See: Page 51)
- c) [REDACTED] (See: Page 56)
- d) [REDACTED] (See: Page 61)
- e) [REDACTED] (See: Page 81)
- f) [REDACTED] (See: Page 96)
- g) [REDACTED] (See: Page 99)

This being the case, CNK's observations pertaining to these loan accounts are outside the scope of the audit.

17. The purpose of review of the loan accounts, as borne out from the Scope and Objective set out in the Engagement Letter was for CNK "... to ascertain any non-disclosure of relevant information (including

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information which is incorrect on financial reporting, loan recovery process and in relation to any fraud established through forensic audit on any particular account to the Audit Committee/Board which will have Material Impact" and "assess and report about the implication of such missing information if any identified, on recovery process and financial reporting of the Company for the stated period."

18. The Engagement Letter has defined the scope of "Material Impact" as:

"Material Impact" means any event which result in material adverse impact on financial position on the accounts of PFS and performed with sole motive of malafide intention / fraud wherein any such critical information was not disclosed to Audit Committee or Board and is in contravention of PFS policies or directions of the Board or statutory requirements, having significant impact on decision making related to such project/proposal."

I am of the view that taken together, in the context of the loan accounts, CNK had to identify loan accounts having instances of "non-disclosure of relevant information" and report such accounts where;

- a. Such "non-disclosure of relevant information" had a material impact on the financial position of the Querist; and
 - b. Such "non-disclosure of relevant information" was with *mala fide* intentions or with the sole motive of fraud.
19. Fraud is defined under Section 17 of the Contract Act to include acts committed by a party with an intention to deceive. Further, the Explanation to Section 447 of the Companies Act 2013 also sets out the test of "fraud" to be concealment or abuse of position must be with an intention to deceive to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss.
20. Even assuming that the aforesaid 11 (eleven) loan accounts were to fall within the scope of the subject forensic audit, upon a review of the findings of CNK with respect to these accounts I find that:
- a. CNK has not unearthed any instance of non-disclosure of relevant information to the Audit Committee/Board with respect to any of these accounts;



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- b. CNK has not alleged that there is any "material impact" with respect to any of these accounts, as a result of the alleged discrepancies it has identified *qua* these accounts;
- c. CNK has not identified any instance of "fraud" or "diversion of funds" by the Querist with respect to these accounts.

21. Now I come to the balance loan accounts i.e.

- a) [REDACTED] (See: Page 8)
- b) [REDACTED]. (See: Page 45)
- c) [REDACTED] (See: Page 70)
- d) [REDACTED] (See: Page 93)

22. Having reviewed the alleged discrepancies alleged against these four (4) loan accounts and the supporting documents I am setting out my views below. However, before I do so, I find it appropriate to note that even with respect to these accounts, the Report does not:

- a. Allege that there had been non-disclosure of relevant information to the Audit Committee/Board with *mala fide* intentions or with the motive of causing a fraud;
- b. Identify and ascertain any "material impact", as a result of the alleged discrepancies;
- c. Identify or, even allege, any instance of "fraud" or "diversion of funds" by the Querist.

A. [REDACTED]

23. Upon review of this account, CNK has highlighted 11 instances of discrepancies and concluded as under:

- a. Delays in presenting critical information to the board;
- b. Disbursement made despite full knowledge of imperfect security creation
- c. Not taking cognizance of several red flags pointed out by CRO reports, Forensic Reports, Board and other external reports



- d. Delays in pursuing legal options and preferring OTS (at a substantial hair-cut, which also did not happen as not approved by the Board) so as to close the matter.
24. Of the aforesaid, on a review of the documents and observations, I notice that some of the observations, such as disbursement with imperfect security creation etc. was beyond the Review Period. Similarly, at least six out of the eleven discrepancies appear to pertain to a period prior to the Review Period.
25. That said, I note that neither in the general analysis nor conclusion, has CNK identified and quantified the material impact on the financials or an instance of fraud and diversion of funds by the querist. Nor have any operational issues been identified showing material impact on financials of the Querist.
26. As I have noted above, the Engagement Letter itself records that the review of the stressed assets/ Loan facilities is to ascertain any non-disclosure of relevant information (including information which is incorrect on financial reporting, loan recovery process and in relation to any fraud established through forensic audit report on any particular account) to the Audit Committee/Board which will have material impact. However, no case to this end has been made out. It appears that the board was duly informed of all developments as required under the law which is duly pointed out by the Querist in their Management Comments, however, the Audit Report does not appear to have taken the same into account.
27. Furthermore, my reading of the observations reflect that the Report seeks to question legal advice received and acted upon by the querist and the manner in which hearings were conducted before the Supreme Court. It appears that much of the period for which the report ascribed delays onto the querist was covered by Covid-19 and the Supreme Court was under only limited functioning. Moreover, there were serious operational limitations on account of medical issues, which appear to have been highlighted by the Querist in the Management Comments. I find no justification for CNK to have overlooked such a basic uncontroverted factual position.
- B. [REDACTED]
28. With respect to [REDACTED], after alleging three instances of discrepancies, CNK has concluded:

