

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SM/DP/2022-23/25293]**

**UNDER SECTION 23-I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956
READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATION) (PROCEDURE
FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005**

In respect of:

**Shri Venugopal Dhoot
[PAN: AANPD5594R]
C/o Videocon Industries Limited
171, Mittal Court, C 'Wing',
17th Floor, Nariman Point,
Mumbai – 400 021**

**In the matter of
Videocon Industries Limited**

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) conducted an examination of the media reports regarding certain ‘quid pro quo’ arrangements between the Shri Venugopal Dhoot (hereinafter referred to as ‘**Noticee**’) and then Managing Director and Chief Executive Director of ICICI Bank Ltd. Viz. Ms. Chanda Kochhar. The scope of the aforesaid examination was specifically to ascertain whether Noticee has violated the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as “**LODR Regulations**”) and/or the provisions of the Equity Listing Agreement, in respect of the submissions/ disclosures that were required to be made by Videocon Industries Ltd. (hereinafter referred to as “**the company**”) to the stock exchanges.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI had appointed Shri Suresh B Menon as the Adjudicating Officer under Section 23I of Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as “**SCRA**”) read with Rule 4(1) of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties), 2005 (hereinafter referred to as “**Rules**”) vide communique dated September 17,

2017 to enquire into and adjudge under Section 23H of SCRA, the alleged violations by the Noticee. Thereafter, vide communique dated March 25, 2019 Shri Santosh Shukla, Chief General Manager was appointed as Adjudicating Officer. Vide communique dated January 07, 2020, Shri Amit Pradhan was appointed the Adjudicating Officer. Thereafter, Shri Prasanta Mahapatra and Ms. Asha Shetty were appointed as the Adjudicating Officer. Subsequently, the undersigned has been appointed as Adjudicating Officer vide communique dated October 06, 2022.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Based on the findings by SEBI, Show Cause Notice dated November 16, 2018 and amended SCN dated November 19, 2020 (hereinafter referred to as 'SCN') were issued to the Noticee under Rule 4(1) of the Rules to show cause as to why an inquiry should not be held and penalty be not imposed on them under Section 23H of SCRA for the alleged violation of the provisions of SCRA. The said SCNs were served on the Noticee through Speed Post Acknowledgement Due (SPAD) and Digital email, respectively. The SCN, *inter alia*, alleged the following:

3.1. Examination was conducted regarding various news items appearing in the media since March 2018 regarding certain 'quid pro quo' arrangements between the Noticee and then ICICI Banks' MD and CEO Ms. Chanda Kochhar, in lieu of grant of certain credit facilities by ICICI bank to some entities belonging to the Videocon group.

3.2. In course of the examination of allegations, various submissions were made by the company which were further examined and replies were sought from the company.

3.3. The company in its submissions dated November 18 21019, made to SEBI had stated that the Noticee did not disclose his interest (99.9% shares) in Supreme Energy Private Limited (SEPL) to the company, at the time of grant of loan by the company to SEPL, which is in violation of the provisions of Code of Conduct of the Company and by not disclosing his interest in SEPL at the time of grant of loan by the company to SEPL, Noticee has prima

facie violated the provisions of Clause 49(I)(D)(i) and Clause 49(I)(D)(ii) of the Equity Listing Agreement read with the Code of Conduct of the Company.

3.4. The company vide letter dated November 18, 2019 had inter-alia stated that it did not receive any disclosure from the Noticee about his interest in Quality Techno Advisors Private Limited (QTAPL) or Credential Finance Limited (CFL).

3.5. It was alleged that by not disclosing his interest in CFL from FY2000 to FY2014 as per the provisions of the Code of Conduct of the company, Noticee has violated the provisions of Clause 49(I)(D)(ii) read with 49(I)(D)(i) of the erstwhile Listing Agreement as amended by SEBI Circular SEBI/CFD/DIL/CG/1/2004/12/10 dated October 29, 2004 read with Clause B 'Conflict of Interest' of Para III 'Philosophy of the Code' of the Code of Conduct of the company read with Regulation 2.5 read with Regulation 2.1(v)(a) of the erstwhile Regulations of BSE Ltd. read with Regulation 103 of LODR Regulations.

3.6. Further, Noticee had interest QTAPL with respect to dealings in the matter of Apartment located at CCI Chambers. Therefore, by not disclosing his interest in QTAPL with respect to dealings in the matter of Apartment located in CCI Chambers as per the provisions of the Code of Conduct of Company, it was alleged that Noticee has violated the provisions of Clause 49(I)(D)(ii) read with clause 49(I)(D)(i) of the erstwhile Listing Agreement as amended by SEBI Circular SEBI/CFD/DIL/CG/1/2004/12/10 dated October 29, 2004 from August 04, 2009 till September 30, 2014 and clause 49(II)(E)(2) read with 49(II)(E)(1) of the erstwhile Listing Agreement as amended by SEBI Circular CIR/CFD/POLICY CELL/2/2014 dated April 17, 2014 from October 01, 2014 till November 30, 2015 read with Clause B 'Conflict of Interest' of Para III 'Philosophy of the Code' of the Code of Conduct of VIL read with Regulation 2.5 read with Regulation 2.1(v)(a) of the erstwhile Regulations of BSE Ltd. read with Regulation 103 of LODR Regulations read with Regulation 26(3) read with 17(5)(a) of LODR Regulations from December 01, 2015 to October 26, 2016 read with Clause B 'Conflict of Interest' of Para III 'Philosophy of the Code' of the Code of Conduct of the company read with Clause 2 of the Uniform Listing

Agreement read with regulation 2.5 read with regulation 2.1(v)(a) of the erstwhile Regulations of BSE Ltd.

4. Vide letter dated December 18, 2018, Noticee sought 8 weeks time to file reply to the SCN.
5. Vide letter dated January 29, 2019, Noticee was granted time to file the reply to the SCN by February 14, 2019.
6. Vide letter dated February 12, 2019, Noticee filed his reply to the SCN and submitted the following:
 - 6.1. *The allegations and contentions in the SCN are denied and misconceived.*
 - 6.2. *The disclosure with respect to the interest in SEPL could not be made due to accidental omission.*
 - 6.3. *Section 23H of SCRA has been wrongly invoked.*
7. Vide email dated December 10, 2020, Noticee replied to the SCN and submitted that the company is admitted to CIRP and is under moratorium and due to Covid -19 pandemic the information cannot be provided and therefore 3 weeks time may be granted.
8. Vide email dated December 18, 2020, Noticee was granted time till December 28, 2020 to file the reply to the SCN.
9. Vide email dated January 25, 2021, Noticee was informed that the physical copy of the additional SCN has returned undelivered therefore, a person may be deputed to collect the SCN from the Office of erstwhile Adjudicating Officer and a reply may be filed within 14 days from the collection of the SCN. However, Noticee neither collect the SCN nor did he file to file the reply. However, the said additional SCN was delivered to the Noticee on his email which he had acknowledged vide his email dated December 10, 2020.
10. Vide email dated February 16, 2021, Noticee was granted an opportunity of personal hearing on February 26, 2021. However, Noticee failed to avail the opportunity of the hearing.

11. Subsequently, vide email dated April 15, 2021, Noticee was granted a final opportunity of personal hearing on May 03, 2021. However, Noticee did not appear for the said hearing.
12. Vide letter dated May 05, 2021, Noticee filed his reply to the SCN and reiterated that due to Covid-19 and CIRP, he cannot file a detailed reply.
13. Pursuant to the appointment of undersigned, vide notices dated November 10, 2022 and November 30, 2022, Noticee was granted an opportunity of personal hearing on November 22, 2022 and December 15, 2022, respectively, however, Noticee failed to appear for the same.
14. Therefore, I am constrained to proceed in the matter on the basis of the material available on record.

CONSIDERATION OF ISSUES AND EVIDENCE

15. I have carefully perused the charges levelled against the Noticee in the SCN and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-

- I. Whether Noticee did not disclose his interest in SEPL, CFL and QTAPL?**
- II. Do the violations, if any, on the part of the Noticee attract monetary penalty under Sections 23H of SCRA?**
- III. If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 23J of the SCRA?**

16. Before proceeding further, I would like to refer to the relevant provisions of the erstwhile Listing Agreement, LODR Regulations & uniform Listing Agreement:

“erstwhile Listing Agreement

Amended by SEBI Circular SEBI/CFD/DIL/CG/1/2004/12/10 dated October 29, 2004

Clause 49 - Corporate Governance

The company agrees to comply with the following provisions:

I. Board of Directors

(D) Code of Conduct

(i) The Board shall lay down a code of conduct for all Board members and senior management of the company. The code of conduct shall be posted on the website of the company.

(ii) All Board members and senior management personnel shall affirm compliance with the code on an annual basis. The Annual Report of the company shall contain a declaration to this effect signed by the CEO.

Amended by SEBI Circular CIR/CFD/POLICYCELL/2/2014 dated April 17, 2014

Clause 49 - Corporate Governance

II. Board of Directors

E. Code of Conduct

1. The Board shall lay down a code of conduct for all Board members and senior management of the company. The code of conduct shall be posted on the website of the company.

2. All Board members and senior management personnel shall affirm compliance with the code on an annual basis. The Annual Report of the company shall contain a declaration to this effect signed by the CEO.

LODR Regulations

Repeal and Savings

103. *(1) On and from the commencement of these regulations, all circulars stipulating or modifying the provisions of the listing agreements including those specified in Schedule X, shall stand rescinded.*

(2) Notwithstanding such rescission, anything done or any action taken or purported to have been done or taken including any enquiry or investigation commenced or show cause notice issued in respect of the circulars specified in sub-regulation (1) or the Listing Agreements, entered into between stock exchange(s) and listed entity, in force prior to the commencement

of these regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations.”

Obligations with respect to employees including senior management, key managerial persons, directors and promoters.

26.

(3) All members of the board of directors and senior management personnel shall affirm compliance with the code of conduct of board of directors and senior management on an annual basis.

Board of Directors.

17.

(5) (a) The board of directors shall lay down a code of conduct for all members of board of directors and senior management of the listed entity.

Uniform Listing Agreement

2. That without prejudice to the above clause, the Issuer hereby covenants and agrees that it shall comply with the following:–

- i. the SEBI (Listing Obligations And Disclosure Requirements) Regulations, 2015 and other applicable regulations /guidelines/circulars as may be issued by SEBI from time to time.*
- ii. the relevant byelaws / regulations / circulars / notices / guidelines as may be issued by the Exchange from time to time.*
- iii. such other directions, requirements and conditions as may be imposed by SEBI / Exchange from time to time.”*

I. Whether Noticee did not disclose his interest in SEPL, CFL and QTAPL?

17. It was alleged in the SCN that the Noticee did not disclose his interest in SEPL to the company, at the time of grant of loan by the company to SEPL. Noticee submitted that he accidentally omitted to disclose to the company regarding his shares in SEPL.

18. With respect to the disclosures of his shares in CFL and QTAPL to the company, Noticee did not make any submission. In this regard, I refer to the judgment of Hon'ble Securities Appellate Tribunal (SAT) dated December 08, 2006 in the matter of Classic Credit Ltd. v SEBI (Appeal No. 68 of 2003) wherein, it observed that,

“... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them”.

19. I also observe that the Hon'ble SAT in the matter of Sanjay Kumar Tayal & Ors. v SEBI (Appeal 68 of 2013 dated February 11, 2014) had inter alia observed that,

“... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices...”

20. It is noted from the record that Videocon Group (Videocon International Ltd., Joy Holdings Pvt. Ltd., Shri S K Shelgikar, Shri Mahesh Chandra Punglia, Shri Kuldeep Drabu), founded and promoted by the Noticee, was holding 12,08,800 shares i.e. 24.7% shareholding in CFL in the year 2000 and in the year 2014, Videocon Group was holding 6,83,800 shares in CFL. However, from the annual report of the company, it was noted that there was no mention of CFL as a related party in the annual reports available with SEBI i.e. from FY 2009-10 till FY 2014-15 as a related party. Further, it was confirmed by the company vide its letter dated November 18, 2019 that it did not receive any disclosure from the Noticee regarding CFL being his related party. Therefore, I am of the opinion that Noticee has violated the Clause 49(I)(D)(ii) read with 49(I)(D)(i) of the erstwhile Listing Agreement as amended by SEBI Circular SEBI/CFD/DIL/CG/1/2004/12/10 dated October 29, 2004 read with Clause B 'Conflict of Interest' of Para III 'Philosophy of the Code' of the Code of Conduct of the company read with Regulation 2.5 read with Regulation 2.1(v)(a) of the erstwhile Regulations of BSE Ltd. read with Regulation 103 of LODR Regulations.

21. With respect to the allegation of Noticee not disclosing QTAPL as its related party, it is observed that QTAPL was incorporated on December 12, 2008 and Shri Kavishwar Patil and Shri Vilas Salunkhe were appointed as Directors of the QTAPL from the date of incorporation. Surprisingly, the same individuals were also directors in the subsidiary companies of Videocon International Ltd. Shri Kavishwar Patil was also a director in Dhoot Entertainment and Gaming Solutions Limited and Vital Infosystems Limited. Shri Vilas Salunkhe was also a director in Videocon Industrial Finance Limited and Videocon Mining Limited. Further it is also noted that from its incorporation to its acquisition by family trust of Deepak Kochhar, QTAPL was promoted by the group companies of Videocon Group i.e. Tek-care India Limited (TCIL) and Evans Fraser and Co (I) Limited (EFCIL). It is noted from the annual report of the company that from FY 2009-10 till FY 2014-16, the company had made investments in TCIL and EFCIL. From the filings of QTAPL, it is observed that Shri Shri Kavishwar Patil and Shri Manoj Raybhan Malkar were the only shareholders of QTAPL, holding 105000 shares and 5000 shares, each and having address at Videocon Complex, Gangapur GIN Compund, Station Road, Ahmednagar. Further, QTAPL was owned by TCIL and EFCIL before its acquisition by Kochhars. Therefore, Noticee was under the obligation to disclose QTAPL as a related party. However, it was confirmed by the company vide its letter dated November 18, 2019 that it did not receive any disclosure from the Noticee regarding QTAPL being his related party. Therefore, I am of the opinion that provisions of Clause 49(I)(D)(ii) read with clause 49(I)(D)(i) of the erstwhile Listing Agreement as amended by SEBI Circular SEBI/CFD/DIL/CG/1/2004/12/10 dated October 29, 2004 from August 04, 2009 till September 30, 2014 and clause 49(II)(E)(2) read with 49(II)(E)(1) of the erstwhile Listing Agreement as amended by SEBI Circular CIR/CFD/POLICY CELL/2/2014 dated April 17, 2014 from October 01, 2014 till November 30, 2015 read with Clause B 'Conflict of Interest' of Para III 'Philosophy of the Code' of the Code of Conduct of VIL read with Regulation 2.5 read with Regulation 2.1(v)(a) of the erstwhile Regulations of BSE Ltd. read with Regulation 103 of LODR Regulations read with Regulation 26(3) read with 17(5)(a) of LODR Regulations from December 01, 2015 to October 26, 2016 read with Clause B 'Conflict of Interest' of Para III 'Philosophy of the Code' of the Code of Conduct of the company read with Clause 2 of the Uniform Listing Agreement read with regulation 2.5 read with regulation 2.1(v)(a) of the erstwhile Regulations of BSE Ltd.

22. I am of the opinion that the related party disclosures are important to ensure proper review, approval, ratification of transactions between the Group and its related parties. Non –disclosure of the same can pose significant risk to the company and may not be in the best interest of the company and its shareholders. It can lead to situations in which business opportunity is lost, or funds are tunneled out of the company into another entity. Therefore, the related party disclosures are very important to health of the company.

II. Do the violations, if any, on the part of the Noticee attract monetary penalty under Section 23H of SCRA?

23. I note that the Hon’ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that *“In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant..... Hence, we are of the view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary.”*

24. In view of the foregoing, I am convinced that the Noticee is liable for monetary penalty under Section 23H of SCRA which is reproduced below:

Penalty for contravention where no separate penalty has been provided.

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.*

III. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 23J of SCRA?

25. While determining the quantum of penalty under 23H of the SCRA, it is important to consider the factors stipulated in Section 23J of the SCRA read with Rule 5(2) of the Rules which read as under:

Factors to be taken into account by the adjudicating officer

23J While adjudging quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused to an investor or group of investors as a result of the default;*
- (c) the repetitive nature of the default.*

26. The amount of disproportionate gain or unfair advantage to the Noticee or loss caused to the investors as a result of the defaults is not quantified in the material available on record. Noticee has submitted that non disclosure was accidental omission. In this regard, I note that Hon'ble Securities Appellate Tribunal, through various judgments, has consistently observed that these factors are not valid grounds for not complying with the statutory obligations. I am of the opinion that violations committed by the Noticee are grave and penalty be imposed to commensurate with the said violations.

ORDER

27. Having considered all these facts and circumstances of the case, the material available on record, the factors mentioned in Section 23J of the SCRA and in exercise of the powers conferred upon me under Section 23-I of the SCRA read with Rule 5 of the Rules, I hereby impose a penalty of Rs. 5,00,000 (Rupees Five Lakh) on the Noticee for the violations as specified in this order.

28. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to “The Division Chief, Enforcement Department (EFD1 –DRA 4), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –7, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.

Case Name	
Name of the Payee	
Date of payment	
Amount Paid	
Transaction No.	
Bank Details	
In which payment is made for	Penalty

29. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under Section 23JB of the SCRA for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

30. In terms of the provisions of Rule 6 of the Rules, copies of this order are being sent to the Noticee, and also to the Securities and Exchange Board of India.

Date : March 31, 2023
Place : Mumbai

SAHIL MALIK
CHIEF GENERAL MANAGER &
ADJUDICATING OFFICER