BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/GG/VV/2022-23/ 17315

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of:

Rekhaben Bhupendra Bhai Shah
(PAN: AIQPS5246L)

in the matter of **Hipolin Limited**

A. BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') has initiated adjudication proceedings against Rekhaben Bhupendra Bhai Shah (hereinafter referred to as "Rekhaben /Noticee /You") under Section 15 A(b) of SEBI Act, 1992 (hereinafter referred to as "**SEBI Act**"), for an alleged delay in disclosure to the Exchange of the shares of Hipolin Limited acquired by the Noticee, who was a promoter. The Noticee was thereby alleged to have violated Regulation 29(1) read with Regulation 29(3) of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as "**SAST Regulations, 2011**") in the matter of Hipolin Limited (hereinafter referred to as "Hipolin" or "Company").

2. SEBI received an email dated July 06, 2021 from the Merchant Banker - Tipsons Consultancy Services Private Limited (herein after referred to as ("TCSPL/ MB"). forwarding a Draft Letter of Offer ('DLO'), in connection with the acquisition of shares of Hipolin by M/s. Vibrant Investments (Acquirer No. 1), Seja Ullas Shah (Acquirer No.2), Rajasvee Sagar Shah (Acquirer No.3) (herein after collectively referred to as "Acquirers"). TCSPL is the Manager to the Offer and Bigshare Services Private Limited is the Registrar to the offer. The DLO was pursuant to a Share Purchase Agreement dated June 22, 2021, entered into by the Acquirers, Promoters and public shareholders of Hipolin to acquire 37.06% stake in Hipolin in compliance with terms of Regulation 3(1) and 4 of SEBI SAST Regulations. The object of the proposed Open Offer was to enable substantial acquisition of shares and voting rights of the Company accompanied with change in control and management of the Company.

3. SEBI sought clarifications from TCSPL with regard to the DLO submitted for the proposed Open Offer such as, the relationship of the acquirers/PACs with the target company; brief object of the offer and date wise change in shareholding (capital build-up of promoters), etc. TCSPL vide email dated August 24, 2021 had provided undertaking regarding the compliance status of SEBI(SAST) Regulations, 2011, of certain promoters SEBI observed from the submissions made by TCSPL and from the undertakings given by the shareholders in the promoter group, that there was acquisition of shares by certain shareholders in the promoter group of Hipolin and that there were non-compliances in disclosures, post the acquisition of shares by the shareholders in the promoter group of Hipolin under SEBI(SAST) Regulations, 2011. It was observed that one of the promoters viz. Rekhaben, the Noticee herein had failed to make the requisite disclosure to BSE within stipulated time and had made delayed disclosures.

B. APPOINTMENT OF ADJUDICATING OFFICER

4. SEBI, in exercise of powers under section 15 I of the SEBI Act and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**Adjudication Rules**"), read with section 19 of the SEBI Act,1992 appointed me as the Adjudicating Officer (hereinafter referred to as the "**AO"**) vide order dated December 27, 2021 to inquire into and adjudge the alleged violation stated in paragraph 1 above. The same was informed to me vide a communication on Order appointing the AO dated December 28, 2021. Subsequently, a modified order was issued vide communique dated May 12, 2022.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice dated May 17, 2022 (hereinafter referred to as "**SCN**") was served upon the Noticee, vide Speed post with acknowledgement due (hereinafter referred to as 'SPAD') and by email, under Rule 4(1) of the SEBI Adjudication Rules to show cause as to why an inquiry should not be initiated against the Noticee and thereafter penalty not be imposed against the Noticee under Section 15 A(b) of SEBI Act, 1992 for the alleged violations by the Noticee for delayed compliance with Minimum Public Shareholding requirement by an acquirer as per Regulation 29(1) read with Regulation 29(3) of SAST Regulations, 2011.

6. In the SCN issued to the Noticee, it was alleged that:

a) there was acquisition of shares by certain shareholders in the promoter group of Hipolin and that there were non-compliances in disclosures to be made, post the acquisition of shares by the shareholders in the promoter group of Hipolin under SEBI(SAST) Regulations, 2011.

b) one of the promoters viz. Rekhaben had failed to make the requisite disclosure to BSE within stipulated time and had made delayed disclosures. The information of acquisition of shares by the said promoter was not available in public domain of the exchange in time and was delayed by 87 days. The details with regard to the disclosures by promoter viz. Rekhaben are given below in Table No. 1:

Table No. 1 - Non - compliances in disclosures by promoter viz. Rekhaben

Nameof the Promoter	Date of the Transaction	Pre-transaction shareholding	Post Transaction shareholding	Applicable SAST Regulation	Due Date of Compliance	Actual date of Compliance
Rekhaben B Shah	29/04/2021	2.82	10.24	29(1)	03/05/2021	30/07/2021; delay of 87days

c) Rekhaben had acquired 2,32,239 equity Shares through transmission on April 29, 2021 on account of death of her husband Bhupendra Jayantilal Shah (Promoter), which triggered disclosure requirements. As per the disclosure requirements under Regulation 29(1) read with Regulation 29(3) of SEBI (SAST) Regulations, 2011, any acquirer, together with persons acting in concert with him acquiring shares or voting rights in a target company, which taken together aggregates to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company to the stock exchange, within two working days. SEBI observed that the acquisition of shares by Rekhaben aggregates to more than five percent of holding in the target company post acquisition of shares.

d) as per the disclosure requirement under SEBI(SAST) Regulations, 2011, the promoter had to make the requisite disclosure to BSE within two working days, from the date of receipt of intimation of transmission which is 29/04/2021 (given as transaction period in BSE data on disclosures). The disclosure by the promoter had to be made by May 03, 2021. However, the promoter had disclosed the acquisition of shares on July 30, 2021 as reflected in the SAST disclosures of Hipolin in the BSE website.

e) there is a delay in disclosure of 87 days by the promoter Rekhaben with regard to compliance made under the Regulation 29(1) read with Regulation 29(3) of SEBI (SAST) Regulations, 2011. SEBI observed that the promoter in her undertaking to SEBI vide letter dated August 24, 2021 had submitted as follows:

    a) *I was holding 88,179 equity shares of 10/- each, representing 2.81% of total Shareholding of Hipolin Limited as on April 28,2021.*
    b) *On April 08, 2021 on account of death of Bhupendra Jayantilal Shah (Promoter), I had acquired 2,32,239 equity Shares of Rs.10/- each, representing 7.42% of total shareholding of Hipolin Limited, aggregating to 3,20,418 equity shares of Rs. 10/- each, representing 10.23% of total shareholding of Hipolin Limited as a Successor through process of transmission carried out as on April 29,2021. There was no consideration involved in the transaction held on April 29,2021.*

c) As it was acquisition through transmission, the disclosure to be filed under regulation 29(1) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 had unintentionally being missed out for the Aforesaid acquisition within prescribed time limit.

d) I have filed the said disclosure under regulation 29(1) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 as on July 30, 2021 with a delay.

e) There was no intention for any non-compliance or non-disclosure from my end. It was genuinely missed out at my end due to my personal circumstances arisen on account of death of my husband Late Mr. Bhupendra Shah. Thereafter, I have also made the said disclosure on July 30, 2021. Therefore, I request your good office to kindly waive-off any penal action against me. However, in case any disciplinary action is taken against me in the future for the above said matter, then l would like to proceed further with Adjudication route.

7. It was alleged that the Noticee had violated the provisions of SEBI (SAST) Regulations, 2011, text of which is reproduced below:

SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011

CHAPTER – V

DISCLOSURES OF SHAREHOLDING AND CONTROL

Disclosure related provisions

29. (1) Any acquirer, together with persons acting in concert with him acquiring shares or voting rights in a target company, which taken together aggregates to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified:Provided that in case of listed entity which has listed its specified securities on Innovators Growth Platform, any reference to "five percent" shall be read as "ten percent"

(2) ….

(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within two working days of the receipt of intimation of allotment of shares, or the acquisition or the disposal of shares or voting rights in the target company to, —
(a)every stock exchange where the shares of the target company are listed; and
(b) the target company at its registered office.

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8. In view of the above details, it was alleged that the Noticee, is in violation of Regulation 29(1) read with Regulation 29(3) of SEBI (SAST) Regulations, 2011, for delayed compliance with Minimum Public Shareholding requirement by an acquirer. The aforesaid alleged violations, if established, made the Noticee liable for monetary penalty under Sections 15A(b) of the SEBI Act, which are reproduced below : -

Sections 15A(b) of the SEBI Act, 1992

" **Penalty for failure to furnish information, return, etc**.

15A. If any person, who is required under this Act or any rules or regulations made there under, —
a) …………

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 67[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;

9. The Noticee had submitted her reply to the aforesaid SCN vide email and letter dated June 01, 2022, seeking further time of 15 days to make submissions. Subsequently, the Noticee submitted a reply vide email and letter dated June 09, 2022. The Noticee made the following submissions with regard to the allegations levelled in the SCN:

i. I deny all allegations that I have violated Regulation 29(2) read with Regulation 29(3) of SAST Regulations, 2011.

ii. On the day of death of my husband Shri Bhupendrabhai Jayantilal Shah due to covid on 08th of April, 2021, he was holding 232239 shares of Hipolin Limited along with shares of other companies also in his

Demat account with Madhuvan Securities Private Limited (DP ID: IN303085) & (Client ID: 10049293). The Death certificate and Covid report of Shri Bhupendrabhai Jayantilal Shah is enclosed.

iii. *The aforementioned demat account was the Joint Demat Account with first Holder being my late husband Shri Bhupendrabhai Jayantilal Shah and me being the second holder. The client master list of aforementioned demat account is enclosed.*

iv. *At the time of death of my husband Shri Bhupendrabhai Jayantilal Shah, I was also tested Covid Positive alongwith the other members of my family, thus we were unable to check the necessary things at that time. My (Rekhaben Bhupendrabhai Shah) Covid report is also enclosed*

v. *Thereafter from the will of my husband Shri Bhupendrabhai Jayantilal Shah, we came to know that I was not the beneficiary of entire holding of shares lying in the aforementioned joint demat account. My son Mr. Daxesh Bhupendrabhai Shah was the beneficiary of those shares according to the will of my husband Shri Bhupendrabhai Jayantilal Shah. Copy of the will of Shri Bhupendrabhai Jayantilal Shah is enclosed.*

vi. *Thereafter, as I was the sole survivor of aforementioned joint demat account the entire holding of shares including the shares of Hipolin lying in that account were transferred to me on 29th April, 2021 and the same was further submitted to transfer through Delivery Instruction Slip to my son Mr. Daxesh Bhupendrabhai Shah without any consideration as per the will of my husband Shri Bhupendrabhai Jayantilal Shah the very same day i.e. 29th April, 2021. Hence, I cannot be said to be the acquirer of those shares. The copies of the Delivery instruction slip for the said transfer on the same day in enclosed.*

vii. *The necessary disclosures regarding the acquisition of shares through transmission by my son Mr. Daxesh Bhupendrabhai Shah as per the will was provided within the due time to the stock exchanges along with the disclosure for transfer of shares from my account to my son. The Copies of the said disclosures is enclosed herewith as Annexure: G.*

viii. *I had not acquired those 2,32,239 equity shares, it was just for the sake of procedural formalities of Depository Participants that being the sole survivor of joint demat account after the death of my husband the entire holding of shares from that account was transferred to me first and then transferred to its rightful owner according to the will of Shri Bhupendrabhai Jayantilal Shah to my son Mr. Daxesh Bhupendrabhai Shah the very same day. Hence the shares were transmitted to Mr. Daxesh Bhupendrabhai Shah after the death of my husband, who has complied with the disclosure requirements within due time.*

ix. *I reiterate that the said 2,32,239 equity shares were acquired by Mr. Daxesh Bhupendrabhai Shah through transmission as per the will of Shri Bhupendrabhai Jayantilal Shah, who has duly complied with the disclosure requirements of SEBI (SAST) Regulations, 2011.*

x. *Considering the circumstances that arose at the difficult time of the death of my husband through covid and the sufferings of my family due to covid at the very same time, we had tried our best to comply with the provisions of the law, took as many advices as we could at that time as the entire country was under* *havoc of Covid-19's second wave. Hence, I request you to consider this response as best and waive/quash all the inquires and request you not to impose any penalty in the said matter.*

10. The Noticee was granted an opportunity of personal hearing on June 06, 2022 vide Hearing Notice dated June 02, 2022, sent through email and by SPAD. The Noticee attended the hearing through her Authorised Representative (AR) Mr. Hemanshu Gupta, a Practising Company Secretary on June 06, 2022 vide video conferencing, due to the Covid -19 pandemic situation.

11. The AR of the Noticee had reiterated the submissions made in the reply, requested to consider the matter on merits and proof of documents submitted and to relieve the Noticee from the allegations made in the SCN. The Noticee was advised to provide additional details/documents in support of the claims made in the reply and was granted time till June 20, 2022 to make additional submissions of documents.

12. The Noticee had provided additional details/documents vide letter dated June 20, 2022, the contents submitted by the Noticee in verbatim are as follows:

    i. With reference to the captioned subject and as asked during the personal hearing on June 16, 2022 attended by my Authorized Representative, CS Himanshu Gupta, I submit herewith following documents or clarifications in the matter of Hipolin Limited.

    ii. Duly notarized English Translation of the Will dated 24/07/2010 written in Gujarati by Late Shri. Bhupendra. Bhai Shah is enclosed herewith. The clause relating to inheritance of shares is on page 7 of the translated copy of the will and is highlighted for your ready reference.

    iii. Regarding the registered or notarized will, I want to inform you that the said will was notarized one, executed by Shri Bhupendrabhai Jayantilal Shah, himself and identified by Shri S.B. Patel, Advocate and notarized by Shri N.V. Kapasi (Regd. No.:985/09) and witnessed by Shri Shaileshbhai Jayantilal Shah & Shri Jaykurnar Jayantilal Shah, brothers of my deceased husband. Both the witnesses of the said will are healthy and alive and can be made available to your presence if the need arises.

iv. *We have also annexed herewith the extract of the Notarial Register of the Notary N.V. Kapasi in front of whom the said will was executed on 24th of July, 2010. As the said extracted page is in Gujarati language, we have highlighted the entry of execution of the will by Shri Bhupendrabhai Shah for your ready reference. The said extract highlights the date, time, entry no. of the notary, witnesses present during the execution of the said will.*

v. *Regarding the knowledge of the will, I want to inform you that the said will was kept by Shri Bhupendrabhai Shah with his brother Shri Shaileshbhai Jayantilal Shah and as informed earlier, at the time of death of my husband Shri Bhupendrabhai Shah, me and my family members were also Covid Positive and thus, Shri Shaileshbhai was unable to provide us the will and other documents. Hence the said will was received and opened on 27th April, 2021 once the precautionary period of covid is completed and health of the family recovered. I have included the aforementioned in affidavit also to confirm the truth and correctness of this matter.*

vi. *I want to inform you that the will was opened on 27th of April, 2021 in presence of the members of the family as undisputed one and executed by the executors as per the said will of my husband Shri Bhupendrabhai Shah.*

vii. *Aforementioned Points are included in my Affidavit and annexed herewith as Annexure C for the truth and correctness of facts as asked during the personal hearing held on 16th of June 2022.*

viii. *I hereby reiterate as requested and prayed earlier that I have not violated the provisions of SEBI (SAST) Regulations, 2011 and to consider this response as best and waive/quash all the inquires and request you not to impose any penalty in the said matter.*

D. CONSIDERATION OF ISSUES

13. I have taken into consideration the facts of the case, the replies submitted by the Noticee and the material available on record. I now proceed to consider whether the Noticee has in fact violated the provisions of Regulation 29(1) read with Regulation 29(3) of SEBI (SAST) Regulations 2011, by failing to disclose the acquisition of shares of Hipolin. If yes, what should be the penalty?

14. I note that the allegations made in the SCN against the Noticee was that on acquiring 2,32,239 equity shares of Hipolin on April 29, 2021, the Noticee has failed to make requisite disclosures to the Exchange as per Regulation 29(1) read with Regulation 29(3) of SAST Regulations 2011, within the stipulated time of 2 working days from the date of acquisition. It was alleged that the due date for making the disclosure was 03/05/2021. However, the disclosure was made on 30/07/2021 by the Noticee with a delay of 87 days.

15. I note from the submissions made by the Noticee and from the documentary evidence provided by the Noticee, that the Noticee was a joint holder of 2,32,239 equity shares of Hipolin along with her husband. On the demise of her husband, she had become the sole owner of the shares that was in the joint demat account. After the demise of her husband on 08/04/2021 due to Covid, the Noticee was also affected with Covid. Subsequently after the quarantine period, the Will executed by her husband was opened on April 27, 2021 in the presence of the family members and was executed by the executors named therein. I have ascertained that the facts related to the execution of the Will, as narrated by the Noticee is true and correct, to the extent it is relevant for this adjudication. I am placing reliance on the affidavit filed by the Noticee in this connection.

16. I also note that, in terms of the Will made by the Noticee's husband, the shares of Hipolin from the Noticee's account was transferred to the son of the Noticee, through the signed DIS in favour of her son on April 29, 2021, copy of which has been duly produced by the Noticee. Thus, I note that the Noticee has taken steps to transfer the shares held jointly with her husband to her son, in compliance with the terms in the Will.

17. The Noticee had initially submitted a reply dated August 24, 2021 to SEBI, admitting the non-disclosure. However, the chain of events that unfolded in the proceedings based on the subsequent submissions and documentary evidence produced by the Noticee, shows that there was no liability on the Noticee to make a disclosure as alleged, as she was not an 'acquirer' for the purpose of Regulation 29 of SAST Regulations. Thus, from the facts stated above, I find that the allegation of breach of Regulation 29(1) read with Regulation 29(3) of SAST Regulations, 2011 for non-disclosure of the shares is not maintainable against the Noticee. Hence, imposition of penalty is not warranted.

E. ORDER

18. Therefore, in exercise of powers conferred upon me under Section 15-I (1) of the SEBI Act read with Rule 3 of the Adjudication Rules, the SCN dated May 17, 2022 issued to the Noticee viz. Rekhaben Bhupendra Bhai Shah (PAN: AIQPS5246L) stands disposed, accordingly.

19. In terms of rule 6 of the SEBI Adjudication Rules, copy of this order is sent to the Noticee and also to SEBI.

Date: June 27, 2022 **GEETHA G**

Place: Mumbai **ADJUDICATING OFFICER**