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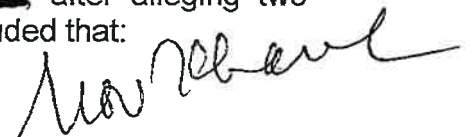
- a. Possible Evergreening of the account due to disbursement being made despite overdues in the account by extension of availability period, such disbursement could have been used by borrower to clear the critical overdue positions.
 - b. Disbursement is made pending compliances of critical pre disbursement conditions like pending tariff approval of PPA for the entire sanctioned capacity of the project.
29. Thus, even as per CNK, there is no allegation whatsoever of non-disclosure of relevant information to the Audit Committee/Board. Such being the case, necessarily, there is no question of determining the "material impact" of such non-disclosure.

Indeed, I note that, CNK has not alleged that there is any "material impact" on this Account, as a result of the alleged discrepancies it has identified, or that the discrepancies so identified/amount to instances of "fraud" or "diversion of funds" by the Querist. Nor has any operational issue been identified showing material impact on financials of the Querist.

30. A review of the documents forming part of the Report reveals that the Querist had given detailed explanations in relation to the observations, as part of Management Comments to a draft report that had been issued by CNK. The Querist appears to have stated that the modifications and extensions provided in the sanction terms and conditions and disbursement of loan had been as per Board approved delegation of power. Surprisingly, I find that CNK has not taken these into consideration in the Report.
31. As to the conclusion of "Possible Evergreening", I note that the same is at best speculative. The wordings reflect that CNK itself is unsure as to the conclusion. It also appears from a review of the documents enclosed with the Report that the Querist had submitted certain comments on this issue. However those do not appear to find any consideration in the Report. This raises a serious concern that CNK may have simply overlooked the justification offered by the management of the Querist, while recording adverse conclusions. I find this occurring in multiple instances as pointed out later.

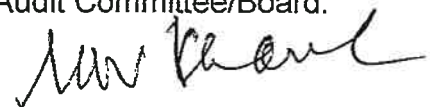
C. [REDACTED]

32. With respect to [REDACTED], after alleging two instances of discrepancies, the Report has concluded that:



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- a. Disbursements made, are in excess of the approved IDC, pending compliance of certain disbursement conditions and at the discretion of the Company, despite the fact that the progress of the project was stagnant;
 - b. Disbursements for purpose of clearing of interest overdues and approval of the same by the management reflects on the inherent credit risk of the borrower and also misuse of authority by the management.
 - c. Though the LE had advised against any further disbursements for the project, several disbursements have been done for interest adjustments ignoring the LE advice
33. Upon review of the analysis and observations, I do not find that CNK has identified the approved limits of IDC (i.e. Interest During Construction) which this borrower was entitled to.
34. CNK's observations are limited to questioning disbursal of IDC.
35. CNK has completely overlooked the legal position regarding such disbursal, which is governed by the Master Direction - Non-Banking Financial Company – Non-Systemically Important Non-Deposit taking Company (Reserve Bank) Directions, 2016. The Master Directions specifically permit NBFCs to fund cost overruns, which may arise on account of extension of DCCO within the time limits quoted therein without treating the loans as 'restructured assets' subject to conditions that i) NBFCs may fund additional 'Interest During Construction' which may arise on account of delay in completion of a project; ii) other cost overruns (excluding IDC) up to a maximum of 10% of the original project cost; iii) Disbursement of funds of cost overruns shall start only after the sponsors/promoters bringing their share of funding of the cost overruns.
36. Yet again, a review of the documents reflects that the Querist, in the Management Comments, has confirmed that the disbursement was within approved sanctioned limits approved as part of the financing plan by the Board. The Querist appears to have also highlighted that the LE had advised against any further disbursement except for IDC, which fact had been overlooked by CNK. It appears that despite this, the Report has chosen to continue to overlook the same, and instead question the exercise of commercial judgement and duly vested authority by the Querist while disbursing loans.
37. That said however, I note and find that there is no allegation whatsoever of non-disclosure of relevant information to the Audit Committee/Board.



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Such being the case, necessarily, there is no question of determining the "material impact" of such non-disclosure. There is also no allegation of any "material impact" on this Account, as a result of the alleged discrepancies or that the discrepancies so identified/amount to instances of "fraud" or "diversion of funds" by the Querist. Nor has any operational issue been identified showing material impact on financials of the Querist.

D. [REDACTED]

38. With respect to [REDACTED], the Report has concluded:

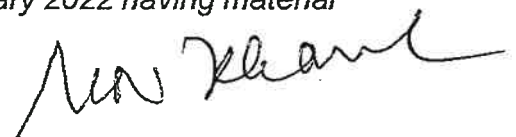
a. Possible ever greening of the account due to disbursement being made to clear the overdue positions of the borrower.

39. A review of the documents reflects that the Querist, in the Management Comments, has explained that the disbursement was made under instructions of the lead financial institution, with necessary approval of the Board towards the IDC component, within the overall sanctioned amount. The Report does not advert to this explanation, much less deal with the same. This is yet another instance that substantiates a serious concern that CNK may have simply overlooked the justification offered by the management of the Querist, while recording adverse conclusions, as pointed out earlier as well.

40. Notwithstanding this, I notice that there is no allegation whatsoever of non-disclosure of relevant information to the Audit Committee/Board. Such being the case, necessarily, there is no question of determining the "material impact" of such non-disclosure. There is also no allegation of any "material impact" on this Account, as a result of the alleged discrepancies or that the discrepancies so identified/amount to instances of "fraud" or "diversion of funds" by the Querist. Nor has any operational issue been identified showing material impact on financials of the Querist.

Re: Query (e)

41. I note that the Engagement Letter required CNK to "Review of relevant Electronically Stored Information (ESI) including email communications loan related documents, other documents and data to ascertain the veracity of the issues raised by the Independent Directors of the Company in resignation letter/s dated 19th January 2022 having material impact on the company".



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42. FAQs on Disclosure of Information Related to Forensic Audit of Listed Entities stipulates, (albeit in the context of disclosures under Schedule III, in Part A, under the Clause A, sub-clause 17 of SEBI LODR Regulations) that Forensic Audit do not seek to cover, *inter alia*, recruitment practices. Given this, the findings of CNK with respect to the appointment of [REDACTED] cannot be considered findings in a forensic audit.
43. At any rate, I have reviewed a sample Resignation Letter which had formed part of the Brief for Opinion shared with me. This Resignation Letter, which was addressed by [REDACTED], states the following in connection with the issue of appointment of [REDACTED]

"Issues in respect of appointment of [REDACTED] as whole time director

- [REDACTED] had been appointed by the Board as Director (Finance) & CFO after following the Board run process.
- Appointment of [REDACTED] was duly Intimated to the stock exchanges.
- The current Managing Director ("MD") did not allow him to join and function as Director (Finance) & CFO, although he had already joined the Company vide his joining report dated 29th October 2021.
- In this context, an opinion was taken from Additional Solicitor General ("ASG"), which mentions that joining process of [REDACTED] is incomplete. It is pertinent that the opinion does not dispute the fact that [REDACTED] had joined the Company. Nor does it say that he cannot function as a director on the Board pending the completion of this joining process. Regrettably, the independent directors were not given the briefing note given to the ASG even after we requested that this be provided to us. Thus, we do not know if the facts were properly placed before the ASG including the views of [REDACTED]. We also do not know the exact queries and factual background placed before the ASG for his opinion.
- Furthermore, the current Chairman and MD apparently also did not take any steps to enable the functioning of [REDACTED] as Director (Finance) & CFO and subsequently seem to have taken a unilateral decision to put the joining of [REDACTED] on hold, even without informing the Board about such decision or the

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rationale therefor leave alone taking the prior consent of the Board for such a major decision.

- Only on 10th January 2022 we were informed by the Company Secretary that ██████████ had re-joined ██████████ ██████████ on 6th December 2021. No explanation was given as to why he re-joined ██████████ and the circumstances that led to his returning to ██████████. Moreover, it was alleged that he withheld the fact that he had come from ██████████ on lien. If this was indeed so it is not clear why this fact was not placed before the Board for a decision on the further course of action. Nor do we have his version of these facts. Nor does it tally with the facts that we have informally ascertained. As has been implied in the same email the fact that he came on lien is mentioned in his relieving letter issued by ██████████. If so, how did he join without sharing his relieving letter. We are unfortunately not able to come to any definitive conclusion on this issue as the management has steadfastly refused to share all relevant information with the Board, though repeatedly requested by all the Independent Directors.*

Please note that such actions of the Chairman of the Board and MD of the Company are ultra-vires their powers and in violation of the provisions of Companies Act, 2013, which requires approval of the Board for any modification of its decisions. The appointment of the whole-time director cannot be unilaterally tampered with. It is saddening that the Chairman and the MD have such blatant disregard for the Board process, governance and compliance.

The return of ██████████ to ██████████ has major implication for PFS. This has meant a loss to PFS as it has deprived the company of the services of an outstanding executive. Further, with this episode it does not appear feasible for any new appointment to be made by the Board of a new Whole Time Director ("WTD"). The Company is continued to be run by a single WTD which is a risky and undesirable situation. The view of the management on this burning issue has not been conveyed to the Board although it has been repeatedly raised with them. This has thus become a major Governance issue for the company."

44. Thus, it was incumbent upon CNK to evaluate if the statements extracted above are correct and if the incidents mentioned therein had a "material impact" on the Querist. The Engagement Letter has defined the scope of "Material Impact" as:



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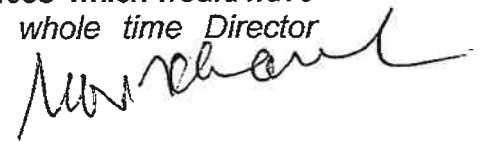
“Material Impact” means any event which result in material adverse impact on financial position on the accounts of PFS and performed with sole motive of malafide intention / fraud wherein any such critical information was not disclosed to Audit Committee or Board and is in contravention of PFS policies or directions of the Board or statutory requirements, having significant impact on decision making related to such project/proposal.”

45. I am of the view that taken together, while evaluating the veracity of the allegations in the resignation letters of the erstwhile independent directors, CNK had to:
- a. Evaluate if the alleged events had a material impact on the financial position of the Querist; and
 - b. Such events or instances of non-disclosure of crucial information to the Audit Committee or Board of the Querist, or contravention of PFS policies or directions of the Board or statutory requirement, having impact on the decision making related to such project/proposal had been with mala fide intentions or with the sole motive of fraud.
46. CNK's overall views on the specific issue of appointment of [REDACTED] is not in line with this requirement.
47. CNK's overall findings regarding the appointment of [REDACTED] are set out at Page 37 and 38 of Section VII of the Report. I notice that CNK, across Section VII, has not evaluated if the non-appointment of [REDACTED] has had a material impact on the financial position of the Querist and to what extent.
48. I have noted that at Para G.2, CNK has concluded that *“there was no intention of the management to appoint Whole Time Director (Finance)...”*. A similar conclusion is arrived at Para G.3 also, noting that *“It seems that the management ensured that the position of Whole Time Director (Finance) remained vacant and thwarted efforts to fill in the vacancy.”* Surprisingly, as motive, at Para G.3, the Report notes, *“As also can be seen from our Draft Report on the Loan Accounts (Annexure VI), there are several procedural and other irregularities for the sanction and disbursement of these Loans. There is every possibility that these irregularities would have been noticed or highlighted by the new appointee or in any case it would have put in place an additional level/s of checks and balances.”*



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49. In the preceding pages i.e. Pages 7 to 36, CNK has set out a timeline of events and its evaluation of and observations on (i) legal opinion obtained by the Querist; (ii) a Report from [REDACTED] which was commissioned by PTC India Limited (iii) comments of certain directors of PTC India Limited on the draft report of the Risk Management Committee of PTC India Limited and (iv) the said report of the Risk Management Committee of PTC India Limited.
50. Upon review of the same, I do not find any basis on which CNK could have arrived at the conclusion that the Querist had no intention to appoint a Whole Time Director (Finance) or that this was to avoid any new appointee from looking into the sanction and disbursal of loans.
51. Upon review of the documents enclosed with the Report, I had the occasion to review the detailed management comments issued by the Querist to CNK in connection with the subject observations. Surprisingly, the Report neither refers to the same, nor seeks to address them in any manner.
52. This appears to be a serious flaw in the manner in which CNK has dealt with the audit. In particular, I note the following:
- a. Whether appointment of a person as a director of a company is complete or not, and when such appointment is indeed complete, are pure questions of law. To my mind, as a forensic auditor, CNK is not eligible to opine on any core issues of law – which are the strict purview of lawyers. That said, CNK ought to have at least taken note of the legal submissions of the Querist, while recording its findings, which it has failed to.
 - b. Even as it has failed to take note of the management comments, which it was mandated to by the Engagement Letter, CNK has exceeded its scope to opine on the report of the Risk Management Committee of PTC India Limited and whether it had adequately addressed the concerns of the Independent Directors of PTC India Limited. Such findings are neither within the scope of the Engagement, nor relevant for the same.
 - c. The Report at Pages 24 to 33 set out “Extracts of comments of 2 Independent Directors and members of the PTC RMC”. In reviewing only the “extracts” I am necessarily constrained by the lack of context of the same. That said, it appears that CNK has relied only on this extract to conclude that “*the management did not want introduction of ‘checks and balances’ which would have come into play on appointment of a whole time Director*”



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(Finance).” This conclusion is nowhere borne out of the said extract.

- d. CNK has dealt with (i) a Legal Opinion obtained by the Querist from an Additional Solicitor General and (ii) a Report issued by [REDACTED] both of which pertain to the issue at hand, in a cursory fashion. While summaries of the opinion and report are noted, neither Queries (for the Legal Opinion), nor the Scope of Work (for the [REDACTED] Report) are set out.
- e. CNK has rejected the opinion of the Additional Solicitor General claiming that the same is “based on limited or selective documents”. It has rejected the findings in the [REDACTED] Report on the basis that “the report does not seem to have considered points like whether notices of the meeting of the Board and Audit Committee was issued to [REDACTED] in the capacity of Director Finance & CFO.” The Report does not set out the scope of the [REDACTED] Report to even evaluate whether the same was necessitated.

53. On a wholistic review of the entire section, I am of the view that the overall conclusions of CNK are not borne out from its factual evaluation of the evidence on record.

Re: Query (f)

54. I note that the Engagement Letter required CNK to “Review of relevant Electronically Stored Information (ESI) including email communications loan related documents, other documents and data to ascertain the veracity of the issues raised by the Independent Directors of the Company in resignation letter/s dated 19th January 2022 having material impact on the company”. In the interest of completion, I note that the Engagement Letter has defined the scope of “Material Impact” as:

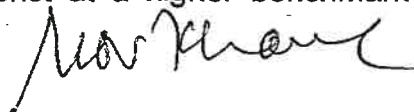
“Material Impact” means any event which result in material adverse impact on financial position on the accounts of PFS and performed with sole motive of malafide intention / fraud wherein any such critical information was not disclosed to Audit Committee or Board and is in contravention of PFS policies or directions of the Board or statutory requirements, having significant impact on decision making related to such project/proposal.”

V.N. Khare

55. I am of the view that taken together, while evaluating the veracity of the allegations in the resignation letters of the erstwhile independent directors, CNK had to:
- a. Evaluate if the alleged events had a material impact on the financial position of the Querist; and
 - b. Such events or instances of non-disclosure of crucial information to the Audit Committee or Board of the Querist, or contravention of PFS policies or directions of the Board or statutory requirement, having impact on the decision making related to such project/proposal had been with mala fide intentions or with the sole motive of fraud.
56. The Report at Section VIII deals with this scope of work, which I have reviewed.
57. Section VIII of the Report, at Pages 10 to 27 set out the comments of CNK on the "Corporate Governance".
58. While CNK has highlighted certain instances/circumstances in this section, it does not allege that the same have any "Material Impact" on the Querist. Even on my review, these instances/circumstances, cannot have any "Material Impact" on the Querist.
59. For example, the very first circumstance identified by CNK is "...*despite Board direction as above, legal files do not seem to have been routed through the legal functional head but are approved by MD & CEO.*" This observation is in the context of a decision of the Board of the Querist dated 29.10.2020. However, while arriving at the conclusion that the decision of the Board of 29.10.2020, CNK has not identified any instance of the legal files of the Querist not being routed through the legal functional head. A connected issue that has been highlighted is an instance where an internal note had been approved by the MD & CEO, instead of the company secretary. While the Report alleges it to be an instance of "alteration of documents" – a bare reading reflects that this may not be correct.

This is apart from the fact that even CNK does not allege that the Querist has suffered any adverse financial impact as a result of either of the instances or, that these instances had been occasioned with any *mala fide* intention or motive to commit fraud.

60. The other instances, such as (a) meetings of internal committees of the Querist; (b) lending by the Querist at a higher benchmark rate; (c)



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instances of non-compliance with certain contractual pre-requisites by the Querist while invoking a Debt Service Reserve Account; (d) delays in provision of information by management to the board appear to be curable internal issues. Yet again, I notice that in the context of none of these has CNK alleged that the Querist has suffered any material impact. In other words, even in these instances, CNK does not allege that these instances were occasioned by *mala fide* intentions or any motive to commit fraud. There is also no identification or quantification of material adverse impact on the financials of the Querist as a result of these circumstances.

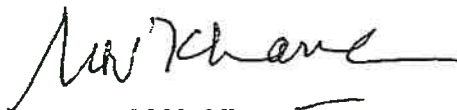
61. The alleged instances which have been collated as "Corporate Governance Issues with respect to Loan Accounts" and "Possible Non-compliance of Rules & Regulations, Circulars and guidelines of RBI" are also similarly placed.
62. Overall, I opine that in its conclusions/findings in Section VIII of the Report, CNK has not (i) identified and quantified the "*material impact*" of the same on the financials of the Querist; (ii) identified any instance of "*fraud*" or "*diversion of funds*" by the Querist and (iii) identified operational issues which could have a "*material impact*" on the financials of the Querist or otherwise represent an instance of "*fraud*" or "*diversion of funds*".
63. After a complete review of the report, I note that it is now imperative for the Querist to take steps to comply with its statutory and regulatory obligations, including under the SEBI (Listing Obligations and Disclosure Requirements) Regulations and submit the Report along with Management Comments to the Stock Exchange on an immediate basis.
64. In conclusion, my response to the queries put to me are summarized as under:-
 - a) Query A is answered by opining that the codified laws of India do not define the term 'Forensic Audit' and the findings returned in such an audit have no force of law and are not binding on the Querist. In any event, upon going through the report in detail, it is opined that the Report is well beyond the defined scope which is crystallized in the Engagement Letter and is also beyond the definition of Forensic Accounting which clearly states that the overriding objective of Forensic Accounting which is to discover facts and evidence rather than expressing views on other professional opinions.



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- b) Query B is answered in the affirmative. It is opined that the findings in the Report are well beyond the scope defined in the Engagement Letter?
- c) Query C has been opined in terms above.
- d) Query D is answered in the negative. It is opined that in Section VI, neither does the Report identify and quantify any "material impact" in relation to Loan Accounts, nor does it identify a single instance of "fraud" or "diversion of funds". Further, the Report does not identify any operational issues which could have a "material impact" on the financials of the Querist or otherwise represent an instance of "fraud" or "diversion of funds".
- e) Query E is answered in the negative. It is opined that the findings in the Report in Section VII (pertaining to the appointment of [REDACTED]) are not substantiated by facts and documentary evidence.
- f) Query F is answered in the negative. It is opined that in Section VIII (pertaining to Corporate Governance) the Report has neither identified and quantified any "material impact" on the financials of the Querist, nor has it identified any instance of "fraud" or "diversion of funds" by the Querist. Further, the Report has not identified any operational issues which could have a "material impact" on the financials of the Querist or otherwise represent an instance of "fraud" or "diversion of funds".

Nothing further to add. Opined Accordingly.



V.N. Khare
Former Chief – Justice of India

7th November, 2022