BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/VV/NK/2022-23/16601]

UNDER SECTION 23-I OF THE SECURITIES CONRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF THE SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 2005.

In respect of:

Ram Minerals and Chemicals Ltd.

PAN: AACCI5978A

In the matter of Ram Minerals and Chemicals Ltd.

FACTS OF THE CASE IN BRIEF:

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") carried out an examination in respect of Ram Minerals and Chemicals Ltd. (hereinafter referred to as **"Noticee/company"**) for any possible violation of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as **"LODR regulation"**). The examination was carried out for the period between June 30, 2019 to December 31, 2019 (hereinafter referred to as "**Examination Period**") due to filing of NIL promoter shareholding by Noticee without a formal promoter reclassification under Regulation 31A of LODR Regulations. During the examination, SEBI observed that the Noticee has violated the provisions of Regulations 4(1) (c), (d), (e), Regulation 31 read with Regulation 31A, Regulation 46 of LODR regulation read with clause 2 of Listing Agreement.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI vide communique dated October 12, 2021 appointed the undersigned as Adjudicating Officer under Section 23-I of the Securities Contracts (Regulation) Act, 1956 (hereinafter

referred to as "SCRA,1956") read with Rule 3 of the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules,2005(hereinafter referred to as **" SC(R) Rules"**) to inquire into and adjudge under Section 23E of the SCRA, 1956, the violations of provisions of Regulations 4(1) (c), (d), (e), Regulation 31 read with Regulation 31A , Regulation 46 of LODR regulation read with clause 2 of Listing Agreement, alleged to have been committed by Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. A show-cause notice (hereinafter referred to as '**SCN**') dated February 9, 2022 was issued to the Noticee alongwith relevant annexures under rule 4 of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against the Noticee and penalty not be imposed upon it under Section 23E of SCRA, 1956 for the alleged violations.. The Noticee was given 14 days' time to make its submissions in respect of the allegations mentioned in the SCN.

4. The following violations were alleged in the SCN, to have been committed by the Noticee:

3.1. ***Shareholding Pattern (Source: BSE Website)***

a. Promoter of the company as per shareholding pattern for quarter ended June 30, 2019 to December 31, 2019:

Sr. No	***Name of the Promoter/ promoter Group entities***	***No. of fully paid up equity shares held***	***Shareholding as a % of total no. of shares***
1.	*Promoter Shareholding **	*NIL**	*NIL**

***** *The company has not filed name of any promoter in the shareholding pattern. The Company has been shown without promoters in the shareholding pattern.*

b. Promoter of the company as per shareholding pattern for quarter ended March 31, 2019:

Sr. No	***Name of the Promoter/ promoter Group entities***	***No. of fully paid up equity shares held***	***Shareholding as a % of total no. of shares***
1.	*Ram Alloy Castings Pvt Ltd*	*83,27,484*	*4.15*

4. *It was observed by SEBI that, shareholding of Ram Alloy was reduced from 27.60% in June 2014 to 21.80% Sept 2014, reducing by 5.80%.and further, name of Ram Alloy not appearing from June 2019 in the promoter shareholding:*

Sr. No	***Name of the Promoter/ promoter Group entities***	***Jun-14***	***Sep-14 to Sep-18***	***Dec-18***	***Mar-19***	***Jun-19 to Dec-19***
1.	*Ram Alloy Castings Pvt Ltd*	*27.6*	*21.8*	*5.81*	*4.15*	*0.00*

5. *It was suspected by SEBI that the change in shareholding pattern was without formal reclassification request. Therefore, details of the reclassification request if any were asked from the exchange.*

6. *BSE in replies dated December 15, 2020, June 18, 2021 and June 21, 2021 (**Annexure II)** to SEBI queries had provided following:*

   6.1. *Exchange informed that BSE did not receive any reclassification application from the Company.*

   6.2. *Regarding details of action taken by BSE in connection with the change in shareholding, BSE informed that they had sent the discrepancy mail to the Company. Company had not replied as on June 21, 2021.*

   6.3. *With regard to LODR violations observed, if any, BSE informed that the Company had removed the name of the promoter without taking approval of the Exchange. The Company, thus had violated provision of Regulation 31A of SEBI (LODR), 2015.*

6.4. *BSE further informed that the Company was suspended as per following details are stated below:*

a. *The Company was suspended with effect from November 20, 2020 on account of non-compliance with Regulation 31 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 for two consecutive quarters i.e., March 2020 & June 2020. The Company had failed to file shareholding pattern for two consecutive quarters.*

b. *The Company was suspended with effect from November 27, 2020 on account of non-compliance with Regulation 76 of SEBI (Depositories and Participants) Regulations, 2018 as per SEBI SOP Circular January 22, 2020, for non-submission of Reconciliation of Share Capital Audit Report two consecutive quarters i.e., March 2020 & June 2020.*

c. *Further, advisory letter after suspension was sent to the company on December 21, 2020*

d. *Exchange vide email dated June 21, 2021 informed that Exchange was in the process of sending initial letter to the company in terms of SEBI (Delisting of Equity Shares) Regulations 2021*

e. *For various non-compliances, penalties were imposed on the company under SOP circular by BSE, as per following table:*

Regulation Violated	***Amount of penalty imposed***	***Penalty collected***	***Present compliance status of Company***
Regulation-34 *(for FY Mar-2014)*	*48000*	*48000*	*Late submission*
Regulation-34 *(for FY Mar-2018)*	*36000*	-	*Late submission*
Regulation-13(3) *(for December 2018)*	*9000*	-	*Late submission*
Regulation-13(3) *(for March 2019)*	*8000*	-	*Late submission*
Regulation-33 *(for March 2019)*	*35000*	-	*Late submission*
Regulation-6(1) *(for September 2019)*	*49000*	-	*Not Complied*

Regulation Violated	***Amount of penalty imposed***	***Penalty collected***	***Present compliance status of Company***
Regulation-6(1) *(for December 2019)*	*52000*	-	*Not Complied*
Regulation-33 *(for December 2019)*	*435000*	-	*Late submission*
Regulation-6(1) *(for March 2020)*	*91000*	-	*Not Complied*
Regulation-7(1) *(for March 2020)*	*91000*	-	*Not Complied*
Regulation-33 *(for March 2020)*	*560000*	-	*Non submission*
Regulation-6(1) *(for June 2020)*	*91000*	-	*Not Complied*
Regulation-33 *(for June 2020)*	*330000*	-	*Non submission*
Regulation-7(1) *(for June 2020)*	*91000*	-	*Not Complied*
Regulation-13(3) *(for June 2020)*	*122000*	-	*Non submission*
Regulation-31 *(for September 2020)*	*60000*	-	*Non submission*
Regulation-13(3) *(for September 2020)*	*30000*	-	*Non submission*
Regulation-6(1) *(for September 2020)*	*92000*	-	*Not Complied*
Regulation-7(1) *(for September 2020)*	*92000*	-	*Not Complied*
Regulation-29(2) 29(3) *(for HY Sept 2020)*	*10000*	-	*Late submission*

7. As informed by BSE, the Company has filed NIL promoter holding in its shareholding pattern. Thus, as per last available shareholding pattern of the Company, there's no identifiable promoter in the company.

8. A promoter can be reclassified pursuant to an open offer under SAST Regulations, by acquirer, wherein the acquirer can become the promoter and existing promoters can be reclassified as public.

9. In the absence or non-applicability of open offer, a promoter can be reclassified only by following the procedure enlisted in Regulation 31A of LODR Regulations which *inter-alia includes request from the promoter intending to be reclassified to the company, approval from shareholders in general meeting, intimation by Company to the stock exchange etc.*

10. *It is observed that, BSE and SEBI have not received any reclassification request. However, from publicly available data on BSE, following was observed.*

Details from AGM dated September 28, 2019.

10.1. *Search of various disclosures by the Company was also performed. It was observed from the notice to the Annual General Meeting (AGM) dated September 28, 2019 (as available on BSE website), the Company had informed shareholders with its intent to reclassify shareholding of existing promoter Ram Alloy Castings Pvt Ltd into public category. Item No. 7 in the notice mentions under the heading "Reclassification of The Promoter Group from 'Promoter & Promoter Group' Category to 'Public' Category, that Ram Alloy Castings Pvt Ltd held 44865000 shares or 21.8% of the total paid up capital of the Company. The voting also was carried out in the said AGM and the said resolution for reclassification was passed.*

10.2. *Thus, shareholders' approval for reclassification of promoter shareholding was obtained based on incorrect information with regard to accurate shareholding of the promoter being reclassified. The promoter shareholding in the notice to AGM was mentioned as 21.8% as on September 28, 2019, whereas promoter shareholding was 0% in June 2019 and September 2019 shareholding pattern as available from BSE website.*

The notice relating to said AGM is placed at ***Annexure III****. The voting result extract as available on BSE website is placed at* ***Annexure IV.***

10.3. *Further, for reclassifying promoters into public category, the promoters have to make a request to the Company, which in turn has to make a public announcement and also apply to exchange for the reclassification. In the* *instant case, the Company has not informed the exchange and also has not made any public announcement.*

10.4. *In the absence of reclassification request to BSE, public announcement and successful processing of the same, existing promoters have to file the shareholding in the promoter category even if they are holding no shares. Further, the notice to the AGM mentions shareholding of promoters as 21.8% as on date of AGM September 28, 2019.*

10.5. *List of promoters with zero shareholding may be filed with exchanges in the prescribed formats including XBRL. Such a facility has been provided by the exchange. However, the Company has proceeded to show zero promoters in its shareholding pattern. At the same time, the Company has not followed procedure laid out in Regulation 31A of LODR Regulations for reclassification of promoters.*

10.6. *Thus, the company has filed incorrect shareholding pattern in June 2019, September 2019 and December 2019 quarters. It has not filed any shareholding pattern after December 2019.*

Company Website:

10.7. *It was observed that the Company is not maintaining a functional website. The website address as available on BSE website -www.icvlchemicals.com was not functional. The extract of website is mentioned as on July 29, 2021 is placed at* ***Annexure V***

11. *The Company did not reply to correspondence by BSE. Comments of the Company were sought vide emails dated August 06, 2021 and August 10, 2021 on the last known email available with BSE icvlchemicals@gmail.com. Information was asked from the Company regarding accurate shareholding patter, promoter* *reclassification process, reasons for not filing shareholding pattern, and showing zero promoter shareholding, non-functional website etc. Company did not reply to SEBI Queries as well. Emails placed at* ***Annexure VI***

12. ***Based on the above examination, SEBI has observed the following:***

    12.1. *the company has continuously failed to make the required disclosures and filings with BSE and has also failed to make the payment of penalty amounts.*

    12.2. *By showing no promoters in the shareholding pattern, the Company has filed incorrect shareholding pattern for June 2019, September 2019 and December 2019 quarters and thus violated Regulation 31 read with Regulation 31A of SEBI LODR Regulations. The Company has failed to follow procedure laid out in Regulation 31A of LODR Regulations for reclassification of promoters.*

    12.3. *The Company has not filed any shareholding pattern after December 2019.*

    12.4. *The Company has disclosed incorrect information to shareholders in the notice to AGM dated September 28, 2019.*

    12.5. *The Company has not maintained website as required under Regulation 46 of LODR Regulations.*

    12.6. *It is observed that the company has already been suspended for as per of SOP Circular for violations of LODR Regulations for various violations including non-filing of shareholding pattern for consecutive quarters beginning with March 2020. The Exchange has submitted that they are in the process of sending initial letter to the company in terms of SEBI (Delisting of Equity Shares) Regulations.*

13. *In light of the above, it is alleged that by Filing incorrect shareholding pattern, by making incorrect disclosures to shareholders, Failure to follow reclassification process with respect to promoter shareholding and Failure to maintain functional website and mandatory details, Noticee has violated Regulation 4(1) (c), (d), (e), Regulation 31 read with Regulation 31A, Regulation 46 of SEBI LODR Regulations read with clause 2 of Listing Agreement.*

5. Though the SCN sent through SPAD returned undelivered, the SCN was duly served upon the Noticee through the digitally signed Email. However, no reply to the SCN has been received till the date of this order.

6. Thereafter, in the interest of natural justice, vide digitally signed email dated April 12, 2022, the Noticee was also granted an opportunity of personal hearing in the matter on April 26, 2022. Vide aforesaid email, the Noticee was also advised to file its reply/ submissions in respect of the aforesaid SCN latest by April 26, 2022, if any. However, the Noticee neither filed any reply to the SCN nor attended the hearing on scheduled date and time.

7. Thereafter, the Noticee was again granted final opportunity of personal hearing before the undersigned on May 20, 2022 through an email dated May 05, 2022. Vide the aforesaid email, the Noticee was again advised to file its reply/ submissions in respect of the SCN, if any, on or before date of hearing. However, the Noticee again failed to submit any reply to the SCN and did not attend the hearing scheduled on May 20, 2022.

8. As stated above, I note that sufficient opportunities were granted to the Noticee to submit reply to the SCN and to appear for personal hearing. However, despite service of the SCN and hearing notice through digitally signed email, none of the given opportunities were availed of by the Noticee.

9. The Hon’ble SAT in the matter of *Classic Credit Ltd. v. SEBI [2007] 76 SCL 51 (SAT - MUM) inter alia* held 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”.* Similarly, the Hon'ble SAT also, in the case of *Sanjay Kumar Tayal & Ors. v. SEBI (in appeal No. 68/2013)* decided on February 11, 2014, held 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 levelled against them in the show cause notices*”

10. In view of the above, I am compelled to proceed ex-parte in the matter against the Noticee. I note that principles of natural justice have been complied with, since sufficient opportunities have been provided to the Noticee to submit replies and to appear for personal hearing. I am, therefore, of the view that the Noticee has nothing to submit and in terms of rule 4(7) of the AO Rules, the matter can be proceeded ex-parte on the basis of material available on record.

11. Therefore, the present proceedings against the Noticee is undertaken *ex-parte* on the basis of available documents/material and information available on record.

CONSIDERATION OF ISSUES AND FINDINGS

12. I have carefully perused the charges levelled against Noticee in the SCN and all the documents available on record. In the instant matter, the following issues arise for consideration:

Issue – I:-. Whether Noticee has violated the provisions of Regulations 4(1) (c), (d), (e), Regulation 31 read with Regulation 31A, Regulation 46 of SEBI LODR regulation read with clause 2 of Listing Agreement?

Issue – II:- Does the violation, if any, on the part of Noticee attract monetary penalty under Section 23E of SCRA, 1956 for the alleged violations by the Noticee?

Issue – III:- If so, what would be the quantum of monetary penalty that can be imposed on Noticee taking into consideration the factors mentioned in Section 23J of the SCRA?

Issue – I: - Whether Noticee has violated the provisions of Regulations 4(1) (c), (d), (e), Regulation 31 read with Regulation 31A, Regulation 46 of SEBI LODR regulation read with clause 2 of Listing Agreement?

13. I note from documents on record that, Noticee was listed on BSE with effect from November 08, 2012.As a listed entity, Noticee is required to comply with LODR regulations and listing agreement. From the material available on record I have noted the following:

14. From the material available on record, I note that, As per BSE, the name of promoter Ram Alloy Castings Pvt Ltd ("Ram Alloy") was not appearing from June 2019 in the promoter shareholding of Noticee and the Company has filed NIL promoter holding in its shareholding pattern for quarter ended June 30, 2019 to December 31, 2019**.** Thus, as per last available shareholding pattern of the Company, there's no identifiable promoter in the company.

15. in this regard, I note that, a promoter can be reclassified pursuant to an open offer under SAST Regulations, by acquirer, wherein the acquirer can become the promoter and existing promoters can be reclassified as public.

16. In the absence or non-applicability of open offer, a promoter can be reclassified only by following the procedure enlisted in Regulation 31A of LODR Regulations which inter-alia includes request from the promoter intending to be reclassified to the company, approval from shareholders in general meeting, intimation by Company to the stock exchange etc.

17. In view of the same, details of the reclassification request if any, were asked by SEBI from BSE. I note that, BSE in its replies dated December 15, 2020, June 18, 2021 and June 21, 2021 to SEBI queries had inter-alia submitted that they have not received any reclassification application from the Company and also informed that the Company had removed the name of the promoter without taking approval of the Exchange. The Company, thus had violated provision of Regulation 31A of SEBI (LODR), 2015.

18. Further, BSE also informed that Company has been suspended by BSE w. e. f. November 20, 2020 vide notice number 20201020-30 dated 20th October 2020 and is in the process of sending initial letter to the company in terms of SEBI (Delisting of Equity Shares) Regulations.

19. I note that, SEBI also sought Information from Noticee regarding accurate shareholding pattern, promoter reclassification process, reasons for not filing shareholding pattern and showing zero promoter shareholding, non-functional website etc. I note that, Noticee did not reply to SEBI Queries as well.

20. I also note that, SEBI performed search of various disclosures by the Company and It was observed from the notice to the Annual General Meeting (AGM) dated September 28, 2019 (as available on BSE website) that, Noticee had informed shareholders with its intent to reclassify shareholding of existing promoter Ram Alloy Castings Pvt Ltd into public category. Item No. 7 in the notice mentions under the heading “Reclassification of The Promoter Group from ‘Promoter & Promoter Group’ Category to ‘Public’ Category, that Ram Alloy Castings Pvt Ltd held 44865000 shares or 21.8% of the total paid up capital of the Company. The voting also was carried out in the said AGM and the said resolution for reclassification was passed.

21. In this regard, I note that, shareholders’ approval for reclassification of promoter shareholding was obtained based on incorrect information with regard to accurate shareholding of the promoter being reclassified. The promoter shareholding in the notice to AGM was mentioned as 21.8% as on September 28, 2019, whereas promoter shareholding was 0% in June 2019 and September 2019 shareholding pattern as available from BSE website. Thus, Noticee has disclosed incorrect information to shareholders in the notice to AGM dated September 28, 2019.

22. I also note that, Noticee has not informed the exchange even when BSE has provided facility to file the List of promoters with zero shareholding with it, in the prescribed formats including XBRL. Further, Noticee has not made any public announcement for reclassifying promoters into public category and proceeded to show zero promoters in its shareholding pattern. By showing no promoters in the shareholding pattern, I conclude that, Noticee has filed incorrect shareholding pattern for June 2019, September 2019 and December 2019 quarters and has not filed any shareholding pattern after December 2019. At the same time, the Company has not followed procedure laid out in Regulation 31A of LODR Regulations for reclassification of promoters.

23. A listed entity is also required to maintain functional website containing the basic information about the listed entity as prescribed under Regulation 46(1) of the LODR Regulations, it

should disseminate the information as prescribed under Regulation 46(2) of the LODR Regulations and mandatory details as per Regulation 46 of SEBI LODR Regulations. In this regard, I note from the material available on record that, Noticee is not maintaining a functional website. The website address as available on BSE website - www.icvlchemicals.com is not functional. Upon perusal of the said website I also find the Noticee is not maintaining functional website and thus, mandatory details, in view of the same, I note that Noticee is also not in compliance of Regulation 46 of LODR Regulations.

24. Thus, by continuously failing to make the required correct disclosures to shareholders and correct filings with BSE, by failing to follow reclassification process with respect to promoter shareholding and by failing to maintain functional website and mandatory details on website, I conclude that, Noticee has violated Regulation 4(1) (c), (d), (e), Regulation 31 read with Regulation 31A, Regulation 46 of SEBI LODR Regulations read with clause 2 of Listing Agreement

Issue – II: - Does the violation, if any, on the part of Noticee attract monetary penalty under section 23E of the SCRA for the alleged violations by the Noticee?

25. I also note that timely disclosure of relevant information by listed companies is essential for maintaining transparency about the affairs of the Company which helps in eliminating information asymmetry. Moreover, correct and timely disclosures play an essential role in the proper functioning of the securities market and failure to do so results in depriving the investors from taking well informed investment decision.

26. From the aforesaid, I note that in terms of clause 2 of Listing Agreements, the listed company i.e. the Noticee was mandated to comply with the provisions of LODR Regulations and other applicable regulations/guidelines/circulars as may be issued by SEBI from time to time. As the Noticee violated provisions of LODR Regulations issued by SEBI, it is noted that the Noticee has failed to comply with Listing Conditions.

27. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. 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..."*

28. Therefore, the breach in the facts and circumstances as found hereinabove, by the Noticee, in my view attracts the monetary penalty under section 23E of the SCRA, which read as under:

    Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

    23E. If a company or any person managing collective investment scheme or mutual fund, or real estate investment trust or infrastructure investment trust or alternative investment fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or 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.

29. I note that in the matters of *M/s. NDTV vs. SEBI (Appeal No. 358 of 2015 – Hon'ble SAT's order dated 07.08.2019*) and *Oasis Securities Ltd. & Ors. vs. SEBI (Appeal No. 316 of 2018 – Hon'ble SAT's order dated 17.03.2020*) Hon'ble SAT had upheld the imposition of penalty under Section 23E of SCRA on the appellant companies therein for violation of clauses of Listing agreement. However, I note that, Hon'ble SAT vide its order dated May 03, 2021 in *Suzlon Energy Ltd. and Anr. vs. SEBI (Appeal No. 201 of 2018)* had set aside the imposition of penalty by AO under Section 23E of SCRA on the ground that the said provision was not applicable to violation of provisions of Listing agreement. I note that a stay application has been filed before the Hon'ble Supreme Court by SEBI with respect to the findings of Hon'ble SAT in paragraphs 17 and 18 of the aforesaid order. Further, I note that an appeal has been filed before the Hon'ble Supreme Court against the aforesaid order vide civil appeal no. 4741 of 2021 titled *SEBI vs. Suzlon Energy Ltd & Anr*. I note that the aforesaid stay application and the appeal is pending before the Hon'ble Supreme Court.

30. The limited purpose of these proceedings is to determine if the Noticee has violated Regulation 4(1) (c), (d), (e), Regulation 31 read with Regulation 31A, Regulation 46 of SEBI LODR Regulations read with clause 2 of Listing Agreement and if so, determine whether penalty should be imposed and assess the quantum of such penalty. However, the enforcement of this order, shall be subject to the outcome of the aforesaid appeal before the Hon'ble Supreme Court of India.

31. Further, in these facts and circumstances of the case, the quantum of penalty has to be adjudged taking into account the conduct of the Noticee as found in this case and the principle of proportionality. The failure as found in this case, had clearly defeated the purposes of the LODR Regulations i.e. investor protection and ensuring regulation of market. For the purpose of adjudging the quantum of penalty it is relevant to mention that under section 23I of the SCRA, imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The words in the section that "*he may impose such penalty*" are of considerable significance, especially in view of the guidelines provided by the legislature in section 23J of the SCRA. Further, while adjudging the quantum of penalty, the adjudicating officer has discretion and such discretion should be exercised having due regard to the factors specified in section 23J of the SCRA, which reads as follows: -

Section 23J-Factors to be taken into account while adjudging quantum of penalty.

23J. While adjudging the quantum of penalty under section 12A or section 23-I, the the Securities and Exchange Board of India or 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.

Explanation. —For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.

Issue – III:- If so, what would be the quantum of monetary penalty that can be imposed on Noticee taking into consideration the factors mentioned in Section 23J of SCRA?

32. Having regard to the factors listed in section 23J of the SCRA, it is noted from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of the default is not brought on record and is non-ascertainable. However, the fact remains that the Noticee being a listed company, continued to fail to fulfil its duty of complying with provisions of SEBI LODR Regulations and listing agreement. The primary objective of the LODR Regulations is to 'consolidate and streamline the provisions of existing listing agreements for different segments of the capital market. From the above, I note that the Noticee conduct has completely defeated the purposes of the LODR Regulations.

33. Considering the facts and circumstances of the case and above factors and exercising the powers conferred upon me under section 23I of the SCRA read with rule 5 of the SCRA Adjudication Rules, I hereby impose a monetary penalty under section 23E of SCRA of Rs.5,00,000/- (Rupees Five Lakhs only) on Noticee for the alleged violations.

34. In my view the said penalty is commensurate with the violation committed by the Noticee in this case.

35. As mentioned earlier in the paragraph 25 of the order, the enforcement of this order shall be subject to the outcome of Civil Appeal No. 4741 of 2021 titled SEBI vs. Suzlon Energy Ltd & Anr. pending before the Hon'ble Supreme Court.

36. In terms of the provisions of Rule 6 of the Adjudication Rules and Rule 6 of SCR Adjudication Rules, a copy of this order is being sent to Noticee viz. Ram Minerals and Chemicals Ltd and also to SEBI.

Date : May 30,2022 **Vijayant Kumar Verma**

Place : Mumbai **Adjudicating Officer